

When Acts do not make new law

As a former parliamentary draftsman, I have sympathy with Mr John Davis (Letters, page 229 above) when he asks why new legislation has been enacted, for example punishing deliberate infection by Aids, when the point is already covered by existing law. For a possible answer I refer him to what was said by a former colleague of mine, Sir Harold Kent, in his 1979 book *In on the Act* (pages 44-45):-

‘There is a certain conflict of interest between the draftsman and the department. The former seeks to confine the Bill strictly to matters requiring an alteration in the law. The department is conscious that the Minister would like to make a Parliamentary splash . . .’

Mr Davis goes on to suggest that, as a measure of simplification, certain sections of the Offences against (*sic*) the Person Act 1861 should be repealed. He continues: ‘There should be added an interpretation section providing that all the activities specifically prohibited in the repealed sections are to be deemed to be included within the scope of the sections remaining . . .’

I have to tell him that this addendum would at a stroke undo the simplification effected by the repeals. In order to make sense of the addendum, it would continue be necessary to examine and consider every one of the repealed sections, along with the case law governing them.

Statutory simplification is not as easy to accomplish as it may appear to be.

1998.016 162 *Justice of the Peace* (1998) 367.