

## Keep the change | Marcel Strigberger

By **Marcel Strigberger**

Law360 Canada (January 14, 2022, 2:36 PM EST) -- I'm sure we are all curious what Sir Winston Churchill said about change. This is as fine an hour as any to quote the statesman, who said, "To improve is to change; to be perfect is to change often."

Given the law profession is a bit conservative, I suppose lawyers are not perfect. While in practice for 40-plus years, I was ambivalent about change. I thought we had it all with the arrival of the stickie note.

I think of the commissioner of the United States Patent Office from 1898 to 1901, Charles Holland Duell, who allegedly said, "Everything that can be invented has been invented."

Duell would probably have given the Wright brothers a tough time:

"Ahem. Flight has already been invented. Those other brothers, the Montgolfiers, came up with the hot-air balloon. They successfully sent up a sheep, a duck, and a chicken. What more can your 'invention' supposedly achieve?"

I wouldn't trust this guy to read my palm.

Incidentally Duell eventually became an appeals judge in Washington, D.C. I doubt he rendered many dissents.

Changes usually come with a flip side. Say the telephone. During the 1970s and '80s B.C. (before cellphones), the trial judge would announce a recess. This announcement was more like the sound of a racing starter's pistol. The lawyers would scramble out to the nearby handful of pay phones. We just had to call our offices to see what the next crisis was.

And there were always more lawyers than pay phones. Like musical chairs.

And you needed those precious dimes. My main benefactor of dimes was Millie, the courthouse coffee shop cashier. With a smile she had the coveted dimes in her hand as she saw me approaching. There were some cashiers, like Clarence, who would snap at the lawyers saying, "Am I the Royal Bank?"

Being in Millie's good books was almost as important as landing the right judge. Before court I would diligently check out who was sitting today at the cash register.

Eventually the cellphone arrived. Shangri-la?

The problem now is many of us cannot tear ourselves away from our cellphones. There is this millennial lawyer Sidney, in my neighbourhood who walks his beagle, always chatting on his phone (Sidney, not the beagle). He's completely oblivious to his surroundings, bellowing remarks such as, "50 grand is a good start," or "Never mind what your surveillance shows. You caught my client on a good day."

I'm sure the beagle feels neglected. I haven't seen it, but it would not surprise me if after doing his business on the sidewalk, the hound would whip out a plastic bag and pick up the goods himself.



Marcel Strigberger

And speaking of goods, I think of our Toronto Great Library, built in the 1800s. For decades and into the 1970s-'80s B.C. (before computers) often when a reported case was successfully appealed, some lawyers would anonymously open the volume containing the trial decision and pencil in something like, "Appeal allowed- February 21, 1973." His act of kindness saved other lawyers from relying on this now overturned decision.

I sometimes wondered whether this news dissemination system was open to sabotage. I suppose such saboteurs would be the precursors of today's trolls. Unfortunately trolls have not changed.

I will admit I prefer online case research to the work of these pencil phantoms.

Which brings me to social media. I think it is often overused or misused. I do not get excited when I read of some lawyer's LinkedIn post announcing, "I am listening to a podcast next Monday afternoon from my deputy mayor about our pothole crises in Belleville."

Thanx for telling me. I was going to catch an online webinar on trial tactics but now I have a scheduling conflict.

Which brings me to the zooms. Thanks to COVID-19 Zoom and similar programs have become a communication lifeline for our profession enabling legal education and the justice system to function safely. Though I find it fascinating, as a boomer, I am relieved that I never had to practise law this way.

These days since my retirement from practice I tune in to some events such as exercises or lectures or try to but often get sidelined with technical glitches. Too often I see a notice saying that the host is letting me in, but he doesn't. I then have to scramble and call some 800 tech support number in Atlanta. A voicemail answers telling me I can probably easily solve my issue by going online. Right. I would sooner spend my time in the trenches fixing those potholes in Belleville.

I also would not feel confident whether or not opposing counsel could coach his client a bit during an examination, to make sure he gives the right answer. Of course most of us are above board but then again, with advanced technology, it may not be long before our keyboards have a function such as "control-kick client."

I do consider change inevitable, but no one dose fits all, especially with technology. Do some changes go over the top? Though Churchill says being perfect is to change often, I agree more with the sage comment of Yogi Berra who said, "If the world were perfect, it wouldn't be." Actually I often use this Yogi quote in my writings. That's fine. I see no reasons for this practice to change.

*Marcel Strigberger retired from his Greater Toronto Area litigation practice and continues the more serious business of humorous author and speaker. His just launched book Boomers, Zoomers, and Other Oomers: A Boomer-biased Irreverent Perspective on Aging is now available in paper and e-book versions where books are sold. Visit [www.marcelshumour.com](http://www.marcelshumour.com). Follow him @Marcelshumour.*

*Interested in writing for us? To learn more about how you can add your voice to The Lawyer's Daily, contact Analysis Editor Peter Carter at [peter.carter@lexisnexis.ca](mailto:peter.carter@lexisnexis.ca) or call 647-776-6740.*