

NOTES ON THE STYLE OF THE LAW

Punctuating in-text citations

by

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≈ punctuation ≈ citations ≈ semicolons ≈ colons ≈
brackets ≈ full stops ≈



CITATIONS are a necessary part of legal writing. Without authority, lawyers would simply be free-lance philosophers inventing concepts to fit outcomes.¹ This publication and its editor have long been proponents of the use of footnote citations.² However, there is a regrettable trend to the use of in-text citations; this may be prompted by foolish court rules about the spacing or type-size of footnotes,³ or by the lack of good technical handling of footnotes on BAILII.⁴ When using in-text citations, there is a special consideration which does not arise in footnotes: how should they be separated from the running text?

There are, in principle, five possible approaches, shown below:⁵

COLON Access to justice is a constitutional principle: *R (Unison) v Lord Chancellor* [2020] AC 869, SC.

SEMICOLON Access to justice is a constitutional principle; *R (Unison) v Lord Chancellor* [2020] AC 869, SC.

COMMA Access to justice is a constitutional principle, *R (Unison) v Lord Chancellor* [2020] AC 869, SC.

FULL STOP Access to justice is a constitutional principle. *R (Unison) v Lord Chancellor*

¹ Some might say this still occurs despite the requirement of citations, but that is a matter for another Note.

² Aren't they fun, after all?

³ The Administrative Court is a particular offender here.

⁴ Despite skillful handling on sister sites like AustLII).

⁵ The example citation is deliberately a banal statement of a very obvious point, to focus the reader on the examples of punctuation rather than the sample text. In reality, this general platitude is so obvious it would not need to be used in legal writing (the reader knows this already), and if it really did need to be used, a pinpoint citation to the relevant paragraph would be called for (*viz*, para 64, though one could probably use several other points in *Unison* for the same point).

[2020] AC 869, SC.

M-DASH Access to justice is a constitutional principle—*R (Unison) v Lord Chancellor* [2020] AC 869, SC.

BRACKETS Access to justice is a constitutional principle (*R (Unison) v Lord Chancellor* [2020] AC 869, SC).

Of these, the comma approach is plainly an abomination because it creates a comma splice, which cannot be suffered to live.⁶ The brackets are undesirable simply because the proliferation of parentheticals in legal English leads to the deeply unsightly nesting of a series of brackets, or worse, two brackets in a row. *R (Unison)* already features a parenthetical as an integral part of the name, so adding more risks heightening the parenthesis page pollution which plagues pleadings.

The semicolon is tempting, not least because semicolons are wonderful punctuation, but not appropriate here. The c citation is not itself an independent clause, but rather a noun phrase, lacking any agency or movement. It cannot sustain an entire half of a semicolonic union, which is built on the joining of clauses (or less often clarifying a comma-separated list).

The m-dash is tempting too, but will create difficulties if used very frequently because of problems around properly spacing it. Failure to be careful in deploying it can lead to issues with spacing and justification which are more trouble than they are worth. The use and misuse of dashes also makes me reluctant to prescribe it generally. However, to reveal my final solution *infra*, I do see a rôle for it as a backup separator.

This leaves two options: the colon and the full stop. Of these, it is the colon which seems to be most popular in English legal writing,⁷ and thus which deserves first consideration. Let us first remind ourselves of the uses of the colon, as given in *New Hart's Rules* at § 5.5:

The colon points forward: from a premiss to a conclusion, from a cause to an effect, from an introduction to a main point; from a general statement to an example. It fulfils the same function as words such as *namely, that is, as, for example, for instance, because, as follows, therefore* [...] Use the colon to introduce a list [...] Do not use a colon to introduce a statement or a list that completes the sentence formed by the introduction. In the following examples a colon should not be placed after *is, include, and to, respectively* [...]

In the example of in-text citations, the citation post-script is, in fact, the reverse of the first use of the colon given. The authority is the premise,⁸ whereas it is the principle derived from it which is the conclusion.⁹ It makes no sense to substitute 'therefore' in place of the colon in the in-text citation. The example of 'because' makes slightly more sense, in that one could say the mechanics of a citation are 'Principle *because* authority',

- 6 I use hyperbole to add some levity to what is a Note entirely about punctuation in citations (a rather dry topic), but I do despise comma splices, and would strongly urge you, Gentle Reader, to avoid them at all costs!
- 7 Though this is an off-the-cuff observation rather than any considered survey of in-text citation punctuation.
- 8 The house style of this publication uses 'premise', but I have preserved, as a sign of my esteem and deference to *New Hart's Rules*, their use of 'premiss' in the quotation *supra*.
- 9 Hence, in law notes, one might write '*R (Unison) v Lord Chancellor* [2020] AC 869, SC: access to justice is a fundamental constitutional principle', because the colon joins the premise of the authority with the conclusion derived from it.

but this seems, it is submitted, a more general use of ‘because’ outside the context given in *New Hart’s Rules*. Instead, it seems to me that the in-text citation more neatly tracks to ‘is’; the pinpointed authority is equivalent to the statement summarising it. Even where use is made of a signalled citation (‘see, *eg*, *R (Unison)*’), the signal is an equivalence, because the statement presumably is something along the lines of ‘many cases have held access to justice is a constitutional principle’.

The strongest justification for use of the colon would be the list usage, noted above, since in-text citations are often lists of multiple authorities. It is an interesting philosophical question as to if a single item may constitute a list,¹⁰ but in our silly example statement of a generic citation, the list justification simply does not work. The case listed is not the only authority listed from the premise, nor is it a random example; rather, it complements and fulfils the originating statement by supporting it with authority. After careful consideration, it seems that the list justification does not quite fit.

This leaves the full stop, which has two distinct advantages. First, it makes it especially easy to switch a document from footnoted citations to in-text citations, because the format of the main statements and the citations are largely unaffected by each other.¹¹ This is a major advantage, because the format of the output of legal writing may be unknown at the time of drafting, or require later change. Thus, ease in switching ‘modes’ is a great boon to subsequent revision. Second, it clearly separates the citation from the discursive sentence. The citation stands on its own, but by sequential positioning, necessarily follows the original thought. However, there is a major drawback to the full stop, *viz* that not all statements preceding citations end in a full stop.¹² Therefore, the full stop method requires adjustments where not immediately following the termination of a sentence.

This additional labour may discourage some legal writers, but this publication believes additional labour is called for where the benefit to the reader in clarity is proportionate. It is submitted that this is such a case,¹³ and as such, *infra*, I provide guidance for my preferred method of in-text citations. First, the full stop method once again works for following a full stop.

POST-FULL STOP Access to justice is a constitutional principle. *R (Unison) v Lord Chancellor* [2020] AC 869, SC.

For following a comma, I, admittedly controversially, favour an M-dash, which fulfils a rôle adjacent to the colon, but distinct. The M-dash was not a main contender *supra*, but does a nice job swooping in to save the citation in the more limited use of statements ending in commas. This lacks the reversibility of the full stop approach, but at least makes much more logical sense than deploying a colon before a comma (which might

- 10 Philosophical research is outside the scope of this Note, but I suspect this has been the subject of at least some philosophical inquiry already.
- 11 For citations which have no discursive element, the final full stop could be validly omitted in footnote mode, but this is optional in any case.
- 12 As demonstrated by the many footnotes attached to commas in this very Note, though ironically this footnote is one of them.
- 13 Though this is a highly subjective submission, and, as ever, the discretion of the writer is required to determine the proper route to take.

create ambiguity by appearing to start a list separated by the succeeding comma. The same can usefully be said for semicolons.

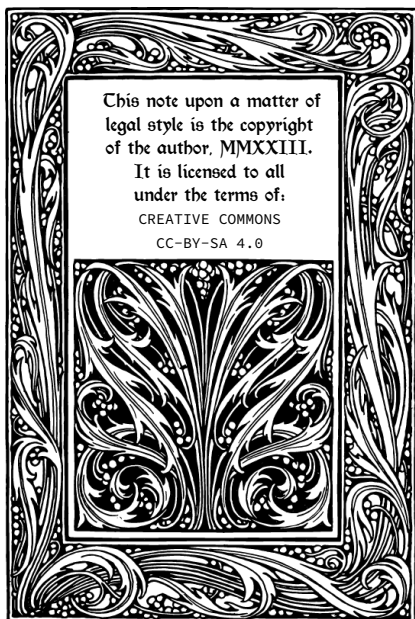
PRE-COMMA As access to justice is a fundamental principle—*R (Unison) v Lord Chancellor* [2020] AC 869, SC,

PRE-SEMICOLON On the one hand, access to justice is a fundamental principle—*R (Unison) v Lord Chancellor* [2020] AC 869, SC;

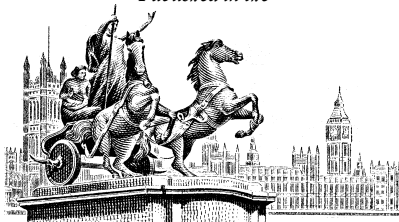
This is an imperfect solution, because footnotes remain the best,¹⁴ but it is submitted it is a workable one. As ever, the suggestions of this publication's erudite readership are eagerly solicited: what is the right way to delineate in-text citations



¹⁴ Yeah, footnotes are great!



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