

ELEMENTS
OF
HINDU LAW;

REFERABLE TO
BRITISH JUDICATURE

IN
INDIA.

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IN TWO VOLUMES:
VOL. I.

Omnes, suis legibus et judiciis usæ, *adversus* adeptæ, revirescunt.
Cic. Ep. ad Attic. c. vi. ep. 11.

Let him: (the king) establish the laws of the conquered nation,
as declared in their books. MENU, ch. vii. v. 203.

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AND BUTTERWORTH AND SON, FLEET STREET.

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mount authority in the territories dependant on the government of Madras. These are the *Smriti Chandrica*, the *Madhavya*, and the *Saraswati Vilasa*.

Of the author of the *Smriti Chandrica*, named Devanda Bhatta, little, if any thing, seems to be known. The work, attributed to him, was compiled during the existence of the *Vidyanagara* dominion, (an extensive Southern empire, that flourished during the thirteenth, fourteenth, and fifteenth centuries of our era;) but apparently not under the direct sanction of the government. It has been considered by Mr. Colebrooke, to be a work of uncommon excellence, if not superior, in extent of research, and copiousness of disquisition, to the *Madhavya*; though he would not venture to say, upon his own opinion, which would prevail where they might be found to differ. And Mr. Ellis regarded it as highly valuable, for the complete information it affords, of the constitution of the several sorts of judicial tribunals, that existed in Southern India, at the time when it was composed;(1)—and useful for practical purposes, as affording precedents for the forms of processes, deeds, &c.; —as well as for the clearness, with which points of law in it are discussed.

With regard to the *Madhavya*, compiled for the Canarese dominions, by *Vidyaranya*swami, the eminently learned minister of the founder of *Vidyanagara*; who, living in the fourteenth century, may be considered to have been, as it were, the lawgiver of the last Hindu dynasty;—of

(1) See letter B. at the end of the volume, p. 319.

the first and third *Candas* of this celebrated work, to which the author gave the name of his brother *Madhava Acharya*, the basis is the text of *Parasara*; but, as has been already explained, having, for the second, nothing of that *Smriti's* to proceed upon, it became in fact though not in name, a general Digest of all the legal authorities prevalent at the time in his part of India. However this may detract in some degree from its effect, as being bot-tomed in truth upon no particular text, the general fame of the author is so great, resting, as it does, not upon this work alone, but, upon others also, particularly on his Com-mentary upon the four Vedas,—that, among his more intense admirers, he is held to have been an incarnation of Siva; and the work in question has, at all events, the advantage of being later in time than that of the *Smriti Chandrica*, upon the basis of which it has been thought by Mr. Cole-brooke to have been evidently formed.

Somewhere about the twelfth century of our era, the princes of the *Cacatya* family, establishing themselves to the north of the Crishna, built Annumconda, or Orugallee, usually written *Warankul*, where they fixed their seat of government; which, extending itself by conquest, be-came the second great empire to the Southward; the first having preceded it about four centuries, while the third was that of *Vidyanagara*, already noticed. This second, comprehending, as it does, the territories now belonging to Hyderabad, the northern Circars, a considerable portion of the Carnatic, and, generally speaking, the whole of the countries, of which the Tailanga is at present the spoken

language,—the *Saraswati Vilasa*, a general Digest, attributed to *Prataparudra-déva-Maha Raja*, one of the above-mentioned princes, (but probably composed only under his direction,) became the standard law-book of his dominions; in which, (says Mr. Ellis,) the influence of its alleged regal origin, and the introduction of new notions, referable, as has been thought, to the progress of the Mahomedan invasions, extending themselves about that time in a southerly direction, is very apparent. For the first time in India, the will of the prince is in it declared paramount to the right of the subject; and the claim, on the part of the ruling power, to the absolute property in the soil, on which the modern revenue system of that country is founded, is here advanced. It continues to be a book of some authority to the northward of the Pennar, where many customs exist, particularly respecting the tenure of land, that are derived from it; yet, even here, within its proper limits, it is in a great measure supplanted by that of the Commentary of *Vijnyaneswara*, the prevailing authority in Southern India.

To conclude this brief account of Hindu law-books, with some notice of the *Digest*, that is in familiar use;—which, originating in the suggestion of Sir William Jones, was compiled by *Jagannatha Tercapunchana*, (a learned Pandit,) and translated from the Sanscrit by Mr. Colebrooke;—it consists, like the Roman Digest, of texts, collected from works of authority, extant in the Sanscrit language only, having the names of their several authors prefixed, together with an ample commentary by