

INTRODUCTION

Statutory construction has always been a sphere of great incoherence and change. It is observed that while the courts have veered towards a more literalist focus on the meaning of the words¹, there hardly has been any tangible attempts to overrule the older methods of interpretation, leave a confusing array of techniques available to facilitate a departure from such literal interpretations in uncomfortable cases². Essentially, 'strict interpretation allows for an ambiguous statutory determinable imposing or enlarging criminal liability to be construed narrowly³, while such a determinable relieving from or diminishing liability will be construed broadly⁴. This doctrine attempts to mitigate the severity in the reprimanding of serious crimes, a purpose for which the doctrine itself was evolved⁵.

In this short discourse that follows, an attempt has been made to juxtapose two case laws; one where strict interpretation has been employed to arrive at a decision and the second, in which a broader and a more all-encompassing view has been adopted by the court while interpreting the relevant legislation. In the said manner, this project shall attempt to draw the differences between the techniques of statutory interpretation and list out the virtues and vices of the doctrine of strict interpretation. For the purpose of the said analysis, two cases under the United States Judiciary have been chosen and

¹ *Smith v United States*, 508 US 223, 228-29 (1993): Relying In the dictionary definition of 'use' to hold that a ban on use of a firearm in the context of a narcotics trafficking offense covered uses of firearm other than as a weapon

² Zachary Price, *The Rule of Lenity as a Rule of Structure*, [2004] Fordham L. Rev. 885.

Available at: <http://ir.lawnet.fordham.edu/flr/vol72/iss4/3>

³ Hale, *Historia Placitorum Coronae* (1736) 335).

⁴ *Ibid* 371.

⁵ Livingston Hall, 'Strict or Liberal Construction of Penal Statutes' [1935] Harvard Law Review 748,

scrutinized in the succeeding section.

[Strict Interpretation: A Case-Based Merit Analysis](#)

State v Daniels, 236 La. 998, 109 So.2d 896 (1959)

In a trial proceeding within the territorial limits of the state of Louisiana in the United States, the defendant was convicted of public intimidation of an officer for committing battery during the term he served at the state penitentiary. The defendant had struck a guard who attempted to restrain him when he ignored the order to go to the end of a meal line. When the said case came up for an appeal before the Louisiana SC, the conviction was reversed. It was observed that in the case, the judge applied the maxim of strict construction of penal statutes and declared that the defendant's acts were not intended to achieve the purpose of influencing the conduct of the guard in relation to his position, employment or duty (in the sense that these words are used in the statute prescribing rules against such an offence)⁶. The court concluded that the defendant's act can only be perceived as a spur-of-the-moment act of minor violence caused by the defendant's resentment and couldn't amount to public intimidation⁷. It was said thus:

'To extend the statute to the present situation would be tantamount to allowing the state

⁶ State v Daniels, 236 La. 998, 109 So.2d 896 (1959)

⁷ Ibid.

*to do what the law and jurisprudence reprobates, i.e, to punish the defendant by extending the application of a state law to a case and circumstances not intended by lawmakers*⁸.

Strict interpretation essentially states that questions such as the coverage of a criminal statute are to be resolved in favour of the accused⁹. This is owing to the fact that the power of punishment is conferred in the legislature rather than the judiciary¹⁰. It cannot be expected of the legislature to anticipate the occurrence of every possible crime when devising the statutes of law. Hence, often it is up to the judges to interpret law in, wherever it remains ambiguous, and whenever they do so, the maxim of strict interpretation calls for it to be construed against the state and in favour of the defendant¹¹. Even during the creation of such statutes, the law should be encoded in the simplest manner possible, so as to facilitate the understanding of it by every member of the populace. Constructive extension of a penal statute beyond its letter was even called an *ex post facto* law and was blamed to constitute an illicit assumption of legislative power¹².

However, as time went by liberal interpretation gained more popularity among the jurists and the legislative body. This doctrine of liberal and genuine construction adopted by the more modern codes, renders the rule of strict interpretation invalid and substitutes it with statement of genuine interpretation¹³, when used.

⁸ State v Daniels, 236 La. 998, 109 So.2d 896 (1959).

⁹ State v Viator, 229 La, 882, 87, So.2d 115 (1956).

¹⁰ Sam J. Friedman, *Criminal Law - Strict Construction of Penal Statutes*, [1960] La. L. Rev.
Available at: <http://digitalcommons.law.lsu.edu/lalrev/vol20/iss3/11>

¹¹ Sam J. Friedman, *Criminal Law - Strict Construction of Penal Statutes*, [1960] La. L. Rev.
Available at: <http://digitalcommons.law.lsu.edu/lalrev/vol20/iss3/11>.

¹² Livingston, *Report on Louisiana Penal Code* 1822 Pg 22.

¹³ Ibid.

State v Miller 237 La. 266, 111 So.2d 108 (1959)

The doctrine of strict interpretation is seen not to be used in the case of *State v Miller*, wherein the defendant was indicted for aggravated rape, but was convicted of simple rape. It was contended by the defendant that such a verdict could not be substantiated since law dealing with simple rape does not cover the instances where the victim's consent was obtained by force or threats of force¹⁴. The defendant argued that the said legislation covered only consent obtained by a narcotic or anaesthetic agent, by intoxication or by virtue of unsoundness of the mind. Court was of the opinion that the mental condition induced in the victim by the forcible attack by a rapist combined with the hysteria that would naturally follow may create terror in the victim and therefore evidence of a forcible attack is sufficient to substantiate a verdict of simple rape¹⁵. It is to be noted here that there did not even arise a question of strict or liberal construction of the statutes. Such a treatment of the statute would have led the judges to conclude that a forcible attack cannot constitute consent as mentioned in the simple rape legislation¹⁶.

In determining how to interpret a statute, the court enjoys a considerable amount of freedom. It is part of the judiciary duty 'make sense as a whole out of our law as a whole'¹⁷. When resolving a case, the judge tries to perceive the situation for what it is, constructs the language of the statute to achieve that perception and attempts to foresee the potential effects to such decisions and channel the course of judicial decisions in the future¹⁸. Once the judges reach the conviction that it is logical and socially desirable to

¹⁴ *State v Miller* 237 La. 266, 111 So.2d 108 (1959).

¹⁵ *Ibid.*

¹⁶ *State v Miller* 237 La. 266, 111 So.2d 108 (1959).

¹⁷ Llewellyn, *Remarks on the Theory of Appellate Decision and the Rules or Canons About How Statutes Are To Be Construed*, 3 V AND. L. REV. 395 (1950).

¹⁸ Sam J. Friedman, *Criminal Law - Strict Construction of Penal Statutes*, [1960] La. L. Rev.

hold a certain conduct guilty of any wrong, the doctrine of strict interpretation is not put into play¹⁹.

However, in instances where it is not seen appropriate to include the case at bar within a criminal statute, the judges resort to strict interpretation to aid them in the judicial process²⁰.

As seen in the first illustration provided, the court chose not to treat the striking of the prison guard as a crime of public intimidation, using the maxim of strict interpretation to arrive at such a result, thus eliminating any possibility of every trivial disobedience of public servants being construed as public intimidation in the future²¹, something an all-encompassing interpretation would not be capable of ensuring.

However, in the Miller case, it was decided that the relevant statute included the particular scenario of damaging the victim's reasoning power by inflicting a condition of hysteria and terror. Simple rape, by virtue of being a crime of lesser degree, can well be seen capable to deal with a case where the 'abnormal condition of the mind' (as mentioned in the legislation) is from terror and hysteria not quite enough to amount to complete prevention of resistance²². However, when court reached the decision, the maxim of strict construction was conspicuous only by its absence.

[Statutory Interpretation: The need for a middle ground](#)

As seen from the previous section, a case before the judiciary can be dealt with in the manner that seems appealing to the judiciary to substantiate the logical decision that

Available at: <http://digitalcommons.law.lsu.edu/lalrev/vol20/iss3/11>

¹⁹Ibid Pg 398.

²⁰Ibid Pg 395.

²¹ State v Daniels, 236 La. 998, 109 So.2d 896 (1959).

²² State v Miller 237 La. 266, 111 So.2d 108 (1959)

the judges arrive at. A continued adherence to one approach (either strict or liberal) will never serve justice efficiently. Each dispute before the judges is unique and has to be treated thus. Some can be dealt with by strict interpretation while others demand a broader and more pervasive interpretation of the relevant statute to successfully address the concerns of the aggrieved, while refraining from the unfair treatment of the accused.

In this section, the author shall attempt to draw the attention of the user to the imbalance that arbitrary construction of statutes can bring about. The need for a middle ground shall be argued for under different heads

Disproportionate Punishment

The strict interpretation rule is founded on the principle that ‘the power of punishment is vested in the legislative, not in the judicial department’²³.

This cannot be used as an argument against liberal construction by stating that it could possibly constitute an unconstitutional delegation of legislative power to the judiciary²⁴. Merely due to the fact that a liberal interpretation might deliver injustice in some cases is not a justifiable reason for inflicting on the people the rule of strict construction in every instance²⁵. Further, original purpose for the growth of the rule, to mitigate the extension of capital felonies, does not apply any longer to all penal statutes, i.e, if there was ever such a pervasive application²⁶. Due to this, strict interpretation has been slowly confined to the limits of such statutes that still impose punishments which the courts

²³ Chief Justice Marshall in *United States v Wiltberfer*, 5 Wheat. 76, 95 (US 1820).

²⁴ Livingston Hall, ‘Strict or Liberal Construction of Penal Statutes’ [1935] *Harvard Law Review* 748, Pg 754.

²⁵ *Ibid* 758.

²⁶ *Ibid* 756.

consider to be disproportionately severe when analysed in tandem with the act sought to be reprimanded²⁷.

Such a statute which seeks to impose penalties considered disproportionate to the crimes they attempt to rebuke will inevitably attract the attention of strict construction²⁸. It is with this purpose that the doctrine came into being²⁹. Such a relaxation will not involve any serious and undesirably judicial interference with the legislature. An extension of any legislation by suitable interpretation to extend to any act to which the penalty is perceived to be disproportional would in fact amount to being violative of the intent of the legislature³⁰.

However, strict interpretation tend to be misused when the courts fail to comprehend the social implications of a decision or when they do not possess sufficient judicial humility to accept the seemingly harsh statute, actions attempted to be kept in check by the power of judicial limitation³¹.

What is to be done is to examine whether the instituted penalty is disproportionate to the offence listed. Once the court arrives at a decision to that aspect, it can construct the statute in the manner the decision calls for³². When such an appraisal is done, it is the minimum punishment and not the maximum punishment that comes under scrutiny³³.

²⁷ Livingston Hall, 'Strict or Liberal Construction of Penal Statutes' [1935] Harvard Law Review 748, Pg 763.

²⁸ Ibid 767.

²⁹ To protect the interests of the clergy from the unscrupulous legislations instituted by the King in Post-Renaissance Europe.

³⁰ Livingston Hall, 'Strict or Liberal Construction of Penal Statutes' [1935] Harvard Law Review 748, Pg 764.

³¹ Ibid.

³² Ibid.

³³ Ibid.

Inaccurate Interpretation

Where a person performs an act, believing himself to be within the ambit of legislative sanctions and yet end up penalized for it, it is often the ambiguity of the legislation involved that is held accountable³⁴. The person is left aggrieved since a mistake with reference to the correct interpretation of the legislation is never a defence³⁵. Strict construction is important in such scenarios since it prevents this injustice. A mere narrow application of grammar and deductive logic can essentially give a considerably accurate indication as to the meaning of most of the statutes, while when dealing with liberal interpretation, it is difficult to pre-determine the limits of interpretation³⁶.

Changing scenarios

Often it is observed that disputes arise from spasmodic attempts to enforce age old legislations which cannot be held applicable courtesy of the dynamic social and economic conditions³⁷. The scope of such legislations must be as narrowly construed as possible till it can be repealed completely. When strict interpretation decries archaic legislations due to a change in the social scenario, it cannot be held to be violative of the legislative intent. This is because often statutory legislations come into effect to combat an issue prevailing at the time of its institution and taking into account the dynamic world we live in, it does not seem logical for a generation to be required to comply with the liberal interpretation of an archaic legislation instituted years back in

³⁴ Ibid Pg 766.

³⁵ *State v Foster* 22 R.I. 163, 46 Atl. 833 (1900).

³⁶ Livingston Hall, 'Strict or Liberal Construction of Penal Statutes' [1935] Harvard Law Review 748, Pg 767.

³⁷ Ibid.

completely different circumstances³⁸.

Conclusion

It is thus seen that the implementation of the legislative intent of a particular legislation depends on the judiciary of a nation. However, it is also observed that a fine amalgamation of different techniques of interpretation is imperative for the impartial delivery of justice. For any system of justice striving to ensure retribution for the aggrieved and at the same time, fair treatment of the accused, it is important to employ both strict and liberal interpretation for purposes of statutory interpretation so as to facilitate the implementation of the legislative intent in a country.

³⁸ Livingston Hall, 'Strict or Liberal Construction of Penal Statutes' [1935] Harvard Law Review 748, Pg 768.