

BOOK REVIEW

STYLE AND SUBSTANCE: A REVIEW OF JILL BARTON'S *THE SUPREME GUIDE TO WRITING*

Christina M. Frohock*

In *The Supreme Guide to Writing*, Jill Barton pulls off an impressive trick: ushering in the reader as lexicological litigant before the Supreme Court of the United States.¹ We learn the Justices' votes on matters of grammar and style as both descriptions of their writing and prescriptions for our own. Along the way, we also learn substantive law and insights from famous novelists.

The Supreme Guide to Writing is a concise publication, only 166 pages capping a half-decade's work. The conceit is the source material. Distinguishing herself from the canon of Strunk & White,² Barton looks to the highest court in our land as a writing authority. Her focus makes sense, both inside and outside the law. The Supreme Court has produced some of the most eloquent and stirring writing in history. With an eye on the future, Chief Justice Marshall wrote in 1821, "The people made the constitution, and the people can unmake it."³ A century later, Justice Holmes added that our founding

*Professor of Legal Writing and Lecturer in Law, University of Miami School of Law.

1. JILL BARTON, *THE SUPREME GUIDE TO WRITING* xvii–xx (2024).
2. WILLIAM STRUNK JR. & E.B. WHITE, *THE ELEMENTS OF STYLE* (4th ed. 2000).
3. *Cohens v. Virginia*, 19 U.S. 264, 389 (1821).

charter “is an experiment, as all life is an experiment.”⁴ Following these rhetorical footsteps into the present day, Chief Justice Roberts warned, “It is not our job to protect the people from the consequences of their political choices.”⁵ The politics may be controversial, but the words soar.

As the law is a writing profession, judges are writers. Focusing on contemporary terminology and usage, Barton gathered and categorized more than 10,000 pages of opinions issued by the Supreme Court from its 2018 to 2023 Terms.⁶ She discovered a “writing revolution” in these pages, as majority, concurring, and dissenting opinions alike revealed the Justices’ flexible and creative approaches to language.⁷ From poetry to pop-culture references, the Justices revel in the art of writing. Barton, too, appears to be having fun, peppering her own pages with asides to the reader⁸ and Easter eggs from her professional life.⁹ She divides her book into 32 chapters, each with a bolded note tallying the Justices’ votes on the topic at hand. (The reader finds a 9–0 sweep on using numerals rather than words for “32” in the preceding sentence.)¹⁰ As in life, so in writing: some rules garner unanimity, while others sharply divide the bench.

First, we dive into punctuation. Apostrophes, brackets, colons, ellipses, dashes (em- and en-), hyphens, parentheses, question marks, quotation marks, and semicolons all secured nine votes for careful usage.¹¹ Commas earned the High Court’s praise for connecting two independent clauses with a short conjunction, as well as separating three or more items in a series.¹²

4. *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting).

5. *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012).

6. BARTON, *supra* note 1, at xix, 4, 128, 148.

7. *Id.* at xvii–xx.

8. *See, e.g., id.* at 109 (“Yes, yes, to nearly every rule. That’s why we’re here.”).

9. *See, e.g., id.* at 18 (“Dear Judge Rothenberg.”).

10. *See id.* at 118.

11. *See, e.g., id.* at 8, 11, 16, 31, 34, 38, 44, 49, 54, 57, 64.

12. *Id.* at 20, 24.

While *The New York Times* generally eschews the serial comma,¹³ judicial opinions retain it for everything from “[s]nowmobiles, alcohol, and freezing temperatures” to “felonies, misdemeanors, or infractions.”¹⁴ Commas also signify pauses, though Barton recognizes that cadence is in the ear of the writer: “whenever a pause or emphasis is required.”¹⁵ Contractions, with their “tiny swoosh” of an apostrophe, won eight votes for appropriate placement.¹⁶ Only Justice Sotomayor dissented, drawing a firm line against Justice Gorsuch’s habit of “sprinkl[ing] contractions on nearly every page.”¹⁷

By contrast, exclamation marks are too much for the 5–4 majority.¹⁸ Too much! If one must include the shout in a quotation, be sure to shift blame by putting the exclamation mark inside the quotation mark.¹⁹ Surprising no one, all nine Justices voted against using emoticons and emojis.²⁰ Legal writing is relaxing from stilted legalese into plain English, but it has not adopted the informality of texting. As for the age-old question of one space or two after a sentence, the Justices are unanimous in their answer: neither.²¹ An em-space follows every sentence published in the United States Reports.²² Can’t find that hybrid spacing option on your keyboard? Barton advises to “keep it simple and stick with one.”²³ (Done.)

Second, we parse words. By unanimous vote, the Supreme Court embraces “dynamic, active verbs.”²⁴ The

13. See Philip B. Corbett, *FAQs on Style*, AFTER DEADLINE: N.Y. TIMES BLOG (June 23, 2015, at 8:00 ET), <https://archive.nytimes.com/afterdeadline.blogs.nytimes.com/2015/06/23/faqs-on-style-2/> (“Where’s the Comma?”).

14. BARTON, *supra* note 1, at 24–25.

15. *Id.* at 23.

16. *Id.* at 3.

17. *Id.* at 4–5.

18. *Id.* at 40.

19. *Id.* at 41–42.

20. *Id.* at 36.

21. *Id.* at 69.

22. *Id.*

23. *Id.*

24. *Id.* at 153.

Court is also unanimous in cutting unnecessary adjectives and adverbs.²⁵ Alliteration and repetition are stronger techniques, enabling key words to land and sentences to flow.²⁶ Modifiers may confuse the reader, so don't leave them dangling.²⁷ The Justices treat names and titles with care, striving for consistency and impartiality.²⁸ They also use "because" and "since" interchangeably to signify causation, but only narrowly; Barton counts 5,939 uses of "because" and 735 uses of "since."²⁹ "Just," "rather," and "so" appear frequently in opinions, other qualifiers more rarely.³⁰ Really, truly. Of course, as one point follows another in the Court's reasoning, transitions impart both meaning and movement.³¹

You may recall elementary or high school lessons on avoiding a double negative. As further proof that the Justices knead the English language to fit their personal molds, Barton quotes double negatives of the "legally complex" variety.³² "Not inconsistent," indeed.³³ As long as we're leaving old-school lessons in the dust, go ahead and split infinitives à la Captain Kirk.³⁴ Just "keep it short."³⁵ Conjunctions are perfectly fine to begin a sentence with.³⁶ And prepositions are perfectly fine at the end.³⁷ Both 9–0.³⁸

In a late chapter, Barton wades into delicate waters. Pronouns are a flashpoint in today's world, from statutes to tweets to email signatures. Barton confronts the issue

25. *Id.* at 73.

26. *Id.* at 79–81.

27. *Id.* at 94.

28. *Id.* at 101, 109.

29. *Id.* at 84.

30. *Id.* at 137.

31. *See id.* at 147.

32. *Id.* at 114–16.

33. *Id.* at 115.

34. *Id.* at 144 ("To boldly go . . .").

35. *Id.* at 142.

36. *Id.* at 88–89.

37. *Id.* at 121–22.

38. *Id.* at 88–89, 121–22.

directly: “Pronouns still terrify,” for reasons both old and new.³⁹ They can confuse, offend, and exclude.⁴⁰ By a vote of 7–2, the Supreme Court uses inclusive pronouns,⁴¹ and all nine Justices avoid using the masculine “he” as a universal pronoun.⁴² All nine also avoid the singular “they.”⁴³ But the Justices have not yet addressed the hot-button issue of whether and when to use “they” as a non-binary pronoun.⁴⁴ As language reveals truth, pronouns may herald a return to tradition or a progressive step forward. Future Terms will tell.

Once a teacher, always a teacher. Barton has taught legal writing at the University of Miami School of Law for more than 15 years,⁴⁵ and she fills *The Supreme Guide to Writing* with substantive snippets from the Supreme Court’s opinions. Did you know that the Environmental Protection Agency limits arsenic contamination in soil to 250 parts per million?⁴⁶ Now you do, and the commas in the Court’s sentence pace the reader to pay close attention to that level.⁴⁷ Chief Justice Roberts observed that a police officer needed probable cause for an arrest.⁴⁸ The sentence—English, not criminal—needed an ellipsis and brackets.⁴⁹ Benefiting from the deft use of hyphenated compound modifiers, we learn that a definition in the Voting Rights Act of 1965

39. *Id.* at 124.

40. *Id.*

41. *See id.* at 126 (noting that Justices Alito and Thomas have yet to weigh in).

42. *Id.*

43. *Id.* at 128.

44. *Id.* at 127.

45. *See Jill Barton*, UNIV. OF MIAMI, <https://people.miami.edu/profile/0aa070ca86bfa38b15982a76c4bd5051> (last visited Sept. 22, 2025).

46. BARTON, *supra* note 1, at 28.

47. *Id.* (offering an example of the Supreme Court’s “pro-level pacing”: “For example, the landowners propose a maximum soil contamination level of 15 parts per million of arsenic, **rather than the 250 parts per million level set by EPA.**”).

48. *Id.* at 32.

49. *Id.* (“He also saw Trooper Weight push Bartlett back. . . . [T]he test is whether the information the officer had at the time of making the arrest gave rise to probable cause.”).

echoed Title VI of the Civil Rights Act of 1960.⁵⁰ Finally, Congress delegates its lawmaking power broadly because agencies have expertise and because times change and because legislators are overwhelmed.⁵¹ The repetition at once educates and “draw[s] the reader in.”⁵²

While the lessons in *The Supreme Guide to Writing* are steeped in the law, Barton situates legal writing as a subgenre within the discipline of writing. Good legal writers take inspiration from good writers everywhere, particularly a library’s fiction section. Justice Ginsburg studied under Vladimir Nabokov, and throughout her illustrious career she faithfully followed Nabokov’s instructions on punctuation and word choice.⁵³ One could do worse. Although Kurt Vonnegut decried the self-importance of semicolons, the Supreme Court does not mind linguistic peacocking now and then.⁵⁴ Recall that the Supreme Court voted 9–0 to trim adjectives and adverbs.⁵⁵ So did Mark Twain, memorable as always: “kill most of them.”⁵⁶ English literature majors may be relieved to hear that, given the choice between William Faulkner’s ten-dollar words and Ernest Hemingway’s five-cent words, the High Court tends to follow Papa.⁵⁷

Finally, for readers seeking to hone their craft outside the pages of *The Supreme Guide to Writing*, Barton offers a website that expands the book’s lessons into podcasts, quizzes, and workshops.⁵⁸ Quizzes may be outside the interest (and time) of sitting judges and

50. *Id.* at 45 (“In enacting the original Voting Rights Act in 1965, Congress copied this definition almost verbatim from Title VI of the Civil Rights Act of 1960—a law designed to protect access to the ballot in jurisdictions with patterns or practices of denying such access based on race, and which cannot be construed to authorize **so-called vote-dilution** claims.”).

51. *Id.* at 80 (“Here is a fact of the matter: Congress delegates to agencies often and broadly. And it usually does so for sound reasons.”).

52. *Id.*

53. *See id.* at 49.

54. *See id.* at 64.

55. *Id.* at 73.

56. *Id.*

57. *See id.* at 87; *see also id.* at 114, 142.

58. *See* Jill Barton, *The Supreme Guide to Writing*, <https://www.jillbarton.net> (last visited Sept. 22, 2025).

practicing attorneys, but the website is a fine refresher for writing skills at any career stage.

Beyond a reference work, *The Supreme Guide to Writing* reminds us that all writing is a creative endeavor. In finding one's voice, an author must both respect and bend ancient rules of grammar and style. As Barton writes, "getting the style right can mean getting your point right."⁵⁹ Legal writing is a precise art, and Barton's book lights the way toward both precision and artistry.

59. BARTON, *supra* note 1, at 47–48.