

GOLDEN PEN AWARD ACCEPTANCE REMARKS OF THE HONORABLE RUGGERO J. ALDISERT

I am truly honored that an organization as important as the Legal Writing Institute has chosen me as the recipient of this year's Golden Pen Award. This called to mind a popular phrase of respect from our English brothers and sisters, originally penned in more elaborate form by Thomas Morton in 1797, "praise from Sir Hubert is praise indeed."

Speaking as one who has been in the law as lawyer and judge for sixty years, and having written or read hundreds of thousands of pages of legal documents, I am most appreciative of the work of this fine international organization dedicated to improving legal writing. I not only appreciate those who teach legal writing in the law schools, I am indebted to all of you who seek to improve the quality of the briefs and petitions that I read every day, as well as the opinions of trial courts and administrative agencies.

This is a debt I owe to every one of you. You do not teach a graduate writing course in literary composition. Rather, you teach what J.L. Austin described in his book, *How to Do Things with Words*, as "performative utterances." This is because legal writing is more than describing something. It is designed to produce action, that is to say, to perform. The ultimate object of a lawyer who writes is to have his or her opponent concede or settle, or that failing, to have a court issue an order in his or her favor.

Thus, legal writing is not designed to describe something like a journalist, to report what is true or false. It is not what Austin describes as "to constate" or to give information on an action that has taken place. Instead it is designed to convince, to deter, or to persuade. And all this means is to perform, and thus produce future action.

When you are a judge, or are a law clerk writing for a judge, every document you write is a "performative utterance." It is writing that concludes with a definite performance, such as "Motion denied" or "Judgment for plaintiff" or "Affirmed" or "Reversed."

Thus, when I say that as a judge I am indebted to you, it is because to the extent you produce lawyers with better writing

skills, the better we judges can properly understand the nuances of arguments presented. And the higher degree of understanding we acquire, the higher a quality of fairness and justice ensues.

Another word for those of you who teach; you play an extremely important role in the life of a law student. By virtue of your subjects, and personal nature of your instruction, you invariably become the professor who has the closest relationship with the first-year students. Thus, you are important not only for the subject you teach, but also for your role as a mentor. Very often, when your students apply for clerkships, they ask you to write letters of reference. Having chosen law clerks since 1961, as a state trial and federal appellate judge, I feel I have gotten to know so many of you from your letters.

Thus, you are not strangers to me. Tonight I feel that I am truly in the company of old friends. So, my friends, thank you for selecting me as this year's recipient of the Golden Pen Award.