

CLIRS Corner

Computerised Legal Information Retrieval Systems (CLIRS) are the most important and most controversial application of information technology to the law which will affect Australian lawyers for some time to come. "CLIRS Corner" will be a regular feature of the Newsletter and will report on current developments in the legal information retrieval debate in each state. In this issue we cover the Commonwealth's position, commencing with the Press Release issued by the Commonwealth Attorney-General, Senator Gareth Evans, announcing the agreement he reached in July with the State Attorneys-General. An extract from the Mansard reports of the proceedings in the Senate Estimates Committee in September follows, in which Senator Evans explains the reasons for the Commonwealth's decision, and the progress, scope and precise duration of the Commonwealth's agreement with Computer Power.

Press Release

Commonwealth and State Attorneys-General in Mackay today agreed on a proposal which will provide a national computerised legal information retrieval system.

The aim of the Commonwealth Government in the negotiations has been to ensure that the system chosen is as cheap and efficient as possible for the users and that a compatible scheme should operate throughout Australia.

It is vital to avoid, in legal information retrieval, 'rail gauge' problems. If a number of unco-ordinated systems are introduced, those wishing to search Australian law might have to learn several search techniques and might not be able to access all databases from the one terminal. To avoid such problems, a set of standards for legal information retrieval systems was earlier adopted by the Commonwealth and the States.

The Commonwealth at present has all of its laws, regulations and Ordinances in a computer information retrieval system (SCALE). SCALE also has on it judgments of the High Court, the Federal Court and the Administrative Appeals Tribunal. This system is used by Commonwealth Departments and authorities and is also being made available to State Governments.

New South Wales and Victoria have already signed contracts with an Australian company, Computer Power Group Pty. Ltd., whereby that company will include the legal materials of those States in a computerised legal information retrieval service. The Commonwealth's SCALE system is compatible with the system which will be established by Computer Power.

Under the agreement reached today with the Attorneys-General, the Commonwealth will give the operator chosen by New South Wales and Victoria, Computer Power, access to the SCALE system. This means that a legal practitioner in New South Wales using the Computer Power system will be able to comprehensively search New South Wales and Victorian laws and judgments through that system and be linked by computer to Commonwealth material in the SCALE system.

To ensure the rational development of a national system which conforms with the agreed standards, the Commonwealth has decided not to release Commonwealth legislation and court judgments for use in other commercial computerised legal information retrieval services for a period of three years. The matter will be reviewed at the end of that period in the light of technological developments, and the progress achieved towards a national system.

The State Attorneys-General welcomed the announcement of the Commonwealth's decision. The distribution of computerised legal information through one system is seen as the most efficient and cost effective method of introducing the service. It will mean that a person seeking legal information will have access in all States to all the laws and judgments in Australia.

The market for such a service, particularly at this stage of development, is necessarily small. To open the field to several operators at this stage could well result in higher charges and consequently increased legal costs.

The restrictions on use of Commonwealth legal materials will apply only to their inclusion in commercial legal information retrieval services. Private legal publishers will be given permission to publish Commonwealth laws and judgments in printed form. This will be done through licences granted by the Commonwealth to ensure that accuracy is maintained.

The establishment of a national system for legal information retrieval will provide an important means of public access to the law, in keeping with modern developments in communications and computer technology. The use of computers in the community is spreading rapidly. The harnessing of the computer to provide better access to the law is an example of how new technology can be used for the benefit of the community. **15 July 1983**

Senate Proceedings

Mr. Heming - The current position, as announced by the Attorney-General in July, is that our computer will be linked up with that of the State operators in New South Wales and Victoria that is, Computer Power. Operators for the other States have not been finally determined. There may well also be Computer Power, or another operator in the case of some States. The general principle is that our own SCALE legal information retrieval system will continue to operate, and users in those States will be able to access both State legislation and case law and also the Commonwealth material. The computers will automatically switch through to whichever computer holds the appropriate data base.

Sen. Durack - That will be a direct access into the Commonwealth system?

Mr. Heming - So far as the user is concerned, he will have to dial into one computer only and be able to switch through to the computer holding the data base in which he is interested.

Sen. Durack - Has this been firmly agreed? Is there a basis on which this is to be provided?

Mr. Heming - There is a basis for that agreement. Negotiations with Computer Power are going on. So far as the actual mechanism for linking of the computers is concerned, the last I heard was that Computer Power had not actually selected its computer. Once that is done, we can get more seriously into the technical matters of linking them up.

Sen. Durack - I know a firm policy decision has been made to give it exclusive licence for this purpose.

Sen. Evans - Correct, subject to review after three years.

Sen. Durack - Has that been put into legal effect as yet, or is that a statement of intention?

Sen. Evans - It is a statement of intention at the moment. We are still negotiating the details and the contractual arrangements, as I understand it.

Mr. Heming - That is correct. In the case of Commonwealth material we are not granting a licence to anyone to store our material in their data bases. We will just be negotiating arrangements whereby their computer will be able to access ours.

Sen. Evans - That will be subject to the formal

agreement, I presume, in due course?

Mr. Heming - Yes. I expect so.

Sen. Durack - Have a number of other people applied for the same facility?

Sen. Evans - Not with the same degree of enthusiasm as they seemed to be applying during our regime.

Sen. Durack - Are the people who want access to it still on foot?

Sen. Evans - Lexis has been asking is for access to the Australian material for use in its international operations but has not been pressing us with any vigour so far as the domestic Australian scene is concerned. The other one, Computer Law Services, with Howard Schreiber and others, was very actively pressing its cause until the time of the announcement in July but subsequently has not been heard much of. I think the problem there, more than anything else, was the absence of fully worked out hardware and software for the kind of fairly radical new approach to data access that it was proposing. It may be that there are some advantages technologically and otherwise in the kind of approach that it is proposing. That is the sort of thing we had in mind when we talked in terms of reviewing the state of the art in three years time. We want to give a leg along to the possibility of developing a single rail gauge system in the first instance. The only way that seemed to be economically possible for the states to embark upon was on the basis of an exclusive licence for the one outfit, Computer Power, that was really off and running ready to go.

Mr. Heming - I do not really have much more to add to that. As the Attorney has said, I accept that the important criterion for linking up computers is that they be able to be searched using the same retrieval dialogue. That was not evident in the Lexis system. The Computer Law Services system, while it is an interesting proposal with innovative hardware, has some technical difficulties that I think will still need to be ironed out. It will be a little time before it will be ready to provide that sort of service.

Sen. Durack - What prospect do these other potential operators have? Is the decision at the moment that it will be for three years and then open to other applicants who wish to have access, or will it be for three years in the first instance and then be reviewed?

Sen. Evans - I have said the latter and that is what I meant. It will be reviewed in three years. Depending on the state of the art at that stage and the experience with the preferred operator at the moment we will make a decision as to whether to extend existing arrangements or to open it up for competing tender, I suppose. There is no particular desire to squeeze anyone out for the sheer hell of it. The desire is simply to get on foot a system that is workable and economically viable so far as the major States are concerned.

Sen. Durack - I can understand that. It is an argument that has been strongly pressed for some time by our State colleagues and, no doubt, the operator. It is important for those who may be interested in doing it in the future and spending money on it to know whether they will have an opportunity in three years time to give effect to their plans. How should this be approached? It is a very innovative area.

Sen. Evans - I think that is the key to it. The point is that the generations turn over so rapidly, technologically, in this area that it may be that in three years time the state of the art in this word retrieval area will be such that what we have now just seems horse and buggy by comparison and will not be able to compete. That remains to be seen. That kind of thought has been kept in mind. If the situation is not much different in three years time from what it is at the moment and if other people have a competing

commercial-type interest but do not have anything more to offer it may be that criteria for application will not change. I think it is largely contingent on technological developments. They will determine the way this whole thing goes. Who will be able to profit commercially from it.

Sen. Durack - When is it expected that the new service for the profession will be actually in operation?

Mr. Heming - Computer Power, I believe, has 18 months from the time of finalising its contracts with New South Wales and Victoria.

Sen. Durack - Are the contracts not yet finalised?

Mr. Heming - An interim agreement was signed contingent on Computer Power getting appropriate financial backing and setting up the initial arrangements. I am not aware of exactly whether the clock for the period that Computer Power has started running as yet. That is a matter for the State governments.

Sen. Durack - From when does its three year protection run? Is it the date it enters into the agreement with Victoria?

Sen. Evans - I was certainly talking about three years from the time I made my announcement in July. I think everyone is more or less hoping that the Victorian-New South Wales-Commonwealth scheme will be off and running by the latter part of next year. Nothing I have heard so far suggests that that is implausible but it remains to be seen. They were talking in Mackay about 15 months from July. I am not entirely sure what has happened since then.

Legal Information Retrieval at UNSW

A legal information retrieval component of the Legal Research and Writing course was introduced recently at the University of NSW. Using a program called "CARL" (Computer-Assisted Retrieval of the Law) designed by Andrew Richardson and David Lewis, both of whom taught the component, first year law students were exposed to a fully automated legal information retrieval system for the first time in Australia. CARL is a small database containing the full text of some 200 cases on torts by animals. This topic was chosen in order that a fully comprehensive database could be developed with the added advantage being that first year students would have had some experience in this area of the law prior to the computer component.

Students were given two hours of hands-on experience each, before receipt of an assignment which was designed to test their understanding of the CARL system and their ability to research problems using manual methods of research. Students were also given a two hour lecture on the theory of computers in the law and some supervision during their assignments.

Students responded most favourably and generally exhibited a reasonably high level of proficiency. It is hoped that a similar course will be available again next year so that future lawyers will not be reticent to use automated information retrieval devices in everyday practice.

► David Lewis, Sydney solicitor and computer consultant

COMPUTER POWER GREEN LIGHT

From news reports appearing in the Sydney Morning Herald (on 12 November, 1983) and The Australian on 15 November, it appears that Computer Power has taken a further big step in fulfilling the conditions imposed upon it by the NSW and Victorian governments in relation to the CLIRS project. Both papers reported that Mr. Rupert Murdoch's News Limited has paid \$12 million for a one-third share in Computer Power. It is understood that News Limited will provide the venture capital long sought by Computer Power in order to commence work on its proposed CLIRS.