

BOOK REVIEW

A Kinder, Gentler Bluebook? THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION, Harvard Law Review Association, Cambridge, Massachusetts, 1991, pp.343.

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We make fragile peace with the notion that citation is an unavoidable and often harsh fact of legal life. I suppose a necessary one at that. After all, ours is ostensibly a discipline grounded foremost in communication and reason. Without some standardized citation form, communication through reference to that holiest holy known as legal authority would become unworkable. Without such authoritative communication—we call it argument—we might as well peddle encyclopedias for a vocation. We cite because we must.

How we cite or, more precisely, how we are *told* to cite, is an entirely different question. I have made no peace here. Try so desperately as I have, I doubt I ever will. The scars are just too deep. With sincerest respect to the gathering of readers before which this maelstrom of circumstance has swept me, I dare say that I am not alone in my torment. Yet, ironically, I find myself here penning a piece on what is perhaps the most desiccative tome legal minds have ever conspired to create. Good therapy, I am told.

This task does not come easily. Each of these words has felt the sting of bitterest memories once thought banished from consciousness. Before continuing, I must beg the reader's compassion for this is not a happy tale.

We first met in the usual way: legal writing class (a one-credit course with a three-credit workload). It seems so terribly long ago. I was unjaded, eager and blessed with a naive desire to plunge head first into every facet of what it meant to be a lawyer. Because citation was to be a part of my new life, I accepted it without hesitation. Ah, the ignorance of youth. Absolutely no idea had I of the seeds I was sowing.

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In those heady days, *The Bluebook: A Uniform System of Citation*¹ was younger too. Its thirteenth edition, then officially known only as *A Uniform System of Citation*, was affectionately called "The Bluebook" by friends and admirers. It also went by a number of less-flattering appellations, most of which modesty forbids me from repeating. In retrospect, that fact alone should have imparted at least inquiry notice of what loomed ahead.

Dismissing its defilers as disgruntled troublemakers, I was drawn to *The Bluebook*² like a moth to flame. It was not particularly beautiful. To the contrary, its dull blue paper covers and terse explanations gave it a distinctly plain and unassuming appearance. Never a looker myself, I have always paid great heed to inner beauty; this is where I believed *The Bluebook* found its greatest allure. It certainly appeared to serve its purpose well in a professional fashion free from pretense or coquetry. It seemed the kind of thing that would selflessly come to the aid of its companions, expecting nothing more than acceptance of its intimate partnership along the often difficult journey through the hadean morass of legal citation. As I first knew it, it was a good friend. Our relationship went well enough at first. We shared some special moments. We had our spats but, for most of that early period, basic citation references were readily given. I had little more to do than flip to my secret place—the inside front cover—to obtain gratification.

The trap had already been sprung. As my citation needs became more sophisticated, I noticed subtle changes in our union. It began to sadistically lure me to a particular standard while denying me the ultimate prize—an unambiguous answer. It responded to my advances in often allegorical tones, revealing examples that only half-applied to the posited query and then instructing me to cite by analogy. Through cross-reference, it led me on many unrealized pursuits of feral waterfowl. Like a spoiled child, it demanded my unfettered attention knowing full well that I was inextricably bound to submit. It returned no sol-

¹ (15th ed. 1991). At the time of submission of this work, the author is completely uncertain whether this citation is rendered in accordance with the very subject under review herein and expresses no opinion in this regard.

² For several reasons, all my own, the several editions of *The Bluebook* discussed herein shall be referred to generically as *The Bluebook* with notation to a particular edition where appropriate or remembered. *The Bluebook* can, and arguably should, be viewed as a unitary whole evolving from a single (and uninvestigated) origin known only to its creators. Alternatively, it can be considered musically as a suite or composition in fifteen movements. In more belligerent terms, it may be thought of as an amphibian invasion in fifteen separate waves.

ace, no understanding and, certainly, no consideration. Soon I found myself relegating substance below form, expending far more effort in formulating the citation for a proposition than I was in asserting the proposition itself and never truly knowing if my toil had resulted in a correct citation. I developed citation anxiety. Surely, this was not the way it was meant to be.

My misery reached its height when I was denied coveted advancement in a moot court competition by reason of having lost nearly every possible point for citation form. Despair soon turned to the cold recognition that I had been living a cruel fantasy. *The Bluebook* did not merely exist as a reference. Rather, its unyielding purpose was to become *the* standard. Most chilling was the realization that by the very fact of its own compilation, its ambitious prophecy would be self-fulfilled. None wishing to acquire scholarly legitimacy through publication could ever resist it. Stunned and outraged by what I viewed as the treachery of this usurper, I refused to submit any further. For years afterward, I cited alone.

You see, as omnipotent as prior renditions of *The Bluebook* purported to be, they never really had authoritative impact upon practitioners in the many jurisdictions, who generally followed local tradition. To the best of my knowledge, no argument has ever been precluded, or case lost, as a sanction for ignoring *The Bluebook*. I found some smug comfort in this knowledge, which enabled me to cite quite liberally in flagrant defiance of *The Bluebook's* edicts. I found scornful pleasure in counting how many rule infractions I could tally with a single citation. And on those rare occasions when forced to refer to *The Bluebook*, I did so only to draw from its examples of incorrect citation form. I was merely deluding myself, however. Deep down, I knew I would someday have no choice but to return.

This almost transpired upon the publication of the fourteenth edition. When it arrived at the office library, I briefly browsed through it with feigned indifference. There was little new to its appearance or contents save for the clear effort to extend its strangle hold. It had not really changed. My perceived immunity unchallenged, I chuckled as I crossed my name off the distribution list.

My dread did materialize when the fifteenth edition arrived. To my surprise, however, it was different this time. The anticipated pavlovian urge to relegate the citator to the recesses of the bottom drawer was not there. One gaze upon the new cerulean

splendor of *The Bluebook* and my heart instantly surrendered the years of accreted calcification. Into the void rushed the resurrected promise of that first encounter so many years ago. True, those maddening citation conventions were back, and with reinforcements. But *The Bluebook* seemed warmly fuzzier and somehow penitent. Though I knew I was about to fall prey to this most alluring changeling, it did not matter. Reason was overruled by the emotion of possible reconciliation.

As absurd as it sounds, my reunion with *The Bluebook* quickly took on all the character of a romantic interlude. There was an almost primal need to know it again. I seized it and, first instructing my secretary to hold all calls, raced off to the seclusion of my office as if starring in a car-rental commercial. I swept my desk clear of the now superfluous clutter cast about it, including the opposition papers due the next day. I then dislodged the object of my intensity from the safety of my clutches and gently set it, exposed, upon the barren surface.

There, atop the blotter, it lay. Magnificently jacketed by new glassine covers of the most profound royal blue that would never again permit it to suffer degrading stains of midnight coffee and pizza, it beckoned me like a siren of classic mythology. Longing to relive those happier days, I hesitantly reached out to touch it. It did not recoil as I brushed my fingertips lightly along its sleek, cool surface. Unable to resist any longer, I turned the cover, and surrendered myself.

Suffice it to say that I did get to know the fifteenth edition in those moments. The aforementioned modesty allows me to go no further than to offer a discretely redacted summary of what I encountered.

The compilers of the new *The Bluebook* appear to have spent some time down from their ivory tower among the huddled masses of the legal community. True enough, they have also taken the liberty to revise and expand the various rules and conventions of legal citation while they were at it. They may be forgiven their trespasses this time, because they also have done some reality homework.³ Whether by design or by chance, *The Bluebook* appears to be the product of marketing skill and basic

³ See, e.g., T.1 UNITED STATES JURIS. FED. BANKRUPTCY CTS. (15th ed. 1991). See also *supra* note 1. Having finally realized that most practitioners, judges and legal scholars eschewed the previous *Bluebook* requirement that West's Bankruptcy Reporter be cited as "Bankr.," now, under rule 10, the compilers have adopted the short-hand "B.R." as the proper form.

human consideration, as signified by the new official name of the fifteenth edition declared in recognition of the common reference to the work. Throughout the citator, one can see evidence of great attention paid to making it more user-friendly. Although these extensive changes inure to the benefit of all whose lot it is to rely on *The Bluebook*, they are principally addressed to the two groups of users who have traditionally experienced the greatest frustration with this resource: practitioners and novices. The compilers also appear to have given some credence to the time pressures under which the great majority of its readers operate. Perhaps inspired by presidential politics, it strives to be, in form at least, a gentler, kinder *The Bluebook* to which many spurned users may return.

Among the several positive points of light seen across *The Bluebook's* pages are the greatly expanded Quick Reference Tables of commonly used citation forms, arguably its most familiar and frequently-consulted portions. Each table is now two pages (inside front cover and first page for law review footnote forms, last page and inside back cover for court document and memoranda forms) in length. Between these tables, *The Bluebook* boasts 343 numbered pages, up an astounding eighty-eight pages from the fourteenth edition. Take comfort—the increase is largely due to the substantial restructuring of the book.

As stated in its Introduction, *The Bluebook* continues its basic three-part structure. The first part consists of the citation, typeface and style rules generally applicable to all legal writing (Rules 1 to 9). The second, containing Rules 10 to 20, relates specifically to citation form for cases, statutes, books and the various other sources of legal authority. The last part is devoted to the tables and abbreviations to be used along with the rules. The rules make marginal cross-references to a particular table when it is mentioned in the body of a given rule. For ease and speed of access, this last part is printed on light blue stock.

The fifteenth edition begins substantively with a new introductory section offering the uninitiated and disoriented an outline of its structure and a brief preamble of what legal citation is or should be all about. It is declared therein that the basic purpose of a citation is to give a reader the minimum, but sufficient, information needed to locate a source without difficulty.⁴ An in-

⁴ Cf. R. 16.1 (15th ed. 1991). The newly-revised Author rule mandates that the author's full name be given for signed materials which appear in periodicals ("including student-written materials"). Therefore, the previously short, concise, mini-

teresting paradox when one considers the ever-increasing size and complexity of *The Bluebook* itself. The Introduction does not stop there. It now goes so far as to conclude with an analysis of typical legal citations that breaks representative examples down into their components, in much the same way an anatomical chart points to various structures of the body. As I read through these examples, I could not help thinking that they were to legal citation what sentence diagrams are to English Grammar.

No small concession to pragmatism, the special section immediately following the Introduction is completely new. Also printed on light blue stock, the short Practitioner's Notes section is, in effect, a summary of various citation standards as they pertain to court documents and legal memoranda together with some special rules for such documents. The Practitioner's Notes are also marginally cross-referenced in the rule and table parts of *The Bluebook* to alert and direct the practitioner to the special forms set forth in the new section.

I come now to the more poignant aspect of this review. Alas, the compilers have demanded a price for their gifts. Under the cover of excellent efforts made in better organizing *The Bluebook* and facilitating its effective use, they have secreted a number of new rules and rule changes, some of which substantially alter former rules. Worse yet, while the Preface to the fifteenth edition lists both new and amended rules by number, it neither summarizes the rules that have been changed nor identifies the numbers of their predecessors in the fourteenth edition. This may prove inconsequential to very recent or future entrants of the legal community. To the great majority of us who are veterans of previous editions, however, it is impossible to understand the changes without a laborious comparison of former and current rules.⁵ So much for user-friendliness.

As I reviewed the fifteenth edition, I pondered what it must be like to be a winged insect on the wall of the editorial room while a revision of the citator is in progress. Do the compilers

mum and efficient citation, "Comment, *Disagreement Among the Districts: Why Section 327(a) of the Bankruptcy Code Needs Help*, 138 U. PA. L. REV. 1733, 1738 (1990)" now must contain the lengthy, verbose, unnecessary and inefficient introduction, "Karen J. Brothers, Comment"

Previous editions allowed an optional parenthetical, e.g., "(authored by Karen J. Brothers)." See R. 16.1.2 (14th ed. 1986). Apparently, enough members of the legal community found this information so unnecessary that the compilers were forced to make it mandatory.

⁵ For the reader's information, some of the more significant renumbered and amended rules are charted as follows:

actually debate citation form into the long hours of night? To most of us, simply remaining awake during such discussions would be a marvel in itself. I share these musings of an outsider not to offend in any way these prestigious representatives, but to seek insight into what possibly could inspire them to make such changes. Some alterations are obviously intended to clarify. Other revisions, however, seem to have a purpose known only unto their progenitors.⁶

Of all the new and changed rules of the current edition, none exemplifies this conundrum better, or raises the eyebrows higher, than Rule 1.4, which dictates the familiar order of authorities within a signal. No longer content to retain the order stated in prior editions, *The Bluebook* jostles the ranking of authorities like a weekly record album chart. Cases are no longer number one on the legal citation hit parade; they have fallen to an abysmal fourth order, superseded by constitutions, statutes and treaties, respectively. What cases might have done to deserve this demotion is unknown. Parenthetically, intergovernmental sources make their debut on this edition's order charts and the penultimately-ordered Secondary Materials category now places model codes and restatements at the top of the order within each signal.

So it is with the fifteenth edition.

Graphic depiction aside, my reintroduction to *The Bluebook*

Current Rule	Topic	Former Rule (14th Ed.)
1.4	Order of Authorities within each Signal	2.4
1.5	Parenthetical Information	2.5
1.6	Related Authority (<i>see also</i> Rules 15.5, 15.5.1 and 15.5.2 dealing with shorter works in collection and collected documents)	2.6
2.0	Typefaces for Law Reviews	1.2
10.9	Short Form Rules for Cases	4.3(a)
15.1.2	Editor or Translator	15.1(a)
15.1.3	Institutional Authors and Editors	15.1(b)
16.4	Newspapers	17

This chart has been taken from a memorandum prepared for the Seton Hall University School of Law community by Michael Sweeney of the *Seton Hall Law Review*, who selflessly performed the onerous comparison referenced in the text and to whom a debt of gratitude is owed. Copies of this now-infamous memorandum are available from the editorial offices of the *Seton Hall Law Review*.

⁶ *See, e.g.*, R. 8 (15th ed. 1991). Apparently, the compilers have found that capitalizing the parts of the United States Constitution will prevent the current United States Supreme Court from dismantling the rights previously found therein. This change was made without any reference to the intention of the framers or even English common law. Such ivory tower activism will likely be applauded by those on the left while necessarily unnerving the Borkian-right.

has not achieved a lasting rapprochement. Initial infatuation with its sensually-pleasant restructuring soon waned in the recognition that it still was what it purported to be, albeit in new, fashionable form. From there came mature acceptance of the fact that while I may never fully understand, or wish to understand, *The Bluebook's* purpose, we could at least coexist. Perhaps, too, the gulf between us will grow even wider. As I warned, no happy ending here.

A kinder, gentler *Bluebook*? The jury remains retired on this issue. Nevertheless, I hopefully venture to say that it has at least turned in this direction if only in form as yet. Those who find intellectual stimulation in the vagaries of legal citation will undoubtedly be deeply moved by the new edition, but they have never known conflict with citation and would willingly accept anything *The Bluebook* could offer. While I doubt that *The Bluebook* will ever occupy the same space as the revered court rules and treatises on the practitioner's shelves, the fifteenth edition will certainly be met with more warmth and maybe, just maybe, more use than its predecessors. It should also go far in avoiding the alienation of newcomers. Quite conceivably, it might actually go where no previous edition has gone before.

Strange as it seems, I wish it well.