

STATUTE LAW SOCIETY

Founded 1968

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NEWSLETTER

Summer 1978

Council meeting 12 October

At its meeting on 12 October, the Council accepted with regret the resignations of Sir William Dale and Professor Wheatcroft. It received with pleasure the news that the Master of the Rolls, Lord Denning, and the new Chairman of the Law Commission, Mr Justice Kerr, had both accepted invitations to attend and speak at the Society's annual dinner on Monday 27 November. In his letter of acceptance Lord Denning said: "I am most interested in all that the Statute Law Society do". The acceptance by Mr Justice Kerr affords hope of developing our relations with the Law Commission as envisaged in the last newsletter (Summer 1978, p.7). Further details of the dinner are given on a separate sheet.

Other decisions by the Council are reported below.

Working Party on commencement of Acts of Parliament

For some years the Society has been receiving complaints about the system of bringing Acts of Parliament into force. On 19 June 1978 the President of the Holborn Law Society, Mr C.P.G. Chavasse, sent the Chairman of our Society a copy of a letter he had written to the Clerk to the Joint Committee on Statutory Instruments. This complained about the long delays before Ministers make commencement orders for certain Acts, and the fact that Acts are often brought into operation piecemeal in a manner that makes it very difficult for the user to know where he stands. A letter of support (also copied to our Chairman) was sent on behalf of the Law

Reform Committee of the Law Society. Further correspondence followed. It is clear that there are a number of points at issue, and that it should be possible to draw up a standard procedure which would remove some at least of the causes for complaint. It is an appropriate task for the Statute Law Society to tackle. Accordingly the Council resolved to set up a Working Party with the following terms of reference:-

To consider the problems caused to statute users by the present system of bringing Acts of Parliament into operation, and to formulate proposals for the improvement of that system.

Representatives from the Society will include Francis Bennion and Kevin Danaher (research officer). Arthur Weir has been nominated by the Holborn Law Society. Invitations to other representative bodies to nominate members to the Working Party will be dispatched shortly.

Society publications

It is intended to publish the report of the Working Party on Commencement of Statutes in due course.

Work on publication of the *Statute Law Review* is proceeding according to plan (see Summer 1978 Newsletter, p.3). The first issue will appear at the end of February 1978. The *Review* is being published (at no cost to the Society) by Sweet and Maxwell Limited. Contributions should be sent to the editor Francis Bennion (address at head of this Newsletter)» For the guidance of contributors, and for the interest of members generally, we reproduce the latest draft of the first editorial at the end of this Newsletter.

The Renton publication (see Summer 1978 Newsletter, p.1) is expected to be published in early 1979. Like previous publications by the Society, it will be published by Sweet and Maxwell Limited.

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The provisional title is *Renton and the Problem of Reform.*

Fund-raising

The efficient working of the Society entirely depends upon adequate finance. The Council accordingly appointed (for a six-months trial period) Mr A.E.G. Wright to act as a consultant in this respect, and also to work generally as Assistant to the Chairman. Mr Wright is a barrister who has had a great deal of experience in the operation of voluntary societies. He knows the problems, and what can be done about them.

In his first report to the Council, Mr Wright made the following recommendations:

1. A detailed programme, budget and appeal material should be worked out by the Officers and an appeal for funds got under way before the next Council meeting on 6 February 1979s
2. The Council should give careful consideration to increasing subscription rates (which have remained stationary since the Society was founded ten years ago.)
3. Each Council member should state the extent of personal commitment to fund raising/membership recruitment which he will be able to give during the early months of 1979.
4. Adequate staff need to be employed to reinforce the voluntary work by members. Accordingly, at its meeting on 6 February 1979 the Council should approve a staffing structure and budget for 1979 to be prepared by the Officers.

The Council found itself in a broad measure of agreement with these proposals (though it should be stressed that the question of subscriptions is a matter to be decided by the membership at the next AGM). After considerable discussion, the Council reached the view that while members should be advised to increase the subscription

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rates it would be inadvisable to do this by the amount needed to enable the *Statute Law Review* to be supplied to members without additional charge. Probably therefore, proposals will be put to the next AGM for an increased subscription (to include the quarterly

Newsletter) coupled with preferential terms for members who wish also to subscribe to the *Review*.

Society of Public Teachers of Law

One of our Council members, Professor William Twining, is to be President of the SPTL for 1979. At the SPTL Annual Conference on 13-15 September 1979 it is hoped to further some of the academic aims of our Society outlined in the Summer 1978 Newsletter (p=4). The general viewpoint of the Conference is "research and scholarship", and it is likely to include a session on statute law. This could take the form of a symposium, or a simple address followed by discussion. The idea will be to interest as many delegates as possible in the subject of statute law, and encourage them to embark on research projects.

It is also hoped to organize a one-day colloquium as a Statute Law Society "fringe" event immediately before the Conference proper begins. We hope to have a Statute Law Society table in the book exhibition at the Conference, manned by one or more of our members.

This event could be important to the work of our Society. Members (particularly those holding academic posts) are urged to support it. Volunteers please contact the Chairman.

Proposed Conference of Legislative Draftsmen

Discussions are going forward with the Legal Division of the Commonwealth Secretariat and with the Office of Parliamentary Counsel, Canberra (which is a member of the Society) about the possibility of holding a conference of legislative draftsmen in 1980. Major questions

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needing to be settled are where the conference should be held, and whether it should be limited to Commonwealth draftsmen or should go wider. There are obvious advantages in including draftsmen from the United States and/or Europe.

There is also the question whether statute users other than draftsmen should be included. Even if the main sessions were confined to expert draftsmen discussing their expertise, there would be obvious attractions in enabling users to put their problems and suggestions direct to the draftsmen. A major difficulty about reform is the way draftsmen are too often hermetically sealed from their customers (see Summer 1978 Newsletter, p.7).

Voluntary Workers

We are grateful to Mrs. Dorothy Johnstone CBE for taking on the demanding job of co-ordinating the work of voluntary helpers. The Society entirely depends on the help freely given by its members, but organizing this is a task which for a small society is not free from difficulty - especially with a worldwide membership.

Learned Society Assistance Scheme

In the last Newsletter we gave considerable space to this scheme (pp 9 and 10). We can now announce that Dr Carole Williams has been appointed Learned Societies Liaison Officer, and we have already derived assistance from her. On 27 October the Chairman and Mr Wright

are to attend a conference on the administration of smaller learned societies organized by the Learned Societies Committee of the Royal Society and the British Academy. The topics to be covered include libraries, membership records and services, and finance.

British Council

At the request of the British Council, the Chairman entertained

to lunch a visitor from Israel, Mr H. Klugman. Mr Klugman is Ministerial Adviser in legislation and Co-ordinator between the Attorney General and the Knesset. His visit was for the purpose of studying legislative procedures and working methods.

Form simplification

One troublesome aspect of statute law is the number of different forms it inflicts on the public. Any project for simplifying forms is to be welcomed. We have been in touch with Michael Dunne, research manager of the Research Institute for Consumer Affairs, about the Institute's work on form simplification.

The Institute's latest project, financed by DHSS, is designed to simplify forms and letters used in connection with supplementary benefit. Professor Donnison, Chairman of the Supplementary Benefits Commission said:

"It is crucial that we make a greater effort to explain our policies and decisions clearly as our scheme becomes more complicated. We made a start last November when we simplified our main leaflets and we shall be issuing new ones this November which incorporate the lessons we learned from the market research carried out on leaflets a few months ago. The Simplified Forms project is a further step along this road. It recognises that our main communications with our claimants are by official form or letter. Unlike our leaflets, the contents and style of these are virtually un-exposed to public scrutiny and challenge and it is all too easy to slip into an acceptance of officialese. Of course our officers have to obtain facts to establish entitlement but we find it disturbing that some of our customers have let us know how incomprehensible our forms and standard letters appear. Local office staff also recognize that improvements can be made and the willing way in which they and their representatives have come together with outsiders to work on this project is most encouraging. We must guard against simplifying in ways that make life impossible for our hard-pressed staff. The Commission very much hopes that the lessons learnt from this research project will not only simplify supplementary benefit forms but will be helpful to other parts of the social security system"s

The Simplified Forms project will have two aspects. First there will be the redesign - in a number of stages - of 13 commonly

used supplementary benefit documents; they will include notices telling claimants of the results of their claim for benefit, letters about appointments and visits and the claim form completed by the unemployed. Then as individual redesigned documents are produced they will be tried out in several places to ensure that any changes will work nationally rather than just in Salford. The redesign work will be carried out by the Salford Form Market working in close association with the Research Institute for Consumer Affairs and the two social security offices in Salford. This should ensure that changes are compatible with local office procedures. The redesigned forms will then be tested by the Research Institute for Consumer Affairs to make sure that the changes in wording and format are understood by claimants and do not lead to difficulties for local office staff. If the new forms and letters prove successful the aim is to use them throughout the country.

The Research Institute for Consumer Affairs will also be assessing what general principles emerge about the design of social security forms and letters sent to the public in the light of their experience in this project.

Policy and scope of the Statute Law Review

The following is the draft first editorial. Comments with a view to improving the draft are welcome, and should be sent to Francis Bennion.

This is the first issue of a journal to be published three times a year, at the end of February, June and October. So far as is known, no other periodical in the Commonwealth concerns itself exclusively with statute law. If a single cause can be assigned

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for this neglect of a vital subject, it is perhaps the disdain with which academic lawyers have traditionally viewed the output of legislators. That attitude is changing in face of the plain fact that legislation is now the sole medium for legal development. The creation of a forum for examining legislative techniques and propounding reforms is overdue. It is hoped that this journal will further improvement in the methods used by our legislators and aid the emergence, long delayed, of statute law as a subject accepted as worthy of academic study.

A convenient way to mark out the area of concern of a review of this kind is to identify a field with common characteristics. All written law is concerned with the linguistic problems of expressing legislative commands in intelligible form, with the need to take account of interests affected by projected changes in law, and with questions of publication, access and interpretation. In 1979 the field of statute law is made up as follows.

Supra-national law (or quasi-law) Regulations and directives of the European Commissions, binding international treaties and conventions.

Constitutional law Provisions distributing, with or without limitations, the legislative power of the state.

Primary law Enactments of the state legislature (in Britain divisible into public general Acts and local or private Acts).

Sub-primary law Enactments of a subordinate legislature (e.g. the projected Scottish Assembly).

Delegated legislation Rules, regulations, byelaws etc. made under statutory powers»

Our concern is not with the substance of such law, except in

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rare cases where the substance bears on the making of legislation or the techniques of its application. A prime interest of the *Review* will be drafting. The recruitment and training of draftsmen, the techniques they employ, the way their work is organized and supervised, their accessibility to outside opinion, the improvement of their methods, will concern us closely. So too will legislative techniques generally - the way legislation is initiated, parliamentary rules and procedures, methods of consultation, publication of statutes, systems of indexing and other aids to the user. Principles of interpretation, and the role of judges in the overall statutory process, are of obvious interest and importance.

In identifying a field with common characteristics we are not limited to the United Kingdom. The problems are similar (and the solutions interchangeable) throughout the parliamentary democracies. Countries in the Commonwealth, in Europe, and in North America are of interest not only for what they can teach Britain but in their own right. For this reason the *Review* welcomes contributions from overseas.

Academics are expected to provide our staple fare, for they possess the speculative turn of mind, the mental discipline, the awareness of progress elsewhere and the philosophical approach that are needed. This does not aim to be an exclusively academic journal however. There is need for practical solutions. We hope to publish the work of those with experience of how statute law is created and operates. Judges, politicians, draftsmen, administrators should have their say. So too should statute users in the professions, industry and elsewhere.

The foremost academic discipline with which the *Review* will be

concerned is of course law - not only the field of legislation itself but within related areas such as administrative law, jurisprudence and constitutional law. Discussion of legal conceptualism (or the jurisprudence of concepts) could find a place, and sociological jurisprudence is also in point. Relevant fields of knowledge outside law itself include computer science, information theory and linguistics (Chomsky's theories on the generative conception of language for example, may have useful applications for legislators). Applied psychology has fascinating possibilities, bringing in such devices as algorithms, heuristics and other problem-solving techniques. Nor should we overlook the contribution to be made by students of politics, by historians and by sociologists. Finally there should be a hearing for specialists in fields closely affected by statute law, such as accountancy, planning, local government and company administration.

The Review does not aim to represent any particular standpoint. On the contrary, it seeks to provide a forum within which various, opposing views can be argued. It will offer room to all with constructive ideas or instructive messages. It seeks to combine the good bequeathed to us from the past with the novelties progress from time to time makes available. Historical studies will be welcome for the light they throw on the future. Speculative essays will be welcome for the promise they hold. Disapproval will be reserved solely for those who maintain that no improvement is possible.

DATES FOR YOUR DIARY

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| Annual Dinner | Monday 27 November 1978 |
| Next Council Meeting | Tuesday 6 February 1979 |
| Annual General Meeting | Tuesday 6 March 1979 |