

# Legal Deposit in Euston Street

When it comes to distribution of our publications, most publishers have labels sorted in various categories, including one for an odd package of five copies for Mr A. T Smail of 100 Euston Street in London — with no subscription covering this standing order. Why, we may wonder? But some readers may recognize this as the address of the Agent for the five Copyright Libraries for which legal deposit may be required (in addition to the first, mandatory deposit of a copy of all printed works at the British Library).

## The history of the legal deposit

Several separate issues are historically and semantically mingled under the term 'copyright': freedom of speech; restriction of the right to publish; and authors' moral rights in their own intellectual property. Under the same legal umbrella of the Copyright Act comes legal deposit, which nevertheless is fundamentally distinct from all of those, being concerned with the archiving and bibliographical description of a national collection.

Originally, authorities sought to control the media (initially the printing press) by requiring the submission of one or two copies of all printed works for permission for public appearance. In conjunction with this censorship, privileges to print came to be granted — the right to copy and publish was indeed the 'copy-right'. Later, with the development alike of bibliography and tolerance, and the shift from printers' 'privilege' to authors' rights, the obligation continued for publishers to provide copies of their authors' books to a central depository, to establish a national imprint and collection.<sup>1</sup>

Legal deposit itself originated in 1537, when King Francis I of France demanded a copy of everything published for the Royal

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Library. Whether he was motivated by the aim to exercise censorship, archival instincts, or simply the zeal of the collector, is not known. Sir Thomas Bodley, retired diplomat and scholar, first established the principle of free library deposit of publications in England, under a 'perpetual covenant' of 1610 with the Stationers' Company.<sup>2</sup> This was 'the most powerful craft guild of printers and booksellers in Europe from the late sixteenth century to the beginning of the eighteenth ... It supervised entry into the trade, controlled wages and working conditions, regulated copyright, and fixed retail prices for books', with wardens authorized to seek out and destroy illegal presses'.<sup>3</sup> Publishers had to enter the titles of their books in the Company's Entry Book, originally to register cash received, but these entries came to constitute permission to print. By the arrangement with Sir Thomas, copies went from Stationers Hall to Oxford University Library (now of course known as the Bodleian). A decree of the Star Chamber in 1637 (exactly a century after Francis I's happy thought) strengthened the Bodleian Agreement — but lapsed after three years.<sup>2</sup>

In 1662 the Press Licensing Act obliged printers to deposit at Stationers' Hall three copies of every new book or reprint with additions: one copy each for the libraries of Oxford and Cambridge Universities, and one for the use of the Royal Library. These copies had to be on the best and largest paper used for the best edition of a work, and deposition must precede sales.<sup>2</sup>

The copyright emphasis later changed, protecting publishers' rights and privileges rather than creating effective censorship.<sup>3</sup> The first Copyright Act, in 1709-10, the

'Statute of Queen Anne', assigned copyright in new books to the authors instead of the publishers, and formalized the deposit principle as a legal requirement, including further the Scottish Advocates' Library in Edinburgh.

The contents of the Royal Library of King George II were donated to the nation in 1757 (and opened to the public as the British Museum Library in 1759), together with the previous Royal privilege of compulsory legal deposit. This remains the only library which *must* automatically receive a copy of all publications, not having first to request them.

Trinity College, Dublin, next acquired the privilege of supply upon request, in 1801 — and retains it still, though now outside the UK. A reciprocal Irish Copyright Act requires Irish publishers to supply copies to all five of the UK Libraries. Trinity College Library serves the whole of Ireland as a deposit library, with the benefit of two centuries' collection; readers from North of the border regularly use its facilities, both in person and by correspondence. It co-operates fully with the UK Deposit Libraries in a number of joint initiatives in the areas of shared cataloguing and record provision, acquisitions, inter-library lending and preservation.

The National Library of Wales was founded in 1909, and included in the 1911 Copyright Act. The rights of the Welsh Library were at first restricted to material relating to Wales or the Welsh Language, with regard to expensive or limited editions, but these restrictions were removed in 1987, giving Wales the same entitlement as the other libraries.

The Advocates' Library transferred all but its legal collections, with its privilege, to the National Library of Scotland when this was founded in 1925. The British Museum transferred its privilege to the British Library, established in 1973. Otherwise, the 1911 Copyright Act legal deposit provisions remain valid still, having continued under the 1956 Act and not been changed by the

recent Act of 1988.

The early history of the working copyright deposit needs further research.<sup>4</sup> Agents at first merely accepted material from Stationers Hall and passed it on; later they also chased up material that had not been forthcoming. It became a full-time job only in 1911, held on behalf of the five libraries that must claim their copies, collectively; the British Museum, deposit in which has always been uniquely mandatory, was separate from the Copyright Agency, as the British Library is now. At first only the Agent was employed by the libraries, employing other staff himself; now the whole agency has a proper legal identity as part of Cambridge University Library, but with the other four libraries taking equal shares in funding and in formulating policy.

Through the 300 years following Sir Thomas Bodley's first agreement, by the various statutes passed, at one stage there were no less than eleven copyright libraries. Now they are six.

### The present law

One copy of all printed publications (including maps and music sheets) must be sent to the British Library within a month of the date of publication (the new BL Legal Deposit Office is at Boston Spa). However, the other five libraries (Bodleian, Cambridge, Scotland, Dublin, Wales — always listed in that historical order of acquisition of the privilege) are in a different position. The onus is on them to request copies they wish from the publisher within twelve months, and the publisher must then comply, supplying up to five further free copies, according to which libraries require them, within a month. Such requesting is now part of the work of the Copyright Agent. The publisher has the option, of course, of supplying copies direct to each copyright library, or in a single bulk delivery to the Copyright Agency.

## Policy and control

The Agency is a collective, acting on behalf of all five libraries (excluding the British Library itself), and funded by them equally. An Advisory Committee is formed from the five institutions and their copyright sections, and determines finances and policy — such as how to deal with the rare, recalcitrant publishers who refuse to deliver on request. Together the Copyright Libraries form a national archive for reference, and the five Agency Libraries are reviewing their acquisitions policies, especially for serials, jointly with the British Library. Strangely, perhaps, to publishers resenting the freeloading, the libraries may see the acquisition and storage of *all* serial publications as a burden as well as a privilege. The Libraries participate in the British Library's inter-library lending system as libraries of last resort.

## The Agency today

The Agency occupies the ground floor of a plain building in Euston Street, with a notice board alongside, 'No waiting — vehicles unloading all day'. Euston Street is a small thoroughfare, parallel to part of Euston Road, running west from Euston Station. The Agency address is *not* 100 Euston Road, though often so written — as Mr Smail observes, Euston Road is on the Monopoly Board, a major road, and after typing '100 Euston —', 'Road' seems naturally to follow. In fact, St Pancras Library occupies 100 Euston Road; there is some mixing of mail delivery between the two institutions. And in a year or two the British Library is to move to 96 Euston Road...

Behind the unassuming facade of the Agency lies a busy combined office/warehouse, with staff of fourteen, basement below, loading bay adjacent, and piles of books and journals all around. Here are delivered around 300,000 monographs per year, as well as countless serials, by

publishers' delivery services, parcel post, private hands, and sacks of letter post — some twelve sacks daily of this last.

The daily intake of items is no longer counted: unnecessary work in a now streamlined operation, as the libraries count the contents of their consignments on arrival, receiving about 60,000 monograph titles each per year. The scale of the enterprise today is apparent not merely from the statistics but from looking around.

Incoming bundles of books and serials are recorded on computer and separated into containers according to destination. Oxford and Cambridge collect their quotas weekly by van; contract carriers deliver to Edinburgh and Aberystwyth; a shipping firm to Dublin. A waste baler has been acquired to deal with the vast mass of discarded wrapping material, collected fortnightly. The loading bay I saw was filled by a consignment for Dublin consisting of 100 boxes: almost a month's accumulation. How are the libraries to expand to accommodate such large and regular increases? Modern means of storage, such as compact-shelving, offsite storage, microfilming, etc., are being used to good effect.

Massive Agency records over many years have accumulated in historically changing forms: paper files, metal trays, and now on computers.

## Acquisition

The full extent of published material available can be gauged from the British Library's intake of published material without claims. Of this possible total, the Copyright Agency receives 60% without action proving necessary. Seventy percent of the monograph material deposited with Mr Smail arrives unprompted; large publishers tend to despatch their deposit copies as a routine procedure at the same time as review copies.

Specifically claiming the remaining 30% is harder work, greatly helped now by

computerization. Three sources of information as to new publications are used. First, data is exchanged with the British Library, including C.I.P. (cataloguing in publication) and the British National Bibliography; indeed, the six libraries together have started a shared cataloguing project in advance of BNB. Trade lists of publications — now often on CD-ROM — are also used as source lists; and each of the five libraries informs Mr Smail of new publications of particular relevance to their own collecting policies. Choice of what to claim can be difficult; there can be no certainty as to what will hold interest in the future, and the strength of a library may eventually prove to lie in its secondary material rather than its core.

There are some exemptions from legal deposit regulations. Subsequent editions and revisions of a work need fresh deposition only if they include major changes. Information that is published only for members of a society, with restricted access, is exempt from legal deposit law: publication constitutes 'the act of issuing or distributing to the public'. Some local material may be difficult to detect — comprehensive coverage cannot be claimed.

Serials, particularly, are only selectively requested and held by the libraries. At one time they might be sent in automatically by the publishers for some to be rejected and returned. Now, Mr Smail circulates among the libraries a monthly list, from which each library specifies its requirements; he then claims the copies from the publishers, to a maximum of five accordingly.

## Copyright

The subsistence of copyright does *not* in fact depend upon copyright deposit, but is a quite separate issue. It derives from the actual production of the work, and this must be proved to establish copyright ownership. Legal deposit of a copy of the work, and production of a receipt for this, may be accepted as proof of copyright

ownership, but do not bestow the right. The Copyright Act is merely the vehicle for legal deposit requirements; the two issues do not go hand in hand.

## Cui bono?

Complaints are sometimes heard from publishers resenting the obligation to supply up to six copies of their product, and bear the cost of despatch, an 'involuntary gift to the nation', as Paul Asser described it.<sup>1</sup> The Whitford Committee of 1977 considered it hard 'that the cost should fall exclusively on the authors and their publishers'; yet, 'the principle that a national archive of published literature should be maintained by a legislative requirement for deposit has not been challenged'.<sup>1</sup> The International Committee of the International Publishers Association, and the General Assembly of STM (International Group of Scientific, Technical and Medical Publishers) both accepted and endorsed in October 1989 the eight-point Policy Statement on Legal Deposit reproduced in the January 1990 issue of *Learned Publishing*.

Mr Smail points out that the full costs of compliance with legal deposit requirements are tax-deductible from profits (for unprofitable publications, the position is indeed harder). The publishers win the advantage of entry to their publications into the British National Bibliography and any shared cataloguing, as well as the valuable exposure of recent acquisitions on library shelves to booksellers as well as potential purchasers — scholars, students, and enthusiasts. The system spares the publishers having to archive their own publications; these all remain available in the copyright libraries, if required, for example, for reprinting. Having had their legal deposit copies accepted may give smaller publishers a sense of official recognition and pride in archive-worthiness. Finally, access in the libraries completes the cycle of knowledge whereby fresh writings are produced in the light of earlier

published work: authors need access to publications to enable them to produce further texts. In the words of T. S. Elliot, 'Some one said: "The dead writers are remote from us because we know so much more than they did"'. Precisely, and they are that which we know.<sup>5</sup>

### The Agents

Mr A. T. ('Tom') Smail is only the third Copyright Agent since 1922. His predecessors were Mr. F. G. Osborne, who came to the Agency in 1901 and became Agent in 1922; and Mr G. W. Copp, who joined the Agency in 1925 and was Agent from 1953 to 1977. Mr Smail came in as Agent in 1977 from the National Library of Scotland, having worked there, then for a while with Customs and Excise, and then returned to the Scottish Library for a further spell. Photographs of his two predecessors proudly adorn Mr Smail's office wall. Such a tradition of length of service argues high job satisfaction as well as diligence in office. Tom Smail knows every detail of the work, its history, principles and present operation, and shows

the true zeal of a collector. Our legal deposit system today, we can avow, is in enthusiastic as well as highly efficient hands.

### Acknowledgment

It is a pleasure to thank Mr A. T. Smail for his patient and detailed explanation of the work of the Copyright Libraries Agency.

### References

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