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On Lawyers and Copy Editors

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BOOK NOTICE

ON LAWYERS AND COPY EDITORS

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DREYER'S ENGLISH: AN UTTERLY CORRECT GUIDE TO CLARITY AND STYLE. By *Benjamin Dreyer*. New York: Random House. 2019. Pp. xviii, 278. $25.

"I have nothing against rules" (p. 6)—a counterintuitive qualifier in an ostensibly prescriptive book on stylistic minutiae, grammar, commas, usage, and spelling. Nevertheless, Benjamin Dreyer[1] begins the second chapter of *Dreyer's English: An Utterly Correct Guide to Clarity and Style* this way, and, indeed, the book is less about rules for proper writing than about reducing clarity barriers. In that sense, it reflects modern notions of good writing in the law.

Dreyer's English is a conversational book that, like Mary Norris's 2015 account *Between You & Me*,[2] positions itself somewhere between a memoir and a writing guide. Like Norris, Dreyer frames his advice through his professional experience. Norris and Dreyer are both insightful, funny, and a little irreverent. Each make thoughtful and practical prescriptions. Each take a folksy, jargon-averse approach. And each tackle largely the same subject matter—editorial philosophy, grammar, punctuation, usage, and so on.

Yet the books contrast markedly in structure and style: *Between You & Me* is a collection of chapters that could have been essays from the pages of *The New Yorker*, each chapter centered thematically on a specific editing-related topic but still presented as its own story. Norris, conspiratorial and open, spends considerable time recounting her career and her personal history, which bolsters her credibility and encourages buy-in to her perspective and to the importance of the grammatical concepts she delves into. Her account is a series of confidences told thoughtfully over coffee.

Dreyer's English, on the other hand, is a series of insider truths confided rapid-fire over a beer. Dreyer recounts his origin story, too, but only briefly, and even indirectly. His credibility and cachet are assumed and inferred, and

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1. Vice president, executive managing editor and copy chief, of Random House.
2. MARY NORRIS, BETWEEN YOU & ME: CONFESSIONS OF A COMMA QUEEN (2015).

a reader must have already accepted his underlying premises. Dreyer jumps directly into his thoughts and advice. He doesn't rely on narrative to build his authority, and he doesn't get overly personal—he relies on humor and cheekiness, seeming to accept with a shrug that if you're not on board yet with the value of clear writing, you probably won't ever be.

Organizationally, Dreyer's book takes a march through many of the essential topics of grammar, usage, and style—matters of sentence-level form, mostly. Essentially, Part I is meant to break down the myths embedded over the years into our collective sense of schoolbook English. The first chapter is a brief challenge to the reader to forgo a handful of empty (but common) words for a week.[3] The second chapter delves into the nature of language rules—or, more accurately, language superstitions and "nonrules," which Dreyer points out and reassuringly dismisses. Then comes what is probably the truest litmus test for real believers (and a test of endurance for the non-believers): sixty-six points about punctuation (Chapter Three). After that, Dreyer discusses what to do with numbers (Chapter Four) and foreign-origin terms (Chapter Five). He finishes up Part I with a delightfully nonjargonistic discussion of grammar (Chapter Six) and a caveat about writing context, noting some special differences for writing and editing fiction in particular (Chapter Seven).

The basics having been established, Part II is more style guide–like and granular, and each chapter there is essentially a punchily annotated glossary. Dreyer starts with a list of frequently misspelled words (Chapter Eight), moving then to a collection of phrases or usages that run an unusually high risk of annoying readers (Chapter Nine). Chapter Ten covers frequently confused terms. The next chapter is devoted, unusually, to proper names—mostly of people, but also of places and trademarks—that are frequently misused (Chapter Eleven). Dreyer then explores redundancies and word economy, pointing out frequent places where superfluous language can be cut with no great loss to humankind (Chapter Twelve). The final chapter is a handful of hard-to-characterize miscellaneous thoughts (Chapter Thirteen).

For a reader who already appreciates clarity and welcomes the comfort of stylistic prescriptions from on high, *Dreyer's English* is a useful resource. Plus, it's short. At around 300 pages, it's easily read cover to cover—even the list-oriented, reference-like chapters toward the end. It's not as petite as *The Elements of Style*, but it's also not as dated, being refreshingly modern in its tone and approach. (Strunk & White adherents would have you *still* not split infinitives as a general principle.[4]) Dreyer writes with a largely jargon-free, humility-laden tone, but he doesn't shy away from permeating the book with his enthusiasm for old cinema, theater, and other art, with certain cultural

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3. These five words have been faithfully purged from this writing.

4. *See, e.g.*, WILLIAM STRUNK JR. & E.B. WHITE, THE ELEMENTS OF STYLE 58 (Allyn & Bacon 4th ed. 2000) (noting in general that "the construction should be avoided"). Even where Strunk & White recommend using a split infinitive for the sake of ear, they deem it a "violation." *Id.* at 78.

references likely to elude readers as much as discussing "restrictive" and "nonrestrictive" clauses would.

On its own, *Dreyer's English* is well worth the read. Dreyer describes his guide as "selective and idiosyncratic" but "useful" (p. xviii). That's right. It's a refreshing and concise take on writing clearly without kowtowing to old superstitions. Importantly, it keeps things light and lively, staying clear of the grammar-jargon drudgery that has a way of repelling people away from, if nothing else, enthusiasm for textbook-clean usage. It doesn't feel like a lecture; even spelling is treated amusingly.[5] It reinforces the point that plain language is not dull language. Its brevity makes it a handy companion for someone with limited time who would be otherwise unlikely to, say, digest a usage guide like the 1,056-page, small-print *Garner's Modern English Usage*[6] or the 1,144-page *Chicago Manual of Style*.[7] Indeed, *Dreyer's* doesn't try to be comprehensive, instead centering on topics chosen for their impact and with clarity in mind (p. xvii). The treatments of two common pitfalls of writers— proper "whom"-wielding (pp. 86–88) and the ever-elusive dangler (pp. 96–99)—are particularly effective. That said, *Dreyer's English* presupposes the value of its aims, and at times it feels too brief—take, for instance, the quick work made of the subjunctive mood (pp. 99–101). (But, as Dreyer admits, "[y]ou'd be amazed at how far you can get in life having no idea what the subjunctive mood is" (p. 99).)

A few of the chapters are especially useful for legal writers. The chapters on usage, for instance, dispose efficiently of many persistent language errors that even well-educated people who consider themselves good writers tend to make (Chapters Nine and Ten). And the chapter on proper names is useful not as a reference guide (few lawyers will be consulting *Dreyer's* to distinguish between actor Peter Sarsgaard and actor Alexander Skarsgård (p. 223)) but as a handy illustration that it's worth taking the few extra seconds to look things up even if you've seen them a thousand times—after all, the pros do (Chapter Eleven). The reviews of grammar and punctuation are nice reinforcers of good habits, and they hit many key points without dragging on (Chapters Three and Six). And the chapter on conciseness through fat-trimming is surely valuable in light of the prolixity of most legal writing (Chapter Twelve).

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Dreyer's English joins many other works within the plain-language movement—which, through Bryan Garner,[8] among others (including a host

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    5.   On the misspelled "commandoes," Dreyer suggests "a troop of female deer packing Uzis." P. 133.

    6.   BRYAN A. GARNER, GARNER'S MODERN ENGLISH USAGE (4th ed. 2016).

    7.   THE CHICAGO MANUAL OF STYLE (17th ed. 2017).

    8.   *E.g.*, BRYAN A. GARNER, THE ELEMENTS OF LEGAL STYLE (2d ed. 2002); BRYAN A. GARNER, LEGAL WRITING IN PLAIN ENGLISH (2d ed. 2013).

of unsung legal-writing professors), has gained traction in legal writing generally.[9] But it is Dreyer's perspective as a copy editor at a major publisher—not as a lawyer—that provides a voice distinct from squarely law-oriented writing texts.

A few themes in *Dreyer's English* are overtly familiar in legal writing. Take, for instance, the need to elevate integrity over style or convenience. Dreyer mentions the editorial use of brackets to signify changes in capitalization when quoting material (pp. 47–48)—the exceptionally common editorial practice at law reviews that results in monstrosities like "[T]o be a [t]rademark, a [d]esignation [m]ust [d]o the [j]ob of a [t]rademark."[10] (Or the less-egregious example that Dreyer presents: "Shaw once wrote that '[a]ll government is cruel'" (p. 48).) Dreyer points to the integrity-signaling function of doing so. It's perhaps ugly, but the use of brackets to signal even meaningless changes in capitalization provides an important signaling function that helps to preserve a writer's credibility—doing so tells the reader that the writer is being up-front about how a quote has been changed in its context. (Even this long-standing practice is perhaps on the way out, though, as advocates of the new "cleaned up" parenthetical gain converts.[11]) Dreyer also talks about checking quotation accuracy (pp. 255–58) and spends several pages on the importance of fact-checking and verisimilitude even in fiction (pp. 103–08). If there's a theme there, it's perhaps this: an individual editorial decision might be stylistically poor (e.g., who likes brackets?) and displeasing to an author or reader but nonetheless important for integrity and credibility.

Dreyer also explores the relationship between style and storytelling (pp. 108–14), which is certainly a useful skill for an advocate. One such example is in level of detail: using less detail, he offers, can leave you less vul-

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9. When I searched Westlaw, I found 734 secondary-source articles containing both the phrases "legal writing" and "plain language" since 1990. The movement is older than that, of course. *E.g.*, Richard C. Wydick, *Plain English for Lawyers*, 66 CALIF. L. REV. 727 (1978); *see also* Joseph Kimble, *Plain English: A Charter for Clear Writing*, 9 T.M. COOLEY L. REV. 1, 1 & n.3 (1992) (noting that, in 1981, the Michigan bar association established the nation's first Plain English Committee). Plain-language communication has more recently been encouraged by law, as in the Obama-era Plain Writing Act, which seeks to clarify notoriously opaque agency communications. *See* Plain Writing Act of 2010, Pub. L. No. 111-274, 124 Stat. 2861; *Law and Requirements*, PLAINLANGUAGE.GOV, https://plainlanguage.gov/law/ [https://perma .cc/Q6VH-2L8P].

10. alexandra j. roberts (@lexlanham), TWITTER (Mar. 3, 2019, 8:21 AM), https://twitter.com/lexlanham/status/1102242636642029568 [https://perma.cc/XJ2J-R4B5].

11. *See* Jack Metzler, *Cleaning Up Quotations*, 18 J. APP. PRAC. & PROCESS 143 (2017). Some "cleaned up" adherents express concern about it being used to mask complexities, *see, e.g.*, Eugene Volokh, *New Twist on Legal Citations: The "(Cleaned Up)" Parenthetical*, REASON: VOLOKH CONSPIRACY (July 24, 2018, 10:48 AM), https://reason.com/volokh/2018/07/24/new-twist-on-legal-citations-the-cleaned [https://perma.cc/Z79N-E6MB], and others wholesale oppose its use, *see, e.g.*, Adam Eakman, *Why Attorneys Should Stop Using "(Cleaned Up),"* ATT'Y WORDS (Apr. 10, 2018), http://attorneywords.com/cleaned-up [https://perma.cc/RGX7-27JY].

nerable to being wrong (p. 114 n.*), so why be more detailed if the detail adds nothing?

A useful way to process Dreyer's guide, and especially the stories of his professional experiences, is to look at the parallels between being a legal writer and being a copy editor. That is to say, to the extent that lawyers often write on teams, or ghostwrite for someone else, the same concerns that a copy editor has are important. Two such concerns pervade *Dreyer's English*: the arbitrary nature of rules, and the importance of preserving or anticipating an author's voice.

First, arbitrary rules. A legal writer, like any writer, must deal with stylistic arbitrariness, and often with rules that must be inferred. Sometimes these rules come from a supervising attorney's preferences; sometimes they come from a judge's; sometimes they're the result of experience; and sometimes they're hopelessly old-fashioned. Sometimes they're aggressively peddled by law-review organizations or handed down by state court systems. *Dreyer's English* itself is replete with arbitrary pronouncements, often given as self-evident,[12] but it's honest about them (pp. xvii–xviii, 147–49). Dreyer is not entirely consistent: He simultaneously cautions the reader to avoid too many parenthetical asides (to avoid "seem[ing] like a dandy in a Restoration comedy stepping down to the footlights . . . to confidentially address the audience") (pp. 46–47) while thoroughly peppering his work with whiplash-inducing discursive footnotes.[13] He simultaneously dismisses appeals to historical practice used in defense of the singular "they" (pp. 90–95) yet wields historical use against uptight *peeververein*,[14] as with the verb "enthuse" (pp. 138–39 n.*). But neither is English consistent.

Dreyer's perspective on the arbitrariness of rules is rooted in pragmatism: Certain usages will raise certain readers' hackles, however reasonable those usages might be, so why provoke them needlessly (pp. 147–49)? Good usage lets the underlying ideas shine through. But some rules, which he calls the "nonrules"[15]—outright bans on contractions, sentence fragments, split infinitives, end-of-sentence prepositions, and the like—are not useful and are out of style enough that they should be dispensed with.

On reducing reader friction, Dreyer writes of managing the editing of a fictional story set in the 1960s that referred to a Burger King (p. 108). The author eventually removed the reference after every copy editor in the production process had queried whether the chain existed at the time. Burger King did exist in the 1960s, but the obvious distraction was too much—

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12.   For instance, on not replacing "doll-like" with the unhyphenated compound "dolllike": "look at it." P. 137 n.*.

13.   Of course, many of us like these kinds of footnotes.

14.   Dreyer's preferred term, over the insensitive "grammar Nazi." *See* p. 148 n.*. *See generally* John E. McIntyre, *We Already Had a Word*, BALT. SUN (Apr. 21, 2016, 10:27 PM), https://www.baltimoresun.com/news/language-blog/bal-we-already-had-a-word-for-the-vermin-20160421-story.html [https://perma.cc/F6NT-BDZ3].

15.   *See* chapter 2.

surely readers would react in the same way. Factual accuracy isn't everything.

Dreyer also makes much of the power of writers to change language (p. 57). He points out that Random House itself has no internal house style (pp. 23–24) (and pokes fun at *The New Yorker*, which has a house style he says is visible "from space" (p. 60 n.*)). Read fairly, his view on language rules is that you should use the ones that conform to expectations and help efficiently convey your points, and eschew the others. That's helpful, and it's echoed in common legal-writing advice that the real rules are not in *The Bluebook* but in the preferences of the local court and the supervising attorney.[16]

Second, preservation of voice. One of Dreyer's featured quotes is by copy editor Wolcott Gibbs, of *The New Yorker*: "Try to preserve an author's style if he is an author and has a style" (p. 120). In the sense that a lawyer is often writing under another's name, writing and self-editing should be done with that person's voice in mind. Indeed, Dreyer himself ended up having to edit a work for one of his favorite authors posthumously, supplying new words himself and relying on what he knew of her voice already (pp. 114–16). Doing so was an exercise in earned trust.

Often a junior attorney who drafts a document is not formally its author in a presentational sense. A more senior associate, or a partner, might be the person whose name is on the work and whose professional reputation is staked on it. Thus, attentive associates will often, in editing their own work, conform it to someone else's style—a client's, a judge's, or a supervising attorney's. At the same time, attentive associates will make sure to keep out those stylistic choices that would be likely to set a reader's hair on edge. That is, writing like an editor means making someone *else's* voice shine through, while still keeping the prose uncluttered and distraction free. (This role extends beyond the sentence level: when one attorney has done the primary research and writing, the second set of eyes (be it another associate's, a partner's, etc.) is copy editor–like in that it looks not only to the strength of the legal argument but to its clarity.)

One of Dreyer's stories is on point. A hired freelance copy editor, not understanding an author's deliberately ungrammatical stylistic preferences, diligently but misguidedly plowed over some of that author's prose, much to the author's chagrin, prompting an unhappy phone call and further remedial work (pp. 121–22). Dreyer writes, looking back, that a copy editor's role is not to rely blindly on textbook English but to "assist and enhance and advise rather than to correct" (pp. 122–23). This is a useful framing for team-based legal writing, too, in the sense of seeking to anticipate and enhance, not trying to "correct," another's style. It's all too easy to see the rules as right and violations as unintentional or wrong—but there can be reasons to override

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16. *E.g.*, David Ziff (@djsziff), TWITTER (Mar. 12, 2019, 10:51 PM), https://twitter.com /djsziff/status/1105708026957201408 [https://perma.cc/KB26-VHY2].

The Bluebook in the name of clarity, if strict *Bluebook* fidelity is not mandatory.

There are lessons in *Dreyer's English* for law-review editors, too. First, on editorial humility: Dreyer recalls initially focusing on the "*if* he has a style" portion of the above Gibbs quote more than the "preserve an author's style" portion (pp. 120–21). Having read the Gibbs quote "far too often as a mandate not to preserve respectfully but to fix," he remarks, "I must have been insufferable" (p. 121). Second, consider the institutional rigidity of many law reviews. Writers frequently complain about the mechanical application of style-guide rules (or worse, rules conjured from the superstitions of grammar teachers past) by editors to their papers—removing contractions, insisting on formulaic roadmaps, eradicating first-person pronouns, personifying articles ("This Article argues . . .").[17] Many of these rules are likely adhered to not only out of some sense of institutional continuity but also out of a genuine confusion over what kinds of practices are acceptable in respectable writing nowadays. *Dreyer's English* gives permission to write, and edit, like a human.

<p align="center">*   *   *</p>

Benjamin Dreyer's guide is a nice read. It's short and approachable, and it's hard to see whose writing would not be improved by its advice. Dreyer's perspective as a copy editor lends itself well to a lawyer's role as a supportive, team-oriented writer, and his advice is as readily transposable to the legal context as it is to fiction or nonfiction.

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17. *See, e.g.*, Brian L. Frye (@brianlfrye), TWITTER (Apr. 9, 2018, 7:13 PM), https://twitter.com/brianlfrye/status/983528417244172289 [https://perma.cc/Y6QW-3WUC]; Orin Kerr (@OrinKerr), TWITTER (Aug. 29, 2017, 5:47 PM), https://twitter.com/OrinKerr/status/902694313771114496 [https://perma.cc/8WK5-9QG5]; Kim Krawiec (@KimKrawiec), TWITTER (Sept. 23, 2018, 1:13 PM), https://twitter.com/KimKrawiec/status/1043956634555490304 [https://perma.cc/D79J-BWN5]; Jill Wieber Lens (@jillwieberlens), TWITTER (Jan. 30, 2019, 8:52 AM), https://twitter.com/jillwieberlens/status/1090654051312775169 [https://perma.cc/7BLE-5WN2]; Richard Primus (@Richard_Primus), TWITTER (Apr. 8, 2019, 8:40 AM), https://twitter.com/Richard_Primus/status/1115278248060100608 [https://perma.cc/H2C8-V2KG].