In Memoriam – Professor William Rodolph Cornish

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With the passing of Professor Bill Cornish, the intellectual property law world has lost one of its most revered pathfinders and the “Max Planck Family” one of its most loved and respected members (I do not hesitate to use the adjective “loved”, even though it may not be one that has appeared frequently in the pages of IIC).

As long ago as 1979, Professor Cornish (or “Bill” as he was known to his friends and colleagues, for he was not one to stand on ceremony or titles)¹ first found his way to Bogenhausen and the second floor of Siebertstrasse 3, the largest of three buildings that housed what was then the “Max Planck Institute for Foreign and International Patent, Copyright and Competition Law”.

On the second floor Bill joined the British & Commonwealth *Referat* headed by the mercurial (and also much loved) Dieter Stauder, who along with his wife Babsi became a close friend for the rest of Bill’s life. His roommate was Christian Neu² and other later friends, Hanns Ullrich and Annette Kur, were both close by (along with Adi Dietz, Paul Katzenberger and Frauke Henning-Bodewig in Siebertstrasse 5, and Theo Bodewig and Jochen Pagenberg around the corner in Maria-Theresia-Strasse). These and many more, for Bill was an easy companion, would sit around the table in the cellar of Siebertstrasse 3 to exchange views during that initial spell at the Institute.

¹ I have not included academic or other titles in what follows, not through disrespect but because of the word limit!

² When I arrived at the Institute in January 1980, I inherited “Bill’s seat” in Christian’s room.

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It was a spell that he enjoyed thoroughly, especially his frequent (and occasionally heated, but always respectful)³ debates with the Institute's directors, Friedrich-Karl Beier and Gerhard Schricker, about the strengths and weaknesses of the common law system, and formed the foundation of his life-long attachment to the Institute. He did confess to me later that he had found the intricacies of the German language a bit of a struggle when he tackled them for the first time at the age of 42: although he admitted that his formative years in his hometown of Adelaide in South Australia had introduced him to words such as *Riesling*.

While at the Institute that first time, Bill was working on the manuscript of what became, on its initial publication in 1981, the first and seminal work covering all aspects of UK intellectual property law: *Intellectual Property: Patents, Copyright, Trade Marks & Allied Rights*.⁴ A masterpiece of analysis and concise writing, the book was the first in England (the first in the Commonwealth had been that by his fellow Australian, Jim Lahore, a few years earlier in Australia) to explain and comment on all the different rights, created in the common law and by statute, in the ever expanding field of intellectual property law in the United Kingdom, including of course the burgeoning influence of what was then known as EEC law. As the former Singapore judge and leading IP academic, George Wei, commented to me recently of his first encounter with the book back in the early 1980s: "It was a book that rewarded rereading, and rereading again, for many of its gems were hidden from the first-time reader."

Ten years later in 1989, Bill was made an External Academic Member of the Institute and he valued greatly his many visits to Munich in that capacity over the following 30 years, making new acquaintances and seeing old friends. His pride in going where no foreigner had previously gone when he became an External Academic Member almost matched that he quietly admitted to when he was made a Fellow of the British Academy in 1984 in recognition of his contributions to the intellectual property law field.

Bill had started his academic career in 1962, with an appointment as an Assistant Lecturer at the London School of Economics and Political Science (LSE). Eight years later, he was appointed Professor of English Law at LSE at the tender age of 33, having spent two years as Reader at Queen Mary College, another of what were then the constituent parts of the University of London.

In his 20 years in that position at LSE, Bill built his reputation as the academic pathfinder in intellectual property law (after being urged to enter the field by Otto Kahn-Freund, who was surprised at the absence of IP in the curricula of English law faculties when compared to his experience of German universities where it was a staple). Helped by other later IP luminaries such as Robin Jacob, Bill introduced IP

³ As those who knew him would attest, Bill was an easy-going and friendly person, but he was not easily swayed on matters he felt strongly about; although even on those he would usually leaven the discussion with flashes of his wry sense of humour

⁴ I was honoured (and rather frightened) when Bill asked me to join him as co-author of the 5th edition, which was published in 2003 (Tanya Aplin, my colleague at King's College London, joined us for the 7th and subsequent editions). The book is now in its 9th edition (published in 2019): an edition which was the first that did not benefit from Bill's involvement. Nevertheless, as Tanya and I commented in the Preface, it remains unmistakably "Bill's book".

Law as a subject in the University of London LLM, while encouraging others like his former LSE colleague Gerald Dworkin at Southampton University to make use of his materials to introduce undergraduate courses (I was a beneficiary in 1976). The LLM course at LSE went from strength to strength, especially after Bill's return from Munich and the publication of his groundbreaking book on the subject in 1981.

In 1990 he moved to the University of Cambridge, where he was appointed to a Chair that had originally been created for the renowned comparative lawyer Kurt Lipstein and was then occupied by the legal historian Toby Milsom who had inspired Bill when he was a colleague at the LSE. He also became the inaugural Director of the University's Centre of European Legal Studies; a position he told me he took up partly because as a confirmed "European" he wanted to push back against those in the University who remained sceptical about EU membership.

At the same time as his wife Lovedy and he were making the move from London to Cambridge, Bill joined the Editorial Board of IIC, a journal he always considered very important to allow non-German speakers to access information and commentary on developments in IP laws in Germany and elsewhere around the world that GRUR and GRUR Int. offered to German speakers. His time on the Editorial Board, which ended only with its disbanding in 2019, allowed him to help foster the careers of up-and-coming academics from all around the globe as well as making available to an international audience literature that might otherwise have been inaccessible (at least in the days before Google Translate).

Reflecting the international outlook that characterised his whole life, Bill also founded in 1992 the Centre for English and European Legal Studies at Warsaw University, along with his friend George Dobry (a Polish émigré who had been an English circuit judge and very successful barrister). The aim of the Centre was to provide students in eastern Europe with the opportunity of learning about both the common law and the legal regime of the European Community. It succeeded beyond Bill's wildest dreams and he was very proud of its success.

As if all that was not enough to keep him occupied, Bill then became the inaugural Herchel Smith Professor of Intellectual Property Law in 1995. This was one of the four Cambridge University professorships (the others were in immunology, medicinal chemistry and organic chemistry) endowed by Dr. Herchel Smith, an organic chemist who owned and made large sums from patents covering oral and injectable contraceptives in the years after doing his undergraduate degree at Emmanuel College, Cambridge. Bill was delighted when Lionel Bently was appointed in 2004 to succeed him as Herchel Smith Professor. He had often expressed to me his liking for Lionel, and his respect for the *Bently & Sherman* book that he felt was a worthy competitor to his.⁵ Bill's stepping down from the Chair had come a couple of years after he gave, to great acclaim, the prestigious Clarendon Law Lectures in the University of Oxford. The title of the lecture series (and subsequent book)⁶ *Intellectual Property: Omnipresent, Distracting, Irrelevant?* was an excellent example of Bill's approach in both his teaching and his writing: he

⁵ He may have said "in fact, the only worthy!" but his *sotto voce* comments were sometimes difficult to catch!

⁶ OUP, 2004.

wanted to make people think and question, not just accept or pronounce. He would often say that the teaching of law in universities should not be about producing “law practice-ready” graduates for law firms but should be about making students think, reason and question.

Although best-known for his writing on intellectual property laws, Bill’s research interests were far broader: his books on *The Jury* (1968) and *Law and Society 1750–1950* (1989), both written while he was at LSE, remain well worth reading. The latter whetted Bill’s appetite for legal history, the subject he often said was his first love. Much of the first 20 of his years at the University of Cambridge was spent writing and overseeing the three volumes of *The Oxford History of the Laws of England* covering the period between the downfall of Napoleon to the start of World War 1 (*Volume 11: 1820–1914 English Legal System*; *Volume 12: 1820–1914 Private Law*; and *Volume 13: 1820–1914 Fields of Development*) (OUP, 2010, with Stuart Anderson et al.). Whilst not as easily accessible as most of his other writings, these volumes stand as a testament to the breadth and depth of Bill’s knowledge not just of the law but also of its historical context. He was rightly very proud of them (while bemoaning how expensive they are to purchase!).

After taking a well-earned retirement to tend the garden of his Cambridge house (that’s what he told me he was doing, although he seemed to still be doing a lot of different things), Bill travelled frequently far and wide, sometimes to Munich to visit the *Biergarten* with Dieter and Babsi and other old MPI friends and even out here to Singapore to speak at the Global Forum (where he thoroughly enjoyed meeting many acquaintances and former students). More recently, friends from all around the world would visit him and Lovedy in Cambridge and reminisce over coffee in the garden or wine in a nearby pub.

On behalf of the Institute, Bill’s friends, acquaintances and former students, I offer Lovedy and the rest of his family our sincere condolences. We miss him already, and I have lost a good friend and mentor.

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