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Foreword*

BY LOUISE EVERETT GRAHAM**

The seventy-fifth anniversary of the *Kentucky Law Journal* is an appropriate time to consider the function of law journals in the law school curriculum and in the larger legal community. To begin that consideration we might ask several questions: What do law journals do? What purpose do they serve? How do they serve students, faculty, and the bar?

Some answers to these questions are simple. For students the easy answer is that law review membership is an avenue to preferred employment. For faculty members the answer is somewhat different. Faculty members must write to be granted promotion. Many write for other reasons as well. Law reviews benefit faculties because faculty members are assured of markets for their products. For the practicing bar, law review articles provide helpful summaries or suggest answers to current questions.

I propose that both students and faculty rethink the purpose of law reviews and the ways in which they function. It's my opinion law reviews serve important and largely unrecognized teaching and evaluation functions in our curriculum. Moreover, I would argue that these functions are the most important ways in which law reviews serve students, faculty, and the practicing bar.

To demonstrate I want to return to what law reviews do for students. The commonly accepted wisdom holds that law review

* Editor's Note: 1988 marks the seventy-fifth publication year of the KENTUCKY LAW JOURNAL. In honor of this occasion, the JOURNAL has invited Professors Louise Graham, KENTUCKY LAW JOURNAL Faculty Adviser, and Paul Oberst, Professor Emeritus, to share their thoughts on the relevance of entrusting the guardianship of legal scholarship to students. Professor Graham's comments appear above. In a later issue of this volume, Professor Oberst will present a substantial research project on the history of the KENTUCKY LAW JOURNAL, and his thoughts on the JOURNAL's future.

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participation is an essential predicate to a job in a prestigious firm, a coveted place with an important government agency, or a prized judicial clerkship. Experience teaches that there is substantial truth to this perception. Unfortunately, we spend too little time thinking about why this is so. Why do employers eagerly hire law review members? Why does an editorial position on a law review weigh so heavily with them? One facile answer is that firms want to hire students who have performed well in law school, that law review membership has historically depended upon performance, and that firms use law review membership as an indicator of good performance, or, if you will, good grades. Now that answer cannot be true. First, although some members receive an automatic invitation based on grades, a number come to the law review through "write on" programs. Second, even if all members had been chosen on the basis of grades, they would have been selected so early in their law school careers that only one-third (and sometimes less) of their total grades would have been known when the selection occurred. Finally, since firms can require students to provide a transcript, it seems silly to look at law review participation as a substitute for grades.

Firms ought to value law review membership because it offers them a long-term evaluation of a student's ability to communicate, one that cannot be gained by looking only at grades based on law school examinations. Examinations may measure mastery of basic rules, but they seldom reflect the everyday experience of most lawyers. I took three years' worth of law school examinations, and I have given and graded examinations for the last ten years. I remember taking law school examinations, particularly those that were difficult, as a sort of out-of-body experience. My intuition from watching students who are taking exams is that many of them feel the same way. I have never been able to identify the actual event in the practice of law that law school examinations are designed to simulate. Even difficult commercial law cases do not necessarily involve every section of the Uniform Commercial Code, and certainly they are not practiced in the space of four hours. Perhaps there are times when a client calls to ask whether, within the next five minutes, he may revoke acceptance of five thousand widgets, but I suspect that this only happens after an attorney has been in practice

long enough to have learned that even if she knew the correct Code section, the best advice would involve temperance and common sense rather than a "yes" or "no" answer.

My students ought not to take this as an indication that I will forego giving examinations at the end of every semester. Barring changes that I believe should occur but which I do not presently foresee, I will continue to give examinations because I must have some way to evaluate students' knowledge of basic, legal rules. Nevertheless, I do not think that examination results alone tell us very much about how students will work with the law. Exams may measure the capacity to ingest and organize material, but they are not an optimum measure of a student's ability to communicate effectively or to work with others to complete an assigned or agreed upon task.

A review of most law school curriculums would probably reveal the scant number of chances that any student has to be evaluated other than by the traditional law school examination. Litigation skills, negotiation courses, client counseling courses, arbitration seminars, and a few other classes provide the exceptions to the rule. A senior writing requirement forces every student to work through one paper supervised by a faculty member. But far too few students have the opportunity to work on large projects that require them to coordinate the efforts of numerous people, that expose them to the attempts of others to express legal ideas in writing, or that force them to make their own attempts to write what they know about the law.

I think that firms like to choose law review members because they are looking not only for proof of knowledge, but for an established ability to communicate that knowledge effectively. If my assumption is correct, student participants should recognize the important teaching function of law reviews. Good law review editors improve the writing skills of those they supervise. They do not merely edit notes, comments, and articles to conform to law review style. They teach those who work with them. The best of them do it consciously. All of them do it, if only by example.

In my opinion, this important teaching function calls for broadening the opportunities for journal membership and for increasing the breadth of responsibility available to students who elect to participate in membership. All student participants should

have the opportunity both to be edited and to edit the works of others. Editing others' writing teaches us about communication on several levels. The activity of editing informs us about both language and logic, the law's mainstays. I do not mean to say that all editing is sublime activity. Obviously, it requires correction of grammatical and spelling errors that slip through even the best-intentioned word processors. At another level, however, good editing requires absorbing knowledge on an intimate level not experienced elsewhere in the law school curriculum. If law school classes involve talking about tigers, writing and editing involve grappling with the beasts, themselves.

How can editing be made a shared law review experience? The lowliest job on law review is cite checking. Everyone begins by doing that administrative duty; almost no one is enthralled by the job. Yet cite checking can be a beginning editing experience, especially if the job of doing a preliminary edit on the text to which the citations relate is included in the task. I would encourage editors to make other staff members "editors-in-charge" of a particular article. Delegation of the work might eventually speed the editorial process.

Increased participation and efficiency may require some behavioral changes. First, everyone involved would have to recognize that editing should not involve substituting the editor's word choice for that of the author. Editing should involve changing the author's language only if the change produces more effective communication or corrects a grammatical error. Second, a supervising editor ought not to change another edit unless the change corrects a grammatical error or makes clear a previously unintelligible meaning. Third, both editors and authors ought to spend time talking about why they made their changes. Additionally, increased participation would be effective only if it were joined with an increased sense of responsibility. Law review members must take even the smallest task seriously, doing their work with the notion that it should not need to be redone by others. The efforts required are substantial, but the resulting efficiency and commitment make them worthwhile.

If law reviews teach writing and communication, what does this mean for the faculty? To the extent that other institutional groups fulfill these functions, faculty members are left free for classroom teaching and individual research. Use of extra-curric-

ular groups to teach writing and communication skills also enables faculty to teach students who choose not to participate in those groups. I believe, however, that faculty members should seriously consider the losses caused by this system. Faculty interaction with the law review is primarily limited to those cases in which editors seek advice about the quality of articles. Like most law schools, the University of Kentucky has no institutional format for collaborative research involving students and faculty. There are several reasons to consider collaborative research as an important component of legal education. Collaborative efforts—working together with a small group of peers under the leadership of someone who will be responsible for the work and provide a measure of evaluation—are a part of the real world that students face after graduation. Beginning associates are not left to draft Supreme Court briefs without guidance from senior partners. In addition, collaborative efforts might allow students and faculty to undertake larger projects or to involve themselves in empirically-based research. Finally, collaborative work would stimulate intellectual growth in all of its participants.

Moving toward increased collaborative effort among faculty and students for the purpose of law review publication would not be an easy task. Planning such an effort may be as much work as creating the actual product. The project is worthwhile, however, because the attempt itself offers an opportunity for growth and enrichment, which is, after all, the purpose of law school.

Increasing the opportunity for meaningful participation in the law review experience will take time and effort from all concerned. In return we will receive not only a superior product that belongs to all of us at the University of Kentucky College of Law, but a renewed sense of individual accomplishment that will always serve us well.