

pression of the trust. Secondly, no authority was cited in support of the other ground of objection.

Chief Justice Holt and Mr. Justice Pollexfen agreed, in *Edgeberry v. Stephens*, 2 Salk. 448, that a grant of a monopoly may be to the first inventor by the 21 Jac. 1, c. 3, and, "If the invention be new in England, a patent may be granted, though the thing was practiced beyond sea before, for the statute speaks of new manufactures within this realm; so that, if they be new here, it is within the statute, for the Act intended to encourage new devices useful to the kingdom, and whether learned by travel or study, it is the same thing." Thus the invention which was the subject of the patent in *Stead v. Williams*, 7 M. & G. 818, had been previously put in practice in Russia. And it was also urged in *Beard v. Egerton* that *Darcy v. Allin*, 11 Co. Rep. 84, and 5 Geo. 2, c. 8, for extending the term of a patent for discovering and introducing the arts of making and working, etc., certain Italian engines for making organize silk, and for preserving the invention for the benefit of the kingdom, show that the law gives as much effect to the introduction as to the invention of a new manufacture. The case of *Edgeberry v. Stephens* established the principle that the first introducer of an invention practiced beyond sea shall be deemed the first inventor. In the subsequent case of *Chappell v. Purday*, 13 M. & W. 318, Chief Baron Pollock remarked that, "under the statute 21 Jac. 1, c. 3, against monopolies, the 6th section, which leaves as they stood at common law all the letters patent for fourteen years of new manufactures granted to the first inventors, it has been decided that an importer is within the clause, and if the manufacturer be new in the realm, he is an inventor and may have a patent." So, in another case, *Clothworkers of Ipswich*, Godbolt, 252, it was resolved that, if a man has brought in a new invention and a new trade within the kingdom, in peril of his life, consumption of his estate, or the like, or if a man has made a new discovery, in such cases the King of his favor and grace, in recompense of his costs and labor, may grant by charter unto him that he only shall use such a trade or traffic for a certain time, "because at first the people of the kingdom are ignorant, and have not knowledge or skill to use it."

The point was definitely settled in *Nickels v. Ross*, 8 C. B. 679, that where a defendant alleges that, before the granting of the patent, the plaintiff represented to the Crown that in consequence of a communication made to him by a foreigner residing abroad, the plaintiff was in possession of an invention, and so obtained letters patent, the plaintiff was entitled to a verdict on the issue joined without any proof that the invention was communicated to him by a foreigner resident abroad, since a person who avails himself of information from abroad is an inventor within the meaning of 21 Jac. 1, c. 3. Upon argument it was conceded that the question was upon which party the burden of proof rested. For the defendant it was argued that *prima facie* all monopolies are void, and it is for a party who seeks to establish a monopoly to bring his case within the exception, and not for the party opposing it to show the contrary. During the progress of the argument, Chief Justice Wilde made an observation to the effect that the circumstance of a person importing a new manufacture, and giving the public of this country the benefit of it, is the basis of the grant of a temporary monopoly to him, and that he was not aware that it ever had been considered necessary that the informant should be a foreigner. The correctness of the latter dictum is the very question upon which the most recent case turns.

It is obvious that none of the above cases are direct authorities upon the question involved in *Dallon v. The Saville Street Foundry*. In the Court of Appeal it was argued for the appellant that an English subject rightfully receiving a communication of a new invention from another English subject, was as much entitled to take out a patent for it as if he had received the communication from abroad, and that if a patent so obtained was not valid, the public might lose the benefit of many useful inventions, and great hardship would be inflicted on the representatives of inventors who happened to die before taking out patents for inventions. In the court below it was argued that the Patent Law Amendment Act, 15 & 16 Vict. c. 83, afforded proof that the only declaration an applicant for letters patent is bound to make is that he is in possession of the patent, and that inasmuch as the letters patent prove themselves, the objection taken by the defendants could not be taken on