

**SULLIVAN  
ON THE  
CONSTRUCTION OF STATUTES**

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## THE PRESUMPTION OF CONSISTENT EXPRESSION

§8.32 It is presumed that the legislature uses language carefully and consistently so that within a statute or other legislative instrument the same words have the same meaning and different words have different meanings. Another way of understanding this presumption is to say that the legislature is presumed to avoid stylistic variation. Once a particular way of expressing a meaning has been adopted, it is used each time that meaning is intended. Given this practice, it follows that where a different form of expression is used, a different meaning is intended.

§8.33 The presumption of consistent expression applies not only within statutes but across statutes as well, especially statutes or provisions dealing with the same subject matter.

§8.34 *Same words, same meaning.* In *R. v. Zeolkowski*, Sopinka J. wrote: “Giving the same words the same meaning throughout a statute is a basic principle of statutory interpretation.”<sup>52</sup> Reliance on this principle is illustrated in the majority judgment of the Supreme Court of Canada in *Thomson v. Canada (Deputy Minister of Agriculture)*.<sup>53</sup> The issue there was whether a Deputy Minister of the federal government could deny security clearance to a person, contrary to the recommendation made by the Security Intelligence Review Committee after reviewing the person’s file. The governing provision was s. 52(2) of the *Canadian Security Intelligence Act* which provided that on completion of its investigation, the Review Committee shall provide the Minister “with a report containing any recommendations that the Committee considers appropriate”. The majority held that the ordinary meaning of the word “recommendations” is advice or counsel and that mere advice or counsel is not binding on the Minister. However, Cory J. added:

There is another basis for concluding that ‘recommendations’ should be given its usual meaning in s. 52(2).

The word is used in other provisions of the Act. Unless the contrary is clearly indicated by the context, a word should be given the same interpretation or meaning whenever it appears in an Act. Section 52(1) directs the Committee to provide the Minister and Director of CSIS with a report ... and any “recommendations” that the Committee considers appropriate....

It would be obviously inappropriate to interpret ‘recommendations’ in s. 52(1) as a binding decision. This is so, since it would result in the Committee encroaching on the management powers of CSIS. Clearly, in s. 52(1) ‘recommendations’ has its ordinary and plain meaning of advising or counselling. Parliament could not have intended the word ‘recommendations’ in the subsequent

<sup>52</sup> [1989] S.C.J. No. 50, [1989] 1 S.C.R. 1378, at 1387 (S.C.C.).

<sup>53</sup> [1992] S.C.J. No. 13, [1992] 1 S.C.R. 385 (S.C.C.).