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## Use Brackets To Alter a Quotation

You can substitute words to improve clarity

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I have been asked how to use brackets in a quotation to show changes from the source text. Suppose, for example, that a sentence from a judicial opinion reads as follows:

Furthermore, disclaimers of the obligations that normally attend a sale are not favored and are strictly construed against the seller.

You wish to omit “Furthermore” but otherwise quote the sentence verbatim. To indicate that the sentence in the original text did not begin with “Disclaimers,” bracket the “D” in Disclaimers:

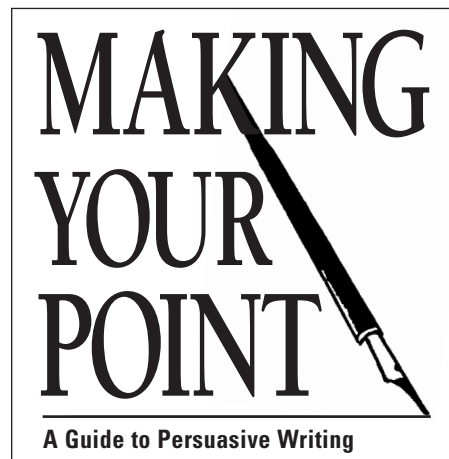
[D]isclaimers of the obligations that normally attend a sale are not favored and are strictly construed against the seller.

The brackets show that the “D” in disclaimers was lower case in the text from which you took the quotation.

This works in reverse as well. Suppose the text you wish to quote did not include the word furthermore and began with Disclaimers. If you wish to

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precede the original quotation with Furthermore, bracket the lower case “d” on disclaimers to show that it was



a capital D in the original text:

Furthermore, “[d]isclaimers of the obligations ...”

### Brackets Can Be Used for Clarity

Brackets can also be used to add or substitute words in a quotation to improve the flow and ensure clarity. Suppose that your quotation includes a proper name likely to confuse the reader because the person was not previously identified. You can include an identifier in brackets, with or without the name:

Version A:  
Plaintiff testified as follows:  
“Then Smith [another riveter] almost lost his balance.”

Version B:

Plaintiff testified as follows:  
“Then [another riveter] almost lost his balance.”

The bracket in Version A tells the reader that Smith — never before mentioned — is a riveter, which explains why his losing his balance is an important fact. Version B identifies Smith by his job instead of his name.

Either version can work. The context will indicate whether the bracketed reference is explanatory, as in Version A, or whether it replaces a name, as in Version B. You would use the version that seems likely to help the reader most. Depending on the context, you might wish to include Smith’s name for flavor.

You can also use brackets to indicate a change of tense from the original text:

He “guess[ed] that the mechanic failed to check the gauges.”

Or you can use brackets to add a word that was implicit to the person being quoted but is needed in the quotation for clarity, as in the following:

Counsel conceded that “the court’s order did not mention the method of [wastewater] disposal.”

Similarly, the material you wish to quote may omit an important term because it was used earlier in the material from which you are quoting. In the following example, you intend to quote the second of two sentences from a court’s opinion, but you wish to use the term “administrative agency” from the first sentence instead of the phrase “such a body” in the second:

We are concerned with a determination made by an administrative agency. When such a body acts within its authority, its decision is entitled to a presumption of correctness.

You can incorporate the reference to an administrative agency into your quotation of the second sentence by using brackets:

The court opined: “When [an administrative agency] acts within its authority, its decision is entitled to a presumption of correctness.”

### **Don’t Bracket Obsessively**

You can overdo bracketing in an effort to be true to your source. Suppose that you wish to say the frustration of purpose doctrine will be applied if the principal purpose of a contract was “totally or nearly totally” frustrated.

A treatise says that the frustration of purpose doctrine applies where the purpose of the contract “met with total or near total” frustration. In the flow of your argument, you want to use the words totally or nearly totally, not total or near total. In other words, you want to add “ly” to the two words from the treatise and still cite the treatise.

Forget about quoting. Don’t add a bracketed “ly,” as in “total[ly]” or

“nearly total[ly].” Just say the treatise stands for the proposition that the frustration of purpose doctrine can be applied if the principal purpose of the contract was totally or nearly totally frustrated.

You don’t need the force of an exact quotation, and a reader who checks the citation won’t be upset that you added “ly.” But the reader might be annoyed and distracted by unnecessary bracketing.

### ***Puzzler***

How would you tighten and sharpen the following sentence?

To advance a successful cause of action under quantum meruit, one must show that: (1) the plaintiff performed certain services for the defendant; (2) the reasonable value of the services; (3) that the services were rendered at the defendant’s request; and (4) plaintiff was unpaid.

This is principally an exercise in parallel construction. Look to create parallel structure by converting the elements of the cause of action to the same part of speech. Nouns work well here: performance, value and nonpayment. (You’ll see what we do with “request.”) Among other things, the nouns solve the problem of the unbalanced “thats.”

You can save words by substituting “establish” for “advance a successful cause of action.” Also, in (1), the plaintiff and the defendant are understood, and “certain” adds nothing; you can drop them. In (2), you can save words by using “their” to reinvoke “services” from item (1).

In (3), “were rendered” is unnecessary and is the wrong part of speech for the parallel structure we are developing. Finally, in (4), one word — nonpayment — substitutes for three.

I would reverse items (2) and (3) because the request for services is closely related to performance. You can run (1) and the old (3) together (“the performance of services at defendant’s request”), but the elements of performance and request should be numbered separately because they require different proofs. Arguably, the parallel structure based on nouns is sustained by elements (1), (3) and (4).

The revised version:

To establish quantum meruit, one must show (1) the performance of services (2) at defendant’s request; (3) their reasonable value; and (4) nonpayment.

Alternate version:

To establish quantum meruit, one must show (1) the performance of services; (2) defendant’s request for the services; (3) their reasonable value; and (4) nonpayment. ■