Alan Durant

Meaning trouble-spots: critical discourse analysis and social engagement

An obvious question (*so* obvious, in fact, that people rarely pause to formulate it) confronts any critical practice of discourse analysis: what specific consequences, in terms of social action, is the particular piece of critical discourse analysis (hereafter, CDA) supposed to have?

The question is not usually asked in such a stark form, of course, for three good, but also complicating, reasons. Firstly, written works of any kind (and academic writings in particular) tend to have complex and diverse effects: of informing, persuading, reinforcing, and critiquing, as well as other, more oblique kinds of influence. All of these effects can vary for a single work between different reception contexts; so to attempt to count the contributions a particular intellectual work makes to a political agenda, or to the public sphere at large, is crude and reductive. The second reason is this: that one special strength and interest of 'discourse' as a concept is its emphasis on how *embedded* our use of language (or visual, or audio-visual, or multi-media representations) is within other interlocking, possibly determining, social practices; one corollary is that it isn't sensible to try to disentangle causation specifically by the critical discourse itself from causation by factors in other, connected domains of social action. The third reason concerns the social circumstances of the critique itself: the relation between effects which CDA invokes, and those it can plausibly anticipate, varies enormously between one set of political circumstances and another; so a work's oppositional worth has to be recognised not to depend principally, or perhaps even at all, on demonstrable social benefits.

Notwithstanding these qualifications, questions about the social engagement of CDA persist. Nor are such questions confined to the defensiveness or antagonism of political

opponents. Indirectly, the 'outcomes question' perplexes the terms on which anyone engaged in CDA must work, as it does oppositional cultural politics generally. The problem of social engagement has been exposed to increased scrutiny as a result of the relative intellectual marginalisation of Marxism world-wide in the later 1980s and 1990s; it is also made more problematic by conflicts and incompatibilities between respective cultural-theory positions dealing with discourse and society in particular (for instance, competing views based on work by Habermas, Foucault, Bourdieu, Pecheux, or Bakhtin, or within different strands of postmodernism).

Other writers with greater experience of (and commitment to) the *general* project of CDA, as opposed to engagement in specific, local struggles in which discourse plays a part, have commented on these difficulties; this paper is not intended as a contribution to that general debate. Rather, my aim is to outline strategies of social engagement which give direction to much (or perhaps most) work in CDA, and to describe how certain problems inherent in such strategies present themselves in a project on which I am currently engaged. Given the central concern of CDA with modes of address and power relations in discourse, it would be extraordinary if questions concerning the precise point-of-view, or relation of commentary, between critical discourse and its object of study - or regarding the mix of awareness, potential social agency, and motivation it is reasonable to attribute to an implied addressee - were not raised about CDA projects themselves (1). At one level, no doubt it may be better for such 'reflexive' questions simply to be answered and to move on to substantive problems. At risk of interruption and gross simplification, however, in this paper I offer a freeze-frame on some of the issues as I understand them.

Language, society and power

Stated baldly, in terms which draw freely on published accounts, the principal force of CDA lies in a cluster of related insights, including at least the following. Language plays an important role in social reproduction, but is at the same time contested within the overall social order. Because of its unsettled but influential position in these respects, language can be usefully investigated in terms of its relations to power and ideology (Foucault, 1972; Fowler, Hodge, Kress and Trew, 1979; Fairclough, 1989). Power in such a context is not confined to the exercise of force or rule of law, but involves asymmetries between

participants in discourse events, or alternatively a more general, unequal capacity to control how texts are produced, distributed, and consumed (Fairclough 1995; Wodak, 1996). Although underpinned at the level of the political economy of communications, much of the power invested in and circulating through discourse functions by consent.

CDA engages with the social operation of language by showing how language is not an invisible window on the world, but a material practice; to do this, it draws on an established tradition of what are widely considered materialist accounts of language (eg. Volosinov, 1973; Coward & Ellis, 1977; Bakhtin 1986). In particular, language encodes point-of-view, and with it culturally-acquired contextual assumptions which are embedded in the texture of discourse at a level where they are no longer self-evident. Such assumptions are nevertheless retrieved by interpreters when triggered as presuppositions and different sorts of implicature (Levinson 1983; Sperber & Wilson 1986; Grice 1989; Blakemore, 1992; Thomas 1995); they also shape more general properties of register and genre, because of the different amounts of symbolic capital each style of discourse enjoys within the linguistic field (Bourdieu, 1991:37-65). Collectively, implied meanings constitute what Michel Pecheux (Pecheux , 1982) calls the 'preconstructed', or networks of ideological assumptions which surface in the meaning of an utterance or text as what Pecheux terms 'transverse-discourse' effects (mostly, bridging inferences which have to be made by listeners or readers for the sake of coherence but which in doing so carry specific, ideological assumptions along with them).

The importance of connections between text and social setting is that language is a behavioural practice, part of a web of social transactions and interactions through which social relations are enacted, reproduced, and challenged. As such, it has a performative capability, leading to a range of social outcomes, and also plays a part in the overall formation and reproduction of social institutions through which power, including symbolic power, is unevenly distributed - and also struggled for - across a given society. While mainstream sociolinguistics (eg. Labov, 1972; Hymes, 1974; Hudson, 1980; Romaine, 1994;) investigates social variation in the forms and styles of language use, its insights need to be situated within the socio-cultural structures of a given political order if they are to be properly understood. Only by means of critical, socio-cultural analysis, it is argued in CDA, can the relation between sociolinguistic variation and the unequal distribution of power and social access within a society be revealed.

Historically for CDA, however, links between what we loosely call 'language and society' are more precise than the word 'and' signals. Sedimented in most CDA lies the notion of a more precise set of relations - of causation or at least mediation - between economy, ideology and the workings of discourse (Hall et al, 1981; MacDonnell, 1986). The broad notion of connectedness is well reflected in the published aim of the journal Discourse and Society, to 'relate the situational micro-context of verbal interaction, discourse and communication to the macro-context of social, political and cultural structures'. For CDA as a social project, it has often seemed that it is the precise form of this 'relation' between different social levels which is politically most at stake.

In his own work, Norman Fairclough recognises both the difficulties, and his own changing positions, on this complex question. In recent work (Fairclough, 1995), he glosses the relation in terms of what he calls a 'three-dimensional' approach, which he develops indirectly, he says, from Bakhtin and Gramsci; that approach links 'textual description and analysis' to broad relations of 'sociocultural practice' by means of an intermediate category of 'discourse practice', which consists of social constraints on discourse such as genre and turn-taking. The explanatory power of such a model, it is suggested, lies in its layering of an investigation of causal relations linking the socio-cultural and discourse practice levels onto interpretive work, which extrapolates to the discourse practice level from textual description. Loosening the causal directionality given in earlier, superstructural accounts of discourse functioning, Fairclough suggests a more complex cycle of influence: social conditions shape discourse production and reception; in turn, unevenly and over time, these modify the social conditions of discourse production and reception, which then reshape subsequent discourse production and reception. Calculated interventions within that cycle may be described as discourse struggle (Fairclough, 1995:91-111).

While Fairclough's work offers perhaps the most comprehensive and also most programmatic characterisation of CDA, it is important to note that there is simultaneously a range of other, major alternative frameworks, often developed in complex, hybrid forms. Some are far less grounded than Fairclough's in concepts (adapted from Gramsci and Althusser) of the state, ideology, and systems of social control. Eminent among such alternatives is the approach, derived ultimately from Habermas (Habermas, 1979), which

invokes an ideal of rational communication and challenges 'disorders of discourse' which fall short of that ideal (cf. Wodak, 1996). Perhaps most widely influential at present are approaches drawing on Foucault, concerned with the uneven social dispersal of power through (especially technical) discourses at all social levels, constituting subjectivity as well as social relations (for wide-ranging discussion, see Mills, 1997).

CDA and social engagement

Given these founding insights and arguments, how does CDA engage in public, critical practice?

Typically, a core claim as to social effect is formulated along 'emancipatory' lines, such as Fairclough's 'helping people struggling against domination and oppression in its linguistic forms' (Fairclough, 1995:1). A gloss on Fairclough's account is that such help may be administered by assisting people presently excluded from particular discourse roles or positions to assume those roles, for example when disenfranchised people see how they can deconstruct and then reply to messages implicitly critical of them or otherwise functioning to their disadvantage. Or help can involve transforming existing discourse styles or conventional relations which obtain between interactants in ways which offer clearer or more relevant information, or inspire participatory self-confidence, or in some other way give value to people's experience and free up channels for realising individual or group aspirations.

As regards public engagement, the overall aim of CDA can be usefully distinguished into four further sub-categories. If allowance is made for simplification and artificial separation, the four categories are helpful in drawing attention to divergent emphases and possibilities.

1.   'CDA helps people to handle discourse better'. CDA helps by working with discourse practitioners to improve the effectiveness of their professional discourse (both Wodak (1996) and Fairclough (1989, 1995), for instance, report work on consultation styles with doctors and patients, as well as other projects).

2.   'CDA engages in specific, discourse-focused struggles'. Such struggles concern the circulation of particular representations or kinds of representation; they contest

interpretations of texts by means such as media complaints and appeals to tribunals. Such work is less about discourse style or competence (as in my first sub-category) than about the alleged defamatory, racist, sexist, blasphemous or obscene character of particular texts or classes of text.

3.   'CDA contributes to general discourse awareness and overall cultural literacy'. In this capacity, CDA campaigns for changes to the boundaries of tolerance or acceptability in a social situation, and seeks to enrich the climate of public debate surrounding notions of linguistic correctness and standards (cf. Cameron, 1995). Most of CDA's educational involvement comes under this heading, especially its attempts to enhance children's language and media awareness in the long-range belief that 'consciousness is the first step towards emancipation' (Fairclough, 1989:1).

4.   'CDA works to alter recognised forms of what constitutes knowledge'. In doing this, CDA lends authority to the specific educational campaigns outlined in my third sub-category. Such work takes place principally through scholarly and journalistic activity, and involves deconstructing value-laden research on language (cf. Fairclough's critique of 'appropriateness', Fairclough, 1995:233-52), as well as the interrogation of individual-centred language research by comparison with what is seen as language's fundamental sociality. In this area, CDA aligns itself with related struggles over what constitutes knowledge in adjacent fields such as critical literacy studies (Street, 1995), or critical legal studies, (Goodrich, 1987).

To avoid any doubt, I should emphasise that I do not believe these snap-shots adequately describe the work of particular writers, or identify completely distinct aims for CDA. For reasons outlined above aims and outcomes are not simply measurable in this way. The headings may nevertheless be helpful in signalling tendencies and relative timescales within CDA as regards social intervention, and as a way into considering, below, possible difficulties to which aims formulated along the lines indicated can give rise.

What is 'critical' in critical approaches?

Distinguishing between 'critical' and 'non-critical' approaches to discourse is not usually a problem, thanks in part to the fact that critical discourse analysis often tells you that it is. By comparison with socially dis-engaged ('uncritical') forms of discourse analysis - which investigate 'discourse' using formal, functional, or cognitive categories separate from the changing forms of social and institutional life (cf. Sinclair and Coulthard 1975; Brown and Yule 1983; Stubbs, 1983; Van Dijk and Kintsch, 1983; Tannen, 1989, etc) - works of CDA share theoretical as well as political preoccupations, even if their 'critical' dimension is often introduced into discussion less because the legitimacy of a particular interpretation is not recognised than because of a less-focused objection to 'bringing politics into it again'.

Looked at more closely, however, the term 'critical' is almost always problematic. One obvious difficulty concerns the precise political content of the criticism. In the cultural field, for instance, both Leavis and Pecheux (and for that matter the publications of the National Viewers and Listeners Association) are evidently 'critical', while being radically divergent in what their criticisms presuppose and entail. In terms of intellectual descent, of course, 'critical' is more properly associated with traditions of critical theory derived from the Frankfurt School's criticism of value-free judgements and positivism in social science, and its alternative emphasis on an open-ended, continuously self-critical approach to culture and superstructure questions within a broad critique of modern technocratic society. In more recent usage, that academic pedigree for 'critical' combines with a cluster of interrelated structuralist and post-structuralist approaches.

Outside the academic world, however, in social domains in which CDA needs to build support if it is to exert social leverage, the dominant, relevant sense of 'critical' remains that of adverse or unfavourable judgement. Dictionaries of aphorisms and quotations, and a concordance corpus-search, support a view that 'critical' is mostly used and perceived pejoratively (with senses close to 'derogatory', 'finicky' 'fault-finding' and 'picky'), and often features in disparaging contrast with terms like 'complimentary', as well as 'productive' and 'innovatory'. Two elements of these common perceptions of 'critical' are particularly suggestive in pointing towards concerns which can be damaging to CDA's reputation outside academia: first, that 'critical' implies oppositional work in the sense of being polemical, resistant, antagonistic, or confrontational with respect to whatever is official or mainstream;

7

second, that 'critical' means being merely antithetical or reactive, a sort of disgruntled commentary after the fact which is unable to offer alternative proposals. (A third sense of 'critical', 'relating to a crisis or turning-point, and so urgent, pivotal and determining the issue overall', or 'constituting a point at which some action, property or condition passes decisively over into another' is far less prevalent than ten years ago, and almost certainly plays only a residual role in the fantasy-life of critical practice.)

Building from these two common senses of 'critical', and the commonsense challenge they pose to CDA, I want now to illustrate particular ways in which such senses bear on CDA's goal of social engagement.

'Critical' as 'oppositional'

Perhaps the clearest value of CDA lies in its contribution to social change. After all, a politicised, teleological claim is implicit: things could be better. Many of the most-cited locations of CDA activity reinforce this image, by being organisations formed with the purpose of social reform or transformation: trade union branches, environmentalist groups, women's groups, and tenants' associations. Others are sites of conflict over social reproduction: schools, and professional in-service training (eg. for doctors, police officers, social workers, etc).

The oppositional sense of 'critical' is relational, however. 'Critical' impetus is located not only in values advocated but also in what the CDA is presented as criticism of. There are, for instance, important differences between critical analysis of a particular discourse as being irrelevant, obfuscatory, or inconsiderate, and criticism of the same discourse as being a damaging symptom or ideological manifestation of capitalism. The strategic goal of the analysis, and so the sorts of intermediate outcome which might be recognised as furthering that goal, derives from either of two main frameworks: a *causal* claim about relations between forms of discourse (as in effect vehicles of ideology) and, through ideology, the economic base, such that power is exposed or revealed in the analysis; or else a *political* claim which informs the analysis but is not necessarily or inevitably linked with the form of the discourse itself, deriving instead from a political judgement as to effects of the discourse.

If forms of discourse become ideological less on account of stylistic properties than by being contextualised and used for one political purpose or another depending on the social

situation, and on assumptions brought to bear by interpreters, then the key political questions about discourse concern social relations which may be contingently reflected in, but are not themselves constituted or regulated by, the discourse being analysed. Struggles for power undoubtedly still take place; but what sort of political calculation can sponsor oppositional struggle has to be established on new lines and on its own terms (Hirst, 1979).

What, in any case, if something *does* change apparently as a result of CDA intervention? Whatever significance can be attributed to the change depends on the overall political framework in question: if overthrowing the capitalist order is the primary goal, then changes in GPs' ways of talking to patients at morning surgery may seem a modest achievement, even within a continuous larger struggle for hegemony. Within a framework of heterogeneous social struggles (about environment, sexual orientation, transport or local government, possibly aligned with anti-capitalist forces in a loose alliance of so-called one-issue groups), such changes may appear far more significant. But that significance has to be assessed according to standards of political calculation not specified by the CDA itself. This issue is crucial because, problematically in the case of an 'umbrella' of local struggles, CDA may become simply discourse analysis harnessed to whatever political agenda the analyst chooses to bring. One can at least imagine CDA on behalf of anti-vivisection, pro-life, libertarian, Sabbatarian, or real-ale causes, for any of which discourse analysis might sharpen a rhetoric of rebuttal and the effectiveness of lobbying. A significant feature of the retreat from 'ideological critique' arguments into more dispersed cultural politics has been that serious gaps can open up between knowledge claims and strategy formulation, as in Fairclough's acknowledgement that 'critical discourse analysis is just one method to be used within wider critical projects' (Fairclough, 1995:??). Political authority for such 'cultural projects' is conferred somewhere away from the discourse analysis, and without an explained theoretical linkage to it.

Arguably, it is this complication - of critical analysis as persuasion linked either with a potential 'will to power' inherent in Foucault's debt to Nietzsche, or with a contrasting political pessimism otherwise attributable to Foucault - which makes the writings of Stanley Fish so unattractive to CDA. Fish is hardly ever referred to in CDA, despite his public involvement, over a long period, in a series of institutional and political struggles to do with language and power (cf. Fish, 1994). But Fish refutes any determinate linkage between

discourse and political form; and his maverick view of persuasion as the principal agent both of serving and of destabilising any given social or intellectual order drives a wedge between discourse analysis and any presumed form of politics.

'Critical' as reactive commentary, separate from cultural production

The sense of 'critical' as disparaging or antithetical commentary after the fact, cut off from active cultural engagement, depicts CDA as so stuck in rebuttal that it is unable to contribute viable alternatives of its own to the continuous circulation of representations in society. To counteract such a limitation, CDA is thought to require a shift from criticism into making alternative meanings which can be tested against the complexities of social practice (eg. by assisting writing, film and video production, multi-media authoring, etc.).

This critique of CDA neglects occasional exhortations, such as Fairclough's, towards 'marrying awareness and practice' (Fairclough, 1989:240); but it would be difficult to argue that CDA has placed as much emphasis on combining critique and production as on critical analysis itself. One possible explanation for the continuing prioritisation of critique is that production is made problematic for CDA by its own analysis of powerful coopting tendencies within the contemporary social order. It has been argued, for instance, that in contemporary capitalism discourse is widely recognised by a range of dominant organisations as a significant agent in socio-cultural reproduction. Symbolically-rich linguistic practices are accordingly coopted towards the goal of a sort of social engineering to be achieved by re-directing existing discourse conventions to new purposes; youth-culture styles especially, as well as dialect forms and conversational, even intimate, modes of address are reworked as promotional, advertising or other institutionally-directed discourses, with an effect on styles ranging from rail announcements and public health warnings to formulaic hamburger sales transactions. Following Foucault, Fairclough describes this process as the 'technologisation of discourse', or appropriation of discourse as an instrument of social regulation which subsumes potentially dissenting or counter-cultural discourse-practices in pursuit of its own interests (Fairclough, 1995:91-111).

One consequence of such appropriations of discourse which presents special problems for CDA is that insights into how discourse works (and how and why it breaks down) can be recuperated as fine-tuning to discourse practices within management, sales, technical

instruction or advertising; and CDA is reduced to the status of a kind of textual ergonomics serving dominant interests. A risk in devising alternative modes of writing or cultural production is accordingly perceived: alternative practices will lose their reflective or critical character and be simply coopted into dominant, 'instrumental' definitions of discourse practice.

Questions of oppositional cultural production (to the extent that analytic discourse is not itself recognised as 'production') may seem tangential to CDA, given that 'A' is for analysis. But a key question remains: how far can 'analysis' with respect to discourse be a political force, beyond (currently embattled) reflective aspirations within education, if practised separately either from specific social institutions with which it engages towards explicitly-formulated political objectives, or from the practical production of new kinds of discourse which will circulate in the public domain?

Legitimate Inference: background of a work-in-progress

In the rest of this paper, I describe briefly a project on which I am currently engaged. But my description is not offered as a solution to the difficulties I have outlined; in fact my research enacts many of the problems. There are nevertheless two features of my work which illustrate points I wish to make. First, since I have suggested above that discourse meaning is not determined wholly by discourse form, let alone linked determinately by means of discourse form to ideology, critical projects appear to need to investigate more vigorously than previously the active and varying processes of interpretation undertaken by audiences (2). Second, I have also suggested that much of what is most interesting about CDA concerns 'meta' issues, about how social institutions understand and ascribe meanings to discourse; projects accordingly appear to need to engage with general frameworks of interpretation as much as offering exemplary, oppositional readings of specific texts. My present work tackles both these issues.

I will call my current study **Legitimate Inference** here, since it is directed towards a book that is likely to be published under that name. It explores what I call 'meaning trouble-spots': contestations of meaning in some of the main areas of media law and regulation, including defamation; advertising standards and trade descriptions; obscenity and blasphemy; and intellectual property law. The case studies which make up most of the book investigate

11

how socially variant interpretations, often prompted by the combination of discourse with different bodies of cultural assumptions (what are usually described in discourse analysis as schemas, frames and scripts, for exposition see Greene, 1986) is reduced in media law to legally authoritative attributions of meaning which form the basis of binding judgements. Towards a practical outcome, I assess how far empirical research into interpretive variation, within linguistic, psychological and ethnographic paradigms, can illuminate particular judgements about meaning which are made by the courts and regulatory authorities, and in doing so seek to contribute to current public debate over what forms media regulation should take.

Several aspects of the project, I believe, expose interesting problems surrounding CDA's prospects for social engagement. Even the history of the work may be relevant, in that my research questions would never have arisen at all as part of an established academic field or research agenda; the study was prompted by completely fortuitous involvement as an expert witness in a libel action in 1992 (later written up in *Forensic Linguistics*, Durant 1996.) At the time, my interest had no particular 'critical' edge: the intellectual challenge of 'proving a meaning', by means of precise textual, qualitative and quantitative methods, which seemed in any case intuitively beyond doubt, had sufficient scholarly attraction. It did surprise me to find myself offering an opinion in favour of a libel plaintiff: acting for the wrong side, if you take into account the social context of libel as largely a 'chilling effect' and a means by which the powerful protect reputation as a commercial asset (Barendt et al 1997; Scott-Bayfield, 1996). But the meaning complained of by the plaintiff (even if a prominent businessman...) seemed unassailable; and a defence simply that the expression could not reasonably bear the meaning alleged (even if entered on behalf of investigative journalists...) appeared at best misjudged.

As is clear from this description, my proto-project was in a field which would now be called forensic linguistics, albeit in the least prestigious and most precarious area of that field: concern with meaning (3). The project only ever grew from those beginnings at all because of what I consider difficulties with how libel law seeks to account for interpretation (for description, see Duncan and Neill, 1983; Robertson and Nichol, 1992); and at this point a watershed becomes evident between a 'forensic linguistics' approach and a CDA-type approach. In forensic linguistics, the linguist simply unpacks her or his specialist tool-kit on

demand, in written evidence or in the witness box, leaving broader issues of legal procedure to lawyers. In a CDA-type approach, the linguist would offer an opinion within constraints determined by current legal procedure, but would seek beyond that to provide context and analysis based on different (sometimes polemical) professional insights.

But how can such dialogue take place, within a social institution so precisely governed by rules and authority as the law? A brief internship (or 'mini-pupillage') at a specialist libel chambers in London has recently presented me very directly with the core problem of establishing professional exchange (in this case with barristers) which avoids three obvious pitfalls: the hubris of advising reform to a profession whose technical details I began by knowing very little about; the uncritical opportunism of offering expertise on consultancy terms, for use by others - at least in the few cases where they might want to use it - for very different professional purposes; or the political fatuousness of translating legal concepts and problems into linguistic terminology in order to criticise them for an academic, non-legal readership.

Investigating 'meaning trouble-spots' fits uneasily into the most recognised models of CDA. It is concerned with how audiences ascribe meanings in given social situations, and how social institutions legitimise their own interpretations, rather than with how discourse form constructs subject-positions for readers. Its questions are 'meta' questions: about discourse comprehension; about validity and variation in interpretation; and about how even simple meanings might be attributed a balance of accountability (as between speaker and reader) and relative likelihood (as between different sorts of readership). But a project along these lines cannot be described unproblematically as 'linguistics applied' either, since linguistics has little prestige and still less credibility in the professional domain in question. Rather, what I am attempting is to formulate ways of talking about meaning which - without trivialising the problems - lie somewhere between three differing discourse practices: valuable academic discourse about meaning, especially in linguistics and psychology; the professional discourse of lawyers and media regulators; and the 'ordinary language' approach of those who find themselves involved in media law as plaintiffs, complainants, or defendants.

CDA and media regulation

The larger interest of these questions - and the direction my work is now pursuing - is that the sorts of issues which arise in libel (eg. around the 'ordinary reader' and 'innuendo meanings') are symptomatic of difficulties with tests of meaning across the full spread of media law. In general in media law, legal hermeneutics restricts what a meaning can be to a narrowly-specified set of effects. Words convey meaning only to the extent that they serve as instruments of legally definable effects or purposes, such as imputing misconduct, inciting specified actions, or causing pecuniary loss. Other aspects of meaning are considered, for the purposes of the law, simply irrelevant.

But relations between language and law are more complicated than such definition and exclusion allow. Language presents law with not one but at least four different types of concern, which often become confusingly entangled (Gibbons, 1995). First, there is the established jurisprudential view: legal language is not so much ordinary language selectively drawn on as an almost algebraic formalism marked off from ordinary language by careful procedures of construction of distinct technical terms ('malice', 'recklessness', etc); such construction is performed by lawyers for their own, clearly-delineated professional purposes. That view has been contested, however, by a virtually opposite account proposed in critical legal studies: law as an institution consists largely of discourse (both in its reliance on textual exegesis and in its rhetorical procedures of pleas and writs, injunctions and acquittals, and so on); what follows for critical legal studies is that, since legal discourse involves kinds of rhetoric, law as a whole is susceptible to theoretical critiques and deconstruction of its rhetorical form (Goodrich, 1987). A third consideration is that, in media law, legal terms are used to delineate concepts which specifically address questions of discourse interpretation; so legal discussion about the circulation of meanings operates with a technical vocabulary that clashes directly with understandings developed in the relevant academic fields. And fourthly, routinely in media law articles and utterances consisting of non-legal, social discourse come before the courts because they have been complained about; in these cases, lawyers and judges decide the meaning not of their own, technical legal terms but of usage as they imagine it functions in the world beyond the courts.

In the analysis of contested interpretations in media law, it is the fourth type of concern with language, the investigation of non-legal, social usage, which is in question

(though any discussion along such lines has to invoke concepts of the third type, legal notions about meaning and its circulation). Scope for dialogue between lawyers and linguists exists in part because for lawyers the fourth type is commonly approached not only by means of concepts of the third type, but along lines developed for the second type: that is to say, where systematic attention to meaning is paid at all, procedures and standards devised for the construction of legal statute are put to work in interpreting utterances in broad social usage which simply happen to be made temporary objects of legal adjudication.

In the absence of dialogue between legal and academic approaches to meaning, claims and counter-claims are made in media law and in complaints to regulatory authorities on the basis of selective (and sometimes quite erratic) engagement with interpretive problems. Such problems include those posed by intention, actual and anticipated effect, paraphrase, and the interpretation of figurative language, including irony. Cutting across these problems, there is also sometimes a more general confusion, between an expression's or text's potential to mean something on the basis of linguistic or pictorial conventions (assumed to be part of a speaker's acquired competence as a language user or viewer) and specific acts of comprehension in a given situation which rely on inferences triggered against the background of each interpreter's cultural assumptions, so producing significant interpretive variation.

Difficulties with existing ways of conceiving meaning are especially likely to arise if the contested utterance needs to be understood against a changing backdrop of socially or regionally varied (and in some areas of vocabulary, rapidly changing) patterns of use, where knowledge about likely audience is essential. In such circumstances, it seems at least arguable that many of the tests we currently have in Britain (such as the 'ordinary and natural signification' of an expression in defamation; the 'tendency to deprave and corrupt' test in obscenity; 'unjust and unfair', 'likely to incite...', 'likely to cause grave or widespread offence', and equivalent tests in other areas (see Robertson & Nichol, 1992)) fall short of what is required. One reason for this is that current interpretive tests typically invoke the idealised 'reasonableness' of a notionally homogeneous interpretive community, and appeal to bodies of common knowledge and commonsense even as they are obliged to acknowledge quite fundamental, actual interpretive variation.

An alternative view is that for many, perhaps most, contested utterances there will exist an uneven, sometimes complex, social distribution of relevant but varying

15

interpretations. If arbitration between conflicting alleged meanings is to be achieved, then a means of evaluating interpretations must be found which recognises complex and changing networks of social belief and values. Such a procedure needs to allocate responsibility for the production of meanings on the basis of how they are arrived at (by means of different sorts of implicatures and use of background assumptions, etc). Understanding how meanings are implied and understood, and being able to collect and report data to that effect, is clearly essential for that task, even if such understanding needs to be presented in everyday terms and concepts if it is to be significantly less opaque than much present legal advocacy.

The existence of interpretive variation is accepted in media law, of course. But it is generally viewed in that context either as a problem to be resolved by determining a single, legally authoritative interpretation or as irrelevant diversity around a core of deeper, or even universal, moral values. The central argument I seek to develop, by contrast, is that - certainly in many and perhaps in all cases - conflicting interpretations cannot be reduced convincingly to judgements against general criteria of truth, ordinariness, or reasonableness. But at the same time - against the emphasis of deconstruction and postmodernism - if practical resolution or arbitration is to be achieved, then searching for the grounds of specific interpretations cannot be dismissed as merely facile misunderstanding of the cultural relativity or indeterminacy of meaning, as if to give up on decisive authority for meaning is to fall straight into scepticism and inaction (for discussion, see Norris, 1997a; 1997b).

The detailed case studies to be presented in a book with the working title of *Legitimate Inference* aim to illustrate that present regulatory procedures could be helped in relevant cases by two shifts of emphasis. Both depend on a significant broadening of the accepted legal treatment of interpretive variation. First, appeals to fixed standards of validity should be redirected towards more pragmatic notions of what might be called the *relative legitimacy* of interpretive claims put forward with respect to any given set of circumstances. Second, the relative legitimacy of interpretive claims should be established, where disputed, on the basis of tests including, though not restricted to, empirical investigation of what parallel uses of contested expressions or images may mean in analogous contexts, as well as what the contested utterance or text itself might be established to mean to audiences outside the immediate legal process.

16

Conclusions

How would the sort of work I have described - in which the will should not be taken for the deed - contribute to the larger project of CDA? That is the question I wish finally to address.

Understanding our modern media environment means understanding several different sorts of things besides discourse forms: first, changing technologies (or means of representation and mass communication); second, changing media institutions (including producer institutions; distributors and exhibitors; reviewing and promotional organisations, etc.); third, the composition of audiences, and their role in formations of consumption trends, taste, and notions of value; and fourth, changing legal frameworks for regulation. Developing a view about any given aspect of such a media environment - whether as a would-be producer, a viewing citizen, or a political radical - depends on forming an overall understanding of the complex relations between these agencies: so media study of one kind or another is likely to be essential.

As regards media regulation in particular, libel, copyright and other areas of media law express important social relations. They form a key intersection between apparently intangible meanings and specific forms of property (in which ideas or reputation become assets, constituting rights and allowing legal remedies); and in doing so they also link what we think of as the realm of ideas and that of social action, within which property rights and relations circulate. Regulation of verbal and other representational practices bridges the conception of language as representation and the effects of language as social action.

To the extent that CDA makes value-systems implicit in a discourse visible and available for conscious scrutiny, it can make a valuable contribution to media education by helping readers and viewers articulate interpretive intuitions, and anchors the reading of words within readings of the world. Acknowledging the social constructed-ness, and so socio-cultural character, of assumptions mobilised in inferential procedures of discourse interpretation represents a valuable sharpening of the project of close reading and cultural reflection sketched out in a tradition of critical analysis traceable from the writings of I.A.Richards onwards (but damaged in Richards's own early formulations by his lack of political focus, as Raymond Williams's concise commentary has shown, Williams, 1957:239-46).

A puzzling feature of CDA to date, however, has been that, having suggested that

discourse is a social agent, it then often jumps directly from a level of individual readings to the macro-level of ideology and generalised power. In between these levels exists not only the constraints of discourse practice, in Fairclough's terms, but also an explicit regulatory environment determining what can and cannot be legitimately said, or read, or viewed. Any such a framework is in principle politically accountable; CDA should accordingly seek to relate its readings to the ethics and politics of regulatory mechanisms which govern competition within the representational field as a whole.

Despite a focus on such topics, however, the prospects for my own work are not particularly good. Claims for admitting discourse evidence in media regulation are easily dismissed as self-interested lobbying by linguists in a climate of reduced public funding, and their expertise caricatured as 'super-dictionary' and 'opinion-poll' scholasticism which is irrelevant to day-to-day conflict arbitration. Legal practitioners generally maintain in any case that there are three major structural reasons for not taking linguistic evidence very seriously. First, legal adjudications are based, as has already been indicated, on very precisely constrained notions of what meaning is 'for the purpose of the law'. Second, presenting research into meaning is likely to be counter-productive, where perceived as an affront to the authority of the presiding judge or regulatory committee, or - begging deep questions about legal process - a jury's prerogative, as a simple, quasi-representative group of peers, of reaching decisions unencumbered by prejudicial 'expert' evidence. Third, decisions as to the *meaning* of utterances or texts are usually just one local crux - a sub-plot, rather than the entire narrative - of legal actions or complaints in which they occur; legal protagonists almost invariably place far greater emphasis on tactics, investigation of background circumstances, and likely financial consequences.

It is as much one consequence as the substance of this situation which is worrying. What follows implicitly is that the only people properly qualified to comment on legal skirmishes over meaning are lawyers themselves (with the danger of this position amplified by the fact that reliance on any one particular interpretation in a jury verdict, within a complex overall case, is rarely if ever disclosed). The more general consequence of this situation for CDA, I believe, is that where linguistics seeks to contribute to legal argument, it must do so not on the basis of presumed superiority regarding its own expertise concerning how discourse works. Instead, it needs to piece together publicly assessable evidence about

18

variant interpretations and their relative likelihood and legitimacy, and set this for comparison alongside current legal tests and arguments. If there is a general lesson for CDA in this lower-key approach it is this. For CDA projects to have credible prospects of social engagement which is neither preaching to the converted nor dependent on the power relations of the seminar room, they will need to work closely and in a sustained, continuous way (as a number of projects have and do) with mainstream social institutions, despite often very different cultures, methods and aims.

Footnotes

(1)   Norman Fairclough has offered useful critical self-commentary in a series of retrospective section introductions (Fairclough, 1995), though these tend to focus more on matters of argument than on the social functioning of CDA. Other writers also comment, but often only briefly and in passing.

(2)   Research into audiences has followed a number of different research traditions. See, for instance, Ang (1991), Morley (1992), Kent (1994), and, for a collection concerned with possibilities for convergence between the different traditions, Hay et al (1996). Each of the traditions is nevertheless perplexed by questions of meaning.

(3)   While there is forensic expertise in bloodstains and firearms, the court sees itself as the expert on language. Even so, two kinds of linguistic evidence are occasionally admissible: (a) evidence as to authorship (a kind of traditional identification evidence); (b) evidence as to meaning (traditionally a role for juries, or for a judge hearing applications in chambers). Within linguistics, there is then an implicit scale of relative authority: phonetics is considered to offer firmest, or most scientific evidence; stylistic evidence (eg. as regards authorship or the authenticity of disputed documents) is widely viewed as speculative; meaning evidence is regarded with scepticism, as being the least stable and most difficult to establish.

References

Ang, Ien (1991), *Desperately Seeking the Audience*, London: Routledge.

Bakhtin, Mikhail (1986), *Speech Genres and Other Late Essays*. Austin: University of Texas Press.

Barendt, Eric, Laurence Lustgarten, Kenneth Nornie, & Hugh Stephenson (1997), *Libel and the Media: the Chilling Effect*. Clarendon.

Blakemore, Diane (1992), *Understanding Utterances: an introduction to pragmatics*. Oxford: Blackwell.

Bourdieu, Pierre (1991), *Language and Symbolic Power*. Translated by Gino Raymond and Matthew Adamson. London: Polity.

Brown and Yule (1983), *Discourse Analysis*. Cambridge: CUP.

Cameron, Deborah (1995), *Verbal Hygiene*. London: Routledge.

Coward, Rosalind & John Ellis (1977), *Language and Materialism*. London: RKP.

Duncan, Colin & Sir Brian Neill (1983), *On Defamation*. 2nd edition. London: Butterworths.

Durant, Alan (1996), 'Allusions and other 'innuendo meanings' in libel actions: the value of semantic and pragmatic evidence'. *Forensic Linguistics*, volume 3 number 2, 195-210.

Fairclough, Norman (1989), *Language and Power*. London: Longman.

- - - - - - - - - - - (1995), *Critical Discourse Analysis: the critical study of language*. London: Longman.

Fish, Stanley (1994), *There's no Such Thing as Free Speech*. Oxford: OUP.

Foucault, Michel (1972), *The Archaeology of Knowledge*. Translated by Alan Sheridan. London: Tavistock Publications.

Fowler, Roger, Gunther Kress, & Tony Trew (1979), *Language and Control*. London: Routledge.

Gibbons, J (ed), (1995), Language and the Law. London: Longman.

Goodrich, Peter (1987), *Legal Discourse: studies in linguistics, rhetoric and legal analysis*. London: Macmillan.

Greene, Judith (1986), *Language Understanding: a cognitive approach*. Milton Keynes:

Open University Press.

Grice, Paul (1989), *Studies in the Way of Words*, Cambridge, Mass: Harvard University Press.

Habermas, Jurgen (1979), *Communication and the Evolution of Society*. Translated by Thomas McCarthy. New York: Beacon Press.

Hall, Stuart, et al (1981), *Culture, Media, Language*, London: Hutchinson.

Hay, James, Lawrence Grossberg & Ellen Wartella (eds) (1996), *The Audience and its Landscape*. Boulder, Colorado: Westview Press.

Hirst, Paul Q. (1979), *On Law and Ideology*. London: Macmillan.

Hudson, R.A (1980), *Sociolinguistics*. Cambridge: CUP.

Hymes, Dell (1974), *Foundations in Sociolinguistics*. Philadelphia: University of Pennsylvania Press.

Kent, Raymond (ed) (1994), *Measuring Media Audiences*. London: Routledge.

Labov, William (1972), *Sociolinguistic patterns*. Philadelphia: Pennsylvania University Press.

Levinson, Stephen (1983), *Pragmatics*. Cambridge: CUP.

Macdonnell, Diane (1986), *Theories of Discourse*. Oxford: Blackwell.

Mills, Sara (1997), *Discourse*. London: Routledge.

Morley, David (1992), *Television, Audiences and Cultural Studies*, London: Routledge.

Norris, Christopher (1997a), *New Idols of the Cave: on the limits of anti-realism*. Manchester: MUP.

- - - - - - - - - - - - - (1997b), *Resources of Realism: prospects for 'post-analytic' philosophy*. London: Macmillan.

Pecheux, Michel (1982), *Language, Semantics, Ideology*. Translated by Harpans Nagpal. London: Macmillan.

Robertson, Geoffrey & Andrew Nichol (1992), *Media Law*. Third edition. Harmondsworth: Penguin.

Romaine, Suzanne (1994), *Language in Society: an introduction to sociolinguistics*. Oxford: OUP.

Scott-Bayfield, Julie (1996), *Defamation: law and practice*. London: FT Law and Tax.

Sinclair, John & Malcolm Coulthard (1975), *Towards and Analysis of Discourse: the English used by pupils and teachers*. Oxford: OUP.

Sperber, Dan, & Deirdre Wilson (1986), *Relevance: Communication and Cognition*, Oxford: Blackwell.

Street, Brian (1995), *Social Literacies: critical approaches to literacy in development, ethnography and education*. London: Longman.

Stubbs, Michael (1983), *Discourse Analysis: the sociolinguistic analysis of natural language*. Oxford: Blackwell.

Tannen, Deborah (1989), *Talking Voices: repetition, dialogue, and imagery in conversation*. Cambridge: CUP.

Thomas, Jenny (1996), *Meaning in Interaction: an introduction to pragmatics*. London: Longman.

Van Dijk, T. & W.Kintsch (1983), *Strategies of Discourse Comprehension*. New York: Academic Press.

Volosinov, Valentin (1973), *Marxism and the Philosophy of Language*. Translated by Matejka, L and Titunik, I. New York: Seminar Press.

Williams, Raymond (1957), *Culture and Society, 1780-1950*, Harmondsworth: Penguin.

Wodak, Ruth (1996), *Disorders of Discourse*. London: Longman.