

DISCUSSIONS

WHAT IS TESTIMONY?

BY PETER J. GRAHAM

1. I argue that a speaker *S* testifies by making some statement *p* if and only if

- G1. *S*'s stating that *p* is offered as evidence that *p*
- G2. *S* intends that his audience believe that he has the relevant competence, authority or credentials to state truly that *p*
- G3. *S*'s statement that *p* is believed by *S* to be relevant to some question that he believes is disputed or unresolved (which may or may not be *p*) and is directed at those whom he believes to be in need of evidence on the matter.

I claim that (G2) and (G3) are redundant, given (G1); they make explicit what is involved in offering a statement as evidence. I argue for my thesis by opposing it to the rival thesis advanced by Coady in his highly praised book *Testimony: a Philosophical Study* (Oxford: Clarendon Press, 1992). Coady claims (p. 42) that a speaker *S* testifies by making some statement *p* if and only if

- C1. *S*'s stating that *p* is evidence that *p* and is offered as evidence that *p*
- C2. *S* has the relevant competence, authority, or credentials to state truly that *p*
- C3. *S*'s statement that *p* is relevant to some disputed or unresolved question (which may or may not be *p*) and is directed to those who are in need of evidence on the matter.

2. What is evidence? Crudely, evidence is a statement or a fact that epistemically supports another statement or fact. There is more than one concept of evidence, however. I follow Coady (pp. 44–5) in making use of Achinstein's excellent discussion of the nature of evidence.¹ Here is an example from Achinstein: on Monday, Andy goes to the hospital to see his doctor about the yellow colour of his skin. The doctor examines his skin and declares that he has jaundice. Some tests are made, and when the results are in on Friday the doctor declares that Andy does not have

¹ P. Achinstein, 'Concepts of Evidence', *Mind*, 86 (1978), repr. in P. Achinstein (ed.), *The Concept of Evidence* (Oxford UP, 1983), pp. 145–74.

jaundice, even though the colour of his skin has not changed. Instead the doctor declares that Andy's skin colour is due to the chemical dye that Andy works with.

From the following three plausible claims, Achinstein distils three concepts of evidence:

- (i) Andy's yellow skin was evidence of jaundice and still is
- (ii) Andy's yellow skin was but no longer is evidence of jaundice
- (iii) Andy's yellow skin is not and never was evidence of jaundice.

The first concept is *potential* evidence, underwriting (i). It requires an objective connection, association or regularity between the putative piece of evidence and what it is evidence for. However, e can be potential evidence that h even if h is false. And, though e must be true, e must not entail h . 'The fact that [Andy has] yellow skin is not evidence that [he has] skin; it is too good to be evidence' (Achinstein p. 146).

The second is *veridical* evidence, underwriting (iii). Veridical evidence is potential evidence where h is also true. The third is X 's evidence, underwriting (ii). X 's evidence is what a subject takes to be evidence that so and so; it is a subjective notion. Here ' X ' stands for an arbitrary subject or cognizer. The subject must believe that h is true or probable and must do so for the reason that e . Perhaps all three concepts are involved in our use of 'evidence'.

For a statement offered as evidence *to be* evidence, Coady thinks, it must be potential evidence and (C3) must be satisfied. This will become clearer below. He rightly eschews (p. 44) the requirement that the statement be veridical evidence: 'particular pieces of testimony do not establish the truth of p when p is actually false'.

3. Here I offer three examples against (C1) that support (G1) and satisfy (G2) and (G3) as well. The first example is a case that is not X 's evidence. The second is not potential evidence, and the third is neither X 's nor potential. In the fifth section I argue against Coady's more restrictive notion of evidence that involves (C3).

First, here is an example from Dretske.² I know that there are no cookies in the cookie jar because I looked. Sally walks in and says 'There are cookies in the cookie jar'. I do not accept that there are cookies in the cookie jar for I know, I am convinced, that there are no cookies in the cookie jar. So I do not accept what Sally says as a reason to believe that there are cookies in the jar. Her stating that p is not my evidence that p , though perhaps it is my evidence that she has poor eyesight or deceptive intentions.

Second, the Millionaire is a normal adult human being, stranded with the Movie Star, the Professor, *et al.*, on a remote island. One day a cask of wine bottles without labels washes up. Only the Millionaire ever really knew anything about wine. He asserts that he can tell by tasting what the different wines are. Unfortunately, he has unknowingly lost his discriminating palate. When he talks about the wines to the rest they all accept what he says as correct, even though what he says is no better than chance. His statements about the wines are not potential evidence about the wines, even though he and his audience both believe that he speaks truly about them.

² F. Dretske, 'Reasons, Knowledge, and Probability', *Philosophy of Science*, 38 (1971), pp. 216–20.

Surely he is testifying, for he is sincere, intends to convey information, thinks he knows what he is talking about, and so on.

Third, there is no intelligent life upon Mars, and *a fortiori* Martians do not exist or fly spaceships routinely to the Earth. Tana, an oddball, states to a group of reasonably-minded university students that Martians have kidnapped her and examined her brain. She is sincere and intends to persuade her audience. She is just a little weird. The students rightly ignore her. Her statement is not potential evidence that she was kidnapped by Martians, and it is not X 's evidence.

4. Here I argue in favour of (G2) and against (C2). (C2) conflicts with the Millionaire case and Tana's case. Can (C2) be sustained somehow? Although Coady gives the following Jones case to show why (C2) and (C1) are not redundant, I take the case as an argument in favour of (C2), for Coady thinks (pp. 45–6) that Jones does not testify because he fails (C2):

[We know that Jones has] been hypnotized by a master criminal. The criminal has programmed the unsuspecting Jones to state [truly] that the criminal's arch-rival is hiding out at a certain address and to do so with conviction in the expectation that his word will be believed. When Jones blurts out the information, it is a reason for us to take it as evidence for the arch-rival's hiding-place because we know of the hypnotism and of the master criminal's interest in having the information made available to us. But Jones is not testifying because [C2] is not satisfied. He has no authority himself to vouch for p , as will become apparent if he is asked how he knows it.... Jones is not testifying even if he satisfies [C1] and possibly [C3], because he clearly does not satisfy [C2].

We should accept Coady's claim that Jones is not testifying; he is just blurting something out. What Jones is lacking is the capacity to say why he thinks he knows the whereabouts of the arch-rival. When he is asked how he knows, he finds that he cannot defend his claim with any reasons, good or bad. He may even take back his 'testimony'.

Here I try to establish that if we modify Jones' case to add relevant beliefs and intentions, then it will be clear that (modified) Jones is testifying even though he fails (C2). I argue that failure to pass (C2) is not the best explanation of why Jones in the original case is not testifying. Rather, (G2) best explains the case.

The case is driven by two factors. First, we know about the hypnotism; and second, Jones cannot back up his statement when challenged. Suppose we knew about the hypnotism, but Jones was now programmed to believe that he had been to the arch-rival's house, that he knows what the rival looks like, and so on. He would then be testifying. He is *sincere* when he says where the arch-rival lives. He *believes* he knows where the rival lives. And he is *trying* to communicate to us the whereabouts of the rival. Why should the fact that *we* know that he does not know, that he does not *in fact* possess authority, prevent him from testifying to us about someone's whereabouts?

Suppose, to modify the case further, that Jones had the relevant supporting beliefs *and* we did not know about the hypnotism. Here it is clear that Jones is

testifying. If someone told you something with conviction and gave reasons to defend his claim and it turned out that what he said was true, would you say that whether he testified or not depended on whether, in fact, his reasons were good?

What the original Jones case suggests is that (G2) is preferable to (C2). Jones fails (C2) in Coady's version of the case and in the modified versions, but he clearly testifies in the modified versions. He testifies there because he passes (G2), and he failed to testify in the original case because he failed (G2). The original case is an argument for (G2); the latter explains better than (C2) why Jones failed to testify.

Further support for (G2) comes from cases of 'false testimony'. Someone can lie and still testify. (G2) explains why someone who knowingly fails to possess the relevant competence to state truly that p can still testify that p when lying. We saw that (G2) is also supported by the three cases given in the previous section.

5. Coady concedes (p. 45) that (C3) is redundant with (C1), because he thinks that (C3) is a condition on the nature of evidence:

[C3] is conjunctive and the first part may well be no more than an elucidation of what is involved in anything's being evidence at all. The second part, however, may not seem to be a condition on evidence in general since some state of affairs e may be evidence that s even where no one 'needs' evidence that s . Take, for instance, the case where e is certain muddy footprints' being on the carpet, and s is John's having failed to wipe his boots before coming into the house. Even where John has confessed and no one needs evidence, we might still think that e is evidence that s . I doubt that this intuition is sound, but we do not need to settle the matter. Let us suppose that [C3] is, strictly speaking, redundant.

The point Coady makes is that if John has confessed and no one needs evidence, then that there are muddy footprints on the carpet is *not* evidence. He is here endorsing a view of evidence that combines potential evidence with the fulfilment of (C3). I shall call this conception 'C-evidence'. How does it work?

What occurs in John's case is that everyone already believes p , because he confessed, and so the muddy footprints are not 'evidence'. No one is in need of evidence on the matter. Hence the muddy footprints are not C-evidence (though still potential evidence).

What about cases where someone is in need of 'evidence', but he does not accept what someone else says on the matter? I need to know whether p , and Mary says that p , but I do not accept her saying that p as a reason to believe that p . Perhaps I do not trust her, though maybe I should. Here I do not have a belief whether p , and so I am still in need of 'evidence', even if Mary's stating that p is potential evidence. Mary's statement would still be a case of C-evidence, for it is potential evidence and satisfies (C3).

I do not contest this conception of evidence. Indeed, it makes good sense to *relativize* evidence to the epistemic needs of cognizers, as Dretske has pointed out, and so it may be the correct conception of evidence *simpliciter*.

I do contest requiring (C3) on testimony. Should we say that Sally, in the cookie jar case, did not testify when she told me that it was not empty? Should we say that

Tana did not testify to her audience when she expressed her beliefs about Martian technology? Should we say that someone who speaks to me does not testify just because I already know what he says is true, or because I already know what he says is false? I do not think we should. Just because I do not *need* the information you set out to convey to me by telling me something, it does not follow that you are not testifying. Indeed, why should whether you are testifying depend upon my state of knowledge or my epistemic needs, even though it makes sense to say that whether your utterance is evidence (at least C-evidence) or not depends on my needs? If evidence is relative to cognizers (if C-evidence is really evidence *simpliciter*) it follows that whether your utterance is evidence depends upon whom it is directed towards. But again I do not see that it follows that if your utterance is not evidence then it is not testimony. Surely Sally could pretend to be in need of evidence just to flatter Jim, and then sit attentively listening to Jim, pretending to take up everything he says. Would we really want to say that Jim is not testifying just because in flattering him Sally is feigning ignorance?

All of this goes against (C₃) and is consistent with (G₃). In favour of (G₃) it should be noted that mere statements are not testimony. Saying 'It is a nice day' is not usually taken as testimony about the weather (though it is when said by the weatherman). Repeating what you have already said over and over does not count as testimony either, unless you have forgotten each previous utterance. Further, even if your audience is in need of evidence or some relevant issue is in dispute and you casually make some statement that is relevant to that issue, it is not an instance of testimony unless you satisfy (G₃). Surely simply saying something out of the blue that others find useful is not testimony unless you intend it to be considered epistemically useful.

6. Testimony spreads knowledge through communication. Testimony is extremely common and not always epistemically efficacious. We testify all the time, but we do not spread knowledge, or even provide evidence, potential, veridical, *simpliciter* or otherwise, every time we make a statement that *p* with the intention of supporting *p*. Conditions (G₁)–(G₃) on testimony make this plain. Coady's account, on the other hand, raises very high the epistemic standard for a statement that *p* to count as evidence that *p*.

Why does he raise the standard? He does so because he relies on an analysis of formal testimony, testimony as it occurs in legal contexts, to analyse natural testimony (pp. 26–38). In a court of law, witnesses, through direct questioning and under cross-examination, and through rules governing expert testimony and the swearing-in process and perjury laws, must establish that they satisfy (C₂). Witnesses must also swear an oath designed to guarantee sincerity. Further, in a court of law, the guilt or innocence of the defendant is supposed to be in doubt. Witnesses then go on to direct their answers to questions relevant to determining whether the defendant is guilty or innocent, giving answers for the sake of those who are in need of evidence on the matter, the jury. In short, witnesses' statements are required to satisfy (C₃). For what a witness says in the witness box to count as testimony, it must be deemed by the judge or the jury, or both, to satisfy (C₂) and (C₃). But that does not show

that every statement offered as evidence must *in fact* pass (C₂) and (C₃) to *be* testimony, either in or out of the courtroom. As we have seen, testimony is not always evidence, and is certainly not always given in courtrooms. It is important not to focus on the connotations of ‘testimony’ from legal contexts when analysing the everyday practice of spreading knowledge through communication. Courts have an interest in raising the standards and taking steps to enforce them to ensure that juries are epistemically justified in accepting what witnesses state, but that does not show that testimony *per se* need satisfy those higher standards.³

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CALIFORNIA UNNATURAL: ON FINE’S NATURAL ONTOLOGICAL ATTITUDE

BY E.P. BRANDON

Arthur Fine has presented an attractively packaged approach to understanding science and labelled it the Natural Ontological Attitude (NOA).¹ Unlike standard philosophical approaches to science, such as realism or instrumentalism, which offer an interpretation of how science fits into and is constrained by a wider picture, NOA takes science simply on its own terms. As Fine sees things, realism reviews scientific claims and wants to give them an extra metaphysical endorsement – ‘Yes, things really are like that’. It gets into trouble when it becomes unclear whether there is a coherent story to be endorsed, as is notoriously the case with quantum mechanics. Instrumentalism, on the other hand, requires that science should mesh, not with metaphysical, but with epistemological demands, typically of an empiricist flavour.

¹ A. Fine, *The Shaky Game* (Univ. of Chicago Press, 1986), and ‘Unnatural Attitudes: Realist and Instrumentalist Attachments to Science’, *Mind*, 95 (1986), pp. 149–77.