Assistant Collector, central Excise Bhopal. AIR 1961 MP 353 at p 355 : 961 MPLJ 1244 (DB). that the power to bring into force an Act is only delegated power, and in case the Act is intended to be brought into force in a new area immediately, the subsequent enactment for that purpose, in saying so, takes away by necessary implication, the delegated power.

Pre-existing disputes are to be governed by appropriate law in force at that time unless indicated to the contrary in the Code. Raghunah Singh v. Gangabai, 1960 Jab LJ 998 ; Bharat Singh Goverdhan Singh v. Additional Commissioner, Nagpur, 1961 Nag LJ 46 at p 48.

**Postponement of the Commencement of Act.—** Mere existence in a statute of a postponement clause affecting vested rights is not at all indicative of the intention of the Legislature for its retrospective operation; since there must be express words in the statue to the effect. Av. P. L. Ct. Ramanathan Chettiar v.N. L.P. Lakshman Chettiar, AIR 1963 Mad 175 : (1963) 1 MLJ 46.

***6. Where this act, or any [1][Act of Parliament] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not -***

*(a) revive anything not in force or existing at the time at which the repeal takes effect; or*

*(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or*

*(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or*

*(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or*

*(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;*

*and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing act or Regulation had not been passed.*

1. Subs. by P.O. No. 147 of 1972, Art. 7 for "Central Act".

## Scope and applications

Only cases pending trials before a tribunal which had taken cognizance of the offence shall be tried by such tribunal when the amending law come into force changing the forum of trial. Sakya Pada Barua Vs. State. 38 DLR 1986(86).

Service when effected in the manner stated - Presumption of due services unless contrary is shown. Nurul Islam Vs. Abdul Malek. 38 DLR (AD) 1986(115).

**Repeal - Effect of** - Right provided to an aggrieved person who had already filed an application under para 1 of MLO 9 subsisted after the repeal by operation of sub-para 9 of para 19 of the Forth Schedule of the Constitution read with section 6 of the General Clauses Act. The President is empowered to create a forum by making an order under para 5 of the Proclamation of withdrawal of Martial law for disposing of pending applications under para 1A of MLO 9. Mahtabuddin ahmed Vs. principal Secretary President's Sectt. Dhaka. 42 DLR 1990 (1).

Right to practice as an Advocate of the Appellate Division - Question of entitlement to practice before the Appellate Division of the Supreme Court of Bangladesh by an Advocate of the then High court of Bangladesh without having enrollment under Supreme Court of Bangladesh (Appellate Division) Rules, 1988. The appellant was entitled to practice before the Appellate Division of the then High Court of Bangladesh under P.O. No. 91 of 1972 and this entitlement continued till 16th December, 1972. With effect from that day, which is the day of commencement of the Constitution Bangladesh the provisions of Article 7(3) of. No. 150/72 came into force, and thereunder any reference in any law to an advocate of the High court of Bangladesh shall be construed as an Advocate entitled to practice before both the Divisions of the Supreme Court. Also section 6(c) of the General Clauses Act will apply to the appellant's case so as not to affect his right accrued under the repealed law (P.O. No. 91/72). Shamsuddin Ahmed Vs. Bangladesh. 44 DLR (AD) 203.

Accused was discharged by the Magistrate before Ordinance 49 of 1978 came into force on 1.6.79; hence his case will be governed by the provisions of the Cr. P. Code according to section 6 of the General Clauses Act. Fazlul Huq Vs. State. 35 DLR 1983.

Proceedings based on the earlier repealed Act continued by section 6, as it was at the time when they were instituted. 13 DLR 222.

The High court Division was the forum whereto appeals were to be filed under section 30 of the Special Powers act before its amendment on 29th July, 1974. By this amendment this right to appeal to High court abolished - Judgment of conviction upon the accused under special Powers Act was pronounced and appeal was filed in the High court after the amendment came into effect; Held, In spite of the amendment High Court Division still remains the forum of appeal which is accused's vested right as a continuation of pending proceeding. 30 DLR 49.

**Repeal of a law followed by fresh legislation - Mode of interpretation.**— In case of repeal of a law followed by fresh legislation on the same subject the line of inquiry should be not to find out whether the new law expressly keeps alive rights and liabilities accrued or incurred under the repealed law, but whether it manifests a clear intention to destroy them. 30 DLR 49.

**Applicability.**— Section 6 of the General Clauses Act is applicable to a simple case of repeal, as well as to a case of repeal of a statute followed by a fresh enactment on the same subject. Section 6 would be applicable unless the new legislation manifests an intention incompatible with or contrary to the provisions of the section, and such incompatibility would have to be ascertained from consideration of all the relevant provisions of the new law. 30 DLR 50.

Repealing Ordinance after its expiry could not have effect on Ordinance. AIR 1962 SC 1281.

**"Things done"-Meaning of.**— Expression includes legal effects and consequences of things done prior to merger. AIR 1961 SC 41.

**Applicability-Section 6 applies only to valid Acts subsequently repealed.**— Act declared unconstitutional- as no existence-Sections cannot apply to its repeal by subsequent enactment. AIR 1962 All 350.

**Repeal followed by fresh legislation.**— The operation of Section 6 is not confined to the mere repeal of a statute but extends to a repeal followed by fresh legislation, unless a different intention appears from the new enactment. A Court has to inquire whether the fresh legislation has preserved the rights and liabilities created under the old statute or whether the intendment is to obliterate them. AIR 1955 SC 84, AIR 1936 All 3.

It cannot be said that if the relevant Provisions of the new enactment are not in pari materia with those abrogated it should be inferred that the intendement of the new legislation was to exlude the operation of section 6. (1958) 2 An WR 79 : 1958 An L T 605.

**Repeal-What amounts to-Exemption from operation-Effect.**— The granting of an exemption to certain areas from the operation of the Act by issuing a notification is not, and cannot be equivalent to a repeal of the Act. AIR 1960 Bom. 507.

**Applicability-Statue expiring by efflux of time.**— That there is a difference in the maters of the continuance of their effect on expiry, between statutes which are limited in their duration to a specified period and expire by efflux of time to which they are limited and perpetual statutes or statues which have to be repealed by legislation is well settled. Section 6 of the General Clauses Act applies to the latter and not to the former. ILR 91957) 2 Cal 149 : 1955 Cr LJ 1055.

**Effect of repeal.**— When an Act is repealed, it is as if it had never existed except with reference to some parts as are saved by the repealing statue. AIR 1945 Hyd 204 (FB).

Preventive detention as against punitive detention requires the existence of the law authorising the detention and the General Clauses Act can be invoked only when the law under which the detention has been ordered is repealed and the repealing Act makes a provision for its continuance. But when the law becomes void the detention becomes illegal. When

Section 6, Gnarl Clauses Act, expressly refers to the effect of a repeal of an Act, it cannot be applied to an Act which becomes void. For some purposes 'repeal" and "being void" may be the same, but for the purposes of the General Clauses Act the word "repeal" has a special significance. The word "repeal" connotes the existence of a repealing Act or, the abrogation of one Act by another. In the General Clauses Act the word "void" cannot be read where the word "repeal" is expressly used. ILR (1951) Hyd 237 : AIR 1959 Hyd 20 (23, 35, 36) (Pt B) (Prs 16, 58) (FBO.

If for some reason or other, the General Clauses Act cannot be applied in terms, its principles can be extended to construe the law. Madh BLJ 1955 H'CR 142 : Madh BLR 1955 (Cri) 14.

Thing not completed before repeal-Effect of repeal-Act is left in status quo-If an Act gives a right to do anything the thing to be done if only commenced but not completed before the Act is repealed, must upon the repeal of the Act be left in status quo. AIR 1955 NUC (Madh B) 3753 (DB).

Where any enactment is repealed and re-enacted it is the provisions of Sec. 24 that has to apply and not the provisions of Section 6. AIR 1955 NUC (Madh Bha) 3014.

Provision similar to Sections 5 and 6, General Clauses Act-Pre-existing disputes to be governed by appropriate law in force at that time unless indicated to the contrary in the Code 1960 Jab LJ 998.

**Applicability.—** The ordinary rule is that Section 6 will apply if there is no saving clause in the repealing enactment, or "unless a different intention appears". If, however, the repealing enactment makes a special provision regarding pending or past transaction it is the latter provision that will determine whether the liability arising under the repealed enactment survives or is extinguished. ILR (1955) Cut 529 : (1956) 7 STC 36.

**Vested right to retire at the age of 55 years.—** Rules of 1941 were subject to alteration-Government servant taking service subject to express condition that rules relating to his conditions of service were liable to change and alteration-Rules of 1941 abrogated there at for-No vested right in the age of superannuation was created in the Government servant by the rules S. 6 of the General Clauses Act (2897), does not extend to such rules. AIR 1963 Punj 298 (DB).

When an act is repealed it must be considered except as to transactions past and closed, as if it had never existed. Similarly if an Act gives a right to do anything such as of the standard rent by the Samiti, the thing to be done, if not completed before the Act is repealed, must upon the repeal of the Act be left in statue quo. 6 Sau LR 240 : AIR 1954 Sau 77 (79) (Pt B) (Pr 6) (DB).

**Repeal without re-enactment.—** Section 6 is not confined to case where there has been repeal of an enactment though it be without a re-enactment. It is true that the Act contains sections where a repeal and re-enactment are referred to. AIR 1936 All 3; AIR 1946 All 269 , Dissented from. ILR (1954) Trav-Co 1005 : 1954 Ker L T 492.

**Repeal.**— The language used by the legislature in Section 5 of the Prevention of Corruption Act clearly negatives any suggestion that the legislature intended to repeal the provisions of Section 409, Penal Code. It cannot also be held that Section 409 is impliedly repealed by the Prevention of Corruption Act. AIR 1955 All 275 (FB).

**Courts never look with fovour the suggestion of implied repeal.**— Language of Section 5 (4), Prevention of Corruption Act, negatives any suggestion that the legislature intended to repeal Section 409 of the Penal Code. AIR 1955 Bom. 451 (FB).

Repeal-It cannot be held that the Prevention of Corruption Act by implication repeals the provisions of Section of the 409 Penal Code. AIR 1955 Cal 236 (DB).

Repeal-The law does not favour repeal by implication and it is only in the last resort that Courts hold that one enactment is repealed by another even without express words. If the provisions of a later Act are so inconsistent with or repugnant to those of an earlier Act that the two cannot stand together, the earlier stands impliedly repealed by the later one. Application of this rule is where there is first a general enactment and later a law relating to one or some of the matters included therein. It is an essential condition for the application of the rule of implied repel that there should be identity of subject matter into enactments. AIR Mad 45 (DB).

**Applicability-Repeal by implication.**— Section 6 of the Act is applicable to express repeal and not where statute is by implication re pealed. 56 Punj LR 449 : ILR (1955) Punj 639.

A repeal by implication is only effected when the provisions of a later enactment are so inconsistent with or repugnant to the provisions of an earlier one that the two cannot stand together. AIR 1952 Punn 158.

**Repeal of Temporary statutes.**— Whenever there is a repeal of an enactment the consequence laid down in S. 6 of the general clauses Act will follow unless a different intention appears. But when the repeal is followed by fresh legislation on the same subject the Court would undoubtedly have to look to the provisions of the new Act whether they indicate different intention. The Court cannot subscribe to the broad proposition that Section 6 is ruled out when repeal of an enactment is followed by a fresh legislation. Section 6 would be applicable in such cases also unless the new legislation manifests an intention incompatible with or contrary to the provisions of the section. The provisions of Section 6 will apply to a case of repeal even if there is simultaneous enactment unless a country intention can be gathered from the new enactment. AIR 1955 SC 84.

**Applicability to temporary statutes.**— It is indisputable that Section 6 cannot be invoked in regard to statutes of a temporary nature. It is only a statute which expires by efflux of time or on the happening of a contingency without recourse to a fresh legislation that could come within the category of temporary measures. AIR 1941 Lah. 175, Rel. on. ILR (1958) Andh Pra 383.

S. 6 of the General Clauses Act applies not only to the repeal of a permanent Statute but also to the repeal of a temporary statue before its expiry by efflux of time. AIR 1957 Cal 257 (FB).

Effect on temporary Act-Where the repealed Act is a temporary Act it is restored only as an Act due to expire on the date originally specified. There can be no other effect deeming the repealing Act as not passed. Up to the original date of its expiry rights and liabilities accrued and incurred under the Act before its repeal can be enforced and proceedings in regard to them under the Act can be instituted or continued by virtue of Section 8. AIR 1957 Cal 257 (FB).

**Expiry of temporary Act.—** As a general rule and unless it contains some special provisions to the contrary after a temporary Act has expired no proceedings can be taken upon it, and it ceases to have any further effect. As to the effect of a repeal, on the other hand, if a right has once been acquired by virtue of some statute it will not be taken away angin by the repeal of the statute under which it was acquired. AIR NUC (Cal 5616).

**Expiry of temporary Act-Effect-Proceeding under, if can be taken.—** As a general rule after a temporary Act has expired, no proceedings can be taken upon it and it ceases to have further effect. If any action has been taken under the expired Act with respect to any matter arising under it during its continuance, the question whether such action would lie or not would depend upon any special provisions to the contrary in the temporary Act itself. AIR 1957 Hyd 6 (8) (Pt E) (Prs 6, 7) (DB).

**Applicability to temporary Acts.—** "Temporary powers Act" is not a temporary statute it does not say when it will Cease to have effect. Its name no doubt suggests that it is a temporary law, but there being no reference in it as to when it will terminate, it cannot be called a temporary statute. one the face of it, it purports to be law, which does not possess the features of temporary legislation.

Moreover, a distinction should be made between statutes that cease to exist by efflux of item and statutes that are repealed. The moment a statute is repealed no matter whether it is a temporary or permanent statute, the repeal attracts the provisions of Section 6, General Clauses Act Madh BLJ 1953 HCR 142 : Madh BLR 1955 (Cri) 14.

Applicability-Expiring Act not governed by section. When a statute is repealed or comes to an automatic end by efflux of time no prosecution for acts done during the continuance of repealed or expired Act can be commenced after the date of its repeal or expiry because that would amount to the enforcement of repealed or dead Act. In cases of repeal of statute this rule stands notified by Sec. 6, General Glasses Act. An existing Act, however, is not governed by the rule enunciated in that section. AIR 1957 Mad 660.

Repeal-A repeal effected by a temporary legislation is only a temporary repeal and with the expiration of the temporary repealing enactment the original legislation would automatically resume its full force. No re-enactment of it would be required. AIR 1953 Sau 195. (DB).

**Withdrawal of Ordinance by Notification -Effect.—** The absence of the fixation of any time limit in Ordinance indicates that the Ordinance was not meant to be a temporary statute but was permanent. There fore the pending proceedings would not be determined on that account. AIR 1951 Sau 67 (DB).

**Applicability-Repeal of an enactment by the Constitution.—** Section 6 of the General Clauses Act would not apply to the repeal of any enactment by the Constitution. ILR (1953) 1 All 458 : 52 Cr LJ 1094.

The General Clauses Act applies for purposes of interpretation of the Constitution and there is nothing in the Constitution which excludes the use of provisions contained in the General Clauses Act. AIR 1953 Assam 35 (FB).

**Effect of repeal of existing law.—** By virtue of Art. of the Constitution read with Section 6, General Clauses Act when the President exercising his power under Art. of the Constitution and repeals a law in force, the rights and privileges acquired by any person under the law repealed are preserved unless there is a provision to the contrary. AIR 1954 Bom. 505 (DB).

**Repeal of void Act-Effect.—** Effect of act being declared void. The effect of an amendment declaring a law void is to repeal that law or form the date of its inception as happens when the law is ultra vires of the authority which enacted it. AIR 1954 All 608 (DB).

"Void" is not synonymous with "repealed". AIR 1951 Bom 138.

With regard to the precise scope of Section 6, it has been observed in P. N. Balasubramanian v. Union of India, AIR 1975 Del 258 at pp 262, 263 : ILR (1976) 1 Del 506 (DB). that the section does not save the provisions of a repealed Act, but saves only the rights and liabilities which have accrued under the repealed provisions, since a right that has been acquired under a statute, is not necessarily taken away by repeal thereof. 1960 Ker LT 378. A Saving provision in a repealing statute is not exhaustive of the rights and duties so saved on the rights that survive the repeal. Bansidhar v. State of Rajasthan, AIR 1989 SC 1614 at 1621 : (199) 2 SCC 557.

In cases where a repeal is followed by a fresh legislation on the subject, Section 6 of the General Clauses Act would apply generally in the absence of a special saving clause in the repealing statute, for when there is a saving clause in the repealing statue itself, then a different intention is indicated. Qudarat Ullah v. Bareilly Municipality, (1974) 1 SCC 202 : AIR 1974 SC 396 at p 402. The section will apply to a case of repeal, even if there is simultaneous re-enactment, unless a contrary intention can be gathered from the new statue. Tapan Chandra Deb Barma v. Dulal Chandra Deb Barma, AIR 1980 Gauh 3.

The provisions of this section in relation to the effect of repeal do not ordinarily apply to temporary Act. The principle is that the rights of the parties that had accrued under the superseded enactment cannot be taken away. Mehboob Raza v. Mohd. Shah, 1979 Cr LJ 228 at p. 234 : 1978 All Cr R 394 (DB). AIR 1974 SC 396, 404.

Section 6 does not apply to temporary enactments dying their natural death by efflux of time, and the repeal of such enactments is immaterial. Tenton Charles Aubrey v. Kathleen May Aubrey. AIR 1947 Lah 414 at p 415. The scope of Section 6 is limited to repeal of enactments, and Regulations, but not to repeal of a State Act. Bolani Ores Ltd. v. State of Binhar, AIR 1975 SC 17 at p 31 : 1975 Tzx LR 1208 : (1975) 1 SCJ 320 ; AIR 1968 Orissa 1. Since the right acquired and penalty incurred under a repealed provision is not affected in the absence of a contrary intention, section 6 will apply to the fresh enactment. Sulemanji Gomibhai v. Commissioner of Income-tax, M.P., Bhopal. 1979 MPLJ 416. Where there has been no repeal, section 6 would have no operation. Section 6 will not, again, apply when the position is governed by specific provisions of the relevant enactments themselves. Sin Ditta Mal v. Union of India, AIR 1982 Del 509.

**Effect of repeal on Procedural statute.—** Whether a suit started be tried in a revenue Court or civil Court is a matter which does not give any right or privilege or obligation to any party. It is purely a matter of procedure and therefore even if it be a repealing Act, Section 6 will not apply. 1957 All LJ 628.

It cannot be stated as a broad proposition that Section 6 of the General Clauses Act is ruled out when there is repeal of an enactment followed by fresh legislation. Section 6 would be applicable in such cases also, unless the new legislation manifests an intention incompatible with or contrary to the provision of the Section. Such incompatibility would have to be ascertained from a consideration of all the relevant provisions of the new law. (1961) 63 Bom LR 667.

Statute repealed pending conclusion of trial and replaced by new Act-Old offences can be dealt with under old Act even if new Act has made changes in procedure for prosecution. 1953 Cri L J 8181 : AIR 1953 Cal 401.

Effect of repeal-Statutes of limitation are generally retrospective and govern all proceedings from the moment of their enactment even though the cause of action might have accrued before they came into force. But it is a well settled proposition that whenever a right to sue or to make an application has become barred long before the old Act came into force the same cannot be revised by a latter Act of limitation. AIR 1955 NUC (Trav-Co) 3472.

**Review-Repeal of-Effect of repeal on pending proceeding.—** By virtue of S. 6, General Clauses Act, 1897 exercise of power to review held was not affected. AIR 1963 Bom. 110.

Repeal-Effect on pending proceedings-In the absence of any contrary intention indicated by the Act, of which none can be found, such proceedings would terminate automatically as soon as the Act expired unless something else kept them alive. AIR 1957 Cal 267 (FB).

Repeal-Effect on pending proceedings-Bengal General Clauses Act (1 of 1899), Section 8-Where an enactment is repealed unless a different intention appears the repeal shall not affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder nor will it affect any legal proceedings or remedy in respect of any right, privileges or liability or forfeiture under the repealed Act. AIR 1951 Cal 435.

The proceedings which were commenced by virtue of a statue which has been repealed shall not be dismissed by Court for want of jurisdiction but they would be dealt with by the Court as before and shall be carried as to final judgment. AIR 1958 Punj 230 (FB).

The rights of the parties to an action are to be governed by the law in force when the action was commenced and a change in the law would not affect pending actions unless there is a clear provision to that effect in the new enactment. AIR 1956 Trav-Co 236 (DB).

Statute extending period of limitation-Retrospective operation-Statutes extending period of limitation is presumed not to operate retrospectively. AIR 1960 Cal 243 (DB).

Section 6 would have no applicability where the Parliament and the State legislature with the legislative competence of retrospective legislation pass an enactment giving it is express terms retrospective effect. AIR 1952 Madh Bha 181 (DB).

Retrospective effect-New legislation affecting rights. When the law is altered during the pendency of an action, the rights of the parties are decided according to law as it existed when the action was begun unless the new statute shows a clear intention to vary such rights. AIR 1965 Manipur 39.

It is a fundamental rule of interpretation that while a rule of procedure may ordinarily have retrospective effect attributed to it, provisions in a statute which affect existing rights cannot be applied retrospectively in the absence of an express enactment to that effect or necessary intendment. ILR (1953) Cut 322.

**Retrospective operation.**— The right of the parties are to be decided according to the law as it existed when the action was begun, unless the new statute shows a clear intention to vary such rights. (1959) 61 Punj LR 921.

**How far retrospective-Old law repealed.**— New law, if retrospective-The new law cannot be construed retrospectively so as to destroy altogether the remedy of litigant to enforce his right. AIR 1962 Raj 43 (FB).

Section 6 has no application to the repeal of a statute made by Parliament in England and the repeal of which has been brought about by the Constitution of India. ILR 91956) 8 Assam 379 (FB).

Repel-Effect-The repeal or expiry of a repealing Act does not ipso facto revive anything repealed thereby. AIR 1958 Madh Pra 425 (DB).

Retrospective operation-Whenever a right to sue or to make an application has become barred before the new Act came into force, the same could not be revived by a latter Act of Limitation. AIR 1951 mad 314. (DB).

Limitation Act (1908), Preamble-Retrospective operation-As a general proposition and in the absence of any expression or intention by the legislature to the contrary it is well established that mere extension of the period of limitation for a suit or an application by the new Act does not revive the right which had already been barred by the repealed Act. But the legislation has unrestricted power to resuscitate even a lapsed right by making a special law. AIR 1956 Pepsu 58 (DB).

Provision by its retrospectivity excludes operation of Action 6, General Clauses Act (1897). AIR 1961 SC 1026.

Appointment of Food Inspector under repealed Act-If duly done. Appointment is act duly done within Section 6 (b), General Clauses Act. AIR 1960 Al 117 (DB).

**Foreign Court-Submission to jurisdiction-Execution of decree in foreign State Foreign Court, decree by-No submission to jurisdiction.**— Decree is a nullity and cannot be executed. AIR 1955 All 490.

**Suppression of notification.**— If a notification was superseded by another notification the suppression will be form the date of the Second notification and does not operate retrospectively so as to abrogate the earlier notification from the very date of its commencement. The obligations and liabilities accrued and incurred under the earlier notification are unaffected by its withdrawal though subsequent to its withdrawal the land is once more held free of the limitations imposed by it. AIR 1955 NUC (All) 2769 (DB).

Section 4 (c) of the Interpretation and General Clauses Act provides that when any enactment is repealed unless a different intention appears such repeal shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed. LIR (1960) Ker 139.

**Repeal of Ordinance-Effect.**— A right of appeal is a vested right and in the absence of specific prevision depriving the litigant of such a right it cannot be said to have been lost merely by the fact of repeal. 1957 MPLJ 526.

The effect of the repeal of an enactment is to obliterate it as completely from the records as if it had never been passed or it held never existed except for the purposes of those actions which were commenced prosecuted and concluded, whilst it was an existing law. Therefore the provisions of General Clauses act are not applicable to a case where the repeal has been brought about by Adaptation Order. AIR 1956 Orissa 7 (DB).

If a right has once been acquired by virtue of some statute it cannot be taken away against by the repeal of the statute under which it was acquired. AIR 1950 Pat 505 (DB).

When a Statute is repealed or comes to an end by efflux of time, prosecution for acts done during the continuance of the

repealed or expired act cannot be commenced after the date of its repeal because that would amount to the enforcement of a repealed or dead Act. In case of repeal of statutes this rule stands modified by Section 6. General Clauses Act. An expiring Act however is not governed by the rule enunciated in that section. AIR 1954 SC 683.

If an order has been validly passed committing a case to the Court of Session under the law then in force, a subsequent change in the law would not divest the Court of Session of jurisdiction to try it and the accused acquires a vested right to have the case continued in the Court and tried according to law in force on the date of the order of the commitment. AIR 1953 Mad 451.

**Repeal of Act followed by fresh enactment on some subject-Operation of Section 6.—** It cannot be stated as a broad proposition that Section 6 of the General Clauses Act is ruled out when there is repeal of an enactment followed by a fresh legislation. Section 6 would be applicable in such cases also unless the new legislation manifests an intention incompatible with or contrary to the provisions of the section. Such incompatibility would have to be ascertained from a consideration of all the relevant provisions of the new law. AIR 1955 SC 84 Rel. on.

**Applicability of principle to cases not governed by the Act.—** The principle of Section 6 (e) of the General Clauses Act may be utilised even in cases which are not in terms governed by the General Clauses Act. 1952 Crl LJ 221.

**Prosecution under Section 19 (f), Arms Act (1878).—** Conviction recorded when Act of 1878 was repealed by Arms Act, 1959- Repeal cannot affect conviction based on prosecution under old Act-Interpretation of Statutes-Repeal of Act cannot affect conviction based on prosecution launched under old Act unless a different intention appears. 1965 All Cri R 1 : 1964 All WR (HC) 727.

**Applicability to amendments.—** Section 6 deals with the effect of repeal of Acts Admittedly, it does not deal expressly with the effect of amendment of an Act, but there is no other law which lays down the effect of amendment of an Act. It is not correct to say that when an Act is repealed and another Act re-enacted Section 6 cannot apply. As a matter of fact a majority of repealing Acts are those which reenact the law. In essence there is no distinction between such law and laws which merely profess to amend. If the amendment of the existing law is small, the Act professes to amend ; if it is extensive. it repeats the law and re-enacts it. AIR 1958 All 404 (DB).

The effect of the repeal of an enactment on cases pending at the time of the repeal would be that the Courts continue as if the enactment has not been repealed. But this is subject to the qualification that the repealing enactment contains no provision or indication to the contrary. AIR 1951 Cal 442.

**Order of attachment by Magistrate before amendment-Sale after amendment validity.**— Where an enactment is repealed and re-enacted it is the provision of Section 24 that have to apply and not the provisions of Section 6. AIR 1955 NUC (Madh B) 3014.

No doubt pending litigation is not affected by any change of law, except in procedural matters and substantive rights are not taken away unless they are expressly included. That is a general rule but where the law has been altered in such a way as to create a rule of evidence or a rule of decision then the contrary rule applies and the person who claims to be governed by the old law has to show that pending litigation had been saved from the operation of the new law. AIR 1958 Madh Pra 368 (DB).

There is nothing in Section 6 of the General Clauses Act which indicates that it applies only to those cases where a previous law has been simply repealed and there is not fresh legislation to take its place. ILR 91951) Nag 447 : AIR 1951 Nag 353 (355) (Pt II) (Prs 9, 10).

When in a repealing statue there is a definite provision to the contrary, the general provision relating to saving in Section 6 will not apply. AIR 1955 NUC (Pepsu) 2509.

**Forum of investigation, legal proceedings or remedy.**— Section 6 (e) has nothing to do with the forum where the investigation, legal proceeding or remedy has to be pursued. If the repealing Act provides a new forum where a legal proceeding coming on from before the repealing Act came into force can be pursued thereafter, the forum must be as provided in the repealing Act, and no party can insist that the forum of the repealed Act must continue. IIR (1955) 5 Raj 995 : AIR 1955 Raj 203 (206) (Pt E) (Pr 11) (DB).

**"As if the repealing Act had not been passed-Meaning of.**— The effect of Clause (c) of Section 8, Bengal General Clauses Act, is to declare that the repeal shall not affect rights accrued and liabilities incurred under the repealed Act in the sense and to the extent that they may be enforced and Proceedings may be instituted or continued in respect of them as if the repealing Act had not been passed. AIR 1957 Cal 257 (R. B).

**Effect on statutes incorporating repealed statute.**— The repeal of a statute does not repeal such portions of the statute as have been incorporated into another statute. If the original Act is repealed the incorporated section or sections still operate in the latter Act. 55 Cal WN 463 :AIR 1951 Cal 97 (99) (Pt B) (Pr 120).

**Repeal of amending Act-Effect.**— The repeal of an amending Act does not have the effect of destroying the amendment. (1961) 1 Lab LJ 627 : 91960) 1 Fae LR 381.

**Repealing and amending Acts-Nature and effect of.**— Repealing and amending Acts are enacted by the Legislature from time to time in order to repeal enactment's which have ceased to be in force or have become obsolete or retention where of as separate Acts is unnecessary. The principal object of

repealing and amending Acts is to excise dead matter, prune of superfluities and reject clearly inconsistent enactment's. An Act of this kind may thus be regarded as a legislative scavenger. 1955 Cr L J 990 : 57 Punj LR 24.

Section 6 has no application to amendments brought about otherwise than by "enactments". Bedridden Abdul Rahim v. Sita Ram, AIR 1928 Bom. 371 at p 372 : 30 Bom. LR 942 (DB).

An acknowledgment not being an act done in pursuance of the Legislate is not governed by section 6. Shiv Shanker Lal v. Soni Ram. ILR 32 All 33 : 6 ALJ 931.

Section 6 applies even in case of express repeal, even if the repealing Act has contained no specific provision. Commissioner of Income tax, Punjab v. Bipan Lal Kathuria, 1971 Tax LR 303 at p 305 : 83 ITR 182 (DB); C. Doraiswami v. Tax Recovery officer, Combtore. 1975 Tax LR 797 at p 799 : 99 ITR 494 (FB).

The operation of Section 6 of the General Clauses Act, in making pending proceedings continued to be regulated by the old procedure, is limited to cases in which the change in the law is the result of repeal of the old enactment and do not extend to cases which it is due merely to an addition to it. Mohindra Singh v. Harbhajan Kaur, AIR 1955 Punj 141. The general rule is well established that an amendment of an Act of the Legislature during the currency of a suit is irrelevant, and the rights of the parties are governed by the Act as it existed at the time when the suit was stated. Bakor Moti v. Ishvar Moti, AIR 1935 Bom. 257 at p 259 : Rama Krishna v. Sithal Ammal, ILR 48 Mad 620 : AIR 1925 Mad 911; New Act modifying old and modification creating new-rights-Pending case to be governed by old Act.

The omission of a provision has the same effect as the repeal of that provision. Ram Chandra v. State of Rajasthan, 1972 Cr L J 1386 at p 1387 : 1972 Raj LW 272. But the expression "Unless a different intention appears" is the key to attract the provisions of this section. There is no presumption in favour of the Legislature to have intended to make any substantial alteration in any existing law beyond what that law has expressly declared. A. C. Sharma v. Delhi Administration, AIR 1973 SC 913 at p 917 : 1973 Cr LJ 902 : (1973) 2 SCJ 289. It is only in t..e absence of a contrary intendment in the repealing Act, that section 6 can step in. Chironjilal Ramjibhai & Co. v. Chunarmal Motiram & Co., 1976 MPLJ 33. The silence of the repealing Act cannot be taken to be an indication of a contrary intention. Gopal Krishna Nair v. R. Saras amma, AIR 1980 ker 109 : 1976 Ker LE 810.

A rule of limitation is not a rule of substantive law, and the same is therefore, not preserved by section 6. Arauilkali Amma v. Palappakkara Manakal San karan Nam budripal, ILR (1911) 34 Mad 292 at p 293 : 20 Mad LJ 347.

**Repeal.**— (a) Object and effect of repealing or amending Act.— A repealing and amending Act is in the nature of a legislative as avenger. Its sole object is to get rid of a certain

quantity of obsolete matter. Mohindra Singh v. Harbhajan Kaur, AIR 1955 Punj 141. The word "repeal" connotes the abrogation of one by another Act, which is the same thing as omission of certain provisions of an Act by a subsequent Act, there being no difference between "repeal and cancellation. Devanagari Subbamma v. Government of Mysore, (1948) 53 Mys HCR 32 (DB), for contrary view ; see Habibullah v. Crown, AIR 1955 NUC (Ladh) 5449; AIR 1950 Hyd 20, ILR 1950 Hyd 237 DB. Section 6 does not save effect of cancellation. A special saving clause dealing with effect of repeal serves as an exception to the general rule that normal effect of repeal is to obliterate the repealed Act from the statue book as if it had never been passed. Sadasheo Jagannath Barapatre v. Hemaji Hiraman Bakde, AIR 1958 Bom. 507 at p 509 : 61 Bom. Lr 1141. The normal effect of repealing a statue is to obliterate it from the statute book as completely as if it had never been passed ; it must be considered as a law that never existed. Kamakhya Narain Singh v. State of Bihar, AIR 1981 Pat 236. This principle is equally valid in case of implied repeal of a statute or a section. Indian Tobacco Co., Ltd. v. commercial Tax Officer, AIR 1975 SC 155 : 1975 Tzx Lr 90 35 STC 95 : 1975 SCc (Tax) 49 : (1975) 3 SCC 512, AIR 1977 Raj 89 : 1976 WLN 820. Section 6 of the General clauses Act provides an exception to this rule. Sadasheo Jagannath Barapatre v. Hemaji Hiraman Bakde, AIR 1958 Bom. 507. It is also to be understood that the repeal of an Act means revocation or abrogation of the Act and section 6 of the General Clauses Act applies even in the case of a partial repeal or repeal of part of an Act. Ekambarappa v. Excess Profits tax Officer, AIR 1967 SC 1541.

A repeal is definitely not the same thing as the transfer of an item from one place to another in the same statute. Union of India v. Alok Exports, AIR 1908 Bom. 280.

"Repeal" and "amendment" are not mutually exclusive, because substitution by legislative enactment of a provision naturally involves repeal of the old provision. C. Rajalakshmi v. Assistant Controller, Estate Duty, Hyderobad, ILR (1972) Andh Pra 480 at p 491. When the Legislature has amended an Act by deleting something from it, such deletion ought to be construed as deliberate. Mangla Prasad Jaiswal v. district Magistrate, AIR 1971 All 77 : 1970 All L 1122 : Dandapani Patnaik v. State of Orissa, AIR 1962 Orissa 17 : (1961) 3 Orissa JD 238 (DB).

A repealing enactment which imposes an impossible condition on pain of forfeiture of a vested right cannot be given retrospective effect. Vishanji v. State of Bihar, 1960 BLJR 693 : (1961) 2 STC 226 at p 229 (DB).

There may be amendment in order to make a doubtful point clear, the Legislature may add or delete expressions in order to make the position clear. Pothula Subba Rao v. State of A.P., ILR 1972 AP 548 : 30 STC 69 (DB).

A rule inadvertently continued after the amendment of a substantive provision is of no sue and it is thereafter the amendment and not the rule which prevails. V. Sharoop Sunder v. Regional Transport Authority, AIR 1973 Mad 245 : (1972) 2 Mad LJ 28.

In case of repugnancy between the amending statute and the Central theme in the original Act, the latter alone shall prevail. Commissioner of Sales Tax, Bihar v. Basta colla Colliery Co., Ltd., 1966 BLJR 438 at p 441 (DB). A general repealing clause stating in terms that all inconsistent enactments shall stand repealed, does not repeal all enactments in conflict with the Act containing such repealing clause but means that the latter Act shall have predominance over the earlier ones. Cochin Devaswom Board v. Vijayon, 1967 Ker LT 254 : 1967 Ker LJ 277 at p 279.

The repeal of an enactment does not have any effect of creating any new provision in or altering the interpretation of another law. Shyam Lal Tulsiram v. I.G. Municipalities, 1961 MPLJ 1011 : 1961 Jab LJ 1327.

**Effect of repeal on subordinate legislation.**— When a statute under which bye-laws are made, is repealed, those bye-laws also stand repealed and cease to have validity, unless preserved by the repealing statute itself. Haris Chandra v. State of M. P., AIR 1965 SC 932 (1965 2 Cr LJ 4 : (1965) 2 SCJ 649 : Government of A.P. v. East India commercial Co., Ltd., AIR 1957 AP 83 at p 87 : (1957) 1 Andh WR 144 (FB); Union of Burmad v. Maung Maung, 1949 Bur LR (HC) 1 at p 8 (FB). Same is the fate of an order made under an enactment lapsing by efflux of time. Alapathi Ramamurthi Gelli Keishnamurthi & Co v. Maddi eetharamayya, AIR 1958 AP 427 : (1957) 2 Andh WR 503 (DB).

But the general rule of repeal that when a part Act is repealed, all laws made thereunder also stand repealed, cannot be applied to laws made under a Constitution Act. Such a law has been expressly repealed if it has to be effaced. In the case of a subordinate legislation, the emanating law dies unless saved, but law made under a Constitution Act survives till expressly repealed. Mohan Agarwal v. Union of India, AIR 1979 All 170 at p. 172 : 1979 All LJ 304 :Atiqua Begum v. Adbul Magni, AIR 1940 All 272 : 1940 All LJ 274.

**Repeal when takes effect.**— It is obvious that when an old Act is repealed by a new Act, there is always a period of changing over and almost invariably a saving clause is added in the new statute in order to ensure a smooth change

It would be preposterous to believe that the Legislature wanted to break in the continuity of the enforcement of procedural steps. It is open to the Legislature to frame the saving clause in such a manner so as to keep the old Act in force till the demarcation of the local areas and the appointment of the local authorities, but the faults of draftsmanship cannot be permitted to reduce the provisions of an Act to an absurdity. It is settled law that repeal of an old statute does not repeal such portions of the statute as have been incorporated into another statue. Even if the Original Act is repealed, the incorporated section or sections still operate in the later Act. Municipal Board, Luckow v. Ram Autar, AIR 1960 All 119 at pp 121, 122 : 1960 Cr L 1999. When an Act is repealed by another, whether in part or whole, or when some provisions of an Act are

substituted by those in another, the repealed Act or provisions thereof, as the case may be, remain in force until the new Act or the substituted provisions therein are brought into operation. Ram Dayal v. Shankar lal, AIR 1951 Hyd 140 at p 151 : ILr 1951 Hyd 689 (FB). When an Act provides that the provisions thereof, except certain specified provisions, would come into operation in any specified area, by a Notification of appropriate Government extending such provisions in that area, then those provisions shall not so come into operation in that area, until such Notification has been issued. G. Rajgopalachar v. Government of Mysore, AIR 1952 Mys 103 : IL 1951 MYs 532. When a subsequent Notification supersedes an earlier one, the suppression can become effective from the date of the subsequently Notification which cannot abrogate the earlier Notification retrospectively as from the very date of its commencement. R.S. Anand Behari Lal v. United Provinces Government, AIR 1955 NUC (All) 2769 (DB). AIR 1964 All 339 : (1964) 2 C LJ 124 : 1963 All LJ 1108.

**Amendment and repeal.**— Repealing or amending Acts have the object of legislative spring-cleaning. Shalulameedu v. Sufaida Beevi, 1969 Ker LR 1975 at p 1082. They are passed in order to excise dead wood from the statute book and to bring about minor amendments mostly of a verbal nature, not necessarily to remove lacuna but often exmajori cautela. State of Bombay v. Devalbhai Narayanbhai, (1959) 61 Bom. LR 1247 at p 258. AIR 1954 Cal 484, 58 CWN 560. The purpose of latter may even be clarified, though its effect, in construction, is that amended statute has to be understood in the sense as amended, as if the amendment were read from the beginning of the statute thereby amended. Management of the Burhanpur Tapti Mils Ltd. v.Industrial Court, M.P., AIR 1965 Mp 43 at p 47 : 1964 MPLJ 304 (DB).

A state repealing and re-enacting the provisions as have been there, prior to such enactment, often uses in its preamble the words to "consolidate" and "amend," implying thereby a twofold effect to repeal and enact. Prabhu Dayal v. State, 1968 All WR (HC) 207 : 1068 All Cr R 139, AIR 1967 Ker 47-48.

An amendment may sometimes be necessitated by the decision of the High Court. Ganpat v. Sashikant, AIR 1978 SC 955 (959) : (1978) 1 Ren CJ 511 : 1978 UJ (sC) 218 : (1978) 19 Guj LR 502 : (1978) 1 Ren LR 655 : (1978) 2 SCC 573 : 1978 Mah LJ 550 : (1978) 2 Ren CR 187. The validity of each of the amending Act and the parent Act, has to be judged independently. In case the amending statute is a complete Code, it is not rendered invalid merely because the parent Act has been rendered invalid. Daru Khan v. Mohan Bhagat, AIR 1966 Pat 425 at P 429 : 1966 BLJR 725 (DB).

**Repeal and re-enactment.**— Cases of repeal followed by simultaneous re-enactment fall within purview of section 6, unless there be an intention of the contrary, and unless the new legislation has a manifest intention incompatible with the application of a particular section. Such incompatibility is not to

be determined by mere absence of a saving clause but from a consideration of all the relevant provisions of the new law. Munshi Lal Beniram Jain Glass Works v. S.P. Singh, (1971) 2 SCJ 307 : 1971 Lab IC (N) 6 : Bhavaraju Venkotsubba Rao v. Ganapati China 1955 An WR 204 at p 207 : AIR 1955 NUC (AP) 1769, AIR 1980 Gauhati 3-5, AIR 1955 SC 84, 89.

The repealing and re-enacting statute may contain certain saving clauses with a view to maintain certain existing arrangements or essential provisions in the repealed enactments either specifically or by necessary implication, either for good or for sometime of come.

In repealing and re-enacting statutes, the salutary principle of construction, as stressed in Mutha Manickchand v. Commercial Tax Officer, (1967) 10 law Rep 483 at p 488. is that a construction which would invalidate a law or would impute to Legislature an intent to contravene the Constitution must be avoided.

In such cases of repeal and re-enactment, the judicial interpretation put on the expression used in the repealed statute has to be followed when the re-enacting statute has reproduced the same expression on the assumption that the Legislature has accepted such interpretation. Though this rule is a rule of presumption which holds good when there has been a series of well known cases of decisions by important Courts, putting a consistent construction on identical provisions. Purushottam Dalmiya v. State of West Bngal, AIR 1961 SC 1589 at p 1595 : (1961 SCD 739. AIR 1955 SC 1140; AIR 1955 Mad 82, AIR 1963 All 75-82.

In a repealing and re-enacting statute, the repealing provision may be severable from the re-enacted provisions, and this possibility of severance may save the repealing provisions in case the re-enacting provisions are found to be invalid. In the absence of such possibility of severance, the whole of the re-enacting statute will fall. Indoor Iron and Steel Regisered Stockholdrs Association Lted, v. State of Madhaya Bharat, AIR 1957 M B 83 at p 89 : 1956 Madh BLJ 1575 (DB).

When in an amending Act, the old provision has been re-enacted as sub-sections of the new provision and other sub-sections are added afresh, the intention of the Legislature is not so much of repealing as of replacing the old provisions. Central Provinces Manganese Ore Co. Ltd., Nagpur v. State of Maharashtra, 1971 Tax LR 1044 at p 1050 : 29 STC 74 (FB) (Bom) ; Kikabhoy Chandbhoy v. commissioner of Income-tax, AIR 1950 Bom. 6 at p 9 : 51 Bom. LR 677.

When some immunity has survived the repeal and the re-enactment, it cannot be extinguished by any notification of the Government. Sami v. State of Kerala. 1961 ker LJ 1284 (2) Kar LJ 1284 at p 1287 (DB).

Amendment is different from adaptation. In the guise of adaptation, no essential changes can be effected in the adapted Act, nor does amendment in the adapted Act become part of the

adapting Act. K.A. Ramudu Chettiar v. State of Modras, (1967) 2 Mad LJ 315 at p 317 (DB) ; reversed on another point in State of Tamil Nadu v. K.A. Ramudu chettiar, AIR 1973 SC 2230.

**No future operation of repealed enactment.**— Since a repealed enactment has no application in future, the things left incomplete before an Act is repealed, must, on repeal thereof , be left in the status quo, and such enactment excepting, of course, such parts thereof as have been saved by the repealing Act has to be considered as to have never existed. Any proceeding started after repeal of an enactment are null and void. Nageshowear v. State of Madhya Prdesh , 1972 MPLJ 264 at pp 270, 271, AIR 1952 SC 405, M. Homi v. Deputy Comissioner of Singhbhem. AIR 1953 Pat 302 : AIR 1918 Bom 226 and Dhanu Lalv. State, AIR 1953 MB 94, AIR 1954 Sau 77, 79, 1954 CrLJ 1397 FB.

Repeal of Ordinance.— Ordinance is "law" and, therefore, even if an Ordinance has not been validly continued by the Corresponding Act, a prosecution under the Ordinance would be good. Ramani Mohan v. Emperor, AIR 1948 Cal 247 at p 248 : 49 Cr LJ 410.

Section 6 does not in terms apply to an overridden enactment, though an overriding provisions on an enactment plays the same role, as played by section 6 in relation to a repeal and can save certain proceedings as enumerated therein from its overriding effect. Ayyappa Kurup Krishna Pillai v. Parukutty Amma subhadra Amma, AIR 1971 Ker 44 at p 45 : 1970 Ker L T 442 (DB).

**Act which is repealed and Act which becomes void.**— There is a difference between repeal of an enactment and an enactment declared void by a judgment. If an enactment is void it must be held that it mere came into being and is still born. On the other hand, an enactment repealed dies on repealment. Section 6 has no application for reviving, for any purposes whatsoever, the Acts which have cased to have any effect because of their expiry by efflux of time or to Act which comes void. Shawkt-un-nissa Begum v. State of Hyderadad, AIR 1950 Hyd 20 at p 23 : LIR 1951 Hyd 237 (DB), AIR 1991 Pat 110 FB.

**Superseded or overridden.**— There is an essential distinction between an Act or Order which is repealed and one which is superseded, though the word "supersession" has been held to be included in the wider connotation of the word "repeal. AIR 1970 ker 301 at p 304 : 1970 Ker LT 376 : relying on Kamalakshim Amma v. Bhastare Menon Lalv,. Seth Sunder Lal Tholia John, AIR 1967 SC 1541.

The general rule to be followed in case of conflict between two statutes is that the later abrogates the earlier one. In other words, and prior special al would yield to a later general law. If either of two following conditions is satisfied.

The two are inconsistent with each other.

There is some express reference in the later to the earlier enactment.

If either of these two conditions is fulfilled, the later law even though general, would prevail. Ajay Kumar Bnerji v. Union of India and Umed Singh v. Union of India, 1984 Lab IC 691 (705 : (1984) 1 Lab LJ 368.

Where entirely new rights and new liabilities have been created, the new provisions must not be allowed to override the provisions of the old Act. Karam Singh Sobti v. Pratap Chand, AIE 1964 SC 1305 : (1964) 4 SCR 647.

In case of supersession of a notification, the obligations and liabilities accrued and incurred under the earlier notification, remain unaffected, since the supersession will be effectual from date of second notification and not retrospectively so as to abrogate the earlier notification from the date of its commencement. R. S. Anand Behalri Lal v. Government of U.P., AIR 1955 NUC 2769 (All).

**Repeal followed by fresh legislation.**— Section 6 is not confined in its application only to repeal but applies also to repeals followed by fresh enactments, unless the new legislation has manifested an incompatible intention. When the repeal is followed by fresh legislation on the same subject, we would undoubtedly have to look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. Although it was held in a case from Vindhya Pradesh, Abadijan Vs. Otermal, AIR 1952 VP 39 at p 41 . that where an enactment is not merely repealed but repealed by a fresh legislation, then the provisions of Section 6 (e) would not apply, yet, in view of the Judicial opinion in other case, it cannot be said as a broad proposition that section 6 of the General Clauses Act is not applicable whenever there is a repeal of an enactment followed by a fresh legislation. Section 6 would be applicable in such case also unless the new legislation manifests an intention in compatible with or contrary to the provisions of the section. Such incompatibility would have to be ascertained from a consideration of all the relevant provisions of the new law and the mere absence of a saving clause is not by itself material. M/s. Munshilal Beniram Jain Glass Works v. Shri S. P. singh. (1971) 2 SCJ 307 ; Mahabir Sugar Mills v. Union of India, AIR 1975 All 239 ; Allahabad Theatres v. Kusum, AIR 1974 All 73 : 1974 All LJ 196, AIR 1955 SC 84, 88 : 1955 SCJ 25.

It has been made clear by judicial decision that unless the later enactment which supersedes an earlier one expressly or impliedly puts an end to an earlier state of law, the rights of the parties accruing under the superseded enactments cannot be taken away. AIR 1961 Cal 560, AIR 1966 All 234, AIR 1954 SC 1284, 1979 CrLJ 228, 234.

In determining either the general object of the Legislature, or the meaning of its language in any particular passage, it is obvious that the intention which appears to be most in accord with convenience, reason, justice and legal principles, should, in all cases of doubtful significance, be presumed to be the true one. Parmanand v. Kalyan Dass, AIR 1959 Punj 610.

Where the repealed Act itself contains a provision which continued the penal provisions even after the Act lapsed, it was held that the prosecution under the Act could be commenced and continued notwithstanding its repeal. State v. Dhanraj Mlus Ltd., AIR 1960 Bom. 453.

When the repeal is followed by fresh legislation on the same subject and a contrary intention does not appear therein, the repeal does not affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed.

The protection given by this section in respect of rights accrued under an old Act is not unqualified. Such rights and privileges are saved only when no contrary intention appears in the new enactment which repeals the old one. It is only such matters that are pending at the commencement of a repealing Act which are saved by section 6 and the section is excluded by a different intention express or implied. Commissioner of Income-tax v. Bibhu Bhusan Sarcar, (1966) 59 ITR 590 (Cal), AIR 1966 Mad 164.

It may, however, be noted that the mere absence of a provision in the repealing Act similar to that contained in the repealed Act is not suggestive of the intention of the Legislature to extinguish the liabilities that where incurred under the old Act or terminate the proceedings that were intitiated before the law was altered or taken away of all its precedent effects. Where the new statute does not show any intention either expressly or by necessary implication to put an end to that action, section 6 will have no application. State of Andhra Pradesh v. D Ramaswamy, (1958) 2 Andh WR 79 : ILR 1958 Andh Pra 383 : 1958 Andh LT 605. When the Legislature has not evinced an intention directly or indirectly destroying or disturbing existing rights, the rights of the parties are govened by the law which was in force at the time when the judgment was delivered and not by the statute subsequently enacted which gives, modifies or takes away the existing rights. Kartar Singh Hira Singh v. Haripal Singh, AIR 1960 Pun 29 ; Comissioner of Income tax, Bombay City I. v. godavari Sugar Mills. Ltd., AIR 1967 SC 556 .

**Repeal or expiry of temporary statute.**— A perpetual and a temporary Act differ in the sense that whereas there is no time-limit as to the former, the latter expires by efflux of time. State v Bhanka, AIR 1951 Sau 67 at p 68 : 52 Cr LJ 1032 (DB), AIR 1957 SC 301-304. However, the fact that certain acts contemplated by certain Act have to be accomplished within certain period, does not make the Act a permanent Act. Parappa Payappa Desai v. State of Mysore, AIR 1968 Mys 305 at p 308 at p 308 : (1968) 1 Mys. LJ 146.

Section 6 of General Clauses Act is held inapplicable to a case of expiry of a temporary statue on the view that section is attracted wherever there is a repeal and that the case of expiry of a statute by efflux of time is not a cas of repeal. A.P.S.E. Boand v. Union of India, AIR 1988 SC 1020 (1923) : (1988) 2 JT (SC) 35.

Where a temporary statute is made permanent by a subsequent Act, the former becomes perpetual ab initio rather than from date of the latter. It follows that expiry of a temporary Act depends on the construction of that Act itself. Union of India v. Sitaramajaneyulu, AIR 1971 AP 145 at p 149 : 1974 Lab IC 651 : (1970) 2 Andh WR 196 (DB), AIR 1952 Bom 16, 22, 53 Bom LR 837 (DB).

In conceding the effect of an expiration of a temporary Act, it would be unsafe to lay down any inflexible rule. It certainly requires very clear and unmistakable language in a subsequent Act to revive or recreate an expired right. If, however, the right created by the statute is of an enduring character and has vested in the person, that right cannot be taken away because the statute by which it was created has expired. In order to ascertain whether the rights and liabilities under the repealed Ordinance have been put an end to by the Act, "the line of enquiry would be not whether, the new Act expressly keepas alive the old rights and liabilities, under the repealed Ordinance but whether it manifests an intention to destroy them". Another line of approach may be to see as to how far the new Act is retrospective in operation. It is settled both on principle and authority, that mere right existing under the repealed Ordinance in not a right accrued. M. S. Shivananda v. K. s. R.T. Corporation, AIR 1980 SC 77 at pp 80-81 : (1979) 2 Serv LR 774 : (1980) 2 SC WR 361 : (1979) UJ (SC) 893 : (1980) 1 SCC 149 : 39 Fac LR 452 : 56 FJR 16 : (1980) 1 Lab LJ 77 : 1980 SCC (La) 134 : (1980) 1 SCR 684 : (1980) 1 Lab LN 289; AIR 1955 SC 84.

In any case, the temporary statute is not different from a permanent one with regard to the rights, privileges and obligations created or incurred thereunder and the rule as to temporary statute is, that as soon as it expires, the proceedings taken under it do terminate epso facto and no proceedings thereafter can be taken upon its basis, though the restraint imposed thereunder in relation to the duration of its provisions are simple maters of construction. Thaigarajan Chettiar, In re, AIR 1947 Mad 325 at pp 328, 329 : 48 Cr LJ 403 : (1947) 1 Mad LJ 98 (DB); 1976 Ker 164; AIR 1952 Cal 907, 909, 49 CrLJ 251.

It is indisputable that section 6 of the General Clauses Act cannot be invoked in regard to expiring statues, which are of a temporary nature. Kuruvilla Cheriyan v. Kuruvilla Chandy, AIR 1958 Ker 229 ; State of Orissa v. Bhupendra Kumar Bose, AI 1962 SC 945; AIR 1957 Mad 660-661, 1969 CrLJ 1582, 1590.

As a general rule, after a temporary Act has expired, no proceedings can be taken upon it and it ceases to have further effect. If any action has been taken under the expired Act with respect to any matter arising under it during its continuance, the question whether such action would lie or not would depend upon any special provision to the contrary in the temporary Act itself, and its construction. Section 6 of the General Clauses Act would obviously not apply to a case of expiry" as distinguished from repeal Yusuf Begum v. Waheeda Banu Begum. AIR 1957 Hyd 6.

Section 6 applies only to a case of repeal, even if there be a repeal of a temporary Act by another temporary Act. Lila Dhar Daulatram v. State, AIR 1951 nag 353 at p 355. The moment a statute is repealed, no matter whether it is a temporary or a permanent statute, the provisions of this section are attracted. State v. Fateh Chand, AIR 1955 MB 82.

**Cancellation is not repealed.**— Withdrawal of a temporary Act by issue of a notification or cancellation of a previous notification cannot be regarded as being in any sense a repeal. Nor can the grant of ex-emption to certain areas from the operation f the Act be equivalent to repeal of the Act. Bhikusa Yamasa Kshatriya v. Sangamner Akola Taluka Bidi Kamgar Union, AIR 1960 Bom. 299; AIR 1949 Lah 191, 195.

Where the object merely is to by-pass some earlier provisions as are found inconsistent with those of a later enactment, the earlier enactment cannot be said either to have been repealed or to have been abrogated. Hari Shankar Bagla v. M.P. State, AIR 1954 SC 465 at p 469 : 1954 Cr LJ 1322 : 1954 SCA 824. Act does not repeal but merely by passes inconsistent provision of earlier Law, Narayanan Namboo Karnavan v. Appukutly Nair, AIR 1969 Ker 38 at p 54 : 1968 Ker LT 390 (FB).

The provisions only ceased to apply, the same cannot be said to be totally repealed and hence the provisions of section 6 of the General Clauses Act could not possibly be attracted. Parmanand v. Kalyan Dass, AIR 1959 Punj 610.

**Diferent intention-Test of inconsistencey or repugnancy.**— In the case of a simple repeal, that is, when repeal is not followed by fresh enactment, there is scarcely any room for expression of a contrary intention. T. S. Baliah v. Income-tax Officer, Madras, AIR 1969 SC 701.

Section 6 ordinarily applies when there is no saving clauses, in the repealing statue or "unless a different intention appears". AIR 1955 NUC (Pepsu) 2509.

Unless a different intention appeared in the repealing Act, the amendments made in the original Act continue to have operation. Damodar Ganesh v. State, AIR 1951 Bom. 459 at p 461 : 1952 Cr LJ 37 : 53 Bom. LR 739 (DB), ILR (1939) Mad 87 : AIR 1939 Mad 21; Palitana Nagarpalika v. Arisa Bhuwan Jain dharmshala, AIR 1979 Guj 140 at p 147 : (1979) 20 Guj LR 24 Guj LR 24. Things done under the repealed enactment not to be obliterated.

Section 6 does not apply to such matters as have been provided for specially by making detailed provisions for similar matters, but the section would apply where no specific provision has been made in the repealing Act. Income-tax Commissioner v. Tezpur Automobiles, AIR 1969 Assam 122 at p 128 : 1969 Assam LR 70; AIR 1969 SC 408. When repeal is followed by fresh legislation on same subject, the provisions of the new Act have to be looked into only for purposes of determining whether there is any different intention. State of Punjab v. Mohar Singh, AIR 1955 SC 48 at p 88 : 1955 Cr LJ 254 : 1955 SCJ 25.

When the saving clause states "shall have regard to the provisions of this Act", the meaning is that, the new Act has slightly modified or clarified the previous provisions and that clarification and modification should be applied. Karam Singh Sobti v. Pratap Singh, AIR 1964 SC 1305 at p 1309: 1963 Cur LJ (SC) 174.

**Amendments, applicability of section 6.**— The general rule is that amendment of an Act during currency of a suit is irrelevant and right of parties are governed by the Act as it existed when the suit was commenced. Kondahi Bagaji v. Doagadu Gajabha, AIR 1935 Bom 257 at p 259. Section 6 does not deal expressly with the effect of amendment of an Act, but there is no other law which lays down the effect of amendment of an Act. As a mater of fact, a majority of repealing Acts are those which re-enact the law and in essence there is no distinction between such laws and laws which merely profess to amend. If the amendment of the existing law is small, the Act professes to amend, if it is extensive, it repeals the law and re-enacts it. Therefore section 6 applies to amendments as much as it applies when an Act is repealed and another Act is re-enacted. New Singhal Dal Mill v. Firm Sheo Proasad Jainti Prasad, AIR 1958 All 404 followed. in Nagar mahapalika, Agra v. Prabhu Dayal, 1968 All WR (C) 514.

**Retrospectively.**— The object of any particular legislation may be to eradicate some evil or to introduce some social reform, but this fact alone will not imply any sufficient or clear indication of that legislation being retrospective, and the courts have to judge the intention from the provision of the statute itself and the language used therein. Ram. Prahlad v. Kukhtiar Chand, (1958) 60 Pun LR 332 at p 337 (DB); Custodian Evacuee Property, Rajasthan v. Dr. Mohammad Saeed, AIR 1958 Raj 93 at p 95 : 1957 Raj LW 513 (DB). The remedial nature of a statute is not test of its retrospectively. Central Bank of India v. Their Workmen, AIR 1960 SC 12 : 1960 SCJ 842. Remedial Act may be enlarging or restraining-Retrospectively to be judged from its express terms or from its necessary intendment; Abdul Hamid v. Bara Tatya, AIR 1951 Orissa 153 at p 156 : LIR 1950 Cut 617. A remedial statue not prima facie retrospective irrespective of language.

A statute can be said to be retrospective "which takes away or impairs any vested right acquired under existing law or creates a new obligation or imposes a new duty or attaches a new disability in respect of transactions or considerations already past." Syndicate Bank v.(M/s.) Rallies India Ltd., AIR 1979) 2 Andh WR 258 : Virendra Kapur v. University of Jodbpur, AIR 1964 Raj 161 : 1964 Raj LW 328. Examination taken by candidate on faith of existing regulation-Regulation not to be substituted with retrospective operation.

In the case of a statute which creates new rights, the consideration that ought to be kept is to see whether it takes away any existing right because when any substantive law is altered during pendency of an action, the rights involved

therein have to be determined according to the law as had then existed, unless the new statute carries a clear intention to vary those rights. K. G. Dora v. G. Annamanaidu. AIR 1974 SC 1069 at p 1079; 1969 Raj LW 92, ILR (1968) 18 Raj 1088, 1098.

**Retrospectively of 'Amendments.—** The principle underlying section 6, firstly, is that in the absence of necessary provisions in the amending Act, the provisions modifying the penalty will not be applicable to earlier defaults, because a statute which affects substantive rights is presumed to be prospective unless made retrospective, either expressly or by necessary intendement, whereas a statue which merely affects procedure, unless such construction is impossible, is presumed to be retrospective. Fazi, (Mst) v. Mohammad Bhat, AIR 1979 J& K 69 (FB) : 1979 Chand LR (Cri) 32 (J & K). To spell retrospectively in a section there must be something in the intent from which retrospective operation can be necessarily inferred. Controller of Estate Duty, Ahmedaboa v. M. A. Merchant, AIR 1989 SC 1710.

The construction on an amending provision has to be constructed from the point of view of the law as it existed prior to amendment, the mischief which the amending provision seeks to remedy and the manner in which the mischief is to be remedied. Nagar Swashya adhikari, nagar Mahapalika v. Jawahar Singh, 1969 All LJ 795 : 1969 All WR (HC) 625 ; S. B. Adityam v. S.K. Kandaswami. AIR 1958 Mad 171 : (1953) 1 Mad LJ 61 (DB). The aim of constructing the amending statue should be to add force and life to the cure and remedy in conformity with true intention of the Legislature. Although it is legitimate to refer to the pre-existing law as also the defects or lacuna found therein for the rectification of which the amendment has been brought about, yet it is unnecessary to refer to the rules of construction laid down by authorities. Dharima Mudali v. Abdullah. (1963) 2 Mad LJ 211 : (1963) 76 Mad LW 406;(1964) 1 WR 361.

Procedure mentioned in an amending Act cannot be made applicable to transactions already concluded, because procedural laws apply on date when a suit or proceeding comes up for trial or disposal. Memon Abdul Karim Haji Tayab, Central Cutlery stores v. Deputy Custodian General, New Delhi, AIR 1964 SC 1256 at p 1258 : (1964) 2 SCJ 220. Procedural amendments apply to actions after they have come into force; Calcutta Discount Co;, Ltd. v. Income-tax Officer, Companies, District, 1. AIR 1952 Cal 606 (609).

A declaratory provision, meant to explain or clarify any existing legal position is resumed to be retrospective. Narayana Patter v. State of kerala, AIR 1979 Ker 139 at pp 146-149 : 1977 Ker LT 64 (FB). Retrospective operation can more rightly be ascribed to a curative statue, but not to a remedial statute. Sukhram Singh v. Smt. Harbhaji, AIR 1969 SC 1114 at pp 1117, 1118 : (1969) 2 SCJ 773;AIR 1970 SC 349, 1970 SCJ 328.

However, the use of the words "it is declared" cannot be taken as conclusive in considering a statute to be merely declaratory and, therefore retrospective. Omuien Proonnoote v.

Kuruthu Karuthu, AIR 1951 Traw-Coch 118 at p 121 : 1951 Kekr LT 223 (FB). There is a presumption in favour of prospectivity of statutes other than those which are merely declaratory or involving matters of procedure or evidence, but it does not mean that all efforts should be made so as not to give a statue a retrospective operation, whatever its language be. The rule does not require of courts an "obdurate persistence" in refusing to give a statute a retrospective operation. Gulab Chand v. Kudi Lal, AIR 158 Ch 554 at p 558 : 1959 SCJ 173; AIR 1968 SC 623, 628, (1977) 106 ITR 743, AIR 1956 Hyd 75,77.

A Power conferred by Legislature upon a sub-ordinate authority, to issue any notification, cannot be exercised retrospectively, unless it is so stated expressly. India Sugars & Refineries, Ltd, Hospet v. State of Mysore, AIR 1969 Mys 326.

If a different phraseology from what is contained in the old enactment is used in the Amending Act, the inference that the old law is intended to be changed is natural. S. V. Natesa Mudaliar v. Dharnpal Bus Service (P), Ltd., AIR 1964 Mad 136 : (1964) 2 Md. LJ 23 (FB). In the absence of such apparent intention to change the law as made before, prevails as good. Anumolu Tirupatitrayaolu v. Kaluri Venkata Sbba Rao. AIR 1950 Mad 287 : (1949) 2 Mad LJ 768 (DB).

Though the Legislature can give retrospective effect to a legislation, the executive Government in exercise of subordinate or delegated legislation is not empowered to make rules with retrospective effect unless that power has been expressly conferred. Biroy Kumar Mohanty v. State of Orissa, AIR 1981 Orissa 13 at p 15.

**Acts partly procedural and partly substantive.**— Where the statue would affect the substantive rights of parties as well as the procedure for their enforcement, the rule is that old rights and old obligations have to be determined by the old procedure whereas the new rights and new obligations has to be determined in accordance with, the new procedure. M. Abdul Khader v. Mysore Revenue Appellate Tribunal, AIR 1967 Mys 6 at p 10 ; (1965) 2 Mys LJ 450 ; Sardar v. State, AIR 1961 Cal 181 a t p 183 : (1961) 1 Cri LJ 374 (DB) ; Ramani Ranjan Bose v. Corporation of Calcutta, AIR 1955 Cal 410 at p 411 : 1955 Cri LJ 1063 : 19 Cal WN 599. Where part of a deleting section in a statute is prospective but the other parts are merely silent as to their prospective or retrospective effect, the silent portions are to be treated as prospective. R. P. G. T. (P), Ltd (M/s.) v. Shaik Ahmed Bhasha, (1974) 2 APLJ 47 (DB).

When the procedural part of alteration is linked up closely and inextricably with the alterations made in another part of that statute involving substantive rights and liabilities, the retrospective operation of the procedural part can be given effect to only by force of express words or their necessary implication. Hajee K. Assainar v. commissioner of Income-tax, (1971) 81 ITR 523 (Ker). The mere application of an Act to pending proceedings, does not mean that each provision of that Act will have retrospective operation. S.K. chaundhari v. Joy Kumar Sarkar, AIR 1950 Cal 1515 at p 517 : 55 Cal WN 75. It is

a settled principle of law that right of appeal accrues to the parties to the suit on the date of institution of the suit according to the law in force and therefore there is a presumption that a subsequent change in law restricting the grounds of appeal will not apply to appeals arising from the suits instituted earlier. Laksmichand v. Mithu, AIR 1984 MP 112 (114).

Since no person has a vested right in procedure, the rule is that an enactment altering merely the procedure without altering the substantive rights of parties, would operate retrospectively as regards such procedure and would not, therefore, extend to rights which had accrued before the alteration had been made. Vansh Bahadur Singh v. Kamla Singh, 1969 MPLJ 204 ; Babu Dhirendra Nath Roy v. Ijjet Ali Miadh, AIR 1940 Cal 423 ; 44 Cal WN 729.

**Express words for retrospectively.**— Section 6 has no scope for its application when the Legislature passes an enactment giving it retrospective effect in express words, Union of India v. Mohim Chandra Dutta, AIR 1952 Assam 159 at pp 162, 163 : ILR (1952) 4 Assam 275 (DB).

There is no prohibitition on a retrospective legislation affecting right to acquire property and validating actions with regard to that right. Rustom Cavasji Cooper v. Union of India, AIR 1970 SC 564 at p 619 : (1970) 1 SCJ 564; (1970) 1 SCC 248.

It the Legislature has power over the subject-matter and competence to make a valid law, it cannot only make a valid law, but make it retrospectively and bind even past transactions. Shir Prithvi Cotton Mills, Ltd. v. Broach Borough Municipality. (1970) 1 SCJ 288 : AIR 1970 SC 192.

In the absence of any constitutional prohibition, the Legislature is competent to enact prospective as well as retrospective legislation, so as to deprive an order of finality which it would have otherwise possessed. Balwant Singh Bhim Singh v. Inspector-General of Police, (1966) 7 Guj LR 1101 : (1966) 2 Lab LJ 517 at p 527 (DB).

A prospective amendment has no power to revalidate unconstitutional law, nor to validate the things invalid when such amendment was passed. Mukhtar Singh v. State of U. P., AIR 1957 All 297 at p 304 : 1953 All LJ 878 (DB).

In case the intention of the Legislature is apparent, so many enactments, though in form prospective, have to be given retrospective effect, Shah Bhojraj Kuverji Oil Mills & Ginning Factory v. Subhaschandra Yograj Sinha AIR 1961 SC 1596 SC 1596 at p. 1601 : (1962) 1 SCJ 377.

An enactment changing or taking away any right cannot be construed as retrospective unless the words to that effect are expressly used, though such enactment, so far as matters of procedure are concerned, would be made applicable to further actions. Allied Exkports & Imports, Gudur, Nellore v. State of A. P., AIR 1971 Ap 218 at pp 221, 222 : 1971 Tax LR 750 : (1971) Andh LT 163 (FB) ; Commissioner of Income-tax v. Dhadi Sahu, (1976) 42 Cut LT 89 : (1976) 1 Cut WR 132 at p 136.

When the enactment uses the words "shall not be done" the expression is itself indicative of the prospective operation of the enactment. Gajani Devi v. Punushottam Giri, 1975 Rajdhani LR 481 at p 484 (Delhi); Tirukuthalanathaswami Devasthanam v. Township Committee, (1960) 2 Mad LJ 332 : (196)) 73 Madl LW 145 at p 149 ; Govindrajaswami Temple v. Rukmani Ammal, (1954) 67 Mad LW 767 at p 769 .

A court of appeal has been held to be competent in giving effect to remedies brought into force during pendency of appeals. AIR 1950 Cal 240 at p 243 : 54 Cal WN 262 (DB).

The rule that statutes cannot be held to be operative retrospectively in the absence of express words used therein to lead to that conclusion, is applicable also to amending statues which operate retrospectively only when it leads to that conclusion either expressly or by necessary intendment. Mustafa Isamil v. Manishankar, (1967) 8 Guj LR 641 : ILR 1967 Guj at p 589, 603; Vaidapalli Sattiah v. Custodian, East Punjab, AIR 1961 AP 477 at p 479. In deciding the true legal effect of the retrospective effect or the retrospective operation of an amending enactment, the intention of the Legislature is not to be ignored. Deputy Commissioner of Commercial Taxes, Tiruchirapalli v. Dhanlakshmi Trading Co., 1973 Tax LR 2027 at p 2028 : 31 STC 113 (DB).

**General.**— The provisions of this section will not directly apply when a temporary Act expires by efflux of time, AIR 1933 All 669 (FB), Kalyan Das v. Crown, ILR 15 La 782 at p 784 ; Karim Shah v. Zinat Bibi, ILR 1941 Lah 773 : AIR 1941 Lah 175 ; Haqiqat Ullah Khan v. State, AIR 1951 Raj 69 at p 73. General Clauses Act were not applicable to a temporary statue, which expired automatically on a given date, but applied only to statutes which were "repealed" by another enactment. The fact that the temporary statute was repealed by a subsequent enactment is not material. Soencer v. Hooroa, (1920) 37 TLR 280 at 281 ; Baldeo Singh v. State, AIR 1951 MB 149 at p 153.

When a statute comes to an automatic end by efflux of time, no prosecution for acts done during the continuance of expired Act can be commenced after the date of its expiry because that would amount to the enforcement of a dead Act. In cases of repeal of statutes this rule stands modified by Section 6 of the General Clauses Act. Union of India v. Sitaramanjaneyulu, AIR 1971 AP 145 at p 149 : 1971 Llab IC 651.

Section 6 applies only to valid Acts which are subsequently repealed. But where the Act is unconstitutional and has been declared unconstitutional, it shall have to be presumed as if the act had never been passed and was never in force. Section 6 cannot apply to its repeal by subsequent enactment. Jairam Singh v. State of Uttar Pradesh, AIR 1962 All 350. There can be no objection to an amending and validating Act on the ground that it has validated an invalid thing and if that amending and validating Act is itself valid, the same shall be enforced. Sardami Gurdial Kaur v. State, AIR 1952 Punj 55 at pp 56, 57 : 54 Punj LR 11 (DB).

Section 6 is applicable to express repeals and not where a statute is repealed by implication. British Medical Stores v. Bhagirath Mal, AIR 1955 Punj 5.

**Pending proceedings and procedure thereof.**— The effect of repeal of an enactment on pending cases is that the continue as if they enactment had not been repealed, subject, however, to anything contrary expressed in the repealing enactment. Ramesh Chandra v. Nagendra, AIR 1951 Cal 435.

If a statute deals merely with the procedure in an action but does not affect the rights of the parties, it will be held to apply to all actions, pending and future. K. Kapen Chako v. Provident Investment co (P) Ltd., (1977) 1 SCC 593 : AIR 1976 SC 2610. Section 6, though it does not apply to amendments, saves the proceedings already in progress under the repealed Act. Central Distillery and Chemical Works Ltd. v. State, AIR 1964 All 156.

When a new statute has created a particular right and has also prescribed a mode of its enforcement, that mode alone has to be followed, and no presumption or assumption is permissible. (1967) 2 MLJ 151.

This is embodied in the principle laid down in section 6 of the general Clauses Act whereunder the enquiry is not as to whether the new Act expressly keeps alive the old rights and liabilities, but whether it manifests an intention to destroy them. This is the view which has been expressed by the Supreme Court in its subsequent decision in Jayantilal Amratilal v. Union of India. (1971) 1 SCWR 424 : AIR 1971 SC 1193 : (1971) 2 Civ Ap J 316 (SC). An enactment dealing only with procedure, applies to all actions whether commenced before or after that enactment, which unless the contrary is expressed, does not take away an existing right of action. (1910) 12 Bom. LR 730 at p 736 (DB).

If the Legislature alters the mode of procedure or the forum, the party has no right other than to submit to the altered procedure or altered forum. AIR 1958 SC 915, 1958 CrLJ 1429, AIR 1965 Mad 149, 151.

"Section 6 contains the expression 'unless a different intention appears'. The effect of those words is that the repealing Act can make a provision which would be contrary to section 6 and to that extent can modify the operation of section 6. Unless, therefore the procedure laid down by the Repealing Act is such that effect cannot be given thereunder to the rights and liabilities accrued under the repealed Act, the general rule that the new procedure would apply to the investigations and legal proceedings for the enforcement of old rights and liabilities would not be affected in any way by section 6".

"Section 6 of the General Clauses Act applies generally in the absence of a special saving clause in the repealing statute for when there is one then a different intention is indicated. In any case where a repeal is followed by a fresh legislation on the subject, the Court has to look to the provisions of the new Act to see whether they indicate a different intention".

Whenever any Act repeals any enactment, unless a different intention appears, the repeal shall not, apart from any other matters, affect any legal proceedings or remedy in repeat of any such right, privilege, obligation, etc. and such legal proceedings or remedy may be continued as if the repealing Act had not been passed.

If during continuation of an appeal, the jurisdiction of the appellate authority in some particular respect has been taken away, then, after that jurisdiction being taken away, the pronouncement of the authority in that respect is void. Trichy City co-operative Bank v. Commissioner, (1957) Mad 521 : Sua Das v. State, AIR 1952 Ajmer 9.

**Vested right.—** A right to continue a duly instituted suit is in the nature of a vested right which cannot be taken away except by a clear indication of an intention to that effect. Venugopala Reddiar v. Krishnaswami Reddiar, AIR 1943 FC 24 : ILR 1943 Ker 21.

When a particular provision of an Act is in force when particular transaction was effected, then, the subsequent repeal of the statute will not affect the merits, rights or liabilities of the parties on the date of that transaction. Sundra Baiv. Manohar, AIR 1933 Bom. 262.

A right having been acquired under a repealed Act cannot be affected in the absence of different intention in the repealing Act. N. J. Gor v. M. G. Raval, AIR 1951 Bom. 336. A statute affecting vested rights is prima facie prospective, unless it expressly or by necessary implication in dictates to the contrary. I.T.O. v. Uppala Peda Venkataramayya, (1967) 64 ITR 93 : (1966) 2 Andh LT 92.

The right to have a suit entertained and tried by Court, and the right to pursue it to its final Stage, including the right to appear in and defend it is a substantive right, and a vested one ; and it follows that statutes effecting jurisdiction of courts, enforcing a law, do not operate retrospectively, unless clearly expressed or implied by necessary intendment. Balwant Singh v. Balwant Kaur, AIR 1957 Peposu 1 at pp 2, 3 (DB); 1952 All LJ (Rev) 159, AIR 1970 Bom 242, 245. The retrospective character of a statute depriving a person of his right to sue or affecting such right or affecting power of jurisdiction of Court, ought to be clearly expressed. Ramniwas v. Ratan lal, 1955 Raj LW 270 : AIR 1955 NUC (Raj) 4068. Right of appeal, being a substantive right, must be governed by the law in force both at a time when the proceedings are started or the decision sough to be appealed from is made. Ramanathan Chettiar v. Lakshmanan Chettiar, AIR 1963 Mad 175 at p 17 : (1963) 1 Mad L 46 (FB) : Sarwan Singh v. Devinder Singh, AIR 1952 Pepsu 8 at p 9 ; 3 Pepsu LR 566 (DB) : Batal Engineering C., Ltd. v. Custodan Evacuee Property, EP. AIR 1951 Punj 412 at P 413.

The mode of execution of a sentence is neither matter of substantive law nor of substantive right. Janaradhan Reddy v. State of Hyderabad, AIR 1951 SC 217 at p 220 : 52 Cri L 736.

**Right of appeal.**— If is well settled, as has been made clear by the Privy Cuncil, and the Supreme Court that right of appeal is a substantive right, which gets vested in a litigant as soon as it is commenced in the Court of the first instance conferring such right unless such right has been taken away by the repealing statute 190 AC 369, 1957 SCR 488, AIR 1951 Cal 258, 55 CWN 87. In case the repealing statue provides for a new forum, the right of appeal can be availed of at that forum, there being no vested right to a forum. Purushottam Singh v. Narain Sing & State of Rajastan, AIR 1955 Raj 203 ; Maria Christina D'Souza Sodder v. Amria Zurana Perelare Pinto, (1974) 1 SCC 92, at p 96, 97.

Imposition of a new restriction on an existing right of appeal is not matter of procedure, and since it has the effect of impairing a substantive right, it cannot be given retrospective effect. State of Bombay v. M/s Supreme General Films Exchange, AIR 1960 SC 980 at p 984 : (1961) 1 SCJ 119.

**Vested right to period of limitation.**— The selection of a forum and the period of limitation, are, ordinarily, matters of procedure. Ram Karan Singh v. Ram Das singh, AIR 1931 All 635 : 1931 ALJ 1018. The law of limitation does not extinguish the right but operates only as bar against the remedy Section 6 has no application so as to preserve the order period of limitation which is not a rule of substantive law. ILR 34 292 Mad 292, 20 MLJ 347. The law on the point can be stated in two broad propositions-(a) that the new law of limitation would not revive a barred right, and (b) that the new law cannot be construed retrospectively so as to destroy altogether the remedy of a litigant to enforce his right in a court of law. The law of limitation applicable to a suit or proceedings would be the law which was in force on date of institution of that suit or proceeding, unless there be any provision to the contrary. Shib Shankar Lal v. Songi Ram (1910) 32 all 33 at p 43 : 6 All LJ 931 (DB).

The right merely to take advantage of the provisions of a statute is not an accrued right. Zohrabai v. Arjuna, AIR 1980 SC 1010 at p 1012.

What section 6 intends is that a new law of limitation or an amendment in the law does not divest a person of right or title which has vested in him, under the former law of limitation. Tej Bhadur Kothari v. Radha Kishan Gopi Kishan, AIR 1936 All 858 at p 860 : 1936 All LJ 1373.

The law extending a period of limitation, in the absence of a contrary intention, operates only prospectively, so as not to affect substantive rights, and this rule it is said, and it is by now a settled principle that the law of limitation is a procedural law, and unless contrary is provided for it operates only retrospectively and governs the causes of action which arose prior to its enactment, with the exception that when a right to sue or make an application had become barred by law then in force, the coming into force of a new law of limitation has no effect of reviving those rights unless the contrary is expressed

in words or by necessary implication. Debi Dutta Moody v. T. Bellan, AIR 1959 Cal 567, at pp 570-571; AIR 1960 Cal 243, 248; AIR 1965 SC 1953, AIR 1965 Pun 106. .

This simply means that the statue of limitation operates not with regard to the time when the cause of action arose but with regard to the time when the cause of action arose but with regard to the point of time when the proceedings are instituted. State of Bihar v. Radha Krishna Kamala Prasad, (1957) 8 STC 440 at P 444 (Pat) (DB).

Unless there be a contrary intention either expressly or by necessary implication, a right already in existence is not affected by repeal or amendment of an Act. Chaudhary Gursaran Das v. Akhori Parmeshwari Chara, AIR 1927 Pat 203 at p 205 : 8 Pat L 841. Clause (a) of section 6 merely implies that the repealing Act is not supposed to bring into existence any earlier Act which had been itself repealed by the Act in turn repealed by the present repealing Act. Official Receiver v. Haji Murtaza Ali, AIR 1932 All 434 at p 436 : 1932 All LJ 402.

The words "anything done" in section 6 (b) may include legal effects and consequences of things done prior to repeal.

Section 6 (c) states the repeal of an Act shall not affect any right or privilege accrued or acquired under an enactment so repealed, unless a different intention appears. Lalji Raja v. Hansraj Nathuram, AIR 1971 SC 974 at p 979 : (1971) 2 SCWR 79.

It is fundamental rule of interpretation that while a rule of procedure may ordinarily have retrospective effect attributed to it, provisions in a state which affect existing rights cannot be applied retrospectively, in the absence of an express enactment to that effect or necessary intendment. Anything done under a repealed Act is not affected by the repeal, is the normal rule but when anything has been annulled but the same is validated by a Validating Act, that thing ought to be done again. Knothala Audinarayan and Sons v. Commercial Tax Officer, Ankapalli, (1977) 39 STC 547 (1) (AP) (DB); AIR 1936 Pat 561, 97 IC 608, AIR 1982 Ker 1 (FB). Assessment set aside but revived be Validating Act must be followed by fresh assessment. This clause embodies the same principle that the liability once accrued can be enforced despite subsequent amendment or alive on the date of repeal, as if the repealing Act had not been passed, unless a contrary intention is made out expressly or by implication. (1972) 118 ITR 744, 746, AIR 1927 Pat 206, ILR 6 Pat 296.

A plain reading of the section 6 (c) shows that the repeal of any enactment, unless different intention appears, shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the enactment.

The effect of clause (c) is to declare that right once acquired by force of some statute cannot again be taken away by the repeal of that statute. Manindra Nath v. Ramapada Pal, AIR 1950 Pat 505 at p 506 : 29 Pat 647 (DB).

Section 6 would apply to a case of repeal even if there is a simultaneous enactment unless a contrary intention appears from the new enactment. Whenever there is a repeal of an

enactment, the consequences laid down in section 6 of the Act will follow unless, as the section itself says, a different intention appears. In the case of a simple repeal there is scarcely any room for expression of a contrary opinion. But when the repeal is followed by fresh legislation on the same subject we ould undoubtedly have to look to be provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. The line of enquiry would be not whether the new Act expressly keeps alive old rights and liabilities but whether it manifests an intention to destroy them. It was not therefore possible to subscribe to the broad proposition that section 6 of the Act is ruled out whenever there is a repeal of an enactment followed by a fresh legislation. Section 6 would be applicable in such cases also unless the new legislation manifests an intention incompatible with or contrary to the proposition of the section. Such incompatibility would have to be ascertained from a consideration of all the relevant provision of the new law and the mere absence of a saving clause is by itself not material. M/s. Munshilal Beniram Jain Glass Works v. Shri S. P. singh, (1971) 2 SCJ 307 at p 331 ; State of Punjab v. Mohar Singh, 1955 SCJ 25 : (1955) 1 SCR 893.

The right of a party to have his pending proceeding disposed of by a competent court is a matter of right. Narayanswami v. Inspector of Police, AIR 1949 Mad 307 at p 316 : 50 Cr LJ 405 : (1949) 1 Mad LJ 1 (SB). Pending litigation is not affected by any change of law, except in procedural matters and substantive rights are not taken away, unless they are expressly included. The general rule of construction of statutes is that where the intention of the Legislature is not free from doubt, an enactment ought not be construed so as to affect the vested right of action when the consideration of the enactment as a whole makes it apparent that the Legislature intended to make applicable the provisions of the enactment to pending suits, the provisions will have to be so applied but where the law has been so altered as to create a rule of evidence or a rule of decision, then the contrary rule would apply and the person claiming to be governed by the old law will have to show that pending litigation had been saved from the operation of new law. Sonabai v. Boa of Revenue, AIR 1958 Madh Pra 358; 1973 All LJ 954, 1973 All WR 644, AIR 1955 All 433. The relevant law has to be strictly construed and a strict construction involves the necessary presumption that the Legislature did not intend to interfere retrospectively. Abdul Jameel, S.M.v. M/s. Simon Machnoochy, Ltd. (1967) 1 Mad LJ 337.

When a vested right requires a suit to be tried in the forum in which it was commenced, then enactment is not to be so construed as to take away that right. Ganpathy Rajavalid Raja v. Commissioner for Hindu Religious and Charitable Endowments, Madras, AIR 1955 Mad 378 : (1954) 2 Mad LJ 595.

Irregularities involved in past action can certainly be cured or validated by a fresh statute enacted for that purpose. Syabuddin Sab Mohidisab Akki v. Gadeg Belgiri Municipal Borough, AIR 1955 SC 314 (302) : 1955 SCJ 316. The question

as to whether an offence was committed or not depends on the state of the law when the offence was committed and not on the law as it is on the date on which the prosecution is started. In the case of penal Provisions, a person who commits an offence becomes liable the moment the offence is committed. AIR 1945 Mad 521 at p 522.

When there is a difference between the law in force and the earlier law not in force, the latter has to be followed. M. J. Delaflore v. AMir Mohammad, AIR 1970 Mad 308 (310).

The cession of territory subsequent to the commission of offence makes on difference. Emperor v. Mahabir, ILR 33 All 578 : 8 ALJ 630 ; Emperor v. Ram Naresh Singh ILR 34 All 118 : 9 ALJ 51. If the repealing Act provides a new forum where a legal proceeding coming on from before the repealing Act came into force can be pursued thereafter the forum must be as provided in the repealing Act, and no party can insist that the forum of the repealed Act must continue. Purshotam Singh v. Narain Singh, AIR 1955 Raj 203.

**Legal Proceeding.**— The expression "Legal preceding" connotes a preceding authorized by law, whether or not such proceeding is judicial. Abdul Aziz Ansari v. State of Bombay, AIR 1958 Bom. 279 at p 282 : 59 Bom. L 1259 (DB).

The expression "legal proceedings" includes pending appeals or revisions. Seshadri v. Narayana, AI 1950 Mad 106. Jurisdiction once acquired usually continues until the action is disposed of. Mere transfer of territory does not affect the vested jurisdiction of the Court. Hyderabad Stat v. Chander, AIR 1950 Hyd 71 AIR 1951 Raj 45 (FB). A right to have a suit entertained or tried on the original jurisdiction of the High Court is more than a mere matter of procedure and it affects substantive and vested or existing rights. Amar Nath v. Sreenarain, AIR 1951 Punj 52 at p 56 (FB). It is well established that under the General Clauses Act, 1896, for matters of procedure the new Act must always be followed in "legal proceedings or remedy" but any right which has accrued under the Act which has been repealed with remain subject to the qualification that the repealing Act contains no provision to the contrary. Sham Sunder v. Ram Das, AIR 1951 Punj 52 at p 56 (FD).

**Repeal of a law followed by fresh legislation on the same subject- Criterion to be followed in the interpretation of the provisions of the new enactment.**— In an enquiry to find out the intention of the legislature, one of the cardinal principles of interpretation of the statutes to be followed, is that the intention which appears, to be most in accordance with convenient, reason, justice and legal principles, should, in cases of doubt, be presumed to be the true one. Another principles is that when the repeal is followed by a fresh legislation on the same subject and a contrary intention does not appear therein, the repeal does not affect any right, privilege, obligation or liability acquired, accrued or incurred under the enactment so repealed.

Since section 6 of the General Clauses Act is applicable to the amendment in question it is to be examined as to whether the present appeal is affected on account of the amendment of section 30 of the Special Powers act. In other words, whether the right of appeal of the appellant which was available to him under the law under which he was tried, would be governed by the repealed section 30 or new section 30. 30 DLR 50.

Pendency of a case at the stage of investigation is not the same thing as a pendency of a case after the start of the legal proceeding which commences after the cognizance of the offence is taken up. In the present case as it was not pending on 23.8.77, its trial under the Special Powers act was without jurisdiction and the only court which can try the case is the court as provided under Cr. P.C.

In clause (e) of section 6 of General Clauses Act each of the expressions, namely, investigation, legal proceeding or remedy are disjunctive and the 'pendency of a case at the stage of investigation cannot be treated to be synonymous with the pendency of case after initiation of the legal proceeding which commences only on the taking of the cognizance of the offence by the competent court; in the instant case, by the Special Tribunal. 36 DLR 1984.

**Applicability of the Section.**— Section 6(e) of the General Clauses Act would have application when there is a repeal of any enactment. In the present case there has been an amendment to affect the jurisdiction of the court and such amendment cannot be put at par with he repeal of a statute with or without a saving clause. Bangladesh Vs. Shahjahan Siraj. 32 DLR 1980 AD.

A new law re-enacting the provisions of an earlier enactment, with or without modifications, nonetheless repeals that enactment, either expressly or by implication. 41 DLR 193.

Repeal not to revive anything not in force or existing at the time at which it takes effect. 41 DLR 193.

Section 21 is a rule of construction - Question of existence of implied power of cancellation to be determined with reference to the statute. 41 DLR 1989.

**Effect of repeal of a statute.**— The effect of section 6(e) of the General Clauses Act is that whenever there is a repeal of a statute, the consequence laid down in section 6 of the General Clauses Act shall follow unless a different intention appears in the repealing statute.

When the repeal is followed by a fresh legislation on the subject, the court has to look to the provisions of the new statute for the purpose of ascertaining whether a different intention is indicated. The determining factor is not that the new enactment expressly keeps alive the vested rights but whether it manifests an intention of the wiping them out.

Section 6, therefore, will be applicable unless there is a manifest intention incompatible or contrary to the proposition of section 6. Arshad Ali Sk. Vs. Govt. of Bangladesh, 29 DLR 302.

Effect of repeal of a statute read with a saving clause.— The general principle that an enactment which is repealed is to be treated as if it had never existed is subject to any saving which may be made expressly or by implication by the repealing enactment. Akhtar Hossain Vs. State. 29 DLR (SC) 102.

Police investigations into offences falling under P.O. 50 of 1972 pending when P.O. 50 was repealed. That will not invalidate the pending investigations as provided by section 6(c) (e) of the General Clauses Act, 29 DLR 102.

Repealing Act i.e. P.O. XIV of 1974 does not show that offences which were cognizable under P.O. 50 but did not come before the court through submissions of chargesheet were intended to be destroyed by the legislature.

There is nothing to show from the provisions of the repealing act that any intention contrary to the saving provisions of section 6(c) and (e) of the General Clauses Act has been expressed in the act with a view to show that the legislature intended to destroy the offences committed under P.O. 50 up to the date of its repeal but did not come before the court through submission of charge sheet under article 4(1) of P.O. 50. Provisions of section 6 of the General Clauses Act must come into operation in case of repeal of an enactment and in that view of the matter the proceedings in respect of offences of P.O. 50 pending investigation with the police must be covered by the provisions of section 6(c) and (e) of the General Clauses Act. 29 DLR 102.

Investigation or proceedings started under P.O. 50/72 will be continued under the provisions of the Special power Act by virtue of section 6(e) of the General Clauses Act in spite of the repeal of P.O. 50/72. Abdul Hue Chowdhury Vs. State. 27 DLR 56

**Repeal of one law and its substitution by another law - effect.**— A substitution of one legal provision by another, does in effect, repeal and re-enact an earlier law with or without modifications.

One of the important purposes of section 6 of the General Clauses Act is to protect rights and liabilities already accrued or incurred under the repealed enactment. That being so, the section does not admit of any strictly technical interpretation which may frustrate its very purpose. 14 DLR 47.

**New law substituted in place of an old law - Section 6 of the Act comes into play.**— A new law re-enacting the provisions of an earlier enactment, with or without modifications, nonetheless repeals that enactment either expressly or by implication.

Section 6 of the General Clauses Act, 1897 comes into play even where a previous enactment is repealed either expressly or by implication and re-enacted simultaneously by a new law, with or without modifications. 14 DLR 48.

**Effect of repeal of enactment.**— According to section 6(e) of the General Clauses Act, when an act repeals any enactment, then, unless a different intention appears, the repeal does not affect any investigation or legal proceedings already instituted. 11 DLR 84.

**Clause (e) applicable to legal proceedings in respect of substantive rights accrued .—** For the application of clause (e) of section 6 there has first to be a right and then a legal proceeding in respect of such right. This does not appear to be applicable to a case where the only possible right which can be said to have accrued is the right to prefer a particular legal proceeding. Clause (e) of section 6 would apply to legal proceedings in respect of substantive rights which have already accrued under a repealed enactment and would not cover a case where only a procedural right is granted. 17 DLR (965) 431.

All the provisions of the (repealed) Act would, under Section 6, continue in force for the purposes of enforcing the liability incurred when the Act was in force and any investigation, legal proceeding or remedy may be instituted, continued, or enforced as if the Act had not expired. A 1976 SC 958 (964) : 1975 Lab IC 628.

The rights of the party accruing under the superseded enactment cannot be taken away. 1979 Cri LJ 228 (234) : 1978 All Cri R 394 (DB).

Section 6 will not apply in respect of those matters where Parliament has clearly expressed its intention to the contrary by making detailed provisions for similar matters mentioned in that section. A 1969 SC 408 (412, 413) : (1969) 1 SCJ 659.

**Repealed Act not operative for future.—** If an Act gives a right to do anything such as fixation of the standard rent by the Bhadut Niyaman Samiti, the thing to the done, if not completed before the Act is repealed, must, upon the repeal of the Act be left in status quo. A 1954 Sau 77 (79) : 6 Sau LR 240 (FB).

When an Act is repealed it must be considered as if it had never existed, except with reference to such parts as are saved by the repealing statute. A 1954 Hyd 204 (208) : 1954 Cri LJ 1367 (FB).

If a statute is unconditionally repealed without a saving clause in favour of pending suit, all actions must stop where the repeal finds them, and if final relief has not been granted before the repeal goes into effect it cannot be granted afterwards. A 1958 Punj 230 (231) : 60 Pun LR 187 (FB).

Repeal is a matter of substance, and not of form. (1958) 2 Andh WR 79 (DB).

Whenever a legislature repeals a particular provision, the natural presumption is that such a repeal must have been with a particular intention. A 1969 J and K 9 (11) : 1968 Kash LJ 127 (FB).

**Temporary Acts and Ordinances.—** As a general rule and unless it contains some special provision to the contrary, after a temporary Act expires, no proceeding can be taken upon it and it ceases to have further effect. It means that prosecutions for offences committed against temporary enactments have to be commenced and punishments inflicted before the Act expires, since, as soon as the Act expires, proceedings being taken against a person ipso facto terminate. Unless it were so, it would

amount to enforcement of a dead Act. It is in case of repeal that this rule stands modified by section 6. In re. E.T. Palaniappa Chettiar & Co., AIR 1957 Mad 660 : 1957 Cri LJ 1149;1972 Cri LJ 1386 : 1972 Raj LW 272.

A repeal effected by a temporary legislation is only a temporary repeal and with the expiration of the temporary repealing enactment the original legislation is automatically revived without the necessity for re-enactment. Patel Kanta Kachra v. Jadeja Bhikhubha Pathubha, AIR 1953 Sau 195.

When a temporary statute made perpetual by subsequent enactment, the temporary statute becomes permanent ab initio. State of Bomboy v. Hemon Sant Lal Alreja, AIR 1952 Bom. 16 at p 22 : 53 Bom. LR 837 (DB). The provisions of section 6 of the General Clauses Act in relation to the effect of repeal do not apply to a temporary Act. State of Orissa v. Bhupendra Kumar Bose, AIR 1962 SC 945 at p 953 : M.R. Pratap v. Director of Enforcement, New Delhi, 1969 Cr LJ 1582 ; K. Cherian v. K chandy, 1958 KLT 105. A temporary statue is a statute which expires by efflux of time or on the happening of a contingency without recourse to a fresh legislation. State of A. P. v. Dakarapu Ramaswami, 1958 An LT 605 : (1958) 2 An WR 79. But this propsotion is subject to two exception : (i) where the temporary Act is repealed before its expiry and repealing Act provides for application of section 6 : and (ii) when the temporary Act itself contains a provisions similar to section 6. Karam Chand v. Bal Mukund, 1976 AIR 641 (FB).

In considering the effect of expiration of a temporary Act, it would be unsafe to lay down any inflexible rule. It certainly requires very clear and unmistakable language in a subsequent Act of the Legislature to revive or recreate an expired right. M. S. Shivananda v. Karnataka State Road Transport Corporation, AIR 1980 SC 77 at p 80 : (1979) 2 Serv LR 774.

It is well settled that if a temporary statute has created an offence and that offence is committed while that Act remains in force, the mere expiry of that statute does not prevent a persecution of such offence even if at time of prosecution that statue is no longer in force. Ramani Mohan Sarkar v. Emperor, AIR 1933 Cal 516 : 34 Cri LJ 879.

It is true that the Legislature can and often enough does avoid such an anomalous consequence by enacting in the temporary statute, a saving clause, the effect of which is in some respect similar to the effect of the provisions in section 6 of the General Clauses Act which deals with the effect of repeal of a permanent statute. Yet, it is not correct to say that on expiry of a temporary Act, all proceedings commenced during its time should automatically lapse. T.S. r. Sarma v. Nagendra Bala Devi, AIR 1952 Al 879 : 57 Cal WN 1; AIR 1959 SC 609.

What the effect of the expiration of a temporary Act would be must depend upon the nature of the right or obligation resulting from the provisions of the temporary Act and upon their character whether the said right and liability are induring or not.

Even if an Ordinance is unconstitutional, the validity of anything done or any action taken thereunder could yet be justified with reference to the provisions of such Ordinance. R.K. Garg v. Union of India, (1981) 4 SCC 675.

**Repeal by implication.—** The principle underlying the theory of repeal by implication is that if the provisions of two enactments having the same purpose and object cannot work in the same field and it may lead to anomalies and absurdities, then, the former Act must give way to the subsequent Act. Whether the scheme of things in case of such implied repeal will be workable or not, is wholly irrelevant for consideration. Kamakhya Narai Singh v. State of Bihar, AIR 1981 Pat 236.

When the possibility of obedience to one statute exists without disobeying the other, there is no inconsistency. Rama Chandra v. District Board, Ganam, AIR 1951 Orissa 1 at P 4 : 52 Cri LJ 43.

In case of inconsistency between an earlier State Act and a later Act of the Parliament, the former, shal be void to the extent of its conflict with the later on the same subject, provided the consflict is unavoidable. N. Srinivasan v. State of Kerals, AIR 1968 Ker 158 at p 165 : 1967 ker LT 853 (FB):AIR Bom. 169 at p 171 : 67 Bom LR 206 (DB).

When the question to be determined is convered by both the enactments, one general and another special, it is the latter which prevails, provided the special, when read as a whole, is found to be complete in itself. State v. Dina Nath, AIR 1956 Punj 85 at p 86 : 1956 Cr LJ 415.

There is a presumption agaisnt the intention of the Legislature to repeal legislation by mere implication. The presumption, however, is not irrebutable and is overthrown if the new law is inconsistent with or repugnant to the old law, for the inconsistency or repugnancy reveals an intent to repeal the existing law.

A temporary Act mayeither repeal a permanent Act absolutely or only partially ; and it is only a question of intention to be gathered from the plain meaning of the repealing enactment, and it is not open qeustion what has been staed in the premble. Bharat Singh v. Emperor, ILR 12 Lah 28 : AIR 1931 PC 111.

Where, howver, the two enactments are identical and run parallel to each other, there would be scope for the application of the doctrine of implied repeal. T.M.L.S. Bradari v. Improvement Trust, AIR 1963 SC 976 : (1963) 1 SCR 242. There is no inconsistency when it is possible to obey each without disobeying the other. Tam Chandra Misra v. President, District Board, Ganjam, AIR 1951 Orissa 1 : 17 Cut LT 10. Unless the two Acts cannot stand together. There can be no implied repeal. Matra Prasad v. State of Punj ab, AIR 1962 SC 745 : 1962 Supp (1) SCR 913. If after having made a general law, the alegislature thereafter also enacts a special law, it is

presumed that the Legislature knew the confict between the two. Corporation of Madras v. Madras Electric Tramways, Ltd., AIR 1931 Mad 152 : 60 MLJ 551:AIR 1942 Cal 607 : 75 Cal LJ 414.

**Ex post facto legislation.**— "No person shall be convicted of any offence except for violation of a law in foce at the time of the commission of that Act charged as offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence".

**Doctrine of implied repeal.**— The doctrine of implied repeal is beased on the postulate that the Legislature intends to remove confusion by retaining confilicting provisionss. The intention of the Legislature may be gathered by examining the object and scope of two enactments. But in a conceivable case, the ever existence of the two porvisios may by intself, lead to an inference of mutual irreconcilability if the later set of provisions is by itself a complete code with respect to a matter. In such a case the actual detailed comparison of the two sets of the provisions may not be necessary. Ratan Lal Adukia v. Union of India, AIR 1990 SC 104 (110).

**The common law.**— At common law, the normal effect of repealing a statute is to obliterate it from the statute book as completely as if it had never been passed, and the statute must be considered as a law that never existed. To this rule, an exception is engrafted by the provisions of Section 6 and there may also be apecial savings in special Acts dealings with the effect of repeal. A 1958 Bom. 507 (509) : 61 Bom. Lr 1141.

As to the precise scope of Section 6, if should be noted that the section does not save the provisions of the repealed Act as such. It only sves the rights and liabilities which have accrued under those provisions. A 1975 Delhi 258 (262, 263) (DB).

In the case of an express repeal, Section 6 is attracted even if an specific saving clause is contained in teh repealing Act. 1971 Tax LR 303 (305) : 83 ITR 182 (DB) (Punj).

Section 6 cannot be aplied to notifications issued by Gvernment in exercise of powers conferred by some statute. (1977) 1 Mad Lj 425 ( 432) (DB).

Where a suit was filed by a party in whose name the property was purchased in Court auction for possession, the defendant could not resit the suit on the ground that the purchase in the name of the plaintiff was benami in view of amended S 66 (1) of C. P. C. and S. 6 of General Clauses Act would have no application in view of contrary intention in S. 97 (23) of the Civil P. C.

**Application to the constitution.**— The Pressident, in exericse of the Prowers conferrred on him by Article of the Constitution (power to adapt laws so as to bring them into conformity with the Consitution), can repeal in whole or any part of an Act. If the President does so, then such repeal will at once attract S. 6 of the General Clauses Act. A 1951 SC 128 (128) : 52 Cril LJ 860.

The general rule of repeal : that when a parent Act is repealed all laws made thereunder stand repealed, does not apply to laws made under a Consitution Act. Such a law has to be expressly repealed if it has to be effaced. A 1979 All 170 (172).

The effect of a repeal is to dry up the source of power. If the sourse of power is a Constitutional Act the law survives as an independent unit ; and if the source of power is a legislative power other than that contained in the Constitution Act, the law ends with the drying out of its power source subject to such savings as the law may provide. A 1979 All 170 (172, 173) : 1979 All LJ 304 (FB).

The Constitution is a "repealing" enactment within the meaning of Section 6, General Clauses Act. Constitution has got, therefore, no retrospective effect and cannot apply to a proceeding which was pending immediately before date on which the Constitution came into force and the rights of the parties in regard to that proceeding shall be regulated by the law which was in force on the date immediately preceding 26-1-1950. A 1953 Assam 35 (37, 38) : 1953 Cri LJ 397 (FB).

Section 6 does not apply to the repeal of an Act by the Constitution. A 1956 All 583 (584).

When the President, exercising his power under the Constitution, repeals a law in force, the rights and privileges acquired by any person under the law repealed are preserved by virtue of Section 6 read with the Constitution. A 1954 Bom. 505 (507) : 56 Bom. LR 552 (DB).

The saving of an order made prior to the commencement of the constitution under Section 6 does not mean that the State is entitled to deprive a citizen of a fundamental right which is guaranteed to him by the Constitution. Therefore, even though the order may be saved by Section 6, yet, if the order is in violation of the fundamental rights which have come into existence the Court is entitled to interfere. In such a case, there is no question of applying Section 6. A 1950 Bom. 363 (366) : 52 Crj LJ 120.

There is a distinction between express repeal and implied repeal. The savings clause given in Section 6 would apply to express repeals, and not where a statute is repealed by implication. A 1955 P(unj 5 (9) : 56 Pun LR 449.

Section 6 has no application to the repeal of a statute made by Parliament A 1954 SC 683 (686).

**Meaning of repeal and effect or cancellation or suppression.—** The word "repeal" connotes the existence of a repealing Act or the abrogation of one Act by another. A 1950 Hyd 20 (23) (FB).

Repealing a provision is the same thing as omitting a provision, and therefore, S. 6 will stand attracted on the omission of certain Sections of an Act by a subsequent Act. (1947) 94 ITR 397 : ILR 91973) 3 Mad 606.

There is no difference between the expression "repeal" and "cancellation" and S. 6 applies to cases where an enactment is repealed or cancelled. (1948) 53 Mys HCR 32 (40) (DB).

The granting of an exemption to certain areas from the operation of an Act by issuing a notification is not, and cannot be, equivalent to a "repeal of the Act. A 1960 Bom. 299 (310) : 61 Bom. LR 754 (DB).

Section 6 does not, in terms, apply to the "overriding" of enactments or to a provision declaring that an earlier law shall "cease to apply". A 1971 ker 44 (45, 46, 50) : 1970 Ker LT 4427 (FB).

Section 6 of the Essential Supplies (Temporary Powers) Act, 1946, does not repeal any of the provisions of a pre-existing law; neither does it abrogate them. Those laws remain untouched and unaffected. So far as the statute concerned. Its object is simply to by-pass the earlier provisions where they are inconsistent with those of the Essential Supplies (Temporary Powers) Act, 1946 or the orders made thereunder. A 1954 SC 465 (469).

Mere provision in an Act containing a general repealing clause that all inconsistent enactments shall stand repealed does not by itself spell a repeal of the enactments in conflict with the Act. It only provides for the predominance of the provisions of the Act over other Acts. 1967 ker LT 254 : 1967 ker LJ 277 (297) (DB).

Repeal of one enactment cannot have the force and effect of creating a new provision in another law nor to alter the interpretation of another law. 1961 MPLJ 1011 : 1961 Jab LR 1327 (1339) (DB).

A "cancellation" is not a repeal and the effect of cancellation is not saved by Section 6. A 1955 NUC (Lah) 5449.

The word "repeal" must be regarded as wide enough to include the suppression -at any rate, the deliberate and conscious suppression-of one Act by another Act. A 1970 ker 301 (304) : 1970 Ker LT 376.

If the legislature intent to supersede the earlier law is manifested by the enactment of provisions so as to effect such suppression, then there is in law a repeal notwithstanding the absence of the word "repeal" in the latter statute. A 1964 SC 1284 (1294m 1295) : 1964 SCD 11.

**Implied repeal.—** Section 6 is not confined to cases where the legislature expressly repeals a named legislation. The section applies even to those cases where the effect of the subsequent legislation is to make an earlier legislation of no effect. A 1951 Bom. 188 (189) : 52 Cri LJ 30.

The basis of the doctrine recognizing an implied repeal is the presumption that the legislature did not intend to create confusion. Therefore the question whether in a particular situation, there is or there is not, an implied repeal is to be determined as a question of intent. Such intent is to be examined in the usual way by scrutinizing the scope and object of the earlier enactment and the later enactment. A 1963 SC 1561 (1564) : (1964) 1 SCA 442;A 1953 Assam 35 (36).

Two negative enactments need not be contradictory. An earlier statue expressed in negative language may be included in, or absorbed by a later statue expressed in a similar negative language, but with a wider scope. In such a case, the former enactment would not be repealed, nor even necessarily altered, by the latter, as they both can stand together, but the former enactment can be said to have been "amended". A 1941 FC 16 (31) : 1940 FCR 110.

There is a presumption against implied repeal. This presumption will, however, be rebutted if the provisions of the new Act are so inconstant with old ones that the two cannot stand together . A 1963 SC 1561 (1564) : (1964) 1 SCA 442.

There must be a positive repugnance between the provisions of the new law and those of the old.

It is a maxim of the law that implied repeals are not to be favoured, and where two statutes are entirely affirmative and identical, no question of inconsistency could arise. Where the operative terms of the two enactments are identical and the enactments so to speak, run parallel to each other, there would be no scope for the application of the doctrine of implied repeal, particularly where the earlier enactment is one of a temporary duration, while the later enactment is a permanent enactment. A 1963 SC 976 (679) : 1962 SCD 1016.

It is a reasonable presumption that the Legislature did not intend to effect so important a measure as the repeal of a law without expressing an intention to do so. Such an interpretation, therefore, is not to be adopted, unless it is inevitable. Any reasonable construction which offers an escape from it is more likely to be in consonance with the real intention. Further, when the later enactment is worded in affirmative terms only, without any negative expressed or implied, it does not repeal the earlier law. A 1970 Goa 73 (78); A 1962 Cal 34 (36).

Repeal by implication should not be inferred unless there is no other way out. One of the tests to be applied in deciding whether an earlier state is repealed by a later statute is whether both of them can stand together and their provisions obeyed to the full extent. There is no inconsistency when it is possible to obey each without disobeying the other. A 1951 Orissa 1 (4) : 52 Cri LJ 43.

When it is possible to obey each of the two statutes without obeying the other, doctrine of implied repeal cannot be invoked. A 1970 Cal 127 (1289) : 74 Cal WN 384. A 1953 Sau 113 (118) (DB). Unless two Acts are so plainly repugnant to each other that effect cannot be given to both at the same time repeal by later Act will not be implied.

Where the language leaves no room for doubt tat the provisions of a former statute are inconsistent with those of the later one, the former should be deemed to have been abrogated by implication. 1965 Pun LR (Supp) 366 (367) : A 1960 Punj 111 (114).

A case of implied repeal may arise where the later of the two general enactments is worded in negative terms. It may also arise where the later general enactment is in affirmative terms, but, in fact, it involves that negative which rendered the earlier general enactment inconsistent. A 1969 Goa 30 (33).

When the later enactment is worded in affirmative terms without any negative it does not impliedly repeal the earlier enactment. A 1967 SC 1581 (1584) : 91968) 1 SCJ 475.

Each case of an implied repeal is to be considered on its own facts, the decisions in other cases being illustrative, and not determinative. A 1969 Goa 30 (33).

The law does not favour repeal by implication and it is only in the last resort that Courts hold that one enactment is repealed by another even without express words. If the provisions of a later Act are so inconsistent with or repugnant to those of an earlier Act that the two cannot stand together, the earlier stands impliedly repealed by the later one. It is an essential condition for the application of the rule of implied repeal that there should be identity of subject-matter in the two enactments. A 1969 Mad 145 (148) : (1968) 2 Mad LJ 451; 1968 Ker LT 171.

It is only when the co-existence of the two enactments is destructive to the object with which the other Act was passed, the provisions contained in the earlier Act are to be treated impliedly repealed. A 1974 Andh Pra 294 (296) (DB). Two provisions are not inconsistent-Court should construe language of provisions so as to avoid effect of inconsistency. A 1967 Goa 151 (52). It is an essential condition for the application of the rule of implied repeal that there should be identity of subject-matter in the two enactments. The question of implied repeal is undoubtedly a question of law. A 1956 Pun 85 (86) : 1956 Cri LJ 415 : 58 Pun LR 79 (DB). The implied repeal may however be inferred if the Special Act read as a whole is intended to be complete in itself. A 1954 Tripura 17 (20). If the coexistence of two sets of provisions would be destructive of the object for which the later was passed the earlier would be repealed by the later.

A repeal connotes the abrogation or obliteration of one statute by another from the statute book, as completely as if it had never been passed. This principle is equally valid in the case of implied repeal of a statute or of a section as it is in the case of express repeal. A 1977 Raj 89 (93, 94, 96) : 1976 WLN 820.

If it is established that there is an implied repeal, S. 6 would seem to be applicable. A 1951 Bom. 188 (189) : 52 Cril LJ 30.

**Repeal by implication - general and special law.—** A general law has to be construed as not repealing a particular one that one directed towards a special object or class of objects and more particularly so when the new Act is couched in affirmative language and the two can stand together. A 1960 Madh Pra 330 (344) : 1960 MPLJ 789.

When there is something in the nature of a later general law which makes it unlikely that an exception was intended as regards the special Act, then the general law will be taken to have repealed the special law. A 1961 Ker 210 (220, 221) : 1961 Mer LT 64 (FB); A 1957 Madh Bha 58 (61).

When there exists a general provision as also a special provisions of law on a particular subject, the latter one prevails provided the question to be determined is covered by both. (1978) 80 Punj LR 17 (20) (1977) 79 Pnj LR 421 (426) : 1958 Cri LJ 591.

**Repeal and amendment.**— If is common legislative paretic to pass from time to time repealing and amending Acts in order to exercise dead wood from the statute book and to make minor amendments in various Acts mostly of a verbal nature. A 1954 Cal 484 (488) : 58 Cal WN 560 (DB).

The object of the repealing and amending Acts is legislative spring-cleaning and they are not intended to make any change in the law. A 1965 Madh Pra 43 (47) : 1964 MPLJ 304 (DB). The rule of construction with regard to the effect of amendment is that a statute amended is to be understood in the same sense exactly as if it had read from the beginning thus amended. A 1967 Ker 47 (47, 48) : 10966 ker LT 309.

The words "consolidate" and "amend often occur in statutes repealing and re-enacting the provisions which have been there before enactment. (1959) 61 Bom. LR 1247 (125*). An amendment is not necessarily made to remove lacuna. It may be introduced ex majori cautela.

An Act purporting to be an amendment has the same qualitative effect as a repeal. Thus, repeal and amendment are not mutually exclusive terms. They both are frequently applied to the same Act. A 1971 Andh Pra 218 (226) : 1971 Tax LR 750.

Even where there is no express saving the principle of S. 6 may apply. It had been held that though S. 6 deals with effect of repeal the principle applies also to the amendment of prior enactments as well. (1972) 85 Mad LW 760 (772) (DB). A 1956 Hyd 65 : ILR (1956) Hyd 79 (FB).

An amending Act may, either specifically or by necessary implication, continue certain essential provisions in "repealed" Act.

An amendment of a statute operates to repeal it. The mere fact that the Legislature enacts an amending Act would by itself, indicate that it intended to change the original Act by creating a new right or with drawing an existing one. The effect of an amendment is therefore two fold namely, to repeal and to enact. 1968 All WR (HC) 207 : 1968 All Cri R 139 (140, 141).

While construing an amending provision, law prior to amendment, mischief sought to be remedied and how remedied must be seen. 1969 Al LJ 795 All WR (HC) 625 (627) A 1958 Mad 171 (173, 174) :(1958) 1 Mad LJ 61 (DB).

When an Amended Act uses a different phraseology from what is contained in the old Act, the natural inference is that the law is intended to be changed. A 1964 Mad 136 (142, 143, 147).

A statute can prima facie be construed as changing the law to no great extent than its word or necessary intendment require. A 1965 Mad 1 (7) : (1964) 2 Mad LJ 519 (FB).

An amendment of an Act of the Legislature during the currency of a suit has no effect on the suit and the rights of the parties are governed by the Act as it existed at the time when that suit was commenced. 37 Bom. LR 372 (DB).

If in order in facilitate the drafting of an Amending Act, the old provision is re-enacted as a sub-section of the new provisions and further sub-sections are newly added to it, the intention of the Legislature is not to "repeal" the old provision and to replace it by a new provision. 1971 Tax LR 1044 (1050) : 29 STC 74 (FB) (Bom).

The rule of interpretation is that when the Legislature amends an Act by deleting something which was there, then in the absence of an intention to the contrary the deletion must be taken to be deliberate. 1968 All WR (HC) 514 : 1968 All Cri R 337 (34)); A 1971 All 77 (80). 1970 All LJ 1122 (FB). Amending Act altering language of principal statute-Alterations must be take to have been made deliberately ; A 1962 Orissa 17 (19) : (1961) 3 Orissa JD 238 (DB) ;A 1958 Madh Pra 168 (173) .

Under the guise of adaptation no authority can make essential changes in the Act. (1887) 2 Mad LJ 315 (317) (DB).

The operation of S. 6 of the General Clauses Act (1897) is limited to cases in which the change in the law is the result of a mere repeal of the old enactment and does not extend where it is due to an addition to it. (1912) 13 IC 264 (267) : 5 Sind LR 184.

The consequences laid down in S. 6 have no application when a statute which is of a temporary nature automatically expires by the efflux of time. A 1955 SC 84 (87) : 1955 Cril L 254.

The distinction between a perpetual Act and a temporary act is that whereas the former continues in operation until it is repealed, the latter expires by efflux of time. A 1951 Sau 67 (68) : 52 Cri LJ 1032 (FB).

What the effect of the expiry of a temporary Act would be must depend upon the nature of the right or obligation resulting from the Act, the provisions of the Act and upon their character whether the said rights a liabilities are enduring or not. A 1962 SC 445 (953).

The effect of expiry of a temporary Act depends upon the construction of the Act itself. A 1971 Andh Pra 145 (149). 1976 Ker LT 164 : ILR (1976) 2 Ker 32 (42). A temporary statue is in one sense permanent as to the rights, privileges and obligations created thereunder.

Every statute for which no time is limited is called a perpetual Act, and its duration is prima facie perpetual. It continues in force until it is repealed. If an Act contains a provision that it is to continue in force only for a certain specified time, it is called a temporary Act. This result would

follow not only from the terms of the Act itself, but also from the fact that it was intended only as a temporary measure. This ratio has also been applied to emergency measures which continue during the subsistence of the emergency, but lapse with the cessation thereof. A 1957 SC 497 (500, 501) : 1937 Cri LJ 599.

The general rule in regard to a temporary statute in that is absence of a special provision to the contrary, proceedings which are being taken against person under it will ipso facto terminate as soon as the statute expires. A 1951 SC 301 (304) : 52 Cri LJ 1103.

There is a difference between temporary statutes and their expiry on the one hand and permanent statutes and their repeal on the other hand as regards the consequences of such expiry and repeal respectively. Section 6 does not apply to the repeal of temporary statutes. A 1955 Cal 374 (379).

Section 6 does not by its terms, apply to the automatic expiry of temporary Ordinances. Though S. 30 applies to certain provisions of the General Clauses Act to Ordinances. S. 6 itself has no application to the expiry of such temporary Ordinances. A 1933 All 660 (671) : 34 Cril LJ 1030 (FB).

Section 6 does not apply to the expiry of temporary statutes. Hence a prosecution pending under an Ordinance cannot after its expiry be continued unless there is a clear statutory provision to that effect. A conviction for an offence against an Ordinance. ordered on a date when the Ordinance is not in force is illegal and ultra vires A 1935 Lah 188 (189) : 36 Cri LJ 735.

In the case of a temporary statute, the restriction imposed and the duration of its provisions after the expiration of its term are matters of construction. A 1947 Mad 325 (328, 329) : 48 Cri LJ 403 (DB).

In the absence of some special provisions to the contrary, after a temporary Act has expired no proceedings can be taken upon it, and it ceases to have any further effect. A 1955 NUC (Cal) 5616.

An offence committed against a temporary Act must be prosecuted and punished before the Act expires and on its expiry any proceedings which had been taken against a person will ipso facto terminate. But once a person has been convicted and sentenced it is altogether immaterial whether the Act on which the order of the Court was based expires or is subsequently repealed. The continuance of the punishment is by virtue of the orders of a competent Court. The person punished before the expiry of the temporary Act cannot be "dispunihsed" on its expiry. A 1948 Pat 229 (221) : 49 Cri LJ 251.

**Applicability of the section.**— When a temporary Act expires, S 6 of the General Clauses Act which, in terms, is limited in its application only to repeals, has no application to such expiry. A 1971 Andh Pra 145 (149) : 1971 Lab IC 651 (DB).

Section 6 does not ordinarily apply to a temporary Act. The general rule is that in the absence of special provisions to the contrary, proceedings taken against a person under an Act ipso facto terminate on its expiry. A 1974 SC 396 (404) A 1951 SC 301 (304) : 52 CrilLJ 1103.

The Legislature can, and often does, avoid anomalous consequences by enacting in the temporary statute a saving provisions the effect of which is, in some respects identical to that of S. 6 of the General Clauses Act. A 1962 SC 945 (954).

When a temporary Act expires, it should be regarded as having never existed, except as to matters and transactions past and closed. Whether a particular transaction should be considered to be "past and closed" depends upon the nature of the transaction and the nature of the rights given in the temporary Act. A 1957 Punj 265 (268) (DB).

Section 6 is not applicable to revive for any purpose whatsoever, Acts which have ceased to have any effect, having expired by efflux of time or Acts which have been declared to be void by the Constitution. A 1951 Mys 72 (100) : 52 Cril LJ 992 (FB).

When a statute is repealed or comes to an automatic end by efflux of time, no prosecution for acts done during the continuance of the repealed or expired Act can be commenced after the date of its repeal or expiry, because that would amount to the enforcement of a repealed or dead Act. This is the common law rule. In cases of repeal of statutes, this rule stands modified by S. 6. A expiring Act, however, is not governed by the rule enunciated in that section. A 1957 Mad 660 (661) : 1957 Cri LJ 1149.

Section 6 (e) has no reference to temporary or expiring statutes which automatically lapse at a certain date, or on the happening of a certain contingency, without fresh legislation. A 1941 Lah 175 (177) : 43 Pun LR 103.

The temporary Act may expressly provide for its survival even after its expiry in regard to transactions that took place while it was in force. A 1971 Andh Pra 145 (149) : (197)) 2 Andh WR 196 (D).

Where the conviction was for offences under the Essential Supplies (Temporary Powers) Act 1946, but the Advocate General at the stage of the hearing before the High Court advanced the argument that the opposite party should have been really convicted by the trial Magistrate under the Defiance Rules, 1939, rejecting this argument, it was held that as the Defiance of India Rules, 1939 , rejecting this argument, it was held that as the Defence Act expired on 30-9-1946, in the absence of any saving clause on prosecution for the infringement of its provisions could be commenced after the expiry of the life of the Act. A 1956 All 586 All 583 (584 , 585) : 1956 Cri LJ 1149 (DB).

Section has no application to temporary Ordinances. A 1949 Mad 893 (894) : 51 Cri LJ 87.

Certain consequences may survive the expiry of temporary laws even where there is no express saving. For example, in a penalty had been already incurred under the temporary statue and has been imposed upon a person, the imposition of the penalty would survive the expiration of the statute. A 1962 SC 945 (054) : 1962 SCD 389.

The effect of expiry of a temporary Act by efflux of time on a right acquired while the Act was in force depends upon the working of the provisions and the nature of the right. (1980) Mad LJ 153.

An enduring or a vested rights created by the temporary statute cannot be taken away merely because the statute creating it has expired. A 1962 SC 945 (954) : 1962 SCD 389.

The expiry of a temporary Act has not always the consequence that all proceedings taken under it come to an end with its expiry, or that it can no longer be applied in any manner. Whether or not that consequence result from the expiry of a particular Act depends upon the nature of the Act itself. A 1957 Cal 257 (266) : 61 Cal WN 263 (FB).

**Express Savings in temporary laws.**— There is no reason why legislature cannot provide in the Act itself that expiry of the Act would not affect things previously done or omitted to be done. A 1971 Andh Pra 145 (149, 152).

**Statute becoming void.**— Section 6 cannot be applied to an Act which becomes void. A 1950 Hyd 20 (23) (FB).

The word "void" is not synonymous with the word "repealed" .A 1951 Mys 72 (95) : 52 Cri LJ 992 (FB);A 1953 Cal 263 (275).

In the Act, the word "void" cannot be read where the word "repeal" is expressly used. A 1950 H7d 20 (23) : ILR 91951) Hyd 237 (FB).

There is, a great deal of difference between an Act which is void and an Act that is repealed. To say that a law is "inoperative" is something less than to say that an Act is repealed. The word "void" may not have its full force and effect when it is used in an enactment for the benefit of particular persons and understood as "voidable" at the election of those persons, but when it relates to persons incapable of protecting themselves or when it has some object of public policy which requires strict construction, the word receives its full force and effect. The word "void" has to be understood to have its full meaning-As when it is used with the word "null"-to indicate nullity. A 1951 Mys 72 (95) : 52 Cri LJ 992 (FB). A 1952 Bom. 16 (28) : 53 Bom. LR 837. Repeal involves legislative process whereas declaration of law to be void does not AIR 1955 SC 410.

The effect of the judgment of a High Court declaring an impugned Act invalid is not that the said Act never existed or has ceased to exist but only that so long as the judgment is not overruled the Courts in that State will decline to recognise the

impugned Act. Therefore there cannot be any objection to an amending and validating Act or Ordinance on the ground that it validates something which could not be validated. And, if the Act as amended is constitutional, it will be enforced. A 1952 Punj 55 (56. 57) : 54 Puj LR 11 (DB).

Section 6 would apply not only to laws repealed under the constitution but also to those laws which have become void as a result of their being inconsistent with the provisions of the Constitution. A 1951 Bom. 188 (190) : 52 Cril LJ 30 (FB).

Section 6 is not confined to cases where the legislature expressly repeals a named legislation, Section 6 must apply even to those cases where the effect of a subsequent legislation is to make an earlier legislation of no effect and therefore Section 6 should not only be applicable to a case where the legislature uses the expression "repeal" but also to a case where it uses the expression "void" if in substance the effect of using these expressions is exactly the same. A 151 Bom 188 (189, 190) : 52 Cri LJ 30 (FB).

Proceedings under S. 18 (1) of the Press (Emergency Powers) Act. 1931, pending at the date of Constitution are therefore not affected. A 1951 C 128 (130) : 52 Cril LJ 860.

When an Act becomes void, it is not strictly speaking, necessary to have a savings clause as it is necessary in the case of a repeal. A 1951 SC 128 (668).

The Criminal Laws Amendment Ordinance, 1943, being inconsistent with the Constitution, ceased to be valid and all proceedings purporting to have been had under it (after the date of the commencement of the Constitution) were utterly void. A 1953 Cal 263 (275) : 1953 Cri LJ 673. (DB).

**Amendment declaring statute to be void.**— The effect of an amendment declaring a law void is to repeal that law as from the date on which the declaration is made. It does not render the law void from the date of its inception-as happens when the law is ultra vires of the authority which enacted it. A 1954 All 608 (613) : ILR (1955) 1 All 162 (FB).

**Action taken before statute becoming void.**— The article of the Constitution being prospective, the mere fact that an Act or a statute is inconsistent with the constitution and therefore "void", does not affect anything done or action taken or any rights which have already accrued, before the Constitution came into force. A 1952 Punj 417 (418).

Where the prosecution under Section 17 of the Criminal Law Amendment Act, 1908, related to acts committed before the Constitution came into force, the conviction was not bad merely on the ground that S. 16 of the Act had been held to be void under the Constitution. A 1951 Cal 505 (506) : 52 Cri LJ 1087 (DB).

The power to assess and collect tax on sales made before the commencement of the Constitution in accordance with an enactment which was valid in its entirety before such commencement, remained unaffected. 1961 MPLJ 894 ( 896).

The provisions of S. 6 will apply to a case of repeal even if there is simultaneous re-enactment unless a contrary intention can be gathered from the new enactment. A 1955 SC 84 (89) : 1955 Cri LJ 254.

The absence of a savings clause in the particular enactment is immaterial. The section would be applicable even in such cases, unless the new legislation manifests an intention incompatible with or contrary to the application of the section. Such incompatibility would have to be ascertained from a consideration of all relevant provisions of the new law and the mere absence of a saving clause is not, by itself, material. (1971) 2 SCJ 307 : 1971 Lab IC (N) 6; 1955 Andh WR 204 (207) : A 1955 NUC (Andh Pra) 1769.

Section 6 is not confined to cases of repeal simpliciter, but extends to cases where the repeal of the earlier enactment is followed by fresh legislation. A 1955 SC 84 (88, 89) : 1955 Cri LJ 254 A 1960 Cal 243 (247).

In the case of a simple repeal, there is scarcely any room for the expression of a contrary opinion. But when the repeal is followed by fresh legislation on the same subject, the Court would undoubtedly have to look to the purposes of the new Act, but only for the of determining whether they indicate a different intention. (1961) 63 Bom. LR 667 (674) (DB).

When a statute is repealed and re-enacted and words in the repealed statute are reproduced in the new statute they should be interpreted in the sense which had been judicially put on them under the repealed Act, because the Legislature is presumed to be acquainted with the construction which the Courts have put upon the words, and when they repeat the same words, they must be taken to have accepted the interpretation put on them by the Court as correctly reflecting the legislative mind. A 1955 SC 661 (749) : 1955 SCA 1140.

This presumption must apply to the case of repeal and re-enactment of an Act. A 1963 All 75 (82) : ILR (1963) 2 All 151 (DB). Legislature is presumed to know the interpretation put on it by judicial decisions.

The approval of the Legislature of a particular construction put on the provisions of an Act on account of its making no alteration in those provisions is presumed only when there has been a consistent series of cases putting a certain construction on certain provisions. A 1961 SC 1589 (1595) : 1961 SCK 739. A 1959 All 264 (275) : 1958 All LJ 780 (DB).

The principle that because a particular decision was given before the amendment, but no change was made in the Act, it must be presumed that the view expressed in the decision was accepted only applies to wellknown cases of decisions by important Courts.

Whenever there is a repeal of an enactment, the consequences laid down is Section 6 of the General Clauses Act will follow unless, as the section itself says, a "different intention" appears. The line of inquiry would not be whether the

new Act expressly keeps alive old rights and liabilities but whether it manifests an intention to destroy them. (1971) 2 SC 307 : ILR (1971) 1 All 502 (511), 512) 2 SCJ 307.

The line of enquiry has to be how far are the rights destroyed and not how far they are saved and if the expression used in the matter of saving of the rights is wide enough not to affect the vested rights, an implication to affect such rights cannot be intended by the absence of a negative provision to that effect. (1961) 63 Bom. LR 667 (674) (FB).

It cannot be laid down as a broad proposition that S. 6 is ruled out whenever here is a repeal of an enactment followed by a fresh legislation. A 1971 SC 1193 (1195, 1196).

The operation of S. 6 is not confined to the mere repeal of a statute, but extends to a repeal followed by fresh legislation unless a different intention appears from the new enactment. (1958) 2 Andh WR 79 (81).

Section 6 would also be applicable in cases of repeal followed by fresh legislation unless the new legislation manifests an intention incompatible with, or contrary to, the provisions, of the section. 1955 Andh WR 204 (208) : A 1955 NUC (Andh Pra) 1769.

If the same legislation repeals and re-enacts sometimes, having regard to a particular legislative intent, repealing provision may be severable from that of reimposition and the former may be given effect if valid, leaving the latter to be invalid if it is beyond jurisdiction. But if such severance is contrary to legislative intent, then the entire legislation will be rendered invalid. A 1957 Mdh Bha 83 (89) (DB). A 1954 Pepsu 174 (177). Repealing clauses in subsequent statute falling with unconstitutional statute to which it was attached-Repealing section held in effective and inoperative.

Section 6 will apply to a case of repeal even if there is simultaneous re-enactment, unless contrary intention can be gathered from the new statute. A 1980 Gauhati 3 (4, 5).

An amending Act is not invalid merely because the parent statute has been so declared, provided the Amending statute is a complete re-enactment. A 1966 Pat 425 (429) (DB).

Where two different words are used in a single Rule or in a single section of an enactment, normally speaking, it would be assumed that the two words have different connotations. (1975) 77 Bom. LR 13 (23, 24).

A statutory right must be considered to become known not after interpretation of statute by the Court but right from the moment the statute is enacted. 1972 Ren CR 324 (327) (Delhi).

Whenever by applying the doctrine of ejusdem gentris certain words of limitation or restriction are read in a statute they should be treated as having been enacted. A 1965 All 269 (273 : 1964 All LJ 771 (DB). Section 6 does not apply to an amendment made not by an "enactment", but by under Section 196 (1A) of the Government of India Act 1919. A 1928 Bom. 371 (372) (DB).

**Repeal otherwise than by enactment.**— A saving clause worded differently from Section 6 (e) has to be construed in accordance with the language used in the regulation. A 1975 Delhi 204 (206, 207) : 46 Com Cas 297 (DB).

**Repeal of ordinances.**— The power of legislation by ordinance is as wide as the power of the legislature in enacting an Act. The mere fact that the earlier Ordinance has been repealed, or has expired by the efflux of time, cannot prevent the legal fiction from operating. When a retrospective validation of illegal collection of tax is within legislative competence, there is no valid scope for the argument that a power of Ordinance-making cannot extend to the creation of a retrospective legal fiction. 1975 Tax ILR 1277 (1284) : 1974 BLJR 817.

A provisions of the law promulagated, whether in the shape of an Ordinacne or in the shape of an Act adopted by the Legislature, is "law". But even if the Ordinance was not validly and effectively continued by the Act the prosecution thereunder was still good. A 1948 Cal 247 (248) : 49 Cri LJ 410.

The repeal of Section 7 of War Risks (Godds) Insurance Ordinance (9 of 1940 did not take away the right which the Crown had to initiate prosecutions for an offence committed when the section was in force. A 1949 Mad 271 (271) : 50 Cri LJ 326.

The question as to repeal of Ordinance 52 of 1944 and its effect on the Second Lahore Tribunal constituted thereunder, can be decided in the light of S. 3 of the repealing ordinance (1 of 1946) and S. 6A of the General Clauses Act. A 1947 FC 38 (43) : 48 Cri LJ 886.

Repeal by ordinance.— Repeal by an Ordinance would be effective only for the duration of the ordinance, but an Act of the Legislature replacing the Ordinance, if it incorporates the repealed provisions of the Ordinance, can have permanent effect. A 1962 SC 1281 (1285, 1286) ; 1972 Tax LR 2240 (2242).

Under the Coal Production Fund Ordinance (No. 39 of 1944), the Central Government was authorized to levy and collect, as a cess on all coal and coke despatched form Brithish India, A duty of excise at specified rate. This was a permanent Ordinance. The repealing Ordinance (6 of 1947) repealed the Ordinance of 1944 with effect from 1-5-1947, but under S. 6 of the General Clauses Act, the repeal did not affect the right of the reilway to recover the freight or the liability of the other party to pay the same, and the remedy in respect of that right and liability. The repealing ordinance, being a temporary one, expired after it fulfilled its purpose. However, as it had continued the life of the original Ordinance, which was a permanent one, in repeat of past transactions, the expiry of its own life could not have any effect on that law, to the extent expressly saved by it. The 1944 Ordinance, to the extent saved, continued to have force under Art of the Constitution, until it was altered, repealed or amended by a competent Legislature.

Without the express provision in the repealing Ordinance. Section 6, read with Section 30 of the General Clauses Act, might have achieved the said result, but ex abundanti cautela and to place the matter beyond any controversy. Section 6 of the General Clauses Act was expressly made applicable to the repeal. A 1962 SC 1281 (1285).

Repeal by void Act.— Where an Act is held unconstitutional by a Court, Act, repealed by the Act struck down are not revived thereby. A 1972 Mys 199 (202, 203) (1972) 1 Mys LJ 310 (DB).

While dealing with an Act of Parliament, it was held that the act done under the void State Act was invalid according to the Constitution and no legislature governed by it had power to lay down that it must be deemed to be valid, and that Parliament could not enact a legal fiction in the teeth of the provisions of the Constitution. The Act was therefore, struck down on the ground that it was beyond the legislative competence of the Parliament. A 1965 All 420 (424) : 1965 All LJ 386 (FB).

Act does not merely validate invalid State Acts-Incorporates all provisions of State Acts and imposes cess by its own force-S. 3 is not invalid. A 1966 SC 416 (421 to 425) : (1967) 1 SCJ 98.

Repeal of a void Act is, of course, only a formal action, undertaken only to clear and tide up the statute book. Since the Act repealed is, ex hypothesis, void, its repeal can have no additional legal consequences as such. Though, in such cases, S. 6 would technically apply (there being a formal repeal), it saves nothing.

**Repeal of temporary laws.**— The principles embodied in S. 6 will apply to the repeal of a temporary statute A 1957 Cal 257 (262) (FB) A 1958 Cal 172 (175).

The rule in S. 6 has no application where the statue repealed is of a temporary nature and the repeal is not by an Act of the Legislature (Central or Provincial) but by a notification of the Governor. A 1949 Lah 191 (195) : 50 Cri LJ 783 (FB).

**Repeal by temporary law and expiry of amending Act.**— A repeal effected by a temporary legislation is only a temporary repeal. With the expiry of the temporary repealing Act, the original legislation would automatically resume its full force. No-reenactment of it would be required to revive it. A 1953 Sau 195 (197) (DB).

If the period of a temporary statute (which has repealed an earlier statute) expires there would not be revival of the earlier statue by the expiry of the temporary. A 1957 SC 458 (463).

The first temporary amending Act of 1933 repealed certain provisions of the principal Act of 1932 and substituted of other provisions in their place. The operation of the amending Act was, by two further Acts, continued down to 30-6-1935. Then, by Act of 5th July, 1935, its operation was further extended to 31-3-1936 but only till then the section of the three temporary Acts (prescribing successive dates of expiry of this temporarly legislation) were repealed. The result was that on 31-3-1936,

the temporary legislation (contained in the first Act of 1933 repealing the provisions of the principal Act of 1932 and substituting other provisions came to an end) not by repeal of the temporary legislation but by the efflux of the prescribed time. A 1949 PC 90 (94).

The provisions of S. 6 were held to apply to the repeal of the Essential supplies (Temporary Powers) Ordinace, 1946 by the Essential Supplies (Temporary Powers) Act, 1946. Consequently, a person could be tried and punished for a contravention of the ordinance of 1946 comitted at a time when the Ordinacne was in force, even after it was repealed and repleaced by the Act of 1946. A 1951 Nag 353 (355) : ILR (1951) Ng 447.

Where an old Act is repealed by a new Act, there is always a period of changing ovr and almost invariably a saving clouse is added in the new Act in order to ensure a smooth change-over. But the faults of draftsmanship cannot be permitted to reduce the provisions of an Act to an absurdity, more so when the main object and intention of a statute are clear from the title, preamble or otherwise. A 1960 All 119 (121) : 1060 Cri LJ 199 (DB).

When any Act passed repeals another in whole or in part and substitutes some provision or provisions repealed, the repealed enactment remains in force untill the sbstituted provisions or provisions come into operation. A 1951 Hyd 140 (151) (FB).

If a notification is uperseded by another notification, the supersession will be effective from the date of the second notification and does not operate retrospecitively so as to abrogate the earlier notification from the very date of its commencement. The obligations and liabilites accrued ad incurred under the earlier notification are unaffected by its withdrawal, though subsequent to is withdrawal the land is once more held tree of the limitations imposed by the earlier notification. A 1955 UC (All) 2769 (DB).

**Repeal of Act - Effect on subordinate legislation.**— When a rule or bye-law is made under an Act or a section thereof, the repeal of that act or section abrogates the rule or bye-law, unless it is preserved by the repealing Act by means of a saving clause or otherwise. A 1955 SC 932 (938, 139).

An order made under an Act which has lapsed by efflux of time stans abbrogated unless otherwise preserved. A 1958 Anh Pra 427 (432) (DB).

If the power to make laws becomes extinct, the laws already made would not become extinct unless they are inconsistent within the provisions of the Constitution. A 1958 J & K 29 (35) : 1958 Cri LJ 885 (FB).

While ascertaining whether the rights and liabilities have been put an end to, the proper approach is, not to inquire if the new enactment has by its provisions kept alive the rights and liabilites under the repealed law, but whether the new enactment has taken them away. A 1971 SC 1193 (1195, 1196).

**Effectment of repeal on rpcedural statutes.—** When a new enactment deals with right of action, an existing right of action is not taken away unless the contrary is expressed. But when the enactment deals with procedure only, then, unless the contrary is expressed, the enactment applies to all actions whether commenced before or after the passing of the Act (1910) 12 Bom. LR 730 (736) (DB).

No one has and vested right in any procedural rule and, therefore, any chage in the procedural law has a retrospecitv effect, in the sense of being applicable even to judicial proceedings intiated before the change, provided this can be done without affecting any substantive rights acquired by ay of the parties to the proceedings before the change. A 1950 East Puj 25. A 1975 Delhi 258 (264, 165) : ILR (1976) 1 Delhi 506 (DB). The Distinction between the saving of the substantive rights and liabilities prior to the repeal and allowing the full application of the procedure introduced by the repealing Act is supported by the analogy of Art. of Constitution of the repeal of a statute.

The validity of operation of any order validly passed or any act validly done by a judicial tribunal under the procedural law for the time being in force cannot of course, be affected by any subsèquent change in the said law. A 1950 East Punj 25 (32) : 51 Cri LJ 459 (FB).

On a combined reading of S. 6 within S. 18, Foreign Exchange Regulation Act the procedure prescribed under the Act will be applicable and the provisions of the old Foreign Exchange Regulation Act, 1947 will have no relevance, if an appeal under the Act is not filed within the time prescribed, the delay cannot be condoned. 1980 Mad LJ 136 (321).

The right of further cross-examination is a mere qualified procedural right which cannot be preserved to a party after the law which canferred the right is amended or after another procedural law, substantially altrering the mode by which the credibility of witnesses should be tested,is substituted in place of the repealed statute. A 1954 Hyd 204 (206): 1954 cri LJ LJ 1297 (FD).

An application for the exection of a mortagage decree made more than 12 years after it was passed is barred under S. 48 of the C. P.C. though the decree was passed under the old Code. because no vested right in the procedure procedure prescribed in that Code was acquired by the decree-holder within the meaning of s. 6 of the General Clauses Act. a 1917 Pat 485 (486) : 1 pat LJ 214 (DB).

A right to have a suit entertained or tried in the original jurisdiction of the High Court is more than a mere matter of "procedure" and it affects substantive and vested or existing rights. a 1951 Cal 442 (444): 54cal WN 617.

A rule of limitation, not being rule of substantive law is not preserved by S. 6 of the Geneal Clauses Act. (1911) 34 Mad 292 (293) : 20 Mad LJ 347 (DB).

New statute creating particular right and prescribing mode of its enforcement - That mode alone is to be followed. A 1955 Mad 305 (309): (1955) 2 Mad LJ 49 (FB).

When a thing has to be done in a particular or prescribed manner and if that prescription springs from the state itself, it could be done only in the manner so ordained and not otherwise. No presumption or assumption is possible. 1974 Lab IC 283 (286): (1973) 2 Mad LJ 195.

**Effect of repeal on pending actions.** Under S. 6, the repeal of an enactment does not prima facie affect pending actions, which are to be decided as regards substantive matters) as if the repealed enactment was still in force. A 1951 All 485 (486): 1951 All LJ 56.

Pending litigation is not affected by any change of law, (except in procedural matters) and substantive rights are not taken away, unless they are expressly included. But where the law has been altered in such a way as to create only a rule of evidence or a rule of decision the contrary rule applies and the person who claims to be governed by the old law, has to show that pending litigation had been saved from the operation of new law. A 1958 Madh Pra 368 (371): 1958 MPLJ 452.

The result of the repeal of an enactment on cases pending at the time of the repeal would be that they would continue as if the enactment had not been repealed. But this is subject to the qualification that the repealing enactment contains no provision or indication to the contray. A 1944 FC 1 (7): 45 Cri LJ 413 (1962) 64 Puj LR 1024(1030).

Though the general rule is that, where the intention of the Legislature is doubtful an enactment will not be construed so as to affect vested rights of action, if upon a consideration of the enactment as a whole, it is apparent that it was the provisions of the Act should be applicable to pending suits, they will be so applied. a 1955 All 432 (433): 1955 All LJ 276 (FB). A 1955 Mad 378 (380 to 382) : (1954) 2 Mad LJ 595 (DB) .

**Vested right of property**- vested right to have suit tried in forum in which it was commenced- statute not to be so construed as to take away this right.

When a lis commences, all rights get crystallised and no clog upon a likely appeal can be put, unless the law is made retrospective expressly or by necessary implication. A 1953 SC 221 (224) : 1953 SCJ 276.

Unless it can be proved conclusively that the lis commenced before the amendment of the law, the rule as to retrospectivity cannot apply. A 1967 SC 344 (345).

When, during the pendency of the proceeding new legislation is intrduced and enforced which among others is retrospective by specific provision being introduced in that new Act the pending procedding would be governed by the modified or new law. A 1955 Mahd Bha 49 (52) : 1955 Mahd BLJ (HCR) 376.

The object of S. 6 of the General Clausees Act may be simply to lave proceedings commenced under the old Act unaffected by the repealing Act. only so far as they have proceeded, leaving their further progress to be regulated by the procedure in force after repeal. (1895) AIR 22 Cal 767 (781) (FB).

The repeal of a statute giving jurisdiction to a Court does not deprive it of the right to pronounce judgment in a proceeding previously pending. Proceedings which were pending at the time of repeal cannot be dismissed by the Court for want of jurisidction after repeal. A 1958 Punj 230 (231) : 60 Punj LR 187 (FB).

Decree passed by Civil Court-Amending Act changing forum subsequently-Pendecy of appeal, is not affected. A 1971 Mys 298 (300) : (1971) 1 Mys LJ 453. The right to prosecute a suit or appeal in a Court haivng jurisdiction at the time of its institution is a vested right. A 1963 Orissa 27 (28). Pending suit for restitution of conjugal rights-Jurisdiction of Civil Court not ousted.

When by the change in law there is merely a change of forum i. e. a change in adjectival or procedural law, such a change of law operates retrospectively and the person has to go to the new forum even if his cause of action or right of action accrued prior to change of forum. A 1976 SC 237 (240, 242) : (1976) 2 SCJ 309.

Accident occurring prior to consititution of Tribunal Jurisdiction of Civil Court is ousted as soon as Tribunal is constituted-A 1961 MP 295 ; AIR 1964 MP 133 : AIR 1970 Pat 172.

Where a person acquired a right to claim a relief while an Act is in force, he has a right under S. 6 to continue the legal proceedins before the final authority haing power to grant him the relief. ILR (1955) 5 Raj 239 (253) : A 1955 NUC (Raj) 1356.

An accused person can be prosecuted for offences under certain statute during its continusance and he can be punished under that state even after its repeal, if the repealing Act does not completely obliteeate the offence committed when the earlier statute was in force. A 1969 Mad 145 (154).

The rights of the parties to an action are to be governed by the law in force when the action was commenced and a change is the law would not affect pending actions, unless there is a clear provision to that effect in the new enactment. A 1965 Manipur 39 (43) (1959) 651 Punj LR 921 (925) A 1956 Trav-Co 236 (DB) A 1955 rissa 77 (79) : 21 Cut LT 507 (DB) 19955 Raj LW 92.

A change in the law in the course of an assessment year cannot apply in making assessment for that year unless the statutory provision was mae retrospecitve. The subject of assessment is not the income of that year but of the previous year. 1968 Ker LT 744 : 1968 Ker LR 475 (476) Suit must be decided according to law in force at time of bringing suit in

absence of express or implied provisions. 1957 BLJR 296 (298). When there is a change in the law as to court-fee between the date of the suit and the date on which an appeal arising from that suit is filed, te law in force at the later date would goven the court-fee payable on the appeal. A 1950 Bom. 236 (239) : 52 Bom. LR 123 (DB).

Where the statute is psssed pending an action as distinct from "after the date of the cause of action", strong and distinct words are necessary to alter the vested rights of either litigant as they stood at the commencement of the action.

The retrospective operation of an Act is one thing and interference with the existing rights is another. The latter deals with the question as to the ambit and scope of the Act and not the date from which the new Act is to be taken as having been the law. When the question is whether a provision which prohibits the execution of certain decrees applies to all decrees or only such of decrees as were passed after the Act was passed, the question falls in the latter class. A 1951 A 1957 All 547 (548) (DB).

Change in procedural law during pendency of cases instituted under the old procedural law does not affect pending proceedings. The deletion of the section during pendency of the appeal in the High Court was immaterial. Though alterations in the form of procedure are generally retrospective, there is another equally important principle, namely, that a statute should not be so construed as to create new disabilities or obligations or impose new duties in respect of transactions which were complete at the time the amending Act came into force. 1970 Cri LJ 1396.

Retrospective effect - General.— While a rule of procedure may ordinarily have retrospective effect attributed to it provisions in a statute which affect existing rights cannot be applied retrospectively, in the absence of an express enactment or necessary intendment to that effect. A 1976 SC 2610 (2617) : 1977 Ker LT 1; (1977) Ker LT 516 (518) (DB); 1974 BLJR 696 (700); ILR (1968) 2 Cal 183 (185) (DB) ; (1955) 95 Cal LJ 191.A 1965 Punj 224 (225). Change in law after suti had been decided but before filing of appeal-Court-fee payable on mem of appeal is under old law unless amendment is made specifically retrospective. (1955) 59 Cal WN 735 : A 1955 NUC (Cal 2328 (DB). Vested right cannot be affected except by express words. A 1951 Pat 333(DDB). Where a statute passed for the purpose of supplying an omission in a former statute or for explaining a former statute, subsequent statute relates back to the time when the prior statute was passed. A 1950 Cal 529 (530) : 54 Cal WN 910 (DB). All Acts have ordinarily only prospective operation and they can have retrospective operation only when there is special provision for that. (1978) 80 Pun LR 368 (37)). Procedural laws are meant to subserve the ends of justice and not to thwart it.

A retrospective operation is not to be readily inferred. (1969) 2 Mad LJ 439 (DB). A 19061 Cal 181 (183) : (1961) 1 Cri LJ 374 (DB).

Where notification under statute itself did not making its operation retrospective it will not operate so by implication. A 1950 Assam 161 (162) : 54 Cal WN 413 (DB). Larger retrospective power is not to be read in an Act or a provision contained into an enactment than was clearly intended by the Legislature.

A 1980 Andh Pra 267 (273) : (1980) 2 An WR 257. Where the legislature has unambiguously expressed itself by using clear language its meaning must be ascertained by that language alone and without reference to the supposed but unexpressed intentions of the legislature. A 1968 Orissa 113 (12)) : 34 Cut IT 277.

A statute is not applied retrospectively merely because a part of the requisites for its action is drawn from a moment of time prior to its passing. 1965 Cur LJ 701 (705) (DB). Notification affecting past completed transactions and substantive right-Retrospective operation is not to be readily implied-Retrospectivity can be upheld only if it is either expressly ordained or if it follows by necessary intendment. A 1953 Nag 40 (50) : 1953 Nag LJ 199 (DB).

Court has not power to question the judgment of the Legislature in the matter of giving a law a retrospective operation.

A retrospective operation should not be unduly extended. A 1952 Mad 5952 Mad 591 (592, 593) : (1952) 1 Mad LJ 264 (FB).

Section as amended is not to be given grater rerospectivity than is expressly mentioned. A 1962 SC 918 (922).

A statute is not to be construed to have greater retrospective operation than its language renders necessary. A 1970 Orissa 43 (46) : 36 Cut LT 72. Retrospective effect given to Amending Act-Operation cannot extend to date of coming into force of main Act. A 1967 Delhi 12 (14) : 69 Punj LR (D) 130.

No law should be given greater retrospective effect than its language clearly expresses or implies. 1965 BLJR 265. Mere retrospectivity should not be granted to it than could be reasonably inferred from its provision. (1963) 2 Andh WR 194.

Shall have regard to provisions of this Act"-Extend to which proviso is retrospective indicated. A 1954 Bom. 4(451) : 56 Bom. LR 232. (Acts must no be interpreted in a greater retrospective sense than the language of the section compels one to do.

Words or expressions given retrospective operation in repealed statute-Only that much and that kind of retrospective operation must be assumed to have been given to those words or expressions in later statute. (1958) 60 Punj LR 332. That the Legislature had demonstrated an intention to enact

retrospectively to a certain extent is not sufficient to warrant a retrospective operation carried beyond the meaning of the terms used strictly construed. A 1956 Mad 49 (51) : (1955) 2 Mad LJ 369. Retrospective operation should be strictly confined to the limits expressly declared or necessarily implied by statute and there cannot be retrospective operation by analogy. A 1954 Pat 238 (240) : 1954 BLJR 148 (DB).

No statute is to have a retrospect beyond the time of its commencement, for the rule of law and Parliament is that "nova constitution futuris forman imponere debet, non praeteritis". A 1952 Pat 341 (344) : ILR 31 Pat 446 (SB). A 1970 SC 703 (705) : (1970) 1 SCJ 537.

Retrospective effect not to be extended beyond what was intended. A 1963 SC 1436 (1441, 1445) : (1963) 1 SCJ 491. Statute affecting vested rights cannot be given a greater retrospective effect than its language renders necessary-Per S. K. Das and Kapur, JJ) 1973 Tax LR 1917 (1922) : 31 STC 34 (Andh Pra). It is not necessary to expressly state that the provisions of a statute are retrospective in operation, if the intention can be gathered by necessary implication. A 1964 Guj 183 (190) : (1963) 4 Guj LR 841 (DB).

An amendment cannot be taken to have been in existence as from the date of the earlier Act.

Mere hardship cannot be any ground for giving such a construction to an Act so as to affect vested rights unless there are express words taking away such rights. A 1963 SC 1436 (1441, 1445).

Language used by the Legislature may give an enactment affecting substantial rights more retrospectively than what the commencement clauses give to any of the provisions. A 1969 Goa 6 (12). (1896) AC 240 Rel On.).

Legislature may affect substantive rights by enabling law which are expressly retrospective.

A statute should not be construed to be retrospective merely because a part of the requisites for its action is drawn from a time antecedent to its passing. (1959) 1 Orissa JD 540 (543) (DB).

Legislature cannot be presumed to have intended to make any substantial alteration in the existing law beyond what it expressly declares. A 1973 SC 913 (917).

Unless the intention to do away with old right is manifest, a new law is not construed to have retrospective effect so as to affect the right or liability already accrued. A 1971 Madh Pra 40 (42) : 1970 MPWR 765 (FB);A 1950 Pat 50 (74). A 1957 M ad 641 (644) : 1957 1 Mad LJ 293 (DB). In the absence of clear words, a retrospective provision would not be held to be of wider amplitude than the prospective. A 1956 Cal 654 (655) : 60 Cal WN 567 (DB).

An amending statute must not be interpreted to have affected the vested right unless it clearly appears to have done so. 1955 Nag LJ 522 : A 1955 NUC (Nag) 3959 (DB). In the case of a codifying statute the Courts are not at liberty to go outside the Code. 1970 Ker LT 88 (DB).

The legislative intent to vary the rights even during the pendency of an action need not appear in the law in express terms. 1969 Raj LW 74 (76). Expression shall be deemed always to have, has effect of giving retrospective operation to a statute.

Unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards matters of procedure. A 1977 SC 552 (557, 558, 559) A: 1977 Tax LR 149.

Unless the legislative intent is clear and compulsive, no retrospective operation should be given to a statute. A 1957 Assam 83 (97, 98, 99) (SB).

The provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment. A 1955 Hyd 113 (122) (FB). If a law destroyed an existing right or even placed any restriction on it no retrospective effect would be given to it unless the statute expressly enacted to the effect. (1966) 17 STC 245 (251) (Guj).

If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only and not as retrospective. 1961 MPLJ 590 : 1961 Jab LJ 832 (835) Legislature does not intend what is unjust. A 1958 Ker 251 (256) : 1957 Ker LT 980 (DB).

To extend the application of new Act to the domain of vested rights would be to annihilate the rights altogether. A 1953 Bom. 183 (185) : 55 Bom. LR 1.

If the intention of the Legislature was to prevent a particular act or a particular transaction, then the very language used by the Legislature could only apply to acts or transactions in the future. It could not possible apply to acts or transactions in the past- A 1953 Cal 136 (138) : 56 Cal WN 346 (DB). Court leans against giving an Act retrospective effect. A 1953 Cal 733 (FB).

No retrospective effect can be given unless there is clear provision or unless such effect is necessary implication of the provision. A 1959 Bom 477 (480) : 61 Bom. LR 618 (DB). Amending Act altering law-It would not be construed to have retrospective pertain unless otherwise appears. A 1954 Vind Pra 5 (5).

If litigant is to be called upon to pay more than what law had led him to foresee, it should expressly enact this with retrospective effect. A 1950 Nag 223 (226) : 1950 Nag LJ 271.

Fiscal statutes-Not retrospective unless expressly so made.

Statutory provisions, declaratory in nature, intended to explain and clarify the existing legal position will be presumed to be retrospective. A 1979 ker 139 (146, 147, 148).

All statutes, other than those which are merely declaratory, or which relate only to matters of procedure or of evidence, are prima facie prospective. A 1960 SC 12 (26, 27) : 1960 SCJ 842.

Declaratory Acts are usually held to be retrospective. A 1959 J & K 1 (4) (DB).

Hindu Womens Right to Separate maintenance and Residence Act (1946), S 2 (4) -It is a remedial statute.

If a statute is curative or merely declares the previous law, retroactive operation would be more rightly ascribed to it than the legislation which may prejudicially affect past rights & transaction. A 1969 SC 114 (1117, 1118) : (1969) 2 SCJ 773. Remedial statutes are always regarded as prospective but declamatory statues are considered retrospective. A 1951 Trav-Co 118 (121) : 1951 Ker LT 223 (FB). The use of the word "it is declared" in a statute does no necessarily import that the statute is merely declaratory of existing law and therefore retrospective.

The mere fact that the object of a Legislature is to eradicate some evil or to introduce a social reform cannot be regarded as a clear or sufficient indication to make the statute retrospective. The Courts have to look to the provisions of the statute itself and judge the intention from the language used. (1958) 60 Pun LR 332 (337) (DB). A 1960 SC 12 (26, 27) : 1960 SCJ 842. A remedial Act is not necessarily retrospective; it may be either enlarging or restraining and it takes effect prospectively, unless it has retrospective effect by express terms or necessary intendment. A 1951 Orissa 153 (156) : ILR (1950) Cut 617 (SB).

Merely because a statute is remedial it does not follow hat it must prima facie be presumed to be retrospective irrespective of the language used. A 1958 Raj 93 (95) : 1957 Raj LW 513 (DB). A law can be retrospective if on the language of that law it has to be given a retrospective operation. A 1954 Assam 224 (223 to 235, 243) (FB).

Where the Legislature gives a new remedy for enforcing rights, the remedy would extend to right which had accrued before the new remedy had been provided. A 1957 All 84 (86) : 1956 All LJ 820. Object of enactment to prevent loss of revenue to State which would otherwise occur-There is nothing inherently unreasonable in giving retrospective effect to such enactment.

Rule as to construction of a statute to be retrospective does not require of Court "obdurate persistence" in refusing to give the statute retrospective operation. A 1958 SC 554 (558) : 1959 SCJ 173.

If an enactment is expressed in language which fairly capable of either interpretation it ought to be construed as prospective only. 1951 Nag LJ (Notes) 175.

Many, Acts, though prospective in form; have been given retrospective operation, if the intention of the Legislature is apparent. This is more so, when Acts are passed to protect the public against some evil or abuse. A 1961 SC 1959 (1601) : 91962) 1 SCJ 377.A 1975 SC 2025 (2028, 2029) : 1975 Lab IC 1455 : 1975 UJ (SC) 590.

Industrial Disputes Act Reference under.— Facts giving rise to dispute falling under arising before section came into force-Reference not rendered invalid-Question as to retrospectively of S. does not arise-A 1970 Mys 17.

A statute may have a retrospective operation though, it is not expressly so enacted.

Where an enactment changes or takes away rights, it is not to be construed as retrospective, unless there are express to that effect, but when it only changes the mode of procedure, it is to be applied to further actions. A 1971 Andh Pra 218 (221, 222) : 1971 Tax LR 750.

Any amendment in substantive law is not retrospective unless expressly laid down or by necessary implication inferred. Procedural laws are always retrospective in operation. A 1963 Andh 273.

Remedial measure should be interpreted as applying prospecitively and not retrospectively. A 1958 Ra 62 (64) : 1957 Raj LW 464 (FB).

Statutes, other than those relating to matters of procedure cannot have retrospective operation so as to impair vested rights. 1975 Radhani LR 481 (484) (Delhi).

Expression "shall not be done" indicates prospective operation. (1960).2 Mad LJ 332 : 91960) 73 Mad LW 145 (149). Appellate Court can give effect to remedies introduced by statutes pending appelas.

A subsequent repeal or rescission of an Act cannot have retrospective effect so as to completely undo the consequences that have already ensued or which continue to been suing. No merely the previous operation of the Act is saved, but also the continuation of the pending proceedings under the repealed Act is suffered to continue as if the Act had not been repealed. A 1951 Mys 72 (86) : 52 Cri LJ 992 (FB).

Vested rights should be respected. A 1965 SC 1970 (1973) 91966) 2 SCJ 179.

Art of the Constitution does not even impliedly take away right of appeal. A 1954 Pepsu 62 (64) : ILR (1953) Patiala 368 (DB). if a right has once been acquired by virtue of some statute, it cannot be taken away by the mere repeal of that statute.

The repealing enactment cannot be given retrospective operation, so as to impose an impossible condition on pain of forfeiture of a vested rights. 1960 BLJR 693 : (1961) 12 STC 226 (22) (DB).

The intention to take away or to impair or to imperil a vested right cannot be presumed unless such intention is clearly manifested by necessary implication. A 1923 Cal 85 (89) ; 27 Cal WN 183 (DB0.

The new law cannot be construed retrospectively so as to destroy altogether the remedy of a litigant to enforce his right. A 1962 Raj 43 (47) : 1961 Raj L 664 (FB).

No amendment to a statute is retrospective unless there is anything in the amending Act which either expressly or by

necessary implication leads to that conclusion. ILR 91967) Guj 589 (603) A 1961 AndhPra 477 (479). 1973 Tax LR 2027 (2028) : 31 STC 113 (DB) (Mad). Retrospective provision in amending Act-In deciding its true legal effect, the intention of the Legislature cannot be ignored.

Where what one is concerned with is not the meaning of any particular phrase or provision of the Act after the amendment but the effect of the amending provisions in their relation to and effect on other statutory provisions outside the Act, no retrospectively can be imputed to the amendment. A 1956 SC 64 (602, 621, 622) : 1956 SCJ 579.

The general rule that a retroactive statute cannot interfere with or divest vested rights, does not take way the power of the Legislature to enact retrospectively and thus take away even rights by express legislation or by legislation the necessary effect of which is to affect vested rights. (1970) 1 Andh LT 51. A 1955 Raj 114 (118, 119) : IIR (1955) 5 Raj 832 (DB). The retrospective imposition of tax cannot have the effect of depriving it of its real character as excise duty, if Parliament has the power to enact such law retrospectively.

When an amendment to taxing statute expressly makes it retrospective so as to cover taxes already levied, and provides that notwithstanding any judicial decision to the contrary the levy of such taxes would be valid, such a provision does not amount to encroachment on the powers of the judiciary by the Legislature and is valid. A 1975 SC 2037 (2042) : 1975 Tax LR 2013 ; (1966) 7 Guj LR 1101.

A Courts decision must always bind unless the conditions on which it is based are so fundamentally altered that the decision could not have been given in altered circumstances. A 1974 SC 1969 (1087). A 1953 Orissa 240 (243) : 19 Cut LT 44 (DB).

Superior Court holding Act to be "prima facie prospective" Subordinate Court should not canvass import or implications of that dictum.

If an amendment is not retrospective in its operation, it cannot revalidate an unconstitutional law and render valid that which was invalid when it was enacted. A 1957 All 297 (304) : 1956 All LJ 878 (FB).

Statutory provisions creating substantive rights or taking away substantive rights are ordinarily prospective; they are retrospective only if, by express words or by necessary implication, the Legislature has made them retrospective ; and the retrospective operation will be limited only to the extent to which it has been so made byexpress words, or necessary implication. A 1960 SC 936 (939).

A statute is retrospective "which takes away or impairs any vested right acquired under existing law or creates a new obligation or imposes a new duty or attaches a new disability in respect to transactions or considerations already past. (1975) 77 Pun LR 648 : 1975 Ren CJ 666 (670).

A retrospective operation is not to be given to a statute soas to impair the existing right or obligation otherwise than as regards matter of procedure. A 1970 Cal 285 (289, 290).

Retrospective effect of an enactment can also be gathered from its language and the object and intent of the legislature in enacting it. 1970 ker LT 1057 : 1970 Ker LJ 757 (761), 762).

Retorspecitvity is one of presumption depending on circumstances in an Act and should be given effect to even if it will take away any vested right. (1962) 2 Andh WR 258. Every statute which takes away or impairs vested rights acquired under existing laws, or creates a new disability in respect of transactions or consideration already past, must be presumed out of respect to the Legislature to be intended not to have a retrospective operation. A 1957 All 297 (304) : 1956 All LJ 878 (DB).

An Act or amendment dealing with substantive rights operates prima facie prospectively only and does not affect past transaction. A 1955 NUC (Hyd) 12084. Statute touching vested rights should not be applied retrospectively in absence of express enactment. A 1953 Madh Bha 56 (57) : 1953 Cri LJ 557 (DB). A statute is not to be considered to have greater retrospective operation than its language renders necessary. A 1964 Raj 161 9170) : 1964 Raj LW 328 (FB). Candidate taking his examination on faith of certain regulations in force at time of examination-University has no power to alter or substitute regulations with retrospective effect to candidate's disadvantage. 1969 Raj LW 92 : ILR (1968) 18 Raj 1088 (1098).

Statute creating new rights-Considerations to be kept in view to see whether it takes away existing rights stated.

Ordinarily, when the substantive law is altered during the pendency of an action, rights of the parties as decided according to law, as it existed when the action began unless the new statute shows a clear intention to vary such rights. A 1974 SC 1069 (1079).

In contrast with the position as to substantive rights, no party has a vested right to a particular proceeding or to a particular forum, and it is also well settled that all procedural laws are retrospective unless the Legislature expressly states to the contrary. Therefore, procedural laws in force must be applied at the date when a suit or proceeding comes on for trial or disposal. A 1964 SC 1256 (1258 : 28 Mys LJ 307. A 1971 Andh Pra 218 (22, 227) : 1971 Tax LR 750.

Change in procedural law does not in any manner affect vested right. A 1967 J & K 44 (45, 47) : 1967 Kash LJ 83 (FB). There is no presumption as to retrospectively of law-No such presumption unless law is procedural and does not affect existing rights.(1974) 76 Bom. Lr 690 (702) (DB). Mode of recovery of amounts due is a matter of procedure. 11970 Madh LJ (Notes) 30.

Remedy by way of appeal provided during pendency of proceedings-Provisions relates to procedure. A 1969 Bom. 328 (332). 71 Bom.LR 38 (DB).

Where a new law expressly or by clear intendment, takes in even pending matters, the Court of trial as well as Court of appeal must have regard to an intention so expressed and the Court of appeal may give effect to such law even after the judgment of the Court. The distinction between laws affecting procedure and those affecting vested rights does not matter when the Court is invited by law to take away from a successful plaintiff what he has obtained under a judgment. A 1966 SC 1423 (1426, 1427).

Where the amendment is only of procedure, even pending cases are governed by the amended law of procedure, but only in respect of those stages of procedure that remain to be applied after the amendment comes into force. A 1961 Cal 560 (566, 567): 1961 (2) Cr LJ 617.

Where an enactment merely alters the procedure, without altering the substantive rights of the parties, the new procedure would be retrospective in its operation, and would extend to rights which had accrued before the changes were made. 1969 MPLJ 204 (207) A 1967 Cal 14 (15).

So long as the changes brought about in the rules of procedure of the Court do not affect any vested or substantive right of a litigant, the rules, as modified from time to time, will have retrospective effect and will be applicable to pending actions also. 1963 Ker LT 688 (690, 691) (DB).

No person has a vested right in any course of procedure. He has only the right of prosecution or defence in the manner prescribed for the time being. If by an Act of Parliament, the mode of procedure is altered, he has no other right than to proceed according to the altered mode. A 1958 SC 915 (917). A 1965 mad 149 (151) : 91985) 1 Mad LJ 203.

Change of forum by statute-Forum is not vested right-Change cannot raise question of retrospective operation.

The presumption against a retrospective construction has, thus, no application to enactments which affect only the procedure and practice of the Courts even when the alteration which the statute makes has been disadvantageous to one of the parties. ILR (1966) And Pra 629 (637).

**Substantive and procedural statutes - Retrospective effect.**— Central to the above discussion is the distinction between substantive and procedural rights. A right of appeal is a substantive right, and a new restriction imposing a more onerous condition (in regard to appeal) is not a matter of procedure only. Hence an amendment which does so is not retrospective, unless it says so expressly or by necessary intendment. (1977) 1 Mad LJ 244 (252). A right of appeal or a revision is a vested right. A 1968 Goa 58 (60) :A 1959 Madh 510 (513).

An act which is aptly procedural and partly substantive must be read as a whole. It cannot be dissected so as to give procedural part retrospective operation and treating substantive part prospectively. 1978 Cril LJ 842 (844) : 82 Cal WN 583.(1974) 2 APLJ 47 (FB). Portion of deleting section

prospective and others silent as to whether they are prospective or retrospective-Such portions ought to be considered prospective). (1971) 81 ITR 423 (DB) (Ker). If procedural alteration is closely and inextricably linked with the changes introduced in another part of the statute dealing with substantive rights and liabilities, retrospective operation to the amendment regarding procedure can only be given by express word or by necessary implication. A 1967 Mys 6 (10) : (1965) 2 Mys LJ 450.

Where statute affects substantive rights of parties as well as the procedure to enforce them, old rights and obligations are to be determined by the old procedure and new rights and obligations are to be determined by the new procedure. A 1965 Madh Pra 85 (89) : 1965 Jab LJ 532.

Where rights and procedure are dealt with together, the old rights are to be determined by the old procedure and only the new rights under the substituted section are to be dealt with by the new procedure. A 1955 Cal 410 (411) : 1955 Cri L 1063 : 19Cal WN 599 (DB). Statute altering both substantive as well as procedural rights-Old rights and obligations are still to be determined by the old procedure and only the new rights or obligations are to be dealt with by the new procedure. AIR 1950 Cal 515 (517) : 55 Cal WN 75. Though an Act may have some retrospective effect and apply to pending proceedings, it does not follow that every provision of the Act will have retrospective effect.

A right to have suit entertained and tried by Court is not a matter of procedure but is that of substantive and vested right. Statute affecting jurisdiction of a Court enforcing the law does not operate retrospectively unless clearly expressed or by necessary intendment. A 1957 Pepsu 1 (2, 3) (DB). A 1967 Madh Pra 265 (267) : 1967 MPLJ 564.

When a statute deprives a person of his rights to sue or affects that rights, its retrospective character must be clearly expressed. A 1960 Mys 165 (266) : 38 Mys LJ 456. When a statute deprives a person of his right to sue or affects the power or jurisdiction of a Court in enforcing the law as it stands its retrospective character must be clearly expressed. 1955 Raj LW 270 : A 1955 NUC (Raj) 4068. The right to move a particular Court for a relief and the right to pursue it to its final stage is a right vested by statute in a party to the suit. A 1970 Bom. 242 (245) : 71 Bom. LR 745.

The right to appear in and defend the suit cannot be said to be merely a procedural right. It is a substantive right which vests in the defendant at the institution of the suit against him.

A right of appeal is a substantive right ordinarily, it should be governed by law in force at a time an order sought to be appealed against is made or when original proceedings started. A 1963 Madh 175 (178) : (1963) 1 Mad LJ 46 (FB). A 1952 Pepsu 8 (9).

Where a suit for the specific performance of a contract for sale was pending when an Act came into force and the relief of delivery of possession was neither claimed in the plaint nor granted in the decree, the executing Court cannot grant delivery of possession. A 1975 Delhi 155 (58, 159).

A statute extending a period of limitation is presumed not to operate retrospectively so as to affect substantive rights, unless a contrary intention appears. This rule of construction rests upon the presumed intention of the Legislature, and arises independently of Section 6 of the General clauses Act. A 1960 Cal 243 (243).

There is no vested right in a litigant to wait for a particular period of limitation before instituting his suit. A 1960 Pat 306 (307) : 1959 BLJR 332 (DB). A statute of limitation cannot be retrospectively construed in the absence of a clear indication to the contrary so as to deprive the plaintiff of vested right of action or deprive a defendant of the right to treat a claim against him as al ready barred. A 1957 Punj 317 : 59 Punj LR 475 (DB). Period of limitation applicable to the case would be regulated by the rule which was in force on the date on which the suit was originally instituted. A 1955 Cal 172 (174, 175).

When the statute of limitation, if given a retrospective effect, destroys a cause of action which was vested in a party or makes it impossible for that party to exercise his vested right of action, the Courts will not give retrospective effect to it. A 1939 SC 1335). (1967) 8 Guj LR 779. IL R (1967) Guj 495 (496,497).

Where limitation prescribed by statute makes it impossible to enforce right of action arisen prior to coming into force of statute, statute must be construed as inapplicable to a such action. 1967 Ker LT 762 (763).

The statute of limitation being a law of procedure is generally retrospective in operation so as to apply even to proceedings pending when the enactment came into force. A 1958 Bom. 137 (138) : 1959 Bom. LR 828 (DB).

Statute of limitation being procedural law must be given retrospective effect. (1963) 47 ITR 16 (20) (DB) (Mad).

The law of limitation being procedural law, its provisions operate retrospectively in that they apply to causes of action which arose before their enactment, though, if a right to sue or apply had become barred by the provisions of the law in force on the date of the coming into force of the later or amended enactment, such barred right is not revived by the application of the later enactment. A 1952 Kutc 48 (49, 50) Unless contrary is provided for, the law of limitation applicable to a suit etc., is the law in force at the date when such suit etc. is instituted and not an amending law which comes into operation during the pendency of the suit etc.

Law of Limitation must be applied not with regard to time when cause of action arose but with regard to point of time when proceedings were initiated. (1957) 8 STC 440 (444) (D). (Pat).

Rights already barred cannot be revived except by express words or by necessary intendment. A 1959 Cal 567 (570, 571).

When it is said that a change in the procedural law has a retrospective operation, it only implies that the new rules of procedure coming into existence as a result of the change should be applied even to the pending proceedings. A 1950 East Punj 25 (33) : 51 Cri LJ 459 : 51 Punj LR 317 (FB).

The Specific Relief Act, does not deal with mere procedure, and has therefore no retrospective operation. A 1975 Delhi 155 (158, 159).

**Express Provision for retrospective effect.**— Section 6 would have no applicability where the Parliament and the State Legislatures (wtih legislative competence to pass retrospective legislation) pass an enactmet, giving it, in express terms, retrospective effect. A 1952 Assam 159 (162, 163).

Enactments may be classified as (1) peacetime legislation (2) emergency legislation and (3) special legislation intended for protection of public interest-Principles dealing with application of these Acts retrospectively discussed.

The only bar imposed on this legislative power is under Art. of the Constitution unless prohibited by Constitution. A 1969 Goa 124 (127).

Legislature can enact not only prospective legislation, but also retrospective as well as retroactive legislation. A 1964 Mys 240 (242) : 1963 Kant LJ 270 (DB).

In absence of clear words to the contrary in statute, legislation in question is presumed to be prospective.

A law taking away vested right is retrospective. Every ex post facto law is necessarily retrospective. When such a law only modifies the rigor of criminal law, it does not fall within the prohibition of Art. of the Constitution. A 1965 SC 444 (446, 447) : 1965 (1) Cri LJ 360 : 1964 SD 914.

There can be a retrospective legislation affecting acquisition of property and such retrospective operation and validation of actions with regard to acquisition does not offend Art. of the Constitution. A 1970 SC 564 (619).

Retrospective effect is given to Act to validate what purports to be vested. A 1979 J & K 69 (75, 76, 7) : 1979 Chand LR (Cri) 32 (FB). Amendment is retrospective in operation. A 1970 All 561 (566) : 1970 All LJ 656 (FB).

Section is remedial and to achieve the object must be construed retrospectively) A 1963 Mad 175 (178) : 91963) 1 Mad LJ 46 (FB).

Right of appeal vested at start of proceeding is taken away by change-Commencement of Act-Date of commencement postponed-This may indicate that operation of amendment is retrospective. A 1954 Trav-Co 526 (533). Procedure governing application for restoration-Matters of procedure will have retrospective effect so as to apply even to procedings pending when enactment comes into force unless otherwise expressed in enactment itself. A 1951 ovissa 378 (385) (SB.).

Notice for exercising the option to purchase-Provision retrospective in operation for.

Amendment being procedural in character has retrospective effect) (1962 2 Mad LJ 530.: (1962) 75 Mad LW 613. (169).

Amendment being declaratory has retrospective operation. (1962) 1 Mad LJ 254 (258).

Legislature has power to enact provision with retrospective effect A 1956 Pepsu 40 (45, 46) (DB).

Legislature has power to pass a declaratory Act with retrospective operation. A 1962 Madh B 181 (188) (DB). A 1951 Cal 236 (237) : 54 Cal WN 572.

Statute affecting pending proceedings-Statute must be confined to precise extent and precise limits prescribed by statute and no more. (1950) 28 Mys LJ 311 (314) (DB)

**Prospective effect.**— Rule imposing duty has to be given prospective effect. 1973 Rajdhani LR 165 (171) (Delhi).

Penal provisions cannot be given retrospective effect. 1970 J & K LR 54 : 1969 Ren CR 656 (662) (DB). (J & K). E

Date contemplated in Section 5 (2) is date of publication of notification-Notification cannot have retrospective operation. (1989) 82 Mad LW 556 (560).

Not express words in Amending Act or in new section giving retrospective effect-Retrospective effect likely to affect existing rights and interests-Section should not be given retrospective operation. (1966) 68 Punj LR 810 : 1966 Cur LJ 590 (592) (DB).

Amendments affecting vested rights apply prospectively. A 1965 Punj 102 )105, 106) : 66 Punj LR 1983 (DB).

Amendment not retrospective to cover transactions closed before amendment. A 1964 Guj 183 (189) : (1963) 4 Guj LR 841 (DB). Valid order under instructions issued by Government-Subsequent withdrawal and substitution of instructions-Order valid when made, not affected retrospectively thereby. (1962) 2 Andh WR 195. Amendment of statue pending actions-Rule affecting vested rights acquired before rule came into operation-Rule is not retrospective in operation. 1962 MPLJ 757 : 1962 Jab LJ 156 (1960). Right already barred cannot be revived except by express words or by necessary intendment, is not retrospective in operation. 1959 MPLJ 589.

Revision cannot be treated as appeal. A 1956 mad 597 (599) : 91956) 1 Mad LJ 63.

Ordinarily taxing statute will have no retrospective operation-In case of reasonable doubt, construction beneficial to subject has to be adopted. ILR (1956). Nag 569 (576).

Government cannot give retrospective effect to order determining fair rent. A 1956 Pat 92 (99) : (1956) 7 STC 158 (DB).

Act must be taken to operate prospectively. AIR 1953 Bom. 125 (127) : 54 Bom. LR 632. Non-compliance with rule not in force on date of order-Order cannot be challenged. A 1951 Orissa 141 (142) : 16 Cut LT 242 (DB).

Act is not given retrospective operation-Statutes affecting rights of parties do not affect pending actions. A 1950 Mad 231 (232, 233) : 51 Cril LJ 589.

Whenever there is repeal of an enactment, the consequences laid down in S. 6 will follow unless a different intention appears. In the case of a simple repeal, there is scarcely any room for the expression of a contrary opinion. But where the repeal is followed by fresh legislation on the same subject, the Court would have to look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. A 1955 SC 84 (88) : 1955 All 239 (247) (1958) 60 Pun LR 332.

Even when a saving clause reserving the rights and libilities under repealed law is absent in a new enactment, the same will neither be material nor decisive of the question of different intention because in such cases S. 6 of the General Clauses Act, will be attracted and the rights and liabilities acquired and accrued under the repealed law will remain saved unless there was something to infer that the Legislature intended to destroy the rights and liabilities already accrued. 1981 Lab IC 1254 (1257, 1258) : 1981 MPLJ 490 (DB).

The ordinary rule is that S. 6 will apply if there is no saving clause in the repelling enactment, or, "unless a different intention appears". If, however, the repealing enactment makes a special provisions regarding pending or past transactions, it is the latter provision that will determine whether the liability arising under the repealed enactment survives or is extinguished. A 1976 Orissa 7 (12) : 21 Cut LT 531 (DB).

Unless different intention appeared in Repealing Act, amendment made in original Act continues to have operation. 1982 Orissa 150 (151, 152) : (1982) 53 Cut LT 428 (432).

S. 6 itself provides "unless a different intention appears, the repeal shall not affect any right, privilege or obligation or liability acquired or incurred under any enactment so repealed".

Something more than repeal simpliciter of an enactment will be essential in order to substantiate a plea of "different intention". (1967) 69 Punj LR (D) 222 (226, 227).

S 6 does not intend that even when an Act is repealed and the new legislation manifests an intention incompatible with or contrary to the provisions of section under the new provision, still the old provisions must have their may and would prevail notwithstanding that a contrary intention is expressly manifested in the repealing provisions of the new statute. (1978) 48 Com Cas 579 (Pat).

One of the cardinal rules of interpretation is generally specialibus non derogant. On that principle, even in the absence of normal words "unless a different intention appears", where a special statute makes special provision about the effect of repeal, the provisions in the General Clauses Act must stand excluded from appliction. A 1971 Orissa 80 (86) : ILR (1970) Cut 667.

**Act in Part matevia whether Presumptive of different intention.**— It cannot be said that if the relevant provisions of the new enactment are not in pari materia with those abrogated, it should be inferred that the intendment of the new legislation was to exclude the operation of S. 6. (1958) 2 Andh WR 79 : ILR (1958) Andh Pra 383 (387) (DB).

Proceedings for the levy of penalty for non-payment of advance tax are not included in the "proceedings for assessment".

If the new Act does not express or necessarily imply any different intention, the old Act must govern. Proceedings under the Income-tax Act for including the minor son's share in the assessee's total income involve a process of computation of income and determination of the amount of tax payable thereon.

**Unless a different intention appears.**— The effect of the words "unless a different intention appears" is that the repealing Act can make a provision which would be contrary to S. 6 and, to that extent, can modify the operation of that section. Unless, therefore, the procedure laid down by the repealing Act is such that effect cannot be given thereunder to the rights and liabilities accrued under the repealed Act, the general rule that the new procedure would apply to the investigations and legal proceedings for the enforcement of old rights and liabilities would not in any way be affected by S. 6. A 1975 Delhi 258 (263, 264) : ILR (1976) 1 Delhi 506.

**Saving of Previous operation.**— Though the Contempt of Courts Act, 1926 was repealed by the Contempt of Courts Act, action could be taken under the old Act for contempts committed prior to the commencement of the new Act. A 1952 Kutch 74 (76) : 1952 Cri LJ 1482.

The repeal or amendment of an Act does not affect a right already in existence, unless a contrary intention is made out expressly or by implication. A 1927 Pat 203 (205).

If the repealing Act or Ordinance does not save a right or remedy under the repealed Act or Ordinance, both the right and remedy is lost. 1977 Cri LJ 1758 (1760) : 1979 BLJR 148.

**Anything done.**— A proviso in a repealing statute "except as to acts done under it" will operate to preserve to parties all rights, if the action is brought before the repealing statute is passed. A 1951 Orissa 105 (118) : 16 Cut LT 249 (FB).

The object of an amending Act is to "plant" the necessary amendments in the main Act ; once such planting has been effected, the "planing" Act need not any more remain (on the statute book) and if the plaintiff Act (amending Act) is repealed, it does not affect the amendment already "planted'. A 1973 Ker 136 (137) : 1973 ker LT 37 (DB).

**Anything done.**—The words "anything done" may include legal effects and consequences following form things done prior to repeal. A 1969 Mad 322 (323) : (1968) 2 LTJ 277.

**Express savings as to past acts.**— The object of an express savings clause is to save what has been previously done under the statute repealed. A 1967 SC 1742 (1747) : 69 Bom. LR 133.

An acknowledgment of a liability only extends the period of limitation of the institution of a suit, and does not confer a title to the property. Section 6 does not apply to such cases, since an acknowledgment is not a "thing done" in pursuance of any Act of the Legislature. The law of limitation applicable to a suit or proceeding is the law in force at the date of the institution of the suit or proceeding, unless there is a distinct provisions to the contrary. (1910) 32 All 33 (43) : 6 All LJ 931 (DB).

An acknowledgment of liability is not a thing done within S. 6 (b) of the General Clauses Act. (1913) 11 All LJ 389 : ILR (1913) 35 All 227 (236) (PC).

The obligation to obey an order is not something "duly done or suffered" that would remain unaffected by repeal. The obligation arises from day to day. A 1953 Ra 78 (80) : 1953 Ra LW 144 (DB).

**Clause.**— The effect of Cal. (c) of S. 6 is to declare that the repeal shall not affect rights acquired and liabilities incurred under the repealed Act, in the sense and to the extent that they may be enforced and proceedings may be instituted or continued in respect of them as if the repealing Act had not been passed. A 1957 Cal 257 (262) : 61 Cal WN 263 (FB) A 1951 Cal 435 (438).

If a right has one been acquired by virtue of some statute, it cannot be taken away again by the repeal of that statute. A 1950 Pat 505 (506) : 29 Pat 647 (DB).

A confirmative statute giving new rights does not by itself destroy a pre-existing right such as right to invoke jurisdiction of Civil Court. A 1971 Andh Pras 218 : 1971 Tax LR 750.

A right is said to be vested when the right enjoyed whether present or future has become the property of some particular person as a present interest independent of legislative interference.

Wen a Central Act repeals any enactment then, unless a different intention appears, the repeal shall not affect any rights, acquired under the enactment so repealed. A 1927 Cal 748 (750) : 31 Cal WN 1007.

The "right", privilege or obligation" in S. 6 (c) appears to be related to particular individuals who, by the repealed Acts, acquire or incur the right or obligation or the whom the privilege accrues. Section 6 (c) does not comprehend a right in gross or in the abstract, but covers only specific rights or obligation with reference to the ascertainable person, as distinguished from the general public. (1967) 80 Mad LW 119 (123).

When an Amending Act changes the old law, it is not necessary that the Amending Act itself should expressly say what is the residue of the old Act that still continues to exist. It is for the Court to give full effect to the amendment and find out what is saved from old Act. A 1951 Orissa 186 (197) :ILR 91951) Cut 1 (SB).

**Savings of substantive right.**— Saving of substantive rights even after repeal under a repealed Act-which is the subject-matter of clause (c)-is illustrated by a case relating to the rescission of a contract on the ground of non-deposit of money under S. 35 (c) of the Specific Relief Act, 1877. A 1971 Cal 182 (192 to 194) : 75 Cal WN 517 (DB).

It is doubtful if an application for setting aside an ex parte decree comes under a "right or privilege" within the meaning of S. 6 ; in the event of its being deemed to be a "right", its acquisition must be under the Civil P. C. 1908, and not under the Limitation Act, 1908. A 1917 Lah 144 (146).

Whenever a right to sue or to make an application has become barred before the new Act came into force, the same could not be revived by a later Act of Limitation. 1954 Ker LT 613 (615).

Under S. 56 of the Transfer of Property Act, 1882, before its amendment in 1929, the mortgagee had a right of realizing the entire amount due to him form any part of the mortgaged property. The right was not subject to "marshalling" at the instance of the purchaser of a part of the mortgaged property. The right is not a mere privilege. Even if it is a privilege, it cannot be taken away by the amending Act except by express words or necessary intendment. A 1955 Mad 439 (441) : (1954) 2 Mad LJ 768 (DB).

The right under a redemption decree under Ss. 92 and 93 of the Transfer of Property Act, 1882, is not taken away by the repeal of these section by the Code of Civil Procedure, 1908. A 1953 Oudh 156 (157).

A Government servant took service subject to the express condition that rules of 1941 relating o his conditions of service were liable to change and alteration. The Rules of 1941 were abrogated by the Rules of 1959, No vested right in the age of superannuation was created in the Government servant by the Rules of 1941. Section 6 of the General Clauses Act, 1897 did not extend to such rules. A 1963 Punj 298 (308) : ILR (1962) 2 Punj 642 (DB).. (Reversed on an other point in AIR 1964 SC 72).

A premanent sanad acquired under the Legal Practitioners Act to be renewed every year 1951, ILR (1952) 2 Raj 655 (662) : A 1955 NUC (Raj) 363 (DB).

The public Companies (Limitation of Dividends) Ordinance, 1948 was repealed by the public Companies (Limitation of Dividends) Act, 1949. The argument that the repeal obliterated the Ordinance from the statute book as if it never existed was held to be untenable in the face of S. 6 of the Clauses (c), (d) and (e) of the General Clauses Act. A 1967 SC 556 (559) : (1967) 1 SCJ 329.

The right of appeal is a vested right and such a right to enter the superior Court accrues to the litigant and exists on and from the date the right commences, and although it may be actually exercised when the adverse judgment is pronounced, such a right is to be governed by the law prevailing at the date of

the institution of the suit or proceedings and not by the law that prevails at the date of its decision or at the date of the filing of the appeal. A 1957 SC 540 (535) : 1957 SCJ 439.

An impairment of the right of appeal, by putting a new restriction thereon or by imposing a more onerous condition, is not a matter of procedure; it impairs or imperils a substantive right and an enactment which does so is not retrospective, unless it says so expressly or by necessary intendment. A 1960 SC 980 (984) : (1961) 1 SCJ 119.

The forum where an appeal can be lodged is a procedural matter and, therefore, the appeal (the right to which has arisen under a repealed Act) will have to be lodged in a forum provided for by the repealing Act. The forum of appeal, and also the limitation for it, are matters pertaining to procedural law. A 1979 SC 1352 (1354, 1355) : (1978 UJ (SC) (718.

In a petition for maintenance under the Cr. P. C. the husband could not escape the liability to maintain the petitioner as a divorced wife as under the old Code and S. 6 (c) of General Clauses Act would not come to aid of husband to escape liability under new Code. 1977 Cri LJ (NOC) 148 : (1977) 4 Cal C (N) 228.

The landlord was entitled to recover possession of the premises under Rent Control Act, on the ground that the tenant had sublet the premises. A right "accrued' to the landlord to recover possession when the tenant sublet the premises during the currency of that Act, and the right survived the repeal of that Act under proviso of the Rents. A 1974 SC 2061 (2066) : 1974 UJ (SC) 521.

Under the Limitation Act of 1877, the applicant had the right or privilege to move the Court to set aside the ex parte decree within thirty days from the cessation of minority. Assuming that the right to apply to set aside an ex parte decree is a "right" within the meaning of S. 6 of the General Clauses Act, 1897, such a right to apply is not acquired under the Limitation Act of 1877, but under the C. P. C. (Order 9, Rule 13). Section 6 of the General Clauses Act 1897 has not the effect of making the new Act inapplicable. 1910 Mad WN 711 : ILR 35 Mad 678 (680).

If, before the passing of the Civil P. C. 1908 the appellant had a right to redeem the mortgage at any time before passing of an order absolute for the sale of the property without obtaining an extension of time limited by the decree, that right is saved by S. 6 of the General Clauses Act. (1911) 9 IC 337 (338) : 14 Oudh Cas 10.

It is evident from the language of O. 22, R. 4 (3) of C. P. C. that it was the intention of the High Court that after amendment of the Rule, no appeal should abate. Thus the language of the sub-rule excludes the applicability of S. 6 of General Clauses Act. 1981 cur LJ (Civ) 426 (430) (Punj).

Mode of execution of sentence is not a substantive right. A 1951 SC 217 (220) : 52 Cri LJ 736

Where the repealing enactment repeals a substantive right as well as the procedure by which the right was enforced, then, if the rights are saved in respect of transactions completed prior to the repealing of the statute, the remedies in respect of such rights are also saved, and the litigant can institute or continue proceedings in the same way for the enforcement of his rights as if the repealing Act had not come into force. A 1940 Cal 423 (424, 425).

A right to sue in one Court rather than in another, or a right to wait for a particular period of time before suing, is not a substantive right. The selection of forum and the period of limitation are ordinarily, matters of procedure only. The selection of a Court in on way affects the rights of suit itself. The Limitation Act, 1908 does not necessarily extinguish the right, though it certainly places a bar against the remedy by suit. A 1931 All 635 (639) : 1931 All LJ 1018.

**Position as to Procedural rights.**— The right of appeal being a substantive right, the institution of a suit carries with it the implication that all successive appeals available under the law then in force would be preserved to the parties to the suit throughout the rest of the career of the suit. There are, however, two exceptions to this rule, viz. (1) when, by competent enactment, such a right of appeal is taken away expressly or impliedly with retrospective effect and (2) when the Court to which the appeal lay at the commencement of the suit stands abolished. A 1975 SC 1843 (1849).

**Execution.**— Applying S. 6, it is clear that a new law of limitation or an amendment in the law cannot divest a person of a right or title which has vested in him under the previous law of limitation. A 1936 All 858 (860) : 1936 All LJ 1373 (DB).

A vested right under the old Code of Civil Procedure, (1882) which has been replaced by the Code of 1908, is saved by Section 6, if the right had already been vested before the new Code came into force. (1911) 9 IC 337 (338) : 14 Oudh Cas 10 (12)

An application for execution of a mortgage-decree made more than 12 years after it was passed is barred under S. 48, of the C. P. C. 1908, and the fact that the old Code of 1882 was in force at the passing of the decree will not prevent the operation of S. 48 as no vested "right" in the procedure prescribed by that Code was "acquired" by the decree-holder within the meaning of S. 6 of the General Clauses Act. (1916) 20 Cal WN 952 (956) (DB).

Where an execution sale was held under the old Civil P. C. 1882, the auction purchaser had a contingent right to sue for recovery of the purchase money in case the judgment-debtor had no saleable interest. That right is not affected by the new provision of Order 21, Rule 9 of the Civil Procedure Code. 1908, which negatives a right of suit in such a case. A 1916 Mad 353 (354, 355) : 45 IC 109 (DB).

**Suit arising out of execution.**— A right to file a suit under O. 21, R. 103 of the Civil P. C. 1908 (before its amendment is not taken away by the amendment . By virtue of S. 6 (c) and (e) of the General Clauses Act. O. 21, R. 103 (as it stood before the amendment) continues to be operative where the right had accrued prior to the amendment. A 1980 Madh Pra 166 (169) : 1980 MPLJ 335.

Under the General Clauses Act, for matters of procedure, a new Act must always be followed in the "legal proceeding or remedy" but any right etc., which has already accrued under the repealed Act, will remain. A 1936 All 3 (7) : 1935 All 1245 (DB).

**Appeal.**— In a case, Section 6 (a) had been relied on as statutory recognition of the principle that the right of appeal is governed by the law which is in force at the time when the judgment was delivered, and not by the statute subsequently enacted which gives, modifies or takes away the right of appeal.

A right of appeal is a vested right, and, in the absence of specific provision depriving the litigant of such a right, the right cannot be said to have been lost merely by repeal of the provision under which the right accrued. 1957 MPLJ 562 (530).

**Limitation.**— When the judgment-debtors made payments to the decree-holder towards the decree passed by the Court, rights had there and then accrued to the decree-holder in regard to the period of time within which the decree in his favour was capable of being executed. In the first place, the decree-holder thereby became "entitled" to execute the decree within 12 years from the date of the last of such payments, which he would not have been entitled to do in the absence of such payment. Secondly, and by the same token, the rights that had accrued to the decree-holder by virtue of the payments by the judgment-debtor entitled him to institute, continue and enforce the execution of the decree against the judgment-debtor under the provisions of the old Act, notwithstanding its repeal by the new and, indeed, as if the repealing Act had not been passed. Hence the execution must be decided with reference to the old Act. A 1977 Mad 175 (179 to 181) : (1977) 1 Mad LJ 503 (DB).

Whenever a right to sue or to make an application has already become barred when the new Act Came into force, the same could not be revived by a later Act of limitation. 1954 Ker LT 613 (615) : A 1955 NUC (Ker 3472.

**Right accrued or acquired.**— A right "acquired" or "accrued" under a rule which is repealed will not be affected by the repeal. 1971 Sim LJ (Him Pra) 120 (124, 125) (DB).

A mere right existing at the date of a repealing statute to take advantage of the provisions of the statute repealed is not a right "accrued". A 1954 Hyd 204 (206) : 1954 Cri LJ 1397 : ILR (1954) HYd 233 (FB) 1975 MPLJ 748.

When the event has happened prior to repeal, on the happening of which a right springs up or is acquired under the existing law, without anything more to be done, such a right is a right accrued within the meaning of the expression. 1975 MPLJ 748.

There is a distinction between a right and an expectation. What is unaffected is a right "acquired or accrued" and not a mere hope of expectation. Where an amendment of an Act takes away a power the party seeking to invoke the power cannot, after such amendment, insist that the power is to be taken as saved because his application was pending at the time of amendment. The petitioner had no right acquired or accrued, but merely a hope or advantage. A 1971 Madh Pra 127 (129) : 1970 MPLJ 188 (FB).

**Cases covered by clause 'd".—** A penal statute-or for that matter, any statute-cannot govern an act committed after its repeal so as to impose a liability thereunder after is repeal.

**Conviction already ordered.—** Where a conviction has been already ordered under an Act before its repel, the conviction continues unaffected by the repeal. Under the General Clauses Act, a repeal shall not affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed: ILR (1950) 2 Cal 284 (287) (FB) 1977 Cri LJ 694 (696) (Raj).

If the conviction and sentence were legal when they were delivered, the continued detention of the appellant (under the sentence delivered) will not become illegal by reason of the expiry of the term of the Ordinance under which he was convicted. A 1933 Cal 516 (519 : 34 Cri LJ 879 (DB).

A penal liability incurred under the pre-existing law cannot be held to be wiped out by the repeal of the law, unless there are specific provisions in the repealing Act to that effect. A 1957 Madh B 52 (53 : 1957 Cri LJ 197 : 1956 Madh BLJ 360 (DB).

If the accused is guilty and if he has committed an offence, then the mere fact that the prosecution is launched after the repeal of the Act (which created the offence) cannot possibly affect the guilt of the accused or the right of the State to prosecute him or the jurisdiction of the Court to convict him. A 1958 Bom. 68 (70) : 1958 Cri LJ 161 : 59 Bom LR 901 (FB).

Where the accused had already incurred a penalty or punishment in respect of an offence punishable under S. 19 (f) of the Arms Act, 1978 before the new Act came into force the conviction is legal. A 1964 All 6 (6) : 1964 () Cri LJ 123.

Penalties that have been incurred while a statute is in force, are not (in the absence of an express provision to the contrary) affected by the mere fact of the statute having ceased to be in force by express repeal or by expiration by effluxion of time . A 1933 Cal 280 (281) : 34 Cril LJ 291 : 37 Cal WN 363 (DB).

**Position as to jurisdiction.—** If an order has been validly passed committing a case to the Court of Session under the law then in force , a subsequent change in the law would not divest the Court of Session of its jurisdiction to try it and the accused acquires a vested right to have the case continued in the Court and tried according to law in force on the date of the order of commitment. A 1953 Mad 451 (453) : 1953 Cri LJ 882 : (1953) 1 Mad LJ 45.

If the jurisdiction conferred on a Court by a certain Act is sought to be taken away, not by amending that Act, but by passing a subsequent Act, and the subsequent Act is later on repealed, the ban so placed on jurisdiction by the subsequent Act is thereby removed and the jurisdiction by the subsequent Act is thereby removed and the jurisdiction of the Courts rebounds to its original size. A 1954 All 624 (626) : 1954 All WR (HC) 322.

**Position as to sanction.**— If after expiry of an Act, a prosecution can be launched by the application of Ss 6 (d) and 6 (e), then the necessary prerequisite for such a prosecution (such as sanction of the competent authority) must also be deemed to exist after its expiry. Accordingly, such a sanction can be granted even after expiry. A 1954 SC 683 (685) : 1954 Cril LJ 1736.

**Suppression of statutes.**— In the absence of any revisions under a new Act which has superseded the old in respect of an offence under the superseded Act and which has become an offence liable to be proceeded against, but which offence is not an offence under the new Act, the offender can be proceeded against as if the old Act had been still in force. To such as a case, though the General Clauses Act has no application as such, as a rule of prudence, it can be looked into in dealing with the question of interpretation of such a kind. A 1945 Mad 521 (522) : 47 Cri LJ 415 : 91945) 2 Mad LJ 295.

**Clause 'd' where not applicable.**— When a statute is repealed or comes to an automatic end by efflux of time, no prosecution for acts done during the continuance of the repealed or expired Act can be commenced after the date of is repeal or expiry because that would amount to the enforcement of a repealed or dead Act. In case of repeal of statute this rule stands modified by S. 6 of the General Clauses Act. An expiring Act, however, is not governed by the rule enunciated in that section. A 1954 SC 683 (685);

S. 6 (d) and S. 6 (e) are by their very wording not applicable to a detention order. A 1950 Hyd 20 (23) : ILR (1951) HYD 237 (DB0.

**Clause "e".**– The repeal of an Act shall not affect proceedings already commenced, and the Judge must complete the trial under the rules of procedure which were in force when the trial began. So a trial which commenced before the Criminal P. C. 1882, came into force must be conducted under the rules of procedure in force at the commencement of the trial. (1983) ILR 6 Mad 336 (338) (DB).

The principle of s. 6 (e) of the general Clause Act may be utilized even in cases which are not, in terms, governed by the Act. A 1952 Ajmer 9 (10) : 52 Cri LJ 221.

S. 6 (e) does not in any way affect the applicability of Art. of the Constitution to a suit which comes up for disposal after the coming into operation of the Constitution. A 1954 Bom. 527 (531) : 56 Bom. LR 925.

"Enactment" in S. 6 (e) includes not only an entire law, but also any section or provision of a law, A 1924 All 563 (563).

When the law is altered during the pendency of an action, the rights of the parties are decided according to the law as it existed when the action was begun, unless the new statute shows a clear intention to vary such rights. The right of a suit or to have his pending application disposed of by a competent court is a matter of right, and not a mere matter of procedure. A 1949 Mad 307 (316) : 50 Cril LJ 405.

A legal proceeding validly instituted is no affected by the amended law, though, in so far as the procedure is concerned, the amended procedure shall ordinarily be applicable. 1973 AllLJ 954 (958).

In a case the Subordinate Judge refused sanction under Criminal Procedure Code 1898 for the offence of perjury. The complaint applied to the District Judge for sanction. While the application was pending, the amended Code, under which the applicant acquired a right to apply for sanction to the appellate Court, came into force. Sanction was granted by the District Judge. S. 6 (e) of the General Clauses Act applied and the District Judge's sanction was valid. A 1924 All 563 (563) : 26 Cri LJ 90.

A suit for the eviction of the defendant was instituted at the time when the Premises Rent Control Act, was in operation. The suit was decreed but during the pendency of the appeal, the Act was repealed . It was held that notwithstanding such repeal, the case must be decided according to the provisions of the repealed statute. ILR (1952) 1 Cal 315 : A 1955 NUC (Cal 805.

**Meaning of Proceeding.**— The word "proceeding" in S. 6 (e) does not include proceedings in execution after decree. (1889) ILR 16 Cal 267 (279) (FB).

**Clause 'e' Effect on forum.**— Clauses (e) has nothing to do with the forum where the investigation legal proceeding or remedy is to be pursued. If the repealing Act provides a new forum where the pre-repeal proceeding can be pursued thereafter, the forum must be as provided in the repealing Act and no party can insist that the forum under the repealed Act must continue. A 1955 Raj 203 (206) : ILR (1955) 5 Ra 995 (DB).

**Legal Proceedings.**—The expression "legal preceding" is not synonymous with judicial proceedings. Proceedings may be legal even if they are not judicial proceedings, if they are authorized by law. A 1958 Bom. 279 (282) : 59 Bom. LR 1259 (DB).

The effect of the words "as if the repealing Act had not been passed is that only so much can be done by virtue of the section as could have been done under the repealed Act if it had not been repealed. A 1957 Cal 274 (277) : 61 Cal WN 311 (FB).

**Saving clause general.**— S. 6 of the General Clauses Act, is a part of every Central Act passed by the Central Legislature in the same way as if it were expressly enacted in the body of the Act itself. A 1958 Punj 230 : 60 Pun LR 187 (FB).

A saving clause is used to exempt something from immediate interference or destruction, but where there main enactment, is clear, a saving clause can have no repercussion on the interpretation of the main enactment so as to exclude from its scope what clearly falls within its terms. The rule is that if the saving clause is in irreconcilable conflict with the body of the statute of which it is a part, it is ineffective or void. A 1951 Punj 52 (57) : 53 Pun LR 159 (FB).

**Saving Clause construction.**— In applying the principle in S. 6 and saving sections in any special enactment, the line of enquiry should be not whether the new Act keeps alive the old rights and liabilities, but whether it manifests an intention to destroy them. A 1970 Mad 311 (313) : 1970 Cri LJ 1107.

A saving clause that preserves the operation of a repealed Act for "things done or omitted to be done", even in the absence of other savings as contained in S. 6 of the General Clauses act, must be liberally construed. Such a saving clause preserves the legal effects and consequences of the things done though these effects and consequences project into the post repeal period. 1978 MPLJ 654 : A 1979 (NOC) 102.

The principle applicable to a saving clause in repealing enactment is that if the substituted enactment contains anything incompatible with the previously existing enactment, the jurisdiction under the repealed Act is wiped out pro tanto. (1954) 20 Cut LT 706 : A 1955 NUC (Orissa) 1122 (DB).

A saving clause does not stand on the same footing as the Act itself. Though an Act has expired, the effect of things done or omitted to be done can be saved. A 1951 All 703 (707) : 52 Cril LJ 1094.

Usual savings clause preserves "unaffected" by the repeal, things done under the repealed enactment and also the rights acquired thereunder. A 1980 SC 77 81, 82) : 1979 UJ (SC) 893.

Whatever is not specifically saved in the saving provisions in the repealing Act is intended not to be saved. A 1979 Guj 140 (147) : 1979) 20 Guj LR 24.

**Doctrine of qualified repeals.**— The general principles underlying statutes repealing old ones and containing clauses of saving are that of "qualified repeals". If there is something in the repealing Act incompatible with the general enactments in the repealed Act, then the jurisdiction under the repealed Act must be treated as protanto wiped out, but the saving clause would, if there no n incompatibility between the enactments, have the effect of annulling the repeal. (1906-1) (Ch D 730 (736 to 739) : 75 LJ Ch 421.

The doctrine of "qualified repeal" recognizes by "repeal", that what is replaced stands dissolved ; and secondly because of "saving" introduced, that may still be treated as surviving subject to inconsistency between old and new ; and upon proof of such inconsistency the repeal is full and complete and in spite of "saving" it is still dead wood. 1975 Mah LJ 607 (612 to 615).

The doctrine of "qualified repeal" purports to save only compatible parts of the repealed statute as the new legislation becomes operative. Though in principle and policy such should be the basic approach, legislation can do away with the need of applying the same. If intention evidenced by such "saving" section is clear, an attempt to find out and save only compatible provisions would in effect lead to superimposition not called for by the new enactment, resulting in shrinkage of the "saving" section of the enacting statute. 1975 Mdh LJ 607 (612 to 615).

**Saving clause.**— Where the repealing section of the fresh enactment, which purports to indicate the effect of the repeal on previous matters, provides for the operation of the previous law in part and in negative terms, as also for the operation of the new law in the other part and in positive terms, the said provision may well be taken to be self-contained and indicative of the intention to exclude the application of S. 6 of the General Clauses Act.

The accuseds were prosecuted under R. 81 (4) of the Defence Rules for infringing the Non-ferrous Metals Control Order of 1942 on 16-1-50 before the Constitution came into force and the question was whether the prosecution could be continued after the Constitution came into force. It was held that when no prosecution was launched prior to 5-1-48, nothing in the saving clause in S. 3 of the Repealing and Amending Act, 1947, which repealed the Defence Rules, allowed it to be launched after that date. A 1951 All 703 (708, 709) : 52 Cril LJ 1094.

**Principle, Scope and applicability of.**— Whenever there is a repeal of an enactment , the consequences laid down in section 6 of the General Clauses Act will follow unless, as the section itself says, a different intention appears in the repealing statue. In the case of a simple repeal there is scarcely any room for expression of a contrary opinion. But when the repeal is followed by fresh legislation on the same subject, the Court would undoubtedly have to look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. the Provisions of section 6 of the General Clauses Act will apply to a case of repeal even if there is a simultaneous re-enactment unless a contrary intention can be gathered from the new statute. T.S. Baliah v. T. S. Rangachari, Income-tax Officer, (1969) 1 SCJ 890 : AIR 1969 SC 701: (1969) 2 SCA 157 : (1969) 2 Mad LJ 9: (1969) 2 Andh Wr 9: (1969) 1 ILJ 732 : 72 ITR 787 : 1969 Mad LJ (Cr) 547.

**Ambit and scope of.**— What is unaffected by the repeal of a statute is a right acquired or occurred under it and not a mere 'hope or expectation of', or liberty to apply for acquiring a right: M.S. Shivannda v.Sarnataka State Road Transport Corporation and others, 1979 UJ (SC) 893 (897).

**Principle underlying section 6.**— The principle behind section 6 of the General Clauses Act is that all the provisions of the Acts would continue in force for purposes of enforcing the liability incurred when the Acts were in force and any

investigation, legal Proceeding , remedy, may be instituted, continued or enforced as if the Acts had not expired. AIR 1976 SC 958 .

**Applicability of.**— By section 6 of the General Clause Act, it is provided, in so far as it is material, that any Central Act or Regulation made after the commencement of the General Clauses Act repeals any enactment, the repeal shall not affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder, or affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed, or affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability , penalty, forfeiture or punishment as aforesaid: and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, any such penalty, forfeiture or punishment may be imposed, as if the Repealing Act or Regulation Had not been passed. The rule contained in section 6 applies only if a different intention does not appear. [Bishambhar Nath kohli v. State of Uttar Pradesh, AIR 1966 SC 573 : (1966) 2 SCJ 337 : (1966) 2 SCR 158.

**It saves previous operation of repealed Act or anything done or suffered thereunder.**— Section 6 of the Act provides that where any Central Act or Regulation made after the commencement of that Act repeals an enactment hitherto made or hereafter to be made, then unless a different intention appears, the repeal shall not affect any right privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed. It also saves the previous operation any enactment so repealed or anything duly done or suffered thereunder. Gujart Electricity Board v. Shantilal R Desai, AIR 1969 SC 239 : (1969) 1 SCA 288 : 1969 Guj LR 349: (1969) 1 Um NP 185.

**Applicability of.**— The provisions of sections 6 of the General Clauses Act in relation to the effect of repeal do not ordinarily apply to a temporary Act. Qudrat Ullah v. Municipal Board, Bareily, (1974) 1 SCC 202.

**Applicable to repeal of an Act followed by re-enactment.**— The provisions of section 6 of the General Clauses Act will apply to a case of repeal even if there is simultaneous enactment unless a contrary intention can be gathered from the new enactment. State of Punad v. Mohar Singh Pratap Singh, 1955 SCR 893 : 1955 NLJ 384 : 1955 MWN 672 : 1955 SCA 609 : 1955 SCJ 25 : 1955 Cr LJ 254 : AIR 1955 SC 84.

**Applies even in case of a partial repeal or repeal of part of an Act.**— Repeal of an Act means revocation or abrogation of the Act, and section 6 of the General Clauses Act applies even in the case of a partial repeal or repeal of a part of an Act. The liability to pay excess profits tax accrued immediately at the end of the chargeable accounting period and that the liability was preserved under section 6(c) of the Act even though the Act stood repealed. Ekambarappa v.Excess Profits Tax Officer, Bellary, AIR 1967 SC 1541 : 65 ITR 656 : (1967) 2 ITJ 509 : (1967) 2 SCJ 633 : 12 Law Rep 641.

Section 6 of the General Clauses Act will not apply in respect of those matters where Parliament had clearly expressed its intention to the contrary by making detailed provisions for similar matters mentioned in that section. [ Income -Tax Officer III, Mangalore v.. m. Mamodar Bhai, (1969) 1 SCJ 659 : AIR 1969 SC 408 : 71 ITR 806 : (1969) 1 ITJ 482.]

Section 6 does not apply if a different intention is made to appear expressly in the Act. Transport and Dock Workers' Union v. New Dholera Steamships, Ltd., (1967) 1 Lah LJ 484.

**Object of saving clause.**— Section 6 of the General Clauses Act, 1897 provides that unless a different intention appears the repeal of an Act would not affect anything duly done or suffered thereunder. The object of such a saving clause is to save what has been previously done under the statute repealed. The result of such a saving clause is that the pre-existing law continues to govern the thing done before a particular date from which the repeal of such a pre-existing law takes effect. Hasan Nurani Malak v. S M ismaiol, Assistant Charity Commissioner, nagpur, 1967 Mah LJ 135 : 1967 MPLJ 118 : 68 Bom LR 133 : 1967 Jab LJ 526 : AIR 1967 SC 1742 : (1967) 1 SCR 110.

**Repeal followed by fresh enactment - Operation of section 6 when excluded.**— Section 6 of the General Clauses Act, is not ruled out when there is repeal of an enactment followed by fresh legislation. Section 6 would be applicable in such cases also unless the new legislation manifests an intention incompatible with or contrary to the provisions of the section. Such incompatibility would have to be ascertained from a consideration of all the relevant provisions of the new law. [ indra Sohanlalv. Custodan of Evacuee Property, Dlhi, (1955) 2 SCR 1117.: 1956 SCJ 171 :1956 SCA 618 : AIR 1956 SC 77 .]

**Applicability of principle underlying section 6 (e) - Repeal of enactment follwed by fresh legislation- Section 6 is not ruled out.**— Section 6 would apply to a case of repeal even if there is a simultaneous enactment unless a contrary intention appears from the new enactment.

In the case of a simple repeal there is scarcely any room for expression of a contrary opinion. But when the repeal is followed by fresh legislation on the same subject the court would undoubtedly have to look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. The line of enquiry would be, not whether the new Act expressly Keeps alive old rights and liabilities but whether it manifests an intention to destroy them. it is not possible, therefore to subscribe, to the broad proposition that section 6 of the General Clauses Act is ruled out whenever there is a repeal of an enactment followed by a fresh legislation. [ M/s. Munshi Lal beni Ram Glass Words V. Sri S. R. Singh, Assistant Labour Commissioner and others, (1970) 1 SCWR 132 : 1970 UJ SC) 170 : (1970) 20 Fac LR 375.]

[1][6A. ***Repeal of Act making textual amendment in act or Regulation.***— *Where any Act of Parliament or regulation made after the commencement of this act repeals any enactment by which the text of any Act of Parliament or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.]

1. Ins. by the General Clauses (Amdt.) Act 1936 (XIX of 1936), s. 2.

## Scope and applications

**Principle and history.**— When a subsequent Act amends an earlier one in such a way as to incorporate itself, or a part of itself, into the earlier then the earlier Act must thereafter be read and construed (except where that would lead to a repugnancy, inconsistency or absurdity) as if the altered words had been written into the earlier Act with pen and ink and the old words scored out so that thereafter there is no need to refer to the amending Act at all. A 1952 SC 324 (326) : 1952 Cir LJ 1503.

In the class of cases contemplated by S. 6A, the function of the incorporating legislation is taken almost wholly as the function of effecting the incorporation and when that function is accomplished, the legislation dies as it were, a natural death, which is formally effected by its repeal. A 1962 SC 316 (334) : 1962 (1) Cri LJ 364.

Textual amendments become a part of the amended Act, and the repeal of the amending Act does not affect the textual amendments which are so incorporated in the principal Act. A 1960 Punj 375 (376, 377). ILR (1955) 5 Raj 602 (608).

The repeal of a statute does not repeal such portions of the statute as have been already incorporated into another statute. The Act directing incorporation may be repealed, but the incorporated section or sections still operate in the former Act. A 1951 Cal 97 (99) : 55 Cal WN 463.

Where a statute is incorporated, by reference, into a second statute the repeal of the first statute by a third does not affect the second. This principle is analogous to though not identical with the principle embodied in S. 6-A. A1962 SC 316 (334) : 1962 (1) Cril L 364.

The case of the repeal of the amending Act directly falls within the four corners of S. 6-A of the General Clauses Act. A 1960 SC 89 (91, 92) : 1960 Cril LJ 160.

**Repealing and Amending Acts.**— Repealing and Amending Acts are enacted by the Legislature from time to time in order to repeal enactments which have ceased to be in force or have become obsolete or the retention whereof as separate Acts is unnecessary. The principal object of such Acts is to "excise dead matter, prune off superfluities and reject clearly inconsistent enactments". A 1975 SC 155 (158) : 1975 Tax LR 90.

**Repeal of amending Act.**— Repealing and Amending Act may thus be regarded as a "legislative scavenger". A 1957 Punj 141 (142) : 1955 Cri LJ 990.

Section 1 (3) of the Criminal Law amendment Act, 1932 restricted its duration to three years, but was deleted in 1935. The Act of 1935 was itself repealed in 1937 by the Repealing and Amending Act, but this repeal did not have the effect of reviving S. 1 (3) of the principal Act of 1932. According to S. 6A, the repeal of the amending Act did not affect the continuance of any amendment which had been made by that Act and which was in operation at the time of the repeal. The amendment made in the original Act, by deleting S. 1 (3), therefore, still continued to have operation . A 1951 Bom. 459 (461) : 1952 Cri L 37 : A 1939 Mad 21 (24) : 1938) 2 Mad LJ 863 (DB). (Criminal Law Amendment Act, 1932 has not been repealed in its entirety).

Section 6-A of the General Clauses Act coupled with S. 4 of the Repealing and Amending Act of 1937 leaves the Criminal law Amending Act of 1932, so far as Section 7 thereof is concerned, intact. A 1939 Mad 21 (24) : (1938) 2 Mad LJ 863 (DB).

In Section 161 of the Criminal P. C. 1898, Sub-section 93) (which prohibited making a precise of a statement) was inserted by amending Act 2 of 1945. The Act of 1945 was repealed by the Repealing and Amending Act (2 of 1948). However, its repeal did not mean that the newly added sub-s. (3), to Section 161 was also repealed. IIR (19150) 2 Cal 343 (348) : A 1955 NUC (Cal) 661 (DB).

The proviso to S. 488 of the Criminal P. C. 1898 was added by the amending Act. The amending Act was repealed by the Repealing and Amending Act. But this did not remove form the Code the proviso, because it had meanwhile become part and parcel of the Code. The Repealing and Amending Act, was in tended merely to remove away the amending Act (9 of 1949) which, already having become part of the Criminal P. C. had not separate existence. 1963 BLJR 719 (721) (1959) 61 Punj 702 (703).

Repeal of an amending Act does not have the effect of estroying the amendment. A 1960 Punj 376) : 62 Pun LR 359 (DB).

**Repeal of substantive Act conferring jurisdiction.**— Section 6-A does not apply where there is no amending Act which is repealed but there is repeal of a substantive Act conferring jurisdiction. If the jurisdiction conferred on a Court by a certain Act is sought to be taken away, not by amedning that Act, but by passing a subsequent Act, and the subsequent Act, is itself repealed, the ban placed on jurisdiction by the subsequent Act is thereby removed, and the jurisdiction of the Courts rebounds to its original size. A 1954 All 624 (626) : 1954 All WR (HC) 32.

**Repeal of substantive Act from which a definition is adopted.**— Where an expression is defined in an Act with reference to an other Act the definition would remain effective

even after the other Act has ceased to exist. Adoption of definitions given in another Act is a well known legislative device, generally resorted to for brevity. This does not render the adopting Act a "dependent" Act. A 1964 SC 1667 (1670) : (1965) 2 SCJ 395.

In regard to the repeal of an amending Act under section 6-A, the amendment already affected in the original Act is not repealed unless there is a contrary intention express or implied in the repealing Act. Karippa Bhargavathi v. Devassy, 1969 Ker L 633 ; Bahsir Miyan v. Khatun Bibi, 1963 BLJR 719 at p 721.

This section deals with the effect of repeal of amending Act, and means in terms that when the provisions of an amending Act have duly been incorporated in the amended Act by omission, insertion or substitution of any matter in the amended Act, then, even though the amending Act is repealed, the omissions, insertions or substitutions thereunder made already in the amended Act, shall not be unhinged but shall continue to be in operation, but this general statement is made subject to the condition "unless a different intention appears" in the Act which has repealed an amending. Act.

The repeal of an Act does not repeal such portions thereof as have been incorporated into another Act. The incorporated portions stay even if the Act directing incorporation has itself been repealed. Md. Safi v. State of West Bengal, AIR 1951 Cal 79 at p 99 : 55 Cal WN 463.

**Object of repealing an amending Act.**— A very important question considered in the context of this section is whether the repeal of an amending Act shall affect the amendments which have already been brought into the main Act. This section has answer this question in the negative making this answer subject to the condition if there be nothing in the intendement of the Repealing Act to the contrary.

**"Textual", meaning of.**— The word "text" in its dictionary meaning mans "subject or theme". When an enactment amends the text of another, it amends the subject or theme of it, though sometimes it may expunge unnecessary words without altering the subject. Therefore, the word "text" is comprehensive enough to take in the subject as well as the terminology used in a statute. Jethanand Betab v. State of Delhi, AIR 160 SC 89.

This section refers to textual amendments and clarifies the effect of repeal of amending statutes. It is well settled provision of law that repeal of a statute does not repeal such portions of the statute as have been incorporated into another statute. Even if the original Act is repealed the incorporated section or sections, still operate in later Act. AIR 1956 Madh Pra 195.

The rule is that when a subsequent Act amends an earlier one in such a way as to incorporate itself, or a part of itself, into the earlier, then the earlier Act must thereafter be read and construed (except where that would lead to a repugnancy, inconsistency or absurdity) as if the altered words had been written into the earlier Act with pen and ink and the old words scored out so that thereafter, there is no need to refer to the amending Act at all. Shamrao v. District Magistrate, Thana, AIR 1962 SC 324 ; State of Orissa v. Gelli Det (1961) 27 Cut LT 59 :

(196) 2 Orissa D 522 ; Karunakaran v. Deputy Superintendent of Central Excise, AIR 1961 ker 93 at p 95. Textual amendments become part of the amended Act and even the repeal of the amending Act does not affect the textual amendments which are so incorporated in the principal Act. Ram Narain v. Simla Banking and Industrial Co., Ltd. AIR 1956 SC 621.

It is true that the textual amendments become part of the amended Act but this is not the same thing as saying that the amendment itself must be taken to have been in existence as from the date of earlier Act.

*[1]**7. Revival of repealed enactments.**— (1) In any [2][Act of Parliament] or Regulation made after the commencement of this act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.*

*(2) This section applies also to all [3][Acts of Parliament] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.*

1. Cf. s. 11 of the Interpretation act, 1889 (52 and 53 Vict., c. 63).
2. Subs. by P.O. No. 147 of 1972, Art. 7 for "Central Act".
3. Subs. by P.O. No. 147 of 1972, Art. 7 for "Central Acts".

## Scope and applications

**Two enactments on the same subject.**— In cases where two enactments on the same subject co-exist (and the one has not been repealed by the other), both are enforceable. But a person cannot be punished twice for the same offecne. A 1957 SC 458 (463, 464) : 1957 Cril LJ 575.

**Applicability to temporary Act.**— Section 7 of the General Clauses Act lays down that if any enactment is repealed wholly or partially and if it is desired that any part of the repealed enactment be received, then it shall be necessary to state that fact specifically. However this rule of construction does not apply to temporary or expiring statutes which lapse at a certain date or on the happening of a certain contingency. AIR 1941 Lah 175, ILR (1957) Punj 1476.

**Principle-Repeal of repealing Act-Repealed- Repealed Act not revived-Interpretation of statutes.**— The general principle is that the repeal of a law repealing another law does not revive the earlier repealed law, and an illustration of this principle is to be found in Section 7 of the General Clauses Act. 1961 Raj LW 155 : ILR 91961) 11 Raj 93.

The general rule of construction is that the repeal of a repealing Act does not revive anything repealed thereby. But the rule is subject to a different intention. The intention may be explicit or implicit. A 1975 SC 155 (158) : 1975 Tax LR 90.

**The common Law rule.**— If an Act of Parliament, which repeals former statutes, is repealed by an Act which contains nothing in it that manifests the intention of the Legislature that

the former laws shall continue to the repealed, the former laws will, by implifation, be revived by the repeal of the repealing statue. (1826) 3 Bing 493 : 130 TR 603.

If an Act repealing a former Act is itself repealed, the last repeal does not revive the Act before repealed, unless words are added reviving it. A 1955 SC 352 (362) A 1967 Madh Pra 56 (62, 74, 75) : 1966 MPLJ 842 (DB).

The statutory law in England is substantially the same as is embodied in S. 7 (1898) ILR 25 Cal 333 (336) : 2 Cal WN 11 (DB).

**English law (the statutory Provision).**— The common law rule (that when an Act is repealed and the repealing Act is repealed by another Act which manifests no intention that the first shall continue repealed, the repeal of the second Act revives the first) does not apply in England to repealing Acts, passed since 1850, and the last repeal does not revive the Act or provisions before repealed, unless words be added reviving them. The same principle or rule of law applies to in this country. A 1955 SC 352 (362) A 1917 Cal 243 (245) : 20 Cal WN 1327.

Section 3, General Clauses Act, 1868 provided that for the purpose of reviving either wholly or partially a statute, Act, or Regulation repealed, it shall be necessary expressly to state such purpose, and the same is the effect of Ss. 6 and 7 of the General Clauses Act 1897. A 1917 Cal 243 (245) : 20 Cal WN 1327.

**Repeal of substantive enactment.**—Section 3399, Criminal P. C. 1882, so far as it authorized a Magistrate not of the First Class to direct a male juvenile offender to be sent to reformatory school, was repealed. So an order of a Second Class Magistrate, directing a boy to be sent to a reformatory school became illegal after this repeal. (1883) ILR 12 Mad 94 (95, 96) : 1 Weir 875 (FB).

**Repealing Act Void.**— When an Act of Legislature containing a provision repealing an earlier Act on the same subject is held unconstitutional by the Court, it does not revive the provisions of the earlier repealed Act. A 1972 Mys 199 (201, 202) : (1972) 1 Mys LJ 310 (DB).

Where the amending Act which purports to introduce a new law is itself declared void, the law as it stood prior to the amending Act revives. If the new law which is directed to be introduced by the Amending Act is declared ultra vires, it does not necessarily have the effect of invalidating the new law and of repealing the old law at the same time. 1971 Tax LR 1044 (1448) (FB) (Bom).

A rule of law which has ceased to be in existence does not revive where a rule of law made in substitution of the same is declared unconstitutional by a Court. 1974 Lab IC 567 (570) : (1973) 1 Mys LJ 284 (DB).

**Old rule not revived.**— Where a substituted statutory rule is held invalid, the old rule does not get revived. Once the old rule has been replaced by the new rule, it ceases to exist and it does not automatically get revived when the new rule is held to be invalid. A 1863 Sc 928 (923): (1964) 1 SCJ 355.

**Temporary Act- Lapse- Effect.**— The rule of construction laid down in section 7 does not apply to the expiry of temporary statutes, which lapse on a certain date or on the happening of a certain contingency. The reason is that the section by its terms is confined to repeal and is not concerned with expiry. "Repeal" envisages one legislation operating on another and thus requires a legislative exercise. Expiry is automatic, and requires no legislative exercise. Hence, the question of "revival" of an expired Act cannot arise in the context of S. 7. A 1951 Maduh Bha 149 (152, 153): 52 Cri LJ 1467 (FB) A 1957 Punj 165 (270): ILR (1957) Punj 1476 (DB).

Mistakes in subordinate legislation in referring to the parent Act have to be disregarded. State of U. P. v. M/s Dulicand, AIR 1967 All 349 at p 350 : ILR (1967) 1 all 68 (DB)

**Consequences when repealing Act struck down.**— Once an old rule has been substituted by a new rule, the old one ceases to exist and it does not automatically revive on the new rule having become invalid, or on being struck down. AIR 1963 SC 928 : (1964) 1 SCJ 355.

It is undoubtedly competent to the state Legislature, acting in exercise of its plenary powers, to revive or to re-enact legislation which had already expired by lapse of time or to enact legislation with retrospective effect, A 1954 Pat 97 (100): 1953 BLJR 550.

Section 5 of the Muslim personal Law (Shariat) Application Act, 1937 was repealed by section 6, Dissolution or Muslim Marriages Act, 1939. This, in its turn, was repealed by the Repealing and Amending Act,1937 was held not to have been revived. A 1963 Andh Pra 459 (460) : (1963) 1 Andh LT 306.

The Hindu Women's Right to Property Act, 1937 was repealed by S 31 of the Hindu Succession Act, 1956. Section 31, in its turn, was repealed by the Repealing Act 58 of 1960. The Hindu Women's Rights to property Act, 1937 did not revive. A 1974 Guj 23 (28) : 14 Guj LR 328 A 1947 Raj 197 (200) : 1974 Raj LW 246.

***[1][8. Construction of references to repealed enactments.***— *(1)]* [2]*Where this act, or any Act of Parliament or Regulation made after the commencement of this act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.*

[3]* * * * * *

1. The original section 8 was renumbered as sub-section (1) of that section by the Repealing and Amending Act, 1919, s. 2 and Sch. 1.
2. Cf. section 38 (1) of the Interpretation act, 1889 (52 & 53 Vict. c. 63).
3. Sub-section (2) of section 8 was omitted by P.O. No. 147 of 1972, Art. 9.

## Scope and applications

**Interpretation of statutes.**— Operative date of one statute when it repeals another statute. Abdul Malek Vs. Abdur Rahman, (1967) 19 DLR 318; followed. 21 DLR (1973) 397.

**Temporary law - effect of repeal.**— The general rule, however, is that unless some special provisions to the contrary are contained in the repealing law a temporary law ceases to have any further effect after it has expired and no proceeding can be taken under it any longer and the proceedings already taken pending terminate ultimately as soon as it expires. Ramdayal Mirdha Vs. Nagendra Nath Bain and others. 12 DLR 412.

Anything done or action taken etc. under a particular statute ceases to possess any validity and is to be treated as non-existed except as to transaction passed and closed along with he repeal of the statute unless it is saved either by some express provision in the repealing statute or under the provisions of the General Clauses Act or central or Provincial as the case may be. 20 DLR (1968) 140.

Repealing and re-enacting statutes-Ejusdem generis rule-Applicability-The doctrine means that when legislature used words of a general nature following specific and particular words they are meant and intended to be limited to things as those specified by the particular words-Whenever by applying the doctrine of Ejusdem generis certain words of limitation or restriction are read in a statute they should be read as having been enacted. The object and intent of legislature having been so determined it should be properly give effect to in applying the principles of interpretation illustrated by Section 8, General clauses Act. AIR 1965 All 269 (DB).

Principle enunciated in the section can be applied in construing order, deriving its strength from statutory power. 1965 BLJR 918.

When an Act is repealed it must be considered except as to transactions past and closed, as if it had never existed. Similarly if an Act gives a right to do anything, the thing to be done, if not completed before the Act is repealed, must upon the repeal of the Act be left in status quo. AIR 1954 Sau 77 (DB).

**"Instrument"-Meaning of-Includes President's order under Article of the Constitution.**— The General Clauses Act does not define the Expression "instrument". Therefore, the expression must be taken to have been used in the sense in which it is generally understood in legal parlance. The expression is used to signify a deed inter parties or a charter or a record or other writing of a formal nature. But in the context of the General Clauses Act, it has to be understood as including reference to a formal legal writing like an order made under a statute or subordinate legislation or any document of a formal character made under constitutional or statutory authority. AIR 1964 SC 173 (1964) 3 SCR 442.

**Modification-Meaning.**— The word "modification" in Section 8 (1) means variation and includes extension also although in ordinary parlance this word may signify restrictions only. IIR (1959) Punj 859 : 61 Punj LR 315.

**Power of Courts to refer case to arbitration.**— Arbitration Act (1940), Section 2 (c), 21 -Power of appellate and execution Court to refer case to arbitration-Appellate Court can refer dispute in appeal from decree in suit, to arbitration-Executing Court cannot refer dispute in execution proceedings to arbitration-Appellate Court, in appeal from order made in execution proceeding cannot refer dispute to arbitration. AIR 1947 All 304 : AIR 1948 All 443.

**Arbitration Act (1940), Section 2 (c) and 21.**— Appellate Court has power to refer to arbitration. AIR 1947 Cal 93.

**Reference to other enactment's.**— Limitation Act (1908), Article 181-Application under Section 20, Arbitration Act is one "under the Code" and is governed by that article-Reference to "any of there enactment" in Section 8, General Clauses Act. would be read as referencer to Arbitration Act. AIR 1965 All 269 (DB).

The rule of construction of statutes is that where a statute is incorporated by reference into a second statute the repeal of the first statute by a third does not affect the second. This rule of construction refers to the situation in which the first Act has been altogether repealed. But where the Act repealed has been re-enacted with or without modification, reference, according to Section 8 of the General Clauses Act. 1897, in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as reference to the provision so re-enacted. 1963 BLJR 627 : ILR 43 Pat 469.

Right accrued under repealed act is not affected by the subsequent new Act. 20 DLR (1968) 312.

When rights and procedure are both altered by an amending or repealing statute, then, if the rights accrued under the previous enactment are saved, the old procedure is also saved unless the new enactment expressly or by necessary implication provides to the contrary or makes the new procedure applicable to the old rights. Kamini Ranjan Vs. Chowdhury and others. 3 DLR 397.

The general rule of statutory interpretation at common law is that where an enactment is repealed, it would be considered, except as to transactions past and closed, as if it had never existed. A 1954 Sau 77 (79) : 6 Sau LR 240 (DB).

Since the normal effect of a repeal is to obliterate the enactment from the statue book as completely as if it had never been passed, one possible consequence of repeal would be that the reference to the repealed enactment might, in consequence of repeal, be rendered totally nugatory. It is to avoid any such possible consequence that the section acts that a reference to a repealed and re-enacted law shall be construed as a reference to the re-enacted law, unless a different intention appears. A 1958 Bom. 507 (509) : 61 Bom. LR 1141.

The whole object of the General Clauses Act appears to be to preserve and maintain the legality of things done under previous Acts when changes are made in the law. Virendra Kumar v. Crown, AIR 1951 Simla 216. If the previous Act did not give a right of suit, but during the pendency of such a suit, a subsequent Act gave such a right, the right acquired by the defendant, viz., of an immunity from a civil suit cannot be taken away by a change in the law; Gosta Behari v. Nawab of Murshidabad, AIR 1932 Cal 207. If the provisions of one statute are incorporated by reference in a second statute and the earlier statute is repealed, the second statute would continue to be in force with the incorporated provisions of the repealed statute being treated in force as part of it National Seqing Thread Co., Ltd. v. James Chadwick & Bros, Ltd. AIR 1953 SC 357 at p 360 : 1953 SC 509.

In order to attract application of section 8, it must be shown that a particular order has repealed and re-enacted a former order, and it is only in such cases that reference to the repealed order has to be interpreted as reference to the new. Om Prakash v.State, 1972 AWR 428. Section 8 of the General Clauses Act does not require that the latter Act repealing and re-enacting an earlier Act should be a repealing and amending Act. All that it requires is that a Central Act should repeal and re-enact a former enactment either with or without modification. Narayan Misra v. Surendranath Das (1971) 2 SCWR 363 : 37 CLJ 1052.

The expression "former enactment" in section 8 refers both to former Central enactments and State enactments. 1966 Cur LJ 372 : 68 Pujn LR 767.

In the event of reference to any other enactment or provision it must be construed that the re-enactment or provision pursuant to repeal or otherwise will apply unless different intention can be spelt out from the provision of the statute. Government of A.P. v (M/s.) Durgaram Prasad, AIR 1984 AF 14 (21) : (1983) 2 AP LJ (HC) 83.

The word "modification" means variation and includes extension also although in ordinary parlance, this word may signify restrictions only. Raj Kishan . Tulsi Das, AIR 1959 Puj 291 at p 293.

"Ordinance" is an enactment within the meaning of section 8 of the General Clauses Act. ILR 1960 Guj 701.

If there is mere reference to a provision of one statue in another without incorporation then, unless a different intention clearly appear, section 8 (1) would apply and the reference would be construed as reference to the provisions as may be in force from time to time in the former statute. Beepathumma v. Special Deputy Tehsildar, 1982 KLT 130.

The true import and intent of the re-enacting statute may necessarily call for consideration as to what it was which the old law omitted to contain or what mischief the re-enacting statute wanted to avoid. L.D. Khanna v. Chohan Huhtamaki (India) (P.), Ltd. 1977 Cr L J 1530 at p 1532 : 1977 Sim. LC 845.

Amendments made in the earlier law after the date of incorporation cannot, by their own force, be read into the later law. Western Coalfields, Ltd. v. Special Area Development Authority, AIR 1982 SC 697 : (1982) 1 SCC 125 : (1982) 2 SCJ 1.

**Legislation by referential incorporation.**— The repeal of an Act does not mean to repeal the provisions incorporated in the subsequent Act. Swarup v. Munshi, AIR 1963 SC 553 at p 558 : 1963 SCD 728.

The principle embodied in section 8 of the General Clauses Act applies also to the construction of notifications issued under statutes. Advance Insurance Co., Ltd., v. Shri Gurudasmal, AIR 1969 Delhi 330. The principle can be applied to a body of rules, even though they do not fall within the express terms of section 8. Chhabil Das v. Inder Singh, AIR 1976 HP 6. The principle can well be applied to subordinate legislation. N. S. Thread Co v. James Chadwick & Bros, Ltd., AIR 1953 SC 357 : 1953 SCJ 509. It has further been held that the general principle embodied in this section is applicable o statutory notification, even thought the wording of the section in force does not apply to such notification Mistra Nand v. State of U. P., AIR 1968 All 204.

The provisions of the General Clauses Act, dealing with principles of statutory construction, though in terms applicable to construction of Acts of Legislature only, are also applicable to construction of statutory rules, notifications and even judicial orders and decrees. Ramanandan Singh v. Ramadhar Singh, AIR 1966 Pat 297 (FB) : 1966 BLJR 553.

The rule of construction of statues is that where a statute is incorporated by reference into a second statute the repeal of the first statute by a third does not affect the second. Once the incorporation is made, the provision incorporated becomes integral part of the statute in which it is transferred and thereafter there remains no need to refer to the statute from which the incorporation was made and the subsequent amendment therein does not affect the incorporating statute. Mahindra and Mahindra, Ltd. v. Union of India, (1979) 2 SCC 529.

**Unless a different intention appears.**— Section 8 contains the expression "unless a different intention appears". Where there is nothing to show in the new Act that it applies to proceedings that have been closed and there is also nothing giving it expressly or impliedly a retrospective effect in respect of such proceedings so as to destroy rights and privileges acquired under the old Act governing such proceedings, it would amount to an expression of different intention. First Additional Income-Tax Officer v. Uppala Peda Venkataramayya, (1966) 2 Andh LT 92 : 64 ITR 93.

The provision of section 8 of the General Clauses Act will apply in interpreting Statues as well as instruments like the licence given to an undertaking for supply of electricity. Nagpur Electric Light and Power Lamp, Ltd., Nagpur v.Maharashtra Electricity Board, Bombay, 1968 Madh LJ 185 : 70 Bom. LR 177.

Section 8 (1) has no application to such cases where the re-enacted law has no provision corresponding to that in the repealed provision. Chhagan Lal Rathi v. Income Tax Officer, District III (i), Kanpur, ILR (1965) 1 All 193 ap pp 202, 203 (DB).

The question of repeal and re-enactment does not arise where there is total non-existence of a corresponding provision in the repealed enactment. Vino Chemical and Pharmaceutical Words v. Sales Tax Officer, Raipur, AIR 1955 MP 115 at p 117 : 1955 MPLJ 220 (DB).

Once a subsequent Act incorporates by reference to the provisions of an earlier Act, the amendment or addition in such provision, does not become applicable to the incorporating Act, unless it is made expressly applicable. Bolani Ores Lted. v. State of Orissa, AIR 1975 SC 17 at p 28 : (1975) 1 SCJ 320, reversing M/s. Bolani Ores Ltd. v. State of Orissa, AIR 1968 Orissa 1.

A definition incorporated in one Act from another does not cease to exist merely be fact that the Act from which the definition has been taken ceases to exist. Firoz Meharuddin v. Sub-Divisional Officer, AIR 1961 MP 110 at p 114 : (1961) 1 Cr LJ 516 : 1963 MPLJ 1246 (DB).

Section 8 has bee described as an illustration of a general and well established principle of interpretation that normally the repeal and re-enactment of a law should not upset the scheme ad provisions of other enactments which relate to the repealed enactment. A 1965 All 269 (272) : 1964 All LJ 771 (DB).

The canon of construction enunciated in Section 38, Interpretation Act, 1889 (52 & 53 Vict c. 63) and reiterated with some modifications in Section 8 of the General Clauses Act. 1897, is one of general application where statutes or Acts have to be construed and that there is no justification for holding that the principles of construction enunciated in those provisions will apply only where these provision in terms are inapplicable. Accordingly, these rules of construction should be applied in construing the charters of the different High Courts. A 1953 SC 357 (360) : 1953 SCJ 509.

Both the sub-sections of Section 8 are based on the principle that if a law is repealed and re-enacted, references there to should be construed after repeal to the reenacted law. Sub-ss. (1) and (2) both provide for such a situation and both are subject to different intention. However, there is a difference as regards their respective scope on the following points :-

(i) Sub-section (1) is concerned with the repeal of a Central Act or Regulation made after the commencement of the General Clauses Act, while sub-section (2) is concerned with an Act of Parliament of the United Kingdom passed before the 15th day of August, 1947.

Sub-section (II) is concerned with references in any other "enactment" or in any "instrument", while sub-section (2) is "confined to references in any "Central Act or Regulation or in any instrument".

**Referential legislation.**— Legislation is obviously referential in the widest sense. No statute is completely intelligible as an isolated enactment. Every statute is a chapter, or fragment of a chapter, or a body of law. It involves reference, express or implied, to the rules of common law, or to the provisions of other statutes on the same subject. Sir William Graham-Harrison (1935), J. S. P. T. L. Pages 9-45, quoted by that Renton Committee Report, Pages 69-70.

In U. S.A., statutes which refer to another statute are called "reference statutes" the purpose in general, being to adopt the provisions of there statutes. 73 Am JUr 2d. Pages 284-287, Paragraphs 28-31.

Broadly speaking, legislation by referential incorporation falls in two categories. First where a statute by specific reference incorporates the provisions of another statute as of the time of adoption. Second were a statute incorporates by general reference the law concerning a particular subject, as a genus. In the case of the former, the subsequent amendments made in the referred statute cannot automatically be read into the adopting statute. In the case of latter category, it may be presumed that the legislative intent was to include all the sub-sequence amendments also made from time to time in the generic law on the subject adopted by general reference. A 1978 SC 793 (797) : 1978 UJ (SC) 463.

When one Act applies another Act to some territory; the latter Act cannot be taken to be incorporated in the former Act. It may be otherwise, if there were words to show that the earlier Act is be deemed to be re-enacted by the new Act. A 1961 SC 56 (57, 58) : (1961) 1 SCJ 611.

Section 8 (1) deals with the reference or citation of one enactement without incorporation. The meaning and effect of incorporation by reference is not dealt with in the section. A 1962 SC 316 (325, 336) ; (1962) Cri LJ 364.

In order to discover the true import and intent of the new law, it is necessary for the Court to consider what was it that old law did not contain, or what mischief the new Act wants to avoid. 1977 Cri LJ 1530 (1532) : 1977 Sim LC 345 (Him Pra) .

Where only a single section of an Act is introduced into another Act, it must be read in the sense which it bore in the original Act from which it is taken. Consequently, it is legitimate to refer to all the rest of that Act to ascertain what the section means, although one section only is incorporated in the new Act. A 1980 Cal 70 (73) : (1979) 2 Cal HN 378 (FB).

Meaning given to words "Compensatory Costs under S. 35-A. of the Civil P. C. (1908), applied also to words "special Costs".

Reverting to the text of S. 8, the flowing conditions must be satisfied in order that sub-section (1) may apply :-

A provision of a "former enactment" must have been repealed and re-enacted, with or without modifications, by the General Clauses Act or by any Central Act or Regulation made after the Commencement of the General Clauses Act.

Reference to that provisions must be contained in any other "enactment" or in any "instrument".

There should not appear a different intention.

**Past and feature.**— If the conditions mentioned in sub section (1) are satisfied the section applies, and is not, in its applicability, restricted to past actions which do not project into the future. A 1973 Andh Pra 292 (294, 295) : (1973) 1 Andh WR 255.

**Repeal and re-enactment.**— If a subsequent Act which repeals a former Act uses the same language which was used in the former Act referring to the same subject and passed with the same purpose and for the same object, then the repealed Act may properly be referred to for the purpose of construing the subsequent Act and unless there is some strong reason to the contrary, re-enacted words and expressions must be read in the same sense in the subsequent Act. A 1950 Madh -Bha 112 (116) : (1949) 1 Madh BLR 229 (FB) 1982 Ker LT 130 (132).

Where a statute is repealed and re-enacted and words in old statute are reproduced in the new, the words should be interpreted in the sense which had been judicially put on them under the repealed Act.

Generally, when the provisions of another statute are not incorporated as an integral part of an Act, then, on the repeal and re-enactment of the other statute, the provisions as re-enacted can be read in its place by virtue of S. 8. Thus, if the referring Act empowers the Government to apply certain provisions of the referred Act which is subsequently repealed and re-enacted, a fresh notification in exercise of that power applying the provisions of the re-enacted law corresponding to the refereed law is valid. A 1971 SC 454 (456, 457) : (1971) 1 SCJ 635.

No doubt, it is not always easy to determine whether the new Act merely repeals and re-enacts an earlier provisions or is a totally new law. A 1976 Him Pra 6 (10, 11 16) (DB).

**Successive repeal and re-enactment.**— Where the referring enactment (i. e. S. 13 of the Court-fees Act, 1870) made a reference to the Civil P. C. 1859 which was repealed and reenacted in the code of 1877, then in the Code of 1882 and then again in the Code of 1908, a reference to S. 359 of the Code of 1859 could not, with the aid of S. 8 (1) of the General Clauses Act 1897, be construed as a reference to O. 41, R 23 of the Civil P. C. 1908 as amended as the power to amend the provision of Civil P. C. was for the time, conferred on the High Court by S. 122 of Civil P.C. 1908. A 1969 All 142 (152) : 1968 All LJ 243 (FB).

**Amend and repeal.**— S. 8 applies whether the repeal of the referred enactment is with or without modification. The subsequent Act need not be a repealing and amending Act. It is enough if it repeals and re-enacts an earlier Act. A 1954 Cal 484 (486) : 58 Cal WN 560 (DB).

A distinction is made between a simple amendment and an amendment substituting one provision for another, and the

latter type of amendment has been regarded as amounting to repeal and re-enactment. A 1944 Bom. 259 (262) : 47 Cri LJ 23 : 46 Bom. LR 495 (DB).

**Repeal with modification.**— The word "modification" in S. 8 is not confined to a change which restricts the scope, but also covers a change which expands it, thus taking in a variation of any kind. A 1959 Punj 291 (293) : 61 Pun LR 315 (DB).

**Textual amendment not needed.**— S. 8 (1) applies also for the interpretation of an instrument which itself does not get (textually) amended by an amendment made in the statute referred to in the instrument. (1968) 70 Bom. LR 177 (188) (DB).

**Enactment.**— Where a Central Act repeals a State Act, in some cases the principle of S. 8 has been said to be applicable. A 1970 SC 1641 (1642) : (1972) 1 SCJ 543.

References (in a State Act) to a law repealed and re-enacted by another Central law have been construed as references to the re-enacted Central law. A 1967 Guj 229 (245) : 7 Guj LR 597 (DB).

Repeal by a State Act of a State Act would, on the same reasoning, be covered by S. 8, provided the legislation in question does not relate exclusively to a matter in the State List. (1957) 59 Bom. LR 1078 : ILR (1958) Bom. 268 (271) (DB).

The wide definition of "enactment' in the General Clauses Act, includes an Ordinance. A 1967 guj 229 (245) : 7 Guj LR 587.

**Farmer Enactment.**— The expression "former enactment" includes both a Central enactment and a State enactment A 1970 SC 1941 (1642).

The expression "former enactment" would not include a constitutional order in view of the definition of "enactment' in S. 3 (19), but the principle of S. 8 (1) would be applicable. (1972) 38 Cut LT 1213 : (1972) 2 Cut WR 1670 (1679, 1680) (DB).

**Instrument.**— The expression "instrument" generally means a legal document. In the context in which it is used here-and particularly since "enactment" has been specifically mentioned-the expression "instrument" would not include an Act of Parliament. (1970) 72 Bom. LR 471 (474, 475) (DB).

An order of govt delegating its powers to District Magistrates is not instrument within S. 8 (1).

The expression "instrument" does not include an order of the Government delegating its powers under the Defence Rules to District Magistrates. A 1944 Bom. 259 (263) : 47 Cril LJ 23 (DB).

In any case the expression "instrument" includes a Presidential Order under Article of the Constitution. A 1964 SC 173 (178, 179) : 1964 (1) Cri LJ 132 :

A detention order passed by the Chief Commissioner under S. 3 (1) of the Public Safety Act is not an instrument within the meaning of S. 8 of the General Clauses Act. Even if it is deemed

to be an "instrument", a mistaken reference to the repealed Public Safety Act after the enactment of the Act would not be saved. A 1951 Punj (Simla) 216 (220, 221) : 52 Cri LJ 3.

The expression "instrument" used in S. 8 necessarily includes a notification. 1981 Cril LJ 232 (238) : (1980) 21 Guj LR 926 (DB).

The General Clauses Act though, in terms, applicable to Acts of the legislature has been often applied to statutory instruments also. 1965 BLJR 918 (922) (DB).

The General Clauses Act has been made applicable even to judicial decrees and orders. A 1966 Pat 297 (303, 304) : 1966 BLJR 553 (FB).

A statutory notification issued in supersession of an earlier notification as amended from time to time has the effect of superseding all notifications amending the earlier notification. A 1968 All 204 (207).

S. 8 is applicable to an order passed by the Rent Controller. A 1951 Punj 329 (331).

If, after an enactment has been already repealed, an order is passed thereunder making a mistaken reference to the repealed Act, the provisions in S. 8 for the construction of references cannot be invoked, even if the order is deemed to be an "instrument". S. 8 is intended to construe references already existing, and not to continue the life of an enactment (after its repeal) for other purposes. A 1951 Punj (simal) 216 (219) : 52 Cri LJ 3.

**Statutory license.**— The expression "instrument" in S. 8 covers a licence issued under the Electricity Act, 1910. 1069 All LJ 939 (941) (DB).

**Statutory rules and orders of High Courts.**— S. 8 being of general application, there is no reasonable ground for holding that the rule of construction of Acts should not be applied to charters which were granted under statutory powers and are subject to the legislative power of the legislature. Even assuming that, in strictness, the provision of the Interpretation Act or the General Clauses Act do not apply to such charters, the principles of construction enunciated therein should apply for construing them. A 1953 SC 357 (360) : 1953 SCJ 509.

Principle underlying S. 38 of the Interpretation Act, 1889 (52) and 53 Vic. Ch 63) should be applied in construing Cl. 44 of Letters Patent.

**Constitutional orders.**— The most direct way of dealing with the controversy would be to construe the expression "instrument" in S. 8 in a wide manner. This is what was done in a case relating to construction of the President's Order under Art. of the Constitution ; it was held that "instrument" in S. 8 includes such an order. A 1964 SC 173 (178, 179) : 1964 (1) Cri LJ 132.

**Illustrations of sub section 1-Negative.**—Section 8 (1) does not apply where there is no express reference to another statutory provision. A 1969 SC 474 (477) : (1969) 1 SCJ 780. (AIR 1965 All 299.

Section 8 would not apply to a case where the provisions of another statute have been incorporated as an integral part of the other statute. ILR 91977) 2 Delhi 11 (120).

**Corresponding Provision.—** If there is no provision in the re-enacted law corresponding to the repealed provision, Section 8 (1) cannot apply. ILR (1965) 1 All 193 (202, 203) (DB).

Mistakes in subordinate legislation in mentioning the parent legislation are often disregarded by the Court. A 1967 All 349 (350) : ILR (1967) 1 All 68 (DB).

Where the Revenue department, by mistake, quoted an old (repeal) resolution in the notice served on the petitioner for terminating his service the reference to the repealed section must be deemed to be a reference to the new Service Code in view of S. 8. 1965 BLJR 918 (922) (DB).

**In corporated statutes repeal of.—** In U. S. A. it has been held that as a general rule, the adoption in one statute of another statute takes in the adopted statute as it existed at the time of adoption, and does not include subsequent amendment thereto. (1958) 2 Law Ed. 2nd 996: 356 US 590 See 73 Am Jur 2d Pages 284-287 Paragraphs 28-31.

If the provisions of a statute are incorporated by reference in a second statute and the earlier statute is merely repealed, the second statute continues to be in force with the incorporated provision of the repealed statute in force as part of it, but if the earlier statute is no merely repealed but is repealed and re-enacted, it is the re-enacted provision that takes the place of the corresponding provision in the repealed enactment unless there be a different intention. A 1971 SC 454 (456) :91971) 1 SCJ 685.

Where a statute is incorporated by reference into a second statute the repeal of the first statute does not effect the second. The independent existence of the two Acts is therefore recognized and despite the death of the parent Act, its offspring survives in the incorporating Act. Though no such saving clauses appears in the General Clauses Act, the principle involved, is still applicable. This is also the English law. A 1931 PC 149 (152, 153) : 1931 All LJ 475 A 1959 Mad 542 (544).

Where the provisions of an Act are incorporated by reference in a later Act the repeal of the earlier Act has, in general no effect upon the construction or effect of the Act in which its provisions have been incorporated.

There is a rule of construction that when a statue is incorporated by reference into a second statute, the repeal of the first into a second statute, the repeal of the first statute by a third does not affect the second, as the incorporated provisions have become part of the second statute. A 1975 SC 1835 (1838) : 1975 Cri LJ 1639.

Where a statute is incorporated, by reference into a second statute, the repeal of the first statute by a third statute does not affect the second. This is analogous to, though not identical with, the principle embodied in S. 6A A 1962 SC 316 (334) : 1902 (1) Cri LJ 364 : (1962) 1 SCJ 68.

There is a rule of construction that when a statute is incorporated by reference into a second statute, the repeal of the first statute by a third does not affect the second, as the incorporated provisions have become part of the second statute. A 1975 SC 1835 (1838) : 1975 Cri LJ 1639.

Adoption in one Act of expression defined in another Act is governed by the same principle. The definition of an expression unused in an Act with reference to another Act is a well-known device in legislative practice generally adopted for the sake of brevity. The definition would remain effective even after the other Act (from which definition was adopted) cease to exist. A 1964 SC 1667 (1670) : (1965) 2 SCJ 395.

The repeal of the British Nationality and Status of Alien Act, 1914 which is referred to in Cl. (i) of S. 2 (a) of the Foreigners Act, 1946, does not affect the text of Cl. (i) of S. 2 (a) and it cannot be said that the reference to the English Act in that clause becomes meaningless and that the clause should be treated as non-existent. A 1961 : 1960 MPLJ 1246 (DB).

Where a reference statute incorporates the terms of one statute into the provisions of another statute, "the two statutes co-exist as separate distinct legislative enactments each having its appointed sphere of action". As neither statute depends upon the other enactment for its existence, the repeal of the provisions in one enactment does not affect the identical provision in the other statute. Thus where a statute prescribed the method of selecting special circuit court judges and a subsequent statute adopted by reference this method for the selection of a special quarterly court judges, the repeal of the first statute did not operate to terminate the method of selecting judges in the adopting statute. Similarly, where a statute has adopted the provision of another statute by reference, the suspension of the provision in one enactment does not operate to suspend the identical provision in the other statute. Sutherland's Statutory Construction (1943 Edn).

Repeal of an Act does not have the effect of repealing provisions in corporated in a subsequent Act. This is for the reason that the law recognizes the independent existence of the two Acts-the incorporating Act and the incorporated Act. A 1963 SC 553 (558) : 1963 SCD 728 A 1951 Cal 97 (99).

In so far as the incorporation takes the form of a textual amendment in an existing Act, the principle has been given recognition by the General Clauses Act itself, in S. 6A. A 1931 PC 149 (152) : 1931 All LJ 475.

When a subsequent Act amends an earlier one in such a way as to incorporate itself, or a part of itself, into the earlier, then the earlier Act must thereafter be read and construed in such a way that there is no need to refer to the amending Act at all. A 1952 SC 324 (326) : 52 Cri LJ 1503.

By an amendment, the Legislature would not incorporate something in the Act which would be inconsistent with or repugnant to the object of the Act. A 1956 Bom. 219 (223) : 156 Cri LJ 488.

Where certain provisions from an existing Act have been incorporated into a subsequent Act no addition to the incorporated Act, which is not expressly made applicable to the incorporating Act, can be deemed to be incorporated in it-at all events if it is possible for the incorporating Act to function effectually without the addition. A 1931 PC 149 (152, 153) : 1931 AllLJ 475.

Adoption in one Statue of another statue does not include subsequent amendments thereto. 73 Am Jur 2d. Pages 284-287. Paragraphs 28-31.

Where there is mere reference to a provision of one statute in another without incorporation, then, unless a different intention appears, S. 8 (1) would apply and the reference would be construed as a reference to the provision that may be in force from time to time in the former state. But if a provision of one statute is incorporated in another, any subsequent amendment in the former statute-or even its total repeal-would not affect the provision as incorporated in the latter statute. 1979 SC 798 (810, 811) : 1979 Tax LR 2064.

There is a distinction between a mere reference to or a citation of one statute in another and incorporation of one statute into another, which in fact means bodily lifting the provisions of one enactment and making them a part of another. If one enactment is merely refereed to in another enactment and if the former is repealed and re-enacted, it is the re-enacted provisions that apply and the sections of the repealed Act are not saved. Whereas if an enactment is incorporated bodily into another, the repeal of the former would not affect the provisions which are incorporated into the latter enactment. 1973 Tax LR 2181 (2190) L 30 STC 321 (DB) (Andh Pra).

If the subsequent Act brings into itself by reference, some of the clauses of a former Act, the legal effect of that reference (as often been held) is to write those sections into the new Act, as if they had been actually written in it with the pen, or printed in it, "and the moment you have those clauses in the later Act, you have no occasion to refer to the former Act at all (18886) 31 Ch D 607 (615) : 55 LJ Ch 488.

In a case under Section 109 of the Bengal Tenancy Act (8 of 1885), where an application is made and withdrawn, the defendant obtains a right to hold property as recorded in the Record of Rights without further litigation. The right so acquired by a person under S. 109, Bengal Tenancy Act (8 of 885) is a valuable and substantive right, which cannot be affected (except by express words) by a subsequent alteration of the law. This view has been held to be in accordance with S. 8 (1) of the General Clauses Act and S. 6 (a), Bengal General Clauses Act, 1896. A 1932 Cal 207 (209) : 35 Cal WN 1147 (DB).

Sub-section (2) of S. 9 applies to cases where (before the 15th day of August 1947) an Act of Parliament of the U. K repealed and re-enacted a former enactment. It is provided that

references (i) in any Central Act, or (ii) in any Regulation, or (iii) in any instrument to the repealed provisions is to be construed as a reference to the provision so re-enacted, unless a different intention appears.

Explanation of word :Instrument".— The expression "instrument" in section 8 was meant to include reference to the order made by the President in exercise of his constitutional power . It therefore includes an order passed by the President under Article of the Constitution. [Mohan Chowdhury v. Chief Commissioner Union Territory of Tripura, AIR 1964 SC 173 : 1964 SCA 611 : (1964) 1 Cr LJ 132.]

**Principle applicable to construction of Charters of High courts.**— The canon of construction of statute enunciated in section 38, Interpretation Act and reiterated with some modifications in section 8, General Clauses Act, is one of general application when statutes or Acts have to be construed and there is no reasonable ground for holding that the rule of construction should not be applied in construing the charters of the different High courts. These charters were granted under statutory powers and are subject to the legislative power of the legislature. Assuming however that strictly speaking the provisions of the Interpretation Act and the General Clauses Act do not for any reason apply, the principles of construction enunciated in those provisions are applicable for construing these charters. [ National Sewing Thread Co., Ltd.v. James Chadwick & Bros., Ltd., 1933 SCR 1028 : 1953 SCA 610 : 1953 SCJ 509 : 56 NLR 21: (1953) 2 MLJ 215 : AIR 1953 SC 357.]

**Word "employer " in section 2(e) of the General Clauses Act to be construed with reference to definition of "owner" in section 2(1) of mines Act.**— Under Section 2)e) of the Act, the expression "Explorer means ' the owner of a coal mine as defined in clause (g) of section 3 of the Mines Act, 1923". The Mines Act . 1923 had been repealed and substituted. In the latter Act the word "owner" has been defined in clause (1) of section 2. by virtue of section 8 of the General Clauses Act, the definition of the word "employer" in clause (e) of section 2 of the Act should be construed with reference to the definition of the word "owner" in Clause (1) of section 2 of Act 35 of 1952, which repealed the earlier Act and re-enacted it. [ State of Bihar v. S. k. Royk (1966) 13 Fac LR 111: AIR 1966 SC 1995 : 1966 BLJR 873 : 1966 Cr LJ 1538.]

Construction of words" former enactment".— According to section 3(10) of the General clauses Act " enactment" shall include any provision contained in any Act. On behalf of the state it has been argued that the words "former enactment" in section 8 can refer only to a Central Act or provisions contained therein and they cannot cover Acts passed by the state Legislature. Such an argument cannot be entertained because it goes against the express language of section 3 (19) which does not lay down any such limitation. The obvious meaning of that provisions in that enactment would include any Act or provision contained therein passed by the Parliament or the state Legislature. The limited

meaning sought to be attributed to the word "enactment" cannot be given to it for another reason. It could never be intended that when an Act passed by the union Parliament repeals a state Act the principle underlying section 8 should never become applicable. The High court was right in saying that there was nothing in section 8 to indicate that the words "former enactment" meant only a Central enactment and not state enactment and that the courts would not be justified to read in that section words which were not there and to place a narrow and limited construction on the words " former enactment' . If section 8 is applicable the respondent would be exempt from payment of tax under the Act on the alcoholic preparations on which excise duty is being levied under the provisions of the Central Act. [ State of Punjab and others v. Sukh Deb Sarup Gupta, (1970) 2 SCWR 181 : (1970) 2 SCC 177 : 1970 SCD 849 .]

Section 8 (1) of the General Clauses Act deals with reference or citation of one enactment in another without incorporation. [ New Central Jute mills Co., Ltd v. Asst. Collector of Central Excise, Allahabad and another, (1970) 2 SCWR 554 : (1970) 2 SCC 820 : AIR 1971 SC 454 .]

Section 8(1) of the General Clauses Act embodies the rule of construction that where the provision of an Act is repealed and re-enacted with or without modifications a reference to the repealed provision in any other enactment should be regarded as a reference to the provision re-enacted in the new form unless it appears that the legislature had a different intention. [ Mohd. Usman v. Union of India, (1969) 1 SCWR 701 : 1969 Bih LJ 385 : 1969 Madh Pra Wr 373 : 1969 All LJ 387 : AIR 1969 SC 474 : (1969) 1 SCJ 780 : (1969) 1 SCA 417 .]

***9. Commencement and termination of time.***— *(1) In any Act of Parliament or regulation made after the commencement of this act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word 'from', and, for the purpose of including the last in a series of days or any other period of time, to use the word 'to'.*

*(2) This section applies also to all Acts of Parliament made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.*

**Scope and applications**

Where a statute fixes only the terminus a quo of a state of things which is envisaged as to last indefinitely, the common law rule obtains that fractions of a day ought to be neglected and in such cases the statute or regulation or order takes effect from the first moment of the day on which it is enacted or passed, that is to say, from midnight of the day preceding the day on which it is promulgated; where on the other hand, a statute delimits a period marked both by a terminus a quo and a

terminus ad quem, the former is to be excluded and the latter to be included in the reckoning. AIR 1924 mad 257 ; Munna Lal v. manak Chand, AIR 1950 MB 119 ; M. Lal v. G. Pal Singh, AIR 1963 Punj 378.

The General Clauses Act embodies a principle of equity which should be applied to decrees apart from statutes. But in terms the section applies only to Acts or Regulations and not to documents inter partes. Nor ca the principles of the section be applied to a document which expressly states that it would have retrospective effect from a particular day. Vishnu Bhatt v. domakhere, AIR 1958 Ker 326 : ILR 1957 Ker 887;AIR 1935 Lah 291 : 157 IC 149.

Although the provisions of section 9 may be looked into only for the interpretation of the enactments referred to in that section, they afford valuable guidance as to the method to be adopted for the purpose of computation of time even in notification issued by an authority in the exercise of power conferred on it by law. Srinivas Silk Mills v. State of Mysore, AIR 1962 Mys 117.

The well established principle applicable to construction of statute is that ordinarily in computing time, the rule observed is to exclude the first day and to include the last day. A. Babu Rao v. State of Karnataka, 1979 Kant L 82 at pp 84, 85 ; Abdul Jalil v. Haji Abdul Jail, AIR 1974 All 402 at p 406.

The expression "within 15 days from this day" will require the first day to be excluded. Ram Chandra Govind Unnave v. Laxman Savleram Roughe, AIR 1938 Bom. 44 : 40 Bom. LR 892. "Six weeks of the receipt of notice" should mean exactly six weeks from date of receipt of notice. E.P. Janu Amma (Smt) v. Revenue Divisional Officer, Kozhikode, AIR 1980 ker 175.

The expression "by a certain date", makes available to the party the whole of that day, Notice to vacate by specified date does not exclude that date. Sheikh Nuroo v. Meghraj Ram Karan Marwari, AIR 1937 Nag 139 : 36 Cr LJ 867 : 31 Nag LR 312. The word "from" is akin to "after" and if the word "from" is used for the purpose of and in reference of the computation of time, as for example, from a stated date, it is prima facie excluded from computation. AIR 1962 Mys 117 ;AIR 1980 Kekr 175 : 1980 ker 175.

In an election to be held within six months from date of nomination, the date of nomination has to be excluded. Mahendra Singh v. Rajkumar Sinha, 1966 BLJR 379 at pp 380, 381.

The expression "by July 10" does not exclude but will include the 10th day of July. Sheikh Nuroo v. Meghraj Ram Karan Marwari, AIR 1937 nag 139 : 170 IC 790.

The courts are not expected to put any interpretation upon provisions as to limitation merely by implication or inference unless compelled by irresistible force of language. Lala Balmukund v. Lajwanti, AIR 1975 SC 1089 At p 1092 : 1975 All LJ 256 : 1975 UL (SC) 357.

When the provisions in an election rule uses both the expressions as "not less than" and "not more than", the day of filing the nomination as well as the day of election, both have to be excluded. I.M.Lalv. Gopal Singh, AIR 1963 Pujn 378 at p 380 : LR (1963) 2 Pun 571.

The day on which the copies are applied for and the day on which they are delivered, are both to be excluded, because the law takes no account of fractions of a day. Ram Krishna Bhan v. Shrawan Kisan, AIR 1944 Nag 356.

Costs deposited on 8th December, in accordance with order of 23rd November, giving fifteen days time for such deposit, was deposited within time, the day of 23rd November, being excluded. Jadav Chandra Banik v.Jogesh Chandra Sukla, AIR 1970 Tripura 71.

**Applicability of the section in general.**— The principle of section 9, being equitable, would apply to orders. Ram Chandra Govind Unnave v. Laxman Savleram Roughe, AIR 1938 Bom. 447 : 40 Bom. LR 892.

The term within three months of the date is section 106 of the Factories Act (1948) means within three calendar months after the Commission of the offence came to the knowledge of the Inspector. The interpretation based on common law as well as on the provisions of the Limitation Act, which calls for strict grammatical meaning of words and the provisions of the General Clauses Act results in the exclusion of the day of the knowledge, i. e., the date of inspection and the three months being calculated as three calendar months. In re v. S. Mehta and others, AIR 1970 Andh Pra 234 : (1970) 1 Andh LT 98.

An order setting aside the decree was made on 23d November, 1967. It was mentioned therein that if the conditional costs of Rs. 30 were not paid within 15 days of 23rd November, 1967, the application made under order IX, Rule 13, Civil Procedure Code, shall stand rejected. Costs were deposited on 8th December, 1967. If 15 days are counted from the day following the date on which order was passed, namely, 23rd November, 1967, then obviously the costs were paid within 15 days. The word "not being less then one month" shall, thus, mean the exclusion both of the first and the last day. Pioneer Motors (P) Ltd. V. Municipal Council, Nagercoil, AIR 1967 AC 684 at p 687.

Where the trial Judge had ordered that if the Court-fee was not paid within a month from 15th May, 1953, the suit was to stand dismissed at the end of the time, it means that the suit was to stand dismissed on 15th June 1953. But the party was entitled to the whole of that day to make payment of the Court-fees, and he had every right to make such a payment at the last minute of the rising of the Court. Badir Nath v. State of pepsu, AIR 1959 Pepsu 14 ; Padma Charan Mohapatra v. Superintendent of Police, AIR 1956 Orissa 71.

Where a party is given time to do an act, that is to make a payment by a particular date, he is entitled to do that during the

course of that whole day. Janakumara Nainar v. Periswamy Goundan, AIR 1957 Bom. 154, Devi Das v. Sadruddin, AIR 1935 Lah 291 . Sheikh Nuroov. Meghraj Ram Karan Marwari AIR 1937 Nag 139 : ILR 1937 Nag 214 .

Section 9 gives statutory recognition to the well-established principle applicable to the construction of statutes that ordinarily in computing time, the rule observed is to exclude the first and to include the last. (1954) 2 Mad LJ 44 : A 1955 NUC (Mad) 1824 (DB).

The section gives effect to the principle that in reckoning a period, the terminus a quo (first day) is excluded and the terminus ad quem (closing day) is included, A 1924 Mad 257 (259) : 45 Mad LJ 557 (DB).

Whether the day on which the order of a Court is made is to be included or excluded, depends upon the circumstances and the reason of the thing. When a computation is to be for the benefit of the person affected as much time should be given as the language admits of, and when it is to his detriment, the language should be construed as strictly as possible. (1912) 15 Cal LJ 120 (121 , 122) : 13 IC 900 (DB).

The expression "within a certain period" used in various statutes means that the date from which the period has to be counted must be excluded, though the last day has to be included. Suresh Chandra v. Birdhi Chand, AIR 1955 Raj 229 at p 231 : 1955 Raj LW 412 (DB).

**Applicability in election matters.**— This section has been held to be applicable to the trial of election petitions for computation to time. K. V. Raov. B.N. Reddy, AIR 1969 SC 872 (1969) 1 SCR 179 ; T. C. Basappa v. T. Nagappa AIR 1954 SC 440 at p 445 : 1954 SCJ 695. Where the limitation provided for presenting an election petition was "within for five days from the date of election of the returned candidate" and the date of election was the date when the polling had taken place, i.e., 26th November, 1972 and the election petition was presented on 10th January, 1973, it was held that in computing the period of limitation, 26th of November, 1972 had to excluded and the petition filed was within time. Ajit Prasad v. Nandin Satpathy, AIR 1975 Orissa 184 : ILR 1974 Cut 64.

Under section 9 of the General Clauses Act and under section 12 of the Limitation Act, the date of receipt of the communication has to be excluded in computing. 1969 All LJ 231.

The principle of S. 9 as embodying a principle of inquiry, has been applied to decrees of Court. A 1935 Lah 291 (292) : 38 Pun LR 124 (DB).

The principle of S. 9 has been applied to orders of Court. A 1957 Bom. 154 (155) : 1957 Nag LJ 71 (DB) A 1952 Orissa 279 (180) : 18 Cut LT 111 (DB).Where the application for restoration of suit was allowed by the Court on 25-10-1948, on the condition that the plaintiff if deposits Rs 100 towards costs of defendants within one month, the date i. e. 25-10-1948, on which order was passed should be excluded while computing the period of one month. ** A 1938 Bom. 447 (447) : 40 Bom LR 892.

The General Clauses act embodies a principle of equity which should be applied to decrees apart from statutes. As the date from which one reckons may be either inclusive or exclusive the period to be reckoned should exclude the day mentioned. 1935 Lah 291 (292) : 38 Pun LR 124.

Certain decree-holders obtained a decree against the judgment-debtor that he should pay Rs 6000/- to the decree-holders or deposit it the same in the trial Court "within 3 months from today", the date of the decree being 18th April, 1933. If the sum was not so paid, the plaintiff's suit was to be deemed to have been decreed in full with costs throughout. It was held that the deposit made on 18th July, 1933 was within time. An order of a Court passed on 15th May, 1953 allowed payment of court-fee within a month from that date. A 1935 La 291 )292) : 38 PunJ LR 124 (DB).

Applying the principle of S. 9, the date of the order of a court was exclude. A 1957 Pepsu 14 (17) (DB).

The principle of the section was held applicable to an order of a court which allowed time to make payment "by" a particular date. A 1957 Bom. 154 (155) : 1957 Nag LJ 71 (DB).

Where time is given by a Court to a party to a suit for the performance of an act till a certain date, it includes that date. A 1916 Ma 840 (1) (840) : 18 Mad LT 199 (DB)..

Where a judgment-debtor is required to deposit a certain sum within fifteen days from a certain date, that date should be excluded. The reason is that for uniformity, judicial decisions should receive the same construction as statutes. A 1988 Bo. 447 (447) : 40 Bom LR 892.

A notification contained in the Fort St. George Gazette of the 5th may, 1922 published fresh rules imposing increased institution fees on the suits on the original side of the High Court. The words of the notification were-"the amendments do come into force from the date of publication of the St. Gorge Gazette". The notification reached the High Court about 5.00 P. M. on the 5th of May. It was held that if the named date is the beginning of a defined limited period, that is, where there is a terminus a quo. then prima facie, the first day is included.. Therefore, "from a named date" means "on or after that day" and the plaints filed on 5th May were subject to the amended rules. A 1924 Mad 257 (258) : 45 Mad LJ 557 (SB).

**Section not restricted to cases where both expressions used.—** Section 9 cannot be construed to mean that it applies only where both the words "from" and "to" occur in a statute, and not otherwise. The word "and" is used in the section only distinctively to indicate two things, namely, if the first day is to be excluded, it is sufficient to use the word "from" and if the last day is to be included, the word to be used is "to". (1970) 36 Cut LT 983 (988) (DB). (Case under S. 9 of the Orissa General Clauses Act 1 of 1937) : (1954) 2 Mad LJ 44.

If the sentences complete by themselves are connected by a conduction, the second sentence cannot necessarily be said to

limit the scope of the first sentence. The conjunction "and" is used in different context. it may combine two sentences dealing with the same subject without one depending upon the other. A 1964 SC 1099 (1103, 1109).

**The meaning of the word "From" and of' in statutes.**— The word "from " is used to exclude the stated date a principle now regarded as well established. A 1972 SC 1293 (1294, 1295) : 1972 Cril LJ 872.

As the word "from" is used in Section 235 of the Companies Act, 1913, the first day should ordinarily be excluded. 91954) 2 Mad LJ 44 : ILR (1955) Mad 511 (514).

In S. 18 (2), Proviso, Land Acquisition Act, 1894, the word used is "from" the date of the award. Hence, the date on which the award was pronounced has to be excluded. 1955 Andh WR 772 (773) : A 1955 NUC (Andh Pra) 6010.

A suit under Section 9 of the Specific Relief Act. 1877 (for recovery of possession of immovable property) was filed on 20-11-1957. The dispossession had taken place on 19-5-1957. Period of limitation under Article 3 and Section 12 of the Limitation Act, 1908 was to be counted from the next day after dispossession, i. e. 20-5-1957. The suit was barred. A 1961 Tripura 16 (17).

**First day.**— In Computing the period of limitation for an election petition, the day on which the election results are declared is to be excluded. A 1968 Raj 145 (147) : 1967 Raj LW 577.

In computing the period of 45 days for filing an election petition, the date of polling is to be excluded. A 1975 Orissa 184 (191) : (1976) 54 ELR 208 ** A 1970 Bom. 1 (8).

The day on which the acknowledgment is made is excluded in computing the period of limitation under S. 18 (1) of Limitation Act 1963. A 1973 Bom. 147 (147) : 74 Bom. LR 647.

Date of receipt of an order by the party is to be excluded, for the purposes of S. 66 (1) of the Income-tax Act 1922. The party must be given clear 60 days time. Section 9 of the General Clauses Act applies to the case. (1966) 68 Bom. LR 602 (606) (DB).

In the Election Rules, framed under the Representation of the People Act. the date of publication of the return of accounts has to be excluded in computing the period of 14 days prescribed by the rule. A 1954 SC 440 (445) : 1954 SJ 695.

Keeping in view the provision of Section 9 there is no escape from the conclusion that the date on which the notice of appeal was served on respondent is to be excluded for the purpose of calculating the period of one month prescribed under O. 41 R. 22 of the C. P. C. for filing the cross objection. A 1982 Raj 179 : 1981 WLN 231.

**Last day.**— In a Madras case, the time for performing a certain condition imposed by the Court was extended till a certain date. The party was held entitled to the whole of such day for performance of the condition. A 1949 Mad 376 (377) : (1948) 2 Mad LJ 368 (DB).

**First and last day.**— Taking the two parts of S. 9 (1) together, the expression "the first in a series of days" would mean "the first day in a series of days", and the same would qualify "any other period of time", i. e., "the first in any other period". In the same manner, the expression "the last" would also apply to the words "any other period of time", occurring in the latter half of sub-section (1). In both the contexts, thus, the first day and the last day are to be taken as applicable not only to the "series of days", but also to "any other period of time" referred to in the Section. (1954) 2 Mad LJ 44 : IIR (1955) Mad 511 (514, 515).

**Meaning of within.**— In construing the words "within a certain period" used in statutes, the date form which the period is to be counted should be excluded. A 1966 Pat 267 (301, 302, 303) : 1966 BLJR 553 (FB).

An order setting aside a decree was made conditional on the payment of costs within 15 days. If the costs were not paid within such period, application under O. 9, R. 13 of the Civil Penal Code 1908 was to stand rejected. Date of the order held not to be included in counting fifteen days. A 1970 Tripura 71 (72).

The expression "within 15 days" in S. 12-A (1), Bihar and orissa Motor Vehicles Taxation Act 2 of 1930, means 15 clear days. Hence, if the period commences on 10th October, 1962, the 15 days expire on 25th October, 1962 and payment made on that date would be within time. The first day (10th October) must be excluded in counting the 15 day's period. A 1965 Orissa 71 : 30 Cut LT 271.

Where an act could be done only after the expiry of a stated period, both the terminal days of the period are to be excluded. But where a thing is permitted to be done "within" a stated period then while the first terminal day is excluded, the last day (of the stated period) has to be included and the act can be done only before the last day expires. A 1965 Raj 229 (231) : 1965 Raj LW 412 (DB).

**Meaning of "at least" not less than not earlier than".**— Statutory provisions relating to limitation like all others, ought to receive such a construction as the language in its plain meaning imports. Equitable considerations are out of place in construing such provisions. The strict grammatical meaning of the words in the only safe guide. A 1962 SC 1716 (1718) : 1962 SCD 749.

Provisions as to limitation have to be construed strictly. A 1968 Pat 1 (5) : 1068 BLJR 356 (DB).

A Court ought not to put such an interpretation upon provisions as to limitations by implication and inference as may have penalizing effect unless the Court is forced to do so by irresistible force of the language used. A 1975 SC 1089 (1092) : 1975 All LJ 256.

There is a distinction between the interpretation to be put on popular language and the interpretation to be put on

technical expressions used in legislative enactments. Words not used in technical sense must receive their popular and ordinary meaning. (1972) 9 Bom. HC 99 (112) (FB).

In he case of words used in technical sense, the expression being terms of art must be construed in the light of the meaning given to them in cognate or contemporary enactments. A 1924 PC 137 (142) : 51 Ind App 220.

**At least.**— The use of the word "at least seven days before the date of election" in R. 4 of the Rajasthan Ranchayat Election Rules 1954, clearly indicates that the law contemplates exclusion of the date of election in the computation of the interval of 7 days for the purpose of that rule. Therefore, seven clear days' interval is required between the date of announcement of the notice and the date of election under R. 4. A 1957 Raj 388 (391) : ILR (1956) 6 Ra 1044 (DB).

**"Not less than".**— For the purpose of R. 4, All India Bar Council Rules, 1961 (limitation for filing nominations) which uses the words "not less then ten days and not more than 21 days before election" the days of filing the nomination paper and the day of election, both must be excluded from computation. A 1963 Punj 378 (380) : ILR (1963) 2 PUnj 571.

**"Not later than".**— The words "not later than 14 days" in R. 119 of the Election Rules are entirely different from the words found in Ss 9 and 10 of the General Clauses Act and it follows that the provisions of Ss. 9 and 10 can have no application to the computation of time for presenting an election petition under that rule. A 1954 mys 102 (109) : ILR (1954) Mys 47 (DB).

"Not later than fourteen days" would ordinarily mean "within fourteen days". A 1957 SC 271 (273) : 1957 SCJ 261.

**Not earlier than.**— The expression "not earlier than days" would exclude the first terminal day but include the last day. A 1968 SC 4 (8).

**Word "by".**— Where a party is given time to make payment "by a certain date the whole of that day is available to the party for making the payment. A 1957 Bom. 154 (155) : 1957 nag LJ 71 (DB).

A notice to a tenant to vacate "by" a specified date did not exclude the specified date. A 1937 Nag 139 (140) : 36 Cri LJ 867.

**Other expressions denoting commencement and termination of time.**— Where the words used are "beginning with" or "ending with" a certain date, that date is not omitted for computing time. (1962) 2 All FR 763 : (1962) 2 WLR 339.

In regard to S. 106 of the Transfer of Property Act, 1882, the last day of the month of tenancy will be included in the computation. A 1969 Pat 310 (3311).

In section 106 of the Factories Act, 1948, the word within three months of the date" (of the offence coming to knowledge) mean "within three calendar months after the date" (of the offence coming to the knowledge of the Inspector). A 1970 Andh Pra 234 (236) : 1970 Cri LJ 797.

When no provision in the matter is made, the law comes into operation "on" the date of publication and not "from" the date of publication. A 1950 Madh Bha 119 (120).

While computing termination to transit of goods by railway date on which goods received at destination station has to be excluded. A 1982 (NOC) 65 : 1981 MPLJ 778 (DB).

**"From"-Interpretation of.**— In Proviso (b) to Section 18 (2) the word used is "from" the date of the award and applying the times of Section 9, General Clauses Act, the date on which the award was pronounced, has to be excluded in computing the period of Limitation, for application for reference. AIR 1955 NUC (Andhra) 6010.

**Limitation-Date of receipt of order by the party is to be excluded.**— Party must be given clear 60 days time-Section 12 of Limitation Act and Section 9 of General Clause Act apply. AIR (1965) Bom. 707 : (1965) 58 ITR 468.

**Applicability-Order granting time to tenant to deposit rent by particular date-Failure to deposit-Permission to eject tenant granted on that date-Legality.**— Where a part is given time to do an act, i.e., to make a payment of particular date, he is entitled to do that during the course of that day. In other words, that date is not to be excluded. The principle underlying Section 9 applies to decrees and order of Court. AIR 1935 Lah 291 ad AIR 1937 Nag 139 : AIR 1949 Mad 376, : 1957 Nag LJ 71.

**"Month" in judicial pronouncement-Meaning-Decree, construc-tion.**— The word "Month" in its ordinary acceptance means a "calendar month" and not a "Lunar month", except where in a particular place, business or trade the word month has acquired a secondary manning. In such cases the accepted interpretation in the particular place, business or trade must govern the rights of the parties. The word "month" used in a judicial pronouncement means a "Calendar Month" and not a "Lunar Month". AIR 1951 Ca 316 (DB).

**Applicability.**— Section 9 (1) applies only to Acts or Regulations and not to documents inter partes. Nor can the principle underlying Section 9 (1) be applied to a document which expressly states that it would have retrospective effect from a particular date. 1957 Ker LJ 927 : 1957 Ker LT 1051.

**Date of commencement of notification-Notification No 6 dated 11th March. 1944 published in gazette date 13-3-1944-Suit for ejectment in Musing's Court on 13-3-1944-Maintainability.**— As the notification contains no provision as to when it is to come into operation it should be deemed to have come into operation on 13th March 1944. Act and hence a suit for ejectment filed on the same date would not be entertainable by the Munsiff's Court. AIR 1950 Madh B 119.

**Interpretation.**— Taking the parts of Section 9 (1) together, "the first in a series of days would man "the first day in a series of days" and the same would qualify "any other period of time", i. e., "the first day in any other period". In the same manner, "the last day in a series of days" would also apply to "any other period of time" occurring in the latter half of the section. In both the contexts the first day and the last day are to be taken as applicable not only to the "series of days" but also to "another period of time" referred to in the section. AIR 1955 NUC (Mad) 1824 (DB).

**Word "and" is used distinctively.**— Section 9 cannot be construed to mean that it applies only where both the words "form" and "to" occur in a statute and not otherwise. This construction implies that the word "and" used in Section 9 is not used disjuctively but conjunctively; but, on a plain reading of the section, it is obvious that the word is used only disjunctively to indicate two things namely It the first day has to be excluded it is sufficient to use the word from and of the day is to be included the word to be used is "to". AIR 1955 NUC (Mad 1824 (DB).

**Words and Phrases-From-Meaning of.**— Is used to exclude stated date. AIR 1962 Mays 117 (DB).

**Presentation of election petition not later than 14 days from the date of publication of notice-Computation of time.**— Applicability of Section 9 and 10, General Clauses Act. The words "not later than 14 days" in Rule 119 framed under the Representation of the Proper Act being entirely different from the words found in section 9 and 10, General Clauses Act, it follows that the provisions of Sections 9 and 10 can have no application of the computation of time for the presentation of election petition. AIR 1954 Mys 102 (DB).

Commencement and termination of time-Expression "Within fifteen days" means 15 clear days which would necessarily exclude due date of payment. AIR 1965 Orissa 71 (Db).

**Decree and orders of Court-Applicability-"Month" in Court order-interpretation-Commencing day not first of month-Computation of month as 30 or 31 days-Words and Phrases.**— On a restoration petition under Order 9, Rules 8 and 9, Civil P. C. after being satisfied that there was sufficient cause for the inability of the plaintiff to proceed with the suit, passed the following order on 25-10-48 : "This application for the restoration of the suit is allowed if the plaintiff deposits Rs. 100 towards the costs of the defendants within 1 month from this date failing which the application shall stand dismissed" On 25-11-48 the petitioner applied to the same Court for time to deposit the sum. The Court hold that the time had expired and the case stood automatically dismissed. In revision.

Held, (i) that the quotable principle of section 9 of the General Clauses Act should, as a general rule, be applied for the construction of decrees and orders of Courts. Therefore in computing the period of one month, the 24 the October. 1948 should be excluded.

(ii) By the words "within a month" the Subordinate Judge in his order dated 25-10-48 Means that the sum of Rs 100 should be deposited before the 26th of November. 1948, that is to say, before the expiry of the Court hours on the 25 the November. 1948. Hence on the 25th November. 1948 the case did not stand automatically dismissed, and the Court should have waited till the expiry of the Court hours on that day.

(iii) No party should be prejudiced by a mistake committed by a Court and as the order of the Court dated 25-11-48 was passed without jurisdiction the petitioner could claim relief from the High Court. 18 Cut LT 11 : AIR 1952 Orissa 279, 280) (DB).

Computation of time-An order dated 15-5-1953 said that payment of court-fee was allowed within a month from that date. The question was whether in computing time of one month 15-5-1953 was or was not to be excluded. It was held that upon the principle underlying Section 9 the day on which the order was made that is 15-5-1953 had to be excluded. AIR 1957 Pepsu 14 (DB).

**Limitation for filing nominations-Computation of time-"Not less than ten days and not more than 21 days before election-Meaning of.**— Day filing nomination paper and day of election, both to be excluded from computation. AIR 1963 Punj 378.

Suit under Section 9, Specific Relief Act filed on 20-11-1957, When dispossession took place on 19-5-1959 is barred. AIR 1961 Tripura 16.

**Application of section 9 to sub-ordinate legislation.**— Provisions of Section 9 have been held to be a valuable guide for the computation of time even in notification issued by an authority in exercise of the power conferred on it by law. A 1962 Mys 117 (124) : 39 Mys LJ 1006 (DB).

**Application of the section to document.**— Section 9 (1), in terms, of course, applies only to the Acts or Regulations and not to documents inter parties Nor can the principle underlying S. 9 (1) be applied to a document which expressly states that it would have retrospective effect from a particular date. A 1958 Ker 326 (328).

**Constriction of the T. P. Act.**— Section 106 of the Transfer of Property Act, 1882 has to be interpreted independently of Ss. 9 and 10 of the General Clauses Act. The day on which notice is received has to be excluded in computing the period of 30 days. A 1973 All 155 (156) : 1972 All LJ 799.

***10. Computation of time.***— *(1) Where, by any Act of Parliament or regulation made after the commencement of this act, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open :*

*Provided that nothing in this section shall apply to any act or proceeding to which the* [1] ******** *Limitation act, 1908, applies.*

*(2) This section applies also to all* [2] *[Acts of Parliament] and Regulations made on or after the fourteenth day of January, 1887.*

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1. The word "Indian" was omitted by P.O. No. 147 of 1972, art. 10.
2. Subs. by P.O. No. 147 of 1972, Art. 7 for "Central Acts".

**Scope and applications**

Non-service of notice immaterial when there is knowledge.— Commissioner is entitled to entertain a claim beyond time if the failure to prefer the claim within due time as due to sufficient cause. 14 DLR 48.

**Applicability and object of.**— Broadly stated, the object of Section 10 is to enable a person to do what he could have done on a holiday, or the next working day. Where, therefore, a period is prescribed for the performance of an act in a Court or office, and that period expires on a holiday, then according to the section the act should be considered to have been done within that period, if it is done on the next day on which the Court or office is open. Harinder Singh V. S. Karnail Sindgh. (1957) SCJ 261 : 1957 SCC 112.

**Award-Time for making-Extension.**— The Industrial Tribunal is a Court within the meaning of Section 10 ; and the decision pronounced by the Tribunal on 2-7-19851 the preceding two days being holidays is within time. Vishwamitra Press Kanpur v. Workers of Vishwamitra Press. (1953) 1 Lab LJ 184 : 1953 SCJ 13.

Petition for nullity of marriage on the ground mentioned-Condition not complied with-Petition cannot be entertained-Section 10, General Clauses Act 1897, does not apply. AIR 1962 Bom. 190 (DB).

**Applicability of orders of Court.**— Section 10 of the General Clauses Act does not apply to an order to an order of the Court. Section 10 is only applied where a statute allows an order or act to be done within a particular time. It cannot be extended to cover an order of Court fixing a particular time within which an act is to be done 61 Cal W N 368 : ILR (1958) 1 Cal 384.

"Act or proceedings-Placing of material before Advisory Board under Preventive Detention Act-The thirty days period prescribed by Section 9, Preventive Detention Act is governed by Section 10, General Clauses Act so that if the period expires on a holiday, the material can be placed before the Board on the next day office of the Board is open. The plating of the requisite material before the Board is an Act or proceedings within the meaning of Section 10. AIR 1955 Madh B 36 (DB).

**Applicability-Conditions.**— The provisions of Section 10 of the Central Clauses Act would apply only to a case where the act itself is directed or allowed to be done or taken by an Act of the Parliament. Where the plaintiff has two courses open before him, one of paying the amount directly to the defendant and the other of depositing the amount in Court be is not entitled to take advantage of Section 10 of the General Clauses Act, if the last date of the deposit happens to be a holiday. AIR 1938 Pat 451 : 1958 MPC 40 : 1954 MPLJ 121:

**Companies Act (1913), Section 235-Limitation-Court closed on last day-Application on reopening day.**— If it happens that the last day in the prescribed period is a day on which the Court is closed, the liquidator is entitled to file an application the next day on the principle underlying Section 10, General Clauses Act. AIR 1955 NUC (Mad) 1824 (DB).

In order to attract the application of the provisions of Section 10 of the General Clauses Act, 1897, all that is requisite is that there should be a period prescribed and that period should expire on a holiday.

The object of that section is to enable a person to do what he could have done on a holiday on the next working day. Where, therefore, a period is prescribed for the performance of an act in a Court or office, and that period expires on a holiday, then according to the section the act should be considered to have been done within that period, if it is done on the next day on which the Court or office is open. AIR 1957 SC 271,1958 BLJR 23.

**Applicability to election cases.**— It is applicable to proceedings before the election tribunals and is not confined to Civil Courts only. AIR 1964 Punj 337 (FB).

**Applicability to insolvency proceedings.**— Period of three months for presenting insolvency petition expiring during vacation-Presentation of petition of reopening day is in time. 1964 Ker LT 443.

**Applicability to deposits.**— Amount tendered in time, but could not be deposited as Presiding Officer was not present-Right not lost 1962 MPLJ (Notes) 294.

**Applicability to election cases.**— Period prescribed expiring on day when Courts are closed-An election petition can be filed on the day the Court reopens. At any rate Section 10 will operate to save petition from being barred by time. AIR 1954 Mys 49 (DB).

**Applicability to retirement.**— Period for retirement expiring on holiday-Retirement on next wording day-expires on a holiday Section 10, General Clauses Act, is fully applicable and the retirement on the next working day would be proper one. AIR 1958 Punj 483 (DB).

Election tribunal not sitting at place of trial before expiry of prescribed period-No official appointment to receive applications on behalf of tribunal-District Judge who was tribunal tendering resignation before expiry of period of limitation-Section 10, General clauses Act held was not attracted. AIR. 1958 Raj 307 (DB).

**Application for review presented on 92nd day-Preceding three days holidays-Court-fee payable.**— An application for review should be considered as "an act or Proceeding to which the limitation Act for the time being in force applies". The proviso to Section 10 makes it clear that is such cases Section 110 itself has not application and it follows that the Court-fee has to be appraised with out any reference thereto. Where therefore an application for review is presented on 92nd day preceding three days being holidays Court-fee as provided by Art 4 has to be paid and Section 4 of the Limitation Act will be of no avail. AIR 1955 Trav-Co 185 (DB).

Contractual condition stipulating period for filing suit for damages-Suit not filed within the period Court being in recess-

Suit filed immediately when Court reopened-Principles underlying Section 4 of Limitation Act (108), and Section 10 of the General Clauses Act (1987), applied-Suit held within time. AIR 1964 Ker 190 (DB).

**Limitation for filing nominations-Computation of time-"Not less than ten days and not more than 21 days before election"-Meaning of.**— Day of filing nomination paper and day of election, both to be excluded from computation. AIR 1963 Punj 378.

Notification inviting objections against proposed delimitation of wards within one month of notification-Legality-"Within a period of not less than one month"-Interpretation of-Where an act could be done only after the expiry of a stated period both the terminal days of the period are to be excluded. But where a thing is permitted to be done within a stated period while the first terminal day is excluded the last day of the presented period has to be included and the act can be done only before the last day expires. AIR 1965 Raj 229 (DB).

The six months period prescribed in Section 75 of the Factories Act is governed by Section 10 of the General Clauses Act ; so that if the six months expired on a gazetted holiday, the complaint could be filed on the next day when the Court sat. AIR 1942 All 429, : AIR 1935 Mad 857.

**Principle and corresponding provisions in state laws.**— Section 10 of the General Clauses Act and Section 4 of the Limitation Act embody the general principles enshrined in the two maxims (i) lex non cogit ad impossible and (ii) actus curiae neminem gravabit. A 1955 Nag 300 (301) : 1956 Nag LJ 334 (DB).

The principle underlying S. 10 of the General Clauses Act and S. 4 of the Limitation Act is that the act of court should prejudice no man. A. 1938 Nag. 454 (455) : ILR 1939 Nag. 377.

Where a period is prescribed for the performance of an act in a Court or office and that period expires on a holiday, then, according to the S. 10. the act should be considered to have been done within that period, if it is done on the next day on which the Court or office is open. A 1957 SC 271 (273) : 1957 SCJ 261.

Even if S. 4 of the Limitation Act 1908, is not applicable, the respondents to an appeal can invoke S. 10 of the General Clauses Act if neither of the provisions can assist the respondents, they can still invoke the general principles embodied in the two provisions. A 1955 nag 300 (301) : 1956 nag LJ 334 (DB).

An applicant can file his application under S. 54. of the Insolvency Act 1920, on the day the Court reopens, if the Court was closed on the last day of limitation. A 1938 Nag 454 (455) : LIR (1939) Nag 377.

The principle underlying S. 4 of the Limitation Act, 1908 (which is similar to S. 10) is that where a party cannot do a certain thing on a certain day by reason of act of Court, he is entitled to extension of time over that period during which he

is delayed by the Court's action. Similar provisions are contained in General clauses acts. Hence a suit which should have been brought on 14th June. 1925 under S. 3 of the can be brought on 15th, 14th being a Sunday. A 1930 Lah 127 (12) : 30 Pun LR 720 (DB).

**Object.**— Section 10 is a reasonable provisions designed to give the concerned parties the full benefit of the period fixed. A 1962 mys 197 (199 to 201) : 40 Mys LJ 387 (DB).

Broadly stated, the object of S. 10 is to enable a person to do, on the next working day, what he could have done on a holiday. 1957 SC 271 (273) : 1957 SCJ 261.

Section 10 is concerned with laws which prescribes periods of limitation. It has no application to applications for review, as no "time limit" is prescribed for such applications. A 1935 Nag. 164 (165) : 31 Nag. LR 260.

The provisions of S. 10 would apply only to a case where the act itself is directed or allowed to be done or taken by an Act of Parliament. A 1958 Madh Pra 295 (297) : 1958 MPLJ 121 (DB).

An application for review filed on the 90th day (89th day being a holiday) cannot be taken to have been filed on the 89th day so as to claim the benefit of half court-fee under Sch. 1. Art. 5, Court-fees Act, 1870. The case is not covered by S. 10, and the right to claim the benefit of half court-fee is not available in such a case. ILR 91960) 10 Raj 28 (219, 220).

Section 10 does not apply to provisions which do not merely prescribe a period of limitation but lay down conditions precedent to the entertainment of a proceeding. A 1962 Bom. 190 (191) : 64 Bom. LR 27 (DB).

**Act or Proceeding.**— The most crucial words in S. 19 are "act or proceeding". The applicability of the section from this angle may be conveniently discussed (i) with reference to the nature of the proceedings to which it has been held to apply and (ii) with reference to the various types of acts-judicial official and other acts-that have been held to fall within, or outside, its purview.

**Proceeding covered Companies Act.**— If the last day in the prescribed period for filing a petition under S. 235 Companies Act. 1913, is a day on which Court is closed the Petition can be filed on the next day. (1954) 2 Mad L.J. 44 : ILR (1955) Mad 511 (517).

Proceedings under S. 235 of the Companies Act, 1913 (petition by liquidator to be filed within 3 years of his appointment) can get the benefit of S. 10. (1954) 2 Mad LJ 44.

The application under S. 543 (1) of Companies Act is to be made within five years from the date of an order for winding up of company. Where the last date of filing application was falling on a holiday on which Court was closed and application was filed on the following reopening day. Held, that, application was not barred by limitation. 1976 Tax LR 1208 : 48 Com Cas 339 (Cal).

**Application against receiver.**— Where the last day for an application against an act of a receiver expires on a holiday the application can be presented on the reopening day, in view of S. 4 of the Limitation Act, 1908, and S. 10 of the General Clauses Act. A 1931 Rang 209 (209) : 9 Rang 150 (DB).

**Cross objection.**— A cross-objection filed on the reopening day after the vacation during which the last day for filing it expired, must be held to be in time. A 1955 Nag 300 (301) : 1956 Nag LJ 334 (DB).

**Criminal Proceeding.**— The six months' period prescribed in S. 75 of the Factories Act, is governed by Section 10 of the General Classes Act; if the six months expired on a gazetted holiday the complaint could be filed on the next day when the Court sat. A 1952 Trav-Co 188 (190) : 1952 Cril LJ 901.

The principle underlying S. 10 of the General Clauses Act, should be applied to complaints under Section 20 of the Cattle Trespass Act, 1871. A 1929 Nag 96 (96) : 30 Cri LJ 125.

There is no provisions of law by which the period provided by S. 195 of the Criminal P. C. 1882, during which sanction for a prosecution for perjury may remain in force can be extended by reason of the period expiring during Court holidays. Proceedings of the Magistrate started after the expiry of the period are without jurisdiction. (1995) ILR 22 Cal 7178( (DB).

**Election-Proceedings relating to election.**— On the subject of the applicability of S. 10 to proceedings relating to elections, there are numerous decisions which can be better considered separately with reference to (1) Parliamentary and Assembly elections and (ii) municipal and other elections.

**Parliamentary and assembly election.**— Provisions of S. 10 of the General Clauses Act are applicable to proceedings before an Election Tribunal under the Representation of the People Act, (1964) 66 Punj LR 185 (186).

Section 10 applies proprio vigore for the purpose of interpretation of S. 97 of the Representation of the People Act. 1951, in the absence of anything to the contrary in the Act or the rule made thereunder. A 1958 Pat 196 (200) : 1958 BLJR 23 (DB).

On an election petition being filed by the defeated, candidate the Election Tribunal fixed the date 24-7-1957 for appearance of the parties. On 24-7-1957 the successful candidate (who was respondent 2) appeared and asked for time to file written statement. The Tribunal accordingly fixed 9-8-1957, as the next date for hearing. That day being declared a holiday the office of the Election Tribunal remained closed and the case was taken up on 10-8-1957, on which date the notice contemplated by the provision to Section 97, Representation of the People Act was given by respondent 2. It was held that 9-8-1957, must be considered to be a "public holiday" for the purposes of the Act, so as to entitle respondent 2 to the protection of S. 10 and accordingly the notice was within time. A 1958 Pat 196 (201) : 1958 BLJR 23 (DB).

If the Court is closed on the day when limitation expired, Section 10 (1) of General Clauses Act enables the filing on the next working day of the Court. A 1974 SC 480 (483, 486) : 1975 Pat LJR 525.

Where the period of limitation prescribed in S. 81. Representation of the People Act expired when the Court was closed for vacation under a Notification and where it is clear from the Notification that the High Court was closed only in regard to matters of Civil nature with certain exception and that the High Court had neither closed nor suspended its work in regard to receive election petition, then the petitioner cannot claim the benefit of Section 10 of the General Clauses Act. A 1973 mys 78 (80) : 1972) 2 Mys LJ 284.

Section 10 applies to an election petition to be filed in the High Court under Section 81 (1) of the Representation of the People Act, where the period of 45 days expires on a day on which the High Court is in vacation and the Registrar is not competent to entertain an election petition. A 1976 UJ (SC) 242.

With reference to Section 97 (1), Representation of the People Act, and computation of the period of limitation (14 days) for filing a "recrimination petition", the practice of the Tribunal and the question whether the presiding officer has authorized the office to receive petitions during his absence on leave must be gone into. A 1964 Punj 337 (343) : 66 Punj LR 589 (FB).

**Municipal and other elections.**— An Election Tribunal was not sitting at the place of trial before expiry of the prescribed period. No official was appointed to receive applications on behalf of the Tribunal. The District Judge (who was the Tribunal) tendered resignation before expiry of period of limitation. Section 10 General Clauses Act, was not attracted. A 1958 Raj 307 (308).

If the time prescribed expires on a day when the Civil Courts are closed, an election petition can be filed on the day the Court reopens. At any rate, the principle of S. 19 will operate to save the petition from being barred by time. A 1954 Mys 49 (49) : 33 Ms LJ 153 (DB).

**Insolvency Proceedings.**— Section 10 applies to a creditor's petition of insolvency filed under S. 9 (1) (c), Provincial Insolvency Act. 1920. S. 9 (1) (c) of the Provincial Insolvency Act 1920 comes straightway within the plain wording of S. 10 and therefore, in all cases where the period of 3 months from the occurrence of an act of insolvency expires during a vacation, the presentation of the insolvency petition on the opening day is within time. A 1942 All 429 (434) : 1942 All LJ 592 (FB)** A 1955 Trav-Co 2 (3).

Section 10 does not conflict with the object of the legislature that those who want to get their debtors adjudged insolvent should act promptly. A 1962 Mys 197 (201) : 40 Mys LJ 387 (DB).

**Notice of suit.**— Section 10 does not apply to a notice required to be given under S. 80 of the Civil P. C. 1908, because that section does not direct that any act or proceeding should be done or taken in any Court or office on a certain day or within a prescribed period. A 1943 Mad 284 (266) : (1943) 1 Mad LJ 53.

**Objection to attachment.**— Where the time for filing objections under the Civil P. C. 1877 (since repealed) expired on a day when the Court was closed and objections were filed on the day the Court reopened, the application was held to be within time. 1882 All WN 71 : ILR 4 All 430 (434) (DB).

**Stay of execution.**— Section 10 applies to a deposit be made for an application for stay of execution under Section 52 of Bengal Act 8 of 1869 if the period expires on a holiday, because the law will not compel the performance of impossibilities. (1880) 6 Cal 239 : ILR 5 Cal 906 (910, 911) (DB).

**Suit by mortgagee for foreclosure or sale.**— Where the special period of limitation for filing a suit for foreclosure or sale (prescribed by the transitional provision in Section 31, Limitation Act, 1908) expires on a holiday. S 10 of the General Clauses Act can be availed of, even if S. 4, Limitation Act 1908 is taken as not applicable. (1914) 26 Mad LJ 23 : (1913) 21 IC 770 ) (DB). ** (1912) 9 All LJ 439.

**Suit for rent.**— With reference to a suit under Recovery Act, it has been held that although the limitation Act, 1877, the General Clauses Act, 1891 did not apply to such suits (since those Acts had no retrospective operation), there is a general principle of law under which parties who are prevented from doing an act by an act of the Court can do so at the fist subsequent opportunity. (1898) 8 Mad LJ 265 : ILR 22 Mad 179 (181) (DB).

The principle (underlying S. 10) has been applied to an application by a judgment-debtor under S. 174 of the Bengal Tenancy Act. 1885, to set aside a sale for arrears of rent on making a deposit of the specified amount. (1891) ILR 18 Cal 231 (23, 234) (DB).

**Nature of the act convened deposit and payment.**— Section 4, Limitation Act, 1908 does not apply to a deposit of costs and the matter is governed by S. 10, General Clauses Act. A 1939 Pat 667 (667) : 20 Pat LT 905 (FB).

Under Section 10, payment can be made on the first working day of the Court after the summer vacation. A 1959 Madh Pra 352 (353) : 195 MPLJ 721.

Where, in a suit for redemption of mortgage the defendant was to place the plaintiff in possession to the land on the plaintiffs paying the amount under consent decree before a particular date, but on that day the Civil Courts being closed for summer vacation that plaintiff made the payments on the first working day of the Court after the summer vacation, the plaintifl would be deemed to have satisfied his part of the decree by virtue of S. 10 of the General Clauses Act. A 1959 Madh Pra 352 (353) : 1957 MPLJ 721.

Where the difference between amount stated in sale proclamation and the value of the mortgage assigned to the decree-holder could not be deposited into Court within 30 days of the date of sale as prescribed by Order 21, R. 92 Civil P. C. because the Court was closed, but is deposited on the reopening day, the payment must be regarded as made in time by virtue of Section 10. General Classes Act. A 1940 Mad 427 (430) : (1940) 1 Mad LJ 629 (FB).

Where the plaintiff has two courses open before him, one of paying the amount directly to the defendant and the other of depositing the amount in Court, he is not entitled to take advantage of S. 10 if the last date for deposit happens to the a holiday. A 1958 Madh Pra 295 (297) : 1958 MPLJ 121.

Where the six weeks fixed for depositing security under O. 45, R. 7, Civil P. C. 1908 expires during the High Court vacation, the period during which the Court is closed during the vacation must be excluded and the security can be deposited on the reopening day. A 1949 All 209 All 209 (210) : 1949 All LJ 205 (DB).

The principle of S. 10 has been held applicable to deposit directed to be made by the Court under a pre-emption decree. Although the parties themselves cannot extend the time for doing an act in Court, yet if the delay is capsized not by any act of their own but by some act of the Court itself such as the fact of the Court being closed, they are entitled to do the act on the first opening day A. 1924 All 218 (219) : 22 All LJ 110 (FB).

In a case, the decretal amount under compromise decree was to be paid in the Imperial Bank and the person required to deposit it actually went to the Bank with the money but could not deposit it by close of banking hours because of heavy rush in the bank. Deposit made on the next day was held to be within time. A 1944 Lah 470 (471) : 46 Pun LR 326 (DB).

Payment of the dues of a society is not a statutory act but a voluntary act to be done by the purchaser and cannot get the benefit of S. 10. A 1954 Nag 203 (204) : 1954 Nag LJ 91 (DB).

**Nature of the acts convened - Statutory formalities and administrative action required by statute.**— The giving of a notice to the Railway Administration is an "act" which is covered by S. 140 (c) of the Railway Act 1890, as that section permits the forwarding of the notice by post in a prepaid letter. Hence the plaintiff can take advantage of S. 10 of the General Clauses Act. A 1957 madh Pra 114 (117) : 1957 MPLJ 294 (DB).

An order modifying the award made by the Industrial Disputes (Appellate Tribunal) Act, 1950 (required to be published within 30 days) can, where the period of 30 days expires on a Sunday, be published on the next day and is within time in view of S. 10. A 1955 NUC (All) 4441.

The thirty days' period prescribed by Section 9, Preventive Detention Act, for placing the material before the Advisory Board is governed by Section 10. General Clauses Act. so that if the period expires on a holiday the material can be placed

before the Board on the next day on which the office of the Board is open. The placing of the requisite material before the Board is "an act or proceeding" within the meaning of S. 10 (3). A 1955 Madh B 36 (39) : 1955 Cri LJ 476.

**Contractual stipulation.**— There was a contractual condition stipulating the period for filing suit for damages. The suit was not filed within the period, the Court being in recess but was filed immediately when Court reopened. Principle underlying S. 4 of Limitation Act. 1908, and S. 10 was applied and the suit was held to be within time. A 1964 Ker 190 (191, 192) : 1963 Ker LT 1085 (DB).

In order to be covered by S. 10, the acts and proceedings must be before courts or offices. The Industrial Tribunal is a "Court" within the meaning of S. 10. A 1953 SC 41 (42) : 1953 SCJ 13.

Where the Tribunal was required to make the award by 30-6-1951 was a public holiday and 1.7.51 was a Sunday, in such circumstances the award made by the Tribunal on 2-7-1951, the preceding two days being holidays, was within time. A 1953 SC 41 (42) : 1953 SCJ 13.

An act dirtied or allowed to be done or taken in an office is used in S. 10 in contradiction to an act directed or allowed to be done or taken in Court. Therefore, the word "office" as used in S. 10 does not include the office of a Court. A 1939 Pat 667 (677) : 20 Pat LT 905 (FB).

If the Court is closed, it cannot be said that the ministerial officers attached to the Court are an "office" within the meaning of S. 10 and they have a separate existence from the Court A 1949 All 209 (210) : 1949 All LJ 205 (DB).

Where a statute fixes a given number of days within which an act is to be done, and says nothing about excluding Sunday, Sunday is to be included although it may be the last day. 91958) 140 ER 1085 (1086, 1087) : (1985) 27 LJCP 224, (Case under S. 2 of the 20 & 21 Vict. C 43).

**Prescribed period.**— Section 10 does not however, apply to the period of grace allowed by S. 31 (1) of the Limitation Act. 1908. (1911) 13 Bom. LR 1153 : ILR 36 Bom. 268 (271) (DB).

**Court closed.**— The fact that the office of a Court remains open while the Court itself is closed for judicial business, will not deprive a litigant of the extended time for doing an act to which S. 10, General Clauses Act applies. The High Court is closed for ordinary business during the annual vacation. Printing costs deposited on the day the Court reopens will, therefore, be within time under Section 10. A 1939 Pat 667 (677) : 20 Pat LT 905 (FB).

The position may be different if the office of a Court is open to entertain appeals and applications under a rule of the High Court. A 1974 SC 480 (484 to 486) : 195 Pat LJR 525.

Courts open during vacation for receiving plaints, etc., are deemed to be open. As a matter of practice, it is well understood that plaints, which are not presented in the

Presidency Small Cause Court on the days when the office is open for receiving them during the vacation, become time-barred after the expiration of the period of limitation appropriate to such suits and plaintiffs cannot claims to exclude the whole of the Presidency Small Cause Court's vacation. A 1923 Mad 435 (436, 437) : 44 Mad LJ 100 (DB).

Merely because the Chief Justice had already assigned one Judge of the High court to try the election it cannot be said that the Judges who functioned during the summer vacation had the authority to try election petitions. During the summer vacation the High Court was "closed" for the purpose of the application of S. 10 of the General Clauses Act. Since the period of limitation of 45 days expired during the currency of the vacation, the election petitioner filed on the repining date cannot be said to be barred by limitation. A 1977 Ker 160 (162, 163).

**Applicability of the section to decrees and order.**— Section 10 applies for the interpretation of decrees of Courts. A 1925 Mad 743 (744) : 48 Mad LJ 596.

Where the time fixed by the decree expired on a holiday, payment on the reopening day is within time according to this view. A 1923 Nag 246 (247) : 19 Mad LR 116.

The principle underlying s. 10 can be applied to a compromise decree under which decretal amount is directed to be paid in installments. If, on a due date, the Court is closed, the installment can be paid on the next opening date A 1949 Nag 141 (144) : 1949 Nag LJ 303 (DB) ** A 1938 Mad 523 (524).

Where in a decree, payment was ordered by a fixed date and the payment was made on the opening day, because the Court was closed on such a fixed date owing to holidays S. 10 came into play and the payment on the day fixed in the decree. (1910) 12 Bom. LR 818 : 91910) ILR 35 Bom. 35 (37, 38) (DB).

Section 10 applies only to a case in which an act is allowed or ordered to be done by an Act of the Legislature. Thus, the section does not a apply to an act ordered to be done by a compromise decree. If de fault is made in the payment of an installment, the decree can be executed (though the due date for payment of the installment is a Court holiday). A 1938 pat 451 (452) : 19 Pat LT 825 (DB) ** A 1946 Oudh 156 (452).

When the judgment-debtor has the option to pay the decretal amount to the decree-holder or to deposit it in Court, he cannot choose one of them and act in a manner so as to prejudice. The right of the other-party. Although under O. 21, Rule 1 (Civil P. C. 1908). it is open to a judgment debtor to pay the amount direct to the decree-holder or to deposit, it in Court, he cannot choose alternative when that will prejudice the decree-holder". A 1972 SC 239 (241, 242) : 1972) SCJ 505.

When a decree specifically provided that the respondent should deposit the amount in Court, he had, no option to pay the same to appellant. A 1972 SC 239 (242, 243) : (1972) 1 SCJ 505.

In a case where a party to a consent decree is given time to do an act within a specified day or by a specified day and fails to do it on the ground of impossibility of performance on the last day specified but does it on the next practicable day, the deposit must be held to be in time and terms of the consent decree. A 1972 SC 239 (242 to 244) : 1972) 1 SCJ 505.

In finding the deposit on the next practicable day to be in time and in terms of the compromise decree, the executing Court is not in any way varying the terms of the decree. A 1972 SC 239 (242 to 244) : (1972) 1 SCJ 505.

When a certain day is fixed for compliance with an order of the Court, the party is entitled to have the whole day. A 1920 Cal 244 (244, 245) : 43 IC 525 (DB).

Section 10 does not apply to an order of the Court. The reasoning behind this conclusion is that S. 10 is only applied where a statute allows an order or act to be done within a particular time, and that it cannot be extended to cover an order of Court fixing a particular time within which an act is to be done. A 1957 Cal 598 (601) : 61 Cal WN 368.

Apart from this section and various provisions of other Acts, there is the general principle that a party prevented from doing an act by an act of the Court, can do so at the first subsequent opportunity. Sambasiva Chari v. Ramasami Reddi, (1898) 8 Mad LJ 265 : ILR 22 Mad 179. The principle underlying section 10 is one which has also been recognized by High Courts apart from the statute. Ratnasami Padayachi v. Kuppuswami Ayyar, (1948) 2 MLJ 234 ; Official Receiver of Malabar v. N. Padmanabha Menon, (1954) 2 Mad LJ 44 at p 46. Broadly stated, the object of the section is to enable a person to do what he could have done on a holiday, on the next working day. Kaushalendra Prasad narayan Singh v. R. P. Singh, AIR 1958 Pat 196 : 1958 BLJR 23. Where, therefore, a period is prescribed for the performance of an act in a court or office, and that period expires on a holiday, then according of the section the act should be considered to have been done within that period if it is done on the next day on which the court or office is open. The reason is that the law does not compel the performance of an impossibility. Hossein Ali v. Donzelled, (1880) 6 Cal LR 239 : ILR 5 Cal 906 at pp 910 , 911. There is a recognized principle of law under which parities who are prevented from doing a thing in Court on a particular day not by an act of their own, but by the Court itself, are entitled to do it at the first subsequent opportunity. Muhammad Jan v. Shiam Lal, AIR 1924 All 218 : 22 ALJ 110 : ILR 46 All 328.

Under a consent decree the plaintiff was to pay the decretal amount on or before the 31st May 1954. the Civil Courts were closed on 31st May, 1954 on account of summer vacation and re-opened on 14th June, 1954, on which date the plaintiff brought the decretal amount in Court whereupon the Judge sent a memo to the Nazir to receive the amount. The Nazir however told the plaintiff to bring the amount the

following day because he had tendered it after the Treasury hours. The amount was then deposited on 15th June, 1954. It was held that the plaintiff having tendered the amount in Court hours on 14th June, 1954, the day on which the Court re-opened, it was though no fault of the plaintiff that the depoSit was not accepted on the 14th June, 1954 and hence the deposit on 15th June, 1954, was a valid deposit under this section.

**Applicability.**— This section was applied to a case of deposit in Bank, where on account of rush at Bank, deposit as made on next day was held to have been made on the prescribed day. Mahbub Ali v. B Bishen Singh, AIR 1924 All 218 at p 219 All LJ 110.

The section applies only where an act to be done within a particular time is allowed by an Act of Parliament. Krishna Chandra (Pt.) v. Pt Ramgulam, AIR 1958 MP 295 at p 297 : 1958 MPLJ 121 (DB). In order to attract the application of the provisions of this section, all that is required is that there should be a period prescribed and that period should expire on a holiday. Where the prescribed period of retirement of a candidate expired on a holiday, the retirement on the next working day was held proper in virtue of section 10 of the General Clauses Act. Suraj Bhan v. Randhir Singh, AIR 1958 Pun 483 : 60 Puj LR 457.

Courts being closed on 11th December, 1927, a complaint, under section 10, of the Cattle Trespass Act, was held to have been correctly entertained on December 12, 1927, by applying the principles of the General Clauses Act to the Cattle Trespass Act, 1871, on principle of justice and expediency, since the former virtually applied to Acts made on or after January 14, 1897. Mahadeo Ganpati Patil v. Nabh Vishwanath, AIR 1929 Nag 96 : 30 Cr LJ 125.

Section 10 has no application to period of grace allowed under section 31 (1) of the Limitation Act, 1908. Shiv Das Daula Ram v. Narayan Asaji, (1911) 13 Bom LR 1153 : ILR 36 Bom. 268 at p 271. However, where the Court adjourned a case on condition of the payment of costs (assessed at Rs. 500) within a period fixed by the Court, by reason of the provision in section 148, C.P. C., it has power to enlarge the period even though the period originally fixed had expired. Madan Gopal v. Ralis (India), Ltd., AIR 1957 Cal 598.

The section will be attracted even when in doing an act within a certain time, an option is left with the doer, for example, when rent is to be deposited by fifteenth of every month, and if any fifteenth day, in Court, in closed, the deposit can be made on next day, despite the option that it could be made over direct to the landlord. Kailash Industrial Mills v. Shanti Swarup, AIR 1981 Baj 61 at p 63.

But where a decree was passed providing that the judgment-debtor shall re-convey the suit property to the decree-holder on payment of Rs 10,000 and no time was fixed and the amount was tendered in time but could not be

deposited as the Presiding Officer was not present, it was held that the right of the decree-holder was not lost. Gottubai v. Jagdish Presad, 1962 MPLJ (Notes) 294.

It is well established that, although the parties themselves cannot extend the time for doing an act in Court, yet if the delay is caused, not by any act of their own, but by some act of the Court itself, such as the fact of the Court being closed, they are entitled to do the act on the first opening day. Muhammad Jan v. Shiam Lal, ILR 46 All 328 : AIR 1924 All 218 overruling Hirday Narain v. Alam Singh, ILR 41 all 47.

Section 10 of the General Clauses Act was availed of in a suit for foreclosure or sale where for the period of limitation had expired on a holiday, even when section 4 of the Limitation Act, 1908 was taken as not applicable. Murugesa Mudali v. Ramasami Chettiar, (1914) 26 Mad LJ 23 : (1913) 21 IC 7770 at p 771 (DB0 ; Hira Singh v. Musammat Amarti, (1912) 9 All LJ 439 ; ILR 34 All 275 at pp 381, 382 (DB).

The expression "court of office" came up for consideration before a full Bench of Patna High Court in Babu Lachhmeswar Prasad v. Bahu Giredhari Lal AIR 1939 Pat 667 at p 677 (FB) ; but see Brithsh India Steam Navigation Co v. Mahomed Bhoy, AIR 1923 Mad 435. Aggarwal, J., observed therein :

"Here, I think an act directed or allowed to be done or taken in an office is used in this section in contradistinction to an act directed or allowed to be done or taken in a court, and that "office" does not here include the office of a Court, for when a litigant is required to do a particular act to further this suit or appeal it is really in Court that he is required to do it although for the sake of convenience and to save the time of the Judges it is in fact done in the office of the Court. The office of the Court is merely the Hand with which the court performs some of its functions. If this be so, the fact that office of a Court remains open while the court itself is closed for judicial business will not deprive a litigant of the extended time for doing an act to which section 10, General Clauses Act, applies." Krishna Dhan v. Ummatual Bohra Begüam, AIR 1949 All 209 at p 201 : 1949 All LJ 205 (DB) when Court is closed, ministerial staff cannot be said to be in office.

This section clearly has no application to a notice under section 80, of the C. P. C., as it does not direct that any Act or proceeding should be done or taken in any court or office on a certain day or within a prescribed period. Madras Province v. Maharaja of Jeypore, AIR 1948 Mad 284. Again, no question of due time arises in the case of a review application as no time is prescribed for it. If the Court is closed for vacation on the 90th day mentioned in Schedule I, Article 5 of the Court Fees Act, the section does not say that an application presented after the vacation, is to be considered as presented at the beginning of the vacation, so that the period of vacation should not count at all. Trimbak v. Narain, AIR 1935 Nag 164.

Section 10 applies to a case in which an act is allowed or ordered to be done by the Act of Legislature. It would not apply to a compromise decree, where, for instance, the decretal amount is payable in instalment. Although in such a case there is superadded the command of the Judge in the sense that a decree has been passed, yet the decree is none the less an agreement between the parties and time is of the essence of that contract. Ram Kinkar Sing v. Kamal Basini Devi. 17 Pat 191 : AIR 1938 Pat 451 ; Il ahi v. Taiba Begum. AIR 1922 oudh 145.

If a Subordinate Judge is appointed Election Commissioner he can be deemed to be a court for the purposes of section 4 of the Limitation Act, and, therefore, if the time prescribed expires on a day when the Civil Courts are closed, an election petition can be filed on the day the court reopens. At any rate section 10 of the General Clauses Act, will operate to save petition from being barred by time. Sidhiah v. Rudrappa, AIR 1954 Mys 49.

As to the applicability of section 10 to decrees and orders made by courts, the High Courts of Madras, have an affirmative view on the point, but this view, to some extent, has been modified by the High Courts of Patna, Allahabad holding that the section has no application to acts to be done voluntarily, or in view of a consent decree or to acts not ordered to be done by Act of Legislature. Explaining the latter view, the Supreme Court, observed that when there is option to the judgment-debtor to pay either to the decree-holder or to deposit in Court, he cannot choose one of them so as to prejudice the right of the decree-holder, that is to say, the judgment-debtor cannot choose the alternative to the prejudice of the other party, and that is so despite the provisions in Rule 1 of Order XXI of the Civil Procedure Code.

In computation of time for an order setting aside a decree made conditional on payment of costs within 15 days, the date of the order is not to be included in counting the fifteen days time. Jadu Chandra v. Jogesh Chandra, AIR 1970 Tripura 71.

Election Tribunal has no power to extend limitation for filing election petition. Amendment of petition long after limitation is without jurisdiction. T. Nagappa v. Basappa, AIR 1954 May 102.

Where time fixed for filing objections expires on such day as the court is closed, the objection filed on day when the Court next reopens, shall be within time. Bagheli v. Mathura Prasad, 1882 All WN 71 : ILR 4 All 430 at p 434 .

Where the day on which a tax is to be deposited is a holiday, it can be validly deposited on the next day. H. W. Automobiles v. Excise Commissioners, 1975 ALR 382.

Section 10 applies not only to courts but also to election tribunals. Gurmej Singh Hira Singh v. Election Tribunal, Gurdaspur, AIR 1964 Punj 337 : 66 Punj LR 589 ; Harinder Singh v. Karnail singh, AIR 1957 SC 271.

When there was no arrangement made for receipt of the compulsory deposit to accompany an election petition, during vacation, the election petition filed on the day the Court re-opened, was held to have been filed within time. D. Siddiah v. S. Rudrappa, AIR 1954 Mys 49 : 33 Mys LJ 153.

**Authority which is neither court nor office.**— The section does not apply to the authority which is neither court nor officer such as the Committee of Management of college could have completed its enquiry even on holiday and it can not claim benefit of Section 10 of General Clauses Act. Committee of Management, J. S. I. College v. D.I.O.S., Etawah, 1986 AWC 422.

**Power if court of extend period.**— With reference to the power of the Court to extend a period originally fixed a liberal view should be taken. As adjournment had been allowed on the condition that costs be paid before the next date. The plaintiff offered costs on next date i. e. 5-12-1946 as 4-12-1946 happened to be a Sunday. Dismissal of the suit for non-payment of costs on the fixed date was illegal. Principles of S. 4, Limitation Act, and S. 10. General Clauses Ac were applicable. The language of S. 148, Civil P C. 1908 is wide enough to vest the Court with undoubted jurisdiction to enlarge the time from time to time. and this jurisdiction extends even to a case where the period has already expired. A 1977 Madh Pra 1 (3, 4, 5, 7) ; 1978 MPLJ 734 (FB). (A 1962 MP 205.

Broadly stated, the object of the section is to enable a person to do what he could have done on a holiday, on the next working day . Where , therefore, a period is prescribed for the performance of an act in a court or office, and that period expires on a holiday , then according to the section the act should be considered to have been done within that period, if it is done on the next day on which the court or office is open . For the section to apply , therefore, all that is requisite is that there should be a period prescribed and that period should expire on a holiday . [( H. H. Raja ) Harinder Singh v. S. karnail Singh, 1957 SCR 208 : 1957 SCA 587 : 1957 SCJ 261 :1957 SCC 112 : AIR 1957 SC 271.]

[1]***11. Measurement of distances.***— *In the measurement of any distance, for the purposes of any* [2]*[Act of Parliament] or Regulation made after the commencement of this act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.*

1. Cf. section 34 of the Interpretation act, 1889 (52 and 53 Vict., c. 63).
2. Subs. by P.O. No. 147 of 1972, Art. 7 for "Central Act".

## Scope and applications

Shortest route along public road or public lane-Where there are four routes and routes I and IV exceed a mile in length and routes II and III are both less than a mile in length but are essentially amphibian in character it is impossible to consider the latter as routs along a public road or a public lane routes I and IV need not be considered. AIR 1953 Trav-Co 298 (DB).