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## THE RISE OF LEGAL LANGUAGE

Perhaps the language of lawyers is so convoluted simply because of the conservatism of the profession and its veneration of history and tradition. To some extent, legal English is indeed a product of its history. It is a story of Anglo-Saxon mercenaries, Latin-speaking missionaries, Scandinavian raiders, and Norman invaders, all of whom left their mark not only on England, but on the language of its law.

The English language can be said to have begun around 450 A.D., when boatloads of Angles, Jutes, Saxons and Frisians arrived from the Continent. These Germanic invaders spoke closely related languages, which came to form what we call Anglo-Saxon or Old English. Although the Anglo-Saxons seem to have had no distinct legal profession, they did develop a type of legal language, remnants of which have survived until today.

The Anglo-Saxons used not only Old English as a legal language, but also Latin. Although Latin was introduced to England during the Roman occupation around the time of Christ, it became a major force only after the arrival of Christian missionaries in 597.

Latin was important for English law mainly as the language of court records. The practice of using Latin *versus* in case names (for "against") harks back to these times. English lawyers and judges were also prone to express sayings or maxims about the law in Latin.

A later influence on the language of the law was Scandinavian in origin. During the eighth century, Vikings began raiding the English coast and eventually settled down. The English borrowed from these Scandinavians the most important legal word in the English language: the word law itself. Law derives from the Norse word for "lay" and thus means "that which is laid down."

A couple of centuries later another group of Scandinavians had a far more profound and lasting impact on the language of English lawyers.

Acts of Parliament did finally switch to English around 1480, but legal treatises and reports of courts cases remained mostly in French throughout the sixteenth century and the first half of the seventeenth. Six hundred years after the Norman Conquest, and around three hundred years after French was virtually a dead letter in England, it was still being used as a professional language by English lawyers!

Because it was the main language of the profession for so many centuries, French has had a tremendous influence on legal language. The French of lawyers became increasingly corrupt, and its vocabulary more and more limited. By the seventeenth century lawyers were tossing in English words with abandon. Parliament finally ended the use of Latin and French in legal proceedings in 1731.

Things were similar in the United States. Despite initial antipathy in the colonies towards the legal profession, the Americans soon realized that they needed to develop a system of justice. The only real model at their disposal was the English one. The fledgling American states adopted not only England's common law, but its language as well. Nonetheless, criticism of legal language continued. Thomas Jefferson complained about the verbosity of statutes, their endless tautologies, and "their multiplied efforts at certainty by *said*s and *aforesaid*s." Yet American legal language ended up being very similar to its English parent.

Clearly, the legal profession has tended to be quite conservative, especially in the past. But old habits and tradition cannot fully explain why modern lawyers persist in using archaic jargon passed down over the centuries. Actually, lawyers can be quite creative and innovative when it suits their purposes. They have readily coined neologisms like *palimony* (alimony paid to a "pal" or unmarried partner) and *hedonic damages* (money damages for loss of the pleasure of life). And, as we have seen, lawyers can speak eloquently and very understandably to jurors during trial. If legal documents are inscrutable - as many are - it is more than a matter of tradition.