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“HEYDON’S CASE AND BEYOND: TRACING THE EVOLUTION OF THE MISCHIEF RULE OF INTERPRETATION OF STATUTES”

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I. Introduction

Interpretation is the process of elucidating something's meaning. In a legal context, interpretation refers to the process of figuring out a statute's intent. The term ‘interpretation’ has its roots in the Latin word ‘interpretari’ which means to explain, or to translate. The primary goal of interpretation is to determine the intent behind the law.

“By interpretation or construction is meant”, says Salmond: “the process by which the courts seek to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed”.¹

In the words of Gray: “The process by which a judge (or indeed any person, lawyer or layman, who has occasion to search for the meaning of a statute) constructs from the words of a statute-book a meaning which he either believes to be that of the Legislature, or which he proposes to attribute to it, is called by us ‘Interpretation’”.²

According to Cross- ‘Interpretation is the process by which the courts determine the meaning of a statutory provision for the purpose of applying it to the situation before them’.³

Different tasks are carried out by the three branches of the government. Legislature drafts laws, the executive carries them out, and the court gives them meaning and puts them into effect. To ensure that the legislation is complete in itself, the legislature must consider thousands of different possibilities when drafting a law. The statute's intent would be clear and simple in an ideal world. But

¹ JOHN WILLIAM SALMOND KC, JURISPRUDENCE 152 (11th ed. 1957).

² JOHN CHIPMAN GRAY, THE NATURE AND SOURCES OF LAW 176 (2nd ed. 1921).

³ RUPERT CROSS, JOHN BELL, GEORGE ENGLE, CROSS: STATUTORY INTERPRETATION 34 (3rd ed. 1995).

in the real world, statutes are often ambiguous, complex, and difficult to comprehend. The need for interpretation of statutes was highlighted in *Seaford Court Estates Ltd. v. Asher*.⁴ It was stated that when a flaw in a statute is discovered, the judge should interpret the statute by determining its original intent rather than simply absolving himself of responsibility and blaming the lawmakers. Judges must examine social factors as well as the statute's text before rendering judgments. Parliament drafted a particular statute for a reason, and the court must take it into account.

Interpretation is required because,

1. The difficult process of creating laws results in gaps and ambiguity in the legislation.
2. Due to the multifarious character of the language, the words, phrases, and terminology employed in the statute might have multiple meanings.
3. Statutes are often drafted by a group of people, which results in linguistic incoherence.
4. Because of the complexities of the subject matter, many statutes contain technical terminologies.
5. The applicability of the law changes when new advancements occur.

The judiciary has been entrusted with the job of interpreting the law in order to administer justice. It is essential that the interpretation be done according to specific rules so that the decisions made by the judges are just and add some coherence to the operational parts of the law.

The rules of interpretation of statutes are divided into two categories.

1. Primary Rules
2. Secondary Rules

- Primary Rules – These are the main rules of interpretation of statutes. They include:
 - i. Rule of Strict Interpretation
 - ii. Rule of Liberal Interpretation
 - iii. Literal Rule
 - iv. Golden Rule
 - v. Mischief Rule
 - vi. Rule of Reasonable Construction
 - vii. Rule of Harmonious Construction

⁴ *Seaford Court Estates Ltd. v. Asher*, (1949) 2 KB 481.

viii. Ejusdem Generis

ix. Beneficial Construction

x. Purposive Construction

- Secondary Rules – Rules other than primary rules are secondary rules. These include:

- i. Expressio Unius Est Exclusio Alterius

- ii. Contemporanea Expositio Est Optima Et Fortissima in Lege

- iii. Noscitur a Sociis

Statutory interpretation is the process of understanding and applying laws passed by the legislature. It is necessary because statutes may have gaps or ambiguities. Courts use different approaches like the literal rule, golden rule, and purposive approach to interpret laws. The mischief rule is one such approach that identifies the problem the law intends to solve and interprets the statute accordingly. It helps ensure the court's decision aligns with the law's intended purpose, even if the literal meaning may not fully address the issue at hand. At its core, the Mischief Rule seeks to address the "mischief" or gap in the existing law that the statute was meant to remedy. By peering into the historical context, the courts endeavor to comprehend the problem that the legislation aimed to solve, allowing them to apply the law in a manner consistent with its original purpose. This approach not only breathes life into statutory provisions but also empowers the judiciary to harmonize the law with societal needs, bridging the past with the present in the ever-evolving landscape of legal interpretation. Its flexible nature allows judges to strike a delicate balance between respecting legislative intent and interpreting the law in light of contemporary circumstances. By looking at the Heydon's case which was the landmark case where the "Mischief Rule" was employed for the first time, we can appreciate how this interpretative method evolved and continues to shape judicial decisions, fostering a deeper understanding of its enduring significance in the modern legal system.

II. "Mischief Rule of Interpretation of Statutes"

The "Mischief Rule of Interpretation of Statutes" is a rule for interpreting a statute that stipulates that the court should first analyze the legislature's intent. According to this rule, the judges must first identify the defect in the statute before applying the remedy to correct the defect. The "Mischief Rule" of interpretation of statutes is a common law principle that originated in England in the 16th century.

The rule was first established in the Heydon's Case (1584)⁵ by Lord Coke, which was a landmark decision in the development of English common law has been cited ever since for the following passage:

“For the sure and true interpretation of all statutes (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered:

- (1) What was the common law before the making of the Act?
- (2) What was the mischief and defect for which the common law did not provide?
- (3) What remedy the Parliament hath resolved and appointed to cure the disease of the Commonwealth?
- (4) The true reason for the remedy and then the office of all the judges is always to make such construction as shall suppress the mischief and advance the remedy, and to suppress subtle inventions and evasions for the continuance of the mischief and pro privato commodo, and to add force and life to the cure and remedy according to the true intent of the makers of the Act pro bono publico”.

The case itself concerned a dispute about legislation passed by Henry VIII in 1540 and a legal action against Heydon for possession of certain land in the county of Devon in violation of the statute.

According to the "Mischief Rule," the purpose of interpreting a statute is to "remedy the defect, cure the inconvenience, and prevent the mischief." In other words, the courts should interpret the Act so that it achieves its original goal and solves the problem that it was designed to address. The rule is founded on the premise that a statute should be read in a way that gives effect to its underlying objective and that courts should seek to resolve any ambiguity in the law so as to accomplish that objective.

The “Mischief Rule” influenced the evolution of statutory interpretation in common law jurisdictions and is still extensively employed today. It is regarded as a crucial tool for interpreting statutes and assessing their intended purpose and extent by courts.

Prior to Heydon's Case, the law governing the interpretation of statutes in England was still in its infancy. There was no well-established rule or method for interpreting legislation at the time, and judges tended to rely on a literal reading of the text of the statute. This approach may result in restrictive and rigid interpretations that fail to take into account the statute's intended purpose and

⁵ Heydon’s Case (1584) EWCH Exch J36.

scope. Heydon's Case was significant because it introduced the "Mischief Rule of Statutory Interpretation", which allowed a more flexible and practical method of interpreting statutes. The "Mischief Rule of Interpretation" aided in shifting the focus of statutory interpretation away from a rigid and literal interpretation of the text and toward a more purpose-oriented approach that took into account the statute's underlying meaning and purpose.

The "Mischief Rule" encourages judges to examine the historical context of a statute, the events surrounding its enactment, the fundamental objectives and intent of the statute in addition to the text of the statute. This method helps to guarantee that the statute is construed in a way that represents its intended purpose and has the intended effect, even if the statute's language is ambiguous or unclear. In this sense, the doctrine underlying the "Mischief Rule" of statutory interpretation is to promote fairness and justice by interpreting statutes in a way that reflects the basic intent and purpose of the statute and also to ensure that the statute has its intended effect in addressing the problems it was enacted to solve.

The rule was further developed after the judgment in Heydon's Case. The "Mischief Rule" became an essential aspect of common law in the 17th and 18th centuries, and courts implemented it in a number of situations. During this time, the principle was developed and broadened to include a broader variety of factors, such as the statute's historical background, the circumstances surrounding its enactment, and the statute's underlying policy goals and objectives. The "Mischief Rule" evolved and was further expanded by the courts during the nineteenth and twentieth centuries. During this time, the principle was utilized to interpret a wide range of statutes, including those dealing with criminal law, contract law, and property law. The "Mischief Rule" has continued to play an essential role in the interpretation of statutes in recent decades too, particularly in common law jurisdictions. Courts in many different nations, including England, Canada, Australia, and New Zealand, have used the idea, and it has been absorbed into the jurisprudence of many other countries that have adopted the common law tradition. The "Mischief Rule" is still a commonly used and significant legislative interpretation approach even today, and it is often considered as a crucial component of the common law system. Despite its change throughout the years, the concept is guided by its basic objective of providing the defect, curing the inconvenience, and preventing mischief in statutory interpretation.

III. Origin of the Common Law Principle: Heydon's Case

Ottery College, a religious college, granted a lease in a property called Ottery to a man named Ware and his son, also named Ware. They are referred to as "Ware the father and Ware the son" in the case report. The tenancy was established by copyhold. Ware and his son held their copyhold for the rest of their lives, subject to the lord's will and the manor's custom. The Wares' copyhold was part of a parcel that was also occupied at will by some tenants. Later, the college leased the same parcel to another man named Heydon for eighty years in exchange for rates equal to the traditional rent of the parcel.

The parliament passed the Suppression of Religious Houses Act 1535 (Act of Dissolution) less than a year after Heydon had leased the land. Many religious institutions were dissolved as a result of the Act, including Ottery College, which lost its estates and rents to Henry VIII. However, a provision in the Act preserved any grants issued more than a year before the statute's enactment in force for the rest of their lives.

The Court of Exchequer held that the Wares' grant was protected by the relevant part of the Act of Dissolution, but that the lease to Heydon was unlawful because:

1. Ottery College, a religious college gave tenancy in a manor to a man named Ware and his son.
2. the tenancy was granted in accordance with the copyhold. A copyhold was a type of landholding in which the land was stated to be held according to the will of the lord and the customs of the manor.
3. the copyhold given to the Wares was part of a parcel.
4. the parcel was then leased to a man named Heydon.
5. a law passed by parliament disbanded the college, along with all other religious colleges, less than a year later.
6. the Act of the parliament (Suppression of Religious Houses Act 1535) included a clause that preserved the lease granted more than a year before the Act's passage.

Decision: The lease provided to the Wares was found to be lawful as a result of the clause, but the lease granted to Heydon was found to be void.

The Basis for Judgment: The court established the "Mischief Rule" while rendering its decision. In this case, it was held that the statute should be construed by looking into the true objective of the Act as intended by its framers.

The judges stated that four considerations should be kept in mind while interpreting statutes:

1. The common law that existed before the Act.
2. The flaw for which common law did not provide.
3. What remedy did the parliament come up with to resolve & cure the distress of the Commonwealth Act?
4. What was the true reason for the remedy?

IV. Events that led to the Heydon's case

When asked what parliaments do, most people will say they make laws. We think of them as legislative bodies, but that was not always the case. Parliaments have functioned for centuries primarily to give financial control to the crown. The King didn't just get access to the tax money. The King had to get the parliament to release that tax money. It wasn't until 1414 that the parliament first said that no bill could become a law unless it passed the House of Commons. But for a couple of hundred years after that, it was still quite rare for the parliament to actually pass laws until that time laws as we would understand them developed in a range of ways. Parliamentary supremacy was not established in England until 1689.

Sometimes the laws were just old Anglo-Saxon customs, and sometimes the laws were made by monarchs, and then there was common law, which was made by building on the precedents established by judges. The king granted lands to nobles in exchange for taxes and obedience, and the nobles in turn granted land to lesser nobles, who in turn granted land to land-owning tenants. Land was a source of power. Around the 15th century, a form of land title emerged which they called copyhold. The idea was that when the Lord gave land to a tenant for them to occupy for their lives their title to the land was recorded in writing in the Lord's manner or castle and then they were given a copy of that title so they were a copy holder. In a way, it was kind of like a modern lease. The only difficulty with copyhold was that the Lord could determine or cancel the copyhold any time they liked. So the copyholder really had no security over the land.

Although the King had power over most of the kingdom, he did not have control over everything. The church held a lot of land in England, and by the early 1500s, King Henry VIII and Pope Clement VII were in a power battle. The Church officials in England were probably certainly more loyal to the Pope than to the King, and the King did not want an alternative power structure in England holding

vast tracts of land. In 1534, he stated that the Church in England would no longer be part of the Catholic Church, but would instead be known as the Church of England.

The parliament passed a law known as the Suppression of Religious Houses Act of 1535. This measure was essentially a land grab. It removed the majority of the lands from church estates and forfeited them to the King. But there was an issue. One reason the land was so valuable was that it could be worked. It produced crops, meat, and timber, and to do so, the land required tenant farmers. The Church already had tenant farmers on the land in many places. Those tenant farmers were usually copyholders, with the Church holding the original title and the copyholder having their copy. Ideally, King Henry wanted to kick out the church but leave the tenant farmers in place. The Church, on the other hand, was rather astute. They felt the King wouldn't want to disrupt those copied holdings, so once they heard the Act was on its way, they began awarding new leases to Church members. It was a brilliant last-ditch effort by the Church to keep control of those lands. When the parliament enacted the final version of the statute, it included a clause that said, **“such persons as have leases for time of life or years whereupon is reserved the old rent shall have and enjoy their said leases as if this Act had never been made.”** However, there was also a clause that said, **“crafty and fraudulent grants and leases made by any of the said chief governors of such religious houses within one year prior to the making of this Act shall be utterly void and of no effect.”**⁶

In Heydon's case, there was a church manor in Devon County called Ottery, which had several attached to it. Some of those lands had been awarded by copyhold to a man named Ware and his son for the rest of their lives. So they were copyholders who would keep their title for the rest of their lives until the Church took it away. In this case, that's exactly what the Church did. The Church in order to defeat the purpose of The Suppression of Religious Houses Act, of 1535 revoked the copyhold of the Wares and gave them to Heydon on an 80-year lease. It was a pretty easy matter for the court to work out what to do about Heydon since the lease was made within a year before The Suppression of Religious Houses Act, was passed and so the lease to Heydon was void. The question was though whether Ware should have his lease back. The Act said, **“Such persons as have leases for time of life or years whereupon is reserved the old rent shall have and enjoy their said leases as if this Act had never been made.”**⁷

⁶Suppression of Religious Houses Act, 1535, Acts of Parliament.

⁷ibid.

So, did Ware have a lease for his life? The copyhold said for life but is it really for life if the Lord can take it away and was it really for life in this situation where it actually had been taken away? The answer just simply wasn't in the legislation but the court had to decide as to whether the words leases for time of life or years should include Copyhold. The courts at this time were still not used to dealing with legislation. They were used to making common law. There were very few rules for how courts would read and apply legislation, especially in situations like this where the legislation seemed unclear. Sir Roger Manwood, the Chief Baron of the Exchequer established four rules for how they would handle these situations. They were reported in the English Reports by Sir Edward Coke.

Sir Coke reported that Manwood's four rules went like this:

1. Where the statute was unclear they must first consider what the common law was prior to the making of the legislation.
2. They must ask what was the defect or mischief for which the common law did not provide. In other words, it was assumed that the parliament would only step in if the parliament felt that the common law was inadequate in a particular way. So, the court should try and identify whatever it was that the parliament was trying to fix.
3. They must consider what remedy the parliament has resolved and appointed to cure the disease. So read the actual words of the statute.
4. Finally, the court had to interpret the legislation in a way that would suppress the mischief and advance the remedy.

These four steps became known as the “Mischief Rule of Interpretation”.

The court had to work out what mischief or defect the parliament was trying to fix and help the parliament's intentions. So, on that basis, the court found that the parliament's intention was that the traditional tenants of the Church land should not be disturbed by this new legislation. Mr. Ware had only been disturbed because of the crafty actions of the Church. Therefore, the intention of the parliament was best supported by giving the Wares back their copyhold.

The mischief rule has its modern form in the modern purposive approach to statutory interpretation. Courts now assume that the parliament has a purpose when it passes legislation and the court should support that purpose.

V. Advantages and Disadvantages of the “Mischief Rule of Interpretation of Statutes”

Advantages:

1. It focuses on the legislative intent of the parliament.
2. It allows judges to apply their minds.
3. It enables judges to take into account social and technical advancements.
4. It allows for legislative sovereignty.
5. It aids in avoiding unjust outcomes.

Disadvantages:

1. The intent of the parliament is sometimes difficult to determine.
2. It is regarded as an obsolete rule of interpretation.
3. It casts doubt on the legislation.
4. It is considered to be undemocratic because it devolves too much power to the court, which is an unelected arm of government.

VI. Conclusion

The “Mischief Rule,” considered one of the three rules of statute interpretation, the other two being the 'Literal Rule' and the 'Golden Rule,' focuses essentially on understanding and interpreting a statute based on the evil (mischief), that is, the problem that the statute aimed to resolve. It is often assumed that the rule corresponds to the method of purposive construction or 'purposivism,' as both approaches of interpretation of statutes are centered on determining the purpose or the ultimate objective of the statute. The landmark Heydon's Case was the first to establish the mischief rule. The case concerned a copyhold tenancy granted by a religious college. For 80 years, the institution leased the same parcel, of which the copyhold was a part, to a man named Heydon. Heydon's lease became void as a result of the enactment of a new statute, even if the initial grant made to Wares was protected by the statute's exemptions. Lord Coke stated that the true interpretation of all statutes must take into account the status of the common law surrounding the statute prior to the statute itself, the mischief and defect that the common law failed to address, the remedy advanced by the statute, and the ultimate reason for the remedy, thus interpreting the statute in a way that would continue to handle the mischief.

Though it is a far more acceptable way of interpreting Acts than the Golden or Literal rule, and it usually avoids unjust or absurd results in sentencing, it is also seen as somewhat out of date because it has been in use since the 16th century, when common law was the primary source of law and parliamentary supremacy had not been established. It provides the unelected judiciary with too much power, which is deemed undemocratic. In the 16th century, the courts would typically draft statutes on behalf of the king and were thus well-versed in what exactly the Act was intended to remedy. This is not always the case in present legal systems. The "Mischief Rule" can render the law confusing, leaving it vulnerable to the slippery slope. As a result, "Purposive Interpretation" was developed as a replacement for the "Mischief Rule," the plain meaning rule, and the golden rule for adjudication. The purposive approach is a method of statutory and constitutional interpretation in which common law courts interpret an enactment in light of its objective.

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