Abs-138

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On defendants (re)initiating talk in criminal trials: The Old Bailey in the Late Modern English period

Defendants in English courtroom interaction have not always had their right to a speaking turn restricted by the lawyers' questioning task. By contrast to present-day courtroom interaction (Atkinson & Drew, 1979; Drew, 1992; Heritage & Clayman, 2010), defendants during the mid-17th to mid-18th century had a prominent role as questioners, addressing questions to witnesses and requests to judicial examiners and lawyers (Archer 2005). Though defendants' active participation seemed to decrease as the EmodE period progressed, Archer attested an increase in defendants' use of (re)initiating questions over the three periods she analysed (1640-1679, 1680-1719 and 1720-1760).

In an attempt to explore the evolution of defendants' talk-(re)initiating activity from 1760 onwards, a preliminary analysis of the proceedings of the Old Bailey Corpus corresponding to the period 1760-1860 (Rama-Martínez & Martínez-Ínsua, 2010) revealed a considerable decrease in the frequency of turn transitions, including defendants' turns. It was observed that defendants overwhelmingly resorted to the self-selection technique though with seemingly different intentions in each century: to state their cases in a self-defence turn at the end of the trial during the 18th century, but to cross-examine witnesses with the aim of disproving evidence during the first half of the 19th century. Consequently, the types of moves and illocutionary forces varied notably between the two centuries. Notwithstanding the considerable decrease in defendants' contributions to interaction over the two centuries, the 19th century witnessed an increase in defendants' (re)initiating talk throughout the trial. The aim of this paper is to investigate to what extent this trend of decrease in defendants' turns but increase in defendants' questioning talk, initiated in EmodE and maintained until 1780, continues over the latter part of the LmodE period. In line with the achievement of full defence by counsels through the Prisoners' Counsel Act in 1836 (Cairns, 1998), this tendency of a gradual decrease in the production of defendants' (re)initiating moves is expected to hold for the second half of the 19th century, thus establishing a smooth transition into today's courtroom system. For this purpose, I shall adopt both a qualitative and quantitative approach to the study of a random selection of the Old Bailey criminal proceedings corresponding to the period 1860-1899. The analysis will focus on the following parameters: (i) types of turn-allocation techniques used to guarantee defendants' access to a turn at talk; (ii) types of defendants' (re)initiating moves defined in terms of their illocutionary force (eg. question, request, require); (iii) the addressees of those defendants' moves (eg. judge, lawyer, prosecutor, witness) so as to assess the extent to which the (a)symmetrical roles of the addressees imprint on the way in which defendants take (re)initiating moves; and (iv) the frequency of interlocutor (non-)response to defendants' turns.

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