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APPOINTMENT OF NEW JUDGES.

At no time before in the history of our High Court has there been such vacillation and delay in the appointment of Judges of the High Court in the vacancies caused by retirements or resignations giving rise to varied comments not only by irresponsible men in the street but even by most responsible persons on the floor of the Legislative Assembly. It is much to be regretted that the question of the appointment to such a high office should have become, at all, the centre of a controversy, be it political or communal or otherwise. But now that the appointments have been made, it is to be hoped that the almost unseemly controversy and discussions that have gone on these few weeks would not be repeated in future.

It is a matter of immense and sincere gratification to us that Mr. S. Panchapagesa Sastry, a member of our Editorial Committee, should have been chosen as one of the Judges of our High Court. He has been connected with the Madras Law Journal for several years and has been responsible for some of the best critical notes on decided cases. The Madras Law Journal would always gratefully remember his valuable services in editing Mitra's Limitation Act, a masterly work which has evoked the unstinted appreciation of Judges and practitioners alike throughout India.

It can be said without fear of contradiction that Mr. S. Panchapagesa Sastry has in the largest measure all the qualifications necessary for the making up of an eminent Judge. He has had a brilliant academic career and has been having for many years now, a very wide and lucrative practice at the Bar. His legal acumen and his thorough knowledge of the law in all its branches, had easily brought him up to the top of Bar. The way in which he prepared his cases and the manner in which he presented them in Court have always earned for him the respect of the Judges. His easy and pleasant manners have won for him a very wide circle of friends. It is rather surprising that with all these qualifications governmental recognition should have come to him only late in life. It is to be hoped that the present appointment is only the first of the honours yet to come.

BOOK REVIEW.

HINDU LAW in British India by S. V. Gupte, B.A., LL.B., published by N. M. Tripathi, Ltd., Princess Street, Bombay 2. Second edition, 1947. Price Rs. 25.

The first edition of this book was reviewed in (1946) 1 M.L.J. at page 4 (Journal). Since then a number of statutes have been passed cutting into the domestic law of the Hindus radically and in many directions. Of these the Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946, providing a right to separate residence and maintenance *inter alia* on second marriage by the husband, and the Hindu Marriage Disabilities Removal Act, 1946, recognising the validity of sagotra and samanapravara marriages are enactments of the Central Legislature. The Bombay Legislature has passed laws of an even more advanced character. The Bombay Prevention of Hindu Bigamous Marriages Act, 1946, makes illegal a second marriage contracted by a person while a previous valid marriage was subsisting and the Bombay Hindu Divorce Act, 1947, introduces for the first time the institution of divorce in respect of Hindu marriages which have been through the ages looked upon as a *samskara*. Mr. Gupte's book has embodied the provisions of these enactments bringing the law set out in his book up to date.

The omission of a table of cases from the first edition which to some extent had affected the usefulness of the book has now been made good.

The statement of law while generally sound is at places either contradictory or somewhat loose. Some of these to which attention was drawn in the review of the previous edition still stand unmodified. It is stated at page 67 that the possession of a nucleus is not necessary for the existence of a coparcenary. This overlooks the fact that coparcenary is really a tenure in which property is held. The observation of the Privy Council in (1946) 2 M.L.J. 138, 140 pointedly mentions that "it is of the *essence* of any coparcenary governed by the Mitakshara school of law that the *interest* of any individual coparcener is liable at any time to be increased or diminished by deaths or births" (*italics ours*). At page 131 in regard to the meaning of "separate property" in section 3 (1) of the Hindu Women's Rights to Property Act, 1937, the decision of the Federal Court in (1945) F.C.R. 7 is cited to show that the term does not include "joint family property in the hands of a sole surviving coparcener." In that very para an earlier decision of the Patna High Court—I.L.R. 1944 Pat. 508—to the contrary is cited without comment. In view of the Federal Court's observation the latter view cannot hold the field. At page 898 of the book in regard to the share of an adopted son in competition with an after-born aurasa son, it is stated that in Bengal he takes a fourth of what the aurasa son takes, while at page 1007 it is stated that he takes half the share of an aurasa son. Again at page 903 the decision in 58 Cal. 1392 is relied on to show that an anuloma marriage in Bengal is not valid but as pointed out in our review on the last occasion in that very case occurs the statement: "a marriage between a Brahmin and a Sudra women . . . though not an approved type of marriage is still a marriage and the children are legitimate." A leading text book should try to avoid errors of this kind. Despite these the book is a welcome publication and is bound to be a *vade mecum* for both practitioners as well as students. The printing and get up are quite commendable.

S.V.