INTERNATIONAL INSTITUTE OF COMMUNICATIONS

ANNUAL CONFERENCE 1987

SYDNEY 5 SEPTEMBER 1987

1987 IIC LECTURE

COMMUNICATIONS - AN ANTIPODEAN PERSPECTIVE

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The Hon. Justice Michael Kirby, CMG*

> "Events in Italy and the rest of the world were confirming Pareto's predictions ... [T]he national government was incapacitated by indecision. ... It was in this milieu that Italian fascism took root ... On aggregate, people had come to feel that they should grow prosperous without having to work hard. As a consequence more energy was invested in connivance and in devising ways of transferring existing wealth than in constructive activity and the production of new wealth. With workers engaged in prolonged strikes and capitalists busy with parasitic or speculative activities yielding quick and easy money, no class was contributing to sustained growth or real property ... corporate giants and organised labour were granted whatever concessions they asked for, at the expense of the general public."
>
> C.H. Powers (ed) in V. Pareto, the Transformation of Democracy, Transl., R. Giroia, pp 17-18.

VIEW FROM THE BENCH

What utterly different lives we lead. Here you are, the collected cream of the leadership of one of the most dynamic technologies in the world today. Here I am, a judge - heir to a tradition 700 years old. Your mind is concentrated, mightily, upon optic fibres, megabites and telecommunications structures. During the last week, my mind has been focused on problems which you would probably regard as rather more prosaic. Yesterday, for example, I handed down three judgments. One

concerned the right of a disbarred barrister, who has suffered a heart attack, to proceed in an application for readmission by affidavit, without cross examination. Another concerned the entitlement of a judge to increase a prisoner's sentence, at the same time as granting his application for leave to withdraw his appeal. The third concerned the obligation of a judge of our Compensation Court to give full and rational reasons for a decision he had arrived at which dismissed a workers' claim to compensation. Through these three cases ran a common thread. It was the thread of due process in our courts. An orderly and generally peaceful society depends heavily upon the law and its institutions. The processes of the courts of law must be manifestly just and rational. Appeal courts exist to test decisions by the standards of lawfulness and fairness. Other standards, such as economy, efficiency and technological modernity have a part to play. But they are not the guiding stars of the business I am in. My stars gleam in a dazzling firmament which is otherwise being changed so rapidly by you.

Every now and again our respective interests coincide. Sometimes there is a mighty conflict. But this is comparatively rare. In free societies - or at least societies as free as human beings can make them - communications technology and legal institutions are twin pillars of freedom.

TWO MELANCHOLY LECTURES

Like any good lawyer should, I looked for a precedent when preparing these remarks. Generally speaking, there is nothing so ephemeral as an annual oration. So it took a little time to find the speeches of my last two predecessors. But there they were, in the treasury of past information,

retrieved, in due course, by the Institute.

In Tokyo in 1985, Professor Hidetoshi Kato, a sociologist, called attention to the burgeoning growth of information and the irony of the persisting limits on accessibility to that information. In a melancholy reflection, he pointed out that we can go on increasing data banks and communications systems; but, try as we might, even the workaholics amongst us cannot stretch a further second out of the 24 hour day.[1]

In Edinburgh in 1986, Professor John Erickson offered reflective comments on the some of the disadvantages of deregulation of communications. They include, according to him, dangers for national security, for diversity and for the diffusion of power which our present arrangements can sometimes protect.[2]

A TECHNOLOGY BASED ON OPTIMISM

Now it is my turn. If you had wanted a really gloomy lecture - enough to spoil even the performance of Don Giovanni at the Sydney Opera House tonight - you should have chosen an economist. Lawyers, for all their faults, belong to a "can do" profession. The power of positive thinking does not fall away, even after a decade on the Bench. Problems are there to be solved. And every day, solutions of varying quality and acceptability are offered in the courts.

I state at the outset that my general theme is one of optimism. How could it not be in the face of the remarkable communications technologies which have come to dominate our lives? If nuclear fission is the most frightening new technology and biotechnology the most morally perplexing,

informatics is undoubtedly the most dynamic and challenging. New technologies pile new inventions on each other. We no sooner have satellites in the sky - enhancing remarkably the capacity to share information in all parts of the blue planet - but along comes the fibre optic cable. Erickson was optimistic about the survival of satellite technology, particularly for the developing world.[3] It is sometimes easy in the heady debates of technologists and economists concerned with informatics, to overlook the high concentration of the technology in the rich countries. This is a theme which I have constantly voiced in the councils of the OECD and UNESCO. It has been picked up in other international agencies.[4] Later this month, I will be attending a conference of the North South Roundtable in Tokyo, concerning the implications of the new communications technology for the developing countries.

My general philosophy is optimistic because my view of the world is necessarily different from that of a sociologist, professor of defence studies or an economist. A person concerned with the rule of law, fairness and human rights must look generally at communications technology as weapons to advance these interests.

It is trite to say that information is power. It is equally trite to point (as I shall do) to some of the problems which exist in the use of that power - concentration of ownership; reduction of diversity and decline of standards. But when we despair of these failings on the part of the communications industry, particularly the media, we can take heart from the technology itself. That technology will ultimately be the liberator. Its very pervasiveness will, in

the end, overcome passing problems of control. And if you are an internationalist, as I am, then the view must be taken that generally speaking the technology favours diversity. It certainly favours an international dimension. World broadcasting, satellite services and interactive computers, continents apart, are proof positive of this.

A HIGH CALLING - THE CONTRIBUTION TO PEACE

I like to think of my own activities in the court as part of a high moral calling. Upholding the rule of law and seeking to do justice according to law to fellow citizens and others can be such a cause. But so too is participation in the world of international communications. The developments of communications technology have come at precisely the right time. At a moment in history when the means of destruction have become so daunting and the means of transport so rapid and far reaching, the technological means of sharing information and learning about each other have an enormous potential for peace. This is partly because it is so much more difficult to hate identifiable people when you discover that they are not all that different from yourself. It is partly because rapid communications can reduce the accidents which, in the past, led to so many conflicts. It is partly because the communications technology itself is now so inter-related and inter-dependent that we are increasingly vulnerable to retaliation by others sharing the same network. It is also, in part, attributable to the fact that it is much more difficult to control and subjugate people who are even partly informed of the world around them. The remarkable developments that are occurring in the Soviet Union illustrate, I believe, what happens, even in a

tightly controlled society, as a result of education and the spread of information.

In short, with communications comes a mighty force for world-wide integration, harmony and peace. Only human beings can spoil the potential of your technology to contribute to these worthy goals. Because I consider the technology to be so dynamic, I consider that, in the end, it will triumph over the worst that mankind can do to spoil its potential. But as, in the end, we are all dead, and as I remain anxious to follow my precedents, I must descend from these generalities of optimism to a few comments about the problems which I perceive for international communications. Necessarily, my perspectives will be those of a judge, a retired law reformer, an international conference goer and an Australian. I do not list those qualifications in any necessary order of importance.

THE PERILS OF COMMUNICATIONS LAW REFORM

Well might you ask, what on earth does this man have to offer us? I confess to asking the same question myself. As a child, I grew up as an avid member of the 12% of Australian households who very rarely listen to anything but the national broadcaster - the ABC. But that would scarcely qualify me to enjoy your attention. As a law reformer, I was involved in a number of projects of the Australian Law Reform Commission designed to produce reforms of Federal laws in this country which concern communications technology in general and the media in particular. For example, I took an active part in the development of a proposal for a Federal privacy - or data protection and data security - statute for Australia.[5] The proposals in that 1983 report have not yet been implemented.

Ironically, they have been picked up and tacked onto a controversial proposal to institute a national identification system with the engagingly American name of the "Australia Card". Instead of (as in Europe and North America) a general data protection law for the age of computers, there is to be a special data protection agency to keep an eye on the Australia Card authorities. It is like love and marriage - you don't get one without the other. No Australia Card, apparently, no data protection.

Projects of the Australian Law Reform Commission on defamation law came closer to achievement. The problem is one of reconciling, for an integrated and national industry, differing laws and procedures in the different States of Australia. Amongst many other proposals were some for limiting the availability of criminal defamation, currently in the news here. Some powerful media interests would not accept the Law Reform Commission's proposals - although others did. In the result, the reforms, with their beneficial procedures, have not been enacted.[6] A still more recent report of the Law Reform Commission has suggested reforms of the law of contempt.[7] This report has only just been delivered. It shows many aspects of that law in need of reform.

As a judge, I have to sit in numerous appeals concerning defamation law and other aspects of media law. Contempt of court, including by the media, is frequently an issue before my court.[8] Anyone wanting to delve into that arcane area of the law can have access to the law books. The balances to be struck between freedom of speech (on the one hand) and other interests, such as national security, confidentiality and

duties of secrecy (on the other) came recently before the Court of Appeal in the so called Spycatcher case.[9] But that decision stands reserved; so I cannot explore with you its fascinating details.

WORLD TECHNOLOGY STIMULATES WORLD GOVERNMENT

My main insight into your world came through none of these activities. Between 1978 and 1980 I chaired a committee of experts of the OECD on transborder data barriers and the protection of privacy. That committee developed guidelines. There were adopted by the Council of the OECD. They are still influencing the laws of member countries. The guidelines are incorporated, almost in their terms, in the Australian Law Reform Commission's proposals on privacy. They are also reflected in the privacy legislation which accompanies the Australia Card.

It is a great opportunity for anyone to take part in the activities of an organ of international government. The necessities of technology have forced the pace of the development of such institutions. Some of the most venerable of them exist in the fields of posts and telecommunications. Many citizens (and even some governments which should know better) are cynical about, or even hostile to, these organs of internationalism. But all educated people who take the long view can see in them the necessary building blocks of a new world order. We are, internationally speaking, at Runnymeade. There are lots of powerful barons about - being the nation States. Some are more powerful than others. But for the peace and harmony of the Kingdom of Earth in a dangerous age, it will be necessary to develop international institutions - including

the institions of law - just as was done in England over nearly ten centuries. We do not have the latitude of so much time. The perils of technology necessitate a greater sense of urgency. The chief lesson that my exposure to the OECD taught me was this. Technology stimulates internationalism. That has great political and legal - as well as economic, cultural and social implications. It has implications for the emerging institutions of world government. We should not be cynical about these. We should be wholeheartedly supportive of positive moves towards internationalism. No technology today contributes so much to it, as does yours.

Secondly, the OECD experience suggested the way in which common problems could, in future, be solved. Treaties are coercive. But guidelines drawn by experts may influence and stimulate local developments whilst at the same time being respectful of national sovereignty and local points of difference. The failure of democratic institutions, in all of our countries, to grapple with the complex and controversial issues presented by communications technology threatens the survival of those democratic institutions themselves.[10] One of the difficulties which we face today, which will not have escaped you. It is that democratically elected legislatures find it almost impossible to keep pace with rapid technological change and its social fallout. It is important to remind our representatives that to do nothing is often to make a decision. Yet the very technicality of the changes, the power of the interest groups involved and the multitude of implications caused make the easy thing to do precisely that - nothing. To some - particularly those already with great power, this is a

good thing. To others, it is the very formula for anarchy or the law of the jungle.

TRDF, THE LAW & A DANGEROUS GAP

Take, for example, my own discipline, the law. The implications of communications technology and the growth of transborder data flows are enormous. They include implications for the effectiveness of privacy law, for interactive freedom of information laws, for contract and insurance law, for criminal law, for the resolution of conflicts of law, for the law of intellectual property, for the vulnerability of the wired society and so on.[11] Save for some aspects of privacy and of intellectual property, and a few desultory efforts in the field of international crime and policing, the world wide impact of informatics upon our legal systems has not really been tackled in an effective, let alone a co-ordinated way. Neither in governmental nor in private institutions is there any coherent activity, pulling together the efforts to place this remarkable and rapid technological development in its legal context. As I have said before, we need a Luther of jurisprudence to tackle this urgent task. We need well funded internationial agencies and private institutes to identify the issue and to suggest ways by which those issues may be addressed. The OECD showed that this could be done, to a limited extent at least, in the protection of privacy. The work of its committee has influenced domestic laws in most of the 24 OECD member countries. I consider that to be a good example of non-coercive international cooperation. Although Australian laws on this subject are yet to come, I believe that they will be enacted, with or without an Australia Card. But that is a

modest achievement. The tasks which I have identified, and many others lie ahead.

And the fundamental questions remain: who is tackling those tasks? Who is intergrating the results? Is there any hope of the development of a world-wide legal order to address the social fall out of informatics, with anything approaching the dynamics of the technology which presents, every day, new problems. In the gap between the presentation of the problems by the technology and the provision of solutions by democratic legislatures, lies a void which is dangerous for the rule of law. Those of us who believe in the reality - as distinct from the mythology - of democratic institutions will, be concerned about the capacity of those institutions, in an age of mature science and technology, to shape the destiny of our societies in matters that really count.

MEDIA OWNERSHIP

That note is an appropriate one upon which to consider the topic of media ownership. For some, the growth of transnational corporations in the field of media is simply a reality which accompanies the international communications technology itself. Whether good or bad, it is part of the Realpolitik of the world today. If it were not Reuters (against whom UNESCO cognescenti declaim) and Rupert Murdoch (against whom even more complain) it would be someone else. The integrated news technology, according to this view, makes interconnected corporations, with common ownership, inevitable.

In the old days, the concern about "freedom of the press" and "free speech" was about the power of government, by its agencies, to prevent people expressing a diversity of

viewpoints. You will recall that Thomas Jefferson, in a famous letter of 1787, declared, that were it left to him to decide whether we should have a government without newspapers or newspapers without a government, he would not hesitate a moment to prefer the latter.[12] Jefferson was the outstanding advocate of a free press. His spirit still lives in the United States constitution. In the same letter to Carrington he declared:

> "I am persuaded myself that the good sense of the people will always be found to be the best army. They may be led astray for a moment, but will soon correct themselves. The people are the only censors of their governors; and even their errors will tend to keep these to the true principles of their institution. ... The basis of our governments being the opinion of the people, the very first object should be to keep that right."[13]

This is elegant language. So let us have more of it. With Madison he wrote, in the Virginia and Kentucky Resolutions of 1799:

> "In every State, probably, in the Union, the press has exerted a freedom in canvassing the merits and measures of public men, of every description, which has not been confined to the strict limits of the common law ... A free press is the triumph of humanity over oppression."[14]

Nowadays, our concern about freedom of the press and free speech must take a different form. It must be concerned about the variety of outlets which exist by which differing, minority, controversial and even heretical views can be published.

In this country, as in others, concern has lately been voiced about the concentration of ownership of the information media. True it is that concentration can be exaggerated. Editors and broadcasting managers within media groups often enjoy a high measure of independence. Even the most penickity

and opinionated publisher runs into the 24 hour problem mentioned by Professor Kato. Opinions about the concentration of media ownership range across society. It depends on your viewpoint. In Australia, the former Prime Minister, Mr. Whitlam declared a few months back that "Australia now has as great a variety of media managements as is to be found in any country in Eastern Europe".[15] The Melbourne Age, certainly one of the best newspapers in this country, recently called for a Royal Commission into the Australian media. The editorial opinion argued this way:

> "The inquiry should be commissioned immediately to investigate the present and future ownership of radio and television stations and newspapers. A Royal Commission offers the only feasible way to begin unravelling the tangled nest created over the past 6 months as media proprietors prepared for the changed ownership rules proposed by the Federal Government. The government's plans for change ... destabilised the industry and sparked a frenetic series of take overs, sales and rationalistion, the result of which has been an unfortunate concentration in the ownership and control of the media. It is impossible to escape the conclusion ... that freedom of speech in Australia has been compromised."[16]

I pass over the accusation of the editor that the Australian Government "set about a radical revision of the old "two station" law ... to help some proprietors at the expense of others".[17] I pass over also the accusation that our institutions of protection (the Trade Practices Commission and the Australian Broadcasting Tribunal) have proved totally incapable of handling the situation, as demonstrated by "the peculiar position where, despite restrictions on foreign ownership and on market dominance, a foreigner is able to control 60% of the country's print media".[18] Likewise, I pass over the equal brick bats which the editor handed to government

and opposition alike. Yet many thinking people in this country now have a concern about the dominance of the media by so few groups and the way in which these powerful privileges seem daily to be traded (and the traded again) as if they were nothing more than soap powder works. Instead, we are talking of the means by which the majority of people in a democratic country secure their news and information.

The power of the media in a modern democracy is indisputable. Indeed, it is the outgrowth of the vivid technology itself. It is known by citizens. It is acknowledged by political scientists. It is acknowledged by politicians themselves. The Deputy Leader of the Opposition in the State Parliament here ought to know. He began his career (before turning to the busom of the law) as a television journalist. In a recent speech at the University of New South Wales, he declared that in the modern Australian democracy, the media had begun to "usurp" the constitutional role of the Opposition:

> "Editorialising is no longer contained in the formal and under-read editorial pages; it now permeates television news and current affairs, radio commentaries and print headlines. In fact, the media's role is no longer simple reporting. It is reporting and judgment. The media's power of dispensing sudden justice has encouraged Australians to take their case direct to media personalities and programmers instead of referring problems to local members of parliament (and I might say, the courts). We are told, for example, Willesee is a good man to have on your side and, speaking as a politician, I would say that he is certainly a bad man to have against you. Few politicians would dispute the media's power and, while some would resent the intrusive nature of this power, most would try to use it. The new Opposition is the media who, if challenged, ... ascribe the reason for this development as the weakness of the Parliamentary opposition when the real reason is a spin off of technological change. ..."[19]

One reassuring lesson derived by Mr. Collins, in these

thoughtful comments, concerned paradoxical weakening of media proprietors as their empires grow. Of necessity, he declared, the true power lies in the hands of individual journalists or producers "whose sense of the newsworthy or entertaining is paramount."[20]

DOES OWNERSHIP MEAN INTERFERENCE?

But this goes only so far. For example, in a lecture in Melbourne in 1972, Mr. Murdoch mused "Do I intervene? ... Of course I intervene ... A publisher cannot abdicate his responsibilities to an editor". In 1976, he was reported in the "Village Voice" (a journal he acquired) ... "In 1972 I ran all of the election policies of my papers in Australia ... I wrote the leaders every day in the "Daily Mirror". In 1982 He was reported as telling a senior executive of the London "Times":

> "I give instructions to my editors all round the world, why shouldn't I in London?"

In a television interview in July 1984:

> "I have to stand up and be counted for everything in the paper [the New York Post] so I might as well say what I believe."[21]

Allowing for a degree of bravado and exaggeration - even possibly (dare I say it?) grim humour or self deception, the potentiality at least is plain. Concentrate ownership of the media and the risk, at the very least, is there that you reduce variety of opinions. Is this, citizens ask, what the market forces do with the vital organs of information?

Following our recent Federal election in Australia, there has been much agitation and even self flagilation in the Australian media concerning allegations of bias on the part,

especially, of the print media. Former Deputy Prime Minister (Mr. Doug Anthony) even paid for an advertisement during the campaign declaring as much. Some journalists have concluded that the media in this country do indeed have a case to answer on bias.[22] Others simply call attention to empirical facts. Thus in the Age of 11 July 1987, the very day of Australia's general election, the following item appeared:

> "A late change in the election edition in Adelaide's morning newspaper, "The Advertiser", was the result of an error, the newspaper's managing editor said yesterday. An extract from the editorial, sent to the Age at 5.30 p.m. on Thursday for publication in a list of editorials, endorsed a Liberal vote at today's poll. However, the sentence endorsing the Liberals did not appear when the Advertiser went to print. Its published editorial gave no explicit advice on voting. The managing editor of the Advertiser, Mr. David Smith, described the position taken in the final draft as "fence-sitting". If its Liberals, its by a whisker", he said. Asked if Mr. Rupert Murdoch - whose Newscorp controls the Advertiser - or his executives gave any direction for the editorial, Mr. Smith said he would not tell anyone if he had discussed any editorial material with Mr. Murdoch."[23]

Items such as this may be discounted, perhaps, as possibly reflecting the biases of the competing media house. The media all over the world specialise in creating bogey men. Mr. Murdoch is just the latest of them. Yet the point is made in terms of the potential. Diversity, as Chief Justice Bray of South Australia once said, is the protectress of freedom. In diversity of ownership and control of our media lies the true protection of freedom of speech and freedom of the press. The very diversity that permits one publishing house to make accusations of bias and interference against an editor of another, is vital (as Thomas Jefferson taught) for the survival of democracy. Thus a modern bill of rights, truly concerned about the reality which has come in the train of the new

technology of the media, would not content itself with ringing declarations about the free press and the free media. It would go straight to the point of media ownership and the dangers which can exist, in potential, in too much concentration of power of that ownership.

PUBLIC BROADCASTERS - THEIR VITAL IMPORTANCE

It is this ascendency of the few in the media of Australia which makes the public broadcasters even more vital to the health of democracy than they have ever been. We have been fortunate in our public broadcasters. We have also been fortunate in the convention, followed with very few exceptions by successive governments of Australia, that direct interference in the editorial policy of the national broadcaster, the Australian Broadcasting Corporation, has been avoided. The philosophy behind these politics was best encapsulated in a policy statement made shortly before his death by one of our great Prime Ministers, who led this country during the last War, Mr. John Curtin. It is published in the Annual Report of the ABC for 1945:

> "I have informed [the General Manager] that the government recognises that the intent of the Act is to create a position of special independence of judgment and action for the national broadcasting instrumentality. This is, inevitably, the case because of its highly delicate function in broadcasting, at public expense, news statements and discussions which are potent influences on public opinion and attitudes. As the legislation provides, this particular function calls for an undoubted measure of independence for the controlling body of the national broadcasting instrumentality which cannot be measured by the constitution of other semi-governmental boards or agencies which do not impinge on the tender and dangerous realms of moral, religious aesthetic and political values. In the last resort, the healthy and beneficient functions of national broadcasting and the maintenance of public confidence in the system must rest in all matters touching their values, solely on the integrity and independent judgment

> of the persons chosen to determine and administer its policy, and not on either review by, or pressure from, any sources outside it, political or non political."[24]

Of course this has not been a universal attitude. Other politicians (I am thinking of Archie Cameron) thought that the Vermin Act was applicable to the ABC. There have also been other pressures applied - particularly those exerted through budgetary controls and choice of personnel. But the provision of a nationally funded public broadcaster - now supplemented by the innovative Special Broadcasting Service - protects this country from the worst excesses that can come from too great a concentration of private power.

We can talk of deregulation and of market forces. But in the end, the media is concerned with ideas and the influence of those ideas on our society, including on political power in it. This lifts the media, and its activities above the manufacture of soap suds or the growing of hops. It is inescapably influential. And that is precisely why the ironic concentration of power at the very time of the diversity of outlets requires all democrats - followers of Jefferson - to defend and support the public broadcasters.

When I visit the United States, this is the feature of our society, the absence of which I most notice. Of course there is the distinguished system of public broadcasting in that country. But every time I have ever watched it, they are begging for funds. Yet one can turn on countless other channels and see the same diet of Westerns, cops and robbers, soap operas and light entertainment that now permeate the global village. We are told that this is what the community likes.

Whether it is (or whether it is what the media tell the community it likes), has never, to my mind, satisfactorily been determined. But in this country the independent ABC is still a national treasure. It has never been more valuable nor more necessary than at this time. And this is not just because of the risk of concentrated ownership to which I have referred. It is also because intelligent and educated people also have rights. They also pay taxes. They need to be spared the horrible diet that is the staple of many private broadcasters in the main networks. It is little wonder that reports from the United States suggest a decline in the viewing audience watching the 3 television networks of that country from 90% to 76% since 1979.[25] This decline has accompanied and reflected other technological advances - the video cassette recorder and cable and satellite television. Again, technology comes to the rescue with variety. It is a reason why we should remain optimistic. The worst that man can do, technology can help to repair. But the risk may be, in media as in pharmaceuticals and tobacco. As Western countries throw off their dependence on Hollywood media, its packaged glitter may be redirected to developing countries. Michael Rudder, in a recent article in Inter Media described a "typical day" in the life of a Carribean television station:

> "The Cable News Network, international hour, a Popeye cartoon, the Price is Right, the A-Team, Miss Marple, Miami Vice, Dallas, Crazy Like a Fox ..., a movie ... sport, and so on."[26]

Where, he asks, is my community? Does all of this seem familiar? We must ensure that a similar fate does not await our public broadcasters, whether in a single-minded quest for

ratings or as a response to budget cuts.

THE SIX DILEMMAS

So these are some of the dilemmas which face your remarkable technology and the industries and services which grow about it. I have by no means covered all of the issues. But that will do for now:

* We may welcome the contribution of the technology to peace through knowledge and understanding - nation speaking peace unto nation. But the self-same technology can also bring transnational messages of war, hatred, religious intolerance and provocation.
* We may embrace the stimulus which the new media provide to world-wide institutions of international government and peaceful regulation. But we may despair at the speed with which those institutions are being developed to meet the rapidly expanding catalogue of problems which present.
* We may be dazzled by the extraordinary advances of technology, as when the satellite, by its footprint, links together nations and regions. But can we cope with a technology which advances so quickly that the satellite may soon be partly replaced by optic fibre technology? And what is next?
* We may rejoice in the capacity of communications technology to multiply the outlets of the print and electronic media. We may see in this the vision of a land of a thousand voices. But then be plunged into despondency when we find the same names recurring in the ownership and control of the powerful outlets of public knowledge and information and the sameness of their fare.

* We may welcome a measure of deregulation, in the knowledge that this may shake up the stuffy old PTTs, with their 19th century bureaucratic structures. But then we may watch the decline of notions of universal service in the name of instant profitability. And we may see valuable public assets sold - and private media organisations bought and sold - just like breweries and jam factories.
* We may delight in the unparalleled capacity of the new technology to bring intellectual stimulation and cultural variety to audiences of unprecedented size. But then, as in the Carribean, we may be plunged into meloncholia by the awful realisation that the global village is actually reducing in variety. Drugs are not the only transnational products of addiction.

OF SECONDS AND DEMI GODS

The agenda before this International Institute is a daunting one indeed. But tackling it, methodically and wholeheartedly it is essential for the well-being of our societies. At stake is nothing less than the peace of the world, the gradual evolution from sovereign states to effective world government, the viability of democratic institutions and the economic and cultural prosperity of mankind. It is a humbling charter. What a shame we have only 24 hours a day in which to tackle it! And that it is given to mere humans - not demigods - to present the problems and also to achieve the solutions!

FOOTNOTES

* President of the Court of Appeal, Supreme Court, Sydney; former Chairman of the Australian Law Reform Commission; one time Chairman of the OECD Expert Group on Transborder Data Barriers and the Protection of Privacy; Governor of the International Council for Computer Communication; Commissioner of the International Commission of Jurists. Views expressed are personal views only.

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2. J. Erickson, "Images, Investments, Intrusions: Communications Control: Some Extrapolations, the IIC Lecture, 1986, in Conference Papers, Edinburgh, 1986, 73 ff.
3. ibid, 76.
4. notably the Intergovernmental Bureau for Informatics.
5. Australian Law Reform Commission, Privacy, (ALRC 22), 1983, AGPS, Canberra.
6. Australian Law Reform Commission, Unfair Publication: Defamation and Privacy (ALRC 11), 1979, AGPS, Canberra.
7. Australian Law Reform Commission, Contempt (ALRC 35), 1987, AGPS, Canberra.
8. See eg Director of Public Prosecutions v John Fairfax & Sons Limited & Ors, (1987) NSWJB 108.
9. Her Majesty's Attorney General in and for the United Kingdom v Heinemann Publishers Australia Pty Limited & Anor (decision reserved).
10. Cf M.D. Kirby, "Access to Information & Privacy: The Ten Information Commandments", 55 Uni Cincinnati L Rev 745 (1987).

11. M.D. Kirby, "Legal Aspects of Information Technology", unpublished paper for the Organisation for Economic Co-operation and Development, Paris, 27 September 1982, mimeo (60/82).

12. T. Jefferson, letter to E. Carrington, 16 January 1787, in S.K. Padover (ed) Thomas Jefferson on Democracy, Mentor, 1965, 93.

13. ibid, 92-93.

14. ibid, 93-94.

15. quoted The Age, 2 May 1987.

16. The Age, 16 May 1987.

17. ibid,

18. loc cit.

19. P. Collins, "The Media" in University of New South Wales, "Will Australia come out Bananas or Apples?", Papers of a Symposium, 28 November 1986, 1987, 16.

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22. D. Bowman, "Media Have Case to Answer on Bias" in the Age, 28 July 1987, 13.

23. E. Doogue in the Age, 11 July 1987, 13, "the newspaper that swung to the centre".

24. quoted in L. Grey and Ors, (eds), Communications Law and Policy In Australia, Butterworths, 1987, 2010.

25. "T.V.: The Vanishing Viewer" in Newsweek, 18 May 1987, 42.

26. M. Rudder, "Broadcasting, Stepchild or Blood Relative" in (1987) 15 Inter Media, No 2, 24.