and his contemporaries at the Bar. He was always easy and unaffected in his manners, both in and out of court, and even since his elevation to the Bench the Vice-Chancellor walking away from his court with his cigar in his lips was not an unfamiliar figure in the precincts of Lincoln's Inn." The late Vice-Chancellor Wickens married, in 1845, Harriet Francis, daughter of William Davey, Esq., of Cowley House, Gloucestershire, by whom he leaves a family to lament his loss.—*The Law Times.*

DUMPOR'S CASE.

A new commentary on *Dumpor's Case* and the law of conditions of forfeiture, in view of the elaborate and careful annotation thereon in Smith's Leading Cases, might seem at first a work of supererogation. It is nevertheless true that while the essays in question were exceedingly full and well considered upon various derivative topics, arising in the consideration of the general law of conditions, the soundness of the decision itself was hardly referred to, and the extent to which it was either justified by the state of the law when it was pronounced, or has been since confirmed by adjudication or clear authority, was passed by as a matter too well settled for discussion. "Though *Dumpor's Case* always struck me as extraordinary, it is the law of the land," says Lord Eldon, in 1807.* "The profession have always wondered at *Dumpor's Case*, but it has been law for so many centuries that we cannot now reverse it," says Sir James Mansfield in 1812.† And this *decantatum* has since been echoed in cases almost without number, and iterated by text-books as if it was the result of elaborate examination and sound judicial authority.‡

We propose to show in this paper, in the first place, that the case in question was originally without foundation in the law of conditions, as it then existed, and was without subsequent confirmation by decision until the case first above cited; that it had, therefore, no greater claim to be recognized at that time as settled law than any other "venerable error;" that, in the second place, since that recognition it has, with hardly an exception, been confirmed by no decision; and, while referred to by the *dicta* of judges or text writers as law, has been with almost entire uniformity disapproved of in regard to the doctrine it propounds, and only recognized by each case on the ground that the principle it declares has been so long conceded as settled law;* and that, in the third place, the idea on which it was actually founded has been entirely controverted by modern decisions.

The case, as reported by Lord Coke,† was decided 45 Eliz. (*anno* 1603), and was this: A lease for years by the President and Scholars of Corpus Christi College, Oxford, was upon "proviso that the lessee and his assigns should not alien" "without the special license of the lessors." Such a license was granted by the lessors to the lessees to alien *quibuscunque;* and the lessee alienad the term to one Tubbe, from whom by mesne assignment it came to the defendant. The lessors re-entered for condition broken by the latter assignment, and demised to the plaintiff, who entered and sued the defendant in trespass for a re-entry made upon him by the latter. It was held by the Court, "that the alienation by license to Tubbe had determined the condition. So that no alienation which he [or any one else] might afterwards make could break the proviso or give cause of entry to the lessors." In the report of this case by Coke various reasons, or, rather, various forms of one reason, are given for this "extraordinary" conclusion; but when examined they will be found to be merely iterations in different shapes of the proposition, that a condition is an entire thing and cannot be apportioned. In considering the weight of this case it is to be borne in mind that Coke, in his reports, as a rule, expanded the points decided according to his notion of their import-

* *Brummell* v. *Macpherson*, 14 Ves. 173.

† *Doe* v. *Bliss*, 4 Taunt. 736.

‡ See per Nelson, C. J., *Dakin* v. *Williams*, 17 Wend. 447; Walworth, Chancellor, s. c., 22 Wend. 201, 209; also, *Penn. M. & F. S. Co.* v. *Scott*, 14 Mo. 46; *Lynde* v. *Hough*, 27 Barb. 415; Williams Real Prop. 354; 2 Prest. Conv. 197; 2 Greenl. Cruise, 10; etc.

* See authorities in preceding note, and *post.*

† 4 Co. 119; s. c. *nom. Dumpor* v. *Syms*, Cro. Eliz. 315, where it is reported as decided 40 Eliz., and in 1 Rolle Abr. 471 as 43 Eliz.