

To the Bag



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.

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THE TITLES 6

To the *Bag*:

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

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money to furnish a surety bond as a condition of their employment, a practice that I believe has long since fallen out of fashion.

In 1947, Title 6 was enacted into positive law, under the slightly amended heading of “Surety Bonds.” There Title 6 remained until 1982, when Congress enacted Title 31, “Money and Finance,” into positive law. At that time, Congress consolidated the provisions of Title 6 into Title 31, and Title 6 as a separate title was repealed.

In 2002, when Congress adopted legislation creating the Department of Homeland Security in the wake of the September 11 attacks, the compilers of the Code created a new Title 6 to house legislation on the subject of “Domestic Security.” This was a brand-new title of the United States Code, even though it was slotted into the Code with a prosaic designation as Title 6 rather than as an outlier (numerically and alphabetically) in Title 51.

Thus, “National and Commercial Space Programs” can be considered the second, rather than the first, new title of the United States Code since 1926, though it is the first such title enacted into positive law. But not the last, if the House of Representatives’ Office of Law Revision Counsel has its way: positive-law codification projects reportedly being worked on in that office would expand the Code to titles 52, 53, 54 and beyond.

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IN FOR A DIME, IN FOR 90 MILLION

To the *Bag*:

Connor P. Moore describes the *Bowles v. Russell* criminal case as “probably the most notorious legal math error in memory.” *Big Numbers*, 14 GREEN BAG 2D 246 (Spring 2011). There is a related area of numbers that is dangerous to lawyers, typographical errors.

Probably the most serious such case concerned Prudential Insurance Company’s \$92,885,000 senior lien against eight U.S. Lines merchant vessels. A typist entered the lien amount as \$92,885. General Electric, which had a junior lien, sought to limit Pruden-