

*Questions of Style: Legal Drafting Manuals
and Scientific Style Manuals in Contemporary English*¹

In questo articolo prendiamo in esame i manuali di stile in lingua inglese di due aree dei linguaggi settoriali contemporanei, vale a dire l'inglese giuridico (LE = 'Legal English') e l'inglese scientifico (SE = 'Scientific English'). Il nostro scopo è innanzitutto quello di individuare le caratteristiche salienti dei manuali nei rispettivi campi, per poi analizzare alcune delle principali somiglianze e differenze nei pareri e nei suggerimenti forniti nei manuali a coloro che devono redigere testi giuridici oppure elaborare testi scientifici. Il nostro obiettivo è di individuare con maggiore precisione quali strategie retoriche sono alla base della produzione dei testi nei rispettivi settori, e condizionano quindi il modo in cui tali testi vengono elaborati. Per rendere possibile tale confronto è stato necessario compilare due piccoli corpora aventi circa le stesse dimensioni, uno per i manuali giuridici, l'altro per i manuali scientifici.

1. Introduction

Written Legal English (LE) and written Scientific English (SE) are widely recognized as constituting two of the most formal genres of specialized discourse in English. Elsewhere (Seoane / Williams forthcoming) we have compared some of the changes that have taken place in recent decades in prescriptive legal discourse and academic scientific discourse in English (concentrating on the so-called 'hard' sciences exclusively), and we observed that such changes would appear to be largely a result of various socio-cultural pressures. But while the changes have affected some of the stereotypical features of each genre – such as removing the modal auxiliary *shall* from a number of legislative texts and a marked reduction in the use of the passive form in scientific texts – we

¹ We are grateful to the Autonomous Government of Galicia (grant no. PGIDIT05PX-IC20401PN), and the Spanish Ministry of Education and Science and the European Regional Development Fund (grant no. HUM2004-00940) for generous financial support.

pointed out that there are sometimes major differences in terms of the underlying reasons behind the respective changes. It was also observed that the pace of change may vary considerably between one discourse community and another. For example, within the legal sphere it was noted that changes in drafting texts were more readily accepted in Australia, New Zealand and South Africa, whereas the United States, the United Kingdom and major international bodies such as the United Nations, the European Union and the International Labour Organization were more reluctant to adopt sweeping reforms. In the scientific sphere it was noted that the decline in the use of passives was sharper in American journals than it was in British journals.

In this study we continue our analysis of these two genres, but from a different perspective, namely that of examining and comparing a number of contemporary style manuals in both the legal and the scientific fields in order to see what features are highlighted in each genre, to what extent they overlap, and whether the reasoning behind the choice of highlighting given features – and also of not highlighting others – is the same in both fields.

In the following section we briefly outline the criteria adopted in our choice of style manuals. The results of our investigation are dealt with in Section 3 and constitute the bulk of this study. This is followed by our conclusions.

2. Criteria in selecting the style manuals

Our first task was to select the manuals that would make up the body of our investigation, always bearing in mind that they had to be roughly comparable. We therefore decided to focus on contemporary manuals: in fact the oldest manual in our two small ‘corpora’ was published in 1982. A total of 20 manuals were selected altogether, ten for LE and ten for SE, though it should be pointed out that two of the LE manuals, namely Close (1998) and NSW (2000),² only amount to a few pages each.

² To avoid the repetition of long titles for texts throughout this paper, the following abbreviations will be used: Australian Office of Parliamentary Counsel 2005 = AOPC 2005; European Commission Directorate-General for Translation 2005 = EC 2005; International Labour Organization 2005 = ILO 2005; Maine Legislative Drafting Manual 2005 = Maine 2005; New South Wales

Not all of the manuals were taken into consideration in their entirety but only the parts strictly related to stylistic features. For example, as regards the selection of LE drafting manuals, the sections concerned with questions such as the legal principles relating to regulations (as found in Alaska 2005), or the difference between primary and secondary legislation (as found in EU 2005), were ignored. In SE we excluded the sections dealing with the generation of ideas, the gathering of data or the use of the relevant sources (as found in Lester 1993: Chapters 1 to 3), as well as sections concerning the actual publication process or computer aids (as found in Higham 1993: Chapters 8 and 10).

We have included a variety of manuals in terms of provenance and approach to stylistic questions, though it did prove to be somewhat difficult to compile two closely comparable sets of manuals, precisely because, when comparing LE and SE, the underlying aims for writing such manuals turned out to be quite different in certain key aspects, as will be illustrated in greater detail below. The manuals selected for LE consist of five from the United States, two from Australia, one from Canada, and two from international organizations, namely the European Union and the International Labour Organization (in the latter two cases, and also with Canada, English is only one of the official languages adopted). As for SE, five come from the United Kingdom, four from the United States and one has a combination of European and US features, since it is published in Germany and is written by US as well as German scholars; like all the others, it addresses the international scientific community.

3. A comparison of the most commonly occurring features

Once the LE and SE manuals had been selected, the next stage was to classify the types of stylistic features to be found in them. Clearly, the manuals covered a wide range of points, but we reduced the main cate-

Parliamentary Counsel's Office 2000 = NSW 2000; Oregon Office of the Legislative Counsel 2005 = Oregon 2005; State of Alaska Drafting Manual for Administrative Regulations 2005 = Alaska 2005; Texas Legislative Council Drafting Manual 2005 = Texas 2005; Washington Bill Drafting Guide 2005 = Washington 2005. Given that several of the manuals are taken from websites, it is not always possible to provide page numbers. However, some form of indication of the exact location of the part of the text referred to is generally given where possible, such as the relevant section (and subsection) number.

gories to the seven broad groupings listed below, each of which will be discussed in turn.

Our immediate observation was that there was a large degree of overlapping of theme areas covered by LE drafting manuals and SE style manuals. On closer inspection, however, several significant differences started to emerge in terms of the way the respective topics were treated, as will be made clear in the rest of Section 3. For reasons of space we do not intend to refer to every single feature mentioned in the style manuals, nor do we intend to highlight all of the similarities and differences to be found between LE drafting manuals and SE style manuals. We will thus concentrate exclusively on identifying a) the salient features of LE drafting manuals and SE style manuals; and b) the most significant areas of contact and contrast between the two types of manual.

3.1. Formatting and technical features in SE and LE manuals

The features in this category include, on the one hand, those relating to the physical layout of the text, such as format and design, and, on the other, those concerned with technical considerations such as indentation; the use of tables within a text; how mathematical and scientific symbols, numbers, quantities, dates and times should be written; how to deal with footnotes, citations, references and bibliographies; how sections and paragraphs should be numbered, and so on.

All manuals of scientific style devote some attention to the general layout of the text. In all but one they give examples of tables, figures, illustrations and charts, as well as advice on how to present the bibliographical references, quantities and dates. Generally speaking, LE manuals tend to devote less attention to questions of layout per se, which is predictable, given the different types of addressees: SE writers may not necessarily be experienced practitioners whereas legal drafters generally work in a well-established tradition. However, one clear exception to this can be found in the case of manuals explicitly adhering to Plain Language principles, namely the two Australian manuals, AOPC (2005) and NSW (2000). Thus in the latter (NSW 2000: 1-2) we find suggestions which aim at making the text as user-friendly as possible,³ such as:

³ This concern with making prescriptive legal texts as comprehensible as possible to the layperson, which has long been advocated outside legal circles, has only recently (roughly speak-

Material should be organised in a way that assists and makes sense to the reader. Information should be divided into manageable and related pieces, and placed in a logical sequence. [...] Headings should be informative and help explain the structure, scope and effect of legislation. [...] Legislation should be physically designed so that it is clear and easy to understand. Type faces and sizes should be easy to read. [...] Navigational aids, such as a table of contents and running headings, should be used. The numbering system should be clear and easy to follow. [...] Examples, tables, diagrams and flow charts may be used as needed to help explain the text.

The fact that most of the LE manuals give little or no importance to making the layout more user-friendly tends to suggest that the observations that the language of legal documents is the least ‘communicative’ of genres which is meant to be read “in silence” (Crystal / Davy 1969: 194) exclusively by legal experts, and that it is essentially of an “archival” nature (Jackson 1995: 112) still hold good. On the contrary, SE manuals consider the use of tables, illustrations, etc. an essential part of the research paper having the same function as the running text, that is, that of conveying in a precise manner the exact information that the scientist wants to communicate:

In turning to consider the use of tables, graphs, diagrams and other illustrations in the presentation of information, we are not changing our topic. Our subject is still clear communication, and we are still discussing how to make precise, manageable statements using language (Turk / Kirkham 1982: 148).

LE drafting manuals pay considerably more attention than SE style manuals to how dates and times should be written, in order to avoid ambiguity. This is clearly because there are many cases in legislation where deadlines are prescribed. Thus in LE manuals we find, for example, instructions for defining a period in such a way as to make the first

ing, since the late 1980s) begun to seep into everyday drafting practices by official authorities in parts of the English-speaking world, and is adopted above all in Australia and New Zealand and also, to a lesser extent, in South Africa and Canada. Elsewhere there tends to be much greater resistance to adopting such a policy, despite the activities and partial successes of Plain Language exponents (see in particular Williams 2005a for a more detailed analysis of this issue).

and last day clear, with the suggestion to write “after March 31 and before June 1” rather than “between April and May 31” (Texas 2005: Sec. 7.28). On the other hand, a majority of both LE manuals and SE manuals devote considerable space to the question of how numbers should be written, given the requirements for absolute precision and clarity in both scientific texts and in legal texts.

Citations, footnotes and references are a topic frequently raised by both LE and SE manuals. In most cases in LE the instructions are mandatory given that each manual refers specifically to a particular level or branch of legislation (i.e. federal or national or international) which follows its own well-entrenched conventions.

3.2. Words, phrases, terminology

This is perhaps the most important theme area in terms of the amount of space devoted to it in both LE and SE style manuals. It covers a wide range of features, including the choice of lexis and therefore also words and phrases (e.g. colloquialisms and jargon) to be avoided; definitions; word length and the question of ‘wordiness’ in general; stacked noun phrases; the need for consistency in the use of terminology; the use of compound words and hyphenation; capitalization and proper names; spelling conventions and (avoidance of) contracted forms; acceptable abbreviations, acronyms and symbols.

Predictably, the choice of lexical items constitutes a crucially important topic area in LE manuals. One technique adopted by most of the LE manuals (Alaska 2005: 60-61; ILO 2005; Maine 2005: Chapter 1 Section 14D, Chapter 2 Section 12A, B and C; Oregon 2005: Chapter Four 1 and 2; AOPC 2005: 17-18, 38-40; Texas 2005: Sec.7.29; Washington 2005: Part IV(1)j) is to provide ‘use / say / write’ and ‘avoid / don’t say / don’t write’ lists of preferred terms and phrases together with those to be avoided. The latter consist in particular of terms identifying gender (see Section 3.7 for a more detailed analysis of this point) and ‘legalese’, i.e. terms and expressions which are:

- (i) generally incomprehensible to – or simply never used by – non-experts, often because they are either archaic, e.g. *heretofore* or *whensoever*, or foreign, particularly from Latin (e.g. *in loco paren-*

tis or *per diem*).⁴ Some LE manuals (e.g. AOPC 2005: 38-40) suggest adopting shorter, more commonly used terms such as *ask* instead of *request* or *require*;

- (ii) excessively 'wordy' and hence redundant, as is the case, for example, with prepositional phrases such as *during the course of* or *for the duration of* which can be profitably reduced to *during* (Washington 2005; AOPC 2005: 38), or with binomials, which abound in traditional texts, such as *full and complete*, or *do and perform* where the shorter alternatives of *full* and *do* are to be preferred (Maine 2005), or multinomials such as *adjudged, ordered and decreed* which can simply be rendered as *adjudged* (*ibid.*). 'Wordiness' sometimes includes redundant cases of nominalization which is specifically stigmatized in some LE manuals with suggestions to change, for example, *has knowledge or suspicion that* to *knows or suspects that* (Maine 2005: Chapter 1 Section 11), or *give consideration to* to *consider* (Texas 2005: Sec. 7.25).

The widespread use of nominalizations is also one of the most idiosyncratic features of scientific English, and it is strongly castigated in SE manuals of style. A sentence such as *The test substance is easily absorbed, therefore spillage of the material on the skin must be avoided* is regarded as too wordy, difficult to understand, slow to process and unnecessarily pompous, and could easily be rewritten as *The test substance is easily absorbed, so avoid spilling it on the skin*, where the noun *spillage* has been turned into the active form of the verb *spill* (Turk / Kirkham 1982: 109).

One interesting and significant difference between LE manuals and SE manuals regarding the choice of lexis is that while six out of ten LE manuals (NSW 2000; AOPC 2005; EC 2005; Maine 2005; Oregon 2005; Washington 2005) stress the need to avoid using archaic terms – a suggestion that would be superfluous for writers of scientific texts – 50 per cent of SE manuals point out the need to avoid adopting what they call 'emotive' terms, that is, adjectives such as *important*, *significant*, *interesting* or *relevant* (cf. for example Holtom / Fisher 1999: 192-193),

⁴ Not all LE manuals agree on this point. For example EC (2005: 32) states that "The expression 'per diem' ('daily allowance') and many others have English equivalents, which should be preferred e.g. 'a year' or '/year' rather than 'per annum'", whereas Texas (2005: Sec. 7:29) asserts that "'Per diem,' meaning compensation for expenses payable on a daily basis to a public officer or employee, is an established term of art that should not be anglicized."

a suggestion that would be equally superfluous for drafters of legal texts. The ideal to strive for is to make scientific English a “dispassionate, factual recording of the results of scientific investigations” (Day 1995: 2), written with a straightforward style which keeps the number of words to a minimum. Likewise, SE manuals advise against the use of intensifiers such as *very*, *rather* and *quite* on the grounds that they are imprecise. Such advice reflects the differing concerns of the two respective spheres: LE still tends to be permeated by terms that have long become fossilized and which give it a decidedly ‘antiquated’ flavour (unlike the legal language of other European countries, such as Italy, France or Spain, which may be as complex and convoluted as LE but without sounding quite so old-fashioned), whereas the search for precision and objectivity has long been a central concern of scientists.

Concerning abbreviations, there are specific instructions in SE: some manuals warn against their use (Lester 1993: 171; Goodman / Edwards 1997: 166-170; Young 2002: 17), others simply explain how to use them (Booth 1993: 23; Higham 1993: 30-31; Day 1995: 103-106; Holtom / Fisher 1999: 265ff), while others do not mention them at all (Turk / Kirkham 1982). In some cases, as in Goodman / Edwards (1997: 166-170) and Ebel *et al.* (1987: 417-422), they include both acronyms (*DNA*) and abbreviations (*Dr*) under the label ‘abbreviations’. Several LE manuals (EU 2000: 28-29; Chapter 4 Section 2; Oregon 2005: 3.18-19; Texas 2005: Sec. 7.01 and 7.10) provide details about how to deal with abbreviations, acronyms and symbols. As with the rules about capitalization and the hyphenation of compound words, the guidelines provided tend to differ slightly between one manual and another since each federal state or country or international organization follows its own established conventions. Consistency in using a given convention is, of course, paramount in drafting legal and scientific texts, as is reiterated in a number of LE and SE manuals.

All manuals of scientific style recommend consistency in the use of American v. British spelling conventions (e.g. Higham 1993: 34; Holtom / Fisher 1999: 204-205), and choosing phonemic spelling in the case of words with alternative spellings (Booth 1993: 19). Many manuals also go as far as explaining how to spell difficult words, paying attention to the most common mistakes (Booth 1993: 52; Day 1995: 6-7; Goodman / Edwards 1997: 35-40).

SE manuals disallow the use of contractions (*there's*), while in LE manuals the question of contractions is not even raised: it is evidently assumed that one does not contract when drafting legislative texts. Interestingly, one LE manual – AOPC 2005 – systematically uses contracted forms throughout the text, in line with the Plain Language principle of adopting an informal, user-friendly style where possible.

3.3. *Tense, mood, modality and voice*

This proved to be one of the most clear-cut categories in the manuals and at the same time one of the most fruitful in terms of comparing the ways in which LE and SE texts are drafted. As regards tense, one frequently repeated suggestion in LE manuals is that “[s]ince a statute speaks at the time it is read, it should be drafted in the present tense” (Washington 2005: Part IV(1)(g)(i)). The question of the temporal collocation of prescriptive legal texts has been analysed elsewhere (Williams 2005a: 84-93). It is interesting to note, however, the degree of similarity in approach between the five American manuals in terms of the suggestion to resist the “temptation” (Maine 2005: Section 8A; Oregon 2005: 3.8(5)) of using the future tense.

About 50 per cent of SE style manuals offer guidelines about when and how to use tenses, with the general advice to be consistent in their use. They recommend using the simple past in the sections dealing with methods, materials and results (*5ml water were added; We found that...*), as well as in the introductions (Higham 1993: 46-47; Day 1995: 74-75; Goodman / Edwards 1997: 132-133; Holtom / Fisher 1999: 192-193). The present tense is mandatory in figure legends or captions, and some variation between past and present is allowed only in the discussion section. There is discrepancy in SE style manuals as regards the use of tense in attribution, as in *Jones (1989) reports / reported that*: Day (1995: 75) recommends using the past tense, whereas Higham (1993: 47) opts for the present. The future is only mentioned in reference to later parts of the scientific paper, as in *We will discuss these matters further in Section 5*.

While SE manual writers are concerned primarily with when to use the present tense and when to use the past tense, the question of the past tense in LE manuals is given scant attention (if at all) since its use is so

restricted, e.g. “The past tense may be used to refer to the fact(s) precedent to the operation of the proposed enactment” (ILO 2005: Chapter X).

We will not dwell on the use of *shall* or other modals here since the question has been analysed extensively elsewhere (see Williams 2005a; Williams 2005b; Williams forthcoming; and Seoane / Williams forthcoming). Suffice it to say that of the ten legal drafting manuals taken into consideration here, seven advocated the continued use of *shall*, albeit in restricted circumstances, while in only one manual – AOPC 2005 – is its use explicitly disallowed. Clearly the question of modality is a recurrent feature of LE manuals, given the deontic nature of prescriptive texts, whereas the semantic subtleties distinguishing *shall*, *will*, *may* and *must* or other modal auxiliaries are mentioned in only one SE manual. Turk / Kirkham (1982: 213-214) focus on the disadvantages involved in using modals: (i) they are imprecise, for instance in instructions, so that *The valve should be closed* is less precise than *Close the valve*, and (ii) modals cause problems of repetition (*The valve should be closed, the boiler should be drained*), which is stylistically unacceptable in scientific English; to avoid this, authors are advised to introduce variation in the use of modals (... *should be closed*, ... *ought to be drained*), which produces unwanted changes of meaning, and this is why the general recommendation in SE is to avoid modals whenever possible.

Active v. passive voice is one of the few features that recurs without exception in all the manuals taken into consideration in both the scientific sphere and the legal sphere (even if it is only touched upon briefly in one or two LE manuals, e.g. Alaska 2005: 61). All LE manuals suggest reducing the use of the passive in favour of the active as a general principle. However, there is one case where it is actively encouraged in particular circumstances, namely as a way of facilitating the adoption of gender-free language (Close 1998: Part 2.2 (c)):

While the excessive use of the passive voice is not encouraged, some constructions lend themselves to a solution that employs it. The form: “... [performer] ... “he” ... [action <active voice>] ... [object acted on] ... “becomes” ... [performer] ... object ... [action<passive voice>] ...”

It is perfectly legitimate to order the defendant to pay the German debt in Deutschmarks. **He** can satisfy the judgment by paying the Deutschmarks.

It is perfectly legitimate to order the defendant to pay the German debt

in Deutschmarks. The judgment can be satisfied by paying the Deutschmarks.

Maine (2005: Part III Section 7 B) provides two other instances besides avoiding gender-specific language where the passive form may be preferable to the active: when giving old or repeated information so that new information may be given “at the end of the sentence where it stands out,” and with noun strings coming at the end of the sentence “so that your reader will not have to work through the series before coming to the verb.”

All the SE style manuals examined mention the strong association between the passive and scientific style, since it is “probably the most ubiquitous marker of conventional scientific [medical] style” (Goodman / Edwards 1997: 126). The pervasive recommendation is to use the active whenever possible, on the grounds that it is more direct, vital, shorter, and less pompous (Ebel *et al.* 1987: 360ff; Booth 1993: 13; Zinsser 2001: 68-69; Young 2002: 146-148). In contrast with more traditional manuals, modern manuals recognize that passives are on the decline in scientific English and they provide functional explanations as to how and when to use them (cf. Seoane / Williams forthcoming; for data and a discussion of the decay of passives, see Seoane / Loureiro-Porto 2005 and Seoane forthcoming). The advantages of passives are that they are useful devices for expressing emphasis, omitting unknown agents and alternating between actives and passives, which provides the discourse with stylistic variation (Turk / Kirkham 1982: 109-112; Higham 1993: 31-32; Day 1995: 72-74; Goodman 1997: 121-126; Holtom / Fisher 1999: 193-194).

3.4. *Other grammatical points*

This section covers a variety of points that do not come under the headings in 3.2 or 3.3, e.g. the use of modifiers; the question of dangling participles; the use of pronouns, including possessive pronouns; the avoidance of split infinitives and in general of syntactic discontinuities.

One interesting difference between LE and SE manuals concerns the question of dangling participles. Apart from Maine (2005: Chapter III Section 13B), LE manuals ignore the question, whereas it is raised in

several SE manuals. These report that dangling modifiers, which often bring about ambiguity, are common in scientific discourse and should be rewritten for the sake of precision, which is again the crucial objective of scientific writings (Booth 1993: 10-11; Highman 1993: 36-37; Day 1995: 54-55; Holtom / Fisher 1999: 218; Young 2002: 61-63).

Most of the SE manuals suggest avoiding split infinitives where possible on the grounds that they are stylistically inappropriate (cf. for example Holtom / Fisher 1999: 218), while only one, namely Young (2002: 191), argues that this is a “purely artificial prohibition” which should be ignored when ambiguity or pomposity may arise. In the case of LE manuals, only two mention the issue – Maine 2005 and EC 2005 – and both allow for its usage in particular circumstances regardless of any stylistic consideration. Maine (2005: Chapter III Section 12) asserts that split infinitives are customary and acceptable in some areas of law “for instance when referring to culpable states of mind, such as ‘to knowingly fail.’” Like Maine 2005, EC 2005 acknowledges that the practice is disapproved of in certain quarters, but it affirms that in cases such as *we called on her legally to condemn the practice*, drafters may “either split the infinitive with a clear conscience or move the qualifying adverb to the end of the phrase” (EC 2005: 38). This discrepancy would appear to highlight one of the fundamental differences between LE and SE, namely, that formal ‘elegance’ is simply not an issue in the drafting of a legal text, whereas it is in writing a scientific text.

Split infinitives are part of a wider topic, namely that of syntactic discontinuities (or what Maine (2005: Chapter III Section 12) defines as “Splitting verbs and word groups”), which is often referred to by linguists as characterizing LE (e.g. Bhatia 1993; Williams 2005a) but which is only found in two of the LE manuals. The custom, which is widespread in many LE texts, consists in inserting a phrase in a sentence in such a way as to stop the natural ‘flow’, often by splitting the modal auxiliary from the main verb, as in this case taken from Maine (*ibid.*) where *may* is separated from the main verb *order*:

Within 10 days after service of the notice of appeal, the appealing party may in writing, with a copy to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record, order from the Bureau of Mediation Services a transcript of any parts of the proceedings it considers necessary.

This would seem to be a peculiarity of the legal genre in English: Maine (2005) suggests avoiding its use, whereas ILO (2005: Chapter X) recommends that “a significant amount of care” should be taken “to ensure that a draft provision does not become more difficult to understand.”

Several LE and SE manuals discuss the placement of modifiers and the need to put them, as a general rule, as close to the words they modify in order to ensure maximum clarity. The need to avoid ambiguity lies at the heart of another idiosyncratic feature of LE, namely the preference for repeating nouns instead of using pronouns if the antecedent is not clear. Thus, for example, “After the chairman appoints an arbitrator, the arbitrator shall administer the proceedings” is deemed preferable to “After the chairman appoints an arbitrator, he or she shall administer the proceedings” (ILO 2005: Chapter X). However, according to AOPC 2005, which explicitly endorses Plain Language principles, the avoidance of pronouns has gone too far, and hence the advice given is to use *it*, *them* and *they*, etc. “whenever there’s no ambiguity” (AOPC 2005: 19).

3.5. Sentence structure

There are several points raised in LE and SE style manuals relating to the way sentences should be structured. These include the avoidance of long, complex sentences; the types and uses of relative clauses; the avoidance of negatives; the use of singular or plural; the question of ‘and/or’ connectors; and various questions relating to punctuation.

This is an area where the advice given in the respective manuals would seem to differ relatively little on certain major points such as avoiding long, complex sentences in favour of shorter ones and also avoiding unnecessary negative constructions, including double negation. In LE manuals the overriding concern in preferring shorter sentences is both ease of understanding and clarity: “If each sentence expresses a single thought, it generally is easier for the reader to grasp that thought. It does not matter if the result sounds ‘choppy’ so long as it is clear” (Oregon 2005: Chapter 3.3(3)). In SE manuals, shorter sentences also tend to be favoured because they are easier to understand and less likely to contain grammatical mistakes. However, in contrast with LE manuals, SE manuals disallow the use of shorter sentences if the resulting

style is “abrupt and jerky” (Holtom / Fisher 1999: 208) or “choppy” (Young 2002: 177).

Two LE manuals refer to what is called “the legislative sentence” (Maine 2005: Part III Chapter I Section 4; Oregon 2005: 3.4.4) in almost identical terms: “The simplest legislative sentence consists of a *legal subject* and a *legal action*. These two parts compose the *rule*. In more complicated forms, a sentence also may contain exceptions, conditions and cases” (Maine *ibid.*). An area within the legislative sentence that is highlighted by several LE manuals concerns the use of ‘and/or’ connectors in sentences, a typical device used in legal texts allowing drafters to include exceptions, conditions and cases. Once again AOPC (2005: 17) offers advice which differs markedly from that of most other LE manuals: “The traditional style avoids ‘and/or’. The usual argument is that it’s ambiguous and/or inelegant. However, it can be useful at times.” Elsewhere the advice is “Do not use ‘and/or’ because it is ambiguous” (Alaska 2005: 63).

Several LE manuals raise the question of singular/plural forms in a legislative text. The general stance is that “a drafter should use the singular form of a noun rather than the plural whenever possible. This custom is based on the practical difficulty of using plurals consistently and the ambiguity that may arise as to the applicability of a provision” (Maine 2005: Part III Chapter I Section 10). Moreover, it is asserted that using the singular “usually produces a clearer style and facilitates simpler constructions” (Texas 2005: Chapter 7 Sec. 7.34). However, there is one notable case where the opposite is called for, namely in gender-free writing: “Move away from third person singular references. Draft in the third-person plural form. The plural forms of the pronouns are gender-free,” exhorts Close (1998: Part 2.3B1).

Both LE and SE manuals include detailed accounts of the correct use of punctuation. SE manuals view such correct use as a tool that will help the reader understand the message: “Punctuation should be used to make it perfectly clear to the reader the meaning and sense of the writing and to guide them through it with the minimum possibility of ambiguity” (Holtom / Fisher 1999: 219). Historically, legislative texts in English were characterized by their (sometimes total) lack of punctuation, and this criterion still shapes the ideas of some contemporary LE manual writers: “Good drafting requires the barest minimum of punctu-

ation” (Oregon 2005: Chapter 3.14(11)). In general, the suggestions concerning punctuation in LE manuals are detailed, also because the conventions used may differ slightly between one state or authority and another, and consistency is of the utmost importance in drafting a legal text.

3.6. *Supra-sentential style features*

This is another area where much has been written in LE and SE style manuals. Such features have to do, on the one hand, with questions of accuracy, clarity (Plain English), vagueness, concision and the avoidance of redundancy; on the other, with the question of taking into account the audience/readership; the adoption of an impersonal style; the organization of ideas following a logical progression; questions relating to bilingual/multilingual drafting; and avoiding plagiarism.

As one would expect, concision, accuracy and, above all, clarity and plain language are all foregrounded in both types of manuals. The difficulty in balancing all these elements at the same time is sometimes explicitly recognized in LE manuals: “Write concisely, but do not substitute brevity for accuracy or clarity” (Texas 2005: 7.7.22). While vagueness has long been debated as a theme by philosophers of law, sometimes as a positive and necessary feature of legal writing, in the LE manuals taken into consideration here it is uniformly seen in negative terms. Some LE and SE manuals stress the need for writing following a logical progression, with effective paragraph structures and suitable transitions between them (e.g. Day 1995: Chapter 14).

The question of audience/readership is only taken into account in a few LE manuals, though it is highlighted in the two manuals that explicitly endorse Plain Language principles. For example, one of the drafting rules of AOPC (2005: 5) is “Always ask yourself ‘How will this look to my readers?’”. Maine (2005: Chapter 1 Section 1) also addresses the question of audience:

All bills are not aimed at the same readers. The primary audience of a bill varies with the bill. Write laws that are addressed to the general public, such as laws that prohibit dumping in state parks, for people of average intelligence and education. However, if a bill will regulate secu-

rities sales, then brokers and bankers are the audience and the bill may involve the technical vocabulary of their trade. Whenever possible, assume the audience is the general public.

On the other hand NSW (2000: 3) observes that the drafter must bear in mind at least three audiences: “Parliament itself, the public or section of the public to whom the legislation is directed, and the courts and legal system.” Similarly, only three SE manuals recommend adjusting the scientific style to the type of audience concerned. Turk / Kirkham (1982: Chapter 2) devote an individual chapter to “thinking about the aim and audience” in an attempt to show that in most scientific contexts readers will want to use the information provided in the texts to meet needs different from the writer’s. As a consequence, the writer will have to consider the readers’ backgrounds and aims in order to make decisions regarding the terminology used or the concepts and procedures that can be taken for granted. Another reason why the reader should always be taken into account is that the aim of the scientific writer must be not only to produce a type of discourse that is scientifically accurate and grammatically correct, but “it must also be presented in a manner that commands attention, is quickly informative, and is easily digested by the reader” (1982: 21). In this quotation the idea of clarity and accessibility is reinforced, but there is also an interesting difference from LE manuals, namely the idea that scientific discourse must “command attention,” that is, be stylistically attractive to the reader and achieve particular reader-oriented goals, such as provoking debate, persuading, evaluating or protesting.

Most SE manuals warn against the adoption of the traditional, long-winded and pompous style characteristic of scientific writings; they insist that the text will not look ‘more scientific’ if plagued with linguistic ornaments, long complex sentences and verbose paragraphs. As Turk / Kirkham (1982: 6) put it, “Newton did not feel the need to obfuscate his meaning with inflated style.” The antidote for such a widespread malady is to stick to plain, simple, and concise language.

Related to this is the omnipresent question of impersonal style in scientific English. A rigidly impersonal style, with no trace of the scientist or writer, was an accepted dogma in traditional (19th and early 20th century) scientific discourse. All the manuals examined voice a reaction

against this artificial and inefficient type of discourse. Thus, Holtom / Fisher (1999: 193-194), for example, state that the use of impersonalizing passives and impersonal pronouns (such as *one*) is vague and pompous, and should therefore be replaced by the more accessible active voice and personal first person pronouns. However, all these options should be used judiciously since the abuse of one to the detriment of the other is always seen as negative: “An occasional ‘I’ helps, although too many are bad” (Booth 1993: 36).

One feature stressed in ILO (2005: Chapter X) is that of bilingual or multilingual drafting in “countries with a significant linguistic diversity” where there are two or more official languages. The simplest solution is considered to be “to draft the proposed enactment in one language and then translate it into the other language or languages. Alternatively, the enactment may be drafted in the different language versions at the same time in close cooperation and on the basis of equality.”

3.7. *Non-discriminatory language*

Whilst this final section could also come under the heading of suprasentential style features, it would appear to merit a subsection in its own right, given the importance attributed to it in style manuals, particularly in the legal sphere. Here we are dealing above all with the question of gender-free writing, but also with the avoidance of other forms of discrimination, such as racist language.

Gender-neutral language is mentioned in all of the LE manuals and involves a wide range of features. For example, Maine (2005: Part 3 Section 14) provides a long list of preferred v. disallowed terms such as *chair* instead of *chairman*, *firefighter* instead of *fireman*, or *work force/personnel* instead of *manpower*. Other ‘gender-bleaching’ techniques include the use of *spouse* instead of *husband/wife*, or *sibling* instead of *sister/brother*. At the same time it is acknowledged that some gender-based words “have specific legal meanings or general acceptance and should not be changed,” such as *landlord*, *midwife* or *manslaughter*.

One of the most awkward problems regarding gender-neutral language in English is that of singular pronouns such as *he/she*, *him/her*, *his/hers*. LE manuals and some SE manuals reject the old-style model

of applying masculine pronouns alone when referring to individuals of both sexes, but there is no universal agreement as to the best alternative. Close (1998: Part I) proposes the radical solution of avoiding pronouns wherever possible, after observing that:

Some writers adopt the feminine pronouns, either exclusively, as a kind of linguistic affirmative action, or in a mixture with the masculine pronouns, achieving a balance of sorts. Other writers favour setting out both forms of the pronoun in a 'he or she' and 'him or her' kind of formulation. In some contexts these approaches may be satisfactory. Frequently, however, the result is a document that is so 'self-consciously' gender-neutral that this detracts from its clarity and distracts the reader.

The 'he or she' and 's/he' options are also normally frowned upon in SE manuals on the grounds that such an attempt to be unbiased may distract the reader's attention from the scientific arguments, and therefore detracts from the paper (Lester 1993: 165). Oregon (2005: Chapter III 3.10.7), EC (2005: 48) and Maine (2005: Part III Section 14.7) for LE manuals and Lester (1993: 164), Day (1995: 108-110) and Young (2002: 99) for SE manuals likewise suggest avoiding singular personal pronouns by using plural (gender-neutral) pronouns, deictic pronouns or passives. It is in this light that the proposals highlighted earlier to use plural forms and, in some cases, passives have been made, in both cases going against the generally accepted principles of favouring singular and active forms in the interest of a 'higher' goal, that of gender-neutrality. However, elsewhere (e.g. ILO 2005: Chapter X) *he/she*, *his/her* etc. are specifically recommended as a viable solution.

4. *Discussion and conclusions*

In analysing these LE and SE manuals our aim has been to discover their similarities and especially their differences, to check whether these can justify the different rates of change observed in the two types of discourse, as described in Seoane / Williams (forthcoming). The most relevant conclusions of our study are, firstly, that there is some discrepancy regarding basic issues both within the body of contemporary LE manuals and that of contemporary SE manuals. For instance, while most LE

manuals advocate the use of *shall*, others explicitly disallow it (cf. Section 3.3), and SE manuals do not agree, for example, as to whether split infinitives should be avoided for stylistic reasons or allowed in order to avoid ambiguity (cf. 3.4). Secondly, when comparing both types of manuals, we found that several features highlighted in LE manuals are not mentioned in SE manuals, such as the way of writing dates and times unambiguously. The reverse is also true, i.e. the use of tables, charts and graphics is foregrounded in SE manuals but it is hardly alluded to in LE manuals (cf. 3.1). Such differences were expected and have been interpreted as determined by the subject matter of each type of discourse. Thirdly, and most importantly, we have observed differences between LE manuals and SE manuals in the treatment of several features, and these can generally be justified in terms of (i) the type of writer addressed, and (ii) the aim of each type of manual. The very basic nature of some of the advice provided in SE manuals, such as avoiding contractions, might seem to suggest that scientists are regarded as less experienced writers than legal drafters, since their manuals obviate such elementary indications. This idea is explicitly stated at times, as in “I know many scientists who can speak perfectly clearly and expressively. Put a pencil into their hands, and they clam up” (Young 2002: 4); in other words, SE manuals tend to address the isolated scientist who faces writing with insufficient background and who depends on his/her writing to become a creditable scientist. LE manuals, on the other hand, seem to trust the legal drafter as the person who will finally provide a professional touch to the end product.

As for (ii) – i.e. the general aims of both manuals – the fact that most writers of legal manuals refer to ‘drafting’ rather than ‘style’ manuals (because it is the legislating body, not the person, that encodes the finalized text), whereas writers of scientific manuals tend to prefer ‘style’ rather than ‘drafting’ in qualifying their manuals would appear to speak volumes (both metaphorically and literally!) about some of the basic differences in approach and aims that distinguish LE manual writers from SE manual writers. Significantly, the only LE manual that refers to style in its title is EC 2005 – *English Style Guide: A handbook for authors and translators in the European Commission* – which states that “In this Guide, ‘style’ is synonymous with a set of accepted linguistic conventions; it therefore refers to recommended in-house usage, not to

literary style” (EC 2005: 1). Thus LE manuals provide guidelines and suggestions to persons involved in the process of drawing up binding legislative texts, the end product being the result of a collective effort on the part of a number of individuals, who may include not just professional drafters but also members of commissions and persons in authority in general such as members of Parliament or local councillors or national representatives, whose duty is to examine and discuss the text in detail and then make the necessary amendments. There is no specific authorship as such, and the test of whether the final text has been well-written or not will essentially lie in whether it can withstand the scrutiny of lawyers and other legal experts bent on finding loopholes and inconsistencies in the text itself. This is why we found that LE manuals put the emphasis on clarity and precision – in compliance with the general aim of producing an unambiguous text that will satisfy demanding expert readers – and in some cases on plain language, as is the case of the manuals which endorse this movement with the aim of making prescriptive legal texts comprehensible to the layperson.

SE manual writers, on the other hand, are concerned with ensuring that the would-be author(s) of scientific texts – whose name(s) will appear on the end product (i.e. article or textbook) – respect the criteria that are generally accepted within the contemporary scientific discourse community in terms of the correct methodological approach and overall ‘design’ of the text which, in its published state, will represent scientific research itself. This implies that the credibility and diffusion of scientific research largely depend on the success of the publication itself. For this reason, SE manuals are interested not only in clarity and precision to convey scientific knowledge accurately, but also in making the discourse accessible, attractive and stylistically adequate, as if texts had to sell themselves in a highly competitive world; after all, “Only the researcher who is competent in the art of *written* communication can play an active and effective role in *contributing* to science” (Ebel *et al.* 1990: 5, original emphasis).

From our study we can derive the general conclusion that the socio-cultural pressures determining the different rates of change also determine the differences found in the respective manuals. Briefly, these socio-cultural pressures are, in the case of SE, firstly, the need for scientists to secure a publication source for their findings, and therefore to

convince the editorial board that their work will diffuse. This pressure can be seen at work in manuals of style since diffusion mainly depends on clarity and concision, and manuals adamantly recommend avoiding wordiness, long sentences and other linguistic devices that make reading difficult and slow. Another socio-cultural factor affecting changes in SE is the increasing ‘democratization’ of language, which would justify the advice found in manuals of style to take the readership into account and to make science more accessible. In LE, on the other hand, the majority of drafting manuals still tend to focus in particular on the need for consistency and for ensuring that the final text cannot be subsequently misconstrued, while the demand for making legal language more accessible and for aiming at a wider readership that goes beyond the legal discourse community is only of fundamental importance in those manuals which apply Plain Language criteria. This situation is reflected in the data found in LE, a genre that has proved to be highly conservative and not generally prone to change in most – but not all – discourse communities. Only time will tell if the principles of Plain Language will eventually become the accepted norm in the rest of the English-speaking world.

References

Primary sources

- Australian Office of Parliamentary Counsel 2005. *Plain English Manual*. <http://www.opc.gov.au/plain/docs.htm>.
- Booth, Vernon ²1993. *Communicating in Science. Writing a Scientific Paper and Speaking at Scientific Meetings*. Cambridge: Cambridge University Press.
- Close, Arthur L. 1998. British Columbia Law Institute, Canada. *Gender-free Legal Writing*. British Columbia Law Institute. At <http://www.bcli.org/pages/projects/>.

- Day, Robert A. 1995. *Scientific English. A Guide for Scientists and Other Professionals*. Phoenix: Oryx Press.
- Ebel, Hans F. / Bliefert, Claus / Russey, William E. 1987. *The Art of Scientific Writing. From Student Reports to Professional Publications in Chemistry and Related Fields*. Weinheim: VCH.
- European Commission Directorate-General for Translation 2005. *English Style Guide*. At http://europa.eu.int/comm/translation/writing/style_guides/english/style_guide_en.pdf.
- Goodman, Neville W. / Martin B. Edwards. 1997. *Medical Writing. A Prescription for Clarity*. Cambridge: Cambridge University Press.
- Higham, Nicholas J. 1993. *Handbook of Writing for the Mathematical Sciences*. Manchester: University of Manchester Press.
- Holtom, Daniel / Elizabeth Fisher 1999. *Enjoy Writing your Science Thesis or Dissertation. A Step by Step Guide to Planning and Writing Dissertations and Theses for Undergraduate and Graduate Students*. London: Imperial College Press.
- International Labour Organization 2005. *Labour Legislation Guidelines*. <http://www.ilo.org/public/english/dialogue/ifpdial/llg/index.htm>.
- Lester, James D. 1993. *Writing Research Papers. A Complete Guide*. New York: Harper Collins.
- Maine Legislative Drafting Manual 2005. http://janus.state.me.us/legis/ros/manual/Web-dman12.htm#P2015_149587.
- New South Wales Parliamentary Counsel's Office 2000. *Policies Relating to Plain Language and Gender-neutral Expressions*. At <http://www.pco.nsw.gov.au/pdf/plainlanguagepol.pdf>.
- Oregon Office of the Legislative Counsel 2005. *Bill Drafting Manual 2005*. At <http://www.lc.state.or.us/draftman.htm>.
- State of Alaska Drafting Manual for Administrative Regulations 2005. <http://www.law.state.ak.us/pdf/manuals/2005Sept%20MANUAL%20ADMIN%20REGS%20combined.pdf>.
- Texas Legislative Council Drafting Manual 2005. <http://www.tlc.state.tx.us/legal/dm/sec729.htm>.
- Turk, Christopher / Kirkham, John 1982. *Effective Writing. Improving Scientific, Technical and Business Communication*. London: Routledge.
- Young, Matt 2002. *The Technical Writer's Handbook. Writing with Style and Clarity*. Sausalito: University Science Books.
- Zinsser, William 2001. *On Writing Well. The Classic Guide to Writing Non-Fiction*. New York: Harper Collins.

Secondary sources

- Bhatia, Vijay K. 1993. *Analyzing Genre: Language Use in Professional Settings*. London: Longman.
- Crystal, David / Derek Davy 1969. *Investigating English Style*. London: Longman.
- Jackson, Bernard S. 1995. *Making Sense in Law*. Liverpool: Deborah Charles Publications.
- Seoane, Elena forthcoming. Changing Styles: On the Recent Evolution of Scientific British and American English. In Dalton-Puffer, Christiane / Ritt, Nikolaus / Schendl, Herbert / Kastovsky, Dieter (eds) *Syntax, Style and Grammatical Norms: English from 1500-2000*. (Linguistic Insights. Series Editor: Maurizio Gotti) Bern: Peter Lang.
- Seoane, Elena / Loureiro-Porto, Lucía 2005. On the Colloquialization of Scientific British and American English. *ESP Across Cultures 2*: 106-118.
- Seoane, Elena / Williams, Christopher forthcoming. Changing the Rules: A Comparison of Recent Trends in English in Academic Scientific Discourse and Prescriptive Legal Discourse. In Dossena, Marina / Taavitsainen, Irma (eds) *Diachronic Perspectives on Domain-Specific English*. Bern: Peter Lang.
- Williams, Christopher 2005a. *Tradition and Change in Legal English: Verbal Constructions in Prescriptive Texts*. Bern: Peter Lang.
- Williams, Christopher 2005b. Vagueness in Legal Texts. Is there a Future for *Shall?*. In Bhatia, Vijay K. / Engberg, Jan / Gotti, Maurizio / Heller, Dorothee (eds) *Vagueness in Normative Texts*. Bern: Peter Lang, 201-224.
- Williams, Christopher forthcoming. Legal English and the 'Modal Revolution'. In Busuttil, Pierre / Salkie, Raphael / van der Auwera, Johan (eds) *Proceedings of the 2nd International Conference on Modality in English*, Pau 2-4/9/2004. Berlin: Mouton de Gruyter.

