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BASIC LEXICAL AND SYNTACTIC FEATURES OF MODERN LEGAL ENGLISH

This article is devoted to the study of nature of modern legal English. It describes main characteristics of legislative and court language from the point of view of linguistics. The article highlights specific features which differentiate legal English from the language for general purposes. The author's standpoint is that to comprehend context in juridical literature is to understand the history of the legal system of England and the concept of how it differs from the native one, because its lexical, morphological, grammatical and syntactic structures are the result of influence of past historical events and circumstances. It is stated in the article that lexical peculiarities of legal English with its terminology represented not only by pure legal terms, also known as technical terms, but also by archaic and foreign words may become a thing for a law student; meanwhile synonymy and idiomatic character of legal terms lead to redundancy of conceptual meanings. The other linguistic problem studied is "deviant" grammar rules that legal English follows and an odd turn of syntax that formed an exquisite style of legal documents. The above mentioned features of legal English, in particular, the complexity of the court language and instructions, sparked criticism of some lawyers who organized the center of The Plain Legal English. They considered the archaic elements of language of law to be often imprecise and launched a campaign against using them. Its supporters have made many attempts to eliminate the obscurity of legal terminology and encourage the use of plain language in all legal and administrative documents. Nevertheless, centuries-long linguistic habits strategically used by experienced lawyers, despite terminological complexity and ambiguity to the lay audience, give clear evidence to the fact that more accurate words help to gain credibility of the clients they speak on behalf of and communicate constitutional rights and obligations and court opinions. The author concludes that the acquired and preserved throughout the centuries legal English, with its numerous lexical, grammatical and syntactical peculiarities and deviations from modern English has become a specific sublanguage which perhaps may undergo some updating with a course of time and in case of persistent juridical need, but will, in any way, stay an effective linguistic tool for lawyers to help them interpret the law and apply it in practice.

Key words: *legal English, Latinisms, archaisms, conceptual meaning*

Розуміння лексичного матеріалу, синтаксичних і стилістичних особливостей юридичної англійської мови неможливе без попереднього вивчення історичних витоків становлення англійської юридичної системи і визначення її відмінностей від вітчизняної. У статті проаналізовано особливості термінології та деякі граматичні властивості підмови. Виділено, що використання таких історично укорінених складових юридичної англійської мови як синоніми, ідіоми, латинізми, архаїзми приводять до її лексичної надлишковості. Спроби прибічників Руху за просту юридичну мову, спрямовані на усунення двозначності та незрозумілості деякої юридичної лексики, не можуть докорінно змінити усталену систему, оскільки більшість юристів вважають, що вони приведуть до неточності чи викривлення концептуального значення термінів, а отже – помилок правосуддя.

Ключові слова: *юридична англійська мова, латинізми, архаїзми, концептуальне значення*

Освоение лексического материала, синтаксических и стилистических особенностей юридического английского языка невозможно без предварительного изучения исторических истоков формирования английской юридической системы и определения ее отличий от европейской. Проведен анализ особенностей терминологии и отдельных грамматических явлений подъязыка. Выделено, что такие его составляющие как синонимы, латинизмы, архаизмы, идиомы ведут к его лексической избыточности. Попытки сторонников Движения за простой юридический язык, направленные на устранение двусмысленности и неясности некоторой юридической лексики, не могут в корне изменить сложившуюся систему, поскольку большинство юристов считают, что они приведут к неточности или искажению концептуального значения терминов, а значит – к ошибкам правосудия.

Ключевые слова: *юридический английский язык, латинизмы, архаизмы, концептуальное значение*

Master of the Rolls Lord Denning said, «Words are the lawyer's tools of trade». If to paraphrase his words it is possible to define lawyers as people with high verbal skills in legal language because lawyers speak not on behalf of themselves but of their clients, i.e. they must choose more accurate words to gain credibility of their clients, on the one hand, and sound confidently and professionally, on the other.

It is a proved fact that legal English differs from the general language which means lawyers should acquire the needed legal vocabulary, basic grammar structures and grammatical accuracy with considerations of style so that they can be prepared to work both with general and narrowly-specialized

legal literature in English (Deryugina, 2017; Veretina-Chiriach, 2012; Tiersma, 2000).

The article outlines main characteristics of the lexis, syntax and style of legal texts in English because legal English is one of the obligatory subjects almost on every academic program of Ukrainian institutes and universities training specialists in law and may help students understand better the structure and functioning of the English legal system.

As it was mentioned, legal language has specific lexical features with the terminology making it very difficult to be comprehended by the lay audience. If one opens a legal agreement or provision in English s/he would be surprised by somewhat different way of delivery. It is a question of terminology, syntax and style used which make legal documents sound somewhat non-natural and archaic to people without legal education, to say nothing of Latin and French borrowings which turn up the pressure and, in fact, impede communication for non-lawyers.

Firstly, it should be born in mind that to read and understand legal literature, students must understand the concept of how the legal system of England differs from the native and American ones. For example, the absence of the legal profession division in English civil law jurisdiction and its inquisitorial character, or peculiarities in legal career path, even the welfare and respect to English judges – all these interesting and surprising facts may be used to gain a better understanding and heighten students' interest to the language.

Furthermore, lexical peculiarities of legal English may become a thing for any student independent of the level as this sublanguage overlaps more with Business than General one. Terminology embracing technical legal terms, archaic and foreign words is the cornerstone of legal English.

Technical terminology comprises words referring to the professional field of activity. They evolved in a try to convey specific meanings in the context of law, e.g. *automatic stay* – an injunction that automatically stops lawsuits, foreclosures, garnishments, and most collection activities against the debtor the moment a bankruptcy petition is filed; *writ* – a written court order directing a person to take, or refrain from taking, a certain act; *antenuptial agreement* – a legal agreement between two people who are about to get married setting out how the couple's assets will be divided between them if they later divorce. There are many cases when words from general English acquire new status and become technical terms in world of law, as in this example with the word *slander*: «In plain English, it is a formal way of saying to agree. In the Supreme Court usage, it means: I agree with what the other Judge decided, but for completely different reasons... And a long and detailed list of those reasons will follow» (Jordan, 2014).

Archaisms function in written legal documents to avoid multiple repetitions, being, in a sense, phrases squeezed into one word, e.g. *hereinafter* – in a subsequent part or from this point of in this document, statement,

heretofore – until now, *thereupon* – upon that thing, point etc. One can still come across imprints of old-fashioned morphology, as in *further affiant sayeth no* meaning that a person testifying before the court do not have anything else to add about the matter.

With the aim of determining opposite relationships between words in legal English, there has morphologically caught on a specific way of word-building. It is also achieved by adding Latin endings *-er/-or* and *-ee* to English nouns. If to generate a general meaning of these endings, *-er/-or* denotes the doer of the action and *-ee* implies something or somebody this act is aimed or directed at, e.g. *assignor* – a party who assigns something to another party and *assignee* – a party to something is assigned.

Foreign terminology comprises Latinisms and words of French origin. French borrowings become ingrained in the vocabulary of legal English to the extent that they are considered originally native English terms, e.g. *judge* from Old French «*judge*» (one who declares the law), *fraud* from Old French «*fraude*» (deceit). However, one of the most vivid features of legal English is a widespread practice of using of Latin phrases and expressions. The quantity of Latin makes it quite noticeable in the English legal terminology which is explained by the fact that ancient Rome's legal system has been rather influential over the legal systems of most western countries that they had once conquered. One can face the necessity of learning this dead language to be able to comprehend legal contexts, e.g. *ad hoc* – for one purpose only, as an attorney represents a client only for one action or even for only one hearing, *compensatio morae* – a delay in payment or performance on the part of both the debtor and the creditor.

However, there has been a continuous argument as to the necessity of usage of Latin in modern legal English supported by The Plain English Movement (Law words, 1995). They insist on avoiding Latin as «It is an obstacle to effective communication and is often imprecise» and have many followers among lawyers. So, scientists try to find English equivalents that can be substitutes for Latin ones, e.g. *delictum* – tort. But is not possible to omit all the Latin terms in English because sometimes it is not possible to find an adequate synonym in modern language instead of the old Latin term as with «agreement» expressed in Latin with the terms *contractus*, *pactum*, *consensus* and *stipulatio* «all coinciding semantically, yet, according to their legal definitions, they are different concepts» (Ristikivi, 2005: 202).

One more lexical peculiarity of legal English is synonymy. This phenomenon resulted from the influence of two above mentioned foreign languages at different times. There exist quite a lot of synonymic rows with the words denoting one and the same legal concept, as in this example: *clause* – *provision* – *paragraph* – *article*, where *clause* is a section of a legal document; *provision* – a particular requirement in a law, rule, agreement, or document; *paragraph* – a part of a text with separate ideas; *article* – a paragraph or section of any writing such as each portion of a will, corporate charter, or different

sections of a statute. There are also idioms consisting of two synonyms where both English and borrowed word (though redundant, in fact, as to its conceptual meaning) go hand by hand supporting each other, e.g. *act and deed, custom and usage, leave and license*. Moreover, even triplets happen in certain legal documents because of slow changes and reluctance of lawyers in the issues concerning transformations in the lexical system of legal English, e.g. *dispute, controversy or claim* meaning “dispute”.

An additional feature of legal English is the usage of phrasal verbs which play an important role. They are quite numerous and can be encountered in official documents and correspondence. Although comprising a well-known verb, they can be mischievous because a preposition or an adverb following them changes their meaning sometimes to a little extent but in some cases – to the full, e.g. *adhere to* – to act in the way that a particular law, rule or set of instructions says that you should.

Traditionally, one more group of words, close to legal terms of art is differentiated in legal English. These are also technically precise words but used exclusively by lawyers. They comprise archaisms and highly specialized terms, and are usually discriminated as jargon words, e.g. *emoluments* – all earnings, including salaries, fees, wages, profits and benefits. In fact, they can be substituted by plain words so that their meanings would lose their obscurity to the laypeople.

As to the word order, in written legal documents it differs greatly from conventional English one. It was formed in an attempt to blindly follow old Latin legal documents and records so that no conceptual meaning could be lost and no term interpreted otherwise while rendering thoughts into English. It resulted in the unstable position of the elements of the English sentence that, unlike Latin, practices fixed word order. It led to free movement of elements around the sentence when not only single words or phrases but even clauses of the sentence take next positions to the words they modify/determine to preserve the meaning in an accurate way.

The extreme length of legal documents sentences also adds to the obscurity of meaning distracting attention from the main idea by numerous clauses and clarifications. The following paragraph from the UK Last Will and Testament (Gift) Form serves the best example to illustrate specific features of written legal English with its endless sentences and long (in this pattern conditional) clauses inserted inside the other clauses: «I APPOINT [Name] having his permanent residence at [Address] to be the Executor of this my Will provided he shall survive me by 30 days but *if he shall predecease me or otherwise fail to survive me by 30 days or otherwise be unable or unwilling to act* then I appoint [Name] having his permanent residence at [Address] to be the Second Executors and Trustees of this my Will *hereinafter together called my Trustees* which expression shall mean the Trustees or the Trustee for the time being of this my Will whether original additional or substituted or where the context requires my Personal Representatives for the time being» (Last

Will, n.d.). Peter M. Tiersma, one of the US leading scholars of law and language, gave the following assessment of this phenomenon of legal word order, «Perhaps this does decrease the possibility of ambiguity, but it simultaneously reduces comprehension» (Tiersma, 2000: 66).

Researching legal English from the point of view of grammar, the following peculiarities should be singled out. In most cases Present Simple and Past Simple are used, e.g. «The undersigned *does* hereby irrevocably constitute and *appoint* [Name of the Attorney], having its permanent business address at [Address], as lawful and true Attorney to transfer the said stock, or debenture, as the case may be, on the books of said Company with full power of substitution in the premises» (Stock Power, n.d.). Modal verbs acquire new meaning in the sphere of law, for example *may* in legal documents is a synonym of «to be entitled to», while *shall* denotes «to be obliged», e.g. «The Principal declares that a person who deals with the Attorney in good faith *may* accept a written statement signed by the Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact» (Specific Power, n.d.); «It is agreed between both the parties that the said Lease Agreement *shall* be extended for a further period of [Years] years (Additional Term) with all the rights and obligation in favour of the Lessee as provided in the said Lease Agreement» (Commercial Lease, n.d.).

However, the most prominent features of legal grammar are the usage of the Passive Voice, Subjunctive Mood, verbal nouns, Infinitives, Gerunds, Participles and, especially, their constructions which could be encountered in every pattern sentence cited in this paper and due to which legal texts sound so slow-paced and incoherent, e.g. «*Conceding* that the work is a ‘substantial work of construction’, that is not inconsistent with its *being* a necessary repair for *the carrying out* of which the landlord was entitled *to access* in terms of the leases» (Janigová, 2017: 7).

P. Tiersma stated that English legal language is too complex and ordinary public would never be able to comprehend all its aspects perfectly. Furthermore, he asserted that «the problem is not just comprehension of individual words» but the fact that even jurors sometimes could not understand their task because of the complexity of the court language and instructions as it was with 1979 James P. Free case (Tiersma, 2000).

To sum it up, legal English is a powerful linguistic weapon of lawyers. Its extraordinary vocabulary formed and developed under the influence of multiple historical events primarily sets it apart from general English. The abundance of characteristics headed by the limited subject matter makes it a linguistically legitimate separate sublanguage. Among the apparent differences of main features from the other systems of communication, multiple borrowings, terminological complexity and ambiguity, «deviant» grammar rules, unordinary word-order and an exquisite style should be singled out. It is possible to call legal English a set of centuries-long linguistic habits which are persistently used by experienced lawyers closely following institutionalized

strategy that newcomers to the world of law should acquire to become connoisseurs of law and sound professionally.

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**ОСНОВНІ ЛЕКСИЧНІ ТА СИНТАКСИЧНІ ОСОБЛИВОСТІ
СУЧАСНОЇ ЮРИДИЧНОЇ АНГЛІЙСЬКОЇ МОВИ**

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**ОСНОВНЫЕ ЛЕКСИЧЕСКИЕ И СИНТАКСИЧЕСКИЕ
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