

NOTES ON THE STYLE OF THE LAW

On referring to error-ridden filings

by

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≈ judgments ≈ judges ≈ errors ≈ sic ≈
correction ≈ courtesy ≈ manners ≈



LAWYERS, as well as judges, are expected to file written submissions which correctly follow the rules of English grammar.¹ Ordinary people do not normally write to this high standard. Therefore, when a document in evidence has been written by a layperson, particularly one without the advantages of an extensive education, it may contain many minor errors. How should judges make note of this when quoting such documents?

In the recent Privy Council case of *Morgan v the King*,² Lord Stephens of Creevyloaghgare excerpted grounds of appeal written *pro se* by the appellant from his prison cell. As one might expect, this writing was not perfect. The following is the excerpt as His Lordship marked it up (colour added, underline in original):³

- (1) Unfair Trial - That based on the evidence as presented the sentences are harsh and excessive and cannot be justified under law.
- (B) [sic] That the actions of the Court is [sic] unlawful under law, with the sentences of Four (4), Three... (3) years consecutive sentences.
- (2) That the Learned Trial Judge did not temper justice with mercy as she failed to recognised [sic] and taken [sic] into consideration the two (2) years spent awaiting Trial.

¹ As to whether they actually do so, I tactfully avoid any comment...

² [2023] UKPC 25, Jam

³ One hopes at this point in this publication's history, it is sufficiently clear that your correspondent would never willingly make use of underline!

- (3) That the Manifestation of the Sentences are [sic] reflected in [the] manner in which the learned Trial Judge read her own view into the Law and based on her utterances reflected in the severity of the sentences when she said ‘you should not see the Light of day’. This utterances [sic] prejudice the sentencing policy of the Court and the circumstances therefor.⁴

His Lordship’s approach is not optimal.⁵ The ordinary interpolation of ‘[sic]’ is not especially noticeable if it applies merely to one error in a passage. The repeated use of ‘[sic]’ turns a passage into a teacher correcting a deficient pupil, highlighting every little error. Even when such pedantry is meant in the best spirit and is correcting genuine errors,⁶ it will inevitably come across condescending or petty. This may be justified, when a lawyer has incurred the deep displeasure of a judge by wasting the court’s time with disastrously poorly written submissions. Yet, when the court is considering evidence which was written by a layperson in profoundly trying circumstances and which was not even intended to be seen by the appellate court in question, there is no reason for this.

The primary reason for interpolating ‘[sic]’ is to avoid the risk that the reader might attribute errors in the quoted text to the transcription of the person quoting it. This is unlikely where the text is from a party we would reasonably expect to make errors in his writing (like a litigant in person handwriting an appeal from prison). A better solution is to avoid ‘[sic]’ proliferation while also, *ex abundanti cautela*, maintaining some warning that the errors are not due to the transcriber. This can be done by adding to the introductory sentence a phrase like the following parenthetical:

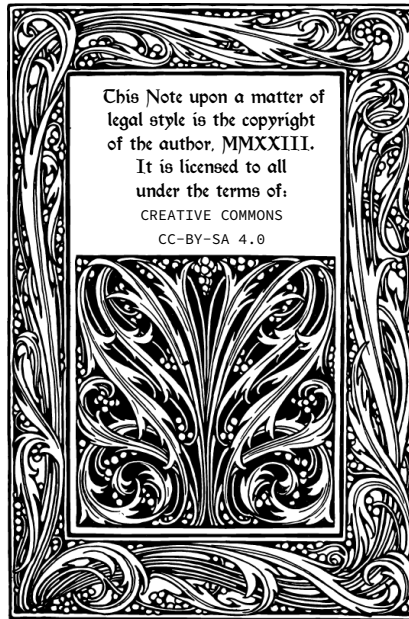
The following were his grounds of appeal against sentence as set out by the appellant (any errors, which one can expect in a handwritten text from prison, are reproduced as in the original):



⁴ *ibid*, para 31

⁵ That’s not merely because His Lordship failed to notice the incorrect use of a hyphen for an em-dash at the beginning of the first point.

⁶ As your correspondent’s pedantry always strives to be.



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