

INTERPRETATION OF STATUTES (2nd ed. 1983). By A.P. Chatterjee.
Eastern Law House Pvt. Ltd., 54, Ganesh Chunder Avenue, Calcutta-
700-013. Pp. [72]+ 610. Price Rs. 108· £ 10 : \$ 16.

JUSTICE HOLMES observed: "A word is not a crystal, transparent and unchanged; it is the skin of a living thought and may vary greatly in color and content according to the circumstances and time in which it is used."¹

Though evolved in human society primarily as a medium of communication of ideas and feelings between man and man, even the most scientific, well disciplined and pure language does not always convey the same meaning to all those to whom it is addressed. If it were otherwise, the enacted law by the legislature could be applied mechanically by the courts in specific cases and there would have been no need for trained judges and lawyers. The judicial process would have been most simple which, perhaps, could be conducted even by laymen. Perhaps, litigation also would have been very much less and the judicial decisions predicted with certainty. But, as the meaning of the words change from time to time and depend also upon the persons concerned, the interpretation of statutes passed by legislatures becomes important. This has increased the judicial power tremendously. To discipline this power of wide discretion, to avoid arbitrariness in judicial process and to provide precedents, the courts themselves have evolved in the course of judicial process principles, theories, rules and doctrines for the interpretation of statutes so as to provide guidelines in that process.

Interpretation of statutes has itself become a subject on law and not of law. Starting from P.B. Maxwell's *The Interpretation of Statutes* several books have been published by judges, lawyers and jurists. In India also some attempts have been made in this direction dealing with the principles of interpretation of Indian statutes and the Constitution of India.² To a large extent the works are adoptions of Anglo-American jurisprudence with Indian examples.

The author has dealt comprehensively with the construction process by the courts in the book under review. He has divided the book into twenty-two chapters—nineteen chapters in the first edition and three more being added to the second edition.

The nineteenth century was dominated by the strict construction of the statutes theory in England and the twentieth century in veering round the technique of intention of the framers of the statute inspired by the

1. *Towne v Eisner*, 245 U.S. 418 at 425 (1917): 62 L Ed. 372 at 376.

2. See, e.g., G.P. Singh, *Principles of Statutory Interpretation* (1975).

continental practice. It is further developed into a "schematic method" of interpretation of looking into the method of scheme, design and purpose. Each method serves a purpose and has got limitations and is counter productive if applied fanatically and universally. Choice of the technique of interpretation depends upon the nature of the document, and social circumstances, consequences and goals of the enactment. Courts have a dynamic role to play in interpreting old statutes in the light of new dimensions and dynamics of social conditions and technological advances and impacts. William L. Reynolds observes :

A statute often addresses problems whose dimensions change over time. A court must decide whether the old bottles corked by the legislature can pour new wine. Although the problem looks tricky, it is not necessarily so, and courts have not been reluctant to distribute new vintages.³

However the judge has a difficult role to play in modern times. As W. Friedmann points out :

In modern democratic society, the judge must steer his way between the Scylla of subservience to government and the Charybdis of remoteness from constantly changing social pressures and economic needs.⁴

The author comprehensively surveys the whole field of constructive process referring to the relevant rules, techniques, theories and doctrines of interpretation, profusely illustrating with English and Indian case law up to 1982. The chapter on "Interpreting the Constitution" is interesting. He has dealt in detail with the role of preamble in interpreting the Constitution⁵ while referring to *Berubari*^{5a} and *Kesavananda*.⁶ The author's emphasis on the view of the Supreme Court in *Kesavananda* that the entire scheme of the Constitution has to be taken into consideration in its interpreting the Constitution⁷ is noteworthy. One may go a step further and say that Granville Austin's description of the Indian Constitution as a "social document" should always be kept in view for making an honest approach in interpreting the Constitution. The goals and targets of the Constitution should be viewed as the polestar in navigating the ship of nation across the sea of constitution and this should reflect in the construction process of the Constitution. Had this been followed by

3. *Judicial Process* 280 (1980).

4. *Law in a Changing Society* 88 (1972).

5. A.P. Chatterjee, *Interpretation of Statutes* (1983).

5a. *In re Berubari Union and Exchange of Enclaves*, A I.R. 1960 S.C. 845; see *id.* at 440

6. *Kesavananda Bharati v State of Kerala*, A I.R. 1973 S.C. 1461,

7 See *supra* note 5 at 443.

the Supreme Court from the beginning, the compensation conundrums, the supremacy controversies, the invalidity amendment syndromes of the Constitution and the constitutional convulsions would have been avoided to a large extent. An integrated and synthetic approach with a goal oriented philosophy should form the theoretical basis in the interpretation of basic documents. The author stated in the very first sentence of the book that its object is "to collect the principles followed by the courts in India and U.K. in interpreting the statutes". He fairly succeeded in his attempt in this direction. It may be difficult to agree with his view that the draftsman, the salaried servant who frames the law, makes the law and is the corner-stone of legislation. His view that a common citizen ought to know the rules of interpretation of the statutes is, though laudable, a fond hope. He is too ambitious to think: "[T]hat common litigant is also within the purview of this work..." An exhaustive table of cases, a detailed table of contents and a comprehensive index enhance the value of the work. The book is a welcome addition to the existing Indian literature on interpretation of statutes. Benjamin. N. Cardozo realistically said :

Our survey of judicial methods teaches us, I think, the lesson that the whole subject matter of jurisprudence is more plastic, more malleable, the moulds less definitively cast, the bounds of right and wrong less preordained and constant, than most of us, without the aid of some such analyses, have been accustomed to believe.⁸

As already mentioned, with addition of three chapters and updating the case law to 1983, the second edition is an improvement over the first and certainly helps both the academic and practising lawyers.

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8. *The Nature of the Judicial Process* 161 (1964 reprint).

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BOOKS RECEIVED FOR REVIEW

S.C. SRIVASTAVA, *Industrial Relations and Labour Laws* (1984). Vani Educational Books (A Division of Vikas Publishing House Pvt. Ltd.), 5, Ansari Road, New Delhi-110 002. Pp. xii + 424. Price Rs. 60.

S.N. DHYANI, *Law, Morality and Justice : Indian Developments* (1984). Metropolitan Book Co. (P) Ltd., 1, Netaji Subhash Marg, New Delhi-110 002. Pp. xi + 144. Price Rs. 60: \$ 12.

S R. BHANSALI (ed.), *IV Indian Journal of Legal Studies* (1981-84). Faculty of Law, University of Jodhpur, Jodhpur. Pp. viii + 256. Price Rs. 40: \$ 5: £ 4.

W.R. ANSON, *Law of Contract* (26th ed. 1984 by A.G Guest). Oxford University Press, Walton Street, Oxford OX2 6DP, U.K. Pp. vi + 641. Price £ 15.95.

ZOLTAN PETERI (ed.), *Legal Theory—Comparative Law* (Studies in Honour of Professor Imre Szabo) (1984). Akademiai Kiado, Publishing House of the Hungarian Academy of Sciences, P.O.B. 24, H-1363, Budapest, Hungary. Pp. viii + 464. Price \$ 36.50.

K.P. CHAKRAVARTI, *Criminal Major Acts* (1985). Eastern Law House Private Ltd., 54, Ganesh Chunder Avenue, Calcutta-700 013. Pp. [119] + 953. Price Rs. 135.

O.P. DWIVEDI and R.B. JAIN, *India's Administrative State* (1985). Gitanjali Publishing House, 2/12, Vikram Vihar, Lajpat Nagar IV, New Delhi-110 024. Pp. x + 269. Price Rs. 150.

R.C. HINGORANI, *Human Rights in India* (1985). Oxford & IBH Publishing Co., 66, Janpath, New Delhi-110 001. Pp. vii + 181. Rs. 95.

SATISH CHANDRA, *Individual's Petition in International Law* (1985). Deep & Deep Publications, D-1/24, Rajouri Garden, New Delhi-110 027. Pp. viii + 287. Price Rs. 150.

S.R. KHARBANDA and PREM NATH, *Tax Planning and Assessment* (1985). Commercial Publishing House, 4289/3, Ansari Road, Darya Ganj, New Delhi-110 002. Pp. xlv + 508. Price Rs. 110.

SURENDRA MALIK, *Supreme Court on Preventive Detention* (1985). Eastern Book Company, 34, Lalbagh, Lucknow-226 001. Pp. xxxi + 446. Price Rs. 90.

T. BHATTACHARYYA, *The Interpretation of Statutes* (1985). Lata Publications, G-90, Major Shaitan Singh Colony, Shastri Nagar, Jaipur-302 016. Pp. 226 + xxxviii. Price Rs. 90.

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