BOOK REVIEW: THINKING LIKE A WRITER
BY STEPHEN V. ARMSTRONG AND TIMOTHY P. TERRELL

CLARK BOARDMAN CALLAGHAN (1992)

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"We lawyers cannot write plain English." 1
Thus begins one of the most widely read and cited primers on writing clear, readable legal
prose. This notion that lawyers are rotten writers permeates books2 and articles3 on lawyers
writing.4 Largely in response to this criticism, over the past decade law schools have expanded
and enriched their legal writing curricula.
First-year writing courses once taught (if taught at all) by second- or third-year law students are
now frequently taught by full-time faculty with expertise and interest in teaching writing who are
hired specifically for this purpose.

But even talented and motivated new writing professors frequently find themselves frustrated.
They can identify ineffective writing when they see it, but wonder how to convey to students precisely
what is effective and—most importantly—what to do to enhance effectiveness the next time around.
Law students resist learning anything about writing ("if I have gotten this far in my education, I must
know how to write") and many feel that the "grades" they receive reflect nothing more than the
idiosyncratic biases of their particular writing professor.

For the beleaguered writing professor, help has arrived in the form of a new book: Thinking
Like a Writer by Stephen V. Armstrong and Timothy P. Terrell.5 From the outset, the authors6
set a refreshing tone of respect for their audience by declining to castigate lawyers as a group for
writing poorly. The book’s introduction states:

Many books about legal writing claim, at least implicitly, that lawyers as a class write badly. We disagree. . . .
In general . . . when lawyers write memos and letters and briefs, they write no worse and perhaps a little better than
most other professional classes. They need help with writing not because they start with a failing grade, but
because they face a difficult task: writing clearly and persuasively about complicated matters in situations where a slip can
have drastic consequences.

The authors believe that too many approaches to improving writing focus on rules. Their examples include, "Use base verbs, not nominalizations; prefer the active voice; use short sentences"; "use verbs; make assertions in affirmative, not negative, form; do not qualify unnecessarily"; "use an average of twenty-five words per sentence; tabulate particularly complex information; get rid of compound prepositions." While adherence to these rules may result in a written product that is somewhat easier to understand, such a result is far from
guaranteed. They suggest a more helpful approach than adhering to rigid rules is learning and focusing
on the guiding principles that shape the effective transfer of information,7 then adopting
techniques recommended by the authors to employ the principles. Through examples of the
use and misuse of these principles and techniques, the book shows the prospective writer (and the
teachers of writing) how to achieve the goal of effective legal writing: accurate communication
to a particular audience.

The principles in the book flow from the authors’ research into the expectations of readers as they approach the task of comprehending written material.8 These expectations are set forth
in the chapter on organization. Again showing respect for their own readers, the authors stress
that lawyers generally have no trouble thinking in an organized fashion. Before they write, they
have a logical analysis in their heads. But their writing does not always reflect this organization of thought because it must be mirrored by a structural organization that enables the reader to quickly grasp the logic presented. The book’s examples vividly illustrate how a writer can vastly
improve comprehensibility by making fairly minor changes in organizational structure.
In effect, the authors recommend that writers create a “road map” of the written material through the way they structure the document. Thus readers—like well-prepared travelers—will always know where they are, where they have been, and where they are going.

For example, to illustrate Organizational Principle Number 1 (“Readers absorb information best if they understand its significance as soon as they receive it,” therefore, “[B]efore conveying new information, first show its link to existing information”), the book offers this example:

The Fourth Amendment protects citizens of the United States against unreasonable searches by the government. The Supreme Court applies a test that balances a citizen’s privacy against the government’s interests to determine whether the citizen’s rights have been violated in a search.

The passage is revised as follows:

The Fourth Amendment protects citizens against unreasonable searches by the government. To determine whether a search has violated a citizen’s rights, the Supreme Court applies a test that balances the citizen’s privacy against the government’s interests.

The revision places the concept of “search,” which appeared in the first sentence, very early in the second sentence, so that the reader quickly sees the link between the two sentences. A series of these links forms information chains that can smoothly carry the reader along from one thought to another. Thus, the book encourages the writer to sequence information in this way:

“Old information—new information,” “old information (which was last sentence’s new information)—new information.”

The book’s own organization takes the aspiring writer first through an analysis of macro organization and then moves to micro organization. Thus, the book first focuses on the large-scale task of organizing the entire paper, then on organizing a paragraph, and finally on organizing a sentence and even selecting appropriate words. Finally, the book discusses fine-tuning principles of punctuation, style, and editing.

In keeping with its own principle of reader-friendliness, the book itself is exceptionally readable. It is printed in an 8 1/2” x 11” page format, with large type and well-placed boxes that signpost the organizational principles and techniques. A summary of the key principles and techniques follows the table of contents; the book also has an excellent index.

This reviewer teaches a first-year legal research and writing course at a West Coast law school. Her only regret is not having enough course time in which to cover the principles in this book. It would be an excellent text, however, for upper-division advanced legal writing courses. The book would also be an informative reference text to put on library reserve in connection with any course requiring a paper and is, in general, an invaluable personal reference tool for all lawyers.

2. See e.g., Frank E. Cooper, Writing in Law Practice, 1 (Charlottesville, 1965).
5. And help seems to be needed. One early commentator in the art of legal writing comments, “Advice on how to write, in short, is just about as helpful as the canons of statutory interpretation.” F. Cooper, Writing in Law Practice, 3 (Charlottesville, 1963) citing Karl Llewellyn’s famous article How Statutes Are to be Construed, 5 Vand. L. Rev. 395 (1950). Stephen V. Armstrong and Timothy P. Terrell, Thinking Like a Writer: A Lawyer’s Guide to Effective Writing & Editing, Clark Boardman Callaghan (1992).
6. Stephen Armstrong, a non-lawyer, is director of Professional Development and Training at the Shearman & Sterling law firm. He has a journalism background. Timothy Terrell, a lawyer, is a professor of law at Emory University School of Law and has served as director of Professional Development at a large law firm.
9. C. Edward Good, Mightier Than the Sword, 81 (Charlottesville, 1989).
11. The concept of writing for the reader is not a new one (see, e.g., Henry Weihofen, Legal Writing Style, 2d ed. 5 (Minneapolis, 1980); Joseph M. Williams, Style: Toward Clarity and Grace (Chicago, 1990)) but few books have so well explained how to do it.
12. “Thinking Like a Writer, supra note 5, at 3-5.
13. Id. at 3-6.
14. Id.
15. This recommendation is also made in Chapters 5 and 6 of Joseph M. Williams, Style: Toward Clarity and Grace (Chicago, 1990).
16. This is not the only effective way to discuss these principles. In fact, Williams takes the opposite organizational approach moving from sentences to larger-scale organization. Chances are that various readers would best assimilate the information in different sequences.