

Bennion's Statutory Interpretation. FAR Bennion, MA (Oxon), Barrister. Third Edition. Butterworths. £187

Almost every argument an advocate has to address to a court or tribunal depends upon a clear understanding of statute law (or documents of like nature). Nine-tenths of all cases heard by the Court of Appeal or the House of Lords turn on statutory interpretation. Yet few barristers' chambers and fewer solicitors' libraries possess a satisfactory work on the interpretation of statutes. *Bennion* is, quite simply, the best such guide.

Written by a former legislative draftsman who was the founder and former chairman of the Statute Law Society, *Bennion* consists of a code of just over 1,000 pages long, setting out in ordered fashion all the 'rules' of interpretation, principles and presumptions of construction, together with an examination of the various types of enactment which fall to be construed. It is completed by a section on Community Law (which, regrettably, does not include the Human Rights bill, for which we are promised an early supplement). Accompanying each 'section' of the Code is a scholarly commentary with ample illustrations making it readily comprehensible.

The central problem with the interpretation of statutes is that one 'principle' of construction often produces a result contrary to another which seems equally applicable. This is not an easy problem. As Mr Bennion observes in his masterly introduction:

'The natural and reasonable desire that statutes should be easily understood is doomed to disappointment. Thwarted, it shifts to an equally natural and reasonable desire for efficient tools of interpretation. If statutes must be obscure, let us at least have simple devices to elucidate them. A golden rule would be best, to unlock all mysteries. Alas, as this book demonstrates, there is no golden rule. Nor is there a mischief rule, or a literal rule, or any other cure-all rule of thumb. Instead there are a thousand and one interpretative criteria. Fortunately, not all of these present themselves in any one case; but those that do yield factors that the interpreter must figuratively weigh and balance. That is the nearest we can get to a golden rule, and it not very near. If striving could do it, a true golden rule would here be presented to the reader. It can't. Licking the wounds, let us face the truth. Acts of Parliament are prepared unscientifically and in haste. They seek to regulate a future which is certain only of constant surprise. Some embody a Civil Service response to the lessons of practical administration. Others are the product of partisan politics, and liable to swift reversal. Others again spring from shifting moralities, or embattled religions, or other fancied certainties in an always uncertain world. Furthermore society is a coalition; and compromise invests almost all of these well-intentioned measures. Here and there deals have been done. The drafter has then striven to paper over the cracks.'

An example of the difficulties of construing legislation (not included in *Bennion*) is the dissenting speech of Lord Simon in the House of Lords in the case of *Tzu-Tsi Cheng v. Governor of Pentonville Prison*. After a rigorous review of the law he observed, '... it must be rare for so many canons -of statutory construction and an authoritative treatise, forensically approved in this regard, to concur in pointing to a particular construction.' Unfortunately, Lords Hodson, Diplock and Salmon failed to discern the same congruity of signposting; which seems to say a great deal about the art of statutory interpretation.

Mr Bennion does his best to assist the reader by a section (s.186) which purports to offer guidance where the interpretative factors do not all point in favour of the same interpretation. Even he has to concede, however, that 'There are no fixed priorities as between various factors, since so much depends on the wording of the enactment and the particular facts.' Some might think this observation cold comfort for the lawyer struggling to make sense of what, by definition, is an obscure point in the meaning of an Act of Parliament. Is it really beyond the wit of man to put together a set of guidelines for the interpretation of statutes which would be applicable except where explicitly excluded? Despite his professed views it is difficult to think of anyone more qualified than Mr Bennion to attempt this task.

Until that glorious day the prudent lawyer will rely on *Bennion*.