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"That Is Not the Question I Put to You, Officer": An Analysis of Student Legal Interpreting Errors

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Abstract

Court interpreting is a challenging and highly skilled profession. Legal questions are designed to achieve a large variety of functions. Often the true function is not the most obvious, the meaning is not literal, or there is no direct lexical or grammatical equivalent in the target language. Preparing interpreting students for interpreting legal questioning is very difficult and best achieved by exposing learners to a wide range of question forms in a safe practice environment. In order to ascertain which question types are most difficult to interpret, the authors undertook an analysis of question forms extracted from courtroom discourse, had students interpret these questions, and then conducted an error analysis of the interpreted utterances. The extracts were taken from YouTube clips of televised New Zealand High Court murder trials and were interpreted by 17 student legal interpreters into eight different languages. Certain question forms proved more difficult to interpret accurately than others. Suggestions are provided for interpreter educators to best prepare students for courtroom interpreting.

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Court interpreters need a variety of skills, including an understanding of the different discourse genres they may be asked to interpret and in-depth knowledge of sociopragmatic norms, especially if they are to achieve some measure of pragmatic equivalence (Hale, 2014). A social constructivist approach to interpreter education (Kiraly, 2000) has at its heart the concept of learning through action or practice. Student legal interpreters likewise need to be exposed to actual court discourse in genuine settings as part of their training. They also need to receive feedback on how they interpret such authentic discourse. The justice system requires high levels of accuracy from court interpreters, but little work has been undertaken to assess student court interpreter accuracy in practice in the New Zealand setting.

This article reports on a study undertaken in a language-neutral undergraduate interpreting classroom with English as the medium of instruction. Students were taking a 3 contact hours a week, 12-week introductory course in legal interpreting as part of either a BA in Translation or Interpreting, or a Graduate Diploma in Arts (Interpreting). None was a practicing courtroom interpreter and most had only minimal awareness of legal discourse other than that gained through exposure to televised courtroom drama and news items.

The first aim of this research was to see if having students interpret audiovisual material from actual trials and giving them individualized feedback would address some of the limitations inherent in current pedagogical practice, including the lack of opportunity for student observation of expert performance and exposure only to simulated, audio-only interpreting course material. The second aim of the research was to conduct a discourse analysis of the lawyers' language in the audiovisual clips, with a focus on question types. The third and final aim of the study was to analyse student interpretations to identify areas of difficulty for student interpreters, as reflected in their renditions of various question forms.

The current legal interpreting course requires that students write a reflective journal on their observation of authentic interpreter-mediated courtroom interactions; however, students do not have the opportunity to interpret such exchanges in the court setting. We therefore decided to take the courtroom to the students, bringing them audiovisual clips of lawyers examining and cross examining witnesses in real trials. Our study combines what Hale and Napier (2013) describe as an experimental design with a discourse analysis approach. Schäffner (2002, p. 2) holds that "understanding a text is a prerequisite for translating it," and the same applies to interpreted renditions. Using video clips provides students with an extra visual component to their usual audio practice, while fitting within a situated learning approach by introducing a 'virtual' courtroom into the learning setting. We surveyed students before and after their participation in the study to assess their reactions to the audiovisual practice, and students reported high levels of satisfaction (Crezee, Burn & Gailani, 2015).

Student court interpreters need to develop in-depth knowledge of the underlying meaning and illocutionary intent (Morris, 1999) of the discourse they will be required to interpret in practice. In this article, we offer an analysis of courtroom discourse with a focus on question forms, along with a brief evaluation of the questions that proved most difficult for students to interpret accurately. (Additional research findings have been discussed elsewhere [Crezee, Burn & Gailani, 2015].) We feel that students cannot be taught legal discourse until they have gained a grounding in the legal process, which must in turn be preceded by an awareness of basic legal theory.

Analysing student legal interpreting errors

The audiovisual practice reported on here served the additional purpose of making students aware of the level of difficulty of interpreting courtroom interactions and the importance to their practice of attending court to observe expert performance by experienced legal interpreters.

1.   Background

In recent decades New Zealand has experienced a large influx of migrants and refugees. Many of these settle in Auckland, the country's largest city. Interpreting services report a need for interpreters in over 90 different languages (Magill & De Jong, 2016); over 180 different languages were identified in the 2013 census (Statistics New Zealand, 2013). In view of this demand, AUT University, Auckland, offers language-neutral interpreter education (cf. Hale & Ozolins, 2014), in which classes are taught through the English medium, rather than in the languages they will be working with. During practice, students mostly interpret from English into their other languages, informally assessing and evaluating their own and their language peers' interpreting performance.

There is significant demand for interpreters in the justice system. The New Zealand legal system derives from the Common Law system as introduced by British migrants, although it has since evolved to take on a distinctly New Zealand flavour. The increasing number of limited English proficient (LEP) migrants (Statistics New Zealand, 2013) has resulted in a growing demand for court interpreters in a number of community languages, especially in Auckland, In our experience, the language of court proceedings offers a particular challenge to (novice) interpreters.

The discourse used in New Zealand judicial settings is similar to that used in Australian courts (Hale, 2004, p. 29), which itself is similar to that of the United Kingdom: Trials largely consist of monologues addressed to the jury or judge by counsel in opening and closing addresses, followed by question-and-answer turns initiated by legal counsel and regulated by the presiding judge. Questioning witnesses is key to the legal process, and accurate interpretation is paramount. The consequences of inaccurate renditions of question forms can range from miscommunication and confusion to mistrial. The speech style of the witness must also be effectively contained in the interpretation to allow the fact finder to assess the character of the speaker (Erickson, Liond, Johnson, & O'Barr, 1978). Lawyers may not realize how their own idiomatic speech style can challenge an interpreter confronting the already gargantuan task of hearing complex language, understanding its meaning, and reprocessing it into a different language—one that often does not contain direct lexical equivalents of the most common legal terms and may use a completely different grammatical structure altogether.

Court language also includes a certain amount of legal jargon and procedural technicalities, the basics of which are covered in the course material we provide to our legal interpreting. However, because law covers the whole rich gamut of the human experience, vast amounts of incidental nonlegal vocabulary can also appear in any given case. Karton, (2008) cites the example of the highly educated Nuremberg war trial interpreter who was baffled by the concept of eyes in potatoes. Preparing students for all this is very difficult, and we feel it can best be achieved by exposing learners to a large variety of language in a safe practice environment. This means that we encourage students to gain a depth and breadth of language experience outside the classroom (through the media and personal interactions), and focus on the legal aspects of language in the practice environment. Until now, this has been achieved by providing audio scripts written by the lecturers and loosely based on real-life legal cases. This has proved a successful learning strategy in scaffolding learners to improve their skills, as evidenced by students' responses when asked about their perception of the usefulness of audio-only resources for interpreting practice (Author, Author and Author, Redacted). In the present study, we aimed to take this one step further by having students engage with fully authentic trial discourse in an audiovisual format, and to obtain expert language feedback on their interpreting errors.

Analysing student legal interpreting errors

2. Literature review

This literature review will briefly focus on situated learning approaches in interpreter education, followed by an overview of the discursive features of the adversarial courtroom language used during examination and cross examination in order to provide a context for our study.

2.1. *Pedagogical approaches*

Lave and Wenger (1991), Kiraly (1995, 1997, 2000), Mann (2011), Onda, (2012) and González Davies (2004, 2012) have all advocated situated learning approaches. Feng et al. (2013) point out:

> Situated learning provides the learner a specific context representing real practice. Based on social-cultural learning theory, situated learning is scenario-based learning embedded within a particular social and physical environment. (p. 175)

We sought a situated learning approach that would prepare learners for real-life courtroom challenges, realizing that this would be challenging. As Pérez-Sanagustín, Muñoz-Merino, Alario-Hoyos, Soldani, and Kloos (2015) state:

> The main characteristics of situated learning environments (SLEs) are: to provide authentic contexts, activities, expert performances and integrated assessment; to support multiple roles and perspectives, collaborative knowledge construction, coaching and scaffolding; and to promote reflection and articulation. However. . . not all of these characteristics are included, particularly lacking collaborative knowledge construction, in most cases. (p. 70)

Indeed, the situated learning activities in our study did not include expert performances, integrated assessment or collaborative knowledge construction. Liu's (2001) comparative analysis of the performances of expert versus novice interpreters likewise demonstrated the importance of real-world experience in gaining interpreting expertise, through the acquisition of domain specific skills. We elected to use innovative situated learning technologies to enable both our classroom and online student cohorts to practice interpreting in virtual contexts, using authentic materials. Before we undertook this study, our pedagogical approach had already involved student legal interpreters observing expert performances by practicing interpreters in courtroom settings, but students did not themselves practice interpreting in these settings. Furthermore, although lecturers provided naturalistic audio recorded material based on real-life legal cases, students in our language-neutral classroom did not receive expert language-specific feedback on their interpretation. Rather they relied on self-assessment and feedback from language peers. The data used for this study was derived from YouTube clips of televised authentic courtroom interactions of High Court Trials and manipulated for use in the interpreting classroom (Author, Author and Author, Redacted).

2.2. *Court interpreting discourse: The language of examination and cross examination*

We chose to focus our analysis on how lawyers' questions are interpreted, because questions are key weapons in the lawyer's armory. Court language is a unique form of discourse which employs the questioning of witness narratives to establish versions of the truth. New Zealand, as other common law jurisdictions, uses an adversarial system for the resolution of criminal matters. This involves defence and prosecution lawyers attempting to convince the fact finder judge, (or jury, in more serious criminal cases) of the veracity of their version of events. The lawyer must 'tell the story' through a combination of physical evidence and witness testimony. Lawyers first question their own witnesses through examination-in-chief, and the witness is then cross examined by the opposing lawyer in an attempt to draw out testimony that may damage or discredit the other party. Lawyers use a variety of carefully framed question types. As Russell (20042) states, "Questioning techniques are used to solicit the narrative of the speaker … and have them retell events from a particular perspective" (p. 2). Opposing lawyers then cross examine the witness in an attempt to expose inconsistencies in the narrative. A number of researchers

have focused on the role of questions within the legal process (Berk-Seligson, 1999; Danet, 1980; Harris, 1995; Matoesian, 1993; Woodbury, 1984). Woodbury (1984) ordered questions across a continuum according to the lesser or greater degree of coercion over the questioned, with 'wh-' questions exerting lesser control, and tag questions at the opposite end of the continuum. Questions may also act as "weapons to test or challenge claims, and vehicles to make accusations" as well as "cues for witnesses to speak their lines" (Danet, 1980, p. 524). Declaratives, polar interrogatives, and tag questions in particular are used in the cross examination phase to pose challenges to the witness (Innes, 2001; Luchjenbroers, 1997) or as coercive and confrontational devices (Danet, 1980; Hale 2001). Previous studies by Berk-Seligson (2002), Lee (2009), Rigney (1999), and Hale and Campbell (2002) have shown that questions are often not interpreted accurately in court. Hale's (2004) study of Australian interpreter testimony found that, in particular, "there was a tendency on the part of the interpreter to omit certain [question] types" (p. 59).

Berk-Seligson (1999) found that 49.6% of leading questions were inaccurately interpreted because either the tag was omitted or the nature of the question was changed to alter the leading portion of the question (illocutionary force). This may be because the interpreter fails to recognize the subtleties of the speaker's intent, or simply lacks the linguistic skills to render an accurate interpretation. Hale (2004, p. 35), describes legal questions as exhibiting three basic characteristics: (a) a level of control over the addressee, (b) tone (politeness or hostility), and (c) illocutionary point and force. Matching all three functions with an alternative in another language is tremendously taxing, especially when there is no direct lexical equivalent of a word or phrase. For example the New Zealand practice of "diversion" does not exist in many other legal jurisdictions and has no equivalence in Mandarin, Korean, Tongan, or Samoan, to name just a few languages. This idea must be paraphrased, which can be a lengthy process. Lawyers also use linguistic features such as discourse markers (*well, so, again*) to exert very tight situational control over the witness (Lakoff, 1985; Luchjenbroers, 1993). Hale (2004) found that these markers were omitted by court interpreters "almost systematically" (p. 86).

González, Vasquez and Mikkelson (1991, p. 272) comment that the court interpreter

> has a duty to conserve not only the precise meaning of the Source Language (SL) message, but also the precise register, style and tone. Thus the interpreter faces the formidable task, first in deciphering the meaning of sometimes obscure, convoluted or deliberately vague language, and secondly in conveying that language in exactly the same manner as it was spoken.

If interpreters fail to do this they are giving the judge or jury "an inaccurate verbal portrait of that person" (de Jongh, 1992, p. 92). Students in the current study were tasked with deciphering and rendering these linguistically convoluted, multiclaused and often unfinished questions into the target language in a safe learning environment in which language assessors provided language-specific feedback. The term 'safe learning environment' here refers to one in which the consequences of an actual trial do not attach. We chose trial extracts from examination-in-chief and cross examination to reflect the different question types, tone and illocutionary force which typically arise in these situations.

Hale (2004, p. 38) describes three basic question types which fall into the grammatical categories of interrogatories, declaratives and imperatives. These in turn are divided into a number of subtypes. Although Hale's examples come from Australia, very similar legal language and lawyers' questions are used in the New Zealand courtroom. Cross examination involves an increased use of the more assertive aggressive declaratives and tag type questions, for example, *And you observe those symptoms, you manage them and you report them, correct?* Similar question patterns were also observed in our murder trial excerpts. Hale (2004, p. 43) also points out that there is no one-to-one correspondence between commonly used question types in English-to-Spanish court interpreting; Spanish interpreters found English tag and declarative questions particularly hard to translate because there were no direct grammatical or lexical equivalents (2004, pp. 45-48). Because the students in our cohort interpreted into eight very different languages, we similarly expected grammatical and other linguistic differences to have an impact on the students' ability to correctly interpret some of the lawyers' discourse. The question types found in our study are shown in Table 1.

In summary, questions can be deliberately designed by lawyers to guide, coerce, upset and confuse the witness and are a key component of the lawyer's strategy. If they are not interpreted accurately the witness will not be able to respond to the actual question and the judge and jury will not receive an accurate picture of the witness's response under pressure. Untrained and inadequate interpreting has resulted in well-publicised difficulties and mistrials in New Zealand (*Chala Sani Abdula v The Queen,* 2011; *Young Jin Bae v The Queen,* 2012) and

elsewhere (*The State v Oscar Pistorius,* 2014; Hayes & Hale, 2010). Given the importance of questions in legal discourse, and because the participants in this study were relatively inexperienced interpreters and unfamiliar with much legal terminology, we focused our study on the interpreting of question types rather than on errors of individual lexical items. Therefore, our untrained students gained valuable court interpreting experience without risking misinterpreting real-life court proceedings.

3. Methodology

The main aim of our study was to explore students' responses to audiovisual interpreting practice material. We chose to use a mixed-methods approach, involving assessment of interpreting performance using audiovisual recordings of authentic discourse in context which had been manipulated to allow for consecutive interpreting. Pre- and post-intervention surveys were used to gauge students' awareness of the type of discourse they were about to interpret, and their response to practicing with unscripted audiovisual rather than audio-only recordings scripted and recorded by their lecturers. The surveys are discussed in detail in another paper (Crezee, Burn, & Gailani, 2015).

3.1. Participants

Participants in the study were second-language (L2) English student interpreters at undergraduate level representing the following eight languages: Mandarin, Cantonese, Korean, Samoan, Spanish, Farsi, Japanese and Guajarati. Seventeen students took part in the intervention, although not all of them completed all three of the clips.

3.2. Procedure

Study participants completed one audiovisual task in each of Weeks 3, 6 and 9 of the semester. Once students had interpreted the audiovisual tasks, the scripts, with the anonymised student recordings and associated audiovisual clips were posted online using the Blackboard learning management system used at the university. This material was accessed by the anonymous language assessors who are already familiar with the grading rubric through their work as external examiners. Assessors were asked to watch the audiovisual clips, listen to the student recordings and indicate on the script what sort of interpreting choices the learner had made. In line with Barik's (1969) approach to analysis of interpreted discourse, markers were asked to focus on a limited number of features such as change, omission or addition. Language assessors were asked to write a back-translation in English of the students' translations. Individual assessor feedback was anonymised and emailed to participating students as well as used for the interpreting analysis. Pre- and postintervention surveys were conducted (findings reported elsewhere [Crezee, Burn & Gailani, 2015]).

3.2.1 Selection of audiovisual material and nature of clips

The researchers chose excerpts from three recordings of courtroom interaction taken from New Zealand cases which had appeared in televised news reports and were posted on YouTube. All excerpts showed lawyers examining or cross examining witnesses. The clips ranged from 3 to 5 minutes and consisted of question-and-answer turns between defence or prosecution counsel and witness. Students interpreted the clips in consecutive

mode under supervision of the tutor, to ensure that the recoding was made on the first attempt. This prevented practise opportunities and therefore made the interpreting process more authentic.

Our study involved a shorter sample than Hale's (2004, p. 38), so not all question types were found in the clips students were asked to interpret. The question types in our study are shown in Table 1.

Table 1: Question types (and examples) found in the three courtroom extracts.

Interrogatives	Declaratives	Imperatives
a. Polar interrogative (*Did you go with him from scene to scene as he examined the bodies?*)	**a. Positive or negative declarative** (*We know that the fire engine from Fielding was at the fire at precisely midnight.*)	**a. Imperative** (*Tell us about that.*)
b. Modal interrogative (*At any point can you remember going down to the scene to have a look?*)	**b. Positive declarative with rising intonation** (*And go down that little corridor?*)	
c. Wh- interrogative (*Who prompted that discussion. Who raised it?*)	**c. Positive declarative with negative tag** (*Yes, and your training with respect is to manage symptoms isn't it?*)	
d. Forced-choice interrogative (*But as far as the entry of any of these rooms and going up to the body, did you go right up to the body, or did you observe him from the doorway?*)	**d. Negative declarative with positive tag** (*Yes but you cannot say to the court that you are qualified to make a diagnosis, are you?*)	

We decided that it would be best pedagogically to post the least challenging clip first and the most challenging one last, so that students could build confidence and expertise before moving on to more difficult tasks. The level of challenge was based first on the type of examination witnesses were being subjected to, with cross examination considered more challenging for student interpreters to work with (Hale, 2004, p. 58-59). A second criterion for deciding on the level of challenge was the proportion of legal terminology with which beginning student interpreters should be familiar. Clips are described in more detail below, together with some background information and some salient details. We decided to give the participants only minimal explanation of the background to the clips. This lack of preparation was authentic in that it reflected the working reality of the court interpreter in New Zealand; as Lee (2009) states, "The court interpreter does not have full and equal access to a body of knowledge shared by other participants in the court proceedings" (p. 94).

4. Analysis of legal discourse and student performance

4.1. Clip 1

Clip 1 was interpreted by 17 students. Overall, this clip contained good introductory material for students as it contained legal questioning without much legal jargon and with relatively simple lexical items. It revolves around a defendant referred to as EM who is standing trial for the murder of his brother in law. His wife, AG, is being questioned by the prosecution lawyer with question types which closely resembled those described by Hale (2004) as typical of an examination-in-chief. In her study of 17 interpreted local court hearings from New South Wales,

Hale found that the yes/no positive polar interrogative (e.g., *Did you take the children with you?*)[1] and the declarative (*We know that the fire engine from Fielding was at the fire at precisely midnight*) are favoured by lawyers in examination-in-chief as they allow tight control over witness testimony. This also closely matches the findings of Woodbury (1984) who found wh- questions and yes/no polar interrogatives to be the most frequent question types. Lexical items in this clip include mainly everyday terms, although the examining lawyer asks AG several multiclause questions full of reiterations and false starts, for example, *Was there any change in his behaviour either immediately after the arson that you can… have you since recalled or have since thought about or has since struck you*? An analysis of the question types used in Clip 1 (see Table 2) showed that 14 of the 21 questions are multiclause questions while one is an unfinished question. (Table 3 shows the distribution of question types and the number of students who omitted or changed part of the questions. It should be noted that some students committed several errors of omission or misinterpretation in relation to the same question)

Table 2: Question types used by the QC (defence counsel) in Audiovisual Clip 1

Question type	**Number of questions in clip**
Polar interrogative	10
Wh- interrogative	4
Positive declarative	3
Positive declarative with negative tag	1
Modal interrogative	2
Imperative	1
Total questions	21

The preponderance of yes/no polar interrogatives indicate that the lawyer is exercising tight situational control over the witness: *Did you hear the fire engines going down the road at all, at night?* But the more open-ended wh-interrogatives (*who went?*) and the modal interrogatives (*At any point can you remember going down to the scene to have a look?*) indicate that the lawyer is working with a 'friendly' witness whose testimony on the whole tends to collaborate the lawyer's version of events. The use of the imperative *tell us about that* encourages free narrative which, according to O'Barr (1982), makes juries more likely to view the witness in a positive light.

The lawyer's speech style is reasonably slow paced, but false starts and mistakes often make the questions confusing (*As you know Mr MacDonald has admitted the arson of this home, this house and the, and the trailers, right?*) This declarative tag question type was identified by Hale (2004, p. 39) as being one of the forms most likely to cause problems, and be omitted by Spanish and other interpreters. Hale also identified as most difficult to interpret the modal interrogative (*At any point can you remember going down to the scene to have a look?*). English modal verbs contain slight and subtle shades of meaning that cannot be easily interpreted. *Can you remember?* is different from *Do you remember?* and *Do you remember clearly?* adds an altogether more forceful and accusatory connotation to the question, implying that the witness does not have full and accurate recall of events). Table 3 shows the percentage of correct interpretations by question type.

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[1] Examples are from the New Zealand courtroom extracts used in this study

Table 3: Question types used by the QC (defence counsel) in Audiovisual Clip 1.

Question type	Number of questions	% correct
Polar interrogative	10	91%
Wh- interrogative	**4**	83%
Modal interrogative	2	65%
Positive declarative	3	75%
Positive declarative with negative tag	1	18%
Imperative	1	47%
Total questions	21	**80%**

The greatest accuracy in interpreting (measured using Barik's [1969]] simple error analysis system) was achieved on the interrogatives, with modal interrogatives being the hardest interrogative type to interpret accurately. Lowest accuracy was achieved on the positive declarative with a positive tag, *As you know Mr MacDonald has admitted the arson of this home, this house and the, and the trailers, right?* (18%), and the imperative, *Tell us about that.* (47%). This fits in with Hale's (2004, pp. 44-55; 221-226) identification of the tag as a problematic lexical device for interpreters working between English and Spanish. The imperative is a relatively noncomplex structure, but three students failed to interpret it at all. Could those students simply have failed to identify it as a question form and chose instead to ignore it, treating it as an extended discourse marker? This is an interesting question for which we found no evidence from survey results, and that would therefore need further research.

4.2. Clip 2

Clip 2 was interpreted by 14 students and involved the cross examination of a police detective who had accompanied the police doctor while the latter examined the bodies at a multiple fatality crime scene. This clip shows the defence lawyer taking the police officer on a virtual tour of the house. At first glance, the language used appeared fairly simple, with multiple references to crime scenes and bodies, but again, the extract contains a number of long, complex multiclause questions. Berk-Seligson (2002) hypothesized that lengthier questions were more difficult to render accurately. One example was the forced-choice question, *And when he continued to film is that in the same way as you described in Scene A from the doorway or did he go into the room on this occasion*? Table 4 shows the breakdown of question types and the percentage of questions interpreted correctly.

Table 4: Question types used by the QC in Audiovisual Clip 2.

Question type	Number of questions	% correct
Polar interrogative	13	93%
Wh- interrogative	9	91%
Positive declarative	5	80%
Positive declarative with rising intonation	3	69%
Forced-choice interrogative	4	77%
Total questions	34	87%

Again, polar and wh- interrogatives predominate, indicating that the witness, at this stage of the proceedings at least, is not considered hostile to the lawyer's interpretation of events. Highest accuracy was achieved in these question forms. There are, however, a number of false starts and unfinished questions which were difficult to interpret accurately. It is impossible to tell whether this is a deliberate device used by the lawyer, or merely idiosyncratic usage, for example, *Are you, er, leaving aside, er David's room for the moment, are you able to remember as far as any of the scenes where there were dead bodies, whether the light, any light was on in any of those rooms?* Despite this, 12 out of the 14 students managed to interpret the key portion about the light, thus substantially maintaining the message according to the assessment criteria (see Appendix). The lawyer also uses vague language and ellipsis which can cause significant problems for interpreters, for example, *When you say light thing, was it on top of it, or part of the equipment itself?*

The question type which resulted in lowest percentage of accuracy was the positive declarative with rising intonation (69%), *And go down that little corridor?* Again, we could speculate that the students failed to recognize the illocutionary purpose of this as a question. Or perhaps they made a value judgement that it contributed little to the proceedings and therefore decided to ignore it. The time constraints on the study did not allow us to ask students such questions, which would have provided more in-depth information regarding the reasoning for their chosen renditions. The clip itself is characterized by a marked absence of the problematic tag questions, which may account for students achieving the highest overall level of accuracy with this clip (87%). It may also be that students were getting a little more used to interpreting examination-in-chief, this being their second attempt at interpreting such an interaction. In addition, the tone used by the lawyer is neutral, rather than aggressive—in contrast to the final clip.

4.3. Clip 3

This clip was interpreted by 14 students and showed the cross examination of the ambulance officer who examined the defendant in the murder trial (also featured in Clip 2). The ambulance officer testifies that he thought the defendant was pretending to have fainted, and this became the subject of intense and aggressive questioning by one of the defence lawyers, in an attempt to undermine the credibility of the witness. The tone is dramatically more hostile than in previous clips. Ten of the 14 questions were tag type questions of positive declaration, with a positive tag (7) predominating, for example, *Alright. Well I come back and I'm giving you an opportunity again. If a medical specialist says that's what this was, you would be disagreeing with him would you?* The conditional form and repeated modals in that question seem designed to confuse the witness and trap him into making a contradictory statement (citation). Table 5 shows questions types used in Clip 3.

Table 5: Question types used by the QC in Audiovisual Clip 3.

Question type	Number of questions	% correct
Positive declarative with positive tag	7	87%
Positive declarative	1	7%
Negative declarative with positive tag	2	61%
Negative declarative with negative tag	1	21%
Wh- interrogative	1	14%
Reported speech polar interrogative	1	7%
Modal interrogative	1	36%
Total questions	14	58%

Table 5 shows that 11 of the 14 questions are declaratives, with 10 also involving some kind of tag. The majority of questions are positive declaratives with positive tag. The long, multiclause negative declarative with positive tag question is in a particularly convoluted form that participants found difficult. Only six out of 14 students were able to successfully interpret the question below is in its entirety.

> *So, if medical evidence is given by a medical specialist that all of these symptoms and what is being described is consistent with someone fainting and recovering from a faint, you wouldn't disagree with that would you?*

This utterance is prefaced by the discourse marker 'so', and begins as a conditional '*if medical evidence is give*n' and ends as a negative declarative '*you wouldn't disagree with that*' with a positive tag '*would you*?' The grammatical complexity of the question makes it extremely difficult to interpret accurately. To render an accurate translation the function of the tag needs to limit the possible answers to a yes/no response. Additionally, the question itself has a pragmatically face-challenging function which must be conveyed into the target language. This can present significant difficulties in cultures that are mindful of maintaining the face of the interlocutors; in effect, the interpreter must overcome deeply ingrained social programming. The reversing polarities are also a rhetorical device used by the lawyer to confuse the witness into offering a contradictory or uncertain response. Twelve of the 14 questions asked by the QC in Clip 3 involve multiple clauses, and one question is unfinished.

The lawyer's aggressive tactics reach a peak with *That is not the question I put to you officer. Not choose. I didn't put it as a choice. I have asked you, is it consistent that a person who does not respond may be suffering from shock or trauma?* This four-sentence construction contains three declaratives before a forced-choice, two clause interrogative. Note also the repeated use of "I" as an assertive device to reinforce dominance. It is unsurprising that questions with these degrees of lexical and pragmatic complexity should result in the lowest level of accurate interpreting at 58%. This means that 42% of the examination-in-chief questions were misinterpreted by our student interpreters. Clearly this is an issue of concern and indicates that students require more practice in interpreting this phase of trials in general, and tag questions in particular. A more detailed analysis is forthcoming (Authors).

5. Summary and Discussion

The three short audiovisual clips, of courtroom language contained a wide range of question types that court interpreters may be required to convey in practice. Our comparison of question types used by defence lawyers during examination-in-chief compared to cross examination corroborated the findings of previous studies of trial

discourse (e.g. Berk-Seligson 2002; Hale 2004, p. 45): The greater use of tag questions during cross examination seemed designed to coerce the witness into answering yes or no to suit the lawyers' purposes. In the clips discussed here, tag questions appear to be used to control or limit the flow of information from the witness, when compared to the greater use of polar interrogatives and wh- interrogatives in examination-in-chief which give the witnesses greater flexibility in their answers. This confirms the findings of Hale (2004) and Thomson and Martinet (1983) that tags are used to obtain agreement rather than information. Our study reveals that student interpreters typically find it difficult to accurately render longer, more complex and multiclause question forms. Other challenges for student interpreters included accurately rendering modals and recognizing declaratives and imperatives as 'questions in disguise'. Students performed significantly when confronted with aggressive face-challenging cross examination discourse.

Student interpreters preparing for the courtroom environment clearly need to be explicitly taught the question forms prevalent in legal discourse, and the pragmatic purpose of 'questions in disguise' such as the imperative and the declarative. Educators must give students opportunities to practice interpreting interactions from all phases of the trial, including the more aggressive stage of cross examination. They must remind students to avoid altering the illocutionary force of the questioning, thereby eroding the accuracy of the interpreting and distorting the testimony of the witness.

6. Conclusion and Recommendations

In this study, a group of students practiced interpreting audiovisual clips of New Zealand courtroom interactions, in which witness responses were elicited through the use of complex questioning modes. During the examination phase of a nonhostile witness, polar and wh- interrogatives predominate, whereas the more adversarial nature of cross examination in the last audiovisual clip is associated with a high use of declarative forms and tag questions. These corresponded with significantly less accurate renditions by students. Other issues of interest to interpreter educators included the large number of false starts and complex muticlaused questions at all stages of the examination process, which students found particularly hard to interpret. Errors such as leaving out the interpreting of particular questions or changing the questions could cause major problems in the courtroom where accuracy of meaning is essential. We suggest that to minimize errors trainee interpreters must spend time becoming familiar with all of the question types used in the courtroom, learning which types of questions predominate at different phases of examination and practicing and reflecting on how to accurately interpret them. Educators might want to focus on the question types that appear most frequently in this study.

Limitations of the study included small student numbers and the fact that the language-neutral approach to interpreter education resulted in students recording their interpreting in a range of languages. Colleague educators in other settings may be able to replicate the situated learning approach described here but include a comparative discourse analysis of A > B language and B > A language interpreting performance (e.g., Hale, 2004). The fact that students were unable to practice interpreting in a real courtroom setting was a distinct limitation; however, the study did reflect a situated learning approach by introducing the setting (audiovisually) and the type of discourse used by legal practitioners in examination and cross examination. Because it had proved impossible for the lecturers to get funding or permission to recreate a mock courtroom trial in the actual courtroom setting, this was the most realistic way of 'taking' the setting to the students. Likewise, the audiovisual material we used did not allow for requests for clarification by student interpreters. On the positive side, the funding obtained for the study enabled lecturers to ensure that students *were* provided with additional expert feedback to reflect on their interpreting performances.

Findings of the pre- and post-test surveys (Crezee, Burn & Gailani, 2015) suggest that working with the audiovisual clips enhanced students' awareness of the real nature of courtroom language (Crezee, Burn, & Gailani, 2015), which fits in with the situated learning approach. Hence we recommend such authentic clips as a useful tool in courtroom interpreting education. We hope that future research with trainee legal interpreters in similar situated learning environments will further contribute to our understanding of the 'best practice' for these students.

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Appendix 1

English to LOTE and LOTE to English Interpreting Assessment Criteria

Category	D	C	B	A
Message Content	● Many essential elements of meaning incorrect ● Several serious changes in meaning ● Several omissions ● Several unnecessary additions ● Message substantially lost	● Most essential elements correct ● Only minor changes in meaning that do not detract from the main message ● A few omissions, but not much essential elements omitted ● Some additions ● Message substantially maintained	● Most essential elements correct ● Only very minor changes in meaning that do not detract from the main message ● Very few omissions, and no essential elements omitted ● Some minor additions ● Message well maintained	● All essential elements correct ● No omissions/ one or two minor insubstantial omissions ● No Additions ● Message completely maintained
Essential Terminology	● Correct equivalents often not used ● Paraphrase used but with incorrect meaning ● Little use of required technical terms	● Correct equivalents used in most cases ● Paraphrase used adequately when equivalent in TL not available ● Paraphrase often used when equivalent TL term available ● Mostly appropriate use of technical terms; occasional misuse does not prevent comprehension	● Correct equivalents used in most cases ● Paraphrase well used when equivalent in TL not available ● Paraphrase sometimes used when equivalent TL term available ● Appropriate use of technical terms; <u>very</u> occasional misuse does not prevent comprehension	● Correct equivalents used ● Paraphrase correctly used when Target Language (TL) equivalent term not available ● Accurate and appropriate use of technical terms
Pronunciation	● TL pronunciation often incorrect ● Added or omitted sounds in words ● Tone units too short ● Incorrect word and/or sentence stress	● Pronunciation sufficiently accurate to relay message adequately with occasional mispronunciation ● Most sounds correctly pronounced ● Adequate word and sentence stress	● Pronunciation sufficiently accurate to relay message clearly ● Most sounds correctly pronounced ● Good word and sentence stress	● Good pronunciation with appropriate flow of language
Grammar	● Grammar mistakes make message unclear	● Grammar sufficiently accurate to relay message correctly but	● Grammar sufficiently accurate to relay message correctly	● Grammar accurate ● Tense correct

	● Tense mistakes change message ● Numerical items, (e.g. some, many, both, neither) often incorrect, and verbs do not agree ● Word order often incorrect	occasional errors in grammar ● Tense mostly correct – with occasional errors which do not cause misunderstanding. ● Word order usually correct with occasional errors which do not cause misunderstanding.	● Tense correct ● Word order usually correct	● Message relayed clearly and appropriately ● Word order accurate
Register	● Message misrepresented through inaccurate register use ● Wrong tenor	● Register is usually appropriate ● Tenor usually correct, with occasional errors which do not cause misunderstanding.	● Register is mostly appropriate ● Tenor mostly correct	● Appropriate use of register at all times according to the subject matter