

CHAPTER NINE



The Sex of a Hippopotamus

The longer I'm in Washington the more I realize that most people in this town tend to act with the calm forethought of a beheaded chicken.

—Herman Wouk, *Inside, Outside*

In May 1850, the London Zoo acquired Europe's first hippopotamus. A hippo spends most of its time in the water and is very dangerous to approach. As a result, gender can be difficult to determine. Tougher still is determining the gender of a young hippo calf because it has ambiguous plumbing. Inquiring about gender wasn't appropriate in Victorian England. The London *Times* ran a lengthy article describing how the ten-month-old animal was captured and brought to the zoo, its dimensions, diet – every detail except the animal's male gender.

Four years later, the zoo procured a female hippo. The couple produced one offspring that survived infancy. Born on November 5, 1872 the zoo named the calf, “Guy Fawkes,” after the man executed that day in 1605 in a failed plot to blow up Parliament. It was more than a year before the zoo discovered its error and renamed the offspring, “Miss Fawkes.”

Tax professionals can relate to zookeepers struggling to determine a hippo's gender. One of them was Middleton Beaman, who was the chief legislative draftsman for the House of Representatives from

1919 until 1949. He had a passion for drafting well-written legislation. He complained bitterly about complex tax provisions that members of Congress were writing, as he chided members of the tax committees that the sex of a hippopotamus was a matter of interest only to another hippopotamus.

According to Beaman, the main objective of bill drafting is “to phrase the bill that when it comes before a court it will be interpreted just as it was intended by the drafters.” A poorly worded statute would make predicting the interpretation courts would give to a complex new statute just as difficult as determining the gender of a hippo.

MORE HIPPOS

“That was one of his favorite sayings,” confirmed Ward Hussey in a telephone conversation with the author. Hussey was hired by Middleton Beaman in 1946 and was House legislative counsel from 1972 until his retirement in 1989. Thomas Henry Huxley, the nineteenth century zoologist and evolutionist, is reputed to have coined the phrase, “The sex of a hippopotamus *is* a matter of interest to another hippopotamus,” meaning it is important in preserving the species.

Some say Guy Fawkes was renamed, “Miss Guy.” There was a petition to change her name to Cleopatra after the London Zoo acquired a male hippo from the Amsterdam Zoo named, Anthony.

A few law schools have departments that teach bill drafting. Columbia University was first in 1911. As a professor in Columbia’s Legislative Drafting Department, Beaman would mock poorly worded statutes:

A recent Act creates a Commission to administer it, consisting of five commissioners “one of whom shall be designated by the Governor as Chairman, not more than three of which shall belong to the same political party.” I have heard politicians called some hard names, but I never before heard one called a “which.”

Establishing a staff function to assist Congress with legislative drafting was controversial. Senator Augustus Bacon (D-GA) declared in 1913 that the time had not come, nor was likely to come, when the Senate would need a schoolmaster to teach it how to draft a bill. So from 1916 to 1918, Beaman volunteered his services. And what did Congress give him? The legislation no one wanted to draft — taxes!