



TO THE BAG

BOBBLEHEAD, MEET BROOM HANDLE

To the *Bag*:

As a friend of the *Green Bag* and proud redeemer of several bobblehead certificates over the years, may I move to have their language amended?

Condition Second of each certificate addresses the occasionally thorny issues of agency, representation, substitution, and transferability: “[P]roxies are permitted,” it says, then adding that “The *Green Bag* will not insist that the person seeking to redeem this certificate be the same as the person to whom it was originally issued. So, please do not lose this certificate. If you do, you will also lose any bobblehead that might be associated with it.”

The difficulties are manifold.

First, the entire condition is unnecessary. The heading of the document already establishes that this is a “bearer certificate.” Condition Second does nothing but intricately reiterate that.

Second, the condition addresses what a modern youth, and perhaps a politician would call a “non-issue.” “The *Green Bag* will not insist that the person seeking to redeem this certificate be the same as the person to whom it was originally issued.” How could it be otherwise? The certificate does not indicate the name of the person to whom it was issued or contain an alternative mechanism – a number, a cypher, a secret word – to identify her.

Third, the clause is inaccurate. “Proxies are permitted.” No, they are not. With a nominal (as opposed to a bearer) certificate, allowing for proxies may have been a possibility – the person who receives the certificate and

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owns the right to redeem it, may want to deputize another, the proxy, to obtain the bobblehead for her. If that happened, the person redeeming the certificate would have been different from the person entitled to claim the bobblehead under the certificate. But this is impossible with a bearer certificate. With it, the bearer is both the owner of the certificate and the right to redeem. “Secundum non datur.”

Joseph Conrad said this in 1907 about the English censor of plays: “Is it not time to knock it off its dark shelf with some implement appropriate to its worth and status? With an old broom handle for instance.” Perhaps Condition Second may follow a similar fate?

Sincerely,
Aníbal Sabater
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