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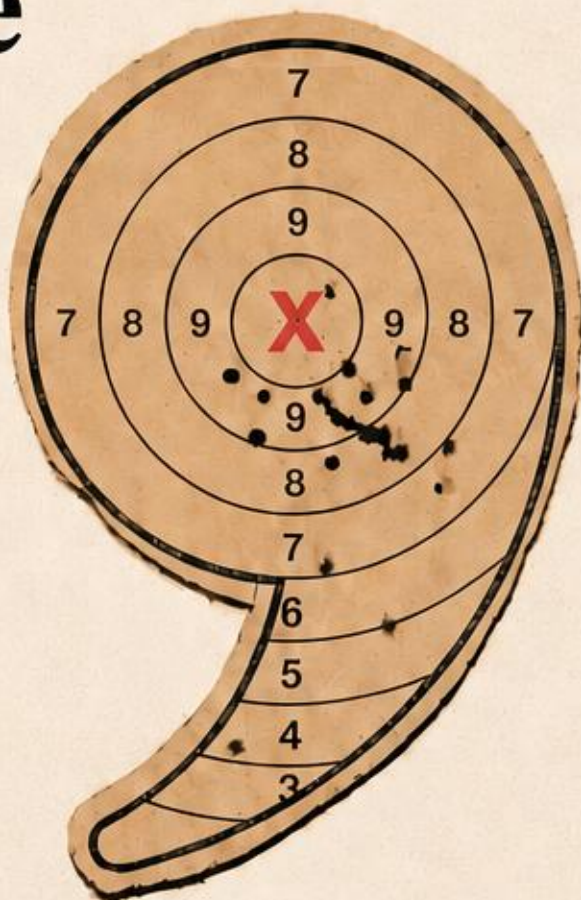
Commas, Common Sense and Justice

Like language itself, punctuation is always in a state of flux.

If you are of a certain age, notice how you are likely using exclamation points more lately. It has become a mark of agreeability in a way that would mystify a time traveler from as recently as a couple decades ago. “See you in a bit!” “I looked for you yesterday but you weren’t there!” I now email like that.

This is part of a long story Florence Hazrat tells in “On the Mark: From Periods to Interrobangs, How Punctuation Remade the World,” due out in August. Hazrat takes us from when writing had no punctuation at all, through when it was invented largely as a guide to reading out loud, to today’s proliferation of marks like hashtags and emojis.

It’s a roller coaster of a story. Ancient Greek had no spaces between words, Hazrat writes, and Aristophanes of Byzantium, a librarian in Alexandria, found it cumbersome. He came up with a three-dot system to indicate how long one was to pause in reciting the text: ~~at the bottom~~ at bottom, middle and top. Top was a full stop, what we know as a period. Bottom was a brief pause, as in “comma.” Middle was if you wanted something in between, a kind of “I’m OK but just wait a sec” — kind of a semicolon. I’d like it if we could go back to that.



A single comma can shift the meaning of a sentence—and sometimes, the course of history.

In considering how the history of punctuation can affect history itself, Hazrat touches on the role of commas in the 2008 Supreme Court ruling that the Constitution’s Second Amendment — “a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed” — protects the rights of all people, not just militia members, to possess firearms. Hazrat finds the reasoning behind the ruling, *District of Columbia v. Heller*, is absurd. I agree.

The question is how to interpret the comma after “free state.” Justice Antonin Scalia, the author of the ruling, wrote that the comma set apart a mere preface to the “operative clause” of the amendment — the right of the people to keep and bear arms shall not be infringed. Hazrat writes that Scalia’s analysis followed the tradition of the most conservative pro-gun advocates to take the part of the amendment before that comma as throat-clearing, with all the intention of the amendment coming after that comma. Scalia argued that that preface in no way qualified or limited the intention of the Bill of Rights’ framers. Essentially Scalia argued that the Founders meant, “A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms — something separate — shall not be infringed.”

Hazrat argues that commas should play no role in interpreting the amendment because punctuation was not as conventionalized when it was written as it is now, and there were different versions of the amendment with two, three and even four commas.

Rather, we should accept the most plausible interpretation of what the words mean. Until this century there was a broad understanding that the Founders meant that all clauses of the amendment, no matter how many there are, should be read together. As in, people should be able to bear arms to serve in a militia, not just for any reason they want.

I would add that the comma is less the issue than that Scalia’s interpretation is hopelessly forced. Scalia persuasively argued that in the late 18th century, “bear arms” referred to using weapons in various ways, not just in a militia. But it still leaves a crucial question: Why would the Founders bring up one type of gun ownership — when serving in a militia — if they wanted to approve all kinds of gun ownership? If they wanted to preface their proclamation, as Scalia claimed, they could have mentioned not only serving in a militia, but self-defense and hunting.

Under Scalia’s analysis, the following sentence would pass muster:

“Basketball, aiding in health, sports, shall be encouraged.”

Such a sentence is beyond clumsy. It insults the Founders to suppose that this sort of convolution was the best they could do when adjudicating something of such gravity.

It comes down to this: “Officials, being prone to partisan bias, Supreme Court justices, should interpret language according to what is most intuitive.”



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