Drafting Legislation
A Modern Approach

Edited by
CONSTANTIN STEFANOU
and
HELEN XANTHAKI
University of London, UK

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Chapter 1

On Transferability of Legislative Solutions: The Functionality Test

Helen Xanthaki

In 1997, Sir William Dale became the first Director of the Centre that bears his name. The aim of the Centre is to promote quality in legislation by identifying and disseminating best practices in legislation.[1] The logic is that one can and should learn from the experience of others, irrespective of the characteristics and intricacies of their own legal system, irrespective of the financial power of the borrowing legal system and irrespective of the level of development of the legal systems involved. In celebration of the 10th anniversary of the establishment of the Sir William Dale Centre for Legislative Studies at the Institute for Advanced Legal Studies of the School of Advanced Study of the University of London and in the memory of Sir William Dale, this chapter aims to put to the test the very essence of the Centre's philosophy. Can one really learn from others in the field of legislative drafting? Can legal texts, institutions and legislative solutions be transferred to other jurisdictions? And if so, under which conditions?

In answering this question, one cannot fail but question the essence of this publication. Are the essays generously contributed to this book in memoriam to Sir William Dale really useful as paradigms of best practices in aspects of legislative drafting and legislative studies? Or does this publication, and the Centre as a whole, continue a vain effort of a brilliant mind to teach what cannot be taught, to disseminate what cannot be transferred?

Transferability in Legislative Drafting

Transferability finds an eloquent supporter with Watson, the guru of transplants.[2] Watson, who focuses on the transferability of institutions, solutions and texts in the field of private law, claims that 'whatever their historical origins may have been, rules of private law can survive without any close connection to any particular

1 See Sir William Dale, 'The drafting of the norm' in U. Karpen and P. Delnoy (eds) *Contributions to the Methodology of the Creation of Written Law* (Baden-Baden: Nomos Verlagsgesellshcaft, 1996) pp. 35–8, at 35.

2 For an analysis of the term, see E. Öcürü, 'Critical Comparative Law: considering paradoxes for legal systems in transition' 59 (1999) *Nederlandse Vereniging voor Rechtsvergelijking*; also see E. Öcürü, 'Law as Transposition' 51 (2002) *ICLQ* pp. 205–23 at 206.

people, any particular period of time or any particular place'.[3] Watson could put an end to the questions posed by this chapter before any analysis takes place: if everyone can borrow from everyone else, then transferability can be useful even in an environment of anarchy by comparison. However, the liberal approach of Watson is rejected by Legrand,[4] Kahn-Freund[5] and the Seidmans,[6] who set conditions of transferability. It would be difficult to accept that national characteristics play no part in the transferability of legislative solutions, institutions or texts. It is therefore widely accepted that some prerequisites must be introduced when borrowing takes place. The question is what is the accepted criterion of transferability?

Gutteridge, Buckland and McNair accept the use of paradigms under the condition of similarity: like can only be compared with like.[7] Like is defined as countries in the same evolutionary stage.[8] Teubner and Allison support the conditionality of transferability but apply the exact opposite criterion, namely that of divergence: only differences enhance our understanding of law in a given society.[9] Schlesinger rejects the similarities versus differences debate and points out that 'to compare means to observe and to explain similarities as well as differences'.[10] This seems to be the prevailing view. One can learn from similar and divergent legal systems and indeed one can borrow similarities and differences. But, if the criterion of transferability does not lie with the comparability of the legal systems involved, what is it?

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3 See A. Watson, 'Legal Transplants and Law Reform' 92 (1976) *Law Quarterly Review* at 80; also see A. Watson, *Legal Transplants: An Approach to Comparative Law* (Edinburgh: Scottish Academic Press, 1974); A. Watson, 'Legal transplants and European private law' Ius Commune Lectures on European Private Law, No. 2, 4 (2000) 4 *Electronic Journal of Comparative Law* (www.ejcl.org/ejcl/44/44-2.html).

4 See P. Legrand, 'The Impossibility of Legal Transplants' (1997) *Maastricht Journal of European and Comparative Law* p. 111.

5 See O. Kahn-Freund, *On Uses and Misuses of Comparative Law*, 37 (1974) *Modern Law Review* at 7.

6 See A. Seidman and R. Seidman, *State and Law in the Developing Process: Problem Solving and Institutional Change in the Developing World* (London: Macmillan Publishers, 1994) pp. 44–6.

7 See H. Gutteridge, *Comparative Law* (Cambridge: Cambridge University Press, 1949) at 73; W.W. Buckland and A.D. McNair, *Roman Law and Common Law* (Cambridge: Cambridge University Press, 1936).

8 See C. Schmidthoff, 'The Science of Comparative Law' (1939) *Cambridge Law Journal* at 96.

9 See F. Teubner, 'Legal Irritants: Good faith in British law or how unifying law wends up in new divergences' 61 (1998) *Modern Law Review* at 11; also J.W.F. Allison, *A Continental Distinction in the Common Law: A Historical and Comparative Perspective on English Public Law* (Oxford: Clarendon Press, 1996) at 16.

10 See R.B. Schlesinger, 'The common core of legal systems: an emerging subject of comparative study' in K. Nadelmann, A. von Mehren and J. Hazard (eds) *XXth Century Comparative and Conflicts Law, Legal Essays in Honour of Hessel E. Yntema* (1961); Schlesinger, 'Research on the general principles of law recognised by civilised nations' 51 (1957) *American Journal of International Law* at 734.

The prevailing view in the theory of comparative law is expressed by Jhering, Zweigert and Kötz,[11] who view the question of comparability and subsequent transferability through the relative prism of functionality.[12] 'The reception of foreign legal institutions is not a matter of nationality, but of usefulness and need. No one bothers to fetch a thing from afar when he has one as good or better at home, but only a fool would refuse quinine just because it didn't grow in his back garden'.[13] It is the theory of functionality that seems to serve drafting teams in the current period of integrative legal globalisation,[14] although currently the use of social analysis in legislation is minimal.[15] Thus, legislative drafters can propose and apply policy, legal and legislative responses already tried elsewhere with unprecedented insight to the results produced in the legal system of origin. Does it really matter where these responses are borrowed from? Not in principle.

Functionality

A qualifier to Watson's liberal approach can be introduced via Zweigert and Kötz's functionality theory. The criterion for the transferability of institutions, solutions and texts is that of functionality. If the policy, concept or legislation of a foreign legal system can serve the receiving system well, then the origin of the transplant is irrelevant to its success.[16] As long as the transplant can serve the same social need, the transplant can work well in the new legal ground. In fact, it is this transfer of the transplant to national contexts that promotes indigenisation of positive transplants as a block to indiscrete globalisation and modern legal colonialism.[17]

But is there a unifying factor that can link all legal systems with a web of common functionality, thus justifying this publication and, perhaps more importantly, the existence of the Sir William Dale Centre? In other words, is there a concept which drives national legislative drafters in the performance of their tasks, which is detached from the national intricacies of the legal system, the national drafting style and the policy aims of each national law? Do drafters serve the same conceptual function when drafting legislation? Do they serve a higher virtue which acts as a conceptual

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11 See K. Zweigert und H. Kötz, *Einführung in die Rechtsvergleichung*, 3. Neubearbeitete Auflage (Tübingen: J.C.B. Mohr, 1996).

12 See K. Zweigert and K. Sier, 'Jhering's influence on the development of comparative legal method' 19 (1971) *American Journal of Comparative Law* pp. 215–31.

13 See K. Jhering, *Geist des römischen Rechts* (1955, vol. 1) pp. 8–9.

14 See L.A. Mistelis, 'Regulatory Aspects: Globalization, Harmonization, Legal Transplants, and Law Reform – Some Fundamental Observations' 34 (2000) 3 *International Lawyer* at 1059.

15 See J. Brown, A. Kudan and K. McGeeney, 'Improving legislation through social analysis: a case study in methodology from the water sector in Uzbekistan' 5 (2005) *Sustainable Development Law and Policy* pp. 49–57 at 49.

16 See S. Zhuang, 'Legal Transplantation in the People's Republic of China: A Response to Alan Watson' (2006) *European Journal of Law Reform* pp. 215–36 at 223.

17 See R. Petrella, 'Globalization and Internationalization: The Dynamics of the Emerging World Order' in R. Boyer and D. Drache (eds), *States against Markets: the Limits of Globalization* (London and New York: Routledge, 1996) at 132.

framework applicable to all types of legal texts, in all types of legal systems and legislative environments? Of course, asking the drafter to select a single goal to serve in the complex task of drafting legislation has been criticised as simplistic; however, even those who accept the criticism also recognise that serving a single master focuses drafters' efforts and, consequently, is a better platform for success.[18] Irrespective of one's position on the debate, if such a single virtue exists, then it can serve as a functional glue that can justify transferability of texts, institutions, legislative solutions and, consequently, legislative techniques. Sir William's conviction that one can learn from the work and teachings of others will be proven, the Sir William Dale Centre will confirm its *raison d'être*, and this collection of essays will prove its usefulness for most national legislative environments.

In the search for the higher functionality concept in legislative drafting, one cannot avoid to explore the higher values, the virtues, promoted in the field: efficacy, effectiveness, efficiency, clarity, precision,[19] unambiguity, plain language[20] and gender neutral language. Could one of them, unrealisable as they may be,[21] serve as the functionality glue? And what is its relationship with the other concepts promoted in drafting manuals and legisprudence around the world?

Efficacy

Efficacy is defined as the ability to produce a desired or intended result.[22] Mader views efficacy as one of three criteria for the evaluation of legislation, namely effectiveness, efficacy and efficiency.[23] Mader provides the simpler yet most successful definition of efficacy as the extent to which legislators achieve their goal.[24] Delnoy draws the link between efficacy and quality in legislation in his definition of efficacy as the achievement of the least degree of litigation as a result of laws passed.[25] Thus, efficacy is achieved when the statute does not conflict with any other norm of the

18 See J. Stark, 'Should the main goal of statutory drafting be accuracy or clarity?' 15 (1994) *Statute Law Review* pp. 207–13 at 207.

19 See Sir W. Dale (1996) at 35.

20 See Jean-Louis Bergel, 'The drafting of the norm' in Karpen and Delnoy (1996) pp. 39–50 at 41.

21 See W. Cyrul, 'Lawmaking: between discourse and legal text', in L.J. Wintgens, *Legislation in Context: Essays in Legisprudence* (Aldershot: Ashgate, 2007) pp. 43–54 at 52.

22 See *Compact Oxford English Dictionary of Current English* (Oxford: Oxford University Press, 2005).

23 See L. Mader, 'Evaluating the effect: a contribution to the quality of legislation' 22 (2001) *Statute Law Review* pp. 119–31 at 126.

24 See ibid. at 126.

25 See P. Delnoy, *The role of legislative drafters in determining the content of norms* (Ottawa: The International Cooperation Group, Department of Justice of Canada, 2005) at 6, accessed at (www.justice.gc.ca/en/ps/inter/delnoy/index.html); L.E. Allen, 'Symbolic logic: a razor-edged tool for drafting and interpreting legal documents' 66 (1956–57) *Yale L.J.*, pp. 833–80 at 855.

same or higher hierarchical level and when the statute has no deficiencies.[26] In other words efficacy seems to reflect the quality of statutes that achieve their goal to such a degree that refuge to judicial interpretation is not necessary. In fact, Jones distinguishes between five types of inefficacy: failure of communication of the law's message; failure to enlist supportive action to the law; failure to forestall avoidance of the action required by the law; failure of enforcement; and failure of the law's moral obligations.[27] Is this the highest level of quality that a drafter can secure?

The achievement of a policy objective or purpose is not the sole task of the drafter. It is the task of a multi-level effort of policymakers, drafters, interpreters, applicators and enforcers of legislation.[28] This common effort is reflected in the many aspects of the policy process, of which the legislative process is a mere stage. It requires quality in the performance of the duties of all factors in the policy process. A drafter cannot possibly control the efficacy of the policy decided by the Cabinet Office and pushed forward by the Client Department, or the efficacy of the implementation of the legislation by the executive, or indeed the efficacy of its enforcement by the police.[29] If one accepts the multiplicity of actors in the policy process, clearly recognised in the prevailing vision of a drafting team, efficacy cannot be a goal set for the drafter alone.[30] As a result, despite acknowledging efficacy as the highest virtue in the policy process, efficacy cannot be viewed as the connecting function of drafters. A goal concrete to the work of the drafter, and consequently, achievable by the drafter must be sought.

Effectiveness

Quality of legislation is commonly attached to effectiveness rather than efficacy.[31] Effectiveness can be viewed as the drafter's contribution to the efficacy of the drafted legislation. It is widely accepted that drafters aim to be effective and efficient, 'effective' meaning that the norm produces effects, that it does not become a dead letter, and 'efficient' in the sense that the norm should produce the desired effects, should not have perverse effects and should so guide conduct as to achieve the desired objective.[32] Parkinson describes effective legislation as reasonable

26 See ibid. at 7.

27 See H.W. Jones, *The Efficacy of the Law* (Evanston: Northwestern University Press, 1969) pp. 18, 20, 32 and 34.

28 See U. Karpen, 'The norm enforcement process' in Karpen and Delnoy (1996) pp. 51–61 at 51; for the example of Switzerland, see L. Mader, 'Legislative procedure and the quality of legislation' in U. Karpen and P. Delnoy (1996) pp. 62–71 at 68.

29 See D. Hull, 'Drafter's Devils' (2000) *Loophole*, (www.opc.gov.au/calc/docs/calc-june/audience.htm).

30 See J.P. Chamberlain, 'Legislative drafting and law enforcement' 21 (1931) *Am. Lab. Leg. Rev.* pp. 235–43 at 243.

31 See H. Schäffer, 'Evaluation and assessment of legal effects procedures: towards a more rational and responsible lawmaking process' 22 (2001) *Statute Law Review* pp. 132–53 at 132–3.

32 See Delnoy (2000) at 3.

legislation.[33] Mader defines effectiveness as the extent to which the observable attitudes and behaviours of the target population correspond to the attitudes and behaviours prescribed by the legislator.[34]

Thus effectiveness seems to reflect the relationship between the effects produced by legislation and the purpose of the statute passed. It is different from efficacy in that it relates to the effect of the statute and not to the effect of the policy which the statute sets out to achieve. In other words, effectiveness can be described as the drafter's efficacy. The definition of effectiveness in legislation is rarely studied in literature in drafting terms. More often than not effectiveness of regulations and techniques is studied with reference to the nature of the specific regulation observed.[35] Thus, in international law effectiveness is related to treaties, where design and impact are critical to effectiveness.[36] In European Union law effectiveness appears to be at the forefront of lawmaking and is linked to minimum consultation standards applied by the Commission's departments: this leads to quality and equity of major political proposals which, in turn, guarantees the feasibility and effectiveness of the law-making operation.[37] Effectiveness is not simply the elaboration of legal doctrine.[38] It includes but is not limited to implementation, enforcement, impact and compliance.[39] Thus, effectiveness may include both the effects of legal norms and the following of such norms.[40]

However, one could distinguish in general between two prevailing models of effectiveness, often described as the positivist and the socio-legal models. In his positivist approach Jacobson links effectiveness to implementation and compliance.[41] In his socio-legal model of effectiveness, Jenkins relates the statute to the social reform attained.[42] Irrespective of which of the two models one favours, the fact of the matter is that drafters are in pursuit of effectiveness of the measure that they draft. And, although stating that a drafter can single-handedly achieve effectiveness in

33 See T.I. Parkinson, 'Functions of administration in labour legislation' 20 (1930) *Am. Lab. Leg. Rev.* pp. 143–54 at 144.

34 See L. Mader (2001) at 126.

35 See P. Birnie and A. Boyle, *International Law and the Environment* (Oxford: Oxford University Press, 2002) at 10.

36 See W.B. Chambers, 'Towards an improved understanding of legal effectiveness in international environmental treaties' 16(2003–04) *Geo. Int. Env. L. Rev.* pp. 501–32 at 503.

37 See Commission of the European Communities, 'Communication from the Commission: European Governance: Better lawmaking' COM (2002) 275 final, Brussels, 5 June 2002, at 3.

38 See F. Snyder, *New Directions in EC Law* (London: Weidenfeld and Nicholson, 1990) at 3.

39 See G. Teubner, 'Regulatory Law: Chronicle of a Death Foretold' (1992) *Social Legal Studies* pp. 451–75.

40 See F. Snyder, 'The Effectiveness of European Community Law: Institutions, Processes, Tools and Techniques' 56 (1993) *Modern Law Review* pp. 19–54 at 19.

41 See H. Jacobson, 'After word: conceptual, methodological and substantive issues entwined in studying compliance' 19 (1998) *Mich. J. Int. L.* pp. 569–80 at 573.

42 See I. Jenkins, *Social Order and the Limits of the Law: a Theoretical Essay* (Princeton: Princeton University Press, 1981) at 180; R. Cranston, 'Reform through legislation: the dimension of legislative technique' 73 (1978–79) *Nw. U. L. Rev.* pp. 873–908 at 875.

legislation would signify a complete ignorance of the interrelation between actors in the policy process, the truth of the matter is that the drafter can, and must seek, achieve attainment of the purpose and objectives set in the statute under construction.

Could effectiveness be the common functionality sought, one that can apply to the drafting of all legislation breaking the barriers of family of laws and bypassing national intricacies? Before drawing a conclusion, it is necessary to explore the other virtues sought in legislative drafting.

Efficiency

Efficiency is defined as working productively with minimum wasted effort or expense,[43] as the relation between costs and benefits of the legislative action,[44] as an economic analysis of what and how much input is required for an optimal output,[45] or as the extent to which perceived best practices are utilised in the process of the development of legislation.[46] Evaluating the efficiency of legislation means considering its costs[47] (namely direct financial costs of implementation and compliance with legal norms; non-material factors; and all negative effects of the legislation)[48] and the extent to which its goals have been achieved.[49] Efficiency is often perceived as a dual set of presumptions: the normative presumption is that the law should be efficient; the descriptive presumption is that the law is in fact efficient.[50]

Criteria for efficiency in legislation are borrowed from the theory of efficiency in economics and include the notions of productive efficiency, Pareto optimality, Pareto superiority, Kaldor-Hicks efficiency, and Posner's wealth maximisation.[51] Productive efficiency occurs when the economy is operating at its production possibility frontier:[52] thus productive efficiency in relation to legislation occurs

43 See *Compact Oxford English Dictionary of Current English* (Oxford: Oxford University Press, 2005).

44 See R. Posner, 'Cost Benefit Analysis: definition, justification, and comments on conference papers' 29 (2000) *The Journal of Legal Studies* pp. 1153–77.

45 See Government of the United Kingdom, *Efficiency and Effectiveness in the Civil Service, Government Observations on the Third Report from the Treasury and Civil Service Committee*, Session 1981–82, Cmnd 8616.

46 See P. Biribonwoha, 'Efficiency in the legislative process in Uganda' 7 (2005) *European Journal of Law Reform* pp. 135–64 at 138.

47 See L. De Alessi, 'Efficiency criteria for optimal laws: Objective standards or value judgements?' (2006) *Constitutional Political Economy* pp. 321–42.

48 See G. Regner, 'The view of the practical Swedish law-maker' in Karpen and Delnoy (1996) at 75–6.

49 See Mader (2001) at 126.

50 See L. Kornhauser, 'A guide to the perplexed claims of efficiency in the law' 8 (1979–80) *Hofstra Law Reiew* at 591.

51 See J. Coleman, 'Efficiency, utilisation and wealth maximalisation' 8 (1979–80) *Hofstra Law Review* at 512.

52 See P. Arestis, G. Chortareas and E. Desli, 'Financial development and productive efficiency in OECD countries: an exploratory analysis' 74 (2006) *The Manchester School* pp. 417–40.

when a legislative choice achieves the lowest cost possible in comparison with the costs incurred by all other legislative choices. Pareto superiority, as applied in legislative drafting, compares two legislative choices and puts forward as preferred the legislative choice which improves the welfare of at least one person while not diminishing the welfare of another. Pareto optimality, criticised as a valid criterion early on,[53] compares all possible legislative choices and promotes the choice which is superior among all others.[54] In the Kaldor-Hicks scenario, a legislative solution is efficient if those benefiting from it can fully compensate those whose welfare is diminished as a result of its application.[55] The Kaldor-Hicks criterion is rather popular as it allows one to make efficient judgements about the real world: 'to judge, for example, that Communism was inefficient or rent control is inefficient or piracy was inefficient'.[56] However, it is often criticised as 'actually grappling with the calculation problem'.[57] Wealth maximisation signifies the choice of rule that maximises total wealth, irrespective of who benefits.[58]

These choices are usually developed through the prism of utilitisation theory and are therefore criticised as contrary to fairness and equity. However, Zerbe Jr. suggests that the pure economic considerations of Kaldor-Hicks and Pareto efficiency need not be in direct conflict with equity, as equity can be considered as one of the values that they take into account when choices of solutions are made.[59] Nevertheless, the possibility of combining efficiency with equity in a single stage is doubtful.[60] Similarly, the choice between efficiency and fairness is a fallacy even if the traditional Coase Theorem does not serve the unified model well.[61]

Leaving the common ethical concerns arising from the actual choice between benefits for some and costs for others, one cannot depart from the realism of efficiency in legislative choices. When selecting a legislative choice, or indeed when supporting a policy choice, the drafter takes into account the financial and non-monetary costs of this choice to interest groups and to the State itself. In fact,

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53 See H.M. Hochman and J.D. Rodgers, 'Pareto Optimal Redistribution' 59 (1969) The American Economic Review pp. 542–57.

54 See A. Sen, 'Liberty and Social Choice' 80 (1983) *The Journal of Philosophy* pp. 5–28.

55 See E. Stringham, 'Kaldor-Hicks efficiency and the problem of central planning' 4 (2001) *Quarterly Journal of Austrian Economics* pp. 41–50.

56 See B. Caplan, 'The Austrian Search for Realistic Foundations' 65 (1999) *Southern Economic Journal* pp. 823–38 at 835.

57 See G.O'Driscoll, 'Justice, Efficiency, and the Economic Analysis of Law: A Comment on Fried' 9 (1980) *Journal of Legal Studies* pp. 355–66 at 359.

58 See A. Seidman and R.B. Seidman, 'Drafting Legislation for Development: Lessons from a Chinese Project' 44 (1996) The American Journal of Comparative Law pp. 1–44 at 21.

59 See R.O. Zerbe Jr., 'An integration of equity and efficiency' 73 (1998) *Washington Law Review* pp. 350–61 at 361.

60 See R.B. Korobkin and T.S. Ulen, 'Efficiency and equity: what can be gained by combining Coase and Rawles?' 73 (1998) *Washington Law Review* pp. 329–48 at 348.

61 See M.I. Swyert and K.E. Yanes, 'A unified theory of justice: the integration of fairness into efficiency' 73 (1998) *Washington Law Review* pp. 249–327 at 327.

the essence of consultation is to identify such costs and interest groups as a means of completing the picture of conflicting benefits and damages incurring as a result of a legislative choice. Fairness and equity are driving forces behind this choice, either unconsciously or as formally recognised non- monetary criteria for making the choice. Calculation of the true cost of such factors is a hurdle that few policymakers, and far fewer drafters, are equipped to handle, especially in the case of substantive rather than procedural efficiency.[62] But at the end of the day, efficiency is a desired value that must be taken into account in legislative drafting. It is a tool which the drafter can use to achieve effectiveness: relatively cheap results are better than just results. However, efficiency, in the process or in the law, does not guarantee effectiveness: negotiating the less costly means for producing the objectives of legislation does not secure attainment of the law's objectives. In fact, one could support the view that efficiency, in the sense of extreme economy, may be adverse to effectiveness and may jeopardise results in the altar of cost minimisation. This need not be the case. In the hierarchy of values set for the drafter efficiency is one of the considerations that must be taken into account in the search for effectiveness as part of efficacy. The question then is, whether efficiency is the only tool that the drafter can utilise to achieve effectiveness?

Clarity, Precision, Unambiguity

Butt and Castle recommend that 'legal documents should be written in modern, standard English, namely in standard English as currently used and understood'.[63] Clarity, or clearness,[64] is defined as the state or quality of being clear and easily perceived or understood.[65] Clarity depends on the proper selection of words, on their arrangement and on the construction of sentences.[66] Clarity in the language of the law enhances understanding and transparency of legislation.[67] Ambiguity is defined as uncertain or inexact meaning.[68] Ambiguity exists when words can be interpreted in more than one way: for example, is a 'light truck' light in weight or light in colour? Thus, semantic ambiguity occurs when a single word has more than one meaning and is cured by defining any term that people might disagree about.[69] Syntactic ambiguity is the result of unclear sentence structure or poor placement of phrases or

62 See G. Tullock, 'Two kinds of legal efficiency' 8 (1979–80) *Hofstra Law Review* pp. 659–69 at 666.

63 See P. Butt and R. Castle, *Modern Legal Drafting* (Cambridge, 2001) at 129.

64 See Lord H. Thring, *Practical Legislation: The Composition and Language of Acts of Parliament and Business Documents* (London: John Murray, 1902) at 61.

65 See *Compact Oxford English Dictionary of Current English* (Oxford: Oxford University Press, 2005).

66 See Lord H Thring (1902) at 61.

67 See P. Wahlgren, 'Legislative techniques' in L.J. Wintgens (2007) pp. 77–94 at 84.

68 See *Compact Oxford English Dictionary of Current English* (Oxford: Oxford University Press, 2005).

69 See J. MacKaye, A.W. Levi and W. Pepperell Montague, *The Logic of Language* (Hannover: Dartmouth College Publications, 1939) ch. 5.