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Essay

IN DEFENSE OF FOOTNOTES

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I stand before you, a confessed footnote junkie. Although I am far from holding the record in the academic footnote sweepstakes,¹ I am definitely a player in the game. My Hague Lectures, "A Defense of Brainerd Currie's Governmental Interest Analysis,"² contain 194 pages and 766 footnotes. I once published a book review³ that sported 90 footnotes. Even my Newsletter columns as AALS President had footnotes.⁴

My penchant for footnotes has not escaped criticism. An anonymous reviewer⁵ offered the following advice about a chapter I prepared for a forthcoming Yale University Press book:

This is a masterful review of contemporary divorce law and its evolution over the past generation. . . . It will be vastly informative to those who trouble themselves to read it. To do so, the reader must overcome its peculiar form: the law review article. It is, in fact, two articles divided by the footnote line at the bottom of each page. Probably half its length consists of footnotes. I see this as an editing problem rather than a substantive one.

This comment is a dead giveaway that the anonymous reviewer is not a law professor. More likely he or she is some sort of a social scientist. Social scientists are notoriously down on law review style. Laura Nader, the anthropologist, once complained in the first footnote of an article she published in the

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1. Who does? Who knows? Does anybody care?
2. Available in fine law libraries everywhere.
3. In some other law review.
4. No, that wasn't a record. Susan Prager's columns had a few footnotes, too. We women AALS Presidents take things more seriously.
5. Well, you don't think I know who it was, do you?

Yale Law Journal, "[i]n many respects, law review form is not conducive to the expression and development of ideas by persons trained in other disciplines."⁶ Of course, the only reason social scientists feel this way about law reviews is that they don't appreciate the invaluable free labor that law review editors provide for their authors. If they did, they would try to publish everything they write in law journals. I have no sympathy for authors who think student editors have nothing to add to their deathless prose. Me, I want all the help I can get. Oh, well, I said to myself, looking at Yale's letter, there is only one way to deal with this anonymous reviewer: recast the footnotes as endnotes, and otherwise ignore the upstart.

That satisfied the Yale University Press, and I dismissed the matter from my mind. Or, rather, I meant to dismiss it. But in truth, the memory of that reviewer's comment lingered on. I began to wonder whether my chapter really was "two articles divided by the footnote line at the bottom of each page."⁷ If so, I have been missing a golden opportunity to beef up my academic resume with additional citations. Why not, I thought, publish the text and the footnotes separately?

At first, I dismissed the idea as simply ludicrous. Publishing a collection of footnotes without any accompanying text would be unintelligible; no reader could possibly make sense of them, even if anyone was foolish, or bored, enough to try. Besides, if the idea was that good, why hadn't somebody else thought of it first?

But I was unable to banish the bedeviling notion from my thoughts. It kept darting out at me, usually when I was doing something mindless like making the bed, or shopping for groceries, or even swimming my daily laps in the pool. What if, it whispered, you just tried reading only the footnotes to somebody else's law review article and ignoring the text? Just for fun, of course, while you're on an airplane going to some dull, boring committee meeting somewhere?

So I decided to give it a try. I began with an article on sex discrimination. To my surprise, just by looking at the cited cases, law review articles, books, and reports of governmental agencies, I could easily figure out what the article was about. It wasn't even hard to guess the line of argument and the principal points made. Somewhat shaken, I tried again, this time with a piece on American choice of law. That was even easier. I could tell just from the pin cites what the author was relying on to make the argument.

But in true scientific fashion, I immediately questioned the validity of my experiment. After all, I have probably read every law review article, or book, and most of the decided cases in both fields. I don't make up casebooks out of thin air. So I chose for my third trial an article in a field that I am familiar with, but have not written about myself. As it happened, the article was published in Volume 31, Number 3, beginning at page 549, of the *Arizona Law Review*. Here, I'll read some of it to you, and you can judge for yourself:

6. Nader, *Disputing Without the Force of Law*, 88 YALE L.J. 998, 998 n.+ (1979). A careful perusal of the footnotes to this article will give you some idea of why Nader was so upset. The exercise might also tell you something about the state of mind of the *Yale Law Journal* editors.

7. I already cited you to the anonymous reviewer. Pay attention!

1. Minow, *Foreword to the Supreme Court 1986 Term: Justice Engendered*, 101 HARV. L. REV. 10, 87 (1987) (footnotes omitted). See *infra* notes 260, 264.
2. See Neff, *Agents of Turmoil*, SPORTS ILLUSTRATED, Aug. 3, 1987, at 34.

A promising beginning. Any article that relies equally on the *Harvard Law Review* and *Sports Illustrated* must be innovative.

6. Mr. and Mrs. Whitehead were divorced during the course of the dispute over Baby M, and she has since remarried. N.Y. Times, Nov. 30, 1987, at B3, col. 6. Although she remarried, the New Jersey Supreme Court continued to refer to her as Mrs. Whitehead. *In re Baby M*, 109 N.J. 396, 412 n.1, 537 A.2d 1227, 1235 n.1 (1988). For clarification, this paper also will continue to refer to her as Mrs. Whitehead.

* * *

10. The father's role in child development, family support and our society is vitally important, but not the central concern of this paper. This article focuses on the mother because her role and image significantly differ from the father's and provide more apt analogies to the amateur athlete's role and image in society.

11. "Family" means many different things to different people. By traditional family, I am referring to wife, husband and child. Family units that deviate from the traditional one are becoming more acceptable in our society. See *infra* note 243 and accompanying text.

12. ALA. CODE 8-26-1-8-41 (1987). See also CAL. LAB. CODE 1510-1528 (1988) (sports agents must register with the Labor Commissioner); OKLA. STAT. tit. 70 821.61-821.71 (1988) (sports agents must register with the Secretary of State); Frank, *Texas Enacts Law to Curb Cheating*, N.Y. Times, June 27, 1987, at C5, col. 1 (Texas governor signed into law a bill making it a civil offense to violate NCAA rules and making violators liable for monetary damages suffered by schools as a result of sanctions imposed by the NCAA).

13. See *infra* notes 276-77 and accompanying text. See also *In re Baby M*, 109 N.J. 396, 537 A.2d 1227 (1988) (surrogate mother contracts that include payment of fees to surrogate mothers are invalid as against public policy). But see *Surrogate Parenting Assoc., Inc. v. Kentucky*, 704 S.W.2d 209 (Ky. 1986) (surrogate parenting contracts do not come under purview of present state legislation; such contracts are voidable but not void); *Adoption of Baby Girl L.J.*, 132 Misc. 2d 972, 505 N.Y.S.2d 813 (1986) (state legislation does not prohibit use of surrogate contract mothers or payment to them under surrogate contracts). The Michigan Supreme Court recently held that *all* surrogate contracts are void as against public policy. *Yates v. Keane*, 14 Fam. L. Rep. 1160 (1988).

14. Reuters, *Bill Set on Surrogate Mothers*, N.Y. Times, Feb. 2, 1989, at A23, col. 5.

15. See *infra* note 169 and accompanying text.

16. The earliest literary account of sports is Homer's description of the funeral games in honor of Patroclus. *ILIAD* XXIII 256-897 (ca 800 B.C.); see *id.* XXII 159-66 (pursuit of Hector around walls of Troy compared to a foot race). The earliest sports pictures to date came from the Neolithic town of Catal Huyuk, which flourished in Asia Minor around 6000 B.C. See V. OLIVOVA, *SPORTS AND GAMES IN THE ANCIENT WORLD* 17-18 (1984). See also P. TACITUS, *THE AGRICOLA AND THE GERMANIA* 107 (trans. by H. Mattingly 1948, as revised by S. Handford 1970). Tacitus, an early Roman historian, describes Germanic warriors in battle, with their "women-folk" nearby. The role of the women was to treat the warriors' wounds, supply them with food, and encourage them in their battles. *Id.* My colleague, Walter Weyrauch, pointed out that the role of women in Germanic warfare resembled the role of cheerleaders in modern athletics.

That did it. I immediately resolved to publish all my future law review articles in two parts: an article of footnotes and an article of text. As you can see, the exercise is facilitated by the unvarying practice of all law review editors to demand that anything "non-legal" as well as any quotations from the cited work be relegated to the footnotes. Here is my first effort in the new form:

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IN DEFENSE OF FOOTNOTES*

* Remarks delivered by Professor Herma Hill Kay at the *Arizona Law Review* Banquet, March 30, 1990.

1. Rodell, *Goodbye to Law Reviews*, 23 VA. L. REV. 38, 38 (1936) (strident denunciation of law reviews, contained in the author's proclaimed "last law review article," and featuring the oft-quoted indictment: "There are two things wrong with almost all legal writing. One is its style. The other is its content. That, I think, about covers the ground.").

2. *Id.* at 41 ("The footnote foible breeds nothing but sloppy thinking, clumsy writing, and bad eyes. Any article that has to be explained or proved by being cluttered up with little numbers until it looks like the Acrosses and Downs of a cross-word puzzle has no business being written.").

3. Glenn, *Law Reviews — Notes of an Antediluvian*, 23 VA. L. REV. 46, 48 (1936) (scornful response to Rodell, piously noting that "a law review must insist upon the decencies of debate and the amenities that should govern the conduct of law writers as well as lawyers" and finishing off the enemy with the retort that "our law reviews will have to go on being good, and letting who will be clever."). [A sexist remark if I ever heard one.]

4. *Comments: Editorial Note*, 48 VA. L. REV. 279 (1962) ("To celebrate the twenty-fifth anniversary of that 'last' article, which did, incidentally acquire a certain amount of fame, or possibly notoriety, the editors asked Professor

Rodell to give an account of his present-day impressions of law reviews.”) (emphasis in original).

5. Rodell, *Comments: Goodbye to Law Reviews — Revisited*, 48 VA. L. REV. 279, 286 (1962) (“A quarter century has wrought no revolution among the professional purveyors of pretentious poppycock, even while hot war and cold war and split atoms and space shots have rocked the earth.”).

6. *Id.* at 287.

7. *Id.*

8. *Id.*

9. *Id.* at 288-89 (identifying five reasons that preserve law review writing against the most determined efforts at change: first, law schools admit “bright boys . . . who . . . cannot . . . construct a decent English sentence, much less an entire paragraph that holds together[;]” second, legal education proceeds to barrage them as law students “by the verbal horrors of legal language[;]” thereby, third, forcing them to join their professors “in massacring the Anglo-Saxon tongue[;]” an enslavement continued, fourth, after they become fledgling professors themselves by their senior colleagues, who are “now promoters or non-promoters[;]” and culminating, fifth, in their personal literary disability after acquiring tenure: “they have been so brainwashed, indoctrinated, that they cannot, if ever they once could, phrase a paper, an article, a book, or a lecture in clean and simple words; but these are what law students read and hear; the chain is closed.”).

10. *Id.* (“[T]he notion that the complexities of conceptualization that compose the law could ever be made comprehensible — so the guy in the street could get them — is too terrible, too treasonable, to contemplate. He who tries such stuff is suspect; surely, he can be no scholar.”).

11. F. RODELL, *WOE UNTO YOU, LAWYERS!* (1939).

12. Rodell, *supra* note 5, at 289-90 (in an otherwise favorable review of the book, the reviewer added, “[i]t is to be regretted that the author did not write his work with footnotes and that his style is not in keeping with the depth of study he must have had to pursue to acquire the information necessary to write this book.”).

13. Nowak, *Woe Unto You, Law Reviews!*, 27 ARIZ. L. REV. 317, 319 (1985) (“Remember, Fred Rodell was passed over for a ‘chair’ by the so-called liberal Yale law school faculty and administration.”).

14. Mikva, *Goodbye to Footnotes*, 56 U. COLO. L. REV. 647 (1985) (“I give reprints to all my clerks at the beginning of each term as a partial antidote to their Law Review or other legal writing experiences.”).

15. *Id.* (“I consider footnotes in judicial opinions an abomination.”).

16. *Id.* at 651 (“When I decided to quit, I called in my clerks to tell them the hard news.”).

17. *Id.* (“After our discussion they caucused among themselves and asked to discuss it with me further. They strongly urged me not to make such a rash decision, pointing out that I was a new judge, whose reputation as a jurist

was still being measured, and that it would not sit well at the law schools and other measuring places for me to write such unusual opinions.”).

18. *Id.* (“‘Nonsense,’ I said.”).

19. Rodell, *supra* note 5, at 287 (“[O]nly one article [written after 1936] had footnotes, of which the first one read: ‘All footnotes accompanying this article were appended by the editor.’”).

20. Mikva, *supra* note 14, at 652 (“I tell my clerks and myself that if something must be discussed that is really ill-suited to the text, I will use asterisks rather than numbers, cumulating them for each successive note.”).

21. G. STEIN, SACRED EMILY (1913).

22. Rodell, *supra* note 5, at 289 (giving this name to footnotes).

23. Nowak, *supra* note 13, at 317 (* and **); 318 (n. 1); 321 (n. 2).

24. *Cf.* the “potty excuse” arguments used against ratification of the Equal Rights Amendment.

25. Shapiro, *The Most-Cited Law Review Articles*, 73 CALIF. L. REV. 1540 (1985) (Gerry Gunther’s essay in 86 Harvard Law Review on the “Newer Equal Protection” won hands down). *See also* R. BERRING, GREAT AMERICAN LAW REVIEWS (Legal Classics Series 1984).

26. *Plus ça change, plus c’est la même chose*. Sounds better in French, no?

27. Yes, Richard, I’m talking about the “Imperial Scholar.”

28. Wiseman, *Women in Bankruptcy and Beyond*, 65 IND. L.J. 107, 107 n.+ (1989) (“At the request of the author, the *Indiana Law Journal* has not followed the rules regarding citation of author name for books and periodicals as set forth in *A Uniform System of Citation*.”).

29. Bartlett, *Feminist Legal Methods*, 103 HARV. L. REV. 829, 829 n.* (“I had wanted to humanize and particularize the authors whose ideas I used in this Article by giving their first as well as last names. Unfortunately, the editors of the *Harvard Law Review*, who otherwise have been most cooperative, insisted upon adhering to the ‘time-honored’ Bluebook convention of using last names only, *see* A UNIFORM SYSTEM OF CITATION 91 (14th ed. 1986), except when the writing is a ‘book,’ in which case the first initial is given, *id.* at 83, and except when the writing is by a student, in which case no name whatsoever is given (unless the student has a name like ‘Bruce Ackerman,’ in which case ‘it may be indicated parenthetically,’ *id.* at 91), *see id.* In these rules, I see hierarchy, rigidity, and depersonalization, of the not altogether neutral variety. First names have been one dignified way in which women could distinguish themselves from their fathers and their husbands. I apologize to the authors whose identities have been obscured in the apparently higher goals of Bluebook orthodoxy.”).

30. *See, e.g.,* Church, *A Plea For Readable Law Review Articles*, 1989 WIS. L. REV. 739 (invoking Rodell in support of a pitch for a special “commentary” section of law review articles). Indeed, the battle has escalated to an all-out attack on what some authors believe to be unnecessary legal scholarship. *See* Lasson, *Commentary: Scholarship Amok: Excesses in the*

Pursuit of Truth and Tenure, 103 HARV. L. REV. 926, 950 (1990) (in a startling display of self-awareness, the author concludes by recognizing that readers may view his own work as "utterly useless," and is not loath to take his own medicine by admitting that his scholarship, in company with that of most others, "must be viewed as exceedingly modest when compared to that of a true scholar."); Elson, *The Case Against Legal Scholarship or, If the Professor Must Publish, Must the Profession Perish?*, 39 J. LEG. ED. 343 (1989) (making the "intellectual case" for law schools to place priority on education for professional competence over academic scholarship; the article runs thirty-nine pages and contains ninety-seven footnotes, not one of which cites Rodell). Compared to these two onslaughts, a well-intentioned effort to defend the law review experience against Rodell's critique and to open it up to more students comes across as a mild read. See Martin, *The Law Review Citadel: Rodell Revisited*, 71 IOWA L. REV. 1093 (1986).

* * * * *

Well, there you have it: my article of footnotes. If everybody wrote only footnotes, think how much dull, boring text we could eliminate in favor of livelier fare.⁸ In fact, just to set a good example, I plan to submit this effort to the *Arizona Law Review* editors for publication. If they reject it, I'll claim it was because of sex discrimination. After all, they published John Nowak's Law Review banquet speech in 1985, so they might as well print mine, too. In fact, the school is already in hot water, because Nowak discloses that he wasn't merely invited to give the banquet speech: he was given a cushy appointment as a "scholar-in-residence" as well.⁹ Everybody knows what that means. You, the scholar, get to loll around in the Arizona sun, talking to a few students and schmoozing with faculty colleagues — but — and this is the point — you don't have to teach any classes, serve on any committees, or go to any faculty meetings!

But some wily editor might try to weasel out of this implicit commitment by claiming that Nowak's piece had both text and footnotes, and so was twice as good as mine. Well, that would probably force my hand. I'd planned to submit the text to a rival review — maybe to *Virginia* (after all, they started this genre by publishing Rodell) — but I can see that, as always, I'm ahead of my time. So, just to strengthen my sex discrimination claim, here's the text to accompany my article of footnotes:

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IN DEFENSE OF FOOTNOTES

Herma Hill Kay*

8. Even Rodell admitted that "a wee bit more of informality is permitted in small type" in the footnotes. You could look it up.

9. Yep. He says so up front, right there in the second sentence.

Over fifty years ago, Fred Rodell penned a diatribe against law review writing.¹ In the course of his attack, he also excoriated footnotes.² At the time, Garrard Glenn sought to obliterate Rodell's critique by pouring shame and sarcasm on his head.³ But Rodell's attack on legal obfuscation and mumbo-jumbo took on a life of its own. Twenty-five years later, the editors of the *Virginia Law Review* invited Rodell to update his impressions of law reviews.⁴

Rodell's resulting essay proved that the passage of time had not softened his condemnation.⁵ On his second visit to the "scene of his crime,"⁶ however, Rodell found a new basis for criticizing law reviews: their language.⁷ Armed with his "trusty rifle," rather than the shotgun he had used twenty-five years earlier, Rodell took aim at the "heart" of American academic scholarship: "the nonsensical, noxious notion that a piece of work is more scholarly if polysyllabically enunciated than if put in short words."⁸ He scathingly enumerated five links in a "chain of causal calamity" that renders law review writing "unfit for the consumption of cultured men" while putting it beyond redemption.⁹ He added that the chain is held firmly in place by fear.¹⁰

Rodell himself admitted to having suffered slighting reviews of his book¹¹ even from friendly critics because of his failure to provide footnotes and to use scholarly style.¹² He did not say what his fellow legal realist, John Nowak, confided to those attending the *Arizona Law Review* banquet in 1985: that Rodell was disciplined by his colleagues for his temerity.¹³

Despite the lesson to be learned from his professional set-backs, however, Rodell's condemnation of law review writing has ensnared others. Judge Abner J. Mikva assigns it to his law clerks every year.¹⁴ Following Rodell's lead, Mikva has started his own war against footnotes in judicial opinions.¹⁵ He quit using footnotes himself — "cold-turkey," he says¹⁶ — and urges other judges to do the same. Mikva's clerks tried to save him from Rodell's professional fate;¹⁷ they failed.¹⁸ Unlike Rodell, however, who wrote only one footnote himself (and that one to disavow the others),¹⁹ Mikva preserved an out for himself. When things get really desperate, he resorts to asterisks.²⁰ Oh, well, as someone once said, "A rose is a rose is a rose is a rose."²¹ Even Nowak deserted the ship by appending two of the "phony excrescences"²² and two asterisk notes²³ to his article. These evasionary actions stand as testimonials to the enduring power of footnotes, in whatever guise and under whatever name.

The truth is, Rodell's attempt to dump footnotes was about as misguided as an effort to build law schools without rest rooms for women students and faculty.²⁴ Both were overwhelmed by unanticipated events. Footnotes nowadays are not phony excrescences; they are the raw data used by the hottest new school of legal scholarship, the citation analysts.²⁵ These bibliotechs have shown once and for all that nobody reads the text of other people's articles anyway. Anybody who is anybody in any field you care to name has already said the same thing in different words a dozen times before. There is nothing new under the sun.²⁶ The only thing that is important is who cites whom. If you're cited, that means you're identified as a player in the game: a scholar of significance. Your academic stock goes up, and you're sure to get an invitation to visit — yes, maybe even as a scholar-in-residence — at leading law schools. The more you're cited, the more likely it becomes that a bidding war will break out over you. If you're not cited, that means you're a know-nothing upstart, or

that the citing authors belong to an exclusive club that closes its footnotes against authors who are different from them.²⁷ Either way, you're out in the cold, for the citation analysts now have perfected an objective measure of what work has lasting significance. It won't help to multiply your score by citing your own prior work yourself; they are clever enough to control for that. It follows, then, that only footnotes matter, and that we should write only footnotes. Q.E.D.

Moreover, once footnotes are accorded their rightful place as the true measure of academic status, the current practice of citing articles only by the author's surname and books only by the author's first initial and surname stands revealed as an anti-female plot. Women authors, of course, cannot be identified except by the use of their first names. But, gentle reader, fear not! Feminist scholars even now seek to overthrow the tyranny of ostensibly sex-neutral citation form that so effectively conceals the enormous contribution of female writers to the law review literature. The enemy in this battle are misguided law review editors, who use their mastery of the white book, or the blue book, or whatever Bible is currently in use, as a showcase for their proficiency and as a tool for controlling recalcitrant authors. So far skirmishes have been won by both sides. The *Indiana Law Journal* Editors gave in to Zipporah Wiseman's demand to use first names, but as any self-respecting board of editors would do, they insisted on making clear (in the footnotes, where else?) that they were not responsible for her breach of form.²⁸ By contrast, the *Harvard Law Review* Editors stood their ground when faced with a similar demand from Katharine T. Bartlett, thus earning a footnote casting them into outer darkness for their lack of sympathy for the feminist cause.²⁹ Judith Resnik expanded the battlefield to case names at the Conference on Women in Legal Education held at N.Y.U. Law School in April 1990, pointing out that female litigants cannot be identified when cases are cited using only surnames rather than first names. She went on to proclaim citation form as the newest arena of feminist struggle. Sisters, the opportunity for liberation is everywhere! Women law review editors, take care! Those of you who are not with us are against us!

However misguided Rodell may have been to eschew footnotes — especially since their priority over text has been made clear — he was certainly right to attack pompous and redundant legal language. He has enlisted more allies in this effort than he was able to muster in the war against footnotes.³⁰ I trust that the editorial policy of the *Arizona Law Review* is in accord with the guiding spirit of Rodell's plea for plain and simple writing, and that it firmly rejects his attack on footnotes.

* * * * *

Well, there is my text. I hope I have convinced you that Rodell's denunciation of legal writing, although engaging, was seriously flawed. He identified the problem well enough, but his solution was dead wrong. Leaving out footnotes is a poor substitute for doing away with the text. Let the reader work for the message, is my motto. Why encourage sloppy reading?

If you're not completely persuaded that I am a brilliant, original thinker whose work deserves to be published with alacrity and without a single editorial change, then you're hopeless duds and I'm clearly wasting my time here. But just to be polite to Dean Sullivan, I'll offer you a face-saving way out. For,

come to think of it, I can improve on my own idea. If you really take the citation analysts seriously, maybe all you need in an article of footnotes is one asterisk and one footnote. The asterisk will identify the author, and the footnote will list other writers whose work is relevant. To display solidarity with my feminist sisters in the struggle against citation form that obscures female scholarship, I will use full names. For example, my next footnote article will be on sex discrimination. It reads as follows:

* * * * *

* Herma Hill Kay.

1. Regina Austin; Barbara Atwood; Kate Bartlett; Pat Cain; Kimberlie Crenshaw; Richard Delgado; Ruth Bader Ginsburg; Angela Harris; Chuck Lawrence; Christine Littleton; Jean Love; Catharine MacKinnon; Isabel Marcus; Mari Matsuda; Martha Minow; Deborah Rhode; Rhonda Rivera; Ann Scales; Marjorie Shultz; Richard Wasserstrom; Robin West; Stephanie Wildman; Wendy Williams; *but see* Randy Kennedy.

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Does anybody have any doubts what that article is about? The only thing left to do is to write the title. But surely, by now, you can make that up for yourself.

So, *Arizona Law Review* Editors, here's my final offer. You can have my first footnote article in the following form:

* * * * *

IN DEFENSE OF FOOTNOTES*

* Remarks delivered by Professor Herma Hill Kay to the *Arizona Law Review* Banquet, March 30, 1990.

1. Fred Rodell, 1936; Garrard Glenn, 1936; Fred Rodell, 1962; Fred Rodell, 1939; John Nowak, 1985; Abner Mikva, 1985; Gertrude Stein, 1913; Fred Shapiro, 1985; Robert Berring, 1984; Zipporah Wiseman, 1989; Katharine Bartlett, 1990; W. Lawrence Church, 1989; Kenneth Lasson, 1990; John Elson, 1989; Scott Martin, 1986.

* * * * *

Now, there's economy in writing for you. Lacks something in precision, of course, but that can be remedied in this computer age by pin cites and an adequate data base. It reminds me of the story about a closed community of people participating in a scientific experiment. They had been together for many years, and everybody knew everybody else's jokes. So when they got to telling jokes, they did it by number. Somebody would call out "16!" — a pun — and people would snicker. Somebody else would say "Oh, that's nothing — 5!" — a mildly dirty joke — and they laughed out loud. Then somebody yelled "24!" and one guy in the corner laughed so hard that tears came to his eyes. One member of the group asked another, "What's wrong with him?" The other replied, "I don't know. I guess he never heard that one before."

I'll bet you never heard this one before, either; but that shouldn't serve as an excuse for keeping it out of print forever. And, anyway, there's a final inducement for publication: a sort of surprise. This paper contains nine footnotes, all witty examples of the footnote's finest style, none of which I read aloud tonight. If you don't get a copy of my banquet speech, available only under an agreement to publish, you'll never see those nine footnotes. Clearly, a fate worse than death.

