



**Reserach Article**

**A STUDY ON THE RULES OF STATUTORY INTERPRETATION**

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**ABSTRACT**

Legislation is necessitated by draftsmen, and a draftsman's capability to anticipate the long run is proscribed. He might not foresee some future risk, or overlook an attainable mistaking of the first intentions of the legislation. Another drawback is legislation usually tries to affect issues that involve completely different and conflicting interests. Judges in European nation typically apply 3 basic rules of statutory interpretation, and similar rules also are utilized in alternative common law jurisdictions. The literal rule, the golden rule and therefore the mischief rule. though judges don't seem to be absolute to apply these rules, they often take one in every of the subsequent 3 approaches, and therefore the approach taken by anyone specific choose is usually a mirrored image of that judge's own philosophy. The interpretation of laws is confined to courts of law. In course of time, courts have evolved a large and elaborate body of rules to guide them in construing or interpreting laws. The object of all such rules or principles is to ascertain the true intent, meaning and spirit of every statute. A statute is designed to be workable, and the interpretation thereof by a court should be to secure that object, unless crucial omission or clear direction makes that unattainable. The normal way of interpreting or construing a statute is to seek the intention of legislature. Some of the better known rules of interpretation also referred to as the Primary Rules of Interpretation are discussed in this paper.

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**INTRODUCTION**

"The essence of law lies in the spirit, not its letter, for the letter is significant only as being the external manifestation of the intention that underlies it" – Salmond

It is the duty of the courts to give effect to an Act according to its true meaning and it is during this process that the rules or principles of interpretation have come to be evolved<sup>1</sup>. The expression interpretation and construction are used interchangeably. Benin terms this distinction is trivial because according to him there is no material distinction between the two. Construction is more concerned with extracting the grammatical meaning. Interpretation is a journey of discovery. It is the process of ascertaining the meaning of an Act of Parliament or of a provision of an Act. The normal way of interpreting or construing a statute is to seek the intention of legislature. If a statutory provision is open to more than one interpretation, the Court has to choose that interpretation which represents the true intention of the legislature. The intention of the legislature is to be gathered from the language

used. Attention should be paid to what has been said and also to what has not been said<sup>2</sup>. However "Intention of the legislature' is a common but very slippery phrase, which, popularly understood, may signify anything from intention embodied in positive enactment to speculative opinion as to what legislature probably would have meant, although there has been an omission to enact it. In a court of law or equity, what the legislature intended to be done or not to be done can only be legitimately ascertained from what it has chosen to enact, either in express words or by reasonable and necessary implication. Since Acts of Parliament have to be interpreted by the courts and it is the duty of the courts to give effect to an Act according to its true meaning while at the same time balancing with the need for making the Act workable, in course of time, an elaborate body of rules to guide them in construing or interpreting laws have evolved. These are known as Rules of Statutory Interpretation and have a direct impact on the drafting of legislation.

**The Literal Rule**

The primary and important rule of interpretation is called the Literal Rule, laid down in the *Sussex Peerage Case*. This rule stated that:

"The only rule for the construction of Acts of Parliament is that they should be construed according to the intent of the

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<sup>1</sup> R.N. Graham, "A Unified Theory of Statutory Interpretation." Accessed at <http://ca.geodties.com/randalgraham@rogers.com/Fxtract.pdf>; Also published in the *Statute IMW Review*, Vol. 23, No.2, July 2002, at 91 -134(44).

<sup>2</sup> *MohammadAlikban v. Commissioner of Wealth Tax*, AIR 1997 SC 1165 atll67

Parliament which passed the Act. If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case; best declare the intention of the lawgiver. But if any doubt arises from the terms employed by the Legislature, it has always been held a safe mean of collecting the intention to call in aid the ground and cause of making the statute, and to have recourse to the preamble, which, according to Chief Justice Dyer is "a key to open the minds of the makers of the Act, and the mischiefs which they intend to redress".

The literal rule, in its purest form, has an inflexibility which places particular strain on the draftsman, requiring language which expressly covers all eventualities. This extreme inflexibility can be seen in the words of Lord Escher MR in *R. v. The Judge of the City of London Court* where he stated that "If the words of an Act are clear you must follow them, even though they lead to manifest absurdity. The Court has nothing to do with the question whether the Legislature has committed an absurdity." This means that only the words of the statute count; if they are clear by themselves then effect must be given to them. This rule also has its drawbacks; it disregards consequences and the object of the statute may be considered only if there is doubt. It should be noted, however, that the object of a statute and the circumstances that led to its enactment are always relevant-not just in cases of doubt. When the words of a statute are clear, plain or unambiguous, i.e. they are reasonably susceptible to only one meaning; the Courts are bound to give effect to that meaning irrespective of consequences. Statutory enactment must be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being

Unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the test of the statute<sup>3</sup>.

### **Mischief Rule**

Next is the Mischief Rule laid by the Barons of the Exchequer in the *Haydon's* case as follows:

"That for the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered:

- What was the common law before the making of the Act?
- What was the mischief and defect for which the common law did not provide?
- What remedy the Parliament have resolved and appointed to cure the disease of the Commonwealth
- The true reason of the remedy and then the office of all the judges is always to make such construction as shall suppress the mischief and advance the remedy, and to suppress subtle inventions and evasions for the continuance of the mischief and pro private commode, and to add force and life to the cure and remedy according to the true intent of the makers of the Act pro bono public."

That was the beginning of what is now often referred to as the purpose approach or the Mischief Rule. In India the rule was explained by the Supreme Court in *Bengal Immunity Co. v. State of Bihar*. This rule was again applied in *Goodyear India Ltd. v. State of Haryana*. In *CIT v. SondraDevi* the Supreme Court expressed the view that the rule in *Haydon's* case is applicable only when the words in question are ambiguous and are reasonably capable of more than one meaning. Gajendragadkar J in *Kanailal Sur v. Parmanidhi* pointed out that the recourse to consideration of the mischief and defect which the Act purports to remedy is only permissible when the language is capable of two constructions. The Supreme Court in *P.E.K. Kalliani Amma (Smt) v. K. Devi* referred extensively to the rule in *Haydon's* case and to the opinions of Bhagwad J. and Gajendragadkar J. Thus in the construction of an Act of Parliament, it is important to consider the mischief that led to the passing of the Act and then give effect to the remedy as stated by the Act in order to achieve its object. This has its drawbacks; the language of the statute may have inadequately expressed the objective intended to be achieved. In *RMDC v Union of India* the definition of 'prize competition' under s 2(d) of the Prize competition act 1955, was held to be inclusive of only those instances in which no substantive skill is involved. Thus, those prize competitions in which some skill was required were exempt from the definition of 'prize competition' under sec 2(d) of the Act. Hence, in the aforementioned case, the Supreme Court has applied the *Heydon's* Rule in order to suppress the mischief was intended to be remedied, as against the literal rule which could have covered prize competitions where no substantial degree of skill was required for success.

### **Golden Rule**

The next development came with *Grey v. Pearson*. The rule enunciated in that case came to be known as the 'golden rule'; a court could construe a statute by departing from the literal meaning of the words if to do would avoid consequences which are absurd. It stated that, "In construing wills, and indeed statutes and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified so as to avoid the absurdity and inconsistency, but no further. The golden rule is still referred to by the courts today as a means of modifying stringent application of the literal rule. It was set out by Lord Blackburn in *River Wear Commissioners v, Adamson*. The golden rule, he stated, enabled the courts: "to take the whole statute together, and construe it all together, giving their words their ordinary significance, unless when so applied they produce an inconsistency, or an absurdity or inconvenience so great as to convince the court that the intention could not have been to use them in their ordinary significance, and to justify the court in putting on them some other signification, which, though less proper, is one which the court thinks the words will bear." Affirming this rule Lord Simon of Glaisdale in *Suthendran v. Immigration Appeal Tribunal*, has said: "Parliament is prima

<sup>3</sup>Craies, *Statute* IMW, 66 (1971), which refers to Lord Watson's judgment in *Salomon v. Salomon & Co. Ud.* (1887) AC 22 at 38.

Facie to be credited with meaning what is said in an Act of Parliament<sup>4</sup>. The drafting of statutes, so important to a people who hope to live under the rule of law, will never be satisfactory unless courts seek whenever possible to apply 'the golden rule' of construction, that is to read the statutory language, grammatically and terminologically, in the ordinary and primary sense which it bears in its context, without omission or addition. Of course, Parliament is to be credited with good sense; so that when such an approach produces a result which is unjust, absurdity, contradiction or stultification of statutory objective the language may be modified sufficiently to avoid such disadvantage, though no further".

### **In Harbhajan Singh v. Press Council of India, the Supreme Court observed**

"Legislature chooses appropriate words to express what it intends, and therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material-intrinsic or external-is available to permit a departure from the rule<sup>5</sup>."

### **Objectives**

1. To know the advantages and disadvantages of statutory interpretation.
2. To know some maxims in statutory interpretation.

### **Chapter-1**

#### **Advantages and Disadvantages of Statutory Interpretation**

- **Literal Rule-** Reminder that Parliament makes the law. MP's no appointive, that the public have a lot of jurisdiction over the laws passed. Will alert Parliament to words that require ever-changing at intervals the law.
- **Golden Rule-** The judges opt for the foremost absurd words to modification. Respects rules of Parliament. Avoids the worst elements of the literal rules. a lot of possible to supply results that replicate intentions of Parliament.
- **Mischief Rule-** Recognizes that to seem at the words of a statute is insufficient. Promotes the aim of the act.
- **Purposive Approach-** Brings North American nation nearer to the EU. Permits judges to address problems unforeseen by Parliament and in cultivation of medical sciences. References to minutes create it easier to seek out Parliament's intention. Davis v Johnson- "like in certain around within the dark".
- **Literal Rule-** Can end in absurdities. Can be unjust (ER v Berriman). Doesn't take into consideration Parliament's intentions in the modern day.
- **Golden Rule-** Limited in use. Undemocratic as judges use it. Too much power given to judges, especially in broad approach. No factual examination of the circumstances is made before decision is made.
- **Literal Rule-** The unelected judges make the law. Leads to unclear results. May be hard to find Parliament's intention, wasting time and money.

- **Purposive Approach-** Judges become Law makers, infringing Separation of Powers Act. No scope for judicial bias. Allows reference to Hansard, often a waste of time and money. Assumes Parliament has one intention.

### **Chapter-2**

#### **Maxims in Statutory Interpretation**

- **Ejusdem generis:** A rule of interpretation that where a class of things is followed by general wording that is not itself expansive, the general wording is usually restricted things of the same type as the listed items.
- **Noscitur a Sociis:** The rule of noscitur a sociis states that words of a statute are to be construed in the light of their context. It may be translated as "a thing is known by its associates"
- **Generalia specialibus non derogant:** the principle that a general statutory provision does not repeal a specific one. The rule may apply either to two separate statutes, or to provisions within the same Act. It was applied by the Supreme Court in the case of Hutch v the Governor of Wheatfield Prison. That case posed the question whether a young person between the ages of fifteen and seventeen years who had been convicted of an indictable offence tried summarily, could be sentenced for the period of detention applicable to an adult (under the Criminal Justice Act, 1951), or whether the sentence was limited to three months imprisonment under the terms of the Summary Jurisdiction Over Children (Ireland) Act, 1884. The Court held that since the 1951 Act was a general Act, and the 1884 Act had a special application, the maxim generally specialibus non derogant applied. Therefore, the 1884 Act was not impliedly amended or repealed by the 1951 Act, and the possible sentence was limited to three months imprisonment<sup>6</sup>.
- **Expressio Unius EST Exclusio Alterius:** a principle in statutory construction: when one or more things of a class are expressly mentioned others of the same class are excluded<sup>7</sup>.

### **CONCLUSION**

There are certain general principles of interpretation which have been applied by Courts from time to time. Over time, various methods of statutory construction have fallen in and out of favor. Some of the better known rules of interpretation also referred to as the Primary Rules of Interpretation are discussed in this paper. The rules of statutory interpretation are not rules in the strict sense, as each one may point to different solution to the same problem. There is no hierarchy of rules to be applied and neither is any court bound to follow a particular rule. They are purely guidelines for the judiciary to solve problems with statutory interpretation.

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<sup>5</sup>It is now generally recognised that the literal approach must be tempered by at least some flexibility in order to avoid an application of a statutory provision by a court which would be absurd or unreasonable.

<sup>6</sup><http://lawaids.blogspot.in/2010/05/generalia-specialibus-non-derogant.html>

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