Rhetorical Repetition

By Patrick Barry

> *Journalists and schoolteachers mean well, but they can be fatally bossy. One of their strangely arbitrary rules forbids us to use the same word twice on the same page. Thus they drive us to the thesaurus in desperate searches for far-fetched synonyms and substitutes.*
>
> —Ursula K. Le Guin, *Steering the Craft* (1998)[1]

Just because you have used a word doesn't mean you can't use it again, perhaps even in the same sentence. Marketers understand this point well. The repetition of the word *Vegas* in the city's promotional slogan "What happens in *Vegas*, stays in *Vegas*" is not an accident. Nor is the repetition used by two companies that likely sell a lot of drinks there:

> **Hennessy**: *Never* stop. *Never* settle.
> **Heineken**: *Open* your mind.
> *Open* your world.

Yet when it comes to selling ideas—whether to judges, to boardrooms, or even just to colleagues—many lawyers shy away from repetition. They remain committed to the idea, often developed in college, that good writing is associated with having (and showing) a big vocabulary. They mistakenly think that the best thesaurus wins.

This prejudice is not limited to law, nor is it particularly new. In the first decades of the twentieth century, the renowned lexicographer Henry Watson Fowler complained about a phenomenon he called, sarcastically, "elegant variation": overusing synonyms on the misguided belief that variety beats clarity. "It is the second-rate writers," he wrote in *A Dictionary of Modern English Usage*, "those intent on expressing themselves prettily rather than on conveying their meaning clearly, & still more those whose notions of style are based on a few misleading rules of thumb, that are chiefly open to the allurement of elegant variation."[2] Below is one of his examples:

> Rarely does the "Little Summer" linger until *November*, but at times its stay has been prolonged until quite late *in the year's penultimate month*.[3]

There's no need to reidentify November as *the year's penultimate month* in that sentence. It would be like saying, "What happens in Vegas, stays in that city." The synonym is unnecessary, even confusing.

These types of pitfalls help explain why language maven Bryan Garner calls elegant variation "inelegant variation."[4] "Variety for variety's sake in word choice can confuse readers," he writes in his own Fowler-like usage dictionary, *Garner's Modern English Usage*. "If you write about a person's 'candor' in one sentence and 'honesty' in the next, is the reader to infer that you are distinguishing between two traits, or using different words to refer to the same one?"[5] The answer is not immediately clear.

The stakes are even higher, Garner notes, in legal writing, in which one maxim of interpretation states that "if different words are used, different meanings must have been intended."[6] Here is one of the unreformed examples he gives in his more law-specific usage dictionary, Garner's *Dictionary of Legal Usage*:

> State law makes no provisions for mandatory *autopsies*, which means that justices of the peace follow different policies for seeking *post-mortems*.[7]

The words *autopsies* and *post-mortems* are meant to indicate the same thing, but the switch in terminology injects some unhelpful ambiguity into the sentence. A similar hiccup occurs in a second example:

> *Lawyers* generally have a bad reputation; today the American public holds a grudge against the half-million *counselors* who handle its legal affairs.

Is a *lawyer* the same as a *counselor*? Given the sentence's imprecision, readers can be forgiven for not being sure.

Awkward repetition: An example

I don't mean to imply that repetition is always preferred. One of the most frequent comments I write in the briefs I edit is "awkward repetition." A pair of sentences from an appellate brief written by a student in the University of Michigan Unemployment Insurance Clinic offers a good starting point. The first sentence in the pair highlights that a supervisor named Mr. Harve pledged to address the sexual harassment that the student's client had been enduring from coworkers. Note the student's use of the phrase *take care of the situation*:

> Mr. Harve promised he would take care of the situation.

The problem is that the student repeats the same phrase in the very next sentence:

> Mr. Harve promised he would *take care of the situation*. He said he would wait at the workstation at the start of the shift the next day and "*take care of the situation* so the abuse never happened again."

That's awkward. It's almost as if the student wrote the second sentence without remembering the words she put in the first one.

Here's a different approach:

> Mr. Harve promised he would take care of the situation. He said he would wait at

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the workstation at the start of the shift the next day and make sure that "the abuse never happened again."

This edit eliminates the awkward repetition. It has the added benefit of condensing the quotation, a step that lets readers focus on a tidier passage of text. That's usually a good thing. Nobody wants to read words they don't need to, especially those they have already read.

Awkward repetition: Another example

Awkward repetition can contaminate not just pairs of sentences but single sentences as well. The example comes from a cover letter written by a law student seeking an internship at the SEC. You don't need to read the whole sentence to spot the problem:

> In *law school*, I have enjoyed my *law school* classes....

That's redundant—and also a bit jarring. There's no reason to include *law school* a second time. The phrase doesn't add anything new or helpful. It just takes up space.

To his credit, the student quickly realized his mistake once I asked him to read the sentence aloud. He took out *my law school* and just went with "In law school, I have enjoyed classes such as..." That improved things considerably.

It also reinforced, for me, a lesson to pass on to all my students: among the many benefits of reading your writing aloud, it can help you distinguish between awkward repetition and rhetorical repetition. By now, it's probably clear that by "rhetorical repetition" I mean those intentional bits of repetition that add helpful rhythm and force to your words.

Anaphora is the term for repetition that comes at the beginning of successive sentences, phrases, or clauses. Here's Justice Sonia Sotomayor using it in an impassioned dissent:

> *Race matters* to a young man's view of society when he spends his teenage years watching others tense up as he passes, no matter the neighborhood where he grew up. *Race matters* to a young woman's sense of self when she states her hometown, and then is pressed, "No, where are you *really* from?", regardless of how many generations her family has been in the country. *Race matters* to a young person addressed by a stranger in a foreign language, which he does not understand because only English was spoken at home. *Race matters* because of the slights, the snickers, the silent judgments that reinforce that most crippling of thoughts: "I do not belong here."[8] (Emphasis on "really" in the original.)

Epistrophe, on the other hand, is the term for intentional repetition that comes at the end of successive sentences, phrases, or clauses. One of the more famous Supreme Court opinions of all time, *McCulloch v Maryland*, has a good example courtesy of Chief Justice John Marshall:

> If any one proposition could command the universal assent of mankind, we might expect it would be this—that the Government of the Union, though limited in its powers, is supreme within its sphere of action. This would seem to result necessarily from its nature. It is the Government of *all*; its powers are delegated by *all*; it represents *all*, and acts for *all*.[9]

Some students have a hard time remembering the word *anaphora*. Others have a hard time remembering *epistrophe*. Both, to me, sound more like the names of perfumes than they do the names of writing moves I'd want to use. So I tend to teach each of them under the broad banner of the term I used before: *rhetorical repetition*.

But if the lexical precision of *anaphora* and *epistrophe* works for you, definitely stick with them. They may help you remember that rhetorical repetition can work well at the beginning of a construction, at the end of a construction, and sometimes even at both the beginning *and* the end of a construction, as advertising legend David Ogilvy shows in the sentence below:

> A special problem with the employees of an advertising agency is that each one watches the other one very carefully *to see if one* gets a carpet **before the other**, *to see if one* has an assistant **before the other**, *or to see if one* makes an extra nickel **before the other**.[10]

To help give you a sense of the compositional choices available, below are several examples of skillful uses of rhetorical repetition. The set begins, however, with a few instances of awkward repetition so that you can start to notice the difference.

There isn't always an easy way to articulate what distinguishes rhetorical repetition from awkward repetition, but one step is to ask: Did the writer do this on purpose? If you don't think they did, that's a pretty good sign of awkward repetition, especially if the words sound clumsy when read aloud.

This means that what Justice Potter Stewart famously said of obscenity, using his own brand of rhetorical repetition—"I know it when I see it"[11]—might also, in a slightly modified form, serve as a good standard for catching awkward repetition: "I know it when I *hear* it."

Awkward repetition: Still more examples

1. "*Both* restrictions are *both* quite broad."
—Memo by first-year law student (2017)

2. "In applying the susceptibility standard, we need to learn if Shrecklich was aware of Cindy's susceptibilities and whether his comments were intended to *address* them. Two facts *address* this issue."
—Memo by first-year law student (2017)

3. "It is clear that there is *still* a lot of work that needs to be done. Vacant buildings, crime, and foreclosures *still* exist."
—Cover letter by first-year law student (2017)

Rhetorical repetition: Examples

1. "They *knew* what emergencies were, *knew* the pressures they engender for authoritative action, *knew*, too, how they afford a ready pretext for usurpation."
—Justice Robert Jackson, *Youngstown Sheet & Tube Co v Sawyer* (1952)[12]

2. "*We did not know* **how many** survivors wanted us to represent them. *We did not know* **how many** of the survivors would be seeking compensation for the death of family or relatives, **how many** would be seeking recovery only for lost cars or houses, **how many** would be seeking recovery for injuries. *We didn't even know* whom to sue."
—Gerald Stern, *The Buffalo Creek Disaster* (1976)[13]

3. "Under the present law, for example, it will be *the* CLEO ["chief law enforcement officer"] and **not some federal official** who stands between the gun purchaser and immediate possession of his gun. And it will likely be *the* CLEO, **not some federal official**, who will be blamed for any error (even one in the designated federal database) that causes a purchaser to be mistakenly rejected."
—Justice Antonin Scalia, *Printz v United States* (1997)[14]

4. "The beginnings of confusion with us in England are at present feeble enough, but with you in France we have seen an even more feeble infancy growing rapidly into a strength to heap mountains on mountains and to wage war with heaven itself. When our neighbour's house is on fire it can't be wrong to have the fire-engines to play a little on our own. Better to be despised for *undue* anxiety than ruined by *undue* confidence."
—Edmund Burke, *Reflections on the Revolution in France* (1790)[15]

5. "It is a peculiar sensation, this double-consciousness, this sense of always looking at one's self through the eyes of others, of measuring one's soul by the tape of a world that looks on in amused contempt and pity. One ever feels his twoness,—an American, a Negro; *two* souls, *two* thoughts, *two* unreconciled strivings; *two* warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder."
—W.E.B. Du Bois, *The Souls of Black Folk* (1903)[16] ■

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ENDNOTES

1. Le Guin, *Steering the Craft: A Twenty-First-Century Guide to Sailing the Sea of Story* (Portland: The Eighth Mountain Press, 1998), p 36.
2. Fowler, *A Dictionary of Modern English Usage* (New York: Oxford University Press, 1926), pp 130–131. See also Yagoda, *'Arc Frays' and Other Elegant Variations*, The Chronicle of Higher Education (April 4, 2012) and R.L.G., *"Elegant Variation", The Good and The Bad*, The Economist (April 4, 2012).
3. *A Dictionary of Modern English Usage*. See also *"Elegant Variation", The Good and The Bad.*
4. Garner, *Garner's Modern English Usage* (4th ed) (New York: Oxford University Press, 2016), p 508.
5. *Id.* at 508–509.
6. *Id.* at 509.
7. Garner, *Garner's Dictionary of Legal Usage* (2nd ed) (New York: Oxford University Press, 2001), p 440. (A third edition is available, but these examples make the point quite nicely.)
8. *Schuette v Coal to Defend Affirmative Action*, 572 US 291, 381; 134 S Ct 1623; 188 L Ed 2d 613 (2014) (Sotomayor, J., dissenting).
9. *McCulloch v Maryland*, 17 US 316, 405; 4 L Ed 579 (1819).
10. Ogilvy, *Confessions of an Advertising Man* (New York: Atheneum, 1980), p 10.
11. *Jacobellis v Ohio*, 378 US 184, 197; 84 S Ct 1676; 12 L Ed 2d 793 (1964).
12. *Youngstown Sheet & Tube Co v Sawyer*, 343 US 579, 650; 72 S Ct 863; 96 L Ed 1153 (1952) (Jackson, J., concurring).
13. Stern, *The Buffalo Creek Disaster: How the Survivors of One of the Worst Disasters in Coal-Mining History Brought Suit Against the Coal Company—and Won* (New York: Vintage Books, 1976), p 9.
14. *Printz v United States*, 521 US 898, 930; 117 S Ct 2365; 138 L Ed 2d 914 (1997).
15. Burke, *Reflections on the Revolution in France* (1790), pp 4–5, available at <https://www.earlymoderntexts.com/assets/pdfs/burke1790part1.pdf> (accessed July 3, 2020).
16. Du Bois, *The Souls of Black Folk* (Chicago: AC McClurg & Co, 1903), p 2.

The Contest Returns!

No doubt loyal readers have been yearning for the contest to reappear. And here it is, after a long hiatus.

At the moment, I'm in the thick of helping to "restyle" (redraft) the Federal Rules of Bankruptcy. This will be the fifth—and last—of the five sets of federal rules to be redrafted from top to bottom for greater clarity and consistency, without changing substantive meaning. The previous four were, in order, appellate, criminal, civil, and evidence.

In my view, the single greatest improvement in the restyled civil rules, which took effect in December 2007, was the much greater use of headings and subheadings. If fact, we more than doubled their number, from 359 to 757. As I said in the January column, "Headings are critical navigational tools for readers."

With that in mind, try your hand at this provision:

(a) General Right to Amend. A voluntary petition list, schedule, or statement may be amended by the debtor as a matter of course at any time before the case is closed. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby. On motion of a party in interest, after notice and a hearing, the court may order any voluntary petition, list, schedule, or statement to be amended and the clerk shall give notice of the amendment to entities designated by the court.

My suggestions:

(1) Try to create two subsections with parallel subheadings. Even a short provision can be improved in that way.

(2) Use the active voice in the one sentence that doesn't.

(3) Break up the longish last sentence (and you'll gain another kind of parallelism).

(4) Get rid of *shall*.

This exercise shouldn't be terribly challenging, but it might be eye-opening.

I'll send a free book to the first two persons who send me an "A" revision. You can choose either *Seeing Through Legalese: More Essays on Plain Language* or (for the young at heart or those with youngsters) my kids' book *Mr. Mouthful Learns His Lesson*. Send your revision to kimblej@cooley.edu. The deadline is October 19.