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Searle and the Nonderivability Thesis

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Introduction

In this paper I intend to contribute somewhat to the defense of the nonderivability thesis. This is the thesis that no set of purely descriptive statements can entail an evaluative statement. The significance of this thesis for moral philosophy, ethics, and esthetics is that, if the thesis is true, it is impossible to give objective justification of any kind of value judgment -- in the strong sense of justification that requires a statement of the grounds to entail a statement of the proposition, or position, that the grounds allegedly support.

John R. Searle has challenged the nonderivability thesis in his now well-known article "How to Derive 'Ought' from 'Is,'" wherein he produces an alleged counterexample.^{*} In 1969 Searle modified this argument and placed it in the context of his general theory of speech acts.^{**}

In the first section of this paper I consider two arguments purporting to show that both Searle and his opponents hold a mistaken conception of the nonderivability thesis. According to Peter Singer one can or cannot derive a moral ought-statement from purely descriptive premises depending upon how one defines morality. Thus, according to Singer, the debate over the nonderivability thesis becomes trivial. Glen O. Allen argues that in ideal-observer theory one can derive a moral ought-statement from purely descriptive premises. Further, if I read Allen correctly, he wants to argue that ideal-observer is the

^{*}
Philosophical Review, 1964

^{**}
Searle, John R., Speech Acts (Cambridge: University Printing House, 1971)

proper theory (definition?) of morality. I intend to show that in both Singer and Allen's case the attempted derivation of an evaluative statement from purely descriptive premises fails.

In the second section I consider Searle's treatment of what he calls the "Naturalistic Fallacy Fallacy" in chapter VI of his book, Speech Acts. In this chapter Searle presents three cases where he thinks an evaluative statement is derived from purely descriptive premises. I argue that in each of the three attempted derivations Searle fails.

Finally, in the third, and last, section, I deal with Searle's famous argument, both in its earlier (1964) version, and in its more recent formulation in Speech Acts.

Singer and Allen

"The central problem in moral philosophy is that commonly known as the is-ought problem." So runs the opening sentence of the introduction to a recent volume of readings on this issue.¹ [The Is-Ought Question, ed. by W. D. Hudson (New York, 1969)] Taken as a statement about the preoccupations of moral philosophers of the present century, we can accept this assertion. The problem of how statements of fact are related to moral judgments has dominated recent moral philosophy. Associated with this problem is another, which has also been given considerable attention -- the question of how morality is to be defined. The two issues are linked, since some definitions of morality allow us to move from statements of fact to moral judgments, while others do not.¹

So run the opening lines of an article by Peter Singer, entitled "The Triviality of the Debate Over 'Is-Ought' and the Definition of 'Moral'." Singer discusses two possible definitions of morality and argues that under one definition moral conclusions follow from certain statements of fact, but under the other definition no facts entail any moral conclusions. The definition of morality which Singer contends allows inference from statements of fact to moral conclusions is what Singer calls the descriptivist definition.

Descriptivism is the direct opposite of neutralism in that for a principle to be a moral principle, as the descriptivist defines the term, it must satisfy criteria of both form and content.... The strength of the descriptivist view is that once the definition of morality is accepted, watertight reasoning from statements of fact to moral conclusions is possible. This means that (to continue with the example used earlier) from the fact that Bill's money will reduce suffering and increase happiness to a greater extent if given to famine relief than if spent on a Mercedes, Jack can argue that Bill ought, morally, to give the money to famine relief rather than buy the more expensive car. If the descriptivist is right in tying morality to suffering and happiness, impartially assessed, Bill has no way of resisting the argument, for the conclusion follows deductively from the definition of morality and the facts of the case.²

The argument would be (1) Morality ~~is~~ doing whatever is conducive to increasing happiness and reducing suffering, impartially assessed (2) In the given circumstances maximum happiness and minimum suffering,

impartially assessed, will result from Bill's giving his money to famine relief instead of buying the Mercedes /.'. (3) Bill ought to give his money to famine relief. This definition of morality, having both form and content requirements, simultaneously gives the criteria for determining whether to apply the terms "moral" or "nonmoral" to a given situation as well as "moral" and "immoral". However, in functioning as a criterion for the application of "moral" and "immoral" the definition takes on the force or mode of an evaluation -- i.e., assuming that "moral" and "immoral" are evaluative terms, the definition's function as a criterion for the application of these evaluative terms amounts to a set of assertions that states of affairs X, Y, and Z (those states of affairs which by this definition can be properly called "moral") have positive value, and states of affairs A, B, and C (those states of affairs which by this definition can be properly called "immoral") have negative value.

So it is true as Singer says that the moral conclusion follows *
deductively from the definition of morality and the facts of the case; but this way of putting it may be somewhat misleading. When one thinks of a definition he does not usually consider the peculiar nature of some few concepts like "moral", "ethical" and "good" which have, by linguistic convention, served as indicators of value judgments. In defining one of these terms in a manner that entails a criteria for its application to states of affairs we have in effect created a principle for the application of value to states of affairs, an evaluative

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It might be objected that the conclusion does not strictly follow from premises (1) and (2). Proponents of Singer's thesis would probably argue that there are semantical rules connecting "obligation" to "moral acts" and "ought" to "obligation".

principle, and, in this case, a moral principle. So, Singer has not shown that some definitions of morality allow counterexamples to the "is-ought" nonderivability thesis (the thesis that no set of purely descriptive statements can entail an evaluative statement), since his purported counterexample contains an evaluative premise which is crucial to the argument, namely the descriptivist definition of morality. Consequently we are at this point apparently not condemned to discussing a trivial issue. However, I would like to consider one more argument to the effect that under a given definition of morality moral conclusions follow from statements of the facts alone.

Glen O. Allen presents an elaborate example in "The Is-Ought Question Reformulated and Answered."³ Allen formulates the issue in terms of ideal-observer theory, which is, of course, just another of the many alternative definitions of morality. Thus Allen's article may be construed as presenting an elaborate example of Singer's thesis. To begin with Allen gives a general analysis of ought-statements in order to establish a comprehensive conceptual framework that will support the ideal-observer conception of morality. The discussion of this analysis will also provide a convenient excuse to do some of the necessary exploration of the relations between the different sorts of evaluations and the different types of ought-statements.

Allen distinguishes three types of ought-statements which he calls "theoretical", "practical", and "moral".

In the theoretical sense, what ought to be the case is what we have sufficient reasons for believing will be the case.... Examples of the theoretical ought-statement are: 'The train ought to arrive at 4:30 P.M.'; 'The medicine ought to cure his illness'...; 'If he looked in the top drawer, he ought to have found the letter'; or 'If I had dropped this glass, it ought to have broken'.⁴

The type of evaluation underlying the theoretical ought-statement is

the sense of evaluation wherein an assessment is made of something or other concerning its success or failure in meeting a specified set of criteria. In the above examples the assessment concerns whether or not existing conditions meet accepted standards of scientific evidence, which take the form of probabilistic laws. So 'X ought to occur' means the same as 'X is more probable than $\sim X$ '. Theoretical ought-statements can be deduced from empirical laws and statements of existing conditions in the following manner: (1) Under conditions C, X is more probable than $\sim X$, (2) Conditions C obtain /.'. (3) X is more probable than $\sim X$, and (3)' X ought to occur. However, this does not qualify as a case of deriving an evaluative statement from a set of purely descriptive statements. Since the only type of evaluation underlying the conclusion is, as mentioned previously, an assessment of existing conditions (or, in the case of hypotheticals, the assessment is made of stipulated conditions) as to whether they qualify as an instance of the conditions stipulated in the antecedent of an accepted theoretical law, it seems to be no different than any ordinary statement of fact. Take a simple statement of fact of the form 'X is the case'. Implicit in this statement is an assessment of existing conditions as to whether they qualify as an instance of those conditions entailed by X. So there seems to be no reason to consider the theoretical ought-statement to be of a different status than ordinary statements of fact, what has traditionally been labeled "descriptive" status.

It might be objected that the assessment of existing conditions is not the only type of evaluation underlying theoretical ought-statements. In applying the theoretical term "probability" we are giving our tacit approval of the currently accepted inductive standards of

scientific evidence, thus "probability" is an evaluative term. It seems to me that an evaluation of the accepted standards of scientific evidence could be involved in the application of terms like "probable" and "improbable"--i.e., in asserting "X is probable" one may either be asserting merely that given currently accepted standards of scientific evidence X is probable, or he may be asserting this and at the same time giving a tacit endorsement of the current standards. If the latter case is to be judged as the correct interpretation of the theoretical ought-statement that is the conclusion of the above argument, then the first premise, (1) Under conditions C, X is more probable than $\sim X$, would appear to be open to the same evaluative interpretation, since the conclusion is simply the consequent of the conditional form of (1) derived by application of modus ponens to (1) and (2): $C \supset P, C \therefore P$. So, if P is evaluative in the conclusion, it would seem to be evaluative in premise (1) as well. Thus, interpreting the conclusion of the is-theoretical ought argument as evaluative will not give us a case of deriving an evaluative statement from purely descriptive premises, because it requires us to consider one of the premises to be evaluative as well.

According to Allen most practical ought-statements are concerned with the specification of some necessary condition for the achievement of a specified end. Consequently the practical ought-statement of this, the most common type, is a species of the theoretical ought-statement, since it is concerned with the causal relations between events, and thus causal laws. The practical ought-statement can be derived from causal laws and semantical rules in the following manner: (1) Under conditions C, the performance of act A is a necessary condition for

the achievement of end E, (2) (Semantical rule) If the performance of A is a necessary condition for the achievement of end E then, if P wants to achieve E, P ought to perform A /." (3) If P wants to achieve E, P ought to perform A. Again, as in the case of the theoretical ought-statements, the sense of evaluation underlying the ought is a mere assessment of a set of facts. In this case the assessment is rather complicated, involving the consideration of a wide variety of instances of the occurrence of E and the comparison of the facts to the inductive standards and theoretical requirements currently use so that it can be determined whether there is sufficient evidence to warrant the classification of $E \supset A$ as a causal law, or, in other words, to establish that A is a necessary condition for E. The assessment involved here seems to be no different in kind than that implicit in the theoretical ought-statement and any ordinary statement of fact. If it is insisted that the implicit approval of current inductive standards and theoretical requirements for the establishment of causal laws is also involved, then the result would

ment of the causal law, would involve this evaluation as surely as the conclusion. Thus, with this type of practical ought-statement we have not been able to derive an evaluative statement from a set of purely descriptive statements.

Allen mentions in passing another type of practical ought-statement. This type specifies the best of alternative means to a given end, as opposed to the specification of a necessary condition. There are two possible interpretations of this type of ought-statement. One alternative is to take "best" as meaning some descriptive property like "the most efficient," "the quickest," "the most secure," etc.. In this case we can simply incorporate the specified property into the end desired,

the result being a case of the practical ought-statement derivable from causal laws in the same manner as the type of practical ought-statement just discussed, e.g., "If you want to make the quickest possible trip to Chicago, you ought to take route 66;" or we can simply analyze "If you want to go to Chicago, you ought to take route 66" as meaning "The quickest way to Chicago is via route 66."

The other alternative meaning of "best of alternative means to a given end" is "morally preferable" or "intuitively, or intrinsically preferable." In this case the ought-statement is clearly evaluative; but it seems that this kind of ought-statement cannot be derived from causal laws and statements of the facts alone. Suppose we have a causal law to the effect that the performance of act A is a means to (sufficient condition for) the achievement of end E, under conditions C; and suppose that conditions C obtain. It does not follow from these facts that if one wants to achieve end E, he ought to perform act A -- meaning that the performance of act A is morally or intuitively preferable to achieving E by any of the other alternative means. This is clear because the negation of this ought-statement, assuming that there is at least one other alternative means to achieving E, is consistent with these facts. What is apparently required is an evaluative premise to the effect that the performance of act A is morally or intuitively preferable to the other means of achieving E.

Now we come to Allen's moral ought-statements.

Moral ought-statements, as a subspecies of practical ought-statements, are also concerned with the operation of causal laws. What distinguishes the moral ought-statement is that its proper use is restricted to designating possible choices, means, or courses of action which are morally appropriate. But, since such choices and actions take place within the same sort of physical context as other, nonmoral choices and actions, there appears to

be no prima facie reason for thinking that the concern with causal laws is to be set aside when we talk about morally obligatory choices. What is common to all ought statements is their concern with deducing from law-like generalizations applicable in a given set of conditions that possibility which we expect to occur or that possibility which would bring about a wanted occurrence.⁵

Given Allen's statement that "...there appears to be no prima facie reason for thinking that the concern with causal laws is to be set aside when we talk about morally obligatory choices," I take it that for him the paradigm case of a morally obligatory choice is the case where the person is obligated to perform a certain action, not because that action is intrinsically desirable or valuable, but because that action is the means to a morally desirable end. The generation of a moral ought in such a paradigm case would take the following form.

- (1) E is a morally desirable end.
- (2) The performance of act A is a necessary condition for the achievement of E.
- (3) (By definition of morality; or a moral principle) Everyone is morally obligated to perform those acts conducive to the realization of morally desirable ends.
- (4) (Semantic rule) If one is morally obligated to perform A, then one ought to perform A.
- (5) P is a person.
- (6) ∴ (from 1,2,&3) P is morally obligated to perform A.
- (7) ∴ (from 4&6) P ought to perform A.

Premise (1), which is crucial to the derivation, is an evaluative premise in the moral sense of evaluative. Premise (2) is an evaluative premise in the practical sense of evaluation (the sense of an assessment of fact discussed above in connection with theoretical and practical ought), and it too is crucial to the derivation. Thus, what I take to be a paradigm case of Allen's concept of a moral ought appears not to be derivable from purely descriptive premises.

Be this as it may, we have yet to consider Allen's major example from ideal-observer theory, concerning which he says "We discover what we morally ought to do by deducing from general causal laws appli-

cable in the circumstances what would be the most rational choice available to us as moral persons."⁶ The important thing to keep in mind about ideal-observer theory is this:

Knowing morally is not merely a matter of having better and clearer ideas; it is more importantly a matter of acting and reacting habitually in appropriate ways. In short, in order to have reliable moral knowledge, one must first become a moral person, or at least be capable of understanding empathically the perspective of a moral person.⁷

Morality is defined in ideal observer theory as the set of behavior exhibited by an ideal observer, a completely moral person in that he habitually behaves in the morally appropriate ways. Given the happy circumstance that Allen assumes, that we already are moral persons, then the only question that arises with respect to the appropriate thing to do in any given circumstance is a practical one: how best to achieve the appropriate moral end, which we, as moral persons, habitually seek. What we ought to do then, can, as Allen says, be deduced from causal laws applicable in the circumstances, since they inform us of the necessary and sufficient conditions for the achievement of the morally appropriate end -- i.e., once we know what that end is.

But, as Allen seems to recognize, this "...leaves unanswered the decisive question, What kind of person is a moral person, an ideal or normal observer and agent?"⁸ This is important for the nonderivability thesis because, in order to determine whether or not one ought to do any specific action, one has to decide what the proper traits of the moral person are so that he can justify his determination as to whether or not his doing or not doing the act will conform to the behavioral model of the moral person and thus qualify as a morally appropriate act. But the decision to call X, Y, and Z moral traits, and P, Q, and R immoral traits would seem to require a value judgment. The alternative

would be that the decision to call certain traits moral and others immoral does not derive from a value judgment, but, rather, is one required by the facts -- i.e., a given set of statements of fact entail that type M person is a moral moral traits, P, Q, and R immoral. Allen gives a rather sketchy argument which seems to be aimed at suggesting that this latter alternative, the factually based definition of moral personhood, is viable as a foundation for ideal-observer theory.

Unable to agree on what rules of conduct persons ought to observe, we might be equally unable to agree on what kind of persons we would call moral persons. Accordingly, we must look for the ideal observer as something internal to human nature and already manifested in human consciousness. Since these conditions are met by what is generally called the conscience, we are led to ask whether the conscience might be interpreted and explained as at least an incipient ideal observer emergent from more rudimentary capabilities universally possessed by all human beings in virtue of which they are human.

Accordingly, I understand 'conscience' to be the word designating that capability and tendency which people generally have to react toward themselves as objects of value or disvalue. Such an interpretation of conscience is, on the one hand, consistent with the general theory that values should be interpreted causally and, on the other, that conscience is emergent from the more rudimentary capability of self-consciousness. The sentiments of proper pride and self-respect or, contrarily, shame and remorse, are the work of conscience. They are the consequences of our appraising and judging ourselves as persons from an impartial perspective, the perspective, one might say, of an ideal or normal observer not sharing our egotistical biases. Consciences, of course, are not infallible; nor do they always function properly; nor is it impossible to subdue the conscience or to cause it to atrophy. Nonetheless, the conscience is a natural piece of human equipment, and the natural tendency is for it to develop and to monitor conduct, rewarding us for the sort of behavior we generally admire in other people and punishing us for the sort of behavior find generally repugnant. Thus, it provides at one and the same time both moral knowledge and moral motivation.⁹

What are the factual premises to this argument; and do they entail the conclusion that conscience provides a model of the moral person, or the ideal, or normal observer? The premises are apparently the following:

- (1) The ideal observer must be something internal to human nature and already manifested in human consciousness.
- (2) The conscience is internal to human nature and already manifested in human consciousness.
- (3) The capability and tendency people have to react toward themselves as objects of value or disvalue is the conscience.
- (4) The sentiments of proper pride, self-respect, shame and remorse are the work of conscience.
- (5) Conscience enables us to judge ourselves as persons from an impartial perspective.

First, premise (1) does not seem to be a statement of fact. Why must the ideal observer be, or be exemplified by, something internal to human nature and already manifested in human consciousness? Why not a complete behavioral model derived from a computer programmed with all available information on human behavior and psychology aimed at providing the appropriate formula for the most efficient means to ensure the survival of the species, peaceful co-existence, maximum freedom, equality, education, etc.? It seems clear that premise (1) is either false or embodies a value judgment. Premises (2) through (5) are uncontroversial enough; however, they do not, even in conjunction with premise (1), entail the conclusion that conscience is, or provides the model for, the ideal observer, or moral person. One can consistently affirm the premises and deny the conclusion. In order for these premises to entail that conscience is the appropriate model for the ideal observer a value judgment must be made to the effect that the properties these premises attribute to conscience are morally desirable, or the defining characteristics of the moral person.

So the derivation of a moral ought-statement in the context of ideal observer theory would seem to be of the following form:

- (1) Person P with traits X, Y, and Z is a moral person.
- (2) In circumstances C the morally appropriate end to be sought is E -- i.e., E evokes or causes the appropriate response in P, namely the response of seeking to achieve E.
- (3) Under conditions C, the most practically effective means to

produce E is the performance of act A.
 (4) Conditions C obtain

(5) P ought to perform A.

It is my contention, of course, that premise (1) involves a moral evaluation; and, consequently, that Allen has not provided us with a counterexample to the nonderivability thesis.

Naturalistic Fallacy Fallacy

Before considering Searle's famous promising case I would like to examine some less elaborate arguments he gives in the section of Speech Acts on the "Naturalistic Fallacy Fallacy"¹⁰ which do not involve the concepts of institutional rules and obligations. What is the naturalistic fallacy fallacy? "It is the fallacy of supposing that it is logically impossible for any set of statements of the kind usually called descriptive to entail a statement of the kind usually called evaluative."¹¹ In other words, according to Searle the naturalistic fallacy fallacy is the nonderivability thesis. Searle gives three cases to support his position.

Beginning his first case Searle agrees with J. O. Urmson that "valid" is an evaluative term. "To speak of a good argument is in most contexts to speak of a valid argument..."¹² and "...to call an argument valid is not merely to classify it logically...it is at least in part to evaluate or appraise it; it is to signify approval of it!"¹³ Searle then proceeds to give a descriptive definition of "valid deductive argument" that appears to be correct: "X is a valid deductive argument

~~--- if X is a deductive argument and the premises of X entail the con-~~
 clusion of X." ¹⁴ From this definition and the descriptive statement "X
 is a deductive argument in which the premises entail the conclusion"
 the evaluative statement "X is a valid deductive argument" follows. Is
 this, as Searle claims, a case of descriptive premises entailing an
 evaluative conclusion? I think not. To begin with, if "valid" really
 is an evaluative term, then, in defining it in such a way as to set
 down a criterion for its application to states of affairs, we have, in
 effect, created a principle governing the application of value to states
 of affairs, an evaluative principle.

However, I do not think that we should consider "valid" to be an
 evaluative term in this context. Granted that laymen use the term in
 an evaluative way -- i.e., to indicate approval of any argument, or
 statement, that happens to be convincing -- "valid" in philosophical
 contexts is ordinarily used as a technical, descriptive term, meaning
 roughly "conforming to the rules of inference of logical system S"
 or "conforming to rules of inference A, B, C." It is true that the
 rules of logical systems are usually designed to allow the inferences
 which the creator(s) of the system consider good or desirable inferences.
 But this simply means that the valid inferences in a given system are
 valued. This does not make "valid" an evaluative term any more than
 "honest," "dilligent," and "36-24-36" are made evaluative because they
 designate qualities that happen to be valued.

On the other hand, there does seem to be an infrequent use of
 "valid" in philosophical contexts that is evaluative. Since "valid"
 in each logical system is the term applied to the inferences which
 are actually valued, and since there is general agreement among logi-
 cians on the great majority of inferences that are desirable, "valid"

has been traditionally associated with valued inferences. Thus it is not surprising that a sense of valid has developed as an indicator of a positive evaluation. So we have two distinct senses of "valid". One is purely descriptive and defined within a logical system in terms of the inference rules of a system. The other transcends, or is not relative to, specific logical systems, and functions evaluatively as an indicator of approval.

Now, "entailment" is a technical term defined within logical systems in terms of the axioms and rules as is the descriptive sense of "valid". "Entailment" and "valid" are interdefined within most systems such that when an inference conforms to certain rules and axioms it is at once a case of a valid inference, and an entailment or material implication. The evaluative sense of "valid" cannot be defined in terms of entailment because it transcends specific logical systems. The definition Searle gives of "valid" is in terms of entailment, so the sense of "valid" there must be the technical descriptive sense. Consequently, the sense of "valid" in the conclusion is descriptive as well; and, thus, Searle has not derived an evaluative statement from descriptive premises.

However, if Searle insists that there is a sense of "valid" that captures both the descriptive and evaluative elements of the two senses of "valid" discussed above, then I reply that my initial argument, that the descriptive definition of this (and any other) evaluative term constitutes an evaluative principle, applies.

The second case Searle gives to illustrate fallacy involves a grading term for apples, "Extra Fancy Grade", which the British Ministry of Agriculture and Fisheries has defined as "having characteristics A, B, and C." So any apple with characteristics A, B,

and C is Extra Fancy Grade. But, Searle says, "Extra Fancy Grade" is used to grade, and is thus an evaluative term. Thus, from the definition of "Extra Fancy Grade" and the descriptive statement "Apple Y has characteristics A, B, and C" we can derive the evaluative statement "Apple Y is Extra Fancy Grade." To this I would simply reiterate the, by now familiar, argument, that, if "Extra Fancy Grade" is truly an evaluative term, this definition counts as an evaluative principle, by virtue of its functioning as a criterion for the determination of the value of a class of things, namely apples; and it can properly be considered an evaluative statement expressing, or involving, the evaluation of a class of things, namely those apples with characteristics A, B, and C. I am more inclined though, to interpret "Extra Fancy Grade" as a mere, nonevaluative, classificatory term as used by the Ministry, having, perhaps, an evaluative sense when used by the lay apple purchaser.

Searle's final example of the naturalistic fallacy fallacy is the following:

Suppose a man gives an elaborate statement of his criteria of assessing cars. Suppose further that he gives an elaborate description of his car. Suppose also that the conjunction of criteria and description are sufficient to entail that the car meets the criteria; that is, they are sufficient to entail that, by the speaker's lights, it is a good car. Still, in giving the criteria and the description, the man still has not said it is a good car; nor, without making further assumptions about the man's intentions, can it yet be said that in giving criteria and descriptions he had even praised the car.¹⁵

The criteria for the assessment of cars would take the form of "If car X has characteristics A, B, and C, then it is a good car." This makes the criteria evaluative in the sense of an evaluative principle functioning as the criterion for determining the value of a class of things (cars), and in the sense of a straightforward evaluation of a

class of things (cars with characteristics A, B, and C). Consequently, this derivation does not proceed from purely descriptive premises.

There remains one type of attempted derivation to be considered: the derivation of an institutional ought-statement. John R. Searle has proposed a very interesting and troublesome derivation which has determined the focus of the controversy over the is-ought issue since his article "How to Derive 'Ought' from 'Is!'" was published in 1964.¹⁶

Searle's Argument

The full form of Searle's argument, including what he considers mediating tautologies, is as follows:

- (1) Jones uttered the words "I hereby promise to pay you, Smith, five dollars."
- (1a) Under certain conditions C anyone who utters the words (sentence) "I hereby promise to pay you, Smith, five dollars" promises to pay Smith five dollars.
- (1b) Conditions C obtain.
- (2) Jones promised to pay Smith five dollars.
- (2a) All promises are acts of placing oneself under (undertaking) an obligation to do the thing promised.
- (3) Jones placed himself under (undertook) an obligation to pay Smith five dollars.
- (3a) Other things are equal.
- (3b) All those who place themselves under an obligation are, other things being equal, under an obligation.
- (4) Jones is under an obligation to pay Smith five dollars.
- (4a) Other things are equal.
- (4b) Other things being equal, one ought to do what one is under an obligation to do.
- (5) Jones ought to pay Smith five dollars.

There are two major criticisms of this argument I would like to consider. The first is the criticism of James and Judith Thomson, advanced in their article "How Not to Derive 'Ought' from 'Is!'"¹⁷ The Thomsons focus on premises (3a) and (4a). They contend that there are two ways to interpret these two premises, a weak and a strong sense.

In the weak sense "...other things are equal if we, who are considering Jones's case, see no reason or know of no reason why he ought not or need not pay [or be under an obligation to pay]. But if this is what (4a) comes to, then (4) and (4a) surely do not entail (5). That none of us sees or knows of a reason just does not entail that there is none."¹⁸

So under the weak interpretation of (3a) and (4a) the argument breaks down at those points. The strong interpretation is that "...other things are equal if there is nothing sufficient to make it false that Jones ought to pay [or be under an obligation]."¹⁹ "...it is plausible to say that (5) is entailed by (4) together with 'There is no conclusive reason to think it false to say that Jones ought to pay' (or 'There is no reason at all to think it false to say that Jones ought to pay')."²⁰ The problem with using this strong sense of (4a) (and (3a)) is that it seems to be evaluative, since it involves the evaluation of every existing circumstance as being insufficient to make it false that Jones ought to pay (or be under an obligation).

The second criticism of Searle's original argument I want to consider is that of R. M. Hare, presented in "The Promising Game."²¹ Hare makes the accusation that there is apparently an equivocation on "promise" involved, since if (1a) is true it is by virtue of one definition, while if (2a) is true it must be by virtue of a different definition. The definition used in (1a) requires only that certain empirical conditions be met: conditions C and the utterance of "I hereby promise...." The definition used in (2a) however, requires that an obligation be undertaken, something that seems not to be entailed by the empirical conditions required by the definition used in (1a).

...a man who says 'I hereby promise, etc.' has satisfied only one

of the conditions of promising, but may not have satisfied the other; he may have said the words, but may not have thereby placed upon himself any obligation. We can only say that he has succeeded in doing this if we consent to the synthetic principle (1a)* ["Under certain conditions C anyone who utters the words (sentence) 'I hereby promise to pay you, Smith, five dollars' places himself under an obligation to pay Smith five dollars."]²³

It seems to me that Hare is right about this. Given the fact that conditions C together with the utterance by Jones of "I hereby promise ..." do not entail that an obligation was undertaken, there seems to be an inconsistency in Searle's argument. Let 'C' represent "Conditions C obtain and Jones uttered 'I hereby promise...'" Let 'O' represent "Jones placed himself under an obligation..." Let 'P' represent "Jones promised to pay Smith five dollars." The fact that conditions C together with the utterance by Jones of "I hereby promise..." does not entail that Jones placed himself under an obligation to pay Smith would then be represented thus: ' $\sim(C \rightarrow O)$ '; (1a) would be ' $(C \rightarrow P)$ '; (2a) would be ' $(P \rightarrow O)$ '. The inconsistency can be demonstrated thus:

(1) $\sim(C \rightarrow O)$	fact
(2) $(C \rightarrow P)$	(1a)
(3) $(P \rightarrow O)$	(2a)
(4) $(C \rightarrow O)$	2,3 Hypothetical Syllogism
(5) $\sim(C \rightarrow O) \cdot (C \rightarrow O)$	1,4 Conjunction

In an apparent attempt to nullify these, and other, criticisms, Searle has omitted the ceteris paribus clause from (3b) and (4b) and substituted "as regards his obligation" for the ceteris paribus clause in (4b), and "at the time of the obligating performance" for the ceteris paribus clause in (3b). Further, he has given an analysis of the concept of promising, setting down necessary and sufficient conditions for the non-defective performance of the speech act of promising which are "... in a perfectly ordinary sense empirical conditions."²⁴ This is done, of course, in his book Speech Acts. Although Searle says "It follows from

our analysis of promising in chapter 3 that promising is, by definition, an act of placing oneself under an obligation,"²⁵ it apparently does not. Thus it seems he has not escaped Hare's objection, and my accusation of inconsistency still seems to hold up. In eliminating the ceteris paribus clauses he has obviously immunized the argument to the criticism of James and Judith Thomson; but, as Thomas Perry points out, one of the ceteris paribus clauses seems to be indispensable. Let us examine these two new developments in more detail.

Concerning the "perfectly ordinary sense empirical conditions" which are, under Searle's analysis, necessary and sufficient conditions for the non-defective look at them very carefully in order to determine whether or not they require that an obligation be undertaken whenever a non-defective promise is made.

Given that a speaker S utters a sentence T in the presence of a hearer H, then, in the literal utterance of T, S sincerely and non-defectively promises that p to H if and only if the following conditions 1-9 obtain:

1. Normal input and output conditions obtain.
... Together they include such things as that the speaker and hearer both know how to speak the language; both are conscious of what they are doing; they have no physical impediments to communication...
2. S expresses the proposition that p in the utterance of T.
3. In expressing that p S predicates a future act A of S.
4. H would prefer S's doing A to his not doing A, and S believes H would prefer his doing A to his not doing A.
5. It is not obvious to both S and H that S will do A in the normal course of events.
6. S intends to do A.
7. S intends that the utterance of T will place him under an obligation to do A.
8. S intends (i-I) to produce in H the knowledge (K) that the utterance of T is to count as placing S under an obligation to do A. S intends to produce K by means of the recognition of i-I, and he intends i-I to be recognized in virtue of (by means of) H's knowledge of the meaning of T.
9. The semantical rules of the dialect spoken by S and H are such that T is correctly and sincerely uttered if and only if conditions 1-8 obtain.²⁶

First, it is obvious that conditions 1-6 have nothing whatsoever

to do with the undertaking of an obligation; thus, if these nine conditions entail that S places himself under an obligation, then one, two, or all three of the last three conditions must be sufficient for this entailment. Searle seems to agree with this, for he says, in the brief discussion following the statement of condition 7, "Notice that in the statement of the condition we only specify the speaker's intention; further conditions will make clear how that intention is realized."²⁷ But, as the reader can plainly see, conditions 7 and 8 are mere statements of the speaker's intentions, complicated as they may be. It simply does not follow from a statement of intentions that an obligation was undertaken. And condition 9 is no help, since it merely asserts that conditions 1-8 are the necessary and sufficient conditions for non-defectively promising according to the rules of the dialect spoken by S and H. So Searle still has the problem of the apparent inconsistency in simultaneously maintaining that promising is, by definition, the undertaking of an obligation, and that certain conditions which do not require the undertaking of an obligation are sufficient for non-defectively promising.

Now, what about the other tactic Searle takes in Speech Acts: the elimination of the ceteris paribus clauses from (3b) and (4b).

First let us consider the step from 4 to 5. Here I think that Searle may be right. Much of the widespread interest generated by his 1964 paper seems to have been due to an assumption on the part of many readers that he was at least suggesting a method by which moral 'ought-statements' might be deduced from verified empirical statements and tautologies. Given that assumption, one could rightly insist that the ceteris paribus clause is essential at this point of the proof. For although Jones is under an obligation to pay, whether he ought morally to pay will depend on other circumstances. But Searle never claimed to show us how to prove that Jones ought morally to pay; indeed, he explicitly abstained from such a claim. I don't see how he can even be accused of suggesting that moral statements could be demonstrated with the type of argument which he sets forth. So I am not going to

quarrel with his elimination of ceteris peribus considerations in this part of the proof...

These things cannot be said, however, about his elimination of ceteris peribus considerations earlier in the proof, i.e., where he substitutes line 3a, above, ['3a. All those who place themselves under an obligation are (at the time when they so place themselves) under an obligation. '28] for the statements (i) that all those who place themselves under an obligation are, other things being equal, under an obligation, and (ii) that other things are equal. Here the objection is not that Searle will be unable to prove a moral statement without using a ceteris peribus clause, but that he will not have a sound deductive argument without one.²⁹

Thomas Perry, the proponent of this objection, points out that "placing oneself under (undertaking) an obligation" in (2a) can be taken to mean either one of two things: either it means "...something weak like 'intending (or attempting or purporting) to acquire an obligation'"³⁰ or it means "...something stronger like 'actually acquiring an obligation when intending (or attempting or purporting) to do so.'"³¹ If the second meaning is the operative one, "...then 2a is false unless we add a ceteris peribus clause to it."³² If the first meaning is the operative one, then (2a) is true, but "...it is not true (contrary to 3a) that all who undertake an obligation (in this weak sense) are under an obligation, even at the very moment when they thus undertake to become obliged."³³ Why so?

...if Smith had induced Jones to make the promise through fraud, then at no time would Jones have been under an obligation to do what he promised. And I think both common sense and common law will also recognize various other circumstances under which the making of a promise creates no obligation at all. Suppose Smith pressures Jones into giving him a promissory note. A court will want to know whether the sort of pressure applied by Smith was within his legal rights; if it was, then the note may be enforceable; otherwise not. Or again, if Jones promises only because of some mistaken assumption of fact on his part, then (depending on what sort of fact it is, and what the other circumstances are like) he may not be under an obligation to keep his promise. Whether or not he is will depend, in law and in common sense, on what seems fair and reasonable, all things considered. And fraud, duress and mistake are not the only sorts of prior circumstances

which may keep a promise from creating an obligation. To mention one other, Smith may have negligently rather than dishonestly (fraudulently) misled Jones....

In summary, it is not true that, immediately upon promising Jones is under an obligation quite certainly rather than other things being equal. Line 2a is false if we take it as Searle undoubtedly intends it, and as it needs to be taken if line 3a is to be true.

Perhaps it will be replied that in cases of these kinds (fraud, duress, mistake, negligence) the conditions necessary for utterance of the words 'I hereby promise...(etc.)' to constitute the speech act of promising would never have obtained. But this is rather obviously incorrect. There are, of course, various conditions of action which must obtain if such an utterance is to be an act of promising. But if we take common speech and law as our guides, these conditions do not include absence of fraud and negligent representation by the promisee.³⁴

Perry's argument is very persuasive, and, it seems to me, sound. Indeed, all of the criticisms of Searle's argument heretofore considered seem successful. But I am not through with Searle yet. There are two other criticisms worth considering: one from A. C. Genova, and the other from James C. Anderson.

Genova takes a line similar to that which I argued earlier in connection with several attempts to derive evaluative statements from descriptive premises that hinged on definitions that turn out to be evaluative. "...the problem now is that if the conclusion is indeed an evaluative statement...and if it is by virtue of this use of 'ought' that it is evaluative, then what possible reasons...could Searle invoke in order to deny a similar illocutionary function to 'ought' as it occurs in (4a) [(4a): If one is under an obligation to do something, then as regards that obligation one ought to do what one is under an obligation to do.]?" And why not (2a) (All promises are acts of placing oneself under an obligation to do the thing promised.) and (3a) (All those who place themselves under an obligation are (at the time when they so place themselves) under an obligation.), since they "...can

equally be construed as containing evaluative terms?"³⁶ The only plausible explanation would seem to be that (2a) and (3a) are not evaluative because they are tautologies; and (4a) is not evaluative because it is a hypothetical. But the tautology escape route is inadequate:

Searle nowhere shows why we should believe that analyticity logically excludes evaluative force. On the contrary, it would seem that the presuppositions of Searle's speech act theory would require that these two variables remain independent. If illocutionary force does not turn on meaning or content, but only on the use or purpose to which utterances are directed, then neither should it turn on the analytic or synthetic character of the propositional content.³⁷

And the hypothetical escape route won't work because the hypothetical can simply be interpreted as a special kind of evaluation, namely a conditional one, or, an evaluation of a possible state of affairs.³⁸

The criticism offered by James C. Anderson also makes use of Searle's sharp distinction between illocutionary force and propositional content. To me, it seems the most ingenious; and to Searle it may well be the most devastating.

My first point is that Searle holds that the relationship of entailment obtains between propositional contents and not between speech acts per se. He claims that two utterances with characteristically different illocutionary forces may contain propositions which entail one another (p.136). And he further states that to allow the force of an utterance to enter into an entailment is to mistake the truth conditions of a proposition for the 'point or force' of uttering that proposition (p. 148).

The second aspect of his analysis I wish to note is his claim that the evaluative aspect of an utterance is confined to the illocutionary force of the utterance....the units, so to speak of entailment are propositional contents. And these, by definition, exclude illocutionary force altogether. There can be no evaluative conclusions since conclusions are always propositional contents. (My underlining)

Anderson's argument, it seems to me, shows that Searle's theory is, without modification, untenable. One of the facts that any theory of language has to take into account is that there are evaluative conclusions, viz., the conclusions of arguments whose premises are clearly

evaluative, especially morally evaluative cases. For example, (1) Killing is always morally wrong /.'. Bill ought not kill his mother-in-law. This conclusion is clearly evaluative. It seems that the only way to avoid this difficulty is to consider illocutionary force as a function of meaning.

At any rate I am not prepared to present a general theory of speech acts at this time. As for the achievement of the goal of this paper, defending the nonderivability thesis against the alleged counterexamples, we have considered all of Searle's candidates, and quite a few others besides, ultimately dismissing them all as imposters. I leave the reader to evaluate for himself whether or not their dismissal was in each case adequately justified.

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Footnotes

1. Peter Singer, "The Triviality of the Debate over 'Is-Ought' and the Definition of 'Moral'," American Philosophical Quarterly, 10, January 1973, p. 51
2. Ibid, p. 53
3. Glen O. Allen, "The Is-Ought Question Reformulated and Answered," Ethics 82, April 1972, pp. 181-189
4. Ibid, p. 184
5. Ibid, pp. 189&190
6. Ibid, p. 193
7. Ibid, p. 193
8. Ibid, p. 198
9. Ibid, pp. 198&199
10. John R. Searle, Speech Acts, (Cambridge: University Printing House, 1971) pp. 132-136
11. Ibid, p. 132
12. J. O. Urmson, "Some Questions Concerning Validity," Revue Internationale de Philosophie, 1953; reprinted in A. G. N. Flew (ed.), Essays in Conceptual Analysis (London, 1956) pp. 120 ff.; this excerpt quoted in John R. Searle, Speech Acts, (Cambridge: University Printing House, 1971) pp. 132&133
13. Ibid, in Searle, Speech Acts, p. 133
14. Searle, Speech Acts, p. 133
15. Ibid, p. 155
16. John R. Searle, "How to Derive 'Ought' from 'Is'," The Philosophical Review, 1964
17. James Thomson, and Judith Thomson, "How Not to Derive 'Ought' from 'Is'," The Philosophical Review, 1964
18. Ibid, p. 513
19. Ibid, p. 513
20. Ibid, pp. 513&514

21. R. M. Hare, "The Promising Game," Revue Internationale de Philosophie, 1964
22. Ibid, pp. 170&171
23. Ibid, p. 175
24. Searle, Speech Acts, p. 178
25. Ibid, p. 178
26. Ibid, pp. 57-61
27. Ibid, p. 60
28. Thomas Perry, "A Refutation of Searle's Amended 'Is-Ought' Argument," Analysis 34, March 1974, p. 135
29. Ibid, pp. 135&136
30. Ibid, p. 136
31. Ibid, p. 136
32. Ibid, p. 136
33. Ibid, p. 136
34. Ibid, pp. 136&137
35. A. C. Genova, "Searle's Use of 'Ought'," Philosophical Studies 24, May 1973, p. 188
36. Ibid, p. 190
37. Ibid, p. 189
38. Ibid, p. 190
39. James C. Anderson, "A Note on Searle's Naturalistic Fallacy Fallacy," Analysis 34, March 1974, pp. 140&141

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