Conjugosis and Declensia

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Writers have a relationship with the conventions of language like that of two scheming criminals: Although each needs the other, they cooperate only so long as both find it useful. Sometimes the smarter of the two—the writer, we hope—defies the other to his or her advantage.

A good example can be drawn from that most basic of linguistic conventions: the parts of speech (nouns, verbs, etc.). Calvin, of “Calvin and Hobbes” fame, who understands defiance quite well, knows intuitively how it applies to language. In a cartoon strip a few years ago, Calvin observed to his buddy Hobbes, “I like to verb words.” He then explained, “I take nouns and adjectives and use them as verbs. Remember when access was a thing? Now it’s something you do. It got verbed.”

This form of disrespect for linguistic categories is the mirror image of the more familiar phenomenon of “nominalization”—turning verbs into nouns (like investigation, determination, failure, and so on). Lawyers in particular are regularly condemned by writing experts for nominalizing, which weakens their prose by turning interesting, concrete actions into dull, abstract concepts.

The critical question is whether we can do anything to stop the spread of these diseases. Can Calvin be cured of his conjugosis? Can lawyers overcome their declensia? Or are these the right questions after all? What is wrong with these forms of defiance anyway? Are they always wrong, or are there sometimes good reasons for verbing nouns and nouncing verbs?

The argument against the more common disease, nominalization, rests on the different psychologies of readers and writers, especially legal writers. Readers, on the whole, remember actions better than they remember abstract concepts. If writers then, want to make their writing interesting and memorable, they should avoid turning actions into concepts by turning verbs into nouns. They should write, “The parties intended that disputes should be resolved by applying New York law in a New York forum,” not “The intention of the parties was that the resolution of disputes should be governed by the application of New York law in a New York forum.” The problem is that an advanced education, particularly in law school, creates a different psychology that tends to dominate writers in the so-called professional classes. For youngsters, all the world is composed of actions—comings, goings, doings. As we get older and more educated, however, we realize that the world is (and must be) organized around groups or categories of actions—in other words, concepts. This process reaches a zenith in law school, where all human interaction is categorized under conceptual course titles (contracts, torts, securities, and so on) and the outlines for the courses are further organized around concepts rather than actions.

Hence, nominalization is second nature to lawyers. They are all trained to think in terms of the conceptual categories that compose the law, rather than the actions that compose life. For lawyers then, nouns have a special solemnity and importance; they suggest completeness (“The police conducted an investigation.”). Verbs, on the other hand, signify messiness in need of order; they sound analytically immature (“The police [merely] investigated.”).

Are lawyers therefore semantically doomed by their training and psychology? Not at all. First of all, lawyers who are writing to other lawyers ought to relax a bit about the nominalizations that inevitably slip into their prose. If the reader is a fellow lawyer, reification and abstraction will not seem so unusual or difficult.

Second, lawyers find it much easier to break the habit of nominalization if they understand what is at stake. This means understanding why the traditional advice—write about actions whenever you can, use strong verbs, and so forth—is, generally, good advice. Most legal writers do nominalize far too often, without any real justification, and the disease makes their writing ponderous, long-winded, and flabby. But understanding what is at stake also means understanding when the itch to nominalize (or to “verb”) is justified—when, in fact, a little conjugosis or declension can improve your prose. For example:
Playfulness and ingenuity can be good things. Particularly astute writers, like Calvin, will occasionally startle the reader with a "verb"ing" that captures a newly identified type of action. To be "Borked," for example, is to be subjected to a politically motivated and biased review by a Washington bureaucracy (or, if you prefer, to be demasked and revealed in your true colors). Sometimes, in fact, the world changes in a way that almost requires an innovative use of language. Take the verb of "access," the phenomenon at which Calvin's creator—along with many others—is poking fun. The world brought forth computers and then demanded a word that accurately describes what happens when you summon information from them. "Retrieve" or "find," the most obvious candidates, are misleading, because they suggest that the information was lost or hidden or stored where it was not easy to acc ... —uh, retrieve. In the context of computers, to "access" is not a bad coinage. Those who automatically sneer at it because they think nouns should never become verbs ignore our language's long history of useful innovations. (William Safire, in a recent column in the New York Times, even defends—tongue partly in cheek—his use of "interoffice" as a verb.)

Sometimes we have to write about concepts, even when our readers would prefer we did not. The issue may not be what Joe said to Jack and what pieces of paper they exchanged, even though our client Jack insists on telling us the story over and over. The issue may be whether their actions fit into the conceptual category of a contract. Or, if an investigation is defined by a police manual as a specific set of actions, we cannot always write "the police investigated" instead of "the police conducted an investigation."

Once the legal writer has reached this level of sophistication, it is time to go one step further. Leave behind the question of when it is appropriate to make nouns and verbs trade places, and deal instead with the following dilemma. Sometimes we have to focus on a concept, and we therefore have to build sentences around abstract nouns (which may be simple, old-fashioned nouns, not nominalizations). But we may want to give the prose some extra punch and vitality. Then we should defy linguistic categories in a different way than Calvin suggested: We should treat the abstract concept as if it is a live, active creature. One example of this technique is so common in legal writing that we seldom notice it is being used. When we want to emphasize that our argument is the only one that will produce a just result (which seems to be always), we personify justice and put it to work: "Justice demands ..."

Here's another way legal writers often give life to an abstract concept—they make public policy the actor. Thus, a statement originally drafted as "Compensation for the California damage claimants remains a significant public policy concern ..." reads more forcefully when revised as "If California damage claimants are to receive adequate compensation, as public policy dictates they should, ..."

And finally, a master at work. Watch what Justice Robert Jackson does to the inherently boring concept of equity:

Equity came to the relief of the stockholder, who had no standing to bring civil action at law against faithless directors and managers. Equity, however, allowed him to step into the corporation's shoes and to seek in its right the restitution he could not demand in his own. It required him first to demand that the corporation vindicate its own rights, but when, as was usual, those who perpetrated the wrongs also were able to obstruct any remedy, equity would hear and adjudge the corporation's cause through its stockholder. ...

Equity has become John Wayne.

As Calvin and Hobbes exit (yes, we know; you decide about this one) the cartoon strip described at the beginning of this article, they reach conclusions that are humorous but not inevitable. Calvin: "Verbing weirds language." Hobbes: "Maybe we can eventually make language a complete impediment to understanding." Nah. As long as our language remains rooted in conventions, the occasional—let's repeat that: the occasional—well-chosen verb or nowng is nothing to be afraid of. It can serve several purposes, not the least of which is to remind us that we should be smarter than the conventions, even if we have to cooperate with them most of the time.

\footnote{Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541, 548 (1949).}

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