

'Statement on the Statute Law Society'

Introductory Note by Francis Bennion Reading the following statement thirty years later, I find myself still engaged in working for the improvement of statute law. The statement gives some indication of the indifference of the legal profession in England to such reforms, and their reluctance to help in furthering them. It criticises Halmer Hudson and A E G Wright (better known as Antony Grey). Both received copies of the statement at the time. From neither did I receive any response, nor do I believe they have responded in any other way. It must therefore be assumed that they accept the truth of what I say about them.

The Statute Law Society has two objects. These are: (i) to procure and further the making of technical improvements in the form and manner in which statutes and delegated legislation are expressed and published with a view to making the same more readily intelligible, and (ii) to further the education of the public in the processes and scope of legislation of all kinds and at all stages and for this purpose to gather and disseminate information on legislative processes of all kinds. Halmer Hudson bears a heavy responsibility because since my resignation the Statute Law Society has pursued only the second of these objects.

STATUTE LAW SOCIETY

Statement by Francis Bennion

I regret that I have found it necessary to resign as Chairman of the Society. Some explanation is owed to members and others interested, and this I now give.

Introductory

I have spent many years as a parliamentary draftsman (mainly at Westminster, but also in Pakistan, Ghana and Jamaica). I joined the Parliamentary Counsel Office (where virtually all public Acts of Parliament are drafted) in 1953. In 1964 I resigned, having become convinced that drastic reforms were needed but seeing little chance that they would be made. In 1968 I conceived the idea of starting the Statute Law Society as a reform body representing users of statute law. I thought the Society would need to set up first a committee of users to assemble the complaints, and then an expert committee to propound solutions. Realising this would not be enough, I envisaged the subsequent setting up of a Government committee to propose reforms. At an interview with Mr Edward Heath, I convinced him of the rightness of this programme, which was duly implemented. Mr Heath himself procured the setting up of the Renton Committee when he was Prime Minister. In 1973 I was invited to rejoin the Parliamentary Counsel Office, which I did. I resigned a second time in 1975, being convinced that the needed reforms would not be made.

On 19 October 1977 Sir Desmond Heap, then Chairman of the Statute Law Society, asked me if I would take over the chairmanship. He told me that the Society was on the verge of collapse, and had been inactive for many months. Later Sir Desmond showed me a letter from a Council member, Mr Halmer Hudson (a chartered accountant), who wrote: "History shows many examples where one leader has managed to harness the latent energies to glorious conclusions". Mr Hudson added that he saw no sign of such a leader appearing, but I was fired by these words and determined to try. I had a meeting with Mr Hudson, in which he promised his fullest support. Relying on this, I accepted appointment as Chairman on 30 November 1977. Mr Hudson was appointed Honorary Secretary.

I duly received the papers of the Society. They were in disarray. Contained in two cardboard boxes, they were incomplete and in no sort of order. A number of unanswered letters were

included. There was no accurate record of membership. I made it my first task to compile an index of these papers and establish a proper filing system. Here I was in some difficulty. I was practising as a freelance writer and lecturer, operating from my own flat in Hove. In the same month as I accepted office as Chairman I also remarried. My new wife, for a modest salary, acted (and still acts) as my secretary. She was therefore faced immediately with the task of helping me reduce the affairs of the Society to order. She was not altogether convinced that it was right to spend so much of my time (and hers) on wholly unremunerative activity of this kind. Nor was she entirely happy at seeing our modest flat encumbered by the paraphernalia of the Statute Law Society.

I proceeded to prepare a 17-page report on the future activities of the Society. This was placed before the Council as a report by the Officers (i.e. the Hon. Secretary, the Treasurer and myself). It outlined the action to be pursued, including regular meetings, the overhaul of the basis of membership, the establishment of a journal, the attraction of academic interest, the publication of a book on the Renton Report, and other matters. The report spelt out the need for volunteers to take on functions such as membership secretary, fund-raising officer, investment adviser, bibliographer and archivist, Bill monitoring co-ordinator, editor, public relations officer, social secretary and liaison officer with other organizations. The three Officers pointed out that no one apart from themselves was carrying out these necessary functions. The Council accepted the report, but in the ensuing year only one person (Mrs D. Johnstone) volunteered to take on any of these essential functions.

I devised and implemented an elaborate filing system. It divided the files created into three categories. The following brief account utilises these categories.

Internal Administration

This section comprises 18 files. Many have sub-files (for example the Membership file has 12 sub-files, some of which are further divided). It will be a matter of surprise that the Chairman, rather than the Secretary, should have to take on the duty of compiling and maintaining such files. Here I am obliged to make the first of several criticisms of Mr Hudson. Before doing so I would say that I have nothing against him personally. He is a well-meaning man of high ability. Yet he failed to implement the initial promise of support he gave me with such conviction, and which induced me to take on the heavy task of trying to rescue the Society from collapse. He placed the resources of his office at the disposal of the Society, attended meetings of the Officers and Council, and made some of the arrangements. But a Secretary of Mr Hudson's experience and standing should do far more than that. He should make his contribution to policy formation. If he leaves the Chairman with virtually the sole responsibility for policy, he should at least support the Chairman with loyalty and encouragement. Mr Hudson did not do these things.

One essential for a body of this kind is adequate finance. The Society's accumulated funds derive from 7-year covenants given by two or three large companies in its early days. Because of the Society's inactivity this money was not spent. Nevertheless it is insufficient as an endowment. I perceived that fund-raising would be necessary, and suggested the appointment of a Mr A E G Wright (aged 50). I have known him for some years, and thought he would do the job. The Council appointed him on 6-months trial (expiring 31 January 1979) as my personal assistant, with special reference to fund-raising. He was required to work two days a week at £250 a month.

The experiment was not a success. Although Mr Wright accepted appointment as my personal assistant he later wrote to me admitting that he was not capable of acting as anybody's personal assistant since he was used to full control. He was appointed to carry out executive duties, but did little in this direction. Instead, he largely confined himself to giving advice. Unfortunately the advice was for various reasons impractical. Mr Wright asked that his appointment should continue after the trial period in the form of a retainer to a limited company he intended to set up. At their meeting on 29 January 1979 the Officers (in pursuance of powers delegated to them by the Council) resolved that Mr Wright's

appointment should not be extended in this or any other way. In fairness to Mr Wright it should be said that he received a discouraging reaction from certain key people (including Mr Hudson) to the fund raising programme I had devised.

Next I pay tribute to the Treasurer, Mr Godbee. He has served in that post for several years, and the Society should be grateful to him. Mr Godbee has never concealed that his concern is only to act within the narrow confines of that office – in other words not to be concerned with policy. He cannot in any way be blamed for that. Nevertheless it has added to my burdens as Chairman simply because (in view of Mr Hudson's similar attitude) it has accentuated my solitary status as policy-maker. It is undoubtedly a major factor in the situation the Society now finds itself in that no lawyer apart from myself has during the past year or so shown himself willing to play an active part in its day-to-day affairs.

Next, I report some of my other main activities within the field of Internal Administration. I made strenuous efforts to increase the membership. During my term of just over a year the membership was nearly doubled. Almost all the new members were brought in by me. Despite Mr Hudson's initial promise to recruit a number of his accountancy colleagues he has not done so.

I devised, and arranged for printing, a new leaflet incorporating a membership application form. For the first time this enabled people to offer specified forms of service to the Society. Owing to absence of volunteers to process this information we were not able to act on it until Mrs Johnstone came to the rescue. I also arranged for the design and printing of new stationery. I decided that members were entitled to information about what the Society was doing. The last newsletter was produced (by me) in the early days. I determined to produce a quarterly newsletter, and prepared 10-page editions of this in Summer and Autumn 1978. Every word was written by me, and I even had to get the newsletters typed myself. Before my resignation I prepared material for a Winter newsletter.

I also had to make arrangements myself for the holding of last year's AGM (in the House of Commons), and obtained the speaker (Sir David Renton). The same happened with the Annual Dinner. I asked Lord Gardiner to host this in the House of Lords, and asked Lord Denning and the Chairman of the Law Commission to speak (which they did).

I record here that on the two occasions when I asked our President (Lord Shawcross) for minor help with the Society he refused. The lack of interest shown by our President is one of the many adverse factors leading to my decision to give up the chair. A Society such as this depends on occasional wise advice and interest from its President.

Finally in this section, I record that my efforts to persuade those concerned to finalize the work of the Wheatcroft Committee on tax legislation have failed. Much work was done on this report in 1975-6, and it is lamentable that no publishable results emerged.

Research and Education

The second division of the filing system is concerned with the vital field of information-gathering, research into statute law problems, and education. This covers the Society's two fundamental objects of furthering technical improvements and spreading knowledge of legislative processes. In this division there are 18 files, many with sub-files. I have space here to mention only three topics : monitoring of Bills, the proposed *Statute Law Review*,² and the working party on commencement of Acts.

When the Government rejected the Renton Committee's key proposal that there should be official monitoring of Bills to ensure compliance with Renton proposals, I saw that this was an opportunity for the Society. With the help of two MPs I have known for some years, Sir David Renton and Mr Ivan Lawrence, I launched a monitoring scheme. About half a dozen members of the Society participated at the outset, and Mrs Johnstone acted as co-ordinator. At the time of my resignation two meetings had been held, one in the House of Commons. I

devised a report form, and the first reports indicated that while members had a useful contribution to make there were inevitably going to be teething difficulties.

It has been said since the foundation of the Society that it should have a journal Sweet and Maxwell Ltd agreed to publish the *Statute Law Review* three times a year. I was to edit, and the first issue was to appear at the end of February 1979. I adhered to this target (fixed nearly a year ago), but the publishers were unable to do so, and it slipped to April. I did a great deal of work on this project, writing editorial matter and persuading a number of distinguished people to contribute.

Following protracted complaints about the system of bringing Acts of Parliament into force, I suggested the setting up of a working party. The Law Society, the CBI, and other bodies appointed representatives. Mrs Johnstone agreed to act as secretary. Since no other Council member showed interest, I felt obliged to act as chairman. The first meeting was held at 3 pm on 6 February 1979. It was at the Council meeting later on this day that I tendered my resignation as Chairman of the Society. The working party meeting, though lengthy, was successful and augured well.

The three topics just briefly mentioned formed the basis for the Appeal programme which I devised, and the Officers and Council in principle agreed to. My draft Appeal leaflet is set out in the appendix to this statement.

External Relations

The third section of the filing system I devised deals with the Society's relations with other bodies. The main files cover Parliament, Government Departments, Law Commissions, Professional Bodies, Societies and Institutions, Universities and the Media. I managed to get through a lot of useful work in these fields, but again I was largely acting alone. I would however mention interest shown by two academic members of our Council, Prof. Goode and Mr Alec Samuels.

I succeeded in obtaining a good deal of publicity for the Society in 1978. In January, *The Times* and other journals reported my press conference outlining plans for the Society's future, and a letter from me as Chairman started a lengthy *Times* correspondence on human rights legislation. In February the *New Law Journal* carried an editorial on the Society. In May I had letters published in various journals inviting practitioners and academics to send me points, and several did so. In June Tom Harper in the *New Law Journal* congratulated the Society on its tenth anniversary, which gave me an opportunity to send a letter (duly published) explaining the Society's aims. In July *The Times* published an article on the Society. In November reports of my speech at the annual dinner outlining plans for Action Year 79 were widely publicised.

The events leading to my resignation

The above is a necessarily sketchy and incomplete account of what I did for the Society between November 1977 and February 1979. During that period I was giving about half my working time to the Society, aided by my wife. I received (and wished for) no remuneration either for my wife or myself. I claimed only out-of-pocket expenses. No claim was made for the large addition to my telephone bill. I plunged enthusiastically into the work of the Society, but received constant setbacks, disappointments and frustrations. I received very little appreciation. It was literally a thankless job.

I should probably have continued nevertheless if it had not been for two incidents involving Mr Halmer Hudson. The first occurred immediately before the Council meeting of 14 June 1978, which was only my second time in the chair. As the meeting was about to start Mr Hudson informed me that each of the two previous chairmen (Sir Frank Layfield and Sir Desmond Heap) had telephoned him to express disquiet at press reports of certain of my other public activities (presumably my work for the anti-censorship Defence of Literature and the Arts Society and for the Committee Against Blasphemy Law, though this was never made

clear). Apparently these gentlemen felt that press reports of my activities might adversely affect the Statute Law Society.

Mr Hudson said he felt obliged to report this at the meeting, which was about to start, so that the Council could discuss it. I told Mr Hudson that as neither of the Council members in question had thought fit to attend and express their views personally we should proceed with our heavy agenda. Mr Hudson insisted, thus making my position in the chair impossible. Clearly I could not preside over a discussion of my own personal conduct. Accordingly I opened the meeting, then left Mr Hudson to conduct it. As a result it was necessary to reconvene the meeting for 18 July. Sir Desmond Heap then attended and said he had merely passed on a remark made by a member. He had not intended Mr Hudson to raise it as a Council matter. Sir Desmond said he had every confidence in my chairmanship and warmly urged me to retake the chair, which I did. I said I could not accept any limitation on my other public activities, and this the Council accepted. Sir Frank Layfield did not attend the meeting, and there was no information about his attitude.

The second incident occurred immediately before the Council meeting on 6 February 1979, the day of my resignation. Once again Mr Hudson sprang a last-minute surprise on me. Despite the fact that at their meeting the previous week the Officers had agreed without argument that Mr Wright's trial should not be extended, Mr Hudson now told me that he had acceded to a subsequent request by Mr Wright. This was that Mr Hudson should put before the Council an argument justifying Mr Wright and placing the blame for the failure of his trial appointment on me. Mr Hudson told me that Mr Wright had sent him copies of correspondence with me, which he proposed to read out.

So, once again I was faced without any warning with a situation in which my own conduct was to be debated and criticised by the Council. Again, my position in the chair was made impossible. Again, I was forced to allow Mr Hudson to preside. I felt extremely angry, and left the room. After a few minutes thought I realised that I could not go on in this way, and must resign. Reluctant though I was to return to the meeting, I considered it my duty to acquaint the Council with my decision while it was in session and could determine what to do.

The Council meets three times a year. On two of the four occasions when I was to preside, Mr Hudson sprang on me last-minute decisions rendering my position impossible. There was no need for this. The first occasion was misconceived. On the second, any points to be made in favour of Mr Wright could have been made quietly in the course of the discussion following the report I was scheduled to make. In my view Mr Hudson was seriously at fault on both occasions.

Now it may be said that I should have refused to allow Mr Hudson to proceed in this way. No doubt some Chairmen would have done this, even though it meant open dispute between the Officers. I did not feel this to be the right course for me. Nor was it a solution to ask Mr Hudson to resign, and find another Secretary. The Society's history since the retirement of Mr Barrett illustrates the difficulty of this. It is in line with Mr Hudson's general lack of consideration for me that he has not had the courtesy to inform me of the decisions taken by the Council on 6 February. (Nor for that matter has any other Council member). I am thus in the dark about the future of the activities in which I was involved, notably the monitoring scheme and the working party. I am naturally also concerned that the work on which I spent so much time and effort shall not be wasted, but I have no information on plans to continue it.

The Future

The key to the Society's future lies in fund-raising. If the programme outlined in the appendix had been allowed to go ahead, and had been successful, we should have been able to employ a full-time executive to divide his or her time between the projects listed. We should also have been able to purchase the necessary back-up in the form of research, clerical and secretarial

services. A rolling programme would have consolidated this in future years. In that way the expertise members can provide would have been properly utilised.

Not least of Mr Hudson's faults has been to decry this programme because it did not provide tangible benefits for the companies whose financial support we would be seeking. He closed his ears to my answer that the programme related to the Society's two fundamental objects, which do not include providing tangible benefits to companies. As I pointed out to Mr Hudson, to provide such benefits would be *ultra vires*, and might well endanger the Society's status as a charity. The Society must put its faith in its defined objects, and seek financial support for them.

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21 February 1979.

APPENDIX

Draft Appeal Leaflet

The Statute Law Society was founded in 1968 to secure technical improvements in the drafting and publication of statutes and delegated legislation, and to educate the public concerning the processes and scope of legislation.

The Society is making 1979 an "action year" to get things moving on the reform of our statute law system, and is launching an appeal for £12,500 to fund the following programme:

1. Monitoring of Parliamentary Bills for clarity A team of lawyer members of the Society has been set up, and is working-in conjunction with Members of Parliament monitoring Government Bills to detect obscurities and errors and to assist MPs in putting forward amendments. The scheme was set up with the support of the Rt Hon Sir David Renton MP when the Government rejected the recommendation made by the Renton Committee on the Preparation of Legislation that Bills should be monitored for this purpose by the official Statute Law Committee. Efficient monitoring requires the employment of paid staff and involves other expense. The Society's Council have therefore budgeted for expenditure of £3,000 on the Bill Monitoring Service in 1979.

2. Statute Law Review The first journal devoted to statute law to be published anywhere in the Commonwealth was founded early in 1979. The publishers are Sweet & Maxwell Ltd, in association with the Society. The Council have budgeted for incidental expenses of £1,000 on the *Review* in 1979.

3. Working party on commencement of Acts For some years the Society has been receiving complaints about the system of bringing Acts of Parliament into force. Among other things, these relate to 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. The Council has set up a working party 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 have been appointed by the Law Society and other interested bodies. It is hoped to employ a paid research assistant, and the Council have budgeted £3,000 for 1979.

4. "Renton and the Need for Reform" The Society published early in 1979 the fourth in its series of publications advancing technical solutions to problems of statute law obscurity. For the publication to be effective it is necessary to promote it with vigour, and the Council have budgeted £1,000 for this purpose.

5. Conference of legislative draftsmen Arrangements are in train for the Society to sponsor (in conjunction with the Commonwealth Secretariat) a conference of draftsmen employed by Commonwealth governments. The Council have budgeted £250 for 1979 expenses on this project.

6. Acquisition of reference material It is important for the work of the Society and its services to members that it should build up an archive of reference material. The Council have budgeted for expenditure of £2,000 on this in 1979. The above projects, for which we need your support, are in addition to the day-to-day work of the Society, which will continue to be financed in the ordinary way by subscriptions and donations, so far as it is not carried on voluntarily by the Officers and other members.

7. SPTL Conference Another activity for the Society in 1979 will be participation in the annual conference of the Society of Public Teachers of Law in September. The theme of the conference is “research and scholarship”, and it is likely to include a session on statute law. It is also intended to organize a one-day Society colloquium as a Statute Law Society “fringe” event. There will be a Statute Law table in the book exhibition at the conference.

WHY YOU SHOULD SUPPORT THIS APPEAL

Please support this Appeal, with a donation and/or by joining the Society (if you are not already a member). Obscure legislation is a scourge to be fought. It hinders the citizen by keeping him in ignorance of his rights and duties. It adds millions of pounds annually to trading costs of commercial and industrial companies. The remedies are not spectacular. They require patient, detailed work to discover and promote. Please help us in our fight for everyone’s right – PLAIN LAW.

Donations and membership applications to the Society’s Honorary Secretary:

HALMER HUDSON Esq., F.C.A., 186 City Road, London EC1V 2NU (Tel: 01-251 1644).