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## Two Legal Citation Guides

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## Two Legal Citation Guides

### **Abstract**

Australian Guide to Legal Citation by the Melbourne University Law Review Association (1998) and Australian Legal Citation - A Guide by Colin Fong (1998).

This year saw the publication of Australia's first two comprehensive guides to legal citation. As anyone who writes regularly knows, there is an urgent need for such a publication.

## TWO LEGAL CITATION GUIDES

By ROSS BUCKLEY, Associate Professor of Law, Bond University.

*Australian Guide to Legal Citation* by the Melbourne University Law Review Association (1998) and *Australian Legal Citation - A Guide* by Colin Fong (1998).

This year saw the publication of Australia's first two comprehensive guides to legal citation.<sup>1</sup> As anyone who writes regularly knows, there is an urgent need for such a publication. Currently, each publisher and university law journal has its own style guide and the references in a manuscript prepared for, and not accepted by, one journal can require substantial reworking before submission to another journal.<sup>2</sup> The urgent need is for one publication which sets a standard and, over time, is adopted by the great majority of journals and publishers. In this sense, the publication of two style guides in 1998 is unfortunate as it muddies the waters. One of the purposes of this review is to argue for the adoption of the Melbourne University Law Review's *Australian Guide to Legal Citation* as the Australian standard. This review will commence with a consideration of Fong's legal citation guide.

### Australian Legal Citation - A Guide

*Australian Legal Citation* is a quixotic work perhaps best understood in terms of its origins -- it grew out of a research project for a graduate degree by Colin Fong, a Research Librarian at the University of Sydney Law Library. Accordingly, it is written in a narrative style well suited to a graduate research project but which does not make it easy to use. To find answers to specific questions one needs to read sections of this book, whereas the Melbourne University guide is in point form and gives up its rulings far more readily. Even though Fong has entitled his work, 'A Guide', he has written a book about legal citation which may well interest law librarians and some others but is less useful to most of us who are not interested in 'A brief history of Australian law reporting' or 'The role of the Incorporated Councils of Law Reporting', but do want to know how to cite a chapter in an edited book.<sup>3</sup>

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1 1998 was a remarkable year for this subject as a third text on the topic was also published for the first time: A Stuhmcke, *Butterworths Guides - Legal Referencing* (1998). I have not reviewed it here as it is a student text on referencing, not a guide aimed at the profession and the academy. Accordingly, it is quite a different type of work than the two reviewed here.

2 To be honest, I have long since given up paying attention to each journal's particular requirements and use a generic footnoting style which seems to satisfy many journals and, in any event, can always be remedied after an article has been accepted. That I have done so, however, underlies the need for a consistent approach to referencing of sources in legal journals.

3 Surprisingly, because Fong's book does cover most of the major bases, I could not find in it any guidelines on how to cite a chapter in an edited book. The Melbourne guide recommends the author's name and chapter title,

Fong delights in examples. For instance, in discussing the referencing of journals which have changed their titles, he gives three examples of journals which have changed their titles but not their mode of citation and a further two examples of journals which have changed their mode of citation but not their title.<sup>4</sup> The author takes even greater delight in giving examples of the errors of others. For instance, in discussing journals which have changed their mode of citation but not their titles he notes that the *Australian Journal of Human Rights* when first published suggested the citation AJHR, but the following year suggested AHJR. Fong suggests this must be a typographical error but why even raise it? He also points out that the editorial page of one edition of the *Indigenous Law Bulletin* refers to itself as (1997) 4 (1) Indigenous Law Bulletin but later suggests the issue be cited as: (1997) (4) 1 Indigenous Law Bulletin. He notes that the first usage is the correct one.<sup>5</sup> One suspects the editors of the bulletin might have a few weightier matters on their minds. Nonetheless, Colin Fong points out this error and many, many others throughout his book.

Part 2 of this work is entitled 'Citation Guide to Australian Law Reports, Journals and Other Materials' and consists of a list of the full titles of these sources, their years of publication and abbreviated citations. This is most useful in such a publication. The Melbourne guide provides a table of citations for law reports but not for journals, consistent with its position that journal titles should be cited in full. Nonetheless, journals are often cited by the use of some obscure abbreviation and the extension of the Melbourne guide's table to include journals would be most helpful. The table in Fong's book would be even more useful if it arranged the citations alphabetically by citation, as does Melbourne's, rather than by full title as users usually have the citation and are seeking the full title. Fong continues his quixotic approach here, as notwithstanding that the title of Part 2 is *Australian Law Reports, Journals etc.*, he includes the *UCLA Pacific Basin Law Journal* but apparently no other US journals.

Surprisingly, Fong's book does not appear to explain how to reference works previously cited in full - there seems to be no guidelines on the use of *ibid*, *supra*, *infra*, above, below and the like. This omission is difficult to comprehend in any work which purports to be a guide to legal citation.

## Australian Guide to Legal Citation

By now my reader is in no doubt as to my preferred citation guide. This guide, produced by the Melbourne University Law Review, is comprehensive and easy to use. It is laid out in point form, uses an intuitively sensible order and grouping of topics and commences with a compendious table of contents. Two particular features assist its useability: (i) it commences most of its major sections with an example because, often, this is all one needs to know how to cite a particular source;<sup>6</sup> and (ii)

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followed by the editor's name, title of the book, year of publication and page reference (or, as they call it, the pinpoint).

4 Fong, at 63-4. The Melbourne University guide gives one example for each of its propositions.

5 Ibid 61.

6 This is a case in which one example is far better than one hundred words of text.

on the inside of the back cover and its facing page, it includes a Quick Reference guide which gives examples of the most commonly used forms of citations.<sup>7</sup> On two pages, the editors have managed comfortably to include citation examples for a range of cases, legislation, journal articles and books, as well examples of British, Canadian and New Zealand cases and legislation and U.S. cases and the basic international materials. Most times an author will find the answer to their citation question without even needing to open the book itself.

The Melbourne guide adopts a modern, simple solution to most issues. For an example of its style, look at the footnotes in this review, which has been referenced in accordance with it. Some of its general rules are as follows:

*supra*, *infra*, and *op cit* are out: above and below are in;  
 immediately preceding sources are cited by use of *ibid* if the page is the same,  
 or *ibid* followed by the new page number(s) if the page differs,<sup>8</sup>  
 the names of the first plaintiff and defendant only are cited for cases, 'Anor' or  
 '& Ors' are out,  
 the citation of books requires only author, title, edition and year of publication,  
 the publisher and place of publication are out;  
 journal titles are to be spelled out in full;<sup>9</sup>  
 authors' first names, where possible, are to be spelled out in full;<sup>10</sup>  
 the punctilious use of '(as he then was)' after the title of subsequently elevated  
 judges is out; and  
 the use of a period after abbreviations, including J for judge, is out.

This guide commences with a collection of general principles which is where the above matters are considered. This section broadens the ambit of the work to include, among many others, matters such as the use of quotations, ellipses, punctuation, foreign words and phrases and the use of gender inclusive language. This section is a most useful general guide to formal scholarly writing.

There is, nonetheless, certainly room for improvement in the Melbourne work. Removing the title from every header would make the work easier to use. Equally, the wording of the example which leads off many sections should be in bold type - the use of initial examples is an excellent idea but the current typeface means they do not stand out as they should. The suggested table of heading fonts and layout within an article at para 1.8.2 is less clear than I would have liked - the use of bold type and a sans serif font such as Arial would greatly assist readability. A table showing a simple hierarchy of US courts would be most helpful for Australian users. Curiously, readers are told how to cite e-mail messages but not conventional letters, and, finally, the editors may like to revisit their decision to remove the publisher from the citation format for books. While this choice is understandable in the quest for simplicity, it may be one step too far. The deletion of the place of publication is appropriate in the modern age of electronic databases. However, knowing the publisher can at times

7 A good idea borrowed from *The Bluebook* – on which see text accompanying n 15.

8 A purely personal quibble: this rule produces “Ibid 20.” rather than “Ibid at 20.” which I find much more pleasing to the eye.

9 This seems a sensible guideline – the use of abbreviations saves very little time for the author but can impose a significant burden on the reader.

10 This was undertaken, apparently, in a laudable quest for more gender awareness.

make it easier to track down an obscure work, particularly an older work, and knowing the publisher, as Fong points out, 'may indicate to the reader the possible quality of the publication'.<sup>11</sup> I, for one, miss it. In short, it is useful information which the writer has to hand and should probably be included.

Finally, there is the matter of the colour of the book's cover. First I must declare my sensitivity on this issue as my recent book is bound in dusty pink and brilliant purple.<sup>12</sup> Moral: never say to your co-authors, 'whatever colour looks good to you'. Nonetheless, the Melbourne guide is bound in a uniform blue much like 'The Bluebook', the standard US citation guide. A pleasant blue, a pleasing blue, to be sure; but it smacks of being a borrowed blue and was that necessary? Blue features prominently in the Melbourne University colours but nonetheless the U.S. link sets my cultural cringe meter a buzzing. The 'Green Book' or the 'Gold Book' would be far more appropriate a moniker for the *Australian Guide to Legal Citation*.

More gallingly, the Melbourne University Law Review has borrowed the colour but not the genius of the US publication. *The Bluebook*<sup>13</sup> is a co-operative venture between the editors of the *Columbia Law Review*, the *Harvard Law Review*, the *University of Pennsylvania Law Review* and *The Yale Law Journal*. Its very co-operative nature gave it a huge head start in the race to become the US standard against the production of a single law school, such as the University of Chicago's, *Manual of legal citation*<sup>14</sup> - a race *The Bluebook* has essentially won in the US. It is a great pity that the University of Melbourne Law Review Association did not club together with its counterparts in another few leading Australian law schools and thus confer on the end product of their efforts an immediate legitimacy and breadth of use which would have gone a long way to making this guide the Australian standard. Still, it is still not too late. Perhaps the most important step now open to the editors of the Melbourne University Law Review is to approach some of the other leading journals with a view to making the second edition of the guide a cooperative venture. A citation guide really only fulfils its promise when it becomes the national standard - the *Australian Guide to Legal Citation* deserves to do so.

Law journals throughout the nation can now dispense with their Guidelines for Contributors and Style Guides and simply adopt this guide. We must wait to see if they do - it will be a real opportunity lost if they do not.

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11 Fong, at 53.

12 Nadja Spiegel, Bernadette Rogers & Ross Buckley, *Negotiation: Theories and Techniques* (1998).

13 *The Bluebook: A Uniform System of Citation*, (16th ed) (1996).

14 *University of Chicago Law Review*, The University of Chicago manual of legal citation (1989).