

# Indiana Law Review

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Volume 49

2016

Number 3

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## ARTICLES

### WHOSE ARTICLE IS IT ANYWAY?: STUDENT EDITORS AND LAW REVIEWS

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Strange sounds emanate from a colleague's office. Shouts of "No!" Wails of dismay. I picture my colleague with head in hands or reaching for an ice pack. Two guesses as to the cause. She either is grading exams or reviewing edits made to her article by law review student editors.

Formal criticism of student-run law reviews often focuses on lead article selection.<sup>1</sup> Critics argue that student editors are not ideally placed to assess the substantive quality of articles submitted to them, and that they incline toward the *au courant* at the expense of what might be more substantive but less trendy.<sup>2</sup> Although there is merit to this criticism, my prime concern is not how student editors select the articles they edit but on how they edit the articles they select.<sup>3</sup>

Law professors sometimes joke that student editors use their editing opportunities to avenge every snide comment made in class, every less than clear lecture, and every too-long assignment. Not to mention finals and grades. Silly,

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1. E.g., Alfred L. Brophy, *The Emerging Importance of Law Review Rankings for Law School Rankings, 2003-2007*, 78 U. COLO. L. REV. 35, 35-36 (2007); Jordan H. Leibman & James P. White, *How the Student-Edited Law Journals Make Their Publication Decisions*, 39 J. LEGAL EDUC. 387, 396 n. 39 (1989) [hereinafter *Publication Decisions*]; Jason P. Nance & Dylan J. Steinberg, *The Law Review Article Selection Process: Results from a National Study*, 71 ALB. L. REV. 565, 571 (2008) [hereinafter *Rankings*]; Robert Weisberg, *Some Ways To Think About Law Reviews*, 47 STAN. L. REV. 1147, 1148 (1995). Perhaps the earliest, and certainly one of the most damning, critiques comes from Yale Law Professor Fred Rodell. Fred Rodell, *Goodbye to Law Reviews*, 23 VA. L. REV. 38, 45 (1936).

2. Some student editors agree. John P. Zimmer & Jason P. Luther, *Peer Review as an Aid to Article Selection in Student-Edited Legal Journals*, 60 S.C. L. REV. 959 (2009).

3. This aspect of law reviews has also been criticized, particularly the undue infatuation with Bluebook style and "exhaustively footnoted tomes." *Rankings*, *supra* note 1, at 568-69; Carol Sanger, *Editing*, 82 GEO. L.J. 513 (1993) [hereinafter *Editing*].

of course—student editors do not treat law professors differently from other lead article writers or, if they do, they tend to accord us more deference. Student editors are very good students who take their editing responsibilities seriously and spend untold hours trying to do the best job possible. What they often lack, however, is a good feel for how they should edit, and why. Certainly no one provides them a training manual.

Lead article writers are entitled to deference both to our expertise and also to our style choices. But editors have a role to play. Lead article writers may be too close to an article to assess its clarity and on occasion may even mis-cite an authority or inadequately summarize a legal principle. We also often may be unduly wedded to what we wrote to acknowledge any flaws and have low tolerance for even good editing. This is especially true of law professors, who are not cabined by bottom line clocks and whose scholarship record is a major measure of their professional development.

This Article is an attempt to provide a framework for law student editors regarding the appropriate scope of their editing responsibilities. I also wrote it as catharsis. I expect it to resonate with lead article writers and perhaps offer the solace that comes from shared pain. Although what I say is by nature of criticism, complaint, or even whine about student-run law reviews, I do not advocate for peer-reviewed journals. There is no perfect in this world. The law review system provides a broad and deep forum for legal scholarship. On balance, law reviews serve lead article writers and the legal profession well, especially when compared to peer-reviewed journals and the set of issues they bring.<sup>4</sup>

### I. EDITING

There are waves in fashion, in movie genres and TV shows, and also in the way law student editors edit. A common current thread is the failure to honor a lead article writer's text.<sup>5</sup>

In this respect, it is instructive to consider the debate between Federalists and Anti-Federalists regarding national power and the default mechanism of the U.S. Constitution's necessary and proper clause.<sup>6</sup> Chief Justice Marshall argued that the necessary and proper clause gave Congress the power to do anything appropriate not explicitly prohibited by the Constitution.<sup>7</sup> Thomas Jefferson argued for that the clause permitted exercise of inherent national power additional to that specifically delineated only when impelled by "a necessity

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4. See *infra* notes 32-39 and accompanying text.

5. Editing is a skill, as is communicating with an author. *Managing the Legal Writing of Others*, AM. L. INST., [http://marketing.ali-cle.org/managing-the-legal-writing-of-others-last-chance?utm\\_medium=social&utm\\_source=email](http://marketing.ali-cle.org/managing-the-legal-writing-of-others-last-chance?utm_medium=social&utm_source=email) [https://perma.cc/F6UZ-EPS4] (last visited Mar. 18, 2016). One law review editor suggested that law students be taught how to edit. Nathan H. Saunders, *Student-Edited Law Reviews: Reflections and Responses of an Inmate*, 49 DUKE L.J. 1663, 1684 (2000) [hereinafter *Inmate Responses*].

6. U.S. CONST. art. 1 § 8, cl. 18.

7. *McCulloch v. Maryland*, 17 U.S. 316 (1819).

invincible by any other means.”<sup>8</sup> Jefferson never wrote for a law review,<sup>9</sup> and law reviews and student editors are piddling matters compared to the great national debate over the relationship between federal and state governments. Although Jefferson lost the debate to Marshall, his standard for the exercise of federal power works well as a template for student law review editors. And he said it so very elegantly.

#### *A. Introductions and Topic Sentences: No Summaries Need Apply*

The function of introductions is to summarize the full discussion to follow.<sup>10</sup> Similarly, topic sentences introduce the thematic development of a paragraph. Both are road maps signaling the direction a discussion will take. Road maps enhance comprehension precisely because they are brief and set the stage for what hopefully is a rich textual discussion to follow.<sup>11</sup> Student editors often fail to appreciate this. They persist in requesting amplified textual discussion of summary points,<sup>12</sup> thereby erasing the advantage a road map provides. Not incidentally, what also results either is unneeded repetition of language or variety in phrasing to avoid such repetition. The former increases length to no purpose and can also be tedious for a reader. The latter risks clarity and reader comprehension.<sup>13</sup>

#### *B. Footnote Mania*

I am as fond of footnotes as the next person; fonder than most, actually, but not when they are used without purpose, need, or good sense. Footnotes interrupt

8. *Jefferson's Opinion on the Constitutionality of a National Bank: 1791*, YALE L. SCH., [http://avalon.law.yale.edu/18th\\_century/bank-tj.asp](http://avalon.law.yale.edu/18th_century/bank-tj.asp) [perma.cc/F6SJ-AHE6] (last visited Mar. 11, 2016) [hereinafter *Jefferson's Opinion*].

9. Jefferson had his own issues with editors. E.g., Lewis Lehrman, *Jefferson May Have Drafted the Declaration of Independence but He Wasn't Happy Being Edited*, FOX NEWS (July 2, 2010), <http://www.foxnews.com/opinion/2010/06/30/lewis-lehrman-editing-declaration-independence-jefferson-franklin-congress/> [perma.cc/7BPP-MBES]; Thomas Jefferson, SHMOOP (Nov. 11, 2008), <http://www.shmoop.com/thomas-jefferson/> [perma.cc/W5PN-U3MY].

10. Introductions to sections of an article often summarize main points developed in preceding sections in order to build on salient points. Student editors seek amplification here too. Alternatively, they seek footnotes for every declarative sentence that direct the reader to the article section where full discussion is set forth.

11. E.g., John Luiten et al., *A Meta-Analysis of the Effects of Advance Organizers on Learning and Retention*, 17 AM. EDUC. RES. J. 211-18 (1980); J.D. Bransford & M.K. Johnson, *Consideration of Some Problems of Comprehension*, in VISUAL INFORMATION PROCESSING 383, 400 (William G. Chase ed., 1973).

12. They also seek citations to the full discussion of a point, even if that discussion starts in the next sentence.

13. Using the same word for the same thing enhances comprehension; different words suggest different meanings. John B. Carroll, *Measurement Properties of Subjective Magnitude Estimates of Word Frequency*, 10 J. VERBAL LEARNING & VERBAL BEHAV. 722-69 (1971).

the flow of text and can be distracting. When necessary, a footnote is a cost that must be borne, but only when necessary. It is said that nature abhors a vacuum.<sup>14</sup> From the way they seek footnote support, many law student editors find a vacuum in every unfootnoted sentence. If law student editors had their way, texts would read as phrases separated by hiccoughs—technically known as footnote superscripts—that invade, annoy, and interrupt a reader’s reading.<sup>15</sup>

Tops on my footnote mania hit parade are law student editors who seek citations for the obvious. In an article on college athletics, I wrote, “Student-athletes are talented athletically, but professional athletes in general are more talented than all of them and much more talented than all but a few of them.”<sup>16</sup> The student editor wanted a footnote.

A related form of footnote mania is the request for source support for an author’s opinion. If an expert is not entitled boldly to state an expert opinion, then what’s an expert for?<sup>17</sup> A particularly virulent form of footnote mania involves a student editor who first edits out that part of the text that underscores it is an author’s opinion, thereby making the text read as a statement of fact, and THEN asks for a citation.

Requests for external authority to support that which is in the realm of author expertise either trigger lengthy footnote explanations or they result in a citation to some other lead article writer (or even what the author published before) who said the same thing and said it unfootnoted. The second lead article writer’s claim to authority may be no stronger than the author now being edited. His or her achievement is getting the assertion past some other student editor and into print without a footnote. This is bad enough, but even worse is a citation to an earlier and unfootnoted assertion by the same lead article writer.

There are good reasons for authors to cite to their own article. Citing it as authority for their own assertion is not one of them. If an assertion needs footnote support, then it needs an authority additional to the author. Nor does it help when an author cites to a secondary source whose own authoritative source is the author’s unfootnoted assertion in an earlier article. At best, this version of footnoting is superfluous. At worst it is deceptive, suggesting non-existent breadth of support.<sup>18</sup>

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14. Parmenides said it first. See *Nature Abhors a Vacuum*, HMOLPEDIA, <http://www.eoht.info/page/Nature+abhors+a+vacuum> [perma.cc/UF2X-2632] (last visited Feb. 7, 2016).

15. As with everything else I write in text, there are exceptions. See Richard Craswell, *When Nicknames Were Crowd Sourced: Or, How To Change a Team’s Mascot*, 67 STAN. L. REV. 1221, 1222 (2015) (author thanks law review for agreeing to group footnotes and source material at end of article).

16. Josephine R. Potuto et al., *What’s in a Name? The Collegiate Mark, the Collegiate Model, and the Treatment of Student Athletes*, 92 OR. L. REV. 879, 917 (2014). The student editor also wanted source support for “March Madness is a national story with office bracket pools everywhere.” *Id.* at 941. I use these examples not because they are unusual, but because they are recent.

17. Some student editors “get it.” *Inmate Responses*, *supra* note 5, at 1685-86.

18. See STANDING COMM. ON RESEARCH MISCONDUCT, UNIV. OF COLO. AT BOULDER, REPORT

Another form of student editor footnote mania is the penchant to seek footnotes to every sentence in a general text discussion of a case or article, resulting in a series of “ids” in footnotes, sometimes with no change in page number. These footnotes not only are unnecessary, but they are also unsightly. In print, they eerily resemble animal tracks. Quotations and discussion of specific aspects of a case of course should be footnoted, but not every sentence in a general discussion.

### *C. Making Revisions Just Because They Can*

When student editors make revisions, they substitute either their [comparative] lack of substantive expertise for that of an author’s or their style for the author’s. They seem to believe, wrongly, that it is incumbent on editors to revise text else they fail as editors. The inevitable, equally wrong, corollary: the more edits, the better the editor.

I once painstakingly went through hundreds of law student edits and then painstakingly wrote a lengthy memo explaining why I rejected most of them. I also rewrote several textual edits text to accommodate what prompted a student editor to rewrite, but to say it in my voice. It took upwards of thirty hours. The law review response: “You don’t need to tell us why you rejected our edits. If you don’t like them, just hit reject.” That deference would deserve plaudits if it thwarted the edits in the first place. As it is, it simply highlights why “the canker gnaws.”<sup>19</sup>

When student editors conclude an edit is warranted, they should stand behind that conclusion and at least require a lead article writer to explain. Any edit they immediately concede is one that should not have been made in the first place. In any event, the response to my explanation of rejected edits asked the impossible. Law professors are wired to explain, especially to law students. We want the editing process to be a series of teachable moments.

Examples of editing just because they can:

- (1) Original Text: “The debate roiling.” Revised Text: “The debate boiling.”
- (2) Original Text: “Ties to.” Revised Text: “Connects with.”
- (3) Original Text: “There often are.” Revised Text: “There are often.”
- (4) Original Text: “Equal treatment.” Revised Text: “Equality of treatment.”
- (5) Original Text: “These rules.” Revised Text: “The rules.” NOTE: This edit may have altered meaning or at least impeded comprehension. The preceding

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OF THE INVESTIGATIVE COMMITTEE OF THE STANDING COMMITTEE ON RESEARCH MISCONDUCT AT THE UNIVERSITY OF COLORADO AT BOULDER CONCERNING ALLEGATIONS OF ACADEMIC MISCONDUCT AGAINST PROFESSOR WARD CHURCHILL (May 9, 2006), *available at* <http://www.colorado.edu/philosophy/vstenger/Briefs/Churchill%20Report.pdf> [perma.cc/RNE8-F7AP]. Churchill’s academic misconduct extended to citing generally to lengthy works that did not support his assertions combined with citations to articles written by him under other names.

19. The phrase comes from Captain Hook’s speech, spoken with great relish, in the stage and movie versions of James Barrie’s *Peter Pan*. *Peter Pan Quotes*, IMDB, <http://www.imdb.com/title/tt0054176/quotes> [perma.cc/7C5V-BX2X] (last visited Feb. 21, 2016).

sentences discussed several rules among a body of rules.

(6) Original Text: “No one regulated.” Revised Text: “Nothing regulated.”

NOTE: Things don’t regulate. People and associations do.

Student editors also unknowingly change meaning. Again, a few examples:

(1) Original Text: “Over time there was less interest.” Revised Text: “Over time there was little interest.”

(2) Original Text: “Value.” Revised Text: “Valuation.”

(3) Original Text: “All this money is parent to the perception that . . . .”

Revised Text: “All this money is apparent to the perception that . . . .” NOTE: Student editors often fail to recognize aphorisms or famous quotes and the play on words in which a lead article writer occasionally, perhaps regretfully, indulges.

(4) Original Text: “Not negligible.” Revised Text: “Significant.”

(5) Original Text: “Insulated from.” Revised Text: “Immune to.”

(6) Original Text: “Should.” Revised Text: “Would.”

(7) Original Text: “Were they to attend.” Revised Text: “Where they attend.”

NOTE: Many student editors are unacquainted with the subjunctive form.

(8) Original Text: “Equally, of course.” Revised Text: “Yet, of course.”

The edit-because-they-can phenomenon brings other undesirable consequences. Each edit increases the time a lead article writer spends reviewing a returned draft and, in turn, student editor time in the next go-round. Edits also often eliminate any “music” in the writing. All of us try to write with style; some of us succeed. Revisions may translate text that has cadence and rhythm into text that lands with a thud.<sup>20</sup> Thuds that enhance clarity are justified. Thuds that only thud are just unpleasant noise. In addition, edits sometimes make ungrammatical that which was grammatical. They may also introduce inconsistency, as an edit in one section of an article frequently is not similarly made in other sections of an article.

Punctuation matters. A book that illustrates this well is *Eats, Shoots & Leaves: The Zero Tolerance Approach to Punctuation*.<sup>21</sup> A hungry panda might eat both shoots and leaves. If less hungry and in a hurry, he might be one who eats only shoots, and then leaves (as in exits the premises). He might also be a hungry killer who first eats, next shoots, and then leaves. (Hopefully the police catch him.) It all depends on the commas.

Many lead article writers, and certainly the law professors I know, are card carrying members of the zero tolerance league. The available evidence is that student editors mainly are not. They insert commas between subjects and predicates. They use one comma rather than two (or none) to set off a

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20. Student editors are not alone in exchanging music of text for minimal gain. Compare “The Lord is my shepherd, I shall not want” and “Even though I walk through the valley of the shadow of death,” from the King James edition of the Bible, Psalm 23, with “The Lord is my shepherd, I lack nothing” and “Even though I walk in the darkest valley,” from the New International Modern Translation.

21. LYNNE TRUSS, *EATS, SHOOTS & LEAVES: THE ZERO TOLERANCE APPROACH TO PUNCTUATION* (Gotham Books 2006).

nonrestrictive clause in the body of a sentence. They insert commas when a speaker would not pause and omit them when a speaker would. Few if any know the rule that a semicolon replaces a comma between items when a sentence has a string of commas within items.<sup>22</sup> Their transgressions extend beyond commas, moreover, as they split compound verbs by inserting modifiers and change a tense from future to present in one sentence, but not in the next.

As a colleague describes it,

Law review editors confuse changes made in unthinking obedience to the rules in the Blue Book and whatever style manual they have elevated to holy writ with improvements to an article. In addition, I suspect, although I could be wrong, that many student editors have at best a vague sense of the rules of grammar and would not know what you mean by a split infinitive, a misplaced modifier, or lack of number agreement.<sup>23</sup>

WORD's grammar check is both help and hindrance. It helps because WORD knows more formal rules of grammar than some law students do. It hinders because WORD is not always right and because WORD highlights all failures to adhere to formal grammatical rules, no matter the style reason. It thus provides student editors with an incentive to make changes and apparent legitimacy when they do.

Student editors deplore sentence fragments even when used for emphasis or cadence. They always want active voice even when naming a subject both is unneeded and will lead to a lengthy, perhaps confusing, and superfluous digression because the subject is multi-varied and active voice will require a great deal of extra text to assure substantive accuracy. They never approve of sentences that begin with conjunctions, either from autocratic style disagreement or, more likely, from a misguided notion that formal grammatical rules demand it.<sup>24</sup>

Winston Churchill was an artist with language. He knew the meanings and connotations of words and the strictures of good grammar. He also understood that writing musically was important and that grammatical rules should not be applied invariably. He famously objected when an editor rewrote his text to avoid a sentence that ended in a preposition: "This is the sort of English up with which I will not put."<sup>25</sup>

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22. Admittedly, many lead article writers also do not know this punctuation rule.

23. Email from William H. Lyons, Richard H. Larson Professor of Tax Law, Univ. of Neb. Coll. of Law, to Josephine R. Potuto, Richard H. Larson Professor of Constitutional Law, Univ. of Neb. Coll. of Law (Mar. 16, 2014).

24. Formal grammatical rules do not. See AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 2006).

25. *Churchill on Prepositions*, WASH. ST. U., public.wsu.edu/~brians/errors/churchill.html [https://perma.cc/9AS5-82RJ] (last visited Mar. 11, 2016). According to Professor Geoffrey Pullum, John Dryden is the source for the idea that sentences should not end with prepositions—what Pullum describes as a "myth." Geoffrey Pullum, *Only in the Right Position*,

So, grammatical rules should be followed. Check. Style sometimes permits departure from grammatical rules. Check. Student editors often do not have the same fine grasp of grammatical rules as do lead article writers. Check. Style choices should be made by authors, not editors. Check. Add all that up. The conclusion: student editors should take their lead from Jefferson and change text only when that edit is impelled by “a necessity invincible by any other means.”<sup>26</sup>

*D. They Say Potato, but They Also Say Po-tah-to*

There often are several acceptable choices for, among others, punctuation, capitalization, abbreviations, word choices (“assure” or “ensure”), and references to entities. Many lead article writers go to considerable effort to assure consistency throughout an article. Student editors often undermine it.

A prime cause is that often several student editors work on the same article. Editors focused on separate sections decide, in their wisdom, that they have a better idea of appropriate word choice or how to abbreviate or refer to entities. They then fail to make the change throughout the sections assigned to them. Compounding the problem, the editors of other sections have different better ideas—both from the lead article writer AND from their student editor cohorts.<sup>27</sup> The old spiritual, *Dem Bones*,<sup>28</sup> emphasized melodically that things are connected one to another. Student editors should pay heed.

I once used a lot of numbers in an article. The numbers were small—“one” or “11”; middle range—“11 thousand” or “2014”; and large—“one million” or “101,715.”<sup>29</sup> The student editors rejected my numbering convention. If they had one of their own, they applied it inconsistently. Worse, they applied it unthinkingly. Among the excrescences: “one hundred and one thousand seven hundred and fifteen” and the even more horrendous “\$one million dollars.”

Some lead authors do not mind, or do not notice, inconsistencies introduced through editing. Law professors typically do.

*E. Deadlines as a Movable Feast<sup>30</sup> and Other Times When Lead Article Writers Are the Main Course*

*1. Deadlines That Aren't.*—Student editors accept an article for publication. They have it for months. They then return an edited draft and ask for it back in short order, citing deadline needs. If there is a second round of edits, the same timing inequity occurs. Law students no doubt are busy with classes, class

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CHRON. HIGHER EDUC. (Nov. 20, 2015), <http://chronicle.com/blogs/linguafranca/2015/11/03/only-in-the-right-position/> [<https://perma.cc/7E8C-K9EW>].

26. *Jefferson's Opinion*, *supra* note 8.

27. *Editing*, *supra* note 3, at 523.

28. *Dry Bones (First Version)*, NEGROSPIRITUALS.COM, [http://www.negrospirituall.com/news-song/dry\\_bones.htm](http://www.negrospirituall.com/news-song/dry_bones.htm) [<https://perma.cc/P7TG-9D7A>] (last visited Mar. 11, 2016).

29. Numbers are illustrative of those used in that article.

30. ERNEST HEMINGWAY, *A MOVEABLE FEAST: THE RESTORED EDITION* (Seán Hemingway ed., 2009).



assignments, family, and often work obligations, but lead article writers are busy too. Meeting publication deadlines should be a joint effort. Time is not of the essence if one side dawdles. Processes are not fair if the other side always must take up the slack.

2. *Pete and Repeat*.—Many law reviews take a second substantive run at an article after a lead article writer has reviewed a first set of edits and returns what should be a final approved draft. Instead, a supervising editor then goes to work. That editor revises edits the prior editors made and the lead article writer accepted, edits text the prior editors left untouched, and reintroduces edits the lead article writer already rejected. That editor asks for more footnotes. The process is time consuming, ponderous, inefficient, and exceedingly irritating.

## II. GOOD FOR GOOSE, GOOD FOR GANDER

Law reviews are good for law students.<sup>31</sup> They offer experience in managing an enterprise and acting in concert with peers. They introduce students to a wide array of legal subjects whose exploration goes deeper into discrete questions than does class discussion.<sup>32</sup> Just as writing exposes gaps in a writer's knowledge and forces writers to develop closely their train of thought, argument, organization, and sequencing and development of points, law review editing hones a law student's legal analysis and feel for thematic development and organization.

Law reviews also give students perhaps their first experience at articulating content, meaning, and implications of cases, statutes, and rules with no professorial backstop. The student editor experience may not equal that of a medical resident making independent judgments about patient care. But it is on that continuum.

Editing lead articles teaches students to deal with lead article writers who can be quirky, testy, and even excessively sensitive. That skill set prepares students to interact with difficult clients and also with senior law partners, judges, and others higher on the food chain. And, of course, experience on a law review is a desirable resume credential, especially for students who aspire to work for large national law firms or to teach.

Law reviews also are good for lead article writers as they offer them a forum for their scholarship and a relatively quick publication turnaround. Student law review editors can expose areas where an independent eye has difficulty following textual discussion. As compared to peer-reviewed journals,<sup>33</sup> law

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31. They originated as vehicles to educate students. Joshua D. Baker, *Relics or Relevant?: The Value of the Modern Law Review*, 111 W. VA. L. REV. 919, 923 (2009).

32. They are also described as getting law students to believe that “grueling hours,” “scut work,” and “chronic stress” are ways to measure worth. J.C. Oleson, *You Make Me [Sic]: Confessions of a Sadistic Law Review Editor*, 37 U.C. DAVIS L. REV. 1135, 1140 (2004) [hereinafter *Confessions*].

33. Peer reviewed journals offer advantages, of course. *E.g.*, Charles Q. Socha & H. Andrew Rzepiennik, *All Journal Articles Are Not Created Equal: Guidelines for Evaluating Medical Literature*, 67 DEF. COUNS. J. 61 (2000); Zimmer & Luther, *supra* note 2.

reviews provide more outlets to place articles, publish articles more quickly,<sup>34</sup> and decrease the incidence of favoritism in article selection.<sup>35</sup> They avoid the potential conflicts that may arise when peers review the work of rivals.<sup>36</sup> These include a peer reviewer who rejects an article because its author comes from a different school within a field, because an author espouses theories with which a peer reviewer disagrees,<sup>37</sup> or even because of disagreement with the political or social bent of an author or article.<sup>38</sup> If student editors select articles based on an author's reputation or the school at which an author teaches,<sup>39</sup> so too do peer reviewers.<sup>40</sup>

### III. A MODEST PROPOSAL<sup>41</sup>

In one way at least, it would be convenient if law student edits always changed the meaning of text, altered tone, or betrayed bad grammar. Then lead article writers simply could hit "all-reject" and be done with it. Instead, law students have the audacity to make valuable contributions to our work.

Law student spaders expose errors in text, surface sources that fail to support textual statements, and assure the accuracy of footnoted page references. Student editors identify areas where clarity is needed and pinpoint awkward phrasing. They find grammatical errors neither justified by style nor intended. And, yes, editing is a two-way street. Although most lead article writers write well and

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34. In a peer-reviewed system, articles are submitted to one journal at a time. See, e.g., Richard A. Posner, *The Peer Review Experiment*, 60 S.C. L. REV. 821, 821-22 (2009).

35. E.g., Robert Jacobsen, *Scholars Fault Journals and College Libraries in Survey by Council of Learned Societies*, 42 CHRON. HIGHER EDUC. 1, 1 (Aug. 6, 1986); Douglas Peters & Stephen Ceci, *Peer-Review Practices of Psychological Journals: The Fate of Published Articles Submitted Again*, 5 BEHAV. & BRAIN SCI. 187 (1982) [hereinafter *Peer-Review Practices*]. Favoritism still creeps in, however, as law professors ask colleagues to recommend an article to law reviews at their schools.

36. Even though articles are reviewed anonymously in peer reviewed journals, formal anonymity sometimes is pierced because a field is so small that everyone knows everyone else or because word gets around of an article in progress.

37. E.g., David Horrobin, *The Philosophical Basis of Peer Review and the Suppression of Innovation*, 263 JAMA 1438, 1438 (1990).

38. E.g., Stephen Ceci, Douglas Peters & Jonathan Plotkin, *Human Subjects Review, Personal Values, and the Regulation of Social Science Research*, 40 AM. PSYCHOLOGIST 994, 1001 (1985).

39. E.g., *Publication Decisions*, *supra* note 1, at 387, 396 n.39; *Rankings*, *supra* note 1, at 571.

40. Stephen Cole et al., *Chance and Consensus in Peer Review*, 214 SCI. 881, 885 (1981); Jacobsen, *supra* note 35; *Peer-Review Practices*, *supra* note 35, at 195.

41. The phrase is from Jonathan Swift's *A Modest Proposal for Preventing the Children of Poor People from Being a Burthen to Their Parents or Country, and for Making Them Beneficial to the Publick*. JONATHAN SWIFT, A MODEST PROPOSAL (1729). Swift satirically suggested that the impoverished Irish might sell their children as food for the rich.

clearly, some need an editor's help.

Clearly student editors make valuable contributions to articles. Unfortunately, these contributions sometimes are jewels buried in an editing detritus from which lead article writers must dig out.

Herewith some rules to recalibrate the editor/author relationship:

1. Remember Thomas Jefferson. Student editors should honor a lead article writer's substantive knowledge and style predilections.
2. Remember Winston Churchill. Student editors should consider that a lead article writer who departs from the rigid application of grammatical rules did so purposefully.
3. Mano a Mano. Student editors should make only those edits for which they are able to articulate concrete, more than conclusory, reasons and only when they would be prepared to explain their reasons in person to the lead article writer.
4. Remember "Dem Bones." Student editors assigned to a section of an article should read the entire article and also communicate with editors of other sections before any of the editors begin to edit.
5. It is easy enough these days to communicate and to do so virtually instantaneously. When unsure of the meaning of text, student editors should ask a lead article writer to clarify. To avoid unwanted intrusion on a lead article writer's time, the law review could ask whether the writer prefers to field questions during the editing process or to wait for a full, edited draft. To ameliorate miscommunication or communication on minor issues, questions could be funneled through a senior articles editor. They could also be grouped together and handled in one phone call.
6. Before seeking footnote support for an assertion, student editors should decide three things: that the assertion is one that a lead article writer lacks authority to make, that the source they seek is likely to exist, and that a footnote will advance meaning or provide helpful additional information.
7. One round of edits is enough. Supervising editors who believe additional, or different, revisions are required should make them before returning an edited draft to a lead article writer.<sup>42</sup> Subsequent edits should be to update references or to correct typographical errors.
8. Above all, student editors should keep in mind that the article they are editing was good enough to be accepted for publication in their law review before it was given to them to edit.

#### IV. CONCLUDING THOUGHTS

Referees and umpires are quick to admit that they make bad calls—in the abstract, that is. When it comes to a particular contested call they almost

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42. Some law reviews do this. *Editing*, *supra* note 3, at 523.

invariably say that they were right. Similarly, lead article writers know that a fresh eye brought to a manuscript can pick up unintended errors, enhance overall clarity, and improve style; but we may be little better than referees and umpires when it comes to acknowledging failings in the particular.

My mother's worst curse, which she visited on me frequently: "I just hope that one day you have children of your own and that they do to you what you did to me (and that I am around to witness it!)." The background of many lead article writers, and certainly that of most law professors, includes tenure on a law review. We therefore experience a version of Mother's curse first hand.

In this Article, I bare down on the deficiencies of law student editing. Writing and editing are an interactive process, however. In focusing exclusively on student editors, I omit a discussion of what lead article writers do that drives student editors to the aspirin bottle.<sup>43</sup>

Doubtless lead article writers behave in ways that impede a smooth editing process. Some of us may bristle at criticism, particularly when it comes from students revising our text. We may have kvetched so much over getting just the right turn of phrase and the precise language to make a point that we are too wedded to it to be objective. We may be less than politic when registering complaints. Law professors in particular likely are at the tail end of the bell curve where sit the most vocal and severest critics of law review student editing.

This Article begs a companion piece focused on lead article writer behaviors and what we could do to make a student editor's job easier. It is not mine to write. But I volunteer to edit it.

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43. Articles on law reviews by law review alumni neither have addressed law professor bad behavior nor suggested ways we could help the process. *See generally Confessions*, *supra* note 32; *Inmate Responses*, *supra* note 5.