

On the Papers

CONNECTIVITY: THE CONSTRUCTION OF THE ENGLISH PARAGRAPH, PART III

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A unit of discourse is any group of words that has a beginning and an end. A sentence begins with its capital letter and ends with its period: As readers, we know how to take a mental breath to summon the “sentence energy” that we will use in making that journey from beginning to end. A paragraph begins with an indentation (or a doubled space from the previous paragraph) and ends when its last sentence is visually separated from the paragraph that follows: In order for us to follow the paragraph from beginning to end, without stumbling, each sentence must be connected smoothly and firmly to both of its neighbors. Taking care of those connections gives the writer greater control over the reader’s journey.

We will explore this question of connectivity by looking at the first five sentences of a randomly chosen paragraph from *Leitner v. Braen* (51 N.J. Super. Ct. App. Div. 31, 143 A. 2d 256 (1958)).

The concept of mutual assent is customarily stated as one of the primary

requisites to the formation of an informal contract. Such mutual assent is, however, unimportant except as it is manifested by one party to the other, generally by a communicated offer and acceptance. So the obligation depends not on the so-called real intent of a party, but on that expressed. The phrase, “meeting of the minds,” can properly mean only the agreement reached by the parties as expressed, i.e., their manifested intention, not one secret or undisclosed, which may be wholly at variance with the former. It is in this sense only that the formation of a contract can be said to require the “meeting of the minds” of the parties.

For a reader not trained in the law, the journey through this kind of prose is uncomfortable, foggy, impeded. For a law student, it is part of the painful rite of passage to becoming a professional. For a lawyer, it is a journey through familiar terrain, comprehensible if the substance is already known, but still part of the

professional grind. It does not have to be so. Knowing *where* in a sentence readers look for the arrival of certain kinds of substance allows us to revise effectively, facilitating two kinds of sub-journeys in a paragraph: (1) the progress from the capital letter of each sentence to its period and (2) the connecting of each sentence to its neighbors. Then both the sentences and the paragraph will read more cohesively and coherently.

We will concentrate here on three crucial reader expectations in English:

1. Readers read a sentence as being the story of whoever or whatever is the sentence’s grammatical subject.
2. Readers give extra emphasis to whatever occupies the sentence’s “stress position.” A stress position is any moment when the grammatical structure comes to a full halt—next to a colon, semicolon, or period. (It can never happen at a comma.)
3. Readers want to know as soon as possible how a new sentence should connect backward to its predecessor.

Important note: To make all my proposed revisions, I will be guessing at the author’s intention. If I’m right, the revision will be an improvement. If I’m wrong, well, that’s the fault of the author: He was supposed to have made his intention clear.

Here again is the first sentence:

- 1a. The concept of mutual assent is customarily stated as one of the primary requisites to the formation of an informal contract.

I am guessing that this sentence is to be the story of “the formation of an informal contract”; I am also guessing the stress-worthy star of the show is “the concept of mutual assent.” Both are in the wrong place. Put them in their rightful places, and the sentence’s meaning surfaces more clearly, more effortlessly for the reader:

- 1b. One of the primary requisites to the formation of an informal contract is the concept of mutual assent.

We are now leaning forward to hear more about “mutual assent.”

Let us examine the next two sentences.

- 2a. Such mutual assent is, however, unimportant except as it is manifested by one party to the other, generally by a communicated offer and acceptance.
- 3a. So the obligation depends not on the so-called real intent of a party, but on that expressed.

Sentence (2a) seems to begin helpfully. “Such mutual assent” is both the “whose story” of the second sentence and the backward link to its predecessor. So far, so good. In (2a) and (3a), what are the terms here the author wanted us to stress? I’m guessing: the concept behind “manifested”; “offer and acceptance”; “real intent”; and “expressed.” That’s four stress-worthy terms; but there are only two stress positions. I also suspect that a stress-worthy item absent from these sentences is the word “words”: “Words” = how the contract is “manifested.”

The two sentences are so intertwined that we must shake them together and redistribute their contents to create the four needed stress positions in a logical order. To fashion four stress positions in only two sentences, we can rely on that too little used but extraordinarily effective punctuation mark, the semicolon.

- 2b. “Mutual assent,” however, is irrelevant except as the parties have manifested it to each other expressly in words; that is generally accomplished by an articulated offer and acceptance.
- 3b. So the obligation between them depends not on either party’s so-called “real” intent; it depends entirely on what their words expressed.

For two reasons, the seeming duplication of “expressly in words” and “words expressed” in two of these stress positions is not overkill: (1) Both “expressed” and “words” deserve emphasis; and (2) the concept of the two combined is so essential to the formation of a contract that it deserves the emphasis created by their repetition in reversed order.

On to the fourth sentence:

- 4a. The phrase, “meeting of the minds,” can properly mean only the agreement reached by the parties as expressed, i.e., their manifested intention, not one secret or undisclosed, which may be wholly at variance with the former.

Surely, the prepositional phrase “with the former,” which is the occupant of the sole stress position in this 36-word sentence, cannot be its sole piece of crucial information. I am guessing that the author wanted us to stress two items: (1) the term “meeting of the minds,” and (2) the concept of an undisclosed intention. He has burdened us by introducing the “meeting of the minds” up front, in the “whose story” position. That term is new information. It should be one of the fruits of this sentence, not its starting place. In addition, it makes no obvious connection backward to the third sentence. The real backward link—“agreement . . . expressed”—comes too late to be of optimum help. We need to restructure the revision so it will repair these three violated reader expectations—the misplaced backward link, the wrong “whose story,” and the badly filled stress position. We need a stress position for “undisclosed intention”; and we need another for “meeting of the minds.” The resulting two-sentence revision reads easily and connects helpfully:

- 4b. That explicit expression of their agreement—their manifested intention—cannot be superseded by any conflicting, secret, or undisclosed intention. Only the explicit expression

can represent a “meeting of the minds.”

Look now at the original fifth sentence:

- 5a. It is in this sense only that the formation of a contract can be said to require the “meeting of the minds” of the parties.

There is nothing new in this sentence. It has all already been said. (Don’t you hate unnecessary repetitions when you are reading for a living?) Why did the author feel the need to produce the fifth sentence? Again my guess, but one of which I feel sure: He knew that he had failed properly to stress the right materials in his previous sentences. To make sure he would get his point across, he needed to restate it—this time more clearly and more succinctly. But even then, he ended weakly with a prepositional phrase—“of the parties”—diminishing the sense of arrival and closure that “meeting of the minds” would have achieved by living next door to the period.

We no longer need the fifth sentence. Cut it. Here is our result:

One of the primary requisites to the formation of an informal contract is the concept of mutual assent. “Mutual assent,” however, is irrelevant except as the parties have manifested it to each other expressly in words; that is generally accomplished by an articulated offer and acceptance. So the obligation between them depends not on either party’s so-called “real” intent; it depends entirely on what their words expressed. That explicit expression of their agreement—their manifested intention—cannot be superseded by any conflicting, secret, or undisclosed intention. Only the explicit expression can represent a “meeting of the minds.”

How does this reading compare with your journey through the original? ■