Education for Law Librarianship: Past and Present

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Dick Finlay looks back over the thirty years since he presented a paper at the national conference in 1971.[1] *The Australian Law Librarians' Group, of which he was a founding member, was only two years old. High on the agenda was education and training for law librarians. Dick, who recently retired,*[2] *presents below his thoughts on re-reading the paper.*

As the paper was originally printed it contained a few misprints. These have been corrected for the present edition, but some explanations are still necessary. First, the Australasian Universities Law Schools Association (AULSA) was the precursor of the Australasian Law Teachers' Association (ALTA). It includes university law librarians in its membership and has sought from time to time to exert pressure to improve university law libraries. One example of this is the ALTA standards for law libraries.

After the explanations, the inevitable apologies. First, I should apologise for the reckless use of male pronouns throughout; if I were writing today I would probably make a wholesale change to the female. But other times, other customs; it didn't seem to matter, back in those days.

Equally offensive to some people may be the description of a librarian as 'an unworldly potterer'. Similarly, the idea of the law student as 'an athletic philistine extrovert'. Re-reading the paper today, I wonder whether and how far these

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[1] Finlay, R. J. M. 1971, 'Education for law librarianship (notes towards a discussion)', Proceedings of the 16th Biennial Conference held in Sydney, August 1971, *Progress and Poverty,* The Conference Committee, Sydney, pp. 669-675. The paper is reprinted below pp. 204–212.
[2] Culshaw, Helen 2001, 'Adelaide law librarians farewell Dick Finlay', *Australian Law Librarian,* vol. 9, no. 2, pp. 137-143.

generalisations were true in 1971, let alone thirty years later. I would certainly change them both.

There was also a tendency to assume that the only law library is a university law library. In South Australia, at the time of writing the paper, that was not far from the truth, at least as far as the potential for employment went. The Supreme Court had, I think, the only other staffed library, and that was well staffed and did not seem likely to offer opportunities for employment in the near future.

The manual of Australian law library practice that I recommended in 1971 has not yet come into being, but Campbell, MacDougall and Glasson is no longer the only book about the publication of law in Australia. Furthermore, books about legal publication have not been restricted to current practice.[3] For instance, Alex Castles' annotated bibliography is a brave and successful attempt to fill the gaps left by the Sweet and Maxwell bibliography, but it did not and could not aim to be complete, even up to the cut off date, 1900.[4]

Probably the biggest difference between the law library of 1971 and that of today, particularly in the universities, is the extent to which computer access has taken over. Sometimes it complements access to information in the traditional paper form, but in many cases it has become a substitute. This change has been far greater than I imagined it in 1971.

What has not changed a great deal is the provision of training for law librarians in Australia. Western Australia may be seen as an honourable exception with courses by Paul Genoni at the Curtin University of Technology and the new online course at the University of Western Australia by Helen Wallace. Although called *Law for non-lawyers* this latter course is popular with law librarians. Mention must also be made of the valuable two-day short courses that are given every year in Victoria under the auspices of the ALLG (Victorian Division).

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[3] Campbell, Enid and MacDougall, Donald 1967. *Legal Research: Materials and Methods*, Law Book Company, Sydney. The 2nd edn (1979) and the 3rd edn (1988) were co-authored by Enid Campbell, Edwin J. Glasson and Ann Lahore.

[4] Castles, A.C. 1992, *Annotated Bibliography of Printed Materials on Australian Law 1788-1900*, Law Book Company, Sydney.

The most notable disappearance of a course must be the one at the University of New South Wales taught by people of the calibre of Rob Brian, John Rodwell and Robert Watt. This is a serious loss, particularly considering the relative economic strength of New South Wales and its strength in law librarianship, the ALLG and librarianship in general. Colin Fong points to an interesting alternative, the Master of Legal Studies (MLS) at the University of Technology, Sydney.[5]

The situation is far better in New Zealand, where every second year the Victoria University of Wellington puts on a one-semester course for the Masters in Library and Information Science, attracting twenty to twenty-five students for each course.

I could not have written this up-dating preface without a great deal of help from a number of colleagues who responded to a request that I posted on email lists for law librarians. These responses had a number of consequences; first, I came to see how absolutely ignorant I had been of developments in the teaching of librarianship, particularly in New Zealand; secondly, I discovered that there was too much material to be covered adequately in a preface and, consequently, and thirdly, I now feel that I can recommend that another article should be written, to set down both what has and has not happened in the intervening thirty years in teaching for law librarianship and also to set down what is happening now.

The email discussions stimulated a good deal of criticism of all types of librarianship courses, by no means restricted to law librarianship. It was felt by a number of people that courses are too theoretical, do not involve enough practice, and tend to turn out graduates who expect high positions with salaries to match. These graduates, in many library situations, require 'on-the-job' training by the library that employs them, at that library's expense.

Clearly in Australia the course run by Helen Wallace at the University of Western Australia will carry a heavy load of expectation. It may be expected to achieve

[5] Fong, Colin 1997. 'Postgraduate Study for Law Librarians – an Alternative', *Australian Law Librarian,* vol 5, pp 277-8.

results well outside its original plan. I hope it will be well supported and wish it every success.

Web sites for courses mentioned in the text:

'Law for non-lawyers', UWA Extension. http://www.extension.uwa.edu.au
(see under Winter Courses)
See also: Wallace, Helen 2000, 'A non-degree course in law for law librarians', *Australian Law Lib*rarian, vol. 8, no. 3, pp. 230-234.

Victoria University of Wellington, New Zealand.
http://www.vuw.ac.nz/dlis/courses/548/

ALLG (Victorian Division)
http://www.allg.asn.au/~allgvic

University of Technology, Sydney
http://www.uts.edu.au/div/publications/law/pg/1168_1167.html

Education for Law Librarianship

(NOTES TOWARDS A DISCUSSION)[6]

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As the papers in this session will be the first delivered or published on this subject in Australian librarianship literature, so far as I have been able to trace, it seems necessary to begin at the very beginning. We cannot usefully consider the content of a course in law librarianship until we have decided what law librarianship is.

I should like to look at the law librarian and his job and, in doing so, briefly discuss some of the ideas held about him by his customers, his colleagues, and other librarians.

First, a word of warning. Partly because of the dearth of published material on the subject, my paper will be a very personal and informal one, often relying on no authority but my own observation. The courses that I will suggest are put forward not as an ideal for the future, but as a practical measure which would begin to meet our immediate need.

What is a law librarian? I want to define him by his functions – what does he do? What happens, or what should happen, in a law library?

The kind of library being considered is one where the size or the services demanded of it makes it necessary that there should be at least one full-time staff member appointed to work full-time in the library. This will include university, court, society and some firm libraries. A course designed to train or to educate staff for such institutions should also be available to anybody else who is likely to benefit from it.

Although training is necessary for all staff members in a library, it would scarcely be practicable to establish separate courses for every grade of staff in each of the several kinds of law library. In this paper my remarks will apply only to the graduate or professional staff; individual libraries can presumably work out ways for the passing on of information from the higher to the lower level staff, by in-service training or quite informally. This process should be assisted by the publication of a manual on law librarianship, along the lines of the one published in 1966 in Canada.

A library is in essence a collection of books, and nowadays of other 'library materials'. A law library is in essence a collection of law books, or books of law. I shall say something later about the extent to which this may, or may not, mean that the law library is different in kind to all other libraries.

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[6] Originally published in the proceedings of the 16th AL AA Biennial Conference held in Sydney, August 1971, *Progress and Poverty,* The Conference Committee, Sydney, pp 669-675.

Unless a law library is utterly stagnant it will from time to time acquire new books, and perhaps even subscribe to new journals or reports. It will also continually receive new serial parts to keep its existing sets complete and up to date.

Unless the library is kept purely as an ornament or a status symbol, its books will be used. As in other libraries, not all its users will be competent in library use, or even in law library use; in any case, no library is so well or so clearly organised as to completely reveal and perfectly interpret the whole of itself even to the most skilful of users. The library's staff will therefore need to know how to help their readers to find their way, through the catalogues, indices, shelf-arrangement, etc., to the information, book, report, that they seek.

Most of what is sought will be the law, or information, opinion, comment on the law. In some law libraries there will be an increasing demand for information on non-legal topics, or topics of which the legal aspects have only recently come to general or even to academic attention.

None of this sounds any different to the work of any other special library, or for that matter much different to any library at all.

As in all special libraries, there is a strong presumption on the part of the user that the law library's collection will be built up and organised so as to give the largest amount of information, and the quickest and most convenient access to it, on the subject or subjects of most interest to the library's users. This is, of course, the very reason for the special library's existence.

Because the subject of the collection, and the interests of its users, are so limited, it should be relatively easy to determine what the special librarian needs to know, and what he needs to know about; what information, education or experience is likely to be useful to him and what is not. The librarian in a public or other general library, by contrast, can never be confident of a single area of human experience where he is sheltered from the questions of his readers.

So a music librarian needs to know something about music, a medical librarian needs to know something about medicine, a law librarian needs to know something about law; in each case, the more the better.

In cases where a librarian comes into a special library without a good knowledge (say to first degree or at least to a university major level) of the collection's subject, he owes it both to his users and to himself to acquire the essential knowledge quickly. This is not so that he can talk on equal terms with his readers; he is not, and cannot be, equal with them in the library (whatever he may be out of it), but is above them in some respects and below them in others; on the one hand he holds the key to the collection, and on the other he has to use it to serve others, not himself. He needs subject knowledge so that he can

understand his readers, and in particular understand what they are likely to want him to do or to produce for them, and in what manner they may like or need it done.

First, then, the law librarian must know the language of the law (He must also know how to translate it back into normal English.) He should know, as should any special librarian, his subject's history, the various theories which lie behind it, its extent, application and place in the general scheme of things, its relationship to other topics.

These are all means to him rather than ends. He needs to know them so that he can more easily understand his public's wants and needs, and so that he can find his way about his subject's bibliography. Without the knowledge to help make him adept in the use of the subject indexes, abstracts (in law, digests, abridgments, etc.), bibliographies, he is hardly likely to be able to use these tools to provide much assistance to his readers. He will also find it difficult to organise his collection usefully.

The law library staff's needs, then, are a knowledge of library technique and a knowledge of the law, and in particular the bibliography of the law. Besides these, there are other useful fields of knowledge, some of them, like government, constitutional history, economics, politics and international affairs, related to the law, and others involved in the process of using the literature itself, like a knowledge of foreign languages, and perhaps of computer applications.

How can we ensure that the law library staff are equipped with this knowledge?

Pretty clearly, the ideal way to staff a special library is to take someone who is educated and experienced in the subject(s) covered by the library, and also educated and experienced as a librarian. If he has to gain any of this education 'on the job' it is obviously better for him to come to the job already possessing the harder- or longer-to-acquire qualification, and acquire the other after appointment, by part-time study if necessary.

This does not necessarily imply (though it may well be the case) that this way is also the best for the employer.

Of course this ideal is far from being generally achieved in Australia. Many law librarians are not qualified lawyers, most medical librarians are not qualified medical practitioners. At the same time, it is encouraging to see that in law libraries at least there is a discernible increase in the number of people who have, or are obtaining, subject qualifications. As the number of graduates in law, and in the newer courses like the B.Juris., increases, this tendency should increase too.

I do not believe, however, that in subjects like law or medicine the trickle will ever become a flood. The reasons usually given for the paucity of qualified subject specialists working in special libraries centre around finance; engineers, for example, can earn more as practising engineers than as engineering librarians.

This is clearly true in medicine, true but with some reservations in law, and probably not true in special libraries in the humanities or the arts, like music libraries. Perhaps as a consequence, in Australia the music libraries (the most common in the arts/humanities category here), are frequently staffed by musicians.

An equally important factor is the partly related one of personality, of the kind of people who aim to become law or medical graduates.

This, of course, is related to the salary approach through the importance attached to earnings by the students and graduates in the different fields. Many students enrol for medicine because it is, in this country, the 'top people's' job. Many enrol for law because it is the highest job, in status and remuneration, that their (sometimes lesser) talents fit them for. And so on down.

More significant than status- or money-consciousness is the fact that the average law student, in my experience at least, tends to be an athletic philistine extrovert, far removed from the unworldly potter who can be attracted to the idea of working in libraries. The relatively few law students who might not dismiss the notion out of hand are often the best students, who end up with the best places in the profession, or, sometimes, by becoming academics. In spite of the A.U.L.S.A. Committee on Australian Legal Education's report (yet to be published) I don't believe that higher salaries alone will necessarily bring very many more good law graduates, including men as well as women, into the law library profession. At the same time, however, it must be recognised that the work of a law librarian may not appear to the new graduate to be as different in kind from the lawyer's own work as is the case in, say medicine, and extremely successful transfers from law to law librarianship have been made and will continue to be made.

In talking about the preparation for law librarianship in this country, I believe we have to deal very sceptically with much of what we read in the literature, because the great bulk of it relates solely to the U.S.A., or to other countries where conditions vary radically from our own.

We need to be particularly careful with the U.S.A. There, law librarianship has been well organised for sixty years or more, and is efficiently publicised through its very useful Law Library Journal. *The profession has better status and salaries, a better sense of identity, in the U.S. than in Britain (where it has just started to organise) or here (where we are starting now). Naturally, the temptation to apply American models freely is very strong; here as in so many other places we may well like to base our aspirations on the best of their achievements.*

There are important differences, though, of which anyone seeking to apply American practices must be aware.

The size and wealth of U.S. law schools, and even the nature of their primary legal source collections, are quite different. The Americans possess a variety of library schools, and even of law librarianship courses, which is quite lacking here. American academic and research libraries in all fields are often directed and partly staffed by qualified subject specialists, often with graduate degrees (and, in the U.S., the law degree itself is a graduate degree). The U.S. university law librarian may be an ex-teacher or he may still be a practising teacher; in the latter case he will not necessarily be teaching only legal bibliography, but may well be involved in teaching or research in traditional legal subjects.

We read in the literature that the American law librarian is a teacher, a member of the faculty, etc., how tempting it is to float off into the fantasy that we are teachers, we are, or should be members of the faculty. The literature does not point out – nor is there any reason why it should – that the whole of U.S. university and public library work is based, in a way that ours has never been, on the idea of the library as an active and almost a formal educative force. In this context the librarian can quite reasonably see himself as a teacher. The only significant difference between U.S. university law librarians and other U.S. university librarians appears to be that the law librarians, particularly in those law libraries regarded as autonomous (i.e. coming under the control and depending on the beneficence of the law school dean rather than the [general] director of university libraries) are more likely to be on the faculty.

The reason for the interest shown in law libraries by some academics (but is the proportion significantly higher than in history, say, or English?) is, of course, that the academic knows, or should know, the value to himself and to his students of the collection. Like most such tags, the one about the law library being the law student's laboratory is true, more or less. Without a library, the study of the law in 'advanced' countries like ours cannot proceed very far.

But this fact, coupled with the quasi-mystical nature of the 'authority' contained in all these volumes of precedents, these reports, statutes, commentaries, etc., leads the lawyers into this fallacy: that because in practice you cannot have effective law teaching without a library full of precedents, it therefore follows that the library itself is somehow different to other libraries. In fact the statement tells us something significant about law teaching, i.e. that it depends to some extent on the law library. It does not tell us anything about law libraries, except that, if you want to teach law, you have to have one. (In practice, of course, this fact is of very great significance: without it, the law library would cease to exist.)

Now Socrates thought that education was best carried out orally, by discussion. But well before the 1840s, when the true university of those days was declared by Thomas

Carlyle to be a collection of books, the Socratic method had had its day, at least on a national scale. The Gutenberg galaxy has long included, as it does today, the great bulk of the world's education; and law, while it may be more exclusively print- or word-orientated than, say, rocket engineering, is not more so than the study of literature, linguistics, politics, history, and many other subjects. A library is as essential to a historian or even a philosopher as it is to a lawyer, and yet there is a carious lack of clamour, from either librarians or philosophers, about the necessity for librarians to be qualified or active teaching philosophers.

The ideas about law librarians that are held by law school staff and students, or by the judges, practitioners or whoever the public may be, are important because, naturally, they influence the whole of our relationship with them, our customers.

In the lack of any real knowledge, I can only guess what these ideas may be. They probably range between, on the one hand, the normal mixture of irritation and appreciation felt towards his library staff by any reader who thinks about it at all, and on the other the feeling that, in teaching institutions at least, law librarians may be in the position to provide more help than most are now giving, and the wish that we would learn to do so. The field in which this help should be provided is, of course, the teaching of the use of the library and particularly its primary and other legal sources. In this I think the customers are right, and any university law librarian, qualified in law or not, who does not provide at least the sort of bibliographical instruction given by the reference staff in general university libraries, is probably failing in one of the most important parts of his job.

Some very ill-informed notions about law libraries are held by library staff in general libraries. These will be familiar to all law librarians who work in a branch library situation, who will have ample evidence of the fact that many practices which are suitable for a general library are quite unsuitable for its branches. The Anglo-American Rules, *the L.C.* List of Subject Headings, *Dewey; all these standard systems present enormous problems to any law library forced to work too inflexibly under them. The active presence of a few law librarians, or lawyers, at the early meetings of the Deweys, Cutters, et al., might have saved untold trouble over the last hundred years.*

In some university law libraries, practices in cataloguing and acquisition have been so dominated by the main library that the service to lawyers may be seriously prejudiced. And the worst danger here is that law library staff who have had all their library education, training and experience in the general library situation may well be ignorant of how inadequate the general library's practices are in the legal collection.

These branch librarians, above all others, need a very thorough knowledge of general library conventions and practices, so that they can intelligently vary them to meet the needs of their own clients, without sacrificing all consistency with the main collection

Working in law libraries at present we have a wide variety of people, some graduates, sometimes of law, some qualified librarians, some with no qualifications at all. How to provide for them?

It must be remembered that the total body of students for a law librarianship course is very small. Questionnaires distributed in 1970-71 for the Australian Law Librarians' Group and for A.U.L.S.A. suggest that, including attendants, about 50 people now work in Australian university law libraries, and that the total of those mainly or entirely occupied in legal collections in this country is little more than twice that number. Many of these people have been so employed for some time, and many would receive little benefit from the kind of course I have I mind. Most law libraries are small, and relatively few are expanding at a rate satisfactory, say to A.U.L.S.A. Their annual recruitment rate cannot be high.

The total annual number of intending students for a law librarianship course, which ideally should include options for the different kinds of law libraries, is on the face of it not very likely to exceed twenty, or more probably ten, for the whole of Australia.

Of course ten may well be a very good intake for a specialist school of this kind. Registration examinations of the L.A.A. have been, and are, attempted by less. Even the L.A.A., however, would probably find it difficult to allow for the two or three options which would be desirable, to allow for different kinds of libraries

In fact, I'm working on the assumption that our course is not to be a Registration one (and in any case the L.A.A Council has just agreed that the Registration is to finish in 1980). It should be a properly taught course, which it is at least possible to do full-time, held at a university or a C.A.E.

Particularly if it were decided that the course should be available to graduates only, but even if it were not, the Law Librarians' Group should give its deepest and most urgent attention to the production of a manual of Australian law library practice, and also a manual of Australian legal bibliography to supplement Campbell and MacDougall.

The basis of any course designed to produce law librarians, from no matter what raw materials, is legal bibliography, which should be expanded to include the bibliography of government and international organisations' publications. This is equally necessary, and should be equally valuable, to law librarians of all kinds.

If we're thinking of adapting an existing course, then legal bibliography is the first thing to put into it, and this in itself will make a basic law librarians' course. Even in the ideal course, this is still the essential.

Because subject bibliography cannot be properly understood or used without some knowledge of the language and basic theories and concepts of the subject, these features of the legal system will have to be taught from the beginning of the course. For this and for other reasons, it will be necessary to draw on law staff as well as library staff to teach.

Encouragement should always be given to students who want to learn more by attempting LL.B. or B.Juris. courses or subjects, but these should not formally be part of the law library course.

Looking at the present librarianship courses in the 1971 calendars, it appears that Legal Bibliography could fit into the University of N.S.W. Diploma as a new option 55.518 in the Specialised Reference Work subjects, and into the Master's degree perhaps in place of section 6. It could also go into the R.M.I.T. Diploma course B in Stage I at course 504 (Information Sources and Services) and Stage II at course 502 (Materials Selection, Collection Building and Aids to Research).

If it were felt that the administration of a law library is basically different to that of all other classes of library, then a course might possibly be devised and put into the Dip.Lib. of U.N.S.W., as new options in 221 (Library Organisation) and 521 (Circulation, Co-operation and Reader Relations), and into the Administration of Libraries courses I and II of the R.M.I.T. Course B (Stage I 301, Stage II 401).

One serious problem here is that administratively a university law library is cognate with a university main or other branch library, a court library with a government department one, etc., and a course on law library administration taught to several kinds of law librarians would be impossible to make completely relevant to all students. Consequently I think law librarians should learn their administration in courses designed for the type of library proprietor and reader rather than for subject.

Wherever the course is put on, it should be possible to do advanced study (one additional year at least) in law librarianship, to lead to a higher award like the U.N.S.W. M.Lib. As (i) almost nothing is known about Australian law libraries, (ii) Australian legal bibliography is rudimentary, and (iii) automation and computer applications are virtually unheard of, there should be no lack of subjects for research. But who is to supervise or teach?

To conclude, I should like to suggest that, besides producing a law librarianship manual, there is one other activity that our Law Librarians' Group itself should undertake. We should follow the American Association of Law Libraries' excellent lead

and organise our own seminars or workshops on specific law library problems. Law Librarians need to meet more often than they do, and those in the universities should try to use A.U.L.S.A. and L.A.A. conferences to meet every year. At these conferences, however, we should not have to be so preoccupied with law librarianship that we miss the conference's other offerings. Instead of this, we could have our own meetings before or after the main conference. And the Group, on its own or with the Special Libraries Section, should be able to put on workshops for continuing education at times and in places that are completely independent of either of these conferences.

References

Material about education for law librarianship in the U.S. appears mainly in the Law Library Journal, *and sometimes in the* Journal of Legal Education. *Much less is published in Britain, but occasionally the* Journal of the Society of Public Teachers of Law *contains relevant material. The newly-formed British and Irish Association of Law Librarians has not yet published any papers directly bearing on the subject in* The Law Librarian.

The professional library journals of both countries seem to have left the whole subject of law librarianship well alone for some time, except for one issue of Library Trends *(vol. 11, No. 3 January 1963).*