

DIGEST
OF
HINDU LAW,
ON
CONTRACTS AND SUCCESSIONS:
WITH A
COMMENTARY
BY JAGANNÁTHA TERCAPANCHÁNANA.

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TRANSLATED FROM THE ORIGINAL SANSKRIT,
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“ already made in Sanscrit and Arabic, which approach
 “ nearly, in merit and in method, to the Digest of JUSTINIAN.
 “ The first was composed a few centuries ago by a *Bráhma*
 “ of this province, named RAGHUNANDANA, and is comprised
 “ in twenty-seven books at least, on every branch of *Hindu*
 “ law : the second, which the Arabs call the Indian Deci-
 “ sions, is known here by the title of *Fetáwí Aálemgiri*,
 “ and was compiled, by the order of AURANGZIB, in five
 “ large volumes, of which I possess a perfect and well
 “ collated copy. To translate these immense works, would
 “ be superfluous labour ; but they will greatly facilitate the
 “ compilation of a Digest on the Laws of Inheritance and
 “ Contracts ; and the Code, as it is called, of *Hindu* law,
 “ which was compiled at the request of Mr. HASTINGS, will
 “ be useful for the same purpose, though it by no means
 “ obviates the difficulties before stated, nor supersedes the
 “ necessity, or the expedience at least, of a more ample
 “ repository of *Hindu* laws, especially on the twelve different
 “ contracts, to which ULPÍAN has given specific names, and
 “ on all the others, which, though not specifically named,
 “ are reducible to four general heads. The last-mentioned
 “ work is intitled *Vivádárnavá Sétu*,⁽¹⁾ and consists like the
 “ Roman Digest, of authentic texts, with the names of their
 “ several authors regularly prefixed to them, and explained,
 “ where an explanation is requisite, in short notes, taken
 “ from commentaries of high authority : it is, as far as it
 “ goes, a very excellent work ; but though it appear ex-

(1) The composition of this work was proposed as early as the 18th of March 1773 at the opening of the Court of Sudder Dewanny Adawlut of Bengal, and in December in the same year it was reported to the President that the Digest was nearly completed in the Sanscrit language, and that a translation was being made into Persian for the purpose of being again translated into English. Early in the following year, 1774, Warren Hastings transmitted a specimen of the English version to the Court of Directors : and in the same year, Mr. Halhed published the entire work in English under the title of “A Code of Gentoo Laws.”—For the reasons given by Sir William Jones, this is not considered a work of any authority, and reference to it is seldom made in judicial proceedings

“ tremely diffuse on subjects rather curious than useful, and
 “ though the chapter on Inheritances be copious and exact,
 “ yet the other important branch of jurisprudence, the Law
 “ of Contracts, is very succinctly and superficially discussed,
 “ and bears an inconsiderable proportion to the rest of the
 “ work. But, whatever be the merit of the original, the
 “ translation of it has no authority, and is of no other use
 “ than to suggest inquiries on the many dark passages
 “ which we find in it : properly speaking, indeed, we cannot
 “ call it a translation ; for though Mr. HALHED performed
 “ his part with fidelity, yet the Persian interpreter had
 “ supplied him only with a loose injudicious epitome of the
 “ original *Sanscrit*, in which abstract many essential pas-
 “ sages are omitted, though several notes of little conse-
 “ quence are interpolated, from a vain idea of elucidating
 “ or improving the text.”*

Besides the great work of RAGHUNANDANA abovementioned, many other Digests have been compiled by *Hindu* lawyers ; which, like his, consist of texts collected from the Institutes attributed to ancient legislators, with a gloss, explanatory of the sense, and reconciling seeming contradictions, to fulfil the precept of their great lawgiver, “ When there are “ two sacred texts apparently inconsistent, both are held “ to be law ; for both are pronounced by the Wise to be “ valid and reconcilable.”† From various Digests, and from commentaries on the institutes of law, the present Digest has been compiled ; and the venerable author, JAGANNAT’HA, has added a copious commentary, sometimes

* The letter from which this extract is taken, is dated 19th March 1788. On the same date, the then Governor-General, MARQUIS CORNWALLIS, with the concurrence of the Members of Council, accepted the offer in terms honourable to the proposer, and expressive of the most liberal sentiments. “ The object of your proposition,” they say, “ being to promote a due administration of justice, it becomes interesting to humanity ; “ and it is deserving of our peculiar attention, as being intended to increase and secure “ the happiness of the numerous subjects of the Company’s provinces.”

† MENU, Chap. II, v. 41.