

Olde Country, Newe Technology

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‘Observe, by how much the soul is more worthy than the body, by so much the more I am to obey God than a terrene prince. But neither law nor reason, permits that children or sons should condemn or judge their fathers, and therefore I decline the sentence of the king as being to be judged by God alone, by the Pope.’

One year into his tenure as Archbishop of Canterbury, these were the rueful words of Thomas Becket at his trial for high treason in 1163, as captured in *Cobbett's Complete Collection of State Trials*. Despite its somewhat peculiar syntax, his pleading must have carried some sway with his terrene audience, for he continued to see out the rest of the decade as Primate of All England.

Though the turbulent priest was eventually assassinated by Henry II's zealous heavies on horseback, the important legal point from the snippet of this account is that the facts, Becket's arguments, those of his opponents, and the conclusion were captured for posterity and serve as the first of over eight centuries' worth of recorded English common law cases.

And it's that near-millennium tradition of precedent compilation – not the machinations of a crooked king and his courtiers – that is so pertinent to practitioners operating in a country whose own national cases go back just over a century; access to foreign precedent, particularly that of the UK, is central to many cases fought in the Australian courts.

But this is hardly an original observation; good legal librarians in Australia have been maintaining a wealth of such printed material for law firms, barristers' chambers and universities for as long as any of us can remember. And therein

– or rather thereout – lies the nub of this article: searchable, comprehensive access to *non*-printed precedent.

Electronic archives have been around for a few years now but, in the great scheme of things, they're still in their infancy. And, as with an inquisitive toddler, it's in these periods of nurture that the steepest learning curves are often scaled.

One plucky little British electronic legal publisher, with the help of a forward-thinking e-publisher in Sydney, claims to have spent the last two years climbing this curve. Down Under, assimilating its pioneering products into the burgeoning Australian marketplace.

So who are they, what do they provide, why is their offering so important to Australia's legal community, and how is it being used by its new customers?

London-based Justis Publishing was set up in the late 1980s with the broad remit of disseminating legal information electronically. Developing a number of innovative European databases first, it hit its stride in 1991 with the launch of the Incorporated Council of Law Reporting for England & Wales's (ICLR) *Weekly Law Reports* on CD-ROM, the first ever CD-ROM of UK case law. From there, case coverage from the ICLR and elsewhere snowballed, as did coverage of legislation, and by 1999 the Justis service went live on the Internet. On the web the company's range has continued to expand at pace, recent innovations being the provision of court-ready PDF printouts that replicate original pagination, and the introduction of JustCite, a time-saving, completely provider-neutral and jurisdiction-busting citator.

A programmer by training and early trade, Masoud Gerami was one of the company's first employees. He's now the managing director. I ask him about foreign precedent. 'Our cases are very important in other jurisdictions, as are our journal articles,' he says. His international sales manager Simon Watson agrees and tells me about a recent conversation he had with a leading QC in his own country, who has successfully cited a number of antipodean cases in the English courts. 'But English case law is even more persuasive over there,' Watson points out.

In 2006 Justis decided it was time to harness the two-way benefits of working with agents in Australia; in so doing, they hoped to increase awareness in an important market for their comprehensive, time-saving products, while at the same time tapping into a network of Australian legal information data that could eventually make its way onto Justis Publishing's databases.

Their research led them to TimeBase, a boutique e-publisher that specialises in the development of research tools for Australian professionals.

'Two years ago I called them,' says Watson. 'Leonie Muldoon [their CEO] wasn't sure about the synergy at first but when we discussed it further she realised the potential.' Adds Gerami: 'They've succeeded considerably under her management. She's turned it around.' So an agreement was reached between the two companies. Watson admits that at the start the service was occasionally a little temperamental, both in Australia and elsewhere. But Gerami explains that TimeBase has helped shape the product, which Watson says means that, supported by a 22-hour, UK-based helpdesk, 'we now have 99.9% uptime on Justis due to improvements

we've made that have been influenced by the Australian market.'

Synergy, it seems, is alive and well, an assertion backed up by reciprocal praise from Sydney. I spoke to Nickie Zammit, national business development manager at TimeBase. 'It was a really good business decision to take on,' she enthuses. 'Their support has been fantastic; the relationship is strong.'

So why such enthusiasm? The answer, I begin to deduce, is as simple as it is believable: the products and the intuitive platform appear to be eminently appropriate for the Australian market. Let's examine Justis Publishing's core services in more detail. Its two main services are Justis and JustCite.

We'll start with Justis, the full-text, online legal library, with UK, Irish and EU case law back to 1163 and legislation back to 1235; work is also underway to launch international law back to 1919 in November.

There's a lot of primary and secondary case law to choose from, as well as statutes and articles. But, as Zammit points out, Justis Publishing allows customers to pick and choose. 'Other publishers tend to offer all or nothing. Justis's pricing is more flexible,' she adds. Watson expands on this: 'You can subscribe to individual series or to our special Australian package.' This special package of primary case law series is very popular with much of the growing customer base, its components having been carefully selected for the practitioner sector. As well as the *Law Reports* and *Weekly Law Reports*, it includes the *English Reports*, alongside the JustCite citator. According to Watson, 'it's extremely good value.' Of course

he *would* say this; the opinion of customers is less of a given

With 1,000 fee-earners and offices around the country, Freehills is typical of the Top 10 Australian law firms that TimeBase – and by extension Justis Publishing – is proud to count among its patrons. Rebecca Bollen Manalac is the library team leader for the Sydney office. Justis Publishing's services are currently used only by her fellow librarians, she says, but 'we're looking into extending access to [fee-earners] due to the favourable price.' She adds that it's 'definitely an advantage that [the reports] go so far back – we have no complaints about the coverage,' a point echoed by Zammit who says it's extremely rare for subscribers to email saying they've had trouble finding what they're looking for.

Watson is keen to point out that we haven't even mentioned the other primary law series – such as the *Electronic Session Cases*, the *Irish Reports* or *State Trials* (well, other than in the opening history lesson) – let alone the numerous secondary case law series, all of which he says could be of interest to academics and can be seen listed on the Justis website. Nor have we really touched on the comprehensive database of English, and since the Union, British statutes, which go back to 1235, a year notable for the publication of second version of the *Magna Carta*.

But lest we get carried away with the undoubted quality of its extensive material, we should perhaps investigate how Justis content is actually retrieved by its users. 'Intuitively' is a word I hear a lot when I ask the question. But I sense that answer underplays the sophistication of the search interface I'm shown. Constantly being refined behind the scenes, it offers search fields that cater for

the differing amount of information that users can start with and which they might first enter as queries; and it makes allowances for searches for cases, statutes and articles that the user *knows* exist or those that they speculate *might* exist. For example, should one wish to find *Donoghue v Stevenson*, they can go straight to the 'Cases' screen and enter each name in the 'Parties' fields. In this case – which is fairly cut and dried – Justis bypasses the results screen and goes directly into the extensive record itself, which Watson has set up to be viewed for free at <www.justis.com/dssample>. In cases where more than one record exists, such as *R v Smith*, a logically ordered results screen with a number of suggestions is given. It can be manipulated at this level or, alternatively, users can go back to the search screen and refine their search by filling in other fields. Finally, if one is working on a case concerning, say, patent dispute and is seeking precedent for guidance, the words 'patent' and 'dispute' can be entered in the 'Full Text' field on the 'Cases' screen, or simply in the 'Quick Search' field on the default page, and the results of the original search can be refined in the ways described above. Statute searches work in a similar way in the 'Legislation' search screen, Watson says.

I can't fault the explanation. But what's it like in practice? The search interface is 'very intuitive', states Bollen Manalac. 'It's really quite straightforward to use and we find a high percentage of what we're looking for,' she continues. Zammit isn't surprised. 'We do training but some people don't need it as they see how easy it is,' she says.

Once retrieved, most case reports can be printed out as PDFs that precisely replicate the pagination of the original documents and are fit for court presentation, Gerami explains. 'We were the first

publisher to introduce PDFs of these titles in the UK,' he goes on, 'and we're groundbreakers in Australia.' Bollen Manalac says that having access to PDFs of full-text cases as they appear in print was a 'key factor in purchasing licences.' She continues by highlighting how useful this facility is not just for lawyers but for the librarian who is so often called upon to collate case reports: 'Previous to Justis we'd have had to photocopy, so downloading PDFs is a great time-saver. If we had to copy nine cases, say, it could take an hour but downloading them on Justis would take five minutes.'

I mentioned earlier Justis Publishing's other core service, its citator JustCite. I shan't dwell on its search functionality; according to Gerami, to the user it operates like Justis's search engine, which it mirrors but is entirely independent of. The results screens, though, are subtly different; while the full records themselves, and the breadth of material it cross-references and deep links into, is quite different from Justis. The equivalent *Donoghue v Stevenson* record can be seen at <www.justcite.com/dssample>; several subsequent Australian cases are shown through this record to have cited this case.

Watson stresses JustCite's 'provider-neutrality'. JustCite *does* offer deep links to Justis's full texts but it also offers links to AustLII, Lexis, Timebase, Westlaw, and many more publishers. Furthermore, actually having access to these full-text services doesn't appear to be necessary to enjoy the key benefit of JustCite: finding citations of cases and statutes (which can always be looked up independently) and seeing how they relate to each other, through cases cited, subsequent cases and the rest.

The number of records is enormous and seemingly ever on the up; at the time of writing, I'm

told there are 1.7 million indexed references. As well as the references one would expect – cases, statutes, SIs and articles from English, Scottish, Irish and EU law – last year 25,000 Australian cases from TimeBase were added, along with 5,000 from Singapore. According to Zammit, this includes cases back to 1901 from the Australian High Court, the Federal Court from 1976 and cases from the recently established Federal Magistrates Court. And, of course, which cases they cite are shown on the citator. 'If an obscure citation is given,' says Bollen Manalac, 'it's useful to use JustCite to look up parallel citations – and then jump to Justis.'

Again, this is all very well but what happens if things go wrong on Justis or JustCite or you can't find what you're looking for? Watson doesn't shy away from the question and acknowledges that one can't always guarantee finding exactly what is needed straightaway, which, he says, explains the carefully written help functions and tips (indicated alongside search fields with a little 'i' icon), as well the 22-hour helpdesk. Operating through the night in Justis Publishing's London offices, Watson says 'we introduced it because of our Australian development.' Gerami adds: 'We're flexible and independent so we respond quickly to people's queries.' And, chips in Watson, 'our competitors couldn't act as quickly.'

By way of justification for his confidence in the services, Watson says that business for both services in Australia has grown 10-fold since the first few months of its operation there. And customer usage has grown even more sharply.

All this, however, is just the start for Justis in Australia. 'We want to create complete global tools with our products,' says Watson. With long-term

plans that include indexing more and more content on JustCite, Gerami adds that 'we're in advanced stages of discussion with a number of data providers from other Commonwealth jurisdictions,' though he's coy when asked to name names.

By the time you read this, you might have found out for yourself: Gerami and Watson are at ALLA in Perth in September – or rather they *were* there. If you had a chance to meet them, great; if not, they say they'll be at the conference next year

when who knows what will have been added to the Justis Publishing steamroller?

If only Thomas Becket's lawyers had had access to such powerful precedent he may have saved himself from such linguistic embarrassment.

For the next issue of this journal I have been commissioned to write a piece looking in more detail at the power of foreign precedent, with reference to Justis Publishing's material.