

The Scrivener: Modern Legal Writing



The Apostrophe: Reports of Its Death are Greatly Exaggerated*



by K.K. DuVivier

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You find not the apostrophe and so miss the accent.

William Shakespeare
Love's Labor's Lost
Act IV, scene ii, line 123

The apostrophe is on its deathbed, if you believe Charles Larson, a professor of literature at American University.¹ Larson argues that the apostrophe's murderers are those younger than thirty-five who persist in abusing this punctuation mark.

I agree with Larson that the apostrophe, as we now know it, seems endangered. However, I disagree with Larson's diagnosis of the cause. Blame should not rest with the younger generation; even though they are under thirty-five, the majority of my students at the University of Colorado School of Law use the apostrophe correctly. Instead, blame should rest with the apostrophe itself; its inconsistencies have earned it this fate.

Confusion with apostrophes is a longstanding problem, not a recent phenomenon. It seems no coincidence that the very first rule in Strunk and White addresses the use of apostrophes.² As the following examples show, readers searching for consistency are met with more exceptions than rules.

Contractions

Apostrophes in contractions are a simple concept. My first-grade son recently came home explaining the contraction rule: we use the apostrophe to replace a missing letter. Now the full wording "I am" no longer graces his papers; instead, he uses "I'm" whenever he can—no less than four times in his latest one-paragraph assignment.³

DO YOU HAVE QUESTIONS ABOUT LEGAL WRITING?

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Unfortunately, this simple contraction rule little benefits lawyers because contractions and other "casual language" are frowned upon in formal legal writing.

Possessives

Most writers also know 's is used to create the possessive form of a singular noun and that the apostrophe alone is used to create the possessive of a plural noun ending in s.⁴ If you have a group of words, place the 's after the last word in the group.

Example (singular): plaintiff's complaint (one plaintiff)

Example (plural): plaintiffs' complaint (several plaintiffs)

Example (group): the Governor of Florida's recommendation, attorney general's office,⁵ John Doe Jr.'s speech⁶

Be careful when punctuating the possessive of a group of two or more nouns; a misplaced apostrophe can alter your meaning. Indicate joint possession by using 's after the last noun in a group. Indicate separate possession by placing an 's after each noun in the group.

**Paraphrasing of Mark Twain's statement in the New York Journal (June 2, 1897): "Reports of my death have been greatly exaggerated."*

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Example (files belong jointly to both): Dimitri and Inga's files are being reviewed.

Example (each have separate files): Dimitri's and Inga's files are being reviewed.⁷

Exception 1—Using the Apostrophe Without the "S"

Now the confusion sets in. Does one use an 's or just the apostrophe after a singular noun ending with *s* such as "Congress" or "witness"? Some authorities say use 's,⁸ others recommend avoiding "an excess of s's" by use of the apostrophe only,⁹ and still others say use an apostrophe alone if "the resulting word is difficult to pronounce."¹⁰

Only a few sources attempt to clarify the difficult-to-pronounce rule. If the word following the possessive starts with an *s*, then the combination is difficult to pronounce, and the apostrophe should be used alone. If a proper name contains internal and ending *s* sounds (formed by *z* or *x*, in addition to *s*), the result is difficult to pronounce, so again the apostrophe should be used alone.

Examples (pronounceable, so use 's): Congress's authority, witness's testimony

Examples (unpronounceable, so no s): Congress' sake, witness' signature, Moses' laws, Alexis' conviction¹¹

Exception 2—No Apostrophes for Possessive Pronouns

Just when we've nailed down the rule that an apostrophe is used to show the possessive, we encounter this pronoun exception.¹² Possessive pronouns, such as *hers*, *theirs*, *yours* and *ours*, rarely are punctuated incorrectly because they cannot be mistaken for common contractions. In contrast, pronouns that resemble contractions are frequent targets for confusion. For example, *its* (possessive) is confused for *it's* (contraction: it is) and *whose* (possessive) is confused for *who's* (contraction: who is). These forms generate much of the resentment for the apostrophe's apparent inconsistency.¹³

Exception 3—Apostrophes for Plurals

We writers are fooled again if we believe that 's is used for singulars and *s*' for plurals. Although the authorities disagree, frequently the plural of numbers, letters or symbols can be formed by using 's. The more recent *The Chicago Manual of Style*¹⁴ eliminates the apostrophe (7s, Cs, 1950s), while the U.S. Government's *A Manual of Style*¹⁵ requires both the apostrophe and the *s* for these plurals (7's, C's, or 1950's). The apostrophe always should be used if eliminating it would create confusion. Compare "Dot all the i's." with "Dot all the is."

The use of 's for plurals may seem inconsistent because it doesn't fit into the context of the basic apostrophe rules: there is no omitted letter and no possession.

Conclusion

No doubt, writers will continue their attempts to force the apostrophe into conformity. Although the apostrophe may be headed for extinction, it's not dead yet. Maybe someday you'll want to pitch out this column, but I'd hold onto it for at least a few more years.

NOTES

1. Larson, "Its Academic, Or Is It?" *Newsweek* (Nov. 6, 1995) at 31.
2. Strunk & White, 3rd ed., *The Elements of Style* 1 (New York, N.Y.: MacMillan, 1979).
3. Note: the apostrophe goes into the space created by the omitted letters, not in the space between two words that have been combined. Correct: wouldn't; incorrect: would'nt. Tarshis, *Grammar for Smart People* 109 (N.Y.: Pocket Books/Simon & Schuster, Inc. 1992).
4. The use of apostrophes to signal the possessive has the same origin as the contraction rule. The apostrophe marked the omission of an "e" in the English genitive or possessive case. Use of "s" for all possessives, even those without an omitted "e," was not established until after 1725. Vol. I, *The Oxford English Dictionary* 2d ed. (Oxford: Clarendon Press, 1989) at 558-59.
5. Example from Oates, Enquist and Kunsch, *The Legal Writing Handbook* 815 (Boston, MA: Little, Brown & Co., 1993).
6. New York Public Library, *Writer's Guide to Style and Usage* 273 (N.Y.: Harper-Collins Publishers, Inc., 1994)
7. Example from Tarshis, *supra* note 3 at 110. See also Oates, *supra* note 5 at 816.
8. Strunk & White, *supra* note 2 at 1.
9. *Writer's Guide*, *supra* note 6 at 268.
10. Oates, *supra*, note 5 at 813.
11. Examples from *id.* at 814.
12. Remember that indefinite pronouns *do* use the apostrophe to show possession. Examples from Strunk & White, *supra* note 2 at 1: one's rights, somebody else's umbrella.
13. "We're taught that apostrophes should be used in possessive words, yet *this* word, perhaps the most common of possessive words, *doesn't* have one! . . . It's not hard to understand why so many people . . . figure it's totally arbitrary." "Letters," *Newsweek* (Nov. 27, 1995) at 16.
14. *The Chicago Manual of Style*, 14th ed. (Chicago, IL: Univ. of Chicago Press, 1993) at 197.
15. U.S. Government Printing Office, *A Manual of Style* (N.Y.: Gramercy Publishing Co., 1986). Both this manual and *The Chicago Manual of Style* are referenced by *The Bluebook* for guidance for punctuation and style. Harvard Law Review Assoc., 15th ed., *The Bluebook, A Uniform System of Citation* 4 (Cambridge, MA: Gannett House, 1991).



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