

Review of

STATUTORY INTERPRETATION

4th edition with Supplement, 2005 (Lexis Nexis Butterworths)

by Francis Bennion

When it first came out in 1984, Bennion on Interpretation was obviously a major contribution to jurisprudence; and it has remained so ever since. To anyone unfamiliar with this book, it takes the unusual form of a Code consisting of 462 numbered sections, each followed by a detailed exegesis. (We should have expected nothing less from a former Parliamentary draftsman.) The user is urged, "(in order), To gain a thorough knowledge of the subject: Read the book from beginning to end: it forms a connected narrative, with pictures and stories." Not so many pictures, however, and your reviewer must risk the author's ire by confessing to turning to the commentary first whenever he opens the book, which is frequently.

One does not have to be an admirer of the codification approach to appreciate the stunning scholarship which has gone into this work. And it is a subject which goes to the heart of the law. Bennion quotes Lord Hailsham of St Marylebone who, in his 1983 Hamlyn lectures, observed that over nine out of 10 cases heard before the Court of Appeal or the House of Lords involve the meaning of words contained in enactments of primary or secondary legislation. This applies, Bennion writes, also in the lower courts. "The difficulties have got worse since 1983, and increased further when the Human Rights Act 1998 was brought into full operation on October 2, 2000." It is all the more welcome therefore that the latest Supplement to Bennion should include a replacement of Part XXX of the book dealing with the Human Rights Act 1998. (Bennion comes down particularly hard on the misleading phrase, "reading down" and quotes Lord Steyn approvingly when he observed that it is nothing more than a euphemism for "strained construction".)

There is no field of law whose practitioners could not benefit from a copy of Bennion on their shelves. And because of the writing it is a pleasure simply to drop into it at almost any point. Consider the following passage which the author characteristically has no hesitation in citing from an approving source:

"Each generation lives under the law it inherits. Constant formal updating is not practicable so an Act takes on a life of its own. What the original framers intended sinks gradually into history. While their language may endure as law, its current subjects are likely to find that law more and more ill-fitting. The intention of the originators, collected from an Act's legislative history, necessarily becomes less relevant as time rolls by. Yet their words remain law. Viewed like this the ongoing Act resembles a vessel launched on some one-way voyage from the old world to the new. The vessel is not going to return; nor are its passengers. Having only what they set out with, they cope as best they can. On arrival in the present they deploy their native endowments under conditions originally unguessed at."

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