

JOE WILLIAMS AND DISCOURSE COMMUNITIES—*THE JOURNAL OF THE LEGAL WRITING INSTITUTE AND COMMUNITY SERVICE*

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“Communication leads to community, that is, to understanding intimacy and mutual valuing”

--Rollo May.<sup>1</sup>

“Whether the vessel is a legal document or a rap song, language is often chosen to exclude. To use a scholarly phrase, discourse communities are often gated, so it’s the good writer’s job to offer readers a set of keys.”

--Roy Peter Clark <sup>2</sup>

I am grateful for the opportunity to participate in this celebration of the thirtieth anniversary of the founding of *The Journal of the Legal Writing Institute*. And I am even more grateful for the role the Journal has played in my professional and intellectual life. I do not overstate when I say that its articles have taught me, inspired me, stretched me, moved me, improved me, and in essential ways, changed me as a teacher, a writer, a person.

Among those that I have treasured, the article that has meant the most to me is the first Journal article I ever read: the lead article of Volume One, *On the Maturing of Legal Writers: Two Models of Growth and Development* by Joseph M. Williams.<sup>3</sup> Williams, a master composition theorist, sets out the theoretical basis for novice learning theory and applies the theory to explain the writing skills (or perhaps more accurately, the lack of writing skills) exhibited by first-year law students. His conclusion is that novice law students are better able to learn the higher-level critical thinking skills when the students and the tasks are embedded in the

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<sup>1</sup> Rollo May, *POWER AND INNOCENCE: A SEARCH FOR SOURCES* 246 (1998).

<sup>2</sup> Roy Peter Clark, *THE GLAMOUR OF GRAMMAR: A GUIDE TO THE MAGIC AND MYSTERY OF PRACTICAL ENGLISH*, 45 (2011).

<sup>3</sup> 1 *LEG. WRITING* 1 (1991).

particular discourse community of law and legal writers. Similarly, my conclusion in this essay is that legal writing professors best learn the higher critical skills of their profession when embedded in the particular discourse community of legal writing. The Journal's primary contribution has been to build that discourse community.

Williams's article taught me many things about both my students' learning and my own. First, novice learning theory offered an explanation for many of the 1L behaviors I had observed. For example, one principle Williams discusses is that novices lose some of their former skills while acquiring new skills in a new discourse community. In the month that followed reading the article, I noticed two illustrations of this principle. First, there was the student who was a former Chief Executive Officer of a major corporation who had given speeches to literally thousands of shareholders in company meetings, who was quaking in my office, telling me she couldn't possibly do a moot court argument in front of a panel of three teaching assistant "judges." Second, there was the English Ph.D. nearly in tears because he couldn't seem to write without using passive voice anymore, even though he had taught students to write in active voice for years.

Next, the article was a model for me of how to write an article on pedagogy that was well-supported by theory. It gave me a framework and a method for pursuing my own scholarship, because it showed me what constituted effective and well-supported pedagogical scholarship. But further, if I applied novice learning theory to myself, my own scholarly work illustrated principle after principle that Williams had described. My drafts were heavy on summarizing and light on analysis. They "replicated the discovery process" as I led the reader through all the work I had done to understand my topic, and I triumphantly led to "point last," my thesis buried at the end of the article. I struggled with the concept of audience because I had no idea what I needed to tell the reader, and what I could safely omit. I imitated the most obvious and hollow features of the law review article genre as I tried to use the elevated tone and dense prose of many of the articles I read. Reading Williams' article made clear that novice learning theory applied to me—the novice scholar.

Additionally, and most importantly, Williams' article introduced me to the idea of a "discourse community," a term linguists and sociolinguists use to describe and explore communication within a group whose members share common values and assumptions, as well as common ways of communicating about shared goals. That idea has been foundational for my teaching practice and my scholarly work.

The discourse communities of legal writing professors and of legal writing students are different but overlapping. Experienced legal writing professors, however, hold the keys to the gates for both communities—in other words, the keys for both new legal writing professors and for our students. The Journal has contributed to entrance into the discourse communities available to both groups. Thus, discourse community theory is also an excellent lens through which to examine the Journal's contributions to enlarging our communities.

Examining the literature on discourse community, I learned that although not the first to use the term, the linguist John Swales developed a list of defining characteristics of a discourse community.<sup>4</sup> Although discussing each characteristic would take longer than a short essay can address, the legal writing community fits the bill nicely. Here are Swales' six features in italics, with my comments on how they apply to our community:

1. *A discourse community has a broadly agreed upon set of common public goals.* We want to produce better lawyers who write well.
2. *A discourse community has mechanisms of intercommunication with their members.* We use the Journal, the listserv, newsletters, meetings, and conferences to come together for our goal.
3. *A discourse community uses its participatory mechanisms primarily to provide information and feedback.* Law professors in other subject areas are always amazed at just how participatory we are as a community. A survey that garners more than a 95% response rate? Now *that's* a discourse community that provides information and feedback.
4. *A discourse community uses and possesses one or more genres in the communicative furtherance of its aims.* Our genres and sub-genres include myriad practice documents, but also the texts we create to teach or our scholarship that builds the discipline.
5. *In addition to owning genres, a discourse community has acquired some specific lexis or vocabulary.* The vocabulary we create to teach and to

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<sup>4</sup> John Swales, *GENRE ANALYSIS: ENGLISH IN ACADEMIC AND RESEARCH SETTINGS* 21-32 (1990).

6. write about legal writing is not just useful and necessary, but also inventive, original and vibrant.<sup>5</sup>
7. *A discourse community has a threshold level of members with a suitable degree of expertise in the relevant content and discursal conventions.* It is notoriously difficult to secure a position as a law professor and requires meeting rigorous criteria. Swales is well-known for saying that members of a discourse community enter “as apprentices and leave by death or in other less involuntary ways. However, survival of the community depends on a reasonable ratio between novices and experts”<sup>6</sup> For years caps on service as a term of employment for legal writing teachers upset the ratio of novices to experts and impeded our development as a discourse community. Currently however, caps have all but disappeared and most legal writing professors love their jobs and think long and hard before leaving.

Hence, this list of defining characteristics of a discourse community, and even this brief examination of the ways in which legal writing professors are a discourse community, helps us to understand our audience and to know what is at stake when we write. It also reveals the important role the Journal has played in our community’s development.

Accordingly, Williams’s article, which introduced me to Swales’s concept of a discourse community, became an exemplar for the role the Journal has played in my professional life. The article, and of course the Journal itself, have provided a theoretical basis for my instinctual belief that concern, respect, and understanding for what learners are experiencing is a core responsibility of teaching. Further, it helped me see what scholars often say, that we build a conversation and *a discourse community* through our work together as scholars. For me, this scholarship of the discourse community has created the substance of what I teach and write. It has extended our knowledge of how best to help students and new legal writing professors to write well and thereby to enter the gates to become fully engaged in the legal writing discourse community. For me, the most wonderful of the Journal’s many gifts has been to build this shared discourse community and to give others the keys to enter. My

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<sup>5</sup> See generally, Terrill Pollman, *Building a Tower of Babel or Building a Discipline? Talking about Legal Writing*, 85 MARQ. L. REV 887 (2002).

<sup>6</sup> Swales, *supra* note 4 at 27.

sincere thanks to the hardworking scholars who have created and sustained it.