

NLJ Book Review Supplement

Page 174

Understanding Common Law Legislation

Francis Bennion

(Oxford University Press £30)

Reviewed by R. T. Oerton*

In this fascinating and entertaining book, Francis Bennion is mainly concerned with the interpretation of statutes drafted against the background of the common law system which we share with the US and other countries. It distils his previous work on statute law which has found its way, over the past 40 years, into half a dozen books and many more articles. The text is clear and accessible, enlivened by examples and enhanced by chapter summaries.

Francis Bennion has been, among other things, a member of the Parliamentary Counsel Office, where British legislation is drafted, and a distinguished one at that: his work includes the Consumer Credit Act 1974 and the Sex Discrimination Act 1975, and fortunately he has a bee in his bonnet about statutory interpretation. Let him put the point for himself: "In the life of the law as we know it lawyers who have not been taught statutory interpretation appear in court, day in and day out, before judges who labour under the same handicap of ignorance. From the point of view of legal coherence, the result is chaos."

The book seeks to dispel some of this ignorance and it includes a powerful plea for the subject to be taught to would-be lawyers in a different and more comprehensive way.

In addition to the common law method of construction, the book discusses the different methods to be applied when the Human Rights Act 1998 requires our judges "if possible" to reconcile our legislation with the Convention for the Protection of Human Rights and Fundamental Freedoms; and when a European Community law (whether it has direct effect or is translated into legislation of our own) falls to be interpreted here. To the latter our courts must apply the method adopted by the Court of Justice of the European Communities which "in advancing the 'spirit' is always ready to depart from the text".

Very few lawyers know all this. Your reviewer certainly did not. We all should; and Bennion's short book makes it rather fun to find out.

R. T. Oerton

Non*practising solicitor, Somerset

* Non-practising solicitor, Somerset