Law Libraries

by Richard Finlay BA ALIA
Law Librarian, University of Adelaide

ALTHOUGH the last thirty years have seen remarkable developments in law libraries they remain a mystery to many Australian librarians.

There are several reasons for this: like other special subject libraries, law libraries seem to be separate from the rest of the library world, relating only to their own clearly defined groups of users. Some are virtually private libraries, belonging to courts, government departments or the legal profession. Perhaps most important, legal materials are not much held in non-law libraries, and through lack of acquaintance many people regard them as difficult. Even the best-informed seem to know only that law libraries are largely collections of serials, that they are reference rather than lending libraries, and that they have the reputation of being expensive to maintain.

Australian Law Librarians Group

To make things even worse, the remarkably close working and professional relationship between the different law libraries and their staffs may seem exclusive of others. Long before the advent of computerised legal data bases, law librarians had their own networks or referral systems, so that no matter where it started a question usually finished up where it could be answered. In 1969 law librarians organised themselves into a distinct body, the Australian Law Librarians Group or ALLG. Although the Group has received valuable support from the ALIA Special Libraries Section, particularly in the holding of conferences, and although many individual law librarians are members of the Association, the ALLG has not so far established a permanent formal relationship with ALIA, or found a place in it. Many law librarians would like to see this changed.

Much of the law library's quality of the unknown stems from the traditional idea that the older professions like law and medicine are so specialised that only the professionals should be entrusted with access to the knowledge. The last twenty years have seen changes to this attitude and the more public of the law libraries have changed to meet the resulting demand. The same period has seen enormous growth in the law, as governments continually seek to regulate more of our lives. New legal areas grow up overnight, like environmental law, informed consent or the law of AIDS. Other topics like family law or social security see radical revision or expansion. The law which once seemed securely cloistered is now involved with other professions like biology and medicine, architecture and planning. At the same time the traditional links with business and corporations remain strong.

Law collections

As lawyers increasingly need access to information or education in other fields, so does legal knowledge become necessary to practitioners and students in other areas. There are no large public law libraries in Australia except the National Library, so students and others who lack access to adequate collections in their own area have to seek access to the law collections of the universities and colleges. These tertiary education libraries are sometimes forced to play a considerable role as substitutes for public legal information services. This can impose a great strain on collections with generally inadequate resources, and gives the libraries concerned a significance in the national provision of legal information that is out of proportion to their real function of serving their own communities of scholars.

The changes in law making and legal practice of the last thirty years have produced changes in the libraries. Growth in the university law libraries, which still form the largest group in the Australian national law collection, dates back to the Murray report in 1956, which inspired a renaissance in tertiary education and its libraries generally. Others, like the courts and the government law libraries, began to expand later, and the current area of growth is the private sector, i.e. the law firm library. The National Library remains the owner of the largest single law collection.

Growth in professionalism

The thirty-year period has seen a great increase in library professionalism, particularly in libraries in the practice area. Collections once arranged alphabetically, or in a variety of unique subject classifications, are now catalogued by AACR 2 and classified by common systems, often by Moys. Staff are better qualified, particularly with library qualifications, and law libraries have become a significant employer of new graduates from the library schools. The ALLG, for years seeming to exist on the east coast only, has branches in most States with active programs of meetings. National conferences are held each year, in association with ALIA's Special Libraries Section.

Clearly, there has been great progress in law libraries. Any feeling of complacency, however, would be absurd. The progress, considerable as it is, should in most cases be seen not as a worthwhile addition to a system already in running order, but as a sadly belated beginning; the condition of most law libraries in the 1950s and 1960s was unbelievably poor.

History of law libraries

The last thirty years have seen a surprising number of investigations into the state of law libraries, and their history since 1960 could be written almost entirely from these governmental and professional reports. They include passages in the Martin report (1960) into the future of tertiary education in Australia, and the third report of the Australian Universities Commission (1966); the report on Law Libraries by the Australasian Universities Law Schools Association (AULSA) Committee on Australian Legal Education (their Report no. 1) of 1974 (the Richardson report); the Wilson–Glasson National Survey of Law Libraries in Australia (1984, sponsored by the Commonwealth Attorney-General's Department and two State Law Foundations); and a long chapter in Australian law schools—a discipline assessment for the CTEC by a committee convened by Dennis Pearce, which reported in 1987.

All but one of these reports are concerned solely with the libraries of the education sector. This is presumably caused more by the fact that for most of the period tertiary education has been funded and administered by a central government, than because the law school libraries are seen as more important than others.

Although the latter two reports draw attention to considerable improvements they still show concern that the rate of growth is too slow, and too uneven. The 1974 AULSA committee had set standards for law school library collections, (50,000 volumes, not counting duplicates). The Pearce committee of 1987 recommended a near doubling of these (100,000, with at most 10% duplication). Some libraries had not reached the previous standard, set twelve years earlier. Most are still dismally short of the seating provision standards suggested and have problems accommodating their book collections. Very few are adequately staffed.

University law libraries

The university law libraries are of course administratively part of their host

Continued on facing page.

universities and their library systems. If universities and their libraries suffer financially it will take some heroic advocacy if law libraries are not to suffer in proportion. Cutbacks are now happening throughout Australia. The pity is that few if any of the law libraries had reached a base substantial enough to take even minor cuts, whether made in the name of rationalisation or economy, without significant damage to collections and services. And the relative importance in the law field of the education law libraries ensures that their decline is felt throughout the field generally.

The difficulties in the university law libraries are only partly the common education blight of shortage of staffing and resources. They also tend to suffer, particularly in times of contraction, from their position between the law school and the university library, whose views on the law library's share of a dwindling cake rarely coincided. It is an interesting speculation whether a transfer of responsibility to the Faculty along the US lines (the 'autonomous' law library) would improve their position. The root of the matter is probably in the very nature of law libraries. First, they are two things in one: the 'laboratory' of the law practitioner or student, and a research library along the lines of any general library. The 'laboratory' of the law school is the basic core collection of primary legal sources, the Anglo-Australian and other Commonwealth law reports and statutes, books of authority, encyclopaedias and dictionaries and a few journals. Much of this may need to be held in multiple copies. The rest of the library, which is heavily dependent on the core collection, is the legislation and law reports of more remote jurisdictions or states, learned journals, and the commentaries and other texts of scholarship in law and legal matters.

The laboratory aspect of the law school library presents enormous difficulties in book funds, staffing and accommodation. In the present circumstances no Australian university library administration seems to be able to cope with it. The Pearce report, which is generally so helpful on library matters, does not go far enough on this basic issue and seems to make no major recommendation. More work still needs to be done.

Problems of diminishing resources

Both the laboratory and the research aspects of the education law library reflect the second problem, which is common to law libraries of all kinds: both primary and secondary sources of the law are published largely in serial form. The core collection is nearly all in serials, the works of reference are largely serials or multi-volume sets replacing themselves continually in new editions, and the research collection relies on journals as well as books. Add to this the growing number of looseleaf services and continuations, and the significance of recurrent funds to a law collection is blindingly clear. The decline in exchange rates and the continuing inflation in the late 1980s have put recurrent funds under intolerable pressure and cancellations of subscriptions and standing orders are rife. To a law library this is quite simply ruinous.

Law libraries serving users outside their own institutions may be helped by heeding the current call to cost-recovery. It seems to be a universal truth that university law libraries, for example, spend an increasing amount of staff time on helping members of the public, students of other courses or institutions, and other secondary users. There is no obvious solution to this; with the best will in the world, people cannot be taught to use a law library in two easy lessons. The trouble with legal information is that no matter how simple it sounds in principle, in practice its access can be very difficult. As finances continue to tighten, such expedients as restriction of service to primary users or the charging for services to 'outsiders' are likely to be considered more widely.

A national law library?

Many commentators see the trouble in the law field coming from the smallness of the libraries and their consequent reliance on some larger unit for support. The three inquiries into law libraries of the last fifteen years have all recommended the establishment of some sort of central secretariat or national law library, to provide and gather information about all aspects of law libraries and librarianship in Australia, and to set standards. Although the impetus for two of the those inquiries came from the education field the proposed body would be of great value to law libraries generally.

The AULSA report suggested the National Library as the natural home for this secretariat. Ten years later, Wilson–Glasson accepted the impracticality of the secretariat, but still suggested a national law library based on the same institution.

To law librarians the National Library has been something of a disappointment. It holds the largest collection of legal materials in the country but has not appointed specialised law staff to improve its availability. It has not recognised the needs of legal research by allowing users into the collection, but remains in this sense a traditional library of closed access. It has not accepted a last resort role in plans to hold, for example, one copy in Australia of all items in the standard periodicals indexes. And it has certainly not produced any central secretariat or national law library.

Of course the National Library has always had its own problems and at this stage it is impossible to know how realistic any of the law recommendations have ever been. The 1987 report by Pearce accepts the position, to the extent of trying to find alternative funding for the proposed secretariat, and limiting its existence, initially at least, to three years. The reorganisation of tertiary education from 1988 casts doubt on the Pearce recommendations, but it may be that the larger law schools will get together and make a start.

Outside the university libraries other areas are developing well; unfortunately however, they are not placed to make up for the subscription loss in the university research libraries.

The High Court and some State Supreme Courts have had strong collections for many years and, as new courts have come into being, new collections have grown up with them. There is clearly an awareness of the problems facing libraries within Supreme Courts, and several courts have commissioned reviews or reports by committees or firms of management consultants. The concept of shared State/Federal court libraries has emerged and come to fruition in Sydney. It remains to be seen whether this policy will be extended to other cities. Government legal offices like Attorney-Generals' or Crown Law Departments have improved their library facilities as have the professional societies of barristers and solicitors.