

THE REPORTERS AND TEXT WRITERS.

a most useful book,—one of the best books ever written.”—Martin, B., in *Andrews v. Saunderson*, 3 Jur. N. S. 118, 119.

COKE'S FOURTH INSTITUTE. —“Holt said the Fourth Institute had not my Lord Coke's last hand; the judges have not allowed that so much as the other parts; though the Second Institute be a posthumous work, yet it is more perfect.”—*Rex v. Pain*, Holt, 295.

COKE'S REPORTS. —Mr. Justice Putnam thus expressed his opinion of Coke's style of reporting: “There was no necessity for the court to have decided the various matters which were resolved in the case; but if the readings and resolutions which we find in Lord Coke's Reports, which were not necessary for the decision of the particular case, were struck out, an immense proportion of the common law there digested and clearly stated would be lost, unless with infinite labor it should be collected from the Year Books and other black-letter authorities. The extra-judicial opinions of Lord Coke contain more of the common law than is to be found in the writings of any other reporter before or since his time. His mode of reporting, however, should be considered as the exception to the general rule, rather than the one which should be adopted at this day. *Arnold v. Arnold*, 17 Pick. 9, 10. And Lord Mansfield remarked of The Reports: “My Lord Coke was very fond of multiplying precedents and authorities; and, in order to illustrate his subject, was apt, besides such authorities as were strictly applicable, to cite others, not applicable to the question under judicial consideration.” *Rex v. Cowle*, 2 Burr, 858. See also Sugden on Powers, p. 22 note, 7th ed.

Lord Coke himself thus states “the method the reporter doth use:” “I challenge that which of right is due to every reporter, that is, to reduce the sum and effect of all to such a method as, upon consideration had of all the arguments, the reporter himself thinketh to be fittest and clearest or the right understanding of the true reasons, and causes of the propositions and resolutions of the case in question.” *Calvin's Case*, 7 Rep 4 a.

COMBERBACH'S AND CARTHEW'S REPORTS. —In *Dyer v. Best*, 4 H. & C., 194 note, Pollock, C. B., referred to Clarke's *Bibliotheca Legum*, 355, where the authority of these reporters is impugned. Lord Denman, C. J., also has said: “Comberbach is very far indeed from being a reporter to whose doubt any importance should be attached. I remember hearing Lord Kenyon say so, very early in my professional career. Lord Erskine, then at the bar, founded an argument upon the remark of Lord Kenyon. He admitted

its truth, but said that a sentence or two in the report which he then used were on that account of great weight, as they must have been really delivered by the court; for, he said, they contained something like sense, and therefore could not be Comberbach's own.” *Newton's Case*, 13 Q. B. 726 and note.

DICKENS'S REPORTS. —“It is scarcely necessary to notice this case. The accuracy of Dickens's Reports is not to be relied upon, and this case is a remarkable instance of their inaccuracy.”—Stuart, V. C., in *Holland v. Holland*, 20 L. T. N. S. 59.

DIGEST, THE. —“The opinions of the great lawyers collected in the Digest afford us very great assistance in tracing out any question of doubtful principle; but they do not bind us.”—Blackburn J., delivering the considered judgment of the Court of Exchequer Chamber in *Appleby v. Myers*, L. R. 2 C. P. 660.

DYER AND LORD RAYMOND. —“There are a good many cases in the time between Dyer and Lord Raymond (1621–1694), (which may properly be called the middle age of the law) in respect to which one hardly knows what to say. They have been doubted and denied, and then again supported and qualified; and in some instances there is a string of cases each way, so that it is difficult to say which is the best authority.”—Judge Story. Letter to Simon Greenleaf, Esq., 1819. Story's *Life and Letters*, Vol. I. 328.

ESPINASSE'S REPORTS. —In *Small v. Nairne*, 13 Q. B. 844, Lord Denman said: “I am tempted to remark for the benefit of the profession, that Espinasse's Reports, in days nearer their own time, when their want of accuracy was better known than it is now, were never quoted without doubt and hesitation; and a special reason was often given as an apology for citing that particular case. Now they are often cited as if counsel thought them of equal authority with Lord Coke's Reports.” This remark is quoted by Coleridge, J., in *Wenman v. Mackenzie* 5 El. & Bl. 453. See CARRINGTON and PAYNE.

GALE ON EASEMENTS. —“A very excellent book,” said Lord Campbell, C. J., in *Renshaw v. Bean*, 18 Q. B. 124. “An excellent treatise,” said Lord Wensleydale, in *Rowbotham v. Wilson*, 8 House of Lords Cases, 359. “A work of much ability,” says that first class authority, the sixth edition of Saunders's Reports, 2 Saund. 400 a.

GREENLEAF ON EVIDENCE. —The first volume “is to be regarded rather as a discussion and statement of the grounds and principles of proof in general than as a detail of the rules of evidence.”—Shaw, C. J., in *Commonwealth v. York*, 9 Met. 106.