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Citation for final published version:

Johnson, Phillip 2016. The myth of Mr Burke and Mr Watt: for want of a champion! Queen Mary Journal of Intellectual Property 6 , pp. 370-379. 10.4337/qmjip.2016.03.06

Publishers page: <http://dx.doi.org/10.4337/qmjip.2016.03.06>

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## The Myth of Mr Burke and Mr Watt: For Want of a Champion!

Phillip Johnson<sup>1</sup>

### Introduction

The passage of the Fire Engine Act 1775<sup>2</sup> is taken to represent the clash between two ideologies. On one side there is James Watt, the “father of the industrial revolution”,<sup>3</sup> and notorious patentee<sup>4</sup> trying to extend his patent to maintain his monopoly over the steam engine; and on the other Edmund Burke,<sup>5</sup> leading thinkers of the late eighteenth century and one of the founding proponents of free trade;<sup>6</sup> the forum – Parliament with one of its greatest orators leading a forlorn fight against the expansion and growth of patents (and other intellectual property rights<sup>7</sup>). It appears to present the conflict between principle and patent – between great thinker and self-interested industrialist.

The background is quite straightforward. On 5 January 1769 James Watt had been granted a patent for his invention entitled “Consumption of fuel in steam engines”.<sup>8</sup> In common with other patents it would last fourteen years from grant.<sup>9</sup> In the half decade that followed, Watt had tried to develop his steam engine and by the mid-1770s he claimed he had had inadequate

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<sup>2</sup> James Watt’s Fire Engine Patent Act 1775 (15 Geo 3, c 61).

<sup>3</sup> A common (if maybe ill considered) description see for example LTC Roly, *James Watt* (1963), p 37; *Ian MacNeil, An Encyclopaedia of the History of Technology* (Routledge 1996), p 397; for a more nuanced account see the extensive discussion in Christine MacLeod, *Heroes of Invention: Technology, Liberalism and British Identity 1750-1914* (Cambridge 2007).

<sup>4</sup> Eric Robinson “James Watt and the Law of Patents” (1972) 13 *Technology and Culture* 115; indeed, he was busy in the courts: *Boulton v Bull* (1796) 3 Ves Jr 140 (30 ER 937); *Boulton & Watt v Bull* (1795) H. Bl 463 (126 ER 651); *Hornblower and Maberly v Boulton and Watt* (1799) 8 Term Rep 95 (101 ER 1285).

<sup>5</sup> Not to be confused with Edmund Burke, Second Commissioner of the US Patent Office: see NJ Brumbaugh “Edmund Burke: Commissioner of Patents, 1845 to 1849” (1918-19) 1 JPOS 584.

<sup>6</sup> “The theory of free trade, which Burke espoused early and heartily”: David Bromwich, *The Intellectual Life of Edmund Burke* (Belnap, Harvard University Press 2014), p 277

<sup>7</sup> Albeit using the modern term “intellectual property” is inappropriate at this time: see Sherman and Bently, *The Making of Modern Intellectual Property Law* (Cambridge 1999), p 95-100.

<sup>8</sup> Patent No 913.

<sup>9</sup> Statute of Monopolies, s 6.

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compensation for his invention and that he needed more money to improve the engine further.<sup>10</sup>

He therefore petitioned Parliament for a Private Act of Parliament to extend the term of his patent.<sup>11</sup>

The extension of patents by way of Private Act was not unprecedented when Watt petitioned, but no enactment for this purpose had been passed over the previous twenty-five years.<sup>12</sup>

Edmund Burke had been elected as the Member of Parliament for Bristol in 1774<sup>13</sup> a seat he lost at the following election in 1780.<sup>14</sup> He was not a government minister at the time although he was one of the most influential Whigs in Parliament. The scene is set for the birth of a myth.

### **The Myth**

The myths surrounding the Fire Engine Act 1775 are old, yet they remain strong. In Boldrin and Levine *Against Intellectual Monopoly*<sup>15</sup> Burke's failed attempt to thwart the damaging monopoly is mentioned on the first page:

*The patent was finally awarded in January 1769. Nothing much happened, in terms of production, for a few years until, in 1775, after another major effort supported by his new business partner Matthew Boulton, Watt secured an Act of Parliament extending his 1769 patent until the year 1800. The great statesman Edmund Burke spoke eloquently in Parliament in the name of economic freedom and against the creation of unnecessary monopoly – but to no avail. The connections of Watt's partner Boulton were too solid to be defeated by simple principle.*

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<sup>10</sup> See Preamble to James Watt's Fire Engine Act 1775 (c 61).

<sup>11</sup> For a summary of the procedure see Sheila Lambert, *Bills and Acts: Legislative Procedure in Eighteenth-Century England* (Cambridge 1971), Ch 5.

<sup>12</sup> The immediately previous one being Meuzies' Patent Act 1750 (24 Geo 2, c 28).

<sup>13</sup> He had previously been a Member for Wendover between 1765-1774.

<sup>14</sup> He re-entered Parliament for Malton later in 1780.

<sup>15</sup> (Cambridge 2008), p. 1.

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The eloquence of Burke is mentioned by others: James MacGregor Burns, *Fire and Light: How the Enlightenment transformed our World*<sup>16</sup> suggested:

*Threatened by competition, he [Watt] had appealed to Parliament in 1775 for an extension of his patent rights. Just before the vote Edmund Burke rose to attack Watt's "monopoly" as a threat to liberty, but the inventor won a patent extension.*

Similarly, HW Dickinson suggests that on second reading the Bill met opposition from men like Edmund Burke "who were opposed on principle to monopolies of any kind".<sup>17</sup> Elsewhere in the infamous text *The British Patent System*<sup>18</sup> by Klaus Boehm it is stated that:

*Apparently Burke himself rose and protested in the name of liberty against the institution of a new monopoly. The very principles of the patent system were therefore challenged at the beginning of the Industrial Revolution.*

The first sentence of this statement is derived from very similar wording in Paul Mantoux *The Industrial Revolution in the Eighteenth Century*.<sup>19</sup> Indeed, this suggestion has been taken further by Max Kent who goes as far to suggest that Burke was the "leader of the anti-patent campaign".<sup>20</sup> There are other more moderate claims such as Burke that led the opposition against the Bill probably due to "the principle of monopoly...[as this] is the most plausible

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<sup>16</sup> (St. Martin's Griffin 2014), p 169.

<sup>17</sup> HW Dickinson, *Matthew Boulton* (Cambridge 2010), p 85.

<sup>18</sup> (Cambridge 1967), p 26.

<sup>19</sup> Paul Mantoux, *The Industrial Revolution in the Eighteenth Century* (Jonathan Cape 1948, trans), p 328; Mantoux reports how some Parliamentary debates were recorded in French archives: Paul Mantoux, *French Report of British Parliamentary Debates in the Eighteenth Century* (1907) 12 *American History Review* 244. But after consulting his source *Inventaire Sommaire des Archives du Département Affaires Étrangères* (Paris 1892) no records exist in France relating to debates on Watt's Bill and so this could not be his source.

<sup>20</sup> Max Kent, *The British Enlightenment and the Spirit of the Industrial Revolution* (Ph D Thesis, UCLA 2007), p 221.

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and consistent with his character”<sup>21</sup> and that Burke simply “pleaded the cause”<sup>22</sup> against the Act

As can be seen from the literature<sup>23</sup> in relation to patents generally, and much of the literature in reaction to Watt, it appears that Burke spoke vehemently and fought gallantly to defeat a patent extension on principle. But he failed and lost the vote.

### **The evidence**

It is clear that Burke *did* oppose Watt’s patent. The evidence of his opposition is currently limited to two letters. One he wrote to Robert Smith on 6 April 1775<sup>24</sup> and one to Richard Champion after the passage of the Bill dated 28 December 1775.<sup>25</sup> The first letter was written while the Bill was in Commons Committee:<sup>26</sup>

*I enclose you a printed Bill for securing to Mr Watt an exclusive property in his Fire Engine for a Term of years. This Bill at its first appearance seemed to me very exceptionable. A Mr Blakey petitioned against it, and was to be heard by Counsel on the Bill; but having suddenly withdrawn his petition, the Bill got a step forward, almost unknown to most in the house, and particularly to Members of the Mine Counties. However on our making pretty strong representation to those concerned in carrying it on, he has consented to the amendments which you seen in Manuscript; which remove most of my Objections. But as others may remain, I wish to have it communicated to*

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<sup>21</sup> B. D. Bargar “Matthew Boulton and the Birmingham Petition of 1775” (1956) 13 William and Mary Quarterly 26 at 38.

<sup>22</sup> Andrew Carnegie, *James Watt* (Doubleday 1905), p 64.

<sup>23</sup> See pp [ ] above.

<sup>24</sup> R. McDowell (ed), *Correspondence of Edmund Burke*, Vol 9 (Chicago 1970), p 406 at 407.

<sup>25</sup> See Fitzwilliam (ed), *Correspondence of Edmund Burke*, Vol II (Francis and John Rivington 1844), p 89.

<sup>26</sup> It was committed on 13 March 1775 (35 House of Commons Journal (‘CJ’) 1775), reported and recommitted on 7 April 1775 (35 CJ 280) and finally reported on 25 April 1775 (35 CJ 313).

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*such Gentlemen in Bristol as may be affected, and to know their Sentiments as soon as possible.*

The second letter was written after Watt's Act had received Royal Assent:

*I did not, I think, answer what you said about the fire-engine bill. I now assure you that I attended that bill from its first appearance; that I went to General Conway's on a private meeting, to make provisional opposition to it on the part of Bristol; that I sent down the bill and the amendments; and wrote two letters to the master of the Hall on the subject. I do not know that any member attended more closely the public or the local business.*

We also know from Watt's letter to his father on 8 May 1775<sup>27</sup> once his Bill had passed<sup>28</sup> that the passage of the Bill had appeared tough to him:

*This affair has been attended with great Expence and anxiety, and without many friends of great interest I should never have been able to carry it through, as many of the most powerfull people in the house of Commons opposed it. It has been in parliament ever since the 22<sup>nd</sup> of February, which is a very long time to be kept in suspence.*

Watt, however, does not mention Burke in this correspondence. Furthermore, as Parliamentary reporting at the time was in its infancy (and was far from contemporaneous)<sup>29</sup> there is absolutely *no evidence* that Burke spoke on the Bill at all. The only detailed report of any debate on the Bill was when the Bill was re-committed<sup>30</sup> and records only Lord Clare and General

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<sup>27</sup> Eric Robinson and A Musson (Ed), *James Watt and the Steam Revolution: A Documentary History* (Adam & Dart 1969), p 80 (Document 18).

<sup>28</sup> The Bill passed the Lords on 2<sup>nd</sup> May 1775 and Royal Assent was 22<sup>nd</sup> May 1775, but by this stage Royal Assent was a formality.

<sup>29</sup> For a discussion of early Parliamentary reporting and its shortfalls see: A Aspinall "The reporting and publishing of the House of Commons debates 1771-1834" in Richard Ares and AJP Taylor (ed) *Essays Presented to Lewis Namier* (London 1956) and Peter Thomas "The Beginning of Parliamentary Reporting in Newspapers, 1768-1774" (1959) 74 *English Historical Review* 623.

<sup>30</sup> See *Middlesex Journal and Evening Advertiser*, 6-8 April 1775.

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Conway<sup>31</sup> speaking against it.<sup>32</sup> Indeed, notwithstanding Burke was appointed to the Bill Committee, the minutes of the Committee after it was re-committed - made on behalf of Watt - do not even mention Burke's attendance.<sup>33</sup>

Thus, while it is clear that Burke opposed Watt's Bill, there is nothing to suggest he was the "leader of its opposition"; rather it appears from his letter to Champion that General Conway held that role. Further, the context of the letters is important. In one he was writing to a significant constituent (Smith) and the other to his closest political ally in Bristol (Richard Champion)<sup>34</sup>. He had to look busy to Smith to keep him on side and to ensure that he was representing the views of the "Gentlemen in Bristol" (his electors).<sup>35</sup> His response is to be expected where he thinks he has done enough to amend the bill, but he is not yet sure and so he wanted to take further soundings. Similarly, the letter to Champion was after the event and could well have been written because Bristolian mine owners were still unhappy and he was defending his activity.

Finally, and more tellingly for the myth, there was no vote – at least no division – on Watt's Bill.<sup>36</sup> Accordingly, there was no "vote" to lose following Burke's eloquence.

### **Burke and patents**

It has been shown that while Burke opposed Watt's patent, there is no evidence demonstrating his "leadership" of the opposition or even that he spoke in any of the debates. Accordingly, the

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<sup>31</sup> General Conway actually extended his own patent in 1795: Conway's Patent Kiln Act, 1795 (35 Geo 3, c 68).

<sup>32</sup> There is a record in the same report of Burke speaking on the Western Canal Bill.

<sup>33</sup> Eric Robinson and A Musson (Ed), *James Watt and the Steam Revolution: A Documentary History* (Adam & Dart 1969), 69-75 (Document 16) (Committee Hearings, 11 and 12 April 1775).

<sup>34</sup> P.T. Underdown "Burke's Bristol Friends" (1958) 77 *Transactions of the Bristol and Gloucestershire Archaeological Society* 127 at 128 to 135.

<sup>35</sup> Although he later admitted he not do this well as his famous speech at Bristol "Declining the Poll" (9 September 1780) makes clear: see *The Works of Edmund Burke*, Vol II (Boston 1826), p 260.

<sup>36</sup> A division was, by this stage, recorded in the Commons Journal with the number of votes either way. There were votes recorded in relation to Champion's Bill (see fn [ ] below), but none for Watt's. The only record of anything like a vote was an amendment for a sort of compulsory licence being rejected (without a division): 35 CJ 313.

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only remaining issue is whether Burke would have been against Watt's patent on principle or for some other reason.<sup>37</sup> The reason Burke's opposed Watt's Bill have been considered by commentators. There are two main schools of thought – one it was a matter of principle<sup>38</sup> and the other it was for his constituents.<sup>39</sup> It is not the purpose of this discussion to explore in depth Burke's views on patents or other similar rights, but only to indicate that the evidence suggests against his views being motivated purely by principle.

### *Booksellers Bill*

In the session before Watt's Bill, there had been the Bookseller's Bill.<sup>40</sup> The purpose of this Private Bill was to limit the impact of *Donaldson v Beckett*<sup>41</sup> – which had held that copyright was now governed solely by the Statute of Anne. The main purpose of the Bill was to grant authors and their assigns (ie publishers and booksellers) an additional fourteen years of copyright from 4 June 1774. The Bill was rejected at first reading by the House of Lords,<sup>42</sup> but in the Commons where it passed, Burke was one of its greatest supporters. Much of the argument appears to have been based on the bookseller's legitimate expectation (ie they had invested money based on *Miller v Taylor*<sup>43</sup> and so they should not lose that investment).<sup>44</sup>

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<sup>37</sup> For a discussion on his views on property more generally see Francis Canavan, *The Political Economy of Edmund Burke: The Role of Property in his Thought* (Fordham 1995).

<sup>38</sup> B. D. Bargar "Matthew Boulton and the Birmingham Petition of 1775" (1956) 13 William and Mary Quarterly 26; and the extracts above see pp [            ].

<sup>39</sup> Originally suggested by Samuel Smiles, *Boulton and Watt* (John Murray 1874), p 157.

<sup>40</sup> See Booksellers' Bill, London (1774), *Primary Sources on Copyright (1450-1900)*, L. Bently & M. Kretschmer (ed) , www.copyrighthistory.org.

<sup>41</sup> (1774) 2 Brown's Parl. Cases (2d ed.) 129, 1 ER 837; see Ronan Deazley, *On the Origin of the Right to Copy: Charting the Movement of Copyright Law in Eighteenth-Century Britain (1695-1775)* (Hart 2004); Tomas Gomez-Arostegui "Copyright at Common Law in 1774" (2014) 47 Connecticut LR 1.

<sup>42</sup> On 2 Jun 1774 (34 Lords Journal 232).

<sup>43</sup> (1769) 4 Burr 2303, 98 ER 201.

<sup>44</sup> This is evidenced by Corbett's *Parliamentary History of England* (Hansard 1813), Vol XVII, col 1102. There are some shorthand notes and transcriptions of shorthand notes of the debate which make it clearer. These were prepared by Henry Cavendish but are far from complete with many words missed out (making much of the discussion incomprehensible). Cavendish's shorthand was transcribed by his clerk at the time, but some of it was later transcribed by someone at the University of London (see Egerton MS 3711). The shorthand of the petition debate (Egerton MS 255 and transcription MS 3711) and the transcription of other stages (Egerton MS 259) are held by the British Library.



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Accordingly to the *Morning Chronicle*<sup>45</sup> during one debate on the Bill, Burke comments were recorded as:

*Monopolies have been mentioned; and it has be urged, that monopolies, of all kinds, were odious; the positon was generally true; but frequent instances could be cited to prove, that in particular cases monopolies were useful and necessary: in his opinion that now prayed for was strongly so.*

Burke summarised his views on copyright in an undated note<sup>46</sup> for a speech on the Bill. In his note he indicates that monopolies are “only lawful origin is in the convention of parties” and:

*The State, representing all its individuals, may contract for them; and therefore may grant a monopoly.*<sup>47</sup>

One reason he stated for granting monopolies was “The principle of encouraging men to employ themselves in useful inventions”<sup>48</sup> and in relation to duration, unlike authorial works where he suggested perpetual copyright could be justified,<sup>49</sup> he stated:

*The equity of a monopoly in favour of mechanical inventions, is not so strong and evident, because it is not improbable that many men may hit on a contrivance, in all respects the same, without communication; and it has so happened. Monopolies ought, therefore, not to be granted in perpetuity for such contravenes.*<sup>50</sup>

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<sup>45</sup> *Morning Chronicle and London Advertiser*, 26 March 1774; also see Shorthand (Egerton MS 255), p 28; Transcript Egerton MS 3711, p 38-39.

<sup>46</sup> Note on Copy-right Bill and Monopolies Generally, Appendix to Fitzwilliam (ed), *Correspondence of Edmund Burke*, Vol IV (Rivington 1844), Vol IV, p 459

<sup>47</sup> Note on Copy-right Bill and Monopolies Generally, Appendix to Fitzwilliam (ed), *Correspondence of Edmund Burke*, Vol IV (Rivington 1844), p 459

<sup>48</sup> Note on Copy-right Bill and Monopolies Generally, Appendix to Fitzwilliam (ed), *Correspondence of Edmund Burke*, Vol IV (Rivington 1844), p 460

<sup>49</sup> Note on Copy-right Bill and Monopolies Generally, Appendix to Fitzwilliam (ed), *Correspondence of Edmund Burke*, Vol IV (Rivington 1844), p 460-1.

<sup>50</sup> Note on Copy-right Bill and Monopolies Generally, Appendix to Fitzwilliam (ed), *Correspondence of Edmund Burke*, Vol IV, (Rivington 1844), p 461

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Thus, a year before Watt's Bill, Burke clearly believes in granting monopolies for inventions and his only restraint appears to be that the monopoly granted should not be perpetual!

*Porcelain Patent Act 1775*<sup>51</sup>

Burke's position is clearer still<sup>52</sup> when one considers he actively supported Richard Champion's petition, lodged the day before Watts,<sup>53</sup> to extend Cookworthy's patent<sup>54</sup> for making porcelain from moorstone, growan, and grown clay.

At the outset, it is important to note that this is the same Richard Champion to whom the letter regarding Watt's Act was written. Burke would hardly be writing to argue against an Act on principle to a man who had just obtained his own very similar Private Act. Thus, the letter to Champion was unlikely to be against monopolies more generally, rather questioning whether Burke did enough to oppose it – a constituency problem as it were.

Indeed, Champion was probably the conduit for a constituent, rather than concerned on his own behalf. As already mentioned, he was one of Burke's closest political friends and was steward of the 'Bell Club' - the Bristolian Whig club which was the centre for Burke's supporters.<sup>55</sup> One might suggest that Burke's pro-patent stance was adopted only because he was supporting his close friend. Yet his views on copyright and his views expressed in relation to inventions in his Note clearly suggest this is not the case. Furthermore, a manuscript of notes for a speech on Champion's Bill<sup>56</sup> makes it clear how strongly he intended to make the case:

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<sup>51</sup> (15 Geo 3, c 52).

<sup>52</sup> The point is not a new one see Eric Robinson "Matthew Boulton and the Art of Parliamentary Lobbying" (1964) 7 Historical Review 209.

<sup>53</sup> Champion 22 February 1775 (35 Commons Journal 138); Watt: 23 February 1775 (35 CJ 142)

<sup>54</sup> No 898.

<sup>55</sup> G.E. Weare, *Edmund Burke's Connection with Bristol from 1775-1780* (Bennett: Bristol 1844), p 135.

<sup>56</sup> MS 5923 - National Library of Ireland - transcribed in the Appendix to this Article. The manuscript was identified by Eric Robinson "Matthew Boulton and the Art of Parliamentary Lobbying" (1964) 7 Historical Review 209. There is also a short speech of Burke in favour of the Bill is found in the *Morning Post*, 12 May 1775, but this simply indicates that the Bill would not deprive the potters of doing what they had done before.

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*to defraud the labourer of his hire has been set down among crimes of the deepest aggravation. But to deprive the inventor of the profit of his discovery is that aggravated crime much aggravated, as adding ingratitude to injustice, & suffering that man to be himself a beggar who has brought new riches into the common stock of society. I therefore resolved with myself if I should be in any situation capable of forwarding or hurting never stand in the way of any mans fair and honest pretensions to profit of his ingenuity and industry. I never have done it & nothing but the clearest and most decisive conviction of fraud or inactivity could make me do it. I know very well that reason must put bounds, to this as with every right feeling; or it will run into a fault. But I should think it odd if I were to begin here.*

He continued:

*Nothing encourages industry, skill of invention as much as to secure every man the profits of the labour of his own hands & his own Mind*

Returning to Watt's letter to his father, his complaint that the Bill faced stiff opposition seems to misunderstand the opposition that can be faced. While Watt had the support of leading politicians such as William Adam<sup>57</sup> and had Boulton lobbying other interests,<sup>58</sup> his Bill faced little outside opposition.<sup>59</sup> Champion's Bill faced a concerted and consistent attack, three divisions in the House of Commons,<sup>60</sup> and a petition against the Bill from Josiah Wedgwood the famous competing porcelain maker.

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<sup>57</sup> Who actually chaired his Bill Committee: see Minutes on Watt's Patent Bill, Document 16, Eric Robinson and A Musson (Ed), *James Watt and the Steam Revolution: A Documentary History* (Adam & Dart 1969).

<sup>58</sup> See Eric Robinson "Matthew Boulton and the Art of Parliamentary Lobbying" (1964) 7 *Historical Review* 209

<sup>59</sup> There was a petition against (Blakey) (20 Mar 1775: 35 CJ 207) and he was to be heard by Counsel, but he withdrew his petition suddenly: see Burke Letter to Bristol Merchants above at p [ ].

<sup>60</sup> On report (15 May 1775: 35 CJ 375) on Consideration of Report (17 May 1775: 35 CJ 382) and on Third Reading (18 May 1775: 35 CJ 383).

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While it is clear that Watt had political support in the Commons, it was nothing to what Champion had as a prominent Bristol Whig. Not only did he have Burke's support<sup>61</sup> and the Whigs generally in the Commons, but he also was supported in the Lords by the Dukes of Portland, Manchester and Richmond, the Marquis of Rockingham<sup>62</sup> and the Earls Fitzwilliam, Effingham and Berkley.<sup>63</sup> Indeed, the support from the prominent nobles is probably the only way to explain how his Bill made it through the Lords from introduction to third reading in seven days despite an expectation<sup>64</sup> of Counsel appearing against the Bill. So Champion's Bill took longer (albeit only by a few days) and faced more difficulties than Watts. And it was Burke's who helped it through the Commons.

## **Conclusion**

It is clear that Burke opposed Watt's Bill at some point – albeit not as vigorously as he supported Champion's Bill. Why he opposed Watt's Bill remains unclear,<sup>65</sup> but his opposition was not on principle. The myth that the great free trader of the eighteenth century was against patents and copyright is clearly ill-founded.<sup>66</sup> It is clear that rather than seeing Burke as an early champion for the anti-intellectual property movement, as Boldrin and Levine and the others seem to do, quite the opposite was the case and that Burke was a supporter of patents and a champion of a *very strong* copyright.

## **Appendix**

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<sup>61</sup> See Hugh Owen and Richard Champion, *Two Centuries of Ceramic Art in Bristol being a History of the Manufacture of True Porcelain* (Bell and Daldy 1873), pp 113-4 and 143

<sup>62</sup> Champion, like Burke, was a Rockingham Whig.

<sup>63</sup> Hugh Owen and Richard Champion, *Two Centuries of Ceramic Art in Bristol being a History of the Manufacture of True Porcelain* (Bell and Daldy 1873), 114 (including extract of correspondence with Portland).

<sup>64</sup> But he did not appear: see 22 May 1775: 34 House of Lords Journal 473.

<sup>65</sup> The most likely reason remains that he was supporting his Bristol constituents as suggested by Samuel Smiles, *Boulton and Watt* (John Murray, 1874), p 157.

<sup>66</sup> As Eric Robinson "Matthew Boulton and the Art of Parliamentary Lobbying" (1964) 7 Historical Review 209 clearly demonstrated over fifty years ago.

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### **Edmund Burke's Note on Champion Bill**

*The following is a semi-diplomatic transcription<sup>67</sup> of MS 5923 held at the National Library of Ireland<sup>68</sup>*

Necessary to clear off the imputation of monopoly.

Monopoly is an odious Term; but one that is no part applicable in that odious sense to privileges of this Nature \even if they were to continue not for some limited time but to the end of the world./

Monopoly in the odious sense is the turning that to private profit *which* before was common.

Now let us see whether this could be said before Mr Cookworthy's discovery to be common to the world.

These materials as mere gross physical objects, had certainly an existence in nature; so has every material *which* <..... > can be used in any art.

But this combination of these materials to produce a given effect (as in the Case of China) was never discovered: and never used in England before.

Therefore this is not making a monopoly of what was common. It is the direct reverse, for the condition of the patent compelling a discovery, makes that common which was

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<sup>67</sup> The following conventions have been used. The symbols <> marks text deleted by Burke; square brackets [ ] are used for the editor's comments; and a question mark in square brackets suggests uncertainty about the transcription of the previous word; the symbols \ and / are used where a line was subsequently inserted above (or below if reversed) the original text (although the transcription puts the text in its correct place). Italics are used where contractions are expanded; the symbol ..... is used where words are illegible.

<sup>68</sup> I would like to thank Dawn Gibson and Lionel Bently for their assistance with this transcription.

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<reserved[?]> private before.

The saying that they would turn all the Earthenware of England into good China is perhaps the best proof of the value of this discovery *which* ever was given.

But the turning it into China is in others word[s], that if they are permitted to make his China - they will make it – why did they not make it before? Why did they not themselves deal with Mr Cooksworthy for his discovery as Mr Champion did. No they waited until Mr Champion

Champion had <brought his> proved  
Invention

Might discover it themselves chances for this are as all the people of England & all the years from the beginning of these Experiences to [end], this is the chance they lose.

You know that in this cause[?] it is going on & flourishing you do not know that it will be so in any other.

<I have> It is observed, that the first discoverers of any great improvement have been ruined. This, so far as nature is concerned for it, \as it is in {.....} /, is a constitution of things greatly to be lamented, & it cannot be seen without much grief. But as far as it arises from the envy, <the self-Interest,> the avarice, the Malice, <or even> or that forwardness \& petulance/ of mankind <....> surely it is to be resisted as <must be> any other mischievous effects of <....>\this base and the despicable part of human Nature/. To defraud the<sup>69</sup> labourer of his hire has been set down <....> among crimes of the deepest

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<sup>69</sup> This line is part of the last line in the manuscript.

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aggravation. But to deprive the inventor of \the profit of/ his discovery, is that aggravated crime much aggravated, as <depriving> adding ingratitude to injustice, & suffering that man to be himself a beggar who has <.....> \brought new riches into/ the common stock of society. I therefore resolved with myself if <...> I should <.....> \be in any situation capable of forwarding or hurting/ never stand in the way of any mans<sup>70</sup> fair and honest pretensions to profit of his ingenuity and industry. I never have done it <.....> & nothing but the clearest \and most decisive/ conviction of fraud or inactivity could make me do it. I know very well that reason must put <...> bounds, to this as well as to every right feeling; or it will run into a fault. But I should think it odd if I were to begin here.

To say that this restrains & cramps industry as it is the very Reverse. Nothing encourages industry, skill of invention as much as to secure every man the profits of the labour of his own hands & his own Mind. & whenever a patent ends, it is then a present \competition does good - but this competition is only where discovery/<sup>71</sup> tis so in some measure from the beginning.

& <gift> donation to the publick. <f...> they have given nothing for it but the breath of their authority *which* costs them nothing

Sir Thomas Lombe nothing but raw Materials & known mechanical principles - yet knighthood - Patent - & a great sum of money [awarded]. *Parliament*. did not suffer itself to be laughed out of its senses.

Marquis of Worcester.

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<sup>70</sup> This line is part of the last line in the manuscript.

<sup>71</sup> This sentence does not appear to fit with the phrases before or after and it appears to be inserted at the bottom of the page.