

Interpreting Taxing Statutes # 74 – Every word has a meaning

There is a presumption that every word in an enactment is to be given meaning.^{^1}

SYNOPSIS

It is presumed that if a word or phrase appears, it was put there for a purpose and must not be disregarded.^{^2} This applies *a fortiori* to a longer passage, such as a subsection or section.

So, it was held that in the Accessories and Abettors Act 1861 of England, s 8, the words ‘aid, abet, counsel or procure’ must each be taken to have a distinct meaning since otherwise Parliament would be indulging in tautology in using all four words.^{^3}

The presumption that every word in an enactment is to be given meaning may affect the interpretation of a different enactment.

No sensible meaning and surplusage

It may happen, however, that no sensible meaning can be given to some word or phrase. It must then be disregarded. Said as follows:

‘It is a canon of construction that, if it be possible, effect must be given to every word of an Act of Parliament or other document; but that, if there be a word or phrase therein to which no sensible meaning can be given, it must be eliminated.’^{^4}

Sometimes, particularly where the wording of a provision derives from earlier legislation, redundant words may have been included. Said as follows:

¹ Bennion 2020 s 21.2

² Re James’s Application for judicial Review [2005] NIQB 38 cited in Bennion 2020 p 631

³ A-G’s Reference (No 1 of 1975) (1975) QB 773 cited in Bennion 2020 p 631

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‘[Counsel] submitted that the tenet of construction that Parliament does not use otiose words – i.e. that Parliament intends that every word used in legislation has some purpose and meaning – is weak in circumstances where, as here, there is a long history and borrowed phraseology. The submission has considerable power’.<sup>4</sup>

Sometimes terms of virtually identical meaning are used together. This is a fairly common feature in traditional legal expression and is often a product of the drafter exercising a degree of caution. For example, where a statute imposes a duty to ‘safeguard and protect’ the welfare of a child. It is surplusage, since either term would have sufficed on its own.<sup>5</sup>

Every word cannot be given a meaning if there is deliberate tautology or if the words are unnecessary for some other reason. Said as follows:

‘I seldom think that an argument from redundancy carries great weight, even in a Finance Act. It is not unusual for Parliament to say expressly what the courts would have inferred anyway’.<sup>6</sup>

For example, regarding the Bankruptcy Act 1883 of England, the court said:

‘The more ... I have considered this case the more difficult it appears to me to be, but I have come to the conclusion, though with great doubt, that the legislature intended this Act of Parliament to be verbose and tautologous, and intended to express itself twice over’.<sup>7</sup>

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<sup>4</sup> Stone v Yeovil Corpn. (1876) 1CPD 691) cited in Bennion 2020 p 632

<sup>5</sup> R (Friends of Finsbury Park) v Haringey Council (2017) EWCA Civ 1831 cited in Bennion 2020 p 633

<sup>6</sup> Ong Ming Johnson v Attorney General [2020] SGHC 63 (Singapore High Court) cited in Bennion 2020 p 633

<sup>7</sup> Walker (Inspector of Taxes) v Centaur Clothes Group Ltd (2000) 2 All ER 589 cited in Bennion 2020 p 633

<sup>8</sup> Hough v Windus (1884) 12 QBD 224 cited in Bennion 2020 p 633

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Overlap: Surplusage is to be distinguished from overlap. Legislation often provides overlapping remedies.⁹

Inert material: Traditionally, drafters have tended to refrain from including material that is not necessary to produce the desired legal effect, on the basis that unnecessary matter in statutes, as in humans, tends to go septic.¹⁰

Changes in the law: Particular care needs to be taken when looking at older Acts since words may be robbed of meaning by subsequent changes in the law.¹¹

⁹ Bennion 2020 p 633

¹⁰ Bennion 2020 p 633

¹¹ Bennion 2020 p 634