2018 – THE “CANCELLATION” PROBLEM

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SIR ROBERT STOUT LAW LIBRARY

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## CONTENTS

1. Describe your topic (and check jurisdiction) .................................................................................................................. 3

2. Find text books and journal articles .................................................................................................................................. 4
   2.1 Library Search | Ketu .......................................................................................................................................................... 4
       Book search ............................................................................................................................................................................. 4
       Article search ......................................................................................................................................................................... 5
       Article search – Find a known article using Library Search | Ketu ......................................................................................... 6

3. Find Commentary (on a statute) ....................................................................................................................................... 7
   3.1 WestlawNZ ........................................................................................................................................................................ 7
       Basic search – Browse ................................................................................................................................................................. 7
       Explore results (gather clues) .................................................................................................................................................... 8
       Advanced Search ....................................................................................................................................................................... 9
   3.2 Lexis Advance .................................................................................................................................................................. 10
       Basic Search – Browse by Topic ................................................................................................................................................ 10
       Basic Search – Browse by Publication ................................................................................................................................... 11
       Explore results (gather clues) .................................................................................................................................................... 12
       Advanced Search ....................................................................................................................................................................... 13
   3.3 CCH Intelliconnect ........................................................................................................................................................... 14
       Search – Browse ........................................................................................................................................................................ 14
       Search – Freetext ................................................................................................................................................................. 14

4. Find articles beyond Library Search .................................................................................................................................. 15
   4.1 LegalTrac (Gale) ............................................................................................................................................................... 15
   4.2 HeinOnline ........................................................................................................................................................................ 16
   4.3 Westlaw ........................................................................................................................................................................... 17
       Finding a known journal article in Westlaw .............................................................................................................................. 18
   4.4 Lexis – US REsearch ......................................................................................................................................................... 19
       Finding a known journal article in Lexis – US REsearch ........................................................................................................... 20
   4.5 Lexis Advance – LinxPlus ................................................................................................................................................. 21

5. Tips & Tricks ........................................................................................................................................................................ 24
   5.1 Publishers ........................................................................................................................................................................ 24
1. DESCRIBE YOUR TOPIC (AND CHECK JURISDICTION)

“The cancellation provisions in the Contract and Commercial Law Act 2017 (Part 2, Subpart 3) which were originally enacted in the Contractual Remedies Act 1979 were intended to clarify when a party may cancel a contract in New Zealand and the relief the courts may grant when a contract is cancelled. In your opinion, are there any aspects of the Act that have been misapplied by the courts or where additional requirements on cancellation have been imposed? Are these justifiable?”

| SEARCH STRATEGY |
|------------------|------------------|------------------|------------------|------------------|
| Concept 1 AND Concept 2 | AND Concept 3 | AND Concept 4 | AND Concept 5 |
| “granting relief” | “Contractual Remedies Act 1979” | cancel | New Zealand | Law |
| OR | OR | OR | OR | OR |
| “grant relief” | “Contract and Commercial Law Act 2017” | cancellation | NZ | Legal |
| OR | OR | OR | OR | OR |
| Grant! AND relief | (broader term) Contract | Cancel! | Use a database with a NZ focus | Use a database with a legal focus |

Each column represents synonyms, or broader or narrow terms within the same subject. The 4th column is only relevant if you are searching for NZ content in an international law database such as Lexis.com or Westlaw. The 5th column is only relevant if you are using a search engine or database that contains content beyond law, for example, Library Search | Ketu.

The concepts represent all the elements needed for your searching to achieve the most relevant results. You might only think up three concepts and their synonyms – or you might need ten concepts, (although that would be a bit extreme!). When you are constructing a search, however, you may only need to search on one or two concepts to get what you want, especially if you are dealing with known statutes or cases.

The search process can be quite circular and labyrinthine, so to save time and duplication you might also want to keep track of your processes using something like this:

<table>
<thead>
<tr>
<th>STARTING POINT….</th>
<th>LEADING TO….</th>
<th>LEADING TO….</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statutes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cases (full citation)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Keywords</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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1 LAWS202 exam question 2013
2. FIND TEXT BOOKS AND JOURNAL ARTICLES

Finding textbooks or journal articles requires slightly different strategies. Texts (and commentaries) usually provide information over a fairly broad topic, for example *Family Law in New Zealand* covers all aspects of that area of law. Texts are an excellent starting point to understand a subject, by identifying key terms and phrases, leading cases and relevant legislation. On the other hand, journal articles are short and intense pieces providing deeper analysis of a narrow point of law. In the legal field, journals come in two forms: trade / practitioner focused, and academic / scholarly. The former usually includes pictures, and may not acknowledge the author of the piece, and are short. Academic works are much longer, with authors acknowledged, and authorities cited.

2.1 LIBRARY SEARCH | KETU

Use *Library Search | Ketu (LSK)* to find many legal texts and journal articles. *LSK* is a very generic search tool. To find textbooks, use broader search terms, e.g. torts, contract, or family. To find journal articles, use narrower terms. Add ‘law’ and ‘Zealand’ to focus the search.

BOOK SEARCH

Type in keywords. LSK will retrieve results with all terms present. ‘Search Everything’ includes books, journals, videos etc.

- Use Advanced Search to search specifically by title if you know those terms are in the title.
- Use filters on the left to refine the results, e.g. Law Library.
- Click on title to see all editions or versions. Sometimes the latest edition is on Reserve.
- Open up multiple versions to see the call number (KN10.CG94 2015) and get it off the shelves, and browse the index.
**ARTICLE SEARCH**

**Library Search | Ketu (LSK)** provides access to articles from 100s of databases. It can find articles in HeinOnline, Legaltrac and multidisciplinary database suites like Proquest. It cannot search across Westlaw or Lexis. Type in keywords, and use those specific phrases related to cancellation or the courts granting relief. Add “ “ around phrases.

![Search Interface]

Refine by content type. Filter by subject, or journal title.

Evaluate!

Is the date of the article in scope?

Is a newspaper article high quality, unbiased and authoritative?

In this search, the results are narrowed to journal articles.

Be prepared to do new searches using other keywords from your search strategy.

Use the Advanced Search template if you need to perform a more targeted search, and Sign in for more functionality.

To get to the full text of the article, click on either the title, or the 'View Details' link.

![Search Result]

Click on Lexis Advance NZ. Sometimes there is information here about the date ranges provided. Make sure this matches your requirements.

Either way, you will be redirected to a login screen. Login with your student details.

Many law journal articles will not link all the way to the article itself, so it is not uncommon to have to re-search the article.

Re-search. Note the Source is only the *New Zealand Law Journal*, so the search terms can be quite rudimentary.

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2 Except articles within Westlaw and Lexis
ARTICLE SEARCH – FIND A KNOWN ARTICLE USING LIBRARY SEARCH | KETU.

To find an article from a reference, first decode the elements of the reference:


Author  Title of article  Year of publication  Volume, journal abbreviation & start page.

In Library Search | Ketu, first try searching by author and title keywords.

If that fails, it is for one of three reasons:

1. LSK does not search across the particular law database this article resides in.
   Solution: Look for the article manually in Westlaw and Lexis.
2. The article is available only in print
   Solution: Change tactic and look for the journal title in Library search
3. The Library does not subscribe to the journal.
   Solution: Interloan

To find the print version, search by journal title. In this example, however, we only have the journal’s abbreviated title: JCL.

Find out what that abbreviation means using the Cardiff Index to Legal Abbreviations from the Law Subject guide.

Use your knowledge of the topic to choose the right journal. Copy and paste the full title into library search.

Search by Journal title.
“ ” phrase search if necessary.
Click on title to get more information about location and holdings.
Journals are shelved alphabetically in the Law Library.

The open dash in the holdings information (vol 1 -) means the subscription is active, and there are none missing.
Click on Find in Library to see a map.
3. FIND COMMENTARY (ON A STATUTE)

Commercial databases such as CCH, LexisNexis and Westlaw provide expert opinion about legislation. The authors are judges, lawyers and academics. Using commentary (sometimes referred to as loose-leaves) is an excellent way to quickly discover key issues around specific sections of an Act, as well as directing the researcher to key cases in that area. They are regularly updated, making them more accurate and responsive to changing laws than a textbook.

From Law Subject Guide, choose a NZ-based legal database to begin your search3.

3.1 WESTLAWNZ

This suite of databases includes several commentaries and online texts, including Adams on Criminal Law, Securities Law, Personal Injury, Todd on Torts and much more.

BASIC SEARCH – BROWSE

Browsing is a good way to find “I’ll know it when I see it” content. You might need to think laterally though!

For this problem, we will browse by Practice Area to Commercial law, then drill down for the Contract and Commercial Law Act 2017, and see if a section about granting relief (or perhaps a related phrase) appears.

Click on the + signs to expand. You may need to delve into several areas before you see what you need.

Jot down the path you took so you can repeat the search again easily.

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3 That covers concepts 4 & 5 in your search strategy!
EXPLORE RESULTS (GATHER CLUES)

Select a section about the court granting relief. Toggle between the Commentary Tab and the Cited Documents Tab.

Sometimes, there is no Commentary Tab. Why? Usually it is because the guiding statute is too recent to warrant any analysis. In this example, use the Compare: 1979 No 11 s 9(1) link instead, because we already know the new and old statutes are very similar.

Follow the leads. For example, look at the cases highlighted in the commentary. They are probably important if they’ve been cited. Look at the other sections of the Act highlighted. Jot down your pathways so you can get back to them easily.
ADVANCED SEARCH

Browsing is not always the most efficient method, especially if the Act is large. Advanced Search provides a targeted search. From the WestlawNZ homepage, select Advanced Search template — Legislation and Commentary. These are linked because commentary provides statutory interpretation, using leading cases and expert opinion. Find the Act, and use free-text keyword phrases to target the right section. For more sophisticated free-text search methods, see the Terms & Connectors link, top right.

There are several search results, all within the one Act. Use the Document Path and Hit Terms in Context to help choose.

Or, if you know the exact section of the statute, use the Advanced Search template fields provided.

There is only one result, because your search is very targeted and specific. Look at Cited Documents and Related Documents to find further links to secondary sources such as texts and journal articles.

However, if you need expert opinion around a topic, which is not so clearly associated with a specific statute, try different combinations and variations of your search terms and keywords.
3.2 LEXIS ADVANCE

From the Law Subject guide, select **Lexis Advance**. Sign in with your student username and password. NOTE: you can modify the look and feel of this database to suit your needs.

This suite of databases includes “NZ Analytical Materials”, ie several journals, including the *New Zealand Law Journal*, and many loose-leaf services (aka commentary), such as *Morison’s Securities Law*, and *The Laws of New Zealand*. Data about legislation and commentary are linked, so one way to find a secondary source is to begin with the Act. Other starting points for browsing are by publication title or by topic.

**BASIC SEARCH – BROWSE BY TOPIC**

From the Browse drop-down, choose Topic, then make your selections starting with broad terms, eg Contract Law, and refine, using the options provided.

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**Get documents** = a list of results from all content types, eg Cases, Analytical Materials and Legislation.

**Add topic as a search filter** automatically populates your search parameters. See below.

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Result from **Get documents**.

The List defaults to cases.

Click on NZ Analytical Materials to get to Secondary Sources such as Commentary and Journal articles.
Below is the result if you **Add topic as a search filter**. I have added the search terms **grant relief**, and the system has found the statutory phrase.

Below is the result if you **Add topic as a search filter**. I have added the search terms **grant relief**, and the system has found the statutory phrase.

**Laws of New Zealand** is also in the Publications list on the homepage.
EXPLORE RESULTS (GATHER CLUES)

*Laws of New Zealand* provides pithy overviews of the subject in clear language. Each chapter is regularly reviewed and updated by the author responsible. Check the date. Sometimes a new activity in parliament or the courts is not going to appear.

You can navigate through the sections on the left, or use in-text cross-references to move to other sections of the Contract Chapter, or the statute, or cases.

The cases listed are carefully chosen to demonstrate a particular point, and not necessarily the whole point. They could be just the starting point. So, for your research, you would cross-reference this information with commentary on related sections and look at those cases too. Remember, this is just one opinion, so corroborate this analysis with other commentary, textbooks, or journal articles.
The Big Red Search Box can be used as a starting point, but if you want to impose filters to your search first, use the Advanced Search drop-down. As we are looking for secondary sources, select the Analytical Materials link.

Note; each content type engages a different search template. As you fill the template, the data is transferred to the Big Red Search Box. Follow instructions carefully, regarding how you connect the keywords or phrases.

Scroll through all results, or narrow, using the filters on the left, for example, Commentary or Journals, or by publication, for example Laws of New Zealand.
From the Law Subject guide, select **CCH Intelliconnect**.

This suite of databases focuses on commercial and tax law for Australia and New Zealand. It contains cases, statutes and commentary.

**SEARCH – BROWSE**

Browsing is useful if “you know it when you see it”. Think about the topic in its broadest possible terms to get started.

Drill down through the contents on the left, by clicking on the + signs, until you find commentary on Contract Law

Jot down the references to cases, statutes, articles, and so on, and add them to your research path.

**SEARCH – FREETEXT**

An effective way to search is to browse, then search. Click the + signs to expand and drill down through the content, then when you’re ready, add freetext by using the search box at the top of the screen.

At any time in the process, check (tick) the heading you want to search within, and use the search box at the top of the screen. The search box will become contextualised to find results only within the selected content.
4. FIND ARTICLES BEYOND LIBRARY SEARCH

Library Search | Ketu (LSK) will not find all the journal articles you have access to at Otago. LSK also searches across masses of probably irrelevant materials, so searching at the source can be much more fruitful.

4.1 LEGALTRAC (GALE)

This database contains a relatively small amount of full-text, but it describes and links out to many law journal articles.

Build the search one term at a time. Choose the auto-select option only if you want to.

Note, ‘Zealand’ needs to be added as a search term, but not ‘law’. Everything in this database is about law.

IMPORTANT
Deselect the Full Text Documents filter. This is because much of the data in LegalTrac is not full text, and it relies on linking to other providers instead. You can also remove this filter later if you forget now.

In this search, LegalTrac has the full text of all the results. However if you see this icon, use it to access the full text from another source.

Limit or filter as required.
4.2 HeinOnline

This database contains a lot of historical data from the UK and USA, as well as journal articles world-wide. Because HeinOnline is a third-party provider (or aggregator), some journal content is on a delayed release.

Select the Law Journal Library.
Go to Advanced Search.

Build the search using " " for phrases.
Change the search fields as required.
Text = anywhere in the article.
HeinOnline Help is very good if more complicated search structures are needed.

Deselect the data types as required, to remove for example, legislation and case results.

This pink result means you have to find the full text some other way. Try Library Search / Ketu (LSK).

Title search by article title in Library Search / Ketu (LSK).
Westlaw is a massive suite of databases with an American focus. It includes cases and statutes, journal articles and treatises. As with all law databases, the advanced search templates are contextual to the type of source you are looking for. Similar strategies can be used for finding articles, or cases.

From the Law Subject guide, choose Westlaw, and click on International Materials.

Select Journals content type on the left. Click on Advanced Search.

International Materials is the portal to all non-USA content.

New Zealand Business Law Quarterly
July, 2014

Note and Comment
Continuing Representations and Agency: The United Kingdom Supreme Court’s Approach

Marcus Roberts

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FINDING A KNOWN JOURNAL ARTICLE IN WESTLAW

For example

Marcus Roberts “Continuing Representations and Agency: The United Kingdom Supreme Court’s Approach” (2014) 20 NZBLQ 73.

From the Westlaw homepage, go to International Materials, then Journals. Then choose Advanced Search.

The search from the template is auto-populated in the top search box, providing the chance to make quick changes, or learn the command language that drives the search.

Type the citation for the article in the Citation field. Generally this is the most accurate way to search, as the citation is like a unique ‘address’ for the article. Or, type in a mix of title keywords and the author.

The results are relevancy ranked, so the correct journal should be listed first. Narrow the results by Searching within Results if necessary.

Why is there more than one result? Because Westlaw is trying to be helpful.

If you know more about the journal, for example, which jurisdiction it is from, you can browse through the journal lists, which should make your search more accurate.
Lexis is a massive suite of databases, with an American focus. However, it also contains a lot of case law, legislation and journal articles from a wide range of countries.

Login to ‘big’ Lexis via Lexis Advance, then change your view to the US Research option using the dropdown menu on the top left. It will look very similar to the NZ view, but it is actually a different subscription with completely different content.

From the US Research homepage, select the Content Type Tab, then Secondary Materials.

This contains all secondary sources from all jurisdictions, even though it looks like we’re just searching US.

From there, select Law Reviews & Journals to find journal articles.

Note the ‘breadcrumbs’ so you know where you are.

Use Advanced Search Template – and Tips to build your search with less effort.

Re-sort the list by date, or Search Within Results to narrow.

Note the Sources – many articles are from our common law friends, Australia, UK (and NZ of course!).
FINDING A KNOWN JOURNAL ARTICLE IN LEXIS – US RESEARCH

For example


Follow the steps above, and use the article title as a “” phrase search

Or, drill down through the International Tab.

Then select All Australia Law Reviews and Journals to see the full list of journals. Select Journal of Contract Law.
4.5 LEXIS ADVANCE – LINXPLUS

Linx is an index of judgments and journal articles maintained by the NZ Law Society. LexisNexis hosts this index, and has added PDF files to the judgments data – hence LinxPlus.

LinxPlus results will appear in Big Red Box searches too – you just have to seek them out from the other results in the NZ Analytical Materials section.

Journal article data is in LinxPlus is only an index, which means articles are described, but there is no full text.

Why use it? Two reasons.

1) The description of the articles often includes mentions of pertinent cases and statutes
2) It is still the best index to search for articles: once you know an article exists, you can find in other ways mentioned above.
Select **LinxPlus** from the Publications list.

You can do this in two ways. The first option means you will need to narrow your post-search results to journal articles. The second option will provide only journal article results.

1. **Add publication to search filters**
   - Use the big red box. Note, the box is searching only **LinxPlus**.
   - Once you get the results, filter by **NZ Analytical Materials** to find journal articles.

2. **Go to Advanced search**
   - Takes you to a search template: you have to choose cases or analytical materials: in this case, you want to search for journals, so choose the latter.

Or, for the second method, see below.
2. Go to Advanced Search

Select Analytical Materials

With this method, your results will be only journal articles, AND you can piece together a more refined search, using the different fields provided in the search template.

Remember, LinxPlus is a journal index, so no full text.

Copy and paste the title of the article into Library Search | Ketu.

OR copy and paste the title of the journal into Library Search | Ketu.

To get the full text of this article, try LSK. Search by article title first. If that does not work, search by journal title instead, i.e. Journal of Contract Law. Or, you could try Westlaw or Lexis.

Note: the’ Location – Check Holdings’ message refers to the Law Society Libraries, so ignore that.
5. TIPS & TRICKS

5.1 PUBLISHERS

Legal publishers are very protective, and are not into sharing. This means you need to learn who publishes what so that you interrogate the correct database when you are looking for something specific. Library Search | Ketu results include information about the publishers.

There are 3 key publishers of NZ law.

Knowing who publishes what will SAVE TIME in 2 ways:

1. Decoding a law report abbreviation, e.g. NZLR
   - Look at the abbreviations, and the location of the ‘NZ’.
     - NZXX = LexisNexis
     - XXYNZ = Brokers
     - XXXC = CCH

2. Matching a print publisher with their database partner
   - Lexis / LexisNexis / Butterworths / Mathew Bender
   - Brokers / Westlaw / Wests / Thomson Reuters / Sweet & Maxwell / Law Book Co
   - Wolters Kluwer / CCH

For example, if you want to use the online version of Adams on Criminal Law, how do you know which database?

1. Look up Adams on Criminal law in Library Search | Ketu
2. Identify the publisher

   ![Adams on Criminal Law](image)
   - Thomson Reuters New Zealand Ltd 2016
   - Available at Law Library Reserve [Ask at Desk] KM526 A588 2016 and other locations.

3. Remember that Thomson Reuters is Westlaw (see above), and this product is a NZ one
5. Select WestlawNZ - Select Browse by product title to find Adams on Criminal Law.