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Geach and Ascriptivism: Beside the Point

Luís Duarte d'Almeida

This paper discusses the first incarnation of what came to be known as the “Frege-Geach” point. The point was made by Peter Geach in his 1960 essay “Ascriptivism”, and developed in “Assertion”, a 1965 piece. Geach’s articles launch a wholesale attack on theories of non-descriptive performances advanced by “some Oxford philosophers” whom he accuses of ignoring “the distinction between calling a thing ‘*P*’ and predicating ‘*P*’ of a thing”. One view that Geach specifically targets is H. L. A. Hart’s claim (in the 1949 essay “The Ascription of Responsibility and Rights”) that sentences of the form “*X* ϕ -ed” are not primarily descriptive but ascriptive of responsibility for actions. Hart explicitly accepted Geach’s criticism, and disowned his essay. I argue that he was wrong to do so. Perhaps the essay was worth retracting, but not because of Geach’s objections. I begin by restating and refining Geach’s arguments, in order to bring out the flaw he claimed to have detected in the “pattern of philosophising” that he took Hart’s essay to exemplify. I go on to argue that Geach’s original point poses no obstacle either to non-descriptivism in general, or to Hart’s *sui generis* non-descriptivist claim in particular.

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Geach and Ascriptivism: Beside the Point

Luís Duarte d'Almeida

1. Geach's "Frege Point"

Geach's point—he called it “the Frege point”—is that “a proposition may occur in discourse now asserted, now unasserted, and yet be recognizably the same proposition” (Geach 1965, 254–55).¹ He took the Frege point to be “obviously true” (255). But he thought that some contemporary, “Oxford-trained” philosophers had ignored it (258), and that as a consequence many of their theories were fundamentally flawed.

Geach is right that the Frege point is not hard to grasp. One of the ways in which a proposition may be put forward for consideration is by its assertion by a speaker. To assert a proposition is to put it forward for consideration *as true*.² But a speaker can

¹Although Geach defines “proposition” as “a form of words in which something is propounded, put forward for consideration”, that is not how he actually uses the term. He uses it to refer to the *content* that is put forward for consideration in a form of words: see Geach (1965, 255, 259–60, 269), and compare his usual talk of “asserted” and “unasserted propositions” (e.g., at 256, 258–60, 263) with his mention of asserting “*what* is . . . put forward [for consideration]” in a form of words (255, emphasis added). He also remarks that “proposition” is a logical term, not a grammatical one, and that “different occurrences of what is the same sentence by grammatical criteria may be different propositions by logical criteria” (255–56); and while he insists on distinguishing “proposition” and “propositional content” (a term he says he would like to reserve “for a supposed realm of timeless abstract ‘intentional’ objects”), he does in fact speak of propositions in terms of “content” rather than “forms of words” (e.g. at 254–55, 259, 262, 263, 264).

²See Geach (1965, 257, 260, 262–63). Geach takes propositions to be the primary truth-bearers. A proposition may also be rejected as false, but this is to be conceived as a case of assertion, a case of “asserting the negation of a proposition” (Geach 1965, 260).

put forward a proposition for consideration without putting it forward as true (or rejecting it as false). Consider assertions of propositions of these two forms:

- (1) p .
- (2) If p , then q .

In both cases a proposition is asserted, put forward as true. In each case, of course, the proposition asserted is a different one. In (1) the speaker asserts that p . In (2) she asserts that if p , then q . Yet the proposition that p , which is asserted only in the first case, is in both cases put forward for consideration. In “asserting a hypothetical proposition” like the one in (2), says Geach,

the speaker is certainly putting forward the antecedent and consequent for consideration, so that they are undoubtedly propositions too, but he is of course not thus far stating or asserting them to be true. (Geach 1965, 257)

In more familiar terminology—which, though not Geach's own, we may usefully employ—unasserted propositions can be said to be “embedded” in the more complex propositions in which they occur.³ A disjunctive proposition, for example, embeds each of the disjuncts. In (2), accordingly, the proposition that p (itself unasserted) is embedded (as is the proposition that q , also unasserted) in the (asserted) proposition that if p , then q .

Not only is a proposition put forward for consideration “not *ipso facto* asserted”, it is also not “altered in content by being asserted” (Geach 1965, 255). This too is easy to show. From the conjunction of (1) and (2) it follows that q . It must therefore be the case that “ p ” has the same content in (1), where it is asserted, and in (2), where it is not; otherwise the inference would be invalid on grounds of equivocation. The Frege point,

³See Gibbard (1986, 475, 479–80). Geach speaks of an “unasserted clause” “within a sentence”, or “enclosed in the context of a longer sentence”: see Geach (1960, 253) and (1965, 261).

writes Geach (1965, 258), is thus “something we need to grasp in order to understand *modus ponens*”.

To grasp the Frege point is also to realise that “there is no expression in ordinary language that regularly conveys assertoric force” (Geach 1965, 258). It is true that sentences that have what Geach calls “assertoric form”—indicative sentences—can be read grammatically as assertions (262). In non-embedded contexts this grammatical feature may warrant a presumption that the speaker or writer is indeed making an assertion. But in embedded contexts that presumption is cancelled (261–62); indicative sentences in and of themselves carry no assertoric force. Nor does “the ‘is’ of predication” carry assertoric force. Though “a predicate is often explained as what is *asserted* of something in a proposition”, this way of talking, Geach says, is “ill advised and will certainly confuse people”; and the reason is again that “one and the same unambiguous predicate may occur now in an asserted proposition, now in an unasserted clause” (Geach 1965, 265; see also Geach 1960, 253).

2. Geach’s Target

Geach identifies two groups of theories advanced by “those who miss the Frege point” (Geach 1965, 259). One group, as one might expect, is that of “erroneous theories of assertion” (1965, 255).⁴ But he argues that the Frege point is equally “fatal to well-known philosophical views on certain other topics” (1965, 255). Geach has in mind what he calls “theories of non-descriptive performances” (1960, 252). He counts H. L. A. Hart’s ascriptivism as one of these theories, all “constructed on the same pattern”

⁴One example Geach discusses is P. F. Strawson’s view that the notion of a predicate can be explained—as Geach puts it—“as the term whose insertion in a proposition conveys assertoric force (in his [i.e. Strawson’s] own words: the term that is ‘introduced’ in ‘the assertive or propositional style’), and that “nonasserted occurrences of propositions are derivative or secondary”: see Geach (1965, 265–56) and Strawson (1959, 149).

(Geach 1965, 266). Theories of non-descriptive performances are theories “devised for a certain class of assertoric sentences” in which some term or predicate “of a philosophically exciting sort” occurs. Proponents of such theories hold that

predicating some term “*P*”—which is always taken to mean: predicating “*P*” assertorically—is not describing an object as being “*P*” but some other “performance”; and the contrary view is labelled “the Descriptive Fallacy”. (Geach 1965, 266)

Here is Geach’s “briefest statement” of some (actual) theories of this pattern. Hart’s is the third on the list:

To call a kind of act bad is not to characterize or describe that kind of act but to condemn it. To say a proposition is true is not to describe it but to confirm or concede it. To say “He hit her” is not to state what happened, but to ascribe the act to him as a matter of legal or moral responsibility; and such an ascription is a verdict, not a statement, about him. To say “That looks red” is not to describe how a thing looks but to assert tentatively that it is red. Or again, the difference between a set of statements of sensible appearance and a statement that there is now, for example, an orange on the mantelpiece is supposed to be illuminated by considering a difference between a jury’s accepting that all the evidence points to guilt and their actually delivering a verdict. To say “I know that *p*” is no statement about my own mental capacities, but is an act of warranting my hearer that *p*. (Geach 1965, 267)⁵

Geach does not provide a more precise description of the target of his critique, perhaps because he took his readers to be familiar with theories of this pattern. (He does not even *name* most of the philosophers whose views he is discussing, let alone give

⁵In Geach (1960, 251–52), where a similar, shorter list is given, he remarks that “it is really quite easy to devise theories on this pattern”, and ironically proposes a new one: “‘To call a man happy is not to characterize or describe his condition; macarizing a man’ (that is, calling him happy: the words “macarize” and “macarism” are in the O.E.D.) ‘is a special non-descriptive use of language’”.

references to their works.) But his characterisation of the pattern is unhelpfully equivocal; we need a clearer picture.

Geach says, as I noted, that each of those theories is “devised for a certain class of assertoric sentences” (1965, 267)—sentences like “This is bad”, “That is true”, “That looks red”, and so on—“in which [some term] ‘*P*’ is predicated of a thing” (1960, 253). By an “assertoric sentence” he means a sentence with “assertoric form”, a grammatically indicative sentence. And an assertoric sentence, he insists, can be used either “assertively” or “nonassertively as a clause within another sentence” (1960, 253). What is it to use an *assertoric* sentence *assertively*? It is, according to him, to assert the corresponding proposition. In other words, Geach seems to equate the notion of *using assertively a given assertoric sentence “S”* with the notion of *asserting that S*. He would draw no distinction, for example, between (3) and (4), which he would take to be equivalent ways of describing what a speaker does when putting forward for consideration as true the corresponding proposition:

- (3) A speaker uses assertively the sentence “Scarpia is cruel”.
- (4) A speaker asserts that Scarpia is cruel.

In order to fully grasp Geach’s own attack on theories of non-descriptive performances, however, we *will* need to draw a distinction between (3) and (4), and to make room for the possibility that what Geach calls the “assertive use” of an indicative sentence does not in fact amount to the assertion of the propositional content of that sentence. I can best convey this point by drawing your attention to another phrase that Geach employs to characterise one of the theories he criticises: J. L. Austin’s “corroboration theory of truth” (Geach 1960, 252–53). Geach writes that

Austin would maintain that if I say assertorically “I know Smith’s Vermeer is a forgery” this is not an asserted proposition about me,

but an act of warranting my hearers that the picture is a forgery.
(Geach 1965, 268)

What does “say assertorically” mean in this passage? It cannot mean “to assert” in Geach’s usual sense, for “to assert” means, as we saw, to put forward a proposition as true, and Austin denies that that is what a speaker is doing when she “says assertorically” “I know Smith’s Vermeer is a forgery”. As Geach himself points out, Austin’s claim is that “this is not an asserted proposition”. So what does “say assertorically” mean when applied, as it is here, to a sentence?

The answer is that it must mean to *utter* that sentence *in a non-embedded context*. Consider Austin’s actual claims. Geach is implicitly referring to Austin’s papers “Truth” (1950) and “Other Minds” (1946). Here Austin rejects the view—which Geach, as I noted,⁶ endorses—that the primary truth-bearers are propositions (Austin 1950, 118–21).⁷ In Austin’s view—and indeed, generally speaking, in the view of those “Oxford-trained” philosophers Geach criticises—it is statements, not propositions (or sentences), that can be true or false (120–21). And a statement—a notion for which the term “assertion”, Austin remarks, “will in most contexts do just as well”—is a particular utterance of a sentence by a speaker. It is a “sentence as used by a certain person on a certain occasion” (119).⁸

The converse, however, is not the case. Not all particular utterances of indicative sentences in non-embedded contexts are statements. In fact, one of Austin’s points is that we should

⁶See note 2.

⁷Not altogether dissimilarly from Geach, Austin takes the term “proposition” to refer to “the meaning or sense of a sentence or family of sentences”: see Austin (1950, 119).

⁸“Statements are made, words or sentences are used”, Austin (1950, 119–20) says: while “a sentence is made *up of* words, a statement is made *in words*”; “a statement is made and its making is an historic event, the utterance by a certain speaker or writer of certain words (a sentence) to an audience with reference to an historic situation”.

distinguish between statements and non-descriptive “performatory” (or “performative”) utterances of indicative sentences (Austin 1950, 131; Austin 1946, 103).⁹ So it is misleading to report Austin’s views by saying, as Geach does, that he was concerned with cases in which a speaker *says assertorically* “I know Smith’s Vermeer is a forgery”. Austin would have said, rather, that the utterance of that sentence in a non-embedded context is *not* properly characterised as the making of a statement, as the act of asserting anything. He would have denied that (3) and (4) are equivalent descriptions.

We should therefore improve on Geach’s characterisation of his own target, and say, more clearly, that theories of non-descriptive performances are concerned with utterances in non-embedded contexts of some subclass of grammatically indicative sentences in which certain predicates occur. What each such theory maintains, then, is that for the particular subclass of indicative sentences *S* with which it is concerned, when a speaker utters a token sentence *S* in non-embedded contexts she is characteristically performing a non-descriptive action of some kind—an action not properly characterised as putting forward some proposition as true, describing some object, making a statement, or asserting anything.

Another element in need of clarification is the notion of the “descriptive fallacy”. Geach’s formulation (in the passage quoted at the beginning of this section) suggests that the charge of having committed this supposed fallacy is directed, by non-descriptivist theorists, against anyone who ignores or rejects the contrast between statements and performative utterances. But this too conveys the wrong idea. The expression “descriptive fallacy” is again Austin’s. Austin held, as I noted, that it is statements, not propositions, that can be true or false. He also held that whether an utterance of an indicative sentence in a

⁹Austin came later to prefer the term “performative” to “performatory”: see Austin (1975, 6n3).

non-embedded context is a statement is something that cannot be ascertained solely on the basis of the sentence’s grammatical form:

[M]any utterances which have been taken to be statements (merely because they are not, on grounds of grammatical form, to be classified as commands, questions, etc.) are not in fact descriptive, nor susceptible of being true or false. (Austin 1950, 131)

But if not all utterances of indicative sentences in non-embedded contexts are assertions, then it can be deceptive, Austin thought, to use the term “proposition” in its traditional sense. As he remarks (Austin 1950, 118–19), the ordinary use of the term “proposition” in philosophy is to refer to the content of sentences independently of the context of utterance. The danger then is that under the putative “principle of Logic, that ‘Every proposition must be true or false’”, “philosophers and grammarians” be led to speak of “true” and “false” propositions even in cases where the utterance is clearly *not* descriptive (Austin 1950, 131). The danger, in other words, is that both descriptive and non-descriptive uses of indicative sentences end up “lumped together under the term of art ‘proposition’”, and are consequently characterised (or rather mischaracterised) in terms of a single, common model: the model of descriptive utterances.¹⁰ That, then, is the descriptive fallacy: the erroneous assumption that any utterance of an indicative sentence in a non-embedded context is to be explained in accordance with the theoretical model of statements, of assertions—of descriptions. Here is Austin on the issue:

To suppose that ‘I know’ is a descriptive phrase is only one example of the *descriptive fallacy*, so common in philosophy. Even if some language is now purely descriptive, language was not in origin, and much of it is still not so. Utterance of obvious ritual phrases,

¹⁰Austin (1950, 131) speaks of “the model of the statement that [for example] a certain thing is red, as made when the thing concerned is currently under observation”.

in the appropriate circumstances, is not *describing* the action we are doing, but *doing* it ('I do') . . . (Austin 1946, 103)

The fallacy, in short, is to mistake the utterance of an indicative sentence in non-embedded contexts for an assertion.

3. Geach's Challenge

The preceding clarifications will help us to assess Geach's critique of theories of non-descriptive performances. He is right that *some* flaw does affect theories of this pattern. In "Assertion" he concentrates on what he calls the "act-of-condemnation theory"—one among several possible non-descriptivist theories he might have picked for discussion—and its account of the predicate "bad" (Geach 1965, 269). This is an allusion to R. M. Hare's prescriptivism (though perhaps Hare's view would more aptly be called an "act-of-commendation" theory, and discussed in connection with the predicate "good": see Hare 1952, 79–150).

Act-of-condemnation theorists hold that "to call a kind of act bad is not to characterise or describe that kind of act but to condemn it."¹¹ Why can't that be right? In "all the kinds of cases" discussed by non-descriptivist theories, as Geach (1965, 267) stresses, "the very same sentence can occur in an 'if' clause". Take, for example,

- (5) If tormenting the cat is bad, getting your little brother to torment the cat is bad.¹²

Now consider a case in which (5) and (6) are "teamed up as premises for a *modus ponens*" (Geach 1965, 268):

- (5) If tormenting the cat is bad, getting your little brother to torment the cat is bad.
(6) Tormenting the cat is bad.

¹¹See the quotation accompanying note 5 above.

¹²This is Geach's example, slightly modified for convenience of exposition: see Geach (1965, 268).

- (7) Therefore, getting your little brother to torment the cat is bad.

Act-of-condemnation theorists, says Geach, are unable to account for the validity of this argument. Because they hold both that to call a kind of act bad is not to "describe that kind of act but to condemn it", they will say that when a speaker utters "Tormenting the cat is bad" in non-embedded contexts—as in (6)—there will be "no question . . . of truth or falsehood" at all (Geach 1960, 250). But then how can "Tormenting the cat is bad" function as a premise in what appears to be a clear instance of truth-functional *modus ponens*? How can an *act* of condemnation "function as a premise obeying ordinary logical rules in inferences" (Geach 1965, 268)? The non-descriptivist theorist's view that "a sentence can have a truth value assigned to it only in that it is 'used to make a statement' in a given context" seems to be incompatible with "the very idea of truth-functional logic" (Geach 1965, 258).

More importantly even,¹³ how can act-of-condemnation theorists explain that in the argument from (5) and (6) to (7), "'bad' should mean exactly the same in all four occurrences"? How can they explain "the fourfold unequivocal occurrence of 'bad' ", which is the "whole nerve of the reasoning" (Geach 1965, 268)? Note that the act-of-condemnation theorist's main purpose is indeed to offer an account of the meaning of "bad". The act-of-condemnation theory belongs to a class of theories that endeavoured, as Hare (1970, 3) himself put it, "to explain the meanings of certain words in terms of the speech acts which those words (or sentences containing them) are standardly used to perform". According to these theories,

the meaning of a certain word can be explained, or partly explained, by saying that, when incorporated in an appropriate sen-

¹³Geach does grant that Hare has "argue[d] forcibly that there is a logic of imperatives, although imperatives are not propositions" (Geach 1965, 269).

tence in an appropriate place, it gives to that whole sentence the property that an utterance of it would be, in the appropriate context, a performance of a certain kind of speech act . . . [T]o say this is to say something (not necessarily everything) about the meaning of the word [at stake.] (Hare 1970, 4)

The act-of-condemnation theorist would thus explain the meaning of “bad” in (6)—the second premise of our argument above—in terms of its condemnatory use, given that the characteristic (non-descriptive) speech act that is standardly associated with the use of that term is that of condemning something.¹⁴ But such a theory cannot account for embedded occurrences of “bad”. A speaker who utters “If tormenting the cat is bad, getting your little brother to torment the cat is bad”—the first premise in the argument—is not thereby condemning the action of tormenting the cat. The two occurrences of “bad” in the argument, however, must “have the same meaning if the *modus ponens* is not to be vitiated” (Geach 1965, 268). It follows that act-of-condemnation accounts of the meaning of “bad”, and theories of non-descriptive performances more generally, are wrong.

This is the “radical flaw” that Geach (1960, 252) attributes to such theories. It stems, he says, from their failure to distinguish predication from assertion, propositional *content* from assertoric *force*, in violation of the Frege point:

What is being attempted [by theories of non-descriptive performances] in each case is to account for the use of a term “*P*” concerning a thing as being a performance of some other nature than describing the thing. But what is regularly ignored is the distinction between calling a thing “*P*” and predicating “*P*” of a thing. A term “*P*” may be predicated of a thing in an *if* or *then* clause, or in a clause of a disjunctive proposition, without the thing’s being thereby called “*P*” . . . In order that the use of a sentence in

¹⁴As the quotation makes plain, Hare was careful to remark that speech act accounts may only “partly” explain the meaning of certain words (speech act accounts tells us something but “not necessarily everything” about the meaning of the word), which makes room for hybrid views.

which “*P*” is predicated of a thing may count as an act of calling the thing “*P*” the sentence must be used assertively. And this is something quite distinct from the predication, for, as we have remarked, “*P*” may still be predicated of the thing even in a sentence used nonassertively as a clause within another sentence. Hence, calling a thing “*P*” has to be explained in terms of predicating “*P*” of the thing, not the other way round. For example, condemning a thing *by calling it bad* has to be *explained through* the more general notion of predicating “*bad*” of a thing—and such predication may be done without any condemnation. (Geach 1960, 252–53)

This objection suffices, Geach claims, “to refute the act-of-condemnation theory” (1965, 269)—and, with it, all theories of non-descriptive performances.

It is worth noting that more or less around the same time, a similar objection was raised by John Searle against philosophers of the “classical period of linguistic analysis”—the same authors whose views Geach was criticising.¹⁵ These philosophers had taken statements of the form “The word *W* is used to perform speech act *A*” as “(at least partial) explications of the meanings of the words”, and as a consequence, says Searle, their analyses failed to accommodate “the fact that that same word (or morpheme) can mean the same thing in all the grammatically different kinds of sentences in which it can occur” (Searle 1969, 137). Because of their narrow focus on “a few very simple examples” of “standard [present tense, categorical] indicative sentences” (“of the form, e.g., ‘*X is W*’”) “in the utterance of which the [speech act] is performed”, those philosophers’ accounts failed to meet an obvious “condition of adequacy which any analysis of the meaning of a word must meet”: that it “holds true of all literal occurrences of the word where it has literal meaning” (1969, 137–40, 145–47). But speech act analysis of words

¹⁵See Searle (1969, 131, 136–41). The argument was first made in Searle (1962). See also the discussion of “fruitless” attempts “to correlate a use of the word [‘good’] with a particular act” in Ziff (1960, 227–30), and Geach’s own remarks in Geach (1958, 274–75), where the Frege point is adumbrated.

like “good”, “true”, or “probable”—all examples of words with which those philosophers had been concerned—cannot explain their occurrences “in many kinds of sentences which are not simple present tense indicative sentences” (such as “interrogatives, indicatives, conditionals, negations, disjunctions, optatives, etc.”) where nonetheless they carry the same meaning (Searle 1969, 137–40). While it may be true that “*calling* something good”, for example, is indeed “characteristically praising or commending or recommending it, etc.”, it is a fallacy—Searle calls it the “speech act fallacy”—to infer “that the meaning of ‘good’ is explained by saying it is used to perform the act of commendation” (1969, 136–39).

Searle’s point, then, coincides with Geach’s. Like Geach, he denounces the conflation of meaning—in the sense of truth-conditional propositional content—and use—in the “sense of the illocutionary force of the utterance of sentences”, which would encompass Geach’s “assertoric force” (Searle 1969, 148). And he emphasises, again like Geach, that this is “not just a point about the word ‘good’”, but “a completely general point about a pattern of analysis in philosophy” (1969, 139–40).

4. Non-Descriptivism and Speech Act Theory

Is Geach’s point fatal for theories of non-descriptive performances? And is H. L. A. Hart’s ascriptivism, in particular, thereby refuted?

Let us distinguish between two kinds of claim that can be put forth relative to any given class of grammatically indicative sentences *S* in which some predicate “*P*” occurs:

- (8*) When uttering a token of *S* in non-embedded contexts a speaker is not describing an object as being *P*.
- (9) When uttering a token of *S* in non-embedded contexts a speaker is characteristically performing some non-descriptive speech act *A*.

Geach supposes that theories of non-descriptive performances are committed, with regard to their chosen predicates, to claims of these two kinds. He characterises them, as we have seen, as theories

to the effect that predicating some term “*P*”—which is always taken to mean: predicating “*P*” assertorically—is not describing an object as being *P* but some other performance. (Geach 1965, 266)

My formulation of (8*) is lifted from this very passage. Geach’s supposition, however, is unwarranted. Not only is the endorsement of a claim like (8*) no essential part of those theories, but claims of both kinds are fully independent; and neither is quite the kind of claim that Geach’s arguments are capable of refuting—or so I will argue.

Why would Geach attribute to his opponents a commitment to a claim like (8*)? The excerpt just quoted suggests that non-descriptivist theorists hold that if a claim like (9) is correct relative to some predicate “*P*”, then the corresponding (8*) claim will also be correct. But that is a view that those theorists do not necessarily hold, and sometimes expressly reject. Austin, for example, in one of the articles with which Geach is concerned, writes that

to say that [it is true that the cat is on the mat¹⁶] ‘is’ very often, and according to the all-important linguistic occasion, to confirm [the statement that the cat is on the mat] or to grant it or what not; but this cannot show that to say that [it is true that the cat is on the mat] is not also and at the same time to make an assertion about [the statement that the cat is on the mat]. To say that I believe you ‘is’ on occasion to accept your statement; but it is also to make an assertion, which is not made by the strictly performatory utterance ‘I accept your statement’. It is common for quite ordinary statements to have a performatory ‘aspect’: to say that you are a cuckold may be to insult you, but it is also and at the same time to make a statement which is true or false. (Austin 1950, 133)

¹⁶See Austin’s abbreviations in Austin (1950, 123n4).

The non-descriptivist claim, in other words, is not that predicates or sentences characteristically used to perform some non-descriptive speech act cannot also be—or are not also being—used descriptively. The claim is rather that the meaning of such predicates or sentences cannot be accounted for on the “model” of descriptive utterances or sentences.¹⁷ So let us rectify Geach’s rendition of this kind of claim—(8*)—and contrast it anew with (9). Again, these are two kinds of claim that can be put forth relative to some class of grammatically indicative sentences *S* in which some predicate “*P*” occurs:

- (8) The meaning of *S* cannot be accounted for on the theoretical model of descriptive utterances.
- (9) When uttering a token of *S* in non-embedded contexts a speaker is characteristically performing some non-descriptive speech act *A*.

Now each of Geach’s opponents did maintain, in connection with some particular predicate or set of predicates (“that is true”, “this is bad”, “He did it”, and so on), claims of both these kinds. But how are the two kinds related? Geach seems to think that non-descriptivist claims proper, as articulated in (8), are non-contingently connected with theories of non-descriptive performances, whose typical claims will be claims like (9). As we will now see, however, the two kinds are mutually independent.

The adoption of the non-descriptivist stance relative to some given predicate or sentence might be motivated by considerations of various sorts. Metaphysical considerations, for instance: when comparing utterances of “this is red” and “this is bad” (to go on employing the familiar examples), one may reasonably be reluctant to treat the latter (as contrasted with the former) as a truth-evaluable statement purporting to describe or represent some fact. One may accordingly hypothesise (depending on one’s theory of truth) that sentences like “this is bad” are not

¹⁷See the text accompanying note 10 above.

truth-evaluable, and so that perhaps they ought not to be understood along the same lines—in terms of the same “model”—as “descriptive” sentences like “this is red”.¹⁸ Similar doubts might emerge regarding other characteristic predicates of normative or evaluative discourse: “good”, “right”, “wrong”, and so on. I am simplifying things immensely, of course.¹⁹ But the point is that there may be reason to resist, at least provisionally, treating some indicative sentences, their grammatical make-up notwithstanding, as truth-evaluable, and to support in connection with them a claim like (8).²⁰

That, however, would be a merely negative stance. It would require supplementation with some positive account of the meaning of the predicates at stake. Those philosophers criticised by Geach had sought to provide accounts of such predicates in terms of the speech acts performed by their utterance in non-embedded contexts. So they focused on claims like (9). But alternative accounts of the relevant predicates may be devised that do not rely on, or apply, any variety of speech act theory.²¹ Speech act theory is not the only conceivable way of going about developing a theory of meaning that positively supports non-descriptivism in any given domain.²² No claim like (8), then, entails or even suggests a corresponding claim like (9).

¹⁸Indeed Austin took the “model ‘This is red’ ” to “break down” with regard to putative “statements” which are “not of a nature to correspond to facts at all”: see Austin (1950, 132).

¹⁹For some introductory developments, see Urmson (1968, 12–23), Blackburn (1984, 167–71), Schroeder (2010, 4–15), and Miller (2013, 3–6).

²⁰Other theoretical options would of course be available. One might hold, for example, that sentences such as “this is bad” or “ ϕ -ing is wrong” are indeed truth-evaluable, albeit necessarily false, or that the “model of descriptive sentences” is inadequate across the board, and that a unitary, non-truthconditional account is needed for “descriptive” sentences such as “This is red” as well as for “This is bad”.

²¹Think, for example, of early emotivist accounts: see e.g., Schroeder (2010, 21–26).

²²See Kölbel (1997, 3–8), Schroeder (2008a, 4ff., 19ff.), and Schroeder (2010, 74–76, 107), contrasting the earlier speech-act-oriented views with post-1970s expressivist views.

As to claims like (9), they are not philosophical claims. They are empirical claims—albeit couched in a specific theoretical jargon, and informed by a particular theoretical approach—about things speakers do when uttering sentences of a certain type in appropriate contexts. And of course no claim like (9) about a given predicate “*P*” commits its endorser to defending, relative to “*P*”, a claim like (8). The endorser of a claim like (9) with regard to the predicate “bad”, for example, is not thereby bound to hold that the meaning of sentences of the form “*X* is bad” cannot be fully accounted for on the model of descriptive sentences.

Whether someone who endorses a claim like (9) will also endorse the corresponding (8)-type claim is something that will turn on whether one’s theory of speech acts includes the further thesis that

(10) For the same interpretation of “*S*”, (8) follows from (9).

Yet even if those non-descriptivist theorists criticised by Geach did all endorse claims like (10) as part of their general views on speech acts, the distinction between (8), (9), and (10) is paramount for our assessment of Geach’s criticism. Note that Geach does not oppose any particular type-(9) claim. He is not specifically concerned with any of the particular predicates in which non-descriptivist theorists may happen to be interested. His point is not a point in metaethics, epistemology, or the philosophy of action. He does not question, and indeed might be willing to concede (see Geach 1965, 269), that characteristically, a speaker who utters “this is bad” in non-embedded contexts *is* condemning some object as bad. What he does deny is that this constitutes a proper basis on which to ground an account of the meaning of “bad”, because he denies that predication is to be explained in terms of assertion. This is a point in philosophical logic and the philosophy of language. Thus his point is also not put forward—not directly—against any claim of kind (8). It is

put forward against the conflation of propositional content and assertoric force that underlies those theorists’ endorsement of a thesis like (10).

Of course, those philosophers whose views Geach and Searle were discussing might have disputed the soundness of this attack, insisting that (10) is indeed correct. They could have rejected Geach’s and Searle’s proposed distinction of content and force. They could have denied that Searle’s “speech act fallacy” is indeed a fallacy.²³ But how essential is (10) to non-descriptivist views like (8)? Is Geach’s point a threat to non-descriptivist theories in general?

As will be apparent by now, the answer is negative. The theorist who rejects (10) is not thereby bound to deny any claim like (9).²⁴ Nor is she prevented from endorsing a claim like (8). A refutation of (10) does not amount to a refutation of any claim like (8); it amounts only to a refutation of one conceivable argument for a claim like (8).

Those philosophers targeted by Geach and Searle may have come to defend their (8)-type claims by virtue of their commitment to the conjunction of (9) and (10). If one is primarily a speech act theorist, concerned with a claim like (9), then if one is additionally committed to (10) one will be led to defend the corresponding non-descriptivist (8)-type claim. In that case, if one comes to abandon (10), then one will abandon one’s (8)-type claim as well. But it may also be that one’s reasons for trying to substantiate a non-descriptivist thesis with regard to some given predicate have nothing specifically to do with speech act theory

²³For discussion, see Urmson (1968, 130–46), Warnock (1971, 80–84), and Hurka (1982). Specifically on the effectiveness of Geach’s point against Austin’s 1946 views, see Baz (2010).

²⁴It is true, though, that, as Geach (1965, 269) notes, claims like (9) per se are fairly dull: “[O]f course an *asserted* proposition in which ‘bad’ is predicated may be *called* an act of condemnation”, he writes; but “this is of no philosophical interest; for then being an act of condemnation is nothing that can be put forward as an *alternative* to being a proposition”.

or with claims like (9) or (10). For as we have seen there are different reasons one may come to endorse a non-descriptivist thesis like (8) with regard to some philosophically interesting predicate “*P*”. And in that case, if the theorist happens *also* to endorse (10), then if some claim like (9) is plausible in connection with “*P*”, she may come to believe that a speech-act-theoretical account may be given that positively substantiates her non-descriptivist hypothesis. But if Geach’s and Searle’s objections then convince her that her commitment to (10) was ill-founded, and that the distinction between content and force is a sound distinction to draw, she may remain committed to her non-descriptivist hypothesis; it’s just that she will have to substantiate it in some other way. I can perhaps express this more simply by saying that in the first case the theorist defends (8) *because* she defends (9) and (10); and that in the second case the theorist defends (9) and (10) *because* she defends (8). The first “because”, however, is the “because” of implication, while the second is the “because” of motivation.²⁵

So Geach’s original point has no independent bite against claims like (8). Whether his point will force the non-descriptivist theorist to retract her (8)-type claims is something that ultimately turns on a lateral and nonphilosophical aspect. It turns on how central the non-descriptivist claim is to her theory, and on the motivation that leads her to endorse it.²⁶

²⁵Austin’s account of “true”, for example, arguably belongs in the first set of cases: his reasons for defending the corresponding (8)-type claims appear to have derived from his speech-act-theoretical commitments. Hare’s prescriptivism too may be seen as an application to moral discourse of his more general views on meaning and speech acts. But it would also be plausible to place Hare instead in the longer tradition of those philosophers who have sought to substantiate an independently formed commitment to (8)-type claims in connection to the characteristic predicates of moral discourse.

²⁶To be sure, any theory meant to substantiate a claim like (8) must be able to account for occurrences of its analysanda in embedded contexts. This metatheoretical constraint lies at the core of the problem known in contemporary metaethics as the “Frege-Geach” problem (and also, though less of-

5. Hart’s *Sui Generis* Non-Descriptivist Claim

What then of Hart’s ascriptivism—the theory against which Geach’s original rendition of the Frege point was ostensibly directed?²⁷

Let us put it in its fuller context. Hart’s claim was that

the concept of a human action is an ascriptive and defeasible one, and that many philosophical difficulties come from ignoring this and searching for its necessary and sufficient conditions. The sentences “I did it”, “you did it”, “he did it” are . . . primarily utterances with which we *confess* or *admit* liability, make accusations, or *ascribe* responsibility[.] (Hart 1949, 187)

He presents this as a thesis about the “concept of a human action”, but what concerned him was what he took to be a peculiarity of our “usage of verbs of action” (192); his focus was on simple sentences in the past tense in which a verb of action ϕ is used to say of some person *X* that she ϕ -ed. How did the argument run? Suppose that on the strength of some facts that we observe we say that “Smith hit her” (193–94). But then we learn, for example, that the hitting was accidental (“she got in his way while he was hammering in a nail”), or that it was done in self-defence (“she was about to hit him with a hammer”), or that Smith was “forced . . . by a bully”, or that Smith is mad (190–91). These are, Hart says (192), defeating circumstances—“defences”—that

ten, as the “Frege-Geach-Searle” problem), which is a version of Geach’s original challenge (rather than a version of what Geach called “the Frege point”) that no longer specifically targets speech-act-theoretical defences of non-descriptivism. See, for developments, Blackburn (1984, 189–96), Sinnott-Armstrong (2000, 680–83), Miller (2013, 37–39), Schroeder (2008a, 19–22), (2008b), (2010, 105–23), and van Roojen (2013).

²⁷In fact, it was Geach who coined the term “ascriptivism”—which is how Hart’s view came to be known—to refer to philosophers who “have resorted to denying that to call an act voluntary, intentional, and so forth, is any sort of causal statement, or indeed any statement at all”. The reference is to Hart’s essay, though again neither the essay nor its author is mentioned by name: see Geach (1960, 250).

would lead us to retract our initial judgment. We would now refuse to say “He did it”, at least without further qualification. Yet the initial facts—the actual hitting—remain unchallenged. This shows, thinks Hart (186), that our initial judgment was no mere description of those initial facts: otherwise why would we want to retract it? Rather, our judgment was an “ascription of liability justified by the facts” (190).

Hart’s views on action and responsibility face many objections, but these are not my present concern.²⁸ What interests me now is that Hart’s argument is based on what he calls the “defeasible” character of judgments of the form “X ϕ -ed”. Defeasibility, in turn, is originally a legal notion. Hart illustrates it with the example of a contract:

When the student has learnt that in English law there are positive conditions required for the existence of a valid contract, *i.e.*, at least two *parties*, an *offer* by one, *acceptance* by the other, a *memorandum* in writing in some cases and *consideration*, his understanding of the legal concept of a contract is still incomplete . . . For these conditions, although necessary, are not always sufficient and he has still

²⁸The immediate rejoinder, pressed by many critics, is that Hart’s main example of a man hitting a woman is misleading. It illustrates, as Pitcher (1960, 226) says, a “wrongful, or at least apparently wrongful action—that of a man hitting a woman”. As regards “hundreds of our voluntary or intentional acts”, however, as Geach (1960, 251) also points out, “[a]scribing an action to an agent just does not in general mean taking up a quasi-legal or quasi-moral attitude, and only a bad choice of examples could make one think otherwise.” This line of criticism has been iterated or expanded, for example, in Baier (1951, 190–91), Yolton (1957, 307–310), Stoljar (1959, 356), Chisholm (1964, 614), Ladd (1965, 636), Holdcroft (1969, 324–29), Baier (1970, 112–13), Feinberg (1965, 124), Helm (1971, 428), Rayfield (1971, 40–45), Cherry (1974, 104), Howarth (1981, 34), White (1985, 32–33), Bayles (1992, 231–32), Loui (1995, 25), Finkelstein (2005, 582–83), and Stoecker (2007, 39–41). Hart’s views have also inspired various attempts at reconstructing what Paprzycka (2014, 323–24, 330–36) calls “responsibilist” accounts of action: accounts that treat the notion of responsibility, in some carefully defined sense, as explanatorily prior to that of an action. For more or less systematic discussions along such lines, some of which in explicit “neo-ascriptivist” vein, see for example, Rayfield (1971, 39–58), Coval (1986, 1–26), Stoecker (2007), and Denaro (2012).

to learn what can *defeat* a claim that there is a valid contract, even though all these conditions are satisfied. That is, the student has still to learn what can follow on the word “unless” which should accompany the statement of these conditions. This characteristic of legal concepts is one for which no word exists in ordinary English. The words “conditional” and “negative” have the wrong implications, but the law has a word which with some hesitation I borrow and extend: this is the word “*defeasible*” used of a legal interest in property which is subject to termination or “*defeat*” in a number of different contingencies but remains intact if no such contingencies mature. In this sense then, contract is a defeasible concept. (Hart 1949, 174–75)

Those “positive” conditions, “although necessary, are not always sufficient”: they are sufficient only if no defeating circumstance matures. It follows, Hart argues (174), that we cannot “define a legal concept . . . such as ‘contract’ by specifying the necessary and sufficient conditions for its application”.

Why does it matter that Hart’s views on action are grounded on the supposed defeasibility of judgments that someone ϕ -ed? We can spell out three claims—one of each of the kinds, (8), (9), and (10), presented in the previous section—that Hart specifically endorses, in seemingly typical non-descriptivist fashion. First, he maintains (see Hart 1949, 171, 183) that

(8A*) The meaning of sentences of the form “X ϕ -ed” (“He did it”) cannot be accounted for on the theoretical model of descriptive utterances.

Hart’s reference to the “theoretical model” of descriptive utterances may put us in mind of Austin’s similar-sounding claims.²⁹ Crucially, however, Hart takes (8A*) to mean the same as

(8A**) The meaning of sentences of the form “X ϕ -ed” (“He did it”) cannot be accounted for by specifying necessary and sufficient conditions (for the appropriate unquali-

²⁹See the text accompanying note 10 above.

fied utterance of “X ϕ -ed”).³⁰

In other words, Hart *runs together* the notion that a concept like action (or contract) is a “descriptive concept”, and the notion that that concept is definable through a set of necessary and sufficient conditions.³¹ Whether this conflation of (8A*) and (8A**) is warranted need also not concern us; the point now is that Hart fails to distinguish between the two. We can thus render his actual (8)-type claim as follows:

(8A) The meaning of sentences of the form “X ϕ -ed” (“He did it”) cannot be accounted for on the theoretical model of descriptive utterances (that is, by specifying necessary and sufficient conditions for the appropriate unqualified utterance of “X ϕ -ed”).

³⁰See especially Hart (1949, 182–83). Hart is much less rigorous than Austin. He employs the adjectives “descriptive” and “non-descriptive” in connection with “sentences” (1949, 171, 171, 184, 189, 190), “statements” (182, 183, 184, 186), “uses” (185, 188, 189), “senses” (187), “concepts” (188, 189, 191, 193), and “utterances” (189). He also speaks indifferently of the “theoretical model of descriptive sentences” (171–72) and of the “theoretical model of a descriptive statement” (183).

³¹See Hart (1949, 191), where he discusses the view that the admissible defences to “He did it” are “just so many signs of the absence in each case of a common psychological element . . . required in a ‘full’ definition of action, *i.e.*, as one of its necessary and sufficient conditions, and that the concept is a descriptive concept after all”; or (1949, 193), where he refers to the thesis that “‘action’ is a descriptive concept definable through a set of necessary and sufficient conditions”; and also, with regard to legal concepts, (1949, 182–83), where Hart describes attempts to define legal concepts like contract in terms of necessary and sufficient conditions as “attempt[s] to assimilate a judicial decision to a theoretical model of a descriptive statement”. See also Hart (1953, 31) for an explicit identification of the “traditional method of definition” in terms of “genus and differentia” as the apt method for the definition of words whose “primary function” is to “stand for or describe” something: definition *per genus et differentiam* “is particularly appropriate where the words have the straightforward function of standing for some kind of thing, quality, person, process, or event”; and compare Hart (1957, 960–61), and Hart (2012/1961, 13–17, 279).

We can also attribute to him the following (9)-type and (10)-type theses:

(9A) When uttering a token of “X ϕ -ed” in non-embedded contexts a speaker is characteristically (performing the non-descriptive speech act of) ascribing responsibility to X (see Hart 1949, 171–72).

(10A) For the same interpretation of “ ϕ ”, (8A) follows from (9A).³²

Hart would later come to reject (10A); he would come to accept the distinction between propositional content and illocutionary force (Hart 1983, 4–5). He also disowned his ascriptivist views more generally, citing Geach’s critique.³³ But how central to Hart’s project was his commitment to (9A)? Was his endorsement of (8A) a consequence of his speech-act-theoretical views? Or was it grounded on independent reasons?

I noted that Hart’s claims on action are modelled on his views on legal concepts: (8A) is the analogue of a thesis that holds (or so he thinks) in legal domain. How is that thesis—(8L), as we might call it—to be stated? It is evidently a claim meant to apply only to *some* legal concepts, namely to “defeasible” ones,

³²See e.g., Hart (1949, 171): “[T]he philosophical analysis of the concept of a human action has been inadequate and confusing, at least in part *because* sentences of the form ‘He did it’ have been traditionally regarded as primarily descriptive [with the consequence that the ‘theoretical model of descriptive sentences’ has been mistakenly supposed to be applicable to them: 171–72 and *passim*] whereas their principal function is what I venture to call *ascriptive*”, etc. (my emphasis).

³³Geach’s “Ascriptivism” is one of two critical essays mentioned by Hart (2008/1968, v) when he explains his decision not to reprint his early paper; the other essay is Pitcher (1960). In an interview held in 1988, Hart also says the following about his early paper: “There were some things which were quite useful and true in it, but I think there was a central mistake. I claimed that a statement that a person has done an action is not a description but an ascription—let’s say, a way of saying it’s your responsibility. And I think that’s wrong”; see Sugarman (2005, 276).

in connection with which Hart finds it “absurd” to use “the language of necessary and sufficient conditions” (Hart 1949, 173). So (8L) would read more or less along the following lines (see Hart 1949, 173, 175n2, 189):

(8L) The meaning of defeasible legal concepts (or concept-terms: “contract”, “trespass”, etc.) cannot be accounted for on the theoretical model of descriptive utterances (that is, by specifying necessary and sufficient conditions for the application of those concepts).

Hart does not merely treat (8L) and (8A) as analogous claims; he also thinks that it is by considering (8L) that the import of (8A) can best be grasped.³⁴ His reason or argument for rejecting the theoretical model of descriptive utterances must therefore be the same in both cases. But there is in Hart’s essay no analogue of (9A) for the case of defeasible legal concepts. In the legal domain his focus is on judicial decisions, and the suggestion is never made that the linguistic sentences, predicates, and terms in which judicial verdicts may happen to be formulated are *ipso facto* associated with any non-descriptive use of language.³⁵ Thus whatever Hart’s argument may be in support of his non-descriptivist view of defeasible legal concepts in (8L), it must

³⁴See Hart (1949, 171–72): “[T]he logical peculiarities which distinguish these kinds of sentences [that is, ‘ascriptive’ sentences of the form ‘He did it’] from descriptive sentences or rather from the theoretical model of descriptive sentences with which philosophers often work can best be grasped by considering certain characteristics [viz., defeasibility] of legal concepts, as these appear in the practice and procedure of the law”.

³⁵What Hart does hold is that non-descriptive uses of language have prototypical legal instances—not in judicial verdicts, but in those “simple indicative sentences in which the possessive terms ‘mine’, ‘yours’, ‘his’ appear as grammatical predicates”, by the utterance of which “we often do not describe but actually perform or effect a transaction”, and “for which lawyers have coined the expression ‘operative words’ and Mr. J. L. Austin the word ‘performatory’”: see Hart (1949, 185); and compare Hart (1957, 962), as well as Austin’s acknowledgment (in Austin 1975, 7n1).

be independent of any view on speech-act-theoretical matters. And that argument must be meant similarly to hold for (8A); that is the very point of the analogy.

What then is this single, overarching argument supporting his two non-descriptivist claims, (8A) and (8L)? It is his argument from defeasibility: his argument for the more general thesis, of which (8A) and (9A) are both instances, that defeasible concepts—legal or otherwise—cannot be defined or accounted for in terms of a set of necessary and sufficient conditions. So there is no reason that Hart’s retraction of (10A) should undermine his commitment to (8A). His endorsement of (8A) did not rest on the conjunction of (9A) and (10A).

Hart’s remarks on speech acts in his 1949 essay, in fact, are likely to strike careful readers as argumentatively inert. His claims on the non-descriptive uses of sentences of the form “X ϕ -ed” are only superficially similar to those characteristic (9)-type claims that more sophisticated ordinary language philosophers of that period used to put forth. As we saw in section 4, these philosophers concentrated on certain non-descriptive speech acts that they took to be non-contingently associated to the utterance of certain terms and predicates in indicative sentences in non-embedded contexts. It was the non-contingent character of this connection that made it philosophically interesting (see Searle 1969, 150–53). They also maintained, given their commitment to claims like (10), that the non-descriptive use of those terms was their primary use, in the sense that an explanation of the meaning of any literal occurrence of such terms had to be given in terms of it (see Geach 1965, 266; Searle 1969, 138).

Yet the truth is that Hart holds no views of this sort. He does focus on certain indicative sentences (like “He did it”), but despite the way in which he sometimes expresses himself, it cannot really be his view that there are certain non-descriptive speech acts that happen to be non-contingently associated with such sentences. Consider what he says about the parallel case

of “simple indicative sentences” like “This is mine”, “This is yours”, “This is his”, in which, as he says, “the possessive terms ‘mine’, ‘yours’, ‘his’ appear as grammatical predicates”:

By the utterance of these sentences, especially in the present tense, we often do not describe but actually perform or effect a transaction; with them we *claim* proprietary rights, *confer* or *transfer* such rights when they are claimed, *recognise* such rights or *ascribe* such rights whether claimed or not. (Hart 1949, 185)

This remark—which sounds true, or true enough—is not meant to track any actual primary uses of those words and sentences, in the relevant sense of the term “primary”: uses that are explanatorily basic in a philosophical account of the meaning of such words. That “‘This is yours’ said by a father handing over his gold watch to his son normally effects the transfer of the father’s rights in the watch to the son” (Hart 1949, 185) establishes no non-contingent connection between the use of the possessive pronoun and the performance of such a gift-making transaction. Hart himself notes that these sentences have “a variety of other uses not altogether easy to disentangle” from the “operative” one, including a “pure descriptive use”:

[S]entences like “this is mine”, “this is yours”, “this is his” can be used simply as descriptive statements to describe things by reference to their owners. Taking visitors round my estate, I say, pointing to a field, “This is mine” or “I own this” purely by way of information. (Hart 1949, 186)

The same holds for his claims on action and responsibility. Though insisting, again in seemingly orthodox “ordinary language” mode, that “The sentences ‘I did it’, ‘You did it’, ‘He did it’” are “primarily utterances with which we *confess* or *admit* liability, make accusations, or *ascribe* responsibility”, Hart also writes that

the verb “to do” and generally speaking the verbs of action have an important descriptive use, especially in the present and future

senses, their ascriptive use being mainly in the past tense . . . Indeed, the descriptive use of verbs of action is so important as to obscure even more in their case than in the case of “this is yours”, “this is his”, etc., the non-descriptive use. (Hart 1949, 188)

No actual non-descriptivist claim about the meaning of the sentences at stake can plausibly be launched from such remarks, nor do Hart’s efforts amount to any sustained attempt to do so.

It is true that Hart’s non-descriptivist claim (8A) is phrased in terms that resemble or evoke J. L. Austin’s idiosyncratic formulations. We find in Hart’s essay several rhetorical mannerisms typical of the “ordinary language” approach to philosophical issues. It was *l’esprit du temps*. (It was *l’esprit du lieu* as well.) But Geach should not have homed in on Hart’s ascriptivist thesis. Hart’s speech-act-theoretical musings are argumentatively inconsequential. Either Hart did not fully understand at the time what was involved in claims like (9), or his endorsement of (9A) is only incidentally associated with his defence of (8A). I am unsure whether the latter hypothesis is the more plausible. It is at least the more charitable.³⁶

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³⁶But see Hart’s later acknowledgement that by 1953 (the year he delivered his inaugural lecture “Definition and Theory in Jurisprudence”) he had in fact not yet “commanded . . . the seminal distinction between the ‘meaning’ and the ‘force’ of utterances and the theory of ‘speech acts’ the foundations of which were laid by J. L. Austin”; and that his confusions had led him to deny, mistakenly, that statements of legal rights and duties are “descriptive” (Hart 1983, 2, 4–5).

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