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Commentary on: M. Gilbert's "But why call it an Argument? Defense of the Linguistically Inexplicable"

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Could Achilles prevailing over Hector be an argument? Could God smiting this or that enemy of the faithful be an argument? Could Jacob wrestling overnight with a supernatural opponent be an argument? Could medieval or other trial by combat be an argument? Could war, pre-emptive, defensive, or revolutionary be an argument? When Jefferson wrote for the colonies that things had gotten bad enough so that now action was called for and led the signers of the Declaration of Independence in a pledge of property and life on behalf of sovereignty, was this an argument? Surely *the document* contains one protracted written and seemingly deductive argument on behalf of the justifiability of revolt in the circumstances of the colonies. So perhaps that discursive bit of reasoning was an argument. But was King George's holding meetings of the legal authorities in places which were "unusual, uncomfortable, and distant from the depository of their public records for the sole purpose of fatiguing them into compliance with his measures" (itself one of the grounds adduced by Jefferson), a premise in that argument constituted by the Declaration? (Jefferson, p. 21) Or was only *the statement* that King George did that sort of thing a premise while the deeds of convening such meetings were not premises?

Arguments provide appeals to judgment and choice through reason. And while this way of putting the point is intentionally neutral with respect to whether arguments are written, spoken, or even unarticulated, still it seems clear that argument does not proceed by force or even a show of force if this is meant to preclude consideration and choice of what to believe, decide, or do. Argument proceeds through, that is, we give arguments in the provision of what functions as reasons in the sense of considerations on behalf of or in opposition to choosing to believe, decide, or act in some way. War, assault, even legal execution and personal deception are not forms of argument, but rather are undertakings instead of argument, undertakings that supplant or subvert argument—all argument, not some arguments. That said, King George's various subversions of colonial local rule were not themselves arguments or parts of arguments, regardless of their point. But *that* they occurred and were instances of ignoring or failing to ensure basic rights of the colonials, or that is, *the assertion that* they occurred and ran counter to basic rights was part of Jefferson's argument.

Michael Gilbert's paper raises the further question of whether King George's actions themselves might have been a functional part of that abstract socially constructed artifact which we might seek to refer to as Jefferson's argument. King George's acts were certainly not found in Jefferson's writings, though allegations and characterizations of what these acts were are to be found there. And unless we shift to speaking of the protracted struggle leading up to the Declaration, as the argument in question, King George's acts were not, except in memory or imagination, present in the room with Jefferson as he was drafting the document, nor in the room when the gathered notables debated the document drafts. Jefferson's argument does not contain the acts of King George, though his account and attribution of these could serve to stimulate memory and imagination so that this account had the same practical impact as if King George

were there and the debaters were witness to the deeds. So the social artifact, Jefferson's argument—both the text and the text inscribed in the ensuing debate, could have the practical impact of King George's acts. But they are not there now, nor were they there at its composition or later social reconstruction. And again, the King or his representatives were not giving an argument in the sense of a set of considerations serving to influence the choice of belief, decision, or action. King George and company were engaged not in the provision of reasons for consideration, but in assault, manipulation, or compulsion. Nevertheless, if I have it right, it is Michael Gilbert's express purpose to urge that not only the claim or assertion that the King behaved as he did, but also his behavior could have figured at least in Jefferson's argument on behalf of revolt, and perhaps this behavior was (and is?) even a premise in that argument.

Gilbert, so it seems, must not see giving an argument as the human act of providing reasons. Or he does not see the argument given as a set of considerations for us to take into account in choosing to believe, decide, or act. Let me emphasize the point. The view of giving an argument and of the argument given just expressed does not preclude the behavior of people or other agents from figuring into arguments by providing one source of considerations to take into account in choosing what to believe, decide, or do. Thus King George's behavior seems to qualify as a source of premises of argument texts or, more generally, as a source of considerations to take into account. But this is not to say the behavior was or is a premise or other part of an argument, and that is what Michael Gilbert wants to allow for. This discussion attempts to assess Gilbert's views on this point by attention to a different but closely related point.¹

Gilbert takes a stand on behalf of three points in his paper: 1) parts of arguments can be non-discursive, indeed, premises can be non-discursive—even including complex occurrences of human behavior. Thus, for example, someone throwing another in demonstrating enough competence at karate to overcome and restrain the other *itself* can count as a premise in an argument to the claim that, the agent is competent to restrain the other or people like the other. 2) And, following from 1, argument is "not necessarily linguistically explicable," since arguments might well involve complicated and in part unarticulable elements such as actions, or complex emotional responses (or, they might contain at least some kinds of such elements, at any rate). 3) And, to accommodate 1, and 2, argument, that is every case of argument, should be seen as an instance of a "broad and open practice" not as a product of reason (reflective or not), even if the product is taken as tentative and open to reconsideration and recasting, and even if it is the case that argument products can be effective tools for teaching the structure of reasoning and some of the rhetoric of the expression of reasoning. (Quotations in Gilbert, 2003, 16.)

Now, I do not want to challenge Gilbert's presentation of these stands individually, though I will comment on the way that one of these individual stances reveals a vulnerability of Gilbert's views. Rather I want to challenge the way in which Gilbert has raised those questions on which he has taken the above stands. My suggestions with respect to Gilbert's claims, in particular, will be two in number. First, it is not that Gilbert has misread his opposition so much as mis-addressed this opposition by ignoring an option that the opposition wishes to exercise. Second, arguments can be non-discursive in ways important to the tradition Gilbert seeks to represent, but not in the ways Gilbert suggested. Now, then, let us consider first things first.

Gilbert seems to say that we must make certain choices—(those stated above); choices concerning how *the single and all encompassing theory of argument* should understand arguments and their constituent parts. The opposition seems to say we have still other choices to make (between a variety of problematics in studying argumentation) and that these obviate the

need for the choices that Gilbert calls to our attention. Now in urging this I do not want to favor Gilbert's opposition over his views. Indeed, on the contrary, I wish to suggest that both Gilbert *and* his opposition need to think about a third possibility for understanding argument. This third approach would urge that we can gather various problematics of studying argument under one roof, but that this co-habitation is inevitably going to result in relationships in which there is influence across the boundaries of these different problematics so that while we do not have exactly Gilbert's choices, we will have others to explore, other choices in which we come to see an exchange of constraining influences running between arguments understood differently across these different problematics. Thus, for example, perhaps some of the constraints we see placed upon arguments seen as socially constructed texts (written or spoken) in some way will serve also as constraints upon arguments understood as interactive processes or in some other way, and, conversely. At least it is this possibility I want to raise. And, if there is such a possibility, Gilbert and others have not quite located their differences. If so, perhaps we will need to augment in a certain way the research program that, for example, Johnson set out recently in order better to locate those differences. (See Johnson, 2000, 353, and 360.) Let me look more closely and in this light at Gilbert's complaints and suggestions stated in the three-point stand above.

Strategically, Gilbert's stand is intended to challenge the core of the more prevalent views in a way calculated to undermine their prominence. Thus, Gilbert seems to see the issues he faces as problems of choosing between *all arguments* being emphatically products or processes, being necessarily and fully articulable or expressible, or not, and allowing for non-discursive elements serving as premises or else not making this allowance. However much this might seem to put the opposition in an uncomfortable position, this strategy overlooks the possibility of there being a range of linked understandings of argument across which all of these options are realized but just not in a theory of argument understood in only one of these linked ways. Might it not be the case, for example, that a variety of understandings of argument share the common core of being attempts to provide considerations in favor of (or in opposition to) choosing or accepting some belief, decision, or action, even as their differences allow for the realization of different configurations of the options in question.² Perhaps some forms of the study of argument exclude, for example, non-discursive items and others do not, even though both are studies of argument in the sense of attempts to provide considerations in favor of (or in opposition to) choosing or accepting some belief, decision or action? Indeed, this seems to be the point that Ralph Johnson makes in commenting upon the views of Charles Arthur Willard.

We certainly want theories of communication that will help us to understand the process of arguing [that is, of giving an argument] as an important form of human interaction. We also need theories of argument that will help us to understand and evaluate the products of such interchanges when the arguer takes the time to codify them—regarding them, if you will—and prettying them up for a wider audience. Willard's theory of argumentation is focused on the former, whereas mine is focused on the latter. *Our purposes are largely complementary*, although I believe there are fundamental disagreements, particularly on whether or not it makes sense to attempt to constitute Argumentation as a Discipline. (See Johnson, 2000, 324. Also see pp. 31 and 360. My emphasis.)

Thus if we allow some vagueness in the locution "providing considerations in favor of" we might speak of arguments inclusively so as to credit both the views of Charles Willard and Gilbert, as well as those of Gilbert's opposition (perhaps as "complementary"), and the choices that Gilbert sees as forced upon us become not exclusionary, but rather compartmentalizing. What we would need to keep straight is that this vagueness covers a variety of problematics and the views, standards, and paradigms that go with these. Our task would be not to violate these differences by criticizing across them urging that what is a standard or a paradigm case of argument or of presenting an argument within one of these problematics is simply mistaken because it is not the same as one of the standards or paradigm cases within another. The caution running with the expectations of this task would be that we are not to expect the ways of pursuing one problematic of the study of argument to be the same as or accountable to the ways of pursuing a different one.³

This move has a very distinguished history having been taken up by no less than Galileo Galilei. Galileo had been brought up on charges alleging that he was teaching (among other heretical beliefs) the heliocentric view of the world and thus the movement of the Earth. This was forbidden since these views contradicted the Church received views on the matters in question. Galileo sought to extricate himself from the grasp of the inquisition and its charges of heresy by arguing that since the problematic and methods of Catholic theology and textual interpretation differ from those he understood for science, the epistemic standards, the procedures and the conclusions of the one do not threaten those of the other, even though *both* might be understood as intellectual undertakings involving the constrained use of reason. This is the sort of move just suggested: argument has a common core of marshalling considerations on behalf of choices between candidate beliefs, decisions, and actions, but sharing that core there are different views of argument including, for example, argument as socially constructed product or text and argument as interactive process, and the problems and methods apt to study each of these are separate and detached so that the assumptions and conclusions in the one do not conflict with those of the other. But if there are not such conflicts then perhaps meta-theoretic decisions of the one will not be made in the same way as they are made in another. For example, perhaps non-discursive elements are found in one but not in the other. Thus, argument as Gilbert understands it might include such non-discursive elements without modeling what argument, as Johnson understands it, should include. This seems to be the move Gilbert overlooked even though it seems to be avowed by Johnson. (Indeed Johnson even goes out of his way to point out that, in his terminology, "argumentation" is the more inclusive term and a broad term for a kind of practice, while "argument" is *stipulated* to serve in a restricted way such that the study of argument is not to conflict with what he views as other endeavors under the rubric of the study of argumentation. See Johnson, 2000, 31.)

As we know, however, the Church was having none of Galileo's plea for epistemic compartmentalization and its accompanying form of methodological relativism. If the answers to questions in celestial mechanics are not found in Aristotle or his intellectual followers—thinkers whose work had been endorsed because reconciled with sacred texts and who had thereby been put in rapprochement with Church authority, and worse yet, if answers to such questions were in contradiction with those approved thinkers, then so much the worse for these aberrant answers. To challenge Church authority was to challenge the truth as known and to weaken that authority by appeal to methods and epistemic standards of truth that sidestep or disregard these authorities. After all, once supplanted in one area of knowledge, how then might authority hold its own in other areas—in those areas in which Galileo allowed it to prevail? If

fallible about the relatively simple mysteries of celestial mechanics, how much more fallible about sacred truth and God's will? That is, the Church at least acted as if its powers believed that compartmentalization of the work of reason does not really constitute epistemically separate communities of discussion. Indeed the methods and conclusions of one challenge and influence the other, even though they seem to differ in interest and method.

Now where in such possibilities might we place Gilbert? Is he saying that there is only one understanding of argument and of "*The Argument*" found in particular cases, and that this understanding must be as interactive practice, which includes behavior that is non-discursive and unarticulable? (See Gilbert, 2003, 7.) On this view, Johnson and others just get argument wrong. And this seems to be Gilbert's view.

While I admit that it is useful to consider argument as product, especially for pedagogical purposes, and I happily announce my belief that Informal Logic is an important and vital subject of study and practice, I do feel that argument must be understood as a broad and open practice (See Gilbert, 2003, 8.).

Thus if we are to get it right we must think of argument as practice not product, though within thinking of that practice, we might find some point to thinking of the construction of argument products as part of that practice or as a sub-practice.

If this is how to see Gilbert's contentions, Johnson's way of handling Willard's view of argument, namely the claim that he was doing something different from but perhaps complementary to what Willard was doing, will hold equally well against Gilbert. At that point, the only question remaining is what are we to talk about: practice or product and its genealogy (compare, are we interested in the empirical study of celestial mechanics or in the views of the Church authority on celestial mechanics)? Short of showing that there is no study of the sort that Johnson engages in, a move Gilbert avowedly does not want to make, Gilbert seems to have only two options: a) insist on a different notion of argument, give reasons why Johnson's stipulated notion of argument is infelicitous, and give reasons for rejecting the covering notion of argument allowing for compartmentalization; or b) accept the covering notion of argument and the compartmentalization move this allows but suggest that the compartments Johnson suggests are only separated by a permeable membrane so that influences run from the study of argument as practice to the study of argument as product (for example, the need to include behavior as premises), and in the other direction as well—that is accept the idea that they really are complementary views of argument and of the giving of arguments. The consequence of this second claim would be that we could not analyze either practice or product without bringing in features of the other. Could it be that Gilbert is ready to accept this possibility and thus his criticism of Johnson and others in the end is that compartmentalization does not preclude mutual influence and so a concentration on product to the exclusion of process is inadequate? This *could* be the sort of thing Gilbert is allowing for in his treatment of the argument between Ahmed and Lorraine over what sort of school their son should attend. The discussion, after an hour, still sees one favoring private and the other favoring public school, and at this juncture Ahmed makes and serves a pot of tea. Gilbert wants the tea serving (and perhaps the tea service) to be part of the argument. And he says this:

I want to claim that, *ceteris paribus*, Ahmed's making and serving Lorraine a cup of tea is part of the argument. Exactly what part is open for discussion, but a part it is. Perhaps, in

Informal Logic terms, it might be construed as a sub-argument, wherein Ahmed is pointing out to Lorraine that they are in this together. Or it might be, in Pragma-Dialectic terms, a brief return to the opening stage of the argument in order to set the standards for cooperation and problem-solving. In any event, a proper understanding of the process that is their argument necessitates an examination of all its parts. Ahmed's making a kind gesture speaks volumes, even though it is non-discursive. (See Gilbert, 2003, 7-8.)

The *ceteris paribus* clause is necessary to rule out possibilities of Ahmed seeking to depart from argument, or of Ahmed being uncooperative, or even seeking to harm Lorraine, for example by serving a beverage she does not like. But that said, here Gilbert is suggesting that perhaps just how "parts" of arguments figure in is not necessarily understood exclusively by one or another opposing approach (as Johnson says, perhaps the approaches are complementary), and then perhaps these different approaches might influence each other. But if this is where we are left, what are the mutual influences and how are we to understand and speak of them? Gilbert tells us nothing here that answers this question. Indeed he ends, as I have noted, with the claim that argument is process or practice, and that is the path to understanding it. Furthermore, in the example of Ahmed and Lorraine, we can agree with Gilbert that to understand the significance of the tea making for the argument—if there is any, we should have to see it, that is that significance, as part of the argument, and the question remains how are we to do this? If we see the significance of serving tea as matter of the serving of tea providing reasons to present in a side argument for continuing on to a mutually satisfactory solution of the school question, or as providing reasons for Ahmed's repeating some of the general rules of argumentation that they should be following, then Gilbert still has given no reason why it is the making of the tea that functions as a consideration in the argument as opposed to the statement that Ahmed made tea for Lorraine and himself (perhaps with such and such intent). Gilbert has still not given reason as to why the tea making itself (not the statement that tea was made, or a statement of the symbolic significance of the tea making) is to be included as a *non-discursive* element, or how this is to work if it is. This is not to say there is not such reason. Perhaps we will see the beginnings of one momentarily. But it is to say that Gilbert has not given us one.

So, I conclude that Gilbert in this paper has not motivated his claim that non-discursive elements such as complex behavior are to be included in arguments and can serve as premises there. What *would* that be like? Nor then has Gilbert made good the claims that argument is not entirely linguistically explicable and that argument is to be understood as a broad and open practice. Having said that, however, I want to emphasize that I am not speaking in favor of the approaches Gilbert opposes. It may well be that argument, in some forms, does include nondiscursive elements and the presentation of these elements, and that we would neglect these at our peril even in seeking to understand argument in a form which does not include such elements.

Now, let us take up second things second. In order to give some idea of what I am suggesting, I want to turn the discussion in a different direction, in the direction of seeking to understand how it is that the use of reason and the development and exchange of reasons serve to place humans in the world as knowers and agents. Having made the point that reason does this in a variety of ways, I will urge (perhaps along with Willard and others) that this point gives us reason to augment the current research program in argumentation, critical thinking, *and* informal logic.

My contention is the familiar one that reason and its reasons serve in several very different ways to place humans in the world as agents and knowers, and that if we pay attention to the differences and connections between these, we will be able to see how it is that we might understand argument in a variety of ways the varying features of which are separate but mutually constraining. There is time, of course, to only hint at this. Still, in order to suggest how I would make good this contention, I want to turn our attention to a case of argument that has some notariety already, namely John Stuart Mill's infamous argument for the principle of utility.

The infamy surrounding this argument rests on the fact that Mill's critics insist on an argument being a set of evidence providing statements supporting a conclusion to which these statements are clearly relevant. Mill's argument does not fit this mould. So what is going on? Mill was a bright person who knew better, so is this argument just the product of a momentary lapse? Or have the critics had an unaccommodating model of argument and simply missed Mill's point? The argument Mill gives seems to the critics to be that the only way to show that something is desirable is to show that it is desired, and that the only thing desired is happiness, indeed our own happiness. Having put forward these assertions Mill rests his case for asserting the principle of utility that actions are right (or wrong) to the extent that they tend to produce happiness (or unhappiness) for all affected by the action. Now clearly this presentation does not express a valid argument, nor even one that appears to be able to meet all pertinent and well-known criticisms. As an artifact of reasoning, that is as a product of the process of making explicit the reasons for a certain claim and in the bargain answering pertinent and clear objections, this argument expression fails miserably. How could Mill have missed the mark so? Well, arguably he did not. Let me try to construct an explanation of what Mill's argument is and suggest why it is an argument falling under the general notion I expressed at the outset, but why it is not an argument recognizable as such from one traditional perspective falling under that notion.

The first thing to recall is the context of Mill's "argument." Mill begins his short treatise, *Utilitarianism*, by complaining that other theorists in ethics have failed to be systematic in putting forward their views and in establishing the foundations of their field of knowledge.

Yet to support their pretensions there ought either to be some one fundamental principle or law at the root of all morality, or, if there be several, there should be a determinate order of precedence among them and the one principle, or the rule for deciding between the various principles when they conflict, ought to be self-evident (Mill, 1957, 5).

Setting aside Mill's mathematico/scientific views on the structure of knowledge in morality, the point I want to emphasize is that Mill calls for the leading first principle of ethics to be self-evident. Now this did not mean to him that we should be able to know the principle apriori. On the contrary, he thought we might come to know this principle only after careful empirical self-examination and reasoning about our motivations—motivations we happen to have which make the principle of utility apt to humans as they (contingently) are. Thus we should not expect Mill's proof to be one of marshalling considerations from which to deduce or induce the principle of utility, or even to show that acceptance of the principle of utility is the best explanation of human agency or some other alleged occurrence. Indeed, he held that nothing of that sort would do.

It is evident that this cannot be proof in the ordinary and popular meaning of the term. Questions of ultimate ends are not amenable to direct proof. Whatever can be proved to be good must be so by being shown to be a means to something admitted to be good without proof (Mill, 1957, 7).

Thus his proof that the ultimate end of all conduct is the happiness of individuals, all individuals, a contention that provides the content of the principle of utility, must not be given the status of proof because it is a logical argument, as we ordinarily understand such argument. The proof of the principle of utility must proceed by showing the priority of such happiness. But this must be shown in some fashion other than customary logical proof. This should have convinced the critics that they had gone astray. But it did not. Perhaps it did not because there seems to be no alternative. But is that so? Certainly Mill thought there is such an alternative.

We are not, however, to infer that its acceptance or rejection must depend on blind impulse or arbitrary choice. There is a larger meaning of the word "proof," in which this question is as amenable to it as any other of the disputed questions of philosophy. The subject is within the cognizance of the rational faculty; and neither does that faculty deal with it solely in the way of intuition. Considerations may be presented capable of determining the intellect either to give or withhold its assent to the doctrine; and this is equivalent to proof.

We shall examine presently of what nature are these considerations; in what manner they apply to the case, and what rational grounds, therefore, can be given for accepting or rejecting the utilitarian formula (Mill, 1957, 7).

Mill then sets out a number of preliminary points. He proceeds to tell his readers how to understand the principle of utility. He states the principle and situates it in a life well led. He suggests why it is that happiness as he intends to speak of it is not too restricted a vision of the ultimate end, and he explains that no one's happiness is to be considered more important than that of others. Further he reminds us that there is only so much any of us can do to ensure the happiness of all, given our place in society and other aspects of our personal situation. Thus he tried to limit the claims upon us made by the principle of utility. And then he went on to suggest that the principle of utility is to be applied through a set of middle level general principles or rules. However, as interesting as all of this is in the second chapter, the procedures of the proof come into play most clearly in the third chapter on the sanction or the source of the moral weight the principle of utility imposes upon us. Mill makes two points in this chapter that are critical for understanding his proof.

First Mill indicates that while our tendencies of choice and attitude with respect to living morally can be habituated or trained into us, this is an unstable and at best temporary foundation for our feelings of moral force or for our awareness of moral saliences in the environment of our agency. Instead we must establish these characteristics of our choice and preference in connection with something that is natural to us. Mill, like so many of his colleagues in the 18th and 19th centuries, was talking about finding that feeling or sentiment that could open us to the world in so far as it is salient or presents us with morally significant features to which we need to respond in some regular way consonant with the principle of utility.

On the other hand, if, as is my own belief, the moral feelings are not innate but acquired they are not for that reason less natural. ... Like other acquired capacities above referred to, the moral faculty, if not a part of our nature, is a natural outgrowth from it; capable, like them, in a certain small degree, of springing up spontaneously; and susceptible of being brought by cultivation to a high degree of development (Mill, 1957, 39).

[Thus however much the moral feelings are acquired] ... there is this basis of powerful natural sentiment; and this it is which, when once the general happiness is recognized as the ethical standard, will constitute the strength of the utilitarian morality. This firm foundation is that of the social feelings of mankind—the desire to be in unity with our fellow creatures, which is already a powerful principle in human nature, and happily one of those which tend to become stronger, even without express inculcation, from the influences of advancing civilization. The social state is at once so natural, so necessary, and so habitual to man that, except in some unusual circumstances or by an effort of voluntary abstraction, he never conceives himself otherwise than as a member of a body; and this association is riveted more and more, as mankind are further removed from the state of savage independence (Mill, 1957, 40).

Mill goes on in this chapter to claim that as we reflect on our social character we will come to see that the welfare of others is something for which we naturally have a concern. Others are an identifying connection of the self and as we have a concern for our own welfare, so too we have a concern for that of others. Our feelings come to be concern for their well-being just as they are concern for our own. Thus, it is not just our own happiness that we care about, but that of each other in our society, our society of human being. To be sure, Mill claims, selfishness will prevail in many individuals. But still social feeling is seen as natural and in that light it serves as the ultimate source of the moral force or salience of the principle of utility. (See Mill, pp. 41 and ff.) *And this moral force or salience is or gives rise to the self-evidence of the principle of morality that serves it.* Thus the principle of utility will be seen to be self-evident by those who are aware of their social condition and of their and others' desire for happiness. In this way Mill sets the stage for the proof of the principle of utility.

What else must be done to effect that proof? We must show to those to whom we give the proof that they desire happiness and only that, and that their desire for happiness does not have within its scope the happiness of themselves alone. Rather, it is a desire for the happiness of all with such a desire. That said, this feeling of import or salience in the desire for happiness found in all humans "makes any mind of well-developed feelings work with, and not against, the outward motives to care for others [enforcing the principle of utility], and, when those sanctions are wanting or act in an opposite direction, constitutes in itself a powerful internal binding force, in proportion to the sensitiveness and thoughtfulness of the character..." (Mill, p. 43.) *And thus this salience also makes any mind work with the principle of utility and it is this salience that allows it to see that principle as clearly appropriate or self-evident as the guide for us. A grasp or recognition of that salience is what opens us to the principle and renders us compelled by it, or allows us to grasp its self-evidence to us in our human condition.* Thus the proof would make clear this salience to us and thereby open us to the significance of the principle of utility (and of only that principle) as the sole principle suited to guide us in our present condition as one among other happiness pursuing beings each making an individual claim on that happiness as a free agent, but, in being social, making that claim in a way recognizing the claim of every other human agent also.⁴

This said, there are only two other preparatory matters for us before we can see the proof. First, in what sense do we grasp the salience of happiness for all humans? Second, how does grasping this work to show us the self-evidence of the principle of utility? Both of these matters are taken up early in Chapter IV where the "proof" is given. Mill asks first whether there is for ethical salience anything that functions in the way sensation functions to present us with various features of the world. And indeed there are "faculties which judge of fact—namely, our senses and our internal consciousness. Can an appeal be made to the same faculties on questions of practical ends? Or by what other faculty is cognizance taken of them?" (Mill, 1957, 44) Well agents, circumstances, acts and opportunities have salience to us because they are relevant to our desires for happiness. It is because we have such a desire for happiness, both individual and belonging to the other humans in whose society we live, that we care about what happens and what we do. It is because of these desires that the world matters to us, that things can go well or badly for us as agents, that the world is salient in a way that makes a difference to our choice and the rules and regularities we hew to in our lives. These desires introduce those saliences and the need for rules into our lives. So how could we show that the world has salience in such a way that the principle of utility provides the guidance we need in order to recognize and defer to these saliences in our action? We should have to show that we desire happiness and only that—that is, that the principle leads us in the direction of what gives the world the salience it has. And thus the famous line: "No reason can be given why the general happiness is desirable, except that each person, so far as he believes it to be attainable, desires his own happiness [and then as social, desires the happiness of all others]" (Mill, 1957, 44).

Now exactly what does the recognition of this point and the subsequent claim of the exclusivity of desires for happiness do to prove the principle to us? As suggested above in passing, the "proof" lets us see why the principle is apt to guide us to what is truly salient to us in our lives. It opens us to see the function of the principle in our lives. It allows us to grasp the significance of the principle as a guide to us given the sort of motivation we have as human. It allows us to be compelled by the principle as apt to us. In that way the "proof" reveals the principle to be compelling to us practically as appropriate for us, and intellectually as the only one that might be so appropriate. This is not to say that the proof establishes the principle as true or correct, or as well founded logically. That is not the point. And for us here, the fact that that is not the point is the point!

Here we have a proof or an argument that presents reasons, in this case supposedly sufficient for "determining the intellect either to give or withhold its assent to the doctrine; and this is equivalent to proof" (Mill, 1957, 7). It is not equivalent to deriving the conclusion as logically established by a valid or even a strong argument. But it is a case of providing considerations in favor of (or in opposition to) choosing or accepting some belief, decision, or action—in this case the decision of how to found ethical argument and justification. Further, the "proof" works to effect a kind of appeal to the intellect with respect to the question of what principle to accept as the foundation of moral reflection, through an appeal *not to reflection, but to feeling or sentiment*. The appeal is to the personal found in our pre-reflective awareness of what we are (supposedly) always up to in our agency; namely, pursuing happiness. Only by way of this appeal to what is salient in our agency might Mill tap into what (outside of custom and the apriori) would ground claims of self-evidence. The appeal is not to the official, objective truth, not, that is to the public, socially constructed artifact of necessarily or commonly agreed upon argument text found in a logically flawless argument with true premises. It is argument in a different mode. It is the provision of considerations to take into account in a different way. It is

an appeal to humans placed differently in the world by reason, namely, an appeal to feeling informed by reason about what alone we desire. Yet it is argument all the same.

Finally, Mill's proof is argument that is not articulated into the familiar logical text. Still the parameters of Mill's proof are such that what is found to be self-evident, the foundational principle of morality, *must be able to function as the ultimate normative warrant in a logical argument supporting* first, general rules prescribing certain kinds of conduct and, then, derivatively, individual claims of right and wrong. The operation of the "Proof" is constrained by the operations of what Mill thought were the reflective, logical arguments operating in applying the principle of morality. The potential logical applications of the principle of utility complement the reason that effects the Proof. And at the same time, Mill thought that without an internal sanction or felt moral force, the moral principle would be unconvincing, indeed unreliable in its guidance. In fact, he even goes so far as to suggest that it would be impossible to support the principle of utility (and presumably any other as well) if that principle did not have the support of felt salience. "If the end which the utilitarian doctrine proposes to itself [sic] were not, in theory and in practice acknowledged to be an end, nothing could ever convince any person that it was so" (Mill, 1957, 44). Thus, the salience of the utilitarian end does not come to us by reason alone—Mill follows Hume here. And further if the principle is to have purchase for us, and if anything is to convince us to accept it, we must have already bought into it in the sense that what it prescribes must be salient for us. More generally, Mill is suggesting at least for ethics, if the applications of the principle or the principle itself are to be logical and compelling, they must be salient through such considerations as just suggested comprise the proof. Thus, not only the potential of the logical applications of the principle complement the proof, but also the Proof complements the logical applications of the principle of utility. Could this sort of relationship be what Gilbert or Johnson has in mind; arguments agreed to be such by a common definition, but of two very different varieties, where there are mutual complementarities and then mutual constraint?⁵

Two final points: the Proof illustrates what might be counted as nondiscursive elements since it trades on appealing to feeling and functions by opening our credulity to a principle having an affinity to that felt salience. The feeling and that affinity fall beyond the linguistically explicable, and as pre-reflective are, I believe, non-discursive. The way the non-discursive enters in however, is not as a premise or as any part of a text or even necessarily as part of an interchange of social construction of a logical argument text. This might be instructive. Secondly, there seems (to me, at any rate) something tantalizing about the obvious ways in which the Proof and the logical texts that apply the principle of utility depend upon each other and are constrained by each other. Perhaps there are many more such interconnections between different forms of arguments and argumentation falling under the general notion of argument I have suggested. I do not see why the call for an investigation of them would be out of place as a small augmentation of Ralph Johnson's program as outlined in his recent work, *Manifest Rationality*. At the same time, this suggestion should be seen as friendly to those who find their roots in the work of Willard. "The [non-discursiveness] thesis poses, as a paradigm case of argument, an example for which the propositions do not stand alone—cannot be understood, that is, apart from the situated perspectives of the speakers, if the interactional sense of argument is cogent, the paradigm case of arguments, will be dependent upon what the speakers mean rather than only upon what the things they say mean. The paradigm case will be such that meanings cannot be attributed to the things said without attributions being made to the perspectives of the speakers." (Willard, 1981, 198) And, it should be added, these perspectives include the

emotions and the “affective orientations” of the speakers—and thus the salencies the speakers find and respond to in the world.⁶ (Willard, 1981, 197) So the suggestions we find in Mill can serve to guide some research in both of the camps Gilbert speaks of. I suppose at this juncture, speaking both of Mill's proof and its lessons, the primary remaining question is, Is it argument?

Notes

¹ Perhaps Gilbert would say that because of the aggressive character or some other feature of the actions of King George, these would not serve as parts of an argument or as premises. He does say we have to draw the line somewhere. But where; just how would we state this line between what does and does not present a consideration to be taken into account? Why say it is the behavior rather than the truth that such behavior occurred, or the allegation, or the assertion, or the statement that such occurred; that is, why say the argument part is the behavior rather than its significance or a text expressing such significance—unless an argument is not the provision of such considerations. And if argument is not such a provision, then what is it and where is the line to be drawn? This is not to say that there is no place to draw the line, so there is no line. On the contrary, I believe there is a “natural” place to draw the line, but it will play into the hands of those Gilbert opposes.

² Gilbert has urged that this characterization of argument begs the question against his, but it does not disallow arguments from being cases of people arguing in disagreement or in disputation. And it does not disallow there being nondiscursive parts to arguments as I try to suggest with the example of Mill's argument for the principle of utility. The point is just that this notion insists upon argument being the provision of considerations for accepting or rejecting a belief, action, or decision—however this presentation goes rhetorically, and regardless of the bodily behavior or other communicative posturing involved. If argument need not involve the provision of considerations (and note, this is not to require that argument include discursive reasons presented as linguistically explicit premises), then how are we to separate it from perlocutionary and behavioral forms of force or compulsion? A shouted warning is not an argument. And, neither Dirty Harry's saying to the trapped felon, “Go ahead, make my day,” nor his wounding the felon is an argument for the felon to surrender his weapon. Why not? At least part of the reason is that Harry does not want the felon to consider giving up the weapon; he wants the felon's weapon, and now!

³ Johnson's suggestion, while left in unfinished form, seems to accept such a possibility while also allowing for the possibility of the emergence of a new field of study of argumentation analogous in its multi- and interdisciplinarity with, for example, women's and gender studies. (See Johnson, 2000, 360.)

⁴ Of course, this leaves Mill's ethic naturalistic and perhaps relativistic. These, many would say, are problems for any ethical theory. But I shall ignore such points for they would only serve to show that, contrary to Mill's critics, his “proof” did give us something with ethical substance to discuss—it was a real argument in some way we must understand and then take seriously. That

is the point I am interested in here, no matter how much I might agree or disagree with Mill in ethical theory.

⁵ Thus to summarize the options I have suggested for Gilbert and his opposition, let me set out four possibilities:

Option 1 (Gilbert's predominantly avowed alternative) There is no overarching definition of "argument." Argument is either an open practice fitting Gilbert's claims, or it is a socially constructed artifact not fitting any of Gilbert's three claims. Here we must choose between these alternatives in order to understand all argument. And there are no complementarities between different forms of argument as there are no different forms of argument.

Option 1a (Johnson's alternative?) This is the same as option 1 except we do not have to choose between these two understandings of argument since each involves a different and distinctive problematic, and this difference of problematics allows for there to be complementarities between arguments understood within these different approaches.

Option 2 All argument is e.g. an attempt to provide considerations in favor of (or in opposition to) choosing or accepting some belief, decision, or action. Arguments thus understood are analyzed further within either of two problematics. The first problematic sees argument as an open practice fitting Gilbert's claims. The second problematic sees argument as socially constructed artifact. Within this option we do not have to choose how to understand all argument, and, in some way, there are allegedly complementarities even though there is no common problematic.

Option 3 All argument is e.g. an attempt to provide considerations in favor of (or in opposition to) choosing or accepting some belief, decision, or action. There is a common problematic of understanding how reason and the provision of reasons serve to place agents and knowers in the world. The first variant of this placement as illustrated by Mill's "Proof" places people personally, and pre-reflectively, in terms of a feeling or intuitive grasp of, for example an orienting principle of justification like the principle of utility. This placement is prepared, induced, or constrained by reason, but does not work in the form of an explicit and discursive logical argument. The second variant of this placement operates socially through various forms of argumentative exchanges such as holding someone to account for an ethical failing, or a technical or cognitive failing or for holding an ill-founded belief. And in these exchanges those involved serve to articulate what they have held personally, even if they operate only through narrative and do not necessarily give an explicit and discursive logical argument. Through such a placement relating agents or knowers to other agents and other knowers, reason leads those involved to agree upon permissions or grants of acceptance of each other's views or actions even though this need only turn on accepting an understanding generated by narrative and not necessarily by justification. The third variant involves reason placing individual agents or knowers in the world and in relation to others in terms of the agent/believer forming (articulating the claim and the logical defense for) what the agent or knower accepts as officially defensible or as justifiable in a fully explicit discursive logical argument. That is, here reason enables the agent or knower to arrive at the private stance he or she will carry forward into public and official exchanges of reasons for acting or believing if called upon to do so, and if the agent or knower feels safe in doing so or compelled to do so. And finally the fourth variant of reason's placement of agents and knowers in the world is that of an individual or group stating an official or public view of what is defensible, that is stating the explicit, discursive and logically

acceptable artifact of argument the agent/knower has at her or his disposal, and, feels to be adequate both in her or his community of inquiry and in the dialectical tier of the argument. On this third option, we do not have to choose which variant to focus upon in order to understand all argument. Any will do for our different sub-purposes. And there is a common problematic to understanding all argument even though there are different sub-purposes we might pursue within that problematic. Further there are complementarities or mutual constraints between arguments seen in the different variants just suggested. For example, as illustrated in the case of Mill's "Proof" which operates at the personal level of inducing self-evidence in the grasp of the principle of utility, and, the official use of the principle in explicit deductive arguments for middle level rules or for claims of the rightness of particular acts, Mill urges that the personal must generate what is useful as the official—a principle to function in the explicit arguments in question, and the official must be responsive to the personal or must engage the personal—or else the explicit arguments for middle level rules or particular actions will have no uptake or no salience for agents.

⁶ Willard speaks at several points in ways that suggest the utility of trying to group arguments distinguished and related as I have been hinting at by looking at the way in which the operation of reason within them places humans in the world as knowers and agents. I would suggest that a scheme distinguishing the personal, the social, the private and the public realms of reason's operation would give interesting results in this task. However, that is the subject of work in another place, not here.

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