

CITE CLUB

Ross E. Davies[†]

This issue of the *Journal of Law* has big news about the journal itself: It is now available on Westlaw. If there is a leading indicator of viability for a new legal periodical, it is availability on a leading online legal research service. After all, lawyers and students who do legal research are doing more and more of it online. So we are happy. One adjustment was necessary, though, to get onto Westlaw: We had to swallow a change to the abbreviation of the journal's name. For citation purposes, the *Journal of Law* is no longer the short and sporty "J.L." From now on it will be "J.L.: Periodical Laboratory of Leg. Scholarship." That adjustment prompted the thought that it might be time for a change in the *Bluebook* as well. It might be time for the *Bluebook* to start formally deferring to Westlaw on the selection of journal abbreviations. This idea is not as odd as it might seem, because in the past the *Bluebook* has had similar policies in similar contexts.

The idea begins with the establishment of the *Journal of Law*. We tried to keep things simple and easy by following the *Bluebook's* instructions about how we ought to refer to ourselves:

If the periodical you wish to cite does not appear in this list [that is, the *Bluebook's* 24-page list of periodical abbreviations], structure the abbreviation by looking up each word of the title in this table [that is, table T13]

We looked to table T13, which abbreviates "Journal" to "J." and "Law" to "L." Thus, the *Journal of Law* was "J.L." in *Bluebook* form – an abbreviation that seemed to be available because the *Bluebook* had not assigned it to any other journal – and so that is what we included in our recommended citation form.¹

[†] Professor of law, George Mason University; editor-in-chief, the *Green Bag*.

¹ THE BLUEBOOK 444, 454, 456 (19th ed., 1st prtg. 2010) (hereafter "THE BLUEBOOK

But it was not that simple or easy. “J.L.” already was, and is, Westlaw’s abbreviation for *Jurisprudence logement*.² Having two publications with the same abbreviation is unacceptable in databases that are searchable by cite, as many of Westlaw’s (and its competitors’) are. The helpful people at Westlaw fixed the problem by combining “J.L.” with the descriptive phrase that follows “Journal of Law” on the cover of the publication to create a new abbreviation for us: “J.L.: Periodical Laboratory of Leg. Scholarship.” It is not as aesthetically pleasing as the old one, but it has the overwhelming benefit of being both acceptable to and searchable in Westlaw.

Now the question is: When the next edition of the *Bluebook* comes out (or when the online version is updated) will the editors use our Westlaw abbreviation, or go with our original “J.L.,” or opt for something else? The Green Bag, Inc., the publisher of the *Journal of Law*, has been down this road before with another law journal, the *Green Bag, Second Series: An Entertaining Journal of Law* (the *Green Bag*, for short). Since its launch in 1997, the *Green Bag* has recommended that it be cited as “Green Bag 2d,”³ and Westlaw did so when it put the *Green Bag* online.⁴ The editors of the *Bluebook* did not – they opted for “Green Bag” without the “2d” and continue to do so now.⁵ The result of that inconsistency may be a reflection, on a very small scale, of the state of things in modern law journal publishing.

Basically, the form adopted by Westlaw has prevailed, even among the editors of the *Bluebook*. The journals that compile the *Bluebook* – the *Columbia Law Review*, the *Harvard Law Review*, the *University of Pennsylvania Law Review*, and the *Yale Law Journal* – usually cite the *Green Bag* in their own pages as “Green Bag 2d.” They do rarely follow *Bluebook* form, though only in student-written pieces. All four journals consistently cite the original, first series of the *Green Bag* (a name

19TH”); see, e.g., *Recommended citation form*, 1 J.L.: PERIODICAL LABORATORY OF LEG. SCHOLARSHIP no. 1 at iii (2011).

² Example: [1993] J.L. 301.” Try it. Go to the “Find by citation” field on the Westlaw Classic homepage, and enter any numeral followed by “J.L.” followed by any numeral.

³ See, e.g., *Dealing with Authority*, 1 GREEN BAG 2D no. 1 at ii (Autumn 1997).

⁴ LexisNexis did the same when it took on the *Green Bag* shortly thereafter.

⁵ THE BLUEBOOK 19TH at 452; www.legalbluebook.com/T-13-GH (same); see also Ira Brad Matetsky, *GB Meets BB*, 8 GREEN BAG 2D 341 (2005).

which was followed by a variety of descriptive phrases during its life in print, starting with “A Useless but Entertaining Magazine for Lawyers” in 1889 and ending with “An Entertaining Magazine of the Law” in 1914) as “Green Bag.”⁶ All of which suggests that they know the difference between the first and second series of the *Green Bag*, know the value of having different abbreviations for citations to different journals, and usually have the good sense to act on that knowledge.⁷

Their behavior strikes me as quite sensible. I suspect that they, like the rest of us, routinely turn nowadays to fairly reliable online sources such as Westlaw for answers to legal questions, including technical ones about citation forms. Yet they, like us, are also drawn by training and habit (and a proper respect for an often-useful tool) to look to the *Bluebook* as well, even when it doesn’t make sense. Indeed, every once in a while I receive an email about this from a perplexed law review editor. The exchange goes roughly like this:

Law review editor: We have run into a conflict in citation forms for your journal. The *Bluebook* says “Green Bag” but it is often cited as “Green Bag 2d.” Why is that and what do you recommend?

Green Bag editor: Thanks for asking. I do not know. We share the *Bluebook*’s preference for the form that will “allow the reader to efficiently locate the cited source.”⁸ We think “Green Bag 2d” does that, but you should use your own best judgment.

Law review editor: [after a pause of an hour or a day or a month] OK thanks. We’re going to go with “Green Bag 2d.”

As the *Bluebook* says of itself,

For generations . . . legal professionals have relied on *The Bluebook*’s unique system of citation. In a diverse and rapidly changing legal profession, *The Bluebook* continues to provide a systematic method by which members of the profession communicate

⁶ Westlaw does not currently carry the first series of the *Green Bag*, but you can safely bet your last dollar that when they do, they will use an abbreviation other than “Green Bag 2d.”

⁷ Other prominent citers of law journals appear to think the same way. Compare, e.g., *Golan v. Holder*, 132 S.Ct. 873, 888 (2012), with *U.S. v. South-Eastern Underwriters Ass’n*, 322 U.S. 533, 545-46 n.23 (1944).

⁸ THE BLUEBOOK 19TH at 1.

important information about the sources and authorities upon which they rely in their work.⁹

Generally speaking this is true and probably always will be, so long as the *Bluebook* keeps pace with that changing profession. One big change is the technical side of online research services: Westlaw and its competitors cannot afford to conform to the *Bluebook*'s system when it conflicts with the requirements of their databases for, among things, unique and recognizable abbreviations of the names of publications. And given a choice between following *Bluebook* form and following Westlaw form, readers and publishers are likely to follow Westlaw because that is where readers are doing more of their reading and publishers' products are getting read. The microcosmic experiences of the *Green Bag* and the *Journal of Law* may be a sign of things to come, or even of something that has already arrived.

For generations, *Bluebook* editors have shown an admirable commitment to providing a useful system of citation without regard to base territorial imperatives. For example, in 1926 the 1st edition directed users to "Volume 1 of BOUVIER, LAW DICTIONARY [for] a comprehensive list of abbreviations," while the most recent (19th) edition contains a formidably long list of "Jurisdiction-Specific Citation Rules and Style Guides," some of which require use of guides other than the *Bluebook*. But the best precedents for the idea that the *Bluebook* both should and can adopt Westlaw's abbreviations as its own date from mid-century, before the law review explosion and the *Bluebook*'s development of its own expansive abbreviation expertise in that area. In the 9th edition (1955), users were told, "[f]or abbreviations [of periodicals] not listed, follow the form used in the . . . *Index to Legal Periodicals*," and in the 10th (1959), "abbreviations prescribed herein conform to those used by the *Index to Legal Periodicals* in general."¹⁰ There is more. All of it points in the same direction: When *Bluebook* editors identify a vehicle for enhancing the usefulness of their system of citation, they ride it. For abbreviations of journals that appear on Westlaw, the time may have come for the *Bluebook* to go West.

⁹ *Id.*

¹⁰ THE BLUEBOOK 1 (1st ed. 1926); THE BLUEBOOK 19TH at 30; THE BLUEBOOK 61 (9th ed. 1955); THE BLUEBOOK 47 (10th ed. 1959); *see also, e.g.*, THE BLUEBOOK ii (11th ed. 1967).