

Nomads Club

Talk by Donald Reid 31 October 2022

Splitting Hairs

The phrase of course is nearly always used metaphorically, to indicate a fine distinction the merits of which are not important enough for the distinction to be made in the first place. Examples abound, and we'll come to them. There are other words or phrases carrying similar meanings. For example "pettyfogging" which is used in relation to rules or or regulations which in the context seem trivial or trifling. A topical example is the outcry from opposition parties to the new Prime Minister's dismissal of their demands for a General Election following his appointment by his party. Asked to explain what rules of our Constitution have been breached by Sunak's refusal the response was: "This is no time to nit-pick over pettifogging rules when all right-thinking people are appalled by a flagrant breach of the principles of democracy; stop splitting hairs, Rishi".

Anyway, let's start with the literal. Any metaphor only has merit if its underlying literal meaning is understood first. For example, again to be topical, we wouldn't understand what is meant by describing the plains of Ukraine as the "breadbasket of the world" unless we first have in mind an image of a large basket laden down with freshly baked bread just waiting to be grabbed and consumed by hungry humans. **SLIDE**

So what about splitting hairs? I have done a little research but so far as I can tell there is no great history of anyone finding a good practical reason to split hairs. It can of course be a real world problem - some women apparently suffer a lot of angst over the ends of their hairs splitting. My wife tells me that as a schoolgirl she and her classmates used to while away boring Latin lessons by each picking at the split ends of the girl in front. But that aside the use of the phrase has, it appears, derived more from the selection of a human hair as a "thin thing" which it would ordinarily seem very difficult to split at all. So thin is a hair that the implication is that there could never be a useful reason to split one other than to show off. But show offs there have been. Someone called Alfie West, who died in 1985 aged 84, holds the world record for splitting a

hair seventeen times into 18 lengths. He apparently used hair-splitting as an art form. Here's an example. **SLIDE**

You see: if you look at a hair through a magnifying glass it isn't thin at all. It looks more like a fairly substantial tree, and a head of hair like a primeval forest. **SLIDE** Have you heard of the nanoscale of measurement? A nanometre is a one thousand millionth of a metre. A human hair is 60-100 thousand nanometres wide. There exists, my research tells me, a thing called a nanoknife, which is made of obsidian which is a naturally occurring volcanic glass, and which can have a blade as narrow as 3 nanometers. This means it could split a hair up to 33,000 slices. Alfie West needs to look to his laurels because sooner or later someone will be bonkers enough to deflect a nano knife from its surgical purposes and claim a new hair-splitting record. Incidentally you can buy an obsidian knife for more ordinary purposes, **SLIDE** although its sharpness will be nowhere near 3 nanometers. But perhaps, not being metal, you can smuggle it past airport security!

So on we go. Let's move to the metaphorical meaning. This use first appeared in the 18th century in its current sense of making an over-fine distinction. But, and I'm slightly afraid to share this with you, there was a slang usage of "hair" in the 19th century to denote the female pudendum, and by extension a hair splitter became a slang term for the male organ. Sorry.

So let's look at some examples of splitting hairs. Take restaurant bills. Someone has the pasta dish but the other orders steak. The pasta eater is happy with a glass of sauvignon blanc while the steak eater needs St Emillion Grand Cru. Then for the pudding one of them has rum baba while the other has La Madeline au Truffle. The bill arrives. Steak eater says: let's not split hairs, will we just go 50-50? We've all been there. The reference to splitting hairs is actually a tacit aggression. It is really saying: if you insist on a proper breakdown of the bill it means you're a money grabbing anally challenged meanie with whom I will never eat again and will trash your reputation among all our mutual friends. The same issues can of course arise the other way. You are having a day out as a foursome. Someone buys morning coffee and airily dismisses attempts to share the cost - it's on me, he says. Then lunch comes and another person offers generously to pick up the tab for the sandwiches

and lemonade. In the afternoon you have a boat trip on the nearby canal system. Great fun. Another member of your party sacrifices the costs to his wallet alone. So we get to the main event of the day - dinner in La Brasserie Expensivo. With drinks. So far you have enjoyed the day without paying a penny towards the earlier indulgences. Do you just enter into the spirit of the day and cough up yourself? Or do you split hairs and conduct a detailed audit of all the day's spending? Wars have started on less. I have just returned from a week with friends visiting WW1 sites in Belgium and France. We entered all our costs into a computer app called Hairsplitter. Well actually its name is Tripsplitter. We split our hairs religiously to the last eurocent, and parted in as friendly and rancour-free a spirit as when we met.

The truth is that many activities that are dismissed as splitting hairs are often not nearly so trivial as their critics assert. Lawyers are the masters of hair splitting but in fact that's what they are paid for, and indeed it's what they get sued about if they don't split hairs properly. Here's one example which I am oversimplifying for the sake of clarity. Many years ago now a major property investment and development deal was negotiated among various companies and individuals. One of the individuals was a well known architect whom we'll call Michael Brown. Michael in fact was the prime mover in the deal and with his contacts in the industry had put it all together. There was however another architect involved called Richard Scott who was designing and supervising the construction of the new buildings. His remuneration though was not to be on the normal basis of time and effort but rather he was to get an equal share with Michael and various other parties in the deal of the net proceeds of the redeveloped property once completed and sold. About 12 lawyers were involved representing the interests of the various parties. This was big ticket stuff and the proceeds were expected to run into millions. Michael's lawyer drew up a huge contract in which the parties were given one word name definitions to save lengthy repetitions. Michael Brown was named simply "Michael"; an investing venture capitalist company was named "Angel"; A financing bank was named "the First Bank"; Richard Scott was named "the Architect" and various other participants were similarly abbreviated. The draft document was circulated among the various lawyers who each scrutinised it and made adjustments. It went round and round several times. Eventually it

reached Richard Scott's lawyer who made no adjustments at all except in relation to one passage which came to him as follows: **SLIDE**

"...and the net proceeds thus determined shall be divided equally among Michael the architect, Angel, and..."

This lawyer made two small changes, namely to put a capital A at Architect and to insert a comma after Michael so that the passage reads:

"...and the net proceeds thus determined shall be divided equally among Michael, the Architect, Angel, and..."

Can you see the importances of the changes? Michael was an architect (small A) as a matter of descriptive fact, but the important thing was to make sure that Richard, defined as "the Architect" (capital A) got a share of the proceeds. Inserting the comma and changing to the capital had that effect. The lawyer in question, I am told, charged a fee of £10,000 for his trouble. Not bad for 30 seconds' work! Critics will say that's typical, lawyers get paid handsomely to split hairs. But really, this wasn't hair splitting: this was ensuring accurate precision the absence of which otherwise could have been catastrophic for Richard.

If you make a Will you might want to leave your money to your children. But what if one of them sadly dies before you - you want your money to go down the generations to that child's children - your grandchildren. So you change "children" to issue. Sounds like splitting hairs but it's not. But wait, what if the deceased child has eight children - you don't want those eight to get the same share as your actual surviving children. So you split another hair and use the phrase "issue *per stirpes*" - a nice latinism that means go down by branches and not on total head count. All very concise and accurate with the additional bonus of getting to heap opprobrium on the lawyer involved for using impenetrable jargon.

Then there's Sir Roger Casement. **SLIDE** He was convicted of treason in 1916 for his actions in support of Irish Nationalism and he famously claimed that he was to be "hanged upon a comma", his complaint being that in his trial the judges decided that a significant comma had been included in the wording of the 1351 Treason Act the effect of which was to strike at allegedly treasonous acts committed outwith Great Britain, rather than confined to those committed within its geographical boundaries. Casement's actions, which he freely admitted he had committed, had been to seek funding in Germany for Irish Rebellion, and to travel to the United States to drum up pro-Irish and anti-British sentiment.

The crucial words of the statute read as follows: **SLIDE**

...if a Man do levy War against our Lord the King in his Realm, or be adherent to the King's Enemies in his Realm, giving to them Aid and Comfort in the Realm, or elsewhere ...

The hair splitting issue was that comma after the third use of "Realm". Casement's barrister argued that that comma did not appear in the original text of the Act and thus had the effect of confining the scope of the statute to actions within the Realm only. The Court however held that the original Act did have a comma and thus this argument was not available to Casement. But this is where the myth grew up. Although the judges dismissed Casement's argument they also made it clear that in their interpretation Casement was guilty under the Act anyway, comma or no comma. Casement was hanged at Pentonville Prison on 3 August 1916. Subsequent revisionist comment observes that while the judgement may have been legitimately passed, Casement might well have been more leniently dealt with had it not come out that he was gay - in the early 20th Century a much more repellent vice than mere treason! The lesson? Hair splitting can be hair raising!