RADIN LAW DICTIONARY

Second Edition

MAX RADIN

RADIN

Law Dictionary

Ву

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PREFACE

In this new edition, text explanations have been clarified, new material added and tables brought up to date, resulting in a more useful and somewhat larger manual, one which not only sets forth standard forms of citation, but enables the citer to understand and apply accurately the many rules involved. Few significant changes have been necessary, because the principles set forth in the earlier printings were sound. One important typographical change has been made, however, as noted on page 97. The following *credo* is somewhat abridged from the *Preface* to the first edition.

The lawyer makes thousands of citations in an area of literature which is familiar both to him and to the expected reader of the citations. The use of so many citations dictates a curtailed form, which though lacking in the bibliographical niceties of other learned fields, is wonderfully effective. It needs no apologies.

A legal citation has only one purpose: to lead its reader to the work cited, and this without enforced recourse to any other source of information, for data which should have been given in the citation itself. Let it achieve that aim and it is a good citation. This manual hopes to provide rules and examples sufficient to enable the user so to combine utility with good form as to produce the perfect citation.

Many years of witnessing the time-wasting frustration on both sides of a law library loan desk have convinced me that most citations fail because, in trying to save a minute bit of the citer's time and space, they omit vital information—the date of an amending act or of a decision, the court deciding a case, enough of an abbreviation to make it intelligible, or a parallel citation from a work the prospective reader does not have to one that he has. The context is supposed to take care of this, but by the time the hapless reader reaches the library, too often there is no context, but only a list of truncated references lacking in essential clues.

A good citation, no matter what its form, possesses the following elements: an abbreviation of recognizable meaning, a date, the notation of the court deciding a cited case, if not evident on its face, and a parallel citation. Too many abbreviations are meaningless out of their context. "Ms. D." alone, has one meaning to the patent attorney, another for the government administrator, and perhaps another to the tax lawyer. "C.A." may mean any one of half a dozen things. The date is both a check against error (and errors in citations are unbelievably frequent) and a means of appraising the cited reference. The parallel citation serves the dual purpose of a check against error (one citation may be

PREFACE

incorrect but probably not both) and as assurance that the reader will have available one of the forms cited. The time and space saved by curtailing are as nothing to the trouble caused by an insufficient reference.

Good form is important, as is a workmanlike job in any field. But sufficiency should never be sacrificed to mere form. The suggested rules in this manual are believed to be based upon common sense, and to be easily comprehended, remembered and applied.

Special Note.

Many times in this manual it is said "The Supreme Court preference is this; for lower Federal courts that; the State court briefs customarily do thus and so; and law review practice is as follows." There are few hard and fast rules; I have no pipeline into the Supreme Court or any other; neither am I being pontifical or dogmatic. On the other hand, I have been privileged to examine and make notes from the manuscript citation style manual circulated to the Supreme Court justices and law clerks; I have conducted voluminous correspondence with judges and law officers of the lower federal courts and those of every state, who have stated the preferences of their courts. I have had the same cooperation from federal administrative and quasi-judicial agencies. I have carefully analyzed the citation practice of some three hundred briefs and as many opinions, about evenly divided among Federal and State courts and Federal administrative agencies, and have examined the output of some forty different law reviews. The resulting analysis is responsible for what I believe to be a statement of good standard practice. Whatever emphasis there may be is upon official briefs submitted to Federal courts and agencies. The United States Government Printing Office Manual of Style has been the arbiter wherever pertinent, because with only an occasional exception, it is followed in Government reports and briefs.

Law review practice, as frequently referred to, for practical purposes means the rules formulated in the pioneer citation manual, A Uniform System of Citation, Form of Citation and Abbreviations, a joint publication of the law reviews of Columbia, Harvard, Pennsylvania and Yale, now in its ninth edition. These rules are observed by the majority of American law reviews. My manual differs, and this not often, in the matter of simplification.

Examples shown in the following pages are dated and many are in parallel. Where office practice omits these elements or either of them, it can be without hurt to the remainder of the citation. It is suggested that the paragraphs on page 80, pertaining to pagination, be read first.

MILES O. PRICE, Columbia University Law Library.

1 April, 1958

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STATUTORY MATERIAL

The Statutory Process.

The citation of statutory material becomes simpler if the usual chronology of enactment is kept in mind, for in effect statutes are cited in the chronological order of their publication in the various forms, which include slip laws, session laws, revisions, administrative regulations based upon statutes, and so on.

In the United States Congress since the adoption of the Constitution, legislation has been initiated by the introduction into either house of Congress of a Bill or Resolution. This is given a serial number and referred to the appropriate committee, which has it printed for distribution. The committee may hold hearings (the reports of which are usually printed), at which time opponents and proponents state their views. Thereafter the committee presents a report to its house, after which the proposed legislation is debated, as reported in the *Congressional Record* or its predecessors.

When the proposed Act or Joint or Concurrent Resolution has passed one house, all or most of the same process is gone through in the other house, as a result of which Conference Committees are appointed by each house to iron out differences. The Conference Report is ordinarily incorporated into the printed Report of one or both committees, and a final vote had.

After approval by the President or passage over his veto, the first officially printed form of the legislation is in pamphlet form, one act or resolution to a pamphlet, as a *Slip Law*, or in the case of treaties, in the Department of State *Treaties and Other International Acts* series or one of its predecessors.

At the end of each session of Congress (formerly at the end of each Congress), the various types of legislation enacted are issued as the Statutes at Large. (See page 9.) There have been several compilations and codifications of Federal statutes, those of still current interest being mentioned below. (See page 13.)

The final legislative stage is that of the promulgation of administrative rules and orders. (See pages 12, 17-19.)

The process is essentially the same for State legislation. (See page 19.)

A complete statutory citation might mention all the forms of legislation mentioned above. For a variety of reasons the date is an important element of all the following examples. The needs of the person citing or for whom cited may permit the omission of the dates, but it should be done with circumspection.

CONGRESSIONAL BILLS

Bill Categories and Abbreviations.

The following are the categories of bills introduced into the Congress, and their abbreviations, taken from the *United States Government*

Printing Office Style Manual (1953).

In citing, the order below is customary unless the context has supplied one or more of the component parts, which then may be omitted. The page reference and the dates are usually omitted. (As to page references to bills, documents, hearings and the like, *see* page 80.) Beginning with the 77th Congress, both bills and the resulting legislation have been numbered consecutively through an entire Congress. The session reference might well be dropped, for this later material, but so far that has not been the practice.

```
H.R. 70, 81st Cong., 1st Sess. (1949), p. 3. S. 1201, 81st Cong., 1st Sess. (1949), p. 2.
```

Repeating Citations.

hereinafter cited as H.R. 70 [or as S. 1201].

CONGRESSIONAL HEARINGS

Component parts of a *Hearings* citation are the title, the committee (or subcommittee) designation, bill number or numbers, title of the hearing, Congress number and session, date (including day of month if desired), part or part number, and page.

Hearings before Senate Committee on Finance on H.R. 5327, S. 1358, and S. 2022 (Import Duty on Virgin Copper and Metal Scrap), 81st Cong., 1st Sess. (1949), p. 56.

Hearings before Joint Committee on the Economic Report on Volume and Stability of Private Investment, 81st Cong., Part 1, p. 43 (1949).

Repeating Citations.

hereinafter cited as Hearings on H.R. 5327, S. 1358, and S. 2022.

Or, if only one Hearing is cited, simply as Hearings, *supra* [giving page and footnote number of original citation, plus new page citation.]

CONGRESSIONAL COMMITTEE REPORTS

Official United States abbreviates "Report" as "Rept." There is thus no ambiguity in H. Rept., for House of Representatives Report, as there might be in the citation H. R., which means House of Representatives Bill, not Report. Law reviews, however, commonly abbreviate as H. R. Rep., or Sen. Rep. For discussion of pagination, see page 80.

Government style: H. Rept. No. 19, 81st Cong., 1st Sess. (1949), p. 7. S. Rept. No. 163, 72d Cong., 2d Sess. (1932), p. 20.

CONGRESSIONAL DEBATES AND PROCEEDINGS

Debates.

The chronological coverage is:

Annals of Congress, 1789-1824. The title of this series is The Debates and Proceedings in the Congress of the United States . . . but the set is cited for its half-title, as below.

18 Annals of Cong. 1763 (1808).

Register of Debates, 1824-1837. The full title is Gales and Seaton's Register of Debates.

Preferred: 11 Reg. Deb. 127 (1835).

Alternative: 11 Cong. Deb. 127 (1835). [This does not follow the title

page.]

Congressional Globe, 1833-1873. Because of a confusion in numbering following volume 14, this set is not cited by volume, but by Congress and Session.

Cong. Globe, 41st Cong., 1st Sess. (1869), p. 499.

Congressional Record, 1873 to date. As the daily Congressional Record is rearranged and repaged when bound at the end of the session, the page numbers of the two editions do not match. Cite the bound volume if available. In citing the daily edition, give the full date. If desired, "daily edition" may be added. Beginning with the 80th Congress. 1947, a separately titled and paged supplement has appeared at the end of each issue of the Congressional Record, which at the end of the session is bound separately. This is the Daily Digest, a news sheet and summary of business in Congress. The page numbers are preceded by a capital "D," but otherwise citation is the same as for the Congressional Record proper.

Daily edition. 94 Cong. Rec. 9917 (daily ed. Aug. 4, 1948).

103 Cong. Rec. Daily Dig. D711 (July 31, 1957).

Bound volume. 94 Cong. Rec. 9761 (1948).

103 Cong. Rec. Daily Dig. D827 (1957).

Proceedings.

Though the publications printing the Congressional debates are almost always cited also for the *Proceedings*, occasionally the House and Senate *Journals* are cited instead, as being more convenient for some purposes.

Journals of the Continental Congress, 1774-1789. These have been published in one official contemporaneous edition of thirteen volumes and the following reprints: Folwell, 13 volumes, 1800-1801; Way and Gideon, 4 volumes, 1823; and the Library of Congress, 34 volumes, 1904-37. The name of the printer or publisher is a necessary part of the citation, as is the date of publication if different from that of the volume coverage. The enactments of the Continental Congress appear in these Journals, but not in very usable form.

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8 J. Cont. Cong. 972 (Oct. 9, 1783, Claypoole). [Contemporaneous.] 25 J. Cont. Cong. 661 (Oct. 9, 1783, Library of Congress 1922).
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House and Senate Journals, 1889 to date. The House Journals for the first thirteen Congresses were published all at one time in nine numbered volumes; thereafter they have appeared at the close of each session, for that session, in the numbered serial set of Government documents. The Senate Journals for the first thirteen Congresses were issued all at one time in five unnumbered volumes, and since have appeared at the close of each session, in the serial set. There is also a set of Senate Executive Journals, containing the proceedings of executive sessions, seldom included in the Senate Journals. Formerly published at irregular intervals and released only long after the close of the sessions covered, they are, beginning 1950, published and released annually.

House Journal.

 1st 13 Congresses:
 8 H. Jour., 12th Cong., 1st Sess. 217 (1812).

 Later Congresses:
 H. Jour., 78th Cong., 2d Sess. (1944), p. 291.

 Senate Journal.
 S. Jour., 79th Cong., 2d Sess. (1946), p. 209.

 Senate Executive Journal.
 25 S. Exec. Jour., 49 Cong., 2d Sess. 688 (1887).

CONGRESSIONAL DOCUMENTS

Cite by House or Senate document number, Congress and session, date, and page.*

```
H. Doc. No. 75, 81st Cong., 1st Sess. (1949), p. 25.S. Exec. Doc. No. 23, 81st Cong., 1st Sess. (1949), p. 19;
```

^{*} The above is the official preference. Law reviews prefer the following: H.R. Doc. No. 75, 81st Cong., 1st Sess. 25 (1949). Sen. Exec. Doc. No. 23, 81st Cong., 1st Sess. 19 (1949).

Bulletin or Report Bearing a Congressional Document Number.

Many Government departmental bulletins and reports are issued also as Congressional documents.

Parking Lots in the District of Columbia. Report of Acting President, Board of Commissioners of District of Columbia (S. Doc. No. 209, 81st Cong., 2d Sess. 1949), p. 56.

Since document numbers are consecutive through the sessions of a Congress, beginning with the 77th, the session number is superfluous but is usually given.

SECTION AND CHAPTER DESIGNATION IN STATUTE CITATIONS

In practice there is little uniformity in the treatment of chapter, article and section designations in statute citations, either in abbreviation or capitalization. Much of this is due to the fact that some legal writing is copiously footnoted while some is not, and that the practice is somewhat different for the two. Practically all treatises, legal periodicals, and about two-thirds of Federal legal opinions, as well as briefs submitted to Federal courts or quasi-judicial tribunals make use of footnotes. Very few printed State court opinions or briefs addressed to these courts are footnoted.

Standard Suggested Form.*

Quotations: Follow copy quoted as to section designations.

Main text: Spell out and capitalize "section" when the first word of a sentence, and in references in a sentence to a specific section and act.

Section 321 of the Act provides . . .

It was provided in Section 321 of the Act . . .

It was provided, Section 321, that . . .

It was provided (Section 321) that . . .

In casual text references to a section formerly cited, spell out but do not capitalize.

In referring to that section he said . . .

In parenthetical full citations, use the "\$" ("\$\$" for "sections").

^{*} United States Supreme Court preference: The Supreme Court of the United States in its opinions favors the following: Quotations follow copy exactly; otherwise, spell out "section" in citing a statute when it is the first word of a sentence, but use "\mathbb{S}" for other references, both in the main text and footnotes.

Section 811(c), as well as §821... but the former § is ...

Law reviews, except when quoting, commonly spell out and capitalize text references to a particular section of a particular act. Footnote references, except the first word of a sentence, employ the § symbol.

This whether the citation be in parentheses, set off by commas, or a separate sentence.

This provision, 58 Stat. 631, §8, that of this statute, 58 Stat. 631, §8.

This provision (58 Stat. 631, §8), that does not constitute reversible error. Rev. Civ. Code, §2414.

Footnote citations: Spell out "section" as the first word of a sentence; otherwise use "§" except in comment on a section, when follow the same form as for text references.

Citing United States Code Sections.

28 U.S.C. §18 (1952). [Points but no spaces in abbreviation; no comma.*]

Chapter and Clause Designations.

Chapter: c. [Plural is cc.]

The above is the prevailing practice, though "ch." is clearer, and is acceptable, capitalized or uncapitalized. In practice, there is no uniformity, and c., C., Ch., Chap. and Chapter are variously employed.

Clause: cl. [Seldom capitalized except as first word of a sentence, or as a proper noun: "Commerce Clause."]

CONSTITUTIONS

Constitutions are cited by article, section and clause (if given). In text references when set off by parentheses or by commas, and in footnotes, the symbol "§" is frequently substituted for "section."

"Constitution" is capitalized only when a proper name; i.e., when the United States Constitution or that of a particular State is clearly indicated. Conservative practice is to capitalize "article," "section," and "clause" (or their abbreviations) only when they form the first word of a sentence, or in headings. In parenthetical citations (whether parentheses or commas are employed to set off the citation), § for section is perhaps the majority rule, even in the main text.

The date of the United States Constitution is not given in citing it, since there has been only one Federal Constitution. The prevailing rule in citing State Constitutions is to give the date only of those not presently

^{*}The United States Supreme Court uses both points and spaces: 28 U. S. C. §18. However, 71% of the law officers and court reporters of 47 States and Territories, and a large majority of teachers of legal writing replying to the author's recent questionnaire, favor the form adopted above. Fifteen per cent favor the Supreme Court form; 14% favor 28 USC 18 (1952). Rynerson advocates USC 28:18 (1952), as being simple, logical, complete and compact.

in force. So many states have adopted new Constitutions of late years, however, that the wisdom of this practice is doubtful. When any possibility of doubt exists, give the date.

Amendment citations or citations of particular clauses by name are spelled out in full except in parenthetical or footnote references, but are not capitalized when used with the word "Constitution."

Text References.

the Constitution.

the United States Constitution.

Article V, section 18, of the Constitution of Indiana.

the New York Constitution of 1847, Article 8, section 1.

the fourteenth amendment of the Constitution provides.

the Fourteenth Amendment provides.

the commerce clause of the Constitution.

the Commerce Clause.

the Constitution provides (Art. I, §8, cl. 8) for a patent system.

the Constitution provides for a patent system. Art. I, §8, cl. 8.

Footnote References.

For typography, see page 108.

U. S. Const., Art.I, §8, cl. 8.

U. S. Const., Amend. XVIII.

Ind. Const., Art. IV, §5.

N. Y. Const., Art. 2, §1 (1847).

Abbreviations.

"Constitution" is not abbreviated in the main text (except in parenthetical references), or in indexes, but it is in footnotes.

CURRENT OR SLIP LAWS

The earliest published form of a federal law is the so-called "slip law," issued in pamphlets, one for each enactment regardless of length, about five weeks after approval by the President or passage over his veto. Slip laws are cited as authority until the publication of the Statutes at Large, into which the enactments of a calendar year are bound as the first permanent form of federal statute. On the other hand, since both the official and unofficial editions of slip laws now bear the complete official citation to the Statutes at Large volume and page, it is safe to give the latter, which is the permanent form of citation. A slip law bears upon its face the following information of citation interest, all of which is found also in the Statutes at Large volume as later printed: Law number (public or private), date of approval or passage over the President's veto, Congress, session, and bill numbers, and the title of the law, if any (as Clayton Act). Although slip laws are available from the

Government Printing Office in official print, the most accessible form for most libraries and practitioners is the private reprint in the United States Code Congressional and Administrative News, in which they have appeared since 1939. The session number may be omitted, since laws are numbered consecutively through the two or more sessions of each Congress. Beginning with the 85th Congress (71 Stat.), a shorter form of notation and citation has been officially adopted, which omits the "Chapter," "Congress," and "Session," as shown below. In any Public or Private Law citation, the Congress number, however, is always necessary. For example, every Congress has a Public Law No. 101, and a Private Law No. 111. To avoid possible confusion between post- and pre-1957 official citation forms for Public and Private Laws as such, this manual recommends the adoption of the new official form for both (as in Pub. L. 85-315 below), except in text references to a footnote, as shown below, where the text reference is completely spelled out.

Pub. L. No. 101, 80th Cong., 1st Sess. (June 23, 1947). [Pre-1957 form.]
Priv. L. No. 111, 80th Cong., 1st Sess. (July 30, 1947). [Pre-1957 form.]
Pub. L. 85-315 (Sept. 9, 1957). [New official form, indicating Public Law No. 315, 85th Congress.]

Except as noted below, do not cite an enactment as Pub. L. or Priv. L. if the *Statutes at Large* have been published. *E.g.*, Pub. L. No. 101, above, should then be cited:

Act of June 23, 1947, c. 120, §2, 61 Stat. 136, 29 U.S.C. §141 (1952). [For law review typography, see p. 108.]

However, occasionally an act becomes so identified with its original Public Law designation that it is so cited in legal writing. This is particularly true when the act has been codified in the *United States Code*, with the original section numbers and continuity altered thereby (as the Clayton Act), and the citer wishes to preserve the original form. Unless the *Code* title has been re-enacted as positive law (see page 15), the original law, not the *Code* is the primary authority and authentic text. Always, when so citing a Public or Private Law, give the full citation (usually in a footnote) the first time the act is cited. Thereafter it may be cited by its Public Law number.

Text reference: Public Law No. 101, 80th Congress † . . .

Footnote: † Act of June 23, 1947, c. 120, 61 Stat. 136, 29 U.S.C. §141 (1954), hereinafter cited as Public Law No. 101.

The reason for giving the parallel citation to the *U. S. Code* is simple: although the *Statute at Large* form is the authentic one, few lawyers have access to this set, but only to the *Code*. The citer, accordingly, cites both the original and that form to which his intended reader has access.

STATUTES AT LARGE

The first permanent published form of Federal statutes is the Statutes at Large. These, cumulating the slip laws, are published at the end of each calendar year, containing the legislation enacted at the session or sessions of that year. (Through the 74th Congress, the Statutes contained the legislation of an entire Congress, of two years and sessions.) Upon their publication, the Statutes supersede the slip laws as citable authority, and the latter ordinarily should no longer be cited. The Statutes at Large are (as of the end of 1957, with the exception of such sections of the Revised Statutes as are still in force, the Internal Revenue Code, and those thirteen—out of fifty—titles of the U. S. Code which have been reenacted as positive law) the only permanent printed repositories of Federal laws which are positive law rather than prima facie evidence of the law. This means that, though the Code is received in evidence, in case of repugnance between it and the original statute the statute text prevails, with the exceptions noted above. (The reenacted titles are always listed in the preface to any volume of the Code, but the latest supplement should be checked.) Therefore, the Statutes at Large should be cited, though for the convenience of the reader who probably has the Code but not the Statutes, the Code citation should be given in

However, those *Code* titles which have been enacted into positive law supersede and expressly repeal the *Statutes at Large* from which derived. Therefore, for them it is neither necessary nor proper to cite the *Statutes*, except for historical purposes (and for later amendments), since the *Statutes* are no longer in force. For example, the *Copyright Code* (title 17 of the *U. S. Code*) repealed the Act of March 4, 1909, c. 320, 35 Stat. 1075, from which most of it was derived.

In citing the Statutes at Large, it is customary to cite also the act from which derived (as Act of June 23, 1947 (c. 120), unless that may be discerned readily from the context. Through the 84th Congress, the chapter number has been considered a necessary part of the citation, unless cited law is identified by its context. For example, three different acts may be cited as the Act of July 30, 1947, 61 Stat. 210, but only one of them is Chapter 168. ("Chapter" 1 means simply the first act—public or private—approved during a session, chapter 2, the second, and so on. It is the only place in Federal statutory citation where the session number is significant.) However, beginning with the 85th Congress, 1957-58, chapter numbers are no longer assigned, and so of course can not be cited.

Where footnotes are employed, the full citation to a statute is rarely found in the main text, but usually only the name and section of the act, as the Clayton Act, etc., the volume and page references being footnoted (see page 82). Where, as is usually true, the section number of the *United States Code* is cited as part of the complete citation, the section number of the act is usually omitted, to avoid needless repetition.

The Statutes at Large contains the public and private laws and joint resolutions, the concurrent resolutions (which are not printed as slip laws but are found in the Congressional Record), Presidential proclamations (but not the executive orders, which have the same legal effect), reorganization plans, and proposed amendments to the Constitution. Formerly, treaties were published in the Statutes at Large, but from 1945 on, these, together with executive agreements of international effect, have appeared in a new publications, United States Treaties and Other International Acts. The Statutes at Large may be cited by title of act (if any), volume, page, section and date, although, when sufficiently identified in the text, one or more of these elements may be omitted. (See page 82.)

It should be remembered that when the *original* form of an act is desired, the *Statutes at Large* is the place to find it. Codified statutes almost never retain the same section numbers, and frequently the order of sections is changed, and a single act may be codified in several different *Code* titles. The short Clayton Act, for example, is classified in titles 15, 18 and 29 of the *Code*, with sections following a different consecutive order. In legal writing, the original form is cited, unless there has been reenactment into positive law. On the other hand, because the reader usually has the *Code* at hand, but not the *Statutes at Large*, the *Code* title and section should be cited in parallel.

Dating Statutes at Large Citations.

When the Statutes citation alone is given, it should be dated by the year of enactment of the act cited, as 61 Stat. 37 (1947), unless the date of the enactment is shown in its title (as Revenue Act of 1942), when it is unnecessary. Do not give the date at the bottom of the title page—the publication date—which is usually a year later than the enactment date. Where the date of the Statutes at Large and of the cited edition of the United States Code is the same, give only the latter when citing both forms of the statute; otherwise give both dates.

48 Stat. 1101 (1934), 47 U.S.C. §504 (1952 ed.). 66 Stat. 764, 46 U.S.C. §177 (1952 ed.). [A 1952 act.]

Citing an Untitled Act.

Act of July 23, 1947, c. 302, 61 Stat. 413. [The date is in the act.] The act extending the time for payment of fees, 61 Stat. 413 (1947), provided that . . . [Context identifying the statute.]

Citing an Act by Popular Name.

The Labor Management Relations Act, 1947 (Taft-Hartley Act), Act of June 23, 1947, c. 120, 61 Stat. 136, hereinafter cited as LMRA [or the Act]. [With footnotes, only the title would appear in the main text.]

The Labor Management Relations Act of 1947, Section 4(a), 61 Stat. 139 (1947). [Or 61 Stat. 136, 139, showing both the first page of the act and that of the section cited.]