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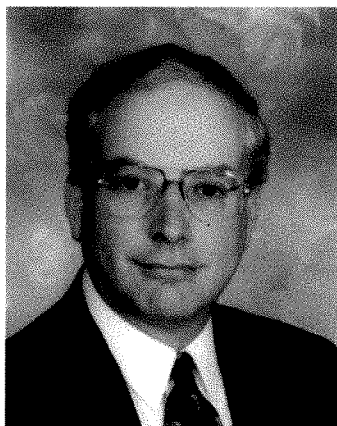
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“FEAR ITSELF”: WHAT LEGAL WRITERS CAN LEARN FROM FDR’S ICONIC MOMENT

DOUGLAS E. ABRAMS¹

ADDRESSING A JOINT SESSION OF CONGRESS ON APRIL 25, FRENCH PRESIDENT EMMANUEL MACRON HIGHLIGHTED THE CHALLENGES THAT CONFRONT HIS NATION AND THE UNITED STATES. “WE ARE LIVING IN A TIME OF ANGER AND FEAR,” HE TOLD THE LAWMAKERS, BUT HE WARNED THAT “ANGER ONLY FREEZES AND WEAKENS US.”² TO UNDERSCORE THE POINT, HE RECITED THE CONFIDENT WORDS THAT FRANKLIN D. ROOSEVELT DELIVERED ON MARCH 4, 1933 IN HIS FIRST INAUGURAL ADDRESS: “[T]HE ONLY THING WE HAVE TO FEAR IS FEAR ITSELF.”



Douglas E. Abrams

Much of the immortality of President Roosevelt’s quote stems from its delivery at an inauguration, the quadrennial American ritual whose pomp and circumstance attracts millions around the world. But immortality here stems from more than FDR’s commanding presence on the national stage at a moment of profound crisis.

In video recordings and on the printed page,³ FDR’s quote also endures because of its force and content. For today’s lawyers who seek to hone their writing skills as they represent clients or causes, the lessons are that the quote carried the four fundamentals that distinguish effective writing.⁴ The president expressed himself concisely, precisely, simply, and clearly.⁵

Historians still debate the “fear” quote’s pedigree, but three conclusions have emerged. First, the words were not entirely President Roosevelt’s because other writers and speakers had

expressed similar sentiments about fear. Second, FDR and his aides likely knew about one or two of these antecedents as they sculpted early drafts of the inaugural address.

For today’s legal writers, however, the central conclusion is that President Roosevelt might not have spoken first, but he spoke best. Earlier speakers and writers communicated in ponderous, sometimes opaque language. FDR communicated in strong, direct language, without a spare word.

This article concerns President Roosevelt’s timeless faceoff with fear from the inaugural podium in the depths of the Great Depression. After surveying the dire national emergency that faced the new administration more than eight decades ago, the article draws lessons about sound rhetoric for today’s legal writers.

The National Emergency: “Crisis Was In the Air”

Saturday, March 4, 1933 was chilly, gray, and overcast in Washington. By the time anxious Americans gathered near their radios to hear the new president, the demoralized nation was down but not out. One historian described “hopelessness” that defined the national mood: “Unemployment figures had continued to climb, and by March somewhere between thirteen and fourteen million able-bodied Americans were out of work. That translated to something like forty million people who could not count on a regular source of income. . . . Everywhere in urban America the breadlines were longer. . . .”⁶

“Crisis was in the air” on Inauguration Day, affirmed historian James MacGregor Burns, “but it was a strange, numbing crisis, striking suddenly in a Western city and then in the South a thousand miles away. It was worse than an invading army; it was everywhere and nowhere, for it was in the minds of men.”⁷ Without hint of overstatement, historian Arthur M. Schlesinger, Jr. wrote that “[t]he American experiment in self-government was now facing what was, excepting the Civil War, its greatest test.”⁸

Missouri shared in the national adversity. The Great Depression had hit the state hard and spared no section, rural or urban.⁹ Average per capita income stood at only \$307, farm values and agricultural prices had plummeted, and many banks, particularly in rural areas, had failed. Some farmers had lost their farms. Other farmers had been evicted or forced into tenancy because they were heavily mortgaged and unable to pay interest and taxes. Value added by manufacture had fallen 51

percent from 1929, from \$777 million to \$383 million.¹⁰

Missouri's unemployment rate had skyrocketed from 16 percent to 38 percent since 1930. On the Mississippi River's west bank on Inauguration Day 1933, St. Louis had what was reportedly the nation's largest "Hooverville," a makeshift collection of shanties and shacks that housed families who were displaced from menial employment and eking out a bare existence one small step above homelessness. Six months later, 50,000 Missouri families – about 200,000 men, women, and children – were on the federal and state relief rolls.¹¹

Speaking for 20 minutes from the East Portico of the U.S. Capitol, President Roosevelt summoned Americans' resilience. "[L]et me assert my firm belief that the only thing we have to fear is fear itself – nameless, unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance."¹²

The national reaction was immediate. "You could see tears streaming down people's faces" in the crowd as FDR reinvigorated the national spirit, reported one historian.¹³ Early in the 1932 campaign, columnist Walter Lippmann had dismissed Roosevelt as a "pleasant man . . . without any important qualification for office."¹⁴ But when he heard the president's frontal assault on fear, Lippmann struck a different chord. "The inauguration of Mr. Roosevelt," he wrote, "has brought to the Presidency a man who . . . has instantly captured the confidence of the people."¹⁵

FDR's assault on fear was vigorous, defiant, but not entirely new. Cicero, William Shakespeare, Sir Francis Bacon, Daniel Defoe, Lord Chesterfield, and William James had written earlier about the emotional effects of fear,¹⁶ but no evidence emerged that Roosevelt or his aides knew what they had said.

A likely source of the inaugural's famous "fear" quote is an anthology of Henry David Thoreau's writings, which a friend of Eleanor Roosevelt gave the president-elect late in February as he applied the finishing touches to his upcoming address.¹⁷ Another source sometimes advanced is a statement by the chairman of the U.S. Chamber of Commerce, which appeared prominently in a front-page *New York Times* article in February 1931 and might

have caught the eye of Roosevelt aide Louis Howe as it gained some currency in the business world.¹⁸

From one source or the other, Roosevelt crafted a more robust, passionate statement that rejuvenated the American spirit. Thoreau and the Chamber of Commerce chairman had spoken in the passive voice, laden with verbiage and indirection. "Nothing is so much to be feared as fear," wrote Thoreau.¹⁹ "In a condition of this kind," said the chairman, "the thing to be feared most is fear itself."²⁰

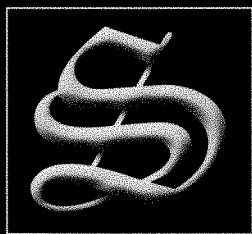
Would FDR have stirred the stricken nation with similar passivity and verbal baggage, broadcast to millions on the radio and published in newspapers and magazines from coast to coast? Decades after the national crisis had passed, would a stodgy presidential invocation remain a distinct cultural marker in the 21st century?

A Lesson for Today's Writers: "Power and Emotion"

For today's lawyers who write for clients or causes, the practical lesson from FDR's iconic message is that effective writing depends on close editing until each word, sentence, and paragraph contributes only sinew, not fat. "The most valuable of all talent is that of never using two words when one will do," said lawyer Thomas Jefferson, who found "[n]o stile of writing . . . so delightful as that which is all pith, which never omits a necessary word, nor uses an unnecessary one."²¹

As lawyers and their editors polish preliminary drafts of a brief, memorandum of law, or other filing, pith commands trimming and tightening word-by-word, and line-by-line. Often, less is more. "A sentence," wrote Strunk and White in *The Elements of Style*, "should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts."²²

Effective legal writing also usually means favoring the active voice over the passive. The passive voice can abandon forceful expression for the limp, can generate unnecessary verbiage, and can leave readers unsure about who did what to whom.



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On that somber Inauguration Day in 1933, Franklin D. Roosevelt forged an emotional bond with his audience of millions by traveling the presidential trail blazed decades earlier by Abraham Lincoln, whom historian Richard Brookhiser calls “one of the greatest writers in the American canon – certainly the greatest ever to reach the White House.”²³

Biographer Harold Holzer describes how the sixteenth president, a prominent Illinois lawyer before assuming national office, set a new standard that lawyers today may still emulate: “Before Lincoln, our leaders spoke in formal, complex sentences cluttered with long words and obscure references to ancient times. Lincoln simplified political writing. He eliminated unnecessary words. He replaced emotion with logic. He made complicated issues clear. He wrote in words everyone could understand – simple words that carried immense power and emotion.”²⁴

Precise. Concise. Simple. Clear. 

Endnotes

1 Douglas E. Abrams, a University of Missouri law professor, has written or co-written six books. Four U.S. Supreme Court decisions have cited his law review articles. His latest book is *EFFECTIVE LEGAL WRITING: A GUIDE FOR STUDENTS AND PRACTITIONERS* (West Academic Publishing 2016). Thank you to Alana M. Caruso (MU Law School, '18) and Ellen M. Henrion (MU Law School, '17) for their valuable research on this article.

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3 *Franklin Delano Roosevelt: First Inaugural Address* (text and video), <http://www.americanrhetoric.com/speeches/fdrfirstinaugural.html> (visited May 1, 2018).

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5 HENRY WEIHOFFEN, *LEGAL WRITING STYLE* 4, 8-104 (West 2d ed. 1980), cited in DOUGLAS E. ABRAMS, *id.* ch.5 (“The Four Fundamentals of Good Writing”).

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7 JAMES MACGREGOR BURNS, *ROOSEVELT: THE LION AND THE FOX* 161 (1956).

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9 This paragraph and the next appear in DOUGLAS E. ABRAMS, *A VERY SPECIAL PLACE IN LIFE: THE HISTORY OF JUVENILE JUSTICE IN MISSOURI* 134 (2003).

10 See White House Conference Committee on Children and Youth, *Missouri's Children and Youth At the Mid-Century* 13 (1951) (average per capita income); RICHARD S. KIRKENDALL, *A HISTORY OF MISSOURI 1919-1953*, at 131 (1986) (forced into tenancy; value added).

11 J. Christopher Schnell, *Franklin D. Roosevelt, the New Deal, and the Missouri Clergy*, 18 *GATEWAY HERIT.* 17, 17 (Winter 1997-98) (unemployment rate); Joseph Fred Benson & Bernard L. Lewandowski, *One Hundred Years of Justice: A History of the Circuit Court of St. Louis County, Missouri, 1877-1978*, at 79 n.51 (unpublished manuscript 1981, on file with the St. Louis County Law Library, Clayton, Mo.) (unemployment rate); Martin G. Towey, *Hooverville: St. Louis Had the Largest*, 1 *GATEWAY HERIT.* 4 (Fall 1980) (Hoovervilles).

12 First Inaugural Address, *supra* note 3

13 TED MORGAN, *ROOSEVELT: A BIOGRAPHY* 375 (1985), also reported in Max Hastings, *Franklin D. Roosevelt: The Man Who Conquered Fear*, *THE INDEPENDENT* (London, U.K.), Jan. 19, 2009.

14 Quoted in Hastings, *supra* note 13.

15 ARTHUR A. EKIRCH, JR., *IDEOLOGIES AND UTOPIAS: THE IMPACT OF THE NEW DEAL ON AMERICAN THOUGHT* 91 (1969) (quoting Lippmann). See also, e.g., Harold Evans, *What Obama and McCain Can Learn From FDR*, *THE DAILY BEAST*, Oct. 10, 2008 (“Of all the many achievements of FDR in those early days, the most sensational was the change he wrought in the national mood. Fear, cynicism and despair yielded to hope, trust and courage.”).

16 JONATHAN ALTER, *THE DEFINING MOMENT: FDR'S HUNDRED DAYS AND THE TRIUMPH OF HOPE* 211 (2006).

17 *Id.* at 210-11; KENNETH C. DAVIS, *DON'T KNOW MUCH ABOUT HISTORY* 350 (2d ed. 2003); NATHAN MILLER, *FDR: AN INTIMATE HISTORY* 303 (1983).

18 Jonathan Alter, *supra* note 16, at 211.

19 *Id.*

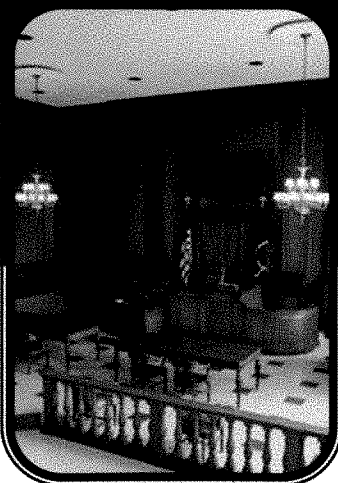
20 *Id.*; ADAM COHEN, *NOTHING TO FEAR: FDR'S INNER CIRCLE AND THE HUNDRED DAYS THAT CREATED MODERN AMERICA* 39 (2009).

21 Cindy Skrzycki, *Government Experts Tackle Bad Writing*, *WASH. POST*, June 26, 1998, at F1 (“most valuable,” quoting Jefferson) (internal quotations omitted); *THE FAMILY LETTERS OF THOMAS JEFFERSON* 369 (E.M. Betts and J.A. Bear, Jr. eds., 1966) (letter of Dec. 7, 1818) (“style of writing”).

22 WILLIAM STRUNK JR. & E.B. WHITE, *THE ELEMENTS OF STYLE* 23 (4th ed. 2000).

23 Richard Brookhiser, *What Would Lincoln Do?: Modern-Day Leaders Could Learn a Lot From Our 16th President*, *WALL ST. J.* (Feb. 14, 2014), quoted in Douglas E. Abrams, *supra* note 4, at 53.

24 HAROLD HOLZER, *LINCOLN – THE WRITER* 18 (2000), quoted in Douglas E. Abrams, *supra* note 4, at 53. See also THEODORE C. SORENSON, *KENNEDY* 240 (1965) (“Lincoln never used a two- or three-syllable word where a one-syllable word would do, and never used two or three words where one word would do.”).



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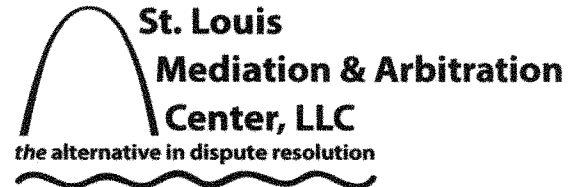
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