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AUTHOR'S GUIDE



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Submission information	3
Instructions.....	3
Guidelines.....	4
Executive summary of TCLR House Style.....	5
House Style	6
General Grammar and Spelling	6
<i>Spelling</i>	6
<i>Foreign quotes</i>	6
<i>Latin phrases and maxims</i>	6
<i>Abbreviations</i>	6
Quotations	6
<i>Generally</i>	6
<i>In Footnotes</i>	7
References to judges and academics.....	7
Cases	8
<i>Irish and English Law Reports</i>	8
<i>American Law Reports</i>	8
<i>European Community Reports</i>	8
<i>Unreported Judgments</i>	9
<i>Repeated References to Already Fully Cited Cases</i>	9
Books	9
<i>Repeated References to an Already Fully Cited Book</i>	9
Articles	10
<i>Law Journals</i>	10
<i>Articles in Law Journals</i>	10
<i>Articles in Books</i>	10
<i>Articles in Newspaper</i>	10
<i>Articles generally</i>	10
<i>Repeated References to an Already Fully Cited Article</i>	11
Parliamentary Debates	11
Law Reform Commission reports.....	11
Online Materials.....	11
<i>Generally</i>	11
<i>Online Journals</i>	12
Constitutions	12
<i>1937 Constitution of Ireland</i>	12
<i>Other Constitutions</i>	12
Legislation	12
<i>Irish Legislation</i>	12
<i>UK Legislation</i>	13
<i>Statutory Instruments</i>	13
<i>European Community Institutions</i>	13
Treaties – EU and International.....	13
<i>EU</i>	13
<i>International Treaties</i>	14
Official publications.....	14
Footnotes	14
<i>References to that Cited in the Immediately Preceding Footnote</i>	14
<i>References to Earlier Discussions in the Essay Itself</i>	14
Useful books on legal writing, grammar and style.....	14
<i>Books on style, grammar and spelling</i>	14
<i>Books on legal writing</i>	15
Article titles from (2008) 11 TCLR.....	15
Contact information	15

Submission information

Submissions deadline for 2009 TCLR:

16th January 2009

(Early submissions are of course welcome.)

Instructions

Please send an electronic copy of your submission in an email with your name, year and contact details in the main body of the email with your article attached.

Word count should be in the region 2,000 to 10,000 words.

Please do not have your details on the submission in order that we can look at your work anonymously.

Please email your submission to:

authors@trinitycollegelawreview.org

Alternatively, articles can be posted to:

Box 9, The Atrium,

Trinity College,

Dublin 2,

Republic of Ireland.

You will be notified as to the status of your submission by the end of January 2009.

Guidelines

In evaluating an article submission the Editorial Board considers:

- the originality of the work;
- the quality of argument in the work;
- the accuracy of the work on legal facts;
- the topicality of the work;
- the structure and literary style of the work; and
- whether the work reads as an article rather than as an essay.

Consequently, articles which are selected for publication should generally fall under one of the following descriptions:

1. articles with commentaries or opinions on a recent case or issue of a topical nature which has yet to receive significant academic attention;
2. articles taking a ground-breaking approach to a subject which has received considerable academic attention;
3. articles comprehensively stating and analysing an area of the law which has not been dealt with exhaustively in another text or publication.

Executive summary of TCLR House Style

The following is an executive summary of the house style of the TCLR for quick reference only. The authoritative version is fully developed and explained in the pages that follow.

Cases

Stephens v Flynn Ltd [2008] IESC 4.

Case 63/86 Veinal Snitzel Umpaerladenwarfenbunt BV v France and Juan Pablo y Sus Ocho Hermanos SA [1998] ECR 29.

Flood v Lawlor [2001] 1 IR 23.

Books

Gerard Hogan and Gerry Whyte, *JM Kelly: The Irish Constitution* (3rd ed., Butterworths, 1994), at 786–789.

Articles

Vsalandine Korah, “The Concept of a Dominant Position in Article 86” (1980) 17 *CMLRev* 395.

Peter Cooke, “The Competition Act 1991: One Year On” in Schuster ed., *Key Aspects of Irish Competition Law and Practice* (Round Hall, 1990).

Dáil Debates

321 Dáil Debates col. 101 (28 May 2007).

Websites

Fintan O’Toole, *Scapegoating replaces healthy public sector debate* <www.irishtimes.com/newspaper/opinion/2008/1125/1227486544959.html> (visited 25 November 2008).

Irish Legislation

Local Government (Planning and Development) Act, 1963, s.27.

SI 94/1997 European Community (Natural Habitats) Regulations, regulation 29(5).

European Legislation

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and wild fauna and flora, OJ L206/7, 22 July 1992.

Using Ibid

If citing something in the previous footnote:

¹ Gerard Hogan and Gerry Whyte, *JM Kelly: The Irish Constitution* (3rd ed., Butterworths, 1994), at 786–789.

² *Ibid.*

If the page number is different

¹ Gerard Hogan and Gerry Whyte, *JM Kelly: The Irish Constitution* (3rd ed., Butterworths, 1994), at 786–789.

²*Ibid.*

³*Ibid.*, at 56.

There is a full stop at the end of each footnote.

House Style

This is the house style to which all articles will conform.

General Grammar and Spelling

Spelling

Standard English spelling should be used. In particular, “s” is used instead of “z” in words such as “standardisation”, unlike the American spelling.

Foreign quotes

Foreign quotes or phrases in modern languages should include relevant accents.

Foreign quotes should also include translation in footnotes, and the source of the translation.

Latin phrases and maxims

These should always be in italics and “i” is to be used in place of “j”.

de facto, ius tertii, ultra vires, prima facie, actus reus.

Abbreviations

There are no dots between the letters of an abbreviation if it is used as a word in common usage.

US, EU, USSR, Unicef, TEU, JCB

Ms, Mr, Ltd, Co, No, Plc, Inc

Latin abbreviations do not have dots, and are italicised.

ie, eg, etc, qed.

As a general rule, there are no dots between the letters of abbreviations.

Quotations

Generally

In the case of short quotes (less than 3 lines long) doubled inverted commas (except for quotes within quotes which use single inverted commas) and smart quotes are always used (“ ”). Although logic often suggests otherwise, traditional typesetting requires that punctuation marks appear within the quotation.

According to Amnesty, his arrest “seems to be the ‘Pinochet effect’ in action.”

“I have always fancied myself as a bit of a player.”

A substantial quotation (3 lines or more long) should be indented in the text with no quotation marks and with a spare line above and below. Double inverted commas should be used for a quote within such a quote. One can lead into the indented quote as a continuous sentence without a colon.

Faced with a similar dilemma in *Texas v. Johnson* Justice Kennedy reasoned

[s]ometimes we must make decisions we do not like. We make them because they are right ... in the sense that the law and the Constitution, as we see them, compel the result. This decision comes clearly into this category. To burn a flag is to offend our nation, our founders and our dead to the very core.

Of course there are further implications in this statement which must now be looked at in great detail.

Alternatively, one can use a colon before the quote. The preceding sentence should be amended, if necessary, to render the colon grammatically appropriate. That is, the indented quotation should read as a complete statement, and the preceding sentence should introduce that statement. If necessary, this formulation can be achieved by inserting words into the quotation in square brackets so as to make it complete.

Faced with a similar dilemma in *Texas v Johnson* Justice Kennedy came to the following conclusion:

Sometimes we must make decisions we do not like. We make them because they are right ... in the sense that the law and the Constitution, as we see them, compel the result. This decision comes clearly into this category. To burn a flag is to offend our nation, our founders and our dead to the very core.

Of course there are further implications in this statement which must now be looked at in great detail.

The word “that” introduces an indirect statement and should never be followed by quotation marks.

Faced with a similar dilemma in *Texas v Johnson*, Justice Kennedy concluded that sometimes judges had to make a decision they did not like.

Within a sentence, a direct statement is introduced by a comma, double quotes and a small letter.

Faced with a similar dilemma in *Texas v Johnson*, Justice Kennedy concluded, “[s]ometimes we have to make a decision we do not like.”

In Footnotes

The same applies to footnotes except there is no line gap above and below the indented quotations.¹

References to judges and academics

Judges have the appropriate initials after their surname. There are no dots.

Barron J, Harmon LJ, Keane CJ, Morris P, Denning MR, Sir Duncan Smith QC, Cooleridge LCJ

The exceptions to this are American judges (preceded by “Justice”) and English Law Lords (preceded by “Lord”)

Lord Scarman, Justice Brandeis, Chief Justice Burger

Academics, politicians etc should be referred to by their first name and surname on the first occasion they are mentioned, and thereafter by their surname only (unless two persons with the same surname are being referred to, in which case the first name should be given as well).

¹ Faced with a similar dilemma in *Texas v Johnson* Justice Kennedy came to the following conclusion:

The hard fact is that sometimes we must make decision we do not like. We make them because they are right ... in the sense that the law and the Constitution, as we see them compel the result. This decision is comes clearly into this category. To burn a flag is to offend our nation, our founders and our dead to the very core.

Cases

These are cited in Italics. There is no dot after the intervening “v.” The full name of the case must be used somewhere in the main text or footnotes. Where there is an official (vendor neutral) citation, this should be given first.

Stephens v Flynn Ltd [2008] IESC 4.

The short name used for the case should be consistent, and indicated after the full name of the case either in the main text or in a footnote.

The State (Nicolaou) v An Bord Uchtala [hereinafter *Nicolaou*].

In the situation of cases in a series involving the same litigants then the case number should be put in brackets at the end of the name and should also be in italics.

Lawlor v Flood (No 7).

The rules applying to abbreviations also apply to case names. Thus family law cases with initials have no dots.

JCB Ltd v Ford Motor Co.

JM v MM.

Irish and English Law Reports

Volume year – volume number (if there is one) – abbreviation – starting page number.

Flood v Lawlor [2001] 1 IR 23, [2001] 1 ILRM 90.

Square brackets should be used where the reports are indexed by year.

State v Treanor [1924] 2 IR 193.

Round brackets where they are indexed by volume number

Donnellan v O'Neill (1870) IR 5 Eq 523.

Where the case is cited in more than one report, you should separate the cites with a semicolon.

[1994] 2 IR 242 (HC) (SC); [1992] 1 ILRM 24 (HC); [1995] 1 ILRM 81 (SC).

American Law Reports

These should be cited as: volume number – abbreviation – starting page number – year. Where appropriate the series number of the report should be inserted after the report abbreviation, and the court district should be placed in the brackets before the year and appropriately abbreviated. Where there is more than one citation for the case, then the year (and if applicable the district) should be placed only once at the end.

345 US 663; 73 S Ct 900; 97 L Ed 1331 (1953).

104 FRD 468 (N Dist Ill, 1992).

151 Ill App 3d 287; 502 NE 2d 1292 (1st Dist, 1986).

European Community Reports

Since these will usually have very long names they should be referred to in the main text only by their short name, and in footnotes their full name should be cited, including the case reference number which goes first. The case number is not italicised, nor is there a comma

between it and the case name. The chapter numbers, paragraph numbers or other non-page numbers are not to be used, even in the case of European Court Reports.

Case 63/86 Veinal Snitzel Umpaerladenwarfenbunt BV v France and Juan Pablo y Sus Ocho Hermanos SA [1998] ECR 29; [1989] 2 CMLR 601.

Unreported Judgments

If there is a vendor neutral citation, this should be used. Otherwise, these should be cited: Date (Court initials in brackets). There is no reference to the judge's name.

Ellis v Rudall 18 November 2003 (HC).

Ellis v Rudall 19 July 2004 (SC).

Repeated References to Already Fully Cited Cases

Cases referred to again never refer to the previous footnote. Instead the citation is repeated in full except for the case name. The case name itself need not be accompanied by a footnote citation every time it is used if not referring to a specific part of the case.

Books

Author First Name and Surname, Title (Edition, Publisher, Year). Subtitles should be separated from the main title by a colon. Where there is only one Edition then it should not be specified. All words in the title should start with a capital letter, except for those "link" or "small" words which are conventionally in small letters.

Paul Craig and Gráinne de Búrca, *EU Law: Text, Cases and Materials* (2nd ed., Oxford University Press, 1998).

To refer to a particular point in the book place a comma after the correct citation followed by the word "at" and the relevant page number. When referring to a series of pages the start and end pages should be fully written, with sequential pages separated by an en dash [-] and non sequential pages by a comma.

Gerard Hogan and Gerry Whyte, *JM Kelly: The Irish Constitution* (3rd ed., Butterworths, 1994), at 786–789.

Repeated References to an Already Fully Cited Book

The surname(s) of the author(s) should be used followed by a comma and a reference to the footnote in which the reference first appeared. After that, one inserts a comma and the relevant page, paragraph or chapter number. Note the comma before the "at" should not be in italics.

Hogan and Whyte, note 8, at 890.

Charleton, McDermott and Bolger, note 11, at 76.

Where the same author on his own or author combination has edited or authored more than one work referred to in a particular footnote, then the name of the work should also be included and followed by note X. The purpose of the rule here is to make it clear to the reader to whom you are referring.

¹Thomas 'O Malley, *Sources of Law: An Introduction to Legal Research and Writing*, note 14, at 34.

²Thomas 'O Malley, *Sentencing Law and Practice*, note 17, at 39.

Articles

Law Journals

These should be cited: volume year - volume number (if there is one) - abbreviation - starting page number. No dots are used in the abbreviation. The abbreviation to be used is that officially designated by the journal itself and is usually found in the opening pages of the journal. In the absence of such an official abbreviation then the full name of the journal should be used. Square brackets should be used where the journals are indexed by year, round brackets where they are indexed by volume number (as is nearly always the case with journals). Again the journal itself will indicate which is appropriate. This is almost the same as citing reports, with the important difference that the journals abbreviation is always in italics. If the core readership of the journal is unlikely to be aware of the journal, its full title (in italics) should be given on the first occasion it is referred to.

(1960) 23 MLR 151.

Articles in Law Journals

Author First Name and Surname, "Article Title" – Law Journal Citation.

Valentine Korah, "The Concept of a Dominant Position in Article 86" (1980) 17 *CMLRev* 395.

Articles in Books

Author First Name and Surname, "Article Title" in [book citation] starting page of article. Note the requirement of "in".

Peter Cooke, "The Competition Act 1991: One Year On" in Schuster ed., *Key Aspects of Irish Competition Law and Practice* (Round Hall, 1990).

Where there is more than one editor note the requirement for eds.

David Cameron, "Climate Change in Business" in David Freestone and Charlotte Streck eds., *Legal Aspects of Implementing the Kyoto protocol Mechanism: Making Kyoto Work* (Oxford University Press, 2005).

Articles in Newspaper

Author First name and Surname, "Article Title" Newspaper citation.

Roderick O'Hanlon, "Why is it Open Season for Blasphemy?" *The Sunday Business Post*, 8 July 1999.

Articles generally

To refer to a particular point in any source place a comma after the correct citation followed by the word "at" and the relevant page number. When referring to a series of pages the start and end pages should be fully written, with sequential pages separated by an en dash [-] and non sequential pages by a comma.

Valentine Korah, "The Concept of a Dominant Position in Article 86" (1980) 17 *CMLRev* 395, at 399-425.

Peter Cooke, "The Competition Act 1991: One Year On" in Schuster ed., *Key Aspects of Irish Competition Law and Practice* (Round Hall, 1990) 82, at 89, 90-97, 101.

Roderick O'Hanlon, "Is it Open Season for Blasphemy?" *The Sunday Business Post*, 8 July 1999, at 10.

The house style rules for books relating to multiple same surname authors, foreign titles, foreign spelling, American spelling and capitalisation all apply here. The rules for incomplete

information also apply, except that in the case of journal citation all information must be provided. In the case of untitled editorials these should be given the title of “Editorial” in inverted commas. Untitled Articles should not be in inverted commas. Unattributed notes can have “Note” inserted where the author’s name would usually go.

Jeremiah Johnson, “Editorial” (1986) 28 *Crim LR* 1.

“Bush Steals Election” *Chicago Sun Times*, 8 December 2000.

Bartholomew, Untitled (1998) 8 *JSPTL* 76.

Patrick O’Reilly, “Rules of Competition Law” (2007) 10 *TCLR* (forthcoming).

Note, “Means-End Rationality and the Equal Protection Clause” 102 *YLJ* 403 (2000).

Repeated References to an Already Fully Cited Article

To refer again to a book, article or website which has already been cited, the surname(s) of the author(s) should be used followed by a comma and a reference to the footnote in which the reference first appeared. After that, one inserts a comma and the relevant page, paragraph or chapter number. Note the comma before the “at” should not be in italics.

Korah, note 8, at 400.

Cooke, note 11, at 76.

Where the same author on his own or author combination has edited or authored more than one work referred to in a particular footnote, then the name of the work should also be included and followed by note X. There is a non-italicised comma after the title. The rule here is to make it clear to the reader to whom you are referring.

Korah, “The Concept of a Dominant Position in Article 86”, note 14, at 34. [referring to his article]

Korah, Competition Law, note 14, at 432. [referring to his book]

Parliamentary Debates

Dáil and Seanad debates are to be referenced as follows:

321 Dáil Debates col. 101 (28 May 2007).

231 Seanad Debates col. 101 (19 May 2007).

Law Reform Commission reports

Law Reform Commission reports from the Republic of Ireland are to be referenced as:

Law Reform Commission, *Consultation Paper on the Reform and Modernisation of Land and Conveyancing Law* LRC CP 34–2004.

Online Materials

Generally

These should be cited as: Author First name and Surname, Top Level Title of Material <Uniform Resource Locator> (date last visited). This should not be converted into a hypertext link. The word “visited” should be used. Spaces may be inserted into long URLs to avoid excess spacing.

Fintan O’Toole, *Scapegoating replaces healthy public sector debate* <www.irishtimes.com/newspaper/opinion/2008/1125/1227486544959.html> (visited 25 November 2008).

Online Journals

Citations to Journals which only appear on the internet should be cited as: Author First Name and Surname, "Title" – Year – Volume No. - Journal Abbreviation – Sequential Article No – full stop – <URL>. There is no need for a last visited date as this is satisfied by the year.

Otto Burk, "Trademarks Along the Infobahn" (1995) 1 Rich JL & Tech 1. <www.urich.edu/burk.html>.

To refer to a particular point in online journals paragraph numbers should be used (using the word "para."). When referring to a series of paragraphs the start and end pages should be fully written, with sequential pages separated by an en dash [-] (using the word "paras") and non sequential paragraphs by a comma.

Constitutions

1937 Constitution of Ireland

In the main text it should simply be cited exactly as it appears in the text of the Constitution. The ° symbol is attained by pressing Shift + Ctrl + ' + Space. Some parts of the Constitution have unnumbered paragraphs which may be informally numbered in the main text.

In its third paragraph Article 40.6.1°(i) states....

In footnotes the same numbering should be used, with unnumbered paragraphs numbered subsequent to the official numbering in small letters, fully spelled and with an intervening comma.

Article 40.6.1°(i), third paragraph

The exception to this is where the footnote performs the function of a commentary rather than a reference, in which case it may be informally referred to as in the main text.

Other Constitutions

In the main text references to foreign constitutions and the 1922 Free State Constitution should use the numbering as used in their official texts. The word Article should be used where appropriate, including the capital "A". Where the original text uses the term section then this should be used with a large "S". The text should state whatever is necessary to make clear that this is not a reference to the 1937 Constitution.

Article IV(4) of the US Constitution states....

Footnotes of a referential nature should be cited as: Constitution Name Year, Article/Section number.

Constitution of the Republic of South Africa 1996, Section 25.

Legislation

Irish Legislation

Full Title Act, Year, section.

Note that the word "section" is not fully spelled out. Use the following abbreviations section "s."; sections "ss."; subsection "subs."; subsections "subss."; paragraph "para."; and paragraphs "paras." These are all in lower case. Subsections, and smaller sections should be placed in round brackets, with no intervening spaces.

Local Government (Planning and Development) Act, 1963, s.27.

Local Government (Planning and Development) Act, 1963, subs.26(2).

Human Rights Act, 2002, para. 26(2)(i).

UK Legislation

English legislation is treated the same as Irish legislation, except that there is no comma between the word “Act” and the year for all legislation dating from the 1920s on. It should be made clear in the main text that the legislation is not Irish.

Public Order (Control of Terrorism) Act 1976, s 12(1).

Statutory Instruments

These should be cited as: SI XX/YYYY Regulation Name. Where you are referring to a particular provision (eg 12) of the SI, you follow the citation with, order 12 or, rule 12 or, regulation 12 or, article 12, depending on which terminology is used in the SI itself. Smaller sections should be placed in round brackets, with no intervening spaces

SI 431/1947 District Court Rules, rule 85.

SI 94/1997 European Community (Natural Habitats) Regulations, regulation 29(5).

European Community Institutions

Legislation Type and number – date of enactment or adoption – full title, OJ reference (volume number/start page number), date of OJ.

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and wild fauna and flora, OJ L206/7, 22 July 1992, amended by Council Directive 97/62/EC, OJ 305/42, 8 November 1997, art 4(3).

Commission Decision (EC) 2004/411 on the adequate protection of personal data in the Isle of Man [2004] OJ L151/51 art 3.

Council Regulation (EC) 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation) [2004] OJ L24/1 art 5.

[in subsequent footnotes use: EC Merger Regulation 139/2004 art 5.]

Treaties – EU and International

EU

Current references to the EC Treaty as amended by the SEA, TEU (Maastricht) and the ToA (Amsterdam) should be made using their post Amsterdam numberings with the old pre-Amsterdam number included in brackets and preceded by the word “ex” for the first mention of the given Article, but not thereafter. The word “Article” (with a capital “A”) should always precede the number.

There are now twenty Commissioners and the number can be increased by the Council in Accordance with Article 213(1) EC (ex Article 157).

Quotations from sources using the old numbering should be left as is with square brackets added indicating the new numbering with the word “now”.

The Court in *Van Gend en Loos* set out certain criteria for the direct effect of a Treaty provision:

The wording of Article 12 [now Article 25] contains a clear and unconditional prohibition which is not a positive but a negative obligation. This obligation, moreover is not qualified....

International Treaties

References to Treaties other than the Treaty founding the EC as amended, should be followed by “ECSC”, “Euratom” or “EU” as appropriate.

Article 21 Euratom refers to some fascinating issues dealing with coal.

Official publications

There is no standard way of citing reports of semi-state bodies, non-governmental organisations, *etc.* They follow the general format for books. Author comma, Title, bracket publisher, year bracket. Reports that are available online should include a web address and date of access.

National Consumer Agency, *The Home Construction Industry and the Consumer in Ireland* (National Consumer Agency, 2008).

<www.nca.ie/eng/Research_Zone/Reports/Home_Construction/NCA_Home-construction-key-findings.pdf> (visited 25 November 2008).

Footnotes

There is a full stop at the end of each footnote.

References to that Cited in the Immediately Preceding Footnote

If the immediately preceding footnote refers to (either as a full cite or in the shortened forms just discussed) the same source as the new footnote then the word “*Ibid*” should be used in italics, and with a capital “I” if at the start of the new footnote. If the page number is identical or no page number is needed to be specified then “*Ibid*” alone will suffice. If the page number is different then “, at page number” should be added.

In his theory of labelling criminology, Becker focuses on the societal role of defining crime.² This focus develops into three areas. First, the distinction between primary and secondary crime.³ Second, the reaction of the individual to labels.⁴ Third, the process by which society creates labels.⁵ We shall focus on this third area and the further distinction drawn by Becker between impacting and subpacting processes of definition.⁶

References to Earlier Discussions in the Essay Itself

To make an internal reference to a discussion within the essay itself then “*Supra*, at page no.” should be used for discussions preceding the current reference; and “*Infra*, at page no.” should be used for discussions subsequent to the current reference. These should only be used where they are genuinely useful for the reader, and not as mere “footnote padding”.

As has been discussed the outcome of *Brennan v Savage Smith* leaves the Supreme Court open to accusations of class bias, and these accusations will now be dealt with in turn. First, we must focus on the fundamental subjectivity in tort law before discussing the Constitutional implications of such apparent inequality.⁷

Useful books on legal writing, grammar and style

Books on style, grammar and spelling

- William Strunk, *The Elements of Style* (Macmillan, 1979);

² Becker, *Outsiders* (Harvard Publishing, 1964).

³ *Ibid.*, at 56-89.

⁴ *Ibid.*, at 98-110.

⁵ *Ibid.*, at 108-190.

⁶ *Ibid.*

⁷ *Infra*, at 176.

- Robert Ritter ed., *Oxford Dictionary for Writers and Editors* (2nd ed., Oxford University Press, 2000);
- Bryan Garner, *A Dictionary of Modern Legal Usage* (Oxford University Press, 1987);
- Nicola Wood ed., *Chambers Legal Spelling Checker* (Chambers, 1990).

Books on legal writing

- Thomas 'O Malley, *Sources of Law: An Introduction to Legal Research and Writing* (2nd ed., Round Hall Sweet & Maxwell, 2001);
- Steve Foster, *How to Write Better Law Essays: Tools and Techniques for Success in Exams and Assignments* (Pearson Longman, 2007);
- Paul Rylance, *Legal Writing and Drafting* (Blackstone Press, 1994).

Article titles from (2008) 11 TCLR

- Dworkin and Judicial Discretion: A critical analysis of the pre-existence thesis
- Codification of Directors' duties: An Act to follow?
- European Amicus Curiae Briefs: The road to abolition of the death penalty.
- Interpretation of Contracts in Commercial law: Competing principles.
- The Shari'ah prohibition of interest.
- Judicial discretion versus restraint in the realm of human rights: A contextual approach to the UK Human Rights Act 1998.
- Tous pour Un et Un pour Tous: La responsabilité de Protéger dans l'Ordre Mondial.
- Schadensersatzansprüche Privater bei Verstößen gegen das EG-Wettbewerbsrecht-Optimierung nach dem US, Antitrust damages' Modell?

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