

Searle's Social Reality

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REVIEW ESSAYS

SEARLE'S SOCIAL REALITY

THE CONSTRUCTION OF SOCIAL REALITY. By John R. Searle. New York: The Free Press, 1995. Pp. xiii, 241.

...the thesis of the Background does not show that theorizing is impossible; on the contrary, the Background itself seems to me an excellent territory for theorizing.¹

"Papa! What's money?"

The abrupt question had such immediate reference to the subject of Mr. Dombey's thought, that Mr. Dombey was quite disconcerted.

"What is money, Paul?" he answered. "Money?"

"Yes," said the child, laying his hands upon the elbows of his little chair, and turning the old face up towards Mr. Dombey's; "what is money?"

Mr. Dombey was in a difficulty. He would have liked to give him some explanation involving the terms circulating medium, currency, depreciation of currency, paper, bullion, rates of exchange, values of precious metals in the market, and so forth; but looking down at the little chair, and seeing what a long way down it was, he answered: "Gold, and silver, and copper. Guineas, shillings, half-pence. You know what they are?"

"Oh yes, I know what they are," said Paul. "I don't mean that, Papa. I mean what's money after all?"

Charles Dickens, *Dombey and Son*, 1855–1857

The Construction of Social Reality purports to answer little Paul satisfactorily for the first time, at least to the extent that his question is meant as a question about the reality of money. Searle's ostensible subject is the reality of the social institutions, of which money is his paradigm case, that are part of everyday situations, such as ordering a beer in a restaurant. He claims that this subject, the ontology of social life, has hitherto been inadequately explored. This will come as a surprise to social theorists, and even to readers of Searle, who will recognize that what he says about the subject now has a great deal to do with what he said about it three decades ago in *Speech Acts*.² Searle says little about the tradition of social theory other than to dismiss it for having failed to anticipate his solution to the problem, and for showing what a bad answer would be. He says even less to

1. J. R. Searle, *The Rediscovery of Mind* (Cambridge, Mass., 1992), 191.

2. J. R. Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge, Eng., 1969).

explain the evolution in his own use of the same basic argument. The book, however, introduces some novel and deeply significant ideas with potentially radical implications both for the whole tradition of social theorizing about these topics and for his own past thinking. Searle, however, is more concerned to contain the implications of the argument for his own past claims than to explore them.

I. THE PREHISTORY OF THE PROBLEM IN SEARLE'S WRITING 1:
THE CONCEPT OF THE BACKGROUND

In *Speech Acts*, in a passage of four pages, Searle outlined a distinction between brute and institutional facts. Institutional facts, such as "Jones was convicted of larceny," were said to be distinguished from brute facts, like "I weigh 160 pounds," by virtue of the fact that the former depends on institutions, understood as systems of constitutive rules. He held then that "Every institution is underlain by a (system of) rule(s) of the form 'X counts as Y in Context C.'"³ At the time he was impressed by the fact that "no one . . . would try to offer a description of football in terms of brute facts, and yet curiously enough, people have tried to offer semantic analyses of languages armed with only a conceptual structure of brute facts and ignoring the semantic rules that underlie the brute regularities."⁴ "Underlie" is a term with spectral reference. As we shall see, Searle later tries to give it body.

At the time the "brute facts" strategy seemed to him to be easily disposed of: the obvious explanation for the brute regularities "is that the speakers of a language are engaging in a rule governed form of intentional behavior" and the "rules account for the regularities in exactly the same way as the rules of football account for the regularities in a game of football."⁵ One problem with this line of argument is that while there are rules of football, to be found in a rule book, together with a whole apparatus of enforcement and judicial decision-making, the constitutive rules underlying many social institutions are in part or entirely tacit. Similarly for the intentionality of the behavior; football players presumably intend to play football, and in this case the intentions are conscious. But beyond these paradigm cases, matters become more murky. It is less plausible to say that males intend to perpetuate patriarchal domination, and not plausible at all to say it is done, as in the case of choosing to play football, with conscious intent. What seems to have dawned on Searle is that there is a general problem about the status of tacit mental things, a problem that arises in cognitive science, where a renovated "brute regularities" strategy, connectionism, seems to be the winning solution.⁶

3. *Ibid.*, 52.

4. *Ibid.*, 52-53.

5. *Ibid.*, 53.

6. For an introduction to the strategy, see H. Dreyfus and S. Dreyfus, "Making a Mind versus Modeling the Brain: Artificial Intelligence Back at a Branch Point," *Daedalus* 117 (Winter 1988), 15-43, who make the point that connectionism, in contrast to AI approaches, does not "assume that there must be a theory of every domain" (37), and thus implies that cognitive processes are themselves non-intelligible, which is to say a matter of sheer patterns rather than patterns underlain by implicit theories.

Connectionism doesn't challenge the football model of institutional facts directly, but it undermines a traditional, though rarely voiced, answer to the problem of the ontological status of the institutions of a society, which we might call the linguistic model. The model has roots in ideas like Durkheim's notion of the collective conscience as the repository of the shared ideas which are the source of the reality of social institutions. The linguistic model holds, put crudely, that the rules of the game are in people's heads, and they share these rules in the way that they share the rules of grammar. If cognitive science deprives us of the "rules" model of the tacit contents of people's heads for grammar, as it threatens to, it undermines this version of the reality of social institutions, which was plausible only by analogy.

Searle long ago abandoned the rules model of mental contents. As he says, he himself established "that the notion of deep unconscious rule-following is incoherent" (229, n.2). He continues the attack in *The Construction of Social Reality*. But he does not give up the football analogy. And here there is a problem. If we give up on the idea that the mind can be characterized all the way down in representational language, what about the representational language of the football analogy, the "rules" picture of institutions? There is a sense in which Searle need not answer this question, for he never embraced the mental aspect of the linguistic model of social institutions in the first place. But the model solves, however badly, a question that an ontologist of social institutions would have to solve about the status of the rules that "underlie" social institutions.

Searle never says that his problem in *The Construction of Social Reality* is to salvage the rules model in the face of these better models of the mental. But this is precisely what his new account would do, if it were successful. It builds a bridge from a model of the mental that is consistent with cognitive science to the old model of social institutions that parallels and replaces the linguistic model. To understand it requires us to retrace the steps of his own attempt to rethink the notion of tacit knowledge in the face of the challenge of cognitive science, and especially connectionism.

In *Intentionality*,⁷ he began to respond to the problem of the tacit with "the hypothesis of the Background." The Background is a bunch of non-representational, pre-intentional capacities which is required for such things as understanding the simplest sentences.⁸

the sentence "The cat is on the mat" only determines a definite set of truth conditions against a Background of preintentional assumptions that are not part of the literal meaning of the sentence. This is shown by the fact that, if we alter the preintentional Background, the same sentence with the same literal meaning will determine different truth conditions, different conditions of satisfaction, even though there is no change in the literal meaning of the sentence. This has the consequence that the notion of the literal meaning of a sentence is not a context-free notion; it only has application relative to a set of preintentional background assumptions and practices.⁹

7. J. R. Searle, *Intentionality, An Essay in the Philosophy of Mind* (Cambridge, Eng., 1983).

8. *Ibid.*, 145-146.

9. *Ibid.*, 145.

The concept of the Background, however, produces some problems. It can't be made up of just more stuff of the same kind as that being explained, such as more sentences made explicit. "If we try to spell out the relevant parts of the background as a set of sentences requiring further semantic contents, that would simply require yet further backgrounds for their comprehension."¹⁰ In short, if the Background is the same sort of thing, such as rules, as the contents, we have an infinite regress, which we know to be impossible, given the actual limitations on human cognitive capacity, which can't contain an infinite set of rules, assumptions, and the like at once. In any case, if ordinary explicit rules are not self-interpreting, how can *tacit* rules be self-interpreting? Apparently they must be, unless we believe that there is a kind of tacit interpretation of the tacit rules that goes on unconsciously.¹¹ This way lies madness, in the form of even more infinite regresses. Yet we have no other way of talking about the Background except representationally or mentally, for example in terms of "assumptions" which take the form of sentences or beliefs. This problem about how to talk about the contents of the Background produces a situation in which we know we are speaking misleadingly about the Background when we speak representationally, and are forced to employ oxymorons, metaphors, and neologisms, such as the term preintentional.¹²

Searle begins to work his way out of the problem of the nonrepresentational character of the Background by considering skills such as skiing. Here it becomes clear that the relation between "rules" of the sort that one might find in a ski instruction manual or attribute to the tacit knowledge domain of an individual and the actual performances of individuals cannot plausibly be pictured as either a matter of the individual providing an interpretation of the ski manual or of possessing and applying a large set of tacit rules. A better picture is that the skilled skier has replaced the causal functioning of a representation with something else that is better, for example a body trained to take account of variations in terrain.¹³

Skills like skiing involve automatic responses. So where does intentionality fit? The usual picture is that "automatic" and "intentional" are opposed pairs. Searle needs to undermine this opposition, which he does by separating the notion of intentionality from consciousness, or at least from complete consciousness. In the case of the skier attempting to win a race, Searle suggests that "on my view, the body takes over and the skier's intentionality is concentrated on winning the race. This is not to deny that there are forms of Intentionality involved in the exercise of skills, nor is it to deny that some of this Intentionality is unconscious."¹⁴ But it is to deny that all that is intentional is consciously so, and that the automatic character of skilled responses makes them nonintentional.

10. *Ibid.*, 148.

11. *Ibid.*, 152.

12. *Ibid.*, 156-157.

13. *Ibid.*, 150-151.

14. *Ibid.*, 151.

The positive picture of the mind has the elements of Intentionality and what Searle called the Network and the Background arranged in a certain way:

We do have Intentional states, some conscious, many unconscious; they form a complex Network. The Network shades off into a Background of capacities (including various skills, abilities, preintentional assumptions and presuppositions, stances, and nonrepresentational attitudes). The Background is not on the periphery of Intentionality but *permeates* the entire Network of Intentional states; since without the Background the states could not function, they could not determine conditions of satisfaction.¹⁵

Put more simply, intentionality is a larger domain than either the domain of the conscious or the representational. The Background, that is to say the elements of the processes of mind that are not representational, or not open to explicit articulation, is necessary for all the mental processes of interest to us, conscious, unconscious, representational, and otherwise.

One effect of this line of reasoning is to separate Intentionality from particular mental contents, such as conscious beliefs. Intentionality reaches back into the pre-intentional, nonrepresentational Background, as in the case of the skier. When a competitive skier is given instructions, the instructions and the intentions “presuppose a huge underpinning of Background abilities”¹⁶ which are, so to speak, brought into play by the intentional state. Our intentional states, conscious or unconscious, which form the Network, can be thought of representationally. But the Network “shades off” into the Background, which we can’t really think of representationally, at least without stretching the point. The two aren’t really separable, functionally: the things we can think of representationally depend on the continuous operation of the things that we can’t really think of representationally, such as skills. The effect of this is to undermine the following kind of argument: so and so can’t have intended such and such because she didn’t possess or think using the relevant representations. The reasoning is this: if the skier didn’t think such thoughts as “I will keep balanced by shifting my weight slightly to the right ski when I go over the next mogul” this does not mean that the skills this phrase describes are not really there, or that she didn’t shift her weight intentionally.

II. THE PREHISTORY 2: COLLECTIVE INTENTIONALITY

The possibility of replacing the causal functioning of a representation with something else may seem to be an arcane subject, having little to do with the reality of social institutions. But it takes on a large significance if it is conjoined with another idea: collective intentionality. Collective intentionality plays a large role in *The Construction of Social Reality*, but the case for it is not argued here, but in an earlier paper, “Collective Intentionality and Action.” There Searle is more

15. *Ibid.*

16. Searle, *The Rediscovery of Mind*, 195.

explicit about the problem that underlies *The Construction*, which is put as “what role does the Background play in enabling us to function in social collectives?”¹⁷ Collective intentionality, we will see, provides Searle with the means of reconciling the football model with the hypothesis of the Background. Collective intentionality will eventually be stretched to support the football analogy, and perhaps stretched too far.

The paper begins with some intuitions. One is “that there really is collective intentional behavior as distinct from individual intentional behavior.” Searle says that “you can see this by watching a football team execute a pass play or hear it by listening to an orchestra.” Another is that there can be no “group mental phenomenon except what is in the brains of the members of the group.” Searle thinks the solution to this apparent conflict is likely to be found in some feature of the mental component of collective behavior, namely “in the form of the intentionality.”¹⁸

Searle argues that We-intentionality is irreducible to I-intentionality, meaning to any set of I-intentions. The argument proceeds as a simple piece of analytic philosophy. There are English language statements of the form “We intend *x*.” Available analyses of such statements into sets of I-intentional statements fail, because they do not succeed in distinguishing cases of cooperation from cases in which people do the things they individually intend, but do so without cooperation. The simple and compelling alternative to these laborious and unsuccessful analyses into sets of I-intentional statements is this: “We simply have to recognize that there are some intentions whose form is: We intend that we perform act A; and such an intention can exist in the mind of each individual agent who is acting as part of the collective.”¹⁹ Statements of this form are primitive.²⁰ They can’t be analyzed into I-intentional statements. But in accepting them “we are not required to suppose that there is any element in society other than individuals. . . . It is consistent with the fact that there is no such thing as a group mind or group consciousness.”²¹

Our capacity to form we-intentions is ultimately rooted in biology, but the fact that we can form them has some implications for the contents of the Background. In order to form we-intentions, we must at least have “a Background sense of the other as a candidate for co-operative agency; that is it presupposes a sense of others as more than conscious agents, indeed as actual or potential members of a co-operative activity.”²² These “are not in the normal case beliefs.” Searle suggests

17. J. R. Searle, “Collective Intentionality and Action,” in *Intentions in Communications*, ed. P. Cohen, J. Morgan, and M. E. Pollack (Cambridge, Mass., 1990), 401.

18. *Ibid.*, 402.

19. *Ibid.*, 407.

20. The idea that statements of we-intentions are primitive leads to various oddities, such as the result that with collective intentions we may be mistaken about what we are doing—mistaken that anyone else shares the “we-intention.” Searle insists that the possibility of such a mistake does not make the intention itself any less a we-intention (*Ibid.*, 408), but as we shall see, the fact that such a mistake is possible suggests an alternative explanation of we-intentional facts in terms of acceptance.

21. *Ibid.*, 407.

22. *Ibid.*, 414.

that this Background sense is fundamental to collective life and even to conversation, and that this means that “certain attempts to understand the character of society must be wrong,” such as those which hold that “speech acts in conversation are the ‘foundation’ of social behavior and hence of society.”²³

The problem of ontology arises in a particular way for collective intentions. He asks “how could there be any group mental phenomenon except what is in the brains of the members of the group?”²⁴ and answers that there can't be. But intentional phenomena are themselves real.

Intentional phenomena such as rule-following and acting on desires are genuinely causal phenomena; but as intentional phenomena they are essentially related to such normative phenomena as truth and falsity, success and failure, consistency and inconsistency, rationality, illusion, and conditions of satisfaction generally. In short, the actual facts of intentionality contain normative elements, but where functional explanations are concerned, the only *facts* are brute, blind physical facts and the only norms are in us and exist only from our point of view.²⁵

Intentional phenomena are real, in the sense of being part of the causal world, and at the same time cross the “normative” barrier. If collective intentional phenomena are in the minds of each individual in the collectivity, they are real too.

With this argument, we have a new, or at least slightly altered, set of tools to deal with the problem of the nature and “reality” of social institutions. We have the concept of the Background, which serves as a substitute for a number of older ideas. When Searle says that the “Background sense” of others as potential cooperators is fundamental to collective life, he is using it as a kind of philosophical anthropology, not dissimilar from Hobbes's use of the notion that people are naturally disposed to keep promises to solve a regress problem in his own contractarian theory of society (the problem that promising is an institution that itself needs to be created and sustained socially). By extending the reach of the notion of intentionality to the Background, in the case of skills, Searle peels it away from the notion of possession of concepts. This is an important but obscure step. It is a staple of a certain tradition in analytic philosophy that one cannot intend what one cannot conceive, and one cannot conceive what one does not possess the concepts for.

The notion of collective intentionality is a shortcut around many of the problems faced by Hobbes and his successors, who thought that one had somehow to build up social concepts, such as the state, from individual materials, and found this a difficult task. But the explanatory burdens—and the sheer absurdity—of notions of group personality and group minds have often deterred Hobbes's successors from taking this particular shortcut. Searle's change to the notion of intentions lightens this burden, since it does not require a group mind, just an “intention . . . in the mind of each individual agent who is acting as part of the collective.”²⁶ His use of the Background lightens it even more, since what needs

23. *Ibid.*, 415.

24. *Ibid.*, 402.

25. Searle, *The Rediscovery of Mind*, 238-239.

26. Searle, “Collective Intentionality and Action,” 407.

to be in the mind of each individual agent no longer needs to be presently shared concepts but just shared goals, whose conscious or conceptual content may be as limited as, for example, simply wanting to win a football game. The Background may contain a functional substitute for conscious or conceptual content. If one puts Searle's two arguments together one creates the space for a new set of possible accounts: in which collective intentions can figure without being burdened by, or at least burdened by an over-literal interpretation of, the limitations imposed by the consideration that even a collective intender, a "we," cannot intend results of which this "we" does not possess a concept. The idea that every member of the collectivity must have this intention in his or her individual mind and brain, something needed to avoid the notion of a group mind, would, taken literally, be at least puzzling: how exactly do people get the *same* intentions into their minds? The legitimacy of the football analogy without the help of something like the linguistic model, that is to say of an interpretation of the notion of "underlies," is still an unresolved issue. But one can begin to see how Searle might use these arguments to salvage it.

III. SOCIAL REALITY AS THE PRODUCT OF ENACTMENTS

In *The Construction of Social Reality*, Searle employs exactly the same model of institutional facts that appears in *Speech Acts*, the model I have been calling, after Searle's own example (which he continues to employ), the football analogy. Constitutive rules of the form "X counts as Y in Context C" create institutional facts. They have some other properties that are useful, notably the fact that iterated they can produce more and more institutional facts. Some of the things that Mr. Dombey thinks of when he thinks of how to explain money are the products of iteration. One can't have such things as junior subordinated debentures, for example, without taking a long series of "counts as" steps away from copper coins. But they too are a form of money. The same ontological results hold in both texts: institutional facts are the product of rules, and are, accordingly, real in a special and secondary way, and thus differ from brute facts. But the Searle of *Construction* adds a great deal to his discussion of the problem, and alters it to deal with the problem created by the fact that these constitutive rules are mostly tacit. This is an important step. In *Speech Acts*, the rules are just there, "underlying" institutional actions. In *Construction* Searle addresses the problem of where they come from, and what sort of reality they have.

In *Speech Acts* Searle already claims that human beings have the capacity to create social institutions by making declarations with the particular logical form "X counts as Y in Context C." Searle now suggests an ontological reading of this formula: that the "counts as" form is one in which a particular person speaking for a "we" in a particular context assigns a particular "function" to a particular physical manifestation. The assignment of a function creates a real institution.

The example Searle returns to throughout the text is money. Money is in some sense "really" money and hence real. It is part of the waiter's ontology. The ques-

tion Searle wishes to answer is in what sense is it real? The striking thing about money, for Searle, is that on the one hand it is a physical object, and on the other it is money not by virtue of its inherent properties as a physical object but by virtue of a function that we have assigned it. It becomes money only once we assign the function to it. When we cease to assign this function, it ceases to be money. The picture this suggests to him is that the “we assign” part of the process of a physical object becoming an institutional fact is the key to the answer, and our assigning a function is a matter of possessing a collective intention to treat something as something else.

When Searle claims that his account is completely novel he seems to mean that one of his additions to the notion of enactment makes it novel, namely the notion that the original assignment of function is always assignment of a function to something physical or non-social. What he has in mind here is this: things that are real because they are the products of iterated enactment-like statements, such as junior debentures, have a kind of derivative reality. A junior debenture is a promise about future money under certain circumstances. Creating such a thing requires that there be such a thing as money in the first place, and it assigns a money-like function to a piece of paper under certain circumstances. But this trick doesn't work for the first thing that is made to count as money. We must assign the function to a physical object, such as Mr. Dombey's coppers and guineas. I will return to the general ontological implications of this argument—Searle's claim that this reasoning justifies the claim that an objective, publicly accessible, brute reality exists—at the end of this essay. For the moment, it will be enough to consider the origins problems on their own.

Although Searle does not say so, this theory of institution formation is little more than a generalization of a very old model of legal enactment. Consider the following:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whensoever the Death of a Person shall be caused by wrongful act, Neglect, or Default . . . the person who would have been liable if Death had not ensued shall be liable to an Action for Damages. . . .²⁷

This is a real law. It has the following elements: a statement of enactment, that is, a statement that this is an action, a statement of who is enacting and on what authority, and a rule which classifies something in some category which makes it a subject of legal action, or in Searle's terms assigns an agentive function, that is to say a function that is not, like the normal function of a screwdriver, part of the thing itself, but is a power granted to it by something we as agents do.

Formulae such as “the King in Parliament is sovereign” or “the Pope speaking *ex cathedra* is infallible on matters of faith and morals” are second-order statements that specify both the context and the powers of the king and in effect assign functions to the commands of the king. The commands of the king are law

27. J. B. White, *The Legal Imagination: Studies in the Nature of Legal Thought and Expression* (Boston, 1973), 220-221.

when the king speaks “in Parliament,” that is to say with the consent of Parliament, to which the Victorian formula quoted above refers. The king’s sayings to his dogs are not law, nor are just any sayings law. Sayings of a particular kind, namely commands of a general character, spoken in Parliament with the consent of Parliament are, however, laws. These sayings thus create a new fact, namely a law.

But what does the *form* of enactments tell us? One could argue that form has been the great red herring of the history of legal and political theory, for the simple reason that it has tempted people to look for enactments behind the enactments, and authorizing authorities behind the authorities. We may smile at Filmer for thinking that Kingship had to be justified by acts of prior kings, and that when one got back all the way to the beginning one got to God, who had to be the original authorizer of authority and the original authority. We may cringe at Rousseau’s substitution of the “general will” for historical authorizers. But these are answers to the question that the iterational character of enactments raises, the question of the original authorization.

Recall that institution-founding rules in *Speech Acts* seem to be tacit rules without a rule giver. Searle replaces this with a form of sentence which says “we assign function X to object Y,” that is, a sentence which refers to actual agents, the “we.” He argues that, set in the right context, the formula is a genuine expression of “we-intentionality” or collective intentionality, and that such expressions are the foundation of social institutions such as money. On its own, this just pushes the legal formula back to the prelegal stage. And if these formulae are not actually spoken by anyone, are purely fictional, then it may seem that we are no better off than we were when they were disembodied, tacit rules, as they were in *Speech Acts*. But Searle now has some means of dealing with the notion of collective intentionality and tacitness that he did not have in *Speech Acts*. To use them, of course, he must establish that there is something to the notion of collective intentionality that does not result in implausibilities about group minds and world spirits.

The way he does this earlier is not entirely adequate to the purposes of this new argument. In the earlier article his way of establishing the notion of collective intentionality is simply to ask whether statements involving we-intentions can be analyzed into statements of individual intention, that is in terms of individual *expressions* of intention. To say “I will treat this as money” does not establish anything as money. Ten people saying it, by the same token, does not make it so either. What is needed, Searle argues, is a we-expression that makes it so. If such statements are irreducible to individuals’ statements, what we have established is the irreducibility of we-intentionality to I-intentionality. The next step is to show that institutional facts *are* the products of we-intentionality.

As any historian of political thought knows, of course, we-intentional statements are themselves the subject of a large theoretical literature concerned with the notion of representation. A we-intentional statement such as the law quoted earlier depends for its acceptance on its according with a doctrine of representa-

tion that gives the king, with suitable qualifications, the right to speak for "us." This seems nicely to accord with Searle's analysis, in that the king as sovereign is speaking within a particular context and so on. Where the analysis diverges is in the question of what it is that the king is doing. For Searle the answer presumably is that the king is expressing genuine we-intentions and that what makes those we-intentions effective and makes them into laws is the fact that we accept them as valid expressions of we-intentions. Thus laws are not a matter of commands that we obey so much as statements like "let's call blue poker chips 'dollars,' alright?" with the response "alright." Searle even describes the breakdown of law and order in the L.A. riots as an example of the forcelessness of the law if acceptance breaks down. But he also uses this example to make the point that social institutions cannot rest on force, because there simply is not enough force around to compel people to obey the law, so acceptance is necessary most of the time.

Even in this modest example, one can see that there is a certain vagueness about the notion of acceptance. The fact that most people follow the law without coercion tells us what, exactly? A) That they know the law explicitly, and accept it explicitly? B) That they accept it in the sense appropriate to Searle's notion of the "network," which is to say that if asked they would say that they knew and accepted the law, even if they ordinarily didn't think explicitly about it? C) That they behave as though they accepted it, but can't articulate very much about their beliefs if asked, and not nearly enough to account for their actual behavioral conformity with the law? D) That they do so more or less, at least most of the time, and not precisely as the law exists in the lawyers' sense but close enough not to get into legal trouble and close enough to what other people do to not have too many issues come up in the course of ordinary interaction, and can articulate something about this, but what they can articulate typically doesn't match up very closely, and certainly not exactly, with what other people can articulate? E) That they have behavioral regularities consistent with the law, but can't articulate a thing about them other than self-observations about their regular conduct? F) Or any of a dozen other possibilities in between these?

IV. MONEY ON THE BRAIN

Searle's argument establishes one form of we-intentionality, the case of explicit agreement, or a version of A), which he wishes to extend to the tacit case not by claiming that knowledge of the law is tacit, but that acceptance is, so that being accustomed to the law amounts to accepting a we-intention. The "main topic" of his book is the puzzle of how this works: "How can it be that the rules of the institution play a role in our dealings with the institution, even though we are not following the rules either consciously or unconsciously?" (137). This formulation points to a problem posed by Searle's own account of collective intentionality, which holds that this intention must "exist in the mind of each individual

agent who is acting as part of the collective,”²⁸ namely the question of *what* exists in the mind of each individual agent. Something must, Searle thinks, but not the rules of the game *per se*.

The idea that shared beliefs are the basis of whatever is collective (that is, options A and B) is ignored. Searle understands perfectly well that to say that all the people in the collective would articulate the same beliefs about money, for example, would be absurd: Mr. Dombey and little Paul, for example, have quite different beliefs, though they may overlap enough for them to carry on in most situations. So Searle looks elsewhere for a solution to the puzzle of what is collective. He says that his “basic idea” is “that one can develop, one can evolve, a set of abilities that are sensitive to specific structures of intentionality without actually being constituted by that intentionality. One develops skills that are, so to speak, functionally equivalent to the system of rules, without actually containing any representations or internalizations of those rules” (142). “Without actually being constituted by that intentionality” means that the core idea of the collective intentionality article, that it has to exist in each individual brain,²⁹ is being relaxed to allow for the possibility that there is no actual mental analogue to the constitutive *X is Y in C* rules “in the mind of each individual agent.”

Searle argues that this must be the *usual* way in which actual social institutions work. Money is again the example: “We don’t stop and think, consciously or unconsciously, ‘Ah ha! Money is a case of the imposition of function through collective intentionality according to a rule of the form “X counts as Y in C” and requires collective agreement.’ Rather, we develop skills that are responsive to that particular institutional structure” (143). The virtues of this explanatory strategy are very significant. It frees Searle from the problems of showing that there is something in the minds and brains of all of the members of the relevant collectivities that corresponds to the institutions, the burden that he himself imposed in his earlier discussion of collective intentionality. It fits with a realistic phenomenology of experience with institutions. We become, as he suggests, accustomed to or familiar with institutional life, which is a quite different thing from internalizing rules. And of course it fits with connectionism.

But how do rules figure in this discussion? Can we say simply that people act as if they are following the rules, but the rules actually have no causal role at all? On this point Searle expresses some unhappiness with the alternatives. He distinguishes “rule-governed” behavior, of the sort envisioned in the linguistic model, in which the rules actually play a causal role in determining behavior, from “rule-described” behavior, behavior described as if rules were being followed without the rules having any actual causal force (139). What we need, he suggests, “is to see that the Background can be causally sensitive to the specific forms of the institutions without actually containing any beliefs or desires or representations of these rules” (141). The way this happens is that the abilities and know-how we get in dealing with institutions such as money and that become

28. Searle, “Collective Intentionality and Action,” 407.

29. *Ibid.*

“ingrained are in fact a reflection of the sets of constitutive rules whereby we impose functions . . . through collective agreement or acceptance” (142).

Searle sees that this skates very close to behaviorism, the view he stigmatizes in *Speech Acts* for explaining by reference to brute facts. The issue is over the status of “as if” accounts. He invents an interlocutor who asks “Aren’t you really saying this is ‘as if’ we were following the rules. But then that doesn’t really explain anything, since if there is no real intentionality, the ‘as if’ intentionality doesn’t explain anything” (146). His response is twofold. First, he suggests, we need to add a diachronic or evolutionary element to our account of the causal mechanisms (presumably meaning the real connectionist mental innards of a given individual mind that has adapted to the rules). Second, we still need to appeal to “a socially created normative component,” to account for the fact that we “accept that there is something wrong with the person who doesn’t recognize any reason to do something after he has made a promise to do it” and similar normative responses. This normative element “is accounted for only by the fact that the institutional structure is a structure of [normative] rules” (147). The *normative element*, then, is accounted for by collective intentionality, or agreement. So what this argument really amounts to is yet another tacit analogue model, in which common intentions are tacit, together with an unstated quasi-transcendental argument to the effect that it would be impossible for there to be such a thing as money unless people did in fact agree, at least in some extended sense, such as by “developing skills that are responsive to that particular institutional structure” to the constitutive intentional rules that Searle attributes to the institutional structure. Somehow the normative element needs to be inserted into the causal story. In the account Searle gives, it is, so to speak, already there, and when we get accustomed we get accustomed to it: “where human institutions are concerned, we accept a socially created normative component” (146). The football analogy holds because it *has to* hold if we are to account for normativity.

V. ACCEPTANCE AND COLLECTIVE INTENTIONALITY

Arguments that such and such is the “only” explanation tempt fate. They are refuted by the production of an alternative explanation. In the case of money, as we shall see, nothing needs to be specially constructed as a counterexample—the *standard* explanation itself, found in a classic text, does not appeal to collective intentionality, and indeed shows why, in the case of money, there would be no point to doing so. Searle’s argument fails if this alternative account is true, and continues to fail if it can be extended to other social institutions. But this last qualifier is important. Even if the alternative account of money is true, money may simply have been a poor choice of example. The argument may hold for other institutions. In fact, Searle’s argument is simply a case of a more popular and indeed pervasive idea about the nature of normativity, which Searle happens to apply to social institutions. The use of the notion of normativity, the idea that there is such a thing as a “normative element” that plays a genuinely explanato-

ry role, deserves closer scrutiny if only because it appears in Searle in an unusually explicit form.

Searle's attempt to accommodate cognitive science in its connectionist form is independent of claims about normativity, and it constitutes a genuine advance in the discussion. His rearrangement of the problem of the explanation of social institutions does two things. First, it introduces the Background and argues for its pervasiveness. Second, it greatly reduces what is to be explained. The Background serves to do much of the work that formerly was done by ideas about shared tacit presuppositions, internalized rules, and what-not: what I called the linguistic model. We can now see that this model and its problematic terms are not needed. The mechanism of accustoming and the replacement of conscious rules with the causal structures of the Background that produce skilled performances serve to do much of the work that the "internalization" model formerly did. Explicit beliefs, the things Searle puts in the Network, do much of the rest of the work. Indeed, only one small but important thing remains. So one of Searle's real achievements in this text is to radically shrink the thing that remains to be explained, shrink it down to the size of the "normative element."

What exactly is left? Searle wants to insist that the Background cannot perform some explanatory tasks, and in particular the task of providing the "normative element" which changes an "*X* counts as *Y* in *C*" sentence from a description of behavior to a genuine rule, that is to say that enables us to distinguish right and wrong uses, counting or not counting, in a sense not reducible to individual opinion. He claims that "we-intentions" that are not reducible to individual opinions create this normative element, and it can be created in no other way.³⁰

If this is the nub of the argument it turns out to be a familiar nub, the problem of the mysterious origin of collective normativity. Invoking "we-intentionality" is not so much a solution to this problem, if it is indeed a problem, as another way of stating the problem, one which by his own admission Searle sees as a dead end, an unanalyzable primitive. And this seems to be where other arguments about intentionality and normativity also end, in embracing a mystery and insisting on its nonsolubility.

The problem of money is a way into these issues. For Searle, the story is this: there is a collective agreement to count, say, cowrie shells as money, which amounts to saying "Cowrie shells count as money for transactions between us Weege Islanders." If someone tries to use a coconut for money, she can be corrected. What "normative" means here is that she is corrected on the basis of a real rule, not just my opinion or your opinion about what counts as money. The collective intention to count cowrie shells as money is the source of the supra-indi-

30. One might ask many other questions about this model, such as these: *how* do we-intentions create normativity?; how does *intending* to be normative make something actually normative for us? The basic thought behind the model seems to be that in the case of our own intendings there is no place for error: we are right about our intentions because to have an intention includes being right about what it is. So the fact that we can intend something normatively, plus the fact that normativity is just a matter of intention, means that we can't be wrong here, at least about ourselves, though perhaps we can be wrong about the others who make up the "we."

vidual normative element that makes the behavioral regularity, the usually predictable bartering conduct of the Islanders, into a real rule. When people individually stop accepting cowrie shells as money, it ceases to be money. The institution vanishes.

The standard story is that there are two phases in the history of money, before and after coinage. After coinage, money is constructed by derivatives of coins, by promises redeemable in coins, and so forth, right on up to junior subordinated debentures. Before coinage, the definition of money is this: "a unit or object conforming to a reasonable degree to some standard of uniformity, which is employed for reckoning or for making a large proportion of the payments customary in the community concerned, and which is accepted in payment largely with the intention of employing it for making payments."³¹ Note that intentions figure in this definition, but not collective intentions. Customs do, but customs that are, from the point of the individual user of the money, behavioral regularities on which the use of money for the purpose of payment relies. To be sure, someone originally had to have some beliefs that could be made explicit about the things being used as money (or, in Searle's language, contents of the Network), namely beliefs about their future usability in barter.

In this version of the history of money, then, there is a role for accustoming, a role for explicit individual beliefs and intentions, no role at all for collective intentions, and no role for collective beliefs in Searle's strict sense of being in *all* the individual minds of the collectivity. This definition, and indeed money itself, doesn't even require a collectivity. Community is mentioned in the definition, but only in connection with the loose criterion that the primitive money in question be used for a large proportion of the payments that the individuals in the community make. This is a matter of a behavioral frequency. It is enough that a sufficient number of others will accept the goods in barter. Indeed, one can have the first instance of money, in this model, with only one person intending to use the goods as money.

Coinage works a little differently, but only because coinage is set in a legal structure, and involves authority: you can force people to pay debts in real money, for example. But legal authority involves the same problems over collectivities. One can argue that legal authority requires nothing collective either, but simply that individuals have beliefs of whatever kinds necessary to provide for obedience most of the time. These beliefs may be highly various, as the motives for obedience usually are. The difference between having a state and not having one is not, on this view, a matter of there being anything collective, such as a collective intention, but simply the content of the beliefs that individuals have. If enough of them believe in things that are like the things we recognize as "state" beliefs, such as ideas about sovereignty, and they act more or less in accordance with these beliefs, they have a state. This was Weber's solution to the problem, and it is the main rival to the collective object model.

31. P. Einzig, *Primitive Money: In Its Ethnological, Historical, and Economic Aspects*, 2nd ed. (Edinburgh, 1966), 317.

An alternative to “collective intention plus background *cum* beliefs” explanations, then, is background *cum* belief explanations. Belief explanations appeal to things that occur in what Searle calls the Network, the realm of articulable beliefs and goals. The case of money turns out to fit this alternative model very nicely. People, like Dombey and his son, believe quite various things about money. Some forms of money are legally significant. There is more to the institutional fact of money than can be accounted for by the articulable beliefs that people have about money. Some of this “more,” however, is non-articulable because, in Searle’s terms, it is part of the Background, and is a matter of accustomization. Some is only articulable by legal experts and is not part of the list of ideas about money that ordinary people have.

To recapitulate: Searle needs to argue that these explicit beliefs (and individual intentions) together with the habitual ways of acting that are bound up with them and are produced by accustomization are *not* sufficient to account for the institution of money, or if not money, some other institution. The usual alternative account relies on a particular kind of belief, namely beliefs that hold something to be true or authoritative. But for the purposes of explaining an institution, such as the state, the alternatives say that an “as if” is sufficient: if enough of the individual subjects to a King believe that the King rules by divine right for the “King” to function as a King, for example, his King-ness is explained. The normative question of whether he actually has Divine right is a matter for theology, and thus a mystery *stricto sensu*. Explanation, according to this view, can ignore this mystery. Searle needs to argue that it cannot, that any account of this kind must lack a crucial ingredient, namely the “normative element,” that can only be supplied by collective intentionality.

Why does Searle think the alternative account won’t work? The reason is to be found in his repeated comment that “The intensionality-with-an-s of the sentence form ‘X counts as Y in C’ is a clue to the intentionality-with-a-t of the phenomena. . . .we have good reasons to suppose that the ‘counts as’ locution specifies a form of intentionality. The possibilities of creating institutional facts by the use of this formula are limited by the possibilities of imposing new features on entities just by collectively agreeing that they have these features” (95). Roughly, he thinks that the problem of what needs to be explained about the phenomenon of having something count as something in a particular context can’t be solved any other way than by reference to collective intentionality. But is it true that counting something as something, and doing so in terms of correctness, requires something collective? Aren’t *beliefs about the correctness* of some pattern of behavior enough, taken together with habitual behavior in applying the beliefs?

The point is an arcane one, but it is central to Wittgenstein and to the interpretation of Wittgenstein on following a rule, a paradigm case of which is counting as something. One Wittgensteinian story, which I favor, is this. Following a rule is different from acting habitually, but acting habitually is part of following a rule. The difference is this: following a rule requires training, in which a trainer tells the trainee whether the trainee is right or wrong, the trainee habituates

her responses, and also is able to habitually distinguish right or wrong. The trainer has to have beliefs, in a minimal sense of the word, that something does or does not count as something else. So, once trained, does the trainee: minimally she needs to be able to respond to the words and thus to distinguish a correct response from an incorrect one. But there is nothing "collective" that happens in this process of training. There are, rather, explicit sayings together with patterns of behavior which are the subject of sayings about whether something does or does not conform to the rule, or "count as." There have to be explicit sayings, because the act of training requires that something be explicitly articulated.

The "normative element" here is the distinction between right and wrong, or the hidden thing that makes this distinction possible. But if the distinction is simply a matter of individual ideas about right and wrong of trainers and trainees, it is "normative" without being normative in some sort of special sense that requires "collective intentionality" as an explanation. Nothing *is* hidden in the acts of training and being trained: the trainer says "right" or "wrong" and the trainee becomes accustomed. The former is an explicit, the latter a personal, Background phenomenon. That some way of acting or "counting as" is right is, in any case, a matter of belief separable from the activity of counting. One needs only to be able to count "as if" you were a Weegee Islander to be able to "count as" quite successfully.

In some cases, such as the tacit rules of grammar with which Chomskians claim we speak in accordance, "correctness" is not a matter of explicit rules. But in the case of social institutions, as Searle imagines them, something *does* need to be explicit. In the standard case, "collective intentions" need to be accepted and in some sense agreed upon, at least initially. Only afterwards can there be an intentional structure to which one gets accustomed. The act of acceptance secures the normative element: it is a condition for its being collective and thus for being "normative." But acceptance requires something explicit, like the articulation of a goal or constitutive rule. Telepathic acceptance is not known to cognitive science. And this poses a serious problem for Searle: he cannot separate the normative element that rests on collective intentionality from the necessarily explicit accompaniments of "acceptance."

The point here can be made more simply. Every time we have an institution, we have a bunch of beliefs. Some of these beliefs are "normative." But "normativity," at the level of articulable belief, is something of a mish-mash. There are political beliefs in such things as justice and the divine right of Kings, religious and magical beliefs about taboos, beliefs about correct talk and incorrect talk learned from parents, and so on. "Normativity" is inseparable from these beliefs precisely because acceptance is bound up with beliefs. Searle needs to make social institutions into the sorts of things that depend on something more than belief and accustoming. But he cannot escape belief. And beliefs always threaten to do the explanatory job that he needs a "normative element" to do, and which he must say cannot be done without such a normative element.

The difficulty is shared with a well-developed puzzle in the law. Is there such a thing as “legality,” or is legality ultimately no more than legitimacy, that is to say what people accept as legal or as part of the legitimate order? Is there legality as such, separable from what people believe? In some sense there is: the legal order that is accepted may dictate, out of considerations of consistency that are themselves accepted parts of the legal order, conclusions about what is legal about which no one previously held explicit beliefs. But this does not establish that there is such a thing as the legal order, or make it “legal.” The legality of the law in the sense of the legal order depends on extralegal considerations, such as legitimating beliefs, and the acceptance of the legal order that results from their acceptance. The normativity of the law, in this view, is wholly derivative from beliefs that the law is normative. If they change, for example as a result of revolution or the breakdown of acceptance, the normative character of the law vanishes.

Searle cannot easily show why the same is not true for the normativity of social institutions generally, and this is the curse under which his account operates. Where there is a Searlean “normative element” to be explained “only” by reference to collective intention, there is also and always a normativizing belief. The belief, or rather the diverse bunch of individual ideas on which people acting together typically operate, is an alternative explanation of the institutional facts that we actually observe, that is to say of what people do when they act institutionally. *The alternative explanation, consequently, is always at hand, its presence necessitated by the dependence of collective intentionality on acceptance and acceptance on explicit ideas, ideas which are normativizing, in the way that legitimating beliefs are.* Searle needs to say that these ideas cannot do the work of explaining the normative element of social institutions. If they can, the sole prop on which the argument for collective intentionality rests, the “only,” vanishes.

The irony is that Searle’s own efforts to rearrange the task of explanation, especially his argument that the Background and accustomization suffice to do most of the explanatory work once an institution has been established, minimize the explanatory job, and thus make it easier for beliefs to perform it. These are very powerful arguments, and radical in their reach. For Searle, there is a moment at which screwdrivers and hammers are created in which people “impose a function by collective intentionality. But subsequent generations are simply brought up in a culture containing screwdrivers and hammers. They never think about the imposition of collective intentionality: they simply take it for granted that these are certain types of useful tools. What was once the explicit imposition of function in a collective intentional act is now assumed as part of the Background” (126). If we accept this persuasive account of the role of the Background, the burden of explanation for explicit normativizing beliefs is similarly lightened. Like conscious collective intentions, they need play a role only in the initial creation of an institution that may be subsequently experienced solely through accustomization. And these normativizing beliefs are always there to

play such a role, since, in reality, and as Searle seems here to acknowledge, acceptance requires that something explicit needs to be said.

Searle's argument for the role of collective intentionality comes down to the quasi-transcendental claim that the normative character of institutions is explicable *only* by reference to collective intentions. The only reason he gives is the "only" reason, that is to say that some features of institutions, their normative character, can *only* be accounted for by reference to collective intentionality. If it is not the only explanation, if it has to compete with alternatives, it is a very dubious one. His vision of an Adamic moment in the history of each social institution in which functions are assigned is utterly implausible (outside of legal contexts in which "assignment of functions" is justified by procedures rather than "collective intention") precisely because one of the elements of acceptance is persuasion. The alternative explanation, its non-collective *Doppelgänger*, is more plausible on every point. All of the institution-creating persuasion we are familiar with involves normativizing beliefs. The sayings of Jesus become law for his followers because they believe him to be the Son of God. Collective intentionality is either superfluous or the incidental by-product of common belief. If the football analogy hangs on the thread of the actual and necessary operation of collective intentionality in social institutions, it cannot be salvaged.

The concept of collective intentionality is itself highly problematic. Searle places great stock in the argument that intentions and mistakes are conceptually bound up with one another. But the concept of mistake works quite differently in the two cases: one ordinarily cannot be mistaken about one's own intentions; one can be mistaken about "collective" intentions for many reasons, including mistakes about the beliefs that others have which give meaning to their intentions. The difference in the two cases parallels the problem of explanation. Wherever there is a mistake about collective intention, there is a mistake about the individual intentions of others.

VI. BRUTE FACTS

Searle adds to his argument a claim about ontology which has attracted considerable attention as an argument against "social constructionism." Searle is happy to concede that we could assign functions to things that are the product of previous assignments of functions. We can, for example, distinguish between junior subordinated debentures and checks only after we have established the notion of money in the first place. But at the beginning of this iterated extension of schemes of assignment of function, which is the essence of social-institution building, there needs to be some non-"assigned function" thing to which the first function can be assigned. You need paper or gold or some physical object to which to assign the function of money. Searle thinks that if one concedes this argument one has conceded the existence of distinct worlds of brute fact and fact by agreement and thus created a hierarchical ontological order, which can then be used to answer the question the book is nominally about, namely where do

institutional facts fit into the general hierarchy of being? Searle then uses this distinction to attack social constructionist analysis of science, among other things, as well as to attack philosophers who reject realism about the world, such as Rorty. He gives no extended analysis of their arguments and indeed denies that they have any arguments at all.

This is a most peculiar performance. Characteristically authors such as Rorty have accepted some notion of reality but denied that this notion of reality does very much if anything to enable us to distinguish between, say, true and false scientific theories of the world, or to validate our particular ways of describing the world by saying that our ways are distinct from other people's ways correspond to reality while theirs do not. Searle's notion of brute facts doesn't seem to do any of this work either, so it is not clear how he thinks he is different from them, other than by virtue of his sheer insistence on the bruteness of these facts. Searle's claim is that social constructionism is self-refuting because social construction, at least if it means enacting assignments of functions to things, requires things that are non-social or brute to assign functions to: "the iterations must bottom out in an X element that is not an institutional construction" (191).

An apparent way out exists for constructionists: they can concede the point of circularity and argue that this circularity is non-vicious or at least unavoidable, and that any alternative account is similarly circular. Searle himself argues that in the case of money there is an apparent circularity which takes the following form: part of the definition of the institutional fact of money is that money must be "thought of, or regarded as, or believed to be money" (52). How can one believe something to be money prior to there being money to believe anything at all about? Searle says that

the resolution to the paradox is quite simple. The word money marks one node in a whole network of practices, the practices of owning, buying, selling, earning, paying for services, paying off debts, etc. As long as the object is regarded as having that role in the practices, we do not actually need the word money in the definition of money, so there is no circularity or infinite regress. The word money functions as a placeholder for the linguistic articulation of all these practices. To believe that something is money one does not actually need the word "money." It is sufficient that one believes that the entities in question are media of exchange, repositories of value . . . etc. (52)

Why this argument does not work for the objects of science is not immediately clear. In the case of money "we avoided the vicious circularity only by expanding the circle by including other institutional concepts. We are not trying to reduce the concept 'money' to non-institutional concepts" (52-53). What Searle seems to be conceding here is that one needs concepts to make concepts. In the case of institutional concepts, one needs institutional concepts—barter and the like—to form the concept of money.

Searle says it is obvious that this case is completely distinct from knowledge of the scientific world. What is strange about this assertion is that aside from medium-size dry goods, knowledge of the physical world in its most advanced reaches depends just as much as the world of finance on complex interlocking

sets of practices. The best evidence we have of the inner workings of the physical world according to advanced theory is precisely squiggles and remnants on detection devices, and these are evidence for anything only by virtue of extremely complex linked sets of experimental practices. This makes the idea that there is some radical difference between the objects of institutionalized scientific knowledge and institutionalized financial dealings somewhat suspect, and certainly not as obvious as Searle takes it to be.

The difference between Searle and the social constructionists is more subtle. Searle treats ontology as prior to conceptualization, and runs together the problem of whether the existence of something depends on people believing in its existence with the question of whether anyone has a concept of the thing. Thus he thinks that the fact that the truth of such assertions as "Mt. Everest has snow and ice near its summit" does not depend on what people believe about Mt. Everest means that these facts are unlike institutional facts, which do depend on what people believe and to which constructionism thus correctly applies. Representations have to be representations of something, brute or social, and that means that having a concept of representation implies an ontology. For constructionists, the ontological questions depend on the conceptual ones. For people who have a materialist conception of Mt. Everest, whether Mt. Everest's having snow and ice near its summit depends on people believing in the existence of Mt. Everest would be answered just as Searle answers it. If they are a tribe of Berkeleyans, they would presumably answer differently. Ontology recapitulates conceptualization, and *concepts* are socially constructed. The difference between institutional concepts and concepts of the brute world, in short, is internal to the conceptualizations that social constructionism explains, and not prior. Searle doesn't deny that it takes concepts to make concepts. For him, the consideration is simply irrelevant. For social constructionism, it is primary, and accounting for concepts of medium-size dry goods and of institutions begins in the same place: what Searle himself calls "a whole network of practices."

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