

*Start of page 299*

## BOOK REVIEWS

*STATUTORY INTERPRETATION*. By Francis Bennion. [London: Butterworths. 1984. cii and (with index) 904 pp. Hardback £85.00 net.]

The present Lord Chancellor in the course of his judgment in *Johnson v Moreton*<sup>1</sup> estimated that nine out of ten appeals which come before the House of Lords are concerned with disputes about the construction of Acts of Parliament. Such disputes are unlikely to be so preponderant in the lower courts but nevertheless as the flow of complex legislation steadily increases so a thorough familiarity with the principles of statutory construction becomes necessary for the practising and the academic lawyer. An up-to-date and authoritative manual on the subject is therefore essential. The last edition of Maxwell on *The Interpretation of Statutes* was published in 1969 and the works which the editor of that edition, Mr P. St.J. Langan, referred to as *Maxwell's* younger sisters, *Craies* and *Oggers*, were last published in 1971 and 1969 respectively. This is, therefore, an appropriate time for a major new work and Francis Bennion has provided it with this book of remarkable scholarship and authority.

Mr Bennion has spent most of his professional life as a practitioner of statute law. A former parliamentary counsel with over thirty years experience of drafting legislation, both in Whitehall and in Commonwealth countries, he was the founder of the Statute Law Society and its chairman from 1977 to 1979. His book on the *Constitutional Law of Ghana* (1962) contains two absorbing chapters on legislative methods and his work on *Statute Law* (1983) discusses many novel techniques, such as the Jamaica schedule and the method of composite restatement, for improving the intelligibility of statutes. Thus Mr Bennion is especially well equipped to produce a major new text on legislative interpretation.

As a consequence of Mr Bennion's experience this book is naturally written from a draftsman's point of view with a structure similar to an Act of Parliament as a Code with commentary. In this fashion the text is organised in two divisions of 22 parts with 396 sections. The first division contains the System of Interpretation and the second deals with supplementary provisions. Proceeding from the primary statement that the legal meaning of a statute, its true construction, corresponds to the intention of Parliament, the Code provides a comprehensive and systematic analysis of the rules of interpretation. The Code is used to embrace all the many aspects of statutory construction—the rules, the presumptions, the linguistic canons, the use of logic and the part played by maxims. Each of the 396 sections is accompanied by a commentary which proceeds largely by way of examples, all of which are interesting; indeed the book may be dipped into with pleasure since on every page it provides some facet of interpretation to engage the lawyer. Altogether more than 800 statutes and 2,000 decided cases are cited in the text and the breadth of the commentary is impressive. A worked example of the method of the book, the Code in action, as applied to a problem arising from the Trades Description Act 1968, has been given by Mr Bennion in a recent article.<sup>2</sup>

In draftsman's terms the book is a codification of the rules of statutory construction rather than a consolidation in that it provides a systematic and rational treatment of the pre-existing law. The resultant danger is that it might mislead by its consistency. In practice the judges have a choice

---

<sup>1</sup> [1978] 3 All ER 37, 44.

<sup>2</sup> Bennion, 'Trade Descriptions, or How to tackle a problem of Statutory Interpretation' (1985) 135 NLJ 935.

between rules of interpretation which are sometimes inconsistent and this choice enables them to resolve a problem of construction in a manner which is in harmony with the climate of the times. This book with its codification of the subject may imply more system than actually exists. Indeed the clarity of the book and the sense of certitude it brings to a confused and difficult subject might paradoxically engender doubts in some quarters.

The appendices in the book are a valuable feature and the index is excellent. The updated text of the Interpretation Act 1978 appears as an appendix and another contains a

Start of page 300

check list of questions which might be of value in analysing an interpretative problem. Perhaps most helpful of all is the appendix on court technique which sets out the steps an advocate can usefully take when arguing a point of interpretation.

This book will undoubtedly become the standard work on statutory construction and deserves to be widely read by lawyers not only because of the importance of its subject but because of its intellectual clarity and vigour. It is, in this reviewer's opinion, one of the most significant and fascinating legal works to be published in the United Kingdom in recent years.