

***Brutus v Cozens* and the meaning of ordinary words**

While researching for the third edition of my book *Statute Law* I read the article 'Brutus v Cozens; Decline and Fall' [1989] Crim LR 323 by D. W. Elliott, and would like to make a brief comment.

The article celebrates the supposed demise of a dictum of Lord Reid in *Brutus v Cozens* [1973] AC 854, 861: 'The meaning of an ordinary word of the English language is not a question of law.' However Lord Reid did not mean this sentence to be taken in isolation, as shown by the one that follows it: 'The proper construction of a statute is a question of law'.

The editors of the second edition of Cross's *Statutory Interpretation*, citing section 72 of my own larger work with that title, say: 'As Bennion points out, the "unit of enquiry" in statutory interpretation is "an enactment whose legal meaning in relation to a particular factual situation falls to be determined"'. The enactment relevant in *Brutus v Cozens* was section 5 of the Public Order Act 1936-

'Any person who in any public place . . . uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence.'

As always with any enactment, the task of the magistrates' court was to arrive at and apply the legal meaning of the entire passage. The House of Lords ruled they were right to accord the word 'insulting' its ordinary meaning, and that it was not necessary to spell this out.

In my submission the commentators ought not to have placed so much weight on this single sentence by Lord Reid, even though it was singled out for mention in the headnote. Judges are fond of encapsulating a principle of statutory interpretation in a sentence, and are known to be frequently inaccurate when they do so. Later in the same speech, for example, Lord Reid was again inaccurate when he said (p 861) that 'the purpose of a [statutory] definition is to limit or modify the ordinary meaning of a word'. It may equally be to clarify the meaning, to allocate a different meaning, or to use the term as a label.

It is strange that it should take a full-length article to lay to rest a dictum that, because of its obvious inaccuracy (springing from brevity), ought never to have been accorded any particular importance in the first place. The true rule is: (1) it is invariably the legal meaning of an enactment that is to be applied; (2) the legal meaning usually, but not invariably, coincides with the ordinary meaning; (3) in jury cases it is for the court to direct the jury on whether this is so or not; (4) where the enactment has its ordinary meaning it is for the court to decide whether or not this needs spelling out to the jury, subject to previous rulings on the enactment in question.

[1989] Crim LR 848.