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# 'You Can't Just Go To Court And Move Your Body':

FIRST-YEAR STUDENTS LEARN TO WRITE AND SPEAK  
THE LAW

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**T**his paper shows how first-year university students learn to write and speak the law. We are concerned to make visible the ways in which students begin to acquire the habitus (Bourdieu 1990), the ways of talking and acting and moving, the ways of constructing reality and social relations, which mark them as different from non-law students. Through a case study of one cohort of law students, we examine the institutional and disciplinary contexts in which students come to occupy positions as law students and as potential lawyers. We study two specific contexts of activity: the students' lectures in contract law, and the writing they completed in a unit on 'practical legal skills'. By examining their work early in their first year, we find them dealing with new, distinctively legal, genres, and hence the processes by which they become law students can more easily be made visible.

In the following analysis, we show the multiple influences of university and workplace discourses. On the one hand, students are positioned as learners enrolled in a university subject run by a professor who is the lecturer, and by tutors who preside over tutorials and legal skills writing workshops. On the other hand, students are positioned as quasi-professionals who must take up the speaking and writing positions valorised by the legal community to which they aspire. Both contexts shape social relations and reading and writing practices; they discipline students to engage in performances which discipline 'the body and mind into predispositions for behaviour as part of a larger group or corporate body' (Kamler, Maclean, Reid and Simpson 1994: 3).

We begin by establishing a dialogue with two studies by Aviva Freedman and colleagues (Freedman 1987, Freedman, Adam and Smart 1994) because these share a number of commonalities with our study. Although it is only Freedman's (1987) first study which focuses on law students, both are interested in the way in which tertiary students learn new genres or forms of writing. Both take a Bakhtinian view of genre as socially shaped and socially shaping (Berkenkotter and Huckin 1993, Devitt 1991, Bakhtin 1984). Genres are socially shaped because they reflect the legal and academic institutional contexts in which students write, and socially shaping because they constrain their users to assume distinctively legal and academic positions, values and attitudes.

Freedman (1993) observed that students received no explicit directions or guidance about how to write their legal essays and were exposed to no models of such writing. Because they succeeded in learning the distinctively new genres required of them, Freedman concluded that learning genre was not a conscious process, and explicit instruction was not required. To the extent that students' conscious attention was engaged this occurred implicitly rather than explicitly, and their understanding was developed through a process Freedman calls 'felt sense.' This notion, based on the work of therapist and philosopher Eugene Gendlin, and applied to composition studies by Perl and Egendorf (1979), is described by Freedman as follows:

The model for their learning that emerged from our observations is the following. Learners approach the task with a 'dimly felt sense' of the new genre they are attempting. They begin composing by focusing on the specific context to be embodied in this genre. In the course of the composing, this 'dimly felt sense' of the genre is both given form and reshaped as a) this 'sense', b) the composing processes, and c) the unfolding text interrelate and modify one another. Then, on the basis of external feedback (the grade assigned), the learners either confirm or modify their map of the genre. (Freedman 1987:101)

We find this explanatory model useful to the extent that it emphasises the multiple sources of influence on learning genre and resists the simplistic notion that explicit teaching of genre can be equated with students learning genre. But Freedman appears to assume that if students are not receiving explicit instruction in the form of verbal or written descriptions of the rules or features of written language forms and activities, then they must be constructing their own meanings and representations of experience. This focus

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on verbal description of language leads to a false dichotomy between the explicit and the inexplicit. In our view Freedman's position gives insufficient weight to the normalising and regulative aspects of discourse in shaping and disciplining students and ignores a whole range of means other than explicit verbal specification of rules and features through which students are shaped by authority.

It is our aim to examine how discursive practices are made authoritative by the learning activities in which students participate. To do this we look not only at how the linguistic features of a genre are explained, but examine a range of ways in which law students learn, some of which are made explicit through description or modelling, others of which operate covertly.

It is for this reason we find that Freedman's second study (with Adam and Smart, 1994) provides a more generative frame. This study examines the writing of university students in an upper level unit on financial analysis and draws a very useful distinction between workplace and academic discourse which we wish to build on here. Again there are commonalities between this study and our own. While Freedman's students are enrolled in a university business course, and ours are enrolled in law, both groups engage in writing within simulated contexts which are designed to be like that of the workplace. Like Freedman, Adam and Smart's (1994) students, those in our study engaged in activities accented by two discourses, one derived from the institutional context of the university and the other from the textual practices of working lawyers which are imported into the simulations.

We follow Freedman, Adam and Smart (1994) in regarding these simulated student activities as a form of discursive practice, in recognition of the fact that they are shaped not only by the immediate demands of the rhetorical situation but also by the broader institutional context. We are guided by a view of discourse as social practice (Foucault 1977, 1979, Fairclough 1992) through which people are inducted into ways of valuing, stances and points of view which reflect the interests of a group. Through these practices they construct or have constructed for them a position within the group as subordinate or dominating, as central or peripheral, as learner or expert, as knowledgeable or ignorant. However, we distinguish our work from that of Freedman, Adam and Smart (1994) by placing emphasis on the fact that discursive practices are accomplished not only through language, but also through bodies, through ways of moving, dressing, and talking, and through ingrained bodily dispositions or habitus.

As students participate in these discursive practices they begin to develop subjectivities appropriate to their position as law students (Lave 1993), These subjectivities take the form of new ways of thinking, feeling, valuing and acting, new positions or roles, new aspirations, needs and desires, new self-images, and identification with and inclusion within new sorts of formal and informal social groups. In what follows we emphasise the link between the discursive practices in which law students engage, and distinctively legal subjectivities which they develop.

This paper first focuses on the lectures as performance of a 'Socratic' genre, then moves to the legal skills writing workshops and examines the writing constructed by students there. These settings produce genres which are clearly differentiated from those of other faculties because they show the influence of the workplace-based concerns of practicing lawyers. While the lecture is more clearly situated as a university performance, it constantly evokes the workplace for the ways in which it shapes student subjectivity. On the other hand, while the legal simulation in the tutorials is more obviously based on a workplace performance, the demands it makes on students are always shaped by the institutional setting of the university. In both settings a law student subjectivity and a lawyer subjectivity are being shaped; in the lectures the former is more overt, while in the tutorials the latter.

## **THE RESEARCH CONTEXT**

The research adopted case study methodology to focus on one group of first year law students entering university for the first time in February 1994. The first year law students who participated in this study were recent school leavers 18-19 years of age, who were enrolled in Contract Law in semester one. Overall there were 120 students enrolled in Contract Law, grouped in three double degrees: arts/law and science/law and commerce/law. During semester one and two, we closely followed one tutorial group of 16 arts/law students in their lectures and tutorials, and one group of 8 commerce/law students in their semester one lectures. Restriction to a single group of students made it possible to us to conduct an in depth study in which we were able to conduct interviews, attend and tape lectures, tutorials and students meetings and to collect all student written work including drafts.

The university the students attended was located within a large regional centre of Victoria and the Law program, a relatively new addition to the

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university, had been established in 1992. The Law school specialised in commercial law and was unusual in offering first semester students a compulsory unit in contract law, a unit offered to students in more established universities in their third year.

Contract Law was a one semester unit, consisting of three one hour lectures and a one hour tutorial per week. The work load was substantial. Each week students were expected to read and take notes on an assigned number of legal cases. Each lecture focused on a specified point of law as exemplified by the cases and it was the expectation of the lecturer, Professor North (fictional name), that students would be prepared to answer questions on the set readings. The tutorials of roughly sixteen students and a tutor worked through the case readings in greater detail than was possible in the lecture, with particular attention given to preparing students to write examination answers in case law. Students were explicitly guided as to the specialised format required and models were often provided from previous examinations to demonstrate how such writing was to be accomplished.

Students also engaged in a compulsory practical legal skills workshop, which began six weeks into the semester and thereafter alternated with the weekly tutorial session. A special teaching development grant had been received by the Law faculty to develop this unit which involved students taking on the simulated position of practicing lawyers. Students were given documentation of and 'instructions' for an imaginary case, and had to complete a series of writing tasks between May and September culminating in a Moot Court. They were divided in groups of 16 or so, known as 'firms' and led by two appointed student 'senior partners' to complete their writing tasks. Half the groups had to provide advice to the defendant and half to the plaintiff. The writing tasks included preparation of a letter of advice with accompanying memorandum, a letter of demand, a statement of claim, a third party notice, a defence and counterclaim, and a brief to counsel. The simulation was supported by a 400 page looseleaf folder which included documentation of the simulated case, advice, requirements and assessment criteria for the various rounds of activity; readings describing the characteristics of the written genres which the students were required to prepare; and models of the documents based on the previous year's simulation exercise. The simulation was expected to integrate and apply students' formal coursework studies of law in contract law and civil procedure.

The data collected consisted of (a) field notes on lectures and tutorials during 13 weeks of semester one and two and on legal writing tutorials during

semester two; (b) videotapes of three lectures on April 28, May 20, June 2, and audiotapes of two additional lectures on March 24 and May 12; audiotapes of legal skills tutorials on May 12, July 27, August 9, September 6 and a videotape of the final Moot Court presentation on September 9; (c) all writing produced by one tutorial group of sixteen students, including drafts and final copies of seven legal skills texts, a mid year and final exam; (d) two interviews with sixteen arts/law students in the practical legal skills workshop, one interview with eight commerce/law students from the lectures and two interviews with Professor North on March 28 and June 29 about his goals, expectations, method of teaching and ongoing reactions to the subject and students.

The transcripts of lectures, tutorials and interviews were analysed for recurrent themes which were cross referenced with field notes and findings from the textual data. The writing was analysed using systemic linguistics (Halliday 1985a, b) and critical linguistics (Kress 1985, Fairclough 1992), as were selected segments from the interview transcripts. Close analysis of selected videotape and audiotape segments was also undertaken in order to document what Threadgold (1993: 9) calls the role of 'embodied subjectivity' in the making of all texts. That is, our video and audio analysis attended only to the linguistic-to what was said-but foregrounded the centrality of the body to the process of being disciplined to the law.

### **THE LECTURES: POSITIONING THE STUDENT BODY**

The lectures are a significant discursive practice that operate to initiate and position novice students as members of the legal discourse community. Students meet with their professor three times a week in a lecture theatre with approximately 90 other students. Like the students described by Freedman, Adam and Smart (1994), they are attired in jeans, sweatshirts, and back packs, while their professor is attired in a suit and tie; this is a setting where their positioning as law students is more dominant than their positioning as future lawyers. Their attendance is compulsory, their obligations for lecture preparation are set out in their unit guide in detail. Each lecture has a number of points of law and a number of cases which are reviewed and examined. Students are required to be familiar with the facts of the case and prepared to answer questions about those facts and about who did what to whom, with what consequences and what implications.

The hierarchical nature of the lecturer student relationship is constructed overtly. From his position as teacher, Professor North determines the mate-

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rial to be studied. His subject outline details the points of law and sequence of cases to be studied. He has the power to ask questions about this material and a photographic chart of students to guide him in nominating them by name. Students arrive before their professor and chat with one another; when he enters their private conversations stop and they turn to the front for the lecture to begin. They are for the most part attentive and quiet; their disciplining as high school students has prepared them for the posture they are to take up in this setting. Those who wish to avoid answering keep their heads down and hope they will not be seen.

There is a striking difference, however, between these contract law lectures and the lectures students attend during their first year of university, including their other law subject, and their respective first year subjects in science, commerce and arts. A distinctive genre is being produced in this class. It is distinguished not only by its semantic content and specialised lexis, but also by a discourse structure that is characterised by Professor North as 'Socratic', a vigorous form of question/answer peculiar to law school settings (Morgan 1989).

In the following analysis, we examine the power of this genre to shape students in at least two ways: through a disciplining of speech and a disciplining of the body. Following Foucault (1979), we view this 'disciplinary work' as producing and inducing social power relations through an 'internalisation of the gaze of authority'; in particular, we focus on the power of discourse to both literally and metaphorically inscribe the collective and individual social body. Discourse operates not as an abstract set of ideas but as Grosz (1990: 63) suggests as 'a material series of processes, where power actively marks or brands bodies as social, and inscribes them, as an effect of this, with differentiated 'attributes of subjectivity.' The following analysis examines what is involved in the shaping of a legal subjectivity with one group of tertiary students.

## **THE SOCRATIC METHOD**

In its pure form the Socratic method is designed to tease out inconsistencies, contradictions and ambiguities in students' thinking, but the term 'Socratic' is used in a variety of ways in law teaching. Kearney and Beazley (1991: 886) describe the 'Socratic' method in the law classroom as a dialogue with the teacher, where 'students think out loud', and the teacher immediately intervenes to question and criticise.' Through a question and answer framing of dialogue, the teacher aims to challenge stu-

dents' assertions and assumptions about cases, laws and principles. In figuring out the answers to the teacher's questions, it is argued that students may achieve a better understanding of both the legal issues being discussed and the process of legal analysis.

Our observations of Professor North show that his enactment of the Socratic method has more to do with comprehension of the facts of a case and application of the point of law than with legal analysis or a reflective probing of legal issues. That is, he questions students to ascertain whether they have understood a case properly, and to help them apply the law illustrated by the case to situations other than those they have read about, but they are not expected to evaluate the situations presented. We use the term 'Socratic' because it is the one he uses to describe his approach to his students and to us as researchers, and because this use of the term gives it authority and contributes to the effects which his teaching practice has on the bodies and minds of his students.

To illustrate the operation of the genre, we use excerpts from the lecture in Text 1. Here we see Professor North working with the student Andrew (fictional name) to build up the facts of the case collaboratively.

### **TEXT 1: LECTURE**

PN: OK. So obligations that had accrued, and you all know what accrued means, obligations that had accrued remain, survive, but those obligations which were to arise in point of time after discharge by breach, those obligations are brought to an end. And in substitution for their performance, as I said a moment ago, is imposed upon the 'guilty' party an obligation to pay compensatory damages to the 'innocent' party. All right, now Hayman and Darwins was the case dealing with that. Very, very, very briefly, Andrew, can you tell us about Hayman and Darwins.

Andrew: Well the parties entered into an agency contract which provided that if a dispute arose between them, it would be taken to arbitration. Hayman alleged that since the contract was terminated, that clause no longer existed because the contract no longer existed.

PN: So the case was concerned with the operation of an arbitration clause? And the issue I think we were concerned with was whether or not that arbitration clause operated after the contract



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involved had been discharged by breach. Now the Court decided what Andrew?

Andrew: The clause continued to apply because clauses that...Lord McMillan said that the wrong party still had his right of action for damages under the contract which had been broken and the contract provides the measure for those damages.

PN: All right, now if you had to extract a general proposition based upon that case, what would it be Andrew?

Andrew: That if there is a clause in a contract that provides for the remedying of a dispute, that doesn't cease to exist with the termination of the contract.

PN: OK. I think you would say just that, wouldn't you? That if there are clauses in the contract which are designed to regulate the rights and obligations of the parties in the event of a breach, then that may very well survive discharge by breach because the intention of the parties was, when they made the contract, that the clause would operate in the event of a dispute between them. So with the arbitration clause here, it was designed to provide a mechanism for resolving a dispute between the parties. The dispute arose, that clause would still operate to resolve their dispute with each other. OK? No problems. Now the next matter I want to move onto is... (Lecture 2.6.94).

In this sequence Professor North nominates the legal principle to be examined and invites Andrew to tell the facts of the case that illustrate the principle. His use of 'very very briefly' constructs Andrew as a novice who needs to learn how to give only the relevant facts and tell them succinctly, as is appropriate to speaking the law. Andrew's offers are accepted, but they are shaped and modified. Andrew's phrase 'contract was terminated' is restated using a more precise and technical wording: 'had been discharged by breach.' Andrew's 'it would be taken to arbitration', is reformulated by Professor North in a more highly nominalised form 'the operation of an arbitration clause', in which nouns and noun phrases predominate at the expense of other grammatical forms (Bhatia 1994).

The 'Socratic' method exemplified here is a variation on a pattern of interaction common to many classrooms and described by Mehan (1979) as IRE, (Initiation, Response, Evaluation): the teacher asks the question, the

student responds and the teacher evaluates the answer positively or negatively. This IRE structure enacted by Professor North and his students firmly situates this interaction as an academic one. The distribution of power with regard to this sequence is clearcut. It is the professor who determines what counts as a question and who has the power to evaluate student responses. The student role is responsive and less active, yet essential to the dialogic mode of lecturing. There are few instances in the transcripts when students initiate questions and when this does occur, they are usually points of clarification which seem to disrupt the dominant ways of speaking and take the lecturer by surprise.

With regard to the IRE sequence, Professor North is a skilled practitioner who takes great pains to be positive in his evaluations, to move from one student to another rather than place undue pressure on students who don't know the answer, as in Text 2.

## TEXT 2

PN: Well you're on the right track. I think you got the words the wrong way around though. Bradley? Troy? In Hyundai were the instalments recovered by the payer? Ryan? Who got to keep the money in Hyundai?

Ryan: The boat builder

PS: The boat builder. Who was not the payer, it was the payee, all right. So the boat builder, the payee, the person that got the money, was able to keep it, whereas in Macdonald the payee, the person that got the money had to give it back (Lecture 2.6.94).

Text 3 further illustrates Professor North using humour and a lighthearted rather than punitive approach as he attempts to get a student to apply a principle of law to a hypothetical workplace situation.

## TEXT 3

PN: Now Rachel, in relation to our problem here, your client comes in and says, look the purchaser hasn't paid the second instalment. I want to know whether I can keep the money. You've told me that I can keep the deposit because I've provided the consideration for that, can I keep the first instalment?

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Rachel: ( )

PN: You're saying no? All right, that indeed is the correct answer. And now why is that the correct...? Sorry, you fluked it? Well flukes can be all right. Look don't knock them. But now you need to go on and explain why that was the correct answer (Lecture 2.6.94).

Although Professor North is strongly committed to the interactive dis-course structure, he was concerned about its impact on women students. His reading of a number of feminist critiques of the Socratic method of teaching (e.g. Morgan 1989), made him worry that the public forum for speaking might be more congenial for men students and exclude and silence women's voices and decrease their participation in later year seminars. In our interviews with him, however, he expressed concern about having to change an approach to which he was committed. While he certainly worked hard to take the pressure off students by softening his evaluative role, this did not lessen the power of his evaluation to construct both his authority and the law itself as clear-cut, absolute and unquestionable. Text 4 illustrates the absolute nature of Professor North's evaluations:

#### TEXT 4

PN Why would you say no?

Tony: Because in a way no consideration was made

PN Absolutely right. Yes. Whether they are the innocent or guilty person doesn't matter. The rule is the money is replaceable if there is a total failure of consideration and there can be total failure of consideration regardless of whether they're the innocent or guilty party. There is however one big difference. Although the money is repayable regardless of whether they're innocent or guilty, what's the downside for being the guilty party in a story like this? Yes Susan?

Susan: You can sue for damages.

PN: Yes exactly. If you are the guilty party (Lecture 2.6.94).

The student answer is evaluated as right or wrong. In this instance, 'absolutely right' and 'exactly' are judgements made by one who has the

authority to know. The point of law is also constructed as clearcut, as a rule to be followed, rather than a principle with various applications. While it may be possible to help students adopt a more reflective stance on the law, the discourse structure here does not encourage speculation. Rather, a professor who is knowledgeable about the law and the evaluation of student responses establishes a way of talking about cases which positions students as subject to the authority of the law.

Given the degree to which student responses are subject to the professor's authority, we need to ask why he bothers to engage in interaction when it might have been more straightforward to lecture without the questioning. Professor North's answer to this question is constructed in terms of both university and workplace discourses. As an educator, he rejects the passivity constructed by the usual monologic form of the lecture, and opts for greater student involvement. In interview, he stated his educational rationale in bodily terms which suggest to us Bourdieu's (1990) view of the shaping of habitus as a process of bodily inscription:

If someone is going off their pad of paper through their eyes and mouths and out into somebody else's ears and so on and so forth it would seem to me that was not a particularly edifying spectacle or the best way of learning (Interview 28.3.94).

His rationale to the students for adopting the Socratic method, however, is framed more in terms of developing a legal subjectivity for the workplace. In the first lecture of the year, he spent up to fifteen minutes explaining that the method teaches not only the substance of the law, but also analytic skills, oral skills and adversarial skills students will need in the future. 'It is desirable,' he pointed out, 'for you to be able to respond on the spot because of the inherently adversarial nature of the law'. He then made an analogy to the medical workplace. 'In medicine, all the doctors are working together to save a life. Unlike the law, there is not a second set of doctors trying to kill off the patient at the same time.' References to the future workplace continue as he justified his questioning technique as a preparation for their future:

It is not a contest between you and me, believe me you need to toughen up a bit. There are situations in law when you do make mistakes and you'll be attacked by the other side. When I hammer you in lecture I'm not trying to reduce you to tears but to prepare you for the adversarial nature of the law (Lecture 28.2.94).

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It is not always clear that students are able to make this differentiation between the demands of the university and workplace settings. The interviews indicate that some do and some don't, while our observations of students in lectures suggest that some are intimidated by on-the-spot questioning in the public forum, while others thrive on the attention. But Professor North does not think of himself as intimidating:

I mean in my case I find it hard to imagine anyone would be frightened of me...You may recall in the introductory lecture I said, 'if there is anyone here who is shy or nervous come and see me and we'll arrange a method of avoiding asking the questions or working on ways of overcoming your shyness' and so on (Interview 28.3.94).

It would appear, however, that Professor North underestimates the power of this discourse structure. From our perspective, his method provides a great deal more than a forum for active learning and workplace skills. Through a Socratic genre of question-answer, of thinking on the spot, students are being shaped to be/come oppositional as well as prepared to cope with the adversarial nature of the law. They are being disciplined as willing subjects of the legal system who accept its authority.

Professor North is not simply a law professor but also a representative of the legal community, which imbues his enactment of the Socratic genre with great power. We read his lecture as an embodied performance of the law which operates in physical as well as cognitive ways to construct student habitus. That is, he not only knows the law and evaluates student performance of the law, he is the law and its embodiment. He is silver haired and silver tongued. He wears finely tailored black suits, crisp white shirts, maroon striped ties with the law school insignia in a university where male lecturers in Arts and Education faculties rarely wear ties. He looks distinguished, formal, carries a trim physique, an air of affluence that entices students with unspoken rewards they may find in their future profession. He has a clear complexion, blue eyes, a precise manner of speaking and way of numbering the points he wishes to enumerate, firstly, secondly, thirdly even in the more casual setting of an interview.

As Professor North examines each case in lecture, he moves and creates a rhythm through questioning. He pauses, goes to the lectern as he moves to a new point of law and a brief monologue, then back closer to the students as he asks them to consider an application of the law to their own lives: 'You've just bought a car.' He walks back and forth in front of the students,

a kind of parading of self, of the law, of its power, tapping his pencil, making direct eye contact as students are called by name. Through his walk and talk, students gain access to the power of law through his bodily practices.

## **SPEAKING THE LAW**

As outsiders to this discourse community, we often found ourselves positioned as novice students, somewhat dazzled by and uncomprehending of the language practices of the law which were as new to us as to the students. Professor North is an articulate and fluent speaker whose use of the specialised legal lexis is smooth and seemingly effortless. His syntactic patterning when discussing cases and principles of law is quite dense and was initially difficult for us to understand.

In his discussion of the differences between spoken and written language, Halliday (1985a) describes written language as more dense than spoken, as packing more lexical items (nouns, verbs and adjectives) into a clause and hence making it more complex to unravel ideas. Spoken language, by contrast, is characterised as more grammatically complex than written language with more intricate relationships between clauses. Our sense of Professor North's lecture presentation was that it is more like written language than spoken, more like a talking book than casual conversation, using a high degree of nominalisation and complex noun phrases.

Professor North's practice of rephrasing student answers in a more technical and highly nominalised form provided a model, a way of disciplining that shaped law students as speaking subjects. In his discussion of the ways in which university students are disciplined into particular discourse communities, Bazerman (1994) discusses the importance of the play of identity between the lecturer and student for taking on new discourses. The student sees the lecturer as an ideal subject towards which she strives. We would argue it is possible to conceptualise this identification in part as a physical process, as a play between bodies, accomplished in the embodied performance of the lecture. Interviews with students lend some credence to this idea. In the following excerpt a student comments on Professor North's ways of speaking:

I: Are you aware of being influenced in any way by the way Professor North speaks in lectures? Are you aware of the way in which he talks about the law, his style?

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S: The fact that you're always struck by the way he speaks? Yes.

I: Would you like to say more about that?

S: Well you sort of think, I'm not sure what he's like in normal conversation, he probably speaks like a normal person, but the way he speaks in lectures, he could probably convince me that the sky was green. If that's the way they speak I'm very impressed by it.

I: So do you want to be like that?

S: Do I want to be like Andrew North? No, I just want to speak like him

(Interview 31.5.94).

A dominant pattern in this shaping of students was the explicit attention Professor North gave in lectures to students using the right terminology. Often he issued general advice in lectures about the importance of being precise:

Be careful when you speak in Law to use words the law specifies particular meanings to (Lecture 2.3.94).

Sometimes he shaped student response by framing a fill-in-the-blank question:

Had there been consideration, what would you have beginning with O? (Lecture 7.3.94).

What is the important word in this? It starts with C? (Lecture 17.5.94).

He often rejected an answer because the student had not used the correct word, as in Text 5:

Text 5

PN: When is money recoverable, James?

James: When there's a lack of consideration

PN When there's total, not lack, total f...

James: Total failure?

PN: Total failure of consideration. All right money paid pursuant to a contract like this is recoverable by the payer from the payee if there's been a total failure of consideration. Right, now how do we know whether there's been a total failure of consideration? (Lecture 2.6.94).

Such interactions make visible that there are prohibitions on what may be spoken about and how. The teacher correction operates to discipline students to become particular kinds of speaking subjects who employ exact ways of speaking. Those students interviewed appeared to accept Professor North's expectation that precise ways of speaking were a necessary part of developing a legal subjectivity that would prepare them for the workplace:

I think it's hard to put it into the exact sentence and the exact words. But it makes you think, it really makes you think like a lawyer, like you sit there and he's going no, he wants the exact words so you sit there going, you sort of get the thought process happening. So when you are out there, like imagine you're sitting there because I don't think I'm going to end up being a lawyer, but people who are going to be lawyers, you can sit there thinking well hang on, this is how I want to say it. Like your mind will start ticking over and you go yep, this is how Andrew North would have wanted that said (Interview 19.5.94).

Such responses suggest that a shaping of language is only part of what is going on here. To understand the processes articulated by this student we found it important to foreground the centrality of the body. Our previous study (Kamler, Maclean, Reid, and Simpson 1994) showed how teacher language is used to discipline the bodies and minds of school beginners, and we were surprised to find that there were a number of instances where Professor North's language targeted a much older student body of university beginners in a similar way, as in Text 6:

Text 6

PN: You have leapt to the right answer. What is your unarticulated reasoning process that leads you to this answer.

S: (Shrugs)



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PN: You just feel they're different?

S: Yes I feel they're different

PN: You're shrugging your shoulders and moving your body around. What's going on? You can't just go to court and move your body (Lecture 11.3.94).

Here the student is positioned as one who does not yet have the right habitus, who needs to control the everyday shrugging student body and produce a more appropriate legal habitus. The body is central to this identity construction; becoming a lawyer is constructed as involving sets of attitudes and actions completed upon and through the body. 'What is learned by the body is not something one has, like knowledge that can be brandished, but something that one is' (Bourdieu 1990: 73).

Students themselves take up such embodied notions in interview when they discuss the discursive and bodily practices of learning to be a law student as a material process with material effects. This can be exemplified by one student, who discusses not having the right words in lecture as a physical bodily embarrassment:

You've read it all, you know, you've got the answer there, you just get so intimidated by him pointing the finger that you just go...I get really scared and my face goes bright red and my glasses fog up and then it's also like I'll sit there and I'll try and answer the question, and I'm going oh, you know it's that bit and that bit there and I can't...like a couple of times he's gone yeah, you've got the right answer but you haven't said it the way I want you to so I'm not taking it and I'll go to someone else who can put it in better words (Interview 19.5.94).

Another student defines her task in terms of a competition and physical struggle with her professor to embody his discourse:

Because he makes you really want to learn. Like at the moment he's got me so determined that I'm not going to let him sit there at the end of the contract and go 'ha, she failed.' There is no way that is going to happen. Like when I was doing sit ups the other night I'm going 'Andrew North, I'm going to beat you'. He really makes you determined because there's no way in the world I'm going to fail just because of him. You know what I mean, he

pushes you along (Interview 19.5.94).

The use of action verbs, 'sit', 'do', 'push', 'beat' frames her desire to succeed as a physical rather than a mental activity. While such meanings may not be conscious, neither are they accidental; they signal that relations between student and lecturer, between lawyer and future lawyer are being shaped and organised through the body; that the rules, hierarchies and ways of speaking considered appropriate and natural in the legal discourse community, are being made explicitly available to students through a process of bodily inscription. Whether there is linguistic explicitness or not, students are learning to write and speak the language that constitutes the law and are being constituted by it.

## WRITING A LETTER OF ADVICE

We turn now from an analysis of how students are shaped as legal speaking subjects within the spoken genre of the lecture, to examine how they take up a written genre as part of a simulated performance as practicing lawyers within the 'practical legal skills' program. The spoken genre of the lectures relates to a face-to-face, embodied, immediate situation, in which students are subject to the lecturer's authority, while the written genre of the letter of advice, with which this section deals, introduces the adversarial world of the law in a textually mediated, disembodied way. In the letter that they write students are required to establish their authority textually through an implied relationship with their simulated client, the addressee of the letter.

This section examines the first writing task completed as part of the legal skills program (completed in May), which was to write a letter of advice to the client, and an accompanying memorandum for internal use in the 'firm' explaining the basis of this advice. We examine a letter, reproduced below as Text 7, written by one group of students or 'firm' which we call 'Barry'. After some early withdrawals from the course, Barry consisted of 14 students completing the first year of either Arts/Law or Science/Law double degrees, 5 male and 9 female. Of these perhaps 11 remained actively involved through the program, although most of the work was done by a smaller group of 5 or 6. All the writing was collaborative. Typically there was a consultation of the whole group where the writing tasks were divided up into shorter subsections completed by small groups.

The simulated client and addressee of the letter was a sculptor (Susan)

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whose sculpture (Close Encounters of the Worst Kind) had collapsed after being suspended from the ceiling of a lobby of a new building, thus delaying the opening of the building and causing loss to all involved. After a description of the 'facts of the case' headed 'background', the letter by the Barry firm to Susan gave the following advice:

Text 7 (original spelling retained) - 'CLOSE ENCOUNTERS OF THE WORST KIND'

We perceive that the main problem is whether or not you can be held liable for the damages caused by the collapse of 'Close Encounters'.

#### The Contract

In our opinion, the terms of the contract as stated in the order form are as follows:

1. You were required to supply and install 'Close Encounters'

It is obvious that you supplied 'Close Encounters'. It is on the question of installation that we believe the Corporation will argue upon. We believe that you have a strong case for installation; the structure was established in place for use, and the word 'install' is a very ambiguous term. So we believe the Courts would be more inclined to find in your favour here.

2. Suspension was to be organised and directed by the VDC engineering office, and they were to supply the suspension apparatus

This follows on from the issue of installation. However, before we can make any further conclusions regarding your liabilities, we believe it is necessary to acquire a statement from structural engineers clarifying an engineers vocational duty in regards to suspension being organised and directed.

3. Structural integrity required

The Corporation may allege that pre-contractual negotiations between yourself and the Corporation representatives constitute a separate term and/or collateral contract. After extensive examination, we believe that your negotiations were neither a term or collateral contract. Instead we feel it is a representation on your

behalf. A representation does not give rise to a breach of contractual duties and obligations even if it is false.

However, the Corporation may try to obtain a remedy under section 52 of the Trade Practices Act (1975). Then it would be necessary for us to try to prove that you didn't mislead or deceive them in your pre-contractual negotiations. We feel that the pre-contractual negotiations between yourself and the Corporation representatives were vague and ambiguous. For it is unclear whether they intended for you to seek professional advice. Also, the term 'professional' can differ in meanings. Thus, in you consulting Fred, it would be necessary for us to decipher whether or not he could be considered a professional.

Again we are faced with the issue of ambiguity in defining terms. Due to this we see the stronger case here as being in your favour.

Therefore we feel your case would be sound in relation to abiding by the term of structural integrity.

4. Property and risk in said items to pass on completion of installation

Again we are faced with the problem of defining installation. 'Installation', as stated earlier, is an ambiguous term of the contract. We would argue that installation occurred when the structure was fixed in place.

5. Work to be completed in a proper and workmanlike manner

As the Corporation did not adequately specify what constituted proper and workmanlike manner, there will be a problem arguing against you not acting in this way. If you considered your manner to have complied with the term specified, the courts are more likely to find in your favour, and in doing so, you cannot be liable for breaching this term.

Liability

In short, we think you would have a reasonably sound chance of defending the allegations posed by the Corporation for the damages arising from the collapse of 'Close Encounters'.

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As of yet, we do not have any expert opinions from structural engineers giving their view on the cause of the fall. Obtaining such a document could assist your case, as well as further substantiating reasoning behind our conclusions.

Like Freedman, Adam & Smart's (1994) students, these students are writing more for their tutor than for the imaginary client in the simulated case. And they are writing to show the tutor their ability to apply the law to this set of facts. Looked at from this perspective, the simulation problem differs from tutorial exercises only in being more open ended, that is, the areas of law which could be expected to apply to the case were less tightly circumscribed than for their tutorial exercises or examination answers. This interpretation is confirmed by the tutor's spoken response to the letter of advice, in which she mainly refers to how well the students have applied the law to the facts of this case.

In general terms the task mainly concerned Breach of Contract so it was a matter of determining what were the relevant contractual terms and arguing on the facts what tentative conclusions you could make as to whether those terms were being breached or not and whether or not what and if further information you required. Now some firms chased a few red herrings in relation to issues and made it look more complicated than it actually was. That was part of the exercise, identifying the issues. One other trap which I think your firm fell for to a certain extent was that you were arguing what you thought your client wanted to hear. You were arguing in favour of your client. You have to bear in mind that its a letter of advice. What's the purpose of a letter of advice? (Tutor's feedback to Barry firm on letter of advice, 12.5.94).

By warning students not to fall into the trap of telling the client what she wants to hear the tutor is referring to the rhetorical context of the simulation. But there is no reference to other rhetorical aspects of the letter, such as the usefulness and appropriateness of its advice or its comprehensibility to a layperson.

But for the students the writing within the simulation is not just an extension of the other writing they do. They find the novelty of the task significant and motivating:

I think it's a wonderful idea because you sit there and, like all this stuff we've been learning about in both Contract and Civil, you

can put it all together (Member of Barry firm, Interview 19.5.94).

Like when you think about it, its new to us all, we're sitting there with books full of stuff that we'd never heard of at school and we've got to digest it all and then we come to write a letter that we've never in our lives come across a letter like that and don't know how to word it and you've sort of only got maybe an example there (Member of Barry firm, Interview 19.5.94).

In examining some of the factors which make the letter writing task new and difficult for the students, it is possible to trace their struggle to find a place for themselves within legal discourse. Like Freedman Adam and Smart (1994) we recognise the shaping influence of the university context on a workplace genre. However we are struck by the extent to which the genre retains its integrity and resembles the writing of a professional solicitor more than it resembles the other kinds of academic writing which students complete. The genre of a letter of advice shapes the students by bringing with it from its primary context in legal practice constraints which remain in force even in an academic setting. The genre has its own 'memory' (Bakhtin 1984). It takes on a life of its own and forces students using it in some way to assume the subjectivity, the wishes, values and attitudes, of a legal practitioner.

The letter of advice is novel in requiring these students to make a transition from writing about the law to writing within the law. In writing the letter, students come for the first time to the law positioned as participants in the adversarial world of law in which the issues are not passing or failing examinations, but winning or losing cases. Just as in the lectures the adversarial principle shaped the way students were expected to talk, here it influences how they are expected to write. As this is the first time in which student are writing in a new genre, the text bears many traces of the construction process which are invisible in the smoother textual performances of more experienced students or legal professionals.

The genre of the letter of advice makes more complex demands than the examination-oriented problem-solving genre which the students have been taught in tutorials (Phelps 1989, Devitt 1991). The letter also requires them to construct textually a lawyer-client relationship. This means both constructing themselves as authoritative interpreters of events, a novel experience for students, but also positioning themselves as advocates of the client's interests. The letter requires advice about client actions as well as opinions about how the law applies. In Text 7 'Barry' firm needs to inter-

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pret past events relating to the making of the contract and the supply of 'Close Encounters', to give advice about appropriate current action by the client, and on the basis of these past and current events, project the results of likely future action before the courts, taking into account the likely actions of their opponents in the case, the Victorian Development Corporation.

The letter is an example of what Smith (1990) calls textually mediated social organisation. Lawyers mediate between local events and the world of the law which has its own discursive time, logic and form of organisation. As Smith (1990) argues, law, like many social institutions, constructs a discourse where interactions are regulated as much through the written as the spoken word, and law students are learning to read and write these texts. In this practical legal skills exercise these students are being asked to consider the law not only as an interpretive practice, but also as a regulative practice through which the textual world of the law controls people's actions in their local worlds.

We can gain a sense of the student writers' struggle to control the new genre by comparing Text 7, the extract from the students' letter of advice, with Text 8, an equivalent extract from the model letter of advice given to students in their course materials:

Text 8 - Extract from a model letter of advice

- CSV was to prepare (or procure and be responsible for preparation of) the Bogotti according to Group Y specifications. We are instructed that Group Y are well tried, reliable specifications for tuning racing cars.

We do not think that the obligation was wider than this, e. g. generally to ensure that the car was suitable for racing. If CSV can demonstrate that it did duly follow Group Y specifications you would lose any action.

CSV would not, we think, be liable for any inherent defect in the car, or unsuitability of Group Y specifications for Alpine racing. This is what you stipulated to be used, and you gave no indication of seeking CSV's advice generally.

However, we think it unlikely that such long established specifications would be inadequate, and there was no history of defects in the Bogotti itself.

Therefore, we think any claim by you would have quite a good chance of success. You might be able to rely on a doctrine called *res ipsa loquitur* - the thing speaks for itself. The sequence of events strongly suggests faulty workmanship or materials.

The letters from which Texts 7 and 8 are excerpted are structured in a similar way: (a) beginning with a short statement of the problem to be addressed, then (b) addressing each of the relevant terms of the contract in turn, and finally (c) moving to a statement of the client's liability. The repeated phrase *we think*, which emphasises the status of the letter as opinion, is also used extensively by the students. Phrases such as *x would (not) be liable* have been taken intact from one letter to the other. The use of connectives such as *if* and *therefore* is similar.

Of more interest, however, are the differences between the two letters. One useful way to examine these differences is through the analysis of topical Themes. In Halliday's technical use of the term, Theme is the initial part of the clause which is the point of departure for the message (Halliday 1985b); it is that which is in focus in the clause's representation. Topical themes relate to the ideational function of the clause as a representation of experience (Halliday 1985b). Examining the topical Themes of clauses in a passage of writing is therefore an excellent tool for determining what the writer sees as central elements of the message. For example, in Text 7 the constant repetition of 'we' in Theme position in *we think, we see, we feel*, is particularly striking as the writers insert themselves into the text in opposition to what is expected in other types of academic writing. We can capture these differences in a more systematic way through a comparison of topical Themes in the two letters, Texts 7 and 8.

A theme analysis of an extract from the model letter is presented as Table 1, and an analysis of an extract from the students' letter is presented as Table 2.



**TABLE 1 –  
THEME ANALYSIS OF EXTRACT FROM A MODEL LETTER  
OF ADVICE**

TOPICAL THEME	RHEME
We	are instructed
Group Y	are well tried, reliable specifications for tuning racing cars
We	do not think
the obligation	was wider than this, eg. generally to ensure that the car was suitable for racing
CSV	can demonstrate
it (CSV)	did duly follow Group Y specifications
you	would loose any action
CSV	would not, we think, be liable for any inherent defect in the car, or unsuitability of Group Y specifications for Alpine racing
This (Group Y specification)	is what your stipulated to be used
you	gave no indication of seeking CSV's advice generally
we	think it unlikely
such long established specifications	would be inadequate
there	was no history of defects in the Bogotti itself
we	think
any claim by you	would have quite agood chance of success
You	might be able to rely on a doctrine called res ipsa loquiter – the thing speaks for itself
The sequence of events	strongly suggests faulty workmanship or materials

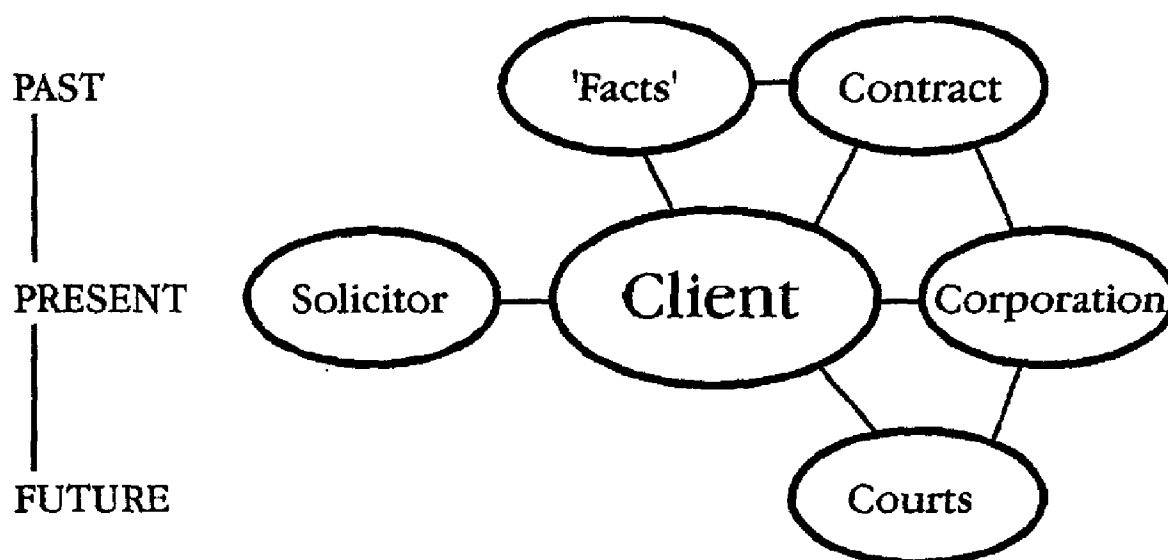
**TABLE 2 –  
TOPICAL THEME ANALYSIS OF THE FIRST FOUR PARA-  
GRAPHS OF BARRY'S LETTER OF ADVICE**

TOPICAL THEME	RHEME
It	is obvious
you	supplied 'Close Encounters'
It is on the question of installation	that we believe the Corporation will argue

you	We believe have a strong case for installation
the structure	was established in place for use
the word 'install'	is a very ambiguous term
the Courts	would be more inclined to find in your favour here
This (suspension)	follows on from the issue on installation
we	can make any further conclusions regarding your liabilities
we	believe it is necessary to acquire a statement from structural engineers clarifying an engineers covational duty in regards to suspension being organised and directed
The Corporation	may allege that
pre-contractual negotiations between yourself and the Corporation representatives	constitue a separate term and/or collateral contract
After extensive examination	we belive that
your negotiations	were neither a term or collateral contract
we	feel
it (negotiations)	is a representation on your behalf
A representation	does not give rise to a breach on contractual duties and obliga- tions
it (representations)	is false
the Corporation	may try to obtain a remedy under section 52 of the Trade Practices Act (1975)
it	would be necessary for use to try to prove that
you	didn't mislead or deceive them in your pre-contractual negotia- tions
we	feel
pre-contractual negotiations between yourself and the Corporation representatives	were vague and ambiguous
it	is unclear
they (Corporation representatives)	intended for you to seek professional advice
the term 'professional'	can differ in meanings
in you consulting Fred	it would be necessary for us to decipher
he	could be considered a professional

As Table 1 shows, in the model letter the themes focus on a limited range of entities of immediate interest to the client: 'we', the writers of the letter, 'you', the client, 'CSV', the opponents, 'Group Y specifications', the issue of dispute between the parties, and the client's rights and liabilities, which are expressed through simple nominalisations such as 'obligation' and 'claim'. Table 2 shows that the students' letter thematises an equivalent range of entities: 'we', 'you', 'the Corporation', and the issues and events in dispute. Claims and liabilities, which one would assume to be of most immediate interest to the client, are not thematised by the students. However they do focus on the wording of the contract and the contractual negotiations as well as the courts. The students' writing gives equal weight to all aspects of the situation constructed by the simulated case, rather than focussing on the client's point of view, and this is borne out by the greater range of themes in their letter, and represented diagrammatically in Figure 1:

**FIGURE 1 –  
RELATIONSHIPS CONSTRUCTED BY BARRY'S LETTER  
OF ADVICE**



When compared with the model letter, the students thematise additional elements which have to do with the textually mediated world of the law, rather than the everyday world of the client. The world constructed in the student letter is far more concerned with the law and the contract and the

When compared with the model letter, the students thematise additional elements which have to do with the textually mediated world of the law, rather than the everyday world of the client. The world constructed in the student letter is far more concerned with the law and the contract and the way things are worded than is the world constructed by the model letter. This lack of focus on the client's perspective reflects the exploratory way in which they are coming to terms with the demands of the genre. In contrast the themes of the model letter focus much more directly on the client's concerns alone.

Perhaps we could argue on the basis of this analysis that the students still see the law as being more about words rather than about real events. Certainly the focus in the lectures encourages a preoccupation with appropriate words rather than with larger patterns. This preoccupation makes it hard for the students to achieve a smooth integration of real world reasoning about why things break or fall down with legal reasoning about contractual obligations.

Analysis of clause structure also demonstrates students' exploratory approach to the genre and their problems with lack of focus. Table 3 provides a detailed analysis of a small portion of the student letter (Text 7) which shows the complexity of its clause structure.

**TABLE 3 –**  
**CLAUSES IN A LETTER OF ADVICE**  
*(MODAL ELEMENTS BOLD, PROJECTED CLAUSES IN ITALICS)*

1	As the Corporation did not adequately specify
2	<i>what constituted proper and workmanlike manner</i>
3	there will be a problem
4	arguing against
5	<i>you not acting in this way</i>
6	If you considered
7	<i>your manner to have complied with the term</i>
8	<i>specified</i>
9	the courts are more likely to find in your favour
10	and
11	in doing so
12	you cannot be liable
13	for breaching this term

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The unwieldy clause structure of the students' letter, as exemplified by Table 3 where there are 13 clauses in 2 sentences, results from students' attempts to deal with the unfamiliarity of the situation constructed by the genre, its dynamic complexity and specificity. This clause complexity suggests that the writing is more like spoken than written language.

According to Halliday (1985a) written language tends to capture meanings within nominal groups rather than through complex clause structures. Normally the nominalisation of written, especially scientific texts shows an abstracted 'synoptic' view of experience as object or structure, while spoken language characteristically gives a more dynamic representation of experience. As Bhatia (1993, 1994) shows in his analysis of legislative provisions, this pattern of nominalisation is also found in legal language, and can be seen in Professor North's lectures and interview transcripts.

But while Professor North speaks like a book, his students write like they talk. The students' letter is like speech because actions and events are not nominalised and hidden within the clause structure but are represented by verbs which each have their own clauses, either finite or non-finite. Like spoken language, the writing of the letters of advice is caught up in the flow of events, retain reference to specific circumstances and participants, and have a dynamic orientation both to past and to future actions. The complexity of the clauses reflects the complexity of these relationships. As Table 3 shows, the grammar of the students' letter is built largely on relations of modality, that is expressions of attitude and judgements of the likelihood of events, for example: the Corporation did not adequately specify, and projection, which deals with participant attitudes to and representations of the words and actions of others, for example: *If you considered your manner to have complied with the term specified.* These relationships of modality and projection reflect the complex way in which participants in and interpreters of the simulated case read and respond to each others' words and actions.

This analysis of the complexity of clause structure, just like the thematic analysis in Table 2, shows the overexplicitness of the students' text, where each component of the textual world is represented equally. The clumsiness and overexplicitness of the clause structure may be a sign of growth and of the students' struggle to escape from the hermetic world of legal interpretation to consider how their advice might be applied to a real person in an actual situation. Students can construct the textual space only by giving explicit linguistic representation to each of its elements. But by making so many of the relationships between participants explicit in the exploratory

process of letter writing, 'Barry' loses its focus on the needs of the client, and shows an inability to translate their legal construction of the case into a layperson's language.

Some sense of this struggle to escape from the world of the law can be gained by comparing the section of student text analysed in Table 3 with an earlier draft of the equivalent passage. This comparison is presented as Table 4. In Table 4 passages deleted from the final version have been underlined, and additions included in the final version are included in the right-hand column:

**TABLE 4 –  
COMPARISON OF A PARAGRAPH FROM BARRY'S LETTER  
WITH AN EARLIER DRAFT**

DRAFT	REVISIONS
As the corporation did not adequately specify what constituted proper and workmanlike manner, <i>we see that you acted in a manner that you</i>	there will be problems arguing against you not acting in this way
<i>considered to comply with the specified term. Therefore we believe that you have followed such a term and thus</i>	If you (considered) your manner to have (complied...)
<i>you cannot be liable for breaching this particular term of the contract.</i>	the courts are more likely find in your favour. In doing so

In the draft the focus is very much on the contract through terms like specified, proper and workmanlike manner, specified term, followed such a term, term of the contract. It suggests an overemphasis on the contract rather than on the events which occurred and the courses of action open to the client.

When we examine what has been added in the course of the revision it is possible to see traces of an attempt to relate more to the world of the client's actions and interests. There are explicit references to future action in the final version of the paragraph which do not occur in the draft. The courts and the likely future role of the Corporation are mentioned explicitly, thereby shifting the focus of the paragraph from opinion about the status of the contract to a consideration of likely future actions by other parties. Also noticeable is the shift from therefore to if as a connective. Therefore normally expresses the results of reasoning: that one proposition follows from

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## REFERENCES

- Bakhtin M 1984 *Problems of Dostoevsky's Poetics* C Emerson ed. and trans. University of Minnesota Press Minneapolis
- Bazerman C and Paradis J eds. 1994 *Textual Dynamics of the Professions: Historical and Contemporary Studies of Writing in Professional Communities* University of Wisconsin Press Madison
- Bazerman C 1994 *Students being disciplined: getting confused, getting by, getting rewarded, getting smart, getting real* Paper presented at Deakin University Geelong July 1994
- Berkenkotter C and Huckin T N 1993 'Rethinking genre from a sociocognitive perspective' *Written Communication* 10/4: 475-509
- Bhatia V K 1994 'Cognitive structuring in legislative provisions' in J Gibbons ed. 1994 - 1993 *Analysing Genre: Language use in Professional Settings* Longman London and New York
- Bourdieu P 1990 *The Logic of Practice* R Nice trans. Polity Press Cambridge
- Chaiklin S and Lave J eds. 1993 *Understanding Practice: Perspectives on Activity and Context* Cambridge University Press Cambridge
- Devitt A 1991 'Intertextuality in tax accounting: generic, referential and functional' in C Bazerman & J Paradis eds. 1994
- Fairclough N 1992 *Discourse and Social Change* Polity Press Cambridge
- Foucault M 1979 *Discipline and Punish: The Birth of the Prison* Harper New York
- 1977 *Language, Counter-Memory, Practice* Basil Blackwell Oxford
- Freedman A 1993 'Show and tell? The role of explicit teaching in the learning of new genres' *Research in the Teaching of English* 27/3: 222-251
- 1987 'Learning to write again: Discipline-specific writing at university' *Carleton Papers in Applied Language Studies* 4: 95-116
- Freedman A Adam C and Smart G 1994 'Wearing suits to class: Simulating genres and simulations as genre' *Written Communication* 11/2: 193-226
- Gibbons J ed. 1994 *Language and the Law* Longman London and New York
- Grosz E 1990 'Inscriptions and body-map: Representations and the corporeal' in T Threadgold and A Cranny-Francis 1990
- Halliday M A K 1985a *Spoken and Written Language* Deakin University Press Geelong Vic
- 1985b *An Introduction to Functional Grammar* Edward Arnold London
- Kamler B Maclean R Reid J and Simpson A 1994 *Shaping up nicely: The formation of schoolgirls and schoolboys in the first month of school; A report to the Gender Equity and Curriculum Reform Project* Department of Employment, Education and Training Canberra
- Kearney M K and Beazley M B 1991 'Teaching students how to "think like lawyers": Integrating socratic method with the writing process' *Temple Law Review* 64/2: 885-908
- Kress G 1985 *Linguistic Processes in Sociocultural Practice* Deakin University Geelong Vic

- Lave J 1993 'The practice of learning' in S Chaiklin and J Lave eds.
- Matalene C B ed. 1989 *Worlds of Writing: Teaching and Learning in Discourse Communities of Work* McGraw-Hill Manchester MO
- McQuade D ed. 1979, *Linguistics, Stylistics, and the Teaching of Composition* L&S Books University of Akron
- Mehan H 1979 *Learning Lessons: Social Organization in the Classroom* Harvard University Press Cambridge Mass
- Morgan J 1989 'The socratic method: Silencing cooperation' *Legal Education Review* 1/2: 151-164
- Perl S and Egendorf A 1979 'The process of creative discovery: Theory, research, and implications for teaching' in D McQuade ed. 1979
- Phelps T G 1989 'In the law the text is king' in C B Matalene ed. 1989
- Reid I ed. 1987 *The Place of Genre in Learning* Deakin University Geelong Vic
- Smith D E 1990 *Texts, Facts, and Femininity: Exploring the Relations of Ruling* Routledge London and New York
- Threadgold T 1993 'Performing genre: violence, the making of protected subjects, and the discourses of critical literacy and radical pedagogy' *Changing English* 11: 2-31
- Threadgold T and Cranny-Francis A eds. 1990 *Feminine, Masculine and Representation* Allen & Unwin Sydney