

WHAT WE DO WITH ENGLISH WHEN WE TAKE NOTES:
EVIDENCE FORM A CIVIL LAWSUIT

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1. Linguistics and legal issues

The usefulness of forensic linguistics has, by now, been well established in both criminal and civil law. Evidence of this can be found in the expanding literature on the subject (Levi 1994; Rieber – Stewart 1990; Shuy 1993, 1998). More and more, civil attorneys are calling on linguists to assist them on issues involving defamation, product liability, trademark infringement, and contract disputes, among other things. From the linguist's perspective, legal disputes provide a goldmine of actual language data and occasionally they even cause linguists to examine language issues they had never before considered. One such instance recently occurred in a civil suit in which one point of contention was whether five pages of handwritten notes were made from a tape recording of a conversation or whether these notes were made shortly after the conversation without the assistance of a taped stimulus. The plaintiffs denied under oath that such a recording existed. The defendants disputed this and claimed that the careful detail of the notes argued for an existing tape.

Attorneys for the defendants, sensing that this issue might bear on linguistic analysis, called on me to examine the notes and to offer an opinion as to whether or not a covert tape recording served as the source of the resulting notes. The following is a description of the approach taken and the opinion derived from this approach. At the request of the participants, all names have been changed to preserve anonymity.

2. Language used in note taking

When one takes notes of a meeting, lecture or other language events, one is hampered by the fact that it is virtually impossible to write fast enough to record every word. Speech is simply much faster than writing. Shorthand was invented, in fact, to help resolve this problem. Tape recorders have also helped, equipped as they are with the capacity for immediate and repeated replay of the speech until all of it is successfully transcribed in written form.

Human language is constructed in such a way that main ideas are carried largely by nouns and verbs. The other words in sentences tend to serve the main ideas, showing the grammatical relationships, carrying standards of social acceptability, modifying, qualifying, parenthesizing, and providing useful redundancy. When a person takes notes, these various functions are hierarchized in relatively consistent ways, preserving the most important, such as the nouns and verbs of the main ideas, and omitting functions that are more cognitively marginal to the main ideas. In addition, the note taker is relieved of the need to be grammatically accurate or to produce fully formed expository prose.

The purpose of note taking is obvious: one makes an abbreviated record of the mass of language used so that the gist of that language can be later recalled by the note taker and/or reconstructed in a manner that is as true to its original as possible. Words which are more structurally predictable, therefore, are lower in the hierarchy of preservation. For example, since English articles are highly predictable in their usage, there is little or no need to record them in the notetaking process. Likewise, if the note taker's procedure is to identify each speaker by name or initials, some personal pronouns become redundant and are candidates for omission in the notes.

Since the purpose of note taking is to preserve the main ideas of a language event, other non-main idea language, particularly formulaic language and highly predictable conversational routines such as greeting patterns, discourse markers and organizers are less critical features to preserve in the note taking process. Likewise, causal connectors, such as *because* and *so that*, although very important in oral communication with another person, are less crucial in note taking since causation is often understood by persons who are writing notes to themselves for review at a later time. Such connectors are therefore regularly omitted in note taking.

Because human spoken language is so rapid and because writing is considerably slower, there is a great need for parsimony in note taking. The note taker travels the shortest route possible to capture the gist of the spoken words on paper.

In their book, *Are You Listening*, communication experts Nichols and Stevens point out that note takers do not record everything they hear in verbatim fashion,

since this is physically impossible (1957). Nor do effective note takers even attempt an outline, since doing so requires too much cognitive attention for the act of listening. That is, note takers cannot afford to think much about what they hear or to organize it into coherent outlines, even for college lectures which are presumably well organized in the first place. Nichols and Stevens go even further, however, pointing out that good note takers do not write out complete thoughts and that a minimal amount of words and phrases are preferred. They indicate two types of note taking, precis notes and fact-principle notes. In precis note taking, the writer listens for two or three minutes before writing a paragraph that summarizes the preceding talk. In fact-principle note taking, the note taker jots down only the facts and principles of what was said, and ignores the rest of the talk. But there is also a third type of note taking, verbatim note taking, in which a person gifted with a superior memory and an ability to write furiously, commits to paper everything that is heard with complete accuracy. Unless the less gifted note takers know shorthand or unless they tape record the event, verbatim note taking is all but impossible.

Despite the fact that virtually all educated persons take notes at some time in their lives, there has been surprisingly little linguistic interest in this subject. Janda (1985) observes that materials devised to help native speakers of English take notes seem to exist but are fairly difficult to access. More interesting is Janda's survey of 200 Stanford University students which reveals that not one student reported having been taught how to take notes. Janda carried out empirical research on the note taking practices of seven Stanford students to see how they did it. Tape recordings of most of the lectures from which their notes were taken provided an excellent basis for determining how these seven students took what they heard and converted into notes. Janda found the following ten features of such notes: abbreviations, amalgamation of two or more sentences into single topic-comment structures, omissions of articles, unstressed pronouns, interrogative-auxiliary *do* forms, finite forms of copulas and phrases or other multi-media word groups, nominalization of verb forms, combination of two reduced sentences linked together in topic plus comment form, replacement of relative clauses with participials, and conversion of active sentences into passives. He concludes that note taking (like baby talk and foreigner talk) is a simplified register although it differs from baby talk and foreigner talk in that it is not used with the linguistically less competent (more like a reduced register than a simplified one).

The following analysis differs from Janda in the following ways:

- (1) It works backward from notes of a conversation to the question of whether or not there was a tape recording of the conversation upon which the notes were based. Unlike Janda's data, a source tape was obviously not made

available. The litigation issue, in fact, was whether or not there actually was such a tape.

- (2) The oral stimulus was a conversation, not a college lecture. In this, the current study responds to Janda's plea for "other kinds of oral sources than lectures" to expand his findings (1985: 442).
- (3) Four of the ten features that Janda found salient in note taking are not observable in these data: omission of interrogative *do*, amalgamation of two or more sentences into a single topic-comment structure, nominalization of verbs, and passivization. This is not to say that these features were absent from the oral stimulus, however. It is quite possible that they did occur but the fact that no tape recorded basis was made available made their discovery impossible here.
- (4) In addition to the ten features noted by Janda, the following were found to be salient in this study: deleted "that" complementizers, reflexives, causals, discourse markers, question tags, process statements, contracted negatives, and negative statements transformed into positives.

There are essentially three types of language processes that occur regularly in note taking: deletions, transformations, and abbreviations. These processes all grow out of the need for note takers to be parsimonious, rapid, and accurate. Styles of note taking vary, of course, and certain registers suggest their own special usages, but these processes appear to be universal regardless of individual style. Prominent examples of these language processes are as follows:

3. Deletions in note taking

3.1. Deletions of language forms

- (1) articles: *the, a, an*
- (2) complementizers: somebody *that* I like
- (3) be verbs: the trust *is* still good
- (4) reflexives: the trust *itself*
- (5) demonstratives: *that* information is available
- (6) causals: *because, so that*
- (7) parentheticals: *as you know; as I told you, I would think.*

3.2. Deletions at the discourse level

- (8) address forms: Don't say that, *Darrel.*
- (9) requests for clarification: *Tell me what you're talking about.*
- (10) discourse markers: *well, alright*
- (11) tags: after your father had died, *right?*
- (12) formulaic language: greeting and closing routines

(13) process statements: *Let me tell you what will happen.*

(14) pronouns: *we, I, they,* etc.

3.3. Transformations in note taking

Like other languages, English has more than one way to express the same idea. If the speaker chooses a variant possibility which is more complex and unparsimonious than a potential alternative, the note taker has the option of transcribing the idea in the simpler, shorter and, therefore, more parsimonious fashion, as long as accuracy of the idea is preserved. It is common in note taking, for example, to transform complex expressions as follows:

- (15) fully formed verbs into contracted forms: *cannot* to *can't*, *does not* to *doesn't*
- (16) participles into past tense: *we have spoken* to *we spoke*, *that you have proposed* to *you proposed*
- (17) V-ing future to present tense: *we're going to need* to *we need*
- (18) negatives into positives: *there is nothing that is not collecting interest* to *everything is collecting interest*

3.4. Abbreviations in note taking

Abbreviations are short, easy to write quickly, common, and acceptable as a means of recording speech in note taking. Although there are generally agreed upon ways to abbreviate many words, writers whose purpose is to take notes for their own later benefit in reconstructing events such as a lecture or a conversation may often create quite individualized abbreviations. Nevertheless, certain symbols are used widely, such as "\$" for *dollars* or *money*, "&" for *and*, "acct." for *account*, and "w/o" for *without*. Numbers, quite predictably, often are used to replace the words for those numbers, whether cardinal or ordinal.

4. Evidence that the notes were based on a tape recording

This civil case actually involved attorney malpractice. The issue of the tape recording was an ancillary issue relating to the integrity of the plaintiff's case. I was given five pages of handwritten notes of what was purported to be an approximately ten minute conversation between the two plaintiffs and two attorneys. It is important to know that in the proceedings of this case, the plaintiff who prepared these notes denied that he had ever tape-recorded any of his meetings with the attorneys. Instead, the plaintiff claimed that he had taken notes immediately after the conversation was over. I was asked by the defendant's attorney to analyze these notes and to determine whether or not it would have been possible to have produced them without a tape recording. It

was my opinion, based on linguistic analysis of these notes, that they were produced from a tape recording of that conversation and not, as plaintiffs claimed, from memory of that conversation. My analysis produced 18 areas in which the expectation of note taking practice without a tape recording was violated, with multiple occurrences in most of these areas. In each of these, one can easily account for the violation if a tape recording of the conversation had been available to the note takers. The following is a description of the violations in note taking as evidenced by the notes.

4.1. Violations in deleting language forms

4.1.1. Articles

The articles, *a*, *the*, and *an* are produced in full form 45 times in these notes. They are never deleted, as the parsimony of note taking would predict.

4.1.2. Complementizers

“That” complementizers, such as “He’s the man *that* I saw,” are optional in English, especially in spoken English. Since they are optional, there is no real advantage to including them in note taking and it is common to delete them as redundant. If these notes were produced without benefit of a tape recording, it would be quite irregular to find so many “that” complementizers, thirteen, with no instances at all of “that” deletion.

4.1.3. *Be* verbs

Although using the appropriate form of the *be* verb is important for social acceptability, this verb can be deleted in note taking with no loss of understanding the gist. For example, “Everything *is* earning interest” can be written, “Everything earning interest” in acceptable note taking practice. All fourteen potential *be* verb forms were fully represented in these notes.

4.1.4. Reflexives

Reflexive pronouns are, by definition, redundant. Since note taking reduces redundancy, it is not common to find them in notes. Reflexive pronouns are used for emphasis or clarity in sentences such as, “I myself will do it.” In these notes there is one instance of a reflexive pronoun, “the trust *itself*”. The occurrence of even one such reflexive suggests the presence of a tape recorded stimulus.

4.1.5. Demonstratives

Demonstrative pronouns refer to something that has already been mentioned and, as such, display redundancy. Since note taking omits redundancy,

demonstrative pronouns are not necessary in notes. These notes evidence the occurrence of demonstratives six times.

4.1.6. Causal connectors

Since the writer of the notes knows the causation, it is redundant to include causal connectors such as *because* and *so that* in notes. Although such connectors are not necessary for note taking, four of them occur in these notes where one might predict their omission.

4.1.7. Parentheticals

Parenthetical expressions are, by definition, marginal to the main idea and not normally preserved in note taking. Nevertheless, seven instances of parentheticals occur here, including “as you know”, and “as I told you”.

4.2. Violations in deleting discourse features

Certain aspects of discourse simply do not lend themselves to note taking. As in the case of the language forms above, it is the more non-gist aspect of discourse that is typically deleted. For example, the main idea components of talk, such as topics and responses, are more central to note preservation than are small talk, formulaic greetings and closings, timing indications, meta-language such as process statements, question tags, discourse markers, and address forms. When these non-gist aspects of discourse appear in notes, the effect is indeed odd, as the following demonstrate:

4.2.1. Formulaic language

One cannot expect notes to include greeting routines such as the one found in these notes:

L.D. Hi, Darrel.
K.J. How ya doin’?
L.D. Good. How are you?
K.J. Okay.

4.2.2. Timing indication

Note takers have too much work to do just keeping track of main ideas to time the pauses between utterances. Therefore, when these notes indicate “15 sec. pass” between the formulaic greeting and the next utterance in the conversation, we can suspect that this information was gleaned from using a watch to time a tape recorded pause.

4.2.3. Process statements

The note taker has little time to record metalanguage such as process statements. These notes include five such process statements: "Let me tell you what will be happening", "we've come to realize that ...", "aside from the topic of ...", and "in addition" (three times).

4.2.4. Discourse markers

Speech often contains discourse markers, or words that give indication that a topic is being modified in some way. Discourse markers are very important for social interaction and conversational coherence but they carry a very light load for the gist of conversation and are, therefore, subject to deletion in note taking. There are six instances of discourse markers in these notes: "alright", "well" (twice), "for one thing", and "and" (twice).

4.2.5. Requests for clarification

Principles of parsimony and pressures of time do not encourage the note taker to reconstruct the incremental stages in the development of main ideas. Therefore, if a person requests and gets clarification of a vague or not fully comprehended statement, the note taker typically ignores this process and records only the ultimate clarification. In these notes there is one such request for clarification: "Tell me what you're talking about," suggesting that the note taker was working from a tape recording.

4.2.6. Question tags

One of the major types of question makes an assertion, then follows it with tags such as "isn't it?" "don't you?" or "right?". The requirement for parsimony in note taking does not encourage preserving the tag since it is redundant to the underlying form and meaning of the question. One such tag is found in these notes: "... after your father died, right?"

4.2.7. Address forms

In notes that include identification of each speaker by name or initials (as these do), it is unnecessary to include the name of the persons being addressed since they are otherwise easily identifiable. These notes obtain one instance of "Don't say that, Darrel", despite the fact that the only logical person to whom this could be said is, indeed, Darrel. Such redundancy works against the principle of parsimony in note taking.

4.2.8. Pronouns

Especially when the notes include speaker identification, the need for pronouns is diminished greatly. Obviously pronouns are important in language as it is being produced, but the note taker does not have time to provide the redundant references that pronouns give us. Pronouns reestablish references to people and things in order to avoid ambiguity but note takers do not need to worry about such matters since they are only making a record to refresh their own memories at some later time. Furthermore, the careful marking of speaker identification, the limited number of people referred to, the context of the talk, and the shortness of the event all conspire to make pronouns unnecessary here. There were thirty subject, object, and possessive pronouns found in these notes, all of which could have been omitted with no loss of meaning.

4.3. Violations in transformations

In note taking, at least three types of transformations are common: full forms of negative verbs are contracted, participials are converted to present or past tense forms, and deliberate, grammatical double negatives are changed to their underlying positive forms. All such transformations are consistent with the need for parsimony in notes. The following violations of this feature were found in these notes:

4.3.1. Uncontracted negative verb forms

A simple matter of parsimony is to use one word to represent two words whenever possible. Negative contractions offer a case in point. The note taker in this case used the full forms five times when a contracted form would have communicated the same meaning.

4.3.2. Participles for present or past tense

Both present and past participle forms require more words than their nonparticipial counterparts. There are seven instances in these notes that preserve participial forms, including "we are charging", and "we have spoken with", when the simple present and past tenses would have reflected the parsimonious characteristic of note taking.

4.3.3. Preservation of double negatives

The meaning of the sentence, "It is not unlikely that it will rain" is clearly "It is likely to rain." In that constructions containing two negatives are more difficult and take longer to process, note takers conventionally produce the underlying positive forms for such sentences. Typically such a double negative

must be processed into a positive before it is then reprocessed back into a negative, a time consuming task for note takers, who usually simply produce the positive version. There was one instance of this in these notes: "There is nothing that is not collecting interest."

4.4. Abbreviations

As noted earlier, abbreviations can be expected to be used frequently in the process of note taking. Just as it is parsimonious to use one word to represent two or more words that one hears, so it is equally parsimonious to use part of a word or a symbol for a word that has been uttered in full form. The curious thing about the problem of determining whether the instant notes are from a tape recorded stimulus or from memory after the conversation took place is that such abbreviations can occur in either process. That is, persons transcribing from a tape might easily use the same conventional abbreviations that they might use in on-the-spot note taking. The use of abbreviations, therefore, is not a viable measure for resolving this issue.

5. Conclusion

The principles of parsimony and non-redundance, so prominent and crucial in the practice of note taking, are violated consistently in these 18 language features. At the level of language forms, 100% representations of both articles and *be* forms are strong evidence that the note taker worked from a tape recording. The frequent occurrence of parentheticals is almost equally strong evidence. Reflexives, demonstratives, and causal connectors offer less compelling evidence, but only because they have the potential for occurring so infrequently in such a short text. At the level of discourse, representing the greeting routine is both wasteful to the overall purpose of note taking and ludicrously irrelevant. Its presence here is evidence that the notes were taken from a tape recording. Other discourse violations, including timing indicators, process statements, discourse markers, requests for clarification, question tags, and address forms, do not occur as frequently and, by themselves, may not appear to be strong evidence of an underlying tape recording. But, when taken together, the profile is much clearer. Even one request for clarification represented in the notes stands out as utterly unlike note taking done on the spot and without the aid of a tape.

At the level of transformations, the note taker's use of uncontracted negative verbs, participles where present or past tense would do nicely, and the preservation of literate double negatives all argue that a tape recording served as the basis for the notes.

This analysis was presented as expert witness testimony at trial and it supported the eventual verdict for the defendant.

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