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On the morning of 28 March 1606, Sir John Croke, his Majesty’s Sergeant at law, opened the proceedings against Henry Garnet, Superior of the Jesuit Order in England and suspected Gunpowder Plot conspirator:

This person and prisoner here at the bar, this place, and this present occasion and action, do prove that true, which the Author of all Truth hath told us; That ‘nihil est occultum, quod non manifestabitur; et nihil est secretum, quod non revelabitur et in palam veniet’: There is nothing hid that shall not be made manifest, there is nothing secret that shall not be revealed and come in publick.<sup>1</sup>

With these words, Garnet’s trial was figured as a victory of truth over ‘the strange doctrine of Equivocation’.<sup>2</sup> Cast as the very embodiment of equivocation, Garnet was introduced by Attorney General Sir Edward Coke in terms that stressed his apparent duplicity: ‘he is, as you have heard, a man of many names, Garnet, Wally, Darcy, Roberts, Farmer, Phillips: and surely I have not commonly known and observed a true man, that hath had so many false appellations’.<sup>3</sup> He was, continued Coke, ‘a doctor of Jesuits, that is, a doctor of five DDs, as dissimulation, deposing of princes, disposing of kingdoms, daunting and deterring of subjects, and destruction’ (see Note 3). Coke’s ‘double D’ description is remarkable in that of the ‘five DDs’ with which Garnet was charged ‘deposing of princes’ comes second to ‘dissimulation’ which, Coke continued: ‘appeareth out of their doctrine of equivocation’ (see Note 3). With Garnet, despite a plea of not guilty, effectively sentenced before his appearance in the dock, equivocation was now on trial.<sup>4</sup>

Dealing with the doctrine of equivocation as it emerged during the aftermath of the Gunpowder Plot, this paper investigates the competing claims to truth of both that terrorist plot *and* of those state-authorised narratives that it sought to displace. Through a reading of Henry Garnet’s ‘A Treatise of Equivocation’ (1595) alongside the theological, legal, and poetic responses it provoked, I will argue that equivocation not only poses a radical challenge to the authority of legal discourse but that it achieves its full disruptive potential through an imagining of alternate realities that speak of the possibility of supplanting established truths with truths previously unconceived and inconceivable.

These sixteenth- and seventeenth-century discourses on equivocation foreshadow a number of concerns that have emerged in recent critical debates on language, truth, and politics. It is with this foreshadowing in mind that this paper draws together work from a number of theoretical perspectives both early modern and contemporary, specifically at the moment at which they consider the connection between language and truth. Taking seriously Roman Jakobson’s suggestion that ‘[t]o study adequately any

breakdown in communications we must first understand the nature and structure of the particular mode of communication that has ceased to function',<sup>5</sup> and following John Searle's suggestion that 'the semantic structure of a language may be regarded as a conventional realization of a series of sets of underlying constitutive rules',<sup>6</sup> I argue, following Ludwig Wittgenstein, that there are multiple 'language-games'<sup>7</sup> that might be 'played' at any one time and that, as Wittgenstein's chess analogy suggests, and as Jean-François Lyotard makes explicit, 'to speak is to fight'.<sup>8</sup> Accepting Lyotard's suggestion that 'even an infinitesimal modification of one rule alters the nature of the game (see Note 8)', I begin with the work of the H.P. Grice and J.L. Austin in considering the fate of the system thus constituted when these rules are broken by equivocal language. This question is then taken up in relation to the insights offered in Jacques Derrida's 'History of the Lie: Prolegomena' ([1993] 2002) which, through a reading of Hannah Arendt's 'Truth and Politics' (1967) and 'Lying in Politics' (1969), stresses language in its performative aspect to suggest a way in which equivocation might move beyond the simple destruction of language-games that are constituted by the notion of truthfulness (here legal discourse). This focus on the performative aspect of language, the notion of language 'doing something' and of its potential to affect change in the world, returns us in the final section of this essay to the notion that equivocal language might do more than undermine the status of legal discourse. Figuring equivocation in terms of the imaginary, an argument that is pursued by reading Garnet's work in relation to the early-modern literary theory of Francis Bacon, Stephen Gosson, George Puttenham, and Philip Sidney, and the modern assessment of that theory offered by Paul Ricoeur and Maurice Blanchot, allows for an exploration of equivocation as a creative force. Read here in terms of an Aristotelian understanding of metaphor that emphasises creativity, equivocation takes on the potential to supplant accepted truths with the previously inconceivable. As an instance of the imaginary at work within discourses of power, equivocation, the possibility of lying within discourses founded on truth, appears in the full force of its revolutionary potential.

### **Equivocation: 'lying under a colour of truth'**

While, as A.E. Malloch argues, "The statement that equivocation was "developed as a serious doctrine by the Society of Jesus" cannot be supported',<sup>9</sup> a claim borne out by Coke's admission that 'for the antiquity of equivocation, it is indeed very old',<sup>10</sup> there were clear political advantages in attaching it to the Catholic religion and to the Jesuit Order in particular. As David Jardine, the nineteenth-century editor of the *Treatise*, has suggested:

The positive assertions of Catholic witnesses, and the solemn protestations of innocence by accused persons at their trials and on the scaffold, had raised doubts, even among Protestants, respecting the truth of the numerous charges of Roman Catholic plots and conspiracies in the latter years of Queen Elizabeth's reign; but doubts of this kind were converted into ready and willing belief by the

exposure of this manual of contrivances for deception and justifications of falsehood.<sup>11</sup>

Evidently, the Government's policy was a success. In the words of university librarian and religious controversialist Thomas James, writing in 1612, '[n]o one thing breedeth greater danger and hatred to all Catholikes in *England*, then the *Iesuits* abuse of *Equivocating*, making it indeed nothing else but an art of lying, cogging, foisting and forging'.<sup>12</sup> Henry Mason, then Prebendary of Willesden, would offer a similar assessment, dismissing the 'black *Art*'<sup>13</sup> of equivocation as 'lying under a colour of Truth'.<sup>14</sup> Equivocation as a religious doctrine seeks to deny just such allegations, attempting the difficult task of reconciling the biblical injunction against lying – which 'always were a synne'<sup>15</sup> – with the requirement that Catholics living in an increasingly hostile Protestant England might avoid incriminating themselves or others when questioned under oath.

Responding to this task, Garnet's *Treatise of Equivocation* proceeds by the use of two somewhat contradictory arguments: the extrication of equivocation from charges of lying and an attack on the universal right to truth. These arguments, which invoke the discourse of law in both its secular and religious senses, are supported at all points by reference to biblical precedent which, (not so) incidentally, was exactly the procedure used by Mason in his refutation of equivocation: 'this devise of Equivocation is in truth, an Art of falshood and deceit, and such as the Scriptures do condemne under the name of *lying*'.<sup>16</sup>

Garnet begins by establishing 'four kyndes of propositions':

The first is a mentall proposition, onely conceived in the mynde, and not vttered by any exterior signification; as whan I thincke with my self these words, 'God is not uniust'. The second is a vocall proposition . . . The thirde is a written proposition . . . The last of all is a mixte proposition, whan we mingle some of these propositions (or parts of them) together, as in our purpose, whan being demaunded whether John at Style be in such a place, I knowinge that he is there in deede, do say neverthelesse, 'I know not', reserving or vnderstanding within myselfe these other wordes (to th'end for to tell you). Heare is a mixte proposition conteyning all this, – 'I know not to thende to tell you'. And yet part of it is expressed, part reserved in the mynde.<sup>17</sup>

In this, Garnet connects spoken and written propositions with mental experience, obscuring the distinction between simple propositions (those that are spoken *or* written *or* mental) and composite propositions (those that combine more than one type of proposition). The composite nature of the equivocal proposition operates via an unstated multiplication of addressees, the divine (God) and the secular (law), and by figuring God as the recipient of all communication for whom the verbal and the mental are equally accessible; 'for at the least God vnderstandeth the speech of the mynde'.<sup>18</sup> Garnet then asserts that 'whosoever frameth a trew proposition in his mynde and vttereth some part

therof in wordes, which of them selves, being taken severall from the other parte reserved, were false, doth not say false or lye before God, howsoever he may be thought to lye before men'.<sup>19</sup> The invocation of 'John at Style', a figure drawn from legal discourse where it functions alongside 'John-a-Nokes' as a fictional name traditionally used to discuss legal actions, is one indication that the *second* addressee of the equivocal statement might operate according to the rule of secular law. Further to this, the appearance of 'John at Style' within religious discourse poses a challenge to the apparent autonomy of legal discourse according to whose rules and codes the generation of this 'sign without referent' was made possible. Pre-empting the discussion of poetics that follows, it is worth noting that John-at-Style and 'John-a-Nokes' serve to connect poetry and law in Philip Sidney's *Defense of Poesie* (1595): 'the poets give names to men they write of, which argueth a conceit of an actual truth, and so, not being true, proves a falsehood. And doth the lawyer lie then, when under the names of John-a-stiles and John-a-nokes he puts his case?'<sup>20</sup> Equivocation is then, as Francis Herring puts it, 'a mingle mangle . . . /Of things diuine and humane'<sup>21</sup> that demands the application of the 'rules' of one language-game (law) to another (religion) and which functions according to the nontranslatable nature of those two colliding rule-sets.

Jakobson's description of the poetic, the self-focused message for which 'ambiguity is an intrinsic, inalienable character',<sup>22</sup> makes clearer the functioning of equivocation: '[t]he supremacy of the poetic function over the referential function does not obliterate the reference but makes it ambiguous. The double-sensed message finds correspondence in a split addresser, in a split addressee, as well as in a split reference (see Note 22)', a 'split reference' that is manifest in the 'mixt proposition' which in Mason's hands becomes the defining characteristic of 'Iesuiticall Equivocation'.<sup>23</sup> While equivocal language is well described in terms of the poetic function which, focusing on itself, forestalls communication between sender and receiver, it also evinces a wilful subversion of what Jakobson calls the phatic (the concern with the 'channel' of communication between sender and receiver) and the metalingual (the concern with the functioning of a shared 'code' of discourse). This deliberate marginalisation of the transaction between sender and receiver is well described by Mason for whom 'Mentall equivocation' occurs in 'speech [that] hath or may have a double sense, not by any doubtful signification or composition of the words themselves, but onely by some reservation in the mind of the speaker, whereby his meaning is made different from the sense which the words that are uttered do beare or yield without that reservation'.<sup>24</sup> Thus, in his discussion of equivocation, Mason, whose argument anticipates Jakobson's, identifies a plurality of intent and method that threatens to subvert 'communicative' transactions. While the splitting of the 'mixt proposition' relies on the incompatibility of ecclesiastical and secular language-games, and the attendant misrecognition of one addressee for another (the interrogator/God), the splitting of the reference itself occurs in the constitution of equivocal testimony (Jakobson's 'code') whose composite utterances combine the performative, 'I swear' or 'I testify' (which are essentially promises that purport to establish a relation to truth and which might be restated as confirming adherence to the



game, or code, of legal discourse) with secondary clauses made up of constative statements that are, in and of themselves, either true or false.<sup>25</sup>

As Wittgenstein remarks, '[l]ying is a language-game that needs to be learned like any other one'.<sup>26</sup> The import of its rules emerge in the recognition that to say that the constative statement is either true or false, is to assume that the equivocal statement 'hides' a reality that is in fact 'true' in some sense. Or rather that it replaces that truth with the belief in another (non)truth. As Derrida puts it, '[t]he lie includes a manifestation of the performative type, since it implies a promise of truth where it betrays it, and since it also aims to create an event, to produce an effect of belief where there is nothing to state or at least nothing is exhausted in a statement'.<sup>27</sup> If the performative aspect of the lie is the generation of a (seeming) truth, then the lie also contains the possibility of a second level of functionality when it is recognised as a lie, a 'performativity [that] implies references to values of reality, truth, and falsity that are presumed not to depend on performative decision'.<sup>28</sup>

At stake is the status of truth (and not the existence of a real world to which both lying and truth-telling refer) and the challenge to that status posed by the equivocal statement becomes bound up with the functioning and structure of performative utterances. The performative, unlike the constative, depends on a number of factors for its success: as Austin puts it in *How to Do Things with Words*, 'besides the uttering of words of the so-called performative, a good many other things have as a general rule to be right and to go right if we are to be said to have happily brought off our action'.<sup>29</sup> The doctrine of equivocation, in which the constative clause is at odds with the performative promise to truth falls short of 'happy' functionality in its deliberate subversion of what Austin calls conditions *I*.1 and *I*.2:

(*I*.1) Where, as often, the procedure is designed for use by persons having certain thoughts or feelings, or for the inauguration of certain consequential conduct on the part of any participant, then a person participating in and so invoking the procedure must in fact have those feelings, and the participants must intend so to conduct themselves, and further (*I*.2) must actually so conduct themselves subsequently.<sup>30</sup>

Austin goes on to point out, 'in the two *I* cases the act is achieved, although to achieve it in such circumstances, as when we are, say, insincere, is an abuse of the procedure'.<sup>31</sup> In other words, the successful lie is possible and a new 'truth' might thereby be established. Just what kind of truth this might be remains to be discussed.

The 'abuse' of the code of legal discourse and the attendant construction of alternate 'truths' is justified by Garnet in his second defence of equivocation where the emphasis shifts from the legitimacy of the proposition to the status of the interrogator. Recognising the legal imperative to speak clearly, '[i]t is most certaine that every man is bounde to aunswere directly, whansoever he is asked, according to the order of lawe',<sup>32</sup>

Garnet directs his attack at the authority of his interrogators, requiring of the 'order of lawe' five things:

Ffirst, that the party who examineth must be a lawfull superiour . . . Secondly, he must have authority over the person whome he examineth . . . Thirdly, the matter it self must be subiect vnto the judge . . . Ffourthly, he must procede according to a iust law . . . Ffynally, it is very necessary, for the dew observation of order of law, that the judge do not procede against a man to examine hym to call hym into question, but in cases which are publicke and manifest . . .

In these cases, whan order of law is not observed, a man is not onely not bound to confesse any thinge of hym selfe, but he is also bound to confesse nothing at all.<sup>33</sup>

This interrogation of the order of law, and the rejection of its applicability, appears as an apparently aporetic moment at which the phrase of the defendant is incompatible with that of those that demand testimony. Rather than rendering the defendant silent in the face of this apparent differend (legitimate or not) equivocal speech takes advantage of the fact that 'the efficiency of a speech event demands the use of a common code by its participants',<sup>34</sup> rejecting the common legal code even while adopting its formalities (the swearing of oaths). As a consequence, equivocation does not simply violate the Gricean maxim of Quality upon which legal discourse must be founded, 'Do not say what you believe to be false',<sup>35</sup> but, through the exploitation of that of Manner, 'Avoid ambiguity (see Note 35)', deliberately mimics the code of legal language in order to subvert that discourse. By subverting what Jakobson terms the phatic function, equivocation does not simply obscure the truth, it becomes an attack on the foundations of that truth, undermining the very real contract that the legal system establishes in place of the 'quasi-contractual'<sup>36</sup> co-operation principle. In respect of the trials of January and March 1606, trials in which morality and religion, along with legal discourse itself, were manifestly at stake, the extent to which listeners rely on notions of co-operation, and the corresponding potential for speakers to exploit that reliance is suggestive of the disruptive potential of equivocation. This disruptive potential is clearly observed in an exchange between Garnet, Coke, Lieutenant of the Tower Sir William Waad, and Lord Chief Justice, Sir John Popham, recorded by Garnet in a letter to Anne Vaux dated Shrove Tuesday, 2 March:

My L. Chief J. [Popham] asked me whether I were never a corrector of a printer. I said yes (for there I have dined often with him), and tould him that I was beginning the lawe. Mr. Attur. [Coke] wished I had gone on. O, saith Sr. William [Waad], he would have marred the law as he hath done divinity with his equivocation.<sup>37</sup>

Arguably, Garnet's trial, in which the discussion of equivocation played such a large part, achieved just this, instilling a radical doubt in the face of which the certainties of any particular truth became increasingly hard to sustain.

## Equivocation and radical doubt

The extent of the doubt instigated by the doctrine of equivocation is well expressed by Arthur F. Marotti's suggestion that 'In a society that still had faith in one's word as one's bond (a legacy from an earlier oral culture), equivocation could be seen as striking at the heart of social relations',<sup>38</sup> a claim that is confirmed by a number of sources contemporaneous with the Gunpowder Plot. The playwright and poet William Gager argued that: '[f]irst she [equivocation] overturns the jurors' benches, hating them, then she makes her attempt on the throne, that highest tribunal of all, and soon she wrenches at the very foundations of human existence',<sup>39</sup> thus figuring equivocation's threat on two levels – the juridical and the societal. John Donne does likewise in *Pseudo Martyr* (1610) in which he likens equivocation to 'a Tower of *Babel*, both because thereby they get about all earthly Magistracie, and because therein no men can vnderstand one another'.<sup>40</sup> Clearest of all on this point was Garnet himself whose treatise counselled that 'it is very necessary that we aplye here certaine fitte limitations, and vse that convenient moderation, without the which neyther God could be pleased, nor the Lyncke and coniunction of humane societies, eyther sivill or ecclesiasticall and spirituall, could be dewly maynetayned'.<sup>41</sup> The logic underpinning the fears about lying is spelt out by Immanuel Kant in 'On a Supposed Right to Lie' (1795) where, in a text that Derrida describes as 'expressly juridical and not ethical',<sup>42</sup> he argues that 'a lie always harms another; if not some other human being, then it nevertheless does harm to humanity in general, inasmuch as it vitiates the very source of right [*Rechtsquelle*]'.<sup>43</sup> Here, the emphasis must fall on the 'source of right', in other words duty, indicating not so much the domain of an externally imposed justice and legality but on the autonomous *a priori* foundations, the categorical imperative, from which law is derived. Thus, Garnet's support of equivocation under 'fitte limitations' is radically at odds with Kant's specific rejection of the truth as an object of the will, "'to have a right to truth" is meaningless',<sup>44</sup> and his conclusion that '[t]o be truthful (honest) in all declarations is . . . a sacred and unconditionally commanding law of reason that admits of no expediency whatsoever'.<sup>45</sup>

Equivocation, then, as it purports to reconcile untruth with morality, might be seen as a real-world challenge to Kant's thesis, albeit one that preceded Kant's writings by nearly 200 years. Certainly, the argument that lying is fundamentally incompatible with the demands of the categorical imperative functions as a commentary on equivocation (where equivocation as doctrine assumes the position of 'universal law'):

The most direct and infallible way, however, to answer the question as to whether a lying promise accords with duty is to ask myself whether I would really be content if my maxim (of extricating myself from difficulty by means of a false promise) were to hold as a universal law for myself as well as others, and I could really say to myself that everyone may promise falsely when he finds himself in a difficulty from which he can find no other way to extricate himself. Then I immediately become aware that I can indeed will the lie but can not at all will a universal law to lie.<sup>46</sup>



Applying Kant's logic, equivocation institutes a form of radical doubt from which it becomes impossible to return:

For by such a law there would really be no promises at all, since in vain would my willing future actions be professed to other people who would not believe what I professed, or if they over-hastily did believe, then they would pay me back in like coin. Therefore, my maxim would necessarily destroy itself just as soon as it was made a universal law (see Note 46).

In other words, it is impossible to sustain the distinction between equivocal language and language used in accordance with the rule of law once those rules are revealed by the equivocal utterance to be no more than a convention. Coke used just this logic at Garnet's trial, quoting Francis Tresham's deathbed testimony that he had not seen Garnet for 16 years, a claim discredited by Garnet's own testimony to the contrary, forcing his unfortunate 'I think he meant to equivocate'<sup>47</sup> and allowing Coke to conclude: '[t]hus were they stained with their own works, and went a whoring with their own inventions'.<sup>48</sup> As per Coke's intentions, Garnet found himself subject to the consequences of this radical doubt. John Lingard, Roman Catholic priest and historian, makes this clear: '[b]y seeking shelter under equivocation . . . he had deprived himself of the protection which the truth might have afforded him; nor could he, in such circumstances, reasonably complain if the King refused credit to his asserverations of innocence, and permitted the law to take its course'.<sup>49</sup> This doubt extended to the moment of Garnet's execution: his words as he prepared to mount the scaffold '[t]his is no time to talk of equivocation, neither do I equivocate',<sup>50</sup> gesturing, impossibly, towards a language in which the slippage of words from truth might be arrested. As Coke put it 'qua lis vita, finis ita' [as the life, so the death].<sup>51</sup>

### **'The altering of the signes which do express the mynde' – equivocation and literary language**

In its evocation of a radical doubt attached to language, this critique of equivocation in early-seventeenth century England begins to sound not unlike post-structural or postmodern theory and, recognising the danger of anachronism in reading this theory back into these texts, it is useful to recall the distinction between pre-modern and modern lies made by Arendt in 'Truth and Politics': 'the difference between the traditional lie and the modern lie will more often than not amount to the difference between hiding and destroying'.<sup>52</sup> In other words, while lies in the early modern period (the time of Arendt's 'traditional' lie) obscured a known truth, lies in the modern period substitute one simulacra for another thereby destroying the notion that there exists a foundational truth that might be hidden. If seventeenth-century equivocation is most properly understood as a theorising of the pre-modern lie, the hiding of a known truth (the crime for which Garnet as Father Oswald Tesimond's confessor was charged), it is theorising that nonetheless makes manifest the mechanisms according to which such dissimulation

might be possible in revealing the always already equivocal nature of everyday language and the performative nature of a truth-telling that shares the same structural properties as the equivocal lie that it takes to be its opposite.

Equivocation's most subversive challenge to authority, then, lies not in its logically suspect justification of falsehood but in its capacity to comment on truth-telling as a language-game that, in common with all other language-games, is 'an activity'.<sup>53</sup> Understood as a response to this, the moral censure of lying that plays such a large part in the Gunpowder Plot trials works to naturalise the notion of truth that is figured as the hidden 'made manifest', the secret 'revealed'.<sup>54</sup> But, as Derrida remarks, 'the contrary of the lie is neither truth nor reality but veracity and veridity, truth saying, the true-meaning-to-say'<sup>55</sup> and thus a key feature of the dismissal of equivocation is the denial of the performative role of a truth telling that is always already the prerogative of those who hold power: a speaking of truth that constitutes the nature of truth. In this, it is no surprise that the government of James I would find in the doctrine of equivocation the perfect vehicle to simultaneously discredit the Jesuits while underscoring the naturalness of their own truth, a truth that is well represented by the monolithic and monumental aspirations of Gager's monument to November the fifth *Pyramis*.<sup>56</sup> Dedicated to the King in 1608, 'this honest and enduring plan' is undertaken 'to memorialize our salvation, which I am striving to render famous, to fix it in men's remembering hearts, to make it eternal, and to establish its deserved honor',<sup>57</sup> *Pyramis* sees Gager turn to God to authorise (if not author) his verse: 'Let no line spring up in my writing that lacks You. Let it take its beginning from You, run its course with You, find its end in You'.<sup>58</sup> Thus, in its conception, if not in its realisation, in its insistence on endurance, fixing, and eternity, and in its desire to conflate beginning and end, *Pyramis* functions as a foil to the equivocal dialogue that it so colourfully rejects as 'A shapeless monster, with two heads, two faces, two horns, two tongues, two-faced, and above all two-hearted'.<sup>59</sup> Perhaps most telling in Gager's portrayal of equivocation is the sense of its alien nature; it is an unnatural threat that comes from without. These were 'crimes of foreign dogma, foreign monstrosities, imported from elsewhere and not born of our soil. To our people this is an immigrant rather than a native, a foreigner rather than a citizen, alien not born here'.<sup>60</sup> In this Gager's rhetoric mirrors that of the Gunpowder Plot trials which betray an ideological need to figure the plot in terms that deny the possibility of it having any rational cause that might be seen as belonging to domestic politics.

The disruptive potential to which equivocation is called upon to testify in order that truth be guaranteed emerges in full if it is allowed that the 'mixt proposition', or 'split reference', is not a 'foreign monstrosity' or, as Salisbury put it at Garnet's trial, a 'strange doctrine'<sup>61</sup> but rather that it is a property inherent in all language use and across all language-games. Discourses on equivocation that emerged from the trials of the Gunpowder Plotters certainly suggest this possibility and it is striking, given the inescapable nature of the doubt applied to Garnet's words, that all parties appear set on maintaining a distinction between the 'mixt proposition' and the ambiguity inherent in every-day language. Writing from opposite positions, Garnet and Mason both recognise

two distinct forms of equivocation. Mason writes clearly on the matter, acknowledging, and in doing so distinguishing, ‘two famous acceptions and uses of the word’, one ‘proper and ancient’ and the other ‘improper and abusive’.<sup>62</sup> While the latter, ‘mentall equivocation’, is that abusive form attached to the Jesuits, the former, ‘Logicall Equivocation’, has to do with the nature of language and occurs,

1. When a word by it selfe hath divers significations and meanings . . .
2. When words, which have but one signification of themselves, yet are so joined together in some sentence, as they may by reason of the composition, make and yeeld divers meanings . . .
3. When the circumstances of time, place, persons, &c. are such, as that . . . they may limit or restraine the speech to some speciall matter or subject, or otherwise alter the meaning of it from that which it should have, if it were in some other place, and upon some other occasion.<sup>63</sup>

Despite this shared intent to distinguish between equivocal and everyday language, the ability of language to obscure truth would appear to be inherent in its nature. As Bacon wrote, speaking of ‘the arts of judgement’ in his *Advancement of Learning* (1605),

let us consider the false appearances that are imposed upon us by words, which are framed and applied according to the conceit and capacities of the vulgar sort: and although we think we govern our words, and prescribe it well, *loquendum ut vulgus, sentiendum ut sapientes*; yet certain it is that words, as a Tartar’s bow, do shoot back upon the understanding of the wisest, and mightily entangle and pervert the judgment.<sup>64</sup>

Judgement thus perverted, Coke’s promise at Garnet’s trial to present the jury with “‘testimonia rerum”, and “loquentia sign”, Witnesses and Testimonies *of the things themselves*”<sup>65</sup> [emphasis added] becomes problematic indeed, while his invocation of the ‘fictions of state’<sup>66</sup> takes on a new and unintended meaning in which the performative aspect of these fictions comes to the fore.

### **Equivocation and the treasonous imagination**

‘It is treason’, remarked Coke at the first Gunpowder Plot trial, ‘to *imagine* or intend the death of the king, queen, or prince’<sup>67</sup> [emphasis added]. These words, which along with the reference to ‘fictions’ connect the equivocal and the literary, cannot be dismissed as an example of the Attorney General’s rhetoric. Rather, his words allude to the English statutes of Treasons of 1351, 25 *Edward III*, c.2, which defined it as treason to ‘compasse or *imagine* the Death of the King’<sup>68</sup> [emphasis added] and much would be made in the Gunpowder trials of the limits and dangers of the imagination. Coke was as vocal as ever even on the subject of his inability to vocalise: ‘[t]his offence is such, as no man can express it, no example pattern it, no measure contain it . . . For myself, “*Vox faucibus*

*haeret*’ [(my) voice sticks in (my) throat]’.<sup>69</sup> As a means of dislocating language from truth, of *imagining* another truth, equivocation, already connected tentatively to the literary through reference to Jakobson’s poetic, appears as an irruption of the non-referential within the code of legal discourse, threatening to destabilise the truth claims of legal discourse by conflating it with, or making it indistinguishable from, what might be termed the poetic and in doing so approaching its full potential to effect change.

This conflation of the literary and the political is readily apparent in discourses surrounding the rules of early-modern poetics in which notions of falsehood become allied to the possibility of revolutionary change. Thus, Stephen Gosson’s famous description of poets as ‘the fathers of lyes’<sup>70</sup> in his *Schoole of Abuse* (1612) might well have been a description of political equivocators, while his comparison of poetry to the Trojan horse – ‘if you looke well too Epæus horse, you shall finde in his bowels the destruction of Troy’<sup>71</sup> – bespeaks of a perceived threat of literary language to national security and identity that recalls closely the fears expressed in the numerous attacks on equivocation.<sup>72</sup> The connection of misused, or abused, language and rebellion suggested in Gosson’s choice of metaphor becomes more explicit in George Puttenham’s *The Arte of English Poesie* (1589) where poetic language is figured as a form of ‘vicious speech’ in which, ‘the sence may be taken two wayes’ and which is hard to distinguish from ‘those blind prophecies [according to which] many insurrections and rebellions have bene stirred vp in this Realme’.<sup>73</sup> Bacon’s suggestion that poetry, ‘*extremely licensed* . . . may at pleasure join that which nature hath severed, and sever that which nature hath joined; and so make *unlawful* matches and divorces of things’<sup>74</sup> [emphasis added] recalls in its choice of phrase the legal context of equivocation and attests to the challenge to law that is inherent in literary language while his description of poetry as ‘feigned history’ recalls Aristotle’s more enthusiastic endorsement of poetry as ‘a more philosophical and a higher thing than history’.<sup>75</sup> Indeed, Aristotle’s (flattering) distinction between history and poetry, ‘the one describes the thing that has been, and the other a kind of thing that might be (see Note 74)’, is central to poetry’s revolutionary potential. Sidney’s *Defense of Poesie*, its title attesting to the surprisingly combative nature of early-modern poetics, makes the mechanisms of this Aristotelian challenge clearer: ‘the poet, disdaining to be tied to any such subjection, lifted up with the vigour of his own invention, doth grow in effect another nature, in making things either better than nature bringeth forth, or, quite anew, forms such as never were in nature’.<sup>76</sup> This is the language of politics and revolution, its vigorous refusal to be subject to the restraints imposed by a natural state whose very ‘naturalness’ is challenged by individual invention.<sup>77</sup>

What I am calling literature’s revolutionary potential, what Sidney describes as ‘growing another nature’, comes as a direct result of an equivocation that is inherent in language. Blanchot recognises this when he argues, in ‘Literature and the Right to Death’ (1948), that words ‘must be torn apart by equivocation, but this equivocation is a good thing – without it there would be no dialogue. They may be falsified by misunderstanding – but this misunderstanding is the possibility of our understanding. They may be imbued with emptiness – but this emptiness is their very meaning’.<sup>78</sup>



Blanchot's words recall Aristotle's insistence on the instructive potential of metaphor, 'it is from metaphor that we can best get hold of something fresh',<sup>79</sup> and resemble the comments of Umberto Eco and Paul Ricoeur who argue that metaphor does not function only in terms of synecdoche as might be inferred from a casual reading of the *Poetics* but that it has what Eco terms a 'cognitive value'.<sup>80</sup> To echo Ricoeur, the hermeneutic function of metaphor, its potential to lead to new understanding, and hence to new worlds, emerges through difference, through an equivocal relationship between words and objects. It is in the 'transference'<sup>81</sup> that accrues to both the substituted and the originary terms of metaphorical, as a marker not of similarity but of dissimilarity and disjunction, that metaphor betrays this hermeneutic function. Blanchot makes clear the mechanics by which this transference might appear as transference, bound up with the substituted term, in 'Two Versions of the Imaginary' (1955). Starting from the statement that 'After the object comes the image', Blanchot argues that, "After" means that the thing must first take itself off a ways in order to be grasped . . . But this remove is not the simple displacement of a moveable object which would nevertheless remain the same. Here the distance is in the heart of the thing'.<sup>82</sup> Thus, metaphor reveals, through the accrual of markers of linguistic invention, the performative nature of language in the constitution of the truth. As Eco tells us, his words gesturing towards the performative nature of truth-saying, 'these likenesses [between the two terms of metaphor] were not only in things but also (perhaps above all) in the ways in which language defines things'.<sup>83</sup> In the light of such literary theory, be it pre- or postmodern, Coke's claim at Garnet's trial that 'the law and sanction of nature, hath, as it were, married the heart and tongue, by joining of them together in a certain kind of marriage'<sup>84</sup> testifies more to the act of 'joining' than it does to the 'naturalness' of the 'marriages' thus achieved.

This move into the territory of literary theory, which according to the argument being pursued here remains within the sphere of the political, suggests the possibility that lies, like metaphor, might, in their very destabilising of notions of the truthful, offer the possibility of transformation. Blanchot's description of 'the written thing' as 'an infinite source of new realities',<sup>85</sup> which echoes Sidney's Aristotelian claims for poetry's creative potential, finds a more explicitly political expression in Arendt's claim in 'Lying in Politics' that

A characteristic of human action is that it always begins something new, and this does not mean that it is ever permitted to start *ab ovo*, to create *ex nihilo*. In order to make room for one's own action, something that was there before must be removed or destroyed, and things as they were before are changed. Such change would be impossible if we could not mentally remove ourselves from where we physically are located and *imagine* that things might as well be different from what they actually are. In other words, the deliberate denial of factual truth – the ability to lie – and the capacity to change facts – the ability to act – are interconnected; they owe their existence to the same source: imagination.<sup>86</sup>

In its concern with what Arendt terms 'factual' rather than 'rational' truth, 'with contingent facts; that is, with matters that carry no inherent truth in themselves, no



necessity to be as they are',<sup>87</sup> the possibility of lying, figured here as an act of political imagining, reveals 'man's relative freedom from things as they are'.<sup>88</sup>

It is little surprise then that the government of James I evinced such concern about a doctrine of equivocation that exposed the performative nature of truth-telling and that thereby threatened to conflate imaginary and legal discourse. As the transcript of Garnet's trial makes clear, the reaction to this threat manifested itself a rigorous policing of the borders of the language-game of law. Couched in terms of Spanish invasions, of treasonous Jesuit immigrations, of Catholics, and of Romanists, this 'policing', displaced to the borders of the religious and the geographical, served the double purpose of vilifying Catholicism while obscuring the constative/ performative nature of legal discourse. The relocation of this border dispute from the language-game of law to the realm of international relations goes some way to explaining Jardine's conclusion that the discovery of Garnet's *Treatise of Equivocation* was useful to James's government because it furthered the public's acceptance of the truth of Roman Catholic plots. While equivocation might reasonably have been expected to reveal the contingent nature of legally established truth, the exposure of its nature as a 'game', with published 'rules', served the purpose of James' government exceptionally well. Nevertheless, while Garnet's equivocal language would be successfully figured at his trial as that 'traditional lie' that confirms the existence of an established truth, the 'facts' of the Gunpowder Plot testify in turn to the potential of the treasonous imagination to make manifest the possibility of alternative, and contradictory, 'truths'.

## Acknowledgment

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## Notes

- 1 William Cobbett and T.B. Howell (eds.), *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes* (London: R. Bagshaw, 1809), 34 vols. Vol 2. p. 217.
- 2 Ibid., p. 243.
- 3 Ibid., p. 234.
- 4 As Antonia Fraser puts it, Garnet's trial, 'like the earlier trial of the conspirators, was a showpiece,' in Antonia Fraser, *The Gunpowder Plot: Terror and Faith in 1605* (London: Phoenix, 2002), p. 313.

- 5 Roman Jakobson, *Language in Literature*, Krystyna Pomorska and Stephen Rudy (eds.) (Cambridge, MA and London: The Belknap Press of Harvard University Press, 1987), p. 95.
- 6 John R. Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge: Cambridge University Press, 1969), p. 37.
- 7 See Ludwig Wittgenstein, *Philosophical Investigations*, trans. G.E.M. Anscombe (Oxford: Blackwell Publishers, 1968).
- 8 Jean-François Lyotard, *The Postmodern Condition: A Report on Knowledge*, trans. Geoff Bennington and Brian Massumi (Manchester: Manchester University Press, 1984), p. 10.
- 9 E. Malloch and Frank L. Huntley, 'Some notes on equivocation' *PMLA*, 81.1 (1966), pp. 145–146 (145).
- 10 William Cobbett and T.B. Howell (ed.), *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes*, p. 234.
- 11 Henry Garnet, *A Treatise of Equivocation*, c. 1595, David Jardine (ed.) (London: Longman, Brown, Green, and Longmans, 1851), pp. xix–xx.
- 12 Thomas James, *The Iesuits Downefall* (Oxford: 1612), p. 17.
- 13 Henry Mason and Thomas Goad, *The Nevv Art of Lying Covered by Iesuits under the Vaile of Equivocation; Discovered and Disproved by Henry Mason Parson of S. Andrews Vndershaft London*, Daniel Featley (ed.) (London: 1634), p. 72.
- 14 Ibid., p. 287.
- 15 Henry Garnet, *A Treatise of Equivocation*, p. 53.
- 16 Henry Mason and Thomas Goad, *The Nevv Art of Lying*, p. 5.
- 17 Henry Garnet, *A Treatise of Equivocation*, pp. 8–9.
- 18 Ibid., p. 13.
- 19 Ibid., pp. 10–11.
- 20 Philip Sidney, *A Defence of Poetry*, 1595, J.A. Van Dorsten (ed.) (Oxford: Oxford University Press, 1966), p. 53.
- 21 Francis Herring, *Popish Pietie, or the First Part of the Historie of That Horrible and Barbarous Conspiracie, Commonly Called the Powder-Treason*, trans. A.P. (London: 1610), p. 16.
- 22 Roman Jakobson, *Language in Literature*, p. 85.

- 23 Henry Mason and Thomas Goad, *The New Art of Lying*, p. 30.
- 24 Ibid., p. 29.
- 25 J.L. Austin discusses utterances that combine the performative (which may be unspoken as in 'I am stating') with the constative in *How to Do Things with Words: The William James Lectures Delivered at Harvard University in 1955* (Oxford: Oxford University Press, 1962): lecture five (pp. 54–55) and in lecture seven (pp. 85–91).
- 26 Wittgenstein, *Philosophical Investigations*, p. 90.
- 27 Jacques Derrida, 'History of the Lie: Prolegomena' in Peggy Kamuf (ed. and trans.), *Without Alibi* (Stanford: Stanford University Press, 2002), pp. 28–70 (37).
- 28 Ibid., p. 37.
- 29 J.L. Austin, *How to Do Things with Words: The William James Lectures Delivered at Harvard University in 1955* (Oxford: Oxford University Press, 1962), p. 14.
- 30 Ibid., p. 15.
- 31 Ibid., p. 16.
- 32 Henry Garnet, *A Treatise of Equivocation*, p. 67.
- 33 Ibid., pp. 68–70.
- 34 Roman Jakobson, *Language in Literature*, p. 97.
35. Paul Grice, *Studies in the Way of Words* (Cambridge, MA: Harvard University Press, 1991), p. 27.
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- 39 William Gager, 'Pyramis' in Dana F. Sutton (ed. and trans.), *William Gager: The Complete Works, Vol. IV, Juvenilia, Pyramis, Collected Prose* (New York and London: Garland Publishing, Inc., 1994), pp. 133–235 (169).
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- 44 Ibid., p. 64.
- 45 Ibid., p. 65.
- 46 Ibid., p. 15.
- 47 William Cobbett and T.B. Howell (eds.), *Cobbett's Complete Collection of State Trials*, p. 235. 48
- Ibid., p. 235.
- 49 Henry Garnet, *A Treatise of Equivocation*, pp. xxii–xxiii.
- 50 John Morris (ed.), *The Condition of Catholics under James I: Father Gerard's Narrative of the Gunpowder Plot* (London: Longmans, Green, & Co., 1871), p. 292.
- 51 William Cobbett and T. B. Howell, eds, *Cobbett's Complete Collection of State Trials*, p. 235. The translation appended to this quotation is from: Dana F. Sutton (ed.) 'William Camden, *Actio in Henricum Garnetum* (1607) together with *A True and Perfect Relation of the Proceedings at the Severall Arraignments of the Late Most Barbarous Traitors* (1606): A hypertext critical edition,' The Philological Museum (2002), available at, <http://www.philological.bham.ac.uk/garnet/3eng.html>, accessed 21 June 2011.
- 52 Hannah Arendt, 'Truth and Politics' in Peter Baehr (ed.), *The Portable Hannah Arendt* (London: Penguin, 2000), pp. 545–575 (565).
- 53 Wittgenstein, *Philosophical Investigations*, p. 11.
- 54 William Cobbett and T. B. Howell (eds.), *Cobbett's Complete Collection of State Trials*, p. 217.
- 55 Jacques Derrida, 'History of the Lie: Prolegomena', p. 43.
- 56 Gager purports not to rehearse the details of the Gunpowder Plot in *Pyramis* – alluding to a narrative poem on the same subject, now lost 'It [the Gunpowder Plot] is a huge tale, and a thing published throughout the world, not previously untouched by myself, when the matter was still fresh . . .', p. 143.
- 57 William Gager, 'Pyramis', p. 149.
- 58 Ibid., p. 139.
- 59 Ibid., p. 169.

- 60 Ibid., p. 167.
- 61 William Cobbett and T.B. Howell (eds.), *Cobbett's Complete Collection of State Trials*, p. 243.
- 62 Henry Mason and Thomas Goad, *The Nevv Art of Lying*, pp. 7–8.
- 63 Ibid., pp. 11–15. Garnet sets out an almost identical position in his *Treatise*, pp. 48–52.
- 64 Francis Bacon, *The Advancement of Learning and New Atlantis*, Arthur Johnston (ed.) (Oxford: Clarendon Press, 1974), p. 128.
- 65 William Cobbett and T.B. Howell (eds.), *Cobbett's Complete Collection of State Trials*, p. 219.
- 66 Ibid., p. 221.
- 67 Ibid., p. 167. For further discussion of the connection between treason and the imagination see: John Barrell, *Imagining the King's Death: Figurative Treason, Fantasies of Regicide, 1793–1796* (Oxford: Oxford University Press, 2000); Karen Cunningham, *Imaginary Betrayals: Subjectivity and the Discourses of Treason in Early Modern England* (Philadelphia: University of Pennsylvania Press, 2002); Rebecca Lemon, *Treason By Words: Literature, Law, and Rebellion in Shakespeare's England* (Ithaca, NY: Cornell University Press, 2006).
- 68 Francis Bacon, *Cases of Treason* (London: 1641), p. 1.
- 69 William Cobbett and T.B. Howell (eds.), *Cobbett's Complete Collection of State Trials*, pp. 168–178.
- 70 Stephen Gosson, *The Shoole [Sic] of Abuse* (London: 1579), p. 5.
- 71 Ibid., p. 4.
- 72 Gosson's reference to the Trojan wars picks up on a literary/historical reference that was used repeatedly in discussions of the Gunpowder Plot. In addition to Coke, whose *Vox faucibus hæret* is taken from the *Aeneid*, King James, Coke, Francis Herring (*Pietas Pontificas* [1606]), William Gager (*Pyramis* [1608]), and Thomas Heywood (*Troia Britanica: or, Great Britaines Troy* [1609]), all draw on the Trojan myth in their accounts of the plot.
- 73 George Puttenham, *The Arte of English Poesie*, 1589 (Menston: The Scholar Press, 1968), pp. 217–218.
- 74 Francis Bacon, *The Advancement of Learning*, p. 80.
- 75 Aristotle, *The Basic Works of Aristotle*, Richard McKeon (ed.) (New York: The Modern Library, 2001), p. 1464.



- 76 Philip Sidney, *A Defence of Poetry*, p. 23.
- 77 See Robert E. Stillman's 'The Truths of a Slippery World: Poetry and Tyranny in Sidney's "Defence"' *Renaissance Quarterly*, 55.4 (2002), pp. 1287–1319, for a counterargument to that put forward by Alan Sinfield in 'Sidney's Defence and the Collective-Farm Chairman: Puritan Humanism and the Cultural Apparatus', in Alan Sinfield, *Faultlines: Cultural Materialism and the Politics of Dissident Reading* (Oxford: Oxford University Press, 1992), pp. 181–214.
- 78 Maurice Blanchot, *The Station Hill Blanchot Reader: Fiction and Literary Essays*, George Quasha (ed.), trans. Lydia Davis (Barrytown, NY: Station Hill Press, Inc./Barrytown, Ltd, 1998), p. 368.
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- 81 Aristotle, *The Basic Works of Aristotle*, p. 1476.
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- 83 Umberto Eco, *Semiotics and the Philosophy of Language*, p. 103.
- 84 William Cobbett and T.B. Howell (eds.), *Cobbett's Complete Collection of State Trials*, pp. 243–245.
- 85 Maurice Blanchot, *The Station Hill Blanchot Reader*, p. 372.
- 86 Hannah Arendt, 'Lying in Politics: Reflections on the Pentagon Papers', in *Crises of the Republic: Lying in Politics, Civil Disobedience, On Violence, Thoughts on Politics and Revolution* (New York: Harcourt Brace Jovanovich, Inc., 1972), pp. 3–48 (5).
- 87 Ibid., p. 6.
- 88 Ibid., p. 11.