

PREFATORY NOTE.

In placing this volume of the Indian Decisions, Old Series, before the learned public, a few words of introduction seem to be necessary. The Indian Decisions, Old Series, naturally fall into two classes; the decisions of the late Supreme Courts Bengal, Madras and Bombay, and the decisions of the late Sudder Dewanny Adawlut of Bengal, Madras, Bombay and the North-Western Provinces. The present issue is the first volume of the decisions of the late Supreme Court of Bengal and contains a *verbatim* re-print of the cases reported in some only the old reports. The Supreme Court cases which have been re-printed in this volume consist of those contained in Montriou's Edition of Morton's Reports, Montriou's Hindu Law Cases, Arnell's Reports, Montriou's Reports, Fulton's Reports and such of the cases in Morton's Reports as were omitted by Montriou when he revised Morton's Reports, and cover the period commencing with the first establishment of the Supreme Court in 1774 up to the year 1846.

It needs no mention that these early decisions are much less known than they deserve to be. The Supreme Courts had eventually obtained a lasting hold on the respect and confidence alike of Natives and Europeans and acquired authority and renown on account of the high character they had maintained during the period of their existence (1774 to 1862), which covered more than 80 years, English Lawyers in India laid the foundation of a complete system of Anglo-Indian jurisprudence. Those decisions have a peculiar value in that they reveal to us a spectacle wherein English Barristers, who knew nothing of India and had never heard of Hindu or Mahomedan law or the various local

usages and customs, but who possessed great legal sagacity, adapted the highly technical English law to the peculiar conditions and circumstances of an entirely foreign country and administered to its natives, with remarkable labour and assiduity and with a high sense of duty, the principles of the Hindu, Mahomedan and other local laws. They embody the results of almost a century of the judicial labour of eminent judges and furnish the best evidence of the manner in which the able Judges of the Supreme Court, who were first called upon to administer the native law, construed and dealt with many prominent doctrines of that law. Further, the great practical value of the publication of these decisions was by the old reporters considered to be that they were calculated "to prevent much contrariety of judgment and to produce uniformity of decision" on matters or which a conflict of decisions would be disastrous. The elaborate investigation which those judges made before arriving at their conclusions, the great pains they took, and the consultation of the Purdits are some features of great historical interest. The result is that, to-day, in these decisions, we have a system of general law in India which, though the outcome of the highly technical principles of the English law, is admitted on all hands to be as perfect a system of jurisprudence as possible under the circumstances and as the bed-rock, as it were, on which the modern legal edifice of India rests. The constant reference to these decisions by their Lordships of the Judicial Committee of the Privy Council and by the several High Courts in this country and by the various standard legal text-books indicates that much that is contained in them is yet good law.

This last consideration must be the main justification for bringing out these re-prints. Various causes have hitherto prevented these valuable rulings from being generally known and have kept them literally sealed books till now. The old reports containing them have gone out of print and have become rare and are not to be had even in the libraries of many great lawyers. Thus, there has been no opportunity for their being frequently

referred to and cited in our Courts. My late uncle had long cherished the object of giving this opportunity to the learned profession and of thus satisfying a real want—of which there is abundant evidence—and it is with the view of carrying out his object that he started the Law Printing House two years ago.

The materials for these re-prints have been gathered and collated from distant libraries, and at extraordinary cost and labour, which have, however, been rendered pleasant by the unstinted kindness and co-operation of very eminent well-wishers and friends, foremost among whom the name of the Hon'ble DR. ASUTOSH MOOKERJEE, C.S.I., Judge, High Court of Judicature, Bengal, has to be mentioned with deep and reverent gratitude, but for whose uniform and unfailing personal advice and assistance, these re-prints might probably never have been carried into execution.

It is unnecessary to repeat here the scheme of these re-prints, as it has been stated at length in the prospectus announcing the publication of the INDIAN DECISIONS. It will suffice here to barely notice the main facilities which will be afforded for the purposes of reference. A copious general index, specially prepared, has been appended to the volume which will at once serve as an index and as an analytical classification or digest of a mass of heterogeneous cases. The original pages of the old reports are indicated in the re-prints by means of thick black figures and a consolidated table of cases has also been prefixed to the volume. The manner in which the citation of the names of the reports is made, has been to give the names in full, as these reports have been referred to by the full names of the authors in the judgments of the various tribunals and in the standard legal treatises in vogue, but, wherever contractions are used, care has been taken to see that they are such as would be very obvious to any person.

A pathetic interest attaches to this work, as my uncle, the late Mr. T. V. Sanjiva Row, who originally conceived the idea of bringing out these much-needed re-prints, has not been spared to witness their publication. I think, however, that I have

imbibed, at least, his ardent desire to serve the legal profession, and I believe that the learned public will properly appreciate the immense energy and pains involved in this gigantic undertaking and continue their valuable patronage and support to it, as they have been doing with regard to the other publications in the past.

In conclusion, I only wish to say that it will be a matter of great personal satisfaction to me, if these volumes are found to be useful by the profession and if I should in any the slightest way contribute towards making these decisions more generally known and more frequently cited in our courts than heretofore.

THE LAWYER'S COMPANION OFFICE,
MADRAS,
Dated 7th September, 1911.

T. A. VENKASAWMY ROW