executors, Campbell and Roberts sold the land, making a deed in which, reciting the will and their own appointment as executors, they granted and conveyed it to the defendant, Jones. The question was whether after this renunciation they had power to sell the estate: a point which the court below ruled affirmatively and which same point was now here on error.

The question raised in this case is not without some difficulty, and it is perhaps remarkable that no American decision has been discovered in which the point has been brought up. It is however a general rule that the probate has to do with the personalty only; for it is over the personalty only that the surrogate's power extends. A renunciation of the executorship filed with the surrogate is at most but a renunciation of the executorship of the personalty. It may apply to matters within his jurisdiction, but not to matters outside of it. Hence the executors in this case, although they renounced the administration, might, without inconsistency, execute the trust respecting the land. Independently of Viner and Swinburne,† we have the case which the research of counsel has furnished us from the Year Book of Henry VII. I have examined the Year Book, and the citation is correct. Upon the strength of these authorities, as well as general principles the court is of opinion that the executors had power to sell, after they had renounced the administration of the personal estate.

Judgment affirmed.

Now here, it is obvious is a different disposition of things from that which I have spoken of as common in Burrow, Durnford & East, and other good reporters. The reporter states no facts. The judge states them all. What is the result? The first result is that the arguments of counsel, apparently characterized by learning are—as given in the place where they *are* given—unintelligible simply. They are not upon a preceding or presupposed case, but are upon a case to be stated and to be understood hereafter; a case in the *paulo-post-futurum*. The arguments are therefore largely or wholly "in the air." To understand, the reader must, first of all, *skip* them: and passing to the opinion get from *it* the facts. Well—he passes to the opinion and reads it until he sees that he has finished reading the *facts* which it presents. Being now, for the first time, in a state to understand the argument previously skipped, he turns back to read *it*. Having read it, he turns forward again, and skipping the facts which he has read, passes over to the spot where the opinion proper begins.

Any man having a good sense of order would say, I should suppose, that it would have been better if the *reporter* had put things in his book, into that shape, which in spite of the book, the reader is compelled to put them in his mind. We should thus have had facts or "case" first; argument of counsel next, and opinion separate from case and after arguments—in other words, opinion proper—last: and the reader would have read in a sequent order without this operation of the "Forward and back," "Forward, cross over," that exactly which he reads only after the whole movement is performed. * * * *

The difference is that in the form we suggest the "case" is put before the argument, and as the entire *statement*, while in the one copied it appears after the argument and as a part of the *opinion*. Can any man doubt which is the right form?

But the report as given, though in a bad form, is not a report calculated to reveal the full defects of the school of reporting to which it belongs. The suit involved but a single question. The facts were few and simple. They are stated by the judge in the opening of his opinion; and they are stated fully, in a clear, terse, consecutive form; and a form strictly narrative. The printer's aid comes in to help the effort; and a new paragraph shows where the "case" has ended and where the opinion proper now begins. In such an instance the style of the report imposes no great inconvenience on the reader. He has only to skip arguments and go forward, read facts and go backward, read arguments and go forward again, skip facts and read opinion pure—and be done. We shall give a more complicated form of the case in a future number, where the defects of the bad style of which we speak will be more patent, and we shall also afterwards pull it into proper shape as we have done the one given in this number.

But the difficulty is that in many cases while the reporter speaks the truth when he says that "facts are stated in the opinion of the court," he speaks it to a common intent only; whereas in referring his readers any where for "the case"—that case which is the foundation of everything—he should speak it to a certain intent in every particular. I have looked at many cases in American reports, in which the reporter thus refers his readers. And while indeed we find facts, we find frequently that they are either

1. Stated imperfectly, that is to say, not stated fully, *or*

2. Not stated consecutively, and all in one place, to wit, the beginning of the opinion, *or*

3. Not stated in the narrative as distinguished from the argumentative form.

In other words, facts are stated to that extent, and in that way, and with that form in which a judge may to some degree properly state them; that is to say, they are stated by way of inducement and to show the grounds and reasons of the opinion, but are not stated to that extent and in that way and with that form in which a reporter should state them when he seeks to put his case before his reader, as the base of argument, opinion and sentence alike. The statement indeed is neither *totus, teres, nesque rotundus*. — *Legal Intelligencer.*

† See Swinburne, 408; 8 Viner, 466, P. E.