Douglas Walton, *Burden of Proof, Presumption and Argumentation*, Cambridge University Press, 2014, 318 pp., US$ 85.00 (hc) ISBN 978-1-107-04662-7, US$32.99 (pbk) ISBN 978-1-107-67882-8, US$26.00 (e-bk) ISBN 978-1-139-95048-0.

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It is well known that the notions of burden of proof and presumption are pivotal concepts in law and legal argumentation.[1] At least since Whately ([1846] 1963) it has also been thought that these notions might be extended beyond the field of legal argument to feature centrally in the analysis and evaluation of informal, conversational argumentation.[2] While this hypothesis has been developed considerably in contemporary argumentation scholarship (see Godden & Walton 2007 for a survey), resistance to this idea has also recently been voiced (Gaskins, 1992; Hahn & Oaksford, 2007; Dare & Kingsbury, 2008).

In the law, presumptions and burden of proof serve two general ends. First, as Hahn and Oaksford (2007, p. 41) observe, they function to "favor certain substantive outcomes," such as justice over truth (on this see, e.g., Laudan, 2006; Dare & Kingsbury, 2007). Gaskins (1992) explores this operation extensively, observing pivotal changes in the placement of

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[1] On the operations of presumptions in legal argumentation, see, for example, Macagno & Walton (2012).

[2] For accounts of presumption in conversational argumentation see, for example, Ullman-Margalit (1983), Walton (1992), Hansen (2003), Kauffeld (2003), Godden & Walton (2007). Rescher (2007) explores the relevance and operation of presumption in specifically epistemic contexts.

the burden of proof by American courts that incorporate changes in so-
cial values into the operation of the law. Second, burden of proof and pre-
sumption are employed to meet a practical end: legal deliberations, in any
particular case, have practical constraints—the legal system must deliver
a determinate verdict on a case within a reasonable amount of time based
on the available evidence, regardless of how impoverished that evidence is.
In order to meet this practical demand, which might best be understood
an element of justice, certain kinds of positions are taken as default (e.g.,
innocence until guilt is proven), and certain thresholds of proof and pro-
bative responsibilities are allocated at the outset of any legal proceedings.
This allows for a determinate result of the argumentative process in any
given case—in the event that the burden of proof to establish some evi-
dential threshold for guilt or culpability has not been satisfied, a not guilty
verdict is delivered. Finally, as Gaskins emphasizes, burden of proof and
presumption provide a way of managing ignorance or unknowns, as well as
the relative availability of information, in advancing these substantive ends
and meeting these practical requirements. Hahn and Oaksford (p. 41) give
the example of demonstrating due care in cases of product liability: here,
rather than require that a plaintiff establish that due care was not taken,
since the relevant information to determine that fact is much more readily
available to the defendant, the law requires the defendant to demonstrate
that due care was, in fact, taken.

Hahn and Oaksford argue that the exigencies at work in the law (e.g., the
need to produce a decision in any case), as well as the distinctive values and
priorities that the law is designed to uphold, do not always or readily carry
over to ordinary conversational argumentation. Specifically, they note the
inherently deliberative dimension of legal reasoning, which is decision- or
action-oriented rather than pertaining strictly to our cognitive comport-
ment, e.g., judgment or belief. Without this principled and practical need
for a decision, they argue (p. 46), "the notion of burden of proof is typically
spurious or ill-defined." Yet, this legal "need for termination" of argumen-
tation does not ordinarily extend to everyday conversational argumenta-
tion (which can often be suspended without a determinate resolution) and
should not extend to inquiry (truth-driven argumentation), where suspen-
sion of judgment might well be the epistemically proper conclusion (pp. 48,
58). Further (p. 41), while the law is designed to prize certain substantive

outcomes (justice) over others (truth), the goals of ordinary argumentative discourse are neither so weighted nor so well defined. In this vein, Dare and Kingsbury (p. 516, cf. pp. 506-509) argue that "the common tendency to move directly from the legitimacy of differential allocations [of burden of proof] in legal contexts to their legitimacy in general overlooks something important about the law, namely that its primary aim is something other than truth."

The present work by Walton, the twin purposes of which are to (i) supply a better understanding of burden of proof and presumption in legal reasoning, and (ii) to make the case that aspects of the operation of burden of proof and presumption in law can inform its workings in everyday conversational argumentation (p. 2), answers these challenges. There is much in this book that will be familiar to readers already acquainted with Walton's previous and extensive work. Rather than representing any significant development of his existing account, this book provides an application of it to the problematic topics of burden of proof and presumption. Incorporating some of his recent work on these topics spanning from 2007-2011, and working within his standing dialectical approach to argumentation, Walton provides a comprehensive model of burden of proof and presumption that, while finding its bases in the practices of legal argumentation, is flexible enough to be adapted and applied to argumentation in a wide range of fields from forensic debate to ordinary conversational disagreements.[3]

Walton brings a variety of theoretical and methodological resources to the problem. In his 1988 paper "Burden of Proof," Walton explored the notion in the contexts of theories of plausibilistic reasoning and the analysis of argumentation through normative theories of reasoned dialogue (p. 234). This perspective remains twenty-five years later, contributing an overarching dialectical approach to the study of argumentation together

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[3] Specifically, the book incorporates versions, often significantly revised and extended, of the following papers: Walton, D. "Metadialogues for Resolving Burden of Proof Disputes." *Argumentation* 21 (2007): 291-316 [Chapter 6]; Walton, D. "A Dialogical Theory of Presumption." *Artificial Intelligence and Law* 16 (2008): 209-243 [Chapter 3]; Walton, D. "Burden of Proof in Deliberation Dialogs." In McBurney, P., Rahwan, I., Parsons, S., and Maudet, N., (eds.), *Argumentation in Multi-Agent Systems: ArgMAS'09 Proceedings of the 6th International Conference on Argumentation in Multi-Agent Systems LNAI 6057* (pp. 1-22). Berlin: Springer, 2010 [Chapter 7]; Walton, D. "Burden of Proof in a Modified Hamblin Dialogue System." *Informal Logic* 31 (2011): 279-304 [Chapter 5].

with a focus on defeasible forms of argumentation. From this perspective, the probative status of a claim is the result of its standing at the end of an argumentative process (Walton & Krabbe, 1995). Success in defeasible argumentation is standardly defined in terms of shifting a burden of proof, or reallocating argumentative obligations, from one party in the discourse to another. Fallacies, by contrast, are explained as illicit shifts in a burden of proof (Walton, 1988). The effect of presumptive argumentation, including argumentation having any of the informal schemes (Walton, Reed & Macagno, 2008), is explained in terms of establishing a presumption in favor of its conclusion, which, in turn, is explained as shifting the burden of proof to an objector (Walton, 1996a). The presumptive status of the conclusion is something less than outright belief; rather it is a form of commitment akin to acceptance, where one proceeds, if only tentatively, on the basis of the claim, reasoning and acting as if it were true. This status is defeasible: it can be undermined or overridden as a result of further argumentation, making the claim retractable. Nevertheless, though tentative and rebuttable, the status of the claim is also actionable—the presumed claim may be relied upon in specific practical contexts, e.g., as a premise for further reasoning or as a principle for action.

This general dialectical perspective is developed with the introduction of different basic dialogue types (Walton, 1998), which are distinguished according to their initial situation, participant goals, and activity goals. It is recognized that burdens of proof operate differently in different types of dialogue, which can be nested one within another. Nevertheless, it is maintained that all argumentative dialogues are goal-driven, and have the same basic underlying procedural structure, which is comprised of three basic stages: opening, argumentative, and closing (even if these phases of the overall activity are not always explicitly or well delineated) (pp. 254ff.). The operation of burden of proof is explained in relation to the purpose and different stages of argumentative dialogues. Finally, the idea of meta-dialogues is introduced in order to manage procedural disagreements occurring within first-order dialogues.

In addition to this robust dialectical apparatus, Walton's model incorporates tools of informal logic, including the standards of argument cogency (premise acceptability and relevance, and inferential sufficiency) and fallacies for evaluation, as well as the structural diagramming of argument

for analysis as developed in computerized argument mapping. Specifically, Walton draws upon the abstract argumentation framework (Dung, 1995) as developed by Prakken and Sartor (2009) to model burdens of proof in law, and the Carneades argument mapping system (Gordon & Walton, 2009; Gordon, 2010), which provides a structural visualization of relations of support and defeat among the commitments of arguers.

Before considering how these different pieces fit together to offer a model of burden of proof and presumption in conversational argumentation, let us turn to a descriptive survey of the book. In summary, the text proceeds as follows. Following an introduction of its basic concepts and methods (Chapter 1), it begins with an account of burdens of proof and presumptions in legal reasoning (Chapters 2 and 3). Chapter 4 offers an account of shifting burdens of proof in legal reasoning, focusing on a case study of witness testimony. Chapter 5 then explicates the operationalization of burden of proof in dialogue systems. The idea of metadialogues is introduced in Chapter 6 as a means to resolve different kinds of problems (e.g., the proper setting and shifting of burdens, as well as resolving indeterminacy of the results of argumentation) affecting burdens of proof as they can occur in dialogues, and Chapter 7 distinguishes a variety of different ways that burdens of proof can occur in different types of dialogue (persuasion dialogue and deliberation dialogue are explicitly contrasted). Combining these different elements, the book concludes, in Chapter 8, with an overall model of the functioning of burden of proof and presumption in argumentative dialogues that promises to apply equally well to legal argumentation as to much ordinary, conversational argument.

In more detail, burden of proof in law is described as "setting a standard for what is to be considered a proof in evidential reasoning," while a presumption is "a device used in the law of evidence to enable a proposition to be taken into account as a piece of evidence… even though the argument supporting that proposition is not strong enough for it to meet a required burden of proof" (p. 1). "Generally speaking," Walton tells us, "the burden of proof tells you how strong an argument needs to be in order to be successful. It represents a description of a task such that if you fail to carry out this task, your argument will fail" (p. 8). So described, the burden of proof is an argumentative responsibility that falls on one of the parties in the dispute, as explicitly stipulated in Walton's 1988 definition of "burden

of proof" as "an allocation made in reasoned dialogue which sets a strength (weight) of argument required by one side to reasonably persuade the other side" (p. 234).

Chapter 2 develops the legal notion of burden of proof, distinguishing a burden of persuasion (risk of non-persuasion), or a global burden set at the beginning of a proceedings which does not shift throughout, from burdens of production (evidential burden, or burden of going forward), which can arise, shift back and forth, and be satisfied or discharged as argumentation proceeds. On this account, the plausibility or acceptability of a claim co-varies with the overall support (or lack thereof) that a total body of evidence provides to the claim, and fluctuates over the course of argumentative discourse as different claims are introduced, accepted, questioned, argued-for, objected-to, argued-against, retracted, and established. As the probative status of a claim changes over the course of a dialogue, so, accordingly, do the probative responsibilities different arguers have in connection to that claim. Burdens of persuasion are linked to certain standards of proof, which have been ranked and operationalized (Sartor, 1993; Gordon & Walton, 2009). The book (p. 60) adopts Farley and Freeman's (1995, pp. 160ff.) position that the burden of proof functions in argumentative dialogues to determine move relevance, probative sufficiency, termination of argumentation, and argumentative success or results.

Chapter 3 presents a model of presumption in law on which presumption is a modal status that attaches to a claim as it is used in legal reasoning. Presumptions are the result, or conclusion, of a specific kind of inference where some factual premise is linked with some conditional, presumption-raising, rule-like premise (pp. 114ff.). When such an inference goes through a presumption is generated. The presumptive status of a claim, while defeasible, permits it to be taken as true or established until that presumptive status is rebutted—hence the reverse burden of proof attached to presumptions. On Walton's view, the occasion for the introduction of a presumption into an argumentative dialogue is, typically, a practical exigency to proceed with, or conclude, argumentative deliberations, where progress is being impeded by a lack of available information or evidence that would ordinarily be required to establish some claim (pp. 109, 115, 280). In this way, presumptions are likened to arguments from ignorance, the legitimacy of

which is argued for in Chapter 6 (pp. 190ff.) (cf. Walton, 1996b; Macagno & Walton, 2011).

Chapters 4 and 5 introduce the formal apparatus used to model the probative structure and dialectical procedure of argumentation. Chapter 4 considers a case study of argument from witness testimony to illustrate how burdens of proof and presumptions operate in legal argumentative discourse. Walton employs the Carneades Argumentation System to visualize and schematize the argumentation occurring in the dialogue, thereby introducing the device of argumentation schemes and critical questions (Walton, Reed & Macagno, 2008), and to capture the shifting back and forth of the burden of production throughout the dialogue. Chapter 5 introduces an extended version of Hamblin's formalized 'Why-Because' dialogue system as a commitment management system that can serve as the basis for a procedural regulatory framework for dialogic argumentation of a variety of different sorts. The procedural rules govern the sorts of moves that can be made in an argumentative dialogue at any given stage, as well as the effects such moves have on the commitment store.

Chapters 6 and 7 explain how the model proposes to solve the various problems affecting the operation of burden of proof and presumption in non-legal contexts. In Chapter 6, two devices are centrally proposed. First is the idea of a meta-dialogue, which can be invoked to settle disagreements about the norms—be they regulatory (procedural) or evidentiary (structural), deontic or consequential—that should properly govern the first-order argumentation. Second is the idea that arguments from ignorance are often legitimate, and in such cases the absence of evidence to conclusively establish some claim needn't prevent arguers from presuming it to be the case. Chapter 7 adds the idea of different, goal-defined dialogue types to the solution. Here, the central idea is that the operation of burden of proof and presumption function differently depending on the goal of the activity. This is illustrated by contrasting the examples of deliberation and persuasion dialogues. Given that the aim of a deliberation dialogue is to agree upon a(n optimal) course of action, no global burden is to be allocated at the opening stage of the dialogue (since no participant has a position to uniquely defend or maintain). Yet, when individual participants come to propose alternative courses of action, a persuasion dialogue is opened

whereby the proposer becomes a proponent who must bear the burden of successfully defending her proposal against objections and alternatives (p. 219). Thus, burden of proof is a contextual, or purpose-relative, feature of argumentation.

Having surveyed the contents of the book, let us now consider how these various elements are combined in Chapter 8 to provide a model of burden of proof and presumption in conversational argumentation.

The book's main thesis is that "there is a general overarching structure of argumentation that fits cases of everyday conversational argumentation as well as argumentation in legal cases and that is based on an underlying common structure of burden of proof" (p. 2). This overarching dialogical structure involves the different discursive stages—opening, argumentation, and closing (pp. 62, 252ff.). This structure provides the framework for a model in which a global burden (or risk of non-persuasion) is set at an opening stage (perhaps in reference to some applicable or appropriate standard of proof), which will serve to initially distribute argumentative responsibilities. (At this stage, shared commitments and permissible rules and moves are also agreed upon.) Then, in the argumentation phase, different arguments are made by either party in an effort to discharge their respective probative obligations. Over the course of this argumentation, local burdens of going forward can be created, shift back and forth, and be satisfied, according to the moves made in the argumentative discussion. Finally, at the closing stage, the global burden is applied to determine whether the final state of argumentation has successfully met the relevant probative standard. While this model is initially offered as a procedural description of legal argumentation, it is claimed (pp. 252ff.) that differences between argumentative dialogues in legal non-legal contexts and are largely superficial and relate mostly to the formality and explicitness of the rules and standards governing the activity rather than to any underlying structure or function. "A framework for rational argumentation ... has a certain minimal normative structure. This structure allows it [the argumentative dialogue] to make sense as an orderly procedure" (p. 254).

Thus, depending on the purposes of the argumentative discussion, different initial burdens will be prescribed and appropriate standards of proof can be settled upon. Meta-dialogues are provided as a vehicle by which procedural and other normative disagreements arising in the ground-level dis-

course can be resolved. Presumptions can arise from the common knowledge existing in the shared commitment store before argumentation gets underway. Additionally, the cogency of arguments from ignorance, in the proper circumstances, is offered to legitimate the use of presumption as a device for moving 'stuck' argumentative dialogues forward.

To further manage the problems of vague and uncodified purposes and procedures inherent in day-to-day argumentative transactions, Walton offers the tools of argument visualization (pp. 256-281), and the different, purpose-relative dialogue types. Despite the fact that these features of ordinary, conversational argument are typically unarticulated, Walton (p. 255) insists that they are constantly functioning in the background: "The bottom line is that people do see argumentation as having a purpose, and they do see it as having to conform to procedural rules in order to achieve this purpose." Visualization tools can help to expose the unarticulated elements of an argument as well as to map out its underlying rational structure (as opposed to its discursive structure), while the type-identification of dialogues helps to supply a goal-oriented normative framework.

This second feature is particularly useful in answering some of the main objections to the central thesis of the book. Recall, for example, Dare and Kingsbury's (p. 516) objection (which is similar in principle to that of Hahn and Oaskford (2007)) that, since the purpose of ordinary argumentative discourse is different than that of legal argument, the functioning of burden of proof in the law—specifically its differential allocation across disputants—does not properly extend to non-legal argumentation. Rather, they (pp. 514, 516) argue "In general, ... differential allocations in the burden of proof are illegitimate in truth-directed practices" and in such practices the legitimacy of differential allocations "depends on ... whether and what differential allocations are truth conducive in that practice." Walton's proposed model easily accommodates these points, since Walton argues that the functioning of burden of proof will vary according to the kind of dialogue, specifically according to its purpose of goal. Thus, Walton's model is entirely consistent with Dare and Kingsbury's (p. 505) overall thesis that "differential allocation of the burden [of proof] is legitimate only if it makes it more likely that the dialogue will achieve its aim." Similarly, it can accommodate Hahn and Oaksford's criticism that the operation of burden of proof in the law is specifically tied to the need to generate a determinate

outcome. In cases where the overall aim of the dialogue is different, say in truth-oriented inquiry, probative burdens can be set and allocated such that suspension of judgment and continued inquiry, or the selection of an optimal or promising hypothesis for further testing, can be permissible resolutions to the dialogue.

Having reviewed the kinds of things that one will find in the book, let us turn to some of the things that are not to be found in it. Most obviously, there remain some important gaps in the normative account it provides.

One such normative gap is revealed when one considers the model's treatment of Rescorla's (2009a, 2009b) distinction between dialectical foundationalists and dialectical egalitarians (pp. 13-14, 166ff.). Foundationalists hold that some claims, by default, have a reverse burden of proof—that is, they come, ready-made, with presumptions in their favor, such that merely challenging, refusing to accept, or demanding reasons for them does not undermine their presumptive acceptability. Egalitarians, by contrast, hold that no claims are presumptively acceptable by default. Although this topic is introduced (pp. 13-14) and later taken up (in Chapter 5), no normatively satisfying answer is provided by the resources of the model itself. Instead, the model (pp. 162ff.) proposes that "whether such moves [of presuming a presumption, or of evading or shifting a burden of proof] are reasonable or fallacious is to be determined in specific cases by examining the particulars of the case." Fair enough, but what are the relevant kinds of particulars, and how exactly should they factor in to determining presumptive acceptability? Certainly the pragmatics (or the Hamblin-like protocols) of individual speech acts like assertion, assumption, hypothesis, presumption, and the like do not, by themselves, determine *which* propositions ought to be treated as assertions, assumptions, hypotheses or presumptions. As well, it is proposed that an item's being common knowledge should mean that it may legitimately be presumed and "no argument supporting it is required to be furnished" (pp. 162-173). Yet, as Godden (2008) points out, the mere fact that the acceptability of a claim is challenged is indication enough that it is not common knowledge; after all, the identification of a claim as common knowledge is an indication of *prior* commitment to it. In response to a challenge, though, appeals to common knowledge will be no more effective, and are no more legitimate, in establishing the claim's presumptive acceptability than are appeals to popular

opinion. Thus, that a proposition is initially identified as, or is claimed by a discussant to be, common knowledge is never likely to effectively settle any question of whether it should be presumed, because in all cases where it really is common knowledge its presumptive status would not be in question. Moreover, so long as commitment is retractable, that some claim enjoys the status of common knowledge (i.e., mutual, shared commitment) at the beginning of an argumentative dialogue does not, and should not, guarantee that it retains that status throughout the dialogue. Rather, for example, should it be discovered that the claim leads to manifestly unacceptable consequences, commitment to it might reasonably be withdrawn. At least, its acceptability is drawn into question, and reasons supporting its continued acceptance should be sought. At this point, it is not at all obvious that it should continue to enjoy presumptive acceptability.

A related normative gap concerns the kinds of considerations that should properly inform the setting of legitimate presumptions and burdens. As Hahn and Oaskford (p. 41) point out, given that presumptions and burdens function to redistribute argumentative responsibilities in ways that "favor certain substantive outcomes," thereby materially affecting the results of argumentative exchanges, their placement ought to occur as the result of weighty, if not insuperable, considerations. Yet, while Walton's model provides that standing and initial burdens and presumptions will be settled in an opening stage, prior to any actual arguing taking place, the questions of which presumptions should thereby be licensed, or how high probative burdens should be set and where they should fall, are not thereby answered (despite the importance of the insight that answers to these questions will be goal-relative). Indeed, at times Walton relies on his (1992) speech-act account of presuming (or putting forward a presumption), describing it as a "request" made by one party in a dialogue that the other party accept a claim without the requesting party's having to meet a normal burden for assertion (p. 21). While entirely legitimate, moves of this sort are properly and prudentially treated as either assumptions or hypotheses, not presumptions. As Godden and Walton (2007, pp. 328ff.) recognized, such an account leaves the question of why such *requests* should occasion a reversal of an ordinary burden of proof remains entirely unanswered. Nor, generally speaking, is the lack of sufficient evidence for a claim a good reason that it should be presumed. Granting that arguments

from ignorance are sometimes cogent, the circumstances under which they are so are quite well defined (pp. 190ff., cf. Walton, 1996b; Macagno & Walton, 2011). Thus, when an argument from ignorance is cogent, it can be offered, providing sufficient (if defeasible) reasons for the (tentative) acceptance of the claim—not its presumption.[4] Ordinarily though, the lack of sufficient evidence for a claim should mean that we should not commit to it (even tentatively), but should instead suspend judgment, and perhaps (depending on its significance) continue our inquiries into its acceptability. Certainly (and contrary to the proposed model, e.g., pp. 109, 115, 280) the mere need to get on with things and bring an argumentative discussion to a close is not a good reason to distribute probative responsibilities one way rather than another. Instead, we require *principled* reasons why a claim should be presumed when insufficient evidence for it is available. While the law does provide such principled reasons, favoring justice over truth, Walton's generalized model does not provide any detailed account of how differences in the dialogue goals yield any *particular* favored substantive outcomes that would justify some specific (re)allocation of argumentative responsibilities. (Though the considerations of Dare and Kingsbury (above, 2008), and those of Aijaz, McKewon-Green and Webster (2013, below) provide some further direction on this point.)

As a final normative gap, the proposed recourse to meta-dialogue as a mechanism to resolve ground-level disputes about the presumptive status of a claim or the proper allocation of probative burdens does not, in and of itself, look especially promising for resolving disagreements of this kind. Suppose (even in an opening stage) a respondent refuses to accept

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[4] Indeed, Walton does exactly this when analyzing the "Antiques Roadshow" case (pp. 190ff.) where a guest on the show offers a letter from a relative attesting to the claim that the Colt 1949 model revolver he is having appraised was owned by President Lincoln's bodyguard and used to shoot Lincoln's assassin John Wilkes Booth. Here, the argument from ignorance—if Booth had been shot during the assassination, we would know this; but we don't; so he wasn't—is used by the appraiser to undermine the weak but still probative evidence of the letter from the relative. Here, the argument from ignorance does not establish a presumption, but undermines an argument that weakly supports a claim. As with the other, posthumous decoration of Roman soldiers, example (p. 193) we have good *epistemic* reasons to accept the conditional, position to know, premise in these arguments and, hence, also to accept the conclusion of the defeasible inference. It is not a practical exigency, or any lack of knowledge in a general sense, that underwrites or occasions the inference.

some assertion of the presumptive status of some claim, or some imputed probative burden, asking "Why *p*?" (Or, perhaps more accurately, "Why *presumably*-p?") Here, the meta-dialogic solution seems only to open the doors to a Agrippan-like trilemma. What meta-dialogical moves are available to the proponent? The proponent might begin to offer reasons supporting p's *presumptive status*, at which point *p*'s presumptive status is lost, as is its reverse burden of proof. While the reasons required to demonstrate *that* p *should be presumptively accepted*, might be both different and considerably less than those required to establish, conclusively, *that* p, the presumptive status of *p* is, nevertheless, lost in the meta-dialogue. Rather, the very purpose and occasion of the meta-dialogue is to establish *p*'s presumptive status. And, of course, in such a circumstance it is always open to the respondent to challenge, object, or refuse commitment to any of the meta-dialogical reasons offered by the proponent. So, overall there is no *default* acceptability or reverse burden. Instead, on this option, we seem to have an ordinary distribution of argumentative responsibilities—he who asserts must prove—where the probative standard to be met by a proponent is appropriately fitted to the modal or dialectical standing that the claim will have if the case for it prevails. Alternately, the proponent might move to preserve *p*'s presumptive status at the meta-dialogical level, and enforce a reverse burden of proof, asking "Why not *presumably*-p?" This option, simply tries to impose *p*'s presumptive status by fiat—by shouting or stamping one's foot, as it were. And it seeks to do so at the meta-level just as much as at the ground-level. Here it seems entirely reasonable that the respondent may simply answer: "No commitment *p*," or perhaps "No commitment *presumably*-p." In any event, such a move by the proponent does not seem to advance the meta-dialogue any further than it did the ground-level dialogue. And, even if it did, it is not at all clear why the results should be any more probatively meritorious. After all, meta-insistence is no more justification than insistence simpliciter. As a last alternative, just as the meta-dialogue was begun in order to resolve some impasse in the ground-level discourse, the proponent might move to open a meta-meta-dialogue in order to settle some procedural or normative dispute occurring at the meta-dialogical level. Yet, as we have just seen, the "go-meta" move does not seem to provide disputants with any additional resolution resources than were already available to them at the ground-

level. Dialectically speaking, they must still work from their store of shared commitments concerning acceptable claims (including meta-level claims), approved inferential or procedural rules, and authorized discursive moves. The general point here is that, while shifting a dialogue to some meta-level changes the focus of the dialogue (typically by changing what the dialogue is ostensibly about), it does not add to the resolution resources available to the disputants. In the final analysis, then, it would appear that the exact same problems and considerations affecting the ground-level dialogue will reoccur at the meta-dialogical level.[5]

These issues are best seen as unresolved problems and projects for future research, rather than as objections refuting the overarching model Walton proposes. These points amount only to the claim that the dialectical operation of presumption and burden of proof within legal and ordinary, conversational argumentation does not suffice to provide a complete analytical and evaluative theory of argument. But, this was never Walton's project, and nor is it a reasonable expectation of the model presented in the book. Rather Walton's project was to show that a dialectical understanding of these pivotal notions can help us both to better understand their functioning in legal reasoning, as well as to see the similarities of their functioning in ordinary, conversational argument. To these ends, the case Walton makes is markedly persuasive. As well, there are other theoretical tools that might profitably be brought to bear in sorting out the questions that remain around burden of proof and presumption. For example, Aijaz, McKeown-Green and Webster (2013) have recently distinguished between attitudinal and dialectical burdens. Attitudinal burdens are epistemic in nature, and are rational requirements to *possess* adequate support for one's commitments, while dialectical burdens are procedural in nature, placing obligations on arguers to *provide* support for their claims in argumentative discourse (pp. 262ff.). Because of the difference in the nature of these obligations, they operate quite differently from one another, particularly concerning their origin, distribution, and satisfaction. Perhaps the former might be used as, at least a partial basis, for the latter. Doing so might help

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[5] For a more detailed critical appraisal of meta-argumentative approaches to problems impeding the resolution of ground-level arguments see (Godden, 2011).

in answering questions like: what is a fit global burden of persuasion to be set at the beginning of an argumentative dialogue? How should dialectical burdens be (differentially) distributed in an argumentative dialogue and when should these dialectical burdens be deemed to have been satisfied? And finally, under what circumstances should the presumptive status of claim be established and defeated? In the final analysis, perhaps the model Walton proposes is best understood as a framework into which different normative theories can be fitted (whereby the justification and content of different norms can be outsourced to secondary suppliers, but still be readily incorporated into the model), rather than a normative theory itself (whereby all argumentative norms are manufactured on-site, within the framework itself).

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