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Recommended Citation

Barry, Patrick. "Alliteration, Restraint, and a Mind at Work." *Persp. : Teaching Legal Res. & Writing* 26, no. 2 (2018): 73-5.

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Cite as: Patrick Barry, *Alliteration, Restraint, and a Mind at Work*, 26 Perspectives: Teaching Legal Res. & Writing 73 (2018).

Alliteration, Restraint, and a Mind at Work

By Patrick Barry

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Alliteration is great—until it’s not. You can pretty quickly overdo it, though I don’t think any major professional sports franchise has yet. The Boston Bruins, the Seattle Seahawks, the Cleveland Cavaliers: these names all have a nice ring to them. As do countless others, from the Washington Wizards to the Tennessee Titans to the Buffalo Bills. The sounds run quickly off your tongue and not unpleasantly into the air. They’re not irritating or obnoxious—unless maybe you’re a fan of the opposing team.

I once played for a team, however, that pushed the appeal of alliteration perhaps a bit too far, even for the home fans: “The Rochester Raging Rhinos.”

At the time, the Rhinos—they have since dropped the “Raging” part—were members of the A-League, a minor-league soccer division now folded into the USL, which itself recently partnered with the country’s top soccer division, the MLS. I was, without question, the worst player on the team.

I was probably also the only one who eventually traded in soccer cleats for a backpack: once my playing days were done, I headed off to both graduate school and law school.

In each of those academic environments, and now as a professor at the University of Michigan Law School, my experience with the Rhinos has come in handy, not because I have been asked to join any intramural soccer teams. (I haven’t.) Nor has it been handy because I am responsible for teaching Sports Law. (I’m not.)

My experience has come in handy because the name Rochester Raging Rhinos gives me a playful way to teach students about the perils and promise of alliteration, which in turn gives

me a chance to teach them about the perils and promise of effective language more generally.

The perils spring to mind the most quickly when it comes to alliteration. For every *Pride and Prejudice* or *Sense and Sensibility*, for every *Mad Men* or *Breaking Bad*, there are countless alliterative constructions that really irk people. Several come from the books of Amanda McKittrick Ros, an Irish writer who once earned the following headline from Britain’s *The Daily Telegraph*: “Awful Author Addicted to Alliteration Achieves Acclaim Again.”¹ The article includes a sample from Ros’s first novel *Irene Iddesleigh*.²

The living sometimes learn the touchy tricks of the traitor, the tardy and the tempted; the dead have evaded the flighty earthy future, and form to swell the retinue of retired rights, the righteous school of the invisible and the rebellious roar of the raging nothing.³

No wonder the entry for Ros in the *Oxford Company for Irish Literature* reads: “uniquely dreadful.”⁴

Falsehoods and Fallacies

Alliteration does have its fans. For example, some past and present members of the Supreme Court have shown a penchant for it.

Note how Justice Louis Brandeis relies on it to add a little extra rhetorical flourish to his concurrence in *Whitney v. California*, an opinion that civil

¹ Tom Peterkin, *Awful Author Addicted to Alliteration Achieves Acclaim Again*, THE TELEGRAPH (Sept. 18, 2016 12:01 AM), <https://www.telegraph.co.uk/news/uknews/1529100/Awful-author-addicted-to-alliteration-achieves-acclaim-again.html>.

² Ros’s other two novels have similarly alliterative titles—*Delina Delaney* (1898) and *Helen Huddleson* (1969)—as do two of her books of poetry: *Poems of Puncture* (1912) and *Forms of Formation* (1933).

³ Peterkin *supra*, note 1 (emphasis added).

⁴ THE OXFORD COMPANION TO IRISH LITERATURE (Robert Welch & Bruce Stewart eds., 1996).

“The perils spring to mind the most quickly when it comes to alliteration.”

liberties scholar Vincent Blasi has called “arguably the most important essay ever written, on or off the bench, on the meaning of the First Amendment.”⁵

If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.⁶

Brandeis didn’t have to pick two words that start with “f” to make his point. Nor did Chief Justice John Roberts when he summed up the Court’s unanimous position in *Riley v. California*. “Modern cell phones are not just another technological convenience,” he explained. “With all they contain and all they may reveal, they hold for many Americans ‘the privacies of life.’ The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought.”⁷

The alliteration in these sentences is obviously only a small part of the overall opinions. Neither Brandeis, nor Roberts, nor any other Supreme Court Justice has ever quite reached the famously—and perhaps overly—alliterative words future *New York Times* columnist William Safire penned in 1970 for Vice President Spiro Agnew, for whom Safire was working as a speechwriter. “In the United States today,” Agnew said in his address to that year’s California Republican state convention, “we have more than our share of the **n**attering **n**abobs of **n**egativism. They have formed their own 4-H Club—the **h**opeless, **h**ysterical **h**ypochondriacs of **h**istory.”⁸

⁵ Vincent Blasi, *The First Amendment and the Ideal of Civic Courage: The Brandeis Opinion in Whitney v. California*, 29 WM. & MARY L. REV. 653, 668 (1988).

⁶ *Whitney v. California*, 274 U.S. 357, 377 (1969).

⁷ *Riley v. California*, 134 S. Ct. 2473, 2495 (2014). Another fan of an alliterative “f” appears to be Justice Benjamin Cardozo, who wrote in *Steward Mach. Co. v. Collector*, 301 U.S. 548, 591 (1937): “In ruling as we do, we leave many questions open. We do not say that a tax is valid, when imposed by act of Congress, if it is laid upon the condition that a state may escape its operation through the adoption of a statute unrelated in subject matter to activities fairly within the scope of national policy and power. No such question is before us. In the tender of this credit Congress, does not intrude upon fields foreign to its function.”

⁸ 116 CONG. REC. 32017 (daily ed. Sept. 16, 1970) (address of Vice President Spiro T. Agnew to the California Republican State Convention).

That said, Justice Neil Gorsuch came close with his own kind of “4-D” club in the opening sentence of his first opinion for the Court. “**D**isruptive **d**innertime calls, **d**ownright **d**eceit, and more besides drew Congress’s eye to the debt collection industry,” he wrote in *Henson v. Santander Consumer*, a case that examined the contours of the Fair Debt Collection Practices Act.⁹ And Justice Ruth Bader Ginsburg created her own kind of “3-B” club when she titled a speech she delivered in 2003 at the Brandeis School of Law “From **B**randeis to **B**reyer: Is There a Jewish Seat?”¹⁰

What each of these examples illustrates, beyond just a certain playfulness with language, is something that is not necessarily profound or novel but is still worth saying, particularly to people, like lawyers, who spend much of their working lives in front of a keyboard: writing is about making choices.

Every phrase or sentence or paragraph that is put together could be put together differently. There is judgment involved. There is, to use a phrase one of my own law professors, James Boyd White, used all the time in class, “a mind at work.” What I love about alliteration is the way it calls attention to this process. Justice Ginsburg didn’t have to title her speech about Jewish Justices “From Benjamin to Brandeis to Breyer”; she could have titled it “From Cardozo to Brandeis to Breyer” or “From Brandeis to Frankfurter to Breyer.” At the time she gave the speech, there were actually seven Jewish justices to pick from: Louis Brandeis, Benjamin Cardozo, Felix Frankfurter, Arthur Goldberg, Abe Fortas, Ginsburg herself, and Stephen Breyer. (Elena Kagan became the eighth in 2009).

Any combination of those would have worked. An alliterative title wasn’t inevitable.

There is also effective alliteration in a more consequential document: the Federalist Papers. In Federalist Papers 78, which the Supreme Court has cited more than any other of the Federalist Papers,¹¹ Alexander Hamilton described the

⁹ 137 S. Ct. 1718, 1720 (2017).

¹⁰ Ruth Bader Ginsburg, *From Benjamin to Brandeis to Breyer: Is There a Jewish Seat?*, 41 BRANDEIS L.J. 229 (2002).

¹¹ Dan T. Coenan, *Fifteen Curious Facts about The Federalist Papers*, POPULAR MEDIA (2007), Paper 2, http://digitalcommons.law.uga.edu/fac_pm/2.

“What each of these examples illustrates . . . writing is about making choices.”

proposed powers of the federal judiciary. Here's how he explained the concept of "judicial review," the notion that the courts—not Congress and not the President—are the ones who, as Chief Justice Marshall would make clear about 25 years later in *Marbury v. Madison*, "say what the law is."¹²

The interpretation of the laws is the proper and peculiar province of the courts.¹³

Those three Ps are not an accident.

A. Restraint

What distinguishes the use of alliteration by Hamilton, Ginsburg, Gorsuch, Roberts, and Brandeis from the use of alliteration by Amanda McKittrick Ros is an important writerly quality: restraint. You need to know when to pull back, to withhold, to resist the pull of literary pyrotechnics. Just because you know how to string together five words that begin with "t" doesn't mean you should.

Although this point might sound like the oft-repeated advice that good writers should know how to eliminate their own unnecessary prose, or, in other words, to "Kill your darlings,"¹⁴ I don't mean it to. Nonetheless, good writers should know the difference between when to eliminate certain flights

of literary fancy, such as unnecessary alliteration, and when a certain eloquence in prose is beneficial. Stephen King really emphasizes the point in his wonderful book *On Writing* when he highlights the at times self-indulgent quality of a lot of writing when the reader seems to be pushed out of the way and replaced by the writer's own ego.¹⁵

This is a paraphrase, but when King repeats the "Kill your darlings" mantra in his book, he directly targets that kind of narcissism. "Kill your darlings," he says. "Kill your darlings. Even when it breaks your egocentric little scribbler's heart. Kill your darlings."¹⁶

It's sort of like an observation the journalist Ben Yagoda makes in another book on writing, *The Sound on the Page*. "Writers who are unaware of or uninterested in readers are like people who don't look at you when they're speaking to you."¹⁷ If you are going to use alliteration, or any other writing move, it should be with the reader in mind. Will this construction help my audience better understand and remember what I am trying to communicate? Will it inform them? Will it persuade them? Will it entertain or improve them? If not, then by all means: go ahead and kill your darlings. A darling without a specific purpose is not much of a darling at all.

¹² 5 U.S. 137, 177 (1803).

¹³ THE FEDERALIST NO. 78 (Alexander Hamilton).

¹⁴ Forrest Wickman, *Who Really Said You Should "Kill Your Darlings"?*, SLATE'S CULTURAL BLOG (Oct. 18 2013 1:09 PM), http://www.slate.com/blogs/browbeat/2013/10/18/_kill_your_darlings_writing_advice/what_writer_really_said_to_murder_your.html.

¹⁵ Stephen King, *ON WRITING: A MEMOIR OF THE CRAFT* 224 (1999).

¹⁶ *Id.* at 222.

¹⁷ Ben Yagoda, *THE SOUND ON THE PAGE* 97 (2009).

Micro Essay

No AI Needed.

Not long ago, my nephew, Derek, told me I would soon be obsolete. Lawyers will be replaced by computers. With his new college degree, he felt righteous. I explained that algorithms are only tools. They do not replace a lawyer's skill or creativity. Computers cannot argue in court, cross-examine a witness, or counsel a client.

Derek enrolled in a law course taught by my husband who does not use technology in the classroom.

"Did you miss the visuals?" I asked Derek.

"Without Powerpoint, there was more interaction and discussion, I learned so much," he confessed.

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“[G]ood writers should know the difference between when to eliminate certain flights of literary fancy . . . [and] when a certain eloquence in prose is beneficial.”