The dialectic of ambiguity
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INTRODUCTION

In this chapter, two questions will be examined. First, can the model for ambiguity dialectic be used for producing interesting and insightful analyses of real discussions and arguments? Second, do the rules of ambiguity dialectic explicate the colloquial picture of a good discussion? The two questions are related: the second question will be answered by examining some real discussions and, in the end, we will have an idea of the worth of ambiguity dialectic for the analysis of real discussions and arguments. Thus, the method used for finding an answer to the second question will provide the material for answering the first.

A normative model for persuasion dialogue must consist of rules that further the resolution of disputes. This strict condition can be supplemented with a softer one: preferably, the model will elaborate the pre-theoretical notion of a good argumentative discussion and does not depart radically from pre-theoretical intuitions. A model that stays close to everyday intuitions is easier to understand and stands a better chance of receiving serious attention in a company of real arguers.

By analysing discussion fragments we will be able to support the hypothesis that ambiguity dialectic constitutes a theoretical explication of the everyday concept of a good argumentative discussion. In abstract terms, the two abductive arguments that support the hypothesis look like this. (1.1a) If ambiguity dialectic explicates the informal notion of a good argumentative discussion to a considerable extent, then the discussants consider themselves committed to rules that are explicated by ambiguity dialectic and the behaviour of the discussants is governed by these rules as well. By providing some detailed case studies we will be able to show that (1.1b) the discussants consider themselves committed to rules that are explicated by ambiguity dialectic and that the behaviour of discussants is, indeed, governed by these rules. Therefore, we may presume that (1) ambiguity dialectic does explicate the informal notion of a good argumentative discussion to a considerable extent. Premise (1.1b) will be supported by another abductive argument. (1.1b.1a) If the discussants consider themselves committed to rules that are explicated by ambiguity dialectic, and if the behaviour of discussants is governed by these rules, then the discussants would criticise each other and correct themselves in certain ways. (1.1b.1b) They do criticise each other and correct themselves in those ways, therefore, presumably, (1.1b) the discussants consider themselves committed to rules that are explicated by ambiguity dialectic and the behaviour of discussants is governed by these rules.

1. METHODOLOGICAL PRELIMINARIES

Semi-conventional validity

We are mainly interested in rule-governed behaviour in so far as it indicates the commitments of discussants. That ambiguity dialectic explicates the informal notion of a good discussion must be taken to imply that parties in a discussion consider themselves committed to certain rules (rules that are explicated by the rules for ambiguity dialectic). As we have seen in chapter 1, Barth and Krabbe distinguish
between two types of validity: problem-solving validity on the one hand, and on the other, conventional and semi-conventional validity. This leads to the question: in what way can the rules of ambiguity dialectic be conventionally or semi-conventionally valid?

A principle or procedure is *conventionally valid* for a company if all members of that company have underwritten a declaration in which they explicitly commit themselves to comply with the principle or procedure. If such a declaration can be derived from a collection of works that do not have the status of official documents, then this principle or procedure is said to be *semi-conventionally valid* for this company (Barth and Krabbe 1982, 22). In this section we are mainly interested in semi-conventional validity, since we will examine companies that do not have a written an explicit logical contract of the kind we would be interested in.

One way of incurring commitment to discussion rules could be the act of entering a discussion. Just as the participants of a game of cards commit themselves to the rules of the game without signing anything, so someone who enters a discussion commits him- or herself implicitly to a certain collection of discussion rules. The notion of semi-conventional validity can be clarified in the following way: a discussion rule R is semi-conventionally valid in the company C if all members of C would answer *yes* to the question given that you are already committed to discuss, reflectively and critically, an issue on the merits of the case, are you committed to R? If rule R1 is a theoretical explication of a pre-theoretical rule R to which the members of a company are explicitly or implicitly committed, then R1 is said to be an explicans of a semi-conventionally valid rule.

**What is rule governed behaviour?**

Shimanoff provides a useful classification of nine types of links between conversational rules and behaviour (Shimanoff 1980). Her ideas about rule related behaviour will be applied to the special context of argumentative discussion. Some of the links are interesting for our purposes here, because they indicate commitment to a conversational rule. Moreover, we can use her ideas about discovering the rules that influence behaviour in order to discover the rules that discussants consider themselves committed to.

Shimanoff offers the following definition of a rule: “A rule is a followable prescription that indicates what behaviour is obligated, preferred or prohibited in certain contexts” (Shimanoff 1980, 57). That a rule is followable means that people...
are physically capable of following as well as violating the rule.\textsuperscript{153} Whether a rule is followable should be assessed in isolation of other rules.\textsuperscript{154} That a rule is a prescription means that behaviour that violates or seems to violate the rule can be criticised.\textsuperscript{155}

Rule-generated behaviour has three main characteristics (Shimanoff 1980, 89). First, it is \textit{controllable}: the agent is responsible for the behaviour, and is capable of either performing the behaviour or not. Second, the behaviour is \textit{criticizable}. Evidence that supports the criticizability of behaviour can be found in (1) \textit{judgements of appropriateness}, in (2) \textit{negative sanctions} for deviation and in (3) \textit{repairs of deviations} (Shimanoff 1980, 93). Third, rule-generated behaviour is \textit{contextual}: the behaviour is part of a pattern and connected with particular situations. Rule-generated behaviour is not identical with behaviour that complies with the rules. It also applies to actions that deviate from rules and that are considered worthy of criticism.

Shimanoff puts forward the following taxonomy of rule-related behaviour.

1) positive rule-reflective behaviour
2) rule-following behaviour
3) rule-conforming behaviour
4) rule-fulfilling behaviour
5) rule-absent behaviour
6) rule-ignorant behaviour
7) rule-error behaviour
8) rule-violation behaviour
9) negative rule-reflective behaviour

\textit{Rule-absent} behaviour is behaviour that is not rule-generated: either it is not controllable, or it is not criticizable, or it is not contextual. \textit{Rule-fulfilling} behaviour corresponds to a rule \(R\), although the agent has no explicit or implicit knowledge of \(R\). The agent acts in correspondence with \(R\) by accident or by imitating behaviour of others. \textit{Rule-ignorant} behaviour with respect to rule \(R\) is behaviour that fails to fulfil \(R\), while the agent has no explicit or implicit knowledge of \(R\). \textit{Rule-conforming} behaviour is behaviour that corresponds to rule \(R\) while the agent has implicit knowledge of \(R\). Rule-error behaviour with respect to rule \(R\) is behaviour that fails to comply with \(R\), while the agent does have implicit knowledge of \(R\). \textit{Rule-following} behaviour corresponds to a rule \(R\) while the agent has explicit knowledge of \(R\). \textit{Rule-violation} behaviour, with respect to rule \(R\), violates \(R\) while the agent has explicit knowledge of \(R\). \textit{Positive rule-reflective} behaviour is rule-following behaviour, such that \(R\) is positively evaluated by the agent. \textit{Negative rule-reflective} behaviour is rule-violation behaviour, such that the agent evaluates the rule negatively.\textsuperscript{156}

\textsuperscript{153} ‘In this classroom, we must speak Dutch’ can be a rule, even if one of the pupils does not speak Dutch: that is not a physical restriction.

\textsuperscript{154} ‘In this classroom, we must speak Dutch’ is a rule, even if another rule is in force that states that in this classroom we are to speak only English, because each rule considered in isolation can be followed.

\textsuperscript{155} Shimanoff supposes that a proposition that says that an action is \textit{allowable} cannot be called a \textit{prescription}, and consequently not a \textit{rule}. The reason is that if someone does not perform the allowable behaviour, this person cannot be criticised. However, rules of the form ‘in situation \(X\) one has a right to do \(Y\)’ can be real prescriptions or at least part of real prescriptions in situations in which a person is obliged to choose from various allowable moves.

\textsuperscript{156} It seems that this feature of positive or negative evaluation can also be applied to the rule-error and rule-conforming behaviour. Moreover, I suppose one can perform rule-following
The term *rule-governed behaviour* will be used to refer to acts that indicate commitment to a conversational rule. Presumably, rule-governed behaviour comprises the following types: positive rule-reflective behaviour, rule-following behaviour, rule-conforming behaviour, rule-error behaviour, rule-violation behaviour. Rule-fulfilling, rule-absent and rule-ignorant behaviour is not behaviour that can be said to be governed by a rule, although it may seem that way. Negative rule-reflective behaviour indicates that the actor is trying *not* to follow the rule.

**The distinction between the constitutive and regulative rules**

Ambiguity dialectic is made up of a regulative rule and a collection of constitutive rules. In the kind of discussion that ambiguity dialectic models, the parties are committed to having a perfectly ideal logical discussion (a discussion in which actively ambiguous expressions do not occur). Then again, in most situations it is impossible to have such fallacy-free discussions and we play the kind of game where we are committed to attempt systematically to have an optimal discussion. The rules that *constitute* the perfectly ideal logical type of discussion *regulate* the kind of discussion that ambiguity dialectic models.

What applies to perfectly ideal logical discussion, also applies to the kind of discussion that ambiguity dialectic models. It is very hard, if not impossible in particular situations, to follow the constitutive rules of ambiguity dialectic. Thus, we may play the game in which we *attempt* to have such a discussion. This type of conversation then is not the kind of discussion that ambiguity dialectic intends to model. It is an *attempt* at a discussion according to the rules of ambiguity dialectic. The rules that constitute ambiguity dialectic and optimal discussions are *regulative* rules for this kind of conversation: the rules of ambiguity dialectic are recommended rules for those who attempt to have a discussion along the lines of ambiguity dialectic.

Ambiguity dialectic is intended to hold a certain position in the hierarchy of ideal discussion models. Its regulative rules express an higher ideal of rationality than its constitutive rules, and it constitutive rules express in turn a higher ideal of rationality than can be achieved in many situations. This threefold hierarchy reflects an hierarchy that can be found implicitly in the pre-theoretical concept of a good discussion. Supposedly, the participants in an argumentative discussion on the merits of the case are committed to attempt to be *as rational as is possible*: they are committed to use univocal expressions, or if that fails, to correct and improve expressions when they are shown to be actively ambiguous, or if that fails, to make at least serious attempts to correct and improve expressions when they are shown to be actively ambiguous. We will find some support for the existence of such a hierarchy when examining the case-studies.

Shimanoff (1980, 84-5) points out a conceptual problem with the application of the notion of a constitutive rule to social reality: allegedly, constitutive rules are not really rules that can be followed. It will be shown that this criticism does not apply to the hierarchically layered concept of a good argumentative discussion.

According to Shimanoff, a constitutive rule is definitory in character and regulates what meaning is to be attributed to something, not what kind of behaviour is prescribed. A constitutive rule concerns only cognition and interpretation: a person behaviour and evaluate the rule negatively, and perform rule-violation behaviour and evaluate the rule positively.
who violates a constitutive rule can be judged as incoherent, but he cannot be criticised for the violation (85).

Suppose now that two persons are having an ad-discussion and that R is a constitutive rule of ambiguity dialectic. Then it is somewhat odd to say R is prescribed for this ad-discussion, because following R is part of what it is to have this ad-discussion: if R is violated, then the conversation is no longer an ad-discussion. However, we still can say that R should be followed from an external perspective of the attempt at an ad-discussion. In an attempt at an ad-discussion, the participants are committed to the rules of ad-discussions: the rules that constitute ambiguity dialectic are regulative rules for attempts at ad-discussions.

Shimanoff acknowledges that constitutive rules can be transformed into regulative rules: the definition of 'X counts as Y in context C’ can be transformed into the rule ‘If one wishes to perform act X in society A, then one must do Y’ (Shimanoff, 85). In a dialectical context, this can be interpreted as: ‘if one is committed to having an ad-discussion (wishes to perform X), one should follow the rules of ambiguity dialectic (perform Y)’. Therefore, Shimanoff might agree with the analysis that the rules that constitute one type of discussion are the regulative rules for another, related type of discussion. Similarly, what are regulative rules for one type of discussion might be constitutive rules for another. Shimanoff seems to take a parallel stance when she discusses the rules of etiquette, brought forward by Searle as prototypical regulative rules. The rules of etiquette constitute politeness while they regulate the practice of consuming a meal: you may consume a meal, or you may consume it in the proper way. Similarly, the rules that regulate an ad-discussion constitute the optimal model.

Another objection to Shimanoff’s contention is that it is natural to say that participants of a game are committed to the rules that constitute that game. This way of speaking, as it stands, is not in accordance with Shimanoff’s terminology, but can be seen as shorthand for the statement that the participant of the shared attempt at playing that game are committed to regulative rules that are identical to the rules that constitute the game. Hence, we can tolerate the "abuse of language" of saying that a rule R of ambiguity dialectic is semi-conventionally valid for a group of discussants whose activity is constituted by this rule, if we take into account that this statement is true for the broader type of conversation in which the participants attempt to argue critically.

After these consideration of different kinds of rules, we can specify figure 1 of chapter 7.

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More precise, this is probably a clause that is part of a the definition that states the various necessary conditions that are together sufficient for X-ness.
How to find out about semi-conventionally valid rules?

That behaviour is governed by a rule R does not imply, in a strict sense, that the actor is committed to R. We may imagine an agent who performs rule-following or rule-violation behaviour with respect to rule R, even though he is not committed to R. For instance, if an Englishman, visiting the Netherlands, drives on the left (right) side of the road, he or she can be said to perform rule-following (rule-violation) behaviour with respect to the British rules of the road. But the visiting Englishman is not committed to these rules.

Nevertheless, if an act is generated by a rule, then it is plausible that the agent supposes him- or herself to be committed to that rule. We may presume discussants to act according to rules that they know (tacitly or explicitly) they are committed to and not to act according to rules they know they are not committed to. It might be the case that a discussant’s behaviour is generated by rules, but that this discussant is not willing, if asked, to subscribe to the rule. However, this is less plausible if a discussant is aware of the rule that generates his or her behaviour. Positive rule-reflective behaviour has the strongest connection with commitment to the rule, rule-following behaviour and rule-violation behaviour come second in the row, and a still weaker link is found between on the one hand commitment, and on the other hand rule-conforming and rule-error behaviour.

We can distinguish between several kinds of data that indicate the semi-conventional validity of rules: (1) behavioural patterns; (2) judgements of appropriateness or inappropriateness, where a discussant judges on the admissibility or inadmissibility of an act; (3) repairs, where a discussant repairs a transgression of a rule; (4) negative sanctions, where a discussant negatively sanctions an act; (5) positive evaluations of a rule. These indicators vary with respect to the strength with which they indicate commitment. Behavioural patterns provide weaker indicators than judgements of (in)appropriateness, negative sanctions and repairs. The reason is that a pattern can be generated by coincidence. An explicit positive evaluation of a rule R is a stronger indicator of commitment to R than a judgement concerning appropriateness, a negative sanction or a repair, because a positive evaluation must be generated by explicit knowledge.

In the case studies, we will come across all these kinds of data, except explicit positive evaluations of rules that concern active ambiguity. We will focus mainly on criticisms of ambiguity (judgements of inappropriateness, supplemented with a negative sanction), and on disambiguating reformulations (a form of repair).

In accordance with the intended abductive argument, we will start from the assumption that there is a collection C of rules, such that the discussants consider themselves committed to C, such that their behaviour is governed by C, and such that C is adequately explicated by the model for ambiguity dialectic. Does this assumption lead to a plausible explanation of behavioural patterns, judgements of inappropriateness, negative sanctions and repairs? Before analysing the cases, the method of analysis will be outlined.
Reconstructing discussion fragments from the perspective of ambiguity dialectic

The discussion fragments that follow will be analysed in a moderately charitable way (cf. Govier 1987, chapter 7): the contributions of the parties are interpreted as moves or constellations of moves that comply with the rules of ambiguity dialectic, unless there is good empirical ground that these rules have been violated. Part of our assumption is that the parties are trying to manoeuvre strategically within the confines of an ad-discussion. To the extent that this hypothesis leads to a coherent and plausible analysis of the discussion, the hypothesis is plausible.

As we have seen in chapter 7, normative profiles of dialogue are a convenient method for picturing allowable fragments in a critical discussion. There we pictured discussion fragments in an abstract way, using propositional and other variables. But we may interpret these variables and construct a concrete normative profile of dialogue that concerns a specific topic:

W: (s1) standpoint(This bill should be passed)

B: (s4) Why?

W: (s5) Euthanasia is morally right so this bill should be passed

B: (s4) Is it morally right?

B: (s4) Should the bill be passed if euthanasia is morally right?

B: (s4) Euthanasia is ambiguous between termination of the life of a patient who suffers unbearably and without prospects and termination of life

W: (s9) Termination of the life of a patient who suffers unbearably and without any prospects is morally right so this bill should be passed

W: (s9) Termination of life is morally right, so this bill should be passed

Figure 2. A concrete normative profile of dialogue

Interpreting a discussion fragment from the perspective of ambiguity dialectic can be realised by interpreting it in such a way that it resembles a concrete normative profile as closely as possible. Such a description of a discussion fragment shall be called a concrete descriptive profile of dialogue (Van Laar 2003).

Let us examine the following initial fragment of dialogue:

person A: Euthanasia is morally right, so this bill should be passed.

158 The descriptive profiles of dialogue, as they are used here, leave out two important aspects of interpreting argumentative discourse. No use will be made of any precise theory about the acceptable ways of constructing a complex contribution, nor of allowable ways of responding to complex contributions.
person B: Euthanasia is ambiguous between termination of life in general and termination of life of a patient who suffers unbearably and without any prospects. What do you mean?

A’s first contribution is, seen from the perspective of ambiguity dialectic, dialectically complex. It can itself be described as a discussion in which A puts forward a main standpoint, and reacts on a challenge by offering an argument. Although B has not challenged the thesis, A does anticipate such a challenge. Consequently, we should distinguish between contributions, which can be dialectically simple or dialectically complex, and moves, which are by definition dialectically simple. What must be regarded as a move is determined by the rules of ambiguity dialectic.

In the figures that follow, contributions are indicated by a double line. Moves are indicated by a single line. The dialectical analysis of a complex contribution is pictured by inserting a descriptive profile of dialogue within the outlines of a contribution. If the dialectical analysis of a contribution is completed, the profile of dialogue within its outlines consists of simple moves only. Moves that are left implicit by the speakers are made explicit.

The dialogue above can be represented with the following descriptive profile of dialogue. Both A and B make one contribution:

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A: (s1) standpoint(This bill should be passed)
B: (s4) Why?
A: (s5) Euthanasia is morally right, so this bill should be passed
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Sometimes, a party anticipates more than one possible move. This is a familiar way to proceed, in particular when an ambiguity has been detected. Consider the following fragment of dialogue:

A: Euthanasia is morally right.
B: Euthanasia is ambiguous. If you are going to say that you mean termination of life of a patient who suffers unbearably and without prospects then I will agree with you, but if you mean termination of life in general, then I don’t know yet.

B anticipates on two ways A might respond to B’s view that euthanasia is actively ambiguous. In each case, A disambiguates her argument. In a descriptive profile of dialogue, a bifurcation of arrows within a contribution, from a box with locution P to, for example, two boxes with locutions Q and R, should be read as ‘if I say P, you may respond by uttering Q, or by uttering R’. The following descriptive profile pictures the dialectically complex kind of contribution that we saw above:
Active ambiguity in a debate on euthanasia and in a tobacco lawsuit

This particular fragment allows an alternative reading of B's critical remark and it can be said to be contextually ambiguous with respect to its illocutionary force. B can also be taken to respond to the possible critical question 'is this distinction relevant for the course of our discussion?'. This reading results in the following descriptive profile of dialogue.

2. THE DEBATE ON EUTHANASIA IN DUTCH PARLIAMENT

In the autumn of 2000, two Dutch ministers, the minister of Justice, Korthals, and the minister of Health, Welfare and Sport, Borst, defended in the Lower House a bill, titled: 'Termination of Life on Request and Assisted Suicide'. This bill contained some key expressions that were considered ambiguous by the members of the House, and were discussed at length during the debate. First, the background of the debate will be outlined. Second, various interesting fragments of the debate will be reconstructed from the perspective of ambiguity dialectic.

159 In Dutch: Levensbeëindiging op verzoek en hulp bij zelfdoding.
The bill *Termination of Life on Request and Assisted Suicide*

Before the bill was enacted in April 2001, any doctor who was to perform euthanasia would violate article 293 of the Criminal Code. This article stated terminating another person’s life at that person’s express and earnest request to be liable to a term of imprisonment of twelve years, or a fifth-category fine. From 1973 onwards, jurisdiction had been developing on the issue. The standard way for a doctor to become acquitted was to plead *force majeur*. A doctor’s plea came to be justified if the doctor had complied with a collection of *criteria of due care*\(^{160}\) when performing euthanasia. When these criteria were fulfilled, the doctor could be said to find him- or herself in a conflict of duties, one duty being to protect life, the other duty to relieve suffering.

One of the motives for introducing the bill was to codify existing jurisdiction. Termination of life on request and assisted suicide was to remain part of the criminal code, but article 293 was changed so that it included a special ground for exemption from criminal liability. Termination of life and assisted suicide were to be liable to imprisonment or fines, unless the physician fulfilled the criteria of due care. The criteria of due care that can be found in the bill were mainly copied from former court decisions:

According to the bill, the doctor had to:
- be satisfied that the patient’s request is voluntary and well-considered;
- be satisfied that the patient’s suffering is unbearable and that there is no prospect of improvement;
- inform the patient of his or her situation and further prognosis;
- discuss the situation with the patient and come to the joint conclusion that there is no other reasonable solution;
- consult at least one other physician with no connection to the case, who had then to see the patient and state in writing that the attending physician had satisfied the criteria of due care, listed above;
- exercise due medical care and attention in terminating the patient’s life or assisting in his or her suicide.

The motives for codifying jurisprudence were to provide legal security for doctors and patients, to make a provision for complying with reasonable requests for euthanasia, and to enhance the transparency of the already existing practice of euthanasia and assisted suicide.

Subsequent courts had interpreted the criteria of due care. The following two cases had been classified under *unbearable suffering*: an aged person in deteriorating health who experienced her illness as degrading;\(^ {161}\) and a person who suffered from severe mental suffering arising from a psychiatric disorder, without a physical illness, and who, moreover, was not dying.\(^ {162}\)

Three weeks before the Lower House would debate the bill, a court in Haarlem acquitted a doctor in an interesting new case of euthanasia. A family doctor

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160 In Dutch: *zorgvuldigheidsvereisten*.
162 The case Chabot in 1994: the person in question had suffered unbearably after her two children died. The doctor who assisted in her suicide was convicted, but no penalty was imposed. The High Court decided that the psychological nature of suffering is no impediment for complying with the criteria of due care.
had provided former senator Brongersma with a lethal potion.\textsuperscript{163} According to the judges, the doctor had complied with the criteria of due care. Brongersma, however, did not have any serious physical illness or mental disorder. He suffered from the idea of having a pointless and empty existence, and experienced his life as meaningless. This "decay" was irreversible and therefore not considered to be treatable.\textsuperscript{164} Expert witness De Beaufort, a specialist in medical ethics, argued that if we want to know whether someone suffers unbearably, we have to rely on this person's own account. The judges in Haarlem agreed with her. Brongersma’s kind of suffering came to be known as being \textit{weary of life}.\textsuperscript{165} In the parliamentary debate, one of the most hotly debated issues was whether the second due care criterion was to be read as including weariness of life, or whether it was meant to exclude such a case.

The debate as seen from the perspective of a persuasion dialogue

At the beginning and at the end of the parliamentary debate, the participants made some remarks that support the hypothesis that they themselves perceived their debate as containing argumentative discussions in which they focused on the merits of the case.\textsuperscript{166}

Minister Korthals stated his dialectical purpose at the beginning of the debate: "We, for our part, will do our best--that is why we are here--to persuade the House that this bill deserves to be enacted" (November 23, 2109).\textsuperscript{167} After the debate, many participants evaluated the debate positively. The spokeswoman of the biggest party that opposed the bill, Ross of the Christian Democratic Party (CDA), evaluated the discussion as follows: "Madam Speaker! I believe the debate we have conducted during the last few days has been dignified and authentic. Although fundamental differences of opinion will persist with regard to the proposed legislation concerning euthanasia and assisted suicide, these differences have been respectfully brought to the fore" (November 23, 2202) and "[t]o conclude. I would like to thank both ministers for the excellent debate we have had." (November 23, 2205).

Vos, of the right-winged liberal party (VVD), favoured the bill (although we will come across some critical remarks of his): "Personally, I have found the debate dignified, meaningful and highly interesting, and we have obtained a clear view of the bill’s content. Both ministers have contributed significantly to this. In the first instance, the nature and essence of the law were discussed. The core of the bill

\textsuperscript{163} Brongersma was also by life a controversial figure: he possessed an archive of child pornography, for research purposes as he alleged, while being overtly paedophilic (\textit{De Volkskrant}, December 23 2000).

\textsuperscript{164} De Volkskrant, October 31 2000.

\textsuperscript{165} In Dutch: \textit{levensmoe} or \textit{klaar-met-leven}.

\textsuperscript{166} The debate has also elements of a \textit{deliberation dialogue}. The ministers and members of parliament are co-operating in order to arrive at a version of the bill that can be seen as a desirable outcome of the process of legislation. Moreover, it can justifiably be seen as a \textit{debate} before a larger audience, in the sense given to that term by Walton and Krabbe (Walton and Krabbe 1995, 66). The hypothesis that a fragment of the conversation contains aspects of a debate, or of a deliberation dialogue, is consistent with the hypothesis that this very fragment is also part of a persuasion dialogue.

\textsuperscript{167} All quotes that concern this Dutch parliamentary debate are translations by Julia Harvey. All transcripts can be found in \textit{Verslag der Handelingen van de Tweede Kamer der Staten-Generaal} (2000).
consists of the codification of case law up to and including the Chabot verdict. The
Minister of Justice dwelt at considerable length on the criteria “without any
prospects” and “unbearable”” (November 23, 2246). The minister of justice,
Korthals, finished his speech thus: “Madam Speaker! To conclude, many speakers
have spoken of the dignified and respectful manner in which we discussed this
difficult and delicate subject. I and my colleague from Health, Welfare and Sports,
willingly add our praise.”” (November 23, 2254).

More specific indications that justify the reconstruction in terms of ambiguity
dialectic can be found in the fragments that we shall consider.

Case-study 1, euthanasia: Ross on unbearable suffering

Ross is a member of the Christian Democratic Party, CDA, and she opposes the bill.

"Ross: Madam Speaker! Because of the Brongersma case verdict, the debate on
euthanasia has to be seen in a new light. The verdict on the Brongersma case has
shocked the Christian Democratic Party (CDA). In the judge’s opinion the doctor
satisfied the requirements of due care and could justifiably plead force majeur.
However, Brongersma was not ill, but merely weary of life. In the opinion of the
CDA, this cannot be a reason for a doctor to comply with a request for euthanasia.
There must be a question of unbearable suffering without any prospects in a medical
sense. My party is of the opinion that, in light of the development mentioned above,
the concept of the patient in the bill needs redefining, and in such a way that it can be
understood to refer to a person suffering from a medical condition. The text of the bill
as it stands at the moment stipulates what should be understood by concepts like the
attending physician, the care providers, the independent physician, the regional
inspector, but not what comes under the concept of patient. Who, in light of this bill,
is the patient? Is the Minister of the opinion that only someone ill may be considered
for euthanasia, or is that not necessary? Can it be administered to a healthy person? In
the early debates in the Lower House, euthanasia was argued for in cases of severe
and hopeless physical suffering. The CDA observed with great concern that during the
first Kok Cabinet, severe psychological suffering became grounds for euthanasia,
while others in the very first debate argued that this should never become grounds.
The current state of affairs is that being weary of life itself and the prospect of going
down-hill can justify euthanasia. Instead of a final remedy, it is becoming a normal
death with general grounds for justification in law. In fact, I am afraid that this debate
will by no means be the end of the discussion, and that the cabinet has made its first
move towards complete legalisation and, in the near future, the free supply of the
means to commit suicide, like the Drion pill.” (November 21, p. 2003)\textsuperscript{168}

Ross’s contribution is complex from a dialectical perspective and contains at least
three implicit discussions that bear on the ambiguity of the criteria of due care.

1. The first implicit discussion contains an argument for the view that
Brongersma’s doctor did not meet the criteria of due care. One of the reasons offered
is that the patient has to suffer unbearably and without any prospects in a medical
sense. The phrase in a … sense is a standard way to disambiguate an expression and is

\textsuperscript{168} The Drion pill refers to the kind of pill that H. Drion proposed to supply to elderly people
in order to provide them with a means to end their life whenever they wish to do so.
used here to disambiguate *to suffer unbearably and without any prospects*. This use of a disambiguated reformulation suggests the relevance of another, non-medical sense of the expression, and it suggests that the reason, if it were disambiguated the other way, would not support Ross’s standpoint. In addition, it suggests an ambiguity criticism against someone else’s use of the allegedly actively ambiguous expression *suffer unbearably and without any prospects*. This is correct, but we cannot expect to find such a criticism as part of an argumentation for some standpoint. Below, we shall be able to reconstruct it as part of Ross’s opposition to the position of minister Korthals: her use of the phrase *a medical sense* plays two roles in the contribution that we are considering.

Ross's argument can be reconstructed as containing the following implicit discussion:

<table>
<thead>
<tr>
<th>Ross: (s1) Brongersma’s doctor did not comply with the criteria of due care</th>
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<tr>
<td>critic: (s4) Why not?</td>
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<td>Ross: (s5) Brongersma did not suffer unbearably and without any prospects in a medical sense. If Brongersma’s doctor complied with the criteria of due care, Brongersma suffered unbearably and without any prospects in a medical sense. Therefore, Brongersma’s doctor did not comply with the criteria of due care</td>
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<tr>
<td>critic: (s4) Why did Brongersma not suffer unbearably and without any prospects in a medical sense?</td>
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<tr>
<td>Ross: (s5) Brongersma was not ill, but merely weary of life, <em>so</em> Brongersma did not suffer unbearably and without any prospects in a medical sense</td>
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</table>

The structure of the argument can be pictured thus:

1. Brongersma’s doctor did not comply with the criteria of due care
   - 1.1a Brongersma did not suffer unbearably and without any prospects in a medical sense & 1.1b If Brongersma’s doctor complied with the criteria of due care, Brongersma suffered unbearably and without any prospects in a medical sense
     - 1.1a.1 Brongersma was not ill, but merely weary of life

(2) As we have seen, Ross’s use of *in a medical sense* suggests that someone else makes use of an actively ambiguous expression. By criticising the ambiguity, Ross both steers clear from conceding that Brongersma’s doctor met the criteria of due care, and from appearing unreasonable by not conceding this. The fragment can also be taken to include the following contribution:
judge: (s5) Brongersma suffered unbearably and without any prospects, so Brongersma’s doctor complied with the criteria of due care.

Ross: (s4) *suffered unbearably and without any prospects* is actively ambiguous between *suffered unbearably and without any prospects in a medical sense* and *suffered unbearably and without any prospects in a not specifically medical sense*

judge: (s9) Brongersma suffered unbearably and without any prospects in a medical sense so Brongersma’s doctor complied with the criteria of due care

judge: (s9) Brongersma suffered unbearably and without any prospects in a not specifically medical sense, so Brongersma’s doctor complied with the criteria of due care

Ross: (s4) Why did Brongersma suffer unbearably and without any prospects in a medical sense?

(Ross argues explicitly against the thesis that Brongersma suffered unbearably and without any prospects in a medical sense by alleging that he was not ill but merely weary of life)\(^{169}\)

Ross: (s4) Why did Brongersma’s doctor comply with the criteria of due care if Brongersma suffered unbearably and without any prospects in a not specifically medical sense?

(Ross argues explicitly against the thesis that it is prudent to take the stance that, if someone suffers unbearably and without any prospects in a not specifically medical sense, this person’s doctor can be said to comply with the criteria of due care. Her reasons are that euthanasia becomes a normal death with general grounds for justification in law. Moreover, it will be the first move towards the complete legalisation and the free supply of the means to commit suicide)

The two descriptive profiles of dialogue present different, although interacting, aspects of Ross’s contribution. The analyses show that Ross’s sentence *Brongersma was not ill, but merely weary of life* fulfils two functions. It expresses a reason to support that Brongersma’s doctor did not meet the criteria of due care, and it is part of a response to the judge’s possible move where he chooses a certain disambiguation. We have already pointed out (under 1) that a similar thing applies to Ross’s statement *there must be a question of unbearable suffering without any prospects in a medical sense*.

(3) A third discussion implicit in Ross’s speech contains her argument for the standpoint that the term *patient* needs redefining. Part of the argument is that the term is unclear: if someone is said to be a *patient*, should that be taken to mean that the

\(^{169}\) In order to keep the model as simple as possible, ambiguity dialectic does not accommodate the option for an opponent to take the opposite stance. In order to interpret Ross charitably, we must suppose that ambiguity dialectic has been enriched in this way.
person is ill, or might this person be healthy? Ross hints at two distinct directions in which *patient* can be made more precise, and this indicates that the term is, according to her, actively ambiguous. However, this request for clarification is more properly interpreted as expressing a challenge, and not as part of an ambiguity criticism.

In a parliamentary debate about a bill, the formulation of the bill is an explicit issue. In this specific discussion the ministers who introduced the bill are committed to two distinct theses: (1) *if a doctor complies with these criteria of due care, ..., and if he administers euthanasia, then he should not be convicted*, and (2) the formulation of this bill is adequate (univocal, etc.) for its purposes. If a member of parliament contends that a formulation of a due care criterion is (actively) ambiguous, this may either be directed as a criticism against (1) or against (2). If it is against (1) it constitutes what we call a point of order of the type ‘ambiguity criticism’. If it is against (2), however, it is part of a substantial refutation. Because Ross mentions the bill itself, the third implicit discussion in Ross’s contribution must be seen as containing such a substantial challenge to (2), and not as an ambiguity criticism against (1). Because the minister's thesis is challenged by asserting its denial, Ross becomes the proponent of that denial. The partly implicit statement that *patient* is ambiguous expresses a reason for that standpoint.

<table>
<thead>
<tr>
<th>Ross: (s1) standpoint</th>
<th>(the formulation of this bill is inadequate)</th>
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<tr>
<td>Minister: (s4)</td>
<td>Why is the formulation of this bill inadequate?</td>
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<td></td>
<td></td>
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<tr>
<td>Ross: (s5)</td>
<td><em>x is a patient</em> is ambiguous between <em>x is a patient in a sense that implies that x is ill</em> and <em>x is a patient in the sense that does not imply that x is ill</em>, so the formulation of this bill is inadequate</td>
</tr>
</tbody>
</table>

To summarise, Ross’s contribution contains at least three, partly implicit, discussions. This explains and clarifies the apparent complexity of the fragment. Some sentences have multiple functions, in that they are part of several implicit discussions. Disambiguated reformulations can function as part of a reason in pro-argumentation (as the first profile shows), as part of an ambiguity criticism (as the second shows), or as a reason in contra-argumentation (the third profile).

**Case-study 2, euthanasia: Vos on unbearable suffering**

Vos, of the right-winged liberal party VVD, favours the bill, but has some critical questions for minister Korthals.

"**Vos (VVD): (…)** In its final judgement the court took into consideration that there is no consensus within medical ethics on how to answer the question of whether a broad or a narrow definition should be applied when considering the unbearable of suffering. It agreed with De Beaufort that the application of a broad definition to unbearable suffering can be adequately defended. This expert witness stated that unbearable suffering can also manifest itself in an insidious and lingering form, characterised by a general hopelessness. The distinguishing feature of this reasoning is that it leaves the verdict on unbearability and the lack of hope in the hands of the
patient. It is understandable that this judgement gave rise to the suggestion that weariness of life itself could be grounds for euthanasia. The Koninklijke Nederlandse Maatschappij voor Geneeskunde (Royal Dutch Society for Medical Science) fears that doctors will become a dispensary for obtaining the means to commit suicide. The Haarlem judges have put extra emphasis on the patient’s right to self-determination. Given this judgement, it seems that the definition of unbearable suffering is not solely based on strictly medical but also on social criteria. The idea that unbearable suffering should be associated with an illness seems to have been abandoned. Whether this is desirable, and if so, to what extent, should be decided by the legislator.

(...) Madam Speaker! Politics and/or the legislator should ask themselves, in what direction do we want to move and what is subsumed by the criteria of the bill? The VVD does not want the hopelessness and **unbearability** criteria to lose their normative characters. That could be the result if these criteria are removed from the medical domain. To the extent that unbearable suffering and suffering without any prospects are interpreted in a broader sense, the patient’s request becomes more significant, and the medical-professional judgement disappears into the background. What remains is a comparatively arbitrary role for the doctor. The willingness to comply with a request for euthanasia will depend on the extent to which the doctor is sensitive to the patient’s problems, or on whether the doctor sympathises with his patient. That is not what the VVD intends with this bill. Euthanasia concerns the personal dignity of patients who suffer unbearably, either physically or psychologically, and who are, moreover, beyond help. They can be spared further suffering if they emphatically request this. Particularly in these circumstances, it is inhuman to let people struggle in vain until the very end.” (November 21, 2067-2068).

Vos’s contribution can best be seen as containing a discussion with minister Korthals on Korthals’s standpoint that, if a doctor complies with the criteria of due care, he should be exempted from criminal liability.

(1) Vos raises an ambiguity criticism against Korthals's use of **unbearable suffering**. Vos does not present a complete disambiguating reformulation of the broad reading of **unbearable suffering**. But he does offer some features of the broad reading: it is a broad definition; it is not only based on strictly medical but also on social aspects; by adopting this reformulation one abandons the idea that unbearable suffering is associated with an illness; choosing this reformulation has the effect of leaving the verdict on unbearability and about the lack of hope in the hands of the patient. We can analyse these conditions of the broad reading as providing a special kind of a disambiguating reformulation.

(2) An interesting point is that Vos goes into some detail concerning the requirements on the broad reading, but he is very brief when it concerns the strict reading. The only requirement he gives is that the definition is a strict one. As will become clear in the next fragment (case-study 3), Vos himself seems to think that, given the context of utterance, he has not made this strict reading sufficiently clear. Therefore, Vos’s ambiguity criticism probably violates a constitutive rule of ambiguity dialectic. If a move violates a constitutive rule this is indicated in the descriptive profiles with a dotted line.

(3) In addition to indicating two directions in which an expression can be interpreted, Vos also argues that these readings are linguistically admissible for the present discussion. He gives two related reasons why he has to take into consideration both a broad and a strict reading of **unbearable suffering**: first, there is no consensus
in medical ethics on how to answer the question whether a broad or a narrow definition should be employed, and second, the court accepted De Beaufort’s proposal to adopt the broad definition, while Vos himself thinks that only the strict definition leads to an acceptable law. In ambiguity dialectic, such reasoning about interpretations is modelled, although in an abstract way, by the utterance meaning testing procedure. Vos presents us with an argument that exemplifies such a test.

Korthals: (s1) If a doctor complies with the criteria of due care, the doctor should be exempted from criminal liability.

Vos: (s4) unbearable suffering is ambiguous between \(X\) and \(Y\), such that \(X\) is a broad definition with characteristics \(C\), and \(Y\) is a strict definition!

Korthals: (s9) admissible?

Vos: (s12) positive

(4) Moreover, the contribution of Vos can also be taken to contain a response to the possible request to show the contextual relevance of the distinction.

Korthals: (s1) If a doctor complies with the criteria of due care, the doctor should be exempted from criminal liability.

Vos: (s4) unbearable suffering is ambiguous between \(X\) and \(Y\), such that \(X\) is a broad definition with characteristics \(C\), and \(Y\) is a strict definition!

Korthals: (s9) Relevant?

Vos: (s15) I admit that if a doctor complies with the criteria of due care, assuming unbearable suffering is taken in the strict sense, the doctor should be exempted from criminal liability; Why would it be the case that if a doctor complies with the criteria of due care, assuming unbearable suffering is taken in the broad sense, the doctor should be exempted from criminal liability? (he offers several reasons to support the thesis that it is better not to exempt the doctor from criminal liability in such a case)

(5) Vos offers some reasons for believing that if a doctor complies with the criteria of due care, assuming unbearable suffering is interpreted in the strict sense, the doctor should be exempted from criminal liability. This argument cannot be meant to persuade Korthals, because it is very implausible that Korthals would challenge its standpoint. However, this argument can be plausibly interpreted as directed towards other critics who would challenge Vos’s commitment to that standpoint.
Chapter 8

Vos: (s1) standpoint(if a doctor complies with the criteria of due care, *unbearable suffering* interpreted in the strict sense, the doctor should be exempted from criminal liability)

 critic: (s4) why?

Vos: (s5) Euthanasia concerns personal dignity of patients who suffer unbearably, either physically or psychologically, and who are moreover beyond treatment. They can be spared further suffering, if they emphatically request this. Particularly in these circumstances, it is inhuman to let people struggle in vain until the very end. So, if a doctor complies with the criteria of due care, *unbearable suffering* interpreted in the strict sense, the doctor should be exempted from criminal liability.

Case-study 2 provides us with plausible examples of responses to possible admissibility and relevance critiques. Moreover, it shows that in real debate, one sometimes criticises ambiguity without giving disambiguating reformulations, but by stating requirements on such reformulations.

Case-study 3, euthanasia: Vos and Halsema on *unbearable suffering* and beyond psychological treatment

After this contribution by Vos, Halsema of *GroenLinks*, an environmental and leftist party, asks Vos to propose a reformulation that could replace the original formulation of the criteria of due care in the bill. Like Vos, Halsema is in favour of the bill.

“Halsema: Madam Speaker! During the entire argument that Mr Vos has constructed on the basis of the one-off Brongersma case, I see no trace of the consequences that he attaches to it for this bill

(...) Vos: We now have to determine what we mean by the criteria of unbearability and without any prospects. As far as I have been able to understand from our preliminary notes, what we mean is to set out the case-law up to and including Chabot.

(...) Halsema: You have not yet answered my question about the adjustments you are proposing to the bill, except that you have said, unbearable suffering without any prospects up to and including Chabot. I do not think that is a good description.

Vos: I am waiting for the Cabinet’s comments. However, it may be that article 2, paragraph 1, subsection b, will state that a doctor has to be convinced of the unbearable suffering and lack of prospects of a patient, and of his or her being beyond physical and psychological treatment. That has been the whole point of case-law in this field. That is what we already intend, actually, but it can be stated explicitly in that clause.

Halsema: What is “beyond psychological treatment”? How many suicide attempts have to precede it? Is someone who is suicidal for a very long time beyond psychological treatment?

Vos: In the first instance, I will refer to the criteria of the Chabot decision. This subject needs to be discussed at length. It concerns people who are in some way
Active ambiguity in a debate on euthanasia and in a tobacco lawsuit

weary of life. I think this is an extremely complicated subject. I can easily imagine that there are people who so ardently desire to end their lives that this desire has a psychological cause. I do not know for certain. This might fall under this bill insofar as it is a psychological illness, but whether this is always the case, I do not know. The bill makes it possible to discuss this subject in terms of the existence of a psychological illness. I can easily imagine that a number of people do have this disorder. If you so ardently desire to put an end to your life, then this may well be a mental disorder. This requires further interpretation and investigation.

Halsema: I accept that. (…)” (November 21, 2069)

(1) This fragment partly contributes to the discussion on the issue of whether or not the bill is formulated adequately. The standpoint in question is something like: ‘unbearable suffering’ is formulated inadequately in the law. Halsema, in her first contribution, seems to ask for a reformulation of unbearable suffering that Vos would like to be inserted into the bill. Vos’s answer, however, does not contain such a reformulation, nor is clear that it contains requirements on such a reformulation. For that reason, Halsema criticises Vos’s answer in her second contribution of this fragment. When Vos understands her question correctly, in his second contribution, he gives a tentative reformulation: a doctor has to be convinced of the unbearable suffering and lack of prospects of a patient, and of his or her being beyond physical and psychological treatment. This discussion pertains to the formulation of the bill.

(2) This fragment also contains a contribution to a discussion about whether or not the criteria of due care are acceptable. Vos, in his answer to Halsema’s question, seems to interpret her question as a request to clarify the way he wants the criteria to be interpreted. Such a request by Halsema would be a natural continuation to Vos’s ambiguity criticism that we analysed in case-study 2. The force of Halsema’s request would be: ‘in your point of order, you mention requirements on the reformulation of the criteria you do not accept, but you do not specify requirements on the reformulation you do accept. Please, in order to complete your ambiguity criticism, specify the strict definition of unbearable suffering.’ This mediscussion arises from the ground level discussion about the acceptability of the criteria of due care.

Due to this interpretation that Vos seems to adopt in his first contribution, Vos supposes that he made an omission by not giving an adequate disambiguating reformulation. As a response, he corrects his alleged omission, and makes it clear how he wants the criteria to be interpreted.

If we share this interpretation by Vos, we have to judge that Vos’s original ambiguity criticism violates a constitutive rule of ambiguity dialectic. Consequently, Halsema’s response to that violation cannot itself be part of a discussion according to the rules of ambiguity dialectic. According to this interpretation, Vos and Halsema are attempting to discuss by the rules of ambiguity dialectic.

Vos: unbearable suffering is ambiguous between X and Y, such that X is a broad definition with characteristics C, and Y is a strict definition!

Halsema: Reformulate Y

(3) Halsema’s request to clarify beyond psychological treatment can be interpreted as a new ambiguity criticism. She presents two issues which are to be solved by a reformulation by Vos, and by doing so, she states requirements on the disambiguating
reformulations: (1) how many attempts at suicide are required in order to say that someone is beyond psychological treatment? (2) Is someone who is suicidal for a very long time beyond psychological treatment? The first question suggests that Halsema criticises Vos’s formulation as being vague. The second suggests that the formulation is ambiguous between a reformulation such that the answer to the second question will be 'yes' and a reformulation such that the answer to the question will be 'no'. Thus, plausibly, Halsema’s contribution contains an ambiguity criticism. This ambiguity criticism is directed against Vos's thesis that a doctor is entitled to comply with a request for euthanasia, in case of unbearable suffering without any prospects of a patient who is beyond physical and psychological treatment.

Vos does not respond to Halsema’s ambiguity criticism by disambiguating his standpoint. His motive is that the issue requires more interpretation and study. Halsema accepts this answer. Vos’s move is unreasonable from the perspective of ambiguity dialectic, but is reasonable from the perspective of the attempt to have an ad-discussion. Halsema seems to acknowledge that it is too difficult, at this moment, to choose a disambiguation. It is not possible to continue the ad-discussion at this point, and Vos and Halsema leave the ambiguity dialectic-discussion, entering the attempt at ad-discussion.

Vos: (s1) If a doctor is convinced of a person's unbearable suffering and lack of prospect and of his or her being beyond physical and psychological treatment, a doctor may comply with a request for euthanasia.

Halsema: (s4) beyond psychological treatment is ambiguous between X and Y, such that X makes it clear that the following claim “someone who is suicidal for a very long time is done with psychological treatment” is to be affirmed and such that Y makes it clear that this claim is to be denied

Vos: By lack of information I do not know at this moment.

The fact that discussants may contribute to several discussions by one and the same locution has led in this fragment to a misunderstanding with respect to the illocutionary force of Vos's remarks about the two meanings of an expression: does Vos propose an alternative formulation to be inserted into the bill or does he raise an ambiguity criticism? This fragment presents us with two examples of moves that violate the constitutive rules of ambiguity dialectic. The first transgression is an omission that Vos repairs. The second example shows that Vos and Halsema decide to abandon the ad-discussion. This transgression seems reasonable from the perspective of the attempt at having an ad-discussion.

Case-study 4, euthanasia: Korthals and Kant on realistic therapy

Kant, of the SP, a socialist party, opposes the bill. In the following fragment she questions minister Korthals and receives a response (on the next day).

"Kant: (...) In case-law, there is no question of suffering without any prospects if the patient rejects a realistic therapy. However, the problem is, under what circumstances
may we speak of a realistic therapy. According to the ministers, a case may be considered hopeless if it is clear, according to responsible medical opinion, that the patient cannot be cured. In that case there is no realistic therapy. Further care and treatment should be directed towards the prevention and relief of suffering. In the ministers’ opinion, this palliative care is not the kind of realistic therapy that the High Court referred to. In their opinion, if a patient rejects palliative care, this rejection does not stand in the way of compliance with a request for the termination of life or assisted suicide. Madam Speaker! In my view this is a very problematic point. To what extent is the patient’s choice determined by the pain or suffering of that very moment? If the pain or suffering is removed, might the patient not have chosen differently? Is a choice really free if the suffering is not first removed, or at least relieved? I think this is very problematic. Professor of Medical Ethics, Den Hartogh, has written in *Medisch Contact* that the Cabinet’s view on this matter is inconsistent. The reason why we allow a doctor to violate a patient’s inalienable right to life is not his illness, but his unbearable suffering due to the illness. When the illness itself cannot be cured and yet the suffering can be removed, this violation can no longer be justified. Why would you kill someone in order to relieve his ongoing and intense pain if that pain could also be effectively combated by other means? In this sort of case the request appears to have been prompted by motives other than suffering, and the patient has taken advantage of his suffering to have his request complied with. I would like to hear what the ministers have to say in response to Professor of Medical Ethics Den Hartogh’s position” (November 21, 2048).

“Korthals: (...) In deliberation 6.3.3. of its verdict, the High Court stated that, if a realistic alternative directed at easing suffering were to be rejected in complete freedom by the person in question then, in principle, the case cannot be a question of suffering without any prospects. In our opinion, this ground for judgement has to be understood in the following way - that a patient may, according to Dutch law, refuse every treatment. In this respect, the decision to make use of a therapy is the patient’s, just as Mr. Van der Vlies has remarked. But, if there is a realistic therapy available, a doctor may not be convinced that the requirement of suffering that is unbearable and without any prospects has been met. Now I have also answered Mrs. Kant’s question. As I said, it has to be a question of a realistic therapy. That should be understood to mean a treatment that offers some promise of improvement in the near future, with a reasonable balance between the results that may be expected and the treatment’s burden on the patient. For the sake of clarity, I am talking in this case about treatment directed towards the cure or substantial betterment of the patient’s medical condition.

Kant: But that is exactly the crux. I cannot see from what you say whether rejecting palliative care is to be regarded as rejecting a realistic alternative. Does palliative care fall under medical treatment? The treatment of the disease, the condition, is central, but might that also encompass treatment of the symptoms, like pain, or treatment directed at the condition itself?

Korthals: Madam Speaker! If the suffering consists solely of pain, and the doctor has adequate sedatives available, then, I imagine, if the patient rejects the sedatives regardless, the doctor should not be able to be convinced of there being unbearable suffering. But in practice, almost all cases of unbearable suffering are due to several factors. The case is not as simple as Mrs Kant is suggesting in her example. Kant: I don’t think I gave an example. Is rejection of palliative care in a situation where there is suffering a good reason not to comply with the request for euthanasia? Is it conditional?
Korthals: Madam Speaker! In my view, “Palliative” is not a realistic kind of therapy.

Kant: How can you say such a thing? The doctor proposes it as a realistic therapy, not to cure or fight the condition or disease, but to ease the pain, the suffering. If there is a realistic therapy for the suffering, and if that is refused, may euthanasia then be allowed to be administered?

Korthals: This is one of the subjects that Minister Borst will tackle." (November 22, 2118-9).

Korthals seems to be very unclear in his response to Kant’s questions. Does he commit a fallacy by giving a reformulation that does not help Kant in obtaining the answer to the question whether or not palliative care can form a realistic therapy?

(1) As in similar cases, we may analyse Kant’s question as expressing an ambiguity criticism. She indicates two possible disambiguating reformulations by giving a requirement that Korthals choice for a reformulation must fulfil: does his choice for a reformulation include or exclude palliative care? However, Korthals gives a disambiguation that does not answer this question clearly. According to ambiguity dialectic, this sequence of moves is perfectly legal: Korthals may choose his own reformulations. Kant, however, criticises the reformulation as again ambiguous. This is also legal. A fallacious move resides elsewhere, as we will see.

Korthals: (s1) If a patient rejects realistic therapy, we may not speak of suffering without any prospects

↓

Kant: (s4) realistic therapy is ambiguous between X and Y, such that X implies an affirmative answer and Y a denial to the question: may a realistic therapy consist of palliative care?

↓

Korthals: (s9) If a realistic alternative directed at easing suffering were to be rejected in complete freedom by the person in question then, in principle, the case cannot be a question of suffering without any prospects. It has to be a treatment that offers some promise of improvement, with a reasonable balance between the results that may be expected and the treatment’s burden on the patient.

↓

Kant: (s4) A treatment that offers some promise of improvement, with a reasonable balance between the results that may be expected and the treatment’s burden on the patient is ambiguous between X and Y, such that X implies an affirmative answer and Y a denial to the question: may a reasonable treatment consist of palliative care?

(2) Kant’s criticism can also be taken as containing a request to answer the question can palliative care constitute a realistic therapy?, where she speaks in the capacity of proponent. Korthals’s answers to this request must be interpreted as evasive and not allowable in an ambiguity dialectic-discussion (it is not an option according to s3). He himself seems also to hold this opinion, because he abandons the discussion on this issue, and delegates the task of answering this question to minister Borst. Kant repeats

170 “Realistic” is the translation for the Dutch phrase “redelijk”, meaning also “reasonable”.

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her ambiguity criticism twice, which can be interpreted as two attempts to get the discussion back on track again.

**Kant:** Do you concede that realistic therapy may consist of palliative care?

**Korthals:** It has to be a treatment that offers some promise of improvement, with a reasonable balance between the results that may be expected and the treatment’s burden on the patient.

This fragment (as analysed under 1) offers us with an example where the proponent chooses a disambiguating reformulation that has not been introduced by the critic. Moreover, it illustrates the kind of case where a disambiguation is itself actively ambiguous.

### 3. THE TOBACCO CASE

In 1998, the state of Minnesota and the health insurance company Blue Cross & Blue Shield of Minnesota, brought a health care cost recovery suit to trial. The defendants were five major tobacco companies in the United States, including Philip Morris, R.J. Reynolds, and a research institution set up by the industry, the Council for Tobacco Research (CTR).

One of the major issues in the litigation was whether the industry had withheld information about the health effects of smoking. The plaintiffs tried to prove that, back in the 1950’s, the industry disposed of evidence that smoking causes lung cancer and other diseases, and that they had not made this information public.

One of the witnesses that was called by the plaintiffs is J. Glenn, at that time chief executive officer (CEO) and chairman of CTR. He is cross-examined by plaintiff Ciresi (transcript of February 19, 20 and 23, 1998). The interrogation proceeds according to a strict format where Ciresi has the role of questioner, Q, and Glenn that of answerer, A.\(^{171}\)

Exceptionally large financial interests were at stake and the participants are, much more so than in the euthanasia debate, pursuing interests instead of pursuing a reasonable position. But even so, we can expect serious argumentation, if only to keep up an image of reasonableness. In this cross-examination, the plaintiff is trying to elicit information that is disadvantageous to the witness’s party, and advantageous to the lawyer’s party. Ciresi’s questions can be seen as devices to elicit concessions from the answerer (Glenn). Although the witness has sworn to answer the questions honestly, there is still room left to resist unwelcome concessions. If the answerer resists to concede a statement \(T\), the questioner may ask the answerer to grant him other statements from which he can attempt to derive \(T\). A related tactic by the questioner is to get the answerer to concede contradictory statements. This diminishes

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the credibility of the witness and forces him to retract statements. Large parts of the cross-examination can be fruitfully approached as ad-discussions.

**Case-study 5, tobacco: Glenn and Ciresi on cause (I)**

The following fragment is characteristic for this cross-examination. Glenn refuses to concede that the industry knew and continues to know that smoking causes cancer. In this fragment, Ciresi makes an effort to let Glenn grant this. Ciresi exploits the commonly accepted presumptions that the Surgeon General, the American Lung Association, the American Medical Association and the World Health Organization are weighty scientific authorities. The strategy behind Ciresi’s questioning is that when these authorities make a statement within their field of expertise the expressed proposition must be conceded by Glenn.

"Q. Well, sir, you do know that the Surgeon General of the United States has said that cigarettes cause cancer. You do know that.
A. I do know that. And I know the sense in which the Surgeon General uses the term “cause.”
Q. Sir—
A. And it’s different from the scientific—
Q. Sir—
A.—terminology
[..]
Q. Then, sir, if you listen to my question, and I’ll listen to your answer, and we’ll get through this a lot quicker. Okay? Has the Surgeon General said that smoking causes cancer?
A. The Surgeon General has said that smoking causes cancer.
Q. Has the American Lung Association said that smoking causes cancer?
A. American Lung Association has said, but I—I must add to this the fact that they are using the term “cause” in a different sense than the scientific term.
Q. Sir—
A. And I accept it. The—the word “cause”—
Q. Sir—
A.—in their circumstances is fine.
Q. Sir, can you just answer my question? Has the American Medical Association said that smoking causes cancer?
A. The same answer, Mr. Ciresi. But I think it’s misleading to the jury if they don’t know that causation issue is—is a scientific matter.
Q. Sir, has the American Medical Association said that smoking causes cancer? “Yes” or “no.”
A. Yes.
Q. Thank you. Has the World Health Organization said that smoking causes cancer? “Yes” or “no?”
A. Yes, and I accept that, but—
Q. Thank you.
A.—again we come back to the definition of “causation.” 

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172 The head of a major US health organisation.
This fragment contains two issues that are related to ambiguity.

1. Four times in a row Ciresi requests Glenn to answer a question of the form: ‘has X said that smoking causes cancer’, where X refers to a respectable scientific institution. For sake of brevity, the descriptive profile of dialogue can be represented at a more abstract level. Although, strictly taken, ambiguity dialectic does not allow a proponent to make a request without offering an argument, this feature of the model is only motivated by the desire to keep the model simple. In the following descriptive profile it is supposed that ambiguity dialectic (s5 in particular) is enriched so as to include the option of posing a request only.

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<thead>
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<th>Ciresi: (s5) Has X said that smoking causes cancer?</th>
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</tr>
<tr>
<td>Glenn: (s3) I do not concede that X said that smoking causes cancer in the scientific sense of cause</td>
</tr>
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<td>Glenn: (s3) X said that smoking causes cancer in a non-scientific sense of cause</td>
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</tbody>
</table>

Glenn is apparently not willing to concede, without further comment, the question ‘has X said that smoking causes cancer?’ if a scientific authority is substituted for X. At this stage Glenn has already conceded that it is known that smoke contains carcinogenic parts, but he still refuses to concede that there is sufficient scientific evidence that the carcinogenic particles cause cancer. Elsewhere, Glenn explicates his distinction between two meanings of cause. If used in its strict scientific sense, the sentence smoking causes cancer implies that experts grasp the mechanisms by which smoking leads to cancer. If used in the looser sense smoking causes cancer implies that there have been found statistical relationships between smoking and cancer, but it does not imply any knowledge about the mechanisms. Glenn calls this looser sense the non-scientific or lay sense.

The strategic consideration by Glenn that underlies his ambiguity criticism probably looks like this. If Glenn concedes X has said that smoking causes cancer, then it is likely that Ciresi will reason in accordance with the argument scheme from expert opinion (Walton 1996a, 65): “(1) You accept X (the Surgeon General, the American Lung Association, etc.) as an authority in medical issues, (2) X said that smoking causes cancer, (3) which is a statement within X's domain of expertise, (4) therefore, you will have to concede that smoking causes cancer”. As is clear from the context, the conclusion (4) must be read as a scientifically supported statement.

Thus, if Glenn affirms Ciresi’s question in a straightforward fashion, it looks as though Glenn will have to admit that smoking causes cancer. On the other hand, if he simply denies the question Glenn will look like the odd man out. From the perspective adopted by Glenn, Ciresi’s argument is an example of the fallacy of equivocation. Glenn tries to steer clear of this argument by criticising the question as
actively ambiguous. Glenn is committed to X’s saying that smoking causes cancer in its looser sense, but that does not support the thesis that smoking causes cancer (in the scientific sense). If Glenn were committed to *X said that smoking causes cancer, in the scientific sense of cause*, then he would have to concede Ciresi’s thesis, but that is an unacceptable premise, as Glenn makes clear. By stating repeatedly in what sense the authorities meant ‘cause’, Glenn tries to escape from the dilemma between conceding Ciresi’s standpoint and refusing to concede a statement made by respected scientific authorities. Glenn anticipates an expected tactic on the part of the questioner by claiming, implicitly, that Ciresi commits the fallacy of equivocation.

Instead of criticising the alleged ambiguity in Ciresi’s request, Glenn could also have adopted another tactic: conceding the allegedly ambiguous sentence *X said that smoking causes cancer*, and wait until Ciresi uses it in the argument that Glenn expects. This alternative strategy is shown in the possible descriptive profile below:

<table>
<thead>
<tr>
<th>Ciresi: (s5) X said that smoking causes cancer, so smoking causes cancer (in a scientific sense).</th>
<th></th>
</tr>
</thead>
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<td>Glenn: (s3) <em>cause</em> is ambiguous between <em>cause</em> in the scientific sense, and <em>cause</em> in a non-scientific sense.</td>
<td></td>
</tr>
<tr>
<td>Ciresi: (s9) relevant?</td>
<td></td>
</tr>
<tr>
<td>Glenn: (s15) equivocation: I'll win</td>
<td></td>
</tr>
<tr>
<td>Ciresi: (s16) X said that smoking causes cancer in the scientific sense, so smoking causes cancer (in a scientific sense).</td>
<td>Ciresi: (s16) X said that smoking causes cancer in a non-scientific sense, so smoking causes cancer (in a scientific sense).</td>
</tr>
<tr>
<td>Glenn: (s4) Did X say that smoking causes cancer in the scientific sense?</td>
<td>Glenn: (s4) Why would I grant that smoking causes cancer in a scientific sense if X says that smoking causes cancer in a non-scientific sense?</td>
</tr>
</tbody>
</table>

Glenn further suggests that the disagreement between the scientific authorities and Glenn, that Ciresi hints at, forms a pseudodispute at most. Allegedly, both Glenn and the authorities hold that it is unknown whether smoking causes cancer in a scientific sense of causation.

(2) In addition to the alleged ambiguity in what the authorities have expressed, there also is an ambiguity in the phrasing of Ciresi’s questions. Glenn interprets the question, apparently in order to be safe, as ‘did X *express* the proposition that smoking causes cancer?’. Ciresi, however, seems to criticise Glenn for not being responsive. He allegedly did not mean to ask whether Glenn agrees with some interpretation of what X tries to express by the words, but whether X uttered (or wrote down) the string of
words *smoking causes cancer* or something very similar. Only in Glenn’s interpretation of the question can one say that the sentence *X said that smoking causes cancer* is ambiguous. The sentence *X said “smoking causes cancer”* is not actively ambiguous in this situation. Hence, there is some confusion with respect to what is asked by Ciresi. If Ciresi is correct and asked after the string of words uttered by the authorities, the disagreement constitutes a sort of pseudodispute: Glenn raises a point of order against a locution that was meant to express something Glenn accepts. But it remains doubtful whether Ciresi intends to refer to the string of words, because Ciresi clearly needs Glenn's concession that the authorities expressed a certain proposition. Glenn’s interpretation seems to be the more plausible one.

Ciresi: (s5) Did X said that smoking causes cancer?

Glenn: […]

Ciresi: (s5) Did X utter the sentence: *smoking causes cancer*?

This fragment (as analysed in the first profile of dialogue) forms an example of a case where the answerer plausibly anticipates a possible fallacy of equivocation. Moreover, (as analysed in the second profile of dialogue) it illustrates a special case of a discussion where the proponent analyses a dispute as a pseudodispute.

**Case-study 6, tobacco: Glenn and Ciresi on representation**

In the following fragment, Glenn is confronted with the question of whether the industry made a *representation*, when they stated that they believed to make products that are not injurious to health. In 1954, the industry published (in all major US newspapers) the so-called *Frank Statement*. It was a reaction to scientific publications on the relationship between smoking and cancer, and was meant to reassure the public. In the Frank Statement, the industry promised to instigate and subsidise further research and, in particular, to keep the public informed.

"Q. Okay. And they also stated, “We believe the products we make are not injurious to health.” Do you see that?  
A. I do.  
Q. That’s a representation that was made to the public in 1954; correct?  
A. It is a statement made in the Frank Statement.  
Q. It’s a representation made in the Frank Statement by these defendants who signed it; correct?  
A. Yes. I—I assume that we are saying the same thing. I don’t know what you mean by “representation” other than the fact that it is stated here just as you read it.  
Q. Okay. How do you define “representation?”  
A. Well I’m represented in Congress by my elected congressman, I’m represented here in this courtroom by my attorneys. That’s representation. I guess this is a representation.  
Q. Is that the only kind—"
A. I think we’re saying the same thing. I was afraid that you were asking me something in a legal sense that I didn’t understand.
Q. No, no. I’m just using the words that are here, sir. Okay? Now you’ve given me two examples of representations, you’re represented by an attorney and you have a representative in Congress; is that right?
A. Yes.
Q. Okay. When you make statements, do you make representations? Is that another definition?
A. That would be fine, if that’s what it means, but I was afraid that you were using a legal term that I didn’t understand.
Q. Now when we look at the Frank Statement, there’s nothing in there about representation by an attorney; is there?
A. I don’t know that there is.
Q. There’s nothing in there about a representation by your congressman or congresswoman; is there?
A. No, sir.
Q. Okay. So the representation that’s being referred to is a statement that was made by the industry; correct?
A. If I interpret “representation” to simply mean the fact that they made that statement, I agree with you. I don’t want to argue with you.”

In this fragment, the alleged active ambiguity of *representation* is at issue. There are two indications that Glenn’s answer *(it is a statement made in the Frank Statement)* contains a partly implicit ambiguity criticism. First, Ciresi interprets Glenn’s answer that way, because he sets up a reasoning to ‘prove’ that his use of *representation* was not actively ambiguous (this will be analysed below). Second, Glenn states that he fears a legal meaning of representation. Thus, probably, Glenn anticipates a situation where he has conceded *it is a representation in the Frank Statement*, and where Ciresi uses that concession to derive an unwelcome conclusion T. Glenn expects that (1) if he accepts the reason in the statement-disambiguation, he does not have to concede it in its legal-sense-disambiguation and (2) that the reason supports T only in its legal-sense-disambiguation. Given this situation, the natural thing to do is to analyse and criticise the active ambiguity. Thus, it is plausible to interpret Glenn’s move as a partly implicit, and somewhat tentative, ambiguity criticism. That he does not make it more explicit is explained by his lack of confidence on the issue of whether or not *representation* may express a legal meaning.

Ciresi brings forward an argument with which he tries to show that *representation* is not actively ambiguous in this context. This is an example where the utterance meaning testing procedure is put to use. Ciresi tests whether *representation* is actively ambiguous between *statement* and predicate X such that a congressman or attorney are examples of X. By doing this, he violates a rule of ambiguity dialectic, because the input of the test should also include the third reading that Glenn has mentioned: some special legal reading. Stated in other terms, Ciresi employs a disjunctive syllogism, but fails to argue *ex concessis*, because Glenn is not committed to the disjunction ‘*representation* means either *statement*, or X, such that a congressman or attorney are examples of X’. In this way, Glenn attempts to make it look like Glenn is nit-picking on the term *statement*.

---

However, Ciresi's transgression makes no difference to the outcome of the test: Glenn makes the tactical error of bringing up the interpretation of representation, such that an attorney or congressman is an example. That is clearly an irrelevant interpretation within this context, and this error is exploited by Ciresi. However, Glenn's strategic mistake is not illegal according to the rules of ambiguity dialectic.

Ciresi: (s5) Is “We believe the products we make are not injurious to health” a representation that was made to the public in 1954?

Glenn: (s3) representation is ambiguous between something that is stated, and X, such that a congressman or an attorney are examples of X, and Y such that Y is a legal term.

Ciresi: (s9) admissible?

Glenn: (s10) I retract my ambiguity criticism

Ciresi: (s11) Is “We believe the products we make are not injurious to health” a representation that was made to the public in 1954?

Glenn: (s3) I concede that “We believe the products we make are not injurious to health” is a representation that was made to the public in 1954

This fragment presents us with an example of a fallacious use of the utterance meaning testing procedure. Moreover, it shows that if an ambiguity criticism is ruled out as unjustified, the parties can resume the discussion with the original formulation (representation): it is no longer considered to be disqualified.

**Case-study 7, tobacco: Glenn and Ciresi on consistency**

In the next fragment, Ciresi tries to let Glenn concede that Glenn himself has done no research on smoking and health, and tries, in that way, to reduce Glenn’s status as an authority in this field. Mr. Weber is one of the industry’s lawyers, Dr. Teague is working within the tobacco industry, and his statement is regarded as a concession of the defending party.

"Q. So Dr. Teague’s statement, quote, “Studies of clinical data tend to confirm the relationship between heavy and prolonged smoking and incidence of cancer of the lung,” is consistent, according to your testimony under oath, with the executive statement, “They [the chief executive officers of the tobacco companies] are confident they can supply us with comprehensive and authoritative scientific material which completely refutes the health charges.” Is that right?
A. It is consistent, yes.
Q. Okay. Now—"
Chapter 8

A. And I would call your attention to the fact that Dr. Teague acknowledges that this is studies of clinical data. Medically speaking, clinical data means (1) patient-derived information, it—it doesn’t mean (2) scientific fact. And it also says it tends to confirm the relationship between heavy and prolonged tobacco smoking, and I think that was perfectly true in 1953. That also is consistent with the fact that the companies may have felt that they had evidence that would refute the argument that there was any relationship.

Q. So you’d say it’s consistent; correct?
A. Yes, sir.175

The issue here is whether or not the following two sentences are inconsistent:

A: Studies of clinical data tend to confirm the relationship between heavy and prolonged smoking and incidence of cancer of the lung.
B: They are confident they can supply us with comprehensive and authoritative scientific material which completely refutes the health charges.

Glenn explains that one might attribute two different interpretations to A: A1 and A2.

A1: Patient-derived information tends to confirm the relationship between heavy and prolonged smoking and incidence of cancer of the lung.
A2: Scientific research tends to confirm the relationship between heavy and prolonged smoking and incidence of cancer of the lung.

According to Glenn, A1 is consistent with B, and he strongly suggests that A2 is not. Glenn's criticism can be interpreted as a claim that Ciresi has committed an interpretational mistake. But it can also be interpreted as implying a correction of an active ambiguity in Glenn's own set of concessions, as the following descriptive profile of dialogue shows.

Ciresi: (s5) A and B so ⊥

Glenn: (s4) d_{B\rightarrow A1,A2}: A1, B

Case-study 8, tobacco: Glenn and Ciresi on cause (2)

"Q. Now sir, in fact these companies did know back in 1958 that smoking caused disease; didn’t they?
A. Will you define “cause” for me? Because we get into a very difficult area. “Cause” to me means proven causation, replicable causation, and if you use the—the term “cause” in the lay sense, as the Surgeon General has used it, I’ll accept “cause.”
Q. Did these companies, using how the Surgeon General used it, know that cigarettes caused lung cancer in 1954? Did they know that, sir?
A. There was no scientific evidence in 1954 or, as you previously said, 1958.
Q. So they didn’t know it in the lay sense, as you’re saying it, in 1958; is that what you’re saying?
A. Mr. Ciresi, I said what I said.
Q. All right. Can—
A. If you want to define “cause,” we—we can go through that at length.

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Q. You just said, sir, that in your opinion the Surgeon General uses “cause” in a lay sense and says cigarette smoking caused cancer. Isn’t that what you said?
A. I will accept the use of the word “cause” as used by the Surgeon General, because he’s using it as a warning to people—
Q. Sir—
A.—that this is a health hazard.
Q. Sir, he said “cause,” and you said that was a lay sense; didn’t you?
A. Yes.
[..]
Q. Did the companies, cigarette manufacturers, in 1955 know that cigarette smoking caused cancer by using what you called the lay definition? Did they know?
A. I don’t know that one way or the other. I don’t know what they knew. You’re asking me to put myself in a position that’s impossible.”

As we have seen before, Glenn distinguishes between cause in a scientific, and in a lay sense. Glenn, in his first contribution, says he accepts the word cause as the Surgeon General uses it. This is no more than a hint that Glenn concedes that the companies knew, in 1958, that smoking causes, in the lay sense, cancer. If it is a concession, it is a concealed one. Ciresi needs an explicit and clear concession, and poses a new request to Glenn in his second turn. Because Ciresi seems to accept that cause is disqualified by Glenn’s implicit ambiguity criticism, he uses a disambiguating reformulation in this new request: cause, using it how the Surgeon General used it. Glenn’s refusal to respond to Ciresi’s new question is evasive. Moreover, in his fourth turn, Glenn poses the same ambiguity criticism against Ciresi’s request. This violates rule s6, because the ambiguity criticism is essentially identical to his ambiguity criticism in his first turn. This latter inadmissible move is pictured in the profile of dialogue below.

Ciresi: (s2) Did these companies know back in 1958 that smoking caused disease?

↓

Glenn: (s3) cause is ambiguous between cause in a lay sense as the Surgeon General used it, and cause in a scientific sense

↓

Ciresi: (s9) Did these companies know back in 1958 that smoking caused disease, in the lay sense of cause as the Surgeon General used it?

↓

Glenn: cause is ambiguous between cause in a lay sense as the Surgeon General used it and cause in a scientific sense

This fragment presents us with a clear example of nitpicking: Glenn criticises an expression as actively ambiguous, while it is clearly univocal in the context of use.

Case-study 9, tobacco: Glenn and Ciresi on cause (3)

On February 23, Ciresi changes his strategy. From now on he tries to make Glenn concede that the Surgeon General and the other authorities did use *cause*, not in the lay, but in a scientific sense. First, Ciresi hypothesises that Glenn’s criteria for calling something Y a cause for a disease, in a scientific sense, are *not* given by the Koch postulates. These postulates include: that Y occurs in every case of the disease, that Y occurs in no other disease, and that after being isolated from the body, grown in a pure culture and repeatedly passed, Y would induce the disease again. Glenn admits that he calls some viruses the *cause* of diseases, without the viruses obeying any of these postulates. Admittedly, instead of using the Koch postulates, scientists call Y a cause for X, if certain statistical relations apply to X and Y. On February 23rd the following exchange takes place, where Ciresi refers to statistical methods:

Q. And the Surgeon General of the United States since 1964 has used those scientific methods in determining that smoking causes a variety of diseases; haven’t they?
A. True.

Ciresi seems to have taken a crucial step for his argument from expert opinion that supports the thesis that smoking causes cancer, interpreted in a scientific sense: Glenn has granted that the Surgeon General uses ‘cause’ in a scientific sense. However, Glenn still refuses to concede Ciresi’s thesis: he perseveres in making a distinction between the two distinct readings of *cause*:

"Q. And sir, you are aware, are you not, that the Surgeon General in 1964 and since that time has used all of those factors to say from a scientific standpoint there’s a cause-and-effect relationship between smoking and lung cancer?
A. Yes.

[..]
Q. And in fact Surgeon General report after Surgeon General report after Surgeon General report found that smoking causes diseases; didn’t they?
A. If we come back to the definition of the word “cause.”
Q. Yes. The scientific definition of cause that we discussed earlier today, you and I. They found it time and time and time again; didn’t they, sir?
A. No, sir. We still have the—the dichotomy between “cause” in the broad, general sense and “cause” in the specific sense.
Q. I’m talking cause, sir, as found by these scientists by using scientific methodology of looking at experiments, looking at associations, looking at coherency, looking at strength of association, all of those scientific methodologies, they found it time after time; didn’t they?
A. No, sir. We still have the—the difference of definition of “cause.” And I accept the Surgeon General’s use of the term “cause” and I think it’s appropriate because he was attempting to educate people about risk factors.
Q. Sir, he used the word “cause” based on scientific methodology that you and I discussed this morning. Do we have to go through that again?
[..]
A. No, sir, I don’t want to, but I’d be glad to if you want.
Q. All right. Well then let’s do it again. The temporal association, the consistency of the association, the strength of the association, the coherence, the specificity, all of those factors, the epidemiology, the toxicology test, all of those that are taken together
by scientists to determine whether there’s cause and effect, that’s what was done in
the Surgeon General’s report; correct?
[\ldots]
A. Yes, sir, all of that’s correct. But --
Q. And that --
A.—you still have not settled the issue of “cause.” And I’d be happy to explain that
again if you want me to.
Q. No, because you don’t want to accept “cause” because you want it to be according
to the Henle Koch postulates; isn’t that right?
A. No, sir, not exactly. What I want to do is to be scientifically accurate. And we
know that 93 percent of smokers never get any lung disease. We also know that
smokers are more prone to have lung cancer than are non-smokers. So, you know, the
evidence is—is out there, but it’s not conclusive.
Q. Doctor, you want “cause” based on Henle Koch postulates. That’s what you want.
You want universality; correct?
[\ldots]
A. No, sir.
Q. You accept cause of infectious mononucleosis even though you know there’s all
kinds of other causes for it; isn’t that right? Or Epstein-Barr. You accept that; don’t
you?
A. Well I don’t want to argue with you, but I think we’ve answered this question
before, and I—my only comment is that we’ve got to accept the term “cause” in the
broadest sense.
Q. Sir, with regard to infectious mononucleosis, you accept that the Epstein-Barr
causes it; don’t you?
A. Among other things.
[\ldots]
Q. And cigarette smoking can cause lung cancer in individuals; can’t it?
A. Again we come back to the definition of “cause.”
Q. Same thing as Epstein-Barr and infectious mononucleosis?
A. No, sir, I don’t think so. They’re apples and oranges and there’s no—there’s no
way to compare the two.
Q. Do you know what—let me strike that. You said earlier you don’t even know how
many other causes for infectious mononucleosis there is.
[\ldots]
A. Yes.
Q. But yet you still say that Epstein-Barr causes infectious mononucleosis; correct?
A. Yes.
Q. Okay. Now let’s deal with lung cancer. In the same fashion, wouldn’t you agree
that cigarette smoking causes lung cancer?
A. I accept the Surgeon General’s definition.
Q. Thank you.”\textsuperscript{177}

It might be the case that Glenn and the Surgeon General both use scientific concepts
of causation, but that Glenn requires a stronger statistical connection than the Surgeon
General does. However, Glenn here claims that the issue is still that between \textit{cause} in
a scientific and \textit{cause} in a lay sense. Ciresi has shown this to be incorrect.
Furthermore, Glenn seems to contradict himself by explicitly conceding in his first

\textsuperscript{177} February 23 1998.
turn that the Surgeon General said that, from a scientific standpoint, there’s a cause-and-effect relationship between smoking and lung cancer, and strongly suggesting in his third and fourth turn that the Surgeon General meant it only in a lay sense to educate the general public. Glenn’s persistence blocks the progression of the discussion and is unreasonable, because it neglects Ciresi’s disambiguation. Glenn repeats a distinction between two alleged meanings even though Ciresi has made it clear that he requests Glenn to concede that the Surgeon General said that smoking causes cancer in the scientific sense. Glenn profits from this fallacious perseverance, for it still provides him some space for rejecting Ciresi’s thesis that smoking causes cancer in a scientific sense of cause.

| Glenn: (s4) cause is ambiguous between cause in a lay sense and cause in a scientific sense |
| Ciresi: (s5) Did the Surgeon General reports found that smoking causes diseases, in a scientific sense? |
| Glenn: cause is ambiguous between cause in a lay and cause in a scientific sense |

4. GENERAL CONCLUSIONS DERIVED FROM THE CASE-STUDIES

We have been approaching fragments from the euthanasia debate and the tobacco lawsuit from the perspective of ambiguity dialectic. Specifically, we have employed the normative profiles of ambiguity dialectic in order to obtain descriptive profiles.

This approach has led to interesting and insightful analyses. It has enabled us to make sense of many details concerning the use of disambiguating reformulations. It enabled us to explain strategic considerations of manoeuvres concerning ambiguity, such as anticipating a fallacy of equivocation, or escaping from an untenable position. Further, we have been able to give detailed evaluations of these strategic manoeuvres: loosening the norms does not lead to a loss of norms. We have found several fallacies: in contributions that fail to respond adequately to a fallacy criticism; in raising an ambiguity criticism against an expression that is clearly univocal; in not responding to a request to concede a statement. The intuition that some fallacies can be said to be reasonable could be made sense of: some transgressions of the constitutive rules for critical discussion are reasonable from the perspective of the serious attempt at having an argumentative discussion. We have seen some examples of such 'reasonable' fallacies.

These results have been made possible by approaching these dialogues, not from the perspective of a more highly ideal and ambiguity-free kind of critical discussion, but from the perspective of the somewhat less ideal ad-discussion in which the participants are bound to try to formulate univocally in a systematic way. Sometimes, we even found reason to take the even less ideal stance of the mere attempt at ambiguity dialectic-discussion.

Because the rules of ambiguity dialectic enable us to explain several features of argumentative discourse, it is plausible that rules such as the rules of ambiguity dialectic govern argumentative discourse and that participants in argumentative discussions regard themselves as committed to such rules. Therefore, it has been made
plausible that the pre-theoretical concept of a good argumentative discussion has been explicated by the kind of model that allows discussants room for suboptimal behaviour, for committing particular fallacies that violate regulative rules, and for starting metadiscussions in which they can examine their own argumentative behaviour. Ambiguity dialectic, presumably, is a normative model that resembles the colloquial concept of a good argumentative discussion.