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Doc. No. NFB.1994.001 R24 1 Law Quarterly Review (10 April 1994)
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***STATUTORY INTERPRETATION.* By F. A. R. BENNION. [London: Butterworths. Second edition 1992, with Supplement 1993. cxlix + 954 pp. Hardback: £130.]**

The first edition of Bennion's *Statutory Interpretation* was a unique, pioneering work of scholarship. The second edition has the same enviable characteristics. It is as invaluable to any serious law library as was its predecessor. Lord Hailsham of St. Marylebone said that nine out of every ten appeals coming before the House of Lords concerned a point of statutory construction. Even allowing for some hyperbole, it must be clear to all that the importance of statute law has increased, is increasing and is not likely to be diminished. To the practising lawyer the necessity of having a sound working knowledge of the subject should be obvious. Yet it remains a strange fact that most centres of legal learning and most professional training courses treat the subject as of very secondary importance, if it be recognised at all. The late Sir Rupert Cross's *Statutory Interpretation*, recently edited by Dr. Bell and Sir George Engle. is an introductory work with which every practitioner should be familiar. Few practitioners will, or should, have the time to read all 921 pages of Bennion's *Statutory Interpretation*. It is essentially a work of reference but anyone will learn something of value just by dipping in.

The book takes the form of a code, drafted in the language of a statute, each section being accompanied by an explanatory commentary. At times the quasi-statutory language can be slightly maddening but the method, albeit in a slightly looser form, has the respected precedents of *inter alia*. *Scrutton on Charterparties. Dicey and Morris on the Conflict of Laws and Bowstead on Agency*. It has the virtue of concentrating on the propositions of law. rather than on the discussion of doubts and difficulties: it focuses the mind of the author and through him that of the reader.

It is hard to single out passages of especial interest. The author's explanation is so full that little that could be relevant is omitted. Sometimes matters are examined (e.g. the nature of judicial review) which seem almost beyond the subject of the book. Delegated legislation is considered in detail. Having regard to the huge mass of delegated legislation which appears each year and the minimal discussion of the subject elsewhere, this part of the book is invaluable. What are also of great value are the explanations of matters which are taken for granted until the point arises, usually without warning. What is the Queen's Printer's copy of a statute? (Despite Butterworths being the publishers of the book and of *Halsbury's Statutes*, the former explains, by inference, why the latter strictly require proof before being used in court.) Does a repeal recreate statutes repealed by the repealed Act? May the punctuation of an Act be referred to as an aid to construction? Does a statute apply to events which took place on the day of it receiving the Royal Assent albeit earlier in the day? When may two Acts be construed as one? These are but a handful of examples from the great number which make Bennion so useful to the practising lawyer who needs an answer without putting the client to the cost of research.

The worst nightmare of any author of a legal textbook is that just after publication an unexpected change in the law will make a significant part of the book obsolete or wrong. *Pepper v. Hart* [1993] A.C. 593 was just such a case for Mr. Bennion, but the publication of a supplement stating the law up to July 1, 1993, has not only remedied the situation but enabled the author to make a 50-page critique of the case. It contains many of the considerations which the House of Lords might usefully have had before it when reaching its decision. The Commonwealth material is properly examined and some of the more surprising views expressed in the House (for example, as to the ease with which the relevant material can be discovered) are duly exposed for their full value. Whether the decision was or was not a beneficial exercise in law reform can be discussed for many years but after Mr. Bennion's Supplement it is hardly possible to contend that the decision was reached in the most satisfactory way possible.

There are, as is inevitable in so vast a work, passages which may cause the reader's eyebrows to flicker with doubt. For example, is it really correct to say (p. 260): 'When Parliament dislikes a court decision it takes steps to reverse it. Failure to take such steps indicates acceptance if not downright approval'? Surely the reality is that the function of Parliament today is to make party political noises about the legislation placed before it by the executive and then, with very rare exceptions, to rubber-stamp it. Parliament has neither the will nor the ability to disapprove of a case, and in practice will only reverse it at the behest of. or at least with the approval of, the government. It must be doubtful whether in reality parliament has a will of its own such as to dislike anything. The will, or even the intention, of parliament has, in practical terms, much similarity with the emperor's new clothes. Parliament must surely be about as bad a body for the production of good legislation, in a practical sense, as the ingenuity of man could devise.

A good example of the parliamentary process and the approach of Bennion is shown when considering the technique of making textual amendments to legislation. Textual amendments, no doubt, make for ultimate clarity of meaning. However, the amending Act is usually incomprehensible, as is the amended Act until a composite text is printed. But there is no official composite text (except when one appears some years later in *Statutes in Force*, a white elephant of a publication which has now been suspended). Could not Parliament follow the example of Canada, set more than half a century ago, of publishing all textually amending Bills with the deleted text struck through and the amended text in bold type? At the last stage in the parliamentary process the words to be deleted are removed and the new words restored to normal type. It is, no doubt, convenient to ministers, civil servants and draftsmen that Bills should be incomprehensible, but does the practice militate in favour of good legislation?

The question considered above raises a wider question about the book. Do the citizens of the United Kingdom receive from the body capable of making statutory law the very best form of such law to meet the needs of the end of the twentieth century? The technique of 'precision drafting' (a happy phrase coined by Mr. Bennion (p. 297)) may lead, after the fifth or sixth reading, to a certain meaning. Sometimes it is the product of its own uncertainty, at least to the judicial mind. But, in a mass democracy, it may be thought that Mr. and Mrs. John Citizen are entitled to understand the statutes by which they are bound. Assuredly, modern statutes are not suitable for that purpose. They would fail the tests of section 14 of the Sale of Goods Act 1979. They are, indeed, not written for that purpose, but is the law to be a mystery for the few only? This is a problem which has to be faced sooner or later. Perhaps it would be better to do so sooner rather than later.

It may be said that qualitative judgment is neither required in nor appropriate to a code of the present law of statutory interpretation. Yet Mr. Bennion's knowledge of the subject is so great that his views could not sensibly be ignored. Perhaps they should appear in a different book. Meanwhile, the practising lawyer should buy a copy of ***Statutory Interpretation*** if it is not already in the library and await with interest from Mr Bennion a book containing a critical commentary of the subject matter of his magnum opus.

B. J. Davenport.