

Some reflections on the reading of statutes

Law



Some Reflections on the Reading of Statutes I have reviewed the article “Some Reflections on the Reading of Statutes” by Felix Frankfurter and I agree with his interpretation for various reasons. First of all, people no longer read actual statutes. Rather, they read imitation law. For instance, a text is passed in Congress and by the time it is published it has become a session law. People no longer read the statutes of the United States. Additionally, people neither cite such statutes nor use them for statutory interpretation. Instead, people read the United States Code. I agree with Felix Frankfurter that words are “ symbols of meaning [which in the] phrasing of... a complicated enactment, seldom attains more than approximate precision” (). I agree with the professor of law that vagaries of language are part of the problem associated with interpreting statutes.

The other problem is that the legislative process is often ambiguous and the nature of the judicial interpretation focuses on results. A common judge is faced with the challenge of construing an unclear statutory provision or even finds out the purpose of a statute that cannot easily be found within its wording. Additionally, the judge may be faced with the challenge of applying statute terms to changing circumstances. It is difficult because the words remain the same whereas the circumstances change over time.

Secondly, the plain meaning rule states “ the language of the statute is clear, there is no need to look outside the statute to its legislative history in order to ascertain the statute’s meaning” (). I agree with Felix Frankfurter that the language of the statute should be starting point for identifying the meaning of the statute. Reading the text closely is the starting point for properly understanding and interpreting a statute. However, sometimes the initial understanding may be incorrect thus rereading the statute is a sure

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way of understanding its meaning.

Thirdly, the legislative process has numerous components as well as actors participating in each of these components. Thus, it is almost impossible to identify the intent as well as the true sense of the words used in constructing a statute. Bills have multiple sponsors with regards to legislators. The bill is then introduced to a committee that has multiple employees who assist in producing a report on the bill. Finally, the bill is passed through the legislature and it is clear that it is almost impossible to discern the meaning of the bill at this point. Even though the passage of a bill requires consensus using a voting system, legislators vote for different reasons. Therefore, it is possible that legislators share different meanings of the bill but have the same interests.

Therefore, I would suggest that judicial construction should involve the incorporation of a classification statute or a general provision and withholding judges from performing construction. These proposals should appeal to the legislators as well as the judges so that they may have less problems dealing with ambiguities (Elhauge, 2008).

References

Elhauge, E. (2008). *Statutory default rules: How to interpret unclear legislation*. Cambridge, MA: Harvard University Press.