

AUSTRALIA/GERMANY
EDUCATIONAL DEVELOPMENT FELLOWSHIP
1996/1997

REPORT

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A. INTRODUCTION

When I first drafted this report, detailing my activities in Germany, it covered 30 interviews, lectures and events, and came to over 30,000 words. This was so unwieldy that even I found it overwhelming to read. But it is difficult to condense a period of 6 months abroad into a report of a few pages, and still feel that the report does justice to those experiences.

In the end, I decided it was easiest to simply give a broad overview, and, rather than discuss each and every meeting that I arranged in Germany, to concentrate instead on the thoughts and ideas that I came away with. However, in order to reflect the meetings and events which I attended, I have included my itinerary in the next section, "Overview".

B. OVERVIEW

Of the four months I spent in Germany as holder of the Australia-Germany Educational Development Fellowship, three months were spent in Berlin. My love for the place was almost immediate, and fascination followed shortly thereafter. To be able to spend this time in Berlin meant much more than simply enjoying a language course. The opportunities which arose from being able to speak the language, together with an amazing willingness of those people I approached to share their knowledge and opinions with me, were what made my trip to Germany so memorable.

All in all, I was away from Australia for six months. My first week in Germany was spent attending the International Bar Association Conference. (An outline of that conference and some of the highlights are dealt with in Section D of the Report). For two months, I studied in Berlin, and for a further six weeks (less time with family in Spain over Christmas), I travelled in Germany to visit people and places who would add to my understanding of the country and its culture. This included spending a further three weeks in Berlin, and it was probably my activities during those extra weeks which took me beyond the experience of a tourist to feel, if not a local, at least "at home" in the city. In addition, for a little over two months, I worked in the London office of Blake Dawson Waldron, an unplanned but worthwhile extension of my trip¹.

Itinerary

The following is a timetable of meetings, visits and lectures attended during my time in Germany. Details of some of the individual meetings appear in Section C, below.

¹Comments on this period form Annexure F of the Report.

| DATE | ACTIVITY/PLACE |
|-----------------------------|--|
| October 20 to late December | Berlin |
| 20.10.96 - 25.10.96 | International Bar Association Conference, Berlin |
| 24.10.96 | Meeting with Mr John Flüh and Mr Cord-Georg Hasselmann - Partners, Hengeler, Mueller, Weitzel & Wirtz (legal firm - Berlin office) |
| 14.11.96 | Visit to Axel Springer publishing house, Berlin |
| 21.11.96 | Lecture by Timothy Gatten Ash, Fellow of St Antony's, College, Oxford on the topic of Coming To Terms With History After Communism: The German Example In European Comparison", Berlin |
| 29.11.96 | Lunch with John Flüh, Berlin |
| 29.11.96 | Lecture given by Premier of Brandenburg, Dr Manfred Stolpe, Urania (public discussion forum) - Berlin |
| 3.12.96 | Farewell reception for Margaret Adamson, Consul-General, Woolloomooloo Restaurant, Berlin |
| 4.12.96 | Visit to Stasi Archives (privately arranged tour), Normanenstrasse, Berlin |
| 6.12.96 | Meeting with Michael Gaedicke of the Staatskanzlei, Potsdam |
| 6.12.96 | Meeting with Ms Ruth Bader, General Manager, The Australia Centre, Potsdam |
| 10.12.96 | Meeting with Professor Schintowski, Professor of Law (European Law and Trade Practices Law), Humboldt University, Berlin |
| 11.12.96 | Lecture by US Professor, Vince Parillo (William Paterson College, New Jersey) on "The Perish and Promise of Multiculturalism in the USA", held at the Freie Universität, Berlin |
| 14.12.96 | Lecture given by Professor Haase, President of Berlin Parliament, Urania - Berlin |
| 17.12.96 | Meeting and dinner with Rigmor Stussel, Financial Controller, and Dagmar, Legal Counsel, Der Tagesspiegel, Berlin |

↑ ALSO ATTENDING THE GOETHE INSTITUTE, BERLIN, AT THIS TIME.

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|-------------------|---|
| 18.12.96 - 4.1.97 | Leave Berlin (after sitting exam) for Christmas in Spain with relatives, then a brief visit to Paris on the way back to Germany |
| 4.1.97 | Arrive in Hamburg |
| 7.1.97 | Meeting with Mr Heinz Lohfeldt, Senior Editor, Der Spiegel, Hamburg |
| 8.1.97 | Meeting with Mr Wolfgang Niedermark, Managing Director, Australien-Neuseeland Verein, Hamburg |
| 8.1.97 | Travel to Frankfurt |
| 9.1.97 | Meeting and lunch with Mr Elmar Wider, General Manager, European Office, State of Victoria, Frankfurt |
| 10.1.97 | Meeting with Professor Alexander Riesenkaempff, Partner, Hasche Eschenlohr Peltzer Riesenkaempff & Fischotter (law firm - Frankfurt office) |
| 10.1.97 | Meeting with Stuart Miller, Partner, and Peter Dreher, Solicitor, Osborne-Clarke, Frankfurt office, followed by lunch with Peter Dreher |
| 11.10.97 | Travel to Berlin |
| 12.1.97 | Documentary film and discussion: "The Case of Walter Linse - Reconstruction of a Murder by the State" (Urania, Berlin) |
| 13.1.97 | Meeting and lunch with Professor Gunnar Schuppert, Professor of Law (Constitutional Law, Administrative Law and Media Law), Humboldt University, Berlin |
| 14.1.97 | Meeting with Mr Thomas Schmidt, Head of Department, News and Political Affairs, Sende Freies Berlin |
| 15.1.97 | Lecture and Panel Discussion on the topic of euthanasia (Urania, Berlin) |
| 19.1.97 | Travel to Karlsruhe |
| 20.1.97 | Meeting and lunch with Dr Jurgen Kuehling, Judge of the Bundesverfassungsgericht, located in Karlsruhe |
| 21.1.97 | Return to Berlin |
| 23.1.97-15.2.97 | Blake Dawson Waldron, London, then return to Berlin |
| 17.2.97 | Travel to Heidelberg |

| | |
|-----------------------|--|
| 18.2.97 | Day at BASF AG, Ludwigshafen |
| 19.2.97 | Visit to Bonn, then travel to Cologne |
| (planned for 19.2.97) | Meeting with Dr Jorg Nerlich, Australian-German Lawyers Association, Cologne |
| 19.2.97 | Meeting with Mr Michael Bonsau, Oppenhoff & Rädler, Cologne |
| 20.2.97 | Travel to Berlin |
| 25.2.97 | Lunch with Michael Lappe and fellow partners, Oppenhoff & Rädler, Berlin |
| 4.3.97 | Lecture given by Dr Ingrid Schneider "Foetuses - the New Medical Raw Material?" (Urania - Berlin) |
| 5.3.97 | Meeting with Katarina Harms, currently completing a doctorate on aspects of the German Constitution and reunification at Universität zu Humboldt, Berlin |
| 6.3.97 | Meeting with Professor Rosemarie Will, former DDR citizen and lecturer at Humboldt University, Berlin |
| 8.3.97 | International Trade Börse, Berlin 1997 |
| 8.3.97-27.4.97 | BDW London |

Topics of Discussion

As can be seen from the above itinerary, the interviews, meetings and discussions I had covered a broad range of topics. There was, however, method in the madness, and generally speaking, the meetings etc fell into one of the following categories:

1. German media: the conduct and influence of the German media, its development after the second world war, and reform of east German media.
2. Law:
 - (a) constitutional issues, especially those arising from reunification; and
 - (b) the legal profession in Germany.
3. Australia-German relations (trade or otherwise), and comparison of approach to issues concerning both countries.
4. German history and society generally.

These topics tended to overlap - conduct of the media is linked to constitutional rights, the legal profession has had to deal with reunification issues, some of the issues faced by both countries involve legal assessments (eg euthanasia, use of genetic information and material), and what I learned about German history/society could often be slotted into one of the other categories.

A discussion of the Goethe Institut is found in Section E, followed by some concluding comments on the benefits of the Fellowship in Section F.

C. DETAIL

(a) THE MEDIA

Some General Comments on the Press in Germany (drawing together library research and comments from people I met with)

Germany is, after Japan and the USA, the world's biggest market for papers and magazines. There are over 1,600 daily papers (including local news sheets), with 26 million copies sold per day². 82% of adults read a paper, according to official government statistics, which represents 36% of the population. As well as newspapers, there are more than 8,000 magazine titles. Seeing this range of journals made me acutely aware of how limited our own news landscape is. In Victoria, for example, there are basically two State-based papers of any significant circulation, with national competition coming from the Financial Review and The Australian. Depending on whether I wanted a newspaper for the train, a summary of local news, intelligent analysis of financial news, or a national overview, my choice of paper would already be made for me. I found in Berlin, however, the range was much wider³.

A detailed local section is typical for German newspapers. There are only a few national papers, with the rest, while addressing national news and issues, offering an emphasis for a particular region. There is no doubt that, as in Australia, the press in Germany is able to wield enormous influence⁴.

Statistically, papers and magazines in East Germany were as popular as in Japan, but this is a reflection of distribution rather than readership. As Thomas Schmidt of SFB Radio⁵ commented, the papers were an instrument of propaganda, with content tightly controlled, and the price subsidised by the State. Many East Germans bought or subscribed to the newspaper *Neues Deutschland*, so as not to be doubted by the party - to get anywhere, a citizen

2 1992 government statistics

3 According to a representative of the Springer publishing house, with whom I spoke,, competition law (and ownership diversity) is not a problem in the press, being much more a concern in the television area. Nevertheless, I understand that four of Berlin's ten major dailies come from the Springer stable, and the group has 20% of sales nationwide. (See Ardagh, J., *Germany and the Germans*, 1990). This seems to me to be quite a significant market share.

4 As an example of this influence, Rigmor Stussel (of *der Tagesspiegel* - see below) pointed to the failure to get the necessary population consent to the merger of the states of Berlin and Brandenburg. She suggested that had it not been for the vigorous media campaign, putting fear into Brandenburgers' minds as to the power Berlin would exercise over them if a merger was agreed to, the merger would have gone ahead.

5 See further comments below.

had to be true to the communist party, at least on the surface⁶. How many people really read the publications is an open question.

In fact, freedom of the press and of speech were guaranteed in the East German constitution (article 27, paragraphs 1 and 2). The restrictions which existed in practice, however, led to an absence of individuality and talent in the papers, as they were unable to develop independently of the government. According to one author, what was created as a result of the restrictions "was less a dictatorial means of censor, though it was that too, but rather a machine of indifference"⁷. An issue which interested me was the role of the media in the events of 1989. It seems, however, that the role of the media was secondary to the role played by the people themselves. For years, easterners (at least those close to the West German border) had been able to receive West German television, although this was forbidden. Those in positions of authority received it too, of course. These western broadcasts would at least have sown the seeds of democracy in people's minds. According to Andreas and Heike Graf, "The demand for opinion-, information-, and media- freedom was one of the dominant themes of the people"⁸. But while the media may have sown the seeds, it was ultimately the power of the people which brought the changes, not an evolution of independent media in the east. Indeed, while the western media was reporting events such as the opening of the Austrian-Hungarian border, the eastern media was forced to follow the party line. Merely mentioning Budapest, Warsaw and Prague was forbidden, unless it was to repeat official announcements. It was also forbidden to mention any resistance groups in the country. At first, no cameras covered the Monday demonstrations in Leipzig⁹. However, eventually these were recorded by the western media, and this would no doubt have had a spiralling effect, increasing attendance as easterners learned of the events through their forbidden access to western media. Amazingly, the western media was caught so off-guard by the fall of the wall that many organisations missed a story of a lifetime. Nevertheless, the footage captured by *der Spiegel*, as people broke through the barriers and guards watched helplessly (or joined the people themselves), provides unforgettable images.

The change to a democratic and open market press began straight after the fall of the wall. Truck loads of western papers were brought to the East, even before the first free election in March 1990. The papers of the old regime lost their "readers" dramatically, even when they declared themselves in favour of independence. They were forced to seek support from their western

6 While *Neues Deutschland* still exists, its readership has shrunk dramatically.

7 *Medien-Wende Wende-Medien*, published by Dr Werner Claus

8 *Medien-Wende Wende-Medien*, published by Dr Werner Claus

9 For a discussion of the Leipzig demonstrations, see Annexure A, in which I describe my visit to Leipzig.

competitors, who were only too willing to snap up those going concerns and increase their empires, as I learned from my visit to the Springer publishing house¹⁰. Reunification has changed the publishing landscape, with nearly all western publishing houses having since engaged in the East. Mr Lohfeldt of *der Spiegel*¹¹ indicated that the new western owners have retained many East German journalists, but they have ensured that their Editors-in-Chief are not related to the old SED/PDS regime, and in fact, this position is often filled by a journalist from the West. Nevertheless, the staff are still very influenced by, and to a great extent made up of, people from the former East Germany. Some formerly East German magazines are now sold throughout Germany. Many others have been scrapped, or relaunched as new products, in order to address the changing needs and interests of their readers. However, many of those which have been relaunched still remain distinctively "eastern". Mr Lohfeldt identified three main barriers to uniformity of style and content of publications across unified Germany:

1. Language and style of the paper.

The language and style of expression of East and West Germany were as divided as the country had been. Eastern language tends to be more longwinded and bureaucratic, while the Western style is flippant, sarcastic and to the point. Former East German journalists still make extensive use of official statements ("Verlautbarungsjournalismus").

In addition, different words are to some extent used by the two halves of Germany. Perhaps the difference in the language between East and West Germany is most clearly indicated by the fact that the DDR even had its own "Duden", the classic German dictionary. Mr Lohfeldt suggested it may take a generation for the language in Germany to be united.

2. Tradition.

Newspapers are very much a loyalty product, and it is difficult to change people's habits.

3. Subject matter.

It seems easterners wanted articles about matters of which westerners were already fully informed, and so not interested. It was, accordingly, impossible for a paper to cater adequately for both markets.

And while the eastern publications have failed to attract West Germans, many Western papers have failed to gain a foothold in the East. Mr Lohfeldt confirmed that the difficulty had worked both ways. *Der Spiegel* sells only

10 Referred to below.

11 See discussion, below.

60,000 copies in Eastern Germany, whereas, in relation to the population of those States, the figure should be around 250,000.

My discussions and research also covered the extent of censorship, and other aspects of press laws. I have not addressed these matters in this report, but have materials on the subject if they are of interest.

Notes on Individual Meetings

Visit to Axel Springer publishing house, 14 November 1996

The name "Axel Springer" invariably provokes reaction in Berlin. A millionaire, a holder of strong views, and a man despised by the student movement of the sixties, Axel Springer was the founder of a publishing house which now monopolises the Berlin print media. I visited the "Verlag" (printing house) of this organisation, and before having a tour of the plant, was given a summary (from the Springer viewpoint, of course) of the print media scene in Berlin.

Meeting and dinner with Rigmor Stussel, Financial Controller, and Dagmar, Legal Counsel, Der Tagesspiegel, 17 December 1996

Through a contact at *Die Zeit* newspaper in Hamburg, I arranged to meet Rigmor and Dagmar for dinner one evening. Both are employed by *der Tagesspiegel*, a well regarded Berlin daily with a readership of approximately 130000. We discussed the role and influence of newspapers in Germany, and in particular the east/west divide and reunification.

Mr Heinz Lohfeldt, Senior Editor, Der Spiegel, (one of Germany's leading news magazines), 7 January 1997

Mr Lohfeldt kindly spent a couple of hours with me, discussing the history of the press in Germany, and the particular role that *Der Spiegel* has played in that history.

We started from the point that freedom of the press in Germany is a relatively new development. The press was totally controlled during Hitler's "1,000 year Reich" (actually, a period of 12 years). Following the war, Germany was divided into four zones. The idea of a free press existed only in the three Western zones, not in the Soviet zone. Each zone developed its own press centre - Hamburg in the English sector, Stuttgart in the French sector, and Munich in the US sector. The movement of free press in post-War Germany was essentially made up of young people in their twenties and thirties. The older people were more likely to be tainted by their past associations (because of the censored nature of the party newspapers). Few of the "relics" of the previous press achieved top positions later, one of the scarce examples being Hans Zehrer, a prominent journalist in pre-War times, who became the first Editor-in-Chief of *Die Welt*.

While freedom of the press existed from the beginning of the post-War period, its position as the "fourth estate" (that is, the institutionalised role of the press as the fourth corner of democracy, together with government, parliament and judiciary) did not occur until later.

According to Mr Lohfeldt, it was only in the 1960s, with events such as the "Spiegel Affair" (an infamous case of the government attempting to suppress or prevent further dissemination of sensitive information by *der Spiegel*, giving rise to a public outcry¹²) that freedom of the press was fought for and won.

Der Spiegel itself is an internationally recognised journal. It is investigative in an intelligent manner, although it has been accused of acting as investigator, judge and jury all in one, and it certainly has the power to damage a person's character through the size of its readership.

Meeting and lunch with Professor Gunnar Schuppert, Professor of Law (Constitutional Law, Administrative Law and Media Law), Humboldt Uni., Berlin, 13 January 1997

Over lunch at Galeries Lafayette, the French department store plum in the middle of Berlin's new centre, Professor Schuppert shared his knowledge of German constitutional and media law.

¹² On 10 October 1962, *Der Spiegel* published an article about the chief inspector of the Bundeswehr, Foetsch, and the NATO manoeuvre "Fallex 62", which simulated a third world war started by a Soviet atomic bomb. The manoeuvre showed the Bundeswehr to be lacking in several aspects. On the night of October 25 (two weeks later!), Adenauer took action, saying the article amounted to a betrayal of military secrets. Search warrants were issued on the grounds of suspected treason, and the police occupied the old press building in the middle of the night. Regional offices were also occupied, and 30000 documents were confiscated. Production of the magazine was not possible, and Rudolf Augstein, together with the responsible editor Conrad Ahlers, was arrested. Augstein remained in "Untersuchungshaft" (investigative arrest) for 103 days.

Tens of thousands turned out to demonstrate for freedom of the press. A wave of protests, analyses, discussions and student sit-ins rolled across the country. Bruno Deschamps wrote in the FAZ on 30 October: "What stinks here threatens not just *Der Spiegel* ...it threatens democracy in our country, which cannot live...without a free press". The importance of press freedom, even over profit, was demonstrated when competitors of *Der Spiegel* opened their offices to that magazine, offering use of their typewriters, cafe, and all other facilities required to keep the magazine afloat. Despite Adenauer's action, the next edition of *Der Spiegel* was able to be published, and the press had achieved a victory. However, it was not until 4 weeks later that the police left *Der Spiegel*'s building.

In May 1965, the Bundesgerichtshof dismissed the action against Augstein and Ahler without a hearing, on the basis of insufficient proof. While it was possible that military secrets had been revealed, Augstein and Ahler were not aware of this fact. An action was also brought against the defence minister, Strauß, for false imprisonment. In 1966, the BVerfG rejected *Der Spiegel*'s constitutional complaint against the arrest and search order, and "the Spiegel Affair" chapter came to a close.

Professor Schuppert had personal knowledge of the case of "Wallraff", a journalist who gained employment with the *Bild* newspaper, as a cover for investigating the operations of that paper. He wrote a book about the journalism of the *Bild*, which revealed some highly dubious strategies employed by this sensationalist newspaper. The *Bild* tried to prevent publication of the book, challenging the work as a breach of confidentiality. The case went all the way from the Landesgericht of Hamburg to (three court hearings later), the Bundesverfassungsgericht, Germany's highest court, which determined finally that the publication was not permitted. Professor Schuppert's involvement was providing an expert opinion for Mr Wallraff, in favour of the book's publication.

The case is interesting because it was a "press versus press" case. Normally, the media is only represented on one side of the argument. This case had to balance the obligation of the press to inform and uncover scandals, and the right, ironically of a press organisation, to confidentiality.

Some weeks after my meeting with Professor Schuppert, I was in the Berlin Stadtbibliothek, a library dealing specifically with materials on Berlin, combining the resources of previous East Berlin and West Berlin libraries. I happened to come across a copy of Mr Wallraff's work in the library. While it had been banned in West Germany, this was not, of course, the case in East Germany, and it appears that when the resources of the two halves of the city were combined, it was overlooked that this book was in fact forbidden. Reading the book was fascinating, not just because of the exposé of the operations of the *Bild* newspaper, but also because of the manner in which it was published. The East German copy of the book appears on grey, cheap looking paper, and contains a fascinating foreword by a DDR government sympathiser, Lothar Bisky. In his foreword, he comments that the works of Günter Wallraff brought together in this book on the subject of the *Bild* newspaper "may seem to readers of the DDR to be almost like stories from some exotic world. A boulevard-newspaper like *Bild* seems too extreme, the wily journalistic methods of work seem too foreign, the manipulation of opinions too direct, the people practising the manipulation to be too cynical." (translation my own). In other words, the East Germans were given a picture of the West which was not so very dissimilar from the opinion of the East held by West Germans. The foreword also talked about the pursuit of Mr Wallraff by "class justice", and indicated that in the West "justice always stands on the side of money". Lothar Bisky concludes "to learn from history also means to extract lessons from the dangers of silencing the masses and witch hunts of people. To fight against the anti-communist movement in the Springer-Press remains an important task". Perhaps the important lesson from reading such words in retrospect is that we often see the errors in other systems more readily than we recognise the problems in our own - some of Mr Bisky's comments are perceptive, if overstated.

I also discussed with Professor Schuppert various constitutional issues related to reunification:

1. Liability of DDR citizens to punishment for acts done under the DDR regime.

The issue here is whether one can punish people now for acts which would not have been punishable under the DDR laws. For example, there was a recent decision regarding the officers who gave the orders to soldiers to shoot escapees at the border between East Germany and West Germany. This action was condoned by the DDR government at the time, but would clearly be contrary to the laws in place in today's Germany. It was held by the court that the normal policy that a person cannot now be punished for a crime which when committed was not, in that State, a crime, could not apply in this situation - the actions were so unjust and contrary to human rights that they could not be considered legal¹³.

2. "Enteignung" - Dispossession of DDR citizens land

The Bundesverfassungsgericht has decided that no monetary compensation is payable to DDR citizens from whom the Russians confiscated land in the period from 1945 to 1949, because of the extraordinary circumstances. However, after 1949, the citizens have a right to compensation.

The laws dealing with such reunification problems are full of arbitrary distinctions which, while necessary in order to "draw the line", are difficult to understand for the average former East German citizens.

3. Basic Right of Freedom of Profession

This basic right is included in article 12 of the constitution. Upon reunification, many positions were abolished, and people lost their jobs. The right to do this was contained in the Unification Treaty. It was argued that this was contrary to Germany's Basic Law. However, while the Court confirmed that the Constitution ensures a person cannot be forced into a job they don't want and that the Constitution provides a minimum protection against being sacked, it held that the conduct complained of was permitted because of the particular reunification situation. The Unification Treaty was in the overall interests of the German people.

The question then arises whether the Constitution is only a measure for normal times and problems, or whether it can also exercise its function of guidance and control in times of quasi-revolution as at the time of

¹³ Dr Kühling, a judge of the Bundesverfassungsgericht, informed me that this was the first case at BVG level where it was decided that some DDR laws could be ignored. He contrasted this case with a decisions of the Court concerning former DDR spies. It was held that they were not punishable for their activities as they had been sanctioned in the east.

reunification of Germany. What is the ability of Constitutional law to steer development in "abnormal times"? On this topic, Professor Schuppert suggested that I meet with Frau Katarina Harms (see below).

Finally, I discussed with Professor Schuppert the effect of unification on positions in the Faculty of Law at Humboldt University. He indicated that at most universities, the majority of East German professors had been replaced by Westerners. However, he regarded the situation at Humboldt University as being different. There, more effort had been made to retain East German lecturers. Many of them are on term contracts which will be reassessed. In his own area of public law, two East Germans remain on the staff. One of those, a woman, is quite controversial because of her involvement in DDR government activities under the old regime. Despite this, she was kept on by the University, and has even spent some time in employment at the Bundesverfassungsgericht. While I didn't know it at the time of discussing with Professor Schuppert, this woman was Rosemarie Will, who I was to meet with on one of my last days in Berlin. (See below)

Professor Schuppert kindly gave me a copy of the Constitutional law book which he has written, as well as allowing me to use his extensive Constitutional library.

Mr Thomas Schmidt, Head of Department, News and Political Affairs, Sender Freies Berlin (Berlin radio station), 14 January 1997

I had an interesting discussion with Thomas Schmidt about radio in general, SFB, and his own personal experiences. I have incorporated some of his comments in my summary of the media on page 6 of this report.

Like many media organisations in Germany, SFB was founded in the 1950s. It was part of ARD, a national umbrella organisation with radio groups in 16 state-based areas. Berlin's situation was slightly different to the other fifteen, however, as ARD's control was limited by the Allies' over-riding power to control everything, including the media, in that city. Until 1987, SFB had no real competition - RIAS, the American station (seen as the real "enemy", and an instrument of capitalist propaganda in East Germany), existed - this was not, however, enough to create competition, as it was funded by the Bonn government and America, while SFB was funded by the television and radio licence fees paid by all Germans¹⁴. It was not until 1987, when there was a general freeing up of the media, that real competition was introduced as commercial stations appeared. There are currently around 12 commercial stations, funded entirely by advertising, and it was clear from Mr Schmidt that SFB is feeling the pinch as a result.

¹⁴ This concept of licence fees was foreign to me - Germans pay around DM25 per month for the privilege of receiving television/radio, and I subsequently learned this is also the case in some other European countries.

On the issue of free media, Schmidt indicated that radio had not always enjoyed the freedoms it now has, even in the western half of the country. The occupying powers had established a "Public Legal Structure", and radio was controlled by the "Rundfunkrat", made up of politicians, church members, trade union representatives etc. This was supposed to ensure independence, though in fact the ruling party in each state was responsible for appointing the chief editor or station head, and would ensure that his political views accorded with their own (the second-in-command was then often appointed by the opposition). As a result, the Bavarian channel tended to be conservative, while Hamburg was more liberal (the Catholic/Protestant divide was a strong factor in this, as in many other aspects of German society). Over the years, however, this political emphasis has changed, particularly given the coalition structure in place today. As Schmidt pointed out, his own political views had not been assessed when he applied for his current job a year ago, and it seemed the times of political influence were gone.

(b) THE LEGAL PROFESSION

Summary

My meetings in connection with Germany's legal profession included:

- attendance at a speech by the Senator for Justice on the subject of the transition by east German lawyers to the western system;
- meetings with various law firms;
- a visit to a large German company, and discussions with members of its legal department;
- a meeting with the legal counsel of *der Tagesspiegel* (mentioned above); and
- an interview with a former east German law professor, still lecturing at the Humboldt University.

Concert at the Philharmonie followed by a Reception hosted by Senatorin Für Justiz, Frau Dr Lore Maria Peschel-Gutzeit, 24 October 1996.

The Senator for Justice, in her speech, discussed the position of lawyers under the former DDR system, and what mechanism was in place for their transition to the unified legal system.

When West Germany's Department of Justice became, overnight on 3 October 1990, responsible for the eastern half of the legal profession, Jutta Limbach (then senator for justice and now president of the BVG) insisted that all judges

and lawyers of the east provisionally retired. However, the Unification Treaty then actually provided for the recognition of all DDR lawyers' practising certificates. The small number of former DDR citizens who continue to practice now must be considered in the light of the number of lawyers actually practising in the east. In Berlin, the ratio of eastern lawyers to western was 100 to 3000. Nevertheless, not all former DDR lawyers have been able to continue their profession. A law passed in 1992 provided that their licences could be revoked in serious cases (such as where the lawyer had betrayed client confidentiality under the DDR regime), and the outcome of some proceedings are still awaited. Dr Peschel-Gutzeit suggested that revocation is rare, perhaps rarer than, in her view, was desirable. She queried whether lawyers who, while skilled, were tainted as to their honesty and trustworthiness, should continue to have their qualification recognised - were they fit and proper members of the profession. The special circumstances make clear-cut answers an impossibility. And again, the issue is a controversial one, as the interests of those wishing to escape the past, and those seeking retribution, conflict.

Upon unification, Western courts in Berlin took over the work of eastern boroughs for an interim period (more than doubling their workload, especially given the complex issues which arose out of unification). Eastern prisons run by the Stasi and eastern police were closed, and all except 300 prisoners were granted amnesty and released.

Meetings with lawyers/law firms

I met with people from a number of German law firms (with offices in Berlin, Frankfurt and Cologne), as well as one English firm (Osborne Clarke) operating in Frankfurt. One of the interesting differences between the German and Australian commercial firms is their size. Only recently have mergers been permitted in Germany (there are still strict limitations on the region in which German lawyers may practice), and accordingly there are no firms of the magnitude of the Australian large firms. At a time when Australian firms are facing the merging of accountancy and legal practices, and globalisation is causing firms to consider international associations, it was strange to find the German firms so localised. Nevertheless a trend toward merging seems to be developing¹⁵.

Visit to BASF in Ludwigshafen, 9:00 am until evening, 18 February, 1997

BASF had been a Melbourne client of mine, and I was able to arrange a visit through Daniela Steinberger, of the legal department in Ludwigshafen.

I spent a day at BASF's headquarters and main production site in Ludwigshafen. From 9:00am until 12:30pm, I joined a tour of the works which

¹⁵ Both Oppenhoff & Rädler and Hasche Eschenlohr Peltzer Riesenkampff & Fischotter, who I visited in Frankfurt, had undergone mergers (as is perhaps obvious by the lengthy name of the latter firm!).

was being run for another group. The works are absolutely enormous (7 square kilometres). We were told this reflects BASF's policy that all aspects of its business are conducted on the one "campus", rather than having to transport raw materials/ products/waste etc from one location to another.

It was interesting to visit a German company with significant investment in the Asia-Pacific, including Australia. We were informed that 11% of BASF's business is currently located in the Asia Pacific region, and this is expected to double in the next 15 years. The colours/textiles produced by BASF are finding their chief market in Asia, not Germany and BASF is therefore looking into a bigger presence in Asia¹⁶. As this puts 2,000 to 3,000 German jobs at risk, it is naturally a big topic of discussion. Indeed, "globalisation" was a theme throughout the day. Germany is no longer such an attractive location given the location of the largest markets, the cost of labour in Germany, and the fact that development technology is now spread all over the world. In addition, German taxes can be substantially higher than in some other countries.

There has been a shift in emphasis from diversification to concentration; this shift in policy seems common to a number of organisations at present, and explains the sale of BASF's magnetics business, and in Holland, the sale of Unilever's chemical division.

After the tour I met with Dr Daniela Steinberger (who has since relocated to BASF's Singapore headquarters) as well as with other BASF corporate counsel.

Meeting with Professor Rosemarie Will, former DDR citizen and lecturer at Humboldt University, 6 March 1997

Professor Will was a fascinating person to talk to, not only because of her experiences as an east German lawyer, but also because she had "survived" the transition to a western system, having worked both as an assistant at the Constitutional Court (BVG) and now as a university academic. She shared with me both her personal experiences as a lawyer in the DDR and post-reunification, and her views on reunification as a whole.

One issue we discussed was women's rights, and, particularly, the subject of abortion. I indicated to Professor Will that I had been surprised to hear that abortion laws had been much less restrictive in the DDR than in the BRD. Professor Will replied that this situation had not arisen because of the authorities' concern for women's rights, but was on more rational medical grounds. Also, the workers' movement, strong in the DDR, was a traditionally pro-abortionist movement. The accommodating abortion law was also probably a reaction against the strict rules prevailing during the second World War and towards the end of the first World War.

¹⁶ I am not aware how the current economic climate in Asia has affected this.

Regardless of motive, Professor Will was of the strong view that women's rights had been much stronger in the DDR, and this had been lost upon unification. In the DDR there had been a strong social welfare system, providing support so that women could combine work and motherhood. Professor Will argued that emancipation is strongly linked with employment. In the DDR, over 90% of women were employed, and their experience and qualifications were comparable with men (although she admitted that this did not always translate into equality into the hierarchy of work positions, which was more a political question). In the BRD, only 60% to 70% of women were employed at the same time. Following unification, many previously employed east German women found themselves without a job¹⁷.

We also discussed the transition by the east to the law of western Germany. Professor Will was involved in the committee which assessed how best to deal with the transition period with regard to DDR lawyers. She elaborated on the matters raised in Dr Peschel-Gutzeit's speech (see above).

(c) GERMAN HISTORY AND CONSTITUTIONAL ISSUES

Lecture by Timothy Garten Ash, November 1996

This lecture, given at the Akademie des Wissenschaften, focused on the process of Germany coming to terms with its communist past. Was it necessary to "cleanse" administrative offices of the government, to ensure citizens "tainted" by the previous regime did not occupy positions of authority? Should personal files kept on the citizens be open to the public? Garten Ash identified four ways of dealing with the past:

¹⁷ John Flüh, a lawyer I became acquainted with, made the interesting comment that while the general perception is that the East Berliners are those who are suffering the most from unification, as they have lost their job security and many have lost their jobs, there is still a higher figure of unemployment in West Berlin than there is in East Berlin. Two-thirds of the recipients of social security benefits are in fact West Berliners. Whether this is a reflection purely on wealth (or lack of it) in the West, or whether Westerners are more likely to take advantage of the system, cannot be stated with certainty. It probably depends who you ask.

Dirk and Bena, two friends who had grown up in East Germany, and moved to Berlin some years before the fall of the Wall, confirmed that they, as with most families with children, had been better off before unification. The childcare and family support had disappeared. They also felt there was no longer the same feeling of togetherness which had existed under the East German regime. Work had previously been a real source of social life. Nevertheless, they recognise the benefit of the freedoms which had come with unification. The irony, however, is that now that they have the freedoms available to them, they cannot afford to take advantage of them. Dirk noted that it was even harder for the older generation to become accustomed to the change.

1. Legal means - holding people responsible for their actions, and rehabilitating them where necessary.
2. Administrative disqualification - examining all those in administrative positions, and "cleansing" the system of any unsuitable persons.
3. Explanations and examinations in a public forum - for example, a parliamentary commission to discover the truth, providing a stage for the victims, and providing some sort of "group therapy".
4. Opening the files of the Stasi to academics, individuals and the press.

Garten Ash suggested that Germany was dealing with its past, using all four of these paths, more efficiently than any other communist land, except perhaps the Czech Republic. Many have compared Germany's approach to its current situation with the approach it took following the second world war. However, the basis of Garten Ash's talk was that, rather than comparing Germany's current approach with its post-war approach, it is more meaningful to compare Germany's situation with that of other previously communist countries in recent times.

Lecture given by Premier of Brandenburg, Dr Manfred Stolpe, 29 November 1996

Berlin is surrounded by the Bundesland Brandenburg. The many common problems and goals of the two States led to the plan that they should unite. However, the necessary agreement of the people was not obtained, probably mainly because of the fears of the citizens of Brandenburg that they would be dominated by Berlin. Dr Stolpe discussed where the two States should go from here, including the extent to which they could enjoy a "common future". The discussion was interesting from a comparative point of view with Australia: the inefficiencies of a federal system balanced against the benefits of decentralised government.

After the talk, I spoke to Dr Stolpe and arranged a meeting with his assistant, Mr Michael Gaedicke (see below).

Visit to Stasi Archives, 4 December 1996 (including discussion of the statute regulating access to the Stasi files)

This tour was arranged through a gentleman who had given a seminar on the Stasi at the IBA conference. He is one of the senior people in the Government department dealing with issues relating to the former East German secret service, such as access of citizens to the files which were kept about them.

While a small museum of Stasi memorabilia is open to the public, access is much more restricted to the warren of rooms and passages housing the actual Stasi files relating to the Berlin precinct. My impressions of the tour are contained at Annexure B.

Meeting with Michael Gaedicke, Referent Staatskanzlei Brandenburg, Buro des Minister Präsident of the Staatskanzlei Brandenburg, 6 December 1996

Following my attendance at the lecture given by the Minister President of Brandenburg, Dr Manfred Stolpe, I visited Mr Gaedicke, of the Minister President's office, to discuss German's federal system and the relationship between Bund (Federal government) and Land (State).

Lecture given by Professor Haase, President of Berlin Parliament, 14 December 1996

Professor Haase spoke of Berlin as a melting pot, and a forum for lively debate. He described the city as a place of political talent, and the only town where people live and have a close relationship with both east and west. While a "double city" still exists, this, he suggested, will go in time, although only with the will of the people. Professor Haase spoke of globalisation of the world's markets, and the importance of east Europe to Berlin, and to Germany generally. He emphasised the importance of acceptance of Poland into the European Union as soon as possible, thus making Berlin the occupant of Europe's central point.

Professor Haase acknowledged that this time of society change and transition will not be easy. He spoke of an urgent need to inject fresh life into the city and its trade, but noted that the city currently has a financial hole of DM12,000,000. On the positive side, however, he commented that the change occurring in Germany and Europe is a chance to start afresh, and to see every new challenge as a new opportunity.

Meeting and lunch with Dr Jurgen Kühling, Judge of the Bundesverfassungsgericht (equivalent of the High Court), together with his assistants (also judges) , 20 January 1997

I spent a day at the BVG, particularly with Dr Kühling, one of the judges, and his assistants. We discussed the German legal system, the operation of the Constitutional Court, the training of lawyers, and some recent constitutional decisions.

The BVG, despite its lovely location ensconced in Parkland, just metres from the picturesque palace, is an amazingly unpretentious building given its significant role in Germany's legal system. The building, dating from the late 50s or early 60s, is more like a modern school building than a court, being a flat-roofed, three storey structure with an orderly layout and floor-to-ceiling glass windows. Indeed, the see-through architectural design was to signify the openness of the court for the people, allowing people to see in - justice should not be a secretive thing. So unassuming is the building, or so discreet, that a hunt for a postcard of it was to no avail.

Dr Kühling was equally approachable - dignified, certainly, but with a fatherly air and a pleasant smile. One need only cast one's eye over the piles of folders

to see that he was a busy man, yet he remained noticeably "menschlich" (human, in a personable sense) despite the stress. Any apprehension I had about meeting the equivalent of a High Court judge dissolved instantly upon his first greeting.

Dr Kühling kindly answered my numerous questions regarding the Constitutional Court and Constitutional law, before taking me and his two assistants and articled clerk (or Referendat, the German equivalent) out to lunch. After lunch, one of his assistants, also a judge, gave me an extensive tour of the Court building and answered further questions. Dr Kühling provided me with copies of cases and various other information, which, due to volume, I will not discuss here.

Meeting with Katarina Harms, currently completing a doctorate on aspects of the German constitution and reunification, 5 March 1997

Ms Harms is currently completing a doctorate in law. Her thesis concerns itself with "Umbruch" situations, that is, periods of transition of law. In particular, her thesis concerns itself with three such periods in Germany:

1. Post-World War II
2. "Europization" (ie the interaction between Germany and the European Union)
3. Unification of Germany.

Ms Harms is assessing the way the German Constitution (or creation of it) has dealt with each of these situations. Article 143, for example, was crucial in the process of unification. Under article 143(3), citizens receive no compensation for dispossession of property which occurred between the years of 1945 to 1949. Article 143(2) and 143(1) specifically allow laws to temporarily contravene the Constitution. This provision was necessary to ease the process of unification. For example, different laws reigned in the DDR and BRD regarding abortion. While abortion was freely permitted in the DDR, it was only permitted in specific circumstances in the BRD. Relying on section 143 of the Constitution, the government decided it could not take away the DDR freedom from one day to the next, and so allowed the permissive abortion law to continue for a period after unification, even though this was contrary to the Constitution of the BRD. Thus, there was a period of "Übergangszeit".

Article 143 is limited by article 79(3), which concerns basic human rights and values, and the fundamental principles contained in article 20 (democracy, rule of law etc).

(d) GERMAN-AUSTRALIAN RELATIONS**Meeting with Consul General, Margaret Adamson, 11 November 1996**

I arranged a meeting with Margaret Adamson shortly after my arrival in Germany. Although Ms Adamson herself was soon to return to Australia, there is quite a network of Australians in Berlin, and Germany as a whole, and it was well worth getting into that loop. We had a discussion of general and trade relationships between Australia and Germany, and opportunities for Australia. Ms Adamson gave me contacts at the Australia Centre and the Bonn Embassy, and also provided me with a number of materials relating to Australia's role in Germany and in the European Union as a whole. Planning had already begun for the Asia Pacific Fair (held in Dresden in 1997).

Through Consulate connections, I also discovered the Australian "Stammtisch" - a group of Australian, from a variety of occupational background, who have for various reasons made Berlin their home, and who, on a monthly basis, meet at the "Outback" pub in "Schöneberg, Berlin.

Farewell reception for Margaret Adamson, 3 December 1996

Margaret Adamson returned to Australia permanently on 19.12.96. Her farewell function at Woolloomooloo, a novel and popular Australian restaurant in Berlin, was attended by many, including a number of Australian and German dignitaries. It was here that I met Thomas Schmidt (see media discussion, above), Ruth Bader (of the Australia Centre in Potsdam), and Jurgen Werner (lawyer who works in office dealing with selling off of former east German land/enterprises).

Meeting with Mr Wolfgang Niedermark, Managing Director, Australien-Neu Seeland Verein (that is, Australian-New Zealand Association), 8 January 1997

Mr Niedermark explained to me that the ANV is an independent, non-profit organisation which advises German companies/private persons who wish to invest in Australia. The association covers Australia, New Zealand and the South Pacific, although Australia is its main interest. Perhaps because it is not linked with government, the ANV is less affected by political considerations, and has its primary focus on benefits, in trade and investment, for its members. An example of this is its recent move into Burma. This has been somewhat controversial, but Mr Niedermark justifies it on the grounds that business is there to be done, and that, in his view, the entry by the ANV into Burma will not have negative effects.

The ANV holds seminars of interest to its members, and also organises conferences, such as the 1997 Dresden conference.

I asked Mr Niedermark what aspects of Australia made it marketable, and what problems he needed to overcome in marketing Australia. He indicated that

Australia's positives are that it is a developed society in Asia, and that there is relatively easy access for investors (that is, the FIRB requirements). It also has the advantage that it has an educated populace, most of whom qualify much younger than their counterparts in Germany. A problem, however, is the small size of Australia's market. He noted that one factor encouraging Germany to invest elsewhere is the cost of carrying out certain activities in Germany itself. Germany can no longer afford to simply manufacture goods, transport them to a port, and collect payment. There is now greater competition, for example from Japan, and labour costs in Germany can be prohibitive. Accordingly, Germany has to be prepared to manufacture in the purchasing market itself.

Mr Niedermark provided me a couple of publications concerning Australian-German trade etc, including a list of businesses operating in both countries.

Meeting and lunch with Mr Elmar Wider, General Manager, European Office, State of Victoria, 9 January 1997

Elmar Wider is the General Manager of the European outpost of the Victorian government. His role is to encourage and assist investment by Germans in Victoria, and also assist Victorian exporters to enter German/European markets. Elmar had been in his office for two years at the time of my visit. However, the office has existed since the 1960s, and has been supported by both labour and liberal governments. It operates in three principal areas:

1. German/European investment in Australia.
2. Australian exports to Europe.
3. Looking after delegations, consulting work, etc.

Elmar explained that, under Kennett, the emphasis has been on the first of these three areas, as a long term goal. Investment can be subdivided into two categories: direct investment in Australia, and investment in Australia as a means of a springboard into Asia.

Elmar, like Mr Niedermark, indicated that Australia's size as a market was sometimes a problem in selling the country. Also, selling Australia as a springboard to Asia is not as easy as some might think, as some studies show that the problems encountered by German exporters to Asia are no greater than the problems encountered by Australian exporters.

One means of selling Australia, and particularly Victoria, is the use of a "magic triangle". This identifies a triangle on the map of Australia which stretches from Adelaide across, and from Sydney down to Tasmania, showing Melbourne as the centre of that triangle. Thirteen million live in that triangle of Australia.

In Elmar's opinion, the two biggest problems in selling Australia are distance and culture. He suggested distance and communication (in a physical sense)

are problems which can be easily overcome, but cultural problems are much more difficult. In Elmar's view this is where Australia should invest its efforts. It should offer value-added service to those basing themselves in Australia. At the moment, it is sometimes hard to convince firms of the merit of Australia as a springboard, especially those firms which are not already in Australia. The "Mittelstand" companies query the value of coming to a small market like Australia, simply to jump from there into Asia. To them, it seems easier to simply go direct. For this reason, we need to offer something extra. One advantage to firms using Australia as a springboard is that it is easier to employ Malaysian-speaking, or other Asian-speaking employees. But in Elmar's view this was a small advantage in the scheme of things.

I asked Elmar whether in his view, the benefits of Australia as a developed "Western" country will be matched by Asian countries in a few years. Elmar responded that this would take at least 20 years, that it is not just a matter of considering growth rate, but also net growth of country as a whole.

The opening up of eastern Europe has also had the effect that the attention of companies which had in Australia in their sights has now shifted to eastern Europe.

There are also problems with selling Australia as a destination for research and development ("R&D"). At least in respect of product R&D, the important thing is to be close to the market - this makes it easier to test and implement research, and also means the entity is closer to feedback. For this reason, Australia is not an appropriate base for many companies for their R&D. It is very hard to move R&D away from head office. Nevertheless, there are exceptions, and Elmar indicated Bosch as an example of this. They had already developed car alarm systems to certain extent in Melbourne. Stuttgart started its own investigation, but when it realised how far ahead its Melbourne branch was, it made Melbourne the centre for R&D in that specific area. Melbourne is now recognised as a centre of excellence. In pure R&D, the situation may be different to product R&D. In this case, it will depend on the field in which the R&D is to be carried out. For example, individual chemical experiments can be carried out regardless of location.

As ways of enhancing Victoria's business activity, Elmar indicated it was important to publicise Melbourne's name as much as possible. He was, for example, in favour of the recent name change from Flinders Park to Melbourne Park. Similarly, he noted that at the Grand Prix, there was a sign read "Melbourne" over the start and finish line. This sort of simple and free advertising can have great consequences, as name recognition is very important.¹⁸

¹⁸ I should note my personal preference for the name "Flinders Park" - it seems to me that most foreigners would soon realise the Australian Open was located in Melbourne not Sydney, if only through the absence of the Opera House and Harbour Bridge. And it would seem a shame if

Elmar gave me some points of contact at the Embassy in Bonn, and also introduced me to Peter Dreher, an Australian lawyer working¹⁹ for a UK firm in Frankfurt, with whom I had lunch the following day²⁰.

As a post-script, since returning to Australia I have seen Elmar again. He was recently in Victoria for 2 weeks on a business trip, so we caught up at a Chamber of Industry & Commerce function, and then again for brunch.

(e) OTHER

Lecture and Panel Discussion on the topic of euthanasia (entitled "Has Suffering a Purpose?"), 15 January 1997

I attended a debate at Urania²¹ on the topic of euthanasia, which was interesting given the Northern Territory's experience and the sometimes heated debate which has occurred recently in Australia.

Debating the issue were a psychologist from Freie Universität, a theologian from Humboldt University, and the President of the Arztekammer (equivalent of the AMA in Australia). The debate addressed two central questions - when does a person have the right to take their own life, and when does someone have the right to help them to do this.

The discussion centred less on legal issues (in Germany, euthanasia is unambiguously illegal) and more on moral issues.

Lecture given by Dr Ingrid Schneider "Foetuses - the New Medical Raw Material?", 4 March 1997

This public lecture at Urania coincided fortuitously with the announcement of successful cloning of sheep in Scotland, and the uproar which accompanied that announcement. At a time when throughout the western world, ethical questions were being posed as to the extent that man's increasing scientific knowledge should be used (or exploited), Dr Schneider was raising issues of similar complexity: should we be permitted to use foetuses (healthy or unhealthy) as a source of raw material to cure the living? Rather than seeing

Albert Park were to be renamed "Melbourne Park II", so that the location of the Grand Prix was instantly ascertainable.

- 19 Peter has now returned to Australia and is an AGA member.
- 20 Peter Dreher was heading up the German wing of Australian Business In Europe (ABIE), essentially a networking organisation for Australians. He provided me with information about the organisation, and when I was later in London, I managed to attend a couple of ABIE functions.
- 21 Urania is a wonderful institution which shows films and holds lectures for attendance by the general public.

humans as a source of physical labour, this question centred on the use of the *substance* of humans. By implantation of genes from foetuses, new steps in medical treatment may be just around the corner. Should it be permitted, as our scientific knowledge grows, to use material harvested from aborted foetuses, to cure Alzheimers, diabetes, Parkinson's disease, and other sicknesses? According to Dr Schneider, the international trade in embryos and foetuses has already begun - it may only be a matter of time until we import these new medical raw materials out of eastern and Asian lands like we import coffee, bananas and blood. But the consequences of accepting foetuses as a raw material would be more far-reaching than that - would every female who planned to abort a pregnancy be confronted by request for donation of the aborted foetus? Whose rights should override where there were two patients: the pregnant mother and the intended recipient of the parts from the foetus. Might the pregnant female's needs (eg the best time and method to abort the pregnancy) soon be placed second to the interests of obtaining the best scientific ingredients, whatever time and method might produce those? Further, the foetus, in order to be of use as a source of "human parts", would need to be available for immediate use - there would be no time for the mother to farewell the aborted child, and to use that process as an outlet of grief, a process recognised as a crucial part of the healing process for many who have lost their child through miscarriage or abortion. Dr Schneider saw the prospect as an attack on the female body. Clearly, it was females who would be exploited through development of this practice, and in a world still dominated by male leaders, this vulnerability of women was concerning. What might theoretically be a matter of choice could easily lose that element of decision by the female due to the pressures of society. On the other hand, it was foreseeable that some would seek to conceive purely in order to harvest the resulting foetus - whether for money or for love of another. Similar questions have arisen in the context of surrogate motherhood, and will continue to be hotly debated.

Dr Schneider used examples from various countries to illustrate her arguments. Interestingly, she mentioned a situation which arose in Australia (from memory, I think it was a South Australian case) where parents (who had previously stored some embryos) died in a plane crash - what should be done with those embryos - were they property, capable of being inherited by others? Were they themselves persons with rights, offspring of the parents and entitled to some sort of inheritance themselves? In Germany, this question would not have arisen, as it is forbidden at this stage to freeze fertilised eggs.

the immigration level and the integration level. (Similar arguments, of course, apply in relation to non-uniformity of the laws of Australia's states - the difficulty is in achieving an efficient and consistent system across the region, while still retaining autonomy of the states).

Other speakers were Professor Dr James Watson, from Harvard University, who addressed various political and psychological aspects of immigration and Barbara John, Commissioner of Foreigners' Affairs of the Berlin Senat, who dealt with the specific practical problems of immigration facing Germany, and Berlin in particular, since the fall of the Wall. In addition we heard from a representative from Siemens AG, a Berlin architect involved in developing social housing projects, and the Commissioner of the Office of Foreigner's Affairs of the German Protestant Church, Mr Klaus Pritzkeleit.

"Lifting the Lid on Oppression - The Stasi Files"

Dr Klaus-Dietmar Henke, Head of the Research Department at the Office of the Commissioner for the Files of the State Security Systems of the Former DDR gave a fascinating talk as to Germany's way of dealing with the information accumulated over the years of secret service activity by the now defunct State Security Service (Stasi). The German Government now holds files on 6 million people, prepared by the 91,000 members of the Stasi with the assistance of 173,000 "Inoffizielle Mitarbeiter" (unofficial assistants). The shelves holding those files, if placed one after the other, stretch for 178km. Dr Henke commented that this volume of paper is about the equivalent of all records generated in German history since the middle ages. Dealing with the files is a political and emotional issue. There are those who wish to forget the past and concentrate on coping with the new life in a democratic united Germany, while there are others who feel they have a right to understand their past, to know which of their friends had informed upon them, and to seek redress where possible.

Dr Henke's speech was followed by Dr Benda, who performs a similar function for the Czech government. However, Dr Benda's organisation has not been allocated nearly so much funding. Accordingly, the Czech office does not fulfil an archiving function nor is there any role to rehabilitate citizens. While the German office can only make recommendations regarding persons dealt with in the files, the Czech office is a part of the Czech police, and is able to make the decisions itself. The Czech office has 90 employees compared to the German 3,000, while they are dealing with approximately the same volume of material.

"Freedom of Genomic Expression: What are the Limits and What are the Rules?"

This session involved discussing a draft Human Genome Treaty, redrafting certain provisions, and analysing some of the practical legal implications. The

work of this session was quite widely reported²², and it was exciting to be involved in such a project. The treaty deals with the use which may be made of genetic information, and the extent of proprietary rights in the information itself and in discoveries made from that information. The final treaty will now be presented to appropriate international organisations for further development, and as an initial measure has been forwarded to the IBA for consideration.

Seminar: *"On-line and off-colour - use of the criminal law to censor the Internet"*

Nothing provides more evidence of "globalisation" than the Internet. The very concept behind it, that it should not be owned or controllable by any one individual or body, is also the cause of many legal problems, including copyright and control of content. Whether, and if so how, individual states have the power to prevent transmission of certain material on the Internet, is a widely discussed issue. The United States has its Communication Decency Act, recently challenged as contrary to civil rights. In Germany, a provider of Internet services is currently being sued for providing access to pornography.

The first speaker at the seminar, an Australian, discussed the rules and guidelines which should be put in place by individual companies with respect to their employees' use of computer technology. Later speakers addressed the effect of the use of criminal law to prevent certain matters being published on the Internet, and the extent to which such controls infringe human rights such as free speech.

"Current Issues in International Coal Trade and Contracts"

This seminar was of interest both because of my involvement in resources law, and because of the not infrequently discussed potential for Australian-German coal trade. The seminar discussed the world's increasing demand for energy, and the ability of coal production to meet this demand. With this in mind, central terms in contracts for the sale of coal were discussed. The panel consisted of Dr Alex Toohey, Chief Executive Officer of the World Coal Institute, England, Dr Wolfgang Ritschel, Executive Vice-President, Ruhrkohle Handel GmbH, Germany and Peter Lauffer of the Gesamtverband des deutschen Steinkohlenbergbaus, Germany.

22 An example is included in Annexure D.

E. GOETHE INSTITUT

Generally

The Goethe Institut could not be better located to ensure students feel the changes which are taking place in Berlin following unification. The Institut is approximately 100 metres from the site of Checkpoint Charlie, through which all foreign visitors to East Berlin had to pass. Opposite the Institut is the Haus Am Checkpoint Charlie, a museum which chronicles the history of the wall, and the attempts to scale or bypass it. (This museum is an outstanding monument to the ingenuity and fighting spirit of human beings). Friedrichstrasse itself, where the Institut is housed, is the location of the new centre of Berlin.

The Institut is equipped with extensive reading and video material and computer programmes, as well as receiving daily papers and the main magazines, all of which assist in the learning of German.

Apparently, the Institut relocated to these smaller premises from its former premises in Charlottenburg (in West Berlin) when the number of students fell dramatically following racist incidents in Rostock a few years ago. There was, however, no evidence of this lack of students at the time when I was there. In fact, there were not enough classrooms to house all classes, and as a result, my class relocated to the Akademie des Wissenschaften. Although there were distinct disadvantages in not being at the Institut with the other classes, being at the Akademie was itself an experience. Situated opposite the Gendarmenmarkt, overlooking the magnificent opera house and domed buildings of that square, the Akademie is indeed a relic of DDR times. Its empty echoing corridors and plain interior contrasted markedly with the modernity of facilities at the Institut itself.

The students at the Institut came from all over the world, and in my class alone there were representatives of Sweden, India, Switzerland, France, Mexico, Denmark, Lithuania, Russia, Spain, Indonesia, Greece and Australia. As the Indians were the only others who spoke English as a native language, this was an ideal situation for me, and I scarcely used my English for the duration of the course. In this circumstance, I was lucky, as the proportion of English and American students is usually much higher.

Course Content and Examination

On my first day at the Institut, I completed a test which indicated a proposed placement in Mittelstufe III. I was a little disappointed, as I had previously sat the exam for this level in Melbourne. Although I had had little chance to practice my German since that time, and it had no doubt deteriorated, it was my goal to achieve a higher level of German than one I had previously attained. On this basis, I requested placement in the Oberstufe, the class above, being the highest level offered by the Institut. As well as challenging my

language skills, I knew this level would offer greater exposure to German literature, current affairs and other topics of general discussion, rather than concentrating on grammatical exercises.

Although I expected the class to be difficult, it was a rude shock to discover I was towards the bottom of the class. Added to this was the discovery that the examination at the end of the course was, as part of the Fellowship, pre-paid, with, of course, satisfactory completion expected! Motivation was easy to maintain, however. Study, when done in context so that everything learned could immediately be put to use, is stimulating and rewarding. By the end of the course, good teaching had given me a sufficiently high level of German to achieve the note of "Gut" in the exam, and I was quietly proud of my achievement.

Other Activities

As well as lessons from 8:30 to 1:00 pm, the Institut organised a "Cultural Programme". This consisted of daily afternoon activities, ranging from museum visits to concerts to walking tours of Berlin. While these were considered an "extra" and participation was entirely according to interest, I tried to take part in as many of these activities as possible. A copy of the programme is attached in Annexure C.

Accommodation

I was fortunate with the accommodation arranged for me by the Goethe Institut. I lived in the suburb of Kreuzberg, which is quite central, and although part of former West Berlin, is physically as close to the centre of former East Berlin. I shared a three bedroom flat with a German woman and her son. After my time with the Goethe Institut was over, I arranged privately with them that I would continue to rent the room for the next couple of months. This gave me a base while I was travelling in Germany.

One of the reasons I liked living in the area where I was is that most of the buildings in my street still had their original facades. Due to the proximity of my flat to Tempelhof airport, the Allies had taken care towards the end of the war not to bomb that area, as they anticipated they would want to use the airport²³. Accordingly, unlike much of Berlin, the charming old buildings remain.

Some general impressions of Berlin form Annexure E.

²³ Indeed, the airport was later crucial to the "Luftbrücke" (literally, "airbridge"), when, in response to the communists' blockade of west Berlin in an attempt to persuade that half of the city into joining the east, Allied pilots flew supplies to the western part of Berlin, with planes arriving as often as every minute to feed the city.

F. SOME FINAL COMMENTS

On a personal level, the Australia Germany Educational Development Fellowship was a fascinating experience, enabling me the freedom to explore areas of interest as well as furthering my German language ability. However, and more importantly, I believe the Fellowship is significant in the wider context both of Australia's relations with Germany, and in our country's own development.

The chief benefits I see for Australia in the Fellowship (and in the closer ties with Germany which it helps to achieve) are the increase in understanding of different cultures, the exchange of universally useful information, and the diversification of Australia's international partners (in trade and otherwise).

Understanding: Through Fellowship holders, a variety of information about Germany is conveyed to other Australians, increasing our understanding of the country, its problems and its achievements. Developing an affinity with any foreign culture is useful, both in enabling smoother interaction with the relevant country as a result of awareness of its culture, and in encouraging open-mindedness generally. In addition, the Fellowship experience encourages examination of Australia's own culture, an examination which may be much more critical after hearing foreigners' views of our nation. One thing which bothered me as I learned more about Germany was the limited knowledge I had of Aboriginal culture, history and beliefs (as opposed to simply the elements of the "native title debate"). While my education had covered Australian history from the time of arrival of the convicts, and Tudor English and twentieth century world history, Aboriginal culture had barely rated a mention. It seems to me that the "reconciliation" which is so sought after is hindered to a large extent by the failure of white Australians to regard Aboriginal culture as part of their country's heritage. If white Australians were to gain an understanding of that culture, I think it is likely this would instil an interest and pride in it which would help dismantle the black/white divide and enable us to consider as one nation how true reconciliation can be achieved.

Exchange: Closer ties with Germany encourage the exchange of knowledge and the benefit of each other's experience in all fields, whether in sciences, art, history or, in my case, law. Globalisation, assisted by advances in technology, has brought the world's countries closer together and facilitated the exchange of information. But a crucial factor in bringing about such exchanges is first knowing of the existence of the information. The Fellowship assists in this so far as Germany is concerned, by enabling first-hand discovery of Germany's "knowledge bank", and through the establishment of personal contacts in particular fields.

Diversification: The current financial crisis in Asia has highlighted the benefits of Australia encouraging trade and other links with a diversity of nations, rather than concentrating on a single region. Certainly, our

ANNEXURE A

Day trip to Leipzig, 21 February 1997

As with any city, there is much to say about Leipzig, however, the one experience in Leipzig which will remain in my memory long after the other details have been forgotten, is my visit to the Nicolaikirche, the church which witnessed such amazing events in the autumn of 1989.

To understand what happened in Leipzig, it is necessary to go back to the early eighties, when the so-called "peace decades" began - every November, for 10 days, people would gather together for prayers, praying for peace as the build-up of arms continued in East Germany as in the rest of the world. The peace decades then evolved into weekly Monday meetings, serving as a forum for all sorts of issues, from environmental to human rights concerns. It was not surprising, perhaps, that these meetings soon became a forum for discussion of society within East Germany; a place to compare experiences and to form visions for the future. Attendance at the meetings grew, and the voice of the people became louder - by May 1989, the authorities, concerned at a weakening of their control, established road checks at the points of access to the church, and made efforts to stop the meetings, or at least to move them elsewhere. Despite numerous arrests, and the threat of authority, however, the flow of the people to the church continued unabated.

On 7 October 1989, the 40th anniversary of the DDR, hundreds were the victims of police violence, many of them taken away and detained. Two days later, on 9 October 1989, around 1000 SED party members were ordered to attend the church. And so, on that day, the prayer meeting took place as before, but this time accompanied by, and in spite of, visible threat. Amazingly, calm reigned throughout the session, which ended with the bishop's blessing and a call for non-violence. And as the attendees exited the church, which had been filled to capacity of 2000, they were faced with the sight of thousands of citizens in the square before them, holding candles and praying for peace. Soldiers and police were also present, and later withdrew without outbreak of violence. It was an awe-inspiring display of the power of peaceful demonstration. A brochure at the church quoted a member of the Central Committee of the DDR, Sindermann, as saying "We had planned everything. We were prepared for everything. But not for candles and prayers".

To sit in the Nicolaikirche even now is a moving experience, imagining the events of the autumn of 1989 and the role that peaceful protest played in challenging the SED regime. It is also a lesson of broader application. We should never underestimate the power of the ordinary person to change the course of history, and more specifically, never underestimate our own power to help achieve what we believe in.

ANNEXURE B

VISIT TO STASI ARCHIVES

Eight years after the "Mauerfall" and more than seven years since the reunification of Germany, it is difficult to imagine life as it used to be in the former DDR. Few would deny that Germany still has some way to go to achieve unification in spirit not just in name. But while clues to the old DDR system are scattered throughout the country and in Berlin, the Germany we think of today is the capitalist country so heavily involved in the European Union.

A trip to the Gauck Behörde is a step back in time. The Gauck Behörde, the office responsible for archiving and enabling access to the secret service files of the DDR, is named after its chief, Joachim Gauck. The office's full title is much longer and more bureaucratic sounding, and it would serve no useful purpose to set it out here. It is housed in the same premises in Normanenstrasse which were used by the Stasi itself, and while some paint work and modifications have brightened the building a little, it remains an undisguisable product of DDR times. Grey concrete buildings frown unwelcomingly on the few people who pass between them. A number of windows are covered by shutters, and those which can be seen are that tinted apricot-orange colour which the mind immediately associates with the Palast der Republik, the DDR parliament building. Although the Normanenstrasse car park is full, these days with a mixture of European, Japanese and American cars, there is little noise outside. One imagines an army of workers labouring secretly behind the shuttered windows. Different warning signs and on the bordered up sheds give an inhospitable air to the place: Flammable - No Fire. Don't Touch. Warning - Electricity. Do Not Enter. And, in the economy of words allowed by the German language, another sign cautions "Widerrechtlich Parkende Fahrzeuge Werden Kostenpflichtig Abgeschleppt" ("Against-The-Law-Parking-Vehicles-Will be cost-obliged-shipped-away"). Beside the message, the German eagle flexes its muscles haughtily.

Suddenly a guffaw of laughter from one of the higher floors breaks the eerie stillness, and reminds the visitor that this is no longer a secret service organism. The woman at the security desk is dressed in a smart but anonymous grey outfit. The gold sparkling cravat which she wears states clearly, however, her personal freedom. She greets a group of us, and our tour commences.

Tours of the Gauck Behörde must be specifically arranged, and security officers lock and unlock doors at every turn. Each level looks like the level just left. The rooms, however, each reveal different secrets.

The first room that a visitor usually visits is the Kupferkessel; so called because of the copper (Kupfer) which lines the entire room. This was to prevent electronic rays containing top secret information from being detected and

interpreted by unauthorised persons. The copper is not, however, the most eye catching feature of this room. Rather, it is the 5,800 hessian sacks which are stacked in a semi-orderly, and nevertheless somehow chaotic, manner. When the West first obtained access to the room, there was enough paper to fill 17,000 sacks. Each sack contains thousands of scraps of paper - torn up Stasi files, which the Mitarbeiter (Stasi assistants) attempted to destroy in the last days of DDR might. Some of the scraps were so small or damaged (or shredded) that they were considered useless and destroyed. The sacks that remain, however, represent a task of an unimaginable size: it is estimated that it takes one person three months to piece together the contents of a sack. So far, 50 sack fulls have been reconstructed. This work has been passed off to Nürnberg, where foreign refugees at the Bundesamt Für Ausländische Flüchtlinge are put to the task.

The sight of the rows of sacks is amazing. The task of piecing the papers together seems futile, yet the contents of the sacks have had an enormous impact on people's lives, and have the potential to do so in the future.

The concept of the files is, at least, understandable. The "Geruchskonserben", samples of which remain on display, are a different matter. Each jar is carefully labelled, and contains a yellow piece of material. This material was collected by the Stasi from the seat in which the subject was interrogated. Based on the idea that each person has an individual smell, the material was collected and stored so that a sniffer dog could, if required, find the person at a later date by seeking the smell found on the cloth. Scientifically possible perhaps. But an imaginable procedure in modern day Germany?

The smell process described above was known as "Großdifferenzieren". The tracker dogs were Großdifferenzierungshunde, and their trainers/controllers were named "Großdifferenzierungshundführer". No surprise, then, that one of the early problems faced by the Gauck Behörde was interpreting the unique "Stasi language" and the abbreviations used in the files. A dictionary has since been produced.

The next room visited, one level up and reached by passing through prison-like passages brightened only by the kindergarten-yellow doors, is known as the Arbeitsmagazin. The first impression is the smell - the old paper smell of libraries. Again, an orderly disorder reigns - this time complete files are stored, and carefully numbered and coded. The varying sizes and colours, however, create a feeling of disarray. Rows of metal shelves groan under the weight of books, papers and video tapes. In front of the shelves stand bags of unwound sound recording tape. A few brown paper bundles contain loose paper files which were being worked upon at the time the Stasi lost control. "Brown paper packages tied up with string" is an ironically accurate description - the sombre grey room could hardly be further from the fresh air of Austrian mountains. This is the room in which the Mitarbeiter worked on the files. A small room is annexed, with glass windows forming the wall between the two. From inside the annexe, Stasi officers could watch over the Mitarbeiter.

The supervision annexe has been turned into a small museum of Stasi memorabilia. A collection of ancient looking bottles contains "invisible ink". A stack of drawers opens to reveal stamps of dozens of countries, used by the Stasi to falsify documents. A telephone, chunky and with a dial mechanism not push buttons, seems to come from another century, rather than being an instrument which was used 10 years ago. Also on display are a number of "Ehregeschenke" - gifts such as cheap-looking statues of good communists, flags and trophies, given as rewards to favoured workers.

The files themselves are deceptively plain and faded. It is difficult to believe, from their uninteresting covers, that they contain information that governed the life of so many citizens of the former DDR. The files are colour coded into two types: orange for the "IMs" (Inoffizielle Mitarbeiter, or "unofficial co-workers") and blue for the victims. Those concerning the Mitarbeiter are divided into three parts: information concerning the Mitarbeiter him or herself, information reported by the Mitarbeiter, and remuneration (money or possessions) given to the Mitarbeiter in return for services. Each volume is hundreds of pages. The cover is labelled with the "Deckname" (cover name) of the Mitarbeiter, the registration number of the file (and year opened), and the archive number given to the file when closed.

Adjoining the Arbeitsmagazin is the "Zentrale Kartei". This room contains the key to finding one's way around the files, and is simply a card catalogue. Overall, 6,000,000 persons were observed by the Stasi. Each person was identified on a card, which was stored on the Kartei. Up until 1960, the cards were colour coded. Green, for example, indicated the subject lived in the East but worked in the West (there are very few of these cards), while red indicated a criminal or law breaker of some sort. Mitarbeiter were identified according to cover name, on blue cards. After 1960, yellow cards were used for all subjects, and listed essential personal data, Bezirk (region) and registration number. The names are spelled using the phonetic alphabet. Meyer, Meier and Mayer are therefore all listed under the same spelling. It was suggested this was because some information was reported by telephone, making an issue such as spelling difficult. Forenames, too, are categorised in common groups. For example, Peter, Pedre and Pierre might all be listed under "Peter".

The Kartei is the first port of call when a citizen applies to see his file. It must first be ascertained if such a file exists. Even if no card is found in the Kartei, there are a few other avenues to be searched. But if a card is located, and a matching file is identified, the citizen will be informed within eight weeks. The wait to inspect the file, however, may be in the order of a year. Of the applications so far received from private citizens (1 million), two-thirds have been dealt with. Ninety per cent of the 2 million applications are those persons wishing to investigate employees etc have also been disposed of. With such a daunting number of applications, the annual budget of the Gauck Behörde of 250 million DM is understandable. The Normanenstrasse location is just one of many archives across the DDR. It is, however, the central office and the largest. The personal files of the victims are stored in 23 Magazinräume (file rooms) of various sizes. The last room we visit is one of these. While

windows now look out towards newly built concrete flats, they were previously kept shuttered, the files beyond view of any outsider. The atmosphere is oppressive.

The way back to the entrance passes through to a continuous maze of grey passages and yellow doors. Finally, fresh air. But inside, history lives on. Whether this should be the case is another question.

Documentary film and discussion: "The Case of Walter Linse - Reconstruction of a Murder by the State", 12 January 1997

It seems relevant to mention here a film I saw screened at Urania. The case of Walter Linse was one of the 600 violent abductions from West to East Berlin which "operative groups" of the Stasi carried out in the 1950s. Walter Linse was executed in Moscow on 15 December 1953. However, only recently could the unambiguous files relating to his case be taken out from the archives of the Stasi and the KGB. The film included statements by witnesses and a reconstruction of the crime. It was followed by a discussion of the crimes committed by the DDR State, with somewhere between 100 and 200 attendees of the session.

6.

ANNEXURE C

Goethe Institut Cultural Programme

November / Dezember 1996

- Mittwoch 13.45 Uhr Teilnehmerkarten für 5,- DM in Raum 204
Treffpunkt: vor dem Institut
- Donnerstag 18.00 Uhr **Begrüßungsparty**
Das Goethe-Institut lädt Sie herzlich zu einem Umtrunk ein!
Ort: Foyer 2. Etage
- Freitag 14.00 Uhr **Brücke-Museum**
Führung durch die *Sonderausstellung zum malerischen Werk von Max Fuchsstein*
Führung: Barbara Hofmann
Treffpunkt: vor dem Institut
- 14.45 Uhr **Treffpunkt Sport: Volleyball**
Begleitung: Marei Lochmann
Treffpunkt: vor der Mediothek
Jeden Freitag um diese Zeit !!!
- Samstag 11.00 Uhr **Führung durch Berlin-Mitte**
Ein Spaziergang durch das historische Stadtzentrum
Führung: Martin Schönfeld/Matthias Rau
Treffpunkt: vor dem Institut
- Samstag 14.00 Uhr **Neue Nationalgalerie**
Die Kunst des Deutschen Expressionismus
Führung: Barbara Hofmann
Treffpunkt: vor dem Institut
- 20.00 Uhr **Konzert im Konzerthaus**
J. Haydn *Sinfonie Nr. 95*, B. Bartók *Klavierkonzert Nr. 3*, G. Fucini *Suite für Orchester Nr. 3, Rumänische Rhapsodie Nr. 1* (Dir.: I. Foster)
Karten zu 11,- DM im Kulturbüro
- Montag 14.00 Uhr **Berlin-Frenzlauber Berg**
Ein klassisches Berliner Arbeiterviertel mit kultureller Vielfalt
Führung: Matthias Rau
Treffpunkt: vor dem Institut
- 20.00 Uhr **Theatergruppe - für alle Stufen !!!**
mit Aufje von Scharpen
Treffpunkt: vor Raum 204
Jeden Montag um diese Zeit !!!



Dienstag 14.00 Uhr **Theater in Berlin gestern und heute**
Eine Einführung in das aktuelle Kulturleben der Stadt
Referent: Hans Schroeder
Ort: Goethe-Institut Raum 201

Mittwoch 14.00 Uhr **Pergamonmuseum**
Führung: Barbara Hofmann
Treffpunkt: vor dem Institut



15.45 Uhr **Treffpunkt Sport: Freies Fußballspiel**
Treffpunkt: vor der Mediothek
Jeden Mittwoch um diese Zeit !!!

20.00 Uhr **Stammtisch**
Essen, trinken, deutsch reden im Café „Ex“ im Meringhof, Gneisenaustr. 2.a (Linie U6/7 Mehringdamm)
Jeden Mittwoch um diese Zeit!!!

Donnerstag 18.00 Uhr **Die Berliner Mauer**
Ein Vortrag über die Geschichte der geteilten und wiedervereinigten Stadt
von Karsten Bammel
Ort: Goethe-Institut Raum 201

Freitag 14.00 Uhr **Theater-Einführung: „Der Hauptmann von Köpenick“**
von Carl Zuckmayer
Referent: Birgit Oehlshöfner
Ort: Goethe-Institut, Raum 201

20.00 Uhr **Theaterbesuch: „Der Hauptmann von Köpenick“**
von Carl Zuckmayer
im Maxim Gorki-Theater
(Linie U2 Hausvogteiplatz, S-Bahn Friedrichstr./Hackescher Markt; Bus Linie 100/157/348; Tram Linie 1/13)
Karten zu 15,- DM im Kulturbüro

Samstag 12.00 Uhr **Ausflug nach Potsdam**
Besuch des Schlosses Sanssouci
Treffpunkt: vor dem Institut
Kosten: 5,- DM, Teilnehmerliste im Kulturbüro

20.00 Uhr **Theaterbesuch: „Die Lokomotiven der Geschichte - 7 Jahre Mauerfall“**
mit Kurzproduktionen von Jürgen Gosch, Katharina Thalbach, Leander Hausmann, Thomas Langhoff
in der Volksbühne am Rosa-Luxemburg-Platz
(Linie U2: Rosa-Luxemburg-Platz)
Karten im Kulturbüro



Taschen kalk. - 29 30 270 u: Transpiplatz (u9) sp 200

Sonntag 15.00 Uhr **Gemeinsames Schwimmgeläch**
im „Bad am Sprucewaldplatz“;
Kosten: 3 Stunden 8,- DM
Treffpunkt: vor dem Institut

Montag 14.00 Uhr **Spaziergang entlang des ehemaligen Mauerstreifens**
Führung: Karsten Bammel
Treffpunkt: vor dem Institut

Dienstag 14.00 Uhr **Literatur in Berlin 1750-1933**
Vollmer, Lessing, Kleist, E.T.A. Hoffmann, Fontane und die Expressionisten
Führung: Chris Rauser
Treffpunkt: vor dem Institut

Mittwoch 14.00 Uhr **Erlebnis NATUR in der Großstadt**
Besuch des Naturkundemuseums:
Sehenswürdigkeiten der Stadt für Naturfreunde und eine Einführung in die Geschichte der Berliner Naturwissenschaften
Führung: Hans Schroeder
Treffpunkt: vor dem Institut

Donnerstag 17.00 Uhr **Druckerei der „Berliner Morgenpost“**
Besichtigung des Druckhauses Axel Springer
mit Führung
Treffpunkt: vor dem Institut

Freitag 14.00 Uhr **Puppentheatermuseum**
Führung durch die Ausstellung
des Berliner Puppentheater-Museums
Treffpunkt: vor dem Institut

Sonntag 20.00 Uhr **Konzert in der Philharmonie**
W. A. Mozart: *Klavierkonzert Nr. 15 B-Dur KV 450*,
A. Bruckner: *Symphonic Nr. 2 c-moll* (Dir. D. Harzenboim)
Karten zu 15,- DM im Kulturbüro (Linie U2: Potsdamer Platz)

Samstag 18.00 Uhr **Einführung in das Theaterstück: Frida Kahlo**
Modernes Tanztheater von Johann Kresnik (Choreograph)
in der Volksbühne am Rosa-Luxemburg-Platz (Linie U2)
Treffpunkt: im Kassenfoyer der Volksbühne II

Sonntag 19.30 Uhr **Modernes Tanztheater: Frida Kahlo**
von Johann Kresnik; Volksbühne am Rosa-Luxemburg-Platz
Karten zu 10,- DM in Raum 204

Sonntag 14.30 Uhr **Haus der Wannseckkonferenz**
Führung durch die Ausstellung:
Vorgeschichte und Folgen der Wannseckkonferenz
Grundinformationen über den Prozeß der Ausgrenzung,
Verfolgung und Ermordung der Juden Europas
Treffpunkt: vor dem Institut



Sonntag 15.30 Uhr **Konzert im Konzerthaus**
J. S. Bach *Hohe Messe in h-moll*
Karten zu 9,- im Kulturbüro (Linie U6: Französische Straße)

Montag 14.00 Uhr **Deutsches Historisches Museum**
Ausstellung: *„Bilder und Zeugnisse der deutschen Geschichte“*
Besuch des Museums mit Führung (Schwerpunkt 20. Jh.)
Treffpunkt: vor dem Institut

Dienstag 14.00 Uhr **Einführung in die Oper: „Die Zauberflöte“**
von W. A. Mozart
mit Steffen Seiferting
Ort: Goethe-Institut Raum 201

Mittwoch 14.00 Uhr **Gemäldegalerie Dahlem**
Seminaristische Führung:
Meisterwerke der europäischen Malerei vom 13. - 18. Jahrhundert
Führung: Barbara Hofmann
Treffpunkt: vor dem Institut

Donnerstag 20.00 Uhr **Konzert in der Philharmonie**
F. Smetana *Ouvertüre „Die verkaufte Braut“*; N. Rola
Konzert für Fagott und Orchester; P. Tschaiakowsky
Symphonic Nr. 1 g-moll
(Linie U2, S1/2/25: Potsdamer Platz)
Karten zu 10,- DM im Kulturbüro

Freitag 14.00 Uhr **Gedenkstätte Deutscher Widerstand**
Ehrenhof und Ausstellung *„Widerstand gegen den Nationalsozialismus“* mit Führung
Treffpunkt: vor dem Institut

Freitag 14.00 Uhr **Schlittschuhlaufen**
im Erika-Heß-Eisstadion Berlin
Treffpunkt: vor dem Institut
Leihgebühr Schlittschuhe: 6,-/7,- DM pro Stunde

Sonntag 19.30 Uhr **Musical „Linie 1“**
DAS Musical über Berlin
im Grips-Theater
Karten zu 15,- DM, - im Kulturbüro (Linie U9 Hansaplatz)

Sonntag 19.00 **Planetarium und Sternwarte**
Präsentation: *Einführung in die Astronomie für interessierte Laien*, dann Besichtigung der Sternwarte
Treffpunkt: vor dem Institut



5455 K-10000
Zehn A-H

Is-yerliche Platte - Karten
4.30

Karne - Fragebogen zu
 nur noch unter Angabe

Mittwoch 4.12. **Das Märkische Museum**
 Berliner Geschichte ab 1237 mit Vorführung
 von Musikautomaten Führung: Hans Schroeder
 Treffpunkt: vor dem Institut

Donnerstag 5.12. **Konzert im Konzerthaus**
 J. Sibelius „En Saga“ op. 9, R. Schumann Cellokonzert
 a-moll op. 129, I. Stravinski „Der Feuervogel“
 Karten zu 10,- DM im Kulturbüro

Freitag 6.12. **Der „Hamburger Bahnhof“**
 Führung durch das neu eingerichtete
 „Museum für Gegenwartskunst“
 Treffpunkt: vor dem Institut

Samstag 7.12. **Konzert in der Philharmonie, Kammermusiksaal****
 L. v. Beethoven Streichquartett B-Dur, F. Schubert
 Streichquartett d-moll „Der Tod und das Mädchen“
 Karten zu 10,- DM im Kulturbüro

Montag 9.12. **Museum für Verkehr und Technik**
 mit Führung
 Treffpunkt: vor dem Institut

Dienstag 10.12. **Filmmuseum Potsdam**
 Deutsche Filmgeschichte vom Anfang des Jahrhunderts
 bis zum Ende der DDR, mit Führung
 Treffpunkt: vor dem Institut

Mittwoch 11.12. **Fräuleins Leben in Berlin**
 Ein Spaziergang durch das alte Berlin
 Führung: Matthias Rau
 Treffpunkt: vor dem Institut

Freitag 13.12. **„Konzert in der Philharmonie“**
 G. F. Händel „Der Messias“
 Karten zu 9,- DM im Kulturbüro

Samstag 14.12. **Gemeinsames Plätzchenbacken**
 zur Vorbereitung der Adventfeier am Freitag
 Treffpunkt: vor dem Institut

Sonntag 15.12. **Abschiedsparty im Café Ex**

Montag 16.12. **Adventsfester**
 zum Abschluß des Kurses
 Ort: Goethe-Institut, Foyer in der 2. Etage

Dienstag 17.12. **„Konzert im Konzerthaus“**
 L. v. Beethoven Ouvertüre „Die Geschöpfe des Prometheus“
 C-Dur, Klavierkonzert Nr. 1 C-Dur, Sinfonie Nr. 1 C-Dur
 Karten zu 11,- DM im Kulturbüro

Mittwoch 4.12. **Das Märkische Museum**
 Berliner Geschichte ab 1237 mit Vorführung
 von Musikautomaten Führung: Hans Schroeder
 Treffpunkt: vor dem Institut

Donnerstag 5.12. **Konzert im Konzerthaus**
 J. Sibelius „En Saga“ op. 9, R. Schumann Cellokonzert
 a-moll op. 129, I. Stravinski „Der Feuervogel“
 Karten zu 10,- DM im Kulturbüro

Freitag 6.12. **Der „Hamburger Bahnhof“**
 Führung durch das neu eingerichtete
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 Treffpunkt: vor dem Institut

Samstag 7.12. **Konzert in der Philharmonie, Kammermusiksaal****
 L. v. Beethoven Streichquartett B-Dur, F. Schubert
 Streichquartett d-moll „Der Tod und das Mädchen“
 Karten zu 10,- DM im Kulturbüro

Montag 9.12. **Museum für Verkehr und Technik**
 mit Führung
 Treffpunkt: vor dem Institut

Dienstag 10.12. **Filmmuseum Potsdam**
 Deutsche Filmgeschichte vom Anfang des Jahrhunderts
 bis zum Ende der DDR, mit Führung
 Treffpunkt: vor dem Institut

Mittwoch 11.12. **Fräuleins Leben in Berlin**
 Ein Spaziergang durch das alte Berlin
 Führung: Matthias Rau
 Treffpunkt: vor dem Institut

Freitag 13.12. **„Konzert in der Philharmonie“**
 G. F. Händel „Der Messias“
 Karten zu 9,- DM im Kulturbüro

Samstag 14.12. **Gemeinsames Plätzchenbacken**
 zur Vorbereitung der Adventfeier am Freitag
 Treffpunkt: vor dem Institut

Sonntag 15.12. **Abschiedsparty im Café Ex**

Montag 16.12. **Adventsfester**
 zum Abschluß des Kurses
 Ort: Goethe-Institut, Foyer in der 2. Etage

Dienstag 17.12. **„Konzert im Konzerthaus“**
 L. v. Beethoven Ouvertüre „Die Geschöpfe des Prometheus“
 C-Dur, Klavierkonzert Nr. 1 C-Dur, Sinfonie Nr. 1 C-Dur
 Karten zu 11,- DM im Kulturbüro

Mittwoch 4.12. **Das Märkische Museum**
 Berliner Geschichte ab 1237 mit Vorführung
 von Musikautomaten Führung: Hans Schroeder
 Treffpunkt: vor dem Institut

Donnerstag 5.12. **Konzert im Konzerthaus**
 J. Sibelius „En Saga“ op. 9, R. Schumann Cellokonzert
 a-moll op. 129, I. Stravinski „Der Feuervogel“
 Karten zu 10,- DM im Kulturbüro

Freitag 6.12. **Der „Hamburger Bahnhof“**
 Führung durch das neu eingerichtete
 „Museum für Gegenwartskunst“
 Treffpunkt: vor dem Institut

Samstag 7.12. **Konzert in der Philharmonie, Kammermusiksaal****
 L. v. Beethoven Streichquartett B-Dur, F. Schubert
 Streichquartett d-moll „Der Tod und das Mädchen“
 Karten zu 10,- DM im Kulturbüro

Montag 9.12. **Museum für Verkehr und Technik**
 mit Führung
 Treffpunkt: vor dem Institut

Dienstag 10.12. **Filmmuseum Potsdam**
 Deutsche Filmgeschichte vom Anfang des Jahrhunderts
 bis zum Ende der DDR, mit Führung
 Treffpunkt: vor dem Institut

Mittwoch 11.12. **Fräuleins Leben in Berlin**
 Ein Spaziergang durch das alte Berlin
 Führung: Matthias Rau
 Treffpunkt: vor dem Institut

Freitag 13.12. **„Konzert in der Philharmonie“**
 G. F. Händel „Der Messias“
 Karten zu 9,- DM im Kulturbüro

Samstag 14.12. **Gemeinsames Plätzchenbacken**
 zur Vorbereitung der Adventfeier am Freitag
 Treffpunkt: vor dem Institut

Sonntag 15.12. **Abschiedsparty im Café Ex**

Montag 16.12. **Adventsfester**
 zum Abschluß des Kurses
 Ort: Goethe-Institut, Foyer in der 2. Etage

Dienstag 17.12. **„Konzert im Konzerthaus“**
 L. v. Beethoven Ouvertüre „Die Geschöpfe des Prometheus“
 C-Dur, Klavierkonzert Nr. 1 C-Dur, Sinfonie Nr. 1 C-Dur
 Karten zu 11,- DM im Kulturbüro

ANNEXURE D

Extract, Financial Times, 22 October 1996

Lawyers draw up ethics code on genetics

By Robert Rice, Legal Correspondent, in Berlin

International lawyers have drawn up guidelines aimed at establishing minimum legal standards for the use of human genetic information.

The medicine and law committee of the International Bar Association has developed an international convention which will be presented to the United Nations next June. The convention, which is unlikely to face significant alteration, will come into force once it has been ratified by five states.

It outlaws discrimination on the basis of genetic characteristics and the use of genetic technology to prevent births within any group of humans genetically predisposed to conditions such as sickle-cell anaemia or Down's syndrome.

IBA lawyers have been working on a draft treaty for almost five years at the request of the Human Genome Organisation (Hugo), a world-wide co-operative of scientists working on unveiling the information attached to human genes. The draft was

Genetics code of ethics

Continued from Page 1

approved yesterday at the IBA's annual conference in Berlin. It will be sent to the 170 bar associations around the world which belong to the IBA with a request that they brief their governments on its importance.

The treaty includes recommended rules for what is appropriate and what should be illegal in dealing with genetics, and sets standards for the use of human genome information in developing new healthcare treatments and therapies.

States which ratify the convention will have to adopt legislation guaranteeing that all human genetic research carried on within their jurisdiction is conducted according to internationally accepted medi-

cal, scientific and bio-ethical standards.

Ms Martine Rothblatt, who chairs the IBA's bio-ethics committee, said: "The Human Genome Project is only about five years old and already there are numerous instances of abuse being reported."

She said human genetic information, such as that used in genetic screening tests, would soon be available in all countries but only the most advanced legal systems, such as those in the European Union and the US, were likely to have national laws offering protection against abuses.

There was great scope for the misuse of genetic information, she added. "The purpose of the treaty is to make sure that all the people in the world have the benefit of legal protection."

Genetic Screening: An Unsettling Battle Is Joined

By Erik Ipsen

International Herald Tribune

LONDON — Five years ago, Jamie Stephenson, a New Hampshire writer and her husband, Jonathan, a dentist, got a nasty shock. Their new health insurer suddenly dropped them after re-examining their file.

"They told us that they would not write health insurance for anyone who has a positive genetic test," said Mrs. Stephenson. Three years earlier, the Stephensons' 2-year-old son, David, had tested positive for "fragile X" syndrome, an inherited form of mental retardation. Never mind that David's three siblings and his parents had no known genetic problems, and that David's condition had no impact on his physical health. Never mind also that a family of six might actually need health insurance.

The Stephensons had been stigmatized as untouchable by a positive genetic test.

Inspired by the case of the Stephensons and others, in 1995, New Hampshire barred employers and health insurers from discriminating on the basis of genetic information. A dozen other American states have now followed suit.

Yet even gene rights activists admit that such moves mark little more than isolated victories in what now looms as a long and fierce war over the control and use of genetic information.

At issue are the individual's rights to genetic privacy, or at the very least the right to prevent others from using the secrets of one's genetic makeup to deny equal access to everything from a job to a mortgage. Insurers around the world are now fiercely contesting that right by increasingly demanding

nothing less than full and open access to genetic information.

Fueling the battle are the almost daily leaps in the understanding of scientists of the roles specific genes play in diseases along and the fact that obtaining genetic information can be as simple as analyzing a strand of human hair or a mouth swab.

After four years of wrangling, a committee of the International Bar Association will examine this legal and ethical morass beginning Monday. After three days of meetings in Berlin's International Congress Center, the lawyers hope to emerge with the bare bones of a draft international treaty setting out minimum legal standards for the use of genetic information. And drafting meaningful legislation has

See GENES, Page 5

GENES: Insurers Want to Use Test Results to Compute Premiums

Continued from Page 1

proven devilishly difficult. "After four years we do not agree on everything," said Martine Rothblatt, the Washington lawyer who chairs the International Bar's Bioethics Subcommittee. "But we agree on a lot more than nothing."

Broad agreement exists that genetic information could enjoy the same legal protections as our sexual orientation or racial identity. In other words, that regardless of what their genes say, individuals should have an equal right to a job, a vote and health care coverage.

But the consensus ends when it comes to the issue of life insurance.

"It is one of the points we do not agree on," said Ms. Rothblatt.

Life insurance executives such as Robert Pakorski, a vice president for medical research at Swiss Re in Connecticut, are adamant that anything less than full access to genetic tests would be "devastating" for the industry.

If, for instance, genetic tests reveal, as they now can, that a perfectly healthy young woman has an 80 percent chance of contracting breast cancer, she now has a right to keep her health insurance in many American states. But what about her life insurance? Can she keep what she has? Can she cushion the financial

blow her premature death would cause her family by taking out a huge life policy and taking advantage of information her insurance company does not have? Or does her insurer have a right to see that information?

Take the example of a 30 year-old male with no known health risks. Mr. Pakorski notes that a \$100,000 life insurance policy would carry a premium of around \$125 a month. If that person knew from genetic tests that he would only live another five to ten years, that policy would represent a tremendous risk to the insurer.

Mr. Pakorski calculates that just to break even on the policy after ten years, the insurer would need to charge an annual premium of \$5,704 a year. The insurer would have to charge three times as much, or \$14,891 a year, if it knew their policy holder would die after five years. It is a danger insurers call "adverse selection" — a process whereby otherwise healthy people load up on life insurance after genetic tests tell them they face shortened lives.

In Europe, where health costs are borne not by private insurers but by national entitlement plans, the debate over genetic discrimination has focused almost exclusively on life insurance.

Unlike Americans, Europeans seem

more willing, for the time being anyway, to strike a compromise.

A prime example of this trend is the Netherlands. In 1990, Dutch life insurers agreed to a moratorium under which they excluded genetic information from their premium calculations for policies up to 200,000 guilders (\$115,000).

That compromise addresses both insurers' fears of being taken to the cleaners by their genetically tested policy holders, and growing government concerns over the adverse effects the discrimination controversy could have on public health.

"Governments fear that unless there is a workable compromise people will be put off from getting tests that could improve their health," said David Shapiro, executive secretary of the Nuffield Council on Bioethics in London.

Individuals found to have a genetic predisposition to heart disease, for instance, could take that early warning, exercise more, eat less fatty foods, and thereby greatly extend their life expectancy. If on the other hand they worried that a bad genetic test result could cost them their life insurance, or possibly even their job, they might just skip the test.

That may be an increasingly rare luxury, however. Some experts forecast that genetic tests will become as common as

tests analyzing cholesterol levels today. Already, donors at many in vitro fertilization clinics are routinely screened not just for human immunodeficiency virus and venereal disease, but for genetic conditions such as those leading to cystic fibrosis.

"It is up to the clinic to tell the donors the results and to offer counseling if necessary," said Barry Mellars, an executive with University Diagnostics, a London-based genetic testing firm that charges £65 for its tests and uses a sample of mouthwash slobbered around a patient's mouth as raw material.

In recent years, insurance companies have balked at asking would-be policy holders to have their genes screened, in large part because of the high cost and limited usefulness of such tests. Cheaper, more accurate tests may cause them to reassess that decision.

Still, said Paul Smee, head of life insurance at the Association of British Insurers, "It is tomorrow's problem not today's." But the speed with which tomorrow is now hurtling toward us all is frightening to many.

"Most disease has a genetic component," said Dr. Neil Holtzman a professor at Johns Hopkins Medical School in Baltimore, and the chairman of a high level U.S. government task force on genetic testing. "The big question is how powerful are those genetic factors."

Excerpt,
International
Herald Tribune
14/20 October 1996

ANNEXURE E

Some impressions of Berlin

Not as beautiful as Prague, not as romantic as Paris, but what it lacks in beauty and romance Berlin makes up for in cultural offerings and atmosphere. Besides, the beauty and romance are definitely there to be discovered by those who seek them out. Right now, Berlin is a particularly exciting place to visit, as it prepares itself for its new role in Germany's future. Since reunification in 1990, Berlin has been Germany's capital, and after intense debate, the decision was made that it should also be the seat of government. The city, and its construction industry, has begun to hum with activity. For Berlin, which proudly claims to be "the biggest building site in Europe", the construction has both practical and more intangible goals. First, buildings need to be erected to accommodate the government and the expected accompanying investors. (Ironically, a number of public buildings lie empty in the east of the city. While some of these have been earmarked for future use, it seems many are simply too run-down or so outmoded that it is easier to simply forget them.) Second, and equally important, Berlin is creating a new centre that is just that - neither East, nor West, but in-between, so each half of the city is forced to look beyond itself and meet the other. In theory at least. The construction at Potsdamerplatz and in Friedrichstrasse are ambitious, and only time will tell their success. Even before the plans have been implemented, cynics abound as to the viability of the revitalisation project. For the visitor, however, a trip to the Infobox at Potsdamerplatz cannot fail to impress. This huge red structure, sitting like a Lego-block above the construction zone, houses extensive information (including film and inter-active demonstrations) regarding the rebuilding process, and also acts as a viewing platform, giving a breathtaking perspective of the size of the project and how it fits into the Berlin landscape. The feeling that "things are happening" in Berlin is inescapable.

ANNEXURE F**BDW LONDON OFFICE****Generally**

My employer, Blake Dawson Waldron, has an office in London, which services both the needs of Australian clients, and advises UK clients on Australian law. The resident partner of BDW London at the time, Justin Shmith, had also attended the IBA Conference in Berlin, and I maintained contact with him while I was in Europe. This led to my employment for three weeks in January in the London office, and then again for six weeks from mid-March to the end of April. My time in Europe was extended commensurate with this employment.

Specific Activities

During my time in the London office, I became involved in a transaction involving German and Australian parties, and liaised with the German firm Oppenhoff & Rädler regarding aspects of German law. I also had contact with lawyers from other German firms with a representative office in London.

During my January visit to London I attended a lunch held by Australian Business in Europe (ABIE), where the speaker was Rosaleen McGovern, Deputy Australian High Commissioner. In March I attended a function at the Australian High Commission which was part of a programme celebrating the relationship between Britain and Australia. On 18 April 1997, I attended a dinner in Oxford, held by the University of Melbourne Alumni (UK) Association, at which Dr Germaine Greer was the speaker.