

Francis Bennion

STATUTORY
INTERPRETATION

Butterworths

STATUTORY INTERPRETATION

Codified, with a critical Commentary

F. A. R. Bennion MA (Oxon), Barrister

*Former UK Parliamentary Counsel; sometime
Lecturer and Tutor in Jurisprudence
at St Edmund Hall Oxford*

London
Butterworths
1984

- England** Butterworth & Co (Publishers) Ltd
88 Kingsway, LONDON WC2B 6AB
- Australia** Butterworths Pty Ltd
SYDNEY, MELBOURNE, BRISBANE, ADELAIDE, PERTH, CANBERRA and HOBART
- Canada** Butterworth & Co (Canada) Ltd
TORONTO and VANCOUVER
- New Zealand** Butterworths of New Zealand Ltd
WELLINGTON and AUCKLAND
- Singapore** Butterworth & Co (Asia) Pte Ltd
SINGAPORE
- South Africa** Butterworth Publishers (Pty) Ltd
DURBAN and PRETORIA
- USA** Butterworth Legal Publishers
ST PAUL, Minnesota; SEATTLE, Washington; BOSTON, Massachusetts
AUSTIN, Texas and D & S Publishers, CLEARWATER, Florida

©
Butterworths & Co. (Publishers) Ltd.
1984

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, including photocopying and recording, without the written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in a retrieval system of any nature.

This book is sold subject to the Standard Conditions of Sale of Net Books and may not be re-sold in the UK below the net price fixed by Butterworths for the book in our current catalogue.

Bennion, F.A.R.

Statutory interpretation : codified with a critical commentary.

1. Law—Great Britain—Interpretation and construction

I. Title

344.108'22 KD691.A

ISBN 0-406-25920-8

Printed and bound by The Whitefriars Press Ltd, Tonbridge, Kent

To *William Roscoe*, of Liverpool
1753–1831

Those who live only for the world, and in the world, may be cast down by the frowns of adversity; but a man like Roscoe is not to be overcome by the reverses of fortune. They do but drive him in upon the resources of his own mind; to the superior society of his own thoughts; which the best of men are apt sometimes to neglect, and to roam abroad in search of less worthy associates. He is independent of the world around him. He lives with antiquity and posterity, in the generous aspirings after future renown.

Washington Irving *The Sketch Book*

The Code: Summary of Parts

Division One – The Common-Law System of Statutory Interpretation 1

- I – The Interpreter 3
- II – The Text 81
- III – The Enactment and the Facts 159
- IV – The Legal Meaning of an Enactment 199
- V – Legislative Intention 223
- VI – Guides to Legislative Intention 255
- VII – Arriving at Legislative Intention where Legal Meaning not ‘Plain’ 383

Division Two – Supplementary Provisions 407

- VIII – Commencement, Amendment and Repeal of Enactments 409
- IX – Extent and Application of Enactments 453
- X – The Informed Interpretation Rule: Legislative History 513
- XI – The Informed Interpretation Rule: Further Provisions 557
- XII – The Functional Construction Rule 565
- XIII – The Principle against Doubtful Penalization 609
- XIV – Legislative Presumptions: the Mischief and its Remedy 631
- XV – Legislative Presumptions: Purposive Construction 657
- XVI – Legislative Presumptions: Construction against ‘Absurdity’ 675
- XVII – Legislative Presumptions: Construction against Evasion 709
- XVIII – Legislative Presumptions: Application of Ancillary Rules of Law 721
- XIX – Legislative Presumptions: Application of Ancillary Legal Maxims 757
- XX – Linguistic Canons of Construction: Use of Deductive Reasoning 789
- XXI – Linguistic Canons of Construction: Interpretation of Individual Words
and Phrases 797
- XXII – Linguistic Canons of Construction: Elaboration of Meaning of Words
and Phrases 823

The Code: Arrangement of Sections

Division One - The Common-Law System of Statutory Interpretation

Part I - The Interpreter

Preliminary

1. To 'construe' or 'interpret'? 3
2. Interpreter's duty to arrive at legal meaning 4
3. Real doubt as to legal meaning 5

Types of Interpreter

4. Types of interpreter: the legislator 6
5. Types of interpreter: courts and other enforcement agencies 7
6. Types of interpreter: the jurist or text writer 8
7. Types of interpreter: the subject and his adviser 14

The Subject

8. The subject: duty to obey legislation 15
9. The subject: *ignorantia juris neminem excusat* 18
10. The subject: mandatory and directory requirements 21
11. The subject: where contracting out and waiver allowed 27
12. The subject: where contracting out and waiver not allowed 30
13. The subject: criminal sanctions for disobedience (the offence of contempt of statute) 33
14. The subject: civil sanctions for disobedience (the tort of breach of statutory duty) 35

Enforcement Agencies

15. Enforcement agencies: administrative agencies 43
16. Enforcement agencies: authorising agencies 46
17. Enforcement agencies: investigating agencies 47
18. Enforcement agencies: prosecuting agencies 47
19. Enforcement agencies: courts and other adjudicating authorities 50
20. Enforcement agencies: function of adjudicating authorities 52
21. Enforcement agencies: doctrine of judicial notice 54
22. Enforcement agencies: adjudicating authorities with original jurisdiction 56
23. Enforcement agencies: adjudicating authorities with appellate jurisdiction 59
24. Enforcement agencies: judicial review 67

- 25. Enforcement agencies: executive agencies ancillary to adjudicating authorities 74
- 26. Enforcement agencies: dynamic processing of legislation by 75

Part II – The Text

Acts of Parliament

- 27. Act of Parliament: definition 81
- 28. Act of Parliament: types of 85
- 29. Act of Parliament: interpreter's need to understand nature of 89
- 30. Act of Parliament: territorial, temporal and personal operation of 91
- 31. Act of Parliament: doctrine of parliamentary sovereignty 94
- 32. Act of Parliament: overriding effect of 94
- 33. Act of Parliament: uniqueness of 98
- 34. Act of Parliament: whether binding the Crown 100
- 35. Act of Parliament: need for validation 105
- 36. Act of Parliament: enactment procedure 106
- 37. Act of Parliament: royal assent (two-stage procedure) 110
- 38. Act of Parliament: royal assent (signification of) 110
- 39. Act of Parliament: royal assent (communication of) 113
- 40. Act of Parliament: royal assent (absence or illness of Monarch) 115
- 41. Act of Parliament: royal assent (demise of the Crown) 116
- 42. Act of Parliament: royal assent (regency) 116
- 43. Act of Parliament: validation under Parliament Acts 1911 and 1949 (money Bills) 117
- 44. Act of Parliament: validation under Parliament Acts 1911 and 1949 (other Bills) 118
- 45. Act of Parliament: final settling of text and promulgation 119
- 46. Act of Parliament: official published editions 123
- 47. Act of Parliament: challenges to Act's validity 124

Prerogative Instrument

- 48. Prerogative instrument: nature of 129
- 49. Prerogative instrument: interpretation of 130

Delegated Legislation

- 50. Delegated legislation: nature of 131
- 51. Delegated legislation: parliamentary control of 136
- 52. Delegated legislation: types of delegate (HM The Queen) 138
- 53. Delegated legislation: types of delegate (Privy Council) 139
- 54. Delegated legislation: types of delegate (House of Commons) 139
- 55. Delegated legislation: types of delegate (Ministers) 140
- 56. Delegated legislation: types of delegate (others) 140
- 57. Delegated legislation: duty to exercise delegated powers 140
- 58. Delegated legislation: doctrine of ultra vires 141
- 59. Delegated legislation: rule of primary intention 146
- 60. Delegated legislation: other principles of interpretation 147

- 61. Delegated legislation: types of instrument (statutory instruments) 149
- 62. Delegated legislation: types of instrument (orders) 150
- 63. Delegated legislation: types of instrument (regulations) 151
- 64. Delegated legislation: types of instrument (rules) 152
- 65. Delegated legislation: types of instrument (byelaws) 152
- 66. Delegated legislation: types of instrument (others) 153
- 67. Delegated legislation: sub-delegation 155
- 68. Delegated legislation: commencement of 156
- 69. Delegated legislation: amendment of 157
- 70. Delegated legislation: revocation of 157

Part III – The Enactment and the Facts

Preliminary

- 71. The enactment and the facts 159

The Enactment

- 72. The enactment: the unit of enquiry in statutory interpretation 162
- 73. The enactment: nature of an ‘enactment’ 164
- 74. The enactment: selective comminution 168
- 75. The enactment: challenges to validity of 170
- 76. The enactment: precise or disorganised? 177
- 77. The enactment: drafting presumed competent 180
- 78. The enactment: the factual outline 181
- 79. The enactment: the legal thrust 186

The Facts of the Instant Case

- 80. The facts: relevant and irrelevant facts 186
- 81. The facts: proof of relevant facts 190
- 82. The facts: judicial notice 191
- 83. The facts: matters of fact and degree 191

The Opposing Constructions of the Enactment

- 84. Opposing constructions on particular facts 192

Part IV – The Legal Meaning of an Enactment

Nature of the Legal Meaning

- 85. Nature of the legal meaning 199

Grammatical Meaning of an Enactment

- 86. Grammatical meaning: nature of 200
- 87. Grammatical meaning: ambiguity 201
- 88. Grammatical meaning: general and relative ambiguity 203

The Code: Arrangement of Sections

- 89. Grammatical meaning: ambiguity and ‘opposing constructions’ 204
- 90. Grammatical meaning: semantic obscurity and the ‘corrected version’ 207
- 91. Grammatical meaning: use of the phrase ‘literal meaning’ 210

Strained Construction

- 92. Strained construction: nature of 211
- 93. Strained construction: need for 213
- 94. Strained construction: former ‘equitable construction’ 218
- 95. Strained construction: where enactment repugnant to another enactment within the Act 220
- 96. Strained construction: where enactment repugnant to a descriptive component of the Act 220
- 97. Strained construction: same words may have different legal meanings 221

Part V – Legislative Intention

Nature of Legislative Intention

- 98. Legislative intention: the paramount criterion in interpretation 223
- 99. Legislative intention: is it a myth? 226
- 100. Legislative intention: the nature of legislation 228
- 101. Legislative intention: the duplex approach 230
- 102. Legislative intention: delegation to the court 233
- 103. Legislative intention: where no actual intention existed 233
- 104. Legislative intention: unforeseen facts and accidental fit 235
- 105. Legislative intention: intention distinguished from purpose or object 237
- 106. Legislative intention: intention distinguished from motive 237

Filling in the Textual Detail

- 107. Filling in the detail: implications (nature of) 239
- 108. Filling in the detail: implications (are they legitimate?) 242
- 109. Filling in the detail: implications (when legitimate) 245
- 110. Filling in the detail: implications affecting related law 247
- 111. Filling in the detail: dynamic processing by the court (stare decisis) 249
- 112. Filling in the detail: interstitial articulation 250
- 113. Filling in the detail: interstitial articulation by the advocate 251
- 114. Filling in the detail: interstitial articulation by the court 251

Part VI – Guides to Legislative Intention

Preliminary

- 115. Nature of the guides: rules, principles, presumptions and canons 256

Rules of Construction

- 116. Rules: nature of rules of construction 259
- 117. Rules: the basic rule of statutory interpretation 259
- 118. Rules: duty to have regard to juridical nature of the enactment 261
- 119. Rules: the informed interpretation rule 261
- 120. Rules: the plain meaning rule 264
- 121. Rules: rule where meaning not 'plain' 266
- 122. Rules: the commonsense construction rule 266
- 123. Rules: *ut res magis valeat quam pereat* 270
- 124. Rules: the functional construction rule 271
- 125. Rules: rules laid down by statute 275

Principles Derived from Legal Policy

- 126. Principles: nature of legal policy 285
- 127. Principles: that law should serve the public interest 295
- 128. Principles: that law should be just 300
- 129. Principles: that persons should not be penalized under a doubtful law 302
- 130. Principles: that law should be predictable 306
- 131. Principles: that law should not operate retrospectively 313
- 132. Principles: that law should be coherent and self-consistent 314
- 133. Principles: that law should not be subject to casual change 317
- 134. Principles: that municipal law should conform to public international law 320

Presumptions as to Legislative Intention

- 135. Presumptions: nature of presumptions as to legislative intention 325
- 136. Presumptions: that text to be primary indication of intention 325
- 137. Presumptions: that enactment to be given literal meaning 325
- 138. Presumptions: that court to apply remedy provided for the 'mischief' 329
- 139. Presumptions: that enactment to be given a purposive construction 330
- 140. Presumptions: that regard to be had to consequences of a construction 330
- 141. Presumptions: that 'absurd' result not intended 336
- 142. Presumptions: that errors to be rectified 337
- 143. Presumptions: that evasion not to be allowed 347
- 144. Presumptions: that ancillary rules of law apply 350
- 145. Presumptions: that ancillary legal maxims apply 354
- 146. Presumptions: that updating construction to be applied 355

Linguistic Canons of Construction

- 147. Canons: nature of linguistic canons of construction 372
- 148. Canons: use of deductive reasoning 373
- 149. Canons: construction of Act or other instrument as a whole 374
- 150. Canons: interpretation of broad terms 379
- 151. Canons: interpretation of individual words and phrases 382
- 152. Canons: elaboration of meaning of words and phrases 382

The Code: Arrangement of Sections

Part VII – Arriving at Legislative Intention where Legal Meaning not ‘Plain’

Preliminary

- 153. Ascertaining cause of the doubt 383
- 154. Strict and liberal construction 384

Interpretative Factors

- 155. Interpretative factors: nature of a factor 386
- 156. Interpretative factors: positive and negative factors 387
- 157. Interpretative factors: factors all pointing one way 388

Weighing the Factors

- 158. Weighing the factors: nature of the operation 390
- 159. Weighing the factors: where legislator has indicated a view 395
- 160. Weighing the factors: grammatical ambiguity 395
- 161. Weighing the factors: semantic obscurity 398
- 162. Weighing the factors: need for strained construction 400
- 163. Weighing the factors: changes in legal policy 404

Division Two – Supplementary Provisions

Part VIII – Commencement, Amendment and Repeal of Enactments

Commencement of an Enactment

- 164. Commencement: meaning of ‘commencement’ 409
- 165. Commencement: on passing of Act 410
- 166. Commencement: on date specified in Act 411
- 167. Commencement: on date specified by government order 414
- 168. Commencement: of different provisions on different days 417
- 169. Commencement: preparatory orders etc 417

Amendment of an Enactment

- 170. Amendment: meaning of ‘amendment’ 418
- 171. Amendment: textual amendment 418
- 172. Amendment: indirect express amendment 421
- 173. Amendment: implied amendment 422
- 174. Amendment: amendment by delegated legislation 422
- 175. Amendment: consequential amendment 424
- 176. Amendment: references to an amended enactment 426
- 177. Amendment: extra-statutory concessions 428

Repeal or Expiry of an Enactment

- 178. Repeal: meaning of ‘repeal’ 429
- 179. Repeal: the practice of ‘double repeal’ 431

- 180. Repeal: implied repeal 433
- 181. Repeal: *generalia specialibus non derogant* 434
- 182. Repeal: general savings 435
- 183. Repeal: substituted provisions (commencement) 438
- 184. Repeal: re-enactment (adaptation of references) 439
- 185. Repeal: re-enactment (preservation of delegated legislation) 439
- 186. Repeal: re-enactment (preservation of other things done) 439
- 187. Expiry of an enactment 440
- 188. Desuetude 441

Transitional Provisions

- 189. Transitional provisions 442

Retrospective Operation of Enactments

- 190. Retrospective operation: general presumption against 443
- 191. Retrospective operation: procedural provisions 446
- 192. Retrospective operation: events occurring over a period 448
- 193. Retrospective operation: delegated powers 450
- 194. Retrospective operation: cause of doubt 450

Part IX – Extent and Application of Enactments

Territorial Extent of an Enactment

- 195. Territorial extent: the basic rule 453
- 196. Territorial extent: meaning of ‘extent’ 455
- 197. Territorial extent: uniform meaning throughout area of extent 456
- 198. Territorial extent: composition of an enactment’s territory 459
- 199. Territorial extent: presumption of United Kingdom extent 461
- 200. Territorial extent: extent to Her Majesty’s independent dominions 464
- 201. Territorial extent: meaning of ‘associated state’ 466
- 202. Territorial extent: meaning of ‘baseline’ 467
- 203. Territorial extent: meaning of ‘Berwick upon Tweed’ 468
- 204. Territorial extent: meaning of ‘British Islands’ 469
- 205. Territorial extent: meaning of ‘British possession’ 469
- 206. Territorial extent: meaning of ‘Channel Islands’ 470
- 207. Territorial extent: meaning of ‘colony’ 471
- 208. Territorial extent: meaning of ‘England’ 473
- 209. Territorial extent: meaning of ‘Great Britain’ 474
- 210. Territorial extent: meaning of ‘Her Majesty’s dominions’ 475
- 211. Territorial extent: meaning of ‘Her Majesty’s independent dominions’ 477
- 212. Territorial extent: meaning of ‘high seas’ 477
- 213. Territorial extent: meaning of ‘internal waters’ 478
- 214. Territorial extent: meaning of ‘Isle of Man’ 478
- 215. Territorial extent: meaning of ‘Monmouthshire’ 479
- 216. Territorial extent: meaning of ‘Northern Ireland’ 481

The Code: Arrangement of Sections

- 217. Territorial extent: meaning of ‘Scotland’ 482
- 218. Territorial extent: meaning of ‘territorial waters’ 483
- 219. Territorial extent: meaning of ‘United Kingdom’ 486
- 220. Territorial extent: meaning of ‘Wales’ 486

Application of an Enactment

- 221. Application: general principles 487
- 222. Application: foreigners and foreign matters within the territory 490
- 223. Application: foreigners and foreign matters outside the territory 496
- 224. Application: Britons and British matters outside the territory 501
- 225. Application: high seas and other unappropriated territories 506
- 226. Application: deemed location of an omission 509
- 227. Application: deemed location of a composite act or omission 509
- 228. Application: deemed location of an artificial person 510

Part X – The Informed Interpretation Rule: Legislative History

Preliminary

- 229. Legislative history as a guide to construction 514

Pre-enacting History

- 230. Pre-enacting history: the basic rule 514
- 231. Pre-enacting history: the earlier law 515
- 232. Pre-enacting history: consolidation Acts 517
- 233. Pre-enacting history: codifying Acts 519

Enacting History

- 234. Enacting history: meaning 520
- 235. Enacting history: the basic rule 521
- 236. Enacting history: sources referred to in Act 523
- 237. Enacting history: committee reports leading up to Bill 525
- 238. Enacting history: reports of parliamentary proceedings on Bill 526
- 239. Enacting history: amendments to Bill 528
- 240. Enacting history: explanatory memoranda 529
- 241. Enacting history: special restriction on parliamentary materials 530
- 242. Enacting history: international treaties 534
- 243. Enacting history: judicial notice of 541
- 244. Enacting history: inspection by court of 542
- 245. Enacting history: recitals by counsel of 542
- 246. Enacting history: adoption as part of counsel’s argument 543
- 247. Enacting history: to ascertain Parliament’s view of the pre- Act law 544
- 248. Enacting history: to ascertain the mischief 545
- 249. Enacting history: as an indication of Parliament’s intention 546
- 250. Enacting history: as persuasive authority 547
- 251. Enacting history: as binding authority 550

Post-enacting History

- 252. Post-enacting history: the basic rule 551
- 253. Post-enacting history: official statements on meaning of Act 551
- 254. Post-enacting history: delegated legislation made under Act 553
- 255. Post-enacting history: later Acts 553
- 256. Post-enacting history: judicial decisions on Act 554
- 257. Post-enacting history: committee reports on Act 555
- 258. Post-enacting history: commentaries on Act 556

Part XI – The Informed Interpretation Rule: Further Provisions

- 259. Meaning of the ‘context’ of an enactment 557
- 260. Need to avoid unpredictability and lengthening of proceedings 559
- 261. The two-stage approach to statutory interpretation 560
- 262. Interpreter’s need for legal knowledge 561
- 263. Briefs to the court 561
- 264. Admission of information *de bene esse* 562

Part XII – The Functional Construction Rule

Operative Components of Act

- 265. Operative components of Act: nature of 565
- 266. Operative components of Act: sections 566
- 267. Operative components of Act: Schedules 568
- 268. Operative components of Act: the proviso 570
- 269. Operative components of Act: savings 573

Amendable Descriptive Components of Act

- 270. Amendable descriptive components of Act: nature of 574
- 271. Amendable descriptive components of Act: long title 575
- 272. Amendable descriptive components of Act: preamble 578
- 273. Amendable descriptive components of Act: purpose clauses 580
- 274. Amendable descriptive components of Act: recitals 580
- 275. Amendable descriptive components of Act: short title 581
- 276. Amendable descriptive components of Act: examples 583

Unamendable Descriptive Components of Act

- 277. Unamendable descriptive components of Act: nature of 585
- 278. Unamendable descriptive components of Act: chapter number 586
- 279. Unamendable descriptive components of Act: date of passing 588
- 280. Unamendable descriptive components of Act: enacting formula 589
- 281. Unamendable descriptive components of Act: headings 590
- 282. Unamendable descriptive components of Act: sidenotes 591
- 283. Unamendable descriptive components of Act: format 593
- 284. Unamendable descriptive components of Act: punctuation 594

The Code: Arrangement of Sections

Incorporation of Provisions by Reference

- 285. Incorporation by reference: nature of 600
- 286. Incorporation by reference: archival drafting 601
- 287. Incorporation by reference: Acts construed as one 603
- 288. Incorporation by reference: collective titles 605

Part XIII – The Principle Against Doubtful Penalization

- 289. Danger to human life or health 609
- 290. Physical restraint of the person 612
- 291. Interference with family rights 614
- 292. Interference with religious freedom 616
- 293. Interference with free assembly and association 617
- 294. Interference with free speech 618
- 295. Detriment to property or other economic interests 618
- 296. Detriment to status or reputation 623
- 297. Infringement of privacy 624
- 298. Impairment of rights in relation to law and legal proceedings 625
- 299. Other interference with rights as a citizen 628

Part XIV – Legislative Presumptions: the Mischief and its Remedy

- 300. Meaning of the ‘mischief’ 631
- 301. The resolution in *Heydon’s Case* 633
- 302. The social mischief 638
- 303. The legal mischief 639
- 304. Party-political mischiefs 641
- 305. Ambit of the mischief 643
- 306. The particular mischief of an enactment 643
- 307. The mischief for which Parliament actually legislated 645
- 308. Mischief which arises only within context of the remedy 647
- 309. Phasing out a legal mischief 648
- 310. Discerning the mischief 648
- 311. Use of the mischief in interpretation 651
- 312. Remedy provided for the mischief 653

Part XV – Legislative Presumptions: Purposive Construction

- 313. Nature of purposive construction 657
- 314. Purposive-and-literal construction 661
- 315. Purposive-and-strained construction 664
- 316. Statements of purpose 666
- 317. Where purpose unknown or doubtful 670
- 318. Judicial acceptance of legislator’s purpose 671
- 319. Purposive construction not excluded for taxing etc Acts 672
- 320. British and European versions of purposive construction 673

Part XVI – Legislative Presumptions: Construction against ‘Absurdity’

- 321. Avoiding an unworkable or impracticable result 675
- 322. Avoiding an inconvenient result 682
- 323. Avoiding an anomalous or illogical result 688
- 324. Avoiding a futile or pointless result 700
- 325. Avoiding an artificial result 703
- 326. Avoiding a disproportionate counter-mischief 705

Part XVII – Legislative Presumptions: Construction against Evasion

- 327. Evasion distinguished from avoidance 709
- 328. Anti-evasion provisions in the Act or other instrument 713
- 329. What must not be done directly should not be done indirectly 714
- 330. Evasion by deferring liability 715
- 331. Evasion by repetitious acts 715
- 332. Construction which hinders legal proceedings under Act 716
- 333. Construction which otherwise defeats legislative purpose 718

Part XVIII – Legislative Presumptions: Application of Ancillary Rules of Law

- 334. Rules of constitutional law 721
- 335. Decision-making rules of natural justice etc 725
- 336. Rules of equity 731
- 337. Rules of contract law 733
- 338. Rules of property law 735
- 339. Rules of tort law 736
- 340. Rules of criminal law 739
- 341. Rules of jurisdiction, evidence and procedure 747
- 342. Rules of private international law (conflict of laws) 753

Part XIX – Legislative Presumptions: Application of Ancillary Legal Maxims

- 343. Intentions deduced from actions: *acta exteriora indicant interiora secreta* 757
- 344. Act of God: *actus dei nemini facit injuriam* 758
- 345. Reliance on illegality: *allegans suam turpitudinem non est audiendus* 759
- 346. Hearing both sides: *audi alteram partem* 762
- 347. Double detriment: *bona fides non patitur, ut bis idem exigatur* 764
- 348. De minimis principle: *de minimis non curat lex* 765
- 349. Domestic sanctuary: *domus sua cuique est tutissimum refugium* 768
- 350. Impotence: *impotentia excusat legem* 771
- 351. Impossibility: *lex non cogit ad impossibilia* 773
- 352. Necessity: *necessitas non habet legem* 776
- 353. Judge in own cause: *nemo debet esse judex in propria causa* 778
- 354. Benefit from own wrong: *nullus commodum capere potest de injuria sua propria* 779

The Code: Arrangement of Sections

- 355. Presumption of correctness: *omnia praesumuntur rite et solemniter esse acta* 782
- 356. Agency: *qui facit per alium facit per se* 783
- 357. Vigilance: *vigilantibus non dormientibus leges subveniunt* 785
- 358. Volenti principle: *volenti non fit injuria* 785

Part XX – Linguistic Canons of Construction: Use of Deductive Reasoning

- 359. Nature of deductive reasoning 789
- 360. The hypothetical syllogism 791
- 361. The ambiguous middle term 792
- 362. The principle of contradiction 794

Part XXI – Linguistic Canons of Construction: Interpretation of Individual Words and Phrases

- 363. Ordinary meaning 797
- 364. Composite expressions 801
- 365. Technical terms: general 803
- 366. Technical legal terms 804
- 367. Technical non-legal terms 807
- 368. Terms with both ordinary and technical meaning 809
- 369. Neologisms and slang 812
- 370. Archaisms 815
- 371. Terms applied in a foreign context 815
- 372. Abbreviations 816
- 373. Homonyms 817
- 374. Meaningless terms 818
- 375. Judicial notice of meaning 819
- 376. Evidence of meaning 821

Part XXII – Linguistic Canons of Construction: Elaboration of Meaning of Words and Phrases

- 377. *Noscitur a sociis* principle 823
- 378. *Ejusdem generis* principle: description of 828
- 379. *Ejusdem generis* principle: nature of a ‘genus’ 830
- 380. *Ejusdem generis* principle: single genus-describing term 833
- 381. *Ejusdem generis* principle: genus-describing terms followed by wider residuary words 835
- 382. *Ejusdem generis* principle: genus-describing terms surrounding wider word 836
- 383. *Ejusdem generis* principle: general words followed by narrower genus-describing terms 836
- 384. *Ejusdem generis* principle: express exclusion of 837
- 385. *Ejusdem generis* principle: implied exclusion of 838
- 386. Rank principle 840