

# Express and Implied: A Study of Meaning in a Business Law Tutorial

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## Background

Over the last decade, research has been undertaken into legal English and its particular characteristics. In 1987 Bhatia pointed out that there had been no specific investigation of legal English in the academic setting. He expressed particular concern about lack of research into "the nature of communication in law lectures".<sup>1</sup> In the light of this need, this paper reports on recent research into the discourse of a university tutorial for a business law subject. The discourse as employed by the tutor in interaction with the students was investigated to determine the way legal meaning is made in it. In so doing, both theory relating to classroom discourse<sup>2</sup> and that pertaining to legal English<sup>3</sup> were applied. A focus of the investigation was the way these types of theories meld to reveal covert messages embedded in the discourse, which refer to the unstated conventions of the discipline. Although the study is based on one tutorial only, its findings are suggestive and these could function as a framework for further investigation into legal academic English.

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<sup>1</sup> V Bhatia, "Language of the Law" (1987) 20 *Language Teaching* 227.

<sup>2</sup> Sinclair and R Coulthard, *Towards an Analysis of Discourse. The English Used By Teachers and Pupils*, Oxford University Press, Oxford, 1978.

<sup>3</sup> B Danet "Language in the Legal Process", (1980) 14 *Law and Society Review* 445-564; K Allan and K Burridge, *Euphemism and Dysphemism*, Oxford University Press, Oxford, 1991.; W Warnock., "To English Professors: On What to do with a Lawyer" in *Worlds of Writing. Teaching and Learning in Discourse Communities of Work*, C B Matalene (ed), Random House, New York, 1989; and T Phelps, "In the Law the Text is King" in *Worlds of Writing. Teaching and Learning in Discourse Communities of Work*, C B Matalene (ed), Random House, New York, 1989.

With the current profile of students attending university including those from Non English speaking backgrounds and international students, research exposing the way meaning is embedded in academic discourse is beneficial. The unstated conventions of particular discourses can be juxtaposed with the presumed schemata and communicative competence of the students it is intended to inform. From this, continuity or incongruity can be gauged between the presumed characteristics of the student audience, the message and its mode of communication.

Before investigating meaning and how it is made in the tutorial, it is necessary to understand the role of the tutorial as opposed to the lecture in higher education. As well as this, the nature of a discourse community, theory of language functions in a social context and that relating to classroom and legal discourse require explication. These elements place the discourse of the tutorial into its context and are beneficial in understanding the way that meaning is made in it.

At university, lectures and tutorials are the principal modes of transmission of knowledge to students on a face to face level. Generally, the lecture is regarded as the means for the inculcation of the basic principles of the subject, usually presented in a non-interactive style, given by the lecturer and received by the students. The tutorial is usually "secondary to and supportive of the primary class time which is the lecture".<sup>4</sup> McKenna, in her study of the interaction and questioning techniques of students in lectures, notes this, saying the lecture functions as a one way transfer of information, "passively given and passively received". The students' role is to take notes. This type of rhetorical, one-way community is typical of the type of community usually formed "between students and instructors in lectures and seminars".<sup>5</sup>

In contrast to the lecture, the tutorial involves two-way communication. Its function seems to be to ensure that, by way of the tutor's intensive efforts through teaching, the students have grasped the basic tenets presented in rhetorical form in the lecture. In McKenna's terms, the tutorial forms community through a dialectic process which proceeds by question and answer and "involves the participants in a process of refutation and mutual

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<sup>4</sup> J Lublin, *Conducting Tutorials*, Higher Education Research and Development Society of Australia, Kensington, 1987, p 1.

<sup>5</sup> E McKenna, "Preparing Foreign Students to Enter Discourse Communities in the U.S." (1987) *English for Academic Purposes* 191.

discovery". The tutorials are thus designed to enable students to gain experience in application of this knowledge in the solution of problems.<sup>6</sup>

McKenna<sup>7</sup> comments that the type of community that involves two-way communication is usually formed between specialists. In the case of tutorials at university following the lecture, it is usually assumed the students are "specialist " enough to begin application of their knowledge in the joint solution of problems with the tutor. They could thus be described as apprentice specialists. Indeed, in the process of application of knowledge and checking of this, it does appear the tutorial plays a significant role in monitoring the initiation of students into the discourse community of their particular subject; it is where the apprenticeship takes place. (In this way, the university tutorial seems similar to the classroom in school settings.)

Initiation into the particular discourse means that as students are undertaking their studies by attending lectures, participating in tutorials and so on, they are further developing their understanding of their subject. Integral here is their knowledge of how to communicate by thinking, writing and speaking in a way that will be understood in the particular discipline. Through language, the students are learning the meanings for the particular subject, including the concepts and ideas and how they interact to make meaning,<sup>8</sup> that is, its genre.

In a discourse community language use is conventionalised stylistically and includes "canonical knowledge that regulates the world view of group members and how they interpret experience".<sup>9</sup> Lemke<sup>10</sup> speaks of facility within a discourse community as ability to make the meanings appropriate to that particular community. So, to communicate successfully, the group of individuals needs to use language in a particular way, including using specialised vocabulary for the ideas that are exchanged and particular processes for the way the ideas are combined. The ability to do this results in, in Gumperz and Hymes terms, communicative competence in that domain, or knowing what to say, to whom, when to speak and when to remain silent. Communicatively competent people in particular settings "successfully employ these rules of use". In the academic class, this means the students

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<sup>6</sup> Lubin, above, n 4, p 1.

<sup>7</sup> McKenna, above, n 5 at 191.

<sup>8</sup> J Lemke, "Genres, Semantics and Classroom Education" (1988) 1 *Linguistics and Education* 82.

<sup>9</sup> P Bizzell, cited in J Swales, *Genre Analysis*, Cambridge University Press, Cambridge, 1991, p 29.

<sup>10</sup> Lemke, above, n 8 at 82.

are familiar with and can engage in the required modes of thought and writing for the particular discipline.

Indeed, it is necessary for students to learn to communicate using the special language for the subject and to combine the ideas that this language expresses in the appropriate way. McCarthy<sup>11</sup> has pointed out that successful students are those who can, during the semester, determine "what constitutes appropriate texts ... the content, the structures, language, ways of thinking and types of evidence required in that particular subject". She also argues that students may not be able to do this because of cultural, intellectual, or motivational difficulties, or a combination of these. Unsuccessful students are deemed to be "incompetent communicators" in that particular setting. They have been unable to engage with the conventions and presuppositions that underlie the appropriate texts, language, ways of thinking and so on which may not be explicitly stated.

Language as the medium of communication in the tutorial is intertwined with the context, and the social context is an integral part of the process of the exchange of meaning among participants. In the tutorial, language is used for teaching. So, it is relevant to overview the theory of language operating in particular contexts; the way content is given meaning. Use of language is a social function where relationships between individuals in the communication process or exchange of meanings is integral. Halliday<sup>12</sup> maintains it is by these exchanges that the social reality is "created, maintained, shaped and modified". The participants in the discourse create the values and norms that prevail and direct the communication; they create social reality for that communication. Arguably, the social reality requires the participants to have corresponding patterns of psychological reality through shared values and norms. So, the psychological reality is also shaped and modified by these acts of meaning. This is significant because, without these shared values, the participants may be at cross purposes with each other, placing different interpretations on exchanges because they are using different patterns or visions of social reality for interpretation.

Another significant component in the exchange of meanings in a particular context are the schemata held by the participants. These embody their view of social reality of the world. They are cognitive constructs or configurations

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<sup>11</sup> I McCarthy, "A Stranger in Strange Lands: A College Student Writing across the Curriculum" (1987) 23 *Research in the Teaching of English* 262.

<sup>12</sup> M Halliday, *Language as Social Semiotic*, Edward Arnold, London, 1978, p 169.

of knowledge that are placed over following events so that they are meaningful in terms of "familiar patterns of experience and belief"<sup>13</sup>. Gee<sup>14</sup> argues that context for exchange of meaning is a mental construct embodying what the speaker knows and believes about the world. Indeed, for Widdowson<sup>15</sup>, schemata constitute communicative competence. He views these cognitive structures as related to Halliday's ideational function of language because they are concerned with transmission of ideas or content. Although there are other views of interpretation of metaphors (for example, Kittay<sup>16</sup>), Widdowson<sup>17</sup> maintains all communication, including that of metaphors, relies on schemata. The interpretation of metaphors depends on connotation which relies on covert schemata.

With individuals who are established members of a discourse community, their deep knowledge of the subject underpinning the community could be assumed. The subject and its modes of thought strongly influence their social and psychological reality. Perhaps it forms covert schemata which form the basis of metaphors used in communication with others. In the same way in a business law subject, it is assumed that the legal system and its modes of thought underpin the tutor's interpretation of the world. It is therefore reasonable to expect that in the discourse in the tutorial, the tutor will at times refer to covert schemata and so metaphorical references to the legal system will occur.

Returning to the notion of language operating as an integral part of the social context, Halliday's sociosemantic theory of language further defines the features involved in communication. He maintains that included here are the text, the situation, the register, the code, the linguistic system, and the social structure. In the present investigation of the tutorial, Halliday's linguistic system is relevant. According to Halliday, the linguistic system incorporates the meta functions of language which work together to determine the sentences that contain the meanings to be exchanged; the text. The first meta function is the ideational, where the purpose of the language is for the expression of content or ideas. That is, the function is the expression of

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<sup>13</sup> H Widdowson, *Language Purpose and Language Use*, Oxford University Press, London, 1984, p 54.

<sup>14</sup> J Gee, *Social Linguistics and Literacies. Ideology in Discourses*, The Falmer Press, London, 1990, p 83.

<sup>15</sup> Widdowson, above, n 13, p 40.

<sup>16</sup> E Kittay, *Metaphor: Its Cognitive Force and Linguistic Structure*, Oxford University Press, New York, 1987, p 89.

<sup>17</sup> Widdowson, above, n 13, p 54.

meaning derived from the speaker's experience of the real world, including his/her psychological world.<sup>18</sup> The second is the interpersonal meta function, where the purpose of the language is for the establishment or maintenance of social relations. An example of this is where the speakers take on particular roles such as questioner and respondent. The third function of language is to provide links with the text and the situation or context; the textual. In spoken language, this is the social context. Relating Halliday's theory of language in a social situation to the tutorial, in the exchange of meanings, the ideational component (the transfer of ideas) is involved. Because of the interactive nature of the tutorial and its teaching role, the interpersonal aspect is also implicated strongly. These two aspects are fused by the rhetoric of law, the way the ideas are used in this discipline.

In the tutorial, messages are exchanged concerning the principles of law and their application to problem questions. Monitoring this is the teacher/student relationship of the classroom. Through this process, the world view or psychological reality of the students is shaped or adjusted. The students acquire appropriate schemata so they can share in the values of the discipline area, allowing them to extract knowledge from the discourse and enabling them to communicate appropriately in it. It is hoped in this way they are learning how to enter into the discourse community.

The roles of the parties in the two-way discourse of the tutorial are different, with the students being apprentices to the discourse. The tutor/lecturer is the "subject specialist" with "highly developed schemata". Being a member of the discourse community proper and "fully cognizant of the ground rules of the genre",<sup>19</sup> the tutor guides the students in the appropriate modes of communication. Sinclair<sup>20</sup> has noted the role and relevant power of the two parties in the classroom. He says the teacher/tutor determines when students will speak, and which students will speak. Sinclair and Coulthard<sup>21</sup> also point out the teacher/tutor rarely asks a question because s/he wants to know the answer but asks because he wants to know whether a pupil knows the answer. This form of questioning is also known as "quizzing".

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<sup>18</sup> Halliday, above, n 12, p 109.

<sup>19</sup> J Swales, cited in D Horowitz, "Writing Assignments: Contradictions and Resolutions" in *Assessing Second Language Writing*, L Hamp-Lyons (ed), Ablex Publishing Company, Norwood, 1991, p 76.

<sup>20</sup> J Sinclair, "Classroom Discourse: Progress and Prospects" (1987) 18 *RELC Journal* 3.

<sup>21</sup> Sinclair and Coulthard, above, n 2, p 36.

Investigation into classroom discourse identifies the patterns or functions of the utterances in the classroom that work to achieve the didactic objective. It identifies the way the total discourse for the tutorial is differentiated into parts so extraction of meaning from the total discourse is fostered. Sinclair and Coulthard have researched classroom discourse, and their findings on the roles of the parties should apply to the university tutorial. They say that in the classroom situation, the individuals have gathered for the "specific purpose of learning something". This is also the case with the tutorial, where the classroom is the social context in which the students' learning takes place. So, the discourse takes on a particular configuration of the features of language in context. The tutorial in the university utilises the discourse of the classroom as the way to initiate students into the discourse communities for particular subjects. Sinclair and Coulthard's<sup>22</sup> analysis of language in the classroom characterises the patterns, or the way the language is clustered for learning. The discourse is categorized by a taxonomy of units. The lesson is the highest unit, and, in theory, it embodies the teacher's plan for presenting the topic.<sup>23</sup> Transactions or episodes represent parts of the teaching plan. Within these, smaller units (or sub sections) are the exchanges. The preliminary and terminal exchanges are concerned with boundaries between transactions while the medial exchanges are where the teaching occurs.<sup>24</sup> The boundary exchanges signal the beginning or end of a stage in the lesson. The major medial or teaching exchange types include informing, directing, eliciting, and checking. They are teacher directed, and are the individual steps by which the lesson progresses.<sup>25</sup>

The exchanges, or stages in the lesson to achieve the overall teaching objective, are made up of moves that form two types of exchanges: the boundary and the teaching. The function of the moves that constitute the boundary exchanges is to frame and focus. The framing move indicates "that one stage of the lesson has ended and another is about to begin".<sup>26</sup>

The functional intention of the acts, (what the speaker is using the item for) which are part of the moves, is conveyed by the grammatical construction of the clause or utterance.<sup>27</sup> Although the three major types of acts in the

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<sup>22</sup> Sinclair and Coulthard, above, n 2.

<sup>23</sup> Sinclair and Coulthard, above, n 2, p 59.

<sup>24</sup> E Hatch, *Discourse and Language Education*, Cambridge University Press, New York, 1992, p 96.

<sup>25</sup> Sinclair and Coulthard, above, n 2, p 49.

<sup>26</sup> Hatch, above, n 24, p 97.

<sup>27</sup> Sinclair and Coulthard, above, n 2, p 27.

classroom are the interrogative, the imperative and the declarative, the situation is much more complex than these gross categories suggest. Within a move that may be basically interrogative in function, there may be imperative and declarative utterances. This is why the situation is one feature referred to in determining the intention of the speaker through the utterance. Here, non linguistic features such as the environment, social conventions and shared experience may be referred to for interpretation of the intention.

For law subjects, it seems the discourse community is distinctive in character, and the special language and the way of thinking require different abilities to those of other subjects.<sup>28</sup> Swales explains how students undertaking law subjects must adapt to "a novel orientation" in thinking, requiring an "induction period" before they can make judgements of the type required.<sup>29</sup> White<sup>30</sup> maintains the legal discourse involves a particular world view, including "a world of thought and actions, a set of roles and choices by which experience will be ordered and meanings established and shared". He says that knowing how to act/think in this culture entails a form of literacy which is not "merely the capacity to understand the conceptual content of writings and utterances, but the ability to participate fully in a set of social and intellectual practices. It is not passive but active."

White goes even further by describing legal language as "strange", and worse than a foreign language because it is "an unpredictable, exasperating and shifting mixture of the foreign and the familiar".<sup>31</sup> Phelps<sup>32</sup> speaks of the "otherworldliness" of the language of the law with its "nearly magical and incantatory power". As an example, she explains the effects on reality of simple words such as "I promise". Because of this utterance, legal relations are created and the social reality between the parties exchanging the promise is altered to an aspect of certainty concerning the item that was promised. In the marriage ceremony, the words "I do" have a profound effect on the legal and social relations of the parties who exchange them.

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<sup>28</sup> Warnock, above, n 3, p 379.

<sup>29</sup> J Swales, "The Case of Cases in English for Academic Legal Purposes" (1982) 20 *IRAL* 140.

<sup>30</sup> J White, "The Invisible Discourse of the Law: Reflections on Legal Literacy and General Education" (1982) *Michigan Quarterly Review* 434.

<sup>31</sup> White, above, n 30, p 421.

<sup>32</sup> Phelps, above, n 3, p 363.



As Maher and Waller note<sup>33</sup> "rules of law are directed to the ordering of human behaviour or by relations between persons in society". Law thus defines relationships and what activities are permitted, and creates relationships where none existed before.<sup>34</sup> But it seems that the intertwined nature of the language of law and the content of the law (commented on by theorists such as Bhatia and Phelps) leads to difficulties in coping with the language and its consequent strange nature. Danet argues that its strangeness is caused by the intricate role of the law in cleaning up "all of the little social messes". Mellinkoff<sup>35</sup> describes the resulting precision and corresponding vagueness in the language of the law. As the language becomes more specific with the addition of relative and subordinate clauses, the meaning becomes imprecise. For example, the language in legislation and legal documents, writes Beasley<sup>36</sup>, possesses "an uneasy combination of precision, ... explicitness, ... flexibility ... and condensation".

Because of the intertwining of the language of the law with the content of the law (which is derived from local social values), it is logical that legal language is less universalistic than the language of other subjects like science and mathematics. Life in society and its values as enshrined in the law vary from society to society, from culture to culture<sup>37</sup>. Gee<sup>38</sup> speaks generally of cultural models that embody the values and describes them as "master myths" in a society and argues they are usually associated with "certain characteristic metaphors or "turns of phrase and thought" in which the society encapsulates its favoured wisdom".

In the legal discourse community, it could reasonably be anticipated the wisdom reflected in the metaphors used would embody notions of balance and order. (The issue of which group's values form the fulcrum of the balance is beyond the scope of this paper.) Another value underpinning the system would be that of the adversarial legal system, where both sides of the case are presented and redress of any imbalance occurs through the courts. The preferred view of reality which aims to restore balance is arrived at by argumentation. For students to acculturate to the legal model and so be able

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<sup>33</sup> F Maher and L Waller, *An Introduction to Law*, The Law Book Company, Sydney, 199, p 25.

<sup>34</sup> Hoebel and Llewellyn, cited in Danet, above, n 3, p 449.

<sup>35</sup> D Mellinkoff, *Legal Writing: Sense and Nonsense*, Scribner, New York, 1982.

<sup>36</sup> C Beasley, "Language and Content: The Case of Law" paper delivered at the 8th International Institute of Language in Education Conference, Hong Kong, 1992, p 3.

<sup>37</sup> Swales, above, n 29, p 139.

<sup>38</sup> Gee, above, n 14, p 91.

to communicate effectively in legal situations, they need to, either consciously or sub-consciously, understand and share these basic assumptions. So, the obfuscation of legal language does not spring solely from the its particular register and syntax; rather, it originates in the "unstated conventions"<sup>39</sup> of the legal system.

Another value inherent in the legal system would be that of a rule with a wide range of possible meanings and no absolute answer as to the correct meaning. White<sup>40</sup> refers to the particular orientation of legal thought or values as the "invisible discourse of the law", involving a "cultural syntax" based on expectations that direct arguments and shape responses. He maintains the legal rule is at the centre of the thought. He points out that usually in deductive contexts, the rule is applied after it is understood. In the legal context it is not so simple. Each term in the legal rule has more than one meaning and the answer is one of "a range of possible meanings", and there is no unqualified answer as to which is the correct meaning.<sup>41</sup> But that is not the end of the conundrum. Despite this seemingly wide range of options, in the end a "simple binary" judgement as to the correct meaning of the application of the rule must be made. The rule either fits the circumstance or it does not.

As mentioned previously, the thought process in judging the preferred option for the meaning of the rule is centred around arguing and reasoning.<sup>42</sup> At stake here is the preferred view of reality, which is not clear and unequivocal and must be arrived at by argumentation and disputation.<sup>43</sup> Although it is idealistic to expect this would always occur in every situation, in theory Danet<sup>44</sup> explains that persuasion is important in "all fact-oriented disputing in everyday life". This style of thought can be compared to the more universal mode of the discipline of science where answers are either right or wrong, correct or incorrect. It is thus clear legal subjects require a different orientation in thinking for many students.

For law subjects, the discourse community uses vocabulary and syntax that appear to be markedly disparate from the language features of other

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<sup>39</sup> White, above, n 30, p 423.

<sup>40</sup> White, above, n 30, p 423.

<sup>41</sup> White, above, n 30, p 427.

<sup>42</sup> White, above, n 30, p 427.

<sup>43</sup> Danet, above, n 3, p 509.

<sup>44</sup> Danet, above, n 3, p 508.

disciplines. Along with other theorists, Bhatia and Swales<sup>45</sup>, Swales<sup>46</sup> and White<sup>47</sup> have commented on the particular register features of legal English. Lexical, syntactic, prosodic and discourse level features of legal language have been isolated. Allan and Burrige<sup>48</sup> write of the grammatical complexity of legal sentences which may contain many conditional and relative clauses with the main clause located "half way down" the sentence. Danet<sup>49</sup> also notes the heavy use of passive and conditional sentences. Allan and Burrige<sup>50</sup> point to the "dearth of punctuation", and use of passive constructions. They mention the repetition of nouns to "presumably remove any doubt as to the intended denotatum", and Danet<sup>51</sup> also notes this phenomenon where the noun is repeated rather than a pronoun being used. She speaks of the unusual anaphora where there is an absence of pronouns to refer to people or entities already mentioned. Also apparent are the use of multiple negatives and overt negative markers such as "not", "never" or "un". It is a heavily nominalised style, say Allan and Burrige<sup>52</sup>, creating its "abstract nature". Danet<sup>53</sup> says that the nominalisations usually are formed by the addition of "ing" or "ion" on the verb.

Indeed, Danet has undertaken a comprehensive summary of the features of legal English.<sup>54</sup> She has drawn on the previous research of researchers such as Charrow and Charrow, Shuy, Crystal and Davey, Mellinkoff and Gustafsson. In so doing, she has analysed a sentence from a Citibank loan form in order to illustrate lexical, syntactic, prosodic and discourse features of legal English. Although this is based on written legal English, it could be hypothesised that these features also appear in spoken legal language. As there does not yet seem to be a categorisation available of the features of spoken legal English, in this investigation into spoken discourse in a legal tutorial, the features of written legal English are used as criteria.

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<sup>45</sup> V Bhatia and J Swales, "Legal Cases - Why non-native Students are Baffled" (1982) 20 *IRAL* 2.

<sup>46</sup> Swales, above, n 29, p 140.

<sup>47</sup> White, above, n 30, p 422.

<sup>48</sup> Allan and Burrige, above, n 3, p 200.

<sup>49</sup> Danet, above, n 3, p 475.

<sup>50</sup> Allan and Burrige, above, n 3, p 220.

<sup>51</sup> Danet, above, n 3, p 475.

<sup>52</sup> Allan and Burrige, above, n 3, p 200.

<sup>53</sup> Danet, above, n 3, p 475.

<sup>54</sup> Danet, above, n 3, p 475.

In terms of the lexical features, Danet also notes the use of technical terms such as "default" and common terms with an uncommon meaning, such as "secured party". Words originating from Latin, French and Old English are also used, for example, "collateral", "creditors" from French and "herein" as an arcane word. Polysyllabic words such as "frequency", "obligation" and "collateral" are commonly used. Legal English uses unusual prepositional phrases including "in the event of default" rather than "if the borrower defaults." Doublets such as "demand or notice", "rights or remedies" are also commonly featured. There is a certain formality about the language with the use of modal verbs, for example, "shall". As well, legal language is vague in the use of phrases such as "all the rights and remedies." Combined with this is overprecision, as illustrated in the phrase "default in the right of this or any other obligation or the performance". The precision is evident as it is spelt out that the default applies to the obligation already mentioned as well as any other, and also to the performance of the act that the default relates to.

A particular feature is what Danet calls "whiz deletion"; for example, "remedies available rather than "remedies which are available". Determiners take on a unique form with phrases like "such" and "said" in conjunction with nouns: "in any such event". Parallel structures like "now and hereafter" are commonly used and sentences are often strung together in lists. The discourse is "overcompact" with each sentence made to count for too much by having too much information.

With prosodic features, Danet draws attention to features that may be distinctive for the legal register. Once again, this categorisation is based on written legal English, but arguably it also applies in spoken legal English. She points to the poetic sense of the language achieved by the use of features usually associated with poetry. Some of these are alliteration, assonance and rhythm, even rhyme, meter and phonemic contrast. She also notes end weight where there are more beats or phonemic material in the second half of a two part expression.

The language and discourse of law therefore involves particular register, syntactic, grammatical and prosodic features as well as a unique thought orientation. These factors inter-relate to form the distinctive legal language and discourse. As has been stated, most of the research into the features of legal language has focussed on written language. Allan and Burridge<sup>55</sup> do

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<sup>55</sup> Allan and Burridge, above, n 3, p 194.

make the point that the style of legal language used depends on the setting, and, in Joos terms, it ranges from formal to informal according to the setting and the participants. For example, the legal language would be more informal between a solicitor and client than in a formal legal document. It is thus useful to probe the extent of the use of legal language in the university legal tutorial.

### **Analysis of the Tutorial**

In initiating the students into the discourse community, the purpose of the tutorial is for the students to learn to apply legal principles in the analysis and resolution of problem fact questions. In so doing, they are becoming familiar with the legal process and the subject's codes and values which form the basis for their analysis and communication in the subject. This section of the paper investigates some ways that the students are initiated into the legal discourse. In so doing, it investigates the way legal concepts and ways of thinking are explicitly and implicitly embedded in the tutor's discourse.

#### *(i) Explicit Features of Legal English and the Legal System*

The lesson (the tutorial session) is divided into an analysis of two problem questions and these form, in Sinclair and Coulthard's terms, the lesson's two transactions. As explained in the theory section of this paper, the transactions are made up of exchanges which are in turn made up of moves; the medial moves form the teaching component. Even by reference only to the exchanges of the tutorial, it is clear how legal concepts and explanation of mode of thought (the genre) are explicitly presented in the discourse. There is thus structure in the tutorial that operates to achieve its teaching objective, and the structure assists students to extract meaning from it. In other words, the segmentation of the discourse, as revealed by the investigation along Sinclair and Coulthard's lines, clusters the content into meaningful sections which undoubtedly assist the students to gain meaning. In so doing, the content is meaningful for the students.

Referring to table one (see Appendix), which represents in Sinclair and Coulthard's form, the first transaction of the lesson, it can be seen how some exchanges are devoted entirely to explanation of the genre. Overall, in the first transaction of the lesson, 4 of the 14 exchanges are devoted entirely to this explanation. Five of those that are focussed on problem analysis also incorporate explanation of the genre/mode of thought.

Initiation is facilitated by exchanges solely concerned with the mode of thought and by exchanges comprising explanation of the mode of thought blended in with analysis of the problem. What is being explained is the thought processes that underpin the formulation of legal arguments. An example of this is exchange 4, in which the focus is a clear depiction of the genre and the way the concepts interact, i.e., the appropriate ordering of the thought processes. The tutor states: "So we've got the issue and we've branched out. We've branched out to what A is going to argue and we've branched out to what B is going to argue. That's given us a structure".

Indeed, explanation of the mode of thought permeates nearly all of the exchanges in both transactions. For example, exchange 3 begins with a general invitation to the class to begin the analysis of the problem question: "I want people who've prepared without the written to start me off on number 8". A student's response to this directive was inadequate analysis in that it should have begun at a higher level in terms of the thought process or genre for the subject. Pivoted on this response, the tutor then proceeds to explain the appropriate mode of thought and level of analysis. She says "If you talk to me about invitations to treat ... it's up there, nebulous somewhere. I can't get my hands on it. If you tell me the issue is is there a contract, I say alright". Here, the tutor is directing the students (albeit it through the use of symbolic language) to move from the particular instance (the invitation to treat) to the general, or to what could be seen as the heart of the genre of law which is the issue or the dispute. After these moves of explanation, the exchange then returns to analysis of the problem to consolidate the point that had been made concerning the appropriate mode of thought: "What's that going to depend on, the answer to that?", the tutor says.

Another explicit way that the students are initiated into the discourse community is through the tutor's use of the register for the discipline. This is in line with Halliday's view of language functioning in a social context which includes use of particular vocabulary or register items. The students' schematic development of concepts is assisted by the tutor's encouragement for the students to use the appropriate lexis to embody a legal concept. For example, a student replied to a question from the tutor: "He made an offer and then he took it back." The tutor refined, by question and answer, until the student responded "He revoked". This episode reveals the close intertwining of language and content. It indicates that the students' world view is being shaped.

Another example is in exchange 3, where sometimes the appropriate lexis is focussed on as students learn to use it in the analysis of the problem. When the student responds using vocabulary items of a lower level of analysis than where analysis should have begun, the tutor corrects this, and comments when the correct response is elicited, "I'm so glad to hear that". This exchange also illustrates the way the language and the content are closely intertwined in this legal subject. By way of refining the students' use of register (from "invitation to treat" to "the issue"), the students' view of the pattern for this subject is enlarged. Through use of the register, they now see an invitation to treat is part of the larger issue of the problem and their schema for this subject has undergone development.

The function of the tutorial is to shape the world view of the students so legal concepts and how they interact are meaningful. In so doing, they will be able to communicate appropriately in the subject. The students thus require suitable schemata so their interpretation of these events can be appropriate. In this tutorial, the students' view of the world is shaped explicitly through the dialectic process of question, answer and refutation. The problem questions are the catalyst for this process. For example, through this process, the students develop the world view or schemata that the mere statement of a person being in a room opens up various options as to how this event may be interpreted. In one set of exchanges, the student has assumed the protagonist in the question is a thief: "They try to find out more information to help them catch the thief." The tutor then asks "Did I tell you why he's in the room?". When the student replies that she has not, the tutor then suggests other reasons why this person was in the room: "Could it be that he was there because he was working?", and the nature of our society where some people do work after hours.

In this process which is focussed on analysis of the problem question, the cognitive structures or the schemata, in Widdowson's terms, are undergoing development. A schema is a configuration of knowledge that "serves as a device for categorizing and arranging information so that it can be interpreted".<sup>56</sup> It provides a template for operation of the appropriate mode of thought. The students' schemata is thus developed so they know there are many options as to the motives of a person in a room.

In Halliday's sociosemantic theory where the text and the social context are intertwined, and the text through the sentences embodies these social

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<sup>56</sup> Widdowson, above, n 13, p 54.

meanings, social reality is "created, maintained, shaped and modified". The students' view of reality is shaped by this process. The text which is the problem under investigation is determined by the field of the activity, which is that of learning. The tenor is the roles of the participant parties; that of tutor and students. The hierarchy of this relationship involves dominance by the tutor as the possessor of the way reality, in terms of this subject, is to be viewed. The tutor is thus the carrier of the culture. The mode or key is that of question and answer, and this proceeds until a suitable view of reality has been arrived at by the students.

Other explicit ways legal values are embodied in the discourse are through the use of features of legal English. These are evident to varying degrees in the tutorial's discourse. Included here is the use of the subject's register, as typical of any discourse community or "in-group". This form of language is used to communicate the subject's concepts, probably because, as pointed out by Allan and Burrige, there is no other means of expressing these specialised concepts. The legal lexis of technical terms is mainly used in the exchanges or parts of the exchanges concerned with analysis of the problem, and includes words such as issue, promise, invitation to treat, contract, cases, etc. The limited use of the register or jargon to areas where no other words are available for the concepts suggests the tutorial has not yet formed a discourse community. The register is only functioning as a way of communication among an in-group to a small extent.

Other features of legal English in the tutorial discourse include, to a small extent, unusual placement of the prepositional clause. An example of a prepositional phrase between the subject and the predicate occurs in "Has anyone just out of interest prepared a written answer", where "just out of interest" intercedes between the subject and the predicate. In another, "And I know from the past the mistakes students make.", "from the past" intercedes. Here, it should also be pointed out that this feature may be accounted for in the spoken tutorial by its common use in spoken discourse.

Formal language is evidenced in "As by way of an argument in respect of whether or not A thinks there has been an acceptance", where "as by way of an argument" is used instead of "as an argument", and "in respect of" rather than "of whether". Another example is "What options are there in relation to the way in which things were done?" rather than "in how things were done". The legal English use of unique determiners of "such" and "said" is evident in one sentence in the tutorial. The tutor says "I don't know if I would call it an offer with a condition as such as we call it."



*(ii) Implicit references to the Legal System*

In considering implicit ways that messages are embedded in the discourse, it is important to consider again the tutor as "the subject specialist" with "fully developed schemata", "fully cognizant with the ground rules of the genre".<sup>57</sup> The investigation of implicit meaning is underpinned by the tutor's legal view of the world which may result in covert schemata that are referred to unconsciously in communication. In the tutor's discourse, covert references to the legal system can be uncovered. Just as Widdowson says that "interpretation of metaphors depends on connotation which relies on covert schema", the tutor's making of metaphors/symbols is perhaps done unwittingly, drawing on those covert schemata.

One subtle, perhaps unwitting explication of the legal system can be seen in analysis of the interpersonal component of the communication. In contrast to a lecture which usually involves one-way, rhetorical communication, a tutorial is characterised as involving two-way communication. In this tutorial, some exchanges involve two-way communication of a dialectic, question and answer nature. At other times it is more rhetorical in nature, but even within these rhetorical areas the interpersonal element removes it from the realm of one-way communication. On investigation, a subtle reference to the adversarial system where one side of the dispute is examined and then the other, can be discerned. Unconsciously, perhaps the students are being assisted to develop a schema of this aspect of the system that underpins knowledge in their subject. The strong interpersonal element of the discourse, even when it seems to be of a one-way nature, perhaps makes the subject accessible to the students, and provides them with encouragement.

Before exploring this subtle reference to the legal system, it is useful to consider generally the role of the interpersonal element in the tutor's discourse. In Halliday's terms in the linguistic system of his theory of language in a social context, the interpersonal aspect of communication is concerned with "the function of language in establishing and maintaining social relations". In the tutorial, in a relatively long section near the beginning of the tutorial (comprising 27 lines) that appears rhetorical in nature, the tutor says to the class "You may think I'm hammering you and if I appear to be .... very strict and disciplinarian with you and I seem to be telling you the same thing it's because I want you to get through the subject". Here, the interpersonal aspect or explanation of the nature of the relationship

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<sup>57</sup> Swales, above, n 19.

between the tutor and the students is stressed in what seems to be the tutor's efforts to empathise with the students.

This aspect of the communication involves more than merely the passing on of the ideational notions or content of the subject. In terms of Halliday's textual component, these types of comments could be interpreted as making the links between the ideational (the content) component, the interpersonal and the social situation, which is the tutorial or the classroom. That is, it is the language of the subject functioning in the social context or forum of the tutorial which is concerned with interactive teaching. Hence, these comments fuse the content of the tutorial to its purpose which is the interactive eliciting, refining and checking of understanding. This is different from the role of the lecture and the roles of the participant parties. At times, the textual or interpersonal component of the communication in the tutorial is realised by the tutor stating explicitly the roles of the parties in the tutorial. An example of this is where the tutor remarks that if the students argue their cases as she has explained, "I'll give you your marks". She has indirectly enunciated on her role as the judge or dominant party in the tutorial.

So, in these sections which appear to be one-way communication, the textual element draws together the two participant parties in the discourse. Sometimes this is achieved by the tutor aligning herself with the students in their plight of learning and passing this subject, and at other times it is by the tutor expressing her formal role in the tutorial, which is that of assessor or judge. That is, there are elements of the tutor as the teacher and also as the judge.

Developing this notion further, an interesting aspect of this tutorial is the way the hierarchical relationship between tutor and students is realised and it is in this aspect that a reference to the adversarial system is embedded. Although the tutor is the dominant party, deciding the direction of the tutorial, dominance is not always realised through social distance between the tutor and the students. In analysing the closing and widening of the gulf between the tutor, it does seem that, for a large part of the tutorial except for near the end of the transaction, the distance is small, then increased, then diminished and then increased again in a regular pattern. This could be seen as a simulation of the adversarial system where both sides of the issue are presented. At times the social distance is minimised as the tutor aligns herself with the students in the task that confronts them, namely passing the subject. At other times, the tutor takes on the role of adviser and then of

assessor, and this is when there is greatest social distance between the two parties.

At the beginning of the tutorial, the tutor is taking the role of adviser for study tactics when she tells the students: "It's a very very good idea, even if you just jot it down ... in note-form. Even just the words to represent something". In the same exchange, she is aligning herself with the students in their quest when she says "...if I appear strict and disciplinarian....it's because I want you to get through the subject". The distance between herself and the students is then increased greatly in the next line where she says, in relation to the exam, "I don't have to sit it, you do". She is making it clear to the students their performance in the subject is their responsibility, not hers. The relationship then shifts back to alliance a little further on in the discourse when she explains "...because when I push you, I'm not pushing you for me. I'm pushing you for you".

Following this, the line of adviser is taken again with the comment, "Now, I have a piece of advice for you", and a nurturing tone is noted with the comment to a student as she begins her analysis of the problem, "Now think. Be careful". Separation is again established when the students are asked if a certain point makes a difference to them, because even if it does not, "It makes a difference to me!" A transition is then made to that of adviser with the comment on study skills of "I'd be noting all this as I'm reading and saying ooh". Distance is again established as the tutor becomes the possessor of the information and this is indicated by the question: "Is that what I've been teaching you in lectures?", and "And that's exactly what I told you would happen in the lectures and it happened". Distance is further heightened when the tutor takes the role of the assessor, responding to a student's response: "Now I give you full marks". Even greater social distance is further evidenced as the tutorial progresses, where the tutor is not advising the students on what she would like from them, but rather demanding it. She says "what I want is the substantive law and what I want to know is that you know how to apply it to the facts. That's what I want". Later, she comments: "I'll give you your marks", and the separation of the two parties and the hierarchy is even more pronounced towards the end of the tutorial when the tutor says, "You give me the information. I'll give you the marks".

Further covert references to the legal system are evident on investigation of a combination of several grammatical and vocabulary features characteristic of legal English. At times they combine with other features of legal English

such as the prosodic to embed meaning of a symbolic and metaphoric nature. The metaphoric references are to aspects that underpin the operation of the legal system; its epistemics. These are features the students need to be aware of consciously or unconsciously, as they must replicate them or follow their pattern in written and spoken communication in this subject. For example, certain grammatical features combine with some prosodic features to reflect a feature of the legal system. These occur mainly in the exchanges of the tutorial where the tutor's moves are informing and directing, and devoted to explanation of the mode of thought. All these features of legal English combine to create a rhythmic sense of balance and equilibrium in the sections of the tutorial focussed on explication of the mode of thought where they largely occur. These features could be seen to contribute to covert symbolisation of the epistemics of the legal discipline area, which is that of balance and order.

An example of this is where the repetition, wordiness and long sentences typical of legal English incorporate prosodic features of regular rhythm and assonance. They combine to produce a sense of the balance that underpins the adversarial legal system. Although involving contests between the disputing parties, arguably the legal system is premised on fair hearing of both sides. Judgements serve to redress any imbalance, to restore order to society.

Specifically, it seems the wordiness and the repetition typical of legal English are also tied in with the prosodic features Danet has noted as typical of legal English. These features usually occur in the very long sentences. Danet notes the presence of alliteration, rhythm and assonance. Indeed, sections of this tutorial display a distinct sense of rhythm. A characteristic of legal English relatively prevalent in the tutorial is sentences longer than 25 words. In the overall discourse of this tutorial, the tutor uses 11 sentences that are longer than 25 words. This is out of the approximately 480 sentences or parts of sentences that make up the tutor's contribution to the discourse. What is significant about these sentences is their placement. They are sprinkled throughout the tutorial, but, except for one instance occur in the exchanges that function to explicate on the genre for the subject. In these sections, the tutor is explaining how the genre for this subject proceeds, and why it is this way. An example of this is "That's why I say to you the very first thing you do is you make sure that you are able to pick the issue because without that your hands are tied if you don't do anything". This pattern perhaps models the text book where most the long sentences occur where the judge is giving his reasons for a decision.

Repetition is another feature of legal English used more frequently than others in the tutorial. Although this feature is common in spontaneous discourse, it is perhaps significant in that it is used in conjunction with other features of legal English. As well, there does seem to be something unusual about its use in the tutorial. The idea is first expressed and then expressed in another way. In the tutorial discourse, 11 examples of this type of structure are evident in the tutor's language. For example, at the beginning of the tutorial, she says "It's a very good idea to write things down in note-form. Even just the words to represent something". She then remarks: "And there is a logic to it. This subject is about logic. I promise you it's about logic". Another example again repeats the same idea in "I just said he was in the room. I didn't say he was doing anything wrong. I just said he was in the room and they caught him. That's all I said." Use of this feature could be attributed to other linguistic issues such as cultural variation in discourse organisation; however, investigation of this is beyond the scope of this paper.

Wordiness is frequent in the tutorial discourse. Danet notes legal English uses unusual anaphora where nouns are repeated rather than the use of pronouns. There are some examples of this feature in the discourse, as in "What's that going to depend on, the answer to that question?" and with "Anybody want to take that up by way of an argument for A? As by way of an argument in respect of whether or not A thinks there has been an acceptance?".

Alliteration, the play on repeated sounds in close proximity, is evident in sentences such as "Yes there's this issue and this issue and this issue", the "s" is featured in every word apart from the two "ands". In another line, the "sh" sound, with the rhythm again emphasised even further by the repetition of the word "push": "When I push you, I'm not pushing you for me. I'm pushing you for you". Another example, where the "s" sound is played on: "I am,... I am... and towards the end of the semester you'll see it." This is also the case with "They make sense and I understand what you're saying", and in "So we've got somebody making an offer and somebody else accepting it sending it by mail".

Subtle or sub-conscious embedding of the meaning underpinning the discourse could occur through this regular rhythm. It is apparent in several parts of the tutorial discourse, once again occurring mainly in the exchanges devoted to explanation of the subject's genre. There are at least fourteen examples of this in the discourse. An example is "And I know from the past

the mistakes the students make", with the stress occurring on every third syllable. "If you start putting them back to front and on the side and leaving one out and taking away the number you first thought of", the regular rhythm is obvious in the middle section of the sentence. In "rational, intelligent, substantive argument", once again this regular rhythm can be detected with the words all of three syllables. A sense of rhythm is created by repetition of the word "someone" in "Someone was telephoning and someone was accepting and someone didn't revoke earlier but it didn't get there".

Another subtle model of the legal system is embedded in the tutorial discourse through a combination of the use of the conditional mood (a feature of legal English) with the sections of the exchanges concerned with the genre for the subject. The mode of thought appropriate to the adversarial legal system is embodied in the teaching moves of the exchange sections of the transactions. This also exemplifies the "cultural syntax" of the law whereby each legal rule has a range of possible meanings with no absolutely correct answer. At the end of the argumentation and disputation, one option must be selected in simple binary terms.

Emulation of the system underpinning the subject occurs in one form or another in 10 out of the 21 exchanges in the lesson. These sections are perhaps covertly contributing towards the development of appropriate schemata. In 6 of these 10 exchanges when investigation and explication of the mode of thought or analysis of the problem is occurring, it is presented in binary terms. In other words, in this discipline, the options must be resolved to a selection of which applies and which does not. In others, only the appropriate or the inappropriate is expounded on.

The use of the conditional mood is integral to the presentation of the range of options. Entwined with this to subtly hint at the preferred option from the range of choices is the use of metaphors and colloquial or informal language. Interpretation of the metaphorical language is dependent on the evocation of the appropriate schemata. In this regard, students from non English speaking backgrounds may be disadvantaged because they may not have appropriate schema of a culture - specific nature available for retrieval. They may not have the depth of cultural understanding to be drawn on in interpretation of these features.

In the second exchange in the first transaction, the binary nature of the legal system is perhaps emulated. Focussing on an appropriate study technique, both sides of the case are given through positive and negative ramifications

of students accepting or not accepting the tutor's advice. The tutor suggests it is a good idea to write things down, and explanation of the positive implications of this follow. That is, things "make sense" because the students are not "stressed out". Following this, in the same exchange, the negative implications are elaborated on. These include being so stressed that "your head goes phutt. Your mind won't do anything". The resolution of these options is then reinforced by use of a metaphor with positive connotations of a building: "And once you start to think like that your foundation's solid you go for it". The alternative to this is introduced by the conditional mood and the use of a colloquial expression: "If you've got nothing to build on you can forget about it. Take your bag and go home".

The more appropriate of the two choices open to the students is thus often subtly signalled to the students through metaphors or colloquial language. Exchange 3 depends on the use of the conditional mood ( a feature typical of legal English) for the presentation of the options. The students are informed: "If you talk to me about invitations to treat, ....it's up there nebulous somewhere. I can't get my hands on it". The undesirability of this option is reinforced by the use of a colloquial or informal expression as presented above. However, the appropriate choice of "If you tell me the issue is, is there a contract, I say alright. I know what the problem is now". This awareness of the notion of the contract is positive in that the subject is in essence centred on the making of a contract. A further example of the analogies used for the mode of thought deemed as inappropriate by the tutor is that of putting things "back to front and on the side and taking away the number first thought of".

There are examples throughout the tutorial discourse of positive images for the most desirable option. In the following instance, the tutor remarks "Do you know what you get at the end of it? A very balanced idea of how your scales are going to tip". The metaphor is positive, embodying the scales which are a symbol of the balance of the legal system and order. Later on in the discourse, the tutor says "After that if the facts are as open to you as they are, I don't care what you conclude. I'll give you your marks". In the classroom, this is one of the more explicit reinforcements of the correctness of the student's response. In another example further on in the discourse, the appropriate response is metaphored with a "...strand and the thread goes right through". A continuous thread could embody a notion of continuity rather than disruption. In our culture, this is perhaps desirable. A final example is in "Can you see the relevance of it now? Can you see how it will slot

and connect?" Once again, the image of unity and coming together as a whole could be seen as one valued in our culture.

In contrast, informal or colloquial language is used by the tutor to connote the less desirable choice. An example of this is where the students must avoid "a whacking great hole" by making the desirable choice. For example, when the response of the mass of the students is incorrect, the colloquial word "nuh", with all of its perhaps sub-cultural or slang connotations, is used for "no". In another example, the incorrect path is expressed as going "skew whiff". If students pick the wrong issue, they can "forget the rest folks. You can just put a line right through it", and there "hands are tied" if they do not do this. In a further example, the opposite of the appropriate mode is expressed as going "all over the place", of being "lost" and "done".

In the tutorial there are other metaphorical references to the legal system. One such example is where the tutor is explaining how a judgement is made regarding the legal argument. She says students will gain "a very balanced idea of how your scales are going to tip", and "I think this way and it will tip them that way.... they're tipping", "They might even be dead level". This metaphor is used extensively outside the legal system, but it seems to add piquancy in the legal context as the system is concerned with balance. The courts are where redress for imbalance caused by violation of the codes of conduct enshrined in the law can occur. Interpretation of this metaphor requires the schema or explicit knowledge of the scales as the symbol often used for the legal system. If this symbol is not recognised, it still functions to develop the meta schema for this discipline area which is that of two sides and a choice in terms of the stronger case, the case that will tip the scales.

The form of the tutorial often replicates notions integral to the legal system. An example of this are the exchanges between the tutor and students where it seems that the tutor is incisively ascertaining what the students believe about a certain legal principle in the making of a contract, the Postal Rule. In a way perhaps like the operation of cross-examination in the court-room used to determine the exact belief of a witness, and requiring only "yes" or "no" answers, the tutor asks the students "The moment you post it, the Postal Rule says the minute you post the letter.... Is that what it says?". When the students seem to be responding affirmatively, she says, in declarative style, "We're absolutely certain about that", and then, "Who says no? Because I'm saying nuh". In this way, the tutor has ascertained the students' belief in the meaning of the legal principle by presenting it to them in a categorical way, to which the students seem to be responding



affirmatively. Following this affirmation, the correct interpretation is revealed in a clear, emphasised way: "The Postal Rule does not apply just because you decide to post a letter." Once again in this example, colloquial language is used as the incorrect response is likened to students "fall[ing] for this rule every time".

## **Conclusion**

This case study has investigated the distinctive legal discourse of one academic classroom for a business law subject. It has attempted to discern the way the discourse, as used by the tutor, is shaped to convey legal meaning in an interactive classroom setting. It has demonstrated how legal language and discourse are threaded through and an integral part of the discourse. In so doing, it has shown how the epistemics or schemata underpinning the discipline imbue the classroom discourse.

Legal meaning thus pervades the legal tutorial in surface as well as subtle ways. On the surface level, it is seen in the use of register items encompassing the concepts for the subject. In more subtle ways, other features typical of legal English combine to produce simulations or metaphoric images of facets of the legal system.

On the surface level or explicitly, explanation of the genre is the sole focus of some exchanges and is threaded through exchanges mainly concerned with analysis of the problem questions. The students' interpretation of events is expressly moulded to an approach appropriate for legal thought through the question and answer process of the classroom. The subject's register is also a vehicle for clear development of schemata underpinning the discipline's genre. As well, features typical of legal English such as unusual placement of prepositional phrases and formal language are included in the discourse. The function of this perhaps is to gradually initiate the students into the language typical of the legal setting and, most importantly for the students, typical of legal texts and writing.

Subtly, the interpersonal aspect of the language functioning in the classroom context simulates the adversarial nature of the legal system. The role portrayed by the tutor initially is empathic with the students' position, becomes that of the assessor and judge, and shifts back to empathy with the students systematically throughout the tutorial. Through investigation of other features characteristic of legal English, replications of the balance underpinning the legal system can be unearthed. Wordiness, repetition and

long sentences combine with assonance and rhythm to create a sense of balance.

The use of the conditional mood, again a feature of legal English, combines with colloquial and symbolic language to replicate the logic underpinning the legal system wherein several options are available for the interpretation of a legal rule, but only one interpretation may be selected. In the tutorial, colloquial and symbolic language are used by the tutor to suggest to students the preferred response to the particular problem, whether it is related to study tactics for the subject or analysis of the legal problem at hand.

From the perspective of international students, it is clear how the explicit references to the legal system and legal English can facilitate initiation into the discourse for the discipline. This is even more poignant when the former educational systems of these students with their emphasis on restatement of knowledge rather than critical evaluation of it are considered. Explicit elucidation is in line with their previous educational experiences. In terms of the subtle allusions to the legal system and its unstated conventions, it is also clear local students with greater facility in English, particularly Australian English, and communicative competence, are in a privileged position to extract the message, albeit unconsciously, from the discourse. In an attempt to redress this imbalance, specific examples of covert messages in the discourse could form the basis of language and learning programs before or at the beginning of the students' study of the subject. In this way, the epistemics of the discipline could be expounded on, and the language could function as a means of developing students' familiarity with Australian English and typical modes of communication. In this way, students' facility with English and communicative competence in the Australian setting could be enhanced concurrently with their gaining appreciation of the tenets underpinning the legal system. This would stand them in good stead as they progress with their studies in legal business studies.

**APPENDIX**

**Table 1 : Analysis of the tutorial according to Sinclair and Couthard's model**

**Transaction 1**

Exchange	Lines	Function	Exchange Details	Moves	Method
1	1-9	Problem Analysis <b>Pause</b>	Focus for lesson and transaction 1		
2	10-44	Mode of Thought             <b>Alright</b>	10 Suggestion (Study Tactic) 11-16 Explanation of Suggestion 17-35 Implications (good & bad) of following/not following suggestion 37-44 Reiteration of suggestion	Boundary/ Focus  Teaching  "   Boundary Terminal	Inform Question/ Elicit            Inform/Direct
3	45-60	Problem Analysis/Mode of Thought             <b>Pause Question to Class</b>	45-48 Problem Analysis 49-50 Mode of Thought 50-58 Implications of not following direction (bad) 59-60 Problem Analysis	Boundary/ Focus Teaching  "   Terminal/ Focus to next exchange	Elicit Direct Inform
4	60-81	Mode of Thought             <b>Following my Drift?</b>	60-62 Problem Analysis 62-68 Mode of Thought 68-81 Good/ Bad implications of following/not following	Boundary/ Focus Teaching  "	Question Inform Direct

5	83-94	Cohesion  <b>Question to Class</b>	Reiteration/ Summary		
6	95-125	Problem Analysis/Mode of Thought  <b>Pause-Return to Problem</b>	95-99 Problem Analysis 106-114 Mode of Thought 114-125 Implications of not following	Boundary/ Focus Teaching  "	Inform Question Inform
7	126-157	Problem Analysis/Mode of Thought  <b>Yes</b>	126-153 Problem Analysis 154-156 Thought	Teaching  "	Question Check Question implications
8	154-174	Problem Analysis/Mode of Thought  <b>OK?</b>	154-162 Mode of Thought 163-165 Problem Analysis 165-174 Mode of Thought	Boundary/ Focus Teaching  "	Elicit Question Elicit Inform Check
9	175-180	Cohesion  <b>OK?</b>	Reiteration/ Summary		Inform/ Rhetorical Questions
10	181-239	Problem Analysis/Mode of Thought  <b>Pause, Emphasis on Following Utterances</b>	181-212 Problem Analysis 213-218 Highlighting "Bad" Analysis 219-220 "Good" Analysis 221-239 Problem Analysis	Boundary/ Focus Teaching  "  "	Elicit Question  Inform Question
11	240-256	Mode of Thought  <b>Pause</b>	240-243 Description of "Good" Mode of Thought 243-251 "Good"/"Bad" Implications of Following/not Following 252-256 Reiteration of "Good" Mode of Thought	Teaching  "  Boundary/ Terminal	Inform  Inform  Inform

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12	257-263	Cohesion  <b>Pause Questions to Class</b>	Summary Analysis of Problem so far and Appropriate Mode of Thought		Inform Question
13	266-276	Problem Analysis  <b>Pause</b>	266-276 Problem Analysis	Teaching	Question Elicit
14	277-282	Mode of Thought  <b>Are You Following Me? Yes?</b>	277-279 Mode of Thought 280-282 Implications good and bad	Teaching  Teaching	Question Inform

