

PREFACE.

THE present work is the embodiment and amplification of lectures delivered in connection with the Tagore Law Professorship on the subject of Easements in British India.

The lectures have been presented in the form of a treatise, with a view to greater practical utility than could have been obtained from preserving them in their original form, and have been amplified by the introduction of the cognate subjects of Nuisances, Rights in Gross, and Licenses (*see* Chapters IV and XII).

Part III of Chapter I contains a geographical summary of the law relating to Easement in British India as it rests in Statute, or otherwise, in the different provinces and Presidency-towns.

The whole of the English Prescription Act and Indian Easement Act, and the material portion of the other principal Indian enactments relating to Easements, have been incorporated in Appendices with references to the text.

At the head of each Chapter will be found paged headings of its contents, and marginal notes have been inserted throughout the chapters themselves, corresponding to the headings. This expedient has been adopted as a means of ready reference and as a partial substitute for a lengthy index.

The English and Indian Case law has been brought down to the end of 1903, but owing to the protracted, though unavoidable, delay in going through the press, the only means of including the more recent cases has been in the form of Addenda, and an Appendix containing a summary of the more important English rulings.

In this connection, and in reference to pages 80, 81, 85, to 87 of the text, should be specially noticed the very important

decisions of the Appeal Court in *Warren v. Brown* (1902), 1 K. B., 15 (reversing Wright, J., and overruling *Lanfranchi v Mackenzie* and *Dickinson v. Harbottle*), and in *Home v. Colonial Stores, Ltd. v. Colls* (1902), 1 Ch., 302, on the question of what amounts to a substantial interference with ancient lights. See Appendix XII, Case Nos. (2) and (3).

Further, the recent case of *Cowper v. Laidler* (1903), 2 Ch., 337, forms an instructive and interesting addition to the text in Chapter XI on the subject of relief by damages or injunction. See Appendix XII, Case No. 9.

The subject of Easements in British India has been dealt with from a practical, as well as an academical, point of view, and frequent and sometimes lengthy quotations have been made from English and Indian authorities in the hope of making the work not only of interest and value to students of law, but also of utility to the higher branches of the legal profession and to practitioners in the lower courts of the mofussil where extensive reference to law reports is impossible.

My thanks are specially due to Mr. P. O'Kinealy of the Calcutta Bar for his valuable advice and assistance, at all times most kindly and freely given, in the preparation of this work and the lectures on which it is founded.

I must also express the obligation I am under to Mr. Justice Henderson of the Calcutta High Court, and to Mr. Knight and Mr. J. G. Woodroffe of the Calcutta Bar, for having given me the benefit of their advice and experience on various matters connected with the text and scheme of the book.

I have further to acknowledge the assistance I have derived from such standard English works as "Gale on Easements" and "The Law of Easements" by Mr. J. L. Goddard.

In conclusion, I must thank Mr. R. Mitchell of the Calcutta Bar for his assistance in the correction of a large portion of the proofs and for supplying me with notes on the Indian cases for 1903.

F. P.

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