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STUDENT EDITING: USING EDUCATION TO MOVE BEYOND STRUGGLE

JAMES LINDGREN*

I

I think we've failed as educators of our law review editors. We've asked them to do a task that they are incompetent to do. And then we've given them essentially no supervision. What I am urging here is that we think of ways to improve student editing, not to end it. I think that if we had an immediate end to student editing, it would be a disaster. We need to raise standards for their behavior—and our behavior—and to give them more oversight.

If there are problems with student editing as it exists—and I think there are—it's not their fault. They didn't create the world they work in; we created it or our predecessors created it. To the extent there's blame, they are not the ones to blame here.

Student editors are grossly unsuited for the jobs they are faced with. Certainly, I was unsuited for my job on the staff of the University of Chicago Law Review. During my first year on the Review, I was appalled by what my fellow students (and I) were doing—selecting faculty articles and extensively rewriting them. At the time, I felt inadequate. I asked my classmate Andy Kull what to read. Kull, who had been an editor in a former life, gave me a list of style books. Af-

* Norman & Edna Freehling Scholar and Professor of Law, Chicago-Kent College of Law. J.D., 1977, University of Chicago; B.A., 1974, Yale University. This is a revised version of my oral presentation as part of the panel on “The Struggle Between Author and Editor Over Control of the Text” at the 1994 AALS Annual Meeting, Proposed Section on Scholarship and Law Reviews. Most of this essay appeared as part of An Author’s Manifesto, 61 U. Chi. L. Rev. 527 (1994), which had been committed for publication before the AALS panel was held. Essentially, An Author's Manifesto covered both prose editing and article selection. This essay reprints much of the discussion of prose editing, largely omits the discussion of article selection, and shifts the emphasis of the argument to highlight our own educational failures as teachers. I decided to include this revised speech in this mini-symposium, not because I think it makes a significant new contribution beyond An Author’s Manifesto (it doesn’t), but rather because it accurately recaptures the context and range of comments at the AALS session, it’s part of the background against which the other authors write, it indirectly responds to some of their arguments, and it’s short.

I particularly appreciate suggestions from Leo Katz, Richard Posner, Wendy Gordon, Jennifer Arlen, Philip Hamburger, Andrew Kull, Dan Polsby, Gary Lawson, Richard Matasar, Anita Bernstein, Jacob Corré, Lloyd Cohen, and Steve Heyman. This paper, like all of my current work, is supported by the Marshall D. Ewell Fund and the Norman & Edna Freehling Scholarship Fund.
ter I read a dozen style books, I was rewarded for my few months of study by being asked to be a sort of roving English prose specialist for the Law Review my third year. In that position, I rewrote law review articles. That’s a crime committed against authors for which I am very sorry. I suspect that I was a lighter editor than many others. But with six or seven hands rewriting, all it takes is one Mr. Thistlebottom to muck up a manuscript.

It’s time for a new approach—one that reduces the individual struggles for the control of the text and reflects our obligation to teach and the students’ willingness to learn. If we can’t turn our professional academic journals into professional academic journals, then we should at least turn them into semi-professional academic journals.

What kinds of problems and abuses arise? Here are a few examples from my experience and that of my friends and acquaintances. All of these happen to involve top law reviews.

1. While editing a symposium, the editors of one journal kept cutting down the length of an article by a pair of contributors from a nonelite law school, claiming that the arguments weren’t worth publishing. Then by some strange process of osmosis, text cut from the pair’s submission began appearing in the manuscript of a famous professor from the editors’ home school. Apparently, the editors were pasting pieces of one manuscript into someone else’s. The pair demanded that their work be published as submitted. The journal refused. The authors pulled their article and published it at a less elite review.

2. In a public meeting an editor-in-chief of a top law review told first-year students at her school that one of the advantages of being on the law review was the power it gave student editors to get back at their own professors.

3. A law journal recently tried to change case citations in a historical article to courts listed in The Bluebook, rather than the courts that actually decided the cases. When the author objected to these changes, he was threatened by an editor who warned that the journal had “a long memory” and that he was the most difficult author they had ever encountered because he wasn’t very receptive to their “suggestions.”

4. One editor on the managing board when I was on Law Review thought that many uses of the word the were errors. Following this bizarre rule of thumb, he took as many the’s out of manuscripts as he could, thus reducing English to a kind of pidgin language.

The bizarre editing quirks mentioned in these examples are, of course, combined with the well-known student footnote fetish and a tendency—not seen in other professional journals—to rewrite manu-
scripts. As Richard Epstein alluded to in his paper\(^1\) and as I have discussed elsewhere,\(^2\) there is a sociolinguistics literature that suggests that this rule-oriented approach to writing is a reflection of linguistic insecurity.\(^3\) The students have greatness thrust upon them; they don’t know what to do; and it’s too late for a sudden education. So they rush to the safety of rules. It’s something to police. It doesn’t matter whether it’s a good rule or a bad rule, just so they have something they can feel mastery over. Too many of them view good writing as merely avoiding a wrong step.\(^4\)

II

So far my discussion has been one-sided. Yet I don’t mean to suggest that professors are just innocent lambs led to the slaughter by ruthless editors. That’s certainly not true. There have been serious wrongs committed by professors. What are they?

The most common complaint against law professor authors is that they miss deadlines. That is certainly the complaint that can most fairly be leveled at me. But this is also one of the most common complaints against student editors. My guess is that whoever holds more or less to deadlines complains about whoever doesn’t. Neither professors nor editors are entitled to the moral high ground on deadlines. Certainly, I’m not.

More serious professorial misconduct occasionally surfaces. In one reported case, there were threats allegedly made against students about recommendations for clerkships and jobs. There have been false claims of acceptances from other law reviews, hoping to induce editors to take an article. There has been plagiarism. But these are fairly rare occurrences.

III

Having said what is bad about student editing, let me briefly suggest what is good. Students, on balance, do learn something. It’s an intense experience; they learn because they have to. They learn less than if they had adequate supervision, but they do learn. Unfortu-

nately, just when they gain a little experience, they move on, and another board of novices takes over.

Another advantage of student editing is that we have many more journals than needed, thus giving us more places to publish. The law schools pick up the tab. Further, because student editors seem to value their time less than faculty editors, student journals allow multiple submissions, which are unethical in most other fields. I view it as a great advantage to allow multiple submissions. If student journals stopped this practice, I think that it would be difficult to operate the journals, considering they publish only twenty or thirty articles a year. To avoid disaster, you would have to couple curbs on submissions with page-length restrictions, for example, maximums of thirty-five or fifty pages. Most professors would list the industriousness of student editors as an additional benefit, but I find this a disadvantage.

IV

What can we do? As faculty members, we must begin to take responsibility for our own reviews. We have to start helping law review editors—indeed, to start teaching them. This includes formally instructing student editors at our own schools about the proper role of editors of scholarly journals. We should encourage a maximum role for faculty in article selection. For some reviews, especially the weak ones, it may be wise to move to a symposium format in which faculty solicit and choose the articles, but students still run most other aspects of the journal.

For reviews that receive manuscripts over the transom, we should encourage blind reads and evaluations, both within the review staff and by faculty consulted as referees. We should encourage the specialization of journals, not because specialization is good in itself, but because there are already too many general law reviews, and specialization breeds editorial competence.

In addition, we should encourage setting page limits on articles, making authors do their own cutting, running editing seminars for student editors, encouraging light prose editing, and increasing faculty help, oversight, and training.

We should also be willing to take on the very substantial work ourselves of starting faculty journals. Faculty journals are far from perfect, but they are almost uniformly better edited than student journals. I wouldn’t fully agree with Richard Epstein that there are no
problems with faculty-edited journals.\(^5\) I have heard more than a few complaints about faculty editing—but nothing like the complaints that I hear about student editing.

Last, we professors must begin to document the problems that we face. Anecdotes are useful, but basing generalizations on them is suspect. Research is necessary.

At least one other field has assessed the influence of using students in scholarly activities. In the survey research field, researchers have studied the effects of using students in conducting survey interviews. They conclude:

> [C]ollege students used as interviewers produce much larger response effects than other interviewers. The average response effect for interviewers under the age of 25 (mainly college students) was nearly three times larger than that for all other interviewers. . . . Other data reported by Sudman and Bradburn indicate that experience is important in reducing response effects; response effects are twice as high for inexperienced as for experienced interviewers. . . . [T]raining and supervision is perhaps more important for . . . [students] than for others. One must resist the temptation to believe that because students are highly motivated and bright, they will be able to cope with the interviewing task without the same training and supervision that is necessary with the more typical interviewer.\(^6\)

Although the distortions and errors introduced by bright, motivated students into law review publishing are harder to measure than the errors introduced into survey research, there is no reason to believe that the relative error rates are any lower in law publishing. Indeed, given the greater propensity of law students to change text and their much lower level of supervision by professionals, it's likely that the relative student error and distortion rates are much higher in law publishing than in survey research. I think it's a fallacy to mistake brightness and effort for competence.

\(V\)

Just as there are good and bad authors, there are good and bad editors. At one time or another in my life, I'm sure I've seen—and been—all four of these characters. My grievance is not with any one person—or with students—it's with a culture and system that distorts the style and content of legal scholarship. Most student editors have no background that would make them suitable for selecting articles,

\(^5\) See Epstein, supra note 1, at 89.

editing prose, or publishing. We then make them do their jobs without our help, training, or supervision. Thus we shouldn’t be surprised that they fail so regularly. What’s surprising is that we’ve done so little to change things at our home institutions.

The net effect of student prose editing is a tedious sameness in prose style, a style reduced to the level of third-year law students. When they step over the line and we don’t tell them, they feed on our weakness and grow stronger. And we abdicate our responsibilities as teachers. As victims of student editing, we shouldn’t remain silent. We have an obligation to the academy and to the search for truth. As educators, we have an obligation to train our students to do better work. To teach, to learn, to publish, to advance knowledge—isn’t that why we’re in this business?