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VIJNANESHWARA.

नासीदस्ति भविष्यति क्षितितले कल्याण कल्पं पुरं
नोदृष्टः श्रुत एव वा क्षितिपतिः श्रीविक्रमार्कोपमः
विज्ञानेश्वर पण्डितो न भजते किंचान्यदन्योपम
श्चाकल्पं स्थिरमस्तु कल्पलतिका कल्पं तदेतत्त्रयम्.

(There neither was nor is nor will ever be a city like Kalyana, or a king like Vikrama or a Pandit like Vijnaneshwara. May these three live for ever.) Such is the proud boast made by Vijnaneshwara at the end of his work for his city, his sovereign and for himself. However much the two former might have bulked in contemporary Indian History (there is no doubt they did bulk very large), they are now little more than names. But that is not the case with Vijnaneshwara. He still occupies a pre-eminent position as a Doctor of Hindu Law and his position does not seem to be in danger of being assailed. We shall try to indicate some of the elements that have contributed to give him that position. His style which in point of brevity (few words and much sense, as he puts it) and preciseness has no equal in the legal literature of this country, must have had not a little share in giving him that position. To some extent, his position as the chief adviser of the ruler of a mighty and prosperous Empire might also have contributed to it. But in this, Madhava had great advantages over him. He was a scholar of greater reputation and whereas Vikrama's Empire soon came to nothing the Empire in which he was Prime-minister lasted in unabated glory for over two centuries after him. It may safely be inferred therefore that what was chiefly instrumental in giving him this pre-eminent position must have been not this or that adventitious circumstance but the substantial merit of the system that he propounds, its suitability to the needs of the times and its general agreement with the convictions of the people. Great master as he was in the art of balancing, explaining if need be, of distorting texts, he constantly raises the discussion above the dull level of wordy warfare by appealing to higher reason and morality.

His success with his contemporaries one has no doubt, was due not a little to this ethical appeal. Argument in favour of the right of succession of the widow not prepared to raise issue for the husband, like that in the words "अपिच संयताया: एवधनग्रहणंयुक्तं न नियुक्ताया: स्मृति लोकनिंदिताया:" "can it be that a chaste wife should not inherit but a woman reprobated by the world and the shastras for her act (niyoga) should?" must have been felt to be irresistible. Again, when discussing the texts about the relations between the master and his female slave, we find him asserting नचदासीभावात् स्वधर्माधिकार च्युति: पारतंत्र्यम् हि दास्यम् न स्वधर्मपरित्याग: (Slavery is loss of independence but it does not mean abandonment of one's Dharma). He had the boldness to declare in the face of numerous texts, relying on nothing better than the duty of the King to administer *justice*, that enjoyment however long, originating in wrong could not confer right on the wrong doer. The general humanity of his views must also have had much to do with his popularity. He is the greatest champion of women's rights that India had in the domain of law. Jimutavahana who came later was able to extend in some directions women's right of inheritance but on the whole, his views are more retrograde than Vijnaneshwara's. He provides for the maintenance not only of chaste women but also of the fallen. The husband is bound to maintain the unchaste wife, and the relations, the unchaste widow. It is their duty to improve them. While the earlier, for the matter of that many of the later writers, circumscribe woman's property within the narrow limits prescribed by Manu, he included all property however acquired within the definition. The liberty taken by him with the texts evoked protests; we find one writer saying that a particular rule was evolved by Vijnaneshwara out of his brains (स्वकपोलकल्पित) and deserved no consideration but in the long run Vijnaneshwara won. His bold generalisations gave his system a certain logical completeness which must have appealed strongly to the subtle mind of the Hindu Lawyer. For instance, taking his rules of inheritance and succession they are based on three fundamental principles (i) that property is secular (स्वत्वस्य लौकिकत्वं) (ii) that consanguinity and not religious efficacy is the basis of heirship *i.e.*, his doctrine of sapindata. (The term Sapinda being understood in the sense of a person connected by particles of body, to the nearest Sapinda inheritance belonged) and that (iii) absence of swastantrya (स्वातंत्र्य)

or right of independent dealing is not inconsistent with ownership (स्वाम्य). With the aid of these principles he was able to establish the doctrine of property by birth in the sons and the right of women to hold and inherit property and he was also able to evolve a simple and consistent scheme of inheritance. The progressive views of the Maharashtra School about womens' rights were made possible only by Vijnaneshwara's bold generalisations. In fact, adaptability to progressive interpretation is one of the strongest points about the Mitakshara and one is not certain if that is not the ground of its popularity throughout India in spite of differences in local conditions. Another merit of his system is its simplicity. In the case of women's property unlike many later lawyers who following the labyrinth of contradictory Smrithi texts prescribe a separate rule for each species of woman's property, even then leaving a large number of them unprovided for, Vijnaneshwara prescribes but one rule for all cases giving preference to the female issue and their descendants up to a point and then following the usual rule of "property to the nearest Sapinda." Again in the scheme of inheritance for males, his powerful advocacy must have settled the line of inheritance in the manner in which it is found now and in spite of the threefold distinction of Sapinda, Samanodaka, and Bandhu, it can certainly not be called complicate. Certain principles being recognised, the order follows without exception and without hitch. There is also reason to think that as regards many of the rules that Vijnaneshwara propounds he was doing no more than providing a theoretical basis for actual practice. So far as at least one of those rules is concerned, sons' right by birth, we have his own assurance that such a right was well-known (लोकप्रसिद्धं). The moral basis of this doctrine is stated by him to be the duty of man "पुत्रानुत्पादयित्वा संस्कृत्य वृत्तिंचैवाकल्पयेत्" to beget sons, to perform samskaras to them and to provide for their maintenance. Effect was given to this principle by avoiding gifts of entire property though self acquired. Such gifts could not apparently stand even against the rights of wives and parents to maintenance, स्वंकुटुंबाविरोधेनदेयम् (property only without detriment to family may be given.) There is a remarkable analogy between this rule and the rule of Code Napoleon which prohibits free gifts beyond a certain proportion of a man's wealth when there are children, parents or wife

of the donor. Vijnaneshwara had little difficulty in converting the moral duty above referred to into a legal one in the case of grandfather's property and giving equal rights to father and the son in such property. Adequate justice can be done to the Mitakshara scheme of inheritance only by taking it as a whole. If one looks at it partially, one is likely to run away with the impression that it does not recognise natural claims, that it ties up property unnecessarily and that it sets a premium on idleness. Along with the doctrines of male succession, of right by birth and survivorship (which is a corollary of the former,) must also be considered the rule as to self acquisitions the wide duty to maintain ladies of the family, and to give marriage portions to girls, the right of the mother to a share, the son's duty to pay the debts of the father and the doctrine of necessity. That the term necessity had different connotations as applied to different castes can admit of no doubt. For instance, it cannot be that when the debts of the wife incurred in the pursuit of hereditary occupation (as in the case of washer-men &c.,) was binding that the debts incurred by a brother under similar circumstances did not bind. The explanation of the term "Avyavaharika" in Jagannatha also seems to point to such a varying interpretation of terms. But for the timidity of lawyers and Judges that flexible term and the other term self-acquisition could very well have been made to cover all situations created by the needs of the present time and in fact we already find a tendency in that direction. Social practices change and what was not necessity at one time, might become an absolute necessity at another. Similarly by raise in the general level of culture, what was exceptional culture at one time might well become ordinary culture at another and property acquired with its aid might properly be regarded as the self-acquisition of the acquirer without any violence to the letter or the spirit of the law. In this connection it is worth remembering that the Mitakshara scheme of inheritance and joint family has not been found to be inconsistent with the prosperity of many great mercantile communities of India. It is hardly fair to Vijnaneshwara to hold him responsible for the extravagances of joint family system as at present obtains, when he nowhere recommends or even considers the probability of the descendants of a man continuing indefinitely, joint. Four periods are mentioned by him as proper for partition; during the father's lifetime (i) when he desires it (ii) when he is indifferent towards

pleasures and the mother is past child-bearing (iii) when he is old, diseased or perverse (iv) after the death of the father or of both father and mother. If the joint-family is continued longer, there is no doubt that it is done so because of the many advantages that the system possesses. It is a sort of mutual insurance for good behaviour and against bad days. It makes for economy and conservation of property. It appeals to the sentiment which is found even in individualistic England, in favour of family *prestige*. As for the claims of women under the Mitakshara system, even in the illiberal view taken by certain of the schools, they have certain preferences in the matter of inheritance to women's property (;) rights of inheritance are conceded to widows and daughters where by reason of division, the claim of the family is not strong and maintenance and marriage portions are provided for all who can in justice be said to have a claim thereto. While undue division as under the Mahomedan system is avoided, undue concentration of property in the hands of one with the consequent impecuniosity of the other members is equally prevented. Any violent disturbance in the status or condition of life of men can have as a rule only deleterious effects on society, though in a few cases, it may serve as an incentive to exertion. The English system is made tolerable only by the wide prevalence of the system of marriage settlements with life estates, estates over and restraints on anticipation and the existence of an altenative rule of inheritance as to movables which after all form the bulk of Englishman's property. The imperfect recognition of the duty to maintain relations under that system has been felt to be an evil and set right to some extent by remedial statutes. The rule of compulsory portions obtains both in France and Germany. A certain part of the property of a man existing at the time of his death should be left by him to his issue, parents and wife. The solicitude of Mahomedan law to the claims of legal heirs is well-known. In fact, the recognition of right by birth and right to maintenance of a wide circle of relations is the Indian solution of the same problem. It is curious that even the Indian rule as to incapacity to inherit owing to vice, crime &c., has its German counterpart giving power to disinherit the son or other compulsory heir in those circumstances. Whether the Mitakshara system is consistent with a highly industrial state of society or not, there is no doubt that it is found congenial to the present aptitudes of the bulk of Hindus.

SUMMARY OF ENGLISH CASES.

In re **Dunn Carter** *v.* **Barret**, (1916) 1 Ch. 97.

Will—Devise to a class—Joint tenancy or tenancy in common—Advancement clause—Class taking by substitution.

Where there was a residuary devise to the children of the testator and there was a limitation that on the death of them without issue the share of such child should go to the other children and the testatrix also declared that in case at any time "any person entitled to a benefit" under the will should be a minor or minors, it shall be lawful for the trustees at their discretion to apply the whole or any part of the income to which any such minor or minors might be entitled in possession or expectancy for their respective maintenance and education and also at the like discretion to apply the whole or part of the capital fund to which any such minor or minors should be entitled for his or their advancement in the world or for his or their benefit;

Held, the members of the class original or substitutionary took the estate as tenants-in-common, and not as joint tenants.

The advancement clause is a sufficient indication to show that the members of the class take as tenants-in-common, because if a sum of a considerable amount were advanced for one child, it would be debited against the share and that debit could not be worked out if the children were joint tenants.

L'Estrange v. *L'Estrange* [1], followed.

In re **White. White** *v.* **White.** (1915) 1 Ch. 172.

Will—Construction—Motor Car—Whether passes under a bequest of "carriages"—Furniture and all other articles of personal, domestic or household use.

Where a testator had at the date of the will carriages and horses which he subsequently sold and had only a motor car at his death, the bequest to his daughters by him of "all my horses, carriages, harness, saddlery and stable furniture, will not pass the Motor Car, because by the collection of words they only pass horse, carriages."

In re Hall [2], followed.

The Motor Car will pass under the words "furniture and all other articles of personal, domestic or household use or ornament" in the will.

1. (1902) I. L. R. 457. 2 (1912) 107 L. T. p. 196. s. c. W. N. 175.

Jones *v.* **Consolidated Anthracite Collieries, Ltd., and Dynevor,** (1916) 1 K. B. 123.

Mining lease—Construction—Lessee allowed to work mines according to customary way—Lessee if entitled to let down surface if that is necessary consequence of working mine in manner provided—Subsequent grant of building lease with reservation of mines—Injury caused by mining—Subsidence of surface—Liability of lessor and mining lessee—Damages—Measure of—Badness of building of building lessee if can be taken into account—Reservation—Exception—Distinction—Covenant for quiet enjoyment—Extent and Limits.

Under a mining lease allowing the lessee to win and work the mines regularly and properly according to the best and most approved mode of working mines in the locality, the lessee has the right to let down the surface if that result is the necessary consequence of his working the mine in the only way used in the locality. Subsequent lessees of the surface from the lessor have no right of action against the original lessee for damage done by subsidence to the buildings they have erected thereon by the original lessee working the mines in that way.

A *reservation* in its technical sense is the regrant out of the subject-mattar conveyed of something not previously existing, as a rent or an easement. But the retention by the grantor of something already existing in the subject-matter, as mines and the right to work them, is an *exception*, and provisions relating to what the grantor shall do with regard to the matter excepted usually operate in covenant.

Where A leased to B a plot of land (under which the mining rights had been granted to C) together with the two houses about to be erected thereon "excepting and reserving all mines and minerals in manner set forth in the Schedule hereto with the powers and authorities therein contained," and the Schedule excepted and reserved all mines under the demised premises, with liberty of access for the owners of the said mines, their agents, lessees and workmen to enter upon the demised premises and work the said mines and carry away the produce of the mines, "reasonable recompense and satisfaction being made for any injury done to the demised premises by reason of the exercise of any of the rights aforesaid whether by letting down the surface

or otherwise", and the lease concluded with an express covenant for quiet enjoyment, *held*, in an action for damages against A by B by reason of subsidence of plaintiff's houses caused by working of mines by C, that the lessor, A was liable on the ground (1) that the provision in the Schedule attached to the lease was a covenant by him that he would make or cause to be made recompense and satisfaction if injury was done either by himself or his lessees claiming under the leases granted prior and subsequent to the plaintiff's lease and (2) that the lessor could not derogate from his own grant.

Quaeré whether the plaintiff could also succeed for a breach of the covenant for quiet enjoyment:

True limits and extent of the covenant for quiet enjoyment examined.

Held, further that if plaintiff's house was so badly built that, if there was no mining, it would have fallen down in a year, that must be taken into account in fixing the damage caused by knocking it down.

It is open to a wrong-doer to prove if he can that the subject of the wrong-doing was at the time of the tort only of a particular value by reason of its own weakness, and to limit his damages to that value.

Palace Shipping Company, Ld. *v.* **Gans Steam Ship Line** (1916) 1 K. B. 138.

Ship—Charter party—Employment of ship between "Safeports"—"Safeport"—Meaning.

Whether a port is a *Safeport* within the meaning of a Charter party providing for the employment of a vessel between "Safeports" is a question of fact and a question of degree in each case. The word "Safe" when used with the word "port" implies that the port must be both physically and politically safe. Dangers likely to be incurred on a voyage to a port may be taken into account in considering the question whether such port is safe to go to or not.

Halsey *v.* **Lowenfeld**: (1916) 1 K. B. 143.

Alien Enemy—Suit against in King's Courts—Maintainability—Cause of action arising before war—Cause of action arising after war—Distinction—Defendant's right to counterclaim—His right to take third party proceedings.

As regards the liability of an alien enemy to be sued in the King's Courts, no distinction can be drawn between a case in which the alleged cause of action arose before and one in which it arose after the war began. He is, however, entitled to set up in answer to the claim any matter which can properly be treated as matter of defence. But he is not entitled to take third party proceedings which are not necessary for a presentment of his defence to the plaintiff's claim, though they are necessary for a proper presentment of the defendant's whole case relating to the liability alleged.

Ruff *v.* **Long and Co.** (1916) 1 K. B. 148.

Highway—Lawful User—Interviewing act of third party of full age and discretion—Damage—Liability of person using highway. Case in which there is an initial act of negligence and case in which there is no such act—Distinction.

A person who chooses to leave a dangerous thing in a highway is guilty of an unlawful act and is liable for damage resulting from the intervention of a third person, because he ought as a reasonable man, to have anticipated the same. But a machine, which cannot move by mere accident, but only after a series of operations so complicated as to be beyond the powers of a person unacquainted with the mechanism, cannot be regarded as a "dangerous" thing. The person who leaves such a machine (motor lorry) standing unattended in a road is not *prima facie* guilty of negligence. And if the machine is set in motion by two grown men and a third party sustains damage as the result of their intervention, the owner of the lorry is not liable for the same as he cannot, as a reasonable man, have anticipated such intervention.

Quaere whether, there being an initial act of negligence, the intervening act of third persons of full age and discretion which is the proximate cause of the subsequent mischief affords of itself an action to the action.

Heath's Garage, Ld. *v.* **Hodges** (1916) 1 K. B. 206.

Highway—Nuisance in—Allowing sheep to stray in highway through defective fencing—Damage to Vehicle—Liability of owner of sheep.

A person, who keeps sheep in his field, does not properly keep up his fence, and allows them to stay on the highway, may

or may not be guilty of negligence or of a nuisance. But he surely cannot be expected to anticipate that the sheep might stray and, by running into a car which could not avoid it at the speed at which it was travelling, cause damage to the car. In such a case the omission to keep the fence in order would be a cause *sine qua non* but it would not be the proximate cause of the accident and the owner of the sheep would not be liable to the owner of the car for damages.

In such a case a finding that it is the natural tendencey of sheep which are intended to run across, or otherwise endanger, vehicles on the road, and that it is a matter of common knowledge that sheep, finding themselves separated from the bulk of the flock, have almost a mania for rejoining it and are perfectly regardless of intervening traffic does not amount to a finding that they are vicious or of mischievous propensities within the meaning of the decided cases.

Per Lush, J.:—*Semble*, if sheep are allowed to stray through defective fencing and be on the road at night, driver of a cart or motor car, driving with due regard to all such possible risks, were to run against them in the dark, the negligent owner of the sheep would be liable.

JOTTINGS AND CUTTINGS.

The Journal of the Society of Comparative Legislation (N. S.) No. 35, January 1916 :—This number contains an appreciative sketch of Sir Robert Finlay by the Hon'ble Mr. Justice Rowlatt. An article on the Income Taxes of the Self-Governing Dominions affords instructive reading. There is of course the usual Review of Legislation, of practically the whole civilised world, during 1914, with an introduction by Sir Courtenay Ilbert. We take this opportunity of inviting the attention of our readers to the importance of the Society's work from the 'imperial' point of view. Founded in December 1894, the Society has now completed 21 years of useful and varied activity. Its main object is to keep all persons interested in legal economic and social questions, fully informed of legislation in different parts of the Empire and even in foreign countries, in relation to the many complex problems of modern life. It counts among its members most of the leading lawyers and statesmen of the day and it has the active support of the Home Government and the Governments of the

Colonies. The subscription for membership is one guinea. Any further information may be obtained from the Hon'ble Secretary (E. Manson, Esq.) of the Society, 3, (North King's Bench Walk, Temple.—*London E. C.*

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Ethics of Advocacy:—The Bar Council have been dealing with a request for advice from the Bar Committee at Shanghai on an old, old question as to the Ethics of Advocacy. The Council's decision was that if a confession of guilt was made to the advocate before proceedings were begun it was most undesirable that he should undertake the defence; but that if it was made during the proceedings or in such circumstances that the advocate retained for the defence could not retire from the case without seriously compromising the position of the accused person, the advocate's duty was to protect his client so far as possible from being convicted except by a competent tribunal and upon legal evidence sufficient to support a conviction for the offence with which he was charged. An eminently sound view. The stock illustration is the case of Lord William Russell, murdered in 1840 by his valet Courvoisier. On the second day of the trial Courvoisier, who knew that he had been recognised, sent for his counsel and told him that he had committed the murder. He said that he would not plead guilty, and that he expected Mr. Phillips to defend him. Counsel was for throwing up the case, but his junior told him that this would not be right, and ultimately they determined to consult Baron Parke, before whom and the Lord Chief Justice the trial was taking place. Baron Parke's first question was: "Does the prisoner require you to go on defending him?" and being satisfied of that, he said that Counsel must not throw the case up, and that it was Mr. Phillips's duty to go on with it, taking care, of course, as to what he said, and seeing that he did not incriminate any other persons, but to defend the man fairly and properly upon the evidence.—*February 1916; Law Notes.*

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Humour of the Law:—The technicalities of the law are often too finely drawn for the lay understanding. The following sounds like a burlesque, but it actually happened in an Ohio Court.

At a term of the circuit court there, a horse case was on trial, and a well-known "horseman" was called as a witness.

"You saw this horse?" asked the defendant's counsel.

"Yes, I"—

"What did you do?"

"I just opened his mouth to find out how old he was, and I said to him, 'Old top, I guess you're pretty good yet."

"Stop!" yelled the opposing counsel. "Your Honor, I object to any conversation carried on between the witness and the horse when the plaintiff was not present."

And the objection was sustained.—Case and Comment.—*28th January 1916*; *Central Law Journal.*

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Imprisonment without trial:—After the rejection of the appeal against the decision of the King's Bench Judges in *Rex* v. *Halliday* it must be taken that, so far as the Courtsare concerned, the suspension of the remedy by *Habeas Corpus* is complete, and that no writ will be issued to bring into question the internment of British subjects during the war on the simple order of the Secretary of State. We have it on the word of the Attorney-General that a considerable number of persons of British nationality have been interned, and are 'detained' at the present moment, and, as the Courts decline jurisdiction, they may be kept in prison indefinitely unless, under pressure of public opinion, Parliament intervenes. That has already occurred once in connection with the very same Defence of the Realm Act (5 Geo. V., cap. 8), under which the power is now claimed to suspend the subject's constitutional right of liberty without 'due course of law'. Then the energetic protests of men of such varied political outlook as Lord Halsbury and Lord Parmoor on the one side, and Lord Bryce and Lord Loreburn on the other, against the provision of the Act which changed the whole status of civilians by subjecting all persons charged with offences to the summary procedure of military law, brought about the prompt introduction of an amending Act (5 Geo. V., cap. 34) which restored to British subjects the right of trial with a jury. If the removal of alleged offences against the Act from the ordinary courts was then regarded as a 'monstrous thing' what is to be said of Regulations made by the Executive, without consultation with Parliament, which, without any allegation of an offence at all, give the Secretary of State power to imprison any of the lieges, in any place, and for any period? And this, too, without even

the semblance of a trial, or any right to be heard, or to appeal, or other means of redress! The alternative to all these rights which have hitherto been regarded as the common and natural rights of Englishmen is pretended to be the provision in the new Regulations for consideration by an Alien's Advisary Committee at the instance of the person ordered to be interned 'of any representations he may make against the order.' That, of course, is no equivalent to trial, even though a Judge presides over the committee deputed to consider the 'representations,' for all the elementary conditions of a trial are absent; there is no statement of the facts constituting the charge, no indication whatever of the evidence in support of it, no opportunity for the accused to examine witnesses or documents, no right even for him to appear before his accusers or the committee. The privilege of making 'representation' is in these circumstances no security; it is a mere mockery, for it imposes on the accused the impossible burden of proving a negative, and reserves entirely the regular course of justice. Parliament can never be intended to create such an unheard-of situation for any British subject, and it is the business of Parliament to redress so intolerable a grievance.—*12th February 1916. The Law Journal.*

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Solicitors and Costs:—Mr. Justice Shearman, in a case which came before him on Wednesday, pointed out that the rule that solicitors should inform the Senior Associate at the earliest possible opportunity of the probable length of impending cases in which they were acting had not been complied with. He added:

'The Court endeavours to save people costs by not burdening the lists with cases which are not likely to be disposed of during the day. It is really a shame that solicitors will not take the trouble to save their client's costs by complying with the orders of the Court. The officials are keeping a list of the solicitors who are negligent in this respect, and if the negligence is persevered in the matter will be dealt with when the question of costs is considered.'—*12th February 1916. The Law Journal.*

CONTEMPORARY LEGAL LITERATURE.

In the Journal of the Society for Comparative Legislation for January 1916, Mr. S.E. Minnis describes the special features of the

Income Tax Acts of the British Self-Governing Dominions. The principal feature seems to be the attempt made to tax at the source so as to prevent leakage as far as possible. With the end in view, there is a larger recognition of agency for taxation. The tenant of a land the owner of which resides outside is regarded as agent for the purpose of payment of the tax; similarly the employed, for the employer, the company for the debenture-holders and so forth. Another feature is *abatement* for special reasons. A special abatement is allowed for instance, where the income is the result of personal exertions; again, there are abatements with a view to relieve double taxation. A curious instance of abatement is that in respect of all donations over £ 20 to public charities. This issue of the Journal contains also the usual yearly review of the legislation of the world. As one would expect, war legislation forms the bulk of it, but as the legislation reviewed is of the year 1914, there is some peace legislation before the war which is dealt with. In the United Kingdom, the most important pieces of legislation were the Government of Ireland Act and the Welsh Church Act. Some amendments were also made in the Bankruptcy Act. One of these amendments gives sanction to "the Common Law of bankruptcy" which protects *bona fide* purchasers of the after-acquired property of a bankrupt before the official assignee intervenes. Another gives larger recognition to "deeds of arrangement which avoid the publicity and *quasi* criminal procedure incident to bankruptcy and as such commend themselves to business men. The growing solicitude for children is manifested in a number of Acts which give power to local Education authorities to feed children without formal application to the Board of Education. The important statute passed in India during the period is that which introduces the provisions of the Imperial Copy-right Act into India. The Hindu Transfer and Bequests Act passed by the Madras Council, is the one important piece of legislation by Provincial Councils. Among the South African Acts, those that interest the Indians most are those relating to the Indian immigrants which recognise the Indian marriages and abolish the necessity for license paying £ 3 to Indians who fail to re-indenture after the expiry of the period of indenture. A curious provision in the Cyprus Penal Code makes the employment of Dancing Girls at moslem feasts, an offence. An Act of Western Australasia vests the right in the water of water-courses, springs, lakes &c., subject

to certain restrictions, in the Crown. In British Columbia also, a somewhat similar Act is passed. The most important legislation in America is that directed against trusts. The State of New York has followed the lead of New Jersey by founding villages for the settlement of the feebleminded in the State. In the Law Quarterly Review for January, Professor Holdsworth deals with the original and early history of Bills of Exchange and Promissory notes. There he shows how the development of the Law as to Bills of Exchange re-acted upon the law as to promissory notes which were not considered assignable at first and were finally recognised as such only on the analogy of Bills of Exchange payable to the drawer's order.

The Harward Law Review for February contains on interesting article as to *property* in *chattels* under the common law, to what extent the doctrine of *seisin* was applicable to them and whether an action was maintainable under that law by the owner of a chattel against a person who meddles with it when it is not in his possession. Mr. Harold Laski points out that in spite of strict legal theory that personality can be conceded to associations only by the statute or the Crown, a large amount of it is as a matter of fact conceded to them indirectly under other names such as trust, partnership, contract, etc. It would be much better, the learned writer thinks, if personality is conceded to them directly by which an amount of confusion uncertainly could be avoided.

BOOK REVIEWS.

THE LAW OF GAMBLING AND WAGERING *by S. G. Velinker, Esq., B. A., LL. B.*

Though occasions for its use must necessarily be few, there can be no doubt there was necessity for a book like the present dealing with the entire statute law in this country as to gaming and wagering. The commentary is very carefully compiled. The Indian case law has been exhaustively dealt with. All appropriate references to English Case and Statute Law on analogous topics are also given.

MAJUMDAR ON HINDU WILLS—SECOND EDITION, *by Dwarka Nath Chakravarti, M. A., B. L., Vakil, Calcutta; Published by Messrs. R. Cambray & Co.*

More than ten years having elapsed since the publication of Mr. Majumdar's book, the second edition has appeared none too soon. We share the regret of the Editor that the author did not live to see this Edition through. The new volume is substantially on the same lines as the earlier one, indeed the older form is so far retained that in noting up recent decisions, the former statements of law have not been suitably modified. We may mention, as an instance, the discussion of the subject of gifts in favour of idols not in existence. On page 350, the law is stated as before the Full Bench decision in I. L. R. 37 Cal. 128, and there is only a note directing attention to another page where the later decision is referred to. So far as we have been able to see, there is not even a passing reference anywhere, to the legislation in Madras validating bequests in favour of unborn persons. Such shortcomings notwithstanding, we have no doubt that the book will be found very useful by the profession.

COURT FEES AND SUITS VALUATION ACTS: *Lawyer's Companion Series. 3rd Edition, 1916. Law Printing House, Madras.*

The Court Fees Act has undergone numerous alterations by way of amendment in its long course and it is essential for every practitioner to have a copy of the Act incorporating all the amendments up to date. The book under review answers to this description and gives under each section the decision of the various Courts till the end of 1915. The second portion of the book gives the Suits Valuation Act with the decisions under it, under appropriate headings. We have no doubt that practitioners will find the book very useful as a book of ready reference.

THE INDIAN DECISIONS. (*Old Series, Vols. 12 & 13, Published, by the Law Printing House, Madras.*

We are in receipt of the 12th and the 13th Vol. of this useful publication. The whole of Vol. 12 is occupied by a reprint of the 8th Vol. of the Bengal Sudder Dewani Adaulat Reports; and Vol. 13 comprises the next two Volumes. The legal profession knows the usefulness of this publication so much that we need not dwell on it at any length. These Volumes maintain the high standard of the get-up and printing for which the Law Printing House is so well known.
