
OPINION

Regulating heritage *Cultural Cringe v Creative Nation*

Australian cultural heritage is under the microscope. Our first national cultural policy statement, *Creative Nation* has formally given recognition to the importance of the arts in projecting our cultural heritage beyond our shores.

As we rush towards the new century a revived interest in the search for a national identity is once again on the political agenda. Questions of what national identity is and how we represent it through the arts in a multicultural society have become a pre-occupation in some quarters. While these debates continue, other people are arguing vociferously for the protection of our culture. The chairwoman of the Australia Council, Hilary McPhee, was recently quoted in the *Australian* as saying 'there's a risk of not having any Australian culture soon if we don't get the legislation right with the advance of the new technologies'. If we don't keep arguing for Australian content in all its manifestations, in a generation or two we will become an American-like culture. It's then going to be hard to drag it all back.' Law and the arts are certainly on the current agenda.

But in our galloping desire to embrace the new technologies we are faced with numerous complex legal issues which relate to property and ownership, individual and collective rights, notions of originality and morality and the role of the art market as a cultural commodity, to name a few.

In dealing with these issues, the fundamental question to determine is what role should law play in cultural policy? Is the law's greater regulation of the arts simply protecting our cultural heritage, or does it mean social engineering in a new form. Whatever the answer, the questions being posed are fundamental for our development as a society.

In this postmodern world that some of us find ourselves floundering around in, we see a breaking down of some of the artificially constructed boundaries within the academy. The old art/law distinction has recently been questioned in two quite different but very interesting ways. In February this year an exhibition titled 'bur-ran-gur ang (court out) Women and the Law', opened at the University of Western Australia. This exhibition demonstrated both negative and positive aspects of law as they relate to women. The catalogue accompanying the exhibition provided a stimulating collection of essays from a group of women who have shared the richness of their diverse knowledge and interest in the law and arts. As Annette Pedersen, the curator of the exhibition said, 'By combining visual art with written works, we have produced a provocative and vigorous interdisciplinary exhibition which we hope will reach a far wider audience than would normally be expected of an art exhibition'. The other instance is the April edition of this journal which discussed Macquarie Law School's success with David Boyd, as artist in residence as part of the Law School's program. In both instances, art and law were not portrayed as binary opposites but rather similar vehicles of expression working from the same palette but expressing social comment in similar but different hues.

Concern over social justice issues provides the context for the coming together of art and law. Such matters deserve to be brought to the attention of the widest possible audience in every way they can and artists in a variety of fields should be encouraged to speak to these issues in a way which attracts a different audience to that of the law

reformer, and so increases the support for socially progressive policy.

This issue of *Alternative Law Journal* addresses the complex intersection of art and law. Bill Morrow analyses why in the postmodern age originality has been questioned, and suggests there are indications that the cult of originality may have exhausted itself. Ian Collie considers the current state of play with copyright law and assesses the need for moral rights in this area of law. George Couvalis raises the issue of the art market and the role it plays in the desire for private interests to be protected by the legal system, especially in relation to the forgery of art work. Paul Watson draws our attention to the political dimension of the arts/law arena and takes us on a fascinating examination of Tom Roberts' work of the founding fathers, analysing how the very depiction of such an historical event was political in more ways than one. John Mountbatten demonstrates how looking at law through the creative lens of art and literature can provide insights which are both memorable and instructive. Franca Petrone and Nadine Behan not only discuss some of the technicalities of laws which touch on the arts and our cultural heritage but remind us that issues of social justice should not be forgotten.

Some artists and some lawyers have been speaking about these issues for a long time. In this new age of interdisciplinary cross-fertilisation both groups are speaking more often to each other, which is not only an encouraging sign but a development which is long overdue.

Cheryl Simpson

Cheryl Simpson teaches legal studies at The Flinders University of South Australia.