



LAW amusements



Eccentric English Laws

All of these extracts have been taken directly from the old, dusty English Statute collection.

Egyptians

The Italians did not invent meanness towards gypsies. During the reign of Edward VIII, the English were tiring of gypsies, whom they called Egyptians, thinking they came from Egypt. The response was extremely harsh and contained in a 1530 law, AN ACT CONCERNING OUTLANDISH PEOPLE, CALLING THEMSELVES EGYPTIANS:

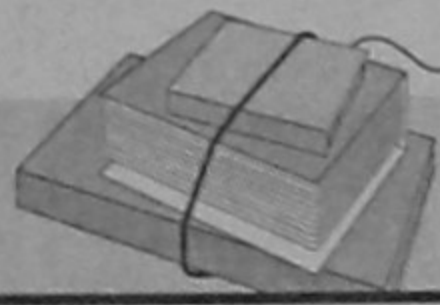
"For so much as before this time divers and many outlandish people calling themselves Egyptians, using no craft nor feat of merchandise, have come into this realm and gone from Shire to Shire in place to place in great company and used great, subtle and crafting means to deceive the people, bearing them in hand, that they buy palmtree could tell men's and women's fortunes, and so many times... have deceived the people of their money and also have committed many heinous felonies and robberies, to the great hurt and deceit of the people that they have come among...."

"...the Egyptians now being in this realm, have monition to depart within 16 days.... (From henceforth no such person be suffered to come within this the King's realm and if they do, then day and every of them so doing, shall forfeit to the King our Sovereign Lord all their goods and titles and then to be commanded to avoid the realm within 15 days under pain of imprisonment...."

English law ran hot and cold in regards to the Egyptians as the 1530 law was amended often through the centuries; sometimes to soften the discrimination; sometimes to make it worse.

Source: www.duhaime.org

LAW lexicon



Standing - The legal right to bring a lawsuit. Only a person with something at stake has standing to bring a lawsuit.

Stare decisis - The doctrine that, when a court has once laid down a principle of law applicable to a certain set of facts, it will adhere to that principle and apply it to future cases where the facts are substantially the same. This is a defining characteristic of the common law system followed in the U.S., Great Britain, and a few other nations.

Status offenders - Youths charged with the status of being beyond the control of their legal guardian or are habitually disobedient, truant from school, or having committed other acts that would not be a crime if committed by an adult, i.e., smoking. Also referred to as minors or children in need of supervision.

Statute - Legislative enactment; it may be a single act of a legislature or a body of acts which are collected and arranged for a session of a legislature.

Source: Jurist International.

Star LAW review

Laws on Narcotics control

THE United Nations General Assembly decided to observe June 26 as the International Day against Drug Abuse and Illicit Trafficking as an expression of its determination to strengthen action and cooperation to achieve the goal of an international society free of drug abuse. Here is a reflection on Bangladesh's response to narcotics and drug control.

Previously Bangladesh had no adequate and enabling law to handle the sordid condition created by drug abuse and the related issues. All that we had at that time were some colonial laws (the Opium Act, 1878, the Excise Act 1909, the Dangerous Drugs Act 1930, the Opium Smoking Act 1932 and the Prohibition Rules, 1950) inherited from the British and Pakistan period. These laws were intended and designed for earning government revenues through excise levying activities. These laws, however, proved to be inadequate to suit

the needs of the time. The Government of the People's Republic of Bangladesh enacted the Narcotics Control Act in 1990 repealing all the colonial laws with a view to encountering drug problem true to the aspiration of our society.

The Narcotics Control Act 1990

The Narcotics Control Act, 1990 was passed in 1990 by repealing all previous laws for control of narcotics, treatment and rehabilitation of drug addicts. The government has enacted the Narcotics Control Act, 1990 as amended in 2000, 2002 and 2004 in order to update the law.

The Narcotics Control Act, 1990 (as amended in 2000, 2002 and 2004) has got the following salient features reflecting the growing needs for effective encounter against drug smuggling on the one hand and corroborating on the other the international efforts to contain this problem.

1. The Narcotics Control Act, 1990 came into

force on 2nd January, 1990.

2. It is a special law having predominance over other laws in respect of its ambit and jurisdiction on drugs and drug related issues.

3. Interception of illicit drug trafficking through law enforcement, control of narcotic drugs and psychotropic substances used in medical, industrial and scientific purposes coupled with treatment and rehabilitation of the drug addicts underlie the propriety of this law.

4. It provides legal coverage for establishment of the Department of Narcotics Control (DNC) as the Nodal Agency of the government to fulfil the objectives of the law in question. It also provides the legal basis for formation of the National Narcotics Control Board (NNCB) as the highest policy-making body of the government for formulating necessary policies and strategies to combat drug problem in the country.

5. The Narcotics Control Act, 1990 empowers not only the Department of Narcotics Control but also the other agencies of the government like the Police, the BDR (the border security force), the Customs and the Coastguard for drug enforcement activities.

6. This law provides for mutual cooperation among the different law enforcement agencies as and when required for conduct of search, seizure and arrest.

7. The law introduces an effective licensing system for controlling import, export, manufacturing, processing, distribution, sale, transport, possession and use of licit narcotic drugs, psychotropic substances and precursor chemicals.

8. This law prescribes deterrent punishment for various categories of drug offences as well as for breach of the conditions of the licenses issued under the law.

9. The law prescribes the highest penalty of death sentence for the offenders accused of possessing either heroin or cocaine or cocaine derivatives exceeding the quantity of 25 grams. Similarly the illegal possession of pethidine or morphine or possession of tetra-hydro-cannabinol exceeding the quantity of 10 grams renders the offender or offenders concerned liable to death sentence or life-long imprisonment. Death sentence has also been prescribed for certain other drug offences of serious nature.

10. The law takes the wisdom of the three major UN Conventions and the SAARC Convention on narcotic drugs and psychotropic substances particularly in regard to forfeiture of sale proceeds of illegal drug business, freezing of bank accounts and properties, sending of juvenile offenders to the correction centre in lieu of imprisonment, inclusion of the controlled delivery technique, compulsory maintenance of accounts of licit drugs by the license holders, incorporation of the 22 precursor chemicals and so on.

11. The law provides the legal basis for the Chemical Laboratory of the DNC and its proper functioning in respect of forensic analysis of all seized drugs and suspicious substances. This lab, established in Dhaka, caters to the needs of all the agencies charged with the responsibilities of drug enforcement and thereby it plays an important role in quick disposal of drug cases under trial.

12. The amendment of 2000 to the law brings about the government first venture into the control of precursor chemicals from drug control point of view.

13. An amendment of 2002 has introduced the minimum time limit of 15 days for completion of investigation of drug cases filed under this law.

14. Another amendment in 2004 redefines alcohol by reducing the lowest limit of alcoholic strength from 5% to only 0.5%. Any liquid preparation containing more than 0.5% alcohol shall fall within the purview of the law. This amendment is intended for safeguarding our young generations from the clutches of the so-called energy (alcoholic) drinks and their bad impacts.

15. The law has got 61 Sections in all. It has got two Schedules of which the first schedule lists the narcotic drugs and psychotropic substances including the 22 precursor chemicals. The second schedule on the other hand lays down the rates of excise duties to be imposed on the domestically produced liquor and alcoholic spirit.

16. The law is a unique combination of legal provisions comprising violation sections, penal sections, hybrid sections (prescribing violation and punishment together), modus operandi sections and administrative sections.

Adorned with the foregoing features, the Narcotics Control Act, 1990 (as amended in 2000, 2002 and 2004) stands to be adequate and enabling enough to meet the challenge of the time.

Some relevant acts and rules

- The Narcotics Control Rules, 1999
- The National Narcotics Control Board Fund Rules, 2001
- Alcohol Control (License Fee) Rules, 2002
- The Private Sector Drug Addiction Counselling, Treatment & Rehabilitation Centre Control Rules, 2005.
- Acid Control Act, 2002
- Acid Control Rules, 2004
- Prohibition Rules, 1950 (For Control of Alcohol drinking)
- The Private Sector Drug Addiction Counselling Treatment & Rehabilitation Centre Control Rules, 2005.

Source: Department of Narcotics Control, Ministry of Home Affairs.

LAWS FOR everyday life



Look before you purchase land

S. M. MASUM BILLAH

RIGHT to property is predominantly revolved around owning landed property. One of the means by which a person owns property is purchasing of land. Given the context of our country an intending purchaser of land is put in a perplexed situation and is bewildered by the congruities of law and the provocation of the go-betweens. At times, taking possession of the purchased land becomes a remote possibility on the buyer's part due to the reason that the said land is not free from encumbrances. Precisely for this reason a buyer of land should have to be diligent in order to avoid the post-buying hazards. There are some points which can help a prospective buyer in purchasing a piece of land.

1. How the seller (owner) had owned the land? In case he is an owner by purchase the connectivity with previous ownerships should be scrutinized. In case he had become owner through inheritance the partition deed may be inquired of to see his share in the holding.
2. In applicable cases, the CS (Cadastral Survey) khatiyon, the SA (State Acquisition) khatiyon and the RS (Reversionary Survey) khatiyon or the latest khatiyon whatever, should be examined. In an area where a land survey is going on the field porch may be inquired into. In case if it is discovered that there is a dispute on this land, the buyer is to be sure about the settlement of the dispute from the settlement office.
3. The documents shown by the seller should be compared by the buyer going to sub-registry office. If the papers do not resemble with the records kept in the relevant Register it should be presumed that the papers are forged.
4. The mutation porch and the repayment receipt of land development tax should also have to be examined by the purchaser. Failure of this may render a purchaser liable to pay the land revenues due by himself. The duty of the buyer is to examine the consistency between the latest document and the earlier one (popularly known as baiya dali) in terms of the amount of land, holding number, khatiyon number etc.
5. The purchaser also needs to be sure that the land which he is going to buy is



free from all encumbrances. Free from encumbrances means that the land is not a mortgaged one or is not a subject matter of a legal dispute, or is not a government khas land or not a declared vested property land or land decided for acquisition. This information can be found from union tahsil office, upazilla land office or district DC office. If there is a certificate case or there is a litigation pending, the land is not worth buying. Sale of a land during the pendency of a proceeding is prohibited and hence void.

6. The purchaser also should be aware that the intended land is also not subject to prohibitory land area. The Government at times forbids selling of land in particular locality for development or environmental purposes.

7. There is a cardinal principle of land transfer, 'no person can hand over a better title than he himself has'. If the seller's title to the land is faulty, he has no authority to sell the land. His transfer would be void. So, an intending buyer should be aware of this aspect. If he buys the land from the authorized person of the owner the power-of-attorney should be verified in order to see his extent of authority to sell the land.

8. A co-sharer by inheritance has a right of pre-emption i.e. priority right of purchase in case of land transferred by other original co-sharer. The purchaser may face legal challenge if such pre-emption right is overlooked by the seller. So, in case of valuable property it is better to bring notice to all that he (the buyer) is going to buy such and such property.

These all seem to be a big order. But to avoid further complexities such precautions are important. Great loss can be avoided by a reasonable due diligence in purchasing of land. In transfer of property law there is a well recognized principle known as caveat emptor. The doctrine of caveat emptor implies that 'let a purchaser exercise proper caution who ought not to be ignorant of the amount and nature of the interest which he is about to buy.' It is true that the seller also owes a major legal responsibility to ensure all the formalities of transfer of land and convincingly prove that he has the legal authority to sell the land. But prevention is better than cure. It is equally important that the buyer should make the seller disclosing all the material facts affecting his property.

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LAW week



Shut tanneries at Hazaribagh by Feb next

The High Court (HC) directed authorities concerned to take steps to close down tanneries at the city's Hazaribagh within February next year to control the massive-scale environmental pollution the industry is causing. The bench of Justice ABM Khairul Haque and Justice Mamtazuddin Ahmed also ordered the director general of the Department of Environment (DoE) to make sure that all industries install effluent treatment plants (ETPs) and other pollution-fighting devices by next June. As per the ruling of the bench, factories polluting environment would either have to install ETPs or suitable devices within June 2010 or would be closed in July that year. - *The Daily Star*, June 24, 2009.

Law on cards to protect family of Bangabandhu

The government decided to make a law to ensure security of Bangabandhu Sheikh Mujibur Rahman's family members in line with a similar law that was scrapped by the previous BNP-led government. The previous Awami League (AL) government had enacted that law in 2001. The title of the proposed law is 'Father of the Nation's Family Members' Security Act, 2009'. The home ministry is preparing the draft and it will be placed before the cabinet soon for approval, officials at the home ministry said. - *The Daily Star*, June 24, 2009.

Rights should start from grassroots

Right to information activists recommend that the process of empowering people through the Right to Information (RTI) act should start at grassroots level by providing them with all information they require. Suggesting an awareness building campaign about people's right to information, they said awareness is necessary to get maximum benefit from the law. They termed the RTI a tool of sharing power with the people and said people should be sensitised and made aware of their rights. - *The Daily Star*, June 23, 2009.

Tough laws on cards to ensure medicare

Private medical practitioners and hospitals may face criminal charges and can be sued under tough new laws to protect patients from maltreatment under a proposed ordinance on private health care soon to be placed in parliament. The proposed Medical Practice and Private Clinics and Laboratories Ordinance (Amendment) is being developed by the government to tightly regulate private medical practitioners, hospitals, foreign doctors and nurses. The draft of the ordinance has been finalised to place at the parliament after budget session which ends June 30, according to sources in the health and family welfare ministry. - *The Daily Star*, June 23, 2009.

It's Bangabandhu, not Zia

In a watershed judgment, the High Court ruled that Bangabandhu Sheikh Mujibur Rahman, not Ziaur Rahman, proclaimed the republic's independence on March 26, 1971. The proclamation was relayed by Kalurghat Betar Kendra (radio centre) in Chittagong the following day, it added. Observers say the judgment will help end the long, bitter wrangle over a significant episode of the country's independence history. The unwanted debate over a settled issue began after the assassination of Ziaur Rahman in 1981 with his party BNP claiming he was the proclaimer of independence, not Bangabandhu. - *The Daily Star*, June 22, 2009.

Strong information commission sought

The government is committed to implementing the Right to Information (RTI) law, however challenging the task may be, ministers said in response to advice from members of civil society and NGOs at a conference. The civil society members and NGO officials also emphasised the need for a strong information commission. "Undoubtedly, implementing any law is more challenging than enacting it, but we will implement the Right to Information law effectively considering its importance," Agriculture Minister Matia Chowdhury said at the inaugural session of the conference as the chief guest. - *The Daily Star*, June 22, 2009.

Minister holds govt officials accountable for graft

Law Minister Shafique Ahmed blasted senior officials at government offices, saying their negligence in overseeing the activities of subordinates has led to widespread corruption. He warned department heads that they would be charged for any corruption at their offices. Pointing out that many government officials have become owners of costly houses in posh areas like Gulshan and Banani in the capital. Amassing assets by abusing state power is a serious offence, Shafique noted while speaking at the concluding session of a daylong workshop styled 'Implementation of UN Convention Against Corruption (UNCAC)-Action Planning for Compliance' at Dhaka Sheraton Hotel. - *The Daily Star*, June 21, 2009.

Govt plans to appoint 100 lower court judges

The government is planning to appoint over 100 assistant judges to the lower judiciary in addition to 207 whose appointments are now under process. The law ministry sources said only at the entry level judicial officials are appointed to the post of assistant judges while the other tiers are filled through promotion. According to sources, about 400 posts of the lower court judges have remained vacant for more than seven years affecting people seeking justice across the country. A total of 1,146 judges are now discharging judicial functions in the lower courts across the country. - *The Daily Star*, June 21, 2009.

MPs to make local development plans

Lawmakers are likely to get huge authority over implementing local development projects in their constituencies through the LGED ministry in the coming fiscal year. They will prepare development projects for their constituencies and send those to the Local Government Engineering Department (LGED) of the LGED ministry for implementation. Lawmakers will also be able to exercise their sweeping authority over city corporations, upazila parishads and municipalities to control the development projects. - *The Daily Star*, June 20, 2009.

Evicted, now threatened

Orao Arju's teenage daughter Shanibala is still upset by last week's eviction and arson attacks on 74 families, including 56 indigenous families, in Khatipur allegedly by an influential land grabber. Nightmares haunt Shanibala as she cannot forget Tuesday afternoon when the attackers chased her and threatened to kill her and her parents if they did not leave their own land. The arsonists and armed attackers are moving scot-free in

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