



EPONYMS IN LEGALESE

Floriana Popescu

Introduction

This approach exploring the eponyms in the language of the British and American law systems, generically called English legalese, will mainly focus on aspects regarding their usage, structure and semantic features.

I. Aim of the study

The use of names of persons as common words has been a century-old practice, but in spite of its lengthy life, it has hardly been a topic of interest in the literature on lexicology, lexicography or historical linguistics. Nevertheless, the productivity of proper nouns as well as their wide use in sciences (mathematics, physics, and chemistry) and in the medical terminology more than in any other terminological field resulted in a considerable number monolingual dictionaries of eponyms. Unlike medical, physics, chemistry and mathematics eponyms, the legalese ones are quite scarce and that is why they have not been the topic of a specially designed dictionary or lexicon.

Since legalese eponyms may raise difficulties in the translation process, we share the opinion that they require a minute approach in terms of both their structure and their meaning. Legalese eponyms need a structural description for they are sometimes part of ready-made patterns with a well-defined meaning. By way of consequence, the current study attempts to outline a framework fit for a holistic description of (British and American) English legalese eponyms.

II. Corpus

To create an analytical and interpretive framework for legalese eponyms, a roughly 90-item corpus mainly relying on extractions from monolingual (MWDL 1996, Martin 2003, Stewart 2006) and bilingual (English-Romanian) dictionaries of law (Hanga and Calciu 1994, Pucleanu 2000) was compiled. Where bilingual dictionaries offer scarce information, a general English-Romanian dictionary (Levițchi and Bantaș 1971) was also consulted.

It is true, English legalese eponyms do represent the focus of the current study, but the latter group of dictionaries contributes to our corpus for two practical reasons: (a) English is the source language in the case of both dictionaries (this involving research in the jargon performed by specialists) and (b) the eponymic entries they provide (definitely the result of the Romanian lexicographers' research) may hardly be found in our English-authored corpus sources. A proper illustration for the foregoing statements will be that of an idiomatic pattern *to appeal to Caesar* (= a apela la o instanță superioară, in Pucleanu 2000: 28) and a ready-made phrase *an Enoch Arden divorce* (= "divorț motivat de absența declarată de peste cinci ani a unuia dintre soți" is explained by Hanga and Calciu (1999: 55) to originate in the name of a mariner in one of Tennyson's poems).

III. Findings

The thorough analysis of the corpus reveals aspects regarding usage, structure and the semantics of this particular lexical class.

A. Usage

Since the terminology in focus is strictly related to two culture specific systems, the British and the American law systems, the elements of the current corpus allow for a distinction based on usage. Accordingly, legalese eponyms divide into:

- a) eponyms and eponymic structures which show meanings peculiar to legalese only;
- b) eponyms and eponymic structures which are related to legalese and which have also migrated in the vocabulary of everyday speech, in the vocabulary of other English language varieties as well as in other languages.

Thus, *guillotine* which was borrowed from the general vocabulary exhibits a semantic change in legalese i.e., a specialization of meaning, denoting a special type of procedure: “a House of Commons procedure for speeding up the passing of legislation, a means whereby government can control the parliamentary timetable debate...” (Martin 2003: 234). In legalese, *Hansard* stands for “the official report of Parliamentary debates” (Stewart 2006: 215), although it was actually the name of the family, who-as printers to the House of Commons-were concerned with compiling reports in the 19th century, (Martin 2003: 227). On the other hand, *McKenzie* is a familiar American girl name, while in British English it is a family name. In legalese, it acts as a determiner in the syntagm *McKenzie friend* to refer to “a person authorized by the court as a matter of indulgence, to speak for a litigant with no lawyer” (Stewart 2006: 285).

With respect to language migration, our corpus records both one-word and two-word eponyms. *Gerrymander* (< Elbridge *Gerry*, American politician) and *mirandize* are chosen not only to illustrate eponyms created in the 19th and 20th centuries respectively but also to point to their belonging to different degrees of style formality. With *gerrymander* things seem simple for it pertains to the formal style, but with *mirandize* things seem different. It is portrayed as “the American colloquial for ‘to read one’s rights’ ” (in Stewart 2006: 180). There is some inconsistency as far as this term is concerned, as it appears in our sources: while Martin (2003) does not include it in the Oxford version of the law dictionary, Stewart (2006: 180) mentions it both in a discreet entry (with a selection of the entry in the preceding sentence) and additionally in the entry describing “exclusionary rule” (where details regarding the *Miranda v. Arizona* case are displayed).

The two-word eponyms are exemplified by the *Torrens system* (“a system of land registration” adopted in by a British pioneer in Australia and later on, in 1858 the Prime Minister of this country, Sir Robert Torrens; this system was sooner or later borrowed and applied in England, Scotland and Canada, in Stewart 2006: 429).

Some legalese eponyms of English or American extraction have become part of other languages of the world, Romanian included. In the case of Romanian, they show a certain degree of lexical productivity which is due to the particularities of its lexical system. Unlike English, where conversion accounts for one single word behaving both as a verb and a noun, Romanian basically relies on suffixation to distinguish between the two. Thus, the term *lynch* which is acknowledged as both verb and noun (MWDL 1996: 301) is described in NDULR (2006: 745) to have four different forms, namely, the transitive verb *a linşa*, the two action-denoting nouns *linşaj* and *linşare*, and finally, the doer-denoting noun, *linşor*. The same hold true for *boycott*, which gave Romanian the verb *a boicota* and the nouns *boicot* and *boicotare* (Leviţchi, Bantaş 1971: 87).

B. Structure

Based on the structure of general eponyms, McArthur (1996:360) classifies them into: (a) simple, (b) compound and attributive constructions, (c) possessives, (d) suffix-based derivatives, (e) clippings and (f) blends. Complete as it is, this taxonomic model is partly applied to English legalese eponyms for our corpus illustrates all the subdivisions, except (e).

1. Simple legalese eponyms

The simple or recategorized eponyms (i.e., personal names turned into common words spelt with small letters), include *boycott*, *earnest* and *lynch* in addition to the already mentioned.

2. Compound and attributive constructions

All in all, compound and attributive constructions consist of personal names and common nouns. A minute structural analysis reveals the following categories of combinations:

- a) one eponym + one common noun
- b) two eponyms + one common noun
- c) one eponym + two/more words (nouns, most frequently)
- d) two eponyms + two/more nouns

This two-member structure invites to a double perspective, viz., the exploration of (1) personal names and (2) the exploration of the common nouns.

(1) Approaching personal names, in turn, involves a multilayered classification.

In terms of their Englishness, eponyms divide into:

- i) names of British and/or American culture personalities (i.e., Bc and Ac): *Bryan* Treaties, *Diplock* courts, *Moorov* doctrine, *Sevel* motion, and *Wolf* Reforms (in Bc) and *Wagner* Act (in Ac).
- ii) names coming from non-English personalities: *Calvo* clause (<the Argentinean 19th century jurist *Carlos Calvo*), *Estrada* doctrine (<Don Genero *Estrada*, Mexican Secretary of Foreign Affairs), and *Martens* clause (referring to a clause included in the Hague convention originates in the name of the 19th century Russian personality, *Friedrich von Martens*).

In terms of name-type, eponyms divide into:

- i) birth names: *McKenzie* in *McKenzie* friend, or *Maria* in *Black Maria* ("a police van for transporting prisoners" Stewart 2006: 52)
- ii) family names: *Wade* in *Wade* hearing, *Huntley* in *Huntley* hearing;
- iii) full names: *Anton Piller* in *Anton Piller* order, or *Mary Carter* in *Mary Carter* agreement
- iv) two family names: *Taft-Hartley* fund, *McNabb-Malory* rule, *Noerr-Pennington* doctrine.

In terms of structure, eponyms divide into:

- i) one personal name patterns: *Mansfield* rule, *Keogh* plan, or *Franks* hearing;
- ii) two personal names patterns: *McNabb-Malory* rule, *Jackson-Denno* hearing.

(2) The analysis of the common words which are part of eponymic patterns resulted in structural distinctions. Before presenting these distinctions, it is worth mentioning that eponym-including compound and attributive constructions in English legalese are ready-made patterns, i.e., they have been active in legalese ever since their creation and they do not allow for 'free' substitutions, by analogy with the source language (i.e., in the process of translating into English). The number of common words included in such patterns although rather scarce, provides instances of one pattern inclusion and of several patterns inclusion.

i) In the case of the former group, the following nouns were recorded:

- *agreement* in *Mary Carter agreement*
- *brief* in *Brandeis brief*
- *card* in *Miranda card*
- *challenge* in *Batson challenge*,
- *charge* in *Allen charge*
- *courts* in *Diplock courts*
- *friend* in *McKenzie friend*
- *letter* in *Calderbank letter*
- *material* in *Brady material*
- *plan* in *Keogh plan*
- *rights* in *Miranda rights*
- *scale* in *Taylor-Pelmear scale*
- *scheme* in *Ponzi scheme*
- *stop* in *Terry stop*
- *warnings* in *Miranda warnings*

ii) the latter group brings forth some common nouns are associated to several eponyms:

- *abstention* in *Burford abstention*, *Pullman abstention*, and *Younger abstention*
- *act* in *Hatch Act*, *Hepburn Act*,
- *doctrine* in *Spielberg doctrine*, *Estrada doctrine*, *Calvo doctrine*
- *hearing* in *Mapp hearing*, *Franks hearing*
- *order* in *Beddoe order*, *Benjamin order*,
- *rule* in *Mansfield rule*, *Mc Naghten rule*
- *test* in *M'Naghten test*, *Foye test*
- *trust* in *Totten trust*, *Clifford trust*

Structurally complex patterns distinguish between:

- one eponym + two common nouns (consider, for example, *Clayton Antitrust Act*, or *Sherman Antitrust Act*)
- two eponyms + two common nouns (in the formula *Smooth-Hawley Tariff Act*)

3. Possessives

Structures including the Saxon genitive are very scarce, nevertheless, the following examples properly fit in the taxonomic slot proposed by McArthur (1996:360): *Deasy's Act*, *Lord Campbell's Act*, and *Wharton's Rule*.

4. Suffix-based derivatives

The study of our corpus brings forward only three suffixes which are active in the case of legalese eponyms, i.e., - *ian* (in *Lombrosian*¹, *Hartian*² and *Kensian*³) and - *ize* (in *shepardize*⁴ and *mirandize*⁵) and -*y* (in *simony*⁶).

5. Blends

Gerrymander, a term used both as a noun and as a(n in)transitive verb, is a rare example of blend, resulting from the juxtaposition of the personal name Gerry (< Elbridge Gerry, 18th century American politician, vice president of the United States and governor of Massachusetts) and the second half of the common word *salamander* (the name of the reptile was chosen on account of the shape of an election district formed during Gerry's governorship of Massachusetts, in MWDL 1996: 212).

C. Semantic features

As a rule, to understand the meanings of eponyms in science, technology and medicine requires knowledge of the personality from whom the common word or the ready-made pattern is derived. In the case of legalese eponyms, it is not always the case of personalities playing a(n outstanding or at least significant) role (at a certain moment) in the law system they had been related to. It may also be the case of laymen becoming notorious due to their cases, which in time grew more and more reputation in the history of law casuistry.

The particular feature of legalese eponyms lies in their being tightly related to the culture they come from, i.e., personalities playing names of famous cases, as well as persons and practices pertaining to famous cases. This brings about a certain degree of difficulty in understanding these patterns, particularly in the case of professional translators who may not be conversant with legalese. Film translators are also prone to erroneous versions (see, for instance, the mistranslation of the film title “The *Debbie Smith Act*” into the Romanian “Actul Debbie Smith” instead of “Legea Debbie Smith”. Thus, the semantics of legalese eponyms and eponymic structures requires knowledge referring both to personalities and to the common nouns associated with these names.

D. Doublets or synonymous constructions

The practice of giving names of persons to any other referent but the persons themselves has been questioned by some eponymists () who consider it obsolete, redundant and culturally biased. Nevertheless, there have been opinions in favour of creating and using eponyms (). Irrespective of the scientists’ for or against attitudes, these pairs of structures do exist. Our research has recorded an impressive number of eponyms which have no substitute, and which coexist with an equally impressive number of eponyms which were used together with a synonymous formula (particularly in the medical literature). In the specific instance of legalese, it is obvious that the greatest majority of eponyms have no synonymic version.

The very few cases where the same referent bears two labels refer mainly to names of acts, whose eponymic structures divide them into:

- a) one-eponym patterns: *Wagner Act* (or National Labor Relations Act), *McCarrant Act* (or Internal Security Act of 1950), *Lanham Act* (Trademark Act of 1946)
- b) two-eponym patterns: *Glass-Steagall Act of 1933* (or the Banking Act of 1933), *Landrum-Griffin Act* (or Labor Management Reporting and Disclosure Act).

Conclusions

The English lexicographic heritage describing eponyms has recorded a wide variety of products (dictionaries, encyclopedias, handbooks and pocket guides)

Out of a total sum of 50 such works, 35 are dictionaries which explain specialist eponyms. While English medical terminologies abound in eponyms and eponymic structures, English legalese makes use of less than 100 such patterns. Their scarcity is also reflected in the small number of examples which do not show all kinds of groups to comply with McArthur’s structural classification.

Unlike many other specialist eponyms which behave as nouns, verbs, adjectives and seldom enough as adverbs, legalese eponyms rarely behave as verbs or simple nouns and more frequently as determiners.

The use of specialist eponyms in English legalese, irrespective of the British or American varieties, points to the interest of “lawyers” (i.e., all those who function in the world of legalese) in honouring those personalities whose contribution to the law system was significant or whose ideas meant a great deal worldwide.

The presence of synonymous doublets under D. indicates the specialists' concern in observing traditions and showing respect to those brilliant minds able to produce remarkable Acts which ultimately contribute to the individual's well being and prosperity and to social safety.

End Notes

1. *Lombrosian* is used "of or relating to the doctrine propounded by the Italian criminologist Cesare Lombroso that criminals are a product of hereditary and atavistic factors and can be classified as a definite abnormal type" (Stewart 2006: 275)
2. *Hartian* is used to denote "a system of jurisprudence either directly describing the work of the late H. I. Hart or a follower or commentator" (Stewart 2006: 217)
3. *Kelsinian* is used to refer to "a school of jurisprudence based on the writings of Hans Kelsen" (Stewart 2006: 256)
4. *shepardize* - the term derives from a legal service begun by Frank *Shepard* (1848-1902), who started publishing lists all the authorities citing a particular case, statute, or other legal authority, in a series of books, famous under the title of *Shepard's Citations* (Stewart 2006: 402)
5. *mirandize* - the verb derives from the case of Ernesto Miranda who "had been convicted on serious charges after having signed a confession without being told his rights. The Court held that the prosecution could not use his statements unless the police had complied with several procedural safeguards to guarantee his Fifth Amendment privilege against self-incrimination. The 5-4 Miranda decision shocked the law enforcement community and was hotly debated. Several later decisions by a more conservative court served to limit the scope of the Miranda safeguards." (MWDL 1996: 571)
6. *simony* - derived from *Simon* Magus, Samaritan sorcerer in Acts 8: 9-24, and suggesting the making of profit out of sacred things (WEUD 1996: 1783)

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Abstract

The current study describes the results of a complex analysis regarding the legalese eponyms in British and American English.

Résumé

Ce papier présente les résultats d'une recherche sur les éponymes du vocabulaire juridique de l'anglais avec ses deux variantes, britannique et américaine.

Rezumat

Studiul descrie rezultatele unei cercetări complexe privind eponimele folosite în limbajul juridic al limbii engleze atât varianta americană cât și cea britanică.