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**Computer Law
&
Security Review**

Editorial

Harry Saul Bloom (1913–1981)

1st January 2013 marks the centenary of the birth of Harry Bloom who was your editor-in-chief's academic tutor and teacher more than 40 years ago at University of Kent at Canterbury. South African-born lawyer, journalist, novelist, political activist and civil rights campaigner, Harry Bloom² deserves to be remembered as the founder of the teaching of the law affecting the media in the UK. Many of the components of this initial interest in the subject quickly developed into a focus on the early impact of the transition from the offline into the online world. This editorial is devoted to the celebration of his academic contribution while holding academic posts in the UK.

Having moved here in 1963, from the mid-1960's Bloom helped set up the first Law Department at the University of Kent at Canterbury. Bloom became a Senior Lecturer and the June 1970 Faculty of Social Sciences Course-book lists Course S261, 'Law of Public Media' which he taught:

This course will deal as an integrated subject with the law concerning the Press, Broadcasting, Films, Publishing and other similar activities (emphasis added).

The individual course topics were: defamation – 'including an understanding of the tension between the public and the mass media, and the current arguments about a proposed Law of Privacy'; liability for negligent statements; obscene publications; Trades Description Act (relevant for advertising and proposing an empirical study of its efficacy); D-Notices,

¹ David Goldberg taught law at the School of Law, University of Glasgow from 1971 to -2000. He founded the *Journal of Media Law and Practice* in 1979 and initiated the teaching of communications law and policy at Glasgow in 1983 at both undergraduate and postgraduate levels. Now, he directs deeJgee Research/Consultancy and is a Lecturer for Glasgow Caledonian University's communications law course; a Senior Visiting Fellow, Institute of Computer and Communications Law in the Centre for Commercial Law Studies, Queen Mary, and University of London; and an Associate Fellow, Centre for Socio-Legal Studies, University of Oxford. In 2011, he was elected a Fellow of the Royal Society of the Arts (FRSA) and gained a PhD by Prior Publication on the subject of 'Media Law: Genesis and Development of a Legal Field' (Glasgow Caledonian University).

² For a biography, see 'Harry Bloom' <http://en.wikipedia.org/wiki/Harry_Bloom> and for a photo of Bloom's tombstone, see <<http://www.flickr.com/photos/chrisjohnbeckett/228079325>>.

Official Secrets Act, Privileged Documents in Government or Diplomatic Custody (in effect they 'amount to a system of censorship of public information'); contempt of court (an 'anachronistic branch of law'); private law (copyright and certain aspects of contract law).

Your editor-in-chief studied that course which went a long way towards sowing the seeds in him of a lifelong academic career in the study of information technology law.

Bloom refers to the 'Law of Mass Media' in a Paper entitled 'Law of Communications: Research and Study Programme'. The Paper, a forerunner to the British Journal of Educational Technology article (see below) calls for a Centre or Research Institute to carry out 'high level academic study and research into a subject which in this country has not yet reached the status of a separate legal discipline, as it has, for instance, in Germany, France and the USA'. He also called for the provision of postgraduate studies 'so as to produce trained specialists to help Britain play a part in the development of the law of communications':

The Law of Communications is a particularly obscure and vexatious branch of the law...Further it is seriously handicapped by the fact that the parts of this branch of Law are scattered and disassociated. In legal education, these separate components sometimes find their way into the syllabus of staple law subjects...but in such cases they usually form part of the miscellanea of those subjects. This false and confusing fragmentation is carried over in practice, the decisions of the Courts, and adds to the difficulties of legislation...the first aim of the Centre will therefore be to attempt a reconciliation of the separated components of the Law of Communications...the first project of the Centre will be the production of a book based on this overall view....

Further, he notes (in that Paper) that he has made the case for:

The acceptance of the Law of Communications as a separate, self-sufficient legal discipline with the same status as a great many of the legal subjects taught in Universities as set out in Professor John Wilson's survey 'Legal Education in the UK' (1966). The Ormrod Report which sets out the syllabus of every law and polytechnic in England and Wales makes the same point. The subject, whether as a unitary discipline or as regards its sub-

divisions such as copyright, is totally neglected in legal studies in this country.³

It seems that at the time hardly anyone outside the circle of his students seemed aware of Bloom's first conception of the law of the public media or communications law. In similar fashion to the guest editor's view, he conceived of it as an integrated, separate, specialist discipline. In his view a possible course shaped up as follows:

- * Privacy
- * Censorship
- * Copyright
- * The law with regard to libel and slander, official secrets, obscene publications, contempt of court: private law including contractual agreements in the mass media
- * International mass media legislation
- * Legal problems arising from new technologies of education. Concessions made to developing countries in aid of education
- * Common Market Law as it affects Intellectual Property and the Mass Media
- * Laws and institutions that affect and control advertising, national and international
- * International and national telecommunications law
- * Space law in relevant parts
- * International conventions regarding the freedom of information, and the free flow of information
- * Computer techniques, their legal aspects, consequences and problems
- * International conventions and national legislation aimed at the acceptance of universal standards for communications and copyright

That the wider media law world is ignorant of Bloom is (partly) explained by the fact that his ground-breaking 1973 article, *Communications and the Law*, was not published in a law review but in the *British Journal of Educational Technology*.⁴ It called for the setting up of an academic research unit into the 'law of communications', focusing mainly on intellectual property issues.

During the 1970s, Bloom⁵ was preoccupied by the problem of the legal dimensions of global telecommunications and computer networks, see e.g. 'The Why and What of EURONET' in *Communication Policy*, 1977, and 'The Marriage of Computers and Communications', also in *Communication Policy*, May 1975. He contributed a paper for the 1974 meeting of the International Broadcast Institute's Working Committee on 'Changing Technology, Freedom to Communicate and the Law' (see 2(3) *Intermedia* 1974) in which he called for 'new thinking by lawyers to face the changing situation on copyright brought about

by the advance of technology, particularly the satellite, and the needs of emerging nations.'

His interest in the legal protection for privacy was, in the light of current developments, commendably prescient, see, e.g. the 1977 *Memorandum on Privacy and Public Welfare*.

In 1975, he applied, jointly with Igor Aleksander, Professor in Electronics, Brunel University, to the Social Science Research Council for a research grant (£21,676) to undertake a study entitled 'On the Rights and Protection of the Users of Computer Networks'. Sadly the grant was not forthcoming. Your editor-in-chief was to be the PhD candidate for this project. The British Computer Society asked him, possibly in connection with the OECD's project on transborder transmission, to do work 'for a multi or International Treaty on trans-border data processing'.⁶ The main area of his concern was copyright, believing that there was a need to make 'an essential...leap which we will have to make between copyright as we know it and copyright in networks (not to mention other new technologies)' (letter to Jonathan Stanfield of PA Computers and Telecommunications, 20 September 1977).

He was exercised by the question of 'whether copyright liability arises when the program is loaded onto the machine or when the output is produced...I think it depends on whether a network is to be looked at as a bookshop or a library'. He corresponded in detail on the same lines with the noted Harvard communications scholar, Ithiel de Sola Pool (see letter, 1 December 1977). Pragmatically, he analogises from the question about driving on the left or the right: 'It doesn't matter which as long as there is agreement to adopt a particular right of way' (letter to Professor Gerald Dworkin, 23 November 1977). He welcomed the signing by the USSR of the Universal Copyright Convention in an article in *Revue Internationale de Droit d'Auteur* (1971 Vol. 62, p. 174, 'The end of samizdat?') and he prepared a memorandum on 'Photocopying as an aid to law teaching in Universities', on the 'legal position regarding the reproduction of law reports, statutes, articles and chapters of books to be handed to students for teaching and/or research. I am further asked to comment on what copyright changes are afoot in this area and what changes should be pressed for in revisions to the Copyright Act 1956 now under consideration by the Whitford Committee'.⁷ Presciently, indeed prophetically, he discusses the

³ Harry S. Bloom, 'Law of Communications: Research and Study Programme', p. 14.

⁴ Harry S. Bloom, 'Communications and the Law', (1973) 4(1) *British Journal of Educational Technology* 2 <<http://onlinelibrary.wiley.com/doi/10.1111/bjet.1973.4.issue-1/issuetoc>> accessed 29 March 2011.

⁵ By the later 1970s, he was styling himself 'Consultant in Copyright and Communications'.

⁶ Coincidentally, guest editor Goldberg attended the first-ever conference on transborder data flows in Rome, September 1980, convened by a United Nations body, the Intergovernmental Bureau for Informatics (IBI), in which forum the Treaty-drafting work took place (although it was never completed). By then Bloom was in failing health and therefore unable to attend. For the IBI, formerly the International Computational Centre created by UNESCO in 1951, see 'Intergovernmental Bureau of Informatics' UNESCO Access to Memory <<http://www.unesco.org/archives/atom/web/index.php/actor/show/isaar/2561>> accessed 29 March 2011.

⁷ Bloom, Harry S., 'The Teacher's Copyright in His Teaching Materials' (1972–1973) 12 *J. Soc'y Pub. Tchrs. L. n.s.*333 <http://heinonline.org/HOL/Page?handle=hein.journals/sptlnt12&div=43&g_sent=1&collection=journals>.

'losing war copyright is waging against cheap, easy and efficient do-it-yourself methods of reproduction'.⁸

At the centenary of his birth, Harry Bloom deserves recognition for his visionary thinking about media and technology during the very early stages of the digital age. Throughout his academic career in the UK until his death in August 1981 he continued to take an active interest in law and technology. After recovering from illness in 1975 he was appointed as Visiting Professor in the Department of Electrical Engineering and Electronics at Brunel University. But this further appointment did not make Bloom any more visible to lawyers despite the fact that in 1978, he became a Reader at the University of Kent. Nevertheless, in December 1991, a decade after his death, a reading room

dedicated to his memory was opened in the Templeman Library of University of Kent.

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⁸ Ibid.