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## Chapter III

# Features of legal English

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### Introduction

In this chapter we will look at some of the most important features of legal English. Although we have already mentioned many of these in the previous chapters, here we will try to provide a more schematic framework to understand them better. We will first look at the different kinds of legal English vocabulary in an attempt to categorize the various sets of data. We will also examine other linguistic features of legal English focusing on the nature of such features and their genre distribution. The discussion in this chapter is framed by a number of different principles: first, we will try to make sense of what has already been said about the characteristics of legal English by reviewing scholarly opinion; second, a wide range of definitions from various dictionaries (as well as Italian translations when necessary) will be provided to illustrate a number of salient examples (to be used together with the Glossary at the end of the book); finally, we will look at various examples of the words, expressions and other linguistic features in use by consulting the corpora introduced in Chapter 2. Before we look at the individual features, it is important to reiterate what has already been highlighted in the previous chapters: legal English is not a monolithic entity but presents a wide and varied range of genres. While we arguably need to list and describe the most important features for a more complete 'tool box' when we read a legal English text, we should not let such lists limit our approach to the subject matter. One of the first things we should do when looking at any legal English text is make an attempt to determine the genre, so that we can consider what we already know about this type of text (e.g. *Are we dealing with a contract? legislation? a witness statement?*). If we already know something about the genre, then we probably also know the types of feature we are more likely to encounter. Similarly, after we have studied the various features of legal English in this chapter, we should have a better understanding of which genres are the most widespread, or which are limited to just one or two genres. Take, for example, two widely cited features of legal English: the suffix pair *-er/-or* ~ *-ee* (such as *employer/employee*) and the use of the modal *shall*. If we simply accept the notion that legal English is characterized by these two features, we might expect to find them in any legal text that we read. When confronted with reality, however, we understand that such forms are much more common in certain genres of legal document (such as contracts in the former case and legislation in the latter), whereas they may be much less common in other genres such as judgments and opinions.

## 1. Lexical features of legal English

*[...] certain characteristics of the language of lawyers, especially the legal vocabulary, do indeed tend to enhance precision. Though not as exact as many lawyers claim, technical terminology promotes communication within the profession by allowing lawyers to express in a word or short phrase what would otherwise require a much longer explanation. But this precision comes at a cost [...] unusual vocabulary may alienate those who are not part of the profession and may be difficult for them to understand. (Tiersma, 1999, p. 3)*

In the quote above, Tiersma focuses on one aspect of legal vocabulary: how lawyers use certain words and expressions to be more precise. He also pinpoints another important aspect of legal lexis, that is, that while technical terminology may make communication among legal professionals easier, it comes “at a cost.” In fact, it can create distance between lawyers, judges and the legislation itself and those who are most affected by these words: the general lay public. Tiersma, here, is also focusing on one of the most distinctive aspects of legal English, vocabulary or lexis. Such lexis includes obscure Latinisms (*res judicata*), words of Anglo-Saxon origin (*writ*), unfamiliar terms from (old) French (e.g. *estoppel*, as we have seen above), as well as words that look like ordinary English but have a different meaning in legal English (e.g. *construct*, which, in legal parlance, generally refers to the act of interpreting or giving meaning to a statute or the language of a document). Such terminology is employed by the legal profession in the preparation of legal documents or for communication within different fields of practice. Yet, at the same time, the very words that are intended to make legal communications and documents easier to understand can challenge both professionals and non-professionals and create confusion. All of these words, however, have one thing in common: they are determined by the law itself, i.e. their meanings are dependent on how the legal system works. As Schauer (2015, p. 35) explains, to understand many legal concepts you need to understand the law itself, thus “[i]f you want to know what ‘interpleader’ means, you need to know about the law of interpleader.” Echoing Jackson (1995), Cao (2007, p. 17) stresses this point further: “[t]he words make sense only within the context of the legal system itself. Understanding an item of the legal lexicon requires knowing the legal system.” In this section we will organize the various types of English legal words and expressions into categories. Below I provide a possible classification of legal lexical categories, each of which will subsequently be discussed in more detail:

1. legal homonyms
2. technical legal lexis
3. legal Latinisms
4. jurisdiction-specific legal words (e.g. US vs. England and Wales)
5. short forms (acronyms)
6. proper names
7. jargon

## Unit II

### Studying the law

In this unit we look at studying law in the United States and Great Britain. We will examine some of the career paths that a law degree can make possible. Before you begin the chapter, reflect on the answers to these questions:

- What professions can you enter with a law degree in Italy? What about in other countries?
- What courses do you study as part of a law degree in Italy?
- How do you qualify as a lawyer in Italy? Do you have to pass the bar exam?

#### VOCABULARY 1: Legal careers

Most people choose to study law because they want to work as a lawyer, but there are many other professions that law graduates can choose from.

LOOK AT THE LIST OF PROFESSIONS BELOW AND DECIDE WHICH PROFESSIONS REQUIRE A LAW DEGREE CHECKING YES OR NO. IF YOU DO NOT KNOW FOR CERTAIN CHECK NOT SURE.

Profession	Requires a law degree		
	yes	no	not sure
1. <i>lawyer</i>			
2. <i>politician</i>			
3. <i>solicitor [UK]</i>			
4. <i>barrister [UK]</i>			
5. <i>judge</i>			
6. <i>Justice of the Peace</i>			
7. <i>magistrate</i>			
8. <i>teacher</i>			
9. <i>notary public</i>			
10. <i>mediator</i>			
11. <i>paralegal</i>			
12. <i>chartered accountant [UK] / certified public accountant (CPA) [US]</i>			

Now read the notes about the professions and look up any words you are unfamiliar with.

- As we can recall from 3.3 in the first part of the book, a **lawyer** is a general term for "a person who practises/practices or studies law; an attorney or a counsellor (US); solicitor or barrister (UK)." In the US a lawyer can be litigating or non-litigating. A **solicitor** in the UK generally does not represent clients in court while **barristers** do.
- A **Justice of the Peace** is a non-professional (lay) magistrate who is appointed to hear minor cases, grant licences/licenses, perform marriages (in the US) in a town, county, or other local

district.

- A **magistrate** is a civil officer who administers the law, and who conducts a court that deals with minor offences and holds preliminary hearings for more serious ones.
- A **notary (public)** is a person who is authorized to perform certain legal formalities, especially to draw up or certify contracts, deeds, and other documents for use in other jurisdictions
- A **mediator** is a person who attempts to make those involved in a conflict come to an agreement.
- A **paralegal** is a person who is trained in subsidiary legal matters but not fully qualified as a lawyer and provides support to solicitors and barristers in a variety of law firms, chambers and in private, public sector and not-for-profit organisations.
- A **chartered accountant** can audit accounts and provide information about financial records. This might involve financial reporting, taxation, auditing, forensic accounting, corporate finance, business recovery and insolvency, or accounting systems and processes. This is similar to a **CPA** in the United States.

### READING 1: How to become a solicitor in England and Wales<sup>1</sup> [UK English]

LOOK AT THE STATEMENTS BELOW AND THEN READ THE TEXT ABOUT BECOMING A SOLICITOR IN ENGLAND AND WALES. DECIDE WHETHER THE STATEMENTS ARE TRUE, FALSE OR DOESN'T SAY. CORRECT THE FALSE STATEMENTS.

Statement	True	False	Doesn't say
1. Barristers in England and Wales do not represent clients in court.			
2. All solicitors basically do the same type of work.			
3. A solicitor's work may involve drafting documents for court.			
4. Part of a solicitor's responsibilities involves negotiating with a barrister.			
5. If you don't graduate in law with a Bachelor in Law you can't become a solicitor.			
6. Securing a training contract, the third stage in becoming a solicitor, is automatic.			
7. A GDL is for graduates in law, who want to have more skills before training.			
8. A graduate in languages can still become a solicitor by taking the GDL.			
9. A GDL lasts a year for all types of student.			
10. If you want to become a barrister you have to do the BPTC.			

In England and Wales there is an important difference between solicitors and barristers. Basically, barristers represent clients in a court of law and solicitors deal with all other legal matters. Here are some of the main duties of a solicitor (but you should remember that the actual work done by solicitors depends on the area of law they practise):

<sup>1</sup> Adapted from various sources including <https://www.llmstudy.com>, <https://www.oxford-royale.co.uk/articles/choosing-barrister-vs-solicitor-career-paths.html>, and <http://www.bcu.ac.uk/law/international/becoming-a-solicitor-or-barrister>.