Vanderbilt Law Review

Volume 6
Issue 5 *Issue 5 - August 1953*

Article 21

8-1953

Statutory Interpretation

Henry N. Williams

STATUTORY INTERPRETATION

HENRY N. WILLIAMS*

The Supreme Court of Tennessee reconsidered several problems in the field of Statutory Interpretation during the Survey period, but its decisions largely followed principles already established in Tennessee and other jurisdictions.

CONSTITUTIONAL REQUIREMENTS

Certain problems in the field of legislation arise in Tennessee by reason of state constitutional provisions. The Court is committed to the position of interpreting these provisions more or less irrespective of the construction of comparable provisions in other state constitutions.[1]

The Constitution of the State of Tennessee provides: "No bill shall become a law, which embraces more than one subject; that subject to be expressed in the title."[2] A chief justice of the Tennessee Supreme Court who was a member of the constitutional convention of 1870 which drafted this provision has explained its purpose: "The Convention evidently designed to cut up by the roots, not only the pernicious system of legislation, which embraced in one act incongruous and independent subjects, but also the evil practice of giving titles to acts which conveyed no real information as to the objects embraced in its provisions."[3] The title of a statute may be either narrow and restricted or broad and general, as the legislature may determine. In either case, if the legislation under the title is germane to the general subject, it is not invalid under the one-subject provision.[4] If the title is general, it justifies provisions in the body of the statute not incongruous with its provisions as to the manner, means and instrumentality whereby it may be enforced or its purpose accomplished.[5]

* Chamberlain Fellow in Legislation, School of Law, Columbia University; formerly on Political Science faculty of Vanderbilt University.

1. "Suffice it to say that questions of State constitutional law are, in a very important sense, peculiarly local; and in every jurisdiction the court of last resort must decide for itself the meaning of the Constitution under which it exists, and the validity of laws enacted by the legislative branch of the government. The decisions of other courts, construing constitutions containing similar provisions, can be, at most, only suggestive and advisory." Wright v. Cunningham, 115 Tenn. 445, 463, 91 S.W. 293, 297 (1905).

2. TENN. CONST. Art. II, § 17.

3. Cannon v. Mathes, 55 Tenn. 504, 518 (1872). See Note, *Constitutional Provisions Regulating the Mechanics of Enactment in Tennessee*, 5 VAND. L. REV. 614 (1952).

4. McDaniel v. Textile Workers Union of America, 254 S.W.2d 1 (Tenn. 1952). "The title of an act may be as broad and general as the legislature may prefer, and, if the legislation under it is germane to the general subject, article 2, section 17 [of the Constitution] is not violated." Crawford v. Nashville, C. & St. L. Ry., 153 Tenn. 642, 645, 284 S.W. 892, 893 (1925).

5. McDaniel v. Textile Workers Union of America, 254 S.W.2d 1 (Tenn. 1952); Peterson v. Grissom, 250 S.W.2d 3 (Tenn. 1952). "'The generality of a

The Constitutional provision that

> "[t]he legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities or exemptions other than such as may be, by the same law extended to any member of the community who may be able to bring himself within the provisions of such law."[6]

has been a fruitful subject for judicial construction through the years.

Several years ago the Court observed:

> "The determination of the validity of acts of the Legislature attempting a classification of the counties of the State is largely influenced by the character of the Legislation. If an act of the legislature affects particular counties as governmental or political agencies, it is good. It is good if it affects only one County in this capacity. No argument is required to sustain such an act. If, however, an act of the Legislature primarily affects the citizens of particular counties or of one county in their individual relations, then such classification must rest on a reasonable basis, and if the classification is arbitrary, the act is bad."[7]

The Court was concerned during the period under review with special laws which affected counties as governmental or political agencies only. When a statute pertains to a county as a governmental or political agent, the designation of the county may be on a population basis.[8] Earlier cases stated the rule that the population basis is immaterial because the county affected may just as lawfully be designated by name.[9] The more difficult question that the Court again considered is

---

title is no objection to it, so long as it is not made a cover to legislation incongruous in itself, and which by no fair intendment can be considered as having a necessary or proper connection. The Legislature must determine for itself, how broad and comprehensive shall be the object of a statute, and how much particularity shall be employed in the title in defining it.' We concur in these general views [of Judge Cooley, at page 144 of his work on Constitutional Limitations] as sound and practical. . . ." Cannon v. Mathes, 55 Tenn. 504, 519 (1872). "The general test is whether the title is uncertain, misleading or deceptive to the average reader, and if the court feels that the title is sufficient to direct a person of ordinary, reasonably inquiring mind to the body of the act, compliance with the constitution has been effected." 1 SUTHERLAND, STATUTORY CONSTRUCTION § 1702 (3d ed., Horack, 1943).

6. TENN. CONST. Art. XI, § 8.

7. Darnell v. Shapard, 156 Tenn. 544, 552, 3 S.W.2d 661, 662 (1928). "It is, of course, settled law that special legislation affecting particular counties or municipalities in their governmental or political capacities may be enacted without violating Article XI, Section 8 of the Constitution. . . . Many such acts had been upheld by this Court. But in those cases the special act was not in conflict with the provisions of the general law, or the classification was upon a reasonable basis." McMinnville v. Curtis, 183 Tenn. 442, 446, 192 S.W.2d 998, 999 (1946). The question of whether parts of this quotation may require qualification will be examined *infra*.

8. Peterson v. Grissom, 250 S.W.2d 3 (Tenn. 1952); Wilson v. Williams, 250 S.W.2d 73 (Tenn. 1952).

9. Stokes v. Dobbins, 158 Tenn. 350, 13 S.W.2d 321 (1929); State *ex rel.* Bise v. Knox County, 154 Tenn. 483, 290 S.W. 405 (1926); The Redistricting Cases, 111 Tenn. 234, 80 S.W. 750 (1903).

whether there are limits to the power of the legislature to control counties with respect to governmental matters by special legislation. The rule has been well stated: "It is a fact, I think, that a special act affecting the county in its governmental capacity is unconstitutional if it suspends a general law mandatorily applicable to every other county of the State, unless there be some reasonable basis upon which the discrimination may be rested."[10]

Rules of Construction

Only familiar, well-established rules of construction were enunciated in the cases decided during the Survey period. In view of this, these principles have simply been catalogued with no reference made to their factual context.

The Court asserted the oft-repeated view that the cardinal rule of statutory construction is to ascertain the intent of the legislature and give effect thereto.[11] "The construction of statutes is an exclusive function of the judiciary (which) . . . is merely to give effect to legislative intent, not to amend laws."[12] In its efforts to determine the legislative intent of a statute, the Court stated several rules. "If the words of a statute plainly mean one thing they cannot be given another meaning by judicial construction."[13] However, to effectuate legislative intent, words may be modified, altered or supplied![14] Legislative history or other extrinsic evidence is to be ignored: "no intent may be imputed to the legislature in the enactment of a statute other than such as supported by the face of the statute within itself."[15]

"Statutes are to be construed as entireties[16] . . . giving all words used their natural and ordinary meaning[17] . . . in accordance with gram-

10. Chambers v. Marcum, 255 S.W.2d 1, 5 (Tenn. 1953) (concurring opinion). See Griffin v. Davidson County, 250 S.W.2d 554 (Tenn. 1952). This rule has been stated in many earlier cases, *e.g.*, Donathan v. McMinn County, 187 Tenn. 220, 213 S.W.2d 173 (1948); Hamilton County v. Gerlach, 176 Tenn. 288, 140 S.W.2d 1084 (1940).

11. Lawrence v. Lawrence, 250 S.W.2d 781 (Tenn. 1952). "[T]he application of the law according to the spirit of the legislative body remains the principal objective of judicial interpretation." 2 Sutherland, Statutory Construction § 4501 (3d ed., Horack, 1943).

12. State *ex rel.* Barksdale v. Wilson, 250 S.W.2d 49, 51 (Tenn. 1952). "[I]t is not the province of the legislature to expound the meaning of previously existing laws. They can say what shall be the law, but are not authorized to say what it is." Clark v. Williams, 21 Tenn. 303, 304 (1841). But, "[l]egislative interpretation of a prior statute is entitled to respectful consideration. . . ." Interstate Life & Acc. Co. v. Hunt, 171 Tenn. 119, 126, 100 S.W.2d 987, 102 S.W.2d 55, 56 (1937).

13. Henry v. White, 250 S.W.2d 70, 72 (Tenn. 1952).

14. Churchwell v. Callens, 252 S.W.2d 131 (Tenn. 1952).

15. Nashville v. Kizer, 250 S.W.2d 562, 565 (Tenn. 1952).

16. "It is an elementary rule of construction that effect must be given, if possible, to every word, clause and sentence of a statute." 1 Kent Comm. 462 (13th ed. 1884), quoted in 2 Sutherland, Statutory Construction § 4705 (3d ed., Horack, 1943).

17. This clause states the Tennessee rule too broadly. "It is a general rule that the words of a statute, if of common use, are to be taken in their natural

'matical rules if possible."[18] The title of a statute may be looked to in aid of the construction of the body of the statute.[19] The doctrine that the unconstitutional portion of a statute will not be elided (that is, cut out, leaving the rest of the statute in effect) unless it is evident that the legislature would have enacted the statute had the invalid part been omitted was reaffirmed.[20] Where the statute contains no separability clause, the presumption arises that the legislature would not have enacted the statute except in its completed form.[21]

The Court had occasion briefly to examine certain presumptions with respect to statutory interpretation. It reasserted its long-held view that repeals by implication are not favored and will not be presumed unless there is an irreconcilable conflict between the later and the earlier laws.[22] Statutes should not be construed so as to divest the State or its government of any of its prerogatives, rights or remedies

---

and ordinary sense, and without any forced or subtle construction to limit or extend their import." State v. The Clarksville & Russelville Turnpike Co., 34 Tenn. 88, 91 (1854). "[W]hen a word used in a statute has a fixed, technical meaning, the legislature must be understood as intending to employ it in that sense, unless there be something in the context which indicates an intention to use it in a different sense." State v. Smith, 24 Tenn. 394, 396 (1844).

18. Burks v. State, 254 S.W.2d 970, 972 (Tenn. 1953). Perhaps a better statement of the Tennessee rule is: "While it is true that, in arriving at the meaning of the legislature, primarily, the grammatical sense of the words used is to be adopted, yet if there is any ambiguity, or if there is room for more than one interpretation, the rules of grammar will be disregarded where a too strict adherence to them would raise a repugnance or absurdity, or would defeat the purpose of the legislature. . . . [Many] cases are but a recognition of an old and well-established rule of the common law, applicable to all written instruments, that . . . words ought to be more subservient to the intent, and not the intent to the words." Samuelson v. State, 116 Tenn. 470, 497, 95 S.W. 1012, 1018 (1906). The general rule appears to be that rules of grammar are of no great force and will be applied only when their application is consistent with the legislative intention. 2 SUTHERLAND, STATUTORY CONSTRUCTION § 4921 (3d ed., Horack, 1943).

19. Churchwell v. Callens, 252 S.W.2d 131 (Tenn. 1952). "Formerly the title of an act could not be resorted to in aid of the construction of the statute, being regarded merely as the name or description given to it by the draughtsman. 'but [sic] since the general adoption of constitutional provisions requiring the subject or object of every act to be expressed in the title, the title has become not only a necessary but an important part of a statute.' 25 R. C. L., p. 775. This is the general rule." Southern Ry. v. Rowland, 152 Tenn. 243, 246, 276 S.W. 638 (1925). "In short, in ascertaining the intention of the legislature nothing is to be rejected which will assist in the clarification of ambiguous phases and where the title throws light on the meaning of the statute itself, it is an available tool for the resolution of the doubt." 2 SUTHERLAND, STATUTORY CONSTRUCTION § 4802 (3d ed., Horack, 1943).

20. Tennessee Products & Chemical Corp. v. Dickinson, 256 S.W.2d 709 (Tenn. 1953); Memphis Natural Gas Co. v. McCanless, 180 Tenn. 695, 177 S.W.2d 843 (1944). See the discussion of this point in the Miscellaneous subsection of the Power to Tax section of the Constitutional Law article.

21. 256 S.W.2d at 710.

22. State v. Smith, 253 S.W.2d 758 (Tenn. 1952). "A legislative intention to repeal is never presumed, nor are implied repeals encouraged." Smith v. Hickman's Heirs, 3 Tenn. 330, 338 (1813). "A law is not presumed to be repealed by implication; conversely, the presumption is against an implied repeal. The reports abound in decisions announcing the doctrine." 1 SUTHERLAND, STATUTORY CONSTRUCTION § 2014 n.1 (3d ed., Horack, 1943).

unless the intention of the legislature to effect this object is clearly expressed.[23] There are exceptions to this general rule. "It is well settled that 'all questions of doubt arising upon construction of taxing statutes are to be resolved against the state.' "[24] And statutes imposing tax penalties are to be construed strictly against the state.[25]

The power of the Tennessee Supreme Court to eliminate penalties imposed by tax statutes was reaffirmed.[26] The only indication afforded by the Court as to when this power will be exercised was that it will be employed when "the equities of the case seem to demand."[27]

23. State v. Smith, 253 S.W.2d 758 (Tenn. 1952). "General words or language of a statute that tends to injuriously encroach upon the affairs of the government receive a strict interpretation favorable to the public, and, in the absence of express provisions or necessary implication, the sovereign remains unaffected." 3 SUTHERLAND, STATUTORY CONSTRUCTION § 6301 (3d ed., Horack, 1943).

24. Evans v. Memphis Dairy Exchange, Inc., 250 S.W.2d 547, 548 (Tenn. 1952), quoting in part from Doran v. Crenshaw, 166 Tenn. 346, 348, 61 S.W.2d 469 (1933).

25. Tennessee Products & Chemical Corp. v. Dickinson, 256 S.W.2d 709 (Tenn. 1953). See 3 SUTHERLAND, STATUTORY CONSTRUCTION § 6701 (3d ed., Horack, 1943).

26. Maury County v. Porter, 257 S.W.2d 16 (Tenn. 1953) (elision not allowed when provisions of eminent domain statute held unconstitutional); Life & Casualty Ins. Co. of Tennessee v. McCormack, 174 Tenn. 327, 125 S.W.2d 151 (1939) (elision not allowed). The *Maury County* case reiterated the rule that the doctrine of elision is not favored in Tennessee. Davidson County v. Elrod, 191 Tenn. 109, 232 S.W.2d 1 (1950) (elision allowed). See the discussion on this point in the section on Eminent Domain in the Constitutional Law article.

27. Maury County v. Porter, 257 S.W.2d 16 (1953); Life & Casualty Ins. Co. of Tennessee v. McCormack, 174 Tenn. 327, 125 S.W.2d 151 (1939).