Return to Sender

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Recommended Citation

Link to publisher version (DOI)
https://doi.org/10.15779/Z38N80M

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Return to Sender

James Lindgren

I

ON POLEMICS

They don’t get the point, do they? As an author, I don’t need law review editors telling me which standard literary forms and which standard English words they’ll permit me to use. In Fear of Writing, I repeatedly showed that the Texas Law Review Manual on Style prohibited standard English, even usages that have been standard for centuries. Experts have called some of its views superstitions, myths, fetishes, and folklore.

Now in their response, two editors of the Texas Law Review (Charles Moody and Arthur Feldman) complain that the tone of my essay is “unseemly,” inappropriate for a law review. But, as I fully disclosed, I wrote a polemic. After telling authors that they can’t use standard English, the editors of the Texas Law Review are now trying to tell me that I can’t use a standard literary form, the polemic. They want to restrict the modes of discourse (as well as the words used) so that every article sounds as if it were written by an above-average third-year law student.

Polemics have a long and honorable history: Cicero, Swift, Paine, Carlyle, Twain, and Orwell. In legal academia, polemicists include Duncan Kennedy and Catharine MacKinnon. Polemics are particularly common in commentary about prose style—for example, Bierce, Mencken, and the Underground Grammarian. Polemics are a standard literary form, used by expert writers for millennia, used occasionally by legal academics, and used frequently by style commentators. I don’t expect the targets of a polemic to like it, but I do expect them not to whine about the tone. I charge them with making numerous specific

2. TEXAS LAW REVIEW MANUAL ON STYLE (6th ed. 1990) [hereinafter TEXAS MANUAL].
4. Lindgren, supra note 1, at 1678 (“By now it must be obvious that this is a polemic.”).
II
SLEEPWALKING PAST RESPECTED AUTHORITIES

The most substantial argument raised against my analysis is that their book is "only a summary" of other more respected texts.

Its discussion of rules of usage is only a summary, and the rules in the Manual on Style should not be regarded as in any sense superseding the more exhaustive and scholarly discussions in Follett, Fowler, Bryan Garner's Dictionary of Modern Legal Usage, Webster's Dictionary of English Usage, or any of the other texts of that genre.7

If that were true, if the Texas Manual were only a summary of respected texts, I wouldn't have written my review. In the passage above, Moody and Feldman recommend four books. Three of them are respected authorities—Fowler, Follett, and Webster's.8 Most of my review consisted of 13 separate sections discussing specific instances in which the Texas rules gave incorrect advice. Yet on all 13 topics, a majority of these 3 books don't support Texas Manual. Instead, on every topic addressed by these books, a majority support me. On most of the usages, not one of the three books supports the Texas position. Sometimes these books poke fun at the Texas positions.

The Texas Manual is not just a simplified summary of the positions of the best style authorities. Thus, brevity is not what makes the Texas Manual inferior to more substantial texts such as Webster's English Usage. The Manual fails on its own terms.

III
IGNORING THE FOREWORD

In Greetings From Hell, Moody and Feldman argue that I have unjustly ignored the foreword to the Texas Manual by Professor Charles Alan Wright. But the author of a book doesn't necessarily control what the author of a foreword may say. One assumes that a foreword is one author's comment on a book written by another author. For this reason I thought it unfair in Fear of Writing to charge the Manual with inconsistency with its own foreword. But Moody and Feldman insist that I examine the foreword. So let's do it. The foreword, by Charles Alan Wright, suggests:

7. Moody & Feldman, Greetings From Hell, 79 CALIF. L. REV. 1703, 1704 (1990); see id. at 1704, 1705, 1709.
Only rarely can it be said that a particular form is “right” and another “wrong.” The authorities teach only that one is “desirable” and the other “undesirable.” . . . The user of the manual who knows what he is doing and why should feel free to depart from the rules when this produces a better result. Most of us, however, are neither Churchills nor Shakespeares, and for us the safer course is to follow the rules rather than to strike out on our own.⁹

The Texas Manual, however, takes a different approach. In indented examples in its 27-page usage section, it labels 74 examples as “Correct” and 54 examples as “Incorrect.” Thus the mode of discourse adopted by the Texas Manual is not one of better or worse, desirable or undesirable, but of correct and incorrect. Further, the Manual repeatedly attacks usages by saying “Never use” a particular construction or “Do not use” a particular construction or by calling it an “error.”¹⁰ Moody and Feldman sheepishly admit, “The Manual on Style perhaps opens itself up unnecessarily to this charge by its use of labels like ‘Correct’ and ‘Incorrect,’ implying that an ‘Incorrect’ example is beyond the bounds of written English rather than simply contrary to the advice of the particular rule.”¹¹ Yet they shamelessly criticize me for taking the Manual’s words at face value. I take “Incorrect” to mean “Incorrect.” I take “Never use” a construction to mean “Never use” it.

In their reply to my review, Moody and Feldman would have us read Wright’s foreword as a global exception to the entire book, a blanket “Never Mind.” No one fairly reading the book would conclude this. Nonetheless, they would now have us read “Incorrect” as meaning “Permissible If You Have Any Reason For Using It” and “Never use” as meaning “Use If You Have Any Reason For Using It.” They say:

If a student editor suggests that change and the author rejects it, because Keats used feature or for any other reason, then the author should certainly get his way without further discussion—after all, it is his article. . . . You can agree or disagree with the Manual on Style’s advice, as can anyone who publishes her article in the Texas Law Review.¹² This can’t be true. Indeed, when the Georgetown Law Journal accepted Fear of Writing, the editors there said that they would run an editors’ note along with my review stating that they were suspending their use of the Texas Manual for my review only. If they understood the Texas Manual as merely offering suggestions that authors were free to ignore, they wouldn’t have needed to suspend the Manual or to run an editors’ note.

The Texas editors paint such an unrealistic picture of how their

⁹. TEXAS MANUAL, supra note 2, at foreword.
¹⁰. See id. at 13, 20, 21, 22, 23, 24, 25, 26, 30, 31, 32, 33, 35, 36.
¹¹. Moody & Feldman, supra note 7, at 1709.
¹². Id. at 1711. A similar point is made elsewhere. See id. at 1708-09.
book is supposed to be used and how it's used at Texas that I decided to
call their bluff. I telephoned a random sample of ten professors at
schools other than Texas who had published articles or comments in the
last two full volumes of the Texas Law Review. Four authors had no
style disagreements, so they couldn't speak about how disagreements
were resolved.

To the six who reported style disagreements, I asked: "Does this
statement accurately describe the way that your editors tried to resolve
this disagreement?: 'If a student editor suggests ... [a] change and the
author rejects it, ... for any ... reason, then the author should certainly
get his way without further discussion—after all, it is his article.'" Two
authors laughed. One said, "That is bullshit." In all, five of six authors
(83%) disagreed with the statement, asserting that the editing had been
less deferential. If we assume that the expected probability of mispercep-
tion is 10% for each author, then the probability that Moody and Feld-
man's description is correct is <.001.1
I then asked whether they had
specifically been told that their usage was contrary to the Texas Manual
on Style. Three (50%) remembered that they were. Last, I asked if there
were any usages in their published articles that they wished weren't
there, but were included at the urging of their editors. Four of the six
(67%) said there were. If we assume that this answer is inconsistent with
Moody and Feldman's claims and that the probability of misperception
is again 10%, then this result is significant at the <.002 level.15

One author commented that the editing was "just outstanding" and
two others made some positive comments. But most were negative. One
author said that he begged his editors to give any reason for prohibiting
his usage besides the rule in the Texas Manual: "I don't give a shit what
it says in the goddamned book. I have given you a good justification for
my usage. Why can't you respond with any argument other than that it's
inconsistent with your book? You're supposed to be the cream of the
Texas Law School. Aren't you capable of even making an argument?"
He had suggested that they allow the usage but include a footnote to
explain the deviance from the rule, but the Texans refused. Another
author said that the Texas Law Review denied him a usage by saying, "In
a hundred years, the Texas Law Review has never used that word."
Another author said that "a couple of times" the editors used their rules
as "a blanket prohibition." They pointed to the Texas Manual and said,

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13. All whom I reached by phone participated. Two others were unavailable when I called.
14. Even if all four authors who had no disagreements were counted as agreeing with Moody
and Feldman, the results would still have been significant at the <.003 level.
15. Even if all four authors who had no disagreements were counted as agreeing with Moody
and Feldman, the results would still have been significant at the <.015 level.
“This is the way we always do it.” Another author said that the *Texas Law Review* had been “a little less deferential than other reviews.”

Despite the small sample, the results are highly significant. According to the practice of the *Texas Law Review* itself, the *Manual* presents blanket prohibitions.

IV

HISTORICAL CONTEXT

The editors of the *Texas Law Review* also argue that I don’t place our dispute in historical context. Anyone who has read my review knows that their charge is false. I place the *Texas Law Review Manual on Style* squarely in the discredited folklore tradition. I relate their usage advice to a wide variety of style books going back to 1795 and to research on the history of the English language going back over 900 years. I discuss modern empirical scholarship on particular usages, on the folklore tradition, and on the relationship of stigmatic rules to linguistic insecurity.

Moody and Feldman may not like my analysis, but it’s there nonetheless. They choose to go off on a slightly different tack, discussing in more detail than I did their principles for whether a usage is a good one. Yet in theory we are not as different as they think. It is in practice that we differ. I would place myself very squarely in the middle of the good usage style writers—Webster’s, Bernstein, Follett, and Fowler. I am somewhere to the left of Fowler and to the right of Webster’s. This group does not believe that anything goes or that mere statistical frequency among expert writers is enough to make a usage unassailably good. But it’s a great place to start. And it should shift a heavy burden to the Miss Thistlebottoms on the other side. If you want to prohibit a usage that is common in the published edited prose of expert writers, you need a compelling reason.

But the Texas argument here is odd. They argue for reasoned analysis of the merits of usages in context, but their discussion is just a gloss on their book. The purpose of stigmatic rules is not to promote thought but to end it. Their book substitutes crude rules of thumb for the kind of reasoned choosing that I and other style writers advocate. And we know how Texas editors have applied their rules in recent years: they have insisted on usages without being able to give any reason other than the rule in their book.

V

SPECIFIC CHARGES

The bulk of *Fear of Writing* consists of five sections of two or three
pages discussing problems with particular rules and eight sections of less than a page briefly discussing problems with other rules. In these 13 sections, I charged the Texas Manual with 17 specific defects. Moody and Feldman in their response directly challenge only two of them. The other 15 stand undenied. One would think that, unless they could meet most of these claims head on, they would keep quiet and blame their predecessors for leaving them such a defective book.

A. Verbosity

Moody and Feldman do challenge me on five of the thirteen sections where I criticize their prejudices. On three of the five, however, they don't deny what I say, relying only on diversionary tactics. First, they complain that I have been selective in my criticism. In discussing one rule I point out that three phrases labeled as "unnecessary" and "verbose" are perfectly good English phrases. They say that I have selected only 3 out of a list of 22 and that I don't criticize the other 19. I consider their committing three errors in a rule only two sentences long to be a mistake worth fair comment.

B. Facing Facts

Their second charge of selectivity involves a rule that expresses hostility to phrases using the word fact. Here is the first half of their rule:

_fact_. Do not use unnecessary idiomatic phrases containing this word. The phrases in fact, in point of fact, as a matter of fact, the fact is, and the fact of the matter is usually can be replaced with actually.

This Texas rule is a bizarre misreading of Fowler. Here's what Fowler says:

_fact_ is well equipped with idiomatic phrases. We have in fact, in point of fact, as a matter of fact, the fact is, and the fact of the matter is, all unquestionably established. It is a pity that the invention as a fact (of which no example is recorded in the OED) should have been thrust upon us in addition to all these. But that is no great matter now, since all have been superseded by the inevitable actually. (See MEANINGLESS

16. I argued: (1) one rule prohibits what the next rule demands; (2) in dummy subjects, a sentence labeled "Better" is obviously inferior; (3) one rule confuses a relative adverb with a relative pronoun; (4) one rule mandates none as singular unless the context clearly requires plural, whereas none is either but usually plural; (5) one rule recommends actually instead of in fact; and (6) the rule against danglers omits acceptable ones. Also, the Manual wrongly prohibits: (7) dummy subjects; (8) splitting a verb with a sentence adverb; (9) where referring to situation; (10) while meaning whereas; (11) preposition at end; (12) such as introducing words other than nouns and pronouns; (13) such as a pronoun; (14) the reason... is that; (15) In many cases, On balance, and This is a case that; (16) an example of an acceptable dangling modifier; and (17) the noun feature. Lindgren, supra note 1, at 1681-93. Only the last two were challenged.

17. TEXAS MANUAL, supra note 2, at 24.
Note that Fowler uses the same five phrases in exactly the same order. The Texas Manual had to have lifted its rule from Fowler. But they got it backwards. Fowler disapproves of actually, which he considers almost meaningless. The phrases that the Texas Manual advises against using, however, Fowler considers "unquestionably established." Moody and Feldman are wrong when they say that I was unfairly hard on their rule. In Fear of Writing, I was much too easy.

C. Split Verbs

As to split verbs, they once again fail to challenge my analysis directly, choosing instead to raise a false distraction. They claim that: "Another of Professor Lindgren's substantive critiques—his discussion of split verbs—is directed at a previous edition of the book." This is, at best, a dishonest attempt to mislead the reader, and at worst, a lie. My discussion is directed at both the fifth and the sixth editions, and Moody and Feldman know it. Although elsewhere I am accused of failing to place my arguments in historical context, here I am attacked for doing just that.

Further, I criticized the new sixth edition's advice for two reasons: (1) it was unclear whether split verbs were preferable or just permissible, and (2) its advice literally applied would prohibit splitting compound verbs with sentence adverbs. Because the Texas editors raise only a purposely misleading claim that my attack is directed at an old edition, I assume that my criticisms are sound.

D. Feature

In my essay, I pointed out that the Texas Manual was prejudiced against feature used as a noun. In response, Moody and Feldman raise several arguments. First, they defend their criticism of feature as a noun, suggesting that it could be replaced with anomaly or complication in the following sentence: "Another feature of the case was the unavailability of two key witnesses." This is a good illustration that rules of thumb usually don't work. Moody and Feldman follow one rule of thumb (avoid feature as a noun), but their suggested replacements violate other rules of thumb. Like parameter, anomaly is a "pseudo-technical word" or "popularized tech-

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18. Fowler, supra note 3, at 184 (abbreviations have been spelled out).
19. Id. at 355-56 (Fowler uses more space attacking actually than any other meaningless word).
21. Id. at 1711 (emphasis added).
The rule of thumb is to avoid these words except in uses closely approaching their technical sense. Anomaly is a poor substitute for feature, unless the author originally made a staggeringly bad choice. Anomaly is a pretentious word that should be reserved for true anomalies. In this sentence we are speaking about “Another anomaly of the case.” This implies that the author had discussed a prior anomaly. If not, then it would be plainly stupid to choose the word anomaly. And if the author had discussed a prior anomaly, then it would have been plainly stupid to choose feature to introduce a discussion of the second anomaly. Either this is an example of thumpingly bad editing or it is completely unrealistic. Similarly, complication violates the shibboleth: shun -tion words. It hardly needs to be pointed out that neither complication nor anomaly are synonyms for feature.

There are hundreds of these dirty little rules. If you’re going to take the minefield approach to writing that Moody and Feldman embrace, you’d better know more rules than they do. One can always question any word in context to see whether there’s a better one. But it’s downright silly to have a rule that says, “Feature. Avoid using this word as a noun . . . .” and counts the phrase “Another feature of this case” as “Incorrect.”

Second, Moody and Feldman defend the superiority of feature as a verb. Yet even in the Texas Law Review, feature is overwhelmingly a noun. Between October 1983 and June 1990, feature has been used 286 times as a noun but only 5 times as a verb.

Third, Moody and Feldman cite six style authorities while defending the verb use and attacking the noun use. Yet not one of these authorities agrees with them on both points. Two authors don’t like feature as a noun or as a verb. The others approve of both noun and verb uses. Thus four of the six authorities Moody and Feldman cite in their discussion of feature agree with me; none of the six books agree with Moody and Feldman. You need a good reason for a rule that calls the noun feature incorrect. If the advocate for such a rule suggests that anomaly is a good substitute, ignore him.

E. Dangling Modifiers

Moody and Feldman also try to defend the deficiencies in the Texas

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22. See J. Barzun, Simple & Direct, 13-14, 21-23 (1976); W. Follett, supra note 8, at 252-54.
23. J. Barzun, supra note 22, at 91.
25. See Webster’s, supra note 3, at 436; T. Bernstein, Miss Thistlebottom’s Hobgoblins 39 (1971); Webster’s Third New International Dictionary 832 (1980); 5 Oxford English Dictionary 790-91 (2d ed. 1989).
Manual's discussion of dangling modifiers. My main charge was: "The Texas Manual on Style fails to explain the necessary exceptions to the rules or give any examples of acceptable danglers." They don't even try to deny that they omitted this analysis. Instead, they raise an excuse of brevity: "Granted, a more complete treatment of the issue would discuss the acceptable uses noted by Fowler, Follett, and others, but here as elsewhere the manual does no more than explain the difficulty with the construction, give examples of its misuse, and offer ways to correct its misuse."

But brevity won't excuse them here because they aren't particularly brief. The Texas Manual devotes 33 sentences to dangling modifiers. I pulled nine books down from my shelf to compare their entries with the Texas Manual's. Two use more sentences to explain danglers—Webster's, 42 sentences; and Follett, over 7 pages. One authority, Bernstein's Careful Writer, is the same length, 33 sentences. The other six authorities use fewer sentences—Fowler, 28; the Evanses, 23; Barzun, 18; Williams, 12; Bernstein's Miss Thistlebottom's Hobgoblins, 20; and his Dos, Don'ts & Maybes of English Usage, 10. The Texas Manual's total of 33 sentences is the same or higher than seven of the nine books I checked—and 43% higher than the median of 23 sentences.

Yet each of these writers thought it essential to discuss and give examples of the proper use of phrases that take the form of danglers but aren't. Either through misplaced rigidity, or more likely ignorance, the Texas Manual made a different choice. My view embraces the consensus view of what should be in a discussion of dangling modifiers. Theirs doesn't. Moody and Feldman's defense of brevity does not excuse them from meeting the standards that other style writers attained in even shorter entries.

CONCLUSION

Frankly, when I heard that two editors from the Texas Law Review

26. Lindgren, supra note 1, at 1689.
27. Moody & Feldman, supra note 7, at 1713.
28. See Texas Manual, supra note 2, at 10-12. In counting sentences here, I counted from period or question mark to period or question mark, except when they were not followed by a capital letter. Citations and headings are omitted. Any deviations from this rule are noted where appropriate.
29. See Webster's, supra note 3, at 314-15 (long indented examples without periods at the end were counted as if they had periods); W. Follett, supra note 8, at 116-24.
31. Fowler, supra note 3, at 659-61; B. & C. Evans, Dictionary of Contemporary American Usage 354-55 (1957); J. Barzun, supra note 22, at 64-65; J. Williams, Style: Ten Lessons in Clarity and Grace 140-41 (3d ed. 1989); Miss Thistlebottom's Hobgoblins, supra note 25, at 96-97 (one sentence counted that ended in a long list rather than a full stop); T. Bernstein, Dos, Don'ts & Maybes of English Usage 141-42 (1977).
had written a reply to *Fear of Writing*. I wondered what they could possibly say. Their errors were so obvious. Unless they could refute them, I thought, they wouldn't be foolish enough to respond. But never overestimate the good sense of law review editors.

I detailed 17 defects in their book. But in their response, Moody and Feldman directly challenge my assertions on only two of them. They also say that the *Texas Manual* is only a summary of respected texts like Fowler, Follett, and Webster's. But a majority of these texts don't support the *Texas Manual* on any of the 13 specific topics that I discuss in *Fear of Writing*. Instead, on every topic addressed by these books, a majority support me. The Texas editors further argue that I misread their book as prohibiting words and phrases, but I read it as nearly everyone, including the *Texas Law Review*, has done.

I end with a comment by Fowler that captures my frustration with the nonsensical rigidity of the *Texas Manual*. Attacking a writer adopting a position that the *Texas Manual* still embraces, Fowler wrote: "There speaks one of those friends from whom the English language may well pray to be saved, one of those modern precisians who have more zeal than discretion, and wish to restrain liberty as such, regardless of whether it is harmfully or harmlessly exercised."32

In the great debate over good usage, I stand with Fowler—as well as with Follett, Bernstein, and Webster's *Dictionary of English Usage*. The Texas editors would have you believe that my ridiculing of their rules is unfair. But style commentators have been ridiculing their positions for most of this century. If Moody and Feldman don't like what I have to say, perhaps they should take it up directly with the publishers of these classic texts and spare us their evasive ramblings. Two editors from the *Texas Law Review* send you their *Greetings From Hell*. I suggest that you respond appropriately: *Return to Sender.*

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32. FOWLER, supra note 3, at 418-19.