

INTRODUCTION TO THE LEGAL SYSTEM

Notes

STATUTORY INTERPRETATION

What is Statutory Interpretation?

- The Court may take it upon itself to interpret certain provisions in statutes which are ambiguous
- This function of the Courts is called Statutory Interpretation

Three Common Law Rules of Statutory Interpretation

- The Literal or Plain Meaning Rule
- The Golden Rule
- The Mischief Rule

The Literal or Plain Meaning Rule

- The judge considers the words and phrases of the statute itself; not why Parliament passed a statute
- The ordinary sense or plain meaning is considered, even if doing so would lead to some injustice, difficulty or absurdity

The Golden Rule

- Based on the 1857 English case of *Grey v. Pearson*
- The ordinary sense or literal meaning is to be adhered to unless doing so “would lead to some absurdity, or some repugnancy 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 the inconsistency, but no farther.”

The Mischief Rule

- Derived from the 1584 English precedent called *Haydon’s Case*
- A judge looks at more than just the statute’s words; the judge examines Parliament’s objective or purpose in enacting a statute in relation to the “mischief” or deficiency that the statute was intended to remedy or correct, and interprets the statute in accordance with this view

Internal Aid to Statutory Interpretation

- Specific sections and parts of the statute – e.g. the definition, the preamble, the long title, the part headings, and etc.
- Grammatical Rules of Construction – (1) *ejusdem generis rule* or “of the same kind or class” (2) *noscitur a sociis* or “it is known by its associates” (3) *expressio unius est exclusion alterrius* or “to express one thing is to exclude another”

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CASE LAW RESEARCH AND CASE CITATION

- **Adversarial System** – a system in Common Law trials where opposing sides are adversaries who challenge each other’s position on the assumption that this will help reveal the truth

Finding Cases: Secondary Sources

- Textbooks, Legal Periodicals, Legal Journals, Legal Dictionaries (Black’s Law Dictionary)
- Secondary Sources – these discuss, analyze and critique the law
- Canadian Encyclopedic Digest – multi-volume encyclopedia of Canadian law arranged alphabetically by subject
- Canadian Abridgment – multi-volume reference work on Canadian law
- Computerized Searches – Quicklaw, Canlii, Westlaw Canada, etc.

Finding Cases: Primary Sources

- • Primary Sources – authoritative part of a legal system; the two main primary sources are statutes and court decisions or case law
- • **National Reports** – law reports that contain selected cases from provinces and territories in Canada, including selected cases from federal courts
- • E.g. *Dominion Law Report* (DLR) organized in “series”
- • **Regional Reports** – law reports that contain selected cases from a specific geographic region of Canada
- • E.g. *Atlantic Provinces Report* (APR); *Western Weekly Reports* (WWR)
- • Eastern Canada v. Western Canada
- • **Provincial Reports** – law reports that contain selected cases from a specific province
- • E.g. *Alberta Reports* (AR); *Ontario Reports* (OR)
- • **Specific Court Reports** – law reports that contain cases from a specific court
- • E.g. Supreme Court Reports (SCR); *Canada Federal Court Reports* (FR)
- • **Specialist Subject Reports** – law reports that contain selected cases from a specific area of law
- • E.g. *Criminal Reports* (CR); *Reports of Family Law* (RFL); *Canadian Cases on Employment Law* (CCEL)

Unreported Cases

- Are not in a law report
- Available in computer databases
- E.g. *All Canada Weekly Summaries* (ACWS); *Law Times*; *Lawyers’ Weekly*

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CASE REPORT FORMATS

Name of Parties

- Plaintiff – starts a non-criminal court action
- Appellant – brings an appeal; the other side is called a Respondent

Date of Decision

- Date of the court decision; old case unreliable precedent?

Court and Judges

- The court that decided the case
- The judges who were involved

Headnote

- Summary of a case placed before the text of a judgment in a law report

Nature of the Proceedings and Counsel

- Purpose or nature of the proceedings; appeal?
- Name of the lawyer/s involved

Reasons for Judgment

- *Ratio Decidendi* – reasons for the decision
- *Obiter Dicta* – remarks made by a judge that are not crucial to the decision

Disposition

- The formal order of the court
- E.g. “Motion dismissed”; “Judgment for the Plaintiff”, etc.

CASE CITATION

Nature of the Case or Style of Cause

- Style of Cause is the component of a case that indicates the names of the parties
- E.g. *R. v. Accused* or *Plaintiff v. Defendant*

Year of Decision

- Placed in brackets
- Round square (year of judgment)
- Square brackets (year of publication)

Volume of the Report

- Law reports have numerous volumes
- Volume number follows year of decision

Law Report

- Abbreviated form of the law report
- E.g. see pages 90-92

Law Report Series

- Begins the numbering system over again
- Cited in round brackets following the law report abbreviation

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Page Reference

- After the law report series, page in law report where case is found
- First page only is listed

Jurisdiction and Court

- Province or territory in which the case originated
- Court that gave decision often placed in round brackets
- SCR omits jurisdiction

EXAMPLES OF CASE CITATIONS

R v. Lavalle, [1990] 1 SCR 852

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R v. Eyapaise (1993), 20 CR (4th) 246 (Alta. QB).

R. v. Lalonde (1995), 37 CR (4th) 97 (Ont. Gen. Div.)

R. v. Stinchcombe, [1995] 1 SCR 754

R. v. Goonoo, 2009 ONCJ 248 (CanLII)

Ferguson v. The Corporation of the County of Brant, 2013 ONSC 435 (CanLII)