CHAPTER X
INTENTIONS OF LEGISLATURE

SYNOPSIS

1. Object of interpretation : to ascertain the intent of the Legislature.—The dominant purpose in construing a statute is *to ascertain the intent of the Legislature,*[1] as expressed in the statute, considering it as a whole and in the context. Therefore the meaning of the statute is primarily to be sought in the words used in the statute itself which, must if they are plain and unambiguous be applied as they stand.[2] If the intention of the Legislature can be ascertained, all rules of construction must yield to the legislative intention.[3] They cannot override the

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1. *Lt. Col. Prithi Pal Singh* v. *Union of India*, AIR 1982 SC 1413; *(M/s.) Keshavji Raviji & Co.* v. *Commissioner of Income Tax*, AIR 1991 SC 1806 : 1991 Tax LR 669 : (1991)1 JT (SC) 235 : (1991)2 SCC 231 : (1991)1 SCR 243 : 1991 AIR SCW 1845; *Bharat Singh* v. *Management of New Delhi Tuberculosis Centre, New Delhi*, AIR 1986 SC 842 : 1986 Lab IC 850 : (1986)2 SCC 614 : (1986)52 Fac LR 621 : (1986)1 Cur LR 414 : 1986 SCC (Lab) 335 : (1986)2 Serv LJ 63 : (1986)2 SCWR 6 : (1986)2 Lab LN 4 : (1986)2 SCJ 129 : (1986)2 UJ (SC) 339 : (1986)69 FJR 129; *Raghunandan Saran Ashok Saran* v. *(M/s.) Pearey Lal Workshop (P) Ltd.*, AIR 1986 SC 1682 : (1986)3 SCC 38 : (1986)30 DLT 77 : (1986) SC FB RC 300 : 1986 MP RCJ 172 : 1986 JT (SC) 415 : (1986)2 SCJ 413 : 1986 Rajadhani LR 492 : (1986)30 DLT 228 : (1986)3 Supreme 359 : (1986)2 Ren CR 381 : (1986)2 Ren CJ 558 : (1986)2 Rent LR 176 : (1986)2 UJ (SC) 334; *Maheshkumar* v. *Addl. Collector, Hoshangabad*, AIR 1988 MP 210 (DB) : 1988 MPLJ 6; *Birla Jute and Industries Ltd.* v. *Civil Judge*, AIR 1993 Raj 73; *Ashim Ranjan Das* v. *Bimla Ghosh*, AIR 1992 Cal 44 : 1991 (1) CHN 229 : 1991 (1) CLJ 352 : 1991 RCJ 82; *B. Mukerjee* v. *State Bank of India*, AIR 1992 Cal 250; *Chain Singh* v. *State of Rajasthan*, AIR 1991 Raj 17 (DB), *Viscountess Rakonda's Claim*, (1922)2 AC 339, 397, *per* Lord Wrenbury; *see* also *Emperor* v. *Noor Mohd.*, AIR 1928 Sind 1, 9; *Omar Tyab* v. *Ismail Tyab*, AIR 1928 Bom 69, 73; Crawford : *Statutory Construction*, Article 158 at p. 244; *Bramston* v. *Colchester*, (1856)25 LJMC 73 : 119 ER 856; *U.S.* v. *Alpers*, 338 US 680, 681, *per* Minton, J.; *U.S*, v. *Raymor*, 302 US 540, 552; *Sir Iqbal Ahmad* v. *Chief Justice*, AIR 1962 All 391, 396; *Maqbool Ansari* v. *State of Bihar*, (1995)2 BLJR 1114 (Pat); *New India Assurance Co. Ltd.* v. *Sreedharan*, 1995 ACJ 373 (Ker) (FB), referring to *Delhi Transport Corporation* v. *D.T.C. Mazdoor Congress*, 1991 Suppl. (1) SCC 600 and *Union of India* v. *Deoki Nandan Aggarwal*, AIR 1992 SC 96; see *(M/s.) Niracle Sugar Factory, Village and Post Bhandsar*, AIR 1995 All 231.
2. *Keshavji Raviji Co.* v. *Comissioner of Income-tax*, AIR 1991 SC 1806 : 1991 Tax LR 669 : (1991)1 JT (SC) 235 : (1991)2 SCC 231 : (1991)1 SCR 243 : 1991 AIR SCW 1845 : (1984) Tax LR 89 (Mad) (overruled).
3. *Board of Trustees* v. *John Steele*, 1933 SCR (SC) 47 (Canada); *Ambica Quarry Works* v. *State of Gujarat*, (1987)1 SCC 213 : (1987)1 Guj LR 274; *(Dr) Ali Cheeran* v. *Chancellor, Agricultural University, Trivandrum*, AIR 1992 Ker 12 : (1991) ILR 3 Ker 398.

legislative intent specifically expressed in the enactment.[1] If the intention of the Legislature is clear, that intention constitutes the law. It is not for the Court to put word to the mouth of the Legislature or seek the legislative intent.[2] A thing may be within the letter of the statute and not within its meaning, and it may be within the meaning, though not within the letter.[3] And this intention is conveyed either expressly or impliedly by the language used by the Legislature.[4] What is necessarily or clearly implied in a statute is as much part of it and is as effectual as that which is expressed, because it often speaks as plainly by necessary inference as in any other manner.[5] Eversince the dawn of civilisation courts of law have been continuously engaged in ascertaining the intention of the law-making power and in complying loyally and faithfully with the wishes of the said power. As observed, Sarkaria, J., of the Supreme Court, in *Commissioner of Sales Tax, U.P.* v. *M/s. Mangal Sen, Shyam Lal*,[6] "a statute is supposed to be an authentic repository of the legislative will and the function of the court is to interpret it 'according to the intent of them that made it'. From that function the court is not to resile. It has to abide by the maxim *ut res magis valiat quam pereat*, lest the intention of the Legislature may go in vain or be left to evaporate into thin air." As the intention of the Legislature is manifested in the statute itself such intention must be determined from the language which the Legislature has chosen to employ. If the words of a statute are clear or unambiguous they must be given the ordinary, natural and recognised meaning attributed to them, unless they have acquired a technical or special legal meaning or it is necessary to obviate repugnancy or inconsistency, or it is necessary to give effect to the manifest intention of the Legislature. Each word, phrase, or sentence is to be considered in the light of the general purpose of the Act itself. A bare mechanical interpretation of words 'devoid of concept or purpose' will reduce most of the legislation to futility. It is a salutary rule well established that the intention of the Legislature must be found by reading the statute as a whole.[7] The statute must be taken as it stands without any judicial addition or subtraction, for the court has no more authority to enlarge, stretch or expand a statute under the guise of interpretation than to restrict, constrict or qualify its provisions.[8] "The only rule for the construction of Acts of Parliament is, that they should be construed according to the intention of the Parliament which passed the Act,"

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1. *State of U.P.* v. *Jaipal Singh Naresh*, 1978 All LJ 936 (DB); *Special Land Acquisition Officer* v. *Gurappa Channabasappa Paramji*, AIR 1992 Kant 97 : ILR (1991) Kar 1109 : (1991)1 Kar LJ 613 (DB).
2. *Surindra Narayan Bhanjia Deo.* v. *Spl. Officer-cum-Competent Authority Urban Land Ceiling, Cuttack*, AIR 1991 Ori 19; *see* also *M/s. Keshavji Ravji & Co.* v. *Commissioner of Income-tax*, AIR 1991 SC 1806 : 1991 Tax LR 669 : (1991)1 JT (SC) 235 : (1991)2 SCC 231 : (1991)1 SCR 243 : 1991 AIR SCW 1845 : [1984 Tax LR 89 (Mad) overruled].
3. *United States* v. *Moore*, 24 L Ed 588, 589 (Swayne, J.).
4. *Moolchand* v. *Moraraj Kumar Jai Singh*, AIR 1963 Raj 219 : ILR (1963)13 Raj 533; *Ganeslal* v. *Board of Revenue, Rajasthan*, ILR (1966)16 Raj 577 : 1966 Raj WR 396.
5. *United India Timber Works* v. *Employees' State Insurance Corporation*, AIR 1967 Punj 166.
6. 1975 All LR 289 (SC).
7. *Organo Chemical Industries* v. *Union of India*, AIR 1979 SC 1803 at p. 1817; *Directorate of Enforcement* v. *Deepak Mahajan*, AIR 1994 SC 1775; *Nelson Moties* v. *Union of India*, AIR 1992 SC 1981 : (1992) Lab IC 2037 : (1992)5 JT SC 511 : (1992)4 SCC 711 : 1992 AIR SCW 2304.
8. *Union of India* v. *Kanhaiya Lal*, AIR 1957 Punj 117, 120 (FB); *Mohammad Showkat Khan* v. *State of Andhra Pradesh*, (1968)1 Andh WR 427; *Dayananda Saraswati* v. *Gopaladas Anand*, 1969 MPLJ 567 (natural meaning of the words to be adopted); *Shahdara (Delhi) Saharanpur Light Railway* v. *S.S. Railway Workers' Union*, AIR 1969 SC 513 (natural and literal meaning to be given unless language is ambiguous or leads to anomaly or will defeat purpose of the Act); *New Sawan Sugar, etc. Refineries* v. *Commissioner of Income-tax*, AIR 1969 Cal 1962 (court cannot fill up gaps); *Viswanadha Pillai* v. *Shanmugham Pillai*, AIR 1969 SC 493 (no addition of words to section is justified); *Chhajoo* v. *Radhey Shyam*, AIR 1968 All 296 (FB).

observed Tindal, C.J., in *Sussex Peerage* case.[1] "In construing an Act of Parliament, whether public, general or of nature of the Act now under consideration, we are bound to ascertain", said Coltman, J., in *Boyd* v. *Croydon Ry. Co.*,[2] as far as we can what was the intention of the Legislature." We need not go to see what a popular sense (of the expression) is but we must try to understand what the intention of the Legislature is.[3] The duty of the judicature is to discover and to act upon the true intention of the Legislature—the *mens* or *sententia legis*.[4] "A hundred years ago", said Pollock, C.B. in *Reg.* v. *Lyons*,[5] "statutes were required to be perfectly precise, and resort was not had to a reasonable construction of the Act and thereby criminals were often allowed to escape. This is not the present mode of construing Acts of Parliament. They are construed now with reference to the true meaning and real intention of the Legislature." The primary object in interpreting a statute is always to discover the intention of the Legislature and the rules of interpretation developed in England can be relied on to aid the discovery because those whose task it is to put the intention of the Legislature into language, fashion their language with those very rules in view. Since framers of statutes couch the enactments in accordance with the same rules as the judicial interpreter applies, application of those rules in the analysis of a statute naturally brings up the intended meaning to the surface. It is at least doubtful whether in the case of framers of Indian statutes of the present times, specially of the Provincial Legislature the same assumption can always be made.[6]

The primary duty of a court is to give effect to the intention of the Legislature as expressed in the words used by it and no outside consideration can be called in aid to find another intention.[7] All the relevant provisions are to be together read to gather the intention.[8] Indeed Crawford has firmly stated in statutory construction, in Section 257 at p. 506 : The Court should study it as a whole and even if it resorts a reasonable or liberal construction care should be taken not to defeat the intention of the Legislature. It is a well-established canon of interpretation that the intent of the Legislature is to be gathered from the words used[9] and that if the words used have not acquired any technical meaning they should be deemed to have been used in their ordinary meaning.[10] The safer and more correct way of dealing with a question of construction is to take the words themselves and arrive if possible at their meaning without in the first place, reference to cases.[11] In the courts, however, while, we have to remember the rules of grammar, because such rules are ordinarily observed by people in expressing their intentions, we have to look a little more closely to understand the real

1. (1844)11 Cl & Fin 85 at 143 : 65 RR 11; Cargo ex "Argos" (1872) LR 5 PC 134, 152; *Wyatt* v. *Great Western Ry. Co.*, (1865)34 LJQB 204 : 122 ER 1856; Maxwell : *Interpretation of Statutes*, 9th Ed. at p. 1.
2. (1888)7 LJCP 241 : 132 ER 946; *Fordya* v. *Bridges*, (1847)1 HLC 1 : 9 ER 649 (HL); *Govind Shripad* v. *Srinivas Krishna*, ILR 1937 Bom 655 : AIR 1937 Bom 275, 278 (FB).
3. *Banwarilal* v. *Deshmukhuja*, AIR 1958 Assam 155, 156.
4. Salmond : *Jurisprudence*, 10th Ed. at p. 170.
5. (1858)28 LJMP 33, 35.
6. *Badsha Mia* v. *Rajjab Ali*, AIR 1946 Cal 348, 353 (FB), *per* Chakravarti, J.; *Ganeshlal* v. *Board of Revenue, Rajasthan*, ILR (1966)16 Raj 577 (2) : 1966 Raj LW 396.
7. *Nathu Prasad* v. *Singhai Kapurchand*, 1976 JLJ 340 (FB); *Osmania University Teachers' Association* v. *State of A.P.*, AIR 1987 SC 2034; *N. Ramaswamy, Chairman, Pondicherry Coop. Milk Producers' Union, Pondicherry* v. *The Lt.-Governor of Pondicherry, Pondicherry*, (1985)1 MLJ 219 (DB).
8. Vide *The Film Exhibiters' Guild* v. *State of Andhra Pradesh*, AIR 1987 AP 110 : (1987)1 Andh LT 154 : (1987)1 APLJ (HC) 330 (FB).
9. *Secretary to Government, Punjab Revenue* v. *Jagar Singh*, 1977 Rev LR 104 (DB); *Birla Jute and Industries Ltd.* v. *Civil Judge*, AIR 1993 Raj 73.
10. *S.S. Harischandra Jain* v. *Capt. Inder Singh*, 1977 JLJ 312 (FB).
11. *Parina Rai* v. *Dharam Deo Singh*, AIR 1966 All 199, 200 (C.B. Capoor, J.)

intention expressed.[1] It is a cardinal principle of statutory construction that the intention of the Legislature should be gathered from the words of the enactment.[2] If the words of a statute are clear and unambiguous, they themselves indicate what must be taken to have been the intention of Parliament and there is no need to look elsewhere to discover their intention or their meaning.[3] The factors which can be taken into account in ascertaining that intention of the Legislature are the history of the Act, the reasons which led to the passing of the Act, the mischief which had to be cured as well as the cure proposed and also the other provisions of the Statute.[4] In order to find out the legislative intent, we have to find out what was the mischief that the Legislature wanted to remedy.[5]

The real rule is that if a law is vague or appears to be so, the court must try to construe it, as far as may be, and language permitting, the construction sought to be placed on it, must be in accordance with the intention of the Legislature. Thus if the law is open to diverse construction, that construction which accords best with the intention of the Legislature and advances the purpose of the Legislature, is to be preferred. Where, however, the law admits of no such construction and the persons applying it are in a boundless sea of uncertainty and the law *prima facie* takes away a guaranteed freedom, the law must be held to offend the Constitution. The invalidity arises from the probable misuse of the law to the detriment of the individual. If possible, the court instead of striking down the law, may itself draw the line of demarcation where possible, but the effort should be sparingly made and only in the clearest of cases.[6] If there are two expressions, one of which conveys the intention of the Legislature more clearly than another, and the Legislature uses the less clear expression, the Legislature will be deemed not to have intended to convey that intention and it becomes necessary to discover what intention it did intend to convey.[7] Again, where there are reasons for doubting whether the Legislature could have been intending so wide an interpretation as would disregard fundamental principles, the court is justified in adopting a narrower construction.[8] It is a well-known rule of interpretation that if the words of a statute are in themselves precise and unambiguous, then no more is necessary than to expound their meaning according to their natural and ordinary sense. The words themselves in such a case best declare the intention of the law-giver.[9] It is only as a matter of last resort when the intention of the Legislature is manifest but the language used by the Legislature is not apt to express such intention that the court would be justified in departing from the rules of grammar and giving an unusual meaning to particular words altering their collocation or rejecting them altogether and such a course would be adopted by the court under the influence of an irresistable conviction that the Legislature possibly did

1. *Workmen of Bombay Port Trust* v. *Trustees, Port of Bombay*, 1962 (Supp) 1 SCR 36, 43 (Das Gupta, J.).
2. *Ram Krishna* v. *Janpad Sabha*, AIR 1962 SC 1073, 1079; *Mandood Ahmad* v. *State of U.P.*, 1962 All LJ 835 : 1962 AWR (HC) 661; *Maggibai* v. *Sitaram*, 1977 RLW 196.
3. *Sonya Dagdu* v. *Manhu Dagdu*, 1980 Mah LJ 17 : AIR 1980 Bom 62; *Lt-Col Prithi Pal Singh* v. *Union of India*, AIR 1982 SC 1413.
4. *Prishar, S.C.* v. *Vasantasen Dwarkadas*, AIR 1963 SC 1356; *Sita* v. *State of UP*, AIR 1969 All 342 (FB).
5. *Commissioner of Income tax, Gujarat* v. *Vadilal Lallubhai*, (1973)3 SCC 17, 23 (Hegde, J.); *Ganga Ram Kishore Chand* v. *Jai Ram Bhagat Ram*, AIR 1957 Punj 293, 296 (Tekchand, J.).
6. *K. A. Abbas* v. *Union of India*, (1971)2 SCR 446, 470 (Hidaytaullah, C.J.).
7. *Nadiad Borough Muncipality* v. *Nadiad Electric Co., Ltd.*, AIR 1964 Guj 30; *Lord Krishna Bank Ltd.* v. *Inspector-General of Registration*, 1976 Ker LT 374; *Polester Co. Ltd* v. *Additional Commissioner of Sales Tax, New Delhi*, AIR 1978 SC 897 (905).
8. *Narsingh* v. *State*, AIR 1967 Punj 111 (FB).
9. *Lord Krishna Bank, Ltd.* v. *Inspecter-General of Registration*, 1976 Ker LT 374; *Orissa Minor Oil (P), Ltd.* v. *State of Orissa*, AIR 1983 Orissa 265.

not intend what its words signify and the modifications thus made are mere corrections of careless language and really giving the true meaning as intended by the Legislature.[1]

To summarise, in the words of the Supreme Court, "the dominant purpose in construing the statute is to ascertain the intention of the Legislature. This intention, and, therefore, the meaning of the statute, is primarily to be sought in the words used in the statute itself, which must, if they are plain and unambiguous, be applied as they stand, however strongly it may be suspected that the result does not represent the real intention of the Legislature. In approaching the matter from this angle, it is a duty of the court to give fair and full effect to statute which is plain and unambiguous without regard to particular consequence in a special case."[2]

2. Jurist's view.—According to *Holland*,[3] in order that the competent court may rightly apply the appropriate law, it is necessary that the words of the law shall be properly construed. 'Interpretation' is thus a third, though a very subordinate, topic of the application of law. It is said to be either 'legal', which rests on the same authority as the law itself, or 'doctrinal' which rests upon its intrinsic reasonableness. 'Legal interpretation' may be either 'authentic', when it is expressly provided by the Legislator, or 'usual' when it is derived from unwritten practice. 'Doctrinal interpretation' may turn on the meaning of words and sentences when it is called 'grammatical,' or on the intention of the legislator, when it is described as 'logical'. According to Salmond: *Jurisprudence*[4] :

> "The essence of the law lies in its spirit, not in its letter, for the letter is significant only as being the external manifestation of the intention that underlies it. Nevertheless in all ordinary cases the courts must be content to accept the *litera legis* as the exclusive and conclusive evidence of the *sententia legis*. They must in general take it absolutely for granted that the Legislature has said what it meant, and meant what it has said. *Ita scriptum est* is the first principle of interpretation. Judges are not at liberty to add to or take from or modify the letter of the law, simply because they have reason to believe that the true *sententia legis* are not completely or correctly expressed by it. That is to say, in all ordinary cases grammatical interpretation is the sole form allowable. To this general principle there are two exceptions. There are two cases in which the *litera legis* need not be taken as conclusive, and in which the *sententia legis* may be sought from other indications. The first of these cases is that in which the letter of the law is logically defective, that is to say, when it fails to express some single, definite, coherent, and complete idea...The second is that in which the text leads to a result so unreasonable that it is self-evident that

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1. *Motibhai* v. *Ramchand*, 1972 Guj LR 508, 512 (Bhagwati, C.J.).
2. *Harchand Singh* v. *Smt. Shivarani*, 1981 All WC 273 (SC) (*per* D.A. Desai, J.).
3. Jurisprudence (Chapter : *The Application of Law*) Rattigan in his *"Science of Jurisprudence"* (Chapter : *Sources of Law*) observed : "To aid Judges in their often extremely difficult task certain rules of interpretation were laid by the Roman Jurists, which are still generally observed. Thus the primary rule of law is, that the meaning of the legislator is to be sought in the actual words used by him, which are to be interpreted in their ordinary and natural meaning....This is called 'Grammatical Interpretation", and where there is no ambiguity in the language employed, no other form of interpretation is possible. But where the 'Grammatical Interpretation' fails to meet the case—where, for instance, the words, either in themselves or in connection with the context, are ambiguous or where they are capable of two distinct interpretations each at variance with the other—it is obvious that we must call in some other aid...This aid is furnished by what is called 'Logical Interpretation' which teaches us to observe the relation in which different portions of a law stand to each other...the phraseology which is characteristic of the law-giver; and how far the expressions used by him in one enactment may serve to explain similar expressions in a later enactment in *in pari materia*..."
4. 10th Ed. at pp. 170-173.

the Legislature could not have meant what it has said.....To correct the *sententia legis* on logical grounds is a true process of interpretation; it fulfils the ultimate or dormant, if not the immediate or conscious intention of the Legislature."

"A good many thousand pages", writes Sutherland in his *Statutory Construction*,[1] "have been written on the subject of legislative interpretation and these volumes add to that mass, but Lord Coke's formulation of the rule in 1584 not only remains the keystone but the most reliable guide to the proper judicial use of statutes. He reported : 'And it was resolved by them, that for the full and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned : First, what was the common law before the making of the Act? Second, what was the mischief and defect for which the common law did not provide? Third, what remedy the Parliament hath resolved and appointed to cure the disease of the Commonwealth? And fourth, the true reason of the remedy. And then the office of all Judges is always to make such construction as shall suppress the mischief, advance the remedy, and to suppress subtle invention and evasions for 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*.[2] This rule has been reformulated, expanded, restricted, explained, and rephrased, but the conclusions of it, the application of the law according to the spirit of legislative body remains the principal objective of judicial interpretation. Some have emphasized the words of the Legislature themselves and have insisted on a literal interpretation as the safest means of determining legislative intention.....Still others have relied heavily on extrinsic evidence found in the legislative history of prior enactments, the procedure through which the immediate statute passed, its committee reports, and its interpretation by administrative officials, in order to determine the intent of the Legislature. None of these methods or the numerous subsidiary canons of interpretation can be criticized if they in fact reflect the intent of the Legislature, but none can be supported, when they result in a finding of legislative intent which did not in fact exist with the Legislature. No single canon of interpretation can purport to give a certain and unerring answer to the question. The question of meaning lies deeper than the law. It involves question of judgment too subtle for articulation and issues of the transference of knowledge as yet unprobed by lawyers, scientists or psychologists."

Keeton in his *Jurisprudence*,[3] observes :

> "Some books speak of the 'logical' interpretation of statutes, meaning by this, an interpretation according to the intent, extending the statute to cases not contemplated by the framers. Such a system of interpretation, as we have seen, is generally at variance with the rules of construction followed by the English Courts....."

Lord Coke's view applied by Supreme Court.—When a question arises as to the intepretation to be put on an enactment, what the court has to do is to ascertain 'the intent of them that make it', and that must of course be gathered from the words actually used in the statute. That, however, does not mean that the decision should rest on a literal interpretation of the words used in disregard of all other materials. 'The literal construction then', says Maxwell on *Interpretation of Statutes*,[4] 'has in general, but *'prima facie'* preference. To arrive at the real meaning it is always necessary to get an exact conception of the aim, scope and object

1. 3rd Ed. at p. 314, Vol. 2.
2. *Heydon's* case, (1584)76 ER 637. *See* this rule followed by the High Court of Andhra Pradesh in *Morisetty Bhadriah* v. *Sales-Tax Appellate Tribunal, Hyderabad*, (1964)1 Andh WR 361.
3. (1945) at p. 94.
4. 10th Ed. at p. 19.

of the whole Act,[1] to consider according to Lord Coke :

(1) what was the law before the Act was passed;

(2) what was the mischief or defect for which the law had not provided;

(3) what remedy Parliament has appointed; and

(4) the reason of the remedy.[2]

3. Intention of Legislature, a slippery phrase.—In *Salomon* v. *Salomon*,[3] Lord Watson thus indicated the nature and limits of the canon : 'Intention of the Legislature' is a common but very slippery phrase which, popularly understood, may signify anything from intention embodied in positive enactment to speculative opinion as to what the Legislature probably would have meant, although there has been an omission to enact it. In a court of law or equity, what the Legislature intended to be done or not to be done can only legitimately be ascertained from what it has chosen to enact, either in express words or by reasonable and necessary implication."

The language of the statute may not be distorted under the guise of construction of so limited by construction as to defeat the manifest intent of Congress.[4] The intention of the Legislature has to be gathered from the plain meaning of the words used in the statute. If the statutory provision is clear, *prima facie* that should be taken as intention and no other aid can be resorted to for the purpose of ascertainment of intention of Legislature.[5] But there may be occasions when the rule of plain interpretation does not obviously bring out the intention of the Legislature. The duty of the court in such cases is not to fill in the gaps but to give expression to the intention of the Legislature by putting such interpretation as may remove the ambiguity. When the ordinary rule of giving plain meaning to the words given in the statute is obviously destructive of the apparent intent of the Legislature, it has to be departed from and the intent of the Legislature has to be searched for from the context of the statute under interpretation.[6]

4. When language clear and unambiguous, evidence as to intention to be disregarded.—The language of the Article being plain and unambiguous, it is not open to the court to read into it limitation which are not there, based on a *priori* reasoning as to the probable intention of the Legislature. Such intention can be gathered only from the words actually used in the statute; and in a court of law, what is unexpressed has the same value as what is unintended.[7] It is a maxim of interpretation in construing statutes that no matter what the intention of the Legislature may have been the courts are bound to follow the wording of the enactment and to

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1. Intention to be gathered from the whole Statute. *Roop K. Sheory, Bombay* v. *State*, AIR 1967 Punj 42; *State* v. *Khan*, AIR 1966 Bom 107; *Md. Jainulabdin, alias Nalmmacha* v. *State of Manipur*, 1991 Cri LJ 696 (Gau).
2. *R.M.D.C.* v. *Union of India*, AIR 1957 SC 628, 631; *Bengal Immunity Co., Ltd.* v. *State of Bihar*, AIR 1955 SC 661, 674 : (1955)2 SCR 603, 632; *Harak Singh* v. *Kailash Singh*, AIR 1958 Pat 581, 583 (FB) (Hindu Succession Act). *See* also *Morisetty Bhadriah* v. *Sales-tax Appellate Tribunal*, (1964)1 Andh WR 361; *see* also *Dr. Hari Singh* v. *E.F. Deboo*, AIR 1969 Goa 349; *Sanghvi Jivraj Ghewar Chand* v. *Secretary Madras Chillies, Grain and Kirana Merchants' Workers' Union*, AIR 1969 SC 530; *(Smt) Dhiraj Bala Koria* v. *Jethia Estate (P), Ltd.*, AIR 1983 Cal 166 (SB).
3. 1897 AC 22; quoted by Ramaswami, J. in *Hans Raj* v. *Dave*, (1969)2 SCR 253, 259. Court's function is not to say what the Legislature meant but to ascertain what the Legislature has said it meant. *Tata Chemicals, Ltd.* v. *Kailash*, AIR 1964 Guj 265, 276 (Bhagwati, J.) *Trolley Draymen and Carters' Union of Sydney and Suburbs* v. *The Master Carriers' Association of N.S.W.*, (1905)2 CLR 509, 521-522; *Jairamdas* v. *Regional Transport*, AIR 1957 Raj 312, 316; *See* also *Rashid Khan* v. *Maltibai*, 1980 Mah LJ 428; *C. Unni Nedumanaged Thinanlia Puthees Vedu* v. *State of Kerala*, 1983 EFR 242 (Ker).
4. *United States* v. *Alpers*, 74 L Ed 457, 460 : 338 US 680 (Minton, J.). It should be rationally interpreted; *Gulf States Steel Co.* v. *United States*, 77 L Ed 150, 157 : 287 US 32(Mc Reynold, J.).
5. *Ponnammal* v. *Ghanaughasundaram*, 90 LW 69 : (1977)2 Mad LJ 10.
6. *Chhajjoo* v. *Radhey Shyam*, AIR 1968 All 296, 304 (FB) (GD Sehgal, J.); Appeal under Section 476-B of CrP C.
7. *Venkataramanna Dewan* v. *State of Mysore*, AIR 1953 SC 255, 267.

disregard all evidence as to intention, when inconsistent with the language actually used in the Act as passed, if the latter is clear and unambiguous.[1]

5. Evidence of members of the Legislature.—Crawford in his *Statutory Construction* writes :

"Thus in *Barlow* v. *Jones*,[2] an attempt was made to introduce the testimony of a member of the Legislature which had enacted the statute involved and the court held such testimony incompetent partly on the ground that 'it is not conceivable that a common intent would be the result' even if the testimony of every member of the Legislature could be produced. Similarly, in *Badeau* v. *United States*,[3] where an attempt was made to prove by a member of the Legislature what the legislative intent was, the court said that the legislator could not possibly have any personal knowledge of the object or intention of the enactment, and that at most he could have only personal knowledge of his own object and intention and that would not go far toward showing the object and intention of each House of the Legislature or of a majority of the several hundred members of each House in passing the statute in issue."

6. Testimony of draftsman irrelevant.—The person who drafted the enactment is also not competent to declare as to the intention of the Legislature which passed it. In *Hilder* v. *Dexter*,[4] Lord Halsbury observed : "My Lords, I have more than once had occasion to say that in construing a statute, I believe the worst person to construe it is the person who is responsible for its drafting. He is very much disposed to confuse what he intended to do with the effect of the language which in fact has been employed. At the time he drafted the statute, at all events, he may have been under the impression that he had given full effect to what was intended, but he may be mistaken in construing it afterwards just because what was in his mind was what was intended, though, perhaps, it was not done."

7. Supposed intention not to control meaning.—In *Inland Revenue Commissioner* v. *Herbert*,[5] Lord Haldane said : "I think it worthwhile to recall a principal which must always be borne in mind in construing Acts of Parliament, and particularly Legislature of a novel kind. The duty of a court of law is simply to take the Statute it was to construe as it stands, and to construe its words according to their natural significance. While reference may be made to the state of the law, and the material facts and events with which it is apparent that Parliament was dealing, it is not admissible to speculate on the probable opinions and motives of those who framed the legislation, excepting in so far as they appear from the language of the statute. That language must indeed be read as a whole. If the clearly expressed scheme of the Act requires it, particular expressions may have to be read in a sense which would not be the natural one if they could be taken by themselves. But subject to this the words used must be given their natural meaning, unless to do so would lead to a result which is so absurd that it cannot be supposed, in the absence of expressions which are wholly unambiguous, to have been contemplated.

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1. *Ghulam Mohd* v. *Mst. Lawara*, No. 5 PR 1912 at p. 18 (Rev); *Mukund Lal* v. *Shanker Lal*, AIR 1965 MP 185, 189 (Dixit, C.J.) : A certain amount of commonsense must be applied in construing statutes. Where the language employed supports on construction that one alone should be adopted; *Thammayya Chinnappa* v. *Thammayya*, (1968)2 Mys LJ 207; *Curappa Chettiar* v. *Commissioner of Incxome-tax*, (1968)7 ITR 737; *K.L. Kuttayan Chettiar* v. *K.V.R.Surendra Nathachary*, (1982)2 Mad LJ 443 (DB); *Yog Raj Puri* v. *Yogeshwar Raj Puri*, AIR 1982 Delhi 62.
2. 294 Pac 1106. *See* also *U.S.* v. *O'Brein*, 20 L Ed 2d 672, 689 : 391 US 367 (Warren, C.J.).
3. 21 Ct CJ (US) 48.
4. 1902 AC 474.
5. (1913) AC 326, 332; *Ram Babu* v. *Ramesh Chandra*, 1957 All LJ 53; *Government of Andhra Pradesh* v. *Mohd. Azam, etc.*, (1958)1 Andh WR 299 : 1958 Andh LT 185 (FB).

No assumption of parliamentary intention can be made except from what Parliament itself has said. If it be within its powers to authorise a certain order, then the court cannot attribute to it any intention except to authorise that specific order with precisely whatever consequences, effective or ineffective, the law will attach to it. To go beyond that is to violate the very first canon of interpretation and to judge of intention by conjecturing what a writer intended to say and not by what he has said—that is, to read his mind apart from his words, instead of reading it by means of his words alone.[1]

It is unquestionably a reasonable expectation that when the Legislature intends the affliction of suffering or an encroachment on natural liberty or rights, or the grant of exceptional exemptions, powers and privileges, it will not leave its intention to be gathered by mere doubtful inference or convey it in 'cloudy and dark' words only but will manifest it with reasonable clearness.[2]

One of the cardinal rules of interpretation is that an enactment must be interpreted according to its plain language and it is not for the court to speculate as to the intention of the Legislature when the language is plain.[3] Whatever the intention of the Legislature may have been, it is well-established principle of interpretation of statutes that when the words of a statute admit of but one meaning, the court is not at liberty to speculate on the intention of the Legislature, and to construe them according to its own notions of what ought to have been enacted.[4] The rule of construction is 'to intend the Legislature to have meant what they actually expressed'.[5] The meaning of the Act is to be interpreted not with reference to what its framers intended to do, but with reference the language which they did in fact employ.[6] Words have to be read in their literal sense and court cannot put upon them construction which they believe to represent the intention of the Legislature at the time of the passing of the statute.[7] The language of the provisions should not be stretched to square with this or that constitutional theory in disregard of the cardinal rule of interpretation of any enactment, constitutional or other, that its spirit, no less than its intendment should be collected primarily from the natural meaning of the words used.[8] It is not permissible to construe the statute with reference to the underlying intention while the language of the statute gives rise to a different construction.[9]

In *Piara Singh* v. *Mula Singh*,[10] Sir Shadi Lal quoting from Maxwell observed : "In short, when the words admit of but one meaning a Court is not at liberty to speculate on the intention

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1. *Federated Engine Drivers' and Firemen's Association of Australia* v. *Colonial Sugar Refining Co., Ltd.*, 22 CLR 103, 114.
2. *Collector of Central Excise* v. *Phool Chand*, AIR 1968 Andh Pra 103, 106 (Jagan Mohan Reddy, J.).
3. *Dy. Commissioner, Jhang* v. *Budhu Ram*, AIR 1937 Lah 38, 40 : ILR 1937 Lah 1 FB; *Rasul Khan* v. *Emperor*, ILR 1939 Lah 283 : AIR 1939 Lah 70 (FB); *Subramanya* v. *Ghannu*, AIR 1935 Mad 628 , 634; *Thiraj* v. *Crown*, ILR 11 Lah 55; *Crawford* v. *Spooer*, 4 MIA 179; *Imperator* v. *Juro*, 12 IC 646 (Sind); *Jairam Das* v. *Regional Transport*, AIR 1957 Raj 312, 316; *Panitola Tea Estate* v. *Conciliation Officer*, AIR 1966 A & N 138, 140 (Mehrotra, C.J.) unless the language is ambiguous; *Tyagarajan* v. *Official Liquidator*, AIR 1959 Mad 538, 540 (Rajamannar, C.J.); *Inder Singh* v. *Gulzara Singh*, AIR 1969 Delhi 154 (FB); *Lord Krishna Bank, Ltd* v. *Inspector-General of Registration*, 1976 Ker LT 374; *Polester & Co, Ltd.* v. *Addl. Commissioner Sales Tax, New Delhi*, AIR 1978 SC 897 (907).
4. *Mst. Surjit* v. *Sheo Ram*, ILR 14 Lah 389, 392.
5. *Manjulabai Laxmanichavan* v. *Manikchand Tuljaram Shah*, 1977 Mah LJ 185, (DB) para 34.
6. *Ghulam Mohd.* v. *Panna Ram*, AIR 1924 Lah 374; *Nur Mohammad* v. *Lalchand*, AIR 1925 Lah 436; *Henreitta* v. *A.G. Canada*, AIR 1930 PC 120, 126 (the question is not what may have been supposed to have been intended but what has been said; *Brophy* v. *A.S. Monitoba*, (1895) AC 212, 216 followed.
7. *Government Advocate* v. *Fazal Rahim*, AIR 1933 Pesh 69.
8. *State of West Bengal* v. *Subodh Gopal*, 1954 SCR 587, 636 (Das, J.).
9. *Bristol Co-opertive Central Bank* v. *Benoy Bhusan*, AIR 1934 Cal 537, 540; *Hartey* v. *Allen*, (1858)27 LJ Ch 621 (No conjecture possible).
10. ILR 4 Lah 324, 326.

of the Legislature, and to construe them according to its own notions of what ought to have been enacted. Nothing could be more dangerous than to make such considerations the ground for construing an enactment that is unambiguous in itself. To depart from the meaning on account of such views is, in truth, not to construe the Act but to alter it. But the business of the interpreter is not to improve the statute; it is to expound it. The question for him is not what the Legislature meant, but what its language means, *i.e.*, what the Act has said that it meant. To give it a construction contrary to, or different from, that which the words import or can possibly import is not to interpret law, but to make it, and Judges are to remember that their office is *jus dicere*, not *jus dare*."[1]

When the main terms of an enactment do not apply, it is not competent to the Court to resort to what might appear to be the intention of the Legislature in order to interpret such terms.[2]

It would be wrong to begin by assuming an intention apart from the plain meaning of the words used and bend the language in favour of the presumption so made.[3]

It is the letter that essentially matters for the construction of the statutory provisions into which speculation ought not to enter about what the Legislature may or may not have intended, apart from what it has expressed by the language that it has employed.[4] Court must not only decide whether a particular interpretation was intended by the Legislature, but also whether the language used in the statute has succeeded in conveying that intention.[5]

When exact and precise words are used, they clearly show the intention of the Legislature and it is not open to the Court to speculate as to what the intention of the Legislature might be because a case not covered by the exact and precise words used by the Legislature has arisen. Section 19(1) of the Bombay Municipal Boroughs Act, 1925, only deals with the ordinary case where the Municipality continues for three years, and the section provides that the President may be elected either for the whole period of three years or for a period of not less than one year. Where the Government extended the life of the Municipality by two months only, a new President could not be elected for the extended period of two months in view of specific proviso to Section 19(1) under which he could be elected only for a period of not less than one year. There is a lacuna to this extent, but the way out of this impasse is to be found in the proviso to Section 19(1) which lays down that the term of office of such President or Vice President shall be deemed to extend to and expire with the date on which his successor is elected. Therefore, till there is a successor who is elected President in accordance with law, the incumbent who holds office as President must continue to hold office under the proviso to Section 19(1).[6]

It may further be noted that in a doubtful case search for the supposed intention of the Legislature must not be pressed too far. An interpretation which defeats the object of a statute is not permissible.[7] Again an interpretation leading to repugnance must also be avoided.[8]

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1. *See* also *Bhagat Govind Das* v. *Rup Kishore*, ILR 4 Lah 369, 372; *Mst. Surjit* v. *Sheo Ram*, ILR 14 Lah 387, 392 : AIR 1933 Lah 492; *Bhagta Nand* v. *Sardar Mohd.*, ILR 16 Lah 204 : AIR 1935 Lah 150. 153; *Secretary of State* v. *Arunachalam*, ILR 1939 Mad 1017 : AIR 1939 Mad 711, 714; *Badri Prasad* v. *Ram Narain Singh*, AIR 1939 All 157; *Gurudwara Nankana Sahib* v. *Hira Das*, AIR 1936 Lah 298.
2. *Jankiram & Co.* v. *Chunilal Shivram*, ILR 1944 Bom 675 : AIR 1945 Bom 40, 42; *Gurcharanlal* v. *Shiv Narayan*, AIR 1948 Oudh 162 (FB).
3. *R. Govindaswamy* v. *State*, AIR 1960 Andra Pra 391, 393; *Param Lal* v. *Dharma Deo Singh*, AIR 1966 All 199; *Panitola Tea Estate* v. *Conciliation Officer*, AIR 1966 Assam 138.
4. *Viraraghava Rao* v. *Narshimha Rao*, AIR 1950 Mad 124.
5. *Krishan Chand* v. *Ganga Dhar*, 1964 AWR (HC) 329.
6. *Kashinath* v. *State of Bombay*, AIR 1954 Bom 41, 42, 43.
7. *South Asia Industries (Private) Ltd.* v. *Sarup Singh*, AIR 1966 SC 346 : (1966)1 SCA 151 : (1965)1 SCWR 934.
8. *Munciplal Corporation, Madras* v. *Balakrishnan*, 79 MLW 743.

8. Intention dependent upon words.—The Legislature indicated its intention expressly or by implication, in the form of a written instrument known as a statute. In all cases the object is to see what is the intention expressed by the words used.[1] This is the first and primary rule of construction.[2] The Court knows nothing of the intention of an Act except from the words in which it is expressed, applied to the facts existing at the time.[3] The intention of Parliament is not to be judged by what is in its mind, but by its expression of that mind in the statute itself.[4] A case in point is *Sudarsan Singh* v. *State of U.P.*[5] In a court of law or equity what the Legislature intended to be done or not to be done can only be ascertained from that which it has chosen to enact either in express words or by reasonable or necessary implication. "We must ascertain that intention", observed Lord Brougham in *Fordyce* v. *Bridges*,[6] "from the words of the statute and not from any general inferences drawn from the nature of the objects dealt with by the statute." Says the Supreme Court in *Union of India* v. *S.H. Seth*,[7] "language is at best an imperfect medium of expression and a variety of signification may often lie in a word of expression. It has, therefore, been said that the words of a statute must be understood in the sense which the Legislature has in view and their meaning must be found *not so much in a strictly grammatical or etymological propriety of language nor in its popular use, as in the subject or in the occasion on which they are used and the object to be attained*.....It must be remembered that though the words used are the primary, and ordinarily the most reliable source of interpreting the meaning of any writing, be it a statute, a contract, or anything else, it is one of the surest indexes of a mature and developed jurisprudence not to make a fortress out of a dictionary, but to remember that a statute always has some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to its meaning. The literal construction should not obsess the Court, because it has only *prima facie* preference, the real object of interpretation being to find out the true intent of the law-maker and that can be done only by reading the statute as an organic whole bearing in the mind the rule in Heydon's case....."

In *Vacher & Sons, Ltd.* v. *London Society of Compositors*,[8] Lord Macnaughten observed : "Acts of Parliament are of course to be construed 'according to the intent of Parliament' which passes them. That is 'the only rule', said Tindal, C.J., delivering the opinion of the Judges who advised this House in the *Sussex Peerage* case.[9] But his Lordship was careful to add this note of warning: 'If the words of statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such cases, best declare the intention of the Legislature'."[10] The Court is

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1. *River Wear Commissioner* v. *Adamson*, (1877)3 AC 743, 763, *per* Lord Blackburn; *Eastman Photographic Material Co.* v. *Comptroller-General, etc.*, (1898) AC 571, 575-76; *Omar Tyab* v. *Ismail Tyab*, AIR 1928 Bom 69, 73; *Aziz Ahmad Khan* v. *Chhote Lal*, ILR 50 All 569 : AIR 1928 All 241, 246; *The Communist Party of India, Nagpur* v. *State of Maharashtra*, AIR 1989 Bom 29 : 1988 Mah LJ 504 : (1988)2 Bom CR 627 : 1988 Mah LR 1223; *B. Mohan Krishna* v. *Union of India*, (1995)1 An LT (Cri) 332 (AP).
2. *Dwarika Singh* v. *Dy. Director of Consolidation*, 1981 All LJ 484 (FB).
3. *Logan* v. *Courtown*, 20 LJ Ch 347, 355, *per* Lord Langdale, MB.
4. *Wicks* v. *Director of Public Prosecutions*, (1947)1 All ER 205, 207 : 1947 AC 362, *per* Lord Thankerton.
5. 1981 All LJ 1103.
6. (1847)1 HLC 1 : 9 ER 649 (HL); *see* also *R* v. *Doubledey*, (1961)121 ER 530; *see* also *Philips John* v. *C.I.T. Calcutta*, (1963)2 SCWR 35.
7. (1977)18 Guj LR 919, para 55.
8. 1913 AC 107; *see* also *Lord Krishna Bank Ltd.* v. *Inspector-General of Registration*, 1976 Ker LT 374.
9. (1944)11 Cl & F 85, 143; *see* also *Daryabai* v. *Surajmal*, 1979 Jab LJ 273 (FB).
10. *Corporation of the City of Nagpur* v. *Its Employees*, AIR 1960 SC 675.

not entitled to alter the language of a section to fit in with the supposed intention of the Legislature.[1] The Court has no right to assume delegated legislative function, and if the meaning of the words used in a rule is clear, the Court cannot re-arrange the words to convey a meaning which it thinks they were intended to convey.[2]

"The only guide, therefore, as to what the Legislature intended is the words it has used; the first of all rules of interpretation is to find out the meaning of the Legislature from what it has said."[3] The first rule of all to be applied in construing a statute is to ascertain the intention of the Legislature from the words it has used, reading them in their ordinary natural sense in the context in which they stand, and giving to every words as far as possible its full meaning.[4] The intention is to be gathered from the words used in the particular enactment, and the Court cannot be guided by what a sister Legislature has expressed in another enactment.[5]

The principal duty of a court is to give effect to the intention of the Legislature as expressed in the words used by it and no outside consideration can be called in aid to find that intention.[6] If the Legislature expresses its intention by express words the Court cannot ascribe to it any other intention that other circumstances may show, and even if such other intention may clearly be shown to have existed, the Court must hold that the intention of the Legislature is as expressed in the words.[7] And it does not necessarily follow that the Legislature intends something different only because language used in different sections is not exactly the same expression to denote its meanings.[8] And, for this purpose the court may look to the reasons which led to the passing of the enactment in order to properly gather the intention.[9]

"It is elementary", says Mahajan, J., in *The New Piecegoods Bazar Co., Ltd.* v. *Commissioner of Income-tax, Bombay*,[10] "that the primary duty of a court is to give effect to the intention of the Legislature as expressed in the words used by it and no outside consideration can be called in aid to find the intention." The Court has to judge the intention of the Legislature not by speculating as to what it had in its mind but only by its expression of that mind through the language of the enacted provisions.[11] Intention of the Legislature is not to be judged by what is in its mind, but by its expression of that mind in the statute itself.[12]

In certain extraordinary circumstances, however, Courts are competent to enlarge the meaning of an expression used in Statute in order to give full effect to the intention of the Statute as appearing in the various provisions contained therein.[13]

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1. *Dattatraya Baliram Naik* v. *Rambhabai*, AIR 1962 Bom 236 : ILR 1962 Bom 452 : 64 Bom LR 280.
2. *Natarajan* v. *State of Kerala*, AIR 1961 Ker 318 : ILR (1961)1 Ker 134 : 1960 Ker LJ 1109, 1208.
3. *The Trolley Draymen Carters' Union of Sydney and Suburbs* v. *The Master Carriers' Association of N.S.W.*, 2 CLR 509, 552, *per* O'Connor, J.; *Ram Prakash* v. *Savitri Devi*, AIR 1958 Punj 87, 90 (FB).
4. *Federated Engine Drivers' & Firemens' Association of Australia* v. *Broken Hill Proprietary Co., Ltd.*, 12 CLR 398, 442, *per* O'Connor, J.; *Kapura* v. *Gulaba*, AIR 1962 Him Pra 5.
5. *Rullia Ram Hakim Rai* v. *Fateh Singh*, AIR 1962 Punj 265 (FB).
6. *Dr. Ishwari Prasad* v. *Registrar, Allahabad University*, 1955 All LJ 244 : AIR 1955 All 131; *Nathu Prasad* v. *Singhai Kapurchand*, 1976 MPLJ 306 (FB).
7. *Ajit Kumar Roy* v. *Surendra Nath Ghosh*, AIR 1953 Cal 733 (FB); *see* also *Amin Chand* v. *State of Punjab*, 54 Punj LR 493.
8. *Ashok Marketing, Ltd.* v. *Union of India*, AIR 1967 Cal 159 : 70 CWN 472.
9. *Brijendra Kumar* v. *Lakshmidas*, ILR (1966)2 Punj 522.
10. 1950 SCR 553, 561 : AIR 1960 SC 165; *Madan Lal* v. *Changdeo Sugar Mills*, AIR 1958 Bom 491, 495.
11. *Atchanna* v. *Seetharamaswami*, AIR 1950 Mad 387; *Manjulabai Laxman Chavan* v. *Manikchand Tuljaram Shah*, 1977 Mah LJ 185 (DB); *B.N. Mutto* v. *T.K. Nandi*, AIR 1979 SC 460 (465); *Punjab Land Development Reclamation Corporation Ltd., Chandigarh* v. *Presiding Officer, Labour Court, Chandigarh*, (1990)3 SCC 682 (5J).
12. *Wicks* v. *Director of Public Prosecutions*, (1947)1 All ER 205, 207 : 1946 AC 362, *per* Lord Thankerton.
13. *Mehrotra, G. C.* v. *University of Allahabad*, AIR 1964 All 254.

A deed must be presumed to intend what it says and its provisions must be so construed, whenever possible, as to give effect to that intention and so must the directions contained in the deed be held to be workable and intended to be worked, if such a construction is open on the words used.[1]

If a provision is in two parts—one declaratory and the other expandatory, the intention of the legislature of widening the scope is apparent. It should be construed broadly. The latter part of the definition further widens it by extending it to processors of fish for export or domestic marketing.[2]

9. Modern tendency of courts in interpreting statutes.—In *Fell* v. *Fell*,[3] Issacs, J. said: "in the judicial construction of instruments, whether wills or deeds or statutes, courts are not to approach the matter from the standpoint of the hypothetical personage sometimes alluded to as 'the man in the street'. In earlier times courts certainly sometimes laid greater stress on rigid rules of construction, and in the dominancy of interpretative tests, than they do today. Actual intention has free scope in recent years than in many of the early cases. Influences that formerly were thought imperative have in many instances passed away, and the modern tendency of courts is to give fuller play to the words themselves than was once thought proper. But, on the other hand, we have to guard ourselves from the opposite extreme. A court, in my opinion, is not to place itself in the position of a person unaccustomed to the functions of a legal tribunal, and then make the double error of first assuming how he would construe the document, and next adopting as a crucial interpretation the construction so assumed. I do not, for a moment, think that has been done in the present case, but it is part of the mental discipline I have thought necessary to exercise."

10. Quality of Draftsmanship as a guide to intent.—McCaffrey observes: "Once consideration that does not seem to be accorded proper recognition by the decisions is the quality of draftsmanship evidenced by a statute. This test is realistic because it is closely related to the process of legislation. An experienced legislative draftsman uses language with a view to the recognised rules for interpreting it. If the language employed by the legislators shows a careful choice of words, and this care appears to follow through the distinctions between terms of command and those of mere authorisation, it would appear reasonable to infer that the writers of the statute intended 'may' to mean 'may' and 'shall' to mean 'shall'. It has been held that the use of 'may' and 'shall' in different clauses or sentences of the same section or paragraph of statute evidence a legislative intention that each of the words is to be given its ordinary meaning.[4]

According to the Supreme Court, there is abundant authority to sustain the stand that when the situation has been differently expressed, the Legislature must be taken to have intended to express a different intention.[5]

Such use of these terms indicates that the Legislature had in mind their different meanings and attached to each its primary signification. In *Talbot* v. *Board of Education of City of New*

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1. *I.T. Commissioner* v. *SBSIB Trust*, AIR 1956 Cal 164, 167.
2. Vide *Regional Executive, Kerala Fishermens' Welfare Fund Board* v. *Fancy Food*, (1995)4 SCC 341 : AIR 1995 SC 1620, referring to *Krishna Coconut Co.* v. *East Godavari Coconut and Tobacco Market Committee*, AIR 1967 SC 973 : (1967)1 SCR 974.
3. 31 CLR 268 at pp. 272, 275, (*per* Issacs, J.).
4. *Reynolds* v. *Board of Education of Union Free School of District of City of Little Falls*, 33 App Div 88 : 53 NYS 75.
5. Vide *Commissioner of Income Tax, New Delhi (Now Rajasthan)* v. *(M/s.) East West Import and Export (P) Ltd.*, now known as *Asian Distributors Ltd., Jaipur*, AIR 1989 SC 836 : 1989 Tax LR 343 : (1989)1 JT (SC) 226 : (1989)1 SCC 760 : (1989)76 CTR 9 : (1989)1 Com LJ 280 : (1989)176 ITR 155 : (1989)43 Taxman 26 : (1989)93 (3) Taxation 40.

York,[1] the use of a mandatory word in contradiction to a permissive word taken with the fact that 'shall' had been substituted for 'may' when the Act had been amended, was held to require a construction giving to the word 'shall' in its ordinary imperative meaning."

Art of drafting.—See *Royal Talkies, Hyderabad* v. *E.S.I.C.*[2] Defect in phraseology is not to be made up by the Court.[3]

11. Rule of exclusion.—This is merely an auxiliary rule of construction adopted for the purpose of ascertaining the intention of the law-giver. It may be applied only when in the natural association of ideas the contrast between what is provided and what is left out leads to an inference that the latter was intended to be left out. It may accordingly be held inapplicable if there exists a plausible reason for not including what is left out.[4] And what is left out or excluded from another must be of the same kind as the another.[5]

"It is true", says Stone, J., in *Graves* v. *New York*,[6] "that the silence of Congress, when it has authority to speak, may sometimes give rise to an implication as to the Congressional purpose. The nature and extent of that implication depend upon the nature of the Congressional power and the effect of its exercise."

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1. 71 Misc 974 : 14 NYS 2d 340.
2. AIR 1978 SC 1478, case under Employees' Estate Insurance Act, Section 75.
3. *Tara Dutta* v. *State*, AIR 1975 Cal 450.
4. *Chantala Workers' Co-operative Transport Society, Ltd.* v. *State of Punjab*, AIR 1962 Punj 94 : ILR (1962)1 Punj 285.
5. *Abhoy Pada Saha* v. *Sudhir Kumar*, AIR 1967 SC 115.
6. 83 L Ed 927, 932 : 306 US 466.

CHAPTER XI
WHERE LANGUAGE IS PLAIN

SYNOPSIS

1. Ordinary and natural meaning to be adhered to in the first instance.—It is a rule of construction of statutes that in the first instance the grammatical sense of the words is to be adhered to.[1] The words of a statute must *prima facie* be given their ordinary meaning.[2] Where the grammatical construction is clear and manifest and without doubt that construction ought to prevail unless there be some strong and obvious reason to the contrary.[3]

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1. *Warburton* v. *Loveland*, (1828)1 Hud & Bro 632, 648; *Bradlaugh* v. *Clarke*, (1883)8 AC 354 at p. 384; *Bharat Singh* v. *Management of New Delhi Tuberculosis Centre, New Delhi*, AIR 1986 SC 842 : 1986 Lab IC 850 : (1986)2 SCC 614 : (1986)52 Fac LR 621 : (1986)1 Cur LR 414 : 1986 SCC (Lab) 335 : (1986)2 Serv LJ 63 : (1986)2 SCWR 6 : (1986)2 Lab LN 4 : (1986)2 SCJ 129 : (1986)2 UJ (SC) 339 : (1986)69 FJR 129.
2. *Nokes* v. *Doncaster Amalgamated Collieries*, 1940 AC 1014, 1022; *The Oriental Insurance Co. Ltd.* v. *Sardar Sadhu Singh*, AIR 1994 Raj 44.
3. *Waugh* v. *Middleton*, (1853)8 Ex 352, 356; *Umadevi* v. *Sundaram*, 1977 Ker LT 767 (FB); *State of Uttar Pradesh* v. *Vijay Anand Mohanraj*, AIR 1963 SC 946; *Ramsaka Singh* v. *State of Bihar*, (1992)2 Pat LJR 598; *State of Karnataka* v. *Gopalakrishna Nelli*, AIR 1992 Kant 198 : ILR 1991 Karn 2210 : (1991)2 Kam LJ 270.

When there is no ambiguity in the words, there is no room for construction.[1] No single argument has more weight in statutory interpretation than the plain meaning of the word.[2] "If the meaning of the language be plain and clear, we have nothing to do but to obey it—to administer it as we find it", thus observed Pollock, C.B., in *Miller* v. *Salomons*.[3] If the language of a statute is clear and unambiguous, the Court must give effect to it and it has no right to extend its operation in order to carry out the real or supposed intention of the Legislature.[4] Such language best declares, without more, the intention of the law-giver and is decisive of it. When the language is not only plain but admits of but one meaning the task of interpretation can hardly be said to arise. The duty of a Court of law is simply to take the statute as it stands, and to construe its words according to their natural significance.[5] If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense.[6] It is an elementary principle of the construction of statutes that the words have to be read in their literal sense. Thus, "generally speaking, words and expressions would be given their plain and ordinary meaning which cannot be cut down or curtailed unless they in themselves are clearly restrictive.[7] If the words of the statute are clear and unambiguous, it is the plainest duty of the Court to give effect to the natural meaning or the words used in provisions.[8] To ascertain the literal meaning, it is equally necessary first to ascertain the juxta-position in which the rule is placed, the purpose for which it is enacted and the object which it is required to subserve and the authority by which the rule is framed.[9]

In *Vestry of St. John Hampstead* v. *Coffin*,[10] Lord Halsbury said : "Doubtless there are cases in which, when in the instrument itself, whether a will, or a contract, or a statute, evidence may be discovered of the general meaning or what has been called the governing sense, in which the words or provisions are to be understood, you may occasionally modify the language you have to construe with reference to that general intention which has been so ascertained." He added : "In this case I confess myself wholly unable to discover any general intention on

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1. *Yates* v. *United States*, 1 L Ed 2nd 1356, 1387 (Harlan, J.) (Where the intention is clear, there is no room for construction, no excuse for interpretation or addition; *United States* v. *Sphogue*, 75 L Ed 640); *Birla Jute and Industries Ltd.* v. *Civil Judge.*, AIR 1993 Raj 73; *Peerless General Finance and Investment Co Ltd.* v. *Union of India*, (1987)91 Cal WN 596.
2. *Browder* v. *United States*, 85 L Ed 862, 865 (Reed, J.).
3. 7 Ex 475, 560; *United States* v. *Henning*, 97 L Ed 101, 107 (Clark, J.); *Pranab Kumar Pariju* v. *Collector-cum-Chairman*, (1994)77 Cut LT 1017.
4. *Piara Singh* v. *Mula Singh*, ILR 4 Lah 325, 326.
5. *Inland Revenue Commisioner* v. *Herbert*, 1913 AC 326, 332; *Bhagwant Rambhau* v. *Ramchandra Kesho*, 54 Bom LR 833; *see* also *Ganga Ram* v. *Shiv Lal*, AIR 1964 Punj 260, 266 (Mehar Singh, J.).
6. *Sussex Peerage* case, (1844)11 Cl & Fin 85, 143; *Cox* v. *Hakes*, (1890)15 AC 508, 528 (even if you should be satisfied that it was not in the contemplation of the Legislature); *Shankar Dass* v. *Mahu Ram*, AIR 1963 HP 32, 33 (CB Capoor, J.C.); *Wilkinson* v. *Leland*, 7 L Ed 542, 555 (Story, J.); *Corporation of the City of Nagpur* v. *Its Employees*, AIR 1960 SC 675.
7. *Per* Khanna, J. in *M/s. Qwality Ice Cream Co.* v. *Sales Tax Officer, New Delhi*, (1975)11 Delhi LT 180 (DB).
8. *R.S. Nayak* v. *A.R. Antulay*, AIR 1984 SC 684 : (1984)1 Crimes 568 : 1984 Cr LJ 613 : (1984)2 SCC 183 : 1984 SCC (Cr) 172 : 1984 Cr LR (SC) 163 : (1984)1 Serv LR 619 : 1984 Cr App. R (SC) 441 : 1984 SC Cri R 138 : 1984 Cur Cri J 133 : 1984 All Cr R 410 : (1984)86 Bom LR 365; *Kanhaiya Lal Maliah* v. *State of U.P.*, (1995)1 JCLR 235 (All) : 1995 All LJ 926; *Komal Komalkar Chitnis and others* v. *Director, Medical Education and Research and others, etc, etc.*, (1995)2 Mah LR 172 (Bom); *Mallikarjun M. Kalassray* v. *Commissioner, Belgaum*, AIR 1995 Karn 44; *Manipal Academy of Higher Education, Manipal* v. *State of Karnataka*, AIR 1995 Kant 273 (DB); *Shivram* v. *Mrs. Radhabai Shantaram Kowshik*, 1984 Mah LR 265 (Bom).
9. *Lt.-Col Prithi Pal Singh* v. *Union of India*, 1983 SCJ 10.
10. (1886)12 App Cas 1, 6.

which I can rely as governing or modifying the language which the Legislature has used. It is obvious that two sets of learned Judges have construed these sections differently, according as they have regarded the object which the Legislature had in view, and each of them as in turn pointed out the absurdities which would be the result of the opposite construction to that which their Lordships have favoured. That seems to me to show that at all events it is difficult, if not impossible, to obtain any such key to the statute as is to be found in its ascertained *governing* intention. The result of that appears to me to be that your Lordship should place upon it that construction which every Court is bound to place upon any instrument whatsoever, namely, that if there is nothing to modify, nothing to alter, nothing to qualify the language which the instrument contains, it must be construed in the ordinary and natural meaning of the words and sentences."

If the language used by the Legislature is clear and unambiguous, a court of law at the present day has only to expound the words in their natural and ordinary sense; *"Verbis plane expressis amnino standum est"*. In *McCowan* v. *Baine*,[1] Lord Watson laid down the canon as follows: "It is said that for some reason the primary and natural meaning of the words is to be extended...I am at a great loss to see why I think an Act of Parliament, an agreement, or other authoritative document, ought never to be dealt with in this way, unless for a cause amounting to a necessity or approaching to it. It is to be remembered that the authors of the document could always have put in the necessary words if they had thought fit. If they did not, it was either because they thought of the matter and did not, or because they did not, think of the matter. In neither case ought the Court to do it. In the first case it would be to make provision opposed to the intention of the framers of the document; in the other case, to make a provision not in contemplation of these framers."

It is elementary that the primary duty of a court is to give effect to the intention of the Legislature as expressed in the words used by it and no outside consideration can be called in aid to find that intention.[2] A statute must be construed in a manner which carries out the intention of the Legislature. The intention of the Legislature must be gathered from the words of the statute itself.[3] If the words are unambiguous or plain, they will indicate the intention with which the statute was passed and the object to be obtained by it.[4] When the language of the law admits of no ambiguity and is very clear, it is not open to the Courts to put their own gloss in order to squeeze out some meaning which is not borne out by the language of the law.[5]

(i) No resort to law in England.—If the terms are plain and unambiguous we cannot have resort to the position in law as it obtained England or in other countries when the statute was enacted by the Legislature. Such recourse would be permissible only if there was any latent or patent ambiguity and the Courts were required to find out what was the true intendment of the Legislature. Where, however, the terms of the statute do not admit of any such ambiguity it is

1. 1891 AC 401, 409.
2. *The New Piecegoods Bazar Co., Ltd., Bombay* v. *Commissioner of Income-tax, Bombay*, AIR 1950 SC 165 : 1950 SCR 553, followed in *Dr. Ishwari Prasad* v. *Registrar, Allahabad Unive sity*, AIR 1955 All 131 : 1955 All LJ 244. [It was held that the words continues to be a member of that body" in the proviso to Clause *(ii)* of Chapter II of the First Statute relating to the Executive Council, mean no more than what they say. The capacity in which the person concerned is a member is not material]; *Madan Lal* v. *Changdeo Sugar Mills*, AIR 1958 Bom 491, 495.
3. *Om Prakash Gupta* v. *Dig Vijendrapal Gupta*, 1982 All LJ 376 (SC).
4. *Philip John* v. *Commissioner of Income-tax*, (1964)2 SCR 480 at pp. 491, 492 (S.K. Das, J.); *Thompson* v. *United States*, 62 L Ed 876, 878 (Clark, J.).
5. *Rambul Singh* v. *Board of Revenue, Rajasthan*, AIR 1957 Raj 19, 21.

the clear duty of the Courts to construe the plain terms of the statute and give them their legal effect.[1]

(ii) No resort to legislative history.—If the provisions of a statute are clear and unequivocal on their face, there is no need to resort to legislative history of the Act.[2]

If the words of the statute are clear, precise and unambiguous, they should be expounded in their natural and ordinary sense specially when such exposition is not inconsistent with that sense and does not lean to manifest injustice. From a reading of Clause (5) of Article 31 of the Constitution it is clear that it is much wider in scope and does not contain limitation contained in Clause (4).[3]

The Tribunal whose duty it is to interpret a statute must endeavour to find out what, according to the well-recognised rules and principles of construction, the statute means, and if the meaning of the statute is made clear, it has to be applied in its strictest possible sense. Article 22 of the Constitution requires that the appropriate Government should within thirty days from the date of detention place before the Advisory Board the grounds on which the order has been made and the representation, if any, made by the person affected by the order. This provision of law cannot be deemed to have been complied with inasmuch as the reference could be made only up to the 22nd October, 1952, but there was no valid Board constituted before the 6th November, 1952.[4]

We must first look at the plain natural language used by the Legislature, and unless there is any special canon of construction which prevents us from doing so, we must give to the plain natural words their obvious and correct meaning. The words *'were first assessable'* in Section 34(3) of the Income Tax Act, 1922, mean that there was an income in existence which could have been assessed or was capable of being assessed but in fact was not assessed and was assessed subsequently and limitation begins to run from the time when such income could be assessed.[5]

Similarly, it has been held that the word 'debts' of Section 38(1), Banking Companies Act, 1949, is used *simpliciter* and unless there is something in the context or other parts of the section which suggests a limited meaning, there would seem to be no reason why a word, apparently used in the general sense, should be understood as limited to a particular meaning. The word does not mean 'banking debts'.[6]

Where a case falls within the plain meaning of a provision of law, its application thereto cannot be derived on any *a priori* consideration as to the supposed intentions of the Legislature.[7] But if no possible principle can be suggested why a distinction was made by Parliament by virtue of Section 33 of the Industrial Disputes Act in the case of employees whose cases were pending before Industrial Tribunals, then the Court must lean against a construction which imputes to Parliament an unnecessary inconsistency in applying one law to one set of employees and another law to another set of employees. Fortunately Section 3 is so clear that it is unnecessary to strain the language of the Act in order to carry out the obvious object of Parliament in amending Section 33-A of the main Act.[8]

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1. *Sales Tax Officer* v. *Kanhaiya Lal*, AIR 1959 SC 135 at p. 139.
2. *United States* v. *Oregon*, 5 L Ed 2nd 575 (Black, J.); But see *Scales* v. *United States*, 6 L Ed 2d 782 (language ambiguous, history looked into).
3. *Bhag Singh* v. *Kartara*, AIR 1954 Pepsu 180.
4. *Karamvir* v. *State*, AIR 1954 Pat 57.
5. *Navinchandra* v. *I. T. Commissioner, Bombay*, AIR 1954 Bom 550 at p. 555.
6. *Dwarkadas* v. *Dharam Chand*, AIR 1954 Cal 583.
7. *Jairam Das* v. *Regional Transport*, AIR 1957 Raj 312 (FB).
8. *Mahalakshmi Mills* v. *F. Jeejeebhoy*, AIR 1954 Bom 247.

In a case under Section 2(6)*(b)* of the Displaced Persons (Debts Adjustment) Act, 1951, the debtor must be a displaced person while in a case coming within Section 2(6)*(c)*, the debtor may be a displaced person or not. In cases coming within Section 2(6)*(a)* and *(b)* the creditor may be a displaced person or not, but in a case falling under Section 2(6)*(c)* the creditor must be a displaced person. Under Section 2(6)*(c)*, therefore, when a debtor is not a displaced person, no question can arise about the debt having been incurred before the debtor came to reside in any area now forming part of India.[1]

Section 73, Indian Evidence Act, entitles a Court to direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person. There are no words limiting that portion of the section to persons other than a person accused of an offence and in the absence of such limiting words it is hardly open to the Court to read them into the section.[2]

(iii) Even when language used inadvertently.—When we find that the Legislature has expressed itself in clear and unmistakable language, we must give effect to that language, although we may conjecture that it was used through inadvertence.[3] But this rule of interpretation, *viz.* follow the language of the statute applies when the particular words and terms are in issue. It does not hold the field when a state of law itself is required to be gone into to understand as to what as Act of Legislature proposed to pre-empt by express legislation. This is more so, when the legislative steps in so as to give informity and fixity to otherwise flexible and fluid state of Law.[4]

2. Necessity for interpretation does not arise where language is plain.—In construing a statutory provision, the first and foremost rule of construction is the literary construction. All that we have to see at the very outset is what that provision say? If the provision is unambiguous and if from that provision, the legislative intent is clear, we need not call into aid the other rules of a construction, of statutes.[5] The other rules of construction of statute are called into aid only when the legislative intention is not clear.[6] When the language of a statute is plain and unambiguous, that is to say, admits of but one meaning, there is no occasion for construction. The task of interpretation can hardly be said to arise in such a case.[7] The most common rule of statutory interpretation is the rule that a statute clear and unambiguous on its face need not and cannot be interpreted by a Court and only those statutes which are ambiguous

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1. *B.S. Bali* v. *Batalia Ram*, AIR 1954 Punj 105 at 106.
2. *Sailendra Nath* v. *State*, AIR 1955 Cal 247.
3. *Bennet* v. *Minister for Public Works (NSW)*, 7 CLR 372, 378, *per* Griffith, C.J.; *Lumsden* v. *Commissioner of Inland Revenue*, 1914 AC 877, 892.
4. *Somebai Yeshwant Jadhav* v. *Bala Govinda Yadav*, AIR 1983 Bom 156.
5. *(M/s.) Hira Lal Ratanlal* v. *Sales Tax Officer, Kanpur*, AIR 1973 SC 1034; *Bharat General and Seeds Stores* v. *Mahendra Singh*, AIR 1992 Raj 189; *Jitendev Tyagi* v. *Delhi Administration*, (1989)4 SCC 653.
6. *Hiralal Ratanlal* v. *State of U.P.*, (1973)1 SCC 216 at p. 824 (Hedge, J.); *Om Prakash Gupta* v. *Digvijendrapal Gupta*, 1982 All LJ 376 (SC).
7. *See* Maxwell : *Interpretation of Statutes*, 11th Ed. at p. 4; *U.S.* v. *Missouri Pacific Railway Co.*, 278 US 259 : 72 L Ed 322; *Commissioner of Immigration of Port of New York* v. *Gottliele*, 265 U.S. 310; 68 L Ed 1031; *Russel Motor Car Co.* v. *U.S.*, 261 US 514 : 67 L Ed 778, quoted in Corpus Juris, Vol. 59 at p. 953. Where the language is plain and admits of no more than one meaning the duty of interpretation does not arise and the rules which are to aid doubtful meaning need no discussion; *Caminette* v. *U.S.*, 242 US 470 : 61 L Ed 442; *Hamilton* v. *Rathbone*, 175 US 414; *Ram Prakash* v. *Savitri Devi*, AIR 1958 Punj 87 at p. 90 (FB); *Council of Homeopathic System of Medicine, Punjab* v. *Suchinatan*, 1993(3) JT (SC) 727 : AIR 1994 SC 1761; *Ratnakar Tanbaji Itankar* v. *Union of India*, 1994 Mah LJ 634.

and of doubtful meaning are subject to the process of statutory interpretation.[1] It is not allowable, says Vattel, to interpret what has no need of interpretation.[2] *Absoluta sentantia expositore non indigent* (plain words need no exposition). Such language best declares, without more, the intention of the law-giver, and is decisive of it.[3] And, no question of main interpretation rises when the Court does not interpret the words used by the Legistature.[4]

Where the words of the statute are clear enough, it is not for the Courts to 'travel beyond the permissible limit' under the doctrine of implementing legislative intention.[5]

When the legislation is unambiguous the doctrine of telescoping and the doctrine of pragmatic construction and contemporaneous construction have no application.[6]

3. If language plain, consequences to be disregarded.—Where the language of an Act is clear and explicit, we must give effect to it, whatever may be the consequences, for in that case the words of the statute speak of the intention of the Legislature.[7] If any statutory provision is capable of only one construction then it would not be open to the Court to put a different construction upon the said provision merely because the alternative construction would lead to unreasonble or even absurd consequences. The question of consequences and considerations of policy would be relevant only where the provision sought to be construed is capable of two constructions.[8] In such a case the Court is not concerned with the results which may ensue from giving to the plain meaning of the words used by the Legislature. If these results are unfortunate, it is for the Legislature to take action to remedy the defects of the law as enacted; it is not for the Courts to usurp the functions of the Legislature and by straining the meaning, and ignoring the clear terms of the law to seek to evade consequences which, in the opinion of the Court, may prove ill-fraught.[9] The effect of the words is a question of law.[10]

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1. Sutherland : *Statutory Construction*, 3rd Ed., Vol. 2 at p. 316, Article 4502 : "Where the words of an Act of Parliament are clear, there is no room for applying any of these principles of interpretation, which are merely presumption, in cases of ambiguity in the statute"; *per* Scott, L.J., in *Croxford* v. *Universal Insurance Co., Ltd.*, (1936)1 All ER 151, 166 : (1936)2 KB 253, 281; *Om Prakash Gupta* v. *Digvijendrapal Gupta*, 1982 All LJ 376 (SC); *Secretary to Government, Punjab* v. *Jagar Singh*, 1977 Rev LR 104; *Smt. Kishori Bala Mandal* v. *Tribhanga Mandal*, (1980)2 Cal HN 278; *Tara Dutt* v. *State of W.B.*, 79 Cal WN 996 (SB).
2. Maxwell : *Interpretation of Statutes*, 10th Ed. at p. 4; *Piara Singh* v. *Mula Mal*, AIR 1923 Lah 655, 656; *Barru* v. *Lachman*, 111 PR 1913 at p. 417.
3. *Sussex Peerage* Case, (1844)11 Cl and F 85. 143, quoted by Lord Macnaghten in *Vacher* v. *London Society of Compositors*, 1913 AC 107, 117; *Narayana Swami* v. *Emperor*, AIR 1939 PC 47, 51. No single argument has more weight in statutory interpretation than that a construction is within the plain meaning of the words of the statute; *Brooade* v. *U.S.*, 213 US 335 : 85 L Ed 862 (*per* Reed, J.).
4. *Warburton* v. *Loveland*, (1831)5 ER 499; *Munshi* v. *Daulat Ram*, AIR 1944 Lah 349 (where the language of the law is clear, there is no room for speculation and the Court is under an obligation to administer the law *literatim ad verbatim*); *Radha Mohan* v. *Abbas Ali*, AIR 1931 All 294, 301 (FB); see *Collco Dealings, Ltd.* v. *Inland Revenue Commissioner*, (1961)1 All ER 762 (even if it should not accord with international agreements); *Indubai* v. *Vyankati Vithoba Sawardha*, AIR 1966 Bom 64 : 67 Bom LR 612.
5. *V.V. Moorty Raju* v. *Venugopalan*, AIR 1980 Orissa 63; *Commissioner of Wealth-tax* v. *(Smt.) Hashmatunissa Begum*, AIR 1989 SC 1024 : 1989 Tax LR 393 : (1989) JT (SC) 92 : (1989)40 ELT 239 : (1989)176 ITR 98 : (1989)42 Taxman 133 : (1989)75 CTR 194 : (1989)93 (2) Taxation 1.
6. *Raghunath* v. *State*, AIR 1982 Pat 1 (DB).
7. *Rikheswar Dayal* v. *Labour Court*, (1962)1 Lab LJ 5 (All); *Indubai* v. *Vyankati Vithoba Sawardha*, AIR 1966 Bom 64, 69 : 67 Bom LR 612 (Patel, J.) Expression "shall be deemed always to have", has effect of giving retrospective operation of Statute; *Tulsibai* v. *Chuni Lal*, AIR 1964 Raj 243 at p. 246 (Modi, J.); *Shri Ram* v. *State of Maharashtra*, AIR 1961 SC 674.
8. *K.H. Ghole* v. *Y.R. Dhadvel*, AIR 1957 Bom 200 at p. 201; *Ganga Bux Singh* v. *Sukhdai*, AIR 1959 All 141 at p. 147 (FB) (Mulla, J.).
9. *Barru* v. *Lachhman*, 111 PR 1913 at p. 417; Maxwell on *Interpretation of Statutes*, 9th Ed. at p. 4.
10. *Chatenay* v. *Brazilian Submarine Telegraph Co.*, (1891)1 QB 79, 85, *per* Lindley, L.J.

In *R.* v. *Archbishop of Canterbury*,[1] Lord Deman observed : "My brother Coleridge's admirable argument has confirmed me in the opinion of the danger of exposing an Act of Parliament, and the most simple construction of the plainest language.....to the speculations of those who will bring their forgotten books down and wipe the cobwebs from decretals and canons before they can find one argument for disturbing the settled practice of 300 years." Having then so expounded the enactment, it only remains to enforce and administer the law as it is found to be, notwithstanding the consequences, international, political,[2] or otherwise;[3] and notwithstanding that it may be a very generally received opinion that the particular enactment in question "does not produce the effect which the Legislature intended,"[4] or "might with advantage be modified".[5] "If" said Pollock, C.B., in *Miller* v. *Salomons*,[6] "the language used by the Legislature be clear and plain, we have nothing to do with its policy or impolicy, its justice or injustice, or even its 'absurdity',[7] its being framed according to our views of right or the contrary; we have nothing to do but to obey it, and administer it as we find it; and I think to take a different course is to abandon the office of judge and assume that of a legislator." "I do not understand," said Lord Redesdale in the case of the *Queensberry Leases*,[8] "what right a Court of justice has to entertain an opinion of a positive law upon any ground of political expediency? The Legislature is to decide upon political expediency; and if it has made a law which is not politically expedient, the proper way of disposing of that law is by an Act of the Legislature, and not by the decision of a Court of Justice." And although, as explained elsewhere, it is allowable, and sometimes desirable for a Court which is called upon to interpret statute to acquaint itself with the history of the statute, and of the circumstances under which it was passed; and even to compare it with any similar statute passed in other countries and to examine decisions of British and even of foreign Courts upon similar statutes, still it must be borne in mind, as Pollock, C.B., said in *Attorney-General* v. *Sillem*.[9] "If a statute, in terms reasonably plain and clear, makes what the defendants have done a punishable offence within the statute, we want not the assistance which may be derived from what eminent statesmen have said or learned jurists have written.....we want not the decisions of American Courts to see whether the case before us is within the statute." In *Taylor* v. *Corporation of Oldham*,[10] Jessel, M.R., stated : "Whatever I may think of the extraordinary results which are so caused, it is my duty to interpret Acts of Parliament as I find them. I must read them according to the ordinary rules of construction, that is, literally, unless there is something in the context or in the subject to prevent that reading."

In *Nolan* v. *Clifford*,[11] Connor J., said : "The first and most important rule in the construction of statutes is to give effect to words according to their grammatical meaning. If that meaning is

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1. (1848)11 QB 665.
2. *Attorney-General* v. *Sillem*, (1863)2 H & C 508 at p. 510. Pollock, C.B., said : "We have nothing to do with the political consequences of our decision, or the dissatisfaction which it may create in any quarter anywhere."
3. *Hindmarch* v. *Charlton*, (1860)8 HLC 166, Lord Campbell said : "I may honestly say that we have a strong inclination in our minds to support the validity of the will in the dispute which the parties *bona fide* made, as they believed, according to law. But we must obey the directions of the Legislature."
4. *Preston* v. *Bukley*, (1870) LR 5 QB 394.
5. *General Iron Co.* v. *Moss.*, (1861)15 Moore PC 131.
6. (1852)7 Ex 560.
7. *Yates* v. *R.*, (1885)14 QBD 660, *per* Cotton, L.J.
8. (1819)1 Dow (HL) 491, 497.
9. (1863)2 H & C 508.
10. 4 Ch D 395, 405.
11. 1 CLR 453.

clear, then, whether an alteration is made in the common law or the statute law or not, and whether of a serious character or not, is of no moment, effect must be given to the words the Legislature has used."

It may be that the provisions of law have been badly drafted in the statute and that it does not express the real intention of the Legislature, but that is a matter with which the Court is not concerned.[1] If the result of the interpretation of a statute by this rule is not what the Legislature intended, it is for the Legislature to amend the statute construed rather than for the Courts to attempt the necessary amendment by investing plain language with some other than its natural meaning to produce a result which it is thought the Legislature must have intended.[2] It is, however, another elementary rule that the interpretation of an enactment is to be made of all parts together and not of one part by itself. Such a survey is always indispensable even when the words are plain, for the true meaning of any passage in statute is that which best harmonises with the subject and with every other part, so that inconsistencies might be avoided and operative effect might be given to every provision of the statute, if a reasonable construction so permits. Where there is no other alternative but to admit that the fact is inconsistent and unintelligible it is permissible to construe the Act in a manner which might be regarded as dangerously near to the process of legislative enactment. If, however, an intelligible construction can be put upon a provision, contained in a statute, there is no justification for a construction which would necessitate the insertion of words which are not to be found therein.[3]

4. Ordinary and natural meaning not to be controlled by supposed intention.—When the meaning of words is plain, it is not the duty of the courts to busy themselves with supposed intentions[4]. A court cannot stretch the language of a statutory provision to bring it in accord with a supposed legislative intention underlying it unless the words are susceptible of carrying out that intention.[5] It is settled law of interpretation that the words are to be interpreted as they appear in the provision, simple and grammatical meaning is to be given to them and nothing can be added or subtracted.[6] If the language of the enactment is clear and unambiguous it would not be legitimate for the courts to *add* any words thereto,[7] and evolve therefrom some sense which may be said to carry out the supposed intentions of the Legislature.[8] The intention of the Legislature is to be gathered only from the words used by it and no such liberties can be taken by the courts for effectuating a supposed intention of the Legislature.[9] The general rule is not to

1. *Ishar Singh* v. *Allah Rakha*, AIR 1936 Lah 698, 699; *Corpus Juris*, Vol. 59 at p. 657 (because the Legislature did not use proper words to express its meaning).
2. Halsbury : *Laws of England*, 4th Ed., Vol. 44, para 864; *see* also *Wilkes* v. *Goodwin*, (1923)2 KB 86 : 93 CA (Bankes, L.J.); *Kartar Singh* v. *Prem Singh Jagi*, 65 Punj LR 595.
3. *Ram Lakhan* v. *Bhishesar Misra*, AIR 1948 Oudh 214, 216-217 (FB); *Siddheswar Paul* v. *Prakash Chandra Dutta*, 68 CWN 30; *Public Prosecutor* v. *Subba Rao*, AIR 1966 Andh Pra 77, 80 (Kummarayya, J.).
4. *Narayanaswami* v. *Emperor*, AIR 1939 PC 47, 51, *per* Lord Atkin; *Abdul Razaak* v. *Parvati Devi*, AIR 1942 All 394, 396 (FB); *Tej Krishna* v. *Oudh Commercial Bank*, AIR 1942 Oudh 483 : 18 Luck 492; *Fateh Mohd.* v. *Emperor*, AIR 1940 Sind 97, 100; *Noor Bibi* v. *Pir Bux*, AIR 1950 Sind 8, 13; *Jairamdas* v. *Regional Transport*, AIR 1957 Raj 312 (FB); *Sarat Chandra Misra* v. *Antarim Zilla Parishad*, 1962 All LJ 1111. *See* also *Segal* v. *Rochelle*, 15 L Ed 2d 428, 434 (Harlan, J.).
5. *K Subba Raju* v. *State of Andhra Pradesh*, AIR 1957 Andh Pra 890, 891.
6. *Malwa Sugar Mills Co., Ltd.* v. *Assessing Authority*, 1976 Rev LR 161.
7. *Mohd. Muzaffar* v. *3rd Addl. District Judge, Muzaffarnagar*, 1978 All WC 293, construction requiring addition of words to be avoided; *Fakhruddin* v. *State of U.P.*, 1976 All LR 274 (FB); *Sriram Ram Narain Medhi* v. *State of Bombay*, AIR 1959 SC 459.
8. *Najiram* v. *Mangilal*, 1976 MPLJ 759 : 1976 Jab LJ 478 (FB).
9. *Sri Ram Ram Narain* v. *State of Bombay*, AIR 1959 SC 459, 470; *Lalji Razdan* v. *State of Jammu & Kashmir*, AIR 1966 J & K 9 : 1965 Kash LJ 324; *Municipal Board, Bhilwara* v. *Bholalal*, ILR (1964)14 Raj 847 : 1964 Raj LW 504; *Thysur Dharma* v. *C.I.T.*, ILR 1963 Mad 660.

import into statutes words which are not found therein. Words are not to be added by implication into the language of a statute unless it is necessary to do so to give the paragraph sense and meaning in its context. If a matter is altogether omitted from statute it is not allowable to insert it by implication. Where the language of an Act is clear and explicit effect is to be given to it whatever may be the consequences. When there is no repugnancy, ambiguity or inconsistency, and words used in the statute are clear and unambiguous, the courts while applying rules contained in that statute cannot either add to or detract from the particular text appearing in the statute for the purpose of avoiding supposed injustice; interpreting law is different from making law; even if the application of a rule of law which is couched in clear and unambiguous language causes injustice, a court of law whose function is only to interpret and not to make law cannot refrain from applying that rule and replace it by a rule of its own liking which according to them would avoid any injustice being done.[1] The words of the statute speak of the intention of the Legislature. Where the reading of the statute produces an intelligible result there is no room for reading any words or changing any words according to what may be supposed intention of the Legislature. If statute is passed for the purpose of enabling something to be done but omits to mention in terms some detail which is of great importance to the proper performance of the work which the statute has in contemplation, the courts are at liberty to infer that the statute by implication empowers the details to be carried out. The implication is to empower the authority to do that which is necessary in order to accomplish the ultimate object.[2] Where the words of a section in a statute are plain, the Court must give effect to them, and is not justified in depriving the words of their only proper meaning in order to give effect to some intention which the Court imputes to the Legislature from other provisions of the Act.[3] Where the language is plain and unambiguous the court is not entitled to go behind the language so as to add or supply omission and thus play the role of a political reformer or of a wise counsel to the Legislature.[4] The function of the court is to apply the law as it stands. It is not for the Court to re-write the law even though the Court notices anomalies and omission and considers the provisions as they stand unreasonable.[5] In such cases it is beyond the province of the Judge to speculate as to what the 'real intention' of the framers of the statute was.[6] Where the words or phraseology used is plain and unambiguous, the reference to the object and the intention of the Legislature is irrelevant and immaterial, to find out what precisely those words, or phraseology may mean.[7] The court cannot indulge in speculation as to the probable or possible qualification which might have been in the mind of the Legislature but the statute must be given effect according to its plain and obvious meaning.[8] And even though court is satisfied that the Legislature did not contemplate the consequences of an enactment, a court is bound to give effect to its clear language.[9] Lord Herschell observed in

1. *Smt. Kishori Bala Mondal* v. *Tribhanga Mondal*, (1980)2 Cal HN 278.
2. See *Kesvananda Bharati* v. *State of Kerala*, (1973)4 SCC 225, 552 para 902 (*per* A.N. Ray, J.)
3. *Revappa* v. *Babu Sidappa*, AIR 1939 Bom 61, 63 : ILR 1939 Bom 104; (recourse cannot be had to the general heading of the provisions); *Motilal Dhannalal* v. *Nathu Ganpati*, AIR 1940 Nag 414, 416.
4. *S.P. Gupta* v. *Union of India*, AIR 1982 SC 149 at p. 314.
5. *Dakshaythi* v. *Madhvain*, AIR 1982 Ker 126 (DB).
6. *Bhagta Nand* v. *Sardar Mohammad*, AIR 1935 Lah 150, 153 : ILR 16 Lah 204; *see* also *Partapa* v. *Bishna*, AIR 1937 Lah 558 (not to be gathered from the debates or even the Statement of Objects and Reasons).
7. *Raina Anand Patel* v. *Redekar*, AIR 1969 Bom 205 at p. 207 (Deshpande, J.) : Thus the son or daughter of the deceased can only mean a son or daughter of the female dying intestate without regards as to from which husband they were born to her.
8. *Corpus Juris*, Vol. 59, at p. 955.
9. Craies : *Statute Law*, 5th Ed at p. 65.

Cox v. *Hakes*[1] : "It is not easy to exaggerate the magnitude of this change, nevertheless, it must be admitted that, if the language of the Legislature, interpreted according to the recognized canons of construction, involves this result, your Lordships must frankly yield to it, even if you should be satisfied that it was not in the contemplation of the Legislature."Whatever may have been the wisdom that guided the Legislature in enacting a provision, it is not for the Court to make surmises about it.[2] "When the words are explicit they," according to their Lordships of the Privy Council, in *Commissioner, Income-tax* v. *Bombay Trust Corporation*.[3] "must rule whatever may be the general considerations as to what Legislature, was minded or was likely to do." It has been held by their Lordships of the Privy Council that where the language of a statute is plain and ambiguous it is idle to seek for a construction outside the limits of the statute and by reference to the intention of the Legislature.[4] A statute is not to be construed according to some notion of what the Legislature might have been expected to have said, or what this Court might think it was the duty of the Legislature to have said or done. The duty of the Court is to examine the language used, and to give effect to it, whether it approves or disapproves of what the Legislature has provided or whether it thinks or not that the Legislature might more properly have done or said something else.[5] No Court can, therefore, proceed upon the assumption that the Legislature has made a mistake. The general presumption being that the Legislature intended what it has said, the Court cannot aid deficiencies, if any, in a statute, or add or annul or by construction make up deficiencies found in the enactment.[6] If the meaning and purpose of the statute are clear, the Court should not feel helpless in giving effect to them merely because there is an error or omission here or there.[7]

Where the meaning of the words is clear and does not admit of any doubt, it would not be right to place an artificial or unnatural meaning on the words on the ground that the words of exclusion would otherwise be rendered unnecessary. It is not uncommon in modern legislation to find the Legislature using words of exclusion as also words of inclusion out of abundant caution in order to make its intention plain and clear so that there may be no doubt or debate as regards the true meaning of what it has said.[8]

In the absence of any ambiguity in the words used in a statute, a Court will not be justified in construing the plain words by reference to the intention of the Legislature.[9]

The Court must construe an enactment as it finds it, and it cannot go outside the ambit of the section and speculate as to what the Legislature intended, where the intention does not appear in the language used by the Legislature.[10] It is a fundamental rule of construction that it is the duty of the Court to give effect to the clear and unambiguous language used by the Legislature, and to give effect to the legislative intent as expressed by the language contained therein.

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1. (1890)15 AC 506, 528; *Kalu Khoda* v. *State*, (1962)3 Guj LR 654; *Chararam Chalani Ahir* v. *Pyari Bahoo*, 1963 Jab LJ 355.
2. *Municipal Board, Mathura* v. *Dr. Radha Ballabh*, AIR 1949 All 301, 302.
3. AIR 1930 PC 54, 55; *Piarelal* v. *Soneylal*, AIR 1936 All 222, 238.
4. *Pir Moosajan* v. *Bachayo Silu*, AIR 1941 Sind 160, 164, 165. (*A priori* consideration should not be imported for deciding a matter on which the statute is unambiguous); *Nader Fateh Sher* v. *Mst. Karam*, AIR 1938 Pesh 160, 162.
5. *Tindal* v. *Colman*, 3 CDR 150, 154, *per* Griffith, C.J., *Dassappa* v. *Jogiah*, AIR 1965 Mys 54 at p. 56 (Narayana Pai, J.) (FB).
6. *Ganesh Prasad Bhagat* v. *Anugrananda Sahu*, ILR 1965 Cut 469.
7. *Satyabhama Devi* v. *Ram Kishore*, 1975 Jab LJ 57 (DB); *Jethanand* v. *Nagarpalika*, 1980 Jab LJ 494.
8. *Vishwa & Co.* v. *State of Gujarat*, AIR 1967 Guj 19 at p. 22 (P.N.Bhagwati, J.); *see* also *United States* v. *Sischo*, 67 L Ed 925, 927 (Holmes, J.).
9. *Nimai Chand Bhasak* v. *State*, AIR 1955 Cal 478.
10. *Shankar Nagu Mane* v. *Mahibub Bandu Bagwan*, 54 Bom LR 938 : AIR 1953 Bom 123.

Where there is no ambiguity in the language the Court cannot speculate about the legislative intent.[1]

The clear words of a statute cannot be circumvented by any specious interpretation resulting in increasing the burden on the consumer.[2]

Courts not to make an assumption of intention before construction.—There is nothing more dangerous and fallacious in interpreting a statute than first of all to assume that the Legislature had a particular intention, and then having made up one's mind what that intention was to conclude that the intention must necessarily be expressed in the statute, and then proceed to find it.[3]

5. Words to be given their natural meaning even if not consonant with legislative intent.—In *Curtis* v. *Stovin*,[4] Fry, L.J., said : "If the Legislature have given a plain indication of this intention, it is our plain duty to endeavour to give effect to it, though, of course, if the word which they have used will not admit of such an interpretation, their intention must fail." And then further on his Lordship, after explaining one possible construction, said : "The only alternative construction offered to us would lead to this result, that the plain intention of the Legislature has entirely failed by reason of a slight inexactitude in the language of the section. If we were to adopt that construction, we would be construing the Act in order to defeat its object rather than with a view to carry its object into effect."

Wilberforce in his *Statute Law* says that "Courts have felt constrained to give the words of statutes their natural meaning, even when there was the strongest ground for supposing that such a consequence was not consonant with the intention of the Legislature" (at pp. 104-5).

Lord Herschell in *Cox* v. *Hakes*,[5] said : "It is not easy to exaggerate the magnitude of this change; nevertheless it must be admitted, that if the language of the Legislature, interpreted according to the recognized canons of construction, involves this result your Lordships must frankly yield to it, even if you should be satisfied that it was not in the contemplation of the Legislature," or that it will lead to harmful results.[6]

6. Ordinary and natural meaning not to be controlled by intention of Legislature.—In seeking the meaning and purpose of a law, the Court will not inquire into the motives of the members of the Legislature in enacting it except as they are found in the Act itself. The Court is not concerned with the motives of Parliament in judging the character of a piece of legislation enacted by it but with what it has actually enacted.[7] This is so even in the construction of the provisions of the Constitution.[8]

"We are not concerned with any reasons which might *a priori* be supposed to influence them (the Legislature), but are bound to interpret the language in which they have thought it fit to express their intentions."[9]

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1. *Prahlad Baidas Gaudhari* v. *Zilla Parishad, Dhulia*, AIR 1966 Bom 29 : 67 Bom LR 190 : ILR 1965 Bom 566.
2. *Venkataratnam* v. *Vijaiwada Municipality*, AIR 1962 Andh Pra 342 at p. 366 (Narasimham, J.). But in interpreting the law which provides the enhanced penalty, the legal meaning of the phrases used therein should prevail over the grammatical construction. Thus, 'second offence' should be construed as that offence which has been committed after the offender has been convicted for the first offence; *State* v. *Badri*, AIR 1965 Raj 152, 155 (Tyagi, J.).
3. *Richardson* v. *Austin*, 12 CLR 462, 470, *per* Griffith, C.J.
4. 22 QBD 513, 519.
5. (1890)15 App Cas 506 at p. 528.
6. *Purushottam Lal* v. *Prem Shankar*, AIR 1966 All 377.
7. *Mewar Textile Mills Ltd.* v. *Union of India*, AIR 1955 Raj 114.
8. *RMDC (Mysore) Private Ltd.* v. *State of Mysore*, AIR 1962 SC 594 : (1962)1 SCA 546 : (1962)2 SCJ 620.
9. *London and West Australian Exploration Co., Ltd.* v. *Ricci*, 4 CLR 617, 625, *per* Griffith, C.J.

But though the motive with which Parliament acted is wholly irrelevant, the object which its action discloses is vitally relevant.[1]

7. Ordinary and natural meaning of words not to be controlled by spirit of legislation.—The spirit of the law may well be an elusive and unsafe guide and the supposed spirit can certainly not be given effect to in opposition to the plain language of the sections of the Act and the rules made thereunder.[2]

8. Ordinary and natural meaning not to be controlled by considerations of public policy.—It has sometimes been said that a statute may be construed in accordance with public policy. If the precise words used are plain and unambiguous, the Court is bound to construe them in their ordinary sense, and not to limit plain words in an Act of Parliament by considerations of policy, as to which minds may differ and as to which decisions may vary.[3] Clear language cannot be allowed to be controlled by considerations of legislative policy.[4] It was argued by Serjeant Stephen in *Hine* v. *Reynolds*,[5] that "It is a sound general principle in the exposition of statutes that less regard is to be paid to words that are used than to the policy which dictates the Act," and in *R.* v. *Hipswell*,[6] Bailey J., held that the word "avoid" as used in 28 Geo. 3, c. 48, Section 4 "should receive its full force and effect" because it has been introduced into the statute "for public purposes". The cases cited by Serjeant Stephen in support of his proposition do not bear it out and on several occasions this principle of construction has been called in question. In *R.* v. *St. Gregory*,[7] Taunton, J., said with regard to the dictum of Bailey, J., in *R.* v. *Hipswell*,[8] "in that case the judgment was rested partly on the consideration of public policy, a very questionable and unsatisfactory ground, because men's minds differ much on the nature and extent of public policy."

As to considerations of policy, Coleridge, C.J., in *Coxhead* v. *Muller*,[9] makes some noticeable remarks : "In the absence of any judicial authority throwing light on the subject, the tendency of my own mind, right or wrong, is to suppose that Parliament meant what Parliament has clearly said and not to limit plain words in an Act of Parliament by considerations of policy, if it be policy, as to which minds may differ, and as to which decisions may vary. We may thus make that which is a plain and simple enactment, I will not say inoperative, but doubtful and obscure, if considerations are to be introduced into the construction of it when it is entirely uncertain whether they were present in the minds of the Legislature when the enactment was made."

In the *Queensberry Leases*,[10] Lord Redesdale said : "I do not understand what right a Court of Justice has to entertain an opinion of a positive law, upon any ground of political expediency. I have always been at a loss to conceive upon what ground a Court of Justice was entitled so to

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1. *Australian Steamship, Ltd.* v. *Malcolm*, 19 CLR 298, 323.
2. *Rananjaya Singh* v. *Baijnath Singh*, AIR 1954 SC 749 at p. 752. [In the circumstances of the case the appellants were held not to be guilty of any corrupt practice under Section 123(7), Representation of the People Act, 1951]; *Maheshkumar* v. *Addl. Collector, Hoshangabad*, AIR 1988 MP 210 : 1988 MPLJ 6 (DB).
3. *Senior Superintendent, RMS* v. *Gopinath*, (1973)3 SCC 867 at p. 869 (Mitter, J.); *Dwarika Singh* v. *Dy. Director of Consolidation*, 1981 All LJ 484 (FB), para 50; *Harbans Singh* v. *(Smt.) Margrat G. Bhingardevi*, AIR 1990 Mad Pra 191 : (1990) Jab LJ 97 : (1990) MPLJ 112 (FB).
4. *Lakshmanan* v. *Ariyayi*, 1979 Ker LT 126 (FB).
5. (1840)2 Scott NR 419.
6. (1828)8 B & C 466.
7. (1834)2 A & E 99.
8. (1828)8 B & C 466.
9. (1873)3 CPD 442.
10. (1819)1 Dow (HL) 401.

act. The Legislature is to decide upon political expediency; and if it has made a law which is not politically expedient, the proper way of disposing of the law is by an Act of the Legislature, and not by the decision of a Court of Justice. "It is the province of the statesman, not of the lawyer, to discuss, and of the Legislature to determine, what is best for the public good, and to provide for it by proper enactments. It is the province of the Judge to expound the law only."[1] A Court of law is not concerned with the policy of the administration, nor with the effect of a piece of legislation on any section of the society. Courts have to administer the law as they find it and they cannot twist the clear language of any enactment to avoid the real or imaginary hardships in which it may result.[2] Courts should carefully refrain from extending their powers on grounds of public policy. The public, if it is of opinion that a certain course is opposed to public policy, should make its views clear through constitutional channels, *i.e.*, the Legislature.[3]

It is the duty of the Court only to search faithfully for the intention of the Legislature, and not to speculate as to its motives, or criticize its policy. It is as unwise as it is unprofitable to cavil at the policy of an Act of Parliament, or to pass a convert censure on the Legislature.[4] "No doubt in arriving at the intention of Parliament it must, in the absence of intractable language to the contrary, be assumed that nothing absurd or unjust is intended, but a Judge has no right to brand as absurd or unjust any policy which he personally might not approve. That would be an invasion of the domain of another branch of the Government."[5]

In any event questions of fairness or policy are not matters which the Court can take into consideration when the language of the enactment leaves little or no room for doubt.[6] Viscount Simon, in *King-Emperor* v. *Berori Lal Sarma*,[7] felt bound to point out that "the question whether the Ordinance is *intra vires* or *ultra vires* does not depend on considerations of jurisprudence or of policy..... Again and again, this Board has insisted that in construing enacted words we are not concerned with the policy involved or with the results, injurious or otherwise, which may follow from giving effect to the language used." "Considerations of policy are inadmissible, except so far as they are the result of construction of the words of the Act itself."[8]

In *Hardy* v. *Forthergill*,[9] Lord Selborne said : "It is not, I conceive, for your Lordship, for any other Court, to decide such a question as this under the influence of considerations of policy,

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1. *See* Street on *Ultra Vires*, 1930 Ed. at pp. 439, 440; *Madho Saran* v. *Emperor*, ILR 1944 All 42 : AIR 1943 All 379, 386 (FB); *Salig Ram* v. *Emperor*, ILR 1943 All 238 : AIR 1943 All 26, 36 (FB); *Harish Chandra* v. *Rex*, AIR 1949 All 15; *Mohd. Hayat* v. *Commissioner of Income-tax*, AIR 1931 Lah 87, 91 : ILR 12 Lah 129 (FB); *Chandra Shankar* v. *Sukhlal*, AIR 1951 All 383, 386 (so long as distinction is found to exist according to the recognised rules of interpretation, it has to be recognised and effect has to be given to it); *see* also *Abdul Majid* v. *Nayak*, AIR 1951 Bom 440.
2. *Kidar Nath* v. *Bhag Singh*, AIR 1937 Lah 504, 506 : ILR 1937 Lah 143.
3. *Hoondraj Mithomal* v. *Emperor*, 26 Cr LJ 234 : 84 IC 58.
4. *Vacher & Sons, Ltd.* v. *London Society of Compositors*, 1913 AC 107.
5. *McCowley* v. *King*, 26 CLR 9, 45.
6. *Piare Dusadh* v. *King-Emperor*, 1944 FCR 61, 98; *Corpus Juris*, Vol. 59 at p. 957 (because of some supposed policy of law); *see* also *Australian Alliance Assurance Co.* v. *A.G., Queensland*, AIR 1918 PC 352, 354; *see* also *Schnell* v. *Eckrich & sons*, 5 L Ed 2d 546 (Clark, J.).
7. 1945 FCR 161, 177.
8. *Hardy* v. *Forthergill*, (1888)13 AC 351, 358, *per* Lord Selborne; *see* also *Gibson and Howes, Ltd.* v. *Lennon*, 24 CLR 140, 158.
9. (1888)13 AC 351, 358 quoted in *State of Tasmania* v. *The Commonwealth of Australia and State of Victoria*, (1904)1 CLR 329, 339.

except so far as that policy may be apparent from, or at least consistent with, the language of the Legislature in the statute or statutes upon which the question depends."

The Courts are not concerned with the policy of the Legislature or with the wisdom thereof. A perusal of Section 243, Government of India Act, 1935, shows that the constitutional safeguards provided in Section 240 of the Act were not made available to police forces whose conditions of service were to be governed by the Acts relating to those forces; and it is not necessary to discuss as to why the meagre safeguards which were available to other civil servants were not made available to police forces.[1]

Where the language of Section 94-C, Defence of India Rules, 1939, is clear no useful purpose will be served by speculating on the why and wherefore of the distinction between transactions which take place outside the Stock Exchange and those that take place within it. On the language of Section 94-C it is not possible to read any intention, express or implied, prohibiting transactions which take place outside Stock Exchange. It is rather understandable that while members of an association should agree to be bound by certain rules in their dealings, *inter se*, their relations with outsiders should be governed wholly by the terms of their contract with them.[2]

In his *Construction and Interpretation of Laws*,[3] Black states that "it must always be supposed that the legislative body designs to favour and foster, rather than to contravene, that public policy which is based upon the principles of natural justice, good morals, and the settled wisdom of the law as applied to the ordinary affairs of life." The settled wisdom of the law as applied to the ordinary affairs of life includes the Constitution, statutes and judicial decisions. The Directive Principles in the Indian Constitution would, for instance, afford a valuable guide in ascertaining the meaning of doubtful provisions of an enactment. The policy of the State as evidenced by prior Acts is of material assistance in resolving a doubtful statutory meaning. In a number of instances statutes reflect a legislative effort over a period of years to achieve a certain end or purpose. A review of the history of the statute may reveal such an effort and its result in the form of a course or trend of legislation regarding the particular subject under consideration.

From this source a legislative or statutory policy may be ascertained and identified. The general policy of the State regarding a particular subject will often be found to have a basis in the common law.

It is presumed that the Legislature intends its enactments to accord with the settled principles of public policy, not to violate them. If on a consideration of the effects and consequences of the proposed constructions of the statute it is disclosed that one of the proposed constructions would controvert the settled principles of public policy, while no such result would follow from the other, the Legislature must be presumed to have intended that the resonable and beneficial interpretation should be applied to its Act. But it is only when the construction is doubtful that the principles of public policy can be involved. As observed in *Fullinwider* v. *Southern Pacific R.R. Co.*,[4] "We may grant, if a policy exists, that it may be used to resolve the uncertainty of a law, but it cannot be a substitute for a law." In *Opinion of Justice*,[5] the Supreme

1. *Mewa Ram* v. *United Provinces*, AIR 1954 All 487; *see* also *H.C. Mehra* v. *Commissioner of Income-tax*, AIR 1966 Pat 187 at p. 189.
2. *Central Brokers* v. *N.K. Murthy*, AIR 1954 Mad 699.
3. 2nd Ed. at p. 134.
4. 248 US 409.
5. 7 Mass 523.

Court of Massachusetts declared that "the natural import of the words of any legislative Act according to the common use of them when applied to the subject-matter of the Act, is to be considered as expressing the intention of the Legislature : unless the intention, so resulting from the ordinary import of the words, be repugnant to sound, acknowledged principles of national policy, and if that intention be repugnant to such principles of national policy, then the import of the words ought to be enlarged or restrained, so that it may comport with those principles; unless the intention of the Legislature be clearly and manifestly repugnant to them. For although it is not to be presumed, that a Legislature will violate principles of public policy, yet an intention of the Legislature repugnant to those principles, clearly, manifestly and constitutionally expressed, must have the force of law."[1]

If the language of the statute is clear then there is hardly any occasion to resort to any other means of interpretation. It is plain that what has no need of interpretation or what interprets itself, there is no necessity to go outside the Act in order to understand the policy of the law. In cases where the object or the policy of the Act is not expressly disclosed in any part of the Act, it is permissible to consider contemporaneous events to find out the true policy. In ascertaining the legislative purpose where the language used is ambiguous or admits of more than one meaning, recourse can be had among other things to the circumstances existing at the time of the passage of the law, the occasion for the new law and the evil intended to be cured, the remedy intended to be applied, the law prior to the enactment under consideration and the consequences of the interpretation proposed.[2]

The policy of the law can be taken into account when the statute being dealt with is not explicit. To adopt any other method of construction would be to impose upon the subject the political, moral, social, or religious views of the Judges, instead of construing and ascertaining the definite intention of the Legislature.

There should, moreover, be no greater modification of or departure from the established policy than the statute expressly declares.[3] Thus the repeal or omission of the restrictive clause did not warrant the conclusion of a legislative intent to enact affirmatively the thing which that clause had prohibited.

The rule in Income-tax law that no appeal shall lie unless the tax has been paid is a rule of public policy to make the realisation of taxes easy and has nothing to do with the merits of the controversy or the nature of the cause on the basis of which alone the right of appeal depends. This rule cannot be construed so as to destroy the right altogether, and it should be so read as to harmonise with the right of appeal and yet to implement the intention of the Legislature in providing for an easy recovery of the tax.[4]

It may also be noted that even though a public policy may exist, the process of discovering it may be quite tedious. The fact that it may change should also be borne in mind.

9. Ordinary and natural meaning not to be controlled by equitable construction.—Equitable construction was the principle of expanding the written laws by the fundamental conception of equity.[5] Equitable construction was generally of two kinds, expansive and contractive. The

1. But see *Hadden* v. *The Collector*, 18 L Ed 518; "What is termed the policy of the Government with reference to any particular legislation is generally a very uncertain thing, upon which all sorts of opinions, each variant from the other, may be formed by different persons. It is a ground much too unstable upon which to rest the judgment of the Court in the interpretation of statute."
2. *Chintapalli Achaiah* v. *Gopal Krishna Reddy*, AIR 1966 Andh Pra 51 at p. 55 (Ekbote, J.)
3. *Murdock* v. *Memphis*, 22 L Ed 429.
4. *Kashiram Bhajan Lal* v. *Commissioner of Income-tax*, AIR 1963 All 472.
5. Bl Comm 61.

former is thus defined by Coke : "Equity is a construction made by the Judges that takes cases out of the letter of the statute, yet being within the same mischief, or cause of the making of the same, shall be within the same remedy that the statute provideth and the reason thereof is, for that the lawmakers could not possibly set down all cases in express terms."[1] The latter is explained by Plowden in his note to *Eyston* v. *Studd*,[2] by a quotation of the maxim of Aristotle : "Equity is the correction of the law in those particulars wherein, by reason of its generality, it is deficient." Equitable construction had a place in English Jurisprudence over a lengthy period of time, and apparently it meant different things at different times. In *Sheffield* v. *Ratcliffe*,[3] it is said : "If you ask me then by what rule the Judges guided themselves in this diverse exposition of the self-same words and expressions? I answer, it was by liberty and authority that Judges have over laws, especially over statute laws, according to the reason and best convenience, to mould them to the trust and best use." Again, we have Lord Chancellor Ellsmere's rule set forth in the case of the *Postnati of Scotland*.[4] "That words are taken and construed sometimes by extension; sometimes by restriction; sometimes by implication; sometimes a disjunctive for a copulative; a copulative for a disjunctive; the present tense for the future; the future for the present; sometimes by equity out of the reach of the words, sometimes words taken in a contrary sense, sometimes figuratively as *continens pro contento*, and many other like; and of all these, examples be infinite, as well in the civil as in common law." Taking these pronouncements at face value the Judges assumed the power to construe statutes as they saw fit, or as Sedgwick puts it, "according to their own idea of policy, wisdom and expediency."[5]

In *Valentini* v. *Canali*,[6] Coleridge, C.J., allowed himself to be affected by considerations of natural justice which is perhaps more difficult to ascertain judicially than the policy of a statute.

In *Brandling* v. *Barrington*,[7] Lord Tenterden, C.J., said "Speaking for myself alone, I cannot forbear observing that I think there is always danger in giving effect to what is called the equity of the statute, and that it is much safer and better to rely on, and abide by, the plain words, although the Legislature might possibly have provided for other cases had their attention been directed to them."

No question of beneficial construction arises where the words of a statute are quite unequivocal.[8]

In *Edwards* v. *Edwards*,[9] Mellish, L.J., said : "If the Legislature says that a deed shall be null and void to all intents and purposes whatsoever, how can a Court of Equity say that in certain circumstances it shall be valid? The Courts of Equity have given relief on equitable grounds from provisions in old Acts of Parliament, but this had not been done in the case of Modern Acts, which are framed with a view to equitable as well as legal doctrines." In *Curtis* v. *Perry*,[10] the plaintiff prayed that certain ships which stood registered in the name of one

1. 1 Co. Inst. 24b.
2. 2 Plowd 459, 465.
3. Hobart, 346.
4. 2 Howell's *State Trials*, at p. 675.
5. Sedgwick : *Statutory Construction*, 265.
6. (1889)24 QBD 166.
7. (1827)6 B & C 467; *see* also *Kosuri Rama Kotiah* v. *Jammu Bapaniah*, 1955 Andh WR 496.
8. *Jagannath* v. *Dutta*, AIR 1963 Cal 26 at p. 34 (Debabrata Mukerjee, J.).
9. (1876)2 Ch D 297.
10. (1802)6 Ves. 739.

Man should be declared to be his separate property, although it appeared that the ships had always been treated as part of the property of a firm of which he was a member. Lord Eldon held that the plaintiff's prayer must be complied with, because the statutory enactment was precise and clear to the effect that every ship was to be considered as the property of the person in whose name it stood registered, and that if a transfer was made of the ship, it must be made in a prescribed form. As the requirements of the Act had not been complied with, the Court would not interfere. But while Courts of Justice cannot dispense with or override the express provisions of a statute by construing its express terms as subordinate to considerations of common law or equity, there are certain cases in which it had been held—

(1) that people may contract themselves out of rights given to them by statute, but not in terms made indefeasible,[1]
(2) that people may contract not to set up a defence given by the statute,[2]
(3) that a person may waive or be stopped by his conduct from setting up a defence given him by statute.[3]

These provisions, it may be noted, are applicable only in cases where the statute merely deals with procedure or gives a private right which may be renounced, and are not applicable as against a specific mandatory or declaratory enactment.

An examination of the other cases on the subject would reveal that the learned Judges viewed the process of interpretation as a means to the achievement of the legislative intent; when this intent was doubtful or obscure, recourse might be had to the spirit and reason of the law. To this extent the doctrine can be said to have continued as an effective aid to construction in spite of its disavowal. A Court of law cannot give any relief howsoever equitable it might be if it is in conflict with the express direction contained in the statute. No doubt in a court of law what the Legislature intended to be done or not to be done can only be legitimately ascertained from what it had chosen to enact, either in express words or by reasonable implication, but a certain amount of commonsense must be applied in construing statutes, and in order to understand the meaning of the words used an inquiry must be made into the subject-matter with respect to which they are used and the object in view. While a statute susceptible of two or more interpretations, normally that interpretation should be accepted as reflecting the will of the Legislature which operates most equitably, justly and reasonably as judged by the normal conceptions of what is right and what is wrong and what is just and what is unjust,[4] so long as the words of the statute are vague or ambiguous and are capable of being construed in a manner which is consistent with the equity of the case, they can be so interpreted; but equity does annul a statute,[5] and, where the direction contained in the statute is clear and unambiguous it is not open to a Court to disregard that direction. In such a case it is for the Legislature to amend the statute if it wants to afford the desired relief. The duty of the Court is merely to interpret the law as it stands irrespective of the consequences and pass its orders accordingly.[6] One effectual way of discovering the import of dubious expressions is to bear in mind the spirit and reason of the law, for that helps to bring out the legislative intent. This is of particular cogency in interpreting beneficial legislation, but it is not the same thing as equitable construction.[7]

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1. *Sherrard* v. *Gascoigne*, (1900)2 QB 279.
2. *Wright* v. *Ganall*, (1900)2 QB 240; *East India Co.* v. *Paul*, (1849)7 Moore PC 85.
3. *Wilson* v. *McIntosh*, (1891) AC 129.
4. *Kalu Ram* v. *New Delhi Municipal Committee*, ILR (1966)1 Punj 145 : 67 Punj LR 1190.
5. *Raja Ram Mahadev* v. *Aba Maruti Mali*, AIR 1962 SC 753.
6. *M.R. Melhotra* v. *State*, AIR 1958 All 492, 495; *Ramachandra Rao* v. *Lakshminarayana Sastri*, (1963)2 Andh WR 230.
7. *K.T. Rolling Mills (Private), Ltd.* v. *M.R. Meher*, AIR 1963 Bom 146.

10. Ordinary and natural meaning not to be affected by supposed anomalies.—The Court is not concerned with anomalies—save at least in those cases in which it will tend to favour an interpretation of a doubtful matter of law or an obscure language in an Act of Parliament or other instrument which will avoid anomalies. The Court's duty is to relate particular facts to established principles.[1]

Where the position is such that the meaning of what the Legislature has said is clear and unambiguous and the section leads to only one construction and to no other, the mere circumstance that giving the section its proper meaning and effect is likely to lead to certain anomalies or curious results would not be a consideration for the Court to reject that construction.[2]

If the printed word irresistibly leads to an anomaly then the Judges must regretfully allow it to do so; the responsibility is not theirs. But if reason and convenience can do it, this result will always be avoided. It is always to reason and convenience that the Court leans.[3]

When the words of a statute are clear, it is not within the province of a Court, simply with a view to avoid apparent anomalies to put such an interpretation on the words as they are incapable of bearing. It is for the Legislature to step in and to remove the anomaly if and when it considers it fit to do so.[4] The provisions of the statute must be construed according to its plain meaning, neither adding to it nor subtracting from it, and when the terms are clear and plain, it is the duty of the Court to give effect to it as it stands,[5] and it is not justified in departing from the plain meaning even though serious anomalies result or what the Court conceive to have been the intention of the Legislature is not carried out.[6] In *Commissioner of Stamp Duties* v. *Simpson*,[7] Isaacs, J., laid down the following rule with regard to anomalies in taxing statutes : "This, though an astonishing anomaly in a Finance Act, and one for which no reason can be assigned, may be the incapable result of the inadvertent language of the Legislature, and it is the duty of a Court to follow the language to whatever conclusion it leads, when sensibly read. Such a position, however, must induce great caution before assenting to that construction. No doubt in a taxing Act an import requires clear and unambiguous words; but even taxing Acts must be read reasonably."

11. Ordinary and natural meaning not to be affected by considerations of reasonableness.—If the provisions are clear and unambiguous, a Court of law has nothing to do with the reasonableness or unreasonableness of such statutory provisions, except so far as it may help it in interpreting what the Legislature has said.[8] In a case where the technical Language used was precise and unambiguous, but incapable of reasonable meaning, the Court held that it was not at liberty, on merely conjectural grounds, to give the words a meaning which did not belong to them.[9] There remains no scope for logic when the language of the

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1. *Moorouse (Inspector of Taxes)* v. *Dooland*, (1955)1 All ER 93.
2. *Pramod Kumar* v. *Commissioner of Wealth-tax*, AIR 1966 Bom 166, 169 (Desai, J.).
3. *Bhadramma* v. *Kotam Raj*, AIR 1955 Hyd 140.
4. *Ganga Sagar* v. *Reoti Prasad*, AIR 1940 All 507, 510 : ILR 1940 All 771 (FB); *Ram Singh* v. *Shankar Lal*, 1972 MPLJ 405, 418, 419 (FB) (S.R. Vyas, J.).
5. *Pandurang* v. *Shamrao*, AIR 1944 Bom 272, 273 (it is not open to read into the enactment words which are not there or to disregard words which are actually to be found in it); *Goodzer & Company* v. *Commissioner of Excess Profits Tax, Madras*, AIR 1949 Mad 407, 410 : ILR 1949 Mad 550.
6. *Gur Charan Lal* v. *Shiva Narain*, AIR 1948 Oudh 162 (FB); *Shrinivasacharyulu* v. *Hanumanth Rao*, AIR 1955 Andhra 10.
7. 24 CLR 209, 221.
8. *Calcutta Corporation* v. *Sub-Postmaster, Dharamtola*, AIR 1950 Cal 417; *Damodar* v. *Nandram*, AIR 1960 MP 345, 354 (FB) (Pandey, J.).
9. *See* Maxwell: *Interpretation of Statutes*, 11th Ed. at p. 16.

statute is plain.[1] It is not competent to a Judge to modify the language of an Act in order to bring it in accordance with his views of what is right or reasonable.[2] In *Abety* v. *Dale*,[3] Sir John Jervis said : "If the precise words used are plain and unambiguous, for in our judgment, we are bound to construe them in their ordinary sense, even though it do lead, in our view of the case, to an absurdity or manifest injustice. Words may be modified or varied, where their import is doubtful or obscure. But we assume the functions of Legislature when we depart from the ordinary meaning of the precise words used, merely because we see, or fancy we see, an absurdity or manifest injustice from an adherence to their literal meaning." In *R.* v. *Mausel*,[4] Lord Coleridge stated that it was the business of the Courts to see what Parliament had said, instead of reading into an Act what ought to have been said. Blackstone says[5] : "If Parliament would positively enact a thing to be done which is unreasonable, there is no power in the ordinary forms of the Constitution that is vested with authority to control it." Where the main object of a statute is unreasonable, the Judges are not at liberty to reject it for that were to set the judicial power above that of the Legislature, in which would be subversive of all Government.[6] There is no instance of any British Statutes having ever been declared void or not binding if it is contrary to reason.[7] In *Lee* v. *Bude*,[8] it was argued that certain Acts of Parliament had been obtained by inserting in them false recitals. "I would observe" said Willes, J., "that these Acts of Parliament are the law of the land, and we do not sit here as a Court of Appeal from Parliament. It was once said that if an Act of Parliament were to create a man 'judge in his own cause the Court might disregard it'.[9] That dictum, however, stands as a warning rather than as an authority to be followed. If an Act of Parliament has been obtained improperly, it is for the Legislature to correct it by repealing it, but so long as it exists as law, the Courts are bound to obey it." The same view was expressed by the Judicial Committee in *Labrador Co.* v. *Reg.*[10]

The "reasonableness" of the provisions of a statute is not to be judged by a *priori* standards unrelated to the facts and circumstances of a situation "which occasioned the legislation."[11]

The word "void" should, however, be distinguished from "unconstitutional" which means violation of some specific provisions of the Constitution. The expression "unconstitutional" as applied to an English Act of Parliament, merely means that the Act, in question, is opposed to the spirit of the English Constitution; it cannot mean (as it might if applied to a French or an American Act) that the Act is either a breach of law or void[12]. A law on a subject not within the competence of the Legislature is a nullity, and term "void" is applicable to such a law; while a law on a subject within the competence of the Legislature but repugnant to constitutional

1. *Municipal Board, Mathura* v. *Dr. Radha Ballabh*, AIR 1949 All 301, 302; *Prabhu Mal* v. *Chandan*, AIR 1938 Lah 638, 640.
2. *Abel* v. *Lee*, (1871) LR 6 CP 365, 371, *per* Willes, J.
3. 11 CB 378, 391, quoted in *Commissioner of Stamp Duties (N.E.W.)* v. *Bimpon*, 24 CLR 209, 216.
4. (1881)23 QBD 29, 32.
5. 1 Comm 91.
6. Blackstone, 1 Comm 91; see *Dr. Bonham's* case, (1610)8 Co., Rep 1180, where Lord Coke says that "Where an Act of Parliament is against common right and reason, repugnant, or impossible to be performed, the common law would control it and adjudge the Act to be void." *Day* v. *Savadge*, (1615) Hob 87; *City of London* v. *Wood*, (1700)12 Mad Rep 687; *Duchess of Hamilton* v. *Fleetwood*, (1714)10 Mad Rep 115.
7. *Logan* v. *Burston*, (1842)3 Moore PC 297.
8. (1871) LR 6 CP 580.
9. *Day* v. *Savadge*, (1615) Hob 87.
10. (1893) AC 104; *Devi Singh* v. *Tara Chand*, AIR 1962 Him Pra 8.
11. *Raghubar Dayal* v. *Union of India*, AIR 1962 SC 263, 274.
12. Dicey : *Law of Constitution*.

prohibitions is unenforceable, and unconstitutional.[1]

The meaning and intention of a statute must be collected from the plain and unambiguous expressions used therein rather than from any notions which may be entertained by the Court as to what is just and expedient.[2]

Where a Court varies the literal meaning of statute by reasonable interpretation, the construction chosen should, in any case, be reasonable within the text of the Act.

Nor is it open to a Court to place a certain section or a clause in a section and read it as a proviso to another section for ascertaining its meaning and then assigning the same meaning to it in its original place.[3]

12. Ordinary and natural meaning not to be affected by considerations of hardship, inconvenience, etc.—Hardship or inconvenience cannot alter the meaning of the language employed by the Legislature if such meaning is clear on the face of the statute or the rules.[4] If the language is plain and admits of one meaning only it has to be given effect to, even if it leads to apparent hardship,[5] or to the possibility of injury resulting.[6] No consideration of hardship can, therefore, justify a departure from the plain meaning of a statute.[7] Thus the rule cannot be discarded simply because a literal construction of Clause (2) to Article 286 of the Constitution will result in discrimination against local trade because all Bihar purchasers would purchase goods from out of State sellers and not from local sellers. If there is any real hardship there is Parliament which is expressly invested with the power of lifting the ban under Clause (2) either wholly or to the extent it thinks fit to do. The Court cannot be called upon to discard the cardinal rule of interpretation for mitigating a hardship which may be entirely fanciful when the Constitution itself has expressly provided for another authority more competent to evaluate the correct position to do the needful.[8] The contention that if an appeal does not lie against an order imposing penal interest under Section 18-A(6), Indian Income Tax Act, 1922, it would cause irreparable hardship to an assessee cannot be accepted. The scheme of Section 18-A(6), on the other hand, clearly shows that there cannot be any prejudice to the assessee.[9] A statute cannot be extended to meet a case for which provision has been clearly and deliberately omitted. Whereas the Legislature has definitely made provision in Section 83(3) of the Representation of the People Act, 1951, for the amendment of the particulars, it deliberately omitted to make any such provision for the statement of the material facts to be given in the

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1. *M.P.V. Sundararamier & Co.* v. *State of A.P.*, AIR 1958 SC 468.
2. *Govindan Nair Neelakantan Nair* v. *Narayani Amma*, ILR 1955 TC 147: AIR 1955 TC 235 (FB); *Rameswaraswami* v. *Ramalinga Raju*, AIR 1960 Andh Pra 17, 19 (Bhimasankaram, J.).
3. *Tarun Sen Deka* v. *State*, AIR 1949 Assam 50.
4. *Commissioner of Agricultural Income-tax* v. *Keshab Chandra Mandal*, 1950 SCR 435, 446, (*per* Das, J.); *Basheshar Das* v. *Diwan Chand*, AIR 1933 Lah 615, 617 (confusion and hardship of little weight); *Calcutta Corporation* v. *Kumar Arun Chandra*, AIR 1934 Cal 862 (it is not permissible for a Court of law to attempt to abridge the effect of those words by considerations of inconvenience resulting from multiplicity of proceedings in Court); *Shri Nath* v. *Puran Mal*, AIR 1942 All 19, 24 (FB); *see* also *Balkaran Rai* v. *Gobind Nath Tiwari*, ILR 12 All 129, 137 (FB); *Ram Prakash* v. *Savitri Devi*, AIR 1958 Punj 87, 90 (FB).
5. *Kapildeo Ram* v. *J.K. Das*, AIR 1954 Assam 170; *D.D. Joshi* v. *Union of India*, (1983)2 SCC 235 : AIR 1983 SC 420; *Motor Owners Insurance Co., Ltd.* v. *Jadavji Kesharji Modi*, (1982)9 Bihar Cr C (SC) 98.
6. *Kanshi Ram* v. *State of Punjab*, ILR (1961)2 Punj 823; *Bashi Ram* v. *Mantri Lal*, AIR 1965 All 498, 501 (Desai, J.) : Suit by landlord with permission of Distt. Magistrate which is rescinded on appeal or revised by tenant.
7. *Raja Ram* v. *State of U.P.*, AIR 1966 All 192 : 1965 All LJ 1110 (FB); *State of Madhya Pradesh* v. *Vishnu Prasad Sharma*, AIR 1966 SC 1593; *Radha Charandas Balaji* v. *Bhim Patra*, AIR 1966 Orissa 1.
8. *Bengal Immunity Co.* v. *State of Bihar*, AIR 1955 SC 661, 685.
9. *Boddu Seetharamaswamy* v. *Commissioner of Income-tax*, AIR 1955 Andh Pra 273.

election petition. It thus appears that the intention of the Legislature was not to allow any amendment to be made with regard to the statement of the material facts on which the petitioner relies for challenging the election.[1] No doubt, if the language of an Act is sufficiently clear, the Court shall give effect to it, however inequitable or unjust the result of such a construction may seem to the Court to be. But if the Court can avoid construing an Act so as to cause what the Court regards as injustice it certainly ought to do so.[2] The argument *ab inconvenienti* is of no use when the language of a statute is plain.[3] Where the language is plain, or where, upon regarding all relevant provisions of the Act, no ambiguity is discernible in the words used in a statute, effect will have to be given to the words of the statute, however serious an encroachment on the rights of an individual would it lead to.[4] A legal enactment must be interpreted to its plain sense and so long as its language is clear and unambiguous a subject cannot be penalised for construing it literally and not interpreting it in a manner not warranted by its plain language.[5] When the Legislature places upon the statute book a provision in terms which are entirely plain and without ambiguity, it is the duty of the Court to give effect to the provision, unless by doing so it is obvious that it would lead to an absurdity.[6] "Therefore", opines Craies,[7] "if a too literal adherence to the words of enactment appears to produce an absurdity or an injustice, it will be the duty of the Court of construction to consider the state of the law at the time the Act was passed (*Grover's* case),[8] with a view to ascertaining whether the language of the enactment is capable of any other fair interpretation,[9] or whether it may not be desirable to put upon the language used a secondary[10] or restricted[11] meaning, or perhaps to adopt a construction not quite strictly grammatical.[12] But this deviation from the plain language of the statute must be very cautiously adopted. Lord Greene observed in *Grundt* v. *Great Boulder Proprietary Gold Mines*[13] :

> "Although the absurdity or the non-absurdity of one conclusion as compared with another may be of assistance and very often is of assistance to the Court in choosing between two possible meanings of ambiguous words, it is a doctrine which has to be applied with great care, remembering that Judges may be fallible on the question of an absurdity and in

1. *Sheo Mahadeo Prasad* v. *Deva Sharan*, AIR 1955 Pat 81, 86.
2. *Jamiyatram* v. *Umiyashankar*, AIR 1941 Bom 327, 328 : ILR 1941 Bom 544; *see* also *King-Emperor* v. *Benori Lal Sharma*, 1945 FCR 161, 177 : (or with the results injurious or otherwise).
3. *Satyanarayanamurthi* v. *Papayya*, AIR 1941 Mad 713; *Anand Prakash* v. *Narain Deb*, AIR 1941 All 162, 173 (FB).
4. *Manohar Ram Krishna* v. *G.G. Desai*, AIR 1951 Nag 33, para 16.
5. *Mst. Uda Bai* v. *Ram Autar*, AIR 1935 Lah 423.
6. *Venkateswara* v. *Venkatesa*, AIR 1941 Mad 449 (FB). In which case we have to look to the probable intention of the Legislature and to place such construction as will fairly execute that intention; *Lutfar Rahaman* v. *Waliur Rahaman*, AIR 1943 Cal 59, 61.
7. 5th Ed. at pp. 82, 83 after quoting the observations of Brett, L.J., in *R* v. *Tonbridge Overseers*, (1884)13 QBD 339, 342 : "If the inconvenience, is not only great, but what I may call an absurd inconvenience, by reading an enactment in its ordinary sense, whereas if you read it in a manner in which it is capable, though not in its ordinary sense, there would not be any inconvenience at all : there would be reason why you should not read it according to its ordinary grammatical meaning."
8. (1874)1 Ch D 182, 198, *per* Brett, J.
9. *River Wear Commissioners* v. *Adamson*, (1876)1 QBD 546, 549, (Jessel, M.R.).
10. *Ex parte* St. Sepulchre's, (1864)33 LJ Ch 372, 375, (*per* Lord Westbury).
11. In *Ex parte* Walton, (1881)17 Ch D 746, 757, Lush, L.J. said: "In order to prevent absurdity we must read the word 'surrendered' in a qualified sense." *Altrincham Electric Co.* v. *Sale U.D.C.*, (1936)34 LGR 215.
12. *Williams* v. *Evans*, (1876)1 Ex D 277, 284, (*per* Field, J.).
13. 1948 Ch 145, 155, 159.

any event must not be applied so as to result in twisting language into a meaning which it cannot bear : it is a doctrine which must not be relied upon and must not be used to re-write the language in a way different from that in which it was originally framed."

When the language of a statute in its ordinary meaning and grammatical construction leads to a manifest *contradiction of the apparent purpose* of the enactment, a construction may be put upon it which modifies the meaning of the words and even the structure of the sentence.[1]

13. Courts not to modify language so as to bring it into accord with its own views of expediency, justice and reasonableness.—In *Abel* v. *Lee*.[2] Willes, J., said : "I utterly repudiate the notion that it is competent to a Judge to modify the language of an Act of Parliament in order to bring it into accordance with his views as to what is right and reasonable."

It is not open to add to the words of the statute or to read more in the words than is meant, for that would be legislating and not interpreting a legislation.[3] If the language of a statutory provision is plain, the Court is not entitled to read something in it which is not there,[4] or to add any word or to subtract anything from it.[5]

"We assume the functions of legislators when we depart from the ordinary meaning of the precise words used, merely because we see, or fancy we see, an absurdity or manifest injustice from an adherence to their literal meaning."[6]

If the language of a statute is clear unambiguous, the Court cannot alter a statute on the ground that its effect will be harmful.[7]

In *Miller* v. *Salmons*,[8] Pollock, C.B., said : "If the meaning of the language be plain and clear we have nothing to do but to obey it—to administer it as we find it, and I think, to take a different course is to abandon the office of Judge, and to assume the province of legislation."

When the language of the statute is clear, unambiguous and in express terms, then all that is required is to expound those words in their natural and ordinary sense, unless in doing so, some absurdity or some repugnance or inconsistency with the rest of the provisions or statute would result in which case it will be permissible to modify the construction for avoiding that absurdity and nothing more.[9]

14. Courts not to introduce legal fictions.—A legislative fiction has to be strictly confined to the area assigned to it by the Legislature, and must be harnessed only for the specific purpose for which it was created. For example, the fiction created in Section 57(8) of the Motor

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1. *Mahommad Jeena* v. *Wilson*, 12 Cr LJ 246 : 10 IC 787 (LB).
2. (1871) L R 6 CP 365, 371. Quoted in *Higgins* v. *Berry*, (1908)6 CLR 618, 626 where Griffith, C.J., observed: "So it is entirely irrelevant whether it is right or reasonable that a free-holder should be liable to contribute"; *see* also *Lord Krishna Bank Ltd.* v. *Inspector-General of Registration*, 1976 Ker LT 374.
3. *Mahesh Chandra* v. *Tarachand*, AIR 1958 All 374, 386 (FB); *Karam Chand* v. *Gur Dayal*, AIR 1960 A 512, 513 (Dhawan, J.). Re-writing the statute is not open; *Prahlad* v. *Chief Executive Officer*, AIR 1966 Bom 29, 33 (Tambe, J.); *Firm Hansraj Nathuram* v. *Firm Lalji Raja & Sons*, AIR 1963 SC 1180.
4. *Chief Commissioner, Ajmer* v. *Brij Niwas Das*, (1963)2 SCR 145, 151 (Ayyar, J.); *Ganga Ram* v. *Chhirkanda Ram*, AIR 1964 Punj 260 : ILR (1964)1 Punj 555.
5. *Municipal Board, Bara Banki* v. *Fakrul Hasan*, ILR (1961)2 All 951.
6. *Abley* v. *Dale*, 20 LJCP 235, (*per* Jervis, C.J.).
7. *Purshottam Lal* v. *Prem Shanker*, AIR 1966 All 377, 381 (Dhawan, J.).
8. 7 Ex 475, 560.
9. *Kamapati Venkat Ramiah* v. *Challapalli Sitaramiah*, AIR 1961 Andh Pra 208, 211 (FB) (Chandra Reddy, C.J.); *Rama Subbarayalu* v. *Rengammal*, AIR 1962 Mad 450, 456 (FB) (Ramchandra Iyer, C.J.) : Unless the absurdity is such that it amounts to repugnance; *see* also *United States* v. *American Trucking Association*, 84 L Ed 1345, 1351: 310 US 534 (Reed, J.); *Cama Hotels, Ltd.* v. *State of Gujarat*, (1980)21 Guj LR 913 (DB).

Vehicles Act is only for the purpose of applying the same procedure in disposing of an application for a new permit and an application to vary the conditions of a permit. Once the application to vary the conditions of a permit is granted, the fiction has no longer any part to play. It cannot be extended to or transplanted in another area and put to another use, namely, by giving a right of appeal under Section 64(9). Similarly, to say that the Government is not carrying on business for purposes of Section 20, C.P.C., or Clause (12) of the Letters Patent, even when actually it is engaged in the business of transport is to introduce a legal fiction into the law, which the Legislature alone can do and not the Courts[1] for introducing a fiction involves reading something into the law which is not there. In fact, the words "carries on business" in Section 20, would lose their meaning if they are not applied merely because the defendant happens to be Government.[2]

15. Courts not to supply casus omissus.—The Court cannot, while applying a particular statutory provision, stretch it to embrace cases, which it was never intended to govern.[3] In interpreting a statute the Court cannot fill in gaps or rectify defects.[4] It cannot ignore the obvious object and the intention of the Legislature, apparent from the context, and so interpret and construe it as to enlarge the scope of its application by importing into it, meaning by implications which do not necessarily arise. The sole object which the Legislature had in view while enacting Section 238, Indian Contract Act, was to provide for those circumstances under which it was intended that a principal should be liable for the acts of his agent and nothing more. The section does not apply to the circumstances in which the personal liability of an agent may not arise.[5]

An interpretation which has the effect of adding certain words and clauses to an enactment should be avoided,[6] unless the section as it stands is meaningless or of doubtful meaning.[7]

The Courts of law are concerned only with the construction and interpretation of statutes, and if a particular class be not covered by the express words used in any particular enactment, or by necessary implication, the particular provisions cannot be extended to that class. Joint and pot *pattedars* are not interchangeable terms and a pot *pattedar* has no right of pre-emption under the *zabte shikmidaran*.[8]

16. Evasion of an Act cannot be prevented if language is plain.—"An Act evaded is not an Act infringed, and an arrangement which is designed to defeat the intentions of the Legislature, and enable a person to accomplish indirectly what he could not under the Act in question have done directly," will not necessarily be held on that account invalid by Courts of law.[9] The Courts will, however, always examine into the real nature of the transaction by which it is

1. *Pratap Narain* v. *Ram Narain*, 1981 All LJ 762 (FB), where the Court introduced a legal fiction.
2. *Janardan Rao* v. *Deputy Transport Commissioner, Kakinada*, AIR 1965 Andh Pra 115; *Braithwaite & Co.* v. *Employees' State Insurance Corporation*, AIR 1968 SC 413; *Parameswaran Nambudripad* v. *Inspecting Assistant Commissioner of Agricultural Income-tax and Sales tax*, AIR 1968 Ker 262 (FB).
3. *P.C. Biswas* v. *Union of India*, AIR 1956 Assam 85; *Daya Nand Mishra* v. *State of Bihar*, (1992)2 Pat LJR 716.
4. *Tara Dutta* v. *State of West Bengal*, 79 Cal WN 996 (SB).
5. *Haji Mohammad* v. *Akbar Ali*, AIR 1955 Hyd 150.
6. *Ram Chandra* v. *Jhumarmal*, AIR 1958 Assam 171, 173; *Fakhruddin* v. *State of U.P.*, 1976 All LR 274 (FB); *Tanuram Tayeng* v. *State of Assam*, AIR 1992 Gau 124 (DB).
7. *British India General Insurance Co., Ltd.* v. *Captain Itbar Singh*, AIR 1959 SC 1331, 1335; *Fakhruddin* v. *State of UP*, 1976 All LR 274 (FB); *Municipal Council, Bhilwara* v. *State of Rajasthan*, AIR 1994 Raj 142 (DB).
8. *Govindrao* v. *Erbhadrappa*, AIR 1956 Hyd 50.
9. *Barton* v. *Muir*, (1874) LR 6 PC 139; *Davis* v. *Stephen*, (1890)24 QBD 529; *Simmons* v. *Registrar of Probates*, 1900 AC 323; *R.* v. *Bullivant*, (1900)2 QB 163.

sought to evade an Act.[1] Evasion can only be effected by acts which are clearly *casus omissus* having regard to the meaning of the enactment as ascertained by the Courts, and not of course by individual judgment : for "Parliament would legislate to little purpose", said Lord Macnaghten : "if the objects of its care might supplement or undo the work of legislation by making a definition clause of their own. People cannot escape from the obligation of a statute by putting a private interpretation on its language."[2]

Fraud upon an Act.—"It is a well-known principle of law that the provisions of an Act of Parliament shall not be evaded by shift or contrivance."[3] If a contract be framed so as entirely to defeat the object of an Act of Parliament, such a contract, although not within its express prohibition might very well be held to be impliedly forbidden by it.[4] A Court of law will not tolerate such an evasion of an Act of Parliament as amounts to a positive "Fraud upon the Act", such an evasion being "a fraud on the law or an insult to an Act of Parliament".[5] But the phrase "fraud upon an Act" is somewhat unfortunate and there is, as Turner, L.J., said in *Alexander* v. *Brame*,[6] "perhaps no question of law more difficult to determine than the question, what particular acts, not expressly prohibited, shall be deemed to be void as being against the policy of a statute. It is no doubt the duty of the Court so to construe statutes as to suppress the mischief against which they are directed and to advance the remedy which they are intended to provide, but it is one thing to construe the words of a statute, and another to extend its operation beyond what the words of it express." Prohibitory statutes prevent you from doing something which formerly it was lawful for you to do and whenever you find that anything done is substantially that which is prohibited, it is perfectly open to the Court to say that it is void, not because it comes within the spirit of the statute, or tends to affect the object which the statement to prohibit, but because by reason of the true construction of the statute it is the thing or one of the things, actually prohibited.[7] But if the statute has been passed for some one particular purpose, a Court of law will not countenance any attempt which may be made to extend the operation of the Act to something which is quite foreign to its object and beyond its scope.[8]

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1. *Re* Watson, (1890)25 QBD 27.
2. *Netherseal Co.* v. *Bourne*, (1889)14 AC 228, 247.
3. *Fox* v. *Bhishop of Chester*, (1824)2 B and C 635, 655, (*per* Abbott, C.J.).
4. *Wright* v. *Davies*, (1876)1 CPD 638.
5. *Fox* v. *Bishop of Chester*, (1829)1 Dowl, and Cl (HL) 416, 429, (*per* Lord Eldon).
6. (1855)7 DM and G 525, 539.
7. *Philpott* v. *St. George's Hospital*, (1857)6 HLC 338, 348.
8. *Macbeth* v. *Ashbey*, (1874) LR 2 Sc App 352.

CHAPTER XII
DEPARTURE FROM PLAIN MEANING

SYNOPSIS

1. Departure from ordinary and plain language when permissible.—*(i) Language of statutes not always that of a rigid grammarian.*—The golden rule of plain, literal and grammatical construction has, however, to be read subject to the qualification that the language of statutes is not always that which a rigid grammarian could use.[1] Though the courts are bound in certain situations to subordinate the plain meaning of the statutory language yet it is not unoften courts are equally constrained to read down the plain language of a section or give it a restricted meaning when contrary approach may be clearly opposed to the object and scheme of the Act or may lead to an absurd, illogical or unconstitutional result. However this mode of construction should not be adhered to, if it does not fit into the legislative history, if it is opposed to the

1. *Lyons* v. *Tucker*, (1880)6 QBD 660, 664 (*per* Grove, J.).

intention of the legisture and the purpose of the legislation.[1] It is not necessary to try sections of a statute upon rules of grammar. But if a section has to be tried upon a rule of grammar then the obvious thing to do is to require that the application of qualifying words should be confined to the subject which immediately precedes them.[2] However, the courts should guard themselves against adjectives getting the better of the noun. Adjectives are attractive forensic aids but in matters of interpretation they are directing intruders.[3]An interpreter should not, when faced with the delicate task of interpreting an equivocal term in a statute, go by the letter of the law; he should steadily pierce the sematic veil and look for the true meaning with the aid of the rule of presumption that the Legislature does not intend to overthrow suddenly any fundamental periodical norm, in particular, the rule of law that binds and distinguishes a civilised community from savage society. This presumption is rebuttable but only by inexorably plain language. A flexible term in a statute should not, therefore, be so interpreted as to impair the rule of law or make any fundamental departure from the general system of law.[4]

(ii) Grammatical and philological disputes as obscure as any question of law.—In *Waugh* v. *Middleton*,[5] Pollock, C.B., said : "In my opinion grammatical and philological disputes (in fact, all that belongs to the history of language) are as obscure and lead to as many doubts and contentions as any question of law, and I do not, therefore, feel sure that the rule, much as it has been commended, is on all occasions, a sure and certain guide." There may be a controversy as to what the grammatical and ordinary sense of the words used with reference to the subject-matter is.

(iii) Human language an imperfect medium of human thought.—"This rule hides," says Sutherland,[6] "although it uses many words to disguise it, the basic fallacy that words have meaning in and of themselves. Shakespeare exposed this fallacy long before the semanticist elaborated his thesis, when he said, "That which we call a rose by any other name would smell as sweet". A word is but a symbol which may stand for one of an innumerable number of objects. It is only as custom and usage and agreement attach a particular meaning to a particular word that it has any significance in relation to either a tangible or an intangible object. Thus the words used in a statute are always of uncertain meaning. At the risk of misleading the reader, a legislative draftsman must select a word familiar to himself and strive to use it in a fashion which will create upon the reader the intended impression of the thing for which the word stands. Thus, the assertion that a statute which is 'clear and unambiguous' needs no interpretation is, in fact, evidence that the Court has considered the meaning of the statute and reached a conclusion on the question of legislative intention. In many instances this will be a proper conclusion, but frequently it merely disguises the Court's unwillingness to consider evidence other than the Court's own impression of what the legislative intent is. Courts should not lose sight of the fact that statutory interpretation, whatever it may be called so far as the function of Courts and juries is concerned, is a fact in issue. Where available, the Courts should never exclude relevant evidence on that issue of fact."

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1. *Steel Authority of India Ltd.* v. *Bihar Agricultural Produce Market Board*, AIR 1990 Pat 146 (FB), following *Commr. of Wealth Tax* v. *Smt. Hashmuthunnissa Begum*, AIR 1989 SC 1024; *Ajay Pradhan* v. *State of MP*, AIR 1988 SC 1875; *Mithilesh Kumar* v. *Prem Behari*, AIR 1989 SC 1247.
2. *Babulal* v. *Brij Narain*, AIR 1958 MP 175, 178. (That is not only the rule of grammar but also of common speech except where bad diction is involved); *Irawaddy Flotilla Co. Ltd.* v. *Bugwandas*, 18 IA 121, 127.
3. *Sanjeev Coke Mfg. Co.* v. *M/s. Bharat Coking Coal, Ltd.*, AIR 1983 SC 239 : 1983 SCJ 233.
4. *Buddhan Singh* v. *Nabi Bux*, AIR 1962 All 43, 51 (FB); *M.K. Ranganathan* v. *Govt. of Madras*, (1955)2 SCR 374.
5. 8 Ex 352, 356.
6. Sutherland : *Statutory Construction*, 3rd Ed., Vol. II at p. 316.

It will be an unjustifiable mode of construction of a statute or a statutory rule to refuse to give effect to the plain and natural meaning of the words used, merely because the meaning that will so follow can have been much better expressed in simpler language.[1]

Human language, at best, is an imperfect medium of human thought. The greater part of the time of Courts is consumed in trying to find out what the Legislature meant, even where the Courts and Legislature speak the same vernacular.[2] Crawford quotes at length from *Denavies on Statutes* at pp. 227-278, thus :

> All new laws though penned with the greatest of technical skill and passed upon the fullest and most mature deliberation, are considered as more or less obscure equivocal until their meaning be fixed and ascertained by a series of particular discussions and adjudications. Besides the obscurity arising from the complexity of the objects and the imperfections of human faculties, the medium through which the conceptions of men are conveyed to each other adds a fresh embarrassment; the use of words is to express ideas. Perspicuity, therefore, requires not only that the ideas should be distinctly formed, but that they should be expressed by words distinctly and exclusively appropriated to them. But no language is so copious as to supply words and phrases for every complex idea, or so correct as not to include many, equivocally denoting different ideas.....and this unavoidable inaccuracy must be greater or less, according to the complexity and novelty of the objects defined.....No human wisdom can prepare law in such a form, and in such simplicity of language as that it shall meet every possible complex case that may afterwards arise. Whatever skill and forethought the most profound of human law-maker may have called to his aid, it will be found that even such law-giver, though he possesses the highest of intellectual gifts will not possess grasp of mind enough to draw up.....an enactment so perfect at the time it is drawn, that no doubtful case shall not afterwards arise to its meaning. And as time wears on, and the wants and habits of society become changed, as they ever will change with the progressive march of intelligence.....the interpretations, suitable to a past age, will become more and more impracticable to the present as to all new questions...These are propositions so well confirmed by experience that statesmen and lawyers now agree upon the wisdom of preparing such instruments with general outline, in language clear and easily understood, rather than of attempting minute details, however, elaborately extended; the tendency of which is found in experience to contract, and often to confuse the expression of intent. It is found to be far easier to obtain the intent of the Legislature, when laws are brief and clear, and to rely upon good faith and commonsense for their construction, than to be embarrassed at every step with details, which prevent the application of general principles, because the specific case has not been enumerated and singled out by the law-maker...It has been shown that it is impossible to word laws in such a manner as to absolutely exclude all doubts, or to allow us to dispense with construction, even if they were worded with absolute (mathematical) precision, for the time for which they were made. because things and relations change, and because different interests conflict with each other."

Mr. Justice Holmes in delivering the opinion of the Supreme Court of United States in *Boston Sand and Gravel Co.* v. *U.S.*,[3] observed : "It is said that when the meaning of language is plain, we are not to resort to evidence to raise doubts. That is rather an axiom of experience than a rule of law, and does not preclude consideration of persuasive evidence if it exists. If

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1. *Karutha Krityya Rameshwaraswami* v. *Ramalinga Raju*, (1958)1 Andh WR 290.
2. *State* v. *Ellis*, 12 La Ann 390, quoted in notes by Crawford : *Statutory Construction*, at p. 276.
3. 278 U.S. 41 : 73 L Ed 170.

Congress has been accustomed to use a certain phrase with a more limited meaning that might be attributed to it by common practice, it would be arbitrary to refuse to consider that fact when we come to interpret a statute."

Crawford in his *Statutory Construction* at p. 284 opines : "It would, therefore, seem that in determining the legislative intent, the Court must not overlook the effect of the statute seemingly applicable to the case at hand. When all other aids fail, this consideration should surely provide a method by which the Court can determine with reasonable certainty what is the intention of the Legislature. At least, this view is in accord with reality—that all statutes are subject to interpretation—that all statutes must first have their meaning ascertained, and then their applicability determined, and if found applicable, applied."

This rule embodies the old maxim *absoluta sententia expositore non eget* (plain words need no explanation), or in other words, language that is unequivocal and unambiguous does not require an interpreter. There is an exception in the application of this maxim to statutes. The exception is as follows :

> "A case within the letter is not within the meaning of the statute if it is not within the intention of the Legislature, and a case not within the letter is within the meaning of the statute, if it is within the intention of the Legislature."[1]

The rule of construction embodied in the Latin maxim is that the Legislature meant what it has actually expressed, and the underlying principle is that the meaning and intention of a statute must be collected from the plain unambiguous expression used therein rather than from any notions which may be entertained by the Court as to what is just and expedient.[2]

According to *Craies*[3] from this rule several consequences follow :

Firstly, that no statutory enactment may be treated as null and void.

Secondly, that a statute may not be extended to meet a case for which provision has clearly and undoubtedly not been made, in other words *casus omissus* is not to be created or supplied.

Thirdly, a court declines to interfere for the assistance of persons who seek its aid to relieve them against express statutory provisions.

Fourthly, a court of law cannot interfere to prevent a mere evasion of an Act of Parliament.

The novelty of a provision is not a sufficient ground for disregarding the plain words of an enactment.[4]

(iv) Frequent disagreement of Judges as to whether meaning plain or not.—Paton in his *Jurisprudence* says : "Judges frequently disagree as to whether a section is plain or not, and even where it is agreed that the meaning is plain, each may differ from the other as to what that plain meaning is. The doctrine that the intent of Parliament should be followed does not take us very far, for it is agreed that the subjective intention of Parliament cannot be considered, and that that intention must be gathered from the statute itself."[5]

The following Supreme Court rulings are notable :

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1. Bannerjee : *Interpretation of Deeds, Wills and Statutes in British India*, (TLL) at p. 27.
2. *J.K. Cotton Spinning and Weaving Mills* v. *State of U.P.*, AIR 1961 SC 1170; *Salavan Raji* v. *Madhav Sang*, (1963)4 Guj LR 817.
3. *Statute Law*, 5th Ed. at pp. 66—76.
4. *Australian Alliance Assurance Co.* v. *A.G., Queensland*, AIR 1918 PC 352, 354.
5. 1946 Ed. at p. 188.

(i) the appropriate interpretational canon must be purpose-oriented.[1]

(ii) a return to the rules of strict construction, when the purpose of the statute needs it, is desirable.[2]

(iii) "courts listen largely to the language of the statute but where.....clearing up of marginal obscurity may take interpretation surer if light from dependable sources were to beam in, the court may seek such aid.....The Court, in its comity, with the Legislature, strives reasonably to give meaningful life and avoid cadaveric consequence."[3]

(iv) "Need for departure from the rule of plain interpretation arises because sometimes the Legislature does not say what it means."[4]

2. Cases in which departure from plain meaning permitted.—Maxwell on *Interpretation of Statutes* says : "General words admit of indefinite extension, or restriction, according to the subject to which they relate and the scope and object in contemplation. They may convey faithfully enough all that was intended, and yet comprise also much that was not; or be so restricted in meaning as not to reach all the cases which fall within the real intention. Even, therefore, where there is no indistinctness or conflict of thought, or carelessness of expression in a statute, there is enough in the vagueness and elasticity inherent in language to account for the difficulty so frequently found in ascertaining the meaning of an enactment, with the degree of accuracy necessary for determining whether a particular case falls within it." The extent to which the Courts will go in ascertaining the real intention of the Legislature where general words are used, and will, if the object and purpose of the Act necessitate restriction, restrict them accordingly, is referred to in Hardcastle on *'Interpretation of Statutes'* (at p. 193) where he cites from a very old case, *Strodling* v. *Morgan*,[5] decided in 1660 : "The Judges of the law, in all times past, have so far pursued the intent of the makers of statutes, that they have expounded Acts which are general in words to be but particular where the intent was particular.....The sages of the law heretofore have construed statutes quite contrary to the letter in some appearance, and those statutes which comprehend all things, in the letter they have expounded to extend but to somethings, and those which generally prohibit all people from doing such an act they have interpreted to permit some people to do it, and those which include every person in the letter they have adjudged to reach to some persons only, which expositions have always been founded upon the intent of the Legislature, which they have collected, sometimes by considering the cause and necessity of making the Act, sometimes by comparing one part of the Act with another, and sometimes by foreign circumstances, so that they have ever been guided by the intent of the Legislature, which they have always taken according to the necessity of the matter, and according to that which is consonant to reason and good discretion."[6]

In the *Argos (Cargo Ex.) Gaudet* v. *Brown*,[7] their Lordships of the Privy Council observed : "It is a very useful rule in the construction of a statute, to adhere to the ordinary meaning of the

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1. *State of M.P.* v. *S.R.P. Agarwal*, AIR 1979 SC 888; *C.I.T.* v. *B.N. Bhattacharjee*, AIR 1979 SC 1725.
2. *A.O. Thanjavur* v. *S.N. Ayyar*, (1979)3 SCC 466.
3. *Krishna Chandra Gangopadhyaya* v. *Union of India*, AIR 1975 SC 1389.
4. *G.C. Patel* v. *Agarwal Produce Market Committee*, AIR 1976 SC 263.
5. (1660) Plowd 204.
6. *Bowtell* v. *Goldsborough Mort & Co., Ltd*, (1906)3 CLR 444, 456.
7. LR 5 PC 134 : quoted with approval in *Riddle* v. *King*, 12 CLR 622, 637-38, (*per* O'Connor, J.); *see* also *Cohen* v. *South Eastern Railway Co.*, 2 Ex. D. 253, 260; *R.* v. *Godstone Rural Council*, (1911)2 KB 265; *Minister for Lands* v. *Priestly*, (1911)13 CLR 537, 543.

words used, and to the grammatical construction, unless that is at variance with the intention of the Legislature, to be collected from the statute itself, or leads to any manifest absurdity or repugnance, in which case the language may be varied or modified so as to avoid such inconvenience but no further."

Sutherland, J., observed in *Vancamp & Sons Co.* v. *American Can Co.*,[1] "The words being clear they are decisive. There is nothing to construe. To reach elsewhere for a meaning either beyond or short of that which they disclose is to invite the danger, in the one case of converting what was meant to be open and precise, into a concealed trap for the unsuspecting, or, in the other, of relieving from the grasp of the statute some whom the Legislature definitely meant to include. Decisions of this court, where the letter of the Statute was not deemed controlling and the legislative intent was determined by a consideration of circumstances apart from the plain language used, are of rare occurrence and exceptional character, and deal with provisions which, literally applied, offend the moral sense, involve injustice, oppression or absurdity, or lead to an unreasonable result, plainly at variance with the policy of the statute as a whole."[2]

In *Rex* v. *Vasey*,[3] Lord Alverstone, C.J., said : "Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice presumably, not intended, a construction may be put upon it which modifies the meaning of the words, and the structure of the sentence." It is open to the Court, in cases where there is a manifest contradiction of the apparent purpose of the enactment or where the literal construction is likely to lead to a result not intended by the Legislature, to modify the meaning of the words, if necessary even by departing from the rules of grammar or by giving an unusual meaning to particular words.[4]

In interpreting a statute an intention contrary to the literal meaning of words of the statute should not be inferred unless the context, or the consequences which would ensue from a literal interpretation, justify the inference that the Legislature has not expressed something which it intended to express, or unless such interpretation leads to any manifest absurdity or repugnance with this superadded qualification that the absurdity or repugnance must be such as manifested itself to the mind of the law-maker, and not such as may appear to be so to the Tribunal interpreting the statute.[5]

We should not readily acquiesce in a non-natural construction which limits the operation of a section so as to make the remedy given by it not commensurate with the mischief which it was intended to cure.[6]

In *North* v. *Templin*,[7] Jessel, M.R., observed that "anyone who contends that a section of an Act of Parliament is not to be read literally must be able to show one of the two things, either

1. 73 L Ed 311, 313; *see* also *Rama Iyer* v. *Taluk Land Board*, 1977 Ker LT 903.
2. *Polester & Co., Ltd.* v. *Addl. Commissioner of Sales Tax, New Delhi*, AIR 1978 SC 897 at p. 904; *Commissioner of Income Tax Bihar, Ranchi* v. *Shri Dungarmal Tainwala, Upper Bazar, Ranchi*, (1991)1 BLJR 478.
3. (1905)2 KB 748, 750; *see* also *King* v. *Lyon*, (1906)3 CLR 770, 787.
4. Maxwell : *Interpretation of Statutes*, 12th Ed. at p. 228; *Premier Automobiles, Ltd.* v. *Ram Chandra*, AIR 1960 Bom 390; *Hazara Singh* v. *State of Punjab*, AIR 1961 Punj 34, 39, 40 (FB); *Ishwar Singh Bindra* v. *State of U.P.*, AIR 1966 All 168 (court can modify language of statute in order that the section makes good sense and does not lead to absurdity or manifest injustice); *C.W.S. (India) Ltd.* v. *Commissioner of Income-tax*, (1994)73 Taxman 174 (SC).
5. *B.S. Bali* v. *Batalia Ram*, AIR 1954 Punj 105.
6. *R.* v. *Justices of Liverpool*, 11 QBD 638, 649; *Minister for Lands* v. *Priestly*, (1911)13 CLR 537, 553.
7. 8 QBD 247, 253.

that there is some other section which cuts down its meaning, or else that the section itself is repugnant to the general purview of the Act."

(a) Grammatical and ordinary sense of words not followed where words technical.—The cannon of construction which permits a Court to construe words in order to bring them in accordance with the intention of the Legislature is applicable only when general words are used and those general words can be restricted to the fitness of the matter, and not when the words used are express and precise, in which case it is not open to the Court to speculate as to what the intention of the Legislature might be because a case not covered by the exact and precise words used has arisen.[1]

If the context definitely suggests that the relevant rule of grammar is inapplicable, then the requirement of the context must prevail over the rule of grammar.[2]

The terms 'dismissal' and 'removal in rank' in Article 311 of the Constitution are all technical expressions employed in the Article, and it is not right to interpret them in the popular or grammatical sense.[3]

(b) Plain meaning subject to context.—The literal import to particular language may be subject to modification and variation by the context, that is, the language surrounding and accompanying the terms in question. In his *Construction and Interpretation of the Laws*,[4] Black attaches this comprehensive meaning to the context : "When we speak of the 'context' it is not meant merely that different words or clauses in the same sentence must be compared with each other, or successive sentences be read together. But in a wider sense, one section of statute may stand as context to another, whether it immediately precedes or follows it or is more widely separated from it, provided it bears upon the same general subject-matter."

"The office of a good expositor of an Act of Parliament," said Coke in *Lincoln College* case,[5] "is to make construction on all parts together and not of one part only by itself. *Nemo enim aliquam partem recte intelligere potest antiquam totum iterum atque iterum pertegerit.*" In 1 Inst. 381 b, he again says, "It is the most natural and genuine exposition of a statute to construe one part of a statute by another part of the same statute for that best expresseth the meaning of the makers.....and this exposition is *ex visceribus actus.*"

In *Lumsden* v. *Commissioner of Inland Revenue*,[6] Haldane, L.C., said : "The duty of Judges in construing statutes is to adhere to the literal construction unless the context renders it plain that such a construction cannot be put on the words. The rule is especially important in cases of statutes which impose taxation."[7]

"Words", says Professor H.A. Smith,[8] "are only one form of conduct, and the intention which they convey is necessarily conditioned by the context and circumstances in which they are written and spoken. No word has an absolute meaning for no word can be defined *in vacuo* or without reference to some context."

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1. *Kashinath Laxman Bhide* v. *State of Bombay*, 55 Bom LR 758.
2. *Regional R.F.G., Bombay* v. *Srikrishna Metal Manufacturing Co.*, AIR 1962 SC 1536.
3. *Ram Adhar Singh* v. *State of Bihar*, AIR 1954 Pat 187.
4. 2nd Ed. at pp. 242-43.
5. (1595)3 Co Rep 59*b*; *cf. Re* a Debtor, (1910) Ch 423, 431.
6. (1914) AC 877, 896.
7. *Commissioner of Stamp Duties (N.S.W.)* v. *Simpson*, 24 CLR 209, 215-216.
8. Journal of the Comparative Legislation, November, 1927, Interpretation in English and Continental Law; *State of M.P.* v. *Bahadur Pehlajrai Dwarkadas*, 1976 MPLJ 317 : 1976 Jab LJ 380 (DB).

Although words occurring in a statute may be plain and unambiguous, they have to be interpreted in a manner which would fit in the context of the other provisions of the statute and bring about the real intention of the Legislature.[1] Repelling the argument that what is not a final order must be an interlocutory order, (Section 397, Cr. P.C.) the Supreme Court said, "on the one hand, the Legislature kept intact the revisional power of the High Court, and on the other, it put a bar on the exercise of that power in relation to any interlocutory order. In such a situation, it appears to us that the real intention of the Legislature was not to equate the expression 'interlocutory order' as invariably being converse of the words 'final order'.[2]

Words and phrases used in one section have to be examined not in their seclusion but with regard to their impact on other provisions of the same statute and in harmony with the aim, scope and object of the Act.[3]

In cases where the expression is indefinite, the well-recognised rule is to endeavour by examination of the context, and a consideration of other provisions of the Act and of other enactments in *pari materia*, to ascertain the real intention of the Legislature and then to give the expression that meaning which will best carry out that intention.[4] When the intention is not expressly stated it must be gathered by implication, not from any technical phrase or term, but from the general context.[5] In *Brett* v. *Brett*,[6] Sir John Nicholl said : "To arrive at the true meaning of any particular phrase in a statute that particular phrase is not to be viewed detached from its context in the statute; it is to be viewed in connection with its whole context."[7] The duty of the court is to interpret the words that the legislature has used; these words may be ambiguous but even if they are, the power and the duty of the court to travel outside them on a voyage of discovery are strictly limited.[8] As Lord Herschell said in expressing the opinion of the Judicial Committee in *Colquhoun* v. *Brooks*,[9] "It is beyond dispute.....that we are entitled and indeed bound when construing the terms of any provisions found in a statute to consider any other parts of the Act which throw light upon the intention of the Legislature and which may serve to show that the particular provision ought not to be construed as it would be if considered alone and apart from the rest of the Act." And again in *Cox* v. *Hakes*,[10] the same learned Lord said : "It cannot, I think, be denied that, for the purpose of construing any enactment, it is right to look not only at the provision immediately under construction, but *sic* on any others found in connection with it, which may throw light upon it and afford an indication that general words employed in it were not intended to be applied without some limitation." In the construction of all instruments it is the duty of the Court not to confine itself to the force of a particular expression, but to collect the intention from the whole instrument taken together. The word 'instrument' may sometimes include awards by Industrial Courts.[11]

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1. *Madhu Limaye* v. *State of Maharashtra*, 1978 Mah LJ 1 (SC) : 1978 MPLJ 24 (SC).
2. *Madhu Limaye* v. *State of Maharashtra*, 1978 Mah LJ 1 (SC) : 1978 MPLJ 24 (SC).
3. *National Industrial Corporation* v. *Registrar of Companies*, AIR 1963 Punj 239; *State of M.P.* v. *Bahadur Pehlajrai Dwarkadas*, 1976 MPLJ 317 : 1976 Jab LJ 380 (DB).
4. *Phillips* v. *Lynch*, 5 CLR 12, 20.
5. *Lane* v. *Atkin*, 30 CLR 437, 442.
6. 3 Adams, 210, 216.
7. *Bangalore Water Supply and Sewerage Board* v. *A Rajappa*, AIR 1978 SC 548 at p. 553.
8. *Vasudev Anand Kulkarni* v. *Executive Engineer, M.S.E.B.*, 1994 Mah LJ 960.
9. 14 App Cas 493, 506; *Dorothy* v. *Mullick*, AIR 1958 Pat 240 at p. 241.
10. 15 App Cas 506, 529.
11. *Purshottam* v. *V.B. Potdar*, AIR 1966 SC 856.

The Legislature should be taken to have meant what it said, but it sometimes happens that owing to the difficulty of expressing thought with absolute accuracy, whether in an Act of Parliament or in any other document, the intention has not been clearly indicated by the words used. In such a case the intention is to be gathered from the whole scope and purpose of the Act or document reading it altogether, and, in so reading it, full effect must be given to every portion of it.[1]

It was said by Lord Romilly, speaking for the Privy Council in the case of *'The Lion'*[2] : "The meaning of particular words in an Act of Parliament, to use the words of Abbot, C.J., in *Rex* v. *Hall*,[3] is to be found not so much in a strict etymological propriety of language, nor even in popular use, as in the subject or occasion on which they are used." The document to be construed must be read as a whole, and in interpreting particular words these cannot be read without reference to what comes before and after.[4] In *Minister for Lands, N.S.W.* v. *Feremias*,[5] Isaacs, J., said : "There is no statutory definition of the word 'holder'. It is constantly used by the Legislature throughout the statute, and therefore it is obeying the very first principle of construction to read the whole instrument before pronouncing upon the interpretation of any single section, and still more of any single word in that section."

Division of a statute into parts or chapters is a mere matter of convenience. The object of such division is not that each part or chapter should be read independently of each other or as a complete Code by itself. It is a fundamental principle of interpretation that a statute must be read and construed as a whole, notwithstanding that every section in a statute is a substantive enactment in itself.[6] In construing a statute the Court is not to look at any single phrase in it, but to its whole scope, in order to arrive at the intention of the law-makers. If a literal interpretation of any part of it would operate unjustly, or lead to absurd result or be contrary to the widest meaning of the Act taken as a whole, it should be rejected. The Court has always to ascertain the intention of the Legislature of the whole enactment and it sometimes becomes necessary to do a certain amount of violence to the language in which a particular passage is couched in order to give effect to the intention to be gathered from the enactment as a whole.[7] Statutes must be construed so as to admit all part of them to stand if possible. In the exposition of statutes the established rule is that the intention of the law-maker is to be deduced from a view of the whole statute and every material part of the same.[8]

Every clause of a statute must be construed with reference to the context and the other clauses of the Act,[9] and no clause, sentence or word should be considered superfluous, void or insignificant. Hence if grammatical or literal construction would lead to absurdity, repugnancy, or inconsistency, it should not be adopted.[10]

No canon of statutory construction is more firmly established than that the statute must be read as a whole. This is a general rule of construction applicable to all statutes alike which is

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1. *Chanter* v. *Blackwood*, 1 CLR 39, 65 (*per* O'Connor, J.).
2. LR 2 PC 525, 530.
3. (1822)1 B & C 123.
4. *Toronto Suburban Railway Co.* v. *Toronto Corporation*, (1915) AC 590, 597.
5. 23 CLR 322, 332.
6. *Lakshmi Narain* v. *A.N. Puri*, AIR 1954 Cal 335.
7. *Vaijappa* v. *Emperor*, (1935) Cr C 1109 (FB) (Bom).
8. *Heydenfeldt* v. *Daney, etc., Mining Co.*, 23 L Ed 995; *Kohtsaat* v. *Murphy*, 24 L Ed 844.
9. *Municipal Corporation of City of Hubli* v. *Subba Rao Hanumantha Rao*, AIR 1976 SC 1398; *Gurdev Kaur* v. *Dy. Commissioner, Patiala*, AIR 1993 P & H 298 (DB).
10. *Champamani* v. *Yunus*, ILR 30 Pat 690 : AIR 1951 Pat 177; *Cheruni* v. *Sathyanadhan*, 1976 Ker LT 877.

spoken of construction *ex visceribus actus*. The rule of statutory construction is so firmly established that it is variously styled as 'elementary rule' and as 'settled rule'. The only recognised exception to this well-laid principle is that it cannot be called in aid to alter the meaning of what is of itself clear and explicit. [1]

A mere literary or mechanical construction would not be appropriate where important questions such as, the impact of an exercise of a legislative power on constitutional provisions and safeguards thereunder are concerned. Two rules of construction have to be kept in mind :

(1) Courts generally lean towards the constitutionality of a legislative measure impugned before them upon the presumtion that a Legislature would not deliberately flout a constitutional safeguard or right, and that the Legislature understands and correctly appreciates the need of the people. In other words, laws are directed to problems made manifest by experience and its discrimination are based on adequate grounds.[2]

(2) while construing such an enactment the court must examine the object and purpose of the impugned Act, the mischief it seeks to prevent and ascertain from such factors its true scope and meaning.[3]

While bearing in mind the words of the Privy Council in AIR 1959 PC 244, against the interpretation based on the presumed intention of the Legislature, one is not precluded from examining the provisions of the Act to find out what the intention was. The definition in Section 3(2)*(b)* of the Madras Estates Land Act 1 of 1908 was bodily lifted from Madras Act II of 1894 and in that enactment the definition would have made no sense if the area involved was smaller than a village.[4]

But all the same a court is not authorized to deviate from the force a particular expression unless it finds, in other parts of the instrument, expressions which manifest that the author of the instrument could not have the intention which the literal force of a particular expression would impute to him.[5] Tindal, C.J., delivering the unanimous opinion of the Judges in the House of Lords in case of *Warburton* v. *Loveland*,[6] laid down the principle in these words : "No rule of construction can require that when the words of a statute convey a clear meaning....It shall be necessary to introduce another part of the statute, which speaks with less perspicuity, and of which the words may be capable of such construction as by possibility to diminish the efficacy of the other provisions of the Act." Applying these principles to the interpretation of Sections 89, 92 and 93 of the Australian Constitution, Barton, in the case of *The State of Tasmania* v. *The Commonwealth of Australia and the State of Victoria*,[7] said : "Seeing that Section 89 has an absolutely clear meaning, the rules of construction do not require us to introduce another part of statute which speaks with less perspicuity, and to apply that part to the construction of

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1. See *(M/s.) Philips India Ltd.* v. *Central Govt. Labour Court*, AIR 1985 SC 1034; *State of Punjab* v. *Kulvant Singh*, (1994)2 EFR 1 (P & H) (FB).
2. *(M/s.) Spedra Engineering Corporation, Engineers & Contractors, Bhopal* v. *State of Madhya Pradesh*, AIR 1988 MP 111 : 1988 Jab LJ 601 : (1988)19 Reports 282 : (1988)2 Arb LR 212 (DB).
3. *M/s. Virajlal Manilal & Co.* v. *State of MP*, AIR 1970 SC 129; *Nydar Singh* v. *Union of India*, AIR 1988 SC 1979 : (1988)3 JT (SC) 448; *(M/s.) Amrapali Films Ltd.* v. *State of Bihar*, 1989 Pat LJR 199, relying on *Skandia Insurance Co., Ltd.* v. *Kokilaben Chandravadan*, (1987)2 SCC 654; and *S.P. Jain Krishna* v. *Mohan Gupta*, (1987)1 SCC 191; *Bushching Schmikz (P) Ltd.* v. *P.T. Menghani*, (1977)2 SCC 835.
4. *M. Rangiah Chetti* v. *Andhra State*, (1955)1 MLJ 516.
5. *Lorimer* v. *Smail*, 12 CLR 504, 508-509.
6. 2 Dow and Cl 480, 500.
7. 1 CLR 329, 357.

Section 89. That would have the effect of diminishing the clearness of Section 89, and appears to me to be an absolute inversion of the rule which is applicable in such a case." The same opinion was again reiterated by Barton, J., in *Ryder* v. *Foley*,[1] Where his Lordship, with reference to Sections 6, 11, 12 and 15 of the Queensland Act, observed : "While recourse cannot be had to Section 6 to make Sections 11, 12 and 15 less clear the clearness of those last sections can be called in to remove any apparent ambiguity in Section 6."

In *Walsh* v. *Alexander*,[2] Isaacs, J., said : "If the meaning of the words of an Act is clear and unambiguous, it must be given effect to regardless of consequences, but we have to inquire whether the meaning suggested satisfies the intention of the Legislature, ascertained from its words as applied to the subject-matter. We have to find the meaning of the expression referred to within the four corners of the legislation—a connected, though uneven, series of statutes." But as observed by Griffith, C.J., in *Mooney* v. *Commissioners of Taxation*[3] : "But when a provision in a statute is free from ambiguity it does not seem to be consistent with recognised canons of construction to call in aid some other provision for the purpose of first suggesting and then resolving a doubt." "It is only when," as the Court said in *Palmer's* case,[4] "any part of an Act of Parliament is penned obscurely, and other passage can elucidate that obscurity, recourse ought to be had to such context for that purpose."

The natural meaning of the words must be adopted in the interpretation of a section. It is only when there is ambiguity as to the meaning of the words used in the section that a court would be justified in referring to other provisions in the Act for ascertaining the intention of the Legislature.[5]

An ambiguous expression cannot be held to control the otherwise clear meaning of the term to be interpreted.[6]

In Craies on *Statute Law*,[7] it is, however, observed that this rule of construction is never allowed to alter the meaning of what is of itself clear and explicit. But it may be noted that the language of a part of an Act, plain and unambiguous when isolated and read by itself, may, when read with reference to the entire Act, be rendered doubtful and obscure.[8]

The correct position as put by Jessel, M.R., in *Bently* v. *Rotherham*,[9] is "there is no doubt a rule applicable to Acts of Parliament as well as to other legal instruments, that you may control the plainest words by reference to the context. But then, as has been said very often, you must have context even more plain, or at least as plain as the words to be controlled."

(c) Grammatical construction covering objects : Legislature presumed not to intend.— Maxwell says : "There are certain objects which the Legislature is presumed not to intend; and a construction which would lead to any of them is therefore to be avoided. It is not infrequently necessary, therefore, to limit the effect of the words contained in an enactment (especially general words) and sometimes to depart, not only from their primary and literal meaning, but

1. 4 CLR 422, 441-42.
2. 16 CLR 293, 309.
3. 3 CLR 211, 237.
4. (1784)1 Leach 355, cited by Hardcastle in his work on *Interpretation of Statutes*, at p. 111; see also *State of Tasmania* v. *The Commonwealth of Australia and State of Victoria*, 1 CLR 329, 357; *Ryder* v. *Foley*, 4 CLR 442.
5. *Kochu Vorkik* v. *Cochin Titumala Devaswami*, AIR 1952 TC 387.
6. *Myerson* v. *Collard*, 25 CLR 154, 160.
7. 1952 Ed. at p. 93.
8. *People ex rel Onondoga County Saving Bank* v. *Butler*, 147 N.Y. 164.
9. (1876)4 Ch D 588, 592.

also from the rules of grammatical construction in cases where it seems highly improbable that the words in their wide primary or grammatical meaning actually express the real intention of the Legislature. It is regarded as more reasonable to hold that the Legislature expressed its intention in a slovenly manner than that a meaning should be given to them which could not have been intended."[1]

It is a settled rule in the interpretation of statute that general words will be taken to have been used in the wider or in the more restricted sense according to the general scope and object of the enactment.[2] For instance, it will be taken that general words are not to be applied extraterritorially. General words in the Act should not be so construed as to give an effect to it beyond the legislative power, and thereby render the Act unconstitutional.[3] It will also be presumed that the Legislature did not intend to interfere with international usage and, therefore, unless express words are used, a statute will not be held applicable to a foreigner residing outside the territorial limits of the country enacting the statute. Interpreting the word 'debtor' in the English Bankruptcy Act of 1869, Cotton, L.J., said : "We must not give to the general words an interpretation which would violate the principles of law admitted and recognized in all countries."[4]

(d) Grammatical construction going beyond specific object of statute.—Where an ambiguity arises as to whether the Legislature has used a general expression in its narrow or in its wider sense, the Court will place that meaning upon the expression which will most effectually carry out the object of the section. In such cases it becomes necessary to examine the context, the subject-matter, and the objects and purpose of the enactment as disclosed by its provisions.[5]

The general words in a statute must always be construed in relation to the matter in hand—the subject-matter of the enactment. The principle is well stated by Turner, L.J., *In re* Poland,[6] where the learned Judge says : "There can be no doubt that the general words in an Act of Parliament must be construed in accordance with the circumstances to which the Act was intended to apply."

The second rule is that general words in a statute will ordinarily be construed with no wider meaning than is necessary to carry into effect its objects and purpose.[7]

Where the statute has a specific object the general words should be restricted to that object. Thus the provisions of Section 2(1) of the Factors Act, 1889 : which enacted *inter alia* that any mercantile agent entrusted with goods or the documents of title to goods shall be entitled to pledge the same provided they are in his possession with the consent of the owner, were not to authorize the mercantile agent to pledge household furniture.[8]

Words occurring in the statute are to be taken not in an isolated or detached manner dissociating from the context, but should be read together and construed in the light of the

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1. 11th Ed. at p. 781; *Jai Bharat Cold Storage* v. *State of Haryana*, (1980)82 Punj LR 258 (DB).
2. Hardcastle, 183-94.
3. *Ex parte* Blain, 12 Ch D at p. 533; *Jaya Krishna Punigrahi* v. *Hrusikesh Panda*, 1992 Cri LJ 1056 (Ori).
4. *Macleod* v. *Att. Gen. for New South Wales*, (1891) AC 455; *Grenade County Supervisors* v. *Brogden*, 112 US 261, 269; *Jumbanna Coal Mine* v. *Victorian Col Miner's Assocn*, (1908)6 CLR 309.
5. *Bank of Australia* v. *Hall*, 4 CLR 1514, 1535, *per* O'Connor, J.
6. LR 1 Ch 358; *see* also *Bank of Australia* v. *Hall*, 4 CLR 1514 (Interpretation of the words 'debtor' and 'creditor'); *Irving* v. *Nishimura*, (1907)5 CLR 233, 238. The object of the Federal Parliament in Section 233 was to prevent the evasion of its statutes in relation to the importation and exportation of goods.
7. *The Commonwealth and the Postmaster-General* v. *The Progress Advertising and Press Agency Co. Propriety Ltd.*, 10 CLR 457, 464.
8. *Waddington* v. *Neale*, (1907)96 LT 786; and see *Pearson* v. *Rose and Young*, (1951)1 KB 275; *Pilling* v. *Abargele U.D.C.*, (1950)1 KB 636.

purpose and object of the Act itself.[1] To ascertain the legislative intent, all the constituent parts of a statute are to be taken together and each word, phrase or sentence is to be considered in the light of the general purpose and object of the Act itself[2]. The whole scheme of the Legislature has to be determined by applying some objective standard which is said to be the standard of an average prudent man. The procedure which is prescribed in Bihar Land Encroachment Act for dealing with lands of the description mentioned in Clause *(d)* of Section (2)*(ii)* is extraordinary and arbitrary, thus obviously coming within the inhibition of the Constitution. A narrow construction cannot be put upon the clause.[3]

(e) Grammatical Construction going beyond subject of statute.—A statute is not to be construed merely with reference to grammar but should be construed reasonably in particular to give effect to the intent and purpose of the legislation, if the language permits.[4]

(f) Grammatical construction going beyond scope of the Act.—The same general principle, that the words of a statute should be construed with regard to the object of the statute, appears to govern the class of cases which establish that enactments requiring railway or other companies to make, to persons interested in hereditaments taken or 'injuriously affected' by the companies, full compensation not only for the land but for all damage sustained by reason of the exercise of parliamentary powers, are limited to cases where the damage would have been actionable but for the Act.[5] On the same principle, a statute which made in unqualified terms an act criminal or penal, would be understood as not applying where the act was excusable or justifiable on grounds generally recognised by law.[6]

(g) Grammatical construction extending operation of statute.—Sometimes to keep the Act within the limits of its object, and not to disturb the existing law beyond what the object requires, it is construed as operative between certain persons, or in certain circumstances, or for certain purposes only, though the language expresses no such circumscription of the field of its operation.[7] Thus Section 3 of the Distress for Rent Act, 1737, which gave to landlords a right of action to recover double the value of goods fraudulently carried off the premises to avoid a distress, was held to apply to goods of the tenant only and not to those of a stranger.[8]

(h) Grammatical construction leading to implicit alteration of law.—One presumption is that the Legislature does not intend to make any substantial alteration in the law beyond what it explicitly declares, either in express terms or by clear implication. Maxwell observes : "It is in last degree improbable that the Legislature would overthrow fundamental principles, infringe rights, or depart from the general system of law, without expressing its intention with irresistible clearness, and to give any such effect to general words, simply because they have a

1 *Darshan Singh* v. *State of Punjab*, AIR 1953 SC 83; *Sree Bank Ltd.* v. *Sarkar Dutt Co.*, AIR 1966 SC 1953.

2. *Poppat Lal* v. *State of Madras*, AIR 1953 SC 274; *Brij Bhukan* v. *S.D.O., Siwan*, 33 Pat 690 : AIR 1955 Pat 1 (SB); *Aswini Kumar Ghose* v. *Arabinda Bose*, AIR 1952 SC 369; *Ishwari Khetan Sugar Mills (P) Ltd.* v. *State of UP*, AIR 1980 SC 1955; *Sri Bank Ltd.* v. *Sarkar Dutt & Co.*, AIR 1966 SC 1953.

3. *Brij Bhukan* v. *S.D.O., Siwan*, ILR 33 Pat 690 : AIR 1955 Pat 1 (SB).

4. *M. Satyanarayana* v. *State of Karnataka*, AIR 1986 SC 1162 : (1986)2 SCC 512 : (1986)2 Supreme 339 : ILR (1986)1 Kant 1741 : (1986)2 Cur LJ (C & Cri) 99 : (1986)1 SCWR 227 : (1986)1 Serv LR 312 : (1986)2 UJ (SC) 285.

5. Maxwell : *Interpretation of Statutes*, 11th Ed. at pp. 87-88.

6. *Re* Turner, (1846)9 QB 80 : a statute which imposed three months' imprisonment and the forfeiture of wages on a servant who 'absented himself from his service' before his term of service was completed, would necessarily be understood as confined to cases when there was no lawful excuse for the absence. But see *Rider* v. *Wood*, (1860)29 LJMC 1.

7. Maxwell : *Interpretation of Statutes*, 11th Ed. at p. 91.

8. *Tomlinson* v. *Consolidated Credit Corporation*, (1890)24 QBD 135.

meaning that would lead thereto when used in either their widest, their usual, or their natural sense, would be to give them a meaning other than that which was actually intended. General words and phrases, therefore, however wide and comprehensive they may be in their literal sense, must usually be construed as being limited to the actual objects of the Act."[1]

(i) Grammatical construction defeating manifest purpose of enactment.—A statute consists of two parts, the letter and the sense.[2] "It is not the words of the law", said Plowden, J., in *Attorney-General* v. *Lockwood*,[3] "but the internal sense of it that makes the law, and our law (like all others) consists of two parts, *viz.*, of body and soul, the letter of the law is the body of the law and the sense and reason of law is the soul of the law; *quia ratio legis est anima legis.* Therefore, as Pollock, C.B., points out in *Waugh* v. *Middleton*,[4] it is by no means clear that, "if it were laid down as a general rule that the grammatical construction of a clause shall prevail over its legal meaning, whether a more certain rule would be arrived at, then if it were laid down that its legal meaning shall prevail over its grammatical construction.....But the rule adverted to is subject to this condition, that however plain the apparent grammatical construction of a sentence may be, if it be properly clear from the contents of the same document that the apparent grammatical construction cannot be true one, then that, which upon the whole is the true meaning, shall prevail, in spite of the grammatical construction of a part of it."

"The mere literal construction of statute," said Lord Selborne in *Caledonian Railway* v. *North British Railway*,[5] "ought not to prevail if it is opposed to the intentions of the Legislature as apparent by the statute and if the words are sufficiently flexible to admit of some other construction by which that intention can be better effectuated." One of the rules of interpretation is that Courts are competent, in extraordinary circumstances, *e.g.* where the language falls short of the whole object of Legislature,[6] to enlarge the meaning of an expression in statute in order to give full effect to the intention of that statute as appearing from the various provisions contained in it,[7] if the purpose for which the legislation is brought into existence can be advanced by doing so or the mischief that it intends to curb can be curbed by it. A little stretching of the language in such circumstance is permissible, but there must not be unnecessary straining of the language or the words, which must be given their plain and natural meaning.[8] In rare and exceptional cases where the plain meaning of the words used would lead to absurd conclusions or would be destructive of the very purpose for which the legislation sought to be interpreted happens to be enacted, the Court can depart from the rule that it is the duty of the Court to gather the intention of the Legislature from the words used in the statute.[9]

Turner, L.J., observed in the case of *Hawkins* v. *Gathercole*[10] :

"Regard must be had to the intent and meaning of the Legislature. The rule upon this subject is well expressed in the case of *Stradling* v. *Morgan*,[11] in which case it is said, 'that

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1. Maxwell on *Interpretation of Statutes*, 10th Ed. at p. 82.
2. *Lyons* v. *Tucker*, (1880)6 QBD 664.
3. (1842)9 M & W 378, 465.
4. 8 Ex. 352, 356.
5. (1881)6 AC 114, 122.
6. *Municipal Corporation, Delhi* v. *Charanjit Lal*, (1980)82 Punj LR 7 (FB).
7. *Gyanchandra Mehrotra* v. *University of Allahabad*, AIR 1964 All 254 at p. 256 (V. Bhargava, J.) : 'Marks for general impression here allotted'.
8. *Municipal Corporation, Delhi* v. *Charanjit Lal*, (1980)82 Punj LR 7 (FB).
9. *Secretary to Government, Punjab* v. *Jagar Singh*, 1977 Rev LR 104 (DB).
10. (1855)6 DM & G 1, 21 : 24 LJ Ch 352, cited with approval in *Garnett* v. *Bradley*, (1878)3 AC 944, 950-951.
11. (1560) Plowed, 199 at p. 204 : 75 ER 308.

the Judges of the law in all times past have so far pursued the intent of the makers of statutes, that they have expounded Acts which were general in words to be but particular, where the intent was particular...." From which case it appears that the sages of the law heretofore have construed statutes quite contrary to the letter in some appearance; and those statutes which comprehend all things in the letter, they have expounded to extend but to something; and those which generally prohibit all people from doing such an Act, they have interpreted to permit some people to do it, and those which include every person in the letter they have adjudged to reach to some persons only; which expositions have always been founded upon the intent of the Legislature, which they have collected, sometimes by considering the cause and necessity of making the Act, sometimes by comparing one part of the Act with another and sometimes by foreign circumstances, so that they have ever been guided by the intent of the Legislature, which they have always taken according to the necessity of the matter, and according to that which is consonant to reason and good discretion."

Lord Blackburn approved of this rule in *Bradlaugh* v. *Clarke*,[1] saying :

"I think in modern times, much more weight has been given to the natural meaning of the words than was done in the time of Elizabeth; and in some cases in which the old Judges have given effect to the general intention as overruling the particular words, a modern Court would have given effect to the particular words as showing that the intention really went further than what was supposed. The Civil Code of Canada, Article 12, well expresses what I think is the principle, and also the qualification which I think must now be put on the older authorities. 'When a law is *doubtful or ambiguous* it is to be interpreted so as to fulfil the intention of the Legislature, and to attain the object for which it was passed. The preamble, which forms part of the Act, assists in explaining it.' It is upon this principle that it is held, as I think it has always been held, that where a statute was passed for the purpose of repealing and in part re-enacting former statutes, all the statutes in *pari materia* are to be considered in order to see what it was that the Legislature intended to enact in lieu of the repealed enactments. It may appear from the language used that the Legislature intended to enact something quite different from the previous law, and where that is the case effect must be given to the intention. But when the words used are such as may either mean that former enactments shall be re-enacted, or that they shall be altered, it is a question for the Court which was the intention."

"Where it is obvious that, by the mere carelessness or omission of the draftsman, language has been used which, if taken as correct, would have the effect of defeating the manifest purpose of the Act, the words which brought about the result should be construed, if possible, in a sense which would not lead to the consequence of defeating the manifest intention of the Legislature."[2]

When the clearly expressed intention of a Colonial Ordinance was to give any subject of the Queen, resident in the Colony, the power of disposing by will according to English Law of property both real and personal property, which otherwise would devolve according to the law of the Colony, and where a section of the Ordinance was operative for the purpose, except that it concluded with the provision, "as if such subject resided in England," the effect of which

1. (1883)8 AC 354, 373; *see* also *Cox* v. *Hakes*, (1890)15 AC 506; *Eastman, etc., Co.* v. *Comptroller-General, etc.*, (1898) AC 571; *R.* v. *West Riding etc., Council*, (1906)2 KB 676; *Banbury* v. *Bank of Montreal*, 1918 AC 616; *Rhondda's* Claim, (1922)2 AC 339; *Secretary of State for Home Affairs* v. *O'Brien*, 1923 AC 603.
2. *Salmon* v. *Duncombe*, 11 AC 672, followed in *Sweeney* v. *Fitz Hardings*, 4 CLR 716, 732; *see* also *M/s. Nehru Motor Transport Co-operative Society, Ltd.* v. *Dy. Registrar, Co-operative Societies*, 1977 RLW 136, case of *printer's error*.

would be to leave both the *lex situs* and *lex domicilii* in operation, thus reducing the section to a nullity, it was held that the concluding words ought not to be so construed as to destroy all that had gone before, and therefore should be treated as immaterial, the powers conferred not being affected by the question of residence in England.[1]

In *Atmaram* v. *State of Bihar*,[2] it was pointed out that the mere unskilfulness or ignorance of the draftsman cannot reduce the statute to a nullity except where the language was absolutely intractable. Rules of grammar have to yield to commonsense. It was held that the word 'payable' in Section 12(1) of the Bihar Finance Act 17 of 1950, may grammatically refer only to the fares and freights payable to the owners, yet to give effect to the meaning of the statute it should be held to mean that it refers not only to the fares and freights but also to the tax payable to the owners by the passengers and consignors of goods carried by motor vehicles belonging to such owners.

In *Ferrando* v. *Pearce*,[3] it was observed : "The sentence grammatically may bear the construction first mentioned but to ascertain the proper construction the Court must look at the purpose of the Act.[4]

"Looking at the purpose for which the War Precautions Act was passed under the power of the Commonwealth Parliament to make laws with respect to the naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth,[5] the title of the Act (which can assist, but not control, the interpretation), and the Act as a whole, including Section 5 and all its sub-sections, it appears to me that on a true interpretation of Section 5, the authority given by Parliament to the Governor-General to do any act under the section is subject to its appearing to him necessary or expedient with a view to the public safety and the defence of the Commonwealth".

Where no definitions of the terms used in the Constitution are given, they must be deemed by the Constitution to have been used by the Constitution-makers in the sense in which such terms are understood in common usage and understanding, according to the institutions of the country in which they originated or have obtained that meaning under prevailing law. 'Criminal proceedings', within the meaning of Article 361 need not necessarily be judicial proceedings as defined in Section 4(11)*(m)* of Cr. P.C., nor is it necessary that a case should be pending before a Magistrate. The word 'proceeding' as used in the Article is much wider than the words 'judicial proceedings' which include any proceedings in the course of which evidence is or may be legally taken on oath. A criminal proceeding is any proceeding or step taken in a Criminal Court in accordance with some requirement of a procedural law governing such Courts. The words 'criminal proceedings' in Article 361(2) refer to the point of time when something is done to move the Court to take cognizance of the offence against the President, Governor. The word 'whatsoever' used with the words 'criminal proceedings' in Clause (2) of Article 361 enlarges the scope and extent of the immunity to a stage prior to the taking of cognizance. There is a fine distinction between taking cognizance of an offence and institution of criminal proceedings. Institution of criminal proceedings should be looked at from the point of view of something done to commence such proceedings. The point of time between the filing of a police report and the act of the Magistrate in taking cognizance is that which differentiates the

1. *Salmon* v. *Dincombe*, 11 AC 627.
2. 21 Pat 493 : AIR 1952 Pat 359.
3. 25 CLR 241, 273-274.
4. *Tozer* v. *Viola*, (1918)1 Ch 75 at p. 85, *per* Swinfen Eady, L.J. and *Hill* v. *East and West India Dock Co.*, 9 App Cas 448 at p. 454, *per* Lord Chairns.
5. Section 51*(vi)* of the Constitution.

institution of criminal proceedings and the taking of cognizance. It will thus be seen that the two things necessary to make the application under consideration a complaint are present, *viz.*, the allegation that Mir Osman Ali Khan, Ex-Ruler of Hyderabad, has committed offences under Sections 346 and 370, I.P.C. by detaining in his residence a number of women, men and children and asking the Magistrate to take cognizance of it. The order of the Magistrate asking the police to make an enquiry and submit a report is thus contrary to the inhibition contained in Clause (2) of Article 361. Any interpretation of Article 361(2) must be such as to be consistent with the immunity afforded to executive heads.[1]

The object of an enactment cannot be said to be frustrated by putting an interpretation warranted by the words if the Government could by mere notification extend the provisions of the Act to any person or class of persons to which the Act for the time being does not apply.[2]

Statute having more than one purpose.—Statutes can and frequently do have more than one purpose. In such cases it is the predominant purpose that will largely influence the choice of construction, and the predominant purpose of a law should be gathered from the whole Act.

(j) Grammatical construction leading to unjust results.—The result of a proposed construction is a consideration that may affect an obvious meaning. Ambiguity or want of sense may arise where the effect of literal interpretation is contrary to the principles of justice, good conscience and morals.[3] In *the matter of Meyer*,[4] the Court said : "Uncertainty of sense, however, does not spring alone from uncertainty of expression. The legislative intention, if expressed, is the law itself. It is always presumed, in regard to a statute, that no unjust or unreasonable result was intended by the Legislature. Hence, if viewing a statute from the standpoint of the literal sense of its language, it works such a result, an obscurity of meaning exists, calling for judicial construction. Where a particular application of statute in accordance with its apparent intention will occasion great inconvenience or produce inequality or injustice, another and more reasonable interpretation is to be sought.

In *Plumstead Board of Works* v. *Spackman*,[5] Brett, M.R., said : "Where the words of an Act of Parliament, being read in their ordinary meaning, are capable of an interpretation which will work manifest injustice, yet if it is possible within the bounds of any grammatical or reasonable construction to read the Act so that it will not commit a manifest injustice, the Court ought to construe it upon the assumption that the Legislature did not intend, by the word that it has used, to enact that which will perpetuate a manifest injustice. The said statement was, no doubt, made in the course of a dissenting opinion, and in the House of Lords the judgment from which the Master of the Rolls dissented was affirmed, on the ground that a manifest injustice did not arise from the construction put upon the Act by the Courts of Appeal, because the House was of opinion that a public benefit was conferred, before which any hardship upon individuals must give way. But the principle stated in the passage cited above was untouched by the House of Lords.[6]

In the case of *Nokes* v. *Doncaster Amalgamated Collieries*,[7] the Court again said : "The Golden Rule is that the words of a statute must *prima facie* be given their ordinary meaning.

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1. *Nizam* v. *State*, AIR 1955 Hyd 241.
2. *Kalidas* v. *State of Bombay*, AIR 1955 SC 62.
3. *Briggs* v. *Easterly*, 62 Barb 51.
4. 209 NY 386.
5. 13 QBD 878, 887.
6. See *Bowtell* v. *Goldsborough Mart Co., Ltd.*, (1906)3 CLR 444, 455.
7. (1940) AC 1014; *Satyanarain* v. *Bishwanath*, AIR 1957 Pat 550.

We must not shrink from an interpretation which will reverse the previous law; for the purpose of a large part of our statute law is to make that lawful which would not be lawful without a statute, or conversely, to prohibit results which would otherwise follow. Judges are not called upon to apply their opinions of sound policy so as to modify the plain meaning of statutory words but where, in construing general words the meaning of which is not entirely plain there are adequate reasons for doubting whether the Legislature could have been intending so wide an interpretation as would disregard *fundamental principles*, then we may be justified in adopting a narrower construction. At the same time if the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, we should adopt a construction which would reduce the construction to futility and should rather accept the bolder construction based on the view that the Parliament would legislate only for the purpose of bringing about an effective result." With regard to a statute authorising compulsorily acquisition of property, Barton, J., in *Duncan* v. *Theodore*,[1] observed : "The Act is strangely phrased, but it is necessary to give it the fairest and most reasonable meaning possible, always remembering that provisions compulsorily acquiring or authorising the compulsory acquisition of any property of the subject must be restricted carefully to the meaning expressed or necessarily implied." Where the literal construction would lead to an absurdity or would necessarily create difficulties and injustices the Legislature would be taken not to have intended or contemplated such a result. In such cases it is necessary to deviate from the literal meaning of the words and out of respect to the Legislature put a reasonable construction upon them.[2]

(k) Grammatical construction leading to absurdity, repugnancy or inconsistency.—The rule is thus stated by the Irish Judge, Burton, J., in *Warburton* v. *Loveland*,[3] in terms quoted and approved by Lord Fitzgerald in *Bradlaugh* v. *Clarke*,[4] "I apprehend it is a rule in the construction of statutes that in the first instance the grammatical sense of the words is to be adhered to. If that is contrary to, or inconsistent with, any expressed intention or declared purpose of the statute, or if it would involve any absurdity, repugnancy or inconsistency, the grammatical sense must then be modified, extended or abridged, so far as to avoid such an inconvenience, but no further. Crompton, J., also expressed his doubts about the rule in *Woodward* v. *Watts*,[5] in these words : "I do not understand it to go so far as to authorize us, when the Legislature have enacted something which leads to an absurdity, to repeal that enactment and make another for them if there are no words to express that intention." Lord Bramwell made further reference in *Hill* v. *East and West India Dock Co.*,[6] to the opinion of Cromption, J., in respect of the above rule in the following terms : "I have often heard Lord Wensleydale lay that rule, which he quoted from a judgment of Burton, J., in Ireland, and I am now content to take it as a golden rule, though I heard Crompton, J., say in reference to it, that he did not set any value upon any golden rule, that they were all calculated to mislead people, and I am not sure that this will not result from what is put at the end of what I have just read, namely, that you are to abide by the grammatical and ordinary sense of the words unless that would lead to some absurdity. That last sentence opens a very wide door. I should like to have a definition of what is such an absurdity that you are to disregard the plain words of an Act of

1. 23 CLR 510, 522, on appeal 26 CLR 276 (PC).
2. *Miran Baksh* v. *Ahmad*, 145 PR 1907 at p. 684; *see* also *Rama Iyer* v. *Taluk Land Board*, 1977 Ker LT 903.
3. (1828)1 Hud and Bro 632, 648.
4. (1883)8 AC at p. 384; *see* also *Union of India* v. *S.H. Seth*, (1977)18 Guj LR (SC) 919, para 55.
5. (1853)2 E & B 452.
6. (1884)9 AC 448 at pp. 464, 465.

Parliament. It is to be remembered that what seems absurd to one man does not seem absurd to another."

The canon as to departure from the grammatical meaning was thus stated by Lord Blackburn in *Caledonian Railway Company* v. *North British Railway Company*,[1] : "There is not much doubt about the general principle of construction. Lord Wensleydale used to enunciate (I have heard him many and many a time) that which he called the golden rule for construing all written engagements. I find that he stated it very clearly and accurately in *Grey* v. *Pearson*,[2] in the following terms : 'I have been long and deeply impressed with that wisdom of the rule, now, I believe, universally adopted—at least in the Courts of law in Westminster Hall—that in construing wills, and indeed statutes and all written instruments the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified so as to avoid the absurdity and inconsistency, but no further.' I agree in that completely, but in the cases in which there is real difficulty this (rule of construction) does not help us much, because the cases in which there is a real difficulty are those in which there is controversy as to what the grammatical and ordinary sense of the words used with reference to the subject-matter is. To one mind it may appear that the most that can be said is that the sense may be what is contended by the other side and that the inconsistency and repugnancy is very great, that you should make a great stretch to avoid such absurdity, and that what is required to avoid it is a very little stretch or none at all. To another mind it may appear that the words are perfectly clear, that they can bear no other meaning at all, and that to substitute any other meaning would be not to interpret words used, but to make an instrument for the parties and that the supposed inconsistency, or repugnancy is perhaps a hardship—a thing which perhaps it would have been better to have avoided, but which we have no power to deal with." And Lord Selbourne said in the same case : "The mere literal construction of a statute ought not to prevail if it is opposed to the intentions of the Legislature as apparent by the statute, and if the words are sufficiently flexible to admit of some other construction by which that intention can be better effectuated." "You are to attribute to the general language used by the Legislature a meaning which will not carry out its objects but produces consequence which to the ordinary intelligence, are absurd. You must give it such a meaning as will carry out its objects."[3] In *Simms* v. *Registrar of Probates*,[4] Lord Hobhouse, speaking for the Judicial Committee, said : "Where there are two meanings, each adequately satisfying the meaning (of a statute), and great harshness is produced by one of them that has a legitimate influence in inclining the mind to the other—it is more probable that the Legislature should have used the word (evade) in that interpretation, which least offends our sense of justice."[5] "If the inconvenience is not only great, but.....an absurd inconvenience, but reading an enactment in its ordinary sense, whereas if you read it in a manner in which it is capable, though not in its ordinary sense, there would not be any inconvenience at all, there would be reason why you should not read it according to its ordinary grammatical meaning."[6]

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1. (1881)6 AC 114 at p. 131.
2. (1857)6 HLC 61, 106.
3. *The Duke of Buccleuch*, 15 P.P. 86, *per* Lindley, L.J.
4. (1900) AC 323, 335.
5. But see *Capell* v. *Great Western Railway*, (1883)11 QBD 348, where Brett, M.R., said : "I protest against the suggestion that where the words of an Act of Parliament are plain, the Court is to make any alteration in them because injustice may otherwise be done."
6. *R.* v. *Tonbridge Overseers*, (1884)13 QBD 342.

"The General rule" said, Willes, J., in *Christopherson* v. *Lotinga*,[1] "is stated by Lord Wensleydale in these terms—*viz.*, to adhere to the ordinary meaning of the words used, and to the grammatical construction, unless that is at variance with the intention of the Legislature, to be collected from the statute itself, or leads to any manifest absurdity or repugnance, in which case the language may be varied or modified so as to avoid such inconvenience, but no further." Continuing his Lordship Willes, J., said : "I certainly subscribe to every word of the rule, except the word 'absurdity', unless that be considered as used there in the same sense as 'repugnance', that is to say, something which would be so absurd with reference to the other words of the statute as to amount to a repugnance." This rule was thus expressed by Jessel, M.R. : "Anyone who contends that a section of an Act of Parliament is not to be read literally must be able to show one of two things—either that there is some other section which cuts down its meaning, or else that the section itself (if read literally) is repugnant to the general purview of the Act."[2]

In *Vacher & Sons, Ltd.* v.*London Society of Compositors*,[3] Lord Macnaghten observed : "Nowadays, when it is a rare thing to find a preamble in any public general statute, the field of enquiry is even narrower than it was in former times. In the absence of a preamble there can, I think, be only two cases in which it is permissible to depart from the ordinary and natural sense of the words of an enactment. It must be shown either that the words taken in their natural sense lead to some absurdity or that there is some other clause in the body of the Act, inconsistent with, or repugnant to, the enactment in question construed in the ordinary sense of the language in which it is expressed."

The aforesaid view of Lord Macnaghten was reaffirmed by Lord Atkinson in *City of London Corporation* v. *Associated Newspapers, Ltd.*[4] : "The duty of a Court of law is simply to take the statute it has to construe as it stands, and to construe its words according to their natural significance. While reference may be made to the state of the law, and the material facts and events with which it is apparent that Parliament was dealing, it is not admissible to speculate on the probable opinions and motives of those who framed the legislation, excepting in so far as these appear from the language of the statute. That language must indeed be read as a whole. If the clearly expressed scheme of the Act requires it, particular expressions may have to be read in a sense which would not be the natural one if they could be taken by themselves. But subject to this the words used must be given their natural meaning, unless to do so would lead to a result which is so absurd that it cannot be supposed, in the absence of expressions which are wholly unambiguous, to have been contemplated."

If a too literal adherence to the words of the enactment appears to produce an absurdity, it will be the duty of the Court of construction to consider the state of the law at the time the Act was passed,[5] with a view to ascertaining whether the language of the enactment is capable of any other fair interpretation,[6] or whether it may not be desirable to put upon the language used a secondary[7] or restricted[8] meaning, or perhaps to adopt a construction not quite strictly

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1. (1864)33 LJCP 123.
2. *North* v. *Tamplin*, (1881)8 QBD 253,
3. (1913) AC 107, 117-118.
4. (1915) AC 674, 692; *see* also *Inland Revenue Commissioners* v. *Herbert*, (1913) AC 326, 332, *per* Lord Haldane, L.C.
5. *Gover's* case,(1875)1 Ch D 182, 198; *Parvati Dei* v. *Sacchidanand Sah*, 1983 Pat LJR 251 (DB).
6. *River Wear Commissioners* v. *Adamson*, (1876)1 QBD 546, 549.
7. *Ex parte* St. Sepulchre's, (1864)33 LJ Ch 373, *per* Lord Westbury.
8. In *Ex parte* Altone, (1881)16 Ch D 746, 757, Lush, L.J. said "In order to prevent absurdity we must read the word 'surrendered' in a qualified sense."

grammatical.[1] It appears well settled therefore, that a grammatical construction has to be avoided if it would lead to absurdity or inconvenience or anomalous position.[2] Another rule of interpretation which is equally well-settled is that where words according to their literal meaning produce an inconsistency, or absurdity or inconvenience not intended, the Court will be justified in putting some other signification which in the Court's opinion would bear.[3] If one sticks to the strictly grammatical construction of proviso (1) to Section 364*(i)* of the Calcutta Municipal Act, 1934 and if it was intended to serve only an owner in occupation with a notice, the word 'occupier' would not merely be rendered superfluous but without any significance. Such an interpretation would lead to the absurd result that unless the building is occupied by the owner himself, the Magistrate would not be entitled to pass an order of demolition without serving any notice, on any one, because in that case there would be no necessity at all of service of any notice on the occupier. One has in the circumstances necessarily to look for a different mode of construction which will give the section a coherence and a meaning even though such a construction might run the risk of making the sentence grammatically incorrect. The real meaning of the proviso is that the Magistrate is to direct notice to be issued both on the owner and the occupier, and that they are to be given full opportunity of adducing evidence and of being heard in their defence.[4]

The same canon of construction also applied to rules made by the authority of Legislature :

> "We must construe the rules as nearly as possible literally. We must construe them as strictly as they will bear, so as not to lead to the absurdities which have been pointed out; short of that it must be construed to its full context."[5]

To ascertain the literal meaning it is equally necessary first to ascertain the juxtaposition in which the rule is placed, the purpose for which it is enacted and the object which it is required to subserve and the authority by which the Rule is framed. This necessitates examination of the broad features of the Act.[6]

(1) Intention dependent upon time and circumstances under which Act enacted.—The time when, and the circumstances under which an instrument is made, supply the best and surest mode of expounding it.[7]

In the *Direct United States Cable Co. Ltd:* v. *Anglo-American Telegraph Co., Ltd.*,[8] Lord Blackburn says : "The tribunal that has to construe an Act of a Legislature, or indeed any other document, has to determine the intention as expressed by the words used. And in order to understand those words it is material to inquire what is the *subject-matter* with respect to which they are used, and the object in view."

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1. *Williams* v. *Evans*, (1876)1 Ex D 284, *per* Field, J.; *Sajja* v. *Habib Rathar*, 1979 CLR (J & K) 32 (too literal a construction avoided); *see* also Craies on *Statute Law*, 7th Ed. at p. 87.
2. *Ramanand Ramanarayan Raidas* v. *State of M.P.*, 1979 MPLJ 498 : 1979 Jab LJ 574 (DB).
3. *Union of India* v. *S.H. Sheth*, (1977)18 Guj LR 919; *Thrikkarruva Kuttyazhikom Devaswom* v. *Aliyummer Asan*, 1976 Ker LT 111 (DB).
4. In *Mitra Sadani & Co.* v. *Corporation of Calcutta*, AIR 1954 Cal 284, Proviso (1) to Section 364 runs : "Provided also that the Magistrate—
   (i) shall not make any order under this section without giving the owner and occupier of the structure to be demolished or altered, full opportunity or adducing evidence and of being heard in his defence."
5. *The Fanny M. Carvil*, (1888)14 AC 455.
6. *Lt. Col. Prithvi Pal Singh* v. *Union of India*, AIR 1982 SC 1413.
7. *Van Diemen's Land Co.* v. *Table Cape Marina Board*, (1906) AC 92, 98, *per* Lord Halsbury, L.C.; *see* also *R.* v. *Trafford*, (1850)15 QB 200; *Fermay Peerage* Claim, (1856)10 ER 1084 (HL).
8. (1877)2 App Cas 394, 412.

In *River Wear Commissioners* v. *Adamson*,[1] the same learned Lord said : "In all cases the object is to see what is the intention expressed by the words used. But from the imperfection of language, it is impossible to know what that intention is without inquiring further and seeing what the circumstances were with reference to which the words were used, and what was the object, appearing from those circumstances, which the person using them had in view; for the meaning of the words varies according to the circumstances with respect to which they are used."

The same noble Lord said later in the same year in *Edinburgh Street Tramways* v.*Torbain*[2] : "I quite agree that in construing an Act of Parliament we are to see what is the intention which the Legislature has expressed by the words, but then the words again are to be understood by looking at the subject-matter they are speaking of and the object of the Legislature and the words used with reference to that may convey an intention quite different from what the self-same set of words used in reference to another set of circumstances and another object would or might have produced." A notable illustration thereof is to be found in the case of *Coloquohoun* v. *Brooks*,[3] wherein Lord Herschell observed : ".....The claim of the Crown is based upon the terms of Schedule D which imposes the tax upon the annual profits or gains arising or accruing to any person residing in the United Kingdom, from any trade whether carried on in the United Kingdom or elsewhere. The respondent does not reside in the United Kingdom, profits did arise or accrue to him from a business carried on elsewhere than in the United Kingdom, therefore, says the learned counsel for the Crown, the case is within the very terms of the Act, and he must be held liable to assessment. I think it must be admitted that the words of the statute do *prima facie* support the contention. I think that giving to the language of the enactment its natural meaning the facts stated do apparently bring this case within it." But his Lordship did not accept the contention of the Crown and *inter alia* remarked : "It is beyond dispute, too, that we are entitled, indeed bound, when construing the terms of any provision found in a statute to consider any other parts of the Act which throw light upon the intention of the Legislature and which may serve to show that the particular provision ought not to be construed as it would be if considered alone and apart from the rest of the Act." His Lordship further observed : "The true meaning, the exact scope and significance of any passage occurring in a statute may be found not merely in the words of that passage but on a comparison of the same with other parts of the statute, and the intention of the Legislature ascertained in that way."[4]

Indeed it is a familiar rule of construction that, although the court is *prima facie* bound to read the words of an Act according to their ordinary meaning, if there are other circumstances which show that the words must have been used by the Legislature in a sense larger than their ordinary meaning, the Court is bound to read them in that sense.[5] Thus Clause (1) of Section 438, Cr. P.C. being construed in terms broad and unqualified, these terms of width and amplitude ought not generally to be cut down so as to read into the language of the statute restraints and conditions which the Legislature itself did not think it proper or necessary to impose.[6] The

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1. (1877)2 App Cas 743 at p. 763, quoted in the *Municipal Council of Sydney* v. *Commonwealth*, 1 CLR 208, 239.
2. (1877)8 AC 58, 68.
3. (1889)14 AC 498, 503.
4. *See* in this connection *Aghore Chandra* v. *Rajnandni*, ILR 60 Cal 289 : AIR 1933 Cal 283. "Regard must be had to the intent"; *Hawkins* v. *Gathercole*, (1855)24 LJ Ch 332, 338; approved by Lord Halsbury in *Eastman Co.* v. *Comptroller-General*, (1895) AC 571, 575, cited in *Sati Prosad's* case, ILR 48 Cal 557 (FB); referred to *Dina Nath* v. *Raja Sah*, AIR 1923 Cal 74, 78.
5. *Barlow* v. *Ross*, (1890)24 QBD 381.
6. *Gurbaksh Singh* v. *State of Punjab*, 1980 CLR (SC) 153 : AIR 1980 SC 1632 : 1980 Cr LJ 1125; *Pradeep Kumar Soni* v. *State of M.P.*, 1990 Cr LJ 2055.

width or ambit of a provision cannot be circumscribed by taking into account facts of individual case.[1] The language of a statute, even if wide, should not be understood as attempting something beyond the competence of the legislative body that enacted it.[2]

In construing a statute effect must be given to the intention of the Legislature as gathered from the object and the circumstances under which the enactment came to be introduced.[3] Not only are courts required to construe any particular provision on its language and the setting but also it is their inexhorable duty to ensure that the interpretation is not repugnant to the scheme of the Act and not a derogation of public policy or public interest underlying the enactment.[4]

The mere fact of a special provision being made established that there was no public mischief to be dealt with in relation to these companies, and the generality of the later Act should be cut down accordingly.[5] But no further effect should be given to the Act than the words require except so far as is necessary to achieve the purpose of the Legislature.[6]

(2) Addition of words.— When an examination of the context discloses that certain words have been inadvertently omitted from a statute, such words as are necessary to complete the sense will be supplied but words should be supplied in a statute only when the omission is palpable and the word omitted is clearly indicated by the context.[7]

To promote and advance the object and purpose of the enactment, to avoid patent injustice, anomaly or absurdity or to avoid invalidation of a law, the court is well justified in departing from the so-called golden rule of construction and in supplementing the written word if necessary.[8] In the case of *Khan Chand Tiloke Ram* v. *State of Punjab*,[9] a Full Bench of the Punjab High Court has held that it was a recognised principle of interpretation that for the purpose of giving a meaning to the clear and definite intention to the Legislature some words may in suitable cases be read in the provisions to avoid reducing the provisions to an absurdity. Even supplying of words not there to understand the provisions in any restricted or larger sense, as the case may be, to avoid mischief or injustice, would be called for.[10] It seems, however, that the power to add words should not be exercised unless there is almost a necessity in order to give the section a workable meaning[11] much less, when the language of the section does not justify the addition.[12] In the Full Bench case of *Fakruddin* v. *State of U.P.*,[13] rejecting the contention

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1. *Indira Nehru Gandhi* v. *Raj Narain*, AIR 1975 SC 2299.
2. *State of Punjab* v. *Satyapal Dang*, AIR 1969 SC 903.
3. *Sidda Setty* v. *Muniamma*, 1953 MWN 268; *Santa Singh* v. *State of Punjab*, 1977 MP LJ 1 : 1977 MPLJ 105 : 1977 Mad LJ (Cr) 41 (SC).
4. Vide *Aundal Ammal* v. *Sadasivan Pillai*, AIR 1987 SC 203, followed in *(Smt.) Usha Devi* v. *State of Madh Pra*, AIR 1990 Madh Pra 268 (FB).
5. *Luckey* v. *Edmunds*, (1916)21 CLR 336, 351,
6. *Tozer* v. *Viola*, (1918)1 Ch 75, *per* Swinfen Eady, L.J.
7. *Boise Street Car Co.* v. *Ada County*, 50 Idaho 304, quoted by F. McCaffrey : *Statutory Construction*, p. 56; *Ramchand* v. *Secretary of State*, AIR 1936 Sind 108, 112; *Mokshagundam Narasiah* v. *Estates Abolition Tribunal, Chittoor*, 1955 Andh WR 49.
8. See *(M/s.) Girdharilal & Sons* v. *Balbir Nath Mathur*, AIR 1986 SC 1499 : (1986)2 SCC 237 : (1986)1 Rent LR 314 : (1986)1 SCJ 422 : (1986)2 Supreme 69 : (1986)1 Cur CC 1070 : 1986 SCF B R C 249 : (1986)30 D L T 68 : (1986)2 Rent CR 361; *Gaya Prasad* v. *Suresh Kumar*, 1992 JLJ 143 (FB); *Jagadamge Niwad Co.* v. *Punjab National Bank*, 1992 JLJ 10.
9. AIR 1966 Punj 423 : ILR (1966)2 Punj 447 (FB).
10. *Rama Iyer* v. *Taluka Land Board*, 1977 Ker LT 903.
11. *Shyam Kishori Devi* v. *Municipal Corporation*, AIR 1966 SC 1678 : 1966 BLJR 449; *Abdul Wahid Khan* v. *Dy. Director, Consolidation*, AIR 1968 All 402, 404-405 (FB) (Jagdish Sahai, J.); *Rashmi Parihar* v. *Gangaram Bandil*, 1988 JLJ 427 (MP).
12. *Jaccob, R.G.* v. *Republic of India*, AIR 1963 SC 550; *Faruq Ali Shaw* v. *Ghansham Das*, AIR 1963 All 280.
13. 1976 All LR 274 (FB).

that the words 'for sale' should be read after the words 'store' and 'stores' in Sections 7 and 16 of the Prevention of Food Adulteration Act, the Court held that it can add words in a provision of law if they are necessary for giving the existing words a meaning, *i.e.*, if the meaning is not clear; it is permissible to add words only to make obvious what is latent, but, otherwise it is not permissible for the Courts to add words to a provision enacted by Legislature.

But in the absence of overriding reasons inherent in the statute the Court is not justified in adding words to a statute, nor to stretch them in order to give effect to the intention of the Legislature.[1]

Where the meaning is clear and explicit words cannot be interpolated. They should not be interpolated even though the remedy of the statute would thereby be advanced, or a more desirable or just result would occur. Even where the meaning of the statute is clear and sensible, either with or without the omitted word, interpolation is improper since the primary source of legislative intent is in the language of the statute.[2]

Order XXI, Rule 1, C.P.C., does not postulate the joint concurrence of all the decree-holders as a condition precedent of satisfaction of the decree. The rule does not contain the words 'all' or 'jointly at one time', and they cannot be added. All that it connotes is that payment must be made to the decree-holder, or decree-holders and if they are shown or proved to have separate interests, separate payment to each of the decree-holders of their respective shares in the decretal amount is not barred nor prohibited.[3]

(3) Deletion of words.—Maxwell says : "Notwithstanding the general rule that full effect must be given of every word, if no sensible meaning can be given to a word or phrase, or if it would defeat the real object of the enactment, it may, or rather it should, be eliminated. The words of a statute must be construed so as to give a sensible meaning to them, if possible. They ought to be construed *ut res magis valeat quam pereat.*"[4]

(4) Conjunctive and disjunctive words.—The word 'and' in a statute may be read 'or' and *vice versa*, Whenever the change is necessary to effectuate the obvious intention of the Legislature.[5] The Courts should, however, have recourse to this exceptional rule of construction only when the conversion of the words 'and' and 'or' one into the other, is necessary to carry into effect the meaning and the intention of the Legislature; or produces unintelligent or absurd result. It has been held that neither the language of Section 12(1) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, nor its context justifies interpretation of the word 'or' occurring between Clauses *(a)*, *(b)* and *(c)* of that sub-section as 'and'.[6] The word 'and' appearing in Rule 7 of the Rules under the same Act cannot be construed as 'or', did the memorandum has to be signed by the appellant or the applicant and by his counsel where a counsel is engaged.[7] In spite of the use of the word 'and' Clauses *(i)* and *(ii)* of Rule 3*(b)*, Bihar Forest Service Rules, 1953 have to be read disjunctively otherwise it will lead to absurdity.[8] It has been held that the disjunctive 'or' used in the third column against item (8) of Section 167 of the Sea Customs Act, 1878, cannot be held to be used in the sense of a conjunctive so as to limit the power of the

1. *Tularam* v. *State of Bombay*, AIR 1954 SC 496.
2. *S. Narayanaswami* v. *G.Parameshwaran*, AIR 1972 SC 2284.
3. *Dhondey Prasad* v. *Sewak*, AIR 1954 All 739.
4. Maxwell : *Interpretation of Statutes*, 11th Ed. at p. 228.
5. *Raj Nandan Prasad Sinha* v. *State of Bihar*, 1982 BLJ 143 (DB); *State of Bihar* v. *S.K. Roy*, AIR 1966 SC 1995.
6. *John Croft Home* v. *Rent Control and Eviction Officer, Allahabad*, 1978 All LJ 1127.
7. *Vinod Chandra Shukla* v. *Anand Kumar Gupta*, 1983 ALJ 674.
8. *Raj Nandan Prasad Sinha* v. *State of Bihar*, 1982 BLJ 143 (DB).

Customs Officer to imposition of fine not exceeding one thousand rupees.[1] It has been held that the word 'or' occurring in the definition of 'manufacturing process' must be treated as 'and' to satisfy the definition of 'manufacturing process' in Section 2 of the Factories Act, 1948.[2] When the statute is criminal or penal in its nature, the better view point with respect to the use of the rule is that conjunctive words should not be construed as disjunctive, and *vice versa*, when the effect would be to aggravate the offence or increase the punishment.[3]

(5) Singular and plural words.—When necessary to give effect to the intention of the Legislature, words in the singular may be construed as plural, and *vice versa*. But when the examination of a statute indicates that it was carefully drawn, the use of the plural term is not to be deemed a mere inadvertence. The rule that 'singular' includes 'plural', is also applicable to definition clauses.[4]

(6) Correction of verbal or clerical errors.—It falls within the province of the Courts to correct verbal and clerical errors, in statutes, when as it is written it involves a manifest absurdity, and the error is plain and obvious. The power is undoubted, but it can only be exercised when the error is so manifest, upon an inspection of the Act, as to preclude all manner of doubt, and when the correction will relieve the sense of the statute from an actual absurdity, and carry out the clear purpose of the Legislature.[5]

(7) Inaccurate, inapt and awkward language.—If the legislative intent can be spelt out fairly from the words of the statute, the Courts should give effect to that intention by looking at all the language used, the purposes to be accomplished, and other Acts in *pari materia*, in spite of the fact that the statute is couched in inaccurate, inapt and awkward language.[6] Want of skill in drafting a provision does not go to the root of the matter and should not affect the correct interpretation of the statute.[7]

(8) Statute without meaning.—"Whether a statute be a public or a private one, if the terms in which it is couched be so vague as to convey no definite meaning to those whose duty it is to execute it, either ministerially or judicially, it is necessarily inoperative. The law must remain as it was, unless that which professes to change it, be itself intelligible."[8] All permissible aids to construction should be used to ascertain the meaning of the statute, but if, after such effort, it is found to be impossible to determine, with any reasonable degree of certainty, what the Legislature intended, the Act will be declared to be inoperative and void.[9]

It is often a difficult thing to determine whether a particular set of facts falls within a particular description but that fact does not in itself show that the description is uncertain. It was held that the meaning of the words 'substantially identical goods' and 'terms and conditions substantially identical' in relation to the sale of goods, as used in the definition of 'ceiling date' in Clauses 2 and 3 of the Prices Regulation Order No. 1015, is not so vague and uncertain as to make the order invalid as not fixing a price. Even if some other clauses of the order are bad, which was not decided, the validity of Clause 3 is preserved by the operation of

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1. *Mohandas Issardas* v. *A.N. Sattanatham*, AIR 1955 Bom 113.
2. *M.P. Electricity Board, Jabalpur* v. *State of M.P.*, 1982 Jab LJ 1.
3. *State* v. *Walters*, 97 NC 489; *see* also *Sundare Ramaraju* v. *Ramachandriah*, 1955 Andh WR 66.
4. *Siddeshwar Mukherjee* v. *Bubhaneshwar*, 1965 BLJR 452.
5. *In re* Frey, Rom 128 Pa 593, quoted by F. McCaffrey : *Statutory Construction*, at p. 55.
6. *In re* Washington Park, 52 N. Y. 131; *Hackman* v. *Pinkney*, 81 NY 211, quoted by Francis, J.; McCaffrey : *Statutory Construction*, at p. 54.
7. *Oudh Sugar Mills* v. *State of U.P.*, AIR 1960 All 136 at p. 141 : ILR (1960)1 All 487 (FB).
8. *Drake* v. *Drake*, 15 NC 110, quoted by Francis, J.; McCaffrey : *Statutory Construction*, at p. 55.
9. *United States* v. *Cohen Grocery Co.*, 225 YS 81.

Section 5(5) of the National Security Act, 1939-43 and Section 46(*b*) of the Interpretation Act, 1901-1904. It was observed that Clauses 4, 6, 7 and 8 are not connected as a matter of legislation, whatever may be said as to their interrelation from the economic point of view.[1]

3. Principles summarised.—General words may in certain cases properly be interpreted as having a meaning or scope other than the literal or usual meaning where the scheme appearing from the language of the Legislature, read in its entirety, points to consistency as requiring the modification of what would be the meanings apart from any context or apart from the purpose of the legislation, as appearing from the words which the Legislature has used, or apart from the general law.[2]

In an oft-quoted passage from Maxwell on *Statutes*, the matter is put in this way "Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence.[3] This may be done by departing from the rules of grammar; by giving an unusual meaning to particular words; by altering their collocation; by rejecting them altogether, or by interpolating other words; under the influence, no doubt, of an irresistible conviction that the Legislature could not possibly have intended what its words signify, and that the modifications thus made are mere corrections of careless language, and really give the true intention. When the main object and intention of the statute are clear, it must not be reduced to a nullity by the draftsman's unskilfulness or ignorance of the law, except in a case of necessity, or the absolute intractability of the language used.[4]

At another place the same author again says : "Notwithstanding the general rule that full effect must be given to every word, if no sensible meaning can be given to a word or phrase, or if it would defeat the real object of the enactment, it may, or rather it should, be eliminated. The words of a statute must be construed so as to give a sensible meaning to them if possible. They ought to be construed *ut res magis valeat quam pereat*.[5]

The rule is not restricted to repugnancy for as Maxwell says : "It has been asserted that no modification of the language of a statute is ever allowable in construction except to avoid an absurdity which appears to be so, not to the mind of the expositor merely, but to that of the Legislature; that is, when it takes the form of a repugnancy. But the authorities do not appear to support this restricted view. They would seem rather to establish that the judicial interpreter may deal with careless and inaccurate words and phrases in the same spirit as a critic deals with an obscure or corrupt text, when satisfied, on solid grounds, from the context or history of enactment, or from the injustice, inconvenience, or absurdity of the consequences to which it would lead, that the language thus treated does not really express the intention, and

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1. *Fraser Henleins Proprietary, Ltd.* v. *Cody*, 70 CLR 100, 117.
2. *Watney Combe, Reid & Co.* v. *Berners*, (1915) AC 885, 891, *per* Lord Haldane, L.C.; *see* also *Drummond* v. *Collins*, (1915) AC 1011, 1017, *per* Lord Loreburn.
3. See *Tirath Singh* v. *Bachittar Singh*, (1955)2 SCR 457 : AIR 1955 SC 830 where the passage is cited; *Nanalal Zaveri* v. *Bombay Life Insurance Co. Ltd.*, AIR 1950 SC 172; *State of Bihar* v. *Commissioner of Income-tax, Bihar*, 1993 Tax LR 176 (Pat).
4. Maxwell : *Interpretation of Statutes*, 12th Ed. at p. 228; *see* also *Bihar Subai Sunni, Majlis-a-waqf* v. *Sitaram*, ILR 31 Pat 296; *Tirath Singh* v. *Bachittar Singh*, AIR 1955 SC 830; *Pearl Insurance Co.* v. *Atma Ram*, AIR 1960 Punj 236 at p. 243 (FB) (Grover, J.); *Moorthy* v. *Ramachandran*, 1992(2) KLT 206; *Directorate of Enforcement* v. *Deepak Mahajan*, AIR 1994 SC 1775.
5. Maxwell : *Interpretation of Statutes*, 11th Ed. at p. 243; *(Smt.) Usha Devi* v. *State of Madhya Pradesh*, AIR 1990 Madh Pra 268 (FB).

that this amendment properly does."[1]

Consistently with what the learned author Maxwell has observed it now seems that the Court need not yield to absurd constructions.[2] And, part of a section or sentence should be interpreted, if possible without doing violence to the rules of grammar, so as to give a cogent and clear-cut meaning to the section or sentence read as a whole,[3] and not nullify one part of same clause while interpreting another.[4]

4. Onus of proof.—The onus of showing that the words do not mean what they say, however, lies heavily on the party who alleges it.[5] "He must" as Parke, B. said in *Becke* v. *Smith*,[6] advance something which clearly shows that the grammatical construction would be repugnant to the intention of the Act or lead to some manifest absurdity.

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1. Maxwell : *Interpretation of Statutes*, 11th Ed. at p. 243.
2. *Subbier, K.R.* v. *Regional Provident Fund Commissioner*, AIR 1963 Mad 112.
3. *Sambhu Ratan* v. *Administrator and Chief Commissioner*, AIR 1963 Tripura 1.
4. *Sambhu Nath Sarkar* v. *State of West Bengal*, (1973)1 SCC 56.
5. *Richards* v. *McBride*, (1881)8 QBD 119.
6. (1836)2 M & W 1991, 195.

CHAPTER XIII
WHERE LANGUAGE IS NOT PLAIN

SYNOPSIS

1. Scope for ambiguity in language.—Language is rarely so free from ambiguity as to be incapable of being used in more than one sense, and to adhere to its literal and primary meaning in all cases would be to miss its real meaning in many. If a literal meaning had been given to the laws which forbade a layman to 'lay hands' on a priest, and punished all who drew blood in the street, the layman who wounded a priest with a weapon would not have fallen within the prohibitions, and the surgeon who bled a person in the street to save his life would have been liable to punishment. On a literal construction of his promise Mohammed II's sawing the Venetian Governor's body in two was no breach of his engagement to spare his head; nor Tamerlane's burying alive a garrison, a violation of his pledge to shed no blood. On a literal construction, Paches, after inducing the defender of Notium to a parley under a promise to replace him safety in the citadel, claimed to be within his engagement when he detained his foe until the place was captured, and put him to death after having conducted him back to it; and the Earl of Argyll fulfilled in the same spirit his promise to the laird of Glenstave, for he did not hang him until after he had taken him safely across the Tweed to the English Bank[1] :

> "When a court declares a statute is ambiguous", says Sutherland,[2] "it asserts that some of the words used may refer to several objects and the manner of their use does not disclose the particular object to which the word refers. A word is but a symbol which directs the reader to a reference, but in this case the reference is not sufficiently accurate to make the referent determinable for the litigation before the Court. It is then the function of the Court to make the referent determinant or as determinant as possible from the information and evidence which is presented to it. This and nothing more is the problem and method of interpretation. In some cases the issue may be resolved with little, if any, effort and the process of interpretation may go unmentioned in the judicial opinion. In other cases the problem may be difficult and many pages may be necessary to disclose the basis of the Court's judgment in selecting a particular meaning.

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1. Maxwell : *Interpretation of Statutes*, 11th Ed. at p. 17.
2. *Statutory Construction*, 3rd Ed., Vol. 2, Article 4503 at pp. 317-319.

Since the Court's determination will necessarily result in some new meaning of the word in issue the fairly common assertion that a Court will not apply the statute because the meaning of its terms is uncertain or indefinite is impossible. Once a case is brought within the jurisdiction of the Court, its decision will result in an additional meaning for the words of the statute involved. A determination that the words are uncertain and, therefore, the Court will not apply the statute means the same thing as if the Court had said the case presented to it does not come within the terms of the Act. To this extent the Court's decision makes the meaning of the statute more determinant and excludes from the possible area of the statute's application the situation involved by the instant litigation. Inasmuch as the Court cannot escape the consequence that its determination will affect the meaning of the statute, it would appear to be a more appropriate exercise of the judicial function is if the Court would face the difficult task and at the risk of being wrong, determine as best it can what the Legislature intended. If the Court decides incorrectly, the Legislature may at succeeding sessions correct the error. If it decides correctly, it will have saved the expense and burden of the legislative process and will have given judicial relief to those who were in the beginning entitled to it."

O' Connor, J., in *Bowtell* v. *Goldsborough Mort & Co., Ltd.*,[1] expressed himself thus :

"It has been contended in this case that an ambiguity must appear on the face of a statute before you can apply the rules of interpretation relating to ambiguities. In one sense that is correct, and in another sense it is not. You frequently find an Act of Parliament perfectly clear on the face of it, and it is only when you apply it to the subject-matter that the ambiguity appears. That ambiguity arises frequently from the use of general words. And wherever general words are used in a statute there is always a liability to find a difficulty in applying general words to the particular case. It is often doubtful whether the Legislature used the words in the general unrestricted sense, or in a restricted sense with reference to some particular subject-matter. In Maxwell on *Interpretation of Statutes*,[2] reference is made to this. The author says : 'General words admit of indefinite extension or restriction, according to the subject to which they relate, and the scope and object in contemplation. They may convey faithfully enough all that was intended, and yet comprise also much that was not; or be so restricted in meaning as not to reach all the cases which fall within the real intention. Even, therefore, where there is no indistinctness or conflict of thought, or carelessness of expression in a statute, there is enough in the vagueness and elasticity inherent in language to account for the difficulty so frequently found in ascertaining the meaning of an enactment, with the degree of accuracy, necessary for determining whether a particular case falls within it.' The extent to which the Courts will go in ascertaining the real intention of the Legislature where general words are used, and will, if the object and purpose of the Act necessitates restriction, restrict them accordingly, is referred to in Hardcastle on *Interpretation of Statutes*,[3] where he cites from a very old case, *Stradling* v. *Morgan*[4] : "The Judges of the law, in all times past, have so far pursued the intent of the makers of statutes, that they have expounded Acts which are general in words to be but particular where the intent was particular.....The sages of the law heretofore have construed statutes quite contrary to the letter in some appearance, and those statutes which comprehend all things in the letter they have expounded to extend

1. (1906)3 CLR 444 at 456 (Australia).
2. 3rd Ed. at p. 28 (4th Ed. at p. 21).
3. 3rd Ed. at p. 193.
4. (1560)1 Plowd 201 : 75 ER 308.

but to some things, and those which generally prohibit all people from doing such an act they have interpreted to permit some people to do it, and those which include every person in the letter they have adjudged to reach some persons only, which expositions have always been founded upon the intent of the Legislature, which they have collected, sometimes by considering the cause and necessity of making the Act, sometimes by comparing one part of the Act with another, and sometimes by foreign circumstances, so that they have ever been guided by the intent of the Legislature, which they have always taken according to the necessity of the matter, and according to that which is consonant to reason and good discretion."

(i) Previous interpretation.—Where a statute uses a language of doubtful import, and has been interpreted in a particular manner for a term of years, the interpretation given to that obscure meaning may reduce the uncertainty to a fixed rule.[1] If the interpretation does not carry out the intention of the framers of the Act by reason of unhappy or ambiguous phrasing, it is for the Legislature to intervene,[2] and if the Legislature acquiesces in it by not amending it, it is legitimate to infer that the interpretation accords with the intention of the Legislature.[3]

Even if there is some ambiguity in the language of the *University Ordinance* or prospectus, one should accept the interpretation placed upon it by the syndicate.[4]

(ii) Subsequent legislation.—The construction of statutory provision cannot be modified and the legislative intent with which that provision was enacted supplemented by a reference to what the Legislature did later. But when the meaning of the words used in an enactment is ambiguous or obscure, subsequent statutes might sometimes be used as what has been termed *'a Parliamentary exposition'* of the obscure phraseology.[5]

(iii) Ambiguity in two cognate Acts of different classes.—Where two Acts are to be read together, it means in the *first* place, that if the earlier Act contains an ambiguity, recourse can be had to the latter to explain the earlier Act, and *secondly*, that if there is ambiguity in the earlier Act, it will be the earlier Act to which recourse may be had to explain a provision of the later Act. It is not permissible to make what is clear in the earlier Act obscure and ambiguous by reference to sometimes in the later Act.[6]

(iv) Ambiguity in authoritative text of the Act, where it is in two versions.—Where the Act (U.P. Zamindari Abolition and Land Reforms Act, 1951) is in two versions, Hindi and English, and there is ambiguity in the authoritative English version, it is permissible to look into the Hindi text to remove the doubt or ambiguity, since it is the Hindi text in which the Act was originally passed by the Legislature.[7] Hindi version of the Act can be used in M.P. for explaining any ambiguity in the authorised English translation of that Act.[8] No bar

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1. *Ijjatulla Bhuyan* v. *Chandra Mohan Banerjee*, ILR 34 Cal 954, 969-70 (FB); *John Summers & Sons, Ltd.* v. *Frost*, (1955) All ER 870.
2. *Ram Nandan* v. *Kapil Deo*, 1951 SCR 138, 144; *see* also *Chandu Kutti* v. *Maha Devi*, AIR 1928 Mad 534.
3. *Ram Nandan* v. *Kapil Deo*, 1951 SCR 138, 144; *see* also *Chandu Kutti* v. *Maha Devi*, AIR 1928 Mad 534.
4. *Miss Lalla Chacko* v. *State of Kerala*, 1967 Ker 124 (K.K. Mathew, J.); *see* also *Principal, Patna College* v. *Raman*, (1966)1 SCR 974, 985 (Gajendragadkar, C.J.).
5. *Ram Krishna* v. *Janpad Sabha*, AIR 1962 SC 1073, 1079; *Mehramensinhji* v. *State of Bombay*, ILR 1965 Guj 597 : (1965)6 Guj LT 655 (Calcutta); *National Bank* v. *Abhoy Singh*, AIR 1959 Cal 464 at p. 470 (SC Lahiri, J.).
6. *Kirkness* v. *John Hudson & Co., Ltd.*, (1955)2 All ER 345; *Rattanchand Hirachand* v. *Askar Nawaz Jung*, (1991)3 SCC 67; *Ramesh Singh* v. *Chinta Devi*, (1994)1 BLJR 464 : (1994)1 Pat LJR 650.
7. *Pt. Mata Badal Pandey* v. *Board of Revenue*, 1976 All LR 393 (FB).
8. *Gulabchand Kannoolal* v. *State of M.P.*, 1982 MPLJ 7 (FB).

in doing so.[1]

(v) When language ungrammatical or inappropriate.—When the language of the section is not only ungrammatical but also inappropriate and keeping in mind that course have repeatedly refused to add words to a statute unless the Act itself, on a consideration of what it is intended to effect, makes it a matter of necessity so to do, it is unquestionably open to the Court where, nonetheless, the intention of the section can be seen, to construe the section as though the *words* were *transposed* if by so doing effect can be given to the intention. Since, as the language stands, it does not make sense or affect the apparent intention of the section, and since a construction which, in effect, transposes one word which may well have been inadvertently remedies an otherwise obvious omission of a matter radically important to the intention of the section, and obviates as well the necessity for concluding that the words to express a vital condition have been altogether left out, the section should be construed as though the word 'would' were transposed in the manner indicated.[2]

2. When language is ambiguous.—A provision is not ambiguous merely because it contains a word which in different contexts is capable of different meanings. It would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning. By an ambiguity is meant a phrase fairly and equally open to diverse meanings.[3] Where the language is of doubtful meaning, or where an adherence to the strict letter would lead to injustice, to absurdity, or to contradictory provisions, the duty devolves upon the Court of ascertaining the true meaning. It is in this area of legislative ambiguities that Courts have to fill up gaps, clear doubts and instigate hardships which leaves a sufficient discretion for the Judges to interpret laws in the light of their purpose,[4] but it is not permissible first to create an artificial ambiguity and then try to resolve the ambiguity by resort to some general principles.[5] In the absence of any ambiguity, there is no question of taking any external aid to the interpretation.[6] The words of a statute when there is doubt about their meaning are to be understood in the sense in which they best harmonise with the subject of the enactment and the object which the Legislature has in view. Their meaning is found not so much in a strictly grammatical or etymological sense of language, nor even its popular use, as in the subject or in the occasion on which they are used and the object to be attained.[7] The universal and the most effective way of discovering the true meaning of a law when its expressions are dubious is by considering the reasons and spirit of it or the cause which induced the Legislature in enacting it. It is a well-understood rule of interpretation that in order to understand the true nature and scope of an Act, it is necessary to ascertain what the evils were which were intended to be redressed by it.[8] Again if the words used are ambiguous their meaning may be sought by examining the context with which such words may be compared in order to ascertain their true

1. *Jethanand* v. *Nagar Palika*, 1980 Jab LJ 494.
2. *Salisbury* v. *Gilmore*, (1941)2 All ER 817; *Lyde* v. *Barnard*, (1836)5 LJ Ex 117.
3. *Kirkness* v. *John Hudson & Co., Ltd.*, (1955)2 All ER 345, 366 (HL).
4. *Motor Owner's Insurance Co., Ltd.* v. *Jadavji Keshoji Modi*, (1981)22 Guj LR 1208 (SC).
5. *C.I.T., Madras* v. *Indian Bank, Ltd., Madras*, AIR 1965 SC 1473.
6. *Om Prakash* v. *Dig Vijendra Pal*, 1982 ALJ 376 (SC) : AIR 1982 SC 1230.
7. Maxwell's *Interpretation of Statutes*, 12th Ed. at p. 76, adopted by S.R. Das, C.J., in *State of U.P.* v. *Torlbit*, AIR 1958 SC 414 at p. 416; *The Hyderabad (Sind) Electric Supply Co., Ltd.* v. *Union of India*, AIR 1959 Punj 199 : "any other sufficient reason." *Amrithammal* v. *Marimuthu*, AIR 1967 Mad 77, 82 (Natesan, J.) : 'child' in Section 488, Cr. P. Code. (new Sections 125 and 126 of 1973 Code).
8. *M.P.V.. Sundararamier and Co.* v. *State of A.P.*, AIR 1958 SC 468.

effect and meaning.[1]

Awkwardness is not ambiguity, nor do defined multiple meanings, each of which is satisfied by the allegations of the information, constitute a want of definiteness.[2]

If the intention of the Legislature cannot be discovered, it is the duty of the Court to give the statute a reasonable construction, consistent with the general principles of law. Courts should not attribute to the Legislature the enactment of a statute devoid of purpose, but where the language is clear and unambiguous but at the same time incapable of reasonable meaning, the Court cannot construe the statute to give it a meaning. The Court cannot attribute to the Legislature an intent which is not in any way expressed in the statute.[3]

If the words of an instrument are ambiguous in the sense that they can reasonably bear more than one meaning, that is to say, if the words are semantically ambiguous, or if a provision, if read literally, is patently incompatible with the other provisions of that instrument, the Court would be justified in construing the words in a manner which will make the particular provision purposeful.[4]

If any doubt arises from the terms employed by the Legislature, it has always been held a safe means of collecting the intention, to call in aid the ground *and cause of making the statute and to have recourse to the preamble*, which according to Chief Justice Dyer, is a key to open the minds of the makers of the Act, and the mischiefs they intended to redress.[5] Lord Macnaghten, after referring to the *Sussex Peerage* case,[6] adds for himself this passage in *Vachaa and Sons, Ltd.* v. *London Society of Compositors*[7] :

> "Now-a-days when it is a rare thing to find a preamble in any public general statute, the field of enquiry is even narrower than it was in former times. In the absence of a preamble there can, I think, be only two cases in which it is permissible to depart from the ordinary and natural sense of the words of an enactment. It must be shown either that the words taken in their natural sense lead to some absurdity, or that there is some other clause in the body of the Act inconsistent with, or repugnant to, the enactment in question construed in the ordinary sense of the language in which it is expressed."

When the terms of a section are obscure or ambiguous reference to the *marginal note* is permissible.[8]

Other parts in statute may be referred to.—If the language is such that it is either

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1. *Basant Ram Ralla Ram* v. *Gurcharan Singh*, AIR 1959 Punj 578 at p. 580.
2. *United States* v. *Shirey*, 359 US 255 : 3 L Ed 789, 792.
3. *Corpus Juris*, Vol. 59 at pp. 957, 958, quoting *inter alia Roshes* v. *Kirkealdy, etc., Waterworks Commissioners*, 7 AC 702; *Ex parte* Walton, 17 Ch D 764; *Johnson* v. *Southern Pacific Co.*, 196 US 1 : 47 L Ed 363; *Northern Pac Ry Co.* v. *Concannon*, 239 US 382 : 60 L Ed 342.
4. *Union of India* v. *S.H. Sheth*, (1977)4 SCC 193.
5. *Sussex Peerage* case, (1844)11 Cl & F 85, 143, quoted with approval in *Huddart Parker & Co. Proprietary Ltd.* v. *Moorehead*, 8 CLR 320, 437.
6. *Sussex Peerage* case, (1844)11 Cl & F 85, 143; 65 RR 11, *per* Tindal, C.J. (cited in The Argos, Cargo ex. 1873 LR 5 PC 134, 153 by Sir Moulagne E. Smith delivering the judgment of the Judicial Committee and by Lord Halsbury, L.C., in *Commissioner S.P., Income-tax* v. *Pemsel*, 1891 AC 531, 543. Preamble may be referred to for the purpose of solving an ambiguity; *Mani Lall Singh* v. *Trustees, etc., Calcutta*, ILR 45 Cal 343, 365 (FB); *see* also *Rajmal* v. *Harnam Singh*, ILR 9 Lah 260; *Corporation of Calcutta* v. *Kumar Arun Chandra*, AIR 1934 Cal 862, 864; *Kannammal* v. *Kanakasabai*, AIR 1931 Mad 629, 630.
7. 1913 AC 107, 117, 118.
8. *Gampatrao* v. *Emperor*, AIR 1932 Nag 174, 176; *see* also *Ramsaran Das* v. *Bhagwat Prasad*, AIR 1929 All 53 (FB), (*per* King, J.).

ambiguous or capable of more than one meaning, the Courts must seek aid from the other provisions of the statute itself, in order to arrive at the proper meaning of the word used in that statute; and that interpretation should be accepted which would result in properly carrying out the intention of the Legislature in enacting that statute.[1]

It is a recognised rule of construction that the words of the statutes, when there is a doubt about their meaning, are to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the Legislature has in view.[2] If there is any ambiguity in the use of a word, it has to be resolved in the light of the object of the enactment.[3] If there were any doubt or ambiguity as to the correct interpretation of the provisions of a statute, and the Court is dealing with benevolent legislation, the Court ought to interpret the Act so as to prevent the mischief and to promote the remedy.[4]

The fundamental rule of interpretation is the same whether one construes the provisions of the Constitution or an Act of Parliament, namely, that the Court will have to find out the expressed intention from the words used in the Constitution or the Act, as the case may be. If, however, two constructions are possible, then the Court must adopt that which will ensure smooth and harmonious working of the Constitution or the Act and eschew the other which will lead to absurdity or give rise to practical inconvenience or make well-established principles of existing law nugatory.[5] The attempt should be to harmonise the various provisions of the enactment.[6] But the provisions of one section in the Act cannot be used to defeat the provisions of another section in the same Act unless reconciliation is impossible.[7] It is a settled principle of interpretation that in case of doubt the leaning must be in favour of the subject and one should so harmoniously construe the provisions of the statute as to avoid impairing obligations and to advance the object of the Act.[8]

Plain words have to be accepted as such but where the intention of the Legislature is not clear from the words or where two constructions are possible, it is the Court's duty to discern the *intention* in the context of the background in which a particular section is enacted. Once such an intention is ascertained the courts have necessarily to give the statute a purposeful or a functional interpretation. Now it is true to say that acts arrived at *social amelioration* giving benefits for the have-nots should receive liberal construction. A construction that *promotes the purpose of the legislation* should be *preferred to a literal construction.* A construction which would defeat the rights of the have-nots and the underdog and which would lead to injustice

1. *Mohan Lal* v. *Grain Chamber, Ltd.*, AIR 1959 All 275, 287; *Sunder Dass Bhasin* v. *The Regional Settlement Commissioner*, ILR (1959)9 Raj 76 : AIR 1959 Raj 102 (avoid anomaly or injustice); *Himmat Singh* v. *State*, AIR 1965 Guj 302, 307 (Vakil, J.); *State* v. *Bhikhubhai*, AIR 1965 Guj 70, 76 (Miabhoy, J.).
2. *Vithoba* v. *Govindrao*, AIR 1933 Nag 193, 197 (FB); *State of U.P.* v. *Ram Narain Lal*, AIR 1966 All 63.
3. *Rukhmanibai* v. *Keshavlal Ramlal*, AIR 1959 MP 187; *Harbans Singh* v. *State of Punjab*, 1972 Cur LJ 168, 180 (Narula, J.); *R.L. Sahni & Co.* v. *Union of India*, AIR 1966 Mad 416, 418 (Chandra Reddy, C.J.); *R.D. Saxena* v. *State Industrial Court*, 1982 JLJ 702 (MP).
4. *H.R. Desai* v. *B.M. Batliwala*, AIR 1968 Bom 62, 67; *Sevantilal Maneklal Sheth* v. *C.I.T.*, AIR 1968 SC 697.
5. *Chandra Mohan* v. *State of U.P.*, AIR 1966 SC 1987 : 1966 All LJ 778; *Bal Mukund Sah* v. *State of Bihar*, (1995)1 BLJR 469 (Pat) (DB) : (1995)1 Pat LJR 137, referring to *Christopherson* v. *Latinga*, (1864)33 LLCP 121; *Malavrao Jivajirao Scindia* v. *Union of India*, AIR 1971 SC 530; *N.T. Velusami Thevar* v. *Raja Nainar*, AIR 1959 SC 422; *Nasiruddin* v. *State Transport Appellate Tribunal*, AIR 1978 SC 331.
6. *Prem Prakash Agarwala* v. *Ram Pratap*, AIR 1967 All 47; *Sheonath Das* v. *Babulal*, 1965 All LJ 419; *Ajmal Singh Bathar Singh* v. *State of Gujarat*, AIR 1965 Guj 302.
7. *D. Sanjeevayya* v. *Election Tribunal*, AIR 1967 SC 1211.
8. *Union of India* v. *Karam Singh Sahib Ditta Mal*, AIR 1969 Punj 207.

should always be avoided.[1] In law, however, the true construction of any section in a statute is that which is more consistent with the scheme of the Act as a whole and not less with the essential principles underlying it.[2]

Assistance can be taken for purposes of interpretation from the intention of the Legislature where there may be ambiguity in the language. Thus if it be held that the use of the conjunction 'and' in order to link the first and second parts of Sub-section (2) of Section 29 of the Limitation Act, 1908, creates an ambiguity and enables Courts to place the interpretation that the applicability of the second part is restricted only to those cases which are covered by the first part and to ignore the effect of the word 'any' used before the expression 'period of limitation prescribed' in the second part, Courts would be justified in finding out what the real intention of the Legislature was by considering the effect of the two different interpretations in its application to particular cases that are likely to arise. The correct interpretation of Sub-section (2) of Section 29 appears to be that the second part of that sub-section will apply in all cases for the purpose of determining the period of limitation prescribed for any suit, appeal of application under any special or local law and, as a consequence, whenever the period of limitation prescribed for any suit, appeal or application by any special or local law has to be determined, the provisions contained in Sections 4, 9 to 18 and 22 shall apply, except in so far as and to the extent to which they may be expressly excluded by such special or local law and the remaining provisions of the Limitation Act would not apply.[3]

A court if it finds that the meaning of a statutory provision is not clear in itself, can examine the *surrounding circumstances* that led to or accompanied its enactment.[4]

In the interpretation of ambiguous expressions in a statute the *state of facts* which must be taken to have been within the knowledge of the Legislature at the time the statute was passed, may be considered.[5]

And where an Act speaks with an uncertain or ambiguous voice, resort may be had to the *previous history* of the subject for light and guidance in construing its provisions.[6] If there be any doubt or difficulty in the wording of the particular section in question, an inquiry is permissible into the history of the enactment and any *supposed defect in the former legislation* on the subject which it wanted to cure.[7] The examination of such history is not only permissible but is also of great assistance when the statute has undergone changes by way of amendment or otherwise.[8]

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1. *Bharat Singh* v. *Management of New Delhi, Tuberculosis Centre, New Delhi*, AIR 1986 SC 842 : 1986 Lab IC 850 : (1986)2 SCC 614 : (1986)52 Fac LR 621 : (1986)1 Cur LR 414 : 1986 SCC (Lab) 335 : (1986)2 Serv LJ 63 : (1986)2 SCWR 6 : (1986)2 Lab LN 4 : (1986)2 SCJ 129 : (1986)2 UJ (SC) 339 : (1986)69 FJR 129.
2. *State of Bihar* v. *Chandreshwar Prasad*, AIR 1960 Pat 1, 3 (SB). The construction should help the furtherance of the object of the Act; *Kungu Govindan* v. *Parokal Kunhi Lakshmi*, AIR 1966 Ker 244 (FB).
3. *Sehat Ali* v. *Abdul Qavi*, AIR 1956 All 273, 282-83, (*per* Bhargava, J.).
4. *Hatimbhai* v. *Fromroz*, AIR 1927 Bom 278, 300 (FB); *see also Secretary of State* v. *Raj Kumar*, AIR 1923 Cal 585, 586.
5. *Merchant Service and Guild of Australia* v. *Archibald Curree & Co. Proprietary, Ltd.*, 5 CLR 737, 745.
6. *Sarbeswar* v. *Bejoy Chand Mehtab*, AIR 1922 Cal 287, 297 (2); *see also Moolji Jaitha Co.* v. *K.S. and W. Mills*, 1950 FCR 849. It is a fit case for amendment; *Chandu Kutti* v. *Mahadevi*, AIR 1979 Mad 534; *Central Bank. Ltd.* v. *Venkata Rama Naidu*, AIR 1963 Mad 147 : (1963)1 MLJ 345 : 76 MLW 32; *Thiru Manickam & Co.* v. *State of Tamil Nadu*, 1976 UJ (SC) 943.
7. *Jumna Prasad* v. *Moti Lal*, AIR 1950 Cal 63, 64.
8. *Haji Abdul Shakoor & Co.* v. *Haji Mohammad Ibrahim*, AIR 1962 Mys 239.

Prior legislation may, in case of ambiguity, materially assist in ascertaining the intention of the Legislature.[1] A reference to pre-existing law would show the defect or *lacuna* therein for rectifying which the amending legislation was brought.[2] But subsequent legislation cannot be called in aid to construction of prior Acts.[3]

With regard to *Amending Acts*, Lord Macnaghten said in *London County Council* v. *Attorney-General*[4] : "How can you understand the true meaning and effect of an amendment unless you bear in mind the state of the law which it was proposed to amend. It is necessary, therefore, to take a wider survey and then, I think, the meaning of the enactment becomes plain enough." These words would in principle pass without controversy, but the learned Lord found it desirable to give utterance to them because an erroneous view had been taken by the Court of Appeal of an amending Income Tax Act, which could not properly be understood without reference to the earlier Acts on the same subject.

In construing an expression of doubtful import in a statute the Court may well have regard also to considerations *outside the language of the Act*. In *Emperor* v. *Atmaram*,[5] it was necessary to consider the import of the expression 'discipline and general government' occurring in Section 12, Clause *(a)* of the Bombay City Police Act. The validity of the order of the Commissioner of Police was in question in a test case. What led to that order was that a large number of police officers contemplated holding a meeting to discuss the question of the adequacy of their salaries. Chandervarkar, J., made the following pertinent observations in connection with considerations outside the language of the Act :

> "The police force is maintained for the well-being of His Majesty's subjects. It is intended to fulfil towards His Majesty's subjects within His Majesty's Kingdom the same purpose which the army is intended to fulfil outside it. The soldier protects the subjects against enemies outside the Kingdom; the police against enemies inside it. In either case the purpose is in nature the same. They are maintained for the public. In either case the object is security of life and property. All laws, relating whether to the army or the police, are based upon the principle that the army and the police are for the public, not the public for them. And where there is a doubtful question of construction as regards any of such laws, words or expressions at all ambiguous should be construed so as to subordinate all considerations of private to the public interest. That is the principle of constructions to be observed with regard to statute intended for the public benefit (*see* the observations of Lord Selborne in *Diyon's* case).[6] If it is true of soldiers that obedience to their Commanding Officer is their first law, that, as pointed out by Adam Smith in his Lectures on Law and Police, all military laws and rules are framed upon the principle that 'it is the fear of their officers and of the rigid penalties of the martial law which is the cause of their good behaviour', and it is to this principle that we owe their valiant actions, the same considerations must, at least to a substantial, if not full extent, apply to the police-force as well. In the case of soldiers, whether they can meet or not in a body to discuss the subjects

1. *Metropolitan Meat Industry Board* v. *Firlayson*, 21 CLR 340, 346; *see* also *Seward* v. *The Vera Cruz*, 10 AC 59, 68; see *State of Bihar* v. *S.K. Roy*, AIR 1966 SC 1995 : 1966 BLJR 873.
2. *Dharma Modehar* v. *Abdulla*, (1963)2 MLJ 211 : 76 MLW 406.
3. *Dolat Singh* v. *Chief Controlling Revenue Authority*, (1975)16 Guj LR 774 (DB).
4. (1901) AC 26, 35; *see* also *Adams* v. *Commissioner of Taxation*, (1909)10 CLR 180, 199 : on appeal, 16 CLR 494, *Union of India* v. *S.H. Sheth*, (1977)4 SCC 193.
5. 6 Cr LJ 47 : 9 Com LE 631.
6. (1880)5 AC 820, 827.

connected with military affairs is treated as a matter of military discipline, and they cannot so meet without the permission of their Commanding Officer. That was not disputed before us at the bar. So also as to volunteers. In their case deliberations or discussions on any matter connected with the discipline of a corps or with the object conveying praise to or censure on a superior are prohibited. 'No meetings of volunteers will be held except under the authority of the Officer Commanding...'[1] In the 'Instructions for the Liverpool City Police Force', published in 1896 by Mr. J. W. Nott-Bower, Head Constable, by order of the Watch Committee, we find among the regulations, one which directs that no member of the force shall call or attend any meeting 'to discuss any subject connected with the force without the sanction of the Head Constable.' In 'the Police Code and General Manual of the Criminal Law for the British Empire' edited by Sir Howard Vincent, is given the following regulation at page 122—'Meetings : 1, police must not, on any account, meet together for any purpose whatever, except by permission of their superiors.' And in the address to Police Constables which was delivered by Lord Brampton (who presided in the High Court of England as one of the Judges and distinguished himself by his familiarity with the criminal law in particular) and which is printed at the beginning of the Code, he says : 'First of all, let me impress upon you the necessity of absolute obedience to all who are placed in authority over you, and rigid observance of every regulation made for your general conduct. Such obedience and observance I regard as essential to the existence of police-force.' Judging by all these considerations, arising from the language of Bombay Police Act and from foreign circumstances material to the purpose for which a police force is maintained, we come to the conclusion that the order issued by the Commissioner of Police, which the accused in both the cases before us are found to have wilfully disobeyed, related to the 'discipline and general government' of the force and it is therefore a lawful order which every member of the force was and is bound to obey."

When the language of a statute is not clear, to ascertain the real meaning, the cause or necessity of the law being made should be considered.[2] If any doubt arises from the term 'employee' by the Legislature it has always been held a safe means of collecting the intention to call in aid the *ground and cause of making the statute.*

"In determining the question before us, we have, therefore, to consider not merely the words of the Act, but the intent of the Legislature to be collected from the cause and necessity of the Act being made, from a comparison of its several parts, and from foreign meaning and extraneous circumstances, so far as they can be justly considered to throw light upon the subject.[3] We recognize the value of the rule of construing statutes with reference to the evil they were designed to suppress as an important aid in ascertaining the meaning of language in them which is ambiguous and equally susceptible of conflicting constructions. But this Court has repeatedly held that this rule does not apply to instances which are not embraced in the language of the statute, or implied from a fair interpretation of its context, even though they may involve the same mischief which the statute was designed to suppress."[4]

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1. Army Regulations, India, Vol. IX at p. 6, under the heading of 'Discipline'.
2. *Seena M. Haniff* v. *Lipton's, Ltd.*, 15 Cr LJ 337 : 23 IC 689 (LB); *see* also *Barber* v. *Pigden*, (1937) 1 All ER 115, 125 where Scott, L.J., referring to the abolition of the liability of the husband in respect of torts committed by his wife observed : "The language of Part 1 [Law Reform (Married Women and Tortfeasors) Act, 1935] discloses an intention to make a clean sweep of the old legal fiction of our common law that a woman on marrying became merged in the personality of her husband, and ceased to be a fully qualified and separate human person"; *Mumbai Kamgar Sabha* v. *Mls. Abdulbhai Faizullahbhai*, AIR 1976 SC 1455, construction in conformity with social philosophy to be preferred.
3. *Hawkins* v. *Gathercole*, 43 ER 1129.
4. *Fasulo* v. *United States*, 272 US 620 : 71 L Ed 443.

Where the words used are ambiguous, it would clearly be the duty of the Court to assign to them such meaning as would give effect to the Act and as would be consistent with the object of the Legislature in passing the Act.[1] It is but fundamental that when two interpretations are possible that which better effectuates the intention of the Legislature would be adopted.[2]

"Where a Legislature have made their intentions obscure, a Judge is bound to infer that there is *no departure from the ordinary law* intended, unless expediency or some other consideration compel one to infer that it was intended.[3] Where a statute is ambiguous, the presumption that a Legislature does not intend to interfere with vested rights is no doubt reinforced by the absence of provisions for compensation", said Gwyer, C.J., in *Bhola Prasad* v. *Emperor*.[4]

If a particular statute is found to be ambiguous, that is susceptible of two meanings, one leading to the invasion of the *liberty of the subject* and the other not, the latter has to be preferred on the ground that there is always the presumption that it is not the ordinary intention of Legislature to interfere with the liberty of the subject.[5] Where two constructions of a provision of law are possible, the benefit of doubt must always be given to the person on whose liberty an inroad has been made without trial.[6]

Where there is a *reasonable ground for doubt* as to the correct interpretation of an enactment that interpretation should be adopted which is most in favour of the person to be penalised, especially in fiscal and penal statutes and which will prevent or will not permit an abuse of the process of the law.[7] Where an equivocal word or ambiguous sentence leaves a reasonable doubt of its meaning which the canons of interpretation fail to solve, the *benefit of doubt* should be given to the *subject* and *against the Legislature* which has failed to explain itself.[8]

Sir J. Melish, L.J., in delivering the judgment of the Court in the case of *ex parte Weir*,[9] said :

> "We are of opinion that where the construction of the Act is ambiguous or doubtful on any point, recourse may be had to the rules which have been made by the Lord Chancellor under the authority of the Act, and if we find that in the rules any particular construction has been put on the Act then it is our duty to adopt and follow that construction."

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1. *Bhagwant Rambhau* v. *Ramchandra Kesho*, 54 Bom LR 833; *F.P. Misser* v. *Das*, ILR 31 Pat 963; *Kungu Govindan* v. *Parakkat Kunhilekshmi*, AIR 1966 Ker 244 (FB) : 1965 Ker LJ 377; *Murli Prasad* v. *Parasnath*, AIR 1967 Pat 191, 196 (Ramratna Singh, J.); following *Municipal Development, Ltd.* v. *Union of India*, ILR 33 Pat 198.
2. *Kode Kutumba Row* v. *Kode Sesharatnamamba*, AIR 1967 Andh Pra 323, 329 (FB) (Kumarayya, J.); *Public Prosecutor* v. *Amrath Rao*, AIR 1960 Andh Pra 176, 178 (Krishna Rao, J.) : which could harmonise with the object of the statute; *Gauri Kumari* v. *Krishna Prasad*, AIR 1957 Pat 575, 583 (Ahmad, J.).
3. *Hargovind Fulchand* v. *Bai Hirbai*, ILR 44 Bom 986, 1006; *see* also *Firm Ramdeo Onkarmal* v. *State of U.P.*, 1981 All LJ 850 (SC); case of construction by implication.
4. 1942 FCR 17, 28.
5. *Karamvir* v. *State*, AIR 1954 Pat 57
6. *Ghulam Nabi* v. *State*, AIR 1954 J & K 7.
7. *Emperor* v. *Himanchal Singh*, AIR 1930 All 265 (FB); *In re* Ghin Ah Yaing, 24 IC 823, 825.
8. *Nagin Singh* v. *Jaggan Nath*, AIR 1944 Lah 422, quoting Maxwell on the *Interpretation of Statutes*, 8th Ed. at p. 248; *see* also *Narendra Kumar* v. *State*, AIR 1972 Bom 184, 189 (Vimadalal, J.), which will avoid the penalty.
9. (1817)6 Ch 875; *Lakhpath Singh* v. *Sat Narain Singh*, AIR 1931 Oudh 22 (the process of carrying judicial interpretation dangerously near the process of legislative enactment is permissible when there seems to be no other alternative but to admit that the Act is inconsistent or unintelligible); *Jagdamba* v. *Mataprasad*, AIR 1935 Oudh 427, 428.

Craies on *Statute Law*[1] says : "Where the language of an Act is ambiguous and difficult to construe, the Court may, for assistance in its construction, refer to rules made under the provisions of the Act, especially where such rules are, by the statute authorising them, directed to be read as part of the Act."

No doubt in the case of an ambiguity, that meaning must be preferred which is more in accord with justice and convenience, but in general the words used read in their context must prevail.[2] Although the language of a statute is first the test for its interpretation, there are other equally important tests, when the language is not clear and unambiguous, and when more than one interpretation is possible. In such circumstances, the interpretation which appears to be most *in accord with reason, convenience and justice* is to be preferred.[3] If the words are sufficiently clear either for or against an appeal, there can be no issue regarding the right. If, however, the words are ambiguous and are capable of being construed as sustaining a right of appeal or as conferring such a right it would be proper and legitimate for the Court to uphold the right. Broadly stated, the ambiguity resulting from the language of an enactment is resolved by adopting that meaning which accords with justice and good sense. As between two constructions which are open both being equally plausible, the Court my lean in favour of the more reasonable of the two.[4] A Court is entitled in case of doubt to reject an alternative which must lead to undesirable if not to anomalous results.[5] The rules of interpretation fully clothe the Courts to construe law in a manner which would not lead to absurdity.[6] The intention of the Legislature as embodied in the statute must primarily be ascertained from the language used by the statute. If the language is clear and unambiguous and admits of one meaning only, that must be given effect to. If the language is not clear , a word of common usage should be given its ordinary and natural meaning unless the meaning would defeat the object of the law or be contrary to a reasonable operation of the statute or the proposed construction is harsh or absurd.[7] If it appears that one of the constructions will do injustice and the other avoid injustice, then it is the bounden duty of the Court to adopt the second.[8] An arbitrary power in the very nature of things is not likely to advance the cause of justice,[9] and an interpretation which confines powers to reasonable limits should be preferred.[10] Where the statutory rule and the Act can be harmonised effect must be given to both.[11]

3. When two interpretations possible.—The fundamental rule of interpretation is the same whether one construes the provisions of the Constitution or an Act of Parliament, namely, that

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1. Craies on *Statute Law*, at p. 146 of 4th Ed.; followed by Venkataramana Rao, J., in *Ramanuja* v. *Pichu Iyengar*, AIR 1937 Mad 481, 483 : ILR 1937 Mad 1023; (but reference should not be made to Manuals of Instruction issued by the Government Departments); *Chhuna Mal* v. *Commissioner, Income-tax*, AIR 1931 Lah 320 (2); *Sheikh Intaz* v. *Dina Nath*, AIR 1926 Cal 856.
2. *Babulal* v. *Emperor*, AIR 1933 PC 131, 133 (Lord Wright). *Ramaswami Iyer* v. *Union of India*, AIR 1963 Bom 21, 24.
3. *Permanand* v. *Emperor*, AIR 1939 Lah 81, 85 (FB); *Maikoo Lal* v. *Santoo*, AIR 1936 All 576 : ILR 58 All 3064 (FB) (and in accord with legal principles); *Emperor* v. *Turab Khan*, AIR 1942 Oudh 39 : ILR 17 Luck 52; *Sorabji Dadabhai* v. *B.N. Ry. Co.*, AIR 1936 Pat 393, 394; *Bhadramma* v. *Kotam Raj*, AIR 1955 Hyd 140; *Ramchandra Rao* v. *Venkata Lakshminarayana*, AIR 1964 Andh Pra 31, 35 (Jaganmohan Reddy, J.); *T.C. Sharma* v. *Inspector-General of Prisons*, 1977 MPLJ 292 : 1977 Jab LJ 742 (DB).
4. *Samidorai* v. *Vaithilinga*, AIR 1964 Mad 314 (Jagadisan, J.); *Muhammed* v. *Koyammu Haji*, 1989(1) KLT 317.
5. *Venkatanarasayya* v. *Official Receiver, Godavari*, AIR 1927 Mad 826.
6. *Deepchand Nayak* v. *M.P. State Road Transport Corporation*, 1976 Jab LJ 696.
7. *Aminchand* v. *State of Punjab*, 54 Punj LR 493.
8. *Hill* v. *East & West India Dock Co.*, 9 AC 448, 456, *per* Earl Cairns, L.C.; *Ingham* v. *Hie Lee*, (1912)15 CLR 267, 270.
9. *Sadeppa* v. *Sadasiva*, AIR 1964 Mys 145, 146 (Hegde, J.).
10. *Keshо Ram* v. *Delhi Administration*, (1974)1 SCWR 671.
11. *Mrs. Ram Autar Santosh Kumar* v. *State*, AIR 1987 Pat 13 : 1986 PLJR 818 : 1986 BLJ 700 (FB).

the Court will have to find out the expressed intention from the words of the Constitution or the Act as the case may be. "It is well-settled rule of interpretation, hallowed by time and sanctioned by authority that the meaning of an ordinary word is to be found not so much in strict etymological propriety of language, nor even in popular use, as in the subject or occasion of which it is used and the object which is intended to be attained",[1] observed the Supreme Court on being cal'ed upon to interpret the word ' hear' in Section 235(2), Cr.P.C. which word was found capable of bearing two meanings depending upon the context. But, if however, two constructions are possible, then the Court must adopt that which will ensure smooth and harmonious working of the enactment and eschew the other which will lead to absurdity or give rise to practical inconvenience or make well-established provisions of existing law nugatory.[2] If the words of a statute are susceptible of two interpretations, they should be construed in a sense which is more in harmony with the intention of the Legislature though it might be less correct grammatically.[3] If an alternative construction can be put which would avoid injustice and not take away the right of appeal itself which is very valuable right, it is the duty of the Court to try and put such a construction.[4] If the words of an Act admit of two interpretations, then they are not clear; and if one interpretation leads to an absurdity and the other does not, the Court will conclude that the Legislature did not intend to lead to an absurdity and will adopt the other interpretations.[5] It is a settled rule of construction that if the words used are ambiguous and admit of two interpretations and one of them leads to manifest absurdity or to a clear risk of injustice and the other leads to no such consequences, the second interpretation must be adopted.[6] Where a statute is ambiguous and susceptible of two constructions, convenience may be taken into consideration in the interpretation thereof. A construction which produces convenient results is favoured while a construction which produces inconvenient results is avoided. In any case the Courts must steer clear of a construction which would be unjust, oppressive, unreasonable or absurd.[7] Of the two alternative constructions which are both possible, the one which does not lead to absurdity should be accepted, and specially so when it is one which is most in accordance with the intention of the Legislature so far as it can be gathered from the provisions of the Act taken as a whole.[8] Where alternative constructions are open, the Court will adopt that construction by which the intention of the Legislature will be better effectuated or which will be consistent with the smooth working of the system which

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1. *Santa Singh* v. *State of Punjab*, (1977)21 Mad LJ (Cr) 41 (SC).
2. *Chandra Mohan* v. *State of U.P.*, (1967)1 SCR 77, 87 (Subha Rao, C.J.); *Chintu Savitramma* v. *Biddarag Siva Kumar Debi*, AIR 1982 AP 145 (FB).
3. *Jaggamma* v. *Satyanarayanmurthi*, 1957 Andh WR 520 : AIR 1958 AP 582.
4. *Jana* v. *Parvati*, AIR 1958 Bom 345, 346; *Vamanan* v. *Narayana*, AIR 1965 Ker 1, 2 (Menon, C.J.).
5. *Corporation of the City of Victoria* v. *Bishop of Vancouver Island*, AIR 1921 PC 240, 242, quoting Lord Esher in *Reg.* v. *Judge of the City of London Court*, (1892)1 QB 273; *Rakesh Kumar* v. *State*, 1982 Sim LC 35 (DB).
6. *Shiv Charan Das* v. *Ram Saran Das*, AIR 1943 Lah 148, 154 (FB); *Khan Gul* v. *Lakha Singh*, ILR 9 Lah 701, 710 (FB); *Arunachalam Chetty* v. *Official Receiver, Ramnad District*, ILR 50 Mad 239 : AIR 1927 Mad 166, 169; *Kundan Lal* v. *Emperor*, AIR 1931 Lah 353; *A.A. Haja Muinuddin* v. *Indian Railways*, AIR 1993 SC 361; *Ramesh Singh* v. *Chinta Devi*, (1994)1 BLJR 464 : (1994)1 Pat LJR 650; *(M/s.) Amrapali Films Ltd.* v. *State of Bihar*, (1989) Pat LJR 199; relying on *Commissioner of Sales Tax, Gujarat* v. *State of Gujarat*, (1981)1 SCC 51; *Commissioner of Sales Tax, U.P.* v. *Modi Sugar Mills*, AIR 1961 SC 1047 : (1961)2 SCR 149; *(M/s.) Braithwait Co. (India) Ltd.* v. *Employees' State Corporation*, AIR 1968 SC 413; *American Home Products Corporation* v. *Mac. Laboratory Pvt. Ltd.*, (1986)1 SCC 465.
7. *National Planners* v. *Contributories*, AIR 1958 Punj 230, 232 (FB); *Union of India* v. *Maj. Bakshi Chand*, 1976 Rev LR 312 : 1976 Cur LJ (Civil) 247 : (1976)78 Punj LR 370; *Shamlal* v. *Union Territory, Chandigarh*, (1977)79 Punj LR 421 (DB); *State* v. *Nanoo*, (1978)80 Punj LR 17.
8. *Dost Mohd.* v. *Mohan Dass*, AIR 1926 Sind 81, 83.

the statute purports to regulate and that alternative is to be rejected which will introduce uncertainty, friction or confusion into the working of the system.[1]

Where a provision is capable of two interpretations the Court should accept that which validates the provision, rather than the one which may invalidate it. But this principle cannot be pushed too far so as to alter the meaning of clear words and to repeal in effect, the statutory provisions by making them unless without holding them to be void.[2]

It may, therefore, be well settled that, when a statute is susceptible of two or more interpretations, normally that interpretation should be accepted as reflecting the will of the Legislature which is presumed to operate most equitably, justly and reasonably as judged by the ordinary and normal conceptions of what is right and what is wrong and of what is just and what is unjust.[3]

"A construction which will promote predictability of results, maintainability of reasonable orderliness, simplification of judicial task, advancement by Court of the purpose of legislation, and the judicial preference for what it regards as a sounder rule of law as between competing ones, must find favour with the Court", said the Supreme Court in *Rameshwar* v. *Jot Ram.*[4]

As between competing choices, the Court must favour that construction which will promote predictability of results, maintenance of reasonable orderliness, simplification of the judicial task, advance by the Court of the purpose of legislation and the judicial preference for what it regards as the sounder rule of law.[5] Uniformity, fixity and clear predictability are the necessary hall-marks of law and an interpretation which leaves the laws in a state of ambivalence must necessarily be avoided unless the language of the statute leaves no other choice.[6]

It is well-established rule of interpretation of statutes that in case of ambiguity in a procedural provision that construction must be accepted which will advance the remedy rather than prevent it.[7] Referring to the application of the Law of Limitation, Fazl Ali, J., In *Mukhdeo* v. *Harakh Narayan*,[8] observed : "Where there are two possible views under this statute, one tending to deprive a person of his just dues and the other entitling him to recover them, there is no reason, I do not see, why one should not lean in favour of the view which does not entail any hardships or lead to any unjust consequence. When a statutory enactment is ambiguous and capable of two interpretations, one is entitled to take into consideration that there are certain consequences which, it may be presumed, the Legislature did not intend to

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1. *Kamaleshwar Singh* v. *Dharamdeo Singh*, AIR 1957 Pat 375, 377; *Collector of Customs* v. *Digvijaisinghji Spinning and Weaving Mills, Ltd.*, AIR 1961 SC 1549; *D.N. Sanghavi* v. *Ambalal Tribhuvandas*, (1974)1 SCC 708; *N. Singhal* v. *Union of India*, AIR 1980 SC 1255; *Shiveshwar Prasad Singh* v. *Ghurahu*, AIR 1979 SC 413 (418); *State of Gujarat* v. *Jaminadas G. Pabri*, (1975)1 SCC 138.
2. *State of Punjab* v. *Prem Sukhdeo*, 1977 UJ (SC) 281 (282); *Commissioner of Sales-tax* v. *Radha Krishan*, (1979)2 SCC 249 (257); *Corborandum Universal Ltd.* v. *Trustees of Port of Madras*, (1994)1 MLW 183.
3. *Kalu Ram* v. *New Delhi Municipal Committee*, ILR (1966)1 Punj 145 : 67 Punj LR 1190.
4. AIR 1976 SC 1516, case under Punjab Securities of Land Tenure Act, 1953; *see* also *Union of India* v. *B.N. Prasad*, AIR 1978 SC 411, case under Railways Act, 1870, Section 138; *Shiveshwar Prasad Singh* v. *Ghurahu*, AIR 1979 SC 413; *State of Haryana* v. *Sampuran Singh*, AIR 1975 SC 1952.
5. *Rameshwar* v. *Jot Ram*, AIR 1976 SC 1516 : 1976 Rev LR 150 (SC).
6. *Nagender Singh Chauhan* v. *State of Haryana*, 1979 Rev LR 351 (DB).
7. *Gangadhar* v. *Nirvachan, etc., Society*, AIR 1971 MP 16, 19 (Shiv Dayal, J.); *L. Bal Mukand* v. *Lajwanti*, 1975 All LJ 256 (SC).
8. AIR 1931 Pat 285, 291. *See*, however, *Bhara Mal* v. *Ramchandar*, 1964 All LJ 1045, and *S.E. Rly.* v. *Haji Abdul Rahman*, ILR 1963 Cut 387, where equitable considerations were not allowed.

bring about and to prefer a construction which avoid such consequences rather than one which would lead to them.[1] When the Court is faced with two possible constructions of legislative language, it is entitled to look to the results of adopting each of the alternatives respectively in its quest for the true intention of the Parliament. In general if it is alleged that a statutory provision brings about a result which is so startling, one looks for some other possible meaning of the statute which will avoid such a result, because there is some presumption that Parliament does not intent its legislation to produce highly inequitable results.[2] When the words are capable of another interpretation which gives effect to the policy underlying the section, such interpretation should be preferred.[3] If there are two possible interpretations, it is the duty of a Court to accept that one which is more reasonable, more consistent with ordinary practice and less likely to produce impracticable results.[4]

It must, however, be remembered that unless the words are unmeaning or absurd, it would not be in accord with any sound principle of construction to refuse to give effect to the provisions of a statute on the elusive ground that to give them their ordinary grammatical meaning leads to consequences which are not in accord with one's motions of propriety or justice. It is true, that if there are other provisions in the statute which conflict with such notions, the Court may refer the one and reject the other on the ground of repugnance. Where the words in the statute are reasonably capable of more than one interpretation, the object and purpose of the statute, a general conception of its provisions and the context in which they find their place might induce the Court to adopt a more liberal or more strict view of the provisions, as the case may be, as being more in consonance with the underlying purpose. It is a well-established rule of interpretation that in order to find out the true import of enacted words one must look both at the words as well as the object of legislation.[5] But it is not possible to reject words used in the enactment merely for the reason that they do not accord with the context in which they are used or with the purpose of the legislation as gathered from the preamble or long title. The preamble may, no doubt, be used to solve any ambiguity or to fix the meaning of words which may have more than one meaning but it can, however, not be used to eliminate as redundant or unintended the operative provisions of a statute.[6]

No rule is better established than that where two meanings are possible, you must take the *more reasonable one*.[7] In case any provision is capable of two constructions, then it would be open to the Court to adopt such a construction as would help the administration of the statute and avoid unreasonable consequences.[8] Where various interpretations of a section are admissible, it is a strong reason against adopting a particular interpretation if it shall appear that the *result* would be unreasonable or *oppressive*.[9] Where in a statute words are used capable of more than

1. *Sheo Nandan* v. *Emperor*, AIR 1918 Pat 103, 105 (FB).
2. *Fry* v. *Inland Revenue Commissioners*, (1958)3 All ER 90, 94; *Critts & Co.* v. *Inland Revenue Commissioners*, (1953)1 All ER 418, 421.
3. *Smt. Bobba Suramma* v. *Peddireddi Chandramma*, AIR 1954 Andhra 568, 570.
4. *United Provinces* v. *Mst. Atiqa Begum*, 1940 FCR 110, 150 : AIR 1941 FC 16; *Parameshwaran* v. *Narayanan*, AIR 1950 Mad 221 (protracted delay to be avoided).
5. *Dr. Bashiruddin* v. *District Judge, Bulandshahar*, 1978 All LJ 82.
6. *State of Rajasthan* v. *Lula Jain*, AIR 1965 SC 1296.
7. *Dickson* v. *Edwards*, (1910)10 CLR 243, 265; *State of M.P.* v. *Vishnu Prasad Sharma*, AIR 1966 SC 1593.
8. *K.H. Ghole* v. *Y.R. Dhadvel*, AIR 1957 Bom 200, 201; *Rowjisojpal* v. *Commissioner of Income-tax, Bombay*, AIR 1957 Bom 294.
9. *A.G.* v. *Till*, 1910 AC 50, 51 (Lord Loreburn); *Somes* v. *Howard*, LR 9 CP 277, 308; *Presby* v. *Geraghty*, 29 CLR 154, 162; *Calcutta Corporation* v. *Sub-Postmaster, Dharamtola*, AIR 1950 Cal 417; *Maya Devi* v. *Inder Narain*, AIR 1967 All 118, 120 (Dhawan, J.).

one construction, the results which would follow the adoption of any particular construction are not without materiality in determining what construction ought to prevail.[1] In such a case the broader construction which will mitigate the evil and advance the remedy ought to be adopted.[2] If the choice is between the two interpretations the narrower of which would fail to achieve the manifest purpose of the legislation, Courts should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about one effective result.[3]

In construing an instrument where its words are susceptible of two meanings, it is always legitimate to take into account reasonableness, justice and consistency on the one hand, and unreasonableness, injustice and absurdity on the other.[4]

In determining the object of the enactment or the meaning of the language in any particular passage, it is obvious that the intention which appears to be most in accord with conscience, reason, justice and legal principles, should, in all cases of doubtful significance, be presumed to be a true one. The *ratio legis* of Section 145, Clause (4), Cr.P.C., appears to be to give relief to persons dispossessed within two months from the date of the complaint, though the words of the proviso to Clause (4) speak of dispossession within two months of the date of the preliminary order.[5]

Where a section of an Act is capable of two interpretations, the *purpose* of the enactment must be looked into,[6] and the interpretation that promotes the general purpose of the statute must be favoured.[7] When the terms of an Act admit of two meanings, that must be preferred which is in conformity with the object of the statute.[8] "The first and foremost aid to the ascertainment of the legislative intent is, of course, the words employed. When these are of plain meaning the statute needs no interpretation. It interprets itself. If the words be of doubtful meaning, if they are inartistically arranged, if the syntax be violative of the rule of composition, if the ellipsis, tautology or redundance occur, the statute must be examined in other lights than those afforded by the mere words employed, and chief among those lights are those afforded by the evident purpose and intent of the Legislature."[9] If a statute is capable of two constructions, having regard to the obvious policy and object of the Act, that construction should be preferred which furthers the policy of the Act and is more beneficial to those in whose interest the Act has been passed.[10] If two alternative constructions are equally possible

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1. *Brunton* v. *Acting Commissioner of Stamp Duties*, 1913 AC 747, 759.
2. *Proprietors of the Daily News, Ltd.* v. *Australian Journalists' Association*, 27 CLR 532, 543; *Carew & Co., Ltd.* v. *Union of India*, AIR 1975 SC 2260; *Chand* v. *Jawaharlal Dhawan*, 1994, BCJ 147 (SC); Relying on *Carew & Co. Ltd.* v. *Union of India*, AIR 1975 SC 2260.
3. *Superintendent and Legal Remembrancer, West Bengal* v. *Abani Maity*, (1979) Mad LJ (Cr) 557 (SC).
4. *Perth Gas Co.* v. *Perth Corporation*, 1911 AC 506, 517; *Countess of Rothes* v. *Kircaldy & Dysart Waterworks Commissioners*, 7 AC 694, 702; *Dickson* v. *Edwards*, (1910)10 CLR 243, 265; *Metropolitan Coal Co. of Sydney, Ltd.* v. *Australian Coal & Shale Employees' Federation*, 24 CLR 85, 99; *Piresby* v. *Geraghty*, 29 CLR 154, 162.
5. *Bhadramma* v. *Kotam Raj*, AIR 1955 Hyd 140 (Siadat Ali Khan, J., invoked the aid of the principle of *ejusdem generis*).
6. *Mubarak Hussain* v. *Ahmad*, AIR 1924 All 328 (FB); *Ingham* v. *Hie Lee*, (1912)15 CLR 267, 270; *The R.L. Alston*, 8 PD 5,9.
7. *State of Haryana* v. *Sampuran Singh*, 1975 UJ (SC) 817.
8. *Johnson* v. *Harris*, (1854)139 BR 462; *R.* v. *Spratley*, 119 ER 900; *Re* Leavesley, (1891)2 Ch 1; *Shannon Realities, Ltd.* v. *St. Michael, Ville de*, 1924 AC 185,.192; *Miss Sathya Rao* v. *University of Madras*, (1977)2 Mad LJ 403 (DB); *Barium Chemicals Ltd.* v. *Company Law Board*, AIR 1967 SC 376; *Kanhaiya Lal Omar* v. *R.K. Trivedi*, AIR 1986 SC 111 : (1985)4 SCC 628 : (1986)1 Supreme 397 : 1985 UJ (SC) 969; *(Smt) Kanti Khare* v. *Kali Prasad*, AIR 1983 All 45 (DB).
9. *Landrum* v. *Flannegan*, 56 Pac 753, quoted by Crawford : *Statutory Construction*, at p. 248.
10. *Alembic Chemical Works* v. *Workmen*, AIR 1961 SC 647, 649. *See* this case is relied on in *Tata Chemicals Ltd* v. *Kailash C. Adhvaryu*, AIR 1964 Guj 265.

the one which is consistent with the scheme envisaged by the enactment and which promotes the purposes and objects of the provisions is to be preferred. The meaning to be attributed must be consistent with the legislative intent and the result sought to be achieved.[1] Any interpretation which harmonises with the subject of the enactment and the object of the Legislation has to be followed.[2] If two interpretations of a provision are possible, then one which is in tune with the intention of the Legislature should be preferred.[3]

A statute which throws a burden on the subject and deprives him of his right to property, if there is ambiguity as to the meaning of a section, inasmuch as it is disabling section, the construction which is in favour of the freedom of the subject should always be given effect to.[4] Similarly, in considering the right of statutory appeal, where the words are not clear enough to be coercive, the canon of construction is that the ambiguity should be resolved in favour of the right to an appeal rather than against it.[5]

But when the Court is called upon to give a wide or limited interpretation to a particular expression and when that expression is capable of both these interpretations, it is open to the Court to consider what was the object of the Legislature and what was the mischief aimed at and the Court must try and give that construction to a particular expression which will be more consistent with the suppression of the mischief rather than that mischief being allowed to continue uncontrolled.[6] If the words used in the entries are capable of a narrow or broad construction, each construction being reasonably possible and it appears that the broad construction would help the furtherance of the object, then it would be necessary to prefer the said construction.[7] Where adoption of wider meaning may result in extending the scope of the provision to matters not necessary to be provided for under the scheme of the Act and may lead to undesirable results adoption of wider meaning ought to be avoided.[8] "If the choice is between two interpretations" said Viscount Simon, L.C. in *Nokes* v. *Don Caster Amalgamated Collieries, Ltd.*,[9] the narrower of which would fail to achieve the manifest purpose of the Legislature, we should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purposes of bringing about an effective result."[10]

When material words of a statute are capable of two constructions, one of which is likely to defeat or impair the policy of the Act whilst the other construction is likely to assist the achievement of the said policy, then the Courts would prefer to adopt the latter construction. It is only in such cases that it becomes relevant to consider the mischief and the defect which the Act proposes to remedy and correct.[11]

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1. *Keshavan Namboodiri* v. *State*, 1976 Ker LT 427 (FB); *K. Veeraswami* v. *Union of India*, (1991)3 SCC 655 (5J).
2. Vide *State of Madhya Pradesh* v. *Ajay Singh*, AIR 1993 SC 825.
3. *Ramesh Kumar Swaroop Chand Sanchati* v. *Rameshwar Vallabhram Bhatwal*, 1983 Mah LR 415 (Bom) (DB).
4. *Juwan Singhji* v. *Members of Tribunal*, AIR 1957 Bom 182, 185; *Reconstructions Finance Corpn.* v. *Prudence etc., Group*, 85 L Ed 364 : 311 WS 579 (Douglas, J.).
5. *Tayillath Vamanan Nambudri* v. *Ammarman Kandiyil Narayanan Kurup*, AIR 1965 Ker 1 (FB) : ILR (1964)2 Ker 341.
6. *Walchandnagar Industries, Ltd* v. *Ratanchand*, AIR 1953 Bom 285, 288; *Hazara Singh* v. *State of Punjab*, AIR 1961 Punj 34, 40 (FB).
7. *Gulshan Khandsari Udyog* v. *Union of India*, AIR 1968 All 75, 77 (Satish Chandra, J.) : Khandsari treated as sugar.
8. *Keshavan Namboodiri* v. *State*, 1976 Ker LT 427 (FB).
9. (1940) AC 1014.
10. Quoted in *Haryana State* v. *Pusa Ram*, 1979 Cur LJ (Civil) (P & H) 91, (DB); *Shivraj Tobacco Co. (P) Ltd.* v. *State of Madhya Pradesh*, 1991 Cri LJ 156 (MP), relying on *Jai Narain* v. *Delhi Municipality*, AIR 1972 SC 2607 and *Inderjeet* v. *State of U.P.*, 1979 Cri LJ 1410 : AIR 1979 SC 1867.
11. *Maggi Bai* v. *Sitaram*, 1977 RLW 196.

If two alternative constructions of a statute are possible, that construction must be adopted which will promote the object intended by the framers of the Act,[1] and promote smooth working. And the alternative construction must be rejected which would frustrate the object, and introduce inconvenience and uncertainty in the working of the system.[2] The Transfer of Property Act does not separately refer to a sub-lease; on the contrary the provisions of Chapter V apply to the case of a sub-lease. Section 107 enacts how a lease is to be made. It cannot be doubted that this provision applies to sub-leases. Similarly, Section 108 which regulates rights and liabilities of the lessor and lessee, and Section 111 which refers to determination of a lease, also apply to the case of sub-leases. The case of sub-lease of mining rights, therefore, falls within the definition of mining lease under Rule 3*(ii)* of the Mineral Concession Rules and Section 3*(d)* of the Mines and Minerals (Regulation and Development) Act, 1948.[3]

Where a statute appears defective, it is not for the Judge simply to fold his hands and blame its draftsman. He must try to find out the intention of Parliament and this he must do not merely from the language of the statute, but also from the consideration of the *social conditions* which give rise to it and the *mischief* which it was intended to remedy, supplementing the written word, if need be, so as to give force and life to the intention of the Legislature.[4]

"It is the office of the Court, having ascertained the mischief and defect for which the law did not otherwise provide, and the remedy the Parliament hath resolved and appointed, and the true reason of the remedy, to make such construction as shall *suppress the mischief and advance the remedy*, and to suppress subtle inventions and evasions for continuance of the mischief, and *pro privato commodo*, and to add force and life to cure and remedy, according to the true intent of the maker of the Act, *pro bono publico*....."[5] Courts should interpret a statute so as to prevent mischief and advance the remedy according to the true intent of the Legislature.[6]

But where such intent is covert and couched in language which is imperfect, imprecise and deficient, or is ambiguous or anegmatic and external aids to interpretation are few, scanty and indeterminate, the Court may, despite application of all its ingenuity, experience, and ratiocination find itself in a position no better than that of a person solving a crossword puzzle with a few given hints and hunches. In such a situation a mere reference to the High Court of a question for opinion may not afford an adequate solution. Only legislative amendment may furnish an efficacious and speedy remedy.[7]

In proceedings under Section 147 an order of interim attachment of the property about the use of water of which there is dispute between the parties cannot be made.[8]

When the Court is dealing with *social legislation*, like the Industrial Disputes Act, 1947, it must inquire what the social need is which is intended to be satisfied. It is notorious how badly and poorly labour is paid in India, and the whole problem of Parliament is to raise the level of labour in this country and to make it possible that they should get a living wage and should

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1. *Regional Provident Fund Commissioner, Punjab* v. *Shibu Metal Works*, AIR 1965 SC 1076; *State of Gujarat* v. *Chaturbhuj Maganlal*, 1976 Cr LR (SC) 193 : 1976 Mad LJ (Cr) 496 (SC); *N.K. Jain* v. *C.K. Shah*, AIR 1991 SC 1289 : 1991 Cri LJ 1347 : 1991 Lab IC 1013 : (1991 2 JT (SC) 52 (2) : (1991)2 SCC 495 : 1991 AIR SCW 960.
2. *State of Gujarat* v. *Chaturbhuj Maganlal*, 1976 Mad LJ (Cr) 496 (SC) : 1976 Cr LR (SC) 193.
3. *Mineral Development, Ltd.* v. *Union of India*, AIR 1954 Pat 340.
4. *Vishnu Dass* v. *Thaker Dass*, AIR 1953 Punj 116.
5. *Hodge* v. *King*, 5 CLR 373, 385; *see* also *Heydon's* case, 3 Rep 7*a*, 7*b*; *Eastman Photographic Materials Co.* v. *Comptroller-General of Patents, Designs and Trade Marks*, 1898 AC 571, 573; *Badische Anilin & Soda Fabrik* v. *Hickson*, 1906 AC 419, 426.
6. *Janaki Nath Ray* v. *State of Bihar*, AIR 1953 Pat 105.
7. *Commissioner of Sales Tax, U.P.* v. *M/s. Mangal Sen Shyam Lal*, 1975 UJ (SC) 368.
8. *Budi* v. *Ram Kumar*, AIR 1955 Raj 75.

attain a decent standard of life. The Court must, therefore, be inclined to give construction to a social legislation which helps the Legislature to satisfy the social need.[1]

When the language of the statute is such that its meaning cannot be determined with certainty by looking at the language alone, it is allowable to give some weight to those general *considerations of public policy* which we may presume that the Legislature had, in mind at the time of the enactment.[2]

The Courts are not precluded from having recourse to the previous state of the law and the surrounding circumstances for the purpose of ascertaining which meaning the Legislature intended the ambiguous terms to bear.[3]

If it be true that it is the duty of the Court to ascertain the meaning of the Legislature from the words used in the statute and the subject-matter to which it relates, there is an equal duty to restrict the meaning of general words, whenever it is found necessary to do so, in order to carry out the Legislature's intention.[4] If two constructions are possible the Court must adopt that which will implement and ensure the smooth and harmonious working of the work and discard that which will stultify the apparent intention and lead to absurdity or give rise to practical inconvenience. To avoid such a result, it is permissible even to put a construction which modifies the meaning of the words or even the structure of a sentence.[5] Sometimes special meaning may have to be given to a word because of collocation of words in which it figures.[6] Thus "where two constructions are open, it is proper to read the order harmoniously with the directions because it could not have been intended that the Chief Minister," observed Hidayatullah, J. in *C. P. C. Motor Service, Mysore* v. *State of Mysore*,[7] "would express his opinion one way and include a contrary direction another way."

If the statute is capable of more interpretation than one, the view accepted by the highest Court which has stood for a considerable length of time should not be disturbed by putting upon it different interpretation.[8]

Where the words used are susceptible of wider meaning, the state of things that existed on the date of the passing of the statute can be taken into consideration in ascertaining the intent of the Legislature.[9]

Where alternative constructions are equally open, that alternative is to be chosen which will be *consistent with the smooth working of the system* which the statute purports to be regulating, and that alternative is to be rejected which will introduce absurdity, uncertainty, friction or confusion into the working of the system.[10] Applying the principle to the Displaced Persons (Debts Adjustment) Act, 1951, it was held that the Act gives exclusive jurisdiction to the Tribunal created by it to decide all disputes pending before it and that the jurisdiction of the Civil Court has been taken away to decide these matters.[11]

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1. *K.N. Joglekar* v. *B.L. Rly. Co.*, AIR 1955 Bom 294, 297; *Kehan Singh* v. *State (Delhi Admn.)*, AIR 1988 SC 1883; *Gaya Prasad.* v. *Suresh Kumar*, 1992 JLJ 143 (MP) (FB).
2. *Smith* v. *Sioux City Stock Yards Co.*, 260 N.W. 530, quoted by Crawford : *Statutory Construction*, 247 (Notes).
3. *Cassim & Sons* v. *Sara Bibi*, AIR 1936 Rang 17, 19.
4. *Reiche* v. *Symthe*, 20 L Ed 566.
5. *Durga Prasad Khosla* v. *State of U.P.*, AIR 1959 All 744, 749 (Srivastava, J.); *see* also *Kesavananda Bharati* v. *State of Kerala*, (1973)4 SCC 225, 426 (Shelat, J.).
6. *State of Assam* v. *Ranga Mohammad*, AIR 1967 SC 903.
7. 1962 (Supp) 1 SCR 717, 724.
8. *Gajanan* v. *Seth Brindaban*, AIR 1970 SC 2007.
9. *D.N. Banerji* v. *P.R. Mukerjee*, AIR 1953 SC 58 : 1953 SCJ 19.
10. *Shannon Realities* v. *Ville de St. Michel*, 1924 AC 185, 192; *Sohan Singh* v. *Jagir Singh*, AIR 1942 Lah 114, 117 (FB) : ILR 1942 L 394; *Shiv Charan Das*, v. *Ram Saran Das*, AIR 1943 Lah 148, 154 (FB).
11. *Prakash Textile Mills, Ltd.* v. *Messrs. Manilal*, AIR 1955 Punj 197 (FB).

If a maxim is expressed as a positive rule of law 'time cannot abolish it nor disfavour make it obsolete'.[1] A change in the spirit of the time cannot justify a change in a principle of law by judicial decision, though changes in public opinion may lead to legislative interference and substantive alteration of the law. But where two interpretations can be given to the words of an existing law, the Court should accept that *interpretation which is in favour of constitutionality* rather an interpretation which will make the law unconstitutional.[2]

As observed by Lord Hobhouse, while delivering the judgment of the Judicial Committee in *Simms* v. *Registrar of Probates*,[3] "when there are two meanings, each adequately satisfying the meaning of a statute, and great harshness is produced by one of them, that has legitimate influence in inclining the mind to the other... It is more probable that Legislature should have used the word in that interpretation which *least offends* against 'our sense of justice.' If it appears that one of the two constructions will do injustice, and the other avoid injustice, then it is the bounden duty of the Court to adopt the second, and not adopt the first, of those constructions.[4]

No Legislature ever intends to favour one section of the population against the other. Its ostensible and proclaimed intention is always that it is doing *justice between the various sections of the population*.[5]

If neither view is entirely satisfactory, the language of statute may be construed in a popular than in a technical sense.[6]

It is well-established principle of interpretation that of two possible constructions, the one which gives a *consistent meaning* of the different parts of an enactment should be preferred.[7] The rule is to adopt that meaning which would give effect to the words rather than that which would give up one.[8] The Court may no doubt adopt the construction which seems to produce a beneficient result rather than a construction which produces an opposite result.[9]

Where there are two possible constructions, it is the duty of the Court to use the commonsense construction.[10] If two constructions are possible upon the language of the statute, the Court must choose the one which is consistent with good sense and fairness and eschew the other which makes its operation unduly oppressive, unjust or unreasonable or which would lead to strange, inconsistent results or otherwise, introduce an element of bewildering uncertainty and practical inconvenience in the working of the statute.[11] Of the two alternative constructions the one leading to the provisions inserted *ex abundanti cautela* (by way of extra caution) is to be preferred, and not the one which is wholly inoperative.[12] Where one construction leads to absurdity, and the other makes the statute logical, the latter construction is to be preferred as every effort should be made to make sense and not nonsense of legislation.[13]

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1. *Bowman's* case, 1917 AC 406.
2. *Debi Soren* v. *State*, AIR 1954 Pat 254, 260.
3. 1960 AC 323, 335; followed in *Sohan Singh* v. *Jagir Singh*, AIR 1942 Lah 114, 117 (FB).
4. *Ingham* v. *Hie Lee*, (1912)15 CLR 267, 270; *Hill* v. *East & West India Dock Co.*, 9 A 448, 456.
5. *Thota Seshayya* v. *Narasimhacharyulu*, AIR 1955 Mad 252 : ILR 1955 Mad 1151; but see *Capt. Ramesh Chandra* v. *Veena Kaushal*, 1978 Cr LR (SC) 348, interpretation advancing cause of weaker section to be preferred.
6. *Income-tax Commissioners* v. *Gibbs*, (1942)1 All ER 415, 422 (Viscount Simon, L.C.).
7. *Venkataratnam* v. *Appa*, ILR 40 Mad 529, 535.
8. *Khudabux* v. *Panjo*, AIR 1930 Sind 265 (FB).
9. *Secretary of State* v. *Vacuum Oil Co.*, AIR 1930 Bom 597, 599.
10. *Mansa Singh* v. *Emperor*, AIR 1929 All 750 (1) : ILR 51 All 596; *Oudh Sugar Mills Ltd.* v. *State of M.P.*, 1975 Jab LJ 537 (DB).
11. *Dilip Kumar Sharma* v. *State of M.P.*, 1975 Cr LR (SC) 624 : AIR 1976 SC 133; *Krishna Menon* v. *District Judge*, 1988(1) KLT 131.
12. *M.P.V. Sundararamier & Co.* v. *State of A.P.*, AIR 1958 SC 468.
13. *Ayodhyaprasad* v. *Crown*, AIR 1951 Nag 24, 26; *Oudh Sugar Mills, Ltd.* v. *State of M.P.*, 1975 Jab LJ 537 (DB).

It is a well-established canon of construction that if two views are possible, *viz.* one which could render the statutory provisions *ultra vires* and the other which could maintain its validity the construction which ought to be put upon such statutory provisions is that which will not render them *ultra vires*.[1]

Where two interpretations of a section, *e.g.*, Section 30, Evidence Act, are grammatically possible, the *stricter and narrower construction* must be adopted in the *interest of accused persons*.[2]

4. Legislature presumed to have employed the clearer of two ways of expressing same idea.—The Legislature must be presumed to know the meaning of the words employed by it, to have used the words advisedly and to have expressed its intention by the use of the words found in the statute.[3] If in any particular instance it can be shown that there are two expressions which might have been used to convey a certain intention, we are bound to conclude that, the Legislature uses that one of the two expressions which would convey the intention less clearly, it does not intend to convey that intention at all, and we must then look about to discover what intention it did intend to convey. In *Dover Gaslight Co.* v. *Mayor of Dover*,[4] Turner, L.J., held that a certain construction, which it had been suggested might be put upon an Act, was not the right construction : for, said he, "if such had been the intention of the Legislature, I think more appropriate language might have been used."

When two constructions of a legislative provisions are possible, one consistent with the constitutionality of the measure impugned and the other offending the same, the court will lean towards the first if it is compatible with the object and purpose of the impugned Act, the mischief which it sought to prevent, ascertaining from relevant factors its true scope and meaning.[5]

Where two reasonable constructions are possible, the one which does not impinge fundamental rights,[6] the one which would make the law *intra vires*,[7] or is consistent with constitutionality,[8] or the one which validates the statute and shortens litigation,[9] or which sustains the validity of the provisions of law,[10] should be preferred. The construction which leads to unconstitu-tionality,[11] or construction that results in invalidity rather than validity,[12] must be avoided.

Lack of clarity in legislative enactment, which is not a rarity in our modern Legislation, is, however, no justification for declaring an Act *ultra vires*.[13]

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1. *Zakia Afaque Islamia College* v. *State of Bihar*, 1982 BLJR 56 : 1982 BLJ 4 (DB).
2. *Periyaswami Moopan* v. *Emperor*, AIR 1931 Mad 277.
3. *Ram Perkash* v. *Savitri Devi*, AIR 1958 Punj 87, 91 (FB).
4. (1855)1 Jur N S 813; *see* also *Attorney-General* v. *Siltem*, (1863)2 H & C 431; *Waugh* v. *Middleton*, (1853)8 Ex. 352.
5. *State of Madhya Pradesh* v. *Chhotabhai Jethabhai Patel*, (1972)1 SCC 209, 213 : AIR 1972 SC 971, 975 (Mitter, J.); *Ram Saroop* v. *Samundar Singh*, AIR 1972 P & H 280 (A.D. Koshal, J.); *Laxminarayana Mining Co.* v. *Jaluer Development Board*, AIR 1972 Mys 299, 306 (Venkatarmiah, J.).
6. *Tilakayat Sri Govindlalji* v. *State of Rajasthan*, AIR 1963 SC 1638.
7. *Johri Mall* v. *Director of Consolidation*, AIR 1967 SC 1568.
8. *State of M.P.* v. *M/s. Chhotabhai Jethabhai*, (1972)1 SCWR 109.
9. *B. Banerjee* v. *Smt. Anita Pari*, (1975)1 SCC 166.
10. *State of M.P.* v. *Dadabhoy's New Chirimiri Pouri Hill Colliery Co. (P), Ltd.*, (1972)1 SCC 298.
11. *State of Kerala* v. *M.K. Krishnan Nair*, (1978)1 SCC 552 (571).
12. *Krishna Coconut Co.* v. *East Godavari Coconut*, AIR 1967 SC 973.
13. *Indu Bhusan* v. *State of West Bengal*, 75 CWN 236, 252 (Sabyasachi Mukherji, J.).

CHAPTER XIV
CONFLICTING PROVISIONS

SYNOPSIS

1. Laws in conflict.—When a statute is inconsistent with another? "Etymologically" says Higgins, J., in *Clyde Engineering Co., Ltd.* v. *Cowburn*,[1] "I presume that things are inconsistent when they cannot stand together at the same time; and one law is inconsistent with another when the command or power or other provision in one law conflicts directly with the command or power of provision in the other."

2. Test.—The test of inconsistency is whether a proposed Act is consistent with obedience to directions contained in two statutes.[2] Repugnancy between two statutes may be ascertained on the basis of the following three principles :

(1) Whether there is direct conflict between the two provisions.

(2) Whether Parliament intended to lay down an exhaustive Code in respect of the subject-matter replacing the Act of the State Legislature; and

(3) Whether the law made by Parliament and the law made by the State Legislature occupy the same field.[3]

3. Effort to reconcile different parts of a statute.—Where the main object and intention of a statute are clear, it must not be reduced to a nullity by the draftsman's unskilfulness or ignorance of the law except in a case of necessity, or the absolute intractability of the language used.[4]

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1. 37 Commonwealth Law Reports, at p. 466.
2. *Custodian Evacuee Property* v. *Simla Banking and Industrial Co.*, (1953)53 PLR 184, 187.
3. *Deep Chand* v. *State of U.P.*, AIR 1959 SC 648, 665; *P.M. etc., Palaniappa* v. *Mohd. Rowther*, AIR 1965 Mad 54, 57 (Ramakrishna, J.).
4. *Ram Bharose* v. *Ganga Singh*, AIR 1931 All 727, 732 : ILR 54 All 154 (FB), quoting Maxwell : *Interpretation of Statutes*, 12 Ed. at p. 228.

(i) Presumption against one part overriding another.—The proper method of construing a statute which has different provisions is not to come to a conclusion that one part overrides another part of that statute but to try and see whether different parts of a statute can be *reconciled* so as to present one complete picture.[1]

(ii) Inconsistency to be avoided.—A section of a statute should, if possible, be construed so that there may be no repugnancy or inconsistency between its different portions or members.[2] If it is possible to avoid a conflict between the two provisions of an enactment on a proper construction thereof, then it is the duty of the Court to so construe them, that they are in harmony with each other.[3] A construction that involves reading two successive sentences as flatly contradicting each other must be avoided if possible.[4] All parts of a statute should, if possible, be construed so as to be consistent with the other.[5] The true meaning of any part of a statute is that which *best harmonises* with every other part of it and a construction which will leave without effect any part of a statute must be rejected.[6] It is a well-known rule of construction that every attempt should be made to harmonise the different parts of the statute and that each part should be construed so as to expound every other part of the statute.[7] A statute must be so interpreted as to defeat all attempts to nullify it in a circuitous manner.[8] Same rules of interpretation are to be applied where two parts of the same statute are in conflict.[9] The sections of an enactment should be so construed as not to be inconsistent with each other. They should be read in such a manner that they are reconcilable with each other.[10] If one

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1. *Mohanlal* v. *I.T. Commisioner*, AIR 1950 Bom 287, 288; *Nanalal Zavery* v. *Bombay Life Assurance Co.*, AIR 1949 Bom 56 (and should give preference to a construction which avoids making any provision superfluous); *Bankey Behari* v. *Abdul Rahaman*, ILR 7 Luck 350 : AIR 1932 Oudh 63; *Govinda Iyer* v. *Municipal Council, Villupuram*, AIR 1967 Mad 290, 292 (Anantanarayan, Acting C.J.); *Director-General Council of Scientific and Industrial Research* v. *(Dr.) K. Narayanaswami*, AIR 1995 SC 2318 : (1990)14 Admn Tri Case 314 (CAT) was set aside.
2. *Corporation of the City of Victoria* v. *Bishop of Vancouver Island*, AIR 1921 PC 240, 242; *Deonandan Singh* v. *Ram Lakhan Singh*, AIR 1948 Pat 225 (FB); *Sri Krishna* v. *Namdeo*, AIR 1963 B 163, 165 (FB) (Chainani, C.J.); *In re*, Javvaji Uthanna, AIR 1964 Andh Pra 368, 370 (Kumarayya, J.).
3. *Babulal* v. *Nandram*, 1959 SCR 367 : AIR 1958 SC 677, 681; *State of Madhya Pradesh* v. *Mahant Kamal*, AIR 1965 Madh Pra 183 : 1965 Jab LJ 418.
4. *Madhukar Trimbaklal* v. *Sati Godawari*, AIR 1940 Nag 39 (FB); *Mukandlal* v. *State*, AIR 1957 Raj 178, 179.
5. *Le Leu* v. *The Commonwealth*, 19 CLR 305, 312 (Effect should be given to every part of the Act); *Shahzada Nanda & Sons* v. *Central Board of Revenue*, AIR 1962 Punj 74 (FB) (A section in an Act should not be considered in isolation and the construction should harmonise with the subject-matter and other sections of the statute); *Suraj Prasad Mahajan* v. *Kedar Lal*, 1961 Pat LR 134 : 1962 BLJR 193.
6. *Emperor* v. *Nalji Bhalji*, AIR 1950 Bom 273; *Rameshwar Singh* v. *Province of Bihar*, AIR 1950 Pat 392, 418. *See* also *Kunti Devi* v. *7th Addl Distt Judge, Kanpur*, 1982 ALJ 1247 where Sections 3-A(*i*) and 34(4) of U.P. Act 13 of 1972 have been given harmonious interpretation. *Ramanand* v. *State of Haryana*, AIR 1982 P & H 26 (DB).
7. *Bhutnath Kumar* v. *Nil Kantha Narain*, AIR 1949 Pat 400, 401; *Ram Lakhan* v. *Bishesar Misir*, AIR 1948 Oudh 214 (FB); *Sukhdeo Singh* v. *Nirdeshak, Panchayat Raj*, 1962 ALJ 256.
8. *Madho* v. *Umrao*, 17 IC 370 : 8 NLR 147 (In a body of codified law no enactment should be so construed as to render the express provisions of another enactment absolutely nugatory); *Pundalik* v. *Bhagwatrao*, AIR 1926 Nag 491.
9. *Narina Das* v. *Chogemull*, AIR 1939 Cal 425 : ILR (1939)2 Cal 93 (FB); *Sail Genamal* v. *Pachigolla China Ramaswamy*, AIR 1960 AP 465.
10. *Ganeshwar Das* v. *Bishambar Nath*, 55 Punj LR 116; *see* also *Municipal Corporation, Poona* v. *Dattatreya*, 1962 Nag LJ 118 : 64 Bom LR 29; *Nihal Singh* v. *Board of Revenue*, 1962 All LJ 782 : 1962 All WR (HC) 700; *Cheladina Venkata Ram Rao* v. *Engu Narayana*, AIR 1963 Andh Pra 168 : (1962)2 Andh LJ 476 (FB); *Chandra Singh* v. *Board of Revenue*, 1963 All WR (HC) 89; *Mumtaz Begam* v. *Aman Ullah Khan*, AIR 1964 J & K 34; *Rameswar Lal Sarup Chand* v. *Excise and Taxation Officer, Amritsar*, AIR 1963 Punj 1 : ILR (1962)2 Punj 405 : 65 Punj LR 768 (FB); *Sowdagar Ahmed Khan* v. *I.T. Officer*, AIR 1964 Andh Pra 443 : (1964)2 Andh WR 61; *Mohammad Ali* v. *Sri Ram Swarup*, AIR 1965 All 161; *Natesh Mudaliar* v. *Dhanpal Bus Service*, AIR 1964 Mad 136 (FB); *Surjit Singh* v. *State of Punjab*, 1977 Cur LJ (Civil) (P & H) 385 (FB), if in conflict, must be harmonised.

part of a statute conveys clear meaning it is not necessary to introduce another part of the statute for controlling or diminishing efficacy of the first part.[1]

(iii) Sub-sections.—The sub-sections of a section of the Act must be read as parts of an integral whole[2] and as being inter-dependent so that an attempt should be made in construing them to reconcile them if it is reasonably possible to do so, and the avoid repugnancy. If repugnancy cannot possibly be avoided, then a question may arise as to which of the two should prevail. But that question can arise only if repugnancy cannot be avoided.[3]

That interpretation should be avoided which makes one provision of an enactment inconsistent with another. All the different provisions of the statute should be so construed as to make them consistent.[4]

It is not permissible to create a conflict by construction, when by an alternative construction all the statutory provisions can be harmonised and reconciled.[5] Words in a statute should be given their plain meaning, except to the extent that a different, that is, an extended or narrower sense is dictated by the statute itself, or, in other words, a statute should be construed in all its parts[6] and on their wordings, with an eye to their harmonious blending and smooth and cohesive working and such construction should not be made by reading ambiguities, where there are none, or finding difficulties, where are none-existing, or by altering their structure or contents by introducing or rejecting words for suiting particular constructions.[7]

Inconsistency should not be attributed to Legislature unless it is inevitable. As far as possible an interpretation which would give effect to all the provisions of the enactment and which would reconcile conflicting provisions of a section should be adopted. Section 23-A of the Madras Agriculturists' Relief (Amendment) Act 23 of 1948, governs only sales or foreclosure which had taken place before the commencement of the Act or confirmed within 90 days of the commencement of the Act. It does not affect sales which have been confirmed more than 90 days before coming into force of the Act.[8]

It has thus been held that there is no conflict between Section 27*(b)*, Specific Relief Act (1 of 1877) (corresponding to Section 19 of the 1963 Act) and Section 48, Registration Act. Section 48, Registration Act, does not govern a case which is covered by Section 27*(b)*, Specific Relief Act, the underlying principle of the former section being that a registered document should prevail over an oral transaction and it does not affect cases where a subsequent purchaser obtains a registered document in fraud of the right created in favour of a third party under the oral agreement.[9]

It is usual that when one section of an Act takes away what another confers, to use a *non-obstante* clause and say that "notwithstanding anything contained in section so and so, this or that will happen", otherwise, if both sections are clear, there is head-on clash. It is the duty of Courts to avoid that and, whenever it is possible to do so, to construe provisions which appear to conflict so that they harmonise. Section 33(2), Representation of the People Act,

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1. Presidential Poll, *In re*, (1974)2 SCC 33.
2. *Smt. Sudhir Bala Roy* v. *State of West Bengal*, (1980)2 Cal HN 516 (DB).
3. *Madan Lal* v. *Changdeo Sugar Mills*, AIR 1962 SC 1543.
4. *Pheku Chamar* v. *Harish Chandra*, 1953 AWR (HC) 118 : AIR 1953 All 406; *Modi, etc Co. Ltd.* v. *State of Punjab*, AIR 1967 Punj 216, 218 (H.R. Khanna, J.).
5. *Shriram* v. *State of Bombay*, (1961)2 SCR 890, 901.
6. *Gujarat Electricity Board* v. *Shantilal R. Desai*, AIR 1969 SC 239.
7. *Sidheswar Paul* v. *Prakash Chandra*, AIR 1964 Cal 105, 119 (SB) (P.N. Mookerjee, J.).
8. *Sethurama Thevar* v. *Kameetha Rowther*, AIR 1954 Mad 368; *see* also *H.P. Barua* v. *State of Assam*, AIR 1955 Assam 249.
9. *Yella Reddy* v. *Subbi Reddi*, AIR 1954 Andhra 20, 22-23.

1951, confers the privilege of proposing or seconding a candidate for election on every person who is registered in the electoral roll provided he is not disqualified under Section 16 of the Act of 1950. That section excludes these classes of persons but not Government servants, unless, of course, they happen to fall within those classes. Section 123(8) also does not contain any express provision to the contrary nor can such provision be inferred by implication.[1] Although ordinarily there should be close approximation between the *non-obstante* clause and the operative part of the section, the *non-obstante* clause need not necessarily and always be co-extensive with the operative part, so as to have the effect of cutting down the clear terms of an enactment. If the words of the enactment are clear and are capable of only one interpretation on a plain and grammatical construction of the words thereof a *non-obstante* clause cannot cut down the construction and restrict the scope of its operation. In such cases the *non-obstante* clause has to be read as clarifying the whole position and must be understood to have been incorporated in the enactment by the Legislature by way of abundant caution and not by way of limiting the ambit and scope of the operative part of the enactment.[2] Where there is a *non-obstante* clause in two Acts, and the question to be determined is whether the *non-obstante* clauses operate the in same field or in different fields, the conflict should be resolved by reference to the object and purpose of the laws in consideration.[3]

The *non-obstante* clause 'notwithstanding anything contained in any other law or anything having the force of law' occurring in the concluding part of Section 5 of the Bihar Essential Services Maintenance Act of 1948 does not in any way enlarge the meaning and construction of the three parts of the section which state essential ingredients of the offence.[4]

In *Chandavarkar Sita Ratna Rao* v. *Asbalata*,[5] has expounded the principle thus : A clause beginning with the expression "notwithstanding anything contained in this Act or in some particular provision in the Act or in some particular Act, or in any law for the time being in force or in any contract " is more often than not appended to a section in the beginning with a view to give the enacting part of the section in case of conflict an overriding effect over the provision of the Act or the contract mentioned in the *non-obstante* clause. It is equivalent to saying that in spite of the provision of the Act or any other Act mentioned in the *non-obstante* clause or any contract or document mentioned, the enactment following it will have its full operation or that the provisions embraced in the *non-obstante* clause would not be an impediment for an operation of the enactment. *See* in this connection the observations of this Court in *South India Corpn. (P) Ltd.* v. *Secretary, Board of Revenue, Trivandrum*.[6]

It is well settled that the expression 'notwithstanding' is in contradiction to the phrase 'subject to' the latter conveying the ideas of a provision yielding place to another provision or other provisions to which it is made subject. This will be clarified in the instant case by comparison of Sub-section (1) of Section 15 read with Sub-section (1) of Section 15-A. We are, therefore, unable to accept with respect the view expressed by the Full Bench of the Bombay High Court as relied on by a single judge in the judgment under the appeal.

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1. *Raj Krishna* v. *Binod*, AIR 1954 SC 202; *Jugal Kishore* v. *B.N. Rahotgi*, AIR 1958 Pat 154, 157.
2. *Dominion (now Union) of India* v. *Shirinbai A. Irani*, AIR 1954 SC 596, 600; *Kanwar Raj Nath* v. *Promod C. Bhatt*, AIR 1956 SC 105, 108.
3. *M/s. Jain Ink Manufacturing Co.* v. *Life Insurance Corporation of India*, (1980)4 SCC 435.
4. *State* v. *Ramanand Tiwari*, AIR 1956 Pat 188.
5. AIR 1987 SC 117 : 1986 JT (SC) 619 : (1986) SCFBRC 413 : (1986)4 SCC 447 : (1986)88 Bom LR 600 : 1986 Mah LJ 995 : (1986) MPRCJ 313 : 1986 4 Supreme 442 : (1987)1 Ren CJ 321 : (1987)1 Ren CR 154 : 1987 Mah LR 1 : 1987 Bom RC 276 : (1987)1 Ren LR 684.
6. AIR 1964 SC 297 at p. 215 : (1964)4 SCR 280.

(iv) One provision should not be rendered nugatory.—When there are in a statute two provisions which are in conflict with each other such that both of them cannot stand, they should, if possible, be so interpreted that effect can be given to both, and that a construction which renders either of them inoperative and useless should not be adopted except in the last resort.[1] In applying the rule of harmonious construction, however, we have to remember that to harmonise is not to destroy. In the interpretation of statutes the Courts always presume that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statutes should have effect.[2] Effect should be given to every part of the statute. If the powers of the High Court were only confined to setting aside the order that could be in exercise of the powers under Section 423*(c)*, Cr. P. C. and in that case Clause *(d)* of Section 423 would be rendered nugatory.[3] To harmonise is not, however, to destroy.[4] If there exist two conflicting provisions in the same statute, effect should be given to the latter provision.[5]

(v) Principles applicable to Constitution.—The accepted principle of construing statutes is that two provisions regulating the same subject should be construed to be consistent with each other. If this be true of an ordinary statute, it is equally true of such a ruling instrument as the *Constitution*. The proper interpretation of Clauses *(a)* and *(b)* of Article 133 is that the words 'involves directly or indirectly' in Clause *(b)* should not be read as including the actual subject-matter in dispute in cases, unless they cannot be valued at all.[6] The principle of harmonious construction must be adopted in interpreting the Constitution.[7]

Item 66 in List II of Schedule VII cannot be construed as taking away the right given in Item 3 of the same list. Such a construction is obviously unreasonable as Item 66 would then have to be treated as destructive of Item 3. Fees in Item 66 could only mean fees other than court-fees as the latter has already been provided for in Item 3.[8]

(vi) Reconciliation not to be effected in any case.—As far as possible the various provisions of a statute must be so read as not to bring them in conflict with each other. That does not mean that reconciliation must, under all circumstances be effected. But the various provisions must be read, if at all it is possible to do so, that they do not conflict with each other.[9]

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1. *Bengal Immunity Co.* v. *State of Bihar*, AIR 1955 SC 661, 736, *per* Venkatarama Ayyar, J.; *Director-General Council of Scientific and Industrial Research* v. *Dr. K. Narayanaswami*, 1995 AIR SCW 3448 : 1995 Lab IC 2472 (SC) : (1995)3 SCC 124.
2. *J.K. Cotton Spinning and Weaving Mills Co. Ltd.* v. *State of Uttar Pradesh*, (1961)3 SCR 185, 193 (Das Gupta, J.). (These presumptions will have to be made in the case of rule-making authority also); *(Dr.) Sachidanand Sinha* v. *Collector, Patna*, 1989 Pat LJR 1141 (FB).
3. *Prakash Reddy* v. *Pitchireddi*, AIR 1955 Andhra 55; (*Abdulla Sheikh* v. *Emperor*, AIR 1942 Oudh 416, dissented from).
4. *Chief Inspector of Mines* v. *K.C. Thapan*, AIR 1961 SC 838, 843.
5. *Sukhdeo Singh* v. *Nirdeshak, Panchayat Raj*, 1962 All LJ 256; *see* also *Amir Bee* v. *S.D.M. Sakaleshpur*, AIR 1980 Kant 154, Section 4 of Karnataka Debt Relief Act, 1976, cannot exclude applicability of Section 58*(c)* of T.P. Act, 1882.
6. *Rama* v. *Laxman*, AIR 1955 Hyd 209; *M.S.M. Sharma* v. *Sri Krishna Sinha*, AIR 1959 SC 395, 410.
7. *M.S.M. Sharma* v. *Sri Krishna Sinha*, AIR 1959 SC 395, 410. Provisions of Article 19(1)*(a)* of the Constitution, which are general must yield to Article 194(1) and the latter part of Clause (3) which are special; just as Article 31 has been read as subject to Article 265; deprivation of property otherwise than by way of taxation; *R.C. Poudyal* v. *Union of India*, AIR 1993 SC 1804 (5J).
8. *A. S. Ramaiya* v. *State of Mysore*, AIR 1954 Mys 161.
9. *Shankarrao Madhavrao* v. *K.C. Sen*, AIR 1956 Bom 79 [Section 74(1)*(c)*, Bombay Tenancy & Agricultural Lands Act, 1958, specifically provides that the order of the Mamlatdar would be appealable and the appeal would lie to the Collector, and Section 12(5) has the effect of preventing an application for revision to the Revenue Tribunal in cases in which that rent is determined by the Malatdar and the Collector has disposed of an appeal from the *Mamlatdar's* Order.]

The general rule no doubt is that a certain provision of an Act is *prima facie* to be interpreted according to the language used in that provision and help from other provisions of the Act in interpreting ought to be taken only when its provisions are capable of more than one meaning.[1]

Different provisions in the Act must be construed harmoniously and should not be allowed to 'militate against each other'.[2]

4. **Effect to reconcile inconsistent statutes.**—When two provisions are mutually contradictory they should be interpreted and read together so as to obviate too apparent inconsistency.[3] It is well settled that all provisions have to be read together and construed harmoniously, and even when there are apparent inconsistency between a section of the Act and the rules framed thereunder, there should be a harmonious construction, so as to give effect to the intention of the Legislature and to achieve the object of the Act.[4] It is a cardinal principle in the interpretation of a statute that if there are two inconsistent enactments, it must be seen if one cannot be read as a *qualification* of the other.[5] The Court should struggle against repugnancy and should construe an enactment as far as possible in accordance with the terms of the other statute which it does not expressly modify or repeal.[6] Some words may have to be implied in one place or other in order to remove the inconsistency.[7] The omission to make cross-reference as may be required to reconcile two textually inconsistent provisions is a common *defect of draftsmanship*.[8] Thus, if two different statutes allow different authorities to forbid certain acts for different purposes it may not appear that the two statutes are necessarily inconsistent. There might be an inconsistency if the statutes allowed different authorities positively to permit certain acts but this contingency may be provided for under the rules framed under an enactment.[9] However, carefully an Act is drawn it is sometimes not possible to avoid inconsistencies, but it could not have been the intention of the Legislature that conflict should

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1. *Sukhnandan Lal* v. *Mst. Rajpali*, AIR 1954 All 463; *Prem Parkash* v. *Ram Pratap*, AIR 1967 All 47, 49 (D.S. Mathur, J.).
2. *Faridabad Cold Storage* v. *Ammonia Supplies*, AIR 1978 Delhi 158 (FB), (case under Companies Act); *see* also *Bapauli Co-operative Agricultural Service Society* v. *State of Haryana*, AIR 1976 Punj 283.
3. Lakshmaiah Naidu, *In re*, (1958)2 Andh WR 568; *Mohd. Ali* v. *Ram Swarup*, AIR 1965 All 161, 165 (Gyanendra Kumar, J.).
4. See *Malik Singh Sitaram Maniwale* v. *Jagat Singh Thakur Singh Kallawale*, AIR 1987 Bom 206 (DB); *Bhikhabhai* v. *State*, AIR 1987 Guj 136 : 1987 Cri LJ 1932 : (1987)1 Guj LH 139 : 1989 Cri LR (Mah) 151 (FB); *Krishan Lal* v. *Harbans Lal*, AIR 1987 J & K 82 : 1987 Kash LJ 338 (FB).
5. *Ebbo* v. *Boulonis;* (1875) LR 10 Ch 479, 484, (*per* James, L.J.); *Shanker Ram Chandra* v. *Vishnu Anant*, ILR 1 Bom 67, 69; *Reg* v. *Hulme*, LR 5 QB 377, 388; *see* also *Wardens of Cholmeley School Highgate* v. *Sewell*, (1894)2 QB 906, 911; *Imray* v. *Oakshette*, (1897)2 QB 218, 223; *Haji Shakur Gani (Firm)* v. *Volkart Bros.*, AIR 1931 Sind 124; *M. Agaiah* v. *Mohd. Abdul Kareem*, AIR 1961 Andh Pra 201, 205 (FB) (Chandra Reddy, C.J.); *Daw* v. *Metropolitan Board of Works*, 12 CB (NS) 161, 179 (quoted with approval in *Lukey* v. *Edmunds*, 21 CLR 336, (Wills, J., observed : "So soon as you find the Legislature is dealing with the same subject-matter in both Acts, so far as the later statute derogates from and is inconsistent with the earlier one, you are under the necessity of saying that the Legislature did not intend the latter statute to deal with the very case to which the former statute applied.")
6. *Khangul* v. *Lakha Singh*, AIR 1928 Lah 609, 614 : ILR 9 Lah 701 (FB). (Repugnancy arises when two enactments both within the conpetence of the two Legislatures collide, and when the Constitution expressly or by necessary implication provides that the enactment of one Legislature has supremacy over the other, then to that extent of the repugnancy the one supersedes the other; *State of Orissa* v. *M.A. Tullogh & Co.*, AIR 1964 SC 1284 : 30 Cut LT 80).
7. Vide *Mumtaz Begum* v. *Aman Ullah Khan*, AIR 1964 J & K 34 at p. 37.
8. *Ram Kissendas Dhanuka* v. *Satya Charan*, AIR 1950 PC 81, 83 : 52 Bom LR 501 : 77 IA 128.
9. *Mewa Ram* v. *Muttra Municipal Board*, AIR 1939 All 466, 474 (FB).

exist. Accordingly, the two apparently conflicting provisions must be read together and the language of one interpreted, and, where necessary modified, by that of the other.[1] Apparently conflicting provisions may be regarded as dealing with distinct matters or situations, in order to carry out the object of the statute.[2] It is impossible to conceive that the Legislature intended that one provision of the Code will nullify another provision. It is the duty of the Court to harmonise the apparent conflicting provisions of the same statutes, or two different statutes,[3] unless the conflict is irreconcilable and to make such construction of a statute as will suppress the mischief and advance the remedy if this can be done without violence to the language of the statutory provision.[4] If on a fair and proper interpretation the two provisions can be reconciled with each other, the Courts of law are under a duty to adopt such an interpretation and to give full effect to them instead of holding that one of them is repealed by the other.[5] "The beneficial spirit of construction", says Maxwell *(Interpretation of Statutes)*[6], "is also well illustrated by cases where there is so far a conflict between the general enactment and some of its subsidiary provisions, that the former would be limited in the scope of its operation if the latter were not restricted. An Act which, after authorising the imposition of local rate on all occupiers of land in a parish, gives a dissatisfied rate payer an appeal, but at the same time requires the appellant to enter into recognizances to prosecute the appeal, presents such a conflict. Either it excludes corporations from the right of appeal, because a corporation is incapable of entering into recognizances, or it extends the right to them, without compliance with that special requirement. The latter would be unquestionably the beneficial way of interpreting the statute. The general and paramount object of the Act would receive full effect by giving to corporate bodies the same right of appeal against the burden imposed on them and the subsidiary provision would be understood as applicable only to those who were capable of entering into recognizances.

Brett, M.R., in *Queen* v. *Overseers of Tonbridge*,[7] observed :

> "In the first place, it was said that if construed according to their ordinary grammatical construction, they (the words of a section) would practically contradict other sections in a series of Acts of Parliament which apply to burial boards and districts. If it had been found that reading them in their ordinary sense they would contradict some other enactments, but that reading them in a sense in which, though not their ordinary sense, they were reasonable capable of being read, they would not contradict such other enactments, then I agree that they should be read so that all the enactments should be read together without contradicting each other."

In the case of *Ajaib Das* v. *State of Bihar*,[8] the Court was called upon to reconcile the apparent conflict between proviso *(a)* to Sub-section (2) of Section 167 and Sub-section (1) of

1. *Nagaratnam* v. *Seshayya*, AIR 1939 Mad 361, 365 : ILR 1939 Mad 151 (FB).
2. *G. Srinivasa Reddy* v. *Commissioner of Excise*, AIR 1973 Andh Pra 178, 180-1 (Ekbote, C.J.).
3. *Mongibai Hariram* v. *State of Maharashtra*, AIR 1966 SC 882.
4. *Om Prakash* v. *Jagarnath Prasad*, AIR 1969 Pat 159, 161; *Ram Ranjan* v. *Chief Administrator*, AIR 1960 Cal 416; *Municipal Corporation of the City of Ahmedabad* v. *Beer Hirabeen Mani Lal*, (1983)2 SCC 422 : AIR 1983 SC 537.
5. *Bopauli Co-operative Agricultural Service Society* v. *State of Haryana*, 1976 Rev LR 450 : 1976 Cur LJ (Civil) 364 : AIR 1976 Punj 283 (DB).
6. At pp. 81, 82 of 9th Ed; *see* also *Curtis* v. *Kent Waterworks*, (1827)7 B & C 314. (The governing intention of the Legislature must be found out and that part which agrees with that intention must be given effect to and the other part rejected as being repugnant); *Narsing Das* v. *Chogemull*, AIR 1939 Cal 435, 451 : ILR (1939)2 Cal 93 (FB).
7. (1884)13 QBD 339, 342.
8. 1975 PLJR 109 (DB).

Section 437 of the new Code of Criminal Procedure, and holding that the former did not override the latter, it laid down the following principles of interpretation :

(1) A proviso is not independent of the section. Its object is to carve out from the main section a class or category to which the main section does not apply.
(2) In case of conflict or repugnancy between proviso to a section and another section, the provisions of the section should prevail.
(3) That interpretation should be avoided which may lead to friction with other well-established law or may cause absurd or outrageous consequences.

Latest expression to prevail in case of repugnancy between two statutes.—Where two Acts are inconsistent or repugnant, the *latest* expressions of the will of the Legislature must prevail provided the Court is satisfied that the repeal of the prior enactment must flow from necessary implication.[1] In the event of there being an inconsistency between two provisions of law, the one last enacted should prevail, in view of the assumption that it is the last expression of the legislative will or intent that should prevail.[2] So too, the later law made by the Parliament shall prevail over the earlier law made by the State if the State law is repugnant to the other.[3] This is all the more so if its provision is express and that of the earlier Act is only implied.[4] "If two inconsistent Acts," said Lord Langdale, M.R., in *The Dean, etc. of Ely* v. *Bliss*,[5] "be passed at different times, the last is to be obeyed, and if obedience cannot be observed without derogating from the first, it is the first which must give way. Every Act of Parliament must be considered with reference to the state of law subsisting when it came into operation, and when it is to be applied, it cannot otherwise be rationally construed. Every Act is made either for the purpose of making a change in the law, or for the purpose of better declaring the law, and its operation is not to be impeded by the mere fact that it is inconsistent with some previous enactment." For one statute to cancel another they must be mutually destructive, for example, the Legislature would not have constituted two distinct bodies to name the streets in a town. The question is whether the Legislature can be said not to have intended the two rights to exist together.[6]

If there is repugnancy between subsequent legislation made by Parliament and the law operating in the State by virtue of Article 256(2) of the Constitution the law by Parliament would prevail to the extent of such repugnancy.[7]

If the two Acts are repugnant in any of their provisions, the latter Act, without any repealing clause, operates to the extent of the repugnancy as a repeal of the former; and even where two Acts are not in express terms repugnant, yet if the latter Act covers the whole subject of the former, and embraces new provisions, plainly showing that it was intended as a substitute for the former Act, it will operate as a repeal of that Act.[8]

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1. *King-Emperor* v. *Raja Probhat Chandra*, AIR 1927 Cal 432 : ILR 54 Cal 863 (FB) (provisions of Civil Procedure Code, 1908, being inconsistent with those of Probate and Administration Act, 1881, those of the Code prevailed, as it is the later enactment); *Esoof Hasshim D'Ooply* v. *Fatima Bibi*, ILR 24 Cal 30, 33; *Chamaraja* v. *State of Mysore*, AIR 1967 Mys 21, 23 (Hegde, J.); *Bennett* v. *Minister of Public Works (NSW)*, 7 CLR 372, 377; *Sarwan Singh* v. *Kasturi Lal*, (1977)1 SCC 750 (761).
2. *Anand Reddi* v. *State of Andhra Pradesh*, AIR 1959 Andhra 144, 146 : Crawford : *Construction of Statutes*, at p. 669.
3. See *Lalshai Tulsibhai Patel, Ahmedabad* v. *Additional Special Land Acquisition Officer, Ahmedabad*, AIR 1986 Guj 24 : 1985 Guj LH 149 : 1985(2) 26 Guj LR 609 (DB).
4. *In re*, Cannings, Ltd. and Middlesex County Council, (1907)1 KB 51, 58.
5. (1842)11 LJ Ch 351, 354.
6. *Public Prosecutor* v. *Ranganayakulu Chettiar*, AIR 1927 Mad 602 : ILR 50 Mad 845.
7. *Lalbhai* v. *Addl. Spl. L.A. Officer*, AIR 1986 Guj 24 : 1985 Guj LH 149 : (1985)(2) 26 Guj LR 609.
8. *District of Columbia* v. *Hutton*, 36 L Ed 60, 62 (Lamar, J.); *The Dharangadhra Chemical Works* v. *V. Dharangadhra Municipality*, AIR 1985 SC 1729.

Two enactments may be inconsistent although obedience to each of them may be possible without disobeying the other. Statutes may do more than impose duties; they may, for instance, confer rights and one statute is inconsistent with another when it takes away a right conferred by that other even though the right be one which might be waived or abandoned without disobeying the statute which conferred it.[1] When the purposes intended to be served are distinct and different, and the two provisions can very well stand together, whatever be their validity, there is no disharmony between them, and, therefore, no scope for applying the principle of harmonious construction.[2]

Transfer of Property Act, 1882 and the Companies Act, 1956 should be interpreted harmoniously. But any provision of one of these cannot nullify that of the other. The two Acts should be consistently read so far as it is reasonably possible.[3]

5. Conflict between general and special provisions of a statute.—Speaking of a conflict between general and special provisions, O'Connor, J., in *Goodwin* v. *Phillips*,[4] observed :

> "The conflict between the two sections is one of the kinds to which Sir George Jessel, M.R., refers in *Taylor* v. *Oldham Corporation*.[5] Where there is general provision which, if applied in its entirety, would neutralize a special provision dealing with the same subject-matter, the special provision must be read as a proviso to the general provision, and the general provision, in so far as it is inconsistent with the special provision, must be deemed not to apply."

6. Conflict between general Acts and special statutes.—In case of statutes on same subject the rule of construction is to so interpret the enactments that they shall be if possible consistent. But if they cannot be fairly read in such a way as to give full meaning to each consistently with the other, then one must give way, and the one to give way will be the general provision.[6] In such a case the later special Act will be taken to have amended the earlier general Act in so far as the matters dealt with in the specific Act are concerned. The Court, however, will assume that the Legislature, in enacting the sections as separate provisions of the same statute or groups of statutes, intended full effect to be given to each. It is only when there becomes apparent an inconsistency which it is impossible to avoid by any reasonable interpretation of the words used, that a court will in general draw the conclusion that the Legislature intended the later special statute to repeal the earlier general statute.[7]

It is but expedient to quote the principle of law in this regard by the Supreme Court in *e.g. The Krishna Dist. Co-operative Marketing Society Ltd., Vijayawada* v. *N.V. Purnachandra Rao*,[8] quoting Maxwell : In the words of the Supreme Court, "If there is a conflict between the *special* provisions contained in an order *law dealing* with retrenchment and the *general*

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1. *Clyde Engineering Co., Ltd.* v. *Cowburn*, 37 CLR 466 (Australia)
2. *Damodaran* v. *State*, AIR 1960 Ker 58, 60 (Velu Pillai, J.).
3. *Vasudev* v. *P.J. Thakur*, AIR 1974 SC 1728.
4. 7 CLR 1, 14. *The Charity Commision, Maharashtra State, Bombay* v. *(Smt.) Shanti Devi Lalchand Chhaganlal Foundation Trust, Bombay*, AIR 1990 Bom 189 : 1989 Mah LJ 1048 (DB); *Antaryami Patra* v. *State of Orissa*, 1993 Cri LJ 1988 : (1993)75 Cut LT 703.
5. 4 Ch D 395, 410.
6. *Commissioner of Income-tax, Patiala* v. *Shahzada Nand and Sons*, AIR 1966 SC 1342.
7. *Minister of Lands (New South Wales)* v. *Bank of New South Wales*, (1909)9 CLR 322, 341; *see* also *Rayaloo Iyer & Sons* v. *Commissioner of Income-tax*, AIR 1955 Mad 56.
8. AIR 1987 SC 1960 : 1987 Lab IC 1651 : (1987)4 JT (SC) 197 : (1987)3 Serv LJ 68 : (1987)2 Cur LR 213 : (1987)2 APLJ (SC) 57 : (1987)2 Cur CC 616 : (1987)2 Supreme 282 : (1987)4 SCC 94 : (1987)3 Lj Rep 399 : (1987)2 Lab CJ 365 : (1987)3 SCJ 412 : (1987)55 Fac LR 498 : 1987 SCC (Lab) 366.

provisions contained in a later law generally dealing with terminations of service, the existence of repugnancy between the two laws cannot be easily presumed.[1] Maxwell on the *Interpretation of Statutes*[1] : "Now if anything be certain it is this" said the Earl of Selborne, LC in *The Vero Cruz*[2] that where there are general words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, you are not to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force of such general words without any indication of a particular intention to do so. In a later case Viscount Haldane said : "We are bound.....apply a rule of construction which has been repeatedly laid down and is firmly established. It is that wherever Parliament in an earlier statute directed its attention to an individual case and has made provision for it unambiguously there arises a presumption that if in a subsequent statute the Legislature lays down a general principle, that general principle is not to be taken as meant to rip up what the Legislature had before provided for individually unless an intention to do so is specifically declared. A merely general rule is not enough even though by its terms it is stated so widely that it would be taken by itself, cover special cases of the kind I have referred to."[3]

And if a special enactment, whether it be a public or a private Act, and a subsequent general Act absolutely repugnant and inconsistent with one another, the Courts have no alternative but to declare the prior special enactment repealed by the subsequent general Act.[4]

But where there was a special Act dealing with a special subject, resort should be had to that Act instead of to a general provision which was exercisable or which was available under extraordinary circumstances only.[5]

The Criminal Procedure Code has not completely occupied the field of criminal procedure in the matter of search warrants. Where there is a special provision like Section 29 in the Madras Prohibition Act which governs searches without warrant, it is this that must apply and not the general provision which is contained in Section 34 of the Act. The principle that is applicable in such cases is *generalia specialibus non derogant*. On that principle, it is Section 29 that applies and not Section 165(5), Cr. P. C.[6]

Power of body carved out of larger.—When there is body dealing with a larger area and from that area is carved out a smaller area which is entrusted to another body, the law giving power to the body governing the smaller area should prevail over the law-giving power to the body governing the larger area.[7]

7. Conflict between statute and rules made thereunder.—If reconciliation between a section and a rule made under the Act is not possible then the rule which is subordinate provision must give way.[8] No rule can be so framed as to be in conflict with or in derogation from the statute under which it is framed. Where a rule is broad in sense and is inconsistent with the main

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1. 12th Ed. at p. 196.
2. (1884)10 App. Cas. 59 at p. 68.
3. See also *Damodar Haribaksha Agrawal* v. *(Smt) Ram Rati Devi*, AIR 1989 Bom 257 : 1989 Mah LJ 425 : (1990)2 Bom CR 26 (DB).
4. Craies on *Statute*, (5th Ed.) at p. 352, referred to in *Kochuni* v. *State*, AIR 1961 Ker 210, 221 (FB).
5. *Gopaljee* v. *Shree Chand*, AIR 1955 All 28; *Brijbhusan* v. *S.D.O., Siwan*, ILR 33 Pat 690 : AIR 1955 Pat 1.
6. *Public Prosecutor* v. *K. Velayudhan*, (1955)1 MLJ 70.
7. *Asa Ram* v. *District Board, Muzaffarnagar*, 1959 (Supp) 1 SCR 715, 723.
8. Maxwell : *Interpretation of Statutes*, 11th Ed. at p. 50; *L.C. Singh* v. *Chief Commissioner, Manipur*, AIR 1958 Manipur 1, 3; *Patel Kanchanbhai Mangalbhai* v. *Maneklal Manganlal Gandhi*, AIR 1966 Guj 19.

statute, it must give way,[1] and its construction should be in consonance with the statutory provision.[2] However, before declaring so the Court should endeavour to reconcile them that is to say, the rule may be so read if the phraseology permits it, as to make it consistent with the specific provision.[3]

If there is any clash between any provision of the State Act and Central Act, Rules and Regulations, the Central Act, Rules and Regulations will prevail.[4]

8. Conflict between law and practice.—When a rule of practice or prudence or whatever else it may be called conflicts with the law as laid down by the Legislature, the Court is bound to follow the law.[5] Not one jot or one title can be taken away from or added to the plain and express provisions of the Legislature by any decision of the Court.[6]

9. Conflict between one Special Act and another.—A special statute does not derogate from another special statute without express words of abrogation. So, special provisions made under the Workmen's Compensation Act do not abrogate the rights arising under the Fatal Accidents Act. A workman making a claim under the Workmen's Compensation Act has an alternative remedy in the Civil Court under the Fatal Accidents Act.[7]

10. Conflict between natural right and provision of law.—Where there is a conflict between a basic natural right born out of natural justice and a provision of law, general or special, it is also settled that the former should prevail, even though the right is not specifically mentioned in the list of rights guaranteed under the Constitution.[8]

"Principles of natural justice cannot override statutory provision," said the Patna High Court in a case involving Order IX, Rule 4 of the Civil Procedure Code.[9]

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1. *Commissioner of Income-tax, Madras* v. *S. Chinappa Mudaliar*, AIR 1969 SC 1068.
2. *Siddeswar Sen* v. *Appellate Committee (Transport Department)*, 69 CWN 194; *Gour Gopal Mitra* v. *State of West Bengal*, 67 CWN 12; *Pandit Prahlad Dutta* v. *State of M.P.*, 1966 MPLJ 595.
3. Vide *(M/s.) Halax Store* v. *Commissioner of Sales Tax, Orissa*, 1996(1) OLR 493 (Ori) (DB).
4. *Katras Jharia Coal Co.* v. *State of West Bengal*, AIR 1960 Cal 646, 664 (Sinha, J.).
5. *Emperor* v. *C.A. Mathews*, AIR 1929 Cal 822, 824; *State* v. *Chhadami*, AIR 1957 All 639, 640.
6. *In re* An Attorney, ILR 41 Cal 446, 457.
7. *Union of India* v. *Satyabati*, AIR 1966 Pat 130 : 1965 BLJR 564.
8. *Soureya, K. C.* v. *State of U.P.*, AIR 1963 All 331 : (1963)1 Cr LJ 38.
9. *Ram Kishore* v. *Commissioner, Dhanbad*, AIR 1978 Pat 237. *See* also *Sundari Dasi* v. *Basudeo*, AIR 1977 Cal 193.