

KHERGAMVALA ON THE NEGOTIABLE INSTRUMENTS ACT, 13th Ed. By J. L. Joshi. [Bombay: Tripathi. 1966. xx + 229 pp. Rs. 10.50].

This book, the first edition of which appeared in 1920, is a commentary on the Indian Negotiable Instruments Act, 1881.

The object of the book, as stated by the author in the first edition, is to help students to prepare for their various law examinations, but the author expressed his hope that it would not be used as a cram-book. The problem is whether these objects can be achieved in a book which is a commentary on the individual sections of an Act. There is no doubt that, in so far as the purpose of a book is to assist the student in merely memorizing the provisions of an Act and their interpretation, such a commentary is a very good method. However, a good students' book should also aim at leading the students towards a critical approach resulting from a full understanding of the subject. A commentary is unlikely to achieve this object due to several reasons.

First, it is extremely difficult to learn any subject through a study of the sections of an Act, without having first a discussion of the purpose of the Act and an analysis of the fundamental principles involved. This is not achieved in a commentary which concentrates on individual sections. For example, in *Khergamvala* the analysis of what is a negotiable instrument, and the difference between such an instrument and chattel property, is discussed at p. 33, *i.e.* after the discussion of some of the requirements of bills and promissory notes. From the point of view of a practitioner this is probably a satisfactory arrangement as it follows the arrangement of the sections of the Indian Act. But from the point of view of a student, who has presumably just finished his course in the Law of Contract and is embarking on a Commercial Law subject, and who does not know what a negotiable instrument is, this arrangement seems to be putting the cart before the horse.

Secondly, in a commentary it is difficult to emphasise the controversial problems, and in the case of a good students' book such emphasis is invaluable. This is especially true in the case of a technical subject like Negotiable Instruments. There is, for example, not much point in a prolonged discussion of such matters as "Notice of Dishonour" and "Of Noting and Protest." It is unnecessary to encumber a student with the task of memorising such details, and the mere mention — in a student book — that the holder (subject to certain exceptions) is under a duty to give notice of dishonour or protest a bill would appear to be sufficient. A student who reads *Khergamvala* may however spend just as much time on these topics as on the fundamental principles respecting liability on a bill or note.

Thirdly, difficulties arise when a problem concerns more than one section. For example, the discussion of forged indorsements at pp. 106-107 of *Khergamvala*, which is included in the discussion of s. 58 of the Act, does not sufficiently illuminate the problems arising in this connection from the definition of a holder in due course in s. 9 of the Act.

While it may be possible, in some commentaries on Acts, to overcome some of these difficulties, *Khergamvala*, is not successful in this respect. The book remains a set of comments on the individual sections of the Act.

Another difficulty which arises is the reference to English authorities. The author explains (at pp. 2-3) that the Act is based on the English Law Merchant regarding bills of exchange, and adds that so is the English Bills of Exchange Act, 1882. This does not, in each case, explain why an English authority is relevant. It would have been useful to explain, whenever a post 1882 English authority is cited, why the law in India and England is *in pari materia* (see *e.g.* reference (d) at p. 15). In some parts of the book this approach is, indeed adopted (see p. 17, No. VIII) and it would be advisable to adopt it throughout the book in further editions.

A certain reorganisation of the book could thus be a great improvement. But even in its present form the book refers to large number of important authorities and contains much useful information. A student would find the book useful if he treated it merely as a basis for his further readings.