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Identifying a new type of fallacy in political discourse

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ABSTRACT: On April 4, 1918 Senator Overman urged his colleagues in the United States Senate to approve the Sedition Act of 1918 within two days. The paper outlines the context of the proposal, and argues that it involved a fallacy. An analysis of the fallacy is offered, and it is argued that in the study of political discourse it is often helpful to take the inner convictions of speakers into account.

KEYWORDS: *ad socordiam, ad urgentiam*, James Madison, second order intention, political rhetoric

1. INTRODUCTION

For this article it is suitable to start from a textbook definition of an informal fallacy:

It is customary in the study of logic to reserve the term "fallacy" for arguments that are *psychologically* persuasive but *logically* incorrect; that *do* as a matter of fact persuade but, given certain argumentative standards, *shouldn't*. We therefore define "fallacy" as a type of argument that *seems* to be correct but that proves, on examination, not to be so. (Copi & Burgess-Jackson, 1996, p. 97; emphasis in the original)

One important feature of this definition is the emphasis placed on argumentative standards, and this entails a normative element in the definition of a fallacy. For his part Jeremy Bentham, almost two centuries ago, drew attention to another feature often found in informal fallacies:

By the name of *fallacy* it is common to designate any argument employed or topic suggested for the purpose, or with the probability of producing the effect of deception, or of causing some erroneous opinion to be entertained by any person to whose mind such an argument may have been presented. (Bentham [1824, 1952], 1962, p. 3)

Not all arguments are deceptive, but the type of fallacy to be explored here does have that feature.

For his part the present author gave the following definition of a fallacy in 2005:

A fallacy is a tactic or an argument of a counter-constructive or deceptive nature used by a speaker in an attempt to prevail over an opponent in a dialogue. (Rudanko, 2005, p. 725)

A key word here is the word “counter-constructive.” It is meant to convey that a fallacy is not constructive from the point of view of the purpose of the dialogue in question. As for the notion of prevailing over an opponent, it should be understood in a broad sense, to include attempts by a speaker to influence the opinions of the hearer and attempts by the speaker to influence the hearer to adopt a certain course of action.

In Rudanko (2009) and (2012a) the present author explored the fallacy of *ad socordiam*, using political debates from the early American Republic as sources of data. The debates in question concerned the history of freedom of speech in the United States, and the studies had the twin purpose of shedding light on fallacy theory and on the history of a distinctive feature of American political culture. The present study has the same general objectives, and examines a different type of fallacy from a political debate from a different period of American political history, and the debate in question again concerns basic civil liberties. It is helpful first to review an example of the fallacy of *ad socordiam*.

The example concerns a Congressional debate in the history of the American Bill of Rights. Today the United States Federal Bill of Rights is taken for granted by most people as a cornerstone of basic individual rights, including the freedom of speech, but it is worth recalling that at the Constitutional Convention in the summer of 1787 a proposal for a Bill of Rights had been rejected in an unceremonious fashion, not receiving the vote of a single State. However, on June 8, 1789 James Madison, who was a member of the United States House of Representatives at that time, moved that the House of Representatives should constitute itself as a Committee of the Whole on the State of the Union, in order to consider his proposal for a Bill of Rights. A very long debate ensued in response to Madison's proposal. At one point Madison outlined his proposal for amendments, but the debate did not concern the substance of any potential amendments, and instead it focused on the procedural question of whether or not the subject should be considered at all at that point in time. Among the most vociferous opponents was James Jackson of Georgia. He said in part:

Mr. JACKSON.—I am of opinion we ought not to be in a hurry with respect to altering the Constitution. [...]

Let the Constitution have a fair trial; let it be examined by experience, discover by that test what its errors are, and then talk of amending; but to attempt it now is doing it at a risk, which is certainly imprudent. I have the honor of coming from a State that ratified the Constitution by the unanimous vote of a numerous convention; the people of Georgia have manifested their attachment to it, by adopting a State Constitution framed upon the same plan as this. But although they are thus satisfied, I shall not be against such amendments as will gratify the inhabitants of other States, provided they are judged of by experience and not merely on theory. For this reason, I wish the consideration of the subject postponed until the 1st of March, 1790. (Gales, 1834, pp. 425-6)

James Jackson thus moved that the House of Representatives should postpone any consideration of amendments by some nine months. It was argued in Rudanko (2009) that Jackson's motion for a postponement may have been an instance of *ad socordiam*. In order to analyze this fallacy, it is helpful to proceed from Jeremy Bentham's comments on one type of *ad socordiam*:

This is the sort of argument which we so often see employed by those who, being actually hostile to a measure, are afraid or ashamed of being seen to be so. They pretend, perhaps, to approve of the measure; they only differ as to the proper time to bring it forward. But only too often their real wish is to see it defeated forever. (Bentham [1824, 1952], 1962, p. 129)

Bentham does not give prominence to the term, but implicit in his comments is the notion of a hidden agenda. To get a purchase on this concept and on the fallacy itself, it is helpful to note that speakers proposing or advocating a certain course of action in a Congressional debate, or in any political debate, may have intentions or goals which they wish their hearers to recognize. Such intentions may be termed overt and the term “communicative intention” may be applied to them. However, in addition speakers may also have intentions or goals which they wish to keep hidden. These may be termed covert intentions and goals. The study of covert intentions involves making inferences about the inner convictions and goals of speakers. Some commentators may wish to downplay or set aside the role of inner convictions and instead to focus intentions which the speaker wants the hearer to recognize. However, speakers do sometimes have secret agendas such that they do not want to communicate them to their hearers and the study of inner convictions and covert intentions is essential in the analysis of deceptive and manipulative communication (Rudanko, 2005).

Further, it was suggested in Rudanko (2009) that a distinction between first-order intentions and second-order intentions is also helpful in the analysis of *ad socordiam*. A first-order intention is an intention about the world, and a second-order intention is an intention about a first-order intention. It was then proposed that Jackson’s motion for a postponement of the debate may be analyzed in two parts, taking the distinction between overt and covert intentions into account:

Part 1

Jackson’s first-order intention, overt:

Jackson wanted to secure a postponement of the consideration of amendments in order to give the new Constitution a fair trial.

Jackson’s second order intention about the first-order intention:

Jackson wanted this first-order intention to be recognized by his audience.

Reason or rationale for the overt first order intention:

The claim that it is reasonable to give the new Constitution a fair trial before amending it.

Part 2

Jackson’s first-order intention, covert:

Jackson wanted to kill the project of amendments by means of securing a postponement of the consideration of amendments till March 1, 1799.

Second-order intention about this first-order intention:

Jackson did not want the first-order intention to be recognized.

Reason or rationale for this first-order intention:

Jackson was opposed to the amending the Constitution.

A key question, taken up below, relating to the postulation of covert intentions is of course on what basis an investigator may presume to make inferences about the intentions or goals of speakers.

2. ON AN ARGUMENT IN A DEBATE ON THE SEDITION ACT OF 1918

The present study now turns to an aspect of another political debate in a different period, but again the purpose is both to shed light on fallacy theory and to illustrate the application of fallacy theory to the study of an important historical debate. The debate took place in April 1918, with Woodrow Wilson, a Democrat, in the White House. Rudanko (2012b, pp. 164-169) discussed a number of arguments used, and the present study aims to provide a fuller and more explicit analysis of one particular fallacy in the debate.

The Federalist administration of John Adams had sought to stifle dissent and criticism of his administration with the Sedition Act of 1798. However, Federalists went down in defeat at the end of Adams's first term, and during the nineteenth century there grew a culture and a tradition of toleration for dissent even during conflicts and wars (see Stone, 2004, p. 145 and Rudanko, 2012b, Chapter 7). However, the Wilson administration represents a break from this tradition. Some historians have taken a positive view of what some have regarded as Wilson's elevated ideals, but in practice his administration was hostile to civil liberties. Here is how Smith characterizes Wilson's dispositions and personality:

As a person who ... made a point of saying that his being elected president and the outcome of World War I were determined by divine providence, Wilson recognized higher laws than the ones he swore to obey in his oath of office. [Note omitted] ... Feeling he was on a mission from God, Wilson did not find zones of moral neutrality or reasons for tolerance. Believing there was "more of a nation's politics to be gotten out of its poetry than out of all its systematic writers upon public affairs and constitutions," he was not predisposed to be bound by the words of the Bill of Rights. [Note omitted] (Smith, 1999, p. 129)

When the United States had entered the War in 1917, Wilson became active in promoting repression:

instead of being a check on suppressive legislation during World War I, the president and his cabinet encouraged it. [Note omitted] Unlike Lincoln, Wilson and the members

of his administration worked with Congress to truncate freedom of expression. [Note omitted] (Smith, 1999, pp. 130-1)

There were a number of repressive measures introduced by the Wilson administration in 1917 and 1918. The most important legislative provisions were the Espionage Act of 1917 and the Sedition Act of 1918. As conceived by the Wilson administration, the Espionage Act of 1917 was to have included a press censorship provision, but it was voted down in May 1917. However, about a year later, a proposal for a Sedition Act was before Congress. It was introduced on the Senate floor on April 4, 1918, and as reported by the *New York Times*, the key provision had this form:

The bill provides that whoever, when the United States is at war, shall utter, publish, print or write any disloyal, profane, scurrilous, contemptuous or abusive language about the form of government of the United States, or the Constitution, or the soldiers or the sailors of the United States, or the flag or the uniform of the army or navy, or any language calculated to incite or inflame resistance to any Federal or State authority, or who shall by word or act favor the cause of Germany or her allies, shall be imprisoned for twenty years, or fined \$10,000, or both. (*New York Times*, April 5, 1918)

The chief sponsor of the Sedition Act in the Senate debate of April 4 was Senator Lee Slater Overman, Democrat of North Carolina. Early in the debate Senator Lodge, Republican of Massachusetts, asked for a postponement:

Mr. LODGE. Mr. President, this bill was only brought to my notice yesterday, and I hope the Senator having it in charge will allow it to go over for a day. I should like to have an opportunity to consider it a little more carefully. With the House bill, as amended by the Senate committee, no one can, of course, find any fault; but the long amendment introduced by the Judiciary Committee, although everyone must sympathise with its purpose to cure the evil aimed at, seems to me, if I may venture to say so, rather sweepingly and loosely drawn; and I think as it stands it might be subject to very serious abuse for purposes not contemplated in the statute at all. Before debating it I should like to examine it further. I should like an opportunity to consider the language more carefully than I have been able to do, and I wish the Senator would allow it to go over for a day that I may have that opportunity. (*Cong Rec*, April 4, 1918, p. 4561)

Recalling the fallacy of *ad socordiam*, one might ask whether Lodge's request for a postponement may have been an instance of *ad socordiam*. This does not seem a reasonable interpretation, simply because the postponement asked for is only one day. It is recalled that in the case of Jackson's motion the length of time in question was over nine months. While the question of *ad socordiam* does not arise in the case of Lodge's motion, the example shows that the length of a proposed postponement should be taken into account when assessing the possible salience of *ad socordiam*.

Overman responded to Lodge's motion:

Mr. OVERMAN. Mr. President, when I reported this bill, I had it, together with all the amendments, printed in the RECORD, as well as printed in the usual bill form, and I gave notice on the floor of the Senate that I wished Senators would examine it, as I wanted to take it up at the first opportunity, because the bond sale begins on the 6th of April,

and the department is very anxious to have this bill sent to the House, so that the House may act upon it as amended by the time the bond sale begins. (*Cong Rec*, April 4, p. 4561)

Overman is thus arguing against agreeing to Lodge's motion to postpone debate on the Sedition Act by one day. He was urging the Senate to act immediately. The debate took place on April 4, 1918, the bond sale was scheduled for April 6, 1918, and he was arguing that the House of Representatives should be able to "act upon it" before April 6. His proposal to fast track the Sedition Act through the Senate so that it should be acted upon by the House of Representatives by April 6, 1918 may be viewed as an attempt to get the Act approved in the Senate by not permitting the Senate a reasonable amount of time to debate the measure. Of course, an attempt to deprive a legislative body of a reasonable opportunity to debate a measure is a discreditable and reprehensible undertaking, and the Senator did not wish to make such an intention public. The informal fallacy then consists in Overman attempting to deprive the Senate of a reasonable opportunity to debate the bill by rushing the bill through the Senate, using the bond sale as a disingenuous excuse or subterfuge.

The fallacy in question bears a relation to *ad socordiam* in that a speaker urging a certain course of action has a hidden agenda motivating his behavior, and the interpretation offered may be expressed as follows, taking advantage of the concepts of overt versus covert intentions and of first-order and second-order intentions.

Part 1

Overman's first-order intention, overt:

Overman wanted to ensure the success of the bond sale by securing the passage of the Sedition Act prior to the bond sale.

Overman's second-order intention about this first-order intention:

Overman wanted the first order intention to be recognized by the audience.

Reason or rationale for the overt first-order intention:

It was in everyone's interest to ensure a successful bond sale, and because passage of the Sedition Act would facilitate the success of the bond sale, the Senate should act on the Sedition Act without one day's delay.

Part 2

Overman's first order intention, covert:

Overman wanted to take advantage of the proximity of the bond sale to push through the Sedition Act, blocking reasonable debate of the Act.

Overman's second-order intention about this first-order intention:

Overman did not want this first-order intention to be recognized by his audience.

Reason or rationale for the covert first-order intention:

Overman wanted to get the Sedition Act approved, irrespective of whether there was a bond sale or not.

The label *ad urgentiam* is offered as the name of the fallacy in question. In the case of *ad urgentiam* a speaker thus uses an excuse to block a reasonable amount of discussion, in order to get a measure approved fast. Different types of *ad urgentiam* are conceivable, taking the rationale used for the appeal into account. In the present case *ad urgentiam* is based on an appeal that the Senate should approve the measure under discussion quickly so that another measure – a bond sale – can be successfully implemented, with the second measure commanding universal support. This type of *ad urgentiam* might be called preparatory *ad urgentiam*.

A natural question to raise at this point concerns the basis on which a covert intention is attributed to Overman. In Rudanko (2012a, p. 33) Grimshaw (1990) was invoked to draw inferences about covert intentions relating to the fallacy of *ad socordiam*, and the same source is relevant to drawing inferences about covert intentions in the case of *ad urgentiam*. He writes:

This [interest in interactional agendas] leads to a focus on what I have called “disambiguation” [note omitted] of participants’ own interpretive and inferential practices and attribution, to participants, of goals (purposes, intentions). This last, i.e., attribution of purposiveness to participant behaviors, will be sharply criticized by those students of talk (e.g., conversation analysts) who argue that this implies the ability to “get into people’s heads” and requires unwarranted inferences and claims. The researchers whose work is reported here do not contest the position that what is in people’s heads is accessible neither to analysts nor to interlocutors (nor even, ultimately, fully accessible to those whose behavior is under investigation). I believe most of them will also argue, however, that the availability of ethnographic context *and* of an optimally complete behavior record permits analysts to make such inferences and attributions which are “for-most-practical-purposes” (paraphrasing Garfinkel) no less plausible than those of actual participants. [Note omitted] This claim is subject to qualification but the disambiguation process is that which we ourselves employ in interaction – where, it must be conceded, we sometimes err. (Grimshaw, 1990, p. 281)

There are two considerations that emerge from this statement that may make it possible to make inferences about covert intentions. One concerns an “optimally complete behavior record,” and this is immediately relevant to the present case. It may be noted that Overman had been a prominent supporter of a press censorship provision when the Espionage Act was debated in 1917 (Carroll, 1919, pp. 626-7).

Second, Grimshaw refers to an ethnographic context, but it may be helpful also to view the context of a statement in the context of the debate in which it was made. Here we may follow the debate further: it is observed in the debate that Lodge immediately repudiated Overman's use of the bond sale as a reason for not permitting a postponement of the debate to the following day:

Mr. LODGE. Mr. President, the bill is not essential to the bond sale. We have placed two great loans, and we can place another, even if this bill is delayed for 24 hours. It is far

too important a measure to be crowded through in a few minutes because we want to get the bond sale started on the 6th of April. It will be started; the bond bill has gone through both Houses; and the loan will have the same success, and I believe a greater success than the previous loan. The relation of this bill to the bond sale is only one small item in it to which nobody makes any objection; but the amendment proposed by the committee is a very extensive one; it is very sweeping; it is very broadly drawn and I am afraid might be very much abused.

The Senator says that he brought the bill to the attention of the Senate and gave notice of his intention to call it up at the first opportunity. Some of us have been shut up in conference on the bond bill, without which the bond campaign could not be begun on the 6th of April; some of us have had something else to do; and the bill did not come to my attention personally—it may have been my neglect, but I do not think it was—until yesterday. A number of Senators desire to discuss it, and I think the Senator will expedite it by allowing it to go over. (*Cong Rec*, April 4, 1918, pp. 4561-2)

In response, Overman said the following:

Mr. OVERMAN. Senators can do as they please about delaying this bill. The people of this country are taking the law in their own hand on the ground that Congress is not doing its duty. In numerous cases it is said that men are being mobbed all over the country because Congress does not pass laws under which the guilty ones can be adequately punished. This bill has not only had the imprimatur of the Judiciary Committee, which reported it unanimously, but it is copied from the laws of States in the great West, which were not satisfied with what Congress has done in respect to the enactment of Federal law. Knowing that Congress has not acted, the States of the great West have passed laws more drastic than this. I will say to the Senator that something has to be done, and I feel the importance of the measure so much that I want to see it enacted as soon as possible. (*Cong Rec*, April 4, 1918, p. 4562)

Overman thus did not in any way question Lodge's point that the bond sale was not salient to the Sedition Act. In fact Overman's speech contains no reference to the bond sale any more, and this may support the view the bond sale was only a convenient excuse or subterfuge.

Instead, Overman shifted his rationale for attempting to fast track the discussion of the Sedition Act. He now appealed to the authority of States in the West which had enacted sedition laws and to the unanimity of the Judiciary Committee. The invocation of the Judiciary Committee has a suggestion of the fallacy of *ad verecundiam* in this case, and the Speaker may be taken to imply that extensive discussion is less necessary because of the unanimity. However, from the point of view of *ad urgentiam* Overman's reference to mob rule is more directly relevant. Overman is saying that the Sedition Act is urgently needed in order to forestall violence against those who are thought by some to be disloyal. There is no precise date here, unlike in the case of the bond sale argument above, by which the Sedition Act should be approved in order to remove the danger of mob rule, but the imminent and increasing threat of mob rule may still be taken to entail a need for urgent action.

This type of *ad urgentiam* is thus based on what is claimed to be a need to protect dissenters from an acute danger, and it might be termed protective *ad urgentiam*. However, given Overman's long standing position in favour of a Sedition Act, it may be held that this argument in favor of the Sedition Act and in favour of fast tracking the Sedition Act was also fallacious. After all, he was a supporter of a Sedition

Act even in the spring of 1917 even in the absence of the threat of mob violence. Here it is also pertinent to add another point. Stone (2004, p. 185) writes, quoting Chafee (1954, p. 41):

doubtless some governmental action was required to protect [dissenters] from mob violence, but incarceration for a period of twenty years seems a very queer kind of protection. (Stone, 2004, p. 185)

Stone and Chafee do not use the term “fallacy,” but their comment exposes the disingenuous and fallacious nature of the protective *ad urgentiam* as used by Overman in the debate of April 4, 1918.

3. CONCLUSION

In earlier work, the present author has argued that *ad socordiam* should be reinstated among standard fallacies because of its prominence in political discourse, and that it is appropriate to analyze that fallacy with the help of the two dichotomies of overt versus covert intentions and of first-order and second-order intentions. It is suggested that the fallacy of *ad urgentiam*, discussed in this study, may be analyzed with the help of the same dichotomies. At the same time, it should be noted that while *ad socordiam* is essentially about blocking an initiative, *ad urgentiam* concerns using questionable tactics to railroad an audience into agreeing to an initiative without having a chance properly to debate the measure and to expose any problems with the measure in the course of the debate. Both fallacies are forms of manipulation and they are found in political discourse, and it is suggested that the student of political discourse should be sensitive to their presence. To study such manipulative techniques of argumentation, it is further suggested that the analyst should not shy away from attributing goals and intentions to speakers and from studying their motivations and psychological states. To do so would be to fail to appreciate the full potential of fallacy theory.

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