

THE LAW of statutory interpretation has almost become a speciality in modern times and it is now gradually being realised that the sources of those law are statutory as well as non-statutory. The statutory sources for interpretation of legislation are ordinarily found either in the legislative measure itself (in the form of interpretation clause) or in the general statute relating to interpretation in force for the time being. In India, it is the General Clauses Act 1897 which primarily contains the statutory law of interpretation, along with the General Clauses Acts of various states which are applicable for the interpretation of state enactments. With the growth of statutes and statutory instruments during recent years, the General Clauses Act should be regarded as of practical importance; and books on the subject usually afford some help.

The Act of 1897, which is the subject-matter of the book under review, has a long history. The first Interpretation Act in UK passed in 1850 on the initiative of Lord Brougham, was followed in India by the General Clauses Act 1888 drafted by Whitley Stokes. In 1889, UK passed a new Act on the subject, which in its turn was followed in India by the present Act of 1897, though in between, the General Clauses Act 1887 had been passed to supplement the earlier Indian Act of 1868.

In UK, the Interpretation Act 1978 now seeks to modernise the law. The significance of legislation of this character was explained by the Law Commission of India in its Report on the Act which was forwarded in 1974.<sup>1</sup> As was pointed out by the Commission such an enactment seeks to achieve the following main objectives:

- (i) to shorten the language of enactments;
- (ii) to provide, as far as possible, for uniformity of expression in Central Acts by giving a definition of words in common use in legislative phraseology;
- (iii) to state explicitly certain convenient rules for the construction and interpretation of Central Acts; and
- (iv) to make available certain common form clauses which might otherwise required to be inserted expressly in every Central Act.

The Interpretation Act is thus a kind of legislative dictionary - an aspect noted by the Supreme Court also in one of its judgments.<sup>1a</sup> Besides this, the Interpretation Act applies for the interpretation of the Constitution also, as provided in article 367.

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1. Law Commission of India, *Statisth Report on the General Clauses Act, 1897* (1974).

1a. *Chief Inspector of Mines v. Karam Chand Thapar*, A.I.R. 1961 S.C. 838 at 843.

On a subject of such daily use and considerable practical importance, it is natural that judicial decisions would go on clarifying and supplementing the provisions of the Act with regular frequency. There is a rich crop of case law on the Act under consideration though unfortunately, there is not much academic literature on the subject. The reason for the paucity of academic literature may be that the subject is somewhat technical. To the legislative draftsman, the General Clauses Act is the most important working tool. But to the practising lawyer, the Act does not appear to be very attractive. In any case, this Act does not yet receive much detailed attention in the teaching of law. The result is that the Act has tended to be a kind of speciality of specialities. There is, of course, no theoretical reason why the General Clauses Act should not be regarded as a legislative measure of vital importance for anyone who has anything to do with the law. If one thinks about the matter at leisure, such a key enactment or master statute can be viewed as supplying endless hours of intellectual exploration. The lawyer, in his ordinary run of the profession, deals with words; and the General Clauses Act - at least the bulk of it - is construed with the use of words peculiar to statute. Hence anyone who is concerned with the sources of law, should find a study of the Act rewarding, in theory and practice. It is worth pointing out that the General Clauses Act, at least in the first few sections, defines words themselves and defines them for all times to come and for all enactments, unless, of course, the context of the particular enactment indicates to the contrary. Herein lies the perennial and recurring value of such enactments.

The book under review<sup>2</sup> does seek to do justice to the abundant case law on the subject and in fact its main focus has been on the case law. So far as can be seen, the treatment of case law is satisfactory. At places, the author has also given references to English writers on the subject, particularly Maxwell and Craies. The utility of the book is increased by its having included the State General Clauses Acts, the English Act and the Adoption of Laws Orders. Incidentally, the title of the Central Act - as was pointed out by the Law Commission of India in its Report on the subject - is not very appropriate and the more proper title would have been "Interpretation of Statute" or some similar expression. It is of interest to note that Kerala, Meghalaya and Sikkim have adopted this phraseology which is also the phraseology adopted in UK and many countries of the Commonwealth, with variations. The Meghalaya and Sikkim Acts are obviously influenced by the discussion and recommendations in the Report of the Law Commission.

It is, however, necessary to make certain comments in regard to arrangement and style followed in the book under review. The first 90 pages of the book deal with matters outside the Act and are concerned with questions which are normally dealt with in books devoted to general rules of statutory interpretation. This, while useful in a sense, suffers from the handicap that too much would then be required to be compressed in too little space. For example, the use of provisos and their significance in legislation<sup>3</sup> would require much more detailed treatment than was

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2. V.D. Mahajan, *General Clauses Acts : Central and States* (6th ed. 1990).

3. *Id.* at 78-80.

possible in the book. Similarly, the material regarding *stare decisis*<sup>4</sup> requires more detailed treatment because the doctrine of precedent, particularly in the Indian context, could turn out to be a very fascinating topic. In fact, legal learning in this sphere during recent times has not coped up with the practical importance of this doctrine. It is not unlikely that the effect of Supreme Court judgments and pronouncements as binding precedents on High Courts and the precise impact of the constitutional provisions as to the power of the Supreme Court to declare or apply the law might come to constitute a very crucial area for judicial decision as well as for doctrinal debate in India.

The reviewer has found that at several places the discussion in the book on a particular clause could be made more useful if it is divided under suitable headings and sub-headings. For example, the expression "good faith" occupies 15 pages in the book<sup>5</sup> and ranges over the meaning of that expression as used in several enactments, including the Limitation Act, the Indian Penal Code, the Contract Act, the Transfer of Property Act and so on. It is obvious that suitable sub-headings would help the reader. The same comment applies to the definition of immovable property.<sup>6</sup> Many more examples could be given.

When one comes to the effect of repeal,<sup>7</sup> some other problems arise apart from those resulting from lack of suitable sub-headings. There is repetition of the same points.<sup>8</sup> The fascinating topic of repeal by implication, finds its place under paragraph 14 devoted to "repeal by implication"<sup>9</sup> and the need for some kind of systematic sub-headings is felt the most at such places. Incidentally, there is the statement in the book as under:<sup>10</sup>

Section 306 of the Indian Penal Code is a special provision dealing with approvers. This provision will normally have preference over the general provisions of the Code of Criminal Procedure, 1974 embodied in Section 209.

The exact purport of this statement is not intelligible because the Penal Code does not deal with the position of approvers. The topic of expiry of temporary enactments is dealt with at several places in the book.<sup>11</sup> The discussion of this point<sup>12</sup> is definitely useful, but its utility could be enhanced by drawing attention to the discussion on the point in the Report of the Law Commission.

The General Clauses Act, though apparently dealing with matters of interpretation, does have an impact on the substantive law in its provisions, of which

4. *Id.* at 87.

5. *Id.* at 163-78.

6. *Id.* at 189-217.

7. *Id.* at 395-804.

8. *E.g., id.* at 470-1.

9. *Id.* at 442-4.

10. *Id.* at 469.

11. *E.g., id.* at 511, 611. In fact, the case of *State of Punjab v. Mohar Singh Pratap Singh* (1955) is dealt with both at page 511 and at pages 612 and 613.

12. *Id.* at 611-43.

section 26 is an important example. This section provides that where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence. Though framed as a rule of statutory interpretation, this provision gives effect to an important principle of justice and avoids the oppression of punishment under more than one enactment. The exact inter-relationship of this section of the General Clauses Act with section 71 of the Indian Penal Code and article 20(2) of the Constitution awaits detailed exposition. The book touches this point on some pages.<sup>13</sup>

Section 27 of the General Clauses Act is another provision whose importance is not merely as a rule of statutory interpretation, but as a rule having procedural significance. Dealing with the meaning of service by post, this section provides that such service shall be "deemed to be effected" by properly addressing, pre-paying and posting by registered post a letter containing the document in question. Further, the service is deemed to have been effected in such a case "at the time at which the letter would be delivered in the ordinary course of post". The section has an interesting link with section 106 of the Transfer of Property Act and has become of some importance after the introduction of service by post in order 5 of the Code of Civil Procedure. Case law under order 5 might require more detailed examination in the next edition of the book.

All in all, the book will continue to maintain its utility as a source of reference.

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13. *Id.* at 1140-1, 1169-70, etc.

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## BOOKS RECEIVED FOR REVIEW

B.L. HANSARIA, *Right to Life and Liberty under the Constitution* (1993). N.M. Tripathi Pvt. Ltd., 164 Samaldas Gandhi Marg, Bombay 400 002 Pp. 213. Price Rs. 180.

D.N. SEN, *The Hindu Succession Act, 1956* (1993). R. Cambray & Co. (P) Ltd., P-33, Mission Row Extn., Calcutta-13. Pp. 193. Price Rs. 180.

K.I. VIBHUTE, *Dr. Ambedkar and Empowerment: Constitutional Vicissitudes* (1993). University of Poona, Pune-7. Pp. lxii+301. Price Rs. 200.

MANOHAR S. PAWAR, *Justice Processing Sans Justice - Delays and Plight of Defendants* (1993). Tata Institute of Social Sciences, Bombay. Pp. 234. Price Rs. 100.

R.G. CHATURVEDI AND M.M. CHATURVEDI, *Law on Protection of Environment and Prevention of Pollution (Central and States)* (1993). Law Book Co. (P) Ltd., 18-B, Sardar Patel Marg, P.B. No. 1-004, Allahabad. Pp. lxiii+1085. Price Rs. 500.

V.G. RAMACHANDRAN, *Law of Writs* (5th ed. 1993). Eastern Book Co., 34, Lal Bagh, Lucknow. Pp. xii+1201. Price Rs. 360.