

LEGAL RESEARCH TECHNIQUE[†]

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Christopher Enright and Peter Sidorko have written an exceptionally lucid, comprehensive and useful book on the process of bibliographic legal research in Australia. This is legal research in the sense of finding and ensuring the currency of the law which is relevant to the facts and issues in the problem being addressed by the researcher — a process which many assume to be easy but which is in fact difficult to do well. The authors isolate the two main challenges to effective bibliographic legal research at an early stage¹ — inadequate sources and poor technique — but then proceed to minimise, as far as possible, the difficulties caused by these problems.

The primary audience for this book is the law student preparing for a life in the law, or the articled clerk, or recently graduated solicitor who has the task of ‘finding’ current information about a plethora of legal issues. The feature that sets this manual apart from the many other ‘how-to-do-it’ books on bibliographic legal research available is its inherent structure. This takes the form of a systematic guide involving 12 steps of legal research. The technique, which the authors call the ‘Model for Legal Research’ is outlined in Chapter 2 (and also features on the back-cover of the book) and the subsequent chapters are dedicated to explaining each of the steps in detail. The steps range from the relatively minor details, such as knowing abbreviations (‘either know what they mean already, or know how to find out what they mean’²) and citing the publication, to the most fundamental part of the process, which is Step 9 ‘Finding Information’. In between, there are the two steps (referred to as the ‘gateways’³ by the authors) which are conceptually the hardest part of the research process — knowing the function of research materials (Step 7) and being aware of what approach the materials take (Step 8). There are four major gateways, which overlap and thus are not completely distinct types — by area of law, as a list of terms, as a list in its own right or as a browsing tool.

For an experienced researcher, the book’s structure is wonderful in its thoroughness. Each of the 29 chapters provides detailed information which is essential to an effective and efficient legal research process. The authors give importance to the sort of background information which is so often overlooked, but which characterises the experienced legal researcher and distinguishes him or her from the novice. This information is often overlooked in smaller tomes

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[†] Christopher Enright and Peter Sidorko, *Legal Research Technique*, Braxton Press (2002).

¹ *Ibid* vii.

² *Ibid* 6.

³ *Ibid* 298.

because it is perceived as being basic. It is exemplified in this work by the material that appears at the beginning of Chapter 11, entitled 'Statutes', where the interrelationship between the terms 'Act', 'statute', 'legislation' and 'enactment' is clarified. This is admittedly simple stuff, but something that is often overlooked and therefore eludes the ordinary law student well into his or her legal research endeavour. However, what seems to me to be such a boon may in fact contain the seed of the book's major downfall — the level of detail makes this a very lengthy book. Even when faced with a slimmer volume, most students of legal research rarely read a book on the subject from beginning to end. Instead, students often check the contents pages for the particular task they are undertaking and read just that section. Although this is the reader's shortcoming, rather than the authors', it may nevertheless represent a fatal flaw to the book's success.

In every other respect however, the book deserves to be well received. The language used by the authors is refreshingly straightforward. The sentences are usually short and to the point, so that a novice legal researcher is easily able to follow the ideas presented. The coverage is exhaustive and cognisant — the inherently temporary nature of current information demands that books dedicated to legal research deal with established tools and principles of legal research rather than giving endless webpage addresses or reproducing screen grabs of a research tool which uses a particular version of the software. This means, however, that some wonderful resources are ignored. One small example will suffice — under the heading 'Law for the Conduct of Parliament' (in the chapter 'Other Primary Sources of Law') the authors say:

In Australia the AGPS has published *House of Representatives Practice* and the former Clerk of the Senate, J Odgers, has written a text on Senate practice — *JR Odgers Australian Senate Practice*.⁴

Whilst both these statements are true, it may have been even more useful for the modern legal researcher to know that an electronic version of both is available from the Australian Parliament webpage.⁵ These are deep-linked web addresses of documents held on well established government sites, so any concerns about publishing web addresses which then disappear are not pertinent.

The appendices of the book contain useful information such as common legal abbreviations, as well as abbreviations used for law reports and journals — information which is otherwise not always easily accessible. There is only one reservation — Appendix 5, which purports to list legal websites, is in fact largely a list of databases available from AustLII. The contents of the AustLII website, including databases of case law and legislation, take up over three of

⁴ *Ibid* 204.

⁵ See Ian Harris (ed), *House of Representatives Practice* (4th ed, 2001) Parliament of Australia: House of Representatives <<http://www.aph.gov.au/house/pubs/PRACTICE/Index.htm>> at 10 October 2004; Harry Evans (ed), *Odgers' Australian Senate Practice* (10th ed, 2001) Parliament of Australia: Senate <<http://www.aph.gov.au/Senate/pubs/html/httoc.htm>> at 10 October 2004.

the five pages of this appendix. Although the authors acknowledge that 'providing comprehensive coverage of legal information sites in a publication of this size is not only impossible it is fruitless',⁶ the listing fails to mention the individual sites provided by the various state bodies themselves. These sites, which although varying in their ease of use, are more authoritative and often more up-to-date than AustLII. Furthermore, they make available copies of not just legislation (even authorised legislation in the case of ACT) but also other useful legislative data such as subject indices, legislation updates or even point-in-time legislation. Even for case law, reports are often instantly available from the courts' websites long before the cases appear on AustLII.

Despite these minor reservations, Enright and Sidorko's text is so well expressed and comprehensive that I would have no hesitation in recommending it for legal research classes and will certainly keep a copy on my bookshelf for future reference. Their enthusiasm and thorough knowledge of the subject is apparent, as is their 'apostolic zeal'⁷ for the task in hand — explaining the technique of bibliographic legal research as a series of structured steps which should ensure that it becomes an effective and efficient process.

⁶ Enright and Sidorko, above n †, 410.

⁷ *Ibid* 5.