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## Completion of the Australasian Legal History Libraries, Stage 1

Guest of Honour  
**The Honourable Robert French AC, Chief Justice of Australia**

30 April 2014





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## COMPLETION OF THE AUSTRALASIAN LEGAL HISTORY LIBRARIES, STAGE 1

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*On Wednesday 30 April 2014 the Honourable Robert French AC, Chief Justice of Australia, will be the guest of honour at an event to mark the successful completion of Stage 1 of the Australasian Legal History Library, an Australian Research Council LIEF Project. This paper provides background.*

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### ORIGINS, FUNDING AND OBJECTIVES

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In 2011, AustLII (via its host universities UTS and UNSW) collaborated with ten other Universities and 21 Chief Investigators including many of Australia's most prominent legal historians,<sup>1</sup> to obtain an Australian Research Council (ARC) LIEF (Linkage, Infrastructure, Equipment and Facilities) grant (commenced in 2012) to build Stage 1 of the Australasian Legal History Libraries. The ARC provided \$330,000, with the partner institutions providing the balance of the total project budget of \$751,000.

The Library project has the objective of digitising and making available for free online access the complete key resources of Australasia's legal history. It aims to benefit many classes of users: the research of specialist legal historians; researchers in all aspects of the humanities because of the extent to which law and legal institutions permeate their work; family and local history researchers; and all practising lawyers, judicial officers and students, because of the continuing relevance of historical case law and legislation to current legal problems.

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### RESULTS OF THE STAGE 1 DEVELOPMENT OF THE LIBRARIES

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Stage 1 of the project has resulted in the Colonial Legal History Library (1788-1900) and the Federation Law Library (1901-1950). In Stage 2 the proposed Modern Law Library (1951-2000) will be added. Together, these make up the Australasian Legal History Libraries. These databases are all included as part of the standard AustLII collection, as well as in the specialized Libraries.

The Australasian Legal History Libraries provide near-comprehensive annual Acts from the commencement of each Australian jurisdiction (Commonwealth, States, and Territories) and New Zealand. For most jurisdictions this is now complete. The Libraries also contains substantial colonial collections of reported cases, and case law databases 'recovered' from newspaper reports before formal law reporting commenced in particular jurisdictions. They include the authorised series of reports from all States (except Queensland) to 1950, and in some cases beyond this. There are nearly 30,000 decisions in the Colonial and Federation Libraries (see back page for details), and approximately 42,000 Acts. AustLII already holds over 100,000 decisions from 1950-2000 to commence the Modern Library, and some millions of items of legislation. The complete Victorian Gazette (1851-1999) and precursors, with 33,000 items, adds breadth to the Library content.

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<sup>1</sup> Prof Andrew Mowbray and A/Prof Shaunnagh Dorsett (University of Technology, Sydney); Prof Graham Greenleaf, Dr Lisa Ford, Dr Catherine Bond (The University of New South Wales); Prof Amanda Nettelbeck, Prof John Williams, A/Prof Robert Foster, Em/Prof Wilfrid Prest (The University of Adelaide); Prof Andrew Buck (Australian Catholic University), Prof Bruce Kercher (Macquarie University); Prof Ross Grantham, A/Prof Peter McDermott (The University of Queensland); Prof Mark Finnane (Griffith University); Prof Mark Lunney, Ms Judith Jones (The Australian National University); Prof Helen Irving, A/Prof Anne Twomey (The University of Sydney); Prof Margaret Otlowski, A/Prof Stefan Petrow (University of Tasmania); and Prof Michael Adams (University of Western Sydney)

By using AustLII's automated citator LawCite, it is possible to find how cases since 1788 have been cited by courts in Australia and internationally since that time, and how they are still being used in current legal decisions. LawCite has citation details on 14,500 pre-1900 Australasian cases, and 46,400 pre-1950 cases.

## TECHNICAL INFRASTRUCTURE

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In order to undertake this project AustLII invested a significant amount of the ARC grant funding, plus additional equipment grants from UNSW, to acquire new resources to enable the digitisation of legal resources held as paper records. This equipment includes:

- A Treventus ScanRobot for non-destructive high quality scanning of rare books and manuscripts;
- An additional high speed Canon Image Formula double sided scanner for the destructive scanning of standard paper texts; and
- A microform digitiser to enable the non-destructive digitisation of records available on microfilm and similar media.



As a result, AustLII now has the capacity to make digital copies of rare and valuable legal texts in an automated but entirely safe process that does no damage to the books. The Treventus ScanRobot was designed in Austria specifically to handle precious ancient manuscripts. The process uses air to fan and gently turn the pages of the book yet is still able to produce a high quality digital scan at a rate of approximately 1,200 pages per hour. AustLII's scanner is currently one of only a handful in Australia.

AustLII Foundation Ltd has funded additional office space necessary for these developments.

## OTHER CONTRIBUTORS TO EXPANSION OF THE LIBRARY PROJECT

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A beneficial spin-off of the history project is that AustLII now has the infrastructure available to undertake specific projects for many of our key stakeholder groups to support their particular needs. Other contributors are now assisting AustLII's digitisation of Australia's legal history. The following are two examples of projects that have utilised AustLII's new digitisation infrastructure. The Australian Law Librarians' Association, together with law firms Allens, Mallesons, Freehills, and Arnold Bloch Leibler provided funding, and the paper source materials, to expand AustLII's online holdings of Bills and Explanatory Memoranda (EM) for the Commonwealth, New South Wales and Victoria for the period from the mid 1970's to the start of when Bills and EMs were already available online.

The coal industry still relies heavily on decisions made by the Australian Coal Industry Tribunal from 1947 to 1995, but printed copies of these decisions are rare. To improve general access to these decisions the industry (represented by the Construction Forestry Mining and Engineering Union (Mining Division) and the NSW Minerals Council) agreed to fund the cost of the digitisation and upload onto AustLII of the Tribunal's complete decisions. Sourcing paper copies for digitisation was a complex task, involving combining volumes obtained from the CFMEU Mining Division and employer

members of the NSW Minerals Council. Indeed, for some decisions the only existing master copy from the Fair Work Commission had to be non-destructively scanned in order to make available the complete set of decisions of this important historical tribunal.

AustLII continues to actively seek funding and in-kind assistance from relevant industry sectors to make freely available more historical legal resources of ongoing value, and welcomes proposals.

## THE ROLL-OUT OF THE HISTORY LIBRARIES, STAGE 1

As the scanning and processing of the historic law report series for each state were completed AustLII launched each series with an event at which the relevant state Chief Justice was the guest of honour. Launches were held in New South Wales, South Australia, Western Australia and Tasmania. The Victorian Reports and the Victorian Law Reports had already been launched in 2012.

*“It is difficult for me to overstate the importance of this project, both as a whole and in relation to what we are celebrating tonight, namely the publication of the NSW State Reports ... making this information freely accessible will be of immense assistance to practitioners, as well as to all those involved in legal or historical research ... The free and open dissemination of information is always important, and all the more so when it relates to the administration of justice.”*

The Honourable Tom Bathurst, Chief Justice of New South Wales, 17 June 2013



The launches of the relevant Law Reports in New South Wales, South Australia and Western Australia brought AustLII’s case holdings for those states from early colonial decisions up to the mid-1950s, substantially completing the Federation Law Libraries for each jurisdiction.



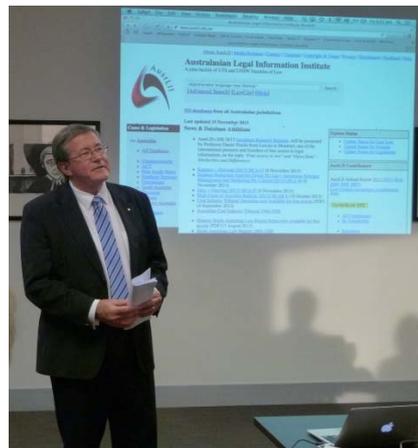
*“[T]he digitalisation of, and greater accessibility to, historical reports is of great importance. It is important first of all as a historical record of the changing legal and social conditions of life in South Australia. However, the reports are also of great importance in providing an understanding of the development of the law.”*

The Honourable Chris Kourakis, Chief Justice of South Australia, 7 August 2013

L to R: Prof Andrew Mowbray, the Hon Chris Kourakis, Prof John Williams, and Philip Chung

*“The launch of the Western Australian Law Reports database is to be welcomed not only as a significant advance in the provision of free access to Western Australia’s legal history, but also as a further step in improving the accessibility and transparency of our legal system to the broader community ... the online facilities of the kind which we commemorate today provide an extremely valuable weapon in the armoury which is available to combat the various barriers to improving access to justice for all.”*

The Honourable Wayne Martin, Chief Justice of Western Australia,  
15 November 2013.



On 18 December 2013, the Chief Justice of Tasmania, the Honourable Alan Blow launched the upload of the Tasmanian Law Reports 1897-1940. In addition, with the support of the Supreme Court of Tasmania, the Council of Law Reporting for Tasmania and Thomson Reuters, AustLII was also able to make available Supreme Court decisions contained in the State Reports of Tasmania from 1941-1978 and the Tasmanian Reports from 1979-1991. This means that in the jurisdictions of Victoria and Tasmania there is now a complete sequential record of Supreme Court decisions from the earliest times to the present day.



*“[I]t is a major achievement to have the authorised reports of our Supreme Court for the years 1897 to 1991 available online... AustLII is an Australian success story. It is a triumph of common sense. Since its establishment in 1995, it has performed an excellent service in making legal information freely available to all. Its concept has been copied in other countries.”*

The Honourable Alan Blow, Chief Justice of Tasmania, 18  
December 2013.

## PROPOSED STAGE 2 OF THE HISTORY LIBRARIES

A proposal has been submitted to the ARC for the development of Stage 2 of the History Libraries in 2015-16, seeking similar funding as for Stage 1. This proposal is supported by 15 Australian Universities,<sup>2</sup> and involves 29 Chief Investigators including many distinguished legal historians, both those involved in the Stage 1 project as well as others. If the application is successful, the project is intended to at least double the content of the existing Libraries in addition to the development of a new Modern Law Library (1951-2000). Stage 2 will involve the completion of the annual Acts collection (Northern Territory and Queensland), and the inclusion, if possible, of all remaining pre-1950 reported cases. Other major developments in Stage 2 will be the addition of sets of unreported judgments from court, university and other collections, and the creation of new case-law databases by the automated large-scale extraction of case reports from Trove’s Australia-wide digitised newspapers. It will expand legislative coverage of more inaccessible historical materials including Bills, and Explanatory Memoranda, key Act reprints. Collections of Government Gazettes will be consolidated where possible. The Chief Investigators will advise on priorities in adding historical Australian legal monographs and commentaries, and Parliamentary reports.

<sup>2</sup> UNSW, UTS, UQ, UWS, Sydney, Melbourne, ANU, UWA, UNE, Adelaide, Tasmania, Griffith, SCU, Canberra, and Notre Dame.

**Commonwealth**

- Commonwealth Numbered Acts 1901-
- Commonwealth Bills 1981-
- Commonwealth Bills Explanatory Memoranda 1980-
- Commonwealth Law Reports 1903-1950 (3422 decisions)
- Australian Coal Industry Tribunal 1940-1995 (4860 decisions)

**New South Wales**

- New South Wales Acts As Made 1824-
- NSW Bills 1979-
- NSW Bills Explanatory Notes 1978-
- Superior Courts of New South Wales 1788-1899 (2329 decisions)
- Law Reports (New South Wales) 1880-1900 (1977 decisions)
- State Reports (New South Wales) 1901-1950 (4304 decisions)

**Victoria**

- Victorian Historical Acts 1851-1995
- Victorian Bills 1967-
- Victorian Bills Explanatory Memoranda 1967-
- Victorian Law Reports 1874-1956 (9157 decisions)
- Victorian Reports 1953-1996 (3792 decisions)
- Supreme Court of Victoria (Unreported Judgments) 1953-1998 (19202 decisions)
- Victorian Government Gazettes 1851-1999 (32942 documents)
- Victorian Statute Law Revision Committee 1949-1965 (120 documents)

**Western Australia**

- Western Australian Numbered Acts 1832-
- Superior Courts of Western Australia 1840-1849 (332 decisions)
- Western Australian Law Reports 1898-1958 (1857 decisions)

**South Australia**

- South Australian Numbered Acts 1837-
- Superior Courts of South Australia 1837-1864 (1925 decisions)
- South Australian Law Reports 1863-1920 (1210 decisions)
- South Australian State Reports 1921-1950 (1794 decisions)

**Tasmania**

- Tasmanian Numbered Acts 1826-
- Superior Courts of Tasmania 1824-1843 (563 decisions)
- Tasmanian Law Reports 1897-1940 (926 decisions)
- Tasmanian State Reports 1941-1978 (639 decisions)
- Tasmanian Reports 1979-1991 (310 decisions)

**Queensland**

- Queensland Historical Acts 1867-1951
- Superior Courts of New South Wales - Moreton Bay 1851-1859 (287 decisions)

**Australian Capital Territory**

- Australian Capital Territory Numbered Ordinances 1911-

**Northern Territory**

- Northern Territory Numbered Ordinances 1960-1978
- Northern Territory Reprinted Ordinances as at 1 January 1961
- Northern Territory Numbered Regulations 1961-1988
- Northern Territory Reprinted Regulations as at 1 January 1967

**New Zealand (found at NZLII)**

- New Zealand Acts As Enacted 1841-1907
- New Zealand Lost Decisions Project 1841-1882 (4403 decisions)

**NOTE:** Many databases have part of their contents included in more than one History Library: Colonial Legal History Library (1788-1900); Federation Law Library (1901-1950); and the proposed Modern Law Library (1951-2000).

**Colonial Legal History Library (1788-1900)** <<http://www.austlii.edu.au/au/special/legalhistory/>>  
**Federation Law Library (1901-1950)** <<http://www.austlii.edu.au/au/special/federation/>>