

Statutory Interpretation - Exam Practice

Read the fictitious statute and the scenario below and answer the question that follows.

Reduction of Student Noise (Local Authority) Fictitious Act 2009

Section 1. “It shall be an offence to organise a party at a student residence after 11.30 p.m. on a weekday night.”

Simon, a student, had completed his first year examinations and during the vacation he organised a discussion group with his friends. A number of friends came round where there was a passionate discussion on political opinions. After the discussion had finished Simon prepared coffee and biscuits. At 11.30 p.m. the meeting came to an end when Timothy who was helping with the washing up dropped a tray of cups which smashed. The noise woke up Sarah who lived next door. She complained to the police who investigated the matter and subsequently charged Simon under Section 1 of the Act.

Advise Simon on how a court might approach the interpretation of this section in the light of the facts set out above. [15 Marks]

Your plan: Thursday 4th March

What are the words/ phrases in the section/Act that may be an issue of interpretation? Party, time- 11.30pm, weekday night, student residence

Which points do you consider from the scenario? Discussion group, coffee and biscuits, vacation could be different to a weekday night, passionate discussion, the party does end at 11.30pm but it is the noise that is after

How would you apply the literal rule? The party has ended so he wouldn't be found guilty, noise was accidental

How would you apply the golden rule? Narrow approach- party has more than one meaning (R v Allen case), not guilty because the coffee and biscuits are not seen as party food.

Broad approach of the golden rule, the judge may find him guilty due to the second interpretation of the GR which is the verb to party. “Passionate discussion” also there is no real definition of what people serve at parties.

How would you apply the mischief rule? The factors of the mischief rule, the reason for the remedy, the noise etc, the defendant will be found guilty- regardless of whether it was an accident he did create a noise and the mischief was an accident.

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How would you apply the purposive approach? Parliament's true intention to stop people disturbing, they would be guilty and they would create noise when leaving.

Are there any relevant rules of language? *Expressio unius est exclusio alterius*, it's specific and looking at weekday nights. *Noscitur a sociis*, weekday night implies it's a normal working week, vacation is separate

Are there any intrinsic/internal aids? Short title, gives a clue about what the statute is about

Are there any extrinsic/external aids? Dictionaries,

Are there any presumptions that apply here? *mens rea*- they have to have the intent and in this case they have to have the intent to disrupt.

Cases and then apply it to the problem

Your answer:

In Simon's case there are many words that will be seen as an issue of interpretation such as party, discussion group and weekday night.

The literal rule is when words are given their natural, ordinary or dictionary meaning, this rule was applied in *Whitely v Chappel* (1868) where the defendant was acquitted as a dead person is not entitled to vote. In Simon's case, Simon would be advised that if the literal rule applied he would not be found guilty as the discussion group ended at 11.30pm and the noise which occurred was accidental.

Furthermore, the golden rule may be applied where an application of the literal rule would lead to an absurdity. The narrow approach of the golden rule was used in *R v Allen* where the defendant's conviction was upheld and the broad approach of the golden rule was applied in *Re Sigsworth* holding that an application of the literal rule would lead to a repugnant result. Simon would be advised that if the narrow view of the golden rule was applied he would be found not guilty as "coffee and biscuits" are not seen as party food, on the other hand if the courts used the broad approach of the golden rule the judge may find him guilty due to the second meaning of party which is the verb to party as well as there being a "passionate discussion."

Under the mischief rule the court's role is to suppress the mischief the Act is aimed at and advance the remedy. This rule was first used in *Heydon's case* (1584), the common law before making the Act was that people were allowed to party at any time and as a result this caused disruption, the mischief was that too many

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students were holding parties and therefore creating noise to residents. Parliament passed the remedy of the statute to resolve the issue and the true reason for the remedy was to allow residents to get sleep without being disturbed by student parties creating noise. Simon would be advised that regardless of whether the mischief was an accident, he did still cause noise and therefore would be found guilty as parliament's intention was to prevent disturbance.

In addition, the purposive approach focuses on what Parliament intended and was used in *Pepper (Inspector of Taxes) v Hart* (1993). In Simon's case, Simon would be advised that if the courts used this approach he would be found guilty as Parliament's true intention was to stop people disturbing others and Simon did create a noise whilst leaving therefore he would be found guilty. Judges may also look at relevant rules of language to help them reach their decision. One relevant rule of language is the *Expressio unius est exclusio alterius* rule where the expression of one thing implies the exclusion of another, in Simon's case the statute is specifically focusing on weekday nights so the Act only applies to these particular words, another relevant rule of language is *Noscitur a sociis* where the meaning of a word is to be gathered from the context in which it is written. In this case, weekday night implies it's a normal working week and vacation is separate. Simon would be advised that if the judge uses this relevant rule of language it would help find him not guilty.

Other aids that Judges use are extrinsic and intrinsic aids. In Simon's case the intrinsic aid used to help the judge is the short title which gives the judge a clue about what the statute is about. The extrinsic aid that could be used is dictionaries to help and identify the different meanings of the word party. Furthermore, the presumption of *mens rea* could be used in Simon's case which requires the intention to commit an offence. Simon would be advised that if the Judge used the presumption of *mens rea* it would help Simon to be found not guilty as he did not have the intention to commit the offence it was accidental.