

2017

Lexicographer for a Day

Mary Whisner

University of Washington School of Law, whisner@uw.edu

Follow this and additional works at: <https://digitalcommons.law.uw.edu/librarians-articles>

 Part of the [Legal Writing and Research Commons](#)

Recommended Citation

Mary Whisner, *Lexicographer for a Day*, 109 LAW LIBR. J. 169 (2017), <https://digitalcommons.law.uw.edu/librarians-articles/20>

This Article is brought to you for free and open access by the Librarians' Publications at UW Law Digital Commons. It has been accepted for inclusion in Librarians' Articles by an authorized administrator of UW Law Digital Commons. For more information, please contact cnyberg@uw.edu.

Lexicographer for a Day*

Mary Whisner**

Ms. Whisner shares her love of learning about new words and phrases, and details how she investigates their origins and usages in dictionaries and full-text databases.

¶1 I have always enjoyed learning new words and leafing through dictionaries. When I was in junior high, my habit of carrying around a paperback dictionary, while not the only evidence, certainly contributed to my reputation as an egghead.¹ Now, decades after becoming a librarian, I'm still grateful to have found a setting where my natural inclinations are not only accepted but valued. I actually get paid for digging around in reference books! Many research tasks are interesting, of course, but it's a treat when I get to dabble in lexicography. Because I suspect that others enjoy a good word quest, I'm sharing a couple.

“Race to the Bottom”

¶2 In July 2008, a professor asked when the metaphor “race to the bottom” entered debates “about policy discussions over taxes, public benefits, and regulation.” A visit to the online *OED* led me to a subentry under “race”:

race to (also for) the bottom *n. orig. U.S. Finance* the progressive degeneration of standards or elimination of regulations (in a market, business, etc.) due to the pressures of competition; (more generally) a progressive or deliberate deterioration of standards.

1974 *Yale Law Jnl.* 83 666 The best example of ‘the race for the bottom’ appears in the Report of the Corporation Law Revision Commission of New Jersey.

1988 *Washington Post* (Electronic ed.) 4 July f7 A major argument for federal legislation always has been that local governments would engage in a ‘race for the bottom,’ a drive to be more permissive in order to lure new employers.

1993 M. J. ROE in *Deal Decade* 347 State corporate law is a race to the bottom, as states pander to managers by providing weak, promanagerial, antishareholder corporate law.

2005 *Guardian* (Nexis) 10 Jan. 2 There are recurring complaints about dumbing-down. Some journalists distinguish their trade while others demean it. . . As circulations decline, there is a race to the bottom.²

* © Mary Whisner, 2017.

** Reference Librarian, Marian Gould Gallagher Law Library, University of Washington School of Law, Seattle, Washington. I thank the faculty who send me on these explorations, and I also thank my friend and loyal reader, Nancy Unger, who reviewed a draft of this piece.

1. By the way, “nerd” had not yet come into common usage. I doubt that I would have been a popular girl, even without the dictionary. However, I’ve learned in middle age that the popular kids were often at least as insecure and unhappy as those of us who were on the edges.

2. *Race*, n.1, phrase 3, *OED ONLINE* (June 2016), <http://www.oed.com/view/Entry/157030> [<https://perma.cc/EP66-Y5KT>]

¶3 Using a dictionary doesn't make one an amateur lexicographer in itself, but I didn't stop there. Was the *OED*'s earliest citation from 1974 truly the beginning? The first step was to look up that 1974 article.³ William L. Cary characterized the practice of states easing the burdens on corporations to attract their business as "the race for the bottom."⁴ Cary cited a similar metaphor by Justice Brandeis: "[t]he race was not one of diligence but of laxity."⁵ Later articles credit Cary with the phrase,⁶ sometimes while disputing its usefulness.⁷ I searched for earlier uses. There were several from water law, but the "bottom" was more literal: competing appropriators were digging wells deeper and deeper to get to the bottom of the water source.⁸

¶4 Careful readers might have noticed that Cary said "race for the bottom," while later authors said "race to the bottom." Which is preferred today? I searched journals and law reviews in Westlaw, comparing the results for "race #to the bottom" & da(>2007) with those for "race #for the bottom" & da(>2007).⁹ Back when I first looked at this, in July 2008, the score was 144 to 1, favoring "to" over "for." Now it's 2939 to 93.¹⁰

¶5 For decades we law librarians have been able to search full-text documents for word usage. Now available are much more powerful online tools to facilitate the search in vast collections of documents. Mark Davies, a linguistics professor at Brigham Young University (BYU), maintains a site where you can check out word frequencies in corpora¹¹ such as *Time* magazine (1923–2006) and the Corpus of Contemporary American English.¹² "Race to the bottom" appeared in *Time* once in the 1990s and twice in the 2000s. "Race for the bottom" doesn't appear. (See figure 1.)

3. William L. Cary, *Federalism and Corporate Law: Reflections upon Delaware*, 83 YALE L.J. 663 (1974).

4. *Id.* at 666.

5. *Id.* at 664 (citing *Liggett Co. v. Lee*, 288 U.S. 517, 559 (1933) (Brandeis, J., dissenting in part)).

6. E.g., Jens C. Dammann, *Freedom of Choice in European Corporate Law*, 29 YALE J. INT'L L. 477, 478 n.6 (2004).

7. John V. Orth, "The Race to the Bottom": *Competition in the Law of Property*, 9 GREEN BAG 2d 47, 47 n.1 (2005) ("Whether the race was truly to the 'bottom' is debated; whether there was even a race at all is denied.") (citing Marcel Kahan & Ehud Kamar, *The Myth of State Competition in Corporate Law*, 55 STAN. L. REV. 679 (2002)). For citations to the debate in the context of environmental law, see Kirsten H. Engel, *State Environmental Standard-Setting: Is There a "Race" and Is It "To the Bottom"?*, 48 HASTINGS L.J. 271, 274–75 nn.1–3 (1997).

8. See, e.g., *Noh v. Stoner*, 26 P.2d 1112, 1114 (Idaho 1933) ("a race for the bottom of the artesian belt"); *Baker v. Ore-Ida Foods, Inc.*, 513 P.2d 627, 633 (Idaho 1973) (the court summarizes the quote in *Noh* as "a race for the bottom of the aquifer"); Gregory K. Hoskin, Comment, *Who Pays When the Well Runs Dry?*, 37 U. COLO. L. REV. 402, 412 (1965) ("a race for the bottom of a basin would destroy the basin, or at least make continued economic stability of the area over the basin questionable").

9. The "#" enables you to search stop words that otherwise would be ignored. For a history of the punctuation mark known variously as "pound sign," "number sign," and "octothorpe," see KEITH HOUSTON, *SHADY CHARACTERS: THE SECRET LIFE OF PUNCTUATION, SYMBOLS & OTHER TYPOGRAPHICAL MARKS* 41–57 (2013).

10. Westlaw searches performed July 29, 2008, and Aug. 30, 2016.

11. When I searched for past memos where a reference librarian referred to the BYU Corpora, I learned that SharePoint is "smart" enough to know that "corpora" is the plural of "corpus": it retrieved the many memos that used "habeas corpus" or "*Corpus Juris Secundum*" in addition to the couple that referred to this linguistic tool.

12. CORPUS OF CONTEMPORARY AM. ENGLISH, <http://corpus.byu.edu> (last visited Aug. 30, 2016).

Figure 1

“Race to the Bottom” in Time Magazine Corpus for 2000s

new TIME Magazine Corpus

SEARCH FREQUENCY CONTEXT OVERVIEW

SECTION: 2000s (2)

CLICK FOR MORE CONTEXT [?]

1	2005/06/13	A	B	C	Innovations in printing. No doubt HP is hoping to avoid a race to the bottom . – By Jeremy Caplan
2	2006/03/27	A	B	C	, “ but not here. France wants no part in a race to the bottom . ” # That’s a noble sentiment, but lurking beneath it is something

Figure 2

“Race to the Bottom” in Hansard Corpus for 1990s

CLICK FOR MORE CONTEXT [?]

1	C-1997	Mallaber (L)	A	B	C	the textiles industry— because we can not compete in the global race to the bottom with Morocco, Sri Lanka and the far east: The idea that we can
2	C-1998	Short (L)	A	B	C	into seeking ever cheaper labour, with all the instability and the race to the bottom on environmental standards that that can entail:
3	C-1999	Simpson (L)	A	B	C	us to compete in a price-only market, which is a beggar-your-neighbour race to the bottom of the barrel? ” In Seattle, trade union marchers— industrial workers and
4	C-1999	Colman (L)	A	B	C	agenda: Other hon: Members have spoken about the need not to race to the bottom : It is important to recognise that, by having good investment rules, we
5	C-1999	Colman (L)	A	B	C	having good investment rules, we can ensure that there is no race to the bottom : I ask the House to endorse that way forward: The major thing that
6	L-1999	----- (L)	A	B	C	, as we call them— we find ourselves dragged into a race to the bottom , each country seeking to outbid the other in an attempt to attract mobile financial
7	L-1999	----- (L)	A	B	C	when competition does not work, when it destroys itself in the race to the bottom : It is on these occasions that cooperation is required: The final conclusion of

© 2003

¶6 In the Hansard Corpus (British parliament, 1803–2005), “race to the bottom” appears seven times in the 1990s and ten times in the 2000s, with no hits for “race for the bottom.”¹³ (See figure 2.)

¶7 The BYU site also offers an advanced interface for searching Google Books.¹⁴ To get a graphical representation of the comparative usage of two words or phrases, we can use Google Ngrams. (See figure 3.¹⁵) Although the original law review article used “race for the bottom,” writers of English have clearly come to prefer “race to the bottom.”

“Till Forbid”

¶8 About a year ago, I joined a group of professors for a Veterans Day happy hour.¹⁶ One professor reminisced about an experience from her practice in the 1980s. She had to review a newspaper’s comic strip syndication contracts and was

13. Searches conducted Aug. 30, 2016. It doesn’t help us with “race to the bottom,” but I can’t resist mentioning the Corpus of American Soap Operas (corpus.byu.edu/soap), which includes the words from 22,000 soap opera transcripts from the 2000s. It’s a good source for less formal English than you find in, say, law review articles and cases. And it’s also just fun. You can find that “cheated” appears 1747 times, while “faithful” shows up only 744 times. And “law library” appears 14 times.

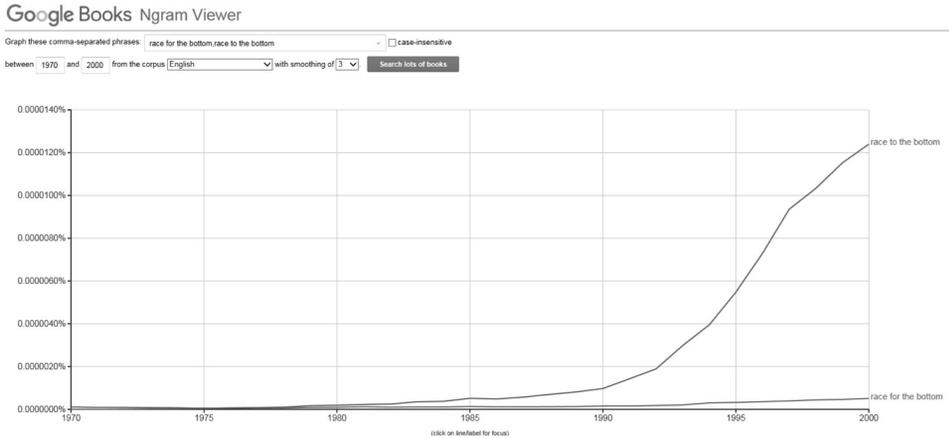
14. See The Corpus of Historical American English (COHA), Google Books (Standard), and the Google Books (BYU / Advanced) Corpus, <http://googlebooks.byu.edu/compare-googleBooks.asp> [<https://perma.cc/BZM6-PXV5>].

15. For more examples, see Matthew Flyntz, *Visualizing Legal History with Google Ngrams*, GALLAGHER BLOGS (Oct. 7, 2013, 9:39 PM), <http://gallagherlawlibrary.blogspot.com/2013/10/visualizing-legal-history-with-google.html> [<https://perma.cc/3N36-6TTJ>].

16. If you’re in the office on a holiday, why *not* end the day with a beverage and a snack with colleagues?

Figure 3

Google Ngram (created Oct. 21, 2016), Showing Comparative Frequencies of “Race to the Bottom” and “Race for the Bottom,” 1970–2000, from the Google Books English Corpus, 2016



puzzled by the term “till forbid.” No one at the table had heard of the term. A couple of weeks later,¹⁷ I investigated. “Till forbid” wasn’t in *Black’s Law Dictionary* or the *OED*. A search in Westlaw yielded only four documents with the phrase: three FCC determinations (from 1957, 1967, and 1972)¹⁸ and an expert witness report in a 2004 filing.¹⁹ The search result of only four documents—out of all the cases, treatises, encyclopedias, law review articles, and more in Westlaw—seemed insignificant. And yet there were four documents: a trace of this elusive contract term.

I tried Google Books and was rewarded with hits in fairly recent books on the comics business and on marketing.²⁰ It even showed up in *Ad Sense* over a century

17. Wednesday afternoon before Thanksgiving: another time when there is little action in the library and we might turn away from our most serious work.

18. *In re* Application of Radio Enters. of Ohio, Inc; Ashtabula, Ohio, for the Renewal of License of Station WREO, Ashtabula, Ohio, 38 F.C.C.2d 1104, 1107, 1972 WL 27147, at *3 (1972) (“This contract . . . did not specify a termination date. In lieu thereof, the contract contained a ‘Till Forbid’ provision which permitted the contract to be cancelled by either party on two days’ notice . . .”); *In re* Application of Cont’l Broad., Inc., Newark, N.J. for Renewal of License of Station WNJR, Newark, N.J., 15 F.C.C.2d 133, 158, 1967 WL 12887, at *21 (1967) (“All of these documents . . . indicated . . . whether or not the arrangement was ‘T.F.’ meaning ‘till forbid’ (i.e., to remain in force until terminated by either the sponsor or the station).”); *In re* Applications of WKAT, Inc., Miami Beach, Fla., 22 F.C.C. 117, 183, 1957 WL 94694, at *53 (1957) (“All arrangements for time are on a ‘TF’ or ‘till forbid’ basis, which means they can be canceled at any time by either party.”).

19. *Rest. Advert. Grp., Inc. v. J.P. Morgan Chase & Co.*, No. 2:04-cv-01020, 2004 WL 3804669 (S.D. Ohio Dec. 6, 2004).

20. For example:

All the newspapers sign on thirty-day agreements. Thirty-day till forbid. If I ever found the person who invented the thirty-day till forbid, I’d love to give them a good talking to, or worse. But it’s the industry standard, and it’s widely accepted. Thirty TF, meaning that either party can cancel on thirty days’ notice. Everybody uses it.

LEE NORDLING, *YOUR CAREER IN THE COMICS* 79 (1995) (quoting Alan Shearer, Washington Post Writers Group).

ago.²¹ Acquisitions and serials librarians might be way ahead of me on this because it turns out to be a synonym (or near synonym) for “standing order.”²² When I first did the research, I recorded:

18 *Library Trends* 306 (1970) (“Standing orders can be handled in a variety of ways: they can be placed directly with the publisher, through a dealer or a subscription agent and, in turn these may be on a “till forbid” basis, annual renewal, multiple-year, or considering the ingenuity and individualism of serials personnel, a number of variations on these approaches.”).²³

¶9 That citation was enough for my purposes then, but before citing it here, I needed the article’s author and title. I tried to recreate my Google Books search. The *Library Trends* article wasn’t close to the top. I added parts of the quoted sentences. It still didn’t rise to the surface. One could learn a couple of lessons: (a) record complete citation information if you imagine there’s a chance you’ll need it later; (b) don’t assume you’ll be able to find the same results in a search engine if you wait almost a year to search again. (In fact, there might be enough going on behind the scenes, with Google’s search algorithm and with the contents of Google Books, that one might get different results without waiting long at all.)

¶10 But not so fast. I did record the volume, publication, and page number, so it wouldn’t be hard to fill in what I needed without Google Scholar. My library has a good print run of *Library Trends*, and even if it didn’t, the main library on campus does. And I don’t even have to go to a library. Sitting in my neighborhood Starbucks, I searched the university’s list of e-journals and found a link. The University of Illinois provides almost the whole run of this journal available online free.²⁴ So

In a till-forbid order, a monthly, quarterly, or other ongoing fee . . . is charged to the credit card until the customer says to stop.

. . . .

In a till-forbid order, you continue to ship product or supply service—and bill the buyer for it on some agreed-upon schedule—until the buyer cancels.

ROBERT W. BLY, *THE COMPLETE IDIOT’S GUIDE TO DIRECT MARKETING* 39 (2001).

[T]ill forbid (TF) an instruction from an advertiser to a newspaper to continue running a particular advertisement until further notice to stop.

NORMAN A.P. GOVONI, *DICTIONARY OF MARKETING COMMUNICATIONS* 221 (2004).

21. One of the facts we have learned from sad experience is the utter unreliability of the “till forbid” order when it comes through an advertising agency. Long ago we used to imagine that a “t-f” order meant to run the same advertisement each month unless notified to the contrary. At this date we are unable to imagine what “till forbid” means in the comprehensive lexicon of the advertising agencies, who make a point of disallowing charges for ads inserted on “t-f” orders unless special instructions are given for the insertion.

E.H. Beach, *The Advertising Department of a Magazine*, 15 *AD SENSE* 281, 282 (1903).

22. See, e.g., Rita Echt et al., *Back to Basics: The Serials Acquisitions Elements*, in *EXPERIMENTATION AND COLLABORATION: CREATING SERIALS FOR A NEW MILLENNIUM* 5, 9 (Charlene N. Simser & Michael A. Somers eds., 1998) (distinguishing “standing order” from “subscription till forbidden”—“a special request to continue to order something until the order is formally stopped”); J.B. Merriman, *The Work of a Periodicals Agent*, in *LIBRARIES AND SUBSCRIPTION AGENCIES: INTERACTIONS AND INNOVATIONS* 17, 27 (Peter Gellatly ed., 1988) (giving “until forbid” as an alternate for “standing orders”). Examples could be multiplied.

23. E-mail from author to Karen E. Boxx et al., Nov. 25, 2015, 5:42 PM PST (on file with author).

24. *Library Trends*, IDEALS, <https://www.ideals.illinois.edu/handle/2142/999> (last visited Jan. 5, 2017). (“IDEALS” stands for Illinois Digital Environment for Access to Learning and Scholarship: a nice acronym!)

now I can provide the full citation²⁵—an achievement that will please many readers, as well as *LLJ*'s editor, I'm sure.

¶11 A researcher who failed to find a term like “till forbid” in *Black's Law Dictionary* or in *Words and Phrases* might conclude that it was just a weird anomaly of those contracts the professor had reviewed thirty years ago. But the evidence from my Google Books searches shows that “till forbid” has been—at least in some contexts—a fairly common term. Some of the library examples showed me that there might be spelling variants, such as “til forbid” and “until forbidden.” So I tried a broader Westlaw search (**adv: til till #until +2 forbid!**) and added a handful of documents to my list.²⁶ It's still not common in Westlaw's sources, but there are more examples than I found last year.

¶12 You might have noticed that there was no reference question here. No one asked me to look into “till forbid,” but I did anyway. Yet it wasn't just for my own amusement (although I was entertained, in that flip-through-a-dictionary way of being entertained). Even though the issue of this oddball contract term only arose as happy-hour banter, it was something that the professors at the table found interesting. Most of them weren't heavy users of reference services. Investigating this idle question and sending them an e-mail message with my results was a form of faculty outreach. Librarians tell faculty again and again that we are able to do research and find answers for them. Actually doing some research and finding an answer to an offbeat question was a way to show them. I can't report that their use of reference services has picked up, but I still think it was good outreach—as was participating in the happy hour in the first place. I concluded my e-mail message: “Keep the happy hour invitations coming till forbid.”

25. William H. Huff, *The Acquisition of Serial Publications*, 18 *LIBR. TRENDS* 294, 306 (1970).

26. *E.g.*, *W. Newspaper Union v. Kitchel*, 166 N.W. 1021, 1021 (Mich. 1918) (“The letters ‘T. F.’ in said option clause are an abbreviation of ‘till forbidden.’”); *Class Journal Co. v. Valveless Inner Tube Co.*, 134 N.Y.S. 916, 916 (N.Y. App. Term 1912) (“until forbid”); *White v. Allen Kingston Motor Car Co.*, 126 N.Y.S. 150, 151 (N.Y. App. Term 1910) (“until forbid”); *Hartwell Bros. v. William E. Peck & Co.*, 71 N.E. 958, 959 (Ind. 1904) (“until forbidden”); *Peacock v. Iron & Steel Pub. Co.*, 114 Ill. App. 463, 464 (1904) (“until forbid”). The only secondary source using the phrase in the context of a contract was Annotation, *Loss of Profits as Damages for Breach of Contract in Relation to Advertising*, 41 A.L.R. 198, 203 (1926) (“All the proof offered in regard to the contracts showed that they were to continue until forbidden, and, unless so forbidden, would run to the end of the year.”).