

The Pagination Frustration: Electronic Judgments and Page References

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High Court of Australia Library

Locating pertinent judicial opinions on point is today made far easier with the advent of court decisions in electronic format. We no longer must rely solely on the judgment and discretion of indexers who compile subject indexes and Words and Phrases tables to reported decisions. Instead, if a court's decisions are available electronically, we can search for specific phrases or terms in proximate relationship to each other. Yet herein lies a problem. In pagination terms, *where* in the judgment does the desired phrase actually lie?

In illustration, decisions of the High Court electronically accessible on SCALE and Diskrom's Federal Cases CD-ROM do not provide page numbers to the official report series of the court, nor indeed, of any other published version. To contradict, in part, my previous statement, I have seen the occasional round-bracketed page reference on the Federal Cases CD-ROM, but the infrequency of this citing makes it almost a hindrance rather than a help, given that I can never be consistent or entirely accurate when I explain the use of the ROM to new users. As a further aside, I have been disappointed with the unreliability of the Diskrom Federal Cases disk when electing to search in a particular domain. If I select Federal Court cases only and proceed with the search, my results almost inevitably end up with a few High Court cases thrown in for good measure.

To return to pagination. If a passage of a judgment is located electronically and you need to provide the actual page reference for your client (a desirable service, particularly if you happen to find a quote in the *Banking Case*), you must resort to grabbing a copy of the published report and:

- a) rely on memory or serendipity to find the quote;
- b) find a cited case mentioned in or around the needed quote then look up the Table of Cases Cited in the published report for the page reference; or
- c) read the entire published report until you find the quote.

All of the above are tedious and clumsy and serve to almost negate the speed of the electronic search.

In the United States, the American Bar Association is taking steps to develop a citation convention based more on the "content rather than the ultimately arbitrary geography of paper." By functioning according to content rather than paper dimensions, a citation convention would better accommodate electronic media." [Taken from an Internet copy of the ABA's Draft Resolution of the House of Delegates, sent to all subscribers on the Law-List listserv.] In plain English, the ABA is advocating case citations which are independent of the volume and page references of a particular publisher's report series. We are already familiar with statutory citations which refer to sections of an act and not to the page reference and volume number of the published version of the act. In addition, legislation cites are content specific in that the section cited is directly related to the content of the act and independent of paper limitations as to what page the section starts and finishes on.

The push by the ABA for the development of a content-related, publisher-independent citation convention for cases, is driven principally by the copyright problems which arise when publishers claim ownership in their pagination. See, *West Publishing Co v Mead Data Central* 616 F.Supp 1219; aff'd 799 F.2d 1219; cert. denied 479 US 1070 (1987). We have seen similar problems arise in Australian electronic legal publishing.

The Americans do not yet have an answer to what form the case citation will take, perhaps it is to be controlled by the ruling court. Yet they are on an interesting track and one which, if the "content-related" aspect of the citation were realised, could serve to alter the shape of a judgment. I recall, as a student, how welcome a judgment was when the judge provided headings for particular sections of his judgment, it made locating the pertinent point far simpler.

LEGAL PUBLICATIONS

New and Second-Hand Booksellers

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Publishers of Victorian and Commonwealth
Evidence Acts • Annotations*

New Reference Titles

COMPILED BY **ROY JORDAN**

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This list of recent reference items is a by-product of the compiler's scanning of the National Library's daily intake of incoming material. Titles of ready reference value in the subject areas of law and government documents have been included. General material has been listed when there is substantial law content. "Back of the book" bibliographies are included where these are substantial, i.e. more than 200 items or about ten pages.

To help the reader the list has been divided by country. The titles of publications included are usually self-explanatory. Annotations have been made in some cases where the subject or legal content is not clear.

Prices and ISBNs appear only if they were easily ascertained. Full addresses have been provided for minor publishers.

Australia

Australia Merit Protection and Review Agency *Digest of decisions of disciplinary appeal committees 1985-1992*. Francine V McNiff. Canberra : AGPS, 1993. 250 p. ISBN 0644329424. AGPS catalogue number 9326345.

Computerised Australian case-law the state of the play. Graham Greenleaf (1994) 68 *Australian Law Journal* 70-73.

Computerised Australian legislation the state of the play Part one. Graham Greenleaf (1994) 68 *Australian Law Journal* 231-233.

Immigration Review Tribunal complete index of decisions current to 31.10.93 (1-1600), with observations on the win/lose record of the Department of Immigration Hawker, A C I. : J. G. McMahon, 1993 107 p (looseleaf, with updates to be published in future). Available from the publisher at PO Box 40, Hawker A C I. 2614

Legal profiles : a guide to the expertise of the leading law firms in Australia and New Zealand Andrea Warneke 2nd ed Sydney : Profiles Publishing, 1994 338 p ISBN 0646178997. Available from the publisher at Level 6, 109 Pitt St, Sydney NSW 2000. \$54.

Mabo : a source book. Melbourne : Monash Information Service (MONINFO), 1993. ISSN 1320-8934

Taxindex Volume VIII An author & subject & legislative index to key Australian journal articles and conference papers on tax and tax related subjects, 1993 Roseville, N S W : Enterprise Information Management, 1994 239 p ISBN 1875325085 Available from the publisher at PO Box 471, Roseville, NSW 2069

Great Britain

Index to legal citations and abbreviations. 2nd ed Donald Raistrick London : Bowker-Saur, 1993 497 p ISBN 185739061X

Papua New Guinea

The Law, politics and administration of decentralisation in Papua New Guinea Yash Ghai, A J. Regan Boroko : National Research Institute, 1992. (Monograph ; 30) 515 p. ISBN 9980750324 Available from the publisher at PO Box 5854, Boroko, Papua New Guinea.

Pages 477-495 contain a bibliography on constitutional law and there is also a very detailed index

Sri Lanka

Ethnic conflict and human rights in Sri Lanka an annotated bibliography Volume 2. 1989-1992 Kumar Rupesinghe, Berth Verstappen, Anton S Philip London : Hans Zell, 1993. 298 p ISBN 1873836805.

Chapter 5 *Judiciary*, pages 45-48; chapter 6 *Legislation and human rights*, pages 49-56

Political Reference Service Information Specialists

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