Preface to the Third Edition

In the preface (see below) to the 1983 edition, I acknowledged that this book was then still incomplete. It did not deal adequately with a central topic, namely statutory interpretation. My full-scale treatment of this, set out in a textbook of around a thousand pages, was published in the following year under the title *Statutory Interpretation* (Butterworths). As a result of the reassessment carried out for that book, I am able in this new edition of *Statute Law* to include five additional chapters on the topic. They form the new Part II of the book, and drastically condense the treatment in the larger work. I hope this will make it more accessible both to students and practitioners.

The essence of my new treatment of statutory interpretation is to anchor the subject firmly within the main currents of law. Instead of attempting to get by with rules of thumb like the so-called 'mischief rule', 'golden rule' and 'literal rule', it appears that the law really requires the matter to be treated more seriously and thoroughly. Legislative enactments bring in by implication all relevant rules and principles of law, and must be interpreted accordingly. In a particular case it may be necessary to apply numerous interpretative criteria (which may be otherwise called guides to legislative intention). A balancing exercise must then be carried out.

It is a disquieting fact, constantly exposed in the law reports, that applicable interpretative criteria are commonly overlooked by those concerned with arguing or deciding a point of statutory interpretation. My aim is that the new Part II included in this edition will help to remedy that state of affairs.

The natural wish of the publishers to minimise the number of additional pages has meant the omission of some developments in statute law arising from cases decided since the last edition. I should mention in particular a case in which I myself appeared as counsel, *R* v *Horseferry Road Magistrates' Court, ex p Independent Broadcasting Authority* [1986] 3 WLR 132; [1986] 2 All ER 666, which revolutionised the law relating to the common law offence known as contempt of statute (on this see my remarks in (i) [1986] All ER Annual Review, pp 268-270 and (ii) the Supplement to my book *Statutory Interpretation*, pp 3-5). Another case worthy of mention

is *R* v *Hunt* [1987] AC 352 (on this see my article 'Statutory Exceptions: A Third Knot in the Golden Thread?' in [1988] Crim LR 31).

The need to keep down the length of the text has led to some excisions from the previous edition. In particular the treatment of Composite Restatement has had to be drastically shortened. For a more detailed account of this topic, see chapter 27 of the second edition.

I should finally mention that in this edition I have made a belated gesture to the feminists (at risk of offending the purists) by changing 'draftsman' to 'drafter' throughout.

Francis Bennion 2 January 1990

Preface to the Second Edition

This is a book about the need people feel to know where they stand. Having this recognised could be numbered among human rights, but few lawyers seem to take it seriously. I ask readers, if they are kind enough to study these pages with attention, to look out for signs of this object. They will find many, and perhaps will feel moved to do something about them. We should, as has been said, take rights seriously.

In the preface to the first edition, I invited criticisms and suggestions. There have been few of these, but I am grateful that the book was well received. The only substantial objection was to the effect that, while the demolition of received ideas effectively cleared the way for some new system of statutory interpretation, this was not forthcoming. True indeed, but it needed a book to itself. This is nearing completion, and should appear in 1984.

My disappointment mainly springs from the apparent reluctance of some expert readers to grapple with the *ideas* in the first edition. They are still there in the second (with a few more), and may in time sink in. Time is always needed; and this is not after all an area in which one expects new ideas.

The first edition was generously praised for its 'wealth of examples'. There seemed little understanding of what these were examples *of*. If there is a wealth of examples (as is most kindly suggested) it is only because there is a wealth of ideas which they illustrate. Ideas are usually more important than examples.

It is time for heads to go down, and for close attention to be paid to this subject. There is more to it than most people seem to think. It concerns the way our lives are lived, and merits concentrated care for that reason. Theories about rules in general are all very well, but statutory rules matter in a special way. They also possess special characteristics. If we are to take rights seriously,

it is time we took statutes seriously. We can only do this if we look very carefully at them as they are.

The book has not been much altered in this edition. Reviewers have been kind enough to indicate that the arrangement was right to stan with, so what is the point of changing it? Accordingly, the second edition has the same number of chapters and the same chapter headings as the first. That was the product of a lifetime's practical experience, and the passing of a year or two is not likely to alter it much.

I am glad to be able to record in this edition an improvement in the Law Commissions' output of consolidation Acts. Against that is the regrettable failure to implement their promise (noted in the first edition) to produce a plan for statute law revision. This plan has been abandoned, we are told, because of staff shortage—one more indication of the low priority given by our masters to the people's statute book. Another Law Commission failure since the first edition was the reiterated refusal of Parliament to enact their 1969 Interpretation Bill. It is time we had a Statute Law Commission, or at least a Statute Law Institute.

Many new cases have been noted in this edition. Perhaps the most significant is the House of Lords decision in *Wills* v *Bowley* [1982] 2 All ER 654, which sounded the death knell of the so-called literal rule of statutory interpretation and finally disposed of the suggestion (always absurd) that there are no implied meanings in statutes.

There is quite a lot of new commentary in this edition. By far the most important is that dealing with interstitial articulation and selective comminution. If only this were taken seriously it would indeed mark a break-through.

I should add to the acknowledgments in the preface to the first edition the editors of the *Law Society's Gazette,* the *Statute Law Review,* the *British Tax Review* and the *Criminal Law Review.*

Francis Bennion 8 April 1983

Preface to the First Edition

Statute law interests few people. Yet it is of vital concern to us all. I have tried to make this presentation lively, and to engage the reader's attention. I have also sought to avoid overlap with existing treatments, and to present a constructive appproach original in concept. The approach is that of a legislative draftsman (which I have been for nearly thirty years).

Some of the material derives from articles of mine in legal journals, though it is all rewritten for this book. I am grateful to the editors of *British Journal of Law and Society, Computers and Law, New Law Journal,* and *Solicitors Journal* for permission to reproduce the

substance of work which first appeared in their journals. I am also grateful to the publishers for venturing to back a work which, because its treatment of the subject is novel, perhaps carries more than the usual publishing risks. In view of this novelty, I shall particularly welcome constructive criticisms and suggestions.

Francis Bennion 26 May 1980

THE MIKADO: Unfortunately the fool of an Act says 'compassing the death of the Heir Apparent'. There's not a word about a mistake . . . That's the slovenly way in which these Acts are always drawn.

The Mikado, Act 2.