Rhetorical Repetition

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By Patrick Barry

Journalists and schoolteachers mean well, but they can be fatally noisy. 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.


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 pret­ty 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.” 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.

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.” “Variety for variety’s sake in word choice can confuse readers,” he writes in his own Fowler­like 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?” 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.” 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.

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**.

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
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 repeti-
tion. 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 seek-
ing 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 any-
thing new or helpful. It just takes up space.

To his credit, the student quickly real-
ized 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 im-
proved things considerably.

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

Anaphora is the term for repetition that
comes at the beginning of successive sen-
tences, phrases, or clauses. Here’s Justice
Sonia Sotomayor using it in an impos-
sioned dissent:

Race matters to a young man’s view of so-
ciety 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 genera-
tions 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 mat-
ters because of the slights, the snickers,
the silent judgments that reinforce that
most crippling of thoughts: “I do not
belong here.” (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 Gov-
ernment of the Union, though limited in
its powers, is supreme within its sphere
of action. This would seem to result nec-
essarily from its nature. It is the Gov-
ernment of all; its powers are delegated
by all; it represents all, and acts for all.9

Some students have a hard time remem-
bering the word anaphtora. 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 anaphtora
and epistrophe works for you, definitely
stick with them. They may help you re-
member 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 be-
fore the other.10

To help you distinguish between awkward repeti-
tion and 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 articu-
late 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”—might also, in a
slightly modified form, serve as a good stan-
dard 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 authorita-
   tive action, knew, too, how they afford a
   ready pretext for usurpation.”
   —Justice Robert Jackson, Youngstown
   Sheet & Tube Co v Sawyer (1952)

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 re-
   covery for injuries. We didn’t even know
   whom to sue.”
   —Gerald Stern, The Buffalo Creek
   Disaster (1976)
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)

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)

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)


3. A Dictionary of Modern English Usage. See also “Elegant Variation”, The Good and The Bad.


5. Id at 508–509.

6. Id. at 509.


The Contest Returns!

No doubt loyal readers have been yeering 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.

Patrick Barry is a clinical assistant professor at the University of Michigan Law School and a visiting lecturer at the University of Chicago Law School. He is the author of Good with Words: Writing and Editing, The Syntax of Sports, and the forthcoming series Notes on Nuance. He also recently launched a series of online courses on the platform Coursera.

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