REVIEWS

MULLAS' PRINCIPLES OF HINDU LAW. Thirteenth Edition. By S. T. Desai. 1966. Bombay: N. M. Tripathi (Private) Ltd. Rs. 22/-.

OF ALL THE SYSTEMS of personal law that the world of jurisprudence has known, Hindu law has probably exercised the most powerful fascination on the legal intellect. The reason is not far to seek; this system presents perhaps the most deeply reflective reconciliation, between ethics (*dharma*) and the inherent trend of the human personality to self-expression and freedom. Some day, some one should write a brief history, not of Hindu law, for there are already many classic treatises, but of the treatises themselves. It is interesting to note, for instance, that Sir Thomas Strange's *Hindu Law* (1825 - third edition, 1859) contained an appendix of the opinions of Pandits attached to courts in Madras, on the *textual law*. John D. Mayne referred to the substance of the *Mitakshara* brought out in this book, "in the masterly English of the Chief Justice of Madras." F. W. Macnaghton's "*Considerations on the Hindu Law as it is Current in Bengal* (1824)," also contained Pandits' opinions and translated texts. Cowell's *A Short Treatise on Hindu Law* (1859) was a reference book for courts.

In 1878 we have the emergence of the classic treatise of Mayne, with an account of the development of Hindu law as an integral part. The treatises of Bhattacharya (1893), G. Sarkar Sastri (1897), West and Buhler (1884) and Trevelyan (1917) follow. I am refraining from a further catalogue. But the first edition of Mulla (1912) was a landmark, in a certain sense. The perspective is different from that of the classic treatises; the intention was to serve best the students, and the immediate demands of the bar and the bench in courtroom references.

The present edition (thirteenth) by its very publication, testifies to the immense popularity and compact utility of this treatise.

The earlier part of the present edition deals with the Hindu law, prior to the respective enactments pertaining to each area or topic. The relevant chapter headings clearly indicate this. For instance, chapter IV, dealing with the order of inheritance to males according to the *Mitakshara*, purports to cover the law prior to the Hindu Succession Act, 1956. Chapter V, dealing with female heirs, is similarly planned. This design is evident with regard to other chapters dealing with marriage, adoptions, guardianship, maintenance and impartible property (chapters XXII, XXIII, XXIV, XXV and XXVII respectively); they deal with the law prior to the enactment of the concerned statutes.

The statutes themselves are given in the latter part of the work, with commentaries on them. Extremely valuable are the introductory notes

to each statute, embodied in this part of the book. The student will benefit from them, even more than the legal practitioner.

Only in the case of the joint family, (chapters XII to XVII) gifts (chapters XVIII and XX) and wills (chapter XIX), has there been no need to expound the law, as definitely prior to a specific enactment. This leads us to a speculation whether the book should not have included an analysis or appraisal, of how much of the Hindu law *strictu sensu* is still extant, and the possibility of the survival of this core of the personal law alone, left untouched by any attempted codification. We find this interesting statement at page 70 of the Introduction:

> Renascent India of the post-independent era appreciated the value of a fresh and broadened outlook in matters affecting the rights social, economic and political of the citizen regardless of sex.

This has be to contrasted with an earlier statement at page 1, that Hindu law did not make any "logical demarcation between matters secular and religious, because certain questions, such for instance as Marriage and Adoption, had the aspects of both." Consequently, we are constrained to ask ourselves whether what the statutes have taken away from the *corpus* of Hindu law, to be enacted as a code with a primarily secular philosophy, can now be said to form any part of Hindu Jurisprudence, in its essential and historical sense. To the student of legal history, the taking of sides in such a matter ought to be an excluded attitude. The clarification of concepts is the first step of a truly legal evolution, not the vindication of either the reformer or the traditionalist and revivalist. I feel that a certain aspect of the truth at least, was expressed by me in my foreword to the first edition of Mr. Gopalakrishnan's *Hindu Law* (1963) in the following words: "It is an unfortunate truth of life that, where reform is passionately advocated, it so frequently supersedes, not merely that which was evil or retrograde, but also so much that was life-giving in its essence."

I do not propose to burden this review with minor points of comment. The edition maintains the high standard of its predecessors, and, indisputably, will be justified by its incessant use in the court, law chamber, or the lecture hall of a law college. But Mulla is *not a* treatise based on the philosophy of Hindu Jurisprudence. It attempts to be nothing more than a very valuable textbook and book of reference, and in this object, it eminently succeeds.

[Note: A reviewer must never forget the wood for the trees; to be over-concerned with the minutiae of a work under review, may be evidence of a meticulous disposition, but not of a sense of proportion. For this reason, I do not wish to exaggerate the significance of typographical and other errors in an edition of this magnitude. Nevertheless, there are a number, and here are a few instances, that I have chosen at random, just to show that it is certainly possible to bring

out a faultless edition :

Page 143, para. 5, line 1 : 'Vaishnavas (worshippers of Vishnu) do not observe *shradha* and offer no oblations to their ancestors." It is wrong.
Page 200, Section 177B : "The doctrine of blending ... cannot be invoked (and not 'involved').
Page 254, last line : "If it is the *joint property* of the acquirers, it will pass by survivorship but the male issue of the acquirers do not (and not 'ont') take any interest in it by birth."
Page 652, para. 3, line 1 : "deserving spouse" for "deserting."
Page 652, para. 3, line 5 : "as to execute" for "as to excuse."
Page 778, para. 2, line 7 : "inconsequence" for "in consequence."
Page 827, ninth line from bottom : "Compension" for "Compensation".

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THE SUPREME COURT ON INDUSTRIAL LAW. By J. K. Soonawala. 1966. Bombay : N. M. Tripathi (Private) Ltd. Pp. 1415. Rs. 15/-.

THE BOOK *The Supreme Court on Industrial Law* by late Mr. J. K. Soonawala is yet another landmark in the sphere of digest on industrial law and cases decided thereon. The author has taken considerable pains in collecting material on the subject, particularly the cases decided by the Supreme Court up to 1964. The supplement for the year 1965, added after the premature death of the author by Mrs. N. J. Soonawala, is a splendid contribution.

The choice of the author in selecting only the Supreme Court decisions in the growing field of labour-management relations satisfies the urge for a compendium of labour law cases. The interpretations of the Supreme Court, being the highest judicial authority, have a binding effect on all courts in the country. They also provide a useful guide for the application of law by the executive authority.

The scheme of arrangement adopted in the book and the division of the text into definite parts will undoubtedly economize the time and labour of a reader in finding out the authority on a proposition of law. Moreover, the classification of the decisions—both chronologically and alphabetically—is likely to render easier the task of locating the cases in the volume.

The broad division of the book into eight parts and further subdivisions into numerous chapters covers all aspects of industrial matters—technical, legal, social and economic. Each head and sub-head has further probed deep into the various provisions of law and more specially, the Industrial Disputes Act of 1947, which is a general law conferring rights on the parties to take recourse to legal methods and to seek relief by constitutional means. The first five parts of the book dealing with industrial adjudication, profit bonus, strikes and other related problems take the reader along the often disputed provisions of

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