

Law Librarianship in Bermuda; or Even If You're On an Island, No Man Is an Island

Karen Skiffington shares with us her experiences of living and working in Bermuda and producing the electronic Bermuda Law Reports

Introduction

So there I am, late summer of 1986, in Toronto with a still-damp Master's Degree in Information and Library Science from the State University of New York at Buffalo, and I'm looking for a job. Not just any job. Nope, a job in Bermuda. Why? Well, it happens to be home and I've got this five year plan that says do five years in Canada with the new husband and get finished with education for both of us and find a job in Bermuda. So it's time to do just that. I've had quite enough, thank you, of the Frozen North, slipping and sliding on the roads and the sidewalks and winter is fast approaching yet again. Now where's that job?

I've taken out a wildly expensive airmail subscription to the *Royal Gazette* in the faint hope that something will be advertised there. That's a joke. There's one public library in Bermuda with about eight or nine librarians and I know they're not leaving to go anywhere and a college library with one young librarian and I know she's not going anywhere either. But I'm going to definitely get a job in Bermuda because it's my Plan.

And lo and behold a job is advertised – in the *Toronto Globe and Mail* for a law firm in Bermuda looking to hire a librarian. I guess they never figured the Bermuda paper was a good place to start looking. So off I go to the interview, knowing absolutely nothing about law, but full of enthusiasm. The Managing Partner of Appleby, Spurling & Kempe has come to Toronto to conduct the interviews with all the Canadian applicants and finds me, a Bermudian, facing him. And even with my total lack of experience, he decides that this could work out. Start work mid-November and come prepared to set up a database of Bermuda judgments.

Well, if it's one thing I know, it's how to research something. I look about for everything I can find on databases and programs to create them – and remember that this is 1986 and PCs have just been invented! Naturally I read up on law librarianship as well, getting familiar with Elizabeth Moys' *Manual of Law Librarianship*.

Bermuda – history and politics

For those of you not familiar with Bermuda, a brief introduction may be useful. Bermuda was colonised in the 1600s and is the oldest self-governing colony of Great Britain. Our legislature dates back to 1612 and common law in England prior to that time is still applicable here. Our legislature has two parts: the House of Assembly and the Senate. Following passage through both, Bills receive the Governor's assent. Many areas of Bermuda law are very similar to English law with notable exceptions. We tend to "borrow" our legislation after we see it has worked out well elsewhere so we do lag behind. For example, our Companies Act is largely based on the UK Companies Act 1948. Our Road Traffic Act is a combination of UK and Canadian legislation. We are just beginning to enact consumer protection legislation and our property system is still deeds based, there is no land registration, and to the great dismay of all the new practitioners, the equivalent to the Law of Property Act 1925 (UK) has never been introduced here.

With a population now at about 60,000 people, the economy is based half and half on tourism and offshore business, predominantly in insurance and reinsurance. We are deemed to be a low-tax jurisdiction, with the Government charging duty on all imports. Almost nothing is produced locally; just some vegetables and milk. Many of our workers are "guest workers" here for a time on work permits. We have a system of trying to employ Bermudians first and if none are qualified, jobs can be advertised overseas. Ownership of land is restricted to Bermudians, with the exception of the multi-million dollar properties and some condominium developments.

Bermudians study for the professions abroad and law is definitely no exception. Students may qualify in any Commonwealth jurisdiction and can do pupillage abroad or in Bermuda. They must then be called to the Bermuda Bar. Once they return here, or for attorneys working here for a few years, they have to learn the differences between the UK (or Canadian, or Australian) system and ours.

There are no local texts. There is one journal which has published a handful of issues sporadically.

Appleby, Spurling & Kempe

First day of work – I show up at the appointed place at the appointed time and nobody knows I'm coming. They've all forgotten that today is to be my first day at work. Not a new experience; it's my karma to start every job this way. But usually there isn't somebody sitting at my desk. That's how I meet Mrs Naamah McHarg who will be my sort of assistant. She's actually in charge of the Records Department, but helps out in the Library too. An invaluable resource who knows where all the bodies are buried.

The Library is pretty good. It had been set up about two years previously by a librarian from the UK. I spent the first week or so learning all the titles, where things were and getting the lie of the land with the Partners, Associates and staff of the firm. AS&K, at that time, had about 30 partners and associates with total staff of about 100 employees. It was one of the two major firms on the Island – Conyers, Dill & Pearman being the other. They didn't have a librarian.

I had the only PC in the firm, used primarily for Lexis, which thankfully I already knew how to use. Much against the advice of one of my professors at SUNY Buffalo, I had written a research paper on Lexis. She couldn't understand why Lexis could be useful when all you need is the index to your resource since you just go to the library and pick up the print version. I knew that out in the middle of the ocean with no research library for at least a thousand miles, full text was the way to go.

(Recently on law-lib, a reminiscent thread was fondly remembering Lexis of the 1980s. Remember when it printed on dedicated terminals with thermal paper, remember when speed was increased to 2400 baud? But at the time, it was the "in thing".)

Implementing library services

Over the next six months between familiarising myself with (a) law, (b) Bermuda law, (c) cataloguing the books and (d) general maintenance of the library, I finalised my choice of database program. I had worked a bit with DBase III and realised it wasn't going to do the job. I had also heard of InMagic which was being used widely in the US and Canada and I decided to purchase it. At that time, it was a DOS-based program, but so was pretty much everything else. I found it suitable for the tasks at hand and was able to set up a couple of simple databases to index Bermuda's public and private legislation, as well as a rudimentary catalogue of the library's holdings. That gave me enough practice to start on my major project – the considered judgments of the Supreme Court and Court of Appeal.

Court judgments database

The Supreme Court judgments date back to 1903. There are presently 54 volumes of foolscap decisions. The Court of Appeal decisions date back to 1964 and there are 39 volumes. Until now, only a very few of our decisions had been included in the West Indian Law Reports. The local judges had complained a number of times that matters which had been previously decided were coming before them over and over, simply because it was impossible to do any research. The Government was unable to do anything about it and the larger firms were left to come up with a solution. I started to read and enter the data. It took about five years to get the bulk of the job done. The very oldest judgments are indexed only by parties' names, date, the name of the judge, cases cited and a brief description of the case. Later judgments included much more detail.

As a basic skeleton, each judgment can include the following fields and each field can be used more than once and contain entries of almost unlimited length:

- Date
- Parties
- Docket number
- Judge's name(s)
- Attorney's name(s)
- Court and division
- Cases referred to
- Legislation referred to
- Subjects
- Decision
- Location in the original volumes
- Abstract
- Bermuda Law Reports citation*
- Hypertext link to PDF file*

It was fascinating reading and the project took off in a big way. Appleby Spurling & Kempe were not selfish with it either. They allowed and encouraged me to use developments with the InMagic software (now called DB/Textworks) to prepare runtime versions of the database which were made available to the other Bermuda firms for a moderate subscription price.

Networking and the internet

While I spent a portion of each day on the project there were many other tasks to keep me busy. The firm grew rapidly, computers evolved, library services expanded. As expected, Lexis was a huge help with researching UK caselaw and also for business information. Over the years, the Know Your Client requirements were developed and it became increasingly important to check out backgrounds of potential clients.

I also found there were some gaping holes in my ability to obtain materials needed by the attorneys. I found out

* The last two fields have been included in the past two years. More on that later . . .

Karen Skiffington

about the Institute of Advanced Legal Studies Library and would call them on the phone and wheedle Muriel Anderson into faxing me case reports we didn't have on the Island. I guess she decided this could be a good thing for others too, as shortly fax service was added to the Distance Services department. I set up a similar arrangement with Osgoode Hall Law Library at York University in Toronto.

I joined as many law librarian associations as I could, thinking that between the contacts I met, the articles I read in their journals and the exposure to the various good ideas that other members had, I would be able to further expand on what I could do. I try to attend a meeting every other year.

One of these great ideas that I read about was the new thing – the internet. Almost the very first thing I tried was a listserv. Even in its early days, the number of interesting conversations and the way that librarians were cooperating was fascinating. Web browsing was fun, but the content didn't exist yet that would help me with my work. Email was introduced to everyone in the firm and then I was able to communicate so quickly with everyone. This sometimes had drawbacks, as my customers wanted their answers more quickly too.

After ten years, I decided it was time to move to another firm. Mello Jones & Martin had become the number three firm on the Island and wanted to form a proper library. This was an interesting challenge in itself. They also needed to have a PC based network with internet service. They thought I was suitable for the job. This led me to expand my knowledge into the IT sector even more, and has allowed me to explore further the way information services and technology can work together.

I decided that with the improvements to DB/Textworks, Bermuda's internet infrastructure, and with a little more free time since my fourth child had turned five, the time was right to move the index to Bermuda's judgments into the 21st century.

Bermuda Law Reports

With the backing of the Bermuda Bar Association and the approval of the Chief Justice I set out to create the Bermuda Law Reports. I knew that the market size was too small to support a printed version. The internet seemed the perfect answer. DB/Textworks now allowed the index to link to other files and had produced a new program DB/Text WebPublisher to assist with the publishing of the index and the associated pdf files. I felt I could launch with the judgments between 1990–2000 and continue to work retrospectively while also going forward. At the present

date, decisions include 1986 to date with new material added at least quarterly. I intend to continue to work back until about 1980, and prior to that time will only add selected earlier judgments. At this time, I am not allowed to include decisions on family/matrimonial matters in the Supreme Court. Nor do I include matters that have what I deem to be limited relevance for the future. Until 2002, the pdf files were made from photocopies of the original transcripts which don't allow full text searching, but since 2003, the Courts are providing me with the electronic word processed transcripts which I then reformat to a uniform style and headnote.

The launch date was May 2002 and immediately half a dozen local firms signed up. Growth has been steady and sure, with virtually every local firm subscribing as well as the Bermuda College (which has an association with the University of Kent, Canterbury) and overseas customers such as the Institute of Advanced Legal Studies Library, Inner Temple, New York University Law Library and a number of law firms. Pricing is kept moderate so that all can afford to subscribe. While I may never get rich from the business, it does pay for a few extras around the house and I'm pleased it's doing so well.

This model of law reporting can provide an alternative to print publishing for the smaller jurisdictions which simply can't afford it. The ability to create a body of law reports going back many years as well as moving forward and accomplishing it within a short period of time with a very small investment may be just what some of the Caribbean nations need.

Conclusions

Bermuda's legal system continues to change and improve. There are now several law librarians in the larger firms. We keep our lines of communication open and share resources where we can. The world continues to grow smaller through the internet and other new technologies and I am proud to be able to contribute in some small way.

It is my firm belief that librarians are not just the guides to information, although that is one of our vital roles; rather we should also be the creators of information itself. Opportunities still exist for resources which fill gaps.

Notes

DB/Textworks is produced by InMagic Inc. For more information, see www.inmagic.com

The Bermuda Law Reports may be found at www.bdalawreports.net

Karen Skiffington has been a law librarian since 1986 in Bermuda. In addition to her career at Mello Jones & Martin she founded Bermuda Law Reports Ltd in 2002, runs a guest cottage (www.wallbridge.com/karen), and tries to be a good mum to William, Cooper, Stuart and Alexandra and still spend some quality time with new husband, Mark. When not otherwise occupied, she reads (and reads and reads) science fiction, fantasy, and general fiction, sews, bakes and looks for other interesting ideas to explore. Her ambitions include travel into space and the big "light-bulb idea" that will make her comfortably well-off and able to afford said space travel. She can be reached at skiffy@bdalawreports.net.