

My Writing-Its Challenges and Rewards

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I've done a lot of writing in my lifetime. Most of it in my 57-year career as a lawyer. Wills and trusts, petitions and responses, contracts and agreements, as well as letters explaining them in plain English, and a legal book or two. I especially enjoyed the documents. They had to be constructed to achieve the client's goals in such a way as to comply with whatever laws of property, contracts, procedure, future interests, trusts and wills might be involved and in such a manner as to avoid, or at least minimize, all sorts of taxes. In the process I wrote as clearly as I could, using, where possible, my own language, instead of legalese, and in sentences that complied with rules of grammar that had been ground into my head by teachers in grammar school and high school.

In 2013 I joined an essay club, the Chit-Chat Club, where I was expected to write and deliver an essay to the other twenty-four members, once every thirty months. Writing these essays got me going on writing papers on any topic that interested me. There was no overriding concern about satisfying a client's goals or applicable laws or saving taxes. For every essay I wrote for Chit-Chat, I wrote one or two others for myself, not for a client, not for Chit-Chat.

I enjoy writing. There's lots to write about, stuff stored in my head, people I've known, things I've done, places I've been, family stuff, and events and situations that caught my interest along the way. If it interests me, it might do the same for others. Why let it slip into oblivion when I'm gone. Let others decide, keep it or chuck it. I like to write, even though the process is cumbersome. And, I appreciate good writing when I see or hear it. To the

extent I can I want to do the same. Simply stated, I want to produce papers that I hope others will enjoy as much as I enjoy the good writing of others.

I was fortunate to receive a good education that included a thorough immersion into the rules of grammar, sentence structures, punctuation, vocabulary, selection and use of language, and spelling. It started with Ed Rich in grammar school and David Lavender and Jack Huyler in high school. As I moved at graduation from one school to the next, I was ahead of my new classmates in these skills. Grammar, spelling, vocabulary, and punctuation came easier. The selection of language, construction of a sentence, and flow of presentation were challenges that I welcomed.

Whatever I learned helped me pass whatever test it was in my Senior year of high school that relieved me from having to take Subject A (aka “bonehead English”) when I entered the University of California at Berkeley (“Cal”, as we still call it). I could proceed directly into English IA, which I did. I selected a class being taught by Josephine Miles, one of the better professors in Cal’s fine English Department. Early in the Fall semester of my Freshman year, Miss Miles asked us “to write an essay on the corner of Oxford and Center Streets in Berkeley.” Eschewing logic, I considered writing a paper on any topic, just so long as I was sitting at the corner of Oxford and Center when I wrote it. A lesser problem was locating the corner of these two Streets, neither of which I’d ever heard of, despite their being in the middle of the Western border of the UC campus. The bigger problem was that I could not remember the definition of an essay, despite eleven years of private school education at two good schools and having a good memory. My fraternity and its members were no help. I had pledged Delta Kappa Epsilon (“Deke,” for short), a national fraternity known for having a good time. Not only did the Deke House not have a library, but there was no dictionary, and none of the brothers I asked knew what an essay was either. To give you some idea who I was dealing with, there were only three seniors and three juniors in the fraternity house when I joined. That’s three out of the eight who had pledged each year. Five had flunked out from each of those classes. In my pledge class of eight, I was

one of only two to graduate in four years. There was no search engine like Google at the time. Where in the gigantic library system of Cal could I look?

I should have asked my professor, Miss Miles, but that didn't occur to me until years later, long after she died.

The essay I wrote, an uninspired description of what I had seen on the corner of Oxford and Center Streets, not a very attractive intersection, where a Starbucks now sits, must have qualified as an essay, because Miss Miles, in her comments written across my paper, said nothing about it's not being an essay.

I majored in history at Cal. I also took a lot of English literature courses. My choice of courses provided me with some writing practice, but not a lot, mostly blue books for mid-terms and finals, plus one thesis for History 101. It was the reading I did that helped me most with my writing. In the English literature courses, we read books that exemplified styles of important writers of different periods of time, and traced the evolution of writing in the United Kingdom and in the U.S. By and large the books I read in the history courses were examples of what good writing was not, at least in my judgment. Dry, concise, turgid and boring are words that come to mind. The authors jammed as much historical information and analysis into as long a single sentence as they could.

Years later, my wife Tracy and I audited two of our daughter Gayley's classes at Cal one morning. The first, an English literature course on the Victorian novel was being taught by Professor Ralph Rader, whose courses Tracy had taken as a student at Cal when Rader was a young professor. The topic for the day was *Middlemarch* by George Eliot. I had not yet read the book, but the discussion was so stimulating that I had to sit on my hands to keep from participating. We then trudged down to Dwinelle Hall for Gayley's Roman history class. I fell asleep.

Dick Wydick, one of my law school roommates, while he was teaching at U.C. Davis Law School, wrote a book on legal writing called *Plain English for Lawyers*, now in its sixth edition. He discusses rules of grammar,

sentence structure, and selection and use of language that we should have learned before law school, and gives examples in sentences that lawyers might be writing on various legal subjects in various circumstances. Dick's book is the best summary I have ever seen of rules of writing. I gave copies to my children for what good that did at the time.

During my years as a lawyer, I received occasional praise for the clarity of my writing and minimization of legalese. Two clients who were English professors at San Francisco State complemented me for writing the only legal documents they had ever read that were comprehensible. My longtime partner Debbie Kasper, herself an honors English major at Duke, paid me the ultimate compliment by adopting my letters, word for word, as her own for writing to her own clients, changing only the names.

As a trusts and estates lawyer, I learned not to be too creative in my writings. Creativity could lead to a lawsuit for malpractice. I could be creative in my thinking, but in writing, I had to be careful.

Although I like writing, I am a plodder in the process. Some of my legal writing was done in the days before the computer and for years thereafter before I learned its use. I wrote everything longhand, number two pencil put to lined yellow legal memo pad paper, writing on every other line, so there'd be space for inserts. Seldom, if ever, was I satisfied with my first draft, or, for that matter, with the second, or even the third. The draft that I finally handed to a secretary for typing still had inserts, some on the extra lines I'd left for this purpose, others located some distance away but guided to their desired destinations by arrows, and still others from the back side marked with letters or numbers corresponding to a letter or number at the desired place for insertion on the front side. The result may have been well written, but it reflected an effort to get there.

Handwriting a sloppy looking final draft was not the end of the struggle. It would have to be transposed into type. Assuming the secretary could decipher my inserts, she had to deal with a typewriter. In the days before computers and xerox machines, copies of typed documents were made

with a sheet of carbon paper inserted between each piece of paper that was to become a copy. If an original and three copies were to be produced, the line-up of paper products to be rolled into the typewriter would have consisted, top to bottom, of a blank sheet of white paper onto to which the typewriter keys would strike, the so-called original, then a sheet of carbon paper, then a second blank sheet of white paper that would become the first copy, then another sheet of carbon paper, then another sheet of white paper that would become the second copy, then a third sheet of carbon paper, followed by another sheet of blank white paper, to become the third copy. Secretaries had to be adroit to feed seven or more sheets onto the roller. Then, they better not make a mistake when they typed. If they did, they would have to erase the mistake on every single sheet of white page. They prayed that the task could be done just once. Then I came along. Secretaries hated to see me with anything resembling paper in my hand. After promising them that this was my first and final product, I'd change my mind or find a better way to say something, and hand it back to them. My changes were never simple. They'd have to start all over again.

Contrast my abilities with those of my wife Tracy. She had been an English major at Cal, and, as she said, was mighty proud of it. She wrote well effortlessly, seldom using a second or third draft. She got A+s on her papers, as well as glowing praise in the margin. One TA (teaching assistant) threatened to give her a failing grade on a paper. He thought her paper was too good to be the work of a "silly" coed. She should have reported him immediately instead of brooding about it for years. I envied Tracy's writing skill, but seldom told her. I was jealous.

Tracy and I produced at least four progeny with skills or interests in writing. Our son Tony wrote a screen play that won a monetary award at the Atlanta Film Festival. Our daughter Gayley writes with the ease of her mother. One of her poems was printed in the Berkeley Poetry Review on the page opposite a poem by Robert Hass, an English professor at Cal who at the time was poet laureate of the U.S. Our daughter Kate spends her time finding mistakes in everything I write. Our granddaughter Lissa,

Gayley's older daughter, wrote *Shutter* a paperback horror novel published by Penguin, which can be found in bookstores next to books of the same genre by her hero Stephen King.

Early in 2020, I decided to retire from my law practice. I would have a lot more time on my hands than in the previous 57 years. Tracy had died. I'd then met Charlotte, a recent widow. We clicked and became partners. In addition to being with Charlotte and our poodle puppy Iris and continuing with the pleasures I'd had over the years, I took up the game of bridge, big time, and have spent a lot more time writing.

Here are some samples.

My first new topic was obvious, an essay on the subject of my retirement. While writing it, I decided that it would be better presented as two papers, not just one. The first summarized my working career and told why I decided to retire. The other discussed the process involved in accomplishing the task. I and two of my longtime partners had contracted our firm from five lawyers to three and then had wound up our three-person law firm to join an established seventy lawyer firm Shartsis Friese on July 1, 2019. I wasn't happy working in a large law firm again. I was also the oldest person in the firm by four years. The second oldest had five years on the third oldest. Anyway, eight months after joining, I decided to retire. I announced my decision and gave myself four months to complete the task. I undershot the projected timing by two years.

While composing my *Decision to Retire* essay, it dawned on me that I should have retired years earlier, and hadn't realized it. The eight-month Shartsis interlude provided just the push I had needed for several years. I might not have realized that I should have done this earlier without writing the essay.

After writing the two retirement papers, I received a call from my former partner Debbie. She asked if I missed the practice of law. I said "no" without hesitation. After hanging up, I wondered why there was no pause before my answer. Here I had worked for 57 years and must have liked

doing so. Why was I so sure so quick that I didn't miss it? I dwelled on this question for more than a year. I finally decided to write an essay about my question. After all, I had found that sometimes I think about things more carefully when I write. So, I did and found the answer, relief from the continual stress of doing my best without making a mistake which could lead to catastrophic consequences.

What started as one paper turned into three. None of the three is a candidate for delivery to the Chit Chat Club. They are not really that interesting to someone who is not a relative or who hasn't been a practicing lawyer. My daughter Gayley told me she was fascinated to find out what I was up to when I was not home with the family during the days while she was growing up.

I finished two papers that I had been working on before "retiring." One told about my Supreme Court case, the one I handled from beginning to end all by myself, ending up in the California Supreme Court. It was a tricky essay to write. From draft to draft, I kept changing my mind as to whether to use the actual names of the parties and lawyers or to assign them fictitious names. In an abundance of caution for the sake of privacy, I chose the latter. A second, and bigger, problem was recalling the arguments that were used by my opponents and the reasoning of the Courts in their decisions. I think I came pretty close. My biggest problem was to write the essay in a fashion that lay people, non-lawyers, could understand. Charlotte was my sounding board. After many drafts, I produced a version she could understand. I asked whether she thought I could present it to the Chit-Chat Club. She said "no" without a pause.

Another paper I'd started previously was a memoir about my late partner George A. Andrews, Jr. George, along with Keith Petty, had started the Petty Andrews Tufts and Jackson law firm that I worked for from 1973 until it dissolved in 1999. George was a multi-talented man, with many interests. A smart, good and wise man with only one known flaw, a refusal to keep current with changes in the law. I worked with him in the same specialty area, and, at the firm's request, tried as best I could to keep his practice

within the bounds of the changing laws. His clients loved him as a sage counsellor. That's how he wanted it. Years after he died, Tracy and I were in Ashland, taking in the plays. I made it a point to play at least two early morning rounds of golf at a nearby municipal golf course. The superintendent left me a pull-cart, and said I could pay when I finished. As I stood at the first tee with dawn barely lighting the course, I heard the crunching of another golf cart on the gravel path. An elderly golfer asked if he could join me. We exchanged first names, and played the first eight holes in silence. As we were walking the ninth fairway, he asked where I was from and what I did. I replied "San Francisco" and "lawyer."

"Oh," he said, "my favorite lawyer was from San Francisco, a fellow by the name of George Andrews. He handled my wife's estate after she died, and did a phenomenal job on it." I asked the name of his wife. I didn't tell him that it was I, not George, who had done all the work on her estate.

Of course, there was now time to put family histories to print. I had been interested in family but done little to pursue the subject with my parents. Both my daughters shared my interest. On long drives to and from Ashland Gayley asked me questions about family, and I told her as much as I knew. Kate somehow collects facts from other sources, remembering all she has heard. I decided it might be wise to put some of this material on paper before I forgot. When we cleaned out the family home on Clay Street, Tracy and I saved letters and old newspaper clippings, some dating back into the 1800s. From these materials, and my memory and some Google searches, I wrote a family history in four parts, Mom's maternal ancestry, her paternal ancestry, Dad's maternal ancestry and his paternal ancestry. Each part was interesting, and I felt proud to have come from such roots. I also discovered mistakes that I had made in stories I'd been telling others through the years. One was that my father's father's folks were farmers from Ripley County in Southern Ohio. While researching for my paper, I learned that there is no Ripley County in Ohio. They had come from the town of Ripley in Brown County, and had a brick making business instead of a farm. I had also been telling those who would listen that my mother's

father, Charles Mills Gayley, had been brought from Ireland to the U.S. by his mother's Uncle, a lawyer in Buffalo, who had paid for his college education at the University of Michigan. So far, true. Then I told about how my granddad, after graduating, had taught school to make enough money for him to bring over the oldest of his nine half-siblings and educate her as well at the University of Michigan. Still true. Then I'd gone on to tell that his sister did the same for the next oldest, and how he or she too, after finishing up at Michigan, had brought over the next oldest and educated the same, and so on down the line until all ten children had been brought to the US and educated at the University of Michigan. Just the typical heart-warming family lore we Americans are proud of, and it had occurred in my mother's paternal ancestry. Well, after my granddad helped his oldest sister, that was it. No more heart-warming stuff for the story. Amongst the scraps of family data was a list of my granddaddy's nine half-siblings with the dates and places of their births and deaths. Except for the oldest, the sister whom Granddaddy Gayley did bring over and educate, the rest, all eight of them, died before the age of fifteen in Ireland.

I took a crack at memorializing some of what I had learned over the years from Tracy about her family. There was little I knew about Tracy's father's family. Her father's father's family was from New Pitsligo, a village in the very North of Scotland. They made whiskey. And, her father's father died in his kilts while dancing a Scottish fling. That was about it. Most of the data available was about Tracy's mother's side, specifically her mother's father Jefferson Duckett Dillard ("Jeff"). I put together a short family history about the Dillards and shared it with Tracy's second cousin Scott, a grandson of Tracy's mother's oldest sister Jess. In return Scott emailed me all 180 pages of Tracy's grandfather Jeff's memoirs which he wrote during the final years of his life. Jeff Dillard grew up in Texas. He had little formal education. In the 1880s, when he was in his twenties, he worked as a cowboy on three cattle drives Northward from Abilene, one or two on the Chisholm Trail to Kansas railheads. On one drive, he spotted a group of Indians, also on horseback. Obeying his instincts, he put spurs to his horse and took off, with the Indians in hot pursuit. He heard bullets whistling past

his head. On one drive, they took the herd through lands on the Western Slopes in Colorado. He ended up buying land in this area and raising cattle of his own. Jeff's memoir has multiple grammatical flaws and spelling errors, which is to be expected of someone with no education, but his choices and uses of language and sentence structure were remarkable and clear and readable, the product of a smart guy. It held my interest, all 180 pages of it. I recall Tracy telling us that Aunt Jess had sent the memoir to a literary agent to get some help in turning the paper into publishable material. She never heard back, but she did see scenes from the memoir on a television Western serial series, and some of the names were lifted without change from her father's papers.

I wrote an essay about the federal estate tax that I had been involved with for much of my legal career. At the suggestion of a couple of non-lawyers I used as sounding boards on early drafts, I scaled back on describing the tax. Instead, I focused on an ancillary aspect that had recently caught my attention, something that should be addressed by the U.S. Congress. The system is flawed. When enacted in 1916, the tax was intended to spread the wealth, but, due to its very high exemption, it no longer fulfills much of its purpose. Less than 5000 estates file estate tax returns each year in the entire United States; and of these 5000 tax returns less than 2000 show a tax to be paid. It is not a money maker. The estate tax comprises less than one-tenth of one percent of all taxes collected by the U.S. It is uneconomical. The costs incurred by taxpayers to their expensive lawyers, accountants, and appraisers in planning to avoid or minimize the amount of this tax and the cost to the government in trying to enforce and collect the tax exceed the amount of the tax collected.

Topics just keep popping up. After lunching with four of my high school classmates, reminiscing, of course, I decided to write a paper about my time in high school at Thacher. I was fortunate not only to attend the school, but also to have been part of such a good class. Seventeen of the eighteen of us who entered as Freshmen graduated four years later. We were joined by ten others along the way, all of whom graduated with us. At

our 50th class reunion, nineteen of the twenty-seven attended. Four had died and four of the others couldn't make it. Percentage wise, 19 out of 27, 70% must be a school record for a 50th reunion. I have maintained close friendships with several of my classmates. Why not write my memories of this important slice of my life. I did, sharing drafts along the way with four of my mates. They supplied me with material I'd forgotten to mention and corrected my mistakes. My Memories are now being circulated amongst the rest of our classmates or their spouses by our class rep, his idea, not mine. It's not a paper to be shared with outsiders, including the Chit-Chat Club. It's personal only to me and my classmates and their families. In fact, a close friend, three years ahead of me at Thacher, had only two comments. Why had I said nothing about the School's music and camping programs which he had loved? "It's as if we had gone to two different schools," he added. Nothing about what a great paper it is or how much he enjoyed it, as my classmates told me. Oh well, they're our memories, not his.

Of course, I wrote something about my newfound interests, those taken up in retirement.

Before getting to them, I am reminded of my conversation with Dick Kinyon, my longtime friend and fellow estates and trusts lawyer, whom I joined at the Shartsis firm. He asked what I thought I would be doing with my time in the retirement I'd just announced. I mentioned practicing the piano which I had taken up in my 40s and given up in my 50s when the 1989 earthquake broke our piano. I might also teach a course somewhere, maybe at the Osher Institute and maybe even volunteer for pro bono legal counselling. Pretty high-minded stuff. Of the three, I only spent time trying to resurrect my piano playing career, and then gave it up as too difficult. Instead, unexpectedly, I took up the game of bridge and have spent a lot more time writing.

During the final years of my working career, some of my friends were part of a bridge group that played once a week at the California Tennis Club. I was invited a few times, but never accepted. I was still working full time,

and considered time for games of bridge a little too frivolous. I also hadn't played bridge for years, and even then didn't know much about the game. Then a series of events changed things and pulled me into the bridge business. Tracy died. I was then introduced to Charlotte, a recent widow. We became a couple. She is a bridge player. Some of her bridge buddies included me in some of their games. It was a scary experience. Even though I tried my best, I didn't know "s..." about the game. Then, during my 2 ½ year retirement process period, I was invited again to join the Cal Tennis Club bridge group and accepted. I began to learn, mostly by making mistakes and being told about them, sometimes nicely and sometimes not. After two years of total immersion, making mistakes and being corrected, I improved, almost to the intermediate beginner class, if there is such a one. There were enough episodes in this crash learning process to make a good story, maybe even one to present to the Chit Chat Club. It proved tricky to write, not knowing my audience. I could help the uneducated and explain a lot about the rules of the game, but that wouldn't be interesting to those who know the game. Or, I could assume that most everyone knows something about the game, and launch right into a discussion of episodes that I found interesting and instructive along the way. I opted for the latter, but to keep it from being too complicated for novices, I added just enough explanation to help them. Back and forth; back and forth. The essay proved too much of a balancing act, so I decided it would lose its candidacy for the Chit-Chat Club.

Then I turned to writing a paper about my other new interest, which, if you haven't picked up on it, is this paper about my writing. There has been little improvement in the process I use. I am still a plodder, a Clydesdale, not an Arab. I try to write at least two hours every morning when I'm home. Drafts percolate for at least 24 hours, giving me time to find their flaws. Never am I satisfied with any part of any paper until many drafts later. Words change. Sentences and paragraphs move from place to place or disappear. Ideas and plans change. No parts of any draft are safe. I've learned to discard my favorite child, as they say, the best part of an early draft that becomes irrelevant after changes are made. Thank heavens for computers. Each

draft, fresh from the computer yesterday is analyzed and revised the next morning on Charlotte's dining room table, the target of my pencil, crossing out and inserting, moving pieces, using arrows and letters, the same as the old days, except that it's now just me, no longer a secretary who's the one to unscramble the spaghetti lines, arrows and letters, inputting the mess onto the computer for its next clean draft. The process is a challenge, as I say, but I like it and sometimes it leads to rewards, namely my satisfaction in it and, hopefully, that of others who read or hear it.