

BOOK NOTICES

By Beverly Ray Burlingame

BEYOND THE BASICS: A TEXT FOR ADVANCED LEGAL WRITING. By Mary Barnard Ray and Barbara J. Cox. St. Paul: West Publishing Co., 1991. Pp. 427. \$17.95.

Ray and Cox have created a text with an unusually broad scope. Instead of limiting their book to the traditional topics of legal-writing textbooks — such as appellate briefs and office memoranda — they include units on statutes and rules, jury instructions, contracts, pleadings, interrogatories, correspondence, opinion letters, and wills and trusts.

Ray and Cox explain each type of legal writing, discuss lawyer-client interaction in shaping documents, and describe ways to tailor documents to various audiences. For each type, they also provide examples, exercises, and assignments. In the chapter on statutes and rules, however, and in the chapter on wills and trusts, they try to do too much; these topics are too specialized for understandable coverage in just a few pages.

Although *Beyond the Basics* is generally well written, with strong and sometimes colorful language, the text is weakened by the overuse of *so* as a subordinate conjunction and by occasional flaws such as dangling participles and vague pronoun references. Still, the book's considerable virtues predominate. The authors recognize that writing, like thinking, is unique to each individual; they discuss several ways to organize and express ideas but acknowledge that other methods may be equally valid. Because of its broad coverage and practical focus, the book will be useful to attorneys as well as to legal-writing students.

BIEBER'S DICTIONARY OF LEGAL ABBREVIATIONS. By Mary Miles Prince. 3d ed. Buffalo: William S. Hein Co., 1988. Pp. 584. \$35.00.

Anyone who has ever struggled to decipher an obscure legal abbreviation or puzzled over an unknown acronym will appreciate the benefits of *Bieber's*. The book identifies more than 20,000 abbreviations used in American lawbooks and government publications. Although not intended as a guide to foreign legal abbreviations, *Bieber's* nevertheless includes entries for many foreign organizations and publications.

Rarely will reference to *Bieber's* prove fruitless. Reports, codes, treatises, journals, organizations, and courts—all are represented, from A. & E.¹ to Zilla C.D.² Legal terms and a few nonlegal terms are also included. This edition's layout and typeface conventions are vastly improved, and the text is uncommonly free from typographical errors. *Bieber's* is a triumph of industriousness and attention to detail.³

BLACK'S LAW DICTIONARY. Revised by Joseph R. Nolan and Jacqueline M. Nolan-Haley. 6th ed. St. Paul: West Publishing Co., 1990. Pp. 1657. \$49.50 (deluxe), \$26.95 (regular), \$17.95 (abridged).

The sixth edition of this well-known law dictionary was a family project: Justice Joseph Nolan collaborated with two daughters — Jacqueline M. Nolan-Haley, a law professor, and Martina Nolan Alibrandi, a CPA. Although this edition is

¹ Adolphus & Ellis's Reports.

² Zilla Court Decisions (Bengal, Madras, North West Provinces) (India).

³ For his contributions to this notice, I would like to thank Jonathan Pratter, Foreign Law Librarian, The University of Texas.—B.R.B.

similar in format and style to earlier editions, 5,000 entries have been added or revised. The most significant changes concern tax, finance, accounting, and commercial transactions.

Like earlier editions, the sixth edition of *Black's* is massive. And to some, this bulk will seem unnecessary. For example, the book includes a few common English words that have no meanings or connotations peculiar to the law. Why rely on a law dictionary to find out what *bloodhound*, *meadow*, or *mile* means? In addition, the dictionary contains translations and pronunciations of hundreds of Latin and French maxims as well as definitions of feudal terms that were obsolete by Blackstone's time. These maxims and older word forms should be preserved somewhere for historical purposes, but probably not in a reference book for modern lawyers.

The definitions are often wordy and sometimes lapse into encyclopedic explanation. For readers with no training in linguistics, the pronunciation symbols may be difficult to understand. Finally, in some instances the part of speech of the definition does not correspond to that of the headword — an inconsistency that may cause confusion if the headword is unfamiliar. For example, the adjective *litigious* is wrongly defined as if it were a noun: “that which is the subject of a lawsuit or action.”

Despite its shortcomings, *Black's* is still the most comprehensive American law dictionary. Law students, who must somehow make sense of the archaic, obtuse language of their casebooks, will find it indispensable. Judges, law professors, and practicing lawyers will also find it valuable. This scholarly work continues a century-old tradition of helping lawyers and students understand the often ponderous, sometimes mysterious, words of the law.

THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION. 15th ed. Cambridge, Mass.: Harvard Law Review Association, 1991. Pp. 343. \$7.50.

Undaunted by those who have condemned the book for its bulk, the editors have added almost a hundred pages. Most additions, however, clarify and illustrate preexisting rules. New in this edition is a brief, useful chapter called "Practitioners' Notes," which adapts legal-citation rules to the typeface and style conventions of court papers and legal memoranda.

Longtime users will feel immediately drawn to the book because its universal nickname — "The Bluebook" — now appears on the cover. And there are other indications that the editors are flexible, progressive, and even witty. For instance, this piquant example pokes fun at the *Maroonbook*, the *Bluebook's* only competitor:

Book Note, *Manual Labor, Chicago Style*, 101 HARV. L. REV. 1323 (1988) (discussing why users of *The University of Chicago Manual of Legal Citation* are hopelessly marooned).

Many new examples reflect controversial topics such as race relations, sexual harassment, women's rights, and AIDS.

In what seems a good organizational decision, the editors have combined in one final section all 17 tables, which were previously interspersed among the rules to which they relate. This entire section is printed on blue paper for easy access. Although the massive blue section is easy to locate, users' eyes may cross as they attempt to find one table among the 17 long lists of tiny abbreviations. Placing tabs on the most commonly used tables is still probably the only real solution.

The assiduous rule-making continues in this edition, ensuring that the dispute between *Bluebook* and *Maroonbook*

supporters will rage on.⁴ Even *Bluebook* devotees, however, may lose faith over a few trifling changes. For example, in citing one work in a volume of collected works, one must now italicize the word *in*. Still other changes are probably descriptive, not prescriptive, as *Bluebook* editors yield to common usages such as capitalizing “Due Process” and abbreviating “Bankruptcy Reporter” as “B.R.” instead of “Bankr.”

Probably the most significant change in this edition is the new rule requiring that citations include authors’ full names. The editors begin with the ideal statement:

Always give the author’s full name as it appears on the publication the first time a work is cited

This easy-to-follow rule shows admirable respect for each author’s preference on a personal, and sometimes sensitive, issue. Unfortunately, the editors add this unnecessary complexity:

Shorten any middle name (or names) to a middle initial unless the author uses an initial in place of his or her first name, in which case retain the first initial and the full middle name.

This mandate results in unnatural-sounding names such as Sandra D. O’Connor, George B. Shaw, and Edgar A. Poe. What better illustration of the need for this journal’s policy: Follow the *Bluebook* shorn of its nonsense.

Despite the good reasons for some changes, the inevitable result of all this fiddling will be greater inconsistency during the transition, painful indecision among fastidious lawyers over whether to *be* correct or *seem* correct, and acute dismay among published authors over the thought of revision — which will entail finding the first name and middle initial of every author

⁴ See Douglas Laycock, *The Maroonbook v. The Bluebook: A Comparative Review*, 1 SCRIBES J. LEGAL WRITING 181 (1990); Bryan A. Garner, *An Uninformed System of Citation: The Maroonbook Blues*, 1 SCRIBES J. LEGAL WRITING 191 (1990).

of every book, article, and student work cited. These dismal prospects explain why prolific authors such as Charles Alan Wright have, through the years, so sensibly adhered to one of the earlier *Bluebook* editions.

CLARITY FOR LAWYERS. By Mark Adler. London: The Law Society, 1990. Pp. 128. £11.25.

In *Clarity for Lawyers*, Adler has managed to create a clever, inventive, and practical guide to legal writing. Adler approaches each topic in the same sensible way. He presents an example of deplorable legal prose and then analyzes it in a readable list, discussing each writing problem and providing suggestions for change. The book has an excellent page layout, with plenty of white space and a variety of fonts that clearly differentiate the examples from the text.

One possible problem with the book is its haphazard organization. Adler candidly confesses that he has never had the patience to plan, and the book manifests this trait. The first two chapters, for example, are entitled "What is wrong with legal writing?" and "How not to write." Although the organizational flaws might make the book slightly inconvenient for use in a legal-writing course, they are not a significant obstacle to understanding.

The book's distinctively British flavor may distract some American readers. For example, Adler uses words such as *spoilt* and *whilst* and follows British rules for punctuation and relative pronouns. But Adler is a skillful writer with a wry sense of humor. He weaves into his text clever puns, delightful parodies, and expressive metaphors. An unpretentious slender volume, *Clarity for Lawyers* brims with wit and colorful language.

DRAFTING LEGISLATION AND RULES IN PLAIN ENGLISH. By Robert J. Martineau. St. Paul: West Publishing Co., 1991. Pp. 155. \$10.95.

Divided into two major parts, this book contains a wealth of information on legal drafting. Part I describes the legislative process, explains various approaches to statutory construction, and analyzes the effects of formal documents — including constitutions, statutes, and rules — on the process of drafting. Part II, a practical guide to drafting, discusses word choice, tense, mood, voice, syntax, organization, and punctuation. It also provides special rules for drafting definitions, conditions, exceptions, and provisos.

Some parts of the book need additional examples, and all examples should be set apart from the author's discussion. The text contains a few subject-verb agreement errors, unparallel constructions, and typographical errors. Ironically, although Martineau proclaims the urgent need for simplicity and clarity in writing, his own prose is often convoluted and syntactically flawed. For example, he writes: "A special development has been the Plain English movement, directed primarily at making legal documents drafted by lawyers, particularly those that affect consumers such as insurance and installment contracts as well as government regulations, easier to read and understand."

For the student, lawyer, or other drafter willing to persevere through Martineau's ponderous prose, the book provides a detailed guide to legislative drafting.

THE ELEMENTS OF LEGAL STYLE. By Bryan A. Garner. New York & Oxford: Oxford University Press, 1991. Pp. 236. \$19.95.

Like the Strunk and White classic that inspired it, *Elements* is an unprecedented achievement. Garner eloquently explains and vividly illustrates how to improve legal writing — how to shape and refine it for clarity, brevity, elegance, imagination, force, and wit. Spirited and clever, the book is a paradigm of all that it teaches.

Garner radically departs from the well-worn path of others who have written on this topic. While most writing experts issue vague directives on how to write concisely and edit carefully, Garner provides useful, tangible instructions for writing well in different contexts. He clearly explains the structures and patterns of language, providing abundant examples in a variety of styles. Unlike most critics, who lapse into theoretical evaluations of judicial style, Garner uses analysis principally as a tool to teach readers to emulate the good and avoid the bad.

Garner's chapter on figures of speech may be difficult for readers with little background in language and literature. The names of the devices — including *paronomasia*, *anadiplosis*, and *epizeuxis* — will discourage some readers, despite Garner's advice that these names need not be memorized. More problematic, many lawyers will be unfamiliar with terms like *predication*, *coordinates*, and *disjunctives*, which Garner uses in his explanations of the devices. Nevertheless, this chapter and its colorful examples will delight language enthusiasts.

With its logical organization, comprehensive index, and helpful outlines inside the covers, *Elements* provides readily accessible guidance. The book has a broad scope, covering punctuation, word choice, grammar, syntax, figures of speech, exposition, argument, tone, and expressive tactics. *Elements* is an indispensable source for judges, lawyers, and law students who strive to move beyond mere correctness to true distinction in their writing.

ESSENTIAL LATIN FOR LAWYERS. By Russ VerSteeg. Durham, N.C.: Carolina Academic Press, 1990. Pp. 166. \$19.95 (cloth), \$9.95 (paper).

Though the title targets lawyers, VerSteeg begins the book by recommending it to law students, lawyers, undergraduates studying Latin, paralegals, paralegal students, and "anyone interested in law and its Latin heritage." The omission of the word *else* after *anyone* in the quoted phrase balefully foreshadows the blunders that follow.

VerSteeg addresses his audience erratically, distracting readers in every conceivable group. He sometimes uses third person — "Early in their law school careers, law students . . ." — leaving law students and lawyers wondering whether they have stumbled onto a book for nonlawyers. Elsewhere, he abruptly shifts to second person — "If you are a law student . . ." — excluding lawyers, paralegals, and numberless others for whom the book is ostensibly intended.

With two main parts, the book first discusses common Latin terms for several substantive areas of law and then briefly defines almost 300 Latin terms. In the detailed discussions VerSteeg includes more information than is necessary or even useful to most readers. At times he wanders off into protracted discourse about tangentially related topics and appends long substantive endnotes that resemble diary entries: "The very first word I read in law school" Strangely, the book contains a guide to classical Latin pronunciation, even though such speech would evoke ridicule from the legal community.

The book abounds with writing weaknesses, including incorrect words (*proscribe* for *prescribe*), incorrect pronouns (*which* for *that*), and agreement errors (*they* in reference to *witness*). Its most distracting stylistic attribute is rampant virgules. Hundreds of times VerSteeg uses *slhe* and *his/her* — and, on one memorable occasion, *his/her/lits/their*. But by far his most outrageous word is *shelit*. This creation is truly unspeakable, except perhaps in a barn.

LAWYERS SAY THE DARNEST THINGS. By Steve Kluger. New York: Ivy Books, 1990. Pp. 118. \$3.95.

Kluger provides a loosely organized collection of linguistic lapses from the writing of lawyers and the testimony of witnesses. A novelist and playwright, Kluger explains in a brief author's note that he gathered the examples while working in the word-processing departments of several large law firms.

The cover announces that the book proves "why we love to hate lawyers." Although the book does contain many grammatical and syntactic atrocities by lawyers, it also includes obvious typographical and transcriptional errors by secretaries and numerous idiotic remarks by witnesses — two categories of people who somehow manage to avoid inciting anyone's hatred. Kluger offers no analysis of the embarrassing verbal blunders. Nevertheless, his book provides an entertaining diversion for weary lawyers and disillusioned clients.

The creative spelling in the title is one of the darnedest things about the book.

LEGALESE. By Miriam Kurtzig Freedman. New York: Dell Publishing, 1990. Pp. 205. \$5.95.

Legalese is not for lawyers or law students and is not primarily about language. Many lawyers will regard the book as an oversimplification that totters precariously on the brink of misrepresentation. For example, Freedman announces that one of the eight "truisms" underlying the American legal system is the child's lament, "It's not fair!" All first-year law students recognize this exhortation as the worst possible answer to any conceivable question — the response sure to elicit a caustic retort from even the most indulgent law professor.

But *Legalese* achieves its primary goal: to explain to nonlawyers in an understandable way the fundamental concepts and terminology of law and the American legal system. The

book provides practical information on various types of civil and criminal lawsuits and on key concepts such as jurisdiction, standards of proof, statutes of limitation, and defenses. It includes a good chapter on courtroom parties, procedures, and documents as well as a handy guide to legal jargon and legalese. Unfortunately, the text teems with exclamation points, a characteristic sure to annoy many readers.

Lawyers may find parts of this book useful in preparing their clients to appear in court and to take part in other legal transactions. The book may also prove helpful to clients seeking to communicate more effectively with their lawyers and to understand the sometimes bewildering American legal system.

THE LITERATE LAWYER. By Robert B. Smith. 2d ed. Austin, Tex.: Butterworth, 1991. Pp. 201. \$25.00.

An introduction to legal writing and oral advocacy, *The Literate Lawyer* is an eminently practical and refreshingly readable coursebook. Smith teaches through sparkling examples from a variety of sources such as history, literature, and law. The book spans a wide range of topics including grammar, style, legal research, memorandum writing, brief writing, letter writing, oral advocacy, and even dictation. Despite its broad scope, the book focuses throughout on teaching students to write clearly and concisely.

A pedagogical pessimist, Smith sometimes recommends drastic, restrictive solutions, such as: "It is not a bad rule to avoid both participles and infinitives altogether." On several other occasions, too, Smith weakens his credibility by ignoring his own advice. For example, he warns students to avoid sexist pronoun references because they irritate many readers, yet he frequently uses the generic *he*, sometimes uses the cumbersome *he or she*, and once uses *she* to refer to an unknown secretary.

The index lacks enough detail to prove helpful and contains a few puzzling entries such as "Pandora's box" and "Rehearsal."

Smith provides excellent guidance on tailoring writing to various audiences. Especially valuable are his insights on judicial decision-making and his suggestions for molding briefs into powerful tools of advocacy. *The Literate Lawyer* is a diamond of a coursebook with a few rough edges.

OPINION WRITING. By Ruggero J. Aldisert. St. Paul: West Publishing Co., 1990. Pp. 338. \$22.50.

Opinion Writing is a comprehensive guide to judicial writing for judges, administrative officers, and law clerks. An appellate judge for almost 25 years, Aldisert emphasizes opinion writing at the appellate level, but the book will be useful to those at all levels of the judicial system.

The first part of the book, on the theory of opinion writing, provides valuable insights into the purposes of opinions, the reasons for publishing and not publishing opinions, the distinction between reaching and justifying decisions, and the role of public policy in opinion writing. The rest of the book is a practical guide, with detailed information on jurisdiction, standards of review, parts of an opinion, and types of opinions.

Despite the claim that the book does not focus on writing style, Aldisert devotes three chapters to the topic. These loosely organized collections of reprints are less coherent than other parts of the book.

Aldisert's chapter on how to shorten opinions is downright troubling. The author includes three of his early opinions along with his own suggested revisions. Many verbose passages, however, remain unchanged, and some passages even get worse. Although this chapter is unfortunate, the book provides good insights into the process of opinion writing and fills a longstanding gap in legal literature.

WRITING AND ANALYSIS IN THE LAW. By Helene S. Shapo, Marilyn R. Walter, and Elizabeth Fajans. 2d ed. Westbury, N.Y.: Foundation Press, Inc., 1991. \$17.95.

This textbook covers all the traditional topics of the first-year legal-writing course. The book begins with a clear introduction to the legal system — a critical topic that most first-year courses neglect. The next two chapters — on analyzing cases and statutes — also provide important basic instruction likely to prove valuable to law students in all their courses. The rest of the book primarily helps students to develop essential legal skills such as writing specific types of legal documents, writing persuasively, and arguing before a court.

The new edition is still a manageable length, with about 280 pages plus five appendixes. In this edition, the authors have added chapters on sentence structure and organizing complex legal analysis. The book is well written and easily understandable. Law students who are already accomplished writers, however, may consider some parts simplistic. Abundant examples, well-constructed exercises, and an attractive page layout enhance the book's quality.

The widespread adoption of the first edition attests to the book's effectiveness in legal-writing courses.

WRITING IN PLAIN ENGLISH. By Robert D. Eagleson. Canberra, Australia: AGPS Press, 1990. Pp. 122. Aus\$7.95.

Eagleson created this book in conjunction with the Australian government's program to improve the quality and clarity of governmental publications. Although not designed specifically for improving legal writing, the text is readily adaptable to some types of legal writing since it focuses on the clear, objective expression of information.

The book begins with a discussion of the plain-English approach. Other main parts concern planning documents,

using language, and designing, testing, and revising documents. These main parts are divided into 25 brief chapters, each addressing a single, narrow concept such as ordering ideas within sentences and using active instead of passive voice. The book also includes tests for assessing writing skills, a list of plain-English alternatives to difficult words, and a bibliography.

Writing in Plain English has an attractive, even inviting, format — with varied examples set apart from the text in boxes with blue backgrounds. The book is a clear, approachable self-instruction manual. In addition, because of its unusual modular design, writing instructors can easily incorporate parts of it into their own course plans.

Eagleson offers sound advice on several topics often ignored in books on writing. For example, he extensively discusses tailoring writing to different audiences, designing documents, and testing the impact of documents. This well-written, down-to-earth book teaches writers to use plain English and provides a rare, sparkling example of the effectiveness of this approach.