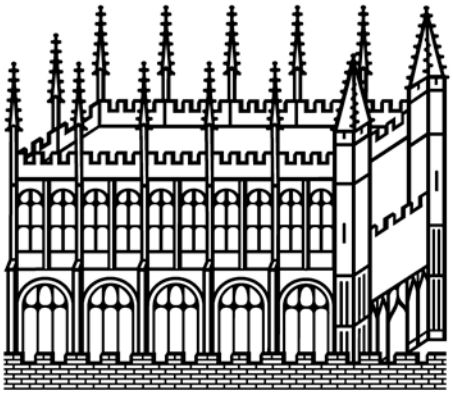

19

PARTIES' WITNESSES.

SPEECH

OF

LORD BROUGHAM,

IN THE HOUSE OF LORDS,

FRIDAY, 11TH APRIL, 1851,

ON

LAW OF EVIDENCE BILL.

LONDON:
JAMES RIDGWAY, PICCADILLY.
1851.

SPEECH,

ETC.

THE Bill to which I propose your Lordships should give a second reading, consists of two branches,—the amendment of the practice of the Courts respecting evidence in some important particulars—and the admission of the parties to suits in all but a very few excepted cases to be themselves examined as witnesses. It is nearly the same as the Bill which I presented two sessions ago, but which, from accidental circumstances, was not proceeded with. I hope and trust that this will, in both its branches, meet with the concurrence of the Legislature; but at present I purpose confining my statement to the most important portion of the measure, the making parties competent witnesses, reserving the explanation of the other portions of it for the Committee.

Whatever may have been the notion at one time prevailing, though without any sanction from judicial decision, that parties are excluded as witnesses merely as parties, and independent of their interest in the event of the cause, it has, in a well known

case about twenty years ago been authoritatively laid down that their interest alone makes them inadmissible. The Court of Common Pleas in *Worrall* v. *Jones* (7 *Bingham*) had this point fully argued before them. My noble and learned friend (Lord Chancellor) maintained the proposition with the ability and fulness of information which he brought to all causes that had the inestimable benefit of his advocacy, shewing by numerous instances that a party having no interest is competent as a witness, both when called for himself, and when called by his adversary; and the Court, after taking time to consider, pronounced that to be the law by the mouth of the late lamented Chief Justice (Tindal.) It was, indeed, long the belief in Westminster Hall, that Lord Mansfield and Mr. Justice Buller had severally declared their inability to see any reason why either party might not, if he chose to risk it, call his adversary as his witness; and certainly an unreported case (*Cox* v. *Whalley*) cited in the argument on *Rex* v. *Woburn* (10 *East* 398), gives some countenance to the rumour as regards Lord Mansfield by the analogy to which he refers of Bills of discovery. However, we may now take it to be settled Law that the exclusion of the testimony of parties rests entirely upon their interest; and consequently, that where there is no interest, they are not excluded.

I presume to think it is quite as clear a consequence of the decision that when in all cases interest

has ceased to work an exclusion, no objection to the competence of parties can remain; and clearly so thought the Legislature in 1842; because when Lord Denman's most beneficial Act passed, there was introduced the exception which it is the object of the present Bill to repeal—that exception of parties, clearly shewing that but for its positive enactment, they must have been admissible under the general provisions which prevented any witness from being made incompetent by reason of any interest whatever in the cause.

There has rarely been a greater benefit conferred upon the law, or a greater relief granted to those who administer it, than this statute, which we owe entirely to Lord Denman, sweeping away the most absurd and shadowy distinctions, preventing the daily failure of justice through the most groundless and inconsistent technicalities, alike saving the suitor from unexpected defeat, and the Judge from inextricable embarrassment. The whole of the new Law is comprised in a sentence—No kind of interest, however direct, however ample, in the cause he is called to support by his testimony shall ever form the least objection to hearing all he has to say upon the subject of that cause: Such interest shall only be considered in weighing his credit, not in determining his competence. Then is it not a corollary to the proposition, rather is it not one case of the proposition, that parties shall not be prevented from deposing how deeply soever they may be interested;

but that their credit alone shall be affected by this consideration ?

Instead of arguing the advantages of examining those who best know the whole case, or dwelling on any of the other obvious reasons for their admissibility, I shall begin by meeting the arguments that are urged against it; and I go at once to that which forms the main ground of the objection, the apprehension that a door may be opened to perjury; that the amount of perjury committed in causes may be increased—for we must at once throw aside the suggestion that the evidence of parties is of little value, this being only a topic for consideration in weighing their testimony, not a reason against admitting it. And first I will grapple with the argument wholly independent of the experience afforded by the new system of Local Judicature—and as if we were dealing with the case on principle, before any experiment had been actually tried.

First, then, let me ask those who dread the perjury of parties, if they who would forswear themselves are incapable of suborning others to swear? The objectors really speak as if subornation were unknown, and parties could only falsely swear in their own person. But there are many reasons why suborning should be more rife than perjury. Men will set on others to swear falsely who may shrink from perjuring themselves. Then men who might be incapable of swearing falsely for themselves

from sordid motives, will often, to save or serve a friend, an employer, an associate, a confederate, I wont say swear falsely, but colour their statement of facts, suppress a part, exaggerate the rest, give a leaning to their story on one side, all of which forms the bulk of the falsehood too often observed in Courts of Justice, because all of it is far less easily counteracted and detected than downright perjury, of which, however, it has all the moral guilt. But then observe how much more powerful is the check of public reprobation, acting against the party who is seen to come forth in the face of day with a false story, from sordid motives, for his own gain, than against the witness swearing for a friend, a master, or an ally. It is very far from being practically true, that the great bulk of perjury is owing to direct interest operating on the mind of the witness. Zeal, favour and affection, hatred and spite, partizanship, perverted notions of obligation, notions yet more perverted of duty towards an employer, or kindness towards a connexion, or honour towards an associate—these mainly work upon men's minds, and form the armoury from which the suborner fits forth his agents—and against those agents thus provided the public reprobation operates far less potently than against the party who avows himself moved by self-interest alone, and who swears in the presence of a most suspicious audience, disposed severely to condemn, as well as scrupulously to sift. Nor will

it suffice to say, that one party may be disposed to favour himself, and not the other, and that you give an advantage to the knave. Is it meant to be contended that the subornation must always be on both sides? On the contrary, there may be nothing like a conflict of subornation, nothing like a rivalry of conspiracy. It may be all on one side, nay, it most probably will be all on one side; because the chances are much greater that one only shall be able to find fit agents for his purpose, than that both should have an equal facility of this kind, and that one only should avail himself of it, even if it were equally open to both.

Let me next remind your Lordships how much easier of detection the party's false tale is than the witness's. He must go more fully into all the particulars; he knows the whole matter, and on the whole matter he must have his testimony sifted. The longer and the more minute a story is, the more exposed is it to detection if groundless—the more materials does it furnish for detection by cross-examination, by comparison of its parts, by contrast with other evidence. Your ordinary witness swears to a part, and he is craftily instructed on that part alone: he confines himself to it, and care is taken that he shall come upon no ground where another witness or other evidence may meet him.

Again--the exclusion of the parties as witnesses, makes it necessary to examine a number of other persons. The chances of perjury are increased with

the number of witnesses. The total amount of perjury must bear a proportion to the number of witnesses examined; and I have shewn in what manner persons are too often and too easily found to give a testimony substantially untrue.

Furthermore those who consider that parties have only to throw away all conscientious scruples, and then they may prove their case by forswearing themselves, forget that those parties not only are exposed to the searching process of examination by their adversary and by the Court (for it may be said that other witnesses being also exposed to the same process, this argument is common to both kinds of proceeding)—but the party is also exposed to the deposition of his adversary, who will assuredly contradict him if he falsely swears; and this is a risk which the suborned witness does not run—a chance of detection which that witness escapes. The examination of both the parties necessarily must be on every part of the case, and on their compared and contrasted testimony the Court can well decide.

But, next, let me ask if our apprehension of perjury prevents us from allowing parties to swear in their own case, as the law now stands? It in no wise prevents us; it permits us; and it permits us precisely in those cases, and in that manner, the most exposed to the risk of false swearing—the least fenced against it—the most scantily furnished with means either of preventing it or detecting it.

First of all, as my noble and learned friends the

Chancellor, the Chief Justice, and the Vice-Chancellor well know, affidavits form the evidence on which the great bulk of all our proceedings in Courts of Justice rest, I mean proceedings in which the Judges and not Juries are not to decide. Next, these affidavits may be made just as well by the parties to the suit as by strangers; and in fact by far the greater portion of them are the depositions of the parties. Whether at law or in equity, then, the staple of the evidence upon which the Courts have to act is the depositions upon oath, in writing, and chiefly the depositions of parties. Now these depositions are given without any check whatever upon the parties, any guard whatever against falsehood, except what is afforded by their own consciences. The affidavit is prepared in secret; it is sworn in private. It is prepared by professional skill, and carefully framed to prove the case of him who is to swear it. Let us hope that when he sees laid before him the precise statement which his professional adviser informs him will best serve his purpose, he may be deterred by the fear of committing perjury, and reject the hope of gaining his cause. Let us trust that the adviser has in all cases first asked his client what the facts are; but even then he is not bound to state all the facts whether they make for or against. Yet one thing is certain, namely, that the righteous course may or may not be taken; that all is transacted in secret; that the most honest

party, having the most conscientious adviser, will pick and choose his way through the case, even though he neither falsely swears nor falsely colours. Ordinary men, parties of an average candour, with advisers of a medium honesty, will just tell such parts of the story as may suit their purpose; and such parts as they trust cannot easily be contradicted—such parts as they know they themselves cannot be contradicted upon. They will not tell the whole truth, even should they tell nothing but the truth, while not a few will defy the dread of perjury, and yield to the motive for falsely swearing, because there is neither the watchful eye of the Judge and jury, and public upon them; nor the risk of detection by being cross-examined; nor the certainty of the parts which they suppress being wrung from them by the searching process of public trial. Now, this is the door which we leave wide open for perjury to enter, as enter it unquestionably does daily and hourly; while we would not suffer the chink to exist though which, under the guards, checks, and risks of a public trial some amount of perjury from the very same parties may enter.

Next, answers in Chancery are sworn by the parties themselves; and as the defendant may file his cross bill and compell the plaintiff to answer, we must regard the suit in Equity as exactly a proceeding in which both parties are examined, because one always is and both may be—Now these answers are prepared even more carefully than affidavits by

professional skill. The party is apprised of what if true will be beneficial to him; and without intending to affirm that in the bulk of cases he will have a greater facility, a greater proneness to state matters in his own favour, than to tell the whole story whether it makes for or against him, we may fairly suppose that between the skill of the draftsman and the good dispositions of the client, such a statement will be made up as shall disclose no more of the truth than is absolutely necessary—that much will be kept back—that a colour will be lent to some facts, peradventure an addition made to others,—and we certainly do know how difficult skilful men with willing clients make it for their adversaries to use their sworn answers, inasmuch as a sentence extending over several folios and comprising matter adverse to the plaintiff, is often given in answer to one of the interrogative parts of the bill, and one part of that answer cannot be read without the rest. However, all we have to consider now, is, that these answers are upon oath, and are the evidence of the parties. True they are answers to questions put by the adversary; but if all we dread is the opening a door to perjury, this door is ever ajar; and from whatever quarter the question comes which we daily and hourly permit to be put, its tendency is to draw out a perjured answer, by the supposition upon which the whole argument against the present bill is founded. That supposition is that if you examine parties in a cause, they

will commit perjury; the argument has no other foundation. Yet you do examine the parties to every suit in Equity, and you do expose yourselves to this risk of perjury incalculably more because your examination of each party is conducted behind the back of the other—under the advice of professional men—without the risk of exposure to the adversary—and without the control of the Judge.

Thirdly, when issues are directed from Chancery, it is not at all uncommon to direct that parties shall be examined, sometimes in order that they may be exposed to cross-examination, sometimes that facts exclusively within their knowledge may be come at. Nothing can more clearly shew the consciousness which the Courts of Equity have of their own impotence in arriving at the truth; nothing better illustrate the superior advantages and greater safety of examination in open Court. But also nothing can better illustrate the inconsistency of the objections taken to the present Bill with the established practice, known to, and sanctioned by the objectors.

But last of all and greatest of all is our opening the mouths of parties, one party at least, in all criminal proceedings, while we close them in all civil. I care not for the fiction upon which this anomaly is grounded, of the real prosecutor being no party but only the witness for the Crown; because, in this country, though the Crown is the nominal party the individual injured is the real one,

we might say in every respect whatever—most certainly in everything which can give a bias to his testimony, and on that and that alone rests the whole argument I am dealing with. Then see what follows. A party sues for damages against one who has assailed his character or assailed his person. Not a word is he allowed to utter, although no one else may be in existence who can give evidence. Nay, there may a justification be pleaded of the libel or the battery, and the wrong doer may be able to produce witnesses whose testimony could be rebutted, or, what in most cases would be sufficient, explained away by a simple statement of the truth from him to whom the whole facts are known, contrasted with the statement of his adversary. But all this must be kept carefully from the knowledge of the Court; and the injured party leaves it without redress, nay, possibly more damaged by the trial than he had been by the injury which he complained of. What course does he take, under the exasperated feelings your absurd and inconsistent Law has raised in his bosom? He indicts his adversary, or he moves for a criminal information; and then he is heard to swear under all the influence of those feelings; and as now his adversary's mouth is closed, at least before the Jury, the compensation in damages having been denied, he is compensated by the gratification of revenge which he may find the sweeter of the two. —But of that we need say nothing. We are upon

the risk of perjury, and I shew you that the Law is curiously contrived not to discountenance and prevent but to stimulate and encourage that foul offence, and greatly to increase the amount of it daily, I fear, committed.

Need I now remind your Lordships of the inevitable consequences which follow from excluding the testimony of parties? They are so manifest on the most cursory glance which can be cast over the subject, that I have preferred meeting the arguments of the adversary to the proposed improvement in our law, and have said little or nothing on the evils which it is intended to remove. But take a sample of them.

First.—By excluding the testimony of the parties, you shut out the account of those who must needs know more of the matter in dispute than all the rest of the world,—and how often does this lead to the manifest failure of justice? I may appeal to all who have frequented our Courts, whether at the Bar or on the Bench, and ask how often they have witnessed nonsuits from the want of evidence to substantiate facts which every one saw must be true, yet the formal proof required by Law was wanting; the proof which could be drawn from the contrasted testimony of the parties—and justice was thus remedilessly defeated.—Again, I might ask how often, for want of such direct and full proof, they have seen recourse had to the evidence of circumstances, or the testimony of witnesses partially acquainted with the facts, or some of the facts, and thus endless delay as well

as needless expense created, in order to render the inquiry more difficult, the result more uncertain, the decision more doubtful, all being wrapt in obscurity, inevitable by your rules of procedure, but in the nature of things wholly unnecessary.

Secondly.—One party has in many, I might say in most cases, witnesses to prove his case, which the other is without. The manufacturer, the tradesman, the person of skill employed—I only give examples of what occurs in most cases—these have persons in their service, their foremen, their shopmen, their workmen, their clerks, their carriers, all ready to be produced in Court. The customers who are sued have in general no means of meeting this testimony; and yet, in many cases, they could easily rebut, or at least, explain, what is brought against them.

Thirdly.—In various instances where the party sued might have witnesses to meet the demand or the charge brought against him, the rule of Law enables his adversary to shut their mouths, by making them defendants along with the only person against whom the action is really instituted.

Fourthly.—If, indeed, it be not rather a corollary from my former propositions,—how many causes never would be brought into Court, were each party sure that his adversary could be heard? How many plaintiffs persist in their attack, how many defendants persevere in their resistance, merely because each knows that the other's mouth is closed? I have the declarations of practitioners, Attornies of many

long years' experience, to back the unanimous opinion of the County Court Judges, in this important particular. They affirm that, to their knowledge, thousands of causes which run through the whole course of litigation, with all its chances of miscarriage or misdecision, would have been settled out of Court had the parties been examinable.

But I need dwell no longer on these things, satisfied that enough has been said to shew how ill the present system is calculated to bring out the truth in any case, and to how great a risk in all cases it is exposed of working injustice. The arguments which I have used are not speculative; they are drawn from the known and admitted facts in the practice of the law as it now stands. But they are in every one particular sanctioned by the recent experience in the County Courts, and to that I now solicit the attention of your Lordships. I am not aware that I have urged a single argument which is not countenanced by the answers given to the questions which the Law Amendment Society submitted to the Judges of those Courts. The answers are before you. Of the whole 46 one only states that the allowing parties to be examined proves hurtful. All the rest, without any exception, state that this course of proceeding has worked well, enabling them to do justice between the parties, which would otherwise in very many, nay, in the bulk of cases, have been impossible; and two only of the learned Judges express an opinion adverse to extending this practice, and adopting it in all judicial proceedings.

To take a few instances of the opinions, the result of the experience which these able and learned men have had for four years, in trying nearly two millions of causes—(above 1,800,000). Mr. Dowling acted as Chairman of a Committee of County Court Judges, directed to frame rules of practice, and he states it, as his own opinion and theirs, that the course of examining the parties "has worked most "beneficially. He has had many opportunities "of ascertaining the conclusions of others, and "found them, without any exception, coinciding "with his own."—Mr. Addison, whom I had the pleasure of knowing on the Northern Circuit, "was "for twenty years at the head of a Local Court, "with great practice, and five years in a Court of "Requests," before he presided over the County Court of the North Lancashire Circuit. And he bears his unqualified and unhesitating testimony in favour of examining the parties whatever be the Court, and whatever the suit. He denies that perjury is thereby increased. He gives details of the number of defences made before him; shews that of ten or eleven hundred causes there were only 64 in which the defendant availed himself of the power he had to dispute the whole demand; in other instances there was a set-off or other counter claim, or recourse to the Statute of Limitations, or infancy or coverture; and in the 64 really disputed cases, in which perjury might have been expected, the defendant succeeded 27 times, to 37,

which all who are acquainted with Courts of Law know is a far smaller proportion than usually may be found between the verdicts for the plaintiff and for the defendant—and clearly shews that the defences were generally conscientious. Mr. Addison considers false swearing "to be the exception, and the rare exception."—Of the same opinion is Mr. Chilton, a King's Counsel of extensive practice at the Bar, and who has been for thirty years a member of our profession. His able and judicious letter at page 17, of the paper before your Lordships, uses some of the very topics which I have addressed to you on the question of perjury.—So does Mr. Gale, the Judge of the Hampshire Court. "I think (he says) that persons "examined in public Courts of Justice are very "reluctant to make statements which should induce "their neighbours and friends to suspect them of "perjury; and in this respect the practice which "results of hearing parties in a private room "before an arbitrator, appears to me to afford no "criterion to judge by. I wish to express in the "most unqualified manner, that the hearing of the "parties is most advantageous, and indeed necessary "to prevent injustice, and that it ought to prevail "in all the Courts of Justice in the kingdom."

Mr. Smith, thirty-seven years at the Bar, and who has had great experience both as Commissioner of Bankrupt, as an Arbitrator, and as Chairman of the Bath Court of Requests, regards the danger of

perjury to be an "unreal one, except in very rare "instances. Speaking from my own experience, I "do not hesitate to assert, that wilful perjury is "very seldom resorted to; and, that in the face "of a Judge of ordinary penetration and atten- "tion to his duties, it is next to impossible, in "the case especially of the parties themselves, "that it should succeed. Apart from the results of "actual experiment, it would not, I apprehend, "be difficult to shew that the probabilities of the "case would lead theoretically to a similar conclu- "sion in favour of the mode of proof under dis- "cussion."

But I will refer to the excellent tract of Mr. Amos, the distinguished Professor of Law at Cambridge, lately member of the Supreme Court of India, afterwards Recorder of Nottingham and Oxford, and extensively employed as an Arbitrator while he practiced at the Bar, now Judge of the Mary-le-Bone Court. In that able and learned work, on the subject of the present Bill, he has given the result of his large experience and his long consideration of the whole question; and has argued conclusively in favour of admitting the evidence of the parties. I use his authority in defence of this measure; but I have already used the greater part of his arguments, and I can only refer to his tract as of the greatest value both for the weight of the one and the force of the other. His answer to the statement of the Common Law

Commissioners, 1830, I may cite as quite conclusive. Those learned persons had rested their disinclination to admit the evidence of parties upon the ground that a party would be afraid of calling his adversary for fear of being in his turn examined. This would, say they, "in most instances render "a resort to the evidence of one, by the party "entitled to call him, too hazardous to be at-"tempted." "Nor," they add, "would it ever be "attempted until all other evidence had failed, or "was foreseen to be insufficient and the case had "become desperate." Professor Amos at once destroys this whole speculation, (such it was before the existence and the experience of the County Courts), for he states the well-known fact that in thousands of instances the very thing happens which the Commissioners assume to be impossible.

It is admitted then—it is a fact in the cause and beyond all dispute—that in the County Courts the principle has worked well; that without such evidence thousands, many hundreds of thousands, of causes could not have been tried; that no encouragement has been given by it to perjury. Therefore, if we retain the law as it now stands, we affirm that up to the sum of £50, one rule of evidence shall prevail, above that sum another; that the fear of perjury being encouraged shall not prevent us from hearing the parties when £50 is the sum in dispute, but shall make us close their mouths if £51 be the subject of the action—in short, that there shall be one

Law in those Courts and for those causes, a different Law in all other Courts, for all other causes.

It may be so: this view of the matter may have some reason to support it. Let us see what that can be. It can only be because there is something different in the kind of cause, or in the kind of Court. The causes, it may be said, are less important; the Court is, generally speaking, composed of a single Judge, Juries being seldom called to his aid. First, on the amount of the interest: does the interest of £20 operate less powerfully upon a suitor in humble circumstances, than that of £200 upon his superior in station? No one who reflects for a moment can maintain so absurd a position: the little sum is great to little men. Then, are jurors incapable of observing the difference in a witness's demeanour, and in his story, so that they must be passive dupes of frauds which a Judge alone can detect? But this would go to the whole value of jury trial; it would also destroy the whole reasons, the irrefragable reasons, upon which is grounded our just and habitual preference of public to secret trial; for, if a Judge alone can detect, and by his power of detection, prevent perjury, there is no possible reason why he should not sit in private. But I utterly deny it. The presence of the Jury and of the public is as powerful a check as the discrimination of the Judge. But the question is, not whether an inexperienced Jury alone, or an expert Judge alone, shall examine the parties;—the inexperience of the

Jury is always assisted by the acuteness of the experienced Judge; and I will venture to affirm, that the chances of perjury are full as great before the one tribunal, the County Court, as before the other, the Supreme Court. Indeed, there is good reason for believing that, in the more important causes, and before the higher Courts, perjury would be less frequently committed than in the County Courts. The parties are likely to be of a higher station, and more under the influence of honourable feelings. The presence of the Judges is more awful. The concourse of the public is more thronged. Everything conspires to cast a greater protection round truth, to lessen the chances of successful deception, above all to strengthen the guards against false-swearing.

Under the same head of the argument is naturally ranged the objection drawn from the practice, or what is somewhat inaccurately alleged to be the practice, of arbitrators, averse it is said to examine parties for fear of their perjuring themselves. This is very far from being the general practice; but if it were, no kind of argument could fairly be drawn from it. There is all the difference in the world between a party telling his story upon oath in an arbitrator's private room and standing forth in open Court, before the watchful public as well as the suspicious Judge and Jury, and in their presence, undergoing the scrutiny not of their eyes alone, but of a searching cross-examina-

tion. Never doubt for a moment that many a man who might boldly enough venture a false statement upon oath in the secret recesses of the Barrister's chambers in the hope of deceiving him, will shrink back from making the same attempt upon the credulity of the Judge, the Jury, and the assembled people.

To one other objection I will advert before I close my statement—We are told that the examination of the parties gives the advantage to the able over the dull, the self-possessed over the nervous. The advantage of those who are in health to attend over those who are absent from illness or accident, I pass over, because that source of injustice may clearly be removed by regulations, either for postponing the trial or for excluding the party present, during the necessary absence of his adversary. But as to the difference in the talents or in the habits of the parties—the self-same objection would go to exclude a man's witnesses as well as himself from being examined; for who that knows Courts of Justice in this country can be ignorant of the advantage which parties derive, and in the nature of things must always derive, from what are called good witnesses, and the disadvantages under which bad witnesses lay those who rely on their testimony? It will be the province of the Judge, should the advocate fail, to equalize the impression made by parties of various ability, as he now prevents an undue impression from being created by the various talents of wit-

nesses. That the risk of miscarriage arising from this source is inconsiderable, I believe—that it is wholly to be disregarded if put in comparison with the incalculable benefits of the rule we contend for, I feel well assured.

I have detained your Lordships long in bringing before you this question. When I reflect on its extensive importance, I cannot bring myself to make any apology for the fulness with which I have felt it my duty to enter into the whole subject, leaving, I believe, no part of it untouched, no opposing argument unanswered. That it should have caused me to occupy so large a portion of your time I may lament, but I do not regret, for I had no other course to take.—I move you to give the Bill a second reading.

The Lord Chancellor objected to this, the main part of the Bill, approving of the other parts. He chiefly relied on the examination of wives against their husbands, which he considered as now for the first time proposed to be introduced into the practice of the law.

Lord Brougham shewed, by reading the 83rd section of the Statute of 1846, under which all County Courts now act, that a wife may in every case now be examined against her husband, and that this is notoriously the daily practice.

Lord Campbell (Chief Justice) expressed his opinion in favour of the proposed improvement in

the law, and argued strongly against having one rule for causes above £50, and another for causes under £50. His Lordship reserved the power of modifying his opinion, should he on further consideration deem it right.

Lord Cranworth (Vice-Chancellor) expressed his decided opinion in favour of the measure, and argued in that sense.

Both he and the Lord Chief Justice expressed an opinion that it might be well to consider whether the testimony of the wife as *against* the husband, should not, by a change in the Act of 1846, be excluded—both these learned Judges agreeing that it would be improper to prevent her from being called to support the husband's case.

Lord Brougham, in reply, expressed his concurrence in this suggestion. He also, in declaring his great satisfaction at the result of this discussion, stated that the only feeling which interfered to damp his gratification, was that the most illustrious teacher of jurisprudence who ever lived, either in ancient or modern times, Mr. Bentham, had not lived to see this day—there being no one of his doctrines on which he set a higher value, or insisted more strenuously, than this of admitting the testimony of parties.

The Bill was read a second time.

NORMAN AND SKEEN, PRINTERS, MAIDEN LANE, COVENT GARDEN.