

STATUTE LAW SOCIETY

Founded 1968

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NEWSLETTER

Summer 1978

Annual General Meeting

The Annual General Meeting of the Society was held on 6 April 1978 at the House of Commons. The following existing Council members were re-elected: Robin Barratt, F.A.R. Bennion (Chairman), P. Bovey, Neville Cusworth, Michael Godbee (Hon. Treasurer), Professor Roy Goode, Sir Desmond Heap, Halmer Hudson (Hon., Secretary), J.A. Johnstone, Sir Frank Layfield, Maurice Maxwell, Hedley Marshall, Andrew Prideaux, Professor Alec Samuels, Professor William Twining, Professor G.S.A. Wheatcroft. In addition, the following new members were elected to the Council: Sir William Dale, A.P. Dobson and Julian Piatt. The number of Council members thus remains at 19.

The meeting began with an address by the Chairman and ended with a talk by Sir David Renton on the implementation of the Renton Report, followed by questions and discussion. The text of the Chairman's address is given below, followed by an outline of Sir David's talk. It is intended to publish separately the full text of this fascinating expose of Government inaction, together with the evidence by Society members referred to by Sir David.

Chairman's Address

Mr. Bennion began by saying that the first thing he had done on taking office at the beginning of 1978 was to prepare, with the help of the other Officers, a report for the Council on why the Society had come to a virtual standstill in 1977. The report outlined measures to restore the Society to full activity, and was considered by the Council at its meeting on 15 March. Mr. Bennion said that the main reason why the attempt at reorganisation in 1976 failed was simply the lack of people able and willing to carry out the plans proposed. The lesson to be learnt from that was the pressing need to find such people. He himself had undertaken to give a substantial proportion of his time to the work of the Society. It was clear however that a strenuous

recruitment drive was necessary. The membership on 31 December 1977 was down to 105. In the three months since then this had risen to 136. It was hoped to double the membership by the end of 1978. To assist in this a new leaflet had been printed and circulated. This included a membership application form which enabled applicants to state which services (if any) they were able to offer the Society. It was not easy, with a membership scattered throughout the country, for effective use to be made of such welcome offers. He asked members to be tolerant if their offers were not at once taken up. He assured them that their offers of help were greatly appreciated and would be acted on as soon as possible.

Mr. Bennion said he had also prepared a guide to the administration of the Society for Council members and others interested in its working. A copy would be sent to any member who desired it. One thing necessary for the effective operation of a Society of this kind was regular meetings. The administration guide indicated that the Council had agreed to meet three times a year, as follows:-

Tuesday nearest to 7 February,

Wednesday nearest to 15 June,

Thursday nearest to 15 October.

This meant that the dates of Council meetings to the end of 1979 would be 14 June 1978, 12 October 1978, 6 February 1979, 13 June 1979 and 18 October 1979. The Council had also fixed the dates of Annual General Meetings. These would be on the Tuesday four weeks after the February Council meeting. In 1979 the Annual General Meeting would therefore be on 6 March. Mr. Bennion went on to say that the administration guide contained the following key passage on the work of the Society:-

There are no paid staff, and the successful functioning of the Society entirely depends on the efforts of the members. It has been found from experience that it is necessary to allocate tasks only to members who can be relied on to carry them out effectively. For this they need to have the necessary time, determination and energy. Here the Council has adopted two guiding principles. First, that the scope of each task should be delineated narrowly rather than widely. Second, that tasks should usually be entrusted to an individual rather than a Committee. Committees, the Council has found, should be used only for taking decisions and giving advice.

The administration guide goes on to identify key functions, each of which ideally needs to be carried out by a separate individual. These are the functions of Honorary Secretary, Honorary Treasurer, Membership Secretary, and the co-ordination of the following: fund-raising, investment policy, operation of a fact-finding and bibliographical service, operation of a monitoring service, operation of a bill-drafting service, supervision of the Society's

publications, conduct of relations with the media, arranging lectures, dinners and other social activities and liaison with official bodies and other relevant organisations. At the present time, said Mr. Bennion, all these activities were being handled by the three Officers alone. He hoped that situation would shortly improve.

Turning, to the need for a journal, Mr. Bennion pointed out that the Society was, so far as he was aware, the only one of its kind in the English-speaking world. It operated within a difficult field. As the first Parliamentary Counsel had said in a recent letter to him, "what is best is in most cases a debatable question". Debatable questions should be debated. The debate needed to be informed, and to take account of progress made in other countries.

For its proper development, he said, statute law must attract the serious interest of academics (which so far it had not done). This applied not only to academic lawyers, but to scholars and thinkers in other fields. Philosophy, linguistics, sociology, psychology and computer science

were relevant studies. So also were the disciplines behind specialties particularly affected by modern legislation, such as taxation, planning, valuation and commerce. Academics, active in all these fields, were accustomed to finding outlets for their opinions and research in academic journals. In the field of statute law, such a journal could serve the entire English speaking world. Because the common origin of the legislatures in former British possessions was the Mother of Parliaments at Westminster, the problems tended to be the same, and so did the solutions. Nor should we forget Europe. Once a directly-elected Parliament was sitting at Strasbourg it would not be long before it sought and obtained powers of legislation. Would it adopt the continental method of drafting or employ what is sometimes called common-law drafting? Our influence should be brought to bear on these questions, and for that purpose a journal would be useful.

Mr. Bennion said that having regard to these considerations, the Council had decided to embark on publication of a journal. However it would be at no cost to the Society, since Sweet and Maxwell Limited had generously agreed to shoulder the risks of publishing such a journal themselves for a three-year experimental period. The journal, to be called the Statute Law Review, would be published three times a year beginning in February 1979. Mr. Bennion would edit it himself, and was engaged in soliciting expert contributions. He hoped that, while being a vehicle for serious academic discussion, the Statute Law Review would also be a lively and spirited medium for furthering improvements in statute law.

The Statute Law Review would not fully meet the needs of members in relation to information about the Society's activities» Mr. Bennion said he

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therefore intended to circulate periodic newsletters in addition, so that members were kept fully in the picture. Other publications were also planned. It was intended to produce a fourth in the series of pamphlets which had already featured the Heap, Stow Hill and Marshall reports. This pamphlet would include the address about to be delivered by Sir David Renton, all evidence given to the Renton Committee by the Society and Mr. Bennion, and comments on the situation prevailing in the light of the Government's treatment of the Renton Report. It was also hoped to publish in another pamphlet the findings of a Committee headed by Professor Wheatcroft on Finance Bill procedures and drafting.

Mr. Bennion went on to say-that it had been decided to treat members of the Society falling within particular categories as constituting panels available to advise the Council on matters within that category. So far there were three such panels, as follows:-

Publications Panel to advise the Council on matters relating to publications by the Society and to investigate and report on any aspect of the publication of statute law.

Parliamentary Panel consisting of members of the Society who are M.P.s or peers and will assist in raising in Parliament points concerned with statute law.

Academic Panel consisting of all members of the Society who hold, or have held, posts in universities or polytechnics. It will consider matters relative to the teaching of statute law as an academic subject /and to the development of drafting techniques and other relevant skills.

Mr. Bennion said that in the academic field it was hoped to arrange a joint meeting next year with the Society of Public Teachers of Law to make progress with a project which has, long been one of the Society's aims, namely the promotion of statute law as an academic subject. The meeting would probably include discussions on such topics as the following:-

1. The teaching of subjects related to statute law, e.g. interpretation, rule drafting.
2. The prospect of establishing in some British University a chair, or at least a lectureship, in legislation.

3. Application of academic disciplines in law and related subjects to the task of improving techniques of drafting and legislation.
4. Planning and manning of specific research projects, e.g. an enquiry identifying and defining barriers to the communication of legislative intentions to those bound by them.

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Mr. Bennion then mentioned the value of letters to the Press as a means of bringing the Society's existence and views to notice. He had had two letters published in the Times this year on the question of whether the European Convention on Human Rights should be embodied in our domestic law. He had argued that this would be productive of obscurity, and that it would be preferable to deal with areas where our law did not come up to the requirements of the European Convention by enacting detailed legislation to fill the gaps.

Sir David Renton's talk

Sir David said the efforts of the Society were much needed "because as we all know there is still too much legislation; too much of it is too difficult to understand and some of it is indeed quite unintelligible, even to experts". He went on to explain in detail that very little had been done to implement the recommendations of the Renton Report on the preparation of legislation, even though three years had passed since it was published. He said:-

"Evidence was given for your Society by Mr. Hedley Marshall and Mr. Brian Russell, and you Mr. Chairman gave evidence independently on your own. Now although we did not accept all of their and your proposals the evidence that you gave had great influence on our discussions. We agree broadly with the criticisms that you, and Mr. Marshall and Mr. Russell, put forward; and broadly with your recommendations except with those which we thought were too sweeping for Parliament to accept. ... However we did entirely accept the views expressed by your Society's witnesses and by you Mr. Chairman that **textual amendment** should be the usual practice."

Sir David picked out as the most important of his Committee's other recommendations that there should be more Parliamentary draftsmen, less legislation, less detail in legislation, more statements of purpose and of principle, more consolidation, more explanatory material, longer intervals between stages of Bills, and a new Interpretation Act. There had been a slight increase in the number of draftsmen. Thanks to the determined influence of the late Sir Samuel Cooke, Chairman of the Law Commission, there had been increased momentum in consolidation. Apart from that, nothing had been done to implement the recommendations. (**Note** A new Interpretation Act is in draft).

Furthermore, went on Sir David, the Government had rejected the crucial recommendations 108 and 109, which proposed that the Statute Law Committee should keep the statute book under review, monitor new legislation and issue periodic reports. This, he said, was "a very sorry story". Some members of both Houses of Parliament were not prepared to take it lying down however,

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and would continue the fight.

Concluding, Sir David said that a great opportunity had been missed by the Government. He ended as follows:-

"May I say in conclusion, Mr. Chairman, and I hope it doesn't sound too trite to such a distinguished audience as this, if our Acts of Parliament cannot be understood, even by experts, it brings not only the law into contempt, it brings Parliament into contempt - and it is, moreover, a disservice to our democracy. It weakens the rights of the individual, it eases the way for wrong doers and it places honest people at the mercy of the bureaucratic state. Mr. Chairman, your Society has got an important part to play in striving to improve our legislative habits."

Forthcoming Annual Dinner

The Annual Dinner of the Society will be held at the House of Lords on **Monday 27 November 1978**. Lord Gardiner, the former Lord Chancellor and founder of the Law Commission, will be the principal guest. Numbers are limited to 60, so provisional reservations (for members and their guests) should be sent to the Hon. Secretary as soon as possible.

Society's Tenth Birthday

The inaugural meeting of the Society was held on 11 June 1968, so its tenth birthday will be celebrated on Sunday 11 June next. Members are invited to raise their glasses and drink a toast to the Society and its success in the formidable tasks that confront it.

Membership Drive

We hope all members will take part in the drive for recruitment of more members, making use of the enclosed leaflets.

Television Programme

It is expected that before the end of the year a television programme will be broadcast on the Society's work. Members wishing to participate are invited to write to the Chairman.

Bill Monitoring Service

Under the auspices of Sir David Renton, who is a member of the Society, we have begun monitoring Parliamentary Bills to make up for the fact that the Government have refused to allow the Statute Law Committee to do this.

Assistant Secretary

Mrs. Dorothy Johnstone, wife of Council member Mr. Arthur Johnstone and a former senior administrator in HM Customs and Excise, has kindly agreed to act as an assistant secretary (unpaid) of the Society. She has initially undertaken tasks in connection with directory entries and bibliographical work (see over).

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Directory entries

In the past, little has been done to get entries relating to the Society in appropriate directories at home and abroad. This is a useful means of publicity and recruitment however, and Mrs. Johnstone has kindly taken on the task of getting entries into the directories and keeping them updated.

Bibliographical work

It is intended to compile a bibliography of statute law materials arranged under suitable headings. So far as practicable, it is desired also to build up a collection of the materials listed in the bibliography. This requires the help of law librarians, and a start has been made by enlisting the help of the librarian of Messrs. Linklaters and Paines (by the co-operation of Mr. F.H. Charlton). Mrs. Johnstone has undertaken to co-ordinate work in connection with the bibliography. The bibliography and materials will be useful in connection with the Society's research projects and the projected Statute Law Review. It may also be worth publishing it in due course.

Parliamentary Counsel

All Government Bills (except those relating only to Scotland) are drafted by Parliamentary Counsel. Shortly after taking office, the Chairman wrote to the First Parliamentary Counsel stressing our desire that the Society should work constructively with Parliamentary Counsel and other officials. In reply, the First Parliamentary Counsel said "I cannot see any way in

which your Society could be associated with our work" He added that "there could be no question of giving you or your Society any facilities for discussing our work with us, whether before, whilst or after it is done".

The Council discussed this disappointing response, but decided to accept it gracefully and give up the idea of direct relations with the Parliamentary Counsel Office at this stage. The Chairman accepted an invitation to lunch with the First Parliamentary Counsel, and he reports that relations are cordial if not exactly co-operative.

Law Commission

At discussions between the Chairman and the Secretary of the Law Commission it was agreed that the Society would during the next few months prepare a discussion paper which will we hope form the basis for a meeting early in 1979 between the Commission's new Chairman (together possibly with other Law Commissioners) and representatives of the Society.

We contemplate that the main theme of the paper will be development of the role of the Law Commission in relation to statute law. This would

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involve going beyond what might without disparagement be termed bread-and-butter operations (such as the preparation of Bills for statute law revision and consolidation). It envisages that the Law Commission, accepting that effective statute law techniques are crucial to all law reform, would recognise a responsibility for pioneering research into ways of improving those techniques. This could profitably take the form of commissioning either original work or comparative studies (preferably both).

One area of original work we feel the Law Commission could profitably promote concerns the processing of Acts of Parliament and statutory instruments by such devices as composite restatement. Another area is the techniques to be adopted when primary legislation by the European Parliament becomes a reality (as it soon will, now that direct elections are to be held).

Comparative studies (as opposed to original work) would ensure that £ this country kept abreast of developments in the field elsewhere. This applies particularly to the use of computers in the preparation and searching of statute law.

Statutory Publications Office

Following a suggestion made by a member of the Society, Mr. S.W.G. Sims of Bristol, discussions are going on with the Director of the Statutory Publications Office about certain aspects of the official publication of statute law. Progress will be reported in the next newsletter.

Confederation of British Industries

On 1 June the Chairman is to address a meeting at the CBI's head office at 21 Tothill Street London SW1. His subject will be the work of the Society, and we are grateful to a Council member, Alec Samuels, for arranging this.

Cambridge University Department of Linguistics

Following an approach by the Chairman, Dr. Terence Moore is considering ways in which the linguist's approach to language might be pertinent to the legislator. We hope the Society will usefully be able to pursue this line.

Sussex University School of European Studies

The Chairman has accepted an invitation to lunch with Mr. A.A. Dashwood, editor of the *European Law Review*, to discuss ways in which we can secure improvement in the drafting of the directives of the Commission of the European Communities and ensure that legislation by the European Parliament is in the best possible form.

Learned Society Assistance Scheme

With a commendable sense of responsibility towards the field of learning, in which they are both predominant, the Royal Society and the British Academy recently undertook a survey of the needs and difficulties of the smaller learned society. Their findings led them to appoint a full-time liaison officer charged with responsibility for assisting such bodies. This officer will take up his duties shortly. We have enrolled the Statute Law Society among his clientele, and this can only be helpful to the Society's functioning and expansion.

The report of the joint enquiry by the Royal Society and the British Academy reveals a number of facts relevant to the task facing the Statute Law Society (though the Society was not among the respondents). The report found most learned Societies to be "amateur in the true sense of that word, inspired above all by their strong interest in their subject and concerned overwhelmingly with the purpose of their societies, which is to further and make available to all concerned, knowledge and discovery in their field." This they do, said the report, through "their two major activities", meetings and publications. Libraries were also found to be important. In addition, the report deals among other things with premises and finance. We give below a summary of relevant findings under these heads.

Meetings

In more than half the cases the attendance at meetings and conferences open to members and guests was 10% of the membership or less. Fewer than one meeting in five had an attendance of more than 20% of the membership. (If a minimum attendance of 50 is regarded as necessary to justify asking a prominent speaker to address the meeting, this means that the Statute Law Society needs at least 500 members). More than a quarter of the 228 societies responding to the survey had sponsored an international conference during the past four years.

Publications

The report found that "the life blood of the community of learned societies is in their publications", and that most societies regard the publication of original research material as their primary purpose. The reputation "and in most cases the very existence" of the societies depends on the supply of quality materials for their periodicals and other publications.

Library

Most societies possess some sort of library. Many depend on the presentation of books by members (both individuals and organizations). Half the societies with libraries are linked to the National Lending Library. In some, borrowing is possible through the British Library, Lending Division. Most societies with a library provide an information service to the general public, acknowledging that this places a burden on honorary workers.

Premises

The replies indicate the following situation:-

- 97 societies have a permanent headquarters
- 35 societies have some accommodation
- 96 societies have no fixed abode.

This Society is of course in the last category. The report stressed the burden placed on honorary officers in such cases, adding:-

"The vulnerability of the societies in such circumstances need not be spelled out. The answers to the questionnaire reflected the anxiety which was felt and which explains the desperate need which was expressed by several societies for office and storage accommodation, shared if necessary with other societies." The report suggests the

possibility that learned societies might combine to provide common premises and services.

Finance

The Statute Law Society has not raised its subscription rates in the ten years since it was founded. It is of interest therefore that of the 196 societies answering this question 58 had made no increase during the preceding **four** years, 112 had made one increase, and 26 had made two increases. During that period, 60% of the societies had increased their subscriptions by more than 50% and one in ten at least doubled them. More than half the societies were contemplating a further increase in the coming year. Some societies depended heavily on **legacies** from deceased members.

Footnote

A provincial reporter, despatched by his editor to the scene of a disaster, telegraphed back: "It is impossible to exaggerate the gravity of the situation here, but I will do my best."