

COPYRIGHT PROGRESS

ON 24 MAY 1983 the Attorney-General's Department met with representatives of AACOBS, LAA, National Library, Australian Copyright Council, Australian Book Publisher's Association, Australian Society of Authors, Council of Principals of CAEs and the Australian Vice-Chancellors' Committee to further discuss amendments to the Copyright Legislation.

Mr Cresswell, chairing for the Department, said that it was hoped that an amending bill could be included in the business for the Budget Session of Parliament.

S.53B and S.10. Educational Institution

Following on from discussions at previous meetings the Department proposed to amend the definition of 'Educational Institution' in S.10 as follows:

- (a) to include —
 - (i) a school of nursing or other teaching unit of a hospital,
 - (ii) a teacher education centre or a unit of a Commonwealth or State Education Department or of any other authority administering educational institutions that

has as its principal function or one of its principal functions —

- the provision of in-service education for teaching staff of other educational institutions, or
 - the furnishing of materials for the teaching purposes of other educational institutions;
- (b) to provide that the process of declaring bodies to be educational institutions under para (d) of the definition is to be by instrument signed by the Minister and notified in the Gazette rather than, as now, by regulation;
 - (c) to delete para (e) of the definition.

It was pointed out that the proposed definition did not cover the case of a library attached to an institution which did not have provision of courses of education as one of its principal purposes but which was used as a training centre for students from an educational institution. The obvious case was a library in a teaching hospital, but there could well be others. The Department agreed to investigate the possibility of an appropriate addition to the definitions in S.10.

S.40. Reasonable portion of a microfiche

The difficulty of copying only 10% of a microfiche in fiche to fiche copying was raised. No solution to this problem was proposed. One view was that the difficulty of such copying would be relevant in any defence for copyright infringement.

S.40. Reasonable portion

Libraries are finding difficulty only with the exclusion of works of less than 10 pages. One speaker suggested that in such cases the appropriate course was to discover whether a copy could be obtained in the normal way and if not to photocopy whatever was required.

S.40. Exclusion of libraries from using S.40 for S.49 type copying

This proposal had originally been intended to prevent libraries from using S.40 to avoid keeping records under S.49. The recent court case in New South Wales may have lessened the need for the amendment now proposed but no objection was made to the proposal. This still permits S.40 to be used in appropriate circumstances for material not covered by S.49, e.g. unpublished material.

There was no objection to this amendment.

S.49. Maps

Following recent discussions the Department is considering widening the definition of what can be copied in the case of maps without a declaration that a copy of the whole work cannot be obtained within a reasonable time etc.

S.49. Optional record keeping

The AACOBS representative introduced this topic. He said that he was not persuaded by either of the principal arguments advanced by the Copyright Council in opposing this proposal. The Council argued that copyright owners wished to know what was being copied, even if no royalties could be claimed but, at the same time the Council claimed that it was unable to monitor even S.53B copying. What then was the likelihood that the records which libraries not in educational institutions were required to keep would ever be checked? The second argument was that to retreat from this record-keeping would undermine the system by reducing the conscientiousness of librarians in keeping S.53B records; this argument was quite unsupported. The burden of record keeping was particularly onerous in small libraries and they should be able to decide between keeping records for their own protection or not keeping them and reducing their protection in any action for breach of copyright.

The Copyright Council did not agree. There was no evidence that libraries were finding the present requirements a heavy burden. The Council was not wedded to the present system but until a better one became available, it felt that to give way on this point would open the door to unrestricted copying. Another suggestion, that libraries below a certain size might be exempted, was not acceptable.

No agreement was reached on this proposal.

S.49. The remote user

Following discussion at earlier meetings the Department now proposed the following change:

This Department feels that problems of remote users might be dealt with by changing S.49 to enable a librarian to provide a copy of a work to a person without having received from him a request and declaration under S.49 (1) where the librarian is satisfied that the person cannot conveniently lodge them before the time by which he needs the copy and provided the librarian makes a declaration that he either --

- (a) is informed by the user, or
- (b) reasonably believes, that the user requires and will use the copy for research or study or (being an MP) for Parliamentary purposes.

In discussion it emerged that this proposal continued on page 11.

54th ANZAAS CONGRESS

Canberra, 14th-18th May, 1984

SECTION 33: COMMUNICATION

DRAFT PROGRAMME AND CALL FOR PAPERS

Organizing Committee

Brenda Gerrie,	Centre for Library and Information Studies, Canberra C.A.E.	Graeme Osborne,	Centre for Communication Studies, Canberra C.A.E.
Nancy Lane,	Centre for Library and Information Studies, Canberra C.A.E.	F.oby Penman,	Centre for Communication Studies, Canberra C.A.E.

General Information

The theme for the 1984 ANZAAS Congress is *The Horizons of Science*. As part of this general theme it has been suggested that papers be directed to a) limits to knowledge, b) directions for progress and c) priorities for application.

The organizing committee has proposed six sessions in which the sub-themes could be addressed. The six topics were chosen to reflect important issues currently facing us in the field of communication in Australia and New Zealand; however more could be added if necessary.

We have tried to avoid dividing the sessions by the conventional areas and instead have posed questions which can be interpreted in different ways and from different perspectives. We hope this will encourage productive debate.

At this stage in planning we need to know who wishes to talk on what issue and whether there are other issues which should be raised. If you wish to present a paper please write to the address below and outline your intended approach.

Draft Programme

WEDNESDAY 16 MAY

9.00 How Do We Use Language — or Does It Use Us?

10.30 Morning Tea

11.00 How Do We Use Language — or Does It Use Us?

AND/OR

Information Technology Applications (e.g. voice recognition, free text searching, electronic publishing)

MONDAY 14 MAY

9.00 Opening Address

10.30 Morning Tea

11.00 Communication and the Limits of Understanding

12.30 Lunch

TUESDAY 15 MAY

9.00 Communication Revolution or Information Revolution?

10.30 Morning Tea

11.00 Communications Technology — Where Do the Developments Lead?

12.30 Lunch

THURSDAY 17 MAY

9.00 Are the Media Responsible?

10.30 Morning Tea

11.00 Crime and the Media (joint with Criminology)

AND

Individual papers on other areas

12.30 Lunch

We look forward to your responses to this call for papers

Robyn Penman, Centre for Communication Studies, Canberra C.A.E., P.O. Box 1, Belconnen, A.C.T., 2616

ACT

OCTOBER 12 LAA Cataloguers Sect ACT Group Meeting 5.30 to 6.30pm Wine and Cheese 6.30 to 7.30pm Max Borchart, Technical Services Librarian at Australian Bureau of Statistics will report on overseas cataloguing developments. **University House.** Contact: Priscilla Warr (062) 52 1373 or Peter Haddad (062) 62 1428 to RSVP by 7 October.

OCTOBER 13 LAA Cataloguers' Sect ACT Group Committee Meeting 5.30pm **Seminar Room, R G Menzies Building of the Library, ANU.** Contact: Peter Haddad (062) 62 1425.

OCTOBER 25-27 SDC/ORBIT Training Courses New User, Advanced, Chemistry. Contact: Katie Blake/Tina Reedman (02) 922 9308 or toll free (008) 22 6474.

OCTOBER 28 National CE Program Workshop 'Time Management' 9am to 4.30pm **Woden Town Centre Library.** Course Leader: Maret Castles. Cost: \$45 LAA members, \$65 non members. Contact: Rhona Denyer (062) 89 7450 or Maureen Hudson (062) 437 186.

NOVEMBER 3-4 Insearch/DIALOG. DIALOG Introductory Seminar. **Canberra.** Contact: (02) 264 6344 or (02) 218 9790.

NOVEMBER 4 LAA UCL ACT Group Annual General Meeting 12 noon **Drawing Room, University House, Australian National University.** Lunch will follow the meeting. Contact: Judith Miller (062) 49 2984.

NOVEMBER 8-10 ACI Computer Services. AUSINET New User and Advanced User Training Courses. **Canberra.** Contact: Long Tjhia (062) 47 0988.

NOVEMBER 10 LAA Cataloguers' Sect ACT Group Annual General Meeting 5.30pm **Seminar Room, R G Menzies Building of the Library, ANU.** Contact: Peter Haddad (062) 52 1425.

NOVEMBER 18 Multiculturalism in Libraries Seminar 2pm **Erindale Centre Conference Room.** Speaker: Uri Thernal, President of the Ethnic Broadcasters Council. Cost: \$30 LAA and SLACAD members, \$35 non members includes afternoon tea, pre-dinner drinks and a banquet dinner. Contact: Pauline Haldane (062) 62 1615.

Queensland

OCTOBER 5-7 SDC/ORBIT Training Courses New User, Advanced, Chemistry. Contact: Katie Blake/Tina Reedman (02) 922 9308 or toll free (008) 22 6474.

OCTOBER 11 LAA Qld Branch General Meeting 'Public library standards: from interim minimum to Canberra Public Library Service' 5.30 for 6pm **Room R306, Level 3, Resource Centre, Kelvin Grove Campus, Brisbane CAE.** Speaker: Ted Flowers (University Librarian, Uni of Newcastle). Contact: Alex Cutts (07) 392 1488.

OCTOBER 19 Medical Librarians' Sect Qld Group Annual General Meeting 'Standards for hospital libraries' 5.30 for 6pm **Library, Prince Charles Hospital.** Contact: Jo Austin (07) 240 2571.

OCTOBER 24 DIALOG Customer Clinic. **Brisbane.** See September CHRONOLOG for details.

OCTOBER 24-28 Insearch/DIALOG. DIALOG Introductory, Medline, Excerpta Medica, Business, Legal and Science & Technology Seminars. **Brisbane.** Contact: (02) 264 6344 or (02) 218 9790.

DECEMBER 6 LAA Qld Branch Annual General Meeting and Dinner. Venue and Guest Speaker to be advised. Contact: Alex Cutts (07) 392 1488.

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would include circumstances in which the librarian was asked to provide information and not a nominated item.

The Copyright Council agreed to concede his point in view of the problems which had been discovered in practice.

The Department will provide a definition of remote user which makes it clear that the provision is confined to those who are for geographical or other reason physically prevented from lodging a declaration. The exception is not intended, for instance, to cover the senior executive on a different floor of the same building.

S.50(7) Double declaration

The fact that the drafting of S.50 appears to require the library, in addition to the user, to make a declaration in all cases had been discussed at previous meetings. It was agreed that this requirement should be eliminated except where Clause 7 (a) or (b) apply.

S.49 Systematic copying

The Department asked whether it might be necessary to require, as part of the declaration, a statement that the copy was not a part of systematic copying. There was general agreement that this is not necessary if the exclusion of S.49 copying from S.40 copying is implemented.

S.203A-S.203H

Following discussion at previous meetings the Department now proposed:

There has been a general consensus as to the nature of amendments to S.203A-S.203H.

This Department proposes that S.203A-S.203H, which prescribe offences in relation to failing to make accurately and keep, and failing to permit copyright owners to inspect, records of copying of copyright works by libraries and institutions, by —

- (a) making it a defence to a charge of failing to —
 - (i) retain such records,
 - (ii) lodge records of such copying with a nominated central records authority, or
 - (iii) keep such records in the required order — that the defendant took all reasonable precautions and exercised due diligence to avoid committing the offences concerned.
- (b) make it a defence to a charge of failing to provide all reasonable facilities and assistance to a person exercising the right to inspect copying records that the defendant honestly and reasonably believed that he/she had done all that was necessary to discharge this obligation, and
- (c) recasting the offences of —
 - (i) making a false copying record, declaration or notation so that it applies only

where the defendant knew or had reason to believe that the record, declaration or notation was false, and

- (ii) destroying a copying record or declaration before the end of the prescribed retention period so that the offence applies only where the defendant knew or had reason to believe that the period referred to has not expired.

These amendments were acceptable to the meeting.

The AACOBS representative raised the question of the date of annotation of copies. He suggested that this should be the date of the Declaration rather than the date on which the copy was made so that the copy could be directly linked to the record. This was agreed.

The Department also proposed, following discussion at earlier meetings:

In order to meet the wishes of interested parties this Department feels that it would be appropriate to include an amendment to make it an offence for person inspecting the copying records of a library or educational institution under S.203E to divulge details for purposes other than —

- (a) pursuing any claim or action in respect of the copying of works, or
 - (b) taking appropriate action to ensure compliance by the library or institution with the record keeping requirements of the Act.
- This was agreed.

Unpublished material

In the absence of a representative of the Society of Archivists the AACOBS representative drew attention to the difficulties which the present Act creates for libraries and archives holding unpublished material. S.49, 50 and 53B apply only to published material. The definitions in S.40 were not particularly helpful for unpublished material. S.51 had not been materially altered by recent amendments and the provisions which prevent copying until 50 years after the death of the author or 75 years after the work was created, prevented assistance to scholars and were frequently quite impossible to use because the relevant dates were not known. In most cases no pecuniary interest of the original author or his heirs was being protected although there might be privacy issues. The latter, however, may be more appropriately covered by Privacy legislation rather than copyright.

The Department and the Copyright Council thought that this was a new issue, not suitable for discussion within the present meeting. The AACOBS representative agreed to prepare a paper for the Department. This could first be discussed with the Copyright Council to see whether joint recommendations might be made to the Department.

Our favourite Australian Books

The National Book Council will be conducting its 'Our favourite Australian Books' display competition again this year in conjunction with Australian Book Week. The competition is supported by the Literature Board and Australian publishers.

Public libraries, school libraries and booksellers are invited to participate with their colleagues, students and staff in selecting favourite books and displaying them with an Australian Book Week poster during the week, which runs from 14 to 21 October. Prizes of books donated by Australian publishers will be awarded to the entries judged to be the most effective displays of Australian books and posters. The displays should be designed to attract new readers for the books selected, and to promote reading of books generally.

Entry forms and information about the competition are being distributed to schools, public libraries and booksellers. If your library wishes to participate in the competition and does not receive details by 16 September, send a stamped, addressed envelope to

'Our favourite Australian Books'
Display Competition,
National Book Council
Book House
199 Cardigan Street
Carlton Vic. 3053

and forms will be forwarded to you.

The closing date for entries is Monday, 14 November 1983.

Multiple copying by libraries other than those in educational institutions or covered by S.53C

The Department was to hold separate discussions with the representatives of parliamentary libraries on this matter.

The LAA and AACOBS representatives stated that there were occasions on which the clients of other than libraries of educational institutions needed multiple copies. They suggested that provided records were made and satisfactory royalties payable, the opportunity to make multiple copies should be available to all libraries.

The Copyright Council did not agree. The effort required to inspect records which were so widely scattered was quite beyond the reasonable capacity of copyright owners. Such needs could be met by voluntary licensing. The LAA and AACOBS representatives argued that this voluntary licensing was not satisfactory; the need was often urgent and frequently it was not known to whom requests for permission to copy should be addressed. A statutory licence was the only practical way of solving this problem.

The Copyright Council reserved its position. It is willing to discuss proposals from other parties for such a statutory licence with its members but without any commitment to supporting them. The LAA and AACOBS representatives agreed to consult their constituents about this matter.

F.D.O. Fielding
AACOBS representative

Publications sales

As from October 1 all LAA publications will be sold on a payment-in-advance system. Proforma invoices will be issued on receipt of orders, and the orders will be despatched promptly on receipt of payment.