

## BINOMIALS IN LEGAL TEXTS

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*One of the typical elements of English texts is binomial expressions. They have been among the most marked and durable features of the legal English language. The article deals with the study of the nature of binomials, their definitions and classifications. It is in particular focused on the analysis of binomials in legal texts, their role and importance. A range of existing terms denoting the concept, as well as definitions of the phenomenon are discussed. Given the existing definitions the typical features of binomials are characterized. In particular, any binomial is a combination of two or more words which typically belong to the same category and are joined by a syntactic device (usually “and” or “or”). It is revealed that in legal texts binomials serve several purposes: they are a style marker in the legal language; add accuracy, contribute to precision and unambiguity, promote clarity and facilitate understanding in multicultural society; add weight and stress on the phrase; ensure comprehensiveness that suits the needs of lawyers who want to foresee all possible situations; play a role which neither of its elements does alone. At the same time, it is noticed that quite often binomials overload the text, being a tribute to tradition and serving no specific purpose. From a legal standpoint, every word in a legal text has its meaning. Word strings often have no fixed meaning, sometimes they are not only vague but quite frequently indeterminate. This paper proves that vague wording of a legal text, whether a law, a contract or an international agreement, may cause misunderstanding, require further interpretation, or even result in a dispute. The task of a lawyer is to deliberately select words in drawing up legal texts.*

**Key words:** binomial, legal English, legal text, purpose, ambiguity, emphasis, interpretation.

### **Владика Світлана. Біноміали в юридичних текстах**

*Одним із типових елементів англійських текстів є біноміальні вирази. Вони є однією з найбільш помітних і довговічних рис юридичної англійської мови. У статті досліджено природу біноміалів, їх визначення та класифікації. Стаття, зокрема, зосереджена на аналізі біноміалів у правових текстах, їх ролі та важливості. Обговорюється низка термінів, що позначають поняття, а також визначення явища. З урахуванням запропонованих визначень наводяться типові ознаки біноміалів. Зокрема, будь-який біноміал – це поєднання двох або більше слів, які зазвичай належать до однієї категорії та об'єднані синтаксичним зв'язком (зазвичай «і» або «або»). Виявлено, що в юридичних текстах біноміали виконують кілька завдань: вони є маркером стилю в юридичній мові; додають точності, сприяють чіткості та недвозначності, ясності та взаєморозумінню в мультикультурному середовищі; додають значення та наголосу фразі; забезпечують комплексність, яка відповідає потребам юристів, які хочуть передбачити всі можливі ситуації; відіграють роль, яку не виконує жоден із їх елементів окремо. Водночас зауважується, що досить часто біноміали перевантажують текст, не переслідуючи певної мети. З юридичної точки зору кожне слово в документі має своє значення. Біноміали часто не мають сталого значення, іноді вони не тільки розпливчасті, але досить часто і невизначені. У статті доведено, що нечіткі формулювання юридичного тексту, чи то закон, контракт або міжнародна угода, можуть спричинити непорозуміння, вимагати подальшого тлумачення або навіть призвести до суперечки. Завдання юриста – усвідомлено підбирати слова під час розробки текстів документів.*

**Ключові слова:** біноміали, юридична англійська мова, юридичний текст, мета, двозначність, наголос, тлумачення.

**Introduction.** Lawyers have always been criticized for their old and archaic drafting style [7, p. 10]. Legal acts, whether they are statutes/laws, regulatory instruments, contracts, commercial acts, or international legal instruments (conventions, treaties, agreements, pacts, accords and others), abound in words and collocations typically used in this type of documents (for instance, hereinafter, hereby, aforementioned, in witness thereof, inter se, inter alia). One of the typical elements of legal texts is binomial expressions which have been among the most defining, remarkable and durable features of the legal English language.

There are various names used to denote this phenomenon: binomials, trinomials and multinomials (Y. Malkiel [17]); doublets and triplets (R. Asensio [3]), doubling (D. Mellinkoff [18]), coupled synonyms [1], word strings [7], conjoined phrases (P. Tiersma [29]), word pairs, translational equivalents and others. Other alternative terms are

rather restrictive, especially in semantic relations: paired opposites, tautological pairs or repetitive pairs (I. Koskenniemi [14]).

The term “binomial” has been widely accepted as a reference label for the phenomenon in question, especially in linguistics [26, p. 7]. The term “binomial” was used in 1959 by Y. Malkiel in his paper on irreversible binomials where he distinguished them from idioms [17, p. 113]. The term is relatively neutral and leaves the precise formal and semantic relation between the elements of the pair open. Sometimes binomials can be extended to trinomials and multinomials by adding more coordinated elements and forming enumerations and lists (for example, hold, defend and favour) [26, p. 3].

**Materials and methods.** Binomials have been widely researched cross-linguistically (S. Benor and R. Levy [5]). However, the diachronical or synchronical researches are

mere [6, p. 22]. At the same time, scholars have paid attention to idiomatic binomials, and treated them together with other types of idioms, neglecting non-idiomatic binomials [19, p. 112]. Many theorists consider binomials as coordinated word pairs, using the term “twin formula” or “freeze” (M. Landsberg [15]). However, this statement is doubted by other scholars. In this context there are works devoted to the issue of reversible and irreversible binomials (Y. Malkiel [17], S. Mollin [19]). Some scholars consider binomials as an aspect of phraseology. Sandra Mollin studied binomials from a corpus-based perspective. Most recently, binomials have been analyzed experimentally in psycholinguistics: for instance, A. Siyanova-Chanturia [24] applied eye-tracking approach studying binomials. Currently, there is a trend to consider binomials and their importance in the context of plain legal English and contract drafting. This article is focused on studying binomials in legal texts, in particular their role and purpose in legal drafting. To this end, with the help of descriptive research the existing definitions of binomials, their nature, as well as their classifications were analyzed. Comparative approach is used while investigating the importance of binomials in the law language, as well as the reasons why law-makers and lawyers prefer binomials to individual terms.

**Discussion.** The use of word strings goes back to early history. An early Anglo-Saxon linguistic tradition was the conjoining of two similar words with closely related meanings, and they were often alliterative as well [29, p. 13–15]. Alliterations were extensively used in legal language. According to D. Mellinkoff, this doubling continued in Law French in the medieval English law with some variations [18, p. 113]. The use of binomials in contracts dates back more than 500 years. At that time English and French were spoken in England. The Early Modern English (1400 to 1650) was marked by the “<...> production of binomials; that is, new terminology commonly formed by combining a native term, or an integrated loan word, and its foreign (near-) synonym” [21, p. 98]. Binomials are usually a combination of Latin, English and French words. Terms like “bargain and sale” or “breaking and entering”, “goods and chattels”, “acknowledge and confess”, “devise and bequeath” are such examples, combining a French term and a term from Old English” [4; 29, p. 32]. sometimes doublets/binomials were expanded into word strings of more than two or three words. Such mix of words from different languages significantly clarified the meaning and simplified communication in a multilingual society. However, when English became the primary language in England, contract drafters continued to use binomials as an ornamental literary style. They are common both in private contracts and international agreements.

According to M. Gustafsson, a binomial is a sequence of two words which belong to the same word class, and which are syntactically coordinated and semantically related [12, p. 123]. Maria Gustafsson focuses on the word classes represented in binomials and the position and function of binomials in the sentence. As to the syntactic behaviour of binomials, M. Gustafsson concludes that a “typical binomial” is “a pair of nouns functioning as an adverbial” [12, p. 125].

The term “doublet” used for this type of expressions was defined as a “sequence of words pertaining to the same for class placed on an identical level of syntactic hierarchy and ordinarily connected by some kind of lexical link” [17, p. 113]. This definition was explained by S. Mollin: binomials are “coordinated word pairs whose lexical elements belong to the same word class, and which do not transcend syntactic boundaries” [19, p. 126].

Inna Koskenniemi explains binomials to a matter of reference: “There are referents which are inherently dual in character. They may be things composed of two parts or containing two poles. The duality of the referent easily calls for the use of two symbols” [14, p. 108–112]. According to the above, the author refers to the use of qualitative hendiadys (doublets combining two items with different meaning, for example, law and order) and quantitative hendiadys (which contain two words expressing the same concept, for instance, rule and regulation) [27, p. 37].

Joanna Kopaczyk and H. Sauer define a binomial as a coordinated pair of linguistic units of the same word class which show some semantic relation [26, p. 3]. The authors recognize the typical features of a “core” binomial such as its (relative) irreversibility and formulaic behaviours. According to N. Norrick, binomials are binary sequences [22, p. 75].

Given the above definitions, any binomial is normally characterized by a set of features: it is a sequence of two or more words; elements in binomials, as a rule, belong to the same category and are joined by a syntactic device (usually “and” or “or”).

There are several approaches to classification of binomials. According to M. Gustafsson, binomials fall into the following categories: A and B are near synonyms that add colour and emphasis to the expression (null and void, will and testament); A and B are mutually complementary that have a dualistic nature (soul and spirit); B is the opposite of A (up and down, in person or by proxy); B is a subdivision of A and vice versa (dollars and cents); and B functions as the consequence, inevitable or possible, of A (rise and fall, shoot and kill) [11, p. 19].

According to J. Kopaczyk, who studied binomials on the basis of UK and Scottish legislation in various fields, it is a difficult task to assign a binomial to a particular group. The scholar argues that “pairs of nouns” are based on a semantic motivation, for example: complementation (time and place, proprietors and occupiers), contiguity (management and control, powers and privileges), cause and effect (investigation and report, offenses and proceedings), hyponymy (fees and expenses, money and compensation), antonymy (landlord and tenant, rights and obligations, fees and allowances), binomials proper (terms and conditions, profits and gains) [13, p. 166–168].

Many theorists argue that binomials fall into two categories: irreversible and reversible. According to S. Olsen, depending on the degree of reversibility, binomials are either typical types of coordination (“free” binomials) or untypical types of coordination (irreversible binomials) [23, p. 248]. Scholars who focus on irreversible examples of binomials categorized them as fixed expressions

(R. Alexander and U. Plein [2, p. 468]), multi-word units (J. Kopaczyk [13, p. 75]), or even idioms (A. Makkai [16, p. 140]). All irreversible binomials shall meet the criteria of institutionalization and fixedness, and sometimes non-compositionality [19, p. 17]. However, reversible binomials are not fixed, almost always compositional and differ in degree of institutionalization.

Rosamund Moon classified binomials as an example of a frame. The scholar focused on fixed expressions arguing that clusters of fixed expressions share single or common structures. These kinds of fixed expressions may be seen as realizing lexicogrammatical frames. The scientist states that there is a constraint that the two lexical elements need to belong to the same word class [20, p. 152].

In terms of word classes, binomials most frequently consist of two nouns (bread and butter, man and wife), pairs of verbs (have and hold), and of adjectives (null and void). Pairs consisting of other word classes (adverbs, prepositions) are rare.

In legal texts binomials serve several purposes. Firstly, they are a style marker in the legal language. According to the observations, in legal English binomials are five times more common than in other texts. It can be explained by the origin of binomial expressions which emerged in multi-lateral relations and cooperation.

Secondly, binomials add accuracy, contribute to precision and unambiguity. It has already been discussed that some binomials join two terms that were once distinct from each other but are no longer. As a class, binomials enjoy a unique distribution in English syntax, functioning not only as a complex phrases, but as single unit [22, p. 75]. Nowadays, the majority of binomials join synonyms or near synonyms and are used for the purpose of clarity.

Thirdly, binomials add weight and stress on the phrase. Tautologies create emphasis (for instance, cease and desist). In legal context they reflect the drafter's intention to call for taking actions, inducing acting in line with the law and its enforcement [8, p. 702]. Since law-makers are limited in tropes and devices they can use in legal texts because of peculiarities of the style, binomials are one of a few tools.

Fourthly, word strings are used to convey the meaning of all-inclusiveness, that is, to cover all possible situations and eventualities [7, p. 89]. Lawyers seek to guard themselves against any situation that may occur or will not take place in future. It can be explained by the fact that the English language is richly endowed with repetitive phrases that once had different legal consequences [10, p. 124]. The linguistic feature of binomials and word strings was developed with the evolution of common law and is related to the "preventative law", id est to prevent parties from possible litigation [7, p. 78]. Thus, lawyers try to draft comprehensive texts that cover any possible conflict situation or dispute; they seek to foresee any and every matter. The purpose of binomials in this context is to block any possible loophole for a treacherous opponent or an individual who intends to evade the law [29, p. 15].

Fifthly, binomials exhibit recurrent figurative relations from their elements to the meaning of their whole, that is

they may fulfil a textual function which neither of their members can alone [22, p. 72–73]. For instance, it is obvious that binomial "null and void" is more emphatic than word "void"; "cease and desist" is more demanding, even imperative; "any and all" seems more comprehensive.

However, very often doubling-up serves no specific purpose. It happens when binomials become popular in a language, their components become fixed. In this case a binomial is virtually irreversible. Its constituent parts have lost their original function being a tribute to tradition, an established practice or a part of legal ritualistic language [27, p. 38; 11, p. 19].

At the same time, quite often binomials overload the text. Sometimes binomials are called the most derided aspects of legal English or even legalese. According to the established practice and tradition, every word in a statute is to be construed as having its specific meaning, "a superfluous word will become a potential source of contention" [28, p. 48]. Quite often it is not clear how elements of binomials relate to each other. It happens when a binomial, or a more wide word string, is a result of compromise or trade-offs in a contentious drafting process, or when binomials used to add emphasis are not synonymous. Even joined by "and" word pairs can be syntactically ambiguous and be read as disjunctive or conjunctive (or even both) in meaning [25, p. 317].

According to some scholars, the use of binomials in any type of legal texts seems unwise [9, p. 46]. There is a trend to develop plain legal English and introduce it in drafting contracts and drawing up laws. In particular, in 1996 the UK tax office began rewriting tax legislation in plain English. A 2009 progress report noted that the office saved about 70 million pounds annually in administrative costs [1, p. 119].

**Results.** Legal drafting is a special type of art. Currently, binomials is a typical feature of legal texts and their integral part, one of the facets of official documents style. Lawyers are bound by tradition. However, binomials are not only a tribute to tradition. They serve more practical purposes. In the course of the research five main functions of binomials in legal documents were revealed. In particular, binomials play the role of a style marker in the legal language; contribute to precision, clarify the intentions of the parties; add emphasis; seek to ensure comprehensive nature and all-inclusiveness of the provisions; fulfil the function which neither of their members can alone. It is also found out that word strings often have no fixed meaning, sometimes they are not only vague or ambiguous but quite frequently deliberately indeterminate. Vague wording of a legal text, whether a law, a contract or an international agreement, may cause misunderstanding, require further interpretation and construction, or even result in a dispute. At the same time, unclear wording of the text makes room for further interpretation and maneuver that can bring competitive advantage to one of the parties of the contract or engender loopholes in legislation immaculately used by lawyers. Further research in this field should focus on legal effects caused by the use of binomials in legal texts.

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