



'Dr Shipman told you that. . .' The organising and synthesising power of quotation in judicial summing-up

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ABSTRACT

Judicial summing-up discourse is explored using a computer-assisted discourse studies approach (CADS) to investigate meaning in patterns of referring to and quoting the defendant. A small specialised corpus of 294,000 words, which forms the eleven days of summing-up in the Dr Harold Shipman murder trial, is created and used. Analysis focuses on the pragmatic effects of the metadiscursive and sensory verbs, REFER, REMIND, SUMMARISE, LOOK, READ, and the most frequent and 'key' reporting verbs *told* and *said*. Results show how the judge's recapitulation of the defendant's words organises and synthesises the evidence for the jury, using the authority of quotation and judicial (re)organisation to make the jury question the contrasted material and to stimulate meaning-making and decision-making.

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1. Introduction

The start of this millennium saw an historic English trial: *R v. Dr Harold Shipman* (October 1999–January 2000, HMSO, 2001), where a doctor was tried and convicted of murdering 15 of his patients and forging the will of one of them. Following the trial, a public inquiry took place to investigate claims that he might have killed other patients. Dame Janet Smith concluded that 'Shipman killed about 250 patients between 1971 and 1998' (Smith, 2005 online). In this paper I look at the end of the Shipman trial, the summing-up being the final act in the trial, before the jury go out of the public courtroom to deliberate in private. I examine who and what the judge quotes (particularly the defendant) and what use he makes of this quotation. Analysis focuses on the pragmatic effects of the metadiscursive and sensory verbs, RECALL, RECOLLECT, REFER, REMEMBER, REMIND, SUMMARISE, LOOK, READ, and SEE, and the most frequent and 'key' (Scott and Tribble, 2006) reporting verb forms *told* and *said*. Results show how the judge's recapitulation, particularly of the defendant's words, organises and synthesises the evidence for the jury, using the authority of quotation and judicial (re)organisation of the evidence to make the jury question the contrasted material and to stimulate meaning-making and decision-making.

Prior texts are brought into the criminal trial across time and space from the police investigation and pre-trial case preparation. They become spoken and written evidence in the courtroom and then that textual material 'travels over time and context' (Johnson, 2013: 151) within the trial discourse of the prosecution and defence case, until it arrives at the judge's summing-up. This culminating speech event necessarily refers to the defendant's prior words and the evidence surrounding him and this is done through a range of metadiscursive verbs (e.g. SUMMARISE, REMIND) and through quoting speech, directly, indirectly, and performatively in the judge's re-enactment of questions and answers from the trial. Words spoken by the defendant in examination and cross-examination during the trial, are 'recontextualised' (Andrus, 2011; Ehrlich, 2007) in the judicial summing-up through the 'intertextual authority' (Matoesian, 2000) of the judge's quotation. In The Criminal Justice and Public Order Act 1994 changes were made to the police caution in England and Wales, amending the absolute right to silence in police interviews, so that it now reads: 'You do not have to say anything, but it may harm your defence,

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if you fail to mention, when questioned, something which you may later rely on in court'. This means that juries have the right to draw adverse inferences from any defence that is given in the witness box that was not mentioned in police interviews. In his summing-up of the Harold Shipman murder trial the judge points the jury to differences between what Shipman said or did not say in interview and what he says in his trial evidence, where they exist, as he reminds them of the evidence and directs them in their deliberations. In this paper I look at judicial patterns of referring to prior words and quotation practices in summing-up discourse, to examine the pragmatic work that is done in reminding the jury of the evidence. The act of reminding means that the judge selects, organises, and transforms the quoted words into a professional monologue inflected with a legal judicial perspective, a perspective that re-presents evidence in such a way that invites evaluation, opinion, and decision-making in the jury. A single example illustrates the concern of this paper with the judge's act of referring to prior talk and quoting from it (Extract 1).

(1) Judge's summing-up, Day 52, Friday 21st January 2000.

In cross-examination Dr. Shipman was reminded of Detective Constable Beard's evidence as to what Dr. Shipman *had said on the 14th August 1998 when interviewed* by Detective Constable Beard and the Home Office drugs inspector, Mr. Calder. Dr. Shipman *told you that* so far as he was concerned he *had told* them the truth.

Extract 1 shows first of all that summing-up discourse is multi-temporal, pointing the jury to two prior points in time (shown in bold): Shipman's cross-examination during the trial and one of his police interviews a year and a half earlier during the investigation of the alleged offences. It is spatially as well as temporally complex, since it blends police interview and courtroom spaces (also shown in bold). Along with the adverbials of place and time, a variety of speech representation and reporting verbs are used (shown in italics). The judge uses indirect speech and the reporting verb *told* in his quotation of what Shipman said on these two occasions. The inference is that Shipman said something like: 'So far as I am concerned I told them the truth'. It is this judicial work of synthesis that the jury will respond to. The Honourable Mr Justice Forbes frames the quotation as Shipman 'telling' the jury facts, using a quotation verb which is infrequent in other parts of the trial (*said* is most common in examination and cross-examination), but **more** frequent than *said* in the summing-up (see Table 2 in Section 2). TELL therefore performs a specific role in the summing-up, making the defendant an active narrator telling his version of events, rather than simply responding to questions. The judge's presentation of Shipman's version of the facts is done through the reporting clause: 'Dr Shipman told you that...'. His telling is seen in contrast with an alternative voice: that of the prosecution ('in cross-examination', 'when interviewed'), as Shipman's defensive responses at trial are retold from a judicial perspective and through the judicial voice. As Ehrlich (2007) notes, recontextualisation does not only bring about textual effects, but crucially affects the identities of participants. During his interviews and courtroom testimony the defendant, Harold Shipman, attempts to control his positive identity as a caring doctor in the face of the evidence against him, but, in the polyvocal monologue that is the summing-up, the judge uses the heterogeneous voices of defence and prosecution and Shipman's own contradictory voice to present inconsistency to the jury. The judicial perspective of the summing-up discourse therefore allows for identity de-/re-construction by the judge.

1.1. The case: *R v. Harold Shipman* (2000)

Harold Shipman was a doctor, a general practitioner, who faced 16 indictments: 15 counts of murder and one of forgery. Shipman spent twelve days in the witness box – five and a half days in examination-in-chief and six and a half days in cross-examination – and the judge's summing-up refers in detail to this evidence, as he reviews the whole 40 days of evidence. Shipman's attitudes to life and death, the most human of concerns, have been elicited in examination and cross-examination in the defence case. His answers in cross-examination reveal evasive and 'resistant' responses, as in his police interviews (Newbury and Johnson, 2006). His lack of a satisfactory explanation, in cross-examination, as to how his computer records were inaccurate, produces inconsistencies when compared with what he said in police interviews, as it becomes clear that he murdered his patients by administering lethal injections of morphine. The summing up reviews all of the contradictory material for the jury to use in their decision-making, particularly on Day 52 (Table 1). The jury found him guilty on all counts. Shipman's 'cold blooded perversion' in killing his victims is most starkly exposed in the sentencing comments delivered after the jury's verdicts, shown in Extract 2 (emphasis added).

(2) Mr Justice Forbes' sentencing comment in the Shipman trial, Day 58.

Harold Frederick Shipman, stand up. *You* have finally been brought to *justice* by the verdicts of this jury. I have no doubt whatsoever but that these are *true verdicts*. The time has now come for me to pass sentence upon *you* for these *wicked, wicked crimes*.

Each of your victims was your patient. You murdered each and every one of your victims by a calculated and cold blooded perversion of your medical skills. For your own evil and wicked purposes you took advantage of and grossly abused the trust that each of your victims reposed in you. You were, after all, each victim's doctor. I have little doubt that each of your victims smiled and thanked you as she submitted to your deadly ministrations. None of your victims realised that yours

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