

# Newsletter



of the



## Commonwealth Association of Legislative Counsel

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## Hyderabad conference

The 10th CALC conference and general meeting was held in Hyderabad, India from 9 to 11 February 2011. Hyderabad is India's 6th most populous city and one of India's major hubs for information technology (hence its nickname, Cyberabad). Despite the long flying distances to get to Hyderabad, the conference was very well attended with 95 delegates from 32 countries being present. The delegates included associate members from non-Commonwealth countries such as the USA, Ireland, and the Netherlands.

At the commencement of the conference, the general body of CALC thanked Dr Duncan Berry, the CALC Secretary for many years and a founder member of CALC, on his 75th birthday which fell on 9 February and coincided with the opening of the CALC 2011 conference. Dr Berry was presented with a special "bound" edition of *The Loophole* which comprised articles by members of the CALC Council.

The number of participants at the first afternoon session of the conference was swelled by the presence of 62 lawyers who were participants in the 26th International Training Programme in Legislative Drafting conducted by the Bureau of Parliamentary Studies and Training and the Lok Sabha (House of People) Secretariat at New Delhi. The participants were on their field programme which comprised a visit to a state legislature. As the chosen state this year was Andhra Pradesh and as the first afternoon of the conference coincided with the last day of their visit, arrangements had been made in advance to have them sit in at the first session. It was also a pleasant surprise to see Dr Ramadevi at the conference who was the CALC president from 1990 to 1992.

The theme of the conference was "Legislative Drafting: A Developing Discipline?" and the presenters spoke on a number of topics within this theme. In all, the conference included 10 sessions conducted over 2 ½ days as well as the CALC general meeting and the various social events.

The opening session on whether legislative drafting is an art, science, or discipline provoked some lively discussion, including debate about the meaning of those terms. Though there did appear to be some consensus that it was an art and a discipline, its characterisation as a science provoked some disagreement between panelists. One person even suggested it might be a vocation!

Roger Rose (UK) argued that there is generally no special language in statutes. He emphasized the need for consistency and conciseness in creating an effective and comprehensible draft. Sandra Markham (Ireland/Canada) concluded that the acquisition of the requisite knowledge and skills by legislative counsel is imperative to ensure a supply of qualified legislative counsel so that countries can grow and prosper in the modern world in a way consistent with the rule of law. She argued that legislative drafting offices should aim to recruit people who either had that knowledge and those skills or had the potential to acquire them. Those offices should then be able to provide the necessary training to enable those



Conference delegates at Taj Krishna

people to obtain the rest of that requisite knowledge and skill set. Pandit Atre (India) discussed legislation in the context of legal theory, with law seen as a system of rules and as a means of social engineering. He advocated the principle of enacting laws that resulted in the greatest good for the greatest number and discussed at some length the responsibilities of legislators in enacting legislation.

We heard from Sir Victor Glover (Mauritius) and Elizabeth Bakibinga (Uganda) in session 3 that they often do not have the luxury of declining involvement in policy and waiting for instructions to arrive. Owing to a lack of resources, particularly in the policy area, not only do legislative counsel draft legislation but they are also commonly required to develop policy, advise Ministers, and advise on the implementation of the legislation.

On “The wavering line between policy development and legislative drafting”, Paul Salembier (Canada) reiterated the traditional view that the legislative counsel does not meddle in the policy issues that underlie legislation being drafted but urged delegates to subject policy proposals to reality checks. Therese Perera (Sri Lanka) articulated that with the changes taking place in the field of drafting, legislative counsel may have to move away from their traditionally accepted role and become involved in the policy making process. This would enable legislative counsel to get a better understanding of the matters they are required to translate into law. Daniel Lovric (Australia) asked how legislative counsel should cope with human rights issues that arise during the legislative drafting process. In answering that question he proposed a systematic way in which legislative counsel might address those issues. Elizabeth Grant (NZ) reminded delegates that legislative counsel are legal advisers, not just drafters of legislation, and as such often have to address the gaps in drafting instructions that are outside the particular expertise of the instructing officials.

From the presentations of Ross Carter (NZ), Paul Peralta (Gibraltar), and Sudha Rani Relangi (India) on the theme of the “Role and efficacy of legislation”, it appears that this is influenced largely by the particular jurisdictions’ political environments and processes. Douglass Bellis (US) told delegates about the role of legislative counsel in the US House of Representatives and how legislative processes influence drafting practices.

The training and development of legislative counsel was raised frequently during the conference and was squarely addressed in the 6<sup>th</sup> session. Elizabeth Appiah (Ghana) noted that the dearth of legislative counsel in Commonwealth African countries poses a serious threat to the rule of law in those countries. Her presentation described the genesis and development of the African Training Program, which began with the support of the Commonwealth Secretariat in the mid-1970s. She also explored the development of legislative counsel as they multi-task their role, not only as legislative counsel, but also in policy formulation and as legal advisers. Mark Audecent (Canada) gave a lively presentation canvassing the ethical principles to be followed by officers of legislatures which, he suggested, could be emulated by the members of those legislatures.



Conference in progress

The session concluded with Archie Zariski (Canada) and Lionel Levert (Canada) presenting a survey of various methods for teaching and training legislative counsel in the techniques of legislative drafting and comparing and contrasting those methods. Their paper highlighted the strengths and weaknesses of each method.

The special difficulties of drafting in multilingual jurisdictions were well canvassed in presentations by legislative counsel from 3 countries with vastly different political and social situations (Marie-Claude Guay, Canada; Angie Lie and Allen Lai, Hong Kong, China; and Vastina Nsanze, Rwanda). The approaches ranged from drafting in parallel with neither language being dominant, as in Canada, to translating from one language to another which raises difficulties of intelligibility if a word-for-word approach is used. Vastina Nsanze also spoke of the challenges faced by Rwanda in employing suitable drafters and translators.

In a session on “Emerging trends in improving legislative drafting: Harnessing information and communication technology”, Wim Voermans (the Netherlands) and Ed Hicks (Canada) looked at how information and communication technology can or should transform legislative drafting, the publication of laws, and the legislative process itself.

The 2 concluding sessions dealt with a range of topics under the heading “Legislative drafting: Contemporary issues, trends, and challenges”. Paul O’Brien (Hong Kong, China) entertained delegates with examples of titles of Bills from different jurisdictions where, because of political pressures, there is an increasing use of slogans as titles.

Nick Horn (Australia) highlighted the importance of headings in assisting target audiences to understand legislation. He stressed the importance of headings in aiding users to access and navigate their way around a legislative document and the fact that they allow legislative counsel to show users how a legislative scheme works overall.

Peter Quiggin (Australia) presented the results of a survey of user attitudes to the use of aids to understanding legislation. The results of the survey largely confirmed the efficacy and value of those aids to comprehension of legislation.

John Moloney (Ireland) examined the impact of European Union law on legislative drafting in English speaking European countries, with particular reference to Ireland. His discussion was of particular interest to delegates from European jurisdictions.

Anna Kotzeva (Director of the Peace and Justice Initiative, Netherlands) gave a paper dealing with the problems involved in incorporating the International Criminal Court Statute into domestic law. Particular emphasis was given to commencement provisions which give rise to unusual legal challenges. Her paper explored the approaches adopted to solve this issue when it is identified at the drafting stage.

To conclude the session (and the conference programme), retiring CALC Secretary, Dr Duncan Berry, presented a paper titled “Is it good enough for legislative counsel just to state the rules?”. In answering this somewhat cryptic question with an emphatic “no”, Dr Berry urged legislative counsel not only to consider, but also to provide for, the consequences of contravening prohibitions and of failing to comply with obligations imposed by statutes and subsidiary legislation.

These presentations combined information on new developments in legislative drafting with important reminders about some of its long-standing fundamentals.

## The CALC general meeting

The CALC general meeting was held on the second afternoon of the conference but had to be adjourned until the afternoon of the third day in order to complete its business. This year there were no motions to amend the constitution but the election of council members took some time with several votes having to take place. The conference elected a number of new officers: Peter Quiggin replaced Eamonn Moran who stood down after serving 2 terms as President; Fiona Leonard replaced Dr Duncan Berry who retired after serving 5 terms as Secretary; Elizabeth Bakibinga succeeded Janet Erasmus from British Columbia who had served 3 terms as Vice-President. Several new Council members were also elected including Paul Peralta from Gibraltar, David Noble from New Zealand and Katy Le Roy from Nauru.

There was also a general discussion in which members exchanged views on raising funds for CALC and what the funds should be spent on. Another topic that was canvassed was the acquisition of CALC merchandise for resale to members. Apart from the hardy perennial of scarves for female members, members came up with a whole array of possible items, including pens, penholders, brooches, watches, business card holders, diaries and even baseball caps! The meeting decided to leave the decision as to what items to buy to the incoming Council.

## Social events

After the first afternoon's session delegates attended a cocktail reception in the foyer of the conference venue, the Taj Krishna Hotel. After the reception delegates broke up into various groups and headed for dinner.



Cocktail function

On Thursday evening conference delegates went on an excursion to Golconda Fort. This fort was the seat of power of the Qutb Shahi dynasty, which ruled the area around Hyderabad for several hundred years. It was a ruler of that dynasty, Muhammad Quli Qutb Shah, who founded the city of Hyderabad on the banks of the Musi river in 1591 to relieve a water shortage the dynasty had experienced at the old headquarters at Golconda. At the fort delegates attended a sound and light show which told the history of the fort and those who lived there. The sound and light show was followed by a dinner consisting of traditional south Indian cuisine. This was superb and those who attended were in

general agreement that it was the best Indian food they tasted during their time in Hyderabad.

The conference ended with an alfresco dinner at the Taj Krishna graced by traditional Indian dance performances. Everyone seemed to enjoy themselves. Indeed the evening was such a success that the last of the revelers did not find their way to their hotels until after 6am.

## **To conclude**

As well as producing some lively discussions, the conference provided an excellent opportunity for drafters to meet each other to strengthen their ties and exchange views.

Organising the conference was a considerable task and the success of the 2011 CALC conference was largely due to the untiring efforts and time devoted to the task by Eamonn Moran, Madeline MacKenzie, John Mark Keyes, Peter Quiggin and the other members of the sub-committees. Our thanks should also go out to Amaan Khan of Total Holiday Options and his able and energetic staff who were on the ground ensuring that the conference ran as smoothly as possible.

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## **CALC President's report—The conference in Hyderabad**

- 1 The conference in Hyderabad was a great success. Despite some logistical issues, it all came together at the end.
- 2 I would like to thank Eamonn Moran, and Elsie Chiu from his office, for the outstanding work that they did. I would also like to thank Madeleine MacKenzie who handled all of the financial aspects. The system having working groups to organise different aspects of the conference worked well and I would like to thank the working group Chairs and members.
- 3 I would also like to acknowledge the wonderful job that was done by the staff of Total Holiday Options in organising everything on the ground in Hyderabad.
- 4 A critical part of the conference is the speakers and I would like to thank all of those who presented a paper at the conference.
- 5 Finally, I would like to thank all of those who attended and made it such a memorable occasion.

## **The newly elected Council**

- 6 First I would like to congratulate all Council members on being elected to the various positions. I think that the Council has an excellent mix of people with experience on Council as well as some new members to bring fresh ideas.
  - 7 I think that the Council also has good balances of:
    - (a) male and female members;
    - (b) large and small jurisdictions;
    - (c) jurisdictions from across the commonwealth.
  - 8 I would also like to thank all Council members for agreeing to serve on the Council. I look forward to building on the work that has been done over previous years by the active Council led by Eamonn Moran.
  - 9 A list of the Council members with their email addresses is on the CALC website (see <http://www.opc.gov.au/calc/contact.htm>).
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## Priorities for CALC

### The priorities

10 The Council has considered the priorities for CALC over the next 2 years and agreed to:

- (a) organisation of the 2013 conference;
- (b) publication of *The Loophole* and the *CALC Newsletter*;
- (c) review the CALC website;
- (d) increased involvement in regional activities;
- (e) increased involvement with the Commonwealth Secretariat;
- (f) increased interaction between drafting offices.

11 I have set out more details on each of these below.

### Organisation of the 2013 conference

12 The CALC conference is the major event organised by CALC and is the showcase of CALC. The quality of the last few conferences has been outstanding and it is important that we maintain the standard.

13 The next conference will be held in Cape Town, South Africa, on 10 to 12 April 2013. Information about the conference will be circulated to CALC members and posted on the CALC website as it becomes available. In the meantime, you should mark those dates in your diary.

14 Any members who attended the Hyderabad conference and would like to provide feedback that we could take into account in organising the Cape Town conference should send it to [calc@opc.gov.au](mailto:calc@opc.gov.au).

### Publication of *The Loophole* and the *CALC Newsletter*

15 *The Loophole* and the *CALC Newsletter* are our main means of communicating with members. Duncan Berry has done a sterling job for many years co-ordinating the publication of both.

16 John Mark Keyes is taking over the overall co-ordination of *The Loophole* (after the issue that Duncan has in the pipeline). I would like to thank John Mark for taking on this task. If you have any articles that you would like published, please send them to John Mark.

17 Fiona Leonard, as Secretary, is taking on the role of preparing the *Newsletter*. This task is much easier if members supply information to publish. Please try to keep notes of anything that you think could be included and send it on to Fiona.

### Review the CALC website

18 The CALC website (<http://www.opc.gov.au/calc/>) is an important resource for CALC members and for others interested in legislative drafting.

19 We will be undertaking a review of the page to consider whether:

- (a) there is additional material that should be included;

(b) there is any current content that needs to be updated.

### **Increased involvement in regional activities**

20 The Council is actively pursuing an increased involvement in regional activities. The recent African conference is an excellent example. Another method of involvement is by CALC getting involved in existing drafting activities that are going on within regions.

21 One proposal is for a regional CALC conference for Asia and some nearby areas. We will provide further information about this as the proposal becomes more definite.

22 If you are aware of an event that you think that it would be good for CALC to be involved in, can you raise it with me so that we can investigate if something can be done?

### **Increased involvement with the Commonwealth Secretariat**

23 The Commonwealth Secretariat provides substantial funding in areas related to drafting. The Council is pursuing ways of becoming more actively involved with them.

24 The Council will develop a paper about what is needed on a Commonwealth-wide basis to support the development of drafting. It is hoped that such a paper could be put by CALC to the meeting of Law Ministers in Australia in July this year.

25 The Council will also be looking to work with other agencies that are similar to the Commonwealth Secretariat.

### **Increased interaction between drafting offices**

26 A common theme over many conferences has been the desirability of assistance between offices.

27 The Council will undertake a stocktake of what is being done and what has been done in recent years. We will also prepare a paper setting out the sorts of support that would be useful to offices.

### **Paper on CALC funding**

28 Duncan distributed a paper at the conference that gave a very useful background to the history and current position of CALC's funding.

29 A very important point from the paper was that CALC needs a "kitty" to ensure that we have funds available for conferences and to purchase goods for sale.

30 It also addressed the suggestion that CALC could provide funds to assist some members. As the paper notes: "Such proposals, laudable as they may be, cannot be implemented without substantial funds." I consider that it is most unlikely that such funds will be available over the next few years and we should therefore put the suggestion aside at this stage.

### **Advertising positions vacant**

31 As was mentioned in the paper and at the conference, there has been a fairly long running discussion of CALC's policy for charging for advertising by drafting offices etc. who are looking to recruit drafters. The Council has now determined the following policy:

- (a) we will charge 1,200 UK pounds to send an email to all members advising them that there is a job advertised on the website
- (b) we will charge 1,200 UK pounds to include an ad in a *Newsletter* and we then send an email advising that the *Newsletter* has been published.

32 The Council has also agreed that one of these approaches must be adopted before an ad will be put on the webpage.

33 Council also agreed that we should take a more generous and flexible approach to developing jurisdictions and that the President, together with the Vice President, Secretary and Treasurer be empowered to determine the rate on a case-by-case basis for developing jurisdictions.

34 Anyone who would like to advertise a position through CALC should contact Fiona Leonard or send an email to [calc@opc.gov.au](mailto:calc@opc.gov.au).

35 (I note that we do not charge for CALC members to advertise that they are available to do drafting work (these ads appear on <http://www.opc.gov.au/calc/contract.htm> and we just check every couple of years to see if people want to remain on the page). There is no proposal to charge for this.)

### **International Association of Legislation**

36 After the conference I met with Chris Moll from the International Association of Legislation (previously known as the European Association of Legislation). Chris was keen to pursue closer links with CALC.

37 IAL is an organisation with roughly similar interests as CALC. They have 150 members and charge a membership fee of 30 Euros for people and 150 Euros for entities. I gather that most of their members are European with a few South Koreans.

38 They promote seminars and hold a conference every two years. The next conference is in Moscow next year.

39 Their website is at <http://www.ial-online.org/>.

40 The CALC Council is interested in pursuing a closer relationship with IAL.

### **Membership lists**

41 An ongoing task is the updating of the membership records.

42 Please ensure that you advise Fiona Leonard of any changes to your details.

43 We will also be sending emails out to try and gather email addresses for some members. Any assistance that you are able to provide when we do this would be appreciated.

### **Other matters**

44 If there are any matters that you would like to raise with Council, please raise them.

45 I look forward to working with the Council and all other members over the next 2 years.

Regards

Peter Quiggin

President

CALC

March 2011

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## **Commonwealth Secretariat accreditation**

On 20 March 2011, CALC received notification from the Commonwealth Secretariat that it has been formally accredited to the Commonwealth Secretariat under the category of 'Civil Society Organisations'. The Commonwealth Secretariat Accreditation Committee noted that CALC's work in drafting legislation has the potential to make a significant contribution to underpinning Commonwealth values and principles. Special thanks to Dr Duncan Berry for his efforts at arranging for the accreditation.

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## **Benefits of accreditation to the Commonwealth Secretariat**

### **1. Visitor's Access to Marlborough House, the Headquarters of the Commonwealth Secretariat in London**

The following benefits, some of which are more widely available, will be available to organisations accredited to the Commonwealth:

- Access on request to Marlborough House
- Arrangements for informal discussions with Commonwealth Secretariat and Commonwealth Foundation staff on matters of special interest
- Able to consult with officers from the Secretariat and Foundation on matters of mutual interest in a field of activity related to the Commonwealth's work programme
- Accommodation for small meetings on work of direct relevance to the Commonwealth, subject to availability of space. Because of very limited number of formal rooms in Marlborough House, access is limited and priority is given to Commonwealth official meetings. A special small room (up to 25 people) is available to accommodate meetings of accredited organisations. A reduced charge may be levied for accredited organisations.

### **2. Access to general information**

- Access, upon request, to all public information not already available on the Internet
  - Access to Commonwealth information materials (e.g. posters, pamphlets)
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- Access to the Commonwealth News Information Service (CNIS) - the e-news service of the Commonwealth Secretariat, and Commonwealth People, the newsletter of the Commonwealth Foundation. Where possible, this information will be sent electronically although hard copies can be provided to organisations which require them or do not have access to the internet.

### **3. Access to consultation processes**

- Able to participate in civil society consultative mechanisms which advise the Commonwealth on its work. This is currently done in a variety of ways including sector Focus Group meetings.
- Invited to attend special consultations from time to time according to the subject area

### **4. Access to official meetings**

The Commonwealth holds a Commonwealth Heads of Government Meeting (CHOGM) every two years and regular Commonwealth Ministerial Meetings on Education, Health, Finance, Gender, Law, and Youth.

#### **(i) Commonwealth Ministerial Meetings**

Accreditation to Commonwealth Ministerial Meetings is by invitation and the benefits of being accredited vary according to the nature of the Meeting. They range from access to documents and the ability to submit documents to the ability to participate in discussions as an observer. Accreditation to meetings normally requires being accredited to the Commonwealth, plus working in areas of direct relevance to the Commonwealth and being known to the Commonwealth Secretariat or Foundation, through programme collaboration.

In special circumstances, accreditation to individual Commonwealth Ministerial Meetings may sometimes be extended to an NGO if it has a working relationship with the Commonwealth, whether or not it is an accredited organisation.

#### **(ii) Commonwealth Heads of Government Meetings**

All organisations accredited to the Commonwealth may apply to be registered to participate in certain events of the Commonwealth Heads of Government Meeting.

Benefits include:

- Able to submit papers
- May receive reports approved by Heads of Government
- Invited to opening ceremony and other social events subject to limitations of the venue
- May participate in activities organised to interact with the Committee of the Whole
- May submit proposals through the Commonwealth Foundation or Commonwealth of Learning.

## CALC general meeting

The following are the minutes of the CALC general meeting held on 10 February 2011 at the Taj Krishna Hotel, Hyderabad, India

### 1. Opening of meeting

The meeting began at 4.22 pm and was opened by the CALC President, Eamonn Moran QC PSM.

### 2. Present

A list of members who attended the meeting can be found in Appendix 1 to these minutes.

### 3. Apologies

Apologies were received from the following members:

David Hull (Jersey); Walter Iles (New Zealand); Mohammad Shahidul Haque (Bangladesh); Christine Landry (Canada); and, by implication, those members who lodged proxies.

### 4. Proxies

The Secretary announced that a number of members had lodged proxies with him within the time limit prescribed by the CALC constitution. A list of the proxies is not available at this time and will be published in a later *Newsletter*.

### 5. Minutes of previous CALC general meeting

With three amendments, the meeting unanimously confirmed the minutes of the previous general meeting held in Hong Kong on 9 April 2009. The three amendments are as follows:

- The reference to Jeremy Wainwright having served two terms as a member of the CALC Council was corrected to three;
- The failure to record the election of the two African CALC Council representatives, Estelle Appiah (Ghana) and Elizabeth Bakibinga (Uganda), was rectified.
- The failure to record the election of the two Australasian CALC Council representatives, Peter Quiggin (Australia) and Fiona Leonard (New Zealand), was also rectified.

Proposer: Estelle Appiah (Ghana)

Seconder: Elizabeth Bakibinga (Uganda)

### 6. CALC Council report

The Secretary, Duncan Berry, presented the Council's report, which covered the period from September 2007 to April 2009. The Secretary canvassed the report. Among the matters discussed were—

- CALC Council meeting
- the CALC membership (1086 full members; 86 associate members at 6 February 2011)

- the CALC website
- the publication and distribution of *The Loophole* (with 7 issues of *The Loophole* having been published since 2009 GM) and the *CALC Newsletter* (with 5 issues having been published since 2009 GM)
- the initiative of twinning well-resourced legislative drafting offices with less well-resourced ones
- regional meetings of CALC members<sup>1</sup>
- the rearrangement of the CALC membership records
- CALC funds and CALC funding
- CALC ties
- relations with the Commonwealth Lawyers Association
- accreditation with the Commonwealth Secretariat
- online forum (established jointly with the Canadian Institute for the Administration of Justice).

*Discussion:* The Secretary told the meeting that there had been a considerable increase in membership over the past two years. Only three deaths had been reported in that period, though there could have been others that have not been reported. There were quite a few other members who had failed to maintain contact with the Association by not keeping their membership particulars updated. The Secretary admitted that at least some of these people should probably have had their membership terminated in accordance with clause 7A of the CALC constitution, but this is a very time consuming job, particularly without logistical assistance.

As far as the membership records were concerned, John Mark Keyes mentioned that one CALC member and former CALC Council member had been subjected to abusive email messages from a person who had been able to get her address from details on the CALC website. The Secretary expressed his regret over this and suggested that steps should be taken to restrict non-members from having access to CALC publications and information containing members' personal details.

The CALC website continued to be maintained by the Australian Commonwealth Parliamentary Counsel Office and Peter Quiggin reported that efforts to improve it were continuing. Until 2010, circulation of CALC publications was by email attachment, but now those members who have provided email addresses receive an email notification that provides them with a hyperlink that enables them to have immediate access to the publication concerned and to download it on to their respective computers. The Secretary asked the members present at the meeting whether any of them had encountered difficulties with accessing CALC publications, but no one said that they had.

The question of twinning smaller legislative drafting offices with larger, better resourced ones was once more canvassed. The Secretary urged the incoming Council to pursue this issue more assiduously. It was also suggested that CALC should develop relationships with law reform agencies and it was agreed that the incoming Council should consider taking action on this.

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<sup>1</sup> See item 7 below.

The report was adopted unanimously. A copy of the report is contained in Appendix 2 to these minutes.

Proposer: Duncan Berry (Australia–Kenya)

Secunder: Lionel Levert (Canada)

## 7. Report on African regional conference

Elizabeth Bakibinga (Uganda) reported on the first CALC regional conference held in Abuja, Nigeria, in April 2010. She reported that 113 legislative counsel had attended the conference. One concern was a lack of contact addresses, because quite a few legislative counsel in the region had yet to become CALC members. She said that greater efforts would be made to encourage participation of all regional legislative drafting offices.<sup>2</sup>

## 8. CALC accounts

The Treasurer, Madeleine MacKenzie, presented the CALC statement of accounts made up to 3 February 2011. The Treasurer canvassed the accounts. Among the matters discussed were—

- the new source of income from advertising in *The Loophole*;
- the CALC tie account;
- the accounts (as at 3 February 2011, the accounts showed a cash surplus of over £18,500).

The Treasurer wished to express her thanks to Elsie Chiu (the Hong Kong Law Draftsman's secretary) for all the help she had provided in connection with the receipt and banking of registration fees for the 2011 conference.

After members had had an opportunity to examine the accounts, a motion approving the accounts was put to the meeting. The motion was passed unanimously. A copy of the accounts is contained in Appendix 3 to these minutes.

Proposer: Madeleine MacKenzie

Secunder: John Mark Keyes

## 9. Election of officers of the CALC Council

*Note:* Two of the elections were contested. The candidates for the two contested positions were each given 2 minutes to introduce themselves. The meeting decided that each voter could select either one or two candidates for each of those two regions. The meeting appointed John Moloney (Ireland), Chris Moll (Netherlands), Doug Bellis (USA), Allen Lai, Emma Wong and Angie Li (all Hong Kong) as returning officers to conduct the elections.

The meeting elected the following officers unopposed:

- President: Peter Quiggin

Proposer: Stephen Laws

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<sup>2</sup> A full report of the conference is to be found in the *CALC Newsletter* published in October 2010.

Seconder: Duncan Berry

- Secretary: Fiona Leonard

Proposer: Duncan Berry  
Seconder: Peter Quiggin

- Treasurer: Madeleine MacKenzie

Proposer: Don Colagiuri  
Seconder: Duncan Berry

There were two nominations for the position of Vice-President:

- Elizabeth Bakibinga

Proposer: Estelle Appiah  
Seconder: Peter Quiggin

- Duncan Berry:

Proposer: Duncan Berry  
Seconder: Ben Piper

After a ballot, Elizabeth Bakibinga was declared duly elected.

### **Election of non-executive members of the CALC Council**

In accordance with clause 9(3) of the Constitution, elections of non-executive members of the Council were held for 5 regions (Africa, Asia, Europe, the Americas, and Australasia and the Pacific).

(a) The meeting elected the following candidates as Council members for Africa unopposed:

- Estelle Appiah (Ghana)

Proposer: Peter Quiggin  
Seconder: Lionel Levert

- Duncan Berry (Kenya)

Proposer: John Wilson  
Seconder: Fiona Leonard

(b) The meeting elected the following candidates as Council members for Asia unopposed:

- Therese Perera (Sri Lanka)

Proposer: Sandra Markman  
Seconder: Catriona Steele

- Eamonn Moran (Hong Kong)

Proposer: Peter Quiggin  
Seconder: Rowena Armstrong



## 10. Election of Auditor

Colin Wilson (Scotland) was elected unopposed.

Proposer: Don Colagiuri

Secunder: Stephen Laws

## 11. Vote of thanks

On behalf of all members, Ben Piper moved a hearty vote of thanks to all officers of the Council for their hard work and tremendous contribution to the CALC. Ben expressed particular thanks to the outgoing Secretary, Duncan Berry, for the sterling work that he had done for CALC over the past 11 ½ years. The motion was carried with acclamation.

## 12. Adjournment of meeting

The meeting was adjourned at 6.15 pm on 10 February 2011.

## 13. Resumption of adjourned meeting

The adjourned meeting was resumed at 4.10 pm on 11 February 2011.

## 14. CALC funding policy

The Secretary, Duncan Berry, circulated a paper on CALC funding. The Secretary outlined the contents of the paper, which focused on the purposes for which surplus funds (if any) should be used and how revenue might be maximized, bearing in mind the traditional reluctance to impose fees for CALC membership. A major source of revenue during the past 3 years or so has been derived from publishing job advertisements in *The Loophole* and the *CALC Newsletter*. As the Secretary pointed out, there has been quite a bit of leakage as a result of a majority Council decision to allow employers to post their advertisements on the CALC website free of charge.

Ravi Sampanthar (Cyprus) once again raised the possibility of charging a subscription for CALC membership. Robin Ford (Canada) mentioned that she was a member of an organisation that charged a fee even for poor people. She said that by having to pay such a charge, the members valued their membership more than if it were free. However, it was evident from subsequent discussion that the members were generally opposed to levying a subscription for CALC membership.

Sandra Markman (Canada and Ireland) argued for no membership fees and no fees for access to the CALC website. However, she did support charging for advertisements, both on the CALC website and in CALC publications. If CALC made profits from its advertisements and conference registration fees, she suggested that those profits could be used to reduce fees for future CALC conferences.

Katy Le Roy (Nauru) agreed, saying that it was OK to charge fees for government sponsored advertisements in CALC publications and on the CALC website. However, she urged that advertisements from governments of developing countries should be charged at a significantly lower rate.

Ben Piper (Australia) suggested that the use of PayPal facilities might be considered for payment of registration fees for future CALC conferences. The President mentioned that Clarity International used a

program called Wild Apricot to collect subscriptions by credit card. The Secretary mentioned that as a result of the information received from Clarity he had taken out a temporary free subscription to Wild Apricot for 6 months. As a permanent subscription would have cost US\$25 per month to maintain, the Secretary allowed this subscription to lapse when continuance was not supported by other members of the Council. However, the President said that this option could be revisited before the next CALC conference if the incoming Council thought that it would be beneficial to use Apricot's services. (Another service offered by Wild Apricot is the maintenance of an organisation's membership records. This service would involve no extra charge.)

### **15. CALC merchandise**

A subcommittee chaired by Elizabeth Bakibinga had proposed a number of options for items that might be purchased for resale to members. In addition to scarves for female members, the subcommittee proposed that consideration be given to acquiring gift mugs, promotional pens and pencils, penholders, business card holders, clocks, jewellery items (including brooches, pins, pendants and scarf-rings), diaries and calendars. The subcommittee suggested that the scarves should be available in silk, satin and other synthetic material.

The Treasurer (Madeleine MacKenzie) mentioned that the Office of Scottish Parliamentary Counsel had acquired watches with the Office logo and suggested that CALC might consider buying similar watches (with the CALC logo) for resale to members. Sandra Markman expressed support for this proposal.

A further suggestion, put forward by Fiona Leonard, was to acquire baseball style caps bearing the CALC logo.

The meeting agreed that the incoming CALC Council should examine these suggestions and then buy stocks of those items that would be viable in terms of resales to members.

### **16. General business**

Robin Ford (Canada) suggested that CALC might consider becoming involved in "Linked In", which is a forum for the interchange of ideas. In response it was pointed out that CALC had already established a communication forum through the CIAJ<sup>3</sup> website. However, the disadvantage of this forum was that there was no system for alerting a contributor to responses to the contributor's communication or of alerting forum participants to new postings.

### **17. Concluding remarks**

In tabled remarks, the outgoing Secretary, Duncan Berry, said it had been a great privilege to serve as CALC Secretary for the past 11 ½ years. It had been hard work but the reward was to leave the position with the knowledge that CALC was now a much stronger, and much more vibrant and dynamic, organisation than it had been when he was elected Secretary in 1999. But other officers had also made significant contributions to the development of CALC during that time and in that regard he wished to

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<sup>3</sup> Canadian Institute for the Administration of Justice.

particularly single out Hilary Penfold, Geoffrey Bowman, Lionel Levert, Jeremy Wainwright, Tony Yen, Eamonn Moran and Peter Quiggin. He wished his successor, Fiona Leonard, well in her new role.

### **18. Next general meeting**

It was agreed that the next CALC general meeting would be held in Cape Town in April 2013 at a venue and date to be fixed by the incoming CALC Council.

The meeting closed at 5.14 pm on 11 February 2011.

### **Appendix 1—List of members attending CALC general meeting<sup>4</sup>**

<i>Name</i>	<i>Title</i>	<i>Country</i>
ANGURA James Peter (Mr)	Senior Legislative Counsel	Uganda
APPIAH Estelle Matilda (Mrs)	Director of Legislative Drafting	Ghana
ARMSTRONG Rowena Margaret (Miss)	Consultant/ Legislative Drafter [Former Chief Parliamentary Counsel, Victoria, Australia]	Victoria, Australia
AUDCENT, Mark (Mr)	Law Clerk and Parliamentary Counsel	Canada
BAKIBINGA Elizabeth Martha (Ms)	Legal Officer	Uganda
BEATTIE Andy (Mr)	Parliamentary Counsel	Scotland, UK
BERRY Duncan (Dr)	Consultant Legislative Counsel	Australia & Kenya
BIRIBONWOHA Pius		Uganda
BUSHBY Adam (Mr)	Parliamentary Counsel	Victoria, Australia
CARTER Ross Ian (Mr)	Parliamentary Counsel	New Zealand
CHINTAPANTI Adithya Krishna (Mr)	Practising Advocate	India
COLAGIURI Don (Mr)	Parliamentary Counsel	New South Wales, Australia

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<sup>4</sup> Please advise the CALC Secretary if you attended the CALC general meeting but your name does not appear on the list.

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DOW John Hugh (Mr)	Legislative Counsel	United Kingdom
FORD Robin (Ms)	Independent Consultant	Canada
GILL Simon (Mr)	Assistant Parliamentary Counsel	South Australia, Australia
GOSWAMI Partha (Shri)	Under Secretary	India
GRANT Elizabeth (Mrs)	Parliamentary Counsel	New Zealand
GUAY Marie-Claude (Ms)	Lawyer – Senior Counsel	Canada
HASSAN Hasnah (Madam)	Senior Legal Officer	Negara Brunei Darussalam
HEBB Gordon Dingman (Mr)	Chief Legislative Counsel	Canada
HICKS Edward (Mr)	Legislative Counsel	Canada
HJ MOHD NOOR Zulkhairi (Mr)	Deputy Senior Counsel	Brunei Darussalam
HORN Nick (Mr)	Senior Assistant Parliamentary Counsel	Australia
JAIN Sharda (Mrs)	Additional Legislative Counsel	India
JAMES Gillian Mary (Ms)	Parliamentary Counsel	New Zealand
KEYES John Mark (Mr)	Chief Legislative Counsel	Canada
KHAN Alice (Miss)	Principal Counsel	Brunei Darussalam
KIRUNDA Solomon Wilson		Uganda
KONIVARO Vela (Mr)	Second Legislative Counsel	Papua New Guinea
KOTZEVA Anna (Ms)	Director	Netherlands
KRISHNAN R. Santhan (Mr)	Advocate, Supreme Court of India	India
KUMAR K.R. Saji (Mr)	Deputy Legislative Counsel	India
KUMAR Sujay (Shri)	Under Secretary	India
LAI Kai Pang, Allen (Mr)	Senior Government Counsel	Hong Kong, China

LAM Ping Man (Mr)	Assistant Legal Adviser	Hong Kong, China
LAWS Stephen (Sir)	First Parliamentary Counsel	England, UK
LE ROY Katherine Jane (Ms)	Parliamentary Counsel	Nauru
LEE Chuan Huei (Mr)	Senior State Counsel	Singapore
LEONARD Fiona (Ms)	Parliamentary Counsel	New Zealand
LEVERT Lionel A (Mr)	Consultant, Legislative Services	Canada
LOVRIC Daniel (Mr)	Senior Assistant Parliamentary Counsel	Australia
MACASAET Manuel (Mr)	Legislative Counsel	Qatar & Australia
MACKENZIE Madeleine (Miss)	Scottish Parliamentary Counsel	Scotland, UK
MAHANA Deepak (Shri)	Joint Secretary	India
MAHESHWAR (Shri)	Under Secretary	India
MARKMAN Sandra C (Ms)	Consultant Parliamentary Counsel	Ireland
MCINNES Susan (Ms)	Legislative Drafting Consultant	Victoria, Australia
MOHAN Vinay (Shri)	Additional Director	India
MOLL Chris (Mr)	Director, EALL	Netherlands
MOLONEY John (Mr)	Legal Drafter	Ireland
MORAN Eamonn (Mr)	Law Draftsman	Hong Kong, China
MUNYARD Walter Bela (Mr)	Parliamentary Counsel	Western Australia, Australia
NGXINGO Mpilo Ian (Mr)	Senior Manager, Regulatory Support & Legislation Drafting	Republic of South Africa
OBRIEN Paul John (Mr)	Senior Assistant Law Draftsman	Hong Kong, China
PERALTA Paul Charles (Mr)	Head Draftsman, EU and International Department	Gibraltar
PERERA Therese Rajakumari (Mrs)	Legal Draftsman	Sri Lanka

PETERING Christine (Ms)	Parliamentary Counsel	Victoria, Australia
PHANG Hsiao Chung (Mr)	Senior State Counsel	Singapore
QUIGGIN Peter (Mr)	First Parliamentary Counsel	Australia
QUINN Liza (Miss)	Senior Assistant Parliamentary Counsel	Australia
RAMADEVI V S (Dr)		India
RELANGI Sudha Rank (Mrs)	Deputy Legislative Counsel	India
ROSE Roger Neville (Mr)	Legal Consultant	England, UK
ROSSENKHAN Khursheed (Ms)	Chief State Counsel	Botswana
SALEMBIER Paul (Mr)	General Counsel	Canada
SAMPANTHAR Ravi (Mr)	Legislative Counsel	Cyprus
SHEANE Willoughby (Mr)	Attorney-at-Law	USA
STEELE Catriona (Ms)	Assistant Parliamentary Counsel	Nauru
VERMA Naval K. (Shri)	Under Secretary	India
WAINWRIGHT Jeremy Winton (Mr)	Consultant Legislative Drafter	Australia
WILSON John F. (Mr)	Law Drafting Consultant	England, UK
ZARISKI Archie (Mr)	Associate Professor	Canada

## **Appendix 2—CAL Council Report—April 2009 to February 2011**

Presented by the Secretary

### **Introduction**

This report covers the period of approximately 22 months from 8 April 2009 (the date on which the last general meeting of the Commonwealth Association of Legislative Counsel (CALC) was held in Hong Kong).

### **The CALC Council**

The Council met in Hong Kong immediately after the CALC general meeting. This is the only occasion on which the current Council has met as a group. However, because of modern electronic communication

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methods, the fact that Council members are from diverse parts of the globe, and so are not able to meet as a group, has not proved an obstacle to effective decision making.

## **Membership**

Since the last CALC general meeting in April 2009, the membership has continued to grow, with 99 new full members and 30 new associate members joining the Association. On the debit side, 7 full members resigned and 3 others died. As at 6 February 2011, the total number of full members was 1051 and the total number of associate members was 86.

Communication with members is of course now much easier than before, with approximately 85 per cent of members being contactable by email. However, as long as there are members who are not accessible by email, the need to provide facilities for the distribution of hard copies will continue.

Because of continued communication difficulties resulting from the failure of some members to notify changes of address or to clear their email boxes, it was decided to post CALC publications on the CALC website and then send members a message telling them to connect to the hyperlink and then download the publication onto their PCs. This seems to have proved successful. To date no member has, to my knowledge, complained about the change in procedure.

At the 2007 CALC general meeting in Nairobi, the CALC constitution was amended to enable the membership of CALC members to be terminated if they could no longer be contacted. In February 2009, the first letters to members were sent to the residential addresses of those members who are no longer contactable by email or via their office addresses informing them that their membership would be terminated if they did not update their membership details. I am glad to report that the letters have had a positive effect with many (if not most) of the members concerned updating their personal details.

Since the last general meeting, through the auspices of Council member Commonwealth OPC, Peter Quiggin, the Australian Commonwealth Office of Parliamentary Counsel has assumed responsibility for maintaining the CALC membership database. The records are regularly updated by a member of Peter's staff, Nita Green. However, membership applications have continued to come to me to determine the eligibility of applicants for full or associate membership. On being accepted for membership, new members' basic details are notified in the next *CALC Newsletter* to be published after acceptance. Membership details are then recorded on the membership database.

## **CALC website**

CALC web pages continue to be maintained on the Australian Office of Parliamentary Counsel website. All issues of *The Loophole* and *CALC Newsletters* are now posted on the website shortly after publication.

The current CALC website was established in 2000, but unfortunately it became out of date in certain respects. Consequently, Lucy Marsh Smith and I recently reviewed the website and made some proposals for bringing it up to date. These proposals have since been implemented.

In the last Council report, I mentioned that I was giving consideration to publishing in the CALC web pages a list of members and the jurisdictions where they are located. I should be grateful for a steer from the members as to whether I should proceed with this.

Peter Quiggin and the Australian Office of Parliamentary Counsel have continued to host and manage the CALC website. Members can find a wide range of material on that site, including all issues of *The Loophole* and *CALC Newsletters*, and I encourage all members to access the website and make use of all that it has to offer. I am grateful to Peter and his office for all that they do in this regard.

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.

Three issues of *The Loophole* were published during 2009, three during 2010 and one at the beginning of 2011. Two issues of the *CALC Newsletter* were published in 2009, two in 2010 and one in January 2011.

I should like to express my appreciation to the staff of the Australian Commonwealth Office of Parliamentary Counsel for continuing to make the necessary arrangements for notifying members of the availability of the electronic versions of *The Loophole* and *CALC Newsletters* and for preparing and distributing hard copies of issues of those publications to those members who cannot be contacted by email.

## **New initiatives**

### *Twining*

At the 2007 CALC Council meeting in Nairobi, 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. Action was taken to implement this proposal by asking Council members from each region of the Commonwealth (Africa; the Americas; Asia; Australasia and the Pacific; and Europe) to ask the less well-resourced legislative drafting offices in the region to indicate what kind of assistance they would like to have and then to approach the better resourced offices to say whether they would be able to provide that assistance.

The outcome of this initiative has continued to be rather disappointing, with so far only one small jurisdiction, the Falkland Islands, being 'twinned' with South Africa. I would like to take this opportunity of once again urging the incoming Council to pursue this initiative more vigorously. I think we should make further efforts to canvas the legislative drafting offices of small jurisdictions to find out what their needs are in terms of assistance and then approach the better resourced legislative drafting offices to see whether they might be willing and able to meet those needs.

## **Regional meetings of CALC members**

The inaugural CALC Africa Region conference was held in Abuja, Nigeria from 7-8 April 2010. A detailed report of the conference is to be found in the issue of the *CALC Newsletter* published in November 2010.

I should like to congratulate the two African CALC Council members, Estelle Appiah and Elizabeth Bakibinga, in organising what was by all accounts a very successful conference. It is to be hoped that the precedent set by Estelle and Elizabeth will lead to the holding of similar conferences in the future, not only in Africa but also in other regions where there is a high concentration of CALC members. Another regional meeting of legislative counsel was held in Cardiff during 2010 but it was not under the auspices of CALC.

A number of regional groupings of legislative counsel have either been established or proposed. In at least one case, a group has expressed interest in being affiliated with CALC. At the 2009 general meeting in Hong Kong, an amendment to the CALC constitution was amended to facilitate such affiliations.

### **CALC membership records**

Since the last CALC general meeting, the membership records have been completely reorganised and reformatted. This has taken a considerable amount of time and effort and I would like to thank Jeremy Wainwright and my former secretary for all their hard work in preparing the new version of the records. The main advantage of the new format is that particular membership details, such as email addresses, can be extracted much more easily than previously. The only reason that the new version is not yet finalised is that we have applications for membership almost every day and so the records continually have to be updated. When I am satisfied that the new version is complete, I will distribute copies to all Council members.

The failure of some CALC members to notify me when they have changed their address continues to be a problem. Once again, Peter Quiggin and his colleagues have provided considerable assistance in helping me to track down these members. Once again, I should like to thank Peter and his colleagues for all the help they have provided in this regard.

### **CALC funds**

As members will already know, since no subscriptions are currently payable for CALC membership, the Association has only limited funds. Some of these funds are held in the form of HBOS shares.<sup>5</sup> Unfortunately, the value of HBOS shares has plummeted during 2008. The current value of the shares is shown in the CALC accounts.

Another source of revenue is from advertising legislative drafting positions in either *The Loophole* or the *CALC Newsletter*. Our substantial membership list is a valuable commodity, since it enables governments and others that are seeking to recruit legislative counsel to specifically target their audience. *The Times* charges £7,500 for a half page advertisement in the *Times Law Supplement*. We can provide a much better targeted service for a fraction of that price. As you will see from the CALC accounts, these advertisements have proved to be an excellent source of income for the Association.

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<sup>5</sup> Originally, these funds were held in an account kept with the Halifax Building Society, in the UK. A few years ago, the Society demutualised and became a bank, the Halifax. This subsequently merged with the Bank of Scotland to become HBOS. The upshot was that CALC became a shareholder in HBOS.

## **CALC ties**

CALC ties have sold steadily since the last general meeting. In 2008, a further batch of CALC ties was purchased, including a number of silk ones. The prices for these ties have been fixed at £13 (HK\$150) for a silk tie and £8 (HK\$90) for a polyester tie. I should like to thank the Hong Kong Law Draftsman and Council President, Eamonn Moran, for looking after the stock of ties. They are available for purchase either at the current CALC conference or from Eamonn at the Department of Justice, Queensway Government Offices, Hong Kong.

The CALC accounts show the number of ties sold during the period covered by this report.

Discussion continues on the question as to whether CALC scarves should be purchased for female CALC members.

## **Relations with the Commonwealth Lawyers Association**

Because of changes to the constitution of the Commonwealth Lawyers Association (CLA), it is now possible for associations such as CALC to affiliate with that Association. However, on investigating the matter further, the Council concluded that the costs of affiliation exceeded the benefits. The upshot was that no further action has been taken to affiliate with the CLA.

## **Accreditation with the Commonwealth**

At the request of the Council, I engaged with the Director of Legal Services at the Commonwealth Secretariat to ascertain whether our respective organisations might co-operate on matters of mutual interest. After considerable delay, I did receive a positive response from a member of the Commonwealth Secretariat staff, David Kelete. He provided me with the necessary requirements to apply for accreditation with the Commonwealth. I subsequently provided him with the necessary documentation for passing on to the Accreditation Committee. Initially the Committee was concerned about the fact that not only is CALC not incorporated but it is not incorporated in a Commonwealth country. However, it was pointed out the CALC constitution provides for its headquarters to be located in Canberra and Peter Quiggin was able to assure the Committee that the Commonwealth OPC was able to provide considerable logistic support for CALC's operations, by maintaining the membership database and distributing CALC publications to members. As far I can ascertain, this seems to have satisfied the Committee.

Although I had hoped to be able to tell you by the time of the general meeting that our application had been accepted, it does seem that accreditation will be forthcoming very soon.<sup>6</sup>

## **Online forum**

A valuable initiative put in place during the current term was the establishment, jointly with the Canadian Institute for the Administration of Justice, of an online forum allowing members to post topics and respond to posts. After a deal of initial activity sadly members have failed to make much use of this

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<sup>6</sup> See update on page 10.

forum. Perhaps members might like to consider again using <http://www.ciaj-icaj.ca/phpBB2/index.php> as a means of communicating directly with others doing legislative drafting work around the globe.

Duncan Berry, Secretary  
8 February 2011

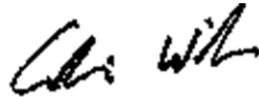
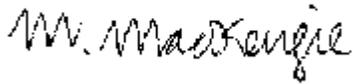
### Appendix 3—CALC accounts

#### STATEMENT OF ACCOUNTS AS AT 3 FEBRUARY 2011

<b>BALANCE AS AT 25 MARCH 2009</b>		<b>£19351.00</b>
ADD:	<i>Income for period from 26 March 2009 to 3 Feb 2011</i>	
	Hong Kong conference registration fees	£1555.98
	Hyderabad conference registration fees	£16862.08
	Income from shares	£79.68
	Net bank interest	£25.54
	<i>Loophole advertising</i>	<u>£1858.00</u>
		£20381.28
		<u>£39732.28</u>
LESS:	<i>Expenditure for period from 26 March 2009 to 3 Feb 2011</i>	
	Balance of Hong Kong conference costs	£5383.76
	Hyderabad conference costs	<u>£15830.27</u>
		<u>£21214.03</u>
<b>BALANCE AS AT 3 FEBRUARY 2011</b>		<b><u>£18518.25</u></b>

Additional information:

- 1 The Edinburgh bank account is a Treasurer's account with the Bank of Scotland. It is operated jointly by Madeleine MacKenzie and Colin Wilson on the instructions of the CALC Council.
- 2 The CALC tie account is operated by Eamonn Moran in Hong Kong. As at 7 January 2011 the cash balance was HKD 7098; and there were 376 ties in stock.
- 3 CALC holds 114 shares in Lloyds Banking Group. The UK Government is the majority shareholder in Lloyds Banking Group. On 2 February 2011, the value of the holding was £73.37 (share price of 64.36p).



**Madeleine MacKenzie, Scottish Parliamentary Counsel, Treasurer CALC**

**Colin Wilson, First Scottish Parliamentary Counsel**

**Office of the Scottish Parliamentary Counsel, Edinburgh, Scotland**

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**New Council members**

Four new members were elected to the CALC Council. They are Edward Stell (Parliamentary Counsel of the United Kingdom), Katy Le Roy (Parliamentary Counsel of Nauru), David Noble (Chief Parliamentary Counsel of New Zealand) and Paul Peralta (Head Draftsman, EU and International Department of Gibraltar).

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## **Council member profiles**

### **Peter Quiggin PSM—President**



Peter is the First Parliamentary Counsel of the Australian Office of Parliamentary Counsel, which is responsible for drafting all principal legislation for the Australian Government.

Peter's initial 7 year appointment as First Parliamentary Counsel started on 13 May 2004. He was reappointed for a further 7 year term in March 2011. He has been a drafter with the Office of Parliamentary Counsel for over 20 years and has drafted legislation covering a wide range of topics including taxation, native title and immigration.

Peter has also had a particular interest in the use of information technology in drafting offices and was OPC's Director of IT for a number of years.

Peter was elected as the President of the CALC in Hyderabad. Prior to that, he was one of the Australasian/Pacific representatives on Council.

Prior to working at OPC, Peter worked for a number of years with the Tax Office and the Administrative Appeals Tribunal.

In addition to his role as First Parliamentary Counsel, Peter has been an ex officio member of the Board of Taxation since January 2004. The Board is a body that advises the Australian Treasurer on taxation matters.

Outside work, Peter's current hobbies are cars and geocaching. He is also on a number of boards in a voluntary capacity.

### **Estelle Appiah**



Estelle Appiah is the Director of the Legislative Drafting Division of the Attorney-General's Department of the Ministry of Justice in Ghana.

She was called to the Bar at Grays Inn in England in 1974. She enrolled at the Ghana Bar in 1976. From 1980–1985 she was the Assistant-Registrar of the High Court and Court of Appeal in Lesotho, Southern Africa. Since 1989 she has been working at the Attorney General's Department of the Ministry of Justice drafting legislation. She has been concerned with drafting legislation on a wide spectrum of topics and has also taught legislative drafting to African Commonwealth Lawyers. She is the author of a Legislative Drafting

Manual for African Commonwealth Jurisdictions commissioned by the Commonwealth Secretariat.

She has many interests that range from flower arranging and gardening to keeping fit. She is also an amateur historian and is currently working on the biography of her grandfather George James Christian, a lawyer from Dominica in the Eastern Caribbean who was a member of the Legislative Council in the Gold Coast from 1930–1940.

**Katy Le Roy**



Katy is the head of Nauru’s Office of Parliamentary Counsel, which comprises only two drafters and two administrative officers. Katy became Parliamentary Counsel in 2008 and joined CALC in 2009. Prior to joining OPC, Katy had worked as a solicitor in Melbourne, as in-house counsel to a company in Munich, and as Assistant Director of the Centre for Comparative Constitutional Studies in the Melbourne Law School. Katy has also lectured in the graduate program at the Melbourne Law School, and is completing her PhD in constitutional law. Katy first went to Nauru in 2006 as a UNDP consultant to advise a parliamentary committee on constitutional review, and now lives permanently in Nauru with her Nauruan partner and two young children.

**Fiona Leonard**



Fiona was appointed as a Parliamentary Counsel for the New Zealand Government in 1998 after several years experience as a litigation solicitor in private practice and as a legal adviser for the New Zealand Government.

From 2003 to 2006, she practiced as a barrister providing legislative drafting services and advice on the implementation of legislation for various Pacific Islands and international organizations, including the Commonwealth Secretariat, the Pacific Island Secretariat, and the United Nations Environment Programme (UNEP).

Despite returning to the New Zealand Parliamentary Counsel Office in 2006, she has continued to be involved in initiatives relating to legislative drafting in the Pacific Islands.

She graduated from Canterbury University with an LLB degree with honours in 1991 and completed a LLM degree at Cambridge

University in June 2001.

### Eamonn Moran



Eamonn Moran has been drafting legislation for 36 years having commenced in the Office of the Legislative Draftsmen in Belfast, Northern Ireland in September 1974.

He is currently the Law Draftsman in Hong Kong, China, a post to which he was appointed in January 2008. Previously he had been Chief Parliamentary Counsel in Victoria, Australia for 8 years. He was awarded an Australian Public Service Medal in 2005 for "outstanding public service to legislative drafting and public law, and to the promotion of plain legal language".

Eamonn was appointed Queen's Counsel in Victoria, Australia in 1998 and was President of CALC from September 2007 to February 2011.

### David Noble



David Noble has been Chief Parliamentary Counsel and Compiler of Statutes, in New Zealand since November 2007 after several years' experience in the UK Civil Service (including 5 years on secondment to the European Commission in Brussels, spent drafting directives and enforcing the European Union *aquis*).

Prior to joining the employed Bar, David practised as a barrister in chambers specialising in Parliamentary, Local Government and Planning law in the Inner Temple in London and taught and researched in the field of public law at Warwick University and University College, London.

He is also the Chief Executive of the Parliamentary Counsel Office (PCO) in Wellington which, with 30 parliamentary counsel, is responsible for drafting nearly all the primary and secondary legislation of New Zealand. The office also publishes legislation in printed form and on line ([www.legislation.govt.nz](http://www.legislation.govt.nz)).

## **Paul Peralta**



After completing studies in London and the Netherlands, Paul Peralta was called to the Bar (Middle Temple) in London and in Gibraltar (1994 and 1995 respectively). Drawn to advocacy, Paul spent a number of years in private practice and after some general practice he specialised in civil litigation.

In 2003 he joined the Government of Gibraltar's civil service as Law Draftsman. Based in the Legislation Support Unit (LSU), he received initial training in the Institute of Advanced Legal Studies and thereafter was engaged in drafting both primary and subordinate legislation, in both the domestic and international fields.

In 2010 the Government set up a new government department, responsible to the Chief Minister, which was tasked with handling European and International affairs. Within the department a specialist drafting unit was been created. Lead by the Head European Union Draftsman with the assistance of a Senior European Union Draftsman, the team has a complement of 4 drafters and a number of drafting consultants.

In addition to drafting duties Paul has had a close association with the Gibraltar Citizen's Advice Bureau. On their behalf he has presented several papers to seminars organised by its international branch, Citizen's Advice International.

On a recreational note Paul enjoys long distance running and rowing. Having run the London Marathon in 2004 and 2005 there is still at least one more marathon on the horizon.

## **Edward Stell**



I avoided law for 25 years and stuck to languages, mainly ancient. But after university I trained as a solicitor and worked in a City firm in London, ending up in commercial litigation. In 1993 I joined the Office of the Parliamentary Counsel in London. Apart from two years on secondment to the Law Commission for England and Wales I have been there ever since. As well as drafting projects including criminal law, pensions, health, courts and judiciary, I worked for some years with the First Parliamentary Counsel advising on constitutional and machinery of government matters. I now lead a team working mainly with the Department for Communities and Local Government and the Ministry of

Justice. Current projects include the Scotland Bill implementing a review of the Scotland Act 1998 which devolved powers to Scotland and established the Scottish Parliament. I am a member of the plain language association Clarity—ever hopeful of improving my own. CALC has been a growing interest though I have only seen two conferences so far—London in 2005 and Nairobi in 2007. I look forward to

serving on the Council, and to representing CALC in meetings of Commonwealth legal associations on the Commonwealth Legal Forum in London.

To be continued ...

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## Items of interest

### Office of the Scottish Parliamentary Counsel

Alex Gordon of the Office of the Scottish Parliamentary Counsel in Edinburgh, Scotland, is to enjoy later this year a 3-month secondment to Malawi to spend time working with the parliamentary drafters in Lilongwe. The secondment—which reciprocates Fiona Kalemba’s placement in OSPC a few years ago—is being arranged through the Capacity for Justice programme sponsored by the Challenges Worldwide charity in conjunction with the Scottish Government (who are keen to continue developing the longstanding ties between Scotland and Malawi). Alex promises to write an article about his African experiences later in the year.



The drafters in the Office of the Scottish Parliamentary Counsel in Edinburgh, Scotland, were delighted to welcome Sarfraz Ahmed Sheikh to their office for a short visit. Sarfraz is a Deputy Draftsman in the Ministry of Law and Justice in Islamabad, Pakistan. He was spending a few days in Edinburgh after having spent a month in Washington, USA, attending the Legislative Fellows Programme (a programme held under the auspices of the US State Department). As well as finding much of mutual interest to discuss with the Edinburgh drafters, Sarfraz also visited the Scottish Parliament and climbed the extinct volcano called “Arthur’s Seat” which is in Holyrood Park near the Scottish Parliament.

### Office of the Welsh Legislative Counsel

Dylan Hughes has been appointed as First Welsh Legislative Counsel, following the retirement of Professor Thomas Glyn Watkin in July 2010. Dylan is currently an Assistant Director of the Welsh Assembly Government Legal Department (of which the Office of the Welsh Legislative Counsel is part) and is returning from a 2-year secondment to the EFTA Surveillance Authority in Brussels. He takes up his post as First Welsh Legislative Counsel on 15 April.

Ed Mitchell left the Office of the Welsh Legislative Counsel for private practice in September 2010, leaving Huw Davies and Nia Evans as the remaining members of the original OWLC team. Since then 3 new drafters have been appointed: Manon Davies, Catrin Huws and John Dow. They took up post in October 2010.

CALC members may be interested to read a report of the National Assembly for Wales Constitutional Affairs Committee into the drafting of primary legislation in Wales since 2007, when the National Assembly obtained limited powers to legislate by "Assembly Measure" (see the report "Drafting of Welsh Government Measures: Lessons from the first three years" at [http://www.assemblywales.org/bus-home/bus-committees/bus-committees-perm-leg/bus-committees-legislation-dissolved/bus-committees-third-sleg-home/bus-committees-third-sleg-current\\_inquiries.htm](http://www.assemblywales.org/bus-home/bus-committees/bus-committees-perm-leg/bus-committees-legislation-dissolved/bus-committees-third-sleg-home/bus-committees-third-sleg-current_inquiries.htm)).

Finally on 3 March 2011 the people of Wales voted "yes" in a referendum on further legislative powers for the National Assembly for Wales, the basis for which is set out in Part 4 of the Government of Wales Act 2006 (an Act of the UK Parliament). The Assembly's powers to pass Acts under the new arrangements come into effect following the Assembly elections on 5 May this year.

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## **New CALC members**

The following have been recorded as members of CALC since the publication of the last *CALC Newsletter* in January 2011.

<i>Name</i>	<i>Country</i>
Roselyne Makokha Aburili	Kenya
Mellanie Adams	ACT, Australia
Penny Alexander	Vic, Australia
Daphne Andersen	Australia
Yashin Dujon	Belize
John Paul Edoku	Uganda
Philip Ember	UK
Chan Seong Gnoh	Malaysia
Theresa Graves	Jersey, UK
Marie-Claude Guay	Canada
Philippe Hallee	Canada
Roselyn Hanzi	Zimbabwe

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Denis Healy	Ireland
Joanest J Jackson	Wales
Tonye Clinton Jaja	UK
Andrea Julien-Reyes	Trinidad
Michael Arthur Knight	Australia
Naomi Lejoka	South Africa
Jaejoo Lim	USA
Johanna Lynch	Australia
Prof Dr Luzius Mader	Switzerland
Jonetta Jeet Maynard	Trinidad
Andrew Robert Miller	Fiji
Chris Moll	The Netherlands
Yaria Mousmouti	Greece
Hailey Musgrove	Australia
Fredrick Jackton Mwachi	Kenya
Andrew Mwansa	Zambia, South Africa
Zulkhairi Hj Md Noor	Brunei Darussalam
Irene Petras	Zimbabwe
Dr Patricia Prudent-Phillip	St Kitt's Nevis
T A Y M Ranawana	Sri Lanka
David Sprackling	UK
Sandra L Strokoff	USA
Dina Suisi	Gibraltar
Flora Tai	Hong Kong

Andrew Thorpe

Australia

Blanche K Vitata

Papua New Guinea

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## **Corrections**

*CALC Newsletter* November 2010: the EUID is headed by Michael Llamas.

Special issue of *The Loophole* in honour of Dr Duncan Berry: The reference to David Hull as being the retired head of the Jersey Law Drafting Office. The head of the Jersey Law Drafting Office is, and continues to be, Pam Staley.

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## **Secretary contact details**

If you wish to contact the CALC Secretary Fiona Leonard regarding membership or any other CALC matters, her email address is:

<mailto:fiona.leonard@parliament.govt.nz>

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