

PARA 94: "THE FIRST IS THAT CLEAR AND UNMISTAKABLE WORDS WILL BE REQUIRED FOR THE ABOGATION OF A LONG-STANDING RULE OF LAW: SEE MAXWELL ON INTERPRETATION OF STATUTES (12TH ED, 1969), P 116.

IT IS A WELL ESTABLISHED PRINCIPLE OF CONSTRUCTION THAT A STATUTE IS NOT TO BE TAKEN AS AFFECTING FUNDAMENTAL ALTERATION IN THE GENERAL LAW UNLESS IT USES WORDS THAT POINT UNMISTAKABLY TO THAT CONCLUSION⁶ (DEVLIN J IN NATIONAL ASSISTANCE BOARD V WILKINSON [1952] 2 QB 468 AT 661).⁷

PARA 103: BULEN J (WITH WHOM KING CJ AGREED) SAID:

"... DIRECTS THE COURT THAT IT SHOULD HAVE REGARD TO SUCH OF THE FOLLOWING MATTERS AS ARE RELEVANT⁸, 'RELEVANT' MUST MEAN RELEVANT TO THE CASE AT BAR⁹."

PARA 117: AS EARLIER OBSERVED IT IS A WELL ESTABLISHED PRINCIPLE OF CONSTRUCTION THAT A STATUTE IS NOT TO BE TAKEN AS AFFECTING A FUNDAMENTAL ALTERATION IN THE GENERAL LAW UNLESS PARLIAMENT HAS ENACTED WORDS THAT POINT UNMISTAKABLY TO THAT CONCLUSION.¹⁶ IT IS A FURTHER PRINCIPLE OF STATUTORY CONSTRUCTION THAT A COURT LEANS AGAINST AN INTERPRETATION WHICH PRODUCES UNJUST AND ARBITRARY CONSEQUENCES.¹⁷

65. R v. STAFFORD [2009] QCA 407

PARA 149: "... THIS DISTINCTION WAS EXPLAINED BY GLEESON CJ IN NUDD V THE QUEEN IN A PASSAGE WHICH, THOUGH LENGTHY, DESERVES CITATION IN FULL. GLEESON CJ SAID: 37
" ... AND THE RULES OF PROCEDURE AND EVIDENCE ARE STRICTLY AND THAT, IF THERE IS A FAILURE IN ANY OF THOSE RESPECTS⁶ AND THE APPELLANT MAY THEREBY HAVE LOST A CHANCE WHICH WAS FAIRLY OPEN TO HIM OF BEING ACQUITTED⁷, THEN THERE IS A MISCARRIAGE OF JUSTICE, THAT WELL-KNOWN PASSAGE RELATES ^{THE} FAILURE OF PROCESS TO THE LOSS OF A CHANCE OF ACQUITTAL. ... A FAILURE OF PROCESS CANNOT BE DENIED THE CHARACTER OF A MISCARRIAGE OF ³⁸ JUSTICE. ... THAT IS WHERE THE CONSEQUENCE OF THE FAILURE OF PROCESS IS TO DEPRIVE THE APPELLATE COURT OF THE CAPACITY JUSTLY TO ASSESS THE STRENGTH OF THE CASE AGAINST THE APPELLANT. ... PROCESS IS RELATED TO OUTCOME, IN THAT THE OBJECT OF DUE PROCESS IS TO SECURE A JUST RESULT. JUSTICE, HOWEVER, MEANS JUSTICE ACCORDING TO LAW, ... ACCORDING TO WHICH A

(REF. 20.)

91. "60A. (3) A LIABILITY THAT WOULD, BUT FOR SUBSECTION (2), ATTACH
TO A MEMBER OF THE BOARD LIES AGAINST THE CROWN. "

92. SECTION 63. POWERS OF THE BOARD

"63. (3) THE BOARD MAY (AND MUST, IF A PRISONER IS OF A PRESCRIBED
CLASS SO REQUESTS) INTERVIEW A PRISONER AT ANY TIME AND, IF SUCH AN
INTERVIEW IS TO BE CONDUCTED OUTSIDE THE PRISON, MAY REQUEST THE
MANAGER OF THE PRISON TO CAUSE THE PRISONER TO BE BROUGHT BEFORE
THE BOARD AT A SPECIFIED TIME AND PLACE. "

93. "63. (5) FOR THE PURPOSE OF THIS SECTION, A PRISONER IS OF A PRESCRIBED
CLASS IF THE PRISONER IS SERVING —

(A) A SENTENCE OF LIFE IMPRISONMENT; OR

94. SECTION 67. RELEASE ON PAROLE BY APPLICATION TO THE BOARD

95. "67. (1) THIS SECTION APPLIES TO A PRISONER IF —

(A) SECTION 66 DOES NOT APPLY TO THE PRISONER; AND

(B) A NON-PAROLE PERIOD HAS BEEN ^{SET} FOR THE PRISONER; AND

(C) THE PRISONER IS NOT SERVING A SENTENCE OF INDETERMINATE
DURATION. "

96. "67. (2) IF THIS SECTION APPLIES TO A PRISONER —

(A) THE PRISONER; OR

MAY APPLY IN THE ~~THE~~ PRESCRIBED MANNER TO THE BOARD FOR THE
PRISONER'S RELEASE ON PAROLE. "

97. "67. (3) AN APPLICATION CANNOT BE MADE UNDER SUBSECTION (1) MORE THAN
SIX MONTHS BEFORE THE EXPIRATION OF THE NON-PAROLE PERIOD FIXED
IN RESPECT OF THE PRISONER'S SENTENCE. "

98. "67. (3A) THE PARAMOUNT CONSIDERATION OF THE BOARD WHEN
DETERMINING AN APPLICATION UNDER THIS SECTION FOR THE RELEASE OF
A PRISONER ON PAROLE MUST BE THE SAFETY OF THE COMMUNITY. "

99. "67. (4) THE BOARD MUST ALSO TAKE THE FOLLOWING MATTERS INTO
CONSIDERATION WHEN DETERMINING AN APPLICATION UNDER THIS SECTION:
(C) WHERE THE PRISONER WAS IMPRISONED FOR AN OFFENCE OR OFFENCES