Legal Research Materials and Methods

by
Professor Enid Campbell
E.J. Glasson
Lee Poh York
Jennifer M Sharpe

Pages i-xii, 1-326
The Law Book Company Limited
3rd Edn, 1988
Hard Cover $45.00; Soft Cover $29.50

The mid 1960's saw publication for the first time in Australia of a series of works dealing with legal research and the legal process. They included Maher, Waller and Derham's *Legal Process* first published in 1966 (now in its 5th edition)[1] and the first edition of Campbell in 1967.

Although the third edition of Campbell reflects a revision of the work and includes references to new materials and computerised information retrieval systems, the essential content and structure remain unchanged. The book contains chapters on law reporting and statute law in England, Australia and other common law jurisdictions. The main reference tools are examined — digests, encyclopaedias, indexes, looseleaf services. The work seeks to provide "a general guide to the legal and non-legal literature relevant to the law in Australia" and "to provide students who are just beginning their legal studies with an invaluable key to the proper and efficient use of the tools of trade." It is against that aim that the work must be measured.

There are significant, often fundamental differences about what comprises research and as the Pearce Committee Report[2] recognised (9.8) there are different modes and processes of research, within and between disciplines. Much of legal research differs in character from that in other fields because law and normative legal systems have peculiarities. A major task of legal researchers is to discover, order and interrelate received wisdom so it may be known and understood and the third edition of Campbell provides an insight into the basic tools to achieve this.

Legal research therefore, is an important skill for lawyers and recent years have seen an increasing emphasis in undergraduate law studies upon formal teaching of legal research and writing rather than its being left to be acquired through study of particular subjects. This follows an earlier trend in North America where formal training in research and writing has been part of the American Bar Association accreditation standards for many years. Today, many Australian Law Schools (e.g. A.N.U.; U.T.S.; U.N.S.W.; U.W.A.) have formal courses of instruction and QUT will introduce two new compulsory subjects in first and final years in 1990.

Just as there has been enhanced recognition of the need to teach research and writing skills, there has been an increase in the number of works available to assist with the task and in addition to this title, works such as *Laying Down the Law: The Foundation of Legal*

1. K.H. Maher, L. Waller and D.P. Derham, *Legal Process Commentary and Materials*, 5th edn. by M.D. Smith and K.C. Pose, Sydney, The Law Book Co. Ltd, 1988.
2. D. Pearce, E. Campbell and D. Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission*, Canberra, A.G.P.S., 1987.

Reasoning Research and Writing in Australia now in its 2nd edition (1988)[3] and *Legal Research and Interpretation* (1989)[4] are now available.

For its intended market of beginning students and their teachers Campbell remains a reliable and fundamental text and for its intended purpose it is an excellent work. It is comprehensive, makes good use of examples and has a satisfactory index, i.e. all that could be asked for in a basic research manual. The simple descriptive style is one of the most attractive features of the book. The detail in some sections of the work goes beyond the basic and is indicative more of a work for the practitioner or more advanced researcher. The footnotes and lists of Additional Reading at the end of chapters tend to propel the work beyond its aspiration of a basic manual.

However, those who may be seeking (perhaps unfairly) more from the work may be disappointed. A Law Librarian may require more — for example, a fuller index if the work is to be dipped into quickly for specific reference. They might also require further detail concerning the more unusual publications or possibly even an alphabetical index of important titles mentioned in the text. They might also appreciate more space being allocated to citation — but possibly only an expanded and updated version of Campbell's *Presentation of Legal Theses*[5] would meet these needs.

The new material in the third edition on Computerised Legal Information Retrieval (Chapter 1), International Law (Chapter 16) and Non-Legal Materials (Chapter 19) is welcomed. Minor ommissions from the earlier edition have been corrected also e.g. reference to the *Style Manual for Authors, Editors and Printers.*[6] The material on computerised legal information retrieval does not go far enough for a work of the present and certainly not of the future. The introductory material at pages 3,5,6-7 does not give appropriate recognition to this aspect. On-line services and CD-ROM are becoming places of first resort and a manual of this kind should include a significant chapter on these tools, together with integration of reference to computerised services throughout other chapters. There are of course specialised works now available, notably that by Graham Greenleaf and Andrew Mowbray[7] concerning research on CLIRS (now Info-One) and the far more advanced works such as that by Professor Alan Tyree *Expert Systems on Law.*[8]

It is a little disappointing in the latest edition to find that received wisdom of the past concerning the prominence of English law continues to enjoy the same emphasis despite newly revealed insights of Australian judicial and legislative independence. As the Pearce Committee recognised (9.26) "The law it is their business to teach is predominantly Australian; and that is the law members of the Australian legal profession need to know about". That is not to say that the common law inheritance should be ignored, but a greater focus should be provided for the Australian materials and some recognition given to the many areas where Australian law has or is moving away from the English foundations e.g. in trade practices and negligence. A subject overview of legal alignment of Australian vis a vis U.K., Commonwealth (NZ & Can), and U.S. law would be extremely helpful. Little reference is made also to the significant impact the U.K.'s entry to the EEC has had upon

---

3. G. Morris, et al, *Laying Down the Law: The Foundations of Legal Reasoning, Research and Writing in Australia and New Zealand* 2nd edn., Sydney, Butterworths, 1988.
4. C. Enright, *Studying Law*, 3rd edn., Sydney, Branxton Press, 1989.
5. E. Campbell, *Presentation of Legal Theses*, Clayton, Monash University Faculty of Law, 1978.
6. *Style Manual For Authors Editors and Printers*, 4th edn., Canberra, A.G.P.S., 1988.
7. G. W. Greenleaf, A.S. Mowbray and D.P. Lewis, *Australasian Computerised Legal Information Handbook*, Sydney, Butterworths, 1988.
8. A. Tyree, *Expert Systems on Law*, New York, Prentice Hall, 1989.

the legal system and what effects this could have on the directions for growth in law collections in Australia.

In fact, there is no mention of recent major reports on law libraries in Australia. The main law collections are summarised in one paragraph. There is no attempt to assess particular strengths in collections, or identify special collections as an aid to a researcher.

Finally, there is considerable scope left for the inclusion in the next edition of a much expanded chapter on Legal Research Methodology. The book as it stands is an invaluable tool for teaching legal bibliography and thus most useful for the law librarian. However, legal research is a process and the law books are "simply tools to use in solving legal problems".[9] The existing Chapter 20 (pp. 271-283) although a useful and unique description of methodology requires expansion to cater for the student reader.

On the whole, the third edition of Campbell is necessary reading for all students commencing study in law. It has the potential to be much more than that if the material on legal research methodology and research through use of computer-based information retrieval systems is upgraded and the other matters touched upon above addressed.

<div align="right">
David Gardiner,
Associate Professor, Acting Dean Faculty of Law, Q.U.T.
Terry Hutchinson,
Law Librarian, Faculty of Law, Q.U.T.
</div>

---

9. C. G. Wren and J. R. Wren, *The Teaching of Legal Research*, (1988) 80 Law Faculty Journal 7.