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Strategies for strengthening presumptions and generating ethos by manifestly ensuring accountability

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ABSTRACT: In argumentation, as elsewhere, speakers strategically engage favourable presumptions by manifestly making themselves accountable for their communicative efforts. Such strategies provide the addressee with reasons to regard the speaker as accountable in specific ways and, via that regard for the speaker, with situation-specific rationales for responding positively to what the speaker says. This paper identifies some resources available to arguers for strengthening, elaborating, and focusing such special presumptions. The paper offers an analysis of Barbara Jordan’s “Statement on the Articles of Impeachment” as illustrative of these resources for strengthening a speaker’s ethos.

KEYWORDS: assurance accounts, Barbara Jordan, ethos, Paul Grice, probative obligations, seriously saying and meaning something, special presumptions.

1. INTRODUCTION

From antiquity rhetorically oriented studies of argumentation have recognized that the attention, consideration, and/or acceptance of arguments by addressees are conditioned by the apparent character of the addressee (her ethos). At some levels of response this may be a matter of animal based identification (in my observation, dogs are fundamentally more interested in other dogs that they, typically, are interested in their “masters;” herding breeds pick up more quickly with dogs of another herding species than they do with hunting breeds; genetically similar individuals are notoriously prejudiced to favour other members of their tribe). At another artistically more interesting level, this is a matter of the ways in which manifestations of a speaker’s character provide addressees with potentially good reason for attending to, considering and, perhaps, ultimately accepting arguments addressed to them.

This essay is an exploration of an important dimension of the ways in which facets of a speaker’s manifest persona (her apparent character) can provide her addressees with epistemically significant reasons for responding favourably or unfavourably to the speaker’s arguments. When I say epistemically significant reasons, I mean to refer broadly (and without putting a fine edge on the matter) to reasons which function cognitively as such and not simply as causes (as in the case of someone who says, “The reason I jumped is that a mouse ran across the floor.”)

The essay starts from an assurance account of the pragmatics of seriously saying and meaning something (accounts based on a refinement and elaboration of Grice’s analysis of utterance-meaning). Assurance accounts address the efficacy of seriously saying
things—the hoary question of how it is that what a speaker does in saying something can provide (a reasonable and prudent person) with reason to, e.g., believe what she says. According to assurance views the speaker generates such reason by manifestly making herself accountable for her communicative effort. It follows that such accounts give a certain priority to the addressee’s regard for the speaker, viz., the speaker’s manifestation of accountability affords the addressee reason to, e.g., believe the speaker and, by extension, to believe what the speaker says (Moran 2005a: 4-6, 21). If assurance accounts of the efficacy of seriously saying things are on the right track, then we should expect that speakers can enhance their addressees’ reasons for attending to, considering and, perhaps, ultimately accepting their argumentation by strategically amplifying and clarifying the assurance(s) of accountability they afford their addressees.

To explore this possibility I will first review relevant tenets of assurance accounts. I will then briefly sketch some ways in which persons can strategically amplify and target their manifest accountability for their conduct. Finally, I will examine ways in which such strategies are evinced in an exemplary rhetorical discourse.

2. ASSURANCE ACCOUNTS OF THE PRAGMATICS CONSTITUTING THE PRIMARY COMMUNICATIVE ACT OF SERIOUSLY SAYING AND MEANING SOMETHING

The basic and remarkable act of seriously saying and meaning something occupies a central position in human communication and is a fundamental means for conducting argumentation. Identification of this act and its product, what is or was said, routinely enters into the production and interpretation of arguments. When we want to clarify what someone means by an utterance, repeat the thought that has been expressed, revise or repair its “message,” or rely on that thought as the basis for further inferences, we identify the object of our attention using so-called indirect speech reports having the form ‘speaker (S) said that p’, where p expresses what S meant by her utterance (u). Often, when we are concerned about the commitments involved in an argumentation strategy or the consequences which it might engender or its propriety, etc., our attention focuses on this primary speech act, and we wonder whether we dare to say this, how best to support it or, how it is vulnerable to rejoinder. Seriously saying and meaning something is an essential component of members of the large and critically important class of speech acts which J.L. Austin (1962) identified as “illocutionary acts,” acts performed in and by saying something. Seriously saying something is not only central to specific speech acts, it is also the principal means by which we conduct a significant range of communicative activities. We argue about matters, jointly consider issues, discuss problems; we exchange reasons, raise objections, express doubts, etc., all of which are executed by saying things.

H. P. Grice’s (1969) analysis of utterance-meaning provides the starting point for assurance accounts of the act of seriously saying and meaning something. “Utterance-meaning” is a technical term Grice (1969: 150-152) introduced in order to refer to acts of verbally saying and meaning something and, also, to gestures, graphics, pictorial representations and other similar bearers of “meaning” in the sense of that term which Grice describes as “non-natural.” This larger conception introduces difficulties which can be
avoided by narrowing the scope of his analysis to seriously saying and meaning things.\(^1\) Grice’s analysis certainly is designed to include our conception of seriously saying and meaning something within the domain of utterance-meaning. I focus on the insight Grice’s analysis affords into that primary speech act; accordingly, where Grice presents an analysis of the meaning utterances have on the occasion of their use, I will speak of Grice’s analysis of seriously saying and meaning that \(p\).

In its most defensible available version, Grice’s analysis presents the following conditions as conceptually necessary to the primary communicative act of seriously saying things.

It will be true that some speaker \((S)\) said that \(p\), \textit{if and only if}, \(S\) produced an utterance \((u)\) semantically equivalent to ‘\(p\)’ with the following complex reflexive intention:

1. \(S\)’s primary intention\(_1\) (\(I_1\)): \(S\) intends\(_1\) that some addressee \((A)\) respond \((r)\) that \((p)\), or at least acts as if \(S\) were speaking with this intention;

2. \(S\)’s second intention\(_2\) (\(I_2\)): \(S\) intends\(_2\) that \(A\) recognize \(S\)’s primary sub-intention, or at least acts as if \(S\) were speaking with this intention;

3. \(S\)’s tertiary intention\(_3\) (\(I_3\)): \(S\) intends\(_3\) that \(A\) recognize \(S\)’s secondary speaker-intention\(_2\), or at least acts as if \(S\) were speaking with this intention;

4. \(S\)’s quaternary intention\(_4\) (\(I_4\)): \(S\) intends\(_4\) that \(A\)’s complex recognition of \(S\)’s intentions \((I_1 & I_2)\) provide \(A\) with at least part of \(A\)’s reason for ringing that \(p\), or \(S\) at least acts as if \(S\) were speaking with this intention.\(^2\)

This formulation is vulnerable to a number of serious objections. The most immediately interesting criticism challenges the pragmatic coherence of the configuration of reflexive intentions which the analysis attributes to speakers (MacKay 1972). According to Grice’s analysis, speaker intentions \(I_2\) and \(I_3\) have a pragmatic function, \textit{viz.}, they are designed to serve as (part) of \(A\)’s reason for responding as primarily intended. But it is far from clear just how your recognition that I am trying to get you to believe that \(p\) could provide you with reason to so respond. Dennis Stampe explains the difficulty as follows.

(I)n Grice’s formulation, it is necessary that the utterance be intended “to produce some effects in an audience by means of the recognition of that intention”. … He further stipulates that this “means of” is to be so understood that in some sense of ‘reason’ the recognition of

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\(^1\) In focusing the act of seriously saying and meaning things, I do not mean to exclude gestures, graphics, pictorial representation, etc. from the domain of bearers of non-natural meaning. For a good account of gestures in this connection see: (Kendon 2004). I am inclined to think that we ordinarily extend the concept of sayings things to refer to what gestures and other visual representations “say to us.” But the relationships between \textit{saying} and \textit{showing} introduce complexities beyond the scope of the present discussion.

\(^2\) This version of Grice’s analysis follows the formulation articulated by Dennis Stampe (1967). It is similar in structure to Strawson’s version (1964), but unlike Strawson it includes both levels of reflexive speaker-intentions within the scope of the reason condition \((I_4)\). For Grice’s discussion of versions of his analysis, see: Grice (1969, 1989).
the intention behind x is for the audience a reason and not merely a cause” of his responding as intended.

But this is puzzling: it is not obvious why my recognizing that you intend me to believe or do a certain thing should, certainly if taken by itself, provide me with a reason to do so. … The question which confronts us at this stage is this … how it can reasonably be expected that an audience will respond in conformity with one’s intentions? What, quite generally, is the basis of the credibility of indicative utterances; or, if you will, what vindicates the otherwise apparently credulous and truckling responses we expect of our interlocutors? (1967: 19-20)

More recently Richard Moran (2005a: 13-14) has raised this question in remarkably similar terms.

Moran and Stampe give complementary answers to this question. Where a Gricean speaker manifests the intentions with which she is speaking in an act of testimonial assertion, Moran argues, she makes herself accountable for her primary communicative effort and, so, provides her addressee with assurance that she is, e.g., speaking truthfully. Given this assurance, her addressee may (ceteris paribus) find at least partial reason to believe that \( p \) (2005a: 10, 18). According to Stampe, \( S \)’s manifestation of the intentions with which she is speaking enable \( A \) to recognize \( S \)’s willingness to incur responsibility for what \( S \) does or says and this implicates that \( S \) is “apparently willing to brook adverse reaction if what \( (S) \) say(s) is not well founded, not true, etc. … which \( (S) \) may expect to ensue upon the realization that \( (S) \) lied (etc.).”

These two accounts feature distinct, but related, components of the reasoning which would lead from recognition of \( S \)’s intentions via \( S \)’s manifestly acceptance of responsibility to \( A \’s \) having a reason to suppose that \( S \) is actually speaking responsibly. Moran’s (2005a: 10) account of testimonial assertion describes that reason in terms of \( S \)’s presenting herself as accountable for the truth of

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3 Dennis Stampe provides the following account of how Gricean reflexive speaker intentions work to provide \( A \) with reason to respond as \( S \) primarily intends, e.g., with reason to believe that \( p \).

On Grice’s account it is a necessary condition of meaning something by an utterance that the utterer intend her audience’s recognition of her intention to produce a certain response to be a reason of some sort for her audience’s responding as intended. I remarked that it was not obvious why it should be a reason. … But now we may reflect that in recognizing the primary intention the audience is, eo ipso, recognizing the speaker’s responsibility for her (speech) act. Now the mere fact that I recognize you to be responsible for a certain matter by no means entails that I have any reason to trust your motives or rely on your word. So in intending you to recognize my intention and hence responsibility I therefore cannot yet be said to have given you reason to respond as intended. After all, you may think that you were not intended to recognize that primary intention and hence responsibility—as if it were like a case of overseeing someone planting evidence or perceiving that someone is posturing. But if you recognize that I intend you to recognize what my intention is, you therein recognize my willingness to incur responsibility for what I do or say. And this means that I am apparently willing to brook adverse reaction if what I say is not well founded, not true, etc.; so that it is reasonable for the audience to believe what I say so long as he may reasonably suppose that I stand to gain no advantage from mendacity, duplicity, or the like, which outweighs the disapprobation, etc., which I may expect to ensue upon the realization that I lied (etc.). We may conclude from these considerations that a sound strategy for inducing belief would be to achieve audience recognition of the secondary intention, that the primary intention be recognized. (1967: 26)
what she says, such that she offers a kind of guarantee for this truth. Stampe’s (1967: 26) account describes this reason in terms of A’s recognition of S’s undeniable responsibility for what she says and of the corresponding risk S runs of reprobation should it turn out that S is not, e.g., speaking truthfully. These accounts focus respectively on related steps in the reasoning leading from A’s recognition of S’s intentions to A’s presumption that S is speaking responsibly (truthfully) and, hence, to the conclusion that what S says merits e.g., belief. Step one: A recognizes that S has made herself accountable for her primary communicative intention; step two: A knows, as a matter of commonsense, that in making herself accountable (other things being equal) S risks resentment, reprobation, etc. should it turn out that she has lied (etc.).

Explication of the reasoning which leads A to suppose that S is living up to the commitments she has manifestly undertaken should articulate both steps as practically necessary components thereof (Kauffeld 2010).

Grice’s analysis can be reformulated so as to incorporate these pragmatic insights into an explication of our ordinary conception of seriously saying and meaning that p. I offer the following revision.

It will be true that some speaker (S) said that p, if and only if, S produced an utterance (u) semantically equivalent to ‘p’ with the following complex reflexive intention.

1. S’s primary intention1 (I1): S intends1 that some addressee (A) respond (r) that (p), or at least act as if S intends1 that A r that p;

2. S’s second intention2 (I2): S intends2 that A recognize S’s primary sub-intention, or at least acts as if S intends2 that A recognize I1;

3. S’s third intention3 (I3): S intends3 that A recognize S’s secondary sub-intention, or at least act as if S intends3 that A recognize I2;

4. S’s fourth intention4 (I4): S intends4 that (given A’s complex recognition of S’s intentions) A discern S’s manifest acceptance of accountability for her communicative effort, and A is, thereupon, to find at least part of A’s reason for r ing that p in the supposition that S would not be manifestly thus willing to risk resentment were S not making a reasonable effort to fulfill her manifestly incurred responsibilities, e.g., to express beliefs the truth of which S has made a reasonable effort to ascertain. (Kauffeld 2010)

A simplification in this formulation of S’s fourth intention4 (the reason condition in the analysis) is possible. The practical calculation which Moran and Stampe attribute to speakers and addressees is a modestly specialized form of a familiar kind of reasoning which pervades our interactions with each other, viz. the kind of reasoning we ordinarily refer to as “presumption.” Elsewhere, I argue that presum-

4 Stephen Darwall argues that this inferential step from the recognition of an assumption of accountability to acknowledgement of potential resentment is deeply rooted in our mutually shared conceptual schemes as to be entailed by basic respect for others (Darwall 2006).
tions are inferences based on the supposition that someone will have made such-and-such a proposition true rather than risk resentment for failing to do so (Kauffeld 1995, 2001, 2003). In the case of simple standing presumptions, one presumes that others, e.g., will respect one’s capacity to look out for one’s concerns (will make it the case that they respect one’s capacity to look out for one’s concerns) rather than risk resentment for meddling. Moran and Stampe attribute to the speaker (and addressee) a more complicated version of this inferential practice, a kind of inference which I call “special presumptions.” Special presumptions of this kind are deliberately generated by a person’s acting to overtly make herself accountable for her conduct and, therein, risk resentment, etc. should it turn out that she is not living up to her commitments (obligations). Her associates can thereupon reason that this person would not risk certain resentment, etc. were she not acting responsibly; accordingly, in the absence of indications to the contrary; they may presume that she is acting and/or will act to make true some proposition which our agent wants them to accept. (For discussion of a somewhat different kind of special presumption see the discussion of Barbara Jordan’s address provide below.) The seemingly complex calculations which assurance views attribute to speakers and addressees have the form of special presumptions and are of a piece with the most commonplace inferences we (often unreflectively) rely on in day-to-day interactions.

That being the case we may simplify our formulation of the reason condition in the analysis \((I_4)\) as follows:

\[(4') S\text{'s fourth intention}_4 (I_4): S \text{ intends}_4 \text{ that, given } A\text{'s complex recognition of } S\text{'s intentions, } A \text{ thereupon presume that } p. \text{ (Kauffeld 2010)}\]

This assurance based analysis has important merits. It provides important clarification of the reason condition in Grice’s analysis. Grice holds that recognition of the intentions with which \(S\) is manifestly speaking is designed to provide \(A\) with reason to, e.g., believe that \(p\), but Grice does not say much about the nature of that reason. The assurance analysis clarifies this vagueness by identifying the nature of that reason as a special presumption with an articulated structure. Moreover, this analysis is not vulnerable to the counterexamples which notoriously confront earlier versions of the analysis with the prospect of an open ended regress of reflexive speaker intentions (Kauffeld 2010).

3. MANAGING THE SPEAKER’S ASSURANCE OF ACCOUNTABILITY BY ENHANCING AND SUPPLEMENTING SPECIAL PRESUMPTIONS

On an assurance account, the special presumptions engaged in and by seriously saying and meaning something are primarily presumptions regarding the speaker and, then, by

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5 I offer this formulation tentatively. Interest in presumption has focused around the sorts of technical presumptions one finds in legal proceedings. Little attention has been given to the large class of ordinary inferences which are, also, properly termed “presumptions.” Consequently, one needs to proceed here with the recognition that this revision with its recourse to our ordinary sense of “presumption” may import more into the analysis than is properly constitutive of our conception of seriously saying and meaning that \(p\).
extension presumptive reason for responding as the speaker primarily intends. In the case of simple belief inducing utterance, as Moran (2005a: 4-6, 21) observes, S’s assurance of accountability provides A with reason to believe S, and then, presuming that S is speaking responsibly, with presumptive reason to believe that p. This inferential structure is common to special presumptions, reflecting their nature as propositions which persons are supposed to make true (Kauffeld 2003).

Given the nature of special presumptions, it follows that speakers can enhance and supplement the presumption of veracity by strategically managing the assurance(s) of accountability they provide their addressees. Special presumptions, it will be recalled, are strategically engaged by an agent’s deliberately and openly risking resentment in the event the agent fails to carry out the relevant responsibility. In general such presumptions can be strengthened by appropriate modification of the terms under which the relevant agent is to be accountable. For example, the presumption that a person will return a borrowed item, which is generated by the act of lending something, can be strengthened by requiring the borrower to post a bond for forfeiture. Elsewhere I (1998) have discussed ways in which the presumption of veracity engaged in saying something in acts of proposing and accusing can be strengthened by a speaker making herself accountable for providing good reasons supporting what she says. Several years ago at this conference, John Fields and I (2005) argued that in ordinary acts of testimony, speaker’s openly make themselves accountable for answering their addressee’s question concerning matter which the addressee is investigating and regarding which the addressee may find it necessary to rely on what the speaker says. In favourable circumstances this expanded and focused assurance of accountability may enable the addressee to presume that the speaker’s testimonial statements are reliable evidential basis for reaching conclusions. In these communicative acts, the speaker strengthens and amplifies the presumption of veracity by manifestly committing herself to further, supplementary probative obligations. Moreover, as we will shortly see, speakers can also strategically engage presumptions favourable to the reception of their arguments by asserting entitlements.

From the vantage point afforded by an assurance account of the pragmatics of seriously and meaning something, it is apparent that in many circumstances speakers will have good practical reason to strategically manage their manifest accountability and, as we will see later, that of their addressees. The presumption of veracity engaged in and by seriously saying things is a versatile discourse component; however, by itself it is indefinite, vague, and fragile. Often its utility requires pragmatic supplementation of appropriate special presumptions.

Suppose a speaker does what at a minimum our assurance version of Grice’s analysis requires of her. She deliberately and openly gives her addressee to believe that she is, e. g., trying to get him to believe that p. This provides A with minimal, though often efficacious, assurance of her accountability. By openly manifesting the primary intention with which she is speaking, S puts herself in a position whereat she would find it difficult to plausibly deny that she is, e.g., trying to induce A to believe that p. Often this would be the minimum S could do to make herself accountable. If a person can plausibly deny that she is doing or did whatever, she can evade efforts to call her into account for that act. Where S has deliberately and openly given S to believe that she is, e.g., trying to induce A to believe that p, she will not be in a position to evade responsibility for that effort by simple denial. However, the assurance A can reasonably take from this com-
mitment leaves a large discursive space in which S’s assurance is too indefinite and/or weak to carry the weight required by the situation at hand. For one thing, it is not apparent from this simple assurance of accountability just how serious S is about the responsibilities she has openly incurred. As Moran (2005b: 356-358) observes a speaker can be sincere, and in that respect, believe herself to speaking truthfully, without having deeply reflected upon whether the beliefs she expression are indeed the actual state of her belief. As I (1998) have noted elsewhere, the truthfulness requirement that S make a responsible effort to ascertain the rational and empirical adequacy of the beliefs she expresses, leaves open just what is required of her (and correspondingly) what she has done to check out the epistemic adequacy of the beliefs she expresses, which she might well be tossing off the top of her head, or she might have regarded the matter entirely in terms of her interests and concerns while neglecting those of her addressee. Then, too, there is the matter of how seriously S regards the prospect that she may be called into account for her communicative performance. Perhaps she thinks the matter at hand is a trifling for which her addressee should assume direct responsibility on his own, or it may be that with Machiavellian deceit, she has plotted an excuse in advance of her utterance. Also, the scope of her liability is indefinite. Suppose that on the basis a less than responsible effort to ascertain the truth of what she says, S induces A to believe something which is false. This, of course, seriously harms A, but how far does S’s liability extend? To what extent does it include the harm A suffers when he acts on what S told him? Then, too, there is the matter of whom S is accountable to and where and how she can be called into account by whom ever. And there also is a whole range of potential difficulties which have to do with securing a responsible hearing and response from A. These considerations infect day-to-day communicative interactions generally, but they become more prominent in argumentative exchanges which, by their nature, are conducted under circumstances of doubt and disagreement. They profoundly impact the pragmatic and epistemic value of seriously saying and meaning something. So, we should expect that arguers have multiple strategies for managing their discourse incurred accountability and that of their addressees.

4. A CASE OF ELOQUENTLY MANAGED ACCOUNTABILITY: BARBARA JORDAN’S ADDRESS ON THE IMPEACHMENT OF RICHARD NIXON

On July 25, 1974, Barbara Jordan addressed the House Judiciary Committee on the matter of impeaching then President Richard Nixon. Speaking in dramatic terms, the Junior Representative from Texas delivered an eloquent address, which many consider the most powerful statement presented at the Watergate hearings. According to one rhetorical critic, “On that historic occasion, the nation was stunned by her bold presence and centered constitutional arguments” (Holmes 2000: 3). The address certainly propelled Congresswoman Jordan to national prominence.

Addressing members of the Committee, but mindful of the riveted attention of a national television audience, Jordan carefully managed her accountability, and that of her addressees, so as (i) to incur a probative obligation focused by a presumption of the gravity with which she spoke and (ii) to entitle her to address her audience in terms which otherwise might create the impression of an abusive intrusion. She constructed the situation as one in which some of her colleagues were inclined to evade or shrink from the conclusion which reason, evidence and their duty required of them. She presented herself
as an inquisitor, as a stern examiner intending to ask and by force of reason compel her addressees to face her answers to the difficult questions before them. She presumed to address the committee in jarring terms openly designed to compel their assent to her argument. And she warranted this presumptuous mode of address on the basis an entitlement flowing from her personal experience of the value of the Constitution and her duty to defend that sacred document.

The relevant commitments were undertaken in Jordan’s initial statement of the intentions with she spoke.

Earlier today, we heard the beginning of the Preamble to the Constitution of the United States: "We, the people." It's a very eloquent beginning. But when that document was completed on the seventeenth of September in 1787, I was not included in that "We, the people," I felt somehow for many years that George Washington and Alexander Hamilton just left me out by mistake. But through the process of amendment, interpretation, and court decision, I have finally been included in "We, the people."

Today I am an inquisitor. An hyperbole would not be fictional and would not overstate the solemnness that I feel right now. My faith in the Constitution is whole; it is complete; it is total. And I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the Constitution. (Jordan 1974: 1)

In this statement she represented her effort as an inquisition conducted in defence of the Constitution’s curbs on Presidential powers. She said that the “diminution, the subversion, the destruction of the Constitution” was at stake. She did not spell out the respects in which in her view the proceedings put the Constitution at risk, but she need not. The risk to Constitutional authority was apparent to her colleagues and reflected in their subsequent comments. Alabama’s conservative Walter Flowers, with a flag-pin in his label we are told, asked,

What if we fail to impeach? Do we ingrain forever in the very fabric of our Constitution a standard of conduct in our highest office that in the least is deplorable and at worst is impeachable? (Emery 1994: 451)

Two days later, James Mann expressed Jordan’s concern in memorable terms when he warned that if this President were not held accountable “the next time there may be no watchman in the night” (Emery 1994: 454). Whether these comments adequately encompassed the scope of the danger to the Constitution envisioned by Jordan is a larger and not immediately relevant question. Plainly her apprehension of danger to the Constitution spoke to an issue central to a proceeding in which seven out of seventeen Republican members of the Committee defected to vote articles of impeachment against their Republican President (Emery 1994: 454).

Given this prospective and potentially fatal damage to the Constitution’s restriction of Presidential power, Barbara Jordan openly undertook its defence. She would not be “an idle spectator to … the destruction of the Constitution.” With this commitment she incurred an extraordinary probative obligation. She identified this as a solemn commitment which reflected the gravity of the issues at hand. She presented her commitment to this effort as fundamentally a matter of personal integrity, but also as a matter of her faith that “the Constitution is whole; it is complete; it is total” and a matter of her public duty at that historic moment. Accordingly, should she fail to provide a compelling defence, she would be personally and publicly humiliated for failing in a “sacred task.”
This risk of profound resentment, in turn, warrants what we might call a presumption regarding the gravity of her self-imposed probative obligation. It was to be presumed that Jordan would provide an intellectually vigorous and morally forceful body of logical argument which would reflect the deeply serious nature of the issues at hand. This presumption of gravity would serve to warrant a correspondingly sober consideration of her “inquisition” and would tend to dispel suspicion that her discourse was motivated by mean spirited political animosity to President Nixon—a supposition which Jordan explicitly addressed in general terms later in her discourse.

The body of argumentation which was devoted to discharging this initial commitment to defend the Constitution was at first manifestly and, then, explicitly designed to compel a judgment of impeachment from her colleagues on the Judiciary Committee. Both the tone and development of the address exhibited Jordan’s demand for assent to her argument.

The first part of her argumentation tersely corrected arguments offered by opponents of impeachment. In answer to the claim “that for a member to vote for an article of impeachment means that that member must be convinced that the President should be removed from office,” she bluntly responded (p. 2), “The Constitution does not say that,” citing relevant portions of the document. To the charge that impeachment efforts were merely a politically motivated attack on the President, she responded (p. 2) with barely concealed contempt, “Common sense would be revolted if we engaged upon this process for petty reasons. … So today we are not being petty. We are trying to be big, because the task we have before us is a big one.” In response to the claim “that the evidence which purports to support the allegation of misuse of the CIA by the President is thin,” she provided (p. 3) a damming inventory of evidence that pointed to the President’s complicity in wrongful efforts to cover up criminal activity. She politely ridiculed (p. 3) the suggestion that “these proceedings ought to be delayed because certainly there would be new evidence forthcoming from the President of the United States.”

Having sliced through the arguments against impeachment raised by its opponents, she then turned to “juxtapose a few of the impeachment criteria with some of the actions the President has engaged in.” Citing criteria for impeachment found in the Constitution, the interpretations of those criteria articulated by its authors during the ratification debates, and subsequent judicial authority, Jordan (pp. 3-4) paired criteria after criteria with evidence of pertinent violations by the President. On four counts she succinctly exhibits a tight fit between the Constitution’s conception of impeachable action and evidence of the President’s misconduct. A rhetorically oriented scholar aptly describes Jordan’s performance in this section of the speech as follows.

As the speech continues, Jordan teaches constitutional lessons and puts Nixon’s deeds on the rhetorical witness stand; she allows the criteria for impeachment to cross examine, as if a case against him is being tried. Jordan builds her case with specificity and a formal neutrality until she reaches a shocking conclusion. (Holmes 2000: 49)

This critic’s observations reflect the remorseless march of Jordan’s juxtaposition of impeachment criteria set side by side with evidence of the Nixon’s misdeeds.

The whole of Jordan’s effort was masterfully and manifestly designed to compel judgment, to make her conclusion inescapable. Her conclusion dismissed the opposition’s views with elegant sarcasm and gracefully stepped back to invite the judgment she im-
plicitly demanded as an answer to the question of impeachment, now be resolved on the basis of reason and evidence she had set forth.

If the impeachment provision in the Constitution of the United States will not reach the offenses charged here, then perhaps that 18th century Constitution should be abandoned to a 20th century paper shredder.

Has the President committed offenses, and planned, and directed, and acquiesced in a course of conduct which the Constitution will not tolerate? That's the question. We know that. We know the question. We should now forthwith proceed to answer the question. It is reason, and not passion, which must guide our deliberations, guide our debate, and guide our decision. (p. 4)

On its face, the argumentation provided in the body of her address was manifestly designed to vindicate the faith in the Constitution initially avowed by Jordan; it was patently designed to discharge her openly incurred probative obligation to defend the Constitution’s integrity as an instrument for curbing the President’s abuse of power. The impeachment clause, on her showing, would appear to be clear in its meaning, and the evidence of Presidential abuse remorseless pointed to impeachment. Failure to accept that conclusion would be the equivalent of shredding the Constitution and should be regarded as such in the conscience of Committee members and in the eyes of the public at large.

After her opening acknowledgement addressed to the Chair of the Committee, there is not a single conciliatory note in this address. The argumentation is conspicuously calculated to exact the judgment indicated in its concluding paragraph. Such an aggressive effort on the part of the junior representative from Texas stood to be dismissed as a presumptuous affront by senior colleagues on the opposition and regarded with affectionate amusement by Jordan’s sympathizers. If nothing were done to supplement the presumption that Barbara Jordan was sincerely expressing beliefs which she had made a responsible effort to ascertain, notwithstanding the incisive character of her argumentation, her discourse might have been dismissed without serious consideration by her opponents with a complaint on the order of “who does she think she is catechizing us like that, while her sympathetic colleagues might well have condescendingly slighted her “spirited” presentation. To her observing television audience, the address might have seemed little more that overzealous partisan acrimony. At the least, the aggressive tone of her argumentation stood to impair the dignity Jordan needed to manifest in order to secure sober consideration.

The introduction Jordan provides to her address spoke to the seemingly “presumptuous” nature of her argumentation. Recall again her introductory passage.

Earlier today, we heard the beginning of the Preamble to the Constitution of the United States: "We, the people." It's a very eloquent beginning. But when that document was completed on the seventeenth of September in 1787, I was not included in that "We, the people." I felt somehow for many years that George Washington and Alexander Hamilton just left me out by mistake. But through the process of amendment, interpretation, and court decision, I have finally been included in "We, the people."

Today I am an inquisitor. A hyperbole would not be fictional and would not overstate the solemnness that I feel right now. My faith in the Constitution is whole; it is complete; it is total. And I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction, of the Constitution. (p. 1)

Here, as a frame for the presumption of gravity discussed above, Jordan would have it presumed that on the basis of her experience, she is entitled to address the Committee in
harsh and aggressive terms. To dispel the impression that her mode of address is a presumptuous affront, Jordan recalled her experience as a person who had lived for a time excluded from full protection of the Constitution and, then, had been brought within the scope of the rights that document was designed to secure. That experience entitled her, Jordan pointedly implicated, to address the Committee in terms openly calculated to compel a judgment of impeachment. She, better than many others present, knew the value of Constitutional protection. That knowledge, and the commitment it inspired, furnished her with a right to address the Committee as an inquisitor defending the Constitution in harsh and compelling terms. Jordan laid claim to this right, first, by recounting the experience which warranted it and, then, by immediately exercising that right (p. 1). Accordingly, she created a risk of resentment facing her audience, a challenge which underwrote her presumption to forcefully and aggressively frame her argument. Jordan, in effect, dared members of the House Committee to regard her as a belligerent upstart. And the warrant she provided for this presumption would give them, as well as the observing public, reason to suppose that few would want to take up that challenge and risk Jordan’s rebuke.⁶

Jordan’s performance was made all the more compelling by the fact that she was the first Black representative from Texas and the first woman to represent that state in Congress. But it should be noted that Jordan did not rest the presumption inherent in her aggressive mode of address on a claim to entitlement based on race or gender. She purported to be entitled to speak as she did on the basis of her experience, albeit the experience of an Afro-American woman from a bitterly segregated and racially bigoted society. We have in this address a complex of strategically engaged presumptions, which served to augment the underlying presumption of veracity engaged by Jordan in seriously saying and meaning the utterances which comprised her discourse. That underlying presumption of veracity is fundamental to the demands she made on the thought and attention of her addressees. Should it appear that Jordan could not be presumed to be speaking truthfully,

⁶ Long before coming to the US Congress, Barbara Jordan had learned to stake her dignity and influence on the eloquent force of her argumentation. Her career as the first African American woman to be elected to the Texas State Senate, where she served from 1966-1972, was notable. As Senator, she sponsored the Workman’s Compensation Act, which increased the maximum benefits paid to injured workers. In March of 1972, Jordan was unanimously elected president pro tempore of the Texas Legislature. In June of that same year, she was named “Governor for a day.” Her achievements were attained in the face humiliating racial denigration on an almost daily basis. Barbara Holmes (2000: 14) recounts journalist reports of the obstacles Jordan encountered.

When she first came to the Texas Senate, it was considered a joke to bring racists friends to the gallery. When Barbara Jordan was due to speak, they would no sooner gasp ‘Who is that n[---]?’ then she would open her mouth and out would roll language Lincoln would have appreciated.
(Texas Observer, Austin, Texas, Nov, 1972.)
Aside from the kick white liberal[s] get from watching Jordan speak to a new audience, they tend to snigger and assume that anyone who looks that much like a mammy is going to be pretty funny to hear.

A colleague in the Legislature referred to her as “n[---] mammy washer woman,” and reporters proclaimed that she looked like Aunt Jemima (a Black icon used to market pancake mix) and sounded like god (Holmes 2000: 15). Jordan coolly responded to this noise with, “I would like to refute by my presence … that I look like Aunt Jemima and speak like Ted Kennedy … [I]t is my contention that I look and speak like Barbara Jordan, a view I might add that is shared by my mother” (Holmes 2000: 16).
her argument would have fallen on deaf ears. But, by itself, the presumption of veracity
would not warrant compliance with the situationally well motivated peremptory claims
she made on the attention, thought and consideration of her colleagues. The presumption
of veracity by itself, as noted above, is indeterminate as to the gravity of the speaker’s
commitment to what she says.

In Jordan’s situation the presumptive weight of her commitments pragmatically
entitled her to forcefully and intrusively address her audience. The efficacy of her argu-
mentation, as regards both her immediate addressees and her larger national audience,
depended, first, on this strategy for enhancing the presumed gravity of her commitment to
what she said and, second, on the strategic engagement of a presumption, warranted by an
entitlement, to address the House Committee in the aggressive manner necessary to dis-
charging the probative obligation she incurred in enhancing her presumed gravity.

4. CONCLUSION

This essay has explored some implications which an assurance account of seriously say-
ing and meaning things holds regarding potential strategies for enhancing an arguer’s
presumed ethos. Assurance accounts afford insight into the rational and pragmatic effic-
cy of the basic means for articulating arguments, the communicative act of seriously say-
ing things. Following Stampe and Moran (and ultimately Grice), I have argued, that in
seriously saying things S engages a special presumption regarding her veracity by mani-
festly affording A assurance of S’s accountability. This is a useful and versatile presum-
tion, but in many cases it needs focus, elaboration and supplementation, if the speaker is
to generate pragmatically necessary rationales for responses which her argumentation
requires. An arguer can generate needed amplification of presumptions regarding her
person by strategically elaborating the commitments she undertakes and the correspon-
ding risks of resentment she generates and, as we have seen, by explicitly presenting enti-
tlements which warrant presumptions requiring a respectful reception of what she says.
We have seen this potential illustrated in an eloquent address delivered during the Wa-
tergate hearings. In order to position herself to present an argumentatively forceful in-
dictment of President Nixon, Jordan augmented her presumed veracity with a presum
ption regarding her gravity. She, then, undertook to discharge that probative obligation
with a correspondingly aggressive body of arguments openly designed to compel judg-
ment favourable to her cause. To warrant this aggressive intrusion into her addres-
sees’ cognitive autonomy, Jordan presented herself as entitled by her experience to address the
House Committee as inquisitor demanding assent to arguments she offered. Here we see
two special presumptions generated by a speaker in order to secure a hearing for a mode
of argumentation she held to be required by the situation.

Jordan’s strategic management of her own and her addressees’ accountability
enriches our understanding of how presumptions can be deliberately and strategically
engaged. I introduced the concept of a special presumption in order to identify cases in
which an agent deliberately and openly acts so as to generate a favourable presumption
by making herself accountable for acting responsibly. This broad concept embraces a
wide range of strategic manoeuvring which is distinct from our largely tacit reliance on
standing presumptions for mutual orientation. Jordan’s discourse exhibits two distinct and
complementary special presumptions. The one follows the more familiar strategy of a
speaker openly undertaking a probative obligation, in this case a probative obligation focused by a presumption of gravity; the second strategically exhibits an entitlement as the basis for a presumption concerning the addressees’ response to the speaker’s mode of address. The first commits Jordan to an aggressive mode of address; the second entitles her to make demands on her audience’s consideration of what she says.

This pair of presumptions engaged by Barbara Jordan instances two distinct kinds of special presumption. Both kinds are strategically engaged by managing accountability, but they differ with respect to be basis for that accountability and with respect to the direction on which that accountability bears. In the more familiar kind, accountability is based on the speaker’s openly incurring an obligation and that accountability bears on the speaker, i.e., the speaker manifestly risks resentment should she fail to live up to her self-imposed obligation. In the second, recently recognized kind, accountability is based on the speaker’s explicit manifestation of an entitlement and this accountability bears on the addressee, i.e., the addressee risks resentment should he fail to respect the speaker’s entitlement. We may refer to the former as obligation based special presumptions and to the latter as entitlement based special presumptions.

I take it that obligation based special presumptions make some fairly well recognized contributions to the distribution of probative obligations (burdens of proof) in day-to-day argumentation (van Eemeren 2010: 79, 218-230; van Eemeren & Houtlosser, 2002, 2003; Goodwin 2001; Kauffeld 1998, 2002). The contributions which entitlement based special presumptions make to the conduct of argumentation has, to my knowledge, received relatively little attention, although something like what I describe as entitlement based presumptions are recognized by Rescher and Freeman as pragmatically necessary starting points for argumentation (Freeman 2005; Rescher 1977, 2006). Even upon first reflection it seems that entitlement based presumptions figure in the use of authority in argumentation, in the regard arguers properly have for each other’s rights, interests and dignity, in persuasive force acquired by apparently adequate argumentation, and elsewhere as well. These matters merit further study. It is, I believe, a merit of assurance accounts of seriously saying and meaning something that such accounts direct careful attention to the rich resources presumptions afford in argumentation.

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Commentary on “STRATEGIES FOR STRENGTHENING PRESUMPTIONS AND GENERATING ETHOS BY MANIFESTLY ENSURING ACCOUNTABILITY” by Fred J. Kauffeld

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1. INTRODUCTION

Professor Kauffeld’s paper astutely refines and extends his earlier work on the notion of “presumption.” After reformulating Grice’s analysis of utterance-meaning in order to explicate the concept of “seriously saying and meaning that p,” he investigates how the special presumptions that are generated by the speaker can be strengthened to facilitate the acceptance of the speaker’s argumentation. These strategic possibilities he then very nicely illustrates in his analysis of Barbara Jordan’s address about the articles of impeachment.

I shall restrict myself to three issues: Is the handling of intentions in the (revised) definition of “speaker (S) said that p” satisfactory? Are presumptions always inferred? And: When does strengthening the presumptions become fallacious?

2. HOW MANY INTENTIONS?

In the (revised) definition of “speaker (S) said that p” the third intention is very similar to the second intention, the only difference being that the third intention refers to the second intention, whereas the second intention refers to the first. There is no reason given why one should stop here. Let us rename Kauffeld’s fourth intention, which is differently structured, calling it the “reason intention” or the “presumption intention;” the number four will then become available for other use. Let the fourth intention be one that is similar to the second and the third intention, but refers to the third intention; and so on for the fifth, sixth, and other numbered intentions.

Must this proliferation of intentions be blocked? Many think ill of an infinite regress or progress. But need it be objectionable? Rather than trying to find an excuse to stop somewhere, I suggest to bite the bullet: Let $I_1$ be as before, and define, for each $n$: $I_{n+1} = S$ intends that $A$ recognize $S$’s intention $I_n$, or at least acts as if $S$ intends that $A$ recognize $I_n$. This inductive definition gives us an infinite class of intentions, which together with the presumption intention constitutes the needed complex intention.

I admit to be unable to “imagine” what an intention like $I_{17}$ would be ($I_3$ is hard enough). But that does not matter, because the construction principle of the complex intention, and hence this intention itself, is clearly understood.

3. HOW MANY PRESUMPTIONS?

We are told that presumptions are inferences, but I assume (it would be presumptuous to presume it) that what is meant is that presumptions are inferred. The word “inference” must here be understood to refer to the outcome of the process of inferring (which is called by the same name). For, anyway, a presumption is a proposition. Kauffeld describes them as “propositions which persons are supposed to make true” (Section 3, par. 1). So the inferring itself, not being a proposition, cannot be a presumption either.

But then, are presumptions always inferred? It seems to me that, regardless of the precise semantics of “presumption,” if one infers a presumption, at least one of the premises, or the principle of inference must have a presumptive status, that is there must have been some propositions that were presumed before the presumption is inferred. This leads to an infinite regress of presumption and hence to the conclusion that no presumption can ever be inferred.

I do not adhere to that conclusion, but would rather say that sometimes presumptions are not inferred.

3. HOW MANY FALLACIES?

In traditional fallacy theory, the boosting of one’s ethos, whether with respect to gravity or to entitlement, counts as an ad verecundiam fallacy. Contemporary literature points out that a “fallacy” is not always a fallacy, that a careful consideration of context is necessary (Walton & Krabbe, 1995: 115). More recently many studies in pragma-dialectics have appeared that study strategic maneuvering: ways to combine the reasonable with the effective (Van Eemeren 2010). In these studies argumentation is studied in context and, consequently, to nail down a fallacy is much harder than in the traditional approach. But that does not mean there are no fallacies. Fallacies are “derailments” of strategic maneuvering, and that seems exactly to be what could result from strengthening and supplementing the normal presumption of truthfulness that is part and parcel of saying things seriously.

The great danger of these strengthening operations is that they ultimately amount to nothing but argumentative bluff. And then there is no shortage of fallacy labels that could be applied (Van Laar 2010). Generating presumptions always runs the risk to degenerate in this way. But drawing out the borderlines, and fixing criteria that tell us when these are overstepped is too context-sensitive to admit of a general account. One should admit such framings as help to get attention for an argument, to open minds for it, but not such framings as make appear the actual arguments stronger than they are. It’s hard to say anything more in general.

I see some dangers in too much strengthening the special presumptions talked about in the paper, but would not hold this against Barbara Jordan’s address.

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