

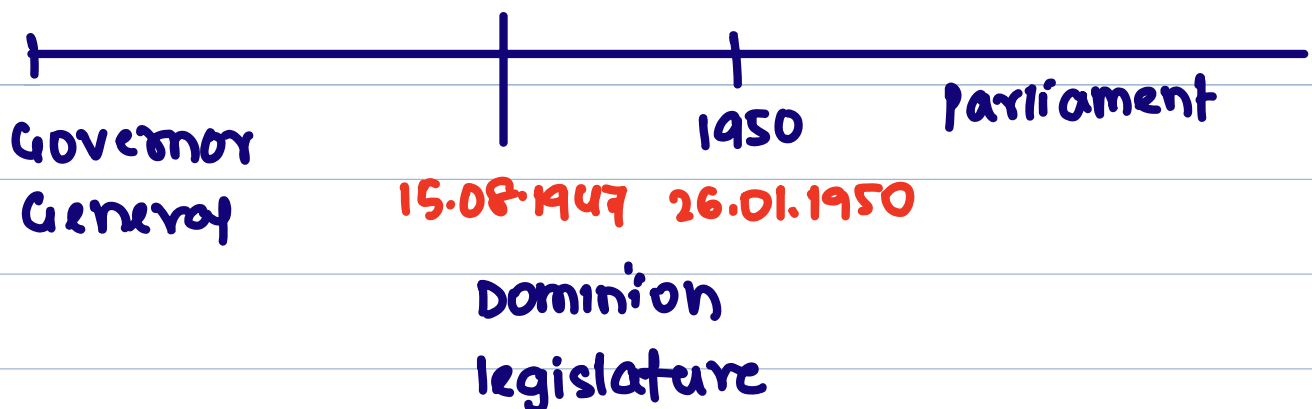
General Clause Act, 1897

- Enacted on 11th March 1897
- Objective of this Act: SURGe

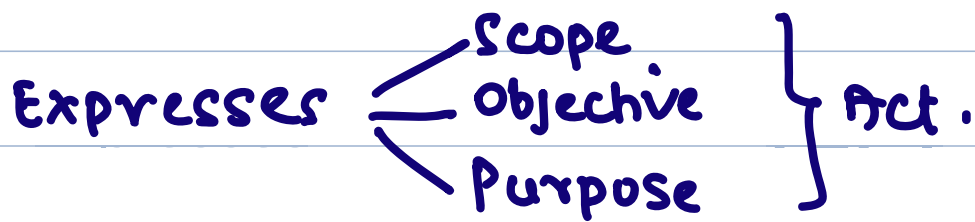
- S - To shorten the language of Act.
- V - provide for uniformity
- R - State explicitly rules of interpretation
- G - Guard against slips/oversight

- Applicability:

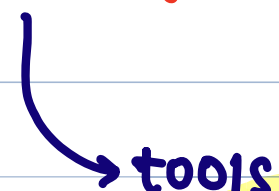
Applies to all the Central Acts



- Preamble:



in case of ambiguity (vague) in any provision of Act, preamble acts as an aid of interpretation.

However, preamble cannot override the Act. 

- Definitions:

- Defined in the Act
- Referred to other statutes
[E.g. Definition of "securities" in Companies Act refers to SCRA Act]
- If not defined or referred, GCA.

- Important definition [section 3]

- act w.r.t. offence or civil wrong includes a series of act. It also includes illegal

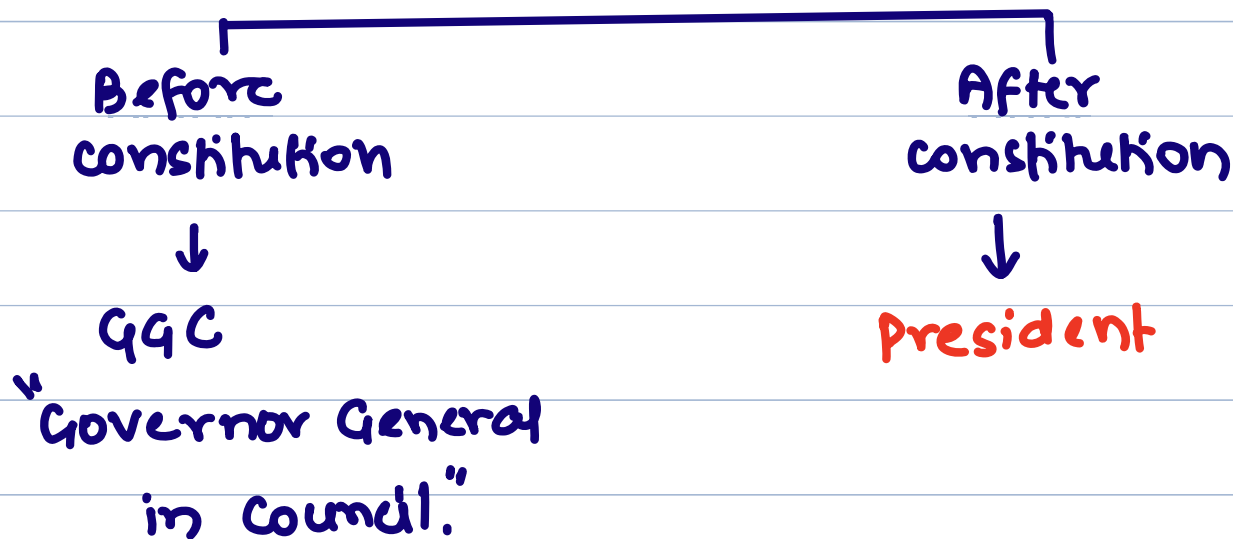
omission.

amp

- Affidavit / oath / swearing:

Includes { affirmation
or
Declaration
by person
allowed by
law
to affirm/declare
instead of swearing.

- Central Government:

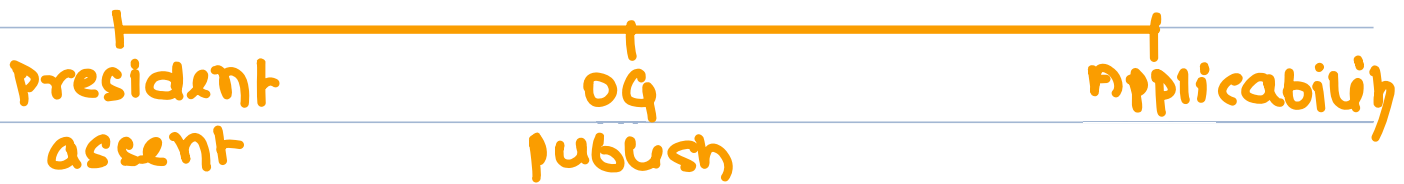


- Commencement:

Day on which Act comes into force.

State of Orissa vs. Chandrashekar Singh Boi:

Law is in force only when brought in operation. Mere enactment shall not be considered as commencement



• Document: includes

- Any matter written
Expressed
Described } WED

- upon any substance

- by means of letters
figures
marks

- Intended to be used for recording of matters.

Except: Indian Currency Notes.

- Financial Year: means year commencing on 01.04.

- Year shall be reckoned as per British Calendar

~~smf~~

- Good faith:

An act shall be deemed to be in good faith where it is done honestly, whether it is done negligently or not.

Question of good faith depends on facts & circumstance of the case.

Moreover, good faith is differently defined in different enactments.

Maung Aung Pu vs. Maung Si Maung:

It was held that: Nothing is said to be

done in good faith if it is done without
due care or attention as is expected from
a man of ordinary prudence.

Q7 - DPOQ.

- Government : includes both

— CG
 \ SG

imp

- Immovable property shall include:

- Land
- Benefits arising out of land (Trees)
- Things attached to earth (Buildings)
- Things permanently fastened to anything attached to earth.

Note:

1. Trees are IP but timber is movable prop.
2. Right of way to access = IP.
(i.e. access road)
3. Right to drainage of water = IP nahi hai.

imp

4. Right to catch/carry fish = IP.
[Anand Behra v. State of Orissa]

5. machine permanently fixed to soil = IP
standing crops = IP

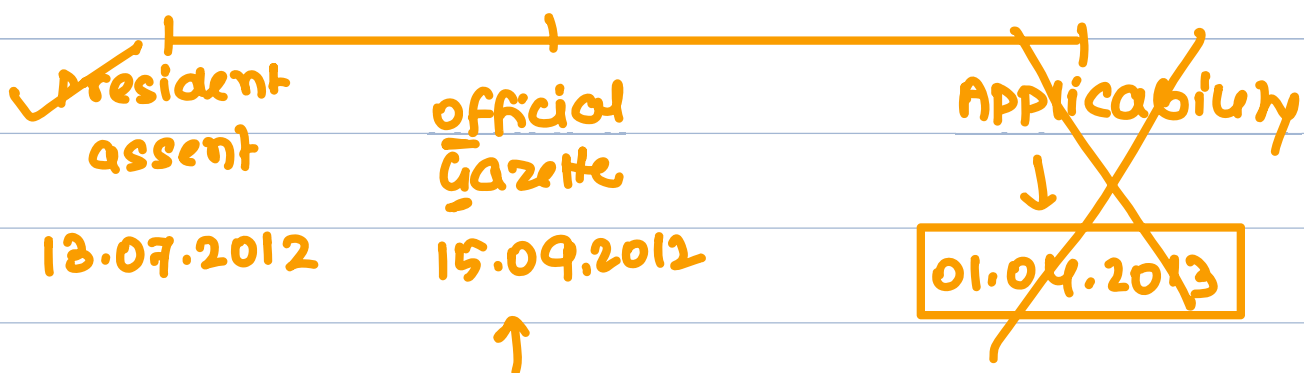
6. insurance policy for IP = movable property.

- Movable property: means property except IP.
(E.g. shares, electricity, debts .etc.)

- Imprisonment: shall mean imprisonment of
either description as per Indian Penal
code



- Simple
- Rigorous



LS

RS

President

CG

commenced?

(a) 13.07

(b) 15.09.

5: coming into operation of enactment:

- An Act shall come into operation on a **specified date** as prescribed in official gazette
- Where specific date is not mentioned -
The date on which it is assented by President/
GGC.

Note:

1. Court cannot issue mandamus compelling Govt to bring an Act into force on a particular day.
2. If sufficient time has lapsed since Act has been passed and it is not yet brought into force, the court may direct Govt to consider the same.

3. Law takes no cognizance of fraction of day.
It comes into operation from midnight.
does not consider

4. Law is applicable prospectively unless otherwise specified.



amp

6: Effect of repeal:

Where any Act is repealed, such repeal shall not:

- Revive anything that prevailed earlier
- Affect any rights, privilege or obligation under enactment so repealed.

- Affect any penalty or punishment for offence committed under such repealed Act.
- Affect any inquiry or investigation under such repealed Act

Relevant case laws

Kolhapur Cane Sugar
Works Ltd.

vs.

Union of India



Sec 6 applies only
to repeal **and not**
to omission.

Moreover, it only
applies to repeal of
Act and not Rules.

Navrangpura Gam

Dharmada Milkat Trust

vs.

Ramtuji Ramaji



Repeal brings **complete**
obliteration of a provision
as if it never existed

but

Deletion takes effect
prospectively **never to wipe**
out the provision
completely.

6A: Repeal of Act:

- Where any central Act repeals any enactment,
(Co. Act 2013) (Co. Act 1956)



Repeal shall NOT affect continuance of any amendment / insertion by the Act so repealed.

1956
Co. - min (3) dir.

..... 1

1980 2013
Amendment
min 5 dir.

↓
1956 . . . 1956
repeal Revive
min 3 dir.
5 dir.

7: Revival of repealed Act:

For reviving a repealed Act, it is necessary to expressly state the purpose.

Act

AmT

→ 18.5%

GCA

(MAT) = Co.

Co. → [B. Profit] × 15%



Net Profit (P/L) as per Co. Act 1956

2013.

8: Construction of reference to repealed Act:

Reference in any Act to the provisions of repealed Act shall be construed as reference to provision of Act so re-enacted.

E.g. Sec 115JB of Income Tax Act (MAT)

= Book Profit × 15%



Net Profit as per Co. Act 1956



construed as 2013.

9: Commencement & termination of Time:

"From" - Exclude first day in the series of day.

"To" - include last day in the series of day

within 30 day from receipt of notice, inform to ROC

Receipt = 01.05

inform to ROC? - 31.05

~~30.05~~

Submit upto 31.12

31.12 ? - Yes

10: computation of time:

court/office → closed on that day (due date)



Next day afterwards
on which it is open.

11. Measurement of distance

straight line on a horizontal plane

12. Duty to be taken pro-rata:

Where duty is leviable on any given quantity or value of any goods

↓

then a like duty is leviable according to the same rate on any greater or lesser value.

$$\begin{array}{r} 100 \\ 18 \\ \hline 118 \end{array}$$

$$\begin{array}{r} 200 \\ \boxed{36} \\ \hline 236 \end{array}$$

Read Q - 11, 14, 15, 17, 18, 29, 30

DPQ - 12

(Ad valorem)

13: Gender & number:

- Masculine gender includes females.
- Singular includes plural & vice-versa.

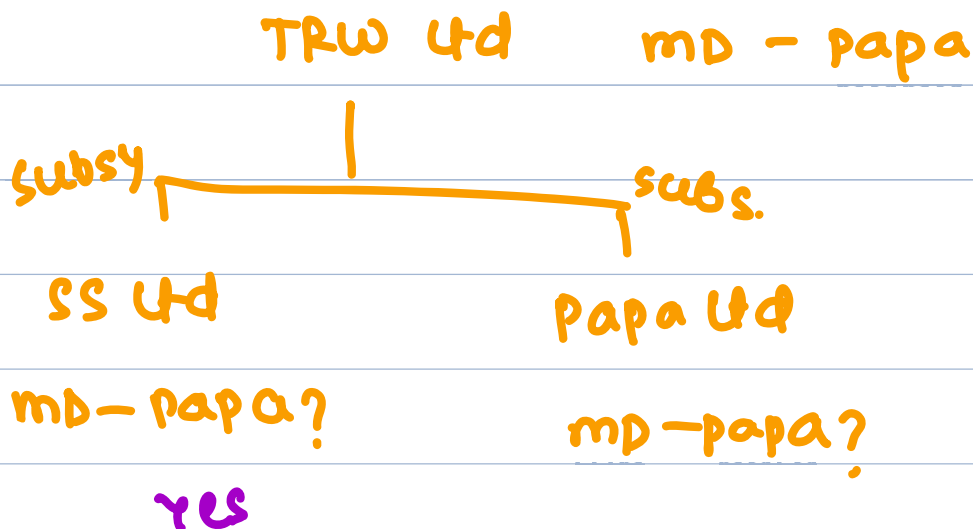
Co. Act → Sec 203

↓

whole time KMP shall not ^{hold} office in
more than 1 co. except in its subsidiary

co.

Read as
subsidiary



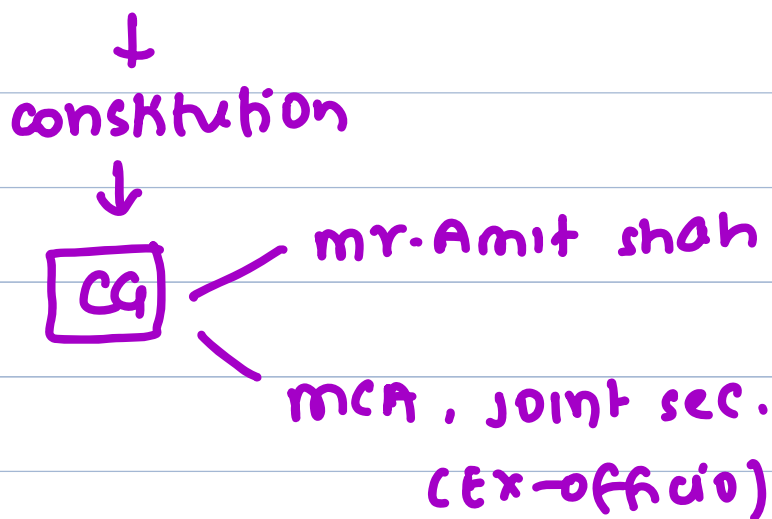
Note:

1. Male descendant cannot be interpreted to include females.
2. Bullocks cannot be interpreted to include "cows"

15: Appointment to any office:

Whereby any **Act**, a power to appoint any person to any office is conferred, such appt. may be made either by **Name or virtue of office.**

132: NFAA



16. Power to appoint includes power to suspend:

Authority having power to make appointment, such authority shall also have power to suspend/dismiss the person so appointed.

19: Official chiefs & subordinates:

A law relevant for chief or superior of an office shall apply to the deputies & sub-ordinates of that office.

20: construction of notification or rules under enactments:

Whereby an Act, power to issue notification or rules, etc. is conferred



expressions used in such notification, rules, etc. shall have **same meaning as in the Act conferring power.**

21: Where any Act confers power to issue notification rules, etc.



it shall be deemed to include power to **amend, vary or rescind such notification.**

Sec 22 example:

13.07.2012

01.04.2013

Co. Act 2013
president
assent

↓
commencement

Rules - Apply?
(LCQ)

22: Applicability of Rules, etc:

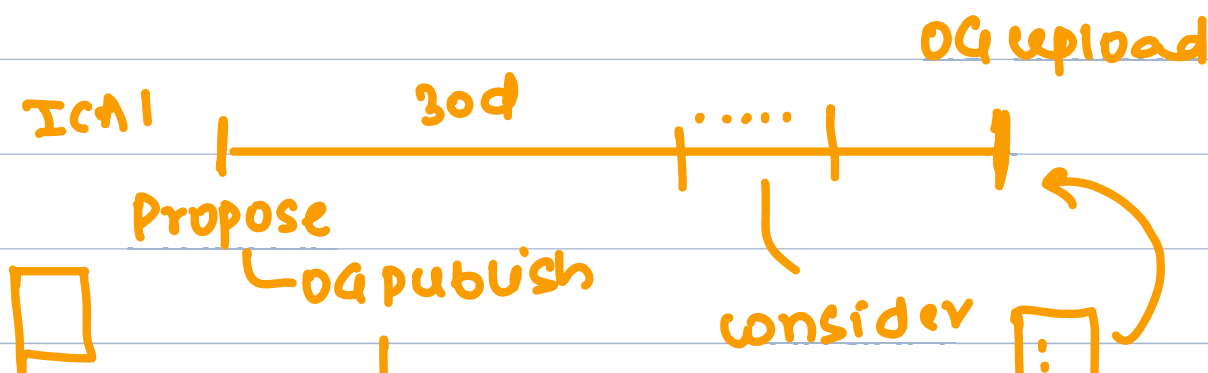
Whereby any Act confers the power to make rules, etc.



Such power may be exercised at any time **AFTER**
Passing of the Act



But such rules shall not take effect till
commencement of the Act.



↓
suggestion/
obj.

important

23 : Publication for public comments:

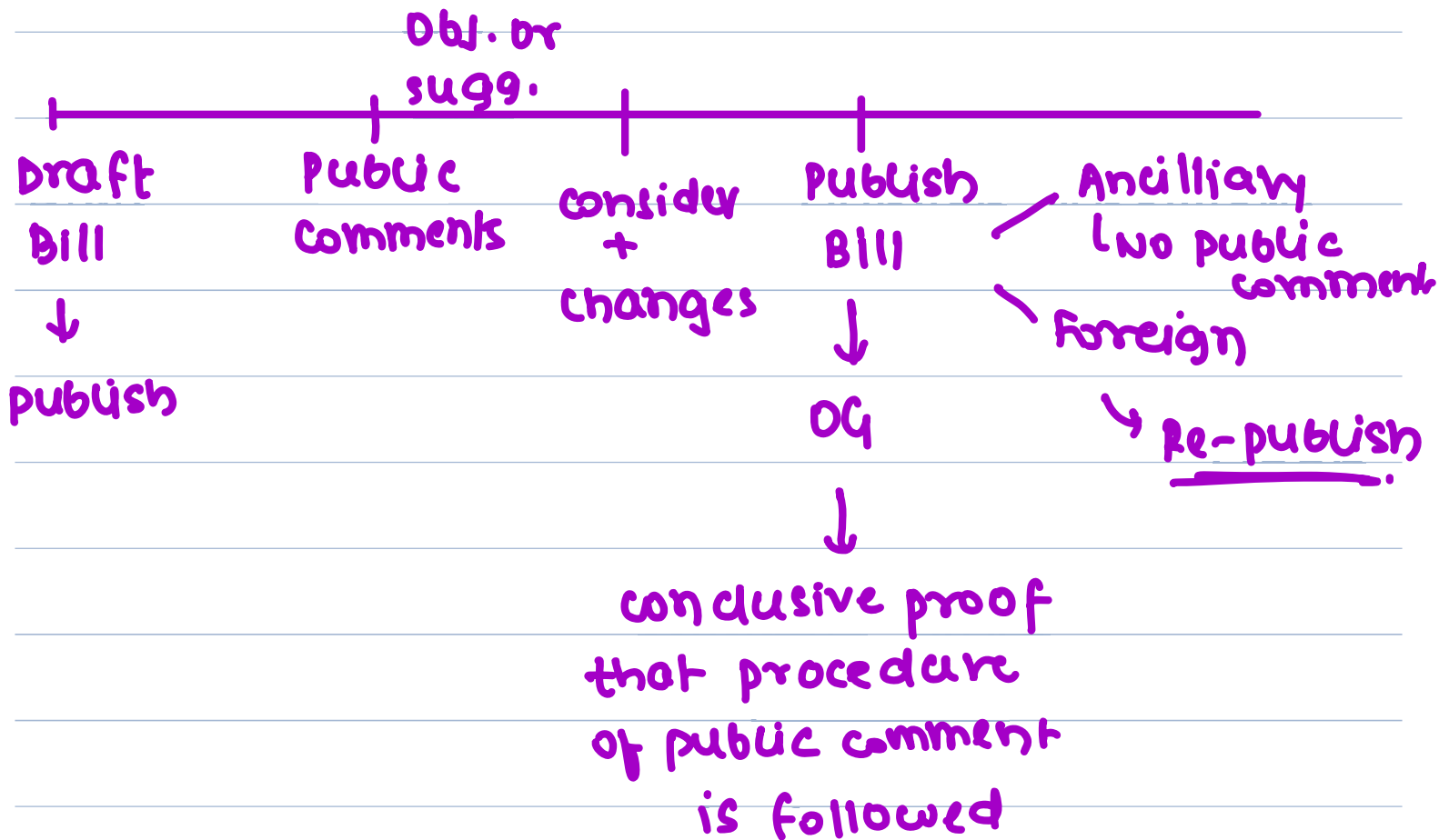
Where Rules are proposed to be amended,

- a. Publish a draft of the proposed Rules for information of person likely to be affected
- b. specify a date on or after which such draft will be taken into consideration.
- c. Consider any objection or suggestion received from any person before such date so specified.
- d. Publication in OG of such Rule shall be conclusive proof that rules has been duly made.

Note:

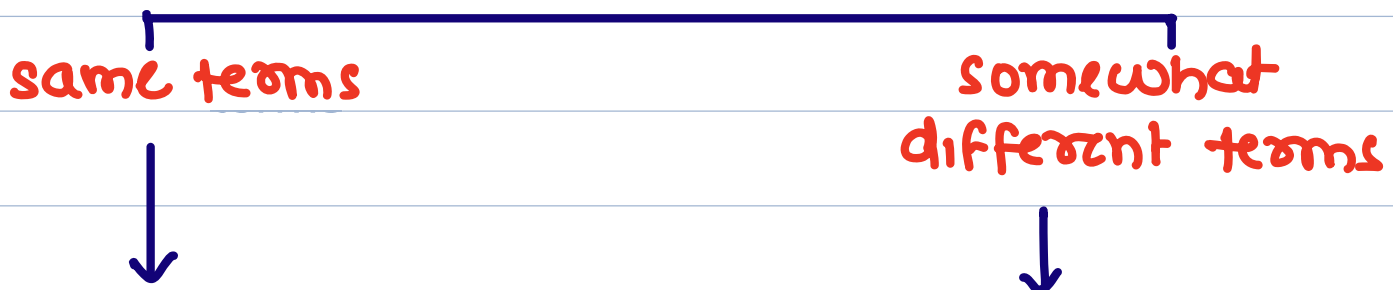
It is open to the authority to make suitable changes in draft before finally publishing them.

It is not necessary to re-publish the amended form as long as the changes are ancillary to the earlier draft and not foreign to the subject matter



24: continuation of orders:

of an Act is repealed & re-enacted in:



The re-enactment
neutralizes the
repeal and the
provision of
repealed Act which are
re-enacted shall
continue in force
w/o interruption.

The amendments
operate as a repeal
of provision of
repealed Act.

1956

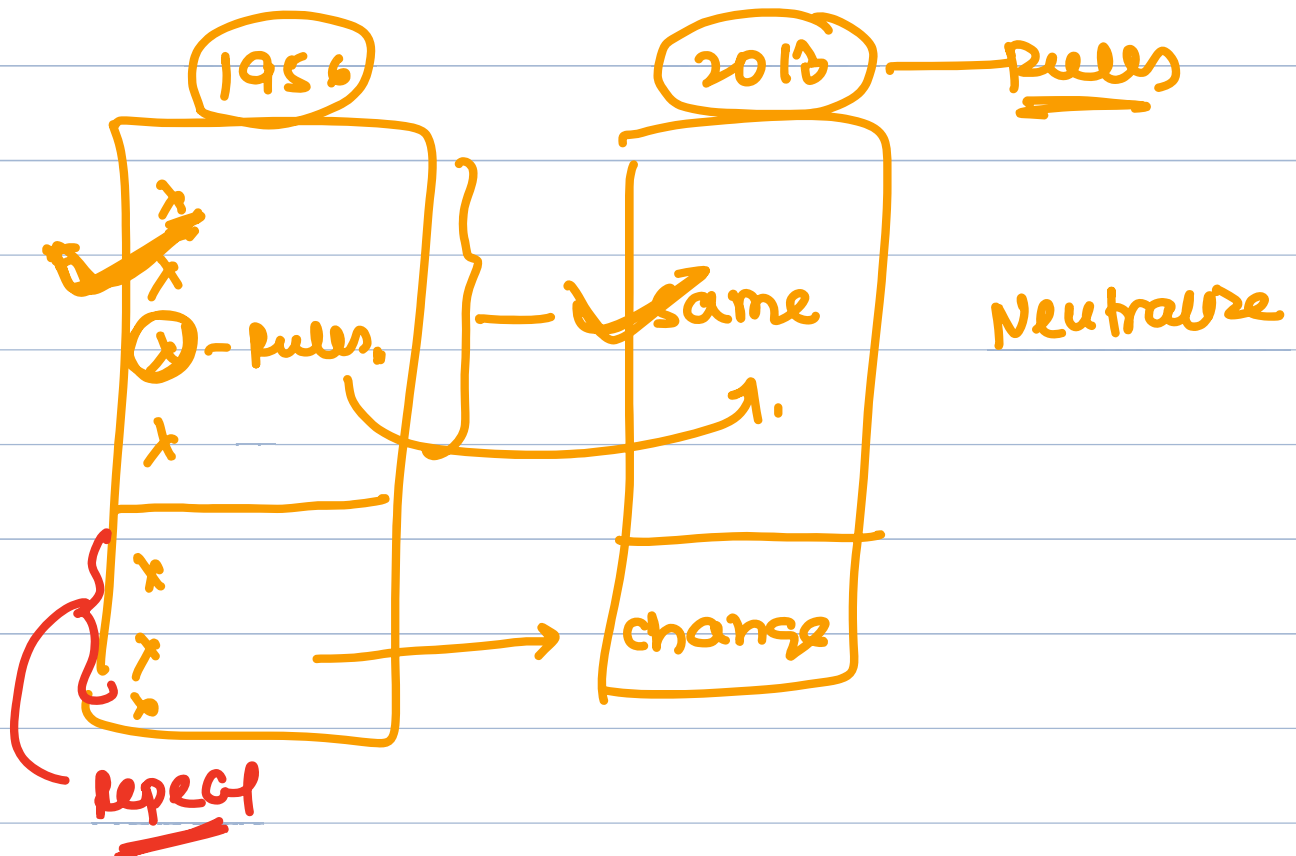
sec

min 3 div

2013

149

min 3 div

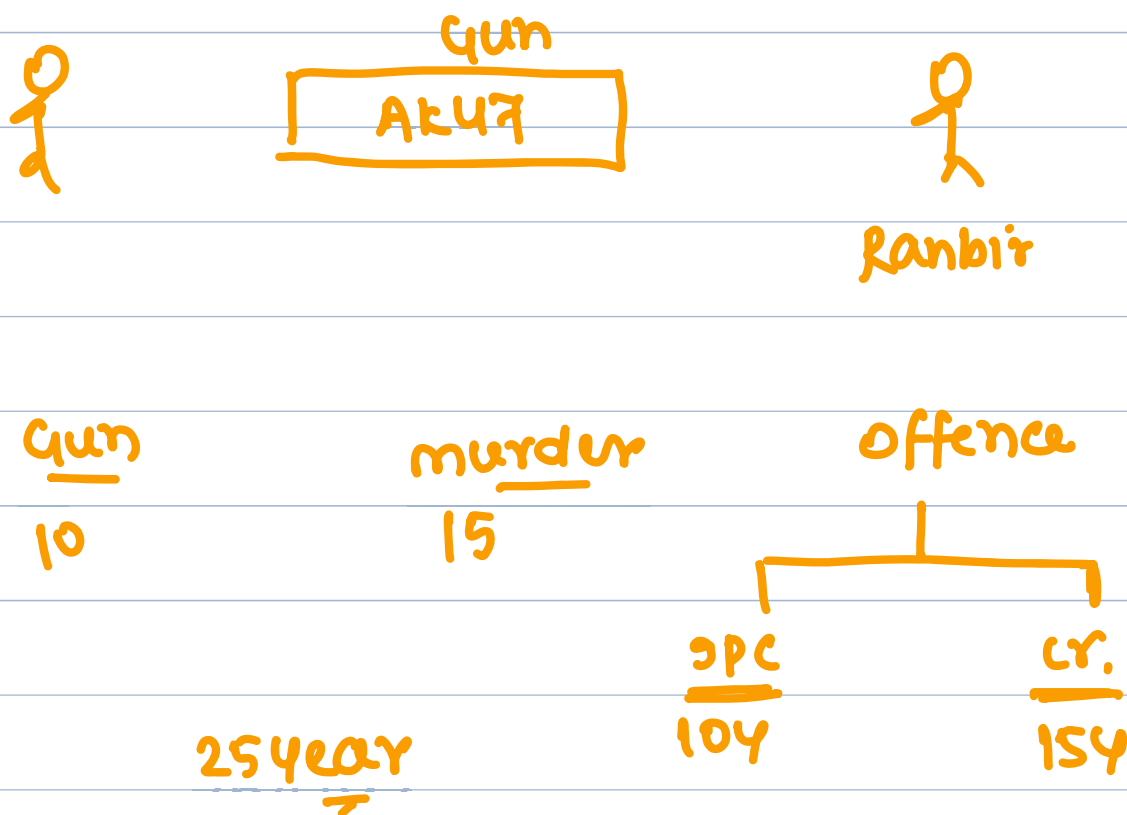


25: Recovery of fine:

↓
shall be as per IPC
Code of Criminal
Procedure

omp

26: Provision w.r.t. offence punishable under 2 Acts:



where an act constitutes offence under 2 or
more Acts



Offender shall be liable to be :

Prosecuted
8

} under either of
those Acts

punished]

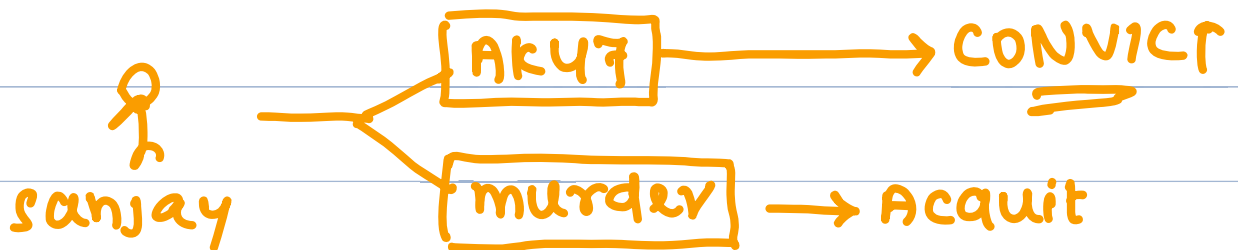
but shall NOT be punished twice for same offence

Note: There is no restriction on prosecution or conviction under 2 Acts. Restriction is only on punishment.

MP vs. V.R. Agnihotri:

Where there are 2 alternative charges in same trial, the fact that accused is acquitted of one charge will NOT BAR conviction on the other

Prosecution (Trial)
 / \
 Acquitted (nirdosh)
 Convicted (doshi)



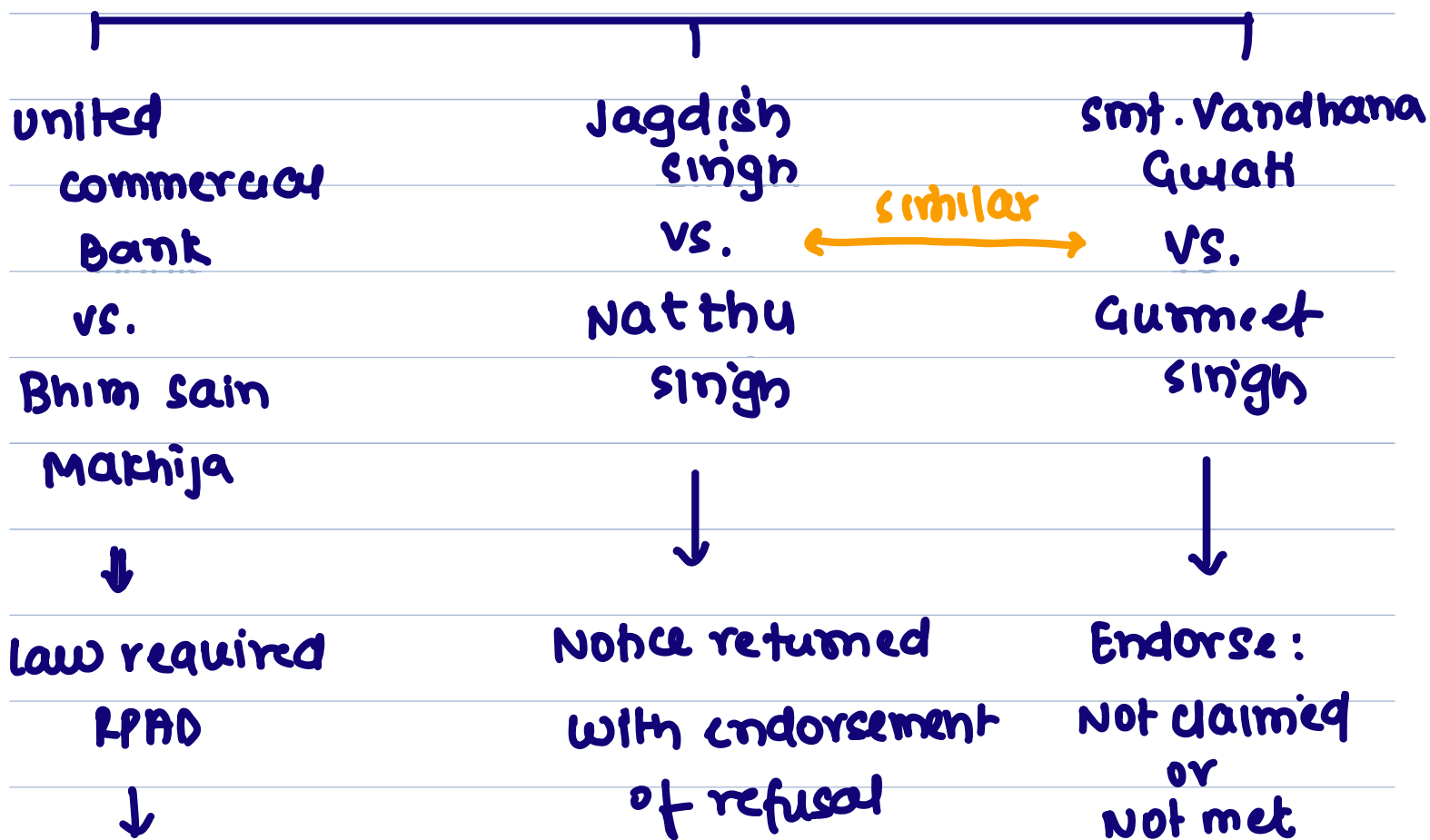
extremely imp:

27 : Meaning of service by post:

A service by post shall be deemed to be effected by:

- (i) properly addressing,
- (ii) pre-paying and
- (iii) posting by **registered post**.

A letter containing the document shall be deemed to be served by post at the time at which letter would be delivered in ordinary course of post.



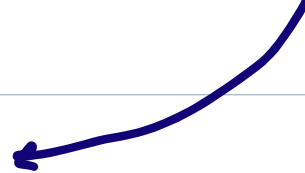
person sent by

RP ~~AS~~



Not tenable

↓
Presumed to
be served



THE END
