The General Clauses Act 1897

(ACT 10 OF 1887)[1]

[11 May 1897]

An Act to consolidate and extend the General Clauses Acts 1868 and 1887.

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1 This Act has been declared to be in force in the Santhal Parganas (now in Bihar) by the Santhal Parganas Settlement, Reg 3 of 1872, vide s 3; in Panth Piploda by the Panth Piploda Laws Reg 1 of 1929, vide s 2; in the Khondmals District (now in Orissa) by the Khondmals Laws Reg 4 of 1936, vide s 3; and in the Angul District, by the Angul Laws Reg 5 of 1936, vide s 3; Reg 4 of 1936 has now been repealed by Orissa Act 19 of 1967, vide s 2 (wef 15 September 1967); Angul District, is now a sub-division of the Dhenkanal District of Orissa.

It has been partially extended to Berar by the Berar Laws 4 of 1941.

The Act has been extended to the new provinces and merged states by the Merged States (Laws) Act, 59 of 1949, vide s 3 (wef 1 January 1950) and to the states of Manipur, Tripura, and Vindhya Pradesh by the Union Territories (Laws) Act, 30 of 1950, vide s 3 (wef 16 April 1950); Vindhya Pradesh now forms part of Madhya Pradesh, vide Act 37 of 1956, s 9; Manipur and Tripura were Union Territories since 1 November 1956 and are now states, vide Act 81 of 1971, s 9 (wef 21 January 1972). Extended to Sikkim by SO 209(E), vide *Gazette of India* 1975, Pt II, s 3(ii), (*Extraordinary*), p 1213 and enforced therein on and from 11 August 1975, vide *Gazette of India* 1975, Pt II, s 3, p 2113.

The Act applies to the states merged in the State of Bombay, vide Bombay Act 4 of 1956; Madhya Pradesh, vide Madhya Pradesh Act 12 of 1950. Bombay has now been split up into two states—Maharashtra and Gujarat, vide Act 11 of 1960.

The Act has been extended to the Union Territory of:

(i) Goa, Daman and Diu by Reg 12 of 1962 (wef 30 January 1963), Goa Act 18 of 1965;

(ii) Dadra and Nagar Haveli by Reg 6 of 1963 (wef 1 July 1965);

(iii) Pondicherry by Reg 7 of 1963 (wef 1 October 1963);

(iv) Laccadive, Minicoy and Amindivi Islands (now Lakshadweep Islands) by Reg 8 of 1965 (wef 31 December 1965).

PREAMBLE

WHEREAS it is expedient to consolidate and extend the General Clauses Acts 1868 (1 of 1868) and 1887 (1 of 1887); it is hereby enacted as follows:

SYNOPSIS

1. OBJECT OF THE ACT

As stated in the statement of objects and reasons[2] the Act does not effect any change in the law. Its object is to indicate the meaning of an expression

2 For statement of objects and reasons: *Gazette of India* 1897, Pt V, p 38; for Report of the Select Committee: ibid, p 77; and for proceedings in Council: ibid, Pt VI, pp 35, 40, 56 and 76.

in a generic and not in a rigid or exhaustive sense,[3] and shorten the language of statutory enactments and to provide for uniformity of expression in cases where there is identity of subject matter. It is a consolidating and amending Act,[4] and its purpose is to avoid superfluity of language in statutes wherever it is possible to do so,[5] and to place in one single statute the provisions as regards interpretation of words and legal principles which would otherwise have to be specified separately in many different Acts and regulations. Whatever the General Clauses Act says, whether as regards the meaning of words or as regards legal principles, has to be read into every statute to which it applies,[6] provided the statute does not contain anything repugnant to them in its subject or context, or does not produce a different intention.[7] Reference to the statements of objects and reasons need not be delved into so long as, the enacted provisions of the Act are clear and unambiguous.[8] The statement of objects and reasons can be referred to for the limited purpose of ascertaining the conditions prevailing at the time the Act was passed and the extent and urgency of the evil which it sought to remedy.[9]

The Act is also applicable in the interpretation of the Constitution.[10] As per the preamble and art 367 of the Constitution of India, and the preamble to the CPC, in the interpretation of statutes the provisions should be so read as to harmonise each with the other.[11]

The word 'secretary' in s 6(1) of the Land Acquisition Act is not defined either in that Act or in the General Clauses Act so as to exclude the additional, joint, under, and assistant secretaries.

The under-secretary to the state government was competent to sign the notification under s 6 of the Land Acquisition Act, as a secretary.[12]

It is a matter of presumption that the provision of an Act is meant to effectuate a particular object or to meet a particular requirement and not to negate the very object sought to be achieved.[13] In that context, it must be

3 *Chulhai Sah v State of Bihar* 1963 BLJR 396, 399, ILR 43 Pat 727.
4 *Valjibhai Muljibhai Sonaji v State of Bombay* AIR 1963 SC 1890, 1894.
5 *Rayarappan Nayanar v Madhavi Amma* 1949 FCR 667, 669, per Mahajan J; *Chulhai Sah v State of Bihar* 1963 BLJR 396.
6 *Chief Inspector of Mines v KC Thapar* AIR 1961 SC 838, 843.
7 *State of Punjab v Hahar Singh* AIR 1955 SC 84; *Indra Sohanlal v Custodian of Evacuee Property* AIR 1956 SC 77, 83.
8 *Pathumma v State of Kerala* AIR 1978 SC 771.
9 *Asharafunissa Begum v Deputy Director (Consolidation)* AIR 1971 All 87, 1970 All WR 706 (HC) (FB).
10 *Pradyot Kumar v Chief Justice of Calcutta High Court* AIR 1956 SC 285; *Ram Kishore v Union of India* AIR 1966 SC 644, 648.
11 *D Sanjeevaiah v Election Tribunal* (1967) 1 Andh LT 253, (1967) 2 Andh WR 53.
12 *Ishwarlal Girdharlal Joshi v State of Gujarat* (1968) 1 SCA 569, 9 Guj LR 634, [1968] SCR 267, 16 LR 754, AIR 1968 SC 870.
13 *Amar Nath Bashesshar Dass Firm v Tek Chand* (1972) 1 SCC 893, AIR 1972 SC 1548.

remembered that the General Clauses Act is a consolidating Act, and that the object of consolidation is to collect the statutory law bearing upon a particular subject and bring it down to date.[14]

In respect of an Act which is both, an amending and codifying statute, regard must be had only to the clear language contained in that Act.[15] Where the language of the law is clear, the court has to interpret the law as it is and not as it ought to be.[16]

Where a statute is expressly a codifying statute, the court is not at liberty to go outside the four corners of law on the assumption that prior to the enactment in hand another law had prevailed.[17] However, in a consolidating statute, if certain provisions have received a judicial interpretation in a number of cases, then it is taken to be a clear indication of such interpretation having been accepted by the legislature.[18]

In interpreting a consolidating statute, it is always legitimate to consider the former state of law[19] if there was any doubt as to the construction of any section.[20]

In trying to interpret a statute, the mischief sought to be eradicated must be understood and it must also be examined as to whether in the provision that object under consideration has been carried out.[21] But, the true meaning of the provisions of an Act ought not to be influenced by considerations derived from the previous state of law.[22]

The proper course in interpreting an Act is to examine the language of the statute and ascertain the natural meaning uninfluenced by the considerations derived from the previous state of law, and not to start with inquiring how the law previously stood and then assuming that it was probably intended to be left unaltered.[23]

There is a distinction between the object and the purpose. While the object of legislation is to provide remedy to a malady, the purpose or legislative intention relates to the meaning from the exposition of the remedy as enacted. For determining the purpose of the object of legislation, it is permissible to look into the circumstances prevalent at that time when the law was enacted and which necessitated the passing of that enactment.[24]

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14 *Administrator-General of Bengal v Premila Mullick* 22 IA 107.
15 *Chennappa Gounder v Valliammal* AIR 1969 Mad 187, 189, (1969) 1 Mad LJ 193.
16 *Radhey Shyam Agrawal v Hari Om Trading Co* AIR 1992 MP 168, 175.
17 *Pathuri Veeranna v Pathuri Seethamma* AIR 1969 AP 15, 18, (1967) 2 Andh WR 475, (1968) 1 Andh LT 9.
18 *Dube, Re goods of Balmukund* AIR 1930 All 82, 84, 126 IC 357.
19 *Anthony Servai v Pethi Naicker* 87 LW 254; *Boucher Pierre Andre v Superintendent, Central Jail* AIR 1975 SC 164; *Income-tax Officer, Tuticorin v TS Devinatha Nadar* AIR 1968 SC 623.
20 *Secretary of State v Mask & Co* AIR 1940 PC 105, 109, (1940) 2 Mad LJ 140.
21 *Chotabhai Purushottam Patel v State of Maharashtra* AIR 1971 Bom 244, 248–49.
22 *Arumugha Udayar v Valliammal* AIR 1969 Mad 72, 76.
23 *Krishna Kamini v Abdul Jabbar* ILR 30 Cal 155, 190 (FB).
24 *State of Himachal Pradesh v Kailash Chand Mahajan* AIR 1992 SC 1277, 1300.

However, the statement of objects and reasons appended to the Bill has to be ignored[25] as an aid to the construction of a statute,[26] provided the words in the legislation are clear enough.[27]

The statement of objects and reasons cannot be used except for the limited purpose of understanding the background and the antecedent state of affairs leading to the legislation.[28] The statement of reasons are relevant when the object or purpose of an Act is either in dispute or not certain.[29]

The statement of objects and reasons of a statute can legitimately be taken into account in ascertaining the intention of the legislature such as the history of the statute, the reasons which led to its being passed,[30] and the mischief which it was intended to suppress. It can be referred to for the purpose of ascertaining the circumstances which led to the legislation in order to find out what was the mischief which the legislation aimed at,[31] and the conditions prevailing at the time when the bill was introduced.[32]

However, the validity of a statutory notification cannot be judged only on the basis of the statement of objects and reasons accompanying the Bill.[33]

2. ENGLISH LAW VIDE INTERPRETATION ACT OF 1889

In England, the Interpretation Act of 1889[34] had come into operation on 1 January 1890. In s 43 thereof, the short title states that 'this Act may be cited as the Interpretation Act 1889'. It is prefaced by no preamble. However, the long title states it to be 'an Act for consolidating enactment relating to the construction of Acts of Parliament and for further shortening the language used in Acts of Parliament.'

The Indian Act which is an Act to consolidate and extend the General Clauses Acts of 1868 and 1887 may, likewise, be said to be an enactment meant to shorten the language used in a Parliamentary legislation and to avoid repetition of the same words in the course of the same piece of legislation. A Parliamentary legislation is known as a Central Act which is in contradistinction to the state Acts because of the federal character of the

25 *Gujarat University v Srikrishna Ranganath Madholkar* AIR 1963 SC 703, (1964) 1 SCJ 504.
26 *Aswini Kumar v Arbinda Bose* AIR 1952 SC 369, (1952) SCJ 568; *State of West Bengal v Subodh Gopal* AIR 1954 SC 92.
27 *State of West Bengal v National Rubber Manufacturers Ltd* AIR 1971 Cal 301, 303.
28 *State of West Bengal v Union of India* AIR 1963 SC 1241, [1964] 1 SCR 371.
29 *State of Haryana v Chanan Mal* AIR 1976 SC 1654, (1977) 1 SCC 340.
30 *Gangadhar Sadashiorao Watane v State of Maharashtra* AIR 1976 Bom 13.
31 *SC Parashar v Vasantsen Dwarkadas* AIR 1963 SC 1356, (1963) 1 SCJ 687.
32 *KK Kochunni v State of Madras and Kerala* AIR 1960 SC 1080, (1961) 2 SCJ 443.
33 *M/s Utkal Contractors v State of Orissa* AIR 1987 SC 2310.
34 52 and 53 Vict C 68.

Constitution, providing for a double set of legislative organs, one for the Union and another for the states.

In the case of *Ameer-un-Nissa Begum v Mehboob Begum*,[35] the Supreme Court of India has observed that we are not bound by the provisions of any English statute, but we can still apply the English common law rule if it appears to us to be reasonable and proper.

3. HISTORY OF THE ACT

The first enactment of the kind was Lord Brougham's Act[36] passed by the British parliament. The provisions of that statute were adapted to India and somewhat amplified by the Indian General Clauses Act 1868 (1 of 1868), and the General Clauses Act 1887 (1 of 1887), was a further extension of the same principle. The present Act consolidated the two Acts, namely, the Acts of 1868 and 1887.

This Act was first amended in 1903. The Amending Act (1 of 1903) had repealed the schedule appended to the Act. The General Clauses (Amendment) Act 1936 then inserted a new s 6A into the Act. Sections 4A and 5A were added and ss 30A and 31 omitted by the Government of India (Adaptation of Indian Laws) Order 1937, which had also altered the definition of 'British India' and had lent a new expression to the definition of the term 'Central Government'. The term 'Federal Government' was also defined and the term 'India' in s 3(28) was defined as 'British India together with all the territories of the Indian Rulers', by the same Adaptation of Laws Order of 1937.

After the independence of India in 1947, the India (Adaptation of Existing Indian Laws) Order 1947, was promulgated by the then Governor-General of India published in the *Gazette of India, Extraordinary* of 14 August 1947, containing a schedule which had introduced certain changes to this Act.

On coming into force of the Constitution of India on 26 January 1950, the Adaptation of Laws Order 1950 was issued, vide *Gazette of India*, 26 January 1950, making considerable changes in various sections of this Act. Another Adaptation of Laws (Amendment) Order 1950, was issued on 5 June 1950, which being itself an amendment order, was followed by two subsequent amendments: one made on 4 November 1950, and the other, on 4 April 1951. Extensive changes by the second amendment were brought about in the following state Acts:

(i) Punjab General Clauses Act 1898;
(ii) Bengal General Clauses Act 1899;
(iii) United Provinces (now Uttar Pradesh) General Clauses Act 1904;
(iv) Central Provinces and Berar General Clauses Act 1914;

35 AIR 1955 SC 355, 362.
36 13 and 14 Vict c 21.

(v) Assam General Clauses Act 1915;
(vi) Bihar and Orissa General Clauses Act 1917;
(vii) Orissa General Clauses Act 1937.

An Amendment, for the fourth time, in the Adaptation of Laws Order 1950, was issued on 2 July 1952.

Consequent to the enactment of the States Reorganisation Act 1956, the distinction between the Pt A, B and C States, as specified in the First Schedule to the Constitution, was abolished by the Constitution (Seventh Amendment) Act 1956, whereby the First Schedule to the Constitution was amended so as to contain a distinction between states and Union Territories. The situation brought about by the States Reorganisation Act 1956, the Constitution (Seventh) Amendment Act 1956, and the Bihar and West Bengal (Transfer of Territories) Act 1956, necessitated the following Adaptation of Laws Orders:

(i) The Adaptation of Laws (No 1) Order 1956;
(ii) The Adaptation of Laws (No 2) Order 1956;
(iii) The Adaptation of Laws (No 3) Order 1956;
(iv) The Adaptation of Laws (No 4) Order 1957;
(v) The Adaptation of Laws (No 5) Order 1957;

All these Adaptation of Laws Orders were made or deemed to have come into force on 1 November 1956. The first of these was issued by the President of India in exercise of the powers conferred by cl (1) of art 372A of the Constitution, and the last was issued by the President in exercise of the powers conferred under art 372A and s 120 of the States Reorganisation Act (37 of 1956). The remaining three were issued by the President under art 372A of the Constitution; s 120 of the States Reorganisation Act 1956; and, s 44 of the Bihar and West Bengal (Transfer of Territories) Act 1956 (40 of 1956). These adaptation orders had a schedule appended to each and had declared that the General Clauses Act 1897, shall have effect subject to the adaptations and modifications specified in the respective schedules, or if so directed, shall stand repealed. The last four of these adaptation orders had specifically stated that the General Clauses Act 1897 shall apply to the interpretation of these orders as it applies for the interpretation of a central Act.

Besides the central Act, similar enactments have also been passed by local legislatures in respect of states which were in existence prior to the States Reorganisation Act 1956 (37 of 1956). The following are such local Acts:

(i) Assam General Clauses Act 2 of 1915 (amended by Act 7 of 1922).
(ii) Bengal General Clauses Act 1 of 1899 (amended by Act 1 of 1903, Act 1 of 1914, Act 1 of 1939 and Act 1 of 1940).

(iii) Delhi General Clauses Act.
(iv) Ajmer General Clauses Act.
(v) Bombay General Clauses Act 1 of 1904 (amended by Act 4 of 1905).
(vi) Bihar and Orissa General Clauses Act 1 of 1917 (amended by Act 1 of 1939).
(vii) Madhya Bharat General Clauses Act, Samvat 2007 (as amended up-to-date).
(viii) Central Provinces (now Madhya Pradesh) General Clauses Act 1 of 1914.
(ix) Madras General Clauses Act 1 of 1891 (amended by Act 2 of 1896, Act 11 of 1920 and Act 4 of 1937).
(x) Orissa General Clauses Act 1 of 1937.
(xi) Punjab General Clauses Act 1 of 1898 (amended by Act 6 of 1918).
(xii) United Provinces (now Uttar Pradesh) General Clauses Act 1 of 1904.
(xiii) Travancore and Cochin General Clauses Act 1125. BK
(xiv) Rajasthan General Clauses Act 1955.
(xv) Saurashtra General Clauses Act 1952.
(xvi) Mysore (now Karnataka) General Clauses Act 1899.

Where internal aids are not forthcoming recourse can be had to external aids to discover the object of the legislation. In other words, to correctly interpret the Act, the history and the succession of events can also be considered.[37]

4. USE OF PREAMBLE

The preamble is a key to open the minds of the makers of the Act, and the mischiefs which they intended to redress.[38] The court cannot start with the preamble for construing the provisions of an Act and it is justifiable to do so only when the language used by the Parliament is ambiguous or too general.[39] But it cannot be used to control or qualify the precise and unambiguous language of the enactment. It is only in case of doubt or ambiguity that recourse may be had to the preamble to ascertain the reason for the enactment in order to discover the true legislative intendment.[40] The preamble of a statute is a key to the understanding of it,[41] to enable the

37 *Sub-committee of Judicial Accountability v Union of India* AIR 1992 SC 320, 366, per LM Sharma J.
38 *Bhola Prasad v Emperor* AIR 1942 FC 17, 21, 46 CWN 32; *TK Mudaliar v Venkatachalam* AIR 1956 SC 246, (1956) SCJ 323.
39 *Burrakur Coal Co v Union of India* AIR 1961 SC 954, 956–57, (1961) 2 SCA 523, 1961 SCD 432, [1962] 1 SCR 44.
40 *YA Mamarde v Authority Under the MW Act* AIR 1972 SC 1721, 41 FJR 520, (1972) LIC 894, (1972) 2 Lab LJ 136, 1972 Mah LJ 768, 25 Fac LR 186.
41 *Asharafunnisa Begum v Deputy Director of Consolidation* AIR 1971 All 87, 1970 All WR 706 (HC) (FB).

interpretation of an Act and can be used to know the aims and objects of the legislation.[42]

There is no doubt that the preamble of a statute is an admissible aid to construction. However, it is well-settled that the preamble to a statute can neither expand nor control the scope of application of the enacting clause when the latter is clear and explicit. It is true that it has sometimes been said that a preamble is a key to the intention of the legislature. But that rule applies only when the language of the enacting portion of any Act of the legislature is ambiguous and doubtful or produces in its ordinary meaning any absurdity or unreasonableness. The rule is not applicable where the words of the enactment are quite clear and no doubt exists. The terms of a preamble may be resorted to in two classes of cases:

(i) where the text of the statute is susceptible to different constructions; and
(ii) where very general language is used in an enactment which evidently must have been intended to have some limitation put upon it.

The preamble may be used to indicate to what particular instances the enactment is sought to apply.[43] Where the enacting part of a statute is not exactly co-extensive with the preamble, the latter can neither restrict nor extend the former.[44]

It was laid down by Mudholkar J, in *M/s Burrakur Coal Co v Union of India*[45] as follows:

> It is one of the cardinal principles of construction that where the language of an Act is clear, the preamble must be disregarded though, where the object or meaning of an enactment is not clear, the preamble may be resorted to, to explain it. Again, where very general language is used in an enactment which, it is clear, must be intended to have a limited application, the preamble may be used to indicate to what particular instances, the enactment is intended to apply. We cannot, therefore, start with the preamble for construing the provisions of an Act, though we would be justified in resorting to it, we may be required to do so, if we find that the language used by Parliament is ambiguous or is too general though in point of fact Parliament intended that it should have a limited application.

The preamble cannot be used to defeat, restrict or extend the enacting part when the language, object, and scope of the Act are not in doubt.[46] 'The

42 *Sobha v State* AIR 1963 All 29, (1963) 1 Cr LJ 35.
43 *Asharfi Lal v Board of Revenue* AIR 1971 All 465, 1971 All LJ 483, 1971 All WR 310 (HC).
44 *Rajmal v Harnam Singh* AIR 1928 Lah 35, 38, 104 IC 661.
45 AIR 1961 SC 954, [1962] 1 SCR 44, (1961) 2 SCA 523, 1961 SCD 432.
46 *Md A Dar v Md Akbar* AIR 1973 J&K 4, 1972 Kash LJ 338, 1972 J&K LR 462.

proper function of a preamble', says Lord Thring, 'is to explain certain facts which are necessary to be explained before the enactments contained in the Act can be understood'.[47] The necessity of understanding presupposes some kind of ambiguity and when there is none, it is hardly necessary to have resort to a preamble.[48]

In case of conflict between the preamble and a section of the statute, it is the latter which will prevail.[49]

The preamble of the General Clauses Act 1897, is short and simple and there seems to be no complexity about it. It purports to be an Act to consolidate and extend the General Clauses Acts of 1868 and 1887. The preamble of the 1897 Act is thus, a referential incorporation of the preambles of the Acts of 1868 and 1887. The preamble of the General Clauses Act (1 of 1868) is as follows:

> Whereas it is expedient to shorten the language used in the Acts made by the Governor-General of India in Council and to make certain provisions relating to such Acts; it is hereby enacted as follows:

In the same way, the preamble of the General Clauses Act (1 of 1887) states:

> Whereas it is expedient to further shorten the language used in the Acts made by the Governor-General in Council, and to make certain further provisions relating to those Acts and the regulations under the Statute 33 Victoria, Chapter 3, section 1; it is hereby enacted as follows:

By referential incorporation of the preambles of the Acts of 1868 and 1887, the preamble of the 1897 Act has retained its object to shorten the language of the statutory enactments.

The Act of 1887 had never repealed the Act of 1868 but had sought to fulfil the purpose of further shortening the language used in the Acts made by the Governor-General in Council and to make further provisions relating to regulations under s 1 of Ch 3 of 33 Victoria Statute, the latter being an additional purpose which could not have been envisaged under the Act of 1868. The Act of 1887 was, therefore, not a repealing statute and was supplemental to the Act of 1868. Thus, prior to the enactment of the 1897 Act, there had been two enactments for the purpose of shortening the language used in the Acts made by the Governor-General in Council. Section 2 of the 1887 Act had provided that Part I of that Act shall apply to all Acts made by the Governor-General in Council and, consequently, Pt I of the 1887 Act automatically applied to the 1868 Act.

The preamble of the existing Act of 1897 has been enacted to achieve a twofold purpose:

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47 *Re Sussex Peerage Claim* (1844) 11 Cl & F 83.

48 *Surajmal v State* AIR 1974 Raj 116, 1973 Raj LW 635.

49 *Secretary of State v Maharaj of Bobbli* ILR 43 Mad 529, 46 IA 303 (PC); *Mani Lal Singh v Trustees for Improvement of Calcutta* ILR 45 Cal 343 (FB).

(i) it has consolidated the Acts of 1868 and 1887;
(ii) it has extended the principles of the said two enactments, the meaning of 'extension' being an amplification of the same principles for effecting additions.

5. PURPOSE OF THE ACT

The purpose of the General Clauses Act of 1897, has been best stated by the Supreme Court in the case of *Chief Inspector of Mines v Karam Chand Thapar*.[50] The purpose of this Act, as stated by the Supreme Court, is to place in one single statute different provisions as regards interpretation of words and legal principles which would otherwise have to be specified separately in many different Acts and regulations. The purpose, therefore, is that whatever is said in this Act as regards both, the meanings of words as well as legal principles, the same has to be read in every statute to which it applies. Earlier in the case of *Subramania Iyer v Official Receiver, Quilon*,[51] the Supreme Court had said that this has been enacted to shorten the language used in the parliamentary legislations and to avoid repetition of the same words in the course of the same piece of statutory enactment. The court, however, warned that an Act like the General Clauses Act is not meant to give a hide-bound meaning to terms and phrases generally occurring in legislations.

The Supreme Court has pointed out more than once that lack of legislative simplicity had led to interpretative complexity. The home truth that legislation is for the people and must, therefore, be plain enough has hardly been realised by our lawmakers. Judges looking at statutes are forced to play linguistic game-guessing upon the general legislative purpose and straining at semantics.[52]

It may be said that the General Clauses Act may be and is of general assistance in easing the interpretative complexity and in avoiding a linguistic game at least in relation to the words defined and the principles of interpretation propounded in that Act. This Act, as is stated in its statement of objects and reasons,[53] 'will have this further advantage that it will tend to secure uniformity of language and construction' in legislation.

6. A CONSOLIDATING STATUTE

The General Clauses Act 1897, as its long title suggests, is an Act to consolidate and extend the General Clauses Acts 1868 and 1887. It has been

50 AIR 1961 SC 838, 843.
51 AIR 1958 SC 1, 10.
52 *Chittan J Vaswani v State of West Bengal* AIR 1975 SC 2473.
53 *The Gazette of India*, Pt V, 38, dtd 6 February 1897.

stated, at the outset, in the statement of objects and reasons,[54] that the Bill does not propose to effect any change in the law. Its object, like that of the Acts it consolidates, is to shorten the language of statutory enactments and to provide for uniformity of expression in cases where there is identity of subject matter.

This consolidating statute is exhaustive only in cases where there is identity of subject matter. Conversely, in cases where there is no identity of subject matter, this Act cannot be deemed to be exhaustive. This can be stated as a general rule of construction of a statute of a consolidating nature that its essence is to be taken as exhaustive with regard to the matters in respect of which it has formulated a rule while with regard to the matters which it has not covered, and in respect of which it has not formulated any rule, it cannot be regarded as being exhaustive. The General Clauses Act can be no exception to this general rule applicable to the construction of an enactment which is of a consolidating nature.

The above statement is only a generalised version of the rule evolved by judicial precedents with regard to the construction of consolidating statutes.

For instance, the Civil Procedure Code 1908 is a consolidating statute. The long title of this statute has described it to be an Act to consolidate and amend the laws relating to the procedure of courts of civil judicature. Furthermore, it has been said with regard to this code, that it is not exhaustive, but certainly it is exhaustive in matters specifically provided for because the essence of a code is to consolidate the statutory and precedential law on a particular subject into a code; and, to be exhaustive in the matters in respect of which it declares the law.[55]

Likewise, the Income-Tax Act 1922 was a consolidating Act. The Supreme Court, in relation to the said Act, held in *Ravulu Subba Rao v Commr of Income-tax, Madras,*[56] that the provisions of this Act must be construed as forming a code complete in itself and exhaustive of the matters dealt with therein.

A similar question had arisen before the Privy Council, which set to determine whether the Indian Contract Act of 1872, was exhaustive. It was said in *Irrawaddi Flottila Co v Bugwandas,*[57] that it cannot be laid down as a general rule that the provisions of the Contract Act are not to be regarded as exhaustive in all cases. But when the same matter came to be referred in the case of *Salu v Bajat,*[58] it was stated by way of explanation that in the case of *Irrawady Flottila Co,* their Lordships did not mean to say that even such

54 *Chittan J Vaswani v State of West Bengal* AIR 1975 SC 2473; *Gazette of India,* Pt V, 38, dtd 6 February 1897.

55 *Gokul v Pudmanand* ILR 29 Cal 707, 716 (PC); *Gupteswar v Chaturanand* AIR 1950 Pat 309–10; *Gulab Chand v Kudilalla* AIR 1951 MB 1, 5 (FB).

56 AIR 1956 SC 604, 610.

57 LR (1891) 18 Ind App 121.

58 LR (1915) 42 Ind App 200.

provisions of the Contract Act, as had specifically provided for any particular class of contracts or any particular mode relating to the law of contracts, should not be regarded as exhaustive. Conflicting versions of these two decisions can be brought down into a clear-cut expression made in an earlier decision that 'the Act so far as it goes, is exhaustive and imperative'.[59]

These principles, propounded in relation to the construction of consolidating or amending statutes, may be regarded to hold equally good in relation to the General Clauses Act, which is a consolidating statute.

7. TITLE OF THE ACT

The General Clauses Act 1897, bears its long title as an Act to consolidate and extend the General Clauses Acts 1868 and 1887.

As regards the title of an Act, it has been said that the title throws light on the intent and design of the legislature and indicates the scope and purpose of the legislation itself.[60] The policy and purpose of a given measure may be ascertained from the long title thereof.[61] The title of an Act is, however, not conclusive of the intent of the legislature, and constitutes only one of the numerous sources from which assistance might be obtained.[62] When the meaning of the legislature is clear in the enacting part of the statute, there is no necessity to refer to the title, long or short. It is only in cases where the meaning of the legislature is not clear beyond doubt that recourse may be had to the title or to the preamble.[63]

The long title of the Act, on which reliance is placed as a guide for the determination of the scope of the Act and the policy underlying the legislation, no doubt, indicates the main purpose of the enactment, but cannot obviously control the express operative provisions of the Act.[64]

8. ACT FOR INTERPRETATION

In the statement of objects and reasons,[65] MD Chalmers described this enactment as the legislative dictionary. The statement concluded by saying that the enactment will tend to secure uniformity of language and construction in Indian legislation.

59 *Mohri Bibi v Dharamdas Ghose* LR (1903) 30 Ind App 114.

60 *Popat Lal v State of Madras* AIR 1953 SC 274.

61 *Re Kerala Education Bill* AIR 1958 SC 956, 974; *Bishambhar Singh v State of Orissa* AIR 1954 SC 139.

62 *Panna Lal v State of Hyderabad* AIR 1954 Hyd 129, 153 (FB).

63 *Mangilal v State of Madhya Pradesh* AIR 1955 Nag 153, 157; *Commr for Labour v Associated Cement Co* AIR 1955 Bom 363, 365.

64 *Manohar Lal v State of Punjab* AIR 1961 SC 418.

65 *Gazette of India*, Pt V, p 38, dtd 6 February 1897.

It is obvious from the statement that the enactment is intended to be only an interpretative law without altering the laws substantively,[66] and this intendment is further evidenced by the fact noticed in the statement itself that the opportunity has been taken to incorporate into this Act such provisions of the Interpretation Act 1889, of England, as be found applicable to India. All this goes to evince that the General Clauses Act is a statute for interpretation of other enactments and, unless the context otherwise requires, even for interpretation of the Constitution of India subject only to such adaptations and modifications that may be made therein under art 372A of the Constitution, vide art 367(1) of the Constitution.

It is a well-known rule of interpretation of statutes that the text and the context of the entire statute must be looked into while interpreting any of the expressions used in it. Courts must look to the object which the statute seeks to achieve while interpreting the provisions. A purposive approach is necessary.[67]

It would be hazardous to interpret a word in accordance with its definition in another statute or statutory instrument, more so when such a statute or statutory instrument does not deal with any cognate subject.[68]

A definition clause in any statute does not necessarily apply to all contexts in which the word 'defined' may be found therein.[69]

According to the settled principles of interpretation, a special enactment would prevail over a general enactment if both operate technically in the same field.[70]

9. SCHEME OF THE ACT

That the General Clauses Act is a statute for interpretation follows from the very scheme of the Act. The opening part of it is devoted to general definitions and the part thereafter pertains to the general rules of construction. Then follows the part dealing with the construction of powers exercisable by functionaries. The part which follows next deals with the construction of orders, rules etc, made under the enactment.

The Act consisted of 31 sections and a schedule out of which the schedule and s 2 were repealed by the Amending Act 1 of 1903 (s 4 and Schedule III). Sections 30 and 31 had been repealed by the Adaptation of Laws Order of 1937, s 5A was repealed by Indian (Adaptation of Existing Indian Laws) Order 1947,[71] s 4A, inserted by Adaptation Order of 1937, was substituted,

66 *Prabhu Dayal Rajgarhia v Dasrath Prasad* 1979 BBCJ 517, 1979 BLJR 599, (1980) 1 Rev CR 86.

67 *Jogeswar Majhi v Raamia Kisan* AIR 1997 Ori 54; *S Gopal Reddy v State of Andhra Pradesh* AIR 1996 SCW 2803.

68 *Maharashtra State Electricity Board v Arvind Purusottam Joshi* AIR 1997 Bom 160.

69 *KV Muthu v Angamuthu Amman* AIR 1997 SC 628, (1997) 2 SCC 53.

70 *Rajkot Municipal Corpn v State of Gujarat* AIR 1997 Guj 46.

71 *Gazette of India, Extraordinary*, dtd 14 August 1947.

and s 13A was omitted by Adaptation of Laws Order 1950.[72] Section 6A was inserted by Act 19 of 1936 (s 2).

Section 1 contains the short title of the Act. Section 3, consisting of 66 clauses, defines in each, a particular word, term or expression as being of common use in the legal phraseology of enactments. Section 4 pertains to application of the definitions given in s 3 to previous enactments and s 4A is with regard to application of certain definitions to Indian laws. Sections 5–13 provided for general rules of construction. Sections 14–19 deal with the construction of powers vested in and exercisable by various functionaries. Sections 20–24 contain provisions as to orders, rules etc, made under enactments. Sections 25–30 deal with miscellaneous matters such as recovery of fines, offences punishable under two or more enactments, meaning of service by post, citation of enactments, saving of previous enactments, rules and bye-laws, and the application of the Act to Ordinances.

10. FEW RELEVANT RULES FOR INTERPRETATION

The law of statutory construction is a strategic branch of jurisprudence which must respond to the great social change, and, since interpretation of a statute is an exercise with ascertainment of meaning, everything logically relevant, should be admissible.[73] In respect of matters expressly provided for in the Act, the courts must start from the Act and not deal with them as mere modifications of the law prevailing in England.[74] It is, therefore, needless to refer to English decisions.[75]

A statute is supposed to be an authentic repository of the legislative will and the function of a court is to interpret it according to the intent of those who made it.[76] The true meaning of a provision of law has to be determined on the basis of what it provides by its clear language, with due regard to the scheme of the law as a whole, and not merely by the place it finds in the formulation of its parts or chapters.[77]

It is not the duty of the court to enlarge either the scope of the legislation or the intention of the legislature when the language of the provision is plain and unambiguous. The court cannot rewrite, recast or reframe the legislation for the very good reason that it has no power to legislate. The power to legislate has not been conferred on the courts. The court cannot add words to a statute or read words into it that are not there. Assuming there is a defect or an omission in the words used by the legislature, the court cannot go to its

72 *Gazette of India, Extraordinary*, dtd 26 January 1950, p 449.
73 *State of Mysore v RV Bidap* (1974) 3 SCC 337, AIR 1973 SC 2555.
74 *Emperor v Asutosh* ILR 4 Cal 483.
75 *Girdhar Prasad v Ambika Prasad Thakur* AIR 1969 Pat 218, 225.
76 *Commissioner of Sales-tax v Mangal Sen Shyam Lal* (1975) 4 SCC 35, AIR 1975 SC 1106.
77 *State of Uttar Pradesh v Hindustan Aluminium Corpn* (1979) 3 SCC 229, 242.

aid to correct or make up the deficiency. Courts shall decide what the law is and not what it should be. The court, ofcourse, adopts a construction which will carry out the obvious intention of the legislature but cannot legislate itself.[78]

The statute has to be read as a whole and consistent enactment so as to construe every provision in the statute with reference to the context and the clauses in the statute.[79] The words of a mixed and wavering content are the greatest tricksters. Meaning of words must, hence, be gathered from the context.[80] Court avoids construction that cures the mischief of enactment as designed to remedy only at the cost of setting up of disproportionate mischief since this is unlikely to have been intended by the Parliament.[81]

The proper course in interpreting a statute, in the first instance, is to examine its language and then ask what is the natural meaning uninfluenced by the considerations derived from previous state of law and then assume that it was probably intended to leave it unaltered.[82] The courts must try to discover the real intent by keeping the diction of the statute intact.[83]

When two constructions of a legislative provision are possible, one consistent with the constitutionality of the impugned measure and the other offending it, the court has to lean towards the first, which sustains its validity,[84] provided it is consistent with the object and purpose of the impugned measure.[85]

The courts must, with intelligent imagination, inform themselves of the values of the Constitution and, with functional flexibility, expose the meanings to adopt such a construction as humanely constitutionalises the statute in question.[86] Construction which will sustain the constitutionality of provisions, whenever possible, should be favoured.[87]

The constitutionality of an Act has to be judged on the basis of the Constitution as it was on the date the Act was passed, subject ofcourse, to any prospective amendment of the Constitution.[88] The same principle would apply when the question arises as to the constitutionality or the *vires* of a statutory order.[89]

78 *Union of India v Deoki Nandan Aggrawal* AIR 1992 SC 96, 101.
79 *Municipal Corpn, City of Hubli v Subba Rao Hanumant Rao Pravag* (1976) 4 SCC 830, 836.
80 *Union of India v M/s Rampur Distillery and Chemical Co Ltd* AIR 1981 Del 348; *Narendra v Kamal Basini* 23 IA 18, ILR 23 Cal 563.
81 *Anil Kumar Panda v State* AIR 1997 Cal 125.
82 *Narendra v Kamal Basini* 23 IA 18, ILR 23 Cal 563.
83 *Udayan Chimbhai v RC Bai* AIR 1977 SC 2319, 2326.
84 *State of Madhya Pradesh v Dadabhoy's New Chirmiri Panri Hill Colliery Co Pvt Ltd* AIR 1972 SC 614, 621.
85 *State of Madhya Pradesh v M/s Chhotabhai Jethabai Patel & Co* AIR 1972 SC 971, 975.
86 *Sunil Batra v Delhi Administration* AIR 1958 SC 956, 974, [1959] SCR 995.
87 *KVS Iyer v State of Kerala* AIR 1975 P&H 29, 31, 76 Punj LR 150.
88 *Mahendra Lal Jain v State of Uttar Pradesh* AIR 1963 SC 1019.
89 *State of Kerala v Annam* AIR 1969 Ker 38, 54.

A statute should not be read retrospectively except when it is necessary.[90] In the absence of anything in an Act, to say that it will have a retrospective operation, it cannot be said to have altered the law applicable to a claim in litigation at the time when the Act is passed.[91]

A literal meaning should be given to the language used by the legislature unless the language is ambiguous or its literal sense gives rise to an anomaly or results in something liable to defeat the purpose of the Act.[92] The meaning of words and expressions in an Act have to take their colour from the context in which they appear.[93]

The court while interpreting a statute may point out any hardship or anomaly likely to result therefrom leaving it ultimately to the legislature to amend the law when deemed fit.[94]

Since it is the spirit of the statute which should prevail over the literal meaning, the meaning of some words in a statute may be enlarged or restricted so as to harmonise them with the legislative intent of the entire statute.[95]

The governing intention of a statute must prima facie be gathered to be that expressed in the section of the statute and not in the rules framed thereunder.[96]

A statute should be so construed as to prevent the mischief and to advance the remedy,[97] according to the true intention of the lawmakers.[98]

Reference to legislative history and the background and the circumstances in which an Act was passed is permissible for the limited purpose of appreciating the mischief the legislature had in view and the remedy which it wanted to provide for preventing that mischief.[99] Various legislative entries have to be interpreted in a broad manner and if any legislation can be brought within the ambit of any one or other of the legislative entries, the validity of the legislation cannot be questioned.[1] Each general word in any entry should be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be said to be comprehended therein.[2]

In case there is any lacuna in an Act, it is for the legislature to rectify that, and the court need not give a strained meaning to the words used by the legislature.[3]

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90 *State of Kerala v Philomina* (1976) 4 SCC 314, 319.

91 *Kartikara Chintamani Dora v Guatreddi Annamanaidu* AIR 1974 SC 1069; *Vasanji Kevalbhai v Dahiben* (1974) 15 Guj LR 780.

92 *Management, Shahdara (Delhi) Saharanpur Light Rly Co Ltd v SS Rly Workers' Union* AIR 1969 SC 513, 518; *Raj Kumar v State Board of Technical Education* AIR 1991 P&H 1.

93 *Ram Narain v State of Uttar Pradesh* AIR 1957 SC 18, 23, [1956] SCR 664.

94 *Lakshmikutty Amma v Bathu Kudini Mathu* AIR 1969 Ker 234, 1968 KLT 369.

95 *Manohar Nathurao Samarth v Marotrao* (1979) 4 SCC 93, 98.

96 *Narsingdas v Chogemul* AIR 1939 Cal 435, 451, ILR 2 Cal 93 (FB).

97 *Sita v State of Uttar Pradesh* AIR 1969 All 342.

98 *Sevanti Lal Manoklal Sheth v Commr of Income-tax, Central Bombay* AIR 1968 SC 697, 700.

99 *Sangvi Jeevraj Ghewar Chand v Secretary Madras Chillies, Grams and Kirana Merchants Workers' Union* AIR 1959 SC 530.

1 *Chari Bakshish Singh v Government of India* AIR 1973 SC 2667, 2670.

2 *RS Joshi v Ajit Mills Ltd* AIR 1977 SC 2279, 2295.

3 *Vidyawati v State of Punjab* AIR 1968 SC 519, 522; *Ramajammal v Muthammal* 87 LW 407.

It admits of no controversy that the provisions of any statute must be construed not only properly but also strictly.[4]

The meaning of an ordinary word is to be found not so much in a strict etymological propriety of the language, nor even in its popular use, as in the subject or occasion on which it is used and the object which is intended to be attained.[5]

In selecting one out of the various meanings of a word from the dictionaries when the word is not defined in the Act, regard must be had to the context,[6] and to the popular sense which means the sense people conversant with the subject matter with which the statute is dealing, would attribute to it.[7]

An interpretation which would lead to an absurdity must be avoided.[8] Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience, absurdity, hardship or injustice presumably not intended, a construction may be put upon it which modifies the meaning of the words and even the structure of the sentence.[9]

A statute has to be interpreted according to its plain language and nothing should be added or subtracted unless there are adequate grounds to justify the inference that the legislature had clearly so intended.[10]

Wartime measures should be construed more liberally.[11] While interpreting a penal provision, it is not permissible to give an extended meaning to the plain words of the section.[12] In construing the provisions of a welfare legislation, courts should adopt the beneficient rule of construction.[13] A beneficial measure of legislation, like the rent control legislation, must be liberally construed so as to fulfil the statutory purpose and not frustrate it.[14] Words in a remedial statute have to be construed to reasonably admit the relief contemplated thereunder.[15] In construing a taxing statute, the point to be remembered is that while charging sections are to be construed strictly, machinery sections are not generally subject to a rigorous construction.[16]

4 *N Sri Rama Reddy v VV Giri* AIR 1971 SC 1162, 1170.
5 *Santa Singh v State of Punjab* (1976) 4 SCC 190, 195.
6 *Shitab Khan v Bar Council of India* AIR 1969 Raj 136, 141.
7 *Sonia Bhatia v State of Uttar Pradesh* AIR 1981 SC 1274, 1278.
8 *Chintha Savitramma v Buddaraju Siva Kumari Devi* AIR 1982 AP 145.
9 *Union of India v Sankal Chand Himmatlal Sheth* (1977) 4 SCC 193, AIR 1977 SC 2328
10 *Assessing Authority-cum-Excise and Taxation Officer, Gurgaon v M/s East Indian Cotton Mfg Co Ltd, Faridabad* AIR 1981 SC 1610, 1613, 1615.
11 *State of Bombay v Vir Kumar Gulab Chand Singh* AIR 1952 SC 335, (1952) SCJ 496.
12 *State of Andhra Pradesh v Andhra Provincial Potteries Ltd* AIR 1973 SC 2429, 2433.
13 *Alembic Chemical Works Co Ltd v Workmen* AIR 1961 SC 647, 649; *Workmen of M/s Firestone Tyre and Rubber Co v Management* AIR 1973 SC 1227.
14 *Mani Subrat Jain v Raja Ram Vohra* AIR 1980 SC 289.
15 *Thakur Raghuraj v Hari Vishan* 48 CWN 459.
16 *Associated Cement Co Ltd v Commercial Tax-officer, Kotah* AIR 1981 SC 1887, 1904.

There is no scope for placing an unnatural interpretation on the language used by the legislature and impute to it an intention which cannot be inferred from the language used by it.[17]

The use of the speeches made by members of the legislature in the draft of an Act is unwarranted.[18]

Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words and even the structure of the sentence.[19]

The sound rule of interpretation is to construe a statute so as to prevent the mischief and to advance the remedy according to the true intention of the makers of the statute.[20] It is not, however, permissible to omit or delete words from the operative part of an enactment merely on the ground that, according to the view of the court, it is inconsistent with the spirit underlying the enactment.[21]

Provisions have to be construed harmoniously as to render no provision redundant.[22] The expression used in a statute should ordinarily be understood in a sense in which they harmonise with the object of the statute and which effectuate the object of the legislature.[23]

The court cannot discard the cardinal rules of interpretation in order to avoid hardship or inconvenience.[24] Statutory enactments must ordinarily be construed according to the plain natural meaning of the language and that no words should be added, altered, or modified unless it is plainly necessary to do so in order to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute.[25]

A result following from a statutory provision is never an evil. A court has no power to ignore that provision and contend that it considers a distress resulting from its operation.[26] In the possibility of alternative constructions,

17 *Mangi Lal v C Sugan Chand Rathi* AIR 1965 SC 101.

18 *State of Travancore Cochin v Bombay Co Ltd, Alleppy* AIR 1952 SC 366, (1952) SCJ 627.

19 *Tirath Singh v Bachittar Singh* AIR 1966 SC 830, (1955) SCJ 787; *State of Madhya Pradesh v Azad Bharat Finance Co* AIR 1967 SC 276, (1969) 1 SCJ 815.

20 *Shivanarayan Kabra v State of Madras* AIR 1967 SC 986, (1967) 1 SCJ 825.

21 *State of Rajasthan v Leela Jain* AIR 1965 SC 1296, (1966) 1 SCJ 37.

22 *Rama Nand v State of Haryana* AIR 1982 P&H 26, 29.

23 *New India Sugar Mills Ltd v CST, Bihar* AIR 1963 SC 1207, (1964) 1 SCJ 644.

24 *Bengal Immunity Co Ltd v State of Bihar* AIR 1955 SC 661; *Morvi Mercantile Bank Ltd v Union of India* AIR 1965 SC 1954, (1966) 2 SCJ 6.

25 *Polestar Electronic Pvt Ltd v Addl Commr, Sales-tax* (1978) 1 SCC 636, AIR 1978 SC 987; *Punjab National Bank v M/s Laxmi Chand Sunder Dass* AIR 1982 P&H 48, 50 (FB).

26 *Martin Burn Ltd v Corpn of Calcutta* AIR 1966 SC 529, (1967) 1 SCJ 387.

that alternative has to be chosen which would be consistent with the smooth working of the system purported to be regulated by the statute.[27] When an alternative construction is not possible, the court has to adopt the ordinary rules of literal interpretation.[28] When words used are not capable of two constructions, it is not open to adopt any other hypothetical construction on the supposed ground of its consistency with the object of the Act.[29] Where two constructions are possible upon the language of a statute, the court has to choose one which is consistent with good sense and fairness by eschewing the other which would make its operation unduly oppressive, unjust or unreasonable.[30]

It is dangerous to interpret a statute by using the meanings of certain expressions of a different statute, because the two may differ entirely in their purpose and context.[31] The words must be read in their ordinary sense, though they may be modified only to avoid an absurdity or incongruity.[32] When words used are ambiguous, they may stand to be examined and construed in the light of surrounding circumstances.[33] Words capable of two interpretations have to be construed in a sense more harmonious with the intention of the legislature.[34] As far as possible, courts should interpret the several provisions of law in a harmonious way.[35]

The court is not competent to insist upon the presumption that the legislature has made a mistake. It must proceed on the footing that the legislature has intended what it has said.[36] The supposed spirit of an enactment can certainly not be given effect to contradicting the plain language of the section of the Act or the rules made thereunder.[37]

When two provisions of a statute are mutually conflicting, they should, as far as possible, be given such construction that effect can be given to both.[38] A head-on clash between two sections has to be avoided by construing conflicting provisions, so far as possible, to harmonise with

27 *Collector of Customs, Baroda v Digvijay Singhji Spg and Weaving Mills Ltd, Jamnagar* AIR 1961 SC 1549; *Shri Ram v State of Maharashtra* AIR 1961 SC 674.
28 *Jugal Kishore Saraf v Raw Cotton Co Ltd* AIR 1955 SC 376, (1955) SCJ 371.
29 *Kanai Lal Sur v Paramnidhi Sadhukhan* AIR 1957 SC 907, (1958) SCJ 99.
30 *Dilip Kumar Sharma v State of Madhya Pradesh* (1976) 1 SCC 560.
31 *Regional Provident Fund Commissioner, Punjab v Lakshmi Ratan Engineering Works Ltd* AIR 1952 Punj 507, 511, 64 Punj LR 524.
32 *Inder Singh v Gulzara Singh* AIR 1969 Del 154, 156, (1969) 71 Punj LR (Del) 33.
33 *Income-tax Commr v Sodra Devi* AIR 1957 SC 832, 835, (1958) SCJ 1.
34 *Jaggamma v Satyanarayanamurthi* 1957 Andh WR 520.
35 *Kamalamma v Laxminarayana Rao* AIR 1971 Mys 211–12.
36 *Nalinakhya Bysack v Shyam Sunder Haldar* AIR 1953 SC 148, AIR 1953 SC 201; relying on *Commr for Special Purposes of Income-tax v Pemsel* [1891] AC 53; *Hansraj Gupta v Dehradun Mussoorie Electric Tramway Co Ltd* AIR 1933 PC 63.
37 *Rananjaya Singh v Baij Nath Singh* AIR 1954 SC 749, (1954) SCJ 838.
38 *Bengal Immunity Co Ltd v State of Bihar* AIR 1955 SC 661; followed in *D Sanjeevayya v Election Tribunal, Andhra Pradesh* AIR 1967 SC 1211, (1968) 1 SCJ 568.

each other.[39] When a statute is capable of two constructions, that which upholds the statute should be preferred to that which would invalidate it.[40]

While construing an implied power, the well-established rule of construction is that a power to do something essential for the proper and effectual performance of the work which the statute has in contemplation may be implied.[41]

Uniformity and certainty in law require a respect for precedents. If decisions of the same or superior court are ignored, with the view that every judge is entitled to take such view as he chooses, the law will be bereft of all its utility.[42] The law laid down by the Supreme Court shall, under art 141 of the Constitution of India, be the law of the land, binding on all.[43] But, when the law which is the basis of a judicial decision is altered, the binding value of a precedent fails.[44] Any general observation in a precedent cannot apply in the interpretation of an Act unless the court had applied its mind to and analysed the provisions of the same Act.[45] Decisions of the higher courts, on questions that are essentially questions of facts, cannot be taken as precedents.[46]

The Supreme Court of India is not bound by the authority of English decisions.[47] Principles of jurisprudence or of English law can be invoked as supplementing or explaining the rules of evidence contained in an enactment.[48] Cases in English courts of Chancery have only a persuasive value,[49] but have no application to the interpretation of the law in India as in the Evidence Act,[50] and judges in India are under no obligation to follow them[51] except for elucidating the meaning of the Act.[52] It is

39 *Raj Krishna Bose v Vinoda Kanungo* AIR 1954 SC 202–03, (1954) SCJ 286.

40 *Anandji Haridas & Co v SP Kasture* AIR 1968 SC 565, 577.

41 *Asst Collector of Central Excise, Calcutta v National Tobacco Co of India Ltd* AIR 1972 SC 2563, para 30.

42 *Jai Sri Sahu v Rajdewan Debery* [1961] 2 SCR 558.

43 *SL Saraf v MS Qureshi* AIR 1969 J&K 36, 45.

44 *Kartikara Chintamani Dora v Guatreddi Annamanaidu* AIR 1974 SC 1069, (1974) 1 SCC 567.

45 *Raval & Co v KG Rama Chandran* AIR 1974 SC 818, 821, (1974) 1 SCC 424.

46 *Prakash Chandra Pathak v State of Uttar Pradesh* AIR 1960 SC 195; *HR Gokhale v C Bharucha Moshir* AIR 1969 Bom 177, 186.

47 *Chaturbhuj Vithaldas Jasani v Moreshwar Parashram* AIR 1954 SC 236, 242, (1954) SCJ 315; *Nair Service Society Ltd v KG Alexander* AIR 1968 SC 1165, 1175.

48 *Re Annavi Muthuriyan* ILR 39 Mad 499; *Collector of Gorakhpur v Palakdhari Singh* ILR 12 All 1.

49 *Krishnaswamy Chetty v Thangavelu Chetty* AIR 1955 Mad 430; *Shambhunath v Balmukund Dikshit* AIR 1931 Oudh 307; *Pramith Nath v HV Loa & Co* AIR 1930 Cal 502; *Vythinga Pandara Sannadhi v Thingarajaswami Devasthanam* AIR 1932 Mad 193.

50 *Belapur Co Ltd v Maharashtra State Farming Corpn* AIR 1969 Bom 231, 250; *Lakhraj v Mahipal* ILR 5 Cal 744 (PC).

51 *Imamhandi v Haji Mutsaddi* AIR 1918 PC 11.

52 *Hambai v Bammanji* 7 Bom HCR 64; followed in *Queen Empress v Vajiram* ILR 16 Bom 414, 427.

permissible to refer to English authorities when the principle laid down therein does not depend on any peculiarity in the English law.[53] English decisions may be useful only in cases where a colonial statute is professedly based upon an English statute which has been authoritatively construed by an English court of appeal.[54] In deriving assistance from the laws of England, the court has to see how far such laws were founded on commonsense and on principles of justice.[55] The statute law in India is no doubt based on the principles of English law but in its application one should follow the opinion of the Indian courts acquainted with the Indian ways of life and thought and not of the English courts.[56] Where there is a positive enactment of the Indian legislature, the proper course is to examine the language of that statute and to ascertain its proper meaning uninfluenced by any consideration derived from the previous state of the law or of the English law upon which it may be founded.[57] The expression 'justice, equity and good conscience' has been interpreted in the manner they would be so under the English law when found applicable to the Indian Society.[58]

It is not safe to pronounce on the provisions of one Act with reference to the decisions dealing with another even when that other is in pari materia.[59] Again it serves no useful purpose to decide a case with reference to the decisions of the courts in previous cases.[60]

Punctuation cannot be regarded as a controlling factor[61] so as to control plain meaning of a text.[62] If the language of a statute is clear and intelligible without admitting to two meanings, effect has to be given to the words used so as to carry out the intention of the legislature.[63]

The courts are not at liberty to read into a section words which do not exist there.[64] When the language of the law is clear the court has to interpret the law as it is and not as it ought to be.[65]

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53 *Nandi Singh v Sita Ram* ILR 16 Cal 677, 682 (PC).

54 *Lovelock & Lewes v Malabar Timber and Saw Mills Ltd* 18 IC 997; *Ramendra Nath v Brijendra Nath* ILR 45 Cal 111.

55 *Parbhoo v Emperor* AIR 1941 All 402, 407, (1941) All LJ 619; *Collector of Gorakhpur v Palakdhari Singh* ILR 12 All 1 (FB).

56 *Mohd Hassan v Ali Haider* AIR 1925 Oudh 337.

57 *Ramanandi Kuer v Kalawati Kuer* AIR 1928 PC 2.

58 *Vidya Devi v Madhya Pradesh State Road Transport Corpn* AIR 1975 MP 89, 91, 1974 MPLJ 573.

59 *Hari Khemu Gawli v Deputy Commissioner of Police, Bombay* AIR 1956 SC 559, 568, [1956] SCR 506, (1956) SCJ 599.

60 *HR Gokhale v Bharucha Noshir* AIR 1969 Bom 177, 186.

61 *Dadaji alias Dina v Sukheo Babu* AIR 1980 SC 150, 156.

62 *Bijabai Saldhana v Rama Manohar Thanan Mishra* AIR 1969 Bom 103, 108, 70 Bom LR 428, 1958 Mah LJ 901.

63 *Chandrabhan Chunni Lal Gour v Dr Shrawan Kumar Khunnolal Gour* AIR 1980 Bom 48, 51.

64 *Bank of England v Vagliano* [1891] AC 107; *Dial Singh v Emperor* AIR 1936 Lah 337–39.

65 *Radhey Shyam Agrawal v Hari Om Trading Co* AIR 1992 MP 168, 175.

Since diffusion into wider jurisprudential areas is fraught with unwitting conflict or confusion, the judicial prudence requires confining the focus to the statutory purpose necessary for a decision on the issue at hand.[66] Where a statute creates authority, it ought to be limited to the purpose for which it was created and putative states of affairs must be excluded.[67] Where a statute has enacted deeming provisions, the court must ascertain for what purpose and between what persons the statutory fiction is to be resorted to and whether full effect has to be given to the statutory fiction which should be carried to its logical conclusion.[68]

A disabling provision has to be construed strictly.[69] 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 or the new Act came into force.[70] In case of ambiguity in a disabling provision, effect has to be given to that which favours the individual.[71]

The words of a remedial statute must be construed, as far as they reasonably admit, so that the relief contemplated by the statute shall not be denied to the person intended to be relieved.[72]

Unless there be anything contrary expressly provided in the statute, a statute conferring jurisdiction on an authority has to be construed so as to include and imply all such powers as are necessary or incidental to the effective exercise of that jurisdiction.[73] This doctrine is too well established.[74] Where an Act has created a new jurisdiction, procedure, new form, or new remedies, all these have to be strictly followed.[75]

The court must harmonise different provisions of the same Act so as to prefer a harmonious construction rather than an inconsistency.[76]

No words should be considered redundant or surplus in interpreting the provisions of a statute or a rule.[77] When the legislature has used analogous words or phrases in the alternative, the presumption is that such words or phrases convey separate and distinct meanings so that choice of one involves the rejection of the other.[78] Though there is a presumption that the legislature

66 *State of Madhya Pradesh v Orient Paper Mills Ltd* AIR 1977 SC 687, 690; *DR Venkatachalam v Dy Transport Commr* AIR 1977 SC 842.
67 *Subramania Pillai v Rajakkani Nadar* AIR 1971 Mad 310.
68 *Veerasekhara Varmarayar v Amirthavajammal* AIR 1975 Mad 511, 87 LW 397.
69 *Lachman v Bansi* ILR 12 Lah 275.
70 *NG Mitra v State of Bihar* AIR 1970 SC 1636, 1639.
71 *David v De Silva* AIR 1934 PC 36, 40.
72 *Ram Taran v DJ Hill* AIR 1949 FC 135, 139.
73 *MS Dambamurti Sastriar v Deputy Registrar of Co-op Societies* AIR 1971 Mad 343, 345.
74 *Nand Gopal v Land Acquisition Collector* AIR 1971 HP 1.
75 *Madhya Pradesh State Road Transport Corpn, Jabalpur v Jahiram* AIR 1969 MP 89, 91, 1968 MPLJ 878, 1969 Jab LJ 274.
76 Ibid.
77 *Dinesh Chandra Sangma v State of Assam* AIR 1978 SC 17, 21.
78 *Dilbagh Rai Jerro v Union of India* AIR 1974 SC 130, 133.

does not employ different words with regard to the same subject matter without contemplating a difference in the idea, undue importance should not be attached to this presumption.[79] The court should avoid a construction which would render any part or words of the statute redundant.[80]

In construing the provisions of two Acts, the court must give effect to both.[81] The court must have regard to the aim, object and scope of the statute read in its entirety.[82]

The rule is that if two sections of the same statute are repugnant, then the last must prevail.[83] In case of ambiguity in a provision, that construction must be accepted which will advance the remedy rather than prevent it.[84]

An amendment by way of clarification of an earlier ambiguous provision can be used in construing the earlier provision even if such amendment is not retrospective.[85] The fact whether a statute or any of its provision has retrospective operation has to be determined with reference to the dominant intention of the legislature which has to be gathered from the language used, the object and the scheme of the Act, the nature of the rights affected, and the circumstances under which the statute came into being.[86]

It has been held in *AK Gopalan v State of Madras*,[87] that a speech made in the course of debate reflects only the intent of the speaker but not the mental process lying behind the majority vote.

It is well-settled that an appellate court is entitled to take into consideration any change in law.[88]

An exception carved out in a proviso has to be given full effect.[89]

If on reading an explanation, the scope of a section appears to have been widened, effect must be given to the legislative intent, notwithstanding the fact that legislature had made the provisions as an explanation.[90]

Provisos are often inserted either to allay fears or to remove misapprehensions.[91]

While interpreting rules of procedure it must be remembered that they are intended to advance justice rather than defeat it.[92] It is a well-known rule of

79 *Municipal Board, Kanpur v Addl Commr, Kanpur* AIR 1969 All 177, 180, (1969) All LJ 72
80 *Sir Dinshaw Manekji Petit v GB Badkash* AIR 1969 Bom 151, 158.
81 *Gulab Sundari Bapna v State of Rajasthan* AIR 1971 Raj 1, 4.
82 *Director, Rationing and Distribution v Calcutta Corpn* AIR 1960 SC 1355.
83 *Prasant Kumar De Chowdhary v Tapas Kumar Das* AIR 1981 Cal 332–33.
84 *Gangadhar Lalliram v Nirvachan Adhikari, Marketing Society, Vijaypur* AIR 1971 MP 16, 19.
85 *Thuru Manickam & Co v State of Tamil Nadu* AIR 1977 SC 518, 522.
86 *Gaddam Narsa Reddy v Collector, District of Adilabad* AIR 1982 AP 1.
87 AIR 1950 SC 27, [1950] SCR 86.
88 *Data Xivav Naique Desai v State* AIR 1967 Goa 4, 8.
89 *Velappan Pillai v Parappan Panicker* AIR 1969 Mad 309, 315, (1969) 1 Mad LJ 528.
90 *M/s Hiralal Rattan Lal v Sales-tax Officer, Section III, Kanpur* AIR 1973 SC 1034, 1040.
91 *Madan Lal Fakir Chand Dudhediva v Shree Changdeo Sugar Mills Ltd* AIR 1962 SC 1543, 1552, 1962 (3) Com Cas 604.
92 *M/s Lakshmiratan Engineering Works Ltd v Assistant Commr, Sales-tax, Kanpur* AIR 1968 SC 488, 493.

interpretation of statutes that the text and the context of the entire Act must be looked into while interpreting any of the expressions used in a statute. The courts must peruse the object which the statute seeks to achieve while interpreting any of the provisions of the Act. A purposive approach for interpreting the Act is necessary.[93]

The court must construe a section as it is.[94] The marginal note cannot be taken to affect the construction of the language used in the body of the section if it is otherwise clear and unambiguous.[95] The marginal note can merely furnish some clue as to the meaning and purpose of the section.[96] Head notes of sections and chapters cannot cut down the express meanings of words occurring in the section,[97] that is to say, the marginal notes to a section cannot be referred to, for the purpose of construing the Act.[98]

An explanation should not be construed for widening the ambit of a section. It may be used to harmonise with or clear up any ambiguity in the section.[99]

The following are some other important rules having bearing on the interpretation of statutes:

(a) *Ejusdem Generis* Rule

The *ejusdem generis* rule strives to reconcile the incompatibility between specific and general words. This doctrine applies when:

(i) the statute contains an enumeration of specific words;
(ii) the subjects of the enumeration constitute a class or category;
(iii) that class or category is not exhausted by the enumeration;
(iv) the general term follows the enumeration; and
(v) there is no indication of a different legislative intent.[1]

For example, the expression 'to make or issue orders' as used in s 23 of the Bihar and Orissa General Clauses Act, which corresponds to s 20 of the General Clauses Act, has got to be construed *ejusdem generis*, and when so construed, the 'orders' spoken of in s 24 of the Bihar and Orissa General Clauses Act 1917, which correspond to s 21 of the General Clauses

93 *Jogeswar Majhi v Romia Kisan* AIR 1997 Ori 54; *S Gopal Reddy v State of Andhra Pradesh* AIR 1996 SCW 2803.
94 *Kaveri Amma v Parameshwari Amma* AIR 1971 Ker 216, 219.
95 *Western India Theatres Ltd v Municipal Corpn, Poona* AIR 1959 SC 586, (1959) SCJ 390.
96 *KP Varghese v Income-tax Officer, Ernakulam* AIR 1981 SC 1922, 1931.
97 *Har Prasad Singh v District Magistrate* AIR 1949 All 403, 405; *Narbada Prasad v State of Mahdya Pradesh* AIR 1981 MP 101, 111 (heading cannot control language).
98 *Balraj Kunwar (Thakurani) v Jagatpal Singh* 31 IA 132, ILR 26 All 393; followed in *Commr of Income-tax v Ahmedbhai Umarbhai & Co* AIR 1950 SC 134, (1950) SCJ 375.
99 *Bihta Co-op Development and Cane Mfg Union Ltd v Bank of Bihar* AIR 1967 SC 389, [1967] 1 SCR 848.
1 *Amar Chand v Collector of Excise, Tripura* AIR 1972 SC 1863, 1972 SCD 741.

Act 1897, have the meaning of orders made or issued in exercise of the powers of a subordinate legislation conferred by the Act.[2]

When the suits or proceedings, respecting which 'family courts' shall have and exercise jurisdiction falling under the category of a clause in the explanation to sub-s (1) of s 7, are explicitly stated by specifying the same, the question of applying the *ejusdem generis* rule to limit or restrict the categorised suits or proceedings in other clause appears to be unwarranted. What needs to be noted is that to attract the application of *ejusdem generis* rule there must be a general word which follows particular and specific words of the same nature and is presumed to be restricted to the same genus as those words.[3]

(b) Interpretation of the word 'Includes'

The word 'includes' has been used in the general definitions contained in s 3 of the General Clauses Act with respect to the meaning of certain terms and expressions.[4]

The definitions of terms and expressions as given in the respective sub-sections of s 3 of the General Clauses Act are, therefore, not exhaustive but rather, inclusive definitions which are an enlargement of the ordinary or the popular sense of the term defined. The interpretation of the word 'includes', as such, would command significance in ascertaining the inclusive meaning of the above expression as given in s 3 of the General Clauses Act.

The Supreme Court has said that the word 'includes' is often used in interpretation clauses in order to enlarge the meaning of the words or phrases occurring in the body of the 'statute'. When it is so used, these words and phrases must be construed as comprehending not only such things as they signify according to their nature and import but also those things which the interpretation clause declares that they shall include.[5]

(c) Words not Defined

Where the definition of a word has not been given, it must be construed in its popular sense if it is a word of everyday use. 'Popular sense' means that sense which people, conversant with the subject matter with which the statute is dealing, would attribute to it.[6]

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2 *Bhola Prasad Singh v Prof US Goswami* AIR 1963 Pat 437.

3 *Re Ashraya* AIR 1991 Kant 10, 16.

4 Affidavit—s 3(3); document—s 3(18); enactment—s 3(19); Government or the Government—s 3(23); immovable property—s 3(26); oath—s 3(37); persons—s 3(42); ship—s 3(55); sign—s 3(56); son—s 3(57); swear—s 3(62); Vessel—s 3(63); and Will—s 3(64).

5 *Commr of Income-tax, Andhra Pradesh v M/s Taj Mahal Hotel, Secundrabad* AIR 1972 SC 168, 82 ITR 44, 1972 Tax LR 54, [1972] 1 SCR 168, (1972) 2 ITJ 556, (1972) 2 SCJ 673, (1973) 1 Mad LJ (SC) 4, (1973) 1 Andh WR (SC) 4.

6 Ibid.

(d) Words Judicially Interpreted

It is well-settled that where the legislature uses a legal term which has received judicial interpretation, the courts must assume that the term has been used in the sense in which it has been judicially interpreted.[7] It would be hazardous to interpret a word in accordance with its definition in another statute or statutory instrument and more so, when such statute or statutory instrument does not deal with any cognate subject.[8]

(e) When Meaning is Plain

There is no need to call to aid any of the rules of construction when the meaning of any term or expression given in the statute is plain and unambiguous.[9]

A definition clause does not necessarily, in any statute, apply in all possible contexts in which the word which is defined may be found therein.[10]

(f) 'Or' in a Disjunctive Sense

The word 'and' is normally conjunctive whereas the word 'or' is disjunctive, though sometimes they may be read as vice versa in order to give effect to the manifest intention of the legislature disclosed in its context.[11]

The word 'or' cannot convey a conjunctive sense as a substitute for the word 'and', but is used in a disjunctive sense, particularly when it occurs between two expressions.[12]

(g) Word Defined to Include Larger Meaning

If a statute uses a word and defines it so as to include a larger meaning than the ordinary, such larger meaning must be given wherever the word is used in the statute. But if a particular section of the statute uses two words having their ordinary meanings and one of the words also has a larger meaning as defined by the statute which includes the ordinary meaning of the other word then, it is a sound principle of construction to give the ordinary meaning to both the words in that particular section and not the larger meaning of one of them as defined in the statute. Otherwise, the use of

7 *Ahmad GH Ariff v Commr of Wealth-tax, Calcutta* AIR 1971 SC 1691, 78 ITR 471, (1970) 2 ITJ 11, [1970] 2 SCR 19, (1970) 2 SCJ 331, (1970) 2 SCA 243, 1971 Tax LR 952.

8 *Maharashtra State Electricity Board v Arvind Purusottam Joshi* AIR 1997 Bom 160.

9 *Commr of Income-tax, Assam and Nagaland v G Hyatt* AIR 1971 SC 725, 1971 UJ (SC) 212, 1971 Tax LR 193, 80 ITR 177, 1971 UPTC 244.

10 *KV Muthu v Angamuthu Ammal* AIR 1997 SC 628.

11 *Municipal Council, Raipur v Bishambhar Das Nathumal* AIR 1969 MP 147, 149, 1969 MPLJ 86, 1969 Jab LJ 234.

12 *Kamta Prasad Aggarwal v Executive Officer, Ballabgarh* AIR 1974 SC 685, (1974) 1 SCWR 238, 1974 Tax LR 482, (1974) SCC (Tax) 235, (1974) 4 SCC 440.

the other word having only an ordinary meaning will be redundant. Redundancy cannot be attributed to the legislature. Sometimes, the legislature uses words *ex abundanti cautela*.[13]

Generally, a word defined carries the same meaning throughout the Act unless it comes within any exception.[14]

(h) General and Special Provisions

The particular enactment overrides the general enactment with regard to the same head in a statute.[15]

However, according to the settled principles of interpretation a special enactment would prevail over a general enactment if both operate technically in the same field.[16]

(i) Constitutionality of Law

It is a settled rule that there is a presumption of constitutionality of the law. The court ought not to interpret the statutory provisions unless compelled by their language, in such a manner as would involve its unconstitutionality, since the legislature or the rule-making authority is presumed to enact a law that does not contravene or violate the constitutional provisions. Therefore there is a presumption in favour of constitutionality of legislation or statutory rule unless ex facie it violates the provisions of Constitution.[17]

(j) Reference to Foreign Cases When Relevant

While interpreting the statutes, dictionaries and foreign cases are not safe guides. The best and safest guide is the statute itself which is being considered.[18]

(k) Doctrine of Severality

The same statute or law may be in part constitutional and in part unconstitutional, and if the parts are wholly independent of each other, that which is constitutional may stand while that which is unconstitutional will be rejected. However, where the different parts are so mutually connected with and dependent on each other, as conditions, considerations or compensations for each other as to warrant a belief that the legislature

13 *BT Menghani v Delhi Development Authority* 1974 Rajdhani LR 1, 1974 RCR 24, (1974) ILR 1 Del 443, AIR 1974 Del 159, 166 (FB).

14 *Shital Rai v State of Bihar* AIR 1991 Pat 110 (FB).

15 *Additional Commr of Income-tax v Taran Commercial Mills Ltd* [1978] 113 ITR 745 (Guj).

16 *Rajkot Municipal Corpn v State of Gujarat* AIR 1997 Guj 46.

17 *ML Kamra v Chairman-cum-MD* AIR 1992 SC 1072, 1074.

18 *Ishwar Lal v State of Gujarat* AIR 1968 SC 870, 880, (1967) 2 SCJ 741.

intended them to operate as a whole, and that if all could not be carried into effect, the legislature would not pass the residue independently, and some parts are unconstitutional, all the provisions which are thus dependent, conditional or connected must be rejected.[19]

19 *Prahlad Jena v State* AIR 1950 Ori 157, 166.

PRELIMINARY

Section 1. Short Title—This Act may be called the General Clauses Act 1897.

Except certain specific sections of this Act, it has no application to notifications issued under an Act.[1]

Section 2. Repeal—*[Repealed by the Repealing and Amending Act 1903 (1 of 1903), Section 4 and Schedule 3].*

1 *State v Ganga Ram* AIR 1953 MB 245, 246, 1953 Cr LJ 1675.