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[The Error of Citing as Authority a Reversed or Distinguished Case]

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Excerpt from address by the Honorable Pat McCarran, United States Senator from Nevada, in the United States Senate as reported in the Congressional Record for January 20, 1954 (Vol. 100, No. 10, page 498) :

“It is bad enough to make the mistake which young and inexperienced lawyers sometimes make, of citing a case which has been reversed or distinguished, without knowledge that it has been so reversed or distinguished. That kind of mistake can only be made by a lawyer who has failed to Shepardize his cases.

“Perhaps I should explain the word ‘Shepardize’ for the benefit of those of my colleagues who are not lawyers. There is a series of volumes, most useful in the law, known as Shepard’s Citations. Through the use of these volumes, it is possible to learn whether any particular case has been subsequently cited, quoted from, reversed, distinguished, or otherwise referred to. It is the standard practice of lawyers to use these volumes for the purpose of making that determination with respect to any case upon which they intend to rely.

“As I said a moment ago, it is bad enough to cite a case which has been reversed or distinguished, without knowing that the case has in fact been so reversed or distinguished. It is far worse—a sin of commission rather than of omission—to cite such a case as authority, knowing full well that it is no longer reputable authority for the point in behalf of which it is cited.”

Senator McCarran’s address was made during a discussion of the proposed Bricker Amendment.