

## The Ten Commandments of How to Not Write in Plain English

(otherwise known as The Elements of Legalese)

By T. Selden Edgerton©

**M**any years ago Moses trudged down Mt. Sinai and told his assembled flock: "I got him down to ten, but adultery is still one of them." Ever since, people have written about the Ten Commandments of This and the Ten Commandments of That. Since legalese has been around for 400 years, it's mildly surprising that no one has ever thought about setting down the Ten Commandments of Legalese. This article fixes that.

*Commandment I: PAPER SIZE* — Never use standard 8½ x 11 inch letter size paper. Always use legal size (8½ x 13 or 14 inch). If possible, mix as many different sizes into the same document as you can. Example — 8½ x 13 followed by 8½ x 14 followed by 8½ x 6, and if you absolutely have to, a few pages of 8½ x 11. This assures that whoever copies, handles or reads the document will have the maximum possible trouble with it. It will look complicated.

This is important because complicated looks impressive. Never risk presenting all your thoughts in one neat, easy-to-read-and-handle 8½ x 11 inch size package. If you do, the reader will have no trouble reading what you wrote and will soon realize why you graduated last in your law school class.

*Commandment II: OBSOLETE FORMALISMS* — Never start or end with a commonly accepted opening or closing. Always use some obsolete formalism such as "Know All Ye Men Present," "Witnesseth," "Now Comes" or

"Wherefore." This adds peculiarism to your writing. Peculiarism diverts attention from the incomplete facts and incorrect conclusions of law that you asked your clerk to write for you only 45 minutes before the brief was due.

*Commandment III: OLD ENGLISH WORDS* — Always fill your writing with Old English words such as "hereby," "thereof," and "whereinbefore."

Use the BARF test to determine whether your writing contains enough Old English words.

The BARF test was invented by Lord Edward Barf, an English barrister of the early 18th century. In the original version of the test, the renowned barrister simply had a nonlawyer read the document until the nonlawyer said, "I've had enough, good Lord Barf." Scoring depended upon the number of seconds it took for the reader to say this. A score of one second was considered perfect. A score of five minutes was considered very poor, even dangerous. It meant that the reader still had enough stomach to decipher the writing.

Given enough time, the reader was sure to discover the inevitable truth: That the writing made absolutely no sense whatever.

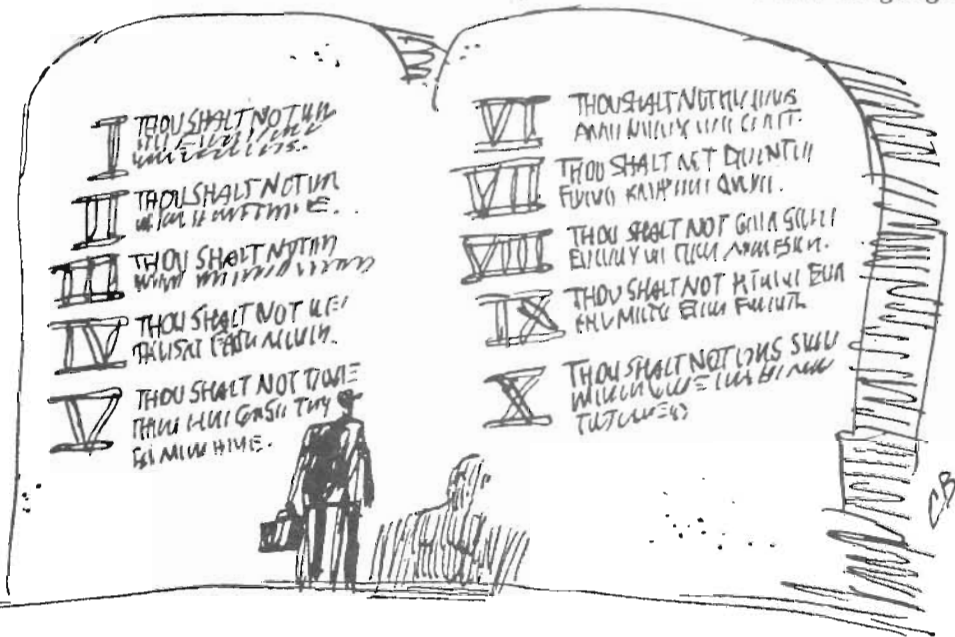
Down through the years, changes have come about in the reader's response. Nowadays the reader simply says "Good Lord, I'm going to barf."

*Commandment IV: REDUNDANT PHRASES* — Never use one word when two will do. Redundant phrases,

like the Canons of the Code of Professional Responsibility, should be memorized. There are a hundred redundant phrases that every lawyer must know. The first is "acknowledge and confess." Never never say just "acknowledge." Always say "acknowledge and confess." If you have trouble memorizing redundant phrases, write them on the inside of your shirt cuff — just like you wrote the Canons of the Code of Professional Responsibility before you entered the bar exam test room.

*Commandment V: NEIGHBOR'S SPOUSE* — Do not desire your neighbor's spouse. This was one of Moses' Original Ten. It has nothing to do with plain English or legalese. But according to statistics compiled by the Family Law Section, it is the least observed of the Original Ten in Michigan. Therefore it could stand to be repeated. This is a modern version written in plain language. It applies to all states except California and Alaska. The Californian version is "Do not desire your neighbor's live-in-boyfriend or girlfriend, or both." The Alaskan version is "Do not desire your neighbor's caribou."

*Commandment VI: SHORT SENTENCES* — Never use a short sentence. One of the best-kept secrets of the legal profession is a long-suppressed unpublished monograph by Sigmund Freud. In it Freud explored the subconscious relationship between lawyers and legal writing. Freud discovered that lawyers subconsciously



regard a sentence as a phallic symbol. This is why most lawyers measure their sentences with a yardstick instead of with words.

**Commandment VII: ACTION VERBS** — Never use action verbs. Instead, make nouns out of your verbs. This is called nominalization. "I made a coming, I made a sighting, I made a conquering" sounds sophisticated and impressive. If you simply say "I came, I saw, I conquered," nobody will be impressed, much less remember what you said.

**Commandment VIII: PASSIVE VOICE** — The passive voice should always be used. Never use the active voice, as in "Always use the passive voice." The difference is obvious to the most benighted reader.

**Commandment IX: POSITIVE FORM** — Never use a form that is not negative. It is not unlawyerly to refrain from ceasing to desist from not omitting the negative, but it is not necessarily unclear whether it is a contradiction to fail to do so. Nevertheless, do not hesitate to follow the opposite advice whenever the contrary is not otherwise without affirmation.

**Commandment X: PERSONAL PRONOUNS** — Avoid them. Always refer to people in the third person. For instance, I would never refer to me as me and you as you. "I" is too vain, "You" is too familiar. I would call myself "the writer" and you "the reader."

**Commandment XI: SIMPLE WORDS** — Never utilize a simple word. There are two types of lawyers in the world — those who are on an ego trip, and those who are not. Ego trippers are interested in prestige. They feel that if they use long and complicated words, people will think that they went to the most prestigious law school<sup>1</sup> in the entire world. Always use big words. That way people will never suspect that you got your law degree from a correspondence school.

**Conclusion**

A careful reader will notice that there are actually eleven Ten Commandments. This is done on purpose because it is considered unlegalese-personship to clearly label any document. Always keep the reader guessing. The most hallowed example is the immortal Writ of Habeas Corpus. Never use a clear title such as "Order to Produce the Person." Furthermore, you may note the nonparallel construction of the titles of the Commandments. Some of the titles are things you should do and some of the titles are things you should not do. This was done to throw you off balance and to make it easier for me to bill a reasonable fee for such a ridiculously short piece of work.

To remember these commandments, simply remember this mnemonic: POOR SAPPS of legalese. This mnemonic is composed of the first letters, in their respective order, of Commandments I through IV and VI through XI. This mnemonic does not include Commandment V (about the neighbor's spouse). A mnemonic won't make any difference on that one.

Remember, you are what you write. If these simple aforementioned commandments are carefully followed you will never be accused of writing in plain English. Till the day your pen runs out of ink you will remain the apathetic, stubborn, pompous ignoramus that your writing clearly shows you to be. ■



T. Selden Edgerton pathetically trying to look like Charlton Heston.

**Footnote**

1. Now we know which type you are