

THE MEANING OF THE WORD 'RECEIPT'

The point at issue is the meaning to be given to the word *receipt* occurring in clause (2) of Article 198. Does it mean receipt by the Secretariat of the Legislative Council or does it mean by receipt by the *Legislative Council*? The distinction is of course important because it determines the starting point of the period of limitation which is fourteen days for a money Bill. The matter is referred to the Government of India for opinion because there is a difference of opinion between the R.L.A. and the Advocate General of Bihar, the R.L.A. upholding the former interpretation and the Advocate General the latter.

There are three contentions relied upon by the R.L.A. :—

- (1) Clause (2) of Article 198 speaks of 'Fourteen days from the date of its receipt.'
- (2) There is a difference between the language used in clause (2) (b) of Article 197 and that used in clause (2) of Article 198.
- (3) The delay that may occur in getting through a money Bill if the contention of the Advocate General of Bihar was accepted as valid.

I will deal with these contention seriatum.

Taking up the first contention of the R.L.A. I find his argument is vitiated by his failure to note the following points-

- (1) The R.L.A. picks out the words 'its receipt of the Bill' from clause (2) of Article 198 and builds up his argument. He contends that in using the words 'its receipt' the intention of the Constitution was only to provide for a vicarious receipt by the Secretariat of the Upper Chamber and not actual receipt by the Chamber. But the altogether omits to take into account the words 'transmitted to the Legislative Council for its recommendations' which also occur in clause (2) and

which in opinion are the key words of the clause. The words 'its receipt' by themselves are quite unimportant. Their meaning must be derived by reading them in conjunction with the words 'transmitted to the Legislative Council for its recommendation.' So read they cannot mean receipt by the Secretariat.

- (2) The R.L.A. has not taken into consideration the provisions of clauses (3) and (4). He relied upon clause (5) to justify the result. But he forgets that clause (5) becomes operative only when the steps laid out in clauses (3) and (4) of Article 198 have been gone through by the Legislative Council. Clauses (3) and (4) require that the Council has been in Session and has had an opportunity to consider the Bill.

The rule of construction adopted by the R.L.A. is not a sound rule of construction. The correct rule relevant to the issue is the rule known as *ex vicerius actus*. It has the authority of no less a person than Coke. Says Coke: "The office of a good expositor of an Act of Parliament is to make construction on all the parts together, and not of one part only by itself..... It is the most natural and genuine exposition of a Statute to construe one part of a Statute by another of the same Statute, for the best expresseth the meaning of the makers " (Quoted in Craie's, P. 95).

The Second contention of the R.L.A. is founded on difference in the language in clause (2) (b) of Article 197 and clause (2) of Article 198. It is true that difference in language exists. It is also true that difference in language can be relied upon by interested parties as an argument in support of the contention that the intentions in two cases are different. As against the argument of the R.L.A. I wish to urge the following considerations—

The original language of clause (2) (b) of Article 197 was the same as that of clause (2) of Article 198. Altogether four drafts of Article 197 were presented to

the Constituent Assembly. In the first three the language was the same as in Article 198. I have ascertained these facts from the records of the Constituent Assembly. In these circumstances various questions arise. Why was the language of Article 198 not changed when the language of Article 197 was changed? What was the reason for changing the language of article 197 (2) (b)? Was the language changed because the original intention underlying Article 197 (2) (b) was changed? Or was it because the intention was the same but it was felt that the new language expressed the same *old* and original intention better? Is it difficult to give any definite answer to these questions? As far as my recollection goes we changed the language of Article 197 not because we changed our original intention but because it was felt that the changed language expressed our original intention better. In any case the argument based on difference in language is not at all decisive.

I realize that for a pedant this may not dispose of the argument based on difference of language. For it is possible to turn back and say if your intention in Article 198 was the same as in 197 (2) (b) why did you not follow suit and change its language when you changed the language of Article 197 (2) (b) and bring it in line? To this argument my reply is very simple. It is wrong to argue that in every case difference of language means difference of intentions. For it is a well accepted proposition that the intention may be the same though it is expressed in different words. In this connection I would like to quote the following extract from Craie's on Statute Law :

"But although, as has been said, this presumption is generally to be made, and "it is certainly to be wished", as the Judicial Committee said in *Casement v. Fulton* (i), "that, in framing statutes, the same words should always be employed in the same sense"; still, there are many instances to be found of the Legislature departing from language previously used for the purpose of conveying a

certain meaning without intending to depart from that meaning. "When the Legislature," said Blackburn, J., in *R. v. Buttle* (k), "change the words of an enactment, no doubt it must be taken *prima facie* that there was an intention to change the meaning." This, however is not necessarily so, for we find, as a matter of fact, that, as Blackburn, J. observed in *Hadley v. Perks* (1), "in drawing Acts of Parliament, the Legislature, as it would seem, to improve the graces of the style, and to avoid using the same words over and over again, constantly change" the words without intending to change the meaning. Thus, in *Re Wright* (m), Mellish, L.J., said, with regard to the departure in the Bankruptcy Act, 1869, from the language used in the repealed Bankruptcy Act, 1849; "Every one who is familiar with the present Act knows that the language of the former Acts has been very much altered in many cases where it could not have been intended to make any change in the law." In *Att.-Gen. v. Bradlaugh* (n), it was contended that the word "made" in the expression in the Parliamentary Oaths Act, 1866, "the oath shall be made," was to be construed as if it were different from the word "taken". "But," said Brett, M. R., "it seems to me, looking at the Preamble, and at the manner in which the word is used, that the word 'made' has precisely the same effect as if it were "taken".

In *Monteith v. McGavin* (o), Lord Cottenham said that "when Parliament provides for a particular mode of proceeding in one particular case, and makes no such provision in another case, it must not, as a general rule, be assumed that this arises from mere negligence or inattention in the framers of the Act." But, as Brett M. R. said in *Nottage v. Jackson* (p), "persons who draw Acts of Parliament will sometimes use phrases that nobody else uses; consequently we do sometimes meet with expressions in statutes which we are compelled to believe were introduced, not for any specific purpose, but in consequence of the slovenliness of the draftsman." Thus, in *R. v. Buttle* (q), the question was whether, when 26 & 28 Vict. c. 29, s. 7, enacted that "no statement made by

any person in answer to any question put by [certain] commissioners shall, except in cases of indictments for perjury, be admissible in evidence in any proceeding," the expression "indictments for perjury" applied to perjury in general, or only to perjury committed before the commissioners. It appeared that a previous statute has contained a similar provision, but that the expression used in that statute was "indictments for perjury committed in such answers"; consequently it was argued that the Legislature intended a change of meaning by this change of words. It was held, however that to put upon the expression used in the later statute the meaning contended for would be subversive of one of the most important principles of the common law, and that it must be supposed, therefore, that there was no reason at all for altering the language used by the earlier statute, and that, as Kelly, C. B., said, "whoever framed the statute did it in a slovenly way, and showed great want of care in drawing it." So also, if it appears that the older statute contains words of surplusage, these words may very well be left out in subsequent Act without there being any intention on the part of the Legislature to alter the law. "It appears to me," said Mellish, L. J., in *Re Wood* (r) "that the framers of this [later] Act thought it would be an improvement to omit words as to intent in the cases where it was not necessary to prove such an intent, the words being then surplusage and misleading; and I think they may have very properly left out without in any way altering the law."

With regard to his third contention I must say that I am not at all impressed by it. There are two causes of delay that may be apprehended. Delay is caused by the Council though in Session and in receipt of the Bill. Delay is caused by the Council not being in Session when the Bill is transmitted. No delay beyond fourteen days can take place at the hands of the Council nor can any harm be done to the Assembly if it does take place. For there is a penalty for it and which is provided for in clause (5). Delay following upon the Council not being in session at the time when the Bill is transmitted cannot be due to any fault of the Council. It is those who are responsible to advise the Governor to call a Session of the Council are responsible for such delay. If they wish to get the benefit of clause (5) they should call the Session of the Council immediately and give it fourteen days and avoid delay. It is in their power. But

they cannot have it both ways. To permit them the discretion to call or not to call the session of the Council and at the same time to allow them to take the benefit of clause (5) is not only to give them the freedom to cheat one House of the Legislature but to play a fraud upon the Constitution. This is exactly what the Bihar Government has done. When a money Bill is transmitted to the Upper Chamber it is the duty of the Government to call a Session of the Council and it is a matter which is entirely and exclusively with its power. If it does not do so it cannot take advantage of clause (5) of Article 198.

For these reasons I agree with the view taken by the learned Advocate General of Bihar and reject the view of the learned R.L.A.

I have dwelt with the arguments of the R.L.A. at such a considerable length only out of respect for him. Otherwise I would have summarily rejected it. The point to my mind is not at all abstruse. It is so plain that a man having nothing more than common-sense could have understood that the intention of the framers of the Constitution was. What the Government of Bihar has done is a deliberate and calculated act of fraud. I refuse to believe that what it has done is done out of want of understanding. I cannot help saying that the Government of Bihar has descended to the low level of a common cheat. I feel so strongly about it that I do not mind my sentiments in this respect being conveyed to the Bihar Government.

Before I conclude I would like to raise a question which is solely for the consideration of the Law Department. We are getting a large number of references from State Government for advice on disputed points arising out of the Constitution. We entertain these references and give our advice. That advice is followed and becomes part of the Constitutional usage. I wonder if we are acting wisely in doing this. Would it not be better to leave the parties to act as they think and take their chance in Court? For as pointed out by Craie's (Statute Law, p. 140) usage becomes an important element in the interpretation of a Statute. By our advice we set up a usage and thereby support a particular interpretation which in the absence of it may not be supportable and if our advice is wrong we become

responsible for a wrong interpretation. Perhaps the practice is a long standing practice and I realize that it is difficult to discontinue it. All the same it is well to remember the length to which our responsibility in these matters does go.

B. R. Ambedkar

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As regard to this article, the then officer on special Duty, Dr. Babasaheb Ambedkar Source Material Publications Committee, noted that the papers were found in the record received by the Government from the Administrator General, Maharashtra State in 1979. This note is signed by Dr. Ambedkar.

—Editors.