

Copyright and the Arts in Australia by J. C. LAHORE of the World Intellectual Property Organization, Geneva with P. B. C. GRIFFITH, B.JURIS., LL.B. (Melb.), Lecturer in Law, University of Hong Kong. (Melbourne University Press, 1974), pp. i-viii, 1-219. Recommended retail price \$14.00. (ISBN: 0 522 84065 5).

This book is the result of a survey carried out at the request of the Australian Council for the Arts. Mr Griffith did the research and Mr Lahore wrote the text. As is said in the opening sentence of the book, the law of copyright has been one of the most neglected areas of law in Australia. But the position is changing. The Copyright Council, due largely to increased support that it has been given by way of government grant, has become a most active body. It has stimulated the bringing of an action by an author against the University of New South Wales alleging infringement of his copyright; the setting up of a committee to inquire into the effects of reprographic reproduction was brought about largely by Copyright Council pressures; and it played a large part in the adoption of a public lending right scheme in Australia. It can be expected that this body will continue to press for extension of copyright protection for the organizations which it represents. Additionally, a number of law schools in Australia are now offering courses in industrial and intellectual property. The number of lawyers in the community with an awareness of copyright law and its concomitant problems will thus steadily increase. These developments make Mr Lahore's discussion of copyright and the arts in Australia most timely.

It is Mr Lahore's thesis that authors and artists must become more aware of their copyrights and, in particular, must look closely at the effect of technological change on these rights. His research has shown that authors and artists are, in general, ignorant of the law of copyright and he hopes that his study will dispel some of this ignorance (page 2). The approach adopted in the book is first to set out the present law of copyright, its background and its international aspects. Then the author discusses copyright law and problems in relation to particular fields of artistic endeavour—in turn the literary arts, the visual arts, music and sound recording, the theatre, and film and television. He then discusses issues pertaining to these particular fields in relation to photocopying, moral rights of authors and performers' rights. He concludes with a chapter on the protection of intellectual property by means of actions other than for infringement of copyright. It can be seen that there is thus a comprehensive coverage of the subjects predicated by the title of the book.

It is difficult to write a book of this kind as it endeavours to reach two audiences—lawyer and layman. It can also be anticipated that a composer, for example, may well only read the chapter relevant to his particular field of interest. This presents the writer with the difficulty of having to give such a reader a reasonably self-contained statement of the law while avoiding repeating himself for each area of artistic endeavour. Mr Lahore has managed this aspect of his book very well.

The person who elects to read the book through is not subjected to undue repetition while the specialist reader is not misled by understatement. The relevant law of copyright is stated with admirable clarity as are the problems to which it gives rise for authors and artists.

The main problem that I find with *Copyright and the Arts in Australia* is that Mr Lahore does not really come to grips with the question what copyright law should protect. No one would dispute that authors and artists need to be encouraged to pursue their creative vocations. But is this best achieved by increased copyright protection for their works? Mr Lahore assumes throughout that it is. But the encouragement of authors and artists is for the benefit of the public. Is there not also a public benefit in having such works available for use, reproduction, etc? Can not this benefit be lost if a copyright monopoly is awarded to authors and artists (for which in many cases one should read "publishers") too freely? These are problems with which, to my mind, a book on this topic must deal. It is necessary to bear in mind in this regard that copyright protection lasts in most cases throughout the author's life and for a period of 50 years thereafter.

Related to this criticism is the fact that ideas for protection of authors and artists are suggested without full discussion of their ramifications or implementation: see, for example, the suggestion for a registration system (page 65); the adoption of a "droit de suite" (pages 83-86); the notion of a copyright for film directors (page 139); and the adoption of a photocopying licensing scheme (page 155). If suggestions for greater protection of authors and artists by means of copyright law are to be given proper consideration, it is not sufficient for the protagonists to state their claims and then expect others to implement them. Nor is it satisfactory to make sweeping assertions such as that a "vast number of infringements . . . occur daily at every copying machine in Australia" (page 155). (Inquiries by the Australian Vice-Chancellors' Committee indicate that very few copies made on University library copying machines do not fall within the "fair dealing" exemption.) Likewise on page 162 it is said that "Recordings [of concerts] are often made without the knowledge of performers by tape recorders secreted in the audience". Statements of this kind are of little value without statistical backing.

The foregoing comments notwithstanding, this book should be of considerable interest and assistance to all persons interested in the arts in Australia. The exposition of copyright law and its relation to the various fields of artistic endeavour is lucid. I thought Chapter 3 relating to international copyright, and the discussion of the compulsory recording provisions set out in Chapter 6 particularly helpful.

Ensuring that a manuscript is up-to-date is a difficult task for an author. However, with the manuscript dated 31 December 1973, a later list of members of the international conventions than 31 December 1972 could have been expected. The important fact of acceptance by the Soviet Union of membership of the Universal Copyright Convention in May 1973 is thereby not recorded. The reversal of the decision of the

Court of Claims in *Williams & Wilkins Co. v. U.S.* in November 1973 also has relevance to the text at pages 150-151.

The book is well presented. Misprints are few: the only serious one being on page 12 where a reference to section 31 appears as section 13.

Mr Lahore refers on frequent occasions in his book to the weak bargaining position of authors and artists arising from their inability to organize themselves. This weakness clearly must be overcome before any great changes in copyright protection can be achieved. But also authors and artists must be prepared to put the necessary work into researching the operation of any proposed changes in the law. They must not expect that action will be taken at their request merely because they are a special group in the community notorious for their preoccupation with "greater things". Mr Lahore's book is a major step towards informing authors and artists of the law of copyright and possible lines of future development.

D. C. PEARCE*

* Reader in Law, Australian National University.