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14

Contested evidence in courtroom cross-examination: the case of a trial for rape

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1 Introduction

In the adversarial Anglo-American criminal-judicial system, cross-examination is essentially hostile. Attorneys test the veracity or credibility of the evidence being given by witnesses with questions which are designed to discredit the other side's version of events, and instead to support his or her own side's case. When being cross-examined, witnesses are, of course, conscious of this purposefulness behind the questions they are asked. They are alive to the possibility that a question or series of questions may be intended to expose errors or inconsistencies in their evidence, and hence to challenge and undermine it. This awareness on the part of witnesses is manifest in the guarded and defensive ways in which they answer certain questions. For instance, in this extract from a rape trial from which the data for this chapter are principally taken, the alleged rape victim gives an answer which is designed to manage what she perceives to be the damaging implications – for her version of

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events – of the defense attorney's questions. (In all the data extracts in this chapter, the attorney is designated as A, the witness as W, and the judge as J.)

(1) [Ou:45/3A:270]

1	A:	An during that enti:re: (0.3) eve:ning. (0.8)
2		Miss ((name)), (0.5) its your testimony: (2.0)
3		that there was: (0.9) no indication (.) as far
4		as you could te:ll, (0.3) that the defendant
5		had been drinking,
6		(0.2)
7	W:	No:,
8		(2.2)
9	A:	Now: Miss: ((name)) (1.2) when you were
10		interviewed by (.) the poli:ce (.) some times
11		later (.) some time later that evening, (1.0)
12		didn't you tell the police (>) that the
13		defendant had been drinking?
14		(0.2)
15	W:	No[::
16	A:	[Didn' you tell 'em that=
17	W:	=I told them there was a cooler in the ca:r
18		an I never opened it.
19	A:	The answer: uh: (.) may the balance be: uh
20		stricken y'r honour:, an the answer is no:?
21	J:	The answer is no:

The attorney's questions in this extract are plainly designed to imply an inconsistency in the witness's story – an inconsistency, that is, between her present testimony that the defendant had not been drinking, and what the attorney alleges she told the police shortly after the incident. The witness first denies that she told the police that the defendant had been drinking (line 15). However, she adds to that denial an explanation about what she actually told the police at the time (i.e. that there was a drinks cooler in the defendant's car; lines 17–18). In providing this supplementary explanation, which the attorney asks to be stricken from the record (lines 19–20), the witness constructs her answer in such a way that her versions then and now are consistent, whilst also implying an account for the attorney's "mistaken" interpretation of what she told the police, a matter which would not be resolved by her denial alone. Thus the defensiveness of the witness's answer orients to the

potential inconsistency in her story which the questions are attempting to imply; it is designed also to rebut the damaging inferences which might otherwise be drawn about the apparent discrepancy between the attorney's version of what she told the police, and her own.

This chapter focuses on such disputes as these in cross-examination, when attorney and witness offer alternative and competing descriptions or versions of events. It will focus particularly on a device for producing inconsistency in, and damaging implications for, a witness's evidence. The device is therefore associated with an attorney's management of questioning to attempt to discredit a witness. A line of questioning[1] is designed in such a way that it ends by juxtaposing and contrasting items of discrepant information, as in extract (1), or information from which certain damaging inferences might be drawn about a witness's version of events. The systematic properties of this contrast device will be explicated.

Before beginning to analyze the data which are the focus of this chapter, it will be useful to review some general properties of verbal interaction in court settings.

2 Verbal interaction in courts and the "overhearing audience"

The conduct of criminal cases in the Anglo-American judicial system is conventionally depicted as "adversarial," involving a contest between two sides as to which can produce the more convincing story about whether and how some incident happened, and whether that incident was a violation of some law (i.e. of an interpretation of some law). The standard for deciding which side's story is the more convincing is, of course, the verdict of the jury. The crucial role in the adversarial system of testing one side's story against the other's, in some respects in contrast to many European "inquisitorial" legal systems, lies behind the condition that the only evidence that is admissable is that which can be orally attested in court. Except in special and infrequent circumstances,[2] a witness has to appear in court to testify verbally to anything which might count as evidence in a case, whatever observations, documents, signs, forensic traces, photographs, eye-witness accounts, findings, declarations, confessions, and the like which may be invoked on behalf of a side's case. For only when a witness can be called to

testify about some piece of evidence can the opposing side have the opportunity to test the veracity, significance, relevance, and interpretation to be accorded that evidence. Thus there is a dual emphasis in an adversarial system upon evidence being produced verbally, and being given on behalf of and in the service of one of two competing sides, the prosecution or defense. Witnesses are regarded as being members of one or the other side's team: hence they are treated as giving evidence in support of their side's case, a view which is rather dramatically encapsulated in the legal rule that an attorney "may not impeach the credit of his own witness" (Cross and Wilkins 1980: 93–4).

This dual emphasis on the verbal character of evidence, given by witnesses called to attest on behalf of one of the competing sides, is nicely illustrated in the following extract from the direct examination (or examination-in-chief) of a police forensic scientist, called by the prosecution during a trial for an armed robbery in which a victim was shot.

(2) [O'B:St v Mason:1:22] (The non-examining attorney who interjects in line 13 is designated as DA, i.e. the defence attorney)

1	A:	Uh now, Sergeant ((name)), was the print put
2		on these before the shotgun shell was fired
3		or after?
4	W:	Before it
5	A:	Before?
6	W:	Yes sir
7	A:	Was it a revolver or a shotgun?
8	W:	Shotgun
9	A:	And you lifted it off of the brass casing?
10	W:	That is correct
11	A:	Well then why weren't there any prints on the
12		other shotgun shell-
13	DA:	If your honour please, he's uh harrassing
14		his own witness.
15	J:	Sustained.
16	A:	I'm trying to get to the truth.

Photographs have been produced in court both of the defendant's fingerprints and of the fired and unused shell casings from the gun alleged to have been used in the robbery. Such evidence is not allowed to "speak for itself"; what is to be made of those photographs, and what any comparison between them may amount to,

has actually to be verbally attested by the scientist. The purpose of this direct examination is to elicit just those facts and interpretations about the photographs which the attorney expects will support the prosecution case. However, in this fragment the attorney appears to encounter a difficulty, which is to get from his witness an account for a discrepancy between finding finger prints on the unused but not on the fired shell casings. At just the point where the attorney's questions appear to be oppositional and almost to challenge his "own witness's" testimony, the opposing (defense) attorney objects that "he's uh harrassing his own witness," thereby invoking that sense of, and the evidentiary rule concerning, a witness belonging to a team.

It is a common complaint made by some legal practitioners and those (such as police officers and forensic scientists) who are regularly called as expert witnesses, as well as by legal reformers, that the store set in our adversarial system on the admissability of evidence only if it can be verbally represented in the service of one side's case can sometimes result in the derogation of the "truth" in a trial. (In this respect it might be noted that in [2], line 16, the examining attorney's explanation for his "testing" questioning of his own witness is that "I'm trying to get to the truth.") In this view the outcome of a case may depend rather less on "objective truth" than on the vagaries of courtroom examination – whether the right questions were asked, how they were asked, and how they were answered – and ultimately upon the ability of witnesses to tell credible "stories" in their testimony. It should be emphasized that in the analysis which follows the objective is not to decide or otherwise to assess the extent to which the "truth" satisfactorily emerges in courtroom (cross-)examination. The purpose of this discussion is only to review the principle in the adversarial system that evidence will be given orally, so that it may be tested and, if necessary, challenged by the other side in cross-examination. This is a backdrop to the expectation of witnesses that questions during cross-examination will be hostile, and may attempt to discredit their testimony. The aim of this analysis, in line with the ethnography of speaking, is to elucidate some of the technical, sequential, and pragmatic properties of participants' engagement in cross-examination.

The use of "participants" here needs to be qualified. Despite the

presence in court of often quite large numbers of people, the number of those who (legitimately) participate by speaking is, of course, limited. During examination of a witness, for example, speakership is restricted to the examining attorney and the witness, though occasionally the nonexamining attorney and the judge may intervene, usually to make and to adjudicate an objection, as happens in (2). (The defense attorney's objection in [2] intervenes after a question has been asked and before it can be answered, and is thus interruptive. The format of such interventions/objections as interruptive is evidence for the *normative* character of the preallocated restriction of turns at talk to just the two parties in examination.)

However, the talk between attorney and witness in examination is, of course, designed to be heard, understood, and assessed by a group of nonspeaking overhearers, the jury. Whilst they do not ordinarily participate, at least verbally, in the interaction between attorney and witness,[3] they are required to make a decision on the basis of what they have heard during a trial. The structural feature that talk in (cross-)examination is designed for multiparty recipiency by nonspeaking overhearers can immediately be seen to have certain consequences for sequential patterns and activities in the talk. For instance, the major resource in conversation for displaying understanding, and for checking whether a recipient has properly understood, is what the recipient says/does in the next turn. A speaker may inspect a recipient's response in the next turn as a kind of proof procedure, to see whether that response displays a "correct" understanding of the speaker's prior turn:[4] and if it does not, the speaker can initiate repair in a third turn in a sequence, that is in his/her turn after recipient's response (see especially Schegloff 1992). But this resource is unavailable for checking the understandings of those nonspeaking overhearers whose decisions, based on what they hear and understand, play so crucial a role in court: for jury members do not produce "next turns" in which their understandings of what has been said may be exhibited and, if necessary, subsequently corrected.

This has a range of consequences for the management of the talk between attorney and witness: while space prevents detailed consideration of these consequences, a brief illustration may help to indicate how the talk's production for an overhearing audience can

"shape" the management of sequences and the interactional work achieved in them. Since the overhearing audience are unable to exhibit (at least vocally) their understanding of an answer, an attorney may be unsure whether the jury have fully appreciated the force or significance of a witness's prior response. Hence in the "third turn" (i.e. the question after a question–answer sequence) is an opportunity to "emphasize" a point in the witness's answer by repeating all or part of that answer. The turn-taking constraints are such that such (partial) repeats are formed as questions which check or confirm the witness's response. In conversation partial repeats of what the prior speaker just said commonly indicate that the recipient has doubts about the correctness of what was said: they are used to initiate repair, to invite the speaker to "think again" and correct something in their prior utterance. But in examination, partial repeats are not generally associated with attorneys' doubt about prior answers, nor with witnesses' self-repair; instead they manage to have the witness affirm or repeat the point, simple repetition being a means of emphasizing a point for the benefit of the jury. An instance is to be found in (2):

(from 2)

1	A:	Uh now, Sergeant ((name)), was the print put
2		on these before the shotgun shell was fired
3		or after?
4	W:	Before it
5	A:	Before?
6	W:	Yes sir

So that partial repeats are recurrent both in direct and cross-examination: in each environment a (partial) repeat of an answer by the attorney provides an opportunity – indeed, the only opportunity before the closing speech[5] – to underscore or highlight a witness's prior answer. Zimmerman (this volume) notes that personnel taking calls for assistance from the emergency services may similarly repeat what the caller has just said (for instance, when the caller is giving an address): whilst such (partial) repeats are done in the space where in conversation repair may be initiated, Zimmerman shows that in emergency calls their purpose is confirming or verifying what the caller has just said. This is closely related to the work that partial repeats do in courtroom examination, though here verification is designed to ensure that it has been fully heard and appreciated by the nonspeaking overhearers.

Here, then, the production by attorneys of partial repeats, and the interactional work that is managed through such objects, are the result of participants' orientation to a structural feature of the talk in which they are engaged. That is, they are designed for the benefit of an overhearing audience, in circumstances where it is important that that audience take full cognizance of significant points in the questions and answers, but in which they are excluded from the turn-taking system in such a way that they are prevented from displaying their understanding. This briefly illustrates how the structural properties associated with turn taking in an "institutional context" may shape the interactional work which objects perform, and can shape also the sequential management of an activity.[6] Later in this chapter I will show that the production of contrasts, the purpose of which is to discredit aspects of the witness's testimony, is associated with a similar orientation to the overhearing audience.

As well as restricted rights as to who is permitted to speak in courtroom examination, there are constraints also on the type of speaking turn which each may produce, "question" and "answer" turns being allocated respectively to attorney and witness. The specialized speech-exchange system for courtroom examination has been described elsewhere (see Atkinson and Drew 1979: ch. 2; see also Greatbatch 1988 for a similar account of the preallocation system of question and answer turns in news interviews). Here it is only necessary to stress that although the types of turns are preallocated between the participants, the content – and particularly the activities – achieved in those turns are left to be interactionally managed by participants on a local turn-by-turn basis. That is to say, "questions" and "answers" are only minimal characterizations of the turns to which attorneys and witnesses are confined. Other activities may be done in the context of "questioning" and "answering," but those other activities are done through the format of questions and answers (Atkinson and Drew 1979: 68–76); so that the interactional work in which, as will become clear, attorneys and witnesses are engaged (accusing, discrediting, rebutting, defending, challenging, etc.) has to be fitted to the sequential environment which the specialized speech-exchange system allocates to each participant.

These properties of the specialized speech-exchange system in courtroom examination are relevant to the analysis which follows

in the remainder of this chapter. The witness's attempts to deflect or challenge what are for her the damaging implications of the attorney's questions, and in turn the attorney's production of contrasts designed to discredit aspects of the witness's testimony, are all activities which are shaped by their structural environment. They are shaped, that is, by the constraints associated with the respective positions of the attorney and witness within the turn-taking system; and by their orientations to what is to be conveyed to the jury. The interaction between attorney and witness is influenced by the necessity of indicating points to the jury, but doing so in such a fashion as to avoid certain unwanted consequences for potential next questions or answers in the "current" interaction.

3 The data

The particular focus of the present analysis is an extract from a trial for rape, recorded in a municipal criminal court in a large city in the eastern United States. In this extract the alleged rape victim is being cross-examined by the defense attorney. Just before this the witness has agreed that she knew the defendant for "two or three years" before the alleged rape; and she has testified that he had been to her house before. The questions in this extract concern an occasion before the night of the alleged rape, when the witness met the defendant (not by arrangement) in a place which the attorney describes as a "bar" and the witness a "club" (about which more later).

(3) [Da:Ou:2:1]

1	A:	An' at tha:t ti:me (0.3) he: asked ya to go
2		ou:t with yu (0.4) isn't that c'rect
3		(2.1)
4	W:	Yea[h
5	A:	[With him. (.) izzn'at so?
6		(2.6)
7	W:	Ah don't remember
8		(1.4)
9	A:	W'l didn:'e: a:sk you if uh: (.) on that night
10		that uh::: (.) he wanted you to be his gi:rl
11		(0.5)

12	A:	Didn'e ask you that?
13		(2.5)
14	W:	I don't remember what he said to me that night.
15		(1.2)
16	A:	Well yuh had some uh (p) (.) uh fairly lengthy
17		conversations with thu defendant uh: did'n you?
18		(0.7)
19	A:	On that evening uv February fourteenth?
20		(1.0)
21	W:	We:ll we were all talkin.
22		(0.8)
23	A:	Well you kne:w. at that ti:me. that the
24		defendant was. in:terested (.) in you (.)
25		did'n you?
26		(1.3)
27	W:	He: asked me how I'(d) bin: en
28		(1.1)
29	W:	J- just stuff like that
30	A:	Just asked yuh how (0.5) yud bi:n (0.3) but
31		he kissed yuh goodnigh:t. (0.5) izzat righ:t.=
32	W:	=Yeah=he asked me if he could?
33		(1.4)
34	A:	He asked if he could?
35		(0.4)
36	W:	Uh hmm=
37	A:	=Kiss you goodnigh:t
38		(1.0)
39	A:	An you said: (.) oh kay (0.6) izzat right?
40	W:	Uh hmm
41		(2.0)
42	A:	An' is it your testimony he only kissed yuh
43		('t) once?
44		(0.4)
45	W:	Uh hmm
46		(6.5)
47	A:	Now (.) subsequent to this...

What is plainly at issue in this extract, quite explicitly so in lines 23–4, is what the witness could or should have known about the defendant's "interest" in her. We do not need to be concerned here with the significance such knowledge might have for her subsequently agreeing, on the night of the alleged rape, to go for a drive with the defendant, in whatever circumstances "going for a drive" was proposed and accepted, with respect to her claim to have been raped, and the defendant's claim that she consented to intercourse.

It is not necessary here to become involved in a narrative reconstruction of how these issues raised during cross-examination, and more broadly during the trial, fit together, or what significance one issue has in relation to another. It is clear that what is being proposed in the attorney's questions in (3), and what the witness is contesting, is the matter of what she and the defendant "were to each other" prior to the incident in which it is alleged the witness was raped. What is therefore also being contested is whether as a result of what happened on this earlier occasion the witness had grounds for suspecting or anticipating that the defendant was (sexually) "interested" in her.[7]

In each of his questions in extract (3) the attorney attributes to the defendant behavior which might manifest sexual interest, namely asking her to go out, asking her to be his girl, having lengthy conversations together, that the evening they met was 14 February (i.e. Valentine's Day), being interested in her, and kissing her goodnight. It is also clear that in answer to these points the witness is being defensive, and is contesting whether from what happened on that occasion she would have been aware of the defendant's sexual interest in her. The analysis of these data will begin by considering the witness's defensiveness, before turning to focus on the point in lines 30–1 where the attorney employs the discrediting contrast device.

4 *I don't remember* as a way to avoid confirming

To begin with, we can notice something about the opening lines in this extract which make a considerable difference for what follows; in the sense that if the witness had stayed with what it looks as though her answer to the first question initially was (i.e. "Yeah," line 4), and not changed her answer to "Ah don't remember" (line 7), then it is conceivable that much of the subsequent questioning about what the defendant said to her might not have taken place.

(3) [Da:Ou:2:1]

1	A:	An' at tha:t ti:me (0.3) he: asked ya to go
2		ou:t with yu (0.4) isn't that c'rect
3		(2.1)
4	W:	Yea[h
5	A:	[With him. (.) izzn'at so?
6		(2.6)
7	W:	Ah don't remember

In line 4 the witness appears to confirm that the defendant did ask her to go out with him. However, the attorney just overlaps her answer/conformation with a postpositioned "prompting" (line 5), which might be responsive to her 2.1 second delay in answering, and in which he corrects an error in his initial question, substituting "With him" for the mistaken "with yu." Whereupon, in response to the attorney's prompting, the witness changes from confirming that he asked her out, to answering that she does not remember if he asked her out (line 7).

This is one of the several occasions during the cross-examination in which the witness answers that she "doesn't remember" or "doesn't know" something which the attorney proposes happened or was the case; she does so also in her next answer in line 14 of (3) when she answers that "I don't remember what he said to me that night." One sense of such answers is that the witness might be anticipating that what she is being asked to confirm will turn out to be prejudicial to her story and the prosecution's case. Though she may not be able to project precisely how some point is going to work against her story, her suspicion that it might do so may make her reluctant to agree to the point, and she attempts instead to prevent or obstruct that line of questioning. "Not knowing/remembering" can therefore be an object conveniently used to avoid confirming potentially damaging or discrediting information. And the apparent change from her initial answer in line 4 to her answer in line 7 can be grounds for considering that her claim not to remember is just such a "strategic" avoidance. Her self-repair might exhibit her recognition that the matter of whether the defendant asked her out is potentially troublesome for the version which seemingly she would prefer to convey of their having no special relationship.

As a sequential object *I don't remember* not only avoids confirming what is proposed in the question, but also avoids disconfirming it: that is, the witness thereby avoids directly challenging or disputing a version proposed by the attorney, but nevertheless neutralizes that version, at least for the present. The use of the object frustrates the attorney employing that version in a series of further questions, but without directly contesting what the attorney has asked. But as an object *I don't remember* has a particular content; it

claims a particular cognitive state. Furthermore, it is noticeable that it is used by the witness with some frequency in response to questions about matters of "detail," for instance about the appearance of the defendant's car,

(4) [Da:Ou:5:1]

A: Does it have a spoiler on it,
(1.0)
W: I don't remember.
(1.0)
A: 'Scuse me,=
W: =I don't remember

about the temperature on the evening of the alleged rape,

(5) [Da:Ou:3:2]

A: About eh:: (.) about how warm was it.
d'yu: (.) remember,
(0.3)
W: No=I don't.
(0.5)
A: Seventies:? eighties:?
W: I don't remember.

about the distance between her and the defendant when they talked,

(6) [Da:Ou:3:1]

A: About how far awa:y was the defendant from you when you had this conversation?
(0.5)
A: In [feet (.) if you can estimate it
W: [(I d-)
W: I don't kno:w how many feet

and about how many telephone calls she received from him between February and June.

(7) [Da:Ou:1:6]

A: How many phone ca:lls would you say that you (.) had received from the defendant. betwee:n (0.6) February and' June twenny ninth:,
(1.1)

W: Ah don' know.
(0.7)
W: Ah didn't answer all of them.
(0.8)
A: 'Scuse me?
W: Ah don't remember,=I didn't answer all of them.

Also, if *I don't remember* was to be analyzed only as a strategically deployed object to frustrate a line of questioning, that would not take into account its use by the witness in *direct* examination. Here, for example, she answers that she "doesn't remember" details about which she is asked by the prosecution attorney (i.e. her own side) in direct examination earlier in the trial.

(8) [Da:Ou:45/28:2]

A: Uhm (.) did you (0.4) observe whether 'r not ((City)) Tavern (0.9) (w-) was open.
(0.4)
W: Ah don't remember.
(0.8)
A: Did yuh observe any car:s parked there.
(0.9)
W: Ah don't remember.

A fuller analytic treatment of *I don't remember* has, then, to take account both of its cognitive claims, and its use in the environment of cooperative questioning as well as in hostile cross-examination. Considering the former, quite apart from what cognitively one can or cannot happen to recall, *stating* that one does not remember some detail can be a means of displaying the unimportance or lack of significance of that detail, and hence that it is the sort of thing one would not remember. By testifying that she is unable to recall them now, here in court, the witness is able to exhibit her having taken no account of such matters *at the time*. Such details are not recallable now because they were not things which she noticed then: which is to say that "not remembering" something attributes to it a kind of status, as unmemorable because it was unnoticed.

A reason, perhaps the reason, for something to pass unnoticed is that it is unimportant, or seems to have no special significance. So that by claiming not to remember whether or not the tavern was open, whether there were any cars parked in the area, how many telephone calls the defendant made to her, how far he was across

the street, whether his car had a spoiler, and so forth, the witness can display not only that she did not happen to notice these things, but that there was no reason for her to have noticed them. As one lives through an unfolding scene, there is a variety of things which, though potentially noticeable, go unnoticed. Some things only come to have a significance in retrospect, in the light of something which happened – some dramatic incident, for example – but which was unanticipated. It is only on looking back that the "true" significance of certain details can be discerned. At the time, as they occurred, and without knowing what was about to happen – a car crash, a murder in the street, or whatever – the details of a scene are just part of the unremarkable, unremarked, "seen but unnoticed" incidental details of daily life. For this reason those who are eye witnesses to unexpected dramas are often unsure about the details of what they saw. They give confused or inconsistent accounts of "what direction," "how far," "what speed," "how many," "what color," and so on, since those things only come to be important after they were experienced, by virtue of the subsequent dramatic occurrence. The taken-for-granted ordinariness of scenes,[8] up until a drama occurs, makes such details as may later be asked about unnoticeable, of no account, at the time: only subsequent inquiry into a drama constitutes those details as having been significant after all.

But crucial to this "seen but unnoticed" character of a scene's details is the standpoint of the observer. Such details may go unnoticed by people who have no reason to notice them, who have no suspicion of what is about to happen, and who therefore are *innocent* of the events they witness. It is this reflexive relationship between the unremarkable and unnoticeable character of a scene, and the perspective of the unsuspecting and innocent observer for whom they would be unnoticeable, which can provide for the witness's claims in (4)–(8) not to remember certain details as displays of innocence. To be unable to recall such details is to exhibit them as having been unnoticeable at the time *for the kind of observer she was*, that is someone who had no reason to suspect what in fact took place, the alleged rape. Questions about how far away the defendant was standing when he asked her to go for a drive, or whether there were other cars in the vicinity where they parked, constitute those details as retrospectively significant (e.g. for

whether or not she could have smelled drink on the defendant's breath; or whether she might have been alarmed at his parking in an isolated spot). In contrast, in claiming not to remember such matters the witness treats them as having been of no account to her at the time, and in this way depicts herself as innocent, that is as not having suspected what his (sexual) intentions were.[9]

If the witness was to have confirmed that the defendant had asked her to go out with him (lines 1–2) or to be his girl (lines 9–10) on this earlier occasion, then she would be confirming grounds for suspecting, when he asked her to go for the drive during which the alleged rape took place, what his real intentions were. Alternatively, if she were to disconfirm that he had made such overtures she would directly contradict the version proposed in the question, thus setting up an opposition of her word against his. Answering that she "doesn't remember" avoids both these consequences in rather a neat way, because it relegates whatever the defendant did say to her then as unnoticeable, inconsequential. This displays herself, implicitly, as having had no reason to take any special notice of what the defendant asked her, and thereby as having had no special interest in him and having been innocent of his interest in her. But she simultaneously also manages to *imply* a disconfirmation of his having asked her out or to be his girl. Since being asked out might be regarded as the kind of matter one would not fail to notice or to remember, then "not remembering" amounts to suggesting that he probably did not ask her out. If her "not remembering" relegates what he said to the status of unnoticeable, and given that she might be expected to notice and remember being asked out, then her answers imply that it probably did not happen.

One further point about the implicitness with which the object *I don't remember* can work to convey her innocence of the defendant's intentions: in using this object, the witness manages to *exhibit* rather than to *claim* her lack of suspicion.[10] That is, she does not need to state in so many words that she was unaware of his intentions: her "not remembering" can provide recipients, especially the jury, with materials from which they can discover for themselves that she was unsuspecting. By having recipients do that work of discovering that conclusion for themselves, instead of stating or claiming it overtly, the witness manages to imply it *unofficially* through her answers. This preliminary consideration of the first few

lines of (3), in which she deflects the possibly damaging implications of agreeing that the defendant asked her out, begins to reveal in the witness's answers a delicate management of withholding confirmation of, whilst not overtly contradicting or disagreeing with, versions of events which the attorney proposes in his questions. That is, she may design her answers so as to rebut the attorney's versions of events, not by directly challenging his versions, but by implying a different characterization of events. This will become a main theme of the analysis which follows of the unfolding interaction between attorney and witness in (3).

5 Alternative descriptions

After the witness's claims not to remember whether the defendant asked her to go out with him, or asked her to be his girl, the attorney pursues his line of questioning with two further formulations of the defendant's "interest" in her.

16	A:	Well yuh had some uh (p) (.) uh fairly lengthy
17		conversations with thu defendant uh: did'n you?
18		(0.7)
19	A:	On that evening uv February fourteenth?
20		(1.0)
21	W:	We:ll we were all talkin.
22		(0.8)
23	A:	Well you kne:w. at that ti:me. that the
24		defendant was. in:terested (.) in you (.)
25		did'n you?
26		(1.3)
27	W:	He: asked me how I'(d) bin: en
28		(1.1)
29	W:	J- just stuff like that
30	A:	Just asked yuh how (0.5) yud bi:n (0.3) but
31		he kissed yuh goodnigh:t. (0.5) izzat righ:t.=

When the attorney proposes that the witness had "fairly lengthy conversations with thu defendant" (lines 16–19), she counters that version with the answer that "we were all talkin" (line 21). And again, her reply that "He: asked me how I'(d) bin: en j- just stuff like that" in lines 27–9 appears to deny that she "knew that the defendant was interested" in her (lines 23–5). That latter reply is used by the attorney when he constructs the contrast in lines 30–1:

and that contrast will eventually be the focus of analysis in a later section.

But for now I shall focus on how the versions which the witness constructs in her replies work to dispute the versions which the attorney proposes in his prior questions. How, for instance, does her account that "He: asked me how I'(d) bin:. . ." manage to dispute the attorney's claim that she knew that the defendant was interested in her? Since this will involve a quite extended treatment of how her alternative descriptions are designed to compete with and rebut the attorney's versions, it may help if I summarize the stages in the analytic argument.

A first observation, discussed in the following subsection, is that although it is clear that the witness's versions are designed to rebut and replace those of the attorney, her answers in lines 21 and 27 above, as elsewhere, do not contain overt markers of rejection or correction. Thus the contrastive force of her versions derive almost entirely from properties of the descriptions which she constructs. That observation leads to a consideration of how a description of something that happened, for example her account in line 27–9 of the defendant's greeting, can be taken to represent or characterize the scene as a whole, or to stand as a gloss for the scene. But in order that her description/characterization be heard to differ from and rebut the attorney's versions, her description, again, for example, of the defendant's greeting to her, is required to be heard as representing "the most" that happened between them. This maximal property associated with the contrastive or disputatious force of her descriptions is discussed in the third subsection: after which the more general relevance, for conversation, of this maximal property of next and contrasting descriptions is considered in the final subsection.

5.1 The absence of overt correction markers

One option which the witness has as a way to dispute a version of events proposed in the attorney's question is explicitly to reject that version, with an overt negative marker (*No*) followed by a correction. ("Correction" should be understood as a candidate correction; that is, it is the version which that speaker, here the witness, believes to be or is offering as the correct version.) That option was

selected in extract (1), when the witness rejected the attorney's version of what she had told the police regarding the defendant's drinking, and then gave a correct version of what she told them.

9	A:	Now: Miss: ((name)) (1.2) when you were
10		interviewed by (.) the poli:ce (.) some times
11		later (.) some time later that evening. (1.0)
12		didn't you tell the police (>) that the
13		defendant had been drinking?
14		(0.2)
15	W:	No:::
16	A:	[Didn' you tell 'em that=
17	W:	=I told them there was a cooler in the ca:r
18		an I never opened it.

This option of overtly rejecting and correcting the attorney's version is likewise used in these fragments.

(9) [Da:Ou:6:2]

A:	And it was at this point that you say that the defendant (2.0) started to kiss you is that right
W:	No we started talkin'

(10) [Da:Ou:1:4]

A:	He take you out to the ca:r?
	(1.3)
W:	No he walked outsi:de with us.

An alternative option for disagreeing with a version proposed by the attorney is, however, more indirect: the witness does not preface her version with a negative rejection marker, and the description she offers implies a different characterization of an event or scene from that conveyed by the attorney's description. The witness uses this option in (3), for instance, when she is asked about her knowledge of the defendant's interest in her.

23	A:	Well you kne:w. at that ti:me. that the
24		defendant was. in:terested (.) in you (.)
25		did'n you?
26		(1.3)
27	W:	He: asked me how I'(d) bin: en

28		(1.1)
29	W:	J- just stuff like that

The witness is plainly disputing the attorney's contention that she knew that the defendant was interested in her: but she does so by producing an alternative description which implies that she did not know. Her alternative description competes with or challenges the attorney's account, but it does so by reporting something which implies a rather different relationship between her and the defendant than is proposed by the attorney's use of "interest" (line 24). Some other instances of this option of producing alternative competing descriptions without prefacing them with overt rejection markers occur elsewhere during this cross-examination.

(11) [Da:Ou:1:2]

A:	An' you went to a: uh (0.9) ah you went to a ba:r? in ((city)) (0.6) is that correct?
	(1.0)
W:	Its a clu:b.

(12) [Da:Ou:1:2]

A:	Its where uh (.) uh gi:rls and fella:s meet isn't it?
	(0.9)
W:	People go: there.

(13) [Da:Ou:1:3]

A:	An' during that eve:ning: (0.6) uh: didn't Mistuh ((name)) come over tuh sit with you
	(0.8)
W:	Sat at our table.

(14) [Da:Ou:6:1]

A:	Some distance back into theuh (.) into the wood wasn't it
	(0.5)
W:	It was up the path I don't know how far

In each of the extracts, as in lines 23–5 of (3), the question is designed to elicit an answer which is either *yes* or *no*; that is, which will either confirm or disconfirm the version proposed in the question. So the first thing to notice about her answers is that the witness is avoiding what the question asks, and declining either to confirm or disconfirm. Secondly, although her answers implicitly work to disconfirm the attorney's versions, her descriptions or versions are in some respects not intrinsically oppositional to his. In extracts (9) and (10), where the witness uses an overt disconfirmation marker, there was also a direct contrast between her versions and the attorney's, that is between "started talking" and "started to kiss you," and between "take you out" and "walked outside with us." However, in a case such as (13), not only is her version not prefaced as a disconfirmation, but the description she offers, "Sat at our table" does not intrinsically exclude the attorney's version, "sit with you." Whilst hers are qualified, guarded versions of what the attorney suggests, that they manage to be defensive as well as to rebut his versions is an almost entirely implicit property of the descriptions which she selects.

I have said "almost entirely" because there are elements of contrasting references in some of the witness's versions. For example, in lines 16–21 of (3) there are two such contrastive elements.

16	A:	Well yuh had some uh (p) (.) uh fairly lengthy
17		conversations with thu defendant uh: did'n you?
18		(0.7)
19	A:	On that evening uv February fourteenth?
20		(1.0)
21	W:	We:ll we were all talkin.

The first is the turn-initial component "We:ll", which marks a certain disjunction between the second speaker's opinion or position, and that expressed by the first speaker. That preface therefore projects that the witness's version will differ from and disagree with the attorney's position (Sacks 1987: 59; Pomerantz 1984a: 72 and n. 12). The second contrastive element is that the witness substitutes "we ... all" in place of "you ... with the defendant"; whilst "we" in her answer would include her and the defendant, her adding "all" specifically includes others besides the two of them (i.e. the girlfriends she was with).

Despite the way in which her version of "we ... all" directly contradicts his version of "you two," such a straightforwardly exclusive contrast does not seem to capture how "all talkin" is designed to be heard as standing in place of "fairly lengthy conversations," and thereby as disputing the attorney's version. The terms "all talkin" and "fairly lengthy conversations" are not by themselves incompatible, and might easily be applied to the same activity or scene. It is possible to imagine one person having "lengthy conversations" with another in the course of a bunch of people "all talking." Clearly, one respect in which the witness's version is designed to challenge the attorney's version is the sheer matter of the sequential position in which it is produced. The witness produces her versions as next or second to the attorney's, by virtue of the sequential occurrence of answers; and insofar as she has declined to confirm the version in the question, and has instead produced in next position a different version of the "same" incident or circumstances, the descriptions which the witness reports can be heard as candidate replacements. They are not further specifications which add something to the attorney's versions, but are *alternative* versions designed to qualify and *replace* the versions initially produced by the attorney. Sequential position is, then, a primary interpretative resource in understanding that the witness's answers are designed to counter or to dispute his versions.[11]

5.2 Reporting a "detail" implies a characterization of the scene

Within that context of their sequential position, however, the witness's answers have other interpretative properties through which they are designed to dispute his versions. We can return to the observation that the alternative consecutive descriptions of the attorney and witness might appear not to be mutually exclusive. Even though the witness's answers contain alternative references, for example "people" in place of "girls and fellas" in (12), and "club" for "bar" in (11), nevertheless these alternative descriptions are not necessarily, inevitably, or invariably inconsistent or contrasting ways of describing the same thing. Just as on occasions two people having "fairly lengthy conversations" can go along with "we were all talking," so too "clubs" include "bars," albeit whose use is restricted in some ways associated with membership; and the term "people" certainly includes "girls and fellas." In (13) there is a

mutual or necessary connection between "sitting with" someone and "sitting at" their table: and in (14) being "back into the wood" may also be "up the path." In each question–answer pair, therefore, the subsequent description by the witness does not exclude, in a directly contrastive sense, the prior description which she has been asked to confirm.

The witness's answers display a marked cautiousness insofar as she takes a stand, through her redescriptions or qualifications of the attorney's versions, on matters which might not otherwise, in other forms of discourse, seem to make much of a difference. For instance, in a conversational setting it may be doubted that in describing someone joining one at one's table for a drink, there is sufficient difference between that person "sitting with one" and "sitting at one's table" for it to be worth troubling to insist on the latter version. The two versions are not intrinsically mutually exclusive: "bars" may be located in "clubs," "sitting with" someone can involve "sitting at" that person's table, and in the circumstances where driving up a path leads into a wood, either may serve as a characterization of where one was.

These alternatives might, then, be used interchangeably as *equivalent*, as *partial* but equally adequate or correct descriptions of the same scene. However, in not allowing the attorney's versions to pass unamended, the witness orients to the differences between these versions for her story. Focusing on lines 16–29 of (3), her versions are designed not merely to add to or supplement those proposed by the attorney, but to replace his. In so doing, she is attempting to correct some impression or implication which might be conveyed by the attorney's portrayal of the facts. When in line 21 she answers "We:ll we were all talkin" and in line 27 that "He: asked me how I'(d) bin:," she is treating his prior versions not as having been partial and needing filling out, but as having been wrong. And a first requirement for treating her descriptions as combative, as correcting his, is that they are not just detailing more which could be said about a scene, but recharacterizing the scene as a whole.

The witness does not manage this recharacterization by disputing the attorney's version head on; by which I mean that she avoids some rather direct ways of challenging his version that she knew that "the defendant was interested in you." "Interested" here can

be considered a *gloss* for some details of what was said between them that night, what the defendant did, the way he looked at her, how they acted towards one another, and so on – instances of which could be detailed as evidence in support of that gloss (Garfinkel and Sacks 1970). At least a couple of direct ways in which the witness might have challenged that gloss would have been simply to dispute it, along the lines of *No he didn't seem much interested in me*; or to have substituted her own contrasting gloss, for example *Well, he was interested in everyone that night; he was having fun.* Alternatively, she might have challenged the gloss "interested" in a more indirect fashion. Given that a gloss might be unpackaged into its constituent or component activities (Jefferson 1986a), the witness might have focused on one of those constituent activities or details as a means of challenging the gloss, for example by answering in lines 21 or 27 *Well he didn't talk to me any more than he talked to the others* (where comparative amounts of talk are routinely used as an index of the degree of interest conversationalists have in one another; as well as an index used by professional sociologists and social psychologists in sociometric studies of friendship).

In her answer in line 27 she does not use any of these methods of disputing the attorney's gloss "interested in you." Instead, she answers by reporting particulars of the occasion which stand as constituent or evidential details for a quite different gloss than that proposed by the attorney. In reporting "He: asked me how I'(d) bin:," the witness details a greeting which is conventionally one between people who know one another, but have not been in touch for some length of time (*How have you been?* indicates passage of time "since we last met"). It is a greeting which indicates acquaintance and familiarity but not close intimacy. Such a greeting would not be the kind of detail to be reported as evidence of the sexual interest of the one performing the greeting: so that the witness is detailing something about the scene – finding in the scene something to report – which would *not* be used as evidence to support the attorney's gloss or characterization of the scene. This has an important corollary which underlies the manner in which her version specifically but implicitly challenges the attorney's version: that is, selecting to report a detail which does not support his version implicitly asserts (provides the grounds for recognizing)

that there is nothing in what happened which *could* be reported in its support.

A gloss with which a scene or someone's behavior is characterized (e.g. "interested in you") can be taken to stand for a collection of particulars of that scene/behavior (for more on which see Garfinkel and Sacks 1970; Jefferson 1986a), particulars which, if necessary, can be cited as evidence in support of that gloss. Outside of that collection are other details which may not "fit" the proposed gloss, not in the sense that they necessarily contradict it (though they may), but just because they are conventionally unconnected or not associated with, or not constituent behaviors of, the gloss in question. For example, the fact that the birds are singing might well be reported as part of the evidence for the gloss that it is a "beautiful day"; but if the day being described as *beautiful* happened to be a Tuesday, that fact would not ordinarily be included in a collection of the particulars of a "beautiful day" (for related issues, again see Sacks 1984b). Thus, if one speaker were to propose that *It's a beautiful day* and the other replied *It's Tuesday*, the second speaker would be heard to imply something like "What's beautiful about it, it's Tuesday": where even if the first speaker did not know what it was that the other had against Tuesdays, why for him it was a bad day, the first speaker would at least be able to discern that it *was* a bad day for the other, that the other was not assenting to it being a "beautiful day," and might therefore perhaps ask in reply *Why, what do you have on Tuesdays?*

Thus there is a reflexive property of reporting a detail outside of the conventional collection of particulars for a proposed gloss; which is that in so reporting an "unassociated" detail, that other (second) speaker dissents by implying that an alternative gloss is the correct version. So that the indirectness or delicacy of the witness's method of disputing the attorney's characterization of the defendant as "interested" in her is that she does not dispute the characterization itself, nor even its supposed constituent particulars from the collection of details reportable as evidence for that characterization. Instead, she reports a detail from *outside* that constituent collection, thereby implying but not stating that nothing occurred which could support the attorney's version. In coming to this generic formulation of the methodical procedures which underlie the manner in which the witness's answer disputes the version

proposed by the attorney, the aim is to free the methodical practices of reasoning from their local environment. In this way we can begin to discern the procedures for reasoning and for interpretation through which one version might be disputed by an alternative competing version, in an implicit fashion and without using explicit markers of rejection or correction.

5.3 The "maximal" property of descriptions

This brings us closer to an analytic account of how the witness's version in lines 27–9 is designed to dispute the attorney's prior version; but the account is not yet exhausted. Her report "He: asked me how I'(d) bin: en (1.1) j- just stuff like that" has a discernible property with respect to the attorney's prior version, which can best be approached by considering the attorney's subsequent question, and the contrast on which the analysis here is coming to focus.

23	A:	Well you kne:w. at that ti:me. that the
24		defendant was. in:terested (.) in you (.)
25		did'n you?
26		(1.3)
27	W:	He: asked me how I'(d) bin: en
28		(1.1)
29	W:	J- just stuff like that
30	A:	Just asked yuh how (0.5) yud bi:n (0.3) but
31		he kissed yuh goodnigh:t. (0.5) izzat righ:t.=

The contrast in the attorney's question in lines 30–1 suggests an inconsistency between the version she offered in lines 27–9, that he just asked her how she had been, and another "detail" of the scene/behavior to which she has previously attested, that the defendant kissed her goodnight. This inconsistency trades off an interpretation that when she claimed that the defendant asked her how she had been, she is reporting not just a detail of what happened, his greeting, but is suggesting that nothing more happened between them as regards intimacy, "interest," and so forth than might be depicted by that greeting. Whereas the attorney is proposing that something more intimate did occur, namely kissing. So that the contrast in the attorney's question displays his understanding that

the witness is claiming that the defendant's behavior towards her was only as friendly (i.e. nonintimate) as his greeting indicates.

That is, of course, just what the witness's answer in lines 27–9 is designed to indicate. She reports this one detail, a friendly greeting, and then adds "just stuff like that." By completing her detailing with that generalized phrase, she makes explicit that whatever else occurred between them that evening was nothing more than is suggested in the lack of intimacy in the greeting. Jefferson's account of the work of such generalized completors in the context of three-part lists is relevant here also: "the [two item and generalized completor] lists may be 'relevantly incomplete'; i.e. not only do the named items not exhaust the possible array of nameables, but a third item would not do such work; i.e. there are 'many more' relevant nameables which will not, and need not, be specified" (Jefferson 1990: 68). Thus the generalized completor "just stuff like that" is informative about other unspecified details of the scene. It indicates that all the other reportable but unspecified details are commensurate with the nothing-more-than-friendly greeting (the "just" indicates "no more than," and "stuff like that" refers to the greeting).

The result of this is that the witness is indicating that everything that occurred between her and the defendant that evening is part of a collection which is adequately represented by the kind of greeting she reports. But we still need to account for the implication that the form of greeting she reports is as much by way of "interest" that the defendant showed towards her. This account rests on a further interpretative or pragmatic property of her description of his greeting, through which it can convey that "nothing more intimate happened" than that. This can be referred to as the "maximal" property of the description – "maximal" because the description "He: asked me how I'(d) bin:" depicts the most, in terms of intimate behavior, that happened between them.

I want to come at this "maximal" property from two rather different directions: the first involving another disputed version in cross-examination during a different trial; and the other in quite another context. First, the following is an extract from the cross-examination of a defendant charged with being an accessory to murder. She is accused of having aided her boyfriend to gain entry to the victim's apartment by persuading him to open the door to her: her defense is that she went ahead unnoticed by her boyfriend, with the intention of warning the victim that her boyfriend was coming with a gun and that he should get away.

(15) [Da:Ch:CE1]

A:	Remember some more after the second
	set of knocks,
	(5.0)
W:	I don't know I was just c:onstantly
	ba:ngin' an' ba:ngin'=
A:	=(Didj'yu) after the second set of knocks=
W:	=I didn't say that I said: (n)'in the
	beginning I kept bangin' I don't know how much

The exchanges in this fragment reveal an embedded dispute (Jefferson 1987) between the attorney and defendant about what to call the manner in which she struck the door of the victim's apartment; the attorney refers to it as "knocking," while the defendant refers to her "banging" on the door. The argument about this issue continues for some while: its obvious importance in the context of the accusation and her defense is that "banging" is commensurate with the urgency of her claimed intention to warn the victim of the danger, while "knocking" not only lacks that urgency, but would also be a way in which she might have disguised the danger by giving the appearance – to the victim inside – that nothing was amiss. So "knocking" and "banging" are not merely alternative descriptions; they each convey quite different versions of the activity in which the defendant was engaged, and hence of the scene (her intentions, whether or not there was an understanding between her and her boyfriend, etc.). For the defendant's version, "knocking" on the door is a bizarre description because it is not commensurate with how else she depicts her urgency and anxiety in trying to warn the victim.

Of course "banging" includes "knocking"; but from her perspective it is insufficient to describe adequately her urgency, because it implicitly proposes that she *did no more than* knock. Thus her disputing the term "knock" arises from her treating it as implying that all she did was to "knock": whilst "knocking" may theoretically be subsumed under "banging," the attorney's assertion that she "knocked" proposes that she *only* knocked. It is this property of the term "knocking," and how it obtains its contrast-

iveness with "banging" through conveying that the most that the defendant did was to "knock," that I am referring to as the description's maximal property. The description's adequacy relies not on how full or inclusive it is, but on its representing some essential character of the scene: from the defendant's perspective, her urgency in trying to warn the victim is not adequately represented in the term selected by the attorney.

The second direction to approach the maximal property of contrasting descriptions is to consider the making and understanding of invitations, to *Come over for dinner*, *Come over and have drinks this evening*, *You're invited for cocktails*, *Come and have coffee*, *Come and watch the game*, and the like.[12] An initial observation about any of these is that they are *partial* descriptions of, say, an evening. Drinking, dining, chatting, etc. are all activities used to formulate the invitations, although it is perfectly well understood that much else besides these may take place. In this respect it is not happenstance that the incident which resulted in the alleged rape which is the subject of the trial here began as an invitation to the witness/victim to "go and have a hamburger at MacDonald's": part of her account is that she was not initially alarmed when the defendant turned his car off the road before the shopping mall where the MacDonalds was located. So that, though sitting, wandering around the garden, listening to music, and many other activities besides are likely to take place and could therefore be other partial characterizations of an evening, they may not be used to formulate the invitation. The difference between *Come for dinner* and those other characterizations (i.e. listening to music etc.) is not that "dinner" is any less partial than those others: "dinner" is an equally partial account of an evening's activities.

The reason why "dinner," "cocktails," etc. are nevertheless not equivalent to such descriptions as "looking around the garden" is that "dinner" and "cocktails" are *informative* in ways to which both the givers and recipients of invitations mutually orient. For example, if one is invited for cocktails, or for coffee, one will not expect to be given a meal. Whatever else may take place, an invitation to "cocktails" informs recipients to make their own arrangements for eating.[13] The selection of "cocktails" to formulate the invitation is informative about other matters, such as whether the invitee should make arrangements to eat beforehand or afterwards.

Hence the selection of that characterization is treated as informative in that "if you select one, then it's not heard as just the one you're using, but as one selected in order to indicate something about other possible characterisations" (Sacks 1992 [1971]). Thus an invitation for "cocktails" or for "coffee" can be taken to mean "not dinner," although an invitation to dinner would not mean no cocktails or no coffee.

An illustration of this is provided in the following fragment: the "trouble" which arises about whether the invitation includes dinner nicely exposes the expectation that if the guests are going to be given dinner, then the invitation ought to say so, because otherwise they should not expect it.

(16) [SF:2:5]

1	Bob:	A:nd thee: U.S.C. U.C.L.A. football game's on
2		Fridee night.
3	(Mark):	.t hhhh
4	Mark:	It's o::n in the evening isn't it.
5	Bob:	Yeah. Five uh'clo:ck. hh hhhh
6		(.)
7	Bob:	So::: we thought thet tihknow if you wanna come on
8		on over early. c'mon over.
9	Mark:	hhhh- hhhh::::: Ah::hhhh fer dinner yih mean?hh
10	Bob:	No not fer dinner h=
11	Mark:	=Oh.
12		(0.3)
13	Mark:	Well five uh' clock is dinner ti:me.
14	Bob:	W'l all have (munchies)er something,
15	Mark:	hhhhh Might have wha:t?
16	Bob:	We might uh: go t'McDonalds er supm.
17		(.)
18	Mark:	Oh:.
19	Bob:	Bt js c'm on over'n w'l si'dow:n'n watch th'ga:me

It looks as though Mark is being invited over just to watch the football game on television (lines 1–3): the invitation in lines 7–8 does not mention food, and Bob specifies "come on over early." And Bob's response, when Mark "pushes" the matter by asking whether he is being invited for dinner (line 9), makes it very clear that the invitation was indeed not meant to include dinner (line 10) – although it does include such "lesser" eats as are compatible with an invitation to come and watch the game on television (i.e. "munchies," line 14; later amended in line 16 to a similar kind of fast

food). Here, then, "come over" and "dinner" stand in some sort of inclusionary/exclusionary relationship or hierarchy, in ways that other possible characterizations of an evening's projected activities do not. Although "come over" and "dinner" need not contrast with one another necessarily or in other circumstances, they count here as contrastive characterizations. Insofar as an invitation to come over to watch the game was designed to inform the recipient "not dinner," that has a maximal property, as standing for the most – in terms of food and drink – that will be provided. Of course "coming over (to watch the game)" may be accompanied by "munchies": but the recipient had better not depend on getting more to eat than the kind of food which may be associated with such an occasion. It is this property to which hosts and guests orient in making and understanding invitations: a host ought not to have to specify, explicitly, that dinner will not be provided, but instead should be able to rely on the maximal property of the terms of the invitation to do that work, to imply "not dinner" (and therein lies the sense of Mark attempting, through a show of uncertainty [line 9], to get himself invited for more than he was being asked for).

These examples in extracts (15) and (16) illustrate that when the relevance of paired alternative characterizations has been occasioned in the talk (or by the invitation), then when a speaker selects one characterization in preference to the other that can be informative about that speaker's position. The implication that the speaker is thereby rejecting the other prior characterization rests on attributing to the subsequently chosen description a maximal status in relation to the other. This maximal property has an exclusionary force: that is, the attorney's selection of "knock" in (15) is designed to exclude the witness's preferred version of "banging" by conveying that she did no more than (did only so much as) "knock." So also in (12)–(14) above; the witness's alternative versions contrast with those proposed by the attorney by conveying that "only so much as" this is the case. For example, when in (14) she answers that they were parked "up the path I don't know how far," her description implicitly dissents from the attorney's version that they were "Some distance back into theuh (.) into the wood" by indicating that as far as she was aware they were parked *only* "up the path." It will be recalled that in (13) the witness describes the defendant as having "Sat at our table," in place of the attorney's

version that he "sat with" her. Again, she can be heard as indicating that nothing more, in terms of their relationship or intimacy, is to be associated with his sitting than that he joined her table/group.

In sum, the witness challenges the descriptive adequacy of the attorney's characterization by selecting an alternative candidate version which is informative about the "most that can be said" concerning some locally occasioned, contextually bound essential feature of the scene. The "maximal" property of a sequentially next description, produced in answer to the attorney's prior version, is then the interpretative device through which the witness's answers are designed to stand in place of, and hence to rebut, the attorney's versions. This is evident in two of the witness's answers in the target data.

16	A:	Well yuh had some uh (p) (.) uh fairly lengthy
17		conversations with thu defendant uh: did'n you?
18		(0.7)
19	A:	On that evening uv February fourteenth?
20		(1.0)
21	W:	We:ll we were all talkin.
22		(0.8)
23	A:	Well you kne:w. at that ti:me. that the
24		defendant was. in:terested (.) in you (.)
25		did'n you?
26		(1.3)
27	W:	He: asked me how I'(d) bin: en
28		(1.1)
29	W:	J- just stuff like that

Her answers in lines 21 and 27–9 are designed to specify details which, without directly negating or contradicting the attorney's prior versions, do not support his versions. Her subsequent characterizations are formulated to represent a scene in which there was no more intimate talk between her and the defendant than that they were "all talking," and no more interest shown in her by the defendant than is indicated by his friendly but not intimate greeting. Her alternative characterizations stand on behalf of a different gloss from that conveyed in the attorney's versions. Certainly, her characterizations do not assert that all that happened was that the defendant asked her how she had been, and that he did not speak to her after that greeting. Instead, they imply that whatever else did happen or was said, alluded to but not detailed in "just stuff like

that" in line 29, amounted to nothing more intimate than is indicated by that greeting. Just as an invitation to "come over to watch the game" may not preclude "munchies," and perhaps beers, sitting, talking, and so on – but that nothing more in some essential respect (i.e. dinner) will be provided – so too the witness's characterizations are partial in leaving unspecified whatever else happened, but assert that in some essential respect (i.e. intimacy) nothing more than that happened.

It is precisely this maximal property of the witness's paired alternative characterizations, designed to dispute his versions, to which the attorney orients in constructing the contrast "Just asked yuh how (0.5) yud bi:n (0.3) but he kissed yuh goodnigh:t" (lines 30–1). But before considering further this contrast device and its interactional features, a note is in order about the generality of the maximal property of a next, alternative description in disputing a prior version.

5.4 Disputes and disagreement in conversation

Whilst these properties of the design of alternative and competing versions have been explicated in the context of the witness's answers during cross-examination, they have their origin and natural site in ordinary conversation (for a more general consideration of the conversational origin of phenomena to be found in institutional talk, see Schegloff 1987a). Research into disagreements (Pomerantz 1984a; Sacks 1987) has shown that their construction differs from that of agreements in a variety of ways associated with the dispreferred character of disagreement, and more generally with the "'bias' intrinsic to many aspects of the organisation of talk which is generally favourable to the maintenance of bonds of solidarity between actors and which promotes the avoidance of conflict" (Heritage 1984a: 265). Very briefly, one important respect in which it has been shown that disagreements differ from agreements is that disagreements, unlike agreements, are generally delayed. Such delays may be sequential, as when a speaker who disagrees with something their co-participant has just said does not start speaking at the earliest opportunity after the turn in which the disagreed-with assertion was made, resulting in pausing before disagreeing (which the witness does in [3]; she

leaves pauses of 1 second or more before her disputatious replies in lines 14, 21, and 27–9). Furthermore, disagreements may also be delayed within the design of the turn in which they occur, by being preceded by such components as agreement prefaces, and by such brief components as *uh* and *well* (instances of the use of *well* are to be found in lines 9, 16, 21, and 23 of extract [3]).

The practice of delaying disagreements, both sequentially and in the construction of the turns in which they are done, is an important basis for characterizing disagreements as dispreferred responses. But additional features of their design are also responsible for regarding them as dispreferred; notably, disagreements may be expressed in mitigated or attenuated fashion, or in qualified or weak forms (Atkinson and Drew 1979: 57–60; Levinson 1983: 332–45; Heritage 1984: 265–9; Pomerantz 1984a: 74–5; Schegloff 1988). Pomerantz notes that one respect in which disagreement components are characteristically weak is that they are designed to avoid evaluations which are directly contrastive with the prior speakers' evaluations. We have seen that many of the witness's answers considered above similarly avoid directly contrastive or contradictory versions: for instance, it was noted that although in her answer in line 21 of (3) the witness did substitute the attorney's version of "you . . . and the defendant" with "we . . . all," her characterization of them as "talking" is a qualification and not a direct contradiction of their having had "fairly lengthy conversations."

One of the conversational extracts which Pomerantz cites (Pomerantz 1984a: 75) can be examined further in the light of the analysis above of the interpretative resources through which a subsequent version is produced to qualify, and hence reject, the prior version. In this extract from a telephone conversation, D is discussing with C, a female friend, the difficulties which have arisen in his marriage.

(17) [Goldberg:2:18]

1	C:	'hh Definitely fo:r the: fifteen years I:'ve
2		known you, (0.3) yihknow you've really bo:th
3		honestly gone yer own ways.
4		(0.8)
5	D:	Essentially:: except we've hadda good

6		relationship at home yihknow
7	C:	Ye:s but I mean its a relationship whe:re
8		uh yihknow pa:ss the butter dear, hh
9		(0.5)
10	C:	Yihkno[w make a piece (a) toa:st dear
11	D:	[N o not really
12	C:	this type'v thing.
13		(.)
14	D:	We've actually hadda real health- I think
15		we've hadda very healthy relationship y'know.=
16	C:	=hhh Why: becuz you haven't knocked each
17		other's tee:th ou:t?
18		(0.7)
19	D:	Tha:t, a:nd we've::: hadda good communica:tion
20		and uh: the whole- yihknow I think it's been
21		healthy,

C quite evidently disagrees with D's evaluation that "we've hadda good relationship at home." Her response in lines 7–10 appears to dispute D's gloss of "good relationship"; but it does so by qualifying that description, through detailing some supposed breakfast-table talk between D and his wife. As we have seen for the way "he asked me how I'd been" disputes the attorney's claim that she knew that the defendant was "interested" in her, C counters D's claim that he and his wife had a "good relationship" by describing behavior which does not fit that gloss, which does not support the characterization "good relationship." The breakfast-time talk which C describes in lines 7–10, "pa:ss the butter dear, hh (0.5) yihknow make a piece (a) toa:st dear," implicitly suggests that this kind of banal, rather cold or formal talk (note the imperative forms, and a pretty cool, almost fusty, endearment term) is the most which passes between D and his wife, with respect to something like warmth or intimacy.

We saw that in (3) the witness reports only one thing that happened, the defendant's greeting "He: asked me how I'd bin:"; but she then adds a generalized completor, "just stuff like that," which indicates that everything else that occurred between them, whilst left unspecified, was commensurate with that greeting. Here too in (17) C adds a similar component, "this type'v thing." She does so after listing two supposed breakfast-time utterances, "pa:ss the butter" and "make a piece (a) toast," thereby producing a three-part list of the kind (two-item list plus generalized completor) ana-

lyzed by Jefferson (1990) (see the remarks above on the witness's use of "just stuff like that"). Through the generalized completor C implies – as the witness does in (3) – that *only* such talk as these polite, banal, or superficial utterances could be detailed in describing D's relationship with his wife. Thus C's detailing is designedly informative about their relationship in general, about everything else in D's and his wife's behavior towards one another but which does not need to be specified. And through the maximal property of her detailing, C implies that this is the most that can be said about their relationship: since this is less than a "good relationship," then it implies a qualified competing characterization to that offered by D.

This maximal device is evident also in C's response to D's subsequent defense. When he denies C's characterization of his relationship with his wife (line 11) and asserts instead that "I think we've hadda very healthy relationship" (lines 14–15), C challenges that by responding in lines 16–17 "Why: becuz you haven't knocked each other's tee:th ou:t?" This is perhaps a minimum condition for any marital relationship: so in detailing that, C manages to depict their relationship as only as good as the very least they could have for it still to count as a relationship at all (which is pretty much an exaggerated version of the procedure for "damning with faint praise").

The point of this brief excursion into disagreements in conversation is to suggest that this maximal property is a pragmatic property of alternative, "next" descriptions in talk-in-interaction generally, not limited to courtroom cross-examination. It is a conversational device whereby alternative characterizations can imply a contrast with and hence dispute a prior speaker's position/evaluation, whilst being designed in a mitigated or qualified fashion, and thereby avoiding contradicting the other speaker's position or evaluation head-on.

6 Contrast structures, and the "power of summary"

We can now turn to consider the attorney's question in lines 30–1 of (3), in which he appears to contest the witness's version that nothing more happened between her and the defendant that evening to suggest the defendant's "interest" in her than is indicated by his greeting.

27	W:	He: asked me how I'(d) bi:n en
28		(1.1)
29	W:	J- just stuff like that
30	A:	Just asked yuh how (0.5) yud bi:n (0.3) but
31		he kissed yuh goodnigh:t. (0.5) izzat righ:t.=
32	W:	=Yeah=he asked me if he could?
33		(1.4)
34	A:	He asked if he could?
35		(0.4)
36	W:	Uh hmm=
37	A:	=Kiss you goodnigh:t
38		(1.0)
39	A:	An you said: (.) oh kay (0.6) izzat right?
40	W:	Uh hmm
41		(2.0)
42	A:	An' is it your testimony he only kissed yuh
43		('t) once?
44		(0.4)
45	W:	Uh hmm
46		(6.5)
47	A:	Now (.) subsequent to this...

The contrast which the attorney proposes between "Just asked yuh how (0.5) yud bi:n" and the defendant having subsequently "kissed yuh goodnigh:t" is plainly designed to discredit the veracity of the witness's characterization of the defendant's lack of "interest" in her that evening. The attorney manages that contrast by bringing together two things to which the witness has already attested. Twelve lines before extract (3) the witness confirmed that the defendant kissed her goodnight:[14] and she has just in her prior answer (line 27) volunteered that version of the defendant's greeting.

Now the chance to "bring together" what has previously been said, pieces of prior evidence, and to juxtapose them to make a point, is available only to the questioner. Anyone in the position of answering is restricted to dealing with just what is asked in the prior question: though the question may be understood in the light of what has come before, and what is anticipated to be the line of questioning being developed, nevertheless it is the prior question which demands to be answered. And it will be recalled that this restriction is enforced in extract (1) when the witness, after disconfirming that she told the police that the defendant had been drinking, added to her answer an explanation of what she had told them:

the attorney's request to the judge that the "balance be here stricken" being a specialized instance of the familiar admonishment to witnesses to "Just answer the question, yes or no." As Sacks observed, the opportunity to bring together pieces of information to make a point gives to a questioner some sort of control.

> What we find ... is that the person who is asking the questions seems to have first rights to perform an operation on the set of answers. You can call it "draw a conclusion." Socrates used the phrase "add them up." It was very basic to his way of doing dialectic. He would go along and then say at some point, "Well, let's see where we are. Let's add up the answers and draw some conclusions." And it's that right that provides for a lot of what look like strugglings in some conversations, where the attempt to move into the position of questioner seems to be quite a thing that persons try to do ... As long as one is in the position of doing the questions, then in part one has control of the conversation.
>
> (Sacks 1992 [1964])

Bearing in mind what was said above about the preallocation of speaker turns in courtroom examination, the "strugglings" to which Sacks refers for the position of "doing the questions" in conversations do not occur. The specialized speech-exchange system allocates to the attorney and witness the fixed roles of questioner and answerer respectively: so that the element of control that Sacks describes, in which the questioner has "first rights" to pull together evidence and "draw conclusions," lies always with the attorney. The witness is left in the position of addressing and trying to deal with the attorney's selection of which items to pull together: she has no control over the connections which are made between pieces of information or testimony, nor over the inferences which may be drawn from such juxtapositioning – although she may attempt to rebut those inferences, as she does in extract (1), and in her answer to the attorney's contrast here (line 32, "Yeah=he asked me if he could?").

So out of the prior testimony the attorney selects two items to be pulled together, the descriptions of the greeting, "Just asked yuh how (0.5) yud bi:n," and of the farewell, "but he kissed yuh goodnigh:t." Greetings and farewells can, of course, have a special relevance for characterizing relationships, monitoring the current state of a relationship, and detecting changes in a relationship between the moments of arrival and departure. The wealth of sociological and anthropological studies of greetings has revealed much about

their importance in displaying and negotiating relative status, regard, or intimacy (e.g. Goffman, 1971; Firth 1974; Irvine 1974; Kendon 1977; and Schegloff 1979, 1986). The significance for social organization of leave-taking has also received attention (e.g. Goffman 1963, 1971; Firth 1974). Goffman, especially, has shown that the form of greeting can betoken the kind of access which is being permitted, expected, or agreed upon: and he remarks that "taken together, greetings and farewells provide ritual brackets around a spate of joint activity – punctuation marks as it were – and ought therefore to be considered together" (Goffman 1971: 107). And in the contrast he constructs in his question in lines 30–1, the attorney does consider them together: as is so often the case, professional sociological concerns with greetings and farewells derive from and reflect ordinary speakers' practices for investigating and making sense of scenes.

In considering them together here, the attorney manages to juxtapose the claimed nonintimacy of the greeting with the acknowledged (or apparently acknowledged) intimacy of the farewell. The contrast achieved through this juxtaposition is a special kind of object, because it does not simply propose that if one is right (e.g. if the defendant did kiss her goodnight) then the other must be wrong (i.e. it must have been a warmer greeting than she is admitting). Whatever inconsistency is being implied in the contrast is not one which would be resolved by simply discounting one or other of the versions, of the greeting or farewell. Instead the difference between them in terms of intimacy/nonintimacy generates a puzzle about how it could have come about that the witness and defendant ended the evening on much warmer or closer terms than it is claimed they began it. Thus the manner of their farewell is represented in the contrast as *accountable*; not that it is being disputed, but insofar as it needs to be explained (for a more general consideration of which see Hart and Honoré 1959: ch. 2, especially p. 43). The puzzle which the contrast implicitly poses is, therefore, what happened between the greeting and the farewell which could account for the intimacy of the latter, when they had apparently begun on a nonintimate footing?

Whilst in other circumstances the change in intimacy between a greeting on arrival and a farewell on departure might be construed in a happier light, here that change is damaging for her having

implicitly proposed – through the maximal property attributed to her detailing that "He: asked me how I'(d) bin:" – that everything else that happened between them that evening was "nothing more" intimate than is indicated by such a greeting. The damaging force of the puzzle which can be inferred from the contrast is that something else must have happened for them to have ended on such apparently intimate terms. The contrast works, then, to challenge not her characterization of the greeting itself, but the credibility of that as an adequate representation of everything else that happened, of all the scene's other essential particulars and how they are to be glossed.

This understanding of the implication conveyed in the contrast is displayed in the witness's reply in line 32, "Yeah=he asked me if he could?" She first confirms the descriptions out of which the contrast is built (she has, after all, already attested to these versions): but she then straightaway (note the latching of the second part of her reply to her confirmation) adds an explanation which attempts to account for the apparent and puzzling discrepancy. In that explanation she specifically details something else that happened, namely that the defendant asked to kiss her. She thereby constructs an account which attempts to "reconcile" the farewell, the kissing, with the greeting, just as in (1) she added an explanation which attempted to account for the apparent contradiction. She simultaneously holds on to her version that the greeting represents the "most" that happened between them; her characterization of how the defendant came to kiss her, that is after asking her permission, being rather too formal for intimacy, thus indicating that no special understanding had developed between them that evening such that he could have counted on kissing her (to ask permission for something is not to take it for granted).

So the attorney juxtaposes the witness's version of the greeting and what it "stands for" in terms of the defendant's interest in her, with the manner of their farewell. In this we can see that participants mutually orient to the properties underlying the disputatious work which the witness's detailing of the greeting is designed to accomplish. That is, the puzzle in his contrast trades off the understanding that her description of the greeting was designed to convey "all/the most that happened" between them. Hence the attorney's construction of the contrast builds on just those properties through

which her detailing "He: asked me how I'(d) bin:" was deployed in challenging the attorney's alternative characterization. The same pragmatic resources which were available to the witness implicitly to rebut the attorney's version of the defendant's "interest" in her are equally available to the attorney in pulling together these two pieces of information and generating out of that a puzzle which is damaging to her version.

Although the attorney's construction of a contrast in lines 30–1 has been examined in some detail for this instance alone, such contrasts appear to be quite recurrent in cross-examination. The preallocation of speaker roles and turn types affords the attorney control over "putting facts together" from prior testimony. This is done in hostile cross-examination (i.e. apparently not, or not in this form, in direct examination) by juxtaposing "facts" in such a way as to achieve a contrast which has some damaging implication for the witness's testimony. The contrast in (3) is managed within a single speaking turn or single question: elsewhere during the same cross-examination similar contrasts are established in consecutive question–answer pairs, some instances of which are the following:

(18) [Da:Ou:45/2B:1]

A: Now (.) subsequent to this: uh (0.6) uh you say you received uh (0.8) a number of phone ca:lls?
(0.7)
W: Yei:s
(0.4)
A: From the defendant?
(1.2)
W: Yeis
(0.8)
A: And isn't it a fa:ct (t)uh (.) Miss ((name)) that you have an unlisted telephone number?
(0.3)
W: Yeis
(1.2)
A: An' you ga::ve the defendant your telephone number didn't you?
W: No: I didn't
(0.3)
A: You didn't give it to [him
W: [No:.
(10.2)
A: During these uh

(19) [Da:Ou:45/3A:7]

A: And the defendant (.) took (.) the ca:r (1.0) an' backed it (1.0) into some trees did'n'e
(0.5)
W: Mm[hm
A: [Underneath some trees
(1.5)
A: Now Miss ((name)) this time did you make any mention about turning around
W: No
(11.0)
A: An' it was at this point that you say...

(20) [Da:Ou:3A:7]

A: You drove (.) into the woods (1.0) with the defendant (1.1) did'n' say anything about MacDonald's (3.0) he started to kiss you (.) you did'n' kiss him back
W: Right
(3.9)
A: And it was at that point that you (.) said you wanted to go home (0.4) is that right
(1.2)
W: Right
(9.2)
A: Now Miss ((name))

(21) [Da:Ou:45/3A:7]

A: And isn't it a fact (1.0) Miss ((name)) (1.0) where you (1.1) went to (1.0) on this evening (1.9) was at least a quarter of a mile (0.5) from the main highway=
W: =I don't know
(2.5)
A: Some distance back into the uh (.) into the wood wasn't it
(0.5)
W: It was up the path I don't know how far
(4.0)
A: And during this dri:ve up the pa:th (3.0) did you say anything to the defendant (1.0) about MacDonald's (0.5) where you were goin'=
W: =No
(10.6)
A: And the defendant drove...

Each of the contrasts in extracts (13) and (18)–(21) differ with respect to their content, the pragmatic properties whereby one "fact" is being set against another, and the specific damaging implications which the contrast seeks to convey. Despite these differences in "local content," they have in common a number of organizational/structural and interactional features: for this reason they may be regarded as instances of a *contrast device* recurrently used in cross-examination (for an account of contrast structures used by political speech makers as applause-elicitation devices, see Atkinson 1984; there are close parallels between the interactional properties of contrasts in political speeches and in cross-examination). The features of this device's organization illustrated in the above cases are the following.

1 In consecutive questions the witness is asked to affirm or confirm a pair of "facts" or characterizations which are recognizably not discrete: taken together through their sequentially adjacent position, they are juxtaposed in such a way as to generate a puzzle. The puzzle arises from some "lack of fit" between one fact and the other, some discontinuity for which there should be, or needs to be, an explanation which is nevertheless not given. That is, the puzzle is created by implying that some discrepancy is accountable, without a possible account being provided. For instance, when in (18) the attorney establishes that the witness has an unlisted telephone number, what is made both puzzling and accountable by her answer to the next question is how did the defendant obtain her number if she did not give it to him? And in (19) the contrast between the defendant having parked somewhere other than the eating place to which she had agreed to drive with him, and her having made no "mention about turning around" implies the puzzle of why she did not say anything to him. The discontinuity or lack of fit achieved by putting together the two parts of the contrast is between her evidently ending up somewhere she did not think they were driving, and her not saying or asking anything about it.

2 In each instance the puzzle is left unresolved. Although the contrast has generated a puzzle which needs to be explained, the attorney does not subsequently ask what the explanation might be. Thus he breaks off that line of questioning at the point where an

explanation is relevant, but has not been given. By not asking the witness for her explanation, he withholds giving her the opportunity to provide an account which might satisfactorily resolve the puzzle. For example, in (18) the attorney finishes the line of questioning about the defendant telephoning her, at the point where the puzzle as to how the defendant obtained her unlisted number is left unresolved, unexplained.[15]

3 Whilst left unresolved at an official, explicit level, the puzzling discrepancy implies what might be termed an *unless* clause. For instance, in (18) the puzzle about how the defendant obtained her telephone number is only left unexplained unless the witness is dissembling in her answer that she did not give it to him: that way the puzzle is easily resolved – she gave it to him. And in (19) it is a puzzle that the witness made no mention of turning around when the defendant parked his car in some out-of-the-way spot, unless she perfectly well knew what he was intending when he parked the car there (similar accounts for her behavior are implicit in [20] and [21]). And the way this works for (3) has already been explicated: the defendant's kissing her goodnight is only puzzling unless something more happened between them in the course of the evening than the witness is admitting in her characterization of his not seeming to be particularly "interested" in her.

Nothing very technical is meant by the *unless* clause; it serves only to draw attention to the way in which the contrasts work to favor the implication of explanations which are prejudicial to the witness's accounts, or work to discredit aspects of her testimony. It might be that there are "innocent" explanations for what is inferable from the contrast, for example in (18) that one of her family or friends had given him the number, or that he had noticed it at her house.[16] The contrasts, however, are designed not to imply any such innocent circumstances or account. They are designed specifically and systematically to imply an *unless* clause which is damaging to the witness's testimony, by casting doubt upon her veracity, or upon the motives of her actions at the time.

4 However, these damaging inferences are only implied in the contrasts. They are not stated explicitly: it is left for hearers to recognize what the damaging implications are which arise from the con-

trast. The jury are thereby given the opportunity to draw their own conclusions and to find "for themselves" the discreditable implications of the contrast. By pulling together pieces of evidence in this way, the attorney manages not only to provide the jury with the materials with which to decide for themselves what conclusions to reach from the evidence in the contrast: he also avoids having to state explicitly what those conclusions (i.e. damaging implications) are. If he were to state them explicitly, given the turn-taking organization for (cross-)examination, he would have to formulate such conclusions/inferences in a question; which would then give the witness the opportunity to challenge or deny them.

Recalling the point made earlier in this chapter, that the talk between attorney and witness is designed to be understood by nonspeaking recipients, such contrasts are a means of conveying something to the jury over the head of the interaction with the witness. It is specifically in the contrasts where damaging conclusions from the evidence so far are implied: making out these implications is the work which nonspeaking recipients do.

5 Associated with the way in which contrasts are designed to enable the jury to draw their own conclusions from the testimony is that they are given time to do so. After the completion of each of the contrasts, the attorney then delays asking his next question for pauses of 6.5 seconds in line 46 of (3), and for 10.2, 11.0, 9.2, and 10.6 seconds in (18)–(21).[17] These are considerably longer pauses than are to be found elsewhere in cross-examination, the next longest pauses clustering around 3–4 seconds and occurring in quite different environments. This indicates a close connection between the clustering of pause lengths and the interactional work achieved in the prior question–answer pairs: the longer pauses of 6 seconds and more which occur in the environment of the production of a contrast appear to highlight the significance of the contrast, by giving the jury time to recognize and consider the damaging implications for the witness's testimony. Given the multiparty recipiency of the questions and answers, the pauses are designed to be slots for audience appreciation[18] of what they have just heard. As recipients, the jury do not display their understanding or appreciation verbally; therefore, in the absence of any means for the attorney to check the jury's comprehension, the pauses are extended to maximize the time in which they can assimilate the points implied in the contrasts.

6 Contrasts are summaries of sorts: they pull together some selected points from the prior testimony and complete that line of questioning. In each case, after the pause which follows the contrast the attorney moves on to question the witness about some other aspect of the case. The topic on which the attorney subsequently focuses may be related to the topic of the prior line of questioning, but it is nevertheless a distinct shift to a discernible next matter. For example, after the contrast in (3) which concludes his line of questioning about the defendant's "interest" in the witness on the evening they met in a club/bar, the attorney begins (line 47) to ask about the subsequent period between that meeting and the occasion of the alleged rape. Such shifts in the focus or topic of questioning after the contrast further deprive the witness of the opportunity to come back to the prejudicial point implied in the contrast. So to the earlier comment about the questioner exercising some control through having rights to summarize "where we are now," we can add that in cross-examination – unlike conversation – the attorney not only has first rights to perform that operation (see the above quotation from Sacks 1992 [1964]), but also has effectively the only right to do so. This is because he also has control over changing topic or topical shifts in questioning.

It is by virtue of these organized features of the production of contrasts that they can be considered to be devices, the use of which has a special and central role in the hostile, disputatious questioning of cross-examination. They are the means by which the attorney can selectively bring together points from the witness's testimony, and juxtapose them in such a way as to generate a puzzle, the implication of which is something discrediting about the veracity of the witness's evidence. The damaging inferences which may be drawn from the contrasts are not stated but left implicit. It is left to the jury to draw the conclusions which the contrasts are designed to convey. A contrast is a summary and completion of a line of questioning: hence the attorney manages to bring a line of questioning to a conclusion on what is, for the witness, a damaging point.

7 Conclusion

This chapter has focused on phenomena associated with "contrasting versions" produced by participants in courtroom cross-examination. The first sense of "contrasting versions" explored here concerns the alternative and competing versions which the attorney, and then the witness, produce to describe the "same" action, event, or scene. A version is first proposed by the attorney in a question: the witness, in her subsequent answer, produces an alternative description, through which she is heard to dispute or challenge the attorney's version. Without necessarily directly rejecting and contradicting the attorney's versions, the witness nevertheless disputes these by designing her descriptions in such a way that they stand for a quite different characterization of a scene than that proposed by the attorney. The witness's descriptions achieve their (implicitly) disputatious force through a combination of their sequential placement, as being done as "nexts" – and hence as alternatives to – the attorney's; of their being qualified versions, which do not endorse the attorney's prior versions; and of their "maximal" property.

The second sense of "contrasting versions" explored here concerns a device through which the attorney manages to convey to the jury a contrast between the witness's account of what happened, and what is likely in fact to have happened. The attorney designs a question, or a pair of adjacent questions, in such a way as to juxtapose facts, the contrast between which implies a version which is at odds with, and hence seeks to discredit, the witness's versions of events. So in response to the witness's attempts to rebut the attorney's versions, he produces contrasts which in turn are designed to damage her rebuttals.

Both these kinds of contrasts are the products of the attempts by each participant to challenge or discredit the other's version of events. Their competing versions are implicated in, and portrayed through, the descriptions of "facts" which each produces. In this way "facts" are left to "speak for themselves"; or rather, their production is designed to enable the jury to make the proper inferences from them. Descriptions are designed to provide the jury with the materials from which they can discover for themselves what to make of the facts. And both contrasts are associated with a measure

of control which each seeks to gain over what emerges from the cross-examination. Whilst this is perhaps more obviously the case for the contrasts which the attorney produces, as a procedure for summarizing by putting together facts in ways which are inconvenient or discrediting for the witness's position, the witness's attempts to counter the attorney's descriptive strategies, and hence herself control the information which is available to the jury, should not be overlooked. Her resistance to the attorney's versions is an attempt to deny him the materials with which he can develop a line of questioning towards some projected and, for her, awkward point: and therein lies the defensiveness of many of her answers.

Whilst the specialized speech-exchange system which is characteristic of cross-examination provides the necessary structural position and resource within which the attorney and witness respectively "fit" their turns, and hence their competing versions of events, this chapter has not focused on participants' management and implementation of the organization of turn taking for cross-examination. The focus has instead been the activities in which each is essentially engaged in cross-examination – those of substantiating and defending their respective versions of events, and disputing the other's versions. What has concerned me is not the management of turn taking itself, but the interactional management of activities in the turns which participants take.

Notes

1. For further discussion of how "lines of questioning" may be managed in cross-examination, and how witnesses attempt to counter perceived lines of questioning, see Atkinson and Drew (1979: esp. 173–81).
2. For the very few of which, under the English legal system, see Cross and Wilkins (1980).
3. Jury members have a legal right – of which they generally seem unaware, and which they almost never exercise – to ask questions during a witness's examination, for example to clarify a point.
4. This relies on an expectation that an utterance will attend to its adjacently prior turn, and hence that its production is based on an understanding of that prior turn. Hence "next position" is a basic structural position in talk-in-interaction. On how this operates, for participants primarily, but also for analysts, as a proof procedure, see Schegloff and Sacks (1973); Levinson (1983: 329–32); Heritage (1984a: ch. 8).
5. This is because there is a rule against repeating the same question: such

that attempts to do so may be disallowed on the grounds that "She's already given an answer to that question, and that answer will stand."

6. The questions asked by interviewers and answered by interviewees in news interviews are also, of course, produced for the benefit of non-speaking overhearers, the radio or television audience. Fuller consideration of these issues, and how this structural property shapes the details of such institutional talk, is to be found in Heritage (1985) and Heritage and Greatbatch (1991).
7. It is clear from the defense attorney's closing speech that this is the significance which he attaches to this line of questioning, and to aspects of the evidence about the defendant's claimed "interest" in the witness/alleged victim. Referring to this part of the testimony in his closing speech, he says: "Now it seems to me (a) situation that uhr: (0.5) that uhr, (0.7) uhr::, whe:re yuh have two (0.2) young people (0.6) who (0.6) appea:r, (0.4) from their testimony to be interested in each other ... he kissed her goodnight, (0.5) an' I reckon she wannah, (0.8) no question about that (0.3) a'right? here's two people who ar:e er interested in each other."
8. Sacks (1984b) explicates how the observability or perceived awareness of the "ordinariness" of scenes interlocks with, and is constituted through, the unnoticeability and unreportable character of many or most of the "infinite collection" of possible details that might be reported about a scene: "people, in reporting on some event, report what we might see to be, not what happened, but the ordinariness of what happened. The reports do not so much give attributes of the scene, activity, participants but announce the event's ordinariness, its usualness" (Sacks 1984b: 414).

   He goes on to suggest that there can be some considerable resistance to treating as "extraordinary" events which, even as they are happening, begin to appear to be "out of the ordinary." So it frequently happens that in reports of "really catastrophic events" such as hijackings, assassinations, and robberies, witnesses report that they initially believed that something else and much more ordinary was happening. "A classically dramatic instance is, almost universally, that the initial report of the assassination of President Kennedy was of having heard backfires" (Sacks 1984b: 419). Such "initial reports" commonly take the form *At first I thought* (mundane event), *and then I realized* (dramatic event). In one news story I have, someone who had been locked in the boot (trunk) of his car by people who had hijacked the car to use as a road block in a hold-up of a security van only realized after being in there for more than half an hour that it was not after all a gag for *Candid Camera*. And when the Oakland football stadium began shaking during the 1989 San Francisco earthquake, some of the football spectators at first attributed the shaking to the effects of a rock concert in a neighboring stadium. So there is a kind of preference to treat scenes which are obviously out of the ordinary as not as extraordinary as they may turn out to have been. For a development of these observations of Sacks, see Jefferson (1983): and on "at first I thought ..." in the context of accounts of paranormal experiences, see Wooffitt (1992).
9. For further consideration of the socially organized contexts of cognitive claims not to remember, and especially the social identity/category of speakers who report not remembering, see Bogen and Lynch (1989); Drew (1989); and with respect to displays of uncertainty/forgetfulness, Goodwin (1987).
10. On the differences between *claiming* and *exhibiting* understanding, see Sacks (1992) lectures of 2 October 1968; lecture 3, January 1969; 31 May 1971; and lecture 3, fall 1971.
11. This formulation makes reference both to a speaker's *production* of a turn/description, and to recipient's *interpretation* of that turn. There is an assumption here that there is a fundamental symmetry between production of conduct and its interpretation, because they are both "the accountable products of a common set of methods or procedures" (Heritage 1984a: 241), these common methods and procedures underlying the shared competence of participants, and thereby underlying "stable meanings." And it is clear in (3), though the data for extracts (11)–(14) are too extensive to be shown, that the attorney understands her answers to be disputing his versions. This is displayed in the manner in which he pursues an issue, by rephrasing the point of a question and asking it again.
12. Some of these issues associated with the design of invitations, with respect to their "informativeness," arise from Sacks's (1992) discussion in his lectures of 23 and 26 April 1971.
13. Sometimes invitations are rather unspecific about what will be provided in the way of food, or quite what kind of an occasion it is for. Often the main "clue" about what to expect is the time for which one is invited. So recipients may infer from the time at which they are invited whether or not they will be given a meal; and sometimes they can be mistaken, or be in doubt (see extract [16] below).
14. The attorney asked "Did'e kiss ya goodnight?," to which the witness replied "Yei:s."
15. The manner in which the contrast is constructed here puts the witness in a position somewhat akin to a "double bind." The witness's denial that she gave the defendant her telephone number is perhaps as damaging as an admission that she gave it to him would have been. Indeed her denial/disconformation was probably anticipated by the attorney, in a contrast through which a damaging point is won whichever way she answers the second question.
16. She has testified earlier that she and the defendant had known one another "since school," and that he had been to her house before.
17. In extracts (3) and (18) these long pauses do not immediately follow the second question–answer pair in the contrast. In (18) the attorney

repeats the witness's denial, thus helping to validate or emphasize it (see the earlier discussion of third-turn repeats in this context; and also note 15). In (3) the witness attempts to rebut the damaging implications of the contrast with an explanation, as discussed in the text. Once again, the attorney validates/emphasizes her answer, and that she agreed to kissing the defendant – points which arise directly out of her "additional" explanation in line 32 – before bringing that topic to a close with the 6.5 second pause.

18. A "slot for audience appreciation" identifies a structural position, after the production of a contrast, in which recipients perform some operation on what they have heard. The results of that operation may, in other contexts than this, be audible; for instance in political speeches this is a slot where the audience applaud (Atkinson 1984; Heritage and Greatbatch 1986; interestingly, the length of such applause is about the same as the pauses here in cross-examination, i.e. about 8–10 seconds). Of course, in cross-examination there is no verbal manifestation, no verbal equivalent of applause, of the audience's (jury's) appreciation of the point in that slot; video recordings of trials might, however, begin to identify some nonvocal manifestations of such appreciations.