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There's risks in everything: *extreme-case formulations and accountability in inquiry testimony*



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ABSTRACT. Drawing on the video record of a recent inquiry into the causes of water contamination in a small town in Ontario, Canada, this article presents an analysis of evasive strategies. The analysis focuses on the use of 'extreme case formulations' such as 'there's risks in everything' and 'every meeting of Cabinet or Cabinet Committee is important' (Pomerantz, 1986; Sacks, 1995). Within the context of inquiry testimony, such formulations allowed the then-premier of Ontario to avoid having to account for possibly blameworthy actions.

KEY WORDS: *accounts, evasion, extreme case formulations, law, questions and answers, turn-design*

It is very evident that the problems of excuses and those of the different descriptions of actions are throughout bound up with each other.

(Austin, 1961: 201)

'Accountability' has emerged as a key term of social analysis. Although most strongly associated with ethnomethodological work (Garfinkel, 1967; Heritage, 1984; Lynch, 1993), it also figures centrally in anthropological analyses ranging from Evans-Pritchard's masterful study of Zande witchcraft in the 1930s (Evans-Pritchard, 1937, see also Douglas, 1980; Gluckman, 1972; Walsh, 2002) to Strathern's (1997) recent examination of 'audit cultures'. At the same time, notions of accountability are a part of contemporary political and legal rhetoric and practice. Politicians, in particular, are professionally preoccupied with notions of accountability and as a result their talk and practice present a perspicuous site to investigate the organization of accounting as well as the ways in which accountability is evaded and manipulated. The analysis presented here focuses on the pursuit and evasion of accountability in one such politico-legal context.

On 29 June 2001, Michael Harris, then premier of Ontario, gave testimony as part of an inquiry into the deaths of seven people as a result of water contamination in the town of Walkerton. Despite the official mandate of the inquiry specifying that it was solely concerned to 'ascertain the facts' of what had happened, participants used the occasion provided to locate responsibility and assign blame. Over five grueling hours, lawyers for several public interest groups questioned Harris about the events surrounding this tragedy. For the most part, the lawyers' questions were directed at determining whether Harris had been aware that cuts to the Ministry of Environment and related budgetary changes had resulted in increased risk to the environment and to the health of Ontarians.

Harris's defense, in turn, rested on showing that he was not aware of such increased risk and, further, that this was not a result of willful ignorance, i.e. there was no evidence to suggest that increased risk would in fact be the necessary outcome of the policies he had implemented. At the same time, Harris tried to show that there had been no clear warnings of trouble and that increased risk was only visible with hindsight.

Not only did the inquiry participants talk explicitly about accountability and what that term could possibly mean, they also pursued accounts as the practical work of eliciting and giving testimony. Examination of the audio-visual record shows that Harris drew upon a range of devices in an attempt to deflect attributions of responsibility, justify his actions and undercut the pursuit of an account. One of these devices, the use of 'extreme-case formulations,' is the focus of the analysis that follows.

(The meaning of) accountability as a topic of inquiry testimony

Politicians in Ontario, as elsewhere, routinely invoke the value of accountability in a bewildering array of contexts. Mike Harris's platform – his 'common sense revolution' – was no exception in this respect. The Harris government came to power on a wave of rhetoric promising greater 'accountability and transparency' in the ordinary workings of government institutions. After being elected, that rhetoric was transformed into the so-called 'Red-tape Commission' which systematically dismantled several offices and eliminated hundreds of jobs in the process. Even more sinister was a commitment to greater 'fiscal accountability', which was explicitly translated as a mandate to 'reduce the cost of doing business'.

At the Walkerton inquiry both lawyers and witnesses topicalized accountability. In the first place, lawyers questioned Harris about his promise to bring greater accountability to government. So, for instance, at one point the lawyer questioning Harris asked '(T)he final really principle that I'd like to ask you about that was an important part of your platform and of the new government is-is what I've referred to as transparency and accountability in-in-in government. You'd agree with me that that certainly was an important part of your platform?' To this, Harris replied, 'Yes. We- we talked about that.'

Lawyers also repeatedly raised the issue of who was accountable for the tragedy at Walkerton (see also the concluding section) asking, for instance, 'do you accept responsibility and accountability to the extent that any of these reductions which were set out in the business plan may have contributed to the events in Walkerton?'

This topicalization went still further as participants engaged in a metalinguistic discussion about the meaning and use of the word itself. Specifically, after Harris described his policies in terms of 'putting more accountability into the system' and conceded that he was accountable for all decisions made by his government, one lawyer was led to ask Harris what accountability meant, and how, in fact, he would be held accountable. So, one lawyer remarked: 'The last issue that I'd like to – to raise with you is the issue of accountability which is one that has come up several times, I've counted more than a dozen times that that word has – has left your lips today. And I wonder if you can assist me, sir, as to what accountability means?'

The testimony concluded with further discussion of accountability as shown in the following fragment.

Fragment 1: transcript p. 259

- Lawyer: And if it is found by this Inquiry, if it is found by this Commissioner that – that your government, that your policies that we've discussed here today, contributed to or resulted in what happened in this community, the thousands of people who fell ill and the seven (7) people who died, and that it was found that your government, your policies for which you are responsible, resulted in that failure, what does accountability really mean in that respect? What will you do with that finding? How will, in fact, you be accountable?
- Harris: Well, I'm accountable to all the people of Ontario. I – I've a political accountability and I accept that political accountability.
- Sokolov: Thank you. Thank you, Mr Commissioner.
- Commissioner: Thank you, Mr Sokolov. We've done everybody except for Mr Marrocco?
- Marrocco: I have no questions,

Before proceeding to examine further the participants' concern with issues of accountability it is necessary to say something about the organization of inquiry testimony.

The organization of inquiry testimony

In the course of producing the talk constitutive of the inquiry, participants oriented to a normative organization of testimony as composed of questions asked by the lawyer and answers given by the witness in response. A document issued at the start of the inquiry ('The Walkerton Inquiry: Rules of Procedure and Practice') included the following specification of procedure:

(iii) Order of Examination

19. The order of examination will be as follows:

(a) Commission counsel will adduce the evidence from the witness. Except as otherwise directed by the Commissioner, Commission counsel are entitled to adduce evidence by way of both leading and non-leading questions;

Black's Law Dictionary defines a leading question as '(o)ne which instructs witness how to answer or puts into his mouth words to be echoed back; one which suggests to witness answer desired.' (p. 460).

For most of Harris's testimony, action which the participants treated as compliant with such norms was produced without incident. Consider, for instance, the following fragment illustrative of the fact that building norm-compliant action was generally unproblematic.

Fragment 2: transcript pp. 140–1

[C=Cavaluzzo, Lawyer]

- 1 Harris: so thet's [I:: [() [()
 2 C: [Just two more [questions [on this point.
 3 Harris: Sure.
 4 (0.4)
 5 C: a→ Would you agree: with me thet (0.2) each of these four problems I talked
 6 about- the uncertainty of the notification protocol, that the protocol
 7 should have been in law, that there should have been mandatory
 8 accreditation, that it-the decision was implemented too-far too quickly.
 9 a→ °hhh thet would you agree with me that each of these four (.) problems
 10 contributed.=or could have contributed to the tragedy in Walkerton?
 11 (0.4)
 12 Harris: ah-That's why I called the Commission of Inquiry –
 13 C: [A n d if it's f o u :: n d :::] [°right
 14 Harris: [an- I think that would be] up to [the Commissioner. [°to do that.°
 15 C: [and if it's found by
 16 the Commissioner that any of these four concerns, which your
 17 government had numerous warnings about, tchh- hh ahh-ah is found to
 18 b→ have contributed to the tragedy in Walkerton, who is accountable for that.
 19 Harris: Well sir I-I-ah-I've stated on a number of occasions zah that I'm
 20 accountable for any action:. (.) ah:-ah any policy ah that our government
 21 has taken. an I-I accept that accountability.=
 22 C: =°hhhh Now-(.) as you know after Walkerton: in August of two thousand
 23 your government did pass a law.=°hh did pass a regulation. °hh that
 24 cleared up the notification protocol, so that it's clear now that la::bs and
 25 the ow::ner (.) must (.) notify the appropriate officials? The protocol
 26 obviously is now a bah- a binding law and a regulation. [°hh
 27 Harris: [(agba)

This fragment illustrates two ways in which participants produced talk compliant with the normative framework of inquiry testimony. At l. 5, and again at l. 9, the lawyer produces a 'leading question'. Here the question is framed by the construction 'Would you agree with me . . .' With this device the lawyer invites Harris

to confirm the assertion which the remainder of the turn conveys. In other cases, leading questions are formatted as negative interrogatives (see Heritage, 2002). Although these differ syntactically from the 'Would you agree with me . . .' type exemplified earlier, they are similar in that they present the recipient with an assertion with which they are invited to agree. At l. 18, Cavaluzzo produces a 'non-leading' question ('who is accountable for that'). Note that such non-leading questions appear to be genuinely information-seeking and do not explicitly convey the position or stance of the questioner.

However, at certain points, the participants located deviations from the normative framework and thus made their orientation to it available for analytic inspection. Consider the following example:

Fragment 3: transcript p. 73

[C= Cavaluzzo, the lawyer]

- 1 C: right. °hh And (.) y-you should be aware as well of course what the
 2 Common Sense Revolution talked about °hh ah-was a 15 percent
 3 reduction. an-and what that meant for the Ministry of the Environment
 4 was something like three hundred and sixty-five (.) positions
 5 Harris: Well the [commo- [no [no
 6 C: → [look [can=I [could=I
 7 Harris: no
 8 C: → excuse me [could I [finish the question?
 9 Harris: → [Well [just with
 10 → respect, tha-that's ah yes go ahead.=
 11 C: → =okay let me finish the question thank you. °hh
 12 (.)
 13 → That's why I went to law school (.) so I could ask the questions.
 14 Harris: well
 15 C: alright.
 16 Harris: that's why I didn't.
 17 C: [okay
 18 All: [heh-heh hhhh
 19 C: Eventually what happened Premier is that there were seven hundred and
 20 fifty (.) layoffs in May 26 –May uh '96 and January of '97 which was much
 21 greater of course than the 15 percent [°hhh
 22 Harris: [yes.
 23 C: aahh reduction that was cited in thee: Common Sense Revolution.
 24 (0.2)
 25 So that Environment was hit substantially you would agree with me
 26 seven hundred and fifty-two positions=wh-which the figures show and
 27 I-I'm not quoting now, but it's approximately 30 to 35 percent of the
 28 workforce. (.) was let go.
 29 (.)
 30 Harris: Yes. and ah-if – if I can put all of that into context ah- as well, wel-I-there-
 31 there – at no time did we identify that-ah that 15 percent (.) ah:: was
 32 across the board. (0.2) ah: eh that-ah each Ministry could anticipate
 33 fifteen.=ah

Here, Cavaluzzo is spelling out the implications of budget reductions to the Ministry of Environment as matters about which Harris 'should be aware' (l. 1) and, in l. 4, Cavaluzzo formulates the reduction in terms of the number of positions cut. Although this is clearly an A-B event, in framing it in this way Cavaluzzo topicalizes Harris's knowledge of the events and, as such, could be heard as seeking confirmation. Harris treats the completion of 'positions' as the turn's completion and, at this point, begins his own turn prefaced by 'well'. Turn initial components such as 'well' routinely project disagreement and the rest of the talk here further suggests that this is the direction in which Harris is headed. However, before such disagreement might be articulated, Cavaluzzo marks Harris's talk as interruptive and transgressive of the normative framework of inquiry testimony. He does this by asking Harris's permission to finish the question with 'can I, could I' (l. 6). Although Harris seems initially intent to speak his disagreement and produces further talk projecting disaffiliation (i.e. 'with respect') he eventually relinquishes the turn saying 'yes go ahead'. Cavaluzzo's 'thank you' seems to put an end to the matter but when he announces the warrant for his interruption with 'that's why I went to law school (.) so I could ask the questions' he creates a position from which Harris is able to comment without having to answer a question; 'that's why I didn't'.

This example illustrates the manner in which participants may invoke the normative framework of inquiry testimony and, in so doing, use it to hold one another accountable to the constraints it specifies. At the same time we see that, although inquiry testimony is normatively organized as a series of lawyer's questions and the answers given in response to them, the participants' actions are not in any sense determined by such a framework. Rather, that framework is a pervasively relevant resource which participants themselves use to produce and interpret the unfolding course of talk (see Atkinson and Drew, 1979). In this respect, the participants' use of the normative framework helped to shape, but did not determine, the particular positions within which Harris could speak. Participants in institutional encounters frequently test the limits of a practice (Clayman and Heritage, 2002; Heritage, 2002). Thus, although the lawyers were mandated by the rules of inquiry to ask questions, examination of the talk suggests that the participants frequently understood the lawyer not to be asking a question seeking information from its recipient but rather expressing an opinion, position or fact and seeking confirmation for it from the recipient. Furthermore, it should be noted that because inquiry testimony is not adversarial there are far fewer formal restrictions imposed on a witness's answers than is the case for other forms of courtroom talk. In the course of giving and eliciting testimony in inquiry, participants are necessarily concerned to determine just what will count as an answer to any given question (this and a number of other aspects of inquiry testimony are discussed in Ehrlich and Sidnell, 2004).

As we shall see, the lawyers' talk was largely directed to two tasks. First, they attempted to secure public displays of recognition from Harris for various documents and events which could be seen as evidence of what he had or had not

known. Second, they tried to show that Harris had ignored warnings that cuts to the budget would put the health of Ontarians at risk. Given the sheer number of supporting documents that the lawyers had at hand they may well have felt confident that they could show Harris's culpability. The story they attempted to tell – one that had significant support from the media – that Harris had ignored warnings in his quest to save money and reduce the cost of doing business and had, moreover, buried such warnings to avoid public disapproval, seemed to have the weight of documentary evidence behind it.

As it turned out, however, Harris managed to overturn many of the historical certainties suggested by the lawyer's questions. The remainder of this article examines one of the many resources which Harris used to do this.

The lawyer's work: pursuing accounts

A concern with accountability ran deeper than the explicit metalinguistic discussion so far examined suggests. Lawyers designed their questions to pursue an account of Harris's actions as well as his failures to act in particular circumstances. It is to this interactional pursuit and subsequent evasion of accounts that I now turn. Consider then the example given as Fragment 4.

Fragment 4: transcript pp. 140–1

[C=Cavaluzzo, Lawyer]

- 1 Harris: so thet's [I:: [() [()
 2 C:][Just two (2) more [questions [on this point.
 3 Harris: Sure.
 4 (0.4)
 5 C: Would you agree: with me thet (0.2) each of these four problems I talked
 6 about- the uncertainty of the notification protocol, that the protocol
 ... (24 lines omitted)
 30 thousand.Would you agree with me thet (.) the fact that it was done
 31 then is an-a-acknowledgment that that regulation should have been
 32 there in May of two thousand?
 33 Harris: (0.6) uhm::-No, I wouldn't sa:y that. I-I-I would say thet Walkerton was a
 34 wake up call, (0.2) for all of us. including our government=including the
 35 other governments. who if you know, subsequently ah-^ohhh made a
 36 number of changes-aa number of regulatory ah-uhm changes. thee (0.2)
 37 tchh thee ah change ah that was made on ah- on the ah- thee protocol? Ah-
 38 is not the one that was recommended to the Minister=but I believe it is the
 39 appropriate ah::- change. (0.2) and I think the-the former Medical Officer
 40 of Health has acknowledged that-that in hindsight ah- the regulation we
 41 ultimately passed ah-thet-thet that would have been ah- better than his
 42 recommendation.=and in hindsight he said that.=and in hindsight (0.2)
 43 ah- there are a lot of things that people can say.=
 44 C: =Right.=
 45 Harris: =ah (0.2) But clear:ly ah- we did make a number of changes.
 46 C: → ^ohh An I guess ah-the troubling thing about hindsight in this ^ohh respect

- 47 Premier=*is that there seem to have been three or four warnings. (1.0) with*
 48 *this decision.*
- 49 Harris: → *Well with respect there were ah-ah- you've identif[i]ed a number,*
 50 C: *[Hmm hmm.*
- 51 Harris: → *The Ministry would have been asked to respond to those,=there are (.) ah-*
 52 → *comments, ah-and questions, ah-and concerns, ah with everything that*
 53 *our government does an-'n-and any government does=any Ministry*
 54 *does. Government is very, very big business.*
- 55 C: *Hmm hmm.=*
- 56 Harris: *=When those concerns are brought forward in any Ministry –*

In this fragment, Cavaluzzo has been asking who is accountable for the tragedy at Walkerton given the 'documented fact' that Harris had been presented with numerous warnings from public health officials and non-government interest groups. In responding, Harris introduces a distinction between a perspective in situ and one available only in hindsight (at ll. 39–47) and Cavaluzzo uses this as an occasion to reintroduce the issue of warnings saying 'An I guess ah-the troubling thing about hindsight in this ohh respect Premier=*is that there seem to have been three or four warnings. (1.0) with this decision*'. In this way Cavaluzzo comes to possible completion of his turn without presenting a recognizable question to Harris. Moreover, by prefacing his talk with 'I guess' and including also the evidential 'there seem' Cavaluzzo marks his talk as an epistemically qualified description of some state of affairs. Finally, by picking up and reusing the term 'hindsight' and characterizing it as 'troubling'. Cavaluzzo presents this description as contrastive with the one Harris has just given. Cavaluzzo then is pursuing an account for why such warnings were not heeded, indeed, why they were not even acknowledged.

Harris's response at l. 49 is prefaced by several components which project disagreement including the highly formal and unambiguously disaffiliative 'with respect'. He twice begins a turn, each time abandoning it before it reaches possible completion. Notice that each of these self-repairs involves a replacement of the subject topic. So, whereas 'there were' is selected to address particular events, and 'you've identified' the particulars of Cavaluzzo's question, the expression Harris settles on returns the talk to the bureaucracy and its normal operations. Once this is introduced Harris speaks as one experienced in its workings. Harris reformulates and detoxifies the explicit mention of warnings describing them as a 'questions and concerns' which accompany 'everything that our government does'. Harris's response is designed to undercut, challenge and remove the grounds for the pursuit of an account. Consideration of a similar example will help us see how it does this.

Fragment 5: transcript pp. 55–6

[C=Cavaluzzo, Lawyer]

- 1 C: Right.
 2 Harris: mm

- 3 C: But the fact – the fact that you have uh s:trategies for cha:nge does not
 4 remo:ve the fact (0.2) that they're say:ing there's going to be increased risk
 5 to health and environment as a result of these reductions. (.) so obviously,
 6 any risk is potential but it's there. you don't remove it by saying, oh, we're
 7 going to do this that and the other thing.
 8 (0.4)
- 9 Harris: → °hhh Well, a-eh l-l-let me say this there's-there's risks in everything.
 10 (0.2)
- 11 C: Hmm hmm.
- 12 Harris: but I can tell you (.) at no time aahh was it ever brought to Cabinet's
 13 attention. (0.2) to my attention. thet the implementation of these business
 14 plans, (.) would cause increased risk (.) uh to health and safe[ty
 15 C: [°uh-huh°
- 16 Harris: of a:ny citizen anywhere in the province.

In Fragment 5 we see that Cavaluzzo's turn at ll. 3–8 is produced as a comment upon a prior response by Harris. Cavaluzzo challenges that answer suggesting that it has not attended to the heart of the matter which Cavaluzzo gives here as 'they're say:ing there's going to be increased risk to health and environment as a result of these reductions.' Cavaluzzo then goes on to characterize Harris's talk as stating the obvious and, moreover, as displaying a particular casualness and lack of concern attributing to him the flippant remark 'Oh we're going to do this that and the other thing' (ll. 6–7). By reinvoking a previous 'question' Cavaluzzo challenges the adequacy of the answer that had been given and further pursues an account for Harris's failure to act in response to the warning. It is to this pursuit of an account that Harris's turn in l. 9 immediately responds. Harris uses the extreme-case formulation 'there's risks in everything' to undercut the warrant for an account. By saying there's risks in everything Harris suggests that there is nothing remarkable, and deserving of an account, about the specific case that Cavaluzzo is invoking.

'Extreme-case formulations' such as 'there's risks in everything' are ways of referring to an object or event that invoke its maximal or minimal properties often employing such words as 'never', 'always', 'brand new', 'forever', 'everyone' and so on to do this. Although it was Pomerantz (1986) who first used the term 'extreme-case formulation', Sacks (1995) initially called attention to the device in a lecture from the fall of 1964 (lecture 3). There, Sacks discussed an excerpt from a call to a suicide prevention center. After it is revealed that the caller has a gun in the house, the desk attempts to have her account for its presence.

Sacks: Fall 1964, lecture 3

- 1 Desk: Do you have a gun at home?
 2 (0.6)
- 3 Caller: A forty fi:ve.
- 4 Desk: You do have a forty fi:ve.
- 5 Caller: Mm hm, it's loaded.
- 6 Desk: What is it doing there, hh Whose is it.
- 7 Caller: It's sitting there.

- 8 Desk: Is it you:rs?
- 9 (1.0)
- 10 Caller: It's Da:ve's.
- 11 Desk: It's your husband's hu:h?=
12 Caller: =I know how to shoot it,
13 (0.4)
- 14 Desk: He isn't a police officer:r.
- 15 Caller: No:.
- 16 Desk: He just ha:s one.
- 17 Caller: → Mm hm, It-u-Everyone does don't they?
18 (1.7)
- 19 Desk: Yah ee- e:-ah::: ih You have a forty fi:ve and it's loaded.
- 20 Caller: Mm:mm,
- 21 Desk: A:nd uh (0.4) I suppose maybe everyone in:hh evrywuh- in
22 Burnside Park has one I don't kno:w,
23 (0.7)
- 24 Caller: Well no: but I mean- (0.2) a lot of people have guns
- 25 Desk: Oh su:[re,
- 26 Caller: [I mean it's not- (.) [unusual
27 Desk: [I s::- I: see.

The talk reveals (l. 3) and subsequently confirms (ll. 4–5) the presence of a loaded gun in the house. In the immediately subsequent turns (e.g. l. 6) the desk seeks an account for this. At l. 14, the desk suggests one possible basis for having a gun, i.e. that its presence was warranted on the basis of the owner's membership in the occupational category 'police officer'. When this is rejected the desk suggests 'he just has one' and the caller responds by saying 'Everyone does don't they?' In discussing this fragment Sacks (1995: 23) remarks:

This line, 'Everyone does, don't they?' is one of the most fabulous things I've ever seen. Where persons are engaged in trying to get an account from somebody, there's an object that the person who's being questioned can slip in. This is one of them. And what it does is, it cuts off the basis for the search for an account. . . . So for example having a gun is something for which an account is apparently appropriate. The search goes on for an account, this thing goes in, and now an account is no longer to be sought. And this thing isn't an account of how she happens to have a gun. That would be quite a different thing.

Pomerantz (1986) discussing this and a number of other cases suggests that 'interactants use extreme-case formulations when they anticipate or expect their co-interactants to undermine their claims and when they are in adversarial situations.' So, for instance, the caller's 'everyone does, don't they?' is a defensive utterance offered in the absence of a good 'official' reason for having a gun. Hutchby and Wooffitt (1998: 212) observe:

The point of using 'everyone' rather than, say, 'most people' or 'many people round here' is not that she is making a strict claim that every single individual in the world has a gun. Rather, the import of that description is that it proposes that this is a common practice and therefore something for which she does not have to offer a mitigating explanation.

- 22 the business plans (.) ahh that we released to the public.=
 23 C: =mhmm.
 24 Harris: ah-The key ah-directions, that ah- (.) ah- and changes, uh-if you like,=an
 25 the key priorities of each an every one of the Ministries=an set out those
 26 objectives °hh an then ah- also ah- how they could be [held accountable.
 27 C: [mhmm
 28 Harris: for those objectives.=so=
 29 C: =right.=
 30 Harris: =ih-the p(h)urpose of the business plan wasn't to-to °hh release all the
 31 information that went through ah-the arrival of the budget process (.)
 32 ahm-the purpose was [to put out those strategic ah-[ah objec[tives-
 33 C: **a→** [mhm () [But I
 34 **a→** I repeat my question.
 35 Harris: °Yes.°
 36 C: In the business plan they are described as ke::y impacts:. (.)
 37 [and I'm putting it to you,
 38 Harris: [°yes°
 39 (0.2)
 40 C: first of all the public wasn't advised of that=and you obviously agree with
 41 that because it's not in the business plan.
 42 Harris: [Right. ()
 43 C: **b→** [an-and the se(h)c(h)ond point I raise=an I ask is [don'tyou think
 44 **b→** that the °h public (.) [is entitled to that information.
 45 Harris: [m
 46 (0.6)
 47 Well ih-noo.
 48 C: **c→** [They're not?]
 49 Harris: [in the sens-] no in the-in this sense uh-if-if those impacts were
 50 determined not to be manageable, (1.0) an you were going to go ahead
 51 which we would never have,
 52 C: Right.
 53 Harris: then certainly the public uh-would be entitled to know °h ahh-m previous
 54 ah-estimates that were released uh-gave the public no information (.) ah
 55 -jus the spending (.) levels.
 56 C: mm
 57 Harris: So this was more information than had ever been given before, an let me
 58 **d→** repeat ah-thet uh-had I (.) uh-or the Minister of the Environment I'm
 59 confident ah-both-ah-both Ministers thetchyou'veheard from, ah-or-or
 60 senior staff, (.) believed that there's any risk (.) uh-in this plan; to human
 61 **e→** health, or any increased risk, I-I [I think I gotta repeat thet=
 62 C: [we-
 63 =right.
 64 Harris: °h there's risk in everything,=there's risk in-in walking across the street,=
 65 **e→** thet any of these actions would increase risk, had °h uh we believed
 66 that.(.) we wouldn't have procee[ded.
 67 C: [right=but Premier (.) the ris:k they are
 68 saying is being increased,=whether that can be managed °h is another
 69 question. tch But these pla::ns are saying from the officials. (.) risk is
 70 increasing.
 71 Harris: The potential is that they'll increase::.[I would presume somebody

- 72 C: [°()°
 73 Harris: in the Ministry has-has i[identified that as a potential risk,=
 74 C: [mm
 75 =right
 76 Harris: ah:: and-and if you carried on doing business the same way, if you didn't
 77 have ah-the private sector doing something, or a municipality doing
 76 something, or if you weren't able to manage yer-[yer-yer funding
 77 C: [°right°
 78 Harris: more efficiently, or if you weren't focussing on °hh on these key areas to
 79 make sure, ah-then that would have been a potential impact. °h ah-but (.)
 80 we were about changing, we were about changing the [way government
 81 C: [mm
 82 Harris: operated,=
 83 C: =°right°
 84 Harris: ah-ah-as well as we were about balancing ah-ah the books. =an I-I repeat
 85 for you. ah:: if-if-if there was any (.) risk, -=if I felt=
 86 C: =mhmm.
 87 Harris: =there was any risk. and if it had been brought to my attention °h=
 88 C: =right.
 89 Harris: we would not have proceeded.
 90 C: °h I'm putting it to you Premier, th[at becau::se you were awa:re
 91 Harris: [(mm)
 92 C: (0.2)
 93 that if the public -iah- that the public; in terms of a balance between the
 94 econom-economic considerations and envi[ronmental [considerations
 95 Harris: [mm [mm
 96 C: that they would opt °hhhh for protecting the environ[ment.
 97 Harris: [mm
 98 C: and because of that;=the Government decided not to release that
 99 information, =because you knew it would be politically unpopular to the
 100 public.
 101 Harris: Well I-I totally reject that. =that-that-that was not the thinking::, at the
 102 time, an' it's not my thinking today.=
 103 C: =right. °hh an I also. . .

We can begin by noting that, after he produces a 'leading question' framed with 'y'wud also agree with me . . .' in l. 1, Cavaluzzo continues with a non-leading, why-framed question at ll. 5–8. In one of his first recorded lectures Sacks (1995: 4) drew attention to the use of 'why' in conversation.

Now, I'll consider many times the use of 'Why?' What I want to say about it just to begin with, is that what one does with 'Why?' is to propose about some action that it is an 'accountable action'. That is to say, 'Why?' is a way of asking for an account. Accounts are most extraordinary. And the use of accounts and the use of requests for accounts are very highly regulated phenomena.

In this case, Sacks was considering the use of 'why?' in second position where it requests an account for the doing of a just previous action in conversation (as in 'why are you asking me that?'). However, the use of 'why' to request an account is not limited to such contexts. As Sacks says later in the lectures, 'why' generally

casts an action as an accountable act (1995: 19) and further '(w)here one wants to get, from the person one is talking to, an account of something – why they did something or why they have something – one way you can do it is by saying "Why?"' (1995: 21). These observations are relevant to the fragment we are examining here. When Cavaluzzo (at ll. 5–8) asks 'why then in the public release of the business plan, were the public not given this information concerning the impacts relating to increased possible increased risk to health and the environment' he is seeking an account for something that Harris did not do. By prefacing his answer with 'because' Harris attends to just this aspect of Cavaluzzo's question.

However, despite the fact that Harris formats his answer in the prototypical way for giving an account, Cavaluzzo once again treats the answer as inadequate, and at ll. 33–4 he reinvokes the 'question' he produced at ll. 5–6 saying 'but I repeat my question'. The eventual restatement which comes in ll. 43–4 involves a significant transformation. Thus the earlier question produced at ll. 5–6:

The question then I have with you is why then in the public release of the business plan, were the public not given this information concerning the impacts relating to increased possible increased risk to health and the environment.

becomes at ll. 43–4:

don't you think that the public (.) [is entitled to that information.

Cavaluzzo's first question is a straightforward information-seeking question. In asking why the information was not released to the public Cavaluzzo seeks an account from Harris for something that he, or his organization, did not do. In his subsequent reinvocation, Cavaluzzo packages what he presents as the same question in the form of a negative interrogative. As Heritage (2002, following Bolinger, 1957) has shown, such formats are routinely treated not as questions seeking information, but as assertions of fact or opinion with which their recipients are invited to agree. Furthermore, Cavaluzzo uses the epistemic frame 'Don't you think . . .' (notice he might have asked – 'isn't the public entitled to that information'). Finally, the content of the turn is concerned with what the 'public is entitled to know'. By designing his turn in this way Cavaluzzo is not so much asking a question, but instead proposing an account of 'why the public was not informed'. He is offering an answer to his own question in ll. 5–8, which he treats as unanswered to this point. By formatting this as a relatively assertive negative interrogative and framing it with the epistemically qualifying 'don't you think' Cavaluzzo characterizes Harris's own reasoning and invites him to agree with that characterization. When this receives a dispreferred non-confirming response, Cavaluzzo marks the answer with the 'newsmark' 'they're not?'

It is in this sequential environment that Harris develops an account of why the public was not informed about risks to health. Specifically, Harris finds himself in the unenviable position of having to do this as an explanation of why the

public is not entitled to that information. The piece that I want to concentrate on comes in ll. 57–67. Here Harris continues his answer with an if–then construction introduced by ‘had I. . .’.² Although production of the if-clause is temporally suspended it eventually comes to completion at ‘any increased risk’. This is a pivotal moment. An if-clause strongly projects the production of a then- or consequent-clause and as such it adumbrates further talk to come. Harris uses this characteristic as a resource. Specifically, it is at just this point that Harris inserts his extreme-case formulation. This is marked, with the preface ‘I think I gotta repeat’, as a priority item – something Harris feels obligated to say before he goes on.³ The extreme-case formulation ‘there’s risks in everything= =there’s risks in walking across the street,=’ is neatly buried within the if–then construction whose progress it interrupts. This positioning then provides insulation against challenge or even comment by Cavaluzzo. Having begun this part of the turn with ‘had I’ Harris will not reach possible completion until the consequent clause is produced. As such, this position is maximally insulated against challenge.⁴ In this way Harris makes the extreme-case formulation – which is already relatively impervious – even less vulnerable criticism. By the time the turn has been completed (at l. 67) Cavaluzzo is ready to go with a reinvoation of his question. But at this point new relevancies have already presented themselves. The time for challenging the extreme-case formulation – containing Harris’s claim that there’s risks in everything and that therefore the particular situation under scrutiny was not remarkable – has already passed. And notice that rather than challenge Harris’s immediately prior response, Cavaluzzo reiterates concerns last expressed in l. 7 about reports of ‘increased’ risk.

These three cases exemplify Harris’s use of a device which was absolutely central to his defense, what Pomerantz (1986) described as ‘extreme-case formulations’. Although clearly that defense rested on a whole host of discourse devices, extreme-case formulations were crucial in that they allowed Harris to re-characterize particular events as unremarkable and in this way undercut the lawyer’s grounds for pursuing an account.

Reformulating the lawyer’s question

Before concluding, it is worth considering a final set of cases in which extreme-case formulations are used to reformulate and challenge the appositeness of the lawyer’s ‘question-turn’. For example, in Fragment 7 Muldoon is attempting to establish the importance of a meeting which Harris did not attend. Talk later in the sequence indicates that the issue of ‘importance’ is raised in aid of Muldoon’s later suggestion that Harris should have been informed about what was said at that meeting. Looking at the transcript we see that Muldoon produces a recognizable yes–no question in ll. 3–6 marked by the inverted syntax ‘would-you’. In responding, Harris uses the extreme-case formulation ‘every meeting of Cabinet or Cabinet Committee is-is important.’

Fragment 7: transcript p. 87

[M=Muldoon, Lawyer]

- 1 Harris: . . .Tokyo'nd-ah China.I believe [on a trip
 2 M: [Now when you're not at (.) the:se
 3 → meetings- [uhn would you regard these-these planning priorities
 4 Harris: [hmp
 5 M: an' joint planning priorities an' Management Committee meetings
 6 important. in the gen-in the usual course of th[ings?
 7 Harris: → [Eh-every meeting of
 8 Cabinet or Cabinet Committee is-is [impor [tant.
 9 M: [°hhhh [So you w'd get briefing
 10 documents even if you were not there. Is that correct.
 11 Harris: ah-I would have been briefed.on:-on any of thee ah::ahm: if there were
 12 concerns by ahh central office or cabinet office [or my office yes.
 13 M: [en-en-en you- otherwise
 14 you have. . .

Yes–no questions have the property of ‘projecting a determinate form for the responses they make relevant (e.g. the choice between a “yes” or a “no”)’ (Raymond, 2002: 16). As such, responses to yes–no questions are type-conforming if the answer contains a ‘yes’ (or equivalent, e.g. ‘certainly’) or ‘no’ token and non-type-conforming if they do not. That is to say that, although he is responding to a turn formatted as a yes–no question Harris, withholds production of a ‘yes’ or ‘no’ token in his response. Rather than answer the question, Harris recycles and replaces portions of the lawyer’s turn, thereby suggesting that the replaced items represent particularly inapposite formulations. Nevertheless, Muldoon treats the non-type conforming, reformulating response as the expected answer to his question. Thus, in ll. 9–10, Muldoon launches his follow-up question, before Harris reaches possible completion, with *so* clearly marking a relation of logical consequence between this next question and Harris’s answer. Consider Fragment 8.

Fragment 8: transcript p. 87

[M=Muldoon, Lawyer]

- 1 M: But the option was avail-available for you: to follow up, weren't they not?
 2 (0.6)
 3 Harris: uh-The option was available to ↑every↓body.=[I think you've heard]=
 4 M: =[You could have ()]
 5 Harris: =I think you've hEa:rd. from the: uh Minister of Environment=who is (.)
 6 the primary one responsible for this, she followed up on a number of
 7 occasions.

Here the question is formatted as [assertion] + [negative tag]. Although presenting it in the compulsory question format, the lawyer is here making an assertion of fact for which he seeks confirmation and the negative tag, of course, strongly projects an affirmative, agreeing response.

Once again, Harris refuses to answer the question. Instead, he treats the

lawyer's turn as expressing a position and replies with a non-type-conforming response that again recycles and replaces particular features of the question, thereby targeting for correction and replacement particular referring expressions. Harris's answer is significantly delayed and designed to target the inapposite formulation in the question. Thus we can see that the syntactic frame is maintained across question and answer apart from this item which is replaced with the extreme-case formulation 'everybody'.

Whereas in the previous example the lawyer treated the turn containing the extreme-case formulation as a version of the expected response, here such a hearing is clearly not available. This difference hinges on the character of the lawyer's turn. In the first example, Muldoon has produced a recognizable question and Harris's answer, although suggesting problems with some aspects of that question, can nevertheless be heard as conveying the preferred response – i.e. that this meeting was important. In the second example, however, the lawyer's turn is more explicitly taken up with assertion and the pursuit of confirmation. In this environment, Harris's use of an extreme-case formulation is recognizably doing disagreement. In fact, he subsequently goes on to elaborate and substantiate that disagreement in the face of vigorous competition.

Political accountability and personal responsibility

The mandate of an inquiry like the one discussed here is only to 'ascertain the facts'. On the occasion that Harris was called to testify, the commissioner was moved to remind the public of this. In his 'Commissioner's statement' delivered 6 June he remarked:

It should be kept in mind that this is an inquiry, not a proceeding alleging wrongdoing of any sort. The Premier is being called so that he can be asked about specific policies and decisions, and their possible impacts on Walkerton, and for no other reason.

However, in the course of the testimony, participants found that the task of 'ascertaining the facts' in this case necessarily involved accounting for what Harris had and had not done, and further what he knew or did not know at any given point in time. This, it turned out, was a condition of making the 'facts' visible and intelligible. Whether Harris had been unaware, willfully ignorant or simply dismissive of documented warnings could not be separated from the problem of determining the very status of those warnings *as* warnings.

Suchman (2002) suggested that assignment of authorship to technical innovations is a feature of institutional accountability in research and design work practice. In that context, inventions require an author or inventor even if they are the product of a complex socio-material assemblage encompassing various people, artifacts and work practices. A similar system of accountability was at work in the Walkerton inquiry. Thus, Harris evaded attributions of responsibility in part by denying sole authorship. Remember, for instance, that in the talk given as Fragment 4, Harris suggested that there are 'questions and concerns' with every-

thing that our government does and further that 'government is very big business'. The relevant portion of this example is reproduced again as Fragment 9.

Fragment 9

51 Harris: → The Ministry would have been asked to respond to those,=there are (.) ah-
52 → comments, ah-and questions, ah-and concerns, ah with everything that
53 our government does an-'n-and any government does=any Ministry
54 does. Government is very, very big business.

This fragment also illustrates a feature of Harris's talk which more subtly invokes the complex workings of government. I refer here to his persistent use of the verbal construction 'would have been' in 'would have been asked to respond to those'. By combining the modal 'would' with the perfect 'have been' construction, Harris casts these as actions that happened in a hypothetical past time that is known only as a set of organizational regularities. In this and other ways, Harris was able to re-characterize actions as the product of a complex assemblage of persons and work practices rather than of any one given individual.

In Fragments 7 and 8, Harris uses extreme-case formulations to recontextualize the specific instances to which the lawyer refers by invoking an undefined number of meetings ('every meeting is important') and people ('the option was available to everybody') which make up the constituent activities and personnel of provincial government. That is to say, Harris uses extreme-case formulations to redraw the ground against which the figures of this particular meeting or of this particular individual (i.e. Harris) are to be understood. In this way, Harris diffuses responsibility for the specific actions or failures to act which the lawyer invokes.

The distinction between personal responsibility and 'public accountability' came into sharp focus at various points in the testimony. Consider a final example in which the lawyer (Muldoon) speaks in such a way as to personalize the accusation.

Fragment 10

[M=Muldoon, Lawyer]

1 M: Butsir:=the documents were in front of you. (.) They were stating there.
2 there was impacts. (.) an you're saying well: (.) no one told me.=But they
3 were there in front of you. Do you not accept some role as yourself for
4 taking some intervention action and look at the impacts and say to
5 myself y'know what, I'm going to get a second guess here because these
6 are so serious.=Do you not take any
7 Harris: [I- I- I abs-]
8 M: [responsibility for that?]
9 Harris: absolutely. As I've indicated to you I take uh-full accountability for any
10 action that was taken uh- by our government.=Was I involved uh-in the
11 day-to-day, no:.. °hh ah-Was I given any advice ah-th-that they were
12 jeopardized,=no. °hh ahh but I think I've been very clear to you they were
13 a:ll asked. (.) You know when you're making these ahh- these ah

- 14 reductions, an-and adjusting a new budget, uh-th-they were all asked. =list
 15 any potential impacts. °hh and at the same time uh-they had to satisfy:
 16 their Ministers, ah:- and they would have had to satisfy:: ah- Management
 17 Board, and they would have had to satisfy: °h Cabinet ultimately at the
 18 end of the day. that there were (.) no risks.
 19 M: °hIn looking [ba:ck-
 20 Harris: [or no additional risks. =I-I-I don't wanna hold out the
 21 (h)impr(h)ession thet-that life isn't full of risks=ah an I think I indicated
 22 this morning (0.4) that (.) we felt the biggest risk (0.2) to the people of
 23 Ontario was doing nothing. was maintaining the status quo that we
 24 needed to change.
 25 M: Looking back (0.2) now. an looking at the documents which I know you've
 26 had opportune to rev[ew prior to the inquiry (.)
 27 Harris: [Yea.
 28 M: doyou-uh have any regret for not interve:ning. an-an saying wait a sec, I
 29 wanna ask some more (swallow) questions.
 30 Harris: Wellyaknow hindsight's a-a terrific thing. (0.2) ah I can tell you:: thet I
 31 honestly perform:ed (.) thee:: myriad of functions that I had to undertake
 32 as Premier of the province. =including as you know travelling an °hh
 33 selling ah-the province, ah-I undertook that rol::e very conscientiously,
 34 very seriously, I spent a lot of time at it, I worked har:d at it, as did a
 35 very competent team of ah-Ministers and-ah °hh and ah senior
 36 bureaucrats°hh ah I think they were very competent ah-in-in what they
 37 did. °hin hindsight, we're now review:ing ah-were any of these actions did
 38 any of them ah-contribute to the te:rri:ble tra:ge:dy that took place here in
 39 Walkerton (.) and that's why I-I called this-this Commission of Inquiry
 40 M: But, [sir
 41 Harris: [to [to determine that.
 42 M: [knowing what you know no:w do you have any regret in not
 43 interve:ning in the business plan pro-cess and saying: you're go:ing: too
 44 fa:r.
 45 Harris: Well:you assumed that I didn't intervene in the business process and I
 46 think that's-that's not an assumption you ought to make. =I have no
 47 concern ah:: that-that everybody involved in the business planning
 48 process didn't take their job seriously, an didn't do ah-an honest,
 49 conscientious job. of assessing potential risks, identifying them, and
 50 assessing them.
 51 (1.0)
 52 [()
 53 M: So [you have no regret sir
 54 (0.4)
 55 Harris: I- clearly I regret what happened in Walkerton: [if that's what yer
 56 M: [do you regret not
 57 interve:ning.
 58 Harris: ah:: [well: I didn't say I didn't intervene.
 59 M: [further
 60 (0.8)
 62 M: Do you regret not taking further a:ctions in explo:ring what the nature of
 63 the impacts were which were on that docume[nt.
 64 Harris: [no=I took every action that

- 65 you would ever expect a-in my view a Premier to take. °h ah and-and I can
 66 honestly tell you that.
 67 M: an-and there's no regret at this point sir.
 68 Harris: I'm sorry
 69 M: There's no further regret at this point.
 70 Harris: There's no further regret a[t this point.
 71 M: [thachyou did not take any other steps.
 72 Harris: ah-listen uh-I regret what happened in Walkerton=an certainly, if there's
 73 any:thing that comes out of this Inquiry thet-would indicate ah-that
 74 anything, any action, any change, by our government contributed in any
 75 way:: ah-I would regret that very much.
 76 M: °hhh sir do you believe we have a right to safe drinking water?

Note that in the first part of this segment, Muldoon characterizes the documents as 'in front of you'. This eliminates any possible ambiguity as to who the 'you' refers to (i.e. Harris or 'the government' in general). Also, in voicing Harris with 'well: (.) no one told me.' (l. 2) and 'y'know what, I'm going to get a second guess here because these are so serious.' (l. 5), Muldoon directs attention to this individual and his role in a decision-making process. Let us note also that at l. 6 Muldoon is projectably on the way to saying 'do you not take any responsibility for that?' (as he indeed ends up saying at l. 8) at just the point where Harris begins his turn. Harris interrupts the lawyer's turn to, once again, accept accountability. Although Harris here accepts that he is accountable he, simultaneously, makes a clear distinction between this and personal responsibility without ever having to explicitly deny that he is responsible. Thus, Harris says at ll. 10–12 'Was I involved uh-in the day-to-day, no:: ohh ah-Was I given any advice ah-th-that they were jeopardized,=no.' In this way, Harris accepts that he is accountable even while he denies that he is personally responsible for what happened. This semantic hairsplit did not escape the media's attention. Thus on the day after Harris's testimony the *Globe* and *Mail* ran the headline 'Accountable but Blameless.'

We cannot here detail all the practices of speaking which Harris employed in an effort to deflect personal responsibility but will simply point to a few of them and reserve analysis for a later report. At ll. 13–18 Harris once again turns attention back to the operations of the organization. He continues, through a place which Muldoon locates as a point of possible completion, to talk of a 'we' who makes decisions as a collective. At l. 34 and following Harris does mention his personal role but only in his capacity as premiere of the province (see also ll. 64–6). Muldoon focuses on the issues of personal responsibility at l. 53. This question 'is there any further regret' is hearable either as asking about Harris's feelings with respect to the events in general or his personal role in them. Harris at first responds in a way appropriate to the first hearing and, at l. 55, spells out this understanding of the question. In ll. 56–7 Muldoon develops the question so as to guard against this hearing of it. Were Harris to express the regret that is here being asked about the result would be a clear admission of wrongdoing, an acknowledgement that he was not simply accountable for but, moreover, respon-

sible for the water contamination and deaths at Walkerton. Harris manages to deflect once again saying at ll. 64–6 'I took every action that you would ever expect a-in my view a Premier to take. °h ah and-and I can honestly tell you that.' and later at ll. 72–5 'I regret what happened in Walkerton=an certainly, if there's any:thi:ng that comes out of this Inquiry thet-would indicate ah-that anything, any action, any change, *by our government* contributed in any way:: ah-I would regret that very much.' (emphasis added).

Although this article has focused on extreme-case formulations an effort has been made to at least sketch the range of other devices which together operated to obscure any particular role that Harris might have played in the contamination of water at Walkerton. Through the use of such practices of speaking Harris slipped the snare of accountability which the lawyers repeatedly set for him through 5 hours of questioning.

NOTES

1. It is worth noting that although such devices seem relatively impervious to doubt, in this case the recipient clearly questions the generalization the caller is making. Extreme-case formulations then are susceptible to challenge on empirical grounds.
2. This is prefaced by the request formula 'let me repeat.' Note the contrast with Harris's use of 'I think I gotta repeat. . .'
3. By making this a priority item which interrupts the progress of the turn, Harris suggests that he has found something in the immediately prior turn which evidences a misunderstanding on Cavaluzzo's part.
4. See Kitinger (2000) for an account of the way if-then structures may be used to insulate information against challenge or comment.

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