

June 1985

COMMONWEALTH ASSOCIATION OF LEGISLATIVE COUNSEL

NEWSLETTER No. 5

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EIGHTH COMMONWEALTH LAW CONFERENCE

Preliminary planning is already taking place for the Eighth Commonwealth Law Conference, which is to be held in Ocho Rios, Jamaica, from 7 to 13 September 1986. Included in the conference is a free day on Wednesday, 10 September, on which it is proposed that CALC will organise a program for its members.

The tentative program that has been proposed is for a morning session on "Statute Law, Consolidation, Publication and the Keeping of Public Texts Up-to-date" and an afternoon session on "Electronic Aids in Legislative Drafting". Between these sessions there is to be a lunch for CALC members, and a general meeting of CALC will be held at the end of the afternoon session. The agenda for this meeting will, of course, include the election of office bearers for the next triennium. It is hoped that there will be a good attendance. Indeed, this newsletter contains a message from the Attorney-General of England, Wales and Northern Ireland in which he emphasises the importance of as many members as possible participating in the conference.

As to the Wednesday CALC sessions, it is hoped that as many CALC members as possible will offer to participate by speaking about significant developments in their own jurisdictions on the topics of the sessions. Any member who is willing to speak (for, say, 10-15 minutes), or to contribute a paper in absentia, is requested to write, in the case of the morning session, to Gerry Nazareth or, in the case of the afternoon session, to Geoff Kolts and let him have a brief note on the proposed content of the talk or of the paper.

A MESSAGE FROM THE RT HON SIR MICHAEL HAVERS QC MP, ATTORNEY
GENERAL FOR ENGLAND, WALES AND NORTHERN IRELAND

I have been asked by your President to contribute a piece for inclusion in the Newsletter which goes out periodically to members of the Commonwealth Association of Legislative Counsel. I am very glad to do so. When the formation of such an Association was proposed by the Attorney General of Australia at the Law Ministers' Conference held in Sri Lanka in February 1983, I gave the idea my wholehearted support; and I was present for part of your inaugural meeting in Hong Kong in the following September.

I am delighted to learn that your membership is nearing the 300 mark, and that some 80 different jurisdictions are represented. These figures show what a formidable body of experience and expertise the Commonwealth possesses in its legislative drafters; and it should be recognised how much their activities and, above all, their professional standards contribute to the rule of law throughout the Commonwealth.

In his inaugural address as your first President, Sir George Engle, rightly in my view, claimed that those who draft legislation have as important a function as judges in upholding the rule of law; and he went on to describe the Law Officers in the United Kingdom as the legal conscience of the government, and draftsmen as the legislative conscience of the Law Officers. There is indeed a long tradition of liaison between Parliamentary Counsel and the Law Officers in the United Kingdom. The Solicitor General and I rely on the draftsman of a government Bill to draw our attention in good time to any features of his instructions which might be regarded as falling short of the standards of justice and fair treatment which the rule of law requires.

There are sound practical reasons for this practice, since the Law Officers need to receive early warning of any features of a Bill which they may be called upon to explain and defend during the passage of the Bill through Parliament. It is to enable us to do this that the Standing Orders of the House of Commons allow us (and the Scottish Law Officers) to take part in the deliberations of a standing committee on a Bill, even if we are not members of the committee. We can thus attend any standing committee for the purpose of dealing with any points of a legal character that may be raised. But our relationship with Parliamentary Counsel is rooted in something deeper than these purely practical considerations, since we and they share a common heritage of standards and principles which, as lawyers, we are all concerned to uphold. And as Law Ministers, we are expected by our Ministerial colleagues to stand firm against any proposed derogation from these standards and principles.

I understand that the next General Meeting of your Association will take place in the course of the 8th Commonwealth Law Conference, to be held next year in Jamaica. I hope that as many of you as possible will manage to attend. The life-blood of an Association such as yours is personal contact between individuals, and the friendship and understanding which only personal contact can bring. I wish you all a successful reunion in 1986.

Michael Havers

ASSISTING DEVELOPING COUNTRIES

The Australian Federal Government and the governments of several of the Australian States have agreed to offer facilities for on-the-job training of legislative drafters from developing Commonwealth countries. Unfortunately, it appears that the availability of finance for this program will limit its scope to arranging for the training of drafters from countries in the Pacific region. Invitations have been sent to the countries concerned and an officer of the Office of Parliamentary Counsel in Canberra is visiting the countries concerned in June/July to discuss the proposed training and assess the suitability of the proposed trainees. It is hoped that the first trainees would commence their training early in 1986.

Apart from the above proposals, CALC is proposing to investigate other ways of assisting developing countries in relation to the drafting of legislation. In particular, we are anxious to know whether any Commonwealth countries would be interested in obtaining the services of experienced drafters, either retired drafters or working drafters who could be made available by their own offices in off-peak periods, to perform specific short-term drafting assignments.

- . If there are any members working in drafting offices who consider that they could use the services of experienced drafters in this way, it would be appreciated if they could arrange for their law officers or other appropriate governmental officials to inform the Secretary of CALC and furnish details (nature of topic and estimated drafting time involved) of the particular matters on which assistance is required.

- . Also, any members of CALC who are themselves available, or could be made available by the drafting offices for which they work, to undertake such assignments are

requested to give the Secretary particulars of their experience and of the period or periods in which they would be available for this purpose.

It is hoped that the necessary finance can be obtained from relevant governments or volunteer agencies for the purpose of performing these assignments. In a case where a drafter would only be available if he or she could be accompanied by his or her spouse, it is thought that finance might be available to meet the fares of the spouse concerned.