

In coming to a determination as to the meaning of a particular Act, it is permissible to consider two points, namely, (1) the external evidence derived from extraneous circumstances, such as, previous legislation and decided cases etc., and (2) the internal evidence derived from the Act itself.

Internal Aids in Interpretation

The following may be taken into account while interpreting a statute:

Title

The long title of an Act is a part of the Act and is admissible as an aid to its construction. The long title sets out in general terms, the purpose of the Act and it often precedes the preamble. It must be distinguished from short title which implies only an abbreviation for purposes of reference, the object of which is identification and not description. The true nature of the law is determined not by the name given to it but by its substance. However, the long title is a legitimate aid to the construction.

While dealing with the Supreme Court Advocates (Practice in High Court) Act, 1951 bearing a full title as “An Act to authorise Advocates of the Supreme Court to practice as of right in any High Court”, S.R. Das, J. observed: “One cannot but be impressed at once with the wording of the full title of the Act. Although there are observations in earlier English Cases that the title is not a part of the statute and is, therefore, to be excluded from consideration in construing the statutes. It is now a settled law that the title of a statute is an important part of the Act and may be referred to for the purpose of ascertaining its general scope and of throwing light on its construction, although it cannot override the clear meaning of an enactment.

Preamble

The true place of a preamble in a statute was at one time, the subject of conflicting decisions. In *Mills v. Wilkins*, (1794) 6 Mad. 62, Lord Hold said: “the preamble of a statute is not part thereof, but contains generally the motives or inducement thereof”. On the other hand, it was said that “the preamble is to be considered, for it is the key to open the meaning of the makers of the Act, and the mischief it was intended to remedy”. The modern rule lies between these two extremes and is that where the enacting part is explicit and unambiguous the preamble cannot be resorted to, control, qualify or restrict it, but where the enacting part is ambiguous, the preamble can be referred to explain and elucidate it (*Raj Mal v. Harnam Singh*, (1928) 9 Lah. 260). In *Powell v. Kempton Park Race Course Co.*, (1899) AC 143, 157, Lord Halsbury said: “Two propositions are quite clear — One that a preamble may afford useful light as to what a statute intends to reach and another that, if an enactment is itself clear and unambiguous, no preamble can qualify or cut down the enactment”. This rule has been applied to Indian statutes also by the Privy Council in *Secretary of State v. Maharaja Bobbili*, (1920) 43 Mad. 529, and by the Courts in India in a number of cases (See for example, *Burrakur Coal Co. v. Union of India*, AIR 1961 SC 154. Referring to the cases in *Re. Kerala Education Bill*, AIR 1958 SC 956 and *Bishambar Singh v. State of Orissa*, AIR 1954 SC 139, the Allahabad High Court has held in *Kashi Prasad v. State*, AIR 1967 All. 173, that even though the preamble cannot be used to defeat the enacting clauses of a statute, it has been treated to be a key for the interpretation of the statute.

Supreme Court in *Kamalpara Kochunni v. State of Madras*, AIR 1960 SC 1080, pointed out that the preamble may be legitimately consulted in case any ambiguity arises in the construction of an Act and it may be useful to fix the meaning of words used so as to keep the effect of the statute within its real scope.

Heading and Title of a Chapter

In different parts of an Act, there is generally found a series or class of enactments applicable to some special object, and such sections are in many instances, preceded by a heading. It is now settled that the

headings or titles prefixed to sections or group of sections can be referred to in construing an Act of the legislature. But conflicting opinions have been expressed on the question as to what weight should be attached to the headings. A “heading”, according to one view “is to be regarded as giving the key to the interpretation of clauses ranged under it, unless the wording is inconsistent with such interpretation; and so that headings, might be treated “as preambles to the provisions following them”. But according to the other view, resort to the heading can only be taken when the enacting words are ambiguous. So Lord *Goddard*, C.J. expressed himself as: However, the Court is entitled to look at the headings in an Act of Parliament to resolve any doubt they may have as to ambiguous words, the law is clear that those headings cannot be used to give a different effect to clear words in the sections where there cannot be any doubt as to the ordinary meaning of the words”. Similarly, it was said by Patanjali Shastri, J.: “Nor can the title of a chapter be legitimately used to restrict the plain terms of an enactment”. In this regard, the Madhya Pradesh High Court in *Suresh Kumar v. Town Improvement Trust*, AIR 1975 MP 189, has held: “Headings or titles prefixed to sections or group of sections may be referred to as to construction of doubtful expressions; but the title of a chapter cannot be used to restrict the plain terms of an enactment”.

The Supreme Court observed that “the headings prefixed to sections or entries (of a Tariff Schedule) cannot control the plain words of the provision; they cannot also be referred to for the purpose of construing the provision when the words used in the provision are clear and unambiguous; nor can they be used for cutting down the plain meaning of the words in the provision. Only in the case of ambiguity or doubt the heading or the sub-heading may be referred to as an aid for construing the provision but even in such a case aid could not be used for cutting down the wide application of the clear words used in the provision” (*Frick India Ltd. v. Union of India*, AIR 1990 SC 689).

Marginal Notes

In England, the disposition of the Court is to disregard the marginal notes. In our country the Courts have entertained different views. Although opinion is not uniform, the weight of authority is in favour of the view that the marginal note appended to a section cannot be used for construing the section.

“There seems to be no reason for giving the marginal notes in an Indian statute any greater authority than the marginal notes in an English Act of Parliament” (*Balraj Kumar v. Jagatpal Singh*, 26 All. 393). Patanjali Shastri, J., after referring to the above case with approval observed: “Marginal notes in an Indian statute, as in an Act of Parliament cannot be referred to for the purpose of construing the Statute” (*C.I.T. v. Anand Bhai Umar Bhai*, A.I.R. 1950 S.C. 134). At any rate, there can be no justification for restricting the section by the marginal note, and the marginal note cannot certainly control the meaning of the body of the section if the language employed therein is clear and unambiguous (*Chandraji Rao v. Income-tax Commissioner*, A.I.R. 1970 S.C. 158).

The Privy Council in *Balraj Kumar v. Jagatpal Singh*, (1904) 26 All. 393, has held that the marginal notes to the sections are not to be referred to for the purpose of construction. The Supreme Court in *Western India Theatres Ltd. v. Municipal Corporation of Poona*, (1959) S.C.J. 390, has also held, that a marginal note cannot be invoked for construction where the meaning is clear.

Marginal notes appended to the Articles of the Constitution have been held to constitute part of the Constitution as passed by the Constituent Assembly and therefore, they have been made use of in consulting the Articles, e.g. Article 286, as furnishing prima facie, “some clue as to the meaning and purpose of the Article”.

When reference to marginal note is relevant? The Supreme Court has held that the marginal note although

may not be relevant for rendition of decisions in all types of cases but where the main provision is sought to be interpreted differently, reference to marginal note would be permissible in law. [*Sarbajit Rick Singh v. Union of India* (2008) 2 SCC 417; See also *Dewan Singh v. Rajendra Prasad* (2007) 1 Scale 32].

Interpretation Clauses

It is common to find in statutes “definitions” of certain words and expressions used elsewhere in the body of the statute. The object of such a definition is to avoid the necessity of frequent repetitions in describing all the subject-matter to which the word or expression so defined is intended to apply. A definition section may borrow definitions from an earlier Act and definitions so borrowed need not be found in the definition section but in some provisions of the earlier Act.

The definition of a word in the definition section may either be restrictive of its ordinary meaning or it may be extensive of the same. When a word is defined to ‘mean’ such and such, the definition is *prima facie* restrictive and exhaustive, whereas where the word defined is declared to ‘include’ such and such, the definition is *prima facie* extensive. Further, a definition may be in the form of ‘means and includes’, where again the definition is exhaustive. On the other hand, if a word is defined ‘to apply to and include’, the definition is understood as extensive. (See *Balkrishan v. M. Bhai* AIR 1999 MP 86)

A definition section may also be worded in the form ‘so deemed to include’ which again is an inclusive or extensive definition and such a form is used to bring in by a legal fiction something within the word defined which according to ordinary meaning is not included within it.

A definition may be both inclusive and exclusive i.e. it may include certain things and exclude others. In such a case limited exclusion of a thing may suggest that other categories of that thing which are not excluded fall within the inclusive definition.

The definition section may itself be ambiguous and may have to be interpreted in the light of the other provisions of the Act and having regard to the ordinary connotation of the word defined. A definition is not to be read in isolation. It must be read in the context of the phrase which it defines, realising that the function of a definition is to give precision and certainty to a word or a phrase which would otherwise be vague and uncertain but not to contradict or supplement it altogether.

When a word has been defined in the interpretation clause, *prima facie* that definition governs whenever that word is used in the body of the statute.

When a word is defined to bear a number of inclusive meanings, the sense in which the word is used in a particular provision must be ascertained from the context of the scheme of the Act, the language, the provision and the object intended to be served thereby.

Proviso

“When one finds a proviso to a section the natural presumption is that, but for the proviso, the enacting part of the section would have included the subject-matter of proviso”. In the words of Lord Macmillan: “The proper function of a proviso is to except and to deal with a case which would otherwise fall within the general language of the main enactment, and its effect is confined to the case”.

As stated by Hidayatullah, J. : “As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment, and ordinarily, a proviso is not interpreted as stating a general rule”.

A distinction is said to exist between the provisions worded as ‘proviso’, ‘exception’ or ‘saving clause’. ‘Exception’ is intended to restrain the enacting clause to particular cases; ‘proviso’ is used to remove special

cases from the general enactment and provide for them specially; and 'saving clause' is used to preserve from destruction certain rights, remedies or privileges already existing.

Illustrations or Explanation

"Illustrations attached to sections are part of the statute and they are useful so far as they help to furnish same indication of the presumable intention of the legislature. An explanation is at times appended to a section to explain the meaning of words contained in the section. It becomes a part and parcel of the enactment. But illustrations cannot have the effect of modifying the language of the section and they cannot either curtail or expand the ambit of the section which alone forms the enactment. The meaning to be given to an 'explanation' must depend upon its terms, and 'no theory of its purpose can be entertained unless it is to be inferred from the language used" (*Lalla Ballanmal v. Ahmad Shah*, 1918 P.C. 249).

An explanation, normally, should be so read as to harmonise with and clear up any ambiguity in the main section and should not be so construed as to widen the ambit of the section. It is also possible that an explanation may have been added *ex abundanti cautela* to allay groundless apprehension.

Schedules

The schedules form a part of the statute and must be read together with it for all purposes of construction. But expression in the schedule cannot control or prevail against the express enactment (*Allen v. Flicker*, 1989, 10 A and F 6.40).

In *Ramchand Textile v. Sales Tax Officer*, A.I.R. 1961, All. 24, the Allahabad High Court has held that, if there is any appearance of inconsistency between the schedule and the enactment, the enactment shall prevail. If the enacting part and the schedule cannot be made to correspond, the latter must yield to the former.

There are two principles or rules of interpretation which ought to be applied to the combination of an Act and its schedule. If the Act says that the schedule is to be used for a certain purpose and the heading of the part of the schedule in question shows that it is *prima facie* at any rate devoted to that purpose, then the Act and the schedule must be read as if the schedule were operating for that purpose only. If the language of a clause in the schedule can be satisfied without extending it beyond for a certain purpose, in spite of that, if the language of the schedule has in its words and terms that go clearly outside the purpose, the effect must be given by them and they must not be treated as limited by the heading of the part of the schedule or by the purpose mentioned in the Act for which the schedule is *prima facie* to be used. One cannot refuse to give effect to clear words simply because *prima facie* they seem to be limited by the heading of the schedule and the definition of the purpose of the schedule contained in the Act.

Whether a particular requirement prescribed by a form is mandatory or directory may have to be decided in each case having regard to the purpose or object of the requirement and its interrelation with other enacting provisions of the statute; and it is difficult to lay down any uniform rule. Where forms prescribed under the rules become part of rules and, the Act confers an authority prescribed by rules to frame particulars of an application form, such authority may exercise the power to prescribe a particular form of application.

The statement of objects and reasons as well as the 'notes on clauses of the Bill relating to any particular legislation may be relied upon for construing any of its provisions where the clauses have been adopted by the Parliament without any change in enacting the Bill, but where there have been extensive changes during the passage of the Bill in Parliament, the objects and reasons of the changed provisions may or may not be the same as of the clauses of the original Bill and it will be unsafe to attach undue importance to the statement of objects and reasons or notes on clauses.

The Courts have only to enquire, what the legislature has thought fit to enact?