

reader, though of value to the litigant. I presume that our judges would gladly submit to a revision of their judgments as delivered if done in a proper and careful manner, at all events any such revision, if authorized, should be submitted to them before publication. A difficulty, however, occurs here, in that this would necessarily cause a delay which would be often inconvenient to the profession. This difficulty could only be met by the reporter and editor having plenary powers to cut and carve the judgments of the judges as might be necessary. These powers, if intelligently and carefully exercised, would be a boon to the profession and might possibly tend, not only to reduce the bulk of the reports, but also to induce more conciseness and definiteness in expression on the part of the judge.

An instance of the evil to which I refer is exemplified in the report of *Wells v. Northern Railway Company*, 14 O. R. 594. The learned judge in that case concludes (no doubt correctly) that as the easement or right claimed by the plaintiff was enjoyed from the time of the conveyance of the right of way in question to the defendants, the conveyance being lost, it might be assumed that the deed contained the easement or reservation that had been so enjoyed by the different owners of the property from the date of the conveyance. The learned judge then adds, "or he is entitled to claim the easement under the Prescription Act from long and uninterrupted enjoyment as a right." The judge, no doubt, was well aware of the fact that a grant of an easement cannot be presumed from use for twenty years only, where, owing to there being an incapacity to grant, such grant would, if made, have been invalid (see *Mills v. New Forest Commissioners*, 18 C. B. 60, and *Kochdale Canal Company v. Ratcliffe*, 18 Q. B. 287), and may have assumed (contrary, however, to the fact) that in this case there had been a user for the longer period of forty years, by means of which the title of the plaintiff under the Prescription Act to the easement in question would have been good. This *obiter dictum*, apparently based on an erroneous view of the facts, was not necessary for the decision of the case, and should not have been reported.

Again, take the case of *Beam v. Merner* (*Ib.* 412). Here we find no less than eleven pages taken up with the head note, statement of facts, statement of the pleadings, and the arguments of counsel. To enable the profession to understand what the facts were, and the points in dispute, this could have been done in two pages, and some portions of the judgments might, I think without loss, have been eliminated. Of the same class is the report of the case of *Mooers et al. v. Gooderham & Worts* (*Ib.* 451), which was hardly worth reporting at all.

Again, in the case of the *Dominion Loan Company v. Kilroy* (*Ib.* 468), the conceded facts were: That the husband had failed, and could not, in his own name, carry on business; that a mercantile trading was carried on in the name of his wife by himself as her agent, she in no way interfering with the management; that goods were sold to the wife by persons who were well aware that the husband could not carry on trade in his own name. All this is fully stated in the judgments of the learned judges. Why was it necessary to give the facts in detail? In this case five pages of the report are occupied with a statement of the facts and arguments of counsel, no part of which should have been reported.