

CHAPTER 32

ETHICAL AND LEGAL ASPECTS OF TECHNICAL WRITING

THE workers in all fields of journalism carry the weight of responsibility of being accurate, but one is tempted to say that the writer on technical and scientific subjects must put into his work, in an especially high degree, the qualities of honesty, sincerity, and accuracy.

For such a writer, in much of what he writes, is dealing with matter which will be relied upon by his readers for guidance in the affairs of their business and homes. Further, such a writer must himself be in a measure a scientist—at least he is the mouth-piece of science—and unless he has the scrupulousness of the scientist he will many times do more harm than good, not only to his readers, but to the science about which he writes.

An ethic for a writer in this field should be first of all characterized by sincerity of purpose. The writer needs to envisage his function—that of translating, making available, to the many, the contributions of the leaders of science and technology. His is a task of such importance and influence that it is worthy of the sincerest and most painstaking effort.

This sincerity should manifest itself in a respect for one's work, a feeling that the job is an important and worthy one, and in a determination to safeguard by every precaution the accuracy of what one writes.

The last point is worthy of a word of further emphasis. It is a wise writer who recognizes the fallibility of his own memory, of the testimony of people from whom he gets information, and of many printed sources of information. With such a scepticism he will not be satisfied with what he has written unless he *knows* that it is accurate. He will cultivate the habit of checking everything in his stories about which there is any chance of error. He

will check with the person from whom he got the information, with authoritative printed sources, with other people.

Writer's duty to editor: The writer has a duty not only to his readers but also to the editor to whom he sends his stories or on whose staff he works. The editor, in the nature of the case, has to presume that material sent to him by a writer is accurate and reliable. The editor cannot himself be an expert on every subject nor can he check the details of particular stories sent to him. In most cases he has to be dependent on the probity of the writer.

When a writer sends a story to an editor, unless he specifies otherwise, he implies that he is offering an exclusive story, that is a story which has not at the same time been offered to any other editor. It is unethical to submit the same or a nearly identical story to two or more editors at the same time, unless this fact is so indicated on the manuscript.

Crediting sources of material: The ethics of authorship demands that a writer shall give credit to other authors or investigators for material of theirs which he uses. The safe plan is to secure permission to use such material, if it is more than a short quotation, and then to make reference to the original author when the material is used. This does not apply, of course, to matters of common knowledge.

It is especially true when making use of material that is copyrighted in a book or magazine. A request for permission to quote should be made of the owner of the copyright, usually the book or magazine publisher. Some well-known writers, however, copyright their own material also, and in that case it is necessary to ask permission of the author. Student writers are sometimes careless in making use of such copyrighted material. If what they write should be published, they would be liable to prosecution for violation of a Federal law, with possible penalty of fine or prison sentence if convicted.

Selling rewritten stories: There is frequently a question as to the ethical right of an author to rewrite a story which he has already sold and offer it for publication to another magazine or paper. It is impossible to draw a rule which can always apply in

this connection, but this thought should guide the writer: When he sells an article to a publication he has sold all ownership rights to that article—not necessarily to the ideas which the article contains, but to the particular form in which those ideas are presented. He would not then be within his rights to sell a copy or a superficial variant of the story to another publication, but he would have the right to employ some of the ideas in building another story; and he may reserve second publication rights.

Respecting confidences: It is a commonplace of newspapering that the best stories never get into print. The good reporter learns a great deal more than he puts into his stories. He is restrained not only by expediency and the policies of his paper but also by respect for confidences.

The reporter has in some respects the same professional relationship to the people from whom he gets news as the doctor or lawyer has to his patrons. Information that is given to him as a private individual, as a friend or with the proviso that it is not for publication, cannot be used in a story, unless before the confidence is given the reporter makes clear that what he is told is to be so used. Many times the reporter should go even further than this. Not infrequently in the course of an interview the person being interviewed will make remarks which upon second thought he would not want to appear in print. In such a case the reporter should endeavor to protect his informant and either leave out of his story material which the informant would not want to appear or get his specific approval of its use.

Fictionizing: May the writer of news and magazine stories invent incidents, descriptions, conversations, and so forth to illustrate points in his own story?

It is not easy to lay down a rule in answer to this question. Fictionizing is ethical under at least two conditions: When the fiction is obvious to the reader and when the fiction is used not for its own sake but to project an idea in a more effective manner than could otherwise be done.

It is with fiction that purports to be fact that difficulty arises. There is no ethical excuse for the invention of fictitious incidents for their own sake. To write a news or feature story out of whole

cloth is dishonest. Hoaxes have not been unknown to newspapering, and in years gone by the bright reporter of fertile imagination was considered a distinct asset to a paper. It is safe to say, however, in spite of much contemporary distortion of the news, that such a reporter is an undesirable on the staffs of most newspapers and magazines.

Oftentimes, however, a writer wishes to put an idea in terms of a concrete incident, and to do so he resorts to fictionizing. If such fictions are employed to give greater effectiveness to the idea rather than to misinform the reader, they may be permissible.

Release dates: The observance of release dates is normally a problem of the editor rather than the staff member or free lance writer. A release date is a statement, either on a manuscript or in an accompanying instruction, that the story is not to be published until a certain specified time. The recipient of the story is under an ethical obligation to respect this release.

Subsidized stories: Under ordinary conditions a writer should not accept pay for a story from any other source than the newspaper or magazine which buys the story or from which he draws his salary. This is especially true of members of newspaper or magazine staffs. It is not unusual for interests of one kind or another to offer a writer pay to prepare a story and get it into publication. To accept such offers is unethical except with the knowledge and consent of the editor for whom one is working.

Plagiarism*: Plagiarism in writing is passing off as one's own something that has been written by another. It is both against plagiarism and the piracy of another's work that the copyright laws are invoked.

While it is recognized that a limited amount of appropriation from the work of another, if he is given credit, is permissible, the question of how extensive the appropriation may be is difficult to determine. In "The Law of the Press," by William G. Hale, a statement from the court in the case of *Story vs. Holcombe* concerning infringement of copyright is quoted:

*The paragraphs on plagiarism, libel and copyright are reproduced from "A Deskbook of Style" by Beckman and Converse (The Collegiate Press, Inc., Ames, Iowa).

"The infringement of a copyright does not depend so much upon the length of the extracts as upon their value. If they embody the spirit and force of the work in a few pages, they take from it that in which its chief value consists. . . ."

Legally, then, the appropriation of another's work must be so limited that the appropriation runs no danger of superseding the original or of undermining its value as a literary property. Ethically, appropriation may or may not be justified, depending on the manner and spirit in which the appropriation is made. A writer should stay on the side of safety and honesty and should always accord the courtesy of a credit to the author of the original work. If it is desired to reproduce considerable amounts of material from the work of another, consent should be secured of the author, or the holder of the copyright, if it is copyrighted.

Libel: In "The Law of the Press" William G. Hale defines civil libel as "defamation which appeals to the eye. It consists of written or printed matter, of a picture or effigy, which holds a person up to public hatred, contempt or ridicule, or which imputes to one shortcomings in his trade, office, calling, or profession."

Criminal libel, it is pointed out in the same book, differs from civil libel, apart from rules as to publication, in one major particular.

"Civil libel is confined to defamation of a living person whereas criminal libel includes as well holding a deceased person up to hatred, ridicule, or contempt."

Broadly speaking, there are three defenses against a libel action: To prove that the allegedly libelous material, for the publication of which action was brought, is true; to prove that the publication was privileged, that is, of a character permitted under the law; to prove that the publication was an innocent mistake. The latter constitutes a defense "in mitigation of damages," and while this defense does not establish innocence of the offense it does lessen the danger of punitive damages.

One publishes material of a libelous nature at his peril. The facts that the publication was accidental, that it was not intended maliciously, that it was copied from another source, that it is qualified by such phrases as "it is alleged" or "it is rumored" do

not relieve the author of the statement of accountability under the law.

Copyright law of the United States: (Statement approved by C. L. Bouvé, register of copyrights, Aug. 11, 1937): The copyright law approved March 4, 1909, effective on July 1, 1909, provides that the application for registration of any work "shall specify to which of the following classes the work in which copyright is claimed belongs."

- (a) Books, including composite and cyclopædic works, directories, gazetteers and other compilations. The term book includes pamphlets, separate poems or single pages;
- (b) Periodicals, newspapers;
- (c) Lectures, sermons, addresses, prepared for oral delivery;
- (d) Dramatic or dramatico-musical compositions;
- (e) Musical compositions;
- (f) Maps;
- (g) Works of art; models or designs for works of art;
- (h) Reproductions of a work of art;
- (i) Drawings or plastic works of a scientific or technical character;
- (j) Photographs;
- (k) Prints and pictorial illustrations;
- (l) Motion picture photoplays;
- (m) Motion pictures other than photoplays.

The law expressly requires that the application for registration of any article should distinctly specify to which one of these classes the work in which copyright is claimed belongs. An article is not usually entitled to registration unless it is reasonably possible to classify under one or the other of the above designations named in the statute.

The term of copyright: Under the laws of the United States the original term of a copyright runs for a period of twenty-eight years. However, at the expiration of that time it may be renewed for a further term of twenty-eight years. Renewal registration can be made only during the last year of the first term of copyright, and all renewals will be for the additional term of twenty-eight years, the total possible term, including renewal, being fifty-six years.

The copyright term begins on the date of publication. In the

case of works not reproduced for sale, the copyright term begins on the date of the deposit of copies.

Further information as to steps necessary for securing copyright may be obtained from the Register of Copyrights, Library of Congress, Washington, D. C. He will furnish the necessary information and forms on request and without charge.