Newsletter

of the

Commonwealth Association of Legislative Counsel

August 2007

Published in Canberra, Australia, by the Commonwealth Association of Legislative Counsel.

Editor: Duncan Berry, c/- Office of the Parliamentary Counsel, Government Buildings, Upper Merrion Street, Dublin 2, Ireland.

In this issue—

CALC Conference 2007—Programme

Thursday, 13 September

Afternoon

2.30-2.45 Welcome address to members: Lionel Levert, CALC President.

2.45-3.30 Keynote address: The impact of judicial interpretation on legislation.

Speaker: Lady Justice Mary Arden, English Court of Appeal.

3.30-3.45 Break for coffee/tea.

3.45-4.30 'Judicial Interpretation of the South African Constitution'

Chair: Lionel Levert (Canada); Speaker: Enver Daniels (South Africa).

4.30-5.30 The impact of judicial interpretation on legislative drafting: Panel discussion.

Chair: Lionel Levert (Canada); Panelists: Lady Justice Mary Arden (England); Eamonn Moran (Australia); George Tanner (New Zealand); Stephen Laws (England); Enver Daniels (South Africa)

Evening

6.30-9.00 Reception and cocktail party for members at the Fairview Hotel, Bishops Road, Nairobi.

Friday, 14 September

Morning

9.15-10.30 'Quality control mechanisms' (including the involvement of other professionals in the drafting process, such as editorial assistants and jurilinguists).

Chair: Lionel Levert (Canada); Speakers: Meredith Leigh (Australia); Don Colaguiri (Australia); Ingrid Ludchen (Canada); Jean Charles Bélanger (Canada).

10.30-10.45 Break for coffee/tea.

10.45-11.45 'Legislative enforcement mechanisms' (including alternatives to criminal penalties)

Chair: George Tanner (New Zealand); Speakers: John Moloney (Ireland); Eamonn Moran (Australia)

11.45-12.30 'Best practices in drafting penal provisions'

Chair: George Tanner (New Zealand); Speakers: Don Colaguiri (Australia); Eamonn Moran (Australia)

12.30-1.15 'Problems in drafting anti-terrorism legislation'

Chair: George Tanner (New Zealand); Speakers: Nathalia Berkowitz (Gibraltar); Meredith Leigh (Australia)

1.15-2.30	Lunch.

Afternoon

2.30-3.15	'Wordsmith or counsel: the role of the legislative drafter'
Chair:	Eamonn Moran (Australia); Speakers: David Hull (Jersey); Stephen Laws (England)
3.15-4.00	'Managing increasing government expectations with respect to legislation while maintaining quality'
	Chair: Eamonn Moran (Australia); Speakers: Colin Wilson (UK, Scotland); Bilika Simamba (Cayman Is.)
4.00-4.15	Break for coffee/tea.
4.15-6.00	CALC general meeting.

Evening

7.30	CALC dinner at the Fairview Hotel (Aquarist Restaurant)

Saturday, 15 September

Morning

9.15-10.45	Master drafting class
	Chair: Don Colagiuri (Australia); Participants: John Wilson (England); Don MacPherson (Bermuda); Gilbert Mo (Hong Kong); Ben Piper (Australia)
10-45-11.00	Break for coffee/tea.
11.00-11.25	'Delegation by Parliament of its Legislative Powers: A South African perspective'
	Chair: Colin Wilson (Scotland); Speaker: Deon Rudman (South Africa)
11.25-11.50	Techniques for simplifying legislative language
	Chair: Colin Wilson (UK, Scotland); Speaker: Duncan Berry (Australia/Ireland)
11.50-12.15	'The Need for Simplicity in Legislation and Challenges in its attainment'
	Chair: Stephen Laws (England); Speaker: Hon Freddie Ruhindi (Uganda)
12.15-12.35	Keeping the Statute Book up to date: A self-help guide
	Chair: Stephen Laws (England); Speaker: Jeremy Wainwright (Australia/Ireland)
12.35-1.00	'One Giant Leap: The Ultimate Legislation System, Available Now'
	Chair: Stephen Laws (England); Speaker: Ed Hicks (Canada)
1.00-1-15	Closing speech: CALC President - Lionel Levert (Canada).
1.15-2.30	Lunch.

Afternoon

Visit to Nairobi National Park for game viewing.

Sunday, 16 September

Morning

9.30-11.00 Meeting of incoming CALC Council.

CALC general meeting: 14 September 2007

The next general meeting of CALC members will be held at the Fairview Hotel in Nairobi, Kenya, 14 September 2007 at 4.15 p.m. The agenda for the meeting is as follows:

1 Opening of the meeting by the President

2 Receipt of apologies for non-attendance

3 Receipt of proxies

4 Consideration and confirmation of minutes from previous general meeting

5 Discussion of matters arising from previous general meeting

6 Consideration of proposed amendments to the CALC constitution

7 Consideration of the CALC accounts

8 Election of officers and other members of the CALC Council

9 Twinning of legislative drafting offices

10 Provision of logistical support to CALC

11 Contributions to CALC publications

12 Venue and date of next CALC conference and general meeting

13 Any other business

Proxies

Members who are unable to attend the meeting may appoint a proxy to vote on motions put to the meeting that are to be decided by ballot. If you wish to appoint a proxy, please use the following form:

Appointment of Proxy

I/We, the undersigned full member(s) of the Commonwealth Association of Legislative Counsel (CALC), appoint

……

(a full member of CALC) as my/our proxy at the general meeting of members of CALC to be held on 14 September 2007 to vote on any motion put to the meeting that is to be decided by ballot.

Name of member	*Signature*	*Date*

Please send the completed form by air mail, fax or e-mail to the Secretary of the Commonwealth Association of Legislative Counsel at one of the following addresses:

Airmail: Secretary, Commonwealth Association of Legislative Counsel, Office of the Parliamentary Counsel, Government Buildings, Upper Merrion Street, Dublin 2, Ireland.

Fax Secretary, Commonwealth Association of Legislative Counsel - +353 1 661 1287

E-mail: duncan_berry@ag.irlgov.ie OR dr_duncan_berry@yahoo.co.uk

Nomination of officers and members of the CALC Council

Members may submit nominations for the positions of President, Vice-President and Secretary and for members of the CALC Council. Nominations should specify the proposer and seconder and should be delivered to the Secretary before the general meeting. On the understanding that the CALC constitution may be amended to provide for a Treasurer, a provisional nomination for that officer may also be made

Minutes of CALC General Meeting held on 9 September 2005

The following are the minutes for the CALC general meeting held on 9 September 2005 in the Beveridge Hall, Senate House, University of London, London, UK:

1. Opening of meeting

The President, Sir Geoffrey Bowman, opened the meeting at 9:30 a.m.

2. Present

122 full members and 9 associate members attended the meeting, a record attendance.

3. Apologies and proxies

The Secretary, Duncan Berry, reported apologies for absence from Sir George Engle (England & Wales), Sir Christopher Jenkins (England & Wales), Albert Edwards, Tony Yen (Hong Kong), Dennis Murphy (New South

Wales, Australia), Peter Pagano (Alberta, Canada), and Keith Patchett (Wales).

The Secretary reported receipt of a substantial number of proxies, particulars of which were available at the meeting.

4. Minutes of previous CALC general meeting (Melbourne 16 and 17 April 2003)

Printed copies of the minutes of the CALC general meeting held in Melbourne, Australia, on 16 and 17 April 2003 were distributed to members. The meeting unanimously confirmed the minutes without amendment.

5. Minutes of extraordinary general meeting of 30 January, 15 March and 3 June 2005

Printed copies of the minutes of the extraordinary general meeting held on 30 January, 15 March and 3 June 2005, at which a new CALC constitution was adopted, had been provided to members present. The President expressed special thanks to Duncan Berry, Lionel Levert, Don Colagiuri and all those responsible for drafting and obtaining support for the new constitution. The meeting unanimously confirmed the minutes of the extraordinary general meeting.

6. Secretary's report

Printed copies of the Secretary's report for the period April 2003-September 2005, prepared in accordance with clause 11 of the constitution, had been provided to members at the meeting. It dealt with membership numbers, the new constitution, publication of the Loophole, meetings and loosely associated local meetings and sale of CALC ties.

The Secretary presented his report, which the meeting adopted unanimously.

7. Accounts

John Gilhooly referred members to the report he had prepared on behalf of the Secretary. Copies of his report, and of the CALC HBOS account and the CALC tie account prepared by Michael Yeung, had been provided at the meeting. It was convenient to maintain a separate tie account. The tie account, audited in Hong Kong, had been circulated to the meeting.

The HBOS account, and the accounts for the conference, would be audited by the Internal Auditors of the UK Cabinet Office after the conference was completed.

In conclusion, John Gilhooly drew attention to the recommendations he had made in his report about the control and use of CALC funds.

The meeting unanimously approved the accounts and adopted John Gilhooly's report.

8. Elections of officers and members of CALC Council

Having been duly proposed and seconded, the following members were elected as officers of the Association:

President: Lionel Levert, QC, (Canada)

Vice President: Deon Rudman, (South Africa)

Secretary: Duncan Berry (Australia and Ireland)

The CALC constitution provides for the election of up to a further eight members of the CALC Council. Nine members were duly proposed and seconded. To avoid the need for an election, Colin Wilson (Scotland) generously withdrew his nomination in order to enable the Caribbean region of the Commonwealth to be represented on the Council. The following remaining members were declared to be duly elected as members of CALC Council:

Janet Erasmus (British Columbia, Canada)

Shahidul Haque (Bangladesh)

Lorraine Welch (Bermuda)

Tony Yen (Hong Kong)

George Tanner (New Zealand)

Clive Borrowman (Jersey, Channel Islands)

Jeremy Wainwright (Australia)

7 Arrangements for next CALC conference and general meeting

The Secretary told the meeting that the next Commonwealth Law Conference was to be held in Nairobi, Kenya, in September 2007. Several members asked whether it might be appropriate to sever the connection between the CALC conference and the Commonwealth Law Conference. In the light of this, a straw poll was held to determine how many of those attending the CALC conference were also planning to attend the Commonwealth Law Conference the following week. Although only a few said they did plan to attend that conference, a clear majority of those members present preferred to retain the link between the two conferences if this was feasible. After further brief discussion, the meeting decided that the final decision on where the next CALC conference and general meeting was to be held should be for the incoming CALC Council to make.

8 Any other business

The meeting also discussed the following matters:

(a) *Maximum number of Council members*

Under the new constitution, the maximum number of council members had been increased. It was questioned whether it should be further increased. It was concluded that any increase would require amendment of the new constitution.

(b) *Meetings of Council by conference calls*

Expense and inconvenience might be reduced if the council could hold meetings by telephone through a conference call service.

(c) *Regional groupings of CALC members*

The common interests of a region could make formation of regional groupings of members desirable. Setting up of regional associations was mooted. Members from Bangladesh, Pakistan, Sri Lanka, India and Singapore had already resolved to form an association, formally associated with CALC.

(d) *Subscriptions*

The question of charging a subscription, or differential subscriptions, for CALC membership or of providing for voluntary contributions, was discussed but was not pursued.

(e) *Scholarship fund*

It was suggested that a scholarship fund financed by voluntary contributions be set up, and that the matter be considered in conjunction with the council's consideration as to application of existing CALC funds.

(f) *Uncontactable members*

When addresses of members were not known or were difficult to ascertain it caused administrative problems, particularly for the secretary and for those organising meetings. Some e-mail addresses had been found to be cancelled after lasting for only three weeks. A notice in Loophole about the importance of keeping the secretary informed of current addresses could help. Currently, the only way of terminating membership was by dying or resigning.

(g) Timing etc of meetings

The timing of meetings in conjunction with the Commonwealth Law Conference, either directly before or directly after, was considered good. A show of hands at the meeting indicated that a substantial number were attending the Commonwealth Law Conference but that the majority were not.) It was important to consider whether and to what extent the local OPC might be able give support, but CALC should take care to do its own proper work in relation to the meetings and not thrust it upon others. Brunei was mentioned as a desirable venue for a future meeting.

The meeting closed at 11 a.m.

Secretary's report—September 2005 to September 2007[1]

Introduction

This report covers the period from the last CALC general meeting held in London during September 2005 to immediately before this meeting.

The CALC Council

The Council met in London immediately after the CALC general meeting. This is the only occasion on which the current Council has met as a group. However, the fact that all 9 members of the Council had access to e-mail has greatly enhanced communication among members of the Council. This has meant that decisions could be made relatively quickly and efficiently.

Membership

Since the last CALC general meeting in September 2005, the membership has continued to grow, with 97 new full

[1] This report is prepared in accordance with clause 11 of the CALC constitution adopted in Sydney, Australia, on 3 June 2005.

members and 9 new associate members joining CALC. On the debit side, 3 full members resigned and 2 others died. As at 31 July 2007, the total number of full members was 827 and the total number of associate members was 29.

Communication with members is now much easier than before, with approximately 85 per cent of members being contactable by e-mail. However, as long as there are members who are not accessible by e-mail, the need to provide facilities for the distribution of hard copies will continue. In this regard, I should like to express my appreciation to members of staff of the Law Drafting Division of the Hong Kong Department of Justice for continuing to make the necessary arrangements for preparing and distributing hard copies of issues of The Loophole and CALC Newsletters to those members who cannot be contacted by e-mail. In this regard, I should like to thank the former Law Draftsman, Tony Yen, his acting successor, Gilbert Mo, and Mr H.H. Lui.

I continue to have problems contacting many members because they fail to notify me when they change their addresses. Consequently, when I do a mail-out to members, it is not uncommon for me to receive as many as 50 non-delivery messages, either because a member's address is no longer valid or because a mail box is full. As the CALC constitution stands at present, CALC membership ceases only if a member resigns or dies. Consequently, the CALC Council believes believe that it should be possible to terminate the membership of members who prove to be uncontactable. To address this problem, an amendment to the CALC constitution has been prepared. This will allow the Secretary to terminate the membership of those members who, despite all attempts, can no longer be located.

CALC website

CALC web pages continue to be maintained on the Australian Office of Parliamentary Counsel website. All CALC publications, such as The Loophole and Newsletters, are now posted on the website shortly after publication. With the agreement of the members in general meeting, I propose to publish on the website a list of members and the jurisdictions where they are located.

On behalf of the CALC Council, once again I should like to thank Peter Quiggin, First Parliamentary Counsel of the Australian Office of Parliamentary Counsel, for his co-operation and assistance in maintaining these web pages.

It has still proved impossible to remove the old CALC website, which has long since become hopelessly out of date. This is because I have been unable to discover who is responsible for the site.

Publications

Since the formation of CALC in 1983, the main vehicle of communication has been through *The Loophole*, CALC's flagship journal, which contains articles involving legislation and legislative drafting issues. The other CALC publication is the CALC Newsletter, which contains news and information of interest to members.

For technical reasons, it was not possible to publish an issue of *The Loophole* during 2006. However, two issues have been published this year and a further issue will be published during September. This issue will be produced by Janet Erasmus and her colleagues in Victoria, British Columbia. I should like to thank Jeremy Wainwright for his assistance in producing the first of the 2007 issues and George Tanner and Ross Carter (Parliamentary Counsel Office, Wellington, New Zealand) for their work in producing the second of those issues. One issue of the CALC Newsletter was published during 2006.

New initiatives

At the last Council meeting, two new initiatives for CALC were suggested. One was to 'twin' well-resourced legislative drafting offices with less well-resourced ones. I believe this to be an excellent proposal, which is certainly in keeping with CALC's primary objectives. Should I be re-elected to the position of secretary, one of my first endeavours will be to approach the heads of legislative drafting offices in the 'old Commonwealth' to find out to what extent they are prepared to provide back-up services to less well-resourced legislative drafting offices.

Next year CALC will be 25 years old. The President has suggested that we should produce a book of essays on aspects of legislative drafting to mark the occasion. I believe this to be a very worth while project and, with the agreement of the general meeting and the incoming Council, propose to approach members with a view to obtaining contributions for inclusion in such a book.

Meetings of CALC members

The question of holding more frequent meetings of CALC members has been raised, but despite some attempts to set up such meetings, nothing has come of this. Meetings of legislative counsel have been held in Australia, Canada and Malaysia, but they have not been extended to CALC members as a whole.

A number of regional groupings of legislative counsel have either been established or proposed.[2] In at least one case, a group has expressed interest in being affiliated with CALC. The Council has proposed an amendment to the CALC constitution in order to facilitate such affiliations.

CALC funds

Since no subscriptions are currently payable for CALC membership, the Association has only limited funds. These funds were held in an account kept with the Halifax Building Society, in the UK. A few years ago, the Society demutualised and become a bank, the HBOS. As a result, the Association has become a shareholder in HBOS. The value of the shares is shown in the CALC accounts. After deliberating on the matter at some length, the Council decided not to liquidate these shares for the time being. The main reason for this is that the shares produce a better return than if the proceeds of the shares were placed on deposit.

CALC ties

Sales of CALC ties since the last general meeting have continued to be slow. With the retirement of the Hong Kong Law Draftsman, Tony Yen, Gilbert Mo has assumed responsibility of the stock of CALC ties. The ties are sold by CALC at £8 each, plus postage, and are available from Gilbert Mo at the Department of Justice, Queensway Government Offices, Hong Kong.

The CALC accounts show the number of ties sold so far. CALC ties will be available for purchase at the Nairobi conference, so those male CALC members who do not already own a CALC tie are urged to buy one. Should there be sufficient interest, I would very pleased to arrange for the acquisition of CALC scarves for female CALC members.

---

[2] E.g. At a meeting held in Malaysia in September 2004, it was agreed in principle to establish a regional grouping for legislative counsel who are working in south and south-east Asian Commonwealth countries.

Relationship with the Commonwealth Lawyers Association

Because of changes to the constitution of the Commonwealth Lawyers Association, it is now possible for associations like ours to affiliate with that Association. An application for affiliation with that Association is currently pending.

Duncan Berry (Secretary)

Proposed amendments to the Constitution of the Commonwealth Association of Legislative Counsel

1. Amendment of clause 2 – Definitions

In clause 2, for the definition of "members of the Council" substitute the following definition:

"*members of the Council* means the Officers, and the other members of the Council, elected or appointed under clause 9;".

2. Amendment of clause 4 - Objects of CALC

After clause 4(2)(d) add the following paragraph:

"(e) affiliating with other bodies having objects that are similar, or complementary, to those of CALC.".

3. Insertion of new clause 7A – Termination of membership

After clause 7, insert the following clause:

"7A. Termination of membership

(1) The Secretary may terminate a member's membership in accordance with this clause if the member has not responded to the Secretary after the Secretary has made such efforts to contact the member as are reasonable in the circumstances.

(2) Those efforts must include—

(a) sending a notice to the member using such contact details as are known to the Secretary, and

(b) circulating a notice generally amongst the membership giving the member's name and last known address, stating that the member's membership may be terminated unless the member informs the Secretary that the member wishes to remain a member and provides the Secretary with sufficient information to enable the member to be contacted in the future.

(3) A person's membership of CALC is terminated when the Secretary circulates a notice

generally amongst the membership giving notice of the termination.

(4) Nothing in this clause prevents the person whose membership has been terminated from subsequently rejoining CALC.".

4. Amendment of clause 9 - Membership of the Council

For clause 9(1), substitute the following subclause:

"(1) The Council consists of a President, a Secretary, a Vice-President, a Treasurer and not more than 8 other members."

5. Amendment of clause 11 – Functions of Officers

After clause 11(5), add the following subclause:

"(6) The functions of the Treasurer are–

(a) to manage and administer the financial assets and liabilities of CALC as directed by the Council;

(b) to maintain proper accounts for CALC and to present them for audit as required by the Council;

(c) to undertake on behalf of CALC such other responsibilities as the Council or CALC in general meeting specifies.".

First Plain-Language Rewrite of US Federal Civil Court Rules in 70 Years

are the product of an intensive four-year effort by federal judges, practising lawyers, law professors, and a drafting consultant, Joe Kimble. The rules, which were approved by the Supreme Court of the United States, are scheduled to take effect on 1 December 2007.

The project was undertaken by the Advisory Committee on Civil Rules and was supervised by the Standing Committee on Rules of the Judicial Conference of the United States. An associate member of CALC, Professor Joseph Kimble from Thomas Cooley Law School, served as the drafting consultant.

The civil rules, which cover more than 300 pages as approved by the Supreme Court, were originally written in 1937 and have never been completely rewritten since. The rules, which govern the procedure in all federal trial courts (U.S. District Courts), are relied on daily by countless judges and lawyers. They also serve as models for state courts.

The difference between the old and the new rules is striking. Here, for example, is an old rule:

"When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements."

Here is the new version:

"If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient."

The new rules will have great practical and symbolic importance. On the practical side, judges, lawyers, and law students will find them much easier to learn and use. They are also shorter, clearer, plainer, more internally consistent, and much better organized and formatted. At the same time, they will help put to rest the mistaken notion that laws and rules must be written in the archaic, inflated, verbose, and convoluted style that has come to be known as legalese.

According to Judge Rosenthal, who chaired the Advisory Committee, "Our goal was to make the rules clearer, more readable, and more consistent—without changing the substantive meaning. We think we have achieved that goal".

Other examples from the Civil Rules

Here are some more examples of the old and the new rules:

Old: There shall be one form of action to be known as "civil action".

New: There is one form of action—the civil action.

Old: When an order is made in favor of a person who is not a party to the action, that person may enforce obedience to the order by the same process as if a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process for enforcing obedience to the order as if a party.

New: When an order grants relief for a non-party or may be enforced against a non-party, the procedure for enforcing the order is the same as for a party.

Old: The practice as herein prescribed governs in [sic] actions involving the exercise of the power of eminent domain under the law of a state, provided that if the state law makes provision for trial of any issue by jury, or for trial of the issue of compensation by jury or commission or both, that provision shall be followed.

New: This rule governs an action involving eminent domain under the State law. But if State law provides for trying an issue by jury, or for trying the issue of compensation by jury (or both), that law governs.

On Loopholes[3]—Jery Payne[4]

Loopholes everywhere as far as the eye can read! Loopholes are the bane of drafters everywhere. Legislative lawyers work and work on a draft to perspicuously and elegantly define a crime. Drafters attend meetings with people who are out in the real world dealing with this statute. Drafters consider and research and think. And yet, within a couple of years the drafter will inevitably work on a "cleanup bill" to close all those nasty little loopholes that the drafter stupidly overlooked. This does not actually settle the issue. A few years later, there will be another cleanup bill. This seems to be the way of things. Are all drafters really that incompetent?

[3] This article was first published in *The Legislative Lawyer*, Volume XX, Issue 3, November 2006.

[4] Jery Payne is the editor of *The Legislative Lawyer and* an attorney for the Colorado General Assembly.

A popular online dictionary defines "loophole" as "[a] means of escape or evasion; a means or opportunity of evading a rule, law, etc." Then, it helpfully gives a usage example: "There are a number of loopholes in the tax laws whereby corporations can save money.[5] The difficulty with this definition is that it is not clear what type of evasion or escape actually qualifies as a loophole. Does it apply to the prescription or proscription of the rule, or does it apply to the punishment? Hopefully, a concrete example will help. A hypothetical tax law states, "Ten percent of a person's income above ten thousand dollars shall be paid to the government as a tax. Failure to pay such tax is the crime of tax evasion and shall be punished by imprisonment of five years". According to the dictionary definition of loophole, there must be a means of escape or evasion. Is it in the first sentence that the person evades? It does not appear to be the second sentence because that merely imposes punishment. Evading the second sentence is simply disobeying it. Consider the two ways that John Doe may respond to the first sentence. One, he may pay the tax. He would escape or evade punishment by paying, but this seems to be the purpose of the statute. Has he exploited a loophole? No. The statute's purpose was to change behaviour and it did. Two, he may not pay the tax. But if he gets caught, he will be punished. Therefore, he has not evaded the law, he has simply disobeyed it. The idea of a loophole seems to be in the notion that John does not pay the 10 percent and somehow manages to comply with the law. But this law appears to be ruthlessly discrete. Either he has paid 10 percent of his income or he has not. If he has, he has complied. If not, he has disobeyed and faces punishment.

Now, one may argue that the problem is that the dictionary definition is simply wrong. It lacks subtlety. What we need is a drafter. Perhaps a more promising definition of a loophole may be garnered from an actual tax law. Consider the federal law of tax avoidance:

> **26 USC '7201—Attempt to evade or defeat tax.**
>
> Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

For all its added words, the essential characteristic seems to be the same as the dictionary definition, which is the idea of "evading" or "defeating" the tax.[6] But this statute is helpful on one point: The problem is not in evading punishment but evading the tax itself.

Returning to our original austere statute, there are, of course, ways for John to avoid paying as much as he might otherwise and yet still comply with it. The chief strategy is for John to change his income. Consider the following strategies:

---

[5] *See http://dictionary.reference.com/search "loophole"*

[6] Note that the terms "evade" and "defeat" are not meant literally. The tax is not searching for or in a contest with the citizen. Therefore, the citizen cannot literally "evade" or "defeat" the statute. Statutes are not typically metaphorical. Laws do not typically read, "The state shall come down like a ton of bricks on a person who pulls a Richard Nixon." The metaphors envision a person standing on the courthouse steps smiling because he has not paid the tax that the authorities wanted him to pay, but he has won the court case. Therefore, he has defeated the tax and evaded its dictates.

(1) John gives some of his income to his daughter.

(2) John gives an asset to his daughter that generates income.

(3) John cashes in his bonds and buys a house instead of renting.

(4) John gives his daughter a monetary gift and then borrows it back from his daughter for investment purposes.

(5) John decides to become a ski bum.

(1) John gives some of his income to his daughter

John's daughter makes only $5,000 a year. John loves his daughter and sends her money every month to augment her meagre income. John asserts that he is not getting the use of the money, so why should he pay taxes on it? The simple answer is that John's assertion is false. He is getting the use of the money. He is buying happiness for his daughter. In other words, he is merely spending the money after it is earned. Once money is earned, it is income. Whatever happens after it is earned is irrelevant. This analysis is a two-edged sword. It suggests to a clever lawyer how John may achieve the same results while actually complying with the statute.

(2) John gives an asset to his daughter

Half of John's income comes from bonds as a result of investments. John realizes that once income is earned, he incurs the obligation to pay taxes on it. John decides that the solution is to give some of his bonds to his daughter and let her earn the income. Now, she earns the income on the bond. The total taxation paid by the two is less, and they have complied with the statute. Does this work? As a matter of tax law it does, but some may think that what we have here is in fact a loophole. The two have evaded the tax while complying with the statute. If the darned statute was only better written, then John would be paying his fair share of taxes. We shall see. But at this point, a detour is in order. I wish to isolate the idea of loopholes from the issue of drafting. Observing the same behaviour in its natural environment is useful to understanding. To this end, I am going to travel a bit astray and discuss the idea of "earning" in an arena where things are earned, there are rules based entirely on intuition, and no drafter can be blamed. I shall discuss the rules covering the earning of glory!

Those who are sceptical about whether there really are rules governing the earning of glory should consider the behaviour of George S. Patton in World War I. Patton was selected to be a central command staff officer by the Commander of the Armies, John Joseph "Black Jack" Pershing. As leader of the American Expeditionary Force in World War I, Pershing was in charge of winning the war in Europe. The assistance and ability of his staff was immensely important to winning the campaign. For example, a mistake in logistics may mean the difference as to whether the army had enough ammunition to win the battle or enough rations to capitalize on a victory. As one such officer, Patton's efforts at organizing, equipping, and deploying the army was of supreme importance to the war effort. In the command post, Patton's failures and successes cost and saved many a soldier's life.

And yet, Patton was not happy. Patton was keenly aware that the rules of glory only paid a pittance to people who worked in the office. The highest wages in glory were paid on the field. Never mind that the office job was more important to the overall effort. Never mind that Patton was good at it. Never mind that the war was being won. Never mind because Patton was missing all the glory! One of the rules for earning glory in war is that one must actually fight the enemy. Therefore, Patton repeatedly requested a change of assignment that would place him on the front lines. When victory appeared to be just over the horizon, Pershing relented and granted Patton's

petitions. Patton was transferred to a tank company and fought in the Battle of Saint-Mihiel, which was the last battle of the war. At the battle, he was shot in the rear[7] and earned a generous measure of the coveted glory. Indeed, he appeared to have been extremely proud of being shot. Whenever he would get tipsy at a party, he would drop his pants and show his wound. But, not only did Patton appear to think that his service in the field earned him glory, so did the army. For such service, he earned a battlefield promotion to colonel and both the Distinguished Service Medal and the Distinguished Service Cross.

Indeed, the rules of glory seem to be something of a mirror image of the rules of infamy. For example, Patton's office dilemma seems to parallel two rules of criminal law relating to murder, which is not surprising since the infamy of murder and the glory of battle both consist in killing. Behind a desk, Patton was not the proximate cause of the enemies' death because the soldiers' acts broke the chain of causation. Behind a desk, Patton was merely an accomplice to the death of the enemy. Consider also the premeditation-versus-accident distinction, the act-versus-omission distinction, and the attempt-versus-completion distinction. The law assigns much more blame for a premeditated and successful act of killing than an impulsive, accidental or attempted killing. We also assign more glory to the soldier who kills intentionally rather than accidentally, to a soldier who kills by an act rather than by not stopping another soldier from killing, and to a soldier who successfully kills rather than one who attempts but fails. Thus, the rules of blame appear to coincide remarkable well with the rules of glory.

What would one think about a person who took credit for another's discovery or achievement? I think we can agree that the person would be considered unethical. For a time, there was a controversy about whether John F. Kennedy deserved the Pulitzer prize for writing "Profiles in Courage." In 1957, a newspaper columnist stated on the Mike Wallace Show that Theodore Sorensen and Arthur Schlesinger were ghost writers for Kennedy. Both Kennedy and Sorensen denied this claim, and Kennedy was so angry that he threatened to sue. Now, it is not really important to our discussion whether the allegations are true and I do not claim to know, but the very existence of the controversy affirms the rules for the proper crediting of glory. After all, no one, including Kennedy, argued "so what if he did not write it!" The unspoken assumption was that Kennedy did not deserve the glory if he did not actually write the book.

The rules of earning glory also seem to parallel the tax law. Strangely enough, the unwritten rules of crediting glory also appear to allow one to claim the earnings of an asset. This particular permutation is aptly illustrated by the case of Anton van Leeuwenhoek. Leeuwenhoek is known to this day as the father of microbiology. Before him, the existence of single-celled organisms was unknown. Leeuwenhoek discovered infusoria, bacteria, and spermatozoa, among other things.

The interesting thing is that Leeuwenhoek was an amateur biologist at best, which caused no small amount of heartburn to the Royal Society of London for the Improvement of Natural Knowledge. Leeuwenhoek was not a biologist, but he was a pioneering lens maker. He discovered a lens-making method that was vastly superior to the known techniques. The Royal Society was dismayed, not because of envy, but because they believed Leeuwenhoek's lenses could be put to better use if they were employed by an actual biologist. To this end, they sent Dr. Molyneux to plead with the lens maker to share his microscopes with the Royal Society. Leeuwenhoek refused.

---

[7] In this instance, "rear" is used in the anatomical sense not the tactical sense. Perhaps a "rear guard" would have helped?

Eventually, Leeuwenhoek's credibility was questioned. Without access to his microscopes, no one could verify his incredible discoveries. Many in the Royal Society concluded that his writings were the product of a fruitful imagination. However, Leeuwenhoek's lenses eventually became available and his discoveries were eventually validated.

Like John Doe, Leeuwenhoek manipulated the facts so that he could earn glory from an asset. He was not terribly collegial about sharing his asset, but the fact remains that Leeuwenhoek was the actual person who made the discoveries, and thus, is the father of microbiology. In the same manner, since John Doe's daughter owns the asset, she is the actual person who earned the income. After all, John's wages are income generated from the asset of his labour over time. Therefore, it appears to me that John Doe and his daughter have merely rearranged their affairs to make compliance easier. Calling this rearrangement of affairs a loophole is not really reasonable.

(3) John cashes in his bonds and buys a house instead of renting.

For the unconvinced, consider another variation of the asset strategy. John realizes that he has to pay taxes on the earnings of his bonds. The logic that makes the previous tax strategy work also makes John have to pay taxes upon the earning of his bonds. John realizes that he could avoid considerable taxes with a different arrangement. John rents his house and uses the income from the bonds to pay rent. The bond income buys him a place to live. John realizes that if he were to sell the bonds and use the money to buy the house outright, he would receive the same benefit from the bonds, a place to live, with a lower tax burden. He will actually lower his income.

Therefore, John sells some bonds and buys the house. Now he has the same benefits but pays less in taxes. Is every person who owns a home exploiting a loophole?

In order to address this perceived loophole, tax professors have invented a concept they call "imputed income". Imputed income is a fancy term meaning "imaginary income". The basic idea is to assess a tax on the homeowner equal to the value of the home's rental value. After hearing my law professor explain this unusual idea, I raised my hand and asked him if he would allow one to take imputed or imaginary deductions. The law professor looked at me like I was crazy. But if one can be taxed on imaginary income, why can one not be given the benefit of imaginary deductions?

(4) John gives his daughter a monetary gift and then borrows it back from his daughter for investment purposes.

For those convinced that it is unreasonable to call transferring an asset to transfer income a loophole, then one more strategy is worth considering. John wants to transfer the asset to his daughter and keep it at the same time. Therefore, he writes a check to his daughter. His daughter then endorses the check and hands it back to John as a loan. John then pays his daughter interest on the loan in perpetuity. John invests the money and then is able to deduct the interest he pays his daughter from the income the investment generates. The interest he pays to his daughter is the actual cost of investing his money, and therefore lowers his income. Sure, he has to eventually give his daughter back the principal, but he figures she will eventually get it as an inheritance anyway.

This is the type of transaction that a court will not allow. The typical court simply will not allow people to avoid taxes by pushing a check across the table twice. It is too naked, too direct, and too easy. Of course, there does not appear to be any concretely principled or compelling way to distinguish this from the other asset transfer strategies mentioned. And the courts have tried for nearly a century.

Courts have tied themselves in knots trying to solve this dilemma. After a few attempts, the courts came up with a distinction between the "form" and "substance" of the transaction. This is a specious distinction. The venerable judge Learned Hand wrote about the distinction, calling the issue, "a troublesome question that the courts had beclouded by recourse to such vague alternatives as 'form' and 'substance,' anodynes for the pains of reasoning." *Commissioner v. Sansome*, 60 F.2d 931, 933 (2d Cir. 1932). Feel the scorn.

On the other hand, Learned Hand's own attempt does not appear to work either. He believed the distinction lay between transactions conducted for a business purpose and those conducted solely for the purposes of lowering one's taxes. See *Helvering v. Gregory,* 69 F.2d 809, 811 (2d Cir. 1934). Even though the IRS continues to cling to the form versus substance distinction, Hand's doctrine was adopted by the Supreme Court: "We hold ...that Section 163(a) of the 1954 Internal Revenue Code does not permit a deduction for interest paid or accrued in loan arrangements, like those now before us, that cannot with reason be said to have purpose, substance, or utility apart from their anticipated tax consequences." *Goldstein v. Commissioner*, 364 F.2d 734, 740 (2d Cir. 1966). In essence, the taxpayer is evading taxes if the transaction would not have taken place "but for" the tax law.

Unfortunately, this distinction fails to distinguish between this strategy and strategies (2) and (3) above, which would be fine except that those strategies are generally accepted under tax law. Indeed, it is childishly simple to avoid Hand's theory in the present example. John's daughter has merely to loan the money to a bank and have John take out the loan from the bank. Pushing the check across the table twice between two people is evasion, but pushing it across the table thrice between three people is not. Ultimately, the distinction has little predictive value. In other words, it does not really work as a guide to behaviour.

Is not the purpose of the law to change behaviour? Is not the purpose of distinctions and tests to communicate to people how their behaviour should and should not change? The form-versus-substance test or the "but for" test seems to be nothing more than justifications for reaching certain decisions after the fact.

While this should cause any true believer in evasion to think twice, the following strategy is even more devastating to the prevailing theory of loopholes.

(5) John decides to become a ski bum.

John has a pretty good income from his bonds, and he works a job. Now, he values his wages at merely 5 percent more than the time and labour he gives in exchange for his wages. After the income tax is imposed, he decides that the after-tax return on his investment of time and labour is less than the value of his net wages. In other words, the tax makes working for wages not worth his while. Therefore, John quits his job, moves to a ski town, rents a cheap apartment, and buys a season ticket at the lift. He settles into the modest but contented life of a ski bum.

If it is really the case that the distinction between tax compliance and evasion is in whether the decision was made "but for" the tax law, our loveable ski bum has been evading taxes! The evasion is legal but is a loophole. Are you willing to impose the additional taxes on him? He does not have the income. In fact, it appears that this is another example of imaginary income. He does not actually have the income, but he has the means to earn the income. Why should the person who works hard every day have to pay more taxes than this lazy schlub? Maybe the reason for all these loopholes is because the darned drafter made a mistake. Maybe the drafter should not have made the test "income".

May be the drafter should have made the test the person's "means" to pay. That is, we should stop focusing on a

person's actual earnings and start focusing on a person's means.

The extravagance of the loophole claim

May be we should appoint an agency to test every person to see what their best aptitude is. This would be a method of determining a person's ultimate means. If John has the means to become a corporate chief executive officer, why should he not pay the taxes of a successful CEO? No, we would not force him to become a CEO. He could become a teacher instead. Sure, his taxes might exceed his wages, but that is not the government's problem. John should be more ambitious! He does not have to be CEO, he can become a stock broker or lawyer. But it is up to him to produce the money. We cannot tolerate loopholes.

Of course, I have been having a bit of rhetorical fun. No one thinks such absurd things, which is the ultimate point. The absurdity shows, however, the lengths one would have to go to get rid of tax loopholes, which as near as I can discern means, "tax avoidance strategies that we do not approve of upon further review. "I have yet to study a law that does not admit gaming, and therefore, does not have those unexpected strange permutations that drive legislators and their drafters to drink.

One of the most important arts of legislating is to balance competing interests. The reality is that probably no legislator is willing to take the steps necessary to stop people from gaming the tax law, or for that matter, the criminal law or any other law. Legislators make these decisions based upon their understanding of how the law will eventually affect the population. Therefore, the legislator must choose between restrictive or permissive permutations.

In short, loophole issues cannot be divorced from policy considerations, which is my ultimate complaint about the term. The term "loophole" is rather an extravagant claim if it means that a drafter's error caused the law to not achieve all desired outcomes.

Even if we posit that the original drafter of the income tax law made a huge error and that the representative or senator introducing the legislation really wanted a “means” tax instead of an “income” tax, that does not mean that the bill would have passed. Just as it is highly unlikely that any legislator would vote to dramatically restrict people's freedom to marginally increase tax revenues, so one does not truly know whether a majority of the legislators would have voted in favour of a law if the law had been drafted differently. In essence, to claim that something is a "loophole" is to claim that one knows what each member was thinking when they voted for the bill. Indeed, the claim is even more far-reaching. To claim that something is a loophole is to claim to know what a majority of legislators would have thought had a bill that probably never existed been introduced. It is possible that someone has sufficient evidence to reasonably believe this, but I remain sceptical. In addition, this, the drafter's error, understanding of the term loophole contains an implicit argument that the issue has already been settled. Blaming the drafter for those strange permutations that inevitably exist tends to lower the burden of proof when someone is suggesting that a policy should be changed. This seems to be one of the reasons the extravagant theory is so popular.

On the other hand, the term "loophole" is a great deal less extravagant if it means that the current law has some unexpected permutations that the speaker believes are too permissive and should be changed on public policy grounds. This is a more reasonable use of the term and would help drafters to sleep at night.

Sir James Fraser, former First Legislative Counsel of Papua New Guinea—Tribute by John Christensen

I met Jim in Port Moresby late in 1977, and worked in the drafting office there with him until my return to Australia early in 1979. I met up with Jim again in 2000 when I was in Moresby on two occasions to work in the office that he now headed. By then he had also received a knighthood for his services to the country. On one of those occasions he reached retirement, and I had the good fortune to be present at his 'farewell'.

He had practised as a solicitor in Glasgow, and had also worked in Local Government there. Later he found his way to Tonga, and spent a number of years there as adviser to the government. He said to me one time that he would sometimes appear in court of a morning as Crown Solicitor, do some drafting and advising work in the afternoon and then have an audience in the evening with the King to discuss political and related matters. Jim was fluent in Tongan and married Maggie there many years ago. They had a son, Nicholas. Both survive him.

Jim had a wonderful dry sense of humour, and even at times of stress, would be able to say something that would have folk in the office laughing. Despite this Jim always had a serious sense of purpose. As befitted his background as a solicitor, he was a very practical person and knew how to get results. When I saw him in 2000 after a long time away from the office, I marvelled that he was able to do so much with so little in the way of resources.

He was valued and trusted by successive governments. On one occasion he was photographed in close conversation with the Prime Minister of the time, and this led to a demonstration about expatriate advisers or something of the sort where he was burned in effigy. He thought he was the only drafter ever to have had this honour!

His work for government was often associated with highly political events such as the suspension of provincial governments. Apart from preparing the necessary instruments (which could well be closely scrutinised in a challenge to the suspension) he would take a prominent role in advising the government.

After his retirement he stayed on as consultant to the government. Over his many years of service in Port Moresby Jim had acquired an immense store of knowledge not only of the law but of the people in all levels of politics. He was a precious resource that the government did not want to lose. He told me one time that he imagined that the day would come when he was on life support and someone would rush in and ask if the machine had been turned off yet!

In recent years he had been working more or less full time in drafting work for the Bougainville Provincial Government.

Jim been a keen bush walker and walked over most of the area around Port Moresby. Sadly the years after independence saw a decline in law and order throughout the country - particularly in the larger centres. Yet Jim seemed to take all this in his stride. He was completely unflappable. I recall one afternoon at the office how he casually counted off on the fingers of one hand not the occasions his car had merely been stolen no these were the four (or was it five?) times when his car had been taken from him at knife point! But Jim was made of stern stuff, he had served at one time in a parachute regiment.

Jim's drafting work took him into the very centre of public affairs in Papua New Guinea. The country owes him an immense debt. He will be keenly missed

New CALC members 2007 (and other membership news)

Full members

Australia (Commonwealth)

Stephen Argument [10/4/2007]
Office of Legislative Drafting
Attorney-General's Department
Robert Garran Offices, Barton ACT 2600
E-mail:

Lucinda Keogh [22/2/2007]
Office of Legislative Drafting
Attorney-General's Department
Robert Garran Offices, Barton ACT 2600
E-mail:

Australia (Northern Territory)

Catriona Steele [27/6/2007]
GPO Box 3144,
Darwin, Northern Territory 0810
E-mail:

Australia (Tasmania)

Jessica Chanin [16/7/2007]
Office of the Parliamentary Counsel
Level 11, AMP Building
86 Collins Street, Hobart, Tasmania 7000
E-mail:

Botswana

Kelebogile Marobela [27/7/2007]
Attorney General's Chambers
Private Bag 009, Gaborone
E-mail:

Motlepula Segopolo [27/7/2007]
Attorney General's Chambers
Private Bag 009, Gaborone
E-mail:

Bermuda

Anthony Richardson [31/10/2006]
Attorney General's Chambers
Global House, 43 Church Street
Hamilton HM12
E-mail:

Amani Lawrence [23/7/2007]
Attorney General's Chambers
4th Floor, Global House, 43 Church Street
Hamilton HM 12
E-mail:

Kathy Lightbourne-Simmons
Attorney General's Chambers
Global House, 43 Church Street
Hamilton HM12
E-mail:

Canada (Federal)

Bernard Auger [3/11/2006]
Department of Justice
275 Sparks Street, 4th Floor (4127)
Ottawa, Ontario K1A 0H8
E-mail:

Edward Hicks [8/5/2007]
Department of Justice
Legislative Services Branch
275 Sparks Street, 4th Floor
Ottawa, Ontario K1A 0H8
E-mail:

Paula Kingston
Justice Canada
275 Sparks Street
Ottawa, Ontario KIA OH
E-mail:

Ingrid Ludchen [8/8/2007]
Department of Justice
284 Wellington St., Room 3115 SAT,
Ottawa, Ontario, K1A 0H8
E-mail:

Sharon Walter [22/2/2007]
200 Kent St., Suite 8W-062,
Ottawa, Ontario K1A 0E6
E-mail:

Canada (Manitoba)

Glen McLeod [22.2.2007]
Legislative Counsel Office,
Manitoba Justice, 410 - 405 Broadway,
Winnipeg, Manitoba, R3C 3L6.
E-mail:

Canada (New Brunswick)

Eric Boucher [22/2/2007]
Office of the Attorney General,
670 King Street, P.O. Box 6000,
Fredericton, New Brunswick E3B 5H1
E-mail:

Canada (Ontario)

Alison Fraser [20/3/2007]
Office of Legislative Counsel
99 Wellesley Street West
Toronto, Ontario M7A 1H6
E-mail:

Canada (Quebec)

Deana Silverstone [22/2/2007]
518 Grosvenor, Westmount
Quebec, H3Y 25Y
E-mail:

Gibraltar

Nathalia Berkowitz [8/5/2007]
Legislation Support Unit, Government of Gibraltar,
5th Floor Treasury Building,
23 John Macintosh Square, Gibraltar
E-mail:

India

Brahm Agrawal [28/12/06]
Legislative Department, Ministry of Law and Justice,
Shastri Bhavan, New Delhi 110001
E-mail:

Harriet Apiny [19/6/2007]
Parliament of Uganda
P.O Box 7178 Kampala
E-mail: _____

Kenya

Joash Dache [24/7/2007]
Kenya Law Reform Commission
Taifa Road, P.O Box 34999-00100
Nairobi 00100
E-mail:

Johnson Okello [27/5/2007]
Kenya Law Reform Commission
Taifa Road, PO Box 34999,
Nairobi, 00100
E-mail:

Elizabeth Thuo [24/7/2007]
Kenya Law Reform Commission
PO Box 34999-00100, Nairobi
E-mail:

New Zealand

Roy Lee [24/7/2007]
Jiraskova 3, Novy Jicin
Czech Republic
E-mail:

Nigeria

Hilary Onwe [Esq.] [14/5/2007]
Office of the Clerk, Ebonyi State House of Assembly
Abakaliki Post Office
E-mail: _____

South Africa (Republic of)

Tsoarelo Malakoane [8/5/2007]
Private Bag X 20561
Bloemfontein 9300
E-Mail:

Uganda

Florence Aceng [14/6/2007]
Parliament of Uganda
P.O Box 7178 Kampala,
E-mail:

James Angura [31/7/2007]
Department of Legislative Services
Parliament of Uganda
P.O. Box 7178 Kampala
E-mail:

Solomon Wilson [19/06/2007]
Parliament of Uganda
P.O Box 7178 Kampala
E-mail:

United Kingdom (England & Wales)

Charles Carey [22/02/2007]
Parliamentary Counsel Office
36 Whitehall, London SW1A 2AY
E-Mail:

Huw Davies [22/02/2007]
Welsh Assembly Government,
Crown Buildings, Cathays Park,
Cardiff, Wales CF10 3NQ
E-Mail:

United Kingdom (Scotland)

Jim Clarkson [15/06/2007]
54 Whittingehame Drive
Glasgow, G12 OYQ

Gavin Henderson [8/8/2007]
Office of the Scottish Parliamentary Counsel
Victoria Quay, Edinburgh EH6 6QQ
E-mail:

Western Samoa

Sarona Ramoni [22/06/2007]
Office of the Attorney General
Level 4, Government Building P.O. Box 27, Apia
E-Mail:

Associate members

Ireland

Evelyn Robinson [31/7/2007]
Office of the Parliamentary Counsel
Government Buildings,
Upper Merrion Street, Dublin 2
E-mail:

Hong Kong

Arthur Cheung [31/7/2007]
Legislative Council Secretariat,
Legislative Council Building,
8 Jackson Road, Central, Hong Kong
E-mail:

United Kingdom (England & Wales)

Linda Fraser [22/05/2007]
Parliamentary Counsel Office
36 Whitehall
London, SW1A 2AY
E-mail: _____

United Kingdom (Scotland)

Robin Webster [22/02/2007]
35 Queen's Crescent
Edinburgh EH9 2BA
E-Mail:

Deaths

Maxwell Hawkins (Melbourne, Australia)
Sir James Fraser (PNG)

Resignation

Eric Csiba (Vanuatu)

Retirements

Lindsay King (WA, Australia)
Ray Siebuhr (Queensland, Australia)

Commonwealth Association of Legislative Counsel

MEMBERSHIP APPLICATION FORM

The Secretary, Commonwealth Association of Legislative Counsel,
6/F, Office of the Attorney General, Government Buildings, Upper Merrion Street, Dublin 2, Ireland

I, ……,wish to apply to become an individual member/associate individual member* of the Commonwealth Association of Legislative Counsel.

(signed) …….. Applicant

***Note:** Persons are eligible to become individual members of CALC if they are or have been engaged in legislative drafting or in training persons to engage in legislative drafting and are Commonwealth persons. A "Commonwealth person" is a person who is a citizen or a permanent resident of, or who is domiciled in, a country or territory that is a member of the Commonwealth of Nations. Persons who have been so engaged but who are not Commonwealth persons are eligible to become associate members of CALC.*

Please specify—

(a) your office/firm/etc. name and address ……

……

……Post code ……

(b) your home address …….

…….. Post code ……

(c) your office telephone no. § …….. your home telephone no. § ……....

(d) your office fax no. §……..

(e) your e-mail address(es) ……...

I *have no objection to having/do not wish to have** my home address and telephone number being included in the publication list of members. [**Delete the words that you do not want to apply to you*.]

---

§ Please include your country and area codes.
Instead of sending the completed form by post, you can send it by fax or e-mail if you wish. The fax no. is +353 1 661 1287 and the e-mail address is duncan_berry@ag.irlgov.ie or dr_duncan_berry@yahoo.co.uk.