The Definitive Grammar and Punctuation Guide for Attorneys, Law Students, and Paralegals

Summary: This article thoroughly details and provides examples of grammar and punctuation rules particular to the legal profession.

"The student ought to carefully reperuse what he has written [and to] correct every error of orthography and grammar, A mistake in either is unpardonable." (From John Marshall's letter to his grandson, December 7, 1834. The Nation, LXXII Feb. 7, 1901.)

Grammar may be boring to learn, but it is important to know. It is, in fact, the basis of all effective writing. You will never be praised for good grammar, but you will surely be censured for its absence. And if your excellent reasoning is couched in ungrammatical language; don’t expect to get the credit for it that you deserve.

Of course, there is more to effective writing than standard grammar. To write well you need appropriate style and organization, and good analysis. But the sine qua non of writing is good grammar. Your clients will depend on it; courts will expect it. If your grammar is substandard, expect to be embarrassed.

Take, for example, the following case, in which the issue was whether the indictment under which the defendant was charged was legally adequate. The indictment read, in part:

The store building there situated, the property of M...A..., in which store building was kept for sale valuable things, to-wit: goods, ware and merchandise unlawfully, feloniously and burglariously did break and enter, with intent the goods, wares and merchandise of said M...A... then and there being in said store building unlawfully, feloniously and then and there being in said store building burglariously to take, steal and carry away [various items]... the said [defendant] having been twice previously convicted of felonies... [The remainder of the indictment charges the defendant with being a recidivist.]

The defendant demurred and presented as expert witness an English teacher who testified that, consistent with English grammatical rules, the indictment did not charge the defendant with doing anything.

The judge agreed with the defendant that under the rules of good English, the district attorney's indictment charged "goods, ware and merchandise" with breaking and entering, or that, alternatively, the indictment was a "largely unintelligible effort" to describe "the store building" as the perpetrator of the crime. "Certainly," said the judge, "The indictment failed to charge the defendant with any crime. Thus, under the rules of Standard English, the defendant should go free." Reluctantly, however, the judge held the indictment legally (though not grammatically) adequate, adding:
Establishment of a literate bar is a worthy aspiration. It is without doubt a consummation devoutly to be wished. Its achievement, however, must be relegated to means other than reversal of criminal convictions justly and lawfully secured. The assignment of error is rejected.

But other courts have held against drafters of contracts containing incorrect grammar. In one such case, the court scolded the insurance company policy drafter:

“The language [of this policy] follows no well-recognized grammatical rules. Elemental rules of sentence construction were totally ignored in the drafting of the clause upon which the Appellant relies. Any student of law or composition assigned to draft language to accomplish the Appellant’s goal of creating a clause to exclude coverage, in the situation presented in this case, would probably receive a failing grade if he presented the contract clause found in the Appellant’s policy. It would have been very easy for the Appellant to set forth its intent in a clear and succinct manner. It certainly has not done so in this situation.”

Even a minor grammatical error like a missing comma can lead to defeat in court. One court held that the absence of a single comma permitted a plaintiff trucking company to ship beyond a 100-mile limit, although both the plaintiff and the defendant intended the contract to limit shipping to 100 miles.

For law students, poor grammar may lower grades. Law professors, like other people, often unconsciously assume that grammatical-and even spelling-errors indicate inadequate thinking. I have seen that happen so often that I’ve given it a name: the “can’t even” theory. The professor’s reasoning process goes something like this: “This student can’t even write in standard English. How can he (or she) possibly resolve complex legal problems?” So the writer of a final examination that contains grammar and spelling errors may be handicapped even before the professor considers the ideas presented.

Finally, grammatical correctness is important in legal writing for two more reasons: (1) so that your readers can focus on what you are saying, not on how badly you are saying it; and (2) so that your readers can understand what you mean—even if they would rather not.

You will find that correct grammar is not hard to learn. Much of what follows below you already learned once, long ago, and you will find the re-discovery of old rules a pleasant experience.

**I. Some Definitions of Grammatical Terms**

Defined below are some of the terms that appear in this article. Grammatical definitions are risky, however, because grammarians disagree about them. For example, the traditional definition of a sentence is that it is a group of words conveying a complete thought, but this definition leaves out more sentences than it includes, and it has been rejected by modern grammarians. Even among modern grammarians, there is no consensus regarding the definition of a sentence; I have read at least 10 definitions, the simplest (and least helpful) being that it is a group of words between a capital letter and a period! So take the definitions offered below with a grain of salt. Do not memorize them; just use them to aid you in understanding the discussions in this guide.

Verbs: Verbs are sometimes called the action words of a sentence. An important function of verbs is that they indicate what the subject of the sentence is doing. Finite verbs contain tense, mood, and voice. Sentences must contain finite verbs. For example, the first sentence below contains a past tense finite verb. The second locution is not a sentence; it is a sentence fragment because it contains no finite verb, only a present participle of a verb:

- The girl walked down the street. (Finite verb, complete sentence.)
- The girl walking down the street. (No finite verb, sentence fragment.)

**Tense:** When you think of tense: think of time. Verbs can express three main time divisions (past, present, and future). In English only two tenses, present and past, are indicated in the verb itself. Other time indications are added with helping words. For example,

- Present Tense: walk; throw, is thrown
- Past Tense: walked; threw, was thrown
- Future Tense: will walk, shall walk; will throw, shall throw, will be thrown, shall be thrown
- Present Perfect: have (has) walked; have (has) thrown, have (has) been Tense: thrown
- Past Perfect: had walked; had thrown, had been thrown Tense:
- Future Perfect: will have walked, shall have walked; will have thrown,
- Tense: shall have thrown, will have been thrown, shall have been thrown
**Mood:** English verbs can indicate three moods, indicative, imperative, and subjunctive.

**Indicative:** used in statements and questions.

He has left. Are you going?

**Imperative:** used in commands, directions, requests.

- Stop doing that!
- Go four blocks east.
- Get me an eraser.

**Subjunctive:** used to express conditions contrary to fact, following words of command or desire, and in a few idiomatic sayings.

- (Condition contrary to fact) If the plaintiff were present, we could proceed.
- (Following command) He requires that dress code be observed.
- (Following desire) she is eager that the facts be known.
- (Idioms) Heaven forbid! Far be it from me to object! Come what may…

**Voice:** Verbs may be either active or passive in voice.

**Active voice:** John threw the ball to Jean.

Note that the active voice verb has a subject (John) and an object (ball).

**Passive voice:** The ball was thrown to Jean by John.

When you change the verb to passive voice, you move the former object to the subject slot, and the former subject becomes the object of a preposition (or is often deleted). Typically, you’ll want to use active voice throughout your writing.

**Nouns:** Nouns usually denote persons, places, things, actions, or qualities. They can be count (apples, chairs) or non-count (happiness, information). They can be common (man, idea) or proper (Buffalo, John Jones). They can be concrete (trees, table) or abstract (irony, love). Nouns function in sentences as subjects (the sun is shining), objects (visit Russia), indirect objects (Give John the book) and objects of prepositions (Listen to the music).

**Pronouns:** These substitute for nouns and function like nouns. The most common kinds are personal pronouns (I, you, he, she, it, we, and they); indefinite pronouns (anyone, anybody, anything, someone, some body, something, everyone, everybody, everything) and relative pronouns (who/whom, which, that).

**Adjectives:** These modify nouns and pronouns, and should be placed near the words they modify. Some examples of adjectives are:

- The uncooperative witness
- A just claim
- A directed verdict

**Note:** Usually adjectives precede the nouns they modify (as they do above). But when the modifying language is more than one word, put it after the noun it modifies; compare:

- An attractive nuisance
- A nuisance attractive to children.

**Adverbs:** They modify verbs or adjectives, other adverbs, and many other words. Adverbs often state where, how, when, or how often. Some examples are:

- An extremely old contract.
- He needs the answer now.
- She is very pleasant to work with.
- They seldom need help.

**Sentence:** A group of words that conveys an idea and contains a subject and a predicate. However, when
such a group of words is preceded by a subordinator, it is not a sentence but a subordinate (dependent) clause.

**Subjects:** Nouns and pronouns can be subjects. Phrases and gerunds are sometimes subjects too.

- The defense attorney persuaded the jury. (Noun subject)
- Someone entered the house without permission. (Pronoun subject)
- Almost unbelievable is how he got in. (Phrase subject)
- Seeing is believing. (Gerund subject)

**Predicate:** The part of a sentence that expresses something about the subject. The predicate of a sentence always includes a finite verb and sometimes includes other components.

- The defendant collapsed. (Verb as predicate)
- The prosecuting attorney questioned the witness. (Verb plus object as predicate)

**Clause:** A group of words containing a subject and a predicate, and conveying an idea. If the clause can stand alone as a sentence, it is called an independent (main) clause; if it cannot, it is called a dependent (subordinate) clause.

- The plaintiff applauded the decision; the defendant deplored it. (Each clause is independent.)
- Although the plaintiff applauded the decision, the defendant deplored it. (The first clause is dependent; the second clause is independent.)

**Subordinators:** Words that, when they introduce a clause, make it a dependent (subordinate) clause. Some subordinators are when, if, after, whereas, although, while, because, since, that, which, whoever, whichever

**Coordinators:** Words that join independent (main) clauses. These include coordinating conjunctions, e.g., and, but, for, or, or, so; correlatives (coordinating conjunctions in pairs), e.g., both… and; either… or; not only… but also; and conjunctive adverbs, including however, moreover, nevertheless, consequently, thus, furthermore, and therefore.

Phrase: A group of related words that lack either a subject or a predicate, or both. Some phrases are:

- John, the defendant’s counsel, (no predicate)
- Lacking the proper evidence, (no subject)
- Without further ado, (no subject, no predicate).

II. Punctuation

A. When to Use a Comma

If you don’t know the rules, you probably rely on guesswork in using commas. Guessing will work some of the time, because your vocal intonation and pauses (“sentence contour”) help you decide where commas belong. But guesswork is not infallible, and what usually happens is that if you don’t know the rules you will omit commas where they belong and put them in where they don’t belong. The following constructions require commas; if a construction does not appear here, it probably needs no comma. One good rule to follow: never separate the subject of a sentence from its predicate unless you have a good reason—like one of the ones listed below.

**Use a comma:**

1. Before coordinating conjunctions (and, but, or, for, nor) that join independent clauses:
   - The defense was inadequate, and an appeal is probable.
   - The landlord was not liable for the defect, for he was unaware of it.
   - The Socratic method of teaching is pedagogically stimulating, but it has drawbacks.

2. After dependent clauses, when they precede independent clauses:
   - Although she has retired, [dependent clause] she is still active. [Independent clause]
   - Before the defendant is sentenced, [dependent clause] the court considers mitigating circumstances.

**Note:** When the dependent clause follows the independent clause, use a comma if the dependent clause is
fairly long, but if the dependent clause is short, no comma is necessary:

- The landlord was not liable for the tenant’s injury, since at common law he had no duty to repair the tenant’s apartment.
- The jury retired to deliberate after the trial ended.

3. **Following other introductory language:**
   a. Introductory phrases:
   - Although nearly 80, he still practiced law.
   
   b. Transitional phrases:
   - On the other hand, the victim suffered no damages.
   - Amazingly, there were no injuries.
   - Consequently, the claim failed.
   - However, it is too late to consider another plan.

4. **To separate items in a series:**

   - Stolen during the armed robbery were credit cards, checks, and cash of an unknown amount.

   **Note:** If you omit the final comma in a series, you may confuse your reader. For example:

   - The plaintiff turned over all his holdings, houses and lands. Were houses and lands his total holdings? A comma makes clear the facts that his holdings included more than houses and lands:

     The plaintiff turned over all his holdings, houses, and lands. The next two sentences illustrate the same point:

   - The government has announced the capture of five smugglers, three women, and two youths. (Ten persons, five smugglers.)
   - The government has announced the capture of five smugglers, three women and two youths. (Five persons, five smugglers.)

   Even the omission of a single comma sometimes makes it impossible for the reader to decide what grouping of items the drafter intended. Here is the way the First Restatement of Torts defined assault:

   - An act other than the mere speaking of words which, directly or indirectly, is a legal cause of putting another in apprehension of an immediate and harmful or offensive contact.

     Without a comma to guide you, you cannot tell whether the person’s apprehension must be of an immediate and harmful, or offensive contact, or an immediate, and harmful or offensive contact. As you know from your torts class, the apprehension must be immediate, and of a harmful or offensive contact, and the definition should be punctuated to reflect that meaning:

   - An act other than the mere speaking of words which, directly or indirectly, is a legal cause of putting another in apprehension of an immediate, and harmful or offensive contact.

5. **To separate non-restrictive relative clauses**

- Professor Mary Smith, who is a member of this faculty, is on sabbatical at present.

   **Note:** For more on relative clauses, see pages 53-60.

6. **To set off appositives:**

- John Jones, the lieutenant-governor, is a graduate of this law school.

   Like most rules, this one has an exception: certain well-known phrases like "for argument’s sake" are acceptable. And group nouns composed of human beings use the possessive apostrophe. For example,
The committee's policy (but "the policy of the committee" is also acceptable.)
The corporation's profits (but "the profits of the corporation" is also acceptable.)
The alumni association's program (but "the program of the alumni" is also acceptable).

2. Omit the possessive apostrophe in possessive personal pronouns. For example, the following are correct forms:

- The book is hers.
- The decision is theirs.
- The dog is ours.
- The luggage is yours.

3. Now for where the possessive apostrophe is used:

- In most singular animate nouns, add s to form the possessive:
  - The author's words
  - The dog's tail
  - Joe's house
  - The professor's class.

In plural animate nouns ending in an s or z sound, add the possessive apostrophe after the final letter:

- Boys' caps
- Professors' classes
- Ladies' clubs
- Geniuses' problems

In one-syllable singular animate nouns that end in an s or a sound, add s:

- The boss's request
- The horse's legs
- James's appointment

In singular nouns of more than one syllable, add only an apostrophe:

- Euripides' plays
- Moses' leadership
- Socrates' death

But in nouns, in which the second s or sound is pronounced, add s:

- Louise's deposition
- Horace's hearing
- Alice's book

You may use the periphrastic possessive, if you prefer, for crinate nouns, but not for proper nouns. That is, you can say "the classes of the professor," but not, "the book of Alice."

The following compounds add s to form the possessive:

<table>
<thead>
<tr>
<th>everybody's</th>
<th>someone's</th>
</tr>
</thead>
<tbody>
<tr>
<td>anybody's</td>
<td>no one's</td>
</tr>
<tr>
<td>somebody's</td>
<td>Everyone's</td>
</tr>
<tr>
<td>nobody's</td>
<td>anyone's</td>
</tr>
</tbody>
</table>

When two or more nouns are used to denote possession, only the last noun in the series takes the possessive form when possession is shared by all members of the group. For example:

- John, Mary, and Bill's property (joint ownership)
- Mary and Paul's will (only one will)
- Joe and Joel's tax form (joint filing)
But when separate possession is indicated, every noun in the list must take the possessive form:

- John’s, Mary’s, and Bill’s property (three pieces of property)
- Mary’s and Paul’s will (two separate wills)
- Joe’s and Joan’s tax forms (separate filing)

F. When to Use a Hyphen

The decision of when and where to use hyphens is as much stylistic as it is grammatical. The discussion of hyphens appears here instead of in Chapter Three mainly because this is where readers probably expect to find it. Generally speaking, use hyphens for three reasons: (1) to express the idea of the unity of two or more words; (2) to avoid ambiguity; and (3) to prevent mispronunciation. Examples follow.

1. Hyphenate to indicate the unity of two or more words. This rule applies to adjectives and to nouns. First, adjectives:

- A well-known legal rule
- A six-member law firm
- A value-added tax
- An open-and-shut case
- Four- five- and six-page pleadings
- Black-letter law

Note that in all these examples, the hyphenated adjectives modify their noun together, not singly. An exception to the rule is when the modifiers are an adverb-adjective combination and the adverb ends in “-ly”:

- An unusually negligent act
- An increasingly severe sentence
- A suddenly appearing witness

Applying the rule of unity to nouns, you should realize that hyphenation of nouns represents one stage in a process. What happens is that when two or more nouns begin to be used together, first they are considered two separate words, then they are (usually) hyphenated, and finally they become one word. This is what has happened in the following words:

<table>
<thead>
<tr>
<th>First</th>
<th>Later</th>
<th>Currently</th>
</tr>
</thead>
<tbody>
<tr>
<td>ice box</td>
<td>ice-box</td>
<td>Icebox</td>
</tr>
<tr>
<td>ball park</td>
<td>ball-park</td>
<td>Ballpark</td>
</tr>
<tr>
<td>mail man</td>
<td>mail-man</td>
<td>Mailman</td>
</tr>
<tr>
<td>racquet ball</td>
<td>racquet-ball</td>
<td>Racquetball</td>
</tr>
</tbody>
</table>

Because hyphenation in these compounds represents only a stage, you may disagree with the final item (current usage) in this list. Perhaps, in your usage, you still hyphenate racquetball. If so, feel free to do so; you are making a stylistic choice. English usage is more conservative than American usage, so you will find words still hyphenated in British English that Americans write as one word. Winston Churchill, who is said to have hated hyphens, urged English writers to avoid them: “My feeling is that you may run [words] together or leave them apart, except when nature revolts.”

Even American writers continue to use hyphens in certain titles, for example:

- Attorney-at-law
- Editor-in-chief
- Commander-in-chief
- President-elect

The final word is that there is no arbitrary rule about the hyphenation of two or more words to indicate their unity. As a native speaker (and reader), you may rely on your instincts to guide your own usage.

2. Hyphenate to avoid ambiguity. Here the rule is based, not upon style, but upon common sense. In each of
the examples below, the lack of a hyphen would result in a change of meaning:

- A little-used sailboat (compare a little used sailboat)
- A hard-working attorney (compare a hard working attorney)
- Extra-judicial duties (compare extra judicial duties)
- Three-quarter-hour intervals (compare three quarter-hour intervals)
- A re-formed contract (compare a reformed contract)
- Re-covered office furniture (compare recovered office furniture)

3. Hyphenate to avoid mispronunciation. Notice that in the examples, above, hyphens change the pronunciation of the phrase as well as its meaning. You may wish to retain the hyphen in words like loop-hole, co-worker, and public-house, to avoid the pronunciation pho, cow, and cho. Even American writers, less concerned than English writers with the possible mispronunciation of non-hyphenated words, usually hyphenate de-ice, de-emphasize, re-issue, and re-analyze. Only fairly recent is the omission of the hyphen following the prefix co-, when it is followed by a vowel, as in co-educational, co-ordinal, and co-incide. You can choose to retain or remove the hyphen following co- and other prefixes, like non-, ex-, pro-, and anti-. With suffixes, like -less, frequency and familiarity are also the deciding factors. Thus, you would not hyphenate harmless, careless, or meaningless; but you might hyphenate brain-less or ambition-less.

4. The rule regarding the hyphenation of compound numbers and fractions is more precise. Hyphenate compound numbers from twenty-one to ninety-nine and hyphenate fractions used as modifiers:

- Twenty-five members attended.
- Ninety-five percent of those questioned responded.
- A one-third vote of the registrants (Compare: One third of those registered voted.)
- A two-thirds majority (Compare: A majority of two thirds).

Finally, it is easier to decide when not to hyphenate.

**Do not hyphenate when modifiers follow nouns:**

- A thirty-page brief (but a brief of thirty pages)
- A well-known legal principle (but a legal principle that is well known)
- A vehicle-operator mileage restriction (but a mileage restriction for vehicle operators)
- A for-adults-only film (but a film for adults only)

G. When and Where to Use Quotation Marks

The modem tendency is to use quotation marks sparingly. Omit quotation marks around common nicknames, biblical references, proverbs, well-known literary quotations or commonly known facts, available in numerous sources. Here are illustrations of these;

- Bob insisted that Dick be available to attend the meeting.
- Let the dead bury their dead,
- Still waters run deep.
- The criminal should be hoist with his own petard.
- Benjamin Franklin was the oldest delegate at the 1787 Constitutional Convention.

When you quote single words or short phrases, use quotation marks, but no commas if they are an integral part of the sentence in which they appear:

- What was meant by the term "insurance agent" in an insurance code was decided by the meaning of the language in an employment security act.

Place quotation marks around each word or phrase in a series, and place periods and commas inside quotation marks:

- Courts apply the rule of noscitur a sociis (Latin for "it is known by its associates"), when two words appear together and ordinarily have a similar meaning. When applied, the noscitur a sociis rule results in the general word being limited and qualified by the word with the narrower meaning. Courts apply this "fallible aid," however, only when the document in question contains "doubtful words," "some ambiguity," or "a question of legislative intent."

In the above paragraph, notice that the commas and the period are placed inside the quotation marks. This
is correct American usage. In American usage, colons and semi-colons are placed outside the final quotation marks, and question marks and exclamation points are placed inside the quotation marks if they are part of the quoted material and outside if they are not.

The following four sentences illustrate American usage:

- Mary said, "I am going out."
- Mary said, "I'm going," but she was unable to go.
- Mary asked, "Where are you going?"
- Mary asked, "Where are you going?" but I did not answer.

British usage differs in that all quotation marks are placed according to whether they are part of the quoted material.

II. How to Recognize and Punctuate Relative Clauses

1. What is a relative clause?

In Section IIA (above), discussing comma use, you read that non-restrictive relative clauses were constructions requiring commas. But what is a relative clause? It is a clause introduced by the relative pronouns that, which, who (whom, whose), modifying an antecedent noun or pronoun. The following are relative clauses:

- The book that I forgot to bring...
- The lecture which Professor Grummby gave...
- The language, which she remembered verbatim...
- The attorney, who had won the case...
- The plaintiff whose contract had been breached...
- The defendant to whom she had sent the letter...

2. How to decide whether a relative clause is restrictive or non-restrictive:

To distinguish between restrictive relative clauses and non-restrictive relative clauses, consider the following pair of sentences. The first sentence contains a restrictive relative clause; the second, a non-restrictive relative clause.

The member of this faculty who is on sabbatical at present is Professor Mary Smith,

Professor Mary Smith, who is a member of this faculty, is on sabbatical at present.

In the first sentence, the relative pronoun who introduces a clause that explains which faculty member is on sabbatical at present. The grammatical explanation traditionally given is that a restrictive relative clause "defines or restricts" the meaning of the language it follows. Here, the member of the faculty is "defined" by the language that who introduces. By contrast, in the second sentence, Mary Smith is defined by the language in her own clause, and the language following the relative pronoun who merely adds more information about her. Thus, the second sentence is a non-restrictive relative clause, and it is enclosed by commas.

3. The "which one" test:

An easy test to decide whether a relative clause is restrictive or non-restrictive is whether the clause in question answers the question "which one." In the first sentence, "who is on sabbatical at present" answers the question "which one" (which faculty member?). In sentence 2, we already know which faculty member. She is defined in her own clause by name and title.

The next two sentences contain relative clauses. Can you apply the "which one" test to explain the punctuation of each sentence?

- The judge rebuked the attorney who had left the courtroom.
- The judge rebuked the attorney, who had left the courtroom.

You are right if you decided that the first sentence needs no punctuation because it contains a restrictive relative clause. That clause ("who left the courtroom") answers the question, "Which attorney left the courtroom?"; and the absence of a comma indicates that more than one attorney was present in the
courtroom. In the second sentence, however, it is clear by the comma after attorney that only one attorney was present in the courtroom. Therefore the question, "Which one?" is irrelevant, and the clause is non-restrictive.

To return to the sentence excerpts that were given in Section H.1 (above) as examples of relative clauses, you can see that some of these contain commas and some do not. Can you add to these excerpts to make complete sentences of the examples? Try your luck, and compare your sentences with the following:

- The book that I forgot to bring contains my conference notes. (Which book contains my notes? The one I forgot to bring.)
- The lecture which Professor Grummby gave was hard to understand. (Which lecture was hard to understand? The one Professor Grummby gave.)
- The Language, which she remembered verbatim, was from the codicil of the will. ("The language" has previously been identified, so the relative clause does not answer the question "which language?")
- The attorney, who had won the case, refused to discuss it with the press. ("The attorney" has previously been named or otherwise identified.)
- The plaintiff whose contract had been breached wanted to settle out of court. (Which plaintiff wanted to settle? The one whose contract had been breached.)
- The defendant to whom she had sent the letter was found guilty. (Which defendant was found guilty? The defendant to whom she had sent the letter.)

4. The distinction makes a difference:

Failure to understand the difference between restrictive relative clauses and non-restrictive relative clauses may cause you to write something you do not mean. In the following item, a newspaper journalist made that mistake because he did not know how to punctuate relative clauses. His news item read:

"Mary Smith, the mother of two who recently entered college, agreed that a college degree is necessary to get a good job." As it is punctuated, this sentence says that Mary Smith’s two children recently entered college. The author meant that Mary Smith had recently entered college, so he should have punctuated the sentence:

"Mary Smith, the mother of two, who recently entered college, agreed that a college degree is necessary to get a good job."

A single comma marks the difference in meaning.

That politicians are well aware of the importance of commas is shown by an anecdote Time magazine reported, which occurred as a Republican subcommittee on economic policy was drafting the party’s position on increased taxes. The first draft version stated that the party "opposes any attempts to increase taxes which would harm the recovery and reverse the trend to restoring control of the economy to individual Americans." (Restrictive clause, no comma; meaning: only those taxes that would harm recovery would be barred.) Party conservatives, however, were unwilling to bar only "harmful" taxes; they wanted the sentence to bar all taxes. So they insisted on adding a comma, and the final version stated that the party would "oppose any attempts to increase taxes, which would harm the recovery and reverse the trend to restoring control of the economy to individual Americans." The single comma, after "taxes" barred all taxes, not only "harmful" taxes; Courts apply the same rule, under the rubric "Doctrine of the Last Antecedent." To see how it works, consider two regulations:

- Barred from interstate shipment are pears, apples, oranges, and lemons, which are unripe.
- Barred from interstate shipment are pears, apples, oranges, and lemons which are unripe.

Under the Last Antecedent Doctrine, the first sentence bars interstate shipment of all the listed fruits, if they are unripe. The second sentence bars from interstate shipment all pears, apples, and oranges, but permits shipment of lemons, unless they are unripe.

The Doctrine of the Last Antecedent has been cited and applied in a number of court opinions, for example in Davis v. Gibbs, 39 Wash.2d 481, 236 P.2d 545 (1951), in which the court said:

- Where no contrary intention appears in a statute, relative and qualifying words and phrases, both grammatically and legally, refer to the last antecedent.

"Contrary intention" would be indicated by a comma separating the qualifying phrase from the remainder
of the sentence.

5. **That, who/whom, or which**

a. Use that in restrictive relative clauses only.
   - The dog that I bought for my son barks constantly.
   - The books that I left on the table are missing.
   - The commission that promulgated the ordinance has convened.
   - The argument that the plaintiff advances is fallacious.

Note: In written English, do not use that to refer to human beings, although in spoken, informal usage, that is sometimes used.

   - Written English: Anyone who wishes to comment may do so.
   - Informal English: Anyone that wishes to comment may do so.

b. Use which instead of that in restrictive relative clauses, if you prefer.
   ("Which" is somewhat more formal than "that.")
   - The erroneous information which my client received…
   - The erroneous information that my client received…

c. Use which and who/whom (not that) in non-restrictive relative clauses.
   - The "establishment of religion" clause, which is a part of the first amendment…
   - Senator Blank, who is the keynote speaker…

Since most legal writing requires the use of formal English (and indeed legal usage tends to be conservative and somewhat old-fashioned), the student is well-advised to avoid colloquial, casual usage in law school writing assignments.

**Note**: Groups of humans (corporations, courts, institutions, etc.) are usually referred to by which and a singular verb:

   - Congress, which is in session…
   - The committee, which meets in Room 10…
   - The Supreme Court, which is in session…
   - The jury which decided the case…

d. In restrictive relative clauses, you may delete the pronouns who, which, and that when those pronouns function as objects in their own clauses.

   - The dog that I bought for my son barks constantly.

   **Substitute**, if you wish, for succinctness:
   - The dog I bought for my son barks constantly.
   - The books which I placed on the table are missing.

   **Substitute**, if you wish, for succinctness:
   - The books I placed on the table are missing.
   - The person whom I just met is your friend.

   **Substitute**, if you wish, for succinctness:
   - The person I just met is your friend.

   **However**, if the restrictive pronoun functions as the subject in its own clause, do not omit it:
   - The commission that promulgated the ordinance has convened.
   - The person who just left was my attorney.
Do NOT substitute:

- The commission promulgated the ordinance has convened.
- The person just left was my attorney.

The exception to this rule is that when the verb is a form of "be," both the form of "be" and the relative pronoun may be omitted, for succinctness:

- The book which is on the table…
- The book on the table…
- The person who is responsible…
- The person responsible…
- The court that is sitting…
- The court sitting…
- You will need to use your "ear" for idiom and your good judgment to decide whether to delete or not. A good rule-of-thumb is: delete unless the result might confuse your readers.

e. How to decide whether to use who or whom

To answer this question, you can use a fairly simple formula. Think of every sentence as a "surface structure" that may contain more than one "deep structure." A sentence containing a relative clause is really two "deep structure" sentences, an outer and an inner sentence. Look at the following sentence:

The attorney \[who/whom\] argued the case was the Public Defender.

This surface structure contains two deep structure sentences:

- Outer Sentence: The attorney was the Public Defender.
- Inner Sentence: The attorney argued the case.

Because who, in the surface structure sentence substitutes for the subject in the deep structure Inner Sentence, you need the subjective form, who:

The attorney who argued the case was the Public Defender.

Now apply the same formula to the next sentence:

The attorney \[who/whom\] the defendant requested was the Public Defender.

Here is the deep structure of that sentence:

- Outer Sentence: The attorney was the Public Defender,
- Inner Sentence: The defendant requested the Public Defender.

If you were to substitute he/him or she/her for "the Public Defender" in the deep structure Inner Sentence, you would choose the objective form of these words (him/her). So you would also choose the objective form of the relative pronoun (whom):

The attorney whom the defendant requested was the Public Defender.

The formula works just as well when a preposition is involved:

- The prisoner did not know \[who/whom\] he was talking to.

Deep Structure.

- Outer Sentence: The prisoner did not know something.
- Inner Sentence: He [the prisoner] was talking to [her/him].

You can now see that you need the objective case of the relative pronoun (whom):

The prisoner did not know whom he was talking to.

In written (and formal oral) usage, you will probably place the preposition (to) before the relative pronoun,
re-casting the sentence as:

- The prisoner did not know to whom he was talking.

Note: To determine which deep structure is the Inner Sentence, look for the relative pronoun. The clause in the surface structure sentence that contains the relative pronoun (who/whom) is the Inner Sentence of the deep structure. The word that the relative pronoun refers to is part of the deep structure Outer Sentence.

6. Where to place relative pronouns in sentences

This question is often raised in discussions about relative pronouns, and although the answer has more to do with syntax than grammar; it is included here to complete the relative pronoun discussion. Consider the following pairs of constructions:

- The room into which they were trying to break...
- The room they were trying to break into...
- The chair, the leg of which was broken...
- The chair, whose leg was broken...
- The person in whom the plaintiff had placed his trust...
- The person the plaintiff placed his trust in...

Neither the first nor the second construction in any of these pairs is superior to the other. The second member of each pair is more informal, and that consideration may guide your choice. But do not allow the fact that two constructions end with prepositions (into and in) deter you from using them. The "rule" that sentences should not end with prepositions no longer has force, if indeed it was ever valid. You have heard Winston Churchill's response to an aide who cautioned him against ending sentences with prepositions: "That is arrant nonsense up with which I shall not put!"

Caveat!

Whether you choose to place your prepositions in the middle of your sentence or at the end, be sure you do include them. A recent error, committed often by newspaper journalists, is the omission of the preposition altogether, perhaps because of a dilemma about where to put it (or the desire to save newsprint). Here are some examples from newspaper journalism:

- This is the same location that hydrogen was found leaking. (Missing, the preposition in.)
- The refugee camps are now more livable. The number of refugees in them is the lowest level it's ever been. (Missing, the first sentence, in; in the second sentence at.)
- That is another item the President tried to do patch-up work last week. (Missing, the preposition on.)

On the other hand, do not write sentences like one a little boy reportedly asked his father at bedtime: "What did you bring that book I don’t like being read to out of up for?" Though his question was quite clear, the five prepositions ending it may be somewhat excessive!

Try your hand at re-casting these sentences to make them grammatically correct. Then check the following possible revisions:

- This is the same location, in which hydrogen was found leaking.
- This is the same location (that) hydrogen was found leaking in.
- The refugee camps are now more comfortable to live in.
- The refugee camps are now more bearable.
- The number of refugees in them is at the lowest level ever.
- The number of refugees in them is the lowest it's ever been.
- That is another item on which the President tried to do patch-up work last week.
- That is another item the President tried to do patch-up work on last week.

III. Case and Number

A. Personal Pronouns

1. Identification

The personal pronouns are I/me, you, he/him, she/her, and they/them.
2. Function

Their case depends upon their function in the sentence.

Perhaps when were young we said things like, “Her and me went to the movies.” Our elementary school teachers then persuaded us to say instead, “She and I went to the movies.” In fact, we were so well persuaded that we may still use the subjective form of pronouns even when they are the objects of the verb or preposition. The result is ungrammatical constructions like:

- Give Mary and I the briefs.
- Between you and I, the reasoning is faulty.
- For they who want to study, the library remains open.

You will see that these constructions are ungrammatical if you rewrite the sentences so that the pronoun comes immediately after the verb or preposition:

- Give me and Mary the briefs.
- Between me and you, the reasoning is faulty.
- The library remains open for them who wish to study.

Them is the objective form because it is the object of the preposition for; who is the subjective form because it is the subject of its own clause. These subject/object distinctions of personal and relative pronouns may in time be eliminated, but current good usage still requires they be made, especially in writing. The use of those avoids the problem in this location and is a more felicitous choice.

CASE AND NUMBER

Once you have tested the case of the pronoun in your rewrite, you can redraft the sentence into its original structure.

3. After than or as

The personal pronoun takes the subjective or objective form depending upon whether it is the subject or object of the verb (in its own clause) either stated or implied. Thus:

- John admires Joe more than me.
- (John admires Joe more than John admires me.)
- John admires Joe more than I.
- (John admires Joe more than I do.)
- College students socialize more than law students; law students study more than they (do).
- Phil is younger than Jack but taller than he (is).

4. The “-self” pronouns

These are used only as reflexive or intensive pronouns. Do not use them as substitutes for I or me.

- John and myself were studying.
  (Myself is an intensive pronoun; substitute.)
- The question was addressed to myself.
  (Myself is a reflexive pronoun; substitute me.)

The following two sentences indicate the correct use of intensive and reflexive pronouns:

- I can do it myself, (intensive pronoun)
- I injured myself yesterday, (reflexive pronoun)

B. Referent Pronouns

1. Reference to entities: Refer to a committee, a court, a corporation, an institution, or any other entity or body, as it:
The Court based its reaffirmation of the federal right of interstate travel upon the Commerce Clause.

May a city limit its population by zoning laws?

Congress is empowered by legislation to protect its constitutional right to travel.

The jury arrived at its decision quickly.

The Dumkin & Dumkin Company argued that its liability was limited to 20% for the accident.

2. Reference according to number: Refer to singular nouns by singular pronouns, and to plural nouns by plural pronouns:

Every physician is expected to comply with practices customary in his or her community.

If a law school graduate fails to pass the bar examination she or he may retake it.

If parties are involved in a dispute in state courts, they are subject to state rules.

a. To avoid using either he or she (or some combination of these) to refer to a singular noun, you can recast the sentence to omit the personal pronoun:

Every physician is expected to comply with practices current in the community the physician practices in.

A law school graduate who fails to pass the bar examination may retake it.

A party involved in a dispute in a state court is subject to state rules.

b. Or you can recast the sentence, placing the subject in the plural when what you are saying applies to the group being discussed:

Physicians are expected to comply with practices current in their community.

Law school graduates who fail to pass the bar examination may retake it.

Parties involved in disputes in state courts are subject to state rules.

Note: Writers who should know better often draft silly comments to avoid being accused of "sexist language." For example, a member of a university search committee recently said:

When a candidate becomes President of this university, he'll have to deal with the problem of the state Sunshine Law. (Emphasis added.)

Rewrite that sentence to avoid the masculine pronoun he and also to avoid the implication of a joint presidency. Below are two possible re-writes:

A candidate who becomes President of this university will have to deal with the problems of the state Sunshine Law.

Any Candidate who becomes President of this university must deal with the problems of the state Sunshine Law.

C. Count and Non-count Nouns

1. How to tell the difference

There are several ways to distinguish between count and non-count nouns. First, count nouns have plurals. For example, cats, dogs, persons, books, chairs, houses, clouds, and mosquitoes are among the many count nouns in the English language. Non-count nouns have no plurals. You would not say "wealths," "informations," "happinesses," or "flours," for these words are all non-count nouns.

Second, you can divide count nouns into units and count the units. You can say "one cat, two cats, three cats," and so on. But you cannot divide non-count nouns into units. Among the English non-count nouns are information, salt, laziness, affluence, and flour. If you are a native speaker of English, you would not say, for example, "one information, two informations, three informations." Although native English speakers seldom have difficulty distinguishing between count and non-count nouns, those who learn English as a second language often do.

Third, you can identify count nouns by placing the indefinite article (a/an) in front of their singular form. You cannot do that with non-count nouns. Count nouns not only can have the article (a/an) in front of them in the singular, but they must have an article, either the indefinite article (a/an) or the definite article (the). To illustrate:

Not: Umbrella is handy in a tropical climate.
But: An umbrella is handy in a tropical climate.

Not: Item is missing from the list.

But: The item is missing from the list.

Note: Of course, the articles are interchangeable before count nouns, and may be omitted before plural count nouns.

As you have seen by the examples, non-count nouns tend to be intangible; count nouns tend to be tangible. Contrast, for example, father, church, lake, and feather (count nouns) with hope, desire, joy, and sympathy (non-count nouns). Those non-count nouns that do denote tangible things often name bulky materials (like dirt, butter, salt, or rice).

Some nouns are tricky, in that they can occur either as count or non-count nouns. Some of these are freedom, democracy, sin, fire, exercise, and depression. For example, you can say:

- Freedom is precious, (or) our freedoms are precious.
- Exercise is good for you, (or) do one new exercise each day.
- Democracy is a form of government, (or) the U.S. is a democracy.

That is because languages differ in what they consider count and non-count nouns. Even British and American English differ on some words, for example, hospital, which is a count noun in American and a non-count noun in British English.

2. Why you need to know the difference

One reason you need to know the difference between count and non-count nouns is that you use different modifiers to refer to the two groups.

<table>
<thead>
<tr>
<th>With count nouns use:</th>
<th>With non-count nouns use:</th>
</tr>
</thead>
<tbody>
<tr>
<td>many</td>
<td>Much</td>
</tr>
<tr>
<td>few, fewer</td>
<td>little, less</td>
</tr>
<tr>
<td>Number</td>
<td>Amount</td>
</tr>
</tbody>
</table>

For example, it is many jobs but much happiness, few lakes but little water, a number of dollars but an amount of money, fewer opportunities but less chance.

Note: More and some can be used with either count or non-count nouns.

It is interesting that in English, non-count nouns frequently become count nouns, but count nouns seldom become non-count. For example, in the lists above, we could have added behavior as both a non-count noun, and a count noun. Originally a non-count noun, behavior, especially in the language of psychologists, is now used as a non-count noun in statements like "the behaviors of ordinary persons." Most of us would still say, "the behavior of ordinary persons." The count noun peas, now the plural of pea, was a non-count noun, spelled Pease, in Middle English (between 1100 and 1500).

D. Latin and Greek Terms

1. English plurals are now acceptable substitutes for the Latin plurals of some Latin nouns. The list includes the following words and it may expand as the public becomes less and less familiar with Latin.

<table>
<thead>
<tr>
<th>Singular</th>
<th>Plural</th>
</tr>
</thead>
<tbody>
<tr>
<td>curriculum</td>
<td>curricula or curriculums</td>
</tr>
<tr>
<td>medium</td>
<td>media, mediums</td>
</tr>
<tr>
<td>addendum</td>
<td>addenda, addendums</td>
</tr>
<tr>
<td>stadium</td>
<td>stadiums (seldom, stadia)</td>
</tr>
</tbody>
</table>

2. But lawyers use Latin in their profession more than other people, and you should know and use those
Latin plurals that are still considered correct. Here are some Latin nouns for which Latin plurals are still properly used:

<table>
<thead>
<tr>
<th>Singular</th>
<th>Plural</th>
</tr>
</thead>
<tbody>
<tr>
<td>criterion</td>
<td>criteria</td>
</tr>
<tr>
<td>datum</td>
<td>data</td>
</tr>
<tr>
<td>stratum</td>
<td>strata</td>
</tr>
<tr>
<td>alumnus</td>
<td>alumni (male)</td>
</tr>
<tr>
<td>alumna</td>
<td>alumnae (female)</td>
</tr>
<tr>
<td>dictum</td>
<td>dicta</td>
</tr>
</tbody>
</table>

**Note:** Do not use the Latin plural form with a singular verb.

<table>
<thead>
<tr>
<th>Avoid, for example</th>
<th>Write instead</th>
</tr>
</thead>
<tbody>
<tr>
<td>The criteria is…</td>
<td>The criteria are…</td>
</tr>
<tr>
<td>The data shows…</td>
<td>The data show…</td>
</tr>
<tr>
<td>The alumni contributes…</td>
<td>The alumni contribute…</td>
</tr>
<tr>
<td>The dicta indicates…</td>
<td>The dicta indicate…</td>
</tr>
</tbody>
</table>

3. For some reason, Greek plurals are less puzzling to modern writers than Latin plurals, perhaps because many Greek plurals end like English plurals, with an s.

Some common Greek-derived words:

<table>
<thead>
<tr>
<th>Singular</th>
<th>Plural</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crisis</td>
<td>Crises</td>
</tr>
<tr>
<td>Hypothesis</td>
<td>Hypotheses</td>
</tr>
<tr>
<td>Analysis</td>
<td>Analyses</td>
</tr>
<tr>
<td>Synthesis</td>
<td>Syntheses</td>
</tr>
<tr>
<td>Antithesis</td>
<td>Antitheses</td>
</tr>
<tr>
<td>Thesis</td>
<td>Theses</td>
</tr>
<tr>
<td>Symbiosis</td>
<td>Symbioses</td>
</tr>
<tr>
<td>Paralysis</td>
<td>Paralyses</td>
</tr>
</tbody>
</table>

IV. Sentence Structure

A. How to Avoid Sentence Fragments

A sentence fragment results when you place a capital letter at the beginning and a period at the end of a group of words that are not a grammatical sentence. Legal professionals do not make this error often, but when they do, their writing suffers a cosmetic blemish that is hard to overcome. The two main kinds of sentence fragments are

1. Dependent clauses used as sentences:

   ◆ Where is, the defense attorney asked for acquittal.

   To avoid the sentence fragment, attach the dependent clause to the independent clause that it follows:

   ◆ The prosecutor asked that the accused be given a life sentence, whereas the defense attorney asked for acquittal.

   **Note:** If you remember that a clause introduced by a subordinator is a dependent clause, and it cannot
stand alone as a sentence, you will avoid this kind of sentence fragment.

2. Groups of words lacking a finite verb:

- The defense attorney’s motion for a directed verdict pending.
- Throughout, ungrammatical locutions are preceded by asterisks. However, data as a singular noun has gained general acceptance because of wide and current use by many educated speakers, particularly in spoken English.

To avoid this sentence fragment, add a finite verb:

- The defense attorney’s motion for a directed verdict is pending.
- The employee consenting to waive the defects.

To avoid this sentence fragment, attach it to a clause containing a finite verb:

- In consenting to waive the defects, the employee has assumed the risk.

Or redraft, using a finite verb:

- The employee consented to waive the defects.

B. How to Avoid Run-on Sentences

Run-on sentences are sentence fragments in reverse; instead of half a sentence, the run-on sentence is two sentences, incorrectly joined to make one:

- The victim of the attack was blind he could not see the threatening gestures of his attackers.

You can correct a run-on sentence in several ways:

(1) Divide it into two sentences.

- The victim of the attack was blind. He could not see the threatening gestures of his attackers.

(2) Divide it into two independent clauses. You may add either a coordinating conjunction or a conjunctive adverb—or neither.

- The victim of the attack was blind, so he could not see the threatening gestures of his attackers, (coordinating conjunction)
- The victim of the attack was blind; therefore he could not see the threatening gestures of his attackers, (conjunctive adverb)
- The victim of the attack was blind; he could not see the threatening gestures of his attackers, (no connecting word)

Note: You may, if you wish, use a coordinating conjunction preceded by a semi-colon.

(3) Divide it into independent clauses joined by a colon (indicating to your readers that the second clause will explain or amplify the first).

Note: These three choices are stylistic, not grammatical, and depend upon what relationship you wish to indicate between the clauses. Chapter Three, § II, will further discuss relationships between ideas.

C. What to Do About Dangling Participles

Standard English requires that when a participial clause has no subject, its implied subject is the subject of the following independent clause. Participles dangle when the implied subject in the dependent clause is not the same as the stated subject in the independent clause. The sentences that follow contain no dangling participles:

- Being sick in bed, I missed class. (I was sick in bed.)
- Opening the jar, I took a pickle. (I opened the jar.)
- Followed by my dog, I left the house. (I was followed by my dog.)
But in the next three sentences the implied subject in the dependent clause is not the same as the subject of the independent clause:

- Becoming senile, the daughter committed her mother. (Was the daughter becoming senile?)
- After identifying the remains, the body was buried. (Who identified the remains?)
- Being filthy and roach-infested, the plaintiff refused to rent the apartment. (Was the plaintiff filthy and roach-infested?)

To eliminate dangling participles, just add a subject to the dependent clause; or re-word the sentence without the dependent participial clause:

- Because her mother had become senile, the daughter had her committed.
- After a relative identified the remains, the body was buried.
- Because the apartment was filthy and roach-infested, the plaintiff refused to rent it.

In legal writing, dangling participles may be confusing. Consider the following sentences in which the missing subject of the first clause should be "the son." As written, sentence (1) says that the spouse may be convicted of murder, and sentence (2) says that "the share of his mother’s estate" committed the murder. Sentence (3) clarifies the writer’s intent:

- If convicted of murder, the son’s spouse would inherit his share of the mother’s estate.
- If convicted of murder, the son’s share of his mother’s estate would go to his spouse.
- If the son is convicted of murder, his spouse would inherit his share of the mother’s estate.

Note: A few words that were formerly participles have become prepositions or adverbs, and are not therefore considered dangling.

The following blooper, amusing rather than confusing, recently appeared in the local newspaper: "In pleading guilty, the state agreed to drop 65 other felony charges against [the defendant]."

- Considering his lack of education, his progress has been amazing.
- Conceding the contrary argument to be valid, his point is still well taken.
- Barring untoward events, the meeting will be held.
- Regarding your letter, the problem you discuss is being corrected.

D. Eliminate Redundancies.

1. The unnecessary that:

Too many legal writers add an extra that to their sentences. Consider the following examples:

- The Court ruled in the earlier case that because quantity, price, and conditions were all stated that a valid offer resulted.
- It has been argued that because some students panic in a single final examination that several tests should be given.
- In these sentences, the second that is redundant; delete it so that the sentences read:
- The Court ruled in the earlier case that because quantity, price, and conditions were all stated there was a valid offer.
- It has been argued that because some students panic in a single examination several tests should be given.

2. The “would have… could have” Error

The following sentences are ungrammatical:

- If the defendant would have used his rear-view mirror, he could have avoided the accident.
- If the attorney would have prevailed, he would have modified the judge’s instructions.

The rule is that in conditional sentences, like those cited, you use the locution “had… would have” or “had… could have.” So change the sentences to read:

- If the defendant had used his rear-view mirror, he could have avoided the accident.
- If the attorney had prevailed, he would have modified the judge’s instructions.

3. The Extra “Is”
The following examples are not misprints; they were taken from legal writing, and they are ungrammatical:

- The fact is that…
- The problem is that…

These errors are probably the result of analogy to a common noun-construction what it is, which does require a second is:

- What it is is a series of proposals.

The noun phrase what it is can be replaced by a noun or pronoun (for example, “The proposal”). The entire phrase acts as a subject in the sentence, and you need to add the verb “is”.

But the fact and the problem constitute the noun subjects in the other two illustrations, so you should add only the verb is to complete the subject-verb construction. The correct construction would then be:

- The fact is that…
- The problem is that…

4. The Extra Modifier

This kind of redundancy is not grammatical, but it should be included in the list. It is the adding of an unnecessary, and often misleading, modifier to a statement. See if you can recognize it in the following sentences:

- The defendant acted willfully by allowing such immoral acts to continue.
- Judges should not tip the scales of justice improperly.
- We must protect citizens from the arbitrary harassment of police.

The excess modifiers in these sentences are “such,” “improperly”, and “arbitrary.” In none of the statements are those words necessary, and their inclusion may cause misunderstanding. Try your skill at deleting the excess modifiers in the following sentences:

- The burglars were able to accomplish their crime because of the insufficient number of inadequately trained guards.
- The grading of my paper displays a too-capricious procedure.
- The inebriated passenger failed to exercise due care by playfully grabbing the steering wheel while the car was in motion.

E. Avoid Incorrect Deletions.

1. The Necessary Preposition

Perhaps to rebut the accusation that their writing is wordy, lawyers sometimes omit necessary prepositions. The following appeared in legal writing:

- The defense has considered which newspaper the advertisement should appear,
- The Senate is the forum which he should make his case.
- The students browse the library.

All of these sentences need a preposition. In the first two, add one at the end of the sentence or in the middle. The only reason for choosing the middle of the sentence is that you usually prefer to save the end of the sentence for your most compelling points. Corrected, the sentences would read:

- The defense has considered which newspaper the advertisement should appear, or
- The Senate is the forum in which he should make his case, or

*Note that you can delete the pronoun ”which” from this sentence.

In the second two sentences, you do not have to make a choice. Just add the preposition:
2. The Required Verb

The grammatical rule states that a verb can be deleted from a sentence only when the identical verb appears elsewhere in the same sentence. In the next two sentences the bracketed verbs were correctly deleted, for they were identical to the verbs that were present:

- I enjoy corporate law practice and probably always will [enjoy it].
- John has been on the city attorney’s staff, and so has Mary [been on the city attorney’s staff].

But, in the next two sentences, you should not delete the second verb, because it is not identical to the verb that is present:

- I have and always will believe in the jury system.
- He has and continues to proclaim his innocence.

In the first sentence the missing verb is believed, not believe. And in the second sentence the missing verb is proclaimed, and the verb that is present is proclaim. What can you do to remedy the situation? To be correct grammatically you would need to include the deleted verb, but that would make the sentences somewhat longer:

- I have always believed and always will believe in the jury system.
- He has proclaimed and continues to proclaim his innocence.

If you don’t like these last two sentences, English grammar provides an alternative that may be more to your liking. It’s called the “all-time-present,” and you recognize it in sentences like:

- She believes in justice for all.
- He insists on punctuality.

In these two sentences, the present tense verb (believes, insists) indicates action that occurred in the past and will continue into the future, as well as existing in the present. You can think of innumerable such statements (“I love television,” “I walk two miles daily,” and many others). So you can substitute for the two verbs in the cited sentences above, one verb expressing the all-time-present, and your statement will differ only slightly in meaning from that expressed by two verbs:

- I believe in the jury system.
- He proclaims his innocence.

3. The Clarifying “That”

On page 68, under the heading "Eliminate Redundancies," "the unnecessary that” was discussed. But not every “that” is created equal, and those now to be discussed are not redundant, and may be necessary to aid your reader to understand what you mean. You may find that you have to re-read the next three sentences because the clarifying that is missing:

- The judge held the flowerpot could constitute a deadly weapon.
- The defendant could reasonably have foreseen the cutting of the boat line would result in the boat’s sinking.
- The court found a statute that was not colorblind was unconstitutional.

The problem in each sentence is that because the transitive verbs hold, foresee, and find take noun objects, the reader assumes that flowerpot, cutting, and statute are the objects of the verb (and not, as is the case, the subjects of their own dependent clauses). So initially, the reader understands the sentence to mean:

- “The judge held the flowerpot…”
- “The defendant could reasonably have foreseen the cutting…”
- “The court found a statute that was not colorblind…”

If you, the writer, include the deleted “that,” however, you put the reader on notice that the object of the
verb will be the entire clause that follows, not just the nearest noun:

- The judge held that the flowerpot could constitute a deadly weapon.
- The defendant could reasonably have foreseen that the cutting of the boat line would result in the boat’s sinking.
- The court found that a statute that was not colorblind was unconstitutional.

Succinctness is desirable, but not when it is achieved at the cost of time and effort to the reader. When you are using the same kind of construction with a verb that could not possibly take as an object the noun that follows it, you will not confuse your reader, so you can either retain or omit the “that.”

- The juror did not think [that] the witness was telling the truth.
- City officials believe [that] the proposed development should be permitted.
- The district attorney stated [that] the persons indicted were in custody.

Because you can neither think a witness, believe a development, nor state a person, you have created no ambiguity by omitting “that.”