which is fully two-thirds the size of the normal one, springs from the inner side of the base of the inner movable finger, and is sharply toothed on both sides, and directly opposable to the outer finger. The normal digit is fully developed and curves outwards from the supernumerary one at a wide angle, the distance between them being fully three-quarters of an inch at the points. They move together, and permit an opening of about half an inch between the supernumerary and the normal outer digit, so that little or no inconvenience would be caused to the animal during life. This specimen was caught by fishermen in the neighbourhood of Cumbrae, and was given to a Millport gentleman, Mr. Liddle, who kindly handed it over to the Museum.

ALEXANDER GRAY.

Millport Marine Biological Station, March 6.

SCIENTIFIC EXPERTS AND PATENT CASES.

WE have often had occasion to point out the many disadvantages which are connected with the present system of obtaining and using scientific evidence in courts of law. The disadvantage which chiefly concerns us is that science and men of science are at times thereby drawn into and through mud of a most objectionable quality; but there are many others.

We are glad to see that the matter has again been brought to the front, and this time by the Lord Chancellor himself, and that alterations in the present mode of procedure are being discussed.

We content ourselves this week by reproducing the following leading article in Wednesday's *Times*:—

In the recent sittings of the Law Courts nothing has been more remarkable than the large number of patent actions. Certain inventions have been veritable gold mines to patent lawyers, agents and experts. The bicycle is scarcely more familiar in the streets and highways than in the Courts. We could name patentees who are never out of litigation to protect their menaced rights; certain lamps, gas burners, and explosives are always "going to the Lords." A very substantial part of judicial time is taken up in examining the rival claims of inventors, and they are likely to ask for more. The history of science is constantly illustrating the fact that the same ideas are in many minds at the same time, that often it is an accident whether A or B first propounds his suggestions, and that the priority of one over the other may be a matter of a few months or even days. That is a partial explanation of the multitude of disputes as to bicycle tires, bicycle saddles, metal rims, chains, and gear of all sorts. A further explanation is to be found in the profits derivable from patents as to articles used by hundreds of thousands. Sometimes the Courts are called upon to decide between two independent inventors. Just as often the fight is between one who has an honest claim and another who wishes to levy blackmail or to be bought out. The mode of determining such actions is far from satisfactory. The Lord Chancellor, in a case in the House of Lords which we reported the other day, gave expression to a widespread opinion on this point. The case turned on five or six lines in a specification relating to the tires of bicycles; but it occupied inordinate time both in the Court below and in the Court of Appeal. "Having regard to the extravagant and extraordinary consumption of time which was involved in the determination of this case," said the Lord Chancellor, "witnesses of great eminence being called upon both sides and evidence given which amounts in the book which I hold in my hand to 500 printed quarto pages, it is no wonder that, if a case so simple in its character is so protracted, there is what is called a 'block' in the Courts of law." So serious is the state of things that the Lord Chancellor intimated that it might be necessary to hand over to a special tribunal the trial of cases for which the ordinary procedure seemed inapt. A well-informed correspondent, Mr. W. L. Wise, in a letter which we publish to-day, expresses much the same opinion in even stronger terms. "The present state of things virtually amounts to a denial of justice to all but those having the command of large sums of money." This is an old complaint. Years ago the late Master of the Rolls said, "There is something catching in patent cases, which is that it makes everybody argue and ask questions to an interminable extent. A patent case, with no more difficult question to try than any other case, instead of lasting six hours, is invariably made to last six days, if not twelve. I am sure there ought to be some remedy for it." In Ehrlich *v.* Ihlee" the Court of Appeal took occasion to complain of the "frightful mischief" caused by the prolixity of the proceedings in patent actions. Mr. Wise suggests a remedy. He points out that the Comptroller-General of Patents or his deputy determines questions not unlike the questions of infringement which come before the Courts; and he trusts that, if the staff of the Patent Office were strengthened, a tribunal more economical, expeditious, and not less fit than the present would be found. An appeal lies to the law officers; and it is a recommendation to the suggested system, in the eyes of our correspondent, that at all stages patent agents may appear for the parties.

We have our doubts about the efficacy or success of this recommendation, though certainly not on the ground that patent agents, whom the Legislature has very properly recognised, would have a larger field than is now theirs. We should be glad to see them invested with more privileges, and corresponding responsibilities when they proved ignorant and careless. But such a tribunal would not satisfy patentees, who are the most pugnacious and persevering of litigants. Beaten in one Court, they will resort to another; if they at last acquiesce in the decision of the House of Lords, it is only because there is no tribunal above it. Such are the uncertainties necessarily attending many of the disputes, and, above all, such are the rewards that come with success in patent actions, that every weapon is, and always will be, used in the fight. It is not to be expected that, to take two examples at random, the parties to the litigation before Mr. Justice Wills in 1896 and 1897 in "The Incandescent Gas Light Company *v.* the De Mare Incandescent Gas Light System" and "The Pneumatic Tyre Company *v.* the Ixion Pneumatic Tyre Company" would be content with the decision of a few officials of the Patent Office. In the great majority of the cases referred to by the Lord Chancellor and by our correspondent much money is at stake; and the parties will spare no expense to gain their point.

A more plausible suggestion is that the evidence should not be left, as it now is, solely to the discretion of the parties; that the Judge should nominate some experts—if possible one in whom all have confidence—to report on the invention and the question of novelty, validity, or infringement; and that he should be guided by the report unless it was shown to be erroneous. This would prevent the competition, so common and so ruinous to poor litigants, in the production of expert evidence. It is no small recommendation of this suggestion that under other systems of law it is adopted and is found to answer. There is, however, some force in one criticism—Where, in many cases, is a truly impartial expert to be found? If the question is one of great importance, a scientific witness of eminence has probably in his writings or in some discussion committed himself, directly or indirectly, to an opinion on one or more of the points involved. To take an actual instance, it would have been difficult in the recent litigation between the Maxim-Nordenfelt Company and Sir William Anderson to have found a chemist whose report on the properties of the explosives under consideration would have been accepted as *prima facie* valid. Good might come of a special tribunal framed on the lines of the Commercial Court. But sometimes what is imperatively needed is the unbiased opinion of an intelligent outsider with no theories about physics. One point of delicacy is rarely touched by the critics of the existing system. It must be present to them all. In some professions a traditional sense of honour prevails to which all must conform, or appear to do so, and which prevents open and flagrant deviations from rectitude. Among doctors, for example, there are black sheep; but they keep well out of sight. It is notorious that, even in cases in which life and death are at stake, or when there happens to be a temptation to speak loosely, it is rare to find a doctor giving evidence in favour of theories which his brethren would scout as manifestly absurd. Could as much be said of the testimony of scientific experts in patent actions? There may be countries in which such witnesses never overstate the case and never sell their opinion. Ours is not one of them. Many scientific witnesses who ought to know better have acquired a very bad habit; they have come to regard themselves as advocates—in the witness-box. It seems a poor palliation of a real evil to press on scientific experts—some do not need that counsel—a loftier notion of their function than befogging the Judge or finding more or less plausible reasons for what they know to be untenable and absurd.