Language for Lawyers

by Gertrude Block

Question: *Could you please write a column on double negatives? They always slow me down. When I come across them, I have to stop and try to figure out what the drafter really meant.*

Answer: The lawyer who submitted this request has a point. Double negatives do cause wordiness and sometimes ambiguity, but the claim that they change meaning is often not justified. For example, nobody would believe that the double negative in the following statement, "I ain't got no time for a vacation," means anything except, "I have no time for a vacation."

Multiple negatives were grammatical, at least from Old English (in *Beowulf*), through Middle English (when Chaucer wrote), and then until the 18th century. During all those years double, triple, and even quadruple negatives were completely acceptable, each adding more emphasis to the original comment.

In Chaucer's "Prologue" of *The Canterbury Tales*, his description of a man he admired, the noble knight, contains three negatives, all designed to show how sterling a man the knight was: His noble knight, Chaucer wrote, "nevere yet no vileynye ne sade." (*Nevere* means "never"; *no* still means "no"; and *ne* means "not any.")

But the 18th century brought the Age of Reason, and schoolmasters who were convinced that the English language was in terrible shape, having "decayed" from its previous "pure" condition, so that it offends against every part of grammar. They believed that even the writing of the most learned authors now contained the "most grievous and gross improprieties."

The schoolmasters believed, they could correct the problems. Led by Bishop Robert Louth, theologian, Hebraist, and professor of poetry at Oxford—but not a linguist—they got to work, proceeding on the erroneous belief that the English language had descended from Latin, to force English into the Latin format.

One Latin rule they adopted was that two negatives created a positive. This rule satisfied the schoolmasters, because it followed both Latin structure and the mathematical mode. So Bishop Louth announced that "two Negatives in English destroy one another, or are equivalent to an Affirmative." That rule, adopted enthusiastically by schoolmarms of the time, is still followed by some today.

The rule makes some sense, but not for the reason it was promulgated. See, for example, the result of the negatives in a sentence from the Model Penal Code, § 5.01(2). (The negatives are italicized):

Without negativing the sufficiency of other conduct, the following, if strongly corroborative of the actor's criminal purpose shall *not* be held *insufficient* as a matter of law.

The four negatives ruin the sentence; positive language would clarify it. Here is the sentence, minus the negatives:

Although other conduct may also suffice, the following, if strongly corroborative of the actor's criminal purpose, shall be held sufficient as a matter of law. ("If it corroborates" should replace the wordy phrase.)

Even only one negative can cause ambiguity. Take this statement, which appeared in the local newspaper: "Florida's greatest problem is not being able to attract and hold its school teachers." In that sentence, the only negative is the word *not*—and that is what causes the problem. For *not* is what linguists call "a squinting modifier;" Janus-like *not* can look either back or forward; it can refer either to what precedes it or what follows it.

Thus the sentence can mean either that Florida's greatest problem is that Florida cannot attract and hold its school teachers. Or it can mean that Florida's greatest problem is <u>not</u> that Florida cannot attract and hold its school teachers, but that its greatest problem is something other than an inability to attract and hold its school teachers.

That word *not* can be ambiguous in at least one more way. When, for example, you make the affirmative comment, "All cats are gray," your sentence is unambiguous (although it is also untrue). But suppose you want to say, "No cats are gray." That sentence is also unequivocal, although, like its affirmative opposite, untrue. But add *not* to the sentence, and its meaning becomes murky. You may intend to make an unequivocal comment, but you have not done so. If you say, "Not all cats are gray," you are saying, "Some cats are not gray," a true comment, but not what you meant. (Moving the word *not* fails to help: "All cats are not gray.")

A moral for all writers: Never be ambiguous unless you intend to be. ⊙

Gertrude Block, lecturer emerita at the University of Florida College of Law, can be reached at block@law.ufl.edu or by snail-mail: Gertrude Block, Lecturer Emerita, University of Florida, Gainesville, FL 32611.