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Dialectical tier argumentation as structured by proposing and advising

Fred J. Kauffeld
Edgewood College

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Title: Arguments on the Dialectical Tier as Structured by Proposing and Advising

Author: [Fred J. Kauffeld](#)

Response to this paper by: [Ralph Johnson](#)

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1. Introduction.

This paper addresses several issues which have arisen regarding what Ralph H. Johnson describes as the “dialectical tier of argument appraisal.” Johnson maintains that, in addition to appraisal at the level of premise-support, argumentation is also subject to appraisal in terms of the arguer’s obligation to answer questions and objections regarding her standpoint. Johnson regards that obligation as uniform and inherent in the dialogical context of arguments. (Johnson, 1996) Among the questions Trudy Govier has raised about this dialectical tier is the important problem of how to delimit the range of objections and alternative positions to which an arguer ought respond. (Govier, 1997) Consideration of this problem leads Govier to a discouraging conclusion; over the course of her reflections she comes to hold that argumentation on the dialectical tier potentially opens out into an indefinite regress of objections and answering arguments, which can only be closed by ad hoc restrictions on the range of objections an arguer is obliged to answer. This dismal conclusion seems to imply that there is no reasonable basis for limiting an arguer’s burden of proof. (Govier,) I will approach Govier’s conclusion as a rhetorician outfitted with a broadly Gricean analysis of speech acts. My thesis is that at least some kinds of argument are initiated by speech acts in which one or more parties to the argument incur a burden of proof; the parameters of these initial probative obligations vary depending on the kind of speech act in which they are undertaken; and the various burdens of proof so incurred identify conditions of adequacy for (some) argumentation which limit the arguer’s dialectical obligations without resort to ad hoc restrictions. My defense of this thesis will focus on a comparison of the burdens of proof incurring in *proposing vs. advising*. Because I am working across several traditions of study, I plan a cautious approach which will first compare the picture which Johnson, an Informal Logician, presents of the dialectical tier with the conception of dialectical structure developed in the traditions of rhetorical art by students of Richard Whately’s *Elements of Rhetoric*. I will then outline the issues which Govier, writing in the traditions of Informal Logic, has raised regarding the dialectical limits of arguments. Next, I will defend my claim about the possibility of resolving Govier’s problem by attending to the burdens of proof incurred by arguers in speech acts which initiate dialectical exchanges. Finally, I will discuss some implications of my views for our understanding of argument appraisal at the dialectical level.

2. Johnson’s conception of the “dialectical tier” compared to Whatelian views

of dialectical structure

Johnson holds that arguments used for the purpose of rational persuasion have a two-tier structure. At their base or core, arguments consists of reasons leading to conclusions, a structure Johnson has come to term the argument's "illative core." In addition to this familiar premise-conclusion structure, Johnson maintains, arguments have a second, dialectical tier on which objections and criticism are addressed.

Because rational persuasion is the *telos* of argumentation, those engaged in the practice must recognize that any claim made must be supported by reasons, or evidence of some sort. Hence, in the first instance, an argument will appear as a premise-conclusion structure: a set of premises adduced in support of some other proposition which is the conclusion. This is the first-tier of the argument. . . .

Because the arguer's purpose is rational persuasion, a second tier is required as well. Why? . . . [T]he practice of argumentation presupposes a background of controversy. The first tier is meant to initiate the process of converting others, winning them over to the arguer's position by giving them a rationale for accepting the conclusion. But others will not so easily be won over, nor should they be, if they are rational. . . . [T]hey have objections to the arguer's premises. . . Hence, if the arguer wishes to persuade rationally, the arguer is obligated to take account of these objections, these opposing points of view. To ignore them, not to mention them, or to suppress them--these could hardly be considered the moves of someone engaged in rational persuasion. And so the process of argumentation must have a second tier in which objections and criticism are dealt with. I call this the *dialectical* tier (Johnson, 1996).

The practice of rational persuasion, in this view, demands that the arguer present cogent reasons supporting the conclusion she puts forward for acceptance and that she further address competing points of view, answer doubts and objections, and thereby show her claim to be superior.

Johnson's account of the dialectical tier unfolds around the following ideas.

(1) Interpretation, evaluation, and (presumably) the production of argument involves attention to both the cogency of the premise-conclusion structure and to the adequacy of the arguer's responses on the

dialectical tier. Johnson's account focuses on the interpretation and, especially, on the evaluation of arguments, but Johnson also wants his account to fit the production of arguments. As Johnson recognizes the idea that arguments involve answering doubts, objections, and opposing position, in addition to advancing reasons for one's conclusion, is not new (Johnson, 1996). There is, I think, a powerful consensus among scholars that the structure of at least some kinds of argumentation involves both a core premise-conclusion structure and a larger dialectical pattern of responses to doubts, objections, and alternative positions.^[1]

(2) The necessity for both a primary premise-conclusion core and a dialectical tier arises from the use of arguments for rational persuasion. Johnsons recognizes that arguments have various uses, but he holds that rational persuasion is the paradigmatic end of arguments. Uses of argument for other ends are in some sense derivative from this basic paradigm (Johnson, 1996). This view raises the question of whether the dialectical adequacy of arguments are to be assessed entirely in terms of universal standards or whether at least some of the standards for assessing arguments at the dialectic tier vary according to the use of those arguments. That is a controversial matter to which I will revert later.

(3) Johnson's claim that arguments necessarily have a two-tier structure is based on a fairly definite conception of the relationship between the use of arguments for rational persuasion and the structure of arguments. He describes the use of arguments for rational persuasion as a practice designed to bring about rational assent, i. e., "to persuade the rational individual of the truth of the conclusion using evidence and reasoning only" (Johnson, 1996). Thus, as a practice designed to secure rational assent, arguments must have a primary premise-conclusion structure. But that structure, Johnson argues, must be understood as the product of a process, *viz.*, the process of argumentation. This dialectical process embraces arguments offered in response to doubts, objections and opposing positions. These dialectical activities, Johnson argues, are also necessary to the practice of rational persuasion and, so, must be considered in the interpretation and evaluation of argument. Perhaps it is fair to understand Johnson here by analogy. In carpentry we have the practice of finishing what we produce, i. e., we carefully smooth and polish the wood surface with sand paper (and other abrasives), and then we treat the surface with an attractive protective coat. The purposes of this practice are to protect and to make more attractive the surface of the wood. These purposes require that wood be smoothed using sand paper and other abrasives. The use of those abrasives must be structured in a certain way, if they are to properly serve the practice--as everyone knows, one has to sand with the grain. But this structure of sanding with the grain has to be understood in relation to the

larger process of polishing the surface, and that larger process is subordinate to the demands of the practice of finishing the wooden surface. Johnson invites us to think of the practice of argument in something like these terms.

(4) Johnson holds that as part of the practice of using arguments for the purpose of rational persuasion, arguers initially incur the *obligation* of taking account of expressed doubts, objections, and alternative positions (Johnson, 1996). The process of argumentation, conforming to the demand of the practice which uses arguments for the purpose of rational persuasion, “is initiated . . . by a question or doubt--some challenge--to a proposition. The challenge may be mooted as a possibility, or it may actually have been posed.” (Johnson, 1996). If the process is to promote the practice, Johnson argues, then at the outset of the process, the arguer must accept the obligation to answer the doubts, objections, etc. which initiate the process. It will be interesting to compare this account of the genesis of an arguer’s dialectical obligations with other views of how arguers come to have an obligation to defend their positions by answering doubts, objections, and competing points of view.

Johnson’s idea that arguments have a two-tier structure has important parallels in the way arguments have been understood by the traditions in rhetoric which descend from Whately’s account of presumption and burden of proof.^[2] Indeed, both Johnson and Whately’s students share the idea that arguments have a structure composed of (i) reasons presented in support of conclusions and (ii) answers to doubts, objections, and opposing points of view. Like Johnson, Whatelians suppose that arguments are put forward in contexts of doubt and disagreement, and Whatelians also hold that in such contexts (some) arguers incur the obligation of defending their claims by providing reasons and by answering doubts, objections and opposing positions. But where Johnson seems to hold that this obligation falls on anyone who argues for a controversial proposition in a context of doubt and disagreement, Whatelians hold that this obligation, described as the burden of proof, is distributed relative to the presumptions which govern the dialectical exchange. According to Whately and his students, in contexts of disagreement between contending parties, it is often possible to discern presumptions which serve to provide the advocates on one side or the other with good practical reason to accept the obligation to substantiate their position by providing reasons in support of their claims and by answering doubts, objections, and alternative positions. The Whatelian model for this view has been the relationship between presumption and burden of proof in law.

Whatelians and Johnson agree that the production, interpretation, and

evaluation of arguments must include attention to how well arguers answers doubts, objections, and opposing positions. Where Johnson's account of argument structure is written primarily from the perspective of argument evaluation; Whatelians tend to focus on the production of arguments. But this is not the most important contrast, as both points of view are interested in argumentative adequacy. The more important comparison concerns the ways in which these two perspectives conceptualize argumentative adequacy. Johnson, as noted above, conceives the primary premise-conclusion structure of arguments as the product of a larger process, viz., the dialectical activity of responding to questions, objections and contending positions. So, it seems that in Johnson's view, evaluation of argument at the dialectical tier is evaluation of the dialectical process or, more precisely, of how well the arguer plays his or her role in the dialectical process. At a level of structure comparable to Johnson's dialectic tier, Whatelians identify a product as the focus for production, interpretation, and evaluation. Like Johnson, Whatelians regard the premise-conclusion structure as the primary product of the process of arguing, but they also hold that as the arguer attempts to discharge her burden of proof by strategically advancing arguments, responding to doubts, objections, and opposing positions, the arguer builds a case for her central proposition. In connection with this concept of a case as a product of the process of arguing, Whatelians introduce a conception of argumentative adequacy which embraces both of Johnson two tiers. The duty of advocates who have the burden of proof is to construct a prima facie case, a case which is adequate on its face. This important product is supposed to have a certain force, viz. it has the power to shift the burden of proof. In a broadly Whatelian view, once the proponents of a proposition have established a prima facie case, objectors, doubters, and opposing positions must substantiate their objections, doubts, and opposition, if they are to continue to reject the proposition initially advanced.^[3]

The question of whether the dialectical level of argumentation is to be evaluated by using universal standards or by employing criteria which vary depending upon the kind of argument in question presents a third contrast between Johnson's views and those of Whately's students. Johnson derives the obligation to answer doubts, objections, and opposing positions from the uniform (or paradigmatic) requirements of the practice of argument and, so, is inclined to regard the criteria for evaluating arguments at the dialectical tier as universal or, at least, fundamentally uniform. (Johnson, 1996). Whatelians derive the obligation to answer doubts, objections, and opposing positions from the social context in which the argument is set. As the social context may vary with corresponding variation in the reigning presumptions, so the arguer's burden of proof may vary; the criteria for what qualifies as a prima-facie case would vary accordingly. Thus, Whatelians are inclined suppose that differ kinds of argument require different kinds of cases, each with appropriate criteria of adequacy. Nor are Whatelians committed to the idea that arguing per se (either universally or paradigmatically) generates an

obligation to answer questions, objections, and opposing positions.

3. Govier's Amendment

The preceding comparison raises the question of whether Johnson's conception of a two-tier argument structure might profitably be amended by introducing the idea of a case constructed by arguers as they both adduce reasons in support of conclusions and respond to questions, objections, and opposing positions. Working within the traditions of informal logic, Trudy Govier has explored precisely this possibility.

Starting from an initial recognition of the theoretical and pedagogical value of Johnson's conception of a two-tier argument structure, Govier has attempted to clarify our understanding of the dialectical tier and, also, to resolve problems central to evaluating the dialectical adequacy of arguments. (Govier, 1997) She suggests that the dialectical process consists in the arguer, first, putting forward her main argument and, then, as others raise doubts and objections, the arguer responds with supplementary arguments. Of course, supplementary arguments can also be advanced in answer to anticipated objections. This conceptualization of the dialectical process leads Govier to ask, what, if any limit there is to the range of doubts, objections, and alternative positions to which the arguer must respond. It is unrealistic to expect that an arguer is obligated to respond with supplementary arguments to a limitless array of doubts and objections.^[4] Yet, this impalpable prospect, Govier suggests, seems implicit in Johnson's conception of dialectical processes. For addressees may well raise doubts and objections to the supplementary arguments advanced in defense of the main argument; response to these new doubts and objections would require further supplementary arguments, and so on indefinitely. And the picture is made worse by the fact that, in principle, there seems to be no limit to the number of alternative positions to which the arguer must respond.

To address this problem Govier supplements Johnson's conception of dialectical activity with the idea that, as the arguer advances her main argument and deploys supplementary arguments, she is "building a case for a position" (Govier, 1997). This idea of a case, like its counterpart in Whatelian conceptions of argumentative structure, identifies an object which, in Johnson's terms, contains the argument's illative core and is also specifically the product of the arguer's conduct at the dialectical tier, i. e., how she responds to doubts, objections, and alternative positions. Govier's concept of a case specifies a product which is to be evaluated both in terms of the adequacy of the argument's premise-conclusion structure and in terms of the adequacy of the arguer's dialectical activity.

Govier, then, explores the possibility that the arguer can reasonably be expected to provide a good case, but not an exhaustive case.

An arguer has put forward an Exhaustive Case for a position at a given time, t , if and only if he or she has: 1. stated a cogent main argument for that position; and 2. attended to all objections that have been raised before time t to the main argument and position, and all alternatives to the position that have been stated before time t , and has represented them fairly and accurately; and 3. for every such objection either (a) rebutted that objection with a cogent supplementary reply argument or (b) offered cogent supplementary reply arguments amending his or her main argument and/or position in the light of the objection. and 4. for every such alternative position either (a) offered a cogent supplementary counter argument, refuting the position, or (b) on the basis of cogent supplementary arguments, revised his or her position in the light of that alternative (Govier, 1997).

Govier contrasts the Exhaustive Case with the Good Case. The two are alike in all respects but one: “unlike the Exhaustive Case, the Good Case does not require that the arguer respond to all objections and all alternative positions. In the interests of efficiency and realism, it allows for discrimination” (Govier, 1997). It would be unrealistic, Govier maintains, to suppose that the arguer has an obligation to provide an exhaustive case for her position; the most that can be expected is a good case.^[5]

This important point raises what Govier calls the “discrimination problem,” i. e., “the problem of saying just which objections and alternative positions the arguer should address, in order to have a Good Case” (Govier, 1997). Govier outlines what she provisionally regards as reasonable basis for limiting the range of alternative positions owed a response from the arguer. But she is less optimistic about resolving the problem of how to discriminate between objections the arguer must address and those which can be set aside. After considerable reflection, Govier tentatively suggests that to construct a Good Case, the arguer must provide cogent arguments which respond to all of the most salient objections. “The *most salient* objections are those which, *if correct*, would *demonstrate* that the argument and/or conclusion are false or utterly unacceptable.” (Govier,)

However, upon further reflection Govier concludes that this conception of a Good Case does not satisfactorily resolve the discrimination problem. The

difficulty, simply stated, is that supplementary arguments responding to salient objections may themselves be subject to doubts and objections and the supplementary arguments answering those doubts and objections may be subject to still further doubts and objections and so on indefinitely. (Govier,) Thus, Govier believes the demand for supplementary arguments opens out to a vicious regress, which can only be stopped by *ad hoc* restrictions on the doubts and objections which might be raised.

The regress which Govier detects at the dialectical tier is troublesome, in part, because it implies that Johnson's conception of the arguer's dialectical obligations violates the maxim that ought implies can. Johnson holds that as a matter of conforming to good practice, the arguer incurs the dialectical obligation of answering doubts and objections addressed to her argument. Govier maintains that even after we introduce the notion that arguer is to construct a Good Case, we still have only *ad hoc* basis for limiting the potential regress of supplementary arguments which demanded of the arguer. It is hardly reasonable to suppose that a person *could* mount such a defense of her position, so it seems that Johnson's conception of the arguer's dialectical obligations requires that arguers undertake duties which they could not reasonably expect to discharge.

4. Inadequate Quick Fixes

Govier believes that regress she has identified is unacceptable and points to a fatal flaw in Johnson's conception of the dialectical tier (Govier,). An alternative interpretation would be that Govier's regress shows that we have not yet arrived at a sufficiently rich conception of dialectical activity and its products. (Kauffeld, 1998a) Two quick, but inadequate, responses come immediately to mind.

First, it will not always be the case that the construction of a Good Case, in Govier's terms, will require the arguer to produce supplementary arguments ad infinitum. For surely there are arguments which preclude the dialectical possibility of further doubts and objections. Consider the following exchange.

A: Please, give me my car keys.

B: I don't have your car keys.

A: I don't believe you; you had them last.

B: They're in your pocket.

Imagine that an absent-minded A then reaches into his pocket and finds his car keys. Plainly cases like this can be multiplied using a variety of argumentative resources. It is simply not the case that every argument is vulnerable to doubts and objections which require that the arguer provide supplementary arguments in response.^[6]

However, the fact that some (supplementary) arguments may preempt the possibility of further reasonable doubt and objection does not, I think, resolve the problem Govier's regress poses for our understanding of the dialectical tier. On Johnson's conception of a two-tier argument structure, even as enriched by Govier, it is still to be expected that many arguers would incur the obligation to answer an indefinitely large number of doubts and objections. It may be that sometimes an arguer can conclusively establish her main argument by providing supplementary arguments which do not admit of further doubt and objection, but this would occur only where the arguer's main conclusion could be established with full certainty. I do not think that the kinds of argument which interest Johnson, Govier, and myself typically enable the arguer to establish her position on grounds which warrant certainty in her main conclusion.

A rhetorician familiar with Whatelian traditions in the study of argument might be inclined to suggest that what is needed to flesh out Johnson's thinking about the dialectical tier is a concept, not just of a Good Case, but of a *prima facie case* and corresponding understanding of presumption and burden of proof. Whatelians, it will be recalled, understand the dialectical exchange which engages the arguer in terms very similar to those outlined by Govier. In both views the arguer incurs the obligation of making a case for her position. Following Johnson, Govier holds that this obligation falls on all persons who advance arguments; Whatelians, modeling their conception of argumentation on courtroom practices, hold that the presumptions governing the dialectical exchange determine which arguers have the burden of proof, i. e., the burden of providing a main argument for their position and supplementary arguments in its defense. Both views try to identify a conception of adequacy for the case the arguer ought to provide; neither view accepts the idea that the arguer is obliged to provide an Exhaustive Case. Govier suggests the arguer is to provide a Good Case, but is unable to find a non-arbitrary limit to the number of supplementary arguments which can be demanded. Whatelians offer a limit to the supplementary arguments which can be demanded of an arguer. They hold that the parties with the burden of proof has the obligation to provide an *apparently adequate case*. When that limit is reached the burden of proof then shifts to those who occupy opposing positions and/or want to continue to raise doubts and objections. A *prima-facie case*, in this view, has a force sufficient to realign dialectical obligations: where an initially arguer has the burden of proof, she is obliged to answer unsubstantiated doubts and

objections, but once she has provided apparently adequate case, continued objection and opposition must be justified by supporting argument. If Whatelians could give a satisfactory account of the prima-facie case, we would have a conception of argumentative adequacy at the dialectical tier which places a limit on the arguer's dialectical obligations and, so, provides a conceptual basis for limiting Govier's regress.

Unfortunately, Whatelians have not been able to muster a satisfactory analysis for their concept of a prima-facie case. Robert Scott made this basic and very important point almost forty years ago. In a critically astute survey of texts and theories of argumentation and debate, Scott observed

The definitions of prima-facie usually given, and learned by our students, raise the question "what is necessary to establish a case that demands rebuttal?" Our texts may answer this question eventually, but they do not do so in such a way as to make the term "prima-facie" meaningful. Thus the term remains a ritualistic synonym for 'good case' (Scott, 1960).

The argumentation textbooks produced by Whately's students typically hold that a case is prima-facie when it is "complete and consistent" (Scott, 1960). The question of whether a case is complete and consistent, Scott observes, may be raised at three levels of analysis: "the overall structure (the case), the primary unit of structure (the contention), and the material of the structure (the evidence)" (Scott, 1960). The second and third of these levels--contention and evidence--correspond roughly to what Johnson calls the argument's illative core. Whether the concept of a prima-facie case casts any light on argumentative adequacy at these levels of structure is a question I want to set aside for the present. Scott reports (accurately, I think) that the Whatelians have had little to say about prima-facie adequacy at the levels of contention and evidence.

At the level of overall structure, the case, Whatelians have tried to specify what constitutes a complete argument by identifying "stock issues" for various kinds of cases. Most of this attention has focused on stock issues for policy questions, i. e. questions of whether a deliberative body should adopt this or that change in policy; recently some attention has been given to identifying stock issues for questions of value. However, these attempts to identify prima-facie sufficiency do little to resolve Govier's regress. Analysis of the stock issue is designed to enable proponents of a position to identify the contentions which they must establish in order "to compel acceptance of their

proposition” (Scott, 1960). And conversely, the stock issues identify contentions which proponents must establish or forfeit their position. Stock issues, then, are the mirror image of Govier’s most salient objections. “The *most salient* objections,” it will be recalled, “are those which, *if correct*, would *demonstrate* that the argument and/or conclusion are false or utterly unacceptable.” (Govier, 1998) Stock issues analyses purport to identify those premises in a case which, if subject to unanswered doubt and objection, would show that the proponent’s case is unacceptable. Just as Govier’s concept of *most salient objections* does not provide a basis for limiting the demand for supplementary arguments, so, too, Whatelian conceptions of the stock issues do not provide a non-ad hoc basis for limiting the supplementary arguments which may be demanded of proponents trying to establish a prima facie case. Thus, if we ask of Whatelians, When are we justified in saying that a case is prima-facie, the only answers we get are “when it stands on its own and demands rebuttal” and “when it is complete and consistent.” These responses, as Scott observes, “are scarcely adequate and are probably circular” (Scott, 1960).

5. Argumentative obligations incurred in Proposing and Advising

Something like a Whatelian picture of dialectical structure can, I think, be salvaged by more careful attention to genesis of the arguer’s obligation to make a case for her position. Elsewhere I have argued that in ordinary day-to-day arguments, the obligations which Whatelians call “burdens of proof” are incurred in various speech acts, e. g., *proposing_and_accusing*.^[7] Recently, I attempted to clarify the limits of an arguer’s “dialectical obligations” in one kind of practical augmentation by examining the burden of proof incurred in the speech act of *proposing* (Kauffeld, 1998a). In what follows I will return to that suggestion, comparing probative burdens incurred in *proposing* with those incurred in *advising*. I will be primarily interested in whether those obligations determine non-arbitrary limits to the doubts and objections an arguer is obliged to answer.^[8]

The picture for *proposing* is relatively straightforward. Typically proposals are put forward in order to induce tentative consideration of a proposition or positions which the addressee might otherwise be inclined to disregard (Kauffeld, 1989; Kauffeld, 1995; Kauffeld, 1998b). To make a proposal, the speaker must at least state the proposition(s) she wants considered and must also commit herself to answering whatever doubts, objections and questions her addressee may have regarding her proposition and her reasons for adopting it. The proposer’s open assumption of a burden of proof is designed to provide her addressee with reason for presuming that the

speaker probably has carefully thought through the matter, taking her addressee's interests into account. After all, failure to provide adequate answers would subject the proposer to criticism and resentment for wasting her addressee's time and attention. The addressee is expected to suppose that the speaker would not openly risk such criticism without first carefully preparing her case; thus the addressee is expected to presume that what the speaker has to say on behalf of her proposal may prove to be of interest and, hence, is at least worth tentative consideration. *Proposing*, in short, is designed to induce participation in a dialectical exchange wherein the proposer initially has the burden of proof.

The genesis of a dialectical obligation in *proposing* is nicely exemplified by the discourse in which Alexander Hamilton opens the *Federalist Papers* and proposes the United State Constitution for consideration by his fellow countrymen.^[9] The *Federalist Papers* is a series of eighty-five letters written under the pseudonym of Publius by Alexander Hamilton, James Madison, and John Jay. Published in 1787 and 1788 during the course of public debates over ratification of the United State Constitution, the *Papers* provide a powerful and competently argued body of discourse advocating adoption of the newly proposed Constitution. The opening letter is a model of the probative burdens undertaken by proposers. There Hamilton proposes the Constitution for the careful and candid consideration of his countrymen, and as rationale for the careful and unbiased attention he is seeking, Hamilton openly commits himself to defend adoption of the Constitution.

Yes, my countrymen, I own to you that after giving it an attentive consideration, I am clearly of opinion it is your in interest to adopt it [the new Constitution]. I am convinced that this is the safest course for your liberty, your dignity, and your happiness. I affect no reserves which I do not feel. I will not amuse you with an appearance of deliberation when I have decided. I frankly acknowledge to you my convictions, and I will freely lay before you the reasons on which they are founded. The consciousness of good intentions disdains ambiguity. . . . My arguments will be open to all and may be judged of by all. They shall at least be offered in a spirit which will not disgrace the cause of truth. . . .

In the progress of this discussion I shall endeavor to give a satisfactory answer to all the objections which shall have made their appearance that may seem to have any claim to your attention (Hamilton, Madison & Jay, 1961).

Here, Hamilton deliberately and openly commits himself to arguing for the proposed Constitution, showing his addressees that it is in their interest to adopt it, and he pledges to satisfactorily answer all those objections which arise in the course of the debate and which merit attention. He commits himself to providing a satisfactory answer to all objections, but holds open the possibility of dismissing some as unworthy of attent.

The burden of proof which is openly incurred by a proposer closely approximates the responsibility to establish a what Govier calls a Good Case. To construct a Good Case, it will be recalled, the arguer must (i) provide a cogent main argument for her position and (ii) respond to some, but not all, objections and alternative positions with cogent supplementary arguments. It seems that the proposer commits herself to providing a version of the Good Case: (i) the proposer openly undertakes to provide reasons for adopting her proposal which are well thought out and which take her addressee's interests into account and (ii) the proposer pledges to answer her addressee's doubts and objections. Notice that while the proposer is committed to answering whatever doubts and objections her addressee raises, she is, nevertheless, not committed to providing an Exhaustive Case. The proposer's commitment to respond to objections is a token of her larger duty to make prudent use of her addressee's time and attention. Accordingly, she is committed to providing cogent supplementary arguments only to those doubts and objections *which are worth considering*. She is at liberty to dismiss some objections by arguing that they do not merit consideration. Thus, the proposer's burden of proof does not require that she respond to all objections and alternative position by providing supplementary arguments.

So, there is a limit of sorts to the proposer's burden of proof--her dialectical obligation. In speaking on behalf of her proposer, the arguer is to answer objections and alternative positions with satisfactory supplementary arguments, (a) if they have been raised or put forward by other participants in the dialogue and (b) if they are worth considering, given the circumstances. This is a comfortably broad standard. Is it too encompassing? If an objection is raised or alternative position is put forward, the proposer presumably has a responsibility to answer. Her answer, however, may be that the objection or alternative position is not worth considering, and in the event that this is her response, she has the burden of showing why the objection or alternative position is to be disregarded. The important question is, What shows that an objection or alternative position is not worth considering?

I do not have an exhaustive answer to this question. But the text of the *Federalist* provides indication of the grounds on which objections may fail to merit consideration. Publius argues, for example, that objections which raise potential harms or dangers which cannot be foreseen within the time the proposal must be weighed do not merit consideration. This line of thought plays a sweeping role in the *Federalist Papers*. Many of the dangers projected as possible consequences of following the plan proposed in the Constitution, Publius maintains, would occur only if the legislature adopts this or that specific policy in spheres which any form of government must leave to the law-giver's discretion. Since neither Publius nor his opponents can foresee whether Congress would enact the policies in question, these

objections do not merit consideration (Hamilton et al., 1961). Elsewhere, an objection may fail to be worthy of consideration, if it cannot be substantiated (Hamilton et al., 1961), if it raises a theoretical possibility which is contrary to fact (Hamilton et al., 1961), if it is entirely at odds with commonsense (Hamilton et al., 1961), if it posits a danger that safeguards reduce to a very low level of risk (Hamilton et al., 1961). There are, no doubt, other grounds for dismissing objections as unworthy of consideration, but these examples suffice to illustrate how proposers can limit the range of objections to which they must respond by providing supplementary arguments.

Should we be troubled by the fact that there seems to be no single criterion for determining whether the doubts and objections addressed to a proposal are worth considering? I do not think so, partly because a broad principle can be seen to be at work here. Paradigmatically, proposals function in the sphere of our interests, both in the sense of matters which might serve our interests and in the sense of matters which might satisfy our interests (White, 1964). In this sphere a self-reliant person must make prudent use of the limited time and attention she has for considering matters. [10] The number of projects, ideas, theories which might be of interest to a person seems limitless, but the time and attention a person has to devote to considering matters is limited. Accordingly, the person who relies primarily on her own thought and experience in determinations which relate to her interest--the self-reliant individual--necessarily discriminates between matters which merit considerations and those which do not. This principle applies to potential doubts, objections, and alternative positions which might clamor for attention in tentatively considering a proposal. As this is a matter of prudence, we should expect that there would be various and flexible criteria for what objections merit consideration and that those criteria should apply depending on the circumstances.

Moreover, when we examine good argumentative practice, we find exemplary cases in which the proposer does claim to be able to rest her case because she has answered all doubts and objections which merit consideration *and* in which she thereupon claims that the time attention required to weigh future objections and alternative positions must be justified by parties who substantiate those difficulties and alternatives.

When the authors of the *Federalist Papers* summarized the force of their arguments in the last issue of the *Papers*, Publius, claimed not only to have provided candid and disinterested reasons for adopting the Constitution which merited careful consideration, he also maintained that, in view of the gravity of the situation confronting their young nation, his countrymen had an

obligation to carefully consider his arguments and to take them into account as they shaped their decisions (Hamilton et al., 1961). This duty would weigh somewhat differently on addressees depending upon whether they were undecided or whether they were opponents arguing against ratification. The undecided would have a duty to determine whether there was substance to their doubts and objections which warranted prolonging the deliberation. The Anti-Federalists, as those favoring alternative positions were known, would have the duty of responding to the case for the Constitution on the grounds carved out by Publius. That obligation would require a major shift in the grounds on which the Anti-Federalist maintained the Constitution should be weighed. Some textual evidence can be found in the debates over ratification of the Constitution which shows that the more candid Anti-Federalists recognized the force of Publius's argument and attempted to shoulder the burden of proof laid to them by the *Federalist Papers* (Kauffeld, 1993).

So, consideration of the burden of proof incurred by proposers identifies a limit at which the proposer can claim to have discharged her dialectical obligations and that, if the argument is to continue, opponents and objectors must undertake a burden of proof. Does this limit stop the regress which Govier claims beset argumentation at the dialectical tier? If the answer to this question requires a basis for simply calling an end to the argument, the answer is a qualified, No. Indeed, argumentation may well continue after the proposer has discharged her burden of proof; in fact, opposing positions usually do not wait on completion of a prima-facie, before they substantiate their doubts and objections. The reality of a dialectical exchange is one of considerable complexity in the flow of supplementary argument and rejoinder. The qualification here is that once the proposer can plausibly claim to have established a prima-facie case, she is in a strong position to call for termination of the deliberation; the prospect of a proposer occupying that position is not to be taken lightly in practical or theoretical terms. However, the larger answer to Govier's regress does not depend on whether the proposer's prima facie case brings the argument to a termination, but whether the criteria for such a case provide a principled (non-ad hoc) basis for claiming that the proposer has fulfilled her dialectical obligations. I hope it is now clear that this is the case.

Our attention now turns to *advising*. *Proposing* and *advising* provide an interesting comparison. Many of the propositions which one might put forward as proposal are very similar to those one might put forward as advice. Thus one might propose that A do x and one might advise much the same sort of thing. One might advise that dropping this course is risky, or one might propose that. Still the relationship between proposer and her addressee differs strikingly from the relationship between advisor and advisee. These differences include a contrast between the dialectical obligations incurred by

the proposer and those which may be taken on by the advisor.

In paradigm cases, the act of advising is designed to provide the advisee with guidance in his determinations of what he should do about matters which concern him. A person's concerns are those matters for which he is responsible and to which he is expected (presumed) to give due thought and attention.^[11] This is the sphere which we colloquially refer to as a person's 'business'. The questions 'How is this any of your concern?' and 'How is this any of your business?' are roughly interchangeable, and both can be answered by pointing to some related responsibility. A person is expected to knowledgeably take care of his business--look out for his concerns. But it is often the case that he needs assistance in these connections: a particular matter may require expertise that he does not have, others may have relevant experience from which he can learn, distractions may be impairing the attention due his business, he may not yet have learned how to think clearly about this or that matter, and so on. Underlying and constituting the speech act of *advising* is a practical calculation about how to help others in the consideration they give to their concerns and, also, how to secure such assistance from others. We both give and request advice.

The basic components of *advising* reflect its underlying practical constitution. Where a speaker gives advice, (i) she tells the advisee something which she at least purports to believe he needs to know, and (ii) she openly takes responsibility for trying assist him in determining what to do about his concerns. The first of these components, the advice-giving statement(s) function as statements generally do to enable addressees to learn things and also to guide their reasoning.^[12] The second component, working in conjunction with the first, serves to provide the advisee with reason to believe that the advisor has considered the matter from the perspective of the advisee's concerns and is not just meddling in the advisee's business. This reason is necessary in order to ensure the advisee's consent to what otherwise might be regarded as a contravention of the advisee's right to be free from unwarranted intrusions into his affairs. Talking to another about that person's concerns is a delicate matter for both parties. If nothing is done to modify the presumptions governing the conversation, the addressee has reason to presume that the speaker gives due thought and attention to the speaker's concerns, but the addressee does not have reason to presume that the speaker has given careful thought and attention to the addressee's concerns. So, in this situation the addressee has reason to believe that what the speaker might be inclined to say about the addressee's concerns will probably just be meddlesome. We are all, I think, familiar with and resent the prospect that what others want to tell us about our business will amount to little more than meddlesome interference which complicates the task of taking care of our concerns but provides little assistance, because the interference

issues from the other's perspective and is not based on an understanding of our situation and responsibilities. Moreover, we believe that persons have a general right to self-determination, and whatever else that right may embrace, it certainly includes the right to care for one's concerns free from unjustifiable interference or disturbance by parties having no share in one's responsibilities.^[13] So, when confronted with an potentially meddlesome intrusion in to his affairs, the addressee may well tell the speaker to mind her own business or, at least, may rightfully ignore what she is saying. Advising is designed to resolve this difficulty by providing the advisee with reason to presume that the advisor has considered the matter from the advisee's point of view and, hence, is not merely meddling. To generate that reason for consent, the advisor openly take responsibility for speaking out or regard for their advisee's concerns.

If the preceding sketch of *advising* is on the right track, it is apparent that in giving advice, unlike making a proposal, the speaker need not incur a burden of proof. That is, what a speaker does may be an instance of *advising* and may be practically well designed to function as advice without the speaker's committing herself to provide arguments on behalf of or in defense of her advisory statement or, even, committing herself to answering doubt and objections about the adequacy of her advice. In fact, there are many cases in which an advisor would prudently and responsibly decline to provide the advisee with an argument for her advice that, e.g., students should carefully review chapters six and seven in preparation for tomorrow's exam. Sometimes in cases of expert advice the advisee could not be expected to follow the reasons for the advice. It does sometimes happens that an advisor is inclined to try to persuade her advisee to accept her advice and does offer an argument for following the advice. In this case, where nothing is done to enlarge the discursive obligations incurred in giving the advice, the fact that the advisor gives reasons for following her advice does not, it seems, obligate the advisor to answer the advisee's doubts and objections with supplementary arguments. She may provide such arguments, but it is far from obvious that she is duty-bound to do so. In advising students regarding the courses in which they should enroll, one might well give reasons why this student should take a certain course, intending to persuade that student, but here one might decline to answer doubts and objections raised by the student. One's response to doubts and objections might be 'Look, I told you why you should do this, but you're responsible for your course of study. This is something you'll have to figure out for yourself'. It might be thought that this would not be the most helpful response, but it might also be the most responsible and the most persuasive answer. It seems, then, that in the simple, paradigm case of *advising*, the speaker may advance arguments for her advice without incurring a dialectical obligation to respond to doubts and objections with supplementary arguments.

There are, however, important cases in which *advising* is used to initiate an argument and in which the advisor openly incurs a burden of proof. The most interesting of these involve the use of imperative advice to establish consent for what otherwise might be regarded as a presumptuous intrusion into the advisee's affairs.

Imperative advice is, itself, an interesting and somewhat puzzling phenomena. It is a fact that advice is sometimes given imperatively. An imperative utterance expresses a proposition which is to be made true by the addressee's conforming his behavior to that proposition. English, like most natural languages, contains forms of syntax specifically suited to imperative expressions, e.g., 'Put your parents in a nursing home', 'Close the door', 'Invest in Northern Securities'. An imperative proposition, however, is not simply or always identified by its grammatical form. The distinctive character of imperatives comes into focus when they are contrasted with assertoric propositions. The latter are true, if the proposition conforms to the facts; the former become true, if the facts are made to conform to the proposition (Kenny, 1966). Corresponding to this difference there is an important contrast in the presumption of veracity as engaged, on the one hand by the imperator and, on the other, by the assertoric speaker. If the imperator says 'Close the door', speaking seriously and literally, she gives it to be believed that she intends her addressee to close the door; it is to be presumed that the speaker will see to it that her proposition becomes true or, at least, that she has and would use means of seeing to it that the addressee closes the door; and this presumption is to serve as (part of) the addressee's reason for acting as directed. Whereas, if the assertoric speaker says 'The door is closed', it is to be presumed that the speaker has made a responsible effort to see to it that what she says conforms to the facts. The mark of sincerity for the imperative speaker is her intention that the addressee do what he is told to do. The mark of sincerity for the assertoric speaker is her belief that what he says represents the way things are. Imperative speech, of course, is not essential to *advising*; it is not even characteristic of this speech act. But genuine imperatives do occur in some acts of giving advice.

While it is a fact that advisory statements may be imperatives, this datum is not easy to digest.^[14] What efficacy, one wonders, *could* an imperative have in giving advice? It is relatively easy to see how imperatives might work in *ordering* and *commanding*. There a speaker's open willingness to exercise her authority characteristically provides the addressee with reason to do what he otherwise might not have sufficient reason to undertake. But that is obviously not how imperatives work in *advising*. As W. D. Falk observes,

Advice can be 'good' or 'bad'; it has an implicit canon of achievement, defined in terms of what it is understood to set out to do. And this is purely to 'guide', to make people act as they would have valid and sufficient reason for acting and not otherwise. (Falk, 1953),

But if advice is merely to guide an addressee in doing what he would himself have good and sufficient reason to do, then imperatives in advice surely do not function as orders which provide the addressee with reasons for acting he otherwise would not have. Moreover, the advisor's orientation toward her addressee's concerns seems to preclude any legitimate function for imperatives in this speech act. In the first place, it seems that if the advice is well conceived and fully responsible, then the additional force of an imperative would be practically unnecessary. Well conceived advice is grounded in the addressee's concerns and helps him determine what he should do; it would seem that those concerns would, in turn, provide the advisee with good practical reason to act on the advice. So, it seems that there is little call here for an utterance with the force an imperative. Moreover, an imperative seems to go beyond assisting the advisee and mandates what he is to do, and that would seem to violate the consensual relationship characteristic of advice-giving.

Imperative advice is useful because it can enable a speaker to correct deficiencies in the attention her advisee is devoting to the advisee's affairs. Although an advisee would naturally have reason to attend to his own concerns, it may happen that he needs to be encouraged in this direction. The advisee may be distracted by other interests, or frustration, irresolution, etc. may lead him to give less weight to certain of his concerns than they require. Suppose that Jones is influenced by friends who believe in an ill-informed way that nursing homes do little good for their clients, and perhaps without realizing it, Jones has been distracted from his concern for his parents' welfare by an interest in doing things which meet with the approval of his friends, so that he does not give his parents' need for institutional care full weight in his deliberations. Suppose also that out of careful regard for Jones's concerns, Smith sees that there is overriding reason to place Jones's parents in the care of such an institution, i.e., a reason or reasons which gives that concern priority over other interests and concerns, including Jones's interest in being free from intrusions into his affairs. Recognizing that Jones needs enhanced reason to attend to his concerns, Smith may set out to advise him, and here Smith would do well to speak imperatively.

In favorable circumstances, an imperative utterance enables the advisor to generate additional grounds for the advisee to attend to his concerns. To see this first notice that there is a possible, and fairly obvious, state of affairs in

which telling someone what to do may secure the action directed but on the basis of the addressee's own determination. This can happen (i) if the addressee has neglected or otherwise failed to give due attention to his responsibilities, (ii) if upon devoting proper attention to his concerns, overriding reason to act (as directed) becomes apparent to the addressee, and (iii) if the utterance appropriately redirects the addressee's attention to his concerns. In these circumstances an utterance can reorient the addressee's attention so that properly apprehending his concerns, he thereupon finds adequate reason to act. Now, it is relatively easy to see how imperative advice can work. By imperatively advising Jones to put his parents in a nursing home, Smith openly risks criticism for violating the presumption that he is trying to assist Jones in the latter's determination of what to do about his concerns. Jones may thereupon reason, and be expected to reason, that Smith would not openly be willing to brook such criticism, unless Smith had good reason to believe (i) that Jones has been neglecting his concerns and (ii) that those concerns provide overriding reason to, e.g., commit Jones's parents to a nursing home. On this basis Jones may be led to give more careful thought and attention to his parents' needs and may then discover adequate reason to act as Smith directs. Where the imperative advisor proceeds with scrupulous regard for her advisee's concerns, in principle, she can secure what amounts to compliance with her directive, but "compliance" which comes as a result of the advisee's own decision based reformed attention to his concerns.

Even imperative advice does not, by itself, commit the speaker to its defense. Were Smith to imperatively advise Jones to secure professional care for his parents, she still would not have a responsibility to answer Jones's doubts and objections. Were Jones to voice them, Smith might respond 'Stop paying so much attention to what your uptown friends think; look at what's happening to your parents; you're bright enough; you can see what ought to be done'. This response may seem unsympathetic, but in some circumstances it might be an entirely appropriate answer. By its nature, then, advising in the imperative does not commit a speaker to arguing for her advice.

Nevertheless, there is an important connection between advice and the assumption of argumentative responsibility. *Advising*, especially in the imperative mode, can be used to secure a hearing for arguments which otherwise might be rejected as an intrusion into the addressee's concerns. Circumstances sometimes arise in which a person wants to persuade others to adopt a course of action which involves their concerns. In such circumstances the would-be-persuader may encounter the practical difficulty which *advising* is fundamentally designed to solve. Smith might be deeply moved by the problems facing Jones's parents and, consequently, may be

intent on persuading Jones to provide for their care. Still, since the plight of Jones's parents is not Smith's responsibility, she may need to respect Jones's capacity to care for his concerns and to allay his apprehension that her arguments meddling in his affairs.

In favorable circumstance the persuasive speaker can rely upon imperative advice to secure consent to a presentation of her arguments. We have seen that in favorable circumstances imperative advice provides the addressee with reason to attend to statements which otherwise might be regarded as meddlesome intrusion into his affairs. In the absence of countervailing considerations, much the same rationale may warrant attention to arguments designed to persuade the advisee to accede to the advisor's imperative. If Jones has reason to believe that he might be neglecting his responsibilities and, also, reason to suppose that Smith may have discovered overriding reason to adopt the course Smith directs, Jones has reason to at least attend to whatever arguments Smith has for her advice. On this basis Jones may consent to Smith's efforts to persuade him to put his parents in a nursing home. That is not to say, of course, that he consents to committing his parents.

However, if the would-be-persuader elects to initiate her arguments with imperative advice, then she needs to accept the responsibilities which as an advisor she imposes on herself. Those responsibilities will now include a fairly definite argumentative burden, *viz.*, the responsibility of showing that the advisee's concerns provide overriding reason to act as advised. As an imperative advisor, the persuader openly undertakes to help the advisee determine what to do about the latter's concerns. Her intrusion into the advisee's affairs is warranted by the openly incurred responsibility to say something which reorients the advisee's regard for his concerns so that the advisee thereupon finds overriding reason to act as directed. On pain of criticism for speaking presumptuously, this burden of showing that the advisee's concerns warrant the course of action advised falls on the persuader's arguments, when the imperative mode of *advising* is used to secure consent for an effort to persuade.

George Washington's "Farewell Address to the Nation," presented as the United State's revered first President retired from office, provides a model of imperative advice used to warrant attention to an argument which is openly designed to correct the attention Washington's countrymen devote to their concerns.

Washington's address is manifestly an extended instance of advice. After informing his audience of his intention to retire from public life and explaining his reasons for not seeking another term as President, Washington remarks,

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel.[\[15\]](#)

While Washington identifies his remarks as a warning, the assurances he provides are distinctively those of an advisor.[\[16\]](#) Addressing his audience as independent and self-reliant persons, he proceeds with manifest respect for their right to manage their concerns, and he openly takes responsibility for speaking to them out of solicitude, i.e., agitated concern, for their welfare. In the passage cited above and in the remarks which attend it, Washington overtly tries to allay suspicion that he might be meddling in his countrymen's concerns. In short, Washington's "Farewell" is presented as advice and openly issues from the kind of calculation which typifies *advising* in day-to-day conversation.

As an advisor Washington speaks imperatively. And in this connection, too, Washington's mode of address responds to a practical problem and follows a strategy which closely parallels the nature of ordinary imperative advice.

His "Farewell" is ostensibly designed to correct a problem which arises from conditions which affect his addressee's apprehension of their responsibilities as citizens of the newly formed nation. While the unity of government which constitutes them as one people is now dear to his countrymen, Washington observes, they have yet to accustom themselves "to think and speak of it as the palladium of their political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of their country from the rest, or to enfeeble the sacred ties which now link the various parts" (Washington, 1902). And while his countrymen have yet to acquire this

habit of mind so necessary to clear apprehension of their responsibilities as citizens, Washington sees that "from different causes and different quarters, much pains will be taken, many artifices employed to weaken" his addressee's comprehension of their concerns (Washington, 1902). So Washington enjoins his countrymen to remember that time and habit are at least necessary to fix the true character of government as of other human institutions" (Washington, 1902), to avoid speculative innovations in their government (Washington, 1902), to shun designing men who "endeavor to excite a belief that there is a real difference of local interests and views" (Washington, 1902), to avoid the "baneful effects of the spirit of party generally," (Washington, 1902), to impartially extend commercial relations with foreign nations, but to take care to have as little political connection with them as possible" (Washington, 1902), and, "above all, to carefully guard and preserve the Union of the whole." (Washington, 1902). Some of these imperatives direct the audience to what Washington presents as the proper apprehension of their paramount concerns; other imperatives mandate broad courses of action which, Washington maintains, flow from a proper estimate of his audience's concerns.

Washington's advice does not consist only of imperatives; he provide reasons why his audience should think and do as he directs. In the passage cited above, Washington offers to his audience's "solemn contemplation" and "frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people." With these words he openly undertakes a burden of proof. That dialectical obligation commits him to providing arguments which show that the imperatives he issues follow from concerns which have priority over other competing interests and responsibilities which may lay claim to his countrymen's attention.

This dialectically incurred obligation fixes a limit to Washington's burden of proof. An imperative advisor can discharge an obligation of this kind by providing a case which makes apparent (1) a disproportion between, on the one hand, the priority the advisee assigns (or ought to assign) to various concerns and, on the other, the relative weight the advisee gives (or is inclined to give) those concerns in the thought and attention he devotes to his affairs and (2) that proper attention to the advisee's concerns finds reasons to act as the advisor directs. Washington builds a case for his advice along just these lines. Speaking out of expressed concern that misapprehended individual interest stands to deflect his countrymen's attention from the responsibilities essential to maintaining the nation, Washington argues as follows. His countrymen already realize that their deeper interests are served by national unity, but they should also recognize that divisive special interests may lead them to undervalue national unity, so to preserve the Union, each individual

must attend carefully to his collective responsibilities, deliberately making them his paramount concern. (Washington, 1902). Moreover, Washington argues, when each gives due weight to collective concerns, each will find reason to, e. g., promote “as an objective of primary importance, institutions for the general diffusion of knowledge” (Washington, 1902). In developing a case along these lines, the imperative advisor may anticipate and/or encounter doubts and objections which he is obliged to address.

Washington, for example, addresses the objection that regional interests are often more important than national concerns; in response, he argues that this objection is the product of misrepresentation; promotion of local and regional interests, he maintains, depends fundamentally on a strong national Union (Washington, 1902). But once the imperative advisor has provided a case (i) which make apparent a disparity between the priority her advisee assigns to specific concerns and the thought and attention the advisee is inclined to give those concern and (ii) which shows that her directives flow from proper apprehension of the advisee’s concerns, the advisor can, and probably should, rest her argument. She can hope that she has brought the advisee to a point at which he can clearly apprehend the matter for himself. At least, she can plausibly claim that she has done all that she need (can) do to discharge the argumentative burden she has undertaken out of regard for the advisee’s concerns..[17]

Once the imperative advisor has discharged her argumentative burden, responsibility for further consideration of the matter falls to the advisee. I am uncertain whether it is helpful to talk about a shift in the burden of proof here, but a realignment of obligations does occur. Initially, the imperative advisor accepts the duty of providing an argument which makes apparent how the advisee ought to apprehend certain of his concerns. The advisee, of course, has a responsibility to give due thought and attention to his concerns. Given a case which makes apparent a needed corrective to how he looks after his affairs, the advisee would some responsibility to take the advice he has been given into account as he considers what to do.

Briefly, then, both in *proposing* and in the use of imperative advice to initiate arguments, speakers incur an initial burden of proof. Each of these speech acts is characteristically designed to provide the addressee with reason to give thought and attention to what the speaker says. *The nature of that reason determines what a speaker characteristically must try to show in discharging argumentative burdens generated in connection with these speech acts.* Thus the proposer has an obligation to answer all objections which merit consideration and the imperative advisor can initiate an argument in which she has the burden of warranting her directive on the basis of overriding concerns. Where it is apparent that the speaker has discharged her argumentative duties, she can rest her case and corresponding burdens

will be incurred by those who object to, reject, or oppose the position she has advanced.

6. Concluding observations.

The following tentative observations seem now to be in order. Professor Johnson's insight that arguments have a two-tier structure is advanced in an appropriately tentative manner, fitting to the immature state of our understanding of these topics. My concluding remarks are offered in a similar spirit. We are, I think, a long way from anything like a clear view of the obligations arguers incur and of what is required to discharge them. Activity at what Johnson calls the dialectical tier can, I think, be mapped with clarity and precision, and the potential products of that activity can be identified with appropriate standards for production and evaluation. But studies of argument have a way to go before they reach that level of maturity. Still, the preceding discussion seems to warrant some tentative suggestions.

First, it is apparent that Johnson is right to suggest that adequate conception of the production, interpretation, and evaluation of argument must recognize both an illative core and a dialectical tier. Nothing in the preceding consideration casts doubt on that important point and much serves to bear it out. Arguments, at least some kinds of argument, involve the articulation of premises leading to conclusions and also the dialectical production of cases which defend positions. *Proposing* and the argumentation initiated by imperative advice bear out the importance of Johnson's observation. This same observation can be supported by examination of argumentation which grows out of accusations (Kauffeld, 1994; Kauffeld, 1998b).

Second, there is reason to doubt Govier's conclusion that argument at the dialectical tier opens out into a regress of objections and supplementary arguments which can only be restricted on an ad hoc basis. The prospect that dialectical defense of a position may be rationally boundless is troublesome in several respects. Here I have concentrated on the possibility that either we must give up the idea that (at least some) arguers incur what Johnson calls dialectical obligations, or we must accept the prospect that arguers incur burdens of proof which they cannot reasonably hope to discharge. The first option is just false to fact. In *proposing*, in conjunction with imperative advice, and in some other speech acts as well, speakers (openly) incur an obligation to set out a cogent core of arguments responsive to an appropriate range of doubt and objections. In these speech acts the speaker undertakes an obligation which is calculated to provide his addressee with good practical

reason to attend to his arguments. The parameters of that obligation fixes a non-arbitrary limit to the arguers burden of proof. One can miss this point by supposing that an arguer's dialectical obligations simply grow out of her commitment to defend the primary proposition(s) she want her addressee to accept. Dialectical engagement is not that simple. The arguer's probative burdens, at least in some modes of discourse, seem to be fixed in part by the commitments she must undertake in order to engage others in the dialectical exchange. Such pragmatic limits to an arguer's burden of proof are not ad hoc or arbitrary; they arise reasonably as matters of prudence and respect for the addressee's autonomy.

Third, the whole of this discussion wrestles with the difficulty of conceptualizing argument as a product of communicative activity. Govier's introduction of the notion of a case as a product of the dialectical defense of a position, her distinction between an Exhaustive Case and a Good Case, her conception of the main argument for a position and supplementary arguments defending the main argument--all these developments clarify our understanding of the productivity, interpretation and evaluation of dialectical activity. I have tried to show that, with due attention to how burdens of proof are incurred in some speech acts, it is also helpful to conceptualize (some) dialectical activity in terms of the Apparently Good Case (the *prima facie* case), i. e., a body of argument which discharges the arguers initial burden of proof and which, thereupon, alters the distribution of argumentative burdens in a dialectical exchange. Handled with care, this conceptual frame, which we inherit from Whately's students somewhat clarifies the structure of some dialectical activity.

Fourth, there are deep questions here about the obligations incumbent on arguers. It may be that at some fairly abstract level we should recognize a generic or paradigmatic dialectical obligation to answer doubts, objections and opposing positions. But I think it is fairly clear that when we get down to specifics, we find that the probative obligations incurred by speakers vary depending on pragmatically significant circumstances. There is, I think, much to be gained by thinking about argument in terms of practices and good practices, as Johnson suggests. *Proposing, advising, accusing, etc.* are practices. It is because they are (in paradigm cases) pragmatically coherent, productive and, hence, relatively stable practices that we have developed ordinary concepts of and names for these practices. It may be that in conduct of academic discourse in the humanities, there is a practice which corresponds to Johnson's conception of arguments used for the purpose of rational persuasion. But even if that is so, I doubt whether that practice is a paradigm for the uses of arguments across the broad spectrum of discourses in which arguments are productively employed. The danger here, I think, is that we might adopt a reductive view of good practice in argumentation which

leads us to underestimate the usefulness of reason in human affairs. Ultimately, however, this would seem to be a decideable matter. If Johnson is right, it should be possible to map the variety of ways in which arguments are used in conjunction with, e.g., *proposing*, *accusing*, *advising*, etc. and to see how that variety derives from the paradigm of “rational persuasion.”

Endnotes

[1] In addition to the review of sympathetic positions which Johnson provides in *The Rise of Informal Logic*, Govier's discussion of the dialectic tier begins with a powerful argument for the importance of Johnson's conception of the dialectical tier of argument appraisal. (Govier, 1997) In addition, H. L. A. Hart's view that practical arguments are fundamentally defeasible provides powerful reason to suppose that, at least as regards deliberative and forensic arguments, we must attend to both an illative core and a dialectical tier, see: (Baker, 1977; Geach, 1966; Hart, 1965; Kenny, 1966)

[2] Richard Whately's *Elements of Rhetoric*, published in the first quarter of the 19th century, inspired a twentieth century textbook tradition for basically rhetorical instruction in argumentation (Whately, 1963). I will be painting a broad interpretation of doctrines developed in that tradition and will gloss over matters of significant disagreement among Whatelians. My synopsis is calculated to enable the reader to quickly grasp what is sound in that inheritance.

[3] (Freeley, 1966; Mills, 1964; Potter, 1954). Whately, himself, does not offer a conception of a prima-facie case; his students develop that idea by following Whately's example and borrowing from legal argumentation.

[4] As Govier notes, Johnson has been aware of this problem from the start. In fact Johnson's discussion of rational persuasion offers the rudiments of a basis for limiting the array of doubts, objections, and alternative positions to which an arguer must respond. Johnson recommends that the use of arguments for the purpose of rational persuasion be conceived as occurring in the context of a community of “model interlocutors (Johnson, 1996). Within such an ideal community there would be limits to the objections prudent and dialectically savvy interlocutors would raise and, hence, a limit to supplementary arguments which would be demanded of the arguer (Johnson, 1996). While there is merit to the idea that prudential considerations limit the range of doubts and objections to which arguers (in some circumstances) are obliged to respond, Johnson's suggestions about the limits of arguer's obligation to answer doubts, objections, etc., does not resolve the problem Govier raises, because Johnson also holds that (in principle) every argument is properly subject to doubts and objections (presumably, non-trivial doubts and objections). That idea invites Govier's regress.

[5] The pragma-dialectical school of argumentation studies seems to hold that

ideally an arguer can rest only with an exhaustive case (Eemeren, Grootendorst, Jackson & Jacobs, 1993). I discussed Govier's conception of a Good Case in relationship to pragma-dialectical views about the termination of argument in a paper presented at the most recent Amsterdam conference on argumentation (Kauffeld, 1998a)

There is an often cited passage in which Kenneth Burke describes human life as an interminable dialogue. "Imagine that you enter a parlor. You come late. When you arrive, others have long preceded you, and they are engaged in heated discussion, a discussion too heated for them to pause and tell you exactly what it is about. In fact, the discussion had already begun long before any of them got there, so that no one present is qualified to retrace for you all the steps that had gone before. You listen for a while, until you decide that you have caught the tenor of the argument; then you put in your oar. Someone answers; you answer him; another comes to your defense; another aligns himself against you, to either the embarrassment or gratification of your opponent, depending on the quality of your ally's assistance. However, the discussion is interminable. The hour grows late, you must depart. And you do depart with the discussion still vigorously in progress" (Burke, 1941).

[6] Govier's claim that an indefinitely large number of supplementary arguments may be required to construct a good case takes a cue from her interpretation of Johnson's views. She writes, "The regress problem seems to arise for Johnson's account because of his claim that *every argument is incomplete without a dialectical tier*. In my terminology, this means that every arguer has a dialectical obligation to buttress his or her main argument with supplementary arguments responding to alternative positions and objections. Supplementary arguments are also arguments. Thus they too would appear to require supplementary arguments addressing alternatives and objections. Those supplementary-to-the-supplementary arguments, being again arguments, will require the same. And this line of reasoning can clearly be continued. Thus Johnson's view seems to imply an infinite regress." (Govier,) The fact that some arguments preclude the possibility of reasonable doubt and objection does not, I think, raise much of a problem for Johnson's conception of a two-tier argument structure. I take it that his basic point is that the *practice* of argument is not complete without a dialectical tier; this claim is fully consistent with the possibility that sometime premises both cogently lead to a conclusion and preempt the possibility of reasonable doubt and objections at a dialectical tier.

[7] (Kauffeld, 1986; Kauffeld, 1987; Kauffeld, 1989; Kauffeld, 1994; Kauffeld, 1995; Kauffeld, 1998b) The idea that probative burdens are distributed by the speech acts which initiate an argumentative exchange is also developed by pragma-dialecticians, see: (Eemeren et al., 1993)

[8] The distinguished philosopher G. J. Warnock provides an analysis of obligation which in my experience stands up well under pressure of tracing the obligations undertaken in various speech acts. Professor Warnock argues convincingly that obligations are incurred where: (i) it is foreseeable that others will suffer or will continue to suffer harm in the event the obligee does not act; (ii) others are counting on her acting in order to avert, prevent, ameliorate, or rectify that harm; and (iii) she must so act in order to avoid speaking or having spoken or even having acted falsely (Warnock, 1971).

[9] The *Federalist Papers* consists series of eighty-five letters written under the pseudonym of Publius by Alexander Hamilton, James Madison, and John Jay. Published in 1787 and 1788 during the course of public debates over ratification of the United State Constitution, the *Papers* provide a powerful and competently argued body of discourse advocating adoption of the newly proposed Constitution.

[10] For a complementary view of how prudent persons manage scarce cognitive resources, see: (O'Keefe, 1995; Petty & Cacioppo, 1981)

[11] I owe the insight that advice is designed to help the advisee deal with his concerns to (Gauthier, 1963). Unfortunately Gauthier is unable to muster a satisfactory analysis of our concept of a concern and, so, does not penetrate to the practical core of advising.

[12] My account of this and other speech acts relies on a broadly Gricean account of the efficacy of statements, i. e., of seriously saying something, see (Grice, 1957; Grice, 1969; Kauffeld, ; Kauffeld, 1987; Stampe, 1967; Stampe, 1975; Strawson, 1964)

[13] Supposing that advice is, as I have suggested, characteristically designed to affect the thought and attention an advisee devotes to his concerns, then advisor's efforts foreseeably intervene in matters subject to the advisee's right of self determination. To speak of *rights* in this connection need not import reams of philosophical controversy into our argument. In a clear, widely recognized, and commonsensical meaning of 'rights', a person has a right in regard to a given matter (i) where he can assert with the force of an injunction or prohibition that he is to be free of interference or disturbance in relationship to that matter, (ii) where the onus of justifying contravention of the rightholder's injunction falls on parties enjoined, and (iii) where certain appeals to consequence, in particular claims that the intervention is for the good of the rightholder, do not justify contravening acts. (Hart, 1967) We believe that persons have a general right to self-determination, and , that right certainly entitles a person to freedom from unjustifiable interference or disturbance by parties having no share in one's responsibilities. The injunctions we issue against interference with or disturbance of our concerns attest to our recognition of this right. Where a person is told to mind his own business on the grounds that he is intervening in matters which are none of his concern, the onus of justifying action contrary to this injunction falls on the party

enjoined. Claim to be acting in the rightholder's interest carries little weight against an injunction to stay out of his concerns, and most importantly for our purposes, contravention here cannot be justified as an effort to help. The intention to help may excuse intrusion into another's concerns, but it does not give the assistant a countervailing or overriding right to interfere with the recipient's care of his responsibilities. It would be a joke at best to say 'I have a right to interfere with your concerns because I am trying to help'. It seems clear then that as the advisor sets out to guide the thought and attention his advisee devotes to the advisee's concerns, the advisor enters a sphere which the advisee can protect from anticipated interference or disturbance by exercise of his right to self-determination.

[14] In "Goading and Guiding," W. D. Falk approaches the difficulties posed by the incidence of imperatives in acts of giving advice. But after noting that imperatives do occur in some advice, and discussing the matter along essentially the right lines, he backs off by treating them merely as expressions of the advisor's beliefs about what the advisee should do. His account, thus, does not do justice to the imperative speaker's intention that the addressee act as directed. (Falk, 1953)

[15](Washington, 1902); for a critical edition of Washington's text along with a review of its reputation, see: (Paltsits, 1935).

[16] To be sure, Washington does say that his audience will be able to discern in his remarks "the disinterested warnings of a parting friend," and he does, at some points in the address, speak as one who apprehends a danger. Nevertheless, the advisory nature of his argument is clear. Unlike the speaker issuing a warning, Washington does not approach his audience as though he had a right or obligation to intrude into their affairs. Instead, he proceeds with expressed reluctance to go forward and gives assurances designed to win the addressee's consent to his discursive efforts.

[17] Washington concludes modestly as follows. "In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations. But, if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischief's of foreign intrigue, to guard against the imposture of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare, by which they have been dictated" (Washington, 1902).

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