

Interpreters' treatment of discourse markers in courtroom questions

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ABSTRACT Discourse markers such as 'well', 'now' and 'see' are common in everyday oral communication, yet very few speakers are ever aware of their presence in their own speech. Nevertheless, even when these markers carry no propositional content, they are important in portraying a speaker's intentions and adding tone and force to their utterances. This paper describes the different uses of these discourse markers as found in lawyers' questions during examination-in-chief and cross-examination. It was found that such markers are used as devices of argumentation and confrontation, mostly initiating disagreements or challenges during cross-examination, and during examination-in-chief, as devices used to maintain control of the flow of information, and to mark progression in the story-line. Having established this, the paper goes on to describe the treatment of such markers by the court interpreter. Interpreters are required to understand the source message fully and to convert it accurately into the other language with the same illocutionary force, portraying the speaker's original intentions. It was found that interpreters predominantly omitted or mistranslated these markers. Possible reasons for such a tendency and solutions are also presented.

KEYWORDS discourse markers, illocutionary force, pragmatic equivalence, interpreters, translation

INTRODUCTION

There is a prevailing misconception that the main difficulty faced by court interpreters is having to deal with legal jargon in two languages. Paradoxically, research has found that most of the problems interpreters face in the courtroom, particularly in the case of Spanish, are completely unrelated to specialized terminology, but relate mainly to the pragmatic aspects of the discourse, such as being able to achieve equivalence of illocutionary force, to match the level of coerciveness in lawyers' questions, levels of politeness, or equivalence of register in the testimony (Berk-Seligson 1990; Hale 1996, 1997a, 1997b; Fowler 1997). As Hatim and Mason observe, 'it is perfectly possible for the interpreter to translate competently the locutionary act involved in an utterance (in the sense of finding appropriate equivalents for Source Text words and relating them correctly and appropriately in Target Language syntax) while failing to perceive or otherwise misrepresenting the illocutionary force of the utterance in context' (Hatim and Mason 1990: 63–4).

One aspect of discourse that can affect the illocutionary force of an utterance is the use of the seemingly unimportant particles known as discourse markers. The illocutionary act is the act the speaker performs as a result of his/her making an utterance (Crystal 1994), such as apologising, demanding or thanking, while the illocutionary force is the force or strength with which such an act is uttered, which in turn will influence the way the utterance is understood and the reaction of the listener.

This paper will present the results of a data-based study of courtroom interpreting focusing on the use of discourse markers in courtroom questioning and their treatment by interpreters.¹ The data consist of seventeen Local Court cases held in New South Wales, Australia, from 1993 to 1996 with the assistance of Spanish interpreters. The cases were audio-taped by the courtroom, as a matter of routine, and later transcribed by me for the purposes of this research. The interpreting was all carried out in the short consecutive mode and both the Spanish and the English versions are audible and analysable. The eight different interpreters that appear in the data, are accredited by the National Accreditation Authority of Translators and Interpreters (NAATI) at the professional level (formerly level 3).

This paper will address three major questions: how are these markers used in courtroom questioning, why did interpreters tend to omit them in their interpretation, and what possible effect could such omissions have on the answers.

DISCOURSE MARKERS AND THEIR USE IN COURTROOM QUESTIONS

'There are unstated, untaught conventions governing the use of many of the little "function" words we use, words such as conjunctions like *but*, *though* and *since*, and interjections like *well*, *why* and *oh*. These little words are often overlooked because they do not refer to observable properties or events, but in their own way, they may speak volumes about the person who uses them' (Green 1990: 250–51).

Such 'function' words cover a range of syntactic word classes and have been labelled differently by a number of linguists, including *particles* (Schourup 1985), *fillers*, *interjections* (Svartvik 1980), and *hedges* (Lakoff 1975). Schiffrin (1987) calls them *discourse markers*, which is the label I have chosen to adopt. I consider these forms units of pragmatic rather than grammatical significance, as their presence or absence can affect the illocutionary force of the utterance leaving intact the grammatical structure of the sentence and its propositional content. Schiffrin provides a set of useful suggestions to identify words or expressions as discourse markers. They bracket units of talk and are syntactically independent from the sentence, so that they can be detached from the sentence without altering its propositional content. They are usually in initial position and have a tonic stress fol-

lowed by a pause (1987: 328). As my intention is not to provide an exhaustive analysis of every type of discourse marker available to speakers, I have concentrated on those which appear most frequently in my data and which were not systematically translated by the interpreter. Whereas Schifffrin (1987) sees discourse markers as devices that facilitate discourse coherence between two people engaged in conversation, courtroom discourse is very different from everyday conversation. In lawyers' questions, my data seem to indicate that these discourse markers can serve not only as cohesive devices but more importantly as devices of argumentation, combativeness and even control. Interestingly, these markers tend to go missing in most of the interpreters' renditions. As their absence does not alter the propositional content of the utterance or their grammatical structure, they may seem irrelevant to interpreters and hence disappear in the mental filtering process.

I have concentrated on the use of 'well', 'now' and 'you see' prefacing lawyers' questions both in examination-in-chief and in cross-examination as these were generally omitted in the translation. As Table 1 indicates, 'well' appears in 4.3 per cent of all cross-examination questions and in only 1 per cent of examination-in-chief questions, 'see' or a variation of it such as 'you see', appears in 3.3 per cent of cross-examination questions, but does not appear in examination-in-chief at all, and 'now' features in cross-examination questions only 2.5 per cent of the time but 8 per cent of the time in examination-in-chief. This presents a clear pattern. The data seem to demonstrate that in cross-examination, which has a combative mood, these discourse markers are used as an assertive device, indicative of superior authority. They preface 'questions' that are either stating a disagreement, or that seek an answer that would suit the lawyer's purposes to discredit the opposing case, mostly in the syntactic form of declaratives. 'Well' and 'see' appear with greater frequency in cross-examination than in examination-in-chief, which seems to indicate that they are stronger devices of argumentation than is 'now' which is much more prominent in examination-in-chief. Indeed 'see' is not used at all in examination-in-chief. 'Now' in examination-in-chief is mainly used to guide the witness in presenting the story, prefacing questions that seek narrative answers in the form of *wh* or modal interrogatives, or more specific requests in the form of polar interrogatives.

Table 1 The frequency of discourse markers in courtroom questions

	well	see	now
cross-examination	27 (4.3%)	21 (3.3%)	16 (2.5%)
examination-in- chief	4 (1%)	0	32 (8%)

USES OF 'WELL' IN CROSS-EXAMINATION

In cross-examination, 'well' as a preface to the cross-examiner's question was mostly used to indicate rejection of the witness's/defendant's previous answer and to provoke him/her by proposing something different, which was generally contentious (see Examples 1 and 2). Pomerantz (1975) and Fraser (1990) found that in conversation 'well' is often used to preface disagreements, equivalent to 'yes but', or to mark divergence. This coincides in part with the uses of 'well' found in cross-examination. The major difference however, is that whereas in conversation the speaker expresses his/her disagreement, in cross-examination the cross-examiner provokes the disagreement. When used by the cross-examiner then, 'well' often tends to act as a sign of contradiction and confrontation, expecting disagreement. In this context questions beginning with 'well' can be said to be 'negative conducive' (Hudson 1975), which are questions that anticipate disagreement. This can be seen clearly in Examples 1 and 2, which are representative of the data as a whole. As these examples are given to illustrate how 'well' functions as part of the lawyer's argument, the interpreter's rendition of both the lawyer's question (into Spanish) and the witness's answer (into English) is not necessary. My translations appear in brackets.

Example 1

- Q1 Well you see, you were saying to your wife, let me go, I want to hit this son of a bitch, weren't you?
 A1 *Yo quería, yo quería correr más a la casa cuanto más iba a querer acercarme a él.*
 (I wanted, I wanted to run home, why would I want to get close to him.)
 Q2 You wanted to get into a fight.
 A2 *Eso es falso.* (That's false.)

Example 2

- Q1 Well, you didn't see the handle because there wasn't any knife, isn't that right?
 A1 *Yo no vi el mango del cuchillo porque lo tenía apuñado con la mano.*
 (I didn't see the handle of the knife because he was holding it in his hand.)

On both occasions the lawyer is trying to discredit the witness by presenting damaging information as fact. In Example 1 the witness indirectly rejects the lawyer's suggestion in answer to the first question and rejects it outright with 'That's false' in the second answer. In Example 2 the witness again rejects the lawyer's contentious suggestion by providing a different explanation.

THE OMISSION OF 'WELL' IN THE INTERPRETER'S RENDITIONS

The discourse marker 'well' as a preface to the cross-examiner's questions appeared in 27 questions, but it appeared in the interpretation only 8 times. This demonstrates that the interpreters (INT) omitted this discourse marker in their interpretation some 70 per cent of the time. Whether the omission is deliberate or subconscious is difficult to ascertain, however the omission seems significant.

Example 3

Q1 Well, you were yelling and screaming at this stage, weren't you?

INT *Usted estaba gritando y y y ah hablando en voz alta en ese momento, no es cierto?*

(You were screaming and and and uh speaking in a loud voice at that moment, isn't that right?)

A1 *Absolutamente 'nothing', no nada.*

INT Absolutely nothing, no.

Q2 See, you were yelling and screaming at the passenger of the truck.

INT *Usted estaba gritándole al pasajero del camión.*

(You were yelling at the passenger in the truck.)

A2 *Yo no estaba gritando a nadie, no grité nada absolutamente.*

(I wasn't yelling at anybody, I didn't yell anything at all.)

INT I wasn't yelling to anybody, I I didn't yell at all.

Example 3 shows an instance of the use of 'well' followed by 'see'. The cross examiner here puts to the witness a contentious suggestion that is likely to be rejected. This is prefaced by 'well' and ends with a negative tag. The proposition is immediately rejected by the witness who says 'absolutely nothing, no' at which response the lawyer tries again, this time using 'see' and a declarative statement with no tag. Once again the proposition is rejected. As can be seen in the back translation of the interpreter's rendition, which appears in brackets, at no time were these two discourse markers translated.

Example 4 was extracted from case 3 and consists of a series of exchanges which commence and end with the same question, hence I have identified it as a single question and answer segment. It is relevant to this section of the analysis because it makes extensive use of the discourse marker 'well' in a sequence of continuous disagreements. I will analyse the segment in detail. I will not provide back translations of all of the interpreter's renditions into Spanish in the example, but will do so as it becomes necessary in the discussion. I have highlighted the discourse markers and the pertinent sections of the questions and the answers that will be discussed in detail.

Example 4

Q1 **Uh do you accept that you filled out a claim**, an insurance claim for the car on the 23rd of July?

INT *Acepta usted de que usted llenó un formulario de reclamo de seguros el 23 de julio?*

(Do you accept that you filled out an insurance claim form on 23 July?)

A1 *Mm, que lo llené sí, que sea el 23 no estoy seguro.*

(Uhm, that I filled it out, yes, that it was on 23, I'm not sure.)

INT I accept that uh I filled it up **but I'm not sure whether it was the 23rd.**

Q2 Uhm, **well** when you filled out the insurance claim, your wife did that on your behalf, is that correct?

INT *Cuando usted llenó el formulario de reclamo de seguro su esposa lo hizo por usted, verdad?*

(When you filled out the insurance claim form your wife did it for you, right?)

A2 *Cuando cuando se llenó, no cuando lo llené. Creo que fue ella porque buscaba la ayuda de otra gente que hablaba mejor que, mejor que ella todavía.*

(When, when it was filled out, not when I filled it out. I think it was her because I was looking for help from people who'd speak better than, better than her even).

INT Uh when it was **filled up not when I filled up**, uh, I remember that it was her because it was also looking for the help of other people that would speak English better than her even.

Q3 **Now, in relation to the day you filled out the insurance claim form, can you be more specific as to when the police told you that your car had been found.**

INT *En cuanto al día que usted llenó la aplicación, o que se llenó la aplicación, puede ser más específico en cuanto a la fecha que la policía le dijo de que había encontrado el coche?* (With regards to the date you filled out the application, or that the application was filled out, could you be more specific regarding the date the police told you that they had found the car?)

A3 *Tal vez no pueda ser más específico porque hace mucho tiempo de eso que no no tengo una secuencia de datos exactos (something else inaudible).*

(Maybe I can't be more specific because it's been a long time since then and I don't don't have a sequence of the exact details.)

INT Uh, **perhaps I cannot give you uh, I cannot really be more specific** because it's been so long ago and I have not in my mind a precise sequence of events, I wasn't prepared for this.

Q4 Right. The insurance claim form, **where did you get that from?**

INT *El formulario de reclamos de la compañía de seguros, de dónde lo obtuvo?*

(The insurance company's claim form, where did you get it from?)

A4a *Si mal no recuerdo se llenó cuando el agente de seguros llegó a mi casa.*

(If I remember correctly it was filled out when the insurance agent came to my place.)

INT **If I'm not mistaken it was filled up** when the uh insurance agent came to my house.

A4b *O no sé si lo mandaron por correo y mi esposa lo llenó. No recuerdo exactamente.*

(Or I don't know if they sent it in the mail and my wife filled it out. I don't remember exactly.)

INT **Or perhaps** it was sent by mail and my wife filled it up, **I don't remember exactly.**

Q5 Right. So did the insurance agent come around to your house on the 23rd?

INT *Entonces el agente de seguros llegó a su casa el 23?*

(Then the insurance agent went to your place on the 23?)

A5 **No.**

INT **No.**

Q6 **But you filled out the form on the 23rd.**

INT *Pero usted llenó ese formulario el 23.*

(But you filled out that form on the 23).

A6 *¿No le he dicho que no estoy seguro? ha pasado tanto tiempo.*

(Haven't I told you that I'm not sure? It's been so long.)

INT **I have said I am not sure**, it was so long ago.

Q7 Right, uh, **well you accept that you filled out the form on the 23rd.**

INT *Acepta usted que usted llenó el formulario el 23?*

(Do you accept that you filled out the form on the 23?)

A7 *No tengo la ..., yo no sé exactamente la fecha en que lo llenaron.*

(I haven't got a, I don't know exactly the date they filled it out.)

INT I don't know exactly the day it was filled up.

Q8 Well, where did you get the form from to fill out?

INT *Dónde obtuvo el formulario para llenarlo?*

(Where did you get the form from to fill it?)

The cross-examiner commences his line of questioning – about an insurance form around which there are certain inconsistencies and uncertainties – with Question 1. He asks the defendant if he 'accepts' two facts, one that he filled out a form, and two that he did it on 23rd of July. After this initial question, all other questions revolve around the insurance form, the date it was filled out, who it was filled out by, and where it was obtained, with a particular emphasis on the date being the 23rd of July.

In response to the first question, the defendant accepts the first proposition but rejects the second, initiating a sequence of rejections.

Question 2 is prefaced with 'well' in response to Answer 1 which was not in complete agreement with Question 1, or, to use Schifffrin's (1987) or Lakoff's (1973b) explanations, the answer did not fully satisfy the question. In Question 2 the lawyer picks up on the piece of information agreed to by the defendant, that he filled out a form, and adds another piece of information, that in fact it was the wife who had filled it out: 'well when you filled out the insurance claim, your wife did that on your behalf, is that correct?'. To this the defendant who indicates insecurity about who in fact filled out the form, responds by emphasising that there should be a passive agent: *cuando se llenó, no cuando lo llené* (When it was filled out, not when I filled it out), hence avoiding responsibility and again presenting a disagreement to the previous question.

The discourse marker 'now' prefaced Question 3 in an attempt to return to the original question, 'Now, in relation to the day you filled out'. With the use of 'now', the lawyer seems to dismiss the defendant's previous answer, as there is no acknowledgement of it. Instead the cross-examiner wants to regain control of the flow of the information and steer the discourse back to his agenda. Once again the defendant is asked about the day, which was Question 1, although he is also asked to be specific about when the police informed him of an event. To this the defendant responds negatively once again, with an evasive *Tal vez no pueda ser más específico* (Maybe I can't be more specific).

Question 4 introduces a new theme, 'where did the defendant get the form' to which the defendant responds with an answer to the previous question about 'when' by saying *Si mal no recuerdo se llenó cuando* (If I remember correctly it was filled when), once again showing uncertainty about the date but emphasising the passive voice, so as to be vague about the agent. The defendant goes on to say that he's not sure if the insurance agent brought the form around or if it was received in the mail. To this, another question is put about the date, returning to the original Question 1. Question 5 states: 'So did the insurance agent come around to your house on the 23rd?' Here 'so' is used to try to finalize the question about the date, which has not yet been answered. As Schifffrin (1985) states, markers such as 'and' and 'so' are more likely to appear at a possible completion point. Once again this question is followed by a negative response, a simple 'no'.

Question 6 emphasizes the date once more 'But you filled out the form on the 23rd'. This is prefaced by 'but', 'a turn-initial marker of contrast which often initiates disagreement' (Schifffrin 1985: 653), as evidenced in the emphatic negative answer: *No le he dicho que no estoy seguro, ha pasado tanto tiempo* '(Haven't I told you that I'm not sure? it's been so long). This is immediately followed by Question 7 which is prefaced with a 'well' and reiterates the date: 'well you accept that you filled

out the form on the 23rd' which obtains another rejection: *No tengo la, yo no sé exactamente la fecha en que lo llenaron* (I haven't got a, I don't know exactly the date they filled it out). This use of 'well' fits in with Schifffrin's findings that some 'requests were re-issued with *well* when a respondent conveyed reluctance to comply' (1985: 656). The last question of this segment before changing the theme 'Well, where did you get the form from to fill out?' is also prefaced with 'well', however, this last 'well' carries a different force from the rest. Here the lawyer seems to show frustration and a sense of failure. It prefaces a *wh* question rather than a polar as did all the others. This 'well' can be interpreted pragmatically as 'OK then, you tell me ...', rather than 'I am telling you this is the way it was'.

The whole exchange is a series of contradictions. Not a single answer agrees with the question. This supports the assumption that the discourse marker 'well' in an adversarial context, is used to enforce combativeness and confrontation, and is very often surrounded by rejection of the proposition that follows the device. What is interesting in this example however, is that not once does the interpreter translate the discourse marker 'well' and yet, the answers are still negative as would be expected. As was mentioned previously, the absence of these discourse markers does not change the propositional content of the utterance but can alter its force. One can only speculate that the inclusion of the discourse marker in the Spanish translation would have achieved an even more aggressive reaction in the responses. Additionally, as Tyler *et al.* (1988) suggest, based on the results of their own research, the absence of a normal distribution of discourse markers in oral speech can make it sound unnatural and even more difficult to comprehend. Noteworthy also, is the fact that the answers are translated in a less emphatic and less confrontational way. The interpreter seems to act as a shield, where the message is muted by an unofficial filtering, deflecting the aggression that comes from both sides. I will discuss some of them separately and provide my own translation in brackets to compare it with the interpreter's version.

A1 *Mm, que lo llené sí, que sea el 23 no estoy seguro.*

(Mm, that I filled it out yes, that it was on the 23rd, I'm not sure.)

INT I accept that uh I filled it up but I'm not sure whether it was the 23rd.

The way the defendant phrases his answer is grammatically marked, using cleft sentences, emphasising the direct object in theme position rather than the verb. In the original, the emphasis is on 'that I filled it out' and 'the 23rd', whereas in the translation, the emphasis is on 'I accept' and 'I'm not sure'. This shift implies a more submissive and conciliatory mood on the part of the witness that is not present in the original, by thematising 'acceptance' and 'uncertainty'. I will disregard the interpreter's gram-

matical errors or unidiomatic expressions in English, which of course are not present in the original Spanish version.

A3 *Tal vez no pueda ser más específico porque hace mucho tiempo de eso que no no tengo una secuencia de datos exactos.*

(Maybe I can't be more specific because it's been a long time since then and I don't don't have a sequence of the exact details.)

INT Uh, perhaps I cannot give you uh, I cannot really be more specific because it's been so long ago and I have not in my mind a precise sequence of events, I wasn't prepared for this.

The force behind answer 3 is in the ambiguity of the statement, *Tal vez no pueda ser más específico* (Maybe I can't be more specific). The use of 'maybe' denotes defiance in response to the question about specificity, which is an important legal requirement. The defendant appears to be deliberately vague in his response to a request to be more specific. The interpreter begins to interpret the answer with a 'perhaps' but changes it to something more certain 'I cannot really be more specific', making the answer itself more specific in form than the original. An important insight into the witness's character goes missing here, since the original answer is more contentious than the translated one.

A6 *¿No le he dicho que no estoy seguro? ha pasado tanto tiempo.*
(Haven't I told you that I'm not sure? It's been so long.)

INT I have said I am not sure, it was so long ago.

Again in answer 6, the interpreter makes a slight alteration to the illocutionary force of the statement. The original answer 'Haven't I told you that I'm not sure? it's been so long', is translated as 'I have said I am not sure, it was so long ago'. There is a fundamental difference here. The original answer is a direct, personal confrontation with the lawyer, 'haven't I told *you*' said in the tone of a question, whereas the translation simply reiterates a previous answer 'I have said' and is softer in tone. The witness takes on a more powerful role by answering the question with another question, an act that would probably have attracted a reprimand from the lawyer and a command to simply answer the question. The original can be interpreted as 'why are you asking me again, haven't you heard what I said earlier' which again gives an insight into the witness's character.

It is remarkable to see that in this example both the lawyer and the defendant are very aggressive in their style and manner in spite of the interpreter's softening of the tone when interpreting both into English and into Spanish. It is difficult to determine whether the presence of an interpreter gives the witness more courage to use stronger language since his words are not directly understood by anyone else in the courtroom.

In other words, the defendant may be expressing his annoyance to the interpreter possibly believing that this would be automatically toned down in the process.

We have seen that 'well' has an important discursual function in lawyers' questions but that in spite of this, interpreters tend to omit the term in their interpretation, with unknown consequences on the answers. 'Well' was translated by the interpreters only eight times out of twenty seven (29.6 per cent) in cross-examination, and on four occasions out of the twenty seven there is hesitation in the form of 'eh' which is equivalent to 'uh' in English, at the beginning of the interpretation, indicating a transfer difficulty. Twice the discourse marker was translated as *entonces* (then) and *bueno, entonces* (well then) and the rest of the eight times as *pero* (but). I regard all these alternatives as correct, with *pero* being slightly stronger. As Schifffrin states, "well" marks a more conciliatory move than "but" (1985: 653). However, *Bueno, pero* (well, but) softens the strength of 'but' and maintains the disjunctive nature of 'well' when prefacing questions, hence making this another possible option. *Bueno* by itself, which is the literal translation of 'well', would not carry the same illocutionary force when used to preface questions, since it would simply imply acknowledgement of a previous answer, equivalent to 'good', 'OK' or 'right'.

USES OF 'WELL' IN EXAMINATION-IN-CHIEF

When used in examination-in-chief, where its occurrence is rare, the discourse marker 'well' is mainly used as a sign of frustration when the witness is not providing the desired answers, and unlike the corresponding questions in cross-examination, these questions would be regarded as 'positive conducive' (Hudson 1975), expecting agreement to the proposition presented in the question. Schifffrin also found that in conversational contexts 'when a response did not satisfy the particular need for information underlying a request, the request was often rephrased and marked with 'well' and that 'such requests fall into a series, where each member of the series is an effort to elicit information in response to the failures of earlier efforts' (1985: 655). Out of 397 examination-in-chief questions that form the data of this study, only four (1 per cent) contain an initial 'well', which is omitted every time by the interpreter. Examples 5 and 6 demonstrate the use of 'well' in examination-in-chief.

Example 5

Q1 And uh you tell the court that you have no prior convictions?

INT *Dice usted a la corte de que no ha tenido antes ninguna condena?*

(You're telling the court that you never had any convictions before?)

A1 No.

INT No.

Q2 Well, is it correct that you have no prior convictions?

INT *Es correcto decir que usted no ha tenido condenas anteriores?*

(Is it correct to say that you haven't had any previous convictions?)

A2 Sí.

INT Yes.

In Example 5, the illocutionary force of 'well' is clearly very different from the one used in cross-examination. Here, it is not used as an invitation to disagree, but rather as an invitation to agree to the rephrased proposition. The initial question, due to its conflict between a positive and a negative clause in the same interrogative structure, becomes ambiguous. The defendant's answer 'no' is consequently also ambiguous; 'no' can refer to telling the court or to no prior convictions. At this realization, the lawyer rephrases the question, prefacing it by 'well'. This 'well' also indicates a 'self repair' (Schiffrin, 1987) on the part of the lawyer. The pragmatic meaning behind this discourse marker is something like 'no, that's not what I was expecting, let me put it this way'. To this second question the answer is 'yes'. What is essentially the same question in terms of propositional content, elicits two opposing answers when phrased in two different forms. This 'well', which is pragmatically significant, is omitted by the interpreter. It is a difficult device to interpret, and in this context, which is not adversarial, the possible translations differ from the ones suggested for the questions posed in cross-examination. The possible 'equivalents' in this context in Spanish are presented in Table 2.

Table 2 Possible equivalents of the positive conducive well

<i>Pues</i>	well
<i>Mejor dicho</i>	better said
<i>O sea</i>	in other words/I mean

The first option, *pues*, appears in the dictionary as an equivalent of 'well', and it would fit this context, however, it is not a discourse feature that is used extensively in all dialects of Spanish, and may not come naturally to some interpreters. The second option, *mejor dicho* literally means 'better said', and like *o sea*, can roughly be translated as 'in other words' or 'I mean' when used to retract from or rectify a previous comment or question. These last two, although better options than a complete omission in the translation, are not exact pragmatic equivalents, since they place the blame on the person asking the question. The discourse marker 'well' is ambiguous as to who is to blame in the

exchange – it can imply ‘No, that’s not what you should have answered’ or ‘No, I should have asked the question differently’.

Example 6

- Q1 Now, at the time your husband and the defendant were together, can you tell the court, where you were?
- 1.INT *Cuando su esposo y el señor estaban juntos, ¿dónde estaba usted?*
(When your husband and the gentleman were together, where were you?)
- A1 *¿Cuando se hirió?*
(When he hurt himself?)
- 1.INT When he was injured?
- Q2 Yes.
- INT 2 *Sí señora.*
(Yes, ma’am.)
- A2 *Cuando fui a agarrar a mi nena, porque la había dejado atrás.*
(When I went to get my girl, because I’d left her behind.)
- 2.INT That’s when I went back to ... after my child whom I left behind.
- Q3 Well, when you first, when you first, when the defendant first approached you, where were you?
- 3.INT *Cuando él se acercó a usted por primera vez, dónde andaba usted?*
(When he got close to you the first time, where were you?)

In Example 6 the discourse marker ‘well’ also appears after a previous question that was unsuccessful in eliciting the desired answer. This time it seems to indicate frustration and possibly impatience on the part of the questioner, who does not seem to make himself understood by the witness. The answer to the initial question is in fact a question which receives an affirmative response from the lawyer. This reversal of roles may also have contributed to a sense of frustration. Interestingly enough, the interpreter omits the ‘well’ but makes an addition to Question 2’s ‘yes’ in the form of *Sí señora*. The use of *señora* in this context, in the forceful tone it is said, does not represent politeness, but rather impatience, something to the effect of ‘of course, that’s obvious’.

THE USE OF ‘SEE’ IN CROSS-EXAMINATION

According to McCarthy ‘You see’ is a marker that has the function to indicate ‘proclaimed knowledge’ (1994: 112). Schiffrrin refers to it as a marker used in explanations. Such a use of the marker ‘you see’ to preface questions precludes its use in examination-in-chief. The principle behind examination-in-chief is that the evidence is presented by the witness as undisputed fact. The witness’s lawyer is not permitted to explain or present evidence on behalf of the witness, hence the marker ‘see’ does not

appear at all in examination-in-chief in my data. In cross-examination, however, the cross-examiner will attempt to discredit the other party's evidence by presenting his/her version, 'proclaiming to know' what really happened which will be in contradiction to what has been said in examination-in-chief. Therefore, I will venture to say that 'see' or 'you see' is more contentious and carries a stronger pragmatic force than does 'well'. Whereas 'well' which can be substituted by 'but', 'see' seems to suggest that the person is lying, with a pragmatic meaning of 'what you're saying is not right, this is how it happened'. What seems to corroborate this assumption of the pragmatic meaning of 'you see' is that it is often followed by 'I put it to you' or 'I suggest' (38 per cent of the time).

Example 7

Q1 **You see, what I'm putting to you** is that he didn't, as you say, set himself to the left at all, he was in front of you.

INT *Yo lo que le digo que él ni siquiera se se se torció a la izquierda, él estaba frente a usted.* (What I say is that he didn't even even even twist to the left, he was in front of you.)

Example 7 has all the elements necessary to convey the contradictory attitude described above. The cross-examiner starts her turn by using the marker 'you see'. This sets the mood of the exchange with an illocutionary force that implies 'you listen to me, this is really what happened'. The next clause is the 'I'm putting it to you that' clause which is only used in cross-examination. The lawyer then states the version of facts she wants the magistrate to believe, 'that he didn't set himself to the left at all'. Here she has contradicted the evidence given previously by the witness, something she makes clear by saying 'as you say'. Her language is emphatic and confrontational. The phrase 'at all' increases the forcefulness of the accusation. She is accusing the witness, in a forceful but indirect way, of lying.

THE INTERPRETER'S TREATMENT OF 'YOU SEE'

Eighty-one per cent of the time, the marker 'you see' was completely omitted in the interpreter's version. This is a very significant percentage, once again indicating that the illocutionary force may be altered in the translation. If we look at the interpreter's version of Example 7, three very important elements go missing in the translation: 'you see', 'as you say' and 'at all'.

INT *Yo lo que le digo que él ni siquiera se se se torció a la izquierda, él estaba frente a usted.*

(What I say is that he didn't even even even twist to the left, he was in front of you.)

Once again the illocutionary force of the original utterance is altered in the translation as a result of those omissions. The propositional content remains almost unchanged, but the indirect meaning, the implicature (Grice 1975) changes. The interpreter's version is no longer an accusation but a mere statement. It even includes repetitions which are not present in the original utterance. There is no reason whatsoever for the omission of 'as you say' and 'at all', since there are direct equivalents in Spanish and their translation should not cause any difficulty.

As with all other discourse markers, 'you see' is difficult to translate due to the subtle pragmatic meanings it carries, which vary according to context. A semantic, literal translation in Spanish of the verb 'to see' would not carry the same illocutionary force in the context of question prefaces, hence it is understandable that interpreters find this feature difficult to interpret. In essence, every instance of 'see' as initial marker has a potentially different translation in Spanish. I will present a number of examples from the data where the marker was omitted, and add to the interpreters' version possible pragmatic equivalents in Spanish in square brackets.

Example 8

Q1 You see what he did is he put one hand on your shoulder.

INT [*En realidad* 'In fact'] *Lo que hizo él fue ponerle una mano en el hombre.*

(What he did was put a hand on your shoulder.)

Example 9

Q1 See what I'm putting to you is that you were yelling and screaming on the ground, at this stage.

INT [*Mire, lo que yo le estoy diciendo es* 'Look, what I'm telling you is'] *Yo le digo a usted que estaba estaba en el suelo pero estaba gritando y ... pegando alaridos.*

(I tell you that you were were on the ground but you were yelling and ... screaming.)

Example 10

Q1 See, you wanna get him into trouble, don't you?

INT [*La verdad es que* 'The truth is'] *Usted quiere que él se meta en problemas, ¿no es así?*

(You want him to get into trouble, isn't that so?)

As Examples 8–10 show, I have provided a different translation for 'see' each time – *en realidad* (in fact), *mire* (Look) and *la verdad es que* (the truth is) – which would not be interchangeable in the different examples. None of these alternatives corresponds literally to the verb 'to see', with 'look' being the closest semantically. Although these are not exact equiv-

alents, they add force to the utterance and make the translations pragmatically closer to the original intention. As House argues: 'In translation, it is always necessary to aim at equivalence of pragmatic meaning, if necessary at the expense of semantic equivalence. Pragmatic meaning thus overrides semantic meaning. We may therefore consider a translation to be primarily a pragmatic reconstruction of its source text' (House 1977: 28).

A 'pragmatic reconstruction of the source text' is a complex and intricate task, difficult to achieve by interpreters when confronted with a number of different choices and limited time to make the correct ones. It is therefore obviously easier to omit such features as 'you see' prefacing questions, than to find the pragmatically equivalent option. Nevertheless, 19 per cent of the time, or four times out of twenty-one, the interpreters attempted to translate the initial discourse marker with the options that appear in Table 3.

Table 3 Translations of 'see' found in data

1	<i>Lo que era</i>	what it was (Example 11)
2	<i>Señora</i>	Ma'am (Example 12)
3	<i>Lo que le quiero decir</i>	what I want to tell you (Example 13)
4	<i>Pero</i>	but (Example 14)

Example 11

Q1 See, your wife was trying to keep you away from, from the defendant, wasn't she? from you, I I withdraw that, your wife was trying to stop you from doing something to the defendant, wasn't she?

INT *Lo que era, su esposa estaba tratando de evitar que usted le hiciera daño a él.*

(What it was, your wife was trying to stop you from hurting him.)

Example 12

Q1 You see, you, and Oscar's wife, had an argument back in February last year, is that right?

INT *Señora, usted y la esposa de Oscar tuvieron una pelea en febrero del año pasado, es así?* (Ma'am, you and the Oscar's wife had a fight in February las year, is that so?)

Example 13

Q1 All right, you see, if you ... if you open the door from ... to come in from the waiting-room ... what I'm saying is that if you look straight ahead you could see the couch, is that right?

INT *Lo que le quiero decir es que si si usted viene de la sala de espera donde están esperando los pacientes y abre la puerta, usted lo que ve adelante suyo es la camilla, ¿está de acuerdo, cuando entra?*

(What I mean is that if you come into the room where the patients are waiting and open the door, what you see in front of you is the bench, do you agree? when you come in?)

Example 14

Q1 See? You had an argument with the defendant back in February last year, didn't you?

INT *Pero en febrero del año pasado usted tomó una discusión con el señor.*
(But in February last year you had an argument with the gentleman.)

None of these four occurrences of 'see', which were translated in some way or another, was followed by 'I put it to you' in the original utterance. This may indicate that when 'I put it to you' is present, interpreters may consider it appropriate to delete the discourse marker and regard 'I put it to you' as a strong enough preface to the question. The first option, in Example 11, *lo que era* (what it was) does have a similar implicature to 'see' used to indicate proclaimed knowledge and could be interchangeable with *en realidad* as proposed for Example 8. What it is doing is changing an indirect speech act into a direct one. It clearly states 'this is what happened' and is probably the closest pragmatic equivalent to the original out of the four options found in the data. However, this option is very colloquial and would not match the register of the original.

The second option, in Example 12, is an interesting one because on the surface it can be regarded as an inaccurate translation. However, pragmatically it is very similar in force to 'you see'. The word *señora* literally means 'ma'am' but is often used as a discourse marker prefacing forceful or argumentative utterances. It implies that an explanation or display of superior knowledge is to follow, which could be paraphrased as 'let me tell you how it is' or 'listen to me, this is how it happened'. Of course, prosody is important in this case, and the tone of voice with which the interpreter said this is consistent with the pragmatic meaning of 'you see'. This could be interchangeable with 'mire' as proposed for Example 9.

Option 3, in Example 13, is appropriate in the context in which it appears, which is not as aggressive as the rest. As the example shows, the lawyer reissues his explanation by saying 'what I'm saying is ...'. The interpreter simply interpreted one of the two preambles to the request by initiating the question with *lo que quiero decir* (what I mean is). The interpreter omits repetitions and hesitations in the original question and

organizes his translation in a more coherent and concise way, maintaining the original intention.

The fourth translation used, in Example 14, is *pero* (but). Schifffrin found in her data that ‘*but*’ is used not only when speakers defend their points against challenges, but when they actually issue those challenges, that is, when they initially disagree’ (1987: 175). In this case, it is important to analyse the complete question and answer segment from which this example was extracted to understand the use of ‘see’. Once again we find the pattern of ‘well’ followed by ‘see’ that was discussed in Example 3. In Example 15 a question was put to the accused receiving an unsatisfactory answer which leads to another question prefaced with ‘well’: ‘Well, do you think you might answer the question that I just asked you’. This question is followed by another negative answer: ‘I don’t understand’ which then triggers the use of ‘see’ in the subsequent question. The value of ‘see’ here is clearly that of prefacing an explanation. The interpreter chose to use *pero* (but), however ‘but’ implies contradiction to a previous utterance, which is not the case in this context. Nevertheless, the interpreter kept a challenging tone that would have gone missing if the marker ‘see’ was omitted all together.

Example 15

Q1 Well, do you think you might answer the question that I just asked you.

INT *Puede contestar la pregunta que le acabo de hacer.*

(Can you answer the question I just asked you.)

A1 *No entiendo.*

(I don’t understand.)

INT I don’t understand what you’re trying to say.

Q2 See? You had an argument with the defendant back in February last year, didn’t you?

INT *Pero en febrero del año pasado usted tomó una discusión con el señor.*

(But in February last year you had an argument with the man.)

A2 *Sí, correcto.*

(Yes, correct.)

INT Yes, that’s correct.

THE USES OF ‘NOW’ IN CROSS-EXAMINATION

Schifffrin (1987: 228–46) found a number of uses for the marker ‘now’ in conversation: to emphasize progression in the discourse, to mark comparisons, to preface disagreements, to mark changes in speaker orientation when this is not done grammatically and to negotiate the right to control the flow of conversation. In cross-examination, although ‘now’ was not found to be used with the same frequency as other markers, my data indicated three main uses: to establish a point that was presented

previously in the evidence, to control the flow of information, and to present the lawyer's version of facts, which would be expected to contradict the witness's version and hence preface a disagreement. Except for the first use found in my data, the other two comfortably match Schifffrin's findings. Table 4 describes the three types of uses of 'now' in cross-examination.

Table 4 Uses of 'Now' in cross-examination

1	'Now' used to establish, clarify or reiterate a previous point
2	'Now' used to control the flow of information
3	'Now' used to present lawyer's version – contrast or disagreement

Only 2.5 per cent of all questions in cross-examination were prefaced by 'now' as compared to 8 per cent in examination-in-chief. As mentioned before, this marker was not as frequent as the other two in cross-examination, possibly because it can be used in less adversative contexts. From the three uses of 'now' in cross-examination as shown in Table 4, it can be seen that the third type, when it is used to present the lawyer's version of events, is the most adversative and most consistent with the nature of cross-examination. The examples in the data show that in this category 'now' is always followed by a declarative statement and twice by confrontational utterance initiators, such as 'I put it to you' and 'obviously'. Schifffrin (1987: 241) found that 'now' often co-occurred with 'listen to me', a clear indication of the speaker's desire to control the topic of conversation and regain power. This is akin to the situation found in cross-examination, where the implicature of these utterances prefaced with 'now' is that of 'listen to me, this is how it was'. The other two uses of 'now' in cross-examination, although not as confrontational as the one already discussed, are also markers of control, indicating to the witness that he/she is to follow the agenda placed before them.

THE TRANSLATION OF 'NOW' IN CROSS-EXAMINATION QUESTIONS

As with other markers, 'now' may be considered superfluous by interpreters since it was omitted every time in cross-examination. When 'now' is used in a non-confrontational way, as in categories 1 and 2 of Table 4 (Examples 16 and 17), this marker is not as difficult to translate as the previous ones. *Bien* or *ahora bien* would be pragmatically equivalent.

Example 16

Q1 Now, Mr Lopez, you said you had just passed Shane Street?

INT Usted dijo que ... Sr López que había pasado justo la calle Shane, ¿no?

(You said that ... Mr Lopez that you had just passed Shane Street, didn't you?)

Example 17

Q1 Now when you overtook the uh, the truck, were there any cars in front of you?

INT *Cuando usted pasó el camión, había algún auto delante suyo?*

(When you passed the truck, was there any car in front of you?)

The third category (Example 18) is, however, difficult to translate. A possible solution would be to use a phrase such as *escúcheme* (Listen to me) which carries the confrontational force present in the English utterance.

Example 18

Q1 Now, I put it to Mr Peña, that during the period of 6th March 1992, to 9th July 1992, the defendant did make regular weekly payments of a hundred and forty dollars.

INT *Eh, le digo que desde el período del 6 de marzo del 92 hasta el 9 de julio del 92, la demandada hizo pagos regulares por 140 dólares a la semana.*

(Uh, I tell you that from the period of 6 March '92 to 9 July '92, the defendant made regular payments of 140 dollars a week.)

The marker was omitted every time in the interpreted version. Once the word Y (and) is used to preface the question when 'now' is used as category 3, and once the phrase *en cuanto a* (in relation to) replaces 'now' when used as category 2. This last option in the context of category 2 is appropriate, since it sets the topic and can be said to be used to control the flow of information. There is only one obvious hesitation in the form of 'eh' at the beginning of the interpreter's utterance, when 'now' is used in category 3. This may indicate an attempt to translate the discourse marker which was later abandoned by the inability to produce a suitable equivalent.

THE USES OF 'NOW' IN EXAMINATION-IN-CHIEF

In examination-in-chief, where the lawyer is examining his/her own witness, the data show that 'now' is used in a non-confrontational way. It is used to emphasize progression in the witness's testimony by guiding it in the right direction and at times even prompting it with the use of leading questions, which are technically disallowed. By so doing, the lawyer can control the flow of information to ensure that his/her witness does not digress from the relevant facts and presents the evidence in the best possible light. The level of control is either high or moderate, depending on

the type of question used: either very specific questions that require either yes or no answers, using polar interrogatives, or the more open invitations to provide narratives, using *wh* or modal interrogatives. This is shown in Table 5.

Table 5 Different uses of 'now' in examination-in-chief

Purpose	Level of control	Question type	(%)
To rigidly control flow of information	high	polar interrogative	57
To mark progression in narrative, to guide the flow of information	medium	<i>wh</i> /modal interrogatives	43

In cross-examination the uses of 'now' in category 1 were followed by declaratives with rising intonation structures, in category 2 by declaratives + polar interrogative structures and in category 3 by declaratives with falling intonation structures. In examination-in-chief, however, all instances of 'now' were followed either by a polar interrogative or by a *wh* question with or without a modal, but never by a declarative. It can be argued then, that since the discourse marker 'now', which is predominantly used in examination-in-chief, is consistently followed by the least coercive types of questions (Danet and Bogoch 1980; Woodbury 1984), its tone is less aggressive and less confrontational than 'well' and 'you see'. This is consistent with the findings that the markers 'well' and 'you see' were much more frequent in cross-examination than in examination-in-chief.

Examples 19 and 20 are representative of the main uses of 'now' in examination-in-chief.

Example 19

Q1 Now, how long did you spend in the city and what did you find when you came back from the city?

INT *Eh, cuánto tiempo estuvo en la ciudad y qué es lo que encontró cuando regresó de la ciudad?*

(Uh, how long were you in town and what is it that you found when you got back from town?)

Example 20

Q1 Now, uh, was the motor vehicle insured other than uh compulsory third party?

INT *Tenía el vehículo algún seguro aparte del obligatorio?*

(Did the vehicle have any insurance other than the compulsory one?)

At times counsel are not successful in achieving complete control over the flow of information, and the witness provides irrelevant or unwanted information. Such instances of loss of control over the evidence create noticeable frustration for counsel and provoke questions prefaced by 'now' to try to lead the witness back to the desired line of evidence.

Example 21

Q1 **Now**, just pause there, do you remember what month of the year 1992 it was?

INT *Recuerda en qué mes del año '92 fue que sucedió esto?*

(Do you remember what month of the year '92 it was that this happened?)

In Example 21 counsel had to stop his own witness from continuing to present the evidence in a particular way to bring him back to the line of evidence the lawyer considered relevant for his case. The command 'just pause there' is prefaced by the marker 'now', which in a less polite, but more informal way, could have been replaced by 'hang on there', implying the witness is not proceeding in the right direction. This is a clear example of the lawyer trying to regain control, by interrupting the witness's narrative and imposing limits on the information to be presented as evidence.

Example 22

Q1 Yes, **now**, can you tell the court what happened?

INT *¿Puede decirle a la corte qué pasó?*

(Can you tell the court what happened?)

Example 22 is representative of a number of occurrences of 'now' in the examination-in-chief questions in the data. The lawyer acknowledges the answer provided by the witness with a 'yes' or 'OK' or an 'alright', but immediately dismisses it as irrelevant with the marker 'now' and either a repetition of the previous question or a newly phrased question. Here the lawyer is implying 'yes, I heard what you said but that is not what I want to hear'. It is common for lawyers to become frustrated with their own witnesses who do not give evidence in the desired way. The use of the discourse marker 'now' seems to be a good strategy to indirectly 'reprimand' their own witness without being aggressive or impolite. In examination-in-chief counsel need to maintain control by gaining the co-operation of their own witness rather than by coercing or antagonising them, as is the case in cross-examination.

'NOW' IN THE INTERPRETED VERSION OF THE QUESTIONS

The discourse marker 'now' in examination-in-chief questions was omitted every time by the interpreter. This feature was obviously considered to be disposable by all interpreters. As explained earlier, in a non confrontational context, the initial marker 'now' is not difficult to translate into Spanish, with *bien* and *ahora bien* being good pragmatic equivalents. These markers in Spanish are used with the same intention of marking progression or guiding the flow of information. In spite of this ready equivalence, none of the interpreters translated the marker into Spanish. Four times the translated question was initiated by a hesitation marker 'eh', as in cross-examination, which may indicate an attempt to translate it or some indication of a mental filtering process. Once 'now' was translated as *entonces* (so) which carries a very different illocutionary force, as can be seen in Example 23.

Example 23

Q-1 Now, did that knife hit you?

INT *¿Entonces el cuchillo lo golpeó a usted?*

(So the knife hit you?)

Whereas the original question cannot be said to be conducive, that is, it is a neutral question that does not expect either a positive or a negative answer, the interpreter's translated question is positively conducive. By using 'so', the rest of the question becomes biased. As previously mentioned, 'so' is used to indicate finality or conclusions. In this context, the use of 'so' will have the witness understand that the lawyer believes this to be the case. This can, without doubt, influence the witness's answer.

CONCLUSION

This paper has presented the results of the analysis of the use of three discourse markers in lawyers' questions and the way they were treated by the interpreters in their translations into Spanish. The three discourse markers, namely 'well', 'see' and 'now', were chosen as the topic of analysis for two reasons: the high frequency of use as prefaces to lawyers' questions, and their very low occurrence in the interpreted version of the questions. The questions posed in this paper were: what discursive uses these discourse markers have in courtroom questioning, what possible reasons were there for interpreters to omit them in their interpretation, and what possible effect could their omission have on the answers.

It was found that the use of these markers varied according to whether they appeared in cross-examination or examination-in-chief. When found in cross-examination they were generally used as markers of argumenta-

tion and confrontation, mostly initiating disagreements or challenges. When found in examination-in-chief, they were mostly used to maintain control of the flow of information, as well as to mark progression in the story-line. 'Well' and 'see' were most prominent in cross-examination, whereas 'now' was mostly used in examination-in-chief. This led to the conclusion that the markers 'well' and 'see' are more argumentative than 'now' in courtroom questioning, with 'now' used mainly with counsel's own witnesses. Supporting this suggestion was the fact that 'well' and 'see' were mostly followed by the most coercive question types (declaratives with and without tags), and 'now' by less coercive types (polar, *wh* and modal interrogatives).

Interpreters tended to omit these markers almost systematically, with only very few exceptions. Two main reasons were suggested for this: a complete disregard of these features, being judged as superfluous to the message and hence considered disposable; and an inherent translation difficulty found in the lack of direct semantic equivalents that would carry the same illocutionary force. A number of pragmatic near equivalents were suggested for each type of marker according to situation where it was used.

The most difficult question to answer is that of the possible effects the omission of these markers would have on the witnesses' answers, since one can only speculate when dealing with authentic data. Controlled experiments would be needed to obtain more reliable results. Nonetheless, some interesting insights can be drawn from the data. It was shown through examples, that at times the incorrect translation of a discourse marker changed the implicature of an utterance, as in the case of the substitution of 'now' for 'so'. Most other instances of complete omissions showed a change in the illocutionary force of the utterance, even if the illocutionary point remained the same. As Searle (1990) explains, often different utterances will have the same illocutionary point, as in commands and requests, but different illocutionary force. The point is to get the person to do something, however, one is more forceful than the other. The choice of word will also alter the force or strength with which the illocutionary point is presented, such as the difference between 'I suggest' and 'I insist' (350-353). Similarly in the case of discourse markers prefacing counsel's questions, their omission by the interpreters will alter the illocutionary force or strength with which the question is asked. It is, of course, difficult to control the perlocutionary effect of any utterance, but it is logical to presume that a change of force can have a possible change of reaction.

NOTES

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