

Lascher at Large
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Publicity-Seeking Missile Shoots Down Media Credibility

“Wretched” is not an adequate word for the depravity displayed by the old master of excess, Belli, and his new cat’s paw, Sabih. I would term “execrable” until I could think of a more pejorative word the act of filing a “class action” over the Korean Airlines tragedy. One of the most stirring phrases I ever heard a lawyer utter came when Joe Welch turned to Joe McCarthy during the hearings and asked, simply: “Have you no shame?”

It would be redundant to pose that to these carrion hunters; shameless is intrinsic. Two hundred sixty-nine lives, and the world pushed closer to destruction, treated as an opportunity for publicity.

This episode does, however, pose questions for the two professions I have embraced in my lifetime. Can it seriously be contended that, in order to be free, the press must automatically be indiscriminately available for prostitution? There was no discriminate news value in that filing, yet the media dutifully and supinely spread it world-wide. I don’t suggest that reporters or editors should be restrained by law, but that does not mean they shouldn’t be restrained by decency, conscience, or even good news sense. Media should not regard themselves as mere conduits for transmitting whatever some egomaniac may want aired: reporters should not see themselves as flacks. Or, if they do, then maybe the rest of us should start treating them as such.

And then there’s the legal profession. Are we that powerless, a giant *that* far into stupor, or *that* corrupted that we cannot do anything about such mockery of our ideals? The third branch, we must recall, is the most vulnerable, the least armed. It depends entirely upon the consent of the populace. For that to work, its institutions must be shown to deserve such consent. It is our duty to maintain respect for the legal system, and that embraces the duty to deal with our own members who threaten respect.

Andorian Fauna

The bureauto-constabular mind (well, at least vocabulary) in action.

The following excerpt is from a letter to the editor from the Undersheriff of Santa Barbara County, concerning a news story which mentioned shooting a pig, something his undership said might “seem like trivia in a story of rape by an alleged mass murderer,” a world-class understatement.

“Unfortunately, we continue to have reports from friends of the island from time to time concerning the unlawful taking of sheep and/or pigs. It is unlawful to go ashore at Santa Cruz Island without a landing permit. Additionally, depending on the established value of the sheep and/or pig, the offender may be prosecuted for a felony.”

As Orwell might have said: Pigs is pigs and sheeps is sheeps, and even the high sheriff can’t determine the value of a “sheep and a pig.” But he didn’t.

Unlikely Haystack

I am not an unqualified fan of the workings or work products of the American Bar Association (as a few perceptive readers may have already discovered). I am an utterly intemperate devotee and consumer of excellent short stories (see a little bit below). What, you may ask, do those sentences have to do with each other?

The connection is one of the most bizarre artifacts encountered in a long time. In this occasion, “bizarre “ chances to be serendipitous, if such a thing is possible. (Query: Can something be happily bizarre? Bizarrely happy? I know the later is possible, but it’s not what I am thinking about. But I digress.)

I read an unfortunately slim volume of stories by Lowell B. Komie, the collection entitled, “The Judge’s Chambers.” I say unfortunately because I not only wanted each story to go on, but I wished there were more of them.

The bizarrerie (you can look it up) lies in the identity of Komie’s publisher; viz. and to wit, the American Bar Association. For reasons totally unexplained, that club has undertaken to publish this collection for no better reason than that: (1) each story is spectacularly good, and (2) each is related to law and lawyers. I have rarely heard of anything so ultra vires as the activity by the ABA. In recognition of it, I will suffer the slings and arrows of their normal activity longer and in more silence than would otherwise have been the case.

Not incidentally, the blurb at the back depicts Komie as “a Chicago attorney and writer.” As a native of a village not too far from that erstwhile hog butcher to the world, I could say that – like Faust/Daniel Webster and the devil – I’d be willing to suffer through practicing law there if that would make me write like Komie. In my next incarnation, I want to be able to spin out stories like his.

Or like those of Andre Dubus, whom I regard as the foremost practitioner of the art today. His current collection is entitled “The Times Are Never So Bad” and each has the theme of someone committing a crime, though not in any sense that you would assume. It’s good, but no better than his “Adultery and Other Choices,” “Separate Flights,” and “Finding A Girl In America.” You can get the Dubus volumes in many decent book stores; the Komies have to come from the ABA - tell ‘em Ed sent you. They’re worth finding.

More Literacy

Every now and then I make a little gently, fond fun of Ventura County and the City of San Buenaventura By the Sea. Not that I apologize. But the foregoing ramblings on letters remind that for odd and inexplicable reasons, we offer unexpected literary resources.

Not, I hasten to add, that anybody between Agoura and Carpinteria should be trusted with a pen or typewriter in hand; you already know that. But we have three outstanding bookstores in a relatively small geographic area. Particularly in terms of the relevant population: i.e. those who read books. (No, come to think of it, that is unfair to Ventura. Our populace is right in step with the rest; the art of book reading *anywhere* is taking an atavistic characteristic – which is a nice-sounding phrase. But I digress. Or do I?)

We have, for starters, the imaginatively named Ventura Book Store, whose quality, service, and – well – empathy can be stacked up against all but maybe one or two – to be on the safe side – in the state, including Los Angeles and San Francisco; Adventures for Kids, which is so good a children’s book store that it is listed in guide books as one place parents should take their children in Southern California; and, in nearby Ojai, Bart’s Corner, about as eccentric and exceptional a used book store as one’s likely to find. It’s the place that has many books shelved outside, with instructions, that, if you need a quick hardback fix when the store is closed, just help yourself and throw the indicated price through the gate or over the wall. Admittedly, there aren’t too many first editions on the outside, but what a wonderful approach.

Admittedly, we aren’t the Athens of the central Coast. But, when you come to the County Fair (perhaps drawn by this year’s fantastic theme poster), you can catch a little bibliographic nourishment, too.

Making It Up In Volume

In the national legal press there’s been a lot of hurrah lately (when it can be squeezed in around the articles about how summer clerks are dined, wined, and maybe worse, and how wonderful all that is) about how business clients are taking a tougher look at the cost of their outside representation. As well as they might, to put it feebly. The way blackstocking law firms milk their clientele is a disgrace. Highway robbery, even when committed in the halls of the California, the Jonathan, or Hillcrest.

Unfortunately, however, as is true of so many reactions, the response has been absurd. That is probably true because it has been turned over to the accountants, who are habitually long on statistics and short on substance. If the rates are right, the controller is happy, without the slightest reference to either the aggregate cost or the end results.

A case in point involves one Los Angeles law firm. Until five or six years ago, it was medium-sized, highly successful, well recognized, and splendidly effective – within certain limited fields. For reasons that are unannounced (but, I dare to suspect, somewhat connected to what is called “cash flow”), they decided a few years ago to double in size, cut their hourly rates, and go into new fields of business-tort and product-liability litigation.

The financial poo-bahs loved it. Associates and junior partners now are billed at about a half or a third of the hourly charge of a lawyer who knows what he’s doing. Of course, the firm regularly assigns four of them to fail to accomplish each task involved, but the clients adore it. Who cares that the firm has neither the organization, the experience, the nerve, nor the personality to cope with the type of practice they’re purportedly pursuing?

The fiscal folks aren't the only ones who have been impressed by the impact of this development. Their joy is shared by swelling ranks of plaintiffs' lawyers and their clients. These guys have done more for claimants than the development of the action on the case. They're making seven and eight figure verdicts commonplace, and have shown their versatility by augmenting that feat with a number of landmark (if that's quite the word) appellate decisions. Everybody knows it, and the wondrous thing is that the clients and claims executives keep an ever growing flow of additional chances to screw up headed their way. Talk about golden geese!

Now, then, do you know a funny thing? Half the lawyers in town are gonna secretly agree with me, although plaintiffs' honchos are gonna be mad at seeing the word in public. On the other hand, I'll bet at least a dozen different law firms threaten to sue me for writing about *them*.

Here to Infinity

I realize a lot of unjust criticism is being dumped on the appellate courts these days. So about some *just* criticism? The topic is not softness on crime, lack of respect for stare decisis, inconsistency, excessive liberality, or any of the sort of new complaints which have been "discovered" every 12 years since Hammurabi.

My problem is that the current generation of opinion writers is soft on infinitives. The splitting of. In one recent Daily Appellate report section, three different cases had a split infinitive in the first paragraph: "to effectively represent his client," "to emphatically deplore," "to realistically prepare for trial." I could go on, but those are sufficient to adequately demonstrate the point.

Folks, it's entirely possible to write effectively while still managing invariably to keep the infinitive intact. It is a small rule, and there are those of us who love it.

A Columnist's Lot

A columnist's life is not a happy one. He puts his scratching in the U.S. Mail (which is the first risk) knowing it will come under the gimlet (or gimletted eye) of a merciless editor determined to fill page space with ads for collection agencies and reprints from the Agoura Weekly Shopper. To the extent the copy survives the ordeal, it then falls into the hands of something that used to be called, I believe, the compositor, who makes up the pages. Today, that person is probably replaced by a floppy disk.

Last month it flopped too flippantly. Those of you who read the last offering don't exist. Those who *tried* will know what I mean. Apparently someone in this journal's management thinks that paragraphs are fungible. All the lines that fit – in whatever order.

The sad part is that it was a column I enjoyed; something bad *always* happens to those. Ah, well, this month I have protected myself by writing the above in no particular order. Printer, do your worst.