

A LAWYER STEPS INTO ROOM 302

RICHARD FOWLER ON
GEOFFREY FARMER AND JUDY RADUL

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PHOTO: GEOFFREY FARMER

Judy Radul and Geoffrey Farmer's *Room 302* is both an installation and a video piece. Upon entering the gallery, the viewer is confronted by the dismantled façade of an ornate oak courtroom. Projected onto these pieces is a video of a trial. The audio includes the voices of the participants, as well as the contextual sounds of papers rustling, footsteps and the outdoor noises associated with a big city. The viewer is immediately struck by the juxtaposition of the physically deconstructed courtroom with the choreographed performance of a trial. Not only can the viewer study the wooden elements of the physical surroundings of a courtroom, but within that context can also observe and listen to the elements of a trial.

Room 302 uses a courtroom to convey, through performance and the setting itself, ideas about truth and reality. The roles of the lawyer, witness, guard and court reporter are enacted and observed reading from scripts. Occasionally, two unseen voices can be heard directing the performers. With the court reporter overseeing the performance, scenes are re-done, sounds and events recreated. In essence, a real event is recreated by the performance to produce a new reality; we judge the past by what we are shown in the present.

Trials are a process by which we attempt to recreate the past in the present so that judges can decide what happened. Rules of evidence guide the process and ensure the integrity of the recreation. For example, evidence must generally be a first hand account – the witness must have seen or heard the event themselves. Rumour, gossip, stories passing from one person to another, inferences, opinions – the ingredients of real life – are not admissible. Conventions and formalities govern the performances of

the lawyers. The process is grounded in solemnity and dignity: the judge and lawyers wear robes, the judge is 'my lady,' and opposing counsel 'my learned friend.'

Words are the medium of communication in a trial, not sounds or props. More like a radio play than a stage play, the trial proceedings are only recorded aurally or by typed transcript. Physical objects must always be described in words, locations and directions carefully articulated – no gestures, nor pointing up, down, left or right. Measurements are transmuted from the distance between your hands or across a room into feet or meters. The subtle yet complex indicators of the panoply of human emotions are unsatisfactorily categorized. The look in his eyes, his tone of voice, his breathing, and his body language are reformed into anger, fear or nervousness. The re-experience of the past is only as good as the ability of an individual to express it in words.

The courtroom is like any theatre and the trial like any performance. The lawyers learn their lines and practice their performances. Witnesses are given advice about how to play their roles. Court clerks guide the performance, directing witnesses, introducing the judge and providing some narrative of events. Sheriffs usher the audience, provide security, and open and close the room.

It is within this context that I, as a defence lawyer, defend people. The prosecutor directs her witnesses to describe an account of a past event; I attempt to throw doubt on that account. Does the witness' account make sense, is it reliable, is it exaggerated, or is the witness lying? I attempt to unravel the carefully prepared performances of the witnesses, to move

them from their script. The witness is now improvising. Without a script frailties of perception and cognition are soon revealed, sources of contamination exposed, and bias or prejudice indicated. The judge relies on these raw ingredients to adjudge the performance; was it genuine, impartial, reliable, credible or exposed as exaggerated, embellished, unreliable and incredible?

A trial pivots on judgments and opinions. The lawyers make decisions based on experience about how to present their case, what questions to ask and when to challenge the admissibility of evidence. Above all, defence counsel must decide whether or not to recommend that the accused testify. These are all judgments – there is no single right way of doing things. Like artists, lawyers perform expecting to be judged. I am judged by results. I am judged by reputation. My examination of witnesses is judged. My written or oral submissions are judged. But these judgments are transient, I am only judged in the moment of my performance because no complete record is made. *Room 302* is available to be judged tomorrow, as long as we have the technology to present it.

Judgment permeates the whole trial process. Prosecutors must decide whether there is sufficient evidence for a trial. Before the trial starts the accused must decide what type of trial she wants: a jury trial or a trial with a judge, a provincial court judge or a supreme court judge? How should the accused or witness present himself, what should she wear? Throughout the trial the judge is judging: what evidence to accept, what happened, applying the law, guilt or innocence. The lawyers are being judged: good job, great cross-examination, very persuasive legal submissions, rambling closing argument. The

judge is being judged: that legal ruling was clear, she controls the courtroom well, he is always so polite and pleasant, she is clear and decisive.

As new media of expression are developed, art continually evolves to adapt to and accommodate new technologies. Lawyers, judges, trials and courtrooms are undoubtedly influenced by these technical developments. Computers are integral to the gathering, storing and analysis of evidence. Written court decisions are archived electronically. Crime scenes are videotaped. Witnesses' statements are audiotaped. Evidence is presented electronically. Exhibits are scanned and stored electronically. But it is the performance of the lawyer that assimilates these media. They would remain disconnected and disintegrated components of a past event without the performance of the lawyer. The lawyer attempts to provide meaning. Is this not also true of the artist?

Room 302 communicates the processes of a real trial. It simulates the recreation of a past event by the same techniques lawyers use in the courtroom. However, it differs in its integration and presentation of the hidden processes of a trial. The hidden choreography of the trial process is revealed. The viewer is left to judge how this management of the recreation process impacts the present reality of a past event, and left to ponder what this means about truth.

Richard Fowler is a defence lawyer and partner at Gibbons Fowler Nathanson in Vancouver. He has been involved in many trials, including Air India and was counsel for Glen Clark. He is very interested in art and is currently on the board of the Western Front Foundation. He is married to a lawyer, Margot Fleming, and has two young boys, Sam and John.

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ARTSPEAK
AN ARTIST RUN CENTRE
733 CAREALL STREET
VANCOUVER, BC

CONTACT
T: 604 689 0051
F: 604 689 1512
E: info@artspeak.org