

two or three hours) in an exam. Secondly, by practising answers you are testing out your technique in adapting your general pre-prepared diagnosis to the specific diagnosis needed for this particular question. Remember your general advance plan will not be enough in itself (that is the mistake poorer students make) but will need to be fine-tuned on the spot. The snag is that you are doing this without your notes and in a time-pressured environment. So you must practise how to do this.

In the exam: your specific diagnosis

3.23 As we said above, diagnosis in an exam requires the same skills as for coursework, but what is different is:

- You have to carry it out quickly and under pressure.
- You have to rely on what you have in your head—there is no opportunity to carry out a materials review to identify any shortfalls in your understanding, for example.

Before you start writing, identify the topics being assessed by the various questions and then select which ones you are going to answer. Use the same techniques of looking for key words, instruction words and so on to make sure you are really focused on the question. This is where you move from the general to the specific, so you need to make decisions about what to keep and what to ditch from the general plans you have devised during revision. For example, in planning a general answer on negligence you will probably have anticipated being asked to deal with situations like a claimant with an egg-shell skull or a rescuer who suffers damage. But when you move to the specific (i.e. when you come to answer a question on negligence *in an exam*) you must forget the aspects of that general plan that are not relevant to the actual question on negligence that you have been set. If there isn't a rescuer then do not talk about the law on that aspect. This is where your imaginary bin is needed. Don't forget to take it in to your exams with you (mentally!) and use it to dump the material from your general plan that is not needed for the specific question you have been asked.

From experience of marking exam papers, we know it is especially hard in an exam situation for students to risk discarding material which isn't needed for a particular question. However, in an exam just as with coursework, your diagnosis will involve making decisions about what to include and what not to include. It can feel like a waste to simply abandon work you have spent time on; you might feel you know everything there is to know about (and

have read three erudite academic journal articles on) professional rescuers, but if there is no professional rescuer in your negligence question, there cannot be any marks for discussing it, so you would be wasting time writing on it.

If it helps, think about it this way: Imagine going on holiday to somewhere where you aren't quite sure what the weather will be like—you'd take a variety of clothes to cover the possibilities. Would you get dressed on the first day without checking what the weather is actually like? Or, having checked the weather and found out it is going to be 80 degrees, would you wear your thick sweater on the

TIPS • Practice making a "quick" diagnosis—get hold of as many old exam questions as you can and give it a go. See if you can read the question and identify what the subject area is and make a rough note of the areas it is asking you to consider. This is a good revision activity and your tutor may be happy to look over your results—if not, then trade ideas with a fellow student instead.

beach on the basis that you went to the trouble of packing it, so you are going to wear it? It is unlikely, but this is essentially what you would be doing if you wrote a pre-prepared answer without reference to exactly what you've been asked, or put irrelevant material in an answer just because you spent time revising it.

Is it better to answer a problem question than an essay in an exam?

Many of our students tell us that they find the prospect of answering essay questions more daunting than problem questions in an exam situation. If this strikes a chord with you, consider the following advantages to answering an essay question. It is especially important, if you do not know in advance which topics are going to be examined with a problem question and which with an essay, that you do not narrow your choice of questions by trying to avoid writing an essay.

Here are some suggestions about the advantages of essays:

- Flexibility in terms of devising a structure for your answer (this is often pre-determined by the actual question with a problem question).
- The ability to adopt a more expansive reflective approach to your writing.
- The opportunity to explore theoretical aspects in more detail.

By being positive and considering the benefits inherent in answering essay questions we are demonstrating that essay questions actually give you more freedom. This is because, whilst you are given a framework shaped in general terms by the question, it is up to you how you answer it. Some of the reasons that our students give us for why they prefer to tackle problem questions in exams are as follows:

- "I don't have enough time to answer essay questions—there is too much to say". This is a reasonable fear but remember everyone else is in the same position, and the question has been set to be answered in the time allocated. Plan very carefully and focus on exploring in depth a limited number of points rather than many points at a basic level.
- "Essay questions ask me to 'critically assess' the topic. I don't know how to do this." This is essentially a matter of confidence. If you follow the advice we provide on how to critically evaluate materials, and how to utilise this to form your own arguments, then your revision should place you in a position to tackle an analytical essay.
- "I don't understand what the question is getting at. What if I get it wrong and everything I write is irrelevant and off the point?" The fear here is that it is harder to make a diagnosis on an essay question than on a problem, especially under stress. However, if you follow the advice in Chapter 4 and have revised the topic well, you should not have anything to fear. Use the introduction to set out what you think the question is asking and why.

However, don't do an essay question just because:

- you have revised the topic (unless of course your revision has been too narrow and you don't have a choice—if that is the case, reflect on this when revising for your next exam);
- you think it gives more scope for generalities—you must focus on the question.

The point is that essay questions are not any easier or harder than problem questions—they are just different. As you found out in Chapter 1 they assess different skills and so will naturally require a different approach when answering them. It is important to remember that each type of question offers its own challenges, so your revision should be geared to preparing you for both.

The writing phase in an exam

3.25 Some students find that the time constraint imposed by an exam helps them to write more concisely; others find this problematic. Here are some tips to help you improve your writing in an exam:

1. Managing your time

3.26 This is a fundamental aspect of good examination technique and requires some simple mathematics before you go into the exam: how long is the exam and how many questions do you have to answer? Assuming the questions are equally weighted in terms of marks available, divide the writing time by the number of questions you have to complete to work out the time you have available for each question. Have this fixed in your mind before you go in to the exam; jot down the timetable for when you move on to each question on your paper as soon as you are allowed to start writing. Stick to these timings. Five minutes before the end of each time slot begin to draw your answer to that question to a close and be ready to move on to the next question as soon as your allocated time is up. If you cannot do this simply stop and move on when your time is up leaving space for you to come back and finish your answer if you have time

TIPS • Remember, the first 40 marks (i.e. the pass mark) out of 100 are easier to gain than the last 40 marks, so training yourself to move on when the time is up is vital so as not to penalise yourself from the start.

at the end. You must be ruthless with yourself—resist the temptation to spend a few extra minutes winding up your answer as every extra second you spend on that question is one less second to spend on the next. Tutors hate to mark a paper with two good and well-prepared answers and a final short one with the words “ran out of time” scribbled hastily at the end—resolve now that you will never need to do this.

2. Dealing with a mental block

3.27 If you get stuck while preparing a piece of coursework then you can use various strategies to get over this, such as taking a break, having a cup of tea, or whatever. As long as you haven't left it to the last minute, you can come back to it the next day. In an exam situation you don't have this luxury, so you must devise different strategies for coping with a mental block.

To start with, a mental block is much less likely to occur if you have revised and practised techniques and principles, as we've suggested above, rather than just lists of information. However, inevitably there will be some things you can't remember, a common example being case names (of course some rote learning is required to try and commit the case names to memory). Students often ask: does it matter if I forget the case names in an exam? This is a tricky question and you are likely to find tutors differ slightly on it. Our answer is as follows: essentially, what we are testing in an exam is your understanding and your technique rather than your ability to remember information, so forgetting the odd case name is not going to

ruin an answer which displays a sound understanding of the relevant principles. However, you are writing a legal assessment, and although case names are essentially information they are important information because they provide the legal authority for the principles you are applying. Hence an answer with no cases in it will score poorly for lack of authority. Nevertheless fixating on whether you will struggle to remember the case names tends to indicate that you haven't yet got the right emphasis on technique in your revision, so reflect on this if you are concerned about remembering the cases.

If you find yourself really struggling in an exam then:

- try giving yourself a five-minute break from writing—think about something else entirely;
- try reproducing diagrams or flowcharts from your revision notes to get your mind going again;
- cut your losses and start a different question (this is one of several reasons why it

is advisable to make sure you revise sufficient topics, and resist the temptation to revise only the exact number of topics that you have to answer questions on).

However, we would emphasise again that if you concentrate on practising your approach to answering questions in your revision, rather than trying to memorise your textbook, then this sort of thing is much less likely to happen at all.

3. Your handwriting must be legible

Remember an examination is an important form of communication from you to the marker **3.28** (your final award may be at stake!) and this will obviously be much more effective if the communication is easily readable. If you know that your handwriting is hard to read you will be doing yourself a great disservice in all your examinations if you don't do something about it. Practice is the key here; don't leave this until the week of the exams to sort out.

The finishing phase in an exam

The advice given in Chapter 9 on finishing your work is designed for coursework situations. In an exam you will not have the opportunity to polish your work in this way, and it is unlikely you be specifically marked on your presentation. Nevertheless, it is wise to leave five minutes at the end for a quick read through so that you can correct any obvious mistakes. **3.29**

Reflecting on your exam

Don't conduct a post-mortem with your mates, as this tends to lead to confusion and anxiety. **3.30** This exam is finished and there is nothing that can be done now about improving what you

TIPS • If you do forget a case name or section number from a statute, leave a space or draw a line in your work and fill in the blank if and when it comes back to you. If you have time you could also outline a few of the important facts thereby demonstrating that it really is a memory lapse rather than that you never learnt the relevant authority in the first place!

TIPS • Consider writing on every other line of the answer booklet. If you find that your writing becomes more and more illegible the more you write in an exam then this can help a reader to separate words out from others and generally help their understanding of what has been written.

Assertions of law

6.10 Many of the assertions which you make in legal writing will be assertions of law—essentially where you state what the law actually is on a particular point, in other words giving a legal rule. These are also sometimes referred to as statements of legal principle or propositions of law.

The courts can use *Hansard* as an aid to statutory interpretation provided certain criteria are satisfied.

TIPS • Whenever you state a legal rule, you must cite where that rule comes from. There is more information on how to cite your evidence later in this chapter.

This is an assertion of law, because it states what the law is on this issue. Assertions of law must always have a primary source as evidence (a primary source, in legal terms, means either a case or a piece of legislation). The source for the assertion of law given above is the case of *Pepper (Inspector of Taxes) v Hart* [1993] A.C. 593; this information

could be included within the text or added via a footnote, depending on the referencing system you are using for your assignment.

Assertions of fact

6.11 You may in the course of legal writing find yourself making certain *assertions of fact*, for example: “The number of contact orders granted by the courts has risen from 40,000 to 60,000 in the last five years” or “The Government has stated that it is committed to reform of this area”. Alternatively your assertion of fact might be summarising the position of an academic writer, for example: “Ahmed argues that . . .” or “In Thompson’s view, this is correct . . .”

You must provide evidence for any assertions of fact which you make, unless the fact can be considered to be one of *common knowledge* (see below). Where your assertion relates to summarising the view of a writer, then of course, your evidence will be the secondary source by this writer from which you obtained these views. Note that you provide this evidence regardless of whether you have quoted directly from the work. Other possible sources for assertions of fact in a legal context could include judicial statistics, Law Commission reports, reports of official inquiries, or *Hansard*.

Matters of common knowledge or common legal knowledge

6.12 You do not have to provide evidence of matters of *common knowledge* (for example, you do not need evidence for an assertion that the Battle of Hastings was in 1066) or within the general sphere of legal knowledge for example stating that the Supreme Court is the final court of appeal in the UK for civil cases. (It’s the “It’s obvious!” factor.) However, be careful with this: just because something is obvious to you, having researched it, it is not necessarily obvious to your reader. Similarly, this is linked to the idea of writing for a particular audience: when writing a legal assignment, you are writing for an intelligent reader who understands all the general issues of law but is ignorant of the particular subject matter of your assignment. Suppose you were answering a problem question which involved looking at a Supreme Court decision. In this context, it is a matter of common legal knowledge that this is a strong precedent, although the Supreme Court could use its power under the Practice Statement 1966 to depart from it if it

wished to do so, and you would not therefore have to take time out in your assignment to explain this. However, supposing the subject matter of your assignment was directly related to matters of precedent in the Supreme Court, then the ability of the Supreme Court to depart from its own previous rulings could no longer be regarded as a matter of common legal knowledge. You would be expected to explain this rule and give its source (i.e. the Practice Statement 1966).

ACTIVITY 6.4

Which of the following statements would need evidence?

The Supreme Court will only use the Practice Statement rarely.

There are several exceptions to the principle that the Court of Appeal is bound by its own previous rulings.

The Lord Chancellor is Kenneth Clarke.

Zander asserts that the literal rule is “defeatist and lazy”.

The literal translation of the phrase *stare decisis* is “let the decision stand”.

Activity feedback—Here are our thoughts:

The Supreme Court will only use the Practice Statement rarely.

Although this might seem an obvious statement, it is not so “obvious” that it could be considered common knowledge, even for a law student. This is a statement of fact, so you would need to provide authority, such as statistical information or point to a text where the use of the Practice Statement is discussed.

There are several exceptions to the principle that the Court of Appeal is bound by its own previous rulings.

This is an assertion of law and therefore must be supported by evidence (here, the authority is the case of *Young v Bristol Aeroplane Co Ltd* [1944] K.B. 718.)

The Lord Chancellor is Kenneth Clarke.

This does not need a reference. It is a statement of fact, but it is one which counts as within the sphere of legal knowledge: in other words, to a lawyer, the fact that the Lord Chancellor is Kenneth Clarke (as at June 2011) is as much “common knowledge” as the fact that David Cameron is the Prime Minister would be to anyone else.

Zander asserts that the literal rule is “defeatist and lazy”.

This is an assertion of fact, because it is stating what the views of the writer Michael Zander are. This therefore needs evidence, in the form of a reference to the work where Zander makes this statement which is *The Law Making Process*, 6th edn (Cambridge: Cambridge

TIPS • If you fail to reference your sources properly, at best your arguments are weakened, because you have not given your evidence, and at worst you may commit plagiarism. In particular, if you are new to university study, you may find that the emphasis placed on giving your evidence, acknowledging your sources and avoiding plagiarism is very different from what you have been used to previously, so you need to get yourself into a new way of thinking and new habits straight away. There is more guidance on plagiarism later in the chapter.

University Press, 2004), p.145. Note that giving Zander's name, and therefore acknowledging that this is his idea, not yours, is not enough in itself: you have to give exact details. Your goal should be that your readers can find this quote for themselves, based on the information you have given.

The literal translation of the phrase *stare decisis* is "let the decision stand".

This is a statement of fact, but one which would be considered to be within the sphere of common legal knowledge because it is a standard legal term, and you would not be expected to reference a Latin/English dictionary to support it.

Although we can be categorical about the need to reference assertions of law, and about the need to acknowledge the words or ideas of others, learning to recognise matters of common knowledge is less easy to provide clear-cut advice on: it really is a matter of experience, so if in doubt, give your evidence.

Now that we have considered the type of evidence you need to give, we need to explore further how to integrate this effectively into your writing.

HOW DO I INTEGRATE EVIDENCE FROM OTHER SOURCES INTO MY OWN WRITING?

6.14 You can do this by:

- paraphrasing a point made by the author; or
- quoting from the work directly.

Paraphrasing

6.15 This means taking someone else's idea or theory and including it on your own essay, but instead of doing this by use of a direct quotation in quotation marks, you integrate it into your own argument by putting it into your own words. It is easy to get confused (especially in the light of warnings about plagiarism) about whether paraphrasing is "allowed" or a "good idea" but do not be afraid to do it providing you give the appropriate references: paraphrasing positions taken by other authors is a good way of demonstrating that you have understood those positions. So, the rule is that it is good to paraphrase as long as you reference properly.

TIPS • What you are doing when you paraphrase is making a statement of fact (about the author's view or position) so cite the evidence accordingly.

Effectively, when you paraphrase, your goal is to sum up (or restate) the position of the author on that particular point in your own words. In doing this, you should be looking to identify the core point that the author is making on a particular issue: if you paraphrase a side issue or an illustration, then you run the risk of taking comments out of context.

ACTIVITY 6.5

Have a look at this quote from Lord Denning's book, *The Discipline of Law*,¹¹ and then consider what you think the main position in this section is: **6.16**

In almost every case in which you have to advise you will have to interpret a statute. There are stacks and stacks of them. Far worse for you than for me. When I was called in 1923 there was one volume of 500 pages. Now in 1978 there are three volumes of more than 3,000 pages. Not a single page but it can give rise to argument. Not a single page but the client will turn to you and say: "What does it mean?" The trouble lies with our method of drafting. The principal object of the draftsman is to achieve certainty—a laudable object in itself. But in pursuit of it, he loses sight of the equally important object—clarity. The draftsman—or draftswoman—has conceived certainty: but has brought forth obscurity; sometimes even absurdity.

Which of the following do you think is an effective paraphrase of Lord Denning's position, as evidenced by this quotation?

Lawyers today have to work much harder than Lord Denning did to interpret statutes.

The number of reported cases rose from enough to fill 500 pages in 1923 to 9,000 pages in 1978.

Certainty is incompatible with clarity but both are equally important objectives.

Problems with the methods of drafting statutes have caused a huge rise in the number of cases in which statutory interpretation is an issue.

Activity feedback—here are our thoughts:

Lawyers today have to work much harder than Lord Denning did to interpret statutes.

Lord Denning does allude to the fact that the volume of cases has made the position of the lawyer today more difficult (assuming that this is who he is addressing when he says "you"—from this quote, it isn't entirely clear). However, do you think it really sums up the core point Lord Denning is making? It would not be wrong to include this kind of statement within a lengthier paraphrase of Lord Denning's work, as long as that core point was also clearly represented.

The number of reported cases rose from enough to fill 500 pages in 1923 to 9,000 pages in 1978.

Again, Lord Denning does imply this in his discussion of the number of pages which are found in law reports these days. However, there are a couple of reasons why this would not make an effective paraphrase: this is simply an illustration which Lord Denning is giving as he moves towards his core point and in any case this is a simple question of fact. Lord Denning's statements are hardly the best evidence of how many pages there are in law reports.

¹¹ Lord Denning, *The Discipline of Law*, (London: Butterworths, 1979), p.9.

Certainty is incompatible with clarity but both are equally important objectives.

This would need a little work to be an effective paraphrase. Yes, Lord Denning does say that certainty has come at the expense of clarity and he does say that clarity and certainty are “equally important”. However, his comments are clearly made in the context of statutory interpretation and the drafting of statutes in recent years, and therefore as it stands this is not an accurate paraphrase because it does not specify this context. Simply adding “In statutory interpretation” brings this much closer to representing Lord Denning’s position.

Problems with the methods of drafting statutes have caused a huge rise in the number of cases in which statutory interpretation is an issue.

This comes closest to being an effective paraphrase because it gets to the core point which Lord Denning is making about the nature of legislative drafting. However, although accurate, this particular statement does illustrate one of the difficulties with paraphrasing, which is striking the right balance between stating the position concisely, and yet giving sufficient detail to be of value. Arguably here, although the position is accurately summarised, the flavour of Lord Denning’s argument does not really come across.

A really effective paraphrase might therefore need a little more detail. Suppose a student had written the following:

Lord Denning pointed out in his book about the discipline of law that statutory interpretation has become a much more significant issue for today’s lawyers; there has been a huge rise in the number of cases in which statutory interpretation is an issue, which he argues is because the drafting process prioritises certainty (which he acknowledges is important) over clarity (which in his view is equally important).

A student writing a paragraph like the one above has represented Lord Denning’s position accurately, and has therefore shown that he or she is getting to grips with what Lord Denning is getting at. However, there are two things missing here, both of which are covered in more detail later in this chapter:

1. A reference is needed to Lord Denning’s book, and exactly where within it the material used in this paraphrase is located; and
2. the student needs to add his or her own judgment on Lord Denning’s position in order to move from *describing* what Lord Denning said to *evaluating* what he said.

Using quotations

6.17 Quoting from a work can be a good way of integrating your research into your own arguments. However, there are several things to bear in mind with quotations:

1. Quotations are someone else’s words, not your own, and the marker will award marks only for your *own* words. Yes, you can gain marks for your *choice* of quotations, and what you do with them, but not for the quote itself. Despite this, it is likely that quotes will count towards your allowed word limit on an assignment, so every time you include one you are using up your word count with material which cannot contribute directly to your mark. This is not to say that you should avoid quotes, but you should certainly be sparing with them, and keep them as short as possible.

This is especially true with secondary sources—unless the author’s position can be summed up in a short, punchy quote, then a paraphrase is usually better.

2. Learning to paraphrase the ideas in secondary sources rather than quoting directly from them can be a challenge, because of course a learned author is likely to have made their point particularly well, and you may well feel that you cannot improve on it. However, you *can* usually improve on it because the author was not writing in response to the specific assignment you have been set, whereas you are. On the other hand, if the quote perfectly encapsulates what you want to say, and is short, then by all means use it—but remember to explain why it is relevant to your argument (see below).
3. One area where a quote can be particularly useful is where you are quoting from a primary source, in the form of a case (direct quotes from statutes are rarely needed), particularly in order to explore the implications of the case with reference to the facts you are considering. Again, however, keep your quotes as short as possible.

Making the most of paraphrasing and quotes

Remember that just paraphrasing or quoting from the source is not enough in itself to get you really high marks: you also need to make *judgments* about the material. This is the difference between the following types of statement:

- A. *This is Smith’s position* (which is *describing* Smith’s position), and might be done by paraphrasing or giving an illustrative quotation; and
- B. *this is the implication of Smith’s position for my argument* (which is *evaluating* Smith’s position in the context of your assignment) and would involve you making a judgment about what Smith has said.

A weaker essay will contain more statements of type A than type B. Type A statements are certainly needed (if you want to use Smith’s position in your argument, then clearly you need to say what it is) but should be as concise as possible (and of course accurate). However, such statements show only that you have been able to *find* relevant material: they do not show that you have *understood* the material fully and can really use it as part of your own arguments. To show this, you need statements of type B.

So a good essay will have a balance of A type statements and B type statements, with the A statements presented concisely and as *evidence* for the B statements; in other words, a B statement about the implications of Smith’s views is illustrated by an A statement of what those views are. You should do the same with case law: type A statements will be concise representations of the relevant points decided in the case, and type B statements will critique the decision, or explain how the legal position taken by the court affects your argument through application to the facts of a problem question.

TIPS • Before including a quote, ask yourself “Could I paraphrase this instead?”

TIPS • In your assignment, show clearly when you are using someone else’s words by indenting a quotation, using italics or inverted commas. Check whether your institution has any particular specifications on how to delineate quotes.

TIPS • The trick to getting this right is to remember that none equals not one—try mentally substituting not one in sentences where you want to use none and you will never make a mistake as to the form of the verb.

However, the rule about matching the subject and the verb can be more difficult in certain situations, for example with subjects where the line between plural and singular seems blurred (words like Parliament and jury, which can be viewed as a single body or a number of different people). In cases like this, you can treat the body as singular or plural—it or they—but you do need to be consistent.

A further word which causes difficulty is *none*. Here there is no room for flexibility: although it is common in spoken English in particular to regard *none* as a plural (None of us are going) that is wrong, and it must be treated as a singular. Therefore:

WRONG	RIGHT
None of the precedents are binding	None of the precedents is binding

The second is correct because the singular *none* matches the singular form *is*. Here's a quick recap on the terms and rules contained so far:

Independent clause = simple sentence.
 Independent clause + independent clause = compound sentence (join with a conjunction, a colon or a semi-colon; NOT a comma).
 Independent clause + dependent clause = complex sentence (join with a subordinate conjunction).
 Each sentence needs a capital letter and a full stop (or question/exclamation mark).
 Your subjects and verbs must match each other as to singular and plural forms.

We've touched on common punctuation in discussing sentence structure but we're now going to return to the punctuation mark which seems to cause more problems than all the rest put together: the apostrophe.

WHAT'S ALL THE FUSS ABOUT APOSTROPHES?

8.17 Misuse of apostrophes (using one when it isn't needed, missing out one when it is needed, using one when needed but putting it in the wrong place) probably accounts for more of the grammatical errors commonly made than any other single mistake. If you can get this right, then you will be well on the way to making sure your work is of an appropriate standard in grammatical terms.

The most common mistakes to avoid are:

- using apostrophes for plurals;
- mixing up it's and its;
- mixing up other possessives with omissions;
- putting unnecessary apostrophes in possessive pronouns;
- putting apostrophes in unnecessary places.

Mistake 1: Using apostrophes for plurals

No apostrophe is needed for plurals.

▶ 8.18

WRONG	RIGHT
The court's have indicated that . . .	The courts have indicated that . . .

Mistake 2: Mixing up it's and its

These have different and separate meanings: *It's* means *it is* or *it has*, while *its* means *of it* or *belonging to it*:

▶ 8.19

WRONG	RIGHT
Its important to acknowledge it's influence	It's important to acknowledge its influence

The apostrophe is needed to indicate omission but not (in this case) for possession (because *its* is a possessive pronoun and the possession is therefore already built in to the word).

Mistake 3: Mixing up other possessives with omissions (whose and who's, theirs and there's, your and you're)

▶ 8.20

WRONG	RIGHT
Lord Reid was a very influential judge who's opinions have a very high precedent value	Lord Reid was a very influential judge whose opinions have a very high precedent value

Mistake 4: Putting unnecessary apostrophes in possessive pronouns (his, hers, theirs, ours, yours)

▶ 8.21

WRONG	RIGHT
Her's was the best argument in terms of presentation, but ours' had the legal authority.	Hers was the best argument in terms of presentation, but ours had the legal authority.

Mistake 5: Putting apostrophes in the wrong places

▶ 8.22

WRONG	RIGHT
The judge's opinions were inconsistent (which makes it sound like there was only one judge who was inconsistent with himself or herself—not entirely impossible but the alternative below is more likely).	The judges' opinions were inconsistent (this indicates there were several judges whose opinions were inconsistent with each other).

If you don't feel very confident about when and where to use an apostrophe, then the next few pages of this section explain in more detail. If you already feel quite confident that you can avoid the mistakes listed above, then just skim through the next few pages or move to the next section.

WHEN SHOULD I USE AN APOSTROPHE?

8.23 The two most important uses of the apostrophe are the following:

1. To indicate a *possessive* (something which "belongs" to something or someone or is "of" someone or something):

The judge's opinion (one judge)
 The judges' opinion (more than one judge)
 The woman's defence
 The women's defence

2. To indicate *omission* (letters missed out) in a contracted word:

It's important to note
 This isn't a valid argument
 The facts don't raise any issue of negligence
 There's a problem with this reasoning
 Who's going to win this case?

There are further examples of these on the following pages. In formal academic writing, remember it is best to be sparing with contractions, which has the advantage that if you don't use them, you can't make a mistake with the omission apostrophe.

In contrast, you do NOT use apostrophes for:

1. simple plurals

The courts are busy.
 These cases can be criticised.

2. possessive pronouns (his, hers, yours, its, ours, theirs) as the "possession" is already built into the word.

There are further examples of when *not* to use an apostrophe later in the chapter.

More on possessive apostrophes

8.24 Remember possessive apostrophes indicate something which "belongs to" someone or something or is "of" someone or something:

The barrister's arguments failed to sway the judge

Test whether you need an apostrophe by turning the phrase round into "the arguments of the barrister". This way you can see that the arguments "belong to" the

barrister so the apostrophe is needed. On the other hand "The barristers argued before the judge for three hours" would turn round into "The argued of the barristers", which is obviously nonsense. This indicates that barristers in this sense is a simple plural and needs no apostrophe.

Indicating "joint" ownership

For example:

The women's defence

Here, although you are talking about the defence of more than one woman, the plural "women" accounts for this already, so you treat it in exactly the same way as if it was only *one* woman's defence.

On the other hand, if you want to indicate the arguments of more than one barrister, you are talking about the arguments of the barristers, which turns into:

The barristers' arguments (no extra s is needed after the apostrophe)

This shows that turning the phrase round also helps you work out *where* to place the apostrophe when you are dealing with plurals.

The judge's reasoning = the reasoning of the judge
 The judges' reasoning = the reasoning of the judges

TIPS • If you are unsure of whether a possessive apostrophe is needed, or where to put it, always try turning the phrase round like this—but remember the rule doesn't apply to possessive pronouns like *his*, *hers*, *theirs*.

Singulars which end in s

This can cause confusion, and there are varying opinions. Truss explores these and suggests that the modern approach (which is also the most straightforward, and we'd therefore advise you to follow it) is to treat singulars the same whether or not they end in s. In other words: *Lord Simonds's speech* not *Lord Simonds' speech*. The latter is the more traditional approach, and if that is what you have been taught, have been used to, or simply prefer, then it is perfectly acceptable.

Note: whatever you do, don't remove the s on the end of someone's name just because it seems to resolve the issue more easily: *Lord Simond's speech* is certainly wrong. Lord Simonds would not be impressed! Similarly, a name ending in a *double s* always needs an apostrophe and an s, not just an apostrophe, for example, *Lynn Truss's book*, not *Lynn Truss' book*.

So, in summary:

Singular, not ending in s—use 's : The claimant's action (just one claimant)
 Singular, ending in s—use 's (or') : Lord Justice James's judgment (or Lord James' judgment)
 Singular, ending in ss—use ss's : Lady Justice Windass's
 Plural, not ending in s—use 's : The children's wishes and feelings
 Plural, ending in s—use ' : The defendants' counter-claim (more than one defendant)

8.25

8.26