

## **Review of *The Irish Statute Book: A Guide to Irish Legislation***

**by Brian Hunt, B.A., M.Litt., Ph.D., B.L.,**

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**Publisher: First Law; Price: €195.00**

### **Book Review by Edward Donelan\***

The Irish Statute Book: a Guide to Irish Legislation examines two important topics central to governance in Ireland, namely: the legislative drafting process and the output from that process - the statute book. Despite the importance of these subjects, very little has been written about them in Ireland. Indeed, globally, there are few works of notable scholarship in this field. Dr. Hunt is, therefore, to be congratulated on identifying, analysing and describing these topics for Ireland.

Those who are knowledgeable in this field will note, with approval, that the foreword to the book was written by Francis Bennion, the leading authority on these subjects in the United Kingdom. Bennion is fulsome in his praise and states that this is "a remarkable book." He bases this view on the fact that the book is both a "thoroughgoing treatment of a difficult area of law" and a "campaigning" book.

The book casts a scholar's eye on the role of legislation. Well functioning societies and successful economies are governed by the rule of law and not the rule of man. Quoting Aquinas, Dr. Hunt, explains how "law is a rational ordering of things which concern the common good promulgated by whoever is charged with the care of the community." Legislation and those who draft it, therefore, play a crucial role in determining what can and cannot be done in a particular society.

The book provides a comprehensive analysis of the structures and features of legislation. This will be useful to the novice as a source of explanation of how legislation works and will be of value to those engaged in the task of drafting as an accessible source of examples of how to construct particular provisions, such as those on offences and penalties, appointment of authorised officers and so on.

The book provides a useful summary of the debate in relation to plain language. What Oscar Wilde said about the truth may also be said about legislation: it is rarely plain and never simple and efforts to simplify it tend to create other types of problems.

Dr. Hunt's book makes a compelling and convincing case for the statute book to be modernised. In Chapter 11, he makes some practical and sensible proposals as to how this could be done. It should be noted that since going to print the work of restatement and compiling the chronological tables to the statutes has been transferred from the Statute Law Revision Unit in the Office of the Attorney General to the Law Reform Commission. This transfer gives the Law Reform Commission an important role in the management and improvement of the Statute Book and effectively transfers the role of acting as custodian of the Statute Book away from the Chief Parliamentary Counsel to the Law Reform Commission.

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\* **Edward Donelan** was the Director of the Statute Law Revision Unit in the Office of the Attorney General from 1999 to his present appointment as the Senior Adviser - Regulatory Governance SIGMA (Support for Improvement in Governance and Management, a joint initiative of the OECD and the EU) where he advises governments on regulatory management (strategy, policy making and legislative drafting).

He also makes a compelling case for improving the quality of explanatory materials provided with legislation. The current approach compares very unfavourably with the detailed and informative materials available in most of the newer Member States of the EU.

Dr. Hunt makes some interesting assertions about the recruitment processes for new parliamentary counsel. He argues persuasively that “unjustifiably restrictive recruitment criteria coupled with the lengthy training period means that the OPC is not in a position to compete with the top tier law firms for the recruitment of high calibre graduates.”

He also makes out a good case for the recruitment of “suitably qualified law graduates” in place of the traditional requirements to recruit candidates from the ranks of barristers or solicitors with at least four years experience as practitioners. Generally, in the common law world, recruits for the drafting office are drawn from a much wider pool. Relevant experience of practice is taken into account but it is not essential. Dr. Hunt, therefore, raises a critical question why only draw recruits from the ranks of lawyers of four years standing?

Dr. Hunt’s belief that the recent availability in the Office of the Parliamentary Counsel of two manuals should provide a degree of consistency suggests that there were inconsistencies before the manuals. It would have been interesting for him to explore this issue more fully. No doubt the next edition of the book will follow up on this theme and establish whether the manuals have made a difference.

Overall, this book is a very valuable contribution to scholarship in a field which is of central importance to the effectiveness of democracy and the efficient management of the economy. The issues raised in it are important and should be fully debated.