

Drafting the Public Libraries and Museums Act 1964

by Francis Bennion

Written at the request of Voices for the Library and now on their website <http://www.voicesfortheibrary.org.uk/wordpress/?p=2025>

I was delighted to be asked to draft the parliamentary Bill that became the Public Libraries and Museums Act 1964. I saw that the task gave me a valued opportunity to design the blueprint for an enhanced library service in England and Wales fully supported by the Government and local authorities.

We all have happy memories of public libraries, dating from our youth. Many a child has found refuge, help, enlightenment and companionship in their public library. Wise and skilled librarians would put us on the right track, and lead us to the most helpful, instructive and entertaining books. I saw an opportunity to further this great work, and eagerly grasped it. I had a vision of expanding library services, making them readily available to all who needed them (including youngsters not yet aware of treats in store). Libraries should be handy for dwellings or bus routes. Wherever necessary books should be taken to readers in the form of mobile libraries. There should be a sufficient supply of books of all types, suitable for all ages.

My new drafting assignment filled me with enthusiasm as I set to work. I was determined to write the Act in plain English, making every word count. I ought to set out my qualifications before reviewing the Act now, so here goes. I have spent more than sixty years in the field of legislation as draftsman, practising barrister, Oxford University law teacher and researcher, CEO of a leading professional body (the RICS) and author. I have written three books on legislation and many articles which are on my website www.francisbennion.com. The books are: *Bennion on Statute Law* (Longman, 3rd edition 1990, 373 pages); *Bennion on Statutory Interpretation* (LexisNexis, 5th edition 2008, 1,579 pages); and *Understanding Common Law Legislation* (Oxford University Press, 2001 & 2009, 221 pages).

I now analyse some key provisions of the 1964 Act (actual words of the Act are in italics).

NATURE OF SERVICE REQUIRED *A comprehensive and efficient library service.*

COMPULSORY COMPONENTS *Books and other printed matter, and pictures, gramophone records, films and other materials, sufficient in number, range and quality to meet the general requirements and any special requirements both of adults and children.*

READERSHIP *All persons whose residence or place of work is within the library area of the authority or who are undergoing full-time education within that area.* [Together the library areas cover the whole of England and Wales.]

DUTIES OF GOVERNMENT (1) *To superintend, and promote the improvement of, the public library service provided by local authorities in England and Wales.* (2) *To secure the proper discharge by local authorities of the functions in relation to libraries conferred on them as library authorities.*

That is the bare bones of it. I haven't space to include more detail about the Act's contents. But I need to stress three points about understanding the legal meaning of Acts of Parliament.

- (1) Every person to whom an Act of Parliament applies is under a legal duty to comply with it.
- (2) A mere literal compliance without the substance will not suffice.

(3) Implications may need to be drawn on.

An Act of Parliament consists of express words *and implications*. Thus for example it is *implied* by the 1964 Act that library authorities will fulfil their duties properly, will provide suitable buildings that can accurately be called libraries, and will employ sufficient trained, experienced, paid staff, not relying unduly on volunteers.

The official 2011 publication titled *Future libraries - Change, options and how to get there* does not appear to meet the requirements of the 1964 Act. It is primarily a charter, stuffed with jargon, for reducing costs. Yet any library authority which in 2012 and subsequently spends substantially less on its library service than it did in 2009 would be acting unlawfully. This is because all the 2009 expenditure would be assumed to have been necessary to comply with the 1964 Act.

On page 5 the publication makes the mistake of calling the work of library authorities ‘one of the most highly valued local authority elective services’, which literally means that the service is optional for the authorities when of course it is compulsory. Page 9 talks about the need to ‘break down the boundaries of tradition’, which rubbishes the great traditions of library service in this country. It also uses euphemism in describing reducing opening hours as ‘rationalisation’. Page 10 suggests locating libraries in shops, which does not to satisfy the Act. And so on.

Many library authorities are proposing drastic reductions in expenditure, though the Government has only conducted two public inquiries (Derbyshire 1991 and Wirral 2009). This is an inadequate compliance with its statutory duty.

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Any footnotes are shown at the bottom of each page

For full version of abbreviations click ‘Abbreviations’ on FB’s website

References:

None