



# Seeing Things

## LANGUAGE, LEGAL & LITERARY: PART I

EDITOR'S NOTE: *This is the first of two instalments based on a talk given by John Mason Brown at the dinner of the American Law Institute in Washington, D. C., on May 23, 1952.*

AT THIS moment I understand more fully than I ever have before what Percy Hammond meant when, writing about some happily forgotten play, he said that in its presence he felt as out of place as an Elk at Oxford. I face you quakingly as a DP, untutored in your language and addressing you in a tongue which to some of you may seem foreign.

In the past you have demonstrated your wisdom by limiting your speakers to lawyers and jurists. I am honored to follow them, humbled by the remembrance of their distinction, and more frightened than it would be manly to admit. Surely, on the damaging evidence of my presence, the American Law Institute has decided to turn this evening into a kind of "Amateur Night." No less surely, if I may use a word which has been occupying the attention of the Supreme Court and the country, the judgment of your president has for once, and once only, been the victim of a "seizure." For I am here as what Justice Cardozo called an "uninitiated interlocutor."

Although I come from a long line of lawyers, certainly my knowledge of the law is anything but professional. It is, I am afraid, largely derived from Portia, Dickens, Galsworthy, Edmund Pearson, William Routhead, and such melodramas as "On Trial," "The Thirteenth Chair," and "The Trial of Mary Dugan." There is a reason for this which might as well be confessed at once. By employment I am a critic and a writer. I am, in short, what is sometimes identified as a "word-man." But you are "word-men," too. This is one of the things we have in common, regardless of how much the language as we choose to use it may sound as if it had been taken from different dictionaries.

The mention of word-men leads me to Gertrude Stein. She was a word-girl, and a wise one. Although she could write clearly when she wanted to, she sometimes eluded being understood as successfully as if she had been a lawyer. In a recent critical study Donald

Sutherland has given an unforgettable account of Miss Stein's death. He tells us, "Just before she died, she asked, 'What is the answer?' No answer came. She laughed and said, 'In that case, what is the question?' Then she died." I know of no better proof of Miss Stein's wisdom, which was part of her originality.

I will not be able to give the answers this evening. But, at least, I know the questions I am trying to find the answers to. My endeavor will be to touch upon the differences and similarities between the language of the law and the language of literature. Yes, and to discuss the means, the goals, and the obligations of good writing in both fields.

With all my heart I wish what I have to say here were as worth saying and said as well as what Catherine Drinker Bowen said in "The Lawyer and the King's English," that brilliant paper she read in Philadelphia in 1951 before the Brandeis Lawyers Society. Mrs. Bowen pointed out that, though "you and I—the lawyer and the writer—do not, actually, belong to the same species, at least we can be classified under one genus . . . ARTICULATE MAN." Lawyers and writers, she added, are "interested in the techniques of utterance, and in what lies behind utterance—INTENT: the motivations of man."

In Mrs. Bowen's fashion I am concerned tonight with the shared articulateness of lawyers and writers, and the different techniques of utterance we so frequently employ. Perhaps Washington, D. C., is not the ideal setting for a discussion of the nuances, the beauties, and the noble possibilities of language. Anyone attempting such a discussion here is bound to resemble a preacher who has strayed into the pulpit of a church of another denomination.

For surely in no free area of the earth are there more men and women

crowded together who daily do more damage to language than in the Government bureaus of Washington. So far as the beauties of language are concerned, they form a wrecking crew. Their talent for misusing it, for making it drab, ugly, or deliberately incomprehensible can only be described as genius. Yet, in spite of those responsible for the gibberish of Governmentese, some of the truest eloquence this country or the world has known has been produced by those working for the Government in high and varied stations in this very city.

Among the troubles with Washington from a literary standpoint is that it is a place where a writer does not have to be dead to be a ghost. The scale and absurdity of Washington as a ghost town was indicated by Yale's president, A. Whitney Griswold, when a few months back he spoke to the National Booksellers Association in New York. Mr. Griswold had learned with proper dismay that in Washington a university was about to open a course for ghostwriters, who "will be taught to write in such a way that orators will understand at all times what they are saying." There are more than 150 such writers on the top level in Washington alone, an official of that university declared, and most of them have a hard time adjusting their talents "to fit the mental and oratorical capacities" of the men for whom they are writing.

**S**PEAKING words that others have written, having a voice but no style of your own, may be a necessary practice for overworked officials. But one thing it is not—and that is authorship. An author's style is his written voice; his spirit and mind caught in ink. It is as individual, hence unmistakable, as the cadences of Winston Churchill, a government official who, however overworked, has never failed to make himself heard in print. Mr. Churchill must also have had suggestions submitted to him by scores of experts, but what they have suggested he has possessed. And as surely as possession is nine-tenths of the law, possession (in terms of one's own very personal usage of language) is ten-tenths of authorship.

The late Alexander Woollcott was fond of describing himself as an ink-stained wretch. All of us, writers and lawyers alike, are ink-stained in our different ways. "Ink-stained" brings to mind another kind of wretch, one that offers a warning to us all by his ugly, if protective, habits. I am thinking of the squid which releases his home-made ink for the sole purpose of creating obscurity. You, as lawyers and





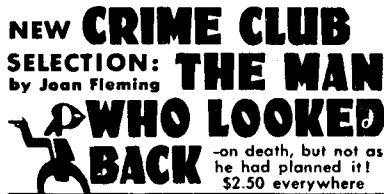
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judges, have, of course, never been guilty of such a practice any more than have we, the unbenched and ungowned writers. Clarity is one of our joint aims, at least I assume it often is.

Over a revolving door in the Ritz Hotel in Boston there is a sign printed large which reads, "This door is not an accredited egress." A squid or a bureaucrat could have written that. It is not a sentence which perpetuates the literary tradition of Emerson, Thoreau, or William James. As language, it could be said to represent the deflowering of New England. Unfortunately, there are those who, because they do not like the law and are confused by its terminology, would be willing to mistake such phrasing for standard legal usage.

Let us face the truth. Critics and lawyers have more things in common than their addiction to words. We have detractors, if not enemies; men and women who, oddly enough, do not dote on us and have attacked us with eloquence. Precious little criticism has been as sprightly or vivid as the abuse it has provoked. I could cite a hundred treasured phrases which creative writers have used to castigate reviewers with the understandable scorn that Man-o'-War would have shown had he, in the long and fruitful years of his retirement from the track, been judged by a jury of geldings. Let me content myself with repeating one of my favorites, Maxwell Anderson's dismissal of New York's drama critics as "the Jukes family of journalism."

**Y**OU who have crossed the bar also have your belittlers. Some of these feel your gift for obfuscation is such that Prince Hal must have had you, rather than Falstaff, in mind when he said, "How now, my sweet creature of bombast?" Burton in "The Anatomy of Melancholy" was another of your deprecators. "Our wrangling lawyers . . . are so litigious and busy here on earth," said he, "that I think they will plead their clients' causes hereafter,—some of them in hell."

I regret to say the picture of the law most securely hung in the minds of many people is scarcely a flattering likeness, if indeed it be a likeness at all. It is—you must remember it—the description in "Bleak House" of Jarndyce and Jarndyce, that "famousscercrow of a suit," which over the long and dragging years had become so complicated that no living man knew what it meant. What were the symbols Dickens chose for the law and its processes? It pains me to state—fog, and gas. "Fog everywhere, fog up the river . . . fog down the river—gas looming through the fog in divers

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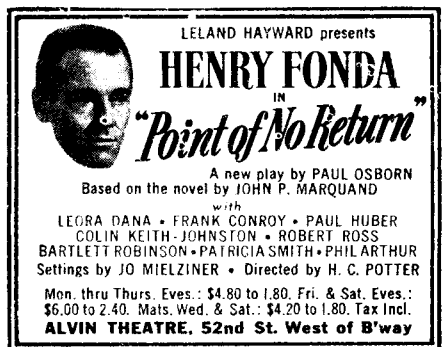
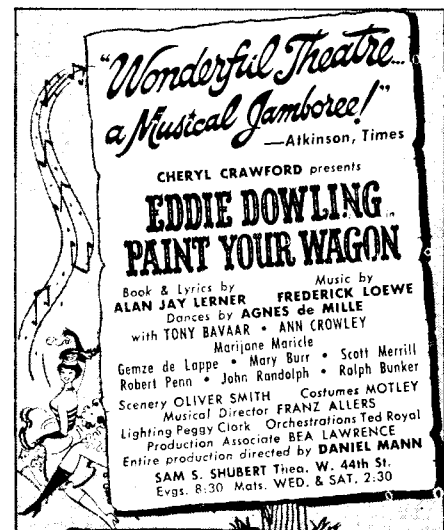
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streets—never can there come fog too thick, never can there come mud and mire too deep,” as “some score of members of the High Court of Chancery . . . are mistily engaged in one of the ten thousand stages of an endless cause, tripping one another up on slippery precedents, groping knee-deep in technicalities . . . and making a pretense of equity with serious faces, as players might.”

That is the popular conception, or shouldn't I as your guest say misconception, of the law held both by the law's victims and the clients of lawyers, if a distinction from the layman's point of view can be made between the two. Like Shakespeare's reputation and Shaw's, this notion of the law is built, in the phrase GBS used to describe his own fame, “fast and solid . . . on an impregnable basis of dogmatic reiteration”—and, no doubt, some truth.

Dr. Johnson refused to subscribe to such an idea. He came to the defense of your profession. “It is unjust, sir,” he rumbled to Boswell, “to censure lawyers for multiplying words when they argue; it is often necessary for them to multiply words.” Authors have been guilty of the same indulgence, especially when paid space rates. Then they have been tempted to set down thousands of words they should have been paid to omit.

AT this point we are forced back again without choice to a consideration of words, hence to writers and lawyers as word-men. Words are a strange and tantalizing commodity. The mere twenty-six letters in our alphabet are responsible for the limitless variety and the full, fabulous range of our language, call it English or American. Gathered together in dictionaries, these words are available to everyone. They literally pine for suitors. They are like the suffragette of long ago who wanted something badly, and thought it was the vote. They yearn to be possessed. Yet they are used by each individual as differently as those individuals use life itself. They are either wasted or enjoyed, faced drably or approached with zest, accepted as routine or converted into that high adventure which is literature.

Certainly, most of what is written or published has no more relation to literature than ordering meals has to do with conversation. The businessman who dictates “Yours of the 15th inst. received and duly noted” is getting off a letter, but he neither seeks nor pretends to be functioning as a man of letters. Although he is employing words, his only interest in them is to transact business. If his answer were

phrased in language such as Horace Walpole, Lamb, Shaw, Ellen Terry, or Thomas Wolfe might have used, he would soon be without a job. And rightly so.

In the same way, signs reading “Exit,” “No Parking,” and “Keep Off the Grass” fulfil their function admirably. They are as eloquent as they are meant to be. Yet, though they warn and inform us, they hardly inspire us. They feed none of the hungers which are among the excuses, the pleasures, and the needs of literature.

All of us sense the distinction between communication on the low level of utility and communication when it is raised to literature. The main Post Office in New York City supplies an illustration of these two extremes. Inside the building are signs for “Stamps,” “Letters,” “Parcel Post,” “Air Mail,” etc., and we are grateful for these directions. Outside, however, above the row of columns are carved those great, singing words of Herodotus, “Neither snow, nor rain, nor heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds.” Instantly, instead of leading us to a window, these words open windows for us on the challenges of nature, the concept of duty, and the invincibility of the human spirit.

Most of what we read in newspapers, magazines, or books is mere hack work. Most legal writing is drudgery of the same kind. Assuredly, drawing up a contract or a will is not an act of creative authorship. No one doubts the advisability, indeed the necessity, of both wills and contracts. Even so, preparing them must be as tedious as reading them for pleasure is impossible unless, above the dissonances of their English, can be heard the sweet music of the prospects of money. Those dreary parties, “the party of the first part” and “the party of the second part”; those ugly “whereases” and “aforesaid”; those strung-beads of synonyms, such as “give, devise, and bequeath,” “rest, residue, and remainder,” are not fashioned to delight. Their sole purpose is to make the document water-tight by closing up the chinks.

It is plain libel to assume, as some people do, that lawyers and jurists always employ English as if they were drawing up wills. Lawyers and jurists as writers do face certain dangers unknown to professional authors. They are excused from the necessity of entertaining and interesting their readers, and all too often—let's face the evidence—they take a cruel advantage of this enviable exemption. Nonetheless, some of the best writing that we have has come from the pens of lawyers and especially judges.

Experience itself, if only one has the ability to respond to it and translate it into words, is a better teacher of composition than our colleges know. Those who preside over courtrooms or argue in them cannot escape from life. They may not approach it as novelists, dramatists, journalists, or historians would, but they cannot duck it. This constant confrontation with the actual is what Dr. Johnson had in mind when he said, “Lawyers know life practically. A bookish person should always have them to converse with. Lawyers have what the writer wants.”

—JOHN MASON BROWN.

(To be concluded in the next issue.)

## Broadway Postscript

TENNESSEE WILLIAMS, after reading some relatively unexciting poetry to an audience at Circle-in-the-Square recently, asked if they would like to hear an unpublished short story he had brought with him. After a moment of polite applause, the diminutive Southerner announced, “Well, I'm going to read it loud, and I'm going to read it fast, and if I get tired, I'm going to quit.” With this unpromising preamble, Mr. Williams began “Three at a Summer Game,” which turned out to be as fine a piece of writing as the prize-winning playwright has done to date.

The story concerns one Brick Pollock, a magnificent man who, when forced to settle down after leading the high life of a campus hero at a Southern college, takes to drink. He loses his self-respect as his “noble” young wife takes over. Then one summer, Mr. Pollock engages in an extra-marital revel with a young widow, the rounds of which are interspersed with games of croquet, with the widow's twelve-year-old daughter completing the threesome. As a result of these doings he begins to regain his self-respect and control his drinking. But with his self-respect comes the assumption of responsibility, and with the assumption of responsibility comes a gradual return to his “noble” wife and to drink, and hence his final subjugation to the recapturing wife.

This paraphrase does not do the short story justice, for Mr. Williams has told his tale with all the delicate nostalgia that marked “The Glass Menagerie,” and all the psychological penetration and irony of “Summer and Smoke.” If “Three at a Summer Game” grows into a play, it might be the best new American play in many seasons.

—HENRY HEWES.



# SR Goes to the Movies

ROBERTA AND LYDIA

THERE was a line in the 1935 RKO musical "Roberta," as I recall it, that Randolph Scott repeated from time to time as he floundered through the Paris high fashion world: "I'm strictly a meat and mashed potatoes man, myself," he would say. The new M-G-M musical "Lovely to Look At" is based on "Roberta," and one point of distinction that immediately comes clear when comparing the progenitor and the offspring is that M-G-M wanted none of the wit, charm, and even a certain ratchety elegance that clung to the original Jerome Kern piece, and decided to dish up some ordinary meat and potatoes instead. In order to turn "Roberta" into an unexciting musical it was necessary to switch a pretty good story line into an extremely dull one. George Wells and Harry Ruby have accomplished this. It then needed some unimaginative directing, and Mervyn LeRoy supplied this element. Perhaps this handling of the fine old musical was due to the frank admission that neither Fred Astaire nor Ginger Rogers could possibly be replaced. Following this line of reasoning further we may now enter the producers' minds and watch the formulation: "Why not lick it by having two guys for the Astaire part, and two girls for the Ginger part?" Why not indeed? Thus we see Red Skelton and Gower Champion handling various aspects of Astaire, while Ann Miller and Marge Champion share Ginger Rogers. The only thing wrong with the idea, besides wrecking the

story line, is that it doesn't work out very well.

By splitting up characterizations no one is left with very much to chew on. Even the Russian Princess that Irene Dunne played has been changed to one of those sweet-pretty-little-thing-who-sings parts that Kathryn Grayson plays in all her musicals. She tries very hard and sings very nicely, however, and you can't really not like her. She has Howard Keel, again, to romance her and sing to her. Thank heavens, very little of the score has been tampered with; that remains, and it still glows. Marge and Gower Champion handle the dancing adequately, but with no real flare, and there is the fashion show, naturally, with Adrian running wild and trying to show that he's every bit as good as those Parisian designers. My impression is that he would have been hooted off the Place Vendôme. To back me up on this I have the opinion of the woman in the seat behind me, who kept muttering: "Who could wear such a thing? Who?"

\* \* \*

"Lydia Bailey" (20th Century-Fox) is one of those old-fashioned, technicolor costume dramas that used to come around just about as frequently as M-G-M musicals do these days. Blood flows like water in it, the villains are indeed villainous, and the hero and heroine are untainted, courageous, and weak with love for each other. I have had no acquaintance with the Kenneth Roberts novel that spawned the film, but I don't



Scene from "Lydia Bailey"—"the hero and heroine are untainted."

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