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Introduction to

# STATUTORY INTERPRETATION

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## **1. What is Statutory Interpretation?**

### **(a) Definitions**

- Statutes; Legislation; Enactments; Laws.
- Interpretation; Construction; Application.
- Legislature; Parliament; Lawmaker; Lawgiver.
- Author; Drafter.

### **(b) The Legal Process**

- Common Law Model
- Statutory Model
- The “Authority Problem”: Who Makes the Law?

## **2. The Mushroom Case**

### **(a) Introduction**

- *Re Ontario Mushroom Co. Ltd. and Learie* (1977), 15 OR (2d) 639 (HC).
- Case involving the payment of “minimum wage” to persons involved in the cultivation of mushrooms.

### **(b) Legislation**

- Section 6 of the *Regulations* passed pursuant to the *Employment Standards Act*.

Sections 6 to 16 [the provisions requiring the payment of minimum wages] apply to every establishment, on and after the 1<sup>st</sup> day of January, 1969, but do not apply to work performed by ...

(f) a person employed on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, maple products, honey, tobacco, pigs, cattle, sheep and poultry.

### **(c) The Issue: Does this Legislation Apply to Mushroom Growers?**

#### **(d) Dictionaries**

- Southey J (in dissent, deciding that mushrooms are NOT vegetables) looked up the meanings of “vegetable”, “herbaceous”, “mushroom”, and “fungus”. The judge concluded: “a mushroom is not, strictly speaking, a vegetable”.
- Reid J (for the majority, deciding that mushrooms ARE vegetables) said that “I am personally a little reluctant to refer to dictionaries for the purpose of contradicting the common understanding of a common term”. The judge then looked up the meaning of “fall”, “bonnet”, and “boot” in the OED and determined that dictionaries aren’t useful aids in statutory interpretation.

#### **(e) Common Meaning / Personal Experience**

- Reid J (for the majority): “I am not surprised at the evidence ... to the effect that a mushroom was accepted as a vegetable. That accords with my own experience. While that might not govern ... I would have been surprised, based on my experience with the terms “vegetable” and “mushroom”, if any other conclusion had been reached. I do not entirely set aside my own understanding but, of course, I do not rely on it. What I would do with reluctance is set aside a common understanding by reference only to dictionary definitions”.
- Consider more contentious terms found in legislation, such as “marriage”, and “discrimination”.

#### **(f) Appeal to Authority**

- Reid J (for the majority) considered the evidence of several experts, including (a) the President of Ontario Mushroom Co., Ltd., (b) the managing director of Meadowglen Mushroom Farms, (c) the general manager of Maple Leaf Mushroom Farms, and (d) the executive secretary of the Canadian Horticultural Council.

#### **(h) Legislative Context**

- Section 5 of the Regulation, provided that the provisions related to “overtime pay” did not apply to “(k) a person employed on a farm whose employment is directly related to the primary production of .... vegetables”, or to “(d) a person employed in the business, trade or activity of ... mushroom growing”.

#### **(i) Purpose of Legislation**

- Section 64 of Ontario’s *Legislation Act* provides that “An Act shall ... be given such fair, large and liberal construction and interpretation as will best ensure the attainment of its objects”.