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"I think that's not an assumption you ought to make": Challenging presuppositions in inquiry testimony

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ABSTRACT

This article examines data drawn from a 2001 Ontario (Canada) provincial inquiry into the deaths of seven people as a result of water contamination in a small Ontario town. The examination focuses on question-answer sequences in which the premier of Ontario, Michael Harris, attempted to resist lawyers' attempts to control and restrict his responses. In particular, on the basis of the data it is argued that the power of cross-examining lawyers does not reside solely in their ability to ask controlling and restrictive questions of witnesses, but rather is crucially dependent on their ability to compel witnesses to produce straightforward, or "type-conforming," answers to these controlling and restrictive questions. The witness whose testimony is analyzed was not compelled to produce answers that logically conformed to the form of the lawyers' questions (i.e., "yes" or "no") and, as a result, often usurped control over the topical agenda of the proceedings. In this sense, the present work builds on Eades's conclusion that "we cannot rely on question form to discover how witnesses are controlled." (Courtroom discourse, conversation analysis, presupposition, question-answer sequences)*

INTRODUCTION

A recurring theme in the study of institutional discourse has been that of interactional asymmetry: Differential participation rights are assigned to interactants depending on their institutional roles, and these differential participation rights typically result in certain participants exercising greater conversational

control than others. Drew & Heritage (1992:49) note that an important dimension of such asymmetry in institutional discourse "arises from the predominantly question-answer pattern of interaction." This organization, it is suggested, provides little opportunity for the answerer (typically a layperson) to initiate talk and thus allows the institutional representative "to gain a measure of control over the introduction of topics and hence of the 'agenda' for the occasion." In discussing doctor-patient interaction specifically, Drew & Heritage note that the question-answer pattern that characterizes most such interactions not only allows doctors to gather information from patients but can also result in doctors directing and controlling talk: introducing topics, changing topics, and selectively formulating and reformulating the terms in which patients' problems are expressed.

Within the context of the courtroom, similar claims have been made about the interactional role of questioner (the lawyer or the judge); moreover, a number of researchers have argued that the interactional asymmetry of courtroom discourse is most pronounced during cross-examination (e.g., Conley & O'Barr 1998). That is, the restrictive and controlling questions used in cross-examination allow lawyers to impose their version of events on evidence and, regardless of the responses given, to make available to third-party recipients – the judge and/or jury – this particular interpretation of the events.

This feature of cross-examination has encouraged researchers to focus attention on the QUESTIONS of cross-examination, as opposed to the ANSWERS. For example, Danet, Hoffman, Kermish, Rafn & Stayman 1980, Woodbury 1984, Harris 1984, Walker 1987, and Berk-Seligson 1999 have all developed taxonomies of questions used in the courtroom based on the extent to which the questions constrain or limit a witness's response.[1] Implicit in such a focus is the assumption that third-party recipients (judges, juries) attend only to the first part of adjacency pairs (the questions), and/or that witnesses always respond to questions with answers that are "logically expected, based on the structure of the question" (Eades 2000:169). Yet work by both Eades 2000 and Drew 1992 has demonstrated that witnesses do not necessarily provide answers that logically correspond to the structure of questions. Eades (2000:189), for example, questions the idea that the syntactic form of questions has any predictable effect on the form of responses, based on a study of Aboriginal witnesses in Australian courts, and concludes "that witnesses are not necessarily constrained or controlled by question-type."[2] Drew 1992 investigates this same issue in the context of his analysis of a rape victim's cross-examination. Rather than providing "yes" or "no" answers to the cross-examining lawyer's yes/no questions, the complainant (the rape victim) in this case often produced what Drew calls "alternative descriptions" in her answers through which she transformed the damaging characterizations of events contained in the lawyer's questions. That is, without overtly correcting the lawyer's version of events, the witness nevertheless contested the lawyer's version by providing a com-

peting description. Hence, given that it seems reasonable to assume that third-party hearings of lawyers' questions are always retrospectively qualified by the nature of the answers produced in response, examining both questions AND their responses is crucial to an understanding of how third-party recipients "hear" courtroom testimony. In fact, Drew comments explicitly on the need to be attentive to the way that competing descriptions from witnesses may influence juries: "The complainant's attempts to counter the lawyer's descriptive strategies, and hence herself control the information which is available to the jury, should not be overlooked" (1992:517). In this article, like Drew, we examine question-answer sequences in which a witness resists lawyers' attempts to control and restrict his responses. In particular, on the basis of our data we argue that the power of cross-examining lawyers does not reside solely in their ability to ask controlling and restrictive questions of witnesses, but rather is crucially dependent on their ability to compel witnesses to produce straightforward answers – or what we will call, following Raymond 2003, TYPE-CONFORMING answers – to these controlling and restrictive questions. Indeed, the witness whose testimony we examine was not compelled to produce answers that logically conformed to the form of the lawyers' questions (i.e., "yes" or "no") and, as a result, often usurped control over the topical agenda of the proceedings. In this sense, our work builds on Eades's (2000:189) conclusion that "we cannot rely on question form to discover how witnesses are controlled."

Our data are drawn from a 2001 Ontario (Canada) provincial inquiry into the deaths of seven people as a result of water contamination in a small Ontario town, Walkerton, and, specifically, from the testimony of the then premier of Ontario, Michael Harris. Despite the fact that the official mandate of the inquiry specified that it was solely concerned to "ascertain the facts" of what had happened, participants used the occasion provided to locate responsibility and assign blame. (See Sidnell 2004 for an account of extreme case formulations and accountability in Harris's testimony.) For five grueling hours, lawyers representing several public interest groups questioned Harris about the events surrounding this tragedy. For the most part, the lawyers' questions were directed at determining whether Harris had been aware that funding cuts to the Ministry of the Environment and related budgetary changes had resulted in increased risk to the environment and to the health of Ontarians. Harris's defense in turn rested on showing that he was not aware of such increased risk, and further that this was not the result of willful ignorance – that is, that there was no evidence to suggest that increased risk would in fact be the necessary outcome of the policies he had implemented.[3] Harris drew upon a range of discourse strategies in an attempt to deflect attributions of responsibility and to justify his actions. One of these involved resisting, through the design of his answers, the damaging presuppositions embodied in lawyers' questions; and this strategy or set of strategies is the focus of the analysis that follows.

QUESTIONING IN ADVERSARIAL CONTEXTS: ISSUES OF CONTROL AND PRESUPPOSITION

As stated above, much work on courtroom discourse has focused on the means by which cross-examining lawyers use questions to impose a particular version of events on evidence. Indeed, Woodbury's (1984) category of "controlling" questions is defined in precisely this way: in terms of the extent to which a question's form imposes a questioner's interpretation or words on the evidence. Thus, within Woodbury's continuum of control, a broad *wh*-question such as "And then what happened?" displays little control because it does not impose the questioner's interpretation on the testimony: there is no proposition contained within the *wh*-question other than the notion that "something happened." By contrast, a yes/no question with a tag, such as "You were attracted to him, weren't you?", is more controlling than a broad *wh*-question within Woodbury's continuum of control because it contains a pseudo-proposition – "the witness was attracted to him" – that is made available to the third-party recipients, irrespective of the addressee's (i.e., witness's) answer.

Even more controlling than yes/no questions and their pseudo-propositions are questions with presuppositions (Ehrlich 2001). On one analysis, a question always contains a variable or unknown quantity, which the addressee of a question is being asked to supply (Lyons 1977). For example, the addressee of the yes/no question with a tag exemplified earlier, "You were attracted to him, weren't you?", has the ability to disconfirm the proposition contained therein even though the question's particular form expresses "the speaker's expectation that his belief, whatever it is, will be confirmed" (Woodbury 1984:203). By contrast, presuppositions cannot be denied with the same effectiveness or success. Indeed, it is precisely the capacity to survive in the context of negation that has been taken to distinguish presuppositions from semantic entailments. The following examples are taken from Levinson (1983:192):

(1) The chief constable arrested three men.

(2) There is a chief constable.

(3) The chief constable arrested two men.

(3) is a semantic entailment of (1) in the sense that if the chief constable arrested three men he must also have arrested two men. (2), on the other hand, is a presupposition of (1). If sentence (1) is negated as in (4)

(4) The chief constable didn't arrest three men.

the semantic entailment in (3) dissolves, whereas the presupposition in (2) survives. In this sense, presuppositions seem particularly resilient to negation (and denial).

In sentences (1) and (4) the presupposition "There is a chief constable" is tied to a particular linguistic expression – here the definite description, "the chief

constable." The fact that presuppositions are closely tied to the linguistic structure of sentences has led some linguists to propose a class of "presupposition triggers." These are linguistic expressions or constructions that seem to carry with them presuppositions about either the existence or the truth of something. Karttunen (cited in Levinson 1983:181) has collected 31 such triggers. This list includes definite descriptions, implicative verbs (e.g., *managed* implies *tried*), change of state verbs (*stop*, *start*, *continue* imply that whatever action they modify has happened), cleft and pseudo-cleft sentences (e.g., *It wasn't John that hit Rosie* implies "someone hit Rosie"; *What John didn't miss was the noise* implies "John missed something"), and a number of other constructions. In the following, we examine one particular trigger: verbs identified by Kiparsky & Kiparsky 1971 as "factive." These are verbs such as *be aware*, *realize*, *know*, and *regret* that presuppose the truth of their complement. For example, the sentence *John realizes that Mary is seriously ill* presupposes the truth of the proposition "Mary is seriously ill." That is, in uttering such a sentence the speaker takes for granted that this proposition is assumed knowledge between speaker and addressee, forming the background for the assertion "John realizes X." By contrast, the sentence *John thinks that Mary is seriously ill* does not presuppose the truth of the proposition "Mary is seriously ill." In fact, this second sentence could be appropriately produced by a speaker who knows the embedded proposition to be false.

A number of scholars have pointed to the important role that presuppositions may play in institutional discourse. For instance, in his investigation of racist discursive strategies in the press, van Dijk 1991 argues that presuppositions are a powerful instrument in the implicit assertion of debatable propositions. Likewise, Chilton (2004:64), in his discussion of political discourse, suggests that presuppositions contribute "to the building of a consensual reality." Within the context of courtroom discourse, cross-examining lawyers can implicitly assert damaging evidence through the use of questions with presuppositions; and given that presupposed propositions are not the primary ones under question, witnesses may be legally prohibited from challenging or denying them. Indeed, Gibbons (2003:98), in his summary of work on coercive questioning in police interrogations and courtroom discourse, states that addressees have difficulty disagreeing with or challenging the presuppositions of questions.

Clearly, a central concern within the study of presuppositions has been their resilience to negation, denial, and disagreement. And, while this "constancy under negation" (Levinson 1983:168) is generally cited as a defining property of presuppositions, much has also been written about the scope ambiguity of negation in relation to presupposition. Consider (4) above: On one interpretation (the presupposition-preserving one), the existence of the chief constable is presupposed, and it is asserted that he did not arrest three men. On another interpretation (the presupposition-denying one), it is denied both that there is a chief constable and that he arrested three men. This second interpretation of (4) is equivalent to (5) below.

(5) The chief constable didn't arrest three men because there is no chief constable.

One way of accounting for the difference between the presupposition-preserving interpretation of (4) and the presupposition-denying interpretation of (4) (where it is semantically equivalent to (5)) is to posit a scope ambiguity: Negation occurs either with wide scope as in the presupposition-denying interpretation of (4), or with narrow scope as in the presupposition-preserving interpretation of (4) (Levinson 1983:171). According to Levinson, the former – that is, the presupposition-denying interpretation – is the less usual interpretation. Indeed, Grice (1981:89) also comments on the preference for the presupposition-preserving interpretation of negative sentences containing definite descriptions: "Without waiting for disambiguation, people understand an utterance of the 'The king of France is not bald' as implying (in some fashion) the unique existence of a king of France." Given these claims about preferred and less usual interpretations and given the importance of these issues to the investigation of presupposition more generally, it is perhaps surprising how little effort has been devoted to examining how participants in fact understand such sentences. In this article, by moving the analysis away from invented examples and reliance on intuitions and toward a focus on what people actually do in talk-in-interaction, we hope to shed some light on the question of how presuppositions are in fact understood by participants. In this we draw upon the method of conversation analysis, which focuses on the sequential organization of talk, precisely because in responding to previous turns, including those that contain presupposition-triggers, speakers reveal their own understanding, interpretation, or hearing of them. Thus, we can potentially examine such pragmatic phenomena as presuppositions within the unfolding course of talk to find out how they are actually taken up and dealt with by participants.

Of course, it is in the nature of presuppositions to be essentially passed over. That is, in much of everyday talk participants simply do not display any explicit orientation to presuppositional material. Consider the following example, which contains the factive predicate "know" at line 16.

(6) (from Hyla and Nancy, p. 14)

5	Nancy:	=Unle:- you know w't you shoulda do::ne?=
6	Hyla:	=Call'the operator en said I gotta wrong
7		[number,]
8	Nancy:	[u-Ye:a:]:h,=
9	Hyla:	=ˑhhh
10		(·)
11	Hyla:	Ye::h I din'think of it I wz too upset
12		about hearing iz vhhoi(h)ce,=
13	Nancy:	=Aw-:::::::,
14		(0.8)
15	Hyla:	ˑhhh[hh
16	Nancy: →	[Eh least you know 'e was ho:me,=
17	Hyla:	=nihh phhig thhea(h)l=
18	Nancy:	=on a [Thurs[day ni (h)ght [(hn)
19	Hyla:	[ˑhihh[( )ˑhhhhh [She coulda

20		been l(h)ying ri'next to u(hh)m hh=
21	(Hyla):	=(ˈuu[y)
22	(Nancy):	[ˈhuhhhh=
23	Nancy:	=[Oh: H(h)y(h)la=
24	Hyla:	=[e-e-
25	Hyla:	=u-e-eh=

Here Hyla has just admitted to her friend Nancy that she called an ex-boyfriend the night before but hung up as soon as she heard his voice. Hyla then goes on to regret the call on account of the 75 cents it is likely to cost her. At this point Nancy seems to be ready to offer a solution (line 5) but is preempted by Hyla in line 6. In attempting to find some good in otherwise bad news, Nancy suggests that *Eh least you know 'e was ho:me,= =on a Thursday ni(h)ght*. Hyla's subsequent rejection of this effort, *She coulda been l(h)ying ri'next to u(hh)m hh=*, is registered by Nancy in line 23. Nancy's *Eh least you know 'e was ho:me...* contains the factive predicate *know*, which, on the standard analysis, presupposes the truth of its complement, here "he was home on a Thursday night." Clearly, that presupposition is not taken up in the subsequent talk – it is not challenged; indeed, it is not made explicit in any way whatsoever. Moreover, the presupposed material is something that has been established in the prior talk. That is, that "he was home" is a straightforward inference from the fact that he answered the phone.

In conversation, then, we find that presuppositions (here complements of factive predicates) are usually not taken up and made explicit in subsequent talk, and further that they are, quite typically, matters that have been established in the just preceding talk. The presuppositions we examine from inquiry testimony differ in both respects. In the data we examine below, lawyers' questions often contain presupposed material that has not been established in prior talk. Moreover, in this situation, we find that participants frequently orient in various ways to presuppositions. In our data, rather than being passed over, presuppositions are regularly dug out, made explicit, and challenged by the witness. Thus, in this essay not only do we examine the way that a witness resists damaging evidence that takes the form of presupposed material; we also argue that such a context – that is, one where CONTESTED evidence is presupposed – provides a kind of natural laboratory for the investigation of the ways in which presuppositions are understood and resisted in interaction (or at least, in one context of talk-in-interaction).

TYPE-CONFORMING VS. NON-TYPE-CONFORMING RESPONSES

In attempting to characterize responses in our data that challenge or problematize presuppositions, we have drawn upon Raymond's (2003) distinction between type-conforming and non-type-conforming responses to questions, a distinction based on the extent to which responses conform to the constraints embodied in the grammatical form of a question. So, for example, "yes" and

"no" (or an equivalent token) are type-conforming responses to yes/no questions (in the terms above, such a response will address the primary proposition under question), while responses that depart from the constraints embodied in a yes/no question are non-type-conforming. Type-conforming responses, whether affirmative or negative, accept the terms and presuppositions of a yes/no question, whereas non-type-conforming responses treat them as problematic in some way (Raymond 2003:949). More specifically, Raymond argues that in ordinary conversation speakers are accountable for designing their utterances, including their yes/no questions, in such a way as to reflect what common knowledge exists among interlocutors, what has or hasn't been established in prior talk, what is an appropriate action for an interlocutor, and so on – in other words, so that their yes/no questions permit type-conforming responses. By contrast, according to Raymond (2003:957), in courtroom discourse, cross-examining lawyers often design yes/no questions containing presuppositions that support their client's version of events and that will not necessarily reflect what is common knowledge among interlocutors, what has been established in prior talk, and so on. And, as has been well documented by a number of researchers (e.g., Atkinson & Drew 1979, Danet et al. 1980, Walker 1987, Cotterill 2003), in courtroom talk witnesses can be, and often are, legally compelled to produce answers that take particular forms (for example, "yes" or "no" forms as responses to yes/no questions).

As an example of the institutionally sanctioned character of type-conforming responses in courtroom discourse, consider excerpt (7) below, taken from Janet Cotterill's work on the O. J. Simpson trial. This example comes from direct examination of a witness for the defense.

(7) (from Cotterill 2003:104)

Mr.Cochran:	All right. Now, in the course of your preparing or shooting the video that day, did you ever have occasion to either touch or bump into Mr. Simpson at all?
Witness:	There was one situation. It was a break, whether they're relighting or redoing cameras or whatever they're it was, and they asked us to stay on the floor, stay in our spots because, as you saw the videotape, each person has a spot and –
Mr.Darden:	Objection, your Honor. Pardon me, sir. This is non-responsive.
Mr.Cochran:	Your Honor, this is – he's responding seems to me.
Mr. Darden:	The question called for a yes or no answer.
The Court:	Sustained. The witness may answer yes or no.
Witness:	I'm sorry, I've forgotten the question.

The witness's response to Cochran's yes/no question *did you ever have occasion to either touch or bump into Mr. Simpson at all* is non-type-conforming and proposes to tell of a particular situation. Darden, the prosecuting attorney, interrupts the witness's answer with an appeal to the judge, claiming that the witness is being non-responsive. The judge compels the witness to produce a type-conforming response, remarking *The witness may answer yes or no*. We see from

this example, then, that witnesses in courtrooms can be compelled to produce type-conforming responses.

Although cross-examination in inquiries is organized in essentially the same way as in trials, there are nevertheless some important differences. In the first place, unlike a trial, an inquiry is not adversarial, with two sides offering competing versions of what happened. In fact, according to the official mandate, an inquiry is strictly a "fact-finding" exercise and not an attempt to attribute responsibility and assign blame. As such, although witnesses typically have their own counsels present under cross-examination, it is relatively unusual for those lawyers to raise objections to the questions of the cross-examining lawyer. Furthermore, and important for our purposes, cross-examining lawyers rarely attempt to exert control over the form of witnesses' answers in an inquiry; in fact, they have no legal recourse to do so. Indeed, procedural rules specify only what form the question, rather than the answer, should take. Thus, a document issued at the start of the inquiry ("The Walkerton inquiry: Rules of procedure and practice") includes the following specification of procedure:

> **(iii) Order of Examination**
> 19. The order of examination will be as follows:
> (a) Commission counsel will adduce the evidence from the witness. Except as otherwise directed by the Commissioner, Commission counsel are entitled to adduce evidence by way of both leading and non-leading questions.[4]

FACTIVE PREDICATES AND PRESUPPOSITIONS IN THE LAWYERS' QUESTIONS

In inquiry testimony, as stated above, witnesses are not compelled by lawyers or judges to answer questions directly or, put another way, to produce type-conforming responses to questions. In fact, in many of Harris's responses he usurped the topical agenda set by the questions, often at the same time challenging the damaging presuppositions they contained. The examples discussed below all involve yes/no questions containing what Kiparsky & Kiparsky 1971 call "factive predicates." As noted above, according to Kiparsky & Kiparsky, such factive predicates presuppose the truth of their complements. Thus, when lawyers questioning Harris employed a factive predicate in their questions, they were presupposing the truth of the complement of that predicate, and, if Harris produced either a "yes" or a "no" response to such a question, he would be confirming the truth of the presupposition. As can be seen from examples (8a)–(8c), lawyers incorporated factive predicates into their questions (e.g., *be aware*, *regret*), thereby presupposing certain (damaging) evidence, and Harris endeavored to resist the force of these damaging presuppositions (i.e., the complements of the factive predicates) by withholding type-conforming responses to the questions.

(8a) "Aware", pp. 25–26

L: An' were you **aware** at this time in
nineteen ninety fi:ve that °hh ah
the Ministry of the Environment had
als-already suffered serious cuts since
nineteen ninety one ninety two?
(0.8)
Harris: uhm I-I was awa:re that uh the Ministry
of Environment ah
(0.2)
budget.and all budgets in government
were put under restraint=I believe in
nineteen ninety two by the former
(.)
government.=that would have been part
of social contract uh

(8b) "Aware", pp. 154–158

L: hh Now do you understa:nd that that
forty: (.) eight percent cut (.) °hh
inclu:de privatization of la:bs, include
reduk-reduced inspections:, included
enforcement. (.) are you **aware** of that?
Harris: I-I am awa:re looking at-at the
documentation before me: and I-I can't
speak for: the amount of enforcement (.)
°hh ahh or number of inspections at the
ti:me. I can (.) speak to it no::w (.)
and I can certainly speak to the fact that
I knew at the time,=as well as now, °hh ah
that it meant that private labs would
be used.
L: And are you **awa:re** (.) that the evidence
in this Inquiry does establish s:ome
relevance of those issues to Walkerton
tragedy?
Harris: ((swallow)) I'm aware there's been evidence
ah: produced that had talked about that'n
I w-would leave it to the Commissioner
to make that determination.

(8c) "Regret", pp. 173–174

M: But, [sir
Harris: [to [to determine that.
M: [knowing what you know no:w (.)
do you have any **regret** in not interve:ning
in the business plan p-process and saying:
you're go:ing: too fa:r.
Harris: Well:you assumed that I didn't intervene
in the business process and I think
that's-that's not an assumption you ought
to make.=I have no concern ah:: that-that
everybody involved in the business planning
process didn't take their job seriously,
an didn't do ah-an honest, conscientious
job. of assessing potential risks,

61 identifying them, and assessing them.
62 (1.0)
63 [( )
64 M: So [you have no regret sir
65 (0.4)
66 Harris: I- clearly I regret what happened in
67 Walkerton: [if that's what yer
68 M: [do you **regret** not interve:ning.
69 Harris: ah:: [well: I didn't say
70 M: [further
71 Harris: I didn't intervene.
72 (0.8)
73 M: Do you **regret** not taking further a:ctions
74 in explo:ring what the nature of the
75 impacts were which were on that docume[nt.
76 Harris: [no=
77 I took every action that you would ever
78 expect a- in my view a Premier to take.
79 °h ah and-and I can honestly tell you that.

In (8a) and (8b), Harris does not respond with "yes" or "no" answers to questions of the form "Are you aware of that?" or "Are/Were you aware that X?"; similarly in (8c), he does not respond with "yes" or "no" answers to questions of the form "Do you regret not X?" or "Do you have any regret in not X?" While these examples show generally that Harris withheld type-conforming responses to questions with damaging and incriminating presuppositions, the particular ways that he resisted the presuppositions are described below.

Addressing presuppositions directly and not producing recognizable answers

One of the ways Harris resisted the presuppositions of lawyers' questions was to address directly, and to problematize in some way, the damaging presupposition. Given the taken-for-granted quality of presuppositions, however, addressing the presupposition directly required that Harris withhold an answer to the main proposition of the question (see also Clayman & Heritage 2002). Not surprisingly, such departures from answering the question were treated as "non-answers" by the questioning lawyer. Consider excerpt (9) below, where the lawyer, Muldoon, questions Harris about his failure to intervene in government policy that eventually led to the Walkerton disaster (part of this excerpt appears in 8c):

(9) "Regret," pp. 172–174

18 M: Looking back
19 (0.2)
20 now. an looking at the documents which
21 I know you've had opportune to review
22 [prior to the inquiry (.)
23 Harris: [Yea.
24 M: doyu-uh have any **regret** for not
25 interve:ning. an-an saying wait a sec,
26 I wanna ask some more ((swallow)) questions.
27 Harris: Wellyaknow hindsight'sa a-a-a terrific

28		thing.
29		(0.2)
30		°hh ah I can tell you:: thet I honestly
31		perform:ed (.) thee:: myriad of functions
32		that I had to undertake as Premier of the
33		province.=including as you know travelling
34		an °hh selling ah-the province, ah-I
35		undertook that rol::e very conscientiously,
36		very seriously, I spent a lot of ti:me at it,
37		I worked har:d at it, as did a very
38		competent team of ah-Ministers and-ah °hh
39		and ah senior bureaucrats°hh ah I think they
40		were very competent ah-in-in what they did.
41		°h in hindsight, we're now review:ing ah-
42		were any of these actions did any of them
43		ah-contribute to the te:rri:ble tra:ge:dy
44		that took place here in Walkerton (.)
45		an' that's why I-I called this-this
46		Commission of Inquiry
47	M:	But, [sir
48	Harris:	[to [to determine that.
49	M:	[knowing what you know no:w (.)
50		do you have any **regret** in not interve:ning
51		in the business plan p-process and saying:
52		you're go:ing: too fa:r.
53	Harris:	Well:you assumed that I didn't intervene
54		in the business process and I think
55		that's-that's not an assumption you ought
56		to make.=I have no concern ah:: that-that
57		everybody involved in the business planning
58		process didn't take their job seriously,
59		an didn't do ah-an honest, conscientious
60		job. of assessing potential risks,
61		identifying them, and assessing them.
62		(1.0)
63		[( )
64	M:	So [you have no regret sir
65		(0.4)
66	Harris:	I- clearly I regret what happened in
67		Walkerton: [if that's what yer
68	M:	[do you **regret** not interve:ning.
69	Harris:	ah:: [well: I didn't say
70	M:	[further
71	Harris:	I didn't intervene.
72		(0.8)
73	M:	Do you **regret** not taking further a:ctions
74		in explo:ring what the nature of the
75		impacts were which were on that docume[nt.
76	Harris:	[no=
77		I took every action that you would ever
78		expect a- in my view a premier to take.
79		°h ah and-and I can honestly tell you that.
80	M:	an-and there's no regret at this point sir.
81	Harris:	I'm sorry
82	M:	There's no further **regret** at this point.
83	Harris:	There's no further **regret** (.)
84		a[t this point.

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85 M: [thachyou did not take any other steps.
86 Harris: ah-listen uh-I **regret** what happened in
87 Walkerton=an certainly, if there's
88 any:thi:ng that comes out of this Inquiry
89 thet-would indicate ah-that anything,
90 any action, any change, by our government
91 contributed in any way:: (.) ah-I would
92 regret that very much.
93 M: °hhh sir do you believe we have a right
94 to safe drinking water?

In lines 24–26, Muldoon produces his first of several questions that employ the factive, *regret*, and a complement clause characterizing Harris's non-intervention. Such questions presuppose that Harris has NOT intervened in government policy, even though, according to some of Muldoon's previous questions, Harris was aware of the negative impacts of such policy. Lines 49–50 show Muldoon repeating a version of the same question, thereby reinvoking its relevance and treating Harris's talk in lines 27–46 as not answering the question. In lines 53–56, Harris explicitly challenges the presupposition contained in Muldoon's question – that Harris did not intervene – characterizing it as *an assumption* that Muldoon ought not to be making. By addressing the presupposition directly – and problematizing its status as a presupposition – Harris is not addressing the main thrust of the question. In line 68, Muldoon once again asks *do you regret not intervening*. Harris's response in line 69–71 to this version of the question is similar: He problematizes the status of his non-intervention as something that should be taken for granted, saying *well: I didn't say I didn't intervene*. Notice the *well* preface, indicating that his response is contrary to expectation.

Lines 73–75 show Muldoon once again producing a version of the same question: *Do you regret not taking further actions in exploring what the nature of the impacts were which were on that document*. This time Harris's strategy is slightly different. While he again directly addresses the damaging presupposition, and thus does not answer the question as put, he does so by denying the presupposition, not (as in the previous two examples) by problematizing its status as a presupposition. That is, the *no* in line 76 is not a denial of his regret, but rather a negative response to the presupposition of the question – that he did not take further actions. Indeed, in answering Muldoon's question, we see Harris asserting in lines 77–78 that he took every action a premier would be expected to take: *no=I took every action that you would expect a-in my view a premier to take*. Here Harris orients to the scope ambiguity of negation noted earlier: He does not simply respond with "no" but rather spells out explicitly what he is denying. In the examples discussed up to now, then, Harris withholds type-conforming responses that would confirm the damaging presuppositions of Muldoon's questions; in resisting the presuppositions of the questions, he addresses the presuppositions directly either by problematizing their status as presuppositional material or by explicitly denying the presupposition itself. By continuing to repeat simi-

lar versions of the same question, Muldoon displays his orientation to Harris's responses as non-answers to the questions as put.

Transforming presuppositions while producing recognizable answers

While the examples discussed up to now show Harris addressing the damaging presuppositions of questions directly (and thus not answering the question as put), the next set of examples show Harris producing responses that are recognizable as answers by virtue of repeating the factive predicate embodied in the question. Typically, the "answers" in which Harris repeats the factive predicates also rework the presuppositions of the questions. And, not surprisingly, the reworked presuppositions reduce and diminish Harris's and his government's responsibility for the Walkerton tragedy. In example (10a), the lawyer employs the factive predicate *be aware* in his question, thereby presupposing the clearly evaluative formulation that the Ministry of the Environment *had als-already suffered serious cuts*. By either confirming or disconfirming the lawyer's question, Harris would be vulnerable to being heard as accepting the presupposition.

(10a) "Aware," pp. 25–26

1	L:	An' were you **aware** at this time in
2		nineteen ninety fi:ve that °hh ah
3		the Ministry of the Environment had
4		als-already suffered serious cuts since
5		nineteen ninety one ninety two?
6		(0.8)
7	Harris:	uhm I-I was **awa:re** that uh the Ministry
8		of Environment ah
9		(0.2)
10		budget.and all budgets in government
11		were put under restraint=I believe in
12		nineteen ninety two by the former
13		(.)
14		government.=that would have been part
15		of social contract uh

In response to the question, Harris repeats the factive predicate but replaces the presupposed complement. In Harris's version, *suffered serious cuts* is replaced by *put under restraint*. That is, Harris transforms the original presupposition of the lawyer's question – that the Ministry of Environment *had . . . suffered serious cuts* – into a less damaging one, that the Ministry of Environment's budget was *put under restraint*.

In example (10b), the question begins with the factive predicate *understand*. After the content of the question is produced – containing the presupposed material – the lawyer reinvokes the question using another factive predicate, *be aware*.

(10b) "Aware," pp. 154–158

1	L:	hh Now do you understa:nd that that
2		forty: (.) eight percent cut (.) °hh
3		inclu:de privatization of la:bs, include

reduk-reduced inspections:, included
enforcement. (.) are you **aware** of that?
Harris: I-I am **awa:re** looking at-at the
documentation before me: and I-I can't
speak for: the amount of enforcement (.)
°hh ahh or number of inspections at the
ti:me. I can (.) speak to it no::w (.)
and I can certainly speak to the fact that
I knew at the time,=as well as now, °hh ah
that it meant that private labs would
be used.
L: And are you **awa:re** (.) that the evidence
in this Inquiry does establish s:ome
relevance of those issues to Walkerton
tragedy?
Harris: ((swallow)) I'm **aware** there's been evidence
ah: produced that had talked about that'n
I w-would leave it to the Commissioner
to make that determination.

Harris responds, as in (10a), by repeating the factive predicate in his answer. While the lawyer's questions in lines 1–5 presuppose that a 48% cut to the Ministry of Environment included *privatization of labs* and *reduced inspections and enforcement*, the presupposition of Harris's answer is a diminished one: Harris is/was only aware that *private labs would be used*. In the follow-up question posed at lines 15–18, the lawyer again uses the format of a factive predicate + complement. In responding, Harris once again repeats the predicate while substituting his own complement for the one contained in the question. The lawyer's question in lines 15–18 presupposes that evidence in the Inquiry establishes that there is some connection between cuts to the Ministry of Environment under Harris's tenure as premier and the Walkerton tragedy. Harris's substituted complement, by contrast, presupposes a weaker claim: that evidence has been produced *that had talked about that*.

In example (10c), the lawyer is questioning Harris about the *perception* that the jobs of Ministry of Environment workers might be jeopardized if they were to raise concerns about the operation of public works. The lawyer characterizes this as *troubling*, in this way embedding the proposition under a factive predicate.

(10c) "Troubling," p. 231

L: An=in spite of those efforts th-the
perception at least in some quarters
persists. Izin that **troubling**
Harris: ah i-it it is **troubling** that when this
report was ah written that that perception
ah existed,=ye::s. an=something we'll have
to continue to work on.

Harris responds by once again repeating the factive predicate. Here, however, rather than substituting a different presupposed complement for the one that was

included in the question, Harris merely adds to it in such a way as to challenge the relevance of the lawyer's implication that the perception *persists*.

As Clayman & Heritage (2002:247) have noted, one of the ways that a stretch of talk becomes recognizable as an "answer" is by preserving some of the exact wording of the question in the response to that question (see also Button 1992). When Harris repeats in his responses the factive predicate of the preceding question (as we have seen in examples 10a–10c), however, he is not just creating a recognizable "answer"; he is also reworking the question, transforming the presuppositional material that the question embodies. As a final example of this strategy, consider lines 82–85 of example (9), discussed earlier, where Muldoon once again repeats some version of his *regret* questions: *There's no further regret at this point . . . thachyou did not take any other steps*. In lines 86–87, Harris repeats the factive predicate, *regret*, in his response, but transforms its complement; that is, Harris does not regret that he did not take any other steps, but rather regrets *what happened in Walkerton*. Instead of challenging the damaging and incriminating presupposition of the question (as we saw in previous answers to the *regret* questions), here Harris appears to answer the question as put, but transforms the damaging presupposition of the question into a benign one. And, by confirming this transformed – and benign – presupposition, Harris obscures any role that he might have played in the contamination of water at Walkerton.[5]

When examining the force of presuppositions in this context, and Harris's various strategies to avoid their confirmation, it is also necessary to consider question-answer pairs within the larger sequences of which they are a part. In early work on courtroom discourse, Atkinson & Drew 1979 showed that lawyers typically use question-answer pairs to build a line of questioning. Routinely, a line of questioning begins with a question that merely establishes some fact. Once established, these facts are then used in such a way as to allocate blame or responsibility, to discredit a witness, or to reveal an inconsistency. And often these "facts" are established by lawyers (or there is an attempt to establish these "facts") in the form of presuppositions. In example (11) below, the lawyer begins by asking Harris whether he is aware that the present Minister of Environment said publicly that her ministry needs more financial and human resources.

(11) "Aware," p. 86

1	L:	°hh Are you **aware** that on: (.) Wednesday:
2		that the present Minister of the Environment
3		Mz Witmer (.) °hh said that the Ministry of
4		the Environment (.) nee::ds more financial
5		resources an nee:ds n-more human resources
6		as well. This is your own Minister said
7		this two [days ago?
8	Harris:	[ah the-ther-there was a
9		press report to that affect.=°I'm **aware**
10		of that.°
11	L:	An' you're **aware** of that. [( )
12	Harris:	[I'm not sure what

13 the Minister said. I [haven't talked to her
14 L: [Okay.
15 Harris: about that.
16 L: But **assuming** that she said that=she was
17 quoted in the Toronto Star to that effect
18 would you agree with her
19 (0.2)
20 Harris: uhm:-I-I-I don't have information (.) uh
21 fer that.=I-I certainly most ministers
22 hh ah (.) want (.) more money,=want more
23 programs, want ah more things ah=to do.=
24 I would expect that,=but I-I haven't- I'm
25 not in a position to judge that.

To be aware is a factive predicate; therefore, if Harris had answered "yes" or "no" to this question, he would have been confirming the presupposition that the Minister of Environment had indeed made these comments. Harris, however, does not respond with a type-conforming response; rather, in lines 8–10 he repeats the factive predicate in his response (in a postposed position), making the subsequent stretch of talk recognizable as an answer. Notice, however, that in repeating the factive predicate Harris also transforms the presupposition of the original question. That is, rather than confirming the presupposition that Witmer said publicly that her ministry needs more financial and human resources, Harris says that he is aware that there was a press report to that effect. Such an answer, and the subsequent wrangling over whether Harris was DIRECTLY aware of Witmer's comments, works to break up and delay the progress of the larger sequence that the lawyer is attempting to build step by step. A few lines later, in 16–18 (after Harris says explicitly that he is not sure what the minister said), the lawyer attempts once again to advance the same line of questioning. This time he attempts to establish the "fact" that Witmer made these comments by explicitly naming it as an assumption that his question is predicated upon: *But assuming that she said that . . . would you agree with her*. Harris in lines 20–25 again withholds a type-conforming response, ultimately saying that he is not in a position to *judge that*. On the face of it, Witmer's comments are not damaging or discrediting in any obvious way. Yet Harris, in part through his repeating of factive predicates and his concomitant transforming of presuppositions, effectively stalls the progress of this line of questioning and the larger course of action the lawyer seeks to implement.

RESPONSES TO QUESTIONS WITH NON-FACTIVE PREDICATES

As further evidence of Harris's orientation to the role of type-conforming responses in the preservation of damaging presuppositions of lawyers' questions, we now turn to consider the quite different responses he produced to questions that did not contain factive predicates. Consider examples (12a) and (12b) below.

(12a) pp. 140–141

1	L:		°hh Now- (.) as you know, after Wa:lkerto:n,
2			(.) in August of two thousand, your government
3			did (.) pass a law. did pass a regulation
4			°hh that cleared up the notification protocol
5			so that it's clear now that la:bs and the
6			owner (.) must (.)°h notify the appropriate
7			officials,
8			(0.2)
9			The protocol obviously is now aba- a binding
10			law and a regulation, °hh=
11	Harris:		=°yeah°
12	L:		an' that mandatory accreditation is now
13			(0.2)
14			a law
15			(0.2)
16			for the private labs doing the testing.
17			(0.4)
18			Now this was done in August of two thousand.=
19		→	=Would you agree with me: thet (.)
20			the fact that it was done then is
21			an-a-acknowledgment that that regulation
22			should have been there in May of two thousand?
23	Harris:	→	(0.4) uhm:: (.) No, I wouldn't sa:y that.
24			I:-I:-I would say thet Walkerton was a
25			wake up call,
26			(0.2)
27			for all of us. including our government=
28			=including other governments. who if you know,
29			subsequently ah-°hhh made a number of changes-
30			aa number of regulatory ah-uhm changes.
31			thee
32			(0.2)
33			tchh thee ah change ah that was made on ah:
34			on the ah: thee protocol? Ah:: is not the one
35			that was recommended to the Minister=but
36			I believe it is the appropriate ah::- change.
37			(0.2)
38			an' I think thee-thee former Medical Officer
39			of Health has acknowledged that-that in
40			hindsight ah- the regulation we ultimately
41			passed ah-thet-thet that would have been ah:
42			better than his recommendation.

(12b) pp. 75–77

1	L:	Kay=We w-we're agree:d thet (.) thee key
2		impacts,=the increased uh:: risk to health an'
3		environment, are not in the business plan.=
4		=But if you refer to pa:ge fou:r
5		(0.4)
6		you will see what the public is bei:ng told
7		at page fou:r in the third paragraph down,
8		(1.0)
9		in the second sentence,
10		(0.6)
11		it says

12			(0.6)
13			Without (.) lower::ing (.) the current
14			high level of environment protection in
15			Ontario, °h these reforms will remove barriers
16			that do not protect the environment and get
17			in the way of
18			(0.2)
19			j:ob creating economic activity and growth=
20		→	=Now=wouldyou not agree with me Premier
21			thet this s:tatement, without lowering the
22			current high level of environmental protection
23			in Ontario °hh is misleading at best.
24	Harris:	→	(1.2) No. that was thee- certainly the vie::w
25			of the Ministry:: reflected by:: ah::
26			the Minister in-in the release of this=
27			ah: right at thuh beginning
28			(0.4)
29			of the key uh:: Ministry strategies,
30			It says the common theme of this strategy is
31			no compromise on environmental quality th-that
32			was (.) consistent (.) ah: with the document.

Both of these examples contain questions with the non-factive predicate *agree with*. Moreover, in both cases the complements of these predicates contain material that is potentially harmful to Harris's claim that he was unaware of the risks his budgetary policies (i.e., cuts) could have on public health and the environment of Ontario. The question in (12a) asks Harris whether a change in water-testing law post-Walkerton constitutes an admission on the part of the Conservative Party government that such a law should have been in effect at the time of the Walkerton tragedy. The question in (12b) asks whether it was misleading on the part of the Conservative government to suggest that cuts to the Ministry of Environment would not lower environmental protection in Ontario. Thus, note that if either of these propositions had been embedded under a factive predicate such as *be aware*, they would have been understood as presupposed, (i.e., "Are you aware that the passing of this law in August of 2000 is an acknowledgment that the regulation should have been there in May of 2000?"; "Are you aware that this statement 'without lowering the current high level of environmental protection in Ontario' is misleading at best?"); moreover, a type-conforming response from Harris to such sentences would have left the damaging presuppositions intact. Embedded under a non-factive predicate, however (as they are above), these propositions are not presupposed and not taken for granted by the questions. And, consistent with the analysis presented here, Harris's answers in (12a) and (12b) neither address nor deny the embedded propositions directly, nor do they repeat the predicate and rework the content of the complement clauses. Rather, they convey disagreement through a type-conforming response – a response that in this context effectively denies the truth of the damaging propositions. Thus, by the design of his answer (type-conforming vs. non-type-conforming, with predicate repeated or without) Har-

ris displays his own orientation to the particular challenge that questions containing factive predicates pose for a witness in this context.

CONCLUSION

Previous studies of courtroom discourse have documented the ways that cross-examining lawyers impose damaging interpretations on evidence, build incriminating lines of questioning, and generally impugn the credibility of witnesses from the opposing side. We have demonstrated the extent to which such practices are dependent upon witnesses being compelled to produce type-conforming responses (see also Raymond 2003 for discussion of this issue). While most of the questions asked of Harris in the Walkerton inquiry were coercive and controlling and apparently designed to undermine his credibility, the fact that he was never forced to produce type-conforming responses meant that he could resist the damaging presuppositions embedded in lawyers' questions. As we have demonstrated, Harris at times directly addressed the presuppositions of questions, either challenging their status as appropriately presupposed or denying the presuppositions themselves. At other times, he produced a stretch of talk that was recognizable as an "answer" while at the same time transforming a damaging presupposition into a more benign one. Indeed, the fact that Harris was not compelled to produce type-conforming responses resulted in an interactional relationship between questioner and answerer that was arguably more symmetrical than those described for many courtroom settings. One way of accounting for this difference in interactional patterns is by appealing to Harris's identity – he occupied a prominent political position as the province's premier. Another is to consider the particular institutional setting being investigated. As noted earlier, procedural rules for such inquiries only specify the forms that questions should take and say nothing about the forms of answers. Moreover, our examination of other inquiry testimony cross-examinations suggests that the interactional pattern described in this article is not at all unusual and not restricted to this particular witness. For example, in another inquiry, at the federal rather than provincial level, witnesses were again not compelled to produce type-conforming responses to yes/no questions (see Sidnell forthcoming). The same can be said for the cross-examination of other witnesses in the Walkerton Inquiry.[6]

In investigating the way that a witness resisted and challenged incriminating evidence that took the form of presuppositions, our examples also reveal how presuppositions may be interpreted in naturally occurring data. More specifically, the data examined here provide evidence for the resilience of presuppositions in contexts of denial and disagreement. The answers of the witness suggest that participants may, in certain contexts, orient to such resilience and take special measures to resist presuppositions. Our analysis further indicates that presupposition-preserving interpretations are more readily available to participants than presupposition-denying ones.

NOTES

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[1] While Woodbury's definition of "controlling" questions is connected to the degree to which a questioner imposes his or her own interpretation on evidence, the other investigators cited here develop taxonomies based on the extent to which an answer is logically constrained by the structure of a question. Although defined somewhat differently, categories such as "control," "coerciveness," and "conduciveness" are essentially synonymous to the extent that they categorize question-types in the same way.

[2] In Eades's (2000:171) study, Aboriginal witnesses often interpreted coercive question types as "an invitation to explain some situation or present a narrative account."

[3] An inquiry like the one examined in this article is a "fact-finding" exercise. The official mandate is explicitly not to attribute responsibility or assign blame. In *Well of Lies: The Walkerton Water Tragedy* Colin N. Perkel writes:

> The aim of a judicial inquiry is not to ascribe blame or find fault. It is, at heart, a fact-finding exercise, a way of uncovering the truth about events as a prelude to making recommendations on how similar events can be avoided in the future. It does not punish except in the form of public exposure. There is no sentencing, no jail cell at the end of a long corridor waiting to swing shut with a deafening, metallic clang. (p. 211)

Before appearing at the inquiry, the commissioner of the inquiry gave a statement in which he remarked:

> . . . it is important that people keep the decision to call the Premier in proper perspective. There is a danger that some may exaggerate the significance of his testimony or even the reason he is being called. It should be kept in mind that this is an inquiry, not a proceeding alleging wrongdoing of any sort. The Premier is being called so that he can be asked about specific policies and decisions, and their possible impacts on Walkerton, and for no other reason. (Commissioner's statement delivered June 6, 2001 in the inquiry hearing room in Walkerton)

The official product of an inquiry like this is then not a judgment of guilt but a report written by the commissioner in which findings are presented. In the case we examine here, the commissioner's report presented a wide range of findings concerning the causes and consequences of water contamination in Walkerton. While the report did mention budget cuts to the Ministry of Environment, it did not single this out as a factor of particular importance over and above others. More consequential for Harris and his government was the media coverage of the inquiry. The day after Harris testified, a major Canadian paper ran the headline "Accountable but blameless," and below it an article titled "The long day of no apologies." A letter, accompanied by a large picture of Harris drinking a glass of water at the inquiry, appeared in the same paper with the title "Accountability for dummies." The consensus in the Canadian press was that Harris had evaded responsibility and refused to admit the role that he might have played in what happened at Walkerton. Harris later stepped down from his office as premier (in part owing to mounting pressure from his apparent involvement in an incident that resulted in the shooting and death of a Native protester by the Ontario Provincial Police). The Conservative Party, which had formed the provincial government in Ontario for two terms, lost the next election to the Liberals headed by Dalton McGuinty.

[4] See Sidnell 2004 and Sidnell forthcoming for further discussion of the organization of inquiry testimony.

[5] The reader will notice that in some cases *regret* is used as a verb, while in others it is a noun. Although we focus here on factive predicates, noun forms in the constructions here appear to carry the same presuppositions. It should also be noted that although, in line 86, Harris is responding to the noun form in lines 82–85, in his answer he uses *regret* as a verb.

[6] There are reasons to suggest that, with respect to the organization of the talk itself, it was the categories of "lawyer/witness" rather than those of "premier/civilian" that were relevant.

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