

Researching Canadian Law

by Ted Tjaden

Professional Perspectives—Tools and Techniques of the Trade. The Professional Development Committee encourages members to continue to explore topics after presentations at the local, regional, and national levels. We welcome your comments and article suggestions. Please contact Susan Siebers at 312/902-5675 or susan.siebers@kmz.com.

Researching Canadian law involves the use of resources and techniques familiar to all American law librarians. As in the United States, the following types of secondary or background legal resources are an excellent starting point to research Canadian law.

Textbooks: There is a fairly competitive publishing industry in the Canadian legal market. Butterworths, Canada Law Book, Carswell, CCH Canadian, Irwin Law Book, and several other publishers dominate the print market with a variety of monographs and looseleaves that range from practitioner-oriented to academic.

Journal articles: There are two Canadian-based legal journal indexes: *The Index to Canadian Legal Literature* (available in print from Carswell and online from Silverplatter or Quicklaw, Canada's first online legal database), and the *Index to Canadian Periodical Legal Literature* (available only in print). The *Index to Legal Periodicals & Books* and *LegalTrac* also provide Canadian coverage. Full-text Canadian law journals can be found on Quicklaw, LEXIS-NEXIS, and WESTLAW.

Encyclopedias: The *Canadian Encyclopedic Digest* (Carswell) is available in print and on CD-ROM and provides coverage of Canadian legal topics in a manner similar to *American Jurisprudence* or *Corpus Juris Secundum*.

Case law finders: The *Canadian Abridgment* (Carswell) is available in print, CD-ROM, and now through an Internet subscription (law.pro). It organizes Canadian case law by topic in fairly fine detail by providing short digests of cases, along with case citations much in the same way as West's *Decennial Digest*.

Legal Dictionaries: Our equivalent of *Black's Law Dictionary* is likely *The Canadian Dictionary of Law* (2nd ed.) by Dukelow and Nuse (Carswell). There is also a "Words and Phrases" component of the *Canadian Abridgment* (Carswell) that defines terms in their legal context, as well as other dictionaries and words and phrases services.

Legal citation: Canada's *Bluebook*, called "The McGill Guide," is titled the *Canadian Guide to Uniform Legal Citation* (4th ed.) (Carswell, 1998). Citation rules between the McGill Guide and the *Bluebook* are quite similar, but there are differences.

Legislation

Canadian primary legal resources can increasingly be found online, but not as extensively as in the U.S. Like the United States, there is a division of power between the Canadian federal government and the provincial (or state) governments; matters of national interest or significance generally are exclusive federal powers. Some powers, such as control over the environment, are shared. One major difference between Canada and the United States is that, in Canada, criminal law is a federal power governed largely by the federal *Criminal Code*, R.S.C. 1985, c. C-46.

Like the States, Canada's Parliament (Congress) consists of two chambers: the House of Commons (House of Representatives) and the Senate (same name), except that in Canada, senators are appointed, not elected. Like U.S. federal bills, Canadian bills must pass through three readings in both chambers and can generally originate in either place (although most are generated by the House of Commons). Unlike the U.S. president, Canada's Prime Minister does not have veto power over federal bills, which are instead given "royal approval" by the assent of the Governor General.

The federal Parliament Web site (<http://www.parl.gc.ca/36/main-e.htm>) contains access to full-text federal bills, Hansard debates, committee reports, and other legislative material. Federal statutes and regulations are found at http://canada.justice.gc.ca/Loireg/index_en.html.

Canadian federal and provincial legislation is generally not consolidated by subject matter but is instead published in its official version in periodic revisions alphabetically by name of the statute or

regulation, unlike the United States Code and many state codes. Some Canadian legal publishers publish unofficial consolidated or annotated editions of Canadian legislation by topic.

Case law

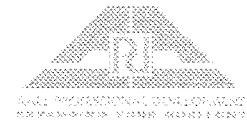
Free Internet availability of Canadian case law is still in its infancy—with only decisions from the top court (the Supreme Court of Canada, in Ottawa), the Federal Court, and certain provincial courts (British Columbia, Alberta, and Ontario have the largest sites; see below for links to these sites). Commercial legal publishers such as Carswell and Maritime Law Book still publish a large number of case law reporters in print, but the trend in Canada is definitely towards CD-ROMs and, increasingly, online databases. There are several online databases to choose from that range in scope and pricing:

Quicklaw (<http://www.quicklaw.com>), started in 1972, has an extensive database of Canadian reported and unreported decisions, an online case law citator, full-text federal and provincial legislation for certain provinces, journals, and news databases, and most recently, full-text legal textbooks from Irwin Law.

eCarswell (<http://www.carswell.com/ecarswell/index.html>) is Carswell's site. Carswell has launched an Internet version of its *Canadian Abridgment* called law.pro. Also available are three "topical" services: family.pro, securities.pro, and insolvency.pro. Included in these services are Carswell's case law citator, full-text legislation and concordances, full-text textbooks, and other newsletters.

LEXIS-NEXIS (<http://www.lexis-nexis-canada.com>) has greatly expanded its Canadian content, which includes full-text case law, legislation, journal, and news coverage. LEXIS-NEXIS is also in the process of developing an extensive online citator for Canadian case law.

CCH iWorks (<http://www.ca.cch.com/frsub10.html>) from CCH Canadian also



A Desktop Learning Opportunity

provides an Internet subscription that mirrors its print, three-ring looseleaf binder products. Online coverage includes commentary, case law, and legislation in various topical areas, including securities law, real estate law, tax law, corporate law, and family law.

Maritime Law Book (<http://www.mlb.nb.ca>), founded in 1969, publishes a number of case law reporters, including the *National Reporter*, that are now available by subscription through its Web site.

Canada Law Book (<http://www.canadalawbook.ca>) makes available by subscription on its Web site access to its popular *Dominion Law Reports*, *Canadian Criminal Cases*, *Labour Arbitration Cases*, and other products, including its legislation services for federal and Ontario.

Noting up Canadian case law has traditionally been done using print publications such as Carswell's *Canadian Case Citations* or the "Cases Judicially Considered" tables found in the back of print case law reporters. Increasingly, noting up is done using one or more of several online citators available on each of Quicklaw, eCarswell or LEXIS.

Web-based Information

Increasingly in Canada, good quality law-related information is now available through free and subscription-based Web sites.

Canadian Law-related "Meta" Web Sites:

Guide to Canadian Legal Research (Ted Tjaden)
<http://www.llrx.com/features/ca.htm>

Best Guide to Canadian Legal Research (Catherine Best)
<http://legalresearch.org>

Canadian Legal Resources (Alan Gahtan)
<http://www.gahtan.com/cdnlaw>

Canadian Legal Resources (Peter Sims)
http://www.mbnet.mb.ca/~psim/can_law.html

ACJNet: Access to Justice Network
<http://www.acjnet.org/acjeng.html>

Canadian Court Judgments are available online at sites below.

Supreme Court of Canada Judgments:
<http://www.lexum.umontreal.ca/csc-scc/en/index.html>

Federal Court of Canada Judgments:
<http://www.fja.gc.ca/en/cf/>

Alberta Courts:
<http://www.albertacourts.ab.ca/webpage/jdb/jdb.htm>

British Columbia Courts:
<http://www.courts.gov.bc.ca>

Ontario Courts:
<http://www.ontariocourts.on.ca>

Differences to Be Aware Of

There are other differences between the Canadian and American legal systems. One major difference is in employment law. In Canada, "employment at will" is a concept not ordinarily recognized by Canadian courts; instead, employees in Canada are ordinarily entitled to receive either "reasonable notice" on termination or the amount of "statutory notice" set out in the applicable employment legislation. Another difference is that the Canadian federal court system, due to its limited statutory jurisdiction, is generally much less active than its American counterpart. Differences in terminology also affect legal research, such as different spellings ("labour" instead of "labor").

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Fast facts on Canada

- National federal capital: Ottawa, Ontario
- Total population: 30 million (approximate)
- Official languages: English and French
- Form of government: constitutional monarchy and a federal state with a democratic Parliament (similar to the U.S. Congress), consisting of a bicameral legislature composed of elected federal politicians in the House of Commons (House of Representatives), and appointed Senators in the Senate (Senate)
- Canada has 10 provinces (British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland, and Labrador) and three territories (Yukon Territory, Northwest Territories, and Nunavut). These jurisdictions are unicameral.

Next Month's Desktop Learning Opportunity:

"Wielding the Budget Axe Without Winging Yourself"

by John Hoffman.

Special Interest Section News

by Amy Eaton,
lawlibraryservices@yahoo.com

From the 2000-2001 SIS Council Chair

I am excited about the year that lies ahead for the SIS Council. Special Interest Sections are in many ways the life force of AALL. It is within the SIS structure that AALL members benefit most from creating and participating in a strong, multi-faceted, vibrant community that is the core of their professional lives. Remember this: I hope that as a Council we can build upon the SIS Purpose Statement (created by last year's Council) that an SIS "serves as a forum, contributes educational value, serves as a resource for expertise, advocates, and provides leadership growth opportunities" for its members within the larger AALL organization. I believe that this Purpose Statement will guide us as we meet the challenges and opportunities that face us during 2000-2001.

The first and most immediate challenge facing the Council is scheduling for the 2001 Annual Meeting. Last year the Council was able to coordinate meeting schedules to minimize conflicts, allowing members of multiple SISs to attend as many functions as possible. This year we hope to continue that pattern and to minimize as many of the remaining conflicts as possible. In addition, we plan to work with the Annual Meeting Program Selection Committee to clarify the role of the SISs in educational programming, particularly dealing with issues of timing and content control, to continue to provide the high level of programming our members do and should expect.

The second opportunity open to the Council during the 2000-2001 year is to identify areas and specific initiatives within the new AALL Strategic Plan that are ripe for SIS action, either by individual Sections or by the Council as a whole. While this will require input from many facets of the organization and will likely continue past the current year, I hope that the Council can begin a dialogue that will provide the impetus for many worthwhile and exciting future endeavors.

Finally, I hope this year's Council will accept the challenge to be advocates for Special Interest Sections within the larger organization of AALL. I believe that there are issues facing individual SISs that are common to multiple SISs. Working together through the Council, I hope to devise solutions for these concerns and, when

appropriate, present them to the AALL Executive Board for approval or action.

I look forward to working with the Council this year, and I welcome the comments and suggestions of all AALL members about how we can serve you better. Do not hesitate to contact me at gerdyk@lawgate.byu.edu.

—Kristin Gerdy

Legal History and Rare Books

The Legal History and Rare Books Special Interest Section of AALL has recently formed an Ad-Hoc Archives Committee to determine the level of interest within the law library and legal communities concerning the subject of legal archives and manuscripts, and the potential for making this a permanent committee of the section.

This committee should be of interest to librarians in all law libraries that hold collections of either legal archives (e.g., their law school archives) or manuscripts (e.g., papers of private individuals or organizations associated with the law); private law firm librarians tasked with the management of their firm's records and/or archives (e.g., records management); or to legal historians and others who want a better understanding of these issues.

The Ad-Hoc Archives Committee is interested in hearing from any individuals with an interest in this committee, so as to better serve the profession. Please address any remarks or suggestions to: Mark Lambert, Chair, Ad-Hoc Archives Committee, Legal History and Rare Books Section, Special Collections and Government Documents Librarian, South Texas College of Law Library, 1303 San Jacinto Street, Houston, Texas 77002-7000; 713/646-1720; fax: 713/659-2217; mlambert@stcl.edu.

OBS Time Capsule

Just in case inquiring minds want to know, here is a list of the Contents of the On-line Bibliographic Services SIS Time Capsule, now secreted away until its unveiling in 2025:

- March 2000 issue of *Technical Services Law Librarian* (which has an article on OBS history)
- *Law Library Systems Directory* survey

- OBS/TS Joint Research Grant information and article by G. LeGrande Fletcher, researched with Joint Research Grant funding and published in *Law Library Journal*
- OBS-SIS table giveaways (screwdriver, pen/highlighter, paper clip, key tag)
- *RLIN Searching Guide*, *Discovering RLIN* brochure and RLIN memory aids
- RLG's union catalog worldwide holdings sheet
- *Research Libraries Group News* (winter 2000) and *RLG Focus* (April 2000)
- Sample RLIN-generated catalog cards
- OCLC tape containing batchload records
- Assorted OCLC buttons and an OCLC pencil
- *What the OCLC Online Union Catalog Means to Me: A Collection of Essays*
- OCLC 25th anniversary paperweight and Nylink FirstSearch bookmark
- *Cataloger's Electronic Toolbox* CD-ROM (sample from Rothman)

Many thanks to Susan Chinoransky, OBS's Time Capsule Coordinator!

Submitted by Ellen McGrath

TS/OBS Joint Project

The 1999/2000 Technical Services/Online Bibliographic Services Joint Research Grant Committee is pleased to announce that Larry Dershem has been awarded a \$1000 grant. His research will focus on exploring and developing ways to extend the Library of Congress Classification system to make it suitable for detailed analysis of specific topics (such as Internet Law, Intellectual Property Law, etc.), make it suitable for use as an organizational tool for Web resources, and make it easier to use for catalogers unfamiliar with particular areas of the law. The purpose of the TS/OBS Joint Research Grant is to provide support necessary for research that will benefit technical services law librarianship. If anyone is interested in applying for a grant during 2000/2001, information about the grant is available on the TS and OBS Web sites.

Submitted by Corinne C. Jacox