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SUCCESSION OF BANDHUS UNDER THE MITAKSHARA.

[**Ramachandra Martanda Waikar** *v.* **Vinayak Venkatesh Kothekar** 27 M. L. J 333 (P.C.)]

Referring to the recent judgment of the Privy Council in the above case, the *Calcutta Weekly Notes* remarked that in setting out "the limitations under which *Bandhus* succeed to the property under the Mitakshara Law," it 'coincides with the generally accepted opinion in this country.' We are unable to endorse this opinion of our contemporary. The decision lays down two important limitations, *viz.*, one, that the 'Sapindas' entitled to inherit are only those who come within the definition of that term in the Acharakanda of the Mitakshara and the other (which for the sake of brevity may be referred to as the test of 'mutuality') that 'in order to entitle a man to succeed to the inheritance of another, he must be so related to the latter that they are Sapindas of each other.' The first of these alone seems to us to be well established. The second rule, we venture to think, is not warranted by anything in the Hindu Law books and cannot certainly be regarded as 'generally accepted.' So far as we have been able to see, it was *assumed* in *Umaid Bahadur* v. *Udai Chand* [1]; and in *Babu Lal* v *Nankuram* [2] this test is considered to follow almost as a matter of course from Manu, Ch. IX, 187, as interpreted by Visvesvara and Balambhatta. It may be noted in passing that in neither case was the point necessary for the decision. Among recent Text writers Messrs. Sarvadhikari and Bhattacharya alone suggest this test and they too have nothing better to urge in support of it than that it follows clearly from the Sloka in Manu above referred to. Beyond referring to *Umaid Bahadur's case* and Sarvadhikari's lectures

1. (1880) I.L.R. 6 C. 119. 2. (1894) I. L. R. 22 C. 339.

and quoting from Bhattacharya's book and from *Babu Lal's case*[1] the judgment of the Judicial Committee discloses no further examination of the question. None of the several commentators on Manu or the other Smritis (except Visvesvara and Balambhatta) use language from which one can draw this inference or lay down such a restriction. The Mitakshara nowhere indicates any such limitation. None of the Anglo-Indian authorities on Hindu Law from Colebrooke and Strange downwards deduce this theory; and among recent Hindu text writers on the subject Mr. Mandlik does not so much as refer to it and Mr. Sarkar expressly disapproves of it. In two articles[2] by the late *Sir V. Bashyam Iyengar* there will be found set out several arguments to show that the views of Messrs. Sarvadhikari and Bhattacharya on the subject of cognate succession are at variance with the basic principles and even the express texts of the Mitakshara and in one point their view has been disapproved by the Privy Council. See *Muthusami* v. *Muthukumarasami* [3]. In these circumstances, the soundness of this new limitation deserves examination, though for the present, their Lordships' decision, being express on the point, will be binding on all courts in this country.

It is not unimportant to know, at the outset ,what the effect of this restriction will be, on the *number* of heritable Bandhus, though we do not suggest that this consideration should have any weight if the authorities were even tolerably clear. Whatever may be said in favour of the theories of the Benthamite school as to the desirability of having as short a list of heirs as possible, between the propositus and the Crown, it is clear that the ancient Hindu lawgivers were far from anxious to provide for an early escheat to the Crown. Under the definition of Sapinda, as given in the Acharakanda, the number of male cognate Sapindas will be 1150 and they should all be entitled to inherit in some order of priority, whereas the application of the theory of Mutuality will reduce the number of heritable bandhus to 382 see 8 M. L. J. at pp. 65, 67; and if we introduce the further limitation (based mainly on the mutuality theory) that if a person who is a bandhu through his mother is not a ***heritable***

1. (1894) I.L.R. 22 C. 339. 2. 8 M.L.J. 53 and 99.
3. (1896) I. L. R. 19 M. 405.

bandhu, his son cannot be one either, though he is within seven degrees of the propositus, the number will be further reduced to about 230 see 9 M. L. J. at p. 69.

It is also desirable, before proceeding further, to draw attention to the fact that there is some obscurity both in the Privy Council Judgment and in the Indian authorities there relied on, as to whether this mutuality theory is sought to be laid down as part of the conception of Sapindaship itself or only as a condition of the *right to inherit*. Thus in *Umaid Bahadur's case*, the learned Judges, after referring to the definition in the Acharakanda, say; "In order to determine whether a person is a Sapinda of the propositus within the meaning of the definition, it is necessary to see whether they are related as Sapindas to each other'. This is also how it is stated in their Lordships' present Judgment; but for authority they refer to Manu (evidently Ch. IX, 187), Sarvadhikari, Battacharya and *Babu Lal's case* [1]. With all respect to the learned Judges who decided *Umaid Bahadur's case* [2], it is impossible to understand why according to Mitakshara principles, B and F in the table given by them are not Sapindas of each other. Stated as part of the definition of Sapindaship itself (as distinguished from what may be termed '*heritable* Sapindaship') the mutuality doctrine is obviously unwarranted by any authority whatsoever. That Sapindaship necessarily implies some kind of reciprocity—as every relationship must—no one will deny. But such reciprocity is sufficiently established by the fact that one is within seven degrees of another (or a common ancestor). This is enough to establish a 'community of particles' between them within the meaning of the definition in the Acharakanda. In the very full disquisition there given on 'Sapindaship', Vijnaneswara nowhere even hints the principle of mutuality as now laid down and it has never been applied in determining the prohibited degrees of Sapindaship for marriage. Messrs. Sarvadhikari and Bhattacharya take care to lay down the rule of mutuality not as part of the conception of Sapindaship but only as a qualification for *heritable* kinship and so do the learned Judges who decided *Babu Lal's case* [1]. In fact the sole basis on which they rest this

1. (1894) I. L. R. 22 C. 339. 2. (1889) 1. L. R. 6 C. 119.

theory, *viz.*, Manu, Ch. IX, 187 would show that at best, it is only a rule of inheritance.

Viewed as a rule of the law of inheritance, it is submitted that,

(A). this condition of mutuality is not warranted by the text of Manu from which it is deduced, and that,

(B). whatever may be the correct interpretation of Manu Ch. IX, 187 this rule has not been made by Vijnaneswara part of the scheme of inheritance laid down by him.

Taking the first of the above points, it is necessary to point out at the very outset that the translation of the text adopted by the Judicial Committee from the Judgment in *Babu Lal's case* is not a literal rendering of the words of Manu's text अनन्तरस्सपिण्डाद्यः तस्यतस्य धनंभवेत्. By translating it 'the property of a *near Sapinda* shall be that of a *near Sapinda*' the basis is laid for the doctrine of mutuality. The text itself contains no words to correspond to this reduplicated use of 'near Sapinda' and the comments of Visvesvara and Balambhatta are pressed into service. Neither of them is a commentator on the Manu Smriti itself and it is certainly remarkable that none of the extant commentaries on Manu adopts the construction that would warrant this translation or the theory of mutuality based upon it. For a proper understanding of Manu's text, it is necessary to take slokas 185, 186 and 187 together. They run as follows :—

न भ्रातरो न पितरः पुत्रा श्चक्थहराः पितुः ।
पिताहरेदपुत्रस्य रिक्थंभ्रातर एवच ॥
त्रयाणामुदकंकार्य्यं त्रिषुपिण्डः प्रवर्तते ।
चतुर्थस्संप्रदातैषां पञ्चमोनोपपद्यते ॥
अनन्तरस्सपिण्डाद्यः तस्यतस्य धनंभवेत् ।
अतऊर्ध्वं सकुल्यः स्यादाचार्यः शिष्य एववा ॥

"Not brothers, nor fathers (but) sons take the paternal estate; but the father and brothers shall take the estate of an *Aputra* (one dying without male issue.)"

"To three (ancestors) must water be offered; to three, is the funeral cake given; the fourth (descendant) is the giver of these; the fifth has no concern."

"Whoever is the least remote from (*among*) the Sapinda, his is his (the) property; afterwards is the Sakulya, the spiritual teacher or the pupil".

The second of these verses is used by later writers including Jimutavahana as an indication that Manu based the right of succession on the right to present oblations (see for instance, Dayabhaga XI i-40, vi-10, 14, 17, 18; Dayakrama Sangraha II, vi-2; Viramitrodaya III i-11; Sarvadhikari p. 286). The verse is rather curiously placed and worded; but is not easy to read it as an enunciation of any basic principle of inheritance or as a definition of Sapinda limits. The commentators on Manu draw from it no such far reaching inference. Kulluka and Raghavananda state that the object of the verse is to indicate the right of Kshetrajas and other subsidiary sons to inherit the estate of a grandfather, etc., deceased without leaving issue. Nandana thinks that the verse serves to prove the right of grandsons and great grandsons to inherit before brothers, etc. (See Buhler's Note at p. 366 of Vol. 25 of the S. B. E.). Anyhow they tack it on to the previous sloka and not to the succeeding one. If sloka 186 is to be read on into sloka 187, there will arise this obvious difficulty that 'Sapinda' in 187 will cover only 3 degrees as mentioned in 186 (Kulluka so limits it) and not seven degrees.

As to the object and construction of verse 187 and its relation to the preceding sloka, we find considerable obscurity and divergence of opinion among the commentators. For our present purpose, it is important to know only the precise import of the expression अनन्तरस्सपिण्डाद्यः and the significance of the reduplication of तस्य in तस्यतस्य धनंभवेत्. Dr. Buhler, while admitting that the translation as given by him, in S. B. E. 'does not fully agree with any of the explanations given by the four commentators', points out that on philological grounds it seems *improbable* that अनन्तरस्सपिण्डात् can mean anything else than 'Nearest *to* the Sapinda' and that this 'Sapinda' can be anybody else than the *deceased*." (The italics are ours). It will be noticed that even this will not justify the introduction of the idea of mutuality, *i. e.*, both the taker and the propositus being Sapindas *each to the other*. But as need scarcely be pointed out, the proper understanding of a work like the Manu Smriti must rest far more on the traditional interpretation of the text

than on philological construction. Each by his own process (whether intelligible or otherwise) all the commentators except Raghavananda arrive at the conclusion that 'sapinda' in this sloka refers to the *taker* (and not to the deceased) and this would justify the rendering generally adopted, *i e.*, the nearest *among* the Sapindas of the deceased'. Raghavananda's explanation though verbally different, does not differ from this in substance. The following extracts from the commentaries are set out here for facility of reference.

Sarvajna Narayana

एषांमध्ये सपिण्डानां मतोयोनन्तरः.....तस्यतस्य तु तद्धनम् । ..... '

Kulluka.....सपिण्डमध्यात् सन्निकृष्टतरोयः सपिण्डः (पुमान् स्त्रीवा) तस्य-मृतधनंभवति... ..

Raghavananda (reads the text some what differently) उक्तमुपसंहरन् सकुल्यादेर्धनहारित्वमाह अनन्तरेति । सपिण्डाद्या औरसदुहितृजाद नन्तरा पत्नीप्रभृतयः पञ्च । ..... सकुल्यपदंबन्धो रप्युपलक्षणम् ॥ .....

Nandana.....प्रेतवचनोयं पिण्डशब्दः तयोरभेदोपचारात् पिण्डादनन्तरः प्रत्यासन्नोयः सपिण्डस्तस्य धनंदेयंभवेत् । द्विर्वचनं क्रमप्राप्त्यर्थं । अतऊर्ध्वं एभ्यः सपि-ण्डेभ्यऊर्ध्वं सपिण्डाभावे इतियावत् ॥

Ramachandra सपिण्डादनन्तरः सन्निकृष्टः तस्यतस्य धनंभवेत् ॥

On this interpretation, the text only prescribes that the heir should be a Sapinda (of the deceased) *not vice versa*, and that he should be the nearest among the Sapindas existing.

It may not be out of place to point out that there are obvious difficulties in taking the word, 'सपिण्डात्' to refer to the *propositus*. One result of so reading the text would be that there would be no language in it to require that the *heir should be a sapinda of the deceased*. It may be said that the description of the deceased as 'Sapinda' would imply that he is a Sapinda of the would-be heir ; but that won't imply the converse also (and if so, the rule of mutuality goes). Further the juxta position of the words 'अतऊर्ध्वं सकुल्यः स्यात्' requires that the former portion of the verse should be read as declaring the *heirship of the Sapinda*, while the next part declares the heirship of the *Sakulya*, etc. The two parts of the verse won't fit in properly, if in the first the *propositus* is described as 'Sapinda' and in the second the *heir* is described as '*Sakulya*'. The force of this argument is confirmed

by the fact that the Mitakshara (II. iii 4) the Subodhini and the Balambhatti all treat 'Sapinda' in this text of Manu as in a way उपलक्षक for 'Samanodakas', etc., also, so as to make their *order* of succession also be governed by the rule of 'nearness' 'प्रत्यासत्ति' here stated in terms with reference only to 'Sapindas'.

The comments of Visvesvara and Balambhatta on this text of Manu occur when they deal with Mitakshara II, iii, 3 where Vijnanesvara cites this sloka as one of the reasons justifying the mother taking before the father. Visvesvara's comment is in these terms यः सपिण्डात्सन्निहितस्तस्य सपिण्डसन्निहितस्य तस्यधनं सपिण्डस्य धनंभवेदिति (Mr. Setlur's Mitakshra vol. I p. 773)

["Whoever is near from (to) the Sapinda, to that near-from-the-Sapinda, his wealth (*i. e.*), the Sapinda's wealth, belongs."] The Balambhatti uses the following language:—" दूरान्तिकार्थात् " इतिषष्ठ्यर्थे पञ्चमी । तथाच सपिण्डस्य योऽनन्तरः सन्निहितः तस्य सपिण्डसन्निहितस्य धनं तस्यसपिण्डस्य भवेदित्यर्थः । एवञ्चप्रत्यासत्तेर्नियामकत्वं मनुनास्पष्टमेवोक्तम् ॥ *Ibid* p. 774. " The ablative (सपिण्डात्) is used in the sense of the genitive, according to the rule (दूरान्तिकार्थात्) accordingly, (the meaning is) he who is unremote, *i.e.*, near to the Sapinda, to him, that is, to the near-to-the-Sapinda, his wealth, *i.e.*, Sapinda's, becomes (goes). Thus was the rule of nearness clearly declared by Manu."

It will be noticed that in the above explanation the two commentators understand the word 'Sapinda' in Manu's sloka in accordance with its grammatical interpretation as referring to the 'deceased' (and not to the 'heir'). But the result of this reading (as pointed out already) is that there is nothing in their language to indicate that the *taker* should be a Sapinda.

The words तस्यतस्य in Manu's text are understood by these two and certain other commentators as referring one to the propositus and the other to the taker respectively; and there is a temptation to read 'Sapinda' into *both*. It seems more reasonable to understand the repetition of तस्य (in the way that Nandana does) as only implying the idea of 'successiveness' in order of proximity. (क्रमप्राप्त्यर्थ).

It must be remembered that as pointed out by Mr. Sarkar Sastri (Hindu Law 3rd Edn., p. 72, etc.) it could not have been the intention of these commentators to import (and that by a

side wind as it were) a novel limitation not even hinted at by the Mitakshara and in a context relating to a different principle.

Yet another reason appears against deducing from the text of Manu anything like the proposed rule of mutuality. The rule admittedly has a marked operation only in the case of Bandhu succession and this arises from the difference of the limits of Sapindaship as between the paternal and the maternal lines. But the Manu Smriti itself nowhere lays down this distinction of its being 5 degrees in the one case and 7 degrees in the other (the commentators import it only from other Smritis) and it is quite possible that the Manu Smriti did not contemplate the succession of *Bhinna-gotra* sapindas at all; there would therefore be no warrant for reading into its language a qualification whose operation rests on the above distinction.

It is also noteworthy that in none of the other ancient texts corresponding to Manu IX, 187, do we find language from which the rule of mutuality can be deduced. Thus Gautama (Ch. XXVIII, 21.)

पिण्डगोत्र ऋषिसंबन्धा ऋक्थंभजेरन्।

Baudhayana (I. 11 k. 14 Sutra, as to whose exact reading there is some difference of opinion).

Apastamba. II, 14 (kh) 2,3. पुत्राभावे यः प्रत्यासन्नः सपिण्डः।

Vasishta. XVII, 81, 82. यस्यपूर्वेषां षण्णां न कश्चिद्दायादः स्यात् सपिण्डाः पुत्रस्थानीयावा तस्यधनं विभजेरन्।

See also Vishnu. XVII. 11. Narada XIII. 51. Brihaspati XXV. 62.

But whatever may be the correct interpretation of Manu's text, it seems to us that the principle sought to be deduced from it cannot now be interwoven into the Mitakshara table of inheritance. And reference need only be made in this connection to the wholesome rule laid down in the Ramnad case and since repeatedly reaffirmed that, the duty of Courts in India at the present day, is not so much to enquire whether a disputed doctrine is fairly deducible from the earliest authorities as to ascertain whether it has been received by the particular school

which governs the District, *The Collector of Madura* v. *Mootto Ramalinga* [1]. It will be noticed that this single verse of Manu practically lays down the whole law of inheritance to the property of a sonless person (except as regards the father and brother) whereas Yajnavalkya's text, without contenting itself with indicating the *principle* of succession, lays down a fuller list of heirs and a definite order of succession amongst them. The Mitakshara carries this definiteness of detail even further and it cannot be reasonably suggested that it is not sufficiently self-contained. The observations of Lord Hobhouse made in connection with the order of succession among the enumerated Bandhus, are well worth recalling here. 'To whatever extent rules of succession may have been founded on religious observances or may now be explained by them, it is clear that fixed rules of law for succession have been established for ages and equally clear that the Mitakshara professes to express such rules in the quoted text', *Muthusami* v. *Muthukumarasami* [2]. It is therefore submitted that there is really no place here for any inferences or arguments based on the text of Manu.

Reliance is no doubt placed by Sarvadhikari and men of his way of thinking, on the fact that Vijnanesvara appeals in one or two places to this sloka of Manu. That circumstance only strengthens the present argument. It is significant that with this text clearly present to his mind, he gives no indication whatever that in his view it involved a restriction of the heritable right of Bhinnagotra Sapindas in virtue of the rule of mutuality. He does not even refer to this text when dealing with Bandhu succession, though it is only in that branch of the law that the application of this rule produces any difference at all. The Mitakshara cites this text to justify the priority of the mother to the father (II, iii) (3) and that of the full brother to the half brother (II iv) (5); and the only general observation made with reference to it is that it appears from this very text that the rule of propinquity is effectual, without any exception, in the case of Samanodokas, as well as other relations *when they appear to have a claim to the succession.* (धनग्रहणेप्राप्ते).... (II iii) (4). It is clear from the above (and from the underlined words) that Vijnanesvara refers

1. (1868) 12 M. I. A. 436.
2. (1806) I.L.R. 19 M. at p. 409.

to this text of Manu, not as laying down the test of *heritable right* (as the mutuality theory must interpret it), but only as indicating the rule of *preference*, amongst those having the heritable right.

One important feature of the Mitakshara scheme of succession, viz., the introduction of the Samanodakas between the Sagotra Sapindas and the Bhinnagotra Sapindas, deserves special attention in this connection. In whichever way one may understand the terms 'Sapindas' and 'Sakulyas' in Manu IX-187, it is impossible to justify on the principle of that section the wedging in of the Samanodakas between one class of 'Sapindas' (*i. e.*, Sagotra) and another class of Sapindas (*i. e.*, Bhinnagotra) when the first portion of the verse speaks of 'Sapindas' generally. The truth seems to be that Vijnaneswara has elaborated the law of inheritance in his own way, both as to the 'heritable right' and the principles of 'preference' and one cannot safely dovetail into it any theories deducible from the general language of the early lawgivers. It is just possible that 'Sapindas' in the text of Manu refers only to Sagotra Sapindas and Bandhus can be brought in, *if at all*, only under the 'Sakulyas'. (This is what Raghavananda does, while Kulluka does not take in Bandhus at all). In this view no inference can legitimately be drawn with reference to Bandhu succession from the words अनन्तरः सपिण्डाद्यः and there will then be no basis whatever for the mutuality theory.

In the judgment of their Lordships there is one other point of some importance adverted to and though it is left open, the inclination of their remarks on the question is sure to fetter Courts in India from giving effect to their own opinion in the matter. This relates to the classification of Bandhus reproduced in the Mitakshara from *Satatapa* (as is generally believed). While holding (in accordance with *Girdhari Lall* v. *Government of Bengal*) [1], that the enumeration in that text is not exhaustive of heritable *bandhus*, their Lordships doubt if the three 'classes specified by Vijnanesvara can be added to'. Let us pause for a moment to see what this leads to. It is indisputable that according to the definition of 'Sapindas' persons further removed from the propositus than those instanced in Satatapa's

1. (1868) 12 M. I. A. 448.

text will be cognates. The question is, is there anything in the Mitakshara to deny a right of inheritance to such persons. Certainly, there is no positive indication to this effect. We ...e however this language "Bandhus are of three classes" ...ch seems to suggest that the author meant all Bandhus to ... in one or another of the three. To this extent their Lord-...ips' inclination is strictly in accordance with the language of Vijnanesvara. But, the result then is this-either (1) that the classes should be so defined as to comprehend all the persons who would fall within the limits of Sapindaship or (ii) that even *within* the limits of Sapindaship there must be held to arise by *implication* a further restriction. The first view is not of much consequence, for, it matters little whether the conclusion is reached by adding to the *number* of the classes or by enlarging their scope. (For an attempt to settle a list of Bandhu heirs, somewhat on this footing, see Articles in 8 M. L. J. 313 and 9 M. L. J. 54). But in view of the context and of the contentions which appear to have been urged on behalf of the Respondents before the *Privy Council* (see 18 C. W. N. at p. 1165) we do not think this is what their Lordships had in mind. In an earlier passage in the Judgment they observe 'the classification contained in Ch. II, s. vi, shows clearly who the bandhus are whom Vijnanesvara treats as bimnagotra Sapindas entitled to succession'. The second alternative therefore is the one that the Privy Council inclined to. This view will have important consequences and raises difficult problems. First comes the question, are we justified in introducing such a limitation by mere *implication*. Surely it is not the usual way of the author of the Mitakshara to leave such results to implication. And even if there is to be such a limitation, what are its precise limits. There is no definition given of the 3 classes, Atma Bandhus, Pitri Bandhus, and Matri Bandhus. The instances given do not include any case in which the *common ancestor is beyond the 4th degree from the propositus or the heir is below the 3rd degree from the common ancestor*. And there is not a single instance of any person claiming relationship *through the descendants of the propositus himself*. How are we to fix the limits of each of the classes and how to determine whether a particular sapinda is or is not within these classes at all. No satisfactory answer to these questions has so far been

furnished by any writer. Mr. Mayne and Messrs. West and Buhler seem to accept the heritable right of all cognates satisfying the definition of 'Sapindas' in the Acharakanda. Mr. Ghose leaves the question open. Mr. Bhattacharya founds an argument on the distinction between Bandhus and Bandhavas. Mr. Sarkar would let in *all relatives*. Mr. Sarvadhikari's views in the matter are not very clear. On the whole he would seem to limit cognate succession to 4 degrees and in one particular class of cases, to only 3 degrees. (See pp. 703 and 706). This gives the go-bye to the limits of 'Sapindaship' as defined in the Acharakanda; and if the limits for purposes of succession are to be fixed with reference to the illustrations given in Satatapa's text, it is not possible to see how the descendants of the *propositus* can be brought in at all, or how the descendants of the 4th degree (*e. g.*, great-grand-son) of any of the three ancestors of the propositus can be included. Again, another restrictive rule laid down by Mr. Sarvadhikari is that in the case of Bandhus *ex parte paterna*, 'there cannot be more than two females' between the propositus and the heir and that if there are two females these two again must be related as mother and daughter (p. 689). No authority for such a general limitation can be found (or is referred to) except the fact that the illustrations given in the text are of that kind.

SUMMARY OF ENGLISH CASES.

Lyons, Sons & Co, *v.* **Gulliver**, 1914, 1 Ch. 631 (C.A.)

Nuisance—Collection of crowds on the road before opening the door of the theatre—Obstruction to highway—Access to adjacent premises Control of the crowd by Police Regulation.

The plaintiffs carrying on business as lace merchants sued for an injunction against the proprietors of the Palladium Theatre restraining them from carrying on their business so as to cause a nuisance to the plaintiffs by obstructing the access to or egress from the plaintiff's premises by reason of the assembly of crowds. The defendants were carrying on twice daily during business hours variety performances and the door of the theatre admitting to the cheapest part of the house was not opened till a short time before the performances commenced. The result was that crowds collected before the plaintiff's premises causing obstruction to the

free access to or egress from them. The defendants denied the alleged nuisance and pleaded that the control of the crowd in the highway was a matter for police regulation.

Held per *Cozens Hardy M.R.* and *Swinfen Eady L.J.*, *Phillimore L. J. dissenting*, that under the circumstances, the action of the defendants amounted to a nuisance and could be restrained by an injunction. It is not a good defence to say that the police failed to keep the crowd in proper order to admit customers conveniently to the plaintiff's premises *Barber* v. *Penley* [1], approved.

Per *Phillimore, L.J.* Every trader has a right to make his shop as attractive as possible; and he is not responsible for the crowds assembling to gaze at the shop window. It is for the police to regulate the traffic and to make those persons when they stand longer than they have a right to stand on the highway, move on. There was consequently no actionable nuisance. *Barber* v. *Penley* [2] not approved.

In re **Landson Wardley** *v.* **Bringloe.** 1914, 1 Ch. 682.

Will—Bequest to "domestic servant"—Meaning of "domestic"—Male nurse—Temporary absence.

When a testator who died in April 1912, made a bequest to his servants as follows "to each of my domestic servants who shall have been in my service for two years prior to my decease and shall not be under notice to leave, whether given or received, the amount of one year's wages;" a male nurse who was first engaged in 1907 by the receiver of the testator's estate in Lunacy on a weekly salary who did not sleep in the testator's house but who sometimes took his meals there, comes within the terms of the will, though he was absent on a leave of absence granted by the receiver in 1911 for 4 months consequent upon ill-health caused by the attendance on the testator.

"Domestic" in the will means "household." Though the service must be continuous for the period, it did not involve service from day to day and a suspension of service with the master's premission will not preclude him from claiming the legacy.

1. (1893) 2 Ch. 447. 2. (1893) 2 Ch. 447.

In re **Locke & Smith, Limited : Wigan** *v.* **The Company,** 1914 1 Ch. 687.

Company—Debenture trust deed—Provision for the remuneration of trustees—Appointment of a receiver—Extent of the right to remuneration.

A trust deed to secure the debenture stock of a company provided for the remuneration of the trustees in the following terms "The Company shall in each and every year during the continuance of this security pay to the trustee as and by way of remuneration for their services as trustees the sum of £. 105 per annum..." An action was commenced for the purpose of carrying into execution the trusts of the debenture and on July 14, 1914 a receiver was appointed. The sole trustee for the time was paid remuneration up to January 1911 and he claimed to be paid his remuneration under the trust deed down to the close of the proceedings in the action out of the sale proceeds of the property of the company and assets in priority to the holders of the debentures and also claimed a lien for that sum.

Held the trustee was entitled to remuneration down to July 14, 1911 out of the proceeds of sale; but as from that date no further remuneration should be allowed to him; because the payment was to be made to the trustee "as and by way of remuneration for his services " and in the ordinary course, where a receiver is appointed the services of the trustee are terminated. His Lordship (*Eve J.*) found that in the particular case, there were no services rendered after the appointment of the receiver.

In re **Mears Parker** *v.* **Mears,** 1914 1 Ch. 694.

Will—Construction—Gap in bequest—Capital not disposed of—Supplying omission by implication.

A testator directed the trustee under his will to invest the residue of his personal estate upon trust to pay the interest and dividend arising therefrom to his three daughters equally for life and after the decease of any of them to pay the share of the one dying to her children and in the event of any of his daughters dying without issue, the survivors or survior should take her share of the income for life' and in case of all the daughters dying without issue, the capital was to be divided among his next of kin ; only one daughter left issue. *Held,* on the death of all the daughters, there was an intestacy with regard to two-thirds of the capital of the residue.

In the Estate of Many Heys. Walker v. Gaskill
(1914) Probate 192

Probate—"Mutual wills"—Meaning of joint tenancy in lease-hold property—Severance—Will, revocability of—Pronouncement in favour of subsequent will.

The term "mutual wills" is used to describe documents of a testamentary character made as a result of some agreement or arrangement between husband and wife or other persons. Where a husband and wife, Joint tenants of a leasehold property executed wills in 1907 on the understanding that those wills were to be irrevocable the husband died and his will was proved in 1911. In 1913 the wife executed a fresh will in breach of the arrangement of 1907 between herself and her husband. *Held* that the arrangement of 1907 and the execution of mutual wills in pursuance thereof severred the joint tenancy of the husband and wife in the properties in question and created a tenancy in common. *Held* also that the will of 1907 was revocable and that the will of 1913 should prevail as the true last will of the widow.

JOTTINGS AND CUTTINGS.

Miscellany,—'War,' said Sir Henry Maine, is the litigation of nations. Only in the time of peace (says the *Globe*) could so smooth a saying have been invented. The wordy warfare of the Courts has no real resemblance, of course, to the bloody encounters of the battlefield. It would be truer to say that war is the exact opposite of litigation. War represents an assertion of inherent force, while litigation is an appeal to the judgment of an independent power. But there is, perhaps, enough truth in Sir Henry Maine's saying to give some appropriateness to the warlike spirit of the men whose daily work brings them into touch with litigious things. The Inns of Court Officers' Training Corps, familiarly known as 'The Devil's Own,' are busily engaged in training recruits in the delightful gardens of Lincoln's Inn—the Inn of which the King, as well as the Prime Minister and the Lord Chancellor, is a Bencher. This Military activity in the Inns of Court is in keeping with legal traditions. In olden times it was no uncommon thing for a Judge to exchange his judicial robes for a coat of mail. Chief Justice Gascoigne

received the Royal authority to lead a body of troops against the rebellious Percys. 'He fought at the Battle of Towton side by side with Morton, afterwards Archbishop of Canterbury and Chancellor, and displayed undaunted Courage'—so runs the chronicle of Chief Justice Fortescue's achievements in the field. The notorious Jeffreys, when he started for the Western counties in 1685, was armed not only with a commission of Oyer and Terminer, but also with authority to assume the command of the King's forces.

Some of the most famous lawyers had some experience of soldiering before they took to advocacy. Sir Matthew Hale, for instance, 'trailed a pike in the Low Countries,' and Lord Erskine and Sir William Grant were in the Army before they joined the Bar. Erskine was Lieutenant-Colonel of 'The Devil's Own' when, at the famous review of the Volunteers in Hyde Park in 1803, George III, bestowed upon it the title which the corps, despite the many changes it has since undergone, has retained to this very day. But Erskine, if the captious Campbell may be believed, was not exactly a success in the martial line. 'I did once, and only once he writes, 'see him putting his men through their manoeuvres on a summer's evening in the Temple Gardens, and I well recollect that he gave the word of command from a paper which he held before him, and on which I conjectured his " instructions" were written down as in a brief!' *Law Journal 22nd August* 1914.

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The Late Lord de Villiers.—By the death of Lord de Villiers, the Chief Justice of the Union of South Africa, the Empire has lost one of its most distinguished Judges. He personified most conspicuously the legal unity of the Empire. In addition to being the Chief Justice of South Africa, an office he discharged with notable ability and dignity, and a member of the Judicial Committee, on which his wide learning and fine judicial spirit were frequently displayed, he was, by virtue of his peerage, entitled to take part in the judicial work of the House of Lords, and on more than one occasion he exercised the right. In legal attainments, statesmanlike qualities, and personal dignity, he was one of the most notable figures of his time, and his sudden death will be regretted not less profoundly in the United Kingdom than in South Africa. *Law Journal 5th September* 1914.

The Courts' Emergency Powers.—As an essential preliminary to bringing the moratorium to an end Parliament has, after more discussion than has been given to any of the other thirty emergency Bills, passed an Act which gives to the Courts powers to prevent the harsh exercise of legal powers by creditors of various categories. They include judgment-creditors, landlords, mortgagees, and bailors under hire-purchase agreements. The ultimate rights of all these persons are not affected, but the summary remedies which are given to them by the law—by execution, by distress, or by ejectment—are made subject to the control of the Courts. Where good cause is shown, these remedies are not to be enforced during the continuance of the war, or for such shorter period and subject to such conditions as may appear reasonable. This is a very different thing from the indefinite prolongation of the moratorium, which affects alike the just and the unjust, the reasonably-minded creditor and the unreasonable. To avoid immediate stress and hardship, an extension of the moratorium has at the same time been granted for another month, bringing the period of postponement of payment up to almost the date of the reopening of all the Courts; but debtors will have to be prepared then to meet their liabilities, subject to the protection against harsh and ruinous measures afforded to them by this new legislation. In the meantime Rules will be issued to regulate the exercise of the Courts' discretionary powers, and it is to be observed that nothing in the Act or Rules can affect the remedies of any creditor against an enemy subject. The benefits conferred by the new Act are reserved for the lieges. *Ibid.*

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Miscellany.—'Laughter in Court,' by John Kendall, the little piece which precedes 'My Aunt,' the new farce at the Vaudeville, exhibits a magistrate who is always trying to be funny in Court worsted at his private residence, and reviled for his belief in his own wit and his collection of Press cuttings. A disappointed litigant who is one of the victims of his humour bullies him and lectures him in the plainest terms. Incidentally it is suggested that the Press encourages judicial humour by its flattering reports of it. There is a passing reference to Mr. Justice Darling in 'My Aunt,' where the idle young man usual in

these pieces is credited with noble persistency in trying to pass a legal examination. *Ibid.*

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Trading with the Enemy.—The Bill which the Attorney-General introduced into the House of Commons on Wednesday relating to trading with the enemy and the fresh Proclamation which has been issued on the same subject embody the reforms of the law which the experience of the last month have proved to be desirable and give greater definiteness and completeness to the rules. Hitherto there has been no statute law upon the matter, the rules being based upon the decisions of the Courts, which have grown up in a somewhat haphazard way and left many points uncertain. The Bill makes provision for penalties for engaging in the forbidden trade. It is stated in several of the old books that trading with the enemy is a Misdemeanour and in others that it is a crime; but there are no reported decisions on prosecutions, and the chief modern text-books on criminal law, such as Russell, make no mention of the offence. The Bill clears up the doubt by making trading with the enemy a misdemeanour punishable either summarily or on indictment; in the former case with a fine of 500*l.*, or twelve months' imprisonment; in the latter with seven years' servitude. In addition, of course, the goods which are seized on the ground of being engaged in the forbidden trade are confiscated to the Crown by the Prize Court. The new Proclamation reduces the indulgences which have been permitted by the first Proclamation and by the subsequent communication of the Treasury in the way of transactions with enemy's subjects. And the clear object is now pursued of preventing the enemy country being enriched by any goods or any money or money's worth coming from any part of the British dominions. The permission to pay debts owing to persons in the enemy country before war broke out is withdrawn, and it is forbidden to accept, pay, or otherwise deal with any negotiable instrument which is held by or on behalf of an enemy. This will protect English bankers who are called upon to honour bills endorsed to neutral houses since the war began by drawers in the enemy country. Another wise restriction upon the original indulgence is that trading with a branch of an enemy firm is permitted only if the

branch is situated in British or allied or neutral territory out of Europe ; transactions with a branch in neutral territory on the Continent will be penalised as trading with the enemy, because the presumption is strong that the benefit of such commerce will accrue to the enemy's country. We must wage war on the enemy commerce so as to do as little possible hurt to innocent people, but so as to weaken the enemy's strength for war as far as we can. *Law Journal 12th September* 1914.

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Queer Manx Laws. The Isle of Man presents many curious features, none of which is more curious than its laws. For instance, the legislature is called the House of Keys, and was, in other times, a judicial body charged with the duty of interpreting the laws. Any person so bold as to slander this House of Keys was liable not only to a fine in the amount of £10, but to the loss of both his ears.

Two deemsters were once appointed to execute the laws which before the year 1417 were uncodified, and these were known as breast laws, for the reason that they were imparted to the deemsters in secret to be kept by them within the secrecy of their own breasts as long as they chose, or during their whole service, though they were authorized to impart and explain to the populace as much of these special laws as should at any time seem wise and expedient.

Certain of the Manx laws, as set down after the codification, are extremely quaint. Here are a couple of extracts from the Manx legal rulings :

"If a man steal a horse or an ox it is no felony, for the offender cannot hide them ; but if he steal a capon or a pig he shall be hanged."

"In case of theft, if it amounted to the value of sixpence half-penny it shall be felony, and death to the offender, and under that value to be whipped or set upon a wooden horse which shall be provided for such offenders."

The arms of the Isle of Man, which though it may sound like an Irish bull to say so, are legs—three legs bent at the knee, and apparently kicking outward from a common centre in the midst of a shield—have provoked a number of jocular

descriptions, of which the best declares that one leg spurns Ireland, one kicks at Scotland and the third kneels to England.

On July fifth of every year the laws of the Isle of Man are still read aloud to the assembled people from the top of Tynwald Hill. This is the most interesting and archaic legal ceremony observed today in Europe.—*Tit-Bits.*

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Ancient Bankruptcy Law. What is said to be an archeological discovery of great interest to scholars the world over is anounced by the museum of the University of Pennsylvania. It is a shattered tablet upon particles of which, placed together, are inscribed many of the missing laws from the code of King Hamurabi, who ruled Babylonia at a period estimated about 2100 to 2300 B. C.

Most of the laws, as deciphered, refer to financial transactions, and one contains the germ from which, perhaps, sprang all bankrupt laws of the last 4,000 years. No criminal statutes are expounded. The tablet, which is believed to be part of the oldest collection of laws and precept extant, was found at Susa in the winter of 1901-2 by M. Morgan, a French archaeologist, and brought here recently by an expedition of the University returning from Nippur, an ancient city in Babylonia, where the University of Pennsylvania has made extensive excavations.

Dr. Arno Poebel, of the University of Breslau, a distinguished Oriental scholar, deciphered the much-worn Babylonish characters. The law relating to bankruptcy says :

"If a man has borrowed grain or money from the merchant and has neither grain nor money to pay back, but he has moveable goods, he shall give whatever he has to the merchant in the presence of witnesses, according as (words missing) the merchant shall not refuse ; he must accept."

Another law, dealing with interest, says :

"If the merchant lends grain upon interest, he shall take one-fifth of a ker of grain for each ker as interest. If he lends money upon interest, he shall take a sixth and six grains of silver for each shekel as interest."

This would have required borrowers to pay interest at the rate of 20 per cent,

Another law provided that if a merchant charged compound interest he should lose the principal and six times the amount of interest as forfeit.

The borrower, who had been robbed and had nothing with which to repay, was compelled to go to the temple and take oath to his losses, after which he was permitted his freedom.

Provision was made in the ancient law for the business man who met with failure, for it is set forth in the tablet that if any agent returning from a tour has made no profits the merchant may not claim interest on goods or for money advanced. *The Law Student's Helper August* 1914.

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Angelic.—A lawyer got into an argument with a physician over the relative merits of their respective professions.

"I don't say that all lawyers are villains," said the doctor, "but you'll have to admit that your profession doesn't make angels of men."

"No," retorted the attorney, "you doctors certainly have the best of it there." *Ibid.*

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Which Dinner ?—The *Tatler* gave a good story about Lord Shaw. In the old days the Scottish Bench in Edinburgh were accustomed to dine at four o'clock in the afternoon, and sometimes these convivial gatherings were prolonged to a late or early hour, as the case might be. At two o'clock one afternoon a client called at the house of a distinguished lawyer and asked to see the master. "He's at dinner," replied the maid. "At dinner!" gasped the caller. "Dinner at two o'clock in the afternoon? Surely your master dines early?" "No," replied the maid. "It's yesterday's dinner he's still eatin'." *Ibid.*

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Praise of Eloquence. An Alabama Negro was defended in Court by Senator Morgan. Having, cleared the Negro of the charge, the senator said to him, "Rastus, did you really steal the mule ?"

"Well, Marso Morgan, it was just like this," said Rastus. "I really thought that I did steal dat mule, but after what you said to the jury I know I didn't,"—*Ibid.*

Lawyers' Strike. Another lawyers' strike is reported in Law Notes (London). All the Venice lawyers are out. Not a single one put in an appearance at any Court for several days last month. As a result, all cases down for trial in the criminal and civil sections of the Courts and those which might have been tried in the Court of Appeal, have been indefinitely adjourned. The strike is a protest against the fewness of the judges and also against the transference of these few from Court to Court, one day in the Penal Court, another in the Civil or Appeal Court, so that the lawyers never know where they are. *Ibid.*

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Her Eyesight. At a trial in an Alabama town, one of the witnesses, an old lady of some eighty years, was closely questioned by the opposing counsel relative to the clearness of her eyesight. "Can you see me?" said he.

"Yes."

"How well can you see me?" persisted the lawyer.

"Well enough," responded the lady, "to see that you are neither a negro, nor an Indian, nor a gentleman." *Ibid.*

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Dramatic Court Scenes. Few dramatic scenes have held the law court so spellbound as that enacted in the recent £ 1,000,000 will case.

In this instance it was the sudden production and reading of a private letter that thrilled and amazed all who were there.

Sir Charles Mathews, the director of public prosecutions, has seen some terribly dramatic moments in the courts. Curiously enough, the most dramatic of all was in a will case, when Sir Charles appeared as prosecuting counsel against a solicitor charged with having forged the will of a dead lady.

For the defence a woman swore that she had seen the lady, who was ill in bed at the time, sign the will. She added that the prisoner handed the deceased lady the ink and pen with which to sign.

"Did he touch her hand?" demanded Sir Charles.

"I think he did just touch her hand," the witness replied,

"When he did touch her hand," proceeded Sir Charles, and in an instant his voice rose and became harsh and terrible, "was she dead?"

Turning deadly pale, the witness seemed to struggle for breath, swayed in the box, and fainted. The solicitor had taken the hand of the dead woman and with it had written her name to the forged will!

Few people who were present will forget the dramatic out burst of Seddon when on his trial for the murder of Miss Barrow.

In vehement tones and with hand uplifted, the murderer declared, "I swear before God that these are the words that were used."

Great as was the effect of this dramatic utterance on the jury, it was all destroyed by the quiet reply of Sir Rufus Isaacs.

"Mr. Seddon," he said, "all the statements you have been making are statements before God!" *Ibid.*

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Her Impression.

"You say the defendant made ardent love to you."

"Yes, your honor."

"Did you know that he had a wife living?"

"No, your honor; he gave me distinctly to understand that she was not."

"He testified that he told you she was living."

"He led me to believe the exact opposite your honor."

"What were his words, to the best of your recollection?"

"He told me his wife was an angel." *Ibid.*

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Which was it? The governor was puzzled. "Look here," he said, turning to his private secretary. "Can you tell me whether this note comes from my tailor or my legal adviser? They're both named Brown."

The note was as follows:

"I have begun your suit. Ready to be tried on Thursday. Come in. *Ibid.*

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Useless But Entertaining

In England they tell the story of how a judge set free a man whom he believed to be a rogue.

The prisoner pleaded guilty of larceny, and then withdrew the plea and declared himself innocent. The case went to a jury, and the man was acquitted. Then the Justice said:

"Prisoner, a few minutes ago you said you were a thief. Now the jury say you are a liar. Consequently, you are discharged." *The Green Bag August* 1914.

VAKIL AS A PUBLIC MAN.

1. These many years, my dear brothers,
A Vakil have I been like all the others,
But cui bono
I do not know,
I have lightened all my clients duly,
Enlightened Judges dutifully,
Just in the thick of it
I have got so sick of it;
To make a clean confession,
I care not for the legal profession.
But if a Judgeship it is to be,
Though I don't expect it,
I shall have to accept it
On grounds of public policy.

2. It strikes me now, as all would own,
I should not live for self alone,
And so in Hamlet's famous style I began
To be or not a public man.
My mind I have now made up,
And all my plans are now laid up,
That mankind may my worth appreciate,
I will not that myself depreciate,
That they may know my merit
I must too widely advertise it,
Mass meetings will I address
The public wrongs to soon redress,
A congress or a conference
To attend I will not be slack
And the people of the press
I shall take care to pat on the back

Large subscriptions will I promise.
And in a word, no movement will I miss.
These are, however,
You will remember
But ste[illegible]ng stones
To hi[illegible] zones,
And[illegible] judgeship it is to be
Th[illegible]gh I don't expect it
I shall have to accept it
On grounds of public policy.

3. Some day I hope to be
A shining C. I. E.
At least I may be sure
Of a Rai Bahadur
Who knows, I may be Hon'ble too,
But none of these will ever do
A something, somewhat tangible
It seems to me would be preferable
And if a judgeship it is to be
Though I don't expect it
I shall have to accept it
On grounds of public policy.

(*Recited at the Annual Gathering of Vakils on 29th August* 1914.)

CONTEMPORARY LEGAL LITERATURE.

The issues of the *Law Journal* for Sep. 5th, 12th and 19th discuss some further items of interest in the international situation that has arisen owing to the war. The writer thinks that the German destruction of Louvain is not justifiable even on the strictest application of the laws of war and taking all the facts to be as stated by the Germans. The notification issued by the Treasury sets at rest some of the questions that arose with reference to the proclamation as to the trading with the enemy. It is now declared that all transactions with the enemy which are not expressly prohibited are permitted but that contracts entered into before the war should not be performed during the war. Dividends accrued and declared before the war, may be paid. No dividends can be paid which have accrued since the break of the

war. Not that the dividends are confiscated to the state but they will be payable to the parties after the cessation of war. In the meanwhile they will be paid to their banking account. No transfer of shares by or to alien enemies during the war will be recognised. Turning to the Prize law the writer remarks that the prize law to-day is very much milder towards the enemy than it was when Lord Stowell administered it. The Hague convention protects enemy vessels found in the ports or coming there of their own accord in ignorance of hostilities against confiscation and it is only the prizes taken at sea that will enrich the navy-Prize fund. Though owing to some misunderstanding, the Germans failed to take advantage of the days of grace permitted to enemy merchantmen to leave the English ports in accordance with the spirit of the convention the German ships have not been condemned but have only been detained. The writer notes with satisfaction the peaceful arrangement come to with America in respect of two points of difficulty. England has agreed that her merchantships shall not enter American ports with any armament and on the other side that she will not object to United States acquiring interned German vessels provided that the ships are used in indisputably neutral trade so long as the war continues. It is indicative of the change that has come about in internationl law that while Stowell referred continuously to Foreign Text writers, the President disposing of cases in the prize court recently referred to the French and Japanese decisions on kindred questions. The questions that arose for decision recently were as to the claims of owners of shares in foreign merchantships, of charge-holders and of merchants that supplied necessaries to the ships. The President held that neither the mortgagees nor the charge holders had any claim against the crown which seized and was entitled to hold the captured ship subject only to the rights of *neutral goods* out of consideration for trade. In deference to the authority in old cases for the Crown of its bounty to make allowance to persons who supplied necessaries to enemy ships, the procurator-general was aked to enquire and to give effect to any such equitable right if proved. The setting up of a Prize court in Egypt strains, the writer remarks, the slender threads which preserve

the Turkish Suzerainty, while it strengthens the cords that bind her to England. The setting up of a Prize Court amounts to a declaration that Egypt is an enemy country though Turkey is a neutral country. Turkey has taken advantage of the war to repudiate the capitulations by which the European powers were conceded the right of trying their own subjects. These capitulations, it is curious to note, were not in the first instance, concessions wrung from the Porte but favours granted by the Sultans to European monarchs. The writer says that though the powers may not be unwilling in their common interest to alter considerably the present conditions they are well within their rights if they refuse to recognise the unilateral decision of Turkey.

The *Law Student's Helper* for August contains some interesting advice to young lawyers as regards *fees*. One such is that no attorney should allow his *client* to form the habit of garnering free information. The correct practice according to the writer would necessiate the consultation of the latest authority before a definite commitment of the attorney and hence a natural request for the client to visit the office on the morrow when the answer will be forthcoming and incidentally the fee charged and collected. Another is that while in general reasonable fees should be collected and considerations of expediency or future engagement should not be allowed to induce a reduction, care should be taken to see that a sufficiently high fee is charged to a wealthy client who is likely to misunderstand a low fee as an indication of the inferiority of the attorney.

A writer in the *Green Bag for* August traces the evolution of the independence of the judiciary from the days of Alfred the Great who hanged 44 justices in a single year for wrong judgment mostly. The independence of Judges was secured in theory by the evolution of the idea that the King though the fountain of all justice has delegated the function of administering it to his Judges and cannot resume it, a delegation which in the commencement was but a matter of necessity and was for a long time claimed to be subject to the King's supervision.

In practice it was secured by raising their pay and making their tenure last during good behaviour and not during the pleasure of the Crown as it used to be.

BOOK REVIEWS

COMPANY MANAGEMENT *by H.C. Emery, Esq* : Published by *Effingham Wilson* : Price 5*s*. net. Seeing that the new Indian Act on Companies is closely modelled on the English Act, Mr. Emery's Practical Manual must prove useful to company managers in this country as it is found to be in England.. The supplement that is published giving the corresponding references to the Indian Act considerably enhances the usefulness which the book would even otherwise have possessed. The method adopted in the book is to arrange the subject matter of the statute according to topics with full notes. While making the notes full, the author has been careful not to make them technical or pedantic. We may confidently say that it is just the sort of book that business men would like to have on semi-legal matters like company management.

ROMAN LAW. *By J. L. Jaini Esq., M. A. published by Butterworth & Co.*

We have no doubt that this admirable analysis of Roman Law will be found useful by students who have to appear for University Examination in Roman Law. There is this satisfactory feature about it that the use of it will not dispense with the necessity for text-books. While serving as a useful aid to memory, it will not promote cram.

STUDENT'S HANDBOOK OF THE TRANSFER OF PROPERTY ACT *By I. K. Yajnik, Esq., B. A. LL. B. published by N. M. Tripathi & Co.*

This is a similar analysis of the Transfer of Property Act. The subject being very much less complicated, the need for such a book does not seem to be quite as clear ; nevertheless,we have no doubt that the student hard pressed for time, will find it useful.

THE LAW RELATING TO BURDEN OF PROOF. *By T. Narasiṃhachari Esq., B. A. B. L. of the Madras Provincial Civil Service, Judicial Branch.*

This little book contains a concise and well-arranged collection of the principles relating to burden of proof. The authorities bearing on the principles stated are exhaustively collected in the footnotes. The subject is not one on which the practitioners are likely to get much assistance from the digests and the book like this must on this account be all the more welcome. We commend this as a useful publication.

PROCESS SERVER'S MANUAL. *By V. Daniel Chellappa, B.A., B.L., under the supervision of H. Moberly, Esq. I.C.S.*

An unpretentious but very useful compilation. The process-servers as a rule are drawn from a class who cannot in the nature of things be expected to ascertain for themselves, the duties they have to perform by reference to original authorities. Unlike the Police constable who is carefully taught what his duties are, the process-server who is to perform no less important functions is left to take care of himself, with what results we know. This book will go a great way towards remedying the defect. Its range of usefulness is considerably enlarged by being translated into Tamil and Telugu. We hope it will soon be translated into all the Vernaculars of the Presidency.