

Bibliography & Book Review

Select Bibliography

V. Raghavendra Prasad

(Legal Officer)

1. Amit Bose, "Relate-back theory in Labour Law and its implications" 1999 Lab. I.C. 73 (Journal) – examined the scope of the theory of relation-back in Labour Laws and its implications at length with the help of Apex Court decisions with special reference to the ratio laid down in P.H. Kalyani Vs M/s Air France (AIR 1963 SC 1956)
2. Avimanyu Behera, "Human Rights Aspects of Child Labour", 1999 Lab. I.C. 90 (Journal); :- discussed the constitutional and legislative provisions relating to Child Labour in the backdrop of the International covenants and suggested, inter alia, creation of a single department or ministry for children at center and Child Labour ombudsman at national level.
3. Dr. K.K. Chandratre, "Section 372A imbroglio" (1999) 20 SCL, 13 (Magazine) – examines the requirements of passing of a unanimous resolution by the Board of directors and obtaining of approval of the shareholders by a special resolution at the annual general meeting for the matters especially pertaining to inter corporate loans, investments securities and guarantees.
4. Dr. K.R. Chandratre "Is Office of Managing Director/Whole-time Director an office or place of profit under Section 314 of the Companies Act?" (1999) 20 SCL 144 (Magazine) – elucidates elaboratively the question whether the office of managing director or a whole-time director is an office or place of profit for the purpose of Section 314 of the Act, and gives a lucid exposition of the legal position in the light of decided cases as well as the clarification issued from time to time by the Department of Company Affairs.
5. Dr. S.K. Singh, "Role of President Under Article 356", AIR 1999 Journal 109 :- examines the reasons for turning down the advise of the Bajpai Cabinet to impose President rule in Bihar by the President, Shri K.R. Narayanan in the light of the Article 74(1) of the Constitution of India.
6. Dr. T.P. Ghosh, "Structural reforms in Hong Kong Securities and futures exchanges, "(1999) 20 SCL 156 (Magazine) – discusses at lengthy structural reforms taking place in Hong Kong in the fields of securities and exchanges.
7. Dr. V. Balachandran/K.S. Ravichandran and R. Kamaraj, "Implications of amended NBFC Directions", (1999) 20 SCL 5 (Magazine) – discusses the implication of the amended directions issued by RBI for observance by NBFCs if they are to be eligible to accept public deposits.
8. Dr. Priti Saxena, "Preventive Detention – Safeguard or Violation of Human Rights – A Jurisprudential Aspect of Balancing the Interests", AIR 1999 Journal 113 - analysed and examined, from jurisprudential angle the necessity of incorporating the provision of Preventive Detention under Article 22 of the Constitution of India, in the back drop of balancing interests i.e. the two conflicting considerations the liberty of the individual on the one hand and exigencies of state on the other.
9. G.D. Agrawal, "Delicacy of delegation under Section 292 in Companies Act, 1956", (1999) 20 SEBI & Corporate Laws 69 (Magazine) – elucidated effect, of insertion of Section 372A in the Companies (Amendment) Act, 1999 which has made inoperative the Sections 370 and 372 of the Companies Act, 1956 inoperative and compared the relation between the new Section 372A and the existing Section 292, which stipulates a condition to pass a resolution in meeting of the Board for investing funds and making loans.
10. G.R. Bedge, " Gulzarilal Agarwal Vs Accounts Officer – The case for Review," AIR 1999 Journal 100 - critically appraised the Supreme Court's decision in

Guazarilal Agarwal's case wherein it was held that in the absence of the President of the District Forum/State Commission the senior most member shall act as President.

11. G. Kameswari, "Article 356 of the Constitution – A Boon or Bane to Federalism", AIR 1999 Journal 97 - suggests to amend the Article 356 of the Constitution of India keeping in view the guidelines laid down in S.R. Bommai's case by the Supreme Court and the recommendations of the Sarkaria Commission, to ensure that the provision is invoked to uphold the integrity of the nation.

12. G. Narayana Raju, " 'Deemed Employment' under Contract Labour (Abolition and Regulation) Act, 1970 – A note on AIR Statutory Corporation Vs United Labour Union and others, AIR 1997 SC645: 1997 Lab. I. C. 365 : 1997 AIR SCW430", 1999 Lab. I.C. 50 (Journal) – discussed the concept of 'deemed employment' in two circumstances, firstly, when the Contract Labour is abolished by the appropriate Government, and secondly, when there is contravention of the provisions of the Act.

13. Gopal Chalam, "Companies (Central Government's) General Rules and Forms (Amendment) rules, 1999 – Nomination Facility – A Critical Appraisal". (1999) 20 SCL 80 (Magazine) – focuses the anomalies in the nomination facility provided to the investors in respect of their shares under the Companies (Amendment) Act, 1999.

14. H.L. Kumar, "Amendment to PF Scheme not welfare but torture," 1999 Lab. I.C. 68 (Journal) - briefly discussed the problems under para 26 of the EPF Scheme in relation to the orders dated 24.12.97 issued by the Addl. Central Provident Fund Commissioner (B&I) directing all Regional Provident Fund Commissioner to ensure that the employers deposit PF contribution in respect of employees who were employed during the period 1.11.1990 to 30.4.1995 from the date of joining.

15. H.L. Kumar, "Downsizing the Surplus manpower," 1999 Lab. I.C. 55 (Journal) – focuss is on the means and methods of reducing surplus man power and opined that the Voluntary Retirement Scheme is the best way to costless exit to reduce the overstaffing and surplus manpower in the industry, business, public sector undertakings and in civil service although it is not alternative to exit policy. However it is estimated surplus workers in Central Govt. Sector units alone are 9,00,000.

16. H.L. Kumar, "A Permanent Employee cannot be thrown out by simple Notice – Apex Court", 1999 Lab. I.C. 97 (Journal) - examined the Apex Court's decision in Uptron India Ltd.. V/s Shammi Bhan wherein court held that the services of a confirmed employee can not be terminated by a simple notice even when the conditions of service stipulated that his services could be dispensed with the employer by giving him one month's notice or salary in lieu thereof.

17. H.R. Siva Prasad, "Pre-Incorporation Contracts – Can we learn from the European Company Law Directive," (1999) 20 SEBI & Corporate Laws, 191 (Magazine) - explains the conditions to enable the company to obtain specific performance of a contract made by its promoters before its incorporation and examines the European Communities Act and the English Companies Act, 1985 to ascertain the legal position regarding pre-incorporation contracts.

18. Hon'ble J.N. Bhatt, "Legal And Judicial Structure of Germany", AIR 1999 Journal 141 - analysed the legal and judicial structure of Germany and opined in the light of his personal experience during his recent visit to Germany that independence of judiciary is very well maintained and the adjudicatory process system has remained unpolluted.

19. Justice B.P. Jeevan Reddy and Subhash C. Jain, "Legal Reforms : Co-operation Among SAARC Law Commissions". – AIR 1999 Journal 130 - a note on the workshop of Law Commissions of SAARC Countries held in Dhaka on 20/21 March 1999 organised by the Law Commission of Bangladesh and highlighted the working of Law Commission of India before and after independence, composition of the Commission, methodology of work, rate of implementation of the Law Commission's recommendations/ reports and problems faced by the Law Commission suggested for exchange of views among Law Commissions of the SAARC Countries regarding the projects under their consideration, the problems faced by them, their working

methodologies and their experiences which would be immensely useful to each other.

20. Justice J.N. Bhatt, "Separation of Powers : The Role of Judicial Review Juristic OR forensic? Evolving OR Elusive?", AIR 1999 Journal 83 – analysed in detail the concepts of separation of powers and judicial review and concluded by recalling the injunction of a wise American Judge who said that 'thou shall not ration justice'.

21. K. Srinivas Rao, "Company Contracting/Enforcing Contracts in Assumed Name?" AIR 1999 Journal 88 – Commercial practice is given a legal dimension in reference to contractual obligations under order 29, and 30 (Rule 10) of CPC, 1908 and called for a legislative amendment as the commercial world witnessed operating through Assumed Name.

22. Kusum, "Towards Equality : Mothers As Equal Guardians?," AIR 1999 Journal 129 - note on recent judgements of the Apex Court in Geetha Hariharan Vs RBI and Vandana Shiva Vs J. Bandhopdhyaya (AIR 1999 SCW 811) regarding the guardianship of the mother in reference to the issue involved in interpretation of Section 6 (a) of Hindi Marriage Act, 1956 and Section 19(b) of Guardians and Wards Act, 1890.

23. M. Krishnan, "Companies (Amendment) Act, 1999 – Nomination Facility", (1999) 20 SEBIS & Corporate Laws, 212 (Magazine) – examines the provisions relating to the nomination facility introduced in the corporate legislation by the insertion of Sections 109A and 190B by the Companies (Amendment) Act, 1999 with effect from October 31, 1998.

24. M Krishnan, "Capital Market : Vanishing Companies Syndrome", (1999) 20 SEBI & Corporate Laws 252 (Magazine) – suggested that the names and addresses of the promoters and directors of vanished companies who have decamped with the investors' money be made public and criminal proceedings should be commenced immediately against the defaulting promoters. (As per the reports of Department of Company Affairs, there were 5.04 lakhs registered companies as December 1998 and according to News paper reports, more than 600 companies, which had, in the last six years, come out with initial public offers have changed either their names of their registered office or their share transfer agents. Their whereabouts are not known. These if no response form the companies. For all practical purposes, they have vanished).

25. M. Krishnan, "Companies (Amendment) Ordinance, 1999 : Buy-back of odd lot shares", (1999) 20 SEBI AND CORPORATE LAWS, 1 (Magazine) – discusses the buy-back provisions under the new Section 77A inserted in the Companies Act, 1956, by the Companies (Amendment) Ordinance, 1999 where Companies are not permitted to issue shares within a period of 24 months of the buy-back, except for issuing bonus shares, conversion of preference shares/debenture into equity etc, and the exclusion does not cover re-issue of shares after purchase and consolidation of odd lots – suggested, inter alia, that in the case of odd lots, a simplified procedure may be laid down by the SEBI, on the lines of the guide lines for creation of trust issued in 1993 by the Dept. of Company Affairs.

26. M. Krishnan, "Abolition of per value concept for equity shares", (1999) 20 SCL 72 (Magazine) – examines various facets of the new concept of abolition of 'par value' for equity shares if approved by the SEBI and its implications in the market vis-à-vis public investors.

27. M.M. Ahuja, "Prabation : If a Pandora box" 1999 Lab. I.C. 71 (Journal) – analyses the principles of law as settled by the Supreme Court in relation to probation of newly appointed employees with the help of case law.

28. M.M. AHUJA, "On Appointment of Presiding Officers of Labour Court : A Critique," 1999 Lab I. C. 56 (Journal) – examines the appointment of Presiding Officers of Labour Court in Uttar Pradesh in the light of the recent Supreme Court decision.

29. M.M. Ahuja, "Medical Negligence : Consumer Protection Act 1986 and the Doctrine of Volenti Non Fit Injuria", AIR 1999 Journal 81 - note on Doctrine of Consent under Consumer Protection Act, 1986.

30. Manoj Kumar Malhotra "Challenges before Modern Indian Corporate Leadership", (1999) 20 SCL 152 (Magazine) – identifies and examines the challenge before the Present Indian Corporate Leadership – challenges which need to be understood properly and met with courage and vision if India is to find a firm foothold in global markets.

31. Matta Srinivas, "Whether Debt Recovery Tribunals are Empowered to pass attachment before Judgments", AIR 1999 Journal 128 - prohibitory injunction order, a relief under order 38 rule 5 of Civil Procedure Code, 1908 is regarded as equivalent to Section 19(6) of DRT Act, 1963, however, the DRT Act has no provision for attachment before Judgement, but it has relief equivalent to Order 39 Rule 1 and 2 of CPC, 1908 so the author concluded with confusion by saying that DRTs can provide relief of Attachment before Judgement.

32. Naresh Kumar, "Scheme of arrangement under the Companies Act, 1956," (1999) 20 SEBI & Corporate Laws 195 (Magazine) – analysed with the help of case law the legal and procedural aspects of forming and implementing schemes of compromise/arrangement under the Companies Act, 1956.

33. P.M. Bakshi, "Commercial Law and dispute resolution", (1999) 20 SEBI and corporate laws 270 (Magazine) – sketched out various aspects of commercial litigation in India and discusses the measures for dispute resolution and dispute prevention and deals with the question of dispute in respect of agreements involving foreign elements.

34. P.S.N. Prasad Asst. Legal Adviser, RBI, (Ex. Law Officer HUDCO), "An Over View of March of Environmental and Pollution Central Law – Indian Senario," AIR 1999 Journal 121; - the original development of law of eco-system and preservation of environment is dated back to 13th Century and the author has highlighted the March of Law in India i.e. Shore Nuisance (Bombay and Colaba) Act, 1853 and till 1996. The dispute settlement machinery and the Environmental Tribunal Bill are highlighted. The article witnessed an attempt of the author regarding the problems of two constituents of human environment i.e. individual level and society/group level.

35. Prashant R. Deshpande, "Credit rating agencies – A critical evaluation", (1999) 20 SCL 83 (Magazine) – examines the concept of credit rating and of the functioning of Credit Rating Agency in India, and highlights several drawbacks and deficiencies in the functioning of CRAS and Stresses the need for a tighter regulatory mechanism to improve if for protecting the interests of investors.

36. R. Prakash, "Does the Constitution Provide for Appellate Jurisdiction on the Supreme Court over Administrative Orders?", AIR 1999 Journal 119 - brief note on exercise of the Appellate jurisdiction by the Supreme Court over Administrative orders of the High Court (in Commissioner of Police, Delhi Vs Registrar Delhi High Court (1996) 6SCC323), and submits that the Constitution of India does not recognise appeals to the Supreme Court from administrative orders and therefore the judgement is inconsistent with the constitutional provisions.

37. Richard Forster, "Project bonds : how far must you go on disclosure?" June 1998 Vol. XVII N0. 6 International financial Review, 18 –

38. S. Ambika Kumari, "Ban on Bandh –A Welcome Approach", AIR 1999 Journal 126 - examined the decision of the Apex Court in Communist Party of India Vs Bharat Kumar AIR 1998 SC 184, in connection with the Political Party calling for a Bandh on the day that it is a plea that it is a part of freedom of speech and expression which had precedential impact under Article 19 of Constitution of India and concluded by saying that Bharat Kumar's case is a welfare approach.

39. Venugopalan, "Nomination facility for shares," (1999) 20SCL, 8 (Magazine) – examines in detail procedures relating to nomination for shares, debentures and

deposits and elucidated the rights and duties of a) the company, b) the person making the nomination and c) the nominee.

40. S.S. Prakash, “Abolition of Bonded Labour And Need for Fresh Look”, 1999 Lab.I.C.93 (Journal) - a brief note on existence of bonded labour in India and focuses on the point of administration failure to put an end to the bonded labour and rehabilitating the bonded labourers while executing the Bonded Labour (Abolition) Act, 1976 read with Article 23 of the Constitution of India inspite of the judicial response to eradicate the forced labour.

41. S.S. Ramasubramanyan, “ M/s Deelip Kumar And Co. Vs Mulla Gulamali And Saffia Rai Dhanaliwala Trust By Its Secretary, Subir Kurban Hussain Dhanaliwala - “A critical appraisal,” AIR 1999 Journal 106 - analysed with the help of case law the ratio laid down in the above case 1998 AIHC 1073 (Mad) by the Supreme Court and opined that the judgement of the Court i.e. extending the Privatness to charitable endowments is not consistent with the principles laid down in Pratap Singhji V. Desai’s case (AIR 1987 SC 2064).

42. Sanjiv Agarwal, “New Monetary Policy and structural reforms”, (1999) 20 SEBI & Corporate Law 216 (Magazine) - a brief note on the new credit policy highlighting its plus points and minus points.

43. Sanjiv Agarwal, “Y2K issue and corporate disclosures”, (1999) 20 SEBI & Corporate Laws 257 (Magazine) - examines how Y2K problem is going to affect companies and the capital market, how companies are going to disclose information related to their Y2K preparedness, what would be the accounting treatment of Y2K expenses, how the auditors are concerned with the problem and the implications of Y2K problem vide corporate governance.

44. Shiv Kedia, “Dematerialisation of Shares”, (1999) 20 SEBI & Corporate Laws, 141 (Magazine) – discusses the process of dematerialisation of shares and highlights the advantages of the electronic form over the paper form of shares.

45. Shrikant Kamath, “Section 295 of the Companies Act, 1956 – A case study”, (1999) 20 SCL 76 (Magazine) – analyses the applicability of the provisions of Section 295 of the Companies Act, which regulates the granting of loans by companies to certain specified persons.

46. Shuva Mandal and Mrinal Chandran, “Demergers : The new engine of corporate growth”, (1999) 20 SEBI & Corporate Laws, 201 (Magazine) – explains the concept of Demergers and its advantage with special reference to the provisions of Sections 391 and 394 of the Companies Act, 1956, and focuses the implications of demergers under the Bombay Stamp Act, 1958 and the Indian Stamps Act, 1899.

47. Somasekhar Sundaresan, “Multiple depository system – Need for clarifications”, (1999) 20 SCL, 17 (Magazine) – pointed out certain provisions of the Depositories Act, 1996 and observes that in case of inter-depository transfers in multiple depository system, the position regarding exemption from levy of stamp duty is not free from doubt.

Book Review

Sanjiv Row’s Law of Insolvency

**The Law Book Company (P) Ltd
P.B. No.1-004, Sardar Patel Marg,
Allahabad-211 001.**

Price : Rs.675/-

**Review by
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Indian Insolvency Law had its spirit from Bankruptcy Act of England. In fact Prafulla.C. Pant, H.J.S. during his tenure as an Insolvency Judge at Bareilly and Meerut has observed that “Insolvency Law in India to be the most technical branch of Civil Law because once insolvency proceedings are initiated, they do not terminate either at the stage of adjudication, discharge, annulment and re-adjudication, but only after the estate of the insolvent is administered finally after satisfying the debts due to the creditors.

2. The Law Book Co. (P) Ltd., Allahabad have published the book titled as Sanjiva Row’s Law of Insolvency, 6th Edition (1997) and this great work of law on insolvency by Sanjiv Row was thoroughly revised by Prafulla.C.Pant, H.J.S. About this book a review is made wherein an attempt is made to know the contents, as the Insolvency Law applied to the different sectors has become a thing of paramount importance keeping in line with the latest developments it has become essentially to know the dynamics of Insolvency Law.

3. The law relating to insolvency has been enacted for the benefit of debtors as well as creditors so the law has two fold objects. It gives relief to the debtors from the harassment of the creditors, whose claims as to money, debts as they are called, he is unable to satisfy or discharge. It prevents scramble among creditors to get the assets of the debtor, and promotion of fraud and collusion between the creditors and debtors.

4. The Insolvency Law in this sub continent had its statutory expression in the Presidency Towns Insolvency Act, 1909 and Provincial Insolvency Act, 1920. Both the enactments focusses their approach for providing a machinery by which all the creditors are equitably satisfied. The Presidency Towns Insolvency Act, 1909 applies to Calcutta, Bombay (Mumbai) and Madras (Chennai) whereas the Provincial Insolvency Act, 1920 applies to the rest of India i.e. outside the Presidency Towns. Interestingly, in the Tanil Nadu by virtue of Section 112 of the Presidency Towns Insolvency Act, 1920 certain Rules of practice, procedure, and the formats to be observed and used in the High Court of Judicature at Chennai in exercise of jurisdiction in insolvency matters/cases are framed and in the Appendix, the author has included.

5. The comparative table of both the Acts has no doubt facilitates the easy understanding of both the Acts. The contents of the book are divided into two main divisions and 12 parts viz. Constitution and powers of the Courts, proceedings from the Act of insolvency to discharge (Acts of insolvency, petition, order of adjudication, proceedings consequent on an order of adjudication, annulment of adjudication and composition and schemes of arrangement) administration of property (method of proof of debts, effect of insolvency on antecedent transactions, realisation of property, distribution of property, appeal to court against receiver) penalties, summary administration, appeals and miscellaneous. The second main division about the Presidency Towns Insolvency Act, 1909 having the chapters of Constitutional Powers of the court (jurisdiction and appeal) Proceedings from Acts of insolvency to discharge (Acts of insolvency, order of adjudication, proceedings consequent on order of adjudication, composition of scheme of arrangement, control over person and property of insolvent and discharge of insolvent) administration of property (proof of debts, property available for payment of debts, effect of insolvency on antecedent transactions, realisation of property and distribution of property) Officials Assignees, Committee of Inspection, Procedure, Limitation, Penalties, Small Insolvencies, special Provisions, Rules and supplementary with appendix. While this being the scheme of arrangement as envisaged by the author it is interesting to note that each chapter is inter linked with the other and there is a passing link and a nexus. The reading will definitely confer a perfect understanding of both the enactments and the connected case law too.

6. Section 6 of the Provincial Insolvency Act, 1920 is similar or equivalent to Section 9 of the Presidency Towns Insolvency Act, 1909. The Acts of Insolvency is the root cause for the proceedings under Insolvency Law. A debtor commits an act of insolvency in

each of the following cases, viz.

if, in India or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally;

if, in India or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors;

if, in India or elsewhere, he makes any transfer of his property, or of any part thereof, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent;

if, with intent to defeat or delay his creditors -

he departs or remains out of Part A States and Part C States;

he departs from his dwelling-house or usual place of business or otherwise absents himself;

he secludes himself so as to deprive his creditors of the means of communicating with him;

if, any of his property has been sold in execution of the decree of any court for the payment of money;

if, he petitions to be adjudged an insolvent under the provisions of this Act;

if, he gives notice to any of his creditors that he has suspended, or is about to suspend, payment of his dues; or

if, he is imprisoned in the execution of a decree of any court for the payment of money.

These acts of insolvency are same in both the enactments. The author has rightly pointed out the Acts of insolvency and its implications (page 100 to 135 - Provincial Insolvency Act, 1920 and page No.814 to 821 regarding Presidency Towns Insolvency Act, 1909).

7. The procedure for admission of the petition is laid down in Civil Procedure Code, 1908 with respect to the admission of plaints shall so far as it is applicable be followed in case of insolvency petitions. The date of admission of insolvency petition must be deemed to be the date on which the court has directed the insolvent to furnish the security for his appearance (Punjab National Bank Vs. Receiver Karnal, AIR 1940 Lah.166). The Act nowhere states as to which is the date of admission of insolvency petition. But there are certain sections in the Act, that afford guidance in determining the date of admission. From a consideration of sections 18, 21 and 51, the date on which the applicant is asked to furnish the security for his regular attendance in court can be recorded as the date of admission (AIR 1925 Mad. 248 relied on) wherein insolvency petition was presented on a certain date and the court ordered 'check and file emergently' and it was checked and filed on the same date the court ordered to deposit the publication charges by a fixed date, and on that date so fixed, notice and publication were ordered, it was held that no doubt the order to issue may constitute an Act of admission in many cases but it cannot be a universal law, and, therefore, the date of admission of the said date was the date on which it was presented (AIR 1942 Mad.88). The author has rightly drawn the case law at page 201.

8. With regard to award of compensation where a petition presented by creditor is dismissed under sub Section (1) of Section 25 and the court is satisfied that the petition was frivolous or vexatious, the court may, on the application of the debtor, award against such creditor, such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the debtor for the expense or injury occasioned to him by the petition and the proceedings thereon, and such amount may be realised as if it were a fine (Section 21 clause (1) of the Provincial Insolvency Act, 1920). The most important

aspect of this Section is frivolous and vexatious litigation with the help of decided case law the author has explained that the word “frivolous” implies that the accusation is of a trivial nature but it may or may not be false. “Vexations” implies that accusation is one which ought not have been made and which is intended to harass the accused. Neither of the two words excludes the element of falsehood in the charge. The author had relied upon the judgement reported in AIR 1935 Nag 207 (at page 246).

9. The another important aspect is the effect of an order of adjudication. The author has made a lengthy synopsis into various small aspects and has explained the scope and object of effect of order of adjudication in a lucid manner. The author has rightly stated that the object of this Section is to enable/secure the Official Receiver the unrestricted right to dispose of an insolvent’s property, it is to preserve the right that suits and other proceedings aimed at insolvent’s property or prohibited. This section clearly enacts that during the pendency of insolvency proceedings the creditor shall not commence any proceedings in pursuance of a remedy against the property of insolvent in respect of his debt without the leave of the insolvency court. Section 29 must be read with Section 28. The operation of this Section affects all creditors (other than secured creditors) whether they are judgement debtors or not, or have proved their debts or otherwise (Chidambaram Vs. U. Maung Maung, AIR 1940 Rang 289). On adjudication when the property of the insolvent has vested in the Official Receiver under this Section, the Official Receiver becomes legally the owner of the property. It is made clear by the author that the only obligation placed upon the insolvent is to assess the Official Receiver to realise his assets and in doing so, he is required to inform the Official Receiver where his assets are to be found (page 259).

10. With regard to debts provable under the Act (Section 24 of PI Act, 1920) - This Section corresponds to Section 46 (1) and (3) of the Presidency Towns Insolvency Act, 1909. The author has rightly quoted that the scope of inquiry by the insolvency court under Section 34 is very wide. Even in case of the decree against the insolvent, the court can go behind it and get to its real character. Where the suit is dismissed for default it cannot be said that creditor is debarred from proving his claim against the insolvency court (1964 Andh.WR 75).

11. Regarding the discharge of the debtor (Section 41 of PI Act, 1920) - This Section corresponds to Section 38 (1) and (40) of Presidency Towns Insolvency Act. It is pointed out by the author that while making a discharge the conduct of the insolvent is a relevant factor. He should not be discharged when his assets are proved to be low unless he satisfies that he has no control over the circumstances. It is further said that the act protects the honest debtors but not the reckless ones.

12. The next important aspect is avoidance of voluntary transfer (Section 53 of PI Act, 1920 - corresponds to section 55 of the PT Act, 1909). In proceedings under Section 53 of the Insolvency Act the onus of proving that the impugned transactions were not entered into in good faith and for valuable consideration is on the official receiver. The clarity between voidable transfer and void transfer is a prerequisite. With the support of *Johri Lal v. Smt. Bhanwari Bai*, (AIR 1977 SC.2202) the author has explained the distinction to answer the question whether a transaction is a sham or nominal or otherwise.

13. We can evidently see dearth of clear and analytical exposition of law embodied in the Acts and spurred the author to easy the arduous task of unfording the law with the aid of decisions, Indian and English Law. The law of insolvency relating to corporate personalities is not dealt in this book therefore, this book is confined only in dealing with the law relating to Provincial Insolvency Act, 1920 and Presidency Towns Insolvency Act, 1909 with the Insolvency Rules of 1958 as adopted by High Court of judicature, Madras. The book is worth of its possession and can be a good reference book as far as Law of Insolvency is concerned.

“I am the child. All the world waits for my coming. All the earth watches with interest to see what I shall become. Civilization hangs in the balance, for what I am, the world of tomorrow will be. I am the child. You hold in your hand my destiny. You determine, largely, whether I shall succeed or fail. Give me, I pray you these things that make for happiness. Train me, I beg you, that I may be blessing to the world.”

— Mamie Gene Cole

Justice, Sir, is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement, and progress of our race. And whoever labors on this edifice, with usefulness and distinction whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself in name, and fame, and character, with that which is and must be as durable as the frame of human society.

— WEBSTWR, *Daniel in Life and Letters of Joseph Story* (William W. Story, ed., Boston: Charles C. Little and James Brown, 1851), Volume II, p. 624

Experience and training have given the lawyers what Judge Learned Hand once called “a bathtub mind” they can fill their heads with the facts immediately necessary, then pull the plug, scour away all recollection of the last matter, and refill for the new situation.

— HAND Learned, quoted in Martin Mayer, “Justice, The Law and the Lawyer,” *Saturday Evening Post*, February 26, 1966, p.37.

The trouble with lawyers is they convince themselves that their clients are right.

— AINEY, Charles W. (age 93, Dean of the Susquehanna, Pa. Bar Association) to Eugene C. Gerhart, August 25, 1963, at his home in New Milford, Pa.
