A CELEBRATION OF THE REAL PROPERTY, TRUST AND ESTATE LAW JOURNAL’S 50TH VOLUME:
EDITORIAL RETROSPECTIVES

Lauren Patterson

This spring the ABA Real Property, Trust & Estate Law Journal celebrates the publication of its 50th volume. Publishing fifty volumes is a milestone achievement, and to celebrate, the current editorial staff asked past professional Editors in Chief to recount their time with the Journal. As you will read, the ABA originally began publishing the Journal in 1966 as a communication tool for the Real Property, Probate and Trust Section committees. In 1989, the ABA decided to transition the Journal from a reporting arm for the Section to a scholarly law review. This transition was made possible by the hard work of the initial professional editors, but eventually, these professionals realized they needed the assistance of a student editorial board and they chose to house the Journal at the University of South Carolina School of Law (USC Law). The decision to place the Journal at USC opened the door for many law students, such as myself, to work with some of the top lawyers in the fields of property and probate law. This collaborative editing process ensures the Journal will remain one of the highest quality academic publications.

In addition to teaching me the history of the Journal, the retrospectives that follow taught me a few things about being the professional Editor of the Journal. First, every Editor always has a unique sense of humor. In this line of work, life seems to throw you a number of curveballs. Whether you are dealing with a difficult author or you are in search of new articles, every day presents a new issue. Second, it appears that every Editor must have an acute awareness of how much technology has changed in the last thirty years. Whether it is the movement from floppy disks to cloud storage or the use of the Internet, every Editor needs to be able to outline the changes at the drop of a hat. Finally, every Editor must have a passion for the Journal and a desire to consistently publish outstanding academic works. In their stories below the Editors’ passion for and dedication to this Journal shines through. It has been a true honor to work with these outstanding editors and to be a part of the success of the Journal.

Lauren Patterson is the current student editor in chief of the Real Property, Trust and Estate Law Journal and recently graduated from the University of South Carolina School of Law.

1 The official title of the chief professional editor is simply “Editor.” Because there are many editors involved with the Journal, the past Editors sometimes describe themselves as “editor-in-chief” or some variant thereof to avoid confusion. The preferred usages of the past Editors have been retained in their individual contributions.
TRANSPLANTING THE JOURNAL TO ACADEMIA
WITHOUT SEVERING THE ROOTS

S. Alan Medlin

This year, the Real Property, Trust and Estate Law Journal enjoys the rare opportunity to celebrate two auspicious anniversaries together. In April of 1966, the Real Property, Probate and Trust Section launched the inaugural issue of the Journal, which is now in its fiftieth year. Beginning with the Spring 1990 issue, which was Volume 25, Number 1, the Journal formally commenced its affiliation with the University of South Carolina School of Law, the home of the Journal’s student editorial board for the last twenty-five years.

The original purpose of the Journal was to serve as a medium for the compilation and dissemination of committee reports, including a “review of significant decisions, legislation and literature,” as well as “advance news and materials related to the annual convention,” materials from “talks and panel discussions at the annual meeting,” the occasional “presented papers from regional meetings,” plus “other matters deemed to be of value to Section members.” The Section did not anticipate that materials in the Journal would be ordinarily available elsewhere and thus “expected that it will become a regular reading habit for lawyers whose practice touches real property, probate and trust law.” Provided as a benefit of Section membership, the Journal was otherwise available “only at a premium price.”

The Journal’s first editor in 1966 was P. Philip Lacovara of New York, who had recently retired after nearly 30 years as editor of Trusts and Estates. The Section observed that it was “singularly fortunate to obtain the benefit of his knowledge and experience to launch the Journal.” At the time, the Section served approximately 10,000 members.

* Professor Medlin is currently the David W. Robinson Professor of Law at the University of South Carolina School of Law. He served as Editor of the Real Property, Trust & Estate Law Journal (then Real Property, Probate & Trust Journal) from 1990 to 1993. He also served as the Associate Editor for the Journal from 1988 until 1990.

2 Id.
3 Id. at iii.
4 See id. at ii.
5 Id. at iii.
6 See History of Section of Real Property, Probate and Trust Law, 8 REAL PROP. PROB. & TR. J. 529, 530 (1973).
For twenty-two years, the Journal maintained its primary purpose, serving as the house publication organ for committee reports and resources. Over that time, however, the Journal evolved to include articles in a form typically found in law reviews. The last issue serving the Journal’s original purpose, as evolved, was Volume 22, Number 2 in Summer 1987. This was the last issue produced under the able editorship of Professor Jean A. Mortland of Capital University Law School.

The next issue, Volume 22, Number 3, commenced a new era for the Journal. Section leadership had decided to create a bi-monthly magazine, Probate and Property, which would publish short practical articles along with Section news and information, including some material produced by the committees. Under the creative genius of its founding editor, Robert P. Wilkins, Probate and Property undertook some of the services to members previously provided by the Journal. With the magazine serving as a successor in part to the Journal’s historical function, the Section had different aspirations for the Journal. The Journal became the publication for scholarly law review articles. However, Section leadership envisioned the scholarly treatment of probate and property topics with a practical application to the member practitioners. As I have heard often at editorial board meetings, the Journal continues to aspire to be the first source for members researching issues arising in their practices.

The Section asked Professor Jeffrey N. Pennell to helm this transformation of the Journal. With his unmatched intellect and skill set, Jeff was the logical choice to undertake that daunting yet exciting task. Not only would Jeff have to explain to committee chairs and members that their reports and materials would no longer necessarily have a place in the Journal, he had to spearhead the initiative to solicit and review articles of academic journal quality. Jeff undertook his herculean task with a staff of three editors, including himself. Assisting Jeff as associate editors during his tenure as editor-in-chief were Jeffrey A. Schoenblum, Peter W. Salsich Jr., and myself.

It quickly became apparent that one critical function of the Section’s new law review had to be provided by a student editorial board. Only pervasive quality student participation could undertake and ensure the proper cite and authority checking crucial to the academic integrity of the Journal’s articles, any of which might contain hundreds of footnotes and thousands of citations. Thus, the last step of transforming the Journal to

---

8 See id.
the Section leadership’s aspiration of becoming the leading scholarly publication for the two subject areas practiced by its members was to create an affiliated student editorial board. Jeff and I approached Section leadership to propose and explain the need for student involvement. The Section approved the proposal, and the Journal embarked on its final step in becoming a recognized topnotch law review in 1990 by affiliating with USC Law, which would house the student editorial board. I succeeded Jeff as editor-in-chief.

With the students came the advent of the two-step process that first involves students and then professional editors, who are experts in the probate and property fields, to ensure that the highest quality articles are published. The students perform the labor and time intensive tasks of spading, which confirms that authors’ citations are substantively accurate and in proper technical form—although the Journal’s citation style originally followed the Chicago Manual of Style, known as the Maroon Book, the style soon evolved into the even more familiar Harvard Manual of Style, famously known as the Bluebook. The students also make suggestions about style and substance. The student editorial process involves numerous students, whose tasks funnel up a pyramidal scheme, from spading by second year student members, to successive edits by third-year student editors, to the ultimate final student edit by the student editor-in-chief. After the student edit is complete, the article undergoes a second level edit from the professional editorial board—first by associate editors who are practitioners in either the probate or property subject matter of that article and then one final edit by the professional editor-in-chief. Whether at the student or professional level, the editors maintain continual communication with the authors.

With the addition of student editorial involvement, the Journal was quickly able to realize the goal of becoming a topnotch academic publication with one of the largest subscriber bases in the country, based on a Section membership of approximately 34,000 at that time.9

The creation of the student editorial board required the formulation of the editorial process from scratch. Countless hours, and much trial and error, went into the organization of the student members and the formation of the editing procedure. By the beginning of the third year of the student board, the editing process had generally coalesced into essentially the same form as today, with constant refinement along the way. But

---

the addition of students to the Journal involved not only the need to create and perfect the methodology of editing, but also resulted in the salutary benefit of creating a team of hard workers with a dedicated purpose of striving to be the best. That teamwork afforded a bonding opportunity for the students, who have often expressed their Journal relationship as belonging to a family—the same feeling of camaraderie that the professional editors enjoy.

Creating the student editorial process involved both broad and detailed planning. We were helped immeasurably by two law school traditions: the South Carolina Law Review students—who donated substantial time, effort, and advice to us—and the iconic Nancy Shealy. Nancy knew everything about putting a law journal together. She had been the law review assistant ever since I could recall—even back to the time when I was a law review student. Although Nancy had been promoted to the head of the law school’s support staff by the time the Journal student editorial board started, she and the law school agreed that she could serve as our support person, which was a critical and invaluable move.

It is difficult today to imagine just how important Nancy’s expertise and mastery of a manuscript was to us. Back then, Microsoft Word was relatively new, and most lawyers used the more familiar WordPerfect for word processing. Because of a lack of reliable editing functions in word processing programs and the instability of email platforms, student and professional editors alike used pencil to mark up one hard copy of an article, which worked its way up the editorial chain and to the author for approval. Once the final pencil editing process was complete, Nancy would convert the editorial changes—typically numbering in the hundreds and sometimes thousands—and code the file.

More problematically, producing camera-ready copy at the editorial board level was virtually unheard-of. Reliable formats, such as PDF, were in the nascent stage of development. Instead, we had to send coded files to the printer, which would convert those files into page proofs and return them to us for galley proofing. The proofing process was laborious, and the galleys were often replete with errors. The coding was equally laborious as well as non-intuitive—for example, to signal italics we had to place carats (<>) around the italicized word. Other codes were even less intuitive. The difficulty of the proofing end stage was exacerbated by a result no editor would want to envision because the coding process meant that sometimes mistakes were made at the printer’s stage. Imagine having to proof not only for the editorial board’s mistakes but
also for new mistakes arising at the printer during the galley production process.

Of course, as technology advanced, the process improved and became much more facile. Reliable versions could be transferred by email in PDF format from editors to authors and to the printer. Nevertheless, the editing process for student and professional editors remains painstakingly careful.

Teamwork was essential for the effective transformation of the Journal and its continued success. Teamwork existed within and among the Section, the professional editors, and the student editors. I relied completely on everyone involved in the process. The Section provided the resources necessary for success. The professional editors worked tirelessly and skillfully to solicit, review, accept, and ultimately perform substantive edits on the articles. The students were similarly tireless in their spading, cite-checking, and editing. And teamwork begat close friendships at all levels of the process.

I was blessed to have Amy Morris Hess and Rena C. Seplowitz as our initial Associate Editors: Rena for real property articles and Amy for probate and trust articles. By the time an article had worked its way through the student editing process and the expert edits of Amy and Rena, my job—conducting the final edit—was comparatively the proverbial walk in the park. Critically important was the solicitation and acquisition of law review quality articles. I was equally blessed to have two masterful Acquisitions Editors: Alan J. Robin for real property articles and James R. Wade for probate and trust articles. In 1993, we added two Associate Acquisition Editors: David H. Kremer for real property and Clifton B. Kruse Jr. for probate and trust. Robert M. Wilcox agreed to serve as Managing Editor, which I realized I desperately needed. Fortunately for the Journal and for me, Rob never refuses an opportunity to serve, and his tenure was marked with his usual professional excellence and the lifting of much weight from my shoulders.

Importantly, the Journal could not succeed without the students. From the inception of the student editorial board, the student staff has performed at a consistently high level, ensuring the accuracy and academic quality necessary for a topnotch law journal. I am confident that the students have never let the Section down, and I am certain they have always made me proud, year in and year out. While I was the professional editor-in-chief, the student editors-in-chief were, in order, Mike Brittingham, Rob Moseley, Jeff Kull, and Lorri Shealy. All were outstanding, as were their colleagues on the student staffs, and as all their successor student editors-in-chief and staffs have continued to be.
I was succeeded as professional editor-in-chief by my dear friend and colleague at USC Law, Robert M. Wilcox, who is now the law school’s Dean. Rob was succeeded by our dear friend Amy Hess, a distinguished professor at the University of Tennessee School of Law. Although Amy spent a considerable amount of time visiting us at USC Law, including stints as a visiting professor, the Journal decided to create the position of Resident Editor at the law school to serve as a liaison with the student board. Rob, James R. Burkhard, and I served in that position from time to time, and Amy L. Milligan, a Journal alumnae who is now a legal writing professor at the law school, is the current Resident Editor. Amy Hess was succeeded as editor-in-chief by another dear friend, Robert C. Paul, who was the first practitioner to serve in that position since the introduction of the student editorial board. Bob was succeeded by our dear friend and colleague Jim Burkhard, who served longer than any other editor-in-chief since the Journal’s transformation. (The continued reference to dear friends might seem redundant, but those relationships underscore the camaraderie and family feeling that comes with service on the Journal, on both the student and professional editorial boards.) Jim was succeeded by the current editor, Alexander Arpad, the second practitioner to serve in that capacity, and Al is a welcome member to our Journal family of friends.

I was truly blessed to have a role in the evolution of the Journal, and I look forward with excitement and pride as the Journal continues its tradition of excellence into the future. I welcome the future members of the Journal family. I know they too will embark on an incomparable adventure and share the lifelong experience of being in the Journal family. My enduring gratitude goes to all who have made this possible: the Section members, the professional editors, and the student staff. It has been, and will continue to be, a gift to me and the others fortunate enough to be a part of this wonderful opportunity.
NAVIGATING AN ERA OF CHANGE-
RECOLLECTIONS OF THE MID-1990S

Robert M. Wilcox

At a time when iPhones and Tablets have become ubiquitous, and automobiles are becoming driverless, it is hard to remember that, in 1993, Windows 3.1 was just beginning to replace MS-DOS on desk-top computers with large floppy drives. Most telephones still had corded handsets, but that tether would begin to disappear a year or two later. Our nation had just inaugurated its first president born after the end of World War II. ESPN 2, the Deuce, was brand new and had not yet revolutionized how many Americans would spend their evenings at home. Other than the network news on television, newspapers, weekly magazines, and other print media remained king, but were soon to be replaced by the Internet as the nation’s primary source of information.

Similar transitions were on the horizon in the legal profession. While most practitioners of real estate law still seemed as focused on common-law issues of land ownership as on the latest federal regulations, the savings and loan scandals were beginning to change the landscape of real estate financing, with a growing federal regulatory presence. Articles on loan workouts, shopping center leases, and community associations were soon to be joined in what was then the Real Property, Probate and Trust Journal by articles on elder law, the parent-child relationship in an era of reproductive technology, and the effect of post-mortem conception on laws of inheritance. There also were critiques of a burgeoning array of proposed uniform laws, including a debate involving the Uniform Statutory Rule Against Perpetuities.1

The Journal’s pages also reflected the profession’s growing attention to ethics rules, especially their application to probate and estate planning practices. The Journal published important Section reports discussing the representation of a fiduciary and conflicts in multiple representations of a

1 One of the early considerations of growing popular support for the complete elimination of Chipman Gray’s venerable rule later appeared in the pages of the Journal with the publication of an essay on the subject. See Joel C. Dobris, The Death of the Rule Against Perpetuities, or the RAP Has No Friends – An Essay, 35 REAL PROP. PROB. & TR. J. 601 (2000).
husband and wife. Those reports remain useful guidance today. But nowhere to be seen were discussions of more recent ethical issues related to new technology, such as confidentiality concerns in a world of cloud storage.

It was into this world of transition that I stepped when I became the “modern” Journal’s third professional editor. In producing the Journal, we still worked mostly in paper. We communicated in person, by telephone (corded), by facsimile, and by overnight delivery. The printing process still took weeks, and articles required six to nine months at best to move from the author’s desk to the subscriber’s hand. But the world was beginning to move more quickly than our production system, and soon certain regular features of past Journal volumes would fall victim to the nearly instantaneous communication of recent developments over the Internet. By 1997, for example, the usefulness of the “Significant Decisions” staple of prior volumes had ended, and the case updates disappeared from the pages of the Journal forever.

The style of the Journal required an occasional revisit as well. The bold and glossy red, white, and blue cover of the Journal was deemed to be dated and inconsistent with the new scholarly mission of the publication. The decision to change covers led to a long process of design review, involving all of the Section leadership. At last, a new combination of font and color emerged, and few tears were shed upon the demise of the old cover. But the academic seriousness of the Journal still allowed for some fun. The inside joke was that the new brick-red color chosen for the cover font of the Real Property, Probate and Trust Journal—emphasis for these purposes on real property—had been proposed by the South Carolina editors because it brought to mind the red hue of South Carolina clay.

---


3 If there was any question that the Journal had acquired a more serious academic persona, those doubts dissolved when we published an article containing the word “transmogrification” in its title. See Jerome J. Curtis Jr., The Transmogrification of the American Trust, 31 Real Prop. Prob. & Tr. J. 251 (1996). Perhaps it was appropriate, given that the Journal was also changing its shape and form at that time.

4 Eventually, well after my retirement as Editor, even the name of the section, and thus its Journal, would also change, seemingly reflecting a diminished perception of the importance of probate practice.
Throughout this era of change, however, one constant remained, which was the selection of articles for publication in the Journal that would be relevant and helpful to the practicing lawyer. It was important never to lose sight of the fact that the Journal remained a primary benefit of ABA Section membership, and the transition to a more scholarly treatment of published topics was not intended to include a transition to topics too arcane or theoretical to be of interest and practical value to practitioners. Acquisitions Editors Alan Robin, Jim Wade, David Kremer, Clif Kruse, and Tim Boyce ensured that we stayed true to our mission. Authors like Joel Dobris were stalwarts, always at the ready when the need arose for another good article.

One of my proudest moments came with the 1995 publication of a note written by Nita Ledford, one of our University of South Carolina law students and an associate editor on the student editorial board. For many years afterwards, as I taught wills and trusts using Professor Dukeminier’s leading casebook, I would proudly point out to later South Carolina students the reference made by Professor Dukeminier to Nita’s note.

With the initial transition to a scholarly publication successfully completed, it was time after four years for a new editor to come aboard, who had the knowledge, energy, and vision to solidify the Journal as the premier publication in its fields. Without question, the right person for that job was Professor Amy Morris Hess of the University of Tennessee. Along with Rena Seplowitz, Amy had served as a professional associate editor of the Journal since before my arrival as editor. We had become friends and colleagues while working together editing many issues, and I was pleased when she agreed to succeed me as editor. Having our first editor who was not based in South Carolina since the creation of the student editorial staff, I stayed on a while longer in the new position of resident editor to ensure that there was effective communication between the professional editorial board and the student editors. But neither Amy, nor the students really needed my assistance, as Amy proved to be an

---

5 In truth there was a second constant, which was the incredible secretarial work performed for the Journal by Nancy Shealy for many years at the University of South Carolina. Nancy was not only a fast-working typist, but an excellent student of the Bluebook, who could edit citations on par with the best of any professional editor.


excellent choice, and the South Carolina students maintained the strong work ethic they had always displayed.

For many years, University of South Carolina students who served on the editorial board of the Journal have relayed stories of job interviews with lawyers who have copies of the Journal on their office shelves. The students love the confirmation that their work is important enough to be read by busy lawyers. It is a sentiment that I continue proudly to share as well.
THE JOURNAL ENTERS
THE TWENTY-FIRST CENTURY

Amy Morris Hess

My term as Editor began at an exciting time for the Journal, sometimes more exciting than I had anticipated when I accepted the job and, occasionally, more exciting than I really wanted. As the first Editor after the transition to a scholarly journal who was not a member of the University of South Carolina faculty, my job was to prove that the Journal was so well established that someone who was five hours’ drive away could oversee its daily operations. That part of my job turned out to be easy. After all, I had been an associate editor for eight years so I knew the basic operation. Email was commonplace and sending manuscripts as email attachments was novel but becoming routine. Distance was no longer a substantial obstacle to rapid communication. Other, unforeseen challenges awaited me. But first, perhaps a bit of history will set the stage.

In 1990, the Journal made its formal transition from a magazine similar to the current Probate & Property, also published by the Real Property, Trust & Estate (RPTE) Section of the American Bar Association, to a scholarly journal, similar to law reviews published by most United States law schools. ¹ While both a magazine and a journal are valuable publications and important resources to the members of the RPTE Section, each has a distinct function: the magazine publishes short articles that emphasize recent developments and practical suggestions for busy practitioners and the journal publishes longer, more detailed articles that explore a subject in depth and often contain normative analysis of the current state of the law and suggestions for reform.² Publishing a

journal requires a staff of thirty or forty second- and third-year law
students who are trained to verify every statement in each article,
confirm that the work is original, and edit each article to conform to a
consistent style for publication. It also requires eight or ten professional
editors, experienced lawyers who solicit and select articles for publica-
tion, review and complete the editing process, and supervise the
students. When the RPTE Section decided to change the format of the
Journal from a magazine to a scholarly journal, the Section leaders
decided to house the Journal at a law school so that the student editors
could be selected from the student body of that law school and could be
supervised by faculty members who were experts in the areas of real
property and trust and estate law. The Section leaders selected the
University of South Carolina School of Law.

As the Section and the School of Law discovered, establishing a new
scholarly journal requires a tremendous effort from many people.
Between 1990 and 1997, Professor Alan Medlin and Professor (now
Dean) Robert M. Wilcox, as the first professional Editors of the new,
scholarly Journal, created a selection process for student editors, public-
cized the new journal among law students at the University of South
Carolina to assure that it would attract outstanding students (it was
competing with the well-established South Carolina Law Review for
talent), established a budget for the Journal that included stipends for the
most senior student editors, and implemented procedures for publishing
four issues a year, each comprised of approximately two hundred pages
of meticulously corroborated and edited material. That single sentence
cannot possibly impart the prodigious amount of work that Professors
Medlin and Wilcox did during those first years. I will be eternally grate-
ful for the foundation that they laid for the Journal.

I had a short honeymoon period at the beginning of my tenure as
Editor. The first candidacy program for the new student editors went
smoothly, and we set about the task of publishing our first issue. The
Journal was a bit behind schedule, but, as a seasoned member of a law
faculty, I knew this was normal at the beginning of each new editorial
board’s term and I did not consider it a cause for concern.

My first hint that this job might cause gastric distress came when I
received the bluelines for the first issue that was to be published under my
name as Editor. For readers who are unfamiliar with printers’ terms,
“bluelines” are proofs; they are exact copies of the pages from which the
printing company will print the work. By the time a publication gets to the
blueline stage the manuscript should be perfect; all the errors should have
been caught and corrected at earlier stages of the editing and proof-reading
process. Once I approved the bluelines for my first issue, it was out of my hands and any uncorrected errors would be preserved for posterity in nearly 32,000 copies of the Journal. I was about to put the bluelines in an express mail envelope to return to the printer when something made me check the running heads at the tops of the pages just one last time. And there it was: the running head on every page had the wrong season in the date of publication! A frantic telephone call to our contact at the printer saved us all from eternal embarrassment. I have always been convinced that I had a guardian angel that day, and many other days during my four years as Editor.

My work on the Journal was uneventful for the next several months. We published two issues before the next Council meeting of the Section and they were well received. But we were still a bit behind schedule. At the Publications Committee meeting at the Section Council meeting that year, one of the Section leaders asked if there was any risk in being behind. I was about to say that there was not when a member of the Section staff suggested that our postal permit required us to publish four issues a year. If we were behind, we must have published fewer than four issues in some earlier year. As the daughter of a mathematician, I had to agree with that logic. The staff member warned that if the Postal Service discovered this transgression we might lose our postal permit. And that might mean that we would have to pay more to mail the Journal in the future. A quick check of the postal regulations confirmed that, indeed, this was the case.

Losing our permit clearly was not an option; the only course left was to catch up. We were almost two seasons behind. Somehow, in the next twelve months, we were going to publish six issues instead of four. Amazingly, we did! Under the capable leadership of student editors-in-chief Jim Pike and Brian Arnold, the student editorial boards of 1997-1998 and 1998-1999 managed to speed up the editorial process without sacrificing quality or accuracy. They saved our third class postal permit without tarnishing our hard-won reputation. A couple of years later, during another now-forgotten crisis, Shannon Goff, the 2000-2001 student editor-in-chief, noted that the correct pronunciation for “EIC,” the acronym for editor-in-chief, is “eeeeeeeeeek!!” I have shared this bit of phonetic information with several editors of the Tennessee Law Review and they have agreed.

We always seemed to have a steady stream of excellent articles available to publish in my first two years as Editor. In fact, I worried sometimes that an author might decide not to publish with us because the earliest publication date we could offer was almost a year after the article
was submitted to us—the issues for the intervening seasons already were full. What a delightful problem to have!

By publishing six issues instead of four in a year, however, we reduced the pipeline considerably. Our chief cause for concern changed toward the end my second year as Editor: suddenly, we had to worry about whether we would have enough good articles to fill four issues a year. The professional editorial board members unanimously agreed that we would publish a couple of thin issues before we would sacrifice the quality of the Journal just to fill pages. Luckily, we never had to do that, although we came close several times. Each time we thought we would be forced to publish a thin book rather than publish a less than excellent article, the article we needed arrived just in time.

We had excellent acquisitions editors on the professional editorial board, including Marc Chorney, Birch Douglass, Roger Schwenke, and Bob Paul, who worked tirelessly to find us good work to publish. I do not want to minimize their efforts. We decided, though, that there was an article fairy helping the acquisitions editors. Just when we thought we were short an article, she would see that one appeared. She never failed us while I was Editor. When I was approaching the end of my term, I bought a picture of a fairy as a gift for my successor, former acquisitions editor Bob Paul. I hoped he would hang the picture on the wall of his office so that the article fairy would continue to bring a steady stream of excellent articles during his tenure. Bob told me that she served during his tenure as Editor and he passed the picture on to subsequent Editors.

By the beginning of my third year as Editor, the Journal was publishing on schedule, the selection process for new student editors was running smoothly, and production of the Journal had become a steady routine. But I did not have time to congratulate the professional and student editorial boards for making my job so much easier before new administrative challenges appeared. First, we had to deal with the question of which student editors should be paid and how much their stipend should be. To assure that the most senior student editors made the Journal a top priority, we prohibited them from taking jobs such as clerkships in law firms while they were editors. But that made editing an economic hardship for some students, clearly an undesirable result. To be sure that the Journal did not lose talented students to financial exigency, the Section was willing to pay stipends. But to whom and how much? Section members were entitled to know that their dues were going for a worthwhile purpose. Much time was spent in meetings of the editorial board, the Section Publications Committee, and the Journal Advisory Board trying to determine the answers to these questions. I suspect that,
like curriculum revision at most law schools, the issue of stipends has
been revisited several times in the fourteen years since I completed my
term as Editor and will be revisited periodically as long as the Journal
has a student editorial board. That is not a bad thing.

Another question that we reviewed several times while I was Editor
was who should print the Journal. For many years, we used an outside
printing company. During my tenure as Editor, the outside printer was
Darby Printing in Atlanta. We had a good relationship with Darby and
they did excellent work. But could the ABA Press do a better job for less
cost? The editorial boards, the Section Publications Committee, and the
Journal Advisory Board spent much time on this question, too. Ultimate-
ly, it was decided to give the ABA Press a try. My successors must
decide whether this was a good decision for the Journal. Several years
after leaving the Journal I became an Acquisitions Editor for the RPTE
Section’s Books & Media Committee. In that capacity I have dealt
regularly with several of the ABA Press employees. I have always found
them knowledgeable, efficient, and friendly. I hope that Journal editors
have had the same experience.

By 2001, the Journal was ready for its next challenge: an Editor who
was not a full-time academic. Alan Medlin, Rob Wilcox, and I talked
tenstensively about the pros and cons of having an Editor who was more
used to dealing with clients than with students, for whom writing
scholarly articles was not part of his or her regular routine, and who
might not have as much control over his or her time and schedule as a
full-time academic. In the end, we found someone who possessed all the
pros and none of the cons. Bob Paul had been an Acquisitions Editor for
the Journal for several years, knew the student editors and enjoyed
working with them, wrote well, and had enough energy to overcome time
constraints. I was thrilled when he agreed to succeed me as Editor.
Nothing has happened since then to make me question the choice.

I feel very fortunate to have been Editor of the Journal and also to
have been an associate editor. I know that I am a better writer and a
better teacher of writing because of the experience. I am more efficient.
I am considerably more adept at dealing with diverse audiences. I made
many new friends: authors, editors, Section members, and above all,
University of South Carolina law student editors. I hope that I made a
substantial contribution to improving the Journal. But no matter how
much I contributed, I received more in return.
BOB’S EXCELLENT ADVENTURE:
NINE YEARS BEFORE THE MAST(HEAD)

Robert C. Paul

The Real Property, Trust and Estate Law Journal (Journal) celebrates its fiftieth year of publication in 2015.¹ I first became a Journal Associate Editor in 1997,² and I served as professional Editor-in-Chief (EIC) from 2001 to 2006. Thinking back about that time, I fondly recall many of the exceptional people with whom I worked, many of whom were and still are like a second family to me. We worked well together in good times and otherwise, and as a team we produced the Journal as was expected of us. We had fun, too!

This Article describes some of those good times, starting with how I came to work with the Journal, my early years as an Associate Editor, and ending with my five years as EIC. As the reader will realize, I owe a particular debt of gratitude to the students from the Law School with whom I worked, and to others who contributed to the Journal.

Welcome to my excellent Journal adventure, filled with memories of fine colleagues.

I. BECOMING A PROFESSIONAL EDITOR

I owe the good fortune of first working on the Journal to the invitation extended to me by two Professional Editors,³ Professor Amy Morris

¹ The Journal took its current name in 2008, beginning with the publication of Volume 43. Before that, its name was the Real Property, Probate and Trust Journal. Although the Journal is an official publication of the Real Property, Trust and Estate Law Section (Section) of the American Bar Association (ABA), beginning in 1990 students from the University of South Carolina School of Law (Law School) assumed responsibility for production of the Journal, using the Section’s name, subscriber list, and financial support. See Volume 25 of the Real Property Probate & Trust Journal (Spring 1990) for the first issue published under the new arrangement. This joint sponsorship has worked well over the past twenty-five years and continues in effect.

² The first issue in which my name appears in the Masthead as Associate Editor is Volume 32, beginning on page 379.

³ The Journal would not be the professional publication that it is today without the largely unseen work of those members of the Section who volunteer their time as professional editors (Professional Editors). As practitioners in the real property and trust
Hess and Dean Robert M. Wilcox. In 1997, Professor Hess had recently succeeded Dean Wilcox as EIC, and they were seeking to fill Professor Hess’s former position as Associate Editor. I had been involved in the Section for several years, but reached what I thought was the end of my interest in the Section’s activities. A Section leader, however, asked me to consider helping out the Journal and to visit with Professor Hess and Dean Wilcox for more information.

My only previous law review experience had ended about twenty years earlier, when I graduated from law school. I felt certain that a Journal editor would need to have significant recent experience, perhaps be a law school professor, or at least have recent experience in writing articles for law reviews. I had none of the above, but I did meet Professor Hess and Dean Wilcox during the Section’s Spring 1997 leadership meeting. I went into that meeting expecting nothing, but I walked out of it a slightly dazed, but newly-minted Professional Editor.

That was how it began, and I am thankful that Professor Hess and Dean Wilcox gave me that opportunity, which made possible all of the good memories described in this Article.

Once I began editing articles, I realized that I enjoyed the work. I particularly liked working with Professor Hess. She had enormous patience with my endless questions, and she was an excellent teacher and wise counselor. She encouraged me in my editing, and she helped give me confidence that I was making a positive contribution.

Professor S. Alan Medlin was another individual who helped me immeasurably in those early days. He was the first EIC when the Journal moved to South Carolina in 1990, and he built the Journal’s institutional...
framework. I got to know him immediately, but we developed a close friendship over a late-night beach bonfire during a Section meeting on Amelia Island, Florida. He provided so much of the fun throughout my Journal experiences, and he always had wise advice based on his background with the Journal.

In 2000, Professor Hess asked if I would be interested in taking over as EIC when she stepped down sometime in 2001. I was honored, but demurred because I did not feel qualified for the job, and because the EIC position had always been filled by a professor of law. Professor Hess asked me at least to think about it for a few months. In those months, she gently but persistently kept pushing. She assured me I was up to the challenge. I was also concerned that I would not have enough time to devote to the EIC’s duties, but Professor Hess assured me that she had been able to manage her time, and that I should be equally able to manage mine. Professor Medlin assured me that I would probably never need to devote more than five hours per week to Journal matters.9

Professor Hess ultimately prevailed: in the end the challenge was irresistible to me and five hours per week as a time commitment presented no issue. I agreed to take over, beginning with the Fall 2001 issue.10 I had no idea what exciting times lay ahead!

II. FROM THE FRYING PAN INTO THE FAT AS EDITOR-IN-CHIEF

A. Working With the Law School Students

My first official responsibility was to participate in a workshop for incoming student editors, held in Columbia, South Carolina just before the new school year began. Professor Medlin was my host, and I recall his introducing me to the students in glowing terms; such glowing terms, in fact, that I hardly recognized myself. But the students were wide-eyed,11 and they seemed excited and enthusiastic about their Journal experience-to-come. I had no idea that some of these law students would become close colleagues and good friends.

A few words might be in order to describe what the law students do for the Journal.

---

9 After I became EIC, I found I routinely spent twenty to thirty hours or more per week on Journal matters. I thought perhaps I was just inefficient and took much longer than others to fulfill my responsibilities. Professor Medlin laughed when I mentioned this to him, and cheerfully admitted he had lied about the time commitment.

10 The first issue for which I served as EIC is Volume 36, beginning on page 411.

11 Was it because I was a Yankee in their midst or did Professor Medlin’s glowing introduction of me frighten them?
First-year law school students enter a writing competition at the end of the year to determine who will be invited to join the Journal. Those selected become Spaders (Spaders) for their second year of law school. The Spaders are charged with basic verification work: they must confirm all sources and citations, and they must propose corrections or improvements in grammar, spelling, and style. In order to do so, they must first become highly familiar with the dictates of the Bluebook\textsuperscript{12} and several style guides, including the Journal's own manual and style guide.

At the end of the second year, the best Spaders are selected as student editors (Student Editors) for their third year. One Student Editor, who also has displayed leadership abilities, is chosen to become the Student Editor-in-Chief (Student EIC), the Journal’s student chief executive officer.

All students work long, hard hours on Journal matters, while taking a full load of law school courses (and presumably, living a “normal” life outside of school). The Student EIC, however, spends more time than anyone else because the Student EIC must read and review every article while it is being edited, and then edits the final student-produced product before sending it to the EIC.

Journal work can be tedious and difficult. Each article is examined line by line under an editing microscope. The entire student editing process can run eight weeks or more.

I relied heavily on Professor Medlin and his successor, Professor James R. Burkhard\textsuperscript{13}, my Resident Editors, to be my local “eyes and ears.” Their job was ensuring that the students were doing their jobs, and they always succeeded.

In the first few months, I came to understand that I could rely on law students not only for mechanical matters, such as Bluebook compliance, but also for their suggestions and opinions on substantive issues. The Journal publishes articles on topics with which neither the students nor, in many cases, the EIC is familiar, but I found that the students managed to learn enough about the topics to make informed suggestions for

\textsuperscript{12} See The Bluebook: A Uniform System of Citation (Columbia Law Review Ass’n et al. eds., 19th ed. 2010). First-year law students are taught that the Bluebook is the closest thing in the law to the Bible. Sad are the law students who learn the Bluebook from cover to back as first-year students, only to return to school for their second year to find that the latest edition of the Bluebook has changed everything they had learned the previous year. The author understands that the 20th edition of the Bluebook will be released during the summer of 2015, no doubt much to the dismay of law students everywhere.

\textsuperscript{13} Associate Professor of Law at the Law School.
edits. Given the broad range of topics our articles covered, this was not always easy.

I found collaborating with the law students, and in particular, with my Student EICs made me a better editor. I grew to look forward to the intense, often late-night e-mail “conversations” I held with my Student EICs while I was editing. Their input was always thoughtful and helpful, even if I sometimes did not tell them so.

The students were fortunate to have the entire faculty of the Law School with whom to consult when editing articles on complex topics. The tax professors, in particular, were most helpful in explaining concepts and arcane points of the Tax Code so that the student editing could be done with substantive accuracy in mind.

See infra note 34 for a list of some of the topics. Some articles cited obscure or hard-to-find materials, but the students always managed to overcome whatever difficulty they might have had in locating those sources. For example, one article contained a number of cites to sources available only in Mandarin, but the students were able to obtain appropriate translators to assist them in their editing. See Charles Zhen Qu, The Doctrinal Basis of the Trust Principles in China’s Trust Law, 38 REAL PROP. PROB. & TR. J. 345 (2003).

I worked with six Student EICs, but with only four for an entire year. Those four were Jay Claypoole, who is now a partner in Nelson Mullins Riley & Scarborough LLP in Charleston, South Carolina, and who continues to serve the Journal as a professional Assistant Editor; Michael H. Weaver, now a shareholder in the McNair Law Firm, P.A. in Columbia, South Carolina; Emily R. Gifford, now a shareholder in Richardson Plowden & Robinson P.A. in Columbia, South Carolina; and T. Ryan Langley, now a shareholder in Hodge & Langley in Spartanburg, South Carolina. I am also proud of how well many of the other Student Editors have fared since their law school days. One former Student Editor is today herself a member of the Law School faculty and serves as the Journal’s current Resident Editor. One Associate Editor-in-Chief put her leadership skills to good use after law school in founding the remarkably successful Grey Ghost Bakery, which today sells its goods up and down the East Coast. Other Student Editors have founded their own law firms, are partners in large law firms, and have contributed articles to the Journal. See, e.g., Christopher G. Genovese, Precision Industries v. Qualitech Steel: Easing the Tension Between Sections 363 and 365 of the Bankruptcy Code?, 39 REAL PROP. PROB. & TR. J. 627 (2004).

Today, we would more likely text message one another. E-mail was the new technology at the time, and it made communicating more efficient than writing or telephoning would have been. Newer technology has always been adopted to produce the Journal. The early issues of the Journal were produced on typewriters. When I became an Associate Editor in 1997, edited articles were sent to the Professional Editors, authors, and the printer by overnight courier. Technology changes everything!

One of my Student EICs recalled for me recently those late-night e-mail conversations. They were question-and-answer sessions, primarily, with no time for pleasantries. He told me his wife would leave him to his “work,” knowing he would be at work sometimes until the wee hours of the morning. However, he remembers that we just
All of my Student EICs were excellent, and each had strengths I lack. We worked together with a sense of humor that tided us over when we encountered issues and obstacles. They dealt with my idiosyncrasies without complaint and with good humor. They took on extra tasks willingly and always managed to complete them on time and in good form.

One of the Student EICs’ methods of coping with editing pet peeves was to maintain a “Bob’s Issues” list, which each added to and then passed on to the next Student EIC. This list (which I never saw) apparently included items such as “Bob’s hates.” Mastery of the list by the new Student EIC was apparently considered a good way to impress me quickly.

Starting out with a new Student EIC always made me worry. I was concerned whether the newly-selected Student EIC would be capable of

19 One of my idiosyncrasies was to address the Student EIC in e-mails by a single initial. Michael became “M,” for example. This saved a bit of typing and therefore a bit of time, and I came to be known as “B.” Old habits die hard: twelve and more years later, we still tend to address one another the same way in e-mails—and occasionally even in person.

20 One of those extra tasks was proofreading old issues of the Journal line-by-line to make certain our recreations of each page were correct. In early 2002, we began posting new issues of the Journal online for subscribers’ convenience. See AMERICAN BAR ASSOCIATION http://www.americanbar.org/publications/real_property_trust_and_estate_law_journal_home.html (last visited May 9, 2015) (paywall protected). We determined it would be useful to post previously published issues as well, and we located the original files in their native word processing format for issues to 1991. However, when those older articles were initially converted to PDF format for online posting, we found that for various reasons, we could not print pages exactly as they had been published: some lines and even some pages ended differently from the version originally published. It was critical that our online versions matched the published version. The Student EIC at the time volunteered to have his staff mark each line and page ending for every article in the Journal over a ten-year period; when that was done an administrative assistant manually forced the correct endings before conversion to PDF format. This was tedious work that required some months to complete, but the students completed the assignment without complaints within the timeframe I had requested.

21 One former Student EIC recalls that one item on the list was that I “hated” it if “you mistake ‘presently’ for ‘currently.’” While it is true that I deplore the modern tendency to use the word “presently” to mean “currently” rather than “soon,” perhaps “hate” may be a bit of an overstatement.
doing the job well. The graduating Student EIC had worked out so well that I felt it to be a burden on everyone to start with a new “kid,” who could turn out to be a failure. More than once I asked the Resident Editor if the Law School could arrange for the existing Student EIC to be held over for a fourth year of law school (and a second year as Student EIC). Needless to say, that was never done, and in any event, my fears were always allayed once I got to know the new Student EIC. I never had cause for any further concern because each of them performed admirably.

I enjoyed observing how the Student EICs developed confidence in themselves as leaders as they carried out their responsibilities as Student EIC. Ultimately, this leadership has, I believe contributed to their success as lawyers. They also learned more about leadership when they attended the Section’s annual Fall Leadership Meeting each year and got to meet many of the Section’s leaders, who treated them as leaders in their own right.22

I have come to regard many of the Student Editors with whom I worked as family. I have met parents, girlfriends, boyfriends, husbands, and wives; we have shared good times and bad times, professionally and socially. They have educated me on the finer points of the South,23 and I have enjoyed hosting them on visits to New York City and East Hampton, New York. Most recently I spent a weekend in Asheville, North Carolina, eating good food, drinking good wine, and enjoying the company of two of them.24

22 They also had a good opportunity to mingle with Section leaders and the Professional Editors outside of their Journal responsibilities. One Student EIC fondly recalls being entertained by the wife of a Professional Editor as she recounted stories of how she evaded state troopers while speeding on interstate highways in her Cadillac Fleetwood. The details of the story are hilarious, but they are not appropriate for publication in a scholarly law review.

23 For example, I now know that “sweet tea” is not merely iced tea with some added sugar. I also understand how the “War of Northern Aggression” is translated into Yankee-speak. I have caught myself using the distinctly southern pronoun “y’all” with some regularity.

24 We can laugh at ourselves, too. For example, a number of years ago, the wife of one Student EIC and I were enjoying a drink at a bar in Columbia, South Carolina, when she told me that they had recently decided that since they would not be good parents, they were not going to have any children. All three of us laughed, and we drank to being “bad parents.” Two weeks later the Student EIC called me to let me know, somewhat sheepishly, that his wife was expecting a baby (and had been when we were drinking to being bad parents). Today they are the excellent parents of two little boys (potential future Student Editors) and we never miss a chance to drink to being good parents.
B. Working With Others

The Professional Editors with whom I worked made my job easier, and they were indispensable in producing the *Journal*. I remain grateful for their support and friendship. We together managed the crises that came our way, and we enjoyed getting together both professionally and socially at Section meetings and at *Journal* Banquets. Because some of them were real property lawyers while others were trust and estate lawyers, I had the opportunity to get to know lawyers with whom I might not have dealt with otherwise. Even now, I get together with a number of my Professional Editors, and I look forward to seeing them socially.

The *Journal*’s administrative assistant until she retired in 2005, Nancy Shealy, deserves special mention. She was the resident legal citation expert, having worked with the *Journal* since about 1991. She helped the Student Editors when necessary, and she saved me from embarrassment on more than one occasion, but always with good cheer and grace.

The Section sponsors and supports the *Journal* in many ways, without which, the *Journal* could not exist. While I was EIC I benefitted on many occasions from the wise thoughts and advice Section leaders provided me, and their support of my efforts.

Early in my tenure as EIC, when the contract with the *Journal*’s printer was to expire, the Section helped us to solicit bids for a new contract. Our primary goal was to save money on printing costs, but we

---

25 The Banquet is the annual celebration for the soon-to-be-graduating Student Editors, and it gives the Professional Editors and Section leaders a chance to get to know the incoming Student Editors. On March 20, 2015 the Banquet celebrated the *Journal*’s fifty years of publication at a reception held at the Palmetto Club in Columbia, South Carolina.

26 With some of the Professional Editors, I have enjoyed a weekend at the beach in Charleston, South Carolina; the opening gala for the Picasso exhibit at the Virginia Museum of Fine Arts; several dinners at an elegant rented flat in London; and dinner at the River Café in Brooklyn.

27 The Section pays all the costs of printing and mailing the *Journal*, and it provides funds that are used to pay a stipend to the Student Editors and defray some of the compensation of the *Journal*’s administrative assistant. The Section’s Staff Director, Robin Roy, always gave generously of her time and effort, and she assisted me with good advice about both the Section and the ABA.

also hoped to make the printing process more efficient. ABA Publishing, an arm of the ABA that manages printing for many ABA publications, submitted the lowest bid from their contracted printer, which included a number of items to expedite streamline production. We contracted with ABA Publishing and were pleased with the financial and operational results. ABA Publishing also designed a new cover for the Journal and gave us advice on issues that arose.

The Journal’s authors are the Journal’s most indispensable ingredient. We were fortunate to have a reasonably steady flow of excellent submissions. Occasionally we would approach a submission deadline and worry whether we would have enough to fill an issue, but we always did, even if only at the last minute. Our authors kept us busy, informed, up-to-date, and entertained.

29 The process of sending each issue to the printer was somewhat cumbersome at the time. The EIC would print each page, on special extra-white paper, using a high-resolution laser printer. The pages were then assembled in the precise order to be printed, and mailed to the printer. The printer photographed the pages to produce plates from which the Journal was then printed. This process took time, a great deal of paper, and introduced many possibilities for error, such as missing or transposed pages and printed pages that reproduced smudges and any imperfections on the printed pages.

30 The new printer printed directly from PDF files, which eliminated printing pages on special paper with the special printer and the requirement that the pages be mailed to the printer. This saved several days in the production process, and also practically eliminated concerns about transposed pages and imperfections appearing in the printed job.


32 For example, ABA Publishing helped us to consider questions such as whether we could or should publish photographs, and whether or not to accept paid commercial advertising.

33 Professor Hess’s advice to me when I took over as EIC was that the so-called “Article Fairy” would always provide articles in the nick of time. She was absolutely correct, although who this Article Fairy is I still have no clue. He, she, or it did, however, miraculously provide us with exactly what we needed, and always at the seemingly last minute.

34 I never would have imagined that we might feature an article, for example, on the contemporary Islamic trust, or waqf. See Andrew White, Breathing New Life Into the Contemporary Islamic Waqf: What Reforms can Figh Regarding Awaqf Adopt From the Common Law of Trusts without Violating Shari’ah?, 41 REAL PROP. PROB. & TR. J. 497, n. 2 (2006). Imagine how pleased I was upon encountering some Malayan sea gypsies in Phuket, Thailand in January 2015, to remember that from the Journal I knew that they may be some of the only people in the entire world whose society is not territorially based, and whose sustenance is drawn from the soil. See David A. Thomas, Why the Public Plundering of Private Property Rights is Still a Very Bad Idea, 41 REAL PROP.
Most authors never see any of the behind-the-scenes editing work performed by the various Journal editors. They may not be aware of the degree to which their work is analyzed, nor the care that is taken to ensure that their published work is correct and accurate in all respects. I dealt directly with our authors when I was EIC, and although I occasionally would have a difference of opinion with an author over matters of grammar or style, our authors always seemed pleased with our published version of their work.

III. CONCLUSION

Many people, working together, were responsible for the Journal published from 1997 to 2006. I count myself fortunate to have worked so closely during those years with the law students. I am grateful also to those others who made such important contributions to the Journal.

The Journal experience was a special time for me, and all of the people who contributed to that experience remain vividly in my memory. Many of us, no matter where we go or what we do after the Journal experience, remain close. One of my former Student EICs recently (in an e-mail to me, how else?) elegantly and succinctly summarized the experience as follows:

Ultimately, however, service on the Journal . . . does create a certain fraternity. Regardless of class year, age, etc., when you are introduced to someone and learn that


35 Dennis Belcher, who at the time was the Chair of the Section, authored an article we published. See Belcher & Pomeroy, supra note 28. During a later visit to the Law School, in the course of explaining to him how the editing process worked, the law students showed him the master mark-ups of his article, together with the questions about citations, style, and substance that were resolved by the Student and Professional Editors. Only then did he realize just how much time and effort had been put into ensuring that his article was the best it could be.
they were a professional editor or student editor, spader, etc. you have an instant connection, as well as recognition and appreciation for the time committed, the effort expended, and the product delivered for the benefit of all the Section’s members and the legal profession. You all served in the trenches and came out the other side . . . a better writer, team member, attorney, and person.36

May the Journal continue publication for another fifty years, and may it continue to enrich the lives of all those who work with it!

36 E-mail from Michael Weaver, to author (Mar. 11, 2015, 9:24 am EST) (on file with author).
HOW THE JOURNAL TAUGHT ME TO EDIT GOOD

James R. Burkhard*

When I first started as the editor of the Journal, I felt I was a half-way decent lawyer and at least an adequate teacher, but I was certainly not confident of my editing skills. I have been blessed with a spouse who is a wiz bang English expert (former English teacher and now lawyer), and for most of my tenure I constantly was asking her for advice. After all my years on the Journal, she tells me I am now not bad at the editing work. Maybe the advantage for me is that when I retire soon and decide to write the great American novel, or whatever one does in retirement, I will get it right. The bottom line—doing this work has greatly improved my editing skills, and the better thing is that we see the same with the students who serve for two years on the Journal. They are much better equipped to practice law in regards to their writing.

The students also have the advantage of the famous “Bob’s List” to guide them. This is a now a dog-eared, but well-used, five page set of editing, grammar, and word choice rules developed for journal editing by my predecessor, Bob Paul. I suspect that I have breached a substantial number of these after Bob spent his valuable time creating them. (Maybe there are violations in this little paper!) Luckily, the students—better trained than I—have always paid close attention to Bob’s continuing guidance, and thus, overrode my mistakes.

All of us who have served as an editor have had to deal with authors who have their own writing conventions. Sometimes the process is very simple. The author says “Don’t change any of the split infinitives.” That’s the rule, we follow it, and just move along. However, I vividly remember one article. It seemed to me that there were serious grammar errors. Again, having been a psychology major and not an English major in college (or actually, maybe I majored in fraternity), I first went to two or three style manuals and amazingly they said I was correct. To confirm this I then went to two legal writing professionals who confirmed my diagnosis. The next step was to see if I could sell the needed changes to the author. I failed miserably. I spent hours on the phone with the author. The author, citing to a style manual no one at the University of South Carolina could find, insisted her way was the only way, and there it

---

* Professor Burkhard is currently an Associate Professor of Law at the University of South Carolina School of Law. He was the longest standing Editor of the Real Property, Trust & Estate Law Journal (then Real Property, Probate & Trust Journal) serving from 2006 until 2013.
ended. For those of you who read an article and wondered about some of the phrasing, the black letter rule for the Journal is “the author is always right.”

Over the years the professional editorial board has always been concerned that we have not published enough articles by academics. My memory not being what it should be, I was somewhat surprised in reviewing the issues for the past seven years to note that in almost every issue there is at least one article by an academic, and often it was the centerpiece of the issue. Even better, on a number of occasions, academics who were either on the professional Journal board, or very active in the Section, contributed significant pieces to the Journal. Nancy McLaughlin provided a critical piece on conservation easements, so extensive that we were required publish it in two parts.1 David Thomas’ piece a few years back provided a fascinating historical background to a critical modern day problem,2 and Brant Hellwig (now Dean at Washington & Lee law school) gave the tax folks something to think about.3 All three were, or are, serving as professional editors for the Journal. Other academic Section leaders such as John Orth, Tom Geu, Steve Eagle, and Tom Gallanis have contributed much.4 (I will be whacked over the head if I fail to mention that my fellow professors, Lad Boyle and Alan Medlin, have recently contributed articles to the Journal.)5 Other Section leaders in the “real world” who have


5 See, e.g., S. Alan Medlin, F. Ladson Boyle & Howard M. Zaritsky, 2010: It Was a Very Good Year... To Die—or Was It?, 45 REAL PROP. TR. & EST. L. J. 589 (2010).
contributed articles include Jay Zschau, Deke Clayborn, and Steve Akers.6

Four of the past Professional Editors in Chief have come from the academic world. An important benefit for us has been the involvement with the Section and having contact with the “real world.” The Section activities helped keep us current. For me, it was a particular pleasure and advantage to have Birch Douglass, Roger Schwenke, Marc Chorney, Michele McCue, and Michael Ostermeyer serve on the professional board. They knew what was important to the practicing bar, were extremely helpful in hustling articles on timely topics, and were willing to spend important time performing a final review after the student edits. I think our system of having both student and professional editor reviews helps make the Journal a cut above most of the rest.

One of the things that never ceased to amaze me was the ability of a number of practitioners to provide important articles for the Journal on a regular basis. I never could figure out how they had the time to do it. If it weren’t for folks like Jack Murray7 (who I believe has published at least one article a year), Jonathan Blattmachr8 (along with his friends who assisted on some pieces), and James Spica,9 I am not certain we would have been able to stay on schedule. As an aside, I would note that we bug the busy practitioners regarding their articles. We routinely involve them in the article edit. The author is always given the final say—he or she provides the final edit of the article. By far, the lawyer who did the absolute best job with this is Dick Nenno.10 What a remarkable guy. One of the things being on the editorial board teaches one very quickly, is that there are a lot of brilliant folks out there, a heck of a lot smarter than most of us.

I have often stressed to my students that maybe the most important value of the Journal is that the practitioner-written articles provide

---

direct, current, and practical advice to the practicing bar. The articles provide information that the practitioners can use today in their daily practice. The Journal has an impact on the real world. In the basic property class here at University of South Carolina’s School of Law, my text book cites to many articles published in the Journal. I always point these out, and also note to my first year students that if they are fortunate to be selected for the Journal membership, they will be able to help publish this important information during their second and third school years.

One can’t ignore Manny Halper’s opus on supermarkets.11 We ran his article in six installments.12 I truly realized the importance of the Journal when I received a phone call from a lawyer who told me that he had just moved from New York to California, and in the move had somehow lost part four of Manny’s article. “How can I get a replacement copy?” he asked, noting that although he did not need it immediately, he knew that he would need to keep it handy. Maybe we should encourage the “books” department of the Section to re-publish this as a book!

As best I can recall, due to the great work of the professional editorial board and the many students who have served the Section on the Journal, we did not have any serious problems during the last years. I can only recall two emails from folks who challenged the author’s position by asserting that there might have been an error in the author’s analysis.

In hindsight, we probably made a strategic error a few years back in declining to publish one article. When we read the draft, there were assertions that seemed possibly to be slanderous. Two torts experts read the material and concurred that there might be an issue. At this point we punctured it to Chicago, and ABA counsel decided that unless certain changes were made we should not publish the piece. The author

---

12 See *supra* note 11.
disagreed, and published the article in another well-respected journal. Although I cannot recall all the details, the problematic statements related to certain lender behavior which unfortunately turned out to be very true. We remember the days of “robo signing” and all the rest. In a related vein, Jack Murray in 2008 warned about the behavior of “foreclosure consultants.”

On some occasions, *Journal* articles have predicted or influenced the future, such as articles on estate tax exemption portability and a student piece exploring what happens to “digital assets” when one dies (a topic that has since become much more common). When we published it, I think all of us wondered a little whether an article on leasing property to medicinal cannabis entrepreneurs was appropriate. For those folks in Colorado and some other states, this piece is now right on the money. Our articles on trust decanting and its taxation were probably at the forefront of the topic. I believe that the article on transfer on death deeds influenced a Uniform Act. Susan Gary shepherded a symposium issue on Succession Law in the 21st Century.

Although not an official policy, I think the professional editors have generally stayed away from accepting articles that, for lack of a better term, advocated a political agenda. On the other hand, we still strongly encourage articles that advocate law reform. We did run one article that recognized the value of the federal trails programs, but was reasonably critical of certain aspects of the rails to trails statutes. After the *Kelo*

---

case was decided, apparently every law student in America decided that they needed to write their required student paper on “takings,” and we were inundated with student submissions on this topic.

Although it has driven the students, and Alyne Hallman, our superbly-capable production assistant, crazy, the Journal has been able to produce articles that contain complicated forms and charts. A number of articles have 50-state comparison charts.22 A related major change that all journals have had to deal with is how to identify applicable state statutes correctly. It is not uncommon for an article to cite to the statutes in all fifty states, or at least a goodly portion. Most law schools no longer maintain the bound statutes for all states. Figuring out how to identify the specific state statutes accurately is an evolving challenge. I suspect that with the world of technology, this will not be an issue in the near future.

Also adding to the student headaches, we published at least two articles that involved the rule against perpetuities.23 And to think that the students assumed they were done with all this perpetuities nonsense after they finished first year property!

During my tenure, there were a number of technological changes. Email submissions and transmissions of the articles provided the ability, particularly during the summer, for students to work from different locations. We were forced to shift from publishing in WordPerfect to another program. Many headaches. The new program at the time had the obnoxious bad habit of failing to hyphenate words at the end of a line, or changing margins on us. At the last moment in the article publication process, immediately before we sent everything to the printer, I had the pleasure of reading down the last word on every line on every page on every article. Maybe I was paid extra for this!

In the future, comparative and international law may be areas where we need more emphasis. We did publish one piece by an Israeli scholar who compared aspects of American, civil, and British common law.24

---

We published one article on the Waqf, an Islamic trust, and another on Islamic Real Estate Investment Trusts.

The *Journal*, years ago, was essentially a house-organ for the Section, mostly publishing reports and Section news. We have not completely forgotten our roots, and on at least two occasions published committee reports. The Real Estate Finance Opinion Report in Volume 47 is more than just a report; it is specific guidance for the practicing bar as to how one drafts these opinions. However, we also published a true Section committee report on what law schools are now teaching in regard to real property. Many of us found the results very disturbing. The disappointment for me, and I am certain others, is that since the report things have not changed that much. Maybe with some of the new efforts now being made by the ABA, the report will provide helpful information or some guidance for change.

Readers have commented very favorably when we have run “fun” articles—those that relate to the law but really are more of an entertainment nature. Sherlock Holmes made a new appearance in one article, and Jane Austen was the feature of another.

The students are the best part of our *Journal*. I have been amazed at their resiliency and their ability to “roll with the punches.” We have always had difficult scheduling problems—articles are promised and don’t show up on time, last minute significant changes have to be made since a new case was decided yesterday. Throughout my time, the students have responded perfectly. For example, Kevin Shepherd, who we all know has worked diligently over the years regarding new and proposed governmental regulation of our practices, had a critical article on governmental regulation, which showed how much has changed in the last 25 years.


28 See Joanne Martin, *The Nature of the Property Curriculum in ABA-Approved Schools and Its Place in Real Estate Practice, 44 REAL PROP. TR. & EST. L. J. 385 (2009).*


that needed to be published immediately.\textsuperscript{31} Even though the issue where his article needed to go was nearly completed, the students were able to move things around, change almost all of what had been done, and successfully get the article in on time.

When I signed on for the job I looked forward to having significant interaction with many of the student editors. You learn from the young. Our students have been creative and incredibly conscientious. Although my contact was generally limited to working with the top two or three student editors, getting to work with these folks has been a real benefit. It is a sentiment shared by all of us who served as the editor. I have been pleased that over the years each student board has done a great job. In looking back over the mastheads in the prior issues, and recalling the names of the many students who worked so hard on the \textit{Journal}, it is clear that our alums have done wonderful things since graduation. Many are partners in firms, at least one (and likely many others) holds a significant government position, one owns a cookie company, corporate counsel pops up on some of the lists, three are law professors, there are a fair number of tax attorneys, some have their own firms, at least one is in David Tang’s firm, and some are retired from practice taking care of their families. Many are in South Carolina, but many have left home for other states. My only real disappointment is that since the students run their own organization (no need for us old fogies) I did not get to work directly with more of them.

It was a busy six or seven years; I am glad to be retired, but have only great memories of the work with all the folks.

FROM AUTHOR TO EDITOR

Alexander R. Arpad

My predecessors built the Journal into what it is today, and they have also covered most of the important developments of the last twenty-five years. My duty, as I see it, is to add one or two personal anecdotes and close out these retrospectives by bringing the Journal up to the present day as briefly as possible.

During my second year at Vermont Law School I wrote a Note on whether conservation easements could be interpreted as charitable trusts. A fairy-like creature appeared at my cubicle in the library late one night and suggested I submit my Note to the ABA Real Property Probate & Trust Journal. I did, and the Journal published it.

While in school I was an enthusiastic participant in the activities of the Vermont Law Review. I tried to remain involved with the Vermont Law Review after I graduated and moved to Arizona, but that turned out to be impractical. I recalled that Bob Paul, the Editor of the Journal, had suggested I might consider joining the Journal’s editorial board if I ended up practicing in the areas of real property or estate and trust law. I somehow had turned into a litigator, but I gravitated toward real estate, probate, and trust litigation, and I was a member of the Section. That was apparently sufficient. When I emailed Bob, he put me in touch with his editorial successor, Jim Burkhard. Bob assured me that Jim was a “great guy,” which turned out to be true.

A few weeks later I received my first article for review. It was a good article, it required very little work on my part, and my name appeared on the masthead as an “Assistant Editor” for the Summer 2007
Another task I undertook in my early days as an Assistant Editor was looking into why so few academic writers cited *Journal* articles (including my Note). I spoke with some professors as well as Lexis and Westlaw representatives. The answer turned out to be relatively straightforward: Westlaw and Lexis had not immediately noticed the changes discussed in the preceding pages of this retrospective, and had only recently started listing the *Journal* as a law review rather than a bar newsletter. A recent citation study shows that the *Journal*'s total citation count rose rapidly from four in 2005 to fourteen in 2006, then to thirty-nine in 2007, and then to fifty-one in 2008. Citations have remained comfortably in double digits ever since. The top year (so far) was 2012 with ninety-three total citations, including seventy-six in academic journals and law reviews.

Fast forward to 2012. I never had the slightest suspicion that Jim Burkhard or anyone else was considering me as a potential top-of-the-masthead Editor. The subject was raised at a Spring meeting of the Section leadership. I visited the University of South Carolina campus for the first time in September of 2012, and officially took over as Editor the following Spring.

Many thanks are due to my predecessors, to the recent student editors, to the staff at ABA Publishing, and especially to the folks who do much of what my predecessors apparently did—the *Journal*'s current Resident Editor, Amy Milligan, and the *Journal*'s current Production Assistant, Alyne Hallman. It has been an honor and a pleasure.

---

9 See W. Jake Rea, *Real Prop. Tr. & Est. L. J. Ten Year Citation Survey* (2015) (unpublished study, copy on file with the *Journal*). These are citations that were published in the year noted, not citations to articles that appeared in the year noted.
10 Id.
11 Id.
12 Practice pointer—pay attention at meetings when this sort of thing is being discussed.