AGLC Referencing

*Australian Legal Guide to Citation* (AGLC) uses a referencing style that consists of citations in the body of the text and a list of footnotes at the bottom of each page, of all the citations or references on that page.
When to Footnote

Footnotes should be used to:

- provide authority for a proposition;
- acknowledge a source that is relevant to an argument and indicate how it is relevant (for example, to indicate that a source directly supports or directly contradicts an argument);
- provide information that enables the retrieval of relevant sources and quotations that appear in the text; and
- provide other (often tangential or extraneous) information that is not appropriate to include in the text.
Format of Footnotes

Refer to Part 1 – ‘General Rules’

- When to footnote
- Position of footnote numbers
- Multiple sources in footnotes
- Punctuation
- Subsequent references – ibid; above; below
Open a Word document and begin typing your assignment.

When you are ready to insert a footnote, select the tab “References” at the top of the page, then select the tab, “Insert Footnote”.

When you click on “Insert Footnote”, a number will appear next to your text as well as at the bottom of the page. Type your citation into the footnote at the bottom of the page.
2.3.2 THE MARRIAGE POWER

After several decades of debate, the scope of the marriage power remains unclear. The main problem is that, although criteria for making this assessment have evolved in various HCOA cases, it is difficult to predict whether in any given case a law will meet those criteria. Four main points emerge from the cases:

1. To be constitutionally valid, legislation enacted on the basis of the marriage power must relate to a matter that arises out of, or is sufficiently connected with, the marriage relationship.29

2. The marriage power does not support legislation allowing custody, guardianship, access,30 and child maintenance proceedings independent of any application for principal relief. The marriage power, however, does not allow the Commonwealth Parliament to legislate in relation to a child who is not the child of a marriage (that is, a child whose parents have not married, or who is the child of only one of the parties to a marriage).31

3. The marriage power does not support legislation allowing property proceedings between parties to a marriage unless the proceeding arises out of their marriage. As discussed below, some uncertainty still exists in relation to which proceedings will be excluded on this basis.

4. The marriage power can provide a basis for legislation that affects third parties, either positively or negatively, although some significant limits have been imposed (Chapter 4).

These principles have emerged from HCOA cases over the past 45 years, including the *Marriage Act Case*,32 *Russell v Russell*,33 *Landmark*,34 and *Higgins*. Ultimately, however, as Anthony Dickey has observed, the position remains that only an interpretation of the current meaning of the HCOA in relation to section 51 and the marriage power in particular will provide more concrete guidance as to what criteria will be used to determine constitutional validity.35

In 1999, the HCOA considered the marriage power in *P v *:36 The Court upheld, on the basis of the marriage power, FLA section 64(1)(c) (now section 67ZC), which provides the

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30 Now all covered by the more general responsibility, see Chap. 4 note 3.

31 While this is also an aspect of parental responsibility, financial support of children of separated parents is now in most cases determined under the Child Support Scheme (CSS) see Chap. 1 note 11.


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