

1-2002

## Citation and Representation

Alex Glashausser

Follow this and additional works at: <https://scholarship.law.vanderbilt.edu/vlr>



Part of the [Legal Writing and Research Commons](#)

---

### Recommended Citation

Alex Glashausser, Citation and Representation, 55 *Vanderbilt Law Review* 57 (2019)

Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol55/iss1/2>

This Article is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in Vanderbilt Law Review by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact [mark.j.williams@vanderbilt.edu](mailto:mark.j.williams@vanderbilt.edu).

# Citation and Representation

*Alex Glashausser\**

I.	INTRODUCTION .....	60
II.	COMPETITION AND CONQUEST.....	61
III.	POPULAR PROTEST.....	66
	A. <i>A Blue "See"</i> .....	67
	B. <i>A Resolution</i> .....	70
IV.	REVOLUTION.....	74
	A. <i>A Declaration of Independence</i> .....	78
	1.    Signals of Life.....	80
	2.    Liberty for Most.....	83
	3.    Pursuit of Techiness .....	88
	B. <i>A Constitution</i> .....	91
	1.    A More Perfect Union of Academe and the Bar .....	94
	2.    Freedom of Citation.....	97
	3.    States' Cite Rights.....	102
	4.    Research and Seizure .....	105
	5.    Uncruel and Unusual Embellishments.....	110
V.	REFORM.....	113

---

\* Associate Professor of Law, Washburn University School of Law. B.A. 1990, Harvard University; J.D. 1995, Duke University School of Law. I would like to thank Mary Beth Beazley for inspiring me to write this Article as well as the many colleagues who read drafts and gave me valuable feedback and advice. Outside the walls of Washburn, that group includes Darby Dickerson, Caroline Forder, Jan Levine, Sue Liemer, Richard Neumann, Louis Sirico, and Greg Sisk. Here at Washburn, Megan Ballard, Ellen Byers, Peter Cotorceanu, Myrl Duncan, Allen Easley, Linda Elrod, Ron Griffin, Ali Khan, Rogelio Lasso, Nancy Maxwell, Jalen O'Neil, David Pierce, Steve Ramirez, Bill Rich, and David Ryan were most generous with their comments and support. Finally, I thank the editors of the *Vanderbilt Law Review* for departing from their own *Bluebook* convention and publishing the Article in the *ALWD Citation Manual* format. Shay Zeemer, a Managing Editor of the *Vanderbilt Law Review*, deserves special thanks for learning the *Manual* format and carefully editing the footnotes.

VI.	RECONSTRUCTION.....	120
VII.	CONCLUSION .....	123

## I. INTRODUCTION

After decades of submission, a populist uprising seeks to overthrow a once august but now effete institution. Arbitrary decisions against the will of the people have sparked a revolution. Declaring independence from the old regime, the revolutionaries hope to unify a national system while allowing for local variation. The grassroots movement preaches not only populism but also a certain rough equality, aiming to eliminate class differences and badges of nobility. While the publication of the *ALWD Citation Manual*<sup>1</sup> in 2000 may not resonate with the impact of the Revolutionary War, the ideals at stake in the twenty-first-century legal citation war mirror those fought for by colonial America.

In 1765, the blue bloods in England's Parliament passed the Stamp Act, requiring colonists to buy tax stamps to confer legal significance on a variety of documents.<sup>2</sup> Americans were outraged, even though the financial impact on them was relatively minor. More important was the principle: Parliament had imposed a tax on people with no voice in that legislative body.<sup>3</sup> As the doctrine of "no taxation without representation" united the colonists and spurred a set of intercolonial resolutions condemning the tax,<sup>4</sup> Parliament

1. Assn. of Leg. Writing Dirs. & Darby Dickerson, *ALWD Citation Manual* (Aspen L. & Bus. 2000) [hereinafter *ALWD Manual*].

2. Edmund S. Morgan, *The Birth of the Republic 1763-89*, at 20 (3d ed., U. Chi. Press 1992). For the text of the Act, see *Sources and Documents of United States Constitutions: Second Series* vol. 1, 187-212 (William F. Swindler ed., Oceana Publications, Inc. 1982) [hereinafter *Sources and Documents*].

3. Bernard Bailyn, *The Ideological Origins of the American Revolution* 99-102 (Harv. U. Press 1967); Morgan, *supra* n. 2, at 52; cf. Alexander Hamilton, *A Full Vindication of the Measures of the Congress &c.*, in *The Papers of Alexander Hamilton* vol. 1, 45, 48 (Harold C. Syrett ed., Columbia U. Press 1961) (commenting during later tea dispute that it would be "ridiculous . . . to affirm, that we are quarrelling for the trifling sum of three pence a pound on tea; when it is evidently the principle against which we contend").

4. John C. Miller, *Origins of the American Revolution* 137-38 (Little, Brown & Co. 1943); see 1765 Instructions of the Town of Braintree, in *Sources and Documents*, *supra* n. 2, at 229, 230 (letter from John Adams to Ebenezer Thayer) ("We have always understood it to be a grand and fundamental principle . . . that no freeman should be subject to any tax to which he has not given his own consent, in person or by proxy."); Morgan, *supra* n. 2, at 52. The Stamp Act Congress of 1765 resolved that "no taxes ever have been, or can be constitutionally imposed on [colonists], but by their respective legislatures." *Journal of the Stamp-Act Congress* (1765), in Hezekiah Niles, *Principles and Acts of the Revolution in America* 155, 163 (A.S. Barnes & Co. 1876) (fifth resolution).

recognized a brewing rebellion and repealed the Act a year later. But it was too late: the colonists' long-simmering resentment of Parliament had boiled over, and no reversal could forestall the Revolution.

In 1996, the *Blue* bloods in New England's Harvard Law Review Association published the sixteenth edition of the *Bluebook*,<sup>5</sup> prompting American lawyers to buy the latest version of the citation "Kama Sutra"<sup>6</sup> to insure proper formats in their legal documents. Lawyers were outraged, but the financial impact on them was relatively minor.<sup>7</sup> More important was the principle: the *Bluebook* had redefined the "see" signal with no regard for the opinion of the nation of lawyers. As the doctrine of "no citation without representation" united practitioners and academics and spurred a nationwide resolution condemning the revision,<sup>8</sup> the *Bluebook* recognized a brewing rebellion and promised to repeal the change in its next edition. But it is too late: American lawyers' long-simmering resentment of the *Bluebook* has boiled over, and the contrite seventeenth edition is unlikely to forestall the *Manual* revolution.

Through the lens of the American Revolution, this Article traces the roots of the citation uprising; critiques the *Manual's* implementation of its ideals; suggests avenues for further reform; and concludes that the *Manual* is poised to unite our nation of lawyers.

## II. COMPETITION AND CONQUEST

A federal court of appeals once marked what it deemed to be a stray comma in a citation by the U.S. Supreme Court with a "[sic]."<sup>9</sup> This sanctimony was misplaced in that the Supreme Court has no allegiance to *Bluebook* comma rules—and why should it? It always writes "*id.*, at . . ."<sup>10</sup> In fact, as to all citation matters, the

5. Colum. L. Rev., Harv. L. Rev., U. Pa. L. Rev. & Yale L.J., *The Bluebook: A Uniform System of Citation* (16th ed., Harv. L. Rev. Assn. 1996). Throughout, I cite the *Bluebook* by referring to the applicable edition number. Citations of the first fifteen editions are from *The Bluebook: A Sixty-Five Year Retrospective* (William S. Hein & Co., Inc. 1998) [hereinafter *Retrospective*].

6. Peter Lushing, *Book Review*, 67 Colum. L. Rev. 599, 599 (1967) (reviewing *Eleventh Edition*).

7. The sixteenth edition sold for \$12.

8. See Assn. of Am. L. Schs., *Resolution Concerning Promulgation of Rules of Citation* (Jan. 4, 1997) (available at <<http://www.legalbluebook.com/discus/index.html>> under posting by Gregory Sisk on Aug. 6, 1999) [hereinafter *AALS Resolution*].

9. *Thorne v. Jones*, 765 F.2d 1270, 1275 (5th Cir. 1985); see James W. Paulsen, *An Uninformed System of Citation*, 105 Harv. L. Rev. 1780, 1784 (1992).

10. While the Supreme Court style may look unwieldy now, it once was in "fashion[.]" Cf. Frederick Bernays Wiener, *Briefing and Arguing Federal Appeals* 222 (BNA Inc. 1961) (reporting on Supreme Court fashion of inserting comma between volume and page numbers of periodical).

Court follows its own manual, much of which differs from the *Bluebook*.<sup>11</sup> It does not release the manual to the public, partly to avoid the citation "wars."<sup>12</sup> By not publicizing its position on citation form, the Court has opened the door for influential law reviews to grab power.

Much like Great Britain, the *Bluebook* gradually dominated its world by exploring, settling, and conquering. The British empire has weakened since its peak in the middle of the eighteenth century.<sup>13</sup> After years of imperialistic success, the *Bluebook* too is primed for a fall.

The forerunner of the *Bluebook* was the fifteen-page 1921 *Yale Law Journal* citation guide. With it ended whatever fun lawyers once had making up citation forms: "If you can not find the proper form in this pamphlet, *do not guess* at it. . . ."<sup>14</sup> And the second edition of the Yale guide inflicted the first arbitrary rule change: the once-mandated "domicil" morphed to "domicile."<sup>15</sup> In the 1926 inaugural edition of the *Bluebook* came the first strains of elitism. The examples of how to abbreviate periodicals listed only *Mich. L. Rev.*, *U. Pa. L. Rev.*, *Col. L. Rev.*, *Harv. L. Rev.*, *Yale L. J.*, and *Corn. L. Q.*<sup>16</sup> Since 1934, the *Bluebook* has been compiled by the "gang of four" law reviews<sup>17</sup>—Harvard, Yale, Columbia, and Pennsylvania—and commentators have complained of citation control by an "Ivy League old-boy network."<sup>18</sup>

By the 1930s, law journals nationwide were starting to adopt the *Bluebook*,<sup>19</sup> and it began "marching toward world conquest."<sup>20</sup> It was then that the *Bluebook* proclaimed itself to be "a complete cita-

11. Telephone Interview with Frank Wagner, Rptr. of Dec., S. Ct. (May 17, 2000). The Court's manual and the *Bluebook* are equally arcane. See Pamela S. Karlan, *From Logic to Experience*, 83 *Geo. L.J.* 1, 1 (1994) (noting clerks' jokes that only Reporter of Decisions and Justice Blackmun mastered internal manual).

12. Telephone Interview, *supra* n. 11.

13. Bailyn, *supra* n. 3, at 136; Claude H. Van Tyne, *The Causes of the War of Independence* vol. 1, 55 (Peter Smith 1951).

14. Yale Law Journal, *Abbreviations and Form of Citation* (1921), in *Retrospective*, *supra* n. 5, at vol. 2, app. A, 1.

15. Compare Yale Law Journal, *Abbreviations and Form of Citation* (1924), in *Retrospective*, *supra* n. 5, at vol. 2, app. B, 7 with Yale Law Journal, *Abbreviations and Form of Citation* (1921), in *Retrospective*, *supra* n. 5, at vol. 2, app. A, 6.

16. *First Edition* at 10. At least a dozen other mainstream law journals existed at the time, such as *Kentucky Law Journal*, *Marquette Law Review*, and *Dickinson Law Review*.

17. James Gordon, *Oh No! A New Bluebook!*, 90 *Mich. L. Rev.* 1698, 1701 (1992).

18. David E.B. Smith, Student Author, *Just When You Thought It Was Safe to Go Back into the Bluebook: Notes on the Fifteenth Edition*, 67 *Chi.-Kent L. Rev.* 275, 281 n. 35 (1991).

19. Byron D. Cooper, *Anglo-American Legal Citation: Historical Development and Library Implications*, 75 *L. Lib. J.* 3, 21 (1982).

20. Paulsen, *supra* n. 9, at 1782.

tion system.”<sup>21</sup> In 1949, the National Conference of Law Review Editors unofficially christened the *Bluebook* as the standard citation guide.<sup>22</sup> By the late 1950s, acceptance by both academics and practitioners spread throughout the United States<sup>23</sup> spread,<sup>24</sup> and “regal” edicts replaced modest guidelines.<sup>25</sup> In 1976, the *Bluebook* explicitly expanded its domain from law reviews to all legal writing<sup>26</sup> and in the process drew comparisons to a “totalitarian regime [ ].”<sup>27</sup> This “Imperial campaign[ ]”<sup>28</sup> in the 1990s turned the *Bluebook* into the unquestioned “gold standard” for legal citations.<sup>29</sup>

With expansion came backlash. In fact, strident criticism of the *Bluebook* dates to at least the 1940s.<sup>30</sup> After the publication of the ninth edition in 1955, one critic carped that instead of restating professional practice,<sup>31</sup> the *Bluebook* had “marched off in a different direction all [its] own.”<sup>32</sup> More recently, shifts in the meaning of signals have pervaded each new edition of the *Bluebook*, much to users’ dismay.<sup>33</sup>

Criticism has spawned challengers. Until now, the *Bluebook* has rebuffed all assaults against its “hegemonic perpetuation of mindless formalism.”<sup>34</sup> But continued meddling with established rules was destined to upset the *Bluebook*’s perch atop the legal cita-

21. *Fourth Edition* at 1.

22. Robert Berring, *Introduction*, in *Retrospective*, *supra* n. 5, at vol. 1, v, vi & n. 5.

23. Stanley E. Tobin, *Book Review*, 11 *Stan. L. Rev.* 410, 412 (1959) (reviewing *Tenth Edition*) (“[T]his east windiness has reached the west coast.”).

24. Richard Bowler, *Review*, 44 *U. Chi. L. Rev.* 695, 696 n. 2 (1977).

25. Paulsen, *supra* n. 9, at 1783.

26. *Id.* at 1784; see *Twelfth Edition* at 1 (noting that guide was “designed for use in all forms of legal writing”).

27. W. Duane Benton, *Developments in the Law: Legal Citation*, 86 *Yale L.J.* 197, 197 (1976); Donald H. Gjerdingen, *Book Review*, 4 *Wm. Mitchell L. Rev.* 499, 500 (1978) (reviewing *Twelfth Edition*) (noting *Bluebook*’s increasing “prominence”).

28. Benton, *supra* n. 27, at 197.

29. Coleen M. Barger, *The Uncertain Status of Citation Reform: An Update for the Undecided*, 1 *J. App. Prac. & Process* 59, 69 (1999). Though gold in one sense, the *Bluebook* has not always been blue in the other. But “*Brownbook*” and “*Whitebook*” do not have the same ring. See Alan Strasser, *Technical Due Process: ?*, 12 *Harv. Civ. Rights-Civ. Libs. L. Rev.* 507, 507-08 (1977) (reviewing *Twelfth Edition*) (noting “Revolutionary”—but decidedly un-Glorious—color changes before Harvard settled on “patriotic blue”).

30. See Cooper, *supra* n. 19, at 22 (noting that practitioners and beginning students were chief critics).

31. The *Bluebook*’s main competitor in the 1950s was based on restating citation practices found in briefs. Miles O. Price, *A Practical Manual of Standard Legal Citations* iv, 46, 89-90 (Oceana Publications 1950).

32. Wiener, *supra* n. 10, at 223.

33. E.g. Bowler, *supra* n. 24, at 700-01 (complaining of changes in *Twelfth Edition*); Mary Combs, *Lowering One’s Cites: A (Sort of) Review of the University of Chicago’s Manual of Legal Citation*, 76 *Va. L. Rev.* 1099, 1106-07 (1990).

34. Gordon, *supra* n. 17, at 1704.

tion world.<sup>35</sup> As the Crown intensified its intrusion into American life, one journalist predicted its downfall in verse:

The time shall come when strangers rule no more,  
Nor cruel mandates vex from Britain's shore.<sup>36</sup>

And with the publication of *Current American Legal Citations*<sup>37</sup> in the 1980s, one lyrical reviewer foresaw the *Bluebook's* demise:

*Citations*, because bound in green,  
Though arguably still to be seen,  
Hints that the *bluebook* might one day be forsook,  
By novices who crave what cites mean.<sup>38</sup>

Before the Revolution, Britain faced other competition for America. Beginning in 1756, it waged the Seven Years' War against France over, among other territory, the colonies.<sup>39</sup> At first, Britain was taken aback by the French expansion from Canada into the Ohio River valley.<sup>40</sup> Colonists were reluctant to help and even used the war as leverage to extract more self-control from Parliament.<sup>41</sup> But then Britain financed a war chest and offered incentives to encourage colonists to fight the French, who could enlist only the Native Americans as allies.<sup>42</sup> With that boost, Britain soon overwhelmed its opposition.<sup>43</sup>

In 1986, "stirrings of rebellion" brought a northern threat to the *Bluebook* in the form of the *University of Chicago Manual of Legal Citation*.<sup>44</sup> What quickly became known as the "*Maroonbook*"

35. See Gjerdingen, *supra* n. 27, at 503 (noting prophetically in 1978 that "[c]hanging matters that need not be changed can only precipitate problems").

36. Gordon Wood, *The Creation of the American Republic 1776-1787*, at 78 (U.N.C. Press 1998) (quoting Philip Freneau).

37. *Bieber's Current American Legal Citations* (Mary Miles Prince ed., 2d ed., William S. Hein Co., Inc. 1986).

38. William R. Slomanson, *Book Review*, 52 *Fordham L. Rev.* 428, 428 (1983) (reviewing first edition of *Bieber's Current American Legal Citations*). The stated goal of *Bieber's* was only to accompany, not to replace, the *Bluebook*. *Bieber's Current American Legal Citations*, *supra* n. 37, at iii.

39. Lawrence James, *The Rise and Fall of the British Empire* 69-77, 87-94 (St. Martin's Press 1994).

40. Miller, *supra* n. 4, at 44.

41. *Id.* at 39.

42. *Id.* at 44.

43. See *id.*

44. Jock Yellott, *Tocqueville, Judge Hand, and the American Legal Mind*, 38 *S.D. L. Rev.* 100, 114 n. 122 (1993). The Chicago guide was first published as a working draft in the *University of Chicago Law Review*. Richard A. Posner, *Goodbye to the Bluebook*, 53 *U. Chi. L. Rev.* 1343, app. (1986). Three years later, a revised edition appeared. *The University of Chicago Manual of*

promoted a “libertarian”<sup>45</sup> and “permissive”<sup>46</sup> view of citations. The *Maroonbook*’s “attack[ ]”<sup>47</sup> included a salvo fired by Judge Richard Posner stating his hope that the new guide would “swiftly conquer the world of legal publishing.”<sup>48</sup> But the *Bluebook* was armed for “battle[ ].”<sup>49</sup> While most reviews of the *Maroonbook* were positive,<sup>50</sup> *Harvard Law Review* published a philippic.<sup>51</sup> Moreover, in its first post-*Maroonbook* edition, the *Bluebook* cited that diatribe in an example with the following parenthetical: “discussing why users of *The University of Chicago Manual of Legal Citation* are hopelessly marooned.”<sup>52</sup> This hint of coastalism was confirmed in the selection of cities for the *Bluebook*’s first geographical abbreviation table: New York; Los Angeles; Philadelphia; San Francisco; and Washington, D.C.<sup>53</sup> Ultimately, the *Maroonbook* found few allies outside of Chicago.<sup>54</sup> Within seven years of publication, it was effectively silenced as a competitor.

Though in the end Great Britain had little trouble overcoming France, the Seven Years’ War focused American colonists’ minds on the nature of their rights within the British system and helped pave the road toward independence.<sup>55</sup> Likewise, the *Maroonbook*, though easily squelched, was a harbinger of greater threats to come.<sup>56</sup>

---

*Legal Citation* (U. Chi. L. Rev. & U. Chi. Leg. Forum eds., Laws. Co-op. Publ. Co., Bancroft-Whitney Co. & Mead Data C., Inc. 1989).

45. *Manual Labor, Chicago Style*, 101 Harv. L. Rev. 1323, 1327 (1988) (reviewing *Maroonbook*).

46. Combs, *supra* n. 33, at 1105.

47. Berring, *supra* n. 22, at v, vii.

48. Posner, *supra* n. 44, at 1352.

49. Combs, *supra* n. 33, at 1101.

50. *E.g. id.*; Douglas Laycock, *The Maroonbook v. The Bluebook: A Comparative Review*, 1 Scribes J. Leg. Writing 181, 181 (1990).

51. *Manual Labor, Chicago Style*, *supra* n. 45, at 1324 n. 7 (“[T]he *Maroon Book*, in proposing legal citation as an art form, is analogous to the ritual of cremation in an embroidered shroud and a hand-carved coffin.”).

52. *Fifteenth Edition R.* 16.5.2(b), 115.

53. *Id.* T. 10, 271. Chicago made the list in 2000. *Seventeenth Edition T.* 11, 311.

54. See Paulsen, *supra* n. 9, at 1785 n. 42 (noting high percentage of Chicago-based publications out of few journals that adopted *Maroonbook*).

55. Charles M. Andrews, *The Colonial Background of the American Revolution* 125 (rev. ed., Yale U. Press 1931); Charles A. Beard & Mary R. Beard, *A Basic History of the United States* 85-86 (Doubleday, Doran & Co. 1944) (discussing intercolonial cooperation during Seven Years’ War); George Louis Beer, *British Colonial Policy 1754-1765*, at 171-73 (MacMillan Co. 1907); Van Tyne, *supra* n. 13, at 83.

56. See Thomas R. Haggard, *The Scrivener: Citing News!*, 12 S.C. Law. 12 (July-Aug. 2000) (labeling *Manual* as *Bluebook*’s first “serious” competitor).

## III. POPULAR PROTEST

Until the mid-1760s, whatever gripes American colonists had about British rule, they did not contemplate independence. Though the Crown disallowed some of their laws, it never imposed significant taxes, and no critical mass of public opinion seriously questioned the status quo.<sup>57</sup> Likewise, until the mid-1990s, though each new edition of the *Bluebook* brought a wave of minor complaints, the legal profession lived peacefully under its rules. Though lawyers grouched about persnickety details, most accepted the sovereignty of the *Bluebook*; no critical mass of public opinion fomented revolution.

With the passage of increasingly oppressive economic measures by Parliament, Americans began to resent the apparent motive behind British colonial policy: profit.<sup>58</sup> In 1764, the Sugar Act established elaborate enforcement mechanisms to ensure colonists' compliance with tariffs that had long been circumvented by smuggling.<sup>59</sup> In applying the Act, British officials relied on technicalities to harass shippers.<sup>60</sup> Colonists had little doubt that the law was intended less for regulation than for revenue.<sup>61</sup> Similarly, over time, the *Bluebook* grew less tolerant of writers' deviating too far from its rules and started eliminating phrases that allowed any discretion.<sup>62</sup> Technicalities blossomed.<sup>63</sup> And lawyers now suspect that the main purpose of new *Bluebook* editions is not citation regulation, but revenue.<sup>64</sup>

In the wake of the Sugar Act, Americans surmised that a major way the Crown hoped to profit from the colonies was by es-

57. Carl Becker, *The Declaration of Independence* 80-81 (1942 reissue, Alfred A. Knopf 1922).

58. See Van Tyne, *supra* n. 13, at 60 ("No other motive was thinkable in that age.").

59. Merrill Jensen, *The Founding of a Nation* 45-49 (Oxford U. Press 1968); Edmund S. Morgan & Helen M. Morgan, *The Stamp Act Crisis* 23-25 (U.N.C. Press 1953).

60. Jensen, *supra* n. 59, at 50.

61. *Id.* at 48. Indeed, the name of the act stated the goal: "The American Revenue Act of 1764." *Id.*

62. See *infra* sec. IV(B)(2).

63. E.g. *Sixteenth Edition R. 2.2(b)(i)*, 32 (basing typeface for case names in footnote text on whether name is grammatically part of sentence).

64. E.g. Ian Ayres, *Supply-Side Inefficiencies in Corporate Charter Competition: Lessons from Patents, Yachting and Bluebooks*, 43 U. Kan. L. Rev. 541, 557 (1995); Jim C. Chen, *Something Old, Something New, Something Borrowed, Something Blue*, 58 U. Chi. L. Rev. 1527, 1530 (1991) (charging that "[n]ew editions appear . . . when revenues from *Bluebook* sales dip unacceptably").

establishing exclusive trade zones for British merchants.<sup>65</sup> When Parliament passed the Tea Act to help the largely government-controlled East India Company gain a foothold in the colonial market, the citizens of Massachusetts smelled a monopoly and responded with the Tea Party.<sup>66</sup> While lawyers are not known to party with the *Bluebook*, they often “bash[ ]” it.<sup>67</sup> Instead of littering Boston Harbor, they have railed against Cambridge’s monopolization of the citation market, grumbling that the *Bluebook* has restrained trade and fattened its own wallet.<sup>68</sup> One commentator has noted that the demand for copies of each new *Bluebook* creates a “perverse incentive” to enact “arbitrary new rules.”<sup>69</sup> With each revised edition, all lawyers who want to stay current must pay what amounts to a *Bluebook* tax.<sup>70</sup> As it did in colonial America, too much taxation and too little representation has brought public opinion to a boil.

### A. A Blue “See”

In 1765, colonial opposition to the Stamp Act did not begin until more than six weeks after news of it crossed the Atlantic.<sup>71</sup> But once word of this sea change in British policy spread, colonists quickly condemned it. In 1996, when the sixteenth edition of the *Bluebook* was published, it too attracted little immediate notice.<sup>72</sup>

65. Morgan & Morgan, *supra* n. 59, at 36, 39; Van Tyne, *supra* n. 13, at 64; see Beard & Beard, *supra* n. 55, at 82 (“[C]ontrol over the relations of the colonies to foreign countries was a complete monopoly of the British government.”).

66. James, *supra* n. 39, at 103; Morgan, *supra* n. 2, at 58-59.

67. Paulsen, *supra* n. 9, at 1793.

68. E.g. Chen, *supra* n. 64, at 1528; Richard Saver, *Harvard’s Hated Bluebook Still on Top*, Tex. Law. 9 (Oct. 14, 1991). In 1996, one reviewer noted that although the *Bluebook* did not enjoy a “true monopoly,” its domination of the legal market was comparable to that of Microsoft’s Windows software in the computer market. Neil Squillante, *Book Review*, 216 N.Y. L.J. 2 (Nov. 1, 1996). Because people buy not only the *Bluebook* itself but also what it says to cite, Gordon, *supra* n. 17, at 1700 n. 11, it has financially crushed innocent bystanders, such as reporters not listed in it, see Cooper, *supra* n. 19, at 22 (chronicling demise of *Indiana Decisions*).

69. Ayres, *supra* n. 64, at 557 (comparing profit-driven arbitrary changes in *Bluebook* and Delaware’s corporate code).

70. Each new edition generally sells almost a half-million copies. Hope Viner Samborn, *What’s New in Blue: Citation Guidelines Change along with the Times*, 82 ABA J. 16, 16 (Dec. 1996).

71. Robert Middlekauf, *The Glorious Cause* 77 (Oxford U. Press 1982).

72. A. Darby Dickerson, *Seeing Blue: Ten Notable Changes in the New Bluebook*, 6 Scribes J. Leg. Writing 75, 75 (1996-1997) (“[T]he new *Bluebook* has largely been ignored by practicing lawyers.”). In a 1997 opinion turning on the definition of “see,” a court mistakenly referred to the 1991 edition of the *Bluebook* as the “most recent edition.” *U.S. v. Reyna-Espinosa*, 117 F.3d 826, 830 (5th Cir. 1997). The government argued that the defendant’s sentence had been properly enhanced under a statute because the relevant sentencing guideline, by citing the statute with a

Aside from a flimsier cover, it looked the same as its predecessor,<sup>73</sup> and as its preface stated, it “retain[ed] the same basic approach to legal citation.”<sup>74</sup> But a prefatory note about an alteration in the rule about signals, mentioning only a distinction as to whether “e.g.” was a signal in its own right or a suffix for other signals, belied the “see” change that lay within.<sup>75</sup>

In earlier editions, no signal had been needed when a source stated—although not necessarily in the same words—a writer’s proposition. The relevant language of the rule had shifted from “directly upholds”<sup>76</sup> to “directly supports”<sup>77</sup> to “states”<sup>78</sup> to “clearly states,”<sup>79</sup> but the fixed norm was that as long as the link between the paraphrased proposition and the source was strong enough, the citation did not need a signal.<sup>80</sup> Without fanfare or explanation, the sixteenth edition struck down that principle, allowing “[no signal]” only after a quotation or before the mere identification of an authority referred to in the text. Under the new rule, a source that “*directly state[d]*” or “*clearly support[ed]*” the proposition required the “see” signal.<sup>81</sup>

Drastic enough on its own, the expanded “see” also caused a collateral casualty. “*Contra*” had long been the negative version of “[no signal].” Because quotations and identifications have no logical opposites, though, the *Bluebook* editors had no choice but to decree “*The Death of Contra*.”<sup>82</sup>

In the colonies, Americans used pamphlets, newspapers, broadsides, and town meetings to spread public opinion against Great Britain.<sup>83</sup> Revolutionary sentiment grew from local gather-

“see” signal, incorporated it into the guideline. *Id.* Citing the 1991 edition’s definition of “see,” the court disagreed and remanded for resentencing. *Id.* Presumably, the government—and the court—simply overlooked the 1996 edition’s redefinition of “see.”

73. See Squillante, *supra* n. 68 (“Beware of picking up the previous edition by mistake when you next go *Bluebook* shopping!”).

74. *Sixteenth Edition* at v.

75. See *id.*

76. *Tenth Edition* R. 27:2:1, 85.

77. *Twelfth Edition* R. 2:3(a), 6.

78. *Fourteenth Edition* R. 2.2(a), 8.

79. *Fifteenth Edition* R. 1.2(a), 22 (emphasis omitted).

80. The most dramatic variation came in the thirteenth edition, when “direct[] support[]” shifted from requiring “[no signal]” to “see.” Compare *Twelfth Edition* R. 2:3(a), 6 with *Thirteenth Edition* R. 2.2(a), 8. But a writer could paraphrase and still avoid a signal as long as the source “state[d]” the proposition. See *Thirteenth Edition* R. 2.2(a), 8.

81. *Sixteenth Edition* R. 1.2(a), 22.

82. Gil Grantmore, *The Death of Contra*, 52 *Stan. L. Rev.* 889, 891 (2000).

83. E.g. Bernard Bailyn, *Introduction*, in *Pamphlets of the American Revolution* vol. 1, 3, 3 (Bernard Bailyn ed., Harv. U. Press 1965); Morgan, *supra* n. 2, at 56-57.

ings, where people convinced their representatives in colonial assemblies to ask state delegates in the Continental Congress to declare independence.<sup>84</sup> In the past decade, electronic discussion groups have become the most effective forum for attracting followers to an ideological crusade. Like pamphlets, e-mails are flexible and cheap, and often appear in strings of “arguments, replies, rebuttals, and counter-rebuttals.”<sup>85</sup>

Once law review editors began to return article drafts to authors with seas of “see”s, word of the new rule spread by e-mail.<sup>86</sup> Professors began a “grassroots discussion” on listservs about what was to be done.<sup>87</sup> They universally condemned the fiat; no dissenters took the “see” side.<sup>88</sup> Academics worried that the switch would both confuse readers, who would have to consider which edition governed a given piece, and hamstring brief writers working with word limits<sup>89</sup> by forcing them to multiply their use of signals.

The language of the “civic republican discourse”<sup>90</sup> captured the fervor: the incipient uprising against the *Bluebook* was a “protest,”<sup>91</sup> a “rebellion,”<sup>92</sup> a “revolution.”<sup>93</sup> Some professors refused to teach the new rule.<sup>94</sup> While the signal change in and of itself made professors see red, the consensus of the online community was that it was a mere symptom of a flawed process—that students at a handful of law reviews should not codify citation form for the profession without systematic input from professional representatives.<sup>95</sup>

84. Kris W. Kobach, *May “We the People” Speak?: The Forgotten Role of Constituent Instructions in Amending the Constitution*, 33 U. Cal. Davis L. Rev. 1, 39 (1999).

85. See Bailyn, *supra* n. 83, at 5.

86. See *Association of American Law Schools 1997 Proceedings* 203 (AALS 1997) (transcript of meeting of House of Representatives Jan. 5, 1997) [hereinafter *AALS Proceedings*].

87. E-mail from Gregory C. Sisk, Prof., Drake U. L. Sch. (May 25, 2000). All authors of cited e-mail messages have kindly permitted me to cite their messages, copies of which are on file with me.

88. *AALS Proceedings*, *supra* n. 86, at 203.

89. See e.g. N.D. R. App. P. 28(g)(1) (amended in 1996).

90. E-mail from Tony Arnold, Assoc. Prof., Chapman U. Sch. L., to Legwri listserv (Oct. 21, 1996).

91. E-mail from Mary Beth Beazley, Dir. Leg. Writing, Ohio St. U. College L., to Gregory C. Sisk (Oct. 20, 1996).

92. E-mail from Carolyn L. Dessin, Assoc. Prof. L., Widener U. Sch. L., to Gregory C. Sisk (Oct. 21, 1996).

93. E-mail, *supra* n. 90; E-mail from Doug Miller, Asst. Prof., S. Tex. College L., to Legwri listserv (Oct. 22, 1996).

94. Richard K. Neumann, Jr., Presentation, *The Future of Legal Citation: The ALWD Citation Manual* (Seattle, Wash., July 22, 2000).

95. Telephone Interview with Gregory C. Sisk (May 26, 2000); see e.g. E-mail from Ronald Benton Brown, Prof., Shepard Broad L. Ctr., Nova S.E. U., to Lawprof listserv (Nov. 8, 1996) (complaining of *Bluebook*'s unresponsiveness to calls for change and problems with practitioners'

### B. A Resolution

Months after passage of the Stamp Act, representatives from nine colonies met and debated declarations drafted by John Dickinson of Pennsylvania.<sup>96</sup> The final Resolutions of the Stamp Act Congress, while expressing “sincere[ ] devot[ion]” to and “affection” for the King and his government, insisted that essential to the colonists’ freedom was the principle of no taxation without representation.<sup>97</sup> The Resolutions characterized the Stamp Act as “impracticable” and subversive of colonists’ rights, and urged its repeal.<sup>98</sup>

Legal academia’s reaction to the new “see” was equally emphatic. In response to the sixteenth edition, Professor Gregory Sisk, Drake University Law School’s representative to the Association of American Law Schools, played the role of Dickinson. The goal of the AALS, a nonprofit association of 162 law schools, is “the improvement of the legal profession through legal education.”<sup>99</sup> To that end, it participates in various projects with nonacademic organizations such as the American Bar Association.<sup>100</sup> Because the association’s domain covers not only academia but also the profession as a whole, its meetings are usually open to the bench and the bar.<sup>101</sup> Deciding that the AALS was the right group to sound the alarm about the *Bluebook*, Professor Sisk composed a resolution calling for systemic change. Posting the first draft on two listservs, he solicited comments and incorporated suggestions from dozens of professors into later versions.<sup>102</sup>

The final draft of the resolution that Professor Sisk introduced to the AALS House of Representatives before the 1997 annual meeting was a clarion call for revolution. Just as the Resolu-

---

use of *Bluebook*); E-mail from Jan M. Levine, Assoc. Prof., Dir. Leg. Research & Writing Program, Temple U. Sch. L., to Legwri & Lawprof listservs (Oct. 21, 1996); E-mail from Louis Sirico, Prof., Villanova U. Sch. L., to Legwri listserv (Oct. 22, 1996) (“[T]he [*Bluebook*] system is unnecessarily persnickety and arbitrary and under the control of inexperienced law students who lack judgment.”); E-mail from Robert Volk, Assoc. Prof., B.U. Sch. L., to Legwri listserv (Sept. 11, 1996) (asking why “we must be so beholden to those kids” at Harvard). Other changes that professors complained of included the enrichment of *Harvard Law Review* through the *Bluebook*. E-mail from Jan M. Levine to Glen-Peter Ahlers, Dir. Lib., Assoc. Prof., U. Ark., Fayetteville, Leflar L. Sch. & Lawprof listserv (Dec. 11, 1996).

96. Morgan & Morgan, *supra* n. 59, at 108.

97. *Journal of the Stamp-Act Congress*, *supra* n. 4, at 163 (preamble and third and eighth resolutions).

98. *Id.* (eighth, ninth, and last resolutions).

99. AALS Bylaws § 1-2 (available at <<http://www.aals.org/bylaws.html>>).

100. AALS, *What Is the AALS?* <<http://www.aals.org/about.html>> (accessed Feb. 16, 2001).

101. See AALS Bylaws, *supra* n. 99, § 3-3.

102. AALS *Proceedings*, *supra* n. 86, at 203.

tions of the Stamp Act Congress pledged allegiance to Britain while condemning its laws, the draft praised how well the “[*Bluebook*] process in general has worked” but criticized its latest policy as “unnecessar[y]” and “confus[ing].”<sup>103</sup> Like Dickinson, Professor Sisk not only advocated the repeal of specific legislation but also cited a general underlying inequity:

We urge the compilers of *The Bluebook* to restore the previous rule governing signals. . . . In addition, reviews and journals should respect the right of an author to use another system of rules governing citation of authorities. . . .

More generally, the misguided change in a single rule . . . reflects a broader problem of inadequate opportunity for the legal profession as a whole to participate in the process of establishing rules of citation. . . . [I]t is essential that [citation manuals] adopt a process of providing widespread advance notice of proposed changes so as to invite comment from across the full range of the legal profession.<sup>104</sup>

At the meeting, Professor Sisk hailed the draft resolution as “a testament to grassroots motivation among academics” and urged its adoption.<sup>105</sup> The AALS’s Executive Committee proposed referring it to the Standing Committee on Libraries and Technology.<sup>106</sup> But the House was not willing to wait.<sup>107</sup> Representatives had discussed the proposed resolution and thought no further study was necessary.<sup>108</sup> They wanted action, now.<sup>109</sup> In a rare exercise of its power,

---

103. *AALS Resolution*, *supra* n. 8.

104. *Id.*; see Letter from Gregory C. Sisk to Carl Monk, Exec. V.P. & Exec. Dir., and Bari R. Burke, Dep. Dir., AALS (Nov. 14, 1996).

105. *AALS Proceedings*, *supra* n. 86, at 203.

106. Memo. from Carl C. Monk, Exec. V.P. & Exec. Dir., AALS, to Deans of Member Schools and Members of House of Representatives (Nov. 27, 1996); *AALS Proceedings*, *supra* n. 86, at 203, 204-05.

107. AALS bylaws prevented a referral to the section on Legal Reasoning, Research, and Writing, which many felt would be a more appropriate group for study than the libraries and technology committee. See E-mail from Gregory C. Sisk to Linda Edwards, Prof., Dir. Leg. Writing, Mercer U. L. Sch. (Dec. 20, 1996).

108. Before the annual meeting, many professors had voiced their opinion on the Lawprof listserv that referral to committee was not necessary. See E-mail from Gregory C. Sisk to Lawprof listserv (Jan. 9, 1997).

109. See *AALS Proceedings*, *supra* n. 86, at 203-04 (comments of Professor Sisk noting that timeliness of resolution depended on its adoption relatively soon after publication of sixteenth edition); E-mail from Jan M. Levine to Lawprof listserv (Dec. 11, 1996) (warning that “referral to committee is likely to postpone things beyond anyone’s expectation”); E-mail from Gregory C. Sisk to Lawprof listserv (Dec. 11, 1996) (noting consensus to oppose referral to committee). Representatives were concerned not that the Executive Committee would oppose the resolution but simply that sending the resolution to a committee would unnecessarily delay, and possibly prevent, its passage. Telephone Interview, *supra* n. 95. The ALWD favored sending the resolution to committee, *AALS Proceedings*, *supra* n. 86, at 204, but only because its members thought the resolution would not pass otherwise, E-mail from Jan M. Levine to Gregory C. Sisk (Jan. 10, 1997).

the House rejected the Executive Committee's proposal and called for a vote.<sup>110</sup> The passage of the resolution by a wide majority was a foregone conclusion.<sup>111</sup> The people had spoken.

Minor "civil disobedience" to the *Bluebook* has always existed.<sup>112</sup> But the AALS resolution encouraged mass flouting of citation rules—the sort of resistance the Sons of Liberty promoted against the Stamp Act.<sup>113</sup> Even some law reviews, such as *Drake Law Review* and *Jurimetrics*,<sup>114</sup> ignored the new rule and followed earlier signal definitions. Others, including *New York University Law Review*, considered insubordination but decided to toe the *Bluebook* line.<sup>115</sup> On request, the AALS sent the resolution to practitioners' groups such as the ABA.<sup>116</sup> In light of the chaos, the closing statement of a review of the sixteenth edition by Dean Darby Dickerson was portentous: "For now, prudent lawyers have no choice but to master the [*Bluebook*]."<sup>117</sup>

Like the Stamp Act Resolutions, the AALS resolution was a collective catharsis but left open what future action might implement its asserted principle. Hours after the resolution passed, though, two members of the Association of Legal Writing Directors, Professors Jan Levine and Richard Neumann, hatched the idea of an ALWD citation guide.<sup>118</sup> In July 1997, the association's board of directors approved the project,<sup>119</sup> and the board then enlisted Dean Dickerson, the leading expert in legal citations, as the author.<sup>120</sup>

Meanwhile, the *Bluebook* set up a website where people could submit suggestions for its next edition.<sup>121</sup> It also undertook

---

110. AALS Proceedings, *supra* n. 86, at 205.

111. See *id.*; E-mail from Gregory C. Sisk to Lawprof listserv (Jan. 9, 1997) ("The resolution was . . . resoundingly adopted by voice vote, with only a smattering of negative votes.").

112. See Gordon, *supra* n. 17, at 1700 (noting common practice of including author's first name when *Bluebook* form allowed only first initial).

113. See Morgan & Morgan, *supra* n. 59, at 133-39.

114. See Harv. L. Rev. Assn., *The Bluebook* <<http://www.legalbluebook.com/discus/index.html>> (accessed Feb. 16, 2001) (posting by D.H. Kaye, editor of *Jurimetrics Journal*, on Sept. 4, 1999).

115. See E-mail from Gregory C. Sisk to Alex Glashausser (Sept. 14, 2001).

116. See E-mail from Gregory C. Sisk to *ABA Journal* (Jan. 10, 1997).

117. Dickerson, *supra* n. 72, at 94 (emphasis added). Her earlier review of the same edition warned the *Bluebook* that "threats are on the horizon." A. Darby Dickerson, *An Un-Uniform System of Citation: Surviving with the New Bluebook*, 26 *Stetson L. Rev.* 53, 94 (1996).

118. Neumann, *supra* n. 94.

119. Steven D. Jamar, *The ALWD Citation Manual—A Professional Citation System for the Law*, 8 No. 2 *Persps.* 65, 67 (2000).

120. Neumann, *supra* n. 94.

121. Many of the postings suggested returning to the earlier "see" rule. Harv. L. Rev. Assn., *The Bluebook* <<http://www.legalbluebook.com/discus/index.html>> (accessed Feb. 16, 2001). In

online market research: "If you do not currently use the *Bluebook*, please tell us which citation guide you currently use. What changes would persuade you to switch to the *Bluebook*?"<sup>122</sup> Ultimately, the website broadcast the news of the *Bluebook's* retreat when the posted preview of the new edition included a reversion to the old signal rule.<sup>123</sup> The well-edited seventeenth edition also boasts an expanded and sensible rule on electronic media and lacks arbitrary departures from earlier policies. Still, one of its most notable features is the timing of its release. Whereas the *Bluebook* had been revised every five years since 1976,<sup>124</sup> its publishers did not wait until 2001 for the sequel to the 1996 edition;<sup>125</sup> the seventeenth edition hit stores four months after publication of the *Manual*.

Like the Stamp Act, the new "see" was a somewhat innocuous rule based on ignorance rather than malice.<sup>126</sup> Neither edict was intended to provoke a visceral reaction.<sup>127</sup> But both tapped into systemic discontent about decisions driven by power rather than reason.<sup>128</sup> And like the repeal of the Stamp Act, the redefinition of "see" failed to address the underlying concern.<sup>129</sup> Just as the bill repealing the Act cited mere "inconveniences,"<sup>130</sup> the *Bluebook's* website claimed that "[t]he main purpose of the . . . revision is to expand the sections on Internet and medium-neutral citations."<sup>131</sup>

The ruling regimes have had no monopoly on disingenuousness, though. For all the colonists' cries about taxation without representation, they did not want to serve in Parliament because it

fact, the ratio of *Bluebook* loyalists approximated that of American loyalists to the Crown: about one in five. See *id.*; Morgan, *supra* n. 2, at 78.

122. Harv. L. Rev. Assn., *The Bluebook* <<http://www.legalbluebook.com/revision.htm>> (accessed May 11, 2000).

123. Harv. L. Rev. Assn., *The Bluebook* <<http://www.legalbluebook.com/discuss/index.html>> (posted by "Bluebook Editor" under "Planned Changes and Additions" on Jan. 26, 2000).

124. The last time the gap between editions was shorter than five years was in 1958, with the tenth edition, which significantly revamped the ninth edition, adding over one-third more pages. See *generally Retrospective*, *supra* n. 5 (first through twelfth editions).

125. Cf. E-mail from Sue Liemer, Dir. Leg. Writing, Acting Asst. Prof., U. Miss. Sch. L. (currently Dir. Lawyering Skills, S. Ill. U. Sch. L.), to Legwri listserv (May 8, 2000) (noting that *Bluebook* was not due for new edition until 2001 but not speculating about why date changed).

126. See Baily, *supra* n. 3, at 99.

127. See Middlekauf, *supra* n. 71, at 73 (recounting Stamp Act drafter's surprise at news of outrage in colonies).

128. Baily, *supra* n. 3, at 99; see Morgan, *supra* n. 2, at 74-75 (noting shift in colonists' ideological focus from practical problems to elemental principles).

129. See Hamilton, *supra* n. 3, at 49 (complaining that commercial interests, not principles, effected repeal); Bruce Lancaster, *From Lexington to Liberty* 24 (Lewis Gannett ed., Doubleday & Co., Inc. 1955); Morgan & Morgan, *supra* n. 59, at 276, 281; Van Tyne, *supra* n. 13, at 194.

130. *Sources and Documents*, *supra* n. 2, at 234 (reproducing bill).

131. Harv. L. Rev. Assn., *The Bluebook* <<http://www.legalbluebook.com/revision.htm>> (accessed May 11, 2000).

was not practical; what they wanted was their own system.<sup>132</sup> And as much as the legal community protested the process behind *Bluebook* rules, lawyers did not want a procedure under which professionals would suggest citation rules to students. They wanted their own system. Therefore, though the original purpose of the AALS resolution was merely to make the *Bluebook* more responsive,<sup>133</sup> it became a flashpoint for revolution.

#### IV. REVOLUTION

Like the American Revolution, the citation revolution is based not on violence but on reason.<sup>134</sup> The *Manual* was no sneak attack; Dean Dickerson's critiques of the sixteenth edition of the *Bluebook* were blueprints of her ideology. One even included over a dozen "Thoughts for the Seventeenth Edition."<sup>135</sup> But because the *Bluebook* did not immediately respond to the concerns of its constituents, most (if not all<sup>136</sup>—Dean Dickerson is no dictator) of the thoughts ended up instead in the *Manual's* first edition.<sup>137</sup>

---

132. See *Letter from Samuel Adams to Speakers of Other Houses of Representatives*, in *The Writings of Samuel Adams* vol. 1, 184, 186 (Harry Alonzo Cushing ed., Octagon Books, Inc. 1968) (letter of Feb. 11, 1768) (noting "utter Impracticability" of true representation); Morgan, *supra* n. 2, at 62-63 (noting shift from colonists' complaints about taxation to doubts about whether Parliament had any legitimate authority over colonies).

133. See e.g. E-mail from Gregory C. Sisk to Steven D. Jamar, Prof., Dir. Leg. Research & Writing Program, Howard U. Sch. L. (Jan. 9, 1997). Colonists' collective sentiment did not tip in favor of independence until the middle of 1776. Beard & Beard, *supra* n. 55, at 106.

134. See Wood, *supra* n. 36, at 4; *infra* text accompanying nn. 472-474 (discussing *Manual's* focus on reasons for rules); cf. Paulsen, *supra* n. 9, at 1783 (recounting *Bluebook's* "bloodless conquest of the world of law reviews").

135. Dickerson, *supra* n. 117, at 95-104; see generally Dickerson, *supra* n. 72 (critiquing *Sixteenth Edition*).

136. For example, the *Manual* does not unify the abbreviation of "supplement"—someone wisely decided that "N.Y.S." and "F. Supp." were both too entrenched. Compare Dickerson, *supra* n. 117, at 98 with *ALWD Manual* app. 3, 413. Moreover, Dean Dickerson's suggestion to "[p]roofread [a]gain" would apply to most written works, and the *Manual* is no exception. Compare Dickerson, *supra* n. 117, at 102 with e.g. *ALWD Manual* R. 12.7(c), 77 (failing to follow form prescribed in Rule 12.12 for citing cases to Westlaw or Lexis), app. 5, 426 (abbreviating "Harvard" as "Har." in apparent typographical error in first printing). For instance, two rules explicitly permit the use of a parallel neutral citation at the writer's discretion, while another flatly prohibits parallel citations unless required by a court rule. Compare *ALWD Manual* R. 12.16(b), 88, R. 43.2(b), 289 with *id.* R. 12.4(c)(2), 70. And the *Manual* stresses that "only" in two situations can "hereinafter" be used, yet an example in another section uses "hereinafter" in a different situation. Compare *id.* R. 11.4(d)(1), 52-53 ("only" bolded in original) (allowing "hereinafter" for sources with author only in footnotes) with *id.* R. 22.2(b), 196 (allowing "hereinafter" for sources with author in documents without footnotes).

137. Most dramatically, the *Manual* imported an entire appendix of state citation rules from Dean Dickerson's review. See *ALWD Manual* app. 2, 379-405; Dickerson, *supra* n. 117, at 167-96.

Now that the war has begun, the ALWD leaves no doubt that domination of the legal citation world is its aim and that the enemy is the *Bluebook*. The *Manual*'s introduction mentions its rival in the past tense: "[F]or many years, the most commonly used citation guide was *The Bluebook* . . ."<sup>138</sup> Likewise, the back cover proclaims the *Manual* as "soon-to-be-standard."<sup>139</sup> And throughout the *Manual*, subtle digs<sup>140</sup> at its opponent are unmistakable, from the boast that the *Manual* is "written, designed, and edited by professionals"<sup>141</sup> to the promise that "[t]he rules in this book will not be changed arbitrarily."<sup>142</sup> When the *Manual* refers to its "many more examples" and "expanded coverage of electronic sources,"<sup>143</sup> little mystery shrouds the identity of the yardstick.

Yet despite its combative stance, the *Manual* wisely restricts the reach of its empire. Instead of purporting to codify citation rules for foreign legal materials, it cedes to the will of the people in each country.<sup>144</sup> While some Americans might crave guidance about whether to cite the Japanese Constitution as "Kenpō,"<sup>145</sup> "Kenpo,"<sup>146</sup> or even "Constitution,"<sup>147</sup> decisions about macrons and translations are best made by each individual author.

The ideal animating the *Manual*'s domestic campaign is populism: citation with representation. American colonists chose republicanism over monarchy. As Thomas Paine wrote, one could not expect a king—who, by definition, knew little about the common world—to make rational judgments about that world.<sup>148</sup> Likewise,

---

138. *ALWD Manual* at 7.

139. *Id.* at back cover.

140. The *Manual* refrains from the direct name-calling once used by the *Bluebook* to defend itself against the *Maroonbook*. *Supra* text accompanying n. 52. The seventeenth edition too maintains a dignified silence as to the *Manual*. Outside the pages of *Manual*, its creators are not shy about their goals: "[It is] an alternative that we're hoping will be a replacement." Ruth Singleton, *Writing Directors Link Status and New Manual to Teaching Quality*, 22 *Natl. L.J.* A11 (Sept. 6, 1999) (quoting Dean Dickerson).

141. *ALWD Manual* at back cover. Indeed, the *Manual*'s subtitle is *A Professional System of Citation*.

142. *Id.* at 8.

143. *Id.* at xxiv.

144. *ALWD Manual* at 4 ("[W]e suggest using the form of citation adopted by the country whose law is being cited."). This suggestion arose during the grassroots listserv campaign. E-mail from Edward P. Richards, Prof., UMKC L. Sch., to Lawprof listserv (Oct. 22, 1996).

145. The *Bluebook* dictates this method. *Seventeenth Edition* T. 2, 275.

146. See e.g. John H. Jackson et al., *Implementing the Tokyo Round: Legal Aspects of Changing International Economic Rules*, 81 *Mich. L. Rev.* 267, 299 n. 68 (1982).

147. See e.g. Allison R. Quinn, Student Author, *National Campaign Finance Laws in Canada, Japan and the United States*, 20 *Suffolk Transnatl. L. Rev.* 193, 217-18 nn. 110-12 (1996).

148. See Thomas Paine, *Common Sense*, in *The Life and Works of Thomas Paine* vol. 2, 97, 104 (William M. Van der Weyde ed., Thomas Paine Historical Assn. 1925).

Dean Dickerson once called for the royal *Bluebook* to “look outside the Halls of Ivy.”<sup>149</sup> After all, the legal world differs from the regal one; as well-meaning as top law students may be,<sup>150</sup> one cannot reasonably expect them to govern professionals.<sup>151</sup>

In the eighteenth century, many groups governed by Parliament could have complained of “virtual representation.”<sup>152</sup> It was Americans who rose up because they had the most at stake.<sup>153</sup> Likewise, the current judiciary and practicing bar have had reason to revolt; the *Bluebook*'s claim on their territory has no more basis than its asserted sovereignty over academia. But academics—and specifically legal writing professors, who populate the ALWD—have the most at stake.<sup>154</sup> Because teaching citation form takes time from other topics, professors have longed for a user-friendly guide that does not leave readers with loose ends.

A popular frustration with the *Bluebook* has been that its intimidating sheen of detail masks a failure to answer common questions.<sup>155</sup> For instance, each of the several examples of short forms for cases includes a pinpoint reference; how is a writer to short cite

---

149. Dickerson, *supra* n. 117, at 104.

150. One presumes that by choosing the “let’s kill all the lawyers” scene for an example of how to cite Shakespeare, students are not calling for the death of practitioners. *Seventeenth Edition* R. 15.7(e), 114; see George Gerard Campion, *On 15th Try, Bluebook Made Easier*, 130 N.J. L.J. 15, 15 (Apr. 20, 1992) (assuming that example is “joke”).

151. See Combs, *supra* n. 33, at 1102 (complaining of citation control exerted by student editors over publishing professors); Paulsen, *supra* n. 9, at 1782 (opining that *Bluebook*'s rules for practitioners are “as good as one could expect from a bright and well-intentioned group of students”); Samborn, *supra* n. 70, at 16 (quoting Professor Paulsen’s statement that because *Bluebook* compilers are “law students, not practitioners,” they “don’t understand what they are doing”).

152. Miller, *supra* n. 4, at 212. Britain’s theory held that because its citizens formed an indivisible whole, each representative spoke for the entire nation. Wood, *supra* n. 36, at 173-77, 184.

153. Wood, *supra* n. 36, at 173-77, 184. The colonists’ cry of “no taxation without representation” condemned controls imposed by outsiders who did not share in the taxees’ communities. Miller, *supra* n. 4, at 138; Amitai Etzioni, *Summer-Share Citizenship?*, 149 N.Y. Times A29 (June 1, 2000); see *Virginia Stamp Act Resolutions* (May 30, 1765), in *Documents of American History* vol. 1, 55, 56 (Henry Steele Commager & Milton Cantor eds., 10th ed., Prentice Hall, Inc. 1988) (“[T]he General Assembly of this Colony ha[s] the only and sole exclusive right and power to lay taxes and impositions upon the inhabitants of this Colony . . .”).

154. Even the size of the ALWD is just right, according to a sociological precept that for a group to function efficiently, 150 is the maximum number of members. Malcolm Gladwell, *The Tipping Point: How Little Things Can Make a Big Difference* 179-81 (Little, Brown & Co. 2000). The ALWD has members from 156 schools in the United States. ALWD, *Members* <<http://www.alwd.org/members.htm>> (last updated Feb. 1, 2001).

155. See Combs, *supra* n. 33, at 1102 n. 16 (“Given the length of the *Bluebook*, one is surprised to find a gap in its prescriptions.”); Dwight King, “A Day in My Law Library Life,” *Circa* 1997, 89 L. Lib. J. 185, 185 (1997) (“*The Bluebook* is mute on many matters . . .”).

an entire case?<sup>156</sup> The *Manual* sensibly answers that conundrum.<sup>157</sup> Another dilemma is the dreaded over-forty-nine-word parenthetical, which under the *Bluebook* raises an ontological puzzle about whether indentations and parentheticals are compatible.<sup>158</sup> The *Manual* answers no.<sup>159</sup> Another recurring issue is how to cite a not-yet-reported case. Should we refer to an electronic source or simply write “\_\_\_ F.3d \_\_\_”? The *Manual* answers: both.<sup>160</sup> Likewise, how does one treat reporter citations that lead the reader to but a single line in a list of unpublished dispositions? The *Bluebook* indirectly suggests a mere parenthetical notation of “unpublished table decision.”<sup>161</sup> The *Manual* appropriately requires not only a parenthetical but also an electronic citation if available.<sup>162</sup> Finally, despite detailed rules about citing multiple pages, the *Bluebook* offers no guidance about asterisks in electronic sources or “star edition” books.<sup>163</sup> Is it \*5-9? \*5-\*9? The *Manual* answers: \*\*5-9.<sup>164</sup>

Simple issues are these, but important ones—especially in light of the trend toward unpublished decisions.<sup>165</sup> Yet the *Bluebook* has never addressed them. Much of the *Manual*'s strength lies not so much in the substance of its rules but rather in having rules at all.<sup>166</sup> After all, settling a question that people want answered is often as important as settling it correctly.<sup>167</sup>

The *Manual*'s populism transcends mere anti-*Bluebook*-ism: it embraces changes in the sixteenth edition that the lawyering public liked. One progressive policy was the shift to requiring notation of the denial of a petition for writ of certiorari (or the state

156. *Seventeenth Edition* P. 4, 15, R. 10.9(a)(i), 72; but cf. *id.* R. 19.2(a), 148-49 (explaining how to short cite entire case found in looseleaf service).

157. *ALWD Manual* R. 12.21(b)(2), 92, R. 12.21(c)(2), 94 (providing that “[first page of case]” replaces traditional “at [pinpoint reference].”). Unfortunately, the *Manual* does not explain how to short cite an entire non-case source. See *id.* R. 22.2-22.3, 196-98, R. 23.2, 206; cf. *Seventeenth Edition* P. 4(d), 16, R. 4.2(a), 42 (noting that pinpoint citation “may” be added).

158. *Seventeenth Edition* R. 1.5, 28, R. 5.1(a), 43-44.

159. *ALWD Manual* R. 48.5(b), 320-21.

160. *Id.* R. 12.13, 86.

161. See *Seventeenth Edition* R. 10.6.1(a), 67.

162. *ALWD Manual* R. 12.14, 86-87.

163. *Seventeenth Edition* R. 3.3(d), 36-37, R. 18.1.1, 130-31, R. 15.4(d), 111.

164. *ALWD Manual* R. 12.12(b), 86; see *id.* R. 12.21(d), 94.

165. Richard A. Posner, *The Federal Courts: Challenge and Reform* 162-74 (Harv. U. Press, 1996).

166. Likewise, the *Manual* specifically states certain rules that are evident in the *Bluebook* only through examples. Compare *ALWD Manual* R. 11.3(d), 50 (directing writers to capitalize “*id.*” only at beginning of sentence) with *Seventeenth Edition* R. 4.1, 40-42 (revealing same rule implicitly in examples).

167. *Gilman v. Phila.*, 70 U.S. 713, 724 (1865); Bryan A. Garner, *An Uninformed System of Citation: The Maroonbook Blues*, 1 *Scribes J. Leg. Writing* 191, 191 (1990).

equivalent) only for recent decisions or when the denial is particularly relevant.<sup>168</sup> The Supreme Court has long stressed that denials of certiorari petitions have no precedential value,<sup>169</sup> and public opinion supported the *Bluebook's* amendment.<sup>170</sup> So the *Manual* sticks with it.<sup>171</sup> Just as importantly, the *Manual* explains the reason for the guideline to ensure that readers apply it knowledgeably.<sup>172</sup>

The *Manual* seeks to promulgate rules reflecting "a consensus in the legal profession."<sup>173</sup> Rather than relying on the judgment of student editors at elite law schools, the ALWD has surveyed the profession to see how people cite and want to cite.<sup>174</sup> For example, how many lawyers include "Ct." in state court parentheticals, as the *Bluebook* orders? That label is as unnecessary as pointing out that the four-digit number is a year.<sup>175</sup> The *Manual* does not try to force compliance with that or most other unpopular rules.<sup>176</sup> Instead, in furtherance of its populism, it declares independence from the *Bluebook* and frames the ALWD's constitutional values.

### A. A Declaration of Independence

Underlying the *Manual's* declaration of independence are familiar principles and unalienable rights. Whereas the *Bluebook* codifies the "command of a sovereign,"<sup>177</sup> the ALWD realizes that the *Manual* will succeed only through the consent of the governed. It empowers the people. The English monarchy was once widely thought to embody divine will,<sup>178</sup> but whatever vestiges of that view

---

168. Compare *Sixteenth Edition R. 10.7*, 66 with *Fifteenth Edition R. 10.7*, 65.

169. *E.g. Teague v. Lane*, 489 U.S. 288, 296 (1989).

170. *E.g. Chen*, *supra* n. 64, at 1533-34 (criticizing old *Bluebook* rule and praising *Maroonbook's* two-year rule); Paulsen, *supra* n. 9, at 1789 (criticizing old *Bluebook* rule).

171. *ALWD Manual R. 12.8(a)(7)*, 78.

172. *Id.* sidebar 12.6, 79.

173. *Id.* at xxiii.

174. A. Darby Dickerson, *It's Time for a New Citation System*, *Scrivener* 2, 2, 6-7 (Summer 1998). The editors of the sixteenth edition did consult with some state courts before making certain changes. Samborn, *supra* n. 70, at 16.

175. In a redundancy that is thankfully extinct, legal writers in the nineteenth century often added "R." or "Rep." to case reporters' names. Cooper, *supra* n. 19, at 19-20.

176. Compare *e.g. ALWD Manual app. 1*, 343 ("Fla. Dist. App.") with *Seventeenth Edition T. 1*, 198 ("Fla. Dist. Ct. App.").

177. Lushing, *supra* n. 6, at 600.

178. See Max Beloff, *Introduction*, in *The Debate on the American Revolution* 1, 7 (Beloff ed., 3d ed., Sheridan House Inc. 1989).

imbued George III with holiness in the eyes of some colonists<sup>179</sup> disappeared when he turned on them.<sup>180</sup> The *Bluebook* too once inspired the respect of a higher power.<sup>181</sup> In contrast, down-to-earth humanism permeates the *Manual*.

Whereas the *Bluebook* lists only institutional authors, the *Manual* names Dean Dickerson—who, despite her expertise, claims neither royalty nor divinity. The *Manual's* human authorship shows that its system is one that we the people control. Indeed, Dean Dickerson was far from alone in crafting the *Manual's* rules; two pages of acknowledgments reveal diverse contributions.<sup>182</sup>

The *Manual's* humanism extends to specific rules. For example, under the pre-*Manual Bluebook*, the name of any author after the second became “al.”<sup>183</sup> For finding sources, tertiary names are of little value. The *Manual*, however, transcends that limited purpose and understands that just as authors may want to be named, writers may want to name them.<sup>184</sup> Therefore, while allowing “et al.” as an alternative, it suggests naming all authors.<sup>185</sup>

The Declaration of Independence, while revered as the apotheosis of Americans' quest for life, liberty, and the pursuit of happiness, consisted largely of a list of the Crown's “abuses and usurpations.”<sup>186</sup> The Revolution was not based on empty rhetoric; explicit grievances against “an Arbitrary government”<sup>187</sup> more than

179. By the time of the Revolution, Paine's opinion that monarchy was heathenish predominated. Paine, *supra* n. 148, at 108.

180. See Bailyn, *supra* n. 3, at 124-25; *Chronicles of the American Revolution* 317 (Alden T. Vaughan ed., Grosset & Dunlap 1965) (quoting John Jay's 1777 condemnation of “the arbitrary and violent domination of the king of Great Britain”); *Declaration and Resolves of the First Continental Congress* [¶ 5] (Oct. 14, 1774), in *Documents Illustrative of the Formation of the Union of the American States* 1, 2 (Charles C. Tansill ed., Govt. Printing Off. 1927) (protesting “arbitrary proceedings of parliament”).

181. Jonathan Jacobson, *Book Review*, 43 Brook. L. Rev. 826, 826 (1977) (“The ‘Blue Book’ . . . is the Bible of citation form.”).

182. *ALWD Manual* at xxv. The ALWD's broad collaboration headed by a modest visionary recalls the Constitution's Framers. Although his fellow delegates gave him most of the credit, James Madison insisted that the Constitution was not a solo work: “This was not like the fabled goddess of wisdom the offspring of a single brain. It ought to be regarded as the work of many heads and many hands.” Irving Brant, *James Madison* vol. 3, 154-55 (Bobbs-Merrill Co., Inc. 1950) (quoting Madison).

183. *Sixteenth Edition R.* 15.1.1, 103.

184. *Cf. President's Page*, 41 Stan. L. Rev. 785 (1989) (noting “humanistic” effect of citing authors' full names).

185. *ALWD Manual R.* 22.1(a)(2), 187. The new *Bluebook* allows more than two authors' names when “particularly relevant.” *Seventeenth Edition R.* 15.1.1, 107-08.

186. *Declaration of Independence* [¶ 1] (1776).

187. *Id.*

supported the grand ideals.<sup>188</sup> Likewise, beneath the *Manual's* broad ideological vision lies bitterness at specific arbitrary acts of the *Bluebook*.<sup>189</sup> Avoiding change for the sake of change is a hallmark of the ALWD,<sup>190</sup> but so are extensive reforms to right the *Bluebook's* wrongs.

### 1. Signals of Life

One of the litany of abuses asserted in the Declaration of Independence was the Crown's forcing colonists to become "executioners."<sup>191</sup> The same fate may await lawyers who fail to choose introductory signals with care. Those who doubt that legal citation form can be a life-or-death battleground need only consider the case of Cary Lambrix, who faces what one commentator has called "Death by Cf."<sup>192</sup>

Having found Lambrix guilty of murder, a Florida jury heard instructions on aggravating and mitigating factors and recommended the death penalty; the trial court then sentenced Lambrix to death.<sup>193</sup> After exhausting his direct appeals, Lambrix filed a petition for a writ of habeas corpus, arguing that the instruction for one of the aggravating factors was unconstitutional.<sup>194</sup>

While Lambrix's appeal of the denial of that petition was pending, the U.S. Supreme Court decided *Espinosa v. Florida*,<sup>195</sup> a per curiam opinion holding that even when a judge is the ultimate sentencer, a death sentence is unconstitutional if it stems from a jury's recommendation based on an unconstitutional instruction.<sup>196</sup>

---

188. Carl Becker, *The Declaration of Independence* 14-15 (Alfred A. Knopf 1942) (discussing role of list of specific grievances in proving Crown's tyranny to world).

189. E.g. Gjerdingen, *supra* n. 27, at 507; see Dickerson, *supra* n. 72, at 92 (complaining of change "made merely for the sake of change"); Dickerson, *supra* n. 117, at 66 ("Some changes have no apparent purpose, other than to drive users insane."); Louis J. Sirico, Jr., *Fiddling with Footnotes*, 60 U. Cin. L. Rev. 1273, 1280 (1992) (noting that instead of making meaningful changes, fifteenth edition "fiddled"); Strasser, *supra* n. 29, at 510 (accusing *Bluebook* of "avoid[ing] any efforts at any kind of fairness").

190. See *ALWD Manual* at 8.

191. *Declaration of Independence* [¶1] (1776).

192. E-mail from Richard Cappalli, Prof., Temple U. Sch. L., to Legal Methods listserv (Oct. 5, 1999).

193. *Lambrix v. Singletary*, 520 U.S. 518, 520-21, 525-26 (1997).

194. *Id.* at 521.

195. 505 U.S. 1079 (1992) (per curiam).

196. *Id.* at 1082.

The *Espinosa* instruction was substantially similar to the one challenged by Lambrix.<sup>197</sup>

Under the Supreme Court's habeas corpus jurisprudence, Lambrix could rely on *Espinosa* retroactively only if that decision was "dictated" by existing precedent rather than announcing a "new rule."<sup>198</sup> To assess *Espinosa*'s novelty, the Court considered the precedent in the opinion. Unfortunately for Lambrix, *Espinosa* had cited "only a single case in support of its central conclusion."<sup>199</sup> Surely, a single case can be enough to establish that a proposition is dictated by precedent.<sup>200</sup> But the death knell was in the details: "And [*Espinosa*] introduced that lone citation with a 'cf.'—an introductory signal which shows authority that supports the point in dictum or by analogy, not one that 'controls' or 'dictates' the result."<sup>201</sup> Holding the *Espinosa* rule to be new, the Court, by a 5-4 margin, affirmed the denial of Lambrix's petition.<sup>202</sup>

Although the majority opinion marshaled some other evidence of *Espinosa*'s newness,<sup>203</sup> the apparent influence of a signal on the Court's decision is striking<sup>204</sup>—much like the pivotal role of signals in the citation war.<sup>205</sup> After all, signals are merely rough estimates of the strength of a citation; any attempt to impose mathematical precision on them will fail.<sup>206</sup> One classic interpretation may work as well as any formal definition:

Use *no signal* when you've got the guts. Use *e.g.* when there are other examples you are too lazy to find or are skeptical of unearthing. Use *accord* when one court has cribbed from another's opinion. Use *see* when the case is on all three's. Use *cf.* when you've wasted your time reading the case.<sup>207</sup>

---

197. Compare *id.* at 1080 ("especially wicked, evil, atrocious or cruel") with *Lambrix*, 520 U.S. at 521 ("especially heinous, atrocious, or cruel").

198. *Lambrix*, 520 U.S. at 527 (citing *Teague v. Lane*, 489 U.S. 288, 310-11 (1989)).

199. *Id.* at 529 (citation omitted).

200. Ruggero J. Aldisert, *Winning on Appeal* § 13.3.1, 243 (rev. 1st ed., NITA 1996).

201. *Lambrix*, 520 U.S. at 529.

202. *Id.* at 528-29, 536-38. For a similar case, see *Willet v. Lockhart*, 37 F.3d 1265, 1268 (8th Cir. 1994) (en banc) (affirming denial of petition for writ of habeas corpus because if relevant Supreme Court opinion had intended to incorporate test from case relied on by petitioner, "it would not have been so subtle as to do so by reference to the case . . . with a *cf.* citation").

203. *Lambrix*, 520 U.S. at 529-30.

204. See generally Ira P. Robbins, *Semiotics, Analogical Legal Reasoning, and the Cf. Citation: Getting Our Signals Uncrossed*, 48 Duke L.J. 1043, 1045-46 (1999) (discussing *Lambrix* in context of exegesis on "cf." signal).

205. See *supra* pt. III.

206. See *Beaney v. U.S.*, 271 F. Supp. 692, 696 (W.D.N.Y. 1967) (cautioning against reading too much meaning into signals). The law review editors who conjured up signals apparently envisioned them as having meanings "as precise as those attaching to algebraic symbols." Wiener, *supra* n. 10, at 223.

207. Lushing, *supra* n. 6, at 601.

The outcry against the *Bluebook* peaked over the sixteenth edition's definition of "see," but signals have changed subtly over the past half century in every new edition.<sup>208</sup> To the extent possible, the *Manual* restores sense—and perhaps, with time, stability—to signals. It wisely models its signal rules on common practice rather than on a single former *Bluebook* rule.<sup>209</sup> Merely reverting to the fifteenth edition would have caused hand wringing about the difference between "clearly states" (no signal) and "clearly supports" ("see").<sup>210</sup> Most importantly, the *Manual* reestablishes lawyers' right to omit signals when authority "directly supports" paraphrased propositions.<sup>211</sup> "See" is necessary only when a source "supports the stated proposition implicitly" or "contains dicta that support the proposition."<sup>212</sup> As to "cf.," the *Manual* restates the *Bluebook* standard but in simpler terms: "Use when the cited authority supports the stated proposition only by analogy."<sup>213</sup>

The *Manual* resurrects "contra."<sup>214</sup> That signal found support not only with commentators<sup>215</sup> but also in logic: if "[no signal]" can follow paraphrasing, an antonym stronger than "but see" is needed.<sup>216</sup> The *Bluebook* appreciates that need and has reinstated "contra" in conjunction with its "see" about-face.<sup>217</sup>

The ALWD let Ockham's razor eliminate that uniquely parasitic signal, "see also." The *Bluebook* introduced it in 1967 as a sig-

208. See Dickerson, *supra* n. 117, at app. C-1, C-2, 212-20 (tracking changes from seventh edition through fourteenth edition); Gjerdingen, *supra* n. 27, at 508-10 (lamenting "tragedy" of signal changes).

209. In a review of the sixteenth edition, Dean Dickerson advocated leaving the new signal definitions as is because while perfection could not be achieved, stability could. Dickerson, *supra* n. 72, at 81. That the *Manual* strayed from the sixteenth edition's definitions—and from its leader's advice—testifies to the ALWD's populism. For further examples of where the *Manual* diverged from Dean Dickerson's personal opinions, see *supra* note 136.

210. *Fifteenth Edition* R. 1.2(a), 22-23; see Chen, *supra* n. 64, at 1531 (criticizing vagueness of signal definitions in fifteenth edition). To its credit, instead of readopting the fifteenth edition's signal definitions wholesale, the newest *Bluebook* has modified "clearly states" to "directly states." *Seventeenth Edition* R. 1.2(a), 22. As one commentator has noted, distinctions among signals approach the metaphysical. Combs, *supra* n. 33, at 1106.

211. *ALWD Manual* R. 45.2(a)(1), 301; cf. *Twelfth Edition* R. 2:3(a), 6.

212. *ALWD Manual* R. 45.3, 302. The reference to dicta harkens back to the eighth edition. See *Eighth Edition* at 13.

213. *ALWD Manual* R. 45.3, 302; see *Sixteenth Edition* R. 1.2(a), 22-23 (instructing to use "cf." when "authority supports a proposition different from the main proposition but sufficiently analogous to lend support").

214. *ALWD Manual* R. 45.3, 302.

215. E.g. Grantmore, *supra* n. 82, at 891 ("The death of *contra* is the latest, surest sign of decadence and decline in American legal culture."); *contra* Squillante, *supra* n. 68 (opining that axing of signal made citation form "less painful").

216. See *supra* text accompanying n. 82.

217. *Seventeenth Edition* R. 1.2(c), 23.

nal that lived on its own, albeit as a clone of “*see generally*.”<sup>218</sup> The 1981 edition added that “*see also*” was commonly used after other supporting authorities had been cited.<sup>219</sup> That seemed logical in light of the “*also*,” but stringing together sources after any single signal has long meant that they all take that signal;<sup>220</sup> why did “*see*” get special treatment? This inequity has led many a writer to use “*see also*” after “[no signal],” instead of plain “*see*,” because the “*also*” makes sense.<sup>221</sup> The *Manual*’s omission of “*see also*” makes even more.

The death of “*accord*” at the hands of the ALWD is a bit troubling. The sixteenth edition’s “*see*” rule was irrational in part because the presence or absence of quotation marks eliminates the need for a signal to communicate whether a proposition is paraphrased. “*Accord*,” though, is necessary to convey that distinction when two sources follow a quotation. Without “*accord*,” a *Manual*-based writer cannot signal to the reader whether the second source contains the exact language of the quotation or merely directly supports it.<sup>222</sup>

Still, legal readers know that to get the full story, one must go to the source. In that vein, perhaps the simplification of signals by elimination is worthwhile. When signals become too numerous and complicated to understand easily, they undermine their communicative purpose. Overall, the *Manual* will help people execute signals, rather than vice-versa.

## 2. Liberty for Most

English courts in colonial times dealt harshly with citation errors. In 1776, before the Court of the King’s Bench, a plaintiff mistakenly cited a statute officially from the “4th and 5th [years] of Philip and Mary” as being from the “4th [year] of Philip and Mary.”<sup>223</sup> Rejecting the plaintiff’s argument that the discrepancy was immaterial, the court held that a variance in “the description of a statute . . . is fatal.”<sup>224</sup>

---

218. *Eleventh Edition* R. 26:1, 88.

219. *Thirteenth Edition* at v, R. 2.2(a), 8-9; cf. *Eleventh Edition* R. 26:2, 89 (using “*see also*” for first source in footnote).

220. *E.g.* *Eleventh Edition* R. 28, 90.

221. *See e.g.* Anne S. Kim, *Rent-a-Judges and the Cost of Selling Justice*, 44 *Duke L.J.* 166, 188 n. 155 (1994).

222. *See ALWD Manual* R. 45.3, 302.

223. *Rann v. Green*, 98 Eng. Rep. 1194, 1194 (K.B. 1776).

224. *Id.* at 1195; *see infra* text accompanying nn. 456-461 (discussing relative importance of date of enactment).

The *Bluebook* is almost as unforgiving of minor missteps. One commentator warns that “in Hell there will be nothing but law, and the *Bluebook* will be meticulously observed.”<sup>225</sup> The redundancy of that statement—observation of *Bluebook* rules is necessarily meticulous—has caused the *Bluebook* to be compared to the Gestapo.<sup>226</sup> In a kinder, gentler era, the *Bluebook* once allowed that “when unusual circumstances make [the prescribed] forms confusing or otherwise inadequate, a different citation form should be substituted.”<sup>227</sup> But that caveat disappeared in 1991.<sup>228</sup> Now, just as colonists railed against the Crown’s “system of slavery, fabricated against America,”<sup>229</sup> commentators have to warn us not to become “slave[s]” to the *Bluebook*.<sup>230</sup>

Citizens have long urged the *Bluebook* to be more flexible,<sup>231</sup> and the ALWD listened. The *Manual* liberates legal writers from the *Bluebook*’s conformity. Rather than bullying people into compliance, it acknowledges its limits. Though many of its rules are phrased as if no variation is tolerated, an introductory caution that practitioners must follow local citation rules when submitting documents to courts reminds the reader that the *Manual* is ultimately exhortatory.<sup>232</sup>

Recognizing that the point of a citation guide is not to enact artificial obstacles to legal writing but to enable clear communication, the *Manual* sets lawyers free, to a judicious extent.<sup>233</sup> It offers discretion when appropriate to choose between alternative formats.<sup>234</sup> Moreover, it does not punish minor slip-ups that do not af-

225. Grantmore, *supra* n. 82, at 893.

226. Paulsen, *supra* n. 9, at 1781.

227. *Fourteenth Edition* at iv; *cf.* *Tenth Edition* at iv (“Whenever clarity will be served, the citation form should be altered without hesitation.”).

228. *See Fifteenth Edition*; Chen, *supra* n. 64, at 1533.

229. Hamilton, *supra* n. 3, at 45, 50; *see* Miller, *supra* n. 4, at 419 (noting 1776 colonial sentiment about being “insulted, and treated as slaves”). A minority of colonists noted the hypocrisy of slaveholders’ complaining of enslavement. Morgan, *supra* n. 2, at 96; *cf.* James, *supra* n. 39, at 105 (quoting Samuel Johnson’s query “How is it . . . that we hear the loudest yelps for liberty among the drivers of slaves?”); *The Lincoln-Douglas Debates* 321, 359 (Harold Holzer ed., HarperCollins Publishers, Inc. 1993) (response of Lincoln in seventh joint debate, Oct. 15, 1858) (pointing out that evil of slavery is same whether perpetrated by “a king who seeks to . . . live upon the fat of his neighbor” or by “one race of men [enslaving] another race of men”).

230. Joel F. Dubina, *How to Litigate Successfully in the United States Court of Appeals for the Eleventh Circuit*, 29 *Cumb. L. Rev.* 1, 6 (1998-1999).

231. *E.g.* Sirico, *supra* n. 189, at 1279.

232. *ALWD Manual* at 8. The *Bluebook* also mentions local rules, but not as forcefully. *See infra* nn. 412-414 and accompanying text.

233. Maureen B. Collins, *Bluebloods’ ‘Bluebook’* <<http://www.law.com>> (July 26, 2000) (accessed by searching in archives under author’s name) (praising *Manual*’s flexibility).

234. *See infra* sec. IV(B)(2).

fect the substance of a citation.<sup>235</sup> Most readers—including judges and law firm partners—notice citation form, if at all, on a broad scale. Microscopic perfection by writers is pointless when readers use normal lenses.

Colonists' conception of freedom had its limits, many of which originated in Britain.<sup>236</sup> The declaration that "all men are created equal,"<sup>237</sup> as interpreted, did not include women or people of color,<sup>238</sup> and by one constitutional measure, a slave counted as three-fifths of a free person.<sup>239</sup> Likewise, the *Manual* builds on the *Bluebook's* tradition but does not unfetter everyone. Women's gain under the *Bluebook* of the right to be cited by their full names is intact.<sup>240</sup> But by one measure, students—whose devotion to the *Bluebook* is often "slavish"<sup>241</sup>—each count as only two-thirds of a lawyer.

In two important respects, students have the same liberties as anyone else. One freedom was won under the *Bluebook* after a decades-long campaign. The *Bluebook* originally dignified student work with neither a name nor a title; the generic "Note" or "Comment" designation sufficed.<sup>242</sup> In 1936, the editors allowed that "[a]lthough not ordinarily cited, the title of a Note may be given."<sup>243</sup> In 1955 came the first reference to students' names: "The name of the student author is not given."<sup>244</sup> Three years later, lest anyone even consider naming a student, "not" became "never."<sup>245</sup> Finally, in

235. *E.g.* *ALWD Manual* at 7 ("Do not spend hours agonizing over how to cite the source. Select a logical format and be consistent.").

236. Carla Gardina Pestana & Sharon V. Salinger, *Introduction*, in *Inequality in Early America* 1, 1 (Pestana & Salinger eds., U. Press of New Eng. 1999).

237. *Declaration of Independence* [¶ 1] (1776).

238. *See* Morgan, *supra* n. 2, at 94.

239. U.S. Const. art. I, § 2, cl. 3.

240. *See Fifteenth Edition R.* 16.1, 111; *ALWD Manual R.* 22.1(a), 186-87; Katharine T. Bartlett, *Feminist Legal Methods*, 103 *Harv. L. Rev.* 829, 829 n. \* (1990) (opining that former first-initial rule depersonalized women in that "[f]irst names have been one dignified way in which women could distinguish themselves from their fathers and their husbands"); Ruth Colker, *An Equal Protection Analysis of United States Reproductive Health Policy: Gender, Race, Age, and Class*, 1991 *Duke L.J.* 324, 324 n. \* (citing authors' first names in spite of former rule because "those names often gender-identify the authors").

241. Benton, *supra* n. 27, at 197; Richard Delgado, *Eliminate the "Middle Man"?*, 30 *Akron L. Rev.* 233, 233 (1996); Bernard J. Hibbitts, *Last Writes? Reassessing the Law Review in the Age of Cyberspace*, 71 *N.Y.U. L. Rev.* 615, 650 (1996); *see* Tobin, *supra* n. 23, at 411 (referring to "slaves" of *Bluebook*).

242. *See First Edition* at 9. In fact, the rule could be interpreted as allowing only volume, journal, page, and year information, without any form of title. *See id.*

243. *Fifth Edition* at 19-20.

244. *Ninth Edition* at 20.

245. *Tenth Edition R.* 11:3, 54.

the "Grand Compromise" of 1967,<sup>246</sup> an important barrier fell: note titles were now "always" to be included.<sup>247</sup> But it was not until 1986 that students' identities were deemed worthy of possible citation: "The student author's name may be indicated parenthetically."<sup>248</sup> The next edition, in 1991, brought the "great leap forward":<sup>249</sup> writers were required to name students.<sup>250</sup> In one student's words, that breakthrough "recognize[d] student authors as human beings."<sup>251</sup> The *Manual* continues the *Bluebook's* policy, treating students' names the same as others'.<sup>252</sup>

The second freedom students have gained—this one only under the *Manual*—is equality in the citation order hierarchy. The *Bluebook* has always required that student-written pieces follow those written by professional authors.<sup>253</sup> But the *Manual* does not distinguish between students and professionals in this respect; authors are listed alphabetically regardless of status.<sup>254</sup> That order itself, of course, may engender fairness concerns: some link the arbitrariness of "zeeism" to racism,<sup>255</sup> and bias against certain names may inhere in alphabetic citations.<sup>256</sup> But the *Manual's* acquiescence in that social construct merely reflects the times.<sup>257</sup> When lawyers of all letters unite to protest string-ending citations of works by Professor Zywicki, the ALWD will surely adapt.

In a third arena, students' rights remain to be won: the *Manual* requires writers to label "Student Author[s]."<sup>258</sup> After all,

246. Lushing, *supra* n. 6, at 601.

247. *Eleventh Edition* R. 11:3, 49.

248. *Fourteenth Edition* R. 16.1.2, 91. In the year the fourteenth edition was published, *Stanford Law Review* decided as a matter of policy to cite students' names rather than leave them in "undeserved anonymity." *President's Page*, 39 *Stan. L. Rev.* 1, 1 (1986).

249. Smith, *supra* n. 18, at 278.

250. *Fifteenth Edition* R. 16.5.1(a), 113.

251. Smith, *supra* n. 18, at 278.

252. *ALWD Manual* R. 23.1(a), 200.

253. *E.g. Seventeenth Edition* R. 1.4(i)(3)-(5), 27.

254. *ALWD Manual* R. 46.4(c)(3), 310.

255. Edward Grimsley, *The White House Is Perpetuating Zeeism*, *Richmond Times Dispatch* A-11 (June 28, 1996) ("[I]n a nation of free and equal citizens it should be as unacceptable to assign people forever to the bottom of the list as it is to assign them forever to the back of the bus.").

256. See *e.g.* Raymond P.H. Fische, *What Are the Research Standards for Full Professor of Finance?*, 53 *J. Fin.* 1053, 1075 n. 13 (1998) (noting "citation count bias" against co-authors with names at end of alphabet).

257. Courts to date have refused to recognize people with end-of-the-alphabet names as a class. *Krause v. Chartier*, 406 F.2d 898, 901 (1st Cir. 1968) (people with T through Z names not cognizable class); *Walker v. Goldsmith*, 902 F.2d 16, 17 (9th Cir. 1990) (W through Z names); *U.S. v. Puleo*, 817 F.2d 702, 706 (11th Cir. 1987) (M through Z names).

258. *ALWD Manual* R. 23.1(a)(2), 200.

the Declaration of Independence gave us not only "all men are created equal" but also "separate and equal."<sup>259</sup> In the students' liberty movement, the *Manual* tag may be a step backwards from the *Bluebook's* innocuous designations such as "Comment" or "Note."<sup>260</sup> And by including a sidebar explaining how to tell which authors are students, the *Manual* insures that no students will escape their status.<sup>261</sup> So much for the notion that ideas should be judged on their content rather than their provenance. Students may need a reconstruction to help them achieve fuller freedom.<sup>262</sup>

Discerning that equality is necessary to ensure liberty, the *Manual* does level several other playing fields. For example, long consigned to second-class status under the *Bluebook* rule requiring the word "Annotation" after the author's name, *American Law Reports* compilations are treated the same as academic articles by the *Manual*.<sup>263</sup>

Perhaps the most deserving beneficiary of the *Manual's* liberating egalitarianism is the "nonconsecutively paginated journal," whose very name inspires suspicion: What kind of slippery journal would paginate other than consecutively? Of course, the phrase actually encompasses respectable outfits such as bar journals and legal newsletters—but not the hard-core academic press. For the bastion of academia that is the *Bluebook*, the unflattering phrase alone is not enough; the nonconsecutives are also relegated to a special citation format closer to that for newspapers than to that for academic journals.<sup>264</sup> The *Manual* sensibly rejects the badge of inferiority that the nonconsecutive format has conferred. Like all periodicals, the nonconsecutives now have their date in a parenthetical at the end of the citation. The *Manual's* only distinction is one necessary to find the source, namely the inclusion of the exact publication date.<sup>265</sup> And to help readers know when that is needed, the *Manual* stars the nonconsecutives in its list of periodicals.<sup>266</sup> Most importantly, the *Manual's* pervasive tolerance of nonconformity will empower future groups fighting for freedom in the spirit of the nonconsecutives.

259. *Declaration of Independence* [¶¶ 1-2] (1776).

260. *Seventeenth Edition* R. 16.6.2, 121-23.

261. *ALWD Manual* sidebar 23.1, 201.

262. *See infra* pt. VI.

263. *Compare ALWD Manual* R. 24.0, 207-10 (*A.L.R.* citation form), R. 23.0, 199-206 (article citation form) *with Seventeenth Edition* R. 16.6.5, 124 (annotation citation form).

264. *Seventeenth Edition* R. 16.4, 119-20; *cf. id.* R. 16.5, 120-21.

265. *ALWD Manual* R. 23.1(f), 203-04.

266. *Id.* app. 5, 419-42.

### 3. Pursuit of Techiness

The New World the citation guides are fighting over is cyberspace. While the sixteenth edition of the *Bluebook* plodded along under the weight of tradition, the ALWD pursued happiness via the computer. Indeed, the Internet and the citation revolution are inextricably intertwined; without e-mail discussion groups, the AALS resolution might not have come about.<sup>267</sup> The *Bluebook's* assumption in 1996 that years could be represented as "(19xx)" could hardly be characterized as a "Y2K problem," but in substance, the *Bluebook's* failure to keep up with modern citation issues hastened the *Manual* revolution. Four years is forever, though, and now the revamped electronica of the seventeenth edition has evened out the technology race.

The sixteenth edition of the *Bluebook* stepped tentatively into the new world with a two-page section on "Electronic Sources and Databases" buried within a catchall rule covering "Unpublished, Forthcoming, and Nonprint Sources."<sup>268</sup> Westlaw and Lexis citations warranted but a half-page under "Special Citation Forms."<sup>269</sup> Neither the text nor examples explained how to cite multiple pinpoint pages.<sup>270</sup> In contrast, the *Manual* devotes one of its six parts exclusively to the computer age.<sup>271</sup> Useful tidbits include short citation forms for websites<sup>272</sup> and instruction on how to break up long URLs.<sup>273</sup> Separate rules in a different part fully address "Cases Published Only on Lexis or Westlaw" and "Cases on the Internet."<sup>274</sup> And the *Manual's* medium helps convey its message, with all the appendices available at its website.<sup>275</sup>

In the seventeenth edition, the *Bluebook* matches the intensity of the *Manual's* Internet coverage, though in different ways. For example, the *Bluebook* offers comprehensive guidance about

---

267. AALS *Proceedings*, *supra* n. 86, at 203 (transcribing statement of Professor Sisk that "Internet discussion groups" are "where the resolution came from").

268. *Sixteenth Edition* R. 17.3, 123-27.

269. *Id.* R. 10.8.1(a), 68.

270. *See* text accompanying *supra* nn. 163-164.

271. *ALWD Manual* pt. 4, 269-90.

272. *Id.* R. 40.2, 282; *cf.* *Sixteenth Edition* R. 17.7(b), 127 (specifying short form for document posted on website but not for website itself).

273. *ALWD Manual* R. 40.1(c)(4), 280.

274. *Id.* R. 12.12, 85-86, R. 12.15, 87-88.

275. ALWD, *ALWD Citation Manual* <<http://www.alwd.org/cm/index/htm>> (2000); *cf.* Harv. L. Rev. Assn., *The Bluebook* <<http://www.legalbluebook.com>> (accessed Feb. 16, 2001) (reproducing only introduction to seventeenth edition).

diverse protocols and migrating URLs.<sup>276</sup> And its table of jurisdictions includes web addresses for each state court system.<sup>277</sup> Moreover, sensitive to lawyers without Lexis or Westlaw access, it offers examples of cases found through low-cost electronic services VersusLaw and Loislaw.<sup>278</sup>

A little-noticed change in the sixteenth edition of the *Bluebook* was its canon about state cases with neutral citations. “Neutral,” “vendor-neutral,” “medium-neutral,” “generic,” and “public domain” are roughly synonymous descriptors for citations that do not direct the researcher to a specific reporter; opinion and paragraph numbers take the place of volume and page numbers.<sup>279</sup> Many lawyers still do not know what they are, how to find them, or what jurisdictions have them. Without explaining any of these issues, the *Bluebook* fired a cannon: Writers of all types of documents were to provide the neutral format, when available, “instead” of the regional reporter.<sup>280</sup> Despite that sweeping mandate, *Harvard Law Review* itself has continued to cite regional reporters.<sup>281</sup> In the seventeenth edition, the *Bluebook* backtracks a bit by requiring parallel reporter citations, but writers still have no option to omit public domain citations.<sup>282</sup>

As the Montana Supreme Court has noted, neutral citations make cases more accessible to the public.<sup>283</sup> In that vein, the *Bluebook*'s decree is admirable. But the *Manual*'s approach is far more judicious and complete. It mandates neutral citations only when required by a court rule.<sup>284</sup> Therefore, writers not submitting docu-

---

276. *Seventeenth Edition* R. 18.2.1, 132-37.

277. *Id.* T. 1, 188-241.

278. *Id.* R. 18.1.1, 130-31.

279. See Barger, *supra* n. 29, at 61 n. 3. Depending on one's perspective, such citations are either “[u]niversal” or “nowhere.” *Id.* (quoting Comm. on Citation Formats, Am. Assn. L. Libs., *Universal Citation Guide* 3 (Am. Assn. L. Libs. 1999), and Donna M. Bergsgaard & William H. Lindberg, *The Final Report of the Task Force on Citation Formats: A Dissenting View*, 87 L. Lib. J. 577, 607, 613 (1995)).

280. *Sixteenth Edition* P. 3, 14, R. 10.3.1(b), 62. The rule allows that “[a] parallel citation to the regional reporter may be provided as well.” *Id.*

281. *E.g.* *The Supreme Court, 1997 Term: Leading Cases*, 112 Harv. L. Rev. 122, 274 n. 13 (1998) (citing only regional reporter—“939 P.2d 1143 (Okla. 1997)” —instead of using neutral citation required both by *Bluebook* and by Rules 1.11(i) and 1.200(e) of Oklahoma Supreme Court—1997 OK 62). In its state tables, the sixteenth edition also failed to follow its own rule by directing academic writers to cite, for example, “only to P. or P.2d.” *E.g.* *Sixteenth Edition* T. 1, 209.

282. *Seventeenth Edition* R. 10.3.1(b), 62-63.

283. *In re Opinion Forms & Citation Standards of the Sup. Ct. of Mont.; & the Adoption of a Form of Public Domain & Neutral-Format Citation* (Dec. 16, 1997) <[http://www.aallnet.org/committee/citation/rules\\_mt.html](http://www.aallnet.org/committee/citation/rules_mt.html)>, cited in *ALWD Manual* app. 2, 390-92.

284. *ALWD Manual* R. 12.16(b), 88.

ments to courts—such as those publishing in *Harvard Law Review*—need not bother with neutral citations. For writers who need or want to follow local rules on neutral citations or other citation matters, the *Manual* transcribes them, word for word, in an appendix<sup>285</sup>—even the ones requiring briefs to conform to the *Bluebook*.<sup>286</sup>

The *Manual* too overreaches at times in its rush to embrace high-tech elegance. The format for citing Westlaw or Lexis cases, for example, undermines the *Manual's* populism in one crucial respect. Jotting down docket numbers is tedious, and omitting them, as the *Manual* rule does,<sup>287</sup> makes citations sleeker, but without them, readers relying on print sources have little hope of finding cited cases. With a docket number, an enterprising researcher can contact a clerk's office and track down a slip opinion. Indeed, the *Manual* requires the docket number in citations of slip opinions, as does the *Bluebook*.<sup>288</sup> In light of the *Manual's* sensitivity to other issues of equality, its failure to cater to the have-nots of the computer world is surprising.<sup>289</sup> In fact, the *Manual* itself equivocates about the docket number. Although the examples illustrating the Lexis-and-Westlaw rule do not include it,<sup>290</sup> other examples of citations of online sources do.<sup>291</sup> And the *Manual's* heart is in the right place: it notes that the reason for including the exact date of decision in citations of online sources is "to help readers locate the case."<sup>292</sup>

---

285. *Id.* app. 2, 379-405. The *Bluebook* merely summarizes local neutral citation rules. *Seventeenth Edition* T. 1, 205-40.

286. See e.g. *ALWD Manual* app. 2, 384 (quoting from Florida Rule of Appellate Procedure 9.800(n) that all citations of other states' cases "shall be in the form prescribed by the latest edition of The Bluebook"). Florida is now considering whether to amend Rule 9.800(n) to substitute *ALWD* for the *Bluebook*. E-mail from Darby Dickerson, Assoc. Dean, Stetson U. College L., to Dircon listserv (May 24, 2000). According to one study, in 1991, thirty-three state courts required *Bluebook* form. Am. Assn. of L. Libs. Task Force on Citation Formats, *The Final Report of the Task Force on Citation Formats*, 87 L. Lib. J. 577, 589-90 (1995).

287. *ALWD Manual* R. 12.12(a)(1), 85; cf. *Seventeenth Edition* R. 18.1.1, 130.

288. *ALWD Manual* R. 12.18(a), 89; *Seventeenth Edition* R. 10.8.1(b), 70.

289. James Seidl, *Legal Database Ignores Concerns of Taxpayers*, Chi. Sun-Times 22 (Feb. 28, 1995) (noting that much of legal community researches only in print sources); see *ALWD Manual* sidebar 38.1, 272. Not only do many lawyers rely on print sources, but of those researching in electronic databases, many use either Westlaw or Lexis—not both. For example, the federal courts have an exclusive contract with Westlaw. Terry Carter, *The Price Is Wrong: The Chief Justice Declines an Offer of Free Lexis Research*, 84 ABA J. 18 (Feb. 1998). Because, unlike most print reporters, the two services do not provide parallel citations for each other, a future rule might sensibly require writers to include parallel citations when available. Cf. *ALWD Manual* R. 12.12(a)(1), 85 (requiring either Lexis or Westlaw).

290. *ALWD Manual* R. 12.12, 85-86.

291. E.g. *id.* R. 12.7(c), 77, R. 46.1, 305 (first printing).

292. *Id.* R. 12.7(c), 77.

Another misstep is the *Manual's* perpetuation of the *Bluebook's* elevation of online case sources above looseleaf services in the order of preference of what source to cite.<sup>293</sup> That rule ignores the reality that whereas researchers armed with looseleaf citations can easily find cases online, the converse is not true.<sup>294</sup> Moreover, certain information, such as the list of abbreviations for federal agencies' official reporters, is available only at the *Manual's* website.<sup>295</sup> That may sound appealingly high-tech, but people relying on the printed book are out of luck.

Technology values not only speed but also timing. The ALWD seized an advantage by publishing the first post-Internet-explosion citation guide. But with the revisions of the seventeenth edition, the *Bluebook* has gained ground in the frontier of cybercitation and is now in hot pursuit of the *Manual's* techiness.

### B. A Constitution

The *Manual* is not perfect, but it stands as a polished document of constitutional citation values; the ALWD has spared lawyers the awkward Articles of Confederation stage. Principles underlying the *Manual* echo those most prominent in the Constitution and particularly the Bill of Rights.<sup>296</sup> To a large extent, the Foun-

---

293. *Id.* R. 12.4(a)(2), 67; *Seventeenth Edition* R. 10.3.1(b), 63.

294. See *ALWD Manual* R. 12.12(c), 86 (using same rationale to explain why parallel online citations are not necessary for cases in reporters). As to Supreme Court cases, the *Manual* correctly prioritizes online and looseleaf sources. See *id.* R. 12.4(b)(1), 69 (preferring United States Law Week to online sources).

295. See *id.* R. 19.5(c)(2), 164.

296. Although often the Bill of Rights is thought of mainly as conferring rights, in fact, most of the first ten amendments protect people through governmental structure rather than through substantive rights. The protective nature of that structure originated as much from the need to shield local majorities from the will of a distant and potentially unresponsive national legislature as from the need to protect minorities against the will of the majority. See Akhil Reed Amar, *The Bill of Rights* xii-xiii, 125-29 (Yale U. Press 1998). People likewise tend to view citation manuals as endless compendiums of rules to memorize, but in fact, as many important parts are structural as substantive. The rules that govern across all sources are about how to abbreviate elements of citations, how to introduce citations with signals, how to string multiple citations together. The *Bluebook* recognizes this point by grouping such universal norms as "General Rules of Citation and Style." *Seventeenth Edition* at vii. The *Manual* too divides its rules into categories. The structural ones are "Citation Basics," "Incorporating Citations into Documents," and "Quotations"; the bulk of the substantive rules are headed "Citing Specific Print Sources." *ALWD Manual* at v-xx. The structural rules protect us from the subversive notion that as long as a citation accurately conveys the relevant information, it does not matter how it is constructed or how it is incorporated into a document. The majority of legal readers appreciate the ease and beauty of documents that follow a standard structural format—and agree that the resulting overall aesthetic is more important than, for example, whether the correct format for an unpublished manuscript is used.

ders restated rights long recognized in England.<sup>297</sup> And in keeping with the doctrine of "*stare citatis*,"<sup>298</sup> the *Manual* is more of a Restatement than a Model Act.<sup>299</sup>

In the uniquely American parts of the Constitution, much stemmed from experiences fresh in the Framers' minds.<sup>300</sup> For example, not long after declaring England's quartering of troops a reason for independence, Americans ratified the Third Amendment.<sup>301</sup> The birth of many *Manual* rules is equally transparent. Under the *Bluebook*, we all have struggled over how to short cite an entire case—so the *Manual* instructs.<sup>302</sup> Law students routinely ask professors how to type a "§"—so the *Manual* explains.<sup>303</sup> Along the same lines, the Emoluments Clause, which prohibits certain self-interested conduct by members of Congress,<sup>304</sup> arose from Americans' indignation at British officers' corruption.<sup>305</sup> Because lawyers' increasing resentment of the *Bluebook's* profiteering is one factor that has turned people against it,<sup>306</sup> the ALWD has pledged to put its revenue from the *Manual* toward education in the form of summer research grants, available to professors nationwide.<sup>307</sup>

As to government officials, colonists protested not only motives but also appointments. Family connections turned undeserving citizens into "infinitesimal Deities."<sup>308</sup> Blackstone commented that the Crown's conferral of privileges on aristocrats retained

297. Amar, *supra* n. 296, at 24-25, 60, 87, 128, 169; Leonard W. Levy, *Origins of the Bill of Rights* 238 (Yale U. Press 1999) (detailing how Americans "copied" part of English Bill of Rights).

298. Paul Axel-Lute, *Legal Citation Form: Theory and Practice*, 75 L. Lib. J. 148, 149 (1982).

299. Dickerson, *supra* n. 174, at 7; Jamar, *supra* n. 119, at 65. The *Manual* does step outside the restating role on occasion. See *ALWD Manual* at xxv (referring to contents as "a new citation system"). Then again, restatements have been known to overreach. For example, in plugging the *Restatement (Third) of Property*, the American Law Institute posed a hypothetical legal issue and then boasted of a novel resolution: "Until recently, the answer was no. . . . But no longer. In the recently published [Restatement], The American Law Institute (ALI) sets forth a [new] rule. . . ." ALI, *Press Releases* <[www.ali.org/ali/pr052199.htm](http://www.ali.org/ali/pr052199.htm)> (accessed Feb. 16, 2001). Overall, the *Manual* achieves a happy medium between restating what lawyers have done and promoting sensible change.

300. Jed Rubenfeld, *Reading the Constitution as Spoken*, 104 Yale L.J. 1119, 1169 (1995).

301. See Amar, *supra* n. 296, at 60.

302. *Supra* n. 157 and accompanying text.

303. See *infra* n. 481 and accompanying text.

304. U.S. Const. art. I, § 6, clause 2.

305. *The Records of the Federal Convention* vol. 1, 379-81 (Max Farrand ed., Yale U. Press 1966) (record of June 22, 1787); see Miller, *supra* n. 4, at 425 (noting colonists' view that "British ministers clamored for a colonial revenue in order to buy up more votes in Parliament and to give bigger and better sinecures to their henchmen").

306. *Supra* nn. 64-70 and accompanying text.

307. Sue Liemer, Presentation, *The Future of Legal Citation: The ALWD Citation Manual* (Seattle, Wash., July 22, 2000).

308. Wood, *supra* n. 36, at 79-80 (quoting John Adams).

power in the monarchy that might otherwise have flowed to the people.<sup>309</sup> For Americans, a major goal of the Revolution became the destruction of the uneven playing field that favored those born to elite families.<sup>310</sup> And their hostility toward the social hierarchy created by the Crown<sup>311</sup> found its way into the Constitution. James Madison warned of the dangers of government by “tyrannical nobles” and deemed the prohibition of federal titles of nobility<sup>312</sup> to be one of the most essential aspects of republican government.<sup>313</sup> Tellingly, during the First Congress, the Senate voted not to address the President as “His Excellency.”<sup>314</sup> In short, America adopted none of the aristocracy that undergirded England’s power structure.<sup>315</sup>

The same anti-elitist sentiment guides the *Manual*. Edited by “the Chosen Few,”<sup>316</sup> the *Bluebook* has spawned resentment of “oppressive rules” imposed by “white male elitists from the Ivy League.”<sup>317</sup> The inner circle of *Bluebook* compilers have written their own names into examples<sup>318</sup> and have overrepresented articles published by their four journals or written by professors at their four schools.<sup>319</sup> One commentator has charged that *Bluebook* followers enjoy a “false sense of prestige.”<sup>320</sup> “Harvard’s allure” may have contributed to the *Bluebook*’s grip on the marketplace,<sup>321</sup> but the ALWD has a broader popular appeal. Under the *Manual*, lawyers outside the small family of schools that controls the *Bluebook* are represented in policy decisions. And even the laity has a reasonable chance of understanding legal citations.<sup>322</sup>

---

309. William Blackstone, *Commentaries* vol. I, \*\*334-37.

310. Morgan, *supra* n. 2, at 66-67, 75; Gordon S. Wood, *The Radicalism of the American Revolution* 229, 232-33 (Alfred A. Knopf, Inc. 1991).

311. Wood, *supra* n. 36, at 80, 110; see Wood, *supra* n. 310, at 181.

312. U.S. Const. art. I, § 9, clause 8.

313. *The Federalist* No. 39, at 241-42 (James Madison) (Clinton Rossiter ed., Mentor 1961).

314. *Abridgment of the Debates of Congress* vol. 1, 13 (D. Appleton & Co. 1857).

315. Bailyn, *supra* n. 3, at 274-75.

316. Tobin, *supra* n. 23, at 411.

317. Arthur Austin, *The Top Ten Politically Correct Law Reviews*, 1994 Utah L. Rev. 1319, 1324.

318. Gjerdingen, *supra* n. 27, at 511; Gordon, *supra* n. 17, at 1701-02; Paulsen, *supra* n. 9, at 1791.

319. Gordon, *supra* n. 17, at 1701.

320. Laycock, *supra* n. 50, at 190.

321. Dickerson, *supra* n. 117, at 93.

322. Mary-Claire van Leunen, *A Handbook for Scholars* 217 (rev. ed., Oxford U. Press 1992) (warning non-lawyers that *Bluebook* is “utterly unsuited to lay use”).

### 1. A More Perfect Union of Academe and the Bar

By setting a "more perfect Union"<sup>323</sup> as a goal, the Constitution promised to improve both on the mostly effective union between England and Scotland and on the loose alliance of the pre-Constitution states.<sup>324</sup> The ALWD's quest for more perfection is less daunting.<sup>325</sup> Though since 1976 the *Bluebook* has purported to govern both law reviews and briefs, the uniformity claimed in its subtitle has been empty.<sup>326</sup> Only the *Manual* unites—almost perfectly—academics and practitioners under a single citation system.

Empires fall when they overreach. By expanding across the globe in the eighteenth century, Great Britain hastened its own ruin.<sup>327</sup> During the twentieth century, the *Bluebook's* asserted dominion grew from the offices of *Harvard Law Review* to other law reviews to all law reviews to all legal documents. This last step, in which the *Bluebook* proclaimed itself as the citation guide for the practicing masses, spread the empire too thinly. Americans knew that Britain could hardly hope to govern the huge land mass of the colonies from its perch atop Europe.<sup>328</sup> By disdaining practitioners with a handful of pages before the wealth of rules for the elite, the *Bluebook* gave short shrift to an area much vaster than the world of law reviews. The blue practitioners' pages became a badge of inferiority. Nobody doubts which section of the book is more important—readers of the blue pages are often referred to the white pages for guidance,<sup>329</sup> but not vice versa.

The *Manual* seeks to govern the same territory, but in a more balanced way. Uniform typeface rules are the most welcome change to that end.<sup>330</sup> The ALWD has eliminated the nobility of small capitals, a privilege once reserved for academics.<sup>331</sup>

323. U.S. Const. preamble.

324. See Akhil Reed Amar, *Of Sovereignty and Federalism*, 96 Yale L.J. 1425, 1456 & n. 129, 1460 n. 152 (1987).

325. The ALWD envisions "a single and consistent set of rules for all forms of legal writing." *ALWD Manual* at xxiii.

326. The *Bluebook's* subtitle is *A Uniform System of Citation*.

327. See Miller, *supra* n. 4, at 425-26; James, *supra* n. 39, at 121 (noting that after American Revolution, Britain admitted that its imperialistic expansion had "run out of control").

328. Miller, *supra* n. 4, at 434 (noting colonists' realization that "[t]he anomaly of a continent ruled by an island could not be long perpetuated").

329. *E.g.* *Seventeenth Edition* p. 11.

330. See Bowler, *supra* n. 24, at 699.

331. *ALWD Manual* R. 1.0, 15-16; *Seventeenth Edition* P. 1, 11-13, R. 2, 30-33; see Benton, *supra* n. 27, at 198 (noting "draconian" nature of typeface rules and complaining that before era of separate rules for practitioners, whereas academics with access to sophisticated printers could

Other significant unification covers court documents. Documents filed in a case being litigated by the writer deserve the same specificity of citation form as other authorities. Indeed, details like the date of filing are more helpful in finding deposition transcripts than in finding published opinions. Yet the *Bluebook* simply refers practitioners to a table of abbreviations and assumes that to be enough.<sup>332</sup> In contrast, the *Manual* treats court documents as the equals of other sources. The structure of the suggested format—name of document, pinpoint reference, and date parenthetical—looks no different from other citations. And gone are those parentheses around the entire citation that practitioners have long ignored.<sup>333</sup>

Perhaps the most welcome reform for practitioners is the explicit format for short citations of court documents and transcripts. The *Bluebook* allows “shortened versions” of titles but leaves open the question of whether the full version is needed for the first citation of a certain source.<sup>334</sup> Now, in light of the ALWD’s explanation that “Transcript of the Deposition of Carlton Rhys-Smith (May 25, 1999)” may later be shortened without fanfare to “Tr. Depo. Rhys-Smith,”<sup>335</sup> lawyers and judges can hope never again to read the all-too-familiar excrescence of “Transcript of the Deposition of Carlton Rhys-Smith (May 25, 1999) (hereinafter referred to as ‘Tr. Depo. Rhys-Smith’).”<sup>336</sup> Along the same lines, the *Manual* spares us the dreaded “under Rule 56 of the Federal Rules of Civil Procedure”<sup>337</sup> in favor of the sleek “under Federal Rule of Civil Procedure 56.”<sup>338</sup>

In preaching uniformity, the ALWD does not limit itself to assimilating practitioners. The *Manual* also strives to make citations for different sources resemble each other more than under the *Bluebook*. After all, though the *Maroonbook*’s most famous proponent warned that excessive formalism in a citation guide was “un-American,”<sup>339</sup> some structural uniformity can help provide the sta-

---

comply with rules about small capitals, “the remainder of the profession was relegated to the ignominy of civil disobedience whenever it wished to show that it had read a book”).

332. *Seventeenth Edition* P. 7, 18-19.

333. Compare *id.* with ALWD *Manual* R. 29.0, 232-36.

334. See *Seventeenth Edition* P. 7, 18.

335. ALWD *Manual* R. 29.4(b), 235.

336. See *e.g.* Br. of Pet. at 5, *Nelson v. Adams USA, Inc.*, 529 U.S. 460 (2000) (available in 2000 WL 207019) (informing parenthetically that deposition of Donald Nelson will be “hereinafter referred to as ‘Nelson dep.’”). I cite that brief not to single out the author but merely to illustrate the verbose norm that the *Manual* hopes to change.

337. *E.g. Horner v. Ky. High Sch. Athletic Assn.*, 206 F.3d 685, 696 (6th Cir. 2000).

338. See ALWD *Manual* R. 44.1(d), 295. The *Bluebook* takes no position on this issue.

339. Posner, *supra* n. 44, at 1349.

bility necessary to advance citation liberty.<sup>340</sup> As federal appellate courts often stress when choosing to follow other circuits rather than create a split, sometimes consistency is just as important as correctness.<sup>341</sup>

The most noticeable cross-citation uniformity in the *Manual* is the ubiquity of parentheticals. With few exceptions,<sup>342</sup> the guide requires date parentheticals in all citations.<sup>343</sup> Thus, citations of agency decisions look like citations of other adjudicative materials, with the tribunal in a parenthetical at the end.<sup>344</sup> Likewise, treaty citations have the date in a parenthetical rather than in the title.<sup>345</sup> Another benefit of uniformity is that case names are always italicized;<sup>346</sup> every lawyer who has read the *Bluebook* rule on when to italicize case names in footnote text has dreamed of this day.<sup>347</sup> As a result, there is no potential confusion about whether procedural phrases in case names are italicized.<sup>348</sup>

The *Manual* prudently rejects the *Bluebook's* distinction between extra- and intratextual citation strings. Under the *Bluebook*, "See . . . . *But see*" becomes "See . . . ; *but see*" in the middle of a textual sentence.<sup>349</sup> Perceiving that the benefit of uniformity outweighs the cost of relearning that narrow rule, the *Manual* allows all signals to be joined by semicolons, which has the collateral benefit of obviating the need to remember the *Bluebook's* taxonomy of signals to figure out when to use a period.<sup>350</sup>

In some sense, the Revolutionary War sought to implement Americans' view of how the British system should work. Many of

340. Stephen R. Heifetz, *Blue in the Face: The Bluebook, the Bar Exam, and the Paradox of Our Legal Culture*, 51 Rutgers L. Rev. 695, 697-98 (1999). By tempering its enforced uniformity with extensive grants of authorial discretion, the *Manual* strikes the balance urged by Professor Heifetz. Too much structure raises the specter of "Big Brother" and "totalitarianism." Laycock, *supra* n. 50, at 184.

341. *E.g.* *Silver Star Enters., Inc. v. Saramacca MV*, 82 F.3d 666, 669-70 (5th Cir. 1996); see Barger, *supra* n. 29, at 70 (warning that chaos would result from "balkanization" of citations). In keeping with the ideal of uniformity, the *Manual* exhorts writers to strive for internal consistency rather than agonize over the correct rule. *ALWD Manual* at 7; see *infra* sec. IV(B)(5).

342. *E.g.* *ALWD Manual* R. 13.2(c), 99 (not requiring date parenthetical for constitutional provisions still in force).

343. Compare *e.g. id.* R. 23.1(f)(1), 203 (requiring date parenthetical for newspapers) with *Seventeenth Edition* R. 16.5(a), 120 (requiring different format for date of newspapers).

344. *ALWD Manual* R. 19.5, 164-65; *cf. Seventeenth Edition* R. 14.3.1, 99 (usually including only date in parenthetical).

345. *ALWD Manual* R. 21.1(c), 180; *cf. Seventeenth Edition* R. 21.4.2, 160.

346. *ALWD Manual* R. 1.3(3), 15, R. 12.2(a), 58.

347. See *Seventeenth Edition* R. 2.2(b)(i), 32.

348. Compare *ALWD Manual* R. 12.2(o)(4), 66 with *Seventeenth Edition* R. 10.2.1(b), 58-59.

349. *Seventeenth Edition* R. 1.3, 25.

350. Compare *ALWD Manual* R. 45.8(c), 304 with *Seventeenth Edition* R. 1.3, 24.

the rights the colonists fought for were already enshrined in the English Constitution and Bill of Rights but were being trampled by George III.<sup>351</sup> Just as many American critics of the Crown's policies were former Tories,<sup>352</sup> several critics of the *Bluebook* have been recent Harvard graduates.<sup>353</sup> And the *Manual's* vision of uniformity comes straight from the *Bluebook's* subtitle. But unlike the *Bluebook*—or at least more perfectly than it—the *Manual* has in fact united its citations and its users.

## 2. Freedom of Citation

Melville Nimmer once wrote in a First Amendment treatise, "Those who believe in the freedom of speech should begin by rejecting the tyranny of the Uniform System of Citation."<sup>354</sup> Indeed, they should embrace the *Manual*—and also urge it to loosen up a bit more.

The First Amendment's speech, assembly, petition, and press clauses insure a free marketplace of ideas and leave the government open to criticism.<sup>355</sup> True to its populist roots, born of a peaceable AALS assembly, the *Manual* allows dissent to thrive—to an extent. Anyone can petition for change at the ALWD website.<sup>356</sup> And whereas the *Bluebook's* awkward newspaper citation form disrespected the press, the *Manual* elevates the fourth estate to the same status as academia.<sup>357</sup> Throughout, the ALWD has taken important steps to infuse the *Manual* with the freedom, within reason, to cite the way you want.

Squelching popular dissent promotes government's interest in perpetuating itself.<sup>358</sup> Attempting to preserve its power, English Parliament took several steps to prevent colonists from expressing original thoughts. In 1768, before it sent troops to Massachusetts to

---

351. Wood, *supra* n. 36, at 12-14.

352. *Id.* at 14.

353. *E.g.* Chen, *supra* n. 64 (authored by 1991 J.D. recipient); Paulsen, *supra* n. 9 (authored by 1992 L.L.M. recipient). Richard Posner, who attacked the *Bluebook* while trumpeting the *Maroonbook*, was once the president of *Harvard Law Review*. University of Chicago Law School, *Judge Richard Posner* <<http://www.law.uchicago.edu/faculty/posner-r/>> (accessed Feb. 16, 2001); Posner, *supra* n. 44.

354. Melville Nimmer, *Nimmer on Freedom of Speech* vii (Matthew Bender & Co., Inc. 1984) (complaining about *Bluebook's* capitalization rules).

355. See *e.g.* *Hustler Mag. v. Falwell*, 485 U.S. 46, 50-52 (1988).

356. ALWD, *Contact Us* <<http://www.alwd.org/contact.htm>> (accessed Feb. 16, 2001). The *Bluebook* began to invite public comment actively only after the AALS resolution.

357. See *infra* nn. 399-402 and accompanying text.

358. See Amar, *supra* n. 296, at 21-25 (discussing First Amendment's prohibition of legislation such as Sedition Act of 1798).

control the growing antagonism toward tax legislation, Parliament dissolved a popular assembly, but an informal convention met anyway.<sup>359</sup> In 1774, after the Boston Tea Party, Parliament tried to stifle political speech by subjecting Massachusetts town meetings to the control of the governor.<sup>360</sup>

To the colonists, the freedoms of speech and assembly were fundamental to facilitate the circulation of ideas. In the world of legal citation, rigid rules stifle original thought. Letting writers decide some issues for themselves, in contrast, fosters the mindset that rules are not absolute, that maybe things could be different. A populace that has the chance to think about citations is more likely to effect appropriate reform through the years.

The *Manual* stimulates the marketplace of ideas by injecting discretion into many of its rules. For example, case names are easier under the *Manual* than under the *Bluebook* because the writer has more choices: words *may* be abbreviated;<sup>361</sup> superfluous business suffixes *may* be omitted;<sup>362</sup> so *may* large geographical references.<sup>363</sup> For U.S. Supreme Court cases, parallel citations of the Supreme Court Reporter or Lawyers' Edition are discouraged but permitted.<sup>364</sup> Oddly, this same tolerance does not extend to lesser cases, for which parallel citations are barred unless required by local rule.<sup>365</sup>

Another instance of discretion involves parentheticals. Lawyers have chafed at the *Bluebook's* mandate to begin them with present participles.<sup>366</sup> While that rule has grammatical appeal, it can lead to awkward constructions.<sup>367</sup> The *Manual's* omission of the explicit rule while following it in illustrations of parentheticals strikes the right balance.<sup>368</sup>

---

359. Morgan, *supra* n. 2, at 45-46.

360. Beard & Beard, *supra* n. 55, at 100; Morgan, *supra* n. 2, at 59.

361. *ALWD Manual* R. 12.2(e)(3), 61; *contra Seventeenth Edition* R. 10.2.2, 62 ("Always abbreviate any word listed in table T[table] 6."). As to "United States," however, the *Manual* offers no choice but "U.S." *ALWD Manual* R. 12.2(g), 62.

362. *ALWD Manual* R. 12.2(e)(5), 61; *contra Seventeenth Edition* R. 10.2.1(h), 61 (ordering to omit superfluous business designations).

363. *ALWD Manual* R. 12.2(i), 63; *contra Seventeenth Edition* R. 10.2.1(f), 60 ("Include designations of national or larger geographical areas . . .").

364. *ALWD Manual* R. 12.4(b)(2), 69.

365. *Id.* R. 12.4(a)(2), 67, R. 12.4(c)(2), 70.

366. See *Seventeenth Edition* R. 1.5, 28. It once was only "ordinarily" that parentheticals followed that guideline. See *Fifteenth Edition* R. 1.5, 27. Since 1996, however, the rule has been mandatory, with few exceptions. See *Sixteenth Edition* R. 1.5, 27-28.

367. See *e.g. supra* n. 267 (including unnecessary participle).

368. *ALWD Manual* R. 47.0, 311-13. The *Manual*, however, allows no exceptions to the rule that "parentheticals should be used whenever a signal is used." See *id.* R. 47.1, 311. Most readers

A reliable indicator of jurisprudential flexibility—or spinelessness, depending on one's perspective—is attitude toward legislative history. Legislative history often cuts several ways and injects doubt into otherwise clear interpretive issues. Dogmatists definitely disdain it; pragmatists practically preach it.<sup>369</sup> True to its overall rigidity, the *Bluebook* almost ignores legislative history. Less afraid of diverse viewpoints, the *Manual* encourages citation of it by devoting six times as many pages to it as the *Bluebook*.<sup>370</sup>

For example, to enable readers to find transcripts of hearings and documents and prints, the *Manual* requires the exact date, not just the year.<sup>371</sup> The *Manual* explains how to cite congressional journals, which the *Bluebook* does not even mention.<sup>372</sup> And, perhaps most importantly, the *Manual* treats state legislative materials seriously. In the *Bluebook*, they are but a skeletal appendage to the federal materials.<sup>373</sup> Certain topics covered by the *Manual*, such as state legislative debates, have no *Bluebook* counterpart at all.<sup>374</sup>

The *Manual* improves on the *Bluebook* not only in depth of legislative coverage, but also in substantive form.<sup>375</sup> For one, the *Manual* defers to writers about whether citation of a legislative act must include the title of the act.<sup>376</sup> Furthermore, "Senate" is abbreviated as "Sen.," not "S.," which avoids confusion with "South."<sup>377</sup> And citations of hearings start with the name of the committee rather than the name of the hearing.<sup>378</sup> That style is consistent with other citations in that a committee is analogous to an author, as a name of a hearing is to a title. This area is one where change in the

presumably understand—despite the lack of parenthetical—that the "see" signal in this footnote simply heeds the impossibility of providing direct support for a proposition that something does not exist. The *Bluebook's* description of the signal parenthetical rule as a mere "recommend[ation]" is more appropriate. *Seventeenth Edition* R. 1.2, 23, R. 1.5, 28.

369. Compare e.g. Stephen Breyer, *On the Uses of Legislative History in Interpreting Statutes*, 65 S. Cal. L. Rev. 845, 848 (1992) ("Using legislative history to help interpret unclear statutory language seems natural.") with e.g. Antonin Scalia, *A Matter of Interpretation* 31 ("I object to the use of legislative history on principle . . .") (Princeton U. Press 1997).

370. Compare *ALWD Manual* R. 15-16, 113-49 with *Seventeenth Edition* R. 13, 91-96.

371. *ALWD Manual* R. 15.7(g), 121, R. 15.9(d), 125, R. 16.1(g), 138, R. 16.4(h), 141, R. 16.6(g), 144; cf. *Seventeenth Edition* R. 13.3, 93, R. 13.4(a), 93-94.

372. *ALWD Manual* R. 15.16, 131.

373. See *Seventeenth Edition* R. 13.2(c), 93, R. 13.3, 93, R. 13.4(d), 94-95.

374. See *ALWD Manual* R. 16.8, 145-48.

375. Some may protest that "substantive form" is no less oxymoronic than "substantive due process" or "green pastel redness," see John Hart Ely, *Democracy and Distrust* 18 (Harv. U. Press 1980), but the substance of a citation guide is inevitably form.

376. *ALWD Manual* R. 14.6(h), 109-10; cf. *Seventeenth Edition* R. 12.4(a), 81 ("always give the name").

377. E.g. *ALWD Manual* app. 3, 413; cf. e.g. *Seventeenth Edition* T. 10, 310.

378. *ALWD Manual* R. 15.7(a)-(b), 120, R. 16.4(a)-(c), 140; cf. *Seventeenth Edition* 13.3, 93.

status quo matters little: whereas most lawyers internalize, to varying degrees, rules about citing cases, few can cite legislative materials without referring to a guide. Therefore, it matters more to get these rules right than to restate past practice. While some might mourn the passing of the case reporter "So. 2d" in favor of the streamlined "S.2d,"<sup>379</sup> citation format for legislative materials presumably inspires little emotional attachment.

Despite its flexibility, the *Manual* is no pushover; when appropriate, it reins in discretion. For example, the *Bluebook* allows both "*Calandra*, 414 U.S. at 343" and "414 U.S. at 343" as short forms.<sup>380</sup> But that rare burst of laissez faire is misplaced: when the case name is in the sentence being supported, nobody needs to see it again in the citation, and when it is not, everybody wants to see it in the citation.<sup>381</sup> The ALWD codified that common law consensus.<sup>382</sup>

As to some issues, such as order of authorities within a signal, the *Manual* brooks not even reasonable dissent. The *Bluebook* made the right choice in its first edition: "The relative order of citation of cases and statutes will depend on the sense of the particular situation."<sup>383</sup> Even now, it sensibly allows writers to rearrange sources within a string for any "substance-related rationale."<sup>384</sup> The *Manual*, though, offers no wiggle room.<sup>385</sup> Its treatment of the federal circuit courts as separate entities to be cited in numeric order makes some sense<sup>386</sup>—but what of the Eleventh Circuit practitioner who wants to cite a case from that court before a First Circuit decision? Or the Wyoming lawyer who does not want to alphabetize the states?<sup>387</sup> Subtler problems abound. What of any attorney, for ex-

379. See *ALWD Manual* chart 12.1, 68 (S.2d); cf. e.g. *Seventeenth Edition* T. 1, 188 (So. 2d).

380. *Seventeenth Edition* P. 4(a), 15, R. 10.9(a)(i), 72. The *Bluebook* prohibits short forms using less than the entire case name unless "no doubt" about the case name would exist but does not elaborate on that standard. *Id.*

381. Compare e.g. *Williams v. Taylor*, 529 U.S. 362, 383 (2000) (including short case name in citation when not in sentence) with *id.* at 391 (omitting case name from citation when in sentence).

382. See *ALWD Manual* R. 12.21(b)-(c), 92-94; but cf. Carol M. Bast & Susan Harrell, *Has the Bluebook Met Its Match? The ALWD Citation Manual*, 92 L. Lib. J. 337, 351-52 (2000) (arguing that ALWD approach to short forms substitutes arbitrary rule for commonsense approach followed in rest of *Manual*).

383. *First Edition* at 3.

384. *Seventeenth Edition* R. 1.4, 25.

385. See *ALWD Manual* R. 46.0, 305-10.

386. Compare *id.* R. 46.4(a)(4), 308 with *Seventeenth Edition* R. 1.4(d), 26 ("[T]he numbered United States courts of appeals are treated as one court . . .").

387. See *ALWD Manual* R. 46.3(e), 306. That lawyer might want to protest the zeeism of the *Manual's* rule. See *supra* nn. 255-56 and accompanying text.

ample, who prefers to draw a reader's attention first to a 1998 case before a 1999 case from the same jurisdiction?<sup>388</sup> Signals are at best crude markers of the strength of a citation, and a writer should be free to distinguish citations within a signal more finely by ordering them just so. Surely in this area we can trust the writer to make the right judgment—more than we can trust a rule.<sup>389</sup> But at least the *Manual's* position is based on populism: Dean Dickerson has commented that when authors avail themselves of the order-within-signal discretion afforded by the *Bluebook*, “everyone” thinks it is wrong.<sup>390</sup>

The ALWD also resorts to unnecessary dogma in prohibiting a certain style of “embedded citation.” It forbids the commonly used<sup>391</sup> structure of “In *Roe v. Wade*, 410 U.S. 113 (1973), the Court struck down the Texas abortion statutes. *Id.* at 166.” Instead of the “*id.*,” it requires the pinpoint reference to be inside the full citation.<sup>392</sup> Moreover, though the *Manual* acknowledges that some attorneys “do not like” putting case citations in the middle of a sentence,<sup>393</sup> it fails to allow the sensible solution: “In *Roe v. Wade*, the Court struck down the Texas abortion statutes. 410 U.S. 113, 166 (1973).” That format is already practiced by many<sup>394</sup> and would parallel the structure of short form citations.<sup>395</sup> Instead, the *Manual's* rule requires the whole citation to come before the proposition in such situations, which contradicts an elemental citation axiom.<sup>396</sup>

The *Manual* dismisses “*ibid.*” abruptly, noting its use in “nonlegal citation systems.”<sup>397</sup> The Supreme Court's system is surely legal, and when not pinpointing, the Court almost always

---

388. See *ALWD Manual R.* 46.3(h), 307.

389. See Posner, *supra* n. 44, at 1347 (“There is a natural order that depends on the purpose of the string citation and the contents of the cited works.”). One point in its favor is that the rule abides by the Supremacy Clause, unlike old versions of the *Bluebook's* rule. See *e.g. Fourteenth Edition R.* 2.4, 10-11 (ordering all cases before all constitutions).

390. Dickerson, *supra* n. 117, at 99.

391. See *e.g.* Br. for U.S. as Amicus Curiae Supporting Pets. at 25, *City of Indianapolis v. Edmond*, 531 U.S. 32 (filed May 15, 2000) (available in 2000 WL 633467) (violating *Manual's* embedded citation rule).

392. See *ALWD Manual R.* 44.1(c)(1), 294.

393. *Id.*

394. See *e.g. Johnson v. U. of Cincinnati*, 215 F.3d 561, 584 (6th Cir. 2000) (citing cases in proposed style).

395. See *supra* text accompanying nn. 380-82.

396. See *ALWD Manual R.* 44.2, 298 (noting that citations follow propositions).

397. *Id.* sidebar 11.1, 48.

uses “*ibid.*” instead of “*id.*”<sup>398</sup> But at least the *Manual* mentions “*ibid.*,” unlike the *Bluebook*.

The *Manual* not only protects—with important exceptions—the right of the people to express dissent but also carves out rights for the press beyond those under the *Bluebook*. Newspapers are cited in the same format as academic journals.<sup>399</sup> Out is the “at [page number]” element that looks like a pinpoint citation but actually refers to the first page of an article.<sup>400</sup> In are volume numbers, when available.<sup>401</sup> Though some might cringe at reducing volume CXLIX of the *New York Times* to “149,”<sup>402</sup> the *Manual*’s populism spares no aristocracy. Some might also protest that readers do not need to know volume numbers of newspapers. That is usually true, but for consistency’s sake and to make rules easier to remember, a little extra information here and there is justifiable.

The *Bluebook* editors have actively tolerated some dissent by publishing critical reviews.<sup>403</sup> And in 1955, *Harvard Law Review* wisely let Justice Frankfurter cite early volumes of *United States Reports* by the reporters’ names in an article, against *Bluebook* policy.<sup>404</sup> But by and large, the *Manual* more readily fosters divergent viewpoints. The resulting free flow of citation ideas both prevents “the superior force of an interested and overbearing majority”<sup>405</sup> from crushing minority opinion and helps rulemakers perceive and then implement the will of the people.

### 3. States’ Cite Rights

By singling out religion for special protection under the First Amendment, the Founders helped provide freedom from central control. The Establishment Clause originally guaranteed that the federal government would not interfere with whatever religions the

398. *E.g. U.S. v. Playboy Ent. Group, Inc.*, 120 S. Ct. 1878 *passim* (2000). The *Bluebook* used “*ibid.*” until 1967. See Lushing, *supra* n. 6, at 601; compare *Tenth Edition R. 23:1*, 78 with *Elev-enth Edition R. 23:1*, 83 (eliminating “*ibid.*”).

399. *ALWD Manual R. 23.0*, 199-206.

400. *Seventeenth Edition R. 16.5(a)*, 120. Indeed, the *Bluebook* hars pinpoint citations for newspaper articles. *Id.* To be sure, they are rarely necessary, but the *Manual*’s scheme allows them when helpful. *ALWD Manual R. 23.1(c)*, 202.

401. *ALWD Manual R. 23.1(c)*, 202.

402. *Id.* at 199.

403. Benton, *supra* n. 27 (reviewing *Twelfth Edition in Yale Law Journal*); Lushing, *supra* n. 6 (answering question “Is the *Blue Book* really worth it?” with lukewarm praise and mild parody in *Columbia Law Review*); Paulsen, *supra* n. 9 (*Harvard Law Review*).

404. Cooper, *supra* n. 19, at 21-22.

405. *The Federalist*, *supra* n. 313, No. 10, at 77 (James Madison).

states had established.<sup>406</sup> Likewise, the *Manual* wisely chose not to force its new title-before-subdivision rule for multipart works<sup>407</sup> onto the traditional citation format for the Bible. One could imagine a citation guide run amok proposing citations such as “*Corinthians* ltr. 1, 10:6” or “*Kings* book 2, 1:12”—indeed, absent a special rule for biblical references, these citations would be correct under the *Manual*.<sup>408</sup> But like the Constitution’s Framers, the ALWD has allowed preexisting religious practice to continue, and “1 *Corinthians* 10:6” has its blessing.<sup>409</sup>

Like the Establishment Clause, much of the Bill of Rights stemmed from Americans’ fear of a distant national government. For example, the military amendments—the Second and Third—were designed to shield people from an overbearing central government by protecting local militia and by forbidding peacetime quartering of the federal army.<sup>410</sup> Those provisions helped insure that the popular majorities in each locality could make and enforce their own rules. In the late 1770s and early 1780s, the drafting and ratification of the Articles of Confederation triggered less debate than the formation of state constitutions because, for most people, local rules were of paramount importance.<sup>411</sup> Likewise, over the past decade, the most noteworthy citation news has been at the state level, with the promulgation of rules about public domain citations and more explicit rules about citation form in briefs. Whereas the *Bluebook* underemphasizes local rules,<sup>412</sup> the *Manual* arms lawyers with dozens of pages of word-for-word transcriptions,<sup>413</sup> stressing that when local rules apply, they must be followed.<sup>414</sup> In fact, the *Manual* swings too far in favor of local rights by practically ignoring the federal army: it offers no guidance about how to cite decisions of military courts.<sup>415</sup>

---

406. Amar, *supra* n. 296, at 32-35.

407. See *infra* text accompanying nn. 524-526.

408. ALWD *Manual* R. 22.1(c)(2), 189.

409. *Id.* R. 22.1(n), 196.

410. See Amar, *supra* n. 296, at 55-56, 59.

411. Wood, *supra* n. 36, at 354.

412. See Dickerson, *supra* n. 117, at 95.

413. ALWD *Manual* app. 2, 379-405.

414. ALWD *Manual* at 8 (using bold type to highlight importance of compliance). The *Bluebook*’s guidance is similar in substance but lacks urgency. See *Seventeenth Edition* P intro., 11, P. 3, 14 (understating that local rules “may” differ from *Bluebook* rules), R. 10.3.1(a), 62 (referring writer back to P. 3).

415. The *Manual* includes a table of abbreviations for military courts, but the table does not even include pre-1994 names; for example, the highest military court is now the U.S. Court of Appeals for the Armed Forces but was once the U.S. Court of Military Appeals. Pub. L. No. 103-337, § 924(a), 108 Stat. 2663, 2831 (1994); ALWD *Manual* app. 4, 417; cf. *Seventeenth Edition* T.

The jury amendments—the Fifth, Sixth, and Seventh—guarantee, in certain circumstances, the right to judgment by one's peers. Whatever broader standards might exist, local norms control. The *Manual* realizes that no matter what a citation guide says, "local custom" might be otherwise.<sup>416</sup> For example, some firms prefer that even documents not submitted to courts follow court rules rather than citation guides. The ALWD defers to such custom and accepts that if a citation is correct in the eyes of one's peers, the *Manual* has no business holding otherwise.<sup>417</sup>

The enumeration in the *Manual* of certain cites does not disparage others retained by the people. Happily for writers, the *Manual* gives more hints than the Ninth Amendment about where to find the others: in the *United States Government Printing Office Style Manual*, the *Chicago Manual of Style*, or analogous rules in the *Manual*.<sup>418</sup>

Likewise, the *Manual* nods to the Tenth Amendment by limiting central control and reserving much citation power to the states. Tellingly, the power of the ALWD to make arbitrary changes is not enumerated; the *Manual* can be altered only when change is "inevitable."<sup>419</sup> And throughout, the *Manual* eschews the *Bluebook's* federal elitism.<sup>420</sup>

The *Bluebook*, for example, ignores state legal encyclopedias;<sup>421</sup> the *Manual* not only mentions them but even lists the major ones in a chart.<sup>422</sup> The *Manual's* appendix of primary sources by jurisdiction lists state jurisdictions before federal ones.<sup>423</sup> Moreover, the appendix of local citation rules transcribes only state rules;

---

1, 186 (listing military courts and reporters). The ALWD apparently does not even consider military courts to be among the "less frequently cited federal courts" whose basic citation information is relegated to the website. See *ALWD Manual* app. 1, 376; ALWD, *ALWD Citation Manual* app. 1 < <http://www.alwd.org/cm/appendixndx.htm> > (accessed Feb. 16, 2001) (omitting military courts from expanded list of federal courts).

416. *ALWD Manual* at 9.

417. *Id.* ("Determine whether [local] preferences apply before preparing documents containing citations.")

418. See *id.* at 7-8 (noting that *Manual* cannot always provide rule "exactly on point"). The *Bluebook* also refers to those two other guides, but only for matters of style, not citation. *Seventeenth Edition* I. 2, 4; cf. *ALWD Manual* at 8 (referring to other guides for "matters of style . . . and special citation formats").

419. *ALWD Manual* at 8. The *Bluebook* has no analogous provision.

420. Cf. Paulsen, *supra* n. 9, at 1788 (noting that *Bluebook* rules amount to "federal parochialism"). The *Bluebook* also treats regions better than states. It has fought what one author has called an ongoing "jihad" against state reporters by favoring the citation of regional reporters. Chen, *supra* n. 64, at 1540.

421. See *Seventeenth Edition* R. 15.7(a), 113.

422. *ALWD Manual* R. 26.0, 214-18.

423. *Id.* app. 1, 335-77; cf. *Seventeenth Edition* T. 1, 183-241.

readers are referred to the ALWD website for the federal rules.<sup>424</sup> And unlike the *Bluebook*, the *Manual* includes separate rules for state administrative and legislative materials, rather than lumping them in as afterthoughts to the rules on federal materials.<sup>425</sup> Finally, whereas the *Bluebook* requires identification of the numbered circuit of the U.S. Court of Appeals, it instructs writers generally not to provide the corresponding information for state appellate courts.<sup>426</sup> The *Manual* cures that federal elitism by requiring specification of state appellate districts.<sup>427</sup>

One of the traditional benefits of the state control retained in a federalist system has been that states could serve as laboratories for new doctrines that would wither or flourish depending on how the populace took to them.<sup>428</sup> United though they are in a single guide, the states are free to experiment with citations under the *Manual*.<sup>429</sup> A review of the diverse requirements in the local citation rules shows that any attempt to homogenize them—as the *Bluebook* has tried to do—is doomed. The *Manual* recognizes that to respect the will of its nation of local constituencies, its federal power must be limited. And even if Ohio's practice never inspires another state to place date parentheticals immediately after case names, Ohioans have the right to continue to cite that way.<sup>430</sup>

#### 4. Research and Seizure

English officials' broad searches based on general warrants helped forge the Fourth Amendment.<sup>431</sup> Like the specific warrants the Framers required, *Manual* citations must "particularly describ[e] the place to be searched, and the persons or things to be

---

424. *ALWD Manual* app. 2, 379. Publication costs forced the ALWD to cut a certain amount of material from the print version of the *Manual*. Darby Dickerson, Presentation, *The Future of Legal Citation: The ALWD Citation Manual* (Seattle, Wash., July 22, 2000). The list of federal citation rules is approximately one-fourth as long as the list of state rules. *ALWD Manual* <<http://www.alwd.org/cm/appendixndx.htm>> (accessed Feb. 16, 2001). The retention of the state rules rather than the federal rules thus speaks volumes.

425. Compare *ALWD Manual* R. 16.0, 135-49, R. 20.0, 174-77 with *Seventeenth Edition* R. 13-14, 91-96.

426. *Seventeenth Edition* R. 10.4, 64-66.

427. *ALWD Manual* R. 12.6(b)(2), 74.

428. See *New State Ice Co. v. Liebmann*, 285 U.S. 262, 310-11 (1932) (Brandeis, J., dissenting).

429. In spite of the *Bluebook's* dogmatism, law reviews have long experimented with different citation forms. See Strasser, *supra* n. 29, at 510 (discussing "great diversity of rules" followed by law reviews that reject the *Bluebook's* "technical due process").

430. See *ALWD Manual* app. 2, 397.

431. Nelson B. Lasson, *The History and Development of the Fourth Amendment to the United States Constitution* 42-43 (Johns Hopkins Press 1937).

seized"<sup>432</sup>—more so than *Bluebook* citations. Citations of out-of-state newspapers must provide the place to find them online, if available, even if the author consulted only the print source.<sup>433</sup> As to authors, groups of three or more persons include all the names instead of “et al.”<sup>434</sup> And the rule about identifying state appellate districts is an example of how things have more particular descriptions than under the *Bluebook* to allow researchers to seize them.<sup>435</sup>

Those deviations from past practice are reasonable, but in an overzealous attempt to ensure that researchers efficiently track down their quarry, the *Manual* holds some citations to a standard much stricter than probable cause. For example, the *Manual* mandates that book citations include the publisher’s name.<sup>436</sup> The *Bluebook* sensibly requires that detail only when the publisher cited is not the original one.<sup>437</sup> The *Manual* excepts from this rule star-paginated classics with multiple publishers, such as Blackstone’s *Commentaries*.<sup>438</sup> This exception shows that the basis of the rule cannot be a concern about possible discrepancies between versions; rather, it must be to help the reader locate the book.<sup>439</sup> But these days, the title and author alone almost always allow a reader to find a book online for free at a library. A better rule would require the publisher’s name only when the writer has a reasonable and articulable suspicion that the publisher is not a major one.<sup>440</sup>

As to other sources, the *Manual* follows the *Bluebook* on publishers. For example, both guides agree that publishers are important elements of looseleaf case reporter citations.<sup>441</sup> Good reasons for including looseleaf publishers exist, not the least of which is

432. U.S. Const. amend. IV.

433. *ALWD Manual R.* 38.1(b), 271; *cf. Seventeenth Edition R.* 16.5, 120-21 (allowing but not requiring such guidance).

434. *ALWD Manual R.* 22.1(a)(2)(d), 187 (allowing “et al.” as alternative); *cf. Seventeenth Edition R.* 15.1.1, 108 (allowing all names only if “particularly relevant”).

435. *ALWD Manual R.* 12.6(b)(2), 74; *cf. Seventeenth Edition R.* 10.4(b), 66 (discouraging such citations). For example, without knowing the appellate district, one cannot readily contact the appropriate clerk’s office to retrieve a copy of an unpublished decision.

436. *ALWD Manual R.* 22.1(i), 193.

437. *Seventeenth Edition R.* 15.4(a)(iii), 111.

438. *ALWD Manual R.* 22.1(h), 192-93.

439. The rule about including publishers’ names is a nod to librarians and their frustration at tracking down references with minimal information. See E-mail, *supra* n. 125.

440. At least one grassroots protester has suggested such a rule. E-mail, *supra* n. 144. Trusting writers to decide when to include the publisher’s name may be dangerous, but the efficiency upside of such a rule make it worth a try. *But cf. Joseph Gibaldi, MLA Handbook for Writers of Research Papers* § 4.6.1, 121 (5th ed., Modern Lang. Assn. of Am. 1999) (requiring publisher and city of publication); Bowler, *supra* n. 24, at 711 (urging *Bluebook* to require publisher).

441. *ALWD Manual R.* 28.1(d)(1), 227; *Seventeenth Edition R.* 19.1(b), 147.

that several reporter names are nearly identical and can be distinguished only by publisher.<sup>442</sup> When the same is true for books, though, the authors' names are enough distinction. Neither the *Manual* nor the *Bluebook* requires publishers' names in citations of periodicals or legal encyclopedias.<sup>443</sup> Yet minor periodicals can be as hard to find as some books. If readers can survive without the publishers of periodicals, surely they can manage without the publishers of most books.

An illustration of a punctuation rule in the *Manual* cites a book without including its publisher—Harvard University Press, at that<sup>444</sup>—in flagrant violation of the ground-breaking mandate.<sup>445</sup> But this glitch smacks less of a subtle swipe at a competitor than of reluctance to follow a misguided rule. That aversion is understandable because the rule forces writers to advertise for publishing companies. As if the submission by both guides to the all-capital "LEXIS" for the computer service were not crass enough,<sup>446</sup> now citations of books put out by "LEXIS L. Publg." will run rampant.<sup>447</sup>

Not only does the citation of publishers amount to free publicity, but for statutory codes, it subjects citations to the ephemeral winds of mergers. Writers citing "U.S.C.S." once were told to refer to "Law. Co-op."<sup>448</sup> but now must switch to "LEXIS L. Publg."<sup>449</sup> The change in relevant corporate entity has little effect on a reader's ability to track down the source, so why include it?<sup>450</sup>

---

442. Compare e.g. Bankr. L. Rptr. (BNA) with Bankr. L. Rpts. (CCH) (both cited according to ALWD Manual R. 28.1(c)-(d), 226-27, app. 3, 412-13).

443. See ALWD Manual R. 23.0, 200-06, R. 26.0, 214-18.

444. Richard A. Posner, *Overcoming Law* (Harv. U. Press 1995), cited in ALWD Manual R. 22.1(i), 193, R. 48.4(d)(2), 319-20.

445. ALWD Manual R. 22.1(i), 193, R. 48.4(d)(2), 319-20. Another example shows that ALWD may feel queasy about subjecting classic literature to rules about authors' and publishers' names. See *id.* R. 48.6(b)(4)-(5), 322-23 (citing François's story simply as "Voltaire, *Zadig* 6 (1747)").

446. The ALWD missed an opportunity to adopt the *New York Times's* thoughtful policy of reducing acronyms of five or more capitals to the more tasteful initial-only capital. *The New York Times Manual of Style and Usage* 7 (Allan M. Siegal & William G. Connolly eds., rev. ed., N.Y. Times Co. 1999); William Safire, *Two B's in a Bomber*, 145 N.Y. Times § 6, 18 (June 2, 1996) (explaining etymology of "Unabomber" from "UNA" and "BOM"); cf. Felicity Barringer, *Freelancers Win Appeal in Copyright Suit*, 149 N.Y. Times C1 (Sept. 28, 1999) (discussing "Lexis-Nexis" databases).

447. E.g. ALWD Manual 22.1(i), 193 (citing publisher in example). Pity the Westlaw worker who came up with the concise "WL," passing up the chance to have the company's name plastered all over briefs.

448. *Sixteenth Edition* R. 12.3.1(d), 77.

449. ALWD Manual R. 14.2(e)(2), 104.

450. See Axel-Lute, *supra* n. 298, at 152 ("[T]here is not much point . . . in adding West to a U.S.C.A. citation or Law. Co-op. to U.S.C.S.").

Wasting a chance to break new ground, the *Manual* joins the *Bluebook's* stubborn insistence that writers cite the version of the code they used, even if unofficial.<sup>451</sup> How often do lawyers cite "U.S.C.A." or "U.S.C.S."?<sup>452</sup> Do the "U.S.C."-citers all actually research in the U.S. Code rather than in an unofficial version? Of course, errors sometimes crop up in unofficial versions. But despite the occasional discrepancies between the U.S. Code and session laws,<sup>453</sup> no rule mandates that unless a particular code section has been enacted as positive law, writers must cite session law.<sup>454</sup> The absence of such a rule reflects the reality that most lawyers trust codes to be correct. Under the same rationale, the citation guides should bow to the popular faith in unofficial codes. If a writer knows of a discrepancy, the specific version of the code should be specified; otherwise, readers do not care what company's product the writer happened to look up a certain statute in and prefer the simple "U.S.C."<sup>455</sup>

Along the same lines, the *Manual* unnecessarily follows the *Bluebook's* history of requiring the year a particular volume was published in citations of statutory and regulatory codes.<sup>456</sup> This policy furthers the cross-citation consistency of date parentheticals,<sup>457</sup> but at the expense of brevity—and, more importantly, in derogation of popular practice by lawyers<sup>458</sup> and judges.<sup>459</sup> Readers generally

---

451. *ALWD Manual R. 14.2(b)(2)*, 103; *Seventeenth Edition R. 12.3*, 78-80.

452. In 1999, more than six times as many U.S. Supreme Court briefs cited "U.S.C." than cited either "U.S.C.A." or "U.S.C.S." Search of Westlaw, U.S. Sup. Ct. Br. database (May 30, 2000).

453. *E.g. U.S. v. Bornstein*, 423 U.S. 303, 305 n. 1 (1976) (noting that session law controls when language in code title not enacted into positive law differs); see *Miss. Div. of United Sons of Confederate Veterans v. Miss. St. Conf. of NAACP Branches*, 774 S.2d 388, 391-92 (Miss. 2000) (holding in suit for injunction against display of state flag that due to mix-up involving official codification of session law, Mississippi has no official state flag).

454. Except for sections enacted as positive law, the U.S. Code is but prima facie evidence of federal law. 1 U.S.C. § 204(a) (enacted as positive law by Pub. L. No. 80-278, 61 Stat. 633, 638 (1947)).

455. See Bruce M. Kennedy, *Design Principles for Universal Legal Citations*, 30 U. Toledo L. Rev. 531, 539 n. 23 (1999) ("Purists are quick to point out that not all editions of the U.S. Code are identical . . . This is true, but the problem of differing text is rare. When text differences do matter, a researcher can specify the particular edition of the code cited in a parenthetical to the citation . . .").

456. *ALWD Manual R. 14.2(f)*, 104, *R. 19.1(d)*, 161; *Seventeenth Edition R. 12.3.2*, 80-81, *R. 14.2(a)*, 97-98.

457. See *supra* text accompanying nn. 342-345.

458. *E.g. Br. of Respt. at v. 1, 2, 4, U.S. v. Johnson*, 529 U.S. 53 (2000) (available in 1999 WL 1050051).

459. *E.g. Pub. Lands Council v. Babbitt*, 529 U.S. 728 *passim* (2000) (inserting dates in C.F.R. citations to illuminate historical comparison of regulations but omitting dates from U.S.C. citations in discussion of current statutes).

trust writers to point out sections that have been amended since the time of the version cited. Absent other special circumstances, such as historical discussions, they do not need dates because they assume currency at the time of publication.<sup>460</sup> In fact, if anything, the citation guides focus on the wrong date; readers care more about when a law was enacted than about when the most recent codification was published.<sup>461</sup>

As to constitutions, neither the *Manual* nor the *Bluebook* requires writers to specify the product where they found a provision or the year in which a volume was published.<sup>462</sup> The *Bluebook* treats court rules like constitutions in this respect.<sup>463</sup> The *Manual*, though, treats them like statutes.<sup>464</sup> If it can except constitutions from the publisher-year principle, why not court rules? No reader wants to know the name or publication date of the deskbook that a writer happened to consult for the text of a certain rule of civil procedure.

Complying with the *Manual* and *Bluebook* by citing unofficial codes when used and including the year of publication is tantamount to telling the reader that before relying on the writer's statement, the official source should be consulted. But readers should not need that tip. When accuracy and currency are crucial, such as in brief-writing, the reader-turned-writer must check all sources personally. Therefore, little is gained by including information about a particular volume in a citation. Happily, the *Manual's* publisher rule does not extend to cases in traditional reporters—it does not require “West” in court-date parentheticals. To that extent, at least, the *Manual* appreciates that a citation, like a warrant, should be reasonable.

---

460. See Marianne M. Jennings, *The True Meaning of Relational Contracts: We Don't Care about the Mailbox Rule, Mirror Images, or Consideration Anymore—Are We Safe?*, 73 *Denv. U. L. Rev.* 3, 4-5 n. 11 (1995) (“I don't want to write (1991) after every U.C.C. section.”); Posner, *supra* n. 44, at 1346 (calling date rule “useless elaboration[ ] of citation form”); Wiener, *supra* n. 10, at 237 (“It is generally annoying to the reader if the U.S.C. citation is constantly encumbered by the date of the edition . . .”).

461. See Axel-Lute, *supra* n. 298, at 150-52. The date through which a source is current would also be more useful than the date a volume was published. The *Bluebook* requires the currency date for online statutes. *Seventeenth Edition R.* 18.1.2, 131.

462. *ALWD Manual R.* 13.0, 98-100; *Seventeenth Edition R.* 11, 75.

463. See *Seventeenth Edition R.* 12.8.3, 86.

464. See *ALWD Manual R.* 17.1(c)-(d), 152.

## 5. Uncruel and Unusual Embellishments

What could be more “cruel and unusual” than making an author “spend hours agonizing over how to cite [a] source”? The *Manual* matches the Eighth Amendment by prohibiting such punishment.<sup>465</sup> In fact, it goes out of its way to be kind. The *Manual* is not only a reference but also a teaching tool. The explanations and tips that adorn the dry rules make the *Manual* easier to navigate and apply than the “tortuous[ ]”<sup>466</sup>—and sometimes torturous<sup>467</sup>—*Bluebook*.

A citation manual should not need a separate explication. Yet a market exists for the *User's Guide to the Bluebook*.<sup>468</sup> As one commentator has noted, “Learning citation form from the *Bluebook* is like learning a language from a bilingual dictionary.”<sup>469</sup> But it is less that the *Bluebook* fails to teach its tenets than that it does not try. The ALWD saw that “lawyers, judges, law teachers, and law students”—the entire universe of legal writers—“need a citation manual that is easy to use, easy to teach from, and easy to learn from.”<sup>470</sup> The *Manual* easily fills that need.<sup>471</sup>

Much dissatisfaction with the *Bluebook* arises not from the substance of its rules but rather from the difficulty of figuring them out the first time and remembering them later. The *Bluebook's* silence as to policies behind rules hampers students' efforts to learn them. The *Manual*, in contrast, strives to appear not as a random set of discrete rules but as a logical system, and for the most part it succeeds. For example, the *Bluebook* states that a short form must “identif[y]” a case.<sup>472</sup> With that background in mind, students do not see why a short citation such as “*Calandra* at 343” (missing the volume number) or “*Albrecht*, 1991 U.S. Dist. Lexis at \*2” (missing the case number) is wrong.<sup>473</sup> The *Manual* supplies the key

---

465. *Id.* at 7. Tales of self-inflicted punishment at the hands of the *Bluebook* are legion. *E.g.* Saver, *supra* n. 68, ay 9 (describing summer associate's hour-long dilemma about whether to underline space between “cert.” and “denied”).

466. David Margolick, *At the Bar*, 138 N.Y. Times B7 (Nov. 4, 1988); see Tobin, *supra* n. 23, at 414 (referring to *Bluebook* as “labyrinth”).

467. See E. Joshua Rosenkranz, *Law Review's Empire*, 39 Hastings L.J. 859, 902 (1988) (assessing typical law review experience as *Bluebook*-inflicted “torture”).

468. Alan L. Dworsky, *User's Guide to the Bluebook* (rev. ed., Fred B. Rothman & Co. 1996).

469. Sirico, *supra* n. 189, at 1275.

470. *ALWD Manual* at xxiii.

471. See Jamar, *supra* n. 119, at 65-66.

472. *Seventeenth Edition* R. 10.9(a), 71.

473. *Id.* R. 10.9(a)(i)-(ii), 72-73; see *ALWD Manual* R. 12.21(b)-(d), 92-94 (providing examples of incorrect short form citation format).

rationale, namely that a short citation must “provide [ ] enough information for readers to identify *and locate* the source.”<sup>474</sup> With that in mind, the rule makes sense; students know from experience that typing in “1991 U.S. Dist. Lexis” without the case number will get them nowhere, as will heading for the stacks with a name and a page but no volume number.

One of the first questions students ask about legal writing is “how often do I need to cite?” The standard answer “every sentence” is only implicit in the *Bluebook’s* comment that citations can appear after a sentence or after a part of a sentence.<sup>475</sup> The *Manual* answers explicitly.<sup>476</sup> Even better, it allows a single citation to support multiple sentences without a clutter of “*id.*”s.<sup>477</sup> Common sense has always been part of how readers figure out precisely what proposition a citation covers, and when wielded properly, this new rule will achieve brevity without confusion.

The *Manual* stresses the value of pinpoint references “[e]ven when not quoting specific material.”<sup>478</sup> In a sidebar, it explains how missing pinpoints frustrate readers and admonishes writers to “always spend the extra time it takes to insert the pinpoint reference.”<sup>479</sup> Although this stance might strike some as too paternalistic for a citation guide—can’t the writer decide when a pinpoint is necessary?—it is wholly appropriate. A citation of a thirty-page case to support a specific proposition confined to a single paragraph of the case is no more acceptable than a citation of a whole reporter volume to refer to a single case. Although the *Bluebook’s* position on this point is similar to the *Manual’s*, the *Bluebook* neither uses popular terms such as “pinpoint” and “jump” nor highlights the importance of this issue with a heading.<sup>480</sup> Other *Manual* sidebars explain word-processing issues that the *Bluebook* does not deign to address, such as how to make the “§” and “¶” symbols and how to format footnotes.<sup>481</sup> In fact, a whole section explains how techniques like underlined hyperlinks and automatic superscripts (such as “5<sup>th</sup>”

---

474. *ALWD Manual* R. 11.2(a), 47 (emphasis added); cf. *id.* R. 15.9, 123 (explaining that number of legislative document must be included in citation “[b]ecause numbered . . . documents . . . are most easily accessed by their number”).

475. See *Seventeenth Edition* R. 1.1, 21-22.

476. *ALWD Manual* R. 44.2(a), 298.

477. *Id.* R. 44.2(b), 298.

478. *Id.* R. 5.2(b)(2), 26.

479. *Id.* sidebar 5.1, 27.

480. *Seventeenth Edition* R. 3.3(a), 34-35.

481. *ALWD Manual* sidebar 6.1, 30, sidebar 44.1, 297. The symbols sidebar would be more helpful if it explained how to create shortcuts.

for “5th”) affect citations.<sup>482</sup> The *Manual* encroaches too much into pure writing advice when it tells writers to favor full margin justification over the ragged left-only alternative,<sup>483</sup> but overweening helpfulness is a forgivable sin, and one the *Bluebook* has not been accused of.

Students often puzzle over how a case available online could be considered “unreported.” A sidebar in the *Manual* explains this netherworld of phantom precedents and transcribes a helpful sample of local rules about the propriety of citing them.<sup>484</sup> The *Manual*’s emphasis on this area foreshadowed the attention generated by the recent opinion of the U.S. Court of Appeals for the Eighth Circuit holding its own rule against citing “unpublished” cases to be unconstitutional.<sup>485</sup>

Just as helpful as the sidebars are the *Manual*’s “fast format” pages that illustrate rules through series of basic examples. The *Bluebook*’s “basic citation forms” sections play a similar role but are inconvenient in that they often overlap two pages.<sup>486</sup> And the *Manual* gives every substantive rule a “fast format” page, boasting thirty such sections to the *Bluebook*’s five.

A host of other details contribute to the *Manual*’s user-friendliness. For example, whereas many students have had trouble discerning from the *Bluebook* when spaces are appropriate, the *Manual* uses decorative green triangles to indicate spaces.<sup>487</sup> The latest *Bluebook* includes some dots to serve the same purpose, but they are absent where most needed, such as in the table of periodical abbreviations.<sup>488</sup> A chart of common reporter abbreviations in

---

482. *Id.* at 9-12.

483. *Id.* at 10. The substance of that advice is controversial. See e.g. Bryan A. Garner, *The Winning Brief* 265 (Oxford U. Press 1996). The *Manual*’s admonition against string citations in briefs also seems misplaced in a citation guide, see *ALWD Manual* R. 44.3(a)(2), 299, but the advice is good, see *Lopez v. Constantine*, 76 Fair Empl. Prac. Cas. (BNA) 95, 96 (S.D.N.Y. Dec. 22, 1997) (denigrating party’s citation of certain cases as “only in ‘string citation’ form”); Aldisert, *supra* n. 200, at § 13.3.1, 243 (“Don’t use string citations. They are generally irritating and useless.”).

484. *ALWD Manual* sidebar 12.7, 90.

485. *Anastasoff v. U.S.*, 223 F.3d 898, 899 (8th Cir. 2000), *vacated as moot*, 235 F.3d 1054 (8th Cir. 2000) (en banc).

486. E.g. *Seventeenth Edition* R. 13, 91-92.

487. E.g. *ALWD Manual* R. 6.2, 29, app. 5, 419-42; cf. Andrea Kaufman, *Uncomplicating the Citation Process*, 87 Ill. B.J. 675 (1999) (also available at <<http://www.illinoisbar.org/Member/dec99lj/p675.htm>>) (praising triangles in review of *Manual* draft). An earlier book used similarly helpful icons to indicate spaces in citations. Donna Mohr Looney, *The Essentials of Legal Citation* (West 1993).

488. See *Seventeenth Edition* I. 4, 5-9, T. 14, 317-41.

the *Manual* efficiently communicates important information,<sup>489</sup> as does the indication of official state codes with a star.<sup>490</sup> And throughout, the *Manual* offers many illustrations of its rules—not just multiple routine examples, but complicated ones that address questions readers might have.<sup>491</sup>

The *Manual* does descend into occasional spoon-feeding. Anyone should be able to figure out immediately from examples of citations of the Code of Federal Regulations what the general format is without the subrule: “After the title number, insert ‘C.F.R.’ as the abbreviation for Code of Federal Regulations. Insert one space after the abbreviation.”<sup>492</sup> But the *Manual* will make few enemies by erring on the side of unusual uncruelty.

## V. REFORM

After founding their own nation, Americans pursued utopian simplicity for its legal system, based in part on the writings of influential jurist-economist Cesare Beccaria.<sup>493</sup> It was thought that “[s]ociety needed ‘but a few laws, and these simple, clear, sensible, and easy in their application . . . .’ ”<sup>494</sup> Early state codifiers sought to distance their efforts from British jurisprudence by simplifying laws and eliminating uselessly complex statutes.<sup>495</sup> But legislators soon realized that countless specific rules were necessary.<sup>496</sup> As Madison noted in 1787, “[t]he short period of independence has

489. *ALWD Manual* chart 12.1, 68.

490. *Id.* R. 14.1(b), 102, app. 1, 335-76.

491. *E.g. id.* R. 12.11(a)(5), 84 (illustrating citations of complex combinations of concurring and dissenting opinions); *cf. Seventeenth Edition* R. 10.6.1(a), 67 (including examples only of simple dissenting opinions).

492. *ALWD Manual* R. 19.1(b), 160.

493. Wood, *supra* n. 36, at 296, 300.

494. *Id.* at 300 (quoting Philo-Alethias, *On the Present States of America* (Oct. 10, 1776), in *American Archives*, 5th ser., vol. 2, 969 (Peter Force ed., M. St. Clair Clarke & Peter Force 1848-1853)); *see* Carl Van Doren, *Benjamin Franklin* 712 (Viking Press 1938) (noting Benjamin Franklin’s opinion that America needed but “[s]imple and mild laws”).

495. Wood, *supra* n. 36, at 296, 301. Much British common law too was seen as surplusage. As a Boston politician argued in 1786, “[T]he numerous precedents brought from ‘Old English Authorities’ . . . answer no other purpose, than to increase the influence of lawyers . . . .” Honeatus, *Observations on the Pernicious Practice of the Law* 15 (1786), in 13 *Am. J. Leg. History* 244, 257 (1969) (written by Benjamin Austin under pseudonym).

496. Wood, *supra* n. 36, at 303 (“It began to seem . . . , contrary to the Beccarian belief, that codification and simplification of the law demanded an increase, not a lessening, of judicial interpretation . . .”).

filled as many pages [of statutes] as the century which preceded it."<sup>497</sup>

Like legal culture, much of citation form consists of minute details. And whatever visions early reformers had about simplifying citation rules by relying on a few broad axioms, based in part on the writings of influential jurist-economist Richard Posner,<sup>498</sup> the ALWD correctly concluded that it could not escape legislating on everything from the spacing of initials to the italicization of commas. As a result, the *Manual*—which urges readers to think of it as a “statute”<sup>499</sup>—surpasses the *Bluebook* in size, length, and heft.<sup>500</sup>

But despite the inevitable barrage of rules, many individual ones are simpler than under the *Bluebook*. For example, the *Manual* uncomplicates title-capitalization rules by scrapping the *Bluebook*'s four-or-fewer-letters rule<sup>501</sup> and ordering all prepositions to be in lowercase.<sup>502</sup> No longer can “about,” “between,” and “through” lord their capital status over their shorter peers; equality replaces sesquipedalianism. A *Bluebook* mystery that remains largely unsolved is when to capitalize words after hyphens in titles.<sup>503</sup> The *Manual* does refer to *The Chicago Manual of Style*,<sup>504</sup> which answers that such words are capitalized except when they follow a prefix.<sup>505</sup> Explicit guidance in the pages of the *Manual* would provide even greater assistance, letting writers know to write “Third-Party Standing” but “Tri-national Agreement.”

The ALWD enacted bold reform in an area dear to all legal citers: abbreviations. *Bluebook*-sanctioned ones include both true abbreviations (“Assoc.,” “Bus.,” “Chem.”) and contractions (“Dep’t,” “Eng’r,” “Fed’n”).<sup>506</sup> Two categories seem unnecessary; why not sim-

497. James Madison, *Vices of the Political System of the United States*, in *The Papers of James Madison* vol. 9, 345, 353 (U. Chi. Press. 1970).

498. See Posner, *supra* n. 44, at app. (criticizing “hypertrophy” of *Bluebook* and opining that its “ideal replacement” would be “short pamphlet” such as *Maroonbook*).

499. *ALWD Manual* at 7; see *id.* at 4 (“The book codifies the most commonly followed rules for legal citation.”).

500. Melissa H. Weresh, *The ALWD Citation Manual: A Truly Uniform System of Citation*, 6 *Leg. Writing* 257, 263 (2000) (defending bulk because “much of the length of the *ALWD Citation Manual* is attributable to straightforward information on how to use the manual and how to clearly cite the sources”).

501. *Seventeenth Edition* R. 8, 51.

502. *ALWD Manual* R. 3.1(b)(4), 21.

503. See *Seventeenth Edition* R. 8, 51-53 (not mentioning hyphens or dashes); *ALWD Manual* R. 3.1(b)(3), 21 (instructing to capitalize after a dash but not mentioning hyphens).

504. *ALWD Manual* R. 3.2, 21.

505. *The Chicago Manual of Style* § 7.128, 283, § 15.104, 537-38 (14th ed., U. Chi. Press 1993).

506. *Seventeenth Edition* T. 6, 302-03.

ply write "Assn." instead of "Ass'n"? Sure enough, despite the endangered status of apostrophes in all types of writing, the *Manual* makes true abbreviations of the *Bluebook* contractions. "Soc'y" becomes "Socy.," "Int'l" becomes "Intl.," and so on.<sup>507</sup>

Despite the simplicity of the new rule, it may strike some writers—who will now have to relearn many abbreviations—as arbitrary. But the U.S. Supreme Court has followed this approach for years.<sup>508</sup> The Justices are far from achieving perfect consistency, but with rare exceptions (such as "Comm'n"<sup>509</sup>), they have favored true abbreviations over the *Bluebook*-style contractions for at least the past half-century.<sup>510</sup>

Further abbreviation reform updates the list of words to be shortened, presumably to fit the times. In, for example, are "Acq.," "Amuse.," "Arb.," "Empl.," "Immgr.," "Mgt.," "Surrog.," and "Transnatl.,"; out with the fading prominence of steamships is "S.S."<sup>511</sup> Some oddities have slipped in—the inscrutable "Jxn." somehow stands for "Jurisdiction"—but overall, the expanded list is useful.<sup>512</sup> The cost of an expanded list, though, is less discretion to add to it; unlike the *Bluebook*, the *Manual* allows no unlisted words to be abbreviated.<sup>513</sup> Writers do gain discretion, though, to spell words out.<sup>514</sup> An added twist to abbreviations is that under both the *Manual* and the newest *Bluebook*, they apply to the first words of case names. Unlike the *Bluebook*, the *Manual* extends this policy to state names and even "U.S."<sup>515</sup> And the *Manual's* list of geographical abbreviations includes more major cities than does the *Bluebook's*.<sup>516</sup> That improvement entailed acknowledging the existence

507. *ALWD Manual* app. 3, 409-13. The *Manual* does retain the contractions "aff'd" and "rev'd." *Id.* R. 12.8(a), 77-78; cf. *Manual Labor, Chicago Style*, *supra* n. 45, at 1327 (criticizing *Maroonbook* for same apparent contradiction).

508. The Price manual of the 1950s also eschewed apostrophes. Price, *supra* n. 31, at 89, 91-97; Miles O. Price, *A Practical Manual of Standard Legal Citations* 97, 99-107 (2d ed., Oceana Publications 1958); cf. Gibaldi, *supra* n. 440, at § 6.4, 213-18 (abbreviating without apostrophes in *MLA Handbook*).

509. *E.g. N.D. v. U.S.*, 495 U.S. 423 *passim* (1990); *Cal. Med. Assn. v. FEC*, 453 U.S. 182 *passim* (1981).

510. Searches of Lexis, S. Ct. cases database (May 23, 2000) (searches for opinions using abbreviations listed in table 6 of sixteenth edition or analogous true abbreviations).

511. The newest *Bluebook* has also added some abbreviations, ranging from routine ("Mgmt.") to inscrutable ("Tr." for "Trustee"). *Seventeenth Edition* T. 6, 302-03.

512. *ALWD Manual* app. 3, 409-13.

513. Compare *id.* R. 12.2(e)(3), 61, app. 3, 409 with *Seventeenth Edition* T. 6, 302.

514. Compare *ALWD Manual* R. 12.2(e)(3), 61 ("You may abbreviate . . ." (bold, not italics, in original)) with *Seventeenth Edition* R. 10.2.2, 62 ("Always abbreviate . . .").

515. *ALWD Manual* R. 12.2(e)(3), 61, R. 12.2(g), 62; *Seventeenth Edition* R. 10.2.1(c), 59, R. 10.2.2, 62.

516. Compare *ALWD Manual* app. 3, 408 with *Seventeenth Edition* T. 11, 311.

of noncoastal cities, which the *Bluebook* has had a hard time doing.<sup>517</sup>

The *Manual* adds spaces to footnote references. As a result, the famous pinpoint citation for *United States v. Carolene Products Co.*<sup>518</sup> is now “152-53 n. 4,” not “152-53 n.4.”<sup>519</sup> Presumably, the theory is consistency: Why should “§” and “¶” be followed by a space but not “n.”? One answer is that footnotes are by definition minor; scrunching the abbreviation and the number together reflects that lesser status. Footnote equality, though, not only is a plank in the ALWD’s platform but also reflects U.S. Supreme Court practice: each time the Court cited the *Carolene Products* footnote in the 1990s, it put a space between “n.” and “4.”<sup>520</sup>

In fact, before the “n. 4,” the Court writes “152-153” rather than “152-53.” The *Bluebook*’s command to drop repetitious digits other than the last two boasts a certain efficient elegance,<sup>521</sup> but many people have ignored it. Refusing to define a large portion of lawyers as deviant, the *Manual* wisely lets writers decide for themselves whether to drop digits, admonishing only internal consistency.<sup>522</sup> External consistency is served by allowing people to use the same rule for sections as for pages. Because of the risk of confusion—in North Carolina, for example, 143-146 is a single code section—repetitious digits must stay in citations of multiple sections.<sup>523</sup> Now people who want to simplify memorization are free in all situations to retain repetitious digits.

Another welcome new rule covers multivolume treatises. Presumably in the name of consistency, the *Bluebook* requires the volume number to precede the author and title.<sup>524</sup> While that rule makes sense in that, for example, the volume number of a law review precedes its name, it leads to unappealing citation segments such as “4 Wright & Miller” and “1 *id.*”<sup>525</sup> By treating the volume number as part of the pinpoint reference, the *Manual* rejects this

---

517. See *supra* n. 53 and accompanying text.

518. 304 U.S. 144 (1938).

519. See *ALWD Manual* R. 7.0, 35; cf. *Seventeenth Edition* R. 3.3(b), 35.

520. E.g. *U.S. v. Va.*, 518 U.S. 515, 575 (1996).

521. *Seventeenth Edition* R. 3.3(d), 36.

522. *ALWD Manual* R. 5.3(b), 27-28.

523. *Id.* R. 6.6(c), 32; *Seventeenth Edition* R. 3.4(b), 38.

524. *Seventeenth Edition* R. 3.2(a), 33.

525. See *id.* R. 4.1, 40-41, R. 15.1.1, 108.

foolish consistency in favor of the more attractive “Wright & Miller vol. 4” and “*id.* vol. 1.”<sup>526</sup>

Readers may rejoice at the *Manual*'s solution to the dilemma of whether to italicize commas in signals. The *Bluebook* purported to settle the rule by requiring italics within but not following signals—thus “*see, e.g., id.*”<sup>527</sup> But in the sixteenth edition, it could not follow its own rule.<sup>528</sup> The *Manual* solves the problem by eliminating signal commas altogether.<sup>529</sup> Unfortunately, the *Manual* introduces its own trap for the unwary: italicizing the commas after, but not before, case history phrases.<sup>530</sup> No logic supports this new rule. In fact, the case history rule violates another *Manual* rule—that against italicizing punctuation that follows italicized material.<sup>531</sup> As with the *Bluebook* and signal commas, the folly of the case history rule is revealed by its creator's failure to comply with it: in an example, the *Manual* does not italicize the comma after “*rev'd.*”<sup>532</sup>

The comma-italicization quagmire illustrates the difficulty of translating ideals such as simplicity into governing norms. Just as Americans after the war found the task of codifying the principles they fought for into specific laws to be unsatisfying,<sup>533</sup> readers may recoil at some well-meaning but unnecessary departures from *Bluebook* tradition. Some changes are so minor that one wonders whether they were enacted merely to be anti-*Bluebook*, much as hatred of the British caused many Americans in the 1770s to refuse to copy some of Britain's ways that would have served them well.<sup>534</sup>

526. See *ALWD Manual* R. 22.1(c), 189. The *Manual* does not specify whether to include “at” in the “*id.*” citation. See *id.* R. 11.3, 48-51, R. 22.2(a), 196.

527. *Sixteenth Edition* R. 2.1(f), 31.

528. *Id.* R. 1.2(e), 24 (italicizing comma after “*see, e.g.*” in example of how to use “*e.g.*”).

529. See *ALWD Manual* R. 45.3, 302, R. 45.6(a), 303.

530. *Id.* R. 1.3(4), 15, R. 12.8(c)(2), 80. The *Bluebook* leaves both commas in roman type. *Seventeenth Edition* R. 2.1(f), 32, R. 10.7.1, 68-69.

531. See *ALWD Manual* R. 1.4, 15-16.

532. See *id.* R. 12.1, 58. At the very least—perhaps due to a printing error—the comma in the example is not *as* italicized as other commas throughout the *Manual*. Rather than pondering the metaphysics of partial italicization, lawyers should keep their minds on something else; a bright-line rule banning italicized commas except in the middle of other italicized material would work.

In another example, the *Manual* fails to follow even the traditional, unaltered rule against italicizing commas after case names. Compare *id.* R. 12.2(a), 58 (“Do not italicize the comma that follows the case name.”) with *id.* R. 12.10(b)-(c), 82 (italicizing comma after case name in three examples). To explain that inconsistency, the *Manual* might resort to a fiction that commas following case names following “*sub nom.*” are part of a case history phrase and therefore should be italicized for the same reason—whatever it may be—that commas after case history phrases are. But the *Manual* does not state that rule, nor should it; it would extend to the point of absurdity citation guides' obsession with the typeface of commas.

533. Wood, *supra* n. 36, at 302, 404.

534. *Id.* at 430.

For example, hyperformalism mars the *Manual's* approach to quotations. The two-part rule is

*If < 50 words or < 4 lines, then do not indent.*  
*If ≥ 50 words or > 4 lines, then indent.*<sup>535</sup>

But lost in the misleading precision is the answer to questions such as

*If 49 words and 5 lines, then what?*  
*If 50 words and 3 lines, then what?*

The answer: Who cares? Instead of imposing a complex system with gaping holes,<sup>536</sup> the ALWD should have trusted writers to indent when appropriate. Legal writers are better at rough judgment than exact counting anyway.

Somehow, the *Manual* also manages to make ellipses even more complex. It creates a distinction where none is needed with a rule that ellipses may not be used "at the end of a block quotation that concludes with a complete sentence."<sup>537</sup> By inexplicably allowing ellipses after nonblock quotations ending with complete sentences, the *Manual* forces itself into another rule—no space comes between the last ellipsis point and a quotation mark—that otherwise would be unnecessary.<sup>538</sup>

Another area where the *Manual* rushes into reform without considering the consequences is the abbreviation of case names in text. The *Bluebook* rule about eight special words may be unwieldy,<sup>539</sup> but by sacrificing it on the altar of simplicity, the *Manual's* unequivocal mandate not to abbreviate case names in text would approve sentences such as "In *Johnson and Johnson Company v. Warner Brothers Incorporated*, . . ."<sup>540</sup> Thankfully, exam-

535. See ALWD *Manual* R. 48.4(a), 317, R. 48.5(a), 320.

536. The *Bluebook*, while rigid, at least avoids conflicting rules by basing the indentation decision solely on the number of words. See *Seventeenth Edition* R. 5.1, 43-44.

537. ALWD *Manual* R. 50.3(b)(3), 330. The *Bluebook* extends this principle to all quotations. See *Seventeenth Edition* R. 5.3(b), 46-47.

538. See ALWD *Manual* R. 50.2(c), 329. If ellipses were never used at the end of quotations ending with complete sentences, a period would always intervene between an ellipsis and a quotation mark.

539. See *Seventeenth Edition* R. 10.2.1(c), 59.

540. See ALWD *Manual* R. 2.3, 19.

ples in other rules show that the ALWD's heart is not in that change,<sup>541</sup> so we can expect a more practical rule in the next edition.

A lost opportunity for reform lay in the infamous spacing-of-single-capitals rule. As *Bluebook* devotees know, adjacent "single capitals"—a designation that, improbably, includes both cardinal and ordinal numbers—are closed up except when a space is necessary to set a place or institution off from other single capitals. For example, "F.3d," "Cal. [space] App. [space] 3d," and "N.Y.U. [space] L. [space] Rev." are proper. The catch is that the exception applies only to periodical names.<sup>542</sup> That limitation leads to abominations such as, for the U.S. District Court for the Northern District of West Virginia, "N.D.W.[space]Va.," instead of the more sensible "N.D.[space]W.[space]Va." Perhaps cringing at the unappealing application of its rule, the *Bluebook* avoids abbreviated references to West Virginia federal courts.

To its credit, the *Manual* does not duck the issue.<sup>543</sup> But instead of retaining the *Bluebook* rule (while clarifying that the exception applies only to "legal periodicals"),<sup>544</sup> the *Manual* should have simplified it. The problem is not merely one of aesthetics, though that would be reason enough; when a space precedes the "Va." but not the "W.," the resulting mishmash of single capitals misleads substantively in that it looks more relevant to Virginia than to its cousin to the west. A better rule would eliminate the "legal periodical" restriction.<sup>545</sup> Such a rule would be easier to remember and would promote uniformity by treating law reviews like everything else. And though it would break from the *Bluebook* past, it would conform to the current practice of federal courts in the Fourth Circuit.<sup>546</sup>

The ALWD deserves credit for declining to make other possible changes. For example, a recent book by legal-writing guru<sup>547</sup> Bryan Garner dispenses practical and memorable advice to brief

---

541. *E.g. id.* R. 44.1(c)(1), 294 (referring in text to "*International Shoe Co.*").

542. *Seventeenth Edition* R. 6.1(a), 48.

543. *ALWD Manual* app. 4, 417 (listing "N.D.W. Va." and "S.D.W. Va." as abbreviations).

544. *Id.* R. 2.2(b), 17 (emphasis added).

545. To save common reporter abbreviations such as "N.Y.S." and "S.E.3d," the new rule should also limit the application of the exception to abbreviations with a nonsingle-capital component. This principle is already in effect in abbreviations such as "JAMA." *See id.* app. 5, 428; *Seventeenth Edition* T. 14, 329.

546. Searches of Lexis, 4th Cir. and W. Va. D. Cts. databases (May 5, 2000) (searches for opinions using various abbreviations for federal courts in West Virginia).

547. Karen Hall, *Hereinafter, Clarity*, 22 *Am. Law.* 20, 20-21 (Feb. 2000) (referring to Garner as the "guru"). Garner's books such as *The Elements of Legal Style* (Oxford U. Press 1991) and *A Dictionary of Modern Legal Usage* (2d ed., Oxford U. Press 1995) have become classics in the field.

writers, along with some proposals that are best attempted only by those who cannot get fired.<sup>548</sup> One dangerous suggestion is to "Put all your citations in footnotes . . ." <sup>549</sup> Garner's idea is wonderful in theory, but he admits that it flouts "age-old convention" and might be considered "off-the-wall."<sup>550</sup> Garner's commentaries are the kind of experimentation that should occur at the local level.<sup>551</sup> He is, after all, unlike the ALWD, an individual representing only himself, and time will tell which of his proposals persuade the nation of lawyers.<sup>552</sup> The ones that do in the future should eventually find their way into citation guides. On the whole, the *Manual* has the right touch as far as which popular reforms to codify and which to leave in laboratories a bit more.

An early congressman, commenting on proposed duties on various goods, stated, "I am inclined to think, that entering so minutely into the detail, will consume too much of our time . . ." <sup>553</sup> The ALWD has spent a lot of time fine-tuning traditional citation practices, but the results for the most part are worth it. The problems that remain can be addressed in the next edition.

## VI. RECONSTRUCTION

Like the Constitution and early American legal reform, the *Manual* may be imperfect, but it is good enough to free lawyers from the *Bluebook*. Ultimately, the survival of the United States after the initial success of the Revolution depended on the Reconstruction and specifically the Fourteenth Amendment, which fleshed out the national ideal of equality. And once lawyers' voices are heard on more citation issues, the missteps in the current *Manual* can be smoothed over in later reconstructed editions.<sup>554</sup>

---

548. Bryan A. Garner, *The Winning Brief* (Oxford U. Press 1999).

549. *Id.* at 114.

550. *Id.* at 115-16.

551. See *supra* text accompanying nn. 428-429.

552. Although I have praised the *Manual* for its populism, I have criticized several specific policies. That criticism is my own, and while I hope "the people" respond to it, I do not suggest that if the nation of lawyers disagree with me, their will should be thwarted.

553. *Abridgment of the Debates of Congress, supra* n. 314, vol. 1, 25 (statement of Congressman White in 1789).

554. The second edition is scheduled for publication in 2003. Liemer, *supra* n. 307. The *Manual* is ahead of its time in that unlike the *Bluebook*, it has solved thorny Fourteenth Amendment issues about "incorporation" of rules from one context into another by unifying academic and practical writing. Whereas the *Bluebook* incorporates the white pages (academic) into the blue ones (practical), it leaves open whether blue rules apply to white situations. See *Seventeenth Edition P* intro., 11.

Of course, much can go wrong between Revolution and Reconstruction. Patrick Henry warned that “[t]he tyranny of Philadelphia may be like the tyranny of George III”;<sup>555</sup> might “the tyranny of the *Bluebook*”<sup>556</sup> transfer to the *Manual*? Will there be a Shays’ Rebellion? Just as farmers in 1786 chafed under the economic strictures of the new republic,<sup>557</sup> lawyers may blanch at the *Manual*’s \$20.95 price.<sup>558</sup> Are the ALWD’s motives pure? Historians would note that a backdrop of the citation war is the battle by legal writing professors for equal respect and pay.<sup>559</sup> Toppling the *Bluebook* would be a high-profile contribution to their overall cause. But the only selfishness that ALWD members can fairly be accused of is benevolent: they want to make their task of teaching—and students’ task of learning—citation form easier.<sup>560</sup> In any event, people’s motives are always complex;<sup>561</sup> a significant strain of constitutional history focuses on the interest of the Framers in protecting their own investments.<sup>562</sup> What is important is that the people embraced the Constitution, as they likely will the *Manual*.

Passions run high in revolutions. Whereas colonists tarred and feathered Loyalists,<sup>563</sup> one commentator’s call to arms advocates “root-and-branch destruction of the [*Bluebook*].”<sup>564</sup> Legal writers are “battlescarred, combat-fatigued, wounded-in-action veterans

555. *Elliot’s Debates* vol. 3, 314 (J.B. Lippincott Co. 1937).

556. Reinhard Zimmerman, *Law Reviews: A Foray through a Strange World*, 47 *Emory L.J.* 659, 675 (1998).

557. See e.g. *Petition from the Town of Greenwich, Massachusetts*, in *Sources and Documents Illustrating the American Revolution 1764-1788*, at 208, 208 (S.E. Morison ed., Oxford U. Press 1961) (complaining about taxes and warning that “unless something takes place more favourable to the people, . . . one half of our inhabitants in our opinion will become bankrupt”).

558. The sixteenth edition of the *Bluebook*, current when the *Manual* was published, sold for \$12. The seventeenth edition costs \$18.35.

559. E.g. Jan M. Levine, *Leveling the Hill of Sisyphus: Becoming a Professor of Legal Writing*, 26 *Fla. St. L. Rev.* 1067, 1082 (1999) (noting ALWD’s efforts to overcome “the longstanding challenges faced by legal writing professors”). Professor Levine was instrumental in both the passage of the AALS resolution and the development of the *Manual*. See *supra* n. 118 and accompanying text.

560. See *supra* text accompanying n. 307 (noting ALWD’s pledge to put revenue toward research grants).

561. See Richard Hofstadter, *The American Political Tradition* 20 (Vintage Books 1989) (noting multifaceted and ultimately moderate political motives of Framers); Morgan, *supra* n. 2, at 132-34 (“There was scarcely a member of the [constitutional] convention whose views can be explained by any simple formula, economic or otherwise.”).

562. E.g. Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* 324 (MacMillan Co. 1935) (“The members of the Philadelphia Convention which drafted the Constitution were, with a few exceptions, immediately, directly, and personally interested in, and derived economic advantages from, the establishment of the new system.”).

563. Richard Maxwell Brown, *Violence and the American Revolution*, in *Essays on the American Revolution* 81, 103-04 (Stephen G. Kurtz & James H. Hutson eds., U.N.C. Press 1973).

564. Grantmore, *supra* n. 82, at 892.

who fight daily in the brutal and expensive citation wars.”<sup>565</sup> Though the *Bluebook* is a “great battleship”<sup>566</sup> and will not cede easily,<sup>567</sup> the *Manual* should prevail because the ALWD, through its legal writing professor membership, has access to young legal minds.<sup>568</sup> To ensure success and to legitimize the *Manual*’s claim of representing the whole legal populace, the ALWD may need to ally with other organizations, such as the ABA or the Judicial Conference. As for the ALWD itself, its governing structure is reminiscent of the United States under the Articles of Confederation; as there was one vote per state, so there is one vote per law school.<sup>569</sup> Blending in some purer democracy, with practitioners properly represented, can only help.<sup>570</sup>

Many state laws after the Revolution clashed with the principles that Americans had fought for, resulting in the anomaly that John Adams called “democratic despotism.”<sup>571</sup> But as Madison noted at the Constitutional Convention, the people are the “fountain of all power” and can fix problems by amending constitutions as they please.<sup>572</sup> Whatever minor flaws the *Manual* may have, it should attract followers with the promise that under the new regime, their voices can help fix the system.<sup>573</sup>

565. Gordon, *supra* n. 17, at 1699.

566. Berring, *supra* n. 22, at v, vii.

567. The ALWD realized that taking on a behemoth like the *Bluebook* was a gamble. Neumann, *supra* n. 94.

568. See E-mail from Davalene Cooper, Assoc. Prof., Dir. Leg. Methods, New Eng. Sch. L., to Legwri listserv (Oct. 24, 1996) (“After all, as legal writing professors, we are the ones who require students to purchase the *Bluebook* and it should matter to the editors if some of us are very unhappy with the new edition.”); E-mail from Gregory C. Sisk to Lawprof listserv (Apr. 7, 2000) (“[T]he [ALWD] Citation Manual is likely to become the standard in the future if for no other reason than most of our students will be using this rulebook in their legal writing courses.”). Likewise, many colonists thought that whatever the outcome of physical skirmishes with Great Britain, procreation would over time prove America’s best weapon. Miller, *supra* n. 4, at 434.

569. Articles of Confederation art. V (1781); ALWD Bylaws art. III, § 4 (available at <<http://www.alwd.org/bylaws.htm>>).

570. Cf. U.S. Const. art. I, § 2, amend. XIV, § 2; Morgan, *supra* n. 2, at 139 (noting rhetoric of large states at Constitutional Convention that federal government must be one of people, not just of states).

571. Wood, *supra* n. 36, at 404; see *id.* at 403-07 (chronicling post-Revolution abuses of legislative power).

572. *The Records of the Federal Convention*, *supra* n. 305, at vol. 2, 476 (record of Aug. 31, 1787). Indeed, the American people addressed the problems with the Articles of Confederation by instructing state legislatures to have their members of the Confederation Congress propose a constitutional convention. Kobach, *supra* n. 84, at 55-56.

573. The *Manual* is already following through on its promise to respond to the will of the people. Listservs are functioning as a sounding board for the *Manual*, and Dean Dickerson is

## VII. CONCLUSION

Americans originally cited colonial laws by English regnal year, but eventually, to avoid confusion with English statutes, they switched to independent formats.<sup>574</sup> Whereas that citation shift was close to the American Revolution in time, the current revolution mirrors the colonists' in spirit. The cry of "no taxation without representation" resonates more than two hundred years after its birth—both in America<sup>575</sup> and in legaldom. In the twenty-third century, the legal landscape may look much different, but lawyers will still want a voice in citation rules. Because the *Manual* gives them that voice, it may survive that long.

In time, the *Bluebook* may join the Redcoats in history, leaving us with the off-white *Manual*. Paradigms often shift once a "tipping point"—a minor event with major ramifications in retrospect—is reached.<sup>576</sup> In the Revolution, that event might have been the word-of-mouth wave that swept through eastern Massachusetts on the night of Paul Revere's ride. The momentum the colonists gained from surprising the British soldiers in Lexington carried over through the rest of the war.<sup>577</sup> E-mail is more efficient than word-of-mouth, and a surge of support for the *Manual* has swept through Internet listservs.<sup>578</sup> As a result, within the first year of the *Manual's* publication, legal writing professors at over eighty law schools switched out of the Blue.<sup>579</sup> Perhaps only a handful more will be needed to topple the *Bluebook*. Once the majority of schools ratify the *Manual*, the rest will likely follow.<sup>580</sup>

---

collecting errors to correct in the second printing. *E.g.* E-mail from Mary Garvey Algero, Assoc. Prof., Loyola U. New Orleans Sch. L., to Dircon listserv (May 9, 2000).

574. Cooper, *supra* n. 19, at 17.

575. *E.g.* Francis X. Clines, *Rebellion Is Brewing in Capital over Status*, 149 N.Y. Times A23 (May 5, 2000) (reporting District of Columbia's plan to emblazon motto "Taxation Without Representation" on license plates); Etzioni, *supra* n. 153 (reporting summer residents' protests of taxes).

576. *See generally* Gladwell, *supra* n. 154, at 7-9 (exploring how "little changes have big effects").

577. *Id.* at 30-31, 56-58, 87-88.

578. *E.g.* E-mail from Gregory C. Sisk to Lawprof listserv (Apr. 7, 2000) (calling *Manual* "outstanding"). Early reviews of the *Manual* have been favorable as well. *E.g.* Collins, *supra* n. 233 ("[D]o something radical. Throw off those 'Bluebook' chains that bind you."); Weresh, *supra* n. 500, at 271 (calling *Manual* "an exemplary teaching tool"); *but see* C. Edward Good, *Will the Bluebook Sing the Blues?*, 37 Tr. 78 (Jan. 2001) (calling publication of *Manual* "bad news").

579. ALWD, *ALWD Citation Manual* <<http://www.alwd.org/cm/adoptions.htm>> (last updated Jan. 22, 2002).

580. *See* K.K. DuVivier, *Legal Citations for the Twenty-first Century*, 29 Colo. Law. 45, 46 (May 2000) (predicting that once professors start teaching *Manual*, it will "supplant" *Bluebook*); *but cf.* James T.R. Jones, *Book Review*, 73 Temple L. Rev. 219, 220 n.10 (2000) (cautioning that

If the *Manual* one day dominates the citation market, it will have the *Bluebook* to thank. At the dawn of the Revolution, America had "a blank sheet to write upon."<sup>581</sup> Yet Americans admired much about England,<sup>582</sup> and post-Revolutionary American law retained much detail from the English system.<sup>583</sup> The provenance of several phrases in the U.S. Bill of Rights is unmistakably the English Bill of Rights.<sup>584</sup> Indeed, America could not have happened without the English value of liberty paving the way.<sup>585</sup> Likewise, though the ALWD started with a blank sheet to write citation rules on, the *Manual* could not have happened without the *Bluebook*. For all the carping about the *Bluebook*, it has filled an important niche for decades and has set citation precedent.<sup>586</sup> Not only does its white plastic binding make the *Manual* resemble its competitor,<sup>587</sup> but specific language in the *Manual* often echoes the *Bluebook*.<sup>588</sup>

In the same way that Americans embrace aspects of their English past, *Manual* disciples should remember their debt to the

*Manual's* early success does not guarantee ultimate victory, "otherwise Germany today could claim to have won World War II based on its performance in 1939-40"; Kaufman, *supra* n. 487 (predicting before publication of *Manual* that "[l]aw schools are too entrenched . . . to change"); Michael Rustad, *Citations*, *Bimonthly Rev. L. Books* 10 (July-Aug. 2000) (predicting that decade will pass before *Manual* displaces *Bluebook*). Even a former law librarian at Harvard who advised students on the sixteenth edition has reportedly called the *Manual* "refreshing." Anthony Aarons, *Feeling Blue* <<http://www.law.com/professionals/index.html>> (July 18, 2000). The switch from the *Bluebook* to the *Manual* should not be too difficult. See Jamar, *supra* n. 119, at 65; but cf. Cooper, *supra* n. 19, at 31 ("[A]n innate conservatism favors the retention of present practices even if they are not completely satisfactory."). In a pre-*Manual* survey, over one-third of responding legal writing professors answered that they would be willing to use a new citation system, and almost all the rest said "maybe." Dickerson, *supra* n. 174, at 2, 6-7.

581. Thomas Paine, *The Forester's Letter III*, in *Thomas Paine: Collected Writings* 74, 84 (Eric Foner ed., Libr. Am. 1995) (letter of Apr. 22, 1776).

582. James, *supra* n. 39, at 54 (noting "the pervasive Britishness of [colonial] America"); Morgan, *supra* n. 2, at 89.

583. Wood, *supra* n. 36, at 300.

584. See *supra* n. 297 and accompanying text; compare e.g. English Bill of Rights, in *Sources and Documents*, *supra* n. 2, at 132, 134 ("[E]xcessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.") with U.S. Const. amend. VIII ("Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.").

585. Van Tyne, *supra* n. 13, at 478.

586. See Squillante, *supra* n. 68, at 2 (noting "anarchy that would reign" without citation guide).

587. One reviewer has surmised that the *Manual's* green typeface for headings may protect it from a trade-dress claim. Rustad, *supra* n. 580, at 10.

588. Compare e.g. *Sixteenth Edition* R. 4.1, 40 ("immediately preceding authority within the same footnote") with *ALWD Manual* R. 11.3(b)(4)(b), 49 (identical phrase). For example, it is hardly surprising that the *Manual's* description of the "see generally" signal closely matches the *Bluebook's*. Compare *Sixteenth Edition* R. 1.2(d), 23 ("[c]ited authority presents helpful background material related to the proposition") with *ALWD Manual* R. 45.3, 302 ("cited authority is presented as helpful background information related to the stated proposition").

*Bluebook*.<sup>589</sup> The word itself will probably survive. Just as lawyers referred to the Uniform System of Citation as the “*Bluebook*” long before it became part of the official title,<sup>590</sup> we may continue to use the verb “to bluebook”<sup>591</sup> when using the *Manual*.<sup>592</sup> Indeed, “*Bluebook* bluebooking” may one day be as unredundant as “English English.”

Unlike Americans in the 1770s, attorneys today need not immediately choose between loyalty and independence.<sup>593</sup> One could, for example, follow the *Manual* as a default but stick with the *Bluebook* on certain points. No matter which citation guide eventually wins out, we will be better off than Great Britain, which has no major guide—or at least, as with its constitution, no written one.<sup>594</sup> In any event, lawyers should keep in mind that citations can be serious business. Some court rules explicitly warn that citation errors are grounds for rejecting filed documents.<sup>595</sup> Courts have cited poor citation form as part of the basis for Rule 11 sanctions,<sup>596</sup> for refusing to grant costs,<sup>597</sup> and for suspending an attorney’s license pending completion of a legal writing tutorial.<sup>598</sup> And Cary Lambrix waits on death row.<sup>599</sup>

Overall, whereas the *Bluebook* only claims to do so, the *Manual* has truly United Cites of America. On many specific issues, the two guides do not differ dramatically. And the newest *Bluebook*

589. Just as some remnants of the colonists’ British past became even more British than Britain itself, see Wood, *supra* n. 310, at 12-13, the *Manual* may out-*Bluebook* the *Bluebook* in certain areas, such as its dogmatic approach to documents with both page and section numbers, compare *ALWD Manual* R. 6.1(b), 29 (“refer to both [section and page numbers] in the citation unless citing the entire section”) with *Seventeenth Edition* R. 3.4, 37 (“a page number may be provided if useful”).

590. *E.g.* Bowler, *supra* n. 24, at 695 (reviewing twelfth edition). “*The Bluebook*” entered the title with the fifteenth edition in 1991.

591. *E.g.* Chen, *supra* n. 64, at 1527.

592. “ALWD,” however, is not as unpronounceable as it looks: “all wood” works well. Steven D. Jamar, *Book Review* <<http://www.amazon.com>> (May 12, 2000) (review of *Manual*).

593. Morgan, *supra* n. 2, at 62-63; Wood, *supra* n. 36, at 344.

594. Bryan A. Garner, *The Elements of Legal Style* 89 (Oxford U. Press 1991); see Cooper, *supra* n. 19, at 16 (mentioning “useful” guide published in 1959).

595. *E.g.* D. Mont. R. 120-5; cf. E.D. Tenn. R. 7.4 (“The court will NOT consider improperly cited authority.”).

596. *Vakharia v. Little Co. of Mary Hosp. & Health Care Ctrs.*, 1996 U.S. Dist. Lexis 16826 at \*11 n. 3 (N.D. Ill. Nov. 6, 1996) (complaining that party’s citation “form, or lack thereof, has le[]d the court into time-consuming searches and confusion”).

597. *Mooney v. Rosenberg*, 235 N.Y.S. 840 (App. Div. 2d Dept. 1929) (refusing to grant costs because of party’s flagrant violation of rule requiring citation of official reporter).

598. *In re Shepperson*, 674 A.2d 1273, 1273-74 (Vt. 1996). For a thorough compendium of judicial reactions to incompetent citations, see Judith D. Fischer, *Bareheaded and Barefaced Counsel: Courts React to Unprofessionalism in Lawyers’ Papers*, 31 *Suffolk U. L. Rev.* 1, 30-31 (1997).

599. See *supra* sec. IV(A)(1).

is crisper, less arbitrary, and more forward-looking than its predecessors. But the *Manual* better represents what we the people want in citations. Find out for yourself. Much as a citation cannot communicate everything about a case no matter how precise the signal, a critique cannot substitute for a book. See generally e.g. this Article; cf. other reviews; but read the *Manual*.<sup>600</sup>

---

600. This thought owes a debt to Peter Lushing. See Lushing, *supra* n. 6, at 602.