

interpretation NOW!

Episode 122 – 31 July 2025 – legislative purpose



Australian Government

Australian Taxation Office



In *Ravbar v Commonwealth*, the High Court upheld legislation¹ that put the CFMEU into administration². The law did not infringe the implied freedom of political communication and was not otherwise invalid³. The key provision required the Attorney-General to be ‘satisfied that, having regard to the Parliament’s intention in enacting [the legislation], it [was] in the public interest for the [union] to be placed under administration’. The interpretational relevance of the case comes from what judges said about legislative purpose, which was central to the constitutional arguments. Extrinsic materials identified this purpose as being ‘to end ongoing dysfunction within the [union] and to ensure it is able to operate effectively in the interests of its members’. This case confirms what purpose is and how it is to be derived, and provides further guidance on extrinsic materials.

Gordon Brysland Tax Counsel Network gordon.brysland@ato.gov.au 0417 605 338



Concept of purpose

Gageler CJ (at [41]) said the purpose of a law ‘equates to the end or object of the law’, and is the ‘public interest sought to be protected and enhanced’ by the law⁴. It is usually what the law ‘is designed to achieve in fact’ and is the inverse of the mischief aimed at⁵.

‘Purpose, like meaning, is to be ascertained objectively from the whole text and context’.

Jagot J (at [370]) noted that the subjective reasons why legislators (individually or as a collective) pass a law ‘are immaterial to the ascertainment of a law’s end, object or purpose’⁶. A law can have more than one purpose, and can be expressed at different levels of generality. **Comment** – legislative purpose is an objective concept to be established as a matter of evidence from the whole text and context.



Purpose & motive

Gordon J (at [120]) drew attention to the distinction between objective purpose and ‘subjective political motive’⁷, and the further difference between purpose and the means adopted to give effect to it.

Edelman J made similar remarks. Purpose is distinct from political motive, as well as from the reasons for pursuing it, the means adopted to achieve it, and the ‘foreseeable or actual effect’ of the legislation⁸. Edelman J added (at [180]) that it is never legitimate to add to or subtract from legislative purpose. To do so would involve ‘crossing the Rubicon’ and usurping the role of parliament, said Edelman J. It ‘simply cannot be done’. **Comment** – purpose is central to our system of interpretation. We take it as we find it and are careful not to confuse it with motive.



Extrinsic materials

The reason purpose was critical in *Ravbar* was because private letters between two senators possibly showed a potentially invalidating purpose of the law to be suppression of political donations by the union. Different views emerged on the issue.

Gageler CJ saw no reason why they should not be consulted. When taken into account, however, the law was simply read down to preserve validity⁹. In contrast, Edelman J (at [176]) saw their consultation as ‘anathema to the transparency required in any society ordered by law’¹⁰. Gordon J (at [120]) took the view that the only limit on the range of extrinsic materials was their ‘relevance’¹¹. However, private letters are irrelevant to purpose absent some link to the legislative text or process – none shown here.



Other interpretation themes

Gordon J (at [120]) noted that ss 15AA and 15AB ‘supplement, but do not displace, the common law’¹². This has important practical implications, chief among them being that access to extrinsic materials is not first dependent on textual ambiguity.

Edelman J (at [172-173]) said again that statutes are to be ‘interpreted by the same techniques of understanding ordinary verbal communication’¹³, something which extends to the identification of legislative purpose¹⁴. Emphasising the obligation always to consider text, context and purpose at the same time, Edelman J (at [184]) quoted Dixon CJ in 1955 for the cardinal principle that context, purpose and policy are surer guides to statutory meaning than the logic with which legislation is constructed¹⁵.

■ **Thanks** – Oliver Hood, Patrick Boyd, Michael Mirtsis & Jeremy Francis.
¹ *Fair Work (Registered Organisations) Amendment (Administration) Act 2024*.

² *Ravbar v Commonwealth* [2025] HCA 25, cf AGS *Legal update no. 331*.

³ Seven judgments were given but no judge dissented in the outcome.

⁴ *Alexander* [2022] HCA 19 [101-102], *Cunliffe* (1994) 182 CLR 272 (300) cited.

⁵ *NZYQ* [2023] HCA 37 [40], *APLA* [2005] HCA 44 [178] cited, cf [459].

⁶ *Barger* (1908) 6 CLR 41 (75), *Communist Party Case* (1951) 83 CLR 1 (273).

⁷ *Certain Lloyd’s* [2012] HCA 56 [25], *Monis* [2013] HCA 4 [125] cited.

⁸ *News Ltd* [2003] HCA 45 [18], *Automotive Invest* [2024] HCA 36 [109-115].
⁹ s 15A of the *Acts Interpretation Act 1901*, cf Jagot J [368] contra.

¹⁰ *Wong* [2009] HCA 3 [52], *Gageler* (2015) 41 Monash ULR 1 (5) referred to.

¹¹ *CIC* (1997) 187 CLR 384 (408), cf *Harvey* [2024] HCA 1 [106-116].

¹² *Newcastle* (1997) 191 CLR 85 (99), cf *Sydney* [2021] NSWCA 204 [41].

¹³ *Babert* [2025] HCA 21 [131], cf *Pearce* 10th ed [4.1], *Kirk* [2025] FCA 838 [74].

¹⁴ *Ruddick* [2022] HCA 9 [133], *Unions NSW* [2019] HCA 1 [171] cited.

¹⁵ *Agalianos* (1955) 92 CLR 390 (397), cf *Unit Trend* [2013] HCA 16 [47].