

LEGAL REMEDIES. By AVTAR SINGH (5th Edition). [Lucknow: Eastern Book Company. 1986. xxx+350 pp. Softcover: Rs. 40.00]

THE remedial aspects of law are generally not treated separately by traditional law school courses. Writers tend either to include them as concluding chapters to their treatment of the substantive law or to treat them as procedural rules. We see books on certain aspects of the law of remedies, in particular, books on damages and various aspects of equitable remedies, but very few on legal remedies in general. It is not difficult to understand why writers have not taken up the challenge of a comprehensive and cohesive treatment of the law of remedies. It cuts through all aspects of not just the civil law but criminal law as well. The criminal law is not generally seen as being relevant to civil litigants but an examination of the scope of the law will show that it may be more advantageous in certain situations to stop a nuisance or other continuing tort by a criminal prosecution.

A truly comprehensive treatment would of course require an encyclopaedic work and at least a lifetime of work and anyone expecting anything close to that would almost certainly be disappointed by V.M. Shukla's *Legal Remedies*. A much more modest and realistic objective is stated in the preface and in so far as it attempts only to outline the various legal remedies available and to double as an introductory book for a university course on the subject, it cannot be said to be unsuccessful.

The coverage of the book is very wide. Within its three hundred and fifty pages, remedies under the Indian Constitution, International law, the criminal law, the law of contract, equity, tort, and various

other Indian enactments are explained. The obvious result of this is that the law tends to be stated rather than discussed or examined critically. Much of the work resembles a concise summary of the various statutory enactments that the writer had considered relevant, though it must be said that the various chapters are very well organised.

Lawyers outside India would of course be interested to know the relevance of the book to the common law world at large. Though the work deals with a wide variety of statutes peculiar to India, an examination of the statutes will show that they are, in large, codifications of English law. The difficulty, however, is in determining when the text is describing the common law and when it is dealing with rules that are peculiar to Indian Law. Sometimes, the common law is discussed as the 'law' even though there are express statutory provisions. For example, some eight pages are spent describing the line of cases starting with *Hadley v. Baxendale*¹ before section 73 of the Indian Contract Act, which seems to adopt the same test, is cited.²

There are of course some rules that are not the same as English law. It is stated³ that damages in tort can be influenced by the motive and manner of the commission of the tort and that punitive damages can be awarded. The distinction between liquidated damages and a penalty is also dispensed with in India by section 74 of the Contract Act.

Readers who are interested in equity would be surprised to find only the maxims of equity in the chapter on Equitable Remedies. Much of what they would have expected will be found in the chapters on the Specific Relief Act, 1963 and the Indian Trusts Act.

On the whole the book will be useful to the student of Indian law but not to any other common lawyer outside of India, save one who would like a quick introduction to the law of remedies in India. There is just not the analysis that will be found in other books on the various specialised topics. The reader will be much better off with a book on trusts or equity alone, for example, than the three pages in the book that deal with all the different types of trusts. None of what has been said here should leave the reader with the impression that the work does not achieve its objectives. It is written in a very simple and clear style. It is very readable and is certainly no failure if a book is to be judged by its own stated aims.

1 (1854) 9 Exch. 341; 156 E.R. 145.
2 p. 207.
3 p. 213.