



# TO THE BAG

## A MADMAN BY ANY OTHER NAME

To the *Bag*:

A careful and courteous reader reported (*Our Mistakes*, 14 GREEN BAG 2D 239 (Spring 2011)) that the *Bag* misspelled the name of its venerable Editor-in-Chief, not once but twice. In graciously acknowledging the error, you speculated that readers might doubt “the competence of an editorial staff that cannot correctly spell the name of one of its own.”

I harbor no such concerns, but note that the issue of legal competency with respect to the spelling of one’s own name has been raised in high places. As recounted in Bernard L. Diamond, *On the Spelling of Daniel M’Naghten’s Name*, 25 OHIO ST. L.J. 84 (1964) (re-published in the *Journal of Attenuated Subtleties* at 1 J. ATTEN. SUBT. 35 (1982)), the moniker of the famous criminal defendant was variously spelled in legal and hospital records *M’Naghten*, *M’Naughten*, *McNaughton*, *McNaughten*, *McNaughtun* and *Macnaughton*. In 1952, Justice Felix Frankfurter raised the variants with Sir William J. Haley, then editor of *The Times* of London. The knight replied that his newspaper used *M’Naughten* because “[t]he lunatic himself” had so signed a letter produced at the trial in 1843. The Justice rejoined: “To what extent is a lunatic’s spelling even of his own name to be deemed an authority?”

Diamond proudly unveiled a facsimile of the defendant’s own signature, supplied by the *British Medical Journal*:

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Though it appears to read *McNaughtun*, experts dispute that interpretation, one concluding: “Unfortunately it fails to make clear just how McNaughton [*sic*] spelt his name.” Sir Ernest Gowers, the language usage expert who chaired The Royal Commission on Capital Punishment in 1949, simply dictated that all its publications use *M’Naghten* no matter what any witness wrote.

I do not think any of this is of much help to the *Bag*. I commend its editors for confessing guilt and accepting punishment, rather than invoking the *M’Naghten* Rules and pleading some collective form of localized and temporary orthographic insanity.

Robert A. James  
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In the Spring 2011 *Green Bag*, Robert C. Berring correctly points out that the recent enactment of Title 51, United States Code represents a significant change in the structure of our national statutory codification. This was not, however, the first time that Congress has added a new title to the Code.

When the United States Code was first published (it would be a mistake to say “enacted”) in 1926, its Title 6 was captioned “Official and Penal Bonds.” This topic was addressed near the outset of the Code, along with other titles dealing with the organization of the federal government (such as Title 2, “The Congress” and Title 3, “The President”), before the alphabetical arrangement of other topics that followed from Title 7 (“Agriculture”) to Title 50 (“War and National Defense”). It may be that this topic was considered worthy of treatment at the outset of the Code based on the former government practice of requiring federal employees handling government