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Computer Based Learning and Changing Legal Pedagogic Orders of
Discourse in UK Higher Education: A Comparative Critical Discourse
Analysis of the TLTP materials for Law

By

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Abstract

This thesis critically examines the discourse of government funded computer based learning (CBL) materials which have been introduced on undergraduate courses at UK universities with particular reference to CBL materials from the Teaching and Learning Technology Programme (TLTP). My study is based on a sample of pedagogic legal discourse from two undergraduate courses for law, one at Warwick University and one at the London School of Economics, and it presents a comparative analysis of the discourse of the TLTP materials for law and the established pedagogic legal genres which are used on these courses. The critical perspective on the analysis of the discourse seeks explanations of discursive change, represented by the introduction of the CBL materials, in the context of institutional and broader social change.

The introduction of CBL materials in the 1990s has come at a time of extensive institutional change in UK higher education with large increases in student numbers at a time of static funding. This study explores the justifications for the introduction of such materials, academic, pedagogic and administrative and evaluates these in the light of the analysis of the discourse. The study shows that the academic justifications and the claims of the producers' of the CBL materials for a constructivist pedagogy are exaggerated, and that it is the economic and administrative imperatives of the funding bodies which predominate. The thesis goes on to argue that the CBL materials in this study both reflect and realise the marketisation of higher education and a commodification of pedagogic discourse itself.

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Chapter 1 Introduction

This thesis examines the introduction of government funded Computer Based Learning (CBL) materials or 'courseware' onto undergraduate courses in UK universities as an example of institutional discursive change. It takes a critical perspective on this discursive change and relates the changes at the micro level of pedagogic discourse, represented by the introduction of CBL materials, to broader macro changes at the institutional and societal levels.

The study is based around the CBL materials produced under the government funded Teaching and Learning Technology Programme (TLTP). This programme has been the main recipient of UK government funding for the production of CBL materials over the last decade and has produced materials for around seventy subject areas which have been made freely available for use on UK undergraduate courses. This move has occurred during a period of great change and upheaval in UK higher education as the system has moved towards a mass education system at a time of severe budgetary constraints (Dearing 1997). Chapter 2 will lay out the context of institutional change and the specific background to the TLTP in more detail.

Focusing on the TLTP materials for law, the study sets out a comparative discourse analysis of the pedagogic genres on legal undergraduate courses and, based on this analysis, puts forward a critique of the rationales and claims that are made for the introduction of such CBL materials. I adopt a critical perspective on the comparative analysis of the discourse of the pedagogic genres in order to examine the motives

and causes that underlie these important changes in the pedagogic discourse of HE and more specifically the claims and rationales of those involved in the production of the TLTP materials for law.

The thesis takes an applied linguistic perspective on the issue I have chosen to investigate, and in this I adopt Halliday's position that 'language is an instrument, a means of illuminating questions about something else' (Halliday 1978 p3). The reasons for this perspective are twofold: firstly, that is where I start from as an applied linguist and the nature of my enquiry has progressed from a desire to describe an emerging genre in HE, to one which seeks to illuminate the value systems and ideologies that lie behind it and the possible reasons for its emergence at a given point in time. Secondly, as both Halliday (1978, 1993) and Bernstein (1990) have argued, discourse lies at the heart of any understanding of the pedagogic process. Pedagogic discourse and its institutional context is a crucial site for understanding social and cultural change. There are certainly other perspectives that can be taken than an applied linguistic one but the present one has the advantage, I believe, of being based on the empirical analysis of actual pedagogic texts.

My main working methodological and conceptual framework, as I will outline more fully in chapter 3, is based in critical discourse analysis (Fairclough 1992a, Fairclough and Wodak 1997). In this study, it will be seen as a complementary perspective to systemic functional linguistics (SFL). The critical perspective has allowed the thesis to evolve to seek *explanations* of the shift in the legal pedagogic order of discourse (POD –see section 4.1.1 p85 for definition) engendered by the

introduction of CBL materials. Chapter 4 outlines the research questions and specific issues of methodology. The overarching questions are the historian's: Why (now)? and How? In other words, the thesis seeks to examine the motives, causes and mechanisms of the introduction of the TLTP materials into UK HE through an analysis of the pedagogic discourse. As both Fowler (1996) and Wodak (1996) argue, critical discourse analysis implies a historical perspective, and this would seem especially true when examining the relation between discursive and social change.

1.1 *Theoretical underpinnings*

The study grounds its linguistic roots, both theoretically and analytically, in an SFL perspective. My intention here, in the following paragraphs, is to briefly outline the SFL perspective as it relates to this thesis. I will not attempt to give an outline of the theory or related model and would refer the reader to Halliday (1978, 1994) and Halliday and Hasan (1985). I will also briefly outline the limited borrowings that the study makes from Bernstein's (1990) concept of pedagogic discourse. These two theoretical perspectives, one linguistic and one sociological, are closely related and subscribe to a similar view of the role of language in the reproduction and transformation of society and of its centrality in the context of education.

1.1.1 Linguistic

Halliday's concept of language as a social semiotic provides a theoretical frame for investigating the relationship between the micro level analysis of the pedagogic text and the macro level of the socio-cultural context: "The context plays a part in

determining what we say; and what we say plays a part in determining the context.” (Halliday 1978 p3). This dialectic relationship between language and context posits a clear mechanism for understanding discursive and social change, at the centre of which is the text: “Persistence and change in the social system are both reflected in text and brought about by means of text.” (ibid p142). With discourse analysis we look from the wordings of the text back to uncover the aspects of the social context that have been instrumental in its construction and production, and this is possible because “.. language transmits the essential patterns of the culture: systems of knowledge, value systems, the social structure and much else besides.” (ibid p52).

Such interpretations are possible because context is built into a functional theory of language and there is “a direct correlation between the functional organisation of meaning in a language and the organisation of context.” (Eggins and Martin 1997 p239), and vice versa. The three variables of the context of situation that Halliday identifies, Field, Tenor, and Mode are *realised* linguistically through the three respective linguistic metafunctions (ideational, interpersonal, textual) which in turn are realised through sets of choices in the lexicogrammar. Thus, three social functions are established simultaneously in the clause and in the text as a whole.

The systemic aspect of SFL sees language as a semiotic system based on a set of meaning choices which are realised through language. From the full ‘meaning potential’ that a culture makes available, the context ‘puts at risk’ or conditions the range of meanings that can be or are likely to be selected. In turn the context interacts with the linguistic system to condition the wording of these meanings in the instance of a particular text. One of the implications of a systemic view of language

for discourse analysis is that we need to pay attention to what is being 'left out' as well as what is 'present' in the text.

This brings us back to a consideration of the practice of discourse analysis and the need for an explicit theory of grammar to base it on. In discourse analysis, text is the unit of analysis but although the text is a semantic unit, it is realised through wordings. Thus, as Halliday (1994) points out, in order to make explicit an interpretation of the meaning of the text, one needs a theory of wordings, or grammar, and one with a semantic orientation. That is what SFL provides and this is the model of language that has been adopted.

Whilst SFL provides a theoretical grounding for the thesis in the concept of language as a social semiotic and the lexicogrammar provides concepts and 'tools' for discourse analysis, there are aspects of the theory in terms of its view of context which have not been fully developed. This will be pursued in chapter 3 and a critical discourse analysis perspective will be proposed as a complementary framework to enable the interpretation and explanation of the discursive and social change in question.

1.1.2 Pedagogic discourse

Bernstein (1990) takes a very similar theoretical perspective to Halliday (1978) on the role of language and the particular importance of the text as a unit of study in the processes of reproduction and transformation of society.

“.. the text is the form of the social relationship made visible, palpable, material. It should be possible to recover the original specialised interactional practice from an analysis of its text(s) in context.”
(Bernstein 1990 p17)

Whilst Bernstein (1990) acknowledges the importance of the text in the study of social process and structure, he does not engage in the kind of textual analysis which forms the basis of the present thesis. His concept of **pedagogic discourse** however, has proved to be highly relevant and insightful as a theoretical perspective.

Bernstein argues that pedagogic discourse is a ‘recontextualising principle’ which selectively ‘delocates’ a primary discourse from its authentic context of use and ‘relocates’ it in a pedagogic context where it is selectively refocused and reordered.

“Pedagogic discourse is a principle for appropriating other discourses and bringing them into a special relation with each other for the purposes of their selective transmission and acquisition”. (Bernstein 1990 p183)

Pedagogic discourse is composed of two aspects: the instructional discourse “which specifies how skills or competencies are to be transmitted’ and this discourse is embedded in the regulative discourse which “specifies how social order, social relations and social identities are to be constructed.” (Atkinson 1985 p173).

Pedagogic discourse is thus an ‘empty’ or ‘imaginary’ discourse which sets up its own orderings, relations and identities and in this sense cannot be identified with the primary discourse which it has recontextualised. This crucially allows us to see pedagogic discourse as distinct from the original subject discourse which it recontextualises and moves us to a focus on the ways in which pedagogic knowledge is socially constructed through pedagogic practice. This allows for a move away from concerns about the efficacy of a given pedagogic approach and

their pedagogic outcomes and instead facilitates an orientation to teaching and learning as a form of social practice and a recognition of the central role pedagogic discourse plays in the transmission and transformation of society.

We now turn to a brief description of the background to the present study: the institutional changes in UK HE that form the context to the setting up of the TLTP, the rationales and claims for the TLTP materials, and a brief look at the TLTP law materials which are the focus of the present study.

Chapter 2 The institutional background

This chapter will introduce the broad institutional context of the texts in this study. It will attempt to outline some of the radical changes over the last two decades in UK Higher Education (HE) and situate the government funding of CBL in HE, and the TLTP in particular, within this context. The set up of the TLTP will be outlined and the TLTP materials produced by the law courseware consortium, the focus of the present study, will be introduced. Finally, as well as the institutional context, it will consider the 'intellectual' context of the TLTP, with particular reference to the pedagogic rationales for Computer Assisted Learning (CAL) and CBL in particular and the more general rationales for pedagogic change in HE which have informed the production of the materials.

2.1 Change in UK higher education: 'massification'

In the last two decades there have been and continue to be great upheavals in HE in the UK. The most fundamental of these has been a large and rapid increase in the number of students, combined with a corresponding decrease in funding. From 1980 to 1990 there was a rapid increase in student numbers (42% - Entwistle 1994), which continued until 1993 when the government placed a cap on funded student places. HE funding is more difficult to summarise clearly but it is certain that the provision of resources in HE institutions (HEIs) has declined. Between 1989 and 1993 there was a 22% decline in funding (Entwistle 1994) and in 1993 the government withdrew almost all public funding for capital expenditure (Dearing 1997). The

Dearing report (ibid) was set up to provide an assessment of these changes and the future direction of HE in the UK and it probably provides the most recent authoritative summary of the quantitative changes:

“In summary, over the last 20 years:

- the number of students has more than doubled;
- public funding for higher education has increased in real terms by 45 per cent;
- the unit of funding per student has fallen by 40 per cent;
- public spending on higher education, as a percentage of gross domestic product, has stayed the same.”

(Dearing 1997, summary report point 14)

The challenges posed by this move towards a mass HE system have resulted in a number of strategic policy decisions being taken which have had, and are having, a profound effect on the teaching and learning culture in UK HEIs (NCE 1993, Entwistle 1994). These include moves such as modularisation of courses, an emphasis on ‘transferable skills’, and Teaching Quality Assessment (TQA) procedures. More recent moves that have come out of the Dearing report are the establishment of an independent Quality Assurance Agency (QAA) to supervise course accreditation and a proposal for an Institute for Learning and Teaching in Higher Education (ILTHE).

2.2 Computers and change in HE

The changes in UK HE over the last two decades have necessitated a pressured re-examination of methods of teaching and learning and one high profile aspect of this has been a focus on the pedagogic use of computers. The reason for this has been an encouragement on the part of the government and the funding bodies to embed technology in the pedagogic process backed up with large scale funding. The

rationales for such moves stress the perceived opportunities that computers offer for a more 'efficient' and flexible system of HE, as well as 'better' ways of teaching and learning.

There have been a number of government funded initiatives and programmes set up which focus on the provision of educational technology in HE: Computers in Teaching Initiative (CTI); Information Technology Training Initiative (ITTI); Teaching and Learning Technology Programme (TLTP); Teaching and Learning Technology Support Network (TLTSN) to name some of the major ones. The two main programmes were the CTI and the TLTP. The earlier CTI initiative supports the integration of new technologies into HE through dissemination and awareness raising, and the continued funding of the 24 discipline-based CTI centres is evidence that they have been reasonably successful (Slater 1996). Though the CTI has been successful in many areas, the programme highlighted the lack of software available for use for teaching in HE and this in turn gave rise to the TLTP.

The TLTP, which has focused on the production of CBL 'courseware' for undergraduates in UK HE, can be seen as a response to the 'massification' of British universities outlined above and the improvements in both computer hardware and software over the last decade. These improvements meant that by the early 1990s the production and use of multimedia CBL materials delivered via low cost PCs was both possible and reasonably practical and a growing base of installed computers at many HEIs meant that the delivery of such materials was feasible.

2.2.1 The Teaching and Learning Technology Programme

The TLTP was launched in 1992 by the University Funding Council with an invitation to university consortia to bid for funding with the aim of providing CBL materials for undergraduate students at British universities and more specifically “to make teaching and learning more productive and efficient by harnessing modern technology.” (Turpin 1994 p2).

In ‘phase one’ of the programme, forty three projects were funded over three years. Of these, three quarters were concerned with the production of ‘courseware’ by subject based consortia, and a quarter were single institution projects looking at the problems of implementation of CBL, such as staff training, software and hardware development, and evaluation. Since 1995/96 these institutional projects have been funded separately and come under the Teaching and Learning Technology Support Network (TLTSN). Phase 2 of the TLTP started in 1993 with the revamped Higher Education Funding Councils for England, Scotland, and Wales (HEFCE, SHEFC, HEFCW) providing funding for a further thirty three consortia to develop courseware.

The total direct government funding over these two phases was 33 million pounds (Turpin 1995). But if direct and indirect funding from the host institutions are included the total is much higher:

“The overall funding for the TLTP is probably somewhere in the region of 75 million pounds. This cost, in itself makes TLTP the largest learning technology initiative ever undertaken within UK higher education.” (Turpin 1995)

More limited and targeted funding has been provided in Phase 3, set up in 1998, following an independent evaluation of the project (Coopers et.al. 1996) which though critical of many aspects also offered praise to a number of ‘imaginative and effective products’.

2.2.2 The structure of the TLTP - Academic Consortia

The structure for the funding and production of materials was to put out a remit and to invite consortia drawn from UK universities to bid for projects. The consortia that were chosen were funded centrally with an obligation to produce courseware within a three year schedule. This material would then be made freely available to all HE institutions in the UK. The remit emphasised the need for consortia to be drawn from a number of different universities and consortia ranged in size from two to fifty institutions. This stipulation was partly to gain the greatest possible expertise and partly to ensure dissemination and acceptance of the materials throughout the given departments of UK HE and so avoid the ‘not-invented-here’ syndrome (Laurillard et.al. 1994). The ‘let 1,000 flowers bloom’ approach was deemed a qualified success as an initial strategy in that it raised awareness of CBL and involved a large number of institutions in the process (Coopers et.al. 1996). There were though a number of reservations about the range in quality of the materials and more specifically about issues of dissemination and uptake which have been addressed in phase 3.

2.3 The Law Courseware Consortium (LCC)

The LCC, which is based at Warwick university, is the lead site in the consortium for producing the law TLTP materials. It has a small core of professional staff

comprising a consortium director, a technical director, an assistant and administrative staff - the two directors and the assistant are or have been legal academics. The technical director wrote the computer program and co-ordinates the overall framework of the materials, particularly in terms of the 'look and feel' of the software program. Authors are volunteer lecturers, though in some cases their time has been bought out by the consortium. Each subject module within Iolis, such as Contract or Criminal Law, has a 'subject expert' who co-ordinates the writing of the workbooks with the team of authors and organises meetings to discuss the overall approach. There have been instances where the subject expert has had to make editorial decisions on content and some workbooks have been re-written on his advice (Collins 1996 personal interview).

2.3.1 The TLTP materials for Law: Iolis¹

Iolis, the name given to the computer based learning materials produced by the LCC, is a Windows based 'tutorial' program for law students. The program consists of eleven 'modules' which "amount to over 50% of a typical undergraduate law degree in England and Wales." (Paliwala 1998). The modules are divided into a varying number of 'workbooks'. There are over 80 workbooks which contain around 250 hours of hypertext linked information and interactive exercises. The 'resource book' contains the cases and statutes cited in each of the modules.

Online, there is a personal 'scrapbook' which allows the student to store and print out extracts of certain texts and any of their own writing which they may be asked to

¹ A multimedia tour of Iolis can be found at <http://www.law.warwick.ac.uk/lcc/iolis/tour/>

do. 'Annotations' can also be made to the workbook by students and lecturers to make comments on the materials. A 'glossary' of legal terms is also available. The administration program provides the institution or the lecturer with information on users - who has used which workbooks for how long.

2.3.1.1 Interface

Once in the workbook the student is presented with a variety of screen types of which there are two basic types, information based screens and interactive ones. There are four possible components to each screen; a text field; a graphics field; an interactive field; and a pop-up screen most commonly used for feedback. (see appendix 1 for screen shots). Students move through the workbook at their own pace by pressing the forward button and they can review using the 'previous page' button and they can also access a content map. The exercises usually consist of types of multiple choice with feedback screens which vary from a perfunctory right or wrong to lengthy explanations. There are also more open-ended exercises, for example, students may have to analyse and type a summary of a legal case into an active text field. Having done this they press a 'done' button and compare their version with an example of a 'model' answer provided by the author. The hypertext facility means that cases or statutes mentioned in the text are highlighted in blue and the student can 'jump' to that place in the resource book, read the case, and jump back to the correct place in the workbook when they have finished.

2.4 The production process and pedagogy

The team effort that the production of CBL materials requires, represents a profound change from the production of most traditional pedagogic genres. On large scale consortia projects such as the TLTP, discussion and agreement is required on the nature of the materials which forces pedagogic rationales to be discussed and agreed on in a way that few other academic genres do.

“I don’t know if many TLTP projects are explicitly based on research and theories of computer-based learning. Ours isn’t but there has been a very lively, sometimes heated, debate between the two consortium sites. It has been about the teaching and learning philosophy underpinning the materials, about the models of learning and about the qualities of the interaction we seek between the learner and the computer.” (Wood 1994)

This quote from a member of the Mathematica TLTP project illustrates the way that the team based production of CBL generates the explicit articulation of a pedagogic rationale, even if it is not always based on the relevant literature. Scott and Widdison (1994) report similar meetings for the contract law module of the Iolis materials, though they are more explicit about their theoretical position. Whilst it is clear that not all materials are directly informed by or subscribe to such theories, let alone manage to adhere to them, it is I think, crucial to define what is thought of as good practice and to gain some insight into the pedagogical theories and models which inform the latest generation of CBL courseware and the TLTP in particular.

As we have seen, in the TLTP, the institutional rationale of the funding bodies is “to make teaching and learning more productive and efficient” (Turpin 1994 p2). In contrast, the rationale emphasised publicly by academics involved in the TLTP sees technology as contributing towards better quality teaching and learning. The TLTP

evaluation report points to a possible tension between the two rationales in the eyes of those involved in the projects:

“The academics to whom we have spoken have certainly been much more comfortable with the concept of working towards improving quality than improving efficiency.” (Coopers et. al. 1996, point 17).

The following quote by two authors from the TLTP economics project, WinEcon, clearly expresses this tension between the need for efficiency gains and the possibility of quality gains in teaching and learning.

“The objective of the funding bodies is to harness technological potential so as to enable an increase in student numbers without an accompanying increase in the number of teachers. (...) Equally important, however, the consortium regards the software design process as an opportunity to develop better methods of learning.” (Soper and McDonald 1994 p15)

It also clearly expresses a belief in the existence of ‘better methods’ and the ability of CBL to deliver them. We now turn to look at these better methods of learning and the broader rationales for pedagogic change in HE and theories of teaching and learning that they draw on.

2.5 Pedagogic rationales

CBL is part of a much wider examination of teaching and learning in UK HE and here there has been a discernible emphasis, in the recent literature on pedagogy in HE, on the need for a more constructivist pedagogy. A constructivist approach to learning covers a wide range of views of the learning process but there are a number of principles which Tait (1997) summarises as follows:

- “• Learning involves the active construction of a personal, conceptual knowledge base by the learner.

- Learning is reflective and builds on and also develops the learners' existing knowledge.
- Learning benefits from multiple views of a subject area.
- Learning is facilitated by authentic activity relevant to the situation in which it will be applied."

(Tait 1997 p4)

Pedagogic practice and materials based on these principles seek to encourage reflective independence in the learner and stress the need for experiential learning.

Ramsden (1992) rejects what he sees as the existing pedagogic paradigm in HE as one of 'transmission of knowledge' and 'managing student activity'. Instead he proposes that "Learning is applying and modifying one's own ideas; it is something the student does, rather than something that is done to the student." (Ibid. p114).

Thus, it becomes far more important to be aware of students' learning styles or strategies and how they approach a given task. Entwistle (1994) describes three types of learning style. A 'deep approach' where students look for meaning when they are doing a task and try to relate the information to their own wider knowledge.

A 'surface approach' where students are intent on simply completing the task, focusing on the signs and not the meaning and failing to see the structure of the discourse or task. A 'strategic approach' where students are well organised and look to maximise their grades. Entwistle emphasises that teaching should encourage a deep approach to learning and though teaching can facilitate good learning, responsibility ultimately rests with the learner.

Laurillard (1993) provides perhaps the most influential and comprehensive model of the role of educational technology in teaching and learning in UK HE. As director of the Institute of Educational Technology at the Open University and committee

member on the recent National Committee of Inquiry into Higher Education chaired by Dearing (1997), her influence on CBL in the UK, and the TLTP projects in particular, has been profound. The following section will consider the model of teaching and learning that she proposes and its application to the use of educational technology both as a principled analysis in itself and as an illustration of best practice in UK CBL.

Laurillard starts with a critique of academic learning in which she distinguishes between first order *experiential learning* which is concerned with knowledge of the world, and *academic learning* which is a 'second order experience of the world' derived from reflecting on our experience of the world. Experiential learning in Laurillard's terms is associated with 'situated learning' where the knowledge to be learned cannot be separated from the situation in which it is to be used. Academic learning is mediated learning which in HE is usually derived from our reflecting on someone else's experience of the world, and that we are acting at the more abstract level of descriptions of the world, not acting in the world.

Laurillard critiques the view, which she sees as being widely prevalent in HE, that such second order abstractions can be 'imparted' to students and accepts the point that all knowledge has a contextualised character and as such, abstractions need to be extracted from multiple contexts. However, she argues that whilst situated cognition is a necessary part of all learning, it is not enough for academic learning because situated knowledge does not deal with how learners handle other people's descriptions of the world. Laurillard points out that academic knowledge is 'articulated knowledge' which cannot be known solely through situated cognition.

“The whole point about articulated knowledge is that being articulated it is known through exposition, argument, interpretation; it is known through reflection on experience and represents therefore a second-order experience of the world.”

(ibid p 25)

In discussing the learning process, Laurillard stresses the importance in HE of acquiring the academic discourses - both the ‘ways of meaning’ and ‘ways of saying’ - to enable students to move between first order descriptions of the world and academic formalisms. So although situated learning, which is often a touchstone in computer courseware, is a necessary part of academic learning, it is not enough. Laurillard adopts a phenomenographic approach (Marton & Ramsden, 1988) which sets out how teachers and students should interact. It does not specify what must be taught, only how the teacher and student should interact.

“All we can definitely claim is that there are different ways of conceptualising the topics we want to teach. So all we can definitely conclude is that teachers and students need to be aware of those differences and must have the means to resolve them.” (ibid p85).

Laurillard (ibid. p85) outlines the following principles for a ‘principled teaching strategy’ in higher education:

- there must be a continuing dialogue between teacher and student
- the dialogue must reveal both participants’ conceptions
- the teacher must analyse the relationship between the student’s and the target conception to determine the focus for the continuation of the dialogue
- the dialogue must be conducted so that it addresses all aspects of the learning process

As Laurillard emphasises ‘there is no escape from the need for dialogue’. The nature of the proposed dialogue forms the basis of a principled teaching strategy based

around a goal-action-feedback cycle which is summarised under four headings:

Discursive, Adaptive, Interactive, and Reflective (DAIR) :

<i>Discursive</i>	teacher and students agree on goals for topic and task and their conceptions are available to the other
<i>Adaptive</i>	teacher adapts 'the dialogue' to the students conceptions
<i>Interactive</i>	student acts to achieve the task and gets feedback
<i>Reflective</i>	teacher creates environment to support student's reflection on cycle

(ibid. p94)

She proposes that such a characterisation of the ideal teaching and learning process leads to the conclusion that the one-to one tutorial is the ideal teaching situation.

This emphasis on the discursive character of the teaching and learning process in HE is similar to Ramsden (1992).

“a teacher ... should plan to do things that encourage a deep approach to learning: these things imply dialogue, structured goals, and activity ... Teaching is a sort of conversation.” (ibid. p167-8)

Laurillard fleshes out the DAIR model with a twelve step conversational framework which is used to analyse the range of 'media' used in teaching and learning in HE.

Each media is analysed as to which of the twelve aspects of the process it *can* support and once this detailed analysis has been done, the media can be classified under one of the four headings from the DAIR model. Laurillard stresses that such a classification cannot be based on a functional classification of existing media but needs to come from a pedagogic perspective which deals with *ideal* types as well as actual examples. It is important to be able to distinguish where a learning context is supporting *academic* learning and where it only reaches the level of *experiential* learning for it is the former that is the goal in HE.

Whilst there have been some criticisms of the classification of media in the DAIR model (Bostock 1996), it is probably one of the most cogent distillations and refinement of the arguments for the adoption of constructivist principles in HE and in the use of educational technology. Whilst it is clear from the quote from Wood (1994) above on the Mathematica TLTP materials that not all TLTP authors are acquainted with the constructivist theories of teaching and learning that Laurillard (1993) and Ramsden (1992) recommend for HE, a trawl through the literature on the Iolis materials for example, makes it clear that a substantial and important number are.² These ideas are certainly ‘common currency’ in the discourse communities of the TLTP with which this study is concerned and what is interesting, as we shall see in chapter 6 and 7, is the way these become ‘interpreted’ in the face of the practicalities and institutional realities of producing computer based materials.

2.6 Computer Assisted Learning

The literature in computer assisted learning (CAL)/CBL has a broad scope which covers many areas of research including cognitive psychology, educational theory, human computer interface design, and ergonomics to name some of the main ones. However, it is the link between the use of computers and the construction of an autonomous learner through a constructivist pedagogy that has been at the heart of CAL in the 1990s. In the early 1980s, the pedagogic paradigm in this area was objectivist in its view of knowledge and behaviourist in its view of the learning process and this was reflected in the term Instructional Technology (Perkins 1992).

² The following refereed articles related to the Iolis materials have references to either Laurillard (1993), Ramsden (1992), or both: Scott and Widdison (1994), Collins (1994), Jones and Scully (1996), Paliwala (1998), Widdison and Schulte (1998), Grantham (1999).

The present paradigm, reflected in the term CAL, sees the computer as *facilitating* the learning process and the individual's construction of knowledge (Duffy and Jonassen 1992). In this process, the teacher must be aware not just of their own learning goals but also where the students are in terms of their understanding when they start a course and it must also accommodate different learning styles and give students choices (De Diana and Van der Heiden 1994).

In the writing on the use of computers in teaching and learning in HE, there is often a rhetorical contrast made between traditional pedagogy in HE, portrayed as being based on an information transfer model, and new innovative methods which see the learner as actively constructing their own knowledge.

“The traditional role of the student as the passive recipient of knowledge has to change, with students increasingly becoming more active, autonomous, and responsible for their own learning.(..) Technology provides the means to the end - giving students a better deal in which learning is self-paced and more enjoyable.” (Entwistle 1994 p25,26)

This link between progress towards an innovative constructivist pedagogy and the use of computers in HE is made by the director of the LCC who sees the Iolis materials as part of “a fundamental transformation in legal education towards ‘active’ ‘situational’ ‘student-centred’ ‘independent’ and ‘skills-based’ learning,” (Paliwala 1998 p3).

Courseware designed for HE in the UK has clearly taken the basic premises of the constructivist argument on board. Good courseware is seen as presenting the learner with “flexible routes of learning to help elicit, restructure and understand the concepts involved.” (Gill and Wright 1994). More specifically from the literature

describing TLTP projects, it is possible to discern the two broad themes outlined above by Entwistle (1994) concerning the perceived pedagogic advantages of CBL courseware over traditional pedagogic practices: student autonomy and ‘active’ learning (see: Harrison 1994; Soper and McDonald 1994; Scott and Widdison 1994; Turpin 1995, 1996; Tait 1997, Paliwala 1998). Autonomy in this context is seen as *independent, self-directed learning* with the learners controlling what they learn and the pace at which they learn it. ‘Active’ learning seems to be used in this context in two senses: as *experiential learning*, providing learners with real contexts through which they can learn and apply their learning; and as *interaction* with the computer which provides instant feedback on given tasks. If we follow Laurillard’s (1993) point that a constructivist view of academic learning needs to emphasise discursive activity then the claims for interactivity become particularly relevant and it these that we will focus on, though the autonomy and experiential learning are important in terms of the overall thesis and will be called on in later chapters.

2.6.1 Iolis and interactivity

Authors of the Iolis workbooks in this study specifically make the comparison between CBL materials and small group tutorials or seminars. Scott and Widdison (1994) talk of aiming for “.... something like the interaction that commonly takes place in the early ‘building block’ phase of a tutorial.” (ibid p12) and they point to interactive exercises as the way in which the interaction of a group tutorial can be at least partially ‘mimicked’. In a personal interview with one of the authors (Widdison 1997), Iolis is referred to as being a hybrid of other genres incorporating the best parts of ‘active learning’ (i.e. seminars) and ‘private study’ (i.e. books). He states the advantages of the former as being: the ability of the program to respond to

students through feedback; the feeling of ‘not being alone’ whilst studying with the computer; and some capability of the ‘rich and useful dialogue’ found in seminars. For the latter the advantages are seen as being: the positive nature of ‘dehumanised interaction’ where students need not be shy about participating; and the ‘patience’ of the computer in that it can endlessly repeat the exercise.

The importance of interactivity in Iolis can be seen in the recommendations that were made by the Iolis editor to the authors between the Beta 1 and Beta 2 versions of the program. These were to;

1. increase the number and variety of interactive pages
2. increase the number of graphics
3. make the materials more pluralistic

(Dale 1995 - personal interview)

He explained that interactivity was seen as something that CBL materials such as Iolis does well and so should be emphasised. Graphics were seen as relating to the need to make the materials more ‘motivating’ for students. Pluralism relates to the funding bodies’ requirement of making the materials acceptable to a wider range of teachers and institutions in the UK with differing legal epistemologies.

Another Iolis author (Collins 1994) makes the point that CBL materials “cannot replicate the unforeseeable patterns of conversations and discussions” (ibid).

However, he also goes on to say they could be used to teach some elements of legal reasoning which are traditionally covered in classroom discussion and that computer tutorials offer “egalitarian access to this type of *interactive* learning environment” (ibid – italics added). In discussing the particular legal skills developed in the

‘problem question’ seminar he claims that the Iolis tutorial “replicates the classroom where the teacher leads the students through an analysis of a problem.” (ibid).

Paliwala (1998) also expresses some reservations about the limitations of CBL materials such as Iolis, but goes on to make substantial claims both about what they should and can do. He states that interactivity is a key rationale behind Iolis:

“..From Confucian or Socratic times learning has been essentially an interactive activity and information technology had to replicate this, otherwise it would convert students into knowledge machines.” (Paliwala 1998 p3)

He goes on to claim that whilst Iolis cannot replicate the interaction of the best face-to-face teaching, ‘interaction’ is a central feature of the program.

“In *IOLIS* the concept of interaction is extended well beyond the monotonous familiarity of multiple-choice. It emphasises feedback and enables forms of learning based on hypothetical problems, conceptual questions and case studies.” (Paliwala 1998 p3)

2.7 Summary

In this chapter I have tried to trace both the institutional context of the massification of UK HE in which the TLTP has emerged and the ‘intellectual’ context of the CAL/CBL discourse community and the theories of teaching and learning that would seem to be drawn on in the production of the TLTP materials and the Iolis materials in particular. We will return to these claims in chapter 4 when we outline the research questions and in chapters 5 and 6 in the analyses of the texts.

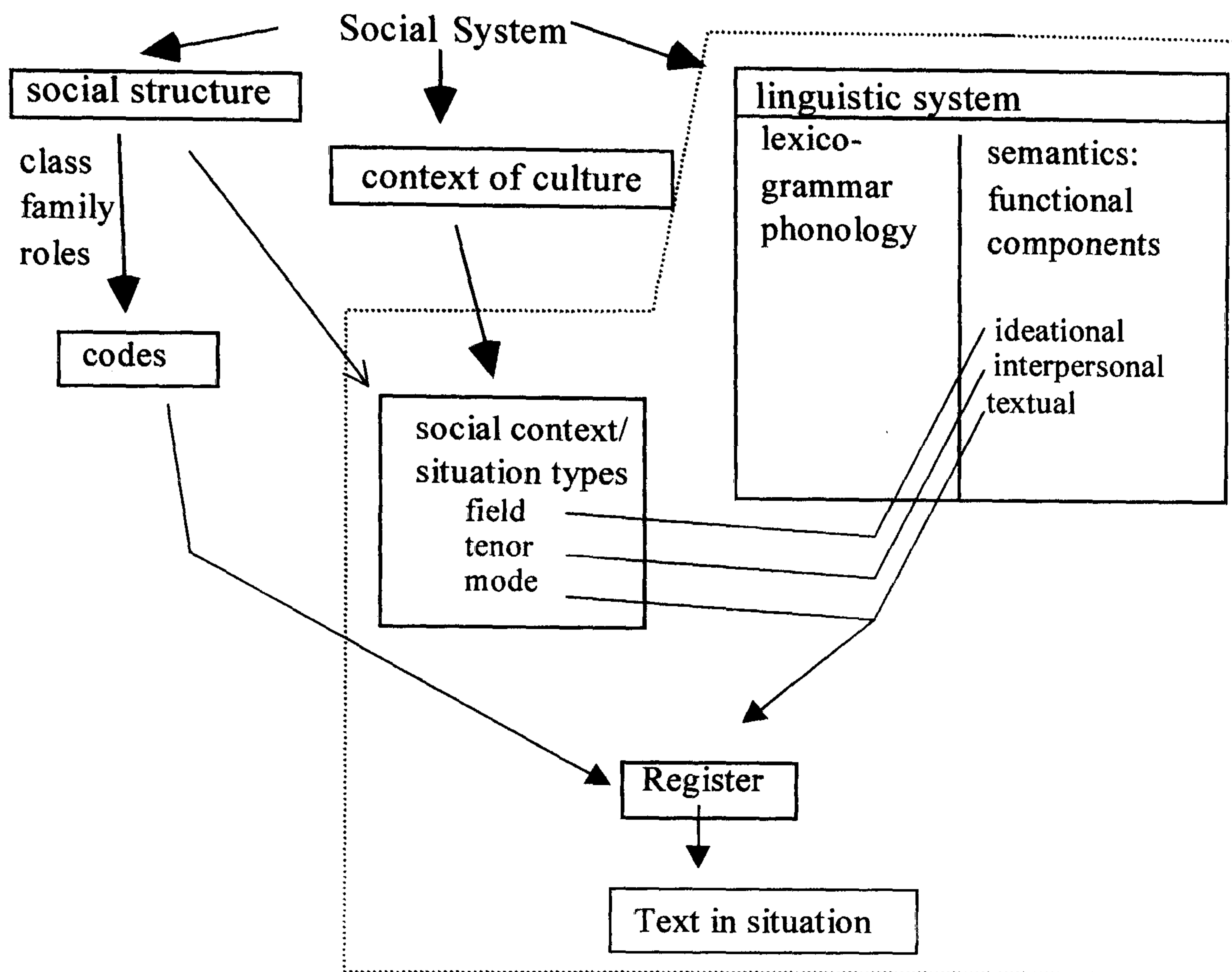
Chapter 3 Literature review

3.1 *Language as a social semiotic in context*

As chapter 1 has laid out, the present thesis rests its foundations on systemic functional linguistics and its account of language as social semiotic. There are though, shortcomings in Halliday's model of the description of social context and its relation to the instance of the text that suggest the need for other complementary theoretical and methodological perspectives. I hasten to add that these shortcomings are from the perspective of the aims of this thesis. As Halliday points out, "A theory is a means of action, and there are many very different kinds of action one may want to take involving language." (Halliday 1994 pxxix).

The emphasis in Halliday's theory is on the inter-relationship between the linguistic system, the context of situation, and language in use realised through texts and it is this aspect of the social semiotic model of language which has been most fully conceptualised. Whilst this thesis draws heavily on this aspect of the model, it is also motivated by a desire to evaluate and explain the interpretations of texts that SFL facilitates, in terms of the social systems and structures and the ideologies and value systems that underlie and inform the immediate context of situation. This distinction in focus is perhaps best illustrated in the following simplified diagram (Figure 3.1) of Halliday's representation of his model of language as a social semiotic (Halliday 1978 p69).

Figure 3.1 Halliday's 'Schematic representation of language as social semiotic'³
 (Halliday 1978 p69)



The dotted line has been added to represent the areas that SFL has developed most fully in terms of a conceptual and methodological framework. It is not that Halliday sees the 'higher' levels outside of this area as unimportant: "We attempt to relate language primarily to one particular aspect of human experience, namely that of social structure." (Halliday and Hasan 1985 p4). However, whilst there has been substantial work that has explored other areas such as Hasan's (1996) work on the formation of Codes, in the main, the relation between the context of situation and

³ It should be noted that there would seem to be one oversight in the diagram that may stem from the fact that it is actually used to illustrate a child's access to the social semiotic system and that is that all the arrows point one way from the social system to the text and the duality of the construal involved in the model is not expressed.

the 'higher' levels of the context of culture and social structure receives little explication.

It must be stressed that Halliday sees these higher levels as important and makes the point that discourse analysis has two possible goals:

“One is a contribution to the understanding of the text: the linguistic analysis enables one to show why the text means what it does. (..) The higher level .. is a contribution to the evaluation of the text: the linguistic analysis may enable one to say why the text is, or is not, an effective text for its own purposes. This goal is much harder to attain. It requires an interpretation not only of the text itself but also of its context (context of situation, context of culture), and of the systematic relationship between context and text.” (Halliday 1994 pxv)

In commenting on Figure 3.1, Halliday specifically points out that the context of culture is the 'source' of the context of situation. With reference to Malinowski, it is described as central 'to any adequate description' of linguistic interaction and includes 'the whole cultural history behind the participants, and behind the kind of practices .. (being) engaged in' and that this determined the significance for the culture (Halliday 1978 p6). However, though an important element in the model, its definition is less than clear compared to the well defined conceptualising of the context of situation. The only definition of the context of culture not attributed to Malinowski is defined as a product of the social structure combined with 'culture' which in turn is specified as 'ideological and material culture' (Halliday 1978 p68) and it is this which is the 'source' of situation types. Such a limited definition gives little indication of how ideologies, for example, are realised in registers and the textual instance and their interaction with the variables of the context of situation.

Martin (1992) and others (Eggin 1994) have proposed that the context of culture is realised linguistically through genre which is the linguistic form of a socially ratified process that the culture has specified for 'getting things done' and that this in turn is realised in a given context of situation through register. Martin (1992) postulates that the context of culture is embedded in a further contextual layer of ideology which "refers to the positions of power, the political biases and assumptions that all social interactants bring with them to their texts." (Eggin and Martin 1997 p237). However, Martin's (1992) attempt to sketch out a relationship between ideology, genre and register has come under criticism, and in more recent writing (Martin 1997), this aspect of the model has been dropped. One of the problems with the model is that it seems to imply that there is a one to one relationship between the levels of context when it is clear that ideologies, for example, cut across genres and situation types. Stable configurations may certainly exist but on the other hand they may not and the model does not seem to be able to explain how the change at the various levels would be co-articulated and influence each other in the processes of text production.

As Threadgold (1989) points out genres are "enmeshed in a whole web of social, political, and historical realities." (ibid p106). She goes on to argue for a greater understanding of the 'higher' levels of context and their relation to genre:

"What we need to know is how institutions and institutional power relationships and knowledges are both constructed by and impose constraints on (and restrict access to) possible situation types and genres. We need to know why certain genres are highly valued, and others marginalized. We need to understand the changing history of such valorizations. We need to know why some genres are possible, others impossible, ways of meaning at given points in history. We need to know why and how these factors construct identities for social agents (the people who think they 'use' genres) and how and

why some social agents are able to/willing to resist and others to comply with existing situational and generic constraints.” (ibid p106)

The complexity of context and its relationship to language can clearly be modelled in different ways for the given questions we seek to investigate and differing levels of complexity will be needed. The primary focus of mainstream SFL is on the linguistic system from the perspective of language as a social semiotic, and its theory of context reflects this. So whilst SFL provides a firm theoretical and methodological basis for the analysis of texts in relation to the context of situation and as instances of the linguistic system, I would argue that the theoretical framework is less developed in the direction of the contextual factors that influence the production of texts beyond the immediate context of situation and which would allow for the kind of ‘explanation’ of text as social practice (Fairclough 1992a) in the context of institutional and social change that the present thesis aims at. Critical Discourse Analysis (CDA) would seem to provide a complementary model which may serve the purposes of the present study and it is to this that we now turn.

3.2 Critical Discourse Analysis

As Fairclough and Wodak (1997) point out CDA covers a range of methodologies and perspectives (see Coulthard and Coulthard 1996, Wodak 1996) but there are a number of underlying orientations, theoretical and methodological, that give it coherence. The main focus here will be on the central strand of work in CDA which orientates itself to SFL in theoretical or methodological terms. This body of work has grown out of the movement originally called Critical Linguistics which emerged at the University of East Anglia in the late 1970’s (Fowler et al 1979, Hodge and

Kress 1979) and subsequent work by these and other authors, particularly that of Norman Fairclough (1989, 1992a, 1995a, 1995c, 2000).

In their broad overview of CDA, Fairclough and Wodak (1997) identify two main conceptual orientations that distinguish CDA from other forms of discourse analysis: “a) the relationship between language and society, and b) the relationship between analysis and the practices analysed.” (ibid p258). Firstly, CDA sees language as a form of social practice and as such language is seen as being *part of* the social rather than as an autonomous system *related* to the social, as Kress claims is the case in sociolinguistics (1990). As social practice, discourse is seen as being both constructed by and constitutive of social institutions and structures and as such it plays a crucial role in cultural transmission as well as opening up the possibility of social transformation. This view of language draws on sociological perspectives on the dialectic relationship between macro social structures and micro discursive practices as outlined in Giddens' concept of the duality of structure where “social structure is both the medium and the outcome of the behaviour it organises.” (Stubbs 1996 p58). The most relevant ‘behaviour’ is the discursive practices that maintain the myriad of ‘institutions’ that constitute the social structure. From a linguistic perspective, CDA draws on Halliday’s (1978) concept of language as a social semiotic where language is interpreted within a sociocultural context and the culture itself is interpreted as a semiotic system.

The focus on discursive practices leads to the need to describe not just the forms of texts and the immediate context of situation but also the processes of production and the interpretative readings of these texts. A critical perspective means that these

must be related to the structures of power which give rise to them and the ideological effects that ensue from the unequal distribution of power within society. The focus for CDA is on this relationship between language, ideology and power. This relationship is seen as being fundamentally opaque and the role of text analysis in CDA is to 'reveal' the ideological loadings embedded in discursive practices and the relations of power which lie behind them.

A consistent definition of ideology is, though, hard to pin down in the CDA literature: Hodge and Kress (1979) see it more in terms of content, as "a systematic body of ideas, organised from a particular point of view." (ibid p6), which would seem to imply that it is all pervasive. Fairclough (1992a) seems to include reference to structures as well as content and limits the remit of ideology to practices of domination.

"I shall understand ideologies to be significations/constructions of reality (the physical world, social relations, social identities), which are built into various dimensions of the forms/meanings of discursive practices, and which contribute to the production, reproduction or transformation of relations of domination." (Fairclough 1992a p87)

Fairclough (1995a) discusses other conceptions of ideology and its role in discursive practices such as Hegemony and Foucault's conceptions of power which will be returned to later. The key point here in relation to the CDA claim that language is opaque is that ideologies are most effective when they become naturalised or widely accepted as 'common sense'. The role of CDA practitioners is to denaturalise discursive practices and "by making visible and apparent that which may previously have been invisible and seemingly natural, they intend to show the imbrication of

linguistic-discursive practices with the wider socio-political structures of power and domination.” (Kress 1990 p 85).

This brings us back to the second of Fairclough and Wodak’s (1997) points on the relationship between the analysis (or perhaps more pertinently the *analyst*) and the practices analysed. CDA sees itself as a form of political action committed to intervention in social practices which give rise to discrimination or inequalities on the side of the dominated - its purpose is overtly ‘emancipatory’. However, it claims that this political orientation does not mean that CDA is any less ‘scientific’ or scholarly than other forms of discourse analysis, in fact Kress (1990) makes the point that it may be more so as it is aware of and explicit about its own position. Fairclough and Wodak (1997) make the point that analyses are as ‘careful, rigorous and systematic’ as other approaches and the methodology relies on detailed linguistic description drawing on well developed theories of language such as SFL.

3.2.1 Criticisms of CDA

There have however, been sustained criticisms of CDA both from proponents within CDA itself (Fowler 1996, Stubbs 1997) as well as from trenchant critics (Widdowson 1995, 2000). The criticisms focus on two main areas: a) problems of methodology and application and b) theoretical problems in the practice of criticism and particularly the nature of the relation between language and ideology.

Widdowson (1995) characterises Fairclough’s (1992a) analyses as socio-political rather than linguistic and rejects the need for a social theory of discourse to enable

the kinds of textual interpretations that Fairclough engages in. The substantive issue here is the relation of the linguistic features analysed in the text and their interpretation in terms of ideologies. In CDA, Widdowson claims that “linguistic features are prised out of texts and associated with covert values and attitudes of which other readers (..) would otherwise be unaware.” (ibid 1995 p516). However, both Fowler (1996 p9) and Fairclough (1992a p88/89) clearly state that ideologies cannot be read off from the description of linguistic forms in texts and they critique earlier work in critical linguistics (Hodge and Kress 1979) for perhaps doing this. On the other hand, Stubbs (1997) points out there is an implied contradiction in much of the work with the presentation of lists of formal linguistic features which are likely to be ideologically significant, perhaps implying that they can be straightforwardly applied in the ‘critical’ analysis of texts (Hodge and Kress 1979, Fairclough 1992a p234-237).

Stubbs (1997) characterises the problematic relationship between ideology and text as a problem of conceptual circularity for “..if it is not possible to read the ideology off the texts, then the analysts themselves must be reading meanings into texts on the basis of their own unexplicated knowledge.” (1997 p103). This raises the crucial question concerning the source of the interpretative authority that the analyst in CDA claims as to why their interpretation is any more valid than anyone else’s or more specifically, how they manage to unmask meanings ‘hidden’ from the ‘normal’ reader. Widdowson (1995, 2000) clearly thinks that neither the theory nor the methodology of CDA justifies the claim for such insights and that in CDA “..interpretation in support of belief takes precedence over analysis in support of theory, (..) conviction counts for more than cogency.” (Widdowson 1995 p516).

Whilst Fowler (1996), one of the original proponents of CDA, concedes that there are some theoretical issues to work through, he thinks that most of the problems are in the methodology and the application of the analysis.

“Although demonstrations have focused on a good range of types of texts, they tend to be fragmentary, exemplificatory, and they usually take too much for granted in the way of method and context.” (ibid p8)

On theory, he sees the principle that ‘ideology is omnipresent in texts’ as having been proved and that if there is a problem it is that the “dialectical inseparability of the two concepts ‘language’ and ‘society’” (ibid p9) has not been stressed enough. He points out that this concept can lead students of CDA (and he seems to be implying some experienced analysts as well) to think that the tools of linguistic analysis give them privileged access to the interpretation of texts, in effect reading ideology off the text. The solution to this for Fowler is basically methodological, with the analyst applying a linguistic analysis only after the discursive practices which relate to the text and the social context of which these are a part have been studied. For Fowler this means a view of context where the focus is on the historically situated nature of discourse practices, where texts are both instances of discourse practice and documents to be studied as sources which can illustrate institutional beliefs.

Fowler’s complaint is not that methodological concepts have not been addressed in CDA; in fact, the need to combine the analysis of texts with descriptions of discursive processes and wider social contexts is inherent in the concept of language as social practice which is the basis for CDA analysis (Fairclough 1989 p26). Kress (1990 p6), Fairclough (1992a p85) and Wodak (1996) also clearly state the need to

take a historical perspective into account. Fowler's concern is over the lack of sustained application of such methodologies and the lack of large scale studies which would facilitate such approaches.

Fowler's criticism that the data is 'fragmentary' and 'exemplificatory' is echoed by Stubbs (1997) who points out that in much analysis in CDA there is a lack of quantitative data and that there are few comparative studies of texts or text types and no diachronic studies. Fairclough (1992a chp 7, 1995b) for example, predicates a link between substantial changes in discursive practices and changes in society on the strength of the analysis of a few texts. Stubbs also questions the lack of justification as to the selection of the texts chosen for analysis and the representativeness of such samples.

Given the range and depths of critique of CDA in terms of theory and its methodology, there would seem to be little hope of charting a clear route forward. However, both Stubbs (1997) and Widdowson (2000) do suggest some strikingly similar possible empirical resolutions to the inherent theoretical problems of conceptual circularity. For Stubbs the problematic issue is the Whorfian question of the nature of the link being claimed by CDA between 'ways of saying' and 'ways of thinking' and although he is unsure if this perennial question can be answered, he argues that CDA must use ethnographic methodology to study the actual production of texts and their reception and dissemination. This would provide non-linguistic evidence to back up the claims of the linguistic analysis.

"If language and thought are to be related, then one needs data and theory pertinent to both. If we have no independent evidence, but infer beliefs from language use, then the theory is circular." (Stubbs 1997 p 106).

This methodological stance is very close to the position that Wodak (1996) outlines for what she calls discourse sociolinguistics.

Although more pointed and less hopeful in tone, Widdowson makes the same suggestion that CDA must “take empirical ethnographic considerations into account and locate texts in their sociocultural settings.” (ibid 2000 p22). Rather than treating the participants’ pragmatic understandings of discursive practices as naive, they would instead be at the centre of such an ethnographic analysis and the critical analyst’s own ‘partial’ interpretation would not be privileged over the participants’ but would be used to explore the reasons for any differing interpretations and may provide an opportunity to explore the indeterminacy of meaning with the participants.

This would seem to suggest the type of solution to the problem of circularity put forward by Wortham (1997) and Young (1992), namely an ‘*immanent critique*’. Wortham proposes adopting Marx’s concept of an ‘immanent critique’ which he defines as “a critique that does not claim ahistorical standards, but only that people violate standards they themselves set.” (ibid 1997 p 259). Young (1992) makes a similar point but he emphasises the reflexive nature of such a critique stating that “subjects themselves can make their own, immanent critique.” (ibid p72).

The suggestions of using ethnography to situate the interpretation of textual analysis, or its use alongside computational techniques to provide a method of triangulation (Stubbs 1996, 1997) can be combined with the concept of an immanent

critique to provide some answers to the theoretical problem of the standpoint of the critical analyst and the conceptual circularity of any such analysis (Stubbs 1997).

Having briefly outlined the main conceptual concepts in CDA and some of the main weaknesses that have been identified, I will now outline the conceptual and methodological framework that has particular relevance for the analysis of the relationship between social and discursive change.

3.3 Fairclough's model of discourse and social change

One of the major themes in Fairclough's (1989, 1992a, 1995a) work has been the relationship between socio-cultural change and changes in discourse. It is this attempt to understand the process of change and its mechanisms in terms of both the micro and macro that provides the main rationale for the adoption of this model as a conceptual and methodological framework for the present study.

In this section, I will outline the main elements in Fairclough's (1992a) social theory of discourse which is based around a three dimensional framework of discourse in terms of text, discursive practice, and social practice. It should be noted that the review is partial in two senses: the first partiality is that of this reader's interpretation. Whilst this may seem a truism at odds with the genre of the literature review, it is based on the observation that Fairclough's (1992a) terminology and conceptual constructions can, as Widdowson (1995) critically notes, be opaque. This requires the reader to compare, interpret, and clarify definitions and terms and their

practical applications across a number of works (1989, 1992a, 1995a, 1995b, 1995c). Secondly, Fairclough terms his model a ‘social theory of discourse’ and here it will be considered as a conceptual and methodological framework building on Halliday’s (1978) theory of language as a social semiotic, providing a necessary addition to the notion of context that SFL proposes. This section will describe and critique the concepts and practices that Fairclough outlines and draw out those elements that are more pertinent to the present study.

3.3.1 Language, society and structuration

As we have seen CDA rejects the sociolinguistic perspective on language as the systematic correlation between social variables and language in use as it suggests that language is an autonomous system independent of situations, subjects and relationships (Kress 1990, Fairclough 1992a). Instead, Fairclough uses the term ‘discourse’ to emphasise that language use is a “form of social practice, rather than a purely individual activity or a reflex of situational variables.” (1992a p63). This has two implications; the first is that language is a form of action in the world as well as a ‘mode of representation’. The second is the view that the relationship between discourse and social structure is dialectic, with language use being both constrained and shaped by social structures at all levels and simultaneously constitutive of the social structure. This structurationist view avoids the problems of the unidirectional models of the relationship implied by structuralism and constructivism. The former emphasises how social structures are instantiated through discursive events which leads to a representation of social structures as fixed and unchangeable whilst the latter, which conversation analysts such as Schegloff (1992) espouse, emphasises

that it is only through discursive events that social structures are constituted.

Fairclough's rejection of constructivism emphasises a realist perspective;

“the discursive construction of society does not emanate from a free play of ideas in peoples' heads but from a social practice which is firmly rooted in and oriented to real material social structures.”
(1992a p66)

Carter and Sealey's (2000) review of the realist position in sociology upholds the structurationists' rejection of the partiality of structuralism and constructivism, but also critiques the structurationist model that Fairclough puts forward as conflating structure and agency, making it difficult to explain how change can occur in the system. Following Layder (1997), they posit four inter-related domains, two of which focus on agency and two on structure. Agency is considered in terms of the 'psycho-biography' of individuals and the social aspect of their lives termed 'situated activity'. This activity is always embedded in the domain of the 'social setting' which focuses on the institutional contexts and their regularised practices. The second and most abstract structural element is that of 'contextual resources' which refers to the existing structures of 'material and cultural capital' that individuals encounter in their life. By separating structure and agency, it is possible to posit complex relations between differing domains and to stress “the emergent nature of social reality, and the unintended consequences of social actions.” (Carter and Sealey 2000 p12). Emergence is an important concept for the kind of explanations that CDA seeks from the analysis of texts, for texts cannot be understood solely in terms of the elements of their construction, they possess properties and effects which are partially independent of and unpredictable from these elements.

Whilst Fairclough's stated position on structuration would seem at odds with this approach, there is an interesting similarity, as we shall see later, in the analysis of discursive and social practice, in the shift of perspective between the concepts of intertextuality, which emphasises agency, and the order of discourse, which emphasises structure. Intertextuality is perceived as being composed of 'socio-cognitive' constraints which would relate to the domain of 'situated activity' in the realist model as well as the constraints of the social practice itself which relates to the domain of the 'social setting'. It is these aspects of Fairclough's model which make it germane to the institutional focus of this study.

3.3.1.1 The constitutive nature of social practice

In terms of its constitutive aspects, Fairclough sees discourse as simultaneously constituting social identities and subject positions, social relationships between people, and systems of knowledge and belief. This reflects Halliday's multifunctional view of language which sees language as simultaneously constructing three social metafunctions. Fairclough's categories overlap with the ideational (knowledge and belief) and the interpersonal (identities and relations) but the textual, though mentioned, is not explicitly given an important role in the framework. The other aspect of SFL theory which is drawn on is the concept of system. Language is perceived as a system of choices or options which are drawn upon according to the users coding orientations and the relevant aspects of the context of situation which go to make up the contextual configuration (Hasan 1978). One of the effects of this position is that the analyst must be aware of the choices that are not made as well as those that are.

3.3.2 A three part model of discourse

In order to investigate the nature of the dialectic relationship between text and social structures, Fairclough outlines a three dimensional framework in which a discursive event is seen simultaneously as text, discursive practice, and social practice. As text it can be subjected to linguistic analysis, as discursive practice it explores the processes of production, dissemination, consumption and interpretation of texts, and as social practice it explores the institutional formulations of ideology and power. As Scollon (1998) highlights, Fairclough's framework, building as it does on SFL, puts text at the centre of his conception of discourse and at the centre of his methodology.

3.3.2.1 Text

Fairclough (1992a chp 2) emphasises the importance of textual analysis by distinguishing between more abstract notions of discourse analysis, such as Foucault's, and his own which he terms 'text oriented discourse analysis'. Thus, it is surprising to find that the section on text analysis is limited and raises a number of issues which need to be resolved. Some of the weakness is explained by the stated purpose and intended audience of the chapter which is to provide a 'road map' for practitioners who have no specialist linguistic knowledge. This may account for Fairclough's relatively simplistic organisation of textual analysis into four main categories; 'vocabulary', 'grammar', 'cohesion', and 'text structure' and the brief explanations given. However, this simplification is dropped in chapters five and six

where a range of analytical tools are brought to bear under the SFG concepts of the interpersonal and ideational metafunctions.

The final chapter of the book provides a summarised list of the analytic categories (ibid pp234-237) introduced in these chapters and they also contain questions which can be asked to guide the analysis. There are however, a number of errors and a general lack of conceptual clarity including a confusing use of the three SFL metafunctions. For example, 'voice' (passive/active), which is part of the Mood structure of the clause and is related to the interpersonal metafunction, and 'grammatical metaphor', which cuts across all of the metafunctions, are both included under the heading 'transitivity' (ibid p235). There are chapters based around the interpersonal and ideational metafunctions, but he does not give the same importance to the textual metafunction simply commenting that it 'can usefully be added to my list' (ibid p65). This is reflected in the list of analytical tools where theme is related to the textual metafunction but 'cohesion' is not (ibid p236). The lack of clarity on the nature of the textual metafunction is surprising given that the focus of the book is on the construction of discourse and the fact that the three elements that make up the textual metafunction, thematic structure, information structure and cohesion are "the resources that give 'texture' to a piece of discourse, without which it would not be discourse." (Halliday 1994 p334).

Whilst the actual analyses in chapters five and six provide insightful examples of discourse analysis and illustrate the way in which SFG can be used to great effect in the analysis of texts, the analytical tools used are not coherently related to an explicit linguistic model. The strength of linguistic models such as SFG (Halliday 1994) or

Sinclair and Coulthard's (1975) model of discourse analysis is that they are coherent and explicit systems with clear inter-relationships between the elements. This enables critique and development of the models and provides a basis for a cumulative body of work to be built up. Fairclough's (1992a pp234-237) list of analytical tools that can be used in textual analysis gives the impression that individual elements from models can be selected, relationships between elements reorganised, and terminology changed without a clear explication of the rationale or an overview of the resulting model. This highlights Fowler's (1996) warning that "... there is a need for published analyses to be more explicit, less allusive, about the tools they are employing. (...) we need to be more formal about method." (ibid p9).

Providing an 'a priori' check list indicating which features may be ideologically significant in a critical analysis of texts can also lead to the impression that the analyst can 'read ideologies off texts' or more specifically 'read in' their own meanings (Stubbs 1997). Fairclough emphasises that this should not be done and that the textual analysis can only be interpreted within the light of the analysis of the discursive and social practice of which it is part. Perhaps some of the problem is that the illustrative nature of the textual analyses that he engages in do not contain any reflexive critique of his methodological constructs or processes and there is little explication of the rationale for how a particular analytical tool comes to be used for a particular purpose. The choice of analytical tools and hypotheses about what they may 'reveal' in different social practices need more careful and unique rationales and the possible alternative interpretations of the results need to be more carefully considered.

3.3.2.2 *Discourse Practices*

Discourse practices refer to the specific processes of production, distribution, consumption and interpretation of texts. The text can be seen “.. as a set of ‘traces’ of the production process, or a set of ‘cues’ for the interpretation process.” (ibid p80). The process of text production can be extremely complex as Bell (1991) has shown in his study of Newspaper journalism where a text may have multiple ‘authors’ drawing on a range of previous textual resources in a complex chain all the way to the printing press.

Discursive practice is a part of Social practice and the two may in fact be the same but the latter may be composed of both discursive and non-discursive practices.

Discursive practices are subject to two sets of social constraints: the first is a socio-cognitive dimension in which the participants’ understandings of conventions and norms are drawn upon – this would seem to relate to the Bernsteinian notion of coding orientations included in the diagram of Halliday’s model above (see figure 3.1). The second is the nature of the particular instance of social practice itself which determines *what* ‘members resources’ are drawn upon and *how* they are brought together in the discursive event. For Fairclough it is the second of these aspects where members resources are drawn upon in the light of a particular social practice that opens up the possibility of transformation and change in discursive and social practice. It is at this level that Fairclough sees the explanatory power of the framework as coming into force to relate changes in social practice with wider changes in society.

Fairclough provides three categories, Force, Coherence and Intertextuality, for the analysis of discursive practices, though in the list in the final chapter there are four with Intertextuality broken down into three subcategories and Force dropped altogether. As the present study focuses on the context of production, the concepts of Force and Coherence will not be dealt with here as Fairclough associates them with the act of interpretation. For Fairclough, the key concept for analysing discursive practice in the context of production is Intertextuality.

“Intertextuality is basically the property texts have of being full of snatches of other texts, which may be explicitly demarcated or merged in, and which the text may assimilate, contradict, ironically echo, and so forth.” (1992a p84)

Drawing on Bakhtin, it situates texts historically in the sense in which all texts draw on, recombine, and respond to elements of texts that have gone before and the way in which they anticipate future texts. Intertextuality provides the key mechanism in Fairclough’s model by which the linguistic analysis of texts can be related to social change, for this process may occur in conventionalised ways which become naturalised routines or in creative ways which may cumulatively lead to change in the order of discourse. Fairclough (1992a) distinguishes between ‘manifest intertextuality’, which is the way other texts are overtly drawn in the text, and ‘interdiscursivity’, which is a more diffuse ‘mingling’ of elements (genres, styles, discourses) from the order of discourse.

Whilst the intertextual and heteroglossic nature of texts is well established in certain conceptions of genre (Threadgold 1989), Fairclough (1992a, 1992b) also presents intertextuality as an analytical method. The following section outlines the two main

categories that Fairclough (1992a) proposes, manifest intertextuality and interdiscursivity, and provides a limited critique of their application.

Manifest intertextuality

Fairclough proposes two main categories for analysing manifest intertextuality: discourse representation and presupposition. Discourse representation focuses on *what* other texts are represented in the representing text, *how* they are represented and the *function* they are performing. This is complementary with the textual analysis of lexico-grammatical categories such as reported speech or the use of projection (Hunston 1993, Thompson G 1994) with a key point of interest being the explicitness of the boundaries between the ‘voices’ of the present and previous texts. The level of appropriation of the represented text or its distancing is also an aspect of the analysis, so for example, the use of citations to support and add authority to an argument or the use of scare quotes to provide authorial distance.

Presupposition is where the author presents the reader with a proposition as given. Its inclusion under manifest intertextuality seems to be dependent on it being explicitly marked in the grammar by certain types of projecting clause (*I’d forgotten/ realised that ...*) or through the use of definite articles. For the latter, Fairclough uses the example of ‘the Soviet threat is a myth’ (ibid p120) to justify an intertextual analysis with the second proposition (a myth), and therefore new information, representing the authors comment on the presupposition (the soviet threat) which is seen as an intertextual reference. However, it is unclear from the

illustrative examples to what extent the relation to formal categories should be seen as determining the analysis of presuppositions.

Interdiscursivity and Orders of discourse

Intertextuality, and in particular interdiscursivity, shows how texts are positioned in relation to the ‘orders of discourse’ of the institution or domain of which they are a part.

“The order of discourse of some social domain is the totality of its discursive practices and the relationships (of complementarity, inclusion/exclusion, opposition) between them.” (1995b p132)

Fairclough (1992a) defines the ‘elements’ of this institutional discursive network as genre, activity type, style and discourse. Genre and discourse tend to be the main focus of analysis (1995a) with genre seen as the overarching category as it corresponds most closely to types of social practice. The interdiscursive analysis of a given text attempts to trace how the elements of an order of discourse are drawn upon and rearticulated in predictable and/or creative ways in the production of the text. The perspective of the order of discourse puts the emphasis on the structural constraints of institutional practice in the production of texts whereas interdiscursivity focuses on agency and is used “to talk about shifting articulations of genres, discourses and styles in specific texts.” (Fairclough 2000 p170).

One aspect of intertextual analysis is to determine the degree of internal boundary maintenance between the elements within the order of discourse and externally between other orders of discourse. Fairclough also extends the notion to include a societal order of discourse but there is some lack of clarity as to the relationships

which hold between them. The notion of boundary maintenance draws on Bernstein (Atkinson 1985 p74) where boundaries may be 'weak' or 'strong' thus allowing for some orders of discourse to be more permeable or flexible and open to change whilst others are more rigid and less open to change. Complex combinations may emerge, with a particular genre or discourse being distributed across a range of institutions which may or may not share similar social organisations or discursive practices.

It is interesting to note the difference to Swales' (1990) conception of a discourse community. This would seem to take the perspective of agency, more specifically the domain of 'situated activity' in the critical realists' terms (Carter and Sealey 2000), and focuses on the construction of community through the *inter-*communication between its members and the goals they hold in common. An order of discourse takes a more structural perspective in terms of the critical realists' domain of 'social setting' and, whilst it relates to the discursive practices of those involved, it does not explicitly specify notions of community, membership and reciprocal communication which are central to Swales' definition of discourse community. The two perspectives have large areas of overlap and both can be useful in describing institutional discourse but the concept of discourse community with its focus on process seems more pertinent to the study of diffuse or emergent institutions or communities than to those which have a clearer power structure and have complex physical presences which represent layers of material representations of previous practice.

In order to try to disentangle the interdiscursive construction of a text and identify the genre/s and discourse/s that it draws on from within or between orders of discourse, there is a need to return to the concepts and methodologies of text analysis.

Genre and Discourses

Genre is “a relatively stable set of conventions that is associated with, and partly enacts, a socially ratified type of activity [..and..] implies not only a particular text type, but also particular processes of producing, distributing and consuming texts.” (Fairclough 1992a p126). Activity type and style are two analytical categories related to the analysis of genre, although style is often treated separately (Fairclough 1992a, 2000). The activity type of a text is the sequence of purposeful stages that the text moves through in order to achieve the intended goal of the social practice. The textual analysis focuses on the schematic structure of the text and draws on Hasan’s (1978) concept of the generic structure potential (GSP) which is a description of the possible orderings of the obligatory and optional elements of the functional stages of a genre reflecting the constraints of the contextual configuration.

Style includes some elements of the contextual configuration, tenor and mode, but not field. Fairclough sees style as varying according to the parameters of tenor which is the relationship of the participants (formal/ casual), mode which is the channel of communication (spoken/ written), and ‘rhetorical mode’ which corresponds to the communicative purpose of a text (examples given are ‘argumentative, descriptive and expository’ (1992a p127)).

Discourses are seen as particular constructions of an area of knowledge, such as the 'feminist discourse of sexuality' where sexuality is the area of knowledge constructed from a feminist point of view. This picks up on some of the ideational elements of field from the perspective of knowledges and beliefs.

These definitions however, show some of the lack of conceptual and methodological clarity here that Fowler (1996) identifies in CDA as a whole. Fairclough would seem to partially accept this but sees it as much a strength as a weakness;

“it is by no means always easy to decide whether one is dealing with genres, styles, discourses, or whatever. Too rigid an analytical framework can lead one to lose sight of the complexities of discourse.” (1992a p125).

Besides the opaqueness of some categorisations, there are also terminological confusions. For example, the relationship between the concepts of rhetorical mode and the stages of an activity type are unclear. Rhetorical mode is defined broadly as the communicative purpose of the text with 'expository' given as one example.

However, Fairclough (1995c) gives the following definition of stages in an activity type; “Stages are the predictable parts of a generic scheme, but are actually themselves what are usually thought of as different genres (e.g. narrative, exposition).” (ibid p88). Thus we have exposition as rhetorical mode, a stage in an activity type, and perhaps as a genre in its own right.

There is also some difficulty in pinpointing a comprehensive methodology for the analysis of discourses. Illustrative analyses that specifically focus on identifying a specific discourse, such as the analysis of a feminist discourse in a feminist newspaper (1989 p229-231), tend to focus on lexical semantics. There is a degree of

indeterminacy in this type of analysis which is illustrated in the following extract of the analysis, “Feminists have probably taken *direct action* from the peace movement” (ibid p231). Fairclough identifies a particular phrase from the text (*direct action*) as having been appropriated into a feminist discourse from the discourse of the peace movement. The question arises as to how a single use of a given phrase in one text can be assigned to a particular discourse. There is some danger of circularity here as the analyst relies on their own a priori knowledge of the movements and associated discourses in question and no other evidence is provided for the claims put forward. It may be reasonable to assume that certain discourses can be taken to be ‘widely known’ and are thus recognisable to both analysts and their readers but there is a need for more clarity about the possible techniques that could be used for defining different discourses such as the use of corpus linguistics as proposed by Stubbs (1996).

There is perhaps a more basic methodological problem with the concept of interdiscursivity as an analytical tool. For an analyst to be able to identify which elements (genres, styles, discourses) have been drawn upon and ‘mingled’ in a given text, there is a necessary assumption that the individual elements can be distinguished in the first place. However, as Fairclough points out “There are no definitive lists of genres, discourses, or any of the other categories I have distinguished for analysts to refer to ..” (1995c p77). Fairclough claims that the analysis of interdiscursivity cannot meet the objectivity that linguistic analysis calls for and that it should be seen as more of an ‘interpretative art’ which relies on the analysts socio-cultural understanding. He does suggest though, that close linguistic analysis can help to identify the elements of an order of discourse in a text but is not

specific about methodologies. Finally, he points out that genres and discourses are ideal types and texts should be seen as drawing on these resources rather than be said to 'contain' them, perhaps allowing for more leeway in terms of possible interpretations by the analyst of the elements that a text contains.

Despite some limitations in terms of the conceptualising of genres, styles and discourses and methodological issues, the concepts of intertextuality and the order of discourse provide a mechanism and structure by which the text of a discursive event can be related to the social practice in which it is embedded. The final aspect of the framework to which we now turn extends and links this analysis to the wider social structures.

3.3.2.3 Social practice: from intertextuality to hegemony

The analysis of social practice looks at discourse in relation to ideology and practices of power. This may focus on the immediate situational context of the social practice, the institutional context, or the wider socio-cultural frame in which it is embedded. It is worth emphasising that social practice brings the non-discursive elements more clearly into the frame and enables an emphasis to be put on the materiality of practice.

Fairclough's main focus here is on the concepts of ideology and hegemony. He critiques structuralist notions of ideology such as Althusser's which relegate discourse to the process of transmitting a dominant ideology. Instead he proposes a structurationist account that,

“ideology is located both in the structures (i.e. orders of discourse) which constitute the outcome of past events and the conditions for current events, and in events themselves as they reproduce and transform their conditioning structures.” (1992a p89).

He goes on to criticise the position of critical linguistics which locates ideology in the text itself, claiming instead that texts carry ‘imprints’ of ideologies and that their ‘ideological import’ needs careful interpretation.

Fairclough draws on the concept of hegemony to provide a theoretical framework which accommodates the possibility of transformation of social structures.

Hegemony conceives of social structures and groupings as engaged in constant struggle with the overall aim being the achievement of a relative social consensus or a kind of quasi equilibrium. It focuses on leadership rather than domination and sees social processes in terms of the constructing of alliances and integration through ideological means. This can result in constant and on-going change which can produce contradictory formations and allows for the resisting and challenging of existing and emerging hegemonies. Social practices, and the discourse which constitutes them, can be analysed in the light of whether they ‘reproduce, restructure, or challenge existing hegemonies’ (ibid p95) and at the level of discursive practice, intertextuality provides a way of showing how this operates at the level of the institutional order of discourse.

The concepts of intertextuality and hegemony thus come together to place change at the centre of Fairclough’s model of discourse. He posits that the origin of change in discursive events comes about when there is a ‘problematization’ of existing

conventions for producers or interpreters. This happens as a result of contradictions and struggles at the institutional and socio-cultural level which are perceived as dilemmas by individuals who may then “try to resolve these dilemmas by being innovative and creative, by adapting existing conventions in new ways, so contributing to discursive change.” (ibid p96). At the level of the text, the contradictions and dilemmas leave ‘traces’ in the text in terms of the relative heterogeneity of genres, styles and discourses that are drawn on. The stability of an institution is reflected in the order of discourse with stable and highly conventionalised genres leading to relatively homogeneous texts.

Individual changes in the discursive conventions and elements can have a cumulative effect and lead to structural changes in the order of discourse. These may be confined to the local order of discourse or may reflect more widespread or fundamental changes in society thus affecting discursive practices across the societal order of discourse (the sum of all orders of discourse). Fairclough is particularly interested in the latter and gives three examples of broad tendencies of discursive change at this level: democratisation, commodification, and technologisation of discourse. Fairclough’s (1995b) study of the commodification of discourse in the administration of UK HE is the most directly relevant to this thesis. It shows the colonisation of the existing discourses of HE with that of the discourse of the market and through the analysis of a range of administrative genres in HE it illuminates the process whereby these institutions and their administrative practices have come to be conceptualised in terms of production and consumption, and of the marketing of products to consumers. Fairclough argues that the process of colonisation is reflected in the use of the genres and conventions of advertising such as the use of

images to set a tone for the text, or a more 'persuasive' rhetorical mode that reflects and constitutes a particular set of relationships and identities between the producer and consumer, product and consumption.

Fairclough points out that as orders of discourse are open to hegemonic struggle "the elements of an order of discourse do not have ideological values or modes of ideological investment of a fixed sort." (1992a p98). Fairclough gives the example of counselling which he sees as becoming prevalent in many orders of discourse and which, with its emphasis on the needs of the individual, would seem to be counter-hegemonic in challenging existing institutions. However, it may also be seen as a way of replacing more explicit and outdated disciplinary practices with a subtler practice which draws the individual's private life into the mechanisms of institutional control. This suggests that the interpretation of the discursive and social change in relation to hegemonic restructurings should be made carefully and from a fallibilist position.

3.3.3 Summary and re-interpretations

Fairclough's model provides a conceptual framework for understanding the relationship between change in discourse and changes in society. It attempts to link the micro level accounts produced by the analysis of the texts of discursive events with macro level accounts of socio-cultural structures through the situated analysis of institutional practice. Its strength for an analysis of institutional discourse lies in the attempt to draw on a more 'holistic' view of context (Wodak 1996), providing a perspective on the mechanisms and structures by which the analysis of the text can

be related to the context of situation, the wider context of culture and social structures.

It is perhaps worth restating some of the shortcomings of CDA and the methodological proposals to ameliorate the worst of the problems. As a response to the charge of conceptual circularity that has arisen from critical interpretations based on textual analysis alone, both Stubbs (1997) and Widdowson (2000) call for the use of a more ethnographic approach, advocated by Wodak (1996), to investigate social practices in context. Whilst such goals are laudable even the staunchest defenders of this approach admit that it is rarely feasible to devote the kind of time and resources necessary to do such research properly (Watson-Gegeo 1997). Wodak (1996 p22) also raises the issue of just 'how much' context it is necessary to observe and describe.

Fairclough (1992a) shows at least some awareness of the need to ground the analysis of the discursive practice in some research into the institution in question when he discusses the use of interviews with participants in a section entitled 'enhancing the corpus' (ibid 227). Although Fairclough does not seem to apply his own recommendations, this emphasis on the use of other sources to aid the interpretation of textual analysis echoes Fowler's (1996) suggestion that CDA needs to adopt a more historical approach to supporting documentation as a source of insight into participants' beliefs and information about the social practices in question.

Another aspect is methodological and concerns the relationship between determining what the focus of the critique will be and how to relate this to the

choice of analytical tools. If we start in reverse order, Fairclough (1992a) presents a range of tools for textual analyses as a list (ibid pp232-238) and this has been criticised for implying that ideologies can be read off texts. It also seems to assume that there is a basic underlying rationale for the undertaking of a critical analysis, such as a critique of capitalism or patriarchy, which can be addressed by these lists. This seems to jump two crucial and complex steps in the methodological process: the first is determining what aspects of the social practice in question are to be investigated whilst avoiding the problem of conceptual circularity associated with CDA (Stubbs 1997) and secondly the matching of the analytical tools of textual analysis with the problem to be investigated. As we saw earlier, Wortham (1997) and Young (1992) claim that the concept of an immanent critique can mitigate the issue of conceptual circularity, with the assumed ahistorical stance that much critical analysis implies, by focusing on the claims of the participants themselves. This focusing of the research question in terms of the participants perceptions can also provide a basis for the selecting of analytical tools for the textual analysis which are orientated to examining these claims.

As we have seen Fairclough's specification of the analytical tools for textual analysis need to be supplemented - this is one of the reasons why the present study also draws explicitly on an SFL model of text analysis. There are though two methodological areas of text analysis that have been drawn on in the present study and these will be reviewed in more detail in the following two sections. The first is the need that Wodak (1996) and Stubbs (1996) point to for the quantitative comparative analysis of texts to complement the more qualitative micro level text analysis and ethnographic elements that have been advocated. I will briefly review

aspects of corpus-based discourse analysis which facilitate the combining of quantitative comparative techniques across larger amounts of data with micro level qualitative text analysis. Secondly, I will review models of spoken discourse analysis as they have particular relevance to the study of pedagogic interaction and as the models of interaction in Halliday (1994) are relatively underdeveloped.

3.4 Corpus-based studies

If aspects of ethnographic methodology and the concept of immanent critique can be usefully drawn on to inform the analysis of discursive and social practice, there are still a number of issues to be resolved in the analysis of texts in much of the work in CDA. Fowler (1996) talks of the ‘fragmentary’ data used in analyses and Stubbs (1997) points to the lack of comparative studies and quantitative analyses that will allow for the statements to be made on variation and frequency.

The most thorough statement of the need for the use of more systematic corpus techniques in the analysis of texts is Stubbs (1996). This lays down a number of principles based on a Neo-Firthian tradition of text analysis and emphasises the role of computer-assisted analysis. Some of the most relevant principles in the context of the present study are the use of attested data, the analysis of complete texts, the comparative study of texts and text types, and the use of quantitative techniques alongside a more qualitative interpretation of the text.

Whilst the principle of using attested authentic data is widely accepted in applied linguistics, the principle of the analysis of complete texts rather than fragments is

less so (Stubbs and Gerbig 1993). Complete texts are important for a study of language as social practice as the text is the unit of meaning and it also allows for the accumulated meanings which build up across texts to be seen. The following section will focus on the two final principles: the need for comparative analysis and the associated question of the composition of a corpus, and secondly, the need for quantitative techniques in combination with qualitative analysis and the associated question of the linguistic features to be analysed.

Much of the work in the field of corpus linguistics takes a perspective of language system over instance and is associated with computer based analysis in areas such as lexis and collocation (Sinclair 1991), and grammar (Hunston and Sinclair 1999). Biber's (1988) work analyses samples of text types and uses complex statistical techniques to formulate text-internal descriptions according to the clustering of grammatical features which are then interpreted in terms of functional 'dimensions' such as 'involved production' versus 'informational production'. The analysis illustrates register variation across a number of dimensions but the analysis is concerned with the categorisation of texts in terms of their realisation patterns and not with an interpretation of text as social practice.

In corpus-based studies which seek to analyse discourse as social practice, the composition of the corpus and its supporting ethnographic data is crucial. There is a close relation between this and the linguistic analysis that can be undertaken and thus the kinds of questions that such studies can answer. The following section will briefly review some corpus-based studies of discourse analysis which seek to both describe the discourse and to explain the text as social practice in order to illustrate

the relation between the composition of a corpus, the linguistic analysis undertaken and the kind of questions that such studies can answer. I will focus on studies which analyse genres associated with the university or educational context.

The composition of a corpus can be seen as a function of the purpose of the study and the questions that are usually raised are about size, range and representativeness. In descriptions of language as system, as Sinclair (1991) argues, size is important to catch rarer instances but for the linguistic analysis of texts as instances of social practice, size and range, though far from irrelevant, are less important. The central issues are representativeness and the comparison between texts or text types. The former can be difficult to resolve but needs to be seen as function of the social practice in question and the generalisability of the claims that one wishes to be make rather than as a question of statistical validity. Stubbs and Gerbig (1993) emphasise that it is the comparison between texts or text types that is crucial as the linguistic features of a text can only really be interpreted meaningfully in relation to the occurrence of that feature in another text or to a corpus representing English in general (e.g. the Bank of English Corpus).

Although Myers' (1990) studies of the processes of the writing, re-writing or transformation of biology research articles (RA) are not typical of corpus linguistics, they are an interesting illustration of the importance of the composition of the corpus in the analysis of social practice and the kind of textual analysis that this enables. The studies are based on a small and carefully selected corpus which highlights the discursive practices of text production through a comparison of a sequenced series of drafts or re-writings of RAs and popular science articles. The small corpus allows

for a close and eclectic textual analysis and the construction of the corpus itself suggests the focus for the textual analysis on the changes in the re-writings.

Combined with an ethnographic approach to gain the authors' perspective, the study provides an insightful analysis into the nature of the social practice of professional academic writing and the social construction of knowledge that a larger quantitative analysis would not be able to achieve. As Myers (1990) points out though, such a focused corpus raises questions as to the generalisability of the findings.

A quest for greater generalisability leads to larger corpora. Hyland (1996) and Gerbig (1997) both analyse large corpora which requires a more systematic approach to the textual analysis where pre-selected linguistic features are identified by concordance programs. Gerbig's study takes a critical perspective on the way that one topic, ozone, is represented in the texts of two groups, industry and environmentalists, and identifies the groups' stances through the quantitative analysis of a selection of linguistic features (ergative, reporting and attitudinal verbs) as well as making 'benchmark' comparisons to pre-existing publicly available corpora. However, it is the construction of the comparison between the texts of the two groups and the ethnographic investigation of their respective positions that sets up the critique.

Hyland's (1996) study looks at the role of hedging in the construction of scientific knowledge. It makes a quantitative analysis of a series of linguistic features connected with hedging in biology research articles and makes comparisons to RAs in other public corpora and to the results of previous studies which it replicates. The basic construction of the corpus points to an emphasis on a linguistic analysis of

hedging, which is reflected in the use of previous studies for comparison, rather than a perspective on the text as social practice which may stress the role of hedging in the consensual construction of scientific knowledge and this is reflected in the lack of any ethnographic element to the study. Okamura (1997) notes that Hyland's interpretation of the role of hedges based on the quantitative analysis differs from Myers' (1989) study of hedging in Biology RAs which is based on a more qualitative analysis of a small corpus composed of a series of re-writes of the articles in question supplemented by interviews with the authors. Okamura argues that Hyland's interpretative emphasis on the role of hedges as expressing uncertainty and caution and Myers' interpretation of hedges in terms of politeness strategies is at least partially due to the differing methodologies. Okamura's own study of hedging in RAs seems to confirm the validity of both these interpretations but it also highlights the point that an ethnographic element is needed in order to identify politeness strategies in hedging and that studies based only on text analysis would not uncover such pragmatic interpretations.

The study of imperatives in research articles by Swales et al (1998) consists of a large corpus (365,000 words) of five articles from a given journal in ten disciplines and included interviews with authors. As with Okamura's (1997) study, the inclusion of an element of ethnographic methodology is reflected in the composition of the corpus in that one out of the five articles selected from each journal was written by an academic from the researcher's institution. Unusually for such a large corpus, computers were not used in the analysis as the research was carried out by a team of six researchers. The analysis shows clear disciplinary differences in the use of imperatives and their position in the text and their purpose is explored through

interviews with authors. The interviews allow for more detailed analysis of imperative use in particular disciplines and enables, for example, the identification of the differing uses of the imperative 'consider' in different disciplines. These studies illustrate the importance of ethnographic data to the interpretative process of discourse analysis and the need to build such methodological considerations into the composition of the corpus

Hunston's (1993a) study of projecting clauses in research articles and Stubbs' (1996) study of projection and ergative verbs in school textbooks both focus on the analysis of individual grammatical items to investigate authorial stance. It is interesting to note the difference in corpus construction and analytical methodology.

Hunston's comparison of five research articles from a linguistics journal and five samples from the TV program *Any Questions* reflects the study's purpose. The study examines the variation in the expression of certainty, as expressed through projection, in the two registers and looks at the role of this type of evaluation in the construction of the different discourse communities and the value systems and ideologies which underpin them. The choice of the comparison of text types, with the selection of two very distinct modes, emphasises the systemic focus on register variation rather than the issue of the ideological stance of the 'sub-culture'.

On the other hand, Stubbs' (1996) comparison of two school textbooks, one a 'standard' school textbook and the other a 'persuasive' environmental schoolbook, is designed to highlight differences in the authors' ideological stance as realised in the lexicogrammar. Stubbs uses a concordancer to identify the selected grammatical features in the corpus (110,000 words) whereas Hunston would seem to have done

the analysis ‘by hand’ reflecting the smaller (unspecified) size of her corpus (> 40,000 words). What both these studies show is that the careful selection of a lexicogrammatical feature can be studied across a corpus of texts and that with careful interpretation it can ‘reveal’ aspects of the ideological stances that inform the creation of such texts. The limitation of both studies is the lack of an ethnographic element to support the linguistic interpretation both in terms of general information about the texts in the corpora or the use of interviews to gain the perspective of participants. Instead they draw on unstated and thus unexplored assumptions of the cultural context of the texts and their discursive practices.

Widdowson (2000) makes a particular criticism of critical corpus studies, such as Stubbs (1996), that pre-select one linguistic feature for study. He argues that by selecting one feature for study there is an implication that other features are “irrelevant to the identification of ideological stance.” He concedes that such choices may be justifiably motivated by semantic considerations but goes on to argue that grammatical features enter into complex relationships with other features and cannot be studied in isolation.

“What he (Stubbs 1996) deals with is the quantitative occurrence of a particular grammatical form across texts, but not the co-occurrence of this form with others or the qualitative effect of their interaction.”
(ibid p19)

If the criticism is that concordance lines need to be considered more carefully in relation to the co-text and that Stubbs’ analyses can seem overly neat, then it has some import. However, Widdowson goes on to say that the problem is not one of procedural oversights but one of ‘major conceptual’ flaws. It is unclear though, precisely what Widdowson is claiming in the quote. To state that a text consists of

relationships between all elements at all levels of language would seem to be a truism, as it would that the study of language requires us to break this down into manageable elements. What Widdowson does not satisfactorily demonstrate is that he can provide a better way of doing this, for he would seem to be claiming that an analysis of a text is only valid if all linguistic features and all their inter-relationships are analysed and interpreted in light of the context of production and consumption. Not only is this unfeasible but would seem to be seeking to reflect reality rather than interpret it.

The importance of studies such as Stubbs (1996) is that they allow for an exploration of the cumulative frequencies and the way such meanings accumulate across complete texts and the use of the computer allows for the study of larger corpora to show tendencies across registers. The use of a concordance program ensures the analysis of a given linguistic item is exhaustive and allows the analyst to perceive patterns more easily in the data. There are though a number of weaknesses of such an approach for text analysis. There is the issue of which feature to choose to analyse and this original decision determines the analysis from then on. The choice can be justified in terms of the semantic meanings the feature expresses and this can be related to the study of the social practice in question. Secondly, the limitations of what can be searched for in an untagged corpus may lead to an analysis of what it is easy to find with a concordancer. There is also a need to be aware of the fact that meaning varies according to context. The temptation to automate a search and interpret the semantic and pragmatic use of a linguistic feature out of context must be avoided. In the present study each line of the results

of a concordance program has been coded individually with reference to the co-text and context of situation (see section 5.2).

In the construction of a corpus for text analysis the issue of comparison is primary. It needs to reflect the conceptual constructs which inform the investigation of the social practice in question. Methodological considerations, such as the inclusion of an ethnographic element in the study, can inform the design of the corpus as in Swales et al (1998) and Okamura (1997). I would also argue that an ethnographic element is crucial in the process of interpretation of any textual analysis but particularly large computer based studies which can lead to a divorcing of the interpretation of linguistic features from the co-text, the discursive practices of production and consumption and the broader social context.

3.5 Models of spoken interaction

Analysis of spoken interaction in the classroom has been an area of much fruitful dialogue between linguistics and educational research (Sinclair and Coulthard 1975, Mehan 1979, Edwards and Mercer 1987). It is also of relevance to the present study as it forms one of the main chapters of analysis (chapter 6). The particular models that form the basis of that analysis will be explored in more detail in chapter 6a, but in the following section I will briefly review the main models of spoken interaction that have informed that choice.

There would seem to be two main orientations to the study of face-to-face interaction. The first is based in the American sociological traditions of

ethnomethodology and ethnography and the second follows a UK linguistic tradition loosely based around systemic functional linguistics where one of the more influential models has been the Birmingham school of discourse analysis. The main purpose of the following section is to provide a review of those linguistic models of interaction which have been used in the analysis of classroom discourse. It will also look at other perspectives on the analysis of classroom discourse which do not use an explicit model but which have contributed to the understanding of classroom discourse.

3.5.1 Conversation Analysis

Conversation analysis (CA) was perhaps the first detailed look at what actually happens in real face-to-face conversations. It developed out of the work of a branch of sociology called ethnomethodology which seeks to explain how people construct and make sense of everyday life and one important aspect of this that CA focuses on is how this is achieved interactively in conversation. Perhaps the most important contribution of this perspective has been the insistence on the use of attested data and the rigorous and detailed methods that are used in the transcription and analysis of data.

CA illuminates the reciprocal nature of the construction of conversation based around the organisation of turn taking. The analysis of the management of turn taking looks to explain where and when changes in speaker turn could occur and how they could occur through strategies such as speaker selection. One important element in the organisation of turns is adjacency pairs where one turn 'sets up' a

response on the part of the other speaker creating an predictable structure for the interaction, such as a greeting (*how are you*) and greeting response (*fine thanks*). The concept has been applied at different levels of generality (question/answer) and extended to distinguish between preferred and dispreferred responses. This analysis of adjacency pairs has been extended to include a broader notion of a 'sequence' of related turns with particular reference to instances of conversation management such as the identification of side sequences (Jefferson 1972), insertion sequences (Schegloff 1972), and the management of repair in the classroom (McHoul 1990). These analyses are based on the concept of the sequential relevance of utterances or sequential implicativeness which emphasises the importance of the sequential nature of our interpretation of utterances in conversation.

The concepts of CA have greatly influenced subsequent work on spoken discourse but there are two issues that make it less useful for the present study. Firstly, the focus is on fragments of texts which illustrate particular aspects of turn taking management and there is no concern for whole texts. As such CA has no systematic set of analytical categories to describe a complete interaction and thus no method for quantification to enable discussion of typicality or variation. Secondly, the focus on the mechanisms of turn taking and conversation management rather than whole texts does not allow an investigation of text as social practice. In fact, the ethnomethodological perspective of CA takes a constructivist position which claims that context is created in interaction and no reference is made to social structures, identities, or relations of power (Schegloff 1992). According to Heap (1997), this means that in an analysis of classroom interaction for example, the socio-cultural identities of the participants (e.g. teacher/ pupil) can only be established if the data

indicates that speakers specifically orientate themselves to another speaker in that way. Identities are constructed through the process of interaction. This lack of reference to social identities and structures *may* work well where roles are symmetrical but would prove problematic in the present study, for as Heap (1997) points out “to do a CA study in or of education is to invoke the very sort of transcendent phenomena which straight-ahead CA forbids presupposing in the analysis” (ibid p223).

3.5.2 An ethnographic approach

Mehan (1979) adopts a ‘constitutive’ ethnographic perspective which places interaction firmly within the context of situation through extensive and time consuming fieldwork. Mehan rejects the constructivist position of CA and takes an almost structurationist view:

“constitutive studies put structure and structuring on an equal footing by showing how the social facts of the world emerge from the structuring work to become external and constraining, as a part of a world that is at once of our making and beyond our making.” (ibid p18).

Mehan’s study is based on observations and regular video recordings of one class over a school year by a team of four analysts (including the teacher). Whilst Mehan takes up some of the concerns of CA by looking at the construction of classroom identities through turn taking structures, he also presents the systematic coding of complete lessons based around an adapted version of the three part classroom exchange from Sinclair and Coulthard’s (1975) model of discourse. Exchanges can be combined to form sequences, similar to ‘bound’ exchanges in the Sinclair and Coulthard model but are more flexible with functional criteria relating more closely

to the pedagogic purpose of the exchange sequences. For example, ‘simplifying’ exchange sequences are composed of a ‘basic’ IRE exchange plus a series of ‘conditional’ exchanges where the teacher reformulates and simplifies questions to enable the student to reach the required response. These sequences are combined to form a coherent pedagogic ‘set’ around a particular topic termed ‘topically related sets’ (TRS). The openings and closings of the TRS are marked by kinesic, paralinguistic, and verbal markers and would seem to be similar to Sinclair and Coulthard’s concept of transaction.

Mehan provides a highly insightful study into classroom discourse and illustrates the socially situated nature of pedagogic knowledge and pedagogic identities. The ‘micro’ ethnographic methodology that is employed clearly provides insights and validity to the interpretations that would not otherwise be available, but the time, number of analysts, and the level of access which the study shows are required for such an approach is part of the reason for not adopting it in the present study. The other reason is that the notion of context in such micro ethnographic studies is restricted to the classroom itself, and there is no orientation towards the broader social structures or processes within which the classroom and the participants are embedded.

3.5.3 SFL perspectives

Sinclair and Coulthard’s (1975) perspective is linguistic rather than sociological and is concerned with the description of discourse as a level of language organisation distinct from grammar and phonology. The original model was derived from

classroom data from teacher centred classrooms and it is in this type of more asymmetrical interactions where it has most often been applied (Mehan 1979, doctor/patient interviews Coulthard et. al. 1981, Tsui 1994, 1997). Further adaptations to the model (Coulthard et. al.1981, Coulthard and Brazil 1981) summarised in Francis and Hunston (1992) have brought more flexibility into the model allowing for successful analysis of more conversational data such as telephone conversations.

The basic strength of the model is that it allows for the linguistic description of complete texts via a finite set of categories which have possible and impossible combinations and it is also a functional description which means that even an initial analysis provides meaningful insights into the interaction. The interpretation of categories relies both on the CA notion of sequential implicativeness, referred to as ‘tactics’ and to all relevant aspects of the specific context of situation.

The model is based around a systemic functional approach in that it proposes a hierarchical rank scale model of discourse. The fundamental unit of analysis is the speech act rather than the turn, with one or more speech acts making up the next level of moves, which in turn make up exchanges which combine to form transactions which make up the lesson. The aspect of the model which is most widely known and used is the three part structure of the exchange represented as IRF or Initiation, Response, Feedback. The modifications summarised in (Francis and Hunston 1992) deal with a number of issues including a fourth element in the exchange and a greater recognition of the role of intonation in the specification of acts but some aspects of the original model are relatively underdeveloped. For

example, the category of bound exchange, which deals with the kind of side sequences Jefferson (1972) describes and is crucial to the flexibility of the model, has not been properly explicated. Another example is transactions which were proposed in the original model and since then there has been little work on this level of the model.

Wells (1981) proposes a variation of the IRF sequence which allows for dual coding of utterances at the level of exchange and speech act but it is not clear how such coding can fit into a hierarchical scale-rank model of discourse (Francis and Hunston 1992). More recently Wells has proposed a more sophisticated version of the model (Wells 1999) which integrates activity theory and proposes two categories above the level of exchange: the exchange sequence and the episode. The sequence is composed of a 'nuclear' exchange and bound exchanges which have two main sub-categories, dependent exchanges which are expansions on the nuclear exchange and embedded exchanges that deal with problems in uptake in the interaction such as repetitions. Sequences can be combined into 'episodes' which relate to an activity or task but these, like transactions, are not clearly defined.

A broad criticism of the IRF model is that it is derived from an asymmetrical type of interaction which is reflected in the rigidity of the model itself. Burton (1981) claims that it presupposes a 'consensus collaborative model' of discourse which does not necessarily apply in contexts such as casual conversation and she proposes a model where an initiation is followed by a choice of supporting or challenging moves.

Berry (1981) proposed perhaps the most radical retheorising of the model which starts from Sinclair and Coulthard's rejection of the multifunctional view of language in SFL. Berry proposes that for each utterance the model needs to account for the interpersonal, ideational, and textual metafunctions. The interpersonal is the key element and this draws on Labov's concept of A and B events with a primary knower (K1) and a secondary knower (K2). These translate into moves of which the information provided by K1 is the only obligatory move. This has been very successfully applied to the analysis of pragmatic exchanges (Ventola 1988) with the model being expanded to include action exchanges and follow-up moves.

The key insight of this model for the present study is the elegant analysis of the three part teacher question exchange or 'show question'. The initial question is analysed as a delayed K1 move (dk1), the student's response as K2, and the teacher's follow up as the K1, which means that the initial dk1 move predicts the third K1 move. This breaks the strict sequencing rule in Sinclair and Coulthard that moves can only be interpreted in terms of their predictability in relation to the immediately adjacent moves. Ventola (1988) and Martin (1992) have developed this model and have incorporated a degree of flexibility into the exchange structure by distinguishing between the sequential structure of synoptic moves which can be summarised as ((DK1) K2) K1 (K2f (K1f)) (Ventola 1988 p57), and dependent or 'dynamic' moves. Dynamic moves can come at any point in the exchange and are similar to the notion of side sequences and include clarifications, confirmations and repeats (tracking moves) but they also include challenges. The latter can be difficult to distinguish from some dispreferred responses in the sequential structure but it is a crucial category in describing the more argumentative nature of seminars compared

to say school classrooms. Challenges are also important in an understanding of the extent to which students can and do offer 'resistance' to the hegemonic practices that they encounter in seminars.

Eggins and Slade (1997) have developed a model which allows them to describe more open ended interactions that occur in casual conversation. Drawing on Burton's (1981) view of exchange structure as consisting of supporting or challenging moves emanating from an initiating move, they construct a complex system of speech acts which enter directly into an exchange structure consisting of five moves, opening, react, develop, prolong, append. The analysis neatly describes the way casual conversation is about seeking to prolong itself through support or confrontation as opposed to more pragmatic conversations which tend to seek closure. However, besides its orientation to symmetrical and open-ended interaction which makes it less suitable for the present study, there are a number of confusions in the model that raise questions about its validity.

The first is that the entry condition to the system network only works if the conversation has already started. It specifies a choice of moves between open and sustain (ibid p192) but clearly if the conversation has not started, then the choice of sustain does not exist. Martin (1992 p32) and Matthiessen (1995 p436) both posit multiple conditions of entry into a system of spoken interaction (turn, orientation, commodity). Secondly, there seems to be overlap within the system of acts, for example, there seems to be no way to distinguish between respond-confront-disengage (Eggins and Slade 1997 p202) and rejoinder-confront-challenge-detach (p209). Thirdly, although Eggins and Slade criticise Sinclair and Coulthard's model

for being unclear on the determination of the exchange boundary, their own criteria for the structural specification of the opening move for a new exchange are unclear and seem to rely on topic.

3.6 *Pedagogic discourse in Higher Education*

The emphasis so far has been on linguistic, theories of language and associated methodologies. I will now turn back to the context of the present study, higher education, and briefly consider the existing empirical work on pedagogic genres in higher education which have influenced and supported the descriptive and critical goals of the present study. As Evans and Abbott (1998) comment, there has been little empirical work on pedagogic genres in HE from any disciplinary perspective. There would seem to be none which has attempted to engage in the kind of critical discourse analysis that relates pedagogic texts to the macro analysis of the institutional change in which they are situated.

Much work on HE pedagogy (Ramsden 1992, Laurillard 1993) tends to a prescriptive focus on theories of the learning process and although it generally stresses the centrality of discourse in academic teaching and learning, it contains few references to and no empirical study of actual pedagogic texts. Evans and Abbott's (1998) study traces the attitudes and perceptions of students and lecturers towards seminars and lectures within the context of the massification of UK HE and then goes on to use the insights gained to suggest solutions to the problem of rising student numbers. Whilst this is an insightful study of perception and attitudes, it does not investigate actual pedagogic practice.

There is though, a body of empirical research into the discourse of pedagogic genres in HE. It has been concerned to provide linguistic data and insights for the teaching of English for Academic Purposes (EAP) for non-native speaker (NNS) graduate students and some oriented to native speaker (NS) undergraduate writing programmes in the United States. Although this body of work is not in a critical frame, it does share the concern of the present study for the detailed linguistic analysis of authentic texts within their context of use and it provides a number of insights into generic variation within the pedagogic order of discourse. The following section will present a brief review of some studies in this area that relate to pedagogic genres in HE.

Basturkmen's (1998) work on student initiations in MBA seminars is one of the few studies which describes the linguistic interaction in the often unseen world of university seminars. Her study is a detailed linguistic analysis of attested data (30,000 words) and builds on Lynch and Anderson's (1991) work in illustrating the inadequacy of EAP teaching materials for graduate seminars. Using Sinclair and Coulthard's (1975) model of discourse analysis, she focuses on student elicits and distinguishes content elicits from confirmation elicits, identifying the range of forms and signalling devices that these possess. Her work shows that student elicits are often complex, containing justifications and evidence for the move in contrast to the simplistic forms modelled in the EAP teaching books and illustrates the dangers inherent in relying on our intuitions and anecdotal evidence.

The research on lectures in EAP is more voluminous than that for seminars reflecting perhaps their centrality to the university pedagogic process (Flowerdew 1994 p7). Thompson S (1994) and Young's (1994) descriptions of the rhetorical structure of academic lectures illustrate the need for close linguistic analysis for understanding the function of pedagogic genres. Thompson's analysis of lecture introductions identifies two main rhetorical functions: 'set up lecture framework' and 'put text in context', each of which have further sub-functions such as 'outline structure' and 'show importance/relevance of topic'. Young's (1994) analysis supports Thompson's analysis in showing that the metadiscourse which Thompson describes in lecture introductions can occur throughout a lecture and that evaluation in particular is an important feature which tends to be prosodically distributed throughout lectures. This description of the role of evaluation echoes Goffman's point quoted by Thompson S (1994) that the caricature of lectures as 'information transfer' mechanisms is too simplistic. Benson's (1994) ethnographic study of lectures reinforces Goffman's point that lectures are not simply methods of information transfer, they are personal 'performances' where the lecturer can indicate subtle differences of emphasis and attitude towards the material, and by their presence be accountable for the knowledge they espouse.

Benson's (1994) ethnographic approach to lectures seeks to understand the 'learning culture' of which lectures are a part and in which students need to participate. He points out that lectures need to be situated in a wider pedagogic and institutional framework and to understand "the ways in which the cultural norms of the wider framework dominate the class." (ibid p196). He considers how the lecture fits into the 'vertical' organisational structure of the university (department, course, lecturer)

as well as how it relates ‘horizontally’ to the rest of the course. He also points to the need to understand the relationship between the different ‘learning channels’ and the way these are combined in the learning process. Benson (1994) highlights the need for a clearer understanding of the institutional context of academic genres. The article raises the importance of drawing out the relationships between pedagogic genres and the institutional structures and administrative discourses in which they are embedded and the relationship between the pedagogic genres themselves.

The research on textbooks tends to focus on disciplinary knowledge and often presents comparisons with how this is achieved in academic research articles (Conrad 1996, Hyland 1999). Myers’ (1992) comparison of textbooks and research articles broadens the horizons of what features of ‘context’ need to be included in the analysis of such genres and their institutional role. It draws on the sociology of scientific knowledge to show how the discourse of the two genres varies according to the audience and purpose of the texts and also how this relates to broader epistemological issues within the subject discipline in terms of the career of scientists as they progress from textbook to RA and in terms of the ‘life of a fact’ as it moves over time from claim in an RA to ‘fact’ in a textbook.

3.6.1 Summary

There are a number of limitations to this body of work from the perspective of the present study. Firstly, the studies tend to emphasise the professional and epistemological aspects of the subject disciplines, seeing universities primarily as research institutions rather than as pedagogic institutions. This may be a reflection

of the needs of graduate students where pedagogy may be fruitfully characterised as helping students enter a subject discipline or as neophytes starting out on a career. This may account for example, for the comparison of textbooks with research articles rather than with other explicitly pedagogic genres which make up the bulk of undergraduate academic programmes such as lectures and seminars. The comparison is made as research articles are seen as providing models of writing which students need to attain (Conrad 1996) or in order to illustrate the role of such texts in the progress of 'the life of a scientist' or the progress of 'the life of a fact' (Myers 1992).

It is however, doubtful whether this work would help to provide a valid pedagogic model for undergraduate students and whether the notion of 'neophyte' is one which resonates with undergraduates' experience of the university as a pedagogic institution given that most will never write a research article or need to use it as a model for student writing at undergraduate level. We need to pick up on Benson's (1994) point that academic genres should be considered in relation to the administrative structures and discourses in which they are embedded and in relation to other pedagogic genres. In short we need to consider the university as a pedagogic institution, its broader social role as a crucial site in cultural transmission and the central mediating role of pedagogic discourse in that process (Bernstein 1990). In discussing the role of textbooks, Myers (1992) hints at the shortcomings in the research in this area and points to areas where more research might be done when he states of the research on university textbooks,

“ ..readers who are familiar with work in the sociology of education might wonder why there is not more work done on the business of

university textbook publication. How are texts commissioned, revised, promoted, selected and used in classes?" (ibid p13).

This clearly echoes Fairclough's (1992a) call for the need to look at the discursive practices of production and to consider wider contextual issues at the institutional and societal levels. It is this broader perspective of context that the present study will work with and we now turn to the specific outline of the study in chapter 4.

Chapter 4 Methodology, data and research questions

The following chapter will relate the more theoretical discussion of the previous chapter to the present study. It will outline the methodological framework adopted, bringing together a number of the main points raised in the previous chapter and relate them to the practicalities of the present study. It will also specify the nature of the data used in the analysis and the research questions posed.

The present study focuses on the introduction of the Iolis CBL materials as an illustration of discursive change in the legal pedagogic order of discourse in the context of the massification of UK HE. The investigation of discursive change is not based on a diachronic study but a synchronic study of the pedagogic order of discourse (POD) with discursive change represented by the introduction of an emerging genre into the existing POD. Whilst clearly the existing genres within the POD are not static and may well be changing, they also represent a set of existing norms and conventions in HE pedagogy which is most clearly expressed by the material realisations of their practice in the systems, buildings, and rooms of the campus universities designed to house them: e.g. libraries, lecture theatres, seminar rooms. Computer based learning can be seen as an emerging genre in the HE POD which is as yet not constrained by such permanence of material practice or by long standing convention and accumulated expectation.

4.1 Methodological considerations

The study adopts a CDA perspective with the central methodological framework for the analysis being Fairclough's (1992a) three part model of text, discursive practice and social practice. The analysis of discursive practice will only examine the context of production and no attempt is made to look at the context of reception. This limitation of scope in the present study is partly predicated on the practical issues of availability and access that such a perspective would entail but also on perceived shortcomings in the discourse analysis literature on the context of reception and the interpretation of texts (Scollon 1998).

A number of reformulations of Fairclough's (1992a) model have been made to meet the criticisms that have been levelled at it and CDA in general, the main thrust of these reformulations are the basing of the discourse analysis around the concept of an immanent critique and the support of the analysis with elements of an ethnographic methodology. The adoption of these methodological perspectives in the present study has been an important influence on the formulation of the research questions. In turn they have also informed the perennial questions that face discourse analysts of what to analyse - the selection of a corpus of discourse samples and the choice of textual features to investigate. These will be discussed in more detail below after we have considered other methodological issues and defined key concepts.

The study adopts both quantitative and qualitative methods with the former allowing for descriptive comparisons between texts and the establishment of correlations while the latter facilitates the exploration of the causes and motives of the discursive

changes (Wodak 1996). The main emphasis though, is on the detailed analysis of texts supported by ethnographic data from interviews, the literature, and observation of the discourse community which is described in more detail below. The textual analysis will draw on a systemic functional (SF) model of discourse and lexicogrammar which facilitates the interpretation of the discursive practice in terms of the contextual configuration of the metafunctional elements. The main focus in terms of the metafunctions is on the interpersonal. Drawing on Fairclough (1992a), I am interested in the roles and relationships or more specifically in the potential roles and relationships that are constructed in the discourse of the different pedagogic genres. This relates to the two aspects of constructivism in the CBL literature: its call for a self-paced, student-centred pedagogic practice where the student is in control, and the call for interactivity. From a Bernsteinian (1990) perspective, this focus is part of a concern with the regulative discourse of the pedagogic discourse rather than the instructional discourse which is embedded in it.

The quantitative aspect to the research is to facilitate the comparison of texts and the interpretation of the variation within the POD. The comparison of texts and text types, or genres, within the pedagogic order of discourse is central to the methodology of the present study, as we will see in the composition of the corpus of discourse samples. The texts were digitised to facilitate the use of a concordancer but this use is to enable the close analysis of discourse features across a larger range of texts than would be feasible 'by hand' and the aim is not the large scale statistical analysis of corpora of the kind proposed by Biber (1988).

4.1.1 Orders of discourse

The pedagogic order of discourse is a key concept in the present study and it needs to be defined in more concrete terms. The order of discourse of a university can be usefully thought of in terms of three orders of discourse: the administrative, the research, and the pedagogic. The research and pedagogic orders of discourse are stratified into subject disciplines and although this is reflected in terms of differences in genres, epistemologies and pedagogies there is also a basic coherence among these elements which allows for their study both within and across disciplines. The overlap between the research and pedagogic orders of discourse reflects the fact that lecturers are, in Bernstein's (1990) terms, both the producers and reproducers of knowledge. This overlap is pronounced in the case of postgraduate students and is reflected in the focus of the EAP research reported earlier with the characterisation of students as neophytes in the given academic subject discipline. The administrative order of discourse clearly overlaps both the other two orders of discourse although it may be more useful to see it as embedding the other two.

In terms of genres, the POD is defined in this study as the pedagogic genres which are used on the undergraduate courses that constitute the context of the texts that have been sampled. These are: textbook, Iolis workbook, lecture, and seminar.

There are clearly a range of other texts in the POD but these have not been included.

The more casual or private texts have not been included, ranging from casual conversations at the end of class or in the coffee bar through to personal tutorials.

The reasons for this are mainly practical (availability, access) and ethical, and their exclusion does not imply a lack of pedagogic or institutional importance. Although

the journal article is commonly used in the POD and represents the overlap between the two orders of discourse, it has been excluded as its goals, aims and primary audience are in the research order of discourse. Furthermore, the reading lists for the courses from which the texts in the present study come did not contain references to journal articles. Legal studies also contains commercially produced pedagogic texts which can best be termed 'study notes', whose primary purpose is revising for exams. Whilst the well stocked shelves of bookshops show that this is an important genre for students, its production is not based in the university POD and more importantly such texts are not on the reading list used in this study. Primary legal texts (cases, statutes, etc.) are not included as they are texts from the legal order of discourse which are recontextualised within a pedagogic text.

In terms of the discourses which are drawn on in the POD, I take these to be the pedagogic and disciplinary epistemologies. The latter is clearly drawn from the research order of discourse and is part of the overlap between the two orders of discourse but it is recontextualised to relate to different groups of student. It is also necessary to consider whether texts are drawing on discourses from other orders of discourse as well as broader trends in the societal order of discourse such as the commodification or democratisation of discourse (Fairclough 1992a).

4.2 The selection of discourse samples

As Fairclough (1992a) points out, the construction of a corpus of discourse samples is dependent on a number of factors, the first of which is the practical one of availability and access. The other is "a matter of having a mental model of the order

of discourse of the institution or domain one is researching, and the processes of change it is undergoing, as a preliminary to deciding upon where to collect a corpus.” (ibid p227). Fairclough goes on to argue that the discourse analyst should consult relevant members of the discourse community to aid decisions on what samples are typical or representative in terms of the social practice in question.

The initial investigation of the TLTP projects focused on the three that were readily available on the Warwick university computer network which were the law materials (Iolis), the economics materials (WinEcon), and the history materials.

Materials from the three TLTP projects available on site were collected and examined and some ethnographic work was done to facilitate the construction of a ‘mental model of the order of discourse’ and an understanding of the workings of the discourse community.

Three elements were focused on to facilitate the selection of a corpus of discourse samples. Interviews were arranged with those most closely involved with the project, which included full time consortium staff, authors of the TLTP materials and members of staff actively involved in the dissemination and use of the materials.

Secondly, an investigation was made of the literature based around CBL in general and the TLTP in particular. The latter came from a range of sources such as established journals associated with educational technology in the UK, such as British Journal of Educational Technology and Computers in Education; those which grew out of the research generated by UK government funded projects such as the TLTP and the CTI - these included the journal of the Association of Learning Technologies and the CTI Active Learning journal; subject specific journals

associated with the use of computers such as the Journal of Information, Law and Technology which is connected with the CTI law centre at Warwick university.

Articles by those involved in the production of the materials were particularly useful and where possible would form the basis of interviews. Thirdly, I attended a number of conferences and workshops connected with the TLTP and the use of CBL in UK HE and was a member of the local 'electronic user group' at Warwick university. As well as providing information to back up the other sources, this also enabled more informal and casual contact with people involved in the production and dissemination of CAL in UK HE.

After this initial research, it was decided to focus on one subject area to enable a deeper understanding of the pedagogic order of discourse and the epistemology of the subject discipline. Law was chosen for two main reasons: Iolis had been the subject of my previous MA dissertation and this had produced a degree of familiarity with the data and the subject area; secondly, the Iolis materials are produced at Warwick and this facilitated the ethnographic aspect of the study. From the eleven subject modules within Iolis, the contract law module came to be the focus of the study. This was due to the coming together of the practical aspects of availability and access and the results of the ethnographic research. Firstly, a number of the workbooks within the module were identified from the interviews as being seen as examples of good practice by the technical director of Iolis. Secondly, the three published journal articles that had been written by Iolis authors outlining their rationales for and experiences of writing the materials were all written by authors from the contract law module. Two of these authors were authors of the workbooks which had been identified as examples of good practice. Thirdly, one of

these authors, Professor Collins of LSE, agreed to be interviewed and to have his seminar recorded. The second of these authors, Colin Scott of LSE, was not available at the time but Professor Beale, the head of department at Warwick, agreed to the recording of the lectures and seminars on his course which was on the same topic as Colin Scott's workbook. The relevant Iolis workbook was on the reading list and used by students on the course. Professor Beale is also the Iolis 'subject expert' on the contract law module and he agreed to be interviewed for the study.

The main criteria for the selection of the discourse samples was that they should be a coherent set of materials, used on one specific undergraduate course in one university department, representing a slice across the genres of the pedagogic order of discourse on that particular course. It was also important that there should be ethnographic data such as interviews to support the data.

The final corpus of sample texts consists of two 'sets' of texts from two undergraduate courses, comprising a total of 130,000 words (see appendix 2a for details). The first is composed of the work of one author, Professor Collins of the London School of Economics, and consists of two chapters from his textbook on contract law, two Iolis workbooks on the same topics as the two textbook chapters, and a two hour seminar on this area. The textbook is a well respected textbook on contract law and is published under the Law in Context series (edited at Warwick University) which focuses on the socio-political-economic aspects of the law. This is an alternative approach to the traditional 'black letter' perspective which focuses on learning legal rules, principles, and cases (etc.) and their practical application. The seminar was a two hour session with the first hour being mainly a monologue

by the lecturer though with substantial interaction towards the end of this section, followed by a one hour 'problem question' session based around ten questions on a handout which the students had prepared (see appendix 2b for handout).

The second set is made up of the work of several authors but was based around a second year undergraduate course in contract law run by Professor Beale at Warwick University. Professor Beale is 'subject expert' for the contract law module in Iolis and head of department of Warwick law school. It consists of: one Iolis workbook on exemption clauses and the Unfair Contract Terms Act (UCTA), by Colin Scott of the LSE; two chapters from two textbooks on the recommended reading list on the same topic; a two hour lecture by Professor Beale on the same topic but focusing on UCTA; and two seminars (two hours and one hour) on UCTA with two separate groups of students, led by Chris Willets of Warwick University. The seminars were based on a handout of the relevant sections of the act and a number of questions which students had been asked to prepare for the seminar (see appendix 2c). The seminars followed on from the lecture and students had been asked to do the relevant Iolis workbook beforehand.

It should be noted that the two law schools from which the authors come, LSE and Warwick University, are well respected academic oriented departments which place an emphasis on questions of policy involving the socio-economic aspects of the study of law. This is in contrast to 'black letter' approach to the study of law which stresses the learning of legal rules, principles, statutes and cases and their practical application.

The lectures and seminars were recorded on a tape recorder that was given to the lecturer before the start of the session and was controlled by them. Video recordings were tried but whilst it was very useful to have visual information, especially for the seminars, the small seminar rooms meant that the video needed to be controlled throughout the session and this was deemed intrusive in the context of a seminar by both the lecturer and myself. Sound quality was also poor with the video equipment available and the trial recording proved to be unsuccessful on this count. The tape recordings were transcribed: set one by myself and set two by the CANCODE project. The printed texts were scanned and the Iolis materials were copied from the program into a word processor. All texts were stored in digital form on the computer.

There is the question for a study based on two sets of data of generalisability. It could be seen as problematic in that there is likely to be greater variation than is to be found in two sets of data. On the other hand, in terms of the legal POD in UK HE, whilst it is clear from the seminar data for example that there is variation, there is nothing to suggest that the samples are unusual. The data comes from courses at credible institutions - the Iolis texts were chosen based on advice of what was seen as good practice in terms of such CBL legal texts, the lectures and seminars were given by experienced staff, and the textbooks are the standard texts on these courses throughout the UK.

However, arguments over typicality and range are not altogether relevant in the present study. The two tight sets of texts which make up the present corpus allow for a concentration on the situated nature of the discourse and the supporting data

allows a clearer understanding of the processes involved in their production. The analysis of the texts has been related to the influences, rationales and claims that lie behind the Iolis materials and the constraints and opportunities that are inherent in such courseware. From the two cases studied here we can illuminate much more clearly the processes which lie behind the texts and whilst a greater number of cases would add more insights, and in some eyes validity, as Myers (1990) points out, it is unclear how many would be 'enough'.

4.3 The broad goals of the study

As Fairclough (1992a) points out research projects in discourse analysis are “..most sensibly defined in terms of questions about particular forms of social practice, and their relations to social structure in terms of particular aspects of social or cultural change.” (ibid p226).

In terms of social practice, this thesis seeks to investigate and critique the motives and causes that lie behind the introduction of the Iolis materials and the relation of change in pedagogic practice within the pedagogic order of discourse to institutional changes within UK HE and to wider changes in society. The level of interpretation of social practice that allows for such 'explanations' to be proposed needs to rest on more specific questions at the level of discursive practice and textual analysis.

One of the important methodological constraints on the nature of the questions that can be asked in the present thesis is the one of immanent critique. It is the rationales and claims made for CAL in general and for the TLTP and Iolis in particular that

have guided the formation of the research questions for the investigation of discursive practice and the textual analysis. As we have seen in the previous chapter the literature around CAL generates strong and consistent pedagogic claims and this is equally the case for the TLTP materials and Iolis. These claims are emphasised by the rhetorical contrast that is commonly made between traditional pedagogy in HE which is seen as being based around a model of 'knowledge as transmission' and a more constructivist pedagogy based around an 'autonomous' learner which CAL/CBL is seen as facilitating (Bostock 1998). Chapter two also identifies a tension in the TLTP between the stated pedagogic rationales and claims of those involved in the production of the materials and the more institutional or administrative rationales of the funding bodies. The broad questions for the analysis of discursive practice are: 1) to what extent have the pedagogic rationales and claims been realised in the TLTP materials for law, and 2) what other influences and pressures within the context of production have shaped the Iolis materials.

Underpinning the critical perspective, the thesis is also a study of generic variation. Different genres 'do' different things and this is equally true in the pedagogic order of discourse. The underlying question that needs to be kept in mind concerns the nature of the variation in terms of the pedagogic function that the different genres seem to fulfil within the POD. What pedagogic and epistemological values or what aspects of them are realised through the different genres? At a more fundamental level we must also not lose sight of basic questions of the relationship between the text and the context of situation with particular reference to mode and tenor. Mode is clearly important as the range of genres covers spoken and written texts and the CBL materials represent a new channel. The interpersonal relates to the concern

with the potential pedagogic roles and relationships that are constructed through the pedagogic discourse.

4.3.1 The analysis of the texts: rationales and research questions

Working from the concept of an immanent critique (section 3.2.1), it was decided to take two perspectives on the rationales and claims made for the introduction of CBL, and specifically for the TLTP and the Iolis materials, into the POD of UK HE. The first is a broad approach to the pedagogic rationales and it draws on Laurillard's (1993) broadly constructivist model of academic teaching and learning and specifically on her emphasis on the mediated or second order nature of learning in HE. This lays out a clear set of criteria for the direction that pedagogic change in UK HE *should* take and it is an influential account of the broadly constructivist position which most educational theorists and proponents of CBL adopt vis a vis HE pedagogy in the UK (Ramsden 1992, Entwistle 1994, Tait 1997). The focus on the pedagogic ideal provides a basis for a comparison across the range of genres. The second approach is a narrower one which draws on the rationales and claims for a constructivist pedagogy in CBL made by authors and producers of the Iolis materials and focuses on the specific claims made about the kind of interaction that courseware such as Iolis can facilitate and its perceived pedagogic advantages.

The first approach, presented in chapter five, takes as its starting point Laurillard's (1993) argument that academic learning is mediated or second order learning and that whilst first order or experiential learning is a necessary part of an academic pedagogy it is not sufficient (see chapter two). The study relates this to an analysis

of the attribution of projecting clauses (Halliday 1994) based on studies by Hunston (1993) and Stubbs (1996). Stubbs provides a method for the examination of projection via a concordancer, facilitating the comparison of all the texts in the corpus of discourse samples.

If we accept the claim that the important aspect of academic learning is mediated learning, or learning about other people's views of the world, then we can ask *whose* view of the world is being put forward. The question here is basically one of interpretative evaluation and what value is given in the different pedagogic genres to the different 'voices' as they are recontextualised within the POD. The analysis in chapter five draws on two studies (Hunston 1993, Stubbs 1996) which investigate the use of projecting clauses and the way this resource provides an evaluative frame for the projected proposition. One of the key elements of projection is as Hunston (1993) states "... uniquely among expressions of judgement concerning degree of certainty, they also assert the source of a judgement." (ibid p101). The study of the attribution of projection should enable us to see the way the subject discourse is recontextualised in the POD and the way projected propositions are attributed by the author or speaker - whether to other academics within the discipline, to the lecturer/author themselves or presented as unattributed facts.

Hunston (1993) illustrates how the use of attribution in projection realises different ideologies and value systems across different registers. The present study will look to see if the use of attribution in projection can be said to reflect differing ideologies and pedagogic values in the different pedagogic genres. Or to phrase it in terms of intertextuality, the study of projecting clauses should allow us to see if there is

variation in the way the different genres (and perhaps texts) draw upon pedagogic and disciplinary epistemologies or elements from other orders of discourse.

The second study, presented in chapter six, draws on the specific claims for the Iolis materials made by those connected with its production (see section 2.6.1). It focuses on the claims made for interactivity in Iolis and the comparisons that are made between the interactivity in the Iolis tutorial and that in seminars. The claims for interactivity in Iolis are central to the claims for a change in the POD towards a constructivist pedagogy via the means of CBL. The aim is to provide a comprehensive linguistic description of the interaction in the two genres in the discourse sample which will provide a basis for a comparative assessment of the potential of the two genres to support a constructivist pedagogy. As Laurillard's (1993) analysis of teaching and learning in HE shows, notions of interaction and negotiation lie at the heart of any rationale for pedagogic change in HE. This analysis is a more specific immanent critique of the rationales and claims for the Iolis materials and allows us to pose more specific research questions:

From the analysis of the interaction, what conclusions can be drawn about the potential of courseware such as Iolis to realise the kind of pedagogic change in PODs in HE that proponents of CBL claim can be achieved?

Does Iolis draw on any elements of the interaction in the seminars as some of the authors claim?

What pedagogic identities and relationships are being constructed through the interaction in the two genres?

Chapter seven will move on to a discussion of the textual analysis of the two previous chapters and will reflect on the rationales and claims made for the introduction of the TLTP materials in the light of this. It will seek to move beyond the analysis of the institutional discursive practice in which the texts are produced and are situated and explore the motives and causes of the introduction and dissemination of the Iolis materials and the TLTP into the UK HE pedagogic order of discourse. In short, it will seek critical explanations of the discursive changes that the CBL materials would seem to represent in terms of broader institutional and societal changes.

Chapter 5 An analysis of projection

This chapter presents a comparative analysis of the way in which projection (Halliday 1994) is used in the different genres in the corpus. It will identify and classify the source to which the proposition in the projected clause is accredited, using a system network adapted from studies by Stubbs (1996) and Hunston (1993).

These two studies focus on projecting clauses as expressions of modality and use Halliday's definition of interpersonal metaphors of modality as their starting point (Hunston 1993 p100, Stubbs 1996 p146). As Hunston explains, the choice of projecting clauses is motivated by the fact that “..uniquely among expressions of judgement concerning degree of certainty, they also assert the source of a judgement.” (Hunston *ibid* p101). This allows an analysis of the way in which the proposition in the projected clause is ‘packaged’ and in turn the choice of ‘packaging’ can be systematically related to the purpose of the texts and the social context of their production and use.

Hunston (1993) looks at the use of projecting clauses in academic texts and a political radio discussion program and shows how their differing use in these genres expresses differing value systems. Stubbs (1996) examines the use of projecting clauses in two secondary school teaching texts - one a Geography textbook the other a Workbook written by environmentalists - and analyses how the differing encoding of the source of propositions reflects the books' differing political stances with the Geography textbook hiding agency and responsibility for environmental problems whilst the Environmental workbook assigns responsibility for them. According to

Stubbs this shows that “The political stance is expressed in the syntax used.” (ibid p151).

Stubbs’ study is of interest here as it makes a clear connection between the use of a particular structure, projection clauses, and the social construction of knowledge in education. Though perhaps overstating the case, Stubbs makes a link between projecting clauses, their use in educational discourse and the creation of paradigms. This focus on the social construction of knowledge in the school textbook leads Stubbs to a clear set of research questions based around the notion of the creation, maintenance and possible transformation of paradigms:

“Textbooks are repositories of what we believe to be accredited facts. Are they encoded as a reliable and objective source of knowledge, obvious to common-sense and independent of the persons who discovered or formulated them? Or are they presented as hypotheses for which some named source is responsible, and which are open to interpretation?”
(Stubbs 1996 p147)

This definition of textbooks relates particularly to secondary school textbooks and not specifically to university textbooks or the other pedagogic genres that make up the present corpus. There is a need to briefly reconsider the nature of academic knowledge, pedagogy and learning at university level.

As we saw in chapter 2, Laurillard (1993), drawing on the work of Vygotsky, argues that in HE experiential or ‘first order’ is necessary but not enough and that the main pedagogic goal is academic, ‘second order’ or ‘mediated’ learning. Therefore, students need “...to acquire knowledge of someone else’s way of experiencing the world.” (Laurillard 1993 p29). In discussing the nature of academic knowledge and the associated pedagogy as part of a critique of the use of technology in higher

education, she expands this view and draws in the role of discourse in creating the ‘environment’ where such learning can happen:

“Academic knowledge is not like other kinds of everyday knowledge. Teaching is essentially a rhetorical activity, seeking to persuade students to change the way they experience the world. It has to create the environment that will enable students to learn the descriptions of the world devised by others.” (ibid p28)

This description of the nature of knowledge and pedagogy in higher education would indicate that projection is likely to be an important resource in pedagogic genres in HE. This would seem to imply that Stubbs’ definition of the role of textbooks as ‘repositories of we believe to be accredited facts’ needs to be expanded to include a focus on the role of persuasion.

The purpose of this chapter is to examine the sources of the projecting clauses to see if it possible to discern *whose* ‘way of experiencing the world’ is being put forward in these pedagogic texts and how such structures create meanings which may come to ‘*persuade* students to change the way they experience the world’ (ibid, italics added).

5.1 Definition of Projecting clauses

This study is based on Halliday’s definition of projection (1994). Projection is seen as one of two basic logico-semantic relations that hold between clauses, the other being Expansion. Whereas in Expansion further meaning is added to the clause, in Projection one clause is projected through another either as a *locution* or as an *idea*. The key point is that projections are “.... not a direct representation of (non-linguistic) experience but ... a representation of a (linguistic) representation.”

(Halliday 1994 p250). The following table shows how the logico-semantic relations of Expansion and Projection interact with the system of interdependency or ‘taxis’.

Table 5.1 Expansion, Projection and Taxis

	Hypotactic	Paratactic
Expansion	John ran away because he was scared	John ran away and Fred didn't
Projection	John said he was running away	John said 'I'm running away'

Projections are a metaphenomenon - where language is talking about language.

Projection not only includes the traditional categories of reported speech (Reports) but also Ideas (mental process); *Dr. Singleman believed his patient would recover*, and their embedded clauses at the rank of the Nominal Group; *Dr. Singleman's belief that his patient would recover*.

Eggs (1994) in her definition of these two basic categories of projections (there is a third) stresses two points: Firstly, projections consist of separate clauses and are not part of the constituency structure. Secondly, focusing on the semantic aspect she states that ‘most mental processes (except those of perception) can project.’ (Eggs p246). However, this is not always as straightforward as it seems; the verb *saw* would seem at first sight to fall into the category of perception but the following example is used by Halliday to illustrate projection:

Jane saw that the stars had come out. (Halliday 1994 p115)

Halliday includes it here as it also carries the meaning of ‘realise’ and it is this semantic aspect of the interpretation that needs to be carefully considered.

Halliday (ibid) also includes a third group which he calls ‘Facts’. These are not ‘projected’ by a Sayer or Senser, they are impersonal projections which “... come as if they were ready packaged in projected form” (Halliday ibid p264). The following is an example from the present corpus:

It is also clear that punitive damages might be used to counter c1t1

The basic proposition (‘punitive damages might ...’) has been embedded within another clause as a projection and is treated as a ‘fact’ in that it is presented as ‘a meaning already existing in the world’ and so it can be interpreted and commented on. The projection is not in itself a phenomenon but represents the *idea* of a phenomena which operates as a constituent in the clause which in turn allows it to be talked about or commented on. One test for this group of projections is to substitute the noun *fact* (or *is the case*), so we get *The fact that punitive damages ... is clear* (Halliday 1994).

Besides what are traditionally called extraposed clauses, Halliday (ibid p266) identifies four groups of ‘fact’ nouns which project facts: cases, chances, proofs, and needs.

They might do this in relational clauses:

The rule of the common law is, that where a party sustains a loss by c1t1

Existential clauses:

There is no requirement that the plaintiff should prove the amount of c1t2

Or as postmodifier to a noun of the ‘fact’ class (*rule* is in the ‘cases’ class):

This practice is hard to square with the rule that damages must be. c1t1

There are though problems with the category of ‘fact’ projecting clauses. Thompson G (1994) points out that without a Senser or a Sayer there seems to be no semantic definition and we are left with a definition based on form. Thompson asks “.. if projection is a logico-semantic relation, can it exist without two members?” (ibid p4). This seems to leave the definition open to include a large range of meanings in this group which have little relation to ‘reports’ or ‘ideas’ such as the following example from the present corpus:

What happened was that we went to court

Finally, Halliday (1994) identifies a group of projections drawn from the above categories but which function as interpersonal metaphor. In the following example the modal element is not expressed within the clause but as a separate ‘metaphor of modality’: *I think it’s going to rain*. The test for showing that these projecting clauses are part of the interpersonal metafunction is to show that tag question would be *isn’t it*, not *don’t I* and thus that the proposition in the above example is not *I think*, but *it’s going to rain*. The congruent realisation of modality in this case would be *It might be/ It’s probably going to rain*. (ibid p354)

A distinction is made between these ‘subjective’ projections where the source of the projection is stated (*I think that ...*) , and ‘objective’ projections, realised by ‘fact’ clauses; *It’s likely that it’ll rain*. Halliday points out, though, that this area of interpersonal metaphor is very hard to delimit (ibid p355).

5.1.1 Working definitions and their application

Both the studies (Hunston 1993, Stubbs 1996) focus on projecting clauses as expressions of modality and use Halliday's definition of interpersonal metaphor as the starting point of their working definitions on which the subsequent categorisations are made (Hunston p100, Stubbs p 146). Hunston (1993) whilst starting off with the concept of interpersonal metaphor, also incorporates other types of projection as well as prepositional phrases such as *according to*. Stubbs (1996) also emphasises interpersonal metaphors in his definition of projecting clauses (p146) but seems to indicate through his examples that all projecting clauses are analysed in his study. In both studies though, the focus on interpersonal metaphor as the starting point of their working definitions means that in practice there is no discussion of the difficulty of distinguishing, for example, 'fact' projecting clauses.

The view taken in this study is that an analysis of all projecting clauses, sub-categorised in terms of their attribution, would be fruitful in showing how one key grammatical resource has been used for weaving the intertextual threads of the myriad 'voices', both the authors and others, into the texts. No apriori distinction is made between different types of projection; all projections package propositions and encode a stance towards that proposition.

5.2 Method

With a corpus of 130,000 words it was not possible to identify the projecting clauses manually and so the study utilised the sampling technique developed by Stubbs (1996) where projecting clauses were identified via a concordance of the word *that*. This clearly does not identify all projecting clauses but according to Stubbs (1996),

a back check of the verbs used in the projecting clauses in those texts showed that it identified the vast majority. A similar checking exercise with this corpus, which we will come back to, partially supports Stubbs' conclusions.

There are two main areas which need to be considered in such a check: firstly, there are other markers of structural dependency which signal projection ('wh', if, to) and secondly, there may be no marker of projection either because of ellipsis of the structural marker or in the use of direct speech which is marked in writing by punctuation or in speech by a separate tone group.

Thompson G (1994), in looking at the problem of identifying the class of projecting clauses called 'Facts', points out that the differing types of projected clauses seem to carry different meanings.

Table 5.2 - Types of fact projections (Thompson G 1994)

that - 'fact'	<i>The PM is adamant that he will ... That's strange that he should have ..</i>
'WH' - 'incomplete facts'	<i>I asked him how long he</i>
if/whether - 'undecided facts'	<i>I wondered whether the question is whether ...</i>
'to' - 'potential facts'	<i>Doctors have told him to slim down.... It was not possible to avoid...</i>

Thompson sees 'that' clauses as being presented as the most 'complete' propositions - we are not concerned here with truth but the status of the proposition in the text.

The other clause types present the proposition as being less than 'complete' and as we move down the list we also move from propositions to proposals (note - 'to')

clauses do not come under projection in Halliday's (1994) analysis). If an assumption is made that pedagogic discourse is more centrally concerned with 'giving information' rather than with 'goods and services', it does seem more pertinent to look at projected propositions than projected proposals.

In order to check the reliability of the sampling method using 'that', back checks were carried out on a number of lemmas via a concordance program. In table 5.3 the first column shows the total number of projecting clauses for the lemmas that were investigated, and the other two columns show the number of projections 'missed' through a concordance of 'that'. The second column shows the elided 'that' clauses and direct speech constructions that were missed and the third column shows other missed projections such as *Wh*, *if* and *whether* projections.

Table 5.3 - Results for back checks

lemmas	total projecting clauses	'Missed' Projections	
		(ellided 'that', direct speech)	(WH/if/whether)
argue	27	2	
know	74	5	7
suggest	46	5	
assume	25	1	
believe	11	-	
see	52	-	10
feel	4	2	
say	307	202	
think	<u>211</u>	<u>86</u>	
	757	303	<u>17</u>

Table 5.3 would seem to support Stubbs' (1996) assertion that the sampling technique catches most instances, except for the two verbs *say* and *think* which show a marked variation from this trend. It is interesting to note that *say* is the 'semantic

gloss' (Halliday 1994) for Reports and *think* for Ideas, which are the two main categories of projection, and this may have a connection with both their relatively high frequency and the common use of structural ellipsis in speech. The eliding of *that*, the structural marker of dependence in 'full' projecting clauses, is common in projections of interpersonal metaphor (Matthiessen 1991). Table 5.4 presents the figures for these two verbs broken down into different modes.

Table 5.4 - 'missed' projections for *say* and *think* (elided *that* and direct speech)

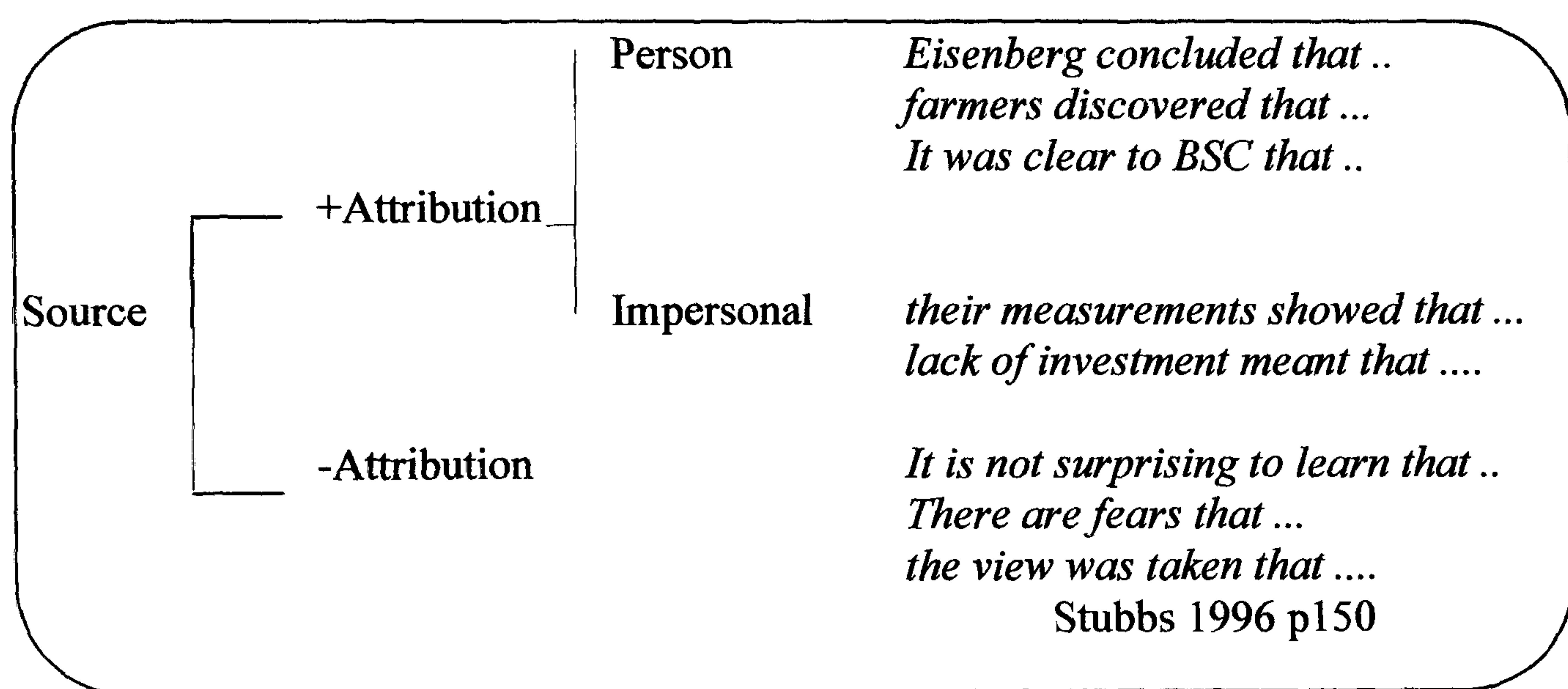
	written	spoken
say	12	190
think	14	72

The figures for *say* and *think* in table 5.4 have been included in the final totals due to their high frequency and their clear importance in the texts. The other 'missed' projections from column 2 in table 5.3 are not included for two reasons. Firstly, there is no practical way to systematically check every verb in the corpus for elided *that* projections and similarly for the *Wh*, *if* and *whether* projections (table 5.3, column three). This reasoning is supported by the argument already outlined that fact clauses of this type can be differentiated in their semantic meaning from 'that' fact clauses (see table 5.2 above, Thompson G 1994) with the former having arguably less relevance in the context of educational texts. Secondly, the exclusion of these other 'missed' projections can be justified on practical grounds by the limited numbers involved and their spread across the texts.

5.3 Source of Projections - Designing a system network

Once the projecting clauses are identified, their source needs to be coded. Stubbs' (1996) analysis is designed to see whether the proposition in a projecting clause is accredited to an agent (+ attribution) or whether it is encoded as an 'objective' fact independent of the source of that knowledge (- attribution). Figure 5.1 below shows Stubbs' original system network:

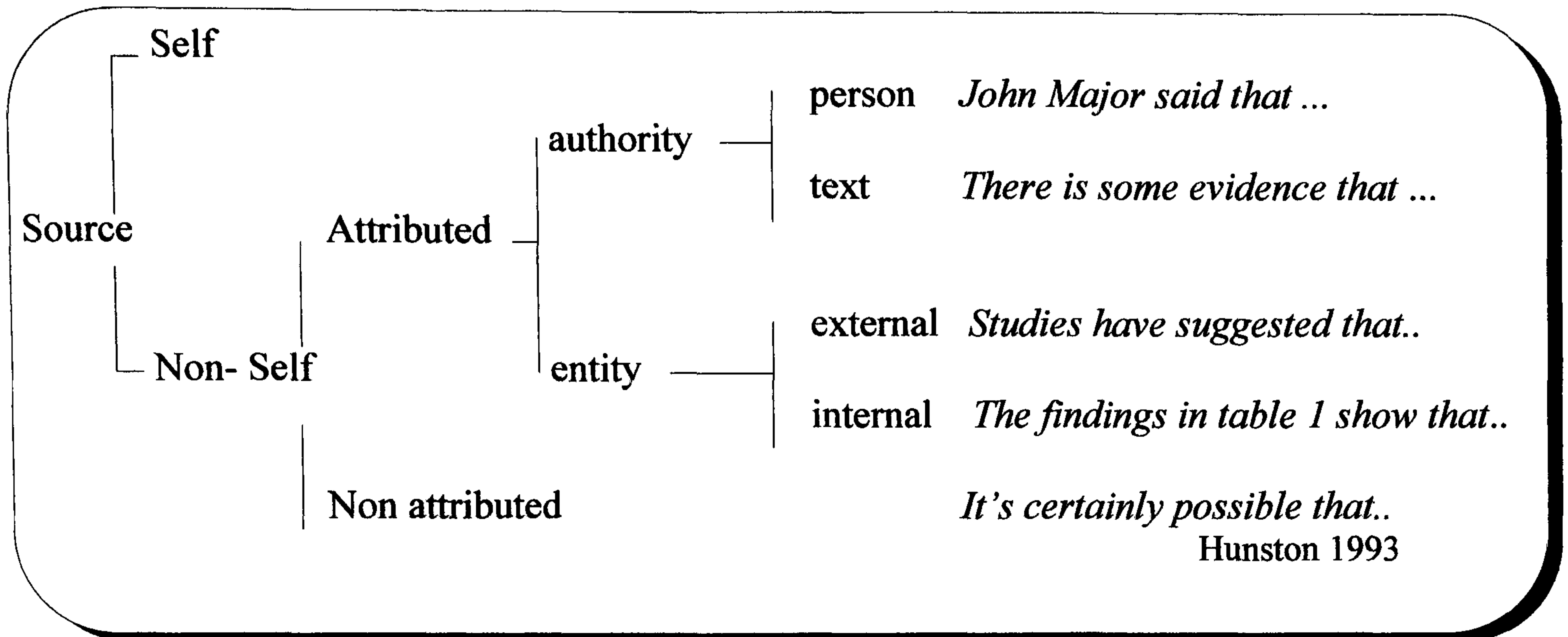
Figure 5.1 Stubbs' (1996) coding of attribution



Whilst the coding network is clear and has validity in terms of its intended analytical goals it was felt that the categorisation was perhaps too simple. This is most apparent in +Attribution/ Person where there is no distinction between third person reference (*farmers discovered that ...*) and the possibility of first person reference (*I have argued that..*), perhaps reflecting the lack of such data in Stubbs' corpus of school textbooks.

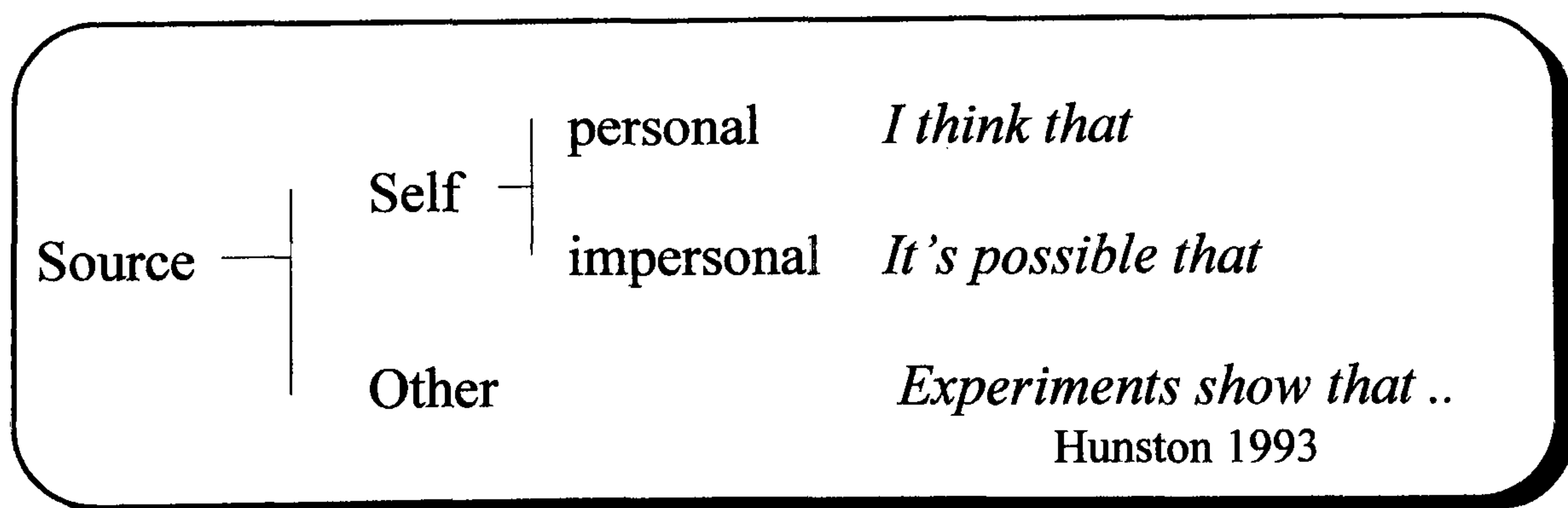
Hunston's (1993) study draws a distinction in the system between Self and Non-self:

Figure 5.2: Hunston's (1993) attribution of projection



This allows the system to distinguish the authorial voice more clearly, an important consideration in genres such as political chat shows that Hunston analyses and as we shall see in some academic genres. However, this coding seems to put too much emphasis on Non-self and the system appears lopsided - particularly in terms of Non-self /attributed. Later in her article Hunston (1993) proposes another possible coding to deal with this. The basic distinction is Self and Other, with the former being divided into personal and impersonal, mirroring Halliday's (1994) distinction between 'implicit' and 'explicit' interpersonal metaphor:

Figure 5.3 – Hunston's (1993) alternative attribution of projection



However, the distinction between Self and Other is unsatisfactory for this study as it does not distinguish between the following examples from the present corpus which would all go into the Other category:

In this vein, Rea argues that a party to a contract will....

It is also traditionally said that a court will order specific ...

The contract states that

Moving back to the codings in Figure 5.2 we find that the coding distinctions are self explanatory until we get to ‘authority’ and ‘entity’, from here on the coding is rather opaque. These are defined through synonyms, with ‘authority’ glossed as ‘people’ and ‘entity’ as ‘events and states’ (Hunston 1993 p 102). The sub-categorisations of ‘authority’ into ‘people’ and ‘texts’ are illustrated respectively by, ‘*John Major said that ...*’ and ‘*There is some evidence that ...*’, but no further definition is given. ‘Entity’ is sub-categorised into ‘external’ and ‘internal’ and are illustrated respectively by ‘*Studies have suggested that..*’ and ‘*The findings in table I show that..*’. These illustrative examples give some indication of the meaning of the categories but on closer analysis the categories of ‘authority/text’ and ‘entity/external’ seem to be difficult to distinguish as can be seen in the following quote some four pages later:

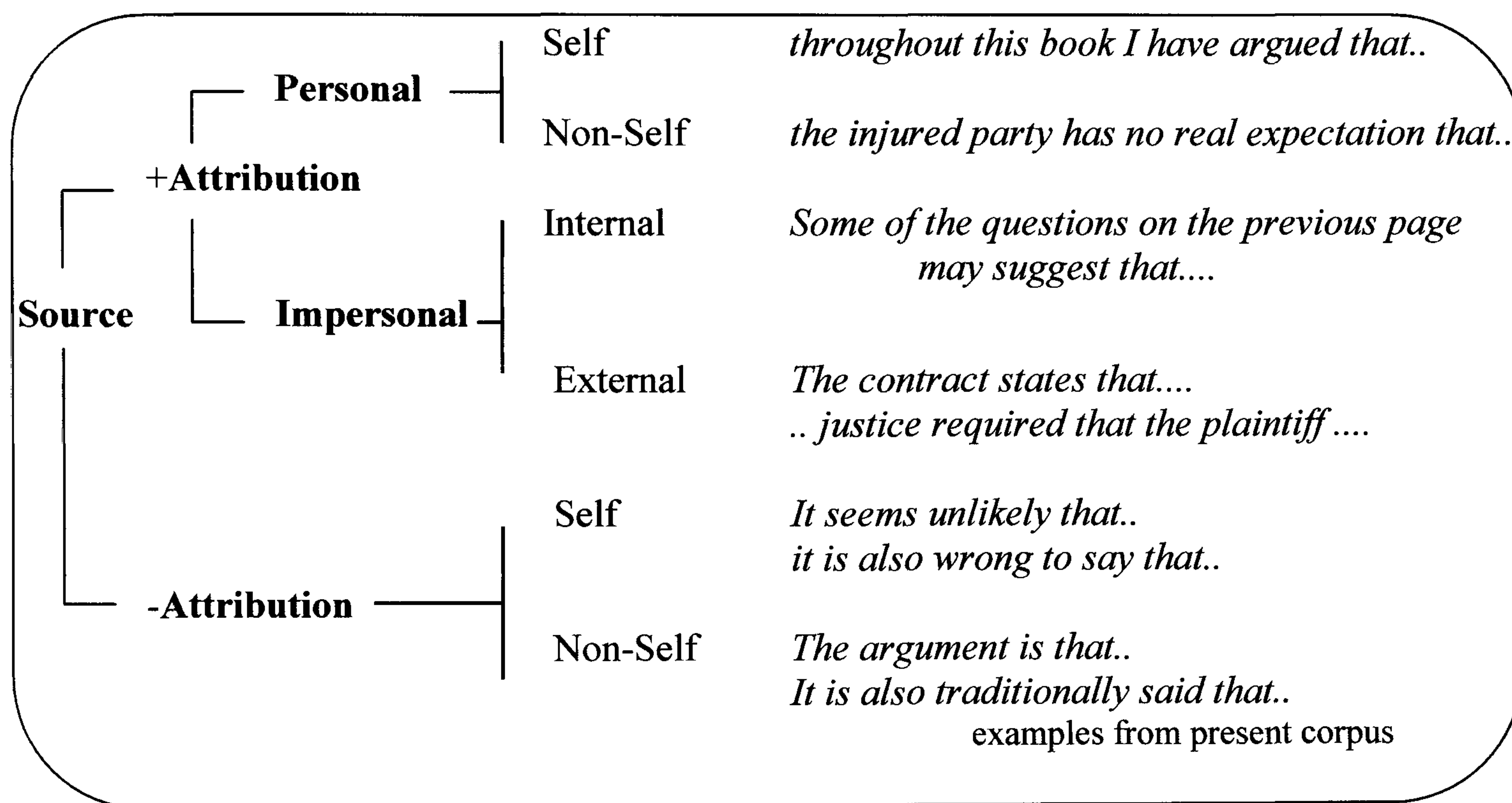
“People are also cited non-specifically through references to unspecified texts within the field, such as *Studies*, or the interpretation of such texts, such as *evidence*.” (p106)

Here we find *evidence* and *Studies* both categorised as non-specific references to people, which would put them both into the category ‘authority/text’. However, *Evidence* is used in the original coding definitions to exemplify ‘authority/text’ and *Studies* to exemplify ‘entity/external’. This distinction seems unclear and it was decided not to use either of these coding systems as they stood but to attempt to

marry the insights of Hunston’s work, especially in the area of the implicit/explicit coding of voices, with Stubbs’ robust network which is set up to analyse an educational genre.

The following system network (Figure 5.4) was developed from Stubbs (1996) with the finest levels of delicacy adapted from Hunston (1993).

Figure 5.4 - Final system network coding for source of attribution



5.3.1 Explanation of coding categories

The category of +Att/Personal and its division into Self and Non-Self is taken as self explanatory. In the latter category, attributions to Judges, Courts, and Others are recorded separately in the final results (appendix 3a and 3b) to allow for more detailed comparisons. The category of +Att/ Impersonal refers to inanimate entities and abstractions that have been animated and become actors in the process. The internal/external sub-categorisation is aimed at catching the distinction between sources of projection that were internal to the text itself, such as ‘*the questions on the previous page suggest that ..*’, and those that are brought in from outside the text.

In the examples in Figure 5.4 above '*the contract states that..*' is classed as external as the source of the projection is attributed to another text and '*justice required that ..*' is an example of an external abstraction as source of the projection.

The category of unattributed projections (-Att) is divided into Self and Non-Self.

The category of -Att/ Self draws on Halliday's (1994 p355) category of objective interpersonal metaphor, where the author is the source of the projection though it is not explicitly stated: *It seems unlikely that the supplier of the hopper impliedly.*

Such extraposed clauses can contain authorial attribution: *It seems unlikely to me that* which would then put it in +Att/ Personal/ Self. This section also includes other projections which seem to be clearly encoding the authors judgement in the projecting clause using Halliday's (ibid) gloss for interpersonal metaphor of *I believe: it is also wrong to say that damages for breach of contract are*

The following are examples of the structures that have been categorised as -Att/ Non-Self:

It is also traditionally said that a court will order specific performance
The argument is that excessive compensation, just like excessive price,
Although the test is normally stated that, to be valid the agreed compensate

Whilst clearly they are 'attributed' in some sense, if the source is not directly recoverable from the text and we do not know for sure who the propositions are *said, argued, and stated* by, then they have been classified as unattributed. The third example illustrates a possible overlap in the definition between this category and +Att/impersonal/external. If the example had read '*the test states that..*' then the source of the projection would be attributed to the test (+Att/-P/external), but the use

of the passive and the modal of usuality (Halliday 1994 p357) signalled by ‘*normally*’ suggests that the stating is done by a human agent which has not been explicitly realised in the projecting clause and thus the example is coded as - Att/non-self.

5.4 Results

The full results of the analysis for the two corpora, based on the coding presented in Figure 5.4, are presented for corpus 1 in appendix 3a and for corpus 2 in appendix 3b. The absolute numbers (n) have been analysed in two ways: 1) the number of projecting clauses per thousand words (ptw) - this gives an indication of their frequency in relation to the whole texts though it would be more accurate if it were analysed in terms of clauses but this has proved impractical; 2) each category is given as a percentage - this indicates the weighting of a particular coding in relation to the total number of projecting clauses in that text.

5.4.1 An overview

Table 5.5 below shows the total number of projecting clauses (absolute numbers and per thousand words), and the breakdown for attributed and unattributed projecting clauses as percentages of the total.

Table 5.5 - Total projecting clauses and Attributed and Unattributed

Corpus 1	text	Total		+ Att	- Att
		ptw	n		
Textbook	clt1	6.7	96	59%	41%
	clt2	7.8	104	64%	36%
Computer Workbook	clio1	10.5	161	68%	32%
	clio2	6.8	48	67%	33%
Seminar	cls	17	121	81%	19%

Corpus 2	text	Total		+ Att	- Att
		<i>ptw</i>	<i>n</i>		
Textbook	c2t1	14.3	304	61%	39%
	c2t2	13.7	112	49%	51%
Computer Workbook	c2io	8.7	96	66%	34%
Lecture	c2io	16.7	197	77%	23%
Seminar	c2s1	16.6	217	89%	11%
	c2s2	15.7	108	82%	18%

Perhaps the most significant aspect is that overall the texts in both corpora have more Attributed than Non-attributed sources and in terms of percentages there seems to be a cline from the textbooks through the Iolis materials to the spoken texts, with all three seminars showing over 80% +Att. The only exception is the second textbook in corpus 2 which has slightly more -Att (51%) than +Att. The figures *ptw* in the full results (appendix 3) suggest that the reason for this lies in the comparatively high number of -Att clauses (7.0 *ptw*), and particularly -Att/self clauses (3.7 *ptw*). The results for the textbook c2t2 fit in with the tendency in both corpora for the textbooks to have a higher percentage of -Att clauses than the other genres.

A brief and limited comparison may be made with Stubbs' (1996) results to give some idea of the overall use of projecting clauses in these texts. Stubbs' (ibid) results (table 5.6) for the 'standard' geography school textbook are similar in percentage terms to the textbooks in the present corpus but the figures for the environmental school workbook are closer to the seminars in this corpus.

Table 5.6 - Stubbs' (1996 p151) figures for Attributed and Unattributed projection

	total			
	<i>ptw</i>	<i>n</i>	+ Att	- Att
Geography textbook	1	77	57%	43%
Environmental workbook	2.9	86	80%	20%

A more interesting and perhaps significant comparison is to be found in figures for the frequency of projecting clauses per thousand words. Table 5.6 shows that in the secondary school textbooks there is a frequency of 1 to 2.9 projecting clauses per thousand words whereas in the present corpus the frequency ranges from 6.7 to 14.3 for the legal textbooks and up to 17 ptw for the spoken genres.

The comparison is limited but it suggests that the present corpus has a high frequency of projecting clauses. Unfortunately, other comparisons are not possible. Hunston's (1993) study does not give word counts for the texts in the corpus and as Stubbs (1996) found, this type of analysis of structural items is impractical for the kind of comparison with a large corpora that he suggests. Working with the comparison with Stubbs' study, we can posit by analogy two possible variables to explain the difference in the figures. Firstly, there is the distinction between secondary school pedagogic texts and university pedagogic texts. For if as Laurillard claims, part of the purpose of learning in HE is "...to enable students to learn the descriptions of the world devised by others." (ibid p28), then we could expect that explicitly bringing other sources into the text, as I am doing here, would be more common than in school texts. Secondly, there is the distinction of field: Law, and especially common law, deals not with external concrete realities but with layers of linguistic realities and this layering can be clearly seen in the nesting of projecting clauses themselves:

- ♦ *(Lord Reid justified the result by arguing that)(the shipowner must have realised that)(it was not unlikely that) the sugar would be sold...*
- ♦ *(The real reason for the decision appears to be that) (the court thought that) (justice required that) the plaintiff should be entitled...*

Looking more closely at the breakdown of the Attributed projecting clauses, Table 5.7 shows that a high percentage have Personal attribution throughout the range of genres in the two corpora.

Table 5.7 - +Att/Personal and Impersonal
(as % of +Attribution - not of total)

		+Att	
		+ P	-P
Textbook	c1t1	72%	28%
	c1t2	68%	32%
	c2t1	71%	29%
	c2t2	73%	27%
Computer Workbook	c1io1	82%	18%
	c1io2	87%	13%
	c2io	79%	21%
Lecture	c2lec	89%	11%
Seminar	c1s	91.5%	8.5%
	c2s1	77%	23%
	c2s2	84%	16%

Table 5.7 above shows that the category of personal attribution (+Att/+P) makes up the greatest proportion (68% - 91.5%) of the +Att category. The full results indicate that in the written genres and the lecture it is generally the category of non-self which makes up the largest proportion of the +P figure. A broad analysis of the concordance lines shows that it is the reporting of the actions and sayings of the participants in the legal cases which makes up a large proportion of these figures. Judges and Courts *hold, suggest and conclude*, and defendants and plaintiffs *claim, think and argue*, as the academic authors weave the required legal cases into the pedagogic texts.

In the seminars it is the category of Self (+Att/+P/self) which accounts for 32-37% of the +Att/+P figure, indicating the use of explicit authorial comment. This seems to relate to the mode and particularly the tenor of interactive genres where the analysis of the concordance lines shows there is a high number of explicit/subjective interpersonal metaphors (Halliday 1994 p355), such as *My feeling is that* , *Well I think (that)*. In the Iolis workbooks the figures for +Att/+P/self are far less than those for the seminars but more than the textbooks and are mainly related to the role of feedback where we find clauses such as, *We agree that ...* , in feedback screens of the Iolis workbooks.

A broad analysis of the category +Att/-P also suggests that the use of projecting clauses is linked to field with many sources of projection referring to legal documentation:

the rule in Hadley and Baxendale / says that you can't recover for loss (c1s)

This brief look at the overall figures for the categories Attributed/Unattributed (table 5.5) and (+Att) Personal/Impersonal (table 5.7) has suggested two main initial interpretations for the variation encountered. The first links the high frequency of projecting clauses (ptw) in the legal texts, compared to Stubbs' (1996), to the field of the texts and the 'linguistic' nature of case law. The second is linked to the initial hypothesis of the 'mediated' nature of academic learning which it was predicted would mean that there would be references to 'descriptions of the world devised by others' (Laurillard 1993). The following section will look at two areas in more detail in relation to the role that projection may play in the mediated nature of academic

learning: firstly, the role of the author or lecturer as ‘mediator’, which includes the two categories of Self, the explicit (+Att/+P/Self) and the implicit authorial voice (-Att/Self). Secondly, the category of people other than the author (+Att/+P/non-self). Finally, the other categories of attribution (+Att/-P and -Att/Non-Self) will also be examined.

5.4.2 Authorial voice - Analysis of +Att/+P/Self

The results for +Att/+P/self in table 5.8 show a consistent cline in both corpora in the use of explicit authorial comment as the source for projection from a low of 4% (average) in the textbooks through 36% (average) in the seminars. The figures per thousand words also show clear generic differences with a range of 0-0.4 ptw for textbooks, 0.7-1.1 ptw for the Iolis workbooks, 2.5 ptw for the lecture and 5.8-6.1 ptw for the seminars.

Table 5.8: Results for (+Att/+P) Self

	Textbook		Computer		Lecture	Seminar	
Corpus 1	c1t1	c1t2	c1io1	c1io2		c1s	
n	4	6	15	5		43	
%	4%	6%	9%	10%		36%	
ptw	0.3	0.4	1	0.7		6.1	
Corpus 2	c2t1	c2t2	c2io		c2lec	c2s1	c2s2
n	5	0	12		30	78	40
%	2%	0	13%		15%	36%	37%
ptw	0.2	0	1.1		2.5	6.0	5.8

If we look at a selection of examples (appendix 4a) from this category, we can see a mode distinction reflected in the use of the personal pronouns *I* and *We*. In the written texts there is only one use of the pronoun *I* whilst in the spoken genres it accounts for the vast majority of instances (95-99%). The first person plural (*We*) is

used across the genres but there is a distinction in mode as well as in genre in terms of its use.

In the textbook, *we* most commonly has an inclusive sense ('you and I') and seems to have an anaphoric cohesive function being used to draw the readers attention to something that has been stated before in the text. It is realised by verbs of perception such as *seen* and *noted* and is generally in the present perfect or simple past:

Thus we have seen that a debt owed by (c2t1)

A second use also appears to have an inclusive sense but its function is to explicitly draw the reader's attention to a point the author thinks is important to the ongoing argument. It is commonly realised by verbs of cognition in the present tense with a modal of obligation.

We should recognize, however, that not all judges are as (c1t1)

we should notice that there are divergent views as to what (c2t1)

In the computer workbook, there are some examples of the first type of 'inclusive' *We* found in the textbooks which refers readers back to a previous section of the text. The vast majority of instances though, are connected with the interactivity of the program and their function is more interpersonal than textual. This use is closely associated with the pedagogic interaction and occurs most frequently at the start of the feedback screens in response to a task and is generally used to put forward a reformulation:

Yes. We agree that these should be relevant considerations. (c1io2)

We think that a court would probably award a measure of damages (c1io2)

The second example brings in a use of the projecting clause as interpersonal metaphor (subjective) which does not occur in the textbook.

Nevertheless it does not seem to us that the lack of negotiation, (c2io)

The use of the first person plural in these texts is in fact a ‘royal’ *we* as all Iolis workbooks are written by one author and seems to have an institutional meaning of ‘we the law tutors ...’. The frequent use of this meaning of *we* provides a clear distinction between the Iolis workbooks and the other genres in the present corpus in which there are no such examples.

In the Lecture, there is only one example of the use of the first person plural. The rest are first person singular and the projecting clauses are generally interpersonal metaphor (explicit subjective - Halliday 1994 p355):

Now I'm sure that the parties didn't mean that when they drafted (c2lec)

I think (that) the clearest one is probably the case of White and John (c2lec)

There are some cases of the discourse organising type of projecting clauses found in the textbook, though here in the first person singular:

And I ended up by pointing out that sometimes there will be (c2lec)

In the seminars the most common projecting clause is the subjective interpersonal metaphor where the modality of probability is realised through the projecting clause:

And I think that that's a borderline case. Mm. Definitely. Er (c2s1)

This particular construction with the verb *think* consistently makes up over 50% of the total in this category in all the seminars. In some cases this occurs in the lecturer's feedback on a student's question:

<T> yes / well / I think the point is that if he / if he's told that the (c1s)

But when it does occur in the feedback slot it generally prefaces a proposition that is being put forward by the lecturer and is not a straightforward repetition of the student's response. As in the above example, it is generally prospective and not retrospective. The use of +Att/Self projecting clauses in the opening of the lecturer's feedback is more common in the Iolis workbooks where it is used in the third person singular in the feedback screens (*Yes We agree that ...*). Here however, it is used to confirm the evaluation and introduce a straightforward reformulation of the response the student had chosen.

In the seminar, this evaluative function can also be given by the tutor with a simple comment clause with an anaphoric referent which can be followed by a reformulation such as:

<T> *that's correct / he gets that /// ok / so that's his wasted expe* (c1s)

Sometimes this comment clause can come after the reformulation:

<T> *he hadn't made a loss that's true but he had lost the profits ..* (c1s)

It is interesting to note this mode distinction between the feedback in the Iolis materials and the seminars. The following realisation as a projecting clause would be possible, '*It's true that he hadn't made a loss ...*' and intuitively, would seem more likely for a written text. In the seminars we see the lecturer's evaluative comment on the student's proposition realised across the turns of the interaction. The student gives an answer 'he didn't make a loss' which the lecturer then comments on 'that's true'.

Other functions of projecting clauses in this category in the seminars are re-iteration and clarification of the interaction, often realised by verbs such as *say* in the present in present tense:

Oh yeah. But what I'm saying is that it's not really a context in which (c2s1)

Now what I'm trying to get at is that Sections Six and Seven also (c2s1)

Overall, it must be emphasised that the great majority of instances of subjective interpersonal metaphors in the seminars are made up of the verb *I think*, which emphasise that the projected clause is the lecturer's perspective and one which is based in cognition and reason. It might be argued that the use of such interpersonal metaphors in the seminars do not carry a great weight of meaning in the ears of the hearer - acting more like a continuative such as *well*, or *you know*. However, such meanings are still commenting on the main proposition and it must be stressed that these meanings accumulate throughout a text. The contention here is that this use of subjective interpersonal metaphor in the three seminar texts foregrounds the personal commitment of the author in their role as lecturer to the propositions in the projected clause. The written genres do not seem to foreground their personal commitment to propositions so explicitly.

5.4.3 'Objectifying' the authorial voice: analysis of –Att/Self

As we have seen, the textbooks use of the first person projecting clause is limited and when it is used, its function is usually to do with discourse organisation. This lack of explicitly attributed authorial voice in projecting clauses does not mean though that there is no authorial comment in the textbooks through the resource of

projection. Textbook authors do use projecting clauses for authorial comment but they do so implicitly. Table 5.9 presents the figures for the category of -Att/Self .

Table 5.9 - results for Unattributed Self (-Att/ Self)

	Textbook		Computer		Lecture	Seminar	
Corpus 1	c1t1	c1t2	clio1	clio2		cls	
n	23	18	18	6		6	
%	24%	17%	11%	13%		5%	
Corpus 2	c2t1	c2t2	c2io		c2lec	c2s1	c2s2
n	55	30	14		6	11	11
%	18%	27%	15%		3%	5%	10%

Table 5.9 shows a general cline in percentage terms from an average of 5.75% in the spoken texts through 13% in the Iolis workbooks to 21.5% in the textbooks in the two corpora, which is the reverse for the figures in table 5.8 for +Att/+P/Self. The structures in this group are all ‘fact’ projecting clauses in Halliday’s terminology, which can be realised by an extraposed clause; a fact noun in an existential clause; a fact noun in a relational clause; or as postmodifier to a noun of the ‘fact’ class. The following gives some examples of these from the present corpus:

It is clear that this argument applies with diminishing force as the (c2t1)

Firstly, there is the danger that an agreed choice of forum will (c1t2)

The fundamental problem here is not that damages are inadequate (c1t1)

The propositions are ‘pre-packaged’ (Halliday 1994) as constituents of the clause which allows the author to comment on them. Appendix 4b illustrates a broader range of examples from this category and a majority of these, as in the first of the examples above, are objective interpersonal metaphors (Halliday 1994 p335) which contrasts with the majority of instances in the spoken genres in +Att/self which were subjective interpersonal metaphors.

Firstly, let us briefly look at some interesting parallel structures to those found in the +Att/self analysis which seem to confirm the coding of the two categories as being the authorial voice. The category of ‘importance markers’ that were noted in the written genres in the analysis of +Att/self (*We should note that ..*) are also found in the objective form:

it should be noted that the Act does not (c2t2)

it must be observed that the owner acted (c1t2)

A similar function turns up much less frequently in the spoken genres and in a different realisation and also seems to contain a notion of re-iteration or reformulation:

The point is that Section Three covers any exclusion (c2s1)

The function of re-iteration and clarification that was found in the analysis of +Att/self in the seminars (*what I’m saying is that ..*) can also be perceived in the objective form:

what that means is that the seller or the (c2s1)

That means that a private person selling (c2s2)

Secondly and more importantly, there are clear differences in the genres not only in the figures but also in the realisations of the most common category, objective interpersonal metaphors (Halliday 1994), which show clear generic variation in the strength of evaluation. The textbooks contain numerous examples that make strong claims in terms of modality (certainty), the most numerous being *It is clear that* which occurs eighteen times in the textbooks, but only once in the Iolis workbooks and not at all in the spoken genres.

It is clear that in cases involving a primary obligation ... (c1t2)

It is certain that in later cases the (c2t1)

Objective interpersonal metaphors in the Iolis workbooks and those that occur in the seminars as well, tend to be less strong in their claims:

It may be that she can't afford (c2io)

It seems likely that in these circumstances a (c1io1)

It may be, of course, that some agreed settlement of the (c1io1)

It may be that this is related to the fact that all these examples come from the feedback screens of the Iolis workbooks. This could be connected with the nature of the task of answering a problem question which entails predicting what the court would do in a particular set of circumstances and can contain a degree of indeterminacy.

The textbooks are evaluating the law retrospectively and are more likely to be examining questions of policy than coming to judgements on problem questions.

The tendency for the textbooks to make more evaluative claims is clearer if we look at all the structures that realise this category of projection.

what is abundantly clear is that the courts avoid the risk of

The fundamental problem here is not that damages are inadequate

It is undoubtedly the case that much mystique surrounds

There is no doubt that this is what the courts

It is to be hoped that, in future cases, courts

These are clear examples of the objective authorial voice being used to project the author's opinion but which does not explicitly foreground the author in the realisation of the wording. The propositions in these projecting clauses do not set up an invitation to interaction or possible challenge, as with the use of subjective interpersonal metaphor in the seminar, instead their purpose would seem to be to

focus the readers attention on the author's argument itself by 'objectifying' the comment and tying it more closely in terms of structure with the projected clause.

This is not meant to imply that the unattributed nature of the projected propositions necessarily presents them as given paradigms, the comment in the projecting clause is relatively explicit in its evaluation and the argument can be challenged on its own terms.

The analysis of projecting clauses with Self as both an attributed and unattributed source of projection shows that in the seminars the explicit opinion of the speaker is held to be of value in its own right. In this pedagogic context it can be seen as encouraging students to contribute to the discussion and perhaps encouraging them to see knowledge as a perspective constructed by an individual and thus challengeable. In the textbooks, interpretation and judgements of probability are not generally attributed to *I* but arise out of the author's reasoned argument which focuses attention on the process of argumentation both in pedagogic terms and as part of the disciplinary epistemology.

5.4.4 Attribution to 'Others' - analysis of +Att/+P/Non-Self/Others

Having looked at the author's voice in the text the following section will analyse the way in which projecting clauses attribute propositions to a person other than the author, e.g.:

the injured party has no real expectation that the contract will (c1t1)

Rea argues that a party to a contract .. (c1io2)

As Tables 5.10 shows, the total figures for Non-Self are consistently high across all the genres accounting for over a third to a half of all projecting clauses.

Table 5.10 -results for +Att/+P/Non-Self

Corpus 1	Textbook		Computer		Seminar
	c1t1	c1t2	c1io1	c1io2	C1s
Non-self total	44%	44%	45%	44%	39%
Others %	13%	23%	20%	29%	17%
judges	0%	4%	7%	4%	1%
courts	31%	17%	17%	10%	21%

Corpus 2	Textbook		Computer	Lecture	Seminar	
	c2t1	c2t2	c2io	c2lec	c2s1	c2s2
Non-self total	43%	36%	38%	53%	31%	32%
Others %	17%	13%	35%	23%	25%	30%
Judges	9%	8%	1%	8%	0%	0%
courts	17%	15%	1%	22%	9%	3%

Judges and Courts, unsurprisingly for this field and common law in particular, are numerous and these figures are recorded separately. The category of Other is also heavily populated by legal actors, defendants and other participants in cases, but it also contains ‘actors’ from the pedagogic and research orders of discourse such as the students and ‘commentators’. We will briefly look at the judges and the courts before looking in more detail at the category of Other.

The categories of judge and court represent the recontextualised subject matter and to some degree are difficult to comment on. As an aside, it is interesting to note that judges are only referred to as individuals and not as a group. The figures indicate for example, that the courts are more consistently referred to than judges but reasons for the variation are hard to pin down and may be due to the topic or the author’s emphasis. For example, the two seminars in corpus 2 show low figures for both the courts and judges but this is because they focus on the wording of the Unfair

Contract Terms Act itself and less on its application in particular cases. The Iolis workbook in corpus 2, with the lowest figures, is more difficult to explain in terms of topic as it covers exemption clauses - a similar topic to the textbooks. A possible explanation may be that it focuses on legal rules and principles and when it does deal with their practical application it does so with the use of imaginary examples. This would seem to be confirmed in the following analysis of +Att/+P/Non-Self (see appendix 5a).

It was decided to examine the results more closely in terms of whether the reference was to a specific judge or court or to courts or judges in general. MacDonald (1992), in an analysis of academic discourse across disciplines, categorises the subject of sentences according to whether they refer to particular entities in the subject discipline or abstractions which refer to disciplinary methods or warrants. The present category of projection that is being analysed here is mainly concerned with reference to entities in the subject discipline but it is likely that differences in the level of generalisation may be evidence of different pedagogic perspectives on the subject knowledge. Table 5.11 presents the figures for judges and courts in terms of whether the reference is to a specific entity or a generalisation.

There is a clear trend in corpus 1 for specific reference to courts and judges in the seminar and the Iolis workbooks reflecting the fact that they are task based texts which deal with the application of the law through 'problem questions'.

Table 5.11 +Att/+P/Non-Self - courts and judges, specific and general reference (as percentage of this category)

Corpus 1		c1t2	c1t1	clio2	clio1	cls
Generalisations <i>The courts normally assume that damages will be..</i>	Courts	12 55%	22 73%	0	13 32%	6 23%
	Judges	0	0	0	0	0
	n	12	22	0	13	6
	%	55%	73%		32%	23%
Specific <i>The court justified this conclusion on the ground that alternative sources of..</i> <i>Lord Denning argued that the different tests were ..</i>	Courts	6 27%	8 27%	5 7%	16 39%	19 73%
	Judges	4 18%	0	2 29%	12 29%	1 4%
		10 45%	8 27%	7 100%	28 68%	20 77%
	Total n	22	30	7	41	26

Corpus 2		c2t1	c2t2	c2io	c2lec	c2s1	c2s2
Generalisations <i>the courts reason it cannot be intended that the clause will</i>	Courts	1 1%	2 8%	0	6 9%	1 7%	0
	Judges	0	0	0	0	0	0
		1 1%	2 8%	0	6 9%	1 7%	0
Specific <i>The Court of Appeal held that even if this provision</i>	Courts	50 65%	15 58%	1 50%	28 45%	13 93%	3 100%
	Judges	26 34%	9 34%	1 50%	29 46%	0	0
		76 99%	24 92%	2 100%	58 91%	13 93%	3 100%
	Total n	77	26	2	64	14	3

The textbook chapters are more focused on generalisations reflecting perhaps the orientation of textbooks to issues of policy and less to the application of the law in court. The figures for corpus 2 do not show such a tendency with all the texts focusing on specific reference. The low figures for the seminars in corpus 2 are probably due to the fact that they concentrate on the interpretation of a statute and not on cases. The low figures for the Iolis workbook are somewhat puzzling but may be due to the use of imaginary examples in the problem questions. However, it is unclear exactly why there are so few references to courts and judges. The clear difference between the two sets of texts is that the textbooks in corpus 2 almost

exclusively refer to courts and judges in specific rather than general terms. This would seem to indicate that there is substantial variation in the perspective of textbooks in terms of the level of generalisation. This would fit in with the view of the author of the textbook in corpus 1 who stated in interview that he saw his book at the 'academic' end of the spectrum of textbooks in that it dealt with substantive issues of policy rather than textbooks which took a 'black letter' law perspective and focused more on legal principles and their application (Collins 1996 personal interview). We now turn to the third category in +Att/+P/Non-Self.

The category of 'Other' contains a larger range of actors and it was hoped that this category would pick up on the use of citation in academic writing. However, the figures did not support this expectation and whilst there are some examples of in-text citing of external authorities in the written genres they are limited to only a few instances in the whole corpus.

In this vein, Rea argues that a party to a contract will charge a (c1io2)

Partly, as we shall see, this is because law textbooks generally use numbered footnotes for referencing and partly due to the lack of references to other authors in the Iolis workbooks.

In order to see how other Non-self sources of projection were being assigned, the category of Non-self/Others has been sub-categorised in a similar way to the analysis of courts and judges, according to whether the 'actor' is a specific real-world entity or whether they are generalised abstractions. This can perhaps be related to the difference in projecting clauses between a straightforward recounting /reporting of events as in; *he said that he wanted a deeper pool*, (c1s) where the

individual can be identified and those which deal more in more generalised knowledge claims; *The lender would be concerned that it would..*, (clio2) where the source of the projection is a generalisation. The results for both corpora 1 and 2 are presented in appendix 5a and 5b with the projecting clauses of ‘real’ world events at the top and the more generalised and abstract projections (knowledge claims) towards the bottom.

In corpus 1, we find that the seminar and the Iolis workbooks tend to be focused around real-world examples, where particular cases are used to explain and explore legal rules and principles whereas the textbooks seem to focus more on generalisations. The seminar and the Iolis workbooks in corpus 1 are based around imagined ‘problem questions’ and discussion of associated real cases and it is this which is reflected in the figures. The results also show that the Iolis materials also include references to abstract legal actors (9-14% - *Third parties assume that*) which the seminar does not. The textbook chapters contain substantially more such generalisations accounting for 75% of all instances in this category. Particular cases are discussed, as they must be in common law, but many cases are simply referred to in the footnotes in the textbooks in support of a generalised argument.

However, the results for corpus 2 (appendix 5b) only partially support this analysis and appear to be much more complex. In the textbooks, legal actors in actual events account for 55% and 36% of the instances in this category. There are however, two main areas which do support the analysis from corpus 1. If we look at the extract of the results for corpus 2 below (table 5.12), we can see that the generalisations form the same cline as in corpus 1 from textbooks to seminars. It is noticeable though that the

seminars do contain instances of generalisations. The other pattern that is the same between the two corpora is the use of ‘you’ to address the students directly in the face-to-face genres where there is the possibility of interaction.

Table 5.12 - extract from +Att/+P/Non-Self/Other (appendix 5b)

		Textbook		Comp.	Lect.	Seminar	
		C2t1	C2t2	C2io	c2io	C2s2	C2s1
Generalisations (<i>legal actors</i>)	n	17	6	8	4	6	3
<i>the onus is upon the party to show that ...</i> (C2t2)	%	32%	43%	24%	9%	11%	9%
You (student)				7	11	11	10
<i>You're right that Dan appears not to be dealing</i> (C2io)				21%	24%	20%	31%
<i>But when you look at the cases you'll find that some</i> (c2io)							

Some of the differences between the corpora can be accounted for in terms of topic.

The seminars in corpus 2 are not problem question seminars looking at cases but are an examination of the meaning of the UCTA act which may account for the fewer references to specific legal actors. The reason for the main difference between the textbooks in the two corpora, ‘actual legal actors’, is less easy to identify but may possibly be that the textbooks in corpus 2 are more overtly pedagogic and concerned with a ‘black letter’ approach than the textbook in corpus 1 which seeks to argue for a novel interpretation of contract law and thus would be more concerned with generalities. Textbook one (c2t1) in corpus two seems to take a ‘black letter’ perspective on the area of law with a focus on legal principles and rules and their application in cases.

This brings us back to the question of the lack of in-text references to other authors in the written texts (see appendices 5 – category ‘external authorities’) to which we now turn.

5.4.4.1 External sources and Citations

There was an initial assumption, based on previous work on projecting clauses and report verbs in academic writing (Hunston 1993, Thompson and Ye 1991, Chafe 1986), that in the category of +att/per/non-self there would be significant numbers of explicit in-text references to external authorities. This was also part of the initial rationale based on Laurillard's (1993) definition of academic knowledge and pedagogy. However, the results for 'external authorities' (see appendix 5) are not high in either corpus and a closer analysis shows that the sources drawn on are generally of an unspecified nature:

Critics have plausibly argued that the clause was not (c2t1)

It is a complex argument, the economic analysts suggesting that (c2io)

Only four 'external authorities' are the source of a projecting clause in the entire corpus and the one in Iolis was not properly cited.

Whilst there are no references to pedagogic texts, in her corpus of research articles, Hunston (1993) identifies the building of consensual knowledge in the academic field as one of the roles of bringing in external authoritative sources via projecting clauses. In most legal academic writing, knowledge claims tend to be supported by reference to other academics through footnotes and not through any explicit reference in the text. To see if there is any difference in the texts in the 'building of consensual knowledge' all citations not caught by the analysis of projection have been analysed as elided projections.

The results for this have been added to the bottom of the tables in appendix 5. In the textbooks, we find a consistent use of citation of books and articles by other

academic authors, in most instance through footnotes, with 33 in the text *C1t1*, 21 in *At*, 75 in *C2t1*, and 14 in *C2t2*. In the Iolis workbooks however, there are no footnotes and only three examples of in-text reference to other academic texts:

In this vein, Rea argues that a party to a contract will charge a (clio2)

Following an essay by Fuller and Perdue, 'The Reliance Interest in Contract Damages (1936-7), we describe the difference between these two measures of damages as: (clio1)

which would not be compensated by an award of damages, such as remote and irrecoverable types of loss. (Goetz and Scott). (clio2)

Not only is there a clear quantitative difference to the textbooks but they are very unusual academic references. They follow no academic conventions for the use of citations and there is no standardisation of presentation within any of the Iolis workbooks. In fact, the usefulness of citations is questionable as they often do not have basic information, such as the lack of dates in the references above and the workbooks in the corpus do not have a bibliography. The following example gives a clear illustration of the difference to the textbooks and shows a comparison between the use of citation by the same author on the same topic in the textbook (Collins 1993) where footnotes and a bibliography are used, and in the Iolis workbook where the in-text citation has no further reference mechanism:

textbook (c1t2):

A balance must be struck between provision of a remedy which supports the reliability of contractual undertakings whilst not being so great as to discourage the formation of binding commitments.⁵

⁵ Goetz and Scott, 'Enforcing promises: An examination of the basis of contract' (1980) 89 *Yale Law J.* 1261

workbook (clio2):

In addition, the control over penalty clauses can be regarded as inefficient for it prevents protection of those interests of the plaintiff which would not be

compensated by an award of damages, such as remote and irrecoverable types of loss. (Goetz and Scott).

It would seem that the textbook is concerned to fit its knowledge claims into the linguistic structure of the academic discourse community and explicitly draws on intertextual resources to do this, placing itself within the framework of the cumulative knowledge of the field. The Iolis workbooks on the other hand do not attempt to do this in any systematic way. It is possible to point out in the particular example drawn from Collins (1993) that the workbook is specifically aimed at undergraduates and has a different purpose from the textbook but this is not borne out by the data in the second corpus where both textbooks (Cheshire et al 1991, McKendric 1990) are more specifically aimed at undergraduates yet the distinction in citation practices with the Iolis workbook is similar.

The Iolis workbooks do mention different interpretations of legal points by other sources of authority in the discipline, as in the following:

This seems to be the conventional interpretation of the rule, but the other three interpretations have all been suggested by judges and textbooks. Lord Reid expressly rejected the ideas of liability for all reasonably foreseeable losses ... (cli01)

Here also though, the interpretation is not carefully referenced. The authority of academic '*textbooks*' is invoked but there is no reference as to which textbook and therefore the source of the proposition is hidden and thus becomes the author's interpretation of accepted knowledge. The invocation of *Judges* is expanded upon and illustrated with reference to a Judge's decision in a particular case. Where there is a specific reference to an outside authority in the workbooks, it is usually to a Judge or case and almost never to another academic source. In the Iolis workbooks

most references to other texts are to texts from the legal process itself and not from the higher level, in terms of abstraction and interpretation, of academic texts.

There is little explicit reference to other academic texts in the Seminar and the Lecture for obvious reasons to do with mode. However, it should be noted that referenced readings for the lecture and seminars in the present corpus were provided on handouts beforehand. As we saw earlier in the analysis of Self, these face-to-face genres also contain a large number of projections which are from the academic level of interpretation supplied by the author himself. However, it must be stressed that it is only in the textbooks that we get the explicit drawing on of other academic texts which creates the notion for the reader that in academic disciplines “.. the process of knowledge construction is intertextual” (Hunston 1993 p 107).

5.4.5 Analysis of +Att/-P

This category deals with those instances where the source of the projecting clause has been attributed to an inanimate subject with a distinction drawn between those that have a text internal reference and those that have a text external reference. The internal category refers to the sources of projecting clauses which are internal to the text and have a metalinguistic function. This category only occurs in the written genres and then only rarely with seven instances in corpus 1 and two in corpus 2. The source of the projecting clause in the external category generally refers in the present corpus to legal documentation such as contracts and acts and what they say or state.

This category is more common than +Att/-P/internal and it ranges from 7 to 21 percent of projecting clauses in the texts in the two corpora. However, the quantitative distribution does not seem to relate to generic categories, with the lowest and highest scores being in seminars (c1s and c2s1 respectively) and with textbooks ranging from nine to seventeen percent (c1t1 and c2t1 respectively).

A closer analysis of the concordance lines does though suggest generic variation in terms of the way that the legal documentation is referred to and in terms of the function of such clauses in the texts. The most obvious surface distinction is the difference in the verbs used in the spoken face-to-face genres and the written. *Say* is the most common of the verbs in the seminars and lecture accounting for between a third and a half of all instances in this category whilst there is only one occurrence in the written genres. The most common verbs in the written genres are *state* and *provide*.

The only two occurrences of these more stylistically formal verbs in the spoken genres are in the lecture in corpus 2. *Say* and *state* could be seen as synonyms semantically as in the following examples.

but the rule in Hadley and Baxendale/ says that you can't recover for (c1s)
UCTA section 13 states that these sections "also prevent excluding or (c2Io)

However, *say* seems to be able to be used in a wider variety of structures and functions, as for example in this relational projecting clause:

and what section thirteen is saying is that they are just as bad as any

The use of the relational structure combined with the tense choice sets up an explanatory function which would seem to be difficult to achieve with the verb

state. The projecting clauses in the seminars seem to have a more explanatory and interpretative function and utilise a wide variety of lexis and structures to do this, as the following examples indicate;

Services Act has an implied term to the effect that the service will be (c2s2)
I think the spirit of the Act suggests that if I use the same language (c2s1)
and you'll see that what it says is that if the court as a matter of law (c2lec)
and what section six now repeats is that if it's a consumer sale the (c2lec)

The last two examples from the lecture use a relational clause structure, *what x (verb) is that*, to provide an explanatory pedagogic emphasis or framing to the reciting of the legal documentation.

The comparison of the most common verbs used in this category suggest that the spoken genres have a different functional emphasis than the written genres with a greater degree of interpretation and explanation. However, the textbooks, at least, would also seem to do this but achieve it through a greater range of lexical resources than in the spoken genres. The following examples from the textbooks show the range of more complex verbs used:

Presumably, however, this guideline contemplates that a higher (c2t1)
Section 9 (1) assumes that a substantive doctrine of fundamental (c2t1)
the expectation measure of damages also suggests that the injured (c1t1)
A second special limitation on awards of compulsory performance insists
that contracts not only be fair (c1t2)

The textbooks combine formal descriptions of legal documentation, realised through verbs such as *state* and *provide*, as well as interpretation which is realised through a range of lexis which assigns the power of thought to inanimate legal documentation (*contemplate, assume*) as well as the more usual metaphor of speech (*state, suggest*).

The Iolis materials tend not to contain such interpretative lexis and there are no examples of interpretative verbs such as *suggest*, *assume*, *contemplate* in the Iolis workbooks. In two of them (c1io2, c2Io), three-quarters of the instances in this category are made up of the verbs *state* and *provide*. The third (c1io1) has a wider lexical range with verbs such as *ensure* and *require* but these do not seem to have an interpretative function.

The remoteness rule ensures that the reliance measure of damages (c1io1)
In tort, the test merely requires that the loss be one which (c1io1)

This analysis of +Att/-P/External would seem to indicate that the textbooks take a more interpretative attitude towards the role of legal documentation in the legal process, especially compared with the Iolis workbooks which would seem to present it more as a given. The role of such projections in the face-to-face genres seems to be more explanatory, reformulating the legal documentation in terms that the student will understand, correcting perceived misconceptions that may emerge in the interaction, or uncovering hidden meanings.

5.4.6 Analysis of -Att/non-self

In a sense this category is negatively defined, in that it is composed of unattributed projecting clauses which cannot be assigned to the author themselves by glossing them as *I believe* (-Att/Self). The two most common realisations for this category as a whole are passives and nominalisations.

Another instance where it is often suggested that specific (c1t1)

It's assumed that customers rely on on retailers (c2s1)

I think there was also a suggestion that he wasn't in fact going to (c1s)

And if (contrary to my view) the argument that derisory sum of (c1i01)

If the source of the projecting clause is not directly recoverable from the immediate co-text then they are classified as unattributed (-Att/non-self). This category is probably the most difficult to code and interpret as it is dealing with what is being taken for granted in the text or presupposed. This includes information that a reader could be expected to fill in as well as what the writer is consciously or unconsciously backgrounding and can lead to some instances of ambiguity as to who is doing the arguing or stating, as the author in the last example above illustrates.

The overall figures for this category show few clear cut patterns in distribution. The only relatively clear distinction in the figures is that the seminars, particularly in corpus two, have the lowest figures for their corpus. The textbooks, Iolis workbooks and lecture all have similar figures ranging from 20%-24% which suggests that the distinction may not be one of mode but of prepared/unprepared texts. If this were so it may also explain why the figures for the seminar in corpus one (14%) are double that for corpus two (6%-7%) as the first section of the seminar in corpus one has a lecture format.

A closer analysis of the concordance lines does suggest some differences in the realisations between the modes and the genres. The spoken texts rarely use the passive constructions (seminar one instance and the lecture two) with the most numerous construction being the nominalisations.

*I think there is a genuine argument that it's unreasonable (c2s1)
the argument being in this that he's wasted half a dozen (c1s)*

the logic being that the carrier would have (c1s)

In the seminars these generally come in the lecturer's feedback in the interaction and they tend to be explanatory in function and refer to the specific point under discussion with a focus on the process of arguing and logic.

The Lecture also tends not to use the passive construction but it uses a greater range of structures than the seminars.

*there is no suggestion that you cant get out of a contract
in this situation it's arguable that the finance company is really just
so there was some thought that perhaps the doctrine of
It was thought that the same protection ought to be*

The second example seems to have a similar explanatory function and a focus on the process of argumentation as in the seminar. In the last two examples we find in the lecture past tense structures which signal a distancing of the author from the proposition in the projected clause.

In this category, the textbooks and the Iolis workbooks seem to vary as much within the genres as between them and they will be analysed together. There are though, some fairly clear distinctions between the written and spoken genres. The mix of passive and nominalised 'fact' projecting clauses tends to be more even and they tend to be more varied and complex in their realisation than in the spoken texts.

the general principle is conventionally stated that in the event of (c1io1)

The general rule is normally stated to be that courts will (c1t1)

One view holds that this clause simply defines (c2t2)

This approach is open to the objection that it ignores the (c2t2)

This outcome might be justified on the ground that Mark has (c1io1)

The use of adverbials of usuality in the passive constructions occurs regularly throughout all the written genres and seems to be used to emphasise a distancing from the projected proposition by the author who will often go on raise exceptions to this accepted state of affairs. This is the case in both the written genres when the past tense is used in the passive construction:

It was traditionally said that specific performance would not be ordered if the same remedy would not be available to the defendant. But this interpretation of the authorities was misleading and has been replaced by a more intelligible principle in Price v. Strange [1978], (c1i01)

It was argued that it would be inelegant to have different meanings of this expression in different statutes. But there are many other statutes which use the concept of business and it is hard to believe that such a common word does not derive shades of meaning from its context and from the purpose of the statute in which it is found. (c2t1)

Where the passive construction is in the present tense, there would seem to be a distinction between the two genres. The examples from the textbooks tend to set up a rhetorical contrast as part of an on-going argument but the examples from the Iolis workbooks often simply state the proposition.

Textbook (c1t1)

The general rule is normally stated to be that courts will only order specific performance or an injunction where damages would be inadequate to compensate the plaintiff's loss. This looks a puzzling rule, since the law of damages should compensate the plaintiff's loss in most respects unless the defendant is insolvent.

Iolis workbook (c1i01)

The general principle is conventionally stated that in the event of breach of contract, the plaintiff should be placed, as far as money can do it, in as good a situation as if the contract had been performed (the expectation measure of damages). Alternatively, the plaintiff may request wasted expenditure, (the reliance measure) provided that this is no greater than the expectation measure.

So it would seem that the lack of attribution in this category of projecting clause can be used in two distinct ways. Whilst both are clearly backgrounding the source of the projecting clause, this may be either to present a given paradigm as in the second example from Iolis, or to rhetorically set it up in order to knock it down through argument as in the first example from the textbook. This means that in this context, we should be cautious of following Stubbs' (1996) conclusions of his study of projection in school textbooks which suggests that lack of attribution should automatically be interpreted as representing the presentation of given paradigms. In the textbooks, this use of this type of unattributed projection to set up straw men is often realised by nominalised 'fact' projections.

The argument that exclusion clauses define the obligations of the parties has recently been attacked by Adams and Brownsword (1988a) on the ground that it is 'elegantly formalistic' and that it ignores 'both the historical development of the problem, and the realities of the situation'. (c2t2)

In this example, we see the use of an external authority to knock down an argument which is presented as given. In order to look more closely at this distinction in the textbooks and the Iolis workbooks, we will focus on an extended example from corpus one. Here we can look at how one author presents exactly the same topic in contract law in his textbook (c1t2) and the Iolis workbook (c1io2): in the author's view there are three main justifications for control over penalty clauses in contracts but these are presented in quite distinct ways in each genre (see appendix 6a and 6b for the complete extracts). Firstly, we consider the Iolis workbook.

The screen from Iolis below has four 'hot keys' represented by the coloured words and these link to four screens where the statement is expanded upon (see appendix 6a for all screens). The first of the blue hot keys, Private Punishment is the same

topic as the extract from the textbook. In the Iolis workbook the unattributed projecting clause (*the objection to penalty clauses is that..*) simply presents the projected clause as given information with no comment.

Iolis workbook screen shot (c1io2)

Justification for Control Over Penalties

What is the justification for judicial control over agreed levels of compensation for breach of contract?

A number of justifications have been proposed: these can be summarised as:

1. **Private Punishment:** *the objection to penalty clauses is that they go beyond compensation to a punitive measure of sanction.*
2. **Coerced Performance:** *the objection to penalty clauses is that they attempt to coerce performance of the contract.*
3. **Unfairness:** *the objection to penalty clauses is that they create unfairness between the parties.*

There is also an important criticism of the practice of the courts that it is economically inefficient and therefore unjustifiable.

In contrast, in the textbook, the unattributed projection (-Att/non-self) is used to reject the justification for 'Private Punishment'.

As for the argument that penalty clauses represent a form of punishment, this seems a misleading analogy. The high level of compensation does not bring with it the moral obloquy associated with criminal punishment. (c1t2)

In the textbook, after dismissing the first two justifications, the author argues strongly for the third justification, Unfairness (see appendix 6b, paragraph 3).

The reasoning behind these proposals suggests that the real justification for intervention should comprise the unfairness of these terms. The argument is that excessive compensation, just like excessive price, is an unfair bargain, and that the courts should be reluctant to condone it ... (c1t2) (see appendix 6b paragraph 3)

The crucial claim here is the underlined projected clause '*the real justification for intervention should comprise the unfairness of these terms*'. What is interesting though, is that this claim is supported by an argument which is projected through the unattributed projecting clause (*The argument is that*). This claim is a rather contentious one and the rhetorical use of this category of unattributed projection (-Att/non-self) distances the author from the claim by presenting it as already existing. The main claim (underlined in the example above) is also introduced by a projecting clause which again attributes the reasoning for the claim to 'others' and their 'proposals' and the lesser role of interpretation to the author. Working backwards, we find the opening sentence of the paragraph (appendix 6b, paragraph 3) is also a complex projecting clause in which we find that this argument is based on the 'suggestions' of 'commentators' and the 'hints' of the 'courts'.

It is interesting to note that the category of -Att/Self is avoided in this paragraph (appendix 6b paragraph 3) but once the argument has been established, we find examples of such projections in the following paragraph for the presentation of the supporting argument (*we should note that, it seems likely that* appendix 6b paragraph 4). Paragraphs 4, 5 and 6 (appendix 6b) lay out the supporting evidence for the argument and by the time we get to paragraph 6 we find the author again using the unattributed projection (-Att/Non-self) to present the given position in order to knock it down but the authorial voice is by now much clearer - being realised through an -Att/Self projection which is a modal of high probability (*it is clear*).

Although the test is normally stated that, to be valid the agreed compensation should represent a 'genuine pre-estimate of loss, it is clear that in cases involving a primary obligation to pay money, as in

the case of a loan, the courts will simply examine the question of whether the agreed compensation exceeds the creditor's loss.
(appendix 6b, paragraph 6)

It would seem that for this category of unattributed projections, in this corpus of university pedagogic texts, broad generalisations about the use of unattributed projections to present given paradigms need to be made with care. It would seem that there are distinct trends both in variation in realisation and also in the use of this type of projecting clause in the different genres. In particular, the last example has shown that the function of such unattributed projections for presenting 'given paradigms', such as Stubbs (1996) identifies in school textbooks, can be utilised in very distinct ways within the unfolding of the text. Broad generalisations from the figures must be entered into with caution.

It is difficult to draw any firm overall conclusions about the variation as a whole from the figures and examples presented. One reason that was pointed out at the beginning of the section is that this category deals with what is being presented as given in the text or as presupposed by the author which can lead to difficulties of interpretation. Related to this is the negative nature of the definition which means the category has a greater range of types of projection and meanings than others.

The following are some of the projecting clauses that have been classified as -

Att/non-self.

presumably a prerequisite to agreement is that you know about terms (c2s1)

his discomfort is made worse by the fact that the minibus makes (c2l0)

The effect of the rule is that any ambiguity in the (c2t2)

These 'fact' projections (Halliday 1994 p266) are clearly deeply embedded and the presupposition that they imply is deep set and difficult to interpret.

5.5 Summary of analysis

This analysis of projecting clauses is firstly a study of linguistic variation within a corpus of pedagogic legal texts which has shown that there are meaningful differences in the source of projecting clauses across mode and genre which can be related to their varying roles within the pedagogic order of discourse.

On a quantitative level, the comparison to Stubbs' (1996) study of secondary school textbooks would seem to indicate that projecting clauses are an important resource in this corpus of pedagogic legal texts. The analysis suggests that a central reason for this is to do with the field of law itself and the fact that legal texts, especially in case law, are constructed out of accumulating layers of linguistic realities. This use of projection to construct the intertextuality of the law seems relatively consistent across the genres in the present corpus. It is particularly noticeable in the categories of +Att/-P/external which is mainly concerned with projections that have legal documentation as their source and +Att/+P/Non-self in which the great majority of instances have participants in the legal process (judge, court, defendant, the shipowner) as their source. These categories are most closely associated with the legal order of discourse but it is also clear that the projecting clause does play a role in the recontextualising of the subject knowledge presented in the projected clause.

The analysis of projection with legal documentation as source (+Att/-P/external) shows some generic variation in the function of such projections. Whilst all the

genres use this type of projection to present formal descriptions of legal documentation, which presents the information as given, the textbook projections tend to be more interpretative and the spoken genres more explanatory. This category of projection in the Iolis workbooks tends to consist of basic formal descriptions of the legal documentation.

A more detailed analysis of +Att/+P /Non-self/other has shown the way that there is variation in the sources of projection in the genres in terms of generic reference versus specific reference. It would seem to indicate that the Iolis materials and the spoken genres have a tendency to focus on specific cases. The textbooks on the other hand seem to have greater internal variation with the more pedagogic textbooks (e.g. c2t1) with large amounts of specific reference and others (e.g. c1t1, c1t2) with very little but it is important to emphasise that in all the textbooks generalisations are more numerous than in the other genres. The analysis here also highlighted the use of citations in the textbooks and their relative absence in the Iolis workbooks.

The original hypothesis that projection would be an important resource in university pedagogic genres due to the mediated or ‘second order’ nature of learning in HE with its focus on acquiring “...knowledge of someone else’s way of experiencing the world.” (Laurillard 1993 p29) is a complex question to interpret from the present analysis. The definition of academic learning as mediated learning foregrounds the analysis of ‘manifest intertextuality’ (Fairclough 1992a), the most obvious of which in academic writing is the use of quotes and citations which can be seen as a formalised intertextual resource that places the text within a framework of the

cumulative knowledge of the field (Chafe 1986). The analysis of projecting clauses though, shows only a handful of in-text citations to 'external authorities', other than Judges' ratio decidendi, in the whole corpus. One reason for this is that the textbooks generally use footnotes rather than in-text citations and rarely use quotes. In the Iolis workbooks though, there is a lack of a standard citation system or bibliography. Bibliographies have recently been added to most of the twelve workbooks in the Contract Law section but these tend to be references for further reading and the in-text citations still tend to be haphazard. This would seem to indicate that the Iolis workbooks do not focus on presenting students with a view of academic knowledge as a cumulative and constructive exercise and the view of academic learning as mediated learning is not emphasised.

The analysis of Self (attributed and unattributed) brings to the fore the role of projection in the recontextualisation of subject knowledge and the mediation of academic learning. In the spoken genres this is foregrounded through the explicit voice of the author (+Att/+P/Self) providing the academic comment on the 'real' legal process and in the written genres through an implicit authorial voice (-Att/Self). The main realisation of the explicit authorial voice (+Att/+P/Self) in projection is through the use of the subjective interpersonal metaphor (*I think that*). This presents knowledge within a frame of personal opinion, from both a pedagogic and epistemological perspective, and thus as something to be questioned and open to reasoned challenge. It also, perhaps, gives the sense of a consensual and constructive exercise through the focus on the interpersonal and the chance of interaction that the valorisation of personal opinion generally implies.

It may be suggested that interpersonal metaphors such as *I think* .. do not carry such a great weight of meaning but it was argued in the analysis that the frequency of their use means that such meanings accumulate throughout the text. They also foreground thematically the personal commitment of the academic to the proposition. But these projecting clauses are often part of more explicit interpersonal ‘waves’, as in the following quote from the seminar in corpus 1, which should help put in context the nature of the commitment that such projections can embody and the role they play in the text.

so the court of appeal gave him the damages / which astonished me I must say / uh I was very worried about this um / I had a long conversation with professor Beale about whether this could be right / and uh / I was relieved to see that the House of Lords overturned this and went back to what I thought they would do / which / is not to give the damages because I think / the Law doesn't make it their policy to / it merely identifies the loss </T> (c1s)

Here the author is clearly involved in expressing an opinion about the Law and the process of the Law. This is realised through first person pronouns and the use of highly evaluative language (*astonished, very worried, relieved*) including two projecting clauses. The point is also presented as a highly personalised narrative with a problem, evaluation, resolution and coda. It presents the Law not as a clear cut set of rules or abstract principles but as a fallible process which one should not take at face value. From a pedagogic perspective, this can be seen as providing a context in which value is given to reasoned personal opinions, encouraging students to enter into discussion and to understand that they can challenge what they are being asked to learn.

The numerical evidence shows that the Lecture does not foreground this function to the same extent as the seminar but closer analysis shows that similar structures are realising similar meanings:

*The Court Of Appeal held much to my surprise that that was not a
Now I have to say first of all that really the cases don't support the.*

In the second example, the proposition that ‘*the cases don't support the doctrine*’ would seem a contentious statement to undergraduate law students as doctrines are supposed to be derived from cases. The professor here chooses to frame this statement with a projecting clause which emphasises rhetorical persuasion rather simply relying on his authority. It is the lecturer who is explicitly providing the ‘mediating’ interpretation of the legal process.

The Iolis materials also use the authorial voice but these projections all utilise the ‘anonymous’ first person plural which can be glossed in this context as ‘we .. the law lecturers’. This sets up a very different relationship of authority not only between the reader and the writer but perhaps also between the student and the knowledge that are being asked to learn. This distancing of the author from the reader can perhaps be related to the anonymity of authors in the Iolis workbooks which may be related to the need for ‘plurality’ in the ideas expressed in the workbooks. This, as we saw in chapter 2, means that the author cannot argue for one particular interpretation but should try to show “..that there are a number of arguments and that each of them may have certain merits and certain disadvantages.” (Dale 1995 - interview with Iolis editor).

The distinction in mode between the way the academic textbooks in this corpus use the conventions of citation and the way the spoken genres emphasise the interpersonal mediation of knowledge is supported by other research. Stubbs (1996) reports on a study by Chafe (1986) which looked at the use of evidentials in a corpus of dinner conversation and academic articles. This study found that speakers more frequently use evidentials that signal that knowledge derives from personal opinion (*I think, I suppose*) whereas academic writing encodes evidence through reference citations. Hunston (1993) in a study of projecting clauses found similar results in her corpus drawn from a political TV talk show and academic texts. Whilst some differences in definitions and codings of sources negate any direct comparison with this study, it is interesting to note that she found 71% of sources of judgement in the talk show were Self (of which 85% portray the speaker as ‘thinker’) compared to 18% for the academic texts.

The analysis of the implicit authorial voice (-Att/Self) indicates that it is used in the written genres to provide the kind of mediating comment that the explicit authorial voice (+Att/+P/Self) can provide in the spoken genres but it backgrounds the source of the comment to focus attention on the proposition in the projected clause and the ongoing argument. The figures show the Iolis workbooks tend to do this to a much lesser degree than the textbooks indicating that they put less emphasis on the role of the author to provide their own reasoned perspective on the world. Such an interpretation is also partially supported by the analysis of -Att/non-self. Whilst this category could be most readily interpreted as being concerned with the presentation of information as given knowledge or accepted paradigms, the close analysis of the Iolis workbook (c1io2) and the textbook (c1t2) from corpus one suggests that this

category can be used to argue against an existing interpretation or argument. It would seem that the textbook utilises this function more readily than the Iolis workbook which tends to focus more on the presentation of given knowledge.

5.6 Methodological issues

There are a number of issues which need to be briefly addressed in this section concerning the theoretical validity of the system network, and the identification and definition of projection.

Theoretically, the system network can be criticised for focusing on one grammatical category, projection, and ignoring other structures which perform similar functions.

It could be argued that the system network needs to be extended backwards to include structures such as *According to*, which Hunston (1993) includes in her study of projection and prepositional phrases such as *In my opinion* which Halliday (1994 p335) identifies as expressions of modality ‘halfway’ to the clauses of interpersonal metaphor. In passing it should be noted that in the complete corpus (130,000 words) there were 21 occurrences of *According to* and none of *In my opinion*. Martin’s (1997) category of Engagement in his system of Appraisal seems to work at this broader semantic level and would certainly be an option for future research.

Secondly, the sampling technique used in this study to identify the projecting clauses was clearly a compromise. However, with the use of back checks and the rationalisation for the analysis of ‘that’ projections based on Thompson’s (1994) categorisation of the different types of ‘fact’ projections it is possible to claim that

though the analysis is not complete, it is valid in its own terms. However, there are certainly weaknesses in this approach and there is a need to be aware of what is missing by only looking at ‘that’ clauses:

*Cos if he's arguing right erm how the court's proceedings were
since it is impossible to know how it can ever be wholly unreasonable to
The issue here is whether the expectation refers to the value which the
So the plaintiff must consider whether the transfer of risk is worth the*

Finally, there is the issue of definition of the basic category in the study: projection.

Whilst the basic categories of Report and Ideas (paratactic, hypotactic and their nominalisations) are well defined categories, as Thompson (1994) points out ‘fact’ clauses can be very difficult to identify and they seem to cover a large range of meanings. In the other projecting clauses there is either a Senser or Sayer involved in a mental or verbal process but not in a ‘fact’ clause:

The first rule is that if a clause contains language which expressly (c2t2)

the fact that private parties don't normally use exclusion clauses. (c2s2)

there is no warranty that he should sell him peas; (c2t1)

The effect of the rule is that any ambiguity in the exclusion clause (c2t2)

We agree. This means that the University is liable despite the clause (c2io)

These have all been counted as ‘facts’ in the present analysis. The first three can be related to the four classes of ‘fact nouns’ which Halliday (ibid p266) outlines but the last two do not and are harder to interpret.

The coding of sources has thrown up a number of difficulties. Any semantic coding system requires some fine judgements of interpretation but the main questions are whether the system has internal consistency and whether the results are supported by

other analyses. Finally, on the question of 'facts', it should perhaps be emphasised that all the propositions are ultimately grounded in the judgement of the speaker/writer (Heyvaert 1998).

Chapter 6 An analysis of the interaction in Seminars and Iolis tutorials

6.1 The Study

This chapter seeks to examine the pedagogic claims made for CBL materials through a comparative analysis of the discourse of the seminars and CBL tutorials in the present corpus. In particular it seeks to examine the claims made in the literature that CBL materials such as Iolis embody a learner-centred constructivist pedagogy and can sustain interactions which can, even in a limited sense, be compared to the interactions in seminars.

6.1.1 The claims

As we have seen in Chapter 2, CBL is promoted in the literature as being the deliverer of a learner-centred constructivist pedagogy. This broad view is reflected in the literature describing a number of the TLTP projects where it is possible to discern the two broad themes outlined in chapter 2 concerning the perceived pedagogic advantages of CBL courseware over traditional pedagogic practices: student autonomy and ‘active’ learning (see: Harrison 1994; Soper and McDonald 1994; Scott and Widdison 1994; Turpin 1995, 1996; Tait 1997, Paliwala 1998).

In this chapter, we will focus on one aspect of ‘active’ learning: ‘interaction’ with the computer. It is the notion of interactivity which lies at the heart of many of the claims for CBL materials. This claim is made at a number of levels of sophistication from the general use of the word ‘interactive’ which is attached to most multimedia

applications through to well argued theoretical positions on the pedagogic role of computer based interactivity in education. Laurillard's (1993) influential argument, outlined in chapter 2, is the most comprehensive look at the possible pedagogic roles of different media in higher education. It sets up the one-to-one tutorial as the ideal teaching and learning context because it allows for the tutor to support the individual student's learning. It places interaction and the active negotiation of knowledge at the centre of a constructivist pedagogy for higher education. This is the pedagogic model which is put forward as the blueprint from which other methods of teaching and learning such as CBL can be developed and against which she proposes they should be judged.

In chapter 2 (section 2.6.1), we saw the authors of some of the Iolis workbooks in this study make specific comparisons between the Iolis materials and small group tutorials or seminars. Scott and Widdison (1994) talk of aiming for "... something like the interaction that commonly takes place in the early 'building block' phase of a tutorial." (ibid p12) and they point to the interactive exercises in Iolis as the way in which the interaction of a group tutorial can be at least partially 'mimicked'. In a personal interview with one of the authors (Widdison 1997), he identifies two of the advantages of Iolis as being the ability of the program to respond to students through feedback and as having some capability of the 'rich and useful dialogue' found in seminars.

Collins (1994), the author of the texts in corpus 1, makes the point that Iolis "cannot replicate the unforeseeable patterns of conversations and discussions" (ibid) but goes on to say it could be used to teach some elements of legal reasoning which are

traditionally covered in classroom discussion and that computer tutorials offer “egalitarian access to this type of *interactive* learning environment” (ibid – italics added). In discussing the particular legal skills developed in the ‘problem question’ seminar he claims that the Iolis tutorial “*replicates the classroom* where the teacher leads the students through an analysis of a problem.” (ibid – italics added).

In an interview, the Iolis editor (Dale 1995) explained that interactivity was seen as something that CBL materials such as Iolis does well and Iolis authors were asked to emphasise this aspect of the program in their workbooks. The director of the LCC (Paliwala 1998) also specifically identifies interactivity as being at the heart of the new genre.

6.1.2 Critiquing the Claims

The chapter will present a comparative analysis of the interaction that occurs in the three Iolis workbooks and the three transcribed seminars in the present corpus (see chapter 4 for details). This analysis aims to see exactly what features of the interactivity of seminars can be said to have been ‘mimicked’ in the Iolis workbooks. Equally importantly, it is hoped that it will allow a clearer understanding of what actually happens in seminars and allow the broader question to be addressed as to what the mechanisms are in such pedagogic interactions that can be said to support a learner-centred constructivist pedagogy.

In order to examine the claims made for the interactivity in Iolis and how this relates to the interactivity which is possible in seminars, the analysis of the data will be made using comprehensive models of discourse analysis which can capture the

nature of the interaction across complete texts. The main model used will be based on that developed by Sinclair and Coulthard (1975) and subsequent modifications. The models that have been used will be presented in detail in the following section.

6.2 Models of Interaction

The analysis of the interaction in this chapter will use two models of discourse which have been developed from an SFL perspective. The first is based on Sinclair and Coulthard (1975) and incorporates the substantial modifications to the model summarised in Francis and Hunston (1992) and will be termed the IRF model. The second model is based on proposals outlined in Berry (1981) and incorporates subsequent modifications as proposed by Ventola (1987) and Martin (1992) and will be termed the K1 model.

The two models of discourse are used as they produce differing but complementary insights into the data. On a theoretical level, the K1 model also provides insight into the structure of exchanges which has proved useful in helping to resolve the definition of bound exchanges and in providing a more elegant rationale for the nature of the third element in a ‘teacher elicit exchange’.

It is worth re-stating the reasons, both theoretical and pragmatic, for selecting models of discourse with an SFL perspective:

- ◆ In contrast to Conversation Analysis (CA) models, the IRF and K1 models are comprehensive, in that they seek to describe complete texts.
- ◆ They are explicit formal linguistic descriptions which state possible and impossible combinations.

- ♦ They recognise discourse as a separate level of description which can be related to other levels of linguistic description (see Halliday 1994, Martin 1992).
- ♦ An SFL perspective specifically relates the linguistic description to the social context. The IRF model was originally constructed in an educational setting and this is reflected to some degree in both models.

This section will present in more detail the two models of discourse that are used in this chapter and will specify the adaptations that have been suggested by the present data. The main basis for the IRF model used in this chapter is Francis and Hunston (1992) and Martin (1992) for the K1 model. As the elucidations of these models are limited to some degree, they will be preceded by an exposition of the relevant original models: IRF - Sinclair and Coulthard (1975); K1 - Berry (1981).

6.2.1 The IRF model - Sinclair and Coulthard

The model uses a rank scale description which means that there are different elements of description based in a hierarchical relationship with each element being composed of a given combination of elements from the level below it. The elements in the model in order from the bottom up are : Act - Move - Exchange - Transaction - (Lesson).

Acts are the smallest item in discourse and are realised at the level of the lexicogrammar. They relate most closely to the grammatical category of the clause, generally consisting of an independent clause and any subordinate clauses. They are though, a separate level of description and there is no one to one correspondence between the clause and acts.

Acts are based on the notion of speech acts which formulates the separation of the function of an utterance and its form. In the philosophical tradition, speech acts are assigned to categories by reference to a hypothetical context or generalised 'pragmatic rules'. In Sinclair and Coulthard (1975), acts can only be determined in a specific context which is termed 'situation', and they claim that a series of questions and rules can be applied in a particular context to determine the nature of the act. The other concept which they draw on is 'tactics': the interpretation of an act is determined by its position in the ongoing discourse, retrospectively and prospectively. "The discourse value of an item depends on what linguistic items have preceded it, what are expected to follow and what do follow." (1992 p14) This is similar to the concepts of 'sequential implicativeness' and 'recipient design' in CA.

Moves are composed of acts and have a multivariate structure similar to the group in grammar with an obligatory *head*, and an optional *pre-head* and *post head*, each of which is realised by an act. Although a move may have a complex multivariate structure it "constitutes a coherent contribution to the interaction which essentially serves one purpose." (Sinclair and Coulthard 1992 p15). There are five classes of move: framing and focusing moves, which are found in Boundary exchanges, and opening, answering, and feedback moves which are found in Teaching exchanges. One particular benefit of the multivariate structure is that this allows for the downgrading of acts in the analysis. If for example, a lecturer starts with a question functioning as an elicit but immediately reformulates it or asks another question, then the second question will function as the elicit head act and the first will be downgraded to function as a 'starter'. This helps to catch some of the dynamic

reformulation that speakers often engage in due to the constraints of real time processing.

The exchange builds on the concept of the adjacency pair in CA and drawing on classroom data, Sinclair and Coulthard (1975) propose a three part exchange composed of the structural elements Initiation, Response, Feedback (IRF). Each structural element of the exchange corresponds to a relevant class of move: opening, answering, and follow-up. Each of the acts which make up the head of an opening move gives four basic classes of 'free' exchanges: Inform, Elicit, Direct, and Check. These can then be sub-classified in cases where the participants in the interaction occupy different positions of status or power - so for example in a classroom context, Sinclair and Coulthard note that a student Inform or Elicit exchange has a different exchange structure to a teacher Inform or Elicit exchange. This gives a total of six 'free' exchanges and there are also five bound exchanges which are dependent on a free exchange. Three bound Re-initiation exchanges which are based around the teacher re-initiating an elicitation because the first response was wrong, no one knew the answer, or the elicit required more than one answer. They also posit a Reinforce exchange where a directive needs to be restated and a Repeat exchange where a participant has misheard. These provide a degree of flexibility in the IRF exchange structure which is often overlooked and there would seem to be no reason why, should it be required, further categories should not be derived from data where appropriate.

Transactions consist of a series of Medial exchanges, in this case Teaching exchanges, which are marked by a Boundary exchange made up of framing or

focusing moves. The ordering of the exchanges within a transaction is not specified in the model and it is unclear if transactions can only be identified by the presence or absence of Boundary exchanges. In later elucidations of the model it is posited that transactions coincide with topic shifts (Coulthard et. al. 1981) or are actually defined as 'topic-units' (Francis and Hunston 1992 p140). It is also posited in Sinclair and Coulthard (1975) that transactions combine to form a lesson which is the highest level of linguistic description they postulate. They point out that the linguistic element of lesson may or may not coincide with the structure of pedagogic organisation which they term 'period'.

6.2.2 Modifications to the IRF model

Substantial modifications to this original model were proposed by a number of authors in the volume edited by Coulthard and Montgomery (1981). From this work there have been two main strands in the development of a systemic model for the analysis of spoken discourse. One strand is based on changes proposed by Coulthard et al. (1981) from work done on medical interviews and by Coulthard and Brazil (1981), which emphasised the role of intonation in the analysis of spoken discourse. These changes were laid out more explicitly in Francis and Hunston (1992) and it is this elaboration which forms the basis of the IRF model in the present analysis.

In the same volume, Berry (1981) proposed a major revision based on Halliday's three metafunctions and it is this model and in particular the later interpretations and refinements as set out in Ventola (1987) and Martin (1992) which form the basis of the second analysis which will be used in this study. This strand of development also

has an important component which builds on Burton's (1981) work in the same volume which pointed out that the original model assumed a consensual view of discourse which did not seem to be applicable to the areas of casual conversation which she was analysing. Elements of this model were taken up and extended in Eggins and Slade (1997) and some aspects of this later model have also been incorporated into the present analysis to deal with the aspects of the discourse of the seminar which do not fall within the consensual framework that underlies the other models.

6.2.2.1 The modified IRF model

The article by Francis and Hunston (1992) takes account of the substantial and various modifications proposed in the collection of articles in Coulthard and Montgomery (1981), particularly those proposed in chapters 1 (Coulthard et. al.) and 4 (Coulthard and Brazil). There are three main areas of change to the Sinclair and Coulthard model: the addition of a fourth element in the exchange structure (R/I); a break in the one-to-one correspondence between elements of the exchange structure and moves; the addition and reformulation of acts.

Coulthard and Brazil (1981) propose a fourth element in the exchange structure, Response/Initiation (R/I) which is both predicting and predicted. This was provoked by an analysis of the prospective and retrospective constraints in the sequence of the discourse. Laid out in a table, it is possible to see how such sequential constraints predict a fourth item:

Table 6.1 - Predictability of Exchange Structure

	Predictive	Predicted
Initiation	yes	no
Response	no	yes
Follow-up	no	no
Response/Initiation	yes	yes

This provides a possible solution to a fundamental theoretical problem with coding teacher elicitation exchanges as IRF in the original model where, as can be seen in the table above, the follow-up is not predicted by the student's response to the teacher's question but quite clearly a follow-up move is obligatory in such contexts. The IRF analysis can be replaced by an analysis of such Elicit exchanges as I R/I R which means that each element predicts or is predicted by the adjacent moves.

The predictive nature of the R/I move can be clearly seen when students answer with an interrogative as in the following exchange:

Example 6.1

1. I can anyone tell me what this means
 2. R/I does it mean danger men at work
 3. R yes
- (Coulthard and Brazil 1981 p97)

This type of response/initiation in line 2 which looks both ways can also be seen in the ellided declaratives with high termination. The resulting possible structure for exchanges has thus become I (R/I) R (F) (F), with I, R being the obligatory elements. Francis and Hunston (1992) state that the response is an obligatory element though in some specific contexts the response is assumed by non verbal means or the right is curtailed as in lectures. It may be possible to rewrite (F) as (Fⁿ) as Coulthard et. al's (1981) work on doctor/patient interviews points to the possibility of at least three Fs.

There are a number of other modifications to the exchange system. In the bound exchanges, there are now three categories Clarify, Repeat, and Re-initiation, the first element in each of these exchanges is realised by an eliciting move. These are categories which have proved to be important in describing the more complex aspects of the interaction in the seminars in the present data. However, they are not very carefully defined in either the Sinclair and Coulthard (1975) or in Francis and Hunston (1992) and they require a more careful review than other aspects of the model and as they have proved to be a crucial descriptive tool in the analysis of the present data they will be looked at in more detail below (section 6.2.3).

The addition of a fourth element (R/I) in the structure sets up the major reworking of the model which is the break of the one-to-one correspondence between the elements of the exchange structure and moves.

Table 6.2 Correspondence of Exchange structure to Moves

Sinclair and Coulthard (1975)		Francis and Hunston (1992 p141) - following Coulthard and Brazil (1981)	
Exchange Structure	Moves	Exchange Structure	Moves
Initiation	opening	Initiation	eliciting
Response	answering	Resp/Initiation	informing
Feedback	follow-up	Response	acknowledging
		Follow-up	

* The Francis and Hunston (1992) diagram is partially incomplete. The directing move and its associated response behave are difficult to include here as its structure is I R (F^D) and it cannot take R/I.

The flexibility that this arrangement allows provides for the resolution of the problem of the analysis of a teacher 'show' question. As we have seen such 'show'

questions which would be analysed as IRF in the Sinclair and Coulthard model can be re-analysed as I R/I R but this requires that the response by the teacher in the third slot can take an acknowledging move. The more complex relationship between exchange and move structure also allows the teacher to respond to a student elicit with an informing move.

Another change in the model which is evident here is the respecification of the moves. The five main moves; informing, eliciting, acknowledging, directing, behaving now orientate more towards the acts which make up the heads of the moves as opposed to the three moves in Sinclair and Coulthard which relate more towards the exchange structure. This is especially noticeable in informing where the head act 'inform' can be used in two different places in the exchange structure: as an initiation and as a response. For the purposes of the present analysis, only superficial changes were made to the category of moves laid out in Francis and Hunston (1992) and these are presented in appendix 7.

The Francis and Hunston (1992) model incorporates a number of changes at the level of act, based on the analysis of non-classroom data analysed by Coulthard et. al. (1981) and a greater understanding of the role of intonation in discourse (Coulthard and Brazil 1981). Francis and Hunston's model also reflects the corpus of casual conversations that forms the basis of their study. A number of changes have been made at the level of act, in order to incorporate the educational context of the present corpus. However, many of the adaptations in their model were retained as the non-consensual model of interaction which they reflect (see Burton 1981 and Eggins and Slade 1997 on the nature of 'casual' conversation) was found to be

useful in the context of the university seminar. The working principle was to make changes only where it was considered absolutely necessary and could be justified from the data.

The same basic set of acts has been used for the description of the Iolis workbooks and the seminars. The use of the same model is based on the principle of minimum change and on the need to make comparisons between the two genres. Furthermore, the analysis of the data does not present an overwhelming case for a complete overhaul of the functional specifications of the acts. The main distinctions that do seem to exist are due to the differing mediums of presentation - with the written medium in the CBL materials allowing for a relaxing of the sequential order of the move structure. The main example of this is in the structure of eliciting moves in the Iolis workbooks. Information to enable the elicit that would normally be in a pre-head position and labelled as the act 'starter' can occur in a post-head position. As it performs a similar enabling function one solution is to specify the act 'starter' in a post head position. Such dual positioning of acts within the move complex is a well established principle in all the previous models - with the proviso that only one such act is allowed per move. The other solution, which has been adopted here, is to specify a completely separate act for such a function in a post-head position. This is partially justified by the fact that such an act generally occurs in the present data after a specific realisation of an elicit: this is generally a 'neutral proposal' which includes in the realisation an imperative and a cataphoric reference, e.g. '*..consider whether the following contains an invalid penalty clause.*' (C1S). This requires a respecification of the realisation statements for 'neutral proposals' to include commands which have embedded clauses whose function is to ask a question.

Whilst the function of such an act in post-head position is similar to 'starter', the name 'facilitate' will be used instead as 'starter' implies a pre-head position in the move structure. There are two further justifications for the new act: firstly, the function of 'facilitate' is not to 'direct attention' to the elicitor (such anaphoric reference is not present), as is specified for the act 'starter', but to provide the information to enable the student to answer the question. Secondly, 'facilitate' cannot be realised by a question as this would supersede the original elicitor and relegate everything that had gone before it to 'starter'. This change has been incorporated into the elicitor move and thus could be applied to both genres, for although there are no examples of such acts in the seminars it must be remembered that seminars are 'multimodal', with much use made of written sources, and such an act would be possible.

A further act has been added in the acknowledge move based on the analysis of the present data: 'append', which is where a speaker completes the previous speaker's utterance. In the present data it appears only in the acknowledge move and is used where the answer to a DK1 is being jointly constructed in the interaction.

A number of acts which reflect the educational setting, 'bid', 'prompt', 'nomination' and 'evaluation' have been re-instated from Sinclair and Coulthard (1975). The main change here has been to allow for the sub-categorisation of 'evaluation' into 'qualify', 'validate', and 'negate'. In this educational context, where a show question has been asked, then a partially correct response (flagged by the lecturer with a 'qualify') or a wrong answer (flagged with 'negate') indicate that the

exchange has not been fully resolved and this will usually set up a bound Re-initiation exchange.

Finally, before moving on to look at bound exchanges, the role of realisation statements for acts needs to be clarified. In both Sinclair and Coulthard (1975) and in Francis and Hunston (1992), some of the realisation statements seem to imply that they are definitional. For example, certain of the acts are said to be realised by a closed set, e.g. the act 'loop' is realised by "a closed class of items: 'pardon', 'what', 'eh', 'again', and their variants, said with rising intonation" (Francis and Hunston 1992 p130). However, it is unclear in what sense a functional act can be said to be composed of a 'closed' set as it could be in a grammar. This would seem to leave little room within the model for language variation or change. If the claim is that it is a closed class with reference to a particular set of data, then this is not very meaningful as all the items belong to a closed set as any corpus is limited. In this context, it is understood that realisation statements are probabilistic statements about a possible range of lexicogrammatical resources which may be used to realise a particular function within a particular register (as defined by Halliday 1994). They are to be seen as a possible range and thus there is no notion of a 'closed set' as in grammar and they should be seen as illustrations of probable realisations rather than as definitional.

6.2.3 Bound exchanges in the IRF model

Bound exchanges were found to be particularly relevant in analysing the present pedagogic data, especially for lecturer Re-initiation exchanges. Theoretically, they

provide the only way into describing the connectedness between exchanges in the present IRF models. The connection of free exchanges (plus their bound exchanges) into higher units is posited in the IRF model at the level of transaction but there has been no detailed elucidation of this category. This has not been resolved in the present working model but bound exchanges provide a degree of flexibility at the level of exchange which has been fruitfully exploited. This section will explore the definition of bound exchanges and will propose an expansion of the categories to allow for greater flexibility and descriptive power.

Sinclair and Coulthard (1975) have five categories of bound exchange: four are specified as teacher Elicits with three Re-initiation exchanges and a Repeat exchange (*Pardon?*); the fifth is part of a teacher Direct exchange and will not be dealt with here as no examples occur in the present data. They give the following general definition of a bound exchange: “An exchange is bound if it has no initiating move, or if the initiating move it does have has no head, but simply consists of nomination, prompt or clue.” (Sinclair and Coulthard 1992 p28).

The three teacher Re-initiations are specified in more detail and are summarised below:

1. Where the teacher gets **no answer** to an initiating Elicit then the same or a rephrased question can be restated or implied with the use of the acts prompt, nomination, or clue. This gives the structure [I / Ib R F].
2. Where there is a **wrong answer** feedback occurs but it is negative or it can be ‘Yes’ or reformulation but these are used with tone 3 (incompleteness) or tone 4 (reservation). The structure is therefore [I R F / (Ib) R F].
3. When the teacher wishes **more than one answer** because “they are making sure more than one person knows the answer, (..) they have asked a multiple question.” The structure is the same as for a wrong answer [I R F /

(Ib) R F / (Ib) R F] but the Ib can only be realised by the acts prompt, nomination, or clue and the feedback before the Ib cannot consist of an evaluate act only an acknowledge.

(Sinclair and Coulthard 1992 pp29-30)

A careful reading of these specifications of Re-initiations would appear to contradict the stated general definition of bound exchanges as lacking an initiation, as the specification of Re-initiation 1 states “the same or a rephrased question can be restated” (Sinclair and Coulthard 1992 p29). A similar problem would seem to emerge with the Repeat exchange. The head act of this bound exchange is ‘loop’ which it is claimed consists of a closed set of items which seem to consist of minor clauses (*Pardon*) but this seems to ignore other full interrogatives that would be possible here (*e.g. could you say that again?*). If the claim is that these elicitions in the ‘loop’ act are not classed as initiations because they are part of a bound exchange then the definition would seem to be circular: they are not initiations because they are part of a bound exchange, they are bound exchanges because they do not have an initiation.

Sinclair and Coulthard’s (1992) structural definition of bound exchanges as an absence of an initiating move is not repeated by Francis and Hunston (1992). They propose three ‘bound-Elicit exchanges’ which are “.. so named because they are bound to preceding exchanges and all have eliciting moves at Ib.” (ibid p136). These consist of one new bound exchange, Clarify, and the two existing ones from Sinclair and Coulthard of Repeat and Re-initiation. The definition of bound exchanges would seem to be purely functional and there would seem to be no structural definition as outlined in Sinclair and Coulthard. However, in the specification of the acts they state that a Re-initiation can only be realised by a ‘prompt’ which consists

of a closed set of items (e.g. ‘come on’) and not by a full interrogative structure. This definition would seem to exclude the above example as a bound exchange focusing as it does on the form of initiation rather than the repetition of the propositional content and the withholding of the predicted third element of the exchange and its substitution by an initiating move.

A structural definition of a bound exchange can be more clearly explained by reference to Berry’s (1981) K1 model of exchange structure which will be outlined more fully in the following section (section 6.2.4). We will briefly preview some aspects here to illuminate the present issue of bound exchanges in the IRF model. In a Knowledge exchange (K), the obligatory move is the information provided by the ‘primary knower’ (thus K1) and comes in the third slot in a teacher initiated exchange with the first question analysed as a delayed K1 (Dk1) and the students response as the secondary knower (K2). Any move which *interrupts* the anticipated Dk1>K2>K1 sequence is analysed as a query or confronting move. Berry (1981) gives the following non-authentic example in the context of a quiz show of a what she terms a query (the first column gives the exchange structure and the second the turn taking):

Example 6.2

dk1	ai	What’s the capital of Brazil
k2	bi	is it Rio de Janeiro
k1 / dk1	aii	well, is it
k2	bii	yes
k1	aiii	that’s right

(Berry 1981)

This insight from the K1 model would seem to give a possible structural definition of bound exchanges, particularly Re-initiations in Dk1 exchanges. Re-initiations can be defined as bound exchanges which seek the completion of the anticipated K1

which was ‘delayed’ in the original elicitation through a further elicitation which may be actual or implied. This definition leads to the following re-specification, based on the present data, and incorporating insights from Mehan (1979), of Sinclair and Coulthard’s three categories of Re-initiation exchanges:

- I. ‘Recycle’ - where there is no answer on the part of the student (silence by student), the student’s answer is wrong answer (lecturer is silent or negative evaluation), or partially correct (lecturer - ‘yes’ plus tone 3 or 4 or other qualified evaluation). The lecturer can “start again *using the same or re-phrased question*, or he can use one or more of the acts ‘prompt’, ‘nomination’, ‘clue’ to re-initiate. The original elicitation stands and these items are used as a second attempt to get a reply.” (Sinclair and Coulthard 1992 p29 - italics added)
- II. ‘Expansion’ - this is precipitated by the same possible ‘causes’ as the Recycle re-initiation but there is a different response on the part of the lecturer - the resolution of the exchange is delayed by the lecturer asking a series of elicitations which expand on or introduce new propositions, to ‘lead’ students towards a more satisfactory answer.
- III. ‘List’ - this is where the lecturer requires more than one answer from the original elicitation - in contrast to Sinclair and Coulthard there can be any type of evaluation in the feedback before the Ib and the Ib is generally realised by a ‘prompt’ (*Another idea?*).

6.2.3.1 *Exposition of Categories*

The Recycle re-initiation brings together the first and part of the second of Sinclair and Coulthard’s categories. The key point here is that the proposition in the original elicitation still stands and is recycled through any appropriate realisation until K1 is achieved. This raises a question mark over the coding of negative and qualified

evaluation in the 'follow-up' slot in Dk1 exchanges in both the IRF and K1 models. Both models would code positive and negative follow-ups to a Dk1 teacher initiation in the same way and both would describe 'complete' exchanges. However, this would seem to misrepresent the purpose of the follow-up move in educational Dk1 exchanges where the focus is on the propositional content of the elicitation and the delivery of a version of K1 acceptable to the lecturer. As Mehan points out,

“.. positive and negative evaluation do not fulfil equivalent functions (....) , negative evaluation, prompting, and non-evaluation are continuation acts; they do not appear at the end of teacher-student sequences, only in the interior.” (Mehan 1979 p64).

It is interesting to compare this to Dk1 exchanges in a TV quiz show where the primary focus of the exchange is on the polarity of the follow-up move and the propositional content (K1) is relatively inconsequential and may be supplied in a separate exchange.

Expansion re-initiation exchanges are part of the same phenomenon but represent a different response on the part of the teacher. They are similar to Mehan's (1979 p59) Simplification exchanges where the teacher breaks down the question 'into simpler components' until the student can answer the original elicitation. In the present data it was found that such re-initiation elicits tended to require students to expand, elaborate or enhance their original reply.

List re-initiation exchanges are distinct from the other two in that they can have a positive evaluation in the third move and thus can be treated as complete exchanges from a structural point of view. However, if the original Dk1 elicitation requires multiple answers then for K1 to be realised there must be multiple responses, all of

which need to be evaluated. The requirement for multiple responses to such Dk1 elicitation will often be realised in the Mood structure (*What reasons are there for ...*) but this need not be the case. The bound re-initiation will usually be ‘prompts’ or highly ellided questions (*Any more? What other reasons are there?*), but such realisations in the Ib slot cannot be seen as a definition of a List re-initiation as it would seem to be in Sinclair and Coulthard (1992). The point is that only the teacher knows whether more than one answer is required and when K1 has been fulfilled. Such decisions may well be dynamic with the teacher deciding as they go and thus the coding of such exchanges can really only be achieved retrospectively.

Clarifying and Repeat bound exchanges are however, less open to such a structural definition as they can come at any point after the initiation of an exchange. They can, for example, come after a K1 move whether that be the third part of Dk1 exchange or a straightforward lecturer: inform move. So the interruption of the obligatory K1 move does not apply as a structural definition here and a broader principle of interruption or suspension of the exchange could be said to operate. A working definition of such moves would involve the notion of ‘resolution’ of the exchange to the satisfaction of *all* participants involved, allowing for Clarify and Repeat exchanges at the end of an exchange.

Francis and Hunston (1992 p 138-9) give a simpler functional definition of Clarifying and Repeat bound exchanges - with indications given as to their specific exchange, move, and linguistic realisations. The functional definitions given are: Clarify bound exchanges “elicit clarification of a preceding utterance”, and Repeat bound exchanges “elicit repetition of a preceding utterance.” (ibid p 138-9). Such

definitions can serve well for a core group of items which often have particular linguistic realisations, as in the case of Repeat exchanges where Hunston and Francis claim the head act, 'loop', is realised by a closed set of items (*Pardon, Eh, What* + rising intonation). However, it is highly questionable to what extent the group is as closed as Francis and Hunston indicate for Repeat exchanges.

However, the broad functional definitions that Francis and Hunston propose can leave the analyst with a difficult task in determining borderline cases and could lead to an over-reliance on realisation statements. This is particularly so in cases such as Repeat exchanges where there is a claim for a closed class of items which though useful, may offer little help to the analyst or even lead them to overlook new, unusual or more 'metaphorical' realisations of such acts. Whilst such functional classifications of moves tend to focus on the elicitation itself and what it prospects, it is the analysis of the response which is crucial.

Mehan (1979 p63) emphasises the need to consider the reflexive character of moves, both their prospective and their retrospective nature:

“the appearance of the first part of a sequence makes the appearance of a second part prospectively possible. The actual appearance of the second part of the sequence gives meaning to the first part of the sequence.” (Mehan 1979 p63).

This can lead to situations as Tsui (1994) points out where participants can deliberately or unwittingly retrospectively reclassify the discourse value of an initiating move by producing a responding move different than that prospected by the initiation.

Such positions would appear compatible with Sinclair and Coulthard's notion of 'tactics'. Mehan (1979) though, goes on to describe such reflexive interactions as 'social acts' and extends the notion of reflexivity beyond adjacency pairs to the completion of the social act which retrospectively extends back across the exchange and provides the meaning of the initiating act. Mehan criticises Sinclair and Coulthard's concept of speech acts as retaining "a version of the formal semantics notion of autonomous meaning." (ibid p63) based on the utterance's illocutionary and perlocutionary force. This he claims means that the analyst can treat speech acts as somehow complete in themselves and that there is little need to consult the unfolding discourse of the exchange to interpret their meaning. This is certainly not obvious from Sinclair and Coulthard's notion of 'tactics' but there are instances of analysis which indicate that the criticism may have some justification.

Sinclair and Coulthard, for example, define a Repeat exchange as being used to elicit a repeat when someone has not heard (1992 p30) but they make the point that teachers may use this exchange "...when they want a reply repeated for other reasons." (1992 p 31). Such uses certainly occur; it can be used to get students to shut up, or to provide another response when the student has given a wrong answer. However, Sinclair and Coulthard seem to be implying that it would still be coded as a Repeat exchange. This and the notion of the realisations of a Repeat exchange as a closed class imply that the coding of utterances is based primarily on some inherent property of its realisation and less on its function in the unfolding context as determined by the ongoing contributions of the participants.

6.2.3.2 *Summary of bound exchanges*

The above analysis of bound exchanges has produced a more specific set of descriptive categories and it has also allowed us to explore some of the issues which the analyst must bear in mind when coding the discourse. It indicates that there are three main elements that an analysis must consider when coding a bound exchange: the realisation of the acts, the structure of the exchange, and the overall situation of both of these within the on-going discourse. Whilst the realisation of acts is clearly a crucial element in the analysis of the discourse, the danger of over-reliance on pre-determined sets, particularly the notion of ‘closed’ sets, must be avoided. A more careful analysis of the structure of exchanges which draws on Berry’s (1981) K1 model has allowed for a more precise specification of the structure of some bound exchanges. The broader functional concept of the need for a ‘resolution’ of the exchange beyond adjacent moves that the K1 model implies has also been helpful in resolving the functional specification of moves and their associated acts. Above all, there is a need to emphasise the situating of the analysis within the unfolding of the on-going discourse which though a clearly stated concept in Sinclair and Coulthard (1975) under the title of ‘tactics’, does at times seem to conflict with the other specification in the model to only consider adjacent moves in analysing the discourse. Berry’s (1981) model clearly shows that this is not theoretically sustainable in the exchange structure and Mehan (1979) cogently argues for the need to look at exchange sequences in determining the analysis. We now turn to look in more detail at Berry’s (1981) K1 model of discourse.

6.2.4 K1 Model

The second model used in the present analysis is based on that outlined by Berry (1981). After a brief description of this model this section will go on to describe the substantially revised versions in Ventola (1987) and Martin (1992) which will be used in this study.

6.2.4.1 *Berry's Model*

Berry (1981) noted that whilst Sinclair and Coulthard (1975) had laid out a description of a system of Discourse based on Halliday's notion of Rank Scale constituency structure, they had rejected his description of language as composed of three metafunctions; Ideational, Interpersonal, and Textual. Whilst trying to integrate the modifications outlined in Coulthard et al (1981), Berry takes Halliday's metafunctional approach as her starting point and develops a new model.

The first metafunction is the interpersonal and this Berry (1981) suggests relates to the 'negotiation of information' and in particular who is the primary knower and who is the secondary knower in an exchange. This is similar to Labov's description of A and B events but relabelled here as K1 and K2. The role of the primary knower in the discourse is obligatory otherwise there would be no exchange of information which is considered here as the basis of the exchange. So we may get a straight inform move where there is no response from the listener, such as a tour guide:

Example 6.3

K1. This is Buckingham Palace on your left

The first speaker may request information which casts the second speaker as the primary knower:

Example 6.4

- K2. Where are you from?
K1. London

This may be followed by some sort of follow-up comment by the first speaker such as 'Oh really' and this follow-up can be labelled K2f. The longest possible exchange is where the primary knower initiates the exchange with an elicitation in order to get the second speaker to display their knowledge which can then be validated by the first speaker as happens in classrooms and quizzes. The initial 'show' question is labelled DK1 with D standing for delayed.

Example 6.5

- Dk1 What's the capital of Brazil?
K2 Rio de Janeiro
K1 No, its Brasilia
K2f oh really

With the addition of a K2f move this gives the longest exchange structure outlined in Berry (1981). Though not mentioned in the paper, there would seem to be the possibility of more than one follow-up move with a K1f and perhaps even a K2ff. The main point to draw from this analysis of the Interpersonal layer of the model (see Berry p124-125 on the definition of Rank and Layer) is that it provides a very simple and elegant structure for the exchange: all elements are obligatory in the exchange up until K1. This provides a far more satisfying account for the fact that the third element, feedback, in the three part exchanges that are found commonly in classrooms is obligatory and that it is predicted by the initial Dk1 and not by the response of the student (K2). This breaks the basic condition of the two IRF models outlined above which claim that moves can only be interpreted in terms of the immediately adjacent moves.

The second layer is the Textual layer which describes the turn taking within the exchange. The person who initiates the exchange is labelled ‘a’, and the second speaker ‘b’, and their subsequent turns are numbered (ai, bi, aii, bii ...). The interesting part of this layer is the options that operate after the one obligatory element ai. Following Burton (1981), Berry (ibid) proposes that speakers after ai have the option of supporting or challenging the previous move. Support is realised by a well formed exchange and a challenge by an ill-formed exchange, where one of the obligatory elements has been withheld. Where the completion of the exchange is only withheld temporarily, Berry proposes a third category of query.

Example 6.6

dk1	ai	What’s the capital of Brazil
k2	bi	is it Rio de Janeiro
k1 / dk1	aii	well, is it
k2	bii	yes
k1	aiii	that’s right

As we shall see, these insights have given rise to concepts of challenges and tracking moves (Martin 1992).

The third layer is the Ideational layer which states that one completed proposition (pc) is obligatory for an exchange. The first speaker may get the second speaker to complete through an elicitation but in doing so provides a propositional base (pb) for a limited number of possible completions. This completion may then be supported (ps) by the first speaker.

Example 6.7

Lecturer	dk1	<u>ai</u>	pb	Title is is what?
student	k2	bi	<u>pc</u>	Legal title
Lecturer	<u>k1</u>	aii	ps	Yeah Ownership
student	k2f	bii		Ownership yeah

(seminar 3 - present corpus)

Berry notes that in the progression from pb to ps there is ‘a decrease in the range of propositions that are negotiable’ (ibid p141) with a corresponding increase in ellipticity. The underlined elements in the above example show the three obligatory elements in each layer and how they interact.

6.2.5 Elaborations on the K1 model

Based as it is on a more explicit Hallidayan approach to the analysis of interaction than the IRF model, Berry’s model has been utilised and adapted by other Systemic Functional linguists such as Ventola (1987), Martin (1992), and Matthiessen (1995). However, these models have only picked up on two aspects of Berry’s model: the Interpersonal layer and the notion of challenges and queries in the Textual layer. They do not include the Textual and Ideational layers of analysis nor do they provide a rationale as to why they have been dropped.

Both Martin (1992) and Matthiessen (1995) place their discussion of exchange structure within chapters on the Interpersonal metafunction which discuss the grammatical resources of Mood and the related semantics of speech functions, so it may be that Textual and Ideational layers are not considered central to such an explanation and would be dealt with elsewhere. This is implied in Martin’s (1992) criticism of the Birmingham model of discourse structure which he sees as trying to deal with too many aspects within a single rank scale such as act-move-exchange-transaction-lesson. Martin (1992 p56) proposes a modular approach to discourse semantics where if lower levels of description (e.g. lexicogrammar, phonology) can handle the text description then this does not need to be restated at the discourse

semantic level as the model does not dualise form and meaning. Martin sees negotiation as just one of four ‘perspectives’ on text structure in his model of discourse semantics, the others being identification, conjunction and ideation. This he claims avoids the undoubted problems that the Birmingham school has in analysing monologue.

Firstly, the main aspects of the model that Martin (1992) proposes will be laid out below incorporating Ventola’s (1987, 1988) modifications. The exchange structure is represented as the following, : ((DX1) X2) X1 (X2f (X1f)) (see Martin 1992 p47 and Ventola 1988 p57). The X stands for K in Knowledge exchanges and A in Action exchanges and the sequence of the moves in the exchange structure is fixed and are thus termed synoptic moves. The brackets represent those structural elements or groups of elements that are optional – which leaves X1 as the shortest valid exchange. Action exchanges function in very similar ways to Knowledge exchanges, with the person who does the action as primary actor (A1) and the secondary actor (A2).

This brings us to the second aspect of Martin’s model, speech functions. The division between Action and Knowledge exchanges reflects one of three aspects of the speech function system network that Halliday (1994) outlines: the division between the exchange of information in Knowledge exchanges and the exchange of goods and services in Action exchanges. Combined with the distinction between giving and demanding this gives the following speech functions:

Table 6.3 Basic Speech Functions (Halliday 1994p6)

	Information	Goods and services
Giving	Statement	Offer
Demanding	Question	Command

If we include the third system, initiating or responding, this then gives four adjacency pairs from the four speech functions above. This can be expanded to include dispreferred as well as the preferred or expected responses. (Halliday 1994 p69).

Table 6.4 Speech Functions and Responses

Initiating Speech Function	Responding Speech	Function
	Preferred	Dispreferred
offer	acceptance	rejection
command	compliance	refusal
statement	acknowledgement	contradiction
question	answer	disclaimer

(adapted from Eggins and Slade 1997 p183, see Halliday 1994 p69)

Martin also specifies three other speech function pairs which are part of ‘attending’ rather than ‘negotiating’: Call (John!), Greeting (Hi), and Exclamation (What rubbish!) and their responses (1992 p44).

The two systems of Negotiation (exchange rank) and Speech Function (move rank) make up the Discourse Semantics layer in this model of conversational structure.

The third is the Lexicogrammatical system of Mood (Clause rank) (Martin 1992 p50). There are however a number of limitations to this tripartite structure which tends to mean that in practice the actual analysis of texts using this model often emphasises the rank of exchange. Martin’s (1992) analysis of speech functions does not go beyond that which is laid out in table 6.4 and he states that it is limited as he has “.. ignored work on speech act theory, which is clearly relevant to a more

delicate categorisation of Negotiation and Speech Function and their realisation in lexicogrammar.” (Martin 1992 p76).

In the IRF model there is a separate rank of acts that allows for a multivariate structure within moves with pre-head, head, and post-head acts. Moves in Martin’s K1 model have a univariate structure and links between them are handled by other systems within the discourse stratum such as conjunction, lexical cohesion, and reference.

Descriptions from other Planes or Strata may also be called on to provide a description of the text’s structure such as the Phonological stratum (Tone), the Lexicogrammatical (Mood, Theme, Transitivity) or the Planes of Register and Genre (see Ventola 1988 p74). It is this modular approach to text description which Martin sees as providing a more robust model than the Birmingham school and avoids the ‘embarrassments’ that the latter model suffers when applied to monologic text (see Martin p56).

In the IRF model the move is a functional unit which can be composed of a number of separate acts and acts of a number of clauses. In the K1 model, the systems of Negotiation (exchange structure) and Move (speech function) are based on the unit of the clause. Ventola (1988) points out that it is unclear in Berry (1981) what Unit fills the structural slot (DX1, X2, X1) in the exchange structure. The examples in Berry (1981) are of speaker turns composed of a single major or minor clause and as Ventola (ibid) states “A model where a slot corresponds to a turn is too simplistic and is surely not intended by Berry.” (ibid p58). Martin (1992) sees a ‘clause

selecting independently for mood' as the basic unit of the 'message' which forms the unit for speech function and exchange analysis. This leads to the possibility of a substantial number of 'moves' each of which in Martin's system could be an exchange.

Whilst agreeing that a clause selecting independently for mood is the most meaningful unit for the analysis of a move, Ventola (1988) points out that this produces a "fragmentary picture of the social interaction achieved by an exchange" (ibid p59). Ventola proposes a move complex which draws on Halliday's (1994) concept of logico-semantic relations of taxis to create relationships between exchanges which are categorised as elaboration (=), extension (+), and enhancement (x). The category of move consists of a clause selecting independently for mood and can therefore consist of two clauses hypotactically related and move complexes are combinations of moves which are related in terms of parataxis. Complexing can occur at any point in the exchange system and Ventola (1988 p66) gives the following example of an elaborated Dk1 move in a classroom exchange:

Example 6.8

Dk1	1	T	Now you couldn't tell me the names of these could you?
Dk1	=2		What do you think they are?
K2		P	Clippers
K1		T	They are cutters

(Ventola 1988 p66)

"By using move complexes, that is by elaborating the initiating move, the teacher is giving the student more time to think about the answer." (p66). The present data suggests that a Dk1 move may also form a move complex with a K1 move where the latter comes between the Dk1 move and the predicted K2 move. This is possible

as the initiator of the DK1 is also in possession of the relevant K1 and can dynamically provide extra information in order to enable the student's K2. This would be described in the IRF analysis by the act of 'comment' in post-head position. Statements coming before the teacher elicitation which provide information are considered to be part of the elicitation exchange and are described as 'starter' acts in pre-head position. In the Dk1 analysis, this would be analysed as a separate K1 informing move. The following extracts provide examples of both Dk1 - dk1 and Dk1 - k1 move complexes from the present data. In the present analysis, the dependent move has a small letter and is preceded by the symbol of its logico-semantic relationship. The link is also marked by a line to the right of the notation.

Example 6.9

a)

Dk1	L	<\$=> C= er ha= <\\$=> What does negligence arise out of?
= dk1	>	What what are the ingredients of negligence?
K2	sF?	<\$G?>
K1	L	Yes

b)

Dk1	L	W= w= w= where are you getting that?
bch	general	<\$E> laughter <\\$E>
x k1	>	<\$=> Cos I <\\$=> Cos I I recognize the language
+ k1	>	<\$=> and <\\$=> but I want to know exactly where it's coming from. <\\$=> Because we're <\\$=>

In example 6.9b the first Dk1 move is followed by a k1 move which provides a reason for asking the question (enhancement) and this is taken further with a second k1 move (extension).

Overall, this system of move complexing provides some of the flexibility of the multivariate structure of the IRF model in terms of describing moves and the coherence of exchanges whilst avoiding some of the problems of the indeterminate

extent of functional acts by relating the unit of analysis of the move to clauses selecting independently for mood. It has been adopted in the present analysis, though only the relationship of dependency has been signalled through the use of a lower case letter for the dependent move and a line to link the two. The specific nature of dependency has been left unmarked as it has not proved relevant to the present analysis.

Martin's (1992) points out that such relationships between what he see as separate exchanges should be handled through other resources in Discourse semantics (e.g. reference and conjunction) and Lexicogrammar. However, what is not specified is how these systems interact with exchange structure nor is it demonstrated whether they do in fact coincide with the exchange structure.

6.2.5.1 Dynamic moves

One of the most interesting aspects of Berry's (1981) analysis of the textual layer is the notion that after an initiation the interactants will have the option of supporting, challenging, or querying the previous contribution. This builds on the work of Burton (1981) and has been expanded on by Ventola (1988) and Martin (1992) in the concept of dynamic moves.

Dynamic moves are composed of tracking moves and challenges. Tracking moves seek to explore or elaborate the existing experiential meaning of the proposition on the table and can be seen as loops in the ongoing exchange (Matthiessen 1995 p447). Their purpose is to try to ensure the successful completion of the exchange in that “..they merely delay anticipated exchange completion, without indicating

disagreement with it.” (Eggins and Slade 1997 p207). Challenges negotiate the veracity, validity or relevance of the proposition on the table with reference to the actors involved and are what Martin terms ‘interpersonal suspensions’ (1992 p67). These moves are analysed outside the synoptic exchange structure as they can occur at any point in the exchange after the initiation

Tracking moves

The main basis for the tracking moves used in the present analysis are the three categories outlined in Martin (1992): backchannel, confirmation, and clarification. Though some of the terminology is distinct, these are similar to the categories outlined in Ventola (1987) and Eggins and Slade (1997) and their definitions and examples have been used to inform the present analysis.

Back-channelling is the most ubiquitous tracking move, its function being to signal that the message is being received and that the negotiation is proceeding smoothly. It can occur within other speakers’ turns, is immune to the usual turn taking signals, and has no potential response. When it does occur in the feedback slot at the end of an exchange it is virtually impossible to distinguish from a Kxf move, and Martin (1992 p67) recommends the third move is analysed as feedback unless it interrupts the previous turn.

Confirmations explore the existing experiential meaning from the previous move and are usually to do with the mechanics of the interaction where some part of the meaning has been missed and needs to be checked. This may require the replay of the whole message, *eh?*, *Pardon?*, or a partial replay through repetition or a

question, *you found a what?*. Clarifications though, elaborate or elucidate on the experiential meaning in the previous move and require the previous turn to be fleshed out.

Eggins and Slade (1997) distinguish four categories of tracking moves: check; confirm; clarify; and probe. The first three cover similar ground to the two broad categorisations outlined above but there is some lack of fit which shows that there is more difficulty to the categorisation of such moves than would first appear. Check is concerned with information that has been missed and confirm seeks verification of what the speaker thought they heard, and both can be subsumed under confirmation in the Martin model. Confusingly though, they say that “..Checking may involve specifically requesting clarification.” giving the example of ‘Whaddaya mean’ (Eggins and Slade 1997 p209).

Clarifications in this model are similar to the Martin model in that they “seek additional information in order to understand the prior move” (Eggins and Slade 1997 p210) but there is some distinction between ‘elaborating existing meanings’ and ‘providing additional information’ and it is unclear whether the latter includes reformulations, for example. They also propose a probe move which can be seen as extending the category of clarification as outlined by Martin (1992). Rather than exploring existing meanings, probes bring new propositional material into play and offer “further details or propose implications for confirmation by the initial speaker.” (Eggins and Slade 1997 p210). These have proven to be common in the present data and have been included in the category of tracking moves. They are generally realised in the context of the present study by: logically dependent interrogatives;

logically dependent declaratives with Tone 3 intonation (often with conditionals);
negative polarity and tag interrogatives.

Example 6.10a – Probe

Student: **so then** they would've given four hundred and fifty thousand pounds as a top limit for the damages

Lecturer: yes (c1s)

Example 6.10b - Probe

St: **doesn't he** just get a hundred thousand cause his factory was only rented for two thousand

L: no they don't / (c1s)

Challenges

Martin defines a challenge as “interpersonally oriented, rather than experientially oriented and not only has the potential to suspend, but in fact to abort the exchange.” (Martin 1992 p71). The present analysis identifies four types of challenges, detach, disavowal, query authority, and counter.

a) Detach

Challenges which terminate an exchange are probably the most straightforward to recognise, although Martin points out that such escape strategies depend on what is being exchanged. They may even occur before exchanges get off the ground (*get lost!*). They do not occur in the present data.

b) Disavowal

The key point which determines a challenge in Berry's (1981) model is the absence of the obligatory element of the exchange which in Martin's single layer model would mean the frustration of A1 or K1. For Action exchanges, this means that the performance of the action must be frustrated. Martin gives the following example for an A2 initiated exchange:

Example 6.11

A2 Get me a drink, will you?
ch No, I won't/ can't.
(Martin 1992 p72)

This represents the dispreferred response for the relevant speech function which is refusal for commands, involving a contradiction of the modulation. However, in Knowledge exchanges, a contradiction of modality does not necessarily signify a challenge. Again the point is that the obligatory move, the K1 move, needs to be frustrated. The examples given in Martin for Dk1 and K2 exchanges are as follows:

Example 6.12a

Dk1 Is it Range?
ch I've no idea

6.12b

K2 What's that one
ch I don't know
(Martin 1992 p73)

These are the dispreferred response for the relevant speech function, disavowal for questions. Martin also points out that even when the obligatory K1 or A1 move initiates an exchange it is still possible to reject the goods and service (A1) or question the relevance of the experiential meaning (K1).

Example 6.13

K1 John might be coming over.
ch So what?
(Martin 1992 p73)

This is an important example as so far the challenge have been determined by the lack of the obligatory element, but this example emphasises that it can be the frustration of the A1/K1 move rather than its absence.

c) Querying authority

Martin adds a further category of challenges where “..interlocutors query the degree of authority invested in previous moves.” (Martin 1992 p73). Again a distinction is

made between Action and Knowledge exchanges. The former ‘arbitrate inclination’ while the latter ‘probe modalization’ (p73-74) but the key here is that these generally lead to a resolution of the exchange though there may be cases where they may go on indefinitely.

Example 6.14

A2 Get me a beer will you?
ch must I?
rch you have to
A1 Alright
A2F Thanks
(Martin 1992 p73)

Example 6.15

K1 I reckon its a range
ch Are you sure?
rch It could be
K2f I guess so
(Martin 1992 p74)

This category is of particular interest as it clearly moves away from Berry’s model where it is the frustrating of the obligatory move (A1/K1) which defines challenges. The examples given for Action and Knowledge exchanges all have questions in exchange slots where a statement would be the expected response.

However, one example in Martin (1992), given in the section describing challenges that query the authority, gives the impression that such challenges can also involve the contradicting of the polarity of the previous proposition:

Example 6.16

K1 It’s a Range
ch **No it isn’t**
rch It is
ch Are you certain
rch Absolutely
(Martin 1992 p74 emphasis added)

However, this would seem to contradict a previous example in Martin where he makes the point that in a Knowledge exchange a challenge “..is not simply a matter of introducing a contradictory modality because these either function as or to negotiate the K1 move.” (Martin 1992 p72). The following is given as an example of the latter:

Example 6.17

K1 John might be coming later.
K2f No, he isn't.
K1f Oh really.

The only distinction which seems to be possible is that in example 6.17, there is a modal verb indicating that the K1 statement is an opinion about a possible future event, for which the speaker is not responsible, indicating it is open to negotiation.

On the other hand, in example 6.16 the K1 statement is presented as an incontestable fact with validity resting with the speaker and thus a contrary statement becomes a challenge. However, what seems to confirm the analysis is each case is not just the distinction between the first two moves in each example but the response of the initiator in the third move. The inverse modality in the third move of example 6.16 highlights the second move as a challenge but in example 6.17 the acquiescence of the third move softens the impact of the inverse modality of the second move.

d) Countering moves

Eggin and Slade (1997) recognise another type: Countering moves which are “.. an alternative, counter-position or counter-interpretation of a situation raised by a previous speaker.” (Eggin and Slade1997 p212) This, they point out, is not the same as simply contradicting the original proposition with reverse polarity.

Countering moves will be used in the present model to provide a working definition

to resolve the problems in the category of 'querying authority' challenges outlined above.

The structure of Dynamic moves

In both Martin and Ventola tracking moves and challenges are presented as being outside the synoptic exchange structure. This means that they are not described by the exchange structure ((DX1) X2) X1 (X2f (X1f)) but as speech functions paired with an appropriate response in an adjacency pair. With the exception of backchannels which have no response, this gives four main adjacency pairs for dynamic moves:

Confirmation (Cnf)	- Response to Confirmation (Rcnf)
Clarification (Clf)	- Response to Clarification (RClf)
Probe (Prb)	- Response to Probe (Rprb)
Challenge (Ch)	- Response to Challenge (Rch)

Martin (1999) seems to extend this structure to allow for a follow-up move in dynamic moves which seems to be labelled a 'response to a response' move, as in the following example from *Educating Rita*:

Example 6.18

K2	[Rita]:	What does assonance mean?
ch	[Frank]:	[laughing] What?
rch	[Rita]:	Don't laugh at me.
rrch	[Frank]:	Ah no.
K1		Assonance, it's a form of rhyme

(Martin 1999)

This raises the issue of the potential structure of such dynamic moves and the limit that exists to adding 'responses to responses' ad infinitum ($ch \wedge rch \wedge r+r^n ch ?$).

There is also the issue as to how such a description differs in substance from a synoptic analysis. This is not to question the fact that dynamic moves can occur at any point within the exchange structure but it is unclear why the internal structures

of such dynamic exchanges could not be the same as the synoptic exchanges. If these dynamic moves coherently negotiate meaning in similar ways to synoptic moves then that negotiation would seem amenable to a similar structural description. On reflection this would seem to work for tracking moves with their experiential orientation but a K1 structural description seems less applicable to challenges with their strongly interpersonal orientation. The K1 description of knowledge exchanges rests on the concept of an exchange of information and being able to determine A and B events but this assumption does not hold in the case of challenges which seek to abort the exchange or question the relevance of a previous contribution. Speech function labels provide a more flexible way of describing these dynamic exchanges and whilst the internal structuring of the moves can be problematic, the present model will adopt Martin's system for describing dynamic moves.

Martin (1992) also opens up the possibility of expanding on the functional label of dynamic exchanges. In the following example, a challenge in an Action exchange is followed by a move which is labelled Justify.

Example 6.19

Da1	Shall I get you a drink?
Ch	No thanks,
justify	I'm driving.

(Martin 1992 p72)

It is unclear though, what role this move plays in the internal structure of the challenge move except that it is dependent on it, making it similar to an act in the IRF model. Martin states that "There is nothing in the model however to block a register specific extension of the exchange-move framework developed above to include the rank of act." (p81). This is not expanded on but the move has been

useful in the present data and it is part of the working model based mainly on its utility and partly as a possible stimulus to debate. It is to the analysis of the data to which we now turn.

6.3 Method of Analysis

For the Seminars, a complete analysis was carried out using the IRF and K1 models in parallel. The Iolis workbooks were coded at the level of the exchange (IRF), then samples were selected which were coded at the level of acts. The Iolis workbooks in the corpora were analysed using only the IRF model, for two main reasons: firstly, the K1 model leads to a fragmentary coding of the interaction where the participant moves are complex as in the Iolis elicit initiations (see section 6.4.3, example 6.45); secondly, the dynamic moves that are one of the most powerful descriptive elements of the K1 model do not and cannot occur in the Iolis interaction.

One issue that has emerged from the parallel analysis using the IRF and K1 models is that each model brings different aspects of the interaction into sharper relief than the other. The multivariate structure of moves in the IRF models is particularly useful in the description of initiating moves in the Iolis materials. In the seminars, the bound Re-initiation elicit exchanges of the IRF model illuminates more clearly the strategies that *lecturers* use in trying to elicit the anticipated K1, whereas the K1 model gives a rather fragmentary analysis of this aspect of the interaction. On the other hand, the concept of tracking moves (particularly probes) and challenges throw into sharper relief the initiations that *students* make in the seminars. In the following presentation of the findings, it will be made clear which model is being foregrounded in the analysis.

As was mentioned previously, there is an issue about the application of the model to written language. The riposte to this is very simple: what we are analysing is interaction, whatever its mode. There are differences in the possible structures of the

moves, particularly their ordering, but this is not an obstacle to analysis and changes have been made to the acts and their position in the move structure to allow for this. Changes have been kept to a minimum to facilitate comparison between the two genres (see act 'facilitate' in appendix 7). The non-interactive screens in Iolis are difficult to analyse with either of the models but this is equally the case with monologues (see Coulthard et al 1981) but this is not crucial as the interaction is our main focus here.

6.4 Findings

Findings will be presented both in quantitative terms, and through a qualitative interpretation of the discourse through the use of illustrative examples. Longer samples of each of the six texts are presented in Appendix 8 (a to f) to provide further context for the analysis and although the main focus of the analysis is on the level of exchange, the longer samples will also be referred to, in order to place the analysis of the exchanges into a broader context of sequences of exchanges.

Whilst the basic triadic IRF and $Dk1^K2^K1$ patterns so common in educational discourse are found in both the seminars and the Iolis workbooks, it is clear that the seminars can sustain more complex and dynamic interactions. The two types of exchange and exchange sequence which seem to contribute most notably to this complexity in the seminars in this data are lecturer re-initiations and student initiations and it is these that the analysis will focus on. We will look first at the kind of exchanges that are realised in the seminars before moving on to look at the interaction in Iolis.

6.4.1 The Seminars

Table 6.5 provides a breakdown of student and lecturer initiations in the seminars for the IRF model. The quantitative analysis looks at initiations, free and bound, as they set up a framework for the exchange and thus play a crucial role in determining the nature of the interaction and the pedagogic roles and relations.

Table 6.5 Quantitative Results - Initiations (IRF model)

C1 Seminar (C1S)

Initiations	Student	Lecturer
Inquiry	1	14
Neutral proposal	-	-
Marked proposal	19	-
Inform	7	9
Check	-	4
	27	27
<i>(Bound)</i>		
Clarify	1	3
Repeat	1	2
Recycle		1
Expansion		1
List		-
	2	7
	29	34

C2 Seminar 1 (C2S1)

Initiations	Student	Lecturer
Inquiry	1	43
Neutral proposal	1	14
Marked proposal	4	1
Inform	1	22
Check	-	8
	7	88
<i>(Bound)</i>		
Clarify	9	11
Repeat	5	1
Recycle		20
Expansion		16
List		6
	14	64
	21	144

C2 Seminar 2 (C2S2)

Initiations	Student	Lecturer
Inquiry	1	14
Neutral proposal	3	8
Marked proposal	4	1
Inform	2	13
Check	-	7
	10	43
<i>(Bound)</i>		
Clarify	3	6
Repeat	1	1
Recycle		12
Expansion		10
List		2
	4	32
	14	75

Table 6.5 shows a clear numerical distinction in the overall pattern of initiations between the three seminars, the use of different types of initiation, and their distribution between student and lecturer. Perhaps the most noticeable result in terms of pedagogic interactions based in the classroom is the equal number of free initiations for the students and the lecturer in C1S. In comparison, the imbalance in the other seminars C2S1 and C2S2 is noticeable. The results suggest that the key factor here is not the number of student initiations, which are similar, but the number of initiations made by the lecturers. That lecturers initiate exchanges in a seminar is not a matter of surprise in itself but the difference in the number of initiations does merit some explanation.

There are clearly a range of reasons which could be put forward for the difference including: the type of seminar, the topic of the seminar, the lecturer's style, the students, and the relationships between them. Some of these issues can be returned to after a more detailed analysis of the discourse of the seminars but there are some differences in the factual specifications of the texts in the corpus which need to be borne in mind and may contribute to some of the numerical differences in table 6.5.

The lecturer leading the seminars in corpus 1 was different from the one leading the seminar in corpus 2. Another distinction to note is that c1s and c2s1 are both two hour seminars whereas c2s2 is a one hour seminar and this is reflected in the fact that total lecturer initiations are almost exactly half those in c2s1. The formats are also distinct: c1s contains a 'mini-lecture' in the first hour which includes some interaction, followed by a problem question session in the second hour. C2s1 and c2s2 are more 'straightforward' seminars which are based around the lecturer's

eliciting moves. As the monologues in the mini-lecture in c1s are only coded once as informing moves, this could explain some of the differential in the figures.

However, there are instances in c2s1 and c2s2 of substantial monologues on the end of follow-up moves. The format of the seminars may suggest an explanation for larger number of informs in c1s but not the difference in eliciting moves where c1s contains 14, c2s1 58, and c2s2 23 (this excludes checks which in this context rarely get a response and seem to be rhetorical).

6.4.1.1 Lecturer Re-initiations

This section will foreground the IRF model as it has proved the most useful in describing lecturer initiations and especially re-initiations. There is a clear distinction between the seminars in terms of the numbers of Re-initiations: in C1S there are only two Re-initiation exchanges although there are perhaps two further Clarify exchanges which could be seen as oblique Expansion re-initiations (see example 6.21). This figure is low in comparison to the C2S1 which has forty two and C2S2 which has twenty two Re-initiations.

In C1S, the two bound Re-initiation exchanges occur towards the beginning of the problem question section of the seminar in questions two and three out of the ten questions. Example 6.20 is a Recycle re-initiation from the second problem question in C1S. The lecturer follows the student's answer (line 2) not with feedback but with a question. This contains no new proposition and is designed to get the student to reformulate the answer, in this case to provide a figure for the damages.

Example 6.20 - Lecturer Re-initiation

(on handout)

2. D agrees to buy 1000 tangerines from E for £400. E fails to deliver on time. D, who is unable to buy tangerines in time, then breaks his contract with F to sell the tangerines for £500. How much damages can D claim from E?

(in seminar)

I (el)	Inq	Dk1	1.	L	number two / where are we up to / tangerines now /
R/I (i)	Inf	K2	2.	St	uh / probably the loss of the profit he would have made if the contract had gone through
Ib re	Inf	Clf	3.		so what measure of damages ?
R/I (i)	Val	rclf	4.	St	well the hundred pounds that he ~ he would've got had the contract gone through <indistinct>/ the hundred pounds he would've made by taking the contract with them
R (ac)	ref	K1	5.	L	right /
		k1	6.		so it's a hundred pounds // loss of profits claim ///

(c1s)

Here the lecturer seems to be requiring the student to provide two parts for the answer: an explanation of the reasoning in legal terms which was correctly delivered in line 2, and a figure for the damages. This is emphasised in the lecturer's reformulation in line 6 where he states the figure and the reason for the damages.

The following sequence of exchanges from C1S (example 6.21), which follows on almost directly after the above sequence, shows a similar concern to get students to provide both a figure for damages and an explanation of the legal reasons for it, though the means by which this is achieved is distinct from the previous example.

Example 6.21 - Re-initiations: explicit and implied

I (el)	(Inq)	(Dk1)	>	1.		and we've got to number three //
	Pr	k1		2.		apples ///
(I check)	(R = nv?)	K2q		3.		where are we up to <?> /
	nom	call		4.		you two /
R/I (i)	Inf	K2		5.	s1	well/ [incoherent] wouldn't give him anything [incoherent] loss
Ib clf	Ret		Clf	6.	L	so you're saying the answer is zero <?>
R/I (i)	Inf		Rclf	7.	s1	um
Ib re	(Npr)	Dk1		8.	L	check whether that ~ / does everyone agree with that <?> //
R/I (i)	Inf	K2		9.	s2	might be a hundred and fifty pounds /

Ib clf	Ret	Clf	10.	L	you think a hundred and fifty pounds <?> /	
R/I (i)	Inf	Rclf	11.	s2	yes /	
Ib exp	(Npr)	Prb	12.	L	do you think the answer is down here for my own benefit <?>	
R/I (i)	Inf	Rprb	13.	s2	cause / uh that's the additional profit he would have made if he'd been able to buy apples from H/	
R (a)	Ref..	K1	14.	L	his expected profit was two hundred pounds ~ /	
F (a)	App		k2f	15.	s2	and he made fifty pounds /
	..ref		k1	16.	L	^ and he made fifty pounds /
			k1	17.		so he's short of a hundred and fifty /
			k1	18.		he would have made a hundred and fifty pounds more profit if the contracts had been performed /
	(Icheck)	K2	19.		that make sense <?>	
	(R?)	K1	20.		/ I think that sounds right to me /	
I (el)	Inq	K2q	21.		what ~ how did you get to zero <?> /	
R/I (i)	Inf	K1	22.	s1	um / we just said that he hadn't made a loss / that he made ~ /	
R (a)	rec	K2f	23.	L	he hadn't made a loss	
	val	k2f	24.		that's true	
	Ref	k2f	25.		but he had lost the profits he would have made if the contract was properly performed /	
	Ter	k2f	26.		yeah //	

(C1S)

The response of student s1 in line 2 only gives the explanation and not the figure for damages and the lecturer reformulates this as a figure and presents it to the student to clarify. The lecturer does not evaluate the response to this but instead re-initiates the original question by throwing it open to the rest of the class in line 8 - a clear sign that it is not the right answer. In line 9, student s2 provides a different figure for damages but no explanation and this is responded to by the lecturer in line 10 with what seems to be a clarification and is taken as such by the student. However, the elicitation with which the lecturer responds in line 11 would indicate that he requires something more from the student before the delivery of K1. The student ignores the actual wording of the question and interprets it as a request for an explanation for the original figure (*cause ...*). The lecturer then reformulates that response and the student joins in with a joint construction of the reasoning steps providing a resolution of K1 (lines 14-18). This focus on the reasoning process is emphasised in the exchange (lines 21-26) at the end of the bound sequences which acts as a kind of

'epilogue' where the lecturer goes back to student s1, who had initially given the wrong answer, in order to explore the process by which the student had reached the wrong conclusion.

Re-cycle bound exchanges such as example 6.22, are the most common form of re-initiation in C2S1 and C2S2.

Example 6.22 - Recycle

I (el)	mk Inq	Dk1	7.	L	<\$=> Now which of <\\$=> If you look at Section One which is the category of negligence that you've already learnt about that you already know about?
R/I (i)	Inf	K2	8.	s2	Duty of care.
Ib re	Inq	Dk1	9.	sL	So so which one?
		bch	10.	s?F	Erm
R/I (i)	Inf	K2	11.	s?F	<\$H> C. <\\$H> Is it <\$G?>?
R/I (i)	Inf	K2	12.	s5	B.
R (a)	ref	K1	13.	L	B.
	Val	k1	14.		Exactly. Exactly.
	com	k1	15.		I mean that's the one <\$=> that you <\\$=> that you have looked at in tort.

C2S1

The Recycle elicits in C2 often involve a reformulation or elaboration of the proposition in the original elicit. In example 6.23, the seminar starts with an elicit (line 1) which repeats the first question on the handout and this is met with a thirty two second silence which the lecturer follows with a Recycle exchange (line 4).

Example 6.23 - Recycle - reformulation

I (el)	st	K1	1.	L	Erm it says "To what extent are terms and Contracts between business controlled by the Act?"
	Inq	Dk1	2.		Now how would you answer that? <\$E> <i>pause 32 secs</i> <\\$E>
Ib re	st	K1	3.		Well <\$=> er you need <\\$=> you know you have to get a handle on er saying to what extent are terms and contracts between business.
	Npr	dk1	4.		<\$=> Well erm what sections of the Act <\\$=> I mean is the Act designed and is its application dependent on whether contracts are between businesses or whether they're between businesses and consumers or not?
	com	dk1	5.		Or or what? <\$=> Is that <\\$=>
R/I	Inf	K2	6.	s4	<\$=> Isn't it some sections exclude erm <\\$=> <\$G?> say that

(i)			the Act doesn't oh cover erm businesses and businesses but does with businesses and consumers.
-----	--	--	--

c2s1

The lecturer is perhaps under the impression that the students will have understood and prepared the questions from the handout but when there is no response the lecturer reformulates the original elicitor and simplifies it by turning it into a choice question (Npr).

Similarly, Expansion bound elicitor exchanges attempt to achieve a resolution of the anticipated K1 but in a different way. The resolution of the exchange is delayed by the lecturer asking a further question intended to get the student to expand on their original response and 'lead' them towards a more satisfactory answer. Example 6.24 provides an illustration of an Expansion exchange from C2S1.

Example 6.24 - Lecturer Re-initiation: Expansion

I (el)	mk	Dk1	1.	L	Right
	Inq		2.		So what er what other circumstances are erm exemption clauses between business people caught by the Act? <\$E> pause <\$E>
R/I (i)	Inf	K2	3.	s2	Six Three and Seven
R (a)	Rec	K1	4.	L	Okay
Ib exp		Clf	5.		In what way?
R/I (i)	Inf	Rclf	6.	s2	Erm Six Three's about erm if there is a breach of obligations arising from Sections Thirteen to Fifteen of the Sale of Goods Act
R (a)	Val	K1	7.	L	Right Okay
	com	k1 >	8.		And again you'd have to decide if that was the case <\$H> for it <\$H>

(c2s1)

The 'Okay' in line 4 is a Tone 4 expressing 'Yes, ...but' showing that K1 has only been partially achieved and this along with the ellipsis in the elicitor in line 5 indicates its boundness with the previous exchange .

Expansion re-initiation elicits can come in an extended series as in example 6.25 as the lecturer attempts to lead the student towards a more satisfactory response.

Example 6.25 - Expansion re-initiation series and Clarification

Foc	Ms	K1	1.		but er let's go through systematically.	
I	Inq	Dk1	2.		I mean what what would you regard as the important sections of the Act?	
R/I	Inf	K2	3.	s3	Section Six.	
Ib ex	(inq)	Dk1	4.	L	Which is broadly concerned with what?	
	mk	} bch	5.	s3	Erm+	
	pr		k1	6.	L	Just in a broad sense.
R/I	Inf	K2	7.	s3	+it's the Sale Of Goods Act.	
Ib ex		Dk1	8.	L	And <\$G2>	
	mk	} bch	9.	s3	And erm	
Ib ex	(inq)		Dk1	10.	L	Doing what?
R/I	Inf	K2	11.	s3	that businesses can't exclude Sections Twelve Thirteen <\$G?>	
R	Rec	K1	12.	L	Right Right	
	com	K1	13.		Erm well nobody can.	
Ib		} Clf	14.		I mean \$=> when you say \H=> when you say businesses can't er er how do you mean?	
(clf)			Rclf	15.	s3	I mean like erm in relation to \$H> the seen \H> contract.
R/I	st	} bch	16.	L	Okay	
	(eng)		rlf	17.	s3	But they can with a+
	Inf ..		Rrclf	18.	L	^ With another business
R ..	ref		rlf	19.	s3	+another business.
..R/I		} bch	20.	L	Right. Okay.	
..R	Val		K1	21.		So erm the implied terms as to quality fitness and erm description cannot be excluded +
	com	K1	22.	s3	Mm.	
	(eng)	} bch	23.	L	+ when you're selling to a consumer if that's void.	
	com		k1	24.		But as you say with another business it's the reasonableness test

(c2s2)

The elicits in lines 4, 6, 8, and 10 allow the lecturer to elicit the answer by taking the student's responses and using them to generate elicits which in turn focus attention on what was lacking in the response and where the proposition needs to be expanded, elaborated or enhanced. The implied qualification in the comment in line 13 sets up a Clarify bound elicit which also attempts to get the student to reach a more satisfactory propositional completion (pc). It is interesting to note the joint construction of the resolution to the exchange in lines 15-20 which is very similar to

the example 6.21 from C1S where a similar bound exchange sequence also led to a joint construction of the resolution of the exchange.

List re-initiation bound elicits are perhaps closest to being separate exchanges, and are analysed as such by Wells (1999) as the previous move can be a K1 move which positively evaluates the first student's response to the original Dk1 elicit. The elicit in example 6.26 (line 2) shows the high degree of ellipsis that can be an indication of boundness in such elicits but it is the fact that it is dependent on the original elicit which defines it as a bound elicit.

Example 6.26 - List re-initiation

R (a)	Ref val	k1	1.	L	Bargaining strength yes
Ib list	(Inq)	Dk1	2.		Er what else?

c2s1

The List bound elicits in example 6.27 contain substitution (*one* line 7) and it is interesting to note the use of *else* (6.26 line2) and *another* (6.27 line 4) which provide the semantic notion of list. The lecturer's follow-up (line 3) to the first student's response to the original Dk1 also contains a clear indication to the students that further responses are required (*that's one way ...*).

Example 6.27 - List re-initiation

R (a)	Val	K1	1.	L	Okay Right
	ref	k1	2.		So so you say right we are not liable if we are negligent
	com	k1	3.		that's one way you might put it
Ib list	(Npr)	Dk1	4.		S= somebody else give me another example.
R/I (i)	Inf	K2	5.	sF?	There will be no remedy for loss caused by our negligence
R (a)	Val	K1	6.	L	Okay. Yeah.
Ib list	(Npr)	Dk1	7.		Er could somebody give me an example of one related to breach of contract
	pr		8.		<\$=> Kee= <\\$=> Just keep it very simple.
			9.		I'm not looking for anything complicated

c2s1

Whilst realisations of List bound elicits are one useful way to identify them, the key is in the anticipated K1 which the lecturer sets up and which he ultimately decides as having been fulfilled. This notion is expressed by the lecturer where he prompts students to provide what he is '*looking for*' (example 6.27 line 9).

Summary on Re-initiations

Whilst there are clear differences between the lecturers' use of Re-initiation bound elicits in the two corpora both in quantitative and qualitative terms, the closer analysis of the texts shows some clear underlying similarities. In particular, examples 6.21 and 6.25 illustrate a common concern of the lecturers in both corpora to focus the student's attention on the reasoning behind their factual answers. The two examples achieve this in different ways: the Expansion elicit sequence in 6.25 leads the student through the reasoning process with a series of questions; the sequence of various types of bound elicits in 6.21 seeks to prompt the student both implicitly and explicitly to supply the reasoning for their factual answer. Significantly, both sequences culminate in the joint construction of a K1 response which satisfies both participants in the exchange sequence.

The substantial differences in quantitative terms shown in table 6.5 point to clear differences in the seminars which need to be considered. The large difference in the total number of Re-initiation exchanges (C2S1 - 42, C2S2 - 22, C1S - 2) between corpus one and corpus 2 means that in C1S there is roughly one Re-initiation bound elicit for every seven main elicit moves, whereas in C2S1 there are roughly three re-initiation bound elicits for every four main elicit moves and in c2s2 every other elicit is a re-initiation.

One reason for this may lie in the fact that the seminars represent different sub-types of legal seminars. The seminars in C2 in seeking to explore and interpret a complex statute are dealing with more abstract concepts than the problem question seminar in C1S and as such it would not be surprising if the students were less clear about the concepts involved. In C1S, the main question (*How much damages can X get?*) remains the same throughout the ten problem questions with just the conditions of the cases changing. This sets up a much clearer framework for the students to operate in with the basic proposition remaining unchanged and thus the need for re-iteration or further explanation by the lecturer is less.

In C1S the lecturer is able to rely on the problem questions on the handout and need only to refer to them through a ‘prompt’ or ‘nomination’;

Example 6.28

I (el)	pr	Dk1	L: number two /	
	nom		where are we up to /	
	com		tangerines now /	
				(c1s)

In the C2 seminars, the questions on the handout often need to be prefaced, restated, and/or reformulated by the lecturer which leads to more complex Dk1 elicitation moves. This can be seen in example 6.29; the question on the handout is paraphrased in the ‘metastatement’ (line 2) which is followed by a rank shifted ‘neutral proposal’ acting as ‘starter’ (line 3) relating the question on the handout to the ongoing discussion in the seminar which just been discussing sections Six and Seven of the statute. The lecturer elaborates on this (line 4) and the proposition from the elicitation in line 3 is then reformulated as an ‘inquiry’ (line 4).

Example 6.29

Foc	mk Ms	K1	1.	L	Now
			2.		let's look at the er the question of erm excluding or limiting liability for breach of contract
I	st	Dk1 >	3.		Is there an overlap here with Sections Six and Seven?
	st	k1 >	4.		I mean Sections Six and Seven are concerned <\$=> with exclusion of limita= <\\$=> with exclusion and limitation for breach of the implied terms
	Inq	dk1 >	5.		So how is Section Three any different?
			6.		<\$E> pause 8 secs <\\$E> <\$E> rustling of papers <\\$E>

C2S1

In a sense these elaborations and reformulations are re-initiations which have been ‘pre-empted’ by the lecturer and rank shifted to the pre-head position as ‘starter’ acts in an eliciting move. This would seem to indicate that the lecturer is aware at this point in the seminar that the students require a degree of assistance in order to enable them to respond to the elicit. It may be that this has been signalled by non-verbal behaviour which is not available as the seminar was not videoed. This complexity in the eliciting move, the eight second pause which follows this sequence and the subsequent exchange sequence which develops out of the students’ response to this elicit, all indicate that the students are struggling to deal with the subject matter.

The start of C2S2 (which occurred two days after C2S1) indicates that the lecturer is aware that the seminar deals with a complex topic which students find difficult

“right / because it's er / as you may have realized actually very complex / if you haven't realized it then you're in for a shock / Erm / it ~ it is actually a very complicated piece of legislation which can look simple on the surface” (C2S2)

It cannot be ruled out that the re-initiations may be an indication that the lecturer has misjudged the students’ understanding of the topic and that his questions are simply

beyond their understanding leading to the need for Re-initiations, particularly Recycle-reformulations (example 6.23) and Expansions (example 6.24) to help the students achieve an appropriate response. Nor can it be excluded that the difference in the students' level of understanding may arise from some groups of students being better prepared than others.

The crucial pedagogic aspect of Re-initiation exchanges is that they have an initial eliciting move which is contingent on a student's response, and thus build on a given student's level of understanding at a given point in the interaction, enabling the lecturer to scaffold the learning and the student to engage in the joint construction of knowledge.

6.4.1.3 Student Initiations - Elicits and challenges

One of the notable features of the seminars is that students have the possibility of initiating a range of exchanges both in terms of number and type. Whilst students' contributions in initiating exchanges tend to be 'dependent' in a broad sense on the propositions the lecturer puts forward, there are instances where students temporarily take the initiative from the lecturer.

It was found that the K1 model illuminated the students' contributions to the interaction better than the IRF model and this will form the basis of the analysis in this section. In particular, the concept of dependency encapsulated in 'bound exchanges' seems to be less flexible than that in dynamic moves. There is a great degree of cross over between the two models at the level of confirmations and

simple clarifications but the broader interpretation of dependency involved in challenges and probes in the K1 model proved more illuminating.

The results

The following table shows that whilst the overall totals are similar, there are clear distinctions between the seminars in the type of exchanges the students initiate. This section will focus on probes, clarifications, K2 elicits, and challenges in turn. Confirmations have less importance in pedagogic terms as they deal with the mechanics of the interaction (mishears).

Table 6.6 - Student initiations

	c1s	c2s1	c2s2
K1 Inform	1	-	
Probes	14	2	9
Clarifications	2	9	1
K2 elicits (K2q)	5	3	3
Challenges	9	7	1
Confirmations	1	6	
	26	24	14

a) K1 inform

There is only one example of a K1 inform initiation by a student in the present corpus but it is an important example of what can occur in the seminar genre and it will be briefly considered here. It occurs in c1s in the first part of the seminar when the lecture has turned into a lively exchange between the lecturer and the students and the following exchange comes at the end of a series of probes and challenges on the part of the students. The lecturer is summing up the discussion of a contentious area of case law by stressing his own difficulty in interpreting recent cases.

Example 6.30 – Student K1 Inform move

		K1	1.	L	um so the court of appeal gave him the damages /
		k1	2.		which astonished me I must say /
		K1	3.		uh I was very worried about this um /
		k1	4.		I had a long conversation with professor Beale about whether this could be right /
		k1	5.		and uh / I was relieved to see that the House of Lords overturned this
		k1	6.		and went back to what I thought they would do /
		k1	7.		which / is not to give the damages because I think / the Law doesn't make it their policy to /
		k1	8.		it merely identifies the loss
I (i)	Inf	K1	9.	s3	the point is surely that there are many many contracts where little details matter /
	eng	bch	10.	L	uh huh
	inf	~k1	11.	s3	for example if you want to / which don't have any monetary value /
		k1	12.		when you have your loft converted or something like that
		k1	13.		you have certain things that you want done which don't have any value whatsoever /
		k1	14.		but that's the / that's what you've contracted for /
		K1	15.		so / if the courts don't enforce these little details which may be important for ~ for the plaintiff / then / what's really the point of the contract /
	com	k1	16.		I mean a contract is meant to be / you know / the sanctity of contract and all that /
R (a)	Ref	K2f	17.	L	well the court / maybe the test is / in Ruxley electronics /
		k2f	18.		the test is not that you can't get it /
		k2f	19.		but you should only get it if it's reasonable /

(c1s)

The use of an evaluative projecting clause, ‘*the point is surely that ...*’ (classified as –Att/Self in Chapter 5) which is used to draw attention to what is considered to be an important point is, as we saw in chapter 5, more commonly associated with the lecturer’s role. The analysis of the move as a K1 inform is based on the use of an emphatic statement followed by a supporting example which indicates that the student sees their role as one of contributing their own opinion and not simply one which is dependent on the lecturer’s. There is a difficulty however, in such an interpretation in this context which is that the designation of the student as ‘primary knower’ puts the lecturer in the ‘secondary knower’ position in the K1 model. This would seem to put the student in a relatively unsustainable role in relation to the lecturer and in fact lines 15 and 16 would seem to confirm such a tension as the

student seems to be seeking some kind of confirmation and has become less forthright than at the beginning of the move.

b) Student Elicits: Probes

In c1s and c2s2 the commonest of the dynamic moves are probes, where the student seeks to clarify their understanding of the point made by the lecturer in the previous move or exchange by proposing further details or implications of the original proposition. Lines 4-6 of example 6.31 give a clear example of this:

Example 6.31 - Student Clarification:probe

1.	I (el)	Inq	<i>Dk1</i>		L:	What would happen to that disclaimer now?
2.		com	<i>k1</i>	>		That was nineteen sixty four <pause>
3.	R/I (i)	Inf	<i>K2</i>	>	S4:	That maybe they'd be caught by Section Two.
4.	R (ac)	Ref	<i>K1</i>	>	L:	It would be caught by Section Two.
5.		com	<i>k1</i>			It would be subject to the reasonableness test.
6.	I (el)	Mpr	<i>Prb</i>		S2:	Erm even though they hadn't got a contract?
7.	R (i)	Inf	<i>R prb</i>		L:	The Section Two talks about negligence.
8.	F (ac)	Rec	<i>Rrprb</i>		S2:	Right

(c2s2)

In the IRF analysis this is classed as a separate student elicitation exchange, and in Francis and Hunston's (1992) classification of acts, line 6 would be classified as a 'marked proposal' (mpr) as it seeks the agreement of the listener. In the K1 model, it is classed as a probe due to the high degree of 'boundness' to the previous move both in grammatical terms (ellipsis and logical dependency) and in terms of the exchange in that it would seem that its function is to prolong the exchange to allow a further exploration by the student of the proposition ratified by the lecturer in the previous turn.

Example 6.32 is an extract taken from a discussion stimulated by the final question in the 'problem question' section of c1s and gives further examples of probes which exemplify their logical dependency on the previous proposition (lines 5 and 10) in

the form of 'so (if x...) then y'. The extract starts (lines 1-3) with the lecturer's response to a student's previous initiation.

Example 6.32 - Probes

R (i)	Inf	K1	1.	L	it's true you end up with a new factory instead of an old one //
		k1	2.		but that was ~ that was the cheapest thing to do in the circumstances /
		k1	3.		and we should compensate for that //
	com	K1	4.		it's an interesting decision /
I (el)	Mpr	Prb	5.	Sc	so if he built a more expensive so it would be like five hundred thousand pounds altogether then / the court wouldn't've given him that much money
	com	prb	6.		they would've ~ they would've said it's better if you'd just had him to rebuild your factory /
R (i)	rec	Rprb	7.	L	yes
	Inf	rprb	8.		if a ~ if a new factory had been fantastically expensive the court would've said / you shouldn't have built it at all /
	com	rprb	9.		yeah /
I (el)	M.pr	Prb	10.	Sc	so then they would've given four hundred and fifty thousand pounds as a top limit for the damages
R (i)	Con	Rprb	11.	L	yes
F (a)	Rec	Rrprb	12.	Sc	right /

(c1s)

Here the student sets out alternative conditions and their implications based on the previous exchange. That these probes actively seek the lecturer's evaluation is implied in the student's feedback in line 12 which shows that their understanding has been confirmed.

There are fewer examples of probes in c2s1, but they do occur as example 6.33 shows:

Example 6.33 - Probe (corpus 2)

(R a	com)	k1	1.		But as you say with another business o= it's the reasonableness test
I (el)	Mpr	Prb	2.	s4	Erm isn't it the Section Twelve \$G?> that can't be excluded at all
		prb	3.		and then Section Thirteen Fourteen Fifteen+
	(eng)	bch	4.	L	Mm.
			5.	s4	+ it can't be excluded for a consumer but it can+
	(eng)	bch	6.	L	Yeah
			7.	s4	+for business
R (a)	Con	Rprb	8.	L	That's right.

C2S2

This illustrates the third type of realisation pattern for probes of negative polarity interrogatives.

c) Student Elicits - Clarifications

Example 6.34 shows the student asking a Wh interrogative (line 2) in order to explore an existing proposition from the lecturer's previous K1 move (line 1) and so is classified as a clarification.

Example 6.34 - Student Clarification

		k1	1.		You have a right to reject them up until the point <i>when you accept them</i> yeah
Ib clf	Ret		2.	s5	What what w= when is +
R	Inf ..		3.	L	Now
	..ret		4.	s5	+ When is accepting?
	com		5.	L	<\$=> Well that's <\$=> What I'm saying is that's a separate point
	?		6.		That's that's the rules under Section 35 of the Sale of Goods Act
			7.		Whether or not you've accepted the goods

C2S2

The only student clarify move in c1s occurs at the start of the 'lecture' section of the seminar and is an ellided interrogative which seeks clarification information

Example 6.35

K1 L think about / let's think about the Ruxley electronics and Forsyth case /
 Clfy S which is ... <?>

C1S

In contrast, clarifications in C2S1 have less ellipsis and are more complex in the sense of the propositions they explore and in the sense of more complex realisations.

Example 6.36 - Student Clarification

Ib clf	Ret..	K1	1.	s6	Erm perhaps I'm just being very slow but erm <\$=> I d= I <\$=> I didn't quite get the connection between all the examples
--------	-------	----	----	----	---

R (i)..	Inf		Clf	2.		Is is is the point that you're getting across here is it there's a lot of overlap between+
	..ret...		Rclf	3.	L	For some. Yeah.
..R			..Clf	4.	s6	+the sections.
	..ret		rclf	5.	L	For some. Yeah
			just	6.	s6	Because er that's exactly <\$G?>
				7.		and I just got confused
F	Rec		rclf	8.	L	Yeah. Yeah
F	Rec		Rrclf	9.	s6	Okay. Right. Fine.

c2s1

The clarification in lines 2 and 4 represents a kind of 'metaprocess' clarification in that it seeks to clarify the overall point of the previous section of the interaction and is not seeking clarification about one experiential element. The projecting clause which packages the clarification (line 2) allows for a dual focus on both the factual element of the lecturer's proposition (*overlap between sections...*) and its relevance to the overall structure of the seminar (*is the point that..*). The clarification is prefaced by a politeness strategy in line 1. The justification in lines 6-7 (see Martin 1992 p72 on justify moves) shows the student reflecting on the level of their own emerging understanding.

d) Student Elicits - K2 Elicits

There are also some student elicits which set up their own independent propositions and are not directly dependent on the previous move and these are classified as K2 elicits (K2q to distinguish them from K2 responses). Given the unequal status of the participants in the educational context, all student elicits can be read at one level as being requests for clarification from the lecturer. However, the analysis tries to maintain a definition that where the elicit brings in a 'new' proposition it will be classed as a separate exchange and not as a dependent dynamic move. In the following example, the student uses a K2 elicit to raise the new issue of 'limitation periods' which is challenged by the tutor as irrelevant.

Example 6.37 – Student K2 Elicit

		k1	1.	L	So if a clause says We only <\$=> give er <\\$=> exchange goods then they are basically denying their liability to take back the goods.
		k1	2.		So that is excluding or limiting liability under Section Six and Seven.
I (el)	Inq	K2 q	3.	s5	What is the limitation period in these kind of situation?
R/I (i)	st		4.	L	What?
	Rej	Ch	5.		How does limitation come into it?

c2s1

Example 6.38 shows two examples of K2q moves from C1S. They come at the end of a long K1 move by the lecturer which is summing up the answer to question seven on the problem question handout.

Example 6.38

(R com)		K1	1.		so / I think ~ I think the answer to this / answer here / maybe no
		k1	2.		~ no loss of profits /
		k1	3.		too remote /
I (i)	Mpr	K2q	4.	s	couldn't you say that we don't know enough to answer the question
R (i)	rec	K1	5.	L	oh possibly ~ possibly /
	Inf	k1	6.		I think they're too remote / myself /
		k1	7.		in which case you get nothing //
I (el)	Inq	K2q	8.	s	so what about the cost of substitute performance then /
R (i)	Inf	K1	9.	L	well / if he ~ if he has incurred costs it looks to me like he hasn't / the court may give some notional sum for delay / any inconvenience that was there /

c1s

The first question (line 4) introduces a new proposition for discussion, and acts almost as a 'metamove' (such as 'metastatement' / 'conclusion' in IRF) which attempts to re-assess the exchange sequence up to that point. The second interrogative (line 8) also introduces a new proposition and so is classed as a K2 elicit. In both questions the form is the same as a probe and a closer understanding of the topic could lead them to be seen as drawing implications from the previous turns and thus be reclassified. These examples illustrate the point that such

categories should not be seen as closed paradigms but more as clines which the model can only capture imperfectly.

Summary of Student Elicits

What is important from an overall perspective is that students in all the seminars initiate Elicit exchanges. These are not restricted to simple confirmations or straightforward factual clarifications but they are elicits which seek to explore and probe the propositions that the lecturer has put on the table and as in the K2 elicit in example 6.38 (line 4) they make the lecturer respond to their own propositions.

The substantive quantitative difference in student elicits between the seminars is that students in C1S and C2S2 ask more probes and students in C2S1 ask more clarifications. Clarifications are used by students when there is something they have not fully understood. This may relate to one proposition in the previous move as in example 6.34 or it may relate to longer stretches of the interaction as in example 6.36. Probes on the other hand, require the students to have a clearer understanding of the propositions in the previous exchange or exchange sequence in order for them to be able to propose implications or further details.

This seems to lend support to the conclusions on Re-initiation exchanges which suggested that students in C2S1 were finding the seminar more difficult than those in C1S or C2S2. A closer analysis of the clarifications in the data shows that the only clarification in C1S (example 6.35) is a request for factual information, that is knowledge that would be available elsewhere within the legal domain and exists outside the interaction. The clarification in example 6.36 from C2S1 is a request for

the lecturer to reformulate his contribution to the present discussion in the on-going interaction in terms that relate to the students understanding of the pedagogic goals of the seminar. In other words, the student in C1S lacks specific factual information to fully understand the lecturer's contribution whereas the student in C2S1 is confused by the lecturer's contributions (see line 7: '*...I just got confused*'). The situation in C2S2 is difficult to interpret as the seminar is dominated by just two of the students and only three students actually contribute to the discussion.

e) Challenges

Whereas clarifications and probes implicitly support the role of the lecturer as authority in the interaction, challenges can question this authority in a number of ways. According to Martin (1992), whereas tracking moves are experientially oriented, challenges are interpersonally oriented. The problem that occurs, as we saw in the previous section, is that the definition of challenges in Knowledge exchanges is contentious and the moves which can be interpreted as challenges range from the extreme of detach moves which terminate the exchange to those moves which are difficult to distinguish from moves within the synoptic exchange structure which simply express contrariness. In the present data, there are no detach moves and the range of challenges has been found to fall into three main categories: highly interpersonal challenges such as disavowals which question the relevance of the previous contribution; those which Martin characterises as 'querying authority' which negotiate modality or modulation; and those which focus on knowledge claims and are here termed countering moves following Eggins and Slade (1997 p212) .

Whilst all challenges are interpersonally oriented, those which question the relevance of a contribution or disavow a question are the most direct and potentially face threatening. The following example shows two examples from C2S1 where one student (s5) questions the relevance of the lecturer's contribution (example 6.39 line 8) and produces a disavowal to a question (example 6.40 line 2) further on in the exchange sequence:

Example 6.39

I	Inq	Dk1	1.	L	Now would that dis= <\$=> What would happen to that disclaimer now?
Ib rep	lp	Cnf	2.	s5	I'm sorry. <\$=> What happen what <\$=>
R/I	Inq	Rcnf	3.	L	What would happen to that disclaimer now?
R (i)	Inf	K1	4.		<\$E> pause <\$E> It would be covered by Section Two of UCTA.
Foc	conc	K1	5.		See it all falls into place.
I	Npr	Clf	6.	s5	So now <\$=> do you <\$=> can you get a disclaimer any more?
R	Inf	Rclf	7.	L	Well I said it would be covered by Section Two of UCTA.
Ib clf	Ret	Ch	8.	s5	So.
R/I (el)	Inq	Dk1 rch?	9.	L	Well what does that Section say? <\$E> pause / rustling of papers / pause <\$E>
R (i)	Inf	K1	10.	L	It says that you can't exclude liability caused negligently for death or personal injury.

c2s1

This exchange sequence has a number of incomplete exchanges which would indicate that the interaction is breaking down at a basic interpersonal level. The lecturer answers his own question in line 4 and the student's clarification in line 6 responds to this by asking the same question that the lecturer thinks he has just answered. It can almost be interpreted as an implied challenge to the lecturer's focusing move in line 5. The challenge realised by *So* in line 8 is said with emphasis and a falling rising intonation (tone 4) questioning the relevance of the lecturer's previous contribution, to which the lecturer responds with a question which he then answers himself. There is a question here as to whether the lecturer's elicit in line 9 should itself be coded as a response to the challenge or as a new Dk1 exchange. In a

sense it is both but it has been interpreted as a DK1 move to emphasise the fact that the elicit substitutes for a prospected response and pedagogically shifts the initiative back on to the student. This is followed by a long pause and the lecturer ends up providing the answer to his own question.

The same student produces a disavowal six turns after the end of the above sequence but this is ignored by the lecturer and the question is quickly answered by another student.

Example 6.40

I	Inq	Dk1	1.	L	What are the two big House of Lords cases on the reasonableness test?
R (a)	Prot	Ch	2.	s5	Dunno
R/I (i)	Inf	K2	3.	s2	Vinnie Loxley <\$G?>

c2s1

Martin (1992) claims that in knowledge exchanges there is a second type of challenge where the participants ‘probe modalisation’ and ‘query the authority’ invested in the previous move. In the following exchange the lecturer challenges (line 3) the student’s response to a Dk1 elicit by probing its modularity and the student responds in kind (line 5) before returning to finish the original K2 response (line 7).

Example 6.41

R/I (i)	Inf	K2	1.	s7	Well because liability in contract isn't isn't like erm <\$G?> Contract liability isn't strict <\$=>
		k2 >	2.		So you can write a clause in a cont= <\\$=>
R (a)	Qual	Ch	3.	L	Sometimes is
F (a)	rec	Rch	4.	s7	Yeah
	Ref	Ch	5.		But not always
F (a)	Rec	Rch	6.	L	Mm
I	Inf	k2	7.	s7	And you can write Yeah. <\$=> But you can write con= <\\$=>
R	rec	K1 >	8.	L	Yeah
	Val	k1 >	9.		<\$=> This is <\\$=> This is what I want. Yeah. Yeah. Yeah. Yeah

c2s1

Whilst the exchange is clearly interpersonally oriented both in terms of the Mood structure and in terms of the Tenor, this exchange is not face threatening to either party and its function is to open up space to clarify the status of the knowledge claims in the on-going interaction.

In Example 6.42, we see the student taking the initiative to challenge the lecturer's attempted resolution of the exchange by contesting the lecturer's reformulation of their answer.

Example 6.42

R/I (i)	mk Inf	K2	1.	s4	Right Well Two One <\$=> excludes the <\\$=> doesn't allow exclusion of liability er er death or personal injury resulting from negligence.
R (a)	val	K1	2.	L	Right.
	Ref	k1 >	3.		So in other words negligence in any context
F (a)	Prot	Ch	4.	s4	No.
Ib clf	Ret	Clf	5.	L	No?
R/I (i)	Inf	Rclf	6.	s4	Well only for er temporary personal injuries.
R (a)	rec	Rrclf	7.	L	Oh sure.
	Ref	rclf	8.		<\$=> But but neg= <\\$=> But when I say in any context I mean negligence as between any contracting parties.
F (a)	Rec	bch	9.	s4	Yeah. <\$=> So erm <\\$=>
F (a)	rec	rclf	10.	L	Yeah
	Val	K1?	11.		That's that's right

c2s1

The lecturer's K1 move ('evaluation' and 'reformulation' in IRF) in lines 2-3 come at the end of a sequence of Re-initiation exchanges and the falling intonation of the 'reformulation' indicates that the lecturer sees it as the resolution of the exchange. However, the student rejects the lecturer's reformulation in line 4 and suspends the termination of the exchange. The lecturer's surprised response in line 5 has been interpreted as a clarification rather than as a response to challenge (Rch) on the basis of the rising intonation and the student's response in line 6. Also, the clarification exchange is a dependent exchange emerging from the challenge. As a sequence the

dynamic moves in lines 4-10 can be seen as negotiating the modality and modulation of the proposition: the lecturer's response in line 5 can be seen as an agnate for '*Really, are you sure?*', the student replies in line 6 with '*well only ..*' which mitigates the categorical '*No*' in line 4 with modulation, and the lecturer in line 7 responds with '*oh sure*' which returns to modality (see Martin 1992 p74)

The line between challenges and moves which express contrariness in a Knowledge exchange can be difficult to define. The working definition, outlined in the previous section, is based on Eggins and Slade's countering move which is "... an alternative, counter-position or counter-interpretation of a situation raised by a previous speaker." (Eggins and Slade 1997 p212). Precisely how to distinguish this from a more general category of confronting moves which lie within the synoptic exchange structure can be difficult. The interpretation in this corpus focuses on the notion of challenges being interpersonally oriented and the idea that they look to suspend the previous speaker's intended route for the interaction.

Countering moves tend to be more substantial contributions than the types of challenges analysed so far and in the IRF model they are analysed as separate student initiated informing moves. Example 6.43 line 8 illustrates the category of countering move:

Example 6.43

R	qual		Rprb	1.	L	yes well /
(a)	Ref		rprb	2.		the courts say that you can only do it if you have a legitimate interest /
	com	K1		3.		it's an odd bit of law /
		k1		4.		I think we looked at it last year in fact /
		k1		5.		White and Carter Councils about advertisements on litter bins //

	term	K1	6.		let's not worry about it /
I	st	Ch	7.	s1	but wait //
(i)	Inf	ch	8.		one party completes his side of the bargain / then litigation costs don't apply /
R	Ref	Rch	9.	L	if he can complete it and if he had a legitimate interest in completing it / then litigation doesn't apply apparently /
(a)					it's a funny old rule //
	com	rch	10.		let's not worry about it /
	ter	rch	11.		
I	Inf	Ch	12.	s2	what does litigation have to do with this case anyway because / L's done the work which K had asked of him /
(i)					
R	rec	Rch	13.	L	yes /
(a)	Ref	rch	14.		well / I think the point is that if he / if he's told that the jobs off / he shouldn't carry on drawing up plans /
	com	rch	15.		normally / he should try and find some other work /
Fr	mk	K1	16.		alright /
I	(inq)	Dk1	17.		five /
(el)					

c1s

The sequence begins with the lecturer's response to another student's probe in the problem question seminar (C1S). The lecturer tries to terminate the discussion of this particular point (line 6) and is clearly about to move on to the next question when student s1 shouts out, '*but wait*'. This suspends the lecturer's attempted termination of this sequence which then allows the student the interactional space to put forward their counter position. The student's challenge in line 8 introduces a new proposition to counter the lecturer's reasoning, attempting to open up the interaction in a new direction. This would put it on the category of a 'rejoinder/counter' in Eggins and Slade's model (a Challenge in Martin 1992) rather than a confronting reply which negotiates an existing proposition and complies 'with the expectation of exchange closure' (Eggins and Slade 1997 p207).

The lecturer then attempts to regain control in line 11 within a termination. This is ignored by another student (s2) in line 12 who puts forward another challenge but this seems to be questioning the relevance of the previous student's contribution

(*What does X have to do with it anyway ...*). The lecturer closes the exchange sequence with a framing move and by quickly moving on to the next ‘problem question’ on the handout with a Dk1 elicit (line 17).

These more extended types of challenges only occur in C1S and they seem to come in similar positions in the exchange sequences. This is where the initial Dk1 elicit has been resolved to the lecturer’s satisfaction which has then been followed by a probe or series of probes which act to open up the discussion and this seems to encourage the students to put forward their challenges. Example 6.44 shows the second of the two main series of challenges in C1S (example 6.43 is the first). The example starts with a probe exchange (lines 1-3).

Example 6.44

I (el)	Mpr		Probe	1.	Sc	so then they would've given four hundred and fifty thousand pounds as a top limit for the damages
R (i)	Cnc		R.pr	2.	L	yes
F (a)	Rec		Rrprb	3.	Sc	right /
I (i)	Inf		Ch	4.	Sb	but he's investing in his own business /
			ch	5.		he's making ~ he's going to be making profits after these four years so ~ //
R (ac)	Ref		R.ch	6.	L	it's not an exact science here /
	com			7.		I agree /
I (i)	Inf		Ch	8.	Sb	he's going ~ he's going to be reaping the benefits of this for twenty or fifty years /
(R)			R.ch	9.	L	^ I think he's getti ~ I think he's getting
	com		ch	10.	Sb	^ someone else is paying for it
R (ac)	Val		r.ch	11.	L	^ well that's right /
	com		r.ch	12.		on the other hand he didn't burn down this factory // I think ~ I think
I (i)	Inf		Ch	13.	Sb	^ So he repa ~ he pays the value of the factory in the first place ///
	com		ch	14.		I mean it's an accident //
	?		?	15.		maybe that doesn't come into it though /
	?		?	16.		it does seem a bit ~ //
I (i)	st	K2q	>	17.	L	do you understand the logic of ~ of the first step <?> /
	check	k2q	>	18.		this ~ this step /
	?					
	Inf	K1		19.		that this is what he would have got / step one is what he would have got // in the ~ in an ordinary tort claim / um / subject to mitigation / and remoteness

c1s

After the resolution of the probe, student Sb instigates a series of challenges (lines 4, 8, 13) realised by declaratives with falling intonation, the first (line 4) with a conjunction indicating contrariness (*but*). The challenges question the propositional base of the reasoning previously given or ratified by the lecturer, allowing the student to test out their own propositions. It is interesting to see the student (Sb) reflecting on their own argument in lines 15-16 and it is this reflection on the construction of his own propositions engendered through negotiation that must surely lie at the heart of a constructivist pedagogy. The lecturer in line 17 follows up this reflection by terminating the challenge and re-establishes control by focusing the student's attention back on the process of legal reasoning.

Summary of student Challenges

The examples of challenges clearly show that students have the opportunity to question the authority of the lecturer in seminars on a number of different levels.

Whilst Martin's (1992) point that challenges are interpersonally oriented would seem to be supported by the analysis, it would also seem from the above examples that there are varying foci for this interpersonal orientation. Examples 6.39 and 6.40 with their questioning of the relevance of the lecturer's contribution (6.39 line 8) and the disavowal to the lecturer's question (6.40 line 2) seem to show the student challenging the role of the lecturer in the seminar. The focus of the challenges in these exchanges is not on the knowledge claims that are on the table for negotiation but on the institutional roles of the participants. They are potentially face threatening acts that could undermine the underlying basis of the interaction. However, when

such challenges which question the relevance of the previous contribution occur between students (example 6.43 line 12), the potential consequences do not appear so dire as they have equal institutional status but it is noticeable that the lecturer quickly terminates the exchange sequence at that point.

In example 6.43 (line 7), the student challenges the lecturer's control of the management of the interaction (*but wait..*) but this is in order to gain the interactional space to negotiate the lecturer's knowledge claim. The main focus of the challenging moves which follow this opening is to negotiate the knowledge claims that are on the table and whilst line 7 does seek to negotiate the authority of the lecturer in controlling the turn taking roles of the participants in the interaction it does not seek to challenge the broader institutional roles of the participants.

6.4.1.4 Exchanges, sequences and transactions

So far we have focused on the analysis of individual exchange types to illustrate the building blocks of the pedagogic interaction in the seminars. As we have seen, the exchange sequences (IRF model) and move complexes (K1 model) in the seminars can be relatively complex. In order to illustrate more fully the complexity of the contingent interaction in the seminars and to extend the exploration of the differing pedagogic interaction that they show, we will briefly consider some aspects of seminar interaction in longer samples of the three texts (c1s, c2s1, c2s2 - see appendices 8a, b and c).

As we saw in the discussion of the models, the level of description above the exchange has not been clearly theorised. In the modified IRF model used here, an 'exchange sequence' is taken as being a free exchange plus any bound exchanges. For the K1 model, the equivalent is a move complex which is a synoptic move (K1, K2, Dk1) plus any minor synoptic moves (indicated by a small letter k1, k2, dk1) and any dynamic moves (tracking and challenging) related to this. These bottom up approaches to combining exchanges though, do not capture the kind of larger topic based sequences that Sinclair and Coulthard (1975) are pointing to in their notion of transaction or Mehan's (1979) topically related sets (TRS). The notion of topic that is being presented in these models is untheorised and would seem to rely on the analyst's understanding and interpretation. Sinclair and Coulthard give one structural indication of a transaction and that is the presence of a focusing move but whilst its presence usually indicates a shift in direction of the interaction, its absence does not necessarily indicate that a shift has not occurred. For the limited pragmatic purposes of this analysis, I have taken both topic and the use of focusing moves as indicators of larger 'sets' or transactions.

The sample from c1s (appendix 8a) comes from the problem question section of the seminar where there are clearly discernible transactions based around the problem questions that are on the student handout. The sample is from question ten on the students' handout and it produces the longest transaction of the seminar. In the samples from c2s1 (appendix 8b) and c2s2 (appendix 8c), it is more difficult to discern transactions based on clear topic shifts but the lecturer does use focusing moves and the boundaries of the samples have been determined by these.

The sample from c1s (appendix 8a) illustrates a common pattern for this problem question seminar with the initial Elicit exchange ('inquiry') by the lecturer providing a 'base' for the following exchanges. This pattern is clearly evident in the analysis of the types of exchanges that occur at the beginning of the sample (lines 1-31) and those which occur after this. Lines 1-31 contain the only lecturer initiated three part exchanges in the transaction, two Dk1 elicits ('inquiry'), whereas after this we find the interaction is dominated by two part, student initiated exchanges. In fact, the only lecturer initiated exchanges in this second section come at the end of a series of challenges by students in lines 84, 88 and 93 (see a fuller analysis of this in example 6.43) and these consist of a K2q move and an 'attached' K1 Inform move which attempt to redirect the discussion back to the pedagogic process. In fact, these two lecturer initiated moves (lines 97-103) only serve to set up a further student probe and challenge. The transaction is terminated by a lecturer initiated focusing move and the seminar is brought to a close. So whilst the lecturer tightly frames the transaction and controls it by setting up and resolving the initial DK1 exchange and by bringing it to a close in the final focusing move, the students are able to explore the issues that are on the table for discussion through probes and challenges.

As we have seen, the C2 seminars are not based around a straightforward problem question format but deal with a more complex topic and explore more complex issues. This may perhaps account for the more complex structure of the interaction that we find in the longer samples that have been selected. The sample from c2s1 (appendix 8b) comes about 7 minutes into the seminar and can be seen as an 'aside' transaction within a larger transaction that has started at the beginning of the seminar. This is indicated by the focusing moves which open and close this sample

(lines 1. *'let's just deal with that for a second'* and 80. *'but let's go back to our contract situation'*). The sample from c2s2 (appendix 8c) starts at the beginning of the seminar and ends with a focusing move which introduces an 'aside' transaction.

The sample from c2s1 (appendix 8b) illustrates two aspects of the interaction which characterise both the C2 seminars conducted by this lecturer on this topic. The whole transaction is basically seeking to resolve the topic raised in the first lecturer DK1 Elicit exchange (lines 2-8) and from the lecturer's perspective, this would not seem to be fully resolved until the final follow-up move in the last DK1 Elicit exchange sequence (lines 67-79). The first DK1 elicit move does not provide the required answer (see Qualify line 8); this is then subject to a challenge by a student which is treated by the lecturer as a misunderstanding (see Clarify, line 12 and response to challenge, line 15-16). The following lecturer Dk1 elicit (line 17) is in effect an Expansion re-initiation, the intervening exchange makes it hard to classify it as such in the model, and this attempts to seek an answer to the first DK1 elicit (line 2) by providing a clear 'clue' (line 20). The following DK1 elicit (line 28) tries to build on this factual answer but is interrupted and we enter a complex interaction of clarifications and challenges (see analysis in example 6.38) and the lecturer ends up answering his own elicit (line 40). The next two DK1 elicit moves (lines 42 and 45) explore further details and these are followed by a long lecturer K1 inform (line 52-66). The last Dk1 elicits the name of a second case and the follow-up move (lines 73-70) to this final DK1 elicit is used by the lecturer to bring together the details that have been elicited throughout the previous exchanges to resolve the initial Dk1 elicit in line 2.

This transaction is dominated by a series of lecturer Dk1 Elicit exchanges which the students have difficulty in answering. The DK1 eliciting moves which are answered correctly (lines 17, 42, 45, 67) are those which deal with very specific factual information to do with cases and statutes and even these can require Clues (line 20 and 70). From the students' perspective, their contribution, besides the giving of factual information, is based around moves which seem to display a degree of misunderstanding or even confusion. These are realised in this transaction through the use of confirmations (line 29) and clarifications (line 33) and through the *lack* of probes which reflects the pattern for this seminar as a whole (see table 6.6). For example, the challenge in line 5 is interpreted as a misunderstanding by the lecturer and the highly interpersonal challenges in lines 35 and 68 would seem to indicate that the students are moving from a lack of understanding to confusion and perhaps frustration.

The sample from c2s2 (appendix 8c) has some similarities to c2s1 with the lecturer dominating the interaction through DK1 Elicit exchanges. However, after an initial DK1 elicit (line 5) where the students could not answer the question (see line 6, 32 second pause), the interaction goes more smoothly with the students seemingly better able to understand and answer the questions than in c2s1. This is inherent, for example, in the multiple answers to a Dk1 elicit (lines 8-17) and the use of probes (line 45) by students.

The use of bound Expansion exchange sequences (e.g. lines 22-44) would seem to lead to a more successful pedagogic resolution than in the c2s1 sample above and we find the lecturer and student engaging in the kind of joint construction of

knowledge (lines 37-39) that Edwards and Mercer (1987) find in their data. So we find that a more successful Expansion exchange sequence, such as in lines 22-24 (see also example 6.25 above), means that the lecturer can simply ‘validate’ and ‘comment’ on the position that the Expansion exchanges have generated (lines 40-44) rather than having to pull the information together themselves from a series of relatively disjointed Dk1 Elicit exchanges as would seem to be the case in the c2s1 sample above (appendix 8b). Following the lecturer’s conclusion to the Expansion sequence, a student initiates a probe (line 45) which picks up on the proposition in the conclusion and explores it further. The lecturer then picks up the student’s point in this probe and uses it to explore the issue further with a DK1 initiation (line 52). I would suggest that this then opens a ‘loose’ Expansion exchange (lines 52-95) which the model cannot fully describe but in it we find a similar sense of confusion that was evident in the c2s1 sample. In this case though, the confusion is cleared up and a student provides the answer which the lecturer is seeking (lines 66-69) which leads to a resolution of this transaction (lines 70-74). What is interesting about this transaction is the way in which both the students’ and the lecturer’s contributions pick up on the propositional content of the previous exchange to move the interaction forward.

6.4.2 Summary of Analysis of seminars

The analysis shows examples of students initiating exchanges, investigating and exploring the ideas that emerge in the seminar through K2 questions, clarifications, probes and challenges. Students are clearly well versed in such interactional strategies and given the chance, are able to deploy them. Lecturers use a variety of

Elicitation, Re-initiation and Clarification exchange sequences to facilitate the students' response and to enable a resolution of the exchange in a way which meets their on-going goals for the seminar.

An obvious but important point to stress from the analysis of the seminars is that there is substantial variation in the interaction in the seminars. The clearest difference in table 6.5 is in the total figures for lecturer and student initiations which shows that in C1S the lecturer and student initiations are almost the same, 34 to 29 whereas in the C2 seminars they are 144 to 21 (C2S1) and 75 to 14 (C2S2). This, as the analysis of the sequences indicates, would seem to relate to differences in the type of seminar, the topic, and the participants.

6.4.3 Interaction in Iolis

The IRF model has been used for the analysis of the Iolis materials. The multivariate structure of the moves has proved to be better at modelling the complexity that the written mode allows for in the interaction. Example 6.45 provides a parallel K1 analysis to illustrate the problems in the context of Iolis of the univariate structure of moves in the K1 model.

The workbooks are composed of interactive and non-interactive screens of which the average is about 62% interactive screens (range 56-67%). Appendix 9 provides a breakdown of the different types of interactive screens used for the three workbooks in the present corpus. It also includes figures for six other Iolis workbooks (five

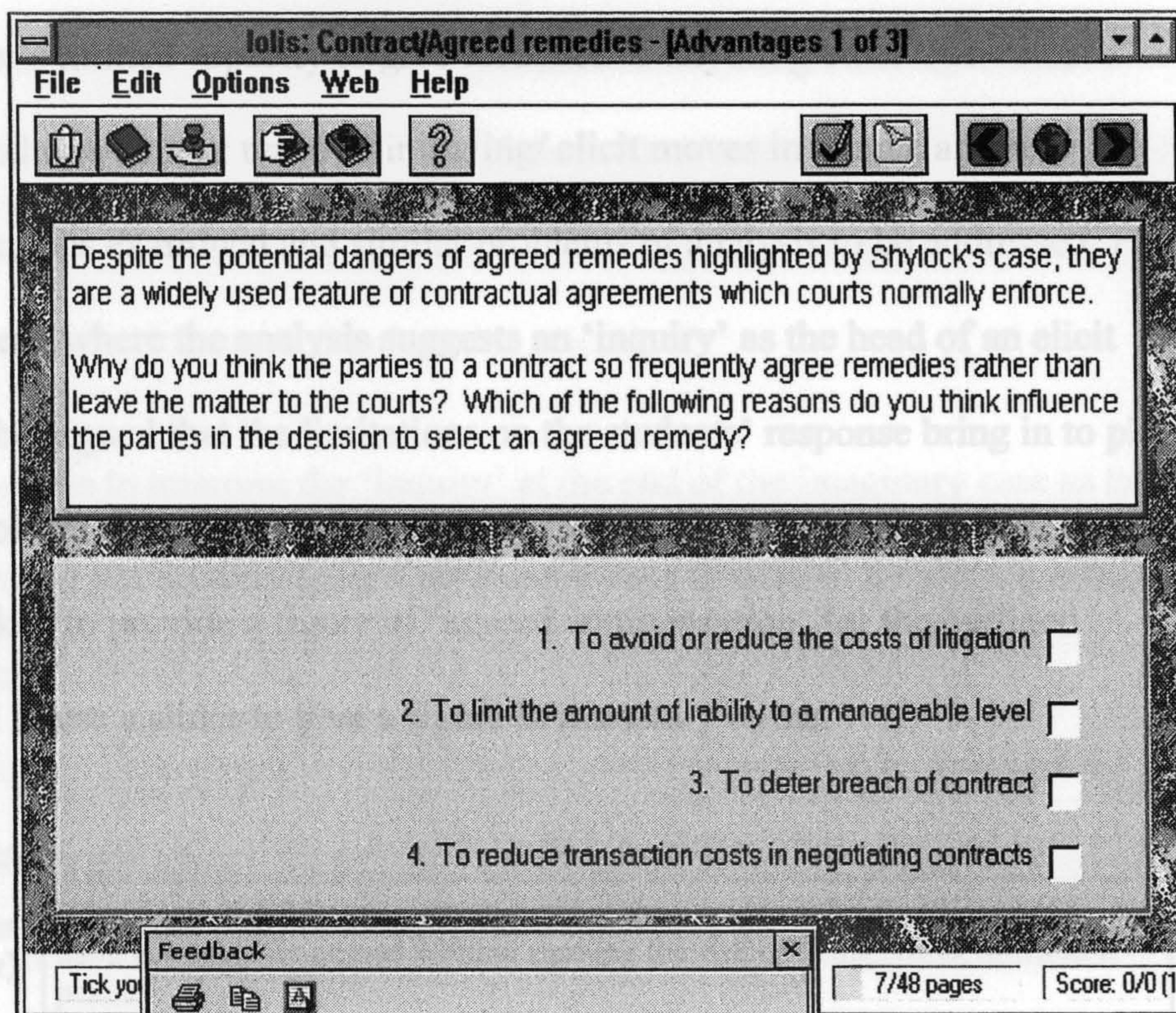
from the Contract Law module and one from Criminal Law module) that were looked at in detail and whose authors were interviewed.

Interactive screens are defined as those which set up the requisite of a student response through the use of an eliciting move which is followed by a follow-up move. Multiple choice question (mcq) screens, of which there are a number of variants, make up 41% of the interactive screen types in the sample taken of Iolis workbooks. Other types of interactive screen include 'drag and drop' screens in which the student classifies pre-set items, screens with 'matching' tasks, and screens where students highlight a section of text. Two screen types allow students to write their own answer: one allows for longer pieces of writing with feedback provided as a model answer and the other requires students to type in key words which are matched to those on the computer (see appendix 1).

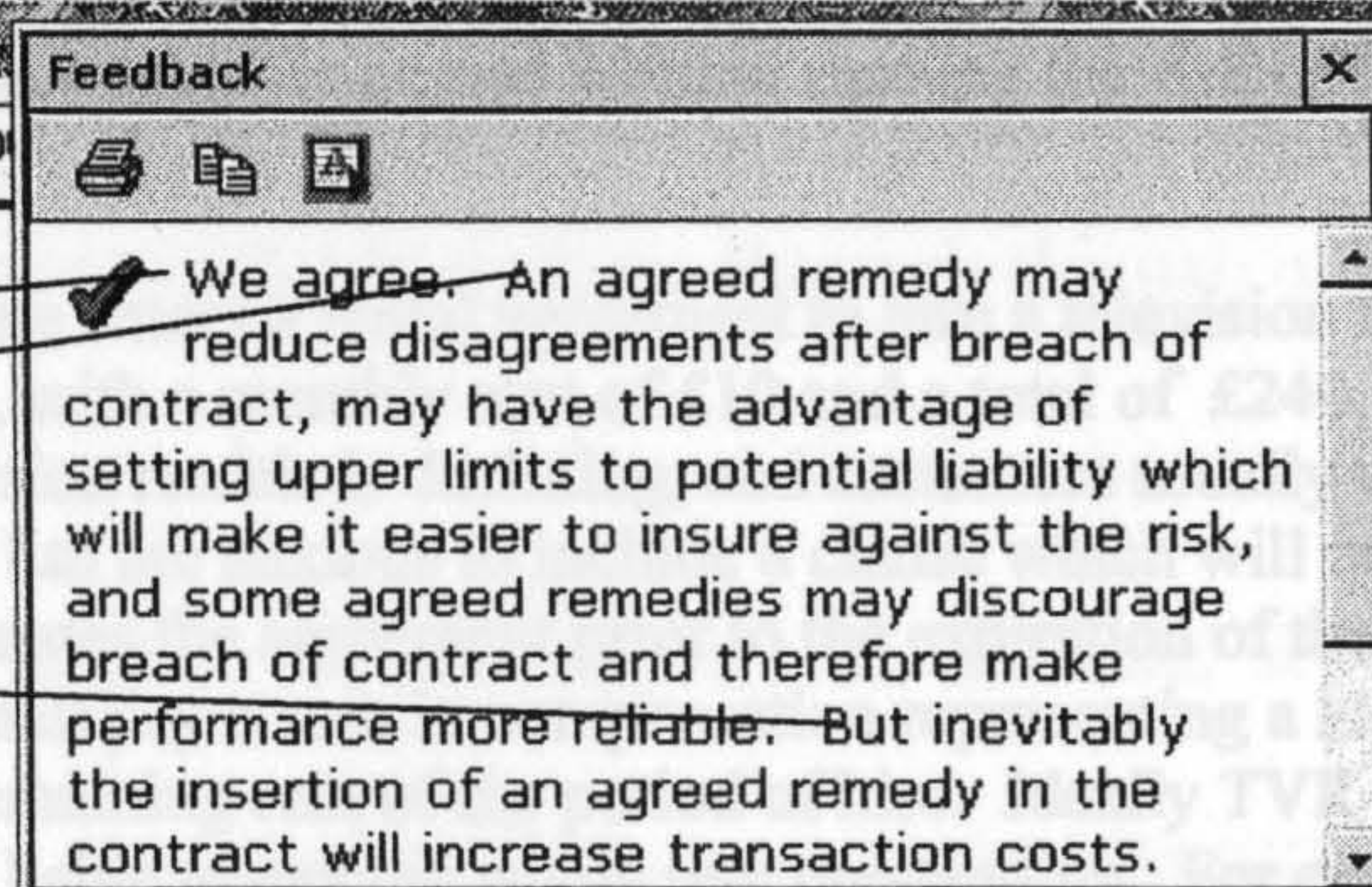
The interactive screens in Iolis display an IRF structure which is clearly reflected in the layout of the page. Example 6.45 illustrates this with the pre-head of the initiation in the white box, the elicit and response in a coloured box and the follow-up in a separate pop-up screen, entitled 'Feedback'. Example 6.45 provides a closer analysis of the moves and acts in the Elicit exchange of a typical mcq interactive screen and illustrates the problem of the K1 model in coding complex moves.

Example 6.45 - Analysis of Interactive Screen in Iolis (build-up mcq)

I (el) st K1
 Dk1
 Dk1
 N. pr. Dk1
 (x4) (x4)
 R/I (i) K2
 Inf
 (check
 boxes)



R (ac) K1
 Val K1
 ref k1
 k1
 K1
 com K1



(Iolis Tutorial - Agreed Remedies workbook , screen: Advantages 1)

The initiation/elicitation starts with an orientation to the previous screen, restating the main proposition and orientating the reader to the coming question. This is followed by a Wh question ('inquiry') - which the computer cannot answer, so this is unpacked into a 'choice' question (Tsui 1994) whose function is to direct the attention of the students to the following four statements. These act as a series of yes/no questions ('neutral proposals') which the computer can then assess. The students response is to tick the boxes where they agree or disagree with the four statements.

The computer's limited capacity to give feedback to anything other than 'closed' questions produces similar types of initiating/ elicit moves in almost all the interactive screens examined and similar problems of analysis to be addressed. Even in those screens where the analysis suggests an 'inquiry' as the head of an elicit move it can be argued that the limitations on the students' response bring in to play the concept of retrospective classification. For example, in Example 6.46 below the student is asked to provide a figure of 'agreed compensation' for the outlined problem and to use a slider to give a figure in monetary terms.

Example 6.46

I	starter (Npr)	Consider in the following situation what the maximum level of liquidated damages could be agreed without running the risk of being struck down as a penalty.
	(Inf)	Yvonne enters a rental agreement to hire a television from TVR Ltd for two years, with a monthly rent of £10 and a total of £240. Because the market for television rentals is declining, and customers usually want new televisions, TVR Ltd are anxious to include a clause which will provide that if Yvonne terminates the agreement prior to the expiration of the two year period, then she shall pay a sum in compensation representing a high fixed percentage of the remaining rent of the period of hire. Ideally TVR Ltd would like Yvonne to be liable to pay the whole rent outstanding. For example, if Yvonne terminated the contract after fourteen months, she would still be liable to pay a further year's rent of £100. But TVR Ltd admit that their losses are likely to be less than the full sum because of the 75% possibility of hire of the television to another customer.
	(Inq)	What is the maximum level of agreed compensation which a court is likely to uphold as a liquidated damages clause?
	(Dir)	Place the marker on the point of the scroll bar which you think represents the maximum agreed compensation possible calculated as a percentage of the outstanding rent payable. <i>(student places slider)</i>
R/I (i)	Npr	
R (a)	Val com	<i>We agree that this may be the upper limit for liquidated damages. The likely losses of TVR will be reduced to 75% of the rental which will be about £25.</i>
		(clio2)

The screen starts with a combination of command and question whose function is to get students to reflect on an issue whilst they are reading the problem case, at the

end of this case the question is reformulated as an elicit: 'inquiry'. Then, before the student answers the question, a directive is 'embedded' in the eliciting move, 'interrupting' it in order to enable its completion. The student then responds non-verbally by moving a slider to what they consider to be the relevant percentage figure and feedback is then provided on this selection.

It may be possible to interpret the 'inquiry' at the end of the imaginary case as head of the elicit move which would seem reasonable as it is realised by a Wh question and the response (R/I) is an 'informative' with the student's selection of a percentage figure. However, the slider limits possible answers to a pre-set range of figures in one format (percentage). The role of the directive, coming after the 'inquiry' act, is to draw the student's attention to the method of responding and the kind of response that is available to them through the use of the slider. If we follow Tsui's (1994) point about characterising elicitations not by form but by the response they elicit, then it is hard to see the 'inquiry' as the head act. I would argue that the placing of the marker can be classified as a series of 'neutral proposal' (npr) elicitations (Is it 20%? 30%? etc.) to which the student answers 'Yes' by letting go of the mouse button at the appropriate point and it is this which has been identified as the head act of this long move. The previous complex series of acts in the move (in parenthesis) have been rank shifted down to the act of starter.

Screens where students write their own answers are seen as one way in which the closed questions of the mcq screens can be avoided and students can construct their own responses. One of the authors of the Iolis workbooks writes, "The crucial step for computer tutorials is to require students to write answers to legal questions, rather than simply giving an affirmative or negative response." (Collins 1994 p6).

Example 6.47 below shows the only screen type available in Iolis where extended written answers are possible. The opening screen contains the initiation and the student types in their answer in a notepad box on the same screen. When they have finished they click the button for the answer, as for the other screens, and this calls up another screen which generally contains an instruction and two boxes below this, one containing the student's response and the other the lecturer's model answer.

Example 6.47 – Extended writing screen

I (el) Inq	<p>In the following story identify the relevant factors in determining whether the exemption clause featured is reasonable. List them separately as factors in favour and factors against.</p>		
fac	<p>Petra wants to buy a house and arranges with Silifax Building Society to take out a mortgage, She signs a contract, which states in small print on the back page that Silifax will arrange for a surveyor to examine the property and that a £200 fee will be charged for they survey.</p> <p>A clause in the contract. which is standard in mortgage contracts, states that the surveyor will not be liable in negligence for loss caused by reliance on the survey. For an additional £50 Petra can purchase insurance from Silifax against this risk.</p>		
R/I (i) Inf	<p><i>(student writes answer in the on-screen notepad)</i></p> <div data-bbox="604 1600 1471 1787" style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>Blah blah blah</p> </div>		
R (i) st	<p>Now look at [section 11 Schedule 2] of the Unfair Contract Terms Act 1977, if you have not already done so, and compare your answer.</p>		
Inf	<table border="1" style="width: 100%;"> <tr> <td data-bbox="433 2004 866 2331" style="width: 50%; padding: 5px;"> <div data-bbox="433 2004 866 2331" style="border: 1px solid black; padding: 5px;"> <p>Blah blah blah</p> </div> </td> <td data-bbox="866 2004 1663 2331" style="width: 50%; padding: 5px;"> <p>We think the relevant factors are:</p> <p>A. In favour of the term being unreasonable:</p> <ol style="list-style-type: none"> 1. the fact the term was in small print 2. the fact the Petra was a consumer dealing with a building society <p>B. In favour of the term being reasonable</p> <ol style="list-style-type: none"> 3. the fact that Petra was offered insurance </td> </tr> </table>	<div data-bbox="433 2004 866 2331" style="border: 1px solid black; padding: 5px;"> <p>Blah blah blah</p> </div>	<p>We think the relevant factors are:</p> <p>A. In favour of the term being unreasonable:</p> <ol style="list-style-type: none"> 1. the fact the term was in small print 2. the fact the Petra was a consumer dealing with a building society <p>B. In favour of the term being reasonable</p> <ol style="list-style-type: none"> 3. the fact that Petra was offered insurance
<div data-bbox="433 2004 866 2331" style="border: 1px solid black; padding: 5px;"> <p>Blah blah blah</p> </div>	<p>We think the relevant factors are:</p> <p>A. In favour of the term being unreasonable:</p> <ol style="list-style-type: none"> 1. the fact the term was in small print 2. the fact the Petra was a consumer dealing with a building society <p>B. In favour of the term being reasonable</p> <ol style="list-style-type: none"> 3. the fact that Petra was offered insurance 		

(c2io)

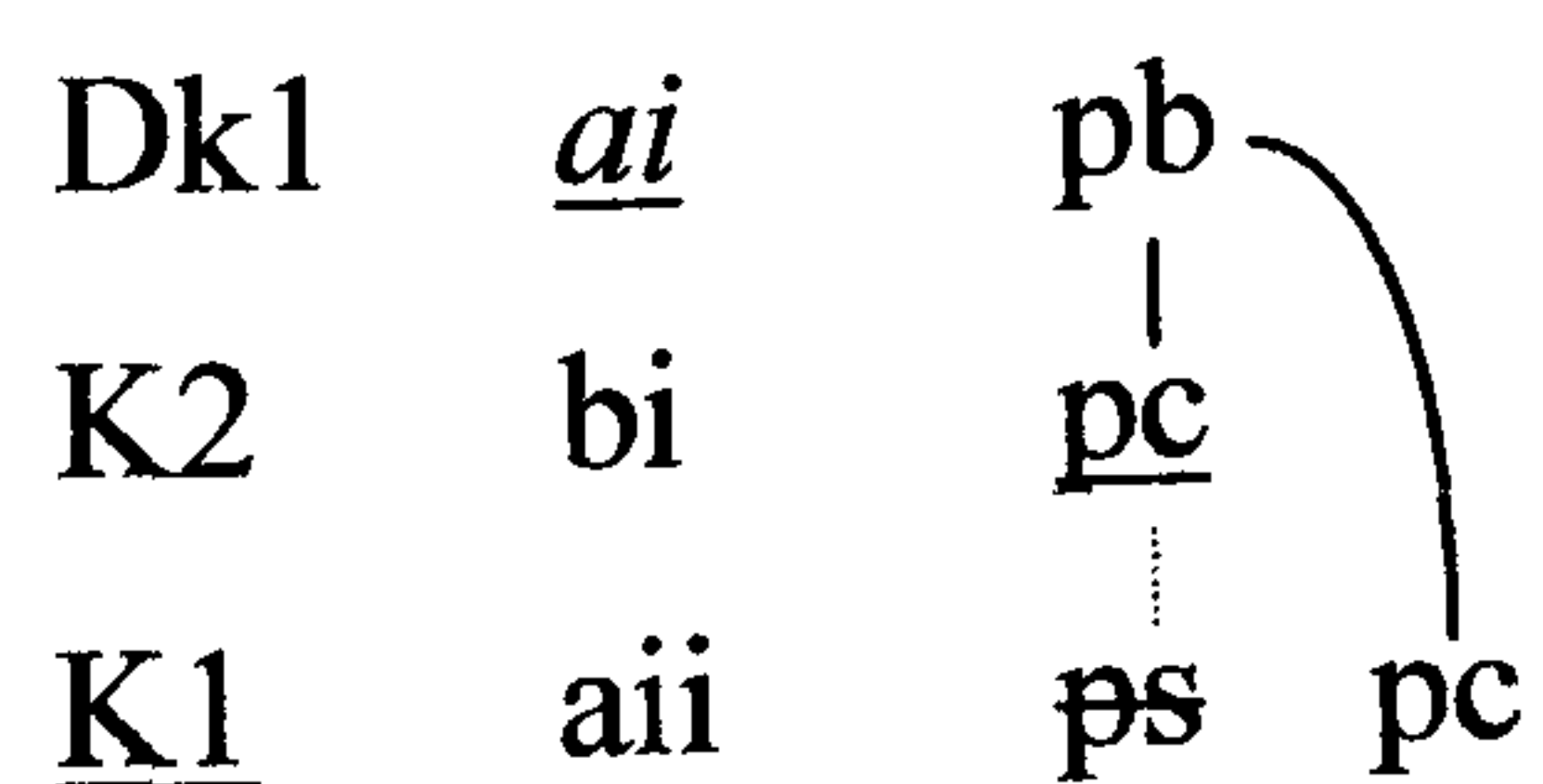
The opening sentence is the main initiating elicit move (I(el) Inq) and is realised by an imperative with a cataphoric reference and an embedded question in the projected

clause and this is followed by the information needed for the student to answer the question (facilitate). The fact that this information comes after the elicit ‘inquiry’ in the first sentence, illustrates a crucial difference between the structure of moves in written and spoken texts. The permanence on the page means that information that is necessary to answer the question, which generally comes before a question in spoken genres (starter), in interactive written texts may or may not adhere to the same structural positions that it does in spoken texts.

The analysis of the *exchange structure* as the standard I, R/I, R three part exchange is dictated by the sequential structure of the software where the student is asked a question, composes an answer, and presses the same button for feedback on their answer, as in other screens. However, instead of an acknowledging move by the lecturer in the third slot of the exchange there is a second informing move where the lecturer presents their own predetermined response to the question. This has the same head act (‘inform’) as the student’s previous move and is thus an invalid exchange (see Francis and Hunston 1992.)

Berry’s (1981) ideational layer of analysis provides another perspective on this exchange (example 6.47) and perhaps best captures what is wrong with the exchange as well as showing why it may be seen as being a valid interaction:

K1 analysis of example 6.47



The three underlined elements (K1, ai, pc) are the obligatory elements for an exchange in Berry's (1981) model and they are all present which indicates a valid exchange. However, in the Ideational metafunction, instead of responding to the student's propositional completion (pc) with a propositional support (ps) the lecturer simply programs in his own propositional completion (pc). To put it simply, he answers his own question making the student's response irrelevant in interactional terms.

6.4.3.1 Exchanges, sequences and transactions

Building on this analysis of individual exchanges, we will now briefly turn to some longer sequences of the Iolis workbooks to see how the interactive screens are used in the workbooks and how they relate to the non-interactive screens (text samples from c1io1, c1io2, and c2io in appendices 8d, e, and f). The beginning and end of the sequences of exchanges in the following samples relate to the division the authors have made in the workbooks.

The main pattern from Iolis which we see illustrated in these samples is a cycle of Elicit exchange/s 'sandwiched' by moves which provide information, such as inform and focusing moves. There would seem to be two main functions for the interactive screens in Iolis: testing and eliciting. The sample from c1io2 (appendix 8e) illustrates both of these well. The extract starts with a focusing move ('metastatement') which outlines the presentation of the three topics for discussion. Screen 2 is an Inform move which initiates the presentation of the first topic. Screen 3 illustrates the 'elicit' function, drawing out the student's existing knowledge of the

legal rules and principles - these are then summarised in a focusing move ('conclusion') in screen 4. Screen 5 illustrates the 'test' function of the interactive elicit screens with the student being asked to apply the concepts from screen 4. In screen 6, we find an extended inform move which summarises the concepts which have been presented and explores exceptions and broader policy issues. Screens 7 to 10 also illustrate the 'test' function – screen 7 introduces a legal principle which the interactive screens (8-10) get the student to apply to imaginary cases. The issues which these screens explore are extended in two more interactive screens (11, 12) through more imaginary cases. Finally, the whole section is resolved in screen 13 which discusses the justifications for the legal principles which have been explored and is an extended inform move with four sub-screens linked by hotkeys.

A similar pattern of exchanges and use of interactive screens can be found in the sample from clio1 (appendix 8d). The sequence consists of six screens with four screens with Elicit exchanges sandwiched between two screens of Inform exchanges. Screen one presents a legal principle and this is explored through two interactive screens (2, 3). These screens explore the principle in the abstract (note the use of generalised projections in the feedback screens '*The courts normally assume that..*') and the two following interactive screens (4, 5) apply the principle to real world cases. The feedback screens are quite lengthy in each case and provide an on-going summary. Screen 6 is an Inform exchange which provides a series of exceptions to the general principle and these are explored through hotkeys.

The third sample from the c2io text (appendix 8f) follows the introduction section to this Iolis workbook and is part of the first unit of the workbook and as the title of the

section (4.1) states, it is concerned with *applying* the Unfair Contract Terms Act.

The first screen is a focus move and this is followed by two interactive screens which apply the Act and the concepts that have previously been elicited in the introduction. Screen 4 is a focusing ('conclude') move which summarises the three previous screens and then this summary is tested in an interactive screen (5). In this screen, we see the extended writing screen (see example 6.45) being used to elicit a summary of the previous section. This provides a variation on the two basic functions of testing and eliciting.

There are two aspects to note from the brief analysis of the above samples. Firstly, they illustrate the broad functions for the interactive screens in these workbooks which are:

1. to 'test' the student's understanding of a concept such as a legal rule and their ability to apply it to a given case.
2. to 'elicit' concepts from students rather than simply presenting them

Secondly, and related to this, is the way in which the interactive screens are generally 'sandwiched' between screens which present information. The interactive screens are framed by focusing and inform screens. At the level of the IRF exchange, the contribution of the student is already framed in the follow-up slot in which the author can validate the knowledge and perform, in this context, an unchallenged gate keeping role. However, these Elicit exchanges are then further framed in the Iolis workbooks by the Inform and Focus exchanges. The Elicit exchanges in the interactive screens are dependent on the initial Inform and Focus exchanges, particularly in those which 'test' the application of the given knowledge,

and the final Inform or Focus exchange reinforces the lecturer's perspective at the end of the sequence.

6.4.3.2 Summary of Iolis

The analysis shows that the computer can only handle 'interactions' based on lecturer elicit moves utilising 'neutral proposals' (n.pr) most typically realised through multiple choice questions. Even where the analysis may at first indicate that an initiation has an elicit: 'inquiry' as its head, the limitations of the computer mean that it is not possible for it to deal with such an open propositional base (pb) and the computer cannot carry such an Elicit exchange through to its predicted resolution. In example 6.46 for instance, the limitations on the response that the student can make means that the initial elicit: 'inquiry' move has to be retrospectively classified as an elicit: 'n.pr'. Where the student can respond to an initial elicit: 'inquiry', as in example 6.47, the follow-up move which this prospects cannot be resolved by the computer and instead there is a single pre-determined answer producing an ill-formed exchange. The lecturer simply answers his own question and cannot respond to the student's response.

6.5 Interactivity and the claims for constructivism

The analysis of exchanges in Iolis shows that there is a closing down of the propositional base in the lecturer's elicitations through the use of 'neutral proposals' and an appropriation of the student's response through the use of pre-scripted replies with the student selecting a button or slider. This appropriation of the student's voice is reflected in the analysis by the complexity of the elicit moves in Iolis in

which a series of acts, such as 'prompts' and 'clues' or *rank-shifted* acts such as 'direct', 'inquiry', and 'inform' acting as 'starter' or 'facilitate', set up the 'neutral proposal' which the computer can then give feedback on. As neither the lecturer nor the student has recourse to any of the discourse strategies (re-initiation, clarification etc.) available in the seminars, the eliciting move must be clear in terms of *what* response it is seeking and *how* the student achieves it.

In comparison, the complexity in the seminars is at the level of the exchange or exchange sequence which can be seen in the lecturer Re-initiation exchanges or in the students' tracking and challenging moves. This complexity reflects the contingent nature of the exchange which in turn, I would argue, allows for the joint negotiation of knowledge, or as Edwards and Mercer (1987) put it, the 'creation of shared meanings and common understandings'.

I must stress here that the comparison between the two genres is in the sense of their 'discourse potential' and it is not my main concern to judge pedagogic outcomes or value of content. The analysis supports and formalises the point that one genre has the potential for negotiation whilst the other, at present, does not.

Even on the basis of this limited analysis of the interaction, the claims of a constructivist pedagogy for such CBL materials seem exaggerated. It is true that students can control the pace and the order of content of their learning but this seems to offer little in essence over print. The interaction in Iolis is, by *necessity*, scripted. There is no place for student's conceptions and no place to create their own voice.

It is briefly worth considering what other choices are available to the producers of Iolis - what has been excluded from Iolis as well as what has been included. For example, the interactive screens in Iolis do not include 'adaptive loops' which is where each subsequent task would be based on the student's response to the previous interactive screen. This would provide a degree of 'responsiveness' in the system and is straightforward to do from a technical point of view, though time consuming and expensive in authoring terms (Gill and Wright 1994). Laurillard (1993 - see DAIR model chapter 2) sees such 'adaptivity' in computer interaction as being crucial to the construction of the interaction in CBL tutorials.

Iolis also lacks the kind of open ended writing tasks that Collins (1994) suggests are important for students in facilitating the necessary engagement with substantive issues of law. Finally, Iolis could have directly integrated the interactive screens in Iolis with an e-mail conferencing facility. Iolis claims to do this to some extent with its 'annotation' facility which works in the same way as the annotation facility in Microsoft Word. However, the facility is very limited in what it can do and no comparison can be made to a proper conferencing facility. Its limited role and marginal status in Iolis would seem to be confirmed by a check of the annotation list at Warwick for all of the workbooks (autumn term 2000) which shows that no comments have been made for this term. Conferencing facilities could certainly provide one solution for the kind of open ended writing task that Collins (1994) suggests and Grantham (1999) shows how such discussion facilities and web based information can be successfully integrated with Iolis. The potential of the computer has only been selectively exploited in Iolis.

The analysis of the seminars indicates that this genre is a crucial site in the pedagogic order of discourse for the negotiation of shared meanings and the analysis also gives an indication of how this is achieved at the level of the exchange through re-initiations, clarifications and challenges. Even for those students who do not play a substantial role in the proceedings of a seminar, I would still argue that not only is there at least the potential for them to do so but that simply being part of such an interaction sets the knowledge in question in a framework in which it is seen as a good thing that knowledge *should* be questioned and challenged (see Lee and McKendree 1999 on the benefits of vicarious learning).

Lecturer Re-initiations in the seminars, particularly Expansion exchanges (example 6.25), and the kind of epilogue exchange we see in example 6.21 (lines 21-26) seem to be a mechanism which allows the ‘guided construction of knowledge’ (Mercer 1996), directing students’ attention to areas they need to clarify or give more thought to. The contrast to the potential of the discourse in the CBL materials is clear.

Students themselves seem to be well aware of the pedagogic importance of the interaction available in seminars. Evans and Abbott’s (1998) study into lecturers’ and students’ perceptions of existing pedagogic practice in UK HE seems to confirm the import of the analysis in seeing students probes and challenges as a central part of the discourse potential of the genre:

“One-to-one exchanges with tutors, either in individual tutorials or, as was more often the case, in small-group sessions, were generally considered by students to be the most potentially valuable learning opportunity. (...) Most students evidently regarded their tutors as very knowledgeable, and their capacity to engage in *confirmatory or*

challenging dialogue rendered them incomparable as sources of information..”

(Evans and Abbott 1998 p150 - *italics added*)

What is perhaps surprising though, is the fact that this does not seem to be fully recognised by the tutors:

“Tutors tended to be much more dismissive of their significance and usefulness in this capacity.Tutor’s recognition of their own dispensability also prompted them to regret what most perceived to be student’s overdependence on them, and to favour more facilitory, rather than directive, roles as teachers, *and more tutor independent learning.*”

(Evans and Abbott 1998 p150 - *italics added*)

This may give some insight into the thinking of tutors who are drawn towards the claimed benefits of such CBL materials.

6.6 Methodological considerations

This section will briefly address some of the issues, practical and theoretical, which have been faced in the coding of the interactions.

The use of two models in the analysis has proved useful in providing complementary insights into the interactions but discrepancies between the two descriptions give rise to some concerns. For example, a student’s elicit may be described in the K1 model as a probe, which is a dependent tracking move, whereas in the IRF model it is described as a ‘marked proposal’ in a separate exchange. This discrepancy partly reflects the greater flexibility in the concept of dynamic move in the K1 model versus the more structurally defined bound exchange in the IRF. However, it cannot be ruled out that it may also reflect an over-dependence on existing categories and the models should have been brought to a closer

convergence. On a practical level, it was decided in the piloting of each model that if existing categories could do the descriptive work, it was felt unnecessary to change the models for the sake of strict compatibility. On a theoretical level, I would argue that this discrepancy in the definitions of dependent exchanges is part of a much broader unresolved issue in models of interaction about the nature of the relationship between exchanges.

This is illustrated in the analysis of the samples from the six texts (appendices 8a-f) where the limitations of the models to describe longer exchange sequences or transactions can be seen. Wells (1999) suggests that it is the level of ‘exchange sequence’ which is of the greatest pedagogic significance for it is there that “the ‘commodity’ being exchanged .. is introduced, negotiated and brought to completion.” (ibid p236). Wells’ concept of ‘exchange sequence’ reformulates and extends the concept of free and bound exchanges in the IRF model and this forms a level between the exchange and the transaction, or ‘episode’ as Wells terms it. However, the model does not give detailed definitions of the sub-categories of the exchange sequence and it makes no suggestions for how exchange sequences combine to form episodes. It is an important step in the right direction but without a clearer definition of its categories and more importantly, without a clearer understanding of the structure of ‘episodes’ or transactions, it does not add significantly to the model in use in this study.

I would agree with Wells (1999) that in order to assess the pedagogic effectiveness of a given class or an episode in the class, as Wells wishes to do, an analysis of longer exchange sequences is important. However, a focus on the level of exchange,

as in the present study, illuminates the pedagogic roles and relationships that are being constructed in the given genres. The exchange is the building block in the pedagogic interaction and by working at this level, we can identify the *potential* of the genre more clearly in terms of allowable and possible contributions. As the analysis of samples of longer sequences seems to indicate, it is probably at the more opaquely defined level of transaction where we can see how this potential is constrained or developed in the unfolding of a unique text. It must be remembered that the level of episode/transaction is equated to topic and to the performance of a pedagogic activity (Wells 1999), so it is at this level where we see more clearly how the content and the pedagogic framework are brought together and we can begin to judge the effectiveness of the overall pedagogic event. This is particularly true in the contingent interactions of the seminar where there is more variation than in the Iolis workbooks. However, I would stress that though this is important, it has not been the goal of this study to judge the pedagogic effectiveness or the content of the seminars or workbooks. The emphasis on the level of exchange focuses on the pedagogic framing of the interaction and has identified possible roles, relationships and types of interaction that the two genres support, allowing for a critique of the pedagogic rationale and claims of the Iolis workbooks.

Chapter 7 Discussion

In this chapter I will start by reviewing the findings of the analyses in the previous two chapters, highlighting important aspects of the findings with particular reference to the institutional context and the role of the texts in the pedagogic order of discourse. In terms of Fairclough's (1992) model, the main focus in these two sections will be on the discursive practice. In the third section, the chapter will move on to consider the texts as social practice, not just in terms of the order of discourse but in terms of the wider institutional changes in UK HE and broader social changes.

7.1 Projection and the mediating of the orders of discourse

The initial formulation of the study of projection in chapter 5 suggested that projection may be an important resource in university pedagogic texts due to the mediated nature of academic learning. The study would seem to confirm that projection has a wide and complex 'mediating' or recontextualising role in the present corpus. The following section will focus on two main areas. Firstly, the study illustrates the highly intertextual nature of the field of law and the way in which projection is a crucial resource in the recontextualisation of the legal orders of discourse which are drawn on in the construction of the pedagogic texts. Secondly, the analysis highlights the importance of the authorial voice as a source of projection in the process of 'mediation' or pedagogic recontextualisation (Bernstein 1990) and shows how the variation in the use of the implicit objective and explicit subjective

authorial voice in the traditional written and spoken genres draws on and reflects two important complementary aspects of legal academic epistemology.

7.1.1 Projection and recontextualisation of the Legal Order of Discourse

The role of projection in the construction of the field of law can be most clearly seen in the high figures in all the texts for attributed projecting clauses, of which the majority have as their source participants in the legal process and legal documentation and abstractions: Judges, courts, and defendants justify and argue their positions and acts, contracts, and legal rules are animated as sources in projection to speak and make assumptions (see appendix 3 for figures).

In this study of legal pedagogic texts, projection realises in the lexicogrammar the various layers of linguistic realities as they are intertextually constructed in the process of the law and its recontextualisation in the ‘research’ order of discourse and the pedagogic order of discourse. The ordering of multiple embedded projections illustrates this most clearly and also provides some insight into the construction of the identities and relations that such pedagogic recontextualisings embody.

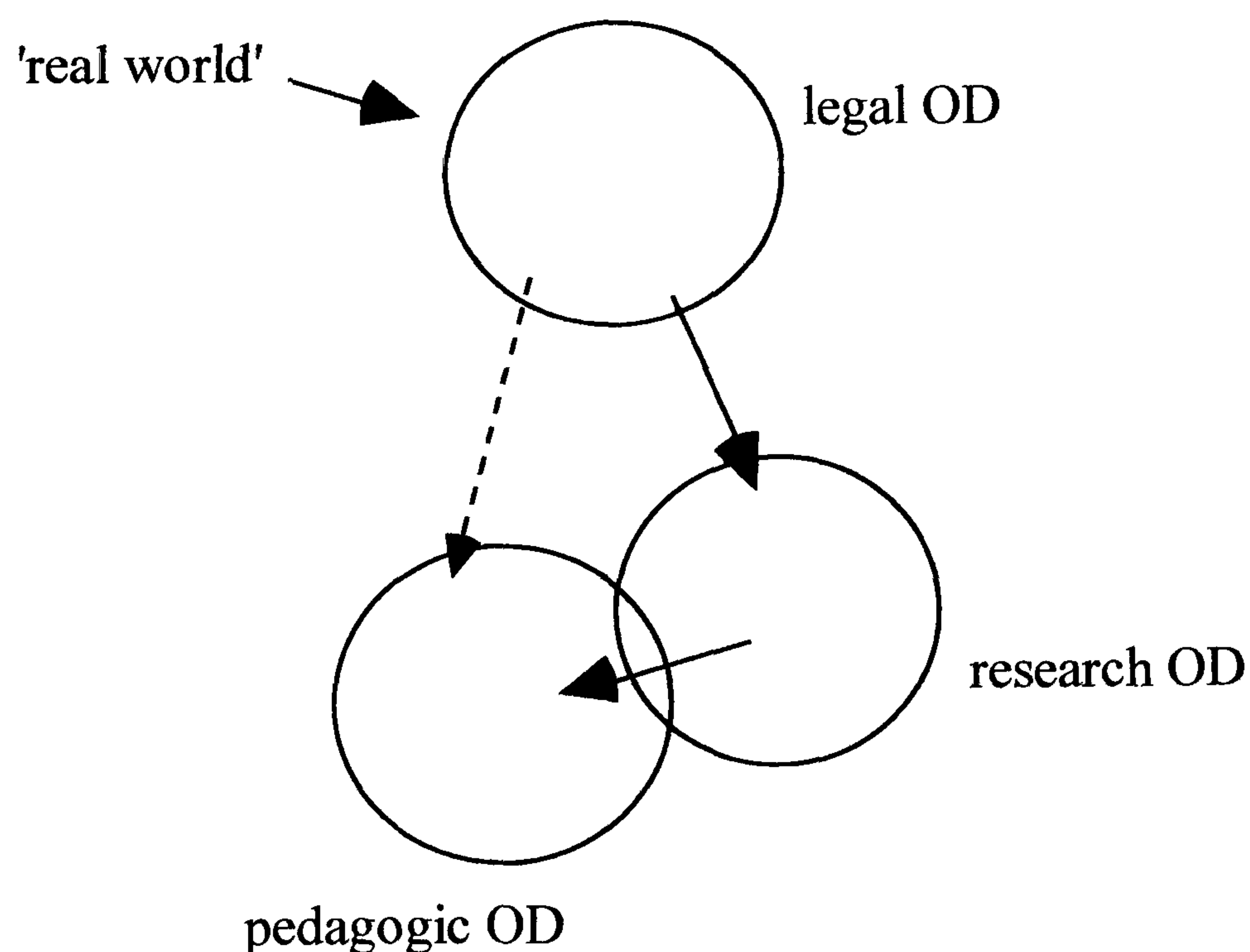
Example 7.1 - multiple projections

- a) (The real reason for the decision appears to be that) (the court thought that) (justice required that) the plaintiff should be entitled....
- b) (Lord Reid justified the result by arguing that) (the shipowner must have realised that) (it was not unlikely that) the sugar would be sold...
- c) (We agree that) (under this formula it would seem that) (the supplier ought to have realised that) the defective installation of the hopper created

- d) (I think) (the spirit of the Act suggests that) if I use the same language all the time ..
- e) However, (it seems probable that) (a court will not easily be persuaded that) it is reasonable for B to seek to shift back to A,

In these sequenced projections, there is a syntactic ordering of the projecting clauses from academic comment, through the legal reasoning of the courts to the actors in the cases themselves which reflects in reverse, the ordering of the interpretative process involved in the sequence of recontextualisations. This can be reformulated in terms of orders of discourse with the pedagogic order of discourse being primary in this context and this recontextualises the legal order of discourse via the mediation of the academic research order of discourse. Based on the distinction of the three orders of discourse, the following diagram (Figure 7.1) illustrates the process of the recontextualisation (Bernstein 1990) from a subject discourse to a pedagogic discourse but reflects the mediation of the research or disciplinary order of discourse (Laurillard 1993) in university teaching and learning.

Figure 7.1 - Orders of discourse and recontextualisation



It would seem that in the multiple projections in example 7.1, there is something akin to a rule in operation that one can only draw on and recontextualise texts from the previous orders of discourse in the chain or from within the same order of discourse. So for example, in these pedagogic texts, judges can question the motives of defendants, and academics can question the reasoning and motives of judges. However, we never find in these texts the defendant questioning the reasoning or motives of the judge, though it is more than likely they do, and the judges are not seen to comment on the formulations and interpretations of academics, though they are certainly aware of such writings.

Whilst the source of the projecting clause provides the interpretative contextual frame in which the following embedded projection or the projected proposition is grounded, it is also true that the projecting clauses are ultimately grounded in the judgement of the speaker/writer (Heyvaert 1998). So in example 7.1a, whilst the source of the projection may be ‘the court’, the choice of the projecting verb ‘think’, rather than say ‘argue’, ‘claim’, etc., is an interpretation or judgement made by the author of the text writing within the pedagogic order of discourse.

The degree of insulation or boundary maintenance between the pedagogic and academic research orders of discourse is, in this context, relatively weak - reflected in Figure 7.1 by the overlap in the orders of discourse - and this can make it difficult to distinguish between whether a projection represents a recontextualisation based in the pedagogic or academic field. This reflects the fact that lecturers straddle the two orders of discourse as both producers and transmitters of knowledge and that one pedagogic goal of universities is the inculcation of students into the epistemology of

the academic discipline. The boundary between the university orders of discourse and the legal order of discourse is stronger and so it is relatively easy to identify the source of projections which draw on the legal order of discourse.

As Figure 7.1 illustrates with the dotted arrow, it may be possible to talk of a straight recontextualisation of the legal order of discourse to the pedagogic order of discourse which could be related to a more experiential or vocational pedagogy. In the present study this can perhaps be seen in examples of projection which simply ‘report’ factual aspects of the legal order of discourse such as the content of legal documentation (*the Act states that ..*). However, such an analysis would not only need to attempt to distinguish between those projections which ‘report’ and those which ‘evaluate’ but there is also the broader point in the recontextualising process that the simple act of selecting a given legal case or Act and using it at a given point in the text is in itself an interpretative act based on the values of the POD and the constraints and expectations of the given genre.

7.1.2 Projecting the authorial voice

The analysis of Self (attributed and unattributed) as the source of projection is perhaps the clearest example in the analysis in chapter 5 of the role of projection in the process of pedagogic recontextualisation. It illustrates the important role of the authorial voice in the structuring of the mediated nature of university pedagogy and a clear generic variation in the POD. It is the use of projections with the authorial voice as source which most clearly provides an interpretative frame for comment by lecturers in their dual role as both producers and reproducers of knowledge. Figure

7.2 're-presents' the average figures for the genres for +Att/self and -Att/self in tabulated form (see sections 5.4.2 and 5.4.3). It highlights the generic variation in the use of the authorial voice and shows two clines with the seminar at one end drawing heavily on the use of the explicit subjective authorial voice (+Att/self) and rarely on the implicit objective voice (-Att/self) and vice versa for the textbook.

Figure 7.2: +Att/self and -Att/self as percentage of total projecting clauses

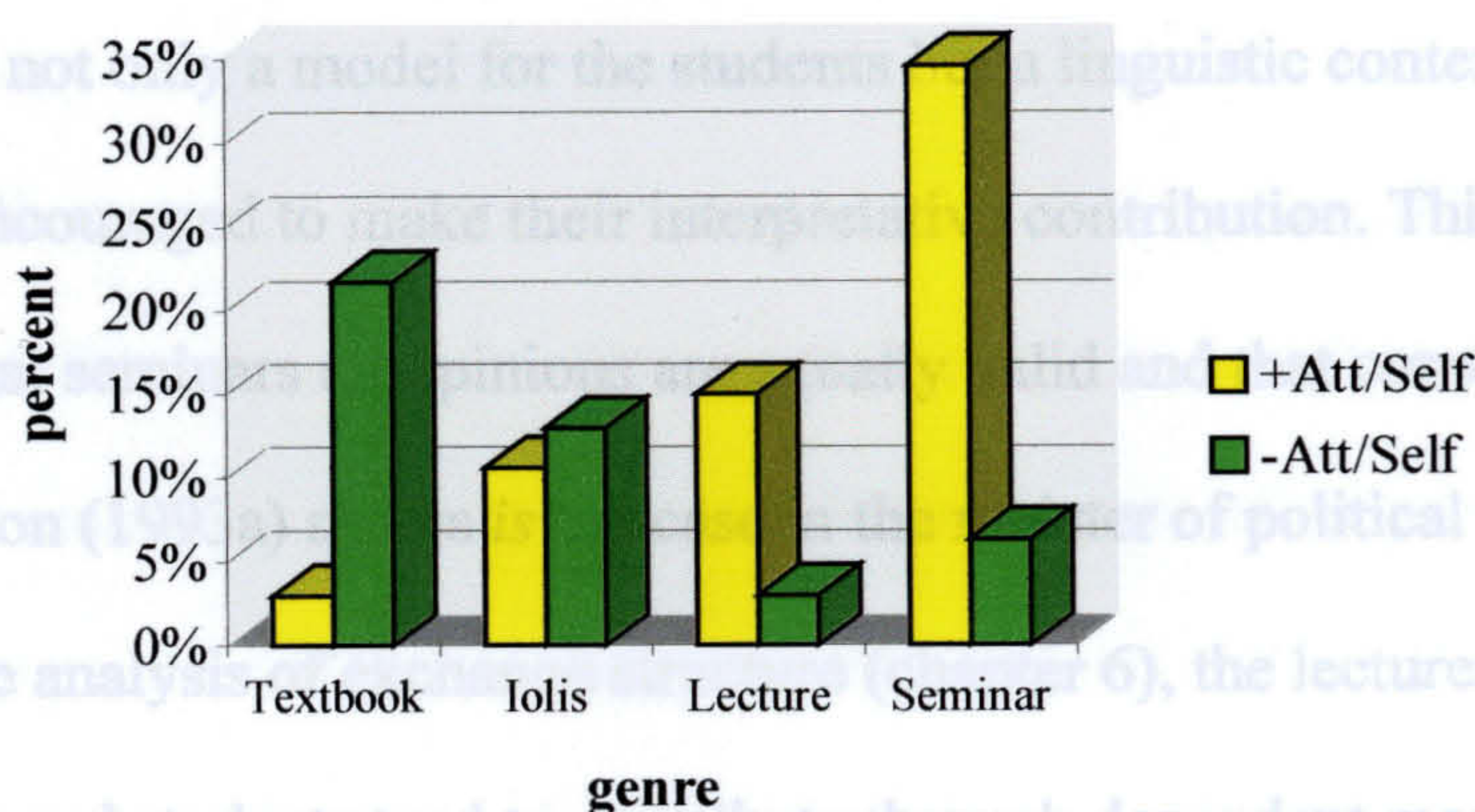


Figure 7.2 shows a clear distinction between the 'traditional' prototypical written and spoken genres in the pedagogic order of discourse in the way the authorial voice is used to mediate the pedagogic recontextualisation. In the face-to-face genres, especially in the seminar, the personal voice comes to the fore stressing individual responsibility in the construction of knowledge. Although in the lecture it is subtly different both in degree and realisation, I would argue that they are similar in this general orientation. The textbook stresses the objective authorial voice, excluding the personal voice and focusing attention instead on the author's reasoned argument which is supported by other disciplinary voices realised through citations which stress the consensual accumulation of knowledge based on reasoned exposition.

Figure 7.2 indicates that the Iolis workbooks draw on both authorial voices

relatively equally. However, the analysis in chapter 5 shows that on closer inspection there are some important distinctions.

The pedagogic role of the individual lecturer is to fore in the face-to-face genres and is reflected in the high use of projections with 'I' as source with the seminars having a high frequency of subjective interpersonal metaphor. An emphasis on the value of the individual voice in the interpretation of the legal process and its outcomes provides not only a model for the students but a linguistic context in which students can be encouraged to make their interpretative contribution. This is not to say that in these legal seminars all opinions are equally valid and that consensus is not required, as Hunston (1993a) shows *is* the case in the register of political talk shows. As we see in the analysis of exchange structure (chapter 6), the lecturer controls the seminars and students tend to contribute through dependent moves, such as probes, and the exchange structure tends to lead towards resolution of the K1 set up by the lecturer's initial DK1 elicitation.

The textbooks follow the more usual conventions of academic writing and generally avoid the use of the first person singular. The inclusive 'we' (reader and author) is used as a discourse marker and in this context can be seen as a marker of what is of pedagogic relevance (*We should note that..*). The analysis shows that in the textbooks the authorial comment is mainly realised through 'fact' projections such as objective interpersonal metaphor (*It is clear that..*). These evaluative projections, though clearly grounded in the judgement of the author, lack explicit attribution and this provides a rhetorical construction of objectivity focusing attention on the ongoing argumentation. Judgements arise not from the personal opinion of a lecturer

but from the rhetorical construction of the reasoning in the text. This objectifying of the authorial voice in the textbook focuses the attention more explicitly on the epistemology of the academic discipline. This is crucially supported in the textbooks by the use of citations (generally through footnotes) which, though perhaps rarely exploited by the undergraduate student, creates a sense of the academic discipline as a cumulative and consensual construction and backgrounds the role of subjective personal opinion.

In the Iolis materials, the use of the non-inclusive, impersonal first person plural is a rhetorical distancing of the author and the student in the interaction which can be seen as a realisation of the distance in time and space of the participants and the anonymous nature of the interaction. It both reflects and creates a more authoritative and anonymous relationship between the transmitter and the acquirer in the pedagogic process which becomes most evident in the analysis of the interaction in chapter 6 where the student has no voice and no opportunity to challenge what the anonymous 'they' say. This seems similar to Fairclough's (1992) concept of 'synthetic personalisation' where the discourse of the personal face-to-face interaction is simulated in mass audience public discourse.

The Iolis workbooks utilise the objective authorial voice (-Att/Self) less than the textbooks which indicates that the Iolis materials do not put the same emphasis on argumentation as the textbooks. The sparse and confused use of citations and systems of referencing in Iolis would seem to support this analysis as it suggests that a view of academic knowledge as a consensual exercise based on cumulative reasoning is being backgrounded. The lack of emphasis on argumentation which is

indicated in the analysis fits in with the institutional constraint imposed by the LCC on authors that they must adopt a pluralist stance and not argue for a given position.

In sum then, the face-to-face genres' use of the subjective authorial voice can be seen as not only realising the particular configurations of mode and tenor but as 'exploiting' these aspects of the potential of the genre to model an epistemic value and to facilitate a particular pedagogic function. So in seminars, the use of subjective interpersonal metaphors by the lecturers can be seen as not only expressing the value given to reasoned opinions but as also encouraging students to contribute. Conversely, the textbooks' use of an objective authorial voice can be seen as exploiting the mode and tenor of the genre in terms of its 'distance' in time and space (physical and social) which allows for extended exposition supported by the use of citations. This exploits the potential of the medium to encourage reflective reading and encourage a broader disciplinary perspective. To put it simply the authors know what the genres do well and they emphasise these aspects. Analysing genres as part of an order of discourse illuminates this point that genres are defined not just by their contextual configurations of Field, Mode and Tenor but by their relations to each other in the order of discourse.

The Iolis workbooks' use of the authorial voice in projection does not seem to 'exploit' the contextual configurations in this way. The lower figures for the objective authorial voice suggest and the misuse of citations would seem to confirm that Iolis does not emphasise the disciplinary epistemology of reasoned argument situated within an existing literature. The analysis of the subjective authorial voice would also suggest that individual responsibility in the construction of knowledge is

not emphasised in this genre as it is in the face-to-face genres. Within the terms of this interpretation this would seem to result in a negative definition of the CBL materials - it claims to say what the genre does not do but it does not make clear what its pedagogic function is within the POD. However, it does seem clear that it does not facilitate a constructivist pedagogy.

It could be argued that the emphasis on the 'mediating' role of the authorial voice in the 'traditional' genres suggests that they have an orientation to 'academic learning', in Laurillard's (1993) terms, emphasising that knowledge is ultimately a point of view - someone else's way of looking at the world. The lack of such an emphasis means that the Iolis materials are less so. In light of the pedagogic dichotomy Laurillard sets up between academic and experiential learning in universities, this would seem to imply that the Iolis materials are orientated to 'experiential' learning. The analysis of +Att/+P/Non-self/other (see appendix 5) which deals with reference to generic/abstract or real/specific identities suggests that this interpretation may be on the right track.

In an interview with one of the Iolis authors (Widdison 1997), it was explained that the Iolis workbooks were designed to help tutors reduce the time spent on the 'recapitulation phase' of undergraduate law tutorials. He further explained, with reference to Bloom's taxonomy (see Anderson and Sosniak 1994), that their primary function was to 'get students up to speed' so that the real seminars could focus on the 'higher level skills' of 'analysis and synthesis'. This meant that to some extent the materials focused on the 'lower level skills' of the 'acquisition of knowledge' and its 'application'.

This rationale finds an echo in the way Collins, the author of corpus 1, introduces the topic of Agreed Remedies in the textbook and in Iolis. In the textbook, the author is attempting to build an overall framework in which the courts decisions can be interpreted:

“For when the topic of agreed remedies is considered as a whole, we can perceive a pattern emerging of a distinctive kind of judicial regulation of these contractual terms.” (Collins 1993 p336)

In the Iolis workbook on the other hand, he focuses on the legal rules and their application to particular cases:

“This chapter of the workbook examines the general legal principles applicable to agreed remedies.” (screen, Agreed Remedies)

Thus it would seem that tutors perceive the Iolis materials as focusing mainly on the lower level skills of acquisition of information and its application – or in Laurillard’s terms, they seem to emphasise experiential learning rather than academic learning.

7.2 The analysis of Interaction and pedagogic claims

The textual analysis in chapter 6 presents a more specific ‘immanent critique’ (Wortham 1997) of the Iolis materials which sets out to see if the thrust of the pedagogic claims for the materials are sustainable through a detailed description of the discourse. The analysis of the interaction in the Iolis materials and the seminars, reaches what can in a sense be seen as an obvious conclusion: the interaction in the Iolis materials can be characterised as ‘fake’ and pre-scripted with limited potential to support a constructivist pedagogy. In contrast, the analysis of the seminars illustrates the complex and contingent interactions by which the genre has the potential to support a more constructivist pedagogy. This over simplistic summary

of the analysis serves to raise some important issues that can be used in its justification.

Firstly, as Stubbs (1996) points out there is value in linguistic analysis in describing the 'obvious'. The analysis has a descriptive value in providing an explicit and comprehensive account of the discourse of the interactions that occur in the two genres in this corpus. Besides Basturkmen (1998), there are few empirical studies which provide such a description of the nature of the discourse of interactions in university seminars and none which have done so for computer based tutorials or courseware. In a critical discourse analysis, any discussion of the genres' pedagogic merits or ideological loadings must be based on explicit linguistic descriptions and not on partial descriptions or anecdotal evidence.

The analysis provides these descriptions and indicates the discursive *potentials* of the two genres and the linguistic mechanisms by which these are achieved in the present corpus - allowing for detailed quantitative and qualitative comparisons. It shows for example, that in contrast to studies of classroom discourse in schools, students have a distinct voice in university seminars and their role allows them to initiate exchanges. Whilst such initiations are generally dependent on the lecturer led exchanges with moves such as probes and clarifications, there is the possibility for the student to initiate their own elicit exchanges or to challenge the lecturer in terms of the propositions under discussion or even their institutional authority. In contrast, the analysis of the discourse of the Iolis workbooks shows how the constraints of discursive practice that the computer program embodies lead to the exclusion of the students' voice allowing them no role in the interaction to actively

question or challenge the knowledge they are being asked to learn. The pedagogic role of the student is prescribed to that laid out by the program and is not open to negotiation.

Secondly, the comprehensive analysis has provided a sound basis from which to question the key pedagogic claims for the Iolis materials. This brings to the fore the critical element in the analysis of the discourse of these texts. If it is *clear* that the interaction in Iolis is ‘fake’ and cannot support a constructivist pedagogy then this raises a far more interesting question of how those involved in the project could come to claim and continue to claim that the interactional potential of the CBL framework they have developed could deliver a constructivist pedagogy. An important conclusion of the analysis of the interaction is that the Iolis workbooks are something other than the authors and editors claim. There seem to be unintended outcomes emerging from the best of intentions - pedagogic materials enshrining something more akin to behaviourist principles than the constructivist interaction that was the stated goal.

Much analysis of genre (Martin 1992, Swales 1990) with its emphasis on goals and staging implies that authorial purpose is the central element in the production of texts, around which other elements of the context of situation are drawn together. However, the analysis in chapter 6 suggests that there are instances where the broader institutional and social constraints may predominate over the authors’ intentions. This conclusion would seem to support a central principle of CDA, that we are not always consciously aware of the language that we use, its ideological

loadings or its effect. As Fairclough states, “It should not be assumed that people are aware of the ideological dimensions of their own practice.” (ibid 1992 p90).

Fairclough (1995b p151-153) illustrates the point most succinctly in a short analysis of a text he wrote himself: a supporting statement which he wrote for an internal job application to a promotion board within the university. He describes how he was acutely aware, through advice from colleagues, of the need to promote his achievements and the fact that he was drawing on a promotional discourse to do so. A closer analysis of the discourse of the finished piece of writing revealed that the transitivity choices were almost exclusively material process with himself as actor rather than say relational processes, thus presenting himself, in combination with lexical choices, as a dynamic leader. Fairclough states that whilst he was aware of ‘playing the game’ of self promotion in the rhetorical construction of the text, he was not aware of the extent to which he had appropriated a managerial discourse of leadership which he finds deeply antipathetic in an academic context. He makes the point that we are not always conscious of the extent to which we find ourselves caught up in the social flow of events and that we may only be partially conscious of the way we draw on various genres and discourses to achieve certain goals. These positions that we adopt for strategic reasons may over time become naturalised and part of our professional or social identity.

This vignette of an analysis illustrates the point that a critical discourse analysis of texts can illuminate the powerful constraints and enablements of the institutional and social structures within which the text is situated without treating the participants as naive (Widdowson 2000). It highlights the need for discourse analysis, and genre

analysis in particular, to look more closely at the tensions that may exist between the different elements (individual, institutional, ideological) that form the context of production of the text. Or as Fairclough puts it, “the rhetorical account underestimates the incorporative capacity of institutional logics and procedures.” (Fairclough 1995b p153).

The analysis indicates that this holds true at the level of the order of discourse and that we create genres whose effects may be other than we would wish. The critical realists’ stratified account of the social world provides perhaps a better reformulation of Fairclough’s position by suggesting that social practice is emergent out of the interplay between the different social domains and that they are not reducible to the component parts.

“People act within this stratified social world, whose complex mediation of what they do results in social action having all kinds of unintended consequences - and generating further emergent features and properties - which in turn help to shape the social environment for subsequent actors.” (Carter and Sealey 2000 p16).

What is particularly clear from the analysis in chapter 6 is that the perceived enablements of the computer that individual participants refer to - the promise of technological possibilities in education - have come up against what seem to be the less clearly perceived pragmatic constraints of the technology and the perhaps unforeseen or unspoken institutional constraints of the consortium, the department, the university, and the funding bodies - focused as they are on the pressures created by massification.

7.2.1 Evidence of a shift in the POD

Following Stubbs' (1997), I will briefly stay with the discursive practice associated with the Iolis materials but will look beyond the context of production to the dissemination and implementation of the Iolis materials to see if there is any other evidence to support the interpretation of the textual analysis that the introduction of Iolis represents a shift in the POD driven by the process of massification.

Many academics involved in the TLTP stress that the best use of such materials is as supplementary to present curricula (Coopers et. al. 1996). Paliwala (1998), the director of the Law Courseware Consortium, stresses that Iolis is not intended to substitute existing provision but should supplement it. The other argument put forward is that CBL materials could substitute existing provision but only replacing those genres which are not considered to have constructivist credentials, such as lectures, thus 'freeing up' more time for those genres which do have constructivist credentials: “.. one of the important effects of replacing lectures with technology-based learning would be the opportunities for *additional* tutorial support by staff ..” (original italics, Entwistle 1994 p27).

However, there is some evidence from the present study to suggest that CBL materials are in fact substituting seminars - the reverse of what the intended pedagogic rationales would desire. Surprisingly, it is impossible to quantify this trend as no figures are available either from the Higher Education Statistics Authority, the universities, or from the faculty boards, on the introduction of computer based materials on undergraduate courses. In fact, whilst there are figures for the overall staff-student ratios in HEIs, there would seem to be no figures

available outside of the departments themselves on the nature and the overall amount of contact time on courses nor the number of students in each seminar or lecture.

The only evidence for such a shift comes from interviews conducted with TLTP authors across the three subject disciplines which formed the pilot for the present study (law, economics, history). In four departments where the question was posed, it was found that, at around the same time as TLTP materials had been introduced, three departments had reduced seminar time by fifty percent. In the fourth, TLTP materials were being trialled and the department was also considering a reduction in seminar time. In the one interview at a 'new' university, CBL materials from the TLTP were seen as vital in helping to deal with the problems caused by massification. In order to cope with 'seminars' of 35 students and contact teaching hours for staff of 14 - 20 hours a week, half of the seminars on that lecturer's undergraduate course were replaced by supervised timetabled use of the TLTP materials as soon as they became available. In order to see how far such a pedagogic model could be taken, one undergraduate module in the department was taught entirely through supervised CBL sessions for a term. According to the lecturer, it was deemed to be reasonably successful based on the assessed course work but it was not continued due to students' concerns expressed in the course evaluations over lack of contact with lecturers.

In the interviews from the 'old' universities, one department had also immediately replaced fifty percent of seminars with the TLTP materials. At the other department where change had occurred, tutor led seminars had been to reduced by fifty percent

and were replaced with a mixture of 'student led' seminars and TLTP materials. It is interesting to note in this particular case that despite reservations about the CBL materials within the department, their use has increased since the interview took place. In the fourth interview, the interviewee stated that he had suggested to the head of department that seminars should be reduced – the interviewee is now head of department.

The causal relationship that the word 'replace' implies in the above scenario actually belies a more complex situation. Although there is evidence that CBL materials do replace seminars, the argument here is that the decline in contact time and the introduction of CBL materials are parallel processes which are the result of massification in UK HEIs and that these can lead to a quantifiable shift in the order of discourse. This may often involve a move towards the introduction of some form of computer based genres or as in the last example from the interviews above it may involve a shift towards solutions such as student led seminars replacing tutor led seminars .

Evans and Abbott (1998) for example, in their study of student and lecturer attitudes to pedagogic genres, show that the pressures of rising student numbers and static staffing levels may lead to the need for a compromise in the timetabling of seminars. They recommend a reduction in the amount of contact time which allows for smaller seminar groups. The point is that CBL materials may provide the opportunity, a pretext or rationale for change but they are not in themselves the direct cause of change and arguments which present a 'technological determinism' in which the

technology is seen as an agent of change (i.e. 'CBL materials have caused a decline in seminars') need to be avoided (Snyder 1998).

What can be argued though, is that there are clear economic pressures in the system for pedagogic compromise resulting from the on-going process of massification.

This study points to a rationalisation of contact time with substitution by CBL materials being an alternative which some departments have taken up and with staff costs representing 58% of total university expenditure (HESA 1997) such an outcome should not perhaps be considered surprising. Given the prediction that the average student-staff ratio is predicted to be thirty to one by 2009 (Evans and Abbott 1999 p151), the pressures for change are clearly not going to diminish.

The analysis raises the question of how it is that there is such a mismatch between the claims for the materials and the actual materials - the 'reality'. Here it is perhaps worth restating Fairclough's distinction between interpretation and explanation. The interpretation of the textual analysis has so far focused on the elements of the institutional context of production, the perceived constraints and enablements of the computer and the tension between the pedagogic rationales of the consortium members and the funding bodies rationales driven by the imperatives of massification. This however, still leaves the basic question unresolved as to the reason as to why this should be so - to move towards an explanation we need to broaden the critical analysis and focus on the text in terms of social practice and its relation to wider social processes.

7.3 Social practice in context

The interpretation of the textual analyses has so far mainly been at the level of discursive practice and has focused on the way the different genres draw on differing elements within the pedagogic order of discourse as well as other elements of practice from other orders of discourse. It has shown the way in which different genres draw on and realise differing elements of the disciplinary epistemology and differing pedagogic practices and perspectives. Drawing on SFG, the interpretation has also indicated the way in which the differing constraints and enablements of the genres within the POD can be related to their differing contextual configurations - in particular, mode and tenor.

The following section will broaden the interpretation to provide a clearer picture of the nature of the discursive change and the wider social changes that lie behind it.

The Iolis materials, I would argue, represent a potentially significant shift in the pedagogic order of discourse which reflects the changes at institutional level brought about by the massification of HE in the UK during the 1980s and 90s. If it is accepted that the shift in the POD is a reaction to the massification of UK HE then the second issue is to examine the ideological underpinnings that lie behind massification and to see whether the Iolis texts themselves can be said to reflect these.

7.3.1 Massification and Marketisation

Massification of UK HEIs needs to be seen in broader terms as both an instance of the marketisation or commodification of a range of social practices and in turn, at an institutional level, as a cause of marketisation in HEIs. It is important to remind

ourselves that the move to a 'mass' system of higher education does not automatically imply the need for the kind of market based reforms that we have seen in the UK (and elsewhere) over the last two decades. The government, having taken the decision to increase student numbers, could simply have increased the funding proportionately to the increase in student numbers. That it did not do so was a political and ideological choice. The lack of an increase in funding at a time of increasing student numbers was based on the premise that public institutions are wasteful in their management of public resources and that the problem can be solved by applying market oriented policies commonly used in the management of businesses – as Fairclough (1995b) has shown, the discourse of the market is prevalent in the administrative discourse of HE. That successive governments of differing political persuasions have maintained the funding situation and that academics and students have done little to challenge it is a clear indication of the dominant position of the ideology of the market.

Whilst massification has crystallised the sense of crisis for the institutions involved, the roots of the changes are perhaps more profound. Barnett (1997) points to a conjunction of the external challenge of the rise of the market in HE with its focus on 'operationalised' knowledge as well as the internal challenge that post-modernism poses to traditional knowledge structures. Sociological perspectives have identified the rise of market forces in general education in a number of western countries (Apple 1986, Luke and De Castell 1989, Bernstein 1990). Bernstein (1990) has pointed to the rise of a 'market-oriented pedagogy' (MOP) which he sees as being linked to wider changes in the modes of production, the division of labour, and shifts in the nature of symbolic control. He sees a conflict between the two

‘visible’ pedagogies: the traditional ‘autonomous’ knowledge based pedagogies which are “justified by the intrinsic possibilities of knowledge itself”, and the newer ‘dependent’ market-oriented pedagogies which “are justified by their market relevance” (ibid p86).

Bernstein (1990) sets out a limited but unusually passionate critique of this MOP, labelling it a ‘Janus like’ pedagogy whose motives may be quite ‘sinister’ (ibid p87).

There are a number of ways in which he sees it as ‘Janus like’: Firstly, it seems to offer parents and pupils more choice but is in fact a cover for the traditional stratification of schools and curricula; secondly, criteria assessment and student profiling focus on students’ individual qualities but in fact allow a greater control of assessment by government, leading to homogenisation of acquisition which in turn facilitates the use of performance indicators; finally, the emphasis on vocationalism attempts to address the alienation of children in school (a critique of visible autonomous pedagogies) but in fact only narrows down personal and occupational possibilities to those set out by government and business.

Bernstein’s brief analysis is focused mainly on the role this pedagogy has in social class reproduction and the shift in the nature of symbolic control that is exercised through government control but as Tyler points out the analysis is “..limited and largely ideological in nature” (Tyler 1995 p244). Whilst Bernstein’s description of a MOP does not extend to the empirical analysis of pedagogic discourse, he does put forward some possible realisations of the practices such a pedagogy would entail :

“a market-oriented visible pedagogy is ... born out of the ‘context of cost-efficient education’, allegedly promoting relevant skills, attitudes, and technology in an era of large-scale chronic youth unemployment.

The explicit rules of selection, sequence, pace, and criteria of a visible pedagogy readily translate into performance indicators of schools' staff and pupils and a behaviourist theory of instruction readily realises programmes, manuals, and packaged instruction." (Bernstein 1990 p86)

It is to be assumed that these are only some of the possible realisations of a MOP but there are a number of points that might be usefully applied to the present analysis.

The context in UK HE is certainly one of 'cost-efficient education' due to the pressures imposed by massification and as has been shown this is particularly true of the period in which CBL materials have come to the fore, as the funding bodies remit for the TLTP clearly shows.

Whilst the context of large-scale youth unemployment is not the case at present and was probably not a major consideration for graduates in the early nineties, the promotion of 'relevant skills, attitudes, and technology' for the expanding service based economy is an important issue, as the Dearing report (1997) clearly emphasises. The promotion of '*relevant skills*' is to be seen in the promotion of the idea of 'transferable skills' in UK HE. This was initially proposed by a government initiative, Enterprise in Higher Education (EHE) as part of an overall policy of increasing co-operation and contact between business and HE (Entwistle 1994 p10). This focus on what are basically vocational skills for graduates is also reflected in Law: a report was published in 1988 by legal academics and the law profession (Marre Report - see summary in Harris 1992) which expressed concern that many students lacked important skills needed in legal practice and proposed a list of legal skills to be included in Law school curricula.

The government investment in the TLTP materials and the other CBL initiatives clearly shows the central role *'technology'* is seen as playing in the educational reforms in UK HE. One of the reasons for this is that the ability to use computers is one of the key skills that students are seen as needing for work. This sets up a kind of computers-across-the-curriculum approach to the learning of such skills, which has the benefit of ensuring that the skills learnt are relevant to the subject area.

'Performance indicators' of staff and departments relate not only to the need for the measuring of cost efficiencies but are also seen by Bernstein as the mechanism by which government can exercise an increasing degree of control over pedagogic practice. This can be seen most clearly in UK schools with the implementation of the national curriculum and the ever increasing testing. The increasing control government bodies are beginning to exert over the pedagogic process in HE can be seen in the Teaching Quality Assessment (TQA) programme and more recently in the newly formed Quality Assurance Agency's proposals for 'benchmarking' of subject area curricula and statements on codes of practice (Quality Assurance Agency, April 2000).

The changes in HE outlined so far would be well known to anyone working in HE in the UK and their relation to the massification of HE is relatively straightforward. As the calls for pedagogic change in HE towards a constructivist pedagogy (Ramsden 1992, Laurillard 1993) and the claims and rationales of the TLTP clearly show, Bernstein's final point that we would expect *'packaged instruction'* and *'behaviourist theories of instruction'* may not strike a chord with the practice of most academics in UK HE. The Iolis materials though, can be clearly described as

'packaged instruction' with their pre-scripted exchanges, the anonymity of their authors and their 'pluralistic' stance in order to gain widespread acceptance. I would go on to argue that the analyses in chapters 5 and 6 show that the unsubstantiated claims for a constructivist pedagogy for Iolis lead to a rather inescapable conclusion: the pedagogy embodied in the kind of courseware that Iolis represents is closer to the behaviourist pedagogy espoused in the old paradigm of 'instructional technology' than the constructivism espoused by the CAL discourse community (Duffy and Jonassen 1992) and far from what reformers in UK HE have called for. The pedagogic protestations associated with the TLTP materials are perhaps best seen as part of the Janus like nature of the new market oriented pedagogies which claim one thing but in fact deliver another. Bernstein's analysis of the paradox at the heart of the marketisation of educational practice supports the need for the kind of critical approach taken in the present study to the analysis of such types of pedagogic practice. Bernstein's brief analysis however, does not directly address the question of the actual pedagogic practice or empirical studies of pedagogic discourse.

7.3.2 Commodification of pedagogic discourse

The following section will specifically address the question of the commodification of the pedagogic discourse itself and relate this to the empirical analyses of the present study. Bernstein's (1990) focus is on the overall principles of communication which govern the pedagogic process and whilst Bernstein places pedagogic discourse at the heart of his theory there is no actual analysis of texts to show how a MOP would be realised in discourse. His formulation of a MOP is structural and focuses on the constraints set up by the market relevance of the

pedagogic practices. Two other complementary perspectives on the marketisation of pedagogic discourse will also be considered. The first is a 'bottom up' perspective which whilst recognising the structural elements, focuses on the discursive construction of texts and their role in the process of the marketisation of the social practice in question. The second has a similar 'top down' perspective to Bernstein's MOP but as well as looking at the instrumental orientation of pedagogic practices to the employment market, it emphasises the role of the text as a commodity in an educational market place and the way this positioning constrains the discourse.

7.3.2.1 Commodification and colonisation

Fairclough's analysis of the commodification of the administrative order of discourse in UK HEIs (Fairclough 1992a) can be seen as an example of the 'bottom up' approach. It shows how university genres are coming to draw on, or be colonised by, genres from more market based orders of discourse, such as advertising, as universities adopt more market oriented practices. This analysis draws on Habermas' conception of the progressive colonisation of the 'lifeworld' by the economy and the state. Fairclough's (1992a) analysis identifies a promotional discourse which both reflects and facilitates the promotional culture which is a product of the marketisation of the cultural domain or institution.

Fairclough (1992a p210) shows that one important element of advertising that is drawn on in administrative university genres is the use of graphics and images. The analysis explores their use in an undergraduate university prospectus and the way they are used to position students as customers whilst mitigating the authoritarian

role of universities in the selection process. This use of graphics and images also identifies the university as up-to-date, reader friendly and customer oriented. From a broader perspective, the use of images and graphics in advertising serves to construct identities for the producer, the product and the consumer and to harmonise them so that the consumer comes to identify with the product. “Producers, products and consumer are brought together as co-participants in a life-style, a community of consumption which the advertisement constructs and simulates.” (Fairclough 1992a p211)

Graphics and Images

One small but significant indication of the influence of a market discourse of advertising in Iolis is the use of graphics and images. One of the recommendations from the editor of Iolis was a call for more pictures to make the workbooks more ‘interesting and motivating’ (Dale 1995 personal interview). What is clear though, about the use of pictures in Iolis is that they have little pedagogic relevance to the substance of the text. At first sight they would appear to be there to simply exploit the potential of the multi-media capabilities of the medium and to provide a gloss to the materials.

Some of the elements that Fairclough identifies in the administrative genres can be determined in the use of images and graphics in Iolis. They are used to provide a sense of up-to-date multimedia materials to meet the expectations of a generation of students used to the sophisticated visual imagery of television. There are also used, I would argue, to try to relate the legal points under study to the ‘real’ world that the student inhabits - to make it relevant and understandable. If we look at Example 1 in

appendix 10, it provides a clear illustration of the use of graphics to create convergence between the everyday world of the student inhabited by real people with the legal problems that are being studied. This is particularly true in the screens which present imaginary ‘problem questions’ where the Iolis authors were asked to make them more interesting and relevant to the students (Dale 1995 personal interview) which is reflected in the situations and the names of the characters. In Example 2 (appendix 10), we see that even in the presentation of actual legal cases, graphics are used to not only provide an interesting page design but to emphasise an element of everyday life from the case that all students could relate to - in this case a picture of a radiator.

This use of graphics is attempting to situate the product (Iolis) and by implication the producer (lecturer) and the consumer (student) into the shared realm of the everyday which provides a shared basis for the exploration of the instructional discourse. This orientation to the everyday can be associated with the emphasis in CBL pedagogy on experiential learning with its goal of making the subject more relevant and understandable to students.

7.3.2.2 Standardisation of pedagogic discourse

The second ‘top down’ or macro approach to the role of the market in education, comes from those on the left in the sociology of education who have been critical of the New Right reforms in America, the UK and Australia. Apple (1986) and De Castell and Luke (1989) raise many of the same themes as Bernstein (1990) and argue more forcefully that educational practices are becoming more market oriented.

Apple (ibid) points to the rise of the textbook as a commodity through the role of large commercial publishers leading to a greater emphasis on standardised ‘official knowledge’. Apple also traces the standardisation of workplace practices with the introduction of prescriptive curricula and the subsequent ‘deskilling’ of teachers and ‘depowering’ of students. DeCastell and Luke’s (1989) work on pre-packaged literacy curricula reiterates Apple’s point that such curricula turn teachers into technicians and students into passive recipients, all of which dampens critical thinking. Apple specifically argues that the introduction of technology into the classroom must be seen in the light of the increasing prescription and control over curriculum and pedagogy in the name of ‘efficiency’ and ‘accountability’.

“Instead of teachers having the time and the skill to do their own curriculum planning and deliberation, they become isolated executors of someone else’s plans, procedures and evaluative mechanisms.” (ibid p162).

This he argues, mirrors similar moves in industry towards the separation of ‘conception’ from ‘execution’, and usually involves moving the source of production of the pedagogic materials from the local institution to an external institution - usually a commercial publisher.

Wortham (1995) looks at classroom discourse and its relation to the market from a different perspective within the neo-marxist tradition. Wortham draws on Adorno’s concept of the standardisation and reification of cultural commodities. He applies these concepts to explain the common use in US high schools he studied of ‘experience-near examples’ in classroom discourse. He shows that whilst the use of such examples in class garners almost universal praise from both staff and students as a pedagogic practice in both theoretical and practical terms, their use is often

highly superficial with little reflection made on the connections between example and generalisation, serving only to trivialise the subject matter rather than illuminate it. Wortham explains this gap between perception/claim and reality of practice through the concepts of reification and standardisation.

The use of 'experience-near examples' in class that Wortham (1995) analyses are seen to be standardised in that the unique content of the students example is not explored by the teachers or students and any relevant example would suffice - "the example simply fits into a slot in the formula." (ibid p297). The example is simply taken as an indication of the student's understanding. Wortham identifies the students' and teachers belief in the efficacy of the use of such examples in promoting understanding and intellectual skills as misperceived and an example of the reification of this pedagogic practice. "With experience-near examples, teachers often feel as if they have gotten through to students.. [but they].. misperceive a standardized product as a unique, genuine experiential connection." (ibid p298).

Standardisation relates both to the homogenisation of a product and its decontextualisation from the context of production and the labour that produces it. This is crucial both from the logic of the need for efficiency in the production process but also from the perspective of the marketing of the product where a value needs to be assigned and the consumer needs to be able to make consistent comparisons to other products in order for a market to operate. Reification leads us to misinterpret the standardised commodities as both spontaneous and natural.

Wortham (1997) provides an interesting re-appraisal of Sinclair and Coulthard's (1975) work on the three part IRF sequence, identifying it as 'the classic work' on standardised classroom discourse:

"It favours the transmission of facts, and discourages idiosyncratic interpretations. The IRF structure is standardized in two ways: it represents a standard organisation for classroom talk, where students need only fill in the slot; and it favours the transmission of standardized knowledge."

(Wortham S. 1997 p256)

Here Wortham provides two categories for assessing the standardisation of pedagogic discourse: the standardisation of organisation and the standardisation of knowledge which can be seen as mirroring Bernstein's (1990) distinction between the regulative and instructional discourses. In line with the overall aims of the study I will here focus on the former, though I will return to a consideration of the latter later.

The standardisation of organisation that I argue the Iolis materials represent will be briefly considered in terms of the three elements of the pedagogic process that Bernstein (1990) identifies: pedagogy; curricula; evaluation. The main emphasis will be on the first element as it relates most clearly to the textual analyses in this study. In order to link the summary more closely to the aims of the Iolis materials and the methodological perspective of an immanent critique, I will draw in to the following analysis of the materials the appraisal by the editor of Iolis of the perceived strengths of the Iolis materials (Dale 1995 personal interview). These three recommendations, previously mentioned in chapter 2, were made by the editor to Iolis authors between the beta 1 and beta 2 versions of Iolis and focused on what the materials were seen as doing well and needed to emphasise. These were to:

increase the number of interactive screens; increase the number of graphics; and to be aware of the need for pluralism.

Standardisation of organisation

Wortham's analysis of the IRF sequence as a clear example of standardised classroom discourse raises a question of the nature and timescale of the process of commodification which in turn raises methodological questions of comparison. It is unclear in Wortham's analysis whether the IRF pattern in itself is always seen to represent standardised classroom talk and, if so, how this fits in with the widely held view of recent moves towards the commodification of pedagogic discourse and the standardisation that this implies (Apple 1986, Bernstein 1990, Barnett and Griffin 1999). At one extreme, a longer historical perspective may indicate that the IRF sequence is closely associated with the controlling function of formal education and in turn that the rise of formal education was a response to the rise of international capitalism and the mass production in the nineteenth century (see DeCastell and Luke 1989, Hagge 1995). This though is not the claim that Wortham makes nor one that is being made in the present study. The perspective of change and the point of comparison in the present analysis comes from the introduction of a new genre into an existing pedagogic order of discourse, and though the existing genres may also be in a period of transition they are seen as embodying the generic constraints and enablements of a pre-existing pedagogic and institutional framework.

As both Wells (1999) and Edwards and Mercer (1987) clearly show, the 'IRF sequence' in the classroom can vary in its structure and in its pedagogic function

and effect. The comparative analysis of the interaction in chapter 6 provides a clear indication of the kind of variation in the types of IRF exchanges that can occur in the pedagogic context of this study. The standardised organisation of the Iolis tutorials is clear in the fixed and pre-scripted IRF exchanges where students simply 'fill in the slot'. The lack of any attempt to introduce more discursive elements into the computer program such as adaptive loops in the multiple choice screens or the use of some form of e-mail based interaction, reflects not only the constraints of production costs but also the need for cross institution uniformity and ease of use - in short standardisation. This is in contrast to the complex patterns in the contingent interactions in the seminars where lecturers can re-initiate and expand on their initial elicitations and where students can and do initiate elicitations and challenge the lecturer.

The fixed, non-negotiable identities and relationships that the Iolis workbooks enshrine in their interactions embody a high degree of standardisation that must surely lead to the kind of 'deskilling' and 'depowering' of lecturers and students that Apple (1986) has identified. The analysis of projection shows traces of the realisations of the construction of these identities and relations in the Iolis workbooks with the use of the authoritative, distancing use of the first person plural (*we agree...*) in the feedback screens. The homogeneity in the organisation of the patterns of interaction and in the identities and relations that Iolis sets up is evident throughout all the Iolis workbooks that have been analysed in this study.

Curriculum

If we broaden the concept of standardisation of pedagogic organisation from the level of the text to the level of the curriculum there are further points to consider.

The concept of a national curriculum in HE would be a clear indication of a move towards standardisation, a move which may be anathema to most lecturers who at present provide and deliver their own courses. Barnett (1997) argues that a national curriculum would fit in well with a market rationale allowing for the separation of suppliers (lecturers) from the product (pedagogic text) and that this is already leading to a situation where “knowledge is coming to be pre-packaged, the opportunities for knowledge creation in the context of the pedagogic situation being severely reduced.” (p173).

The TLTP projects offer one set of pre-packaged materials which are available free of charge to all UK HE institutions and as such programs like Iolis offer a possible defacto national curriculum for law departments. The logic of such a move is inherent in the original rationale of the funding bodies to increase the ‘efficiency and productivity’ of teaching and learning and the TLTP evaluation report makes it clear that for any sort of cost-savings to be achieved “ ... there would be a need for more shared curricula across Higher Education Institutions.” (Coopers and Lybrand et al 1996 p61). If the TLTP provides a bottom up logic to the question of national curricula in HE, then the recent setting up of the QAA provides a possible top down mechanism by which this can be achieved.

Evaluation

One crucial element of the standardisation of the National Curriculum in UK schools has been the introduction of regular testing. As Bernstein (1990) indicates this “concentrates new distribution procedures for homogenising acquisition and, at the same time creates performance indicators of its effectiveness. (ibid p87).

Whilst the present study has not looked at the assessment procedures and genres in the legal POD, it is interesting to note the potential for evaluation within CBL. A number of the workbooks within the Iolis materials have set up self study revision tests at the end of the unit - eight out of thirteen of the workbooks in the contract law section. There is also a facility in Iolis which allows the student to see their score as they do the exercises - this has been activated in the contract law module but not in the criminal law module. Students’ use of Iolis can be tracked giving the tutor information on who has used which workbooks and for how long. The American version which is licensed from Iolis, CALI, records the results and delivers them to the tutor and “some of the CALI exercises compared the score with the average score of a reference group of students.” (Moodie 1997).

The potential in Iolis for both self-evaluation and evaluation by the tutor would seem to fit Bernstein’s profile of a visible pedagogy and a MOP. This draws us back to the paradox of the MOP, for in Iolis we see that it claims to offer a student centred, self-paced constructivist learning environment but at the same time introduces the potential for more detailed evaluation, and thus regulation, of both the product and the process of the students’ learning.

Standardisation of knowledge

As Bernstein (1990) emphasises, subject knowledges are reconstituted and embedded in the pedagogic discourse and such knowledge cannot be easily separated from the way it is framed and classified in the pedagogic discourse. The analysis of projection has shown that the different genres in the POD recontextualise the subject knowledge in different ways and whilst these differences show the way in which the genres draw on differing elements of the order of discourse such as epistemology and pedagogy, the results are less clear about a standardisation of knowledge. In this section, I will examine two sets of claims or pronouncements of the participants themselves which relate to the question of the standardisation of knowledge: the first looks at the possible effect of the constraints imposed by computer and its effect on the content or ‘instructional discourse’ and the second at the institutional constraint of the need for ‘pluralism’ imposed by the consortium

The constraints of Iolis

The main emphasis in the original claims for Iolis was on the enabling aspects of the computer program - its ability to provide a self-paced interactive learning environment where students could perform tasks and get feedback. However, as we have seen in the analysis of the interactions in Iolis in chapter 6 there are clear limitations to the genre and one of the Iolis authors clearly recognises this when he warns of the ‘danger of formalism’ in Iolis.

“At its worst, the computers simply pose a trivia contest, checking whether the student remembers case names, section numbers of statutes, the facts of cases, the conventional meaning of legal terms of art. Better tutorials address questions of substantive law, but here (*in Iolis*) the danger is one of the constant reduction of complex patterns of legal reasoning to simple rule application.”

(Collins 1994 parenthesis added)

To avoid this danger, he proposes the use of open questions and ‘free form writing’ in order to get the students to “ ..express, and therefore to acquire knowledge of and understand, complex concepts and arguments used in legal reasoning.” (ibid). He admits that this may seem pointless as the students’ writing cannot be assessed or commented on, but he argues that they will still benefit pedagogically from the writing process and that it may be possible to mark the work in class. The first claim is interesting in theory but would seem debatable in practice and the second claim questions the need for the computer in the first place. He goes on to point out that such writing could only be of paragraph length due to the restrictions of the screen sized boxes in Iolis. However, it is unclear how the complex arguments and legal reasoning that he sees such free form writing as facilitating can be expressed adequately in a paragraph.

In fact, the effect of the need for conciseness on the ability to construct complex arguments is clearly recognised by Collins in his own writing of the Iolis materials. When asked in interview if the need for conciseness in writing the Iolis materials had had an effect on the subject matter, he answered:

“Conciseness forces you into a very black letter discussion of the law, just sort of going through the rules without getting students to think about what the function of the rules might be, the policy and so on. It was a lot easier to write something like those SWOT⁴ books, saying there are three rules and ... giving them a multiple choice question on these.” (Collins 1996 personal interview).

He went on to stress this is what he tried to avoid but he did express some doubt as to whether the materials had succeeded in this.

⁴ SWOT books are practice books to help students pass their law exams and make up a good proportion of the book space in the law section of university bookshops

Pluralism

There are more explicit institutional constraints in Iolis which may lead to a degree of standardisation of knowledge. The requirement that the Iolis materials be 'pluralistic' quite clearly restricts the ability of the author to argue for a given position.

In a small scale study on the use of anaphoric nouns (Francis 1986), Wickens (1996) suggests that the need for pluralism has had a clear effect on the degree of argumentation in the Iolis workbook. Francis defines anaphoric nouns as cohesive devices that refer "...metadiscursively to a stretch of discourse preceding it in terms of how the writer chooses to label or interpret the latter for the purposes of his/her argument." (ibid p4), and as such they "... play a specific role in the organisation of arguments." (ibid p3). The study compared the Iolis workbook on Agreed Remedies and the textbook chapter on Agreed Remedies from set one of the present texts and showed that not only did the textbook have more anaphoric nouns than the Iolis workbook but that they had a more interpretative function than the Iolis workbook where they generally had a textual reference (appendix 11 for results and examples).

The analysis of the projecting clauses in the category -Att/non-self (section 5.4.6) also supports this analysis of the effect of pluralism in Iolis. A closer look at the longer text samples in appendix 6a and 6b also shows the role of both projection and anaphoric nouns in the construction of this kind of complex argumentation: in the textbook sample in appendix 6b, note how paragraphs 2, 3 and 4 start with an

anaphoric noun and the main proposition in the argument is introduced by a projection combined with an anaphoric noun.

(The reasoning behind these proposals suggests that) the real justification for intervention should comprise the unfairness of these terms

clt1

This can be seen as a clear example of the effect of the constraint that the need for ‘plurality’ has on the nature of the knowledge presented in the Iolis materials. This need for ‘plurality’ can be interpreted as part of the process of standardisation and homogenisation of knowledge which the logic of the marketisation of higher education necessitates. The high costs of producing good courseware makes the homogenisation of pedagogic content a necessity inherent in the production and widespread dissemination of all such CBL materials (Paliwala 1998).

Experiential learning

The need for a pluralistic approach to content in Iolis is also facilitated through an emphasis on legal skills and their application in task-based problem solving. The institutional constraint of pluralism neatly dovetails with the emphasis in the constructivist pedagogies espoused by the producers of the materials for a pedagogy which emphasises learning which is ‘active’ and relevant to the real world ‘situation in which it will be applied’ (Tait 1997 p4) – or in Laurillard’s terms ‘situated learning’ or experiential learning. The ‘real world’ is often an imagined one but there is a definite trend in the Iolis workbooks compared to other genres, away from abstractions and towards specific identifiable examples - and these examples form the basis of the ‘interactive’ tasks which make up a key component of the genre.

Examples of this perspective on Iolis came through in the interviews with Iolis authors: the ability in Iolis workbooks to get students to work through problem questions on their own whilst consulting the primary cases in the resource book was perceived as a clear benefit for their vocational legal training, “It more closely replicates what a lawyer might have to do in practice” (Collins 1996 personal interview).

This, I would argue, reflects an institutional tendency in HE towards a greater vocationalisation of education (Bernstein 1990, Usher 1997) and a wider epistemological tendency towards the operationalisation of knowledge (Barnet 1997). In pedagogic terms, this can be seen to translate in universities to a focus on ‘transferable’ skills - initially proposed by the government initiative Enterprise in Higher Education to increase co-operation and contact between business and HE (Entwistle 1994 p10).

The Marre Report on legal education, found many students lacked important skills to continue their studies and enter the profession (Harris 1992). The Iolis materials try to address some of these issues by seeking to “..enhance certain key skills, including familiarity and expertise in the use of computers, analytical and problem solving techniques and efficiency in research and information handling.” (original LCC homepage).

As Laurillard (1993) points out though, university learning is above all second order or mediated learning, it is not simply concerned with acting in the ‘real world’. So whilst experiential learning is a necessary part of the learning process (and there is a

need for caution in assessing its role across different disciplines), in a university context, it is not sufficient. An academic pedagogy is mediated through the research order of discourse with its given disciplinary epistemology. The knowledge which is articulated and rearticulated through the genres of the POD needs to reflect this epistemology and enable students to understand and gain control of the mechanisms of the construction of knowledge in this context.

7.3.3 Other readings - Hegemony and the process of change

The argument then is that the Iolis materials represent a potentially profound shift at the level of genre in the legal pedagogic order of discourse. It is argued that this shift has, at the institutional level, been driven by rationales which are born out of the economic imperatives generated by the move towards the massification of UK HE and that these rationales are reflected in the pedagogic discourse of the Iolis materials and in their implementation. The specific nature of the massification of UK HEIs is seen as an instance of a broader trend of the marketisation of education.

There is however, a substantial proviso to add to this analysis. This account presents a view of change which may seem pervasive, inexorable and perhaps even inevitable. A view of social and discursive change which is based on the concept of hegemony, as advocated by Fairclough, would indicate that this is unlikely to be the case and that there will be inherent contradictions and competing voices. It would be expected that the pace and nature of change will be variable, that there will be a negotiation of positions and in some cases resistance and even rejection of change.

This section needs to consider two aspects of a hegemonic view of the discursive

change that has been outlined in this thesis. Firstly, it will briefly consider the way in which the changes that TLTP materials such as Iolis have brought or may bring to the POD are being negotiated or resisted by the institutional participants. Secondly, it will consider the contradiction that lies at the heart of the analysis of the Iolis materials - namely that they claim to offer students more autonomy and better ways of learning but in fact deliver a standardised, pre-packaged set of materials which leaves students with less choice and fewer opportunities to create their own voice and construct their own understandings.

7.3.3.1 Resistances

One of the clear tensions evident in the TLTP is that most authors were more comfortable with the rationale of improving the quality of teaching and learning in HE than the cost saving rationales of the funding bodies (Soper and MacDonald 1994, Coopers et al 1996). In fact, Soper and MacDonald, authors on the TLTP economics project, clearly imply that they do not see the cost saving rationale of the funding bodies as part of *their* goals as authors. Whilst the analysis of the discourse indicates that the authors may not have achieved their own pedagogic goals, the evaluation report commissioned by the funding bodies makes it clear that the TLTP has not produced any of the hoped for cost savings (Coopers et al 1996). The fact that the cost savings were not achieved does not negate the argument of the commodification of the POD but the tension between the authors and the funding bodies does indicate that there is resistance among academics to such an explicit focus on market rationales in education.

Another sign of resistance is that the uptake of the CBL materials seems to have been variable. The implementation of Iolis and the other TLTP projects is difficult to comment on accurately as there are no national studies available. What is clear though, from interviews with lecturers who are aware of the TLTP materials in law, economics and history is that there are departments which have rejected the CBL materials outright as not pedagogically suitable and other departments where although they have been adopted, individual lecturers have accepted them with reservation and tended to marginalise them.

Perhaps the most important qualification is that the model of CBL represented in courseware produced by the TLTP such as Iolis has to some extent fallen from grace in the world of CAL. There have been two routes away from the genre of task based courseware such as Iolis. One is resource based learning (RBL) which uses the computer as a repository of data (texts, images, etc) which the student utilises as a source for their studies (Fraser 1997). The problematic nature of computer based interaction is simply eliminated and we move back to a use of the computer as a distributor of texts. The second, is to exploit the potential of networked computers through computer mediated communication (CMC) thus putting interaction back at the centre of pedagogic rationales for the use of computers in education.

This clearly has implications for the present analysis of the TLTP as an illustration of the ongoing commodification of pedagogic discourse in HE which need to be considered. It emphasises the need for a historical perspective in the analysis of social and discursive change, and a hegemonic perspective on the way such change is negotiated by the participants involved. Interestingly, though, the main

institutional push for the adoption of on-line learning, particularly in US HE where it is more well established, has been the possibility for commercial gain by the enticing prospects offered by on-line distance education (University of Illinois 1999). What the University of Illinois report (ibid) clearly outlines is that there are similar kinds of tensions between the market based rationales of the US HEIs and the pedagogic rationales of the proponents of CMC as are evident in the TLTP. The report itself can also be seen as an instance of resistance to the wholesale imposition of on-line learning. Similar resistances and concerns about the marketisation of HE have been raised in the UK with moves to the setting up of on-line teaching initiatives and virtual universities (Utley 2000). The article in THES⁵ states that where there has been a move towards such courses there is a demand for “a more corporate institution in which goals and procedures were standardised” (ibid) but it also reports that most projects have failed due to the lack of backing from academics and students.

7.3.3.2 Contradictions

Let us return to the question of the contradictions that have emerged in the analysis of the Iolis materials, their ‘Janus’ like nature which promises one thing yet delivers another. Bernstein’s (1990) analysis of MOPs also stresses this paradox. His interpretation is a relatively structuralist one (Atkinson 1985) where he sees the greater regulation of pedagogic practice that is inherent in a MOP as an attempt by the state to increase its symbolic control as its power over the economy wanes (Bernstein 1990 p88). The attempt to construct the pedagogic practice as more

⁵ Times Higher Educational Supplement

relevant to the individual is interpreted by Bernstein along similar lines to Foucault as a way of concealing, mystifying and ultimately maintaining traditional power relationships (Wodak 1996).

“The explicit commitment to greater choice by parents and pupils is not a celebration of a participatory democracy but a thin cover for the old stratification of schools and curricula.” (Bernstein 1990 p87)

Fairclough's (1992a) analysis of what he claims is a broad trend of the commodification of discourse at the societal order of discourse draws a link to another trend which is the democratisation of discourse and in fact claims that 'commodification implies democratisation' (ibid p219). He points out that though they are seemingly contradictory discourses, representing opposite levels of control, there is a convergence in the constructions of identity that they imply. They represent a change in society 'towards a more autonomous, self motivating self' (p219) based around the concept of 'choice'. Where a critical discourse analysis diverges from a more structuralist analysis of such social and discursive changes is on their interpretation of them solely as instruments of domination, or ways of mystifying power relations. Fairclough (1992a) and Wodak (1996) both stress that whilst such discourses may function in such ways, the inherent contradictions that they contain open up routes for resistance by those being dominated. The struggle for hegemony continues.

Chapter 8 Conclusions and Implications

As Sarangi and Slembrouck (1996) state, a critical approach to language “demands that the analysis aims at *explaining* language use in relation to macro developments in society.” (ibid p12 – italics added). This thesis has adopted a critical perspective to provide explanations of change in the pedagogic discourse of UK HE by relating macro social change to the micro change at the level of institutional discourse through the concept of a pedagogic order of discourse and a close analysis of pedagogic texts.

As Wortham (1997) points out though, there is a danger that in trying to relate the micro and macro one simply creates an explanation by association. The micro empirical analysis provides such a rich vein of data and the macro theory is so abstract that the analyst can fall into the trap that both Stubbs (1997) and Widdowson (2000) point to, of simply finding an association that proves what one wishes to show. This study has navigated the worst of these inherent pitfalls in three ways. Firstly, the concepts of the order of discourse and intertextuality (Fairclough 1992a) provide a crucial step between theories of text analysis and more abstract social theories which allow us to explore the role of the text in the transmission and transformation of socio-cultural structures and practices. Secondly, this is supported by an ethnographic element, which in turn has provided the basis for the ‘immanent critique’ which partially mitigates the criticism that CDA adopts an ahistorical position of judgement.

As Hammersley (1993) argues with reference to the sociology of education, the lack of an overarching theory which can encompass the micro and macro, whilst problematic, should not stop empirical work which can arrive at explanations of a particular event by drawing on theories at different levels. Fairclough's (1992a) model of CDA has proved in this study to be a highly workable framework for bringing together linguistic and social theories in order to provide a critical perspective on social practice. There are two aspects of CDA that have proved particularly insightful and that I will focus on here: the order of discourse and the critical approach to the study of texts as social practice. In the following section, I will briefly discuss the relevance of these aspects of the model in terms of the implications they raise for linguistic theory - and on a more practical note, for the pedagogic use of computers in HE.

8.1 Linguistic considerations

Whilst the study has gravitated towards the applied end of the applied linguistics cline, there are I believe two aspects of the present study which have implications for discourse analysis. The first is the importance of the analysis of texts within the context of their order of discourse and the second is the contribution of the critical perspective to the study of texts as social practice.

8.1.1 Orders of discourse

The interpretation of the textual analysis within the framework of the concept of a OD highlights the relationship between genres. Linguistic theories of genre (and register) tend to relate generic construction and realisation patterns to the socially negotiated purpose (Swales 1990) and goals (Martin 1992) of the activity and to

situational variables such as Field, Mode and Tenor (Martin 1992, Eggins 1994). In a sense, these theories deal with referential meanings (contextual configurations realised through patterns of lexicogrammatical choices) but the present study suggests that whilst these meanings may be primary, there may also be a secondary relational aspect of meaning that needs to be considered in genre analysis. As we have seen in the analysis of the projection of authorial voice (section 7.1.2), the well-established genres in the POD seem to ‘exploit’ the aspects of the contextual configuration to which they are best suited. I would argue that whilst the difference is a function of the context of situation and the context of culture, the *degree* of difference is a relational function or more specifically, that these genres stand in a complex intertextual relationship with each other within the POD. The genres fit together within the framework of a pedagogic course and they can take on specialised functions based on that relationship - there is a division of generic labour within the POD.

One of the limitations of the present study is that whilst the corpus of discourse samples was based around a topic on a real undergraduate course, the analysis has not analysed the individual texts in terms of their sequential intertextuality, as a ‘curriculum macrogenre’ (Christie 1991) – showing how meanings are built up across the sequence of genres over time. This has proved to be one of the consequences of the decision to limit the study to the context of production in the analysis of discursive practice and not look at the context of dissemination and interpretation. Myers’ (1990) shows the insights that can be gained from an analysis of discursive practice which is based around the sequential intertextuality of texts.

The concept of the order of discourse also highlights the relationship between genre and ideology. Genres, discourses and ideologies are elements which can be intertextually drawn on in the discursive practice of text production providing for a more flexible conceptualising of the balance between the constraining and enabling functions of genres than other SFL theories (Martin 1992). This is most evident in the relatively inflexible, one-to-one relationship between genre and ideology which SFL theories (Martin 1992, Eggins 1994) would seem to posit (Threadgold 1989). In the present study, we can see how textbooks, the Iolis workbooks, and seminars draw on different aspects of the disciplinary epistemology (section 7.1.2) and how the Iolis workbooks draw on differing pedagogies and ideologies to the traditional genres.

However, whilst the concept of the order of discourse has proved valuable in the present study, this may be due to the well defined nature of the university as an institution and the relatively well defined set of linguistic and non-linguistic practices and structures which constitute it. The concept needs to be more clearly defined in terms of the composition of an OD, the relationships between the elements of discursive practice, and in terms of relationships between ODs. The concept would seem more difficult to distinguish where there is no physical institution around which to base it and particularly so at abstract levels such as Fairclough's (1992a) concept of the societal order of discourse. However, where the focus of the analysis is, as here, on questions of institutional social practice, it provides a crucial step in the analysis between the micro analysis of the text and its interpretation in terms of the macro analysis of the social context.

8.1.2 Critical accounts

The critical analysis of the discourse of the Iolis materials within the POD has highlighted the gap between the pedagogic rationales and claims of the supporters and producers of the CBL materials and the ‘reality’. Whilst some of this ‘gap’ might be due to the emergence of a promotional discourse within academia, this is not the general impression that one gains from the articles that Iolis authors have written and certainly not from the interviews. The authors of Iolis who were interviewed, whilst expressing some doubts, clearly believe that the materials represent a significant and positive contribution to legal pedagogy which enhances students learning. I would argue that this throws into relief the key element of CDA namely, that people are ‘not aware of the ideological dimension of their own practice’. What we see is the administrative rationales of the funding bodies with their market ideologies winning out over the stated purposes and goals of the producers of the texts. This analysis would seem to be at odds with theories of genre which stress the volition of the author in the production of the text in concepts such as ‘purpose’ (Swales 1990) and ‘goals’ and ‘staging’ (Martin 1992). Whilst not negating such concepts, this study suggests that these accounts of genre underestimate ‘the incorporative capacity of institutional logics and procedures’ (Fairclough 1995b p 153).

Threadgold (1989) would seem to be making a similar point in the following quote (from chapter 1) which makes an interesting comment about people thinking that they ‘use’ genres:

We need to know why some genres are possible, others impossible, ways of meaning at given points in history. We need to know why and

how these factors construct identities for social agents (*the people who think they 'use' genres*) and how and why some social agents are able to/willing to resist and others to comply with existing situational and generic constraints.” (ibid p106 – italics added)

Genre theory in SFL, particularly in its more practical guises (Butt et al 1995), seems to take the view that we ‘use’ genres when we create texts but there is also a sense in which genres ‘use’ us. The route to resistance of the ideological loadings in genres is not to be found in an analysis of the contextual configuration nor in the lexicogrammar but in a critical approach to language. The problem with non-critical approaches to genre and discourse analysis such as Swales (1990) and Martin (1992) is that they treat texts as socially unproblematic, and more importantly, through their techniques of description and interpretation they simply render more efficient the existing situation rather than question or transform it.

8.2 CBL and HE – implications

If a critical approach to language ‘demands’ an explanation of language use in relation to macro social changes (Sarangi and Slembrouck 1996), critical theory would also seem to require ‘an agenda for altering the situation’ and an ensuing evaluation of the subsequent achievements of such an undertaking (Cohen et al 2000 p30). On these grounds this thesis falls decidedly short. In limited compensation, the following section assesses some implications of the analysis for the use of CBL in HE and suggests some possible ways forward.

8.2.1 The pedagogic order of discourse - a question of balance

In this thesis, the comparative analysis of the pedagogic texts within the conceptual framework of the POD has highlighted the question of the overall balance of the

genres in the legal POD, the broad pedagogic roles of the genres, and where the Iolis materials fit in to this framework. The analysis of generic variation in the POD suggests that important changes, such as the introduction of CBL materials, must be seen from the perspective of the overall balance of the POD and be based on a clear understanding of the pedagogic role of both the new and existing genres.

An important starting point for gaining such an understanding would be an explicit description of the discourse of the genres from the perspective of their pedagogic *potential*. This would provide a sounder basis for the pedagogic rationales for the production of CBL materials and a more realistic perspective on the way such materials can be integrated within the POD. It would also bring into sharper relief the crucial role language, or more specifically discourse, plays in education and particularly in HE. As Laurillard (1993) argues, a broadly constructivist approach to learning needs to place discourse and particularly interaction, at its heart. It is surprising, given the desire to reform the POD in HE towards a more constructivist pedagogy, that the institutionally supported genre which has resulted from the calls for change does not allow for a more productive or constructive role on the part of the student.

The rationales and claims of the CBL materials which stress the benefits of interactive, autonomous, self-paced learning on the computer perhaps place too much emphasis on the individual cognitive aspects of learning and are ignoring the fundamentally social nature of teaching and learning, and the socially situated nature of knowledge which is constructed in this process. If the goal of the proponents of pedagogic change in HE is a move towards a more constructivist pedagogy, then

what needs to be emphasised is the crucial role that language plays in learning and that “.. by formulating knowledge for oneself one gains access to the principles upon which it is based.” (Barnes (1976) cited in Edwards and Mercer 1987 p29). What perhaps is required is the kind of language based theory of learning that Halliday (1993) proposes.

On a pragmatic note, there is a related question, concerning the pedagogic balance of the POD, of whether the CBL materials **supplement** or **substitute** existing genres. The study suggests that whilst rationales for CBL materials generally claim their role in the POD is supplementary (Paliwala 1998), there are, in fact, clear instances of them substituting other genres such as seminars. This is the reverse of what the well intentioned pedagogic rationales would seem to desire and a clear indication that the administrative rationale of ‘efficiency and productivity’ is dominant. We should also note that to say materials are supplementary to existing provision makes the assumption that there is free time in students’ existing schedules where such materials can be introduced. CBL materials introduced on such a basis could well in fact be substituting existing ‘private study’, such as textbooks. This raises the issue of whether such a use of CBL materials could be interpreted as an attempt to extend control to students’ individual study through the ‘management’ facilities which all CBL materials contain.

An honest and realistic appraisal of the institutional context in which the CBL materials are used needs to be made at both the planning and implementation stages. The pedagogic function of a new genre and how it integrates with other genres in the POD needs to be more carefully specified. Supplementary materials are seen as requiring, and perhaps do require, less rigorous rationales and evaluation than ones

which substitute existing pedagogic genres. Once the ‘supplementary’ materials have been produced though, the original rationales can be brushed aside in the rush to efficiency and existing provision can end up being substituted. Given that the producers of the TLTP materials were well aware of the ‘efficiency’ agenda of the administrative funding bodies and the pressures under which UK departments operate, it should not come as a great surprise to find that the materials are not simply supplementary to existing provision.

8.2.2 Commodification of pedagogic discourse

The question of substitution or supplementation in the POD may suggest that the mismatch between the claims and reality of the CBL materials in the study is a function of the ‘misapplication’ of the genre due to institutional pressures. Whilst such emergent outcomes may certainly happen, I have argued in chapter 7 that the government sponsored CBL materials realise a market oriented pedagogy (Bernstein 1990) and more specifically a commodification of the pedagogic discourse. This can be seen both in terms of the text as an educational product but more importantly perhaps in the way they frame knowledge.

What of the consequences for teaching and learning in HE of such a shift in the POD? Barnett (1997) notes that a traditional pedagogy justified by ‘knowledge for knowledge’s sake’ is based on an epistemology of openness but that a pedagogy based on market relevance brings about closure:

“The open-endedness and contestability of knowledge, both its knowledge claims and more importantly, the frameworks in which those claims are secured, tend to close.” (ibid p173).

This shift to closure is realised at the micro level in the interaction in Iolis (chapter 6), with the face-to-face probes and challenges of the seminar replaced in the CBL materials by anonymous pre-scripted exchanges. This 'pre-scripted' not only means that the students have no voice to clarify and be critical, it also means that the lecturer cannot encourage students to explore their stated understandings through the use of bound exchanges (see section 6b.1). Wells (1999 p264) argues that such discourse moves by the lecturer encourage students to critically evaluate the answers they give as well as providing models of disciplinary epistemology.

The study suggests that the Iolis materials gravitate towards the experiential aspect of learning rather than the academic (Laurillard 1993) and it provides some clear evidence that the CBL materials do not valorise argumentation either in the form of individual opinion or objective disciplinary based knowledge building. The constraint of 'pluralism' that the LCC imposed on the authors of the Iolis materials provides a clear link between the institutional constraints based on administrative imperatives and the lack of argumentation in the pedagogic discourse (see section 5.6.4 and the texts in appendix 6a and 6b). I would argue that the Iolis materials not only present knowledge in a less critical framework, which provides fewer models of critical thinking, they also provide fewer opportunities for students to *exercise* their critical capacities.

In the literature on the pedagogic role of computers in HE outlined in chapter 2, CBL offers students more autonomy and better ways of learning - but in fact it would seem to deliver a standardised, pre-packaged set of materials which leaves students with less choice and fewer opportunities to create their own voice and construct their own understandings. The pedagogic rationales position the students

as empowered autonomous subjects but the reality points to the possibilities of greater administrative and bureaucratic control and the cost efficient logic of a national curriculum over which neither the students nor the lecturers would have much control or input.

8.3 *Difficult choices*

As someone who has supported and actively promoted the pedagogic use of computers, I am aware that the critique of CBL materials that I have outlined in this thesis raises more questions than it answers for educators looking for a way forward. On a practical level, there is clearly a need to base pedagogic rationales and the resulting CBL materials more carefully on independent empirical research and to situate them more realistically within the cultural/ institutional context in which they will be applied. The study suggests that if educators in HE are committed to introducing a more constructivist pedagogy to UK HE, then as Laurillard (1993) argues, there needs to be a much greater emphasis on the discursive element in the pedagogic process. The move, noted in Chapter 7, away from the kind of courseware produced in the TLTP towards more interactive computer mediated communication (CMC) may be a fruitful approach. However, in the US where such moves are more advanced than in the UK, there are clear indications that the pedagogic use of computers is still fundamentally tied in to the administrative agendas of universities and market imperatives and it would seem that it is not a straightforward question to disentangle these issues from pedagogic concerns (University of Illinois 1999).

Many of the TLTP authors expressed unease with the funding bodies' rationales for the project but joined the project hoping to influence the materials by focusing on better methods of teaching and learning (Soper and McDonald 1994, Cooper et al 1996). The analysis of the Iolis materials suggests that this well-intentioned approach underestimated 'the incorporative capacity of institutional logics and procedures' (Fairclough 1995b p153) and the power of the underlying ideologies. The problem of such an approach is that the CBL materials can be improved without influencing the underlying pedagogy and ideological loadings, and we simply render them more efficient and add academic status.

This is not a recommendation for disengagement. The critical analysis outlined in this thesis shows that the issue of the pedagogic use of computers in HE is not, as much of the literature would suggest, simply one about the efficacy of different pedagogic approaches; it is a political and an ideological question about the role of the market and of central government in questions of pedagogy in higher education. I would argue that the way forward must be engagement at all levels – institutional, political and ideological - and not just at the level of technique. There is a unique danger that if academics in HE engage with these changes in the POD simply at the level of pedagogic technique or administrative expediency, we will be introducing a motor and a logic for change which may have far reaching consequences over which the key participants - students and lecturers - will have little control.

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Source Texts (legal textbooks)

- Cheshire, Fifoot and. Furmston. 1991. *Law of Contract*. London: Butterworths.
- Collins H. 1993. *The Law of Contract*. London: Butterworths.
- McKendric E. 1990. *Contract Law*. London: Macmillan.

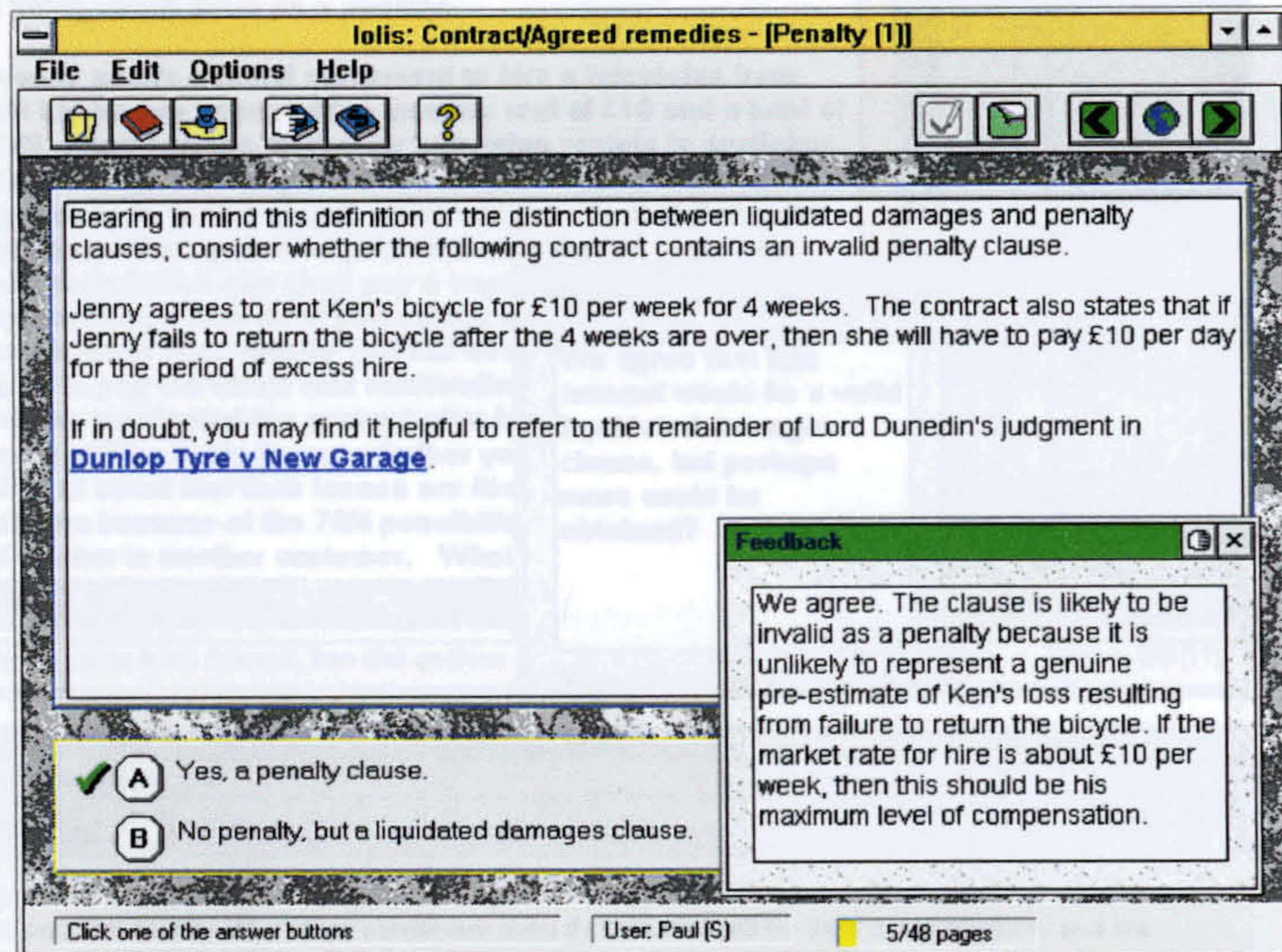
Interviews

- Collins H. 1996. *Personal Interview*.
- Beale H G. 1997. *Personal Interview*.
- Dale J. 1995. *Personal Interview*.
- Widdison R. 1997. *Personal Interview*.

Appendix 1: Examples of interactive screen types from Iolis

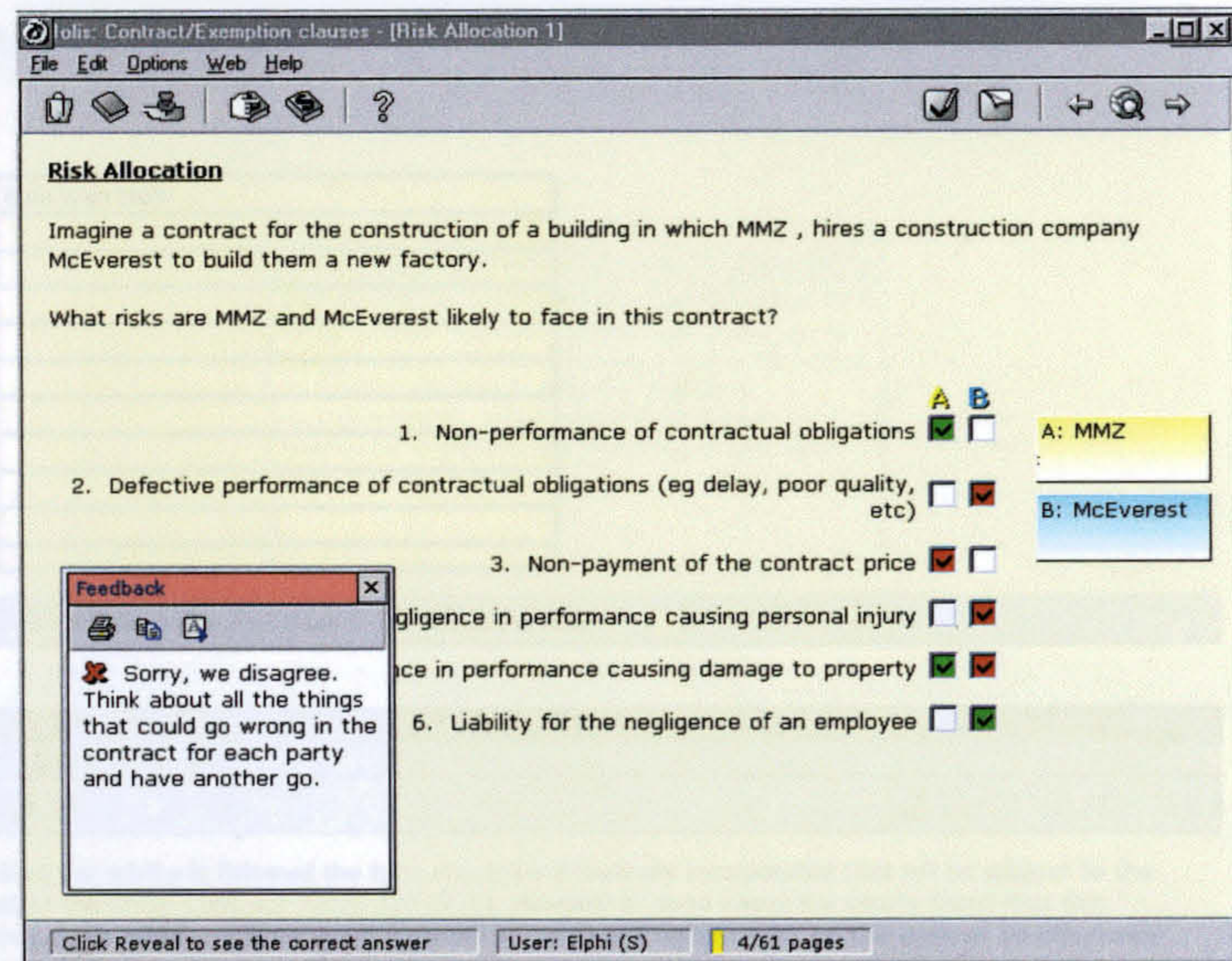
(screen names were made up for this study – note cross reference to appendix 9)

1) Basic multiple choice question (mcq)



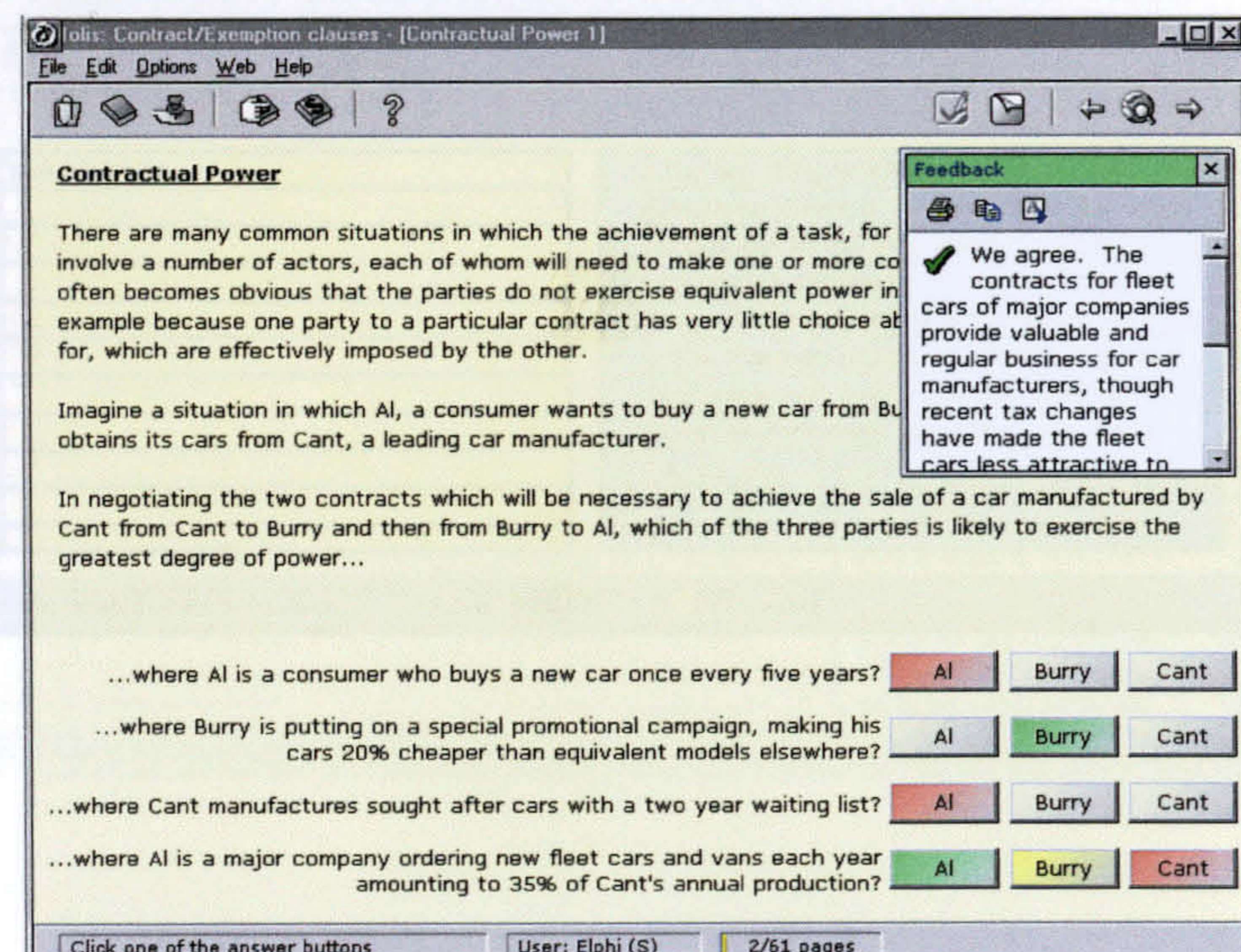
5a) Model Write (student writes in answer on first screen and presses answer button...)

2) Multiple mcq (combinations of answers)



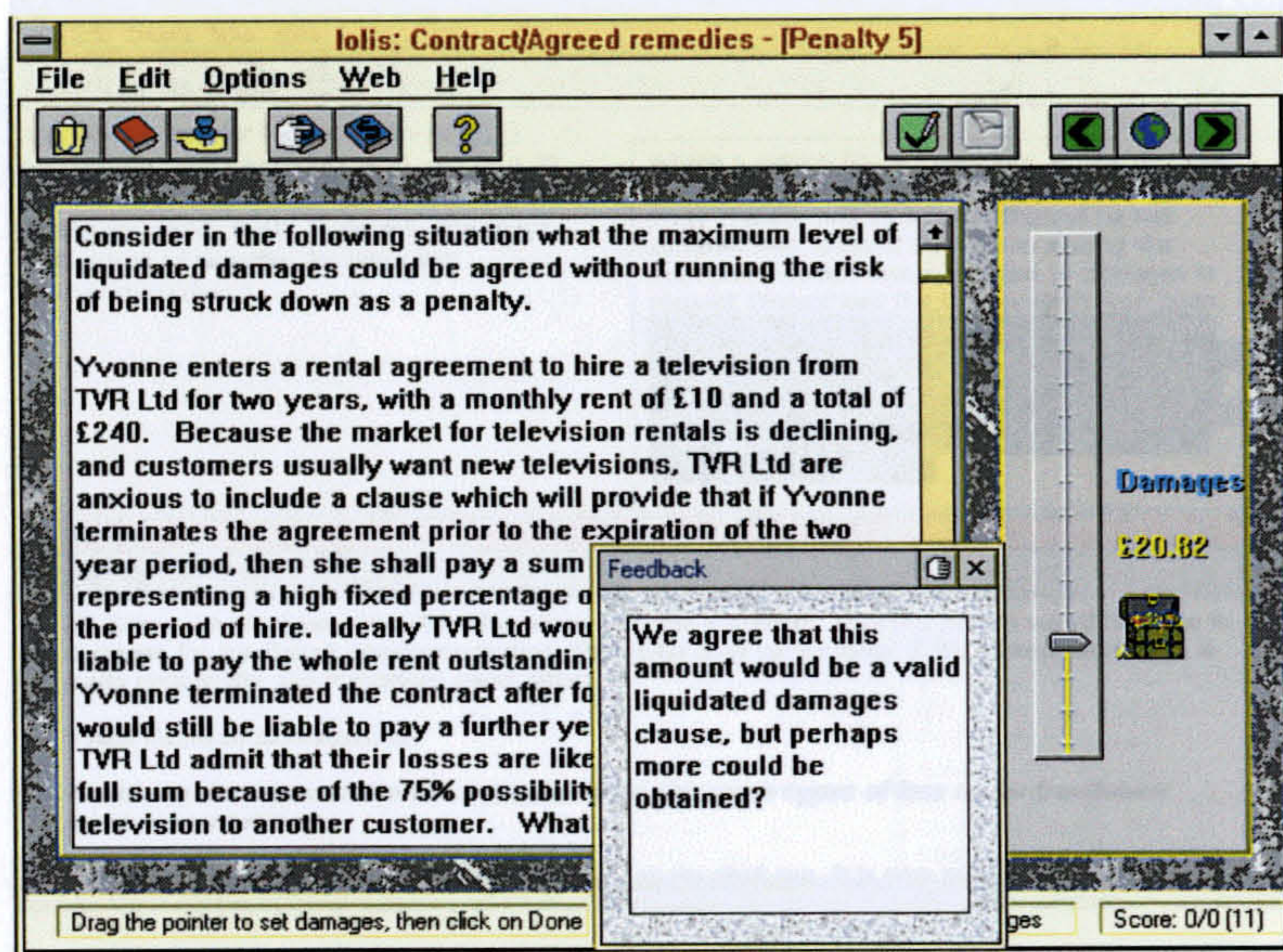
5b) Model Write answer (student is presented with a model answer on second screen)

3) Build up mcq (next question appears after answering the previous one)



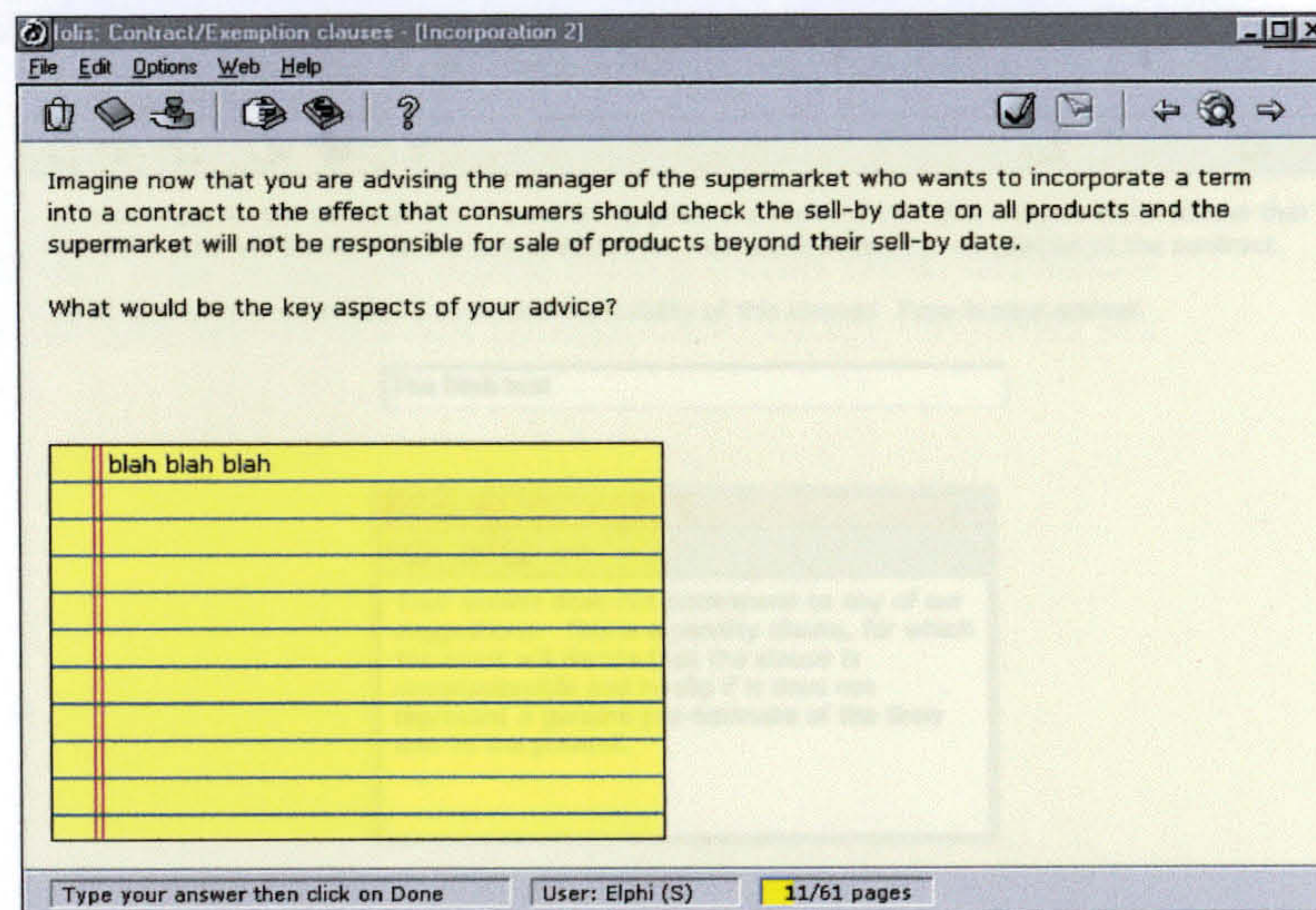
6) Highlight

4) Slider
(answer is selected on a slider)



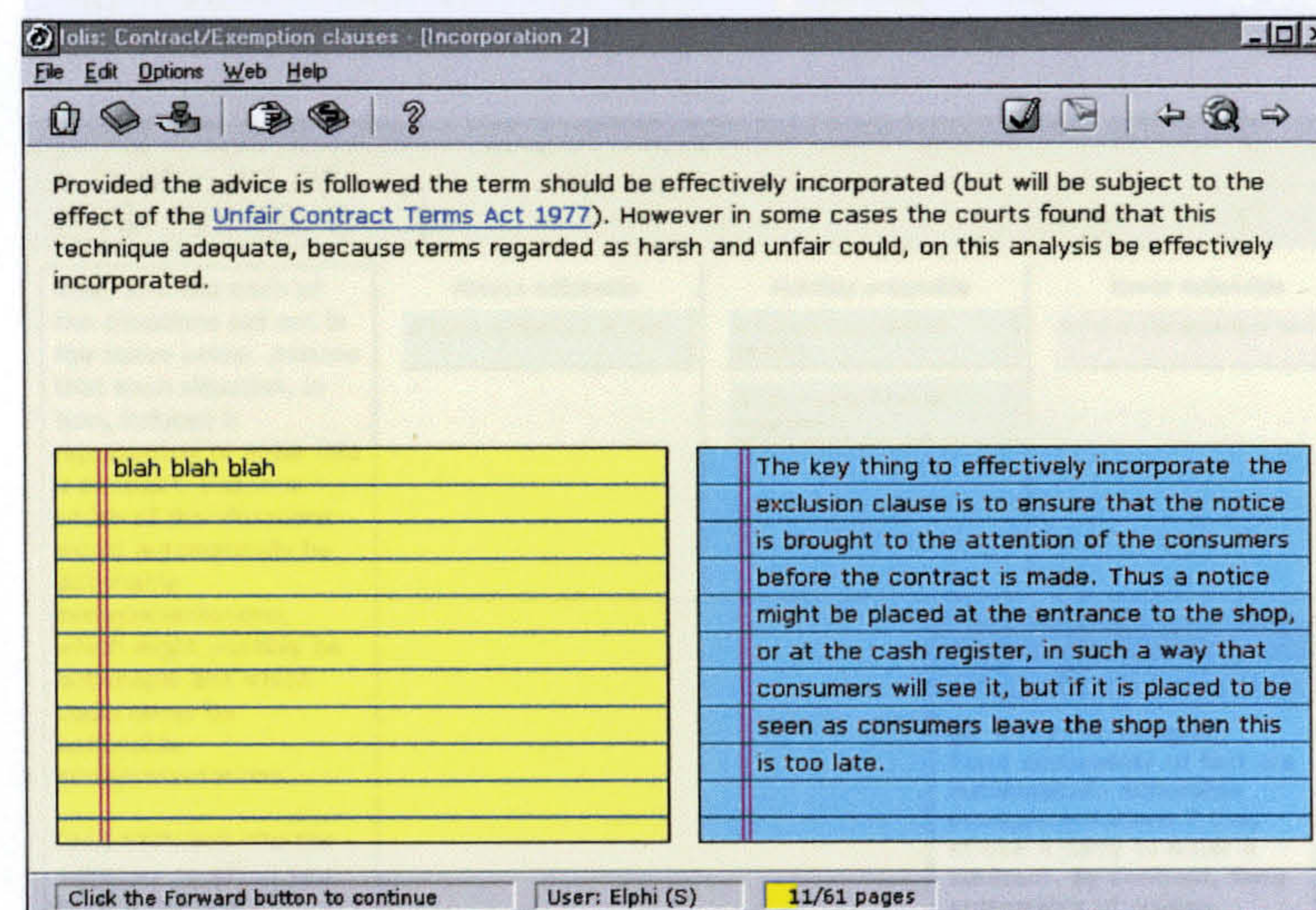
5a) Model Write

(student writes in answer on first screen and presses answer button...)



5b) Model Write

answer (student is presented with a model answer on second screen)



6) Highlight
(student selects relevant section from a text)

Iolis: Contract/Misrepresentation - [Types of misrepresentation 07]

File Edit Options Web Help

Let us now look for the ambiguity in s2(1) Misrepresentation Act 1967. Can you spot it? Underline the expression that embodies that ambiguity. (Hint: it has to do with the range and extent of remedies for negligent misrepresentation.)

Where a person has entered into a contract after a misrepresentation has been made to him by another party thereto and as a result thereof he has suffered loss, then, if the person making the misrepresentation would be liable to damages in respect thereof had the misrepresentation been made fraudulently, that person shall be so liable notwithstanding that the misrepresentation was not made fraudulently, unless he proves that he had reasonable grounds to believe and did believe up to the time the contract was made that the facts represented were true.

Feedback

Sorry, we disagree. The difficulty arises with the statement that if a person would be liable to damages for fraudulent misrepresentation, then s/he shall be 'so liable' if the misrepresentation is made negligently. Did Parliament mean either :

- **just liable to damages; or**
- **liable to damages at the same level and for the same types of loss as for fraudulent misrepresentation?**

This question is particularly important because, as we shall see, it is now established that the

7) Type In
(student types in a phrase which matches with answer)

Iolis: Contract/Agreed remedies - [Test 5.1]

File Edit Options Web Help

In a contract for the construction of a swimming-pool, the contract contains a clause which states that the contractor will be liable to the sum of £2000 for each week of delay in completion of the contract.

What test will the court use to determine the validity of this clause? Type in your answer.

The blah test

Feedback

Your answer does not correspond to any of our suggestions. This is a penalty clause, for which the court will decide that the clause is unconscionable and invalid if it does not represent a genuine pre-estimate of the likely loss to the plaintiff.

Type in your answer then click on Done User: Elphi (S) 42/48 pages Score: 0/1 (11)

8) Drag and Drop
(student puts text boxes into correct categories)

Iolis: Contract/Misrepresentation - [Misrepresentations of fact 03]

File Edit Options Web Help

Now, examine each of the situations set out in the boxes below. Assume that each situation, in turn, induces a representee to enter into a contract. Indicate which of the situations would automatically be actionable misrepresentations, which might possibly be actionable and which could never be actionable misrepresentations.

Drag each box into the category to which you think it belongs.

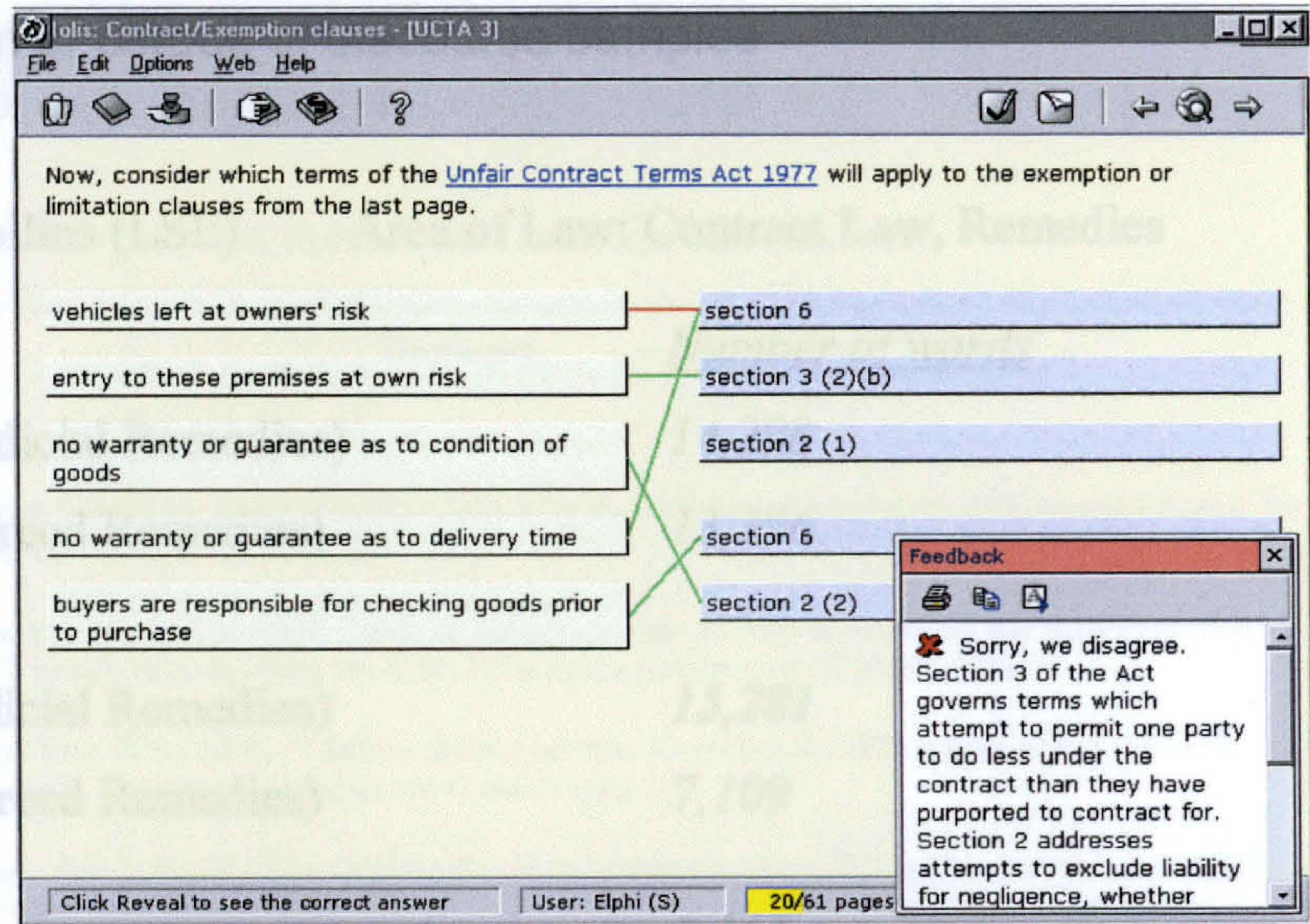
	Always actionable	Possibly actionable	Never actionable
A false statement of fact			
A false statement of opinion			
A false statement of intention			
A false statement of law			

Feedback

Sorry, we disagree. False statements of fact are automatically actionable misrepresentations if they induce a party to enter a contract. By contrast, false statements of opinion, intention and law are not automatically actionable. As we have seen, however,

Click reveal to see the correct answer User: Elphi (S) 4/65 pages Score: 0/0 (10)

9) Match
(student matches boxes)



(different colour screens are due to screen shots being taken from different versions of Iolis – Iolis is updated every six months and older versions are replaced on the network)

Corpus 2 - Author: Various Area of Law: Contract Law, Exemption clauses, UCTA

c2t1 = textbook chapter (Cheshire, et al 1991) 21,323

c2t2 = textbook chapter (McKendric, 1990) 8,138

c2io= Iolis workbook (Exemption clauses) 10,975

c2lec = Lecture 11,827

c2s1 = Seminar 13,069

c2s2 = Seminar 6,879

72,211

McKendric E. 1990. *Contract Law*. London: Macmillan.

Cheshire, Fifoot and Furmston. 1991. *Law of Contract*. London: Butterworths.

Total number of words in both corpora (129,410)

Appendix 2a: Specification of corpus of discourse samples

Corpus 1 - Author: Prof. Collins (LSE) Area of Law: Contract Law, Remedies

	<u>Number of words</u>
c1t1 = textbook chapter (Judicial Remedies)	14,298
c1t2 = textbook chapter (Agreed Remedies)	13,396
c1io1 = Iolis workbook (Judicial Remedies)	15,281
c1io2 = Iolis workbook (Agreed Remedies)	7,109
c1s = Seminar	<u>7,115</u>
	57,199

Textbook - Collins H. 1993. *The Law of Contract*. London: Butterworths

Corpus 2 - Author: Various Area of Law: Contract Law, Exemption clauses, UCTA

c2t1 = textbook chapter (Cheshire, et al 1991)	21,323
c2t2 = textbook chapter (McKendric, 1990)	8,138
c2io = Iolis workbook (Exemption clauses)	10,975
c2lec = Lecture	11,827
c2s1 = Seminar	13,069
c2s2 = Seminar	<u>6,879</u>
	72,211

McKendric E. 1990. *Contract Law*. London: Macmillan.

Cheshire, Fifoot and Furmston. 1991. *Law of Contract*. London: Butterworths.

Total number of words in both corpora (129,410)

Appendix 2b: Handout for Seminar in Corpus 1 (c1s)

Students had been asked to prepare these questions for the seminar.

Damages

Problem Questions:

1. A agrees to buy 1000 oranges from B for £500. B fails to deliver by the due date. A purchases 1000 oranges from C for £450. How much damages can A claim from B?
2. D agrees to buy 1000 tangerines from E for £400. E fails to deliver on time. D, who is unable to buy tangerines in time, then breaks his contract with F to sell the tangerines for £500. How much damages can D claim from E?
3. G agrees to buy 1000 apples from H for £300. H fails to deliver on time. G purchases 1000 apples from I for £450, which he then resells to J for £500. How much damages can G claim from H?
4. K agrees with L, an architect, that L should draw up plans for a new summerhouse in K's garden for a price of £1000. After L has done some work worth £500, K cancels the contract. How much damages can L claim from K?
5. M, a garage, agrees to do a respray on N's car for £250 in the colour 'lime green'. By mistake M resprays the car in 'bottle green'. N then has the car resprayed in 'lime green' by another garage for £300. The second respray does not increase the value of the car. How much damages can N claim from M?
6. O agrees to put new turf on P's lawn for a fixed price of £300. O incurs the expenditure of purchasing the turf and other materials which amount to £320. P then cancels the contract. How much damages can O recover from P?
7. Q is a carrier of fragile items such as computers. R enters a contract with Q to transport 5 computers which are required urgently at R's office to be used by commodity brokers for a price of £200. Q delays delivery, so that the computers are a week late. R alleges that because of the late delivery, 5 commodity brokers were unable to work, losing profits of £10,000 to R. How much damages can R claim from Q?
8. S hires out vans to the public. T rents a van for a week for £200. U, who needs a van urgently for a lucrative contract, asks S for a van, and S cancels the contract with T, and enters a contract with U for rent of the van for the same week for £700. T manages to rent a van elsewhere for £200. How much damages can T claim from S?
9. V sells a portion of his land to W for £20,000. In the contract W agrees only to build one house on the plot and to construct a wall along the boundary. W then builds two houses, increasing his profit on the construction project by £10,000. W builds a fence (rather than a wall) along the boundary, saving £1000. The fence provides the same degree of privacy for V, and the value of his property is not affected by the difference. How much damages can V claim against W?
10. X a builder negligently burns down a factory owned by Y next door to the site on which X is working. The value of the factory was £50,000. Y has a new factory built at the cost of £250,000. During the 6 months time when the factory is out of operation Y loses £50,000 in profits. How much damages can Y claim against X?

Policy Questions:

1. What is the purpose of the remoteness rule?
2. What is the purpose of the mitigation rule?
3. In what circumstances, if any, should a party injured by a breach of contract receive more than compensation for loss caused by the breach of contract? Why?
4. When should orders of compulsory performance (specific performance and injunctions) be available to a party injured by a breach of contract?

Appendix 2c: Handout for Seminars in Corpus 2

The following is the handout for the seminars in corpus 2 (c2s1, c2s2). Students also had access in class to the relevant sections of the Unfair Contract Terms Act which were discussed during the seminar.

COMMERCIAL AND CONSUMER CONTRACTING 1997

Seminar 4 (Autumn Term 1997 week 6)

Exclusion and limitation of liability clauses

Please note that there will not be seminars in week 5. Instead you are asked to work through the workbook on Exemption Clauses. If you are not familiar with using IOLIS, please refer to the Commercial and Consumer Contracting noticeboard in the Law School.

The aim is to take you through the problems associated with exclusion clauses and to run through the Unfair Contract Terms Act. You should have worked through the reading for Week 5 beforehand.

We very much hope that you will give us feed back on the workbook. You can do this orally, by written note or in electronic form. The last can be done by adding your own notes to the workbook (you click on the icon which shows a scrap of paper pinned to a board). Please note that everyone else will be able to read comments made in such a way - and identify who made them!

Required reading for Week 5: BBF 3rd 837-839, 857-873, 891-893

Required reading for Week 6: BBF 3rd 827-836, 839- 848, 872-891

Further recommended reading: BBF 3rd 301-316 (ticket cases, etc.); on the various "fairness" doctrines, BBF 3rd 777-780 (duress), 791-802 (u.i.), 803-826 (unconscionability); on the now-discredited substantive doctrine, BBF 848-856.

Questions for Week 6 Seminar:

1. To what extent are exclusion or limitation of liability clauses in contract between businesses controlled by the Act? (This should just be a brief re-cap of your work on UCTA and with IOLIS).
2. What justifications are there for imposing any controls over clauses in contracts (a) when one party deals as consumer? (b) between businesses?
3. What factors do the courts take into account in deciding whether a clause is fair and reasonable?
4. What factors do you think the courts should take into account?
5. It is still the case that a clause must be worded so as to cover what happened; i.e. the "rules" on construction are still relevant. How many rules did you identify in the cases you read?
6. Divide into groups and each group should devise a problem involving a clause and a breach of contract in which the answer depends on the court applying one of the "rules" of construction (and preferably only one - though they overlap so much that this is hard to do!) to prevent the clause applying. Then show how the clause would have to be drafted in order to apply to the facts of your problem. Would the clause then be valid under UCTA or not?

Appendix 3a: Full Results: source of projection Corpus 1

	Textbook				Computer				Seminar			
	clt1	ptw	% of total	clt2	cliol		cliol2		cls			
Text	14,298			13,396	15,298		7,109		7,115			
Words												
	n											
Self	4	0.3	4%	6	0.4	6%	5	0.7	10%	43	6.1	32%
<i>judges</i>	0	0.0	0%	4	0.3	4%	2	0.3	4%	1	0.1	1%
<i>courts</i>	30	2.1	31%	18	1.3	17%	5	0.7	10%	39	5.5	29%
<i>other</i>	12	0.8	13%	24	1.8	23%	14	2.0	29%	20	2.8	15%
Non-Self	42	2.9	44%	46	3.4	44%	21	3.0	44%	60	8.5	45%
Personal	46	3.2	48%	52	3.9	50%	26	3.7	54%	103	14.5	77%
Internal	2	0.1	2%	0	0.0	0%	0	0.0	0%	0	0.0	0%
External	9	0.6	9%	15	1.1	14%	6	0.8	13%	8	1.1	6%
Impersonal	11	0.8	11%	15	1.1	14%	6	0.8	13%	8	1.1	6%
+ATT	57	4.0	59%	67	5.0	64%	32	4.5	67%	111	15.6	83%
Self	23	1.6	24%	18	1.3	17%	6	0.8	13%	6	0.8	4%
Non-self	16	1.1	17%	19	1.4	18%	10	1.4	21%	17	2.4	13%
Non-ATT	39	2.7	41%	37	2.8	36%	16	2.3	33%	23	3.2	17%
Totals	96	6.7		104	7.8		48	6.8		134	18.9	

Appendix 3b: Full Results: source of projection Corpus 2

	Textbook			Computer		Lecture		Seminar			
	c2t1	ptw	c2t2	c2io	c2lec	c2s1	c2s2				
Text	21,323		8,138	10,975	11,827	13,069	6,879				
Words		% of total									
Self	5	0.2 2%	0	12	1.1 13%	30	2.5 15%	78	6.0 35%	40	5.8 37%
<i>judges</i>	21	1.0 7%	9	1	0.1 1%	29	2.5 15%	0	0.0 0%	0	0.0 0%
<i>courts</i>	49	2.3 17%	17	1	0.1 1%	30	2.5 15%	20	1.5 9%	3	0.4 3%
<i>other</i>	50	2.3 17%	14	34	3.1 35%	46	3.9 23%	54	4.1 24%	32	4.7 30%
Non-Self	120	5.6 41%	40	36	3.3 38%	105	8.9 53%	74	5.7 33%	35	5.1 32%
Personal	125	5.9 43%	40	48	4.4 50%	135	11.4 69%	152	11.6 68%	75	10.9 69%
Internal	1	0.0 0%	0	1	0.1 1%	0	0.0 0%	0	0.0 0%	0	0.0 0%
External	49	2.3 17%	15	14	1.3 15%	16	1.4 8%	46	3.5 21%	14	2.0 13%
Impersonal	50	2.3 17%	15	15	1.4 16%	16	1.4 8%	46	3.5 21%	14	2.0 13%
+ATT	175	8.2 60%	55	63	5.7 66%	151	12.8 77%	198	15.1 89%	89	12.9 82%
Self	55	2.6 19%	30	14	1.3 15%	6	0.5 3%	11	0.8 5%	11	1.6 10%
Non-self	64	3.0 22%	27	19	1.7 20%	40	3.4 20%	14	1.1 6%	8	1.2 7%
Non-ATT	119	5.6 40%	57	33	3.0 34%	46	3.9 23%	25	1.9 11%	19	2.8 18%
Totals	294	13.8	112	96	8.7	197	16.7	223	17.1	108	15.7

Appendix 4a : Examples for +Att/+P/Self

Textbook

- **we should notice that** there are divergent views as to what (c2t1)
- **Thus we have seen that** a debt owed by A to B may be rendere (c2t1)
- but throughout this book **I have argued that** the field of contract law extends (c1t1)
- **We should recognize, however, that** not all judges are as forthright as Cardozo (c1t1)

Iolis Workbook

- **We have seen that** there are a wide range of risks associated with contracting (c2io)
- **The essential element that has led us to the decision that** there (c2io)
- **Accordingly our conclusion is that** the lack of opportunity to vary (c2io)
- **We think that** the courts are well able to recognise standard terms (c2io)
- **Nevertheless it does not seem to us that** the lack of negotiation, (c2io)
- **We agree that** these should be relevant considerations. (c1io2)
- **We think that** a court would probably award a measure of damages which (c1io2)

Lecture (lec)

- though **I don't actually think that** can be right but the
- And **I ended up by pointing out that** sometimes there will be
- Gathering all together **I would suggest that** through all these
- Now **I'm sure that** the parties didn't mean that when they drafted
- and **we'll see that** those are not actually confined to the

Seminar

- <T> for fifty thousand <?> / **I'm assuming that** / it's much more expensive / to (c1s)
- / but **it seems to me that** there a(re) / there a (re) / in relation to damages / there (c1s)
- <T> yes / well / **I think the point is that** if he / if he's (c1s)
- **Now what I'm trying to get at is that** Sections Six and Seven also impose (c2s1)
- **And I think that** that's a borderline case. Mm. Definitely. Er (c2s1)
- Oh yeah. But what **I'm saying is that** it's not really a context in which you're (c2s1)
- **Now what we're saying is that** if I sell you a car and use an exclusion clause to (c2s2)
- So erm okay. **So so we know that** exemption clauses which exclude or limit lia (c2s1)

Appendix 4b: Examples for -Att/ Self

Textbooks

(c2t1)

it is hard to believe that such a common word does not derive shades of meaning from

It is clear that this argument applies with diminishing force as the house in

There is no doubt that this is what the courts sometimes do.

It is important to emphasise that in this particular kind of transaction although there was n

It should be noted that consumer as used here has rather a different sense than in

However, it seems probable that a court will not easily be persuaded that it is reasonable

(c2t2)

The difficulty is that Peter has not accepted an absolute obligation to deliver

It is to be hoped that, in future cases, courts will continue to apply a more

It is undoubtedly the case that much mystique surrounds the doctrine of fundamental

It is likely therefore that inconsistency will continue to be a feature of cases

(c1t2)

Firstly, there is the danger that an agreed choice of forum will prevent a fair and impartial

it seems likely that the jurisdiction over penalty clauses could have been

On the other hand, it must be observed that the owner acted in way which saved it the

(c1t1)

At first sight, it may seem natural that the injured party should be entitled to ask a

The fundamental problem here is not that damages are inadequate to cover

it should be clear that it departs from the normal attitude to causation found in

Workbook

It is apparent that in many cases the courts followed a policy agenda which

It should be noted that new regulation in this area will be introduced in the U

It is likely therefore that you would not read the small print, and therefore you m

Lecture

But the problem is that they frequently don't realise until it's too late and s

it's true that when in fact the defendants carried product liability

Seminar

Erm but you know **it's quite plausible that** you could sell something to a friend or to

um / **it's just possible / in this case that** he could refute the plans / and post them

it may be that these numbers are too extreme / it may be that that /

Appendix 5a: Analysis of +Att/+P/Non-Self/Other Corpus 1

Identifiable / 'real' world

	Textbook		Computer		Seminar
	clt1	clt2	cliol	clio2	cls
Actual event (legal actor) <i>and he ~ and he said that he wanted a deeper pool so that (cls)</i>	-	6 25% 0.4	14 44% 0.9	8 57% 1.1	9 43% 1.3
'Actual' imagined (legal actors) <i>Shylock realises that he cannot enforce his remedy. (Clio2)</i>	-		-	1 14%	2 10%
You (student) <i>You may be thinking that the plaintiff should recover the £10 (Clio1)</i>			8 25% 0.5	1 7% 0.1	7 33% 1
Reported conditional claims (legal actors) <i>the court asserted that the shipowner ought to have realised that the goods might (Clio1)</i>			7 22% 0.5		
You (general) <i>um / what you find is / uh / that the law doesn't in fact make (cls)</i>					3 14% 0.2
Generalisations (legal actors) <i>Third parties may assume that the apparent owner is the (Clt2)</i>	9 75% 0.6	18 75% 1.3	3 9% .2	2 14% .3	
External authorities <i>Economists recognise that by entering one contract, (clt1) In this vein, Rea argues that a party to a contract (Clio2)</i>	3 25% 0.2			1 7% 0.1	

Complete citations to other academic texts 33 21

↓
Generalisations / Academic abstractions

Appendix 5b: Analysis of +Att/+P/Non-Self/Other Corpus 2

Identifiable / 'real' world

	Textbook		Comp. Lecture		Seminar	
	c2t1	c2t2	c2io	c2lec	c2s2	c2s1
Actual event (legal actor) <i>In September 1957, the plaintiffs claimed that they</i> (c2t1)	29 55% 1.4	5 36% 0.6	2 6% 0.2	15 33% 1.3	12 22% 0.9	7 22% 1
'Actual' imagined (legal actors) <i>Anne does not realise that the sales contract she signed</i> (c2io)	1 2%		7 21% 0.6	6 13% 0.5		
Legal Institution and members <i>So the Law Commission considered that such clauses should</i> (c2io)			6 18% 0.5	1 2% 0.1		
You (student) <i>You're right that Dan appears not to be dealing</i> (c2io) <i>But when you look at the cases you'll find that some</i> (c2lec)			7 21% 0.6	11 24% 0.9	11 20% 0.8	10 31% 1.5
You (general) <i>I mean the first thing you have to say is What contracts does it</i> (c2s1)				5 11% 0.4	22 41% 1.7	12 38% 1.7
Reported conditional claims (legal actors) <i>Lord Denning thought that one should first of all look to see if the parties thought they had contracted</i> (c2t1)	4 8% 0.1					
Generalisations (legal actors) <i>the onus is upon the party to show that ...</i> (c2t2) <i>the Buyer establishes to the Seller's reasonable satisfaction that</i> (c2io)	17 32% 0.7	6 43% 0.7	8 24% .7	4 9% .3	6 11% 0.5	3 9% 0.4
External authorities <i>Critics have plausibly argued that the clause was not</i> (c2t1) <i>, the economic analysts suggesting that</i> (c2io)	2 4% 0.1	3 21% 0.4	4 12% 0.4	4 9% 0.3	3 6% 0.2	

Complete citations to other academic texts ... 75 14

Generalisations / Academic abstractions

Appendix 6a Extract from Ioliss workbook: text c1io2 (Agreed Remedies)

1 Justification for Control Over Penalties
What is the justification for judicial control over agreed levels of compensation for breach of contract?

A number of justifications have been proposed: these can be summarised as:

1. **Private Punishment**: the objection to penalty clauses is that they go beyond compensation to a punitive measure of sanction.
2. **Coerced Performance**: the objection to penalty clauses is that they attempt to coerce performance of the contract.
3. **Unfairness**: the objection to penalty clauses is that they create unfairness between the parties.

There is also an important criticism of the practice of the courts that it is **economically inefficient** and therefore unjustifiable.

2 Private Punishment
In *Dunlop Tyre Company Ltd v New Garage, Lord Dunedin* summarised the jurisdiction over penalty clauses in the following terms (references omitted).
'The essence of a penalty is a payment of money stipulated as in terrorem of the offending party; the essence of liquidated damages is a genuine covenanted pre-estimate of damage.'

If by punishment is meant something which can only be done by the state, such as imprisonment, then certainly it makes sense to control agreed remedies. Yet most agreed remedies merely require the transfer of property or money, which is not an exclusive power of the state.

The meaning of punishment here implies a contrast with compensation, so that the objection to penalty clauses is simply that they are like punitive damages which are not awarded for breach of contract.

Is it possible to distinguish this justification from one of fairness?

3 Coerced performance
The idea that penalty clauses coerce performance of contracts may justify judicial control for two reasons:

1. Such terms may create an unacceptable invasion of individual liberty, as in the case where an employee cannot quit her job without paying the employer a huge sum of money.
2. The courts may wish to reserve to themselves the power to order compulsory performance of contracts through their remedies of specific performance and injunctions, because when the courts exercise that power, they do so in the light of all the circumstances, and will refrain from orders when an order would lead

to oppression, unfairness, and hardship. For this reason, an agreed remedy which attempts to usurp this power would be unenforceable.

4 Unfairness

A third justification for control over penalties could be simply that they are unfair. This is how Lord Diplock framed a description of the equitable rule against penalties, that is an agreement:

must not impose upon the breaker of a primary obligation a general secondary obligation to pay to the other party a sum of money that is manifestly intended to be in excess of the amount which would fully compensate the other party for the loss sustained by him in consequence of the breach of the primary obligation. (*Photo Productions v Securicor*)

The worry about this justification is that it conflicts with the general principle that the courts do not claim a general power to refuse to enforce unfair or unconscionable contracts. The rule against penalty clauses has to be regarded as an exception.

What makes the penalty clause unfair? It exceeds the level of compensation which would have been available in the court, and therefore it enriches the plaintiff and the defendant's expense.

5 Efficiency and penalty clauses

Economic analysis suggests reasons why the courts should not control penalty clauses. Given the usual view of economic analysis that the parties are likely to maximize their joint wealth if they are left free to bargain for any terms which they choose, then control over penalty clauses is likely to be inefficient. In this vein, Rea argues that a party to a contract will charge a higher price if it risks a penalty clause in the event of breach of contract; so the penalty clause is paid for by the higher price for the contract; and the contract is worth more to both parties than a contract without a penalty clause. It can even be argued on this view that by invalidating penalty clauses, the courts create unfairness, for the party which has paid a higher price for the penalty clause, is now deprived of this advantage.

In addition, the control over penalty clauses can be regarded as inefficient for it prevents protection of those interests of the plaintiff which would not be compensated by an award of damages, such as remote and irrecoverable types of loss. (*Goetz and Scott*).

1 The jurisdiction to invalidate penalty clauses has, however, been extended beyond loan agreements to any term of a contract which purports to set a fixed sum of compensation. Two justifications for this extension are usually given. The first is that a penalty clause represents a form of private punishment for breach of contract which is objectionable in the relations of civil society in the market. Secondly, penalty clauses are objectionable because they constitute an attempt to pressurize a person to perform a contract, which is an invasion of freedom of the individual and which should therefore be strictly controlled and administered by the courts. The criticisms certainly make sense if, for example, in a contract of employment where the weekly wage is £200 the employee agrees to pay £1000 compensation for any day's absence.

2 But these objections to penalty clauses have less force in the context of a carefully constructed commercial agreement. In a construction contract, for example, the main contractor may depend heavily on prompt performance of sub-contracts in order for the work schedule to be kept and to avoid delays. The attempt through a penalty clause to make it financially disastrous for a sub-contractor to perform late is intended to coerce performance, but for understandable commercial reasons. In this commercial context the concern for individual liberty seems less pressing, for it is not usually an individual who is being coerced but a company. Moreover, in these circumstances the damages payable by the sub-contractors might be substantial if they covered the full loss to the main contractor, so they might function in a coercive manner in any case. We should also not forget that the sub-contractor may have bargained successfully for a higher payment in return for the promise of prompt performance, so to set aside a penalty clause without reducing the contractual payment would upset the balance of the agreement. As for the argument that penalty clauses represent a form of punishment, this seems a misleading analogy. The high level of compensation does not bring with it the moral obloquy associated with criminal punishment. The analogy only works because both punishment and penalty clauses function as deterrents to certain kinds of conduct. The deterrent function of penalty clauses is, however, only objectionable if they induce undesirable behaviour, and performance of the primary obligations under a contract or payment of a fixed sum of money hardly falls into that category.

3 These uncertainties surrounding the justification for control over all penalty clauses have led some commentators to suggest, and some courts to hint, that the control should be confined to cases where the clause reveals some kind of coercion or oppression during the bargaining process. In other words, the control over penalty clauses would be assimilated with control over other contract terms through doctrines such as duress and undue influence. The reasoning behind these proposals suggests that the real justification for intervention should comprise the unfairness of these terms. The argument is that excessive compensation, just like excessive price, is an unfair bargain, and that the courts should be reluctant to condone it unless they are confident that it was the product of a competitive market between equally informed parties. The test of fairness in this context comprises the comparison between the ordinary level of damages and the terms of the compensation clause in the contract. Unless the liquidated damages clause is confined to a genuine pre-estimate of loss, then it will gain the injured party a measure of unjust enrichment which should be disgorged.

4 This emphasis upon fairness as the correct justification for the jurisdiction to control penalty clauses also helps to make sense of some of the puzzling features of the jurisdiction. Firstly we should note that there can be no dear dividing line between agreed price clauses and agreed compensation clauses. Indeed, to avoid judicial control over penalty clauses there is every incentive for a party to attempt to present the fixed sum as a primary obligation under the contract, as the agreed price rather than compensation. In *Interfoto Picture Library Ltd v. Stiletto Visual Programmes Ltd*, the contractual terms stated that there would be a fixed hire charge per day after the due date for return of the photographs.

These terms sought to present a penalty clause as merely an agreed rate of hire, and, though the court left the issue undecided, it seems likely that the jurisdiction over penalty clauses could have been applied. The courts have often revealed little hesitation in cutting through such shams and controlling the disguised penalty clause. In *Willson v. Love*, a lease provided for the increase of rent in the event of a breach of covenant, but the court treated this as a penalty clause. This makes sense if the purpose of the jurisdiction is to ensure fairness between the parties by controlling the terms of the contract, but is inexplicable if the courts are merely concerned to prevent oppressive remedies from interfering with individual freedom. Yet the courts have proved reluctant to drop the barrier to the jurisdiction to give relief from penalty clauses which requires that the sum of money should be payable on breach of contract. The reason for this reluctance is that dropping this requirement would enable them to test the fairness of the price in all actions for an agreed sum, a jurisdiction which they have systematically declined, no doubt because they believe that it would interfere too greatly with freedom of contract, and weaken the utility of the quick remedy for debt.

5 Secondly, the jurisdiction over penalties extends to clauses which provide not for the payment of a fixed sum of money, but for the performance of some other obligation, often the transfer of a property right. If the value of the property exceeds the injured party's loss, then the court can order the debtor to sell the property and deliver to the injured party that part of the proceeds which amounts to the sum of the injured party's loss. Again this approach makes sense within the justification based on fairness, but fits uneasily into control over oppression, since the transfer of property intended as security is not generally viewed as a coercive technique.

6 Thirdly, and most significantly, the justification on the grounds of fairness explains the confusion about the time at which the penalty clause should be judged. Although the test is normally stated that, to be valid the agreed compensation should represent a 'genuine pre-estimate of loss', it is clear that in cases involving a primary obligation to pay money, as in the case of a loan, the courts will simply examine the question of whether the agreed compensation exceeds the creditor's loss. Whenever the agreed compensation exceeds the sums due to the creditor by way of return of principal and payment of interest, the court will scale down the penalty clause. This will be true even if the creditor suggests that his possible losses, as foreseen at the time of the formation of the contract, might have exceeded the repayment of principal and interest. This strict control over pecuniary obligations, including obligations to forfeit property rights as a type of security, reveals that fairness in the outcome of contracts lies at the heart of the judicial control over penalty clauses.

7 The control over penalty clauses therefore goes a long way to remedying the risk of abuse of contractual power offered by the action for an agreed sum of money. Although a court will not challenge such an action directly on the ground that the price is unfair, it can often achieve the same end indirectly by characterizing the agreement as one for compensation, and then by invoking the jurisdiction over unconscionable penalty clauses to declare the clause invalid. This interpretation of the control over penalty clauses as based on the unfairness of such terms receives additional support from the EC Directive 93/13 on Unfair Terms in Consumer Contracts 1993. As one of the presumed cases of unfairness listed in the Annex, it cites in paragraph I(e) a term 'requiring any consumer who fails to fulfil his obligations to pay a disproportionately high sum in compensation.' This provision appears to mirror the jurisdiction over penalty clauses in English law, for it should be understood as a result of Art 4(1) to require the assessment of fairness to be conducted at the time of the formation of the contract, and to involve a comparison with the ordinary measure of damages. Although this aspect of the Directive may not require any specific national measure for its implementation, it does add weight to the view that the control of penalty clauses is ultimately based upon a conception of fairness.

Appendix 7: IRF and K1 models: specification of analysis.

Key to Abbreviations and Symbols in Analysis of Interaction and Specification of Moves and Acts Used in Chapter 6

This appendix provides a key to the abbreviations and symbols for the transcription of the textual data as well as for both models used in the analysis of the data. It also provides a specification of the Moves and Acts used in the IRF analysis.

Transcription

The seminar in corpus one was transcribed by me and the symbols are limited: a forward slash marks a pause (/) – one for a very short pause, two for a pause of roughly more than a second and three for roughly more than two seconds. Where there is a significant pause (roughly more than 4 or 5 seconds) this has generally been marked in the data so: *<pause 6ecs>*. A carrot mark (^) is used to indicate an overlap.

The spoken data from corpus two was transcribed by the CANCODE project (Cambridge University Press and Nottingham University). The following symbols are used:

<i><\$G></i>	unintelligible syllables
<i><\$H></i> <i><\$\H></i>	a guess by the transcriber
<i><\$=></i> <i><\$\=></i>	a false start
<i><\$E></i> <i><\$\E></i>	meta-descriptions added by transcriber to describe action or scene
+	used to indicate a ‘run-on’ across turns – mainly due to interruptions by backchannels

K1 model

The symbols for the Synoptic exchange structure, ((DX1) X2) X1 (X2f (X1f)), have been presented and explained in Chapter 6 section 6.2.5.

Abbreviations for Dynamic Moves.

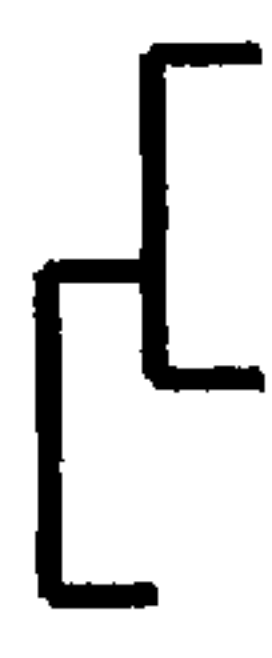
bch	Backchannel
Prb	Probe
Rprb	Response to probe
Ch	Challenge
Rch	Response to Challenge
Cnf	Confirm
Rcnf	Response to Confirm
Clf	Clarify
Rclf	Response to Clarify

The system of indicating logical dependency between moves in a move complex is based on Ventola (1988). The initial or ‘main’ move has a capital letter and the dependent moves are lower case and linked by lines as in the following example. The further level of detail which indicates the nature of the

logical dependency (elaborate, extend, expand) has not been included due to reasons of space and the fact that it is not a central part of the present analysis.

K1	}	it's true you end up with a new factory instead of an old one //
k1	}	but that was ~ that was the cheapest thing to do in the circumstances /
k1	}	and we should compensate for that //

Where a Moves are interrupted or continue after another turn the following straight line symbol is used:

	Clf	1.	s5	What what w= when is +
	Rclf	2.	L	Now
	clf	3.	s5	+ When is accepting?
	rclf	4.	L	<\$=> Well that's <\\$=> What I'm saying is that's a separate point

IRF Model: abbreviations

Generally, the 'IRF' analysis follows Francis and Hunston (1992), and details of major changes have been given in chapter 6 section 6.2.2.1. The detailed specification of Acts is given in the following pages of this appendix

Exchange Structure.

I - initiation, **R/I** - response initiation, **R** - response, **F** - follow-up

Foc – Focusing **Fr** - Framing

Ib rp – bound exchange: repeat

Ib cl – bound exchange: clarify

Ib lst – bound exchange: list (re-initiation)

Ib re - bound exchange: recycle (re-initiation)

Ib exp - bound exchange: expansion (re-initiation)

Moves. (see table 6.2 in section 6.2.2.1 for relation between Moves and Exchange structure) See the following pages for the specification of Moves and their related Acts

These are indicated after the exchange structure as follows:

(el) - Eliciting, (i) - Informing, (a) – Acknowledging

Acts. – The following pages contain the specification of the Acts, their relation to the Moves, and their abbreviations. If the Act has a capital letter, it indicates the Act is Head of the Move.

IRF Model – specification of Moves and Acts (based on Francis and Hunston 1993)

Moves (structure and associated acts)

Framing		Act	realisation	examples	function
Head		Framer Fr	limited set of items (minor clauses) -usually with tone (? rise fall) followed by silent stress	Ok, well, now, good, right	to mark boundaries in interaction (consistent with topic)
Focusing					
signal	marker	mk	similar class of items as fr but tone (? neutral) indicates continuation	well, ok, um, erm, uh	to mark onset of move
pre-head	starter	st	statement, question, command, moodless item		provide information about or direct attention to Head
Head	Metastatement	Ms	statement	Other principles which we should examine include:	structures prospective exchange(s)
	Conclusion	Con	statement, question - anaphoric reference		summarizes previous exchange(s) -
post-head	comment	com	statement		extend, enhance, elaborate, justify or evaluate one's own utterance

Salutations

signal	marker				
pre-h	starter				
Head	Greeting	Gr	limited items - first item in greet and leave taking adjacency pairs	Hi, morning, bye, see you later, welcome etc.	
post-h	comment				

Answering

signal	marker				
pre-h	starter				
	Reply greeting	Rg	limited items - second item in greet and leave taking adjacency pairs		

	Reject	Rej	statement or y/n items and variants + nv		refuse appropriate response to gr or sum
post-h	comment	com			
	qualify	qual			

Eliciting (I, R/I)

signal	marker	mk			signals onset of move
pre-h	starter	st	statement, question, command, moodless item		provide info about or direct attention to Head
Head	Inquiry	Inq	question - Wh and ellipted forms, commands containing 'embedded' wh questions (usually + cataphoric reference)	'Consider in the following situation what x would be'	question which seek information
	Neutral proposal	Npr	Y/N question, commands containing 'embedded' y/n questions (usually + cataphoric reference)	'do you ..' etc 'Consider whether the following contains an invalid penalty clause'	question which seek yes/no answers
	Marked proposal	Mpr	question - neg polarity, declarative + tone 2 or tag		question which seek agreement
	Check	Ch	y/n question	'do you see ..'	'real' questions by teacher - deal with problems preventing progress of lesson and check for understanding
post-h	facilitate	fac	command, statement,		to provide information to enable the answering of a question (Elicit usually contains a cataphoric ref.)
	comment	com	statement or tag		extend, enhance, elab, justify own utterance
	prompt	pr	statement, moodless item	now you must be able to think of it	re-inforce directive or elicitation
	clue	cl	statement, question, command, moodless item	'look at section 2.1 ..'	provide additional information for elicitation ('subordinate to head')
select	cue	cu	question, moodless item	'who's next?' 'number two'	to evoke response
	nomination	nom	name		nominate student to contribute to discourse

Informing (I, R/I, R) - where an Act cannot operate in all three exchange slots or has a different function in a given slot this is indicated in the left column

	signal	marker			
	pre-h	starter	statement, question, command, moodless item		
(R)		receive	mid key Y/N incl. non-verbal or low key repetition		indicates that appropriate reply is coming

Appendix 7

I	Head	Informative	Inf	statement			give information
		Observation	Ob	statement			offer info. already known - phatic function
R/I		Informative	Inf	statement or 'yes'/'no' and variants incl. non-verbal			reply to Inq. or Npr - supply information or a decision between Y/N
		Concur	Conc	mid or low key Y/N or repetition			reply to Mpr - agreement
		Confirm	Cnf	high key Y/N or repetition			reply to Mpr - assert agree
		Qualify	Qual	'qualified' statement, tentative 'yes' + 'no' (tone3) and variants incl. non-verbal			qualify decision or agreement in response to Npr or Mpr
		Reject	Rej	statement or Y/N items and variants + nv			reject proposition in an Inq, Npr, Mpr
		post-h comment					
		concur					
		qualify					

Acknowledging (R, F)

s	marker	mk					
pre-	receive	rec	mid key Y/N incl. non-verbal or low key repetition				indicates that appropriate reply is coming
Head	Reformulate	Ref	statement paraphrasing previous utterance				paraphrases previous utterance - acknowledge it or offer revised version.
	Append	App	statement				completes previous utterance
	Receive	Rec	mid key y/n incl. non-verbal or low key repetition				acknowledges previous utterance
	Evaluate	Eval	statement, moodless item, y/n and variants (tone 1)				comments on quality of reply to a Dk1 question
	Validate	Val					positive evaluation of Dk1 question
	Negate	Neg					negative evaluation of Dk1 question
	Qualify	Qual	qualified statement, tentative 'yes' + 'no' (tone 3) and variants incl. non-verbal				to provide a qualified evaluation of a response to a Dk1 question (signals K1 still to be fulfilled)
	Terminate	Term	statement, y/n or repetition (low key)				acknowledge prev utt. and terminate exchange
	Protest	Prt	statement, y/n and variants				acknowledges previous utterance but disputes relevance, appropriateness
post-	comment						
	evaluate						

Appendix 7

terminate	statement, y/n or repetition (low key)	
reformulate		

Directive

s	marker		
pre-	starter		
Head	Direct Dir	command	request a non-verbal response i.e. an action
post-	comment		
	prompt		

Behave

s	marker		
pre-	starter		
	receive		
	reject	rej	indicate unwillingness to comply with directive
Head	Behave Beh	action	non-verbal response to directive
post-	comment		
	qualify		

Other acts

- engage - limited items 'um', 'yeah', and low or mid key echoes - does not realise any element of the move structure - to provide a minimal feedback not interrupting flow of speakers turn (backchannelling in the K1 model)

Acts in Bound exchanges

- Return - head of Clarify exchange (Ib) - seek clarification of prev. utt - 'What do you mean?'
- Loop - repeat exchange - ask for repetition of previous utterance - 'Pardon?'

Appendix 8a: Sample of seminar (text: c1s)

IRF		KI Model		Text		
Moves	Acts	Synoptic	Dyn.			
Fr	Fr			1.	L	/// alright /
I (el)	st			2.		and then we're / um / then last but not least
	(Inq)	Dk1		3.		number ten /
	com	K1		4.		we're doing very well
R/I (i)	Inf	K2		5.	Sb	um / it's a tort action
	com	k2		6.		so he wouldn't recover his losses /
		k2		7.		and then I'm not sure about the cost of repair /
		k2		8.		whether it ~ / it would be what the old factory was likely to have [incoherent] / because he'll be compensated for loss
	qual	k2		9.		I'm not really sure / I suppose it'll be ~
R	Qual	K1		10.	L	difficult /
I	Mpr	K2q		11.	Sc	isn't there a case exactly like this which we covered quite recently
R	rec	K1		12.	L	yes /
	Qual	K1		13.		it makes life difficult doesn't it /
	com	k1		14.		your answer sounded logical /
		k1		15.		but there's a case which seems to go the other way called Harvetts plasticine // [board]
		k1		16.		which has all sorts of funny things in it the damages is
I	mk	K1		17.		ok //
	st			18.		let's ~ let's first of all test your first proposition /
	Inf	K1		19.		he can't claim loss of profits cause this is a tort claim /
		k1		20.		that sounds plausible
		k1		21.		except I don't think it's right // because there is / an opportunity cost here / resulting from him no longer having his factory //
		k1		22.		so we / so that he can claim / that / he can claim compensation for the damage to his factory / plus the consequential loss of not being able to operate the factory //
		k1		23.		so in principle / he can get / um / the ~ the value of his factory which was destroyed // which is fifty thousand pounds / [board] / fifty thousand / plus / loss of profits / in effect opportunity costs / loss of profits //
		k1		24.		now we're ~ we're not quite sure for how long he can get loss of profits /
I	Inq	Dk1		25.		how long can he get them for <?>
	pr	k1		26.		/ well /
R/I	Inf	K2		27.	S	however long it takes to repair the factory
R	rec	K1		28.	L	well that ~ / yes /
	Ref	K1		29.		he's under a duty to mitigate his loss
	qual			30.		so // so ~ so maybe /
	com	k1		31.		but um / if he didn't rebuild the factory / he might say well he would've made profits from his factory for the next five years //
I	Mpr	Prb		32.	S	but in the duty to mitigate / doesn't that / mean that / because he is rebuilding his factory that that's ~ that's how he's mitigating his loss /
	com			33.		so until it's rebuilt / um he should get the profits / because he is mitigating his loss /
R	Inf	Rprb		34.	L	well I think the logic in Harvetts Plasticine is they said that the ~ well the ~ if he didn't rebuild / his factory / he should get the damage to the factory plus loss of profits for a number of years /
	com			35.		shall we say four years // [board]

	com
I	Mpr
	com
R	rec
	Inf
	com
I	Mpr
R	Cnc
F	Rec
I	Inf
R (a)	Ref
	com
I (i)	Inf
(R)	
	com
R	Val
	com
I	Inf
	com
	qual ?
I (el)	st
	check?
	com
I (i)	Inf
	com
I	Mpr
R	mk
	Inf

(k1?)

K2q

k2q

K1

k1

k1

k1

k1

Prb

Rprb

Prb

Rprb

Rrprb

Ch

ch

Rch

rch

Ch

(rch)

ch

Rch

Ch

ch?

?

Prb

Rprb

72.	
73.	
74.	
75.	
76.	Sc
77.	
78.	L
79.	
80.	
81.	Sc
82.	L
83.	Sc
84.	Sb
85.	
86.	L
87.	
88.	Sb
89.	L
90.	Sb
91.	L
92.	
93.	Sb
94.	
95.	
96.	
97.	L
98.	
99.	
100.	
101.	
102.	
103.	
104.	S1
105.	
106.	L
107.	

it's true you end up with a new factory instead of an old one //
 but that was ~ that was the cheapest thing to do in the
 circumstances /
 and we should compensate for that //
 it's an interesting decision /
 so if he built a more expensive so it would be like five hundred
 thousand pounds altogether then / the court wouldn't've given
 him that much money
 they would've ~ they would've said it's better if you'd just had
 him to rebuild your factory /
 yes
 if a ~ if a new factory had been fantastically expensive the court
 would've said / you shouldn't have built it at all /
 yeah /
 so then they would've given four hundred and fifty thousand
 pounds as a top limit for the damages
 yes
 right /
 but he's investing in his own business /
 he's making ~ he's going to be making profits after theses four
 years so ~ //
 it's not an exact science here /
 I agree /
 he's going ~ he's going to be reaping the benefits of this for
 twenty or fifty years /
 ^ I think he's getti ~ I think he's getting
 ^ someone else is paying for it
 ^ well that's right /
 on the other hand he didn't burn down this factory // I think ~ I
 think
 ^ So he repa ~ he pays the value of the factory in the first place
 ///
 I mean it's an accident //
 maybe that doesn't come into it though /
 it does seem a bit ~ //
 do you understand the logic of ~ of the first step <?> /
 this ~ this step /
 that this is what he would have got / step one is what he would
 have got // in the ~ in an ordinary tort claim / um / subject to
 mitigation / and remoteness
 but / that's what he stood to get if he did nothing
 // but the court / would say to him / well you shouldn't have
 done nothing you should do something about this loss /
 and he says well I have I've built a new factory / this cost me a
 lot of money / and you should give me the value of the new
 factory ///
 it's because it's the reasonable thing to do under these
 circumstances /
 ^ couldn't he have built a factory that cost far less /
 couldn't he have built another factory that cost fifty thousand
 pounds
 ^ well / I'm assuming he ~ he ~ he built a factory that was / you
 know sensible replacement /
 and that it / uh didn't have some extravagant new palatial /
 office premises /

	com		108		I think you've always got to add to reasonably to mitigate your loss /
			109		not be extravagant
I	Inf	Ch	110	SI	^ but if the value of the ~ the value of this factory then was fifty thousand pounds [[and it was a ~ / it was what he wanted to do]/ [and that was how he was running his business /]] he should have just bought another factory /
R	rec	Rch	111	L	for fifty thousand <?> /
	Inf	rch	112		I'm assuming that / it's much more expensive / to build // than the old asset value /
	inf	rch	113		if you've got some run down old factory no-one wants it doesn't really have much of a market value / um // be~ / because nobody else wants to buy it //
			114		people much prefer to have a nice new factory //
	com	rch	115		it may be that these numbers are too extreme /
		rch	116		it may be that that / you know I should have a hundred thousand as the cost of building a new factory /
		rch	117		but there certainly will always be a difference between the cost of new / and the value of old ///
		rch	118		new houses are more expensive than old ones // even though they're not as well built ///
Foc	mk		119		alright /
	st	k1	120		um / well we've done well /
	Ms	k1	121		I put on a ~ I've put on a few sort of policy questions at the end which you might want to think about /
	com	k1	122		so the first meeting next term / we will have

Appendix 8b: Sample of Seminar (text: c2s1)

IRF		KI Model				Text
Moves	Acts	Synoptic	Dyn			
Foc	mk Ms	K1		1.		Now
I (el)	Inq	Dk1		2.		let's just deal with that for a second.
	com	k1		3.		In what circumstances might somebody be excluding or limiting liability for the tort of negligence? <\$E> pause <\\$E>
	com	k1		4.		A situation that's got nothing to do with contract.
			bch	5.	s?F	Where there's no contract between the parties.
	com	k1		6.	L	Mm.
R/I (i)	Inf	K2		7.	s4?	And <\$=> give me a <\\$=> give me an example.
R	Qual	K1		8.	L	Road accident.
						<\$=> A= that's <\\$=> Well it's possible although <\$=> it's un= <\\$=> <\$E> laughs <\\$E> it's unlikely that I'm gonna go driving around with a sign saying I exclude liability <\$=> if I'm <\\$=> if I drive <\$E> laughs <\\$E> carelessly.
I (i)	Inf		Ch	9.	s5	<\$H> If you exclude liability now remember <\\$H>+
	eng		bch	10.	L	Erm.
	.. inf		..ch	11.	s5	+in ca= in cases that we read before, we studied <\$G?> it was under tort negligence.
Ib (cl)	return		Cl	12.	L	You're talking about strict liability?
R/I	mk		Rcl	13.	s5	Yeah.
	Inf		Ch	14.		But before we studied that last year in the road accident we considered it would be erm er negligent under tort.
R	rec		Rch	15.	L	Oh yeah.
	Ref			16.		But what I'm saying is that it's not really a context in which you're going to find the defendant having excluded his or her liability.
I	Inq	Dk1		17.		What I'm saying to you is can you think of contexts with which duties of care are owed?
	com	k1		18.		There's no contract between the parties.
	com	k1		19.		There's a tortious duty of care and there is an exclusion clause.
	clue	K1		20.		Now you must be able to think of it because in the most famous tort case of the sixties the reason that there was no liability was exactly that there was an exclusion clause.
R/I	Inf	K2		21.	s4	<\$H> Headleigh <\\$H> Burn.
R	Ref ..	K1		22.	L	<\$H> Headleigh <\\$H> Burn.
			bch	23.	s?	Mm.
	eval	K1		24.	L	Yeah.
F		K2f		25.	s4	<\$H> Yeah. <\\$H>
		k2f		26.		Disclaimer.
F	Ref	K1f		27.	L	There was a disclaimer. <\$=>
I	mk Inq	Dk1		28.		Now would that dis= <\\$=> What would happen to that disclaimer now?
Ib rep	Lp		Cnf	29.	s5	I'm sorry. <\$=> What happen what <\\$=>
R/I	Inq		Rcnf	30.	L	What would happen to that disclaimer now?
R	Inf	K1		31.		<\$E> pause <\\$E> It would be covered by Section Two of UCTA.
Foc	conc	K1		32.		See it all falls into place.
I	Npr		Clf	33.	s5	So now <\$=> do you <\\$=> can you get a disclaimer any more?
R	Inf		Rclf	34.	L	Well I said it would be covered by Section Two of UCTA.
Ib clf?	Ret?		Ch	35.	s5	So.
R/I (el)	Inq	Dk1	rch?	36.	L	Well what does that Section say?
				37.		<\$E> pause <\\$E>

			38.	<\$E> rustling of papers <\\$E>
			39.	<\$E> pause <\\$E>
R (i)	Inf	K1	40.	L It says that you can't exclude liability caused negligently for death or personal injury.
			41.	s?M Mm.
Ib exp	Inq	Dk1	42.	L But what else does it say?
R/I	Inf	K2	43.	s3 <\$G1> exclusion of everything else any other term <\$H> except that of <\\$H> reasonableness.
R	Val	K1	44.	L Right.
I	Inq	Dk1	45.	And what was the loss in <\$H> Headleigh <\\$H> Burn?
R/I	Inf	K2	46.	s3 Financial?
R	Val	K1	47.	L Yeah.
	com	k1	48.	So it would be subject to the reasonableness test.
Focus	st		49.	<\$=> You see if you remember I I <\\$=>
		K1	50.	We've gone off at a tangent here
	Ms	k1	51.	but I think it's important to to give you the the whole picture about what Section Two actually covers.
I	st	K1	52.	If you remember what <\$H> Headleigh <\\$H> Burn was about was one party giving advice to another party.
	Inf	K1	53.	Now these two parties were not in a contractual relationship.
		k1	54.	But the party taking the advice used that advice to go off and deal with somebody else.
		K1	55.	The court said yes there's a duty of care between the party giving the advice and the party receiving the advice and that was relied upon and a loss was suffered.
		K1	56.	So in principle there was <\$=> a n <\\$=> a duty of care
		k1	57.	and there was a breach of that duty.
		k1	58.	In other words there was negligence
		k1	59.	and there was a loss.
		k1	60.	But there was a disclaimer.
		k1	61.	And in nineteen sixty four there was no Unfair Contract Terms Act to control disclaimers.
		k1	62.	Disclaimers could validly be used to exclude liability
		k1	63.	and <\$=> it was <\\$=> that's exactly what happened.
		k1	64.	There was a valid disclaimer.
		K1	65.	Now that disclaimer would be subject to the reasonableness test. <\$=>
		k1	66.	And that's exactly what happened in <\\$=>
I	Inq	Dk1	67.	What are the two big House of Lords cases on the reasonableness test?
R (a)	Prot	Ch	68.	s5 <\$H> Dunno. <\\$H>
R/I	Inf	K2	69.	s2 <\$H> Vinnie Loxley. <\\$H> <\$G?>
Ib (re)	clue	Dk1	70.	L The more recent ones.
			71.	s2 Yeah.
R/I	Inf	K2	72.	s4 <\$H> Bush. <\\$H>
R	Ref	k1	73.	L Bush. Smith and Bush. <\$=>
	com	K1	74.	And ha= <\\$=> That's exactly what happened.
		K1	75.	Those were cases of common law negligence.
		k1	76.	<\$=> There were <\\$=> There wasn't contracts in either of those cases.
		k1	77.	Those were common law negligence cases where there was a disclaimer.
		k1	78.	And that disclaimer was subject to the reasonableness test under Section Two
		k1	79.	which reasonableness test didn't apply at the time of of <\$H> Headleigh <\\$H> Burn.
Focus	Ms	K1	80.	But let's l= let's go back to to our contract situation.

Appendix 8c: Sample of seminar (text: c2s2)

IRF		KI Model		Text		
Moves	Acts	Synoptic	Dyn			
Foc	mk	K1		1.	L	Now \Rightarrow let let's \Rightarrow let's try and er rattle through the questions then. \Rightarrow
	Ms	K1		2.		I \Rightarrow My feeling is that and I've found this with other groups that erm \Rightarrow once we've got w= \Rightarrow we started on question one and by going through question one in a sense answered a lot of the other questions
	ms	k1		3.		and sort of erm found ourself er spending quite a lot of time really getting the fundamentals which I think is the most important thing.
	com	K1		4.		Erm now s= er Section One's as good a place as any to start with trying to sort that out.
I	Inq	Dk1		5.		Erm it says ``To what extent are terms and Contracts between business controlled by the Act?"
	com	k1		6.		Now w= how would you answer that? \Rightarrow longer pause (32 secs) \Rightarrow
Ib re	st	k1		7.		Well \Rightarrow er you need \Rightarrow you know you have to get a handle on er saying to what extent are terms and contracts between business.
	Inq	Dk1		8.		\Rightarrow Well erm what sections of the Act \Rightarrow I mean is the Act designed and is its application dependent on whether contracts are between businesses or whether they're between businesses and consumers or not?
	com	k1		9.		Or or what? \Rightarrow Is that \Rightarrow
R/I	Inf	K2		10.	s4	\Rightarrow Isn't it some sections exclude erm \Rightarrow $\\$G?$ say that the Act doesn't oh cover erm businesses and businesses but does with businesses and consumers.
R	Qual	K1	}	11.	L	I think it really says it never covers businesses and businesses. But
R/I	Inf	K2		12.	s3	It's consumers.
R	com	K1		13.	L	\Rightarrow Oh you like the the the thing that \Rightarrow
R/I	st	K2		14.	s4	$\\$G?$ reasonableness.
	Inf	k2		15.		The business can be subject to reasonableness test.
R	Eval	K1		16.	L	That's right.
	com	K1		17.		But but then that that's the criteria that are used to decide if terms between some businesses or some terms between businesses are acceptable.
I	Inf	K1		18.		But I think what the question is asking is m= er d= an earlier question than that which is What is the applicability of different sections of the Act to business?
(foc	Ms)	K1		19.		Let's worry about the reasonableness test later.
	inf	K1		20.		\Rightarrow Erm and I think what you have to do with that\Rightarrow Er you're you're right to point out that \Rightarrow sometimes it depends \Rightarrow sometimes you know some sections apply er more to consumer contracts than they do to commercial contracts
Foc	Ms	K1	21.		but er let's go through systematically.	
I	Inq	Dk1	22.		I mean what what would you regard as the important sections of the Act?	
R/I	Inf	K2	23.	s3	Section Six.	
Ib ex	(inq)	Dk1	24.	L	Which is broadly concerned with what?	
	mk		25.	s3	Erm+	
	pr	k1	26.	L	Just in a broad sense.	
R/I	Inf	K2	27.	s3	+it's the Sale Of Goods Act.	

Ib ex		Dk1	28.	L	And <\$G2>
	mk	bch	29.	s3	And erm
Ib ex	(inq)	Dk1	30.	L	Doing what?
R/I	Inf	K2	31.	s3	that businesses can't exclude Sections Twelve Thirteen <\$G?>
R	Rec	K1	32.	L	Right Right
	com	k1	33.		Erm well nobody can.
Ib		Clf	34.		I mean <\$=> when you say <\\$=> when you say businesses can't
(clf)					er er how do you mean?
R/I	st	Rclf	35.	s3	I mean like erm in relation to <\$H> the seen <\$H> contract.
	(eng)	bch	36.	L	Okay
	Inf ..	rclf	37.	s3	But they can with a+
R ..	ref	Rrclf	38.	L	^ With another business
..R/I		rclf	39.	s3	+another business.
..R	Val	K1	40.	L	Right. Okay.
	com	k1	41.		So erm the implied terms as to quality fitness and erm
	(eng)				description cannot be excluded +
	com	bch	42.	s3	Mm.
	com	k1	43.	L	+when you're selling to a consumer if that's void.
	com	k1	44.		But as you say with another business o= it's the reasonableness
I	Mpr	Prb	45.	s4	Erm isn't it the Section Twelve <\$G?> that can't be excluded at
			46.		all
	bch	bch	47.	L	and then Section Thirteen Fourteen Fifteen+
	com		48.	s4	Mm.
	bch	bch	49.	L	+ <\$=> it can <\\$=> it can't be excluded for a consumer but it
	com		50.	s4	can+
R	Val	Rprb	51.	L	Yeah
I	m	Dk1	52.		+for business
st	st	bch	53.	s4	That's right.
	Inq	dk1	54.	L	Er why do you think Twelve's treated differently? <\$E> pause
R/I	inf	K2	55.		<\\$E> Why do you think+
Ib ex	Inq	Dk1	56.	s3	Erm
R/I	inf	K2	57.	L	+Twelve can never be excluded?
	inf	k2	58.	s4	<\$=> What is t= <\$=> What is Twelve?
R		K1	59.	L	It's the type of goods
Ib clf	Mpr	Dk1	60.	s4	Mm. So why do you think that's regarded as non-excludable?
	com	k1	61.	L	<\$E> pause \<\$E>
	bch	bch	62.		Cos I suppose it's er something that's essential to the contract that
I (t2)	Npr	Dk1	63.		Mm
R/I	Inf	K2	64.	s4	+ you've gotta identify the product or whatever you're contracting
R	ev	K1	65.	L	for.
	Ref	k1	66.		Right.
F	Rec	K2f	67.	L	<\$H> Don't <\\$H> you think it's about identification?
F	Ref	K1f	68.	L	That's what description's about.
I	Inq	Dk1	69.	s4	Mm. <\$G?>
	pr	dk1	70.	L	Title is is what?
			71.		Legal title.
			72.		Yeah.
					Ownership
					Ownership yeah
					Le= legal ownership.
					<\$=> So under Section wh= what <\\$=> What does Section
					Twelve actually say?
					Rough or broadly what does it say? <\$E> pause <\\$E>

R/I	inf	k2	73.	s4	Is it about erm the purpose or the use?
R	Neg	K1	74.	L	No no. No.
	ref	k1	75.		That's Section Fourteen.
		K1	76.		No Section Twelve's about title.
Ib re		Dk1	77.		I want to know <\$H> really <\\$H> wh= what what does Section Twelve actually have to say about title. <\$E> pause <\\$E>
R/I	Inf	K2	78.	s3	It's erm powers in dealing as a consumer
R	Neg	K1	79.	L	No no
	com	k1	80.		<\$=> You're thinking of you're <\\$=> You're talking about Section Twelve of the Unfair Contract Terms Act.
F	Rec	K2f	81.	s3	Oh that's right
F	Ter	K1f	82.	L	<\$E> laughs <\\$E>
		bch?	83.	s3	Mhm
Ib re	st	K1	84.	L	Er Sec= Section Twelve of the Sale of Goods Act
	Inq	Dk1	85.		But what does that say?
			86.		<\$E> rustling of papers <\\$E>
R/I	Inf	K2	87.	s3	There's an implied condition on the part of the seller that in the case of seller he has the right to sell the goods.
	inf	k2	88.		And in the case of a <\$G3> seller he will have a <\$H> statutory right <\\$H> when the property is passed.
	bch	K1	89.	L	Yeah
	com	k2	90.	s3	So it was about his right to pass over ownership of the goods
R	Val	K1	91.	L	Exactly.
	ref	k1	92.		And you're you're taken by Section Twelve to be promising <\$=> these <\\$=> the buyer <\$=> that you <\\$=> that you are the legal owner and you have the right to sell.
	com	k1	93.		<\$=> And that cos you <\$=> As you say I mean that's clearly the most fundamental issue.
		k1	94.		That's more fundamental even than the description of the goods or the quality or fitness
		k1	95.		and <\$=> that <\\$=> I think that's why it's non-excludable in any contract.
Foc	Ms	k1	96.		Erm now there is an interesting little quirk here <\$=> Er here <\\$=>

Appendix 8d: Sample from Iolis workbook (text: c1io1)

1.

		Specific performance and injunctions
I (i)	Inf	Apart from damages for breach of contract, a plaintiff may seek a judicial order of specific performance or an injunction which will require the defendant to perform the contract. An order for specific performance commands the defendant to perform the contract according to its terms; an injunction is normally framed in negative terms ordering a defendant to desist from breach of contract. The rules governing these two orders of compulsory performance are almost identical and can be considered together.
		Specific performance is by origin an equitable remedy, which has the effect that the court reserves a discretion to make the order even when breach of contract has been established. The exercise of this discretion is governed by numerous principles.
Foc?	St	The crucial principle has been traditionally stated as the rule that a court will not order specific performance where damages are an adequate remedy.
	Ms	Other principles which we should examine include: a prohibition on enforcement of unfair or unconscionable contracts; a reluctance to order performance of contracts which require continuous supervision; a prohibition on enforcement of contracts of employment; a reluctance to order performance when the defendant would be left without an adequate remedy.

2.

		Adequacy of Damages
I (e)	st (Inf)	The general principle governing an award of specific performance is that a court will not make such an order where damages would be an adequate remedy for the plaintiff. This principle raises a puzzle, for given the broad protection afforded to the expectations of the plaintiff by the rules governing the measure of damages, it is hard to see when an order for specific performance could be made under this principle. Of course, as we have seen, the full expectation of the plaintiff will not be compensated in the case of remote losses or failures to mitigate loss, but these rules limiting claims for damages rest on sound policies and it would be strange to subvert them by orders for specific performance.
	(com)	Consider in the following contracts whether specific performance would be available under this principle requiring the inadequacy of damages. Choose the contract where specific performance would be available.
	Npr	----- A) Defendant breaches a contract for the supply of a tonne of apples. B) Defendant breaches a contract to sell an ordinary suburban house. -----
R/I (i)	Inf	[student checks box]
R (a)	Val com	<i>We agree.</i> <i>The courts normally assume that damages will be an adequate remedy for breach of a contract of sale of an ordinary commodity such as apples, which makes sense for the plaintiff can normally easily acquire substitutes on the open market and thereby avoid any consequential losses. Although this argument should in theory be applicable to the sale of an ordinary suburban house, in fact the courts almost invariably accept that damages would be inadequate in contracts involving interests in land. Perhaps even more surprisingly the order of specific performance is routinely available to vendors of land, even though their only loss can be financial and thus readily calculable in damages. Can you think of any</i>

reasons which might explain this practice of the courts which appears to contradict the general principle that damages should be an inadequate remedy?

3.

I (el)	st
	Npr
R/I (i)	Inf
R (a)	Val com

Consider two further contracts in order to determine in which case a court would order the defendant to specifically perform the contract under the principle that damages should be an inadequate remedy.

-
- A) Defendant breaches a contract to sell a painting by an old master.
 - B) Defendant breaches an obligation to repay a loan.
-

[a tick]
We agree, though the point is uncertain.
The courts normally assume that damages will be an adequate remedy for breach of a contract of sale of an ordinary commodity such as apples. It is also traditionally said that a court will order specific performance of a contract for the sale of an unique chattel such as a work of art, though perhaps the rule is narrower because the plaintiff may be required to demonstrate a particular reason for possession of that item such as its sentimental value. The order of specific performance for unique goods may make sense for the plaintiff may not be able to obtain a satisfactory substitute very easily. Paintings by Turner and Picasso may cost the same, but can they really be regarded as substitutes for one another?

4.

Foc	Con
Foc	Ms
I (el)	st

The principle that damages must be inadequate before a court will order specific performance is therefore difficult to reconcile with the practice of the courts. In recent years, however, the courts have restated the principle in slightly different terms which may give a better insight into their exercise of discretion.

Consider the following extract for the judgement of Lord Pearce in *Beswick v. Beswick* [1968] in which he gives reasons for ordering specific performance of a contract to pay an annuity to a widow (also called the administratrix) which was the consideration for giving a coal business to the defendant.

'In the present case I think that the damages, if assessed, must be substantial. It is not necessary, however, to consider the amount of damages more closely since this is a case in which, as the Court of Appeal rightly decided, the more appropriate remedy is that of specific performance. The administratrix is entitled, if she so prefers, to enforce the agreement rather than accept its repudiation, and specific performance is more convenient than an action for arrears of payment followed by separate actions as each sum falls due. Moreover, damages for breach would be a less appropriate remedy since the parties to the agreement were intending an annuity for a widow; and a lump sum of damages does not accord with this. And if the argument that a derisory sum of damages is all that can be obtained be right, the remedy of damages in this case is manifestly useless. The present case presents all the feature which led the equity courts to apply their remedy of specific performance. The contract was for the sale of a business. The defendant could on his part clearly have obtained specific performance of it if *Beswick senior* or his administratrix had defaulted. Mutuality is a ground in favour of specific performance. Moreover, the defendant on his side has received the whole benefit of the contract and it is a matter of conscience for the court to see that he now performs his part of it.'

Which four of the following reasons are given by Lord Pearce for awarding specific performance?

	Npr	<p>1. The defendant would be unjustly enriched if he were not required to perform his side of the bargain</p> <p>2. Since the defendant could have obtained specific performance, it ought in fairness be given to the plaintiff</p> <p>3. Specific performance is a more convenient remedy than damages</p> <p>4. Specific performance is more appropriate in view of the intentions of the parties</p> <p>5. Damages would be inadequate to compensate the plaintiff</p>
	R/I (i) Inf R (a) Val com	<p>[1-4 correct]</p> <p><i>We agree. The four reasons listed first were given by Lord Pearce for the order for specific performance. On the issue of whether damages would be inadequate, he argues that in fact they would provide full compensation, though he adds later that if he were wrong on that point, that would provide an additional reason for an order of specific performance.</i></p>

5.

	I (el) st	<p>Instead of the strict test of the inadequacy of damages, therefore, the courts now seem to approach the question of whether or not to order specific performance by reference to a broad range of considerations concerned with doing justice between the parties. As Sachs LJ observed in <i>Evans Marshall & Co Ltd v. Bertola SA</i> [1973]</p> <p>'The standard question in relation to the grant of an injunction 'Are damages an adequate remedy?' might perhaps, in the light of the authorities of recent years, be rewritten: 'Is it just, in all the circumstances, that a plaintiff should be confined to his remedy in damages?'</p> <p>In the light of this development of flexibility in the law governing the discretion to order specific performance and injunctions, do you think that a court should order an injunction in the following illustration based upon <i>Sky Petroleum Ltd v. VIP Petroleum Ltd</i> [1974]?</p> <p>The defendant oil company agreed to supply the plaintiff retailer's requirements for petrol at a fixed price. During an oil crisis, when no other sources of supply of petrol were available, the defendant purported to terminate the contract alleging that the plaintiff had exceeded its credit arrangement. The plaintiff sought an injunction to restrain the defendant from withholding petrol supplies.</p>
	Npr	<p>A) An injunction should be ordered. B) An injunction should be refused.</p>
	R /I (i) Inf	<p>[check box]</p>
	R (a) Val com	<p><i>The court agreed with you. The court justified this conclusion on the ground that alternative sources of supply were not available, so if supplies were withdrawn then the plaintiff would have to close his filling stations. This reasoning does not really consider whether or not damages would be an adequate remedy; it is quite possible that the plaintiff could have succeeded in a claim for loss of profits resulting from the closure of the filling stations. The real reason for the decision appears to be that the court thought that justice required that the plaintiff should be entitled to continue to run his business without oppressive interference by the supplier who might have been taking opportunistic advantage of peculiar market conditions.</i></p>

6.

I (i) Inf

This question could be seen as part of the interaction - allowing them the choice of extending the text – the form allows it to be classed as Npr but it the action of clicking could be seen as a kind of clarification by the student.

As well as the general principles governing the exercise of the judicial discretion to order specific performance and injunctions which we have considered, there are further special principles which apply in particular circumstances or to particular kinds of contract.

Would you like to examine these particular principles?

Employment: There has been a traditional objection to orders for specific performance of contracts of employment on the ground that this would interfere too greatly with the liberty of individuals. But in recent years this objection has been modified in several respects.

Supervision: In older cases it was stated that specific performance would be refused where the order would involve the court in supervising performance of the contract.

Fairness and Unconscionability: The courts exercise a discretion to refuse to specifically enforce a contract which is unfair or where serious hardship would result.

Mutuality: It was traditionally said that specific performance would not be ordered if the same remedy would not be available to the defendant.

These screens go on to present further information in a single screen – the third link contains a drag and drop classification task at the end of a lengthy Inform.

Appendix 8e: Sample from Iolis workbook (text: c1io2)

1.

Focus	Ms
-------	----

Agreed Compensation

The terms of a contract may fix an agreed level of financial compensation for breach of contract in three principal ways:

1. Action for the price

The price agreed for goods or services may be used as the measure of compensation in an action for debt for breach of an obligation to pay a sum of money.

2. Liquidated damages

The contract may fix an agreed level of compensation for breach of contract.

3. Limitation of damages

The contract may fix an upper limit to compensation payable for breach of contract.

2.

I inf	Inform
-------	--------

Action for the Price

Perhaps the oldest cause of action for breach of contract, and certainly the commonest, provides a party to a contract who has not been paid for goods or services with a claim for the price agreed under the contract. The claim is simply for the sum of money represented by the agreed price under the contract, and does not include any other claims for compensation for other losses.

In *Bolton v Mahedeva*, for instance, the defendant entered into a contract to have central heating installed in his house by the plaintiff for a fixed price of £560. The defendant refused to pay this sum on several grounds including that the system emitted fumes and that the heating was inadequate due to a shortage of radiators. The defendant had spent £174 putting these defects right. The question before the Court of Appeal was whether the defendant was bound to pay the agreed price under the contract? If the defendant had no defences available, then under the action for the price he would be obliged to pay the agreed contract price of £560.

3.

Focus	Conc (+ ms?)
I el	starter
R/I	(inf)
R	val Ref com

The most important question in actions for the price is therefore which defences are available to the defendant.

Assuming that the contract is valid under the ordinary rules governing formation of contracts, which of the following defences do you think are available to the defendant in *Bolton v Mahadeva*?

(build up mcq)

* He can argue the price was too high and he should not be required to pay it

(Yes - button)

We agree;

a defence that the price was too high is not available. In effect such a defence would call into question the general principle that a court will not directly assess the adequacy of consideration or the fairness of contracts.

I el	N pr	* He can argue that the performance of the contract was so defective that he is not obliged to pay the price
R/I	(inf)	(Yes)
R	val	<i>We agree;</i>
	Ref	<i>he can argue that there was no substantial performance of the contract,</i>
	com	<i>which is a complete defence to the claim for the price.</i>
I el	N pr	* He can argue that although he is liable to pay the price he can reduce the sum by the cost of repairs
R/I	(inf)	(Yes)
R	val	<i>We agree;</i>
	Ref	<i>he can treat the cost of repairs as a counter-claim which can be set off against an action for the price.</i>

4.

Focus	starter	Defences to actions for the price under a contract therefore include:
	Conc	1. A complete defence which states that there has not been substantial performance of the obligation.
		2. A partial defence that the sum due may be reduced by the value of counter-claims under the general right of set-off.
	Com	Whether or not there has been substantial performance of a contractual obligation is obviously a matter of degree. The Court of Appeal in Bolton v Mahadeva allowed an appeal against the trial judge's decision and declared that the plaintiff had not provided substantial performance of the contract.
		In contrast, in Hoenig v Isaacs, where under a contract for the design and fitting of furniture the defects cost £55 to repair under a contract worth £750, the Court of Appeal held that substantial performance had been provided.

5.

I (el)	st	Can you apply these rules to the following case?
	(inf)	Harry enters a contract with Jones Carpets Ltd to supply and fit carpets in 3 rooms of his house for a price of £1000. Jones's employees bring the carpets, fit them in two rooms, but whilst fitting the carpet in the third room accidentally pierce a water pipe with a nail which results in some flood damage, though the carpets are not affected. Harry has to pay a plumber £50 to fix the pipe and some redecorating work costs another £50. Despite Harry's repeated requests, Jones' employees do not return to fix the carpet down in the third room and Harry employs another contractor to do the work for £25. Jones Carpets Ltd now bring an action for the price of £1000 against Harry who is unwilling to pay.
	(inf)	Harry consults four lawyers and receives the following advice.
	(inq)	Which do you find the more accurate as a statement of the legal position?
	N pr	a) Pay up £1000 - the contract has been performed
	(x4)	b) Do not pay a penny until they have finished to your satisfaction
		c) Pay £875, that is the price minus all your additional costs
		d) Offer £750 in cash, which Jones Carpets Ltd will probably accept
		(answer c)
R/I	(inf)	
R		

val Ref com

*We agree.
 There has been substantial performance of the contract, so the price is due,
 but Harry will be allowed set-offs for his valid counter claims.*

6.

I (i) Inf

In contrast to an ordinary action for damages, there is in general no duty placed on the plaintiff to mitigate losses resulting from breach of the duty to pay the price.

Although in general it seems fair for a seller or supplier who has performed his side of the bargain to be able to claim the agreed price for the work, the justice of this claim becomes more doubtful if the seller or supplier is notified in advance of performance that the goods or work are no longer required and the seller or supplier could have made alternative substitute contracts.

The House of Lords in *White & Carter (Councils) Ltd v. McGregor* confirmed the rule that the purchaser is nevertheless required to pay the price. It is then up to the purchaser to make the best use of the goods or service which he can. But in that case Lord Reid suggested that there might be an exception if the seller or supplier had 'no legitimate interest' in continuing performance of the contract. The meaning and scope of this exception is uncertain.

The exception was applied in *Clea Shipping Corp v. Bulk Oil International Ltd (The Alaskan Trader)*. Under a time charter for hire of a ship for two years, engine failure took the ship off-hire for several months and the charterers indicated that they wished to repudiate the contract since the cost of chartering ships had fallen. Nevertheless, the owners had the ship repaired and then anchored the vessel off Pireus with a full crew ready to sail until the charter expired, and then sold the vessel for scrap. The charterers hired another cheaper vessel but continued to pay the hire charges, and then sought to reclaim them. Their action succeeded, for although the owner's claim for the hire charges was merely the agreed price under the contract, the court concluded that the owners had no legitimate interest in continuing performance of the contract, or that continued performance was wholly unreasonable and damages would be an adequate remedy. The owners could have sought alternative employment for the ship or sold it for scrap, thereby avoiding waste and expense.

This decision, and others like it such as *Attica Sea carriers Corp v. Ferostaal Poseidon Bulk Reederei GmbH (The Puerto Buitrago)*, raise the question whether in some circumstances there is a duty to mitigate loss rather than simply claim the agreed price under the contract.

7.

I (i)	Inf
-------	-----

Liquidated Damages and Penalty Clauses

As a general rule the parties to a contract may agree in advance the level at which compensation for breach of contract should be paid. These contractual agreements are described as 'liquidated damages'.

Yet liquidated damages clauses are only valid if they do not constitute a 'penalty clause'.

The courts permit the parties to set an agreed level of compensation which represents a genuine pre-estimate of the losses likely to result from breach of contract, and will enforce such clauses as liquidated damages clauses. But where the agreed measure of compensation was calculated to be greater than the likely losses, then the courts will strike the clause down as being void as constituting an unconscionable penalty clause.

Lord Dunedin in *Dunlop Pneumatic Tyres Co v New Garage and Motor Co* summarised the distinction between liquidated damages and penalty clauses in these terms:

'The essence of a penalty is a payment of money stipulated as in terrorem of the offending party; the essence of liquidated damages is a genuine covenanted pre-estimate of damage.'

8.

I (el)	st?
	N. Pr.
	fac
	clue
R/I	(check box)
R	Val com

Bearing in mind this definition of the distinction between liquidated damages and penalty clauses, consider whether the following contract contains an invalid penalty clause.

Jenny agrees to rent Ken's bicycle for £10 per week for 4 weeks. The contract also states that if Jenny fails to return the bicycle after the 4 weeks are over, then she will have to pay £10 per day for the period of excess hire.

If in doubt, you may find it helpful to refer to the remainder of Lord Dunedin's judgment in *Dunlop Tyre v New Garage*.

- Yes, a penalty clause
- No penalty, but a liquidated damages clause

*We agree.
The clause is likely to be invalid as a penalty because it is unlikely to represent a genuine pre-estimate of Ken's loss resulting from failure to return the bicycle. If the market rate for hire is about £10 per week, then this should be his maximum level of compensation.*

9.

I (el)	N. Pr.
	fac

Consider whether or not this next contract contains an invalid penalty clause.

Roman agrees with Belle to take a video of her wedding for £300. Being anxious that she should have a record of what she hopes will be a once in a lifetime occasion, Belle inserts in the contract a clause which states that failure to produce the video of the wedding will render Roman liable for £3,000. Roman fails to produce the video as a result of a technical fault in his camera, and Belle now claims £3,000 in compensation.

	clue
R/I	(check box)
R	Val com

You may find it helpful to refer to *Dunlop Tyre v New Garage*.

- Yes, an invalid penalty clause
- No, a valid liquidated damages clause

We agree.

The losses of Brenda are hard to define and there might be difficulties in persuading a court to give her compensation for the distress and disappointment caused. But the uncertainties surrounding proof of loss will be regarded as a good reason for the adoption of a liquidated damages clause, as in Dunlop Pneumatic Tyre v New Garage. In these circumstances, the court might be prepared to enforce an agreed measure of compensation. But the £3,000 might well be regarded as an excessive amount given the contract price and the absence of material losses.

10.

I (el)	st
	clue
	N. Pr.
R/I (i)	(check box)
R	Val com

Here is one last question about whether a contract term is a penalty.

SB Ltd, a small business, takes a loan to help finance its business from Big Bank Plc, agreeing to repay the loan with interest after 6 months. SB Ltd also agrees that on failure to repay the loan on the due date, it will transfer a certain number of shares which it owns in another company, CC Ltd, to Big Bank Plc as the agreed level of compensation for breach of the loan agreement. The value of the shares in CC Ltd fluctuates according to market conditions, and although at the time of the loan agreement the value of the shares is equivalent to the sum of the loan plus interest, by the date of default the value of the shares has doubled. Big Bank Plc now demands transfer of the shares.

You may find helpful *Jobson v Johnson*.

Is the agreement to transfer the shares invalid as a penalty clause?

- Yes, this is a penalty.
- No, this is a valid liquidated damages clause (answer - yes)

We agree.

An agreement to transfer property rather than simply pay a sum of money can be a penalty clause: Jobson v Johnson. As the value of the shares could go up or down, their value could not constitute a genuine pre-estimate of the loss.

11.

I (el)	N. Pr.
R/I (i)	(check box)
R (a)	Val com

Legal Consequences of Invalidity of Penalty Clauses.

If the agreed compensation clause is struck down for being a penalty, does that mean the plaintiff can claim no compensation for breach of contract by the defendant

- Yes, no compensation is payable for breach
- No, the plaintiff is still entitled to ordinary contract damages

We agree

the court will award a measure of compensation which accords with the normal level of damages for breach of contract. See Jobson v Johnson.

12.

I (el)	starter (inq)	Consider in the following situation what the maximum level of liquidated damages could be agreed without running the risk of being struck down as a penalty.
	Inq	Yvonne enters a rental agreement to hire a television from TVR Ltd for two years, with a monthly rent of £10 and a total of £240. Because the market for television rentals is declining, and customers usually want new televisions, TVR Ltd are anxious to include a clause which will provide that if Yvonne terminates the agreement prior to the expiration of the two year period, then she shall pay a sum in compensation representing a high fixed percentage of the remaining rent of the period of hire. Ideally TVR Ltd would like Yvonne to be liable to pay the whole rent outstanding. For example, if Yvonne terminated the contract after fourteen months, she would still be liable to pay a further year's rent of £100. But TVR Ltd admit that their losses are likely to be less than the full sum because of the 75% possibility of hire of the television to another customer. What is the maximum level of agreed compensation which a court is likely to uphold as a liquidated damages clause? (<i>view Annotation</i>)
	fac	Place the marker on the point of the scroll bar which you think represents the maximum agreed compensation possible calculated as a percentage of the outstanding rent payable.
R/I (i)	Inf	(place marker)
R (a)	Val com	<i>We agree that this may be the upper limit for liquidated damages. The likely losses of TVR will be reduced to 75% of the rental which will be about £25.</i>

13.

		Justification for Control Over Penalties
I (i)	Inf	What is the justification for judicial control over agreed levels of compensation for breach of contract?
		A number of justifications have been proposed: these can be summarised as:
		1. Private Punishment : the objection to penalty clauses is that they go beyond compensation to a punitive measure of sanction.
		2. Coerced Performance : the objection to penalty clauses is that they attempt to coerce performance of the contract.
		3. Unfairness : the objection to penalty clauses is that they create unfairness between the parties.
		There is also an important criticism of the practice of the courts that it is economically inefficient and therefore unjustifiable.

The hotkeys could be seen as being 'pre-set' student initiations - allowing them the choice of extending the text with a kind of clarification.

14. ⇒

I (i)
Inform

Private Punishment

In *Dunlop Tyre Company Ltd v New Garage*, Lord Dunedin summarised the jurisdiction over penalty clauses in the following terms (references omitted).

'The essence of a penalty is a payment of money stipulated as in terrorem of the offending party; the essence of liquidated damages is a genuine covenanted pre-estimate of damage.'

If by punishment is meant something which can only be done by the state, such as imprisonment, then certainly it makes sense to control agreed remedies. Yet most agreed remedies merely require the transfer of property or money, which is not an exclusive power of the state.

The meaning of punishment here implies a contrast with compensation, so that the objection to penalty clauses is simply that they are like punitive damages which are not awarded for breach of contract.

Is it possible to distinguish this justification from one of fairness?

15. ⇒

I (i)
Inform

Coerced performance

The idea that penalty clauses coerce performance of contracts may justify judicial control for two reasons:

1. Such terms may create an unacceptable invasion of individual liberty, as in the case where an employee cannot quit her job without paying the employer a huge sum of money.
2. The courts may wish to reserve to themselves the power to order compulsory performance of contracts through their remedies of specific performance and injunctions, because when the courts exercise that power, they do so in the light of all the circumstances, and will refrain from orders when an order would lead to oppression, unfairness, and hardship. For this reason, an agreed remedy which attempts to usurp this power would be unenforceable.

16. ⇒

I (i)
Inform

Unfairness

A third justification for control over penalties could be simply that they are unfair. This is how Lord Diplock framed a description of the equitable rule against penalties, that is an agreement:

must not impose upon the breaker of a primary obligation a general secondary obligation to pay to the other party a sum of money that is manifestly intended to be in excess of the amount which would fully compensate the other party for the loss sustained by him in consequence of the breach of the primary obligation.

(*Photo Productions v Securicor*)

The worry about this justification is that it conflicts with the general principle that the courts do not claim a general power to refuse to enforce unfair or unconscionable contracts. The rule against penalty clauses has to be regarded as an exception.

What makes the penalty clause unfair? It exceeds the level of compensation which would have been available in the court, and therefore it enriches the plaintiff and the defendant's expense.

17. ⇒

I (i)

Inform

Efficiency and penalty clauses

Economic analysis suggests reasons why the courts should not control penalty clauses. Given the usual view of economic analysis that the parties are likely to maximize their joint wealth if they are left free to bargain for any terms which they choose, then control over penalty clauses is likely to be inefficient. In this vein, Rea argues that a party to a contract will charge a higher price if it risks a penalty clause in the event of breach of contract; so the penalty clause is paid for by the higher price for the contract; and the contract is worth more to both parties than a contract without a penalty clause. It can even be argued on this view that by invalidating penalty clauses, the courts create unfairness, for the party which has paid a higher price for the penalty clause, is now deprived of this advantage.

In addition, the control over penalty clauses can be regarded as inefficient for it prevents protection of those interests of the plaintiff which would not be compensated by an award of damages, such as remote and irrecoverable types of loss. (Goetz and Scott).

Appendix 8f: Sample from Iolis workbook (text: c2io)

4 Unfair Contract Terms Act 1977

4.1 Applying the act

1.

Foc st	The <u>Unfair Contract Terms Act 1977</u> was passed to provide a substantial degree of regulation of the use of exemption and limitation clauses. It extended earlier provisions in the <u>Sale of Goods (Implied Terms) Act 1973</u> , which were concerned with contracts for the sale of goods only.
Ms	Key questions in relation to the Act include: What is the <u>scope</u> of the Act? That is, to what practices and in what circumstances and to what people does the Act apply? What <u>techniques</u> does the Act use? For example, does the Act use criminal law, or does it make clauses void, or does it use some other techniques?
com	It should be noted that new regulation in this area will be introduced in the UK shortly in order to implement the provisions of the EC Directive on Unfair Terms in Consumer Contracts.

2.

I el st	You have already considered the kinds of risk that may be faced in contracting and the types of exemption and limitation clause which may address such risks. Look at the two lists below and match up the pairs; each item on the left matches with exactly one item on the right.
Npr x5	consumer goods not corresponding with description goods are defective personal injury caused by negligence late delivery property damage caused by negligence no warranty or guarantee as to condition of goods vehicle left at owners' risk buyers are responsible for checking goods prior to purchase entry to these premises at own risk no warranty or guarantee as to delivery time <i>(student matches 2 lists)</i>
R/I (i) Inf	-----
R Eval Foc? Ms?	<i>We agree. Now go on to the next page to consider which sections of the Unfair Contract Terms Act 1977 apply.</i>

3.

I el st	Now, consider which terms of the Unfair Contract Terms Act 1977 will apply to the exemption or limitation clauses from the last page.	
Npr x5	buyers are responsible for checking goods prior to purchase entry to these premises at own risk no warranty or guarantee as to condition of goods vehicle left at owners' risk no warranty or guarantee as to delivery time	section 2(2) section 3(2)(b) section 6 section 6 section 2(1)

R/I Inf
(i)
R (a) Val
com

(student matches 2 lists)

We agree.

You now seem very confident in identifying which provisions of the Act apply to which exemption clauses.

4.

Focus Conc
com
Focus Ms
com

The test of reasonableness, which lies at the heart of the Unfair Contract Terms Act 1977, is set out in section 11 and schedule 2 of the Act.

Though these provisions identify the factors relevant in determining whether an exemption or limitation clause is reasonable or not they nevertheless give considerable interpretative discretion to the courts.

We need therefore to look at the case law in which the judges have applied the reasonableness test in order to know what in practice the test means.

Notice that although there is a considerable quantity of case-law relating to the reasonableness test, there is very little relating to the technique in the Act of making terms void. Why do you think this is?

Law Commission Report 24

Law Commission Report 69

Adams and Brownsword, "Decade of Discretion".

5.

I el Inq
fac
R/I (i) Inf
R (i) st
Inf
Note that the use of two inform moves in one exchange breaks the 'rule' in the IRF model (Francis and Hunston 1992) and this indicates that it is an ill-formed exchange

In the following story identify the relevant factors in determining whether the exemption clause featured is reasonable. List them separately as factors in favour and factors against.

Petra wants to buy a house and arranges with Silifax Building Society to take out a mortgage, She signs a contract, which states in small print on the back page that Silifax will arrange for a surveyor to examine the property and that a £200 fee will be charged for they survey.

A clause in the contract. which is standard in mortgage contracts, states that the surveyor will not be be liable in negligence for loss caused by reliance on the survey. For an additional £50 Petra can purchase insurance from Silifax against this risk.

(student writes answer in the on-screen notepad)

Now look at [section 11 Schedule 2] of the Unfair Contract Terms Act 1977, if you have not already done so, and compare your answer.

We think the relevant factors are:

A. In favour of the term being unreasonable:

1. the fact the term was in small print
2. the fact the Petra was a consumer dealing with a building society

B. In favour of the term being reasonable

3. the fact that Petra was offered insurance


Appendix 9: Figures for the number of interactive screens in Iolis workbooks

(See appendix 1 for screen shots of the interactive screen types)

<i>Iolis Workbooks:</i>	<i>total screens</i>	Basic mcq	Multi mcq	Build mcq	Slider	Model Write	High-light	Type-in	Drag-drop	Match	Interactive screens	as % of total screens
<i>from present corpus</i>											<i>n</i>	%
Ageed Remedies (c1io2)	51	10	13	3	2	3		1	2		34	67%
Judicial Remedies (c1io1)	59	8	15		4	3	1	1	4		36	62%
Exemption (c2io)	50	4	5	8	1	5	1		1	3	28	56%
<i>Other Iolis workbooks:</i>												
<i>'Contract Law module'</i>												
Illegality	68	13	15	1		2	7	1	3	1	44	65%
Misrepresentation	75	25	12		1	2	2		2	3	47	63%
Changing the contract	58	15	6	6		1	6		5	3	42	72%
Inequality of bargaining power	44	8	5	1	4			2	4	6	30	68%
Introduction to contract law	82	16	5	1	2		5		6	9	42	52%
<i>:'Criminal Law module'</i>												
Theft	58	11	9	9		1			5	5	40	69%
Totals	545	110	85	29	14	17	22	5	32	30	343	63% (average)

Appendix 10: Examples of the use of graphics in Iolis

Example 1: Iolis workbook 'Introduction to the Theft Acts' by Leng R

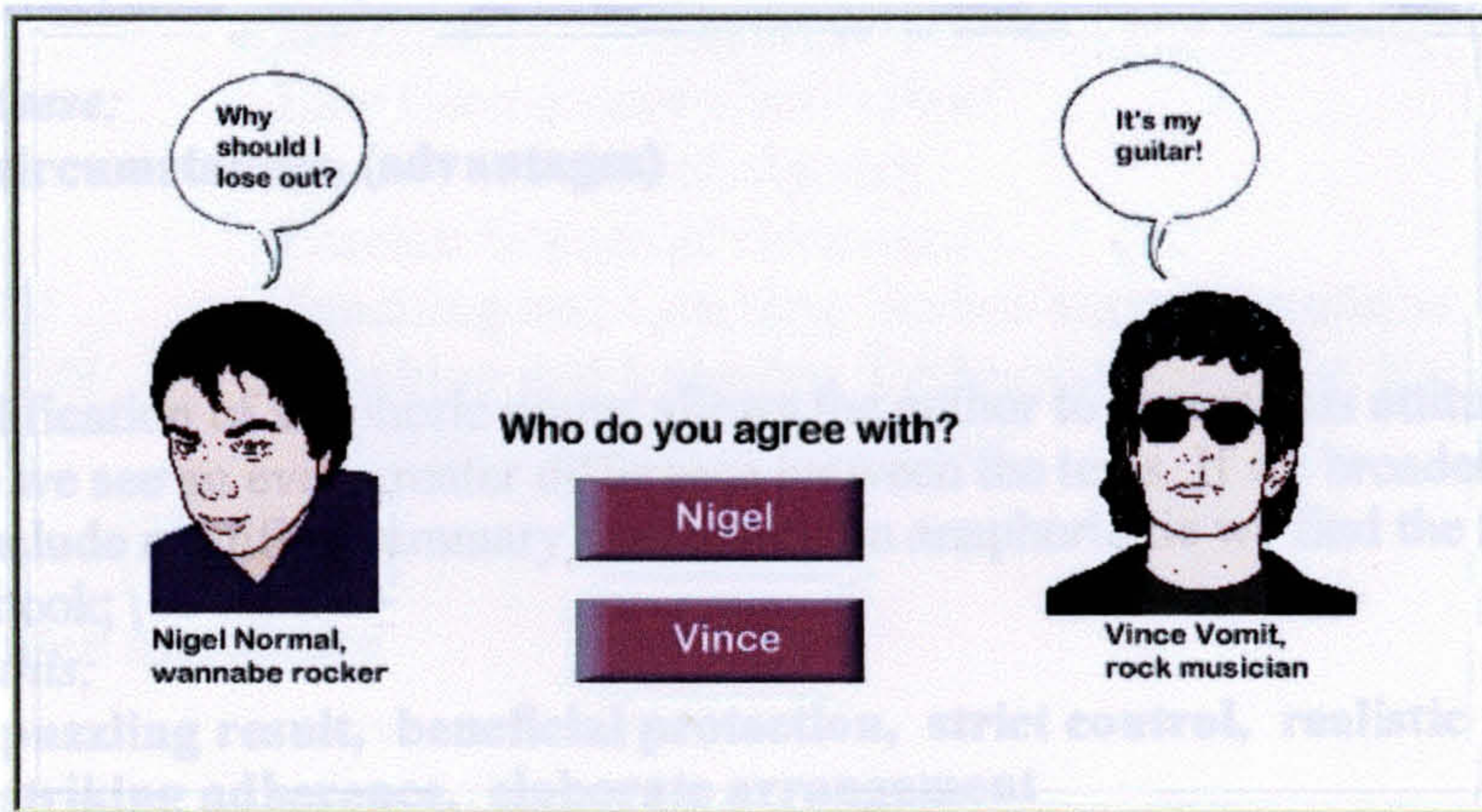


Case 3 - The honest buyer of stolen goods

Nigel bought a rare gold stratocaster electric guitar which he had seen advertised in the classified section of the local newspaper. He paid £800 for it. A few days later he saw a picture in a newspaper of a guitar which had been stolen from Vince Vomit, a well known rock musician. Nigel realised that this was the guitar which he had bought, but decided to keep it.

Do you think that Nigel is a criminal? For two views on this go to the next screen.

Screen: 'protect property 13'



Who do you agree with?

Nigel

Vince

Nigel Normal, wannabe rocker

Vince Vomit, rock musician

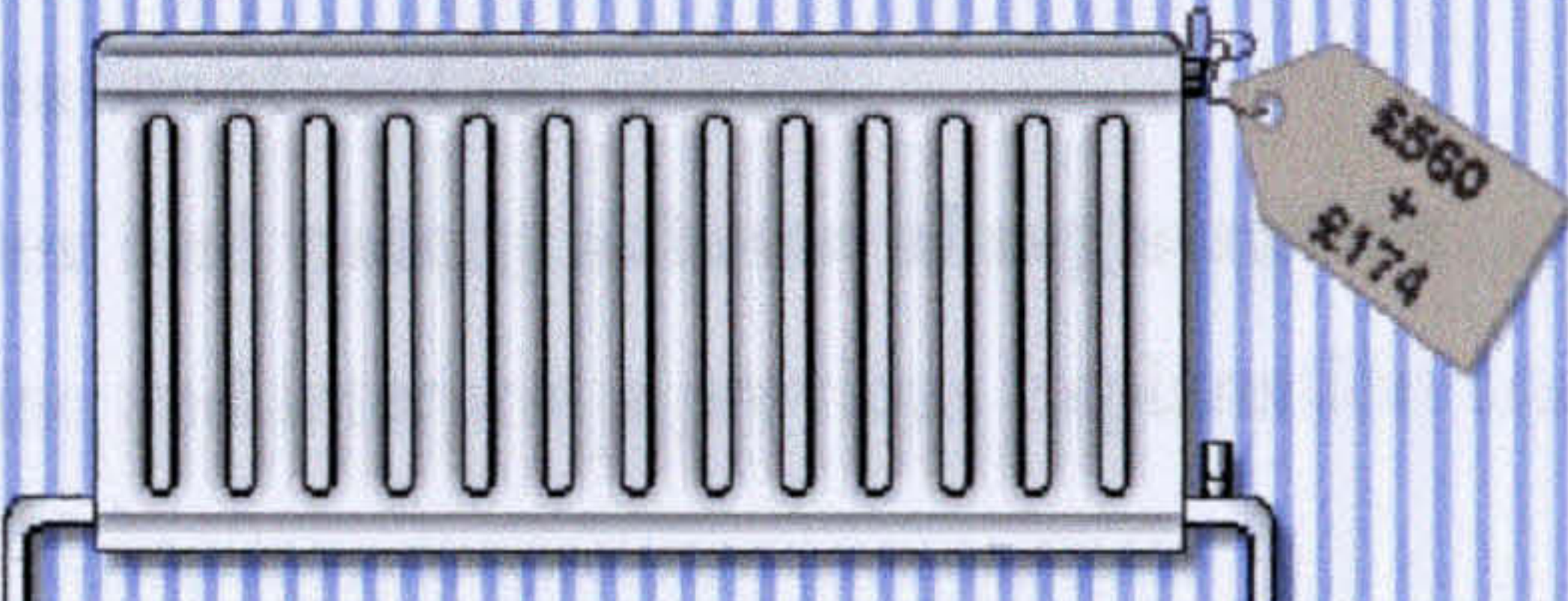
Screen: 'protect property 14'

Example 2: Iolis workbook 'Agreed Remedies' (c1io2) by Collins H

Action for the Price

Perhaps the oldest cause of action for breach of contract, and certainly the most common, provides a party to a contract who has not been paid for goods or services with a claim for the price agreed under the contract. The claim is simply for the sum of money represented by the agreed price under the contract, and does not include any other claims for compensation for other losses.

In *Bolton v Mahedevs*, for instance, the defendant entered into a contract to have central heating installed in his house by the plaintiff for a fixed price of £560. The defendant refused to pay this sum on several grounds including that the system emitted fumes and that the heating was inadequate due to a shortage of radiators. The defendant had spent £174 putting these defects right. The question before the Court of Appeal was whether the defendant was bound to pay



Screen: 'price 1'

Appendix 11: Results of Anaphoric/Summary nouns

(results from Wickens 1996)

Textbook (*Chapter: Agreed Remedies, 'Law of Contract', H.Collins*)*this;***problem(2), objection, danger, criticism, context(2), avoidance, approach, tolerance, emphasis, interpretation, argument, reluctance(2), difficulty, solution, perspective, coincidence***these;***objections, distinctions, considerations, arguments, uncertainties, advantages, abuses, circumstances(4), concerns,**The Iolis text (*Workbook: Agreed Remedies, H.Collins*)*this;***view, definition, claim***these;***circumstances, (advantages)**

Modification of anaphoric nouns allows the author to express his attitude more clearly and here we see an even greater difference between the texts. If we broaden Francis' definition to include modified summary nouns with an anaphoric tie we find the following in the textbook;

*this;***puzzling result, beneficial protection, strict control, realistic interpretation, striking adherence, elaborate arrangement***these;***perplexing questions, formal distinctions, competing policy concerns**

No such examples were found in the concordances for the Iolis text.

A further group of summary nouns emphasises the above point. The following examples were only found in the textbook;

this alternative dispute resolution mechanism**this artificial contractual edifice****this complex and patchy scheme of registration**

These summarise and interpret a previous explanation and are not examples of lexical repetition.

List of Abbreviations used in main text of thesis

Computers and learning

CAL	computer assisted learning
CBL	computer based learning
CMC	computer mediated communication
RBL	resource based learning

Higher Education (UK)

CTI	Computers in Teaching Initiative
HE	higher education
HEI	higher education institution
HEFCE	Higher Education Funding Council for England
SHEFC	Scottish Higher Education Funding Council
HEFCW	Higher Education Funding Councils for Wales
ILTHE	Institute for Learning and Teaching in Higher Education
ITTI	Information Technology Training Initiative
LCC	Law Courseware Consortium
QAA	Quality Assurance Agency
LSE	London School of Economics
TLTP	Teaching and Learning Technology Programme
TLTSN	Teaching and Learning Technology Support Network
TQA	Teaching Quality Assessment

Applied linguistics

CA	conversation analysis
CDA	critical discourse analysis
EAP	English for Academic Purposes
IRE	initiation, response, evaluation
IRF	initiation, response, feedback
MOP	market oriented pedagogy
NNS	non-native speaker
NS	native speaker
OD	order of discourse
POD	pedagogic order of discourse
SFG	systemic functional grammar
SFL	systemic functional linguistics

Other

THES	Times Higher Educational Supplement
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