

## Quadrant II - Notes

**Paper Code: IST 0318**

**Module Name: Consolidating Statutes**

**Module No: 22**

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Statutes can be of different types.

One classification is Consolidating and Codifying statutes. Consolidating statutes collect statutory provisions contained in numerous Acts, and reproduces them in the form of one enactment, repealing the former statutes. It involves presenting the whole body of statutory law on a subject in a complete form, repealing the former statutes. More than a mere compilation of earlier enactments. According to Lord Watson, its object is "to collect the statutory law on a particular subject and bring it down to date in order that it may form a useful Code applicable to the circumstances existing at the time when the consolidating Act is passed." Not permissible to construe a section in such Acts with reference to circumstances existing at the time when statute was first enacted.

Consolidation is of 3 kinds:

Pure Consolidation

- ☐ Re-enactment of the law.
- ☐ Presumption is that such consolidation does not intend to alter the law.
- ☐ Language is the deciding factor.
- ☐ It indicates whether the law has in fact undergone changes and whether the presumption is correct.
- ☐ Facilitates reference to the previous state of law.
- ☐ Previous judicial decisions on the subject can be considered.

### **Consolidation with minor improvements**

- ☐ In this case, minor improvements are undertaken and corrections in the law are brought about.
- ☐ It Involves coordination and simplification of the former enactments to modernise them.
- ☐ Idea is to make it applicable to changed circumstances.
- ☐ Law is brought upto date on a particular subject and can result in a useful Code.

### **Consolidation with amendments**

- ☐ Purpose is generally set out in the preamble or long title of the statute
- ☐ Interpretation of this type of Act has to be made with great care and caution.
- ☐ Only in case of ambiguity, recourse to previous state of law or the repealed enactments may be taken.
  - ☐ Rule in respect of such statutes is to read the language used in the law itself without reference to repealed statutes.
- ☐ A tax payer was claiming allowance in respect of a house keeper, whom he employed.
- ☐ Allowance permissible – if it could be shown that house keeper had the charge + care of children. (u/s 214 ITA, 1952)

Held: Prior enactments can be viewed as section was not clear- person had to reside with the tax payer.

### **O Toole v. Scott**

Judicial Committee held that New South Wales Justices Act, 1902 should have the same construction as the English Summary Jurisdiction Act 1848, as the former was a Consolidating Act reenacting the latter.

### **Conclusion**

Function of Consolidating Acts is to reproduce the law on a particular subject by collecting previous enactments on it. Do not intend to alter the law- but is subject to contrary. Presumption may be rebutted by plain words to contrary. It is permissible to refer to previous state of law- ambiguity. Not advisable in case the law is clear and unambiguous.