



S. ROW'S THE PROVINCIAL INSOLVENCY ACT. (3rd ed. 1975) ED.
REVISED By M. Ram, S. Dev, E.S. Subrahmanyam and Jai Parkash,
Law Book Company, Allahabad. Pp. xviii+918. Price Rs. 65

THE LAW of insolvency in this country, like most other laws, owes its origin to English law. There was no indigenous law of insolvency in India. The common law in England did not deal with the subject of bankruptcy. The bankruptcy law was purely a creature of statute. The earlier Statutes passed in the 16th century and subsequent years contained only rudimentary provisions as to bankruptcy. The important statutes on the subject are the Bankruptcy Acts passed by the British Parliament in 1849, 1869, 1883 and 1914. In India, the necessity for an insolvency law was first felt in the three Presidency towns of Calcutta, Bombay and Madras where the British carried on their trade.¹

The first attempt to introduce insolvency law into the provinces was made in 1877. Some fifteen rules were framed and incorporated in Chapter 20 of the Code of Civil Procedure, 1877, and power was given to district Court to entertain insolvency petitions and to make orders of discharge. Those rules were contained in sections 344 to 360 of that Code and they were reproduced with some alterations in Chapter 20 of the Code of Civil Procedure, 1882. In 1907, the first Provincial Insolvency Act was passed containing about fifty-six sections. The Act contained a simple but fairly complete procedure in insolvency adapted to the provincial courts. The Act of 1907 was repealed by the Provincial Insolvency Act, 1920, which is the Act now in force.²

Article 372 (1) of Indian Constitution provides :

[A]ll the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

The author in his preface to the third edition of the book under review says that he attempted the book for students and practitioners. S. Row's work on *Provincial Insolvency Act 1920* shows that an outstanding work can be written which can instruct students, guide practitioners and inform laymen the details of the subject.

It is undubious that this work has its own excellence and is adequate to explain the subject to an average student. So it is of interest to students of subject. In this respect the author's attempt deserves welcome.

Coming to the peculiarities of the book, the present reviewer feels that

-
1. Law Commission of India, *Twenty-sixth Report, Report on Insolvency Laws, para 2* (1964).
 2. Mulla, *Law of Insolvency in India 12* (1977).



the organisation and exposition of the subject has been dealt with keen eyes. Although, the presentation is stereotyped yet the book proves the author's deep understanding and study of the subject. Analytical approach towards the intermingled provisions of the statute is revealed by the point-wise treatment of the Act. The interpretation of the provision of the Act with the help of the case law certainly helps the reader to understand the subject well.

Section 9 of the Act "the requirements of petitioning creditor, must be an existing creditor," has been handled in a more satisfactory manner³ than is to be found in any other text book in this field.

Commentary on section 41 reveals not only deep study but also considerable reflection on the basic problem "whether the insolvent should be made free." It gives a clear exposition of the present position of law.

Although at times, the author could not resist the temptation of being orthodox he has cautiously tried to avoid this weakness. For example, the commentary of every section has been broken into parts. Each part carries its heading, which is given in the synopsis after every section. This makes the search easy and much time is saved in locating commentary on any aspect of the section. The revision, being recent has the added advantage of incorporating the latest trend in case law on most topics.

The systematic historical introduction of the present Provincial Insolvency Act has been overlooked. Although relevant English statutory provisions are given after every section, they do not distract the readers.

The book starts with an addenda, which could have been well placed at the end of the book in the usual Appendix form. A serious omission of this edition is the lack of table of cases. This impairs its utility, specially for the students who are taught by the case method and for the busy lawyers.

When we take into account, the modest size of the book, the work succeeds in a large measure in high-lighting the important decisions and interpretations. But the reviewer feels that the book abounds in unnecessary details. At times we find long tedious sentences running into about one hundred words.⁴

The style of the book needs much improvement. There are many mistakes of grammar. For example at most places there is the omission of articles like "an". Though the get up of this book is attractive, printing is not upto the standard. Types used in the printing are old and many times words do not appear complete. For example at page 429, Sec. 41 (1) in 'discharge' "s" is completely missing.

But it must be said that these faults do not detract from the basic quality of S. Row's learned work.

*N.K. Rohatgi**

3. S. Row, Provincial Insolvency Act, 146 (1975).

4. *Eg. see id* at 145.

* M.A., LL. M., Lecturer in Law, Campus Law Centre, University of Delhi.