

CRIMINAL REFERENCE (3rd ed. 1984). By A.N. Saha. Eastern Law House, Calcutta. Pp. [7]+1104. Price Rs. 160.

THE BOOK under review contains 31 chapters. The first chapter deals with interpretation of statutes in 13 pages out of which the first six contain digested case law on interpretation in general and next seven relate to history and binding nature of precedents, precedents on statutes in *pari materia*, decisions *per incuriam*, the use of reports of law commissions and special rule of interpretation of penal statutes. The second chapter in 30 pages deals with constitutional principles of criminal liability in which case law pertaining to *ex post facto* laws, preventive detention, detention after acquittal, information to the accused regarding grounds of arrest, right to be defended by a lawyer, free legal aid, double jeopardy, liberty, surveillance, classification of criminals, torture in prison, leave to appeal to the Supreme Court, pardon and clemency, *etc.*, has been given. The third chapter in 13 pages covers general principles of criminal prosecution, in which cases have been digested under the headings of law and justice and fundamental right, the role of a judge in trial of criminal cases, norms of conduct of a judge, the handcuffing of undertrial prisoners, the accused's right to have a seat, the presence of a party during the whole day, *res judicata* in criminal trials, principle of issue estoppel, right to be tried by a particular court, limitation for malicious prosecution, continuance of criminal proceedings after repeal, *mens rea*, mistake as a defence, vicarious liability, extradition and fugitive offenders, and extra-territorial operation of law to foreigners, *etc.* Then from chapter four to 31 case law on some provisions of 28 penal statutes including the Indian Penal Code 1860, Code of Criminal Procedure 1973 and Evidence Act 1872 has been digested. The choice of statutes included and excluded appears to be random and defy any criterion or basis. Bacon, while swearing in a new judge, used to give advice: "Draw your learning from your books and not from your brains." If we still tend to believe that judges and more so practitioners of today desire to draw their learning from books including the one under review, then the author should have done an exhaustive work regarding provisions of statutes included in it. No effort has been made to give complete statement of law upto 1984.

The author in his preface begins with an invocation similar to an attempt made by Bracton in his *Laws and Customs of England* (in the thirteenth century). He says: "Making the law into science is truly the objective of a compiler of judge-made law." He further says: "Whether or not I have succeeded in my venture is for others to judge." In the context of our country invocation of great writers like Bracton can at best be taken as inspirational. Keeping in view the legal history of England a properly educated lawyer would know that attempts like Bracton's were necessary to make chaotic judgments at common law systematic. It was not till almost the middle of the nineteenth

century that the task of scientific objectivity was taken up by the legislature. Massive codification of English law reduced the need of an enterprise like that of Bracton and the requirement of practising lawyers of ready references was fulfilled by digests. In India which has been a code country since the very beginning, Bractonian enterprises were not called for. That is why we find that the precedent system in Indian law was set up on the mechanisms of authoritative law reports and yearly and quinquennial digests. In the field of criminal law a book like A.C. Ganguly's *Guide to Criminal Courts Practice* had and continues to have a great value as it gives to the beginner in criminal law practice a summary presentation of all that he needs in areas of substantive, procedural and evidentiary aspects of criminal law.

Obviously this is not, and even if it is intended, cannot be the purpose of the present work. It is neither exhaustive regarding statutes taken up nor illustrative of all major fields of criminal law. Perhaps, in view of ever increasing volume of material pertaining to criminal law the author has found it necessary to apply pruning knife drastically. For the same reason, he has felt bound to resist strenuously the temptation of embarking upon a discussion with regard to development of law or trends, or any attempt to discuss points which appear germane to recent decisions though not actually decided by courts, or to reconcile apparently conflicting decisions; this task seems to have been left for other writers on the subject.

The work is a digest in a more manageable form of significant decisions of courts in the fields of substantive, procedural and adjectival criminal law. While it is not possible to check or crosscheck the accuracy and exactitude with which decisions have been digested in a small paragraph or sometimes in two or three sentences, a cursory reading shows that the digesting has been done by a person who has an outstanding expertise in the area. It would be better if a supplemental service is introduced at regular intervals on the lines of Archbold's *Pleading, Evidence & Practice in Criminal Cases*.

The book, as a condensed digest, should be useful to lawyers, academics and researchers in starting off with preliminary information in an area of criminal law.

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