

Interpreting taxing statutes # 72 – Linguistic canon

A linguistic canon of construction reflects the nature or use of language generally. It does not depend on the legislative character of the enactment in question, nor indeed on its quality as a legal pronouncement.^{^1}

SYNOPSIS

Linguistic canons of construction are not confined to statutes, or even to the field of law.^{^2} They are based on the rules of logic, grammar, syntax and punctuation; and the use of language as a medium of communication generally. They are not rules to be rigidly applied but provide a useful tool for analyzing and describing the intention of the legislature based on ordinary English usage.^{^3}

The value of linguistic cannon of construction and their limitations was explained by the court as follows:

‘... canons of construction have a valuable part to play in interpretation, provided that they are treated as guidelines rather than railway lines, as servants rather than masters. If invoked properly, they represent a very good example of the value of precedent ... With few, if any, exceptions, the canons embody logic or common sense, but that is scarcely a reason for discarding them: on the contrary. Of course, there will be many cases, where different cannons will point to different answers, but that does not call their value into question. Provided that it is remembered that the canons exist to illuminate and help, but not to constrain or inhibit, they remain of real value.’^{^4}

¹ Bennion 2020 s 20.1

² Butler and Baker’s Case (1991) 3 Co Rep 25a Grey v Pearson (1857) 6 HL Cas 16 cited in Bennion 2020 p 627

³ Bennion 2020 p 627

⁴ Cusack v Harrow London Borough Council (2013) UKSC 40 cited in Bennion 2020 p 628