

Your Honor, I Present Before You: The Layered History of Legalese

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"Neither party shall be responsible for any loss or damage arising from its actions or omissions." One sentence in, and the average reader has likely dozed off. This jumble of words immediately transports one to the courtroom, where the sleep-inducing quiet is disrupted only by the convoluted speech of a lawyer. Indeed, characteristic of the courtroom is legalese, which the Oxford English Dictionary defines as the "abstruse and complicated technical language of legal documents." For the layperson, legalese may sound more like a foreign language than Modern English — and this statement does not stand without reason. This essay's opening sentence is in fact composed of 8 words that come from Old English (*neither, party, be, for, any, from, its, or*), 3 from Old French (*responsible, damage, actions*), and 2 from Latin (*loss, omissions*). In looking at its archaic vocabulary, complex sentence structures and literary patterns, legalese exists as a product of the intimate relationship between politics and language throughout England's history. In this essay, I uncover how the continuous invasion of England by foreign powers impacted the development of the legal language, leading today's legalese to contain a mixture of Old English, Law French, and Latin.

I. Roman Beginnings

The notion of a legal language commenced in 43 AD when the Romans conquered Britain and established a legal system based in Latin. Roman law applied to its citizens, and Latin became the official language of administration, law, and governance. However, Roman law had limited influence on the Celtic population, and it would go on to dissipate in the fifth century following the Romans' departure from Britain. Historians agree that elements of Roman Law did

not persist into the Saxon period (Warden, 1944). As such, specific legal terminology from the Roman conquest did not survive in the English legal system; the Romans' linguistic legacy consisted mainly of place names and a few words of Latin origin, none of them legal (Mellinkoff, 1963).

II. Old English Influence

Instead, it is Old-English that became the foundation of today's legalese. The Romans' departure from Britain circa 410 AD left a power vacuum in which the Germanic tribes of namely the Anglo-Saxons, Frisians, and Jutes took over. The respective languages of these tribes eventually merged into one: Old English (OE). The issuing of King Alfred the Great's *Book of Laws* in 893 AD was a milestone in cementing OE into the legal language; this major legal text recorded political customs of all three major Anglo-Saxon tribes in OE. The Anglo-Saxons therefore developed a rough legal language in OE, and many terms in today's legalese come from this time: *bequeath, writ, ordeal, witness, deem, oath, guilt, manslaughter, and guilt* (Giampieri, 2011).

It was also under Anglo-Saxon influence that the legal language came to be characterized by alliteration and binomial pairs. Binomial pairs are sequences of two or more parallel words in the same grammatical category; for example, phrases such as "*any and all, each and every, or both and beloved*" appeared in many wills (Schneiderová, 2018) and remain in use today. While alliteration was more commonly found in Old English poetry, it is likely that it transferred into legal language because of its ability to create powerfully resonant blocks of verse (Lerer, 2015); alliterative phrases stick in the memory, which make them powerful in legal arguments both then and now.

The Anglo-Saxon population also used Latin in the language of law — separate from the Romans — because it was the language of the Church. Although the general population did not understand Latin, the arrival of Christian missionaries in 597 AD encouraged its existence as a written language (Schneiderová, 2018). Latin therefore developed as a language of court records. One Latin term that entered the legal language during this time was *clerc*, or clerk, meaning someone who can write, and the words “cleric” and “clergy” were later derived from this term. The expression *versus* found in the citation of cases also arose to denote an action by one party against another. Overall, the increasingly complicated legal language of the Anglo-Saxon period may reflect the growing complexity of that society’s economic and social relationships (Aziz and Noor, 2021).

III. French (and Latin) Influence

Still, it was only after the Norman Conquest that a unified national legal system emerged. When William the Conqueror of Normandy took control of England in 1066, he brought his French-speaking noblemen into the government. Anglo-Norman French — or Law French — thus became the *official* language for legal proceedings. It surged as the language of the ruling class, courts, and of course, law, which means a huge number of modern legal terms are of French origin: *property*, *estate*, *chattel*, *lease*, *executor*, *tenant*, etc. (Haigh, 2011).

Beyond vocabulary, there are bountiful traces of Law French in today’s legal language. One grammatical influence is the swapped positions of the substantive and adjective in phrases such as *attorney general* and *court martial* (Giampieri, 2011). In OE and other Germanic languages, the order is the opposite: i.e. the German *Generalanwalt*, where the adjective precedes the substantive to mean *general attorney*. Another influence is the addition of the ending *-ee* to

indicate that someone is a recipient: *detainee*, *condemned*, etc. Similarly, Law French added an initial *e* to words like *squire*, creating *esquire*. There is also the simplification of the French verb system so that all verbs end in “er” like *waiver* or *demurrer* (Sahakyan, 2014).

To further complicate things, however, the Normans also maintained Latin as the language for formal records and laws. Latin, of course, never made its way verbally into trials because the majority of the population would not understand it. Instead, lawyers and highly-educated individuals in the courtroom used it as a legal language named “Law Latin.” This language included terms of French origin and several maxims that gave “a sense of heightened dignity and authority” (Aziz and Noor, 2021). Legal maxims such as *ad hoc*, *de facto*, and *bona fide* persist today and propagate a sense of authority for people of the court.

One cannot undermine the linguistic complexities within law from the Norman Conquest until the Proceedings in Court of Justice Act in 1730, when Parliament banned the use of French in court proceedings. Lawyers would have to use combinations of synonyms derived from different languages to avoid confusion and to establish terminological clarity. For example, the phrases *cease and desist* and *peace and quiet* popularized. *Cease* comes from the Latin word *cēssāre*, to stop, and *desist* comes from the Old French word *desister*, to stand still. *Peace* comes from the post-Classic Latin *pāx*, and *quiet* is a French word (Schneiderová, 2018). These combinations arose because synonyms with the same conceptual meaning may have different lexical sources, which would open arguments for legislators on whether they share a meaning, since every word holds grave importance in law. There were even triple combinations of words from different languages like *give*, *devise*, and *bequeath*: *give* comes from the common OE verb *giefan*, to bestow, *devise* from the French *deviser*, to plan, and *bequeath* from the OE word

queðan, to speak. The mishmashing of languages within legalese indeed increased as political powers changed and the need for concision remained.

IV. Today's Legalese

As illustrated in the essay's introductory sentence, legalese is a layered language that has evolved through centuries of political shifts and linguistic borrowings. It is a language that confines to the pressures of a law, a field in which every word requires clarity. Consequently, while legalese often appears overly complex, this complexity serves the purpose of conveying meaning without ambiguity; instead of striving for brevity, legalese preserves archaic terms, alliteration and binomial patterns, and complex structures because they have been honed over the centuries to hold concise meanings. In writing this, I acknowledge a vast, unexplored pool of factors that contribute to the complexities of today's legalese. However, a look at the interplay between various political powers and their languages throughout England's history is the first step in understanding today's complicated legal language that intertwines Old English, Latin, and French.

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