

# REFERENCE

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## Case Citators

An experienced barrister recently asked why a particular case (*R v F A R* [1996] 2 Qd R 49) did not appear as having judicially considered an earlier case (*R v Morris, ex parte Attorney General* [1996] 2 Qd R 68) in either the *Australian Case Citator* or *Casebase*. The barrister had appeared in both cases and had reported the later case for the *Queensland Reports*. The catchwords published in the *Queensland Reports* for the later case included the principal case in the list of cases cited. One of the three judges referred to the earlier case when providing an overview of the area of law under consideration. The judge concluded however, that indepth consideration of the earlier decision was not required.

Case citators such as *Australian Case Citator* and *Casebase* are designed primarily to allow a researcher to locate cases which have considered an earlier case. This is useful for two reasons:

- to determine that a known authority is still good law and has not been criticised or overturned; and,
- as a method of locating subsequent cases dealing with the same or similar issues as the first

The effectiveness of this second research method depends largely on the indexing practices used to create citators. Is it enough that a case merely mentions an earlier case for the two cases to be linked in a citator or must there be some element of judicial consideration? And if so, what degree of consideration is required?

I contacted Pink Ribbon Publishing and LBC to determine what amounts to 'judicial consideration' for the purposes of their respective case citators.

Paul Hannah of Pink Ribbon Publishing explained that the indexing methods for *Casebase* vary according to the type of material being indexed. The procedures are as follows:

- **journal articles** – all cases mentioned in the article are included, regardless of the degree of consideration the author has given the cases.
- **reported cases** – all cases included in the report's catchwords are included.<sup>1</sup>
- **unreported cases** – the senior catchworder analyses the cases and determines which are to go into the record. Cases which merely pass through the mind of the judge with little consideration are not included.

This process obviously requires the exercise of judgment and discretion. Leonie Woodcock, senior catchworder for *Casebase* explained that she includes cases as having 'considered' an earlier case if the judge has looked at the earlier case, referred to it in a meaningful way, taking into account the principles established by the case, without necessarily stating what these principles are.

Indexing for the *Australian Case Citator* is slightly different. Rosanna Harris of LBC explained that legally qualified case digesters create the records for the *Australian Legal Monthly Digest* from which the links for the *Citator* are generated. In creating these records the digesters read and analyse the judgments. As a general rule they do not include every citation contained in a judgment. They consider factors such as:

- whether a researcher would benefit from knowing how the case had been used;
- the level of discussion of the case; and,

<sup>1</sup> In relation to *R v F A R*, while the catchwords in the *Queensland Reports* included *R v Morris, ex parte Attorney-General*, the case was first reported in the *Australian Criminal Reports*. The catchwords in this series did not mention *R v Morris, ex parte Attorney-General*. *Casebase* must have indexed the case originally from the *Australian Criminal Reports*.

- whether it is a new principle represented by the case or a well established, almost trite principle for which there are many authorities

The only exception to this rule is for references in judgments to decisions of the High Court. These are all included in the *Australian Case Citator* regardless of the level of consideration or discussion

In the *Guide to the Australian Case Citator*, published at the beginning of the *Australian Case Citator* current binder, LBC summarise their philosophy stating:

*"Only cases which have been usefully considered in the listed cases are noted. This means that the researcher will not waste time by pursuing inconsequential cases."*

#### **Joanna Fear**

Reference and Research Librarian  
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### ***Replacement for ABN***

On 19 January 1998 the National Library of Australia announced that it had awarded the contract for the nation's new bibliographic system to IBM Australia and IBM Global Services Australia. The new system will use the AMICUS integrated library management system which is currently used by the National Library of Canada and has been purchased by the British Library and the National Library of Hungary.

The system, which is yet to be named, is expected to be in operation throughout Australia within a year and will be accessed via the Internet. As with ABN, it will be funded by service charges.

When fully implemented the system will:

- support up to 1000 concurrent users;
- handle up to 15 million authority and bibliographic records;
- provide searching options including the ability to search the entire database or specific subset/catalogue files;
- provide Z39.50 search and retrieve access to and from external database hosts for copy cataloguing;
- provide full screen editing incorporating full Windows text-editing features;

- provide superior duplicate record detection and resolution;
- allow the addition and maintenance of holdings statements using the Web interface; and,
- allow full catalogue records to be created online using the AMICUS cataloguing client or by sending batches of MARC records and holdings by FTP or magnetic media.

Not all existing ABN records will be migrated to the new system. Only records which have holdings and certain categories of records, such as LC records received in the last four years and files of regional interest will be included. The National Library plans to provide gateways to external data sources to supplement the AMICUS database.

AMICUS does not support interlibrary loan management and a separate contract for an interlibrary loan solution is currently being sought.

ABN is phasing out dial up access and encouraging users to access the database through the Internet, using telnet. For further details see: <http://www.nla.gov.au/2/abn/testlink.html>.

Additional information is available from the following web site <http://www.nla.gov.au/nsp>. A Networked Services Project (NSP) discussion list has also been established. You can subscribe by sending email to [listserv@nla.gov.au](mailto:listserv@nla.gov.au) with the message `subscribe nsp-l <first name> <last name>`

### ***Queensland Legislation on the Internet***

On 8 January 1998, Queensland Attorney-General and Minister for Justice Denver Beanland announced that work was progressing well on Queensland Government plans to place legislation on the Internet. A small working group has spent a number of months looking at the logistics of putting legislation on the Net.

Queensland is one of the last States in Australia to make its legislation available on the Internet. As yet no official announcement has been made as to which lead agency will be providing the Web access.

## *Legislative Instruments Bill 1996 (Cth)*

The Legislative Instruments Bill 1996 (Cth) which has attracted much discussion in this journal<sup>2</sup> was laid aside by the House of Representatives on 4 December 1997 after the Senate returned the Bill with amendments unacceptable to the House

<sup>2</sup> Publishers Liaison Column *Australian Law Librarian* 5(3) (Oct 1997) at 233; Griffiths, R "Canberra rules : still talking of a legislative instruments register" *Australian Law Librarian* 3(6) (Dec. 1995) at 218; Griffiths, R "Canberra rules : talking about legislative instruments" *Australian Law Librarian* 3(1) (Feb. 1995) at 18; Griffiths, R "Canberra rules : with a register of legislative instruments" *Australian Law Librarian* 2(4) (Aug 1994) at 220

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