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Steven Lubet

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## ON ATTENTION SPAN: COMMENT ON MARIANNE WESSON'S "A NOVELIST'S PERSPECTIVE"

*Steven Lubet\**

It is with no small amount of trepidation that I venture to set out some thoughts on Marianne Wesson's "A Novelist's Perspective."<sup>1</sup> Professor Wesson is both an accomplished academic and best selling-author, while I am neither a novelist nor a literary critic. Her paper on the challenges of "novelizing" the legal process is insightful, informative, and elegant. What else could I possibly add? Recognizing the modesty of the contribution, I have hit on the concept of "attention span."

Professor Wesson writes about the challenges inherent in conveying a truthful description of legal reality in the context of a novel. Somehow, the writer must transform the staggering tedium of the trial process into a story that will grip and hold the readers' attention. Although she does not say so explicitly, she obviously recognizes that even literate and knowledgeable readers, such as those who would be attracted to her work, have limited tolerance for monotony. In order to tell her stories about the law, Professor Wesson explains, she must collapse events, abridge facts, and generally move things along at a highly accelerated pace.<sup>2</sup>

Professor Wesson refers to the reader's abbreviated attention span as an "obstacle to accuracy,"<sup>3</sup> since the velocity required of a novel far exceeds the interminable tempo of a real life trial. Of course, she is correct. It takes much skill and perception to "wedge a story about the legal process into a much shorter time frame than strict verisimilitude would allow."<sup>4</sup> Well, phooey on strict verisimilitude. Who needs it? Show me a work of art that is directed to strict verisimilitude, and I will show you a dreary photograph.

Far from an impediment to all the novelists' work, the reader's short attention span is more likely a necessary condition. "Truth is messy, incoherent, aimless, boring, absurd. The truth does not make a good

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\* Professor of Law, Northwestern University School of Law.

1. Marianne Wesson, *A Novelist's Perspective*, 50 DEPAUL L. REV 583 (2000).

2. *Id.* at 587.

3. *Id.*

4. *Id.*

story, that's why we have art."<sup>5</sup> Another way to characterize the situation is to state that truth is longer than fiction, and that a novelist's duty, and therefore opportunity, lies precisely in useful abridgment.

With few exceptions, trials and other legal proceedings are incapable of holding extended public attention.<sup>6</sup> People may be interested in the outcomes, of course, and many are eager to read and hear the daily reports of expert commentators, but hardly anyone has the time or endurance to sit through a trial as it proceeds from witness to witness and argument to argument.

We face a civic conundrum. Lawsuits are too long, involved, and tiresome for people to observe them directly. On the other hand, democracy requires that the citizenry understand the judicial system. So how are people to learn about trials?

This is the situation where arts comes into play. Through the process of collapsing events into a cogent narrative, the author actually makes the events more understandable, and therefore more accessible. In other words, the novelist's presentation of trials and law may end up being "truer than true," because it actually overcomes the obstruction otherwise imposed by short attention spans. The typical well informed citizen might be able to watch an hour or so of a trial, or to read intermittent descriptions in the press, thereby becoming exposed only to random and possibly misleading excerpts. A novel, however, can expose the entire process, eliding the clutter of unnecessary details and laying the bare essentials.

To be sure, the technique of narrative reconstruction can be misused. Some novelists care little for accurate legal description, using the courtroom only as the specious background for their stories. Courtroom friction often bares as little resemblance to real cases as spy stories do to real espionage (or romances to real marriages).

In the hands of a diligent and knowledgeable narrator such as Professor Wesson, however, the novel serves to increase public understanding of the law, while telling a terrific story at the same time.

There is only one thing left for a commentator to say. Bravo!

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5. JANET MALCOLM, *THE CRIME OF SHEILA MCGOUGH* 27 (1999).

6. The criminal trial of O.J. Simpson is an obvious example of a case that was closely watched at length by a large viewing public. The Clinton impeachment and the Clarence Thomas-Anita Hill hearings also drew large audiences. Putting those events aside, however, few if any trials have ever been widely watched as the events progressed. Professor Wesson, an observer of the trial of Timothy McVeigh, points out that the daily tedium of the proceeding made it hard even for journalists to keep their attention focused. Wesson, *supra* note 1, at 588.