



This month, we are pleased to introduce a new column on good legal writing. "The Last Word" will return to this space next month.

Lawyers Write, So To Speak

Starting a column on writing with a double-entendre is fun for the writer, intriguing to the reader—and risky as all get out. This inaugural column dwells on writing and panders to lawyers. My people, lawyers and writers, have been going steady for centuries. Some even entered into mixed marriages and begat lawyer authors. Though it is the case that many lawyers write well, too many others write passively, thereby jarring readers, leading them to put down our briefs, like dime-novels. My goal is to bring a little shade to the Valley of the Sun by moving legal writing into the second half of the last century (we can work on *this* century in future columns).

This column is for tweeners, those who write moderately well, but feel bad about it. And it's for everyone who tries to practice law while practicing writing at the same time.

Are lawyers ever comfortable in bed with writers? One side is too hard, the other too lumpy. Like all bedroom scenes, a black moment appears—writer—girl dumps lawyer—boy on a three-count indictment: boring, boring and boring. We are boring because we strive only for clarity, which is vastly overrated. Learned Hand said it best: "There is no surer way to misread any document than to read it literally."¹

Speaking of good writing, have you read **Gordon Campbell's *Missing Witness***? It is a great novel by a great lawyer. For my people, *Missing Witness* is an insider-delight. Campbell is one of us—a 1972 graduate of ASU's law school, a veteran Arizona trial lawyer (although he absconded to Utah years ago), and one of a handful who practiced with the legendary John Flynn, in his prime.

Campbell's rich and varied tapestry of Phoenix, with its rowdy crowd of trial lawyers, is a distant echo of 1970s-era Phoenix. That was before lawyers advertised in the Yellow Pages; a time when judges ruled with one eye on the law and the other on the clock, anticipating the smoky haze in Durant's at 5:30 p.m. It's hard to peg Campbell and harder yet to say enough good things about his writing. His prose is at once simple and direct, yet rich and fanciful, just like the man he calls Dan Morgan, loosely modeled after Flynn. Morgan has that same smoke-filled, whiskey-colored nose used by many courtroom warriors to smell a favorable verdict coming down the rail.

The fictional Doug McKenzie, as young as Campbell was in 1972, finds himself hip-deep in a murder trial. His boss, a man who circumvented prosecutors, belly-upped to the judge, and made nice with the jury, knew no fear, and damn few ethical rules. Campbell's collage of a second-chair lawyer hits the mark. McKenzie senses, but does

not understand, the subtle tension in chambers conferences. He knows how bad his boss wants to win and constantly digs for that elusive four-square case. As a foot-soldier at the castle wall, he never knows whether the cannonball he works for will breach the wall or rebound in his lap. It's that insider touch that gives Campbell's book the authentic feel of death-penalty trials and a gut-wrenching fear of trial tactics on the fly.

James Patterson called *Missing Witness* a "big, sprawling very well written page-turner." And Tony Hillerman said, "A fellow with Campbell's talent should not be wasting his time practicing law." Hear, hear! **AF**

endnote

1. This is the first and last footnote in this column. It is here to make the point that citations are *verboten* in this column because they remind the author of days, weeks and years wasted on reading, and writing, appellate briefs.



PHOTO: KAREN SHELL



Gary L. Stuart is a 40-year member of the Arizona bar, a seasoned trial lawyer and a prolific author. He has written six books and scores of law review articles, CLE monographs, essays, op-ed pieces, and short stories. He is on the adjunct faculty of two Arizona law schools and may be best known for his writings, lectures and presentations on ethics, trial advocacy and "Creative Writing for Lawyers" (which he insists is not oxymoronic).

WRITING TIP

Word to the Wise

"Vigorous writing is concise. A sentence should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts. This requires not that the writer make all sentences short, or that he avoid all detail and treat his subjects only in outline, but that every word tell?"

—William Strunk, Jr.
The Elements of Style