

Eduqas A Level Law - Component 1 - Example 1



01

The Literal Rule is where the judge will consider the wording of the statute for their plain and ordinary meaning, even if this will lead to an absurd result (LNER v Berriman). An extrinsic aid of a dictionary may be used with the literal rule, as seen in DPP v Cheeseman to determine the meaning of "passenger". Lord Denning believed that this rule was/is "out of date", however it is preferred by some judges such as Lord Scarman as it is seen to uphold Parliamentary supremacy.

The Golden Rule is an extension of the Literal Rule. It is described as "giving words their ordinary signification unless when so applied they produce an absurdity" by Blackburn. There are two approaches of the Golden Rule = Narrow and wide. The narrow approach allows the judge to choose between meanings of the word in order to avoid an absurdity, as seen in R v Allen and Adler v George. The wide approach is used if there is not the ability to choose between meanings, here, the judge is able to add to the existing law to prevent a repugnant result. This is shown in Re Sigsworth. The Golden Rule was described by Zander as a "feeble parachute".

02

The Rule of Law is a concept which is embedded in our legal system. It was officially recognised in the Constitutional Reform Act 2005. A.V. Dicey described it using 3 points. These were that there should be no sanction without breach of the law (to avoid anyone being punished arbitrarily), the rights of individuals are secured by the decisions of judges, who apply the law impartially and one ^{law should be} govern all. Lord Bingham also mentioned human rights, equality, accessibility of the law and the right to a fair trial within his 10 points summarising the rule of law.

No one is above the law when following the rule of law, this is shown through the Black Spider memos case, where not even a member of the royal family could be given special treatment. The Rule of Law is also visible in the case of the Belmarsh Detainees, where the government wanted to detain suspected terrorists without charge, and in Abu Qatada. Montesquieu's Theory of Separation of powers goes hand in hand with the rule of law. This is where there are 3 arms of state: executive (government), legislative (Parliament) and judiciary (judges) in order to prevent dictatorship.

04

Statutory interpretation is where judges are able to use one of four rules/approaches in order to help them apply an Act of Parliament. The rules are: the ~~ex~~ Literal rule, golden rule, mischief rule and purposive approach. The judge may use one of these to determine whether Olga has breached the act.

The first rule the judge may apply is the Literal Rule. This is where they consider the plain and ordinary meaning of the words in the statute. This may produce an absurd result as seen in *UNER v Berriman*, where a widow receives no compensation as her husband was "oilng" the tracks, not "relaying or repairing". An extrinsic aid of a dictionary can help the judge apply the literal rule (*DPP v Cheeseman*). Lord Denning called this rule "out of date" and Zander described it as "mechanical and divorced from the reality of the use of language". However, Lord Simon prefers the literal rule as he believes it is better to allow Parliament to make the necessary changes than to allow "judicial contortion". If the judge applied the literal rule to Olga's situation, she would be found guilty because she did exceed the length of a "long journey" by travelling 300 miles. The fact that this was unintentional or caused by an unforeseeable emergency would not be taken into account, even though this would provide



an absurdity.

The Golden Rule is an extension of the literal rule. It is "giving words their ordinary signification unless when so applied they produce an absurdity". The narrow approach allows the judge to choose between meanings of a word/phrase in the Act, shown by *Adler v George* ("vicinity") and *R v Allen* ("marriage"). The wide approach allows the judge to add to the Law to avoid an absurdity when it is not possible to simply choose between meanings (*Re Sigsworth*). The Golden Rule was described by Zander as being a "feebly parachute" and it may be seen to conflict with the supremacy of Parliament, unlike the literal rule which upholds it. Using the Golden Rule, the judge may decide that Olga should be found not guilty, due to the fact that she was faced with an unexpected emergency. They may therefore use the wide approach to edit the law and add a clause for an exception concerning emergency situations.

The 3rd rule is the Mischief Rule, otherwise known as the rule from *Heydon's Case*. Here the judge will consider what mischief Parliament were trying to prevent in creating the statute. Lord Denning said that "a judge should use their good sense to do what Parliament would have done if they had the situation in mind". This rule is shown

through *Smith v Hughes* (soliciting prostitutes) and *Royal College of Nursing v DTSS* (backstreet abortions). If the mischief rule was applied, the judge may find Olga guilty as the Act intended to prevent diesel pollution, which does not require an intention from Olga.

The final rule is the purposive approach. This is the most modern approach favoured by Lord Denning and the Law Commission but opposed by Lord Scarman. Here, the judge considers the intention of Parliament when creating the Act. Lord Bingham commented that it is the "court's task to ~~interpret~~ give effect to Parliament's purpose". An extrinsic aid of Hansard may be used here since being allowed in *Pepper v Hart*. An example of this approach in action is in *Coltman v Bibby Tankers*. If the judge applied this approach to Olga's scenario she would probably still be found guilty as it seems Parliament intended to cover levels of diesel pollution and Olga's car travelled further than the limit without a licence.

There are also 3 rules of language which may be used to aid statutory interpretation: *Ejusdem generis* (general words follow particular words) (~~Hampton~~ *Powell v Kempton*), *expressio unius exclusio alterius* (the expression of one thing implies the exclusion of another) and *noscitur a*

sociis (the ~~ex~~ meaning of the word is gathered from the context).

- 06 a) There are 3 types of jury used in England and Wales: Criminal, civil and coroner's. Criminal juries sit in the crown court, they are used for either way offences when the defendant chooses jury trial or if the magistrates refuse jurisdiction, or for indictable offences. Their job is to listen to all of the evidence provided in court, such as witness testimony, DNA or CCTV and make a decision - verdict of guilty or not guilty. Criminal juries make up only 1% of all criminal cases. The judge will ask for a unanimous verdict, where all 12 randomly selected jurors agree. Jurors must deliberate in secret for at least 2 hours 10 mins. They must only use evidence provided (R v Young) and any notes made must be destroyed after the trial. If the jury cannot come to a unanimous verdict, the judge may accept a majority verdict of 10 or 11/12. Juries represent society through public participation and trial by peers.

The role of a civil jury is slightly different as they have a dual role. Civil juries decide on liability and ~~to~~ what damages the claimant should receive. They will sit in the county or High court, and are commonly used for cases of wrongful imprisonment or malicious

prosecution or fraud. Civil juries are rarely used for libel or slander cases after the Defamation Act 2013, this is because too often the damages rewarded were disproportionate.

A jury in a coroner's court has the role of deciding on cause of death, where a death has occurred in suspicious circumstances. This could be death in police custody, prison or a death which concerns public health and safety. Verdicts include unlawful killing and accidental death. Examples are the death of Princess Diana and the Hillsborough Disaster.

b) Juries in England and Wales are randomly selected from the electoral register by the Jury Central Summoning Bureau. They sit for a minimum of 2 weeks but may be used on multiple trials. The length of jury trials have been criticised for the effect they may have on the jury's health and wellbeing. This is seen in the case of Edward McLaren, where the trial lasted 20 months and a number of jurors required therapy and/or job training. In addition, many members of the public do not want to participate due to it being an inconvenience to their daily life. This may lead to jurors not fully paying attention to the trial, or decisions being made which do not abide by the burden

of proof - that you must not find the defendant guilty unless you are sure beyond all reasonable doubt. However, the fact that jurors are lay people is also a huge advantage to our criminal justice system, as they provide public participation, represent society and are a lot less expensive than other methods.

Juries are controlled by the selection process, whereby they have to be 18-75 (originally 70 but extended by Criminal Justice and Courts Act 2015), have to have lived in the UK for at least 5 years since their 13th birthday, must not be on bail, must not have served a custodial or community sentence in the last 10 years and must not have served a sentence of 5 years+. This tries to represent society without giving power to those who will abuse it. There are also 3 jury challenges: Stand by the crown (juror moved to end of jury pool, requires permission of Attorney General), challenge to the cause (juror is biased or cannot fulfil their role in some way) or challenge to the array (full jury removed - seen in Romford jury case). A jury must provide a verdict based solely on the facts presented to them as they are masters of the fact, these challenges try to avoid noticeable bias. In addition, the Auld Report 2001 suggested racial challenging, backed by the idea of

having at least 3 jurors of ethnic minority for trials relating to race. This was knocked back as it takes away the idea of random selection and could be seen to open the floodgates.

The Juries Act 1974 was the initial legislation for jury trials, however the Criminal Justice Act 2003 brought changes after prompt from the Alder Report 2001. This widened jury selection to include members of the justice system such as lawyers, police and judges. Prior to this, they were not allowed for fear of bias. Other professionals such as surgeons also escaped jury service, this was criticised as there was a fear that the only people left to sit may not be capable. Judges can now sit on a jury as part of their role as a private citizen and it is up to them whether they want to disclose their occupation, however if they do they may have too much influence over other jurors. In addition, police officers must notify the bailiff if they know any of the officers on the case to prevent bias.

There has been criticism that jurors may not be intelligent enough to understand their role and/or the trial, especially in complex fraud trials. (Pryce). Lord Denning suggested that jurors should have to pass an intelligence/aptitude test but again

this would have taken away the idea of random selection and true representation of society.

Juries have the right to keep their reasons for the decision a secret. This may lead to issues such as not knowing how they came to their verdict (*R v Young*) but encourages them to follow their own opinion. Another potential issue is equity (*Ponting*) (*R v Owen*). This is where a jury's decision is not legally correct but is seen to be morally correct. Arguably making the law more fair but less consistent and more unpredictable.

There are also some issues with jury nobbling, where someone tries to influence a juror's decision through enticement or intimidation. S44 of the Criminal Justice Act 2003 means that if there are substantial grounds to believe nobbling may occur, a judge only trial can be requested, however this has only happened once (*Twomey*).

Another potential issue raised is that jury trials are theatrical, and jurors may decide their verdict purely because they favour one of the lawyers. If a lawyer for one side is more convincing than the other, actual evidence may be disregarded (*R v Alexander + Steen*).

Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

Leave blank

In conclusion, jury trials have been referred to as an 'indispensable foundation' and are vital to our system as they provide public participation and represent the morals of society. There are some issues presented but provisions have been put in place to ensure jury trials are as fair as possible. Alternatives would be too expensive and risky.

Eduqas A Level Law - Component 1 - Example 2



01.

Statutory interpretation is the interpretation of act made by parliament. It has two main approaches the first is the literal approach and the second is the purposive. The literal and golden rules are found in under the literal approach as well as the mischief rule. The literal approach is where the plain and ordinary meaning of the act is taken. This can cause an abused result as in *Cheeseman* where the word '~~passenger~~ ~~was taken~~ street' literal, which result in *Cheeseman* being found no guilty of his offence. However, the literal approach can also result in ^{unfair} ~~absurd~~ result such as in *Berriman* whereby the defendant was found guilty despite it not being parliament intention to unfair punish the ^{widow} of *Berriman* when creating this act. The golden rule is a modification of the literal rule and is used in order to ~~reduce~~ the ^{or} prevent unfair or absurd results. It used when wording in the act is ambiguous. There are two approaches under the golden rule the first is the narrow approach which looks for ambiguous words in the act such as in *R v Allen* with the word to 'marry'. The second approach is the wide approach which is used to avoid a repugnant situation as in *Sigworth* where the defendant stood to receive a large inheritance despite his offence.

Q 2

The rule of law is one of the theories that influence law. Others include the separation of powers, the idea that the Executive, Legislative and Judiciary should be independent and the theory of parliamentary sovereignty where the parliament should be the only body to create law. The rule of law means that no one is above the law and all should answer to it no matter the status, wealth, ethnicity. Therefore one of its main principles is that equality before the law, which suggests that in theory all should be equal before the eye of the law and should be treated as such. This is consistent with Article 14 of the ~~Roman~~ European Convention of Human Rights whereby people should be free from discrimination and Article 5 the right to fair trial. Another element of the rule of law is that law is there to seek punishment and without punishment there is no rule of law. The theory of the rule of law was founded by AV Dicey and is a guiding principle in not only law but democracy.

Q 3

Q 4

Statutory interpretation is the process of interpreting law made by parliament. This is done by courts. Statutory interpretation has two approaches, the literal and the purposive approach as well as a presumption and intrinsic and extrinsic aid.



The first approach is the literal approach and under this there are three rules. The first rule is the literal rule where the plain and ordinary meaning of the act is taken as in *cheeseman* where it caused an absurd result or as in *Barriman* where the result was unfair. In *Olga* cases under the literal rule she would not have to pay the £5000 fine as. Taking the plain and ordinary meaning of the Act, ~~for example~~ ^{the} exceeding 25 mpg and ^{the} period of 24 hours. *Olga* has not committed this offence as her vehicle only manages 15 mpg and she did not go on a long journey ~~where~~ as ~~she~~ it did not take her 24 hours to get to her mother in law's. therefore under the literal rule she would not pay the fine.

The golden rule is the second rule under the literal approach, this is a modification of the literal rule and looks for words in the act which are ambiguous. under this rule there are two approaches the first is the narrow approach which looks for ambiguity as in *R v Allen* and the second is the wide approach which ~~also~~ looks to avoid a repugnant situation. as in *Sigworth*. under the golden rule ~~it may be~~ that there is a possibility that *Olga* will have to pay the fine as the journey to be long must consist of a maximum of 200 miles. is ambiguous in the context of *Olga* case as she did a total of 300 miles therefore



She did a longer journey which could make the courts more inclined to make her pay the £5000.

The third rule under the literal approach is the ~~golden~~ mischief rule this looks for the defect as in *Smith v Hughes* where the defect was in the use of the word 'Street'. Under this rule it is likely that Olga will have to pay the fine as the purpose of the act is to reduce the amount of pollution from diesel cars. ~~which~~ ~~is~~ therefore the defect is known defect as has contributed and will likely have to pay the fine.

The purposive approach is where courts must find parliament intention in making the act. There are three types ~~of purposive~~ ~~of purposive~~ The first is the impact.

main example where purposive approach is often used. The first is EU law as there is often conflict and barriers to EU law ~~being used~~ in the UK. Under the European Union Act 1972 all EU law take precedent above domestic law therefore judges must interpret in order to find out the intention of the act such as in *Bulmer and Bolliger*. The second example is three judges have the ~~purposive~~ ^{purposive} approach to interpret the ~~human~~ ^{human} rights act 1988 ~~as~~ ^{rights} this law also binds previously domestic laws and cause clash such as with the Rent Act 1977 in the case of *Ghodon-Godanez*.

The last area where law must
be interpreted purposively is in new
developments as in scientific
breakthrough demonstrated in
Quantivelle. Under the purposive
approach it's likely that Olga will
have to pay the fine as parliament's
intention was to reduce the impact
of diesel cars on the environment
as ~~she~~ on her journey she did
contribute to polluting. In the purposive
approach courts are able to use
extrinsic aids such as Hansard
to understand parliament's intention
this could be useful in determining
whether Olga has to pay the fine.

Q 6

The Jury has different roles in different areas. The Jury ~~was~~ was established in the Bushell case and follows Magna Carta theory of trial by one's peers. The Jury consists of 12 members of the public aged between 18 - 75, who are ~~not~~ ~~electorate~~ ~~not~~ registered to vote. There are some exceptions on who can sit on the Jury but mostly any one can sit no matter their profession this includes police and judge. There are three where the Jury have roles the first is the ~~great~~ crown court, the second is in civil law and the last involves the coroners court. Around 1-2% of trials in crime are heard by the Jury while the majority are heard by the Magistrate (97%).

The role the Jury has in the crown courts is they must listen to evidence and examine exhibits in order to determine the facts of the case and come to a judgement. The Jury has an ability of fact and must determine guilt. They must come to an unanimous vote with a majority of 11-21 or 10-2 ^{as in Juries Act 1974 anything less is a hung jury.} The Judge is able to direct the Jury on points of law, therefore the role of the Jury in criminal cases is to determine guilt, ~~as~~ and come to a verdict as well as represent secrets and symbols. ~~In civil cases~~ Jur dummcray.

In civil case the jury has a dual role. The first is to determine where the defendant is liable for the tort and the second is to determine the amount of damage to award to the claimant. In civil case the jury can sit in the high court under s.69 of the supreme court act 1981 or in the county court under the s.66. County court act 1984. Often in civil law the jury will be in case of fraud or false imprisonment. The last area where the juries have a role is in the coroner court where the role is to determine whether there was suspicion this often involves death in prison or custody or death by industrial accident such as the Hillsborough disaster.

08

b)

Trail by jury has been part of the law for centuries since the magna carta which suggested trial by ones peers and since it was ~~established~~ consolidated in the Bushell case. It has many advantages such as speedy decision, fair and previously fairer trials however it does have some disadvantages such as that it can be influenced by external pressure which result in an unfair trial and it can lead to a contempt of court which result in a longer trial which wastes time.

One main advantage of trial by Jury is that Jurors are ~~less~~ less case hardened and prosecution minded therefore they give a clear look into the evidence and come to a verdict which is fairer than that of a single Judge. This upholds the idea of democracy as well as abide by the ECHR Article 5. because they are less case hard they have a more concern with the impact on the defendant as well as the public and therefore look for the best option to balance to two. // Despite this they can be dominated by strong minded people which could result in them being more prosecution minded as some may wish to punish those without much care. Also due to the fact that Jury service is compulsory it means that Jurors are reluctant to be there. This strengthens the views of strong minded individuals as a juror just want to finish the service and will say agree in order to do so. This undermines the concept of a fair trial and equality before the law as jurors are not giving the defendant a fair and just trial.

Jurors can often misunderstand the law and be influenced by strong willed barristers such as in *Pringle* this can therefore result in a loss of

a fair trial as jurors ~~find it~~ can find it difficult to weight up the evidence and be easily persuaded by barrister to give an innocent are guilty verdict. ~~However~~ which means a fair trial has not taken place and breach article 3 of ECHR. At the moment due to a lack of understanding it can result in jurors protecting defendant from harsh law such as awers which gives a fairer trial as they take ^{punishment} ~~the law~~ into ~~consideration~~ consideration and when he deserve that punishment.

Jury can often be influenced by the media, and can result in a contempt of court as ~~under the~~ they share information or research ~~not~~ about the case this is an offence under S.71 (research) and S.72 (share info) under the Criminal Justice Act and Court Act 2017, amended by the Contempt of Court Act 1981. This can result in a delay in court proceedings which results in a defendant remain in custody or on bail for a longer period and weaken the value of a fair trial as well as extending the trial period which may lead to a rise ~~weaken~~ the effect on the defendant.

Therefore in conclusion trial by jury often emphasises the ~~the~~ concept of



Write the two digit question number **inside** the boxes next to the first line of your answer

Answer

Leave
blank

a fair trial, and the rule of law
however which abide by the
BCHR and the rule of law as
well as the magna carta theory
deeply in practice the main political
theory however it does have its limits
as it is often pressurized and lead to
competes of court and a lack of ^{just} verdict.

