Rebuttal:

In Defense of Legalese — Once More

Walter P. Armstrong, Jr.

Mr. Johanson devotes about half of his article (which might as well have been entitled *In Defense of Logorrhea*, as he apparently advocates the use of 44 words where 2 would do) to the demonstration that the term *per stirpes* "can produce ambiguity and litigation" that could be avoided by spelling out its meaning; yet he accuses me of believing "that the criterion for successful drafting is whether the document ends up being litigated." In this he misinterprets my article.

My point is well stated by Mr. Justice Holmes in the quotation that Mr. Johanson gives — that a good piece of drafting should avoid any possibility of misinterpretation, thus minimizing the *possibility* of litigation. And if the use of terms of art, which may strike the nonlawyer as legalese but are perfectly understandable to judges and other lawyers, contributes to this end, then it is justifiable. Mr. Johanson appears to agree with this, as he accepts the three examples that I give of properly used terms of art (which he prefers to *legalese*) and adds five of his own. I agree with Mr. Johanson that words that do not add to the meaning or clarity of a document are never justifiable. So perhaps we are not so far apart after all. I concur fully with the conclusion reached in the penultimate paragraph of his response; but I find nothing in his article that causes me to change the views expressed in mine.