



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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MARGINAL NOTE AS AN INTERNAL AID TO THE INTERPRETATION OF STATUTES AND ITS SIGNIFICANCE

Introduction

Statutes, the foundation of a legal system can be ambiguous at certain times. In order to remove this ambiguity and to find out the true intention of the Legislature, there are certain interpretive tools. The courts rely upon these interpretive tools. One such tool is the Marginal note. It is an internal aid which helps in understanding the meaning behind the words.

Marginal notes are also known as side notes. These are brief summaries that appear beside sections. They offer a quick overview of the section's content.

Example: Section 7 of the Consumer Protection Act, 2019

7. The objects of every state Council shall be to render advice on promotion and protection of consumer rights under this act in the state. “objects of the state Council” is a marginal note.¹

Significance of Marginal notes

The following are the summary of an important key point stated by Gordon Stewart ²:

- Marginal notes help users to find the information they need quickly and avoid unnecessary reading.
- Marginal notes save time for users by directing them to the right section. It reduces confusion about the statute's meaning.

¹ Ministry of Consumer Affairs

<https://consumeraffairs.nic.in> > cons... Consumer Protection Act, 2019 (last date visited: March 24, 2024).

² Gordon Stewart: Legislative Drafting & the Marginal Note, 16, Statute Law Review, 21, 21, (1995).

- It also reduces the burden on administrators who answers questions about the law.
- Ultimately, clear marginal notes contribute to a more accessible legal system, upholding the principle that law should be understandable by all.

In good olden days, marginal notes are referred as an aid while construing the statute whenever there is a doubt or ambiguity arises in the statute. But in modern times, the reference to the marginal notes began to diminish. The courts placed greater emphasis on the clear language of the statute itself.

The reason for decline of the significance of marginal notes are:

- Marginal notes are typically drafted by the legislative staff, not legislatures by themselves. This raises concerns about whether they truly reflect the legislative intent.³
- In *Tata Power Company Ltd v Reliance Energy Limited & Ors*⁴, it was held that the heading and marginal note, are of a very limited use in interpretation because of its necessarily brief and inaccurate nature. They certainly not taken into consideration if they differ from the material they describe.

Relevant Case laws

In *Balraj kunwar v Jagatpal Singh*⁵, Lord Macnaghten observed:

‘It is well-settled that marginal notes to the sections of an Act of parliament cannot be referred to for the purpose of construing the Act. The contrary opinion originated in a mistake, and has been exploded long ago. There seems to be no reason for giving the marginal notes in an Indian statute any greater authority than the marginal notes in an English Act of Parliament’.

This quote by Lord Macnaghten emphasizes the limited role of marginal note in interpreting statutes. He argues a previous view allowing their use was a mistake and has been rejected. He sees no reason for Indian statutes to give marginal note more importance than those in British statutes.

3 Legal Service India <https://www.legalserviceindia.com> > ... Legitimacy of Marginal Notes Under Interpretation of Statutes, (last visited: March 24, 2024).

4 *Tata Power Company Limited v Reliance Energy Limited and Ors*, AIR ONLINE (2009), SC 680.

5 *Balraj kunwar v. Jagatpal Singh*, (1904) ILR 26 AII 393(PC): 31 IA 132.

In 'Principles of Statutory Interpretation' by Justice GP Singh⁶ noted that:

'Some Indian cases also show that reference to marginal notes maybe permissible in exceptional cases for construing a section in a statute'.

This can be understood through the following cases:

- In *I.C Golaknath v State of Punjab*⁷, 'Subba Rao, CJ, relied on the Marginal note to Article 368 and held that it only prescribes the Procedure to amend the Constitution'.
- In the case of *Bengal Immunity Co. v State of Bihar*⁸, referring to marginal note to Article 286, Chief Justice SR Das observed:

"The Marginal note to Article 286 is 'restrictions as to imposition of tax on the sale or purchase of goods', which, unlike the marginal notes in Acts of the British Parliament, is part of the Constitution as passed by the Constituent Assembly, prima facie furnishes some clue as to the meaning and purpose of the article".

This observation by Justice SR Das highlights the unique status of the marginal note to Article 286 of the Indian Constitution. Unlike most statutes of the British Parliament, the marginal note Article 286 is considered as a part of the constitution itself because it was included by the Constituent Assembly during the drafting process. Due to its inclusion in the constitution, the marginal note to Article 286 may hold some weight in interpreting the Article's meaning and purpose. It can be seen as a Prima facie clue to the intent behind the Article. However, the marginal note does not override the clear language of the Article itself.

- In *State of Bombay v Heman Santlal*⁹, it was held by Chagla, CJ. that the marginal notes of the Constitution may be referred to for the purpose of understanding the drift of the Articles.

In the case of *Kesavananda Bharati Sripadagalvaru v State of Kerala*¹⁰, Justice Hegde observed:

⁶ Justice G P Singh ,Principles of Statutory Interpretation, 188-189,14th edition.

⁷ I.C Golaknath v. State of Punjab, AIR 1954 SC 561.

⁸ Bengal Immunity Co. v. State of Bihar, AIR 1955 SC 661: (1955) 2SCR 603.

⁹ State of Bombay v. Heman Santlal, AIR 1952, Bom 16.

¹⁰ Keshavananda Bharati Sripadagalvaru v. State of Kerala, (1973) 4 SCC 225.

‘ Marginal not plays a very little part in the construction of a statutory provision. It should have much less importance in construing a constitutional provision. The language of Article 368 to our mind is plain and unambiguous ’.

From the above observations by Justice Hegde, it can be concluded that the plain meaning of a provision takes precedence over the marginal note, if the language of the provision is clear in itself.

In *Vadlamudi Kutumba Rao v State of Andhra Pradesh*¹¹, it was observed that a marginal note is merely an abstract of the clause intended to catch an eye.

In *Re: Article 370 of the Constitution*¹², the Supreme Court held that the marginal note to Article 370 states that the Article deals with ‘temporary provisions’ with respect to the State of Jammu and Kashmir. The marginal note were a part of the Constitution as originally adopted by the Constituent Assembly. It was well-settled principle; the marginal note may prima facie furnish some guidance on the purpose and intent underlying the adoption of the provision, but it cannot control the plain meaning of Article 370 which must be deduced by interpreting all its provisions’.

Conclusion

Marginal note can provide a quick overview of the statute. Their role in legal interpretation is limited. The primary focus remains on the clear language of the statute itself. The court primarily focus on the wording of the statute or Constitution itself. In case of any ambiguity the court may consult the marginal note to understand the legislative intent.

¹¹Vadlamudi Kutumba Rao vs State Of Andhra Pradesh on 6 September, 1960, <https://indiankanoon.org/doc/42721/?type=print>.

¹² SUPREME COURT OF INDIA, <https://main.sci.gov.in> › pdf Article 370 of the Constitution.