

Saying and Doing: Speech Actions, Speech Acts and Related Events

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Abstract: The question which this paper examines is that of the correct scope of the claim that extra-linguistic factors (such as gender and social status) can block the proper workings of natural language. The claim that this is possible has been put forward under the apt label of *silencing* in the context of Austinian speech act theory. The 'silencing' label is apt insofar as when one's ability to exploit the inherent dynamic of language is 'blocked' by one's gender or social status then one might justly be said to be *silenced*. The notion that factors *independent* of any person's *linguistic* competence might block her ability to exploit the inherent dynamic of language is of considerable social as well as theoretical significance. I shall defend the claim that factors independent of a person's linguistic competence can indeed block her ability to do things with words but I will show that the cases that have been previously considered to be cases of *illocutionary* failure are instances of *rhetic* or locutionary act failure instead. I shall refine the *silencing* claim as previously advanced in the debate in at least one fundamental respect. I also show that considering the *metaphysics* of speech acts clarifies many of the issues previously appearing as thorny bones of contention between those who hold that the only notion of silencing that is coherent is that of *physically* preventing someone from speaking or writing and those who hold the opposite sort of claim sketched above.

1. Introduction

J. L. Austin showed us that the use of language involves action. He claimed that making utterances amounted to particular doings. For example, when a speaker utters the sentence 'I am going to do it!' she not only utters a sentence with a certain sense and a certain reference but she might also—depending on the context of the utterance and the intention with which she makes it—be issuing a warning, a threat, or a promise. It is not clear which of these it is without making reference to her intentions in making the utterance and to the context in which she makes it; but the key point of the above example is that the *in* uttering any particular sentence a certain *force* accrues to the so uttered words. And that *force* is additional to, and distinct from, the sense and reference of the uttered words.

Austin showed us then that the *force* of an utterance—that which a person *does in* uttering it—is not the same as the propositional content of the utterance. He labelled this additional element the ‘illocutionary act’. Pointing out that language use involved action opened up a wholly new avenue in the philosophy of language which had hitherto very largely been concerned with propositional content and the conditions or rules for that.

In the context of speech act theory the claim has been made that not every member of a community of competent language users is as able as every other member of such a community to do things with her words. Most prominently it has been claimed that women are silenced in some contexts—one such context being the ‘socio-sexual arena’ in which a woman’s utterance of ‘no’ might fail to be taken in the way that she meant it to be taken (Langton 1993: 293–330). The woman is ‘silenced’ because the (illocutionary) force of her words is thwarted. All that she can do is mouth the right words for an action of refusal in whatever language she and the person to whom she addresses her words share; but with the force of her words thwarted she will fail to ‘get through’.¹

It has also been claimed that success with one’s words might depend on one’s social status—for example, the words of a famous tennis player are likely to count as an endorsement of a particular brand of tennis racket whereas the same words (in the same context, i.e. one of advertisement) uttered by someone without such credentials in the field of tennis are unlikely to carry the same weight (Richmond 1996: 38–62). This too has been put forward as an instance of illocutionary failure.

The claim that that the inherent dynamic of the working of *language* might be blocked by factors *extraneous* to its workings (i.e., as a result of the speaker’s social status or gender) is significant in at least two respects. First, because, if true, it presents a qualification to Austin’s framework, who, apart from his discussion of ‘abuses’ of the workings of language, does not consider other avenues in which the *inherent* dynamic of language might be blocked by factors extraneous to it.² Second, the claim, if true, also has significant social and political consequences. For if we are not all on a par in terms of exploiting the inherent dynamics of language when we speak *as a result of factors independent and out-with our linguistic competence* then this is obviously of some social and political significance.

The claim that factors external to linguistic competence can block the inherent working of language have recently been countered by a group of philosophers who argue that the only notion of silencing that is coherent is the notion of *physically* preventing someone from speaking or from disseminating her writing (gagging them, restricting the circulation of their newspaper, or similar). Those philosophers maintain in effect that there is a significant sense of *doing* things with words that does not require speaker uptake (Bird 2002: 1–15; Jacobson 1995: 64–79; 2001: 179–201; Dworkin 1991).

The following example is supposed to support the claim that there is a significant sense of *doing* something with words that does not require hearer uptake:

A burglar enters a property at night. He has seen a clearly displayed sign: ‘Warning: premises patrolled by fierce dogs’ but believes this is just a

blind, intended to mislead people into thinking there are dogs. Believing that there are none, he later discovers his mistake when attacked by the patrolling dogs. The burglar has no right to claim that he was not in fact warned of the presence of the dogs, just because he believed the sign was intended to deceive rather than genuinely warn. He was warned alright, but he failed to see that the warning was sincere. (Bird 2002: 10)

This example is supposed to echo the sexual refusal example (the warning being given successfully irrespectively of whether it is thought to be sincere). It appeals to our intuition that there is a sense, manifest in this example, in which it can be said that the burglar *was* warned by the sign, irrespectively of whether he considered the warning to be sincere or whether he took himself as having *been warned* by it.

I will unpack this intuition further below; and there will also go into the reasons why this example, and others, do not succeed in making out that there is a relevant sense of *doing* something with words that does not require uptake.³

2. The Nature of Speech Acts

Before getting more deeply involved with the philosophical issues at stake, we need to set out the central concepts of speech act theory.

Consider the following sentences:

1. Sam smokes habitually.
2. Does Sam smoke habitually?
3. Sam, smoke habitually!
4. Would that Sam smoked habitually.

Reference and predication of all the four utterances is the same; but it is obvious that the *force* or illocutionary force of each utterance is very different (Searle 1969: 22–3).

Austin captured this important fact about language with the following distinctions: he distinguished between the phonetic act, the phatic act, the rhetic act, the locutionary act, the illocutionary act and the perlocutionary act.⁴

The phonetic act is the vocal sounds made by an utterance. The phatic act is the making of ‘noises of certain types, belonging to’ and uttered ‘as belonging to, a certain vocabulary, conforming to, and as conforming to a certain grammar’ (Austin 1976: 95). The rhetic act is ‘generally to perform the act of using that pHEME or its constituents with a certain more or less definite “sense” and a more or less definite “reference” (which together are equivalent to “meaning”)’ (Austin 1976: 93). The locutionary act is the sum of the phonetic, the phatic and the rhetic acts or, as Austin also referred to it, it is the act ‘which is roughly equivalent to uttering a certain sentence with a certain sense and reference, which again is roughly equivalent to “meaning” in the traditional sense’ (Austin 1976: 109). The illocutionary act is that which is done *in* doing an act of a locutionary

sort *in virtue* of which a certain *force* accrues to the use of the words. Finally, the perlocutionary act is the effect achieved *by* the illocutionary act. For example, if *in* uttering the sentence 'I can run very fast' (i.e. *in* performing the illocutionary act of *telling* or *stating*) I impress you, then my having impressed you is a *further* effect of my utterance; it in turn constitutes a perlocutionary act.⁵

Searle has pointed out that any utterance—that is any speech *action*—will be a manifestation of the locutionary act and of the illocutionary act. The suggestion is that no instance of a speech *action* will be force neutral. Austin too stressed this; he said 'to perform a locutionary act is in general and *eo ipso* to perform an illocutionary act' (Austin 1976: 98). Consider again the sentence 'I am going to do it'—*any* instance of my uttering it will carry a certain illocutionary force; which sort of force will vary with the context of utterance.

This has the following metaphysical implication: any *action*, including a *speech action*, will be of multiple speech 'acts'. A speech *action* will be a concrete particular, whereas a *speech act* (whether of the illocutionary, perlocutionary or locutionary type) is an abstract type. A token of an abstract type can be manifested in a concrete particular, such as an action or event or a process. The type of speech act is an abstract notion, whereas a speech *action* is a 'natural' event; a concrete particular. It will become clear in my discussion below that highlighting the metaphysical basis of speech acts and speech actions respectively ought to remove much of the fog clouding the debate between the different camps which with I am here concerned.

Let me illustrate the distinctions between the different categories of speech *act* that we have just introduced. Consider the simple enough utterance 'It's yellow!', uttered by Sheila to Susan on a joint shopping trip. That speech action will have been of many different acts—the phatic act is her saying 'It's yellow'; the rhetic act is 'saying that it is yellow'; the illocutionary act might be that of *advising* Susan to take the blue shirt and not the yellow one; and the perlocutionary act might be Susan being convinced to put back the yellow garment.

Putting it this way shows us several things, all of which are important to our discussion. First, it shows how an illocutionary act 'arises' in an instance of an ordinary speech action. Second, and this follows from the first point, it shows that all utterances that can be considered *speech actions*⁶ and that are made in the course of the ordinary use of language will always have an illocutionary force (which in this case we assumed for purposes of exposition was to *advise*) as well as a propositional element (reference and predication) or that which Austin referred to as the locutionary act. The third, and crucial, point that the illustration above affords is to do with the question of 'uptake'.

If Susan fails to grasp that my *saying that it is yellow* carries the intended force of *advice*, the *force* of the utterance 'misfires'. Austin's term now seems very apt indeed. Without the force being grasped, the hearer fails to understand the *meaning* of the speaker's utterance fully. She will fail to understand the meaning fully for if she understands only the proposition (rhetic or locutionary act) '*saying that it is yellow*' she will fail to understand that the full meaning of the uttered words was to *advise* not to take the yellow one.

I will show more fully below that when it comes to *understanding* or taking up the full meaning of an utterance, one needs to have regard to sense and reference *and* to the force of an utterance. That is, I will show below that a speech act can fail in two distinct kinds of cases—i.e. one, when *force* is taken up but sense and reference are not; and second, when *force* is *not* taken up but sense and reference *are*. It is the former case that has previously not been recognized in the literature, and that sheds new and important light on the questions at issue in this debate.⁷

In the light of the metaphysics of speech acts we then get the following picture: a fully successful illocutionary act—one where the force gets taken up and the doing in consequence gets done—is *constituted* both by the speaker's action of speaking (or writing) *and also* by the hearer *understanding* the full meaning of the words in question. The speaker's speaking is one action, and the hearer's understanding is a separate event⁸—and a successful *speech act* (a category which is to be distinguished from someone's mere *acting* by speaking) is *constituted* by hearer understanding of the full meaning of the words of the speaker.

It is the hearer's role in *constituting* a fully successful illocutionary act—that is whether the speaker is *understood*—that causes Bird and Jacobsen difficulties. They ask, albeit in a variety of ways, how it is possible for the mindset of the *hearer* to determine whether *another person*, the speaker, is capable of performing an action. Surely as long as the speaker can speak, that is, utter meaningful sentences he is capable of performing a *speech* action, they claim.

But to put it this way is to miss that the concept of illocution is *not* tantamount to the metaphysical notion of an *action* by speech. As Jennifer Hornsby has pointed out when someone utters something they do many things—they cause their vocal chords to vibrate, they make a sound, et cetera (Hornsby 1994: 187–207; 1988: 27–46). The concept of illocution then is one that constitutively depends on *both* 'ordinary' (metaphysical) action by means of speech (using one's vocal chords) *and a separate* metaphysical action or event,⁹ namely that of the hearer *understanding* the force or point of someone's utterance. It is the conjunction of these two separate conditions (the metaphysical action of speaking, *and* the metaphysical action, or event, of uptake) both of which are necessary and jointly sufficient that constitutes the *speech-act* notion of illocution. Where the latter condition is absent, the speaker may by means of her utterance have expressed a meaningful thought but she will have failed to *tell*.¹⁰ It is crucial then that one distinguish between the (ordinary) action a speaker or writer manifests when they utter (or write) down some words and the different *speech acts* that are instantiated in any such action. *Telling* is an event; uttering a proposition is an action, akin (in the here highlighted sense) to the action of raising one's arm.

Bearing in mind then the distinction between the *action* that is one's *speaking* (expressing meaningful thoughts) and the event of a fully successful *speech act*, we can put the position of those who claim that one can *tell*, *warn*, or *refuse* without uptake in the following way:

where Φ -ing is the action of uttering a set of meaningful words by using one's vocal chords and Ψ -ing is telling, the claim is that Φ -ing is *sufficient* for Ψ -ing to have occurred.

I label this the position of Group 1. This is the position advanced by Daniel Jacobsen and Alexander Bird.

The claim of those who argue that uptake is necessary for *telling*, *warning* or *refusing* could then be rendered as:

where Φ -ing is the action of uttering a set of meaningful words by using one's vocal chords and Ψ -ing is telling, the claim is that Φ -ing is *insufficient* for Ψ -ing to have occurred. Φ -ing is *necessary* but not sufficient for Ψ -ing to have occurred.

I label this the position of Group 2. It is the position advanced by Jennifer Hornsby, Rae Langton, Mary Kate McGowan, Jennifer Saul and Sarah Richmond.

Having set out the central concepts of Austinian speech act theory, we are now in a position to examine the arguments of those who claim that the notion of *non-physical silencing* is not coherent.

3. The Argument for the Claim of Group 1, as Recently Advanced by Alexander Bird and Daniel Jacobsen

3.1 *The Conceptual Space for an Argument of the Sort Advanced by Group 1*

Bird and Jacobsen argue that it is possible, for example, to *warn* or to *refuse* or to *tell* without hearer uptake. That is, they affirm that there is a meaningful or substantive sense of *doing something with words* that does *not* require uptake.

What then is the conceptual space for an argument that advances the proposition that there is a meaningful or fully constituted sense of *doing something with words* that requires no uptake?

Above I have given reasons why Austin's theory requires the making of the distinction between acts and actions, and between the 'mere' action of speaking and the event of a fully constituted (illocutionary) speech act. I would now like to consider whether *further* reasons could be found as to why it makes little sense to regard the mere action of expressing (uttering) a meaningful thought as a doing with words. I shall focus here on reasons that do not apparently stem from technicalities of the Austinian speech act framework. What reason then can there be for regarding the mere action of uttering, the mere action of expressing meaningful thoughts as a *doing*? Austin considered certain actions by speech or language use to be a *doing* in order to highlight the performative aspect of language; that is, that language could be used (and was being so used) to perform actions that go beyond the actions involved in the voicing of meaningful thoughts. Those sorts of actions (with words) are manifested, he stressed, *in* the action of voicing a meaningful thought and by virtue of the 'force' that so accrued to an utterance. Consequently Austin stressed that it was essential to distinguish 'force and meaning in the sense in which meaning is equivalent to sense and reference, just as it has become essential to distinguish sense and reference' (Austin 1976: 100).

Saying something is an action; to be precise, it is many actions, such as the action of activating one's vocal chords to the right pitch and timbre, opening one's mouth etc. But how theoretically interesting is it to describe this as a *doing*? Surely the actions involved in *speaking* or *uttering*—namely the actions of activating one's vocal chords, opening one's mouth—have very little *philosophical* interest (of a kind that bear on the sort of questions that this debate focuses on)? All that is required for an action of *speaking* is that one has the physical apparatus for *speaking*; that is, for making meaningful noises. The mere action of uttering looks as though it is too thin then to be considered as a *doing with words*. Moreover, it would not capture the performative aspect that for Austin inheres in his notion of a doing with words.

Also, if my argument below is correct that the sense and reference of an utterance will also, in general, need to be grasped in order for a speech act to be successful then this narrows the conceptual scope for a *doing with words* but *without* uptake still further. It narrows it further because then there is a yet further ground, additional to the one mentioned in the paragraph above, why the mere action of a voicing of a meaningful thought cannot be regarded as a (locutionary) doing with words. It would seem then that the locutionary too is subject to the requirement of uptake, if it is to be a performative or an action in *the relevant sense*.¹¹

3.2 *The Argument as Put by Alexander Bird*

In what follows I shall deal more expressly with Bird's account than with Jacobsen's. This is for the following three reasons. First, Bird's paper and argument address directly the requirement of uptake, which is at the heart of the question of silencing, and of this debate. Second, I claim that any points which I make in the course of my discussion of Bird, dispose of Jacobsen's arguments in turn. Third, Jacobsen's arguments have already received exclusive treatment in Hornsby's and Langton's paper 'Free Speech and Illocution'.

Bird puts the claim that a doing with words requires no uptake as follows:

- (a) there are (non-institutional) illocutionary acts of ϕ -ing where no-one recognises the speaker's intention to ϕ .
- (b) there are (non-institutional) illocutionary acts of ϕ -ing where no-one recognises the speaker *is* ϕ -ing.
- (c) there are non-institutional acts of ϕ -ing where the speaker neither has an intention to ϕ nor knows that she is ϕ -ing. (Bird 2002: 7–8)

The claim is that any non-institutional instance of ϕ -ing—where ϕ -ing represents a successful illocutionary act or a *doing with words*—does not require uptake of the speaker's intention to ϕ . The claim cannot be the tautological one that a successful or fully constituted illocutionary act requires nothing further to be complete.¹² (His conflation raises the question however of what it *is* that does not require uptake of intention (as he glosses force)—given that ϕ -ing cannot

represent the fully completed illocutionary act, for otherwise his claim would be tautological.)

Bird's argument is made mostly by way of examples. Because of this, the reader will have to bear with me as I present some of the examples used by Bird to make his case. I will not deal with his cases of so-called institutional performatives for the reasons mentioned at footnote 1.¹³

Let us start with the claim at b—i.e., that there are (non-institutional) illocutionary acts of *ϕ-ing* where no-one recognizes the speaker *is ϕ-ing*.

No argument beyond the presenting of the following scenario is advanced for the claim that that 'there are (non-institutional) illocutionary acts of *ϕ-ing* where no-one recognises the speaker *is ϕ-ing*' (Bird 2002: 8):¹⁴

Dorothy writes a will. Her will is not found for some time after her death. When it is, it eventually secures uptake. Writing, in the appropriate circumstances, 'I leave £1,000,000 to the cats' home' constitutes a written illocutionary act of leaving her money to the cats home long before the lawyers read the will. (Bird 2002: 8)

I suggest that Bird's example does not support his claim. Consider the following scenario in turn:

Assume Dean, Dorothy's son, finds her written note before anybody else does and takes the written communication (on which she recorded the instrument of her 'will') to be a left-over from his children (David, Dora, and Dante) playing-acting 'lawyers' the previous day. In this sort of case, Dorothy will have wholly failed in telling anybody how she wishes her worldly goods to be distributed when she leaves this world. Her *action* of writing down the words will have succeeded, but without hearer uptake she will have failed to *tell* or get across to anyone how she wishes her goods to be distributed. She will have voiced meaningful thoughts but will have failed to *tell* or *bequeath*.

It might be thought that I have shifted the terms of the debate here by referring to the illocutionary act of *telling*. Yet nothing of the sort is the case. In writing a will, the *force* that accrues to Dorothy's words is either that of *telling* (or *bequeathing*) how her goods are to be distributed. But the *force* of the bequest (in a non-legal sense)¹⁵ remains 'hanging in the air' unless those reading the will take the words on the paper to have flowed from Dorothy's pen. Taking the words instead to have flowed from the children's pens, and bearing the 'fake' signature of Dorothy, Dorothy *fails* to *bequeath* or *tell* (in the relevant sense). Austin's distinction between 'attempting or purporting to perform a certain illocutionary act' and 'the act of successfully achieving or consummating or bringing off such an act' (Austin 1976: 105–6) ought at this juncture be ringing in our ears.

Let us press my varied example a little further. I suggest that what went wrong in my varied example was that the *force* of the utterance (which was to *tell* or *bequeath* in the non-legal sense) was taken up but that sense and reference failed. Why do I say that? The force of the utterance which was that of *telling* was taken up. For, those who read the will, which they took to be a make-believe will,

understood that the force or upshot of its contents was to bequeath or tell how the goods were to be divided. Yet they took the reference, and hence the sense, of the words to be the make-believe world of play-acting lawyers, and not Dorothy's actual world (which is the reference of the words in Bird's original example). This suggests that the reason for the failure of the illocutionary act in this example—that is, the reason why Dorothy would have failed to *do* what she intended to do with her words—is that sense and reference, not force, were failed to be taken up by those who read her words.¹⁶

Let us consider another example that I claim shows that uptake of the force alone of an utterance is not sufficient for a speech act to be successful.

Consider the following (well-known) case. As part of his role in a play an actor shouts 'Fire, fire!'. As it happens, a real fire breaks out in the theatre at this point and again the actor again shouts 'Fire, fire! I mean it! Look at the smoke!'. Davidson discusses this example in order to show that there is no extra-contextual conventional way of making an assertion (Davidson 1984: 269–70). In the literature on speech acts this case has been considered as an instance of illocutionary failure (Hornsby and Langton 1998: 12, 26; Bird 2002: 2, 10; Jacobson 2001: 189)—the actor tries to warn but fails to get through even though he uses the 'right words' for a warning. But what is really going on here?

It might be said for example that what is going on is that uptake failed because the actor's words are not taken seriously; that is, he is taken not to be speaking sincerely. The thought is that he is taken to be speaking within the confines of the play when he is not. That is: *qua* actor he is unable to warn out-with the confines of play. Analogously it might then be said that women *qua* women are not taken to be speaking sincerely when they seek to refuse sex by uttering 'no'. That is, within the confines of sex women are not taken to refuse sincerely when they utter 'no'.

But can we really say that communication failed here because of a failure on the part of the audience to grasp the *force* of the utterance? I suggest that the answer to this question can, again, not be a straightforward affirmation. Propositional content and force in either utterance (i.e. within and without the confines of the play) appear *prima facie* to be identical. In either instance of uttering 'Fire, fire!' in the actor example, the same person utters the same string of words at the same location and at two times that are in close proximity (once within the confines of the play; the second time not).¹⁷

The point becomes clear when we consider the following thought. Where '(p)' stands for the proposition uttered and '*F*' stands for the force of the utterance, the speech action could be represented thus: $F(p)$.¹⁸ Given that in either case the same person utters the same string of words at the same location and at two times that are in close proximity the symbolization of the two utterances of 'Fire, fire!' ought to be identical in either case. That is, it ought to be represented thus: $!(p)$. But is this really so? For if this is all that is going on here what would explain the actor's failure, in the second instance of uttering to have his words taken the way that he meant them to be taken? Something else must be going on here.

Even though either instance of uttering 'Fire, Fire!' can be represented accurately by means of the symbolization $!(p)$, the *meaning* of either utterance is

not same. The sense and reference of the actor's first utterance of 'Fire! Fire!' is the world within the play; when he utters those words for a second time the reference of those words is the actual fire that has broken out in the auditorium. If that is right then the reason for the actor's failure of communication is to be found at the level of rhetic act—it is here that the audience made the mistake. At the second instance of uttering, his audience simply thought that the actor was saying *something else* to that which he was actually saying.¹⁹ Yet in both instances of the actor's utterance of the words 'Fire! Fire!' the *force* of his utterance is the same—namely that of an assertion. So the shift in meaning does not come from a shift in the *force* of the actor's words. It comes instead from the utterance's (changed) sense and reference.

As actors are 'disabled' qua actors from issuing warnings out-with the confines of (theatre) play, women might be disabled qua women to be taken to mean no when they say they say 'no' in the context of sex. What I am suggesting here is that the case of a woman's utterance of 'no' might fail as a speech act because of failure *at the level of the rhetic or locutionary act*—that is, the hearer takes the sense and reference of the word 'no' *not* to be the meaning that it conventionally has (to express disagreement or rejection). Instead a change of context²⁰ (the context of sex) opens the door for some hearers to take the word 'no' to have a different (from conventional) sense and reference—thus 'no' assumes a meaning other than that of expressing disagreement or rejection, including even that of expressing assent. This suggestion is consistent with, and indeed required by, an explanation which states that the woman's partner imagined a context where no would mean yes.

Locating that which goes wrong in the two examples just discussed at the level of the rhetic act highlights something else that we might wish to take note of. It highlights that the reason why an actor was unable to warn his audience of an actual fire breaking out in the auditorium (by shouting 'Fire, fire!') and of why a woman was unable to refuse sex by uttering 'no' was that the audience in both examples took the speaker's utterances to refer or be uttered in reference to a context of the make-believe kind; thus turning, in their mind, a non-fictional or non-make believe context of utterance into a one of the make-believe kind—i.e. causing, as we have seen above, an utterance of !(p) to mean one thing in one context of reference, and another thing in another context of reference.²¹

That this should be so in the case of the audience to the actor's words (in the above example) is easily accounted for (e.g., by his presence on stage). But that this should be so too in a setting in which there are (*ex hypothesi*)²² no patent indications from the setting *or* the speaker suggesting that the *meaning* of any words used in a speech action—specifically the meaning of the plain word 'no'—is anything other than its conventional (or default) meaning is more startling and requires emphasis. Yet on my account this is just what occurs when a woman utters or screams 'no!' and her interlocutor takes her thus to be *assenting* to his advances—taking no to *mean* yes.

As is implicit in the above, this can happen when the hearer places the speaker's words in a specific fictional or make-believe context where an utterance of 'no' is such as to *mean* yes (e.g., presumably as a result of some scenes enacted in pornography where an utterance of 'no' was such as to signify assent), or,

alternatively, when the hearer takes the speaker to be speaking in a language or idiolect where an utterance of no is such as to *mean* yes.²³

In the preceding section I have explained a woman's failure to refuse a man's sexual advances—by analogy with the actor example—by suggesting that the *context* of sex in the minds of some men is such as to change the *meaning* (and not the force) of a woman's utterance of 'no'—the force of !(p) remains the same but the meaning changes (as the reference and the sense change). What I am seeking to emphasize here, and to make explicit, is that the failure of the woman's or the actor's speech action (through rhetic act failure) comes about when the context of the speech action (e.g., the sexual context, or the context of the actor speaking on stage) is such as to cause one party to the linguistic exchange (the hearer) to take the *meaning* of the spoken words to be not that which they would be by reference to the conventional (or default) frame of reference—that is, 'no' meaning not no but meaning yes; and 'Fire, fire!' meaning not *this* fire (of the world within the play, which for present purposes one might regard as the conventional—and indeed default—frame of reference with an *actor* speaking *on stage* thus being taken to be speaking *qua* actor) but *that* fire in the world out-with the play.²⁴

In a case where it is just the hearer's mistaken perception of the context of speech—and where there are no patent indications from the speaker *or* the actual context²⁵ to suggest that the reference and sense of the words derives from anything other than the conventional (or default) frame of reference—the distortion in the hearer's perception of the context of speech becomes plain.

To my mind, it is precisely this—i.e. the extent of distortion that must be operative in a hearer's mind for speech actions (and possibly other actions) to be taken to refer to a specific make-believe context of reference when this is patently not their context—that underscores the thrust of the argument of those philosophers in Group 2 who seek to draw attention to the possible effects of pornography on the success of certain speech actions uttered by women. It is also in this respect then that I take my argument of rhetic act failure to underscore and to be consistent with the upshot of the argument of the philosophers here classed together as Group 2.

Those wishing to come to the defence of a (in effect *silencing*) hearer to a speech action taking place in the context of a sexual encounter (or a possible sexual encounter) might say that it would indeed be right *in general* to regard a fundamental misperception of the frame of reference, and meaning, of one's interlocutor's speech actions as an instance of a disturbing distortion—i.e., if it happens to an agent who is otherwise of sound mind as well as in general a competent user of language—but that this line of thought ought not be transferred to the domain of sex (and sexual attraction) where phantasy and reality must be recognized as being more closely interwoven than is the case otherwise.

My argument above—and Austin's taxonomy of speech acts—show us, however, that such a line of defence must fail. For in order for the speech action to fail as a result of rhetic act failure (or, for that matter, illocutionary act failure) the hearer must misperceive the sense and reference (or force) of the spoken words *as part of his action of grasping their meaning*, and *not* as an *ex post facto* desire (post

the fact of the hearer having understood the meaning, and possibly the force, of the uttered words) by the hearer to locate the spoken words in a context or frame of reference (with a corresponding *ex post facto* use of his imagination) in which no would mean yes. For the latter would have to be classified as failure of the perlocutionary sort, which this paper—focusing on the possibility of a *silencing* of the means or dynamic of language in use—is not concerned with.²⁶

It follows then that it is the *nature* of the silencing claim that is being advanced, and contested, in this debate—and which as we have seen above in turn follows closely from the nature of that which is a rhetic and that which is an illocutionary act—that indicates clearly that a failure to grasp the meaning of the words uttered *as a result of the hearer taking them to refer to a context or frame or reference to which they patently do not refer* must be considered a radical and disturbing thing to occur regardless of the context (sexual or otherwise) in which it takes place.²⁷ It must be considered as radical and as disturbing because it indicates a very considerable lack of reciprocity between hearer and speaker with regard to the *use of language* and the corresponding meaning of words; and, where it occurs, it would seem to indicate also a considerable undermining by one of the parties to a speech action (i.e., the hearer) of their capacity to gauge correctly the context in which they operate, by means of speech actions and possibly non-speech actions also.

What this suggests then is that while we will do well to remember Austin's injunction that speech acts are subject to 'the ills that all action is heir to' (Austin 1976: 105–6), we need to recognize the very specific ill that is the taking by one party to a linguistic exchange of the context of reference of said speech action to be of a make-believe or specific fictional kind.

And we might do well further if we were to consider the kinds of social development that contribute or assist in bringing about the possibility of such a radical misperception by one of the parties to a linguistic exchange of the context of speech (and possibly other) action.²⁸ Other than pornography, it strikes me that so-called 'reality' television shows might also contribute in bringing about an inability or a lesser ability of speech agents to gauge correctly the frame of reference in which they operate, and in relation to which they need to grasp the meaning of the speech of those who are their interlocutors.²⁹

What else is gained by stressing that this is an instance of failure at the level of the rhetic act? Several things. First, it explains some of the purported absurdity that has been thought to attach to the suggestion that as clear and unambiguous an utterance such as 'no' might fail to amount to a refusal, a consideration which no doubt partly motivated the rejection of Langton's claims. Second (and following from the first point), it explains *why* 'no' might be thought not to *mean* no. Third, and most importantly in this context, it shows that 'failure' at the level of the rhetic act is a *further* reason (separate from and independent of failure of uptake due to failure to grasp force) why a speech act might fail. One might even consider speech act failure at the level of the rhetic act to be a more fundamental form of silencing. This is because taking the sense and reference of an utterance to be something different from that which the speaker intended might be thought to betray a more fundamental lack of reciprocity or understanding between hearer and speaker.

What then of Bird's claim that that 'there are non-institutional acts of ϕ -ing where the speaker neither has an intention to ϕ nor knows that she is ϕ -ing' (that is, his claim at (c))?

Here is Bird's argument:

Langton and Hornsby take the reciprocity of illocution to relate to the nature of language as communicative but not every act one performs with words is an act or solely an act of communication . . . John may be grumbling and Lizzie may be rejoicing, but their doing so requires no uptake—indeed it requires no audience to perform these acts with words. And even when the act is intimately bound up with communication, the precise nature of the illocutionary acts being performed need not rest on the recognition of an intention. One may slander a person (in the non-legal sense of slander) without anyone's taking one to have that intention. Alice and Richard may take themselves to be exchanging important information in the serious course of business, but in fact they are really just gossiping. I may forgive your trespass, and you are forgiven whether or not I intend to forgive you. (Bird 2002: 8)

Let me deal with Bird's claim that 'the precise nature of the illocutionary acts being performed need not rest on the recognition of an intention'—his argument for that claim is given in the paragraph quoted above. I have shown above that the speaker's intention is relevant to the *meaning* of his utterance; and that the success of his communicative efforts depends on the hearer grasping *that meaning*. I have also shown that it is the grasping of the *force* of the speaker's words as much as their sense and reference that determines whether the illocutionary act or speech act will be successful. The speaker's intention has no *further* separate relevance.³⁰ Moreover, it is not the *recognition* of the intention that determines the precise nature of the illocutionary act. The force determines the nature of the act. And whether that is taken up determines whether the speech act is successful.

What about Bird's examples made in support of his claim at (c)? Do they show that 'there are non-institutional acts of ϕ -ing where the speaker neither has an intention to ϕ nor knows that she is ϕ -ing'?

Take his example of slandering.³¹ As an illocutionary act the *force* of an utterance such as 'Bloggs is a bounder and a thief' might be to tell or to assert. Such an assertion in the context of certain set of values might be regarded as slanderous in an everyday sense of the word. Where we consider it to be an illocutionary act again what must be distinguished is the force of the 'slandering' or 'insinuating' to hang in the air and it reaching its target—that is, the hearer grasping that the words carried not the force of a commendation but a slander. Without the hearer grasping the *force* of the utterance the intended negative insinuation of the *telling* or the *asserting* will not have come off or reached its target. We can after all imagine cultural contexts where an utterance such as 'Bloggs is a bounder' carries a commendatory force.

One must be careful not to confound the natural meaning of a term with the legal sense of a term. An utterance might be slanderous *from a legal point of view* at the moment of utterance, but that which constitutes the scope of a *legal* category is case law and *not* the inherent dynamics of language use (with which Austin was concerned) nor (*a fortiori*) the intentions of the speaker. One must not conflate a legal concept—be it that of slander or rape—with the natural-language but non-legal sense of the term; neither their extension nor their intension are identical.³²

Gossiping is another example that Bird mentions in support of his claim that ‘there are non-institutional acts of *φ-ing* where the speaker neither has an intention to *φ* nor knows that she is *φ-ing*’. This is what he says: ‘Alice and Richard may take themselves to be exchanging important information in the serious course of business but in fact they are really just gossiping’ (Bird 2002: 8). The first point to make here is that the view of a third party—the one who takes Alice and Richard to be gossiping—is irrelevant to the dynamics of language in use, which is what speech acts are concerned with. What Alice and Richard take the other to be doing is relevant. That aside, is gossiping a counter-example to the requirement of uptake for performatives by speech? No, for here a similar argument as that made in relation to slandering applies. Either the instance of deeming something to be gossip is a perlocutionary act or when it is not it requires the hearer to grasp that the force of the speaker’s words was to speak badly of the subject of one’s conversation. Imagine Sally saying to Sheila ‘Carol has got a lot rounder recently’. Sheila knows that Carol is pregnant, and thinks Sally knows it too. Therefore, she takes Sally’s words as being a reference to Carol’s pregnancy, having an implied meaning that the pregnancy is going well or nearing its end, taking the illocutionary *force* of her words to be that of *telling*. Sally however does not know that Carol is pregnant and intends the force of her words to be that of *gossiping* about Carol. Without that modicum of reciprocity between Sheila and Sally neither of their sayings will be an act of gossiping.

Bird’s examples of slandering and gossiping illustrate that the perlocutionary by definition seems to be a category that allows for the play in it of extra-linguistic factors—it has an open door to the whole gamut of social values and prejudices. This is because the perlocutionary act is the effect achieved *by* the illocutionary act. What effect is achieved by the force and meaning of an utterance is really wholly outside the control of the speaker, and also outside the control of the meaning of his words.

The illocutionary by contrast is not such a category. The illocutionary is a strictly linguistic category insofar as it is that which is done *in* saying something—Austin labelled that which is so done the *force* of a speaker’s words. We have seen that there is indeed such a thing as the *force* of an utterance, which is distinct from and additional to its sense and reference.

How anything other than the hearer’s strictly linguistic competence affects the hearer’s grasping of the words’ linguistic meaning (which includes force, and sense and reference)—and hence the intrinsic dynamics of the workings of language—is a rather different question to asking how factors extraneous to the hearer’s linguistic competence affect any of his *further* cognitive steps (weighing

it up, assessing it, judging it to be gossip and so forth). It is the former question that is of particular philosophical and social significance.

In the foregoing we have seen that in order for beliefs independent of a person's linguistic competence to block the inherent dynamic of language—which is for the hearer to grasp the locutionary and illocutionary elements of a speaker's words—is for those beliefs 'to attach themselves' to either the sense or reference or the force of the speaker's words. Given that the dynamic of the ordinary working of language is such that a speaker's saying (*voicing* of meaningful thoughts) will become a successful doing, the scope for an interference of this dynamic as a result of factors extraneous to a person's linguistic competence is much narrower than is the case for the category of the perlocutionary. It may be much narrower but it is not less potent.

What of Bird's other claims? Bird further contends that it would be fatal for the success of a certain category of speech act if the speech act wore the speaker's intention 'on its sleeve'. Bird says: 'Yet another illocutionary-perlocutionary pair is lying and deceiving. What is interesting about this last pair, is that for the illocution to have its intended perlocutionary effect, that intention should be hidden' (Bird 2002: 9–10).

Bird seems to suggest here that achieving a certain 'perlocutionary outcome' seems to be a success condition for some class of illocutionary acts. This is not the case however: whether a perlocutionary act succeeds is independent of the success *or failure* of the temporally preceding illocutionary act. When I advise you to take the yellow shorts as opposed to the blue ones and I succeed in *advising* you (you grasping the force of my words, that is, my *advising* you) that is one thing; whether you then take the blue ones (my intended perlocutionary effect) is another. Indeed you might take the blue ones in spite of failing to grasp the meaning or force of my words.³³

The illocutionary category of lying that Bird mentions above might appear to be a problematic case, but it is not. It falls into the class of case Austin christened abuses.

Austin christened those kinds of cases to be an 'abuse' of the workings of language (Austin 1976: 136–47) where the speaker is speaking insincerely, which is the case when a speaker is lying. For example, she may say 'I will be there at 8 o'clock' knowing that she will not. It is an abuse in Austin's sense because language can carry only the *adverted* intention on its face (which is the meaning of the words). It follows that the points Bird makes then in relation to deception and lying fall by the way side.³⁴

Regarding Bird's claim at (a) that 'there are (non-institutional) illocutionary acts of *φ-ing* where no-one recognizes the speaker's intention to *φ*', I take it that my discussion of (b) has also dealt with the points related to his claim at (a).

What then of Bird's suggestion that in certain kinds of cases the uptake requirement appears to be subverted by purported lack of specificity as to who is the addressee of one's words? He has in mind the following sorts of cases—a politician addressing a large crowd, and utterances when no one but the speaker is present. The first case is simple enough: the speech act will have been successful in all those individual instances where sense and reference and force

of the politician's words were taken up, and not successful in those individual instances when it was not.

Similarly, in cases where I make an utterance when nobody else is present—saying, e.g., 'oh damn, it is already 8 o'clock'—with the force of inciting myself to hurry up—and nobody else is present, then the speech act will have been successful if I grasp the sense and reference and force of my words. One might think that in most, though not all, instances where speaker and hearer are identical success of the speech act is a priori or a given. It might be useful at this point to remember that Austin's notion is about the dynamics of language use—and that is generally something that happens between at least two persons. As Austin's theory addresses the dynamic of language in use—which is something that for the most part happens where hearer and speaker are not identical—any interesting points about his framework are likely to arise in examples of that kind. In any event, the examples given by Bird under this head are not a refutation of the distinctions drawn by Austin.

The points just made apply also to Bird's example of 'John's grumbling' and 'Lizzie's rejoicing'. That is, as actions of self-expression—by means of a sigh, or an exclamation of 'yippee'—John's grumbling and Lizzie's rejoicing are just that; and as such do not require an audience. Provided that we can consider such exclamations pass the threshold of a *speech act*³⁵—which is not at all clear—the same points apply that I made in connection to sayings where only the speaker is present.

3.3 *Social Status as a Reason for a Speaker's Silencing*

Let me now consider the argument that has been put forward in support of the claim that it is not just the gender of a speaker that might lead to her being silenced but also her social status or perceived competence in a given subject matter.

Sarah Richmond suggests that a speaker's *social* status or perceived competence in the subject area into which her utterance falls can have an effect on her ability to *do* things with words, that is, that lack or perceived lack of social status can be the reason or ground for illocutionary act failure and hence for her silencing.

The example that she chooses as an illustration of her claim is that of a tennis player whose words in advertising a tennis racket count for more than would the words of an ordinary member of the public in the same context.

Consider the example in her own words: 'A tennis star may be paid to endorse a brand of tennis racket because, in *her* mouth, the words count as an endorsement' (Richmond 1996: 58). Endorsing however is not an illocutionary act; it is a perlocutionary act that can follow from such illocutionary acts as (for example) stating, telling or asserting. Moreover, attributing less weight to the words of someone is *not* an instance of failure of uptake—again it is something that happens at the perlocutionary stage. It follows then that this example of Richmond's cannot support her claim that social status can silence speakers.

Richmond stresses further that it is important for the hearer to regard the speaker as being 'competent' to utter the words in question. This is right, but

unless the beliefs of the hearer about the speaker's competence block his understanding of the *meaning* of the utterance, the failure will not be of the illocutionary sort. What I mean emerges when we consider Richmond's second example for her claim that social status might lead to the silencing someone.

Her example here is that of a non-chemist uttering the words 'methylated spirit is highly inflammable'; but that utterance being disregarded because 'they think I know nothing about chemistry and am inclined to fuss' (Richmond 1996: 57). Richmond claims this is another instance of illocutionary failure, due to purported lack of competence. To my mind this suggestion is not specific enough; for unless the hearer in this example fails to grasp the *meaning* of the words in question—that is, their sense and their reference—the uptake will have been successful. This point covers too—as we have seen above in our discussion of the actor case and the sexual refusal case—a scenario where the non-chemist's interlocutor thinks that her utterance 'methylated spirit is highly inflammable' is a play-acting of a chemist in their lab. For where the hearer understands that the reference of the utterance 'methylated spirit is highly inflammable' is, for the sake of argument, the bottle on the next table for which the hearer reaches, and this not within the confines of a play-acting scenario, then the illocutionary act will have been successful; no matter whether the warning is then, in a further cognitive step, disregarded due to assumed lack of competence, or another reason.

In my view, Richmond's discussion highlights again that speech acts can fail when force *is* taken up but sense and reference are not.

The examples put forward by the philosophers of Group 2 appear all to fall into the class of rhetic act failures strictly speaking. That could suggest a conclusion to the effect that factors extraneous to those strictly concerned with linguistic competence appear to 'attach' themselves more readily to the sense and reference of an utterance than to its force. Whether this is so in general or just the case in the examples under consideration needs to be looked at further.³⁶ My discussion might also invite the conclusion that force of an utterance is tied more closely to linguistic meaning than previously acknowledged.

3.4 Metaphysics Again

It may help us to understand better the nature of 'uptake'—that is, of the action or event of *grasping* the *full* meaning of an utterance—if we consider again at this stage of the discussion the metaphysics of speech acts. Above I have said that uptake is the action or event³⁷ that constitutes the event of a non-institutional *doing* with words. We should note that the metaphysical distinction between the action of uttering and the event of a doing with words applies also to the so-called performatives of an institutional sort.

Consider the speech action of 'I take thee to be my wife'—the *doing* here too is an event; the event of *being* married. The speaking of the words is an action but this action is metaphysically distinct from the event that is the *being* married. The *doing* with words refers to that which is done in virtue of or by the event. It seems

then that the metaphysics of these two distinct kinds of case—the institutional performatives and the non-institutional ones—are the same. What I mean to suggest is that in both kinds of case the *doing* with words, the performative, is an event or action *separate* from the action that is the *uttering* of the words.

To my mind this shows the following. First—in spite of all the *important* differences between institutional and non-institutional performatives—it shows that Austin was right to think that the institutional performatives could tell us something about *the workings of language*. What they do show is that the distinction between the action of uttering and the event of doing, the actual performative with words, applies across to the cases of non-institutional utterings. Second, the fact that a *doing* with words in both kinds of cases is an event distinct from the action of speaking underscores my argument that there is little merit in the suggestion that the mere action of speaking can be regarded as a *doing* with words (if it is to be an argument against or within the confines of a doing with words in Austin's sense), as Daniel Jacobsen and Alexander Bird wish to claim.

4. Conclusions

I have argued that considering the metaphysics of speech acts assists in grasping their nature. We have seen that a *doing* with words—both in the case of performatives within an institutional framework and also in the case of utterances that occur in the course of the ordinary use of language—is an event, distinct from the action that is the utterance. In the case of institutional utterances the *doing* or performative is constituted by the *force* or upshot given to the action of speaking by the institutional setting, provided that the felicity conditions are met which again are determined by the institutional rules in question. In the case of ordinary speech the event of a *doing* is constituted by the full meaning of the utterance being grasped by a hearer as well as the action of speaking. The metaphysical picture suggests that there is little merit in conflating the stages of Ψ -ing and ϕ -ing or in regarding the mere action of uttering meaningful thoughts as a *doing* with words.

I conclude too that so-called Group 1 have failed to make their case against so-called Group 2, and that the Austinian motivated notion of silencing by non-physical means is both theoretically sound and meaningful. We have seen that such silencing can occur where the hearer fails to grasp an utterance's sense or reference *or* force. The event of uptake or illocutionary success will not be manifest unless in general *all three* of these aspects of an utterance's meaning are grasped.³⁸ This might suggest that the *force* of an utterance is tied more closely to the traditional components of meaning than was previously thought.

We have seen that what arguably went wrong in the examples of illocutionary silencing adduced by members of Group 2 is that uptake of force succeeded, but uptake of sense and reference failed. This shows that the scope of the requirement of uptake is wider than previously thought, namely, that it encompasses not only the force of an utterance but also its sense and reference. I have argued also that this

in turn *narrows* the scope for those who wish to argue against a speech-act theoretical form of silencing. Moreover it might also invite the tentative conclusion that the uptake of force might be *less* vulnerable to being affected by extra-linguistic factors than is uptake of an utterance's sense and reference.

It needs stressing that the theoretically interesting question raised by the Group of philosophers I have here classed as Group 2 is the important question of whether factors wholly extraneous to a person's linguistic competence can block the inherent dynamics of language (which is for sense and reference and force to come across). Austin recognized this possibility when he wrote that 'Acts of all our three kinds necessitate, since they are the performing of actions, allowance being made for the ills that all action is heir to' (Austin 1976: 105–6).³⁹ Austin did not stress that the success of the illocutionary act is tied *also* to uptake of sense and reference. We can think of many reasons why he did not stress this—the principal one being that his focus was on 'emancipating' *force* as a distinct and separate category of meaning and as constituting that which founds the performative nature of speech.⁴⁰

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NOTES

¹ To some extent the theoretical issues that lie behind a claim of illocutionary silencing have not been best advanced by the example of a woman failing for reasons of illocutionary misfire to refuse sex by uttering 'no'. One reason for this is that the example appears on the face of it to be a case of a perlocutionary failure, not one of illocutionary failure. Another reason is the way Langton presents the claim of illocutionary silencing in her 1993 paper in *Philosophy & Public Affairs*, which kicked off the debate. Part of the problem in the 1993 paper stems from Langton's ambitious attempt to provide a speech theoretical account for the claim (widely viewed as incoherent) that pornography *is* the subordination of women. Some theoretical clarity has now been shed on the feasibility of Langton's approach by McGowan 2003: 155–89, and Saul 2006: 61–80. A further problem in Langton's 1993 paper (that McGowan does not address directly) is Langton's failure to distinguish between utterances which occur within strictly defined institutional procedures (such as, e.g., the utterance 'I take thee to be my wife'); call them institutional performatives; and those utterances that fall outside that class. That conflation is a serious one, for performatives of an institutional sort (the former kind of case) are a different *kind* of speech act than those sorts of speech acts that occur in every day speech. They are a different *kind* of speech act because the force of such utterances and their felicity conditions are determined *wholly* by the institutional setting within which they occur and *not the institution of language*. The force and felicity conditions of speech acts occurring in the course of ordinary speech on the other hand are determined only by the workings of *language*. When one is concerned with the success conditions of speech

acts, as are Langton and her adversaries, then these differences are hugely material. In other words, Langton's equivocation of a woman's misfired 'no' with 'misfires' occurring within an institutional context (e.g., the inability of homosexual persons to marry one-another; or Joe Bloggs inability to knight other members of society) runs into conceptual difficulties; which are carried over into some papers that see themselves as responding to her.

The distinction between 'performatives' occurring in an institutional setting and those that do not is well recognized in the philosophical literature on speech acts. See, for example, Warnock 1973: 69–89.

² On the question of abuses, see below and Austin 1976: 136–47.

³ I set out Austin's conception of illocutionary success in Section 2 and discuss his conception throughout the paper. Uptake is also an essential aspect of John Searle's account of the nature of speech acts. See in particular his Rule 8 on page 60 of Searle 1969: 60, 63. Similarly for Strawson who explicates Austin's notion of 'uptake' effectively in terms of Grice's notion of non-natural meaning. Strawson stresses that 'the illocutionary force of an utterance is essentially something that is intended to be understood. And the understanding of the force of an utterance in all cases involves recognizing what may broadly be called an audience-directed intention and recognizing it as wholly overt, as intended to be recognized' (Strawson 1971: 149–69). Where Grice (1989) rendered non-natural meaning of an utterance roughly in terms of the complex intentions which the speaker has towards his audience with regard to the beliefs they are to form on the basis of his utterance, Strawson explicated the notion of hearer understanding in terms of the *hearer's recognition* of the speakers 'complex overt intention' towards the hearer.

Jacobson—seeking to marshal Strawson in support of his argument—misleadingly quotes Strawson as saying '*the aim, if not the achievement, of securing uptake is an essential element in the performance of the illocutionary act*' (Jacobson 1995: 73). The quote comes from a place in Strawson's paper at which Strawson is raising this notion as a hypothesis. But he immediately goes on to consider it as problematical; as he would, given that uptake is *at the heart* of Strawson's notion of a speech act. For Strawson however it is the *recognition* of the *aim* by the hearer that is the hallmark of the fully constituted illocutionary act.

For Hornsby too uptake is at the heart of the nature of a speech act. She explicates the notion of uptake in terms of a notion of 'reciprocity' that must obtain between a speaker and his audience. See Hornsby 1994: 187–207; 2000: 87–106.

⁴ It should be noted that each of these 'acts' is an abstract typology or conceptual category and does not refer on its own (respectively) to a metaphysical *action* or event or indeed a natural kind. Each of these concepts isolates and explicates a different aspect of what occurs in a total speech act situation.

⁵ A perlocutionary act need not be preceded by a fully successful illocutionary act; for a perlocutionary 'act' is constituted by *any further* action by the hearer of the utterance, be it cognitive or non-cognitive. For example, the action of weighing up the proposition contained in the utterance or the action of forming further beliefs about it are examples of perlocutionary 'acts'. A perlocutionary act can be *any* belief or action adopted in consequence of hearing the speech act. This is one reason why it is not helpful to speak of illocutionary-perlocutionary 'pairs' as Bird does. See Bird 2002: 9.

⁶ It is doubtful whether all the examples adduced by those arguing for the claim that a doing with words requires no uptake and that accordingly a *silencing* is only possible by physical means are truly cases of *speech* actions. Bird makes reference to instances of 'groans' as a speech act. Arguably such cases do not even cross the phatic act threshold. So they cannot be said to be speech acts in Austin's sense. Nevertheless as vehicles of meaning the same success conditions apply to them as to *speech* acts properly speaking.

The point here may be that the class of illocutionary acts encompasses communicative actions that are not *speech* acts strictly speaking.

⁷ Bird expresses confusion about why the 'content of an uptake is sufficient to determine the content of an illocution' (Bird 2002: 3). It is not the *content* of uptake that determines the content of illocution. The speaker's complex *intentions* determine the *meaning* of his utterance, following, among others, Grice and Strawson. And whether a hearer *understands* the speaker's complex intentions depends (*ipso facto*) on the hearer's mindset. The central question however is whether it is factors *extraneous* to linguistic competence that interfere or block the hearer's understanding of the speaker's words (illocutionary or rhetic act failure) or whether such factors merely affect the perlocutionary act, which they will in any event (even if they are not factors of gender and social status). On the same page of his paper Bird also asks why '*actual* uptake should determine the nature of the illocution' (Bird 2002: 3). Actual uptake co-constitutes a fully successful speech act, as we have seen. Whether another sense of *doing* something with words, other than Austin's, can be carved out, I address in this paper.

⁸ Metaphysically speaking, an agent's *understanding* something, or to put it more precisely, an agent's *coming to understand* of something can be either an action or an event. It is more likely to be an event, as *coming to understand* is more likely to be something that happens to one as opposed to something that an agent *does*. It is of course conceivable that an agent may do various things to increase her chance of coming to understand. I have left the possibility open that coming to understand may also be an action, as one's answer to this question will ultimately depend on one's views on mental action. It is not necessary for me for the purposes of this paper to take a stance on this issue. I thank Matthew Manning for conversation of this point.

⁹ See note 8.

¹⁰ I am using the illocutionary act of *telling* here as an example, simply because *telling* seems to me to be the most 'basic' type of illocutionary act.

¹¹ Austin reminds us that 'Acts of all our three kinds [the locutionary, the illocutionary, and the perlocutionary] necessitate, since they are the performing of actions, allowance being made for the ills that all action is heir to. We must systematically be prepared to distinguish between "the act of doing *x*", i.e. achieving *x*, and "the act of attempting to do *x*". In the case of illocutions we must be ready to draw the necessary distinction, not noticed by ordinary language, except in exceptional cases, between (a) the act of attempting or purporting (or affecting or professing or claiming or setting out) to perform a certain illocutionary act, and (b) the act of successfully achieving or consummating or bringing off such an act. This distinction is, or should be, a commonplace of the theory of our language about "action" in general. But attention has been drawn earlier to its special importance in connexion with performatives' (Austin 1976: 105–6; the addition in square brackets is mine, and does not appear in the original text).

¹² The action of making an utterance could of course also symbolically be represented as Ψ -ing. Then that which it is distinct from—i.e. a different sense of *doing* with words—could be represented symbolically by ϕ -ing, or another symbol distinct from Ψ . In other words it does not matter which symbol is associated with the action of uttering and which with the event of *doing*. What is noteworthy however is Bird's conflation of the action of uttering or speaking (' ϕ -ing') and that of a doing with words (also represented as ' ϕ -ing').

¹³ Of the examples he mentions the following too are institutional performatives although not classed as such by Bird: a soldier's surrender on the field of battle, as well as the legal categories of slander, rape and defamation.

¹⁴ Bird writes, for example, 'the cases just mentioned show that the following is true ...' (Bird 2002: 8).

¹⁵ See also in this paper the importance in this context of not equivocating the legal and non-legal senses of a term.

¹⁶ Maitra and McGowan, 2010, suggest too that one must distinguish between speech acts that fail as a result of what they term 'meaning switches' and those cases that are strictly speaking failures as a result of the hearer failing to take up the force of the spoken words. They put forward a reading of the sexual refusal example by means of a woman uttering 'no' as one where *only* the *force* of her words was *not* taken up (but sense and reference *were*). Their argument relies strongly on the audience-directed aspect of the 'force' of a saying, and that uptake of that aspect of a saying depends on the mindset of the hearer and the speaker being attuned such that the 'force' of her words can be taken up *irrespective of a possible meaning switch*. The example by means of which they illustrate their argument is that of Liza asking Trey whether he would like a coffee. He accidentally responds by saying 'yes' even though he meant to say 'no'. Yet Liza understands the force of his words to be a refusal of the offer of coffee, *in spite* of the (here accidental) meaning switch. I think McGowan and Maitra's argument is a good one in bringing out the importance that the *force* of words has. Their argument is not inconsistent with mine. Maitra and McGowan's paper is a response to a paper by Nellie Wieland (2007), also in the *Australasian Journal of Philosophy*. Maitra and McGowan are right to disambiguate (inter alia) two distinct kinds of cases that Wieland runs together as instances of 'meaning switches'.

¹⁷ In the second instance of uttering—when trying to warn his audience of an actual fire that has broken out in the auditorium—the actor repeats the warning 'Fire, Fire!' and also adds the words 'I mean it! Look at the smoke!' Nevertheless—that is, in spite of the fact that further words are added at the second instance of uttering, when the actor tries to warn the audience of the fire that has broken out in the auditorium, my argument holds. The meaning of either instance of uttering 'Fire, Fire!' is not the same. The actor fails to get across to the audience that both reference, and sense, of the second utterance of 'Fire, Fire!' is not the same as that of the first, in spite of adding—as it were as a referential or indexical pointer—'I mean it! Look at the smoke!'.

¹⁸ The symbolization of illocutionary acts is from Searle: see Searle 1969.

¹⁹ My account is consistent with Davidson's of why the actor failed. He says 'It should be obvious that the assertion sign would do no good, for the actor would have used it in the first place, when he was only acting. Similar reasoning should convince us that it is no help to say that the stage, or the proscenium arch, creates a conventional setting which negates the convention of assertion' (Davidson 1984: 270).

²⁰ An actual change of context is not required. The hearer imagining a change of context is sufficient. See also above.

²¹ See above. More specifically, what happens in the case of the audience to the actor's words is that the audience takes the utterance of 'Fire!, fire!' to refer to the world within the play and not the context of the auditorium—i.e. mistaking the demonstrative or indexical reference of the uttered words (i.e. not *{this fire}*, but *{that fire}*). Whereas what happens in the sexual refusal example is that the audience or the hearer takes the word no to *mean* yes—either by (mistakenly and without any signal from the speaker) placing it in an (imagined) context where no would mean yes; or alternatively, taking the speaker—without the speaker (or the setting) having given any indication that this is so—to be speaking in a language where no *means* yes.

²² The reason why I am saying that it is *ex hypothesi* that there would be no patent indications from the speaker or the setting that she might be using an idiolect where no

means yes is that what this paper—and the entire debate that I am addressing—is dealing with is the possibility of the inherent dynamic of language being blocked by factors extraneous to one's linguistic competence, such as gender or social status. If there was a signal from the speaker, or the setting, indicating that the reference of the uttered terms had shifted, then in either case—whether the hearer would be taking that signal up, or whether he would not be taking it up—we would not *necessarily* be dealing with the inherent dynamic of *language* being *blocked* by factors extraneous to it, but just with 'ordinary' failures of communication. That is, in such a case (with signals of a possible change of reference being manifest in the actual context of the speech action) we would be dealing with a speaker's and hearer's competence or lack of competence to understand what their interlocutor was saying to them. This would concern linguistic competence, and the degree of reciprocity between the parties, *but* it would not *necessarily* concern factors extraneous to linguistic competence—i.e. factors out-with the domain of language, such as social status or gender—which are such as to be *blocking* the hearer's ability to pick up the meaning and/or force of what has been said.

The point I am trying to make is this. Consider the contrast between a speaker's linguistic competence being such, and his general degree of reciprocity to his interlocutor being such, that the dynamic of *language* can *unfold* unhindered *generally*. That is to say, hearers and speakers might not on all occasions grasp the meaning and force of the other's utterances—they might make mistakes, including mistakes induced by the context of speech—yet their general degree of linguistic competence is such and the general degree of reciprocity is such that each party is receptive and open to the general dynamic of language in use. Contrast that with a case where at least one party to the exchange is not in general receptive to the unfolding of the dynamic of language—and that is because something in the context in which the speech action takes place or because something about the hearer blocks him from taking up force and meaning correctly. I might be such that on every Tuesday my mindset is such that I am unable to grasp what someone or anyone is telling me; although in general, on any other day, I am fully able to grasp the meaning and force of most of my interlocutors. Or I may be such that when I am faced with someone from the opposite sex or with someone whom—by dint of his appearance, and demeanour—I take to be from far away (e.g., another region of the world) I fail to grasp what she is telling me *because* I think they know no English, understand nothing, and have nothing of value to tell me. Because I do not attribute any veracity or truth value to anything they *might* say, I am unable to grasp what they are saying. In that case my perception of them is such that the dynamic of language cannot unfold between us; even though on other occasions—with persons of another kind—I am receptive to the dynamic of language. (One can imagine a Fawlty Towers sketch along those lines.) If, however, I do understand the meaning and the force of what such a person is saying to me—in spite of my perception of him—but choose to disregard it, language will have worked its dynamic; and we are then in the realm of perlocutionary and not illocutionary or rhetic act failure. Put very simply, in one kind of case those factors which could block a hearer's ability to grasp the force and meaning of words—call them the class of factors of *p*—and that class of factors might be something about the speaker or the context—might be present in the total speech act situation without their presence affecting the interlocutor's ability to grasp the meaning and force of the spoken words. In the other case their presence is such as to block the hearer's otherwise intact receptivity to grasping the force and meaning of what someone is saying to them.

On why the mere presence of the context of a sexual encounter cannot itself be taken to indicate a change of reference or signal a change of meaning, see above.

In cases where taking a woman's no to mean yes becomes part of our *language*, then taking it to mean yes would not be an illocutionary blocking. Wieland (2007) tries to make an

argument of this kind. Maitra and McGowan are right to emphasize that convention spreading is not just a matter of mere repetition; however and that such a language (where a woman's utterance of no means yes) is not *our* language: see Maitra and McGowan 2010: 169–70.

A case where someone from a different language community where a woman's utterance of 'no' is such as to *mean* yes (e.g., in that other language community 'non' when uttered by a woman would be such as to mean *oui*) assumes, mistakenly, the same convention to be operative in our language (i.e., mistakenly assuming 'no' when uttered by a woman to *mean* yes in our language community) we might be said to be dealing *in the first instance* not with a case of illocutionary silencing but with a case of a failure to understand correctly or fully the language in question. Incidentally it would also be a case of illocutionary silencing but this is *not* the kind of case that the notion of silencing seeks to highlight. Cf. Bird 2002: 4.

²³ Theoretically the two ways referred to above by which a hearer might take the meaning of a speaker's words to be distinct from the meaning which they carry by dint of the speaker's intention and also by dint of general convention—i.e. taking their reference to be different (i.e. placing it in a make-believe context) or taking her to be conversing in an idiolect or language in which she is not conversing but in which the words would carry the meaning that he takes them to carry—must be regarded as distinct. Although I recognize that in practice—in an actual situation of speech act silencing—the two might run together.

²⁴ I wish to stress that my account of why a speech action might fail for reasons of rhetic act failure is consistent with Davidson's emphasis that the setting of the stage does not negate the force of an utterance. (See note 19.) What I am suggesting is that the reference of an utterance depends on the context in which it uttered—and that in some instances a speech act might fail for reasons of rhetic act failure when the hearer takes the reference of the words to be that which they are not. One way that this might occur is if the hearer takes the speaker's words to refer to an imagined world or an imagined language, which is not shared by the speaker.

²⁵ It is precisely this which distinguishes the actor from the sexual refusal example. In the case of the actor example, the audience has plenty of cues in place to suggest that the reference of the actor's words is the world within the play. On why this argument cannot be transferred to the sexual refusal example, see above. One further difference then between the sexual refusal example and the actor example is that the actor example might be a case where the *general* reciprocity between actor and audience is such that the dynamic of language *can* unfold in an unhindered manner: it is just in this one instance of the actor while on stage uttering 'Fire!, fire!' that the audience—*because* of the cues that are in place with regard to the likely reference of the uttered words—makes a mistake regarding the meaning of the actor's words, and takes them to refer to the world within the play. In the actor example then the speech act fails for reasons of rhetic act failure because the audience mistakenly take the meaning of the utterance of 'Fire!, fire!' to refer to the conventional frame of reference—conventional with respect to the *context* of utterance (i.e. the stage, the actor on stage, the scene in the play enacted before the fire breaks out, and so forth). In the sexual refusal example the speech act fails for reasons of rhetic act failure because the hearer takes the meaning of the utterance of 'no' *not* to be conventional—not conventional both in general and with respect to the context of utterance (if one wants to make room for such a distinction). On why the sexual framework by itself cannot be taken to be a cue indicating that the meaning of the utterance of 'no' has changed see above.

²⁶ See note 5, and below.

²⁷ See notes 22 and 25.

²⁸ On the question of the hearer's responsibility for his actions in cases of speech act failure, see, for example, Hornsby and Langton 1998: 28–31. My argument above might indicate that the hearer could be held to be responsible furthermore for knowingly or recklessly or negligently engaging in certain actions, events or processes that risk *undermining* his *general* state of sufficient reciprocity with other speakers of the language in which he communicates. That is, he might have to be held responsible also for engaging in such actions, events or processes that effectively undermine his ability to gauge correctly the context and frame of reference with respect to which he and his interlocutor use language to say things and to do things. See also note 22.

²⁹ In their 2010 paper Maitra and McGowan also emphasize the importance of reciprocity obtaining between the parties to a speech action. They show that when such reciprocity obtains a speech action might *succeed* also in a case where the speaker uses a word that is conventionally used to signal assent (i.e. saying 'yes') but when they intend to refuse. In their example Trey intends to refuse an offer of coffee but absentmindedly says 'yes' (instead of 'no'). In spite of this Liza, who offered him the coffee, understands that he intends to refuse—hence because of the degree of reciprocity obtaining between Liza and Trey, the uptake of his speech action is secured. What Maitra and McGowan's example shows is that the *force* of an utterance (to refuse) can come off—and the illocutionary act succeed—even when the meaning of the words used is such as conventionally used to bring off another sort of illocutionary act (i.e. to accept). One might argue that in such a case there was rhetic act success because of the illocutionary act success. That is, *because* Liza *understands* that the force of Trey's utterance was to *refuse* (and not to accept), she also understands that Trey *means* no (even though he said yes). If I am right here, this example also shows that meaning and force might be tied more closely than has previously been thought. Still as we have seen above there can be cases where the speech act fails for rhetic act failure even though the force has come off. Maitra and McGowan's example shows that where there is sufficient reciprocity the risk of rhetic act failure and illocutionary act failure can be averted. Their example then might be said to also highlight the special role that the force of a speech action can have (in saving the rhetic act too). I seek to argue that where rhetic act failure occurs it might signify a yet more fundamental form of silencing.

³⁰ Elsewhere in the same paper Bird asks whether it is the 'content of the uptake' that determines the 'content of an illocution'. The *content* of the locution and of the illocution might be regarded to be the proposition expressed by an utterance. Whether that meaning is *understood* is relevant to the question of whether the illocutionary act succeeds. But whether the meaning is grasped does *not*, conversely as it were, determine the 'content of the locution or illocution'; it does not determine the *meaning* of the utterance at all. That is, it does not determine or in any way affect its sense, reference, or force. We can see how Bird's conflation of *φ-ing* (uttering) and *Ψ-ing* (doing) might lead him to be equivocated about the role of the speaker's intention, and lead him to pose this question as he does.

³¹ Bird says 'But no effect is required to grumble, rejoice, pray, gossip, or slander. Consequences are not brought in here. In certain circumstances, all that is required is that I should utter "Bloggs is a bounder and a thief" to have slandered Bloggs—it does require anyone to believe me—merely *in* saying that to an audience I have slandered Bloggs. . . . Here the act performed depends on the falsity of the report and the intention of the speaker, but not on any effect of the utterance. Defamation does bring in effects. So we have an illocutionary-perlocutionary pair—slander and defamation—where perlocution is achieved when the illocution has the intended effect' (Bird 2002: 9).

³² This failure to distinguish between the legal and the non-legal senses of a term is also manifest in the discussion as to whether in cases of illocutionary failure the man who

takes a woman's utterance of 'no' not to be the refusal it purports to be is no longer guilty of the offence of rape. Given that the contemporary social context is such that an utterance of 'no' in the domain of sex generally is regarded as carrying the force of a refusal a judge would not regard his failure of uptake as a ground of lessening his responsibility, save for under the ground of insanity, which would have to be separately established. Maitra and McGowan rightly point out that this happy circumstance is contingent on the values that we regard as governing the sexual domain of life. It might also be salutary to remember at this point that it is not so long ago that the offence of rape within marriage was established. Nevertheless we need to remember that intension and extension of a legal category are quite different from that which the corresponding concept has in ordinary speech. A discussion on speech acts and rape can be found in Jacobson 1995; Bird 2002: 3; Maitra and McGowan 2010: 167, 170–171, and Hornsby and Langton 1998: 28–31. The point of responsibility with regard to the domain of ordinary language is addressed by Maitra and McGowan 2010, Hornsby and Langton 1998, and earlier in this paper.

³³ Also see note 5.

³⁴ Moreover, Bird and Jacobsen appear to suggest that illocutionary act failure as a result of a speaker's words being taken to be insincere when they are sincere is the same *kind* of failure as that which occurs when the speaker speaks *insincerely* but is taken to speak *sincerely*. They are two distinct kinds of case however. The first kind is rhetic act failure. Only the latter is an 'abuse' in the sense I discuss in the text above. A yet different kind of failure is perlocutionary act failure. These points relate to a protracted discussion about one example (first raised by Daniel Jacobsen in his 'Freedom of Speech Acts') in the papers by Jacobsen, Hornsby and Langton, and Bird. The case is that of Uncle Harry who receives an invitation in the post to the wedding of his niece Sally. See Jacobson 1995: 73–4; Hornsby and Langton 1998: 30; Bird 2002: 10.

³⁵ See note 8.

³⁶ Maitra and McGowan show that even in cases that *prima facie* look like instances of a 'meaning switch', uptake of force remains central and important as to whether a speech action has come off. I agree with this point. I am suggesting that uptake of sense, reference and force might be more closely tied together than previously thought. Moreover, my account *preserves* responsibility for those participants in linguistic exchanges who have allowed their capacity to *understand* the sense and reference of what someone says to them to be undermined. Hornsby and Langton properly stress that '[t]he fact that the woman performed no illocutionary act of refusal could then have no tendency to show that the woman *consented*' (my italics, Hornsby and Langton 1998: 31). I stress that there must be a *further* sense of responsibility attaching to someone who permits his general capacity to understand what someone means when they say something in a language which he shares to be undermined. (See notes 21 and 27.) More particularly, many of the cases that Bird mentions are cases of locutionary act failure—contrary to his suggestion that they refute the requirement of uptake, my discussion shows that the scope of the requirement of uptake is wider than previously thought, namely, such as to include the sense and reference of an utterance.

³⁷ See note 8.

³⁸ As I have argued above, in Maitra and McGowan's example of an attempted and successful refusal of an offer of coffee, the force is grasped because the mis-spoken yes is correctly understood to *mean* no. (See note 28.) Maitra and McGowan's other example of a purported 'meaning switch'—that of Ella saying no to an offer by Peter of assistance with her bags, intending to refuse, and Peter taking Ella to speak sarcastically—to my mind is in Austin term's likely to be regarded as an abuse of language. Nevertheless I concur with the thrust of Maitra and McGowan's argument against Wieland. My account of hearer

responsibility is consistent with that of Maitra and McGowan; even though my account expressly extends responsibility to rhetic act failure.

³⁹ For the longer quote see note 11.

⁴⁰ I wish to thank (in alphabetical order) Daniela Helbig, Jennifer Hornsby, Glenn Most, James Pryor, Jennifer Saul, and Gopal Sreenivasan for generously and helpfully commenting respectively on different drafts of this paper. My thanks go also to the anonymous referee appointed by the *European Journal of Philosophy*, and their instructive comments. I also wish to acknowledge the support of the Max Planck Institute for the History of Science (Berlin), which provided a more than perfect context in which to complete this paper.

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