

INTERPRETATION OF STATUTES AND PRINCIPLES OF LEGISLATION

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OBJECTIVES OF THE COURSE

Legislation is the major source of law of the modern era. Legislatures enact laws after much deliberation. No doubt in this process they have to take into account the present and future needs of the people. What are the matters to be reckoned with by legislature while enacting laws? The two basic reasons for the need of interpretation of statutes are to understand in the true spirit the Legislative Language and the Legislative Intent. While the legislative language may be complicated for a layman, legislative intents assimilates the concept of meaning and the concept of purpose and object or the reason or the spirit pervading through the statute.

With the emergence of legislation, interpretation of statutes has become a method by which judiciary explores the intention behind the statutes. Judicial interpretation involves construction of words, phrases and expressions. In their attempt to make the old and existing statutes contextually relevant, courts used to develop certain rules, doctrines and principles of interpretation. Judiciary plays a highly creative role in this respect. What are the techniques adopted by courts in construing statutes? How far are they successful in their strategy? With the above problems and perspectives in view, this subject has been arranged in the following modules.

SYLLABUS

1. Meaning and Object of Interpretation, and Principles of Legislation

- 1.1. Law-making - the legislature, executive and the judiciary
- 1.2. Principle of utility
- 1.3. Relevance of John Rawls and Robert Nozick - individual interest to community interest
- 1.4. Operation of these principles upon legislation
- 1.5. Distinction between morals and legislation

2. Interpretation of Statutes

- 2.1. Meaning of the term 'statutes'
- 2.2. Commencement, operation and repeal of statutes
- 2.3. Purpose of interpretation of statutes.

3. Aids to Interpretation

- 3.1. Internal aids
 - 3.1.1. Title
 - 3.1.2. Preamble
 - 3.1.3. Headings and marginal notes.
 - 3.1.4. Sections and sub-sections
 - 3.1.5. Punctuation marks.
 - 3.1.6. Illustrations, exceptions, provisos and saving clauses

- 3.1.7. Schedules
 - 3.1.8. Non-obstante clause.
- 3.2. External aids
 - 3.2.1. Dictionaries
 - 3.2.2. Translations
 - 3.2.3. *Travaux Preparatoires*
 - 3.2.4. Statutes *in pari materia*
 - 3.2.5. *Contemporanea Exposito*
 - 3.2.6. Debates, inquiry commission reports and Law Commission reports
- 4. Rules of Statutory Interpretation
 - 4.1 Primary Rules
 - 4.1.1. Literal rule
 - 4.1.2. Golden rule
 - 4.1.3. Mischief rule (rule in the Heydon's case)
 - 4.1.4. Rule of harmonious construction
 - 4.2. Secondary Rules
 - 4.2.1. *Noscitur a sociis*
 - 4.2.2. *Ejusdem generis*
 - 4.2.3. *Reddendo singula singulis*
- 5. Presumptions in statutory interpretation
 - 5.1. Statutes are valid
 - 5.2. Statutes are territorial in operation
 - 5.3. Presumption as to jurisdiction
 - 5.4. Presumption against what is inconvenient or absurd
 - 5.5. Presumption against intending injustice
 - 5.6. Presumption against impairing obligations or permitting advantage from one's own wrong
 - 5.7. Prospective operation of statutes
- 6. Maxims of Statutory Interpretation
 - 6.1. *Delegatus non potest delegare*
 - 6.2. *Expressio unius exclusio alterius*
 - 6.3. *Generalia specialibus non derogant*
 - 6.4. *In pari delicto potior est conditio possidentis*
 - 6.5. *Utres valet potior quam pareat*
 - 6.6. *Expressum facit cessare tacitum*
 - 6.7. *In bonam partem*
- 7. Interpretation with reference to the subject matter and purpose
 - 7.1. Restrictive and beneficial construction
 - 7.1.1. Taxing statutes
 - 7.1.2. Penal statutes

- 7.1.3. Welfare legislation
 - 7.2. Interpretation of substantive and adjunctival statutes
 - 7.3. Interpretation of directory and mandatory provisions
 - 7.4. Interpretation of enabling statutes
 - 7.5. Interpretation of codifying and consolidating statutes
 - 7.6. Interpretation of statutes conferring rights
 - 7.7. Interpretation of statutes conferring powers.
8. Principles of Constitutional Interpretation
- 8.1. Harmonious construction
 - 8.2. Doctrine of pith and substance
 - 8.3. Colourable legislation
 - 8.4. Ancillary powers
 - 8.5. "Occupied field"
 - 8.6. Residuary power
 - 8.7. Doctrine of repugnancy

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