

*Introductory Note by Francis Bennion*

The following editorial by the late A. G. ("Alfie") Donaldson was the first item in the inaugural issue of the *Statute Law Review*, published by Sweet & Maxwell Ltd in 1980. I claim to be the founder of the *Review* because I was the person who first saw the need for a journal of this kind, who thought up its name, and who persuaded the late Maurice Maxwell, a director of his family firm Sweet & Maxwell Ltd, to back it. My part is referred to at the end of this editorial.

Maurice asked me to be the first editor of the *Review*. I could not spare the time and suggested instead Alfie Donaldson, whom I had known since my early days in the Westminster Parliamentary Counsel Office in the 1950s. He remained editor of the *Review* until 1989. He then retired from that role but remained as consulting editor until his death in 2003. In his obituary notice (see 25 Stat. L. R. (2004) pp. 1-2) the then editor T. St. J. N. Bates rightly said it was due to Alfie's breadth of legal knowledge and interests, and his energy and care, that the *Review* became so firmly established. I am grateful to him for taking forward my idea so successfully.

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## **A Review for the Statute Law**

### **[Editorial by A. G. Donaldson]**

The statute law deserves a specialist publication. Over the centuries statutes have grown ever more important as a source of law, they have changed their shape and style and altered both in their form and their content. The statute law has been developed in other jurisdictions, adapting and changing there. Statutes are drafted, enacted, published, annotated, commented upon, consulted in advising, cited in argument, dissected in judgments, perhaps amended or consolidated and eventually repealed, thus disappearing from the Statute Book to become material for the legal historian. These processes, though not necessarily their products, are common to many jurisdictions, yet most of the writing on the statute law consists of comment on and discussion of legislation as a source of law, rather than dealing with the statute law as such. This is only to be expected, but it leaves room for a journal such as this one.

The matters relating to legislation for which the *Review's* pages are open are varied and numerous, ranging as they do from methods of drafting through processes of parliamentary procedure to interpretation and the teaching of legislation. This is only a general outline, to be filled in and extended as occasion arises. The *Review* aims to deal with these matters in the United Kingdom and the other Commonwealth countries, as well as elsewhere. The *Review* is thought to be unique in the Commonwealth (though not in the English-speaking world) and to that extent is pioneering a path through the statute books of several countries. The resulting journeys and their various destinations will depend on readers and contributors alike, who will now have an opportunity of reading and writing about legislation in a journal devoted to the statute law as statute law.

#### *Needs and Users*

A general need for specialised writing on the statute law lies in the nature of the occasions on which public interest arises in a legislative matter, say when the proposals are first made public, or when they are debated in the legislature, or when some judicial decision on them

reaches the newspaper headlines. Naturally enough, it is the content of the proposals, or the reports of the debates, or the effect of the decision which is of greatest public interest, but in the result matters of statutory form or parliamentary practice which may be vital to the proposals remain very much in the background, from which they may never emerge. This distinction between content and form is by no means always clear cut in the legislative process (it merges, for example, at stages in the combined work of instructing administrator and draftsman) but it is convenient as a form of shorthand in discussing legislation. Granted that members of the public, however interested in current affairs, could not be expected to read a specialised journal dealing with points relating to disputes which are dead and perhaps forgotten, the legislative specialists should have an opportunity of discussing particular points. And there is always the

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possibility that such discussions might lead to particular points becoming more public in some similar debate in the future.

Another general need arises in relation to discussions about the complexity of legislation or the bulk of the Statute Book, the kind of matter with which the 1975 Renton Report on *The Preparation of Legislation* dealt so comprehensively. But such official reports do not appear every year, and the reports of the Statute Law Society on selected topics are useful but necessarily intermittent. The *Review*, by opening its pages for both general contributions and particular discussion, will provide a means of continuous consideration of matters which are often the subject of general statement rather than of detailed debate.

In addition to these general needs there are particular groups of people for whose special interests this periodical might usefully cater. Identifying and describing these groups is rather like specifying the legislative audiences a draftsman has in mind in the course of his work, in that common interests have to be discovered and labelled, the labels being general rather than precise. Also, the groups are mentioned in the order of the legislative process with no suggestion of ranking in importance.

The first of these groups starts with the people who produce the text of the statute law - the official draftsmen for government Bills, the parliamentary agents for local bills, and draftsmen working, whether officially or otherwise, under other systems of legislation. Since drafting is the core of the legislative process, there will be an opportunity not only for exchange of information but also for discussion of different drafting methods. This applies also to other persons concerned directly with the draftsman's work, such as legal advisers to departments sponsoring legislation, and solicitors to local authorities and statutory bodies; and it applies especially to administrators giving instructions to the draftsman and considering his drafts, as well as to other persons and bodies concerned with the preparatory stages of legislation. Broadly, this is the drafting group.

Next, there is the parliamentary or legislative group. This consists of people directly concerned with the passing of Bills through the legislature, whether as legislators, or officials of the legislature, or as advisers on parliamentary matters to either legislators or legislative officials. There is an overlap here with the first group, since the draftsmen and departmental officials are equally concerned with the procedural aspects of passing Bills into statutes. But this common interest underlines the need for consideration of the ways in which the methods of passing Bills into law affects both their drafting and their eventual form.

The third group is that of practising lawyers dealing with the effect of the statute law. Whether or not they have been concerned in any capacity with a Bill, practitioners use the text of the act as it appears on the Statute Book and therefore have a direct interest in the publication of legislation and considering it for the purpose of giving advice to clients. While the *Review* does not seek to provide any kind of immediate legislative service, the discussion of matters of statute law could be useful here. Similarly, in the later stages of the practical

consideration of legislation, when counsel are writing opinions or arguing in court, and when judgments are being considered, the discussions of the statute law could be of help.

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Next, the general public interest has already been indicated, but there are other ways in which the public may be involved, though perhaps indirectly. One method is where a member of the public has a legal problem which a practitioner explains as turning on a point of statute law. In such a case the client is affected indirectly, but a more direct interest arises when a body such as an interest group seeking a change in the law wishes to obtain advice about the way in which that amendment might be presented. Both these examples describe sub-groups of a group of particular members of the public whose interests can be catered for, maybe indirectly, by further study of the statute law.

Then, finally, there is the group of those studying or teaching law, from students learning about the interpretation of statutes, to postgraduate researchers working on special subjects and on to the academics responsible for teaching, supervising and adding to the sum of legal literature. For all these the statute law is a part, of whatever size, of their work, and a specialist journal on statute law is an obvious candidate for their attention, whether as reader or contributor. This, then, is the analysis of the detailed needs for the *Review*, with a classification of the possible readership and an indication of the way in which the *Review* aims to provide for those different categories. The next step is to show it is proposed to carry these aims into effect.

### ***Publication, Format and Contributions***

The *Review* will be published three times a year, in spring, summer and autumn. Apart from any editorial comment, it is intended that there will be articles of substantial size coming under the main headings which have been mentioned - drafting, parliamentary procedure, interpretation and teaching of law - to give the *Journal* its specialist flavour. However, these headings are not exclusive, and in particular it is hoped to consider current developments in the field of statute law, whether by way of comment, statute or case note, discussion or correspondence, indeed any method which will further the study of the statute law as such. Also, the current literature on legislation (however sparse) will be listed and relevant books reviewed. It is hoped by this range of methods to interest readers and to inform them, to stimulate discussion and to encourage potential contributors.

This inaugural issue illustrates the way in which it is hoped the *Review* will operate. Apart from this initial editorial comment, there are three substantial articles—one on interpretation by a -former parliamentary draftsman in Belfast, one on drafting by a Canadian academic with drafting experience, who deals with English and Continental methods, and one by two law teachers in Cardiff on the teaching of legislation. Then by way of current comment there is the report of the Statute Law Society's working party on *Commencement of Acts of Parliament*, a contribution which is welcome both in itself and as a further example of the Society's detailed work on the statute law. The selected materials on legislation and the book review are items whose appearance and size will depend on the amount of writing on the statute law taking place outside the pages of the *Review*.

Thus the *Review* aims to be both comprehensive and comparative, subject always to the views of readers and especially to the interests of potential

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contributors. For a newly launched journal the latter are particularly important, and those who are contemplating contributing to the *Review* along the lines of this editorial are warmly invited to write to the editor, indicating what they would like to add to this latest venture in writing on the statute law.

### ***A Deserved Tribute***

It is fitting to conclude this inaugural editorial by referring to the man who played the most important role in starting the *Review* - Mr. Francis Bennion. Combining his experience of drafting for different jurisdictions, his personal interest in the statute law and his former chairmanship of the Statute Law Society, he designed and helped to build this legislative vessel, so it is only just to acknowledge his work at the launching and the initial voyage on the sea of the Statute Law.

#### *Citation*

The title of the *Review* may be abbreviated to Stat. L.R. The standard form of citation is [1980] Stat. L.R. 000.