

SURE-FIRE SCRIBES

A Dozen Canons of Statutory and Constitutional Text Construction

by Antonin Scalia and Bryan Garner

1 Supremacy-of-Text Principle. The words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.

2 Principle of Interrelating Canons. No canon of interpretation is absolute. Each may be overcome by the strength of differing principles that point in other directions.

3 Presumption of Validity. An interpretation that validates outweighs one that invalidates (*ut res magis valeat quam pereat*).

4 Ordinary-Meaning Canon. Words are to be understood in their ordinary, everyday meanings – unless the context indicates that they bear a technical sense.

5 Fixed-Meaning Canon. Words must be given the meaning they had when the text was adopted.

6 Omitted-Case Canon. Nothing is to be added to what the text states or reasonably implies (*casus omissus pro omissio habendus est*). That is, a matter not covered is to be treated as not covered.

7 General-Terms Canon. General terms are to be given their general meaning (*generalia verba sunt generaliter intelligenda*).



8 Negative-Implication Canon. The expression of one thing implies the exclusion of others (*expressio unius est exclusio alterius*).

9 Whole-Text Canon. The text must be construed as a whole.

10 Presumption of Consistent Usage. A word or phrase is presumed to bear the same meaning throughout a text; a material variation in terms suggests a variation in meaning.

11 Surplusage Canon. If possible, every word and every provision is to be given effect (*verba cum effectu sunt accipienda*). None should be ignored. None should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence.

12 Absurdity Doctrine. A provision may be either disregarded or judicially corrected as an error (when the correction is textually simple) if failing to do so would result in a disposition that no reasonable person could approve.

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Available on Amazon at <http://www.amazon.com/Reading-Law-Interpretation-Legal-Texts/dp/031427555X>