Telus v FCM: Taming the Absurdity Doctrine in Statutory Interpretation

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In the last several years, the Supreme Court of Canada has sometimes relied on the doctrine of absurdity. As noted in the seminal *Rizzo* case, this is the idea that a literal interpretation of statutory words "…can be considered absurd if it leads to ridiculous or frivolous consequences, if it is extremely unreasonable or inequitable, if it is illogical or incoherent, or if it is incompatible with other provisions or with the object of the legislative enactment."[1] The absurdity doctrine is an old tool of interpretation, used as a "safety valve" in an era when closer attention to statutory text—and an unwillingness to depart from the plain meaning of a term—was apparently *de rigeur*. [2]

The broad definition of absurdity provided in *Rizzo* sits in tension with various other rules of statutory interpretation. For example, in a recent landmark decision, the Supreme Court put significant emphasis on the text of the statute as the "anchor" of the interpretive exercise.[3] This emphasis, mirrored in recent cases, rejects appeals to abstract purpose to "overwhelm" the balance of objectives contained in the text of a particular statute.[4] How this sits with *Rizzo*'s broad definition of absurdity is an open question.

In a recent case, the Supreme Court's approach to interpretation and a claim of absurdity came in direct conflict. In this sense, the Supreme Court's decision in *Telus v Federation of Canadian Municipalities* tells us much about the Supreme Court's current approach to statutory interpretation.[5] Indeed, though the Supreme Court has relied on the absurdity doctrine in several recent cases, *Telus v FCM* indicates a more restrained approach to the absurdity doctrine—especially if those results are supported by clear support in the text. In so doing, it illustrates some of the methodological and normative incidents of the textual turn in the Supreme Court's most recent interpretive jurisprudence.

In Part I of this paper, I address the facts of *Telus v FCM* and the division in the majority (Moreau J) and dissenting (Côté J) opinions on the scope and power of the absurdity doctrine. In Part II, I suggest why recent interpretive jurisprudence supports Moreau J's position.

I.

Telus v FCM addressed the meaning of "transmission line" in the *Telecommunications Act*. The *Telecommunications Act* grants telecommunications carriers a qualified right of access to construct transmission lines situated on public property, and the Canadian Radio and

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[1] See *Rizzo & Rizzo Shoes Ltd (Re),* [1998] 1 SCR 27 at para 27. The Court has relied on this concept in the following cases recently: *Pepa v Canada (Citizenship and Immigration),* 2025 SCC 21 [*Pepa*]; *Mason v Canada (Citizenship and Immigration),* 2023 SCC 21; *R v Basque*, 2023 SCC 18.

[2] The canonical depiction of the absurdity doctrine emphasizes the plain meaning of the statute: *Grey v. Pearson* (1857) 6 HL Cas 61.

[3] *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Directrice de la protection de la jeunesse du CISSS A*, 2024 SCC 43 [CISSS A].

[4] See *TELUS Communications Inc v Wellman*, 2019 SCC 19 at para 83; *R v Breault,* 2023 SCC 9 at para 26.

[5] *Telus Communications Inc v Federation of Canadian Municipalities*, 2025 SCC 15 [*Telus v FCM*].

Telecommunications Commission [CRTC] adjudicates disputes when a carrier cannot obtain consent from a public authority. The question in *Telus v FCM* was whether the qualified right of access and CRTC jurisdiction applied to 5G wireless antennae, technology unknown at the time of the *Telecommunication Act*'s enactment.

As Moreau J explains in the majority opinion, the rollout of 5G technology is an ongoing challenge for Canadian telecommunications carriers. The rollout of 5G technology "will require 250 000 to 300 000 small cell antennas."[6] This means that access to public property to install these antennas—and adjudication of disputes over access—is central. Because the antennae "are mounted on existing structures such as telephone poles, lamp posts, bus shelters, or buildings" with "[m]any of these structures…located on municipally owned public property"[7] a predictable adjudicative mechanism is, for obvious reasons, desirable to the carriers.

5G small cell antennas "function in essentially the same way" as "[p]revious- generation mobile wireless networks…"[8] 5G cells "transmit wireless signals in multiple directions to devices, but still rely on intelligence transmitted through the wires or cables of a carrier's wireline network."[9] For that reason, "a carrier's mobile wireless network can be understood as involving a combination of both wireline equipment (e.g., fibre-optic cables) and wireless equipment (e.g., 5G small cell antennas)."[10]

The statutory ecosystem is instructive. Under section 43 of the *Telecommunications Act*, carriers have "a qualified right of access to enter and break up highways or other public places to construct, maintain or operate its transmission lines with the consent of the relevant public authority…"[11] Where access cannot be negotiated between a public authority and a carrier, the parties could apply to the CRTC to set out terms of access, grant relevant permissions, or (on application by a municipality), prohibit construction or operation of a transmission line.[12]

The right of access and the jurisdiction of the CRTC hinges on the meaning of a simple phrase: "transmission line." Does the term "transmission line" encompass the 5G technology, even though the *Telecommunications Act* was enacted at a time when this technology did not exist? Relatedly, would it be "absurd" to conclude that some other regulatory action would be required to bring 5G cells under the law?

For a majority, Moreau J concluded that 5G antennas did not fit in the ambit of the statutory term. Her conclusions rests on three foundational premises. First, evaluating whether the term "transmission line" encompasses 5G technology involves determining the original meaning of the term, but doing so involves the application of the normal tools of statutory interpretation. Because "[s]tatutory interpretation is centred on the intent of the legislature at the time of

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[6] *Ibid*, at para 7.
[7] *Ibid*, at para 8.
[8] *Ibid*, at para 7.
[9] *Ibid*.
[10] *Ibid*.
[11] See *Ibid*, at para 10; ss. 43(2) and 43(3) of the *Telecommunications Act.*
[12] *Ibid*, ss.43(5) and s.44 of the *Telecommunications Act.*

enactment and courts are bound to give effect to that intent,"[13] an interpretation that does not aim at discovering original meaning cannot faithfully reflect legislative intention. However, in applying the original meaning of the term, courts should pay close attention to the level of generality at which the legislature has expressed the term. Where the legislature "has deliberately chosen a specific scientific or technical term to represent an equally specific and particular class of things," courts are bound to the ordinary meaning of the term as understood at the time of enactment.[14] But this is not always so. Sometimes, legislatures may use "broad or open-textured language to cover circumstances that are neither in existence nor in [the legislature's] contemplation."[15] In this sense, the use of language indicating a broad and general rule will equally apply to phenomenon falling within the general rule, even if that phenomenon was not known to members of the enacting legislature. In every case, it is always a question of "reading the text in context and consistent with the legislature's purpose."[16] In this sense, Moreau J concludes that there "no contradiction" between the original meaning canon and the normal tools of interpretation, keyed to the intent of the legislature. [17]

Second, Moreau J concluded that the ordinary and original meaning of the term "transmission line" encompassed a requirement of physicality, capturing "wireline" technology, whereas 5G antennas "do not transmit intelligence along physical pathways".[18] For her, the central concern was the method by which information was "transmitted" by 5G antennas. Antennas "do not transmit intelligence along physical pathways."[19] This is so even though 5G technology, as explained above, is hard-wired into wireline equipment. To conclude that the mere existence of a wire triggers jurisdiction would require "an unnatural use of language."[20] For Moreau J, "[a]n antenna cannot ordinarily be described as a transmission line even though it must necessarily be attached to one, no more than a toaster is, in ordinary language, a wire merely because a wire connects it through the socket to the electrical grid."[21] Using this conversational analogy bolstered Moreau J's claim on ordinary meaning.

Finally, and because of these conclusions, Moreau J rejected the argument that it would be absurd to subject the wired portions of the mobile wireless network will be subject to the access regime, while wireless equipment is not.[22] The bottom line of this conclusion is that the regulatory treatment of wired and wireless technology required Parliament to balance competing interests, and the interests of the carriers and public authorities.[23] Moreau J discerned a rational basis for this distinction and deferred to it. [24] Importantly, the *Radiocommunication Act*—a

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[13] *Ibid*, at para 32.
[14] *Perka v The Queen*, [1984] 2 SCR 232 at 265.
[15] *Telus v FCM,* at para 33.
[16] *Ibid*, at para 36.
[17] *Ibid*, at para 35.
[18] *Ibid*, at para 45.
[19] *Ibid*.
[20] *Ibid*, at para 46.
[21] *Ibid*.
[22] *Ibid*, at paras 75-77.
[23] *Ibid*, at para 71.
[24] *Ibid*, at para 73: "There are important countervailing policy objectives that support such limits and in particular the differential treatment of wireline and wireless equipment in a network."

related statute— establishes specific procedures for antenna installation, while the *Telecommunications Act* does not. This indicated that "Parliament is mindful of the specific impacts that antennas have on local communities and the risks associated with their deployment."[25] As Moreau J explains, "carriers must ensure their antennas do not interfere with other electronic equipment, including other antennas, follow safety guidelines for exposure to radio frequency fields, and comply with appropriate environmental legislation."[26] These specific impacts rationalized exclusion of 5G small cell technology from the access regime.

In dissent, Côté J (joined by Martin J) concluded that the majority's approach "does produce absurd results" because "[c]arriers would have the possibility of resorting to CRTC adjudication" for wired technology, but not wireless technology.[27] Côté J's conclusion was largely supported by the purpose of the *Telecommunications Act,* perhaps in recognition of *Rizzo*'s warning that absurdity may arise when an ordinary meaning analysis conflicts with statutory purpose. She noted the general objectives of the statute to facilitate the "the orderly development throughout Canada of a telecommunications system," and to "enhance the efficiency and competitiveness…of Canadian telecommunications" [28] Côté J, reasoning from this purpose, concluded that an interpretation that "makes it easier—not more difficult—for carriers to carry out the major upgrades needed to develop Canada's telecommunications networks."[29] Because parties cannot resort to the CRTC, deployment of 5G technology will be left to the whim of negotiations, significantly slowing 5G rollout. This conflict between text and purpose created, for Côté J, an absurdity: an irrational distinction between wireline and wireless technology.

II.

The majority's rejection of the applicability of the absurdity doctrine—and the dissent's adoption of it—reflect different views about the way statutes are designed. To be sure, the majority and dissent both rely on an eclectic variety of interpretive methods. However, in adopting lines of argument vis-à-vis the absurdity doctrine, the majority and dissent present fundamentally different views on the basic rationality of legislative acts. The majority's view, however, is consonant with recent developments in the law of statutory interpretation. It also demonstrates the danger of relying on *Rizzo*'s broad description of absurdity, especially when considering the branch of the doctrine related to statutory purpose.

In its recent cases, the Supreme Court has emphasized the basic centrality of statutory text.[30] It is worth reproducing the core paragraph of the Supreme Court's recent decision in CISSS A, which demonstrates this centrality:

> [24] In this case, it is important to highlight a few principles that guide the interpretation of s. 91 para. 4 of the *YPA*. First, the *YPA* must be given a large and liberal interpretation that will ensure the attainment of its object and the carrying out of its

[25] *Ibid*, at para 73.
[26] *Ibid*.
[27] *Ibid*, at para 140.
[28] *Ibid*, at para 160.
[29] *Ibid*, at para 161.
[30] See *Canada (National Revenue) v Shopify Inc,* 2025 FC 969 at para 45.

> provisions according to their true intent, meaning and spirit (see *Interpretation Act*, CQLR, c. I-16, s. 41; *Protection de la jeunesse – 123979*, at para. 21). However, just as the text must be considered in light of the context and object, the object of a statute and that of a provision must be considered with close attention always being paid to the text of the statute, which remains the anchor of the interpretive exercise. The text specifies, among other things, the means chosen by the legislature to achieve its purposes. These means "may disclose qualifications to primary purposes, and this is why the text remains the focus of interpretation" (M. Mancini, "The Purpose Error in the Modern Approach to Statutory Interpretation" (2022), 59 *Alta. L. Rev.* 919, at p. 927; see also pp. 930-31). In other words, they may "tell an interpreter just how far a legislature wanted to go in achieving some more abstract goal" (p. 927). As this Court recently noted, an interpreter must "interpret the 'text through which the legislature seeks to achieve [its] objective', because 'the goal of the interpretative exercise is to find harmony between the words of the statute and the intended objective . . .'" (*R. v. Breault*, 2023 SCC 9 , at para. 26, quoting *MediaQMI inc. v. Kamel*, 2021 SCC 23, [2021] 1 S.C.R. 899, at para. 39; see also *Quebec (Attorney General) v. 9147-0732 Québec inc.*, 2020 SCC 32 , [2020] 3 S.C.R. 426, at para. 10).

Wagner CJC's description of the modern approach foregrounds a particular vision of legislative action. It is a vision that emphasizes that statutes are complex "means-ends" packages in which legislatures do not accomplish their goals at all costs.[31] For Wagner CJC, the text of the enactment appears to demonstrate the means—how—the legislature wished to accomplish its goals. Statutory interpretation involves determining the precise relationship between the how and the why—the purpose of the enactment.

Parliament has a varied choice of means to accomplish its ends, and that choice of means can meaningfully change the nature of Parliament's legislative action. In other words, the totality of legislative intent is not *just* why Parliament enacted its law, but how it wishes the law to operate. The "machinery" of the statute, then, tells us something important about the legislature's intention. [32]This is why the Supreme Court has also emphasized that "…courts do not have to interpret—let alone implement—the objective underlying a legislative scheme or provision; what they must interpret is the text through which the legislature seeks to achieve that objective."[33] Because Parliament has a range of choices for the achievement of its aims, the Supreme Court's recent jurisprudence emphasizes the centrality of statutory text in demonstrating those means.

To flesh this point out, consider a stylized, hypothetical example. Imagine two legislatures, acting at different times, both debating a law designed to confiscate proceeds of crime. Both

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[31] The concept of legislative intent as constituting a means-ends package underlines Richard Ekins' theory of legislative intent: see Richard Ekins, "Legislation as Reasoned Action" in Grégoire Webber et al, eds, *Legislated Rights: Securing Human Rights through Legislation* (Cambridge: Cambridge University Press, 2018) 86 at 100. See also: See e.g. *Sun Indalex Finance LLC v United Steelworkers,* 2013 SCC 6 at para 174 per Cromwell J; *Monsanto Canada Inc v Ontario (Superintendent of Financial Services),* 2004 SCC 54 at paras 20-21 [*Monsanto*]; *Canada v Alta Energy Luxembourg SARL*, 2021 SCC 49 at para 76; *R v Rafilovich*, 2019 SCC 51 at para 30; *MediaQMI inc v Kamel*, 2021 SCC 23 [*MediaQMI*].

[32] *McBratney v McBratney*, 59 SCR 550 at 561.

[33] *MediaQMI*, at para 39.

legislatures comprehend the problem: there should be a confiscatory mechanism to ensure that individuals do not profit from their crimes. In other words, both legislatures plan to act on the same impulse, and seek to achieve—in broad strokes—the same change in the world.

But now consider that each legislature has a different set of political constraints acting upon it. Legislature #1 is composed of civil libertarians who recognize the need for a confiscatory mechanism, but worry about overreach. Legislature #2 consists of "tough-on-crime" members who are less worried about the consequences. Flowing from these differences, the ultimate statutes adopted by each legislature are drafted differently. Legislature #1 constructs a complex and structured regime governing when and how the police may confiscate "proceeds of crime." It sets out that the police may only confiscate property as proceeds of crime where there are "reasonable grounds to believe" that property is proceeds of crime. It provides that, in addition to this standard, individuals whose property is confiscated can apply forthwith to a court for a return of the property if the courts find that the reasonable grounds standard is not met.

Legislature #2, on the other hand, is less worried about constraining the power of the police. It sets out a simple rule: wherever the authorities believe that it is "reasonable, in the public interest" to confiscate property as proceeds of crime, it may do so. It is immediately apparent how this statutory design differs from Legislature #1's. It is far less constraining, even if it involves the attainment of the same legislative goal.

At a shallow level, and from an uninterrogated "purposive" perspective, Legislature #1 and Legislature #2 have adopted the same law, But on closer examination, they have not. Legislature #1's law achieves its goal in a fundamentally different manner—in response to its own political constraints—than Legislature #2. Ignoring this difference leaves something important about the legislature's intention on the table. This appears to be the significance of Wagner CJC's comment in CISSS A.

The core difference between Legislatures #1 and #2 lies in the drafting choices made to accomplish its chosen goal. Indeed, there is a "clear connection between legislative drafting and judicial interpretation."[34] Legislative drafting choices dictate how legislatures achieve goals, and simultaneously how judges should interpret statutes.[35] As Judge Easterbrook points out "[s]tatutes do more than point in a direction, such as 'more safety.' They achieve a particular amount of that objective, at a particular cost in other interests."[36] For him, law is a vector: it has length and direction, and so a total understanding of the law requires understanding not only what a law does but how it does it. [37]

This observation is reflected in modern drafting practice. As Keyes and Gordon point out, specialist drafters "draft legislative texts on the basis of instructions provided by officials who

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[34] John Mark Keyes & Wendy Gordon, *Drafting, Interpreting and Applying Legislation* (Toronto: Irwin Law) at 73 [Keyes & Gordon]; Stephane Beaulac, "International Law Gateway to Domestic Law: Hart's 'Open Texture,' Legal Language and the Canadian Charter" (2012) 46 Revue juridique Thémis 443 at 459.
[35] *Ibid*.
[36] *Contract Courier Servs v Res & Special Programs Admin, US Dep't of Transp*, 924 F.2d 112, 115 (7th Cir 1991).
[37] Frank Easterbrook, "The Role of Original Intent in Statutory Construction" (1988) 11 Harvard Journal of Law and Public Policy 59 at 63.

develop the ideas underlying the legislation"[38] The generation of these ideas—the making of "legislative policy" by executive officials—is distinct from the drafting of legislation.[39] Legislative policy may contain, in a general sense, what the legislature should accomplish and how. Drafting translates these policy choices into law by demonstrating the relationship between them.

One way in which drafting choices can be conceived is through the linguistic concept of generality. A term is general if it "makes it possible to regulate large sets of situations using one general rule."[40] Scholars and judges have pointed out that legislatures, through the generality of language, can calibrate how they want a court or receiving institution to apply the law.[41] As Manning explains, "…an interpreter must take seriously the signals that [a legislature] sends through the level of generality reflected in its choice of words."[42] As he notes, "a precise and specific commands signals an implemental purpose to leave relatively little discretion to the law's implementer" while "an open-ended and general one signals the opposite."[43] If an interpreter claims that a precise statutory term is incoherent because of inconsistency with a broader purpose, "they deny legislators the capacity through their choice of words, to distinguish those statutes meant to embody specific policy choices from those meant to leave policy discretion to the law's implementers."[44]

And yet this is precisely what the broad definition of absurdity in *Rizzo* counsels. The fact that a choice of means, in some sense, does not accommodate a particular definition of purpose imposes a form of judicial rationality on legislative action. But that judicial rationality may contaminate the "special sauce" of legislative action—the key relationship between means and ends. As Groberman JA of the British Columbia Court of Appeal recently said, some statutes "do not perfectly accommodate the statute's higher-level principles."[45] This is not a failure of rationality but a logical implication of a different choice of means. Consider, again, the example of the "proceeds of crime" statute. It is arguably nonsensical to say that one or the other statute "better" accomplishes the overall goal of the proceeds of crime statute: to ensure that crime does not pay. Both statutes may reasonably accomplish that goal, but do so in different ways. Labelling one or the other of these statutes as "absurd" is a failure to recognize what makes the statute a unique expression of the legislature's intention. For this reason, it makes sense that the Supreme Court has said that it "cannot disregard the actual words chosen by Parliament and

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[38] Keyes & Gordon, at 8.
[39] *Ibid*, at 12.
[40] Ralf Poscher, "Ambiguity and Vagueness in Legal Interpretation" in Lawrence Solan & Peter Tiersma, eds, *Oxford Handbook on Language and Law* (Oxford : Oxford University Press, 2011)
[41] See Frank H Easterbrook, "What Does Legislative History Tell Us?" (1990) 66 Chi Kent L Rev 441 at 449; Frank H Easterbrook, "Text, History, and Structure in Statutory Interpretation" (1994) 17 Harvard Journal of Law and Public Policy 61 at 63; John F Manning, "Second-Generation Textualism" (2010) 98 Calif L Rev 1287 at 1311.
[42] John F Manning, "The New Purposivism" (2011) Sup Ct L Rev 113 at 116.
[43] *Ibid.*
[44] *Ibid.*
[45] *1164708 BC Ltd v British Columbia,* 2025 BCCA 76 at para 28

rewrite the legislation to accord with its own view of how the legislative purpose could be better promoted."[46]

How do these insights apply to *Telus v FCM*? Moreau J took a cautious attitude of deference to Parliament's scheme, seeing not a "gap" but a reasoned—if imperfect—choice. The distinction between wired and wireless equipment from the perspective of the access regime indicates a different choice of means that could very well reflect a legislative judgment. Much like the political constraints operating in the proceeds of crime example, the specific impacts and constraints of building certain forms of technology in local communities is a rational reason to distinguish between the technologies. It is, at the very least, a reason to pause before claiming absurdity. Indeed, there may always be "better" ways to achieve a particular objective. But what is a better achievement of the objective is a deeply political question that is the stuff of legislative deliberation. Those questions, complex as they may be, should be left to legislatures.

In the world of administrative law, this judicial humility plays an important role. In *Vavilov,* the Supreme Court noted that the justification for a deferential approach to judicial review rested on a central premise: the institutional design choice of the legislature to delegate power in the first place.[47] Consider the recent decision of *Pepa*, in which the Supreme Court not only found the Immigration Appeal Division's interpretation of a right of appeal absurd, but also concluded that any other interpretation but the Supreme Court's own interpretation would also be absurd.[48] This represents a rather muscular version of the absurdity doctrine, because it puts a judicial thumb on the scale, eroding the usual remedy on judicial review: to remit to the decision-maker. This was the import of Rowe J's partial dissent in *Pepa*. He noted that the majority's choice to declare all other plausible interpretations absurd "takes reasonableness analysis further than it need go; in so doing, this Court runs an unnecessary risk of creating its own absurdities."[49]

In this sense, Côté J's dissenting opinion—while well-reasoned—arguably commits the cardinal sin of reasoning from an abstract statutory purpose and identifying a "gap" in the rationality of the Telecommunications Act. As Reed Dickerson once wrote, legislative purpose "provides a strong temptation to perform the bootstrap operation of formulating a 'legislative purpose' with one eye on the situation to which it is to be applied."[50] This line of argument was well-described in Lon Fuller's famous "Speluncean Explorers":

> The process of judicial reform requires three steps. The first of these is to divine some single "purpose" which the statute serves. This is done although not one statute in a hundred has any such single purpose, and although the objectives of nearly every statute are differently interpreted by the different classes of its sponsors. The second step is to discover that a mythical being called "the legislator," in the pursuit of this imagined "purpose," overlooked something or left some gap or imperfection in his work. Then comes the final and most

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[46] *Canada (Information Commissioner) v Canada (Minister of National Defence),* 2011 SCC 25 at para 40.
[47] Canada (Citizenship and Immigration) v Vavilov, 2019 SCC 65 at para 30.
[48] See Pepa, at para 129.
[49] *Ibid*, at para 150.
[50] Reed Dickerson, The Interpretation and Application of Statutes (Boston: Little, Brown and Company, 1975) at 94.

> refreshing part of the task, which is, of course, to fill in the blank thus created. Quod erat faciendum.[51]

Roughly speaking, Côté J's reasoning follows this pattern. She begins reasoning from the purposes of the *Telecommunications Act*; she finds that the legislature's use of "transmission line," as understood by the majority, leaves a gap in the scheme—it slows the rollout of 5G technology, contrary to the purposes of the *Telecommunications Act.* Finally, that gap can be solved by an interpretation of the provision that arguably minimizes its ordinary meaning—the presence of a physical line—in favour of closer coherence with statutory purpose.

There may be situations where the label of "absurdity" serves a function. Consider a statute—rare as it might be, considering modern drafting practice—that says that a form not filled with blue ink is void; but then stipulates that only forms filled with red ink are valid. This is a situation of a statute contemplating two different commands, creating an operational conflict. One cannot simply follow the text, and here, the absurdity doctrine might permit a court to craft a result that avoids this conflict. While longstanding interpretive rules assist in minimizing such conflicts, the red ink vs blue ink hypothetical reduces the possibility that such rules would be applicable. In this situation, one can envision the absurdity doctrine doing some work.[52]

But this is a far cry from the situation in *Telus v FCM,* where the primary argument rested not on an allegation of operational conflict, but on a claim that the ordinary meaning of the text, interpreted one way, conflicts with a judicial view of statutory purpose. This is a much weaker reed on which to rest a conclusion of absurdity, given the multifarious nature of modern legislation.

CONCLUSION

The Supreme Court's somewhat frequent reliance on the absurdity doctrine masks deeper questions about the circumstances in which it should be deployed. One of the situations enumerated in *Rizzo* that might cause a court to declare absurdity—a purported conflict with statutory purpose—ultimately unravels the essence of legislative action, which might reasonably balance objectives against each other. *Telus v FCM*, in this sense, rightly cautions against the muscular use of absurdity deployed by the Supreme Court in cases like *Rizzo* and *Pepa.*

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[51] Lon Fuller, "The Case of the Speluncean Explorers" 62:4 Harvard L Rev 616

[52] I thank Leonid Sirota for prompting me with this example.