

Valé Bunny Watson?

*Law Librarians and Legal
Research in the Post-Internet
Era*



**Assoc Prof Terry Hutchinson
QUT Faculty of Law**



Photo from the Hollywood Review hollywoodrevue.wordpress.com

Valé Bunny Watson?

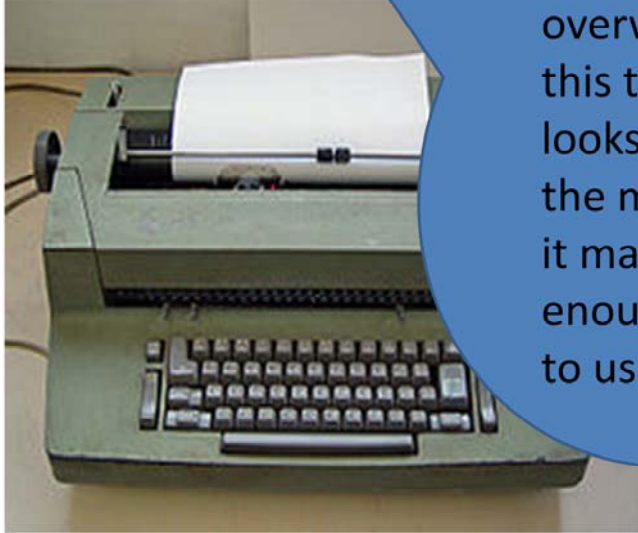
- The context for this discussion is change – from the librarian's 'research' function in a US Special Library in 1957 compared to that of a law librarian in Australia in 2012
- In the intervening 55 years there have been astounding technological (and other) changes which have had a mammoth impact on libraries
- The legal profession has changed too ..
- Legal research has flourished, but some still query whether 'what lawyers' do' amounts to 'research' and not just 'scholarship'

So it is not surprising that this debate has flowed-on to law libraries -

'A part of our organisation that does pure statistical analysis and research, doesn't believe what we do is 'research', and therefore we can't use the word'

So where does the work that law
librarians undertake 'fit' within the
'research' framework?

Joan in *Madmen*



'Now try not to be overwhelmed by all this technology. It looks complicated but the men who designed it made it simple enough for a woman to use.'

20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

5



The Company's EMARAC was based on one of the earliest computers (ENIAC). The slogan for ENIAC was "Making Machines Do More, So That Man Can Do Less".

Desk Set (1957)

Katherine Hepburn / Spencer Tracy

http://youtu.be/tLhZSn_NY7I

**RICHARD: 'EMMARAC IS NOT GOING TO TAKE OVER.
IT WAS NEVER INTENDED TO TAKE OVER.
IT WAS NEVER INTENDED TO REPLACE YOU.
IT'S HERE TO FREE YOUR TIME FOR RESEARCH.
IT'S HERE TO HELP YOU.'**

**BUNNY: 'WAIT A MINUTE. I THOUGHT YOU SAID THIS
MACHINE CAN'T EVALUATE.'**

**RICHARD: 'IT CAN'T. IT CAN'T.
IT CAN ONLY REPEAT THE INFORMATION...
THAT HAS BEEN FED INTO IT BY THE HUMAN ELEMENT.'**

20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

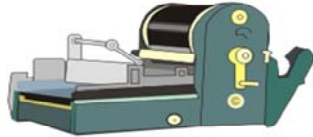
7

The setting for *Desk Set* is "Federal Broadcasting Network" (exterior shots are of Rockefeller Center, headquarters of NBC). Bunny Watson (Katherine Hepburn) is in charge of its reference library. The network is negotiating a merger with another company, but is keeping it secret. To help the employees cope with the extra work that will result, the network head has ordered two computers (called "electronic brains" in the film). Richard Sumner (Spencer Tracy), the inventor of EMERAC (an allusion to the early computers UNIVAC and ENIAC) and an efficiency expert, is brought in to see how the library functions, to figure out how to ease the transition. When they find out the computers are coming, the employees jump to the conclusion the machines are going to replace them, whereas they are merely intended to help ease the research. Their fears seem to be confirmed when everyone on the staff receives a pink slip printed out by the new payroll computer. Fortunately, it turns out to be a mistake; the machine fired everybody in the company, including the president.

Snapshot of change

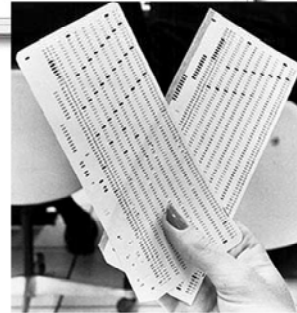
- 1970s Queries written in computer language translated into punched cards with answers back in a week, the need for an intermediary with knowledge of the special computer language

- 1970s Roneo catalogue cards



```
Calculus-level Software Editor - [Curvefit example using J Lorentzans]
File Edit Fontman Calculus Window Help
graphics screen          real pulse from Memorex in 1980s.
Problem curvefit(60000, 3000, 500)
common 'rr' v(3), vc(3), pw50(3), time0(3), &
npoints, deltat, data(200), time(200), error(200)
call setup( 1)
Find v, pw50, time0; in pulse: by AJAX; to match error
plot signal & data vs. time
@plot('rr-AJAX')
call setup( 2)
Find v, vc, pw50, time0; in pulse: by AJAX; to match error
plot signal & data vs. time
@plot('rr-AJAX')
end
model pulse
common 'rr' v(3), vc(3), pw50(3), time0(3), &
npoints, deltat, data(200), time(200), error(200)
sum = 0
do 20 j = 1, npoints
call sLorentz( time(j), ampl)
error(j) = ampl - data(j)
sum = sum + error(j)**2
```

- 1981 State Library - computer in the reference section with no monitor, retrieved list printout, one trained librarian operating together with an extensive card catalogue



- 1987 Desktop computers purchased for the QUT Law Library



20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

9

BUNNY :

**DID YOU INVENT SOMETHING THAT
CARRIES THE MAIL?**

20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

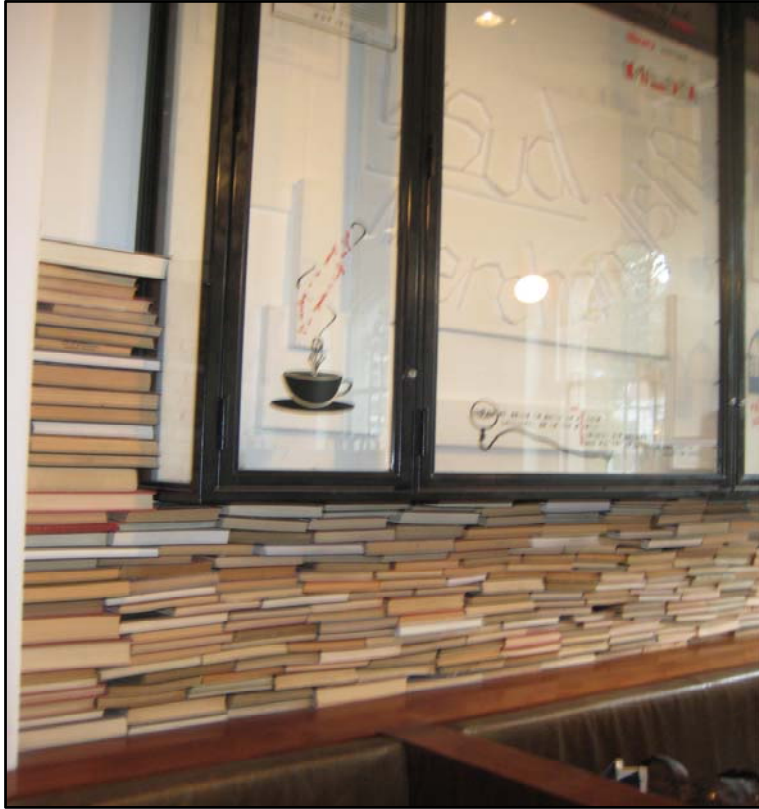
10

Very prescient!





And
somewhere
along the way
many law
reports ended
up in the
stairwell of the
refurbished
QUT law library



And books
decorate
the walls
of the
State
Library of
Victoria
coffee
shop

Six historic institutions will be consolidated ... Further cuts on the way Aug 2012

Six historic institutions will be consolidated under a new authority

CHRIS MERRITT

VICTORIA has taken the first step towards establishing a new statutory authority that will consolidate six separate law libraries, clearing the way for cost savings and greater access to the state's collection of legal materials.

The new authority, to be known as the Law Library of Victoria, is intended to eventually take control of the collections held by the state's courts and tribunals as well as the collection of the Law Institute and the Bar Association.

20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

Further cuts on the way

Robyn Ironside
Steven Wardill

AGRICULTURAL colleges and departmental libraries are the latest areas to face the Newman Government axe as the LNP continues its hunt for \$3 billion in savings.

Minister for Agriculture, Forestry and Fisheries John McVeigh confirmed the future of residential colleges at Emerald, Longreach and Dalby were looking grim as the result of an Ernst and Young review.

"This review found the Australian Agricultural College Corporation is in a dire financial situation and forecast to lose as much as \$6.8 million this financial year," he said.

"AACC hasn't operated profitably since it was formed in 2005 and would run out of money by the end of this calendar year."

His department's library is also being decom-

missioned. "The demise of this library means that all the scientists who work throughout Queensland (including the EcoSciences Boggio Rd) are without the support they need to do their job."

Other libraries, including those for Public Works and Communities, have been told to provide reports on the cost of putting resources in storage.

Talks are under way to absorb the Crown Law Library into the Supreme Court library and four positions have gone from the parliamentary library.

Meanwhile, Premier Campbell Newman has written to Together Union leader Alex Scott, insisting the Government's cuts to programs and public servants were essential.

Mr Newman said while the Budget predicted a \$360.5 million increase in GST revenue, these payments would decline by \$76 million in 2012-13.

"These factors, arguably

Law libraries have moved beyond Patricia Battin's (1984) predicted changes of -

- Loss of physical control
- Dependence on telecommunications
- The birth of the 'electronic scholar'



Australian Universities Commission view of law
libraries (1966)

‘Unlike almost all other libraries, a law library ...
is a repository of living systems of authority as well as of reason – systems, which change and grow from day to day. Most law books, once on the shelves, are not left unchanged and merely made available for use. They are affected by new materials added to the library from day to day, and the effect of these new materials must be entered on the old.’

Bunny's comments on her research role:

B: 'No machine can do our job.

S: That's what they said in Payroll.

B: - Did he design the machine in Payroll?

S: - Yes!

And as soon as it was installed, half the department disappeared!

B: Well, the machine in Payroll is just a calculator.

They can't build a machine to do our job.

There are too many cross-references in this place.'

Is Bunny's view still valid in law libraries in 2012



- Has the law librarians 'research' role changed?
 - What is 'research'?
 - More particularly what is 'doctrinal research'?
 - What role is the law library playing?

What is 'research'?

Systematic collection of data for a specific purpose, along with an explanation, interpretation or evaluation of the new information, with the whole process adding to the general body of knowledge in the area.

20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

19

Mark Saunders, Philip Lewis and Adrian Thornhill, *Research Methods for Business Students* (4th ed FTPrentice Hall 2007) 4-5.

OECD *Frascati Manual: Proposed Standard Practice for Surveys on Research and Experimental Development* (Paris: OECD, 2002), 30.

'the systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions' (*Oxford Dictionaries Online*

<http://oxforddictionaries.com/definition/research>)

What is doctrinal legal research?

Doctrinal research — ‘Research which provides a systematic exposition of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments.’

CALD Statement - *Nature of Research*

To a large extent, it is the doctrinal aspect of law that makes legal research distinctive and provides an often under-recognised parallel to 'discovery' in the physical sciences. Doctrinal research, at its best, involves rigorous analysis and creative synthesis, the making of connections between seemingly disparate doctrinal strands, and the challenge of extracting general principles from an inchoate mass of primary materials.

20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

21

Features of the current Australian research context

- More emphasis on group, interdisciplinary and empirical research rather than an individual researcher working alone - lawyers using non-doctrinal methodologies
- Emphasis on increasing links with industry and applied research
- Government encouragement of university specialisation and centres of excellence
- Government funding of research infrastructure and HDR training

Features of the current Australian research context (cont'd)

- Competition between law schools for students & competitive research grants
- A 'publish or perish' mentality with academics being directed towards international peer reviewed journals which best meet the new ERA criteria
- The trend towards the transnational lawyers leading to the growing importance of international and comparative law and research training in the undergraduate degree

Is this research?

- Example 1:
Word 'xyz' was changed to 'uvw' in the *Income Tax Act* at some point, when and why?
- Example 2:
Our tax legislation has this provision, but there hasn't been any case law on it. Locate the same provision in Australian, Canada and the UK, and locate any case law on this aspect.

So in 2012

Technology in 2012 has caught up to the movie's speculative fiction...

'today we can simply type a question into our computer and have it bring up the answer.'

Desk Set has 'a fairly sophisticated idea of computers: garbage in/garbage out (i.e., if given faulty data, the computer will return faulty data), programming bugs, poorly worded questions giving undesired answers, etc.'

Ethan

Looking ahead 2020

There is still a need for specialist law librarians

And perhaps now that less time is being taken up by the Google / Wikipedia queries

And legal research training is more integrated in undergrad research training

Law librarians should have more opportunities to extend their research roles

.....We are in good hands

20/09/2012

Terry Hutchinson, QUT Faculty of Law, 2012

