Scripta Neophilologica Posnaniensia, Tom IV, strony: 15 - 27 Wydział Neofilologii, UAM Poznań, 2002

CAN WORDS BEHEAD? PERLOCUTIONS IN EARLY MODERN ENGLISH TRIAL RECORDS

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1. Introduction

Within the last few years the feasibility of a diachronic speech act analysis has been addressed in numerous studies and it is some of the contributions to the first issue of *Journal of Historical Pragmatics* that are particularly relevant to the present analysis. The weight of the issue is clearly reflected in the question asked in Bertucelli-Papi's paper "Is a diachronic speech act theory possible?" (Bertucelli-Papi 2000). It continues to be the central concern of a diachronic look at insults due to Jucker & Taavitsainen (2000) and of Culpeper & Semino's (2000) analysis of speech acts in Early Modern English witchcraft trials. One should also mention here Arnovick's monograph on diachronic pragmatics, cf. Arnovick (1999)¹ and some of the papers in Jucker et al. (1999).

In my analysis I will assume that diachronic speech act theory is possible, although some restrictions apply. First, one has to cope with the already widely recognised problem of the degree of orality preserved in the written representations of past discourses. For instance, the adequacy of the trial records written down by the court reporters and then "improved upon" by consecutive scribes could be reflected in the punctuation, lexicon and grammar. This might influence such grammatical features vital for my analysis of Early Modern English trial records as the use of certain formulae to express the corresponding illocutionary acts and their intended perlocutionary effects. A question arises at this point what is the degree of recoverability of both types of acts. If we assume that usually the illocutionary acts occurring in the past trial records can be easily pinned down either due to the presence of the corresponding explicit

¹ See also my review of Arnovick's book, i.e. Kryk-Kastovsky (2001).

performatives or due to the relatively transparent illocutionary force, perlocutions might pose a problem. Let's have a look at some of the reasons why it is the case.

If we consider the earliest definitions of perlocutionary act, it certainly appears to be the vaguest and fuzziest of all the concepts of Speech Act Theory. Austin, the founder of the theory, describes perlocutionary act as follows:

[t]he speaker's saying something produces an effect on the feelings, thoughts, or actions of his audience, other persons or himself, Austin (1962: 101).

In his attempt to improve Austin's original version of Speech Act Theory, Searle (1969) comes up with the following formulation explaining the nature of perlocutionary act:

Correlated with the notion of illocutionary acts is the notion of the consequences or *effects* such acts have on the actions, thoughts or beliefs, etc. of hearers. For example, by arguing I may *persuade* or *convince* someone, by warning him I may *scare* or *alarm* him, by making a request I may *get him to do something*, by informing him I may *convince him* (*enlighten*, *edify*, *inspire him*, *get him to realize*). The italicized expressions above denote perlocutionary acts, Searle (1969: 25).

Thus, for Austin and Searle, perlocutions are the effects which the speaker's saying something has on the feelings/beliefs/thoughts and actions of the hearers or him-/herself, both difficult to detect as part of the psychological or non-verbal rather than the verbal sphere of the speaker's behaviour. Levinson (1983) aptly summarises Austin's stand as follows:

Perlocutionary act: the bringing about of effects on the audience by means of uttering the sentence, such effects being special to the circumstances of utterance. (...) In contrast [to the illocutionary act], a perlocutionary act is specific to the circumstances of issuance, and is therefore not conventionally achieved just by uttering that particular utterance, and includes all those effects, intended or unintended, often indeterminate, that some particular utterance in a particular situation may cause. The distinction has loose boundaries, Austin admits, but (...) if one can paraphrase the utterance with an explicit performative, it is an illocutionary act, if not – it is a perlocution, cf. Levinson (1983: 236f).

It follows from our discussion so far that perlocution has not changed its status ever since it was cast in a philosophical framework by Austin and his follower Searle. Indeed, perplexed by its nebulous nature, Levinson also considers perlocution a vague notion, defined by default. Therefore, it does not come as a surprise that his contemporary, Leech follows similar line of reasoning and points out that the dividing line between illocutions and perlocutions is fuzzy since with some verbs (e.g. *inform, tell*) it is unclear whether their meaning includes perlocutionary effects or not, Leech (1983: 226).

In view of the reported fuzziness of perlocutions, which makes them hardly recoverable from the context in spoken interaction, let alone from a written account of a past discourse, the aim of this paper is to demonstrate that perlocutions can be identified by the analyst, but only under the following conditions:

- a) A necessary condition for the speaker's performing a perlocutionary act is that both the speaker's and hearer's linguistic competence is involved in the performance of the act, cf. Davis (1997: 230). However, unlike Davis, I believe that this condition alone is not sufficient, especially if applied to historical data. Thus, the analyst must also rely on:
- b) The knowledge of the relevant socio-political and cultural context characteristic of the historical period when the text was written, which implies another condition, i.e.
- c) The knowledge of the technicalities characteristic of the production of a particular genre, e.g. the conventions of letter writing, court reporting, or writing down depositions in a given historical period.

It is my contention that the approach advocated here is particularly relevant for the purposes of this study which offers an analysis of perlocutions in selected Early Modern English trial records. First, I would like to demonstrate how the specificity of the institutionalised courtroom situation makes the perlocutionary effects of utterances not only socially but also legally binding for all the participants of the jural theatre. While being pronounced guilty by a private person has only moral and/or social consequences, the same verdict in court has a legally imposed punishment as its perlocution. Moreover, I will show that an analysis of historical data in terms of the perlocutionary effects which the speech acts of some (usually the more powerful) participants of the trial proceedings had on the beliefs and actions of the addressees, would hardly be possible without recourse to the socio-political context of Early Modern England. My stand is consonant with Arnovick's (1999) proposal "to recontextualise some speech acts historically and culturally", and with the broad approaches to the diachronic speech act analysis advocated by Jucker & Taavitsainen (2000) and Culpeper & Semino (2000).

2. Analysis

Let's have a look at some excerpts from two Early Modern English trials: *The Trial of Titus Oates (TO)* and *The Trial of Lady Alice Lisle (AL)*. Consider the following exchange at the beginning of *TO* consisting of *wh*-questions which are examples of the most basic examination technique in court.

2.1. Wh-questions

(1) Mr. Sol. Gen. Mrs. Ireland, pray where did you take your leave of your Brother Mr. Ireland, who was executed in Summer 1678, and when?

Mrs. A. Ireland. I took my leave of him the beginning of August.

Mr. Sol. Gen. What day in August, do you remember?

Mrs. A. Ireland. The 3d of August.

Mr. Sol. Gen. Where was it?

Mrs. A. Ireland. In my own Lodging.

L. C. J. Where was your Lodging?

Mrs. A. Ireland. In Russel-street, Covent-Garden.

L. C. J. Now tell us again the time when it was?

Mrs. A. Ireland. It was on Saturday Morning, as I remember, the 3d of August, the Saturday after St. Ignatius's Day.

L. C. J. How come you remember so particularly, that it was then?

Indeed, the wh-questions in (1) are simple requests for information, see Searle (1969: 69). Thus, the questions asked by Lord Chief Justice aim at finding out the answers, and this is what their perlocutionary effects are. However, his last utterance is not a simple question any more but casts doubt on the witness testimony (by means of the expression how come). Thus, the perlocutionary effect could be that of intimidating the witness in order to make her change the deposition. Some more such cases will be discussed below.

2.2. Yes/no questions

Apart from simple wh-questions which pose least problems to the analyst, much more effective examination techniques employed in court include yes/no questions. Danet (1980) calls them coercive questions which, along with declarative questions, are more prevalent when serious offences are involved. Also, Luchjenbroers (1997: 482) claims that barristers have maximal control over the contents of witness replies with what she calls restrictive yes/no questions. (2) below contains many such questions which together with appropriate answers, create what Jucker & Taavitsainen call 'pragmatic space', an analytical tool in speech act analysis analogous to semantic fields. Following Jucker & Taavitsainen (2000: 74), speech acts will be treated here as fuzzy concepts which show both synchronic and diachronic variation in the pragmatic space, thus they should not be considered in isolation, but with relation to other speech acts. In (2) we can distinguish several combination of acts, which for the sake of convenience, have been divided into individual exchanges of illocution + perlocution:

(2) L. C. J. And you are sure he went out of Town the Saturday after? Mrs. A. Ireland. Yes, I am sure he went out of Town then; for I asked him, why he would go on a Saturday? And he told me, he would go but to Standen that Night. Mr. Sol. Gen. And that does hold, according to the Computation, to be the 3d of August.

Oates. My Lord, she is not positive in this, that he went out of Town the 3d of August.

Mr. At. Gen. Yes, but she is; for she says, that she was the Wednesday before (which was St. Ignatius' Day with him a little way out of Town.

L. C. J. And that it was Saturday after he went out of Town; and she gives the Reason, that she entered into a Discourse with him, why he would go on Saturday? And he made that Answer which you hear.

Thus, (2a) below is an example of direct questioning by yes/no question (its form are you sure casts doubt on the truth of the whole proposition). According to Searle (1969) and Davis (1997: 235), eliciting an answer is one of the purposes of asking a question and is a perlocutionary act. Notice, how Mrs. Ireland provides a full answer to the question (including the are you sure? clause), thus the perlocutionary effect has been fully achieved). She might also do it to conform to the rules of court investigation since, according to Lakoff (1990: 90), "witnesses are warned to answer questions directly and to the point, and add nothing superfluous".

- (2a) L. C. J. And you are sure he went out of Town the Saturday after?

 Mrs. A. Ireland. Yes, I am sure he went out of Town then; for I asked him, why he would go on a Saturday? And he told me, he would go but to Standen that Night.
- In (2b) the statement by Solicitor General has the perlocutionary effect of convincing the court that the witness is telling the truth, cf. Searle (1969: 25).
- (2b) Mr. Sol. Gen. And that does hold, according to the Computation, to be the 3d of August.

The truth of (2b) is suspended by the defendant Oates in (2c), here the perlocutionary effect is to persuade the court that the witness is not telling the truth, which would be to Oates' advantage:

- (2c) Oates. My Lord, she is not positive in this, that he went out of Town the 3d of August.
- (2d) s a denial of the previous denial (2c), with the perlocutionary effect to persuade the court that the witness is, after all, telling the truth.
- (2d) Mr. At. Gen. Yes, but she is; for she says, that she was the Wednesday before (which was St. Ignatius' Day with him a little way out of Town.

The series of illocutions and perlocutions is crowned by a final confirmation based on additional evidence uttered by Lord Chief Justice. Since he is the highest and most powerful instance in court, the perlocutionary effect of his emphatic statement amounts to convincing everyone that the witness is right. However, in all these instances the perlocution does not work for Oates, who does not believe in what Mrs. Ireland is saying, which is reflected in his verbal behaviour throughout the trial:

(2e) L. C. J. And that it was Saturday after he went out of Town; and she gives the Reason, that she entered into a Discourse with him, why he would go on Saturday? And he made that Answer which you hear.

2.3. Declarative questions

Another possible examination technique are declarative questions containing a presupposition that p, i.e. that a certain state of affairs obtains. While the underlying illocution contains such performatives as assert/affirm/state, the perlocutionary effect of such questions would be an expression of the belief that p (note how in (3) the presupposition is strengthened not only by the declarative form of the yes/no question, but also by the use of the parenthetical I suppose):

(3) L. C. J. You were his near Relation, I suppose? Mrs. A. Ireland. Yes, my Lord, I was his Sister.

2.4. Other types of questions

As we have seen before, requests for information in the form of wh-questions can intimidate or confuse the witness. It is especially the case if his/her answer is interrupted as inappropriate/irrelevant. In (4) it is again the main dramatis persona of the court scene, i.e. Lord Chief Justice, who interrupts Mrs. Ireland. This has the perlocutionary effect of intimidating her, which escalates as Oates asks even more questions. Both aim at further verbal harassment of the witness by carefully structuring their interrogation. Notice that after the interruption Mrs. Ireland is asked two more questions: a rhetorical one with an obvious presupposition that she did not give the evidence before. The presupposition is then suspended in the next yes/no question, which is one of the most effective examination techniques, cornering the witness. Thus, the two questions form a complex illocutionary act of a request for information. The humble behaviour of the witness who as a result of being intimidated performs the perlocutionary act of fulfilling the request of the interrogators is also strengthened by the use of the official formula "I desire to know".²

(4) L. C. J. When did he come to Town again, do you say? Mrs. A. Ireland. He came to Town again a Fortnight before Michaelmas; that Michaelmas-day fell on -L. C. J. Have you any Questions to ask her, Mr. Oates? Oates. My Lord, I desire to know, why she did not give this Evidence before? Or whether ever she did give this Evidence at any of the Trials? Mrs. A. Ireland. Yes, I was at my Brother's Trial; and there I gave the same Evidence.

2.5. A complex case: the speech act network

The next interrogation is a combination of various questions interwoven with the reactions which they cause in the addressee. I will call this kind of complex discourse consisting of interrelated illocutions and their corresponding perlocutions 'a speech act network'. Although perlocutions are fuzzy concepts, since due to their speaker-related nature they are hardly predictable, some of them can be conventional. So eliciting an answer would be a conventional purpose of asking a question, e.g. by employing an explicit performative as in I ask you, cf. Davis (1997: 235). Notice that (5) starts with a question (a request/order for information) issued by the annoyed Lord Chief Justice. Due to its form (opening with the clause are you sure) the question casts doubt on the truth of Mrs. Duddle's previous deposition. The resulting perlocution can include any of the following effects: eliciting an answer, scaring the witness, or even forcing her to change the deposition. Here Lord Chief Justice's order for information is followed by the witness' confession of her ignorance, which ends up in his accusing the witness that she is contradicting herself. This does not, however, have the intended perlocutionary effect of the witness changing her story but rather results in its continuation, whereupon Oates points out that she is contradicting herself, a remark rejected by the judge. Once again, it is the judge's powerful position that influences the structure of the discourse and makes it clear that despite the different perlocutionary effects which Mrs. Duddle's deposition has on the defendant Oates, it is the attitude of Lord Chief Justice and his consecutive actions that determine whether the court decides that the witness was telling the truth (the powerful position of judges in Early Modern England has been discussed in, e.g. Nevailainen (1994), Jucker & Taavitsainen (2000), Culpeper and Kytö (2000a,b), Kryk-Kastovsky (2000)). It must be emphasised here that a court decision, as opposed to an opinion of a private person, had crucial legal consequences, both for the witness (if we consider the punishment in case she had been lying), and the defendant (who, as a result, might have been found guilty). In contrast, an analogous discourse outside the courtroom would lack this institutional framework so that a lie would have just moral consequences and possibly be subject to repair.

(5) L. C. J. Are you sure he staid all Night?

Mrs. Duddle. I am sure he staid but one Night.

L. C. J. But what say you to that, Mr. Attorney? this Witness contradicts the other.

Mr. Just. Withins. Ay, plainly.

L. C. J. But mind my Question, Woman.

Mrs. Duddle. Yes, my Lord.

L. C. J. Did he come home that Night he went on the Recreation?

Mrs. Duddle. I do not know.

L. C. J. But just now, you swore he staid out all Night?

Mrs. Duddle. No, my Lord.

L. C. J. Yes, but you did though; prithee mind what thou art about.

Mrs. Duddle. I do not say he, but I am sure his Sister and the Company staid out that

² The performative use of desire has been documented in OED, s.v. desire: desire

^{5.} To express a wish for (an object), to ask for, request;

c. with inf. obj.: to desire to know, have, etc. something.

Night. I remember very well, he went the third Day after, which was *Saturday*. And Mr. *Jennison* came to ask for him three Weeks after; and there was a Person of Quality with him in the Coach; I think it was Sir *Miles Wharton*. And he asking for him, they gave him an account, that they had not heard from him since he went; which was then three Weeks after he was gone. And I remember well, he did not come to Town again till a Fortnight before *Michaelmas*.

L. C. J. How can you tell that?

Mrs. *Duddle*. My Lord, I can tell it very well: For I was almost every Night in the Room where he used to lie; and there lay a Gentlewoman there, that I knew.

L. C. J. What was her Name?

Mrs. Duddle. Mrs. Eagleston.

L. C. J. How come she to lie there?

Mrs. Duddle. Her Maid fell sick, and she chang'd her own Chamber, and lay there all the time he was out of Town.

Oates. My Lord, is this good Evidence?

L. C. J. Ay, why not?

Oates. My Lord, I think she contradicts the other Witness: For she says he lay out two Nights.

L. C. J. No, there you are mistaken too.

2.6. Cross-examination of a witness

Another instance of a complex discourse going on in court, i.e. a speech act network, is a cross-examination of a witness in (6). It starts with a yes/no question, a request for information, whose perlocutionary effect would normally be eliciting an answer. But the information is provided somewhat tentatively, which leads to Oates' accusation that it is just hearsay, rejected by Lord Chief Justice as unfounded. As the interrogation goes on, the judge continues rejecting the doubts Oates has about the deposition of Lord Aston, whereupon Oates gives in by means of a performative "I submit"3. As Oates goes on trying to undermine the lord's testimony, e.g. by means of the clause are you sure, the lord gives a tentative answer of the type it is possible that p. This has an undesirable perlocutionary effect: Oates questions the truth of lord Aston's testimony, by getting him to realise that it is possible that not p. As a result, the judge asks the lord a question concerning not so much the "objective" facts, but the lord's beliefs, i.e. do you believe that p?, which has a curious perlocutionary effect on Lord Aston. His initial utterance I make no doubt about it... can be represented as It is necessary that p and would normally have the perlocutionary effect of persuading the court that p. But the lord weakens it by stating that he cannot swear it, which has the perlocutionary effect of dissuading the court from believing that p. This complex array

of illocutions and the resulting perlocutions could be worked out not only, as Davis (1997) has it, due to the speaker and addressee's linguistic competence, but also, as I argue here, due to the knowledge of the socio-cultural context shared both by the discourse participants in the 17th century court and the modern readers. Indeed, the knowledge of the socio-cultural background of a given period facilitates the task of the analyst in reconstructing the rules of the language spoken in the past on the basis of written records. For example, it is the judge who, despite Oates' attempts to undermine Lord Aston's testimony, supports and accepts it, since he is in control of the situation. Notice that despite the social distance between the lord and himself, which he fully acknowledges in the interrogation process, he can still afford a slightly condescending form of address, i.e. my Lord Aston. Finally, it is also significant that the defendant Oates can represent himself in court and ask direct and even rude questions. This can be explained by the high social position of Dr. Oates, an educated clergyman, whose influence in political circles in Early England should not be underestimated.

(6) Oates. Then I would ask him this Ouestion;

whether the Ireland that was executed be the same

Ireland he speaks of?

Lord Aston. Amongst those that knew him well, I have been told it was the same.

Oates. That is but Hear-say, my Lord; he does not speak of his own Knowledge.

L. C. J. For that matter, I suppose, you'll produce some other *Ireland*, Mr. Oates, if it was not the same.

Mr. At. Gen. Was it this Mrs. Ireland's Brother, that was here a Witness now? Lord Aston. He was so reputed, and so looked upon.

L. C. J. That is all one. If any body should ask me, if you were the same Mr. Oates that was at St. Omers; I should say, I heard so; and it would be very good Evidence, unless some one else were produc'd.

Oates. My Lord, I submit; I will be directed by the Court in any thing that is fair, and not injurious to my Defence.

L. C. J. We will not direct you in any thing that's foul, but pray keep to those Questions that are pertinent.

Oates. Are you sure Ireland went the whole Journey with you, my Lord?

Lord Aston. I did answer that; I have but a general Notion of it, he came to me for that purpose.

Oates. Then my Lord is not positive he went with him into Staffordshire.

L. C. J. No he is not; but I would ask you this Question. My Lord Aston, do you believe he went with you to Tixhall?

Lord *Aston*. I make no doubt about it, I would pawn all I have in the World upon it; only I cannot swear it, because I have it not in my Notes, as I have those two other Days.

The excerpts quoted so far come from *The Trial of Titus Oates*. The data have served to corroborate my argument that the most adequate interpretation of speech act networks which occur in old written documents as the reflection of orality in historical

³ Although obsolete nowadays, submit was used performatively in Early Modern English in one of its meanings listed in OED: submit

I.1. refl. And intr. To place oneself under the control of a person in authority or power; to become subject, surrender oneself, or yield to a person or his rule, etc.

discourse cannot be achieved without recourse to the knowledge of the socio-political conditions of a given period. One more example, this time from *The Trial of Lady Alice Lisle* (which also took place in 1685) illustrates my point even more vividly, since it is the final interrogation of the defendant, where the speech act network constituting the cross-examination reflects the judge's more and more obvious effort to intimidate the defendant and as a result, to force her to change her testimony, which would amount to her pleading guilty. Since it is an exceptional, if not extreme case of a court examination, it has been included here to conclude my analysis.

2.7. Cross-examination of a defendant

Let's have a look at our final example:

(7) L. C. J. Have you any more to say for yourself?

Lisle. My Lord, I came but five days before this into the Country -

L. C. J. Nay, I cannot tell when you came into the Country, nor I do not care; it seems you came time enough to harbour Rebels.

Lisle. I staid in London till all the Rebellion was past and over; and I never uttered a good Word for the Rebels, nor ever harbour'd so much as a good Wish for them in my Mind: I know the King is my Sovereign, and I know my Duty to him, and if I would have ventured my Life for any thing, it should have been to serve him, I know it is his due, and I owed all I had in the World to him: But tho' I could not fight for him my self, my Son did; he was actually in Arms on the King's side in this Business; I instructed him always in Loyalty, and sent him thither; it was I that bred him up to fight for the King.

L. C. J. Well, have you done?
Lisle. Yes, my Lord.
L. C. J. Have you a mind to say any thing more?
Lisle. No, my Lord.

The speech act network in (7) starts with a question asked by Lord Chief Justice which is not really a request for information, but rather a meta-question whether, under the serious circumstances of being accused of high treason, Lady Alice Lisle (still) has something to say for herself (the presupposition being that she does not). Again, the powerful position of the judge is obvious here. His later behaviour in trying to force the defendant to plead guilty becomes more comprehensible in view of the negative opinions of Judge Jeffreys coming both from his contemporaries and the historians. The obvious perlocutionary effect of the judge's "request for information" is providing the answer. However, Lady Alice Lisle's testimony is immediately rejected by a straightforward denial, whereupon she supplies more arguments to prove that she could not have harboured the rebels, which she tries to achieve by means of the following perlocutions:

- to convince/persuade the court that since she was absent from the site of the rebellion at the time it happened, she is not guilty;
- to convince/persuade the court that since she did not support the rebels, she is not guilty
- to convince/persuade the court that since she is a loyal servant to the king, her sovereign, she is not guilty
- to convince/persuade the court that since her son fought for the king having been brought up by her in full loyalty to the crown, she is not guilty

The interrogation ends dramatically with the infamous judge Jeffreys caustic question whether Lady Lisle has finished her testimony (note the use of well, which Culpeper & Kytö (2000a: 74) consider one of the verbal indicators of the judge's control over the situation). This request for information has the perlocutionary effect of eliciting an answer from the defendant, followed by yet another request for information from the judge. Notice that the analyst would not be in the position to assess the dramatic tension of this excerpt without the appropriate socio-historical knowledge both of the epoch and the persons participating in the trial. Thus, the well-known verbal cruelty of judge Jeffreys and his predilection for irony, invective and other face-threatening acts aim at intimidating the defendant and forcing her to change her testimony. Although, as has been shown by Jucker & Taavitsainen (2000), this is what happened in the same court trial to one of the witnesses, Dunne, Lady Alice Lisle firmly adhered to her testimony. In the light of these historical facts, the interpretation of this passage is even more dramatic, since the reader realises, along with the actual participants and the audience of the trial, that the defendant's final words have the most binding perlocutionary effect, i.e. in the absence of evidence to the contrary, she turns out to be guilty. Moreover, additional knowledge of the history of the period allows the analyst to see this series of illocutions and perlocutions as resulting in the gravest of legal consequences (Lady Alice Lisle was indeed pronounced guilty and was beheaded as soon as 6 days later, in September 1685).

3. Concluding remarks

The aim of my contribution to diachronic speech act analysis has been to show that not only illocutionary but even perlocutionary acts can be retrieved from written accounts of past discourses like trial records. While conducting an exegesis of old documents, the analyst must rely both on his/her linguistic knowledge of the period under investigation and the knowledge of the socio-historical conditions holding at that time. The optimistic conclusion should not, however, create an illusion that the analyst can easily enter the minds of the speakers, to extract their feelings, thoughts or intentions as unambiguously meant. This task will always remain open to further, more sophisticated techniques, whether in synchronic or diachronic studies.

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