Describe the different approaches to statutory interpretation and discuss the difficulties associated with finding Parliaments intention when interpreting an Act

Plan:

- The different approaches to statutory interpretation:
  - The Literal Approach
  - The Golden Rule
  - The Mischief Rule
  - The Purposive Approach
- The difficulties associated with finding Parliaments intention
  - Relying on Extrinsic Aids (Hansard)
  - Judicial Law Making
  - The Concept of Parliamentary Intent

When presented with any case in the courts, judges are ultimately left with the role to interpret the statute to which the case correlates to. This process can cause a variety of issues as judges can interpret an Act with many different approaches: literal, purposive, the golden rule and the mischief rule. Often the results of each of these will have completely conflict the others. One problem occurs with frequent use specifically due to the purposive approach, with attempts to find parliaments intention when writing the Act; this in itself presents many difficulties. Overall when faced with a case and statute, judges use one of these approaches of interpretation to find the answer of the legislation as to the outcome of the case.

The different approaches to statutory interpretation

The Literal Approach

The most obvious approach available to judges through statutory interpretation is the literal approach. Within this, the words of a statute are taken in their ordinary literal meaning. This rule developed initially in the early nineteenth century and is still primarily used as the starting point when regarding an Act of Parliament. The reason for its decrease in use results due to the typical outcome of an absurdity. Given the fact that no statute is written expressly for one future case in mind, taking a literal approach can often prove difficult with the end judgment of an unreasonable nature. Casting this aside however, some judges favour this approach, most notably Lord Esher. In R V judge of the City of London Court, Lord Esher noted the restriction placed upon the judiciary, of which other approaches to interpretation neglect. Even with the realisation of a possible absurdity, Lord Esher disregarded this stating that even with such presence, if a piece of legislation so wishes for an outcome, then it is not within the role of a judge to question this. Through the appreciation of this, it can be further rationalised that through any other than the literal approach, judicial manipulation could be implies and further still judicial law making.

Examples can highlight how previous use of the literal has led to decisions which can be described as an ‘absurdity’ much like Lord Esher revealed. Whiteley V Chappel 1868 demonstrates this exact notion through failing to find clear guilt of a man who impersonated a deceased individual to claim their vote. The section to which the court found this man innocent revealed that it was an offence to impersonate ‘any person entitled to vote’. Through undergoing the literal approach, it is plain to see that as a dead person ceases to have this entitlement, through impersonating them, the defendant had in fact committed no crime. The view that this acquittal took form as an absurdity remains exactly that, a view. Through the literal approach, although in some sense the result may be repugnant; this disadvantage is only applicable from a certain viewpoint. For some through the literal sense, decisions will seem unsuitable; however to another it will appear completely
rational. Given that it is the judge who chooses whether to adopt this rule or not, it will be through their judgement as to whether they consider the literal rule appropriate or not. If used consistently then this would subsequently lead to outcomes of identical nature. On the contrary, as other options may be adopted also, this signifies how dependant on the stance of the judge, the case will be concluded accordingly. Overall cases such as these, stress the meaning of statutory interpretation. As no two judges will form the same judgement, interpretation alters in accordance.

In conjunction, Professor Michael Zander describes the literal rule as ‘mechanical and divorced from the realities of the use of language’. With this opinion in mind, this same rationale can be summoned from the case of London and North Eastern Railway Co V Berriman 1946. Here it was successfully argued that oiling points along a railway did not constitute as relaying or repairing the line (as needed for a violation of the Fatal Accidents Act), but merely maintaining it. Due to this, the widow of a man who died from doing such work, failed to receive the compensation she sought for. This case exemplifies how the literal rule takes account for any slight difference in wording from the case and given statute, and ensures that only the exact wording of legislation is applied.

On the other hand, even with the literal approach, additional rules must be applied. Within the Act itself, other sections will be considered. These minor rules have been developed by the courts and are known as: the ejusdem generis rule; expression unius exclusion alterius; and Noscitur a sociis. These minor rules apply for any approach which wishes to find clarity in a phrase, however they primarily illustrate how the literal approach revolves around the precise denotations of a piece of legislation.

The Ejusdem Generis rule

To allow for more general wording within an Act, where a general phrase is given in conjunction to specific wording, then unless only one specific is given, then the general phrase must be treated as the same as the specific items mentioned. Whilst in Allen V Emmerson 1944, a funfair could be held under the phrase ‘theatres and other places of amusement’, in Hobbs V CG Robertson Ltd 1970, due to the multiple mention of explicit items, brick could not be found in accordance to ‘stone, concrete, slag or similar material. The differences founded between these two groups were that brick did not fall under the category of hard materials that the given ‘stone, concrete and slag’ initiated. Thus, where upon the literal approach is to be taken, the Ejusdem Generis rule can be seen to clear up this type of ambiguity that manifests due to the presence of an unspecific phrase.

Expression unius exclusion alterius

This rule can be seen to be applied in London and North Eastern Railway Co V Berriman 1946. As mentioned previously where maintaining failed to fall under the list of relaying and repairing, this is solely due to Expression unius exclusion alterius. Noting that alongside the exact wording of ‘repairing and relaying’, no general phrase was given, then only under these descriptions can a violation be found. Similarly in Tempest V Kilner 1846, the interpretation of the Statute of Frauds 1677, ‘goods, wares and merchandise’ left no room for a broad interpretation and so ‘stocks and shares’ were declined to be affected. The literal rule here reinstates how no connotations or inferences can be taken from an Act, only what is purely placed before the courts within the legislation can be applied.

Noscitur a sociis

Oppose to remaining focussed on one particular phrase or wording of an Act, the literal rule still allows for other parts of the act to form affect. Inland Revenue Commissioners V Frere 1965 portrays such a circumstance. Whilst the section in question applied rules for ‘interest, annuities or other annual interest’, the initial mention of ‘interest’ reveals no specifics, however due to the later presence of ‘annual interest’ this
reassured to courts to simply cover the literal interpretation of ‘annual interest’ oppose to uncovering all connoted forms of interest.

The Golden Rule

Offering the initial aims of the literal approach, the golden rule simply imitates the literal meaning of a statute, until the potential for an absurdity arises. The immediate issue here is the debate to what actually accounts for an absurd or ludicrous result. Also suggested by Professor Zander in The Law-Making Process 1994, ‘The golden rule is little more than a safety-valve to permit the courts to escape from some of the more unpalatable effects of the literal rule. It cannot be regarded as a sound basis for judicial decision-making’. As such there are two variations of this approach, of which one remains very constricted whilst the other allows for a far wider range of interpretation. In Jones V DPP 1962, Lord Reid expressed his narrow opinion that only when an Act is ‘capable of more than one meaning, then you can choose between those meanings, but beyond this you cannot go’. Under this narrow application, although restricted, obviously this still presents further freedom compared to the literal approach as can be exemplified with the case of Adler V George 1964. With the interpretation of the Official Secrets Act 1920, here oppose to the primary understanding that an offence would occur had a member of the armed forces been obstructed ‘in the vicinity’ of a prohibited place, the courts recognised that through the obstruction taking place within the prohibited place itself, a violation of the act still remained. To take such a verdict, the courts applied the golden rule as it would have been seen as an absurd outcome for this individual to be found not guilty yet had it occurred near to the prohibited place the same defendant would have been found guilty.

R V Allen 1872 also presents the golden rule in its limited format. Whilst charged with the offence of bigamy, under a literal interpretation of s 57 of the Offences Against Persons Act 1861, it would have been impossible to uphold a finding of guilt, as any second marriage would not have been regarded as lawful and so would have been viewed as void. However to avoid this verdict, the courts took a different understanding of the word ‘marry’. Although through regarding it as a legal process this case would not have succeeded, it was decided that by the word ‘marry’ this entailed a simple marriage ceremony. As such the defendant was found guilty of bigamy. This approach to the golden rule still remains in the bounds of the statute as they are still following the same words however with different interpretation.

On the contrary, some cases of which adopt the golden rule, further stress this absurdity factor with the ultimate result far from that of the original statute. Despite the fact that the legislation may have only one clear meaning with no additional inferences such as seen in R V Allen 1872, through the golden rule also, Acts of Parliament have been strayed from where the outcome would show an abhorrent result. In such situations, the words of the enactment will then be modified in accordance to solve this issue presented. Re Sigworth 1935 illustrated an instance where the courts found it impertinent to concern the golden rule within their judgement. Following the murder of a woman committed by her own son, the question was raised as to whether he being her next of kin should inherit her estate as she had not made a will. Under the Administration of Estates Act 1925, this process of the property of a deceased lacking a will going to their next of kin is recognised. On the other hand, although there was no ambiguity as to whether the son was legally entitled under the act to receive this property, the courts were unsettled to let such an offender benefit from his crime. Given that the literal rule was abandoned for this rationale, the golden approach was then adopted in order to prevent this repugnant result. In addition to this case portraying the use of the golden rule, in an extreme case this also involves an instance of judicial law-making or adaption of the legislation. Although covering a potential issue, by doing so the courts had neglected the word of parliament and tailored it accordingly. In actual fact within this case the courts had added a clause within the Administration of Estates Act 1925 that where the next of kin had committed the murder of the deceased they would not be entitled to inherit.
The Mischief Rule

Following Heydon's Case 1584, the mischief rule became one of the first recognised methods to interpreting a statute of law. It was also established here the four points of considerations to be taken when adopting the mischief rule: 'What was the common law before the making of the act; what was the mischief and defect for which the common law did not provide; what was the remedy the Parliament hath resolved and appointed to cure the disease of the commonwealth; and lastly the true reason of the remedy'. However it must be noted that upon the creation of this rule, any statute presented for statutory interpretation contained a preamble to which revealed the particular mischief in question, and so compared to presently where preambles have been lost, finding the defect that parliament wished to cover was a far easier task. Also this meant that at the time of formation, it did not require the courts to stray at all from the words of the statute as all relevant information needed would be given here. Whereas now, judges when focussing on the mischief rule have to search for the gap in the law which parliament intended to resolve.

A typical exemplar of where the mischief rule has been implemented is within the case of Smith V Hughes 1960. The given defect as to be resolved under the Street Offences Act 1959 was explained by Lord Parker to be to ‘enable people to walk along the streets without being molested or solicited by common prostitutes’. As such when appeals from six different women claimed to have done no wrong as they were not literally on the streets, the courts still found them guilty. Whilst the women were actually inviting the men up to their rooms by attracting their attention through calling them and tapping on the window, it is evident through the wording of the legislation that the women would have been found not guilty if taking a literal approach. However as noted by Lord Parker once more, 'It can matter little whether the prostitute is soliciting while in the streets or is standing in the doorway or on a balcony, or at a window, or whether the window is shut or open or half open'. Thus, the courts distinguished that the statute of the Street Offences Act 1959 was created in order to cover the defect of prostitution in public places and as such the defendants were found guilty, as it was this exact mischief which they were reinstating.

Another clear illustration of the application of the mischief rule occurred within the case of Corkery V Carpenter 1951. A defendant sought for appeal after being convicted for being drunk and in charge of a ‘carriage’ (bicycle). Thus in hope for a literal interpretation, the ambiguity of the word ‘carriage’ was to be argued. Whilst the defence use an exemplar of the song ‘Daisy Bell’ to place this into another context, it was made clear that a bicycle could not be classified as a ‘carriage’,” ‘it won’t be a stylish marriage, I can’t afford a carriage, but you’ll look sweet upon a seat, of a bicycle made for two’. Thus it can be suggested that a bicycle fails to constitute as a carriage; however even still the courts found it imperative to follow the golden rule in light of the situation. Through consideration of s 12 of the Licensing Act 1872 to which the defendant had been believed to violate, the court searched for the mischief to which this aimed to cover. As stated by Lord Goddard, ‘Obviously, it was passed for the protection of the public and the preservation of public order...In my opinion, and, I think in the opinion of my brethren, it is clear that the word ‘carriage’ is wide enough to include a bicycle for this purpose’. Finally with a unanimous decision, the appeal was dismissed and for the sake of the golden rule, the statute revealing a ‘carriage’ had been interpreted to constitute also a bicycle.

On the contrary, the mischief rule is not always taken unanimously, like any approach to interpretation; different judges in different instance will find it appropriate to apply a different rule. The House of Lords portrayed such a circumstance within the case of Royal College of Nursing V DHSS 1981. With the introduction of the Abortion Act 1967, this allowed for a medically registered practitioner to provide a service for abortions, in contrast to the Offences Against the Person Act 1861 where it was made illegal for any individual to carry out an abortion. Given that the more recent of the two gave doctors the defence to stray from conviction, whilst hormonal abortions became significant in use, the stance on whether nurses could administrate these was very unclear. As such when this was challenged by the Royal College of Nursing, the judges found split opinion on which approach to take to interpret the ambiguous statute. In majority, three judges found the
mischief rule in favour as they recognised that the Abortion Act 1967 merely aimed to stop back street abortions and to give room for a safe medical procedure. Thus, nurses qualified as a legal practitioner to carry out abortions. On the other hand, whilst the judgement fell with the majority, it must be noted that this was not a clear cut case, and the two dissenting judges Lord Wilberforce and Lord Edmund Davies condemned the majority, stating that they failed to interpret the Act but actually went too far into ‘redrafting it with a vengeance’. Therefore the use of the mischief rule again reveals to be a controversial use, with the only suggestion for ground of use being the judges own personal opinion.

The Purposive Approach

In contrast to the literal approach, the purposive approach strays from the ordinary meaning of a statute and thus bases its verdict upon what is believed to be parliaments’ intention when creating the legislation. Much like the use of the literal, there are judges who are both in favour and of detest towards this approach. Lord Denning expressed his approval in the case of Magor and St Mellons V Newport Corporation 1950. Here he stated that they founded parliament’s intention through ‘filling in the gaps and making sense of the enactment’ oppose to ‘destructive analysis’. Conversely, upon appeal to the House of Lords, both Lord Simonds and Lord Scarman found disbelief in Lord Denning, stating that it is not within the role of the judiciary to correct any faults within a piece of legislation and implying manipulation as a ‘thin disguise of interpretation’. Furthermore Lord Simonds recognised that through an amending act a piece of legislation would alter, not under the guide of a judge. Through this view, the thought that the purposive approach takes too far a step for interpretation takes shape. This raises the controversial issue as to whether judges are entitled to go so far. When clearly stated, should judges be able to stray from these words if in belief that this is parliament’s intention? Additionally it can be argued that the intention of parliament can only be founded by Government themselves as this is an impossible task in itself. Furthermore, for some the actual statute itself resolves as a description of Parliaments’ wishes. For it were parliament who issued the act, then the judges must simply put this into practice.

Although traditionally the literal approach has been favoured, recently the purposive approach has gained popularity. Since 1969 the law commission has urged the courts to further adopt this approach. Additionally with the European Court of Justice following this, not only does this encourage the purposive use in English courts, but enforces it when handling European matters. As this is the accepted approach for dealing with cases concerning European matters, English judges are becoming more accustomed to this method. As such, through having to use this approach in certain circumstances, it has become more likely that outside of European cases the use of this approach will increase. For Europe in particular this approach is favoured most typically due to the language diversities and barriers within the European Court of Justice. Furthermore within the Treaty of Rome, the member states are given the duty to ‘take all appropriate measures... to ensure fulfilment of the obligations’. Resulting the case of Marleasing 1992, the interpretation of European law focused upon finding the aim and purpose, ‘The obligations of Member states under a directive is to achieve its objectives’.

In the Court of Appeal 2003, R V Bentham outlined a purposive approach when interpreting s17 of the Firearms Act 1968. Here the deliberations were as to whether through the defendant pretending to possess a gun when robbing an individual, has violated the above Act. To intimidate the victim, the defendant covered his fingers with his coat to give the illusion of a gun. Initially it was found that s17 was believed to be in the interests of the victim and its purpose was to protect from threat of what was believed to be a weapon. For this rationale the defendant was found guilty. However although this case highlights the nature of the purposive approach, it must be noted that upon further appeal in 2005 to the House of Lords they found the conviction of the lower courts to be ‘insusceptible’. Furthermore, given that the offence under the act was for the possession of a weapon, the House of Lords founded that the defendant could not be in possession of his own limbs. Additionally as parliament had not created legislation in regards to the false possession, it was
stated by Lord Bingham of Cornhill that the ‘purposive construction cannot be relied on to create an offence which Parliament has not created’.

Clearly the use of the purposive approach must be followed in suitable circumstances only, as often its use is criticised and later quashed. Although with matters of EU law there is no question of its use, for other cases its use is only slowly gaining more support. The reason for some of its scepticism, and also difficulties in use is the need for additional use of intrinsic and extrinsic aids. As the purposive approach strives to find the intention of parliament, evidence must be used to come to such conclusions otherwise it results as a mere guessing game. However still in the opinion of some, with still the presence of aids, only parliament can give their true aims. Nonetheless, these aids come from a variety of sources, and some from further within the piece of legislation itself, these are known as intrinsic aids. Within this, the courts may regard any additional features of an Act in order to accomplish their need to find parliament’s aim. Such evidence can be derived from with either of the titles of the legislation, long or short. Also in particular for older statutes, a preamble will actually consider the aim of parliament at the time of the acts creation. However within recent legislation this has become a less common factor and if included are only very brief and do not offer the courts a detailed insight. $2$ of the Arbitration Act 1968 reveals the recent incorporation of a statement of principles within the main body. Similarly any schedules attached and headings previous to the sections of the act may give room for an implication of parliament’s intentions.

Outside of the Act itself, the courts also find aid within a variety of additional sources. The use of Hansard entails an account of what was said within the debates prior to the final creation of any piece of legislation. Uses such as this have only been permitted for use in statutory interpretation since 1993 following the case of Pepper v Hart. The controversy for its use was explained by Lord Scarman as he stated that it ‘promotes confusion not clarity’. However alongside its advantages and disadvantages, this alongside further sources remain a huge beneficial when adopting the purposive approach. For the purposive approach especially it is the use of Hansard and explanatory notes of which remain the most useful. Since 1998 explanatory notes have been implemented with the creation of any new bill. Although they have no room to carry out legal effect, they are used in cases of the purposive approach to help find parliament’s intentions.

**The difficulties associated with finding Parliament’s intention when interpreting an Act**

**Relying on Extrinsic Aids (Hansard)**

When attempting to find the intention of Parliament for the function of the purposive approach, the courts will often rely on the use of Extrinsic Aids. Through this use alone a variety of issues are created when finding the intention of parliament. Initially the problem of time is given. Ultimately finding the intention of parliament takes a lengthy procedure, however with Extrinsic Aids also, especially with the presence of Hansard, additional time and costs may be implemented. Through relying on an outside source, further analysis and debate will occur concerning this matter. As such, in conjunction to a dispute over the case itself, a mini case in itself forms just to decide whether to accept the information given within the aid. Hansard in particular causes scepticism as it reveals the debates within parliament leading to the drafting of the final piece of legislation. Thus the content of Hansard reports can offer a variety of opinions within parliament, of which have no actual relation to the final intention of parliament. Within both Houses of parliament, regarding the practice of an Act being established, this is a very in-depth procedure, with severe opposition often inflicted upon any potential statute. Given the political stance, the conflict within the houses will be illustrated within the Hansard Reports, as debates over legislation remain bias dependant on the party. Therefore, when the courts use Hansard reports to search for the intention of Parliament, they are in fact exploring within a basis of opposition. Similarly, noting that Hansard commentates on the drafting process, this does not reveal the act itself but its unrefined version. Consequently, the courts must distinguish what is believed to be the true finalised intention of parliament; as Hansard in combination with this blends a high proportion of potential factors of which the ultimate legislation fails to include. Subsequently, one difficulty of the reliance of
Extrinsic Aids within Hansard is the task of sifting through political debates to stumble across the actual intent of parliament.

Often in criticism to Hansard, it can be argued that there is no certainty from its use that Parliaments intention is actually found. As there is no specific section stating what the courts require, it can further bring the issue of judicial law making. As Lord Scarman explained, ‘Such materials an unreliable guide to the meaning of what is enacted. It promotes confusion, not clarity’ . This uncertainty and basis of unreliable bias source cannot be denied given the nature of Hansard. Hence the use of Hansard illustrates further issues associated with the presence of extrinsic aids when finding the intention of Parliament. In conjunction, following the case of Pepper V Hart 1993, Hansard may only be deemed as an appropriate source where the statute in question remains ambiguous. However can it not in any case be argued by a successful solicitor or barrister that the violation of an act of parliament does not apply to their client. Given that this is in fact their role, to find ambiguity within a phrase to thus form doubt in question of their client’s guilt. Subsequently, this condition placed upon the use of Hansard may form to tackle the potential for manipulation of its use, however the actual condition emplaced often fails to restrict its use. Also judges themselves will often differ upon what appears to be an ambiguous phrase, take for example Royal College of Nursing V DHSS 1981 as previously explored. Taking this case as a prime exemplar, although here the mischief rule was applied, this only fell by a very close majority and can therefore portray how the word ‘ambiguity’ itself presents further ambiguity. Relating this back to the practice of finding the intention of parliament, it can be seen that the use of extrinsic aids can cause debates in themselves. Not only does this inflict the issue of a time consuming and thus cost increasing nature, but also this reveals uncertainty and insecurity in its use. Whilst some judges themselves doubt its benefits, its distrust raises a vast array of difficulties when attempting to find the intention of parliament.

Judicial Law Making

The actual concept of trying to find the intention of Parliament is often deemed to be inappropriate to the role of the judiciary. Through even initially deciding whether to adopt the purposive approach and find parliaments aims, judges are disregarding the literal approach to which Judges such as Lord Esher would condemn: ‘If the words of an act are clear then you must follow them even though they lead to a manifest absurdity. The court has nothing to do with the question whether the legislature has committed an absurdity’. Within this quote from R V Judge of the City of London Court 1892, it is implied how even from the beginnings of deciding to uphold the purposive approach; judges are being given too much power. Through finding the intention of power, judges raise the issue of the notion of statutory interpretation. Whilst some regard interpretation as merely applying what is literally laid before them, the wider application to which finding parliament’s intention relates to can implicate beliefs of manipulation. Through taking a statute in its literal sense, a judge cannot be condemned from straying from the word of the law. However at the same time, from this application, the opposite may occur, where upon the judge may be disparaged for failing to cover an absurdity. In such circumstances, the option to find parliamentary intention forms. On the contrary where this route is taken, additional issues present themselves as strictly speaking the judge has disregarded the statute. Due to this, the judiciary in this sense could be seen to be controlling the outcome of the law.

Noting the separation of powers between Parliament and the judiciary, with the potential for judicial law making within finding the intention of parliament, this causes controversial issues into the running of our legal system. With Governments power voted to them, this follows our democratic state that our laws are made by whom the public have chosen themselves. As the judiciary are a non elected body, they may not own the same confidence as parliament does in this sense. For this rationale, this is why primarily it is the role of parliament to create our legislation whilst the judges simply apply this. However as this is not as easy applied, judges face the issue whenever interpreting a statute of crossing this boundary placed before them. On the other hand, through finding parliaments intention, it can similarly be argued that they are in fact applying what has been
created by the elected. Through searching for their intention are they not limiting their own influences and focussing on that of the democratic state? Conversely as a separate power, do they own the knowledge to find these aims? It is often argued that given that it is the intention of parliament, then it is parliament and parliament alone that can explain such. For a separate power to instigate an investigation into finding the intention of another, this can only lead to inferences and suggestions. Thus certainty can never be gained and from this the probable judicial law making can be seen to take place.

Departing from this view, it must be considered that this factor remains debatable. Whilst some will condemn the use of judicial law making, others will approve and some even deny its existence. However when attempting to find the aims of parliament, this issue is a definite probability due to the process of finding this intention. For anyone unrelated to the thought process of parliament, to find its intention remains most difficult. Whilst this in itself presents issues, the result of this also leads to the potential for a far more controversial topic. Where an ambiguous phrase exhibits itself, as judges may disagree and dispute over the correct interpretation and means for method, it can be further applied that parliament may have an entirely different opinion altogether. Consequently whilst judges will dispute between themselves over the correct stance of parliament, the result could be that of complete fabrication as the judges write their own legislation.

**Concept of Parliamentary Intent**

Another difficulty associated with finding the intention of Parliament, is the actual thoughts as to what is parliamentary intent. As preambles within a piece of legislation are ceasing to exist, the lack of participation from parliament brings issues as to whether there is in fact an intention of Parliament to be found. Prior to their extinction, the courts had a clear layout presented to them of what the aims of Parliament were in creating the act. However now without their assistance, the courts must rely upon outside sources, of which generate their own controversies. Surely it must be questioned that if this what the courts desire, and parliament themselves have a clear understanding of their intentions, then this would be included within the legislation? With the loss of a preamble, explanatory notes have been somewhat substituted alongside a new bill to give a further depth to the statute. Whilst these may include examples to which the act can be applied, the intention remains uncertain, as this factor has failed to be replaced. Thus, surely if Parliament had one pure aim, they would save the courts time and controversies by revealing this as done previously? However as the law has evolved and the presence of preambles have slowly disintegrated, this implies that Parliament themselves are unsure of their precise aims. In conjunction, noting that parliament is made up of opposing parties, how can such a body conjoin in one certain intention? For whilst one party may find support in one proposal for one reason, another may agree with it for an entirely different rationale. Similarly, at the same time there will be complete opposition from another, which again promotes the idea that parliament as a whole cannot express intent.

If then Parliament themselves find their aims incomprehensible then how can the courts possibly come to a conclusion on the matter. To find a true intention of any person or body then the only true account can be given by that person in question. Thus for parliament to fail to give such, the concept of parliamentary intent remains doubtful. Not only this, but with the use of extrinsic aids, this again stimulated the false conception of intention. To attempt to find such a notion through sources any other than the primary, this leaves an impression that truly there is no intent to be found. As a result of this, through attempting to find a theoretical practice, judges can be further suggested to manipulate there sources and findings to write into legislation. For whilst the idea that parliamentary intent remains solely a hypothetical subject, then it can be implied that judges use this to their advantage to make way for judicial law making.

On the other hand, for Parliament to put across legislation after lengthy procedures of debating and refining, this contradicts the prior notion as otherwise why would Parliament waste such precious time to introduce a pointless bill? It seems somewhat obvious that when establishing a new piece of legislation that an aim is evident. Why would a statute be summoned had there been no purpose for it in the first place? The idea that
Parliament produces law with no aims in sight is a very unlikely concept. For any action taken by any person or body, a purpose always stimulates its movement. If any law was made with the lack of such provisions, then not only would this be pointless but would also waste such valuable time which is already so unavailable to Government.

Conclusion

When presented with a piece of legislation to interpret, the courts will chose from the variety of approaches: literal rule; golden rule; mischief rule; and the purposive approach. From these judges will ultimately chose their preferred approach as different figures within the judiciary have conflicting opinions on which approach proves the most valuable. In regards to cases concerning EU law, judges will automatically implement the purposive approach as this is what is deemed suitable within the European Court of Justice. When using any other than the literal approach, typically a phrase must be deemed as ambiguous for a judge to justify adopting another. Yet still, criticism is often sought from any of the approaches as to some interpretation can be taken too far and thus makes room for judicial law making; similarly when attempting to find parliamentary intent for the use of the purposive approach, an array of difficulties are presented. The use of extrinsic aids not only involves further time keeping and economical factors, but also implies the false concept of parliamentary intent. Whilst this in itself is a controversial issue, the difficulties simplify to the fact that it is extremely difficult for any individual to find the intent of any other without the aid of the person or body in question. Thus this stresses the meaning of statutory interpretation and consequently explains its scepticism. Statutory interpretation remains exactly that, an interpretation. No one can find the precise meaning or decision of parliament other than parliament themselves. However due to the need for a separation of powers, the courts must use any sources made available and use their best judgement to make their interpretation as just as possible.

Bibliography

•  http://www.lawlectures.co.uk/law1/Documents-Law1/Statutory-Interpretation(Study-Paper).pdf
•  http://sixthformlaw.info/02_cases/mod2/cases_stat_interp.htm#Whitley v Chappell [1868]
•  http://www.peterjepson.com/law/eu_law_cases.htm#Marleasing (1992)
•  http://www.e-lawresources.co.uk/Golden-rule.php
•  http://www.publications.parliament.uk/pa/ld200405/ldjudgmt/jd050310/bent-1.htm
•  http://www.e-lawresources.co.uk/Mischief-rule.php
•  http://luyulei.net/cases/04_02-Corkery-v-Carpenter.html