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1. INTRODUCTION

All topics in Legal Studies require essays to be prepared and presented as part or all of assessment.

The nature and focus of essays may vary, for example in the type of source material required, but there is one common aspect of all essays presented in Legal Studies: the need for correct presentation and documentation. This means that all essays must be proof-read for spelling, punctuation and word usage. It also means that all essays should use footnotes for the references cited and a bibliography of sources consulted.
2. COMPOSING AN ESSAY

- Your essay must be a scholarly exposition, incorporating an argument and supported by evidence. It should be based on facts and reasons, not mere emotions and prejudices. It must be internally consistent, have a structured theme, be clearly introduced, developed logically, and lead to a clearly stated conclusion. One way to do this is to start with an essay plan setting out the skeleton of your essay.

- Express the argument in your own words, rather than just as a series of quotations. (Note: 'In your own words' does not mean closely paraphrasing source material.) While it may be appropriate from time to time in an essay to include brief direct quotations, clearly indicated as such by inverted commas OR indentation, the essay must be in your own words and indicate the sources of ideas and facts which support your argument.

- The argument and evidence must be relevant to the set question. Side issues should be avoided. The awareness that there are side issues is often a sign of intelligent reading but the ability to show awareness of them without being distracted by them is a sign of intelligent writing.

- The argument should be consistent and the language used should be clear, grammatical and precise. Your reader must always know what you are trying to say, how you are saying it and why you think there is evidence or logic for saying it.

- The best essays are those which are structured, well researched, well-argued (and aware of counter-arguments), clearest in style, interesting and, if possible, original.

- You should read, and note very carefully, the University policy on plagiarism.

- Please try to use inclusive, gender neutral language throughout your essays.
3. LENGTH AND PRESENTATION

- Essays must conform to the word length prescribed for each assignment.

- Essays must be presented on one side of the page only and contain a 4cm margin.

- If you are writing your essay by hand you should leave every second line blank - this makes the paper much more readable and allows more space for comments.

- Essays may be typed or produced on a word processor. They must be double-spaced or one-and-a-half-spaced and on blank paper. If you cannot do word-processing, you should learn to do so while you are at University.

- Essays must be submitted at or before the time stated. Penalties may be imposed for late submission unless prior permission has been given.

- When submitting a piece of written work you must fill in the details on a Legal Studies "cover sheet", sign it and attach it to the front of your essay. Cover sheets are available outside the Legal Studies office and above the essay deposit box in the lift foyer, plaza level, Law & Commerce Building.
4. DOCUMENTING YOUR ESSAY

Documentation is an essential component of any essay written at University level. Essays in Legal Studies are not acceptable without adequate references and a bibliography.

4.1 Bibliography
This comes at the end of your essay and may be on a separate sheet. It lists the books and all the other materials you have used, including cases and statutes. It contains the same information about each item as is in the footnote references except that it does not include specific page references.

The bibliography is usually in sections. The material in each section is arranged in alphabetical order of the author’s surname.

In first year work you will probably only need a few sections (usually for books, articles, cases and statutes). But more advanced work might have some or all of the following sections. There is no rule about what sections you use - it depends on the kinds of material you want to list - you might have to allow for referring to television programs, CD-ROMS or anything!

Primary Works
- Unpublished works
  - Documents
  - Interviews
- Parliamentary Sources
  - Parliamentary Debates
  - Parliamentary Papers
- Cases
- Bills
- Statutes
- Statistical Serials

Secondary Works
- Books
- Chapters in multi-authored works
- Periodical articles
- Newspapers.
4.2 Footnotes
References may be either footnotes or end notes, but footnotes are preferred. You will find that the in-line or Harvard system of referencing may be more suitable for the work you may do in the second semester of the first year and in some second and third year topics. But for the first semester of the first year, use footnotes.

Footnotes are used to provide the exact source for information, opinions and direct quotations which are taken from other authors or from documents. It is necessary to provide footnotes in the following circumstances:

- where you use a direct quotation;
- where you are not directly quoting but where you are using, in your own words, someone else's ideas;
- where you wish to provide the source for statistics and facts which are not common knowledge;
- where you are discussing the argument of another writer;
- for giving citations to cases, statutes and other legal sources.

Footnotes may be used to qualify or add to the discussion in the text of the essay. In this way, worthwhile material can be included which might otherwise disrupt and distract from the central argument in the text. Footnotes of this sort should be used sparingly and should not be used as a device to overcome the difficulty of stating the argument in a prescribed word length.

It is necessary to use some discretion and to strike a balance in the use of footnotes. You do not need to give references for well known facts about which there is no dispute. Essays can be over-documented as well as under-documented.

There are a number of ways in which information can be given in references. You will find in the books you read
that various methods are adopted with varying degrees of success. Any method which is applied consistently and promotes attention to detail is acceptable. But one method, widely used, and recommended by Legal Studies, is shown in Section 6 of this document.
4.3 Quotations
It is necessary to indicate clearly when direct quotations are being used. Quotations of one sentence or less are indicated by single inverted commas (‘. . .’). Quotations which are greater than one sentence in length should be indicated, not with quotation marks, but by indenting the quoted material.

Any omissions from a quotation should be indicated by three dots ( . . . ). Square brackets should be used to indicate words which have been added to the original quotation and words which have been altered within a quotation to maintain the correct grammatical construction.

A footnote indicating the source must immediately follow the quotation.
5. LEGAL CITATIONS AND REFERENCES

The following is some information about the special requirements of citing legal materials, whether in the body of the essay or in footnotes. It is neither an exhaustive nor a universally accepted set of principles but covers some of the main points and provides a basic system of referencing. Note, however, that this is only intended for assignments, and not examinations: so far as the latter are concerned, abbreviations tend to be the norm.

5.1 Cases

The Parties
When citing a civil case, use only the surnames of the first parties on each side, omitting any others involved: eg Milirrpum v Nabalco Pty Ltd not Milirrpum & Others v Nabalco Pty Ltd & The Commonwealth of Australia. As you can see, it is common to abbreviate terms like Propriety Limited (Pty) and Company (Co). It is also permissible to reduce 'The Commonwealth of Australia' to 'Commonwealth' and 'The State of Queensland' to Queensland.

Where judicial review is sought of the decision of an administrator or inferior tribunal, it has been traditional to cite the resulting case by referring to three parties - the Crown (which is being petitioned to review the decision), the person or body responsible for the decision, and the person seeking the review: eg R v Brislan; ex parte Williams. Note that ex parte can be abbreviated to ex p if you wish. In recent times, however, it has been common to drop the reference to the Crown: eg Re Cram; ex p Newcastle Wallsend Coal Co. In these instances, as in all others, take your lead from the first page of the report.

Sometimes only one name is given, or the case is referred to solely by reference to its subject matter: eg Re Judiciary and Navigation Acts. Again, take your lead from the report itself.
In criminal cases where the Crown lays the charge the title is, for example, *R v Smith*; and on appeal by the accused, *Smith v The Queen*. In other criminal matters (eg prosecutions under the Road Traffic Act) the prosecutor, normally a police officer, is named as complainant: eg *Crafter v Smith*. 
When referring to a case you have already cited, it is acceptable to use a short form: eg *Milirrpum*. More generally, note that case names, though not the citations that follow, are usually italicised (as in this Guide) or underlined in order to make them stand out. Whether you choose to italicise or underline, be sure to maintain consistency by sticking with that choice throughout the document.

The Report
Details of the report of a case are cited in the following order: year, volume, abbreviated title of report, page number, court. If the volume of the report is part of a numbered series, the year cited is that in which the decision was handed down and is placed in round brackets or parentheses: eg *Rentiers Pty Ltd v Natural Vegetation Authority* (1990) 55 SASR 1 (SC). If, on the other hand, the report is identified by year only, then the year is placed in square brackets, followed by a volume number only if more than one is issued each year: eg *X v Y* [1971] SASR 100(SC); *Re Polemis*[1921] 3 KB 560(CA).

Note that, as these examples show, a report such as the South Australian State Reports may at different times have been issued as a numbered series and in yearly volumes. If you are in any doubt as to how to abbreviate the title of the report, take your lead from the report itself, which always gives that information.

Where a particular page of a report is cited, use 'at': eg *X v Y* [1971] SASR 100 at 103; *Milirrpum* at 183. Where more than one page is cited, add commas: eg *Re Polemis* [1921] 3 KB 560 at 563, 566-567, 570.

Often a major case may be reported in several reports. In that case it is usual to cite the official reports version first: eg Commonwealth Law Reports (CLR) for the High Court before the Australian Law Reports (ALR) or the Australian Law Journal Reports(ALJR). In the case of England one would cite the Appeal Cases (AC) then the Weekly Law Reports (WLR) then the All England Reports (All ER). A thorough student would refer to all
of the various reports, though this is not usual for first year students. The reason for the distinction is that the official reports also include the arguments of counsel, while the unofficial reports do not. The advantage of the unofficial series is that they appear sooner than the official reports. In practice in modern times there is usually no difference in the accuracy of the text in either version.

Where a case is as yet unreported, give details of the court involved and the date of the decision, together (if possible) with the case or print number assigned by the court: eg Mabo v Queensland, unreported, High Court of Australia, FC 92/014, 3 June 1992. If you cite a page reference, make it clear that you are referring to the judgment print: eg Mabo at 178 (judgment print).

For further information on law reports and their abbreviations, see the Guide to the Law Library, available from the Law Library.
6. REFERENCING

6.1 First Reference to a Book

The first reference to a work must give all the information necessary to identify it. The following information should be given, in the order shown.

- Author's surname, followed by given name or initial(s).
- The title of the book in italics.
- The edition number if it is not the first edition.
- Place of publication.
- Publisher and year of publication.
- Page number or numbers of the quotation or specific reference.

Examples


If there are more than three authors the following form should be used:


It is important to be careful when giving a reference from an edited collection not to confuse the works of the various authors with that of the editors. The correct form for giving references to chapters in edited collections is shown below.

6.2 First Reference to Chapters in Edited Collections

When citing references from edited collections it is crucial that you indicate to which author and chapter you are referring. The following information should be provided:
• Author's surname and given name or initials.
• Title of chapter in single quotation marks.
• Name of editor or editors.
• Title of book in italics.
• The edition number if it is not the first.
• Place, publisher and date of publication.
• Page number(s) of the reference.

Examples


6.3 First Reference to an Article in a Periodical

There are two acceptable methods of referencing Journal articles. The first reference to an article should include the following information:

• Author's surname and given name or initials.
• The full title of the article in single quotation marks.
• The name of the journal in italics.
• The volume, number, and the year of publication.
• Page number(s) of the article.

Examples


6.4 Second and Subsequent References to Books, Chapters & Articles

Second references to books, chapters and articles may be abbreviated as follows:

Where a reference to the same book, chapter or article follows consecutively:

If a reference to a work immediately follows a reference to the same work, the Latin abbreviation *ibid* (meaning "the same"), followed by page references, can be used for the second reference. If the reference is to the same page, use *ibid* alone.

Where a later reference to a book does not follow consecutively, and reference to a different book by the same author has not intervened:

Author's surname only.
The Latin abbreviation *op cit* (meaning "in the work cited").
The page number.

Where references are made to more than one work by the same author:
In the case where two or more works by the same author are being used, or if there is a large gap between the first and second reference, the name of the author, followed by a short title of the work, and the page number should be used for the second reference.

6.5 Newspapers

*Canberra Times*, 9th August 1977.

6.6 Parliamentary Debates

These include debates on Bills, statements of members, questions and answers by members.

Examples

Debate on the Clean Air Amendment Bill, South Australia, Official Reports of The Parliamentary Debates (Hansard), 1986-87 Session, p.300, 13 August 1986, House of Assembly (First Reading).


6.7 Parliamentary Papers

These include Royal Commission Reports, Select or Standing Committee Reports of the Parliament, Annual Reports of government departments and agencies and Law Reform Commission reports.

It is important to include the following information:

- Parliament, Committee or Agency.
- The Session.
- The Title of the report, and its date.
- The Parliamentary Paper Number.
- Number of pages in brackets.
- If bound, the volume number.

Examples

Bound papers


South Australia, Proceedings of Parliament, Session 1984-85, Select Committee of Legislative Council, Review


Unbound papers


6.8 Cases

- Title
- Year or volume number
- Page
- Court

Examples
State Bank of South Australia v Hellaby (1993) 59 SASR 304 (FC)

Natale v Natale (1957) 17 LSJS 535 (SC)

Australian Capital Television Pty Ltd v Commonwealth of Australia (No 2) (1992) 108 ALR 577 (HCA)

6.9 Bills

Remember a Bill is a draft act before it has been passed by the Legislature (ie both Houses of Parliament and the Governor, in the case of a State, and Both Houses of Parliament and the Governor-General in the case of the Commonwealth).

Examples
Family Law Bill

6.10 Statutes

- Title
- Year
- Jurisdiction

Examples
Criminal Law Consolidation Act 1935 (SA)

Crimes Act 1914 (Cth)

Commonwealth of Australia Constitution Act 1900 (UK)

6.11 Statistical Sources

- Agency
- Series title
- Paper title
- Number and date

Examples

South Australia, Department of the Attorney-General, Office of Crime Statistics, Research Reports, No 1: *Sexual Assault in South Australia* (July 1993).

South Australia, Department of the Attorney-General, Office of Crime Statistics, Research Bulletins, No 4: *Decriminalising Drunkenness in South Australia* (November 1986).


7. CITING ELECTRONIC SOURCES

Much material, primary and secondary, is available by using electronic sources such as the Internet and CD-ROMs. These sources need to be cited just as much as traditional print sources. The same principle is true of electronic sources as it is of print sources - the citation must enable readers to find for themselves the material referred to. Generally, if you follow this principle your citations will be all right. The standards set down here are intended to achieve that purpose.

7.1 Primary and Secondary Sources

If the electronic source contains the primary or secondary legal material itself and it gives a reference to a standard print edition of that source, use the print reference. This will usually happen with CD-ROMs of primary legal material and with on-line databases on, for example, the Internet. If you wish you can add the electronic source to the citation.

7.2 CD-ROMs

For material which can only be referenced to a CD-ROM, give the citation as follows:

Author/Editor, Title, edition (if more than one is indicated), place of publication, publisher, [CD-ROM].

Example


Note that this citation does not have the equivalent of a page number, which means that readers cannot immediately find the exact part of the CD-ROM. Readers will have to rely on the search mechanism provided with the CD-ROM.
7.3 The Internet

Whilst CD-ROMs may be taken, for practical purposes, to be as permanent as printed material, Internet sites are more ephemeral. Material gets put on and then taken off; URLs (Internet addresses) change; material moves from one server to another. All you can do is give the citation that was right when you consulted the material.

Internet material may have no indication of date, anywhere at all. Or it might have a date when the site was last revised, a date when a particular item was last revised or simply a date on which the particular item was written or put up. So in the case of material on the Internet you give a date not for the purpose of helping the reader to find the information but to give an indication of how up to date the material is. The date of the last revision is an indication of this.

For material on the WWW give the citation as follows:

Author/Editor, title, full http address, date.

The date you give should be, in order of preference: the date of the document; the date the site was last revised; the date you visited the site. You should indicate which date you are citing. For example:


But if the material you are citing is on a site which is an electronic journal, or something of the kind, adapt the above citation to give the additional information. Thus:


Note that, as in the two examples above, typing the URL on a word processor will usually result in the URL being
forced on to a new line. This is convenient and you should not adjust your word processor’s set up to alter it.
Tips for evaluating web sites
When using the web for assignments, it is important to evaluate the information found. Before citing a web site, ask yourself the following questions.

Is it information or opinion?

Either may be appropriate for the kind of paper you are writing, but remember that opinion cannot be cited as fact.

Is it accurate?

Check the information using other sources, for example text books or scholarly articles. If you find inconsistencies, it might be best to omit the web site.

Who is the author?

Looking at the author will give you a number of clues as to how useful the information is. If they are respected in their field, have legitimate affiliations (eg to a university), are mentioned in other literature, or indeed, have published scholarly works, the web site is probably of a high enough standard for your assignment. If the author appears to have no credentials or affiliations and you have not come across any of their other work, you might like to reconsider including the information in your paper.

Are they contactable?

Just in case you would like to ask a question.

Why has the author placed the information on the web?

The author might have "published" work in a scholarly electronic journal such as E-Law. If this is the case, there will be information about the journal, saying it is "refereed". A refereed journal is a scholarly journal of the highest standard and is a suitable source for your paper.
On the other hand, the author may have placed the information on the web in order to promote a product or point of view. In these cases, you must decide if including this kind of information is appropriate.

Have a look at the URL. Com, gov, edu or org?

A good rule of thumb is the following:

If "com" is in the URL, it is a commercial site, and its aim is more than likely to sell something or give information to customers.

If "gov" is in the URL, it is a government site, and is more likely to be provided for the information of citizens. These can be particularly good for obtaining reports, press releases and basic information for the public.

If "edu" is in the URL, it is an educational site, and is likely to either be information about an educational institution or scholarly material.

If "org" is in the URL, is the site of an organisation, and it likely to detail news and views of that organisation.

When was the web page last updated?

Are the links kept up to date?

If some or most links are not working it generally means the page is not being maintained regularly.

Is it well written?

7.4 ftp sites, Gopher sites and the like

Such sites do still exist, although many are being changed into WWW sites. If you cite something from such a site adapt the principles for WWW sites given above. For example:
7.5 e-mail, listserv, newsgroup, usenet, fidonet, IRC (even MOOs and MUDs)

These types of material are even more ephemeral than other electronic types. Very few of them have archives that can be referred to by others later. Therefore:

If the material is archived give a reference to that archive, in whichever of the styles shown above is appropriate. Thus a citation of a posting on the H-LAW discussion group, which are archived on the WWW, would be:


If the material is not archived, you have to treat it the same as you would if you were citing a letter written to you or something said to you. The usual way to cite that sort of information is something like:

J. Harcourt Bloggs, in a personal communication to the author, April 1993.

So for electronic equivalents you could use such references as:

“Gogol”, in an IRC message to the author, 22nd November 1996.
Cliff Hangerending, in an e-mail to the author, 16th October 1995.
Walter Wallcarpet, in a posting to H-OZLAW newsgroup, 5th May 1996.

If you have downloaded and kept a copy of such material without breaching copyright, you could add a note to that effect. For example:
Wendy Redredrobin, in a posting to alt.rec.dogs.breeding, 20th September 1996 (download available from author).
8. COMPLICATIONS

8.1 A later reprint of a work
Where reference is made to a later reprint of a work, the original date of publication should be given in square brackets. For example: W Bagehot, *The English Constitution* [1867], London: Oxford University Press, 1961 p.119.

8.2 An Introduction

8.3 References not taken from their original source