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THE REPORTERS,

CHRONOLOGICALLY ARRANGED:

WITH

OCCASIONAL REMARKS UPON THEIR RESPECTIVE MERITS.

Marry, Sir, they have committed false report.

Dogber. "Much Ado About Nothing."

Act v. Scene 1.

BY

JOHN WILLIAM WALLACE,
MASTER IN CHANCERY FOR THE SUPREME COURT OF PENNSYLVANIA.

SECOND EDITION, REVISED.

PHILADELPHIA:
T. & J. W. JOHNSON, LAW BOOKSELLERS.
1845.
Entered according to the Act of Congress, in the year 1845, by
T. & J. W. JOHNSON,
in the Clerk's Office of the District Court of the United States, in and for the
Eastern District of Pennsylvania.

PHILADELPHIA:
PRINTED BY L. R. BAILEY.
ADVERTISEMENT TO THE NEW EDITION.

The following trifle owes its origin to the author's having had occasion, a year or two since, to arrange a law library of some size. He found it convenient to adopt a chronologic sequence in the Reporters; and a part of his commission being to supply all vacuities in the series, so far as a limited amount of funds would do so, he had likewise to inform himself of the comparative merits of the reports, lest an extravagant price might be paid for volumes which were "now scarce only because they had been always worthless."

Thus noting what memory or reading happened to supply, his MS. increased to some size; and the editors of the American Law Magazine having thought that the tract might be useful to persons desiring to arrange or complete their reporters, it was delivered with a few additions to the printer of that journal; about forty copies having been taken in another form.

My friends the Messieurs Johnson, being civil enough to think that a re-impression will pay them for its ink and paper, I willingly transfer to them my copy, containing some additions pencilled on its margin, and preceded by some Remarks on the subject generally.

Philadelphia, February 16, 1845.
REMARKS

UPON THE

VALUE OF OBSERVATIONS CONCERNING THE REPORTERS.

In a science of which it is the characteristic that every age professes to be guided by what has been determined in preceding ones, the canon of reports is a subject of capital importance. The very deference which is paid to precedent makes it important that what purports to be precedent should be so indeed, and that the reliance which is believed to be given to beacons should not have been reposed upon lights that are false. We have, up to this date, more than twenty scores of different persons who have acted as reporters; nearly all of them self-constituted and without having been subjected to any antecedent test of integrity, education or general capacity. Besides this, it is known, that many volumes bearing the names of eminent lawyers (and purporting to come from their pens), were not designed for the press, were first published generations after their authors’ deaths, and from MSS. known not to have been original. Quite to be expected it therefore is, that these records should possess various grades of merit in almost every thing which belongs to good reporting; and we find accordingly that the judicial writings do frequently contain remarks upon their authenticity, genuineness, and other characteristics. Such remarks, being casual, are scattered
through many books; and it is matter of some surprize that in England, at least, no systematic work on the subject has appeared. From England alone, can any thing of much value on the subject be expected. The knowledge requisite for the task belongs to a sort of which there is a good deal among the men near Westminster Hall, and little any where else; a kind of hereditary, traditional knowledge, derived perhaps from their unpublished MSS.; descending, in a sort, from generation to generation with the dust upon their ancient repositories, and partaking too much of the character of an heir-loom to pass to us by cis-Atlantic severance. Yet the only English work is The Legal Bibliography of Bridgman, a meagre performance in all except the entries of time and place, and where the reporters hold a grade, at best, but subordinate to text books. Something is to be found in the catalogues of Clarke, and there is a note on the subject in Gresley upon Equity Evidence. Less than five pages disposes of the whole matter in Mr. Ram's book on Legal Judgment; though these, indeed, contain more than is found in any other English work. In our own country, a good general view is given in the commentaries of chancellor Kent; an occasional note is found in the Cases Overruled of Dr. Greenleaf, and with two short, though valuable articles in one of our law journals, completes the circle of all that is known to me upon the subject. My own imperfect

1 P. 301. 2 Vol. 1, Lect. xxi. 3 American Jurist, vols. 8 and 12. 4 I have, myself, however, to acknowledge an obligation to my friend Mr. justice Stroud of the district court of Philadelphia, who politely communicated to me some matters which had escaped not only my own reading, but, what is more remarkable, the researches of other persons. I am likewise a debtor to E. D. Ingraham, esquire, of the Philadelphia bar, whose stores of curious literature are unsurpassed by any collection in this city; and of whose readiness to impart their benefits I am not the only one to answer.

I am credibly informed that a MS. on this same matter, by John Kinsey,
Remarks.

tract, mere jottings from memory or casual reading, aspires to no character beyond that of an unvalued contribution; but, in common with what is found elsewhere, will serve to show that a good many observations have been made from time to time on the different reporters.

§ 2. It is, however, the misfortune of the subject, that while we have these expressions of opinion, they are often quite general, mostly but casual, and are seldom accompanied by the reasons on which they are founded, or afford any light by which they may be examined. An inquiry arises then at once as to their value, and the sort of interpretation which should be given to them.

§ 3. In regard to notices of a commendatory character little need be said. Presumption, to some extent, is usually in favour of a reporter; and favourable notice only strengthens, therefore, what in a measure, might be presumed without it. My remarks have

successively attorney-general and chief justice of Pennsylvania before the revolution, enlarged and brought down to more modern times by his son James Kinsey, chief justice of New Jersey, was in existence in this city within twenty years. Independently of my informant's statement, the fact is not improbable. The law library of the Pennsylvania chief justice seems to have been one of the most complete of his day; and his books, if one may judge from the double autographs upon their titles, came to his son more undispersed than is usual in our land of gavelkind inheritance. Both gentlemen would appear to have been something touched with Mr. Surface's elegant taste in the matter of their books: many of which are tall paper copies, usually nice and complete, and marked by those mysterious symbols which so ravish the eye of bibliographical freemasonry, and knit together in one communion and fellowship, throughout every age and in every clime, the disciples of this sublimest science. Should any possessor of the MS., which could not but be both curious and valuable, happen to stumble on this note, I would take it kindly, if under the comity of our mutua vicissitudinis obtentus, he would inform me of the interesting possession.
Remarks.

more reference to criticisms of an opposite sort. Of these we may say, I suppose, that:

I. They cannot be wholly disregarded.

§ 4. Many of them being direct and iterated, and coming, moreover, from persons of gravity, who set down naught in rashness, properly arrest attention; and may claim to hold the mind in at least suspendèd confidence as to the work condemned. Many proofs might be given to show that these declarations cannot, wisely, be disregarded. One, not more striking perhaps than others, occurred lately in the supreme court of our own country. It is well known that in a leading case, the chief justice Marshall, some years since, gave an opinion which had the effect of almost totally subverting, in two states of our Union, the entire law of charitable uses. And though some other states did not adopt the conclusions of the chief justice, the power of his venerated name was seized in all quarters of this land to originate litigation and uncertainty, and deeply to wound the whole body of trusts for religious, charitable and literary purposes;—truly called the blessing, honour and glory of any people. That there should be fallacy in the argument of the clear, cogent, inferential mind of John Marshall was, to be sure, impossible. Error in conclusion of his could arise but in one way; from imperfect information somewhere near his premise; and it did, in truth, arise from his taking as fact the statement of guides not worthy to lead him. For a quarter of a century were the influences of his opinion yet active in evil when, in 1844, an endeavour to subvert a large foundation brought the subject again before the court in the Girard college case, and caused a more careful examination into it.

1 The Baptist Association v. Hart's Executors, 4 Wheat. 1-29.
2 2 Howard 127-202.
The opinion of chief justice Marshall was in issue, and was overruled. Counsel showed that as to the principal authority, cited by the chief justice, from one of the old books, there were no less than four different reports of it, all variant from each other. That as to one of the reporters, the case had been decided thirty years before the time of his report; that he was not likely to know any thing personally about it; that "he certainly knew nothing about it accurately:" that another reporter gave two versions of the case "entirely different" not only from that of his co-reporter, but likewise from another of his own: that a fourth account, by a yet distinct reporter, was "different from all the rest:" that "nothing is to be obtained from any of these reports except, perhaps, the last, that is worthy of any reliance as a true history of the case;" and that even this, the best of them, had been rejected in modern times, "as being contrary to all principle." After such evidence that these judicial historians, like others of the title, were full of nothing so much as of most excellent differences, the counsel might very well observe, that it is "essentially necessary to guard against the indiscriminate reception of the old reporters, especially the chancery reporters, as authority:" and certainly a knowledge far less than that which chief justice Marshall possessed in some other branches of the law, would have reminded him, that one of his authorities enjoyed a reputation but dubiously good, while the character of the other was notoriously bad.

§ 5. Indeed, an antecedent probability that there may be matter in these observations about the reporters, arises from the general history of the volumes. And here we may mention (not indeed as a very important circumstance, but as one, nevertheless, which deserves to be noted) the well known political state of England.

during a great part of the seventeenth century; a term of time during which, as will appear further on, were published most of the common law reporters whose authority has been judicially questioned. It was the great mistake of Charles I., that for nearly all his arbitrary measures, he endeavoured to obtain the sanction of the common law. A former king, reduced to straights like his, would have exclaimed with John:

"Our abbeyes and our priories shall pay
This expedition's charge!"¹

And to this strong arm of plunder or to a corrupted priesthood acting upon conscience, any king before the Stuarts would have resorted not only with confidence but with perfect success. But a change had come over the spirit of royal dreams. The reformation had started a spirit which even the divinity of kings could not exorcise. Men would inquire: men would reason: men would be satisfied. Noy is the all in all, and when Charles is in distress, the attorney-general must raise him money by writs and patents and monopolies. Such measures of finance soon brought themselves, before the courts; and, indeed, the king relied upon his judges not only in regard to these matters but also in commending to the nation such violent measures as Laud and the "hotter sort of heads" were for introducing in the church. I need not refer to these cases in detail, nor to the extent to which they agitated the nation. They are familiar to most educated persons.² I refer to the subject more at large in a note.³

¹ King John, act i. sc. 1.
² Clarendon's Hist. of the Rebellion i. p. 121; id. 359; id. 169; Oxford. 1836.
³ This perversion of justice to the ends of faction and bigotry, and its bad effects, are recorded in memorable language, and with all "the ardour of conviction" by the great historian of the times. We extract some of his remarks, which, in their entire length, will well repay any pains which the reader may be at to procure the volume containing them.

"When they saw," says lord Clarendon, "in a court of law (that law which
§ 6. All this was calculated, I think, to bring the law into an abnormal and unhappy prominence. We find, accordingly, that gave them title and possession of all they had, apothegms of state urged as elements of law; judges as sharp-sighted as secretaries of state. . . . . judgment of law grounded upon matter of fact of which there was neither inquiry nor proof. . . . . they had no reason to hope that that doctrine (of royal prerogative) or the promoters of it, would be contained within any bounds. . . . . And here the damage and mischief cannot be expressed that the crown and the state sustained by the deserved reproach and infamy that attended the judges by being made use of in this and the like acts of power, there being no possibility to preserve the dignity, reverence and estimation of the laws themselves but by the integrity and innocency of the judges. And no question as the exorbitancy of the house of commons in their next parliament proceeded principally from their contempt of the laws, and that contempt from the scandal of that judgment; so the concurrence of the house of peers in that fury can be imputed to, no one thing more than to the irreverence and scorn the judges were justly held in; who had been always before looked upon there as the oracles of the law; and the best guide to assist that house in their opinions and actions. If these men had preserved the simplicity of their ancestors, in severely and strictly defending the law, other men had observed the modesty of theirs in humbly and dutifully obeying them. And upon this consideration it is very observable that in the wisdom of former times, when the prerogative went highest (as very often it hath been swollen above any pitch we have seen it at in our times), never any court of law, very seldom any judge or lawyer of reputation was called upon to assist in an act of power; the crown well knowing the moment of keeping those the objects of reverence and veneration with the people; and that though it might sometimes make sallies upon them by the prerogative, yet the law would keep the people from any invasion of it: and that the king would never suffer, whilst the law and the judges were looked upon by the subject as the asylum for their liberties and their security. And therefore you shall find the policy of many princes hath endured as sharp animadversions and reprehensions from the judges of the law, as their piety hath from the bishops of the church: as imposing no less upon the people under the reputation of justice, by the one, than of conscience and religion by the other." (See vol. i. pp. 121-135.)
judicial reports and proceedings, from time immemorial entered in another language, are now ordered to be had in English alone. And as if to avenge the seclusion in which this knowledge had been held, the nation dragged to light every thing which bore so much as semblance to the aspect of law. "Then came forth," says a historian of the time, "a flying squadron of thin reports;" and past doubt there must be meaning in the sudden and unexampled increase of this sort of publication at the epoch of which we speak.\footnote{5 Mod. viii.}

§ 7. Nor should we omit, in this connexion, to mention the well known state of the press during the same term. In the partizan fury which pervaded the nation, its germ of power, as yet but nascent, seems to have been stimulated to enormous growth,\footnote{Between the years 1648 and 1688, the following volumes first issued from the press. It will be seen that they constitute the corpus of the ante-revolutionary reporters; and among these it is that the worst of all the reports are found: Alleyn, Anderson, New Benloc, John Bridgman, Brownlow and Goldborough, Bulstrode, Calthrop, Carter, Carey, Choice Cases in Chancrey, Croke, Godbolt, Goldborough, Hetley, Hutton, Jenkins, Keble, Lane, Leonard, Ley, March, 1st Modern, Moore, Nay, Owen, Palmer, Popham, Rolle, Saville, Siderfin, Styles, Tothill, Vaughan and Wince.} and the invention became the minister of frauds to an extent which, even in this day, we can scarcely conceive.\footnote{The Eikon Basiliké passed through fifty editions in a single twelve-month. (Hume vii. p. 154.)} The matter, in short, arrived to a

\footnote{Had not almost every man," says Sir Thomas Browne, in 1642, "suffered by the press, or were not the tyranny thereof become universal, I had not wanted reason for complaint; but in times wherein I have lived to behold the highest perversion of that excellent invention; the name of his majesty defamed; the honour of parliament depraved; the writings of both depravedly, anticipatively, counterfeitly imprinted; complaints may seem ridiculous in private persons, and men of my condition may be as incapable of affronts as hopeless of their reparation. (Preface to the Religio Medici.)}
pitch so high, that soon after the restoration, legislative aid was invoked towards a reformation;² though in the inveteracy of the disorder even legislative resources were found quite inadequate to a cure.

§ 8. But beyond these causes of corruption were others as great as can be imagined. I mean that most of these reports are posthumous, were printed from MSS. not original; and that even the originals were not designed for the press.

§ 9. Reporters now-a-days make reporting a particular study: they follow the courts regularly, take notes, examine and prepare the case,² obtain the original written opinion of the court, often submit the case to counsel and the court, and the volumes appear so soon after the decision they record, that if any error should exist, it could scarcely fail to be corrected. But quite different was the usage in former times. Thus in regard to the matter of contemporary publication. Cases in New Benloe go back to the year 1531, while the book was printed in 1661, one hundred and thirty years after the decision of the cases it records. Anderson, which goes to 1534, was printed in 1664, the same space of one hundred and thirty years afterwards. In Owen, there is an interval of a hundred years: in Brownlow and Goldsborough, of eighty-three years: in Saville, of ninety-five years: in Goldsborough, of seventy-two years: in Popham, of sixty-four: in Lane, of fifty-two: in Ley, of fifty-one. So of other instances, where it is evident enough, too, that of many cases, the authors, like the worthies of old, must have obtained a report by faith: though not always a good report; as was shown in the Girard college case.³

¹ Stat. 13th and 14th Car. II. c. 33.

² Some of them, I mean. I should be sorry to lay such things to the charge of several of the gentlemen who of late have undertaken the office of reporters; things certainly, that they know not of.

³ Ante, vii.
§ 10. The effects of this publication so many years after date, will suggest themselves when you advert to the strong probability that the printer, in consequence of it, must often have had corrupted "copy." While it is true that, prior to those days, printed reports were nearly unknown, it is to be remembered that a higher regard was then had for precedent than has been the case at any time since.\(^1\) Of course every lawyer would keep an *adversaria* into which he would copy whatever cases the note books of older lawyers happened to contain. A second lawyer would perhaps transcribe from the copy: a third would perform, for himself, the same office by the transcriber; and a fourth, may be, put into *his* book what liked him from a third: and so on. Thus the case of the reports is obviously peculiar. Most books, even when printed after death, are secured from imposition because they subsist in a single copy written or revised by the author; and the faults of the printed volume must be the faults of one descent. But of the reporters, the original was lent, not to be printed, but to be copied. It was vitiated by transcript after transcript; mistaken by blunders of the penman; enlarged perhaps to introduce cases, and mutilated to exclude them. Ignorance and interest and accident all combined to produce error; and the work would be printed, at last, without the concurrence of the author, without the consent of the proprietor; and thrust surreptitiously upon the world from that copy, perhaps, which was the most corrupted of all.\(^2\)

\(^1\) See *post*.

\(^2\) See on this subject of frequent mediate transcription, Dr. Johnson's "Proposals for Shakspere." (Works ii. p. 125, Lond. 1806.)

The practice to which I have referred in the text, of transcribing the reports, and the tendency of it to deprave them, is frequently mentioned in the reporters themselves. "Having been desired," says the early editor of Benloe and Dallison, "to peruse the printed copy of this book before it was made public, I have
§ 11. All which conjecture infers as "apt and of great credit" in this matter, is rendered yet more probable by what you see in spent a little time in comparing that part of it which is of serjeant Bendloe's, with some other copies which I have besides those which are already extant; and I do conclude thereupon with some assurance, that it contains the original which was left by that serjeant, and that it is the most authentic copy of his whole work. The disproportion in number that the cases already printed do bear to this, are obvious. In one copy which I have, there are in all two hundred and forty cases, which are many more than are in the best former edition: in another there are about one hundred cases; and that was my lord Coke's own copy which he used, and noted with his own hand: and it is manifest that those different copies were but different notes and extracts from the original, wherein such as collected them made use of their own judgments in the manner of abridging and in the choice of the cases." The executors of Dyer tell us: "After that this work came to our hands, being most earnestly required by some of our loving friends to grant unto them the view thereof, the opinion they had of the author seemed so to inflame them with desire to have the same, as that the books themselves or the copies thereof without breach of friendship might not be denied them." The same practice is made evident in the certificate of approval by the judges to the reports of Latch: "These reports," say they, "are all of Mr. Latch's hand, but as we conceive not originally taken by him, but excerpted out of some other MS;" a matter which is heard of farther in the preface to Palmer's reports, where it is said that Latch stole one hundred and twenty of his cases out of a note book he had borrowed, and that he had corrupted them in the transfer. The editors of sir W. Jones had cause, it would appear, for a similar complaint. "The MS. being lent to serjeant Glinne presently after the author's death, and by him appropriated to his own use, was the reason," say they, "why it was no sooner made public." And how he prized it, is shown, they think, "by his abridgment of the greatest part thereof." The MSS. of sir J. Kelyng are published because copies "were dispersed in several hands, which might hereafter be published to the injury of the author;" and Winch is given to the profession from the same motive of preventing "spurious copies in prejudice of the public." The editor of Leonard's reports speaks of them as having been "transcribed by divers honourable and learned persons," who are named. The resolve,
nearly every volume of reports printed about this time. Almost always, either on the title or in the preface, you are assaulted by some note to convince you that the work is printed from a genuine MS. Moore you have "per l'original jadis rémanent en les mains de sir Geffry Palmer, chev. bart. &c." Anderson, in like manner, "per l'original remaneant en les mains de l'imprimeur." "The originals themselves of all these reports," says Hughes, the editor of Leonard, "all of them under his own hand-writing, are now in my hands." Of the reports called or miscalled Noy's, the editor declares: "They came into my hands with very much assurance that they were his." Sir Harbottle Grimstone avers that he has the autographs of Croke, "and will be ready at any time hereafter to produce them for proof or confirmation." Should any one doubt the credit of Sir John Bridgman's reports, he "may have sight of the original by the help of the stationer." The editor of Popham has his MS. "out of the library of a reverend and learned serjeant at law, now deceased, and said therein to be written with the proper hand-writing of the lord Popham." Yelverton, more satisfactory, comes from an original "south son maine propre, remanent en les mains de sr. Thomas Twisden, chevalier," &c. &c. The title announces that Lex is printed according to his lordship's MS. Rolle is "colleges par luy meme et imprimees par l'original:"

"Reader!" (appeals the editor of Latch, in pompous and lying

at first made, of Mr. Edward Vaughan not to publish his father's reports, "begot importunities for copies," which were procured, and soon after, "by what means," says he, "I know not, dispersed farther than I intended them, and as I have been informed, cited as authorities." The same avidity for possessing cases is referred to in the preface to Popham: "It hath not formerly been (neither yet is), a thing unusual for the great and learned professors of the law, to ingross into their own hands the best and most authentic reports for their better help, credit, and advantage in the course of their practice, which being unknown to other men, they cannot upon a sudden, be ready to make answer thereunto."
Remarks.

solemnity), "the testimonials of many sages of the law, the judges, and his contemporaries, give you an assurance above all I can express, that the original of this impression was all written by that worthy person's own hand." "These are sir Thomas Hearley's reports;" seizes on the eye as you open that thin reporter. Siderfin is from "l'original south son maine propre;" and sir J. Kelyng, preferring English, comes from "the original MS. under his own hand." So of other volumes printed about these times. The editors, in short, seem always to take it for granted that fraud is a foregone conclusion; and, by a pre-defence, make it clear that professional confidence had been largely abused.

§ 12. We have, however, direct assertion of this fact in contemporaneous history. Sir Harbottle Grimstone, who (for all his strange appellatives), was eminent as leader of the commons, and afterwards as master of the rolls, published in 1657, an Address to the Students of the Common Laws of England. Its language on this subject is striking: "A multitude of flying reports whose authors are as uncertain as the times when taken, have of late surreptitiously crept forth. We have been entertained with barren and unwarranted products, infelix lolum et steriles avenae, which not only tends to the depraving the first grounds and reason of the young practitioners, who by such false lights are misled, but also to the contempt of divers our former grave and learned justices, whose honoured and reverend names have, in some of the said books, been abused and invovated to patronise the indigested crudities of those plagiaries; the wisdom, gravity, and justice of our present justices not deeming nor deigning them the least approbation or countenance in any of their courts."

The younger Bulstrode, when publishing in the same year his father's notes, refers to the matter in very similar language: "When I had reviewed these late and flying reports (most of them being incerti temporis and of late time published), not by the authors themselves
(who were profoundly learned), nor yet by them during their lives fitted and prepared for the press, but after their deaths thus published by others, yet not known by whom, having not named themselves.”

And if we yet wish the strength of the “three-fold cord,” it is found in the testimony of Styles the reporter: “The press,” says he, in 1658, “hath been very fertile in this our age, and hath brought forth many if not too many births of this nature: but how legitimate most of them are, let the learned judge. This I am sure of: there is not a father alive to own many of them.”

Almost all the reports published in the middle part of the seventeenth century were posthumous; and it would appear, generally speaking, as though it were only where the work was edited by some relative or person of character, or where a reference is made to the place of deposit of the author’s original MS, that you can depend on the value of the book. The matter is better suggested by a comparison of authority as presented in the grouping of a tabular exhibit.

<table>
<thead>
<tr>
<th>NAME OF THE REPORTER</th>
<th>EDIT. PRINCEPS</th>
<th>EDITOR</th>
<th>MS., IN WHOSE POSSESSION</th>
</tr>
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<tbody>
<tr>
<td>Coke.</td>
<td>1657</td>
<td>Son.</td>
<td>Son's, apparently.</td>
</tr>
<tr>
<td>Vaughan.</td>
<td>1677</td>
<td>Sir M. Hale.</td>
<td>The printer's, for copy.</td>
</tr>
<tr>
<td>Rolle.</td>
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<td>Yelverton.</td>
<td>1661</td>
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<td>The printer's.</td>
</tr>
<tr>
<td>Anderson.</td>
<td>1664</td>
<td>Original.</td>
<td>Daughters and executrix's.</td>
</tr>
<tr>
<td>Wm. Jones.</td>
<td>1675</td>
<td>Wm. Hughes.</td>
<td>Wm. Hughes, the editor's.</td>
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<tr>
<td>Leonard.</td>
<td>1658</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
</tr>
<tr>
<td>Noy.</td>
<td>1556</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
</tr>
<tr>
<td>Godbolt.</td>
<td>1556</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
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<tr>
<td>Owen.</td>
<td>1556</td>
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<td>Popham.</td>
<td>1556</td>
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<tr>
<td>Winch.</td>
<td>1657</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
</tr>
<tr>
<td>Littleton.</td>
<td>1683</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
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<tr>
<td>March.</td>
<td>1648</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
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<tr>
<td>Hutton.</td>
<td>1656</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
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<td>Ley.</td>
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<td>No editor named.</td>
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<tr>
<td>Lane.</td>
<td>1657</td>
<td>No editor named.</td>
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<tr>
<td>Hexton.</td>
<td>1657</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
</tr>
<tr>
<td>J. Bridgman.</td>
<td>1651</td>
<td>No editor named.</td>
<td>No account of the MS.</td>
</tr>
<tr>
<td>Carter.</td>
<td>1668</td>
<td>S. C., esq.</td>
<td>No account of the MS.</td>
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Every book in the upper brace et possess authority; scarcely one in the lower.

The middle of the seventeenth century, as we have already said, was marked
§ 13. In the extract which is above made from Bulstrode, there is indicated another source of imperfection in the early reporters—*the originals were designed for private use merely.* The bar, as we have shown, were in the habit of taking notes for convenience in the by the unbounded fertility and pollution of the press; and particularly by the immense number of *tracts* with which it teemed. It would seem indeed as if our nuisance of the penny press is a mere resurrection of a filthy spirit that was then stalking the earth, but more happily soon after was laid and forgotten. "I know not," says Dr. Johnson, referring to the period, "whether this may not properly be called the *Age of Pamphlets.* . . . . They were undoubtedly more numerous than can be conceived by any who have not had an opportunity of examining them." (Origin and Importance of Fugitive Pieces. Works ii. p. 247.) And other intelligent judges have thought, that vast as is the amount of ephemeral printing in England at this day, it is actually less than that which prevailed at the time of which we speak! It has occurred to me—I give it but for a suggestion—that among these innumerable productions, now of course "lying in the sewer, lifeless and despised," there may be reports so small and worthless that even their names have not reached us. Sir Harbottle Grimstone, in 1657, expresses a fear that his father-in-law, judge Coke's MSS. "should be obtruded to the public by an incurious law-hand, or through sordid ignorance of some others be prostituted in the *contemptible pamphlet dress and character* of such of their blind and misshapen reports as some of our late justices and professors of the law are in that kind abused." (Address to the Students of the Common Laws of England.) Certainly no reports that we know of have the exact dress or character of *pamphlets*, as we now use that word, or as its supposed derivation (*par un filet*), seems to limit it; though it is possible that our author had reference to Noy, Owen, Hutton, Lane, Hettley, and John Bridgman, all which are small and thin folios. The thought (which, as I have said, is given but as a passing one), derives an imperfect confirmation from the fact mentioned by sir Harbottle in regard to these reports, in another part of his *Address*: the then "present justices," he says, "*not deeming nor deigning them the least approbation or countenance in any of their courts.*" So that the absence of reference to these reports, if any such there were, is not a sufficient evidence that they never existed.
course of their practice: and the judges, with whom the memoria prateritorum eventum was matter of essential accomplishment, would preserve memoranda of their own decisions. But in neither case would such records be designed for more than private use, or as other than aide-mémoires to the owners themselves: nor would they be more full or more carefully drawn than was necessary for such an object. ¹ How imperfect, by their nature, would be even the originals of such reports! and who can even conjecture how much the author, omitting in the "tempest of business," might design to supply at his leisure and from the memoranda of others? or how much he might suppose himself able to retain in unaided memory? or how much, from particular circumstances, he might not care to remember at all?

§ 14. To all the causes of imperfection which we have noted, must be added another and an important one, viz.: that many of the volumes which we call reports are translations from French or Latin originals never published. In cases like Dyer's, Yelverton's, and some others, where the work was first printed in the original and subsequently translated, you have at least the means of verifying the translator's work. But during the usurpation (a time, as we have said, very fertile in reports), the English having been made the court

¹ With the exception of Plowden, part of Coke, Styles, Saunders, and one or two others, scarcely any of the ante-revolutionary reports were designed for the press. "The volume of sir William Jones," says his editor, "as may be easily perceived, was not intended by him for the press." "These reports," says Carthu's editor, "I did not design should have ever seen the light." Sir John Vaughan's are printed without the editor's having received any "particular direction from the author for that purpose." Dyer, it is well known, left his in an incompletely state; and J. Kelyng's, with those known as Winch's, were printed only to avoid the evil of more spurious impressions. Even Coke tells us that his were written "mid the distraction of many concerns, and therefore he could not "polish them as he desired." (Pref. to 5 Mod. viii.)
language, and reports in other languages prohibited, the editors translated their MSS. at once into the national tongue. Thus it is that Croke, Winch, Popham, Owen, Leonard, Hettley, J. Bridgman, and others perhaps, though all written originally in French or Latin, first appear to the world in the form of a translation. And when you consider the cryptographic abbreviations which in old times marked alike the court and the common hand; that the original MSS. having been generally designed but for private use, would be filled with symbols understood by the authors alone; and above all, that the usually 

anonymous translator was secure from any comparison of his translation with the original; you can readily conceive the value of this element of imperfection.  

1 Sir Harbottle Grimstone, the son-in-law and first editor of Croke, says in his translation of the judge's MSS.: "I have taken upon me the resolution and task of extracting and extricating these reports out of their dark originals (his own father-in-law's hand-writing) they being written in so small and close a hand, that I may truly say they are folia sybillina, as difficult as excellent." The editor of Sir William Jones complains, that the judge's writing "was very difficult to read till mastered by patience and observation." This matter is not without evidence of a practical importance: Sir Edward Sugden, examining a great question of law, has occasion to note it. "In 2 Sid. 99," says he, in his work on Powers 17 n., "the words non tam are, in citing this passage, substituted for non tantum; but they appear to make nonsense of the sentence. The word, in Dyer, is abbreviated thus, ãm, which appears to be the proper abbreviation for tantum, and is decidedly used so by Dyer himself in another place. . . . . It is very important that the true reading of the passage in the text should be determined." In fact, this matter of the court-hand abbreviations was found so difficult and productive of so many mistakes, that considerably more than a hundred years ago the legislature had to interfere. The statute of 4 Geo. II. ch. 26 enacts, that all proceedings in the courts shall not be "in any hand, commonly called court-hand; and in words at length, and not abbreviated." We may infer, too, that the grievance here remedied had been often felt before. It is remarkable, at all events, that the "great law" of William Penn, passed at Chester or
§ 15. In the argument of *Vidal v. City of Philadelphia*, it was observed at the bar,¹ that the early chancery reporters were even less accurate than their contemporaries at law; and the sentiment was confirmed by judge Story,² who spoke of them as "shadowy, obscure, and flickering." The observation I take to be true; and that in regard to the early chancery reporters we may find a yet additional cause of incorrectness, arising perhaps from the *history* of equity. Though the binding nature of precedents in equity is said to have been acknowledged a good while ago, both by Bridgman,³ and by lord c. j. Treby, sitting for the chancellor,⁴ it is yet true, to a common intent at any rate, that until the time of lord Hardwicke, equity was administered pretty much according to what appeared to be good conscience applied to the case. Hear such a man, for example, as chief justice Vaughan: "I wonder," says he, in 1671, to hear of citing precedents in matters of equity; for if there be equity in a case, that equity is an universal truth, and there can be no precedent in it." And the error seems to have been a vulgar one in the profession so late as 1765, when Blackstone, quoting a Dutchman for authority, declared that "there can be no established rules and fixed precepts of equity laid down, without destroying its very essence."⁵ While so little deference to precedent was had from the woolsock, no great motive existed to record cases. And hence until we come to the time of Peere Williams, when, under a succession of eminent men, equity began to assume the shape of a system, we have few reports which inspire any considerable confidence as to accuracy, even where the genuineness of the MS. and the capacity of the author (as in the case of Vernon), have not been questioned.

Upland, immediately on his arrival in America in 1652, declares with great solemnity, that all "pleading, processes, and records in court shall be in an ordinary and plain character, that they may be easily read and understood.”

¹ Binney’s Argument, &c. 83. ² 2 Howard 193. ³ 1 Mod. 307. ⁴ 3 Chan. Cas. 95. ⁵ 1 Com. 62.
§ 16. These remarks, less particular and less fortified by proofs than but for proli
ginity they would be, will perhaps show that from fhe
gone circumstances some of the reporters would not be likely to be
eminently correct; and that the remarks of judges, discrediting them in particular cases, are to be received with respect as not
wholly improbable. But

II. These remarks are not to be over-estimated.

§ 17. It may be said without offence, I presume, that a thorough
knowledge of the old reporters is what no man at this day at all pos-
sesses; and the same remark may be more or less true of the law-
yers for the last half century. This was otherwise, however, until
comparatively of later times. Up to the year 1776, for example, the
whole number of reports in England, both at law and in equity, did
not much exceed a hundred and fifty volumes; while in the United
States there was not then, nor for many years afterwards, so much
as a single one. The reporters whom in civility to contemporaries
we now style old, were then of course the hand-books of the law.
We rarely open one of them whose broad margin is not either graced
or disfigured by constant reference and comments with the pen, often
in different hands, and indicating an intimacy of acquaintance to
which we of this day are strangers. But the chief justiceship of
Mansfield formed an era in the law; and the reports of his chronicler,
sir James Burrow, worked a revolution in reporting. We have now
not far from two thousand volumes of reports;¹ and of late years par-

¹ Figures which I cast give the whole number at one thousand six hundred
and eight:—but—dum loquimur! Alas! the bookseller's boy opens the door,
with an armful of new volumes, most of them from the western states—the
west of the western—where the sturdy stroke of the woodman must yet be
resounding in the tribunals of justice.
REMARKS.

particularly, the decisions of every court, dignified and diminutive, are handed down to us in such pleonastic numbers, and by the subjects of which they treat so much more nearly the practical concerns of men, that the older reporters have fallen into comparative oblivion. I doubt therefore whether all, even of that little which judges have said of late times, and in this country particularly, about them, be founded upon a thorough personal knowledge of their contents. Is there not ground to fear, that in this day of "cheap reading," there is a good deal of cheap writing? that in the law particularly there is a class, and a large class—aye, and on the bench too—who in Hooker's language, talk of truth without ever sounding the depth from whence it springeth. Sir Edward Sugden has deemed it worthy of record, that of the decisions cited in his treatise on Powers, the report of every case had been anxiously consulted; and the result of his labour has been a text-book which rose at once to almost the authority of judicial decree. But how few there are who could bear fellowship to such fidelity! or, who stopping short, have yet followed the advice somewhere given by Niehbur to a student of philosophy, never to quote at second hand, even if the citation be scrupulously verified, without stating through what channel you have drawn.

§ 18. The sort of quotation which I have spoken of as common, leaves one sometimes at a loss in this matter of the books, to know how far he may depend upon criticisms which he meets; for no great reliance would be due to learning which is but the repetition of other men's statements; themselves, perhaps, in turn, as worthless as those which they originate. To illustrate what I mean: A censure of Noy happens to be found in a note to Hargrave and Butler's

2 Pref. to Sugden on Powers.
3 2 Brod. & Bing. 535.
REMARKS.

Coke;¹ an elementary book, read, as of course, by every student. The consequence has been, that while reports are bad even as those ascribed to Noy, but whose censures lie in books but little read, are often cited; the attorney-general of Charles is scarcely named but to be condemned. I doubt not, in the least, that Mr. Hargrave’s censure is just, and, by him, was made with connaissance de cause; but of the persons who have appropriated it as their own, how many are there who have faithfully read what they so unhesitatingly condemn? A Frenchman, again, regards sir W. Blackstone’s reports as so inaccurate that he excludes them from the list of reporters altogether.² How far he is right, I don’t care to inquire. But the author of Mahomet, of Zayre and of Mérope could see in the yet sublimer productions of Shakspeare, little beyond “ses farces monstrueuses qu’on appelle tragédies;”³ and I humbly venture to doubt whether Dupin, rejoicing even as monsieur is known to do in his feux d’artifice, would yet taste the distinctions asserted for the squib-firing youths of Scott v. Shepherd.⁴

§ 19. In other cases, the criticisms, by being false, have been less innocent. Thus, from impressions taken up in youth as to the personal habits of the individuals, or from some other insufficient cause, lord Mansfield forbade counsel’s citing Mosely and Barnadiston;⁵

¹ P. 54 a.
² See Dupin, Profession d’Avocat, tome ii. p. 575. The author remarks that the English reports have become so numerous, “et qu’ils se multiplient telle- ment chaque jour, qu’on croit inutile de les spécifier ici. On se contentera d’en indiquer les principaux auteurs. Ce sont Brooke! Coke, Croke, Dyer, Hales! Holt! Fitzherbert! Plowden, Waughan!” Vive monsieur Dupin!
⁴ Scott, an infant, by his next friend, v. Shepherd, an infant by his guardian. (3 W. Black. 892.)
⁵ 5 Bur. 2629 and 2 Bur. 1142.
and his censures being found in very popular reporters, the volumes, like Noy, were for a long time scarcely ever quoted but to receive accumulation of disgrace. And so, in truth, they might have fared till now, and much longer, had not the earl of Eldon, who usually saw with his eyes, corrected Mr. chief justice. More careful investigation than it was Mansfield's wont to give to any thing, make it plain, that notwithstanding the iterated condemnation of the volumes, one person has only repeated what somebody had said before him; and that the error of all can be traced to the single and perhaps unconsidered dictum of one imposing individual.¹

§ 20. Numerous, indeed, might be the proofs that judges have been content, in this matter, to draw from the stagnant reservoir of their predecessors' learning, instead of speaking what themselves do know. And hence we may say, as a general rule, that with regard to the character of the old reporters, statements earliest made are more deserving of attention than those more late, confirming or enlarging them. If indeed, these latter contradict prior statements (referring to them, especially), the case is altered; and, in some circumstances, might be taken to be reversed.

§ 21. But even the statements earliest made are not to be received with a faith that is blind. Much of their value depends upon circumstances; much, especially, upon the person from whom they

¹ My friend, Mr. justice Stroud, of the district court of Philadelphia, calls my attention to the peculiar manner in which the earl of Eldon speaks of lord Mansfield's flings at Barnadiston. The earl, quoting a case in the house of peers, from this reporter, says: "Lord Mansfield then Mr. Murray, argued that case before lord Hardwicke, and Mr. Barnadiston was at the bar at the same time, although afterwards, when Mr. Murray had become lord Mansfield, when Mr. Barnadiston's reports were cited, his lordship used to say, 'Barnard——, what you call him.' In that book, however, my lords, there are some reports of great value." (1 Dow's N. R. 11.)
come. Some men deal largely in these small things; the curiosities of literature; the mint, anise and cummin of the law: but such men are not always profound in knowledge, nor comprehensive in their views; for except in minds happily constituted, these studies do tend to contract the observation and to give diminutiveness to perception: and there is danger lest such learning be elevated to an importance which it does not merit. Admit that a book is not "of authority;" yet it needs not, as of course, to be pitched away with absolute contempt; for truth is spoken sometimes, even by those who speak it least often. The remarks of legal bibliophils deserve, however, to be received as suggestions; for it is not often that this sort of learning, in the nature certainly of curious, is largely possessed by other members of the profession. We have stated the want of it in one illustrious case; that of chief justice Marshall; and, indeed, it usually happens that men of strong, logical minds, who reduce their knowledge to general principles, and trust much to the pure, passionless strength of reason, are not tenacious in their memory of insulated facts. Then again it may arrive, that men of a widely different sort from those merely curious, persons of most active and comprehensive intelligence, who have spoken about these things, may yet, from some cause, be not always, in regard to them, most worthy of confidence. Lord Mansfield has been more often quoted for opinions about the reporters, I suppose, than almost any other single judge. Yet I doubt whether this great personage was the best authority on any point of learning akin to antiquarian. In truth, the viscount Stormont found it necessary to his system to discredit the old authorities of every sort: he meant to pull up the land-marks of the law, and to resettle it upon what he deemed the principles of equity and common sense. His taste, too, was more sympathetic with Pope than with Plowden: and he had too much both of the power and independence of genius, either to pursue authorities or
properly to prize them. Subsequent judges it is well known, have
more than once disabled his lordship's judgment about books. Lord
Kenyon, while in the zenith of his knowledge, or Eldon, or Redes-
dale, or Sugden, or any of that consort of lawyers whom these
may be taken to represent, would probably be worthy of higher cre-
dence on such points; men, I mean, who being eminently formed for
the law by the dry, strong and sequent structure of their minds, have
scorned delights and lived laborious days in the acquisition of its
deep and varied learning.

§ 22. There is another element, and an important one: "By
whom are these observations reported?" I speak not here of the
authority of the reporter, so much as of his manner. Some re-
porters are minute: others general. One man gives you a daguerre-
otype: another but an outline. Burrow is, undoubtedly, to my
taste, a model for reports: yet it cannot be doubted that the awe
with which something magic in lord Mansfield inspired every one
about him, and which led sir James to treasure the minutest dictum
that fell from his lips, has given body and permanence to what
may have been a conversational, or suggestive, or pour s'informer
remark, not delivered as a judgment for posterity. The "business"
(as players call it) not being marked in the report, we are at a loss
for the manner in which an observation was uttered; and, translated
to metal, a passing idea assumes the weight of judicial resolution.
To say nothing, in this regard, of what the poet speaks; the thousand
passing shades which

"— nature's, custom's, reason's, passion's strife,
And all opinion's colours cast on life."

My lord has said that a book was not to be cited. Has he ever
read it? Perchance. Perhaps he was tired only: perhaps he was
convinced:—perhaps inconvincible:—"was sick, in wrath, or had not
dined."
§ 23. Even more to be regarded than the consideration just named is another, which is this: That most of these remarks (at best in many cases, as I have said, but very general) are not the result of a conviction entirely normal: They are usually found in cases where a judge is combating an authority, and where his mind may have been somewhat warped by the ardour of struggle. Pressed by an authority, it is found safer to discredit a reporter than to depart from a precedent. Lord Mansfield was quite unscrupulous in this way; and the influence may be detected in minds more dispassionate than was his. Lord Kenyon for example, being urged in Rorke v. Dayrell,¹ by a report of Burrow’s, was not restrained from questioning the fidelity of this most faithful knight: He declared it probable that in the report of Chitty v. Cooper,² lord Mansfield had been misrepresented. But more critical investigation shows that even Kenyon did not always weigh his words in scales of gold; that, in this case, his censure proceeded from his wish as much, probably, as from his candour. “If lord Kenyon” (said Mr. baron Parke more recently in the house of lords)³ “before he declared his judgment in Rorke v. Dayrell, had fortunately referred to his own note of Cooper v. Chitty, which has since been published by Mr. Hanmer from his lordship’s original manuscripts, instead of impeaching, he must have borne testimony to the accuracy of sir James Burrow’s report. . . . The notes of lord Kenyon and of sir James Burrow on this point are in such perfect harmony, that one may be considered a fac simile of the other.” A very palpable hit, to be sure; and which by a juxtaposition of the two reports, the learned baron makes sufficiently pungent. We can trace the same thing in the yet greater mind of chief justice Marshall; not hasty, he, we may surely affirm, in laying hands on any man. In the opinion of this great judge to

¹ 4 D. & E. 402. ² 1 Bur. 36. ³ 6 Bligh N. R. 369. (A D. 1832.)
which I have already referred, he found that his conclusion was at variance with a decision reported by sir William Blackstone. The reports of the English commentator, it is known, do not sustain his high repute; and the chief justice remarks that all the respect which he entertained for the reporter of that case could not prevent the opinion that it had been "inaccurately reported." But when the matter came to be more severely examined in the Girard college case, it was shown at the bar, that Blackstone's report was entirely confirmed by another of Eden's; and that both were "sustained by all that deserved the name of authority in England."  

§ 24. The last circumstance which I shall mention, is one which has particular application to our own country and to this day. We find it stated occasionally in the English books, not that a reporter is inaccurate, not that reliance cannot be placed upon his report, or that he is of bad authority, but that he is "not authority." Take for example Popham's reports. Chief justice Hyde, in quoting a case which is found there, while he vouches for the accuracy of the case (having heard it), yet speaks of "the authority of the book as none." So in regard to the reports of sir John Davis, a book of undoubted accuracy: when these were cited, the court, not denying the accuracy of the reports, yet informed counsel that the book was not "canonical:" that is, as the word is explained, not authoritative, not having the force and binding efficacy of a rule. Again, Buller tells us that Comberback and Noy had been "forbidden to be cited." In another instance, lord Hardwicke declares of a certain

1 4 Wheat. 41.
3 1 Keble 676. 4 Latch 238; S. C. Palmer 462.
6 Clarke.
book\(^1\) that it is *better* collected than most of the kind, yet he characterizes it as "not of authority." The same great judge elsewhere refers to Fitzgibbon's reports, but adds: "which I do not care to rely on, as it is of *no* authority; though this and some other cases are *well reported in it; this particularly finely."\(^2\) Of Barnadiston, Lord Mansfield "absolutely forbid the citing;" yet he said nothing against the correctness of the particular case quoted; nay, admitted that the reporter did surprisingly *often* stumble upon what was right: and, as would appear, made no objection against receiving other evidence to show exactly the same thing which was found in the interdicted volume.\(^3\) So, when Sergeant Wynne referred to a report in Gilbert's Cases in Equity, the court, we are told, "explained the book;"\(^4\) a form of expression rather denoting that the accuracy of the case cited was not regarded as a question open to debate. And again, to multiply as well as to end our instances, when Mosely was quoted, the chief justice told Mr. Impey that the book was one which "he should not have quoted;"\(^5\) and Mr. Mansfield, opposing counsel, "owned that he had never seen such a book;"\(^6\) when, in fact, the volume had been in print for more than a quarter of a century.\(^7\) Now, the case itself shows that Mosely's report was correct, and could have been *proved* so at the time. But no remark or discussion as to the probability or improbability of this point appears to have taken place. Mr. Impey receives Lord Mansfield's remark exactly as if it were the overruuling of a point of evidence: the book is excluded: there's an end of that; and what the counsel meant to show by it, he shows independently of it, by producing a certificate to the same effect from the register's book.

\(^1\) The Practical Register; see 2 Atk. 22.
\(^2\) 2 Bur. 1142.
\(^3\) *Clarke.*
\(^4\) 5 Bur. 2639.
\(^5\) *Id.*
\(^6\) Bridgman's Leg. Bib. 223.
\(^7\) *1 Kenyon 71.*
§ 25. In all these cases, the objection seems to have been of a technical sort; an objection, not the accuracy of the report, but to the reception of the book in which it is contained. On the other hand, we often find reporters cited, when the inaccuracy of their books is notorious; as, for example, Latch, Keble, Siderfin, Carter, several volumes of the Modern Reports, the Cases in Chancery, and other books. When these are cited, you will perhaps find that their general incorrectness is referred to; and may be an inference drawn from it, of incorrectness in a particular case relied on at the bar; but I am not aware that judges have ever "absolutely forbid" these books to be cited; or "exploded" them, or spoke of them as being technically "not of authority." In one case, lord Rosslyn even speaks of a book1 as of "considerable authority," yet referring to a case reported there, calls it "totally misreported."

§ 26. The forms of expression which I have mentioned, seem to be peculiar; they would indicate a distinction somewhat similar to that known at nisi prius, between competency and credibility. I do not profess perfectly to understand the matter. I take it, though, to be probable, that the force and effect of what used to be known as precedent has, of late times, considerably changed. Formerly, as every one knows, great deference was paid to authority, in a strict and technical sense of the word; a deference perfectly intelligible, when you advert to the long, laborious and repeated arguments, and to the great delay which, in former times, attended the investigation and settlement of points of law.2 Precedents such as these were, precedents established after argument and re-argument, iterated and repeated, followed by consultation and advisement; were well worthy

1 Precedents in Chancery; see 5 Ves. jr. 663.
2 See an account given by chancellor Kent of the manner in which cases were argued in old times, both by the bar and the bench. (1 Com. 487-8.)
of respect. A divided bench was unknown. Judgment was not
given till every doubt and shadow was dissipated, and all opinions
were settled and made one. The courts, too, were few and inde-
pendent of each other: the reports were still fewer, and recorded such
cases as established principles rather than, as now, what are but the
varied and ever varying illustrations of them.¹

§ 27. While this entire submission to precedents prevailed, there
would naturally be some jealousy as to multiplying the sources of
them; and it would not follow because a book was unauthoritative,
that it was false likewise. It would be enough, I presume, that it
was unknown or new, unrecognised or suspected,³ or perhaps that it
had not been approved or allowed by the judges or licensor.³ Such

¹ I have mentioned, ante p. xxi. n., that the whole number of volumes prior to
1776, does not much exceed 150; yet in these are contained reports from the
time of Edward I.; a term of about five hundred years. The 1500 volumes
which complete the now existing number, come to us within the last seventy
years. What is "behind?"

² As, perhaps, we find in the idea had by the English church of the canon of
scripture. Certain books are received as canonical; whatever is contained in them
is taken without question, and believed, as of course, for an article of the faith.
Then there are other books, some of which appear quite as edifying as those
called canonical; but being unlike the others, "of whose authority," we are told,
"there was never any doubt in the church," they are not regarded as having the
seal of authority, nor applied "to establish any doctrine." (Art. of Relig. vi.)

³ The expressions, "of authority," "of no authority," "not of authority," are
each of them found in connexions so various, that it is not possible to assign
any single meaning to the word. But the matter of "allowances" by the
judges, to which I have just adverted, is one which it would be interesting to
see developed by a person who perfectly understood it. Every one accustomed
to open the old reporters is of course familiar with certain prefatory lines, be-
neath which are appended the names of the judges, varying from one to thirteen.
And it is well known that the license of the press became so great during the
rebellion and usurpation, that with the return of Charles II. an act was passed
a distinction, if it ever existed, could not have been strongly marked even in England; and in this land and day of "the free thought of the free soul," can hardly be regarded as existing at all. Hence it

"for preventing abuses in printing," &c. This memorable act declared, among other things, that "all books concerning the common laws of the realm should be printed by the special allowance of the lord chancellor, or lord keeper of the great seal of England for the time being, the lord chief justice, and lord chief baron for the time being, or one or more of them, or by their, or one or more of their appointments." It expired in 1692, after the revolution; having been in force for thirty years.

It is generally supposed that in consequence of this parliamentary requirement, the prefacey passports of which I have spoken, were given as mere matter of form; nor can I certainly say that they possess any higher virtue. I have remarked, however, on comparing numbers of these certificates together, that there is a difference, and apparently an intended difference, between their language: and yet farther, that, in an imperfect sort, the strength of the certificate does tally with the commonly received reputation of the book. Thus, take the year books. The twelve judges, not only "allow the publishing" of the work, but also "recommend the same to all students of the law;" an act of civility not required of them by the statute. Moore is not only "allowed" but is "approved," likewise; and a certificate is added that it is printed from a genuine manuscript. Yelverton is "allowed and approved for the common good." Sir W. Jones receives a certificate nearly similar; and sir Matthew Hale supersadds to the "allowance" of Rolle's reports, that they are "very good." We descend in the scale of merit, and find that Keble, Siderfin, Garthwew, and Bulstrode (all of whom are very low upon it), are merely "allowed;" and that the Reports in Chancery are only "licensed." You shall observe too, that while, in some cases, the judges certify to the "great wisdom, learning, and integrity of the author," they do by no means affirm that they have ever read his work, either in manuscript or in print. In other cases it is clear that they had. "I have perused these reports (says chief justice Wright, of Benloe and Dallison), and I believe them to be the original manuscript; being taken with great judgment . . . . . . therefore I do allow and approve them." Sir Francis North gives a certificate to Littleton, apart from the other judges: they, indeed, but "allow"
does not follow that we must discard a book, because English judges have said that it was "not authority." The question with us must be: "Is it false?"

§ 28. Such qualifications as these, it may be thought, detract the book; he declares that he had found it "to be made with great judgment and truth," and Sir Matthew Hale certifies, as we have said, that Rolle's "are very good." Again, when certifying as to authorship, they do it in different language, for different books; in the majority of instances certifying but to a common intent; in the residuum more particularly: thus in the case of Ventris, Vaughan, Levinz, Palmer and several others, it is done by a sort of implication; the certificate being as to "the wisdom, learning and integrity of the author." Authorship, however, is not the point adjudged, as we should say; the judgment being upon the point of "wisdom, learning and integrity;" authorship being presupposed. But in the case of Moore, they declare directly that the work is printed from "the original copy;" and of Levinz, that the reports are "all written with his own hand." In some cases they certify against authorship; —as in Latch, where it is declared that though the reports "are all of Mr. Latch's hand;" yet, as the judges conceive, they were "not originally taken by him, but excerpted out of some other manuscript;" a conception, in which, as appears by a volume published long afterwards, the judges were correct. The cases were taken from a note-book of Palmer's. In other cases they hold a significant reserve; as in Littleton, where, without any preface they "allow the printing of the book entitled the reports of Sir Edward Littleton." And the same exclusion of conclusion appears in the separate certificate of Sir Francis North to the same work. He says nothing about the "wisdom, learning and integrity of the author," nothing about "the original manuscript." It is simply: "Finding these reports to be made with great judgment," &c. We have adverted to the correctness of the opinion given by the judges in regard to Latch: their reticence about the authorship of Littleton is the more remarkable, inasmuch as though the book in question has been treated directly as a counterfeit, (see post, p. 37) the evidence on the subject, one way or the other, is far from satisfactory.

It would be tedious to examine this matter more nicely; nor do I mean to elevate these certificates to any high grade of value. But perhaps they ought
largely from the value of observations made by judges, and partially collected in the following pages. To a certain extent this is true. But I take it that there is scarcely less danger in regarding these observations in too broad a sense, than in not regarding them at all. I heard eminent counsel, for example, once declare at the bar of the supreme court of the United States, as a general truth, that the old reporters were not to be credited, except so far as they report what accords with good sense; and my lord Hobart is made to declaim somewhat after the same fashion, where he says: 1 "Presidents tant habent de lege, quam de justicia." But this methinks is to make somewhat of a trim reck'ning. Such dogmas, in an unrestricted

not to be wholly despised; and it is possible they may sometimes prove "an index and obscure prologue" to the history of the volume.

The reader will remember, of course, that it was only in the year 1662, that the act against abuses of the press was passed; and if the book were printed before that time, that even the absence of a certificate would not, of itself, be enough to damn it. Keilway, as originally printed; the first parts of Leonard, all Dyer and Plowden, the canonical parts of Coke, some parts of Coke, are all uncertified, from the cause I mention: and March, Godbolt, Brownlow and Goldsborough, Popham, Hutton, Owen, Ley, Lane, Noy, Winch, Hetley, Bridgman, and Bulstrode, are in like condition; though they, to be sure, are books of far inferior merit. However, it was not altogether unusual, even before the passing of the act, to have some sort of recommendatory notice from a person of note. Bulstrode, in 1655, recommends the 12th part of Coke. "John Clarke," whose certificate would appear to have outlived his fame, conceives, in 1656, that Hetley's reports "may be very useful, and so fit to be printed." Sir Philip Jermin, in 1646, had perused the lord Hobart's reports, and conceived that the printing would be for the good of the kingdom and the common law. And even after the expiration of the act of 1662, the same sort of recommendatory notice by a single individual sometimes appears; though the old "allowance" from all the judges was still frequently procured.

1 Hob. 270.
acceptation, would strike at the root of all authority. Who is to decide how far a report "accords with good sense?" or how much a precedent may have in it of "justice?" . And yet greater difficulty, who is to decide how far the reporter or the translator may be in error yet corrigible, or the court in that sort which, as matter decided, must be followed? The accuracy of Plowden is irreprovable, and his was "the Augustan age" of the old jurisprudence; yet lord Coke declared in vindication of his own misrepresentations, that more than one case in the apprentice was not law.1

§ 29. I apprehend that in this matter we can make no such uncircumscribed remark. We must look at every volume and at every case in connexion with its circumstances; circumstances which do give to every such matter both distinguishing colour and discriminating effect. We must bring to the inquiry all practicable knowledge of what has been said about the book: regarding these declarations, however, neither as law, and still less for gospel; but merely as suggestive elements from which to form opinion. We must know the history of the volume, so far as in this day we can recover it; the habits and opinions of its author, and the circumstances of its publication. And thus, though we may reach neither the comprehensiveness of general conclusion nor the certainty of demonstration, we may yet attain for each case to a measure of probability. In the instance of some single reporters, this may often be done with considerable fulness and success; though to go through the whole body of the early reporters, and for every volume to reclaim from forgetfulness a long-fleeted history: this is a task which would be difficult indeed; though it is one which, if successfully performed, would recompense almost any pains. My few notes—let me iterate

—are the merest outline imaginable; loose leaves, which but for
the civility of printers would long since have lighted a cigar.

§ 30. It is easy indeed to conceive, how one unplagued by the
claims of professional things, and possessing adequate capacity and
knowledge and fortune, might expand and fill and illustrate this sub-
ject. It would grow greatly under his hands. But it is a matter,
which, if it were well done, could not be done quickly. It would be, in
truth, a great effort of professional ability. It would require of
whomsoever should undertake it, that first of all he should have
read, marked, learned, and inwardly digested the whole body of
early reporters, running backward through the course and process
of five hundred years. He would have to draw from the cognate
sources of general and legislative, literary, manuscriptal, and anti-
quarian history, whatsoever could shed even a reflected light upon
their significance and meaning. He would have thoroughly to study
the thousand volumes of modern reports (multiplied perhaps to a
thousand more before he had finished them), and ascertain with per-
fect precision how far, of later times, the cases of each early reporter
had been doubted, denied, or overruled. He should have, above all,
the "mind capacious of such things;" the sagacity to conjecture, and
the judgment to consider, and qualities of comprehension and order
to combine and arrange his extensive lore: to all superadding such
accomplishment and taste as might present the whole with form and
finished shape.

§ 31. The undertaking, it is to be feared, would transcend the
limits of individual ability, and of a single lifetime. It could perhaps
be achieved only by the enterprize of government, delegating un-
stinted resources through the agency of commission; to be renewed,
if were needs, from generation to generation, till the whole was fully
accomplished. It is an enterprize which would well become the
noble government of England; and the statesman under whom these greatest records of his country should be properly collected, embodied, and illustrated, might have title to be named with gratitude, when of his political career naught else should remain but "the memory of its vanity or its guilt."
THE REPORTERS.

STATE TRIALS. PRINCIPALLY K. B.

9 HEN. II.—1 GEO. IV. (1163—1820.)

With Jardine's Index, 34 Vols. Lond. 1809—1826; Index 1828. This is Howell's edition, and far more complete than any other. Its early cases reach farther back than any elsewhere reported; on which account it is that I have placed it at the head of the reporters.

There were five prior editions of the State Trials. The first in 1719, by Mr. Salmon, as is commonly supposed;—a gentleman who appears to have been an intemperate Jacobite, and whose zeal for that cause sometimes leads him into strong expressions. This edition, it must be said, however, has been, to a greater or less extent, the foundation of all which have followed it. It is in four volumes folio, and was succeeded by a supplemental fifth. The next edition was by Mr. Sollom Emlyn, known as the editor of Hale's work on pleas of the crown. It appeared in 1730, in six volumes, folio: the first five are essentially the same as Mr. Salmon's, but are improved in the arrangement and by notes and references: new matter is likewise occasionally interspersed throughout the work: the sixth volume is entirely new. Five years afterwards came two more volumes, the seventh and eighth. In 1742, was a third edition, in six folios again. It does not comprise the supplemental volumes of 1735, and seems to be no great improvement upon the edition which preceded it.
But to make amends, was followed, in 1765, by two other volumes, called the ninth and tenth, and supplemental to the seventh and eighth of the edition of 1730. In 1775–81, appeared the well known edition of Mr. Hargrave; eleven volumes in six, of elephant folio. This publication was a great improvement upon all which preceded; but even Mr. Hargrave’s name has not saved his work from obsoleteness—scarcely from oblivion. It has been superseded by the more full and convenient labours of the Messieurs Howell, father and son, to whose edition, the fifth and last, we have already referred. The edition has the advantage of embodying in a chronologic order, all that had preceded it in more irregular form. It contains, likewise, much new matter: it comes down to a considerably later period than Mr. Hargrave’s, and has the convenience of an octavo form. In this shape, the work has obtained a place in most good libraries, and acquired in some sort, the reputation of general authority. The work was originally undertaken by Thomas Bayley Howell esq., who lived, however, to carry it but to the twenty-second volume. His health gave way under the immensity of such a labour, and the book in its remaining twelve volumes was completed by his son, Thomas Jones Howell. This edition, so far as it goes, is not likely to be improved for many years, and a continuation (which begins to be wanted), would probably be made a mere progression of Howell.

JENKINS. EX., CH., & IN ERROR.

4 HEN. III.—21 JAC. I. (1250–1623).)

Jenkins was a contemporary of Coke, and compiled these reports (or centuries, as he calls them), during the civil wars.

1 Should the studious reader have occasion here and there to doubt whether the dates assigned to some of the early reporters are severely exact, he must be pleased to remember, that many of those reporters arrange their cases, not chronologically (as is now usual), but according to the alphabet, omitting the
THE REPORTERS.

between Charles and the parliament. The volume is, of course, more in the nature of a digest than of reports; but it contains several cases not found in any other work. The author, who was a Welsh judge, was a dauntless adherent to the king, and on this account was put into the tower and Newgate by order of the long parliament. It was in prison that he composed his centuries, and it is to the hard treatment which he had received that he refers in the preface to them. "They were written," he says, "amidst the sound of drums and trumpets," when he was "broken with old age and confinement in prisons, where his fellow-subjects, grown wild with rage, had detained him for fifteen years." Notwithstanding the inconvenient chambers in which the venerable judge composed this memorial of his learning, it is a work of admitted accuracy, possesses very considerable authority, and is frequently cited in the older books.¹

An interesting account of judge Jenkins is given by Mr. D'Israeli.² "A mighty Athlet," says this author, "in the vast arena of the first English revolution, was one of our greatest lawyers; whose moral intrepidity exceeded even his pro-

¹ Wills. 9; 3 Atk. 53; and see particularly 5 Serg. & Rawle's (Penn.) Rep. 292.

² Comm. on the Life and Reign of Charles the First, vol. 5, p. 110, Lond. 1831.
found erudition in the laws of our constitution. . . . Judge Jenkins takes no station in the page of our historians; yet he is a statue which should be placed in a niche.” He was brought before the parliament for the loyalty of his conduct, but dreading to execute a man in whose learning and honesty the nation had such confidence, these Roundheads offered to settle a pension upon him if he would acknowledge their authority. The judge treated the proposition with scorn; and so defied martyrdom, that after the day had been named for his execution, one of the members rose, and moved that the house should “suspend the day of execution, and in the mean time force him to live in spite of his teeth.” From his own account of what he meant to do at his execution, the judge seems to have had the spirit of a cavalier, and meant at least

“To honour death, by dying nobly.”

“I will tell you,” said he, to one of his friends, “all that I intend to do and say at that time. First, I will eat much liquorice and gingerbread to strengthen my lungs, that I may extend my voice near and far. Multitudes, no doubt, will come to see the old Welsh judge hanged. I shall go with venerable Bracton’s book hung on my left shoulder, and the statutes at large on my right: I will have the Bible with a ribbon put round my neck, hanging on my breast. . . . All these were my civil counsellors, and they must be hanged with me! So when they shall see me die, affirming such things, thousands will inquire into these matters; and having found all I told them to be true, they will come to loath and detest the present tyranny.”

Jenkins was the author of the well known treatise, Lex Terrae, written against the proceedings of “the rebellious long parliament;” and which is recommended as “very seasonable to be perused by all such as would not be deluded by the unparalleled arbitrary proceedings and seditious pam-
phlets of this licentious and ingrateful age." It adds to our respect for this brave man, that he had strongly opposed, and, as he says, "detested" the ship-money and monopolies. He would retrench the royal power when stretching itself beyond the law; but when his king was to be stripped of all prerogative, with the same resolution he maintained the violated law of England. [Edns.—Fr. fol. 1661; 1734. Eng. fol. 1771—77.]

YEAR BOOKS. K. B., C. P., EX., & ASSIZ.
1 ED. I.—28 HEN. VIII. (1307—1537.)
VOL. I. OR PART I. 1 ED. II.—1 ED. III. (1307—1328.)

Only a few cases reach back so far as Edward I., and are in the exchequer. The style of reporting which marks this volume is quite unlike that of modern days. The report seems to be almost an exact transcript of whatever was said or done in court during the trial of a cause, and often ends with the statement or argument of counsel (being as far as the case was proceeded in during the first day), without the least mention of what became of it finally. The same thing happens in other volumes of the year books. This of course gives to the report a mutilated aspect, and an air of dramatic stanchness not very inviting to a modern reader.¹

The decisions of some of the cases which appear in the year books, with an adjournatur merely, are given to us in the old abridgments of Brooke and others. It has been supposed that these abridgers had access to the records, from which they perfected the case.²

VOL. II. OR PART II. 1 ED. III.—11 ED. III. (1328—1338.)

This volume contains a continuous and well reported series during the term mentioned; after which there is a chasm till we come to the next volume, a term of seven years. It appears, however, from the return of the inner temple to the

¹ 2 Reeve, 357. ² 3 Ves. Jr. 656.
commissioners appointed by parliament some years ago, to inquire into the MS. records of the kingdom, that there still exists in the inner temple library, a chronicle of the judicial proceedings during this interval. A MS. in that collection embraces exactly the deficient term; is said to be very fairly written in a coeval hand, and upon examining the tenth year with the printed copy, the two appear to be so nearly alike as to induce the belief that the MS. for that year was used in the printed edition.

**VOL. III. OR PART III. 17 ED. III.—40 ED. III. (1344–1367.)**

This volume contains only the following years, to wit: the 17th, 18th, 21st, 22d, one term of the 23d, the 24th, and so on till the 30th inclusive: then come the 38th and 39th, which close the book.

**VOL. IV. OR PARTS IV. AND V. 40 ED. III. AND 1 ED. III. TO 1 RIC. II. (1367 AND 1377–1378.)**

Part IV. contains reports from the 40th to the 50th Ed. III.; and is commonly called *quadragesms*, from the year in which the book begins. Part V., called the *liber assizarium*, contains crown cases in every year throughout the reign. These two parts are much preferred to the two preceding volumes in this reign; they are more clear, more precise; and the cases occasionally turn upon points of law whose interest has in some measure survived to the present day. Still the whole of Part IV. is filled with everlasting discussions about the forms of writs and pleadings relating to real actions; and now that such actions have fallen into oblivion, the volume must be regarded more as a memorial of acuteness and diligence uselessly preserved, than as a work of any practical value.

**VOL. V. OR PART VI. 1 HEN. IV.—1 HEN. VI. (1399–1423.)**

The year book of Henry IV. is complete, and contains
cases through fourteen consecutive years. The year book of Henry V. wants the 3d, 4th, and 6th years. Both parts, in style and also in the subjects, are more interesting than any of the preceding books; but in point of judicial learning, were thought by sir Matthew Hale not to arrive near the perfection of those in the last twelve years of Edward III. It is probable, however, that the majority of readers in this day will be content to take their knowledge of the judicial administrations in these reigns (or from that of king Henry IV., at least), from the same source as the great duke of Marlborough is said to have got all that he knew of the military history of England during the same period.

VOLS. VI. AND VII. OR PARTS VII. AND VIII. 1 HEN. VI.—1 ED. IV. (1423—1462.)

From this date the year books begin to be more suited to

1 3 Reeves 254.

2 "In what history did your grace find that incident?" said Burnet to the duke of Marlborough, on hearing him quote some anecdote concerning the wars of York and Lancaster, which was new to the bishop. "In Shakspeare's plays," answered the victor of Blenheim; "the only history of those times I ever read." (Sir Walter Scott, Crit. and Misc. Essays, vol. iii. p. 13.)

It would appear, by the way, that personages more german to our subject than Jaques' banished duke, or he of Marlborough, have been willing to find sermons in stones and good in every thing. When Mr. Douglass opened his new theatre in this city, in 1754, so profane a novelty caused great offence to the respectable Society of Friends, by whom the province was then largely populated; and a deputation of preachers was sent to William Allen, chief justice of the province, with a petition for the prohibition of such indecencies, and the expulsion from the city of such as exhibited them. His honour rejected the petition; and with less of courtliness, one would think, than need have marked a high functionary of the crown, informed the deputation "that he had learned more moral virtue from plays than from sermons." (Dunlap, Hist. Am. Theat. p. 21.) With so early a precedent, it is not perhaps surprizing, that the ablest of Allen's successors, should in our own day vouch sir John Falstaff as authority on a point of law. See Riddle v. Weldon (5 Whart. 9), where chief justice Gibson, delivering the opinion of the supreme court of Pennsylvania on the rights of a lodger to exemption from distress, says, that Points' friend speaks with legal precision, when he demands: "Can I not take mine ease in mine inn?"
the taste of modern readers: the statement of the case is more full; questions of law are more thoroughly discussed, and the opinions of the judges are given more at large. The second part of Henry VI. is particularly esteemed. The series is incomplete; the 5th, 6th, 13th, 15th, 16th, 17th, 23d to the 26th, and the 29th years being wanting.

VOLS. VIII. AND IX. OR PARTS IX. AND X. 1 ED. IV.—1 ED. V. (1462—1484.)

Annals or reports temp. Edward IV., and in the fifth year of the same king. This last part is commonly called long. quint; and all the parts, particularly the last, are said by Mr. Reeves to be "full of excellent learning." 1

VOL. X. OR PART XI. 1 ED. V.—28 HEN. VIII. (1484—1537.)

This volume presents only an interrupted series, containing the 1st year of Edward V., the 1st and 2d of Richard III., from the 1st to the 21st of Henry VII., omitting the 17th, 18th, and 19th years; while the only years of Henry VIII. are the 12th, 13th, 14th, 18th, 19th, 26th, and 27th.

It is observed that in the year book of Henry VII. we find the judges and counsel sometimes quoting cases, and that Bracton is referred to. The year book of Henry VIII., particularly after the 12th year of that king, is said to be inferior to any of the year books which preceede it; a fact which is attributed to the very sufficient cause, that the stipend which had been paid in former reigns was dropped in the time of Henry VIII.

When the year books were reprinted in 1678, they were recommended by lord Nottingham and the other judges "to the students and professors of the law, as a principal and essential part of their study;" but so completely have they been

1 Vol. iv. p. 112.
swept into wreck by the ungentle tide of time, that in 1809, \(^1\) when serjeant Williams cited a case from 7th Edward III., Mansfield c.j., told the serjeant, that it was "a great way to go back for a precedent;'' while Mr. justice Heath irreverently exclaimed: "Come to modern precedents, something within three hundred years!" But the judges of the king’s bench would seem to regard them more dutifully; for some years afterwards, \(^2\) a precedent was quoted from this same reign, and being in point, ruled the case. So in the important case of *Outram v. Morewood*, \(^3\) lord Ellenborough greatly relied on the year books; and we find Mr. justice Stroud quoting them in our own country so lately as 1837, in a local court, on a question relating to the law of Pennsylvania. \(^4\)

It is well known that among the MSS. of Lincoln’s Inn, the Middle and Inner Temples, the British Museum, Hargrave, Harleian, -Lansdowne, Tower, Charter-house, and other English collections, there are very many volumes of yet unpublished reports. It is to such MSS., probably, that reference is made in those constant citations by courts and counsel prior to the present century, "of a MS. note of that case which I have:" and to the same source we may presume that Coke refers when citing Spelman’s, or, as he sometimes writes it, Spilman’s reports. \(^5\) And Dyer, when quoting Tanfield, Warberton, Harper, Turner, Randal, Mason, Rhodes, and other reports not known to exist in print. \(^6\) A considerable number

\(^1\) 2 Taunt. 201. \(^2\) 1 B. & C. 415. \(^3\) 2 East. 346. \(^4\) 2 Miles 73. 
\(^2\) 2 Inst. 49, 50, case of Anne Boleyn; 3 Inst. 17, 121, 126. 
\(^5\) In the same way perhaps Milton, who, in one of his sonnets to Cyriac Skinner, addresses him as

> Cyriac, whose grandsire, on the royal bench  
> Of British Themis, with no mean applause  
> Pronounced, and in his volumes taught, our laws."

Neither Tod nor the more faithful inquisitor into the ashes of departed greatness, sir Egerton Brydges, appears to have been able to ascertain to whom Mil-
of these MSS. have belonged to eminent lawyers, by whom they appear to have been regarded with a high degree of professional pride. Sir Matthew Hale, who bequeathed his to the society of Lincoln's Inn, says of them in his will: "They are a treasure worth the having and keeping; which I have been near forty years in gathering with very great industry and expense. . . . They were fit to be bound in leather, and chained and kept in archives. I desire that they may not be taken out or disposed of." Lord Redesdale's collection was also very good, and is referred to with satisfaction by the earl of Eldon,1 in the house of peers. These various MSS. have been from time to time the subjects of parliamentary commissions, and have been carefully examined, collated, and arranged by eminent lawyers, under direction of the several inns of court, universities, and other public institutions which own the collections. And it is said that nearly all the chasms and most of the imperfections existing in the early reports, can be supplied by them.2 The commissioners have strongly recommended a new and complete edition of the year books; and should the books be well translated, the folio reduced to the octavo size, the Gothic supplied by the Roman letter, the

ton here refers. If the person in question bore the name of his descendant, his writings cannot have been printed; for the volume now known as Skinner's reports belongs to a date much posterior. However, I am unable to recall any English judge of the name of Skinner, for many years anterior to Milton's day. The ancestor may have been maternal. In 12 Viner 127 (lady Jones v. Lord Say), there is a reference to Wiseman's reports, in Hargrave & Butler's Coke Littleton 290 a, a reference by lord Nottingham to Egerton's reports, in the same work, 15 a, to Glyn's reports, and in Pollexfen 65, to justice Windham's reports. I have likewise somewhere seen a reference to Hyde's reports.

1 Bligh, N. S. 538; S. C. 1 Dow & Clark 11; 1 Dow N. S. 11.

2 Thus the whole of Ed. I., except the few exchequer cases, is wanting: also in Ed. III., anno 11 to 16, 19, 20, 31 to 37. The whole of Richard II. Of Hen. V., the 3d, 4th, and 6th years. Of Hen. VI., the 5th, 6th, 13th, 15th, 16th, 17th. Of Hen. VII., the 17th, 18th, and 19th. These same sorts of chasms occur in many of the subsequent reporters; so frequently, indeed, and so irregularly, that they are not always mentioned in the present tract.
whole enlightened by a full and well digested index, and, finally, presented upon clean white paper, so as to have the advantages of a modern style, we may safely say, that they would be as intelligible as some of the more recent reports. Unlike most of the reports which succeeded, the year books, it is well known, possess the highest authenticity. To the profession they are in some sort the gentis incunabula nostræ; while to the historian they could not fail to afford a minute, entertaining, and very authentic portrait of English medieval customs and manners. But it has been truly said, that even the best of the existing editions are printed so closely, and in such elephantine form; so many of the court-hand abbreviations retained; so little separation into paragraphs, or distinction between what is said by the bench and what at the bar, that by any but a legal antiquary these reports are not easily understood. Much of their learning, too, has long since passed, with the persons who possessed it, to the land where all things are forgotten; and, we may say, in short, that though the year books will occasionally be consulted, they will never again be read. One difficulty as I have said, to persons not acquainted with these volumes, is the confused way in which the observations of the court are mingled with the arguments of counsel. All parties seem to be constantly interrupting each other; and you have difficulty to say which is judge and which counsel: the same manner is found in other old reports. The reader whose sense of the bienslance is disturbed by this indecorum, will derive assistance from a small work, entitled "Gibbs' Judicial Chronicle," Svo., Camb., Mass., 1834, pp. 55.

[Edns.—The earliest edition of the year books seems to have been printed at various times. In 1610, another edition was printed in ten parts, wanting Maynard’s Edward II.; with notes to Brooke’s & Fitzherbert’s abridgments, and with tables to each part except the first and

1 5 Serg. & Rawle 292; Kent’s Com. 480.
last volumes. The last edition, in eleven parts, appeared from 1678 to 1697, or thereabouts, with notes to Brooke & Fitzherbert, and a table of the principal matters to each part. All these editions are in French, or in that “choice Italian” which, in legal fiction, is so called.]

BELLEWE’S CASES T. RIC. K. B., C. P.

1 RIC. II.—23 RIC. II. (1378—1400.)

These cases are collected principally out of Statham’s abridgment, and must not be confounded with another volume of Bellewe, temp. Hen. VIII. If placed in its chronological order, the present volume would follow the 4th and 5th year books. It supplies exactly the chasm between those volumes and the 6th of the same series. [Edns.—Fr. 8vo. 1585.]

BENLOE & DALLISON. C. P.

1 HEN. VII.—22 ELIZ. (1486—1580.)

Besides these cases, Benloe contains one or two earlier reports. Lord Hobart, in ambiguous giving out, once discredited Dallison’s reports, “demanding by what warrant those reports of Dallison’s came in print?”¹ But I do not suppose that he referred to this volume; for there is a very satisfactory account in the preface to the work how it came into print. He probably had reference to the loose cases of Benloe & Dallison, which are found in the end of the work next mentioned, and which were imperfectly abridged from the MS. from which this volume was printed.² This volume is sometimes cited as new Benloe; especially in some of the editions of Coke’s reports. This is a mistake. New Benloe is a book mentioned farther on. The confusion has probably arisen from the fact, that the present volume was printed in 1689, and of course after the

¹ Pref. to Croke’s Reports 4 a.  
² See ante, “Remarks,” § 10 n.
other Benloe, which was printed in 1661. But this last volume had acquired the title of *new* Benloe prior to 1689, probably to distinguish it from some cases of Benloe in the work next named, and extant as early as 1603.¹ Benloe is sometimes written Bendloe, and Dallison with a z—Dallizon.²

[Edns.—Fr. fol. 1689.]

\( \times \) **ASHE’S TABLES & KEILWAY. K. B., C. P.**

12 Hen. VII.—23 Hen. VIII. (1496—1531.)

This volume records many decisions in these reigns not printed in any prior reports, and contains, in addition, some cases *incerti temporis*, and some *temp. Ed. III.* Appended to the volume are some cases by judge Dallison and serjeant Benloe. They appear to be mere abridgments or copies from the reports of Benloe & Dallison, just before mentioned, while these last were in MS.³

The volume, it is said by Bridgman,⁴ is sometimes quoted under the title *Croke*; having been edited by John Croke, a man of some note in his day. [Edns.—Fr. fol. 1602, 1633, 1688.]

**MOORE. K. B., C. P., EX. & CH.**

3 Hen. VIII.—19 Jac. I. (1512—1621.)

Sir Francis Moore was one of the most eminent lawyers of his time; and his reports, being from a genuine MS., have always enjoyed a reputation for accuracy.⁵ He was a member of the parliament of 43d Eliz.; and is supposed to have drafted the well known statute of charitable uses passed in that session.⁶ [Edns.—Fr. fol. 1663, and by sir Geoffrey Palmer in 1675, without any additions. There is an abridg-

ment of them in English, by William Hughes esq., 8vo. 1665.]

DYER. K. B., C. P., EX. & CH.

4 HEN. VIII.—24 ELIZ. (1513—1582.)

According to lord Coke,¹ never intended by Dyer in this form to have been made public. Sir Edward styles them, however, "a fruitful collection;" and they have been always regarded as among the best of the old reports. They are undoubtedly genuine; having been published by Dyer's nephews, to whom the MSS. came by the judge's will. Dyer was published originally in French, in which language the work was printed six different times; but in 1794, Mr. Vaillant gave to the profession a new and much improved edition in English; containing several cases not found in the old ones, and now printed from Dyer's MSS. The notes in the margin of this edition, it is said by Buller,² were written by lord chief justice Treby; and according to sir Francis, are of "good authority." To the same effect says chief justice Gibbs,³ who speaks of these notes, as "always to be regarded with deference, coming from an authority so considerable;" and serjeant Williams, a very competent judge, bears a similar testimony.⁴ Dyer's MSS. reports are often quoted by lord Coke; but it would seem that he referred to some MSS. not yet published; since some of the cases cited by him (as in 3d Inst. 126, 127; 4th id. 61), do not appear to be in the printed reports.

Dyer having been born only in 1512, it is clear that of many of the earlier cases his report must be from some borrowed source. His cases begin, in a regular series, from 28th Henry VIII. (1537), in or about which year he is supposed to have been called to the bar. It has been suggested that his own reports begin from that date; but there are other cir-

¹ Pref. to 10 Rep. ² 2 D. & E. 84. ³ 4 Dow 203. ⁴ 1 Williams' Saunders 77 n.
cumstances which lead to the idea that they begin later, or about 6th Edward VI. (1652). [Edns.—Fr. fol. 1585, 1592, 1601, 1621, 1672; Vaillant’s, 3 vols. 8vo. 1794.]

BROOKE’S NEW CASES.

6 HEN. VIII.—6 MARY. (1515—1558.)

Cases in the time of Henry VIII., Edward VI., and Mary. This volume is often cited as Bellewe’s cases temp. Hen. VIII. &c.; though more commonly under the title placed at the head of the paragraph. The author, I believe, was Bellewe; but the cases are selected out of Brooke. [Edns.—Fr. 8vo. 1585.]

MARCH.

This volume would appear to be a mere translation of the former, but is arranged differently, being in chronological order.

NEW BENLOE. K. B., C. P., EX.

22 HEN. VIII.—4 CAR. I. (1531—1628.)

Principally cases in the reigns of Hen. VIII., Edw. VI., Phil. & Mary, and Elizabeth; with a few select cases in the subsequent two reigns. There is a vacancy in the impressions of New Benloe, from p. 44 to p. 88, both inclusive; and the four pages preceding 44 are wrong numbered. This book, though not always quoted as New Benloe, is more properly cited under that title. [Edns.—Fr. fol. 1661.]

ANDERSON. C. P. X

25 HEN. VIII.—2 JAC. I. (1534—1604.)

This book, which comes from a genuine MS., is referred to in one case with great respect, by sir Edward Sugden; who cites Anderson’s report of Chudleigh’s case, as “indisputably”

1 See ante, p. 14.
better than lord Coke's. The style of chief justice Anderson is more full and circumstantial than was usual in times prior to his volume.

The copy of Anderson, in the library of the Law Association of Philadelphia, belonged to Mr. Pigot, author of the well known treatise on fines and recoveries, and appears to contain his MS. annotations. [Edns.—Fr. fol. 1664, 1665.]

LEONARD. K. B., C. P., EX.

31 HEN. VIII.—13 JAC. I. (1540—1615.)

"Leonard's reports," says sir Edward Sugden, "were always in high estimation;" and this opinion is confirmed, (if Sugden need confirmation from any one), by lord Nottingham, who says, in speaking of the volume, that it is one of the best books which have lately come out. The work is from a genuine MS. of Leonard; which, however, is given but in the form of a translation. The majority of cases in Leonard are in later reigns than Henry VIII. [Edns.—Fol. Translated from French by W. Hughes: 4 parts. Part i., 1658; part ii., 1659; part iii., 1663; part iv., 1675. A second and improved edition in 1687. A table of the principal matters to the first three parts, and usually placed at the end of the third part, is sometimes wanted in the first edition.]

PLOWDEN. K. B., C. P., EX.

3 ED. VI.—22 ELIZ. (1550—1580.)

In point of accuracy, Plowden's reports (or commentaries, as he styles them), rank among the best reports of any age. Indeed, Plowden seems to have understood a reporter's duty; for he tells his readers, that before the case came to be argued, he had copies made of the record, and took pains to study the

1 Treat. on Powers, 6th ed. 22.

* Id. 16.

points of law arising thereupon; so that if he had been "put to it, he was ready to have argued when the first man began." He attended the arguments with the utmost assiduity; and after he had drawn out his reports, submitted them in many instances to the judges or serjeants who had argued the case. He gives the pleadings at length, and also the judgment of the court. His labours have not been without their recompense; for his reports, according to lord Coke, are, "as they well deserve to be, with all the professors of the law, of high account." Plowden is one of the very few of the older books, originally designed for the press. [Edns.—Fr. 1571, 1578, 1599, 1613, 1684; Eng. 1761, 1779, and an edition more particularly good, in 1816, 2 vols. 8vo.]

OWEN. K. B., C. P.

4 MARY.—13 JAC. I. (1556—1615.)

This book is occasionally cited; but I believe enjoys no particular reputation one way or the other. No satisfactory account is given of the manuscript from which it is taken; and it is but a translation from an unpublished original in French.

Only a few of the cases are in the reign of James. The greater portion belong to that of Elizabeth. There is a chasm in the paging of Owen, from 76 to 81. Notwithstanding which the work is perfect. [Edns.—Fol. 1656.]

NOY. K. B., C. P.

1 ELIZ.—25 CAR. I. (1559—1649.)

Noy's reports, in MS. probably, are frequently referred to by lord Hale, in his notes to the 1st Inst.; but this volume is called by Mr. Hargrave "a loose collection of notes," which he thinks Noy could not have intended for the public eye.

1 Pref. to 10 Rep.; and see 1 Inst. 23 a, n, Hargrave & Butler's ed.

2 1 Inst. 54 a, n, same ed.
and sir Francis Buller\(^1\) says, that Noy has always been considered "as a bad authority." In fact, there is strong ground to suppose that the book is an imposture, or at best but an imperfect abridgment of Noy's note-book by one of his students. Thus, when a case from the volume was cited in 1st Ventris 81, Twisden (called by lord Kenyon\(^2\) "a very able lawyer"), said that he "wholly rejected that authority; for that it was but an abridgment of cases by serjeant Size, who, when he was a student, borrowed Noy's reports, and abridged them for his own use." To the same effect is 2d Keble 652; and 2d Johnson's Reports, p. 72, where chancellor Kent speaks of a case in Noy as solitary, anomalous, and which cannot be law.

Noy was a lawyer of uncommon ability and learning, and was made attorney-general by Charles I. He was among the most indiscreet of all the king's advisers, "thinking," says Clarendon, "that he could not give a clearer testimony that his knowledge in the law was greater than all other men's, than by making that law which all other men believed not to be so. So he moulded, framed, and pursued the odious and crying project of soap; and with his own hand drew and prepared the writ for ship-money; both which will be the lasting monuments of his fame."\(^3\) [Edns.—1656, 1669.]

**BROWNLOW & GOLDSBOROUGH. C. P. X**

11 ELIZ.—1 CAR. I. (1569—1625.)

Of the merits of these reports in general, I do not remember any expression of opinion; but referring to the case of Coventry v. Windall—in the report of which certain expressions are attributed to lord Hobart, which Hobart himself (who likewise reports the case), does not record as having been said—Tilghman c. j., remarks: "The probability is, that in

\(^1\) 3 D. & E. 424.  
\(^3\) Id. 17.  
\(^4\) Brownl. & Gold. 67.
Brownlow's report of the case, these expressions of Hobart are inaccurately stated." The chief justice cites this case as being reported in Brownlow. It is in Brownlow & Goldsborough. Brownlow's reports make a second part to Brownlow & Goldsborough. [Enns.—Eng. quart. They were first published in two parts, ann. 1652 and 1654. In 1675, a third edition of part i. and a second edition of part ii. In the first part printed there is no table of the cases.]

REPORTS. K. B., C. P., EX. & CH.

14 ELIZ.—14 JAC. I. (1572—1616.)

The 12th and 13th parts of Coke's reports, being posthumous, and not having been prepared by the author for the press, have generally been regarded (with the exception of a few cases), as "of small authority;" of much less, at all events, than the first ten parts. Sir Edward Sugden cautions us also in regard to all the Reports, lest "our just admiration of sir Edward Coke's profound legal learning carry us too far." "His system of turning every judgment into a string of general propositions or resolutions, has certainly," says Sugden, "a very imposing appearance; but it is a system, of all others, the least calculated to transmit a faithful report;" and he suggests, "that the bias of a man's own sentiments may involuntarily lead him to pervert the opinions of others in order to support his own." He informs us, likewise, that lord Anderson is said to have stated, in his private reports, that Coke had "greatly abused him and others of the judges, in reporting such judgments and resolutions in Shelley's and Chudleigh's case as they never delivered." This infidelity of the great lord has been noted by other judges, and with

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2 Treat. on Powers, pp. 23 and 24, 6th ed.
3 2 Lord Raym. 913; Willes 568; W. Black. 1234; and see particularly 9 Wheat. 718.
some asperity by his contemporary, lord Hobart: and many of the cases are regarded rather as what the law might, could, would, should, or ought to have been decided to be, than as showing the decisions that were actually given.

Notwithstanding all this, however, and much more, Coke's reports are likely to remain pretty much where their author left them two centuries ago. They will still continue to be the reports; and no higher eulogy need they ever receive than that which they drew forth from Coke's great enemy and rival, lord Bacon: "Of this I say no more, but that to give every man his due, had it not been for sir Edward Coke's reports (which, though they may have errors, and some peremptory and extra-judicial resolutions more than are warranted, yet they contain infinite good decisions and rulings over of cases), the law, by this time, had been almost like a ship without ballast; for that the cases of modern experience are fled from those that are adjudged and ruled in former time." [Ends.—The editions of the Reports have been quite numerous: too numerous indeed to detail with profit or great accuracy. The best and last, which has superseded all older ones, is in English; the whole thirteen parts in 6 vols. 8vo. Lond. 1826. The first three parts and the fourth part to p. 38, by J. H. Thomas, and the residue of the work by J. F. Frazer. This edition presents to the public several notes by the late serjeant Hill, who was distinguished for his knowledge of subjects connected with the old law, and is otherwise more valuable than any of the old editions. The reports have been abridged; the first eleven parts by Ireland, printed in 1650 and 1657 (but more correctly in 1666); the twelfth and thirteenth by Manly. This work professes to discard all extraneous discussion and learning, and to give you "the very substance and marrow of the reports." A work of this kind may be convenient for hasty reference; but as chancellor

† Hob. 300. * Bacon ii. 230, Phil. ed. 1841.
Kent observes,1 "no accurate lawyer would ever be content to repose himself upon such a barren account of a decision, without looking into the reason and authorities on which it was founded." Coke has been even turned into verse: but like Homer, Milton, and other great bards, the poet’s work fell, at first, on unfeeling days, and came near to be forgotten. But let no votary of the muse e’er doubt the recompense of genius! Of these later times, when Peter Bell is thought equal to the Allegro and Penseroso, and "The Cathedral" with "The Baptistry" have power to awaken the chords of poetic sympathy, the work of our bard has been truly tasted; and a late catalogue of Steevens & Norton2 announces a reprint, in the form of a neat pocket volume, with a portrait.]

GODBOLT. ALL THE COURTS OF RECORD.

17 ELIZ.—14 CAR. I. (1575—1638.)

See post, "Goldsborough." Though called judge Godbolt’s reports, this person seems only to have been an owner of the MS. from which the work was printed. The editor was William Hughes, a respectable lawyer of his time, and the editor and translator of Leonard’s reports. [Edns.—1652, 4to.]

SAVILLE. C. P., EX.

22 ELIZ.—36 ELIZ. (1580—1594.)
[Edns.—Fol. 1675, 1688.]

CROKE. K. B., C. P.

24 ELIZ.—17 CAR. I. (1582—1641.)

“A work of credit and celebrity among the old reporters,” and which has "sustained its character in every succeeding age."3 This opinion of chancellor Kent I take to be correct;

1 I Com. 483.
2 Catalogue, 1840, 42.
3 I Kent’s Com. 485; and see "The Law Magazine" (Lond.) xxix. 352; also Bridgman’s Leg. Bib. 87.
yet "Croke's Law Reports" are spoken of by judge Pendleton, as a book in which may be found "precedents for almost any opinion;" and Keeling j., is reported by Keble to have said, that it had been better if Croke's reports had never been printed. One of the old editions, having its date thus, MDCL., is said to be very incorrect; and it is possible that Keeling (if indeed he did say what Keble reports), had that edition before him; while the Virginia justice may have spoken, after the manner of an "Old Dominion," somewhat at his ease. Undoubtedly, if reference was made to the reports of sir George Croke, as now known, the censures were not well considered. Keilway's reports, having been published by sir John Croke, a man of some note, and being sometimes cited as Croke's reports, it is possible that confusion may have arisen in that way; and that sir George Croke has not had less cause than lord Byron to say (when some poetry, not his wicked lordship's, was published with his name), that he desired to be made responsible for nobody's stupidity but his own.

The principal defect of these reports, it appears to me, is that the cases are stated rather shortly. I am far from admiring the style of reporting which now prevails very near to us. But while nothing extraneous should be inserted in a statement, nothing material should be omitted. "Imperfect reports of facts and circumstances" (says judge Foster), "especially in cases where every circumstance weigheth something in the scale of justice, are the bane of all science that dependeth upon the precedents and examples of former times." Croke labours moreover, under the disadvantage of being a mere translation from an unpublished and not very legible French original.

Croke remained on the bench until he was above eighty.

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1 Washington's Virg. 64.  2 Vol. ii. 316.  3 Clarke.
4 See ante, "Remarks," § 14 n.  5 Reports, &c. 294.
years old; and then, in answer to his petition that by reason of his dullness of hearing and other infirmities, he might be allowed to "retire himself, and expect God's good pleasure," Charles I. granted him, in consideration of his long and faithful services, a writ of ease, dispensing with his services and further attendance at court, but yet continuing him in the office of judge, with its customed emoluments.

Admitting, as we truly must, the political errors of Charles, and his want of those qualities which fit men to rule in troublous times, it is yet interesting to note how many evidences attest his possession, not less of the sensibilities of a man of genius, than of a heart which Christian grace indeed had nursed "to more than kingly thought."¹ Shakspeare, it is well known, was Charles' favourite author; and in the king's response to the petition of his faithful servant, who can doubt that the portrait of Wolsey's fate, had left its language and its better lesson deep impressed upon the royal martyr's mind! "We shall never expect," says Charles, "much less require or exact from our loving subjects, performances beyond what their health and years shall enable them; so we shall not dismiss them without an approbation of their service, when we shall find that they shall have deserved it, much less expose them in their old age to neglect."

In the quaint language of his biographer, the venerable judge, having got his dismissal, made a "holy retreat" to his house in Oxfordshire, where he remained, surrounded by affectionate children, "till a certiorari came from the great Judge of heaven and earth, to remove him from a human bench of law to a heavenly throne of glory."²

¹ Keble's Christian Year. King Charles the Martyr.
² Badly, we fear, would the humanity of kingly rule, the justice of Laud's and Strafford's day, sometimes compare with those of free and happier lands! The late constitution of Pennsylvania, it is well known, secured to all judicial officers appointed under it, a tenure during good behaviour; and under this fundamental guaranty of public faith, many men, resigning the sure rewards of professional
The paging in Croke is repeated in Eliz., from 457 to 473, and in James, from 617 to 620.

fame, had fashioned themselves, by years of toil, to the discharge of judicial function: and were now unfitted to resume the long abandoned habit of an early life. Commissioned "during good behaviour," it was impossible, by any process known to constitutions, that these persons should be deprived of office, while yet unapproved of fault. But fraud and malignity are ingenious in resource. Conventions may disregard what constitutions have made sacred. As though constitutions of government were not designed to protect men against tyranny in every form. As though it were matter of import under what names you injured men, or as if any power on earth could render politically right, acts which, in their own essence, must be wrong. But a convention was "the provided machinery of peaceful revolution;" and by this sophistic jugglery, at once perfidious, cruel, and absurd, did the Pennsylvania convention of 1837 deprive of their offices the whole judiciary of an extensive state. The oratory which the printed Debates record, was worthy of the occasion: "But injustice," exclaims one of the speakers, "will be done to judges, by turning them out of office, we are told. He may be a poor man, and may have a family dependant upon his salary; but is this a reason why he should hold an office against the consent of the people, which was established by themselves for themselves? The office is theirs, not his." Just as though that were not a man's property, which the state had not only invited but encouraged him to accept. As if those just emoluments of office were not property, when, for the payment of them, the faith of the commonwealth was plighted by its constitution;* and when, on the guaranteed certainty of payment, a whole description of men had formed their habits of life, and perhaps led many persons to dependance upon them. As if, too, the proper feelings of men, their well earned reputation, their rank in their own and in public regard, were not their property; as truly property as those grosser possessions which, to use Mr. Burke's language, one may measure with a two-foot rule, or count upon his ten fingers. "Our charities and ... our poor houses," continues this decent orator of the convention, "are all open to judicial mendicants, as well as others."[[14]](Debates in the Pennsylvania Convention of 1837, vol. iv. p. 339.) If such language be not indeed the gibberish of a fierce malignity, then did the Burke we have already quoted say well, that he had "seen in the rank of statesmen, persons with the conceptions and characters of pedlars."

* "The judges of the supreme court and of the several courts of common pleas shall hold their offices during good behaviour." The judges of the supreme court and the presidents of the several courts of common pleas, shall, "at stated times, receive for their services an adequate compensation to be fixed by law; which shall not be diminished during their continuance in office." (Constitution of 1790, art. v. § 2d.)
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[Edns.—There are several impressions of Croke in 1657, 1658, 1661; all of which are called the first edition, and are frequently without tables of the principal matters. Then there is the incorrect edition of MDCCL, already noted. Another impression was made in 1669, but is called the second edition. It is well printed in three volumes, but has no references. The third edition was published in 1683, three vols. folio. The last and best edition is Leach's, published in 1790, 1791, 1792, in four vols. 8vo. There is also an abridgment of these reports in three parts, 1685, by Hughes—a well known abridger and doer into English of his day.]

GOLDSBOROUGH. ALL THE COURTS OF WESTMINSTER.

28 ELIZ.—44 ELIZ. (1586–1602.)

"Godbolt, Goldsborough, and March; mean reporters; but not to be rejected."

[Edns.—1st or 2d edition of same, ann. 1658, 1682.]

POPHAM. K. B., C. P., CH.

34 ELIZ.—3 CAR. I. (1592–1627.)

This book, that is to say, the second edition of it, contains moreover some cases from 15th James I. to 2d Charles I. In 1st Keble 676, Hyde, chief justice of the king's bench, in citing a case from Popham, said: "Which I vouch, because I heard it; not for the authority of the book, which is none." To the same effect, as to part of the book, lord Holt, in 1st lord Raymond 626; S. C. 1st Peere Will. 17. In fact, Popham's reports, properly so called, occupy only the first 123 pages of the volume; and the cases in that part are more respected than those which follow. [Edns.—1656, and secondly in

1 North's Study of the Law, cited in Greenleaf's Overruled Cases 153.
1682; this last edition, as I have said, with some additional cases.]

FOLEY.

43 ELIZ.—3 GEO. II. (1601—1730.)

These of course are, but to a small extent, contemporaneous reports. They consist of cases on the poor laws. [Edns.—1739, 1743, 1751, 1758, 8vo.]

YELVERTON. K. B.

45 ELIZ.—11 JAC. I. (1603—1613.)

These reports are of selected cases, and generally those which sir Henry Yelverton himself argued. The author was one of the most eminent lawyers of his age, "the Augustan age of our old common law learning;" and these reports (prepared for the press, as is supposed, by himself), are much esteemed and justly.¹ Yelverton was solicitor-general and afterwards attorney-general under the reign of James I.; in both offices succeeding to sir Francis Bacon. But having incurred the displeasure of the king, he was sentenced by the star-chamber to the tower; and afterwards resumed his practice at the outer bar. On the accession of Charles he was made a judge of the common pleas, which place he retained until his death in January, 1630.

Few men of any day appear to have conciliated more thorough esteem than Yelverton. Many commemorative notices might be referred to. One is in Littleton's reports:² "Il fuit homme de profond intelligence in the common law, and ingenious, and eloquent in expression;—and pur son vie,—de grand integrity and piety, et son mort universally bewailed." [Edns.—1661, in French, by Wylde. Same in 1674. Third and fourth editions, in English, 1735,

¹ 7 Johns. 164. ² P. 152.
1792. They were edited in our own country, in 1820, by Mr. Metcalf; and the notes of that gentleman are pronounced by a competent authority to be "valuable and accurate." I understand that there is also a more modern English edition, with annotations scarcely inferior to those of Mr. Metcalf.]

HOBART. K. B., &c.

1 JAC. I.—1 CAR. I. (1603—1625.)

But containing, in addition, some cases temp. Eliz. These reports were first published several years after Hobart's death, and by a careless editor; but were subsequently revised and corrected by lord Nottingham, who added to the work an excellent index. They are said, however, by chancellor Kent, yet to be defective in method and precision; but are admitted to be a standard work of their day. The book is regarded as one of authority by chief justice Tilghman; while lord Kenyon, who was indeed so thoroughly acquainted with the English books as perfectly to enjoy them, speaks of it as an "excellent volume." The marginal annotations, excepting a few referring to matters since Hobart's death, are regarded as the production of sir Henry himself, and of course possess authority.

An interesting tribute to lord Hobart, is found in the preface to Jenkins' centuries. "Lord Coke and lord Hobart," says judge Jenkins, "have furnished surprising light to professors of the law. They were two men of great authority and dignity; men who, to the most accurate eloquence, joined a superlative knowledge of the laws: being also judges of consummate integrity." He prophesies that the monuments of the great abilities and diligence of this "noble pair," whom for many years he had "marked, observed, and revered,"

1 Kent's Com. 485.  4 6 D. & E. 441.  6 Law Rep. vi. p. 436.  6 Serg. & R. 537.  6 Lord Raym. 1161.  6 1 Ves. 303.
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will remain as long as the "splendour, majesty, and name of the kingdom of England shall endure."

[Edns.—Quarto, 1641; folio, in 1650, 1671, 1678, 1683; without any other alteration than a new title-page; and again in 1724, with references, by Chilton. An edition by Mr. J. M. Williams, one of the justices of the court of common pleas of Massachusetts, was printed in this country in 1829, and is enriched with a biographical sketch and valuable notes. This, in many respects, is far the best edition. I cannot but think, however, that the perfection of the volume is impaired by the omission of some cases deemed by the learned editor useless in this country. The cases omitted are not numerous, nor of general interest, it is true; but it is impossible for any editor to say what cases his readers, in their various exigencies, will not have occasion to consult. The learned editor believes "that every case is retained which would be useful to the American lawyer;" while it does happen that the only case in Hobart to which I have had occasion to refer, is entirely omitted. There is too, something in the mere idea of a mutilated volume, which impairs the satisfaction with which even other men than Mr. Frognall Dibdin would possess it; and the remark of la baronne de Stael, is in some sort applicable to a perfect possession of any kind, as to the possession of perfect knowledge: "savoir parfaitement (we quote from memory), ce que l'on sait, donne une certaine satisfaction à l'esprit semblable au repos de la conscience." Still, however, the edition is a truly valuable one, and as I have remarked, much better in general than any other. Its excellence, in other respects, makes us grieve the more for its want of entirety, a defect which an editor of far less capacity than Mr. justice Williams could easily have avoided.  

1 Slade v. Drake, p.295, containing a censure of lord Coke, and quoted ante, p.22.

2 It is an interesting fact, that American lawyers should have given to England late and excellent editions of two of her early reporters. The symptom is a hopeful one for our national Themis. It is a good sign (says the British
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CASES OF PRACTICE. K. B.

1 JAC. I.—15 GEO. III. (1693—1775.)

This book, though classed among the reports, hardly deserves so honourable a place. The cases are merely selected from other books, and are arranged methodically under different heads. [Edns.—Quarto, 1778.]

DAVIS. K. B. & EX. OF IRELAND.

2 JAC. I.—10 JAC. I. (1604—1612.)

Sir John Davis, who was attorney-general of Ireland, states in his preface, that the cases reported in this volume, were selected "principally for the use and benefit of our practisers here in Ireland:" and when they were cited in an English court,1 one of the judges (Jones), remarked: "Davies reports ne sont canonical;" and another (Doderidge): "furent faits pour le meridian de Ireland seulement." However, they appear to contain very good law, and where applicable, I presume may be quoted; since lord Kenyon2 Critic), when an age republishes other works besides its own; just as it is a good sign when a man can enter into other persons' thoughts, feelings, and views, and is not always bent upon putting forth and developing his own. (Vol. xxxi. p. 169.) Much of modern repugnance to reading the old reporters arises, no doubt, from the huge volumes in which they are incarcerated, from the hirsute aspect of a Gothic letter, and the other incompodies of an exploded mechanism. If these venerable authors were dressed more à la mode, and made to look like ourselves, we should feel less awe in taking them by the hand, and in asking their advice. Indeed, if there were more persons to perform the labours so acceptably discharged by the editors of Yelverton and Hobart, it is not easy to believe that the profession would groan, as it does, under the intolerable burden with which by modern reporters, we are wearied and grieved. We should not be made to read, in hundreds of new volumes, the re-decisions of questions perfectly settled by the generations before us. By communing more closely with these spirits of the great departed, we should form more modest estimate of our own times; and, in the conviction that the intelligence and labours of the dead are as sterling as those of the living, should find restraint to that disregard of authority which, in some of our states, has become the bane of their jurisprudence. 1 Latch 238; S. C. Palmer 462. 2 4 D. & E. 194.
relied a good deal on Davis, and spoke of it as a well known fact, that though the cases were decided in Ireland, the volume was cited as "authority in England." Few men of modern times could better speak on such a subject, than lord Kenyon. A very competent judge, and one no way partial to the chief justice, has admitted, "that he possessed more juridical knowledge than any other intermediate successor of the learned Hale." The opinion of lord Kenyon will no doubt prevail in this day; for since the union certainly, no reports are more authoritative both in England and here, than the Irish. Those of the Irish chancery have long been regarded as unsurpassed: while the common law reports are rapidly rising to the same point of estimation. [Edns.—1615; 2d, 1628; 3d, 1674 (in French, folio); 4th, 1762 (in English, 8vo.)]

LANE. EX.

3 JAC. I.—10 JAC. I. (1605—1612.)

I do not recall any expression of opinion as to these reports; nor does my own knowledge of them enable me to speak with accuracy of their merits. No very satisfactory account is given of the MS. from which they are printed, and I presume that the work possesses no great authority. The title records that the author was attorney-general to prince Charles; and I infer, therefore, that he is the same person mentioned by lord Clarendon as "Mr. Lane," who in 1641 argued the

1 Prof. to East's P. C. 9.

2 An American lawyer will be gratified to know, that while the decisions of the Irish courts are so frequently cited in this country, the jurisprudence of the United States is not wholly unknown at the bar of Dublin. In an interesting letter lately received from one of the intelligent joint-reporters of the Irish Q. B., Mr. Jebb, he remarks, after speaking of the present state of the international copyright law: "But in the mean time I may observe, that there is already among us here a considerable acquaintance with the works of legal writers in America, and that, whenever applicable, none are cited in our courts with greater effect."
questions of law in behalf of the unfortunate earl of Strafford. His defence of Strafford is preserved by the noble historian, who adds, that it was urged "with such confidence as a man uses who believes himself;" but that the house of commons would make no reply to it, declaring that it was "beneath their dignity to contend with a private lawyer." [Edns.—Fol. 1657.]

LEY. K. B., C. P., EX. & COURT OF WARDS.

6 Jac. I.—5 Car. I. (1608—1629."

These reports, though published under the name of sir James Ley, are regarded as supposititious; a fact much to be regretted, since in connexion with the name of Ley, every reader will recall Milton’s sonnet, and

—-- "that good earl, once president
Of England’s council and her treasury,
Who lived in both, unstained with gold or fee,
And left them both, more in himself content,
Till sad, the breaking of that parliament
Broke him, as that dishonest victory,
At Chersones, fatal to liberty,
Killed with report that old man eloquent."*

[Edns.—First and last 1659, folio.]

CALTHROP. K. B.

7 Jac. I.—16 Jac. I. (1609—1618.)

Principally touching the customs of London, but said by

* The singular learning and abilities of sir James Ley, having raised him through all the great posts of the law, he was created earl of Marlborough, lord high treasurer, and lord president of the council to king James I. He died at an advanced age: and Milton attributes his death to the breaking of the parliament. And it is true, that the parliament was dissolved the 10th of March, 1628-9, and that he died on the 14th of the same month. (Note to Milton’s sonnet.)
sir J. Burrow to be "prettily reported, and worth reading." [Edns.—12mo. 1655.]

BULSTRODE. K. B.

7 Jac. I.—15 Car. I. (1609—1639.)

Published by Bulstrode's son. In vol. ii. (edition of 1658, &c.), there is a chasm in the paging from 99 to 109; and in an edition of 1688, from 104 to 114; notwithstanding which the book is perfect. [Edns.—Fol. 1657, 1658, 1659; 2d edition, 1688.]

HUTTON. C. P.

10 Jac. I.—15 Car. I. (1612—1639.)

Like Ley, Lane, Owen, Noy, and one or two other volumes of this date, no satisfactory account is given of the MS. from which this work is printed. I infer from the absence of all remark about the book, that it belongs to the class of literary productions which do not attain even notoriety enough to be abused. [Edns.—Fol. 1656; 2d edition, with additional references, 1682.]

BRIDGMAN, SIR JOHN. C. P.

11 Jac. I.—19 Jac. I. (1613—1621.)

"They are not often referred to, nor do we understand that they are highly esteemed."* With Noy, Saville, Lane, Ley, Hutton, Hetley, and Alleyn, the volume appears to belong to "that flying squadron of thin reporters," which Mr. Nelson† tells us came forth after the death of Charles I. To what sort of thin dimension this author refers, I am unable positively to say. It is certain that the whole of these reporters bound together would not make a volume very thick, while I take it to be probable too, that there is not much more

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1 2 Bur. 249.  
2 Bridgman's Lec. Bib. 34.  
3 Pref. to 5 Mod. viii.
in them than there is of them. On this account it is, I suppose, that with one or two exceptions, we find so little said about them. [Edns.—1652; 2d, 1659.]

ROLLE: K. B.
12 JAC. I.—1 CAR. I. (1614—1625.)

According to sir Matthew Hale, these reports are "of serjeant Rolle's own taking, and very good." Rolle was chief justice of England during the protectorate; and sir Matthew, in the preface to Rolle's abridgment, pays the highest tribute to his learning and ability. His works, however, were not published until after the restoration, when of course his Cromwellian dignity was not recognised. [Edns.—1675—6.]

PALMER. K. B., C. P.
17 JAC. I.—5 CAR. I. (1619—1629.)

Palmer was attorney-general under Charles II.; and his work, according to chancellor Kent, is of respectable authority.¹ A somewhat different idea, as to this last point, seems to be conveyed by c. j. Parker; or at all events, as to the earlier cases in the volume.² [Edns.—These reports have been but once printed, though they bear the different dates of 1678, 1688, and 1721.]

JONES, SIR WM. K. B., C. P.
18 JAC. I.—17 CAR. I. (1620—1641.)

This volume is cited sometimes as first Jones, sometimes as W. Jones, to distinguish it from second or T. Jones. Clarke records that in Easter term, 3d W. & M., it was declared by the whole court, that this book was "very judiciously written." And it is said,³ that when a case in Jones was questioned as anonymous, Lawrence j. said, that Jones was not a reporter to mistake the law of the case, though he might not have

¹ 1 Com. 486. ² 1 Stra. 71. ³ Am. Jur. xii. p. 39.
heard the name. The book must be esteemed authoritative, if for no other reason than for this, that it appears, from a MS. still preserved in the Hargrave collection, that Mr. Hargrave himself translated it into English (from the French, in which it was originally printed), and contemplated a publication of the volume. [Edns.—1675.]

WINCH. C. P.

19 JAC. I.—1 CAR. I. (1621—1625.)

Principally touching declarations. The cases in this volume, according to lord Kenyon,¹ "are, in general, well reported." It is said, however, in the preface to Benloe & Dallison’s reports, that this volume is improperly attributed to Winch; and a fact is stated by those gentlemen, which, if true, certainly affords a presumption that they are right: they say that Winch died several years before the cases were decided! The curious and indefatigable Mr. Umfreville, who, in his peculiar department, was scarcely less remarkable than Champollion in his, confirms this assertion; and has pronounced, with great confidence, that though published as judge Winch’s, these reports are in fact Mr. Allestree’s. [Edns.—1657.]

LATCH. K. B.

1 CAR. I.—4 CAR. I. (1635—1638.)

In the preface to Palmer’s reports, it is more than intimated that Latch stole 120 of these reports from Palmer’s note-book, which Palmer had unsuspectingly lent him. It is said in that preface, that the cases are reported "corruptly enough." The book, though called Latch’s reports, is confessedly but a copy made by Latch from some other book.² It is not re-

¹ 6 D. & E. 441.
² Cert. of approval by the judges; and see ante, "Remarks," § 10 n.
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garded as of much value; and is ranked by Mr. Bannister as among the "least accurate" of the reporters.¹ [Edns.—1662.]

LITTLETON. C. P., EX.

2 CAR. I.—8 CAR. I. (1636—1632.)

It is said in the preface to this volume, that care had been taken to leave out all cases reported in contemporary reporters; notwithstanding which, a portion of these cases are found in exactly the same form in Hetley's reports. It has been supposed that the book was not composed by Sir Edward Littleton;² but Sir Francis North, in "allowing" its being printed, says that he had found it to be made with great judgment and truth.³ [Edns.—Fol. 1683.]

HETLEY. C. P.

3 CAR. I.—8 CAR. I. (1627—1632.)

It is a well known historical fact, that in the reign of James I., Lord Bacon endeavoured to procure the revival of the ancient office of reporter, which had been dropped by Henry VIII. The title-page of Hetley informs us, that the author was appointed "by the king and judges for one of the reporters of the law;" and this would appear to be the only evidence of the station's having been occupied. If, however, we are to judge by this volume, the advantages which were anticipated from the revival of the office seem to have failed: for whether Hetley (or, as has been sometimes thought, Lord keeper Littleton), was the author of these reports, they are said by Mr. Douglas to be "far from being any marks of peculiar skill, information, or authenticity."⁴ [Edns.—Fol. 1657.]

¹ Pref. to sir O. Bridgman's Judgments ix.
² See ante, "Remarks," § 27 n.
³ Bridgman's Leg. Bib. 204.
⁴ Pref. to Doug. Rep. 7.
CLAYTON. ASSIZES.

7 CAR. I.—3 CAR. II. (1631—1651.)

[Edns.—12mo. 1651.]

MARCH'S NEW CASES. K. B., C. P.

15 CAR. I.—19 CAR. I. (1639—1643.)

According to 10th Mod. 138, March is styled by c. j. Parker, "a very indifferent reporter." *Sed quære de hoc,* is an entry made by serjeant Hill; who, though an eccentric man, is stated by lord Eldon to have been "a most learned lawyer."† The work is styled New Cases, to distinguish it from another compilation of March mentioned farther back; though that is sometimes called New Cases also.‡ [Edns.—1648; and 2d, 1675.]

STYLES. U. B.

21 CAR. I.—8 CAR. II. (1645—1656.)

These reports are genuine; and (what rarely happened to reports in their day), were published by the author himself. They are valuable, as being the only records of the decisions of Rolle and sir John Glynn, the very able chief justices during the protectorate.

It is recorded of the saints of the republic, that in reciting the Lord's prayer, they would never say, "thy *kingdom* come," but always, "thy *commonwealth* come."‡ From a similar spirit probably, though with better sense, the K. B. was styled during the time of Styles' and Alleyn's reports, the upper or public bench. [Edns.—Fol. 1658.]

ALEYN. U. B.

22 CAR. I.—1 CAR. II. (1646—1649.)

No satisfactory account is given of the MS. from which this

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1 Life, by Twiss i. p. 58. Phil. 1844.
‡ See ante, p. 17.
* Hume viii. p. 151 n.
work is printed. The work is posthumous and probably an imposture; for in *Dure v. Chase*, when it was cited, Dolben justice, took occasion to say: that "the publisher had much wronged the author; for that he (Dolben), had the original manuscript, and had compared them, and found it to be mistaken in several cases, even as to the very resolutions of the court." [Edns.—1681 or 1688.]

HARDRES. EX.
6 CAR. II.—21 CAR. II. (1654—1669.)

There is a chasm in the paging of Hardres, from 232 to 301. [Edns.—Fol. 1693.]

SIDERFIN. K. B., C. P., EX.
9 CAR. II.—23 CAR. II. (1657—1670.)

Being cited, Dolben justice, said: It is a book "fit to be

1 2 Show. 164.

* The reader has doubtless noted the fact, that chasms and mispaging frequently occur in works printed about this time; as, for example, in Hardres, Pollexfen, Croke, Bendloe, Owen, Bulstrode, and probably in other reporters; notwithstanding which, that the volumes are regarded as perfect. The cause of this circumstance I have not seen explained. Undoubtedly the English press was in a very corrupt state during much of the seventeenth century, and, in fact, until its freedom was established, a few years after the revolution; (See ante, "Remarks," § 7); so much so, that until of comparatively later times, the vocation of printer was esteemed rather disreputable. It is possible that the works in which these imperfections occur were clandestinely printed by the Curils of the day; and that to insure despatch the copy was distributed among different compositors; but happening to prove fatter or more lean (as printers say), than had been reckoned, the matter, as put into metal, overran or fell short of the paging which had been made. The same thing, indeed, might have occurred from the same cause in an honest office. Men who stand at the case know the difficulty, not to say the impossibility, of "casting off copy" so as to come out at the page. If the MS. is interlined or irregular, the difficulty is extreme; and even with uniform copy, a hair space in the body of the type will produce, in a series of pages, an entire miscalculation. A printer tells me, that he has seen the same sort of type, made about the same time, having four different bodies, according to their foundries; and yet the improvement in this matter has been immense of modern times.
burned; being taken by him when a student, and unworthily done by them that printed it."\(^1\) Opinions to the same flattering effect are found in 2d Ventris 243, and in Comberback 377. In the last cited place, the following dialogue is reported:

**HOLT C.J.** "It was resolved in the case of Butler and Hodges, in this court, that no damages should be intended to be given for that which is void."

**CARTHUE.** "I can gather no such matter from that case as 'tis in Sid. 319."

**HOLT.** "Ay: many good cases are spoiled in Siderfin; neither reported with that truth nor with that spirit which the case required. The case of Opy and Thomassius is much abused; scarce intelligible there."  [Edns.—1683-4–9; and 2d, 1714.]

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**THE RESTORATION.**

**BRIDGMAN, SIR ORLANDO. C.P.**

12 CAR. II.—19 CAR. II. (1660—1667.)

The observant reader may have noted in sir Matthew Hale's Pleas of the Crown, p. 303, a citation *ex libro Bridgman*; and again, on p. 121, a reference to a MS. of "my lord keeper Bridgman," from which sir Matthew has transcribed a long report. Lord Holt, likewise,\(^2\) speaks of the case "of Murrell and Osborn, a report of which I have under my lord c. j. Bridgman's own hand, in a MS. I have of his:" and it would appear from other historical references, that sir Orlando left a large collection of MSS. behind him.

As is known, sir Orlando was among the most eminent

\(^1\) Show. 252.  
\(^2\) Pigot on Recoveries 197.
lawyers of the period about the restoration; and according to
lord Holt,1 "a very studious gentleman," who "had an
account brought to him of all that passed in the courts."
And as the law in Bridgman's time, was in what may be
called a transition state, a state of passage from the old to the
modern system, and as the decisions of that epoch happen to
be handed down to us by Latch, Carter, Keble, Siderfin, and
other inaccurate reporters, it is much to be regretted that all
the MSS. of the chief justice cannot be recovered. The pre-
sent volume, it will be seen, embraces a term of but seven
years. It is printed from the MSS. of Mr. Hargrave, and
first appeared in 1823, under the auspices of Mr. Bannister,
and is hence usually cited as "Bannister's Bridgman." No
other recommendation will be needed of the volume, than to
know that Mr. Hargrave thought that the cases had been
prepared for publication by Bridgman himself, and contem-
plated publishing the volume. Mr. Fonblanque2 speaks of
Bridgman's reports, of which Mr. Hargrave had lent him the
MS., as far exceeding Carter's in copiousness, depth, and
correctness.

Few judicial characters have received more homage from
contemporaries, than sir Orlando Bridgman. Lord Clarendon
styles him "very eminent in the knowledge of the law." Lord
Nottingham thought that he should not be mentioned
but "with reverence and with veneration for his learning and
integrity;" and one of his reporters pays to him this highest
compliment which a member of the profession could receive:
"he always .argued like a lawyer and a gentleman."
[Edns.—8vo. 1823.]

RAYMOND, SIR T. K. B., C. P., EX.
12 CAR. II.—36 CAR. II. (1660—1684.)
Extending however, with an interruption, as far back as
1653. [Edns.—1st, 1696, 1743, 1803, 8vo.]

1 Pigot on Recoveries 197. * Treat. on Equity ii. p. 172 n.
* Pref. to Carter's Reports.
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LEVINZ. K. B., C. P.

12 CAR. II.—9 WM. III. (1660—1697.)

Lord Hardwicke is reported to have said, that though Levinz was "a good lawyer," he was sometimes "a very careless reporter;" but the book, notwithstanding this censure, is frequently cited, and in chancellor Kent's notice of judicial reports is spoken of as "of authority." See also, 5th Bur. 2731, and 3d D. & E. 17, where both lord Mansfield and lord Kenyon speak of Levinz as a better reporter than Keble; which indeed is not to say a great deal. It appears, by a record of Mr. Hargrave, that among his collection is a MS. contemporaneous with Levinz, and much more copious. Should Levinz ever be re-edited, no doubt he will be presented in a much improved form.

In addition to Levinz's reports, there is a book (in folio, 1702), called Levinz's entries; many of them having reference to cases in the reports. They thus serve occasionally to illustrate a case reported; and the curious prefer to make this volume a part of the series. It is in Latin. [Edns.—Of the reports, fol. Fr. 1702; 2d, 2 vols. fol. Fr. or Eng. translated by Salkeld; 3d, 1802, by Vickers, 3 vols, with the pleadings in English. The edition above mentioned of the entries belongs of course to the folio editions of the reports; the last, by Vickers, includes the pleadings.]

KEBLE. K. B.

13 CAR. II.—31 CAR. II. (1661—1679.)

Keble, like Siderfin, has had the happiness to unite all opinions. Willes c. j., somewhere speaks of him as a "reporter who seldom enlightens any thing." Mr. justice Park burned his copy, thinking it not worth while to lumber his library with trash. Lord Mansfield called him "a bad reporter;" and the baron of Gredington, who it is known rarely

affirmed his great predecessor’s judgments, dissented not in this.\(^1\)

However, though so bad a reporter, Keble is styled by Burnet j.,\(^2\) “a tolerable historian of the law;” and by lord Hardwicke, “though very far from being accurate,” “a pretty good register.”\(^3\) [Edns.—It may be conjectured, that there is but one edition of this book: it is in 1685. There are two tables to each volume; but that of the principal matters is sometimes wanting.]

ΚELYNG, SIR JOHN. K. B. (PLAC. COR.)

14 CAR. II.—22 CAR. II. (1669—1669.)

It is said by sir Michael Foster,\(^4\) that these reports were published by lord Holt. The volume is sometimes cited as first Keyling, and must not be confounded with Keyling’s chancery cases, or, as this last book is sometimes quoted, second Keyling.

CARTER. C. P.

16 CAR. II.—28 CAR. II. (1664—1676.)

With some cases in the time of c. j. Vaughan. This is but an inaccurate volume. In Burgess v. Wheate,\(^5\) lord Mansfield relied on a report of Carter’s,\(^6\) of what c. j. Bridgman had said: but by reference, since, to Bridgman’s own MSS., there appears to be nothing said by the c. j. of the sort attributed to him by Carter.\(^7\) [Edns.—1668.]

VAUGHAN. C. P.

17 CAR. II.—26 CAR. II. (1665—1674.)

Like most of the reports about this epoch, Vaughan’s come

\(^1\) 3 D. & E. 17; Ridgeway’s Cases 100 n.  
\(^2\) Ridgeway’s Cases 100.  
\(^3\) 1 W. Black. 166; S. C., Eden 230.  
\(^4\) 3 Wils. 330.  
\(^5\) Reports &c. 204.  
\(^6\) Garey v. Bearcroft 67  
\(^7\) 2 Ponblanché’s Eq. 170 n.
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to us d'outre-tombe. They were published by his son, but are of very unequal merit; some, which are supposed to have been written out by himself, "giving a true picture of his mind," and being highly interesting; others quite inaccurate. During the rebellion, Vaughan sided, as the law may be supposed to have taught him, with his king: and holding it to be unlawful to recognise judicial authority not derived from "a lawful prince," retired entirely from practice. His honesty was better rewarded at the restoration than honesty generally was by Charles II.; Vaughan having been made chief justice of the common pleas. A severe censure of his manner of reporting is found in 2d Vesey 281; but should not be taken as applicable to all his cases. [Edns.—1677; and 2d, by his son, in 1706.]

SAUNDERS. K. B.

18 CAR. II.—25 CAR. II. (1666—1673.)

"The most valuable and accurate reports of their age: and this is the character which has been repeatedly given of them in modern times.¹ To the same effect speaks Mr. justice Yeates.² Another judge styles it, "that excellent book."³ And chief justice Willes, having quoted Saunders, thought it unnecessary to "mention any other authority after him."⁴ But the work has been brought into special prominence by the notes of serjeant Williams, which do, indeed, more than place the annotator on a level with the author. Tindal c. j., somewhere speaks of them as being "now esteemed a textbook of our law." "A sounder lawyer or more accurate special pleader," says baron Vaughan, in speaking of Williams, "has rarely done honour to his profession:"⁵ and even the pauciloquently praising lord Eldon, went so far as to cite Mr. Williams' notes in the house of peers, and to add:

¹ 1 Kent's Com. 485. ² Lord Eldon, 2 B. & P. 23. ³ Willes 479. ⁴ 1 Cromp. & Jerv. 9.
"Though one who had held no judicial situation could not regularly be mentioned as an authority, yet he might say, that to any one in a judicial situation, it would be sufficiently flattering to have it said of him, that he was as good a common lawyer as Mr. serjeant Williams; for no man ever lived to whom the character of a great common lawyer more properly applied."

Notwithstanding these re-iterated eulogies, the reader who often consults these notes, will probably think with chancellor Kent, that with all the praise justly due to the edition, it is liable to the objection of making one of the old reporters, the vehicle of voluminous dissertation; and that it had been better if serjeant Williams had given his labours to the profession in a separate and more systematized form. In regard to the cases of the original reporter, it may be observed, that they too are rendered less interesting by so numerous diversions, that the mind becomes "refrigerated" by these frequent interruptions, and the thoughts injuriously withdrawn from the principal subject before them. [Edns.—These reports were first published in French, folio, 2 vols., ann. 1686; a second ed. in 1722 in English. Serjeant Williams' edition first appeared in 1799; and has been more than once republished both in England and the United States.]

JONES, SIR THOMAS. K. B., C. B.

19 CAR. II.—1 JAC. II. (1667—1685.)

This book is usually cited as 2d Jones, to distinguish it from William Jones' reports, sometimes cited as 1st Jones. [Edns.—Fol. Fr. 1695; 2d, fol. Fr. & Eng. 1729.]

VENTRIS, PART I. K. B.

20 CAR. II.—36 CAR. II. (1668—1684.)

1 Dow. 15.  2 1 Com. 486.
VENTRIS, PART II. C. P., CH.
21 CAR. II.—3 WM. III. (1669—1691.)

[Edns.—Fol. 1696; 2dly, 1701; 3d, with references by serjeant Richardson, 1716; and 4thly, with additional references, in 1726.]

POLLEXFEN. K. B., C. P., EX. & CH.
21 CAR. II.—1 JAC. II. (1669—1685.) WITH SOME CASES ANTERIOR TO 21 CAR. II.

The impressions of Pollexfen are very incorrect; and chasms are found in the pages, viz. 173 to 176; 181 to 184; 649 and 652 mis-paged, and 189 repeated. The circumstance is less important that it would be, did Pollexfen always record the judgments of the court, as well as his own arguments. The learned author whom we so often quote, calls Pollexfen’s reports, “a respectable authority;” though he remarks, that “a considerable part of the discussions and decisions which they record, ceases to excite much attention, or to be very applicable to the new and varied course of human affairs.”¹ [Edns.—1702; the year is sometimes printed in Arabic, and sometimes in Roman numerals; and is not always the same.]

MODERN. K. B., C. P., EX. & CH.
21 CAR. II.—4 GEO. II. (1669—1732.)

(1) VOL. I. K. B., C. P. 21 CAR. II.—30 CAR. II. (1669—1678.)

Containing also the case of Fry v. Porter, in chancery. This volume is sometimes called Colquit’s reports; having been prepared by Anthony Colquit esq. [Edns.—1682; 1700, 1720, and 1757.]

(2) VOL. II. C. P. (PRINCIPALLY.) 26 CAR. II.—35 CAR. II.
(1674—1683.)

In lord Raymond’s reports 537, we find the following pa-

¹ 1 Kent’s Com. 487.
agraph: "Mr. Carthew cited a case in 2d Mod. 97, to the contrary, to which Holt C.J., in irâ, said, that no books ought to be cited at the bar, but those which were licensed by the judges."

(3) VOL. III. K. B., C. P., EX. & CH. 34 CAR. II.—3 W. & M. (1682—1691.)

(5) VOL. IV. K. B., C. P., EX. & CH. 3 W. & M.—8 W. & M. (1691—1696.)

In Slater v. May,¹ a report was cited from 4th Mod.; but upon search of the roll, it was discovered that the statement of the case omitted a material circumstance. Whereupon the chief justice, Holt, is reported to have said: "See the inconveniences of these scambling reports! They will make us appear to posterity for a parcel of blockheads."

(6) VOL. V. K. B., C. P., EX. & CH. 5 W. & M.—12 W. & M. (1693—1700.)

(9) VOL. VI. Q. B., C. P., EX. & CH. 2 ANNE.—4 ANNE. (1703—1705.)

Lord Hardwicke styled this "a book of no great repute;" but referring to a case in it, called the case "well reported."²

(7) VOL. VII. Q. B., C. P., EX. & CH. 1 ANNE. (1702 AND 1703.)

This volume is by Thomas Farresly, author of the cases temp. Holt. It possesses, I believe, no great authority, although rather more than some other of the volumes of modern.

These seven parts were revised and corrected by Danby Pickering esq.

The last six parts appear to have been first printed in 1757; but they are all called the fourth edition; so as to correspond,

¹ 2 Lord Raym. 1072.  * 1 Ves. 11; Ridgeway's Cases 126.
I suppose, with the last edition of volume first, printed in that year.

(11) VOLS. VIII. & IX. K. B., CH. 8 GEO. I.—13 GEO. I.
(1722—1727.)

Sometimes cited as "Modern Cases in Law and Equity." The 8th vol. is of cases in the K. B., from the 8th to the 13th Geo. I. (1723–27); the 9th principally of chancery cases during the same term; with a few cases of appeal, and also some chancery cases during lord Hardwicke's time. The contents of the volumes, however, need not be more particularly specified, as Mr. justice Wilmot, according to lord Kenyon,¹ said, that nine cases out of ten in the book are totally mistaken. Mr. justice Bailey² calls it "notoriously inaccurate;" chief justice Gibson, of Pennsylvania, 8th Mod., "a book which can claim nothing beyond the intrinsic evidence of reason and good sense apparent in the cases it contains;"³ and, in fact, the work is generally treated with contempt whenever mentioned. See Burrow's reports, vol. i. 386, in marg., where it is called "a miserably bad book." Also vol. iii. 1326, id.; also of 9th Mod., what is said by sir T. Plumer.⁴ It is difficult to tell why such volumes should be republished. [Edns.—A second edition of this work bears date 1769, and purports to be a correction "by an eminent hand," of the former edition.]

(10) VOL. X. K. B., C. P., EX. & CH. 8 ANNE—7 GEO. I.
(1709—1721.)

Not of much authority;⁵ but in the great case of Mostyn v. Fabrigas,⁶ lord Mansfield cited a case from it; and see 2d Bur. 588, in marg. Formerly called Lucas' reports; also, occasionally, cases temp. Mac.⁷ [Edns.—1769, fol.]

With a few cases in the C. P. The volume is said, arguendo,\(^1\) to be a book of no authority. It is cited in the old books as cases temp Qu. Anne. \[Edns.—By Lutwyche, 2d edition, 1781.\]

Formerly cited as cases temp. Wm. III. Called by Buller,\(^2\) “not a book of any authority.” But notwithstanding this censure, chief justice Marshall, in Bank of the United States v. Deveaux,\(^3\) felt authorized by a case in 12th Mod., to adjudge a point of some difficulty. But the character of the volume was not noticed at the bar, nor indeed does the case appear to have been cited. The chief justice was moreover in considerable distress for argument. \[Edns.—1769.\]

The whole of the above parts were formerly bound and sold in nine vols. folio; but these are now rarely seen in an entire shape. In 1793—96, they were consolidated into a fifth edition by Leach, in twelve vols. 8vo. “corrected with the addition of marginal references and notes and 381 cases.” This edition, greatly superior to the old one, has quite driven it from modern libraries; and except the *disjecta membra* which you occasionally will find in the auction rooms, rejoicing in the unfamiliar names of Lucas\(^4\), Colquitt’s, or Farresly’s reports, the whole impression may probably be taken to have gone to the trunk-makers and venders of herring. It is probable that the censures made at different times upon the various volumes of modern, are particularly applicable to the old editions.\(^5\)

The reader will remark, that the volumes, as printed and bound, do not follow one another in chronological order; some of them iterate the same years, and some years are

\[1\] Cowp. 16. \[2\] Doug. 83. \[3\] 5 Cranch 91. \[4\] 3 Bur. 1326, in marg.
wanting. The Arabic numeral prefixed, indicates the arrangement in order of time.

FREEMAN. K. B., C. P.

22 CAR. II.—2 ANNE. (1670—1704.)

With a few cases of an earlier date. Freeman's note-book having been stolen by a servant, and published without the privity of the author's family, these reports were formerly regarded as without much authority. They were so characterized by serjeant Glynn, *arguendo,*¹ but lord Mansfield said, that "some of the cases in Freeman were very well reported;" and the court of K. B. gave judgment in conformity with the precedent to which the serjeant objected. Lord Redesdale, while at the bar and solicitor-general, expressed a favourable opinion of them; and lord Loughborough confirmed him, by remarking that they were generally good.² And in *Monk v. Monk,*³ lord Manners, adverting to the reputation of Freeman's notes, decided a point which was before him in conformity with a case there reported. The probability is, that in the circumstances in which the volume first appeared, some of the cases may be incorrectly or cruelly presented; but it has been observed, that those cases in Freeman of which there are contemporary reports, mostly coincide with such reports; and this concurrence, according to lord Mansfield,⁴ may be taken as demonstration of truth, even if the reporter were "the worst that ever reported." [If they did not copy?]

In addition to the common law cases, Freeman's notes contained a considerable number of chancery and exchequer cases. These were formerly bound up in the same volume with the common law cases; and a portion of the equity cases were placed in the middle of the common law reports! But

¹ Cowp. 15. ² 3 Ves. Jr. 580 n. ³ 1 Ball & Beat. 307. ⁴ Cowp. 16.
the two sorts have of late been separated. The common law cases were republished in 1826, with notes and references by Mr. Smirke, and the chancery cases, in 1823, by Hovenden. These editions, it is scarcely necessary to add, are greatly preferable to the old edition in folio, and have quite superseded it. The old edition is in 1742.

SHOWER. K. B.

30 CAR. II.—7 WM. III. (1678—1695.)

Leach’s edition in 2 vols. 8vo. is much preferred to the old edition in folio: but from a note left by the learned Mr. Umfreville, it would appear as if the genuine reports of sir Bartholomew Shower had never yet been printed. Speaking of a MS. in the Landsdowne collection, Mr. Umfreville says: “This MS. greatly controls the printed Showers; and contains many good cases not printed, and seems to be his regulated collection of cases, prepared, as I conceive, by himself, and methodized from his note-book, with a view to the press. But his papers, after his death, falling into the hands of a bookseller, he causd lucrì, at different times printed his general collection, without due consideration had of these selected cases, which were the only cases I conceive sir Bartholomew ever intended for the press.”

In order of time, the 2d volume of Shower precedes the 1st. [Edns.—Fol. 1708–20; Leach’s, 1794.]

SKINNER. K. B.

33 CAR. II.—10 WM. III. (1681—1698.)

[Edns.—Fol. Fr. 1728.]

LUTWYCHE. C. P.

34 CAR. II.—3 ANNE. (1682—1704.)

Lutwyche was originally printed in French; but was subsequently translated by Nelson. Of this translation Mr.
Viner, after speaking of the various misfortunes which have befallen authors, in having mercenary editors, remarks as follows: "But besides these, there are many other grievances; among which may be reckoned such books as Nelson's Lutwyche; a book which deserved public censure, at least, as being a reproach and dishonour to the profession, and rather adapted to Billingsgate than Westminster hall. What notion will any foreigner entertain of our law, to see a volume thereof stuffed with such ungentlemanlike language, and to meet with such ridiculous and scoundrel titles as law quibbles, &c.; to see skeleton treatises on some particular head, very imperfectly done, with the help of a number of idle precedents, swelled up into a thick volume."¹ I am not able particularly to explain this somewhat Cervantic indignation of the venerable compiler. Such high ideas of professional bien- être must be taken, it is to be feared, as belonging to that age which "is gone. It is gone." [Edns.—Fol. Fr. and Lat. 2 vols. 1704. Nelson's edition in 1718, fol.; and another edition the same year, in 2 vols. 8vo. in English.]

COMBERBACK. K. B.

1 JAC. II.—11 WM. III. (1685—1699.)

A posthumous book, not originally designed for the press, though published by the author's son. It is said by lord Thurlow to be of bad authority;² and lord Mansfield³ says in one of his opinions: "Comberback, in giving judgment of the court, which is the only sensible part of his whole report (for it is plain to me that he did not understand the former argument, &c.'') Buller, too, according to Clarke, declared, that "if his memory did not greatly fail him," this book, with Noy, had been forbidden to be cited. The volume, in short,

¹ Pref. to Abridgment. ᵃ Clarke. ᵃ 1 Bur. 36.
seems never to have had any reputation at all, and has been so regarded at the English bar.¹ [Edns.—Fol. 1724.]

CARTHEW. K. B.

2 JAC. II.—13 WM. III. (1686—1701.)

Woodeson, in his law lectures, calls Carthew "a reporter of no great merit;"² and lord Thurlow is reported to have said that he was bad authority.³ But lord Kenyon said (obiter and parenthetically), that Carthew, in general, was a good reporter;⁴ and chief justice Willes, in an argument where he was combating a case from Carthew: "I own that Carthew is, in general, a very good and very faithful reporter."⁵ [Edns.—Fol. 1st, 1728; and 2d, with some marginal references, 1741.]

REPORTS TEMPORE HOLT. K. B., C. P. & EX. CH.

1 WM. III.—10 ANNE. (1688—1711.)

This book is by the same reporter as 7th Modern (Thomas Farresly), and of about as much, that is to say, of but indifferent authority.⁶ [Edns.—Fol. 1738, beautifully printed.]

SALKELD. K. B., C. P., CH. & EX.

1 WM. III.—11 ANNE. (1689—1713.)

The 3d volume of Salkeld, it is supposed, was not designed for publication. It is a posthumous work, consisting principally of detached notes collected from other reports, and has never been considered as of any authority.⁷ [Edns.—Salkeld has passed through six editions. The first three were printed

¹ 1 Bur. 214; 4 East 540; 6 Bligh N. R. 369; 4 D. & E. 412. In this last place, indeed, lord Kenyon thought it as likely that Burrow had misapprehended lord Mansfield, as that Comberback had misreported lord Holt; but see the remarks of baron Vaughan, in the case cited from Bligh 369.
² Vol. i. p. 495.
³ Bridgman's Leg. Bib. 52, 78.
⁴ 2 D. & E. 776.
⁵ Willes 182.
⁶ 1 Wils. 15.
⁷ 7 Mod. 269; 2 East 8; 8 Mass. 258.
in 1717, 1721, 1731, in two parts folio; the fourth in 1742—43; the fifth by serjeant Wilson in 1773, in three parts folio; and the sixth in 1795, by Mr. Evans, the translator of Pothier, in 3 vols. 8vo., which was republished in Philadelphia in 1822.]

SHOWER. DOM. PROC.
6 WM. III.—II WM. III. (1694—1699.)

Of course, not to be confounded with Shower's reports, which are in the K. B. The cases in the house of lords are considered to be well reported. The work was thought, however, to be an infringement upon the privileges of the house of lords, and the publisher was called to the bar of the house for editing it.1 [Edns.—Fol. 1698, and also 1740.]

LORD RAYMOND. K. B., C. P.
6 WM. III.—7 GEO. II. (1694—1734)

The beginning of the 1st vol. having been taken when the reporter was quite young, and merely as short notes for private use, is not considered as very accurate.2 So, at least, lord Mansfield said; but more lately baron Bolland, in reviewing the opinions in Raymond from which Mansfield inferred error, declares, that they "appeared to bear the stamp of accuracy;" that the positions are plain and simple, and such as lord Raymond could not fail to comprehend; and that as lord Raymond, after twenty-six years' of practice from that time, presided as chief justice for nine years more, he had ample time to correct his MS., if it had been liable to the imputation of inaccuracy, by which lord Mansfield attacked and destroyed its authority.3 The 3d vol. contains the pleadings at large, published by Wilson; and these, according to chancellor Kent, are valuable.4 [Edns.—1st, 1743; 2d, 1765; 3d, by serjeant Wilson, 1775; and 4th, in 1790, by

1 Bridgman's Leg. Bib. 303.
2 4 Clark & Fin. 761.
3 1 Bur. 36; 3 D. & E. 261.
4 1 Com. 488.
Bayley (afterwards a judge of the K. B.), in 3 vols. 8vo., and much superior to the prior editions. The first three editions are in folio.]

FORTESCUE. K. B., C. P., EX. & CH.

7 WM. III.—11 GEO. II. (1695—1738.)

[Edns.—Fol. 1748.]

COMYNS. K. B., C. P., EX., CH. & DELEG.

7 WM. III.—14 GEO. II. (1695—1741.)

These reports of chief baron Comyns were posthumously published; but appear to have been twice edited with some care. [Edns.—The 1st, in folio, 1744; the 2d, by Rose, in 2 vols. 8vo. 1792. Both are in English, though Comyns wrote the greater part of his reports in French.]

COLLES. DOM. PROC.

9 WM. III.—13 ANNE. (1697—1714.)

This is a supplement to Brown's cases in parliament; and according to Bridgman, "appear to be very accurately taken." [Edns.—1789, 8vo. Dublin.]

BROWN. DOM. PROC.

1 ANNE.—41 GEO. III. (1702—1801.)

Brown's cases in parliament, properly so called, do not come down to the present century by many years; the author having died before his work was completed. The work was continued by Mr. Tomlins. [Edns.—Fol. 7 vols. 1779; coming down no farther, of course, than the year last named. 2d edition, by Tomlins, 8 vols. 8vo. 1803.]

4 Clark & Fin. 776. 5 Leg. Bib. 77.
PRACTICAL REGISTER. C. P.

3 ANNE.—15 GEO. II. (1704—1742.)

Lord Hardwicke spoke of this book as one which, though not of authority, was yet better collected than most of the kind;¹ and in Mitford’s Pleadings,² it is characterized as a book of little authority, but as one which is cited occasionally where no better authority can be found.

GILBERT. EQ., EX. IRISH EX.

4 ANNE.—13 GEO. I. (1705—1727.)

[Edns.—1734; and 2d, in 1742, folio.]

COOKE. C. P.

5 ANNE.—20 GEO. II. (1706—1747.)

These decisions are upon points of practice; the book is not often cited, so far as is known to me.

SESSIONS CASES. K. B.

9 ANNE.—21 GEO. II. (1710—1748.)

[Edns.—1st, 1750–4; 2d, 1760, 2 vols. 8vo.]

BUNBURY. EX.

12 ANNE.—15 GEO. II. (1713—1742.)

These reports were published by serjeant Wilson, who was Bunbury’s son-in-law. We might naturally suppose that the serjeant knew whether or not his father meant them for the press; but notwithstanding this, lord Mansfield characterized them as “very loose notes,” never designed by Mr. Bunbury for publication.³ And sir Thomas Plumer, having this remark perhaps in his mind, postponed his final decision in a cause before him to look into a case quoted from Bunbury, ob-

¹ 2 Atk. 22. ² P. 7 n. ³ 5 Bur. 2658.
serving of the volume, that it is "certainly of no great authority." [Edns.—Fol. 1755.]

STRANGE. K. B., C. P., CH. & EX.

2 GEO. I.—22 GEO. II. (1716—1749.)

These reports, according to my observation, have always been regarded as of good authority; and this idea seems to be confirmed by chancellor Kent. But sir Michael Foster, referring to one case in particular, "cannot help saying, that the circumstances omitted in the report are too material, and enter too far into the true merits of the case, to have been dropped by a gentleman of sir John Strange's abilities and known candour, if he had not been over studious of brevity." However, a new edition of Strange's reports was published by Mr. Nolan in 1795, who says, that it has been his "first object to clear up those few passages in which the author, from his conciseness, is liable to the imputation of obscurity, and to mark those still fewer places, in which he seems to have fallen into errors." Yet even of Strange, thus revised, sir Anthony Hart is made to say, that it is not "a book we can place much confidence in." Sir Anthony Hart, I suppose, may be taken as respectable authority; but we may observe, that the modern equity lawyers do so much distinguish cases by touches and shading, that perhaps the vice-chancellor would be regarded as fastidious by the common lawyer; who, in the portraiture of a case, would look for nothing beyond the outline and principal features.

There is a volume in existence called Select Cases on Evidence. The work is generally attributed to sir John Strange; but having, for some cause, been suppressed, is very rarely to be seen. Several of the cases in it are found in Strange's reports. [Edns.—1st, by the reporter's son, in 1755, 2 vols.

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1 2 Madd. 140, or Am. ed. of 1829, 419; and see 5 Wend. 578.
2 1 Com. 483.
3 Reports, &c. 294.
4 1 Simons 432.
fol.; 2d, with additional references, in 1782, 2 vols. 8vo.; and 3d, the edition of [ sic.], already alluded to, 2 vols. 8vo. 1795. There is also a less correct edition of Strange, in 2 vols. 8vo. 1782, but of an inferior size and double paging.]

BARNADISTON. K. B.

12 GEO. I.—8 GEO. II. (1736—1735.)

Not to be confounded with Barnadiston’s chancery cases. Barnadiston was a careless dog, and his reports, as well of chancery cases as in the K. B., were, for a long time, but little esteemed.1 The former book lord Mansfield absolutely forbade to be cited; “for it would only be misleading students to put them upon reading it.” He said it was marvellous, however, to those who knew the serjeant and his manner of taking notes, that he should so often stumble upon what was right; but yet that, there was not one case in his book which was so throughout.2 Douglas, likewise, calls the K. B. reports of still less authority than 10 Mod.,3 and lord Kenyon spoke of the author as “a bad reporter.”4 Lord Lyndhurst, too, when Mr. Preston cited a case from the chancery cases, exclaimed: “Barnadiston, Mr. Preston! I fear that is a book of no great authority: I recollect in my younger days it was said of Barnadiston, that he was accustomed to slumber over his note-book, and the wags in the rear took the opportunity of scribbling nonsense in it.”

But there are opinions in favour of the volumes. On the occasion just mentioned, Mr. Preston is reported to have replied: “There are some cases, my lord, in Barnadiston, which, in my experience (and having had frequent occasion to compare that reporter’s cases with the same cases elsewhere), I have found to be the only sensible and intelligent reports; and I trust I shall show your lordship that it may be

1 Doug. 333 n. 2 Doug. 689 n.

2 Bur. 1142 in marg. 4 1 East 642 n.; and see 8 D. & E. 48.
said of Barnadiston, "non omnibus dormio"—(which, I presume, may be translated: "I’ve got one eye open.") On another occasion, lord Eldon said: "I am old enough to remember lord Mansfield, who practised under lord Hardwicke, by whom all these cases were decided, state his opinion of these reports (the chancery cases), for he knew the man. I take the liberty of saying, that in that book there are reports of very great authority." On a third, lord Manners remarked: "Although Barnadiston is not considered a very correct reporter, yet some of his cases are very accurately reported." On a fourth, sir W. Grant, when solicitor-general, observed, "that though those reports are not approved of, they are generally in substance pretty correctly stated;" and that two MS. notes of the case which he cited, agreed in substance with the report of Barnadiston. Mr. Wilson, in quoting a case from the same work, said that he had compared the case with the register’s book, and found it "very accurate." In a yet additional case, sir R. P. Arden, M. R., influenced by the bad reputation of the author, had looked into the register’s book, where he found that "the case was reported essentially in the same way as by Barnadiston." Chief baron Alexander praised him highly. And it is to be noted, that in one of the cases where lord Kenyon adverted to the unauthoritative character of the volume, he yet remarked, that Barnadiston’s report agreed with one by Strange, and decided accordingly.

1 Bligh N. R. 538. I have noted in another part of the tract (ante, "Remarks," § 19 n.), a somewhat more dramatic report of lord Eldon’s remarks, given in Dow. N. S. 11, where the earl is made to say (and no doubt he did say it): "Lord Mansfield, then Mr. Murray, argued that case (a case which lord Eldon had quoted), before lord Hardwicke, and Mr. Barnadiston was at the bar at the same time, although afterwards, when Mr. Murray had become lord Mansfield, when Mr. Barnadiston’s reports were cited, his lordship used to say: ‘Barnard——, what you call him.’ In that book, however, my lords, there are some reports of great value."

And to go to the well-head of the condemnation, it is to be observed, as was remarked to me by Mr. E. D. Ingraham of this bar, that on the occasion when the volume was first assailed, and Mr. Dunning, being forbidden to cite it, was obliged to have recourse to a MS. note, no difference is stated to have been shown or suggested between that note and the case as found in the printed reports.¹

The opinion of lord Mansfield, as of his idolists, sir James Burrow and Mr. Douglas, may therefore be considered, like a good many of his lordship's other opinions, as now overruled. [Edns.—The K. B. reports are in 2 vols. fol. 1744.]

FITZGIBBONS, K. B., C. P., EX. & CH.

1 GEO. II.—6 GEO. II. (1728—1733.)

Lord Hardwicke, referring to this book, adds: "which I do not care to rely on, as it is of no authority, though this and some other cases are well reported; this particularly finely, for I have a MS. note of it."² The volume received a similar character from sir John Strange, when solicitor-general,³ though no such case as Andrews reports to have been cited (the King v. Mann), is to be found in Fitzgibbons. It should probably be King v. Morrice, which is reported at p. 198. Chief baron Parker went farther than these expressions, and said, that with some exceptions which he named, "the cases in this book are very incorrectly reported."⁴ This book is cited by lord Hardwicke as Holt's cases.⁵ [Edns.—Fol. 1732.]

LEACH. K. B. (CROWN SIDE.)

3 GEO. II.—55 GEO. III. (1730—1815.)

[There are editions in 1789, 1792, 1800, and perhaps in

¹ 2 Bur. 1142; see ante, "Remarks," § 24.
² 1 Kenyon 71; and see 1 Ves. 10; 3 Atk. 610; also id. 806.
³ Andrews 75. ⁴ West's Ca. temp. Hardwicke 509.
⁵ 3 Atk. 806.
other years; the best and most complete is in 2 vols. 8vo. 1815.]

BARNES. CASES OF PRACTICE.
5 GEO. II.—34 GEO. II. (1732—1760.)

Sir Fr. Buller, in a case where he subverted a decision as reported in this book, spoke of Barnes as a writer "who has indeed, in general reported the practice of the court with accuracy;" but whose assertion in the particular case "is unsupported by authority, and contradicted by reason." Mr. justice Heath, on another occasion, went farther, and said that the case cited from Barnes had been overruled; and that indeed, "many cases reported in that volume are not law." The "Labore"-ous chief justice Abbott, in a third instance, even indulged in something like a flight of wit about this book, a thing quite unusual for him. Mr. Manning had moved for a rule absolute in the first instance, vouching a case from Barnes as authority; the chief justice without much ceremony refused the rule, saying: "You may find rules absolute in Barnes for any thing."

In our own country, we find Mr. Williams, of the New York bar, styling Barnes "an authority of little weight;" and remarking, that "his cases are so contradictory that they destroy each other." Chancellor Kent does not appear to have entirely responded to so general a censure; but the question before the court being one of practice, he simply says (neither affirming nor denying the position of Mr. Williams), that the cases cited from Barnes are good as historical evidence to prove the point of practice in issue.1 For myself, while I must frankly say that I have never read this book, I am inclined to suspect that the chief justice Abbott and Mr. Williams, though undesignedly coinciding in opinion, went yet rather farther than they need have done. Perhaps our Penn-

1 B. & P. 333. 2 B. & P. 245. 3 Chitty's Rep. 233. 4 Johns. Ch. 69.
sylvania chief justice, Gibson, expressed the true state of the case, in 1 Watts 490, where with his usual terseness he says: "Barnes is good authority, I believe, for points of practice, though for little beside." This would seem to have been about Buller's idea, and essentially the idea of chancellor Kent; and I refer to the opinion of chief justice Gibson with the more respect, because I know that the subject of the books, in his earlier life, did receive no small attention from his vigorous and discerning mind. [Edns.—1754, 2 vols. 8vo.; reprinted with a supplement in 1756; again, in 4to. 1772; and in 1790, in 8vo. The earlier editions are of course less complete than the last. The paging of the 4to. and 8vo. editions of Barnes does not agree.]

RIDGEWAY. K. B., CH.
7 GEO. II.—11 GEO. II. (1733—1737.)

Cases during the time of lord Hardwicke. The transcendant reputation of this great chancellor, caused almost every man then at the bar to take notes of his decisions. The present volume was printed in 1794, from a manuscript of some reputation in Westminster hall, the author of which, however, is not known. In addition to the common law cases here reported, the volume contains several decisions in chancery, between 1744 and 1746.¹

CUNNINGHAM. K. B.
7 GEO. II.—9 GEO. II. (1734—1736.)

Several of the cases in this volume are reprinted almost verbatim in the work which follows. A note in the preface to the book announces that a second part is "in press," and would be published immediately. I am not aware, however, that any such part ever appeared. [Edns.—1766; and 2d, 1770.]

¹ See Chancery Reporters, post.
REPORTS TEMP. HARDWICKE. K. B.
7 GEO. II.—11 GEO. II. (1734—1738.)

This book has been ascribed to Mr. Harward, a barrister of the day, but is sometimes cited as Annaly's reports: it is not known in fact by whom the notes were taken. The volume contains some cases by lord Lee, and two equity cases by lord Hardwicke.

It must be distinguished from another book called cases temp. Hardwicke, and published in 1828 by Mr. West, from lord Hardwicke's MSS., and which contains chancery cases from 1736 to 1739. [Edns.—Fol. 1770.]

WILLES. C. P., EX., CH., DOM. PROC.
8 GEO. II.—33 GEO. II. (1737—1760.)

These reports, though posthumous, are admitted to be highly authoritative. They appear to have been prepared by the chief justice himself, and were carefully revised by Mr. Durnford, their reputable editor. Willes and Wilson are probably the most authoritative reports of the reign of Geo. II.¹ [Edns.—Fol. 1799; also in 8vo. 1800; and in same form in this country, 1802.]

ANDREWS. K. B.
11 GEO. II.—13 GEO. II. (1738—1740.)

FOSTER. K. B. (PLAC. COR.)
16 GEO. II.—1 GEO. III. (1743—1761.)

[Edns.—Fol. 1763; 8vo. 1776, 1792. The last two editions are annotated by sir M. Dodson, who was a nephew of Foster.]

¹ 1 Kent's Com. 488.
PARKER. EX.

16 GEO. II.—7 GEO. III. (1743—1767.)

The cases embraced within the term just indicated, were prepared by sir Thomas Parker himself. But besides these, the volume contains, in an appendix, some cases from 1678 to 1718. These, sir Thomas says, were carefully transcribed from authentic MSS. The book is one of very good authority. [Edns.—Fol. 1776; 8vo. 1791.]

WILSON. K. B. & C. P.

PART I. K. B. 16 GEO. II.—27 GEO. II. (1743—1754.)

PARTS II. & III. C. P. 26 GEO. II.—15 GEO. III. (1753—1775.)

These reports embrace the time when c. j. Wilmot was on the bench; and being "very accurate repositories" of the decisions they report, are of course highly interesting and authoritative. Some of Wilmot's decisions, however (from 1757-70), are found in a 4to. volume published in 1802. The volume embraces decisions and opinions in the house of lords, K: B., C. P., and Exch. Chamb. [Edns.—There have been three editions of Wilson's reports, 1770 and in 1775; in each case three parts being bound in 2 vols. folio; the third and best in 3 vols. 8vo. 1779.]

BLACKSTONE. K. B., C. P. & CH.

20 GEO. II.—20 GEO. III. (1746—1780.)

Although these reports were ordered by sir William Blackstone's last will to be published, it has been generally thought that they were notes pour servir, rather than the completed reports, which, had the elegant commentator's life been spared, would have been given to the profession. Certain it is, that although there is no sort of question as to the genuineness of the reports, they have not been held in great repute.

1 Kent's Com. 488.
"The reports of sir William Blackstone," says Mr. justice Lewis,¹ "though the production of an able judge, are not of the highest authority. They are posthumous works, edited by his executor, who does not appear to have been a lawyer, and who has given them to the world without their having undergone the last revision intended by the author." Indeed, the bad reputation of Blackstone's reports seems to have got even into France; for in speaking of them, Dupin² remarks: "Ses rapports ne jouissent pas de la même estime que ses autres ouvrages, et passent pour être tres-inexacts." Lord Mansfield, in fact, said that they were "not very accurate:" and such, for many years, was the idolatry paid to every thing which fell from the earl's lips, that this dictum was enough to give them disrepute for at least a generation afterwards. Of late, however, these reports have been well re-edited, and appear to have been more esteemed. The matter, in any event, is less important, as most of the cases in the K. B. are reported in Burrow, and most of those in the C. P. by Wilson, two of the best of all the English reporters. [Edns.—Fol. 2 vols. 1780; 8vo. 2 vols. 1781. The improved edition of sir William Blackstone's reports, just now referred to, is one by Mr. Elsley, and was published in 1828, 2 vols. 8vo.]

SAYER.

25 GEO. II.—30 GEO. II. (1751—1756.)

"But an inaccurate reporter."* [Edns.—Fol. 1775; 8vo. 17—.]

KENYON.

26 GEO. II.—1 GEO. III. (1753—1760.)

These reports, though posthumous, are from the genuine MSS. of lord Kenyon; and having been printed by the consent

¹ 1 Johns. Ca. 45. ² Lettres sur la profession d'avocat, tome ii. p. 575.
³ 1 Doug. 93 n. ⁴ 1 Sug. on Vend. 80.
of his successor in the title, were probably supposed to detract nothing from the first lord's reputation. But there is no evidence that the chief justice himself ever designed them for the press. Undoubtedly, however, the authority of sir. Lloyd Kenyon's MSS. (even during his lifetime), was very considerable in Westminster hall; for in *Doe v. Fonnerau,*¹ after a case had been argued twice and decided, the court of K. B., on the authority of a MS. of his, ordered it to be again argued, and reversed the former decision. [Edns.—1819–25.]

For the reporters after the reign of George II. see post; after the chancery reporters.

CHANCERY.

[It is scarcely necessary to remind the professional reader, that a considerable number of chancery decisions are found among the volumes generally classed with the common law reports. Thus, the Modern reports, Ventris, Salkeld, Fortescue, Comyns, Fitzgibbons, Strange, Kelyng, Ridgeway, Blackstone, Kenyon, and other reporters prior to the reign of George III., all occasionally record cases in equity; just as, on the other hand, Peere Williams, Gilbert, and other chancery reporters sometimes preserve a note of decisions at law. Cases in the exchequer, also, were formerly thrown in with the reports of other decisions. Freeman's reports, both at law and in equity, were originally printed together; but the two sorts have of late been separated.²]

¹ 2 Doug. 437. ² See ante, p. 50.
PROCEEDINGS IN CHANCERY.

RICHARD II.—ELIZ. (13— TO 16—)

The title of this work is:

"Calendars of the proceedings in Chancery in the reign of queen Elizabeth, to which are prefixed examples of earlier proceedings in that court, namely, from the reign of Richard II. to that of queen Elizabeth, inclusive, from originals in the tower. Printed by command of his majesty king George IV., in pursuance of an address of the house of commons," &c., &c.

We have already alluded to the unpublished reports which yet exist in different collections in England. These, of course, form but an insignificant portion of the vast body of manuscripts and records which must have long existed in a kingdom of such civilization, antiquity, and power. And we find the attention of the parliament more than once directed, within the last two centuries, to a subject so nearly allied with the national fame. It was reserved however for the present day to give to these memorials of the past, that thorough examination and arrangement, which was due to their great interest. In the year 1800, the British house of commons presented an address to George III., setting forth the vast number of these manuscripts in different parts of the realm; that they were unarranged, undescribed, and unascertained; going to destruction from the effects of damp, and exposed to embezzlement, erasure, and to loss from fire; and praying the king to give such directions as he should think proper for their preservation and convenient use. In consequence of this address, and by virtue of letters patent from George III., renewed and sometimes enlarged with each successive reign, the Record Commission was established, and, by the labour of sub-commissioners, immense numbers of documents illustrating the ancient jurisprudence, religion, government, topo-

1 Ante, p. 11.

68
graphy, genealogies, and history of Great Britain, Ireland, and the ancient dependancies, have been rescued from the neglect and disorder of centuries, and brought into system, light and practical value. Many volumes have been printed by the government in order to give information to the public of the commissioners' progress; and copies have been liberally presented by parliament to libraries in this country. One is in the library of congress, at Washington: one in the Philadelphia library; and there are copies in about thirty-two other libraries in the United States. The commission has always embraced a considerable number of lawyers; and no inconsiderable amount of labour appears to have been bestowed upon such records as would illustrate the origin of equitable jurisprudence. There are before me three large folios printed in 1827, and bearing the title already given. These volumes do not, of course, present a transcript of the multitudinous documents brought to light by the commission. They are in this, as in other cases, rather an index for reference to the originals.¹ You have, however, in nearly all cases I believe, the names of the parties, the purpose of the bill, and a des-

¹ The Chancery Calendars of England, as printed, do not extend beyond the three folios mentioned; though two or three large volumes are given to the Irish Chancery. The commissioners thought that the superior interest of other and more ancient records, did not justify the expenditure of additional money on this part of the subject. Some idea of the vast extent of it may be formed from this fact, asserted by them: that to present a mere calendar of the documents enrolled in the chancery rolls alone, from the beginning of the reign of Richard II. to the close of the reign of king Edward the IV. (little more than two hundred years), would cost upwards of twenty thousand pounds sterling. Yet those rolls are but a small part of the whole contents of the record office at the tower, and are in a very low ratio indeed, to the body of the national records. (Gen. Rep. of the Com. to the King, 1837, p. xvii.) To have but raked these immensely voluminous records from "the caves and womby vaults" where they had lain in the repose of centuries, must have been an Augean work: and we may be well contented, even though they be only methodized and arranged, made clear, repaired and bound, and put into such form as to be accessible to common readers.
cription of the property. The form of the equity pleadings in those early days, as well as in Elizabeth's, is presented to you by examples of bills and petitions, at large, in each reign.

It would appear from these volumes, that it has been in the law as in some other sciences; and that while, in the fondness of self-glorification, our age has thought that with it was born all knowledge, we are in truth, left in the rear by times which we regard as buried in superstition and darkness. The whole structure of equity has been supposed by most writers, to have been founded on uses of lands, and to have had but imperfect foundation prior to the time of Elizabeth. These records would seem to show, that far from such coarcted operations, the chancellors were exercising regular and constant jurisdiction in regard to all sorts and kinds of equitable subjects, centuries before Elizabeth was born; in the times of Richard II., of the 5th and 6th Henries, and Edward IV. "When we advert to the various objects of these bills," says Mr. Binney,¹ "we may imagine ourselves to be reading a chancery calendar of the present day; in which parties, in some cases with no definite or particular interest, legal or equitable, ask for the supply of new trustees, for the redress of abuses, for a decree to enforce a charge upon land, or to change the investment of a charity—in behalf of the poor, of schools, of churches, of hospitals; . . . . injunction bills, bills of revivor, cross bills; THE FULL ACTION OF EQUITY IN ALL RESPECTS." The great value of these records in disclosing the foundations of equitable jurisprudence, was first noted, I believe, by Mr. Henry Wilmot Seaton in his "Forms of Decrees in Equity," &c.; and they have since been quoted with good effect at the bar. They were particularly relied on, in 1844, by the supreme court of the United States in Vidal v. The City of Philadelphia,² where they were cited on the argument by one of the defendant's counsel.

We have already remarked how much less correct the early chancery reporters are, than even those at common law.\textsuperscript{1} It is on account of this incorrectness of the ordinary reporters, that these Proceedings in Chancery are specially valuable. Giving to us, as they do, the pleadings (at large in many cases, and the power, in others, to refer to them), we have, in truth, the best sort of reports; "for," says chief justice Gibson with profound wisdom, "the forms of the law are the indices and conservatories of its principles."\textsuperscript{2}

CARY.

5 MARY.—2 JAC. I. (1557—1604.)

Two editions of Cary, one printed in 1650, the other in 1665, are both alike, except in the paging, which is different. A third edition was printed in 1824.

CHOICE CASES IN CHANCERY.

5 MARY.—4 JAC. I. (1557—1606.)

This is a work which I never saw but in the valuable collection of Mr. justice Kennedy of the supreme court of Pennsylvania, who spoke of it with reasonable respect. I afterwards saw what I at first supposed was another copy, at Washington (January, 1844), where it was cited by counsel in an important case in the supreme court. I discovered, however, on looking at the book, that it was the same copy which I had seen in the library of judge Kennedy. These cases form part of the volume called "Practice of Chancery Unfolded."

TOTHILL.

1 ELIZ.—22 CAR. I. (1559—1646.)

In \textit{King v. Baldwin}, Mr. Burr relied upon this work; but chancellor Kent spoke of the report as "so very imperfect,

\textsuperscript{1} \textit{Ante, "Remarks,"} § 15.  \textsuperscript{*} 1 Whart. 71.  \textsuperscript{*} 2 Johns. Ch. 556.
and so destitute of facts and circumstances, as to be altogether unfit to serve as a guide, and unworthy to be cited as an authority." And after showing that Tothill had misunderstood two cases cited in his report, remarks: "This explanation of two cases is sufficient to show what little reliance is to be placed upon the loose notes of Tothill, which were collected and alphabetically arranged by him, in the shape of an index, and published after his death."

[Edns.—1649 and 1671; both the same, though they appear to vary, from the cases being placed at the end of the former and at the beginning of the latter. A new edition was published in 1820, by sir R. O. Holborne, a bencher of Lincoln's Inn. All the editions are in duodecimo; or the last, perhaps, in decimo sexto.]

DICKEY.

2 ELIZ.—38 GEO. III. (1559—1798.)

Mr. Dickens was for some time register of the court of chancery, and, according to lord Redesdale, "a very attentive and diligent register." These reports, however, were prepared after his death, by Mr. Wyatt, from Dickens' notes; and these (says lord Redesdale), "being rather loose, were not considered as of very high authority. He was constantly applied to, to know if he had any thing on such and such subjects, in his notes; but if he had, the register's books were always referred to."

[Edns.—1803.]

REPORTS IN CHANCERY.

13 JAC. I.—11 ANNE. (1615—1712.)

The title of this book is, "Reports of cases taken and adjudged in the court of chancery, in the reign of king Charles I., Charles II., James II., William III., and queen Anne," &c.

3 vols. in one.¹

¹ 1 Sch. & Lef. 238. * See the next book but one.
NELSON.

1 CAR. I.—5 WM. III. (1625—1694.)

[Cases argued and decreed in the high court of chancery.] First printed in three parts folio, 1697; secondly, with some references, in 1707, three parts; thirdly, in three parts, carefully corrected from the errors of the former impressions, &c. Part i. 2d ed. 1730 or 1735; part ii. 2d ed. 1735; part iii. no date. With this volume is usually bound, "Select cases in the high court of chancery, solemnly argued and decreed by the late lord chancellor, with the assistance of the judges." Lond. 1730. This last volume contains the cases of the duke of Norfolk, and of the earls of Bath and Montagu, and comes down as far as 9th Wm. III.

The former of these works, to wit, the Cases in Chancery, is notoriously a book of doubtful authority. It is usually distinguished from the "Reports of cases," &c., mentioned last but one, by being cited as 1st, 2d, or 3d Chan. Cas.: the other book is cited as 1st, 2d, or 3d Chan. Rep. The last named book has been generally considered as much the better book; but a competent judge, chancellor Kent, says that they are, both of them, in their general character, loose, meagre, and inaccurate, and not of much weight or authority; although the chancellor remarks, that the reports of some cases decided by lord chancellor Cowper, in the third or last volume of the reports in chancery, and the cases of the duke of Norfolk, and

1 10 Ves. jr. 582; 2 Ball & Beat. 183; 1 H. Black. 332; and 6 Dow 9.
the earls of Bath and Montagu, in the "Select Cases," are distinguished exceptions to this complaint; and that those cases are fully and very interestingly reported. This last book is usually quoted short, S. C. C.

FREEMAN.

12 CAR. II.—5 ANNE. (1660—1706.)

REPORTS TEMP. FINCH.

25 CAR. II.—33 CAR. II. (1673—1681.)

This book is sometimes called (incorrectly, however), Nelson's reports; the preface being signed W. N. (William Nelson). The author, whoever he was, belonged to the scribes: his volume, at least, is not "one having authority."[Edns.—1725.]

VERNON.

33 CAR. II.—6 GEO. I. (1681—1720.)

Mr. Vernon was one of the most eminent lawyers of his day; and it appears from the case of Atcherly v. Vernon, that the MS. of his reports, found in his study after his death, were the subject of a suit in chancery, between his widow, his residuary legatee, and the heir at law. The widow claimed them, as included in the bequest "of household goods and furniture!" the trustees of the residuary estate regarded them as embraced by the expression, "the residue of my personal estate;" while the heir contended, that "as guardian of the reputation of his ancestor," the MSS. belonged to him; in the same way as would a right of action for the defacing of his ancestor's tomb. "The printing, or not printing, of these papers," says the counsel for the heir,

1 1 Kent's Com. 492.
* See ante, tit. Freeman, under the Common Law Reporters 50.

* 10 Ves. Jr. 582; 1 Wils. 163; 3 Atk. 334, * 10 Mod. 530.
“may as much affect the reputation of Mr. Vernon as any monument or tomb. Possibly they are not fit to be printed; possibly they were never intended to be printed.” “Suppose a man of learning should have the misfortune to die in debt, can the creditors come into this court and pray a discovery of all his papers, that they may be printed for the payment of his debts? And if creditors cannot do this, a fortiori, not the trustees in the present case. If a minister of state should die, he may have a great number of papers that may be very curious, may print and sell well; yet surely these will not be considered as personal estate and go to the executor.” Lord Macclesfield finding the decision difficult (and the parties probably thinking that it was doubtful), the dispute was arranged in the best possible way, by the chancellor’s keeping the MSS. himself; and under his direction, with that of lord King, it was that in 1726–8 they were first published. The editors were Mr. Melmoth and Mr. P. Williams, who are supposed to be the authors of some of the marginal notes. 

As it appeared, the heir had a good deal of weight in his arguments. The MSS. were not very “fit to be printed,” and probably were “never intended to be printed.” Certainly, as at first published, the volumes were quite deficient in accuracy. But in 1806–7, at the suggestion of lord Eldon, Mr. Raithby favoured the profession with a new and “very valuable” edition of Vernon, enriched with learned notes and accurate extracts from the Register’s books. The

1 “The court,” says the reporter, “decided nothing in this affair; because all consented to have them printed under the direction of the court, without making any profit of them.”
2 3 J. B. Moore 701.
3 1 Atk. 556; 2 Ves. 610; Clarke; 8 D. & E. 266; 1 H. Black. 396.
4 16 Ves. jr. 24.

This source of information, at all times authentic, is particularly valuable in regard to the earlier reporters. “The decrees of the present day,” says Mr. Seaton (Forms of Decrees in Equity viii.), “are, generally speaking, far less explicit and much less in detail than were the decrees some time before, and even so
volumes have therefore much more value now than when first published; but still, in them, we should vainly look for a monument worthy of the great men whose decisions they record, lord Nottingham, lord Somers, and lord Cowper.

Raithby's edition of Vernon has been reprinted in our own country.

PRECEDENTS IN CHANCERY.

1 WM. III.—9 GEO. I. (1689—1723.)

These notes, as far as the year 1708, are supposed to have been taken by Mr. Pooley, the author of the 1st volume of the Equity Cases Abridged,¹ and an able lawyer of his late as the period of lord Hardwicke. 'I copied,' says chief baron Alexander, 'when I was a young man in the profession, a set of decrees made in the time of Fortescue, when he was master of the rolls, and many of my lord Hardwicke's time, and in them were full directions . . . . There are in that collection many decrees in which they pursue the thing throughout, so as almost to render any application to the court for farther directions unnecessary; whereas certainly the modern decrees are quite of a different stamp.' . . . . Sir Thomas Sewall gave very particular directions in the old form. I think, after him, it ceased at the rolls." For an instance of the minuteness of these directions, see Blunt's Ambler 686, the case of Price v. Fastnedge.

¹ It may here be proper to speak of the work just mentioned, Equity Cases Abridged, which, though in the nature of a digest, is yet often cited. The 1st volume is regarded as very good authority (4 Ves. jr. 566; 5 D. & E. 61; and see the pref. to Viner's Abridgment), and was so admitted to be by opposing counsel, in Blount v. Burrow, 1 Ves. jr. 547. The 2d volume (the author of which is not known), is spoken of in two different places by sir Thomas Plumer, as "a book of no great authority." (2 Jac. & Wal. 428, and 2 Madd. 140, or Am. ed. of 1829, 414). And in the same way by lord Manners (2 Ball & B. 29), and by lord Eldon (1 Bligh N. R. 538), as a book "of no very high character;" "not so high in character as the 1st volume." But lord Eldon thought that a case which he cited, reported there, was entitled to credit; the more, he adds, because "I have found authority to consider that report to be a very correct report, in the library and in the mind, which are both equally large store-houses of equity learning: I mean the library and mind of lord Redesdale." Lord Redesdale had looked through his books, printed and MSS., and confirmed the report. S. C. under another name, 1 Dow N. S. 11. So in 2 Bro. C. C. 45, the
day.\textsuperscript{1} The work is one of considerable authority,\textsuperscript{2} though lord Rosslyn said that the case of \textit{Harkness v. Bayley} there,\textsuperscript{3} is totally mis-reported.

The \textit{booksellers} sometimes call this book Finch's Precedents; a person by the name of Finch having edited one edition of the book. [Edns.—The impressions of this work are dated in 1733, 1747, and 1750, and are in folio; but in 1786, a much improved edition was published in 8vo., by Thomas Finch esq., the edition just above mentioned.]

PEERE WILLIAMS.

7 WM. III.—9 GEO. III. (1695—1736.)

These reports, embracing a term of time when a succession of eminent men presided in chancery, were always regarded as one of the most perspicuous, useful, and interesting repositories of equity law to be found in the language.\textsuperscript{4} But they have received great additional value from the notes of their recent editor, Mr. Cox. "The bench, the bar, and the public in general (said the master of the rolls, sir R. P. Arden,\textsuperscript{5} referring to one of these notes), are much obliged to him for his very valuable edition of those very valuable reports;" and the master thought that the cases relating to the law in a particular case had been so well stated, the rules so accurately and so shortly presented, and the principles so well extracted from all the cases, that he preferred to use Mr. Cox's language to his own. The same judge expressed a similar opinion of Mr. Cox's notes in another case.\textsuperscript{6} [Edns.—Mr. Cox's edition has been printed in the United States; and in England, as lately as 1826, with new references. The editions prior to it

\textsuperscript{1} Pref. to 1 Viner's Abridg.  
\textsuperscript{2} 7 Mod. 304; 5 Ves. jr. 664.  
\textsuperscript{3} P. 514.  
\textsuperscript{4} 1 Kent's Com. 493; 4 Ves. jr. 464; Bridgman's Leg. Bib. 359.  
\textsuperscript{5} 3 Ves. jr. 130.  
\textsuperscript{6} 4 Ves jr. 462.
are, 1st, in 1740; 2d, 1746, 3 vols. folio; 3d, in same form, in 1768, with references by W. P. Williams, the author's son.]

GILBERT.

4 ANNE.—13 GEO. I. (1705—1727.)

Reports of cases in equity. (In the chancery and exchequer, with some equity cases in the Irish exchequer.) A posthumous book, and of no kind of authority. When quoted by Mr. serjeant Wynne, 22d June, 1737, in the C. P., "the court exploded the book, and told the serjeant they hoped he would quote cases from some better authority." [Edns.—1734; and 2d, in 1742.]

GILBERT. CASES IN LAW AND EQUITY.

12 ANNE.—1 GEO. I. (1713—1715.)

Cases in law and equity, with two treatises; one on the action of debt, the other on the constitution of England. [Edns.—1760, 8vo.]

SELECT CASES.

11 GEO. I.—7 GEO. II. (1724—1734.)

("Argued and adjudged in the high court of chancery, before the late lords commissioners of the great seal and the late lord chancellor King; from the year 1724 to 1733, with two tables, &c." By a gentleman of the temple. In the Savoy, 1740.) The title of this work is given at large, in order to distinguish it from another volume of "Select Cases," usually bound up with the work quoted as "Cases in Chancery," and mentioned ante. The present book is said by lord Redesdale (obiter) to be a book of no great authority.

1 Clarke. 2 P. 72. 3 2 Sch. & Lef. 634.
MOSELY.

12 GEO. I.—4 GEO. II. (1736—1731.)

When Mosely was cited before lord Mansfield, the earl told counsel that the volume was one which should not have been quoted; and this censure for sometime disgraced the book. His lordship, however (it must be confessed), was rather given to dispatching in this summary way, such books as reported cases with which he did not coincide. And hence we find lord Eldon (a much better judge, probably, of the merits of a chancery reporter, and infinitely cautious), making a formal entry of his dissent from the chief justice.

He thought "very differently" from lord Mansfield; "having always considered Mosely's reports as a book possessing a very considerable degree of accuracy."

I am not conscious that it is any where remarked, that in the case where lord Mansfield condemned Mosely, the counsel who cited the work confirmed Mosely's report, by producing a certificate from the register's book. [Edns.—Fol. 1744; and 2d, 1803, in Svo.]

KELYNG.

4 GEO. II.—9 GEO. II. (1731—1736.)

This book is cited as second Kelyng, or W. Kelyng, to distinguish it from Kelyng's crown cases. [Edns.—1764.]

CASES TEMPORE TALBOT.

7 GEO. II.—11 GEO. II. (1734—1738.)

Talbot, a name which, according to Mr. Burke, will be respectable in England, while the glory of the nation forms any part of its concern. Lord Talbot presided in chancery but a very few years, having died in the vigour of his age. This volume, containing reports of his decisions, is regarded

1 5 Bur. 2629  
2 3 Anst. 861; 5 D. & E. 560; 1 Binney 213.  
3 Meriv. 92; S. C. 19 Ves. jr. 488 n.  
4 See ante, "Remarks," § 24.
as quite accurate and valuable. It is sometimes cited as Forrester’s reports; the collection, as is known, having been made, as far as p. 217, by Mr. Forrester, a gentleman of considerable eminence in the profession in his time. The best edition is the third, by Mr. Williams, in 1792. There are two former editions, one in folio, 1741, and another in the same shape, in 1753.

WEST.

9 GEO. II.—13 GEO. II. (1736—1740.)

This book was first published in 1828, from original MSS. said to be by lord Hardwicke himself.

ATKYNS.

9 GEO. II.—28 GEO. II. (1736—1755.)

The uncommon abilities of lord Hardwicke, whose name fills so large a space in the history of equitable jurisprudence, render interesting even imperfect memorials of his decisions: For, “faint picture of those flashes of his spirit,” must we, unhappily, regard all the records which transmit his judicial decrees to posterity. The K. B. once forbade counsel to cite Atkyns; and both Buller and chief justice sir James Mansfield have expressed their vexation, at the incorrect and slov-

1 1 Kent’s Com. 493.
2 The reader who desires to see the full stature of lord Hardwicke’s mind, will read with pleasure archdeacon Coke’s life of sir Robert Walpole, and the memoirs of Mr. Pelham’s administration, by the same author; and also the recently published letters of the elder Pitt. In the many years of party conflict and high enterprise, during which lord Hardwicke held the seals of England, it would appear as if few important measures were brought before the council-board until after fullest consultation with the chancellor. In fact, it is obvious that in every great emergency, reliance was had on him for extrication. And while we may safely believe, that in the law was the centre of his thoughts and the home of his mind, we must admit, too, that as a statesman, fit to legislate for an empire, he was scarce less great than in that department where the world hath called him, as yet, unequalled.
3 1 W. Black. 571.
enly way in which his notes were taken.\textsuperscript{1} Text writers have spoken in the same way of lord Hardwicke's reporters.\textsuperscript{2}

Of all these reporters, Atkyns, Vesey sr., and Ambler, it is true enough that their style of reporting is jejune in the extreme, presenting frequently a defective state of facts; that the arguments, both of counsel and court, are often far from lucid, and that even the \textit{decree} is sometimes wrongly given. Such censures are, however, more applicable to the old editions of these reporters; for among the inappreciable services of the late earl of Eldon to the chancery jurisprudence of England, are to be numbered his successful exertions to present, through modern and improved editions, the records of his \textit{predecessors}' judgments. Cary, Tothill, Freeman, Vernon, the cases \textit{temp.} Talbot, Peere Williams, Atkyns, Ambler, Vesey sr., and Brown, have all within the time of lord Eldon been presented anew to the profession; while the reports of lord Kenyon, Mr. West, Mr. Ridgeway, Mr. Cox, and Mr. Eden, give to us, now for the first time, decisions made generations ago. His lordship's veneration for precedent, and his cautious, inquiring mind, led counsel at his bar constantly to search the register's books for cases reported in print. And a taste for this research was thus generated and has grown up in England, with the happiest effects upon modern jurisprudence. [\textit{Edns.}—\textsc{One} in 1765–8; 3 vols. \textit{fol.}; one in 1781–2, 3 vols. royal \textit{8vo.}; a third in 1794, \textit{8vo.} much improved by Mr. Sanders, author of the \textit{Essay on Uses and Trusts}. This edition has quite superseded its predecessors; and so much increases the value of Atkyns, that this reporter was reprinted in 1826 in our country.]

\textbf{AMBLER.}

10 GEO. II.—21 GEO. III. (1737—1781.)

As originally printed, this book was regarded as of but

\textsuperscript{1} 6 East 29 \textit{n.}; 5 Taunt. 64.

\textsuperscript{2} 1 Kent's Com. 494; 2 Woodeson 362; 2 Kyd on Corp. 189 \textit{n.}
médiocre value. A new and much improved edition of Ambler was given to the profession in 1828, by Mr. Blunt. A considerable portion of the term embraced by Ambler is traversed by Mr. Eden, in his reports published in the present century.

BARNADISTON.

13 GEO. II.—15 GEO. II. (1740—1742.)

RIDGEWAY.

18 GEO. II.—20 GEO. II. (1744—1746.)

Along with some cases in the K. B., and some in the Irish courts. The volume embraces but a short term; and having been first published in 1794, long after the decisions were made, is not very often cited. It appears, however, to be an authentic work, and to have been printed from a MS. of some credit. Ridgeway is the name of the editor.

VESEY, SENIOR.

20 GEO. II.—29 GEO. II. (1747—1756.)

Much the best edition of these reports is that by Mr. Belt, in 3 volumes 8vo. 1818, including a supplement in 1825. Mr. Belt made a laborious examination of the decrees and orders as found in the register's books; corrected several of the statements in the original edition; added some MS. cases; and, in short, revised and improved the whole work. This edition has been reprinted in the United States, and has quite superseded the older editions of 1746—55, 2 vols. fol., and 1778, 2 vols. 8vo.

1 See ante, tit. Atkyns 73. 2 See post, tit. Eden 82. 3 See ante, p. 58, Common Law Reporters, tit. Barnadiston.
KENYON.

26 AND 27 GEO. II. (1753.)

Before lord Hardwicke.¹

EDEN.

30 GEO. II.—7 GEO. III. (1757—1767.)

These reports, which give the decisions of lord keeper Henley, afterwards lord Northington, were first edited in the year 1818, by Mr. Eden, a descendant of lord Northington, and who thus was possessed of the earl’s MSS. They correct many of the errors, and in some measure remedy the imperfections of Ambler, by whom lord Northington’s decisions were at first published. The work is a genuine one, and probably the reports are presented in as accurate and complete a manner as it was possible to present them, at so great a distance from the time when the decrees were given.

The reports of Mr. Cox likewise (the learned editor of Peere Williams), contain some decisions of lord Northington, and also of lord Hardwicke.

LIST OF REPORTERS

IN THE DIFFERENT COURTS, BEGINNING IN THE REIGN OF GEO. III.

From after the reign of George II., the reports have a much more systematized and uniform character than the volumes prior to that time; and their relative merits, and demerits too, being sufficiently known to the profession, the cases are few when I have done more than indicate their chronologic sequence.

The English reporters, when designated by years, are commonly referred to, anno regni; the Scotch, Irish, and colonial, more generally, anno Domini.

HOUSE OF LORDS.

Dow, (53 to 58 G. III.) 6 vols.
Bligh, (59 G. III. to 1 & 2 G. IV.) 3 vols.
     and vol. IV. part 1.
Bligh, New Series (7 G. IV. to ——) 10 vols, and vol. XI. parts 1, 2, and 3.
West, 1839, 1840, and 1841.
Dow & Clark, (8 G. IV. to 2 W. IV.) 2 vols.

Note.—The reports in this list marked with a (*) have been reprinted in this country, each under its own name. Those marked (†) form the different series published here under the general titles of "English Common Law Reports," "English Ecclesiastical Reports," "English Chancery Reports," "British Crown Cases," and "English Exchequer Reports."
Clark & Finnelly, (5 W. IV. to 6 Vict.) 21 vols., and vol. X. parts 1 and 2.

Robinson, (2 Vict. to ——) vol. I.

The Scotch appeals are printed separately at Edinburgh.¹

CHANCERY.

*X Vesey, Jr. (29 to 56 G. III.) 19 vols., with Ho-venden’s Supplement, 22 vols.
*X Vesey & Beames, (52 to 54 G. III.) 3 vols.
*Cooper, (55 G. III.) 1 vol.
*X Merivale, (56 & 57 G. III.) 3 vols.
*X Swanston, (58 & 59 G. III.) 3 vols.
*X Wilson, (58 & 59 G. III.) 4 parts.
*X Jacob & Walker, (60 G. III. to 1 & 2 G. IV.) 2 vols.
*Jacob, (2 & 3 G. IV.) 1 vol.
*X Turner & Russell, (3 to 5 G. IV.) 1 vol.
*X Russell, (6 to 9 G. IV.) 4 vols., and vol. V. parts 1 and 2.

*Russell & Mylne, (10 G. IV. to 1 & 2 W. IV.) 2 vols.
*Mylne & Keen, (3 to 6 W. IV.) 3 vols.
*Mylne & Craig, (6 W. IV. to Vict.) 3 vols.
Craig & Phillips, (4 & 5 Vict.) 1 vol.
Cooper, Points of Practice, 1837–8, vol. I.

ROLLS' COURT.

Tamlyn, (9 G. IV. to 1 W. IV.) 1 vol.

¹ See post.
Keen, (6 W. IV. to 1 Vict.) 2 vols.
Beavan, (1 Vict. to ———) 5 vols., and vol. VI. parts 1 and 2.

VICE CHANCELLOR OF ENGLAND'S COURT.

†Maddock, (55 G. III. to 1 & 2 G. IV.) 6 vols.
× *Simons & Stuart, (2 to 7 G. IV.) 2 vols.
× *Simons, (7 G. IV. to ———) 11 vols.

VICE CHANCELLOR SIR KNIGHT BRUCE'S COURT.

Young & Collyer, (5 & 6 Vict. to ———) 2 vols.

VICE CHANCELLOR SIR JAMES WIGRAM'S COURT.

Hare, (5 & 6 Vict. to ———) 2 vols., and vol. III. parts 1 and 2.

QUEEN'S BENCH.

× *Burrow, (30 G. II. to 12 G. III.) 5 vols.
†Loft, (12 to 14 G. III.) 1 vol.¹
× *Cowper, Cases in Practice (14 to 18 G. III.) 2 vols.
†*Douglas, (19 to 25 G. III.) 4 vols.²

¹ Loft is confessedly a book of bad reputation. (Cooper's Bankrupt Law of America, pref. vii. n.; Bridgman's Leg. Bib. 205.) In the great case of Smith v. Earl of Jersey (2 Brod. & B. 536), Park j., said in the house of lords, when Loft was cited, that, without forming any judgment of his own as to the merits of the book, he could only say, that in a professional life of forty years, he had never heard it cited three times; and this, notwithstanding the fact, that the volume embraced a portion of lord Mansfield's judicial life, not covered by any other reporter. Loft has been printed both in folio and octavo.

² It is generally known, I presume, that the 3d and 4th volume of Douglas' Reports were published long after the first two. They were prepared for the press by Messrs. Frere and Roscoe, to whom the MSS. of Mr. Douglas were committed;

Note.—† * See page 53.
86 THE REPORTERS.

†Durnford & East, (26 to 40 G. III.) 8 vols.
†East, (41 to 53 G. III.) 16 vols.
†Maule & Selwyn, (53 to 57 G. III.) 6 vols.
*Barnewall & Alderson, (58 G. III. to 1 & 2 G. IV.) 5 vols.
*Barnewall & Creswell, (3 to 10 G. IV.) 10 vols.
*Barnewall & Adolphus, (11 G. IV. to 4 W. IV.) 5 vols.
*Adolphus & Ellis, (4 W. IV. to 4 Vict.) 12 vols.
*Adolphus & Ellis, New Series, 3 vols., and vol. IV. part 1.

Smith, J. P. (44 to 47 G. III.) 3 vols.¹
* Dowling & Ryland, (2 to 8 G. IV.) 9 vols.
* Manning & Ryland, (8 G. IV. to 1 W. IV.) 5 vols.
* Neville & Manning, (3 to 6 W. IV.) 6 vols.
* Neville & Perry, (7 W. IV. to 1 Vict.) 3 vols.
* Perry & Davison, (1 to 5 Vict.) 4 vols.
* Gale & Davison, (5 to 5 & 6 Vict.) 2 vols., and vol. III. parts 1, 2 and 3.

BAIL COURT, &c.

Chitty's Points of Practice and Pleading (59 & 60 G. III.) 2 vols.
Dowling's Points of Practice, (1 W. IV. to 4 Vict.) 9 vols.

himself having relinquished the design which he originally had of publishing them. Besides these reports in the K.B., Mr. Douglas is the author of 4 vols. of cases of controverted parliamentary elections; a work which received a high tribute from Mr. Hargrave. (Co. Lit. 109 b. n.)¹

¹ These reports of John Prince Smith esq., were introduced as part of a monthly publication called the "Law Journal;" and some copies of cases having been separated and bound distinctly, with a title page, formed these volumes, having the aspect of ordinary reports. Besides cases in the K.B., the volumes contain a few cases in chancery. The book is somewhat difficult to find.

NOTE.—† * See page 83.
RAILWAY AND CANAL CASES.
Nicholl, Hare & Carrow, 2 vols., and vol. III. parts 1 and 2.

COMMON PLEAS.

*Bosanquet & Puller, (36 to 47 G. III.) 5 vols.
*Taunton, (48 to 59 G. III.) 8 vols.
*Broderip & Bingham, (59 G. III. to 1 & 2 G. IV.) 3 vols.
*Bingham, (3 G. IV. to 4 W. IV.) 10 vols.
*Bingham’s New Cases (4 W. IV. to 3 Vict.) 6 vols.
Manning & Granger, (3 to 4 & 5 Vict. to ——) 4 vols., and vol. V. parts 1 to 4.

Moore, A. (36 to 37 G. III.) 1 vol.
*Moore, (57 G. III. to 8 G. IV.) 12 vols.
*Moore & Scott, (2 to 4 W. IV.) 4 vols.
*Scott, (4 W. IV. to 3 Vict.) 8 vols.
Scott’s New Reports (2 to —— Vict.) 6 vols., and vol. VII. parts 1 and 2.

EXCHEQUER—PLEAS SIDE.

Anstruther, (32 to 37 G. III.) 3 vols.
Forrest, (41 G. III.) 1 part.
*Wightwick, (50 & 51 G. III.) 1 vol.
*Price, (54 G. III. to 5 G. IV.) 13 vols.
*M’Cleland, (4 & 5 G. IV.) 1 vol.

"Reports of Cases argued and determined in the Courts of Common Pleas and Exchequer Chamber, and in the House of Lords, from Easter Term, 36 Geo. III. to Hilary Term, 37 Geo. III. inclusive," were printed in folio, anno 1800. They are usually bound up with 1 Bos. & Pull., and very improperly placed after their Reports of Trinity Term, 39 Geo. III. (Bridgman’s Leg. Bib. 22 n.)

Note.—* See page 83.
M’Cleland & Younge, (5 & 6 G. IV.) 1 vol.
Younge & Jervis, (7 to 11 G. IV.) 3 vols.
Crompton & Meeson, (2 to 4 W. IV.) 2 vols.
Crompton, Meeson & Roscoe, (4 to 6 W. IV.) 2 vols.
Meeson & Welsby, (6 W. IV. to 5 & 7 Vict.) 10 vols.
Tyrwhitt, (11 G. IV. to 5 W. IV.) 5 vols.
Tyrwhitt & Granger, (5 & 6 W. IV.) 1 vol.

EXCHEQUER—EQUITY SIDE.

Wilson, (57 G. III) part 1.
*Danell, (57 to 59 G. III.) 1 vol.
†Younge, (11 G. IV. to 1 W. IV.) 1 vol.
†Younge & Collyer, (4 W. IV. to 4 Vict.) 3 vols., and vol. IV. parts 1 & 2.

PRIUS.

†Peake, (30 to 52 G. III.) 2 vols.
†Espinasse, (33 to 47 G. III.) 6 vols. in 3.
†Campbell, (48 to 56 G. III.) 4 vols.
*Ryan & Moody, (4 to 7 G. IV.) 1 vol.
*Moody & Malkin, (8 G. IV. to 1 W. IV.) 1 vol.

I am happy to understand from the Messieurs Johnson, that they are about to reprint in full all the Exchequer Reports since M’Cleland on the Pleas, and Daniel on the Equity side; these, with Price and Wightwick, having been already republished in a condensed form. No modern reports, I can take upon me to say, are now so largely cited at the Philadelphia bar as the more recent exchequer reports. The court of exchequer appears in fact to have been rising within the last ten or twelve years from an inferior grade to one of considerable authority; a change produced probably by the high reputation of the last two chief barons of the court, lord Lyndhurst and the late lord Abinger (sir James Scarlett.)

NOTE.—† * See page 63.
*Moody & Robinson,  (1 W. IV. to ——— ) 1 vol., and vol.  
II. parts 1, 2, and 3.

* Holt’s  
C. P. (55 to 58 G. III.) 1 vol.

* Gow’s  
C. P. (58 to 59 G. III.) 1 vol.


* Carrington & Marsh- 
man,  
(3 to 5 Vict.) 1 vol.

* Carrington & Kirwan, (6 and 7 Vict.) vol. I. parts 1 and 2.

ADIMRALTY.

Marriott,  
(16 to 19 G. III.) 1 vol.

† Robinson,  
(39 to 48 G. III.) 6 vols.

† Edwards,  
(48 to 50 G. III.) 1 vol.

Dodson,  
(51 to 55 G. III.) 2 vols.

Haggard,  
(2 G. IV. to 1 Vict.) 3 vols.

Robinson, Jr.  
1840, (2 Vict. to 4 Vict.) vol. I.

PRIVY COUNCIL.

Acton,  
(49 & 50 G. III.) 1 vol. and 1 part.

Knapp,  
(11 G. IV. to ——— ) 3 vols.

Moore, E. T.  
(6 W. IV. to ——— ) 3 vols.

Moore’s E. T.  
East India Appeals (6 W. IV. to ——— ) 2 vols.

ECCLESIASTICAL AND COURT OF DELEGATES.

* Phillimore,  
(49 G. III. to 1 & 2 G. IV.) 3 vols.

* Addams,  
(2 to 7 G. IV.) 2 vols. and 1 part.

* Haggard,  
(8 G. IV. to ——— ) 3 vols. and 2 parts.

* Curteis,  
(5 W. IV. to ——— ) 3 vols.

BANKRUPTCY.

Rose,  
(50 to 56 G. III.) 2 vols.

Note.—† * See page 83.
THE REPORTERS.

Buck, (57 to 60 G. III.) 1 vol.
Glyn & Jameson, (1 to 8 G. IV.) 2 vols.
Montagu & M'Arthur, (9 G. IV.) 1 vol.
Montagu, (1 & 2 W. IV.) 1 vol.
Montagu & Bligh, (2 & 3 W. IV.) 1 vol.
Montagu & Ayrton, (3 W. IV. to 2 Vict.) 3 vols.
Montagu & Chitty, (3 Vict. to 4 Vict. 1 vol.)
Deacon & Chitty, (2 to 5 W. IV.) 4 vols.
Deacon, (5 W. IV. to 3 Vict.) 4 vols.
Montagu, Deacon & De Gex, (4 Vict. to ——) 2 vols.

ELECTION CASES.

Fraser, (16 to — G. III.) 2 vols.
Luder, (25 to 31 G. III.) 3 vols.
Peckwell, (43 to — G. III.) 2 vols.
Corbett & Daniell, (59 G. III.) 1 vol.
Cockburn & Rowe, (2 & 3 W. IV.) 1 vol.
Perry & Knapp, (2 & 3 W. IV.) 1 vol.
Knapp & Ombler, (4 & 5 W. IV.) 1 vol.
Falconer & Fitzherbert, (7 W. IV. to ——) 1 vol.
Barron & Austin, (5 and 5 & 6 Vict.) parts 1, 2 and 3.

MAGISTRATES' CASES.

Nolan, (1791 to 1793) 1 vol.
Dowling & Ryland, (2 to 8 G. IV.) 4 vols.
Manning & Ryland, (8 G. IV. to 1 W. IV.) 2 vols.
Neville & Manning, (3 W. IV. to 6 W. IV.) 3 vols.
Neville & Perry, (7 W. IV. to 1 Vict.) parts 1 and 2.

CROWN CASES RESERVED.

Leach, (1 to 35 G. III.) 2 vols.
THE REPORTERS.

*Russell & Ryan, (39 Geo. III. to 4 G. IV.) 1 vol.
*Mooody, (5 G. IV. to Vict.) 2 vols.

MISCELLANEOUS.

The Jurist, From 1837 to 1844, 8 vols.
Law Journal, From 1828 to 1844.
Legal Observer, or

IRISH REPORTS.

CHANCERY.

Wallis, 1766 to 1785, 1 vol.
†Schoales & Lefroy, 1802 to 1806, 2 vols.
†Ball & Beatty, 1807 to 1814, 2 vols.
Beatty, temp. Hart, 2 parts.
Molloy, temp. Hart, 2 vols. and 1 part.
Drury & Walsh, 1837 to 1842.
Lloyd & Goold, temp. Plunkett, 1834 & 1836, 1 vol.
Lloyd & Goold, temp. Sugden, 1835, 1 vol.

ROLLS' COURT.

Hogan, temp. M'Mahon, 2 vols.
Sausse & Scully, temp. O'Loghlen.

Note.—† See page 83.
QUEEN'S BENCH.

Vernon & Scriven, 1786 to 1788, with some cases in the Irish house of lords, 1 vol.

Ridgway, Lapp and Schoales, (34 and 35 G. III.) 1 vol.

Fox & Smith, 1822 to 1824, 1 vol.

Smith & Batty, 1824 and 1825, 1 vol.

Batty, 1825 and 1826, 1 vol.

Hudson & Brooke, 1827 to 1830, 1 vol. 3 parts.

Alcock & Napier, 1831 to 1833, 1 vol.

Cook & Alcock, 1833 to 1834, 1 part.

Jebb & Symes, 1838 to 1840, 2 vols.

Jebb & Bourke, 1342, part 1.

COMMON PLEAS.

Smythe, 1839 to 1840.

NISI PRIUS.

Armstrong & Macartney, 1842.

EXCHEQUER.

Hayes, (10 G. IV. to 2 W. IV.) 1 vol.

Hayes & Jones, 1831 to 1832, 3 parts.

Jones, 1835 to 1837, 1 vol. and 2 parts.

Jones & Carey, 1838 to 1839, 2 parts.

Longfield & Townsend, parts 1 to 3, 1842.

APPEALS AND WRITS OF ERROR.—IRISH PARLIAMENT.

Ridgway, 1784 to 1798, 3 vols.

REGISTRY CASES.

Alcock, 1832 to 1839, 2 parts.
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<td>Welsh</td>
<td>Cases at Sligo, 1838, 1 part.</td>
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<td>Welsh</td>
<td>Case of James Feighny, 1838.</td>
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<td><strong>Jebb</strong></td>
<td>1822 to 1840:</td>
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**Crown Cases Reserved.**

**Miscellaneous.**

- Conroy, Custodiam Reports. Published in 1795.
- Crawford & Dix, Cases in all the courts, 1838, 1 vol.
- Crawford & Dix, Circuit cases, 1839, 3 parts.
- Law Recorder, in all the courts, 1833 to ——.
- Law Recorder, third series, 1838 to ——.

**Scotch Reports.**

**Appeal Cases to the House of Lords.**

- Robertson, 1707 to 1827, 1 vol.
- Shaw, 1821 to 1824, 2 vols.
- Wilson & Shaw, 1825 to 1834, 7 vols.
- Shaw & Maclean, 1835 to 1838, 3 vols.
- Maclean & Robinson, 1839 to 1840, 1 vol.
- Robinson, 1840, part 1.

**High Court of Justiciary.**

- Syme, 1826 to 1829, 1 vol.
- Swinton, 1835 to 1840, 1 vol. and 3 parts.

**Consistory Court.**

- Ferguson, 1 vol.

**Note.**—† * See page 83.
SESSIONS COURT.
Shaw, Dunlop, Bell & Murray, 1821 to 1836, 16 vols.
Dunlop, Bell & Murray, 1838 to 1840, 1 vol. and 5 parts.
Deas & Anderson, 1829 to 1832, 5 vols.

LOWER CANADA.
KING'S BENCH AND COURT OF APPEALS.
Stuart, 1810 to 1836.

NOVA SCOTIA.
ADMIRALTY.
Stewart, 1803 to 1813.

EAST INDIES.
Strange, Sir T. (at Madras), 1798 to 1816, 2 vols.
AMERICAN REPORTS.

UNITED STATES.

1. SUPREME COURT.

* Dallas' Reports. From 1790 to 1800, 4 vols.
* Cranch's Reports. 1800 to 1815, 9 vols.
* Wheaton's Reports. 1816 to 1827, 12 vols.
* Peters' Reports. 1827 to 1844, 17 vols.
* Howard's Reports. 1843 to 1844, 2 vols.

2. CIRCUIT COURT.

First Circuit.

* Gallison's Reports. From 1812 to 1815, 2 vols.
* Mason's Reports. 1816 to 1830, 5 vols.
* Sumner's Reports. 1830 to 1839, 3 vols.
* Story's Reports. 1839 to 1841, 1 vol.

Second Circuit.

* Paine's Reports. From 1810 to 1826, 1 vol.

Third Circuit.

* Dallas' Reports. [The 2d, 3d, and 4th volumes contain cases decided in this court, from April term, 1792, to October term, 1806, inclusive.]
  Wallace's (J. B.) Cases. May sessions, 1801.
  Peters' C. C. Reports. From 1803 to 1818, 1 vol.
  Washington's C. C. Reports. 1803 to 1827, 4 vols.
  Baldwin's Reports. 1829 to 1833, 1 vol.
  Wallace's (J. W.) Reports. 1842 to (in prep.)

Fourth Circuit.

* Brockenbrough's Reports. From 1802 to 1832, 2 vols.
Seventh Circuit.

M'Lean's Reports. From 1829 to 1843, 2 vols.

3. DISTRICT COURTS.

District of Maine.

Ware's Reports. From 1822 to 1839, 1 vol.

District of New York.

Van Ness' Reports. 1 vol.

District of Pennsylvania.

Peters' Admiralty Decisions. From 1792 to 1807, 2 vols.

Eastern District of Pennsylvania.

Gilpin's Reports. From 1828 to 1836, 1 vol.

District of South Carolina.

Bee's Admiralty Reports. From 1792 to 1805, 1 vol.

ALL THE COURTS.

Chandler's Criminal Trials. From 1837 to 1798, 2 vols.

Hall's American Law Journal. 1808 to 1815, 8 vols.  
Hall's Jour. of Jurisprudence. 1670 to 1821, 1 vol.  
The Law Reporter. 1838 to 1845, 7 vols.  

1 This law periodical, the most useful in the Union, has now commended itself sufficiently to the profession to deserve a place among the reporters. In addition to reports, every number contains some other valuable matter; though it is as a record of judicial decisions only that see particularly note it. It embraces among its contributors a large number of judicial characters in all the courts of the Union; and most cases of general interest find their way to it in a short time, and in a better style of reporting than usually marks the published.
STATE REPORTS.

Maine.

Greenleaf's Reports. From 1820 to 1832, 9 vols.
Fairfield's Reports. 1833 to 1835, 3 vols.
Shepley's Reports. 1836 to 1842, 8 vols.
Appleton's Reports. 1841, 2 vols.

New Hampshire.
New Hampshire Reports. From 1816 to 1840, 10 vols.

Vermont.

N. Chipman's Reports. From 1789 to 1791, 1 vol.
Tyler's Reports. 1801 to 1803, 2 vols. ¹
Brayton's Reports. 1815 to 1819, 1 vol.
D. Chipman's Reports. 1789 to 1825, 2 vols.
Aiken's Reports. For 1826 and 1827, 2 vols.
Vermont Reports. From 1826 to 1837, 9 vols.
Shaw's Reports. 1837 to 1839, 2 vols.
Weston's Reports. 1839 to 1843, 4 vols.
Slade's Reports. 1843, 1 vol.

Massachusetts.

Massachusetts Reports. From 1804 to 1822, 17 vols.

volumes of reports in our country. Indeed, these last are now so overdone; they contain so much which is perfectly settled, so much which is perfectly local, and so much—more than either—which is perfectly worthless, that it would be a signal mercy to the profession if some such work as the Law Reporter would come to the rescue; some work, I mean, which would fully present, as in a good degree it does present, decisions throughout the Union on points of superior interest; leaving those of pie poudre courts and ephemeral concern to the daily press, if they must be published, or to some other mode of preservation, less frequent than now, which would keep them at home and from the cumbrance of more valuable matter.

¹ Tyler's Reports are not considered good authority even in his own state. By Savage C. J. (4 Cowen 28.)
Pickering's Reports. From 1822 to 1840, 24 vols.
Metcalf's Reports. 1840 to 1844, 6 vols.

Connecticut.
Kirby's Reports. From 1785 to 1788, 1 vol.
Root's Reports. 1789 to 1798, 2 vols.
Day's Reports. 1802 to 1810, 5 vols.
Connecticut Reports. 1814 to 1843, 15 vols.

New York.
Coleman's Cases. From 1794 to 1800, 1 vol.
Coleman & Caines' Cases. 1794 to 1805, 1 vol.
Caines' Reports. 1803 to 1805, 3 vols.
Caines' Cases. For 1804 and 1805, 2 vols.
Johnson's Cases. From 1799 to 1803, 3 vols.
Johnson's Reports. 1806 to 1823, 20 vols.
Cowan's Reports. 1814 to 1823, 7 vols.
Wendell's Reports. 1823 to 1828, 9 vols.
Hoffman's Reports. 1828 to 1841, 26 vols.
Hill's Reports. 1839 to 1840, 1 vol.
Hopkins' Chancery Reports. 1841 to 1843, 5 vols.
Paige's Chancery Reports. 1823 to 1826, 1 vol.
Paige's Select Cases. Published in 1811, 1 vol.
Anthon's Nisi Prius Cases. From 1808 to 1818, 1 vol.
Rogers' New York City Hall Recorder. 1816 to 1821, 6 vols.
Wheeler's Criminal Cases. 3 vols.
Hall's Reports. For 1828 and 1829, 2 vols.
Edwards' Chancery Reports. From 1831 to 1842, 3 vols.
Clarke's Chancery Reports. 1839 to 1841, 1 vol.

New Jersey.
Coxe's Reports. From 1790 to 1795, 1 vol.

* This was the first volume of reports printed in the United States.
THE REPORTERS.

Pennington's Reports. From 1806 to 1813, 2 vols.
Southard's Reports. 1816 to 1820, 2 vols.
Halsted's Reports. 1821 to 1831, 7 vols.
Green's Reports. 1831 to 1836, 3 vols.
Green's Chancery Reports. 1838 to 1841, 1 vol.
Harrison's Reports. 1837 to 1842, 4 vols.
Saxton's Chancery Reports. 1830 to 1832, 1 vol.

Pennsylvania.

Dallas' Reports. 1754 to 1806, 4 vols.
Addison's Reports. 1791 to 1799, 1 vol.
Yeates' Reports. 1791 to 1808, 4 vols.1
Binney's Reports. 1799 to 1814, 6 vols.
Sergeant & Rawle's Reports. 1818 to 1829, 17 vols.
Rawle's Reports. 1828 to 1835, 5 vols.
Wharton's Reports. 1835 to 1841, 6 vols.
Pennsylvania Reports. 1829 to 1832, 3 vols.
Watts' Reports. 1832 to 1840, 10 vols.
Watts & Sergeant's Reports. 1841 to 1843, 6 vols.
Browne's Reports. 1806 to 1814, 2 vols.
Ashmead's Reports. 1808 to 1841, 2 vols.
Miles' Reports. 1835 to 1840, 2 vols.

Delaware.

Harrington's Reports. From 1832 to 1843, 3 vols.

Maryland.

Harris & M'Henry's Reports. From 1700 to 1799, 4 vols.
Harris & Johnson. 1800 to 1826, 7 vols.

1 "Chief justice Tilghman told me to day, that it was a pity these reports
were ever published. They were loose notes. April 16th, 1821. So said judge
Duncan, 7th July, 1821 (on looking at the preceding entry.) Mr. Lewis said,
on hearing that they were to be published, 'that they would unsettle the law.'"
(MS. entry on the fly-leaf of Mr. E. D. Ingraham's copy of Yeates.)
The Reporters.

Harris & Gill. From 1826 to 1829, 2 vols.
Gill & Johnson. 1829 to 1840, 11 vols.
Bland's Chancery Reports. 1811 to 1832, 3 vols.

Virginia.

Jefferson's Reports. From 1730 to 1772, 1 vol.
Virginia Cases. 1789 to 1826, 2 vols.
Wythe's Chancery Reports. 1790 to 1795, 1 vol.
Washington's Reports. 1790 to 1796, 2 vols.
Call's Reports. 1790 to 1818, 6 vols.
Henning & Munford's Reports. 1806 to 1809, 4 vols.
Munford's Reports. 1810 to 1820, 6 vols.
Gilmer's Reports. During 1820 and 1821, 1 vol.
Randolph's Reports. From 1821 to 1828, 6 vols.
Leigh's Reports. 1829 to 1839, 11 vols.
Robinson's Reports. 1842 to 1843, 1 vol.

North Carolina.

Martin's Reports. 1 vol.
Haywood's Reports. From 1789 to 1806, 2 vols.
Taylor's Reports. 1789 to 1802, 1 vol.
North Carolina Term Reports. 1816 to 1818, 1 vol.
Conference Reports, by Cameron & Norwood. 1800 to 1804, 1 vol.
Murphey's Reports. 1804 to 1819, 3 vols.
Carolina Law Repository. 1813 to 1816, 2 vols.
Hawks' Reports. 1820 to 1826, 4 vols.
Devereux's Reports. 1826 to 1834, 4 vols.
Devereux's Equity Reports. 1826 to 1834, 2 vols.
Devereux & Battle's Reports. 1834 to 1840, 4 vols.
Devereux & Battle's Eq. Rep. 1834 to 1840, 3 vols.

1 Hawks is sometimes called Ruffin & Hawks.
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<td>Iredell’s Law Reports.</td>
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<td>Iredell’s Equity Reports.</td>
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