

Application of SI Principles to Case Law

Case	Issue & Conclusion	Application of Principles
<p><i>R. v. McIntosh</i> (1995, SCC) Lamar C.J. (majority) pp. 3-10-3-18</p>	<p>Is s. 34.2 (CC) re: self defense available to an initial aggressor?</p> <p>Yes - plain meaning is clear; no ambiguity; penal provision - strict construction</p>	<p>Applies 'Golden Rule'; sees no ambiguity (3-12-3-13) Contextual approach not appropriate - can't determine leg. intent from confusing CC; intent should be seen in their actions (just as in other jurisdictions) (3-13) If it was ambiguous, then: 1) penal provision --> strict construction (3-16) 2) legislative intent --> institutional roles (courts can't amend); people need to know the code 3) absurdity only applies when ambiguous; leg. has the right to be illogical (democratic governance; PS) (3-15-3-16)</p>
<p><i>R. v. McIntosh</i> (1995, SCC) McLachlin J. (dissent) pp. 3-18-3-23</p>	<p>Is s. 34.2 (CC) re: self defense available to an initial aggressor?</p> <p>No - provision is ambiguous (scheme analysis); contextual approach reveals a drafting oversight (leg. history); role of court to correct/avoid absurdity (consequentialist reasoning/policy)</p>	<p>Point of departure is Parliamentary intent not plain meaning/Driedger (3-19) Strict construction of penal provisions only applies when leg. intent can't be determined (3-19) Contextual approach: 1) legislative history --> common law distinction between justified/unjustified homicide (3-20) 2) marginal notes/1955 changes - root of the inadvertent omission (3-21) 3) institutional roles --> allowed to redraft: manifest absurdity; traceable error; obvious correction (3-22) 4) absurdity principle --> must presume rationality/policy considerations wouldn't allow greater leniency for more serious aggressors (3-22)</p>

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<p><i>Re Rizzo & Rizzo Shoes</i> (1998, SCC) Iacobucci J. pp. 3-29-3-37</p>	<p>When bankruptcy occurs can employees be said to be terminated by the employer (and therefore be entitled to termination/severance pay)?</p> <p>Yes - contextual analysis supports conclusion (3-37, para. 40-41)</p>	<p>Rejects PMR as incomplete (3-32, para. 21) Applies Driedger (common law) & BCIA, s. 8 - remedial; liberal construction (3-32, para. 21-22) (also references <i>BCIA</i>, s. 37 - subsequent amendments to leg. (3-37, para. 42)) Scheme (purpose) analysis - object of <i>ESA</i> is benefits-conferring (3-33, para. 24-25; 3-26, para. 36-38) Previous jurisprudence supports interpretation of intent - <i>Machinter v. HOJ Industries</i>; <i>R. v. TNT</i> (3-32, para. 24-26) Absurdity principle - interpretation of CA would defeat the purpose of the statute; would benefits employees with less seniority (3-34, para. 27-29) Legislative history - transitional provision of the <i>Bankruptcy Act</i> (3-34, para. 30-33) Parliamentary intent - Hansard; weak but relevant (3-35, para. 34)</p>
<p><i>R. v. Sharp</i> (2001, SCC) McLachlin C.J. pp. 3-23-3-29</p>	<p>Do Canada's child pornography laws unjustifiably intrude on the constitutional right of freedom of expression?</p> <p>No - contextual analysis/ Parliamentary intent provides that the law is constitutional (two peripheral applications/ two exceptions can be read into the legislation)</p>	<p>Applies Driedger; presumes intent is constitutional (3-23, para. 33) Parliamentary debate --> Hansard (3-25, para. 34) Scheme analysis of words in provision (3-26-3-29) - words are read within the context of the intent of the provision</p>

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<p><i>Merk v. ...Iron Workers</i> (2005, SCC) Binnie J. pp. 3-38-3-47</p>	<p>Labour Standards Act, s. 74: Does “lawful authority” permit a whistleblower to report prohibited activity to someone inside the organization?</p> <p>No - “authority” can be someone either inside or outside (plain meaning); “lawful” is anyone who can take steps to stop the unlawful activity (ordinary meaning; liberal construction); contextual analysis supports employees taking an “up the ladder” approach.</p> <p><u>Note</u>: Dissent (Deschamps J.) applies plain meaning - “lawful authority” = someone with the authority to enforce statutes.</p>	<p>Social context/policy - general principles of labour relations balance employee’s duty of loyalty with public interest in whistleblowing (3-40, para. 16; 3-42, para. 23) Applies Sask-IA, s. 10 - remedial/liberal construction & Driedger (3-40, para. 17-18)</p> <p>Ordinary meaning - permits a broad interpretation “lawful” - stop activity; “authority” inside or outside (3-41, para. 19)</p> <p>Scheme analysis - benefits conferring legislation; Hansard (3.41, para. 20-21)</p> <p>Purpose analysis - balancing loyalty & public interest; case law (3-42, para. 23-24)</p> <p>Public policy/anomalous results - supported by other jurisdictions (federal, international, labour relations field); narrow view would treat ‘disloyal’ employees better- irrational - <i>R.v. Wust</i> (3-43, para. 25-27)</p> <p>Legislative history - Sask. CA viewed changes as “incremental step” (earlier clause limited the scope); SCC disagrees - broader legislative reform (3-44, para. 30-31)</p> <p>Penal principle - regulatory (not penal); limited scope of application of penal principle since <i>McIntosh</i>; other interpretive factors - purpose - weigh more heavily (3-45, para. 32-35)</p> <p><u>Note</u>: Section C (3-46, para. 39-41) points out that the Interpretation Act does not allow subsequent revisions to be used in inferring intent.</p>

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<p><i>Canada 3000 Inc.</i> (2006, SCC) Binnie J. pp. 3-47-3-54</p>	<p>Does “owner” (in the relevant Acts) include the legal titleholders of the aircrafts?</p> <p>No - contextual analysis favours a narrow interpretation of “owner” to exclude the legal titleholders.</p>	<p>Applies Driedger; references <i>Heydon’s Case</i> (3-49, para. 36) Social context - airline industry; commercial context (3-49, para. 37-39) Purpose in context - consequentialist reasoning - broad interpretation would trigger further crisis; would be absurd to make the title holders responsible for charges related to operations they didn’t participate in (3-51, para. 42) Scheme analysis re: meaning - must take entire context into consideration/rejects PMR (<i>Bell ExpressVu</i>) (3-51, para. 44); meaning of “includes” is exhaustive: 1) shared meaning with the French words (para. 49) 2) consistent with the intent of the scheme and its legislative history (para. 50); Hansard & Aeronautics Act (3-54, para. 56-59) 3) consistent with Parliament’s intent to limit scope of liability to users (para. 51); consistent with the broader regulatory framework for the industry (3-53, para. 54-55); and internationally (para. 56)</p>
<p><i>Shaklee v. Canada</i></p>	<p>Re: Ordinary Meaning</p>	<p>Dictionaries are of limited use (4-3, para. 10)</p>
<p><i>Regina v. Riddell</i></p>	<p>Re: Definitions</p>	<p>Statute has no definition; dictionaries don’t resolve the matter Rule of Effectivity - every word in a statute is there for a reason and has a meaning (quote on p. 4-6/final para.)</p>
<p><i>R. v. Lane</i></p>	<p>Re: Titles</p>	<p>Considered part of the Act but not determinative Given little weight (4-14)</p>
<p><i>Commonwealth</i></p>	<p>Re: Titles</p>	<p>Given more weight; consideration to French version (4-16) Scheme analysis (4-17, para. 36)</p>