

## *In Memoriam*

### **Dr Catherine Seville (12 August 1963-4 February 2016)**

Dr Catherine Seville, an exemplary copyright scholar, died suddenly and unexpectedly in February 2016. For twenty-five years she had been a Fellow of Newnham College, Cambridge, the only college with an entirely female fellowship, where she had earlier been a student (B.A., 1986). Four years after taking up her fellowship in 1991, she became the College's Director of Studies in Law, teaching and guiding generations of law students, her service to whom she regarded as her paramount responsibility. Devoted primarily to her College, she became Vice-Principal of Newnham from 2004 until 2015, a role which carried huge administrative obligations and required Catherine to participate in and manage numberless College meetings. By all accounts she did so with wisdom, determination and dexterity.

Catherine was also a member of the Faculty of Law, initially as an affiliated lecturer, and held a series of positions (Newton Trust Lecturer (1995-2004), Herchel Smith Lecturer (2005-7), University lecturer (2007-10), University Senior Lecturer (2010-13)) until finally being made a Reader in Law in 2013. In the Faculty, she was Convenor of the Undergraduate ('Tripos') course on intellectual property, but also contributed to the LLM courses on intellectual property and international intellectual property. Her lectures were both carefully choreographed multimedia events and full of testing examples to stretch the students. She and I together convened an LLM course on the history and theory of intellectual property (2015-16), and jointly supervised three doctoral dissertations. In all these undertakings, but especially with research students, she was constructive in her criticism, sensitive to being misunderstood, and unstintingly generous in the time she gave.

That Catherine would choose copyright as her field of endeavour was, perhaps, inevitable given her background: before turning to law, she had already obtained degrees in Music (*B. Mus* (1984), from the Royal Academy of Music, where, as the outstanding student on the course, she had won the *F. Ayling Prize*) and English (from Cambridge, where she was an 'affiliated student,' taking the Degree in two rather than three years). It is a common feature

of those whose first love is culture, but who descend to a career in law, that they are drawn to the field of copyright, the regime that purports to encourage and reward such creators. Often such a move ends with disappointment in find that copyright laws rarely in fact offer to creators quite what they seemed at first to promise: more often than not, the real beneficiaries turn out to be entrepreneurs, not creators. But Catherine, like many of us, nevertheless found something especially alluring about engaging with cases that concern creators, even if they are more often the likes of Adam Ant, Spandau Ballet, George Lucas or Jimmy Page, rather than William Wordsworth, Charles Dickens, or Mark Twain.

Alongside her two priorities – her students and her College - by some miracle Catherine also found time for scholarship: she researched and wrote at least three books and 16 substantial articles and book chapters, for one of which she received the Seton Award from this *Journal of the Copyright Soc’y of the USA*.<sup>1</sup> Catherine’s preferred method was historical. Having doubtless confronted postmodern thinking in her earlier studies, she did not follow the lead of many contemporary scholars of copyright history which had been to focus on the emergence of the concept of “authorship”, or at least the emergence of the specific figure of the “romantic author.” Instead, Catherine sought explanation of copyright’s body of rules, practices and institutions through close analysis of the interventions of those who were involved in their development. Her focus was typically on individuals, emphasising the importance of their characters and behaviour, as well as the quality of their arguments, rather than on deep reconfigurations of the economy, or “epistemic shifts”. Research was, for Catherine, a pleasure, and she notoriously spent some of her holidays in the New York Public Library.

Her first steps in research were undertaken under the supervision of Professor Cornish (the pre-eminent intellectual property scholar of the time, as well as a legal historian). Catherine’s initial focus was the 1842 Literary Copyright Act, which extended the term of copyright in books. From 1814, the duration of such protection had been 28 years, or if the author was alive at the end of that period, for their lifetime. The Act extended the term to ‘life plus 7 years’ (or 42 years, whichever was longer). Such an increase of, at most 14 years, may (to outsiders at least) seem a relatively unpromising topic for a doctoral thesis. However, the amendment of the law was a compromise that was achieved only after five years of intense

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<sup>1</sup> ‘Peter Pan’s rights: “to die will be an awfully big adventure”’, *Journal of the Copyright Society of the USA* (2003) Vol. 51 pp.1-77.

debate, a contest which pitched those who saw copyright as the entitlement of authors (and favoured a much lengthier period, such as 60 years from the death of the author) against those who tolerated copyright as a restriction on competition that was justified only in so far as absolutely necessary to induce potential authors to write and publish their works. On the side of the authors stood Thomas Talfourd, often referred to as “Serjeant Talfourd” reflecting his special status as a barrister in the Court of Common Pleas (of whom we will hear more later). On the other side in the debate was a coterie of radicals who had been associated with broader movements in favour of the “diffusion of knowledge,” – perhaps the precursors of the “open access” movement.

Catherine’s treatment of the 1842 Act is an authoritative piece of work, of outstanding value, and one that will be useful to scholars for decades to come. It offers an account of the organisation of Talfourd’s campaign, including his dealings with the great literary figures of the day; it explains the reactions of the publishers (who surprisingly were against the extension as initially proposed); and explores the philosophical underpinnings of the debates. Catherine also uncovered the enormous number of Parliamentary petitions, from representatives of a host of trades involved in book manufacture: not just printers (masters and journeymen), but also compositors, typefounders, papermakers, bookbinders, and gilders. In some ways, Catherine’s research brought the importance of the materiality of books to the story of copyright history as no other treatment had yet done (or has since done). She reworked the thesis and following its publication in 1999, under the title *Literary Copyright Reform in Early Victorian England*, (Cambridge: CUP, 1999) she was awarded the *Yorke Prize*.

Catherine followed this with the magnificent *The Internationalisation of Copyright: Books, Buccaneers and the Black Flag* (Cambridge: CUP, 2006), - or “Black Flag” as she called it. The term “Black Flag” of the title allude to the common characterisation of reprinters of books in countries that did not recognise rights for foreign authors as “pirates,” and of chief concern to the British publishers during the 19<sup>th</sup> Century were the pirates in America, which one campaigner referred to as “the Barbary coast of literature.” In the book, Catherine examines the complex story of how copyright lost its essentially “national” focus (offering rights to local authors and publishers for national markets), and was reconfigured to ensure that authors gain rights in non-local territories so that those too could be effectively exploited.

“Black Flag” traverses huge ground. Drawing from publisher and author archives (as well as governmental repositories), it depicts the interests of the British authors and publishers in controlling foreign markets (in Europe and, most significantly, North America), and their efforts in harnessing the energies of the British government in pursuit of those aims. With scrupulous analysis, the book explains the shifting motives, interests, and strategies of American publishers in resisting the numerous attempts to adopt legislation recognising the rights of British authors in the United States. In these tasks Catherine includes, of course, accounts of the efforts of Charles Dickens to persuade America to recognise the copyright claims of British authors and Mark Twain’s support for the idea of international copyright, and we will hear from both later. But the work goes much further, articulating the tensions that existed between the British and its colonies, particular Canada, with its border with the United States, and the complex relationship between reform of British law, the laws of its colonies and the forging of international copyright treaties.

“Black Flag” was evidently an ambitious undertaking and the result is a work of which I would certainly have been extremely proud. The research is extremely impressive, but what is really brilliant about the book is the way in which Catherine unravelled, and laid out, the interwoven threads of an exceedingly complex story. Unwilling to reduce the complexity of the interaction to broad themes, she relies on structure to make the material accessible: telling four stories – the international, colonial, American and finally the national – each of which makes sense in itself, while simultaneously offering an account of the interactions between each story. This is the work of a master-craftsman. And, in exposing these interactions the book goes beyond any of its predecessors. Needless to say, the publication received glowing reviews: described as “a tour de force”, “unparalleled”, and so on. Catherine, certainly no self-publicist, sent me one review that unfortunately I have not being able to track down, but which I think pleased her most. The review pointed out that Catherine’s contribution was laying bare the branches of a tree in which, the reviewer suggested, many generations of scholars would be able to build their own nests.

With the publication of “Black Flag”, Catherine demonstrated a capacity as a scholar which would have warranted promotion to a Chair at just about any University other than Cambridge. I have no doubt that she received many approaches; and I also have no doubt that she did not think twice about rejecting them: she had become inseparable from Cambridge, and particularly Newnham. After 2006, she was also recognised by literary historians as both

the leading authority on nineteenth century copyright, and as a legal scholar who understood why copyright history mattered to literary history. As a consequence, she contributed important essays to Francis O’Gorman’s edited collection, *Victorian Literature and Finance* (Oxford University Press, 2007) (‘Edward Bulwer Lytton dreams of copyright: “It might make me a rich man,”’ pp.55-72), David McKitterick’s edited volume of *The Cambridge History of the Book in Britain* (Volume 6, 1830-1914) (Cambridge: Cambridge University Press, 2009) (‘Copyright’, pp.214-237) and Patrick Parrinder & Andrzej Gąsiorek’s volume in *The Oxford History of the Novel in English*, (Volume 4, *The reinvention of the British and Irish novel 1880-1940*), (Oxford, Oxford University Press, 2011) (‘Novelists, literary property, and copyright’, pp. 20-35). It is a great loss that we will not come to see the result of the research project that she had been engaged in over the last five or so years, which was to relate to story of copyright in dramatic works in the nineteenth century, a topic that Catherine had identified as possessing its own dynamics, but one which had hitherto not been touched.

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