HUME ON *IS* AND *OUGHT*:

LOGIC, PROMISES AND THE DUKE OF WELLINGTON[1]

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[A shorter version of this paper is due to appear in Paul Russell (ed.) *The Oxford Handbook to David Hume*. Please refer to the published version unless you are interested in §7 (omitted in the *Handbook*) or my jokes about George IV (ditto).]

0: INTRODUCTION

Hume is widely supposed to have argued – and even perhaps to have proved – that you can't get an *ought* from an *is*, moral or evaluative conclusions from non-moral or 'factual' premises (*T*, 3.1.1.27/469-70). Searle is supposed by some (not least by himself) to have proved otherwise, to have shown that it is at any rate possible to derive an *evaluative* – though not, perhaps, a *moral* – conclusion from purely "factual" or descriptive premises. The idea that such derivations are *impossible* is in Searle's view a fallacy – *the Naturalistic Fallacy Fallacy.* (Searle 'How to Derive "Ought" from "Is"' 1964: 125) Searle's basic idea is that certain kinds of performative speech acts – such as saying 'I will' in the course of a properly constituted marriage service – involve undertaking duties or obligations. That the bride and the bridegroom are undertaking certain duties is *analytic,* at least in the sense that if you don't understand at least roughly what the bride and the bridegroom are now supposed to do, you don't understand either the relevant speech-acts or the language-game in which they are embedded. Even a couple who go through the traditional marriage service – which, of course, includes the promise to *forsake all others, keeping only unto thee* – with the private and mutual reservation that theirs is to be an open marriage, do so in the knowledge that they are privately cancelling one of the obligations that married couples usually undertake. Thus to say that someone has performed a speech-act such as getting married, or making a promise – surely a factual, descriptive or empirical claim – entails that they have certain duties or obligations and thus, at least *prima facie*, that there are certain things that they ought to do. More generally, human institutions have a normative dimension to them. To understand the game of chess is to understand that if I put you in check, you ought to move your king, to block my attack or to take the attacking

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[1] Earlier versions of this chapter were read at Nottingham, Birmingham, Otago, Cambridge, Oxford and Düsseldorf. I thank the audiences for their comments, especially the Düsseldorf logicians.

piece. Thus it *follows* from the factual or descriptive claim that Carlsen has just checked Anand that Anand is obliged to move his king, to block the attack or to take the attacking piece.

I have several aims in this paper. To begin with, I want to insist on a distinction that Searle and his contemporaries generally failed to make: the distinction between the *Logical* Autonomy of Ethics and the *Semantic* Autonomy of Ethics. Several versions of the Logical Autonomy of ethics are provable (and thus true) but none implies the Semantic Autonomy of Ethics, which is a much more debatable claim. Secondly, I shall be arguing, as a subsidiary thesis, that Hume only subscribed to the *Logical* Autonomy of Ethics and that he was committed to claims which implicitly contradict *Semantic* Autonomy. Thus Hume thought, or at least implied, that with the aid of the relevant observations and explanations it is indeed possible to deduce an *ought* from an *is,* moral conclusions from "observations concerning human affairs", though the deductions in question require analytic bridge principles that are, in fact, false. If the Naturalistic Fallacy Fallacy is indeed a fallacy, it is a fallacy that Hume did not commit. Thirdly, I shall argue that Searle's views are not incompatible with Logical Autonomy but only Semantic Autonomy, which is fortunate for him, since if they *were* incompatible with Logical Autonomy, they would be provably false. Fourthly, I shall argue that, in so far as Searle succeeds in deriving evaluative conclusions from factual or descriptive sentences, the conclusions are not genuinely moral. The *oughts* in question are not moral or unqualified *oughts.* In so far as I can derive the conclusion that I ought to keep a promise from a set of non-moral premises, the conclusion won't be that I ought to keep the promise *tout court*, nor even that I ought to keep the promise *other things being equal*, but that *other things being equal*, I ought to keep the promise *according to the rules of the promising game.* Similarly, in so far as the premise that Carlsen has just checked Anand implies that Anand ought to move his king, to block the attack or to take the attacking piece, it only implies that Anand ought to do one of these things *according to the rules of chess.* Finally, Hume subscribed to analytic bridge principles that would license us to move from institutionally qualified *oughts* (what you ought to do according to the rules of some institution) to moral *oughts.* Indeed some parts of the *Treatise* can be read as an attempt to develop such deductions, though, as I contend (but do not argue at length), the analytic bridge principles required are all false.

1: TWO TYPES OF AUTONOMY: LOGICAL AND SEMANTIC

Let's start with the distinction between Logical and Semantic Autonomy. Consider the following inference F:

(1) Fritz is a bachelor;

therefore

(2) Fritz has no wife.

Is this a valid argument? Well, in one sense 'yes' and in another sense 'no'. It is not a *logically* valid argument, such that *given its structure* and *whatever the meanings of the non-logical words*, the premises cannot be true and the conclusion false. For there are many arguments with the same logical structure in which the conclusion is false but the premise is true. For example:

(1) Obama is a Democrat;

therefore

(2) Obama has no trousers.

But though the inference F is not *logically* valid it is *analytically* or *materially* valid, for given the meanings of "bachelor" and "wife" it is impossible for the premise "Fritz is a bachelor" to be true and the conclusion "Fritz has no wife" to be false. When a set of premises *analytically entails* a conclusion in this way, it is generally possible to convert the inference into a logically valid argument by adding in an extra premise, namely an *analytic bridge principle*, true by definition, which expresses the meaning links between the original premises and the conclusion. Thus the *analytically valid* inference F can be reformulated as the *logically valid* F':

(1) Fritz is a bachelor;

(1a) No bachelor has a wife;

therefore

(2) Fritz has no wife.

Now the distinction between formally and materially valid arguments or between logical consequence and analytic entailment is not only rough and ready, but also, perhaps, a pragmatic one. For it depends on a prior partition of the vocabulary into logical symbols whose meaning is kept more or less constant in determining the consequence relation and non-logical or schematic terms whose interpretation is allowed to vary. And where exactly you draw the line is determined, in part, by pragmatic considerations. Nonetheless, given such a partition, we can distinguish between logically or formally valid arguments and materially valid arguments. Furthermore, this

was a distinction available to Hume, since it was implicit in the teachings of his logic professor at Edinburgh, Colin Drummond. "How does the conclusion [of a valid syllogism] follow from the premises?" he asked his students rhetorically in a Latin that (from their copying errors) they were struggling to understand. Answer: "Not materially but formally, since there is no new matter in the conclusion that is not in the premises, but the terms are merely arranged in a different way" (Drummond 1723?: 49-50). Now, given this distinction (which goes back at least to medieval times[2]), we can make a further distinction between two variants of Hume's No-Ought-From-Is thesis – *Logical* Autonomy, the claim that that there are no *formally* valid inferences from non-moral premises to moral conclusions, that you can't get moral conclusions from non-moral premises by logic alone, and *Semantic* Autonomy, the claim that there are no *materially* valid arguments from non-moral premises to moral conclusions, that you can't get moral conclusions from non-moral premises with the aid of logic plus analytic bridge principles (because there *are* no such bridge principles). Now Logical Autonomy does not imply Semantic Autonomy. If you can't get moral conclusions from non-moral premises by logic alone it does not follow that you can't get moral conclusions from non-moral premises by logic plus analytic bridge principles. But Semantic Autonomy implies Logical Autonomy. If you can't get moral conclusions from non-moral premises by logic plus analytic bridge principles, *a fortiori* you can't get moral conclusions from non-moral premises by logic alone. However the *negation* of Logical Autonomy implies the *negation* of Semantic Autonomy. If you *can* get moral conclusions from non-moral premises by logic alone it follows *a fortiori* that you can get moral conclusions from non-moral premises with the aid of logic plus analytic bridge principles. Thus for anyone interested in the autonomy of or otherwise of ethics, Logical Autonomy comes first.

As I have argued elsewhere[3], what Hume was insisting on in his famous Is/Ought passage was the *Logical* Autonomy of Ethics. His argument depends upon the *conservativeness of logic*, the meta-logical principle, widely believed in the Eighteenth Century, that in a logically valid argument

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[2] See Broadie 1993. The distinction was not forgotten in the Early Modern Period despite the decline of logic, but by the 1960s many philosophers had become a bit hazy about it.

[3] See Pigden 1989, Pigden 2010a, 2010b, 2010c and especially 2010d. Why was Hume insisting on Logical Autonomy in the No-Ought-From-Is (or NOFI) passage? Well the point of *Treatise* 3.1.1. (as its title suggests) is to argue that moral distinctions are not derived from reason, and in particular to prove that the basic principles of morality are not demonstrable. Now for moral truths to be demonstrable they would have to be either self-evident in themselves or logically deducible from self-evident truths. By the end of 3.1.1, Hume believes himself to have proved that no (non-trivial) moral propositions are self-evident. This still leaves open the possibility that the truths of morality might be deducible from self-evident truths of some other kind (proofs of the being of God, observations concerning human affairs – whatever), a possibility mooted by Locke, *Essay*, 4.3.1.18: 549 and suggested by philosophers such as Hobbes and Spinoza. The point of NOFI is to foreclose this option. If no (non-trivial) moral proposition is self-evident and no (non-trivial) moral proposition is logically deducible from non-moral propositions, then no (non-trivial) moral proposition is demonstrable.

you can't get out what you have not put in; more specifically, that there can be no *matter* or non-logical content in the conclusion that is not contained in the premises. As Prior pointed out (1960) this principle is (strictly speaking) false. Fortunately for Hume, I have in my back-pocket a proof of a more sophisticated version of conservativness, namely that if there is non-logical content in the conclusion of a valid inference that does not appear in the premises that content suffers from *inference-relative vacuity. (*Pigden 1989.) This means that the novel expressions in the conclusion can be uniformly replaced *salva validitate,* that is, without prejudice to the validity of the resulting inference. (I keep the proof in my back-pocket because it is rather short.) So if "ought" is *not* treated as a logical word (perhaps an important proviso), you cannot *logically* derive a non-vacuous *ought* from an *is*, a substantively moral conclusion from non-moral premises. Logical Autonomy rises again (though in a slightly amended form)! Note, however, that this tells us nothing whatsoever about the nature of morality since by the same token you can't derive non-vacuous "hedgehog" conclusions from "hedgehog" free premises. No-Non-Vacuous-Ought-From-Is does not imply that there is any fundamental semantic divide between the non-moral and the moral or between fact and value[4]. It's a meta-ethically neutral thesis. If there is such a divide other arguments are required to prove its existence.

However there is a problem. My argument only works with the proviso that "ought" is not (or should not be treated as) a logical symbol. What if there are logical principles governing "ought" and related concepts, deontic "logics" that are genuine logics? Even if there are such principles, it turns out that we can formulate and prove another version of Logical Autonomy. Gerhard Schurz accepts that some among a large range of deontic logics may be correct, and thus that it is possible to derive the theorems of (the correct) deontic logic from non-moral premises, a logical *ought* from an *is*. But I have in my backpack Schurz's proof of a *different* version of Logical Autonomy. (I keep it in my backpack because it is very long and complicated[5].) The idea is roughly this. So long as a certain *kind* of analytic bridge principle for that operator is not included in the logic – formally

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[4] As Frank Snare (1991) pointed out, it is obvious that NOFI follows from non-cognitivism plus the conservativeness of logic, but not non-cognitivism from NOFI. So how can NOFI support non-cognitivism? Perhaps by an inference to the best explanation. If moral judgments express attitudes rather than beliefs, and if in a logically valid argument you don't get out what you haven't put in, then NOFI would appear to follow – that is, it won't be possible to derive moral conclusions from non-moral or descriptive premises. Thus if non-cognitivism is part of the best explanation of NOFI, and if NOFI is true, then probably non-cognitivism is true too! This inference fails, however, as there is a better, because simpler, explanation of NOFI, namely the conservativeness of logic by itself. The problem persists with the variants of NOFI proved by Schurz and myself since we both derive NOFI in the form of Logical Autonomy from different versions of conservativeness. Hence NOFI provides no support for non-cognitivism, whether deductive or abductive. See Pigden 2010a and Pigden 2010d.

[5] See Schurz 1997 and Schurz 2010. For a partial explanation of *why* Schurz's proof had to be so long and complicated, see Pigden 2010a: 22-23.

a principle that contains at least one schematic letter which has at least one occurrence *within* the scope of the deontic operator O and at least one occurrence *outside* the scope of any O – then we can distinguish between arguments that derive moral conclusions from non-moral premises by deontic logic alone, and arguments that derive moral conclusions from non-moral premises with the aid of deontic logic plus analytic bridge-principles. Furthermore, we can show that if an ought-operator occurs in the conclusion of a logically valid argument but not in the premises, any predicate occurring in the scope of such an operator can be uniformly replaced with any other predicate of the same grammatical type *salva validitate,* that is without prejudice to the validity of the resulting inference. This means that if it is possible to derive a partly moral conclusion *A* from non-moral premises **D** which includes a subformula saying that we ought to smite the godless, you can also derive parallel conclusions *A'* and *A''* including corresponding subformulae saying respectively that we ought to smite the godly and that we ought *not* to smite the godless. Thus you can't get a substantively moral *ought* from an *is*, that is an *ought* which tells you to do something as opposed to something else. Does Schurz's result support any meta-ethical conclusions, for instance non-cognitivism or expressivism?   I used to think so, but now I have changed my mind.   For Schurz's result holds for *all* modal operators that are not characterized by bridge principles and only applies to "ought" in so far as it is such an operator. What Schurz shows is that for any modal logic L and for any modal operator M, so long as L is axiomatizable without bridge principles for M, then if M appears in the conclusion of an L-valid inference **K** ⊩L **X** but not in the premises, we can uniformly replace any predicate *F* occurring within the scope of M in **X** with any other same-placed predicate *G salva validitate.* Thus Schurz's result holds for the belief operator B ("X believes that") as well as the deontic operator O. In deontic logics, O*A* does not imply *A* and *A* does not imply O*A*. So too with the logic of belief: "X believes that P" does not imply P nor does P imply that X believes that P. (Contrast the knowledge operator K and the necessity operator □: Both Kp and □p imply p.) This means that a version of the "You don't get out what you haven't put in" principle holds for a wide class of modal operators M, of which the deontic operator O happens to be a member. *If there are no bridge principles applying to M, you cannot logically derive M-relevant conclusions from non-M premises.* Thus Schurz's proof does not depend on any special features of the deontic *ought* apart from the fact that (in his opinion) it should be construed as modal operator without bridge principles. Hence, Schurz's proof does not support expressivism or non-cognitivism about ought-claims unless it *also* supports expressivism about (for example) statements of belief.

2: AUTONOMY DENIED – LOGICAL OR SEMANTIC?

Searle takes himself to be contradicting Hume's supposed claim that "no statement of fact by itself entails any statement of value" (Searle 1964: 120). But he fails to distinguish between Logical and Semantic Autonomy, partly because he fails to distinguish between logical consequence and analytic entailment. Indeed, in the sixties debate, terms like "tautology" and "entails" were chucked around with a cheerful imprecision which is truly distressing to logically sensitive souls such as myself. Because Searle fails to distinguish between Logical and Semantic Autonomy he fails to ask himself which of the two claims he is trying to disprove. Once you *do* ask the question, however, it becomes pretty obvious that it the *second* thesis, *Semantic* Autonomy, that he must have had in mind. Simplifying somewhat, his claim appears to be this:

> Thesis (A)
>
> "Smith promised to pay Jones $500"[6]
>
> *analytically entails*
>
> Thesis (B)
>
> "Smith *ought /is obliged* to pay Jones $500",
>
> with the possible aid of some *ceteris paribus* clause.

It must be analytic entailment that he is thinking of since it is obvious that (B) is not a logical consequence of (A). For there are interpretations of the non-logical vocabulary according to which (A) is true and (B) false. Thus, in so far as Searle's argument succeeds, it only refutes Semantic Autonomy: *Logical* Autonomy remains intact. But does it succeed? Are there analytic bridge principles that enable you to move from Thesis (A) to Thesis (B)? To prove the point Searle has to come up with an analytic bridge principle (or a set of analytic bridge principles) K, such that (B) follows *logically* from K in conjunction with (A).

Looking back at the debate, we can see two lines of criticism of Searle's "proof": the Ceteris Paribus Critique (due to Thomson and Thomson)and the Promising Game Critique (due to Hare). Let's take them in turn.

3: THE CETERIS PARIBUS CRITIQUE: THOMSON AND THOMSON

Nobody thinks that the fact that you have made a promise analytically entails that you ought to keep

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[6] In Searle's original example the sum was $5 but I decided to adjust it upwards to keep pace with inflation.

it. It is generally supposed that you ought not to keep a promise that it was wrong to make, and that other obligations can trump a promise, especially if the other obligations are morally pressing and the promise is relatively trivial. Thus the bridge principle cannot be of the form:

> (K) If Smith promises to pay Jones $500, then Smith ought to pay Jones $500.

Rather, the bridge principle should be something like this:

> (K') If Smith promises to pay Jones $500 and *other things are equal,* then Smith ought to pay Jones $500.

But the second conjunct in the antecedent, looks awfully like a *moral* proposition, since in order for other things to be equal, there would have to be nothing that might reasonably regarded as voiding or invalidating the promise (such as a prior promise to pay the $500 to somebody else) nor any obligation that might reasonably be regarded as trumping Smith's duty to pay up, such as the obligation to help a needy relative who can only be saved from death or destitution by the gift of five hundred dollars. Indeed, what (K') really amounts to is this:

> (K'') If Smith promises to pay Jones $500 and it is *not* the case that there is a factor F (from a range of factors M) such that given F it is not the case that Smith ought to pay Jones $500 (when the promise falls due), then Smith ought to pay Jones $500 (when the promise falls due).

But from
> (A) Smith promised to pay Jones $500

and
> (K'') If Smith promises to pay Jones $500 and it is *not* the case that there is a factor F (from a range of factors M) such that given F it is not the case that Smith ought to pay Jones $500 (when the promise falls due), then Smith ought to pay Jones $500.

we cannot derive
> (B) Smith ought to pay Jones $500.

To derive *that* conclusion we need the further, rather moral-looking premise:

> (A#) It is *not* the case that there is a factor F (from a range of factors M) such that given F it is not the case that Smith ought to pay Jones $500 (when the promise falls due).

But in that case we don't really have an Is/Ought inference. For one of the premises required to derive (B) from (A) is not empirical or analytic but moral. Hence Searle's counterexample to NOFI is defused. He has not succeeded in deriving a moral conclusion from entirely non-moral premises with the aid of analytic truths. That, in a nutshell, is the Ceteris Paribus Critique of Thomson and Thomson in their well-known paper 'How Not to Derive "Ought" from "Is"' (1964). But though Thomson and Thomson manage to defuse Searle's counterexample to Semantic Autonomy, they fail to defuse his argument. For what we *can* infer from (A) with the aid of (K'') is this:

> (B#) If it is *not* the case that there is a factor F (from a range of factors M) such that given F it is not the case that Smith ought to pay Jones $500 (when the promise falls due)*,* then Smith *ought* to pay Jones $500 (when the promise falls due).

And (B#) is a non-trivial and authentically moral conclusion. It's not a categorical *ought* of course, but neither are many authentically moral propositions. "You ought to obey the sovereign's commands", despite its categorical appearance, is really a conditional: "If the sovereign commands you to do something, then you ought to do it". But that does not mean that it is not a contentious, and consequently, a substantive moral claim. So too with (B#). The fact that it is a conditional does not mean that it is not a substantive moral proposition.

4: HARE, GODWIN AND THE PROMISING GAME CRITIQUE

But is (K'') genuinely analytic? A genuinely analytic truth is one that you cannot deny without manifesting either a misunderstanding of the words of which it is composed or a misunderstanding the language-game from which they derive their meaning. But (K'') is not a proposition of that kind. If it is analytic, it is analytic because it is a substitution instance of the following principle (which must itself be analytic):

(K''') If a person P promises to X and it is *not* the case that there is a factor F (from a range of factors M) such that given F it is not the case that P ought to X (when the promise falls due), then P ought to X.

Is it possible to deny (K''') without manifesting a misunderstanding "promise" or the language-game from which the word derives its meaning? The answer, is obviously *yes*. For you can deny (K''') without manifesting either a misunderstanding of the word "promise" or a misunderstanding of the promising game itself, if you reject or condemn the institution of promising. Hence (K''') is not analytic. And if (K''') is not analytic, (K'') is not analytic either.

What do I mean by "rejecting the institution of promising" or "rejecting the promising game"? You reject the promising game if it is a game you refuse to play or if you refuse to be bound by its rules. More importantly for present purposes, you reject the promising game if you think that we are not in general obliged to keep our promises, and that the institution of promising is a morally suspect affair. (You don't have to think that we should *never* keep your promises but you do have to think that we are not obliged to keep them simply *because* they are promises.) This attitude is eccentric but not incoherent, and it is quite compatible with *understanding* the rules of the language-game that you reject. You can understand very well that *according to the rules of the Promising Game* you generally ought to keep your promises whilst believing that in fact you have no obligation to do so. This was, at least in theory, the attitude of Hume's near contemporary, William Godwin (husband of Mary Wollstonecraft and father of Mary Shelley) whose *Enquiry Concerning Political Justice* was the radical-*chic* smash-hit of the early 1790s.

> What I have promised is either right, or wrong, or indifferent. There are few articles of human conduct that fall under the latter class [a point which follows from Godwin's act-consequentialism]. Omitting these, let us then consider only the two preceding classes. 'I have promised to do something just and right.' This certainly I ought to perform. Why? Not because I promised, but because justice prescribes it. … If we discover any thing to be unjust, we ought to abstain from it, with whatever solemnity we have engaged for its perpetration [that is, whether or not we have promised to do it]. We were erroneous and vicious when the promise was made; but this affords no sufficient reason for its performance. (Godwin, 1793, 3.3)

Thus, according to Godwin, what we promise to do is either already right (just) or already wrong (unjust). If it already right, then we ought to do it whether we have promised to do it or not. And if it is already wrong we ought *not* to do it whether we have promised to do it or not. Either way, it is not the case that, generally speaking, we ought to keep our promises (that is, it is *not* the case that we are obliged to keep our promises unless there is something specific from a vague but not entirely open-ended range of moral factors that invalidates the obligation). Thus Godwin denies (K'''). But weird though this is, it is abundantly clear from his discussion that he not only understands the concept of a promise but is perfectly familiar with the Promising Game from which it is derived. Now if you can deny a purportedly analytic truth without manifesting a misunderstanding of either the words involved or the relevant language-games, then the "truth" in question is either not analytic or not true (and *a fortiori* not analytic). Hence, true or not, (K''') is not analytic. This is the good idea, lurking behind the prescriptivist rhetoric in Hare's famous paper 'The Promising Game' (1964).

5: WINCHELSEA, WELLINGTON AND THE DUELING GAME

What obscures the point for most of us is that we are in fact conscientious (if not enthusiastic) players of the Promising Game and which means that we subscribe to its rules. But the non-analytic nature of (K''') becomes clearer once we consider a parallel case where the game is no longer played. Consider the following derivation, which closely parallels Searle's:

> (1*a) The Earl of Winchelsea (a gentleman) publicly accused the Duke of Wellington (another gentleman, then serving as Prime Minister) of a policy of deliberate deception: "Under he cloak of some colored show of zeal for the Protestant religion" he is carrying on "an insidious design for the infringement of our liberties and the introduction of Popery". [Wellington was at that time endeavoring to pass Bill for Catholic Emancipation, giving Catholics in general civil rights and richer Catholics the vote, his reason being that this unplatable measure was necessary to prevent civil war in Ireland.] Lord Winchelsea declined to apologize for this insult.

(1*b) The Duke of Wellington called on Lord Winchelsea to give him "that satisfaction [for his conduct] which a gentleman has a right to require and no gentleman ever refuses to give".

(2*) Wellington issued a valid challenge to a duel (from (1*b).)

(3*) Wellington placed Winchlesea under an obligation *either* to apologize to Wellington *or* to accept his challenge.

(4*) Winchelsea was under an obligation *either* to apologize to Wellington *or* to accept his challenge.

(5*) Thus Winchlesea ought either to have apologized to Wellington *or* to have accepted his challenge. [In fact he did both, apologizing after having fired into the air during the duel, a practice known as "deloping".[7]]

Of course, even if we accept the rules of the Dueling Game, (2*) does not analytically entail (3*). Given these rules, Winchelsea would not have been obliged to fight or apologize if he had been blind, infirm or crippled (or if Wellington had been blind, infirm or crippled). And there are no doubt other circumstances (such as being Wellington's commanding officer whilst on active service) which would have relieved Winchelsea of the obligation to respond. It would have been inappropriate for Wellington to issue a challenge or for 'First Gentleman of Europe' to respond, even if the First Gentleman had said publicly what he may perhaps have privately suspected that 'under he cloak of some colored show of zeal for the Protestant religion' Wellington was carrying on 'an insidious design for the infringement of our liberties and the introduction of Popery' since the 'First Gentleman' was George IV and Wellington was his subject[8]. Nonetheless, the following thesis

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[7] For more on this encounter, see Hibbert 1997: 274, and Appiah 2010: ch. 1. Appiah's discussion is both relevant and interesting and abounds with fascinating historical detail.

[8] Despite his Whig past, George IV was opposed to Catholic Emancipation and had to be bullied into acquiescence by Wellington. See Greville 1874: ch.V. As Creevey (1948: 307) put it:'the Dutchess of Gloucester and D. of Cumberland have made such an impression upon Prinney [George IV] against the Pope, that he is considered as quite certain to be upon the jib; and [so he was to] the consternation of the Ministers'.

(K*) If after a public insult Wellington challenged Winchelsea to a duel and if it was *not* the case that there was a factor F (from a range of factors N) such that given F it was not the case that Winchelsea ought to have dueled or apologized, then Winchelsea ought to have dueled or apologized.

has the same kind of status as

(K") If Smith promises to pay Jones $500 and it is *not* the case that there is a factor F (from a range of factors M) such that given F it is not the case that Smith ought to pay Jones $500 (when the promise falls due), then Smith ought to pay Jones $500 (when the promise falls due).

And if (K*) is not analytic – as surely it is not – then (K") is not analytic either. (Though many approved of Wellington's conduct in challenging Winchelsea, many did not, since they regarded the practice of dueling as a barbaric hangover from a bygone era[9].) Thus Searle's Is/Ought inference is a failure, since the bridge principle on which it relies is not really analytic.   But though (K*) and K") are *not* analytic, the same cannot be said for their game-relative transforms (K*R) and (K"R):

(K*R) If after a public insult Wellington challenged Winchelsea to a duel and if it was *not* the case that there was a factor F (from a range of factors N) such that given F it was not the case that according to the rules of the Dueling Game Winchelsea ought to have dueled or apologized, then *according to the rules of the Dueling Game* Winchelsea ought to have dueled or apologized.

(K"R) If Smith promises to pay Jones $500 and it is *not* the case that there is a factor F (from a range of factors M) such that according to the rules of the Promising Game given F it is not the case that Smith ought to pay Jones $500 (when the promise falls due), then, *according to the rules of the Promising*

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[9] Appiah discusses the reaction at length. See Appiah 2010: 37-48.

Game, Smith ought to pay Jones $500 (when the promise falls due).

What (K*R) amounts to is the thesis that *ceteris paribus*, if a gentleman such as Winchlesea had insulted a gentleman such as Wellington and if Wellington had challenged Winchelsea to a duel then *according to the rules of the Dueling Game* Winchlesea ought to fought or to have apologized. A person who doubted or disputed this claim would indeed show that they did not really understand the Dueling Game as it was (sometimes) played in the early Nineteenth Century, and thus that they did not really understand the relevant speech acts. What (K''R) amounts to is the thesis that *ceteris paribus*, if Smith promises to pay Jones $500 then *according to the rules of the Promising Game* Smith ought to pay Jones $500. A person who doubted or disputed this claim would indeed show that they did not really understand the Promising Game as we play it today, and thus that they did not really understand the relevant vocabulary. But you can accept (K*R) whilst being of the opinion that it is wrong to fight duels or to coerce an apology under the threat of a duel just as you can you can accept (K''R) whilst believing with Godwin that the Promising Game is a pernicious practice. This was in effect the position of Godwin himself. Here he is arguing that it takes more courage to refuse a challenge than it does to accept and that a truly honorable and courageous man will neither issue a challenge himself nor respond to a challenge on the part of somebody else:

> If there be any meaning in courage, its first ingredient must be the daring to speak the truth at all times, to all persons, and in every possible situation. What is it but the want of courage that should prevent me from saying, "Sir, I ought to refuse your challenge. What I ought to do, that I dare do. Have I injured you? I will readily and without compulsion repair my injustice to the uttermost mite. Have you misconstrued me? State to me the particulars, and doubt not that what is true I will make appear to be true. Thus far I will go. But, though I should be branded for a coward by all mankind, I will not repair to a scene of deliberate murder. I will not do an act that I know to be flagitious . . ." He that holds this language with a countenance in unison with his words, will never be suspected of acting from the impulse of fear (Godwin 1793: 2.2 App. 2.)

It is plain from Godwin's polemic that he understands the rules of the Dueling Game – thus accepting (K*R) – but that he is vehemently of the opinion that it is wrong to comply with them. It is one thing to understand the rules of a language-game and to accept propositions expressing those

rules.   It is quite another to regard those rules as morally obligatory and to accept propositions expressing such obligations. You can't derive moral duties from institutional obligations alone.

7: CONSENT, OBLIGATION AND THE SMOKE OF SEARLE'S CHIMNEYS

I'm obviously not the first to raise this kind of difficulty. For Searle considers the following objection: "[This] suggests the following *reductio ad adsurdum* [to my view]. On this account any institution could arbitrarily obligate anyone depending on how one arbitrarily decides to set up the institution." (Searle 1969: 262.) Now, it is a common ploy for philosophers in a jam to invent a convenient conceptual truth to get themselves out of trouble, and this is just what Searle does. "The notion of an obligation is closely tied to the notion of accepting, acknowledging, recognizing undertaking etc obligations in such a way as to render the notion of an obligation an essentially contractual one". Thus Wellington's challenge cannot have laid Winchelsea under any obligation to apologize or fight, since it is conceptually impossible to be under an obligation unless you have in some sense consented to it.

The dialectic goes like this. Searle says that it is possible derive Smith's duty to pay up from the premise that a promise has been made. His opponents object that this can only be a duty to pay up *according to the rules of the Promising Game* as it is possible by parity of reasoning to derive a duty to fight (or apologize) from the premise that a challenge has been issued. But it is absurd to suppose that the recipient of a challenge has a *moral* duty to fight (or apologize). Hence the duty to fight (or apologize) is only a duty *according to the rules of the Dueling Game*.   The parallel conclusion holds in the promising case.   From the premise that a promise has been made we can only derive the conclusion that Smith ought to pay up *according to the rules of the Promising Game*. To derive the conclusion that Smith is *morally* obliged to pay up, we need an extra premise. Searle replies by denying the parallel.   Since obligation implies consent (an alleged conceptual truth) and Winchelsea has not consented, he is in *no* sense obliged to fight or apologize. Since he is in *no* sense obliged to fight (or apologize) he cannot be obliged to fight (or apologize) *according to the rules of the Dueling Game*. Thus we need not conclude that because the parallel argument only implies that Winchelsea is obliged to fight (or apologize to) Wellington *according to the rules of the Dueling Game* that Searle's argument only implies that Smith is obliged to pay Jones *according to the rules of the Promising Game*. My reply to Searle's reply is that the alleged conceptual truth on which he relies is in fact a convenient fiction.

As to whether it is conceptually impossible to be under an obligation that you have not in some sense consented to, I appeal, in Locke's phrase, to any who have been but moderately

conversant in the history of mankind, and looked abroad beyond the smoke of their own chimneys. (Locke *Essay:*1.3.2.)   Think of the sad case of Orestes who was obliged to kill Clytemnestra (because she had murdered his father) and obliged not to kill her (since she was his mother). Neither of these obligations arose from consent.   Indeed, it worth quoting Hume himself in this connection. He is arguing against philosophers such as Locke who think that *political* obligations can only arise from consent:

> But would these reasoners look abroad into the world, they would meet with nothing that, in the least, corresponds to their ideas, or can warrant so refined and philosophical a system. On the contrary, we find, every where, princes, who claim their subjects as their property, and assert their independent right of sovereignty, from conquest or succession. We find also, every where, subjects, who acknowledge this right in their prince, and suppose themselves born under obligations of obedience to a certain sovereign, as much as under the ties of reverence and duty to certain parents. These connexions are always conceived to be equally independent of our consent, in   PERSIA and CHINA; in FRANCE and SPAIN; and even in HOLLAND and ENGLAND, wherever the [contractarian] doctrines above-mentioned have not been carefully inculcated. (Hume 'Of the Original Contract' *Essays,* 1987: 470.)

Thus there is no tight conceptual connection between consent and obligation since many people throughout human history have conceived themselves to be obliged without having consented to the obligations. by which they believed themselves to be bound. Hence Searle's counterargument fails.

8: OUGHT/OUGHT INFERENCES: INSTITUTIONAL TO MORAL

What extra premise would be required to derive something like the authentically moral *ought* of (B#) from the non-moral (A) and the genuinely analytic (K''R)? Something like this.

(OPG) We (morally) ought to obey the rules of the Promising Game.

This conveys the general idea the Promising Game is a good game to play and that we ought to abide by its rules, but to convert Searle's argument into a logically valid deduction, we need something more specific:

(OPG') If *according to the rules of the promising game* Y ought to do X, then *morally* Y ought to do X.

This gives us:

(A) Smith promised to pay Jones $500

[Assumption.]

(K''R) If Smith promises to pay Jones $500 and it is *not* the case that there is a factor F (from a range of factors M) such that *according to the rules of the Promising Game* given F it is not the case that Smith ought to pay Jones $500 (when the promise falls due), then, *according to the rules of the Promising Game*, Smith ought to pay Jones $500 (when the promise falls due).

[Analytic Truth.]

(OPG') If *according to the rules of the promising game* Y ought to do X, then *morally* Y ought to do X. [Assumption.]

(K''^) If Smith promises to pay Jones $500 and it is *not* the case that there is a factor F (from a range of factors M) such that given F *according to the rules of the Promising Game* it is not the case that Smith ought to pay Jones $500 (when the promise falls due), then Smith *morally* ought to pay Jones $500 (when the promise falls due). [From (K''R) and (OPG').]

(B#^) If it is *not* the case that there is a factor F (from a range of factors M) such that given F *according to the rules of the Promising Game* it is not the case that Smith ought to pay Jones $500 (when the promise falls due), then Smith *morally* ought to pay Jones $500 (when the promise falls due).

[From A) and K''^).]

(*Ceteris paribus*) It is not the case that there is a factor F (from a range of factors M) such that given F *according to the rules of the Promising Game* it is not the case that Smith ought to pay Jones $500 (when the promise falls due).

[Non-moral assumption, depending on (a) the rules of the Promising Game and (b) contingent matters of fact.]

(B) Smith *morally* ought to pay Jones $500 (when the promise falls due).

[From (B#^) and (*Ceteris Paribus*) resting on (A), (K''R), (OPG') and (*Ceteris*

Paribus).]

This is a bit rough, but I take it that it can be converted into a formally valid argument without too much trouble. But of course it is not an Is/Ought inference. The problem lies with (OPG') which obviously expresses a moral principle. But perhaps we can get an Is/Ought inference by deriving (OPG) or (OPG') from factual premises with the aid of analytic bridge principles?

9: HUME'S OWN IS/OUGHT DEDUCTIONS: FROM FEELINGS TO DUTIES

Interestingly enough, this is pretty much what Hume tries to do in *Treatise* 3.2.6. For Hume it is analytic that a trait is a virtue if it gives to a suitably qualified spectator the pleasing sentiment of approbation. 'The hypothesis which we embrace is plain. It maintains that morality is determined by sentiment. It *defines* [my italics] virtue to be whatever mental action or quality gives to a spectator the pleasing sentiment of approbation; and vice the contrary'. (*EPM*, App. 1.4.10/289). It is likewise analytic we have an obligation to do – and hence ought to do – those actions whose neglect or nonperformance would displease us after a certain manner, (*T*, 3.2.5.4/517). Now keeping promises is a practice which gives to suitably qualified spectators the pleasing sentiment of approbation (where being suitably qualified involves taking the general point of view and *not* being misled by factual error or the delusive glosses of false religion). Indeed approbation persists or is intensified in those ideally qualified spectators who have had the origin and utility of promises explained to them by Hume. (Once we understand the origins and function of this practice we approve of our tendencies to approve and disapprove. See Korsgaard 1996: Lecture 2.) Hence, fidelity to promises is a virtue. Indeed we have an *obligation* to keep our promises since the neglect or non-performance of promises displeases us, giving rise to the sentiment of disapprobation (*T*, 3.2.6/516-525). Thus Hume deduces an *ought* – that we *ought* on the whole to keep our promises – from factual observations concerning human affairs (specifically a set of facts about how we are inclined to feel, together with a speculative theory which endeavours to explain those facts) with the aid of two supposedly analytic bridge principles. But this is (OPG), the principle that has to be derived from facts if Searle's argument is to work as an inference from non-moral observations to authentically moral conclusions. Of course, the fact that Hume relied on analytic bridge principles to deduce moral conclusions from observations concerning human affairs (and more specifically human feelings) does not prove that his deductions were a success. In my view they fail since the principles in question are not analytic. It is conceptually possible for an informed human spectator, taking the general point of view, to approve of non-virtues or to

*dis*approve of the neglect or non-performance of acts which ought not to be done[10]. But believing or presupposing analytic principles that are not really analytic is one of the ills that philosophical flesh is heir to, and it is no surprise that not even David Hume is immune to this disease.

10: CONCLUSION

What is the upshot? Firstly, that Searle has not managed to provide a counterexample to Semantic Autonomy, since the bridging principles he requires are not analytic. There are analytic truths in the offing but they won't allow him to derive authentically moral conclusions without the aid of a moral premise (OPG). Secondly, that Hume himself derives the moral premise that Searle requires from factual premises with the aid of a supposedly analytic bridge principle. Thus Hume did not subscribe to Semantic Autonomy. Finally that these issues become a lot clearer if you make the necessary distinctions. To say that you cannot derive moral conclusions from non-moral premises with the aid of logic alone is one thing: to say that you cannot derive moral conclusions from non-moral premises with the aid of logic plus analytic bridge principles is quite another. Hume believed the first but not the second. Searle confused the two and failed to prove that either one is false.

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[10] See Pigden 2007, in which I criticize a similar set of principles due to another famous David, namely David Lewis.

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