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# Letters to the editor

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## Law reporting and law reports

WITH reference to the very interesting article on this topic by Prof van Blerk in the April 1995 edition of *Consultus*, I thought you might be interested to know the practice in this country.

Law reports first appeared in what was then Southern Rhodesia in 1899. It was a small volume of only 56 pages, and its publication was an isolated event, no further reports appearing until 1911. In that year the first of four annual volumes appeared which were published by Juta. From 1915 onwards, the Southern Rhodesia Reports were published in Southern Rhodesia itself by the Government Stationery Office (now the Government Printer).

The publication of the Southern Rhodesian Law Reports did not cease with the appearance of the South African Law Reports in 1947. They continued to be published until 1955, when they were replaced by the Rhodesia and Nyasaland Law Reports, which covered the then Federation of Rhodesia and Nyasaland. With the demise of the Federation, the Rhodesia and Nyasaland Reports ceased, and were replaced in this country by the Rhodesian Law Reports, which in due course became the Zimbabwe Law Reports.

From 1947 onwards, some cases from this country have continued to be published in the SALR so that it is quite common to find a case in two sets of reports (more now, with the emergence of the SACR and the BCLR). In some rare instances, a

Rhodesian or Zimbabwean case has appeared in the SALR but not in the RLR or ZLR. This might have happened because the reporter for the SALR was not the same person as the editor of the RLR or ZLR. At present, however, the reporter for the SALR (Mr A P de Bourbon SC) is also an editor of the ZLR, so this sort of omission should not occur.

The reports here have, for many years, been printed by the Government Printer and published by the Ministry of Justice. However, in around 1985, the ministry found itself short of cash and for some years no law reports were published. The generosity of the Canadian government made possible a programme to update the law reports. That programme was conducted by the Legal Resources Foundation, which published the missing reports, with the co-operation of the Ministry of Justice. The system is still that the LRF publishes the reports with the ministry's co-operation. The law reports are now pretty well up to date – perhaps not quite as current as the SALR, but better than any other African country that we know of.

Because of the very small market for the Reports – there are only about 400 legal practitioners in the country – it is not practical for the reports to be produced on a proper commercial basis. Government involvement and, in recent years, donor funding has been necessary. This has had an effect on what cases are reported, as explained below.

The task of editing the reports has always been that of legal practitioners. The early editors were all members of the Bar. For many years, each volume had only one editor. More recently, there has been a small panel of editors – one member of the *de facto* Bar (Adrian de Bourbon SC), Prof Geoff Feltoe of the University of Zimbabwe, and me.

Between us, having selected the judgments that are to be included in the reports, we edit them as necessary (sometimes it is possible to leave out portions, where the judgment is only

being reported on one aspect), write the catchlines and headnotes and compile the indexes. The headnote and edited judgment is then sent to the responsible judge for approval.

The practice here is that (unless a judgment comes to our attention too late to be included in the appropriate volume) the date of the judgment determines what issue of the law reports it appears in. Usually we produce two volumes a year. Volume one will include cases in which the judgments were given in the first half of the year, while volume two includes the cases from the second half of the year.

On some of the other points mentioned by Prof van Blerk, we do not usually include counsels' heads of argument in the report of a case, but where the case is of particular interest and the judgment omits many of the authorities cited by counsel, the heads (usually abbreviated) will be included.

In court here, there is no objection to cases being cited which have not been reported. In fact, it is very common for unreported cases to be cited; the unreported cases are reasonably easily available to counsel and the judges' libraries have all of them. Virtually all cases, whether or not they appear in the law reports, are now reported in summary form in a publication (also produced by the Legal Resources Foundation) called the *Bulletin of Zimbabwean Law*, which is intended to provide a digest of recent legislation, judicial decisions and other legal developments in a form that will be of use to practising lawyers. Because the judgments are reported there in a summary form, though, practitioners who wish to refer to the judgment in court would still have to obtain a copy of the full judgment.

[Letter shortened – *Editor*]

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