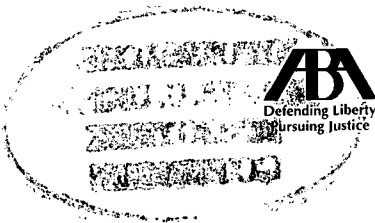


Garner on Language and Writing



Selected Essays and Speeches
of Bryan A. Garner

With a foreword by Ruth Bader Ginsburg
Associate Justice, Supreme Court of the United States





Contents

Foreword	xiii
Ruth Bader Ginsburg Associate Justice Supreme Court of the United States	
Acknowledgments	xv
Introduction	xvii
• INTRODUCTORY ESSAY	xxiii
<hr/>	
<i>The Mad, Mad World of Legal Writing</i>	xxv
• CHAPTER ONE	
Learning to Write	1
<hr/>	
<i>Using the Flowers Paradigm to Write More Efficiently</i>	3
<i>From Mush to Masterpiece</i>	8
<i>The Stuttering Writer</i>	12
<i>The Importance of Attentive Reading</i>	15
<i>Telling the Good from the Bad</i>	18
<i>Finding Good Models of Writing</i>	21
<i>The Third and Fourth Levels of Competence</i>	24
<i>The Benefits of Keeping a Daily Journal</i>	27
<i>Why You Should Start a Writing Group</i>	31

❧ CHAPTER TWO

Style 35

- The Letters of the Law* 37
On Legal Style 47
In Praise of Simplicity 49
Putting the Action in Your Verbs, and Your Verbs in Active Voice 51
Colloquiality in Law 55
Judges on Effective Writing 57
On Conjunctions as Sentence-Starters 63
Genteelisms, Officialese, and Commercialese 88
The Aesthetics of Your Pages 98

❧ CHAPTER THREE

Persuasive Writing 103

- Briefs to the U.S. Supreme Court* 105
The Three Parts of a Brief 108
Issue-Framing: The Upshot of It All 114
The Deep Issue: A New Approach to Framing Legal Questions 120
The Language of Appellate Advocacy 149
Grasping Your Nettle 158
Debriefing Your Briefs 161

❧ CHAPTER FOUR

Legal Drafting 165

- Transactional Apathy* 167
Legislative Drafting 169
Handling Words of Authority 174
Purging the Dirty Dozen 180
The Abstemious Definer 185
The Drafter's Machete for Slashing Through Density 190
*The Art of Boiling Down: James Fitzjames Stephen as Drafter
 and Lexicographer* 195

❧ CHAPTER FIVE

English Grammar and Usage 209

- Tending to Your Snootitude* 211
The Word on the Street 215

<i>Testing Your Command of Grammar and Usage</i>	217
<i>Our Blundering Law Reviews</i>	222
<i>Gauging Your Editing Skills</i>	227
<i>Boo-Boos in Our Law Reviews</i>	232
<i>Words, Words, Words—and Race</i>	236
<i>Transcending Dialect</i>	239
<i>Nonsexist Language and Credibility</i>	243
<i>Word-Karma</i>	245
<i>Preface to A Dictionary of Modern American Usage</i>	246
<i>A Texan Fowler? Answering the Critics of Modern American Usage</i>	255
<i>Making Peace in the Language Wars</i>	266

❧ CHAPTER SIX

Legal Language 287

<i>Preface to the First Edition of A Dictionary of Modern Legal Usage</i>	289
<i>Plain Language</i>	293
<i>Legalese</i>	302
<i>Reworking Your Vocabulary</i>	304
<i>Steeling Yourself Against Legalese</i>	308
<i>Terms of Art</i>	311
<i>Doublets, Triplets, and Synonym-Strings</i>	313
<i>A Grammatical Grotesquerie in Texas Practice</i>	318
<i>Going Hence Without Day</i>	320
<i>The Lawyer's imply</i>	323
<i>Novelties in Lawyer Talk</i>	327

❧ CHAPTER SEVEN

Legal Lexicography 333

<i>The Oxford Law Dictionary: A Historical Dictionary for English-Speaking Jurisdictions</i>	335
<i>The Missing Common-Law Words</i>	340
<i>Preface to the First Pocket Edition of Black's Law Dictionary</i>	351
<i>Preface to the Seventh Edition of Black's Law Dictionary</i>	354
<i>Preface to A Handbook of Family Law Terms</i>	362
<i>Preface to Rastell's Exposition of Certain Difficult and Obscure Wordes (1579)</i>	365

*Introduction to Cunningham's New and Complete
Law-Dictionary (3d ed. 1783)* 367

Introduction to Burn's New Law Dictionary (1792) 372

Introduction to Williams's Law Dictionary (1816) 373

Introduction to Bouvier's Law Dictionary (1857) 375

• CHAPTER EIGHT

Writing in Law School 377

Some Truths About Legal Writing 379

Taking a Lesson from Tiger Woods 382

How Serious Is Your School About Writing? 385

Why Students Should Support LRW Classes 389

The Art of Briefing Cases 392

• CHAPTER NINE

Writing in Practice 397

The Perpetual Struggle for Clarity 399

Why IRAC Is Good for Exams but Bad in Practice 402

Ten Tips for Writing at Your Law Firm 405

Demand Letters That Get Results 409

The Importance of Other Eyes 415

Planning an In-House Writing Workshop? 418

• CHAPTER TEN

Judicial Writing 425

The Art of Judicial Writing 427

The Style of U.S. Supreme Court Opinions 439

Clearing the Cobwebs from Judicial Opinions 448

• CHAPTER ELEVEN

Citations 469

Foreword to the Texas Rules of Form 471

The Place for Bibliographic Numbers 472

The Citational Footnote 475

ALWD vs. The Bluebook: The Great Style Debate 484

An Uninformed System of Citation: The Maroonbook Blues 487

• **CHAPTER TWELVE**

Bizzareries 491

- Mrs. Malaprop Makes Law Review* 493
On Pun Control 497
Cruel and Unusual English 499
More on Peccant Punning 504
Lapsus Memoriae 506
Testamentary Depositions and Other Curiosities 509
Insane Committees 511
Alliteritis 512
Sesquipedality 513
Smelling of the Inkhorn 519
One Bite 525
Pronunciation's Scofflaws 526
An Epistolary Essay 529

• **CHAPTER THIRTEEN**

Tributes and Autobiographical Essays 541

- The Wit and Wisdom of Charlie Wright: 1927–2000* 543
Charles Alan Wright: The Legend and the Man 563
Remembering Judge Thomas Gibbs Gee 566
Sir Robert Megarry, RIP 572
Finding the Right Words 574
How I Stumbled on a Literary Treasure 578

• **CHAPTER FOURTEEN**

Interviews 585

- From For the Defense* 587
From The Record 593
From Copy Editor 599

• **CHAPTER FIFTEEN**

Book Recommendations 607

- A Lifetime Reading Program* 609
Sources for Answering Questions of Grammar and Usage 613
Is Law a Literary Profession? 618

❧ **CHAPTER SIXTEEN**

Book Reviews 621

- There It Is in Writing, Fairly Drawn* 623
Harmless Drudgery? 627
Not Your Father's Fowler 633
Don't Know Much About Punctuation 637
Conjugational Infidelity 648
Internetese: Dialect of the Web Tribe 651

❧ **CHAPTER SEVENTEEN**

Chronicles of Grammar, Usage, and Writing 655

- 2004 657
 2005 664
 2006 674
 2007 688

❧ **CHAPTER EIGHTEEN**

The Last Word 703

- A Farewell Message* 705

❧ **CHAPTER NINETEEN**

Recommended Sources on Language and Writing 707

❧ **Table of Cases Cited** 749

❧ **Index** 757