Review

The Language of Perjury Cases

Roger Shuy (2011)

Oxford University Press 232 pp

Reviewed by G. Adam Ruther

No man can serve two masters – or so the common wisdom tells us. We are also told that to effectively communicate in speech or in writing we must know our audience. When that audience happens to be a group of educated and experienced experts in our chosen topic, one might think: all the better; write for them, on their level, in their language. But what if a scholar has something to communicate to his or her peers that will be of interest to them but that will also be of great use to another audience – an audience not of scholars but practitioners? Can an author serve these two masters? If the evidence is the work of Roger Shuy, the answer is yes, and Shuy has done it again in his latest monograph, *The Language of Perjury Cases.*

In this book, the author takes his two favourite audiences on another of his linguistic safaris, this time through federal and state perjury cases. Throughout his scholarship in forensic linguistics, one of Shuy's consistent themes is that there is a great deal that linguists and lawyers can learn from each other. It is impossible to read this book, however, and escape the conclusion that when lawyers and linguists work together, the lawyers are almost always more enriched by the linguists than the other way around. In this latest, Shuy walks lawyers and linguists, side-by-side, through nearly a dozen perjury cases, on

Affiliation

Baltimore City State's Attorney Office
University of Baltimore School of Law, Maryland, USA
email: garuther@gmail.com

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most of which he consulted as an expert. In using these intriguing case studies, Shuy's book takes on a refreshingly narrative tone, making the book very accessible to his lawyer and lay audiences.

What Shuy has produced is both a scholarly exploration for linguists and – perhaps even more valuable – a linguistic how-to guide for attorneys, investigators and jurists. He very carefully and artfully walks the line between oversimplification and abstruseness that must be observed in order to interest and reach both audiences. For this accomplishment alone he is to be commended. But, of course, this is not the first time Shuy has played to these two crowds at once. *The Language of Perjury Cases* is Shuy's ninth book of this kind in the field of forensic linguistics; he has shown a commitment to lending his linguistic knowledge and talent to those who spend their careers arguing profusely over the meaning of other people's words. These poor souls, whom Shuy has devoted a great deal of his career to helping, are known as lawyers.

I can refer to lawyers in such a way because I am one. What is more, I happen to be the specific species of lawyer with whose linguistics skills Shuy finds the most fault in his book: a prosecutor. In my career, I have learned – and continue to learn through painful trial and error (if you will forgive the pun) – what enormous importance the interpretation of language has in the courtroom. It bears noting as I review Shuy's work that, while I am lawyer, and therefore to some degree a student of language, I am not a trained linguist. In a real sense, then, I am exactly the audience that Shuy is writing for.

Always in search of ways to improve the way I use and interpret the words that are the tools of my trade, I find that Shuy's indictment of most of the other lawyers and judges in his book for their lack of linguistic acumen is not without justification. He depicts many of the lawyers on both sides of perjury cases groping around in the proverbial dark, rarely asking the right questions or recognising the dysfunction in their communication with witnesses and defendants. These problems are certainly not uncommon in litigation, but they are particularly common and salient in the context of perjury and other similar language crimes. Such cases routinely turn on the meaning of just a few words. As the case studies show, a few poorly phrased questions or the mistake of overlooking even a seemingly tiny piece of contextual information in a witness's answer can determine the outcome of a case. The unforgiving nature of these cases may be the reason Shuy finds them so interesting.

The roots of lawyers' deficiencies, however, are not without their own explanation. Put in the simplest terms, they don't teach linguistics in law school. Contract interpretation, yes; statutory interpretation, yes; rules of evidence, yes; direct and cross-examination, yes (if you ask for it); but linguistics? Actual, scientific analysis of language? Sorry, it's not on the menu at most, even

acclaimed, law schools – at least in the United States. If Shuy's work, including this latest offering, shows us anything, it is that basic linguistic analysis should be a part of every good lawyer's repertoire. And when a working knowledge of the basics proves insufficient, legal professionals should be sufficiently well versed to recognise that consultation with a linguistics expert is well advised.

This brings me to perhaps the most valuable aspect of Professor Shuy's work. It is not his actual analysis of the cases he describes, or the critique he offers of the decisions made by the parties, lawyers, judges and jurors in those cases. All of these are easily understood by lawyers, laypeople and linguists alike. He explains, in complete yet comprehensible detail, how basic linguistic tools such as schema theory, speech event and speech act analysis, ambiguity identification, topic and agenda analysis, contextual meaning, concord rules, language and second-culture interference, and the cooperative principle can and should be part of a lawyer's work, not only in perjury cases but in all sorts of legal disputes involving language. *The Language of Perjury Cases* is a case-by-case demonstration of these tools, showing their usefulness in defending and prosecuting perjury charges.

Much like his last book, *The Language of Defamation Cases*, Shuy begins this latest work by setting the legal and linguistic stage through a brief primer on his two fields of inquiry: linguistic analysis and the law of perjury. In his first chapter, Shuy lays out the elements of perjury and explains the most important legal precedents that govern the crime. In his second chapter, he gives a basic overview of how a forensic linguist approaches and analyses language within that legal framework. The chapters that follow are grouped by such themes as 'Perjury Charges with Inadequate Intelligence Analysis', 'Perjury Charges across Languages and Cultures', and 'Perjury Cases with Adequate Intelligence Analysis'. In each section, Shuy tells the story of individual cases, conducting a linguistic post-mortem on each. In so doing, he demonstrates when and how a thorough linguistic analysis contributed to the administration of justice in a perjury charge or would have prevented a miscarriage thereof had such an analysis been employed sooner or by a different party.

A professional linguist may find Shuy's analysis of these cases somewhat elementary. After all, it was written so that lawyers could understand it! Linguists' interest in this book will more likely derive from Shuy's description of his boots-on-the-ground application of their field of study. The case studies not only illustrate how linguistic analysis can be applied to perjury cases, but how linguists and lawyers can effectively collaborate and put that analysis to work in court. He encourages members of both professions to accept each other as collaborators and colleagues. Shuy's consistent message is a wake-up call to the legal world and almost a call to arms to the forensic linguistics academy to help

their colleagues in the courtroom whenever the opportunity presents itself.
Shuy explains the roots of this idea thus:

> Although it may seem obvious to the field of law that sociology, anthro-
> pology, economics, psychology, and history can play a role in helping
> with legal issues, linguistics has had a harder time breaking into the
> process. Part of this problem may be the fault of the linguists, who have
> simply not realized how fruitful the area of law can be for applications by
> their field. But another and perhaps more serious part of the problem is
> that lawyers and judges use language extremely well, making it less than
> obvious to them that linguistics has something useful to contribute.
> Many lawyers and judges also analyze language very well, contributing
> to their sense of the self-confidence in their own linguistic abilities. But
> there is also an important difference, whether or not they realize it.
> Linguists have analytical tools and training that lawyers, even the best
> ones, do not usually possess. Linguists see patterns and features that are
> unseen by non-linguists… (157).

My only concern in reading Professor Shuy's book is that, while it may gain
broad readership in the linguistic academy, it may not be read by as many
lawyers as would benefit from it. I intend to keep this book as a part of my
office reference library and recommend it and lend it out often when colleagues
have need of a professional's perspective on the constant interplay between
language and the law. To the linguists who make up my audience in writing
this review, I make the same recommendation. The book is an excellent way to
introduce even sceptical attorneys to the benefits of consultation and collabo-
ration with forensic linguists on many cases. As Professor Shuy insists, there are
indeed great benefits to be realised through the development of a collaborative
working relationship between lawyer and linguist.