

## **LEGALESE: the origin of the English language of the Law**

Research shows many of the ways in which legal language causes problems in comprehension, especially for a lay audience. Technical vocabulary, unusual and archaic words, impersonal constructions, use of modal like shall, multiple negation, long and complex sentences, and poor organization are all problematic. In fact, virtually all features of legal English seem to impede communication with the public.

Legal language has been called an argot, a dialect, a register, a style, and even a separate language. However we describe it, legal language is a complex collection of linguistic habits that have developed over many centuries and that lawyers have learned to use quite strategically.

Here's a bit of history...

At the time of Anglo-Saxons, the increasing linguistic complexity of Anglo-Saxon laws led to more complicated legal language, suggesting that the complexity of legal language may to some extent simply reflect an increasingly complicated society.

Their law used alliteration and conjoined phrases, a practice that has, to a limited extent, survived to the present (as in *rest*, *residue* and *remainder*).

Anglo-Saxon words and legal terms which survived till today are, for example:

*writ*, *ordeal*, *witness*, *deem*, *oath*, *moot*.

Latin was (re)introduced in England in 597, when Christian missionaries landed. Latin terms that entered legal language in this period include words like *clerk*. One impact of Christianity was to encourage the use of writing, which was later to have a tremendous impact on the law.

When Vikings settled down, legal terms from Norse were also adopted, such as the word *law* itself, but otherwise the language did not have a large impact on legal English.

The Norman conquest in 1066 placed French-speaking Normans in all relevant positions and the use of French in courts seems tied to the expansion of jurisdiction of royal courts during this period. Soon after 1400, Anglo-French was virtually extinct as a living language, but it had become firmly entrenched as the professional language of lawyers.

Throughout this period, Latin continued to be used as a legal language. It came to be known as "Law Latin," and included various legal terms of French origin, as well as English words when clerks did not know the Latin.

Names of writs (*mandamus*, *certiorari*) and terminology for case names (*versus*, *ex rel.*, etc.) are still in Latin, perhaps a reflection of the use of Latin for writs and court records until the early 18th century.

Around 1600 lawyers had to be trilingual in French, Latin and English. Each language was traditionally used in specified domains.

Some of the characteristics of Law French that have left traces in today's legal language include addition of initial *e* to words like squire, creating esquire; adjectives that follow nouns (*attorney general*); simplification of the French verb system, so that all verbs eventually ended in *-er*, as in *demurrer* or *waiver*; and a large amount of technical vocabulary, including many of the most basic words in our legal system.

Many texts still suffer from excess wordiness which make the style turgid and difficult to follow. This is partly a legacy from the ancient custom when clerks were paid by the page. Hence, they deliberately made legal documents as verbose as possible.

Today, many of the uses or goals of legal language, a part from the goal of winning cases, is the lawyer's desire to appear objective and authoritative, which goes together with the lawyers' use of language as a marker of prestige and badge of membership in the profession.

*Further readings:*

Tiersma Peter M. 2000. *Legal Language*. University of Chicago Press.

Summary: <http://www.languageandlaw.org/LEGALLANG/LEGALLANG.HTM>

Williams Christopher 2004. Legal English and Plain Language: an introduction. *ESP Across Cultures*.