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## Epilogue: Are We the Last?

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## Epilogue: Are We the Last?

The *Akron Law Review* Editorial Board hopes that this Special Issue has been cause for introspection for law review editors and authors. It certainly has been for us. We will not predict the future of law reviews in the age of cyberspace; others in this issue have already done so. However, we do believe this Special Issue contains eloquent proof of the value of the traditional paper-based law review it is Professor Hibbitts's article.

One witnesses an evolution in Professor Hibbitts's proposal for self-publication between the original, online version of *Last Writes* and its defense in *Yesterday Once More*. For example, the premise of *Last Writes* is that editorial controls should be entirely eliminated: "[the Web] provides a practical and attractive means by which law professors can take *complete control* of the production and dissemination of their own scholarly work" (emphasis added).<sup>1</sup> But Professor Hibbitts equivocates in *Yesterday Once More*: "my . . . proposal was designed to allow legal scholars to sidestep *law review* editing; I never meant to suggest that editing *per se* was undesirable or unnecessary."<sup>2</sup>

If editing is desirable, but, as Professor Hibbitts suggests, neither students or professors are competent to do it, who shall edit? If the answer is "the author," then one must conclude that Professor Hibbitts is really referring to "proofreading" as opposed to substantive "editing."<sup>3</sup> Indeed, the essence of self-publication is the absence of external editorial controls or is it? Professor Hibbitts's ideas (or his expression of them) have evolved - not due to online comments, but instead to the traditional editorial process. That is, scholars responded in the traditional way - by answering his article with ones of their own, causing a change in his position. Professor Hibbitts should not be faulted for changing his ideas; indeed, this is the role of scholarship. But the evolution did not occur in an online discussion group.

Professor Hibbitts makes a strong case for change in the current law review system, but aspects of his proposals deserve further exploration. For example, exactly where students and other law professors fit into the self-publication model is not entirely clear. Professor Hibbitts argues that student editors' functions related to quality control can be internalized: "[t]o a large extent, quality control in a self-publishing environment will be self-imposed."<sup>4</sup> This would be accomplished in part by "personal research assistants," namely, law students. How students are viewed as part of the problem in paper-based publication, yet part of the solution in the world of online publishing, is intriguing: are the original criticisms of student editors directed at students *qua* students, or at students *qua* editors? Professor Hibbitts's call for "post-hoc" peer review seems equally unclear, as we were told in *Last Writes* that "few law faculty members have the time or the inclination to edit a journal and do it well."<sup>5</sup>

The problem of quality control on the Internet is a very real concern, and raises another issue related to Professor Hibbitts's proposal. The source of much of the appeal for Internet self-publication - freedom from editorial controls - is also the source of its greatest weakness. The Web is a vast conglomeration of the Good, The Bad, and The Ugly, with very little guidance to distinguish what is Good from what is Bad and/or Ugly. The fact

that it allows anyone with the inclination to post whatever one desires promises just that. While this may indeed promote the Holmesean notion of the "marketplace of ideas," this egalitarian trend towards information dissemination has some rather unpleasant side effects that are quickly becoming apparent. Consider, for example, the case of Pierre Salinger, who recently "proved" that the United States military accidentally downed TWA Flight 800 with an errant missile. The source of his proof? A spurious document self-published on the Web.<sup>6</sup> The Web allows indeed encourages this sort of "intellectual anarchy," making the need for editors *greater* than ever before, especially so if the Web is ever to become a reliable source of inter-disciplinary research. Self-policing seems woefully inadequate as a method of quality control. The lessons from the Salinger incident are (1) that scholars' or journalists' good intentions are no substitute for sound scholarship or accurate reporting, and (2) self-published documents do not achieve legitimacy by their own assertion. Professor Hibbitts argues that self-policing is preferable to external editorial intrusiveness, but the fact that he was able to publish *Last Writes?* in the *New York University Law Review* shows that any concern about losing authorial autonomy may be overstated. The change in Professor Hibbitts's position (or clarification of his mode of expression) described earlier came about through the publication process not the editorial process or policies at N.Y.U..

While many of the authors in this Special Issue debate the wisdom of allowing students to edit law reviews, they all ignore the value of student editors beyond the purely "editorial" functions they perform. The development of one particular student-edited review, the *Alaska Law Review*, illustrates that student editors may be more attuned to their readership than Professor Hibbitts or our other contributing authors would grant. Alaska has more lawyers, per capita, than any other state in the United States, despite the fact that there are no law schools in Alaska. Deductively, one might conclude that Alaska has no student-edited law reviews. To the contrary, in 1983, students at Duke University School of Law founded the *Alaska Law Review*, a semi-annual publication written specifically for members of the Alaska bar.<sup>7</sup> That students from a different state (few of whom presumably intend to practice law in Alaska) would volunteer to provide such a resource demonstrates that law reviews are doing things that *matter*. Could we do these things better? Perhaps. But as Professor Trotter Hardy reminds us in the title of his article, it may be premature to discard the baby with the bathwater.

Professor Hibbitts did not invent the Web, but he does propose a new and important function for it. His self-publication manifesto will serve as the Rosetta Stone for future generations should self-publication topple the law reviews' hegemony over legal scholarship. Internet technology is currently in its infancy and will certainly have ramifications that none of us has yet predicted. As for exactly what those ramifications will be, perhaps only history can accurately judge. We hope that this Special Issue will be a part of that history.

Mark A. Whitt  
Editor-in-Chief

1. Bernard J. Hibbitts, *Last Writes? Reassessing the Law Review in the Age of Cyberspace*, N.Y.U.L. Rev. 615, 668 (1996)
2. Bernard J. Hibbitts, *Yesterday Once More: Skeptics, Scribes, and the Demise of Law Reviews*, 30 Akron L. Rev. 267, 288 n.81 (1996).
3. Professor Hibbitts notes that some editorial tasks "could be discharged with the aid of computerized spell-checkers, grammar checkers, and even citation-checkers . . . ." Hibbitts, *supra* note 1, at 673.
4. *Id.* at 672.
5. *Id.* at 665.
6. For a copy of the Mr. Salinger's "proof", see 50 Greatest Conspiracies of All Time, *Salinger Don't Surf (But We Think he Should)* (visited Nov. 22, 1996) <<http://www.conspire.com/russell.html>>; see also Howard A. Denemark, *The Death of Law Review Has Been Predicted: What Might be Lost When the Last Law Review Shuts Down*, 27 Seton Hall L. Rev. \_\_\_\_\_, 3 n.189 (Forthcoming 1997) (discussing Mr. Salinger's error as an illustration of the lack of trustworthiness of information on the Web).
7. See *Alaska Law Review* (visited Nov. 9, 1996), <<http://www.law.duke.edu/journals/alr/mainpage/htm>>.