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In re Words: Loath to Forgo

By Juliette Gillespie

I edit articles written by attorneys. Attorneys are generally very intelligent people and, by definition, highly educated professionals. They are intellectually curious and must pay close attention to detail in their work.

The pieces submitted for publication in the New Jersey Law Journal have been carefully crafted by the attorney-author(s), and usually read, re-read and proofread by colleagues, marketing professionals and sometimes Mom (in the case of one writer I know).

And yet, there are errors. Apostrophes with plurals cause confusion; sometimes *its* and *it's* are misused; and many lawyers seem to have an aversion to commas. Can you say “run-on sentence”? (Don’t get me started on where to place punctuation vis-à-vis quotation marks.)

But I really wanted to address vocabulary. There are a few words I see repeatedly misused even by smart, diligent, educated people whose living is partially based on their ability to express themselves in writing.

The first of these is *forgo* vs. *forego*.

Let me start by saying that, in modern usage, the two words are often used interchangeably. In fact, this very company, ALM Media, has been known to use *forego* instead of *forgo*. A recent article of ours stated: “KPMG said equity partners across the entire firm have agreed to forego a partner distribution payment due in mid-April.”

However, if one investigates the origin of the words, proper usage becomes obvious. According to Merriam-Webster:

The prefixes give the homophones distinct meanings: *fore-* means “earlier,” “before,” or “in front,” whereas *for-* means “so as to involve prohibition, exclusion, omission, failure, or refusal.” (The prefix *for-* is archaic and is almost exclusively used in words coined before 1600, such as *forbid*.)

So, to *forego* means *to go before*. It’s easy to remember because they both contain the syllable “fore.” A “foregone” conclusion is one made before something actually occurs. In legal writing, it is common to see the term “the foregoing,” which, as all lawyers know, means that which precedes or comes before.

On the other hand, to *forgo* means to do without, to decline to take, to refrain from. Really, the KPMG partners mentioned above agreed to *forgo* a distribution payment.

OK, I can hear many of you saying: If they are regularly used interchangeably these days, why should I care?

Fair enough. But I remain a purist and will edit you accordingly. No hard feelings.

How about this one: *loath* and *loathe*. These words are less common in legal writing, but they do occasionally present themselves.

I recently copyedited an article for The Recorder, our sibling publication in California, written by a well-respected and very experienced professional mediator and arbitrator. It contained the following sentence: “Almost certainly, courts will be loathe to award profits in most clear cases of ‘innocent’ infringement.”

(I feel compelled to note that, in typing this, a squiggly blue line has appeared under the word *loathe*, indicating an error.)

Loath is an adjective meaning “unwilling or reluctant.” It ends with a hard *th* and rhymes with *growth* or *both*. So, to correct the foregoing example (see what I did there?) “courts will be *loath* to award profits” Another example from a recent article, where the author got it right: “A victim may be loath to turn to law enforcement for help.”

On the other hand, *loathe* is a verb meaning “to hate intensely” or “to be disgusted with.” It ends with a soft *th* like the sound in *smooth* or *breathe*. (English—I know. Spelling and pronunciation are not logical. Just go with it.) Loathe is a transitive verb, so it provides the action in a sentence, and it always has a direct object. It’s basically used the same way as the verb “hate,” but adds more intensity and makes you sound fancy.

In conclusion, I am loath to forgo correcting improper use of *loathe* and *forego*.

I am also loath to receive criticism, therefore I will forgo reading any negative responses to the foregoing commentary. However, I loathe being ignored, so if you have comments or suggestions for future columns, kindly email jgillespie@alm.com. ■

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