

Sketches on Legal Style

By Mark Cooney, published by Carolina Academic Press (2013), softcover, 110 pages, \$20

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Reviewed by Frederick Baker Jr.

This is a clever little book. It is a perfect bedtime read; each chapter is just the right length to improve your writing by a single increment between retiring to bed and sleep's arrival. But it won't *put* you to sleep, as most books with "style" in the title tend to do. With its whimsical tone, it engages, amuses, and sneakily instructs. And it seems to have been written with the maxim in mind that one of my professors imparted to me when he learned I would be teaching law: "You can only teach three things in an hour. And three are enough." Each chapter focuses on a particular rule or technique of good writing, clearly explaining how to incorporate it into one's compositional arsenal. At the risk of stealing the author's thunder and depressing his sales, I will describe a few examples to illustrate the usefulness of this little book.

Several chapters were favorites, including one that highlights why I used the word "clearly" properly in the preceding paragraph. Advocates who write from deep conviction often use the word improperly, without realizing that, preceding an assertion, it is ineffective because it conveys no information to support the assertion it accompanies. Rather than being persuasive, to a critical reader "clearly" is actually a subliminal red flag: *why* is the proposition clearly correct? As Cooney (through his interlocutor) observes, using an avuncular dialog format as time-tested as Plato's *Meno*, "clearly" is "so overused in legal writing that one has to wonder if it has any meaning left"; it is "a shorthand substitute

for the real work at hand: explaining why the law applies to the facts in a way that supports the lawyer's position." It "gives the readers empty calories when they crave analytical nutrition."

What is the solution? Because! "Because is persuasive without drawing attention to itself," Cooney observes, adding that "[s]ocial psychologists have noted the word's power to influence...even when no real reason or new information accompanies it; the word itself seems to trigger a belief that a legitimate reason exists." Consider how much more effective "because" will be when it is accompanied by supporting information that actually bolsters the writer's argument, rather than undermining it with empty assertion.

Thus does Cooney plant a red flag at the North Pole of his reader's mind, one that will well serve the reader (as writer). Plato would be pleased. And note that Cooney resists the temptation to prove too much at one sitting: at the end of this chapter he reserves the battle of "if" and "provided" for another day.

Another favorite—selected from several more—is the chapter entitled, "I Was a Teenage Semicolon." In five short and amusing pages, Cooney reduces to their essence the two rules for using semicolons: First, "[a] semicolon is correct if a period would be correct." Second, "use a semicolon...to separate the items in a complex series—to help your reader figure out what's what if some series items have, for example, internal commas." Using concrete examples, Cooney illustrates what an effective tool the semicolon can be. Far from being

the preserve of the ostentatiously literate (Henry James comes to mind), correctly used, the semicolon emphasizes the close connection between two thoughts and ensures clarity in a complex series. Period.

Other chapters tempted me to describe them. I especially enjoyed "A Verb's Lament," in which Cooney demonstrates why nominalization deprives persuasive writing of the muscle that verbs alone supply. And I enjoyed his "Letter to Mrs. Finklebean," in which he eviscerates the "rule" that a sentence may not begin with "but" or "and."

I do not agree unqualifiedly with every rule he prescribes. For example, few readers are confused by a reference to the stock market, a phrase he would hyphenate if it precedes and modifies a noun. But *de gustibus non est disputandum*, and Mr. Cooney "clearly" has good taste. Try this little book if you dislike reading about how to improve your writing. With apologies to Mr. Cooney, it offers palatable good advice. ■



Frederick Baker Jr. served 28 years on the State Bar Publications and Website Advisory Committee, the last 24 as its chair. He continues to contribute occasional reviews of books by Michigan authors or on Michigan law-related subjects. Formerly a Supreme Court commissioner, he retired in May 2013 to rejoin his former partners at Willingham & Côté in an of-counsel role.