

PRACTICE OF CONVEYANCERS.

shaken; and there is a danger that the due administration of public justice may, in a greater or less degree, have been impaired in consequence. But whether this be so or not, of one thing there is no doubt,—if this case be reported, as we suppose it will, it will be the only one to be found in the books where a contempt of Court so gross, and language so insulting and so shamelessly justified has gone unpunished.

PRACTICE OF CONVEYANCERS.

Questions of real property law, many in number, and great in importance, have been settled by conveyancers, whose course of practice in the investigation of titles has been recognized and usually adopted by the Courts, when the like points arose for decision. It has been remarked that as a conveyancer never advocates an opinion which he does not entertain, his duties have a good deal of the judicial character about them. The practice of conveyancers, to be found embodied in such works as those of Coventry, Lee, Preston and Hubback has been settled by a manner of procedure peculiar to English conveyancers. Thus when one conveyancer considers a title objectionable on any point, another is usually applied to by the opposite party to answer or confirm the objection. If the two differ, the difficulty is solved by being referred to some eminent member of the profession, with the understanding that both sides are to abide by his decision. The opinion of this referee becomes, when pronounced, a part of the practice of conveyancers, and it may almost be said, of the law of the land.

It is not uninteresting to contrast the contemptuous style in which the early conveyancers were alluded to by some of the judges, with the respect and deference ultimately accorded to the learned men and their successors, such as Mr. Shadwell (father of the Vice-Chancellor), Mr. Bell and Mr. Sanders, whose opinions were

usually confirmed by the courts, and whose valuable conclusions systematized and consolidated the practice of conveyancers. Lord Keeper Henley refers to the duties of conveyancers in *Pelham v. Gregory*; 1 Ed. 522, and says, "great Pyrrhonists they are." Afterwards, the same judge, when Lord Northington, adverts to "the want of of curiosity and oscitancy of conveyancers, which, he says, is "natural enough, their time being more dedicated to perusal than thought:" *Drury v. Drury*; 2 Ed. 58. As against this compare the encomium of Lord Hardwicke, in the same case in appeal: "The opinions of conveyancers at all times, and their constant course is of great weight. They are to advise, and if their opinion is not to prevail, must every case come to law? No: the received opinion ought to govern. The ablest men in the profession have been conveyancers. Sir Orlando Bridgman (a book of whose precedents has been published); Webb, a great practiser in the King's Bench, was an able conveyancer, and the present Mr. Filmer," 2 Ed. 64. In later times, Lord Eldon, in the great case of *Smith v. Doe v. Jersey*, 2 Bro. & Bing. 599, thus expressed himself: "My Lords, we hear of the practice of conveyancers, and that amounts to a very considerable authority; and I am justified in that assertion by the opinions of the greatest men who have sat in Westminster Hall, who, I am persuaded in many instances, if matters had been *res integræ* would have pronounced decisions very different from those which they thought proper to adopt, if they had not taken notice of the practice of conveyancers as authority." And in this opinion he is followed by Lord Redesdale in the same case at p. 611. See also *Candler v. Candler*, Jac. 232, where Lord Eldon summarises the matter by observing that a long course of practice sanctioned by professional men is often the best expositor of the law. Again, in *Howard v. Ducane*, 1 T. & R. 86, we find the same