



**CRAIES**  
**ON**  
**STATUTE LAW**

*SEVENTH EDITION*

BY

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## PREFACE

SINCE the last edition of *Craies on Statute Law* a major event relating to the interpretation of statutes has been the setting up of the Law Commissions on June 15, 1965 (the date of the 750th anniversary of the signing of Magna Carta). The function of the two Commissions is stated in the Act which set them up (the Law Commissions Act 1965) to be the promotion of law reform; and their duties include keeping under review all the law with which they are each respectively concerned with a view to its systematic development and reform, including the codification of such law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law. Since their institution both Commissions have been hard at work in the furtherance of these duties and in the course of their labours they have examined, and produced reports on, a large variety of subjects including a joint report on the Interpretation of Statutes (Law Com. No. 21: Scottish Law Com. No. 11).

The Commissions' Report on the Interpretation of Statutes was published in April 1969 (after the circulation in 1967 of a Joint Working Paper for comment by distinguished personages and bodies all over the world) but the Report has never been debated by Parliament. For this reason the Report has not figured in the present work: but some reference to it and its recommendations must be made here and, I think, the simplest and safest way of dealing with it within the limited scope of this Preface will be to quote verbatim paragraph 80 of the Report. Paragraph 80 reads as follows:

“ 80. The basic conclusions which we draw from this exposition are as follows:

- (a) The meaning of a provision in a legislative instrument is the meaning which it bears in the light of its intended context;
- (b) In ascertaining the intended context of a provision, reference may be made not only to the ordinary use of words and the rules of grammar, as well as to the setting provided by the instrument in which the provision is placed, but also to certain other assumptions on the basis of which the legislator may have made the provision;
- (c) There is a tendency in our systems, less evident in some recent decisions of the courts but still perceptible, to over-

emphasise the literal meaning of a provision (*i.e.*, the meaning in the light of its immediate and obvious context) at the expense of the meaning to be derived from other possible contexts; the latter include the "mischief" or general legislative purpose, as well as any international obligation of the United Kingdom, which underlie the provision;

- (d) Common law presumptions as to the intent of Parliament may have a decisive influence on the meaning given to a provision, but they cannot, owing to their often indefinite scope and the indeterminate character of their inter-relationship, be regarded as binding. Particular difficulty has arisen with regard to the imputation of *mens rea* in a criminal statute (which is the subject of a separate enquiry by the Law Commission) and of a civil action for damages in case of breach of a duty imposed by a legislative instrument."

The Report also sets out in legislative form in an Appendix suggestions for certain additional aids to interpretation, *viz.* (a) punctuation and sidenotes, (b) reports of Royal Commissions, Committees or other official bodies, (c) international treaties, etc. presented to Parliament whether or not already binding on the United Kingdom, (d) documents bearing on the subject-matter of legislation which have been presented to Parliament and, finally, (e) any document declared by an Act to be a relevant document for the purposes of interpretation of that Act.<sup>1</sup> These clauses in the Appendix are qualified in the same Appendix by two provisions: 1, that the weight to be given to the new aids should be no more than is appropriate in the circumstances, and 2, that reports of proceedings in Parliament are not to be included among the proposed aids for any purpose for which they could not otherwise be considered.

The Report, which occupies some fifty-one pages, refers to and comments on about 150 cases, some old and some recent. Whether one agrees with all its propositions or not, it is a very valuable contribution to the subject with which it deals and should be studied by all who are interested in problems connected with the interpretation of the statute law.

<sup>1</sup> Two Bills in 1969 contained such a provision—the Animals Bill and the Matrimonial Proceedings and Property Bill—when first presented in the House of Lords: *cf. Hansard*, H. of L., Vol. 306, No. 22 (Dec. 11, 1969), cols. 717–726 and Vol. 305, No. 10 (Nov. 18, 1969), cols. 881–886 respectively. See also Clause 8 (4) of the current (1971) Sale of Goods Bill which is appended to and refers to Law Com. No. 24. Report on Amendments to Sale of Goods Act 1893 and Lord Wilberforce's amendment (withdrawn after debate) to Clause 33 of the Theft Bill 1968 see *Hansard* H. of L., Vol. 290, cols. 897–913.

*Craies* does not itself suggest what the law ought to be, although among the new cases which have been added in this edition some give weight to the Law Commissions' recommendations, e.g. *Salomon v. Commissioners of Customs and Excise* and *Post Office v. Estuary Radio Ltd.* (reference to treaties) (see p. 132, *post*) and *Letang v. Cooper* (resort to report of a Committee but not to the Committee's recommendations) (see p. 67, *post*). Other new cases in this edition relate to and confirm what is already more or less settled law, e.g. *Chandler v. Director of Public Prosecutions* (exclusion of marginal notes) (see p. 197, *post*): *Allen v. Thorne* (popular sense) (see p. 162, *post*): *Blyth v. Blyth* (*casus omissus*) (see p. 71, *post*): *Beswick v. Beswick* (Parliamentary debates) (see p. 129, *post*): *Bulmer v. I.R.C.* (chapter headings) (see p. 210, *post*): *Gartside v. I.R.C.* ("mischief" rule) (see p. 85, *post*).

The Editor (Mr. P. St. J. Langan) of the Twelfth (1969) Edition of *Maxwell on the Interpretation of Statutes* pays a graceful tribute to *Craies* and I in turn have to thank him for the help which I have received from his very up-to-date reproduction of that well-known and valued work. I have also to thank Mr. George Carmichael, Barrister-at-Law of the Middle Temple, for giving up much valuable time to helping me in this work; Mr. A. B. Lyons, the Editor of Statutory Instruments, for many helpful comments and suggestions; and Mr. T. R. F. Skemp of the Parliamentary Counsel and Mr. George Mitchell, C.B., and Miss Margaret Christie of the Lord Advocate's Department, all of whom have solved various problems for me.

Finally, I wish to acknowledge the debt I owe to my long-suffering wife and my publishers for their forbearance and consideration, to their very efficient and courteous publishing staff, to the admirable printers and to the indexer for very excellent work on the index. All these people have contributed very considerably to the new edition and I am very grateful to them.

S. G. G. EDGAR

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