

SPOTLIGHT

Australian Law Librarian - New Committee

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Sixth Asian Pacific Special, Health & Law Librarians' Conference

Sydney, 27-30 August 1995

*Copyright : Issues, Agencies and the Future**

Speakers :

Jamie Wodetski

Copyright Research Officer, ACLIS

Michael Fraser

Chief Executive, Copyright Agency Limited

Peter Treyde

Attorney-General's Department, Canberra, ACT

This collection of papers made up perhaps the most informative and lively of the many excellent sessions at the recent Synergy in Sydney Conference. Jamie Wodetski began the proceedings with a brief review of the goals of

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copyright - to promote a healthy flow of information, knowledge, culture and ideas in the interests of all Australians and to regulate the delicate balance between access to and ownership of information. He then sketched the boundaries of the "exempt zone" in which libraries operate under the *Copyright Act 1968* (ss 49 and 50).

The first limit is that copying must be for the purpose of research or study not the mere gathering of facts, though copying for giving legal advice and for judicial proceedings is allowed. It is also questionable whether a corporation can 'study' though no definitive judgments have been made on this point. Generally, in order for fair dealing to be a successful defence it must first be shown that the purpose of the person accused of infringement was research or study. It is not enough to say that a particular dealing will ultimately benefit someone with that purpose. Fortunately, libraries are able to copy on behalf of others by virtue of the special library provisions. These provisions also cover a library requesting another library to supply it with a copy for the purpose of including the copy in its collection.

Of more concern are the provisions of the Act which limit exemptions to not-for-profit libraries. There is some debate as to what constitutes a 'not-for-profit' library but the predominant view seems to be that corporate and business reference libraries not themselves conducted for profit but forming part of a profit-making organisation can be regarded as 'libraries not established or conducted for profit'. This means, of course, that any charge a library levies must not exceed the costs of making and supplying the copy.

Another limit is that where a copy is requested for research and study purposes, the library needs to obtain a written, signed declaration from the person to that effect and keep a copy for four years. Further, if the amount to be copied exceeds certain limits another declaration is needed to the effect that an original copy was not available for purchase within a reasonable time at an ordinary commercial price. When, however, the digital copying potential of new technologies such as

scanning, file transfer and downloading are considered things become rather more complex. Jamie didn't go into this aspect in any detail except to say that ACLIS is in the process of preparing submissions to the Copyright Law Review Committee to argue that an 'information society' does not need to be a 'pay-per-view society' and some things like the right to read, to browse, to preview and to take notes should remain part of the public domain.

Thinking more in the realm of new technologies, the next speaker, Michael Fraser from CAL (Copyright Agency Limited), explained the role of CAL in facilitating access to a maximum of sources with the minimum of barriers. Basically, CAL is a licensing and copyright fee collecting agency. Its role is to collectively administer the copyright in the works of its members by collecting licence fees for the use of its members' works and distributing royalties according to copying records. Presently CAL represents the rights of the majority of Australian authors and publishers. It also holds the statutory licence to regulate print copying in educational institutions under Part VB of the *Copyright Act*. Most of its licences go to educational institutions but also to government bodies, churches, media monitors, associations and corporations. (The paper reviews the sorts of licences available to these groups in turn.)

CAL is presently developing a licence to cover digital copying. Amidst the proliferation of information technologies, CAL sees itself, by its role of ensuring creators and producers receive their due, as both encouraging the creation of quality products and ensuring its members benefit from the opportunities that electronic copying presents. The paper concluded with a discussion of some commonly asked copyright questions - Are contents pages copyright? (yes); What constitutes a library for the purposes of Inter-Library Loan? (who knows!); What constitutes 'research and study' in relation to copying by corporate employees/libraries? (Depends - be careful!); and What about Document Delivery Services? (OK, if not for profit).

Wrapping up the session, Peter Treyde led an interesting question/answer time. The main points I gleaned were:

1. In electronic formats, copyright exists in the arrangement of data not in straight information. This means there are two potential copyright owners, the database owner and the owner of the underlying works. The rights of the database owner are limited by the nature of the contract they have with the authors.
2. The main problem in copyright with digital technologies is the range of rights exercised in one information transaction. For example in a situation where a librarian looks for something on the Internet, downloads some information onto the library computer then e-mails it to a client, three separate rights may be exercised - the reproductive right when downloading, the public performance right when displaying on screen, and the diffusion right when transmitting data by cable or satellite.

Confusing! But definitely a stimulating discussion. The papers are well worth reading.

Sonia Tincknell

Minter Ellison Baker O'Loughlin

IALL Meeting in Vienna

This is a short report on the IALL 14th Course on International Law Librarianship, *Current Trends in International Law*, which I attended in my capacity as member of the IALL Board. The meeting was held at the University of Vienna Faculty of Law, Vienna, Austria, from 18-20 September with a special excursion to the monastery of Melk (Stift Melk) on the Danube on 21 September.

There were Board meetings from the time I arrived on Saturday morning, 16 September, till

lunchtime on Sunday, with a further day's deliberations after the Conference on Friday 22 September. Matters discussed included the relationship between the Institute and the Journal, future conferences, and the constitution.

The Monday sessions of the Conference were held in the Faculty of Law building and included two interesting papers on New Developments in the Law of the European Union: Harmonization and the Austrian Experience. One of these papers outlined the organisation and functions of the Court of Justice of the European Communities and provided detailed information on how to research European Court material.

Bratislava, Slovakia, was the venue for the Tuesday sessions and the participants welcomed the opportunity to visit the capital of this new nation, formerly part of Czechoslovakia. From Vienna to Bratislava was a 2 hour bus trip. We were taken to the castle at the top of the town,

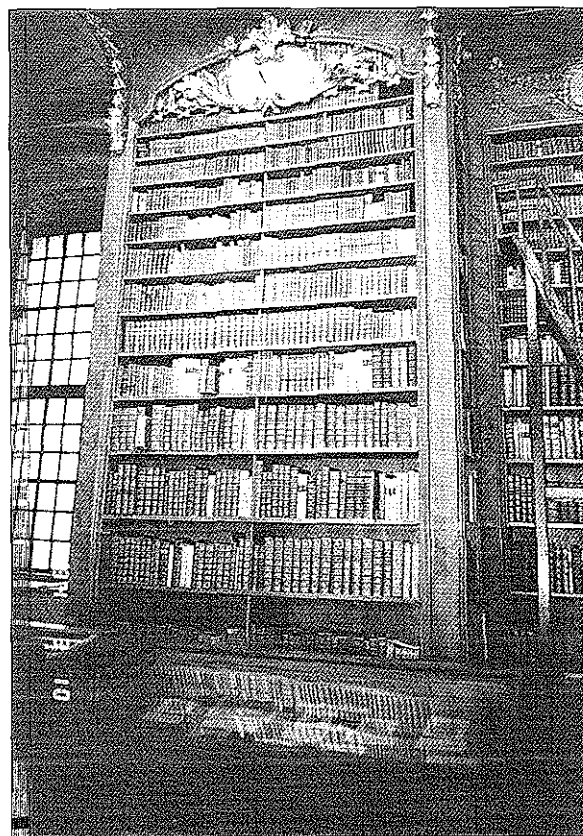


Bratislava old town

overlooking the Danube, where the Parliament building is located. We toured the Parliamentary Library, which apparently was receiving a lot of books and equipment in aid from the United States, and two sessions on East European law were held. After lunch in the Parliamentary dining room we had an hour to explore the old town before boarding the bus to return to Vienna.

The day in Bratislava gave us much food for thought and a fascinating insight into a former Communist state. The old buildings are still splendid but they have not been maintained. Where the funds to restore them to their former grandeur will come from is an unanswered question. In Budapest the following weekend I was told that the city will wait to do restoration work even if it takes a long time because they are not prepared to tear down the old buildings to build new ones. They are keen to preserve the former beauty of the city. It was interesting that in Vienna the Law Faculty building was the only building I noticed that was steel and glass. The rest are grandly preserved or were rebuilt after the war in the original style.

There were library tours on the Wednesday afternoon and the most magnificent library we saw was the Austrian National Library in the Hofburg. It was a privilege to be able to see inside both this library and, next day, the monastery library at Melk. Both collections go back before 1000 A.D. and both have wonderful carved wooden bookstacks, painted ceilings, and wooden ladders on wheels to reach the very top shelves. The books are shelved by size with the tiny vellum books at the top and the grand folios at floor level. There are wonderful illustrated manuscripts from the Middle Ages and dazzling bindings. The monastery library at Melk was apparently the basis of Umberto Eco's novel, *The Name of the Rose*, which we could well imagine. We were very lucky to have a talk from the young library monk who knew the collection so well and who had some entertaining library rules from centuries before to read to us!



The "Treasure Room" in the Austrian National Library

As an Australian it was amazing to see such a wealth of old books but Austria, of course, was at the heart of the early development of the book. In Budapest too the secondhand bookshops actually displayed books dating from 1605 in their shop windows. I could not help thinking of the few books of this age in Australia that we lock away for safe keeping. It is a sad fact that as the monasteries and churches of Central Europe need money they are gradually disposing of some of these treasures, hence, presumably, the availability of such books in the secondhand stores.

There were 63 attendees at this 14th IALL course and everyone found the few days stimulating and educational. With law librarians from Holland, Germany, Italy, Switzerland, Austria, Hungary, the UK, Canada and the United States the IALL is always an interesting group. We all benefited from the new contacts and the range of discussions over the week. The next course will probably be held in Vancouver in August 1996, when hopefully

many more law librarians will be able to attend from Australia

J. Elliott

High Court of Australia



Dinner with the IALL Board after the Conference (some members had already left Vienna): left to right, Jules Winterton (UK) behind; Holger Knudsen (Germany); Anne Crocker (Canada, guest); Ann Morrison (Canada); Larry Wenger (US, President IALL); Gloria Chao (US); Dick Danner (US, guest); Jacqueline Elliott (Australia); Claire Germain (US)

Tribute To National Library of Australia

The following tribute to the National Library of Australia is extracted from the Senate Hansard for 16 November 1995, p 3227-8 :

'**Senator TIERNEY** (New South Wales) (4 47 p m)—I rise to speak on the National Library of Australia's annual report for 1994-95. I have had the privilege of serving on the council of the National Library of Australia since 1991, and have had my term recently renewed. It has been a great honour to serve on a body which is one of the national icons in the parliamentary triangle, which Senator Reid was discussing earlier this afternoon.

This institution is in some ways misnamed because it is certainly more than a library. It is a repository of the cultural heritage of Australia; it is not just an institution full of books. I had the opportunity

about three months ago to take half a day to go through the National Library to see what it held in its collections and to see what it was doing about creating new collections.

One of the unique features of the National Library as an institution is its use of devices such as oral history. This is where they bring in very famous people and get them to discuss on an audio record the events of their life. This becomes a priceless treasure for future researchers. Imagine if we had the records of what people had said back in the last century about the events that were happening in that century. Of course, we do not have that, but we do have it for the 20th century for people of the future.

The papers of famous people are collected, sorted and stored. Again this is a great repository for future research. The library also has a magnificent repository of materials of nations that are near Australia. It is a major bridge builder to other nations and assists other nations in their development of their library activities.

The National Library is the leader of Australian libraries. It undertakes a great many activities to assist the development of those libraries. It has the distributed national collection. This means that all the materials are not located in Canberra but are moved out on occasions to other places around the country. People in the major cities of Australia and in regional areas can access that material a lot easier when the National Library goes on the road.

Apart from the materials I have discussed so far there is also the art dimension. The National Portrait Gallery in Old Parliament House is under the control of the Australian National Library. In the last two years I have been delighted to see a number of the exhibitions that they have mounted. This has become a major attraction for tourism in Canberra. There was one exhibition on political portraiture, including the cartooning of Australian politicians over the years. This was a fascinating exhibition.

The new technology that is developing across the country with the information superhighway has given the National Library a new impetus in terms of distributing its materials across the nation. Eric Wainwright, to whom I would like to pay tribute as the Deputy Director-General, is a national leader in terms of information technology. I had the honour, together with another member of parliament on the council, to jointly launch the server of the National Library, which is a gateway between the internet and the rest of Australia.

Through this means it is quite possible now for the treasures that exist in the National Library to be distributed around Australia and into the hands of people in the universities and community centres. It is sometimes a criticism of the National Library that it is an institution solely based in Canberra, but it will become truly the National Library of Australia as the materials are distributed and people right around the country have access to them.

Finally, I would like to pay tribute to the Director-General of the National Library, Warren Horton, who has shown great leadership and vision in the development of this great national institution, the National Library of Australia.'

CCH Sold!

On 29 November CCH Australia Ltd issued a press statement saying that the CCH worldwide company has been sold to international publisher, Wolters Kluwer. Fortunately there will not be major changes in the current management staff at CCH or in the daily operations of the company. The Managing Director of CCH Australia, Judith Sperling, asks anyone who has any questions or concerns to contact your local area manager or CCH Customer Support on (02) 857 1555.
