

Contents

<i>List of Tables, Figures and Texts</i>	x
<i>Acknowledgements</i>	xiii
<i>Conventions</i>	xiv
<i>Introduction</i>	xv
Part I Communication in Jury Trial	1
1 Legal-Lay Discourse	3
Introduction	3
Discourse	3
Professional discourse	10
Cultural-cognitive modes	17
The modes and discourse	22
The modes and legal-lay discourse	29
Conclusion	35
2 Coming into Court	37
Introduction: the courtroom	37
Doors into court	39
Communication in court	46
The transcripts and representation	52
The corpora and representativeness	58
Conclusion	63
3 The Trial as Complex Genre	65
Introduction	65
Perspectives on the trial	65
The trial as ritual	72
The opening address and the crime story	75
Witness examination: the trial as contest	77
The closing arguments and the trial story	84
Summing-up and beyond: the trial as judgement	87
Conclusion	91

Part II Witness Examination	93
4 The Counsel as Narrator	95
Introduction	95
Free witness narrative	95
‘Showing’ and ‘telling’ in examination-in-chief	102
Narrating <i>through</i> the witness	110
Narrating <i>despite</i> the witness: cross-examination	120
Conclusion	124
5 The Counsel as Subject	126
Introduction	126
Subjectivity and the cross-examiner	127
The expression of judgement	131
Projecting one’s case	135
Evaluative pointing	141
Evaluative peaks	150
Conclusion	152
Part III The Judge’s Summing-up	155
6 Directing the Jury	157
Introduction	157
Helpers and opponents	158
The summing-up and narrative accommodation	161
Narrativization and categorization in the proof directions	166
Knowledge, belief and comprehension	175
Conclusion	180
7 (Re)Viewing the Case	182
Introduction	182
The review of evidence and judicial perspective	183
Language and judicial comment	185
Linguistic strategies in judicial comment	188
Perspective and directionality	201
Conclusion	207
8 Conclusion	208
Review of the evidence: legal-lay discourse in jury trial	208
Deliberation: some implications for jury trial	212
Verdict: a bridge between law and life	218

<i>Appendix 1</i>	<i>Overview of Corpora</i>	220
<i>Appendix 2</i>	<i>EXAMINATIONS Copora</i>	221
<i>Appendix 3</i>	<i>SUMMING-UP Corpus</i>	224
<i>Notes</i>		226
<i>References</i>		230
<i>Index</i>		239

List of Tables, Figures and Texts

Tables

Table 1.1	Key strategies in the narrative and paradigmatic modes of reasoning	23
Table 2.1	Witness types according to background, evidence type and control required	43
Table 2.2	Alternative forms of agreement in EXAMINATIONS corpus transcripts	56
Table 2.3	Interruptions in witness examinations	57
Table 3.1	Trial perspectives and discourse	67
Table 3.2	Levels of challenge	81
Table 3.3	Length of examinations in <i>R v Speak</i>	82
Table 3.4	Reference to defendant and claimants in closing speeches of <i>R v Speak</i>	85
Table 4.1	'Bush' and story schemas	97
Table 4.2	Witness response lengths in chief and cross-examination	99
Table 4.3	Narrative and non-narrative extended turns	100
Table 4.4	Narrative and non-narrative extended turns by examination type	101
Table 4.5	Narrative and non-narrative extended turns by witness type in CHIEF	101
Table 4.6	Request type, form and degree of counsel control over information	112
Table 4.7	Distribution of counsel's request types as percentage of total turns in CHIEF and CROSS	114
Table 4.8	Distribution of witness response types in CHIEF according to witness type	117
Table 4.9	Witness turn lengths in examination-in-chief according to witness type	118
Table 4.10	Counsel turn lengths in CHIEF and CROSS	121
Table 4.11	Distribution of INFORM and CONFIRM requests in CHIEF and CROSS	122
Table 5.1	Contrastive keywords in counsel turns in CHIEF and CROSS	129

Table 5.2	The cross-examiner's <i>I</i> -clusters in CROSS	136
Table 5.3	Salient right collocates of cross-examiner's <i>I</i>	137
Table 5.4	<i>Suggest</i> and <i>put (to)</i> per 1000 occurrences of <i>I</i> in CHIEF, CROSS and COBUILD	139
Table 5.5	Suggesting in CROSS and COBUILD	140
Table 5.6	Distribution of indirect objects with counsel's use of <i>TELL</i> in CHIEF and CROSS	142
Table 6.1	Functions of judge and jury	162
Table 6.2	Structural realizations of the summing-up	162
Table 6.3	Mode tendencies of proof directions	174
Table 6.4	The judge's mini-narratives	179
Table 7.1	Top keywords in REVIEW	196
Table 7.2	<i>I suggest</i> and <i>you may think</i> in CROSS, REVIEW and BNC	201

Figures

Figure 1.1	Key communication elements (above line) and focus of attention (below line)	5
Figure 1.2	A simplified model of legal-lay discourse as communication process	9
Figure 2.1	Entrances and seating arrangement in a typical Crown Court	37
Figure 2.2	Simple schema of a Question-Answer sequence in witness examination	48
Figure 3.1	A model of jury trial as complex genre	71
Figure 3.2	<i>Impression</i> and <i>picture</i> in defence closing speech of <i>R v Speak</i>	86
Figure 4.1	Length of witness response turns in chief- and cross-examination	99
Figure 4.2	Distribution of witness narrative in Sheila Bush examination	103
Figure 4.3	Basic narrative structure of Bush examination-in-chief	104
Figure 5.1	<i>Tell</i> + principal addressees in CHIEF and CROSS	142
Figure 5.2	<i>Told</i> + principal addressees in CHIEF and CROSS	143
Figure 5.3	<i>Telling</i> + principal addressees in CHIEF and CROSS	145
Figure 5.4	<i>Telling the/this jury</i> in CROSS	145
Figure 6.1	Biber's text-variation dimensions compared to narrative and paradigmatic modes	168

Figure 6.2	Handling stolen goods	177
Figure 7.1	Modification of judicial perspective in the review of evidence	189
Figure 7.2	A galaxy of linguistic options for expressing epistemic possibility	194

Texts

Text 1.1	A Crime Narrative	24
Text 1.2	A Defence Submission	26
Text 3.1	An Objection Sequence	82
Text 4.1	A Free Witness Narrative	96
Text 4.2	Counsel's Strategic Analysis	106
Text 4.3	A Cross-examiner's Narrative	123
Text 5.1	The 'Rhyme of the Cross-examiner'	149
Text 5.2	Humiliation	151
Text 6.1	A Pattern Jury Instruction	159
Text 6.2	Recklessness	164
Text 6.3	A Specimen Jury Direction	165
Text 6.4	Analysis of the Specimen Proof Directions	173