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# The Times They Are a-Changin

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## FORTIETH ANNIVERSARY TRIBUTE

### “The Times They Are a-Changin’”<sup>\*</sup>

Julie Swedback<sup>†</sup>

I’m a pack rat.<sup>1</sup> I don’t know why I save the things I save. But, after selling my house three years ago, I was faced with consolidating two households and forced to dispose of a garage full of “stuff” that I had been accumulating for thirty-plus years. Imagine (even my surprise) when I opened an unmarked, dusty cardboard box and unearthed Volume 19’s page proofs!<sup>2</sup> After a brief trip down memory lane, into the recycling bin they went.

I am still a bit in shock that twenty years have passed since Volume 19’s publication. For a moment, though, finding those page proofs made it seem like just yesterday I was ordering pizza for a Saturday morning cite check or pouring through articles submitted for review. But even more remarkable is looking back and marveling about how much the law review world has changed since 1993. Back in those days, I had never heard of Windows (or Microsoft, for that matter). DOS ruled. There were no laptops in the *Law Review* office: just an IBM 386sx (or maybe a 486 Pentium) desktop or two. I think we were privileged to have a laser printer.

WordPerfect dominated the DOS world, and we dutifully memorized the function key shortcuts using the ctrl, alt, and shift combinations.<sup>3</sup> For some reason, we started with endnotes then

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<sup>\*</sup> BOB DYLAN, *The Times They Are a-Changin’*, on *THE TIMES THEY ARE A-CHANGIN’* (Columbia Records 1964).

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1. My spouse has come close to using the “H-word” to describe my saving habits. This is, of course, an exaggeration, which he *may* feel justified in thinking but only because he is the ultimate purger of (mostly) all material things.

2. I served as editor in chief of 19 *WM. MITCHELL L. REV.* (1993).

3. *Word Perfect*, WIKIPEDIA, <http://en.wikipedia.org/wiki/WordPerfect> (last modified Feb. 7, 2014). How far we have come. In 1993, it was anathema to cite unpublished opinions or articles or, God forbid, the Internet. The most current edition of the *Bluebook* devotes thirteen pages to rules on how to cite to various Internet sites. See *THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION* R. 18, at 164–76 (Columbia Law Review Ass’n et al. eds., 19th ed. 2010).

converted to footnotes at the publishing stage. We saved our document drafts (and sometimes booted up our computers and installed software) with the 3.5” floppy disk, which had a storage capacity of 21 MB.<sup>4</sup> I remember how easily they were corrupted and the sinking feeling that followed when it happened.

Internet access was dial up. That buzz, crackle, clank, clunk sound of connecting to the Internet and the familiar “You’ve Got Mail” voice of AOL is permanently embedded in my mind. Who remembers when Instant Messaging was the latest and greatest thing? We had no school email; we relied on landline telephones to communicate. We lowly law students couldn’t afford mobile phones, which were mostly car phones, in the early 1990s.

Westlaw, vying with Lexis to be the number one legal research service, made the bold move of providing law students with software and free access to Westlaw from their home computers.<sup>5</sup> Then I remember panicking when the law librarian suggested discontinuing our reporter and treatise subscriptions and dismantling the *Law Review’s* personal law library so we could use Westlaw to do cite checks. Just like I never thought I would give up my film camera, I couldn’t imagine life without my hardcover reporters. Fortunately, the *Law Review* library and our old-fashioned research habits survived my tenure. Funny, these days I can’t remember the last time I was in a law library.

I miss the old cover—the one with the embossed head of William Mitchell—on each of the issues.<sup>6</sup>

Twenty years later, many of the articles we published in Volume 19 retain their timeliness.<sup>7</sup> We had the honor of publishing

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4. *Floppy Disk*, WIKIPEDIA, [http://en.wikipedia.org/wiki/Floppy\\_disk#Sizes.2C\\_performance\\_and\\_capacity](http://en.wikipedia.org/wiki/Floppy_disk#Sizes.2C_performance_and_capacity) (last modified Feb. 8, 2014) (describing storage capacity of a 3.5” Floptical (LS) disk in 1991).

5. I think 1990 (my first year of law school) was the first year that Westlaw provided free service to law students.

6. My seventh grade English teacher is likely rolling over in her grave at my use of a one-sentence paragraph. But I have since learned that the “one sentence paragraph is, of course, perfectly acceptable in English.” *Can You Write a One-Sentence Paragraph?*, BETTER EDITOR NEW ENG. (Dec. 12, 2011), <http://thebettereditor.wordpress.com/2011/12/12/can-you-write-a-one-sentence-paragraph> (noting that a one-sentence paragraph is used effectively for dialogue, quoting a source, and emphasis). Thus, I employ the one-sentence paragraph here to emphasize how much I miss the old embossed cover—and because the sentence didn’t fit in any of the other paragraphs.

7. A WestlawNext search for “19 Wm. Mitchell L. Rev.” reveals over 600

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the first-ever issue commemorating an anniversary—the tenth anniversary—of the Minnesota Court of Appeals.<sup>8</sup> Fifteen years later, I attended the court of appeals’ twenty-fifth anniversary symposium at William Mitchell, which was published in Volume 35. And this year, the court celebrates thirty years and the *William Mitchell Law Review* forty years.

Professor Mike Steenson contributed an article discussing, in part, what was then Minnesota’s newest tort, Intentional Infliction of Emotional Distress.<sup>9</sup> His article has been cited by appellate courts, including courts of Minnesota, Wisconsin, and Florida, numerous times.<sup>10</sup> It has been cited twenty times in law journals and treatises, most recently by the *University of Cincinnati Law Review* in 2010.<sup>11</sup>

Professor Peter Erlinder’s article on Minnesota’s Psychopathic Personality Statute<sup>12</sup> garnered the Minnesota Supreme Court’s attention less than a year after it was published.<sup>13</sup> It has been widely cited in law reviews such as *Stanford Law Review*, *Arizona Law Review*, *U.C. Davis Law Review*, *Washington and Lee Law Review*, and *Notre Dame Journal of Law*, to name a few.<sup>14</sup>

Dyan Ebert, Managing Editor, and I were invited to attend the American Agricultural Law Meeting and Educational Conference in Chicago in the fall of 1992, with an agreement to devote one whole issue to the symposium topics and papers presented there.

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citations to Volume 19. Search Results, WESTLAWNEXT, <http://www.next.westlaw.com> (search for “19 Wm. Mitchell L. Rev.”) (last searched Nov. 22, 2013).

8. This honor turned out to be more than lucrative for me. While doing a final edit on one of the articles, I had to call Chief Judge Paul Anderson, who was then sitting on the Minnesota Court of Appeals, for some clarification. During this call, I asked him if I could interview for a clerkship. He did interview me—and hired me—but told me later that I had a lot of “chutzpah” for the way I went about it.

9. Michael K. Steenson, *The Anatomy of Emotional Distress Claims in Minnesota*, 19 WM. MITCHELL L. REV. 1 (1993).

10. Search Results, WESTLAWNEXT, <http://www.next.westlaw.com> (search for “Michael K. Steenson’ & anatomy”) (last searched Nov. 22, 2013).

11. *Id.*

12. C. Peter Erlinder, *Minnesota’s Gulag: Involuntary Treatment for the “Politically Ill,”* 19 WM. MITCHELL L. REV. 99 (1993).

13. See *In re Blodgett*, 510 N.W.2d 910, 920 (Minn. 1994). That same year, the Minnesota Court of Appeals cited Professor Erlinder’s article in *In re Kunshier*, 521 N.W.2d 880, 885 (Minn. Ct. App. 1994).

14. See Search Results, WESTLAWNEXT, <http://www.next.westlaw.com> (search for “C. Peter Erlinder’ & gulag”) (last searched Nov. 23, 2013).

The topics covered ranged from farm animal rights to agricultural biotechnology to lender liability for farm and ranch loans. Despite my North Dakota roots, this was by far the most challenging issue to edit.<sup>15</sup> The symposium issue was well received: a Westlaw search reveals this issue cited 410 times in the Code of Federal Regulation annotations, and nearly 100 times in law journals and treatises.<sup>16</sup>

But my all-time favorite article<sup>17</sup> was from Volume 19, Issue One—a book review written by Christopher W. Lane entitled *Bluebooks, Filled Milk, and Infield Flies: Deconstruction, the Footnote, and a Uniform System of Citation*.<sup>18</sup> I love it for its “tongue-and-cheek” tone and its good-natured poking of Bluebook zealots<sup>19</sup> and the law review world’s “footnote frenzy.”<sup>20</sup> Who could imagine referencing Judge Richard Posner,<sup>21</sup> the Beatles,<sup>22</sup> the book of Genesis,<sup>23</sup> the Kama Sutra,<sup>24</sup> deconstruction as interpreted by Jacque Derrida,<sup>25</sup> an apology to former President George H. W. Bush,<sup>26</sup> the ancient

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15. I am a “city girl” from Fargo, North Dakota.

16. Search Results, WESTLAWNEXT, <http://www.next.westlaw.com> (search for “(agric! Farm Lucas Producers) & ‘19 Wm. Mitchell L. Rev.’”) (last searched Nov. 23, 2013).

17. See Donald H. Gjerdingen, *Law Review at 25, Editors at 50*, 25 WM. MITCHELL L. REV. 1177, 1183 n.2 (1999) (applauding Volume 19’s editors for publishing Christopher Lane’s book review of *The Bluebook* that disrupts the serious, oftentimes pedantic, typical law review article topic and for “show[ing] the same spirit[ed]” theme in his “personal favorite” law review article, *Aside, The Common Law Origins of the Infield Fly Rule*, 123 U. PA. L. REV. 1474 (1975)). Gjerdingen was editor in chief of Volume 2.

18. 19 WM. MITCHELL L. REV. 161 (1993). This was an article that Mr. Lane had submitted to the *Law Review* board several years earlier, but it had not (for some unknown reason) been chosen for publication. Somehow it survived the recycling bin only to be found by me. Perhaps its will to survive appealed to my pack rat mentality.

19. I became and remain a *Bluebook* zealot. Probably the most inane *Bluebook* question of my era was whether the period after the *Id.* cite was italicized. *Compare Id. with Id. and Id.* The crisis was abated by the 18th edition. I was also asked once if, when using underlining to signify italics, the underline was continuous on signals such as see, e.g., or whether it should be broken as in see, e.g. I replied that it depended on whether you wanted to italicize the space between see, and e.g.

20. Lane, *supra* note 18, at 185 (noting and calculating the increasing rampage of footnotes in legal writing).

21. *Id. passim.*

22. *Id.* at 167 n.29.

23. *Id.* at 185 n.168.

24. *Id.* at 169.

25. *Id.* at 167 n.28.

26. *Id.* at 167 n.27.

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Romans,<sup>27</sup> *Palsgraf v. Long Island R.R.*,<sup>28</sup> and *Sports Illustrated*,<sup>29</sup> within a twenty-five-page article? It made me laugh then and it still does twenty years later.

I have always struggled with conclusions.<sup>30</sup> Maybe that struggle is what forms the core of my pack rat mindset (i.e., I have difficulty throwing things away because once they're gone, they're gone). Endings are hard no matter the context. Yet, ironically, after I agreed to write something for Volume 40, I didn't know where to begin. I couldn't see myself adding to the numerous tributes and essays already published that touted the benefits of being on law review: it's a resume builder, it opens doors to clerkships, it improves writing and editing skills, etc. While all of these are true, all have been said before. So, suffice it to say, I am proud to be a pack rat. I embrace my pack-rat-ness. And I know now the reason I saved those page proofs for almost twenty years.

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27. *Id.* at 171 n.58.

28. *Id.* at 182 n.144.

29. *Id.* at 186 n.175.

30. See BRYAN A. GARNER, *THE WINNING BRIEF* 414 (2d ed. 2004). In Tip 89, Garner says you should “[c]onclude powerfully” and warns against repeating and summarizing what has already been said.

## Reflections on the *William Mitchell Law Review*

Jon Schmidt<sup>†</sup>

When I reflect on my experience at the *William Mitchell Law Review*, my thoughts do not go to the work it took to strategize with the board on topics, wrangle authors, manage budgets, compile material, cite check, edit, revise, cite check, format the articles, review proofs, cite check, and finalize an issue. Yes, long hours were spent in the *Law Review* office before classes, after jobs, on crisp fall days, dark winter evenings, and even on that first day of spring when the southern wind raises hopes that winter might finally let go of Minnesota. But hard work and long hours are to be expected for anything worth doing, and doing well.

I don't think of the product we created. Though I am very proud of Volume 29's work: 1548 pages of practical, timely articles with authors ranging from Vice President Mondale,<sup>31</sup> to Attorney General Mike Hatch,<sup>32</sup> to Commissioner of Safety Rich Stanek,<sup>33</sup> to professors, and—possibly the best of all the work—the student articles that we published. I am honored to be associated with those accomplishments.

My thoughts also do not go to the doors that the *Law Review* helped to open, although it most certainly did that. I'm not sure I would have clerked at the Minnesota Court of Appeals if it weren't for the *Law Review*, which led to an Eighth Circuit Court of Appeals clerkship and to a great law firm job where I eventually made partner. One door opens another and another. Who knows where I would be if the *Law Review* had not first knocked on the door and I

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31. See Walter F. Mondale, *Foreword*, 29 WM. MITCHELL L. REV. 737 (2003).

32. See Mike Hatch, *Great Expectations—Flawed Implementation: The Dilemma Surrounding Vulnerable Adult Protection*, 29 WM. MITCHELL L. REV. 9 (2002).

33. See Rich Stanek, *Essay: Terrorism: Minnesota Responds to the Clear and Present Danger*, 29 WM. MITCHELL L. REV. 739 (2003).

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had not worked hard to open it? And although I'm extremely grateful for the opportunities, I do not immediately associate them with the *Law Review*.

When I reflect on my experience at the *William Mitchell Law Review*, I think about the people. I think about people like Steve Aggergaard, the editor in chief who succeeded me. Steve and I first met through the *Law Review* and are friends to this day. He went to law school after making the unbelievably brave decision to leave a successful job as a major newspaper editor to try his hand at the law. The courage of that decision—to leave something safe, but maybe a little unsatisfying, in order to try something new, challenging, and different—inspires me to this day. His success in the legal field speaks volumes of the choice that one can make to be happy.

I think about gathering a group of editors and staff members, who otherwise may not have had much in common, to go drink Guinness and see Jeremy Greenhouse and Jeff Gram play amazing Irish music. I think about Kyle Gustafson giving me a present—a nice bottle of Jameson—after his issue (Volume 29, Issue 1) went to the printer. I think about a Vikings game with Art Boylan where we sat right behind Paul Rudd (a story for another time). I think about my now-wife and I ringing in the new year of 2003 in New Orleans with Dan Berglund and Katie Godden. I think about late nights in the office listening to Ed Matthews and Corwin Kruse debate politics as we edited papers. And I think about early morning coffees in the office with Wendy Brekken.

I think about the people.

I've made lifelong friends through the *Law Review*. Some of whom I see regularly while working through the scotch list at the St. Paul Grill, at an occasional Twins game, or over lunch at a rundown taco joint. Others I haven't talked to in a few years, but still consider them to be friends as I delight in their updates of running for Congress, making partner at firms, becoming prosecutors, or going in-house. But those long hours we spent together to produce a high-quality product showed the character of each and every individual. That ability to work hard under stressful situations and tight self-imposed deadlines, yet share a smile, a laugh, or even a beer, gave me the utmost respect and admiration for the people with whom I shared that experience. Just as I will forever be in their corner cheering them on and ready to leap into action if needed, I am positive that they are in mine.



As my days and nights spent in the brand new *Law Review* office (of which we literally helped to open the doors and move in) slip further into the past, I've come to realize that although my name tag at the annual banquet reads "Jon Schmidt EIC Vol. 29," my experience is much richer than that isolated participation and title. Those experiences, that character, are shared by forty boards of editors and hundreds, if not thousands, of staff members. There is a fondness, a nod of respect, and a sense of community at those dinners. And in a corner somewhere is Professor Steenson, with the look of a proud father greeting his children who have come home for a moment. There is a connection among the forty volumes that goes beyond black leather-bound books on a shelf. I'm proud to be a small part of it.

I smile when I think about Volume 40 and the future boards that will one day become part of this community. I can tell you firsthand that you will find you've earned the respect of people whom you haven't even met. You will find doors of opportunity opening. You will also find long hours ahead, but with it comes lifelong friends and colleagues who will always have your back. You will find a finished product that you will put on a shelf and proudly look at from time to time, thinking about the people with whom you associate your *William Mitchell Law Review* experience. It is a privilege to welcome so many to the tradition of the *William Mitchell Law Review*, and a profound honor to have been a part of it.