



Electronic legal research & the busy legal practitioner

There can be little doubt that the law is an unforgiving beast: unforgiving at least of the busy legal practitioner. With the introduction of electronic legal research databases in our offices, a staggering amount of information can be accessed from your own desktop. Moreover, as our parliamentary and court systems join the rest of the world in wholeheartedly embracing the World Wide Web, legislation and judgements are available within hours of being handed down. There is little or no excuse for any legal practitioner to be unaware, for instance, of the decision the High Court handed down earlier this morning. Such information is there – but it is up to you to find it! This article provides a basic introduction to several electronic legal research techniques and sources as well as some shortcuts that may be of interest to those who dabble in legal research but want to know more. If you have never attempted to perform electronic legal research, comprehensive help links are available on most of the web sites referred to.

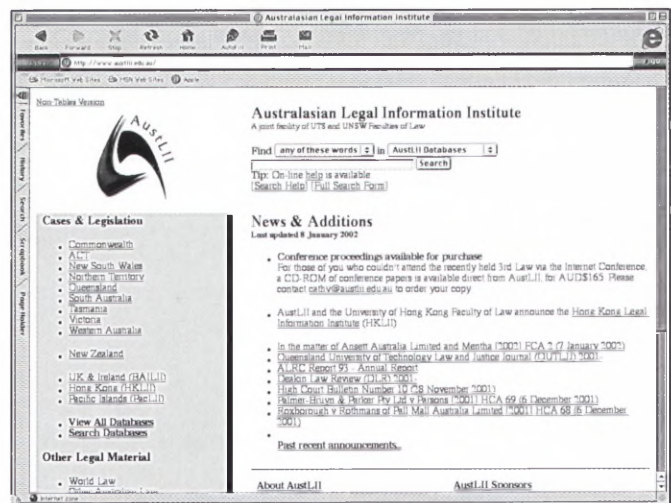
Primary Materials: Cases and Legislation Checking Currency

Electronic research offers a faster and more convenient way to retrieve primary legal materials such as cases and legislation. Most legal practitioners using electronic databases will be familiar with the ease and speed with which the full text of



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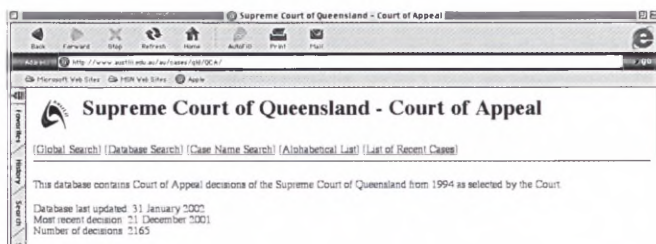
judgments and legislation can be retrieved from www.austlii.edu.au, the Australasian Legal Information Institute, a joint facility of the Faculties of Law of the University of Technology, Sydney, and the University of New South Wales.



AustLII screen shots reproduced with permission.

Not all of the databases available on AustLII are updated with the same frequency. To check the currency of the databases you are searching click on the jurisdiction in which you will be searching. You will find the list of jurisdictions on the left hand side of the homepage. For the sake of comparison, click on **Queensland** to compare the currency of the Queensland databases available to be searched. The next screen will display the contents of the jurisdictional database. If you click on **Supreme Court of Queensland Court of Appeal Decisions** you will see the date that this database was updated quite recently. The author's search revealed the database had been ▶

updated on 31 January 2002. By comparison, if you follow the same process to check the currency of the **Queensland Consolidated Acts**, this database was last updated on 11 April 2001.



How to find a case:

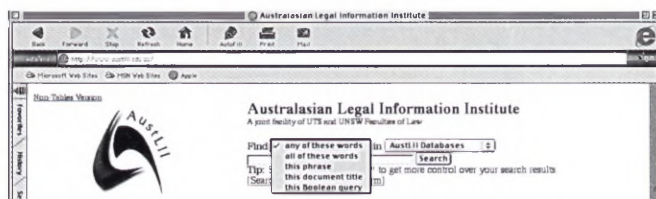
For the novice electronic researcher

The easiest way to find a case on AustLII is via the home page. The home page can be accessed at any time by clicking the AustLII logo at the top left of the page.

Type one or two key words from the case name, preferably the most unusual, into the search box and click on search. If searching for *Palmer-Bruyn & Parker Pty Ltd v Parsons*¹ it would be more effective to search for **Palmer-Bruyn** in the search box than **Parsons**. Leaving the search settings in their default positions, AustLII would search all its databases for the name Palmer-Bruyn. The search results would include each case, statute, or item of secondary material that mentioned the name Palmer-Bruyn. But what can be done if searching for a case with no unusual names such as *Smith v The Queen*?² There are many ways to refine a search to find a case. Three of the simplest are:

- Search for a document title.
- Use a 'Boolean' search phrase.
- Search in a particular database rather than in all databases.

Above the search box on the AustLII home page is a dropdown box that displays the default setting **any of these words**. Click on the arrow and options drop down. If you select **document title** prior to executing the search, AustLII will search for all document titles in all AustLII databases. Another option available in the same dropdown box is **this Boolean query**. Simple Boolean operators include 'and', 'or', and 'not'.



Alternatively, a search can be limited by searching in a particular database. The list of jurisdictions appears on the left hand side of the homepage. So for example to obtain a copy of *Smith v The Queen* where you know it had been decided in the High Court, click on **Commonwealth**, then **High Court of Australia Decisions**. At this point a few options become available:

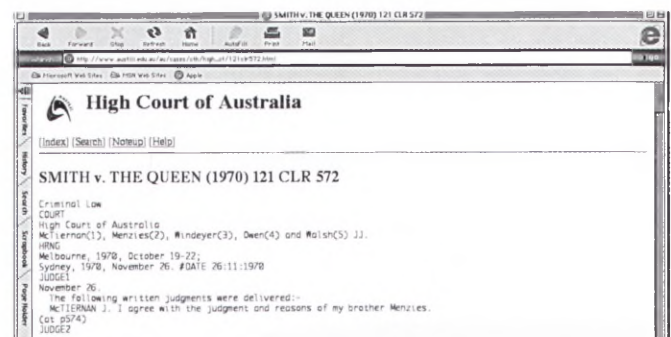


It is worth having a look through each option at least once to see which you prefer to search in. The **Alphabetical List** can be useful when you are not convinced you have the exact case name. Search the databases using the same technique as searching from the home page.

It is worth noting that High Court transcripts can be accessed through AustLII. On the home page click **Commonwealth**, **High Court of Australia Transcripts** appears in the right hand column under the heading **Cth Misc**.

Noteup

One significant feature available when using AustLII is the **Noteup** facility. Once a case or statute appears on screen a number of buttons appear at the top of the screen immediately under the AustLII logo:



There is a PDF option for more recent cases available for download in PDF format.

By clicking on this **Noteup** option, AustLII will search its databases for all references to the particular case or statute on screen. So for example when looking for cases that have subsequently referred to *Garcia v National Australia Bank Limited*,³ follow one of the procedures above to get the decision on screen, click on **Noteup** and wait for the results to appear. The author's search revealed nine results. The first result is the decision itself. The others will be cases or materials that refer to *Garcia*. The **Noteup** facility can also be used on statutory provisions retrieved using AustLII.

The **Noteup** facility can be a good start, but like most electronic research techniques it is rarely comprehensive and should not be used on its own. For example, a recent **Noteup**

of *Perre v Apand*⁴ on AustLII revealed no results. However searching with a citator reveals that this case has received a great deal of subsequent consideration. A search of commercially available databases such as Butterworth's Casebase reveals four pages of recent cases and one page of journal articles all of which have considered *Perre v Apand*.

Unreported judgments

One of the most significant offerings of electronic research is the availability of unreported judgments that are now so much easier to access than previously. Using paper-based research techniques, unreported judgments were an illusive commodity that took considerable time and effort to exhaustively search. While each Australian jurisdiction offers its own website where judgments, including recent unreported judgment can be accessed, one of the most convenient ways to search for unreported judgments is to search using a commercial legal information service. For example, Butterworths Online offers a convenient search facility where you can search through databases for each jurisdiction for unreported judgments.

Butterworths online is a subscription service that can be found at www.butterworthsonline.com. Unreported judgments can be found on this database using a number of strategies. On the libraries page is a heading **Butterworths Libraries**. Towards the bottom of the list of databases appearing under that heading is a link for **Unreported judgments – Australia**. To search through the entire unreported judgment database, click on the box to the left of the link. A tick will appear. Enter your search terms into the search box at the top of the screen and then click on search.

There is an alternative. Rather than tick the box next to the **Unreported Judgments - Australia** link, click directly on the link itself. The unreported judgments page lists each jurisdiction available to search. The links on this page offer two options: search through all the cases for that jurisdiction or only through **new** cases. **New** tends to mean *very recent*.

For example, to obtain a copy of *National Australia Bank v Sanders*,⁵ where you knew it concerned guarantees and had been handed down in the Victorian Supreme Court in June 2001, search as follows:

Step one: From the Libraries page click on the link to **Unreported judgments Australia**.

Step two: Scroll down to Victorian Supreme Court and click on **[Focus Search]**.

Step three: Type 'Sanders' in **[Case name]**, 'Guarantee' in **[Find]**, click on the button appearing next to 'any element' and select **Catchwords**, and enter June 2001 in **[Judgment Date]**. Hit Search.

Step four: The results page will appear. Click on the link to the case that you would like to look at.

"A growing number of legal practitioners are using their own web sites to promote their expertise by placing articles on their homepages."

If unsure which court the case was decided in, the only step that needs to be altered is step two. At step two select **Search all jurisdictions: Focus Search**.

It is also possible to use the unreported judgments database in a more general manner. Finding recent cases on misfeasance in public office could involve the following steps:

Step one: From the Libraries page click on the link to **Unreported judgments Australia**.

Step two: Scroll down to **Search all jurisdictions**. Click on the 'Focus Search' link.

Step three: Type 'public AND misfeasance' in **[Find]**, Click on the button appearing next to **any element** and select **Catchwords**, enter 2001 in **[Judgment Date]**. Hit Search.

Step four: The results page will appear. Click on the link to the case that you would like to look at. ▶

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Secondary Materials (including articles and parliamentary papers)

How to search for articles

There are a number of electronic resources that can be used to access journal articles. These include Australian Legal Monthly Digest, AustLII, AGIS (the Attorney General's Information Service)⁶, Australian Current Law, Casebase, and Lexis. For example, the following journals can be accessed electronically through AustLII:

- Australian Indigenous Law Reporter (from 1996)
- Australian Journal of Human Rights (from 1994)
- Alternative Law Journal (from 2000)
- Deakin Law Review (from 2001)
- Human Rights Defender (from 1994)
- Indigenous Law Bulletin (from 1995)
- Melbourne University Law Review (from 1999)
- Privacy Law and Policy Reporter (from 1994)
- Queensland University of Technology Law and Justice Journal (from 2001)
- University of NSW Law Journal (from 1997)
- University of Technology, Sydney Law Review (from 1999)

To search the journals database on AustLII, scroll down the jurisdictions list on the left side of the homepage and click on **Journals**. Further www.lexis.com, a commercial subscription service offers access to a number of professional legal journals including:

- Australian Bar Review
- Australian Competition and Consumer Law Journal
- Australian Insurance Law Journal
- Australian Journal of Contract Law
- Australian Journal of Corporate Law
- Australian Journal of Family Law
- Australian Journal of Labour Law
- Australian Property Law Journal
- Australian Torts Law Journal
- Australian & New Zealand Journal of Criminology

To search these journals on Lexis take the following steps:

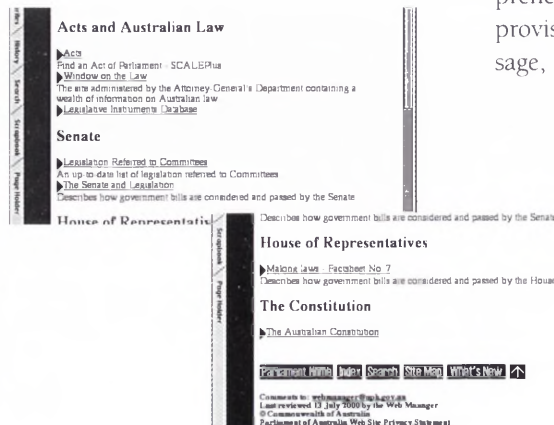
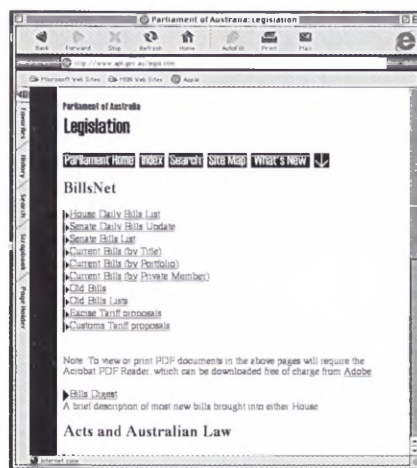
- Step 1:** Log-on and bring up the **Sources** page. Under [Option 2] scroll down to [Legal Excluding US]. Click directly on this link.
- Step 2:** On the page that opens, scroll down to [Option 2]. Note that there are a large number of countries available to search here. Click on the link to [Australia].
- Step 3:** On the page that opens, scroll down to [Option 2]. Note that there are three options here: cases, legislation and journals. Click on the link to [Journals].
- Step 4:** On the page that opens, scroll down to [Option 2] where all the above journals are listed. If you would like to search all the journals at once click on the link to [Australian Law Journals Combined].
- Step 5:** Enter your search terms and hit search.

There are more direct ways to search this particular database, but the above steps will make very clear the options that are available on Lexis. In the author's experience, Lexis searches are more successful using only one or two search terms. Once the results are returned you can use the **Focus** search facility to search within your results.

Parliamentary Databases

Parliamentary databases can be an invaluable source of information when researching legislation. Practitioners who have ever had to conduct a paper-based search through Hansard will be pleasantly surprised by how much faster, convenient, and easier it is to search on-line. The Commonwealth parliamentary website www.aph.gov.au offers **Bills Net** which can be accessed from the home page by clicking on the **Legislation** link. Bills Net offers a number of alternatives. **Current Bills by Title** leads you to much more than just the full text of current bills. Click on the bill that interests you and a table of contents drops down revealing direct links.

The Bills Digest is a remarkable resource. Generally prepared by the parliamentary librarians, the digest is a comprehensive explanation of the salient provisions of the bill, its history of passage, purpose and background.



www.aph.gov.au/legis.htm
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Search Engines

Search engines should not be underestimated as a legal research tool for those interested in looking further a field. A variety of search engines are available to search the World Wide Web at large. Two useful search engines are Google www.google.com and Alta Vista www.altavista.com.

One resource accessible through these search engines is articles written by other legal practitioners. A growing number of legal practitioners are using their own web sites to promote their expertise by placing articles on their homepages. For instance the House of Lord recently handed down its decision in *Royal Bank of Scotland v Etridge*⁷. This case included a consideration of the liability of solicitors who had provided a guarantor with independent legal advice. Within hours, one barrister

involved in the litigation had uploaded a convenient summary of the decision and the points of most interest to the legal profession.

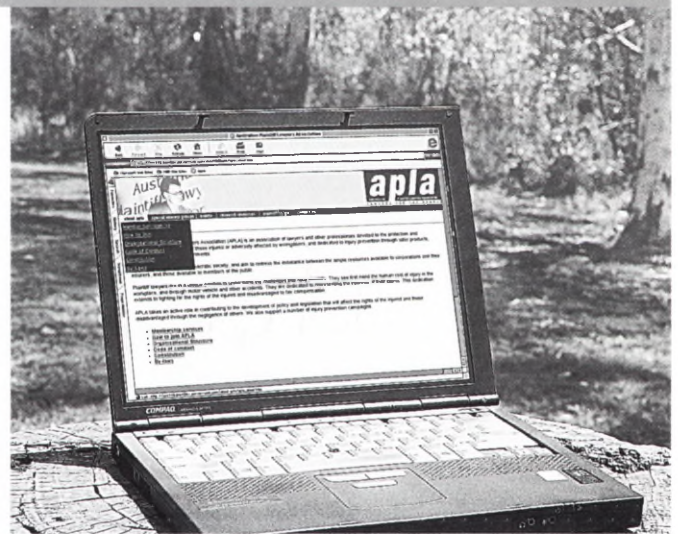
The prolific use of the web by the profession is revealed by a search on www.google.com using the search [hollis and vabu]. This search returned 114 results including articles, case notes, and links to the case published by industry and the profession. For example law firms including Minter Ellison, Corrs Chambers Westgarth, Allens Arthur Robinson, Mallesons Stephen Jacques, Cowley Hearne, Huntleys, and Clayton Utz had each published an article or a case note focusing on *Hollis v Vabu*.⁸

The table below is a guide to the search tools that are used in searching using the two search engines mentioned above.

Search Tool	Google	AltaVista
Has organised categories to search	Yes	Yes
Combines words if you use "+"	There is no need to use +. By default, google searches for all words in search. + has a special significance in google. It is used to signal that you consider important the stop word following the + sign. A stop word is a word that google otherwise would ignore such as 'how', 'where' or single digits or letters.	Yes in main search, but + is ineffective in advanced search. In advanced search you must use Boolean operators.
Will exclude words if you use "-"	Yes	Yes in main search, but - is ineffective in advanced search. In advanced search you must use Boolean operators.
Will search for words in a phrase if you enclose the phrase in quotation marks	Yes	Yes
Allows you to search for specific forms of information or material e.g. graphics, sound, video clips, etc.	No, although it does allow you to search specific sites or domains.	Yes. This option is offered in two different ways. Firstly, before searching, the help menu opens up a search menu that offers a host of search options including video search, MP3/audio search and image search. Secondly, after you search a series of tabs appear on the results display window. This allows you to view your search results that are in fact audio, video or image.
Ranks the results so the most likely hits come first	Yes. Google operates using PageRank™ and states on the results screen that it lists the results in the order of popularity determined by the number of other links from other web sites.	Yes. This is automatic in main search, but not in advanced search (where you need to tick the sort box to rank results).

Search Tool	Google	AltaVista
Helps you refine your original search if you get too many results	Yes. At least 2 options available. 1. Search within results, and 2. Add to search terms (this will refine results).	Yes. Via Looksmart categories.
What is the default connector?	By default, Google searches for all terms without a connector.	There is no default connector. When you enter words without using "+" or enclosing them in "", they are interpreted as separate words and Alta Vista finds all documents that contain any one of the words. Advanced Search presumes words are a phrase unless preceded by a Boolean operator.

"Using paper-based research techniques, unreported judgments were an illusive commodity that took considerable time and effort to exhaustively search."



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Conclusion

For all its speed and convenience, researching electronically requires some basic skills, patience, and perseverance. It is always advisable to search more than one database using a number of different techniques to ensure you have the most comprehensive results. Cases, legislation, articles, and even second reading speeches are almost instantly available to the public and can be obtained straight from the desktop. This certainly saves time in researching, but also places the busy legal practitioner under increasing pressure to stay up to date. **PL**

Footnotes:

- ¹ (unreported, High Court of Australia, 6 December 2001).
- ² (unreported, High Court of Australia, 6 August 2001).
- ³ (1998) 194 CLR 395.
- ⁴ (1999) 198 CLR 180.
- ⁵ (unreported, Supreme Court of Victoria, 25 June 2001).
- ⁶ AGIS 'plus text' is a full text database.
- ⁷ (unreported, 11 October 2001).
- ⁸ (unreported, High Court of Australia, 9 August 2001).