

- The rule is used for interpreting specific words in the context of a list of specific words
- Eiusdem generis: is the thing 'of the same type' ? See **Powell v Kempton Park Racecourse [1899] AC 143** and **Re Stockport Ragged, Industrial and Reformatory Schools [1898] 2 Ch 687**
- The rule is used for interpreting general words which follow a list of specific words
- Expressio unius est exclusio alterius: to express one thing is to exclude another. See **R v Inhabitants of Sedgley (1831) 2 B and Ald 65**
- Mention of one or more specific things excludes others of the same type

INTRINSIC AIDS

- If the context of the words used in statutes is relevant to their meaning, what parts of statutes are of assistance?
- Preambles: not generally found in modern statutes; used to recite the reasons why the statute was passed. See **Ag v Prince Ernest Augustus of Hanover [1957] 1 All ER 49**
- Long titles: all modern statutes have these.
R v Galvin [1987] 2 All ER 851: long titles can be used to help resolve an ambiguity in the body of the act
- Short titles: is part of the Act so can and should be considered but as it is short often 'accuracy is sacrificed to brevity' **R v Boaler [1915] 1 KB 21**
- Headings and marginal notes: may be relevant to interpretation 'provided we realise that the cannot have equal weight with the words of the Act' **DDP v Schildkamp [1969] 3 All ER 1640**
- But they may help identify the purpose of the act: **Stephens v Cuckfield RDC [1960] 2 QB 373**
- Schedules- See **AG v Lamplough (1878) 3 ExD 214**.
'a schedule in an act is a mere question of drafting, a mere question of words. The statute is as much part of the statutes, and is as much an enactment, as any other part'
- Definitions sections: note the difference between...
Means: whatever the provision states the word to mean
And Includes: when the word is given a special statutory meaning as well as their 'ordinary, popular and natural sense whenever that would be applicable' **Robinson v Barton-Eccles Local Board (1883) 8 App Cas 79**

EXTRINSIC AIDS

- Pre-parliamentary materials - controversial but position appears to be that they can be used to identify the mischief.
- Law Commission Reports may be used to help identify the meaning of a statute.
- Explanatory Notes (since 1998) - 'it is for the courts to decide what attention they should pay to them' **Lord McIntosh** of Haringey, answering a question on legislative drafting

HANSARD

- Hansard: refers to printed transcripts of parliamentary debates that take place in the Westminster system of government.
- Until 1993, Bill of Rights 1689 was held to prevent courts from referring to Parliamentary debates to determine meaning of legislation
- Rule of Hansard is relaxed in **Pepper v Hart [1993] 1 All ER 42**

RULE IN PEPPER V HART

- Courts can refer to parliamentary material contained in Hansard if statute is ambiguous or obscure or literal meaning leads to an absurdity. AND material referred to consists of clear statements by minister or other promoter of the Bill.

POST - PARLIAMENTARY MATERIALS

- Volume of cases heard by tribunals about 6 times that of cases in High Court and County Court combined - nearly a million cases a year

APPEALS FROM TRIBUNALS

- Historically there was a right of appeal from some tribunals, not all
- Sometimes to another level of tribunals (eg Employment Appeal Tribunal, Immigration Appeals Tribunal), sometimes to High Court (QBD) on points of law
- Decisions of tribunals always subject to Judicial Review by High Court - though not the merits of the decision
- Now see Tribunals, Courts and Enforcement Act 2007

PROCEDURE

- Meant to be less legalistic than courts
- No common procedure - up to tribunals to design own procedure
- Most tribunals are comprised of a (usually) legally trained chair and two lay members with relevant expertise; some by a lone chair; some by a High Court judge
- Chair and members appear in ordinary clothes
- Few rules of evidence eg hearsay evidence allowed
- Some formalities eg presentations of case, cross examination
- No requirement evidence given on oath though some tribunal chairmen insist on it
- Chairmen have discretion to adopt a more interventionist approach than in courts; most try to help unrepresented party to present case (though NB often area of law is very technical)
- No charge for initiation of proceedings
- Generally no pre-hearing stage - just apply for hearing and get date
- Many do not have dedicated premises
- Held in private - generally

REPRESENTATION

- Most applicants appear without legal representation though in employment tribunals many employers are represented
- No legal aid available
- Parties are permitted to be represented or unrepresented
- No costs awards made
- Genn research for LCD - representation an advantage, whether legal or non legal with relevant specialism

TRIBUNAL DECISIONS

- Some tribunals withdraw and give oral decision immediately, some reserve decisions
- No stare disis
- Decisions may be long, like court judgements; most are require to give reasons if requested in case the parties wish to appeal
- All tribunals are required to make decisions according to the relevant law; to find facts; to apply law to facts
- Do not make a compromise decision; discretion severely limited

ADVERSARIAL OR INQUISTORIAL?

- Views differ on whether Tribunals are adversarial or inquisitorial
- Emphasis rather on informality
- This leads to interventions by chair - often necessary to redress balance between unrepresented litigant and government department
- 'Inequality of arms' the main reason why some suggest tribunals should be more inquisitorial