

REFERENCE

Sandra Burger

Column Co-ordinator

Thomsons Barristers & Solicitors

Ph: (08) 236 1357 Fax: (08) 232 1961

Email: sburger@thomsons.com.au

Increasingly often I have to send lawyers to courts provided with electronic printouts of judgments. This occurrence and two interesting emails from the ANZ Law Librarians list prompted me to ask the Australian Institute of Judicial Administration for a resume of what is happening about judgment citation. Anne Wallace kindly submitted the following synopsis. The example of an ABA citation is from Nick Pengelley's email and sourced to ISOC Forum, v2 no 4.

Production of Judgments and Citation Standards

The electronic publication of judgments has sparked moves, both in the United States and more recently in Australia to consider the moves towards medium-neutral structures in judgment production and citation.

Uniform Judgment Publication

The Australian Institute of Judicial Administration (AIJA) published in 1992 a *Guide to Uniform Production of Judgments*, which was designed to assist in the development of uniformity of style and format in the preparation and publication of judgments. In 1994 the AIJA Council approved a proposal that the title structure used in publication be reviewed, to take account of subsequent developments including the production and dissemination of judgments and decisions in electronic form.

The Institute has now received information about the completion and implementation of a study by the New Zealand Law Commission, involving a

classification system and title structure specifically designed for computer database use. That system is now in operation throughout that country, and the AIJA working party is considering the New Zealand approach as one of the options for updating the Guide.

Citation Standards

More recently, with the development of electronic databases of judgments, the AIJA Working Group has expanded its inquiries to consider work on uniform methods of judgment citation.

In the United States, the American Bar Association's Special Committee on Citation Issues has recently released for comment a preliminary draft report* which recommends a citation system for case reports that is equally effective for printed case reports and for case reports published electronically. The AIJA Working Group will be looking closely at the ABA report and its recommendations.

Anne Wallace

Australian Institute of Judicial Administration

An example of the ABA recommended form of citation for a decision in a federal district court is:

1996 SDNY 15, 26, 23 U.S.P.Q.2d 456

In this citation, 1966 is the year of the decision, SDNY refers to the United States District Court for the Southern District of New York, 15 indicates that this is the 15th decision released by the court in the year, 26 is the paragraph number where the material referred to is located, and the remainder is the parallel citation to the volume and page in the printed case report [United States Patent Quarterly] where the decision may be found.

ABA report available at

<http://www.wisbar.org/trab0318.htm>

Publishers' Replies

I read with interest your column *Halsbury -v- The Laws a question of updating* (ALL 4(1) March 1996) We certainly concur in the opinion expressed in the article that *Halsbury's Laws of Australia (Halsbury's)* and *The Laws of Australia* are very different publications and for this reason we believe that direct comparisons between the two can sometimes be misleading. I was also pleased that *Australian Current Law (ACL)* was recognised as a work complementary to *Halsbury's*.

As a legal encyclopaedia *Halsbury's* is, by design, a work of first reference: it gives propositions of law and points users to the primary authority for those propositions. Upon publication we ensure that each title is completely up to date. Following publication, users can ensure that the authority remains up to date by using *ACL*. As you may be aware, *ACL* was re-launched in 1991, coinciding with the commencement of publication of *Halsbury's* and using the same title scheme as *Halsbury's*, with the intention that it act as a quick and easy updater to *Halsbury's*. *Halsbury's* can be updated using *ACL* by following 4 simple steps:

Step 1

- Find the *Halsbury's* paragraph most relevant to you using the Index, Contents or Tables

Step 2

- Check the Statement of Currency at the beginning of the title

Step 3

- Update cases and legislation from the date of the Statement of Currency using *Australian Current Law*

Step 4

- Find recent relevant cases using the Cumulative *Halsbury's* Updating Table in *Australian Current Law*

Applying this method to the example cited in your Reference column, users are directed by *ACL Reporter* to the recent case law on point and alerted by *ACL Legislation* to the fact that the

Dog Control Act 1979 (SA) has been repealed and replaced by the *Dog and Cat Management Act 1995 (SA)*. As noted in the Reference column, we are currently considering methods of forging even closer links between *Halsbury's* and *ACL Legislation* similar to those which currently exist between *Halsbury's* and *ACL Reporter*, streamlining the updating process and reducing even further the number of steps necessary to bring *Halsbury's* up to date between revisions to each title.

The approach to updating taken by *Halsbury's* was decided upon as the method most convenient for users, reducing the cross-referring necessary in order to update information and making filing as simple and as fast as possible. Now that we are two-thirds of the way into the original publication program, the *Halsbury's* editorial department is accorded greater attention to the updating program and as a result we are sure that the advantage in *Halsbury's* method of updating will soon become even more apparent. Our goal is to have each of the 89 titles up to date within 12 months of the date given in the Statement of Currency, so that users will need only to refer to the latest volumes of *ACL* in order to have up to the minute information. This policy is being implemented progressively. Recently *Halsbury's* subscribers have also been receiving copies of *ACL Express*, a fortnightly legal newspaper using the same subject headings as *Halsbury's* and containing clear and concise digests of recent important cases from all Australian jurisdictions before they appear in *ACL*, enabling users to keep up to date with the latest judicial pronouncements.

Thank you once again for the opportunity to reply. We believe strongly in continually striving to improve the quality of our publication and its utility to subscribers, and are therefore grateful for any feedback we receive. If I, or any of the *Halsbury* editorial staff, can help with any further queries, please don't hesitate to contact us.

Dean Corkery

Publishing Manager

Halsbury's Laws of Australia

Questions and Answers

Thanks to Colin Fong of Allen Allen and Hemsley for submitting the questions and answers in this issue.

Q Where can I get a copy of the Federal Government's Banking Policy of 18 June 1993?

A It is contained in a speech by the then Treasurer, John Dawkins, to the Australian Bankers Association, Melbourne.

Q What was the name and date of the last appeal to the Privy Council from an Australian court?

A *Austin v Keele*, 27 July 1987. Source: (1987) 61 ALJ 585

Q I'm after a service which lists all the major company takeover bids.

A *Companies and Securities Bulletin*, published by Corporate Adviser Pty Ltd, Melbourne

Q I'm after the WA judgment in which a party was sued for defamation on the Internet. I keyed in "Internet" on Lawpac's Unreported judgments 1992-1996 and there were no cases in which the word "Internet" appeared.

A *Rindos v Hardwick*, a decision of Ipp J (SCWA) on 31 March 1994. I found it as I keyed in "defamation" and "Internet" on Austrom's AGIS and then went back into Lawpac's CD-ROM and found it. Yet the word "Internet" didn't appear in the judgment, instead the term "computer bulletin board" was used

Q Which Australian judge writes the longest judgments?

A It would be hard to beat Rolfe, J of the NSW Supreme Court.

Q I'm after the decision of *Linden Gardens Trust Ltd v Linesta Sludge Disposals Ltd* prior to the House of Lords decision reported in [1994] 1 AC 85. There is no reference to it in the Law Reports Indexes 1991-95.

A Turning to the judgment itself in [1994] 1 AC 85 at page 86 there is a reference to the decision of the Court of Appeal (1992) 57 BLR 57

Q I'm after the legislation governing the Australian National Line.

A *ANL Act 1956 (Cth)* and the *ANL Guarantee Act 1994 (Cth)*

Q I understand that new regulations have been gazetted under presumably the Civil Aviation Act regulating the use of the new and old runways at Kingsford Smith airport.

A The relevant regulations are the *Air Navigation (Aerodrome Flight Corridors) Regulations (Cth)* SR No 438 of 1994 (Cth).

Q I'm after the Australian legislation prohibiting purchasing real estate in Iraq.

A *Banking (Foreign Exchange) Regulations (Cth)*. Gazetted of GN 14 of 17 April 1991. Reproduced in CCH *Australian Income Tax Legislation* under Other Legislation, v.4 of the looseleaf service and v.3 of the bound volumes

Q What is the maximum number of partners you can have in an Australian law firm?

A 400. Source: Partnership application Order No 1 and No 2, operative from 1 January 1991 and as published in *ASC Digest Ministerial Orders* 2.1 or 10. It also indicates the maximum numbers for a number of other professions

Q I'm trying to find the case involving Alan Bond and Western Australia which involved a secret commission. I keyed in "Bond and Secret Commission" in Lawpac's CD-ROMs for unreported judgments and found nothing.

A I recalled that there was an article on secret commissions in (1993) 8 *Australian Banking Law Bulletin* 41. At page 41 was a reference: "The allegation was that Bond accepted a \$16 million fee from Mr Connel's Rothwells merchant bank without disclosing the success fee arrangement to Mr Brian Coppin". There was no case reference, so keyed on "bond and coppin" in the Unreported CD-ROMs and in Disc 2 1992-1995 I found two references to *Bond v R*. Cross checked this with Casebase and found (1992) 62 A Crim R 383 though this didn't indicate if it was Franklyn J's judgment or the Supreme Court of Western Australia Full Court - Court of Criminal Appeal. It wasn't on Computer Law Services' Hypercite. Who said you don't need librarians to still find things!

Q What is the citation to *International Trade Law and Regulations (Sweet & Maxwell)* which commenced in 1995?

A Int TLR because ITLR sounded too much like a fascist dictator!