

Page 211

STATUTORY INTERPRETATION. By Francis Bennion. Second edition. Butterworth, London, 1992. cxlix + 954 pp. Hb. £130.00.

The first edition of this book was published in 1984. Over the past eight years it has become an indispensable reference book for practitioners. It is a treasure trove of useful references to decided cases and academic articles on every topic which it covers. It aims to be comprehensive rather than selective. Thus the practitioner searching for an authority in support of a particular proposition of law on statutory interpretation will often strike gold in the pages of Bennion.

The disadvantage of the comprehensive approach is that the book is lengthy, costly and dense. In an introductory section entitled 'How to Use this Book', the author suggests that the user who wishes to gain a thorough knowledge of the subject should 'read the book from beginning to end: it forms a connected narrative with pictures and stories.' At first I thought that this was serious advice but I later realised that the author was simply showing that he has a sense of humour. This is not a book to read from cover to cover. The style of the book—codified propositions of law followed by comment—is ideally suited for researching specific topics but it is too disjointed and too detailed for the reader who wishes to acquire a general understanding of the principles of statutory interpretation.

The task of monitoring statutes and statutory interpretation is obviously a depressing business. In his Introduction, Bennion provides a jaundiced description of law-making which should probably be read to every first year constitutional law student as an antidote to the traditional texts. He observes that Acts of Parliament are prepared unscientifically and in haste, often as a result of political compromise and deals. The drafter strives to 'paper over the cracks.' Bennion goes on to say that the Acts 'so faultily engendered' then pass in rapid succession before 'busy judges assisted by busier advocates,' few of whom 'have the time or are equipped, for cool and deep analysis.' The judges then 'lean to the delivery of impromptu and pithy (and therefore doubly inaccurate) descriptions of the nature of statutes and the principles governing their interpretation ... Not being based, as a rule, either on profound research or blinding insight, they tend to agree neither with each other nor with the real nature of the subject-matter.'

Start of page 212

Anyone involved in politics or the practice of law will recognise the force of Bennion's criticisms, in some, though not all, cases. There must be scope for reform in the present system of parliamentary drafting, particularly of last-minute amendments. But I believe that he is too ready to assume that apparently inconsistent judgments are the result of inadequate analysis by judges or barristers. In my experience, they are more often the consequence of a desire on the part of the court to find for one side rather than the other and a willingness to stretch the law to achieve the desired result. In some cases this process produces a result which accords with justice and common sense, and on other occasions it does not. But it means that statutory interpretation will never become a quasi-scientific process in a common law jurisdiction, no matter how much time and analysis is devoted to it.

A new edition of this work was urgently needed because, since the first edition was published, there have been many decided cases affecting the subject matter which have now been absorbed into the new text. The sections on judicial review have been entirely rewritten. The structure of the book has been reorganised so that there are now six Divisions instead of two. Each Division

is sub-divided into parts. There is a comparative table so that the sections of the Code in the first edition can be matched to the Code in the second.

The pace of decision making in this field means that a loose leaf encyclopedia format would have been more useful to the practitioner than another textbook. The text of the second edition is up to date to January 1992. But long before the date of the next edition there are likely to be landmark decisions in the European Court of Justice on the interpretation of English statutes in the light of European Community directives. The House of Lords has now extended the scope of the permissible use of Hansard by the courts. A looseleaf updating service would ensure that the book was kept up to date on any such developments. But, despite this minor complaint, this is a book which is well worth buying.

Beverley Lang