Case Law Research

Introduction to the Library

The Law Library holds legislation and law reports from most common law jurisdictions. It also has a large collection of legal journals and textbooks. Much of this material, except textbooks, is online.

The Law Library is open from 8.30am-9pm Monday-Thursday, 8.30am-5pm Friday and 1-5pm Saturday-Sunday during semester time. During the semester breaks it is open 9am-5pm Monday to Friday.

The Law Library staff can be contacted on (02) 6125 4013 or at law.library@anu.edu.au. Library staff can assist you with research and general library problems.

IT and Library information

The Using the Law Library subject guide http://libguides.anu.edu.au/lawtour provides access to a range of IT and Library related information, including how to change your ANU password via the ANU Identity Manager and how to forward your email.

The Information Services website http://itservices.anu.edu.au/ provides information about IT resources at the ANU.

Computers - There are 2 computer labs in the Law Library, but you can use any of the 1,500 Information Commons computers on campus.

AskANU consultants, based in the Chifley Library from 9am to 5pm, provide IT assistance on using computers, quotas, computer applications, e-mail, backing up files, password resets and equipment problems. You can phone them on 6125 4321 (you can use the internal phone in Labs 1 and 2).

All students are able to use library services, however only students who have collected their ID card from Student Administration are automatically registered in the library system. Off campus students who cannot collect their card should arrange for their library record to be activated by contacting Student Administration on 6125 3339 or e-mail enrolments@anu.edu.au.

Library website - http://anulib.anu.edu.au
From this page you can find the opening hours, catalogue, databases, e-journals, information about document supply, past exam papers and other user services.

The Library Catalogue contains information about the Library’s print and electronic resources including books, e-books, law reports and journals.
The catalogue can also be searched by author, title and subject. Click on the advanced catalogue search option for more search options, including how to search for all your course reserve materials.

**SuperSearch** – you can search across a wide range of the full text journals and databases that the Library subscribes to, including the ANU catalogue, and then link directly to the full text. However, many essential legal resources are not indexed by SuperSearch so it is best to search for materials in law specific databases. Cases and legislation are not indexed, and many legal journals are excluded. **SuperSearch results are not comprehensive.**

**Full text e-journals** can be found by searching the catalogue or using the A-Z search box on the Library homepage.

**E-resources & databases** can be accessed both on and off campus. When on campus, logging on to a PC authenticates you. From off campus, access is authorised by logging on via the remote login. Click on the link from the library Catalogue, **Remote login for ANU Staff and Students: http://virtual.anu.edu.au/** (which only works when off campus) to be taken to the Reverse Proxy Login page and then enter your student number and password for seamless access to all resources.

**Research classes**

There are two research skills tutorials for Foundations of Australian Law. The first will introduce you to case law research and the second will give you an overview of the best resources for locating secondary material and then focus upon legislation research. In second semester you will have a research skills class on finding journal articles in Lawyers Justice and Ethics.

This class focuses on an Australian torts case, *Halliday v Nevill* (1984) 155 CLR 1 which considers trespass and implied tacit licenses. We will locate the judgment, case histories and related legislation for this judgment. We will also find a well-known English negligence case, *Donoghue v Stevenson* [1932] AC 562, often referred to as the “Snail in a Bottle case,” about manufacturer’s liability.

By the end of this session you will be able to:

- Cite both reported and unreported judgments
- Interpret case citations
- Find Australian cases by name on FirstPoint and CaseBase and then locate the full text of the case in a law report series
- Find UK cases by name on JustCite
- Noteup, or find cases that have judicially considered the original case that you were examining.

**Law Subject Guide**

We will use the Law subject guide as the starting point to access the main case law and legislation databases.
To access Subject guides from the ANU Library Homepage click on Subject and ‘how to’ guides / Law click on Law to access the Law Guide click Study guides page and look at resources, then click AGLC Referencing

Case Citations & Abbreviations

If you have the citation to a case you can decipher the abbreviations and find the text in the relevant reporting series or unreported judgment from the court in which the case was heard. Many of these reports can be found in both print and online.

Reported cases
Citations include the year the case was reported, the volume number of the law report series, the abbreviation of the title of the report series (unlike journal articles, which require the title in full), and the first page of the judgment.

For example:
Harriton v Stephens (2006) 226 CLR 52, indicates that the case is found at page no 52 in volume 226 of the 2006 Commonwealth Law Reports.

Olly v Marlborough Court Ltd [1949] 1 KB 532, indicates that the case is found at page no 532 in volume 1 of the 1949 Kings Bench Law Reports.

Square and round brackets
Square brackets are used when the year is an essential component of the citation and without which it would not be possible to find the case. Square brackets are normally used when there is no volume number or the volume number doesn’t help in locating the judgment, such as when the numbering starts again each year. Round brackets are used when the law report series had consecutive volume numbers and the year adds further information but is not essential for locating the judgment.

Pinpoint Reference
There will be times when you need to refer to a page number within a judgment. This is known as pinpoint referencing. A pinpoint reference should be preceded by a comma and a space, and where the pinpoint reference is to the first page of the report, the page number should be repeated. A series of pinpoint references should be separated by commas:

For example:
**Unreported cases**

Medium neutral citation is used for recent judgments that are available electronically but have not yet been reported. Medium neutral citations were introduced by the courts in the 1990’s so that any decided cases could be referred to using a uniform style, no matter what medium it appears in. The format is always:

Party names [the year of the decision] the Court abbreviation the sequential number of the judgment (the date), with a space left between each section.

For example:

*Lavin v Toppi* [2015] HCA 4 (11 February 2015) is the fourth decision of the High Court of Australia for 2015.

**Pinpoint Reference**

For unreported judgments a numbered paragraph system, rather than pagination, is used due to the difficulty of reproducing pagination in an electronic file. A pinpoint reference to paragraph 20 within the judgment would be expressed as:


**Authorised reports**

If a decision appears in an authorised report series, this is the version that must be cited. There is a list of authorised reports for a range of jurisdictions, including Australia and the UK, in the Cases section of the AGLC Referencing Style guide.

**Multiple Citations – only use one citation**

In today’s class we will look for *Halliday v Nevill*. This judgment has a range of parallel citations listed in both FirstPoint and CaseBase. The following citations are from CaseBase as this database lists citations in the preferred order for citing.

For further information see Multiple Citations – Which one do I use in the Cases section of the AGLC Referencing Style guide.
The correct way to cite this case is using the authorised citation from the Commonwealth Law Reports, the authorised report series for the High Court, *Halliday v Nevill* (1984) 155 CLR 1.

**Finding abbreviations using print sources:**
- *Australian Guide to Legal Citation, 3rd ed* (K114.A97)
- *Index to Legal Citations and Abbreviations* (K112.R34)

| Tip: Copies of these reference books are held on shelves near the loans desk or you can ask the Information Adviser for assistance. |

**Finding abbreviations Online:**
- *Australian Guide to Legal Citation, 3rd ed*
- *CaseBase* on the home page *How Do I? Abbreviation/Subject list*
- *Cardiff Index to Legal Abbreviations*
- *Monash University Library - Legal Abbreviations*

These are some of the most helpful resources for interpreting abbreviations. The online resources can be accessed from the Subject Guides *Citations and Abbreviations* page

**Finding reported cases**
Once you have interpreted the title of a Law Report series, you can search the Library catalogue by title to find the report. Most Australian reports can be found both online and in the Library Primary collection upstairs.

**Finding unreported cases**
These are available online from databases such as AustLII, LexisNexisAU, Westlaw AU.

**Case Citators**

Click the *Cases* Tab on the *Law Subject Guide*

Case citators are important research tools. They not only provide references to where the text of a judgment is reported, but also indicate relationships between cases, helping determine their precedent value. You can find a case by name or by topic using a case citator.

Australian case citators provide the following information:

- a citation for a case (and alternative citations if it has been reported in more than one place)
- a link to the case if available
- details of any subsequent cases that have considered the case
- earlier cases considered by the case
- journal articles about this case
- whether the case has considered any legislation.

The major case citators for Australian cases are FirstPoint via Westlaw AU and CaseBase via LexisNexis AU. FirstPoint provides access to case references, citations, litigation history, and digest information for Australian cases from 1825. CaseBase provides access to case annotations. The database contains mainly Australian cases but some UK and NZ cases are included.

**FirstPoint**

Click **FirstPoint** to access the case citator search template

FirstPoint provides summaries of Australian cases, which enables you to find cases by subject or topic, as well as by case name. We will use the Case Title/Party Name field to locate **Halliday v Nevill (1984) 155 CLR 1**.

Hover the mouse over the name of the field for preferred way of typing names

Type: **Halliday v Nevill**

Click on first result

Click on FirstPoint to access the case citator entry for this case.

![FirstPoint Case Title/Party Name](image)

**Halliday v Nevill**

- Common Title: Halliday v The Queen
- Court: High Court of Australia
- Judges: Gibbs CJ, Mason, Wilson, Brennan J, Deane J
- Judgment Date: 6/12/1984
- Jurisdiction: Australia (Commonwealth)
- Legal Representatives: R Merker QC and D P Parisio, for the appellant; M C Berkeley QC, solicitor-general and P G Nash, for the Crown.

Adjacent to the FirstPoint link are links to Reported Version, Cited Documents and Related Documents. **Reported Version** provides citations to any reported versions of the case. **Cited Documents** provides a list of references.

Hover the mouse over the yellow flag to see that the case has some negative history but has not been reversed or overruled.
cited within this document. Related Documents lists all Thomson Reuters content which cite the current document i.e. citing relationships.

The citations given from within the FirstPoint entry also show the series which have reported this case. The unreported version is listed first followed by the authorised report series.

Click on the pdf link adjacent to (1984) 155 CLR 1 to access the authorised version of this case. As the order of party names are sometimes transposed in FirstPoint, it is important to cite the party names in the order they appear in the Commonwealth Law Reports and cite only the first plaintiff and defendant. This case is between Halliday and Nevill and Another. Only cite the main party names, do not include Another.

Use italics for the names of the parties.

Reading the head note and catchwords at the top of the case will quickly give you an idea about both the facts of the case and the legal aspects.

Close the CLR’s and return to FirstPoint.

The case entry includes:

- **Digest - Case Summary** – click on legal classifications to find related cases. Summarizes the facts of a case and provides a quick way to understand the essential elements of a case.
- **Litigation History** – indicates how this case reached the High Court.
- **Cases Citing** – Shows us the case’s value as a precedent by indicating how it has been treated by subsequent cases. Can ascertain whether the case treatment is generally negative or positive and whether the case is still good law. Citing cases always post-date the considered judgment.
- To understand the meaning of the coloured flags, letters and words such as explained by’ and ‘considered by’ click Help/User Guides/Content Guides/Cases Status Symbols guide.
- The significant cases and legislation deemed most relevant are labelled FirstPoint Verified.
- **Cases Cited** – The cases the judges read when they were considering the judgment. These cases always pre-date the considered judgment.
- **Legislation Considered** in this case.
- **Noted in journals**: If these journals are not available via Westlaw AU you will need to identify the journal abbreviation, by clicking on Help / User Guides/List of Journal Citation Abbreviations, and then enter this title in the Library catalogue.

Legislation judicially considered

We will locate the Victorian Acts considered by this case, the Crimes Act 1958 and the Magistrates’ Court Act 1971 in our legislation class by using LawNow.
CaseBase

CaseBase is part of the LexisNexis database and provides references to case reports and journal articles from all major Australian law reports, unreported judgments from Australian High, Federal and Supreme courts.

CaseBase is updated daily. It provides a guide as to whether a case has been followed, distinguished or overruled by later judgments with coloured signals to flag positive, negative, or cautionary treatment. Journal articles that comment on the case are included.

From the Law Subject Guide / Cases
Select CaseBase under Australian Case Citators

The CaseBase search template allows you to search fields either individually or simultaneously. There are additional useful links on the page including Search tips (under search terms box), Scope/Coverage and Abbreviation/Subject list.

Search by Case Name

We will now find Halliday v Nevill (1984) 155 CLR 1 in CaseBase and compare the two entries. It is worthwhile using both citators as there is often some variation in results.

select Source: CaseBase Cases
in Case/ Article Name box type: halliday and nevill
click on the first result to see the citator entry for the High Court case

Click "Signals Help" to get a quick indication of the value of a case as a precedent. A positive green signal is given to decisions which have been subsequently applied, approved, followed or affirmed.
There are a series of abbreviations under the case name at the top of the page. These show the report series which have reported this case. The **authorised report** is listed first (if available) then alternate report series and unreported judgments with some links to full text.

In FirstPoint we had access to the *Commonwealth Law Reports* because we subscribe to this resource via Westlaw AU. In CaseBase we can read the case in the *Australian Law Reports*, a major, unauthorised reporting series.

You should always cite the authorised version of the report if it exists even if it is not available in full text on this database. For this case you would use the *Commonwealth Law Reports* citation, (1984) 155 CLR 1

For a list of **authorised law reports** click on the Cases page of the AGLC Referencing Style guide. For a list of the most important series of law reports in Australia, and whether they are authorised or unauthorised See Part 6:C A Guide to Law Reports of Courts *in Laying Down the Law* 8th ed, 2012) 557.

The CaseBase entry for *Halliday v Nevill* (1984) 155 CLR 1 includes:

- Cases referring to this case. You can change the **Sort By** default to **Annotation Negative First** to quickly ascertain if there is any negative treatment. There are a large number of cases that have referred to *Halliday v Nevill* (1984) 155 CLR 1
- Journal articles referring to this case. There are more articles cited in CaseBase than FirstPoint. (It is not unusual to find variations between the two case citators due to the scope of the products and/or editorial decisions by the publishers).
- Cases considered by this case
- Legislation considered by this case
- Catchwords and Digest.

To interpret the abbreviations for journals or law report series, click **Help** at the top of the page or select the **Abbreviation/Subject list** link under **Related Links** on the CaseBase home page.

If we subscribe to the journal or law report on LexisNexis there will be a direct link to the full text, if we don’t subscribe you will need to enter the title of the journal or law report in the Library catalogue to access the material.

Note: If the journal requires a password, enter the title in the Full-text e-journals search box on the Library home page to find a link to the password information.

**ICLR Online and JustCite**

*JustCite*, a citator, covers all major cases from the UK and Ireland, as well as EU law and selected cases from common law jurisdictions around the world
ICLR Online includes UK cases from the Law Reports, Weekly Law Reports, Industrial Cases Reports, Business Law Reports and Public and Third Sector Law Reports. We will locate *Donoghue v Stevenson* [1932] AC 562 in JustCite and look at the cases that have judicially considered this case. We will then access the full text in ICLR Online.

From the Law Subject guide / Cases / International and Foreign Cases select JustCite
Click Advanced Search
type *donoghue v stevenson* to retrieve the case citator entry for this case and see the range of cases that have cited this judgment

Note: There are no flags or signals to indicate whether this judgment is still good law, but this database uses colour to indicate whether the treatment is negative, positive or neutral. When you look at the Subsequent cases, the vast majority either apply, follow or cite *Donoghue and Stevenson*. To locate the full text of this judgment:

click on Law Reports under Full Text Links
click on ICLR to access a PDF of this case from The Law Reports (Appeal Cases).

Summary

Today we looked at citations for both reported and unreported judgments, discussed resources that help interpret abbreviations, introduced the concept of case citators and found case citations with links to full-text judgments on Casebase and FirstPoint. We also located an Appeal’s Case on ICLR Online. These resources also enabled us to locate the judicial history of our case and provided references to journal articles and legislation judicially considered. Our next class focuses on finding legislation using ComLaw, LawNow and the state legislation registers.