

To the Bag

Good Fixations

To the *Bag*:

I hate to do this to you, really.

It pains me to point out that I did notice a fresh error in your correction of an earlier error. In the headnote to “The Charles River Bridge Case, Part II” (vol. 3, no. 2, p. 203), you properly note that Charles Warren was a historian, while Samuel Warren was Brandeis’ law partner and co-author of the right to privacy article. Unfortunately, you observe that “it was Samuel who was described as ‘competent’ in Erie.” Actually, the competent one was Charles Warren, whose research on Section 34 of the Judiciary Act of 1789 (“New Light on the History of the Federal Judiciary Act of 1789,” 37 *Harvard Law Review* 49 (1923)) Justice Brandeis relied upon in overruling *Swift v. Tyson* in the Erie case.

Again, my apologies. I thought you’d want to know.

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Thank you and bless you. This is what you get when you have lawyers trying to talk about historians. Do you mind if we publish your kind letter, for the benefit of our readers?

You are welcome to publish the letter if you see fit. And don’t feel too bad about the error, for you are by no means the first to confuse Charles and Samuel Warren. Bruce Ackerman, in *We the People: Foundations* (p. 343 n.61), mistakenly attributes “The Right to Privacy” to Charles Warren and Louis Brandeis.

GARY ROWE

To the *Bag*:

I have only two questions:

1. Why are you so fixated on the Bluebook?

Cheers,

PAUL ROSENZWEIG
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