COMPUTERLAW PUBLICATIONS

A BRIEF GUIDE TO NEW PUBLICATIONS ON COMPUTERS & THE LAW
BY GRAHAM GREENLEAF

Only a few years ago there were no more than a handful of books or periodicals dealing with computerlaw issues, and most of those were American. Today, the problem is more one of selectivity than availability. The selection below shows that British writers and publishers have clearly recognised the computerlaw area to be one of increasing importance. The same can't yet be said of Australia, although there are some hopeful signs.

Publications for review should be forwarded to the Editor. If any readers are aware of publications which should be noted, details would be appreciated.

ASIAN PACIFIC REVIEW OF COMPUTERS TECHNOLOGY AND THE LAW
General Editor John A. Connors; Longman Professional Publishing, Sydney; six issues @ $125 per year; Vol.1 No.1 September 1984; approx. 40 pages per issue.

This stunningly presented new journal is the first (and as yet only) commercially produced periodical originating in Australia in the computer law field. On the evidence of its first issue, its orientation will be concise, practical articles and news aimed principally at the practitioner who wants to keep up to date with the wide range of issues encompassed by "computers technology and the law". The contents of the first issue range over management and investment companies (MIC's) in Australia, shrink-wrap licences in the USA, trade marks in Singapore, copyright in Malaysia, parallel imports in New Zealand, patents in China (communist and capitalist) and even something in Sri Lanka. It does sound a little like a Thomas Cook 'Instant Asia' itinerary for lawyers, but in fact the real interest and strength of this journal is precisely in its unique regional focus. The increasing interrelationship of the economies of the 'Pacific rim' may eventually call for some degree of legal integration as has occurred in Europe. If so, regional laws may emerge; if not, regional conflicts of laws surely will. Either way, this journal has a bright future.

COMPUTER LAW & PRACTICE
Edited by Stephen Saxby, Faculty of Law, University of Southampton; Frank Cass & Co. Ltd., Gainsborough House, 11 Gainsborough Rd., London E11 1RS; 6 issues p.a. @ £60:00; Vol. 1 No. 1 Sept./Oct. 1984; approx. 36 pages per issue.

September was a good month for new computerlaw journals. This one, subtitled 'The journal of computer and communications law' is in many ways the European equivalent of its Asian Pacific cousin reviewed above, with an emphasis on brief articles and digests of recent developments. The first issue has reviews of international developments in patent and copyright protection of software, the U.K. Telecommunications Act 1984, and a number of articles on privacy and data protection. In addition, there is a very substantial amount of information on new developments in software protection, information retrieval, new products, publications and conferences, and recent cases.

Both of these journals are a somewhat uneasy combination of large quantities of valuable but essentially short-lived 'news', and good (although short) articles which will have a longer 'half-life'. It will be interesting to see whether they establish a permanent market niche somewhere between newsletters and conventional academic journals.

COMPUTER LAW
Edited by Stephen Saxby, Faculty of Law, University of Southampton; Monitor Press, Rectory Road, Great Waldingfield, Sudbury, Suffolk CO 10 0TL; 6 issues at £35 per year; approx. 14 pages per issue; Vol. 1 No. 4 Sept/Oct 1984.

Describing itself as "The Bi-Monthly Newsletter on the Law Governing Information Technology and the Use of Computers", this British newsletter also gives some coverage of European developments. It concentrates on the legal regulation of computer use and abuse, and should not be confused with Computers & Law (the journal of the UK SCL) which only deals with legal applications of computers. It should also not be confused with Computer Law & Practice, Stephen Saxby's other publication noted above. Typewritten and corner stapled, Computer Law is definitely only a newsletter, but as a concise and convenient source for British developments it would be hard to beat. The first few issues have included quite detailed briefings on the U.K. Telecommunications Act 1984, on a seven volume EEC Report on Data Security and Confidentiality, and on the recent computer contracts case before the English High Court, *MacKenzie Patten & Co v British Olivetti Ltd*. In addition there are articles analysing 'legal implications of electronic text' and 'software development and employment', and an invaluable digest of new publications, relevant organisations and forthcoming conferences.

JOURNAL OF LAW AND INFORMATION SCIENCE
Edited by Roger Brown, Professor of Law, Tasmania University; Vol. 1 Nos. 1-3 from N.S.W Institute of Technology; 2 issues p.a. @ $30:00; approx. 120 pages per issue

This was the first journal in Australia focussing on law and information technology, and its third issue maintains its approach as an essentially academic journal, in contrast to the journals noted above, with lengthy and thoughtful articles which are often relatively technical. This issue concentrates on computer applications to law. Its Australian emphasis is found in articles on computerised land titles and on the development of a corporate law data base. Overseas contributions include Jon Bing on third generation text retrieval systems, and Richard Franzen on German research into queueing problems in judicial administration systems. The Journal has now moved to the University of Tasmania with Roger Brown, and from Vol. 2 will be published by CLIP, the Centre for Legal Information & Publications, College of Law, Box 2, St. Leonards NSW 2065.

⇨ *Publications (cont. from page 9)* ....

DATA PROCESSING AND THE LAW

Edited by Colin Campbell, Professor of Jurisprudence, The Queen's University of Belfast; Sweet & Maxwell, London 1984; 264pp, soft; $46:20 from the Law Book Co.

This is a collection of twelve high quality essays derived from papers presented to a Colloquium on Data processing and the Law held in England in September 1982. Seven papers deal with applications of computer systems to retrieval and analysis of legal information, by leaders in the field such as Bing, Tapper, McCarty and Lewis Pape of the A.N.U. The five other papers on the legal control of technology are by writers of equal distinction, including Lindop on privacy, North on breach of confidence, and Niblett, Prescott and Sprowl on intellectual property issues. A valuable reference work for those interested in the theoretical bases of the computer-law relationship.

COMPUTER RELATED CRIME

Proceedings of the Institute of Criminology, No. 59, University of Sydney, 7 March 1984; available from the N.S.W. Government Information Centre, Cnr. Hunter & Elizabeth Sts, Sydney 2000; 99pp soft;

Four papers by Dr Roger Brown, Kevin Fitzgerald, Det. Sgt. John Lowe of the N.S.W. Fraud Squad and Mr Justice F.M. Neasey of the Tasmanian Supreme Court, with a Commentary by J.A. Coleman of the National Companies and Securities Commission, provide the most comprehensive discussion of computer related crime available in Australia. Brown includes discussion of the particular problems caused by ATMs and EFTS. There are also very interesting comments on the papers from a variety of participants, during which the identity of a previously mysterious set of draft computer crime provisions is revealed to be part of a Report to the National Companies and Securities Commission which is now before the Standing Committee of Attorneys General.

PROCEEDINGS OF THE NEW SOUTH WALES SOCIETY FOR COMPUTERS & THE LAW, VOLUME 1, 1983

Edited by Brigitte Pers; NSWSCL c/- Level 3, MLC Centre, Sydney 2000; 236pp; $20:00 (free to Society members; discounted to $15:00 to members of related Societies)

The Society's first volume of proceedings contains 14 papers presented at Society meetings during 1983, plus summaries of other meetings. Topics include sales tax on software, privacy and confidentiality, automated land titles in N.S.W., E.F.T.S., the Datafusion machine, computer crime, software protection (pre-Apple). Most of the papers have not been published elsewhere. The Proceedings are probably the most comprehensive single volume yet published on computers and law in Australia.

COMPUTER LAW

Colin Tapper; Longman, London; 3rd Edition 1983; 242pp soft; $23:95 from Longman Professional, Australia

Tapper's textbook covers computer issues affecting intellectual property, contracts, tort, crime, privacy and evidence, in both English and American law. While it is still the most comprehensive text available, it is disappointing that this 3rd Edition contains no updating of the original 1978 text but only a 50 page final chapter on 'Further Developments', to which the reader must constantly refer to check the completeness and accuracy of the main text.

DATA PROTECTION ACT 1984

Bryan Niblett; Oyez Longman, London, 1984; 155pp soft; $41:95 from Longman Professional, Australia

Niblett is Professor of Computer Science at the University of Wales, a pleasant change from the lawyers' monopoly on computerlaw publications. This new Act is the result of fifteen years debate on information privacy issues in the U.K. Although it only regulates 'automated' and not manual record systems, it covers both public and private sector records; incorporates a set of data protection principles; provides rights of individual access and correction of records, and for compensation for some forms of misuse; and establishes a Registrar of all automated record systems, with enforcement powers. Niblett's book provides the full text of the Act with detailed annotations and a very valuable concordance giving every appearance of every word in the Act. The full text of the Council of Europe Convention (to which the Act is in large part a response) and the similar OECD Guidelines (which are of more relevance to Australia) are also included. The brief Introduction gives little overall analysis or critique of the legislation, but the real value of the book lies in its detailed explanatory annotations. This Act has considerable relevance to Australia. Senator Evans proposes to introduce information privacy legislation in 1985 and it would be surprising if such contemporaneous British legislation had no effect on its drafting. Furthermore, s.12 allows the Registrar to impose 'transfer prohibition notices' on the transfer of data by United Kingdom companies to countries such as Australia which have no data protection laws so that such data transfer can consequently be said to be 'likely to contravene, or lead to a contravention of, any of the data protection principles'.

THE DATA PROTECTION ACT 1984

J.A.L. Sterling; CCH Editions, Bicester, U.K., 1984; 236 pages, soft; available from CCH Australia

Rather than annotating the Act, this book analyses it according to various substantive divisions such as definitions, obligations and rights created, registration, functions of the Registrar and Tribunal, and enforcement. It also includes a brief history of the development of data protection laws and a summary of the Act. The full text of the Act and the Council of Europe Convention are included.

Whereas Niblett's book might be more appealing to those practising in the data protection area, or with expertise in it, Sterling's book is probably more approachable by those unfamiliar with the area.

➪ *Publications (cont. from page 10)* ....

COMPUTER CONTRACTS
Richard Morgan and Graham Stedman; Oyez Longman, London; 2nd Edition 1984; 324pp hard; $65:00 from Longman Professional, Australia

The 2nd Edition of this book is a considerable expansion of the original 1979 Edition, with chapters providing commentary on hardware, software and maintenance contracts, and special problems related to micros, leases and bureaus, in which general issues are discussed and examples of clauses considered. A further 150 pages of precedents then follow, with the invaluable feature that the precedent clauses are cross-referenced to the commentary, and vice-versa. The book is written from the perspective of English law, so would have to be read with an eye to Australian legislation.

COMPUTER CONTRACTS – An International Guide to Agreements and Software Protection
Hilary E. Pearson; Financial Training Publications Limited, London, 1984; 298pp hard; $42:50 from Longman Professional, Australia

Aimed at the 'non-technical lawyer and the non-lawyer technician', this book surveys most types of contracts involving computers, mainly from an Anglo-American perspective, and has a number of chapters on special problems of international negotiations. A number of precedent clauses appear at the end of this chapter. The last third of the book surveys international intellectual property protection of computer products up to early 1984, and is a valuable overview.

INFORMATION TECHNOLOGY: THE CHALLENGE OF COPYRIGHT
James Lahore, Gerald Dworkin and Yvonne Smyth; Sweet & Maxwell, London, 1984; 116pp soft; $25:50 from the Law Book Company

Of the four essays in this book, only Dworkin's deals with software protection, the others dealing with audio-visual and reprographic copyright issues. Dworkin's article considers the suitability of copyright as software protection and reviews the position under the British *Copyright Act*, but was written before the Full Court decision in *Apple v Computer Edge*.

HOW TO PROTECT COMPUTER PROGRAMS
Pal Asija; Law Publishers, Allahabad, India, 1983; 191pp hard; US$35:00, plus US$5:00 surface mail from Law Publishers Box 77, Allahabad 211001 India

In this book, according to the publishers, "Mr Asija, presently a practising Patent Attorney at Shelton, USA, shares his experience in obtaining the first software patent ever issued (US$ Patent 4,270,182). It includes legal as well as technical means of protecting the software. This book is designed exclusively for ingenious Computer Engineers and practising Patent Attorneys. Their interest is guided methodically to overcome the legal maze. He delves in detail his patent accomplishment ever achieved in American Judiciary. For Patent Attorneys it is a beaming feast of the software patent precedents. For Computer Engineers it is a hallmark guide and inspiration to obtain their patent rights." Just when you thought your computerlaw library was complete!

TELL HER COMPUTER THAT SHE'S FIRED

➪ *Protection (cont. from page 7)* ....

Thus adoption of technical protection highlights the inappropriateness of copyright for the legal protection of computer software. In view of various other difficulties which also arise with applying existing copyright and other laws to the problem, I would respectfully agree with views expressed by Mr Ross McNab in his paper delivered to the National Symposium on Legal Protection of Computer Software (Canberra, March 1984).

Generally, then, our approach should be to define the rights and needs of both authors and the community, and to obtain the consensus of both on legislation appropriate for the national and international forums.

Copyright seems like a good old horse which when working well in known fields was then shackled with strange new devices and forced out into an unknown paddock where it just churned up the earth and then collapsed.

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