

# University of Missouri School of Law Scholarship Repository

---

Faculty Publications

Faculty Scholarship

---

Winter 2015

## Historian Barbara W. Tuchman on the 'Art of Writing' (Part II)

Douglas E. Abrams

Follow this and additional works at: <https://scholarship.law.missouri.edu/facpubs>



Part of the [Law Commons](#)

---

# School of Law

University of Missouri



**Legal Studies Research Paper Series  
Research Paper No. 2015-05**

## **Historian Barbara W. Tuchman on the “Art of Writing” (Part II)**

**Douglas E. Abrams**

Published in the Winter 2015 issue of *Precedent*, the quarterly magazine of the Missouri Bar:

<http://www.mobar.org/uploadedFiles/Home/Publications/Precedent/2015/Winter/abrams.pdf>

Copyright 2015 by The Missouri Bar

This paper can be downloaded without charge from the Social Sciences Research Network Electronic Paper Collection at: <http://ssrn.com/abstract=2581159>

# Historian Barbara W. Tuchman on the “Art of Writing” (Part II)

By Douglas E. Abrams

In the Fall issue of *Precedent*, Part I of this article described historian Barbara W. Tuchman’s profound influence on President John F. Kennedy during the Cuban Missile Crisis in 1962. A few months earlier, the President had read *The Guns of August*, Tuchman’s newly published account of how European powers stumbled into World War I in 1914. With American and Soviet nuclear stockpiles poised, Kennedy resolved not to commit blunders that would “allow anyone to write a comparable book . . . , *The Missiles of October*.”<sup>1</sup>

What if the President found *The Guns of August* unimpressive and put it aside after a few pages, without studying the miscalculations that led Europe to “sleepwalk” into total war nearly 50 years earlier?<sup>2</sup> At a time when historiography influenced world events, Tuchman’s best seller delivered a powerful message because it also delivered powerful writing that kept legions of readers (including the President of the United States) turning the pages.

Throughout her career, Tuchman studied not only history, but also the art of writing itself. Historians’ writing can yield helpful, though not necessarily perfect, analogies for lawyers’ writing. Imperfect analogies nonetheless remain readily adaptable by lawyers because there are only two types of writing – good writing and bad writ-

ing. Good historical writing is good writing about history, and good legal writing is good writing about law.

Part I of this article presented Tuchman’s observations about a writer’s personal and professional commitment to quality. This final part discusses her observations (italicized below) about research and written expression. The discussion concludes with lessons that writers, including lawyers, can draw from the ongoing controversy among professional historians about the relative merits of popular and academic writing.

## 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. . . . I . . . feel compelled to follow every lead and learn everything about a subject, but fortunately I have even more overwhelming compulsion to see my work in print.”*<sup>3</sup>

Tuchman was right that “[r]esearch is endlessly seductive.”<sup>4</sup> Legal research, however, serves a mission different from the mission served by research that provides historians with raw material for engaging narratives. Lawyers’ writing sometimes tells a story, but usually only for a greater purpose.

This greater purpose is to establish or maintain someone’s status, rights and obligations under the law. This “someone” is usually the client or the public agency that engages the lawyer. Legal research may involve a maze

of binding and persuasive judicial decisions, statutes, administrative rules and decisions, court rules, and such unofficial sources as treatises, restatements, and law review articles. In legal matters worth writing about and disputes worth taking to formal resolution, these sources may point in different directions without initial harmony.

Lawyers, too, must “know when to stop,” but different missions call for different conclusions about when that time comes. Court deadlines and other filing demands directly or indirectly constrain lawyers who, for the client’s sake, must “see their work in print.” The lawyer exercising professional judgment must sense when to turn primary attention from efficient, thorough research of fact and law to the process of writing. At some point, the lawyer determines that the salient arguments or advice can be delivered thoroughly and effectively, and that further research might diminish opportunity for translating research into effective writing.

Quality legal research does not necessarily showcase the lawyer’s ability to plumb every nook and cranny. Legal writing usually fulfills its mission best when readers remember the message, though not necessarily the messenger. “People,” said Tuchman, “are always saying to me in awed tones, ‘Think of all the research you must have done!’ as if this were the hard part. It is not; writing, being a creative process, is much harder and

takes twice as long.”<sup>5</sup>

2. *“The writer . . . must do the preliminary work for the reader, assemble the information, make sense of it, select the essential, discard the irrelevant . . . . What it requires is simply the courage and self-confidence to make choices and, above all, to leave things out.”*<sup>6</sup>

In addition to time constraints imposed by court deadlines and other professional commitments, lawyers commonly encounter space constraints. The latter may be direct (imposed by page and font restrictions in court rules, for example), or indirect (imposed by the likely attention spans of busy readers). Taken together, constraints of time and space illuminate the cardinal rule of writing: The writer should finish before the readers do.

“Structure is chiefly a problem of selection,” said Tuchman, “an agonizing business because there is always more material than one can use.”<sup>7</sup> Lawyers without the courage, wisdom and self-confidence to “make choices” can easily clutter the final product with string citations, distracting footnotes, extraneous commentary, or similar underbrush that 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.”*<sup>8</sup>

Lawyers know what Tuchman was talking about. When a person reads personal messages or newspaper columns by writers friendly to our point of view, the reader sometimes recasts inartful 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 throw lawyers such lifelines. 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.”<sup>9</sup> 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.<sup>10</sup>

France’s greatest short-story writer, Guy de Maupassant, was no lawyer, but his advice can help guide lawyers who seek precision in their writing. “Whatever you want to say,” he asserted, “there is only one word to express it, only one verb to give it movement, only one adjective to qualify it. You must search for that word, that verb, that adjective, and never be content with an approximation, never resort to tricks, even clever ones, and never have recourse to verbal sleight-of-hand to avoid a difficulty.”<sup>11</sup>

Maupassant’s directive sets the bar high, however, perhaps too high because some imprecision is inescapable in language. Justice Felix Frankfurter, a prolific writer as a Harvard law professor before joining 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.”<sup>12</sup>

Imprecise tools though words may sometimes be, they remain tools nonetheless because “[t]he law is a profession of words.”<sup>13</sup> Tuchman stated a universal truism when she flagged se-

duction, danger and caution; achieving the greatest possible precision the first time remains any legal writer’s goal.

4. *“[S]hort words are always preferable to long ones; the fewer syllables the better, and monosyllables, beautiful and pure . . . , are the best of all.”*<sup>14</sup>

Lawyers can take heed from Tuchman and other leading writers here. Novelists Ernest Hemingway and William Faulkner, for example, 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.” “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.”<sup>15</sup>

Humorist Will Rogers wrote more than 4,000 nationally syndicated newspaper columns, and his wisdom about language resembled Hemingway’s.<sup>16</sup> “[T]here 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. Old words is like old friends – you know ‘em the minute you see ‘em.”<sup>17</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>18</sup>

“One of the really bad things you can do to your writing,” says novelist Stephen King, “is to dress up the vocabulary, looking for long words because you’re maybe a little bit

ashamed of your short ones.”<sup>19</sup> “Use the smallest word that does the job,” advised essayist and journalist E. B. White.<sup>20</sup> “Broadly speaking, the short words are the best, and the old words when short are best of all,” attested former British Prime Minister Winston Churchill, who also knew a thing or two about writing.<sup>21</sup>

5. “[I]t 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.”<sup>22</sup>

From years of experience 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.”<sup>23</sup> Literary

giants often make writing look easy, but they have said the same thing about what needs to happen behind the scenes before their work ever reaches a reader.

“I’m not a very good writer, but I’m an excellent rewriter,” reported James A. Michener, who could not “recall anything of mine that’s ever been printed in less than three drafts.”<sup>24</sup> To be a writer,” attested 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.”<sup>25</sup> Hemingway believed that “easy writing makes hard reading,”<sup>26</sup> and he made no secret that he rewrote the last page of *A Farewell to Arms* 39 times before he signed off on the novel.<sup>27</sup>

## “I WANT TO WRITE FOR THE HUMAN RACE”

So far, this two-part article has explored Barbara W. Tuchman’s impact

on the Cuban Missile Crisis and her insightful observations about the art of writing. Her place among contemporary historians, explored below, offers final perspectives about the qualities that mark effective writing.

According to historian Robert K. Massie, Tuchman was “stung when reviewers, especially academic reviewers, sniffed that her work was ‘popular history,’ implying that because it sold a great many copies, it failed to meet their own exacting standards.”<sup>28</sup> The implication was that “popular historians” somehow produce work of lesser quality, designed to appeal to a mass readership rather than to peer reviewers who control the access of “academ-

“Legal writing usually fulfills its mission best when reader remember the message, though not necessarily the messenger.”

ic historians” to professional journals. “Critics and scholars have always been suspicious of popular success,” says novelist Stephen King.<sup>29</sup>

Many academic historians remain content with readerships numbering in the dozens rather than the thousands, but consigning so-called popular historians to inferior status misses the mark. Historian Stanley Weintraub explains that “I want to be read. I don’t want to be read only by scholars who number maybe 30 to 300, and that’s it.”<sup>30</sup> Pulitzer Prize-winning historian (and former Librarian of Congress) Daniel Boorstin complains that “historians tend to write for other historians. I want to write for the human race.”<sup>31</sup>

Two-time Pulitzer Prize winner David McCullough, perhaps the dean of American historians today and certainly one of the most widely read, gets it right: “No harm’s done to history by making it something someone

would want to read.”<sup>32</sup> (Corollary: No harm’s done to a lawyer’s brief, memorandum, or other writing by making it something someone would want to read.)

*The Nation* cited Barbara Tuchman’s “refusal to be cowed by academic historians.”<sup>33</sup> Her status as a “popular historian” placed her in such luminous company as Bruce Catton, David Halberstam, William Manchester, and McCullough himself.

Like Tuchman, this foursome boasts no tenured academic titles and no PhDs in history or anything else. Like Tuchman, their journalism backgrounds taught them how to craft compelling narratives that would hold

readers’ attention. They aimed for popular audiences, and they usually hit the target with works whose insights continue to shape the national

heritage without collecting dust on anonymous library shelves.

The central point for lawyers is that connecting with the intended audience, indeed with the widest audience possible under the circumstances, signals success for any writer. Achieving a bond with readers is no easy chore, whether the readers are the legions who pave the way to the best-seller lists, or the handful of litigants, counsel and judges targeted by the typical brief, or memorandum, or other legal paper that helps determine a client’s status, rights and obligations. A job well done is a job well done.

Some historians with sterling academic credentials can appeal to both popular and academic audiences, but former National Endowment for the Humanities chairman Bruce Cole finds the gulf widening between the two camps.<sup>34</sup> Australian popular historian Paul Ham (whose 600-page history of

World War I's outbreak recently won lavish praise from the *Daily Telegraph* as "magnificent" and "comprehensive")<sup>35</sup> draws this distinction useful to lawyers: "Great popular histories are written in a rich narrative style, with a strong authorial voice and an intimate sense of character and place. . . . They synthesize a vast amount of research into a coherent narrative" that holds the readers' attention and ensures longevity.<sup>36</sup>

"Academic historians," Ham continues, "tend to stick to their university departments, producing articles and essays that are almost universally unread" because "[t]he deadening verbosity and sprawling sentences of the worst examples of academic writing render them incomprehensible to the mortal reader."<sup>37</sup>

Writing communicates only when someone reads it. Writing without readers is not writing, and writers without readers are not writers.

## ENDNOTES

1 ROBERT F. KENNEDY, THIRTEEN DAYS: A MEMOIR OF THE CUBAN MISSILE CRISIS 127 (1969); see also, e.g., ARTHUR M. SCHLESINGER, JR., A THOUSAND DAYS: JOHN F. KENNEDY IN THE WHITE HOUSE 692-93 (1965); Meredith Hindley, *The Dramatist: Barbara Tuchman Saw History as a Grand Tragedy*, 33 HUMANITIES (Sept./Oct. 2012).

2 CHRISTOPHER CLARK, THE SLEEPWALKERS: HOW EUROPE WENT TO WAR IN 1914 (2013).

3 BARBARA W. TUCHMAN, PRACTICING HISTORY: SELECTED ESSAYS 20, 21 (1981).

4 *Id.* at 21.

5 *Id.* at 69.

6 *Id.* at 17, 62.

7 *Id.* at 49.

8 *Id.* at 38, 39.

9 GEORGE D. GOPEN, WRITING FROM A LEGAL PERSPECTIVE 1 (1981).

10 Jay Wishingrad & Douglas E. Abrams, *Book Review*, 1981 DUKE L.J. 1061, 1063 (reviewing Gopen, *id.*).

11 Guy de Maupassant, *Selected Short Stories* 10-11 (Roger Colet ed., 1971) (Maupassant quoting French writer Gustave Flaubert).

12 Felix Frankfurter, *Some Reflections On the Reading of Statutes*, 47 COLUM. L. REV. 527, 528 (1947), reprinting Felix Frankfurter, *Sixth Annual Benjamin N. Cardozo Lecture*, 2 REC. BAR ASS'N CITY OF N.Y. (No. 6, 1947).

13 DAVID MELLINKOFF, THE LANGUAGE OF THE LAW vii (1963).

14 Tuchman, *supra* note 3, at 16-17.

15 A.E. HOTCHNER, PAPA HEMINGWAY 69-70 (1966) (quoting Hemingway).

16 Mark Schlachtenhaufen, *Centennial Snapshot: Will Rogers' Grandson Carries On Tradition of Family Service*, OKLA. PUBLISHING TODAY, Mar. 31, 2007.

17 BETTY ROGERS, WILL ROGERS 294 (1941; new ed. 1979) (quoting Rogers).

18 ROBERT HARTWELL FISKE, THE DICTIONARY OF CONCISE WRITING: 10,000 ALTERNATIVES TO WORDY PHRASES 11 (2002) (quoting Twain).

19 STEPHEN KING, ON WRITING: A MEMOIR OF THE CRAFT 110 (2000).

20 Max Messmer, *It's Best to be Straightforward On Your Cover Letter; Resume*, PITTSBURGH POST-GAZETTE, Nov. 29, 2009, at H1 (quoting White).

21 Susan Wagner, *Making Your Appeals More Appealing: Appellate Judges Talk About Appellate Practice*, 59 ALA. LAW. 321, 325 (1998) (quoting Churchill).

22 Tuchman, *supra* note 3, at 48, 21.

23 Eugene C. Gerhart, QUOTE IT II: A DICTIONARY OF MEMORABLE LEGAL QUOTATIONS 462 (1988) (quoting Justice Brandeis).

24 Camille Lamar Campbell, *How to Use a Tube Top and a Dress Code to Demystify the Predictive Writing Process and Build a Framework of Hope During the First Weeks of Class*, 48 DUQ. L. REV. 273, 310 (2010) (quoting Michener); BILL KNOTT, THE CRAFT OF FICTION 159 (1977) (same); KATHRYN ANN LINDSKOOG, CREATIVE WRITING FOR PEOPLE WHO CAN'T NOT WRITE 62 (1989) (same).

25 DONALD MURRAY, THE CRAFT OF REVISION (1991) (quoting Hersey).

26 CARLOS BAKER, HEMINGWAY, THE WRITER AS ARTIST 71 (4th ed. 1972) (quoting Hemingway).

27 GEORGE PLIMPTON, WRITERS AT WORK 124 (1963); Ernest Hemingway, *The Art of Fiction, The Paris Review Interview* (1956).

28 Robert K. Massie, *Foreword*, in Tuchman, *supra* note 3, at xii.

29 STEPHEN KING, ON WRITING: A MEMOIR OF THE CRAFT 143 (2000).

30 Brian Lamb, *Stanley Weintraub*, in BOOKNOTES: AMERICA'S FINEST WRITERS ON READING, WRITING, AND THE POWER OF IDEAS 117 (1997).

31 Brian Lamb, Daniel Boorstin, in BOOKNOTES: AMERICA'S FINEST WRITERS ON READING, WRITING, AND THE POWER OF IDEAS 114 (1997).

32 David McCullough, *The Course of Human Events* (Nat'l Endowment for the Humanities, Jefferson Lecture 2003).

33 *Barbara Tuchman*, THE NATION, Mar. 6, 1989 (obituary).

34 Bruce Cole, *A Heroine of Popular History*, WALL ST. J., Mar. 10, 2012 (reviewing BARBARA W. TUCHMAN, THE GUNS OF AUGUST (1962) and BARBARA W. TUCHMAN, THE PROUD TOWER (1966)).

35 Troy Lennon & Christopher Dawson, *By the Book*, DAILY TELEGRAPH (Australia), Dec. 5, 2013, at 70 (reviewing PAUL HAM, 1914: THE YEAR THE WORLD ENDED (2013)).

36 Paul Ham, *Human Factors*, THE AGE (Melbourne, Australia), Mar. 22, 2014, at 30. 37 *Id.*



**Douglas E. Abrams**, a law professor at the University of Missouri, has written or co-authored five books. Four U.S. Supreme Court decisions have cited his law review articles.