Discourse Clues to Coded Language in an Impeachment Hearing

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Conversation is normally intended to be forthright and mutually understood. Occasionally, however, people use a language code to disguise the meaning of what they are saying. Like language itself, a code is a formal system of communication shared by its users. In fact, a language is itself a code. Sometimes, when people are speaking in a specific language, they employ a further code for the purpose of secrecy. Such codes are designed to isolate information from outsiders in a way that regularly understood words would not. Codes are used for many reasons, including security (as in war time), efficiency (as in occupations), intimacy (as in clubs or other social groups) or secrecy (as in the prevention of detection).

In February of 1988, I was given twelve tape recorded conversations to review on behalf of the Committee on the Judiciary, Subcommittee on Criminal Justice of the United States House of Representatives. These tapes involved two (October 5 and October 8) 1981 conversations between Federal Judge Alcee L. Hastings and William A. Borders, a Washington D.C. attorney, and ten other conversations involving Borders with both undercover agent H. Paul Rico and another man named William Dredge. The single question that this committee asked me to address was whether or not the October 5 conversation between Hastings and Borders contained coded language. I was not asked to decode the language if I should find it to be coded at all.

Although I was not told this until after my conclusions were reached, it was the government's theory that the October 5 conversation was indeed coded. The ostensible topic of this conversation was the judge's plan to write support letters for Hemphill Pride, a South Carolina attorney who had run afoul of the law and was trying to reverse his disbarment. The government believed that Hastings and Borders were involved in a much more complicated plot to extort money from a man they believed to be Frank Romano (but who was actually an undercover agent named H. Paul Rico). Borders had assured Rico that he could get a judge to provide a favorable sentencing report if Rico would pay $50,000. The government further believed that some of this money was for Judge Hastings.

Both men had been tried in federal court on charges of extortion. Borders was convicted while Hastings was acquitted. Months after this acquittal, the House of Representatives decided to review the case in order to determine whether or not Hastings had acted unethically or illegally and whether or not he should be impeached as a federal judge. No previous linguistic analysis had been made of the tape recorded conversations used as evidence in that trial.

One's first reaction on listening to this short conversation is that the men are talking about writing support letters for a man named Hemphill Pride but that they are doing so in a very odd way. This oddness is what attracted the attention of the attorneys for the Subcommittee, but they could not determine exactly what was odd. This is why they sought the services of a linguist in the first place.

After completing my analysis, I concluded that the two men were indeed using a code to communicate information not obvious from the actual words they used.

I began my analysis by differentiating various types of codes and by establishing criteria by which codedness can be determined.

1.0   Types of Codes
There are at least three types of language codes:

1.1 Total and obvious codes
Such codes are the subject of study by cryptologists. In most cases the intent of the code is to be so unclear that the message cannot be deciphered by outsiders to the code. There is no concern about whether or not the code looks like a code; to those who intercept it, this is obvious.

1.2   Partial and obvious codes
Such codes make use of the function words and even many of the nouns and verbs of a language but they also substitute other, often ludicrous words as code in that same language in regular syntactic positions. The fact that these substitute words are coded is quite obvious. An example of partial and obvious codes can be found in Colonel Oliver North's *Taking the Stand* (North, 1989:143), when he quotes himself as saying the following:

> If these conditions are acceptable to the banana, then oranges are ready to proceed.

1.3   Partial and disguised codes
Such codes resemble partial and obvious codes except for the fact that the substituted or coded words are carefully selected to make it appear to anyone who should happen to intercept the conversation that the participants are talking about one thing when, in reality, they are talking about something quite different. Crystal (1987:58) cites an example of such code in India when a sentence translated as "Go clean the bowl" was used by a murderer to an associate in front of his victim. The intended meaning was "Prepare the grave."

2.0   Criteria for Partial and Disguised Codes

It was immediately obvious from the October 5 tape that if the conversation was coded at all, it was a code of the third type, partial and disguised, at least as far as word substitutions are concerned. The criteria that must be met, if this conversation were determined to be coded, were as follows:

2.1   The code must be understood by both participants. Otherwise it would not be code at all. It would simply sound very odd and confusing.

2.2 The code must be relevant to real life situations.   That is, the coded language must be realistic enough, when intermingled with regular uncoded language, to appear to be plausible. An outsider will not be able to ascertain the exact meaning of the code but will understand it to mean something else. The farther a code gets from a plausible meaning or from a potential real life meaning, the more it can be recognized as a code. Since some who use codes for secrecy do not wish outsiders to know that a code is being used, they must create a code with plausible, real world meanings as a diversion to their actual intent.

2.3   The code must be specific. Several code words are not used for the same meaning unless the coding system is so elaborate and its users are so practiced in it that several layers of hidden meaning can be communicated. The most simple, unpracticed codes preserve one-to-one specificity of meaning. As with normal language, referencing words can be less specific, or general, but only after the specific code word has been used. That is, pronouns and general nouns, such as *it, they, the things* ,etc. can be used in code, just as they can in uncoded English, once the defined reference has been established.

2.4 The code must be consistent. That is, once a code word is used to mean one thing, it cannot be used again to mean something else. It should be noted that highly developed code systems that are used by practiced professionals may be so elaborate as to appear inconsistent, even though there is a coded internal consistency. In the simple codes of the average person, such complexity is not found and code words have a single consistent meaning throughout.

2.5 The code requires more direct confirmation of understanding than does normal conversation. In the coded language of average persons it is common to hear expressions such as, "If you get what I mean" or "Do you get my drift?" These are requests for confirmation that the code is being understood. Likewise there are proportionally more direct confirmations of understanding than in normal conversation. Such confirmations include "I get you" or "I understand." The less practiced the code users are at such language, the more such confirmation occurs.

        As these criteria were applied to the October 5 conversation, it became apparent that the analytical procedures of discourse analysis would be the key to answering the question of whether or not the men were using coded speech.

3.0   The Use of Discourse Analysis in Identifying Coded Language

        Early research on the principles of sequencing in conversation was carried out by Schegloff (1986) on telephone conversations and by Sacks (1972) on therapy sessions. Both concentrated on the rules of sequencing in conversation but it was Labov and Fanshel (1977) who described the units that are sequenced with more precision: "Sequencing rules do not appear to relate words, sentences, and other linguistic forms, but rather form the connections between abstract actions such as requests, compliments, challenges, and defenses " (Labov and Fanshel 1977:25). According to Labov and Fanshel, the rules of conversational sequencing presuppose relationships "between the words spoken and the

actions being performed" (Labov and Fanshel 1977:25). This insight, along with many others, undergirds the following analysis.

Although code is most noticeable primarily at the level of lexicon or vocabulary, the use of code also affects the syntax and discourse structure of a conversation. Such effects also contribute to the identification of the language as coded. For example, the following sequence in the October 5 conversation would be marked as very peculiar in normal, uncoded conversation (hereafter, numbers in parentheses preceding text refer to line numbers of the conversation, as printed in the appendix):

> (6) AH: You hear from him after we talked?
> (7) WB: Yeah.
> (8) AH: Oh, okay.
> (9) WB: Uh-huh.
> (10) AH: Alright then.

For one thing, the response, "Yeah" in line 7 suggests an elaboration such as "Yeah, he'll be here soon" or "Yeah, I saw him last night." Hastings' response to "Yeah" is the "Oh, okay" of line 8, which is a confirmation that Hastings understands what Borders meant by his "Yeah" in line 7. The "Uh-huh" response to this in line 9 is a feedback marker. This indicates acknowledgment and gives up a turn of talk. At best it can be taken to mean "I'm listening." In any case, "uh-huh" is a very unusual response to "Oh, okay," which is an equally unusual response to "Yeah." Finally, in line 10 Hastings says "alright then" to Borders' "Uh-huh." Once again, Hastings acknowledges what Borders has said and confirms that he understands the meaning of Borders' "Yeah" in line 7.

The point of this example is that although all of the individual words are normal, the conversational structure is so different from normal dialogue as to be marked as peculiar. In normal conversation we simply do not reconfirm with such regularity the simple confirmation that we have heard from somebody. The need for such confirmation strongly indicates that the meaning of "hearing from" is different from its regular lexical meaning or that both parties understand it to go beyond the normal meaning of "hear from." Likewise, Borders' failure to elaborate his "Yeah" response in line 7 is an indication that this is not normal dialogue. But if Hastings' "Did you hear from him?" actually means something else, such as "Did you get it?," then "Yeah" is actually an appropriate answer. A question involving "hear from" requires the responder to elaborate with more facts about when, how or where. It is not a simple yes/no question which can be satisfied with a yes or no answer. The hypothetical meaning, "Did you get it yet?," on the other hand, can be answered with a yes or no.

Further evidence that "hear from" is code for something else can be found in Hastings' acceptance of Borders' "Yeah" response with "Oh, okay." If the topic were actually about "hearing from him," the obvious expectation would be to want to know what he heard. Borders never answers this and Hastings does not ask for it. Instead, Hastings accepts Borders' "Yeah" as a complete answer. Hastings' use of "Oh" before "okay" indicates either surprise or acknowledgment that new information has been presented. Unless this is a coded message, no new information exists here. All we know is that Borders has heard from him. There is no information about the underlying basic question

about what he heard. To be sure, conversational routines regularly go through a kind of information dispensing process, doling out a little at a time. A more natural conversation on the topic of hearing from someone would read as follows:

> *AH: You hear from him after we talked?
> *WB: Yeah, I talked to him last night. (+ when)
> *AH: What did he tell you?
> *WB: He said he'd do it next week. (+ what)
> *AH: No sooner than that?
> *WB: That's all he told me.
> *AH: Oh, okay.

In this hypothetical example, the final "Oh, okay" occurs after it has been determined that this is all the new information available. But notice how this hypothetical exchange unfolds, starting from the same beginning point as the previous example from the actual tape:

> Yes/no question implying more than yes/no answer.
> Yes answer and elaboration of when.
> Probe question about what.
> Direct answer to what question.
> Probe question for completeness of response (validation).
> Confirmation of completion.
> Acceptance of condition of information given.

Now, contrast the above analysis with the conversation in the original tape:

> Yes/no question implying more than yes/no answer.
> Yes answer.
> Acceptance of yes answer.
> Reconfirmation of yes answer.
> Reacceptance of yes answer.

It should be clear, then, that in this passage there is not only a violation of the expected, normal dialogue routine following a yes/no question that requires more than a yes/no answer, but also Hastings' recognition ("Oh, okay") that he has received a yes answer to his question. A simple yes answer to "did you hear from" is insufficient in a regular, normal conversation. Therefore, "hear from" is being treated here as though it performs in the same way as "get it" or other verbs to which yes/no answers are sufficient.

From the structure of this discourse there is still further evidence that a partial, disguised code is being used. This further evidence is the additional confirmation sequence that follows ("uh-huh" and "alright then"). Borders confirms that his "yeah" answer is complete and Hastings accepts this completion of response for the second time, even though in normal uncoded conversation it cannot be considered as completed.

To this point I have described the criteria for partial and disguised coded language and I have illustrated how the structure of conversational discourse can provide evidence that

code is being used. It is not just the words that contain code. It is also the way the words are used in discourse that provide such evidence. I will now turn to the beginning of the October 5 conversation between Borders and Hastings to illustrate other evidence that this conversation was a partial, disguised code.

4.0   Discourse Analysis of the Conversation

At the beginning of the conversation we hear:
      (1) WB: Yes, my brother.
      (2) AH: Hey, my man.
      (3) WB: Uh-huh.

Lines 1 and 2 are a standard greeting routine between two friends, not unusual. In line 3, however, Borders says "uh-huh," a feedback marker. He is expected to say something and he does. In normal conversation, as indeed we find in the later October 8 conversation between the same men, we expect to hear the second part of the normal greeting routine. In the October 8 conversation we hear:

      AH: This is Alcee. How are you?
      WB: How you doin'?

That is, in normal conversation, the greeting is a two-part routine, each party saying an equivalent of "hello" followed by the optional "how are you?" The second part of the routine is aborted in the October 5 tape by Borders who utters the feedback marker "uh-huh" at a very unusual time, suggesting an unwillingness to speak normally and giving up his turn of talk to Hastings immediately. Although this is, in itself, unusual, what follows it offers even more insight to the analysis of this conversation.

Instead of "uh-huh," one might expect Borders, since he was being called by Hastings, to inquire about why Hastings was calling. For example, he might have asked "What's up?" or "What's on your mind?" He might also have seized the opportunity of Hastings' call to insert his own agenda, responding, for example, "I'm glad you called because I . . . ." Absent either of these strategies, we can conclude that Borders knew why Hastings was calling, or at least suspected it strongly. Analysis of Borders' language behavior in all other phone calls reveals no other occasion when he does this, even with Hastings. Later, Hastings asks, "you hear from him after we talked?," suggesting strongly that Borders and Hastings had spoken with each other at some recent time.

From the seemingly mild and innocent words used by both men, the appearance of normal conversation might be assumed. But from an analysis of the structure of the language used, it is clear that there is considerably more to it than the words used. From these three lines above we learn that this is a tense enough situation for Borders to skip the second part of the normal greeting routine, to not request the reason for Hastings' call, to not take advantage of Hastings' call to insert his own agenda, and to give up his turn to talk as soon as he got one.

Let us continue with this text:

(4) AH: I've drafted all those, uh, uh, letter, uh, for Hemp.
(5) WB: Uh-huh.

What we can learn from this exchange is made evident by the language strategy not employed by Borders in his response, "uh-huh." For example, he does not request clarification (*"What letters?"). (In contrast, in the October 8 call, Borders shows that he can, indeed request clarification when he says "Eastern?," requesting confirmation of the airline on which Hastings will arrive.) On October 5, on the other hand, he does not clarify or elaborate (*"Oh, you mean the support letters"). He does not evaluate (*"Good. I'd hoped you'd do that," as, indeed, Borders does in the October 8 conversation when he says "Goddamn, you move around man.") Instead, Borders uses the feedback marker "uh-huh," saying very little and accomplishing nothing more than his required turn in the conversation. When a person responds in this way it means either that she or he either does not understand exactly what is meant and is stalling for more clues, or does understand, but is hesitant to talk and makes the minimal noise possible, turning control over to the other person.

Of particular interest here is Hastings' use of "uh" three times in his statement. "Uh" is a pause filler, a noise uttered in the absence of a word, for one of three reasons: the speaker is struggling to remember something, the speaker has been distracted temporarily, or the speaker is being extremely cautious about word choice.

In normal conversation, the function of such pause fillers is to prevent interruption and to provide assurance that more is coming if the listener will only be patient. It is a signal that the speaker is not yet willing to give up a turn of talk. If code is being used, especially a recently or hastily constructed code, one expects to hear the "uh" pause filler in exactly those places where the code word is to follow. Such practice evidences a struggle to remember the code and an effort to be careful in not slipping into uncoded language. On the other hand, Hastings does not use pause fillers in his October 8 telephone conversation. In the October 5 conversation, however, he does so five times in four utterances, as follows:

     (4) uh, uh, letters
     (4) uh, for Hemp
     (6) uh, you hear from him
    (14) uh, I communicate with him

All of these instances occur before codable words. Of particular interest here is the comparison of these pause fillers in the October 5 conversation with the October 8 conversation between these same two men. The October 8 conversation is twice as long, yet it contains no "uh" pause fillers. Information is exchanged about flight numbers, hotels, Hastings' speech in Georgia, backup plans and a man named John Crump, without a single pause filler.

Returning to the tape, we next hear the following:

(6) AH: And everything's okay. The only thing I was concerned with
          was, did you hear if, uh, you hear from him after we talked?
(7) WB: Yeah.

(8) AH: Oh, okay.
(9) WB: Uh-huh.
(10) AH: Alright, then.

This passage was analyzed earlier as an example of how the structure of a conversation contributes to our understanding of its use as code. Borders' "yeah" of line 7 is an inappropriate response to a yes/no question involving a broad spectrum topic such as "did you hear from him." The expectation of normal conversation is to say "yes," then add some further information about when or what. Hastings' response of "Oh, okay" to Borders' "yeah," is equally inappropriate in normal uncoded conversation since it confirms that complete information has been given when, indeed, it has not. On the other hand, if "hear from" is code for words such as "did you get X," then Borders' "yeah" is an appropriate answer since completion is indicated internally (as opposed to "hear from," which requires a response of what one heard). If code is being used, then Hastings' "Oh, okay" indeed confirms that the information is complete. If this is not code, then Hastings' "Oh, okay" is strangely inappropriate. Finally, the double reconfirmation of completed information in lines 9 and 10 only heightens the evidence that this is coded language, in the same way as lines 7 and 8.

Next we hear:

(11) WB: See I had, I talked to him and he, he wrote some things down for me.
(12) AH: I understand.

Here we see Borders' first substantive contribution to this conversation. After four consecutive turns of talk saying no more than "uh-huh" and "yeah," Borders now attempts a carefully worded contribution. The care he takes is clear from his false start ("See I had, I talked to . . . ") and his repeated pronouns ("he, he wrote...") False starts and word repetitions offer the same type of evidence as presented earlier with the use of "uh" pause fillers. Such practice suggests a struggle to be careful in not slipping into uncoded language and an effort to remember and use the code consistently. Again, like the pause filler "uh," false starts and word repetitions immediately precede the code words, as follows:

(11)See I had, I talked
(11) And he, he wrote

Hastings' use of the response, "I understand" is of particular interest here. In the many thousands of tape recorded conversations I have listened to over the years, I have yet to find a person who habitually used "I understand" as an equivalent expression to the far more common feedback markers, "uh-huh," "okay" and "yeah." In current English practice, "I understand" serves as a confirmation of the truth or existence of facts presented by the other party. What is curious here is why a prosaic sentence such as "I talked to him and he wrote some things down for me" would require a confirmation of understanding unless it is code for something else. Hastings had already confirmed multiple times that Borders' "yeah" was an adequate and conclusive answer to his question, "You hear from him after we talked?" Borders by now appears to feel familiar enough with the code to launch out on his own. He recycles the "hear from him" topic and elaborates, several lines after it would have been more appropriate to do so, that "he wrote some things down." Hastings' "I understand"

can be only to the "He wrote some things down" part of Borders' sentence, since it had already been established that Borders had heard from "him." Even so, writing some things down is hardly monumental enough to require a confirmation of understanding. It is, however, completely appropriate as an indication of confirmation of the coded meaning for something else.

The tape then continues:

(13) WB: And then I was supposed to go back and get some more things.
(14) AH: Alright. I understand. Well, then, there's no great big problem at all. I'11, I'11 see to it that, uh, I communicate with him. I'll send the stuff off to Columbia in the morning.
(15) WB: Okay.

Again, this dialogue is very odd. The initial reference to "things" had occurred in Borders' previous statement, "He wrote some things down for me." Now he elaborates a bit, "And then I was supposed to go back and get some more things." If "more things" are things to say in support of Hemp, one might expect it to be said quite differently, with considerably more elaboration, such as: *He couldn't think of everything you should say in your support letter. He'll think about it more, then get back to me.

Whereas Borders' first use of "things" (line 11) is grammatically and lexically appropriate, his second use of "things" (line 13) does not ring true. One can write "things" down but one does not normally say that one will go back and get more "things" that can be written down. The second reference to a substance called "things" requires, by referencing rules, a more explicit identification, especially when used with the verb "get." "Get," in this sentence, requires a noun such as "information" or "ideas," words readily available to almost any speaker of English, unless "things" is a code word that refers to something other than information or ideas. It is interesting to note, by comparison, that neither Borders nor Hastings uses the words "things" or "stuff" in their October 8 conversation.

5.0   The Test of Logical Consistency

The test of whether or not the October 5 conversation was a partial, disguised code can be found in the search for logical consistency.

5.1 "Going back"

We have already noted that if this conversation were really about the support letters that Hastings was writing for Hemphill Pride, it is odd that Borders would have to "go back" to Hemp to get more information. Why wouldn't a telephone call be sufficient? And, for that matter, why wouldn't Hemp be able to think of the "things" that Hastings could say on his behalf at the first meeting referred to here? In addition, one notes the use of the past tense passive voice in Borders' representation, "I was supposed to." The past tense here is of interest. If Borders was referring to new information gleaned from his meeting when Hemp "wrote some things down," then normal syntax rules indicate that he would have said *"I am supposed to go back and get some more things," or *"He wants me to come back and get some things." If, however, the plan was originally to go there twice, then "I was

supposed to" reflects this clearly. Borders' syntax indicates that this is not new information but that Borders was simply reiterating a mutually known plan or procedure.

5.2 "Going back" versus "coming back"

Further evidence for this being mutually known information is found in Borders' use of the verb, "go." If he is reporting that Hemp wanted him to return for more things, normal English syntax would expect the verb to be "come," whether in the active or passive voice, as follows:

*And then I was supposed to <u>come</u> back and get some more things
<div align="center">or</div>
*Hemp wants me to come back and get some more things.

That is, if Hemp was the initiator of this action, the verb would emanate from him. On the other hand, if the plan to see someone twice were already known, then the appropriate verb would be "go," since "go" does not indicate emanation from Hemp.

"No great big problem"

Hastings' response to this is, once again, evidence that he understands Borders' use of the code. Hastings says "Alright. I understand," a double confirmation which, as has already been pointed out, is common when code is being used. Hastings' next utterance, "Well then, there's no great big problem at all" is couched in the negative. A negative statement, by definition, implies that its opposite, a positive, is possible. Since the presumed support letters were for Hemp and since Hastings is not obligated to write such letters, "no great big problem" could ever have existed concerning this matter. Then why would Hastings say that there was "no great big problem"? The answer is that there was a great big problem but not the one concerning support letters for Hemp. This, in itself, is an argument that code exists here. Whatever else has happened in this conversation, Hastings is now assured that his problem no longer exists.

Hastings continues "I'll, I'll see to it that, uh, I communicate with him. I'll send the stuff off to Columbia in the morning." Note once again the repeated words and pause filler "uh" in this sentence:

(14) I'll, I'll see to it .
(14) uh, I communicate

I have already noted that such phenomena occur, in coded language, immediately before the crucial code words. Hastings is being very careful not to slip up on the code.

5.3 "Change in plan"

One of the greatest dangers in code usage is being inconsistent. Borders said that he (Borders) "was supposed to go back and get some more things." Now, without any reference to Borders' statement, Hastings says that he (Hastings) will communicate with "him" (Hemp). To this dramatic contradiction in procedure, Borders offers only a weak

"okay." Hastings here is overriding the reported agreement between Borders and Hemp, namely that Borders will go back and get "some more things." What has happened to the Borders-Hemp arrangement? If the "more things" are necessary as fuel for Hastings' support letters, why is this plan abandoned without any discussion or without Borders' objection?

If the topic had really been about support letters for Hemp, a felicitous response by Borders would not have been "okay." If Borders wanted to disagree with Hastings' override, it might have been something like the following:

*No, he told me to get this information first.

But even if Borders wished to assent to Hastings' change of procedure, Borders would still be expected to say something, perhaps like this:

*Okay, if you really want to, but I told Hemp I'd do it.
                              or
*Whatever you want to do, Alcee.

By contrast, in the October 8 conversation, Borders does offer a suggestion of assent to Hasting's complaint about not being able to get a room at L'Enfant Plaza: "We can always get you in there." Borders here shows that he is capable of dealing with changes of future procedure. Dramatic changes in procedure are normally explained or discussed in conversation. Here we have such a change but with no such explanation, discussion, objection or even assent. On the other hand, if "things" refers to something else, perhaps getting something, instead of information for support letters, the conversation is consistent. Likewise if a "problem" of getting something a second time has existed in the past but is no longer seen as a problem since the thing initially to be received is now reported to have been received ("he wrote some things down for me"), then Hastings' comment, "Well then, there is no great big problem at all," is indeed consistent with the code.

5.4 "Send stuff off"

Hastings then continues by saying, "I'll, I'll see to it that, uh, I communicate with him. I'll send the stuff off to Columbia in the morning." This two-part statement is consistent with the two-part procedure that Hastings would utilize in his role as a judge who would first instruct and assistant to prepare an order ("I'll see to it") and, second, sign and send the order off. Here Hastings slips in his use of the code. This procedure proposed by Hastings is inconsistent with a scenario of support letters. If he believed that there was no need for Borders to go back and get more information from Hemp before he (Hastings) wrote these letters, he fails to say so. Instead, he changes the plan dramatically, says there's no problem, and offers to see to it that the letters get sent in the morning. Even if this plan called for Borders to go back to Hemp that evening (it is now after 5 p.m.), get more information and telephone it to Hastings in time for the letters to be sent on the following morning, such an intricate procedure would call for some discussion and planning. There is none here.

5.5 "Things" versus "stuff"

Hastings slips again in his referencing. To this point the following referencing to letters has been used:

(4) AH: letters
(11)WB: wrote some things down
(13) WB: get some more things
(14) AH: I'll communicate
(14) AH: Send the stuff

The code of "letters" is introduced originally by Hastings in line 4. Borders picks up on it in line 11, substituting "things." But by using this word after the verb, "wrote," he preserves the code consistency. Borders' next reference continues as "things" but this time without a reference to writing. In fact, as noted earlier, Borders' use of "get" here is very odd when used with "more things" for any reference to ideas or information. This is the first code inconsistency. Hastings' use of "communicate" in line 14 is more consistent, putting the code back on track, but his use of "stuff" in line 14 again calls into question the consistency of the code. By referring to support letters as "stuff," Hastings appears to try hard to be vague to anyone who might hear this except Borders. The natural way to reference at this point would be to say "letters." Grammatical anaphora can go only so far in conversation without being reestablished. If Hastings had continued to use "things" (instead of "stuff") the referencing would have appeared more natural. But by changing to "stuff," especially in light of his overriding the presumed Borders-Hemp agreement to get "more things," Hastings opens the door to suspicion. There is no reason for Hastings not to use either "letters" or "things" here unless "things" has taken on a different meaning. And this seems to be what has happened. On the surface it was to be apparent that writing letters is the single topic of this conversation. But Hastings' use of "stuff," coupled with a flat-out rejection (without discussion) of Borders' agreement to get "more things," makes it clear that two separate actions are being discussed. The "things" that Borders has gotten and the "more things" that he plans to get form a different topic from the "letters" Hastings has drafted and his promise to "communicate" and "send the stuff." Perhaps realizing the code was getting confused and complicated, Hastings chose to find a new vague referencing term, "stuff," since to say that he would send the "things" (letters) tomorrow would appear to be so contradictory to the presumed Borders-Hemp arrangement to get some more "things." At any rate, the code became inconsistent once again.

6.0 Conclusion

Linguistic evidence indicates that the October 5 conversation between Judge Alcee L. Hastings and William A. Borders was a partial and disguised code. It has been shown that Hastings and Borders are using a hastily constructed, but not well practiced, vocabulary code. Average non-linguists listening to this taped conversation would find it peculiar but probably could not determine exactly why. The first place they would look would be to the words themselves but if the disguised code is relevant to real life situations, if it is specific and if it is consistent, such words may seem to be uncoded. The key to determining whether or not code is used is not obvious in the words alone. It is in the syntax and discourse structures that code becomes apparent; how the words are used.

I testified to all this before both the Committee on the Judiciary of the U.S. House of Representatives on May 24, 1988, and before the Special Impeachment Committee of the U.S. Senate on July 14 and 17, 1989. Both legislative bodies voted to impeach the judge.

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Appendix:

Transcript of Conversation of October 5, 1981, 5:12 p.m.

UF: Unidentified female
AH: Alcee L. Hastings
WB: William A. Borders, Jr.

UF: Law Office. One moment.
(Placed on hold)
UF: May I help you?
AH: Girl, I called long distance and you put me on hold. This is Alcee. How you doing?
UF: I'm sorry; but I have all these lines going in here and I didn't know, if I'd known it was you, they could've waited.
AH: I understand. Bill's gone?
UF: No. Hold on just a minute.
AH: Alright.
(Placed on hold)
 1 WB: Yes, my brother
 2 AH: Hey, my man
 3 WB: Um-hum.
 4 AH: I've drafted all those uh, uh, letters, uh for Hemp ...
 5 WB: Um-hum.
 6 AH: and everything's okay. The only thing I was concerned with was, did you hear if, uh, you hear from him after we talked?
 7 WB: Yeah.
 8 AH: Oh. Okay.
 9 WB: Uh- huh.
10 AH: Alright, then.
 11 WB: See, I had, I talked to him and he, he wrote some things down for me.
12 AH: I understand.
13 WB: And then I was supposed to go back and get some more things.
14 AH: Alright. I understand. Well, then, there's no great big problem at all. I'll, I'll see to it that, uh, I communicate with him. I'll send the stuff off to Columbia in the morning.
15 WB: Okay.
   AH: Okay.
   WB: Right
   AH: Bye bye.
   WB: Bye.