The High Court’s Ghosts

Supreme Court justices interpret the Constitution and shape American society. They are nominated by the president and vetted, then confirmed or rejected, by the Senate. But a study described in the book *In Chambers: Stories of Supreme Court Law Clerks and Their Justices*, published this week by University of Virginia Press, found that opinions issued by the justices are increasingly written by their law clerks, most of whom are still in their 20s.

It wasn’t always like this, says Artemus Ward, an associate professor of political science at Northern Illinois University and one of the book’s co-editors, who surveyed the extent of this practice. In the first 100 years of the court’s existence, there were no clerks and justices wrote their own opinions. But as clerks became standard, their responsibilities increased. They went from writing memos for the justices to drafting opinions that were then issued as Supreme Court decisions.

Ward’s study, conducted with another academic, surveyed law clerks and found that the justices made edits or revisions to the text only 70 percent of the time. Thirty percent of the opinions were written completely by the clerks, usually only two years out of law school.

Ward points out that ghostwriting is hardly exceptional in Washington, where presidential addresses are composed by speechwriters and legislation is drafted by aides and staff.

The List: 5 Super Tuesday States for Mitt Romney

Former Massachusetts Gov. Mitt Romney is expected to win at least five of the 10 states holding primaries or caucuses on March 6:

1. **Massachusetts.** His adopted home state.
2. **Vermont.** The most recent poll has Romney with a 7-point lead.
3. **Idaho.** He won the governor’s endorsement and his son Josh has been campaigning there this week.
4. **North Dakota.** Romney won the state in 2008.
5. **Virginia.** His only major challenger on this ballot is Rep. Ron Paul.
WASHINGTON WHISPERS

by Capitol Hill staffers. Still, says Ward, the law is all about words and phrases. For example, he says, there is a difference between “compelling state interest” and “important state interest.”

The more it becomes understood that clerks are doing the drafting, the less authority the words and phrases will carry, Ward contends. The coveted clerkships do go to top students from the country’s most elite law schools, but Ward says the decisions could lose sway with litigators, lower court judges, and government officials if they know clerks are primarily behind the opinions.

Snail’s Pace? Not So Fast
Government is known for red tape, but House Appropriations Committee Chairman Hal Rogers thinks the State Department should have done a speedier review of the Keystone XL pipeline permit, which was controversially rejected by the administration in January. “Talk about snail’s pace,” Rogers said at a hearing on the State Department’s 2013 budget, musing that a snail could have crawled the route of the proposed pipeline, from the Canadian border to the Gulf Coast, within the 40-month review period. “That’s one speedy snail, Mr. Chairman,” responded Secretary of State Hillary Clinton.

R&D for Better ABCs
Colorado Sen. Michael Bennet wants to turbocharge education by using Google-like business models at schools. “There are companies whose entire business is to write algorithms that predict or respond to exactly who’s going to click on what ad, at what time, in what place, at what website,” Bennet said at an American Enterprise Institute event this week. “They know a lot about what we do with a level of precision that is extraordinary, and that works. It drives traffic. It drives commerce. Imagine what that would look like in school land.” The Democratic senator has proposed ARPA-ED, an advanced research and development program based on DARPA, the Defense Department agency that developed the Internet. He hopes that projects might better individualize instruction by analyzing and predicting student behavior the way businesses study their customer base and their needs.

The Limits of Machismo
The Obama administration is full of hot air on Iran, according to John Bolton, former U.S. ambassador to the United Nations. “I think there’s essentially zero chance that the Obama administration will use military force,” Bolton said at a Washington event this week focusing on Iran. “You know, you have these senior officials out there showing their macho, saying, ‘Oh, all options are on the table.’ You know, this administration doesn’t even know where the table is, let alone what all options are. It’s not going to happen,” Bolton said, adding that it is now up to Israel to prevent a nuclear-armed Iran. Bolton, who served under President George W. Bush, has frequently advocated for first-strike military interventions in Iran.

Clinton: Don’t Fence Me In
Bill Clinton no longer sports his legendary jogging shorts, but back when he was president, his healthy habit created one giant headache for his Secret Service detail. In a new book, Within Arm’s Length: The Extraordinary Life and Career of a Special Agent in the United States Secret Service, Dan Emmett says Clinton’s jogging was unpopular among the Secret Service agents assigned to protect him. “The worst thing for the Secret Service is to take a sitting president into public when no one has been swept and anyone could be out there,” says Emmett, who protected Clinton, George H.W. Bush, and George W. Bush. He recalls that the presidential protective division tried everything to dissuade Clinton from running in unsecured areas, including having a quarter-mile, state-of-the-art track installed along the perimeter of the White House grounds. Clinton tried it, didn’t like it, and requested that the Secret Service come up with some running routes outside the confines of the White House fence.

MOUTHING OFF

Are the tax rates on millionaires too high, too low, or just right? Should families making more than $250,000 pay more?

Everyone has an opinion. Send yours to editor@usnews.com.

With Lauren Fox