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THE CUBAN MISSILE CRISIS, HISTORIAN BARBARA W. TUCHMAN, AND THE “ART OF WRITING”

Douglas E. Abrams

In October of 1962, the world stood on the brink of war as the United States demanded that the Soviet Union dismantle offensive medium-range nuclear missile sites that it was constructing in Cuba for warheads that could potentially reach American cities.

From behind-the-scenes accounts, we know that an articulate best-selling book published just a few months earlier by historian Barbara W. Tuchman, a private citizen who held no government position, contributed directly to the delicate negotiated resolution of the Cuban Missile Crisis.

After chronicling Tuchman’s contribution to world peace, this article discusses her later commentary about what she called the “art of writing,” commentary that remains instructive for lawyers who write as representatives of clients or causes in the private or public sector.

The Missiles of October

In the last week of January 1962, Barbara W. Tuchman was a little known historian whose three books had won only modest popular attention. Then she published The Guns of August, a military history of the antecedents and first month of World War I. The book presented a penetrating, carefully researched, and eminently readable account of the chain reactions that led European powers to stumble into the bloody four-year conflict in the summer of 1914, after an obscure 19-year-old Bosnian Serb assassinated Austrian Archduke Franz Ferdinand and his wife during a motorcade in Sarajevo.

Few European leaders wanted armed conflict, most thought that the fighting would last only a few weeks, but none could overcome the miscalculations, national resentments, and interlocking alliances that abruptly ended years of peace. By the time the guns fell silent more than four Augusts later, World War I (or the Great War, as it was called then) was the most barbaric conflict the world had ever seen. Thirty nations had suffered a total of 20 million military and civilian deaths, plus 21 million more wounded.

The Guns of August sold more than 260,000 copies in its first eight months, remained on the New York Times best seller list for nearly a year, and won Tuchman the first of her two Pulitzer Prizes. World War I’s origins continue to intrigue historians today, but the Modern Library ranks The Guns of August as number 16 on its list of the 100 best non-fiction books of all time.

One of the book’s earliest and most avid readers was President John F. Kennedy, who requested that his aides read it, distributed copies to U.S. military bases throughout the world, and reportedly gave copies as gifts to foreign dignitaries who visited the White House. In a world consumed by Cold War tensions, the president was particularly struck by Tuchman’s account of a late 1914 conversation between the former German chancellor and his successor about the blunders that sparked the outbreak of total war.

“How did it all happen?” asked the first. “Ah, if only one knew...” answered the other, without even trying to make sense of things.

As the United States stared eye-to-eye with the Soviet Union, President Kennedy explained the price of miscalculation to aides who had not yet read The Guns of August. “If this planet is ever ravaged by nuclear war – and if the survivors of that devastation can then endure the fire, poison, chaos, and catastrophe – I do not want one of those survivors to ask another, ‘How did it all happen?’ and to receive the incredible reply: ‘Ah, if only one knew...’

Some close advisors urged President Kennedy to order bombing of the Cuban missile sites that American reconnaissance flights had photographed. Military leaders urged a full-scale invasion of the island, but the president resisted escalation that might have slid the United States and the Soviet Union into World War III.

The Guns of August led President Kennedy toward restraint that enabled cooler heads to prevail. “I am not going to follow a course which will allow anyone to write a comparable book about this time, The Missiles of October,” he told his brother, Attorney General Robert F. Kennedy. “If anyone is around to write after this, they are going to understand that we made every effort to find peace...
and every effort to give our adversary room to move.”

“What Ifs” of History

When The Guns of August appeared in late January of 1962, President Kennedy was a busy man beginning the second year of the New Frontier, with little time outside the Oval Office for extracurricular reading. Tuchman’s book was more than 450 pages long, and any White House aide dispatched to the Library of Congress for an hour or two could easily have returned with an armload of other books to satisfy the president’s appetite for written history.11

What if President Kennedy found The Guns of August opaque, stodgy, or leaden? What if he put the book aside after plodding through the first few pages, and thus missed lessons that helped stiffen his resolve to give diplomacy a chance to avoid the sort of impetuous missteps that led Europe to “sleepwalk” into total war nearly a half century earlier?

We need not contemplate these chilling “What Ifs” because Tuchman delivered prose that observers have called “erudite and highly readable,” “elegant,” “illuminating,” “lucid and graceful,” and “transparently clear, intelligent, controlled, and witty.”

Historiography held real-world consequences during the tense 1962 superpower standoff, and Tuchman’s best-seller delivered a powerful message with powerful writing that kept legions of readers (including the President of the United States) turning the pages.

“The Art of Writing”

Barbara W. Tuchman said years later that “the art of writing interests me as much as the art of history.” In 1981, she published Practicing History, a collection of essays drawn from her articles and speeches. The book opened with perceptive observations about what she called “that magnificent instrument that lies at the command of all of us – the English language.”

Historians’ writing can yield helpful, though not perfect, analogies for lawyers’ writing. Lawyers can readily adapt these analogies to their own professional circumstances because there are only two types of writing – good writing and bad writing. Good historical writing is good writing about history, and good legal writing is good writing about law. Tuchman’s major observations about good writing, which appear in italics below, remain universal.

Personal and Professional Commitment

1. “|B|eing in love with your subject . . . is indispensable for writing good history – or good anything, for that matter.”

For practicing lawyers, “being in love” may often be an inapt phrase. “Being committed” may describe more accurately the inner drive that should sustain legal writers, even ones who are not moved by “love” of subject in the general sense of the word.

In the private and public sectors alike, a lawyer usually writes as a committed representative of clients or superiors, including ones the lawyer may find difficult or may not know very well. Lawyers sometimes advocate positions that would draw their distaste, ambivalence, or even rejection if the lawyers were writing for themselves and not for a client or cause.

The Model Rules of Professional Conduct specify that an advocate “zealously asserts the client’s position under the rules of the adversary system.” Zealous advocacy may not afford lawyers personal autonomy to select topics that pique personal interest, and then to follow research wherever it leads.

Analogies that link legal writing and historical writing remain instructive, however, because personal and professional commitment matters to lawyers, as it does to historians. When fueled by commitment to client or cause, the lawyer’s writing can show the life and vitality that Tuchman achieved. But when legal writing remains unstimulated by commitment, the final product can sag. Readers can distinguish between legal writing that (in the words of former U.S. District Judge Charles E. Wyzanski, Jr.) “shines with the sparkling facets of a diamond,” and legal writing that appears dry and listless.

In 1980, Tuchman wrote a newspaper article that decried what she perceived as the “decline of quality” in American life. “Quality,” she said, demands “investment of the best skill and effort possible to produce the finest and most admirable result possible.” Quality legal writing depends on lawyers who, in the exercise of professional responsibility, make the necessary investment by marshaling personal and professional commitment.

2. “(C)oupled with compulsion to write must go desire to be read. No writing comes alive unless the writer sees across his desk a reader, and searches constantly for the word or phrase which will carry the image he wants the reader to see and arouse the emotion he wants him to feel . . . [T]he reader is the essential other half of the writer. Between them is an indissoluble connection.”

Lawyers marshal personal and professional commitment best by recognizing that just because they write something does not necessarily guarantee that anyone will read it, wholly or even in large part. This candid recognition led Catherine Drinker Bowen to keep a simple sign posted above her desk as she wrote her well-crafted biographies: “Will the reader turn the page?”

“The writer’s object is – or should be – to hold the reader’s attention. I want the reader to turn the page and keep on turning to the end,” Tuchman said. Achievement of this desire does not normally follow from taking readership for granted.

Before lawyers turn to the keyboard, they should ask themselves a threshold question: “Who is likely to read this?” The answer is usually well within the lawyer’s grasp because court filings and most other legal writing usually targets a discrete audience readily identifiable in advance.

Once the legal writer identifies the intended audience, the writer can tailor style, tone, and content in ways that help engage readers. This rhetorical empathy is particularly important to quality writing in today’s frenetic legal practice. Federal and state judicial dockets, for example, have increased faster than population growth for most of the past generation or so, leaving judges with limited patience for submissions that remain bloated, sloppy, or off the point. Judges may sense when they have read enough of a brief. Advocates may have no choice, but to plod through an opponent’s unwieldy brief or motion papers, or through unnecessarily verbose legislation or administrative regulations, but even here the writer risks obscuring important points amid the fog.

“No single feel my writing is born or has an independent existence,” Tuchman concluded, “until it is read.” In the legal arena and elsewhere, her “indissoluble connection” with readers depends on the writer’s understanding, as stage and screen actress Shirley Booth said after winning an Academy Award in 1952, that “the audience is 50 percent of the performance.”

With U.S. and Soviet nuclear stockpiles poised in October of 1962, Barbara W. Tuchman’s sterling prose reflected advice delivered more than four decades later by historian David McCullough, recipient of two Pulitzer Prizes, the National Book Award, and the

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1. “What Ifs” of History

2. “What Ifs” of History

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Presidential Medal of Freedom: “No harm’s done to history by making it something someone would want to read.”

Corollary: No harm’s done to a lawyer’s brief, memorandum, or other writing by making it something someone would want to read.

Research and Expression

1. “The most important thing about research is to know when to stop... One must stop before one has finished; otherwise, one will never stop and never finish...”

2. “Structure is chiefly a problem of selection,” said Tuchman, “an agonizing business because there is always more material than one can use.”

Lawyers without the wisdom and self-confidence to “make choices” can easily clutter the final product with string citations, distracting footnotes, extraneous commentary, or similar underbrush that overwhelms and disorients readers without illuminating the status, rights, and obligations that underlie the writing itself.

3. Words are seductive and dangerous material, to be used with caution. “[C]areless use of words can leave a false impression one had not intended.”

Lawyers know what Tuchman was talking about. When a person reads personal messages or newspaper columns by writers friendly to the reader’s point of view, the reader sometimes restates words or sentences to help cure imprecision. “I know what they really meant to say,” the reader thinks silently, even if the words on the page do not quite say it.

Readers normally do not extend lawyers such help. Legal writers typically face a “hostile audience” that “will do its best to find the weaknesses in the prose, even perhaps to find ways of turning the words against their intended meaning.” Judges and law clerks dissect briefs to test arguments, but only after opponents have tried to make the arguments mean something the writers did not intend. Advocates strain to distinguish language that complicates an appeal or creates a troublesome precedent. Parties seeking to evade contractual obligations seek loopholes left by a paragraph, a clause, or even a single word.

Some imprecision is inescapable in language. Justice Felix Frankfurter, a prolific writer as a Harvard law professor before he joined the Supreme Court, was right that “[a]nything that is written may present a problem of meaning” because words “seldom attain[] more than approximate precision.”

Imprecise tools though words may sometimes be, they remain tools nonetheless because (as Professor David Mellinkoff put it) “[t]he law is a profession of words.” Tuchman delivered universal advice when she flagged seduction, danger, and caution: achieving the greatest possible precision the first time remains a legal writer’s imperative.

2. “[S]hort words are always preferable to long ones; the fewer syllables the better, and monosyllables, beautiful and pure... are the best of all.”

Novelists William Faulkner and Ernest Hemingway did a public thrust-and-parry 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.” Poor Faulkner,” Hemingway responded, “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.”

“Use the smallest word that does the job,” advised essayist and journalist E. B. White. Will Rogers delivered advice that resembled Hemingway’s and White’s. Rogers is best known today as a humorist, but satire about public issues frequently conveys serious underlying messages. Rogers wrote more than 4,000 nationally syndicated newspaper columns, and he contributed wisdom about language. “Here’s one good thing about
language, there is always a short word for it," Rogers said. "I love words but I don't like strange ones. You don't understand them, and they don't understand you."532

4. "[T]here is a pleasure to achieve, if one can, a clear running prose . . . This does not just happen. It requires skill, hard work . . . It is laborious, slow, often painful, sometimes agony. It means rearrangement, revision, adding, cutting, rewriting."534

From years at the bench and bar, Justice Louis D. Brandeis instructed lawyers that "there is no such thing as good writing. There is only good rewriting."535 Literary giants concur. "To be a writer," said Pulitzer Prize winner John Hersey, "is to throw away a great deal, not to be satisfied, to type again, and then again and once more, and over and over."536

Thirteen Days: Remembering the Cuban Missile Crisis

In October of 1962, my classmates and I were in the sixth grade at Bowling Green Elementary School in Westminster, New York. During lunchtime recess one day at the height of the Cuban Missile Crisis, a few fifth graders ran around the playground shouting that their transistor radios had just broadcast a news bulletin that the United States had sunk a Soviet ship and that the two nations were at war.

Our teacher, Sara Hurwitz, spent the afternoon reassuring the panicked class. She did a masterful job (impromptu, of course) by inviting each student to speak about fears, hopes, and perceptions. Nobody in the classroom knew how much the nation and the world owed to an historian whose writing influenced the President of two nations were at war.

Endnotes

1 Douglas E. Abrams, a University of Missouri law professor, has written or co-written six books. Four U.S. Supreme Court decisions have cited his law review articles. His latest book is Effective Legal Writing: A Guide for Students and Practitioners (West Academic 2016).


5 E.g., Paul Ham, 1914: The Year the World Ended (2013); Sean McMeekin, 1914: Countdown to War (2013); Margaret MacMillan, supra note 3.


10 Id.; see also, e.g., Theodore C. Sorensen, Kennedy 513 (1965); Richard Aldous, How Did It All Happen?, N.Y. TIMES, Oct. 25, 2013 (reviewing Margaret MacMillan, supra note 2).


SUPREME COURT RULE CHANGES

The Supreme Court of Missouri, in an order dated June 30, 2017, adopted a “Notice of Rights for Defendants Appearing in Municipal Divisions” as Appendix C to subdivision 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” of Rule 37 (Statutory and Ordinance Violations and Violation Bureaus).

This order became effective July 1, 2017.

The complete text of the order may be read in its entirety at www.courts.mo.gov.

In another order dated June 30, 2017, the Supreme Court of Missouri adopted a “Lawful Enforcement of Legal Financial Obligations; a Bench Card for Judges” as Appendix D to subdivision 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” of Rule 37 (Statutory and Ordinance Violations and Violation Bureaus).

This order became effective July 1, 2017.

The complete text of the order may be read in its entirety at www.courts.mo.gov.

The Supreme Court of Missouri, in an order dated August 4, 2017, vacated the order of June 27, 2017 regarding the repeal of subdivision 5.28 and the adoption of a new Disciplinary Form A.

The Court, in the same order, repealed subdivision 5.28, entitled “Reinstatement,” of Rule 5 (Complaints and Proceedings Thereon), and adopted a new subdivision 5.28, entitled “Reinstatement.”

In the same order, the Court adopted a new Disciplinary Form A, entitled “Petition for Reinstatement to Practice Law Pursuant to Rule 5.28.”

Notice

The Jefferson City firm of Williams Keepers, LLC, certified public accountants, has completed an independent audit, through December 31, 2016, of the finances of the following entities:

The Missouri Bar • The Advisory Committee Fund • The Missouri Bar Foundation
The Missouri Lawyer Trust Account Foundation • The Trustees of The Missouri Bar

Copies of the financial reports for each of these entities, including all notes and attachments, are available by going to The Missouri Bar’s website at www.mobar.org or you may link to http://www.mobar.org/governance/financial-audits.htm

In addition, printed versions of the audit materials may be obtained by contacting:

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