

Report
On Training in
Legislative Drafting
in
International Legislative Drafting Institute
Public Law Centre
Louisiana, USA

(13th to 24th June, 2011)

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INTRODUCTION

The training programme on 'Legislative Drafting' was held by International Legislative Institute of Public Law Centre at New Orleans, Louisiana from 13th to 24th June, 2011. We are very thankful to Secretary-General for nominating us for the training programme. There were 13 participants in the programme from eight countries of the world. We took keen interest and the training was very refreshing and very enlightening. A copy each of the List of Participants and Certificate of successful completion of the training programme are enclosed (Annexures-I and II). We were also appointed "Honorary Deputy Sheriff" for the Parish of Orleans by the Sheriff for the Parish of Orleans, Louisiana (Annexure-III).

A brief account of the training undertaken is given in the succeeding chapters.

CHAPTER-I

LEGISLATIVE PROCESS (A Comparative Analysis)

The first learning Session was on comparison of U.S. Bicameral Legislative Enactment Process with the Parliamentary System

The lecture covered the Parliamentary system and State Federal Legislative Enactment Procedures, how they relate to drafting process. The lecture brought out the common points of references between the two systems. While discussing the legislative enactment process, the group was informed that the first step to bring any legislation was putting up a draft proposal and for that there was the need for suitable ideas. The ideas for bringing out legislative proposals originate from promises made during the campaigning in elections. Besides, the proposals given by NGOs, and requirements put forth by the public in general also take shape of legislative proposals in the U.S. System which are moved by the Members in the Congress. There is definite role played by organized interests and Lobbyists in bringing the legislative proposals in Congress. This is in sharp contrast to our system where the majority of proposals are brought by the Government and the Government may get the inputs from individuals, institutions, MPs and also from the public as well. In the U.S. System, the legislative proposals are drafted by the legislative drafting staff who serve all the members individually. These legislative drafters are called Legislative Counsels. In addition, there are a large number of private drafting agencies where lawyers draft the bills for the Members. Besides, Government agencies also get the legislative proposals drafted and then get them introduced in the Congress through the Members. Lobbyists/Interest Groups, Study Groups/Commissions also approach the Members for introducing bills of their interests and either bring their draft

proposals or ideas to be framed into legislative proposals. In our system in contrast to the U.S. System there is legislative drafting staff of the Government who drafts the legislative proposals for all the Departments of the Government on the receipt of proposals from the Administrative Ministry. Individual members also move bills in India, which are called Private Members Bills but they seldom become a law. Hence it can be concluded that in the 'Parliamentary System' getting a legislative proposal passed is the exclusive domain of the Government which is in majority in the Parliament.

Introduction of the Bill

In the U.S. System, the Bill is introduced exclusively by legislators. Every Member is at liberty to introduce any number of bills. We were told that as many as 1500-2000 bills are introduced in any session. Members take active role in initiating legislative proposals which are often driven by the demands of lobbyists and organised interests such as labour, business, etc. There is no need to take any approval for introducing a legislative proposal. In contrast, in Parliamentary System, particularly in our System a bill after being approved by the Cabinet is presented by the Minister concerned in either House of Parliament. Very few bills introduced by individual members move beyond consideration stage and only bills introduced by the Ministers become Acts after their passage by the both Houses and assent given by the President. In the U.S. System status of bill at introduction is merely a draft which initiates review and is likely to be amended before passing or likely to be not passed. However, the legislative proposals mooted in Parliamentary System are refined work product, deal fully with all policy issues on the subject and is unlikely to be significantly amended.

Referral to the Committee

After the introduction of the bill in either House, the next stage is its reference to the Standing Committee under whose jurisdiction the subject falls. In U.S. System, there is a system of multiple references where the

provisions of bills may be referred to the different Committees. Since a large number of bills stand referred to a Committee, it is the discretion of the Committee and its Chairman, which bill is to be taken up for discussion. Hence many bills which were referred to the Committee are not discussed and reported upon and thus die without hearing. However, in Parliamentary System comparatively very lesser number of bills are referred to the Committee and all are discussed and reported upon by the concerned Committee within a definite period of time.

Testimony by NGO's, citizens, legislators, interest groups is there at the consideration stage of bill in both the systems. In the U.S system, a Committee may report a bill favorably, unfavorably, with amendments, to be recommitted to another Committee or substitute a different bill on the same subject. In both the systems the reports presented are either favorable or favorable with amendments. In the US system during the consideration of bill by the Committee, the Media is allowed. Also, in the U.S. System, sometimes the nature of bill is changed dramatically or it is reported with substitution and it thus gets a new title and again gets the three readings. The bill has to be passed in the same format in both the Houses. Legislators vote independently, often without regard to party loyalty. In case of disagreement between the two Houses, it is referred to a Conference Committee, comprising of six members. The Conference Committee comprises of majority and minority members in U.S. Congress, while in Louisiana Assembly it constitutes, three each from the House and the Senate. The Conference Committee has wide discretion to rewrite the bill. The Conference Committee gives its report on the bill which is again sent to both the Houses for adoption. Conference reports must be adopted by both the Chambers without amendment and then the bill is sent to Governor/President for approval. We were told one interesting fact about the Conference Committee. To ease out the passage of the bill, the Conference Committee sometimes brings the report deliberately during the last day of

session and the bill is passed without much notice. Sometimes the Conference Committee also appends amendments to the bill which remain unnoticed during the passage of the bill. However, to avert such situation, requirement of four days notice has been introduced for bringing such amended bill in the House.

OVERVIEW: LEGISLATIVE AND ADMINISTRATIVE DRAFTING

STEPS IN DRAFTING

FACTUAL INFO (OBJECTIVES)

As regards the drafting exercise, we were informed that whenever a drafter receives a request for drafting legislation, the foremost requirement is to properly understand the request. Receiving the request in person does help because lots of questions related to the proposed legislation can be asked to achieve utmost clarity. A drafter must be aware of the time constraints too, which may be client driven, legally driven or driven by office procedure. A drafter must be clear on perspectives on drafting as to how the Bill or Rule should speak. The drafter in the exercise of drafting a proposed Legislation and Administrative Rules (Subordinate Legislation) needs to refer to documents approved by Parliament or Legislature, the body responsible for enacting primary law and for Rules/Subordinate Legislation, scope of authority delegated to Ministry or agency derived from the enabling legislation.

ANALYSIS AND LEGAL RESEARCH

We were told that a drafter after understanding the request for legislation should also dwell upon the issue as to whether he can avoid drafting the proposed Bill or Rule? The reasons for the same could be any one from the following:

- Bill – whether this would be only possible administrative solution?
- Rule – Authority to promulgate.
- Preemption?

- Constitutional prohibition?
- Existing law or rule not implemented or funded?
- Local ordinance rather than general law?
- Interpretive rule?

The drafter should also see whether the issue has already been addressed by the Federal or State Court or whether it is sub judice before any court of law.

The drafter should make a thorough legal research and study the applicable constitutional provisions of existing laws, rules, adjudications, executive orders in relation to the proposal in hand. He may see whether the laws/regulations of other Jurisdictions have already addressed the issue and should refer them thoroughly. If so required he may seek the opinion of Attorney General. Besides, he should also undertake some factual research. He needs to interact with Trade, Industry or Interest Organisations and Lobbyists and gather information from other sources like News Reports before initiating a drafting exercise.

Another question confronted by every drafter and one with ethical and political implications is “How much is to be left to the drafter’s discretion? The answer depends to a considerable extent on how aggressively a drafter probes the client for guidance on this issue.

THE DRAFTING:

When the initial exercise of gathering inputs, doing all sorts of research etc is completed then starts the exercise of actual drafting.

A good legislation has prerequisites. One is to have a **good policy** base. Sometimes the drafter’s colleagues or clients set the policy; sometimes the drafter is also a policymaker. In either case, the drafter must understand the policy down to the practical details.

A second is that the policy springs from **good process**, involving the affected interests. Seeking stakeholder involvement is not always the drafter’s

task, but in international legal assistance projects the drafter often plays a role in vetting the policy and capturing public reaction.

A third is that the legislation reflects **good politics**. The legislation must be acceptable to those in power and able to pass the legislature easily. That may mean avoiding issues that would raise political questions, stir up rival ministries, or force referral to multiple Parliamentary committees.

A fourth prerequisite is **good form**. Form refers to the layout of a piece of legislation. The broadest rules of form are usually set out in constitutions, legislative rules, and other written laws. These determine things like whether the legislation should take the form of bill, a resolution, or something else and whether the legislation needs formalities such as an enacting clause or an effective date. The smaller aspects of form are often unwritten. These include things like the standard ways to number sections, capitalize nouns, or use punctuation. These rules promote consistency, which in turn tends to promote clarity. The legislation must follow the conventions that the legislature or government demands of bills, resolutions, or rules. That means using the proper enacting clauses, numbering systems, and so forth.

A fifth is **good fit**. The new law must be consistent with the constitution and with the country's obligations under international law. It must also be consistent with laws governing related activities and basic governmental functions such as taxation, procurement, or public administration.

A sixth prerequisite is **good style**. Drafters should write laws that are free from ambiguity, that capture policy accurately, and that are reasonably simple to understand, apply and eventually amend.

Policy, process, and politics vary widely depending on local context. Form and fit are less variable. Style is the most nearly universal.

Besides, the drafter needs to keep many more factors in mind while drafting a piece of Legislation like follows:-

- i) Use of Gender – Neutral Language.
- ii) Avoiding unintended liability.
- iii) Balancing Statutory and Administrative Implementation.
- iv) Ensuring certainty in a Legislation.
- v) Limit variety to avoid ambiguity.
- vi) Adoption of consistent style for basic expressions like creation of powers, duties, prohibitions and conditions.

Besides, a drafter needs to ensure consistency between drafts of legislation prepared in different languages, as some jurisdictions draft in two or more languages.

The other subjects covered during the training programme were some model legislations like Tax Legislation, Election Laws, Sunshine Laws, Utility Regulatory Laws, Criminal Penalties, Disaster Laws, etc.

Chapter - II

PLAIN LANGUAGE DRAFTING

One of the main components of the training programme was to emphasize on the need for plain language drafting. David Marcello, Executive Director of the Institute along with Idella Wilson, Assistant Director delivered valuable lectures on the various aspects and elements of plain language drafting. John Strylowski made valuable presentations on “Regulatory Drafting”.

1.1 As the Laws are made for the common man, they should understand it and use it to their advantage. But since laws all over the world are written in a language that is understood only by the people in legal profession, the common man plays into their hands, without knowing the intricacies of Law. So, the training programme was designed to teach the techniques of writing laws, rules, regulations, administrative orders in plain language, which can easily be understood by legislators, judges, lawyers and the common man alike.

2. **Definitions:**

Eminent scholars have given various definitions of plain language drafting: -

- (i) “Good writing should not differ, without good reason, from ordinary well-written language.” Professor Wydick
- (ii) “Communication that your readers can understand the *first time* they read it.” John Strylowski

(iii) “Plain English is robust and direct, the opposite of gaudy, pretentious language. It uses the simplest, most straightforward way of expressing an idea. It uses everyday words. Generally speaking, [it is] the idiomatic and grammatical use of language that most effectively presents ideas to the reader.” Bryan Garner

(iv) “A communication is in plain language if it meets the needs of its audience – by using language, structure, and design so clearly and effectively that the audience has the best possible chance of readily finding what they need, understanding it, and using it.” Dr. Annetta Check

(v) Reed Dickerson, in his landmark book, *Fundamentals of Legal Drafting* (1986), has this advice for legal drafters:

It is important for the legal draftsman not to define a word in a sense significantly different from the way it is normally understood by the persons to whom it is primarily addressed. This is a fundamental principle of communication, and it is one of the shames of the legal profession that draftsmen so flagrantly violate it. Indeed, the principle is one of the most important in the whole field of legal drafting.

(vi) Morris Cohen, in *Reason and Law* (1950), explains, “Whenever we define a word... in a manner that departs from current customary usage, we sooner or later unwittingly fall back on the common use and thus confuse the meanings of our terms.”

3. An example of plain English, written by Justice B. Cardozo is given below:

Plaintiff was standing on a platform of defendant’s railroad after buying a ticket to go to Rockaway Beach. A train stopped at the station, bound for another place. Two men ran forward to catch it. One of the men reached the

platform of the car without mishap, though the train was already moving. The other man, carrying a package, jumped aboard the car, but seemed unsteady as if about to fall. A guard on the car, who had held the door open, reached forward to help him in, and another guard on the platform pushed him from behind. In this act, the package was dislodged and fell upon the rails. It was a package of small size, about fifteen inches long, and was covered by newspaper. In fact, it contained fireworks, but there was nothing in its appearance to give notice of its contents. The fireworks when they fell exploded. The shock of the explosion threw down some scales at the other end of the platform many feet away. The scales struck the plaintiff, causing injuries for which she sues.

3.1 We can distinguish the writing style in this passage from that found in most legal writings. We may notice the choice of words. It uses no archaic phrases, no misty abstractions, no hereinbefore's. There are no wide gaps between the subjects and their verbs, nor between the verbs and their objects. There are no ambiguities to leave the reader wondering who did what to whom. Most of the verbs are in the simple form, and all but two are in the active voice. We can also notice the length and construction of sentences. Most of them contain only one main thought, and they vary in length: the shortest is six words, and the longest is twenty-seven words.

3. **Elements of Plain Language:**

We were told that Joe Kimble has described the following elements of plain language:

a. Think about audience

- a. Identify and write for the audience
- b. Address separate audiences separately

b. Organize

- a. Organize to meet readers' needs
- b. Address one person, not a group
- c. Use lots of useful headings
- d. Write short sections

c. Writing the document

a. Words

1. Verbs

- i. Use active voice
- ii. Use the simplest form of a verb
- iii. Avoid hidden verbs
- iv. Use "must" to indicate requirements
- v. Use contractions when appropriate

2. Nouns and pronouns

- i. Don't turn verbs into nouns
- ii. Use pronouns to speak directly to readers
- iii. Minimize abbreviations

2. Other word issues

- i. Use short, simple words
- ii. Omit unnecessary words
- iii. Dealing with definitions
- iv. Use the same term consistently for a specific thought or object
- v. Avoid legal, foreign, and technical jargon
- vi. Don't use slashes

b. Sentences

1. Write short sentences
2. Keep subject, verb, and object close together
3. Avoid double negatives and exceptions to exceptions
4. Place the main idea before exceptions and conditions
5. Place words carefully

c. Paragraphs

1. Have a topic sentence
2. Use transition words
3. Write short paragraphs
4. Cover only one topic in each paragraph

d. Other aids to clarity

1. Use examples
2. Use lists
3. Use tables to make complex material easier to understand
4. Consider using illustrations
5. Use emphasis to highlight important concepts
6. Minimize cross-references
7. Design your document for easy reading
5. **The cost of not using plain language:** We were explained that for lack of plain language.

We may have to –

- Answer phone calls
- Write explanatory letters
- Make multiple requests for information and evidence
- Make an explanatory document
- Litigate

4. **Plain Language Techniques:**

We were told that in short the following techniques of Plain Language may be used and avoided: -

USE

- Logical Organization
- Informative Headings
- Active Voice
- Use Pronouns
- Common Words
- Use lists and tables

AVOID

- Jargon and legalese
- Hidden Verbs
- Passive Voice
- Long sentences or paragraphs
- Abbreviations
- Unnecessary Words
- Information the user doesn't want

5. In the interactive sessions, the following important elements of plain language along with examples were elaborately discussed: -

(i) **Sentence Word Order**: - The standard word order in English sentences is as follows:

- John kicked the ball
S V O

i.e. Subject-Verb-Object (S-V-O). The reader, therefore, likes the sentences in that order.

(ii) **Avoid Compound Constructions**: - One should always avoid compound constructions as they use three or four words to do the work of one or two:

Examples:

Compound	Simple
• in favour of	for
• for the purpose of	to
• in the event that	if

(iii) **Use Base Verbs, not nominalizations**: -

- Base Verb = Action
- Nominalization = Noun
- Base verb Nominalisation
decide decision
pay payment
collide collision

(iv) **Prefer the Active Voice**

Example:

Active:

- John kicked the ball
s v o
Actor Action Acted upon

Passive:

- The ball was kicked by John
s v o
Acted upon Action Actor

(v) **Present Tense** may be used unless there is a good reason to use a different tense.

(vi) **Singular** should be preferred to Plural.

(vii) **Arrange the words with care**

- Avoid wide gaps between subject, verb and object
- Conventional word order: S-V-O
- As close together as possible

Ways to do this:

- Use short sentences
- Relocate separating words to the front or back of sentence

(viii) **Use short sentences**

We were told that complexity is the greatest enemy of clear communication and we should express only one idea in each sentence. Long,

complicated sentences often mean that we aren't sure about what we want to say. Shorter sentences are also better for conveying complex information; they break the information up into smaller, easier-to-process units. Sentences loaded with dependent clauses and exceptions confuse the audience by losing the main point. We should, therefore, resist the temptation to put everything in one sentence and break up the idea into its parts and make each one the subject of its own sentence.

We were clarified by the following examples:

Don't say	Say
Once the candidate's goals are established, one or more potential employers are identified. A preliminary proposal for presentation to the employer is developed. The proposal is presented to an employer who agrees to negotiate an individualized job that meets the employment needs of the applicant and real business needs of the employer.	Once we establish your goals, we identify one or more potential employers. We prepare a preliminary proposal to present to an employer who agrees to negotiate a job that meets both his and your employment needs.

(ix) **Use “must” and avoid “shall”**

We were told that the word “must” is the clearest way to convey to your audience that they have to do something. “Shall” is one of those officious and obsolete words that has encumbered legal style writing for many years. The message that “shall” sends to the audience is, “this is deadly material.” “Shall” is also obsolete. Besides being outdated, “shall” is imprecise. It can indicate either an obligation or a prediction. Dropping “shall” is a major step in making a document more user-friendly. Many agencies already use the

word “must” to convey obligations. The US Courts are also eliminating “shall” in favour of “must” in their Rules of Procedure. One example of these rules is cited below.

Instead of using “shall”, use:

- “must” for an obligation,
- “must not” for a prohibition,
- “may” for a discretionary action, and
- “should” for a recommendation.

The following example demonstrates how much clearer language can be if we follow these suggestions:

Don't say	Say
Any oil or gas lessee who wishes to use timber for fuel in drilling operations shall file an application therefore with the officer who issued the lease.	You must file an application to use the timber on your oil or gas lease for fuel. File the application with our office where you got your lease.

(x) **Avoid Sexist Language**

- Avoid expressions that imply value judgements
- “manly” effort
- Member of the “gentle” sex
- Use sex-neutral terms
- “worker” instead of “workman”

- “reasonable person” instead of “reasonable man”
- Use parallel construction when referring to both sexes
- “husbands and wives” not “men and their wives”

Techniques to Avoid Sexist Language:

- Omit the pronoun
- Use second person instead of third
- Use the plural instead of the singular
- Repeat the noun instead of using a pronoun
- Use the passive voice

(xi) **Use Lists**

Vertical lists highlight a series of requirements or other information in a visually clear way. Vertical lists:

- Highlight levels of importance
- Help the user understand the order in which things happen
- Make it easy for the user to identify all necessary steps in a process
- Add blank space for easy reading
- Are an ideal way to present items, conditions, and exceptions

Don't say	Say
Each completed well drilling application must contain a detailed statement including the following information: the depth of the well,	With your application for a drilling permit, provide the following information:

the casing and cementing program, the circulation media (mud, air, foam, etc.) the expected depth and thickness of fresh water zones, and well site layout and design.	<ul style="list-style-type: none">• Depth of the well;• Casing and cementing program;• Circulation media (mud, air, foam, etc);• Expected depth and thickness of fresh water zones; and• Well site layout and design.
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(xii) **Use tables to make complex material easier to understand**

Tables help audience see relationships that are often hidden in dense text.

The most useful type of table is probably the “if-then” table. An “if-then” table organizes the material by a situation (if something is the case) and the consequence (then something else happens). The rewritten regulation in the “if-then” table below is far clearer than the dense text it replaces. It also makes the document appear less dense and easier on the eye.

Chapter-III

Interesting features of the functioning of Legislature and Committees of the State of Louisiana

During the training programme, we were taught about the functioning of the Legislature of Louisiana. We also had an opportunity to visit the State capital at Baton Rouge and see the two Chambers of the State Legislature at work. While witnessing proceedings of the Senate from the Public Gallery, the President of the House drew attention of the Members towards presence of our delegation and the Members welcomed us by waiving and clapping their hands. After seeing the proceedings of the House of Representatives, we were presented with a Concurrent Resolution of the two Houses to commend the participants of the training programme and to welcome them to the Louisiana State Capitol. The Resolution was signed by the Presiding Officers of the two Houses (Annexure-IV). We also got an opportunity to see the proceedings of meeting of a Parliamentary Committee. We were also taken to a Committee Room and given first hand information of the seating arrangement of Members and Chairman of the Committee, witnesses and the general public who wish to witness the proceedings. There was a long question-answer session, which enlightened us about some new and interesting facts of the functioning of Committees of the two Houses.

2. The lectures of the class room and visit to the State Legislature revealed some interesting facts of the way their Legislature and Committees function and in the manner they are at variance with our system. Some of these facts are given under:-

1. The Legislature consists of a Senate and a House of Representatives. The Senate consists of one senator elected from each Senatorial District and the House of Representatives consists of one representative elected from each representative district. A Member of the legislature is elected for a four year term. The strength of the House of Representatives is 105 and that of the Senate is 39.

2. The Presiding Officers of Senate and House of Representatives are elected from amongst their Members and are called President and Speaker, respectively.

3. The Legislature enacts no law except by a bill introduced during the ongoing Session and propose no constitutional amendment except by a joint resolution introduced during that Session, which is processed as a bill.

4. A bill or resolution not finally passed in any session is withdrawn from the files of the Legislature.

5. The State Legislature has following sessions -

(i) Organizational Session - This Session is convened after the general election primarily for the purpose of taking oath by newly elected Members and election of the Presiding Officers. The Session is limited to three working days and no matter intended to have the effect of law may be introduced.

(ii) Regular Session in even numbered years - These Sessions are convened at noon on the last Monday in March. The session comprised of 60 working days during a period of 85 calendar days. These sessions are general in nature but no measure levying or authorizing a new tax or increasing an existing tax

or a State-wide political sub division, or dealing with tax exemptions, exclusions, deductions or credits, may be introduced or enacted.

(iii) Regular Session in odd-numbered years - These sessions are convened at noon on the last Monday in April. The Session comprised of 45 working days during a period of 60 days. During this session Members can introduce legislation with object to enact the general appropriation bill or other appropriations; enact the capital budget, levy a new tax or increase an existing tax, authorize, increase, decrease or repeal a fee, dedicate revenue, legislate with regard to tax exemptions, exclusions, deductions; or legislate for issuance of bonds.

(iv) Extraordinary Sessions - These sessions may be convened by the Governor or the Presiding Officers of both Houses upon petition of a majority of the Members of each House. The Session does not exceed 30 calendar days. A proclamation is issued at least seven days prior to the session by the Governor or the Presiding Officers, as the case may be, stating the objects of the Session, the date on which it shall convene and the number of days for which it is convened. The power to legislate shall be limited to the objects specified in the proclamation.

(v) Emergency Sessions - These Sessions may be convened by the Governor without prior notice or proclamation in the event of a public emergency caused by epidemic, enemy attack or public catastrophe.

(vi) Veto Session - The Session may be convened on fortieth day following adjournment of the last Session to consider all bills vetoed by the Governor. The Session is limited to five calendar days and may be adjourned earlier with approval of two-thirds of the Members of each House. No Veto Session is

held if a majority of Members of either House write to the Presiding Officer at least five days in advance of the scheduled session. A veto session has never been held.

6. The quorum required to constitute a sitting and transact business of the House is majority of the strength of the House, viz. 53 in respect of the House of Representatives and 20 in respect of the Senate.

7. When the House is in Session neither House is allowed to adjourn for more than three days without the consent of the other House.

8. The 'List of Business' which we have in our Parliament is designated as 'Order of the day' and 'Senate Daily Digest' in the House of Representatives and Senate respectively.

9. Members may prefile any number of bills until 5.00 p.m. of the tenth calendar day preceding a regular session. Thereafter, no Member may introduce more than five Bills. Most bills are prefiled before the session convenes. A prefiled bill is provisionally referred to the concerned Committee and may be debated by it prior to the Session. Prefiled bills are introduced on the first day of the session and are re-referred to Committees.

10. In a regular session in an even numbered year, no bill may be introduced after 6.00 p.m. of the twenty-third calendar day and in the odd-numbered year, the deadline is 6.00 p.m. of the tenth calendar day. There is no such deadline for introduction of bill in an extraordinary session.

11. State of the art audio and video systems are utilized to make available proceedings of the Chambers and Committees to persons of the general public.

These proceedings are also available live on Internet through web pages of the two Houses. The proceedings are also archived so that they may be viewed any time.

12. As stated in earlier part of this report that it is Members who introduce bills to the two Houses of Louisiana State Legislature unlike our system where both Ministers and Members introduce bills and there are different nomenclature like Government Bill and Private Members' Bill. Members take help of the House/Senate Legislative Services to prepare their bills. The legislative requests are kept confidential between the legislator and the staff/drafter of the Legislative Services.

13. If the bill is drafted prior to the ensuing session in time for prefiling, it is transmitted to the Member. The Member authorize prefiling of the instrument or filing of the instrument with the clerk for introduction.

14. A prefiled/introduced bill becomes public and copies of it are available. It is also available on the internet.

15. All Bills are referred to concerned Committees. Some Bills need to be referred to more than one Committee.

16. Committees of the House are designated as 'Morning', 'Afternoon' and 'Weekly' Committees and assigned a permanent meeting room for its hearings. The 'Morning' Committees meet on Mondays and Tuesdays; 'Afternoon' Committees meet on Wednesdays and Thursdays and 'Weekly' Committees meet on Fridays. This schedule may, however, change some time.

17. During the time the Houses are in Session, the Committees thereof do not meet unless leave has been granted by the concerned House to do so.

18. No Member may serve on more than three Committees or more than the one Committee which meets regularly at the same time.

19. The Committees also have a Vice Chairman, who carries duties of the Chairman in his absence.

20. The quorum to constitute a sitting of a Committee is majority of its current membership.

21. A Committee Member may recuse himself from all proceedings relating to any question in which he believes he has a conflict of interest. Members recused are not counted in determining the number required for a quorum.

22. No bill is considered for final passage unless a Committee has held a public hearing and reported on the bill.

23. The State Constitution requires that a Committee held a public hearing and furnish report on a Bill before it is considered for final passage.

24. The requirement of public hearing is satisfied by due notice of the Committee meetings, opportunity at the meeting for interested persons to appear before it to testify for or against the proposed legislation and all votes being taken in meetings, open to public. Minutes of meetings of a Committee are public documents.

25. Where the Committee considers a bill, the presence of the Member who has introduced it is a must unless it has allowed the Committee in writing to take up the bill in his absence.

26. The author of a bill may present amendments to it for consideration but for adoption those amendments must be formally offered by a Committee Member.

27. The Committee is not bound by the Constitution or rules to report on every bill referred to it. It considers the merit of a legislative instrument to determine whether to report it to the House as a part of its report. Bill not reported by the Committee, including any instruments which the Committee votes to defer, is said to have "died in Committee".

28. The report of a legislative instrument must be adopted by a majority of the quorum of the Committee present and voting.

29. The Committee considers a number of bills in a meeting. No Bill is considered more than once by a Committee. Report of each meeting of the Committee is prepared which include reports on all the bills considered by it on that day. The vote by which each legislative instrument was decided also form part of the report.

30. The Committee reports are advisory only and must be approved by the House. Although adoption of Committee reports is usually a routine, a report is occasionally challenged on the House floor to 'override the Committee'. A majority vote of the House is required to override a Committee report.

31. When the Bill of a Member passes in the House where it was introduced, it goes to the other House. In the other House, it is again referred to the concerned Committee of that House. The Member may handle the Bill himself in that Committee, or he may arrange a Member of that House to handle it for him, but he must have to arrange for a Member belonging to the other House to handle the Bill on floor of it. The staff of the first House assist the staff of the second House in drafting the amendments, if required, or providing information.

32. A bill becomes a law only with a vote of at least a majority of the Members elected to each House. Final passage of a bill happens to be by record vote.

33. A bill passed by one House is sent to the second House for concurrence. If the second House passes the bill with amendments and the first House does not concur them, a Conference Committee, comprised of three Members each from the two Houses is formed to resolve the differences. If agreement reached and both Houses concur, the bill is sent to the Governor for obtaining his signature. If, however, no agreement is reached or agreement reached out either House rejects the Report, the bill fails.

34. A bill passed by both Houses is signed by Presiding Officers of both the Houses and delivered to the Governor within three days of passage.

35. If the Governor does not approve a bill, he may veto it.

36. A bill becomes a law if the Governor signs it or if he fails to sign or veto it within ten days after delivery to him if the legislature is in Session on

the tenth day after such delivery or within twenty days after delivery if the tenth day, after delivery, occurs after the legislature is adjourned.

37. If the Governor vetoes a bill, he shall return it to the legislature, with his veto message within twelve days after delivery to him if the legislature is in Session.

38. A bill vetoed and returned by the Governor, if approved by each House by two-thirds of its elected Members, becomes a law.

39. All laws enacted during a regular session become effective on 15th August of the calendar year in which the Session was held and all laws enacted during an extraordinary session become effective on the sixtieth day after final adjournment of the session in which they were enacted. All laws are published prior thereto in the official journal. However, a bill may specify an earlier or later effective date.

Chapter-IV

Observations and usefulness of the Training Programme

The training programme was a very well organized one. All the faculty members were very well informed and had command over their subjects. They also had rich practical experience in drafting and related matters. The training programme had a lot of practical component which made it even more interesting. A lot of interaction took place during the lectures which provided valuable information on different subjects.

The presence of participants from different countries was very refreshing. It offered the participants opportunity to know about the political system, functioning of Government machinery and culture etc. of the participating countries.

As regards drafting of legislations, though we are not directly involved in the drafting of bills etc., their examination is done at the Committee stage. The wisdom acquired particularly use of plain language can definitely be put in practical use while drafting amendments to provisions of bills in Committee reports. This can also be helpful in examination of rules done in the Committee of Subordinate Legislation. The knowledge gained can also be applied in examination of Private Members' Bills. The knowledge of plain language in fact may be applied in our all spheres of work, whether it may be writing of reports, preparation of Memoranda for consideration of Committees, minutes of meetings or routine noting and drafting.

The training programme was therefore very useful for all of us.