

## THE COURT REPORTER

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The recording of language by the substitution of letters and combinations of letters for sounds so that words may be silently conveyed to the mind through the eye as distinctly as by the voice through the ear is truly a wonderful invention. For the acquiring, preserving and communication of knowledge, it is almost as valuable as the gift of speech.

So much mechanical labour is required to form the letters, however, to record language as rapidly as it is spoken, common writing is inadequate. Many systems of shorthand have, therefore, been devised.

One author on the subject tells us that among the earliest systems of shorthand were the Greek signs. From these came into being Cicero's Roman notes, consisting of little marks that were sufficiently expressive to enable writers to record the Senate speeches of that age. Cicero's secretary, by the name of Tyro, became a very skillful recorder, his writings in shorthand being known as Tyro's Notes. Seneca improved upon these recordings and introduced them into the schools as a branch of education.

One of the poet Martial's epigrams of 1800 years ago tells us a Notary could then record speech as well as the reporters of today:

Notarius

*Currant verba licet, manus est velocior illis;  
Nordum lingua suum, dextra peregit opus.*

The excellent methods of teaching used by present-day textbook writers have hastened considerably the progress and success of shorthand throughout the world. World Shorthand Champion records now are close to 300 words a minute—five words a second.

The court reporter's job is one most interesting. The interest which fed his enthusiasm at the commencement of his career is never lacking throughout his career. Its presence is oftentimes doubted by the reporter when his record to be transcribed is in front of him, its pages having been ascertained to run into the hundreds, and his next few days and evenings predetermined to be spent in the sole company of his typewriter, which will bear the brunt of at least a few violent reprimands for not reproducing results desired by its operator whose weary fingers have been the cause of its going astray. However, the job will be finished. Perhaps the next half-hour the reporter may have all to himself to admire the fruits of his

efforts. As the admiration for his accomplishments grows so also does his interest for the career he has set for himself. At the end of his half-hour vacation most likely he is ready to tackle the next case in his books with its thousands of shorthand outlines, its hours of wearisome labour, and its conclusion wretched in thankfulness.

Why had he reprimanded his typewriter? In all probability as he read his notes a vague outline appeared before his eyes, the vagueness proceeded from his mind to his fingers and to the paper before he stopped. And he looked at his book again. He remembered then the speaker whose words he had outlined. He remembered that that speaker spoke—as he thought at the time—with his mouth full of marbles, or cotton wool. The wool and the marbles, with the gargled word reached the reporter's ears at the same instant and was transferred in one quick movement to his record. Though the sound was accepted by the judge and the counsels as having a meaning, its translation to typewritten English fell to the reporter. His patience in turn fell a few degrees. His expressions fell upon the typewriter—which had no part in the fault. The witness on the stand was the curprit, and he was gone. Surely, it was a witness. A judge would speak most clearly? A counsel would speak most clearly? They above all desire the record to be correct so that they might rely upon it to consist of the accurate proceedings of the court. And surely they would take the care to speak distinctly, slowly and loudly so that all would hear, and the record they wished to be accurate would in fact be just that.

By far the majority of those who are court reporters became such as the result of some accident by which as shorthand writers they found they had the ability to record rapid speech and automatically drifted into the business of reporting, a profession they found to be one of opportunity and advantage for those adequately qualified. The reporter has spent many hours of practice, first on the fundamental outlines and brief forms for common words, then fusing the two or three words into one outline for a phrase. He has tried to record speech delivered at a very moderate rate, and has transcribed it with the typewriter. As months went by the reward for his efforts appeared in the form of ability to write ten or twenty words a minute faster than he could before. He has learned that while he could write his outlines rapidly he had also to write his outlines clearly and proportionately so that his transcribing period would not be lengthened because he could not decipher what he had succeeded in writing. As he advanced, he found that but one pen was his favourite for its balance and its dependable ink flow, its rather fine nib. And he found he must not

lend it frequently, as the proper care to maintain its perfect condition would innocently not be taken by the borrowers. He learned that a specially-ruled book must be used, having columns in which the words of the prosecuting counsel were recorded in one, the defending counsel in another, the judge and the witness in the others, and that there was no time to indicate a speaker by name, and that he must be identified by the column into which he was put when he spoke. He found also that he must be able to locate in his books and read back to the court, when so instructed, notes he had taken hours or days before, and, though he might decipher them by himself at typing speed with ease, it was sometimes more difficult to do so in the atmosphere of the courtroom. The ability to trail a speaker by a half-dozen sentences was one to be desired. The speaker must sooner or later stop for breath and his hesitation enables the writer to get down in his record the sentences which had gotten ahead of him. He found there were many shortcuts he might take and in fact had to take to get down on paper the exact expressions of the speaker.

The regulations for examination and appointment of Supreme Court Official Stenographers for the Province of New Brunswick, and their responsibilities, are set out fully in the Revised Statutes, c. 117, and c. 188 deals with County Court Stenographers. The statute respecting the Court of Divorce, c. 115 outlines the duties of Official Stenographers at all trials and hearings concerning divorce and matrimonial causes. Stenographers who are not Official Stenographers must before they undertake their duties be sworn to discharge such duties to the best of their skill and ability.

Case law is not in abundance on the subject of court stenographers' shorthand records. A few cases, however, bring out some points. In the event of a discrepancy between the judge's notes and those of the shorthand reporter, the former will generally be preferred. This by the case *Re James Beauchamp*, 1909 2 C.A.R. 40. The reason for this is expressed in *Sergeant v. Chafey*, 1836 5 L.J. K.B. 228 by Lord Denman, C.J.—“We ought not to omit this opportunity of saying at once that the notes of the Judge who tried the case must be those which

the Court will abide by. Although a shorthand writer's note may be very accurate, yet there may be some peculiar mode of expression taken literally by a shorthand writer which will not convey the meaning which the learned Judge himself attached to it. It may be very useful to refer to the shorthand writer's notes to ascertain some particular observations made at the trial, but they cannot be taken in contradiction of the Judge's notes.”

Any incident affecting the trial during its course should be recorded, e.g., a statement interjected by someone not a witness, in court and heard by the jury. T. Austin, 1916, 12 C.A.R. 171.

Where a solicitor employs a shorthand writer to take shorthand notes of a case in which the solicitor is acting for a client, in the absence of special arrangement (that the client was to pay for them) the solicitor is personally liable to the shorthand writer for the costs of the notes. Cocks v. Bruce, Searl & Good, 21 TLR 62.

The shorthand note of a proceeding, though sworn to be correct by affidavit, was not admitted in evidence, the shorthand writer being dead. This in DeMora v. Concha, 1886, 32 Ch. D. 133. The affidavit of a live one was admitted as evidence in Houston v. Marquis of Sligo, 1885 29 Ch. 457.

A brief history of the use of shorthand in the Courts is contained in R. v. Dupis, 1940 74 CCC at P. 91.

The court reporter today is an essential person in the administration of law and justice. Although in the past, they have not been fully appreciated, there is a growing tendency for the other persons connected with the law to realize the problems affronting the court reporter. All of this has the effect of making the task of reporting easier and thus enabling him to do a better piece of work, which in the end benefits all concerned.

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