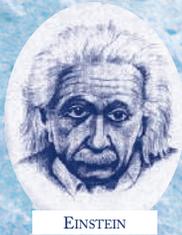




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# What Great Writers Can Teach Lawyers and Judges

## *Wisdom from Plato to Mark Twain to Stephen King (Part II)*

by Douglas E. Abrams

**H**istory's well-known literary giants hold useful lessons for lawyers and judges because law, in its essence, is a literary profession heavily dependent on the written word. Tone and style may vary from discipline to discipline, but the English language knows only two types of writing — good writing and bad writing. Good legal writing — marked by precision, conciseness, simplicity, and clarity — is simply good writing about a legal subject.

In the July issue (p. 612) of the *Texas Bar Journal*, this two-part article began with lessons from literary greats about precision and conciseness. Part II now concludes with lessons about simplicity and clarity.

### SIMPLICITY

1. *"If you can't explain something simply, you don't understand it well."* — Albert Einstein<sup>1</sup>
2. *"Make everything as simple as possible, but no simpler."* — paraphrasing Albert Einstein<sup>2</sup>

In more than 300 scientific and 150 non-scientific papers, Albert Einstein sought to explain complex ideas as simply as possible.<sup>3</sup> "Any fool can make things bigger, more complex, and more violent," he said. "It takes a touch of genius — and a lot of courage — to move in the opposite direction."<sup>4</sup>

English playwright and novelist W. Somerset Maugham offered two secrets of play writing — "have common sense and ... stick to the point."<sup>5</sup> For lawyers, common sense recognizes that legal arguments are not always as complex as they first seem. "Out of intense complexities," observed Winston Churchill, "intense simplicities emerge."<sup>6</sup>

On the other hand, simplicity for its own sake can snare unwary legal writers. Where full exposition of a legal doctrine or argument requires extended discussion, oversimplification may impede rather than enhance communication. Lawyers heed Einstein's formula best with the same sound judgment at the keyboard that they would exercise when speaking in the courtroom or other halls of justice.

3. *"[B]eauty of style and harmony and grace and good rhythm depend on simplicity."* — Plato<sup>7</sup>

4. *"The supreme excellence is simplicity."* — Edith Wharton<sup>8</sup>

Lawyers and judges write best by playing the percentages, which (as Einstein taught) usually points the compass toward simplicity. "Simplicity is the ultimate sophistication," said Leonardo da Vinci, a Renaissance thinker whose writings have survived the centuries.<sup>9</sup> "[T]o be simple is to be great," agreed essayist and poet Ralph Waldo Emerson.<sup>10</sup>

Thomas Jefferson left no doubt about where he stood. "I dislike the verbose and intricate style of the English statutes," the elderly lawyer wrote a friend in 1817, "and in our [Virginia's] revised code I endeavored to restore it to the simple one of the ancient statutes."<sup>11</sup>

5. *"Any word you have to hunt for in a thesaurus is the wrong word. There are no exceptions to this rule."* — Stephen King<sup>12</sup>
- "One of the really bad things you can do to your writing," King explains, "is to dress up the vocabulary, looking for long words because you're maybe a little bit ashamed of your short ones."<sup>13</sup>

Ernest Hemingway said that he wrote "what I see and what I feel in the best and simplest way I can tell it."<sup>14</sup> Hemingway and William Faulkner went back and forth about the virtues of simplicity in writing. Faulkner once criticized Hemingway, who he said "had no courage, never been known to use a word that might send the reader to the dictionary." Hemingway responded, "Poor Faulkner. Does he really think big emotions come from big words? He thinks I don't know the ten-dollar words. I know them all right. But there are older and simpler and better words, and those are the ones I use."<sup>15</sup>

Kurt Vonnegut placed himself comfortably in Hemingway's camp: "I wonder now what Ernest Hemingway's dictionary looked like, since he got along so well with dinky words that everybody can spell and truly understand."<sup>16</sup>

Will Rogers is most remembered as a humorist, but satire about public issues frequently conveys perceptive underlying messages. Rogers wrote more than 4,000 nationally syndicated newspaper columns and he contributed wisdom about language.<sup>17</sup> His advice resembled Hemingway's and King's: "[H]ere's one good thing about language, there is always a short word for

it,” Rogers said. “‘Course the Greeks have a word for it, the dictionary has a word for it, but I believe in using your own word for it. I love words but I don’t like strange ones. You don’t understand them, and they don’t understand you. Old words is like old friends — you know ’em the minute you see ’em.”<sup>18</sup>

6. *“The finest language is mostly made up of simple unimposing words.”* — British Victorian novelist George Eliot (Mary Ann Evans)<sup>19</sup>

“Broadly speaking, the short words are the best, and the old words when short are best of all,” Churchill said.<sup>20</sup> “Use the smallest word that does the job,” advised essayist and journalist E.B. White.<sup>21</sup>

In a letter to a 12-year-old boy, Mark Twain praised his young correspondent for “us[ing] plain, simple language, short words, and brief sentences. That is the way to write English — it is the modern way and the best way. Stick to it; don’t let fluff and flowers and verbosity creep in.”<sup>22</sup>

“Where a short word will do, you always lose by using a long one,”<sup>23</sup> said British writer and theologian Henry Alford (1810-1871). “Elegance of language may not be in the power of all of us,” Alford concluded, “but simplicity and straightforwardness are.”<sup>24</sup>

## CLARITY

1. *“Have something to say, and say it as clearly as you can. That is the only secret of style.”* — British poet and writer Matthew Arnold<sup>25</sup>

“[T]he first end of a writer to be understood,” British poet laureate and literary critic John Dryden counseled in 1700. “Everyone who writes strives for the same thing: To say it swiftly, clearly, to say the hard thing that way, using few words. Not to gum up the paragraph. To know when to quit when you’ve done,”<sup>26</sup> added poet William Carlos Williams.

British writer and poet John Ruskin (1819-1900) found it “excellent discipline for an author to feel that he must say all he has to say in the fewest possible words, or his reader is sure to skip them; and in the plainest possible words, or his reader will certainly misunderstand them.”<sup>27</sup>

2. *“The chief virtue that language can have is clarity, and nothing detracts from it so much as the use of unfamiliar words.”* — Hippocrates<sup>28</sup>

3. *“Think like a wise man but communicate in the language of the people.”* — William Butler Yeats<sup>29</sup>

“Don’t *implement* promises, but *keep* them,” instructed British novelist and essayist C.S. Lewis.<sup>30</sup> “Don’t say ‘infinitely’ when you mean ‘very,’ otherwise you’ll have no word left when you want to talk about something really infinite.”<sup>31</sup>

“Plain clarity is better than ornate obscurity,” advised Mark Twain.<sup>32</sup> “Words in prose ought to express the intended meaning; if they attract attention to themselves, it is a fault; in the very best styles you read page after page without noticing the medium,”<sup>33</sup> said British Romantic poet and philosopher Samuel Taylor Coleridge.

Coleridge’s point is universal. Lawyers and judges normally write best when precision, conciseness, simplicity, and clarity

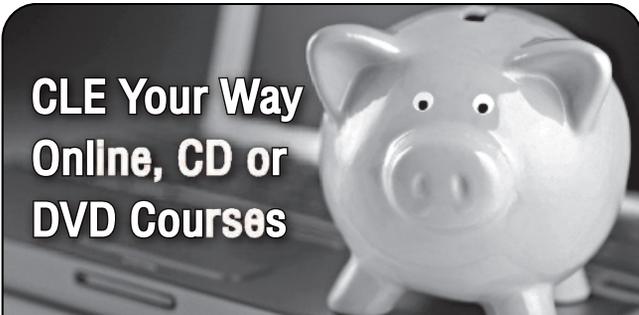
craft a style that induces readers to remember the message more than they remember the messenger.

## CONCLUSION

Literary figures have long disparaged lawyers’ writing as unworthy of emulation. “[D]o not give it to a lawyer’s clerk to write for they use a legal hand that Satan himself will not understand,”<sup>34</sup> warned Miguel de Cervantes in *Don Quixote*. Lawyers, said Jonathan Swift in *Gulliver’s Travels*, use “a peculiar cant and jargon of their own that no other mortal can understand, and wherein all their laws are written, which they take special care to multiply; whereby they have wholly confounded the very essence of truth and falsehood, of right and wrong.”<sup>35</sup>

In his poem, “The Lawyers Know Too Much,” Pulitzer Prize-winning writer and poet Carl Sandberg chided “higgling lawyers” for “Too many slippery ifs and buts and however’s,/ Too much hereinbefore provided whereas,/ Too many doors to go in and out of.”<sup>36</sup> Perhaps, Sandberg’s poem mused, a lifetime of unvarnished legalese helps explain “why a hearse horse snickers hauling a lawyer’s bones.”<sup>37</sup>

Lawyers who appreciated literary style have expressed similar criticism. Near the end of his life, for example, Thomas Jefferson chastised his fellow lawyers for “making every other word a ‘said’ or ‘aforesaid’ and saying everything over two or three



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times, so that nobody but we of the craft can untwist the diction and find out what it means.”<sup>38</sup>

“I quote others in order to better express my own self,” explained French Renaissance essayist Michel de Montaigne.<sup>39</sup> In this two-part article, I have quoted from some of history’s best-known writers to show how literature can help lawyers and judges achieve what Mark Twain called “the supreme function of language ... to convey ideas and emotions.”<sup>40</sup>

For lawyers and judges alike, the core aspiration is continually to hone writing skills because, as Hemingway put it, “We are all apprentices in a craft where no one ever becomes a master.”<sup>41</sup>

“As with all other aspects of the narrative art,” says Stephen King, writers “improve with practice, but practice will never make you perfect. Why should it? What fun would that be?”<sup>42</sup>

## NOTES

1. See, e.g., *Fast Money, The Age* (Melbourne, Australia), Nov. 29, 1999, at 2.
2. Albert Einstein, “On the Method of Theoretical Physics,” 1 *Philosophy of Science* 163, 165 (1934) (1933 lecture at Oxford Univ.) (“The supreme goal of all theory is to make the irreducible basic elements as simple and as few as possible without having to surrender the adequate representation of a single datum of experience”); Bryan A. Garner, *A Dictionary of Modern Legal Usage* 661 (2d ed. 1995).
3. II Albert Einstein: *Philosopher-Scientist* 730–746 (Paul Arthur Schilpp ed., 1951).
4. Noma Prins, “Deck Is Stacked Against Small Banks,” *Newsday*, Oct. 22, 2009, at A37 (quoting Einstein).



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5. W. Somerset Maugham 158 (Anthony Curtis & John Whitehead eds., 2003 ed.).
6. Manuel L. Real, Symposium on Mass Torts: What Evil Have We Wrought: Class Action, Mass Torts, and Settlement, 31 *Loy. L.A. L.Rev.* 437, 437 (1998) (quoting Churchill).
7. Plato, *The Republic*, Book III, at 401 (Benjamin Jowett 3d ed. 1908).
8. Edith Wharton & Ogden Codman, Jr., *The Decoration of Houses* 198 (1897).
9. Helen Granat, *Wisdom Through the Ages: A Collection of Favorite Quotations: Book Two*, at 225 (2003) (quoting da Vinci).
10. Josiah Hotchkiss Gilbert, *Dictionary of Burning Words of Brilliant Writers* 544 (1895) (quoting Emerson).
11. 9 Thomas Jefferson, *The Writings of Thomas Jefferson* 489-90 (1904) (letter of Sept. 9, 1817).
12. Stephen King, *Everything You Need to Know About Writing Successfully: in Ten Minutes* (1986), <http://www.greatwriting.co.uk/content/view/312/74/> (Aug. 3, 2010).
13. Stephen King, *On Writing: A Memoir of the Craft* 110 (2000).
14. A.E. Hotchner, *Papa Hemingway* 69 (1966) (quoting Hemingway).
15. *Id.* at 69–70 (1966) (quoting Hemingway).
16. Kurt Vonnegut, Jr., *The Latest Word* (reviewing *The Random House Dictionary of the English Language* (1966)), *N.Y. Times*, Oct. 30, 1966, at BR1.
17. Mark Schlachtenhaufen, “Centennial Snapshot: Will Rogers’ Grandson Carries On Tradition of Family Service,” *Oklahoma Publishing Today*, May 31, 2007, [http://web.archive.org/web/20070928161652/http://www.okinsider.com/topic\\_010F0MMAHY/readstory.oki?storyid=03K101DDQ](http://web.archive.org/web/20070928161652/http://www.okinsider.com/topic_010F0MMAHY/readstory.oki?storyid=03K101DDQ) (Dec. 3, 2010).
18. Betty Rogers, *Will Rogers* 294 (1941; new ed. 1979) (quoting Rogers).
19. George Eliot (Mary Ann Evans), quoted at Plainlanguage.gov, <http://www.plainlanguage.gov/resources/quotes/historical.cfm> (Dec. 3, 2010).
20. Susan Wagner, *Making Your Appeals More Appealing: Appellate Judges Talk About Appellate Practice*, 59 *Ala. Law.* 321, 325 (1998) (quoting Churchill).
21. Max Messmer, “It’s Best to be Straightforward On Your Cover Letter, Resume,” *Pittsburgh Post-Gazette*, Nov. 29, 2009, at H1 (quoting White).
22. Robert Hartwell Fiske, *The Dictionary of Concise Writing: 10,000 Alternatives to Wordy Phrases* 11 (2002).
23. Henry Alford, *The Queen’s English: A Manual of Idiom and Usage* 350 (4th ed. 1874).
24. *Id.* at 350–51.
25. Matthew Arnold, *The Works of Matthew Arnold* 6 (1903–04).
26. *Something to Say: William Carlos Williams on Younger Poets* 96 (James E.B. Breslin ed., 1985).
27. John Ruskin, *A Joy For Ever*, Note 6th, at 188 (1857 & 1880 reissue).
28. Webster’s Online Dictionary, <http://www.websters-online-dictionary.org/definitions/Hippocrates?cx=partner-pub-0939450753529744%3Av0qd01-tdlq&cof=FORID%3A9&ie=UTF-8&q=Hippocrates&sa=Search#906> (Dec. 3, 2010).
29. William Butler Yeats, quoted at Plainlanguage.gov, <http://www.plainlanguage.gov/resources/quotes/historical.cfm> (Dec. 3, 2010).
30. C.S. Lewis’ *Letters to Children* 64 (Lyle W. Dorsett & Marjorie Lamp Mead eds., 1985) (emphasis in original).
31. *Id.* (emphasis in original).
32. *Mark My Words: Mark Twain on Writing* 35 (Mark Dawidziak ed. 1996).
33. Samuel Taylor Coleridge, quoted at Plainlanguage.gov, <http://www.plainlanguage.gov/resources/quotes/historical.cfm> (Dec. 3, 2010).
34. Miguel de Cervantes, *Don Quixote* 214 (CRW ed. 2006).
35. Jonathan Swift, *Gulliver’s Travels* 161 (1726; 1887 ed.).
36. Carl Sandburg, *The Lawyers Know Too Much, in Anthology of Magazine Verse for 1920* (William Stanley Braithwaite ed., 1920).
37. *Id.*
38. 9 *Thomas Jefferson*, supra note 11, at 490 (letter of Sept. 9, 1817).
39. Mary Cox Garner, *The Hidden Souls of Words: Keys to Transformation Through the Power of Words* 58 (2004) (quoting Montaigne).
40. *Mark My Words*, supra note 32, at 18.
41. N.Y. J.-Am., July 11, 1961, quoted in Robert Schmuhl, “For Some the Act of Writing Can Be As Important As the Finished Work,” *Chi. Trib.*, Apr. 2, 2000, at C3.
42. Stephen King, *On Writing*, supra note 13, at 178.

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