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Cameron Stracher
New York Law School

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CAMERON STRACHER

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ABOUT THE AUTHOR: Cameron Stracher is a graduate of Harvard Law School, Amherst College, and the Iowa Writer's Workshop. He is the faculty publisher of the *New York Law School Law Review* and co-director of the Program in Law & Journalism. The author would like to thank Professor Stephen Ellmann for his comments and suggestions on an earlier draft of the article, and also appreciates the assistance he received from Anna Smushkovich, Alicia O'Connell, and Usheevii King in tracking down additional source material.

I. INTRODUCTION

Pity the poor law review.[1] Students hate working on it.[2] Faculty hate publishing in it.[3] And the general legal public simply ignores it.[4] Overrun with footnotes,[5] opaque to the point of obscurity, it would seem the law review should wither and die, or at least sink under the weight of its own triviality and irrelevance.

Yet law reviews continue to survive and thrive, even proliferate.[6] Students compete for the opportunity to participate,[7] and faculty, despite their complaints, scramble over each other in their rush to publish in the most prestigious journals.[8] If nothing else, their sheer longevity would seem to give law reviews the last laugh.[9]

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1. I use the term "law review" in this article to describe all student-edited legal journals, except where otherwise noted.

2. *See* Michael O'Donnell, *A Year in the Life of a Law Review Editor,* B.C. L. MAG. (Spring / Summer 2004), *available at* http://www.bc.edu/schools/law/alumni/magazine.html (detailing the perils and pitfalls of law review membership).

3. Professor James Lindgren, for example, has accused law review editors of committing "war crimes against authors." James Lindgren, *An Author's Manifesto,* 61 U. CHI. L. REV. 527, 528 (1994).

4. At least 40 percent of articles published in law reviews are never cited at all. Thomas A. Smith, *The Web of Law* (San Diego Legal Studies Research Paper No. 06-11, 2005) *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=642863.

5. This is an example of over-footnoting. Note that every sentence in this article up to this point has a footnote following the period, which is typical of most law review articles. The record for the most footnotes in an article, at the time of this writing, is 4,824, set by Arnold S. Jacobs. John Doyle, *Ranking Legal Periodicals and Some Other Numeric Uses of the Westlaw and Lexis Periodical Databases,* LEGAL REFERENCE SERVICES Q., no. 2/3, 2004, at 1, 3, *available at* http://law.wlu.edu/library/research/lawrevs/LRSQ/LRSQ.htm. Mr. Jacobs's article was published in this very law review. *See* Arnold S. Jacobs, *An Analysis of Section 16 of the Securities Exchange Act of 1934*, 32 N. Y. L. SCH. L. REV. 209 (1987). Apparently, the author thinks it's something to brag about. *See* http://www.proskauer.com/lawyers_at_proskauer/atty_data/0225 (last visited November 18, 2007).

6. There are over eight hundred legal periodicals edited by students in the United States. *See* Kenneth Lasson, *Scholarship Amok: Excesses in the Pursuit of Truth and Tenure,* 103 HARV. L. REV. 926, 928 (1990).

7. Most schools have a perceived hierarchy of student-edited academic journals, with the "law review" occupying the top rung, and the various specialty journals like the Journal of International Law occupying other rungs. *See* James W. Harper, *Why Student-Run Law Reviews?*, 82 MINN. L. REV. 1261, 1265 (1998) ("A major trend in student-run law reviews is the specialty and narrow-interest journal.").

8. *See generally,* Brian Leiter, *Measuring the Academic Distinction of Law Faculties,* 29 J. LEGAL STUD. 451, 468–75 (2000) (using citation numbers to rank scholarly impact); Law Journals: Submissions and Ranking, http://lawlib.wlu.edu/LJ/index.aspx. (last visited November 18, 2007) (ranking law reviews based on citation frequency, among other criteria).

9. A similar point is made by James Harper in his article *Why Student-Run Law Reviews?* Harper, *supra* note 7, at 1294–95 ("[S]tudent-run law reviews have demonstrated staying power, and even a penchant for growth, in the face of such criticism."). Jonathan Mermin suggests that one of the primary reasons law reviews continue to flourish, despite faculty complaints, is that law review editors provide free labor for authors that would otherwise have to be performed by their research assistants. Jonathan Mermin, *Remaking Law Review,* 56 RUTGERS L. REV. 603, 609 (2004). Clearly, there are strong economic incentives for law schools to continue to publish scholarly journals for which most of the labor is done by unpaid volunteers rather than paid professional editors.

Or, to paraphrase a famous line, law reviews are the worst form of legal scholarship except for the alternatives.[10]

Nevertheless, the complaints about law reviews are real and far from trivial. Although they take many different forms, most of the criticism arises from the unique and peculiar fact that law reviews are run and edited by students.[11] Indeed, law is the only academic discipline in which the vast majority of scholarly journals are published by students.[12] It is certainly difficult to imagine medical students selecting articles for publication in the prestigious *New England Journal of Medicine,* and then editing those articles, making or breaking careers along the way. Yet law students make these decisions every day at the *Harvard Law Review*, the *Yale Law Journal*, and nearly every other law review in the country.

Noted jurist (and prolific author) Richard Posner accuses law reviews of publishing too much non-doctrinal work, which students are ill-suited to select or edit.[13] Others complain about unprofessional attitudes, delays in the publication process, and general editorial incompetence.[14] Professor Christian Day bluntly states: "Law reviews are too important to be left to the editorial caprice of callow law students."[15] Professor James Lindgren, a frequent critic of student-edited law reviews, puts it even more succinctly. According to him, law reviews are "in the hands of incompetents."[16] These criticisms are not new. Indeed, faculty have been criticizing law reviews since at least as long ago as 1936 when Professor

10. *See* Winston Churchill, House of Commons Speech, (November 11, 1947), *in* WALTER JOHN RAYMOND, DICTIONARY OF POLITICS: SELECTED AMERICAN AND FOREIGN POLITICAL AND LEGAL TERMS, 124 (7th ed. 1992) ("[D]emocracy is the worst form of government except for all those others that have been tried . . . .").

11. *See* Harper, *supra* note 7, at 1270 ("Far and away, the most noted facet of student-run law reviews—and the one that allegedly causes all their other quirks—is the fact that students run them."). For a student's critique of law reviews, *see* E. Joshua Rosenkranz, *Law Review's Empire,* 39 HASTINGS L. J. 859 (1988) (arguing that law review is an artificial credential and that its academic and creative value is overstated).

12. Christian C. Day, *The Case for Professionally-Edited Law Reviews,* 33 OHIO N. U. L. REV. 563, 565 (2007). There are a handful of "peer-reviewed" faculty journals, for example, *The Clinical Law Review,* but these are a small minority.

13. Richard A. Posner, *The Future of the Student-Edited Law Review,* 47 STAN. L. REV. 1131, 1136 (1995). Judge Posner believes that faculty-edited journals should be the principal outlet for publishing non-doctrinal scholarship. *Id.*

14. *See, e.g.,* Roger C. Cramton, *"The Most Remarkable Institution": The American Law Review*, 36 J. LEGAL EDUC. 1 (1986) (arguing, among other things, that students lack competence to edit and evaluate submissions); Carl Tobias, *Manuscript Selection Anti-Manifesto*, 80 CORNELL L. REV. 529, 539 (1995) (arguing and concluding, that "no edit is the best edit").

15. Day, *supra* note 12, at 563.

16. Lindgren, *supra* note 3, at 27; *see also,* James Lindgren, *Student Editing: Using Education to Move Beyond Struggle,* 70 CHI.-KENT L. REV. 95 (1994) (arguing that student editors "are grossly unsuited for the jobs they are faced with"); James Lindgren, *Reforming the American Law Review,* 47 STAN. L. REV. 1123 (1995) (identifying three "problems" of student-edited law reviews as editing, article selection, and supervision).

Fred Rodell wrote: "There are two things wrong with almost all legal writing. One is its style. The other is its content."[17]

I come here, however, not to bury law reviews, but to praise them. Indeed, after five years as the faculty "publisher" of the *New York Law School Law Review*, I now believe the law review is an indispensable learning tool for law students—possibly the best they will receive in their legal toolbox. Although many complaints about law reviews have merit, most of the criticism falls short because it misses the point about law review, undervalues the role of non-professional editors, and overstates the merit of the work submitted. The law review's educational role is at least as important as its scholarly function—more important, I will argue here. By focusing too much attention on the failures of the law review as a *publication,* the critics miss its substantial educational utility.

This article seeks to set the record straight. It will proceed in four parts. First, I will give a short history of the law review in Part II. Then, in Part III, I will focus on the criticism leveled against law reviews and respond point by point. Finally, in Part IV, I will describe the law review model at New York Law School and modestly propose that it represents the best of all possible worlds. Part V is a brief conclusion.

II. A (VERY) SHORT HISTORY OF THE LAW REVIEW

The first recorded act of law students publishing legal scholarship was performed by students at Albany Law School in 1875.[18] Prior to that time, professionally-edited legal periodicals, such as the *American Law Journal* (founded 1808),[19] provided the United States legal community with court decisions, news and editorial comments, as well as scholarly articles that explained the law and critiqued judicial decisions.[20] The *Albany Law School Journal* featured short articles, legal news, moot court transcripts, and the latest updates on the law school's clubs.[21]

Criticism of students' efforts began almost immediately. The *Central Law Journal* said about the student publication: "Of course it is not a man's law journal."[22] The *Albany Law School Journal*'s labors were short-lived, and it ceased publishing within the year.[23]

17. Fred Rodell, *Goodbye to Law Reviews,* 23 VA. L. REV. 38, 38 (1936).

18. Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 739, 763–64 (1985).

19. William O. Douglas, *Law Reviews and Full Disclosure,* 40 WASH. L. REV. 227, 227 (1965).

20. Swygert & Bruce, *supra* note 18, at 742; *see also* Michael L. Closen & Robert J. Dzielak, *The History and Influence of The Law Review Institution*, 30 AKRON L. REV. 15, 32 (1996).

21. Closen & Dzielak, *supra* note 20, at 34; *see also* Harper, *supra* note 7, at 1263.

22. Swygert & Bruce, *supra* note 18, at 764.

23. *Id.*

The next student-edited legal journal was the *Columbia Jurist*, begun by students at Columbia Law School.[24] Like the *Albany Law School Journal*, the *Jurist* published news about the law school, articles by "persons of acknowledged merit," and casenotes of legal decisions.[25] In its second year the *Columbia Jurist* spoke out against the civil code drafted by Mr. David Dudley Field, and it was roundly criticized by the professional legal periodicals.[26] The *Columbia Jurist* ceased publication mostly because the student editors could not keep up with publishing a weekly journal.[27]

Despite its short-lived history, the *Jurist* was the inspiration for the *Harvard Law Review*, the first student-edited law review to succeed.[28] The *Harvard Law Review* was formed by eight students who wished to distribute their legal essays to a wider audience.[29] It published Moot Court results and class lectures in order to help the student body.[30] The students also published a "recent cases" section in which they criticized judicial decisions.[31] A major goal of the *Harvard Law Review* was to publish faculty works. To this end, it was supported by its first faculty advisor, Professor James Barr Ames, who published a great number of his own articles in the law review.[32] Because the *Harvard Law Review* devoted a large amount of space to the faculty's works, the prestige of the law school as a scholarly institution grew.[33]

After the success of the *Harvard Law Review*, Columbia, Michigan, Northwestern, the University of Pennsylvania, and Yale founded their own law reviews built on the Harvard model.[34] Although some of the law reviews began as faculty-edited publications, by the 1930s the reviews were all student-run and edited.[35]

Over the years, in addition to the law review, most law schools came to publish a number of specialty journals that focused on a narrow field in the

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24. *Id.* at 766.

25. *Id.* at 767 (quoting 1 COLUMB. JURIST 2 (1885)).

26. *Id.*

27. *Id.* at 768.

28. *See id.* at 768–69.

29. Closen & Dzielak, *supra* note 20, at 35.

30. Swygert & Bruce, *supra* note 18, at 776–77.

31. *Id*. at 777. The authors suggest that the students felt empowered to criticize decisions because of the Socratic method, which had just been introduced as a teaching method at Harvard. *Id.* at 774–76.

32. Closen & Dzielak, *supra* note 20, at 35; Swygert & Bruce, *supra* note 18, at 773.

33. Swygert & Bruce, *supra* note 18, at 779.

34. Closen & Dzielak, *supra* note 20, at 36–37; Harper, *supra* note 7, at 1264; Swygert & Bruce, *supra* note 18, at 782

35. Harper, *supra* note 7, at 1265.

law.[36] At the present time Harvard, for example, has fourteen journals.[37] Although the increase in the number of specialty journals can be viewed as a market response to the increase in the number of lawyers (and, therefore, readers), another explanation is that the increase in the number of journals is not driven by reader demand but by the demands of students.[38] In other words, students value law review participation both as a credential-builder and as a way of gaining legal experience—particularly writing experience—that might otherwise be lacking in a law school's curricula. Some students also desire the communal "team-building" that comes from working on a project with other students.[39] Thus, law schools respond to this demand by increasing the opportunities for students to participate on legal journals.

III. THE CRITICISM OF LAW REVIEWS, AND A RESPONSE

The criticism of law reviews can be grouped into three general categories, all of which arise from their unusual student-run format: (1) students are not competent to select articles, (2) students are not competent to edit articles, and (3) students are not competent to manage a publication.[40] In the following section, I expand upon these points, and then critique them.

A. Selection of Articles

Students are not very bright. Or at least they are not as bright as the brilliant faculty who submit their articles for publication. Thus, how could a student possibly know when he receives the next work of genius or piece of claptrap?[41] Unlike other disciplines, which rely on peer review to separate the wheat from the chaff, students lack the knowledge to make sophisticated evaluations of intelligent arguments, and end up selecting pieces for publication based on other crite-

36. *Id.*; George L. Priest, *Triumphs or Failings of Modern Legal Scholarship and the Conditions of Its Production*, 63 U. COLO. L. REV. 725, 728–29 (1992).

37. *See* Harvard Law School, http://www.law.harvard.edu/students/orgs/publications.php (last visited Nov. 18, 2007). The fourteen journals are: Black Letter Law Journal, Civil Rights-Civil Liberties Law Review, Environmental Law Review, Human Rights Journal, Harvard International Law Journal, Journal of Law & Gender, Harvard Law & Policy Review, Journal of Law and Public Policy, Journal of Law and Technology, Journal on Legislation, Latino Law Review, Harvard Law Review, Negotiation Law Review, Unbound: Harvard Journal of the Legal Left.

38. Harper, *supra* note 7, at 1266; Priest, *supra* note 36, at 728.

39. *See* O'Donnell, *supra* note 2.

40. *See, e.g.*, Lindgren, *supra* note 16 (making all three arguments).

41. According to Professor Bernard Hibbitts, "the concept of law students exercising quality control over legal scholarship borders on the oxymoronic." Bernard J. Hibbitts, *Yesterday Once More: Skeptics, Scribes and the Demise of Law Reviews*, 30 AKRON L. REV. 267, 291 (1996).

ria such as an article's length and number of footnotes,[42] its topic,[43] and the author's school affiliation.[44] Or so the critics say.

There are several things wrong with this argument. For one thing, it assumes that an editor must be an expert in an article's subject in order to determine whether a piece is publishable.[45] This might be the case in the hard sciences in which a publication verifies the accuracy of scientific research through peer review, but it is certainly not the case in law. A law review, when it accepts an article for publication, is not saying: "This is true;" it is merely saying: "We like this." The selection process may seem unfair to authors who think their work is being graded based on its substantive merit when, in fact, articles are accepted or rejected based on students' interest in an author's work.[46] Is there something wrong with this? Obviously, some faculty authors do not like it because it smacks of favoritism, the kind of thing they may have experienced in high school and hoped to avoid by dint of their stellar academic reputations. But if the implicit critique is that good articles cannot find a home because students prefer "sexier" topics, no one has yet to produce any data to substantiate this argument. Even if

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42. *See* Richard A. Posner, *Law Reviews,* 46 WASHBURN L.J. 155, 158 (2006) (arguing that law review editors use the length of an article as a signal of its quality). *But see Harvard Law Review*'s Guidelines for Submitting Manuscripts, http://www.harvardlawreview.org/manuscript.shtml (*Harvard Law Review* policy limiting published articles to 35,000 words except in "extraordinary circumstances") (last visited Nov. 18, 2007).

43. Forty percent of the material published by law reviews is concentrated in five areas of the law: constitutional, criminal procedure, race, administrative, and women and the law. Day, *supra* note 12, at 565, n. 14 (citing William J. Turnier, *Tax (and Lots of Other) Scholars Need Not Apply: The Changing Venue for Scholarship,* 50 J. LEGAL EDUC. 189, 195, Table 2 (2000)). This statistic, however, tells us nothing about the percentage of materials submitted to law reviews in these subject areas and may simply reflect what faculty are writing. *But see* Leah M. Christensen & Julie A. Oseid, *Navigating the Law Review Article Selection Process: An Empirical Study of Those With All the Power—Student Editors*, 59 S.C. L. REV. 465 (forthcoming 2008) (noting that choice of topic was the most important factor for determining publication selection in law reviews), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1002640; Lindgren, *supra* note 3, at 531–32 (arguing that student selection practices reflect their own biases, not faculty writing preferences).

44. Professor Day believes this to be the case, and argues that a professor has a better chance of having his manuscript accepted for publication if he graduated from an elite law school. Day, *supra* note 12, at 577, n.64 ("To establish legitimacy, editors select inferior articles from better schools believing it to be to the benefit of the review."); *see also* Posner, *supra* note 13, at 1133–34 (suggesting that students look to the reputation of the author and the prestige of his school in selecting an article for publication). According to a recent survey, "law review editors, particularly those at high ranked schools, are heavily influenced [in their publication decisions] by author credentials." Christensen & Oseid, *supra* note 43.

45. *See* Natalie Cotton, *The Competence of Students as Editors of Law Reviews: A Response to Judge Posner,* 154 U. PA. L. REV. 951, 958 (2006) (arguing that although students may not be "competent to identify the 'best' scholarship among submissions," they are certainly capable of identifying articles that make valid and logical points).

46. The critique that law reviews accept 40 percent of their articles in only five areas of the law proves only that these are the areas in which students are interested, not that students are incapable of making substantive decisions on the merits of an article. *See* Day, *supra* note 12, at 565 n.14. It is also entirely plausible that faculty choose to write more often in these five specific areas of the law.

some good articles are not valued as highly by students because the articles are on less desirable topics, there is simply no proof that such articles are not being published somewhere.[47]

While it may be true that some student editors will miss the subtlety of any particular author's argument and reject it, given the large number of law reviews now being published, it is hard to imagine an article that is not entirely incompetent not finding a home.[48] Once published (and available, as well, on Social Science Research Network ("SSRN") and often on the author's own blog or webpage), the article is more likely to rise or fall, sink or swim, based on its own merit. This is truer now than it ever has been as a result of online research tools and the information revolution. Westlaw, Lexis, Findlaw, and Google make content king.[49] A few clicks, and researchers can retrieve multiple articles on a desired subject without regard to pedigree. Scholars such as Ann Althouse, Eugene Volokh, Bernard Hibbitts, and Larry Solum, to name a few, are arguably more renown for their online publications than for their print publications, and I suspect that their online work, in turn, drives traffic to their published articles. Academics need no longer wait for the latest issue of the *Harvard Law Review* to see what is new, hot, and brilliant; rather, the blogosphere, list servers, SSRN, and other websites spread the word far more quickly and democratically than the printed law review ever could.[50] While a prestigious journal can still serve a "certification" function,[51] increasingly the "prestige" of an article is measured by how many scholars link to it, visit it, and comment upon it.[52] Put another way,

47. Natalie Cotton correctly observes that determining the "quality" of an article is, itself, an inherently subjective activity. Cotton, *supra* note 45, at 958. And, even when students "'err' in article selection," Cotton writes, "this can allow controversial ideas to surface for discussion, allowing alternative perspectives and methodologies to be analyzed and critiqued. This is of great benefit to legal scholarship." *Id.* at 958–59.

48. Indeed, most law reviews, with the exception of those at the elite schools, go begging for articles, and this explains why some have switched to all-symposia format.

49. *See* Paul Horwitz, *'Evaluate Me!': Conflicted Thoughts on Gatekeeping in Legal Scholarship's New Age*, 39 CONN. L. REV. (forthcoming 2008), *available at* http://ssrn.com/abstract=982401 ("[Westlaw and LEXIS] provide a means for *any* legal scholarship that is collected by those databases to turn up in the same search that also turns up articles from the *Harvard Law Review* and other elite journals.").

50. This is exactly the theory behind "wikis." The collective evaluation of the community counts for much more than the word of one single authority. *See* Anne Jamison, *Collaboration v. Imitation: Authorship and the Law*, 18 CARDOZO STUD. LAW & LIT. 199, 221 (2006) (discussing the "'inherently democratic' methods" in "modern digital systems" that "embrace the fluidity and equality of the numerous creative roles allowed in an open collaborative project" (citing BO LEUF AND WARD CUNNINGHAM, THE WIKI WAY: QUICK COLLABORATION ON THE WEB 17 (Addison Wesley 2001))); *see also* Beth Simone Noveck, "*Peer to Patent": Collective Intelligence, Open Review, and Patent Reform,* 20 HARV. J.L. & TECH. 123 (2006) (proposing Wikipedia-like structure for patent review).

51. Lawrence B. Solum, *Download It While It's Hot: Open Access and Legal Scholarship*, 10 LEWIS & CLARK L. REV. 841, 861 (2006).

52. Hibbitts, *supra* note 41, at 300.

it matters less which law review publishes any particular article because most articles will make their way into the (digital) marketplace where they will compete for supremacy on a more egalitarian basis.[53]

The argument that students are not qualified to select articles for publication really boils down to a complaint about *where* a particular article has been selected for publication. Of course, it is ironic that the same faculty who argue that students are not competent to run law reviews or judge substantive content get exercised at being rejected by the *Harvard Law Review*.[54] If students do not know what they're talking about, then no one should care where he gets published—being published should be enough. It may certainly feel bad to be rejected by a specific publication when you believe you deserve to be published in it, but this says everything about pride and ego, and offers little in the way of substantive critique. Ego aside, why should faculty care where they are published, as long as they are published?

The only credible critique of the current system of article selection is that some faculty members' careers may be harmed if their articles are published in a "lower-ranked" law review than the articles otherwise objectively might be.[55] This is unfortunate, if true.[56] But even if some faculty shirk their responsibility

53. *See* Jack M. Balkin, *Online Legal Scholarship: The Medium and the Message*, 116 YALE L.J. POCKET PART 23, 25 (2006) (arguing that the Internet gives authors a way to "route around the traditional gatekeepers of legal scholarship"); Dan Hunter, *Open Access to Infinite Content (Or "In Praise of Law Reviews")*, 10 LEWIS & CLARK L. REV. 761, 768 (2006) (arguing that the Internet has weakened the power of the elite to control content); Solum, *supra* note 51, at 857, 865 (arguing that online publication has eliminated old barriers that kept "elites" in their place). *But see* Brian Leiter, *Why Blogs Are Bad for Legal Scholarship*, 116 YALE L. J. POCKET PART 53, 57 (2006) ("[Blogs] have been bad for legal scholarship, leading to increased visibility for mediocre scholars and half-baked ideas and to a dumbing down of standards and judgments.").

54. Natalie Cotton argues that the "hierarchy of prestige *among authors* maintained by law reviews is proof" that law students are competent to judge substantive content. Cotton, *supra* note 45, at 955 (emphasis added). In other words, she argues, the *Harvard Law Review* really does deserve its reputation as publishing the highest quality scholarship, and this is validated by the faculty who desire to publish in it. *Id.* Of course, it is possible that the *Harvard Law Review*'s prestige is entirely "borrowed" from the law school—i.e., scholars wish to publish in the *Harvard Law Review* because of the reputation of the law school, not the law review. *But see* Alfred Brophy, *The Emerging Importance of Law Review Rankings for Law School Rankings, 2003–07*, 78 U. COLO. L. REV. 35 (2007) (arguing that law review rankings should be used because they more accurately reflect the schools' perceived reputation).

55. *See* Gregory Scott Crespi, *Ranking the Environmental Law, Natural Resources Law, and Land Use Planning Journals: A Survey of Expert Opinion*, 23 WM. & MARY ENVTL. L. & POL'Y REV. 273, 273 (1998) (observing that some members of promotion and tenure committees "rely heavily upon the reputation of the publishing journals as a proxy for the quality of [a colleague's] work"); Russell Korobkin, *Ranking Journals: Some Thoughts on Theory and Methodology*, 26 FLA. ST. U. L. REV. 851, 858 (1999) (speculating that an author may need to publish more articles in less prestigious journals in order to gain the same career benefit as publishing fewer articles in more prestigious journals).

56. *See* Christensen & Oseid, *supra* note 43 ("[S]uccess in the legal academy may be tied to what, where and how often [new law professors] publish in the appropriate law journal."). *But see* Hibbitts, *supra* note 41, at 299–300 ("[A]t many American law schools, scholarship is judged not according to where an article is placed, but rather according to how good evaluators (especially external evaluators) deem it to be.").

to independently evaluate their colleagues' scholarship and instead rely on the evaluations of their own student-run law reviews (another irony, to be sure), this is a criticism of the tenure and promotion process, not law reviews. Either students are not adequate judges of the quality of scholarship and their publication decisions should not matter in the tenure process, or they are adequate judges and do a great (and inexpensive) service to the legal academy. Faculty cannot have it both ways.[57]

Thus, the complaints about student-run law reviews' failure to select the "best" articles for publication—even if true—is really a smokescreen for faculty whose egos are bruised by giving students the power to "grade" them.

B. Editing of Articles

The editing argument is similar to the selection argument: Students are dumb. How can they edit what they don't understand? As Judge Posner puts it, in most cases, law review editors "are rarely competent to offer substantive improvements, or catch analytic errors, or notice oversights in research . . . ."[58] Posner seems to implicitly accept that students can make a limited contribution when faculty write on strictly doctrinal topics, but laments the fact that much legal scholarship is now non-doctrinal (i.e., "law and . . ."), which students are not qualified to edit.[59] Other critics find the whole notion of student editors "oxymoronic."[60] Quite simply, professors are shocked—shocked!—that students would take a red pen to their work.[61]

These critiques ignore the fact that many of the greatest editors were not as talented as the writers they edited. Was Maxwell Perkins as good a writer as F. Scott Fitzgerald? If not, then what gave him the right to edit Fitzgerald's prose?[62] It also ignores the fact that a writer should be able to make his argu-

57. While I agree with the writers who have asserted that the quality of articles in a law review can boost a law school's reputation, see, for example, Randy E. Barnett, *Beyond the Moot Law Review: A Short Story with a Happy Ending,* 70 CHI.-KENT L. REV. 123, 128 (1994); Harper, *supra* note 7, at 1276, this means only that students should care about publishing the "best" articles they can. It says absolutely nothing about whether faculty should care about where they are published.

58. Posner *supra* note 13, at 1134.

59. *See id.* Judge Edwards has similarly argued that most articles published in law reviews are of little practical use. *See* Harry T. Edwards, *The Growing Disjunction Between Legal Education and The Legal Profession*, 91 MICH. L. REV. 34, 46 (1992).

60. Hibbitts, *supra* note 41, at 291 ("[T]he concept of law students exercising quality control over legal scholarship borders on the oxymoronic."); *see also* Roger C. Cramton, *Pro and Con: Faculty-Edited Law Reviews:* 16 SYLLABUS 1, 3 (Sept. 1985) ("The claim that student editors can recognize whether scholarly articles make an original contribution is a pretense that should no longer be tolerated.").

61. Some professors are simply bad sports and do not want to be edited, believing that their crystalline prose could not be made any more brilliant, sparkling, or erudite. They insist their work be printed verbatim, or they will take their words and go home. *See* Carol Sanger, *Editing*, 82 GEO. L. J. 513, 524 (1993).

62. *See generally* EDITOR TO AUTHOR: THE LETTERS OF MAXWELL E. PERKINS (John Hall Wheelock, ed., 1950).

ment to more than just a handful of experts in the field. If an intelligent law student cannot understand a professor's argument, then that argument is no good.[63] This is truer in law than it might be in the hard sciences where only a handful of people may need to understand an argument to carry the research to its next level.[64] Legal scholarship, which is meant to influence a broader audience of judges, legislators, practitioners, and other academics, has no such excuse.[65]

And it is not as if the articles submitted to law reviews are such brilliant, polished gems. Many lack clear arguments, logical structure, and of course, footnotes.[66] Contrary to what some contend, law reviews do not have the luxury of rejecting imperfect pieces.[67] Given the proliferation of law reviews, it is a seller's market. Few law reviews, except at the elite schools, can pick and choose among manuscripts. The rest are left to suffer (and be damned) for their efforts. In addition, the symposium format, which has become more prevalent, essentially encourages the submission of half-formed pieces that then require a great deal of editing—usually with great resistance from the writer who sees his contribution as essentially completed once the symposium is over.

Many critics of the law review also ignore the context in which legal scholarship is written and published: the law school. They think of the law review primarily as a vehicle for faculty to publish their scholarship and carry on a high-

63. *See* Harper, *supra* note 7, at 1279–82 (arguing that by insisting on accessible scholarship, student-edited law reviews can publish articles that are clear, simple, and to the point which, in turn, can improve legal institutions and make the law, itself, better).

64. As Harper argues: "Law is not like other academic pursuits or the sciences, where reification and new levels of abstraction are correctly regarded as improvements." *Id.* at 1280; *see also* Paul D. Carrington, *The Dangers of the Graduate School Model,* 36 J. LEGAL EDUC. 11, 12 (1986) ("[A law school] faculty that has lost interest in most of the work of its alumni has also lost interest in its students, and forfeited the legitimacy of its claim for their support.").

65. *See, e.g.,* Harper, *supra* note 7, at 1277 (arguing that law reviews are "a first resource for students, practitioners, legislators, judges, and some ordinary citizens who want to learn or refresh their knowledge of law and legal doctrine"); Posner, *supra* note 13, at 1137–38 ("Law reviews are indispensable resources for judges and their clerks, whether or not the judge's opinion actually cites the article or student note that proved helpful in the preparation of the opinion. Law reviews are indispensable resources for practitioners and law professors as well, and again this is true whether or not they are read when they first appear."); Myron T. Steele, *Sarbanes-Oxley: The Delaware Perspective,* 52 N.Y.L. SCH. L. REV. (forthcoming 2008) ("[Judges] read law review articles and we listen to academics.").

66. *See* The Articles Editors, *A Response,* 61 U. CHI. L. REV. 553, 556 (1994) ("Some exciting thinkers are, unfortunately, not equally capable writers"); Christensen & Oseid, *supra* note 43, at 202 (noting that editors at law reviews were most surprised by the poor quality of articles submitted and that, in fact, "[t]his was by far the most common comment made by respondents from the Top 15 law schools, with four out of five editors expressing surprise about the poor quality of articles"); Harper, *supra* note 7, at 1275 (acknowledging "horror stories" about faculty submissions).

67. *See* Lindgren, *supra* note 3, at 539 (arguing that students should "[d]o very little to most manuscripts other than check the footnotes and conform them and the typesetting to the house style" and if the text needs more than a few style edits, the manuscript should be rejected); Sanger, *supra* note 61, at 526 (arguing that if student editors do not like the quality of submissions, they "must simply stop accepting unacceptable, bad, and incomplete work").

level discussion with other academics.[68] But this is wrong. First, a law review's audience is wider than only other academics.[69] Second, I would argue, the law review's primary purpose is *educational.* That is to say, the true purpose of the law review is to teach students to write, edit, and think critically.[70] This is why academic credit is often given for law review, why notes and comments can satisfy school writing requirements, and why graduation awards are given for law review membership. In these ways, and others, educators have acknowledged that law review is part of the academic enterprise of teaching students to be lawyers.[71] Thus, faculty complaints about student-run law reviews miss the point: the law review is a teaching institution. In essence, faculty have traded free research assistance and the cost of professional editors for additional teaching responsibilities.[72] Unless and until faculty replace the law review with peer-edited journals, they have committed themselves to using the law review to teach students to be better lawyers. The struggles with editors over substance; the battles over footnotes; this is all part of the teaching experience. Complaining about it is like complaining about grading exams: misplaced and not a little bit petulant. There is no doubt that faculty *could* replace the current system with entirely peer-edited journals, but unless and until we do so, working with students on law reviews is first and foremost part of our teaching responsibilities.[73]

A more serious argument made by critics is that law review editors are obsessed with form to the detriment of substance, fixated by footnotes and the *Bluebook*.[74] I have to admit there is some truth to these arguments. I find that students are often fanatics about the *Bluebook*, perhaps because it is easier to

68. *See, e.g.,* Sanger, *supra* note 61. The view that academics are the primary audience for law reviews is relatively recent. In the beginning, of course, law reviews were aimed at judges and practicing attorneys. Posner, *supra* note 42, at 156.

69. *See supra* text accompanying note 65.

70. Some academics acknowledge this aspect of law reviews. *See, e.g.,* Lasson, *supra* note 6, at 931–32. Others, however, question the educational value of law review in its entirety. *See, e.g.,* Rosenkranz, *supra* note 11. None, however, that I am aware of, consider education to be the primary purpose of the law review, which is odd given its intricate weaving into the law school experience.

71. In this respect, law review is like moot court or other "extra-curricular" law school activities that also serve a teaching purpose. Interestingly, however, the call to "reform" moot court is not heard as loudly, if at all.

72. These teaching responsibilities are usually to students at other law schools, which makes law review one of the few instances of true academic cross-pollination. *Cf.* Sanger, *supra* note 61, at 527 (calling for collective action to address problems with law reviews).

73. Others have also argued that working with one's peers is the most valuable form of education. *See* John T. Noonan, Jr., *Law Reviews,* 47 STAN. L. REV. 1117, 1118 (1995) (arguing that law reviews provide the best environment for engaging in "intellectual combat").

74. Posner, *supra* note 13, at 1134 ("[I]nexperienced editors, preoccupied with citation forms and other rule-bound approaches to editing, abet the worst tendencies of legal and academic writing."). Judge Abner Mikva has famously said, "[i]f footnotes were a rational form of communication, Darwinian selection would have resulted in the eyes being set vertically rather than on an inefficient horizontal plane." Abner J. Mikva, *Goodbye to Footnotes,* 56 U. COLO. L. REV. 647, 648 (1985).

focus on rules when editing is much more amorphous.[75] Much simpler to tell Professor X that the *Bluebook* requires a pin cite than to tell that same professor why his argument is not convincing.[76] Most law students are intimidated by professors, and the *Bluebook* gives them a domain in which they can be the experts.[77]

But *Bluebook*-itis and its cousin, footnote-itis have a deeper purpose, one rarely acknowledged by the critics of law reviews. Lawyers are nothing if not precise—some might even say anal-retentive. The obsession with following the rules of the *Bluebook* and footnoting every factual assertion and legal conclusion instills a drive for perfection in law students. It is no accident that law firms consider the law review a meaningful credential. Besides telling law firms that students have had some writing and editing experience, it tells them that these are students who have been taught not to rest until they get it perfect, who are relentless in their quest for exactitude. The law review is perhaps the only institution in the entire law school that teaches this kind of attention to detail. Final exams, with their emphasis on speed, sloppy handwriting, and sentence fragments do not. Moot court may offer some of the law review advantages, but it places more emphasis on advocacy and oral skills than on precision and perfection. Moot court is about winning; law review is about getting it right. The quest for exactitude is, I would argue, the most important skill a lawyer can have. Law review is where this skill is most sharply honed.

Footnote-itis also serves another important purpose. It teaches students the importance of documentation, a critical skill in legal practice. Critics of law reviews argue that there is no need to document obvious points.[78] This is wrong. First of all, there is no such thing as an "obvious" point; one man's obviousness is another man's obscurity. No litigator would ever submit a legal brief to a court where every "obvious" point did not include a citation, and to teach our students otherwise is simply irresponsible. While this practice may be acceptable in other disciplines, law is different. The establishment of "prior art" is essential to the

75. *See* Lindgren, *supra* note 3, at 531 ("[A] rule-oriented approach to writing is a reflection of linguistic insecurity.") (citing Mary Vaiana Taylor, *The Folklore of Usage,* 35 COLLEGE ENG. 756, 761–68 (1974); WILLIAM LABOV, THE SOCIAL STRATIFICATION OF ENGLISH IN NEW YORK CITY, 474–78 (1966)).

76. *See* Richard A. Epstein, *Faculty-Edited Law Journals,* 70 CHI.-KENT L. REV. 87, 88 (1994) ("Frequently, student editors feel insecure about the subject matter of an article. Since they cannot comment intelligently about the structure of the argument, the possible lines of counterattack, and the interpretation given to primary sources, they often overdose in making sure that books are cited in large and small caps, all the while missing major substantive difficulties that could, and should, be corrected.").

77. Most faculty are happy to let students rule this realm because, except for former law review editors-in-chiefs, few professors actually know the *Bluebook*. *See* Day, *supra* note 12, at 578 ("[Editors' proper role is to] tweak the footnotes and have them conform to the *Bluebook* and the review's particular style . . . .").

78. Or, as Professor Sanger puts it, "there are some things of which we can sensibly just take notice." Sanger, *supra* note 61, at 521; *see also* Rodell, *supra* note 17, at 41 (criticizing law reviews' assumption that "[e]very legal writer is presumed to be a liar until he proves himself otherwise with a flock of footnotes").

practice of law and should be reflected in our legal scholarship.[79] It is only because faculty view the law review as a vehicle for their own scholarship that they often argue students do not need to be taught the importance of providing support for every single legal and factual assertion in their written product. Many faculty, who have not spent time in private practice, may not even be aware that judges and practitioners look dimly on the practice of arguing without citation to the record or case law.[80] But clearly it does a disservice to students to leave them with the impression that "obvious" points need no support.

In addition, requiring footnotes for "obvious" points provides a valuable service for other readers. Again, it is only because academics believe they are having a closed conversation with other academics through the medium of the law review that professors can argue footnotes should not be required for every legal and factual assertion. But law review articles are used for many purposes, not the least of which is as a research source for practitioners, judges, and their clerks, who may not be familiar with the literature on any given topic.[81] As someone who has used law review articles for exactly such a purpose, I can attest that it is incredibly convenient to be able to glance down at the footnotes to find background information and citations for even "obvious" points of law. In fact, the digital age has made the need for background information more necessary, not less. Precisely because an online search can turn up *any* article, not just the seminal article on a topic, every article should have sufficient background information to direct a reader to the most important primary sources.

Finally, footnotes force authors to carefully consider each argument and the support for it.[82] Recently, our law review received an article from an author who summarized and criticized another professor's scholarship, but without providing footnotes to the professor's work. When we asked the author to provide footnotes, he bristled at our request and suggested that we suffered from a bad case of footnote-itis. When we read the scholarship of the professor ourselves, however, we realized the author had completely misstated the professor's argument. It was no wonder the author wouldn't footnote his assertions—he couldn't,

79. *See* Clyde W. Summers, *American Labor Law Scholarship—Some Comments*, 23 COMP. LAB. L. & POL'Y J. 801, 801 (2002) ("Much of legal scholarship in the United States is responsive to the particular character of American law that relies heavily on precedent. The common law system is, of course, a system built on an accretion of precedents. The law is built on countless court decisions; if it grows at all, it is not so much by design, but by accretion. This preoccupation with precedent also prevails even where the area is governed by a statute.").

80. *See* HERBERT MONTE LEVY, HOW TO HANDLE AN APPEAL § 6:5.2 (4th ed. 2004) (advising brief writers to include citations to the record for every factual statement, even when not required by the court, to help the court find support for statements and to help attorneys check them later).

81. *See supra* text accompanying note 65. Professor Day, a critic of footnote-itis, admits that practitioners and students often mine footnotes for material to begin research, locate cases, and improve their understanding of various topics. Day, *supra* note 12, at 577, n.71.

82. Lasson, *supra* note 6, at 939 (acknowledging that footnotes can force a writer to justify his positions).

because there was no support for them! If this author had taken a minute to try to footnote a single point, instead of relying on either his memory or the work of his research assistant, he would have realized the error of his ways, and his article would have been much improved (and we might have published it).

Another time an author submitted an article to us that summarized a court decision over the length of ten manuscript pages. When we asked her for pin-cite footnotes, she resisted, telling us that because she had provided an initial citation for the case, readers would know how to find it. Only when we started cite-checking her assertions did we discover that she had not summarized the case; she had copied it verbatim! (In some quarters, this is called plagiarism). Confronted with this fact, the author sheepishly admitted that perhaps the entire "summary" should be one large indented quote, properly footnoted.[83]

These are just two examples in which the benefits of footnote-itis outweigh the costs to both writer and editor. Yes, footnotes are awkward; they take additional time to research and write and there are instances in which student editors insist upon them unthinkingly, but footnotes remain the essential ingredient of legal scholarship. If an author wishes to write without footnotes, he should write an essay, an op-ed, or a blog, but he should not expect his work to be published in a law review.[84]

C. Management

The legal academy is an unruly place, as anyone who has ever attended a law school faculty meeting knows. The fact that many professors—who often turn in grades late, resist faculty governance, can rarely be gathered in one place at the same time, disappear from their offices for the entire summer, take weeks to return e-mail, and never answer the telephone—can criticize the management style of law reviews is a juicy irony, worthy of a Kingsley Amis novel.[85] Nevertheless, few see the humor. Law reviews are criticized for their selection process,[86] their failure of institutional memory and history,[87] their lack of timely

83. Ultimately, we convinced her to paraphrase, and helped her draft a true summary of the decision.

84. *See* Ann Althouse, *Let the Law Journal Be the Law Journal and the Blog Be the Blog*, 116 YALE L.J. POCKET PART 8 (2006), *available at* http://www.thepocketpart.org/2006/09/06/althouse.html (arguing that law reviews, "distinguished by depth of scholarship and dedication to detailed and accurate support and citation, occupy a unique niche within the legal profession," and calling for the preservation of the law review in its traditional form).

85. *See generally* KINGSLEY AMIS, LUCKY JIM (The Viking Press 1953).

86. *See, e.g.,* Rosenkranz, *supra* note 11, at 892–98.

87. *See, e.g.,* Day, *supra* note 12, at 573–74 (among other things, Professor Day argues that the constant turnover of staff means editors never acquire expertise before they depart).

publication,[88] and their inability to discipline and adequately mentor their members.[89]

There is little doubt that a selection process for law review based entirely on grades, as many are currently constituted, is flawed. Law school grades do not always reflect a student's innate intellectual capacity, nor do they necessarily reflect a student's research skills or legal reasoning.[90] But the argument against using grades to select law review members is the same argument against using grades to evaluate students generally; i.e., grades are an imperfect measure of the very thing we are training our students to do. If there is something wrong with the grading system, faculty should fix the system first. It is wrong to blame the law review for an imperfect selection process that results from an imperfect evaluation process in the first place.

Similarly, I can count on one hand the number of papers that have been submitted to our law review in a timely manner.[91] The list of excuses by untimely authors is legion.[92] Professors can also be rude, non-communicative, supercilious, and simply AWOL. Until faculty are prepared to lead by example—meeting deadlines, behaving cordially, responding to inquiries, governing the unruly—we are in no position to criticize students for their management style. Indeed, in my conversations with faculty who have published in peer-reviewed journals, they have not found the publication process to be any less disorganized or untimely. Perhaps it is in the nature of academia that we will never win a prize for efficiency.

Discipline and mentoring can also be a problem when students manage themselves but again, in my experience, faculty should not cast the first stones. Law school faculty are not renowned for their mentoring—of either students or their own colleagues.[93] Law school exams are the very model of un-mentored feedback. Students routinely complain that faculty have little time to spend with them; for example, it can be difficult to find professors willing to supervise stu-

88. See Bernard J. Hibbitts, *Last Writes? Reassessing the Law Review in the Age of Cyberspace*, 71 N.Y.U. L. REV. 615, 643–44 (1996).

89. *See* Day, *supra* note 12, at 575.

90. *See id.* at 571.

91. This paper, for example, as I write this, is now more than sixty days later than promised.

92. *See* Harper, *supra* note 7, at 1288 (listing Top Ten Excuses Used by Authors This Year [for late submission]).

93. *See* Richard A. Matasar, *The Ten Commandments of Faculty Development*, 33 U. TOL. L. REV. 665, 668 (2000) ("[A]t some institutions, faculty members see their colleagues as enemies: the success of a colleague is a diminishment of one's prospects. With such a view, some schools have the ethos: 'better to avoid, than help, your colleague.'"); *see also* Philip C. Kissam, *Conferring with Students*, 65 UMKC L. REV. 917, 919 (1997) ("[T]he structure of American law schools is not conducive to long-term mentoring relationships for many or even any students . . . .").

dent writing projects.[94] Given that faculty do not always serve as good role models, is it any surprise students follow our lead?

Many criticisms of student-managed law reviews, however, have merit. It is difficult to imagine any other publication replacing its *entire* editorial and production staff every year. But that is what happens at law reviews throughout the country: One class graduates and another class replaces it. Often, this occurs right before students disappear for exams, which means the transition period is truncated and training is often neglected. New editorial boards either forget what came before, or reinvent their editorial processes. This can lead to confusion, delays, and foul-ups as the editorial structure must be re-invented or re-imagined every fall. Often, a piece that may have initially been edited by one student will end up with another, which can lead to inconsistencies in both substantive and technical editing. Students then disappear for most of the summer, and the process of shutting down and then starting up again with an entirely new staff usually wreaks havoc with publication schedules. In the crush to get issues to the printer, mentoring, training, and even good editing can fall by the wayside. Professor Day puts it most succinctly:

> [E]ven at the best law reviews, you are buying a pig in a poke. The high turnover rate means the staff has a very steep learning curve and never gains the requisite experience or expertise to perform their jobs effectively. This high turnover rate shortchanges students from developing editing expertise. Knowledge is rarely passed on to the next editorial staff. Even at the best of reviews, editors are too busy putting out the next book to be effective teachers and editors.[95]

In addition, it is true that few students know how to delegate, how to discipline, how to lead, how to inspire, and all the other qualities that make a good manager. Unlike the "real" publishing world, students do not rise in the ranks because of their successes on other journals; thus, they never have the opportunity to gain or learn from their experiences. In short, their stint on the law review is often poor, occasionally nasty and brutish, and always short.[96] There is room for improvement.

IV. THE NEW YORK LAW SCHOOL LAW REVIEW MODEL

Beginning in 2002, the faculty of New York Law School implemented a number of changes to the *New York Law School Law Review*, essentially creat-

94. Of course there are many faculty who are extremely generous with their time, and committed to teaching and mentoring. In my experience, however, there are also many who would prefer simply not to be bothered by students (or by their colleagues).

95. Day, *supra* note 12, at 574 (citation omitted).

96. With apologies to Thomas Hobbes. *See* THOMAS HOBBES, LEVIATHAN 65 (Prometheus Books 1988) (1651).

ing what Professor Day has since termed the "Professionally-Edited Journal."[97] Although our law review is still edited by students, the editing is supervised by a faculty "publisher," who also teaches classes on writing/editing for law review members, and supervises student writing.

The changes began with the decision to merge New York Law School's three existing law journals—the *Journal of Human Rights*, the *International Law Journal*, and the *Law Review*—into one single law review. The following year, the members of the three journals, who represented the top 25 percent of the class by GPA, all became law review members. In addition, beginning in academic year 2003–2004, only the top 15 percent of the students were selected to become new law review members. This transition coincided with the creation of the "Harlan Scholars Program," in which members of the law review became affiliated with one of the law school's academic centers.[98] As "Harlan Scholars," the students have an opportunity to gain depth and substantive expertise on a particular area of the law with close supervision of faculty within that academic center.[99] A small percentage of students were also selected for law review based solely on a writing competition, while another handful were selected in their third year based solely on their grades. These students were not part of the Harlan program, although they were law review members.

Simultaneously, the law review, following the model of Chicago-Kent, switched to a mostly symposium format.[100] Under the direction of the various centers, each center was tasked with sponsoring a symposium, and the papers presented at that symposium would be published in a future issue of the *New York Law School Law Review*. The first published symposium was sponsored by the Center for Professional Values and Practice on Criminal Defense in the Age of Terrorism, and featured contributions from Professor Alan Dershowitz and the attorneys who represented accused terrorist Jose Padilla, among others.[101] Since then, the *Law Review* has published twelve symposium issues and four issues based entirely on submissions. Sponsoring a symposium has turned out to be more time-consuming for the centers than anticipated, however, and the law review has begun reaching out to other faculty, even looking outside the law school for symposia.[102]

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97. *See* Day, *supra* note 12, at 584, n.104.

98. *See* Overview http://www.nyls.edu/pages/2134.asp (describing the John Marshall Harlan Scholars Program) (last visited Nov. 19, 2007).

99. See *id.*

100. *See* Lindgren, *supra* note 3, at 536 (describing symposium format at Chicago-Kent).

101. *See Symposium*, 48 N.Y.L. SCH. L. REV. 1 (2003–2004).

102. For example, the *Law Review* published a collection of papers presented at the Federal Courts section panel at the 2005 AALS convention, thanks to the efforts of Professor Edward Purcell, who was chairman of the section at that time. *See* Symposium, *From Warren to Rehnquist and Beyond: Federalism as Theory, Doctrine, Practice, and Instrument*, 50 N.Y.L. SCH. L. REV. 615 (2005–2006). The *Law Review* also published a symposium organized by Professor Russell Weaver of the University of Louis-

Finally, the law school hired me as a full-time faculty "publisher" in 2002. As the publisher, I teach a required class for all law review members called "Legal Scholarship" that meets for one hundred minutes a week in the fall semester. The class is not graded, but students must pass the class to get credit for law review.[103] In the class, we read various forms of legal scholarship, discuss the purposes and goals of "scholarship," study how to properly use citations and the *Bluebook*, and learn how to write a case comment and a note. The class culminates with the writing of a case comment that is supervised by student case comment editors, and ultimately approved by me. Case comment editors also recommend the best case comments for publication, and I review those recommendations and approve (or disapprove) them with input from the editor-in-chief. In general, I agree with 90 percent of the students' decisions regarding "passable" case comments and publishable case comments. In the spring, those students who decide to write notes (a requirement for editorial board ("E board") participation, but not mandatory for others), go through a similar process, with their notes supervised by students and a faculty advisor from their academic center. Students make publication recommendations, and again I approve (or disapprove) them with input from the faculty advisors and the editor-in-chief. Students who do not "pass" their case comments or notes must work directly with me, revising their work until it is "passable."

I am also involved in every other aspect of the law review—from training and supervising new members and editors, to making sure equipment and technology are working, to preparing the law review budget, to overseeing the banquet and other social events, to warning and disciplining members and editors, to helping students edit articles, case comments, and notes for publication, to preparing and grading the "write-on" competition problem, to paying the bills. I have a faculty assistant whose title is "publications manager," and who acts as an office manager and also maintains our website, and I have a part-time colleague whose title is "associate publisher," and who helps me teach students how to edit articles, case comments, and notes. Nothing substantive leaves the law review and goes to an outside author—no emails, no edits, no correspondence —without approval from either the associate publisher or myself. Over the years, we have compiled a pretty good database of standard introductory emails and edit letters that we use as templates when corresponding with authors.

When a new E board is selected, I spend the weekend interviewing candidates with a student selection committee, and then sit with them behind closed

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ville. *See* Symposium, *International and Comparative Perspectives on Defamation, Free Speech, and Privacy*, 50 N.Y.L. SCH. L. REV. 1–302 (2005–2006)

103. At New York Law School, students receive two credits during their first year on law review as "members," and then can receive four credits during their second year on law review if they are on the "editorial board" ("E board"), one credit if they are "senior editors," or zero credits if they are "associate editors." Editorial board members also receive scholarships ranging from five hundred dollars to ten thousand dollars, depending on position.

doors until we reach a unanimous decision on every candidate.[104] I work on the transition with the outgoing Eboard and help train incoming Eboard members in the spring and over the summer. Over the years, I have proposed various modifications to the law review structure to the faculty (and students), including new editorial positions, the elimination of other editorial positions, and academic credit allocation. For example, based on my recommendation we now have four "executive editors" in charge of a single issue each (subject to the oversight of the editor-in-chief), whereas we used to have a "supervising editor" and five "executive center editors." Similarly, we eliminated academic credits for third year "associate editors," but added a position called "senior editor," for which students receive one academic credit.

Although many students initially objected to my presence—seeing me as the heavy-hand of faculty interference—it is now my sense that I am welcomed.[105] Indeed, I view myself as the students' advocate, and often step in on their side in disputes with outside authors or our own faculty, particularly when the disagreement is over substantive edits to an article. I have lobbied for (and received) new computers and new furniture for the law review offices, and I am always willing to fund a pizza dinner when students are working late to proof an issue for publication. Finally, because I have an institutional memory, I have begun to create a network of law review alumni who have returned to the school for both social events and to share their experiences with others. In building these bridges, I hope to improve our students' educational and professional success.

Although I am not a tenured member of the faculty, I share most of the same rights and privileges as my colleagues. I attend faculty meetings, sit on two faculty committees, and participate voluntarily in scholarship lunches and junior faculty colloquia. (I do not vote for appointments, however, although I am involved in interviewing candidates). As I mentioned, I have a faculty assistant, and full access to all other faculty "perks," like the faculty dining room, free coffee, and other things without which life would not be worth living. I believe my salary is commensurate with other faculty at my level, and I receive full benefits including a generous 401k plan. In short, the law school has devoted substantial financial resources to the law review—not only by hiring me, a full time faculty assistant, and a part-time associate publisher—but by redesigning the cover and inside of our book, paying for social events, giving scholarships for law review membership, and purchasing new equipment to make students' learning experiences better, fuller, and more convenient.

104. This is not as painful as it sounds, and I have been surprised by how cordial and professional our discussions are, and how we really can reach consensus on each and every position.

105. One clear example of this is that students used to ask editor-in-chief candidates during the interview process what the candidate thought the proper role of the faculty was in overseeing the law review. In the last two years, no one has asked that question.

Although I don't purport to speak for the entire faculty, it is my sense that the decision to merge the law journals and to hire a full-time faculty publisher arose because of many of the common complaints I have identified in this article. It is also my sense that by doing so we have solved some, but not all, of these problems. Faculty, for example, still complain about being edited. In part, the symposium format has worsened this problem because the pieces we receive, in general, are not as polished as the ones we might receive through the mail. In addition, we spend a great deal of time trying to coax authors to send us the pieces they have promised. As a result, we still have an antagonistic relationship with some of our authors—more antagonistic, perhaps, than before because of the need for more editing. We also continue to have problems supervising and training our editors because of the odd nature of the law review structure that requires our most experienced editors to leave just as they become comfortable with their jobs. Finally, to the extent *Bluebook*-itis and footnote-itis are diseases, we still suffer from them.

There is no doubt in my mind, however, that we have improved the process for both students and faculty. Students receive better instruction and guidance on both writing and editing. They learn how to work with, for, and supervise others—an invaluable lesson for legal practice. They have an advocate in their relations with faculty and outside authors, and they reap the benefits in ways large and small—from winning arguments on substantive points of law to getting flat screen monitors for their computers.

Faculty also gain in the process, though they may not always feel like they do. For one thing, as I have stated above, many submissions to law reviews are substantively flawed, particularly when they are submitted in connection with a symposium. As someone who has personally edited more than two hundred pieces for publication with students, I have found most student comments to be dead-on accurate. They do not always articulate their concerns with the precision that comes with more experience, but they know when something does not make sense or is not written convincingly. They are, in short, the ideal editors for authors who are trying to convey important points to a broad audience. More authors should welcome the substantive feedback that students are competent to provide.

In addition, law review augments the teaching function performed by law school professors. Rather than seeing law review editors as a burden to be overcome, beaten down, or ignored, faculty should welcome the additional educational opportunities provided by one-on-one editing with students. It not only improves students' writing and thinking, but gives faculty the opportunity to train and develop new lawyers.

Finally, the law school as a whole profits because the students we train go out into the world better educated, and better trained in the skills they will need to practice law. Their expertise reflects positively on the school and on our

faculty. In addition, by publishing better quality articles, that are better edited, the reputation of both the law review and the law school will improve.

V. CONCLUSION

Although some have challenged the educational benefit of the law review experience,[106] I am convinced that participation on law review remains the best training for a wide variety of legal jobs that require precision, analytic rigor, excellent writing and editing skills, and a perfectionist's work ethic. Though faculty may not enjoy the multiple rounds of editing, the nitpicking over *Bluebook* rules and footnotes, and the lengthy process of proof review, the entire publication process teaches students to care about their work, to fight to get it right, to work well with others, to manage their time, to pull an all-nighter when they need to, and to take pride in their finished product. Faculty who just see the law review as a place to print their articles are missing the larger picture. Law review is part of the legal educational experience, with valuable lessons to be learned by everyone involved in the process—even authors. Rather than wresting control from students, we should be working with them to improve upon a storied institution.

106. *See, e.g.*, Rosenkranz, *supra* note 11.