

Thoughts on "Rules of Construction" To Apply In Textual Controversies

Post by "Cassius" of February 1, 2023 at 4:17 PM

I see copying this post to a new thread did not indicate that it is new today. Here's a part from the "Court Canons" that seems particularly on point (and it will bump the date of the thread). It seems to me that some or a lot of this makes good sense in construing the works of any philosopher who claims to promote reason and clarity and consistency:

I. TEXTUAL CANONS

- **Plain meaning rule:** follow the plain meaning of the statutory text, [FN1] except when text suggests an absurd result [FN2] or a scrivener's error. [FN3]

II. LINGUISTIC INFERENCE

- **Expressio unius:** expression of one thing suggests the exclusion of others. [FN4]
- **Noscitur a sociis:** interpret a general term to be similar to more specific terms in a series. [FN5]
- **Ejusdem generis:** interpret a general term to reflect the class of objects reflected in more specific terms accompanying it. [FN6]
- Follow **ordinary usage of terms**, unless Congress gives them a specified or technical meaning. [FN7]
- Follow **dictionary definitions of terms**, unless Congress has provided a specific definition. [FN8] Consider dictionaries of the era in which the statute was enacted. [FN9] Do not consider "idiosyncratic" dictionary definitions. [FN10]
- **"May"** is usually precatory, while **"shall"** is usually mandatory. [FN11]
- **"Or"** means in the alternative. [FN12]

III. GRAMMAR AND SYNTAX

- **Punctuation rule:** Congress is presumed to follow accepted punctuation standards, so that placements of commas and other punctuation are assumed to be meaningful. [FN13]
- Do not have to apply the **"rule of the last antecedent"** if not practical. [FN14]

IV. TEXTUAL INTEGRITY

- Each statutory provision should be read by **reference to the whole** act. [FN15] Statutory interpretation is a "holistic" endeavor. [FN16]
- **Avoid**
 - interpreting a provision in a way that would render other provisions of the Act **superfluous or unnecessary**. [FN17]
 - interpreting a provision in a way **inconsistent with the policy of another provision**. [FN18]
 - interpreting a provision in a way that is **inconsistent with a necessary assumption of another provision**. [FN19]
 - interpreting a provision in a way that is **inconsistent with the structure of the statute**. [FN20]
 - **broad readings** of statutory provisions **if** Congress has specifically provided for the broader policy in more specific language elsewhere. [FN21]
- Interpret the **same or similar terms in a statute the same way**. [FN22]
- **Specific provisions** targeting a particular issue apply instead of provisions more generally covering the issue. [FN23]
- Provisos and statutory **exceptions should be read narrowly**. [FN24]
- **Do not create exceptions** in addition to those specified by Congress. [FN25]