Review of Frederick Bowers, Linguistic Aspects of Legislative Expression

Barbara Johnstone
same trap." The press's "failure at their central mission of holding government to timely account has persisted," he contends, "despite critics' continual indictments of the media for falling short of free press ideals." The media's power in politics forms a final paradox. On one hand, political leaders and others subject to media scrutiny charge that deliberately slanted press coverage injects bias into the news. On the other, "journalists themselves insist they only hold up a mirror to reality." The paradox, according to Entman, "is that critics and journalists are both right. The national press corps is biased and objective, a passive, dependent reflector and an active force."

Avowing sympathy for the press's predicament, Entman divides his analysis of the paradoxes into two sections. Chapters on journalism's dilemma, news objectivity, accountability in press coverage of Ronald Reagan and Jimmy Carter, and the media's influence on what people think ("and think they think") comprise Part I. The four chapters work well together topically, as they help move readers toward "Understanding Media Influence." Less satisfying is Part II, "Improving Journalism." Chapters on newspaper competition and broadcast deregulation, respectively, are problematic not for lack of merit, but for a brevity that precludes compelling argument. United by a goal of assessing economic influences on journalism's role in political decision-making, the discussions are designed to "pave the way for a concluding chapter which argues the need to transcend the economic market if we want to develop a more independent press serving a better-informed citizenry" (92).

Despite both the worthy aim and stimulating proposals in the final chapter—including budgetary augmentations for the Public Broadcasting System and National Public Radio, public subsidies for partisan media, and other forms of government intervention in emulation of European models—Entman's rather cursory treatments of newspapers and broadcasting are frustrating, at best. Though he raises good reason to be skeptical of assumptions that competition in print journalism ensures breadth of coverage and diverse opinion, the analysis seems just to begin when the chapter closes and attention shifts to an equally cryptic treatment of broadcast regulation. A more convincing case would require considerable amplification, perhaps an independent section to tease out the ideas barely initiated here.

While such a revision might prove more persuasive to academics, however, the current format may well appeal to a wider audience. That format entails separating the detailed reports of the quantitative data from the text, thus allowing general readers to focus on Entman's central claims. Scholars are afforded more complete resources with three appendices (data and statistical analyses on citizenship and opinions, public opinion impacts, and newspaper competition), exceedingly thorough and instructive notes, and an excellent bibliography. Prominent among the books used, rather than merely cited, are Kathleen Jamieson's Packaging the Presidency, David Zarefsky's President Johnson's War on Poverty, and Roderick Hart's The Sound of Leadership. These works' presence lends credence to recent contentions that book-length studies in speech communication can and will expand the discipline's role in the larger scholarly conversation.

As part of that conversation, Entman ultimately maintains that "[a]ny solutions to the dilemma of American journalism remain problematic." Nevertheless, he concludes, "[w]e can make progress at least by admitting the real state of citizenship, acknowledging the limits on journalism, and understanding the implications of both for the health of American democracy. The dilemma only deepens when we assume and invoke a mythical marketplace of ideas" (140). To the extent that he has discovered and advanced good reasons to be skeptical of the mythical marketplace, Entman largely succeeds in fulfilling the analytical criteria derived from his reading of Wayne Booth's work. In so doing, he integrates rhetorical critical practices into the new discipline of public policy analysis, and establishes a framework for extending his own research program in mass media and political communication. In anticipation that such study will include both an expansion of the analysis begun here and the continued breaking of new ground, critics of public discourse should find Democracy Without Citizens an enlightening moment in what promises to be a continually productive long-term line of inquiry.

DAVID HENRY
California Polytechnic State
University—San Luis Obispo


North Americans expect most legal documents to sound legal and are awed, if also sometimes vexed, by the complexity of "legalese." We prefer in our wills to "give, devise, and bequeath" rather than simply "give," and we expect lawyers to use complicated language. We expect legal "small print" to be beyond
comprehensibility and rarely even try to read contracts. But we expect one kind of legal language—the language of the law—to be unambiguously clear.

Is statutory language in fact clear and unequivocal, or can it aspire to be? Frederick Bowers, formerly an English professor at the University of British Columbia and now a communications consultant, answers this question optimistically. Since statutory writing is no different, he says, than any other use of language, and since it is possible to use language carefully and clearly and avoid ambiguity, laws can say just what they mean, as long as the people who draft the laws are careful and conscientious. The book is in the tradition of manuals of legal drafting, but, unlike others, makes overt use of theory and terminology from linguistics.

Bowers' work is addressed to three audiences. The first consists of people who theorize about language, to whom Bowers attempts to demonstrate that statutory language can be analyzed with the techniques of linguistics. The second audience consists of professional drafters of statutes, whom Bowers advises about such things as the use of "shall" and how to describe a class of objects or people in such a way as to make it absolutely clear who or what is included. Bowers' third audience consists implicitly of all educated North Americans, and his message is hortatory: language is not a self-regulatory system, but rather requires careful engineering if wide communication is to remain possible, and writers, in particular legal writers, are responsible for upholding the standard of clear, understandable English.

The book is divided into four sections of from one to four chapters each. The first has to do with pragmatics, or the ways in which situational context enters into the interpretation of discourse. Bowers discusses, for example, the declarative illocutionary force of laws and how this force is conveyed through the opening "enactment formula" ("Be it enacted," "Her Majesty enacts," or the like). He points out that the use of "shall" in the body of a law is redundant: "there shall be an x" or "x shall be entitled to y" should be replaced by "there is an x" or "x is entitled to y," since the law's illocutionary force is already clear. This suggestion seems reasonable, as does the suggestion that laws should be written in the most decontextualized, explicit way possible, since their function is crucial and their audience so broad.

All writers wish from time to time that considerations of purpose and audience didn't complicate their work. But to attempt to solve the problem of contextual meaning by declaring that a legal writer "may not take liberties with expression" and readers of laws "may not resort to private and subjective response or allow matters of style to interfere with [their] quest for intended meaning" (53) is idealistic. It is also idealistic to suppose, as Bowers does, that the Greco-British co-operative principle is always in force in legal discourse. Laws are the result of legislative compromises, which, like all compromises, can result in a strategically ambiguous language designed to make everyone happy by being less than maximally informative or clear. When the audience for statutory discourse is the public, the lack of cooperativeness can mean, for example, that people wanting to see the salaries of Texas legislators raised must vote for a constitutional amendment to "limit the salary of a member of the legislature to not more than one-fourth of the governor's salary."

In Part 2, Bowers discusses words and their meanings: lexical semantics, ambiguity and vagueness, and the structure of words. Bowers' consistent use of the term "draftsmen" for one of the classes of people who could benefit from the book is an example of one sort of problem he deals with in this section. Is Bowers to be taken as meaning only men who write laws, or women as well as men? Is it legitimate to second-guess the author (and assume that he must have been employing a somewhat outdated generic form) or to have recourse to what we know about what words meant when the text was written (and discover that, in the 1980s, generic uses of "men" and "men" were on the wane)? Could the interpretive difficulty caused by "draftsmen" have been avoided without undue awkwardness or obscurity? Bowers' view is that drafters of laws should do all they can to anticipate problems like this, so courts are not forced to engage in "literary criticism" and can rely on the traditional guiding principle _ui res magis salvaat quam pereat: _each word in a law has been carefully and purposefully chosen.

Part 3 is about sentences: their abstract propositional structures and the choices about how to arrange words which result in their actual surface structures. Bowers points out that these choices may result in unclarity or ambiguity. One example has to do with expressions resulting from transformations of deep structure which delete repeated elements. Transformations of this sort can produce the same phrase from two different underlying meanings: "charitable and educational institutions" can thus be read as meaning "charitable institutions and educational institutions" or "institutions which are both charitable and educational." The remedy for problems like this, insofar as there is one, is for statute-drafters to pay attention to the grammatical meaning of a sentence—the meaning provided by the arrangement of words in the sentence—as well as to the meanings of its words as individual units.

The final section of the book consists of one chapter on style. Bowers asks whether legislative language
can ever be "ordinary," similar, in other words, to the language of "the better newspapers and journals." He says that for three reasons it cannot. First, though laws can be written plainly, they cannot usually be written simply, because their subject matter is complex and their audience very wide. Second, legislative language is not expository. Rather than laying out existing situations in words, laws must anticipate all eventualities in worlds that do not yet exist. Third, the English language was not standardized until several centuries after laws began to be written in English, and "the language of pre-modern times" has become entrenched in some aspects of legal style. But although laws cannot be written in simple newspaper-like, they can still be written well and clearly, if stylistic choices are made consistently and predictably, if logical transitions are made clear, and if "elegant variation" is avoided.

In his brief conclusion, Bowers recapitulates three themes in his thought about legislative expression. The first is the claim that legislative language can be understood by the same principles as can all other uses of language. This claim seems uncontroversial. Bowers' second claim, that language is a dualistic system in which "meaning" and "expression" are clearly distinguishable, is controversial. Though willing to concede that the form of a lyric poem is hard to dissociate from its meaning, Bowers is unwilling to concede that there could be anything lyrical about the sentences in which laws are written. And just as meaning and expression are distinct, so are writer and reader: the meaning of an utterance is the writer's intention, and understanding is recovering this intention. These views are naive, ignoring the indeterminate nature of all linguistic meaning and the aesthetic quality of all linguistic understanding. They are also misleading, creating the impression that it is possible to be completely clear and unequivocal and that people who are not are lacking in intelligence or honesty.

Bowers' third claim is educated users of English must exert "sustained vigilance" to ensure that the language will continue to be expressive, precise, and accessible, rather than becoming local, trendy, or obscure. Bowers echoes the complaint of centuries of prescriptive linguists, all of whom have felt that the English of the preceding generation was purer than that of their own and that the language was on the brink of chaos. No amount of vigilance will keep language from changing, and there is no evidence that written English is any less expressive, accessible, or precise than it ever was. (The rise of English as a world language in fact suggests the contrary.) This is not to say, however, that writers should not try to be clear and comprehensible, and legal writers willing to plow through Bowers' technical detail (he writes clearly but not interestingly) may be rewarded with a more sophisticated understanding of what they are doing. Students of legal communication may also want to have the book, despite its shortcomings as a theoretical work.

Barbara Johnstone
Texas A&M University


It was the best of times; it was the worst of times. The long-promised, somewhat awaited volume by Marshall McLuhan and Bruce R. Powers is, like Caesar's Gaul, divided into three parts—redundancy, genius, and borderline science.

As for redundancy, the book claims as its own a piece of the late Marshall McLuhan's thought already well documented in the late seventies and more recently summarized and organized in The Laws of the Media by Marshall McLuhan and Eric McLuhan (Marshall's son), University of Toronto Press, 1988. Such work has been primarily developed by McLuhan sidekicks such as Eric McLuhan, Barrington Nevitt, and Robert Logan, to name a few (who worked literally at McLuhan's side) and by Powers, who less frequently commuted and corresponded. Indeed, anyone who studied with McLuhan or read from his outpouring of articles and interviews in the 1970s will recognize not only an overly familiar title (The Global Village) but the tried and true themes of oral vs. visual space, left vs. right hemisphere, and figure vs. ground, to name a few. Indeed Eric McLuhan asserts that Powers has lifted entire pages from The Laws of the Media and added nothing to the McLuhan canon.

Such review might excusably have been summarized in the preface or opening chapter as a review and preparation for original work to follow. But Powers has elected to stretch this material into six chapters and indeed half of his text. Writing and editing for the past decade without Marshall McLuhan (who, due to a muting stroke in 1979, became a silent partner and died in 1980), Powers was "scooped" by the highly legitimate competition, Eric McLuhan, whose book, also co-authored with Marshall, was pub-
lished one year earlier and covered much of the same material. George Sanderson’s concurrent anthology of essays (The Antigone Review, 74–5, Summer, 1988, more recently released in book format) also offered an excellent abridged history and introduction to McLuhan’s “laws” or “tetrads” in its final essays by both McLuhans, Nevitt, and Key.

In one sense, all of these works, to varying degrees “co-authored” by a man who died nine years ago, seem somewhat dated. However, at another level, the “laws of the media,” illustrated via dozens of tetrads, epitomized for McLuhan and many of his closest colleagues a major breakthrough worthy of great refinement, testing, development, and ultimately publication. Thus Powers’ co-authored volume is the last of a cluster of overdue books which pin down several of Marshall McLuhan’s final major themes of the 1970s.

Thus, despite the redundancies, the volume is studded with the controversial genius, insight, and originality for which McLuhan was famous. Reading the book backwards one encounters first the most pristine and symmetrical logic compressed by the ’70s McLuhan within Part IV: A Glossary of Tetrads (to be defined later), which work nevertheless replicates a portion of Eric and Marshall McLuhan’s The Laws of the Media. Then one encounters the seemingly unrelated (no matter in which order one reads the book) Part III: The United States and Canada: The Border as a Resonating Interval, perhaps the book’s second most engaging thought tapestry which weaves together the plethora of McLuhan’s one liners and spin-off thoughts about the identities and relationships between the U.S.A. and Canada, previously delivered in lecture format.

Finally, reading the more original material backwards, one encounters Part II: The Global Effects of Video-Related Technologies. Weakened by its infusion of familiar material, these three chapters are nevertheless a hybrid of old and new, and thus punctuated with more novel organizing principles such as the motif of angelism vs. robotism (which some say Powers misunderstands) and fun examples such as a communication tool of early New England sea captains, the “Nantucket Gam.”

To read further, that is, to consume Part I: Explorations in Visual and Acoustic Space (another familiar title), is to rehash much of McLuhan’s famous Monday night seminars at the University of Toronto, his later books with Parker, Nevitt, Watson, and even some of the early influence of Carpenter, Havelock, Cicero, and Joyce. Why Powers would call this “the first right hemisphere book” (preface, xiii) if so much material is recycled (not immediate) and if the remaining material is literate, logical, and scholarly (not experiential) is a mystery.

Thus The Global Village becomes the worst of tomes if it is read, as Powers presents it, as “McLuhan’s last work” and “the first right hemisphere book,” and thus arouses false expectations that it is a total departure from previous texts, the lofty culmination of McLuhan’s five decades of writing, or the ultimate probe into another (or a nether) dimension. Conversely, this volume becomes the best of tomes if it is presented to the McLuhan neophyte reader as one refined synthesis of a dominant strand of McLuhan’s (and coterie’s) final years. It must be presented differently to those already acquainted with the McLuhan (including Eric McLuhan) canon as a fresh organization of often familiar material, including the culminating collection of refined tetrads displayed in the book’s final section. For such readers—communication scholars, McLuhanists, McLuhanites, former sparring partners and vintage critics—the book should be read from back to front, thus inviting the reader to stop when back to terra cognita and deja vu.

Veteran McLuhan readers will encounter most if not all the same controversies as haunted McLuhan throughout his post-literary criticism period—Is the writing literally true? Is the scientific terminology legitimate? Are mixed styles and disciplines appropriate? Are the literary and rhetorical devices employed for effect—hyperbole, unqualified future-casting, absolutism—confusing, if not deceptive? Is there tongue-in-cheek, satire, or Socratic taunting hidden between the lines? Is the world as simple as the familiar rivals of communication science—McLuhan and Powers as the good guys vs. Shannon and Weaver as the bad guys? Sound familiar?

However, Powers should be credited for answering some of the archetypal criticism of McLuhan. First, instead of simply assuming that we all agree about the now cliched left and right brain dichotomy, he transplants some neurology and brain anatomy, and even diagrams, which should minimally satisfy some of the more scientific critics of McLuhan such as Jonathon Miller. Miller always suspected that McLuhan made up his science to justify neat observations or simply never understood science in the first place. Next Powers has added nineteen pages of helpful endnote references and elaborations, an exercise that the confident McLuhan seemed too driven and abbreviated to undertake after 1950. “I aim to explore, not explain,” he iterated. Powers has also attempted to include McLuhan’s later interest in