

# Canadian Philosophical Reviews

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Philosophy Documentation Center  
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BRUCE A. ACKERMAN. *Reconstructing American Law*. Cambridge, MA: Harvard University Press 1984. Pp. viii + 110. US\$16.00 (cloth: ISBN 0-674-75015-2); US\$6.95 (paper: ISBN 0-674-75016-0).

This slim volume is the manifesto of Constructivism, a jurisprudence Ackerman has put out piecemeal in more fully argued monographs. But the pieces have not been joined up before.

Ackerman claims that American law is 'activist.' But common law works under a 'reactive constraint.' American legal 'realism' was unable to surpass this constraint. (The chapter basing this claim is missing from the *Yale Law Journal's* version of the book.) 'Constructivism' is replacing their statement of fact by a 'structural account,' (This is described in *Private Property and the Constitution*, 1977, about the 'takings' or expropriation clause; it had been employed in his *Uncertain Search for Environmental Quality*, 1974, about cleaning up the Chesapeake basin.) and their values by the value of 'undominated equality.' (His *Social Justice and the Liberal State*, 1980, fully derives liberal policies from this value.)

'Activist' law means legal change in the arrangements found in a culture and economy. This change is justified constitutionally by 'We the People' standing as the ultimate legitimacy, and historically by the New Deal's legislative alteration of previous common law rights.

The 'reactive constraint' forbids questioning of those arrangements' justification, and permits only deviance from them to be noticed in legal practice. The common law works under this restraint, attends to the particular deviance, and makes the particular parties carry the suit, which ends with their satisfaction. And 'realism,' for all its questioning of the common law, not only failed to go beyond the case, but canonized it by discarding generalization for intuition.

The 'structural' statement of the facts 'reveals how an activity might feasibly be reorganized to avoid or ameliorate the inefficiencies or injustices it may be generating.' Not the deviance, but the activity deviated from is focal; not the party, but the scientist is able to analyze the practice and know what is going on; and not the final judgment is the end of the process, but the further questioning of supporting practices.

This structural account is able to get behind the moment of trouble by using economists' assumption that both parties could without cost have arranged their affairs differently, foreseen troubles however improbable, and guarded



against them, lacking which they must bear the costs (assumption of 'zero transaction costs'). The 'structure' which is to be described is both this (at which the Chicago lawyer-economists stop), and the real-world failures of the assumption (from which the Critical Legal Scholars start). Its description can only be statistical analysis by computer programs. With it, administrative discretion can be challenged; without its skills, lawyers are impotent.

Giving a structural account of the facts requires that changed value questions now be asked: not what the 'invisible hand' has wrought; but whether market *efficiency* is a value at all, and in terms of what sense of *justice* we should distinguish its successes from its failures, and what remedies to the failures are the *fairest*, common law or statute or some other. Ackerman assumes the first without arguing it, favours the public law answer to the third, and concentrates on the second. 'Contract' is close, but not a sufficient answer, because it is still a market metaphor; and 'equal concern' is unworkable without material equality. (So much for Rawls' and Dworkin's liberalisms.)

'Undominated equality' is Ackerman's answer to this, and implicitly to the other two questions. Again it starts with lawyers' doings. Unlike scientists, they cannot leave to subjectivity the facts which *do* have transaction costs; they must argue them for their clients. And Americans have a way of getting their value disputes taken seriously: they litigate them. Then, to their arguments some response must be made, on pain of a default judgment: not just any response, but one giving reasons why the claim is legitimate; and not just any reasons, but ones that pass a conversational filter. The warp and woof of this filter are 'comprehensiveness' — existing arrangements, too, are questionable and so cannot serve as justification; and 'constraint' — existing arrangements are not open to unlimited questioning, lest even those which make possible the questioning be revised.

Legal discourse thus constrained forbids asserting the intrinsic superiority of one's self or his moral good to his fellows'. One's reason for claiming disputed resources must be able continuously not to be stopped by the question, 'Am I (Is my good) not at least as good as (no worse than) you(rs)?'

This rock bottom is also the stone of contradiction. For we would answer 'No' to that question, often enough. So would Ackerman, says he. But he would not allow that true answer to be used as a reason. Why a good, however fully demonstrated, cannot be invoked is a question that looks to some yet more distant good. (This is the criticism in the 1983 *Ethics* symposium on his *Social Justice*.) Constrained dialogue makes the 'no better than me' question a measure for what is the good. The good is to be able to answer 'Nothing' to the question. Other intuitions of the good are outlawed by this one.

Dialogue cannot be the stopper, unless it is the good, and good not just because it is what the constitution enables. Once here, we cannot stop, but must recognize 'dialogue' as one way among many to name human good once we have agreed what it is. Ackerman does not permit this enrichment.

As to facts, Parliamentary deference is a relative novelty to the courts of common law. Even thereafter, essays to finagle past it abound and, though Ackerman might see these as grovelling, at least they betray no passive acquiescence in some reactive constraint upon the common law. Anyway, escape through legislation is no less constrained by the constitutional norm than is caselaw.

Under constitutions such as our two countries', common law is not a hybrid reserve within legislation, wherein market efficiencies have shown that to legislate is too costly. Instead, the judicial decision carries authority equal to the legislative, despite being its creature and using it as a more binding source than caselaw when these conflict.

Not every state is an activist state, and none fully so. Is Ackerman's jurisprudence suited only to those which are? Or are all called to this mission by the world's imperfection? (Canada is; for her looking to the people's representative Parliament for legitimacy, instead of to We the People, is viewed as a failure, not just an alternative, in his and R.E. Charney's 'Canada at the Constitutional Crossroads,' *University of Toronto Law Journal* 34 (1984) 117-35.) But this is the very situation which has called many to traditionalism.

Only when activism has been more fully accepted than here, does the computing expert's role become dominant. Short of that, the bureaucrat is little different from other mandarins the lawyer uses, medical or actuarial, psychiatric or journalistic. All supply information whose legal worth the judge determines, not they. Why to reform the profession around bureaucrats any more than around other informants is not clear.

But Ackerman falsifies his bureaucrat's ruling presumption of zero transaction costs. From then on, legal responsibilities are established either by finding why parties' full responsibility for what they never took on can be limited; or by finding why the few responsibilities they did take on can be expanded. The latter is so compellingly true-to-life that laymen, too, may refuse an assumption known to be contrary-to-fact as the starting point for lawyers. Philosophers may be no more reassured by learning that this is the heart of Wittgensteinian method, to see how specialist talk can call into question the ordinary habits of talk (as Ackerman urges here, and repeatedly in the 1980 *Nomos* symposium on his *Private Property*).

CHRISTOPHER B. GRAY  
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Hacker and Baker here mount a sustained attack on three more or less related forms of theorizing about language, the distinction between sense and force, various brands of truth-conditional semantics, and projects of sleuthing out the rules of language that are thought necessary to explain our 'remarkable' ability to construct and understand enormous numbers of meaningful sentences.

While the authors have a great deal to say in criticism of the detail of these theories, their aim is more radical than could be achieved just in that way:

But our ultimate purpose [they say] is not to persuade linguists or philosophers that their theories are false, thereby encouraging them to redouble their efforts and to construct ever more sophisticated and subtle theories. It is rather to suggest that their efforts are futile because pointless and misconceived. (13)

They want to show that the intellectual messes they claim these people have made are inevitable, because produced in answer to questions to which there is no reason to suppose there will be an answer.

I sympathize very much with this ambition, and in the main I am well impressed by the manner in which it has been carried out. While some sandy patches occur, shrewd and muscular points pour forth in great profusion, especially in the parts of the book where Baker and Hacker are criticizing the details of the various theories, rather than showing the projects themselves to be pointless and misconceived.

There is so much that is admirable, it is not easy to choose samples, but I will try to convey some of the character of the discussion of the distinction between sense and force.

Baker and Hacker take it that the motivation for distinguishing between sense and force is the hope of keeping truth-conditional semantics in business, in the face of a difficulty that threatens disaster right at the outset. The difficulty is that if one wants to say that the meaning of a sentence is the conditions on which it is true, one will immediately encounter the objection that whereas imperative, interrogative and other non-declarative sentences are meaningful, they do not obviously *have* truth conditions, since they do not assert anything.

This difficulty promises to be avoided by saying that all sentences have two components, one of which can be true or false, and the other of which expresses an attitude towards the first.

Here we have the germ of an idea about how to preserve truth-conditional semantics in the face of a very pressing difficulty; but when attempts are made to work the idea out in a comprehensive fashion, problems arise, and depending on what the problem is, different solutions will seem promising. Some

will say that the difference between saying the room is cool, asking whether it is, and directing that it be, is a matter of whether one is saying 'It is the case,' 'Is it the case' or 'Make it the case' that the room is cool. Others make the difference one between 'The room's being cool. Yes' and 'The room's being cool. Please!'; and still others make it a difference between declarations about what kind of utterance one is about to make, for example 'My next utterance is a question,' followed by the utterance, 'The room is cool' (88).

There are grave difficulties in these translations. Whereas they all aim to show that an assertion and a correlative question have the same sense, but a different force, in any usual sense of 'sense' it is false that a question and a statement have the same sense: that 'Is the door shut?' means the same as 'The door is shut' (80). None of the translations goes any distance towards accounting for all the different kinds of 'force' that what we say may have. 'Somebody open this door' does not mean 'Make it the case that somebody will open this door' (i.e., 'Get someone to open the door'), and 'Everybody take a deep breath!' does not mean 'Make it the case that everybody will take a deep breath' (i.e., 'Get everyone to take a deep breath') (95). 'I assure you that the door is closed', while it nicely makes a distinction between sense and force, does not do it in the 'It is/is it/make it the case' fashion. It just can't be said, as proposed in the 'My next utterance will be a question' scheme, that the utterance 'The room is cool' is a question (99); and questions like 'When was the Battle of Hastings fought?' simply will not translate into a proposition plus an interrogative force indicator (100). And so on.

I have of course not touched on all the versions of the sense/force distinction discussed in the book, and have given only a small sample of the criticisms Baker and Hacker mount. It is not likely to be demonstrable that no imaginable version of the theory could possibly succeed, but it does become very clear that the scheme is beset with grave difficulties, from which it is unlikely to be saved. And a similar conclusion emerges strongly from the discussions that follow, of truth-conditional semantics, and of the search for the supposed rules of language.

I find all this very impressive. I do have various reservations, however.

1. While the tone of the writing is generally sober, there are outcroppings in places that I found regrettable. Philosophers and linguists are often represented, not as maintaining, contending or suggesting, but as declaring, announcing or proclaiming, as if the leading figures in the theorizing activity were intellectual potentates whose pronouncements settled issues. They are too often described as having disciples and followers, and as coming in troops, legions and even packs. 'Theorist' is used as a term of disparagement.

2. Criticisms of answers to various questions about language occupy too central a place in the book. To achieve its aim of showing the *questions* to be fundamentally misguided, it is certainly necessary to show that the answers are typically unsatisfactory. But showing that an answer is defective, even radically defective, does not itself show that the question to which it is an answer is misguided.



3. Baker and Hacker do not appear to be well in command of a method of showing what is wrong with a question. We see this in section 5 of the chapter on Sense and Force, a section entitled 'Diagnosis'. There they say:

Having examined a wide range of theories of sense and force, ... [w]e might wonder whether there is really anything in need of a "theoretical explanation" of this kind at all. For the existence of the very problems which the theories are designed to solve is itself open to question.(114)

Here we seem to be getting to the promised land. We seem to be due for a statement of the problems these theories are intended to solve, and a demonstration that the problems are bogus.

We have to cast around a little to find Hacker and Baker's nominations of questionable questions, but I think the following are the intended nominees, obliquely stated:

... there are two primary motivations for this activity. The first is a desire to exhibit the complex network of relations among speech-acts by analysis of these acts into simpler components some of which must be shared by any internally related speech acts. ... The second motive is to clear up certain confusions or uncertainties in the concepts (or phenomena) of speech-acts. (116)

I see no way of converting the second 'motive' into a question, but the first might come out as the question 'What complex network of relations among speech acts can be found by analysis of these acts into simpler components, some of which must be shared by any internally related speech acts?'

This is not an innocent-seeming query with a power to perplex. It is not a question from which the theorizing activity *stems*, but arises much later. Nor is it much of a diagnosis of the problem to say that people who think they have discovered complex networks of relations among speech acts, have been addressing themselves to the question 'What complex network of relations is there among speech acts?'

I am hard pressed to say what Hacker and Baker maintain is wrong with the supposed question about the complex network of relations. On page 117 they take a number of pot shots at it, but nothing they say comes across as a clear and cogent argument that it is bogus.

One might have expected that in the case of each major kind of theory about language that is investigated, after criticising the theory, the authors would single out some questions to which it was an intended answer, and show them to involve misunderstandings of some kind. They attempted this, in the manner described, for the distinction between sense and force, but I did not find any attack on the question to which any variant of truth-conditional semantics might be alleged to be an answer.

Baker and Hacker do make a nice point about Chomsky's favorite question, how, after a small amount of linguistic experience, people are able to construct and understand such an enormous number of new sentences.

It would be absurd to be amazed at the vast number of pictures an artist can paint, the huge number of pots a potter can throw, the endless number of potential roles an actor can play. (354)

Less satisfactory is the argument of the preceding few pages that understanding is neither an activity nor a conscious state, and that therefore one cannot ask what activity, or what conscious state is understanding. It is not clear that Chomskyans are asking those questions.

In spite of the foregoing criticisms, I would like to repeat that I found the book impressive. It provides illuminating histories of the theorizing activities with which it deals, and as I have said, contains enormous numbers of criticisms of them, which are at the very least interesting, and very often powerful.

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FRED R. BERGER. *Happiness, Justice & Freedom: The Moral and Political Philosophy of John Stuart Mill*. Berkeley: University of California Press 1984. Pp. x + 364. US\$24.95. ISBN 0-520-04867-9.

Objections have been raised against two features of utilitarianism: its claim that what should be done depends only on consequences, and its claim that it depends only on which alternative would have total consequences maximizing pleasure or happiness. Against maximization it is objected that whenever over-all enjoyment is thereby maximized, utilitarianism requires enslavement of a large portion of a society, extremely unfair distribution of goods, and gross public humiliation of innocent people. Against consequentialism it is objected that utilitarianism requires everyone to disregard another's right to be paid what he has been promised for his services; it requires a teacher to ignore the merits of a student's work in grading it; it requires a court of law to disregard the rights of plaintiffs; it requires innocence or guilt to be disregarded in meting out punishment.

A century ago Sidgwick tried to show that whatever are legitimate in the claims of liberty and rights are compatible with utilitarianism. Berger pays no attention to the development of utilitarianism by Sidgwick, Moore and Rashdall. He focuses on the discussion during the past generation of Mill's



views on rights, rules and obligations. Berger holds in effect that Mill argued in the opposite direction from Sidgwick: that whatever is legitimate in utilitarianism is compatible with the claims of liberty and of justice.

'Insecurity of person and property ... means, uncertainty whether they who sow will reap, whether they who produce will consume.' 'Rules which forbid mankind to hurt one another (in which we must never forget to include wrongful interferences with each other's freedom) are more vital to human well-being than any ...; if obedience to them were not the rule, and disobedience the exception, everyone would see in everyone else an enemy, against whom he must be perpetually guarding himself.' With respect to measures without which 'everyone would see in everyone else an enemy' Mill makes three points. First, these measures require that everyone be subject to rules to which everyone else is subject. Second, they require that everyone be able to count upon everyone else's being subject to these rules. To insure this they require, thirdly, that everyone be compelled to comply with these rules, by law or by public opinion. Mill claims 'it is these ... primarily which compose the obligations of justice.' But Mill does not restrict circumstances in which everyone may be compelled to adhere to rules to these; he mentions four other circumstances under which men may be subjected to such compulsion: (2) 'He who accepts benefits, and denies a return of them when needed, inflicts a real hurt ... the disappointment of expectation constitutes the principal criminality of ... a breach of friendship and a breach of promise. Few hurts ... are greater.' (3) To 'perform certain acts of individual beneficence, such as saving a fellow-creature's life, or interposing to protect the defenceless against ill-usage.' (4) To 'bear his fair share in the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection.' (5) To prevent men from directly injuring another's interests in other ways not already counted.

Berger rightly notices the close connection between Mill's argument in *On Liberty* and Mill's theory of justice: the latter dealing with where men may be compelled to comply with rules, the former with where they may not. Berger recognizes that the reason Mill holds that it is wrong for others to use compulsion upon any adult to prevent him from harming himself is that such compulsion interferes with his developing the practical intelligence to be responsible for himself; but Berger thinks Mill is in error in failing to conclude that an adult has a right to develop himself as a responsible being (290). Berger seems not to notice that Mill would concede that an adult has that right only if others generally have a duty to promote his self-development. In arguing instead that others have a duty to refrain from interfering with his self-development, Mill is denying that any adult has that right.

Berger discusses at length conflicts among recent interpretations of Mill's views of what is asserted of someone when it is said that it would be unjust, or wrong, or a duty for him not to do something; or of when it is said that he has a right to something. Mill shows more sensitivity to the nuances of such distinctions than did Bentham before him or Sidgwick and Moore after him. Yet recent discussion of these matters, apart from Mill, has shown some error

in each of Mill's results, so that it seems now of largely antiquarian interest to determine exactly what Mill's views were.

Mill writes, 'By happiness is intended pleasure, and the absence of pain.' Elsewhere he assigns it other components. When virtue, fame, power, or money, once desired as a means to happiness comes to be desired for its own sake, it is 'desired as a part of happiness.' By the first view someone is less happy if less contented; by Mill's more considered view, someone is happier even though less contented. It is 'better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied.' Only the preference by those experienced with both is competent to decide. In promoting 'the greatest happiness of the greatest number' Mill leaves it unclear whether he would favor more libraries and lectures, because they contribute to greater happiness, as judged by those competent, or would favor more gambling casinos and beer halls, as more conducive to the only happiness of which many are capable. Berger questions whether Mill can give any sense to the notion of that which maximizes happiness. Mill seems not to have noticed that his favoring what competent judges prefer most frees him from thinking that there need be maximization of any component in what they prefer most.

However these questions are resolved, it remains to consider what use Mill assigns the principle of utility. His standard answer is that men should usually decide what to do by a subordinate principle, having recourse to the principle of utility only when subordinate principles conflict. If by using the principle of utility Mill understands deciding what to do by seeking which of all alternatives will have the intrinsically best total consequences, Mill himself never gives an example of using the principle of utility. He is always content to consider only a few alternatives, a few consequences, and consequences he does not regard as intrinsically desirable. So what he describes as a recourse to the principle of utility turns out to be an appeal from one subordinate principle to another. When Mill asserts that the case for men generally being compelled to comply with those rules without which 'everyone would see in everyone else an enemy' rests on utility, he is right if he means that it is useful, but wrong if he means that the case for it is dependent on the principle of utility, on any view of what is desirable for its own sake.

D.P. DRYER  
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Au cours des dernières décennies, la littérature sur la métaphore a atteint des proportions qui frisent la démesure. Peu de philosophèmes ont suscité autant d'intérêt dans l'histoire de la pensée contemporaine. Une véritable armée de philosophes, linguistes, sémanticiens, poéticiens, psychologues, pédagogues, etc., s'est attaquée au(x) problème(s) de la métaphore, et des deux côtés de l'Atlantique, l'enfant chérie de la tropologie fait beaucoup parler d'elle.

Du côté des philosophes français, la parution du livre de P. Ricoeur, *La métaphore vive* (1975), déclencha une (vive) controverse opposant ce dernier à J. Derrida (Cf. 'La mythologie blanche' (1971)). C'est cette controverse qui sert de fil conducteur à l'ouvrage de G. Bouchard. Les deux principales questions débattues concernaient la possibilité de définir la métaphore et les rôles qu'elle joue dans le discours (philosophique). *Le procès de la métaphore* se divise en deux parties; la première, intitulée 'La définition de la métaphore,' et la seconde, 'Les rôles de la métaphore.' Mais *Le procès de la métaphore* n'est pas seulement un commentaire savant en marge des textes de Ricoeur et Derrida; il offre aussi une conception de la métaphore, d'allure conciliante et libérale, qui insiste sur la diversité des rôles que joue la métaphore dans le discours, ainsi que sur la 'complémentarité' des différentes approches (grammaticale, sémantique, pragmatique) de la métaphore. Voyons maintenant un peu plus en détail comment s'organise l'ouvrage.

Le chapitre premier, 'La métaphore selon Derrida et selon Ricoeur,' présente la lecture que fait G. Bouchard des textes de Derrida et Ricoeur relativement au problème de la définition de la métaphore. Ce chapitre inaugural prend pour thème l'objection de principe, soulevée par Derrida (on ne peut donner de la métaphore une définition qui soit exempte de circularité), et la réponse que Ricoeur oppose à cette objection. Ce premier chapitre est aussi l'occasion d'un patient, utile et important travail de 'correction' accompli par G. Bouchard, correction des conceptions présentées par Ricoeur et Derrida, et des 'lectures' qu'ils font d'un grand nombre d'auteurs classiques. Ces corrections se retrouvent surtout à la fin du volume, sous forme de notes (il y a 68 pages de notes dans cet ouvrage); ces notes ne doivent pas être négligées par le lecteur, car elles permettent de nuancer beaucoup les thèses philosophiques des deux auteurs français.

Dans le chapitre II, 'Le syntagme métaphorique,' G. Bouchard entreprend une tâche difficile et importante: tenter de reconstruire une 'définition minimale' de la métaphore sur laquelle les chercheurs actuels pourraient éventuellement s'entendre, une définition qui retienne les principaux traits pertinents des définitions données par les rhétoriciens et les philosophes les plus influents, d'Aristote à Ricoeur. Il s'agit d'une tâche importante, car plusieurs auteurs soutiennent aujourd'hui que la métaphore est une 'figure complexe,' que les métaphores n'ont pas 'une nature commune exprimable par une description unique' (11). La seule autre solution est de décréter que par 'métaphore' on entendra seulement ceci ou cela; mais cette stratégie, qui consiste à enrégimenter l'usage, répugne à beaucoup de théoriciens. La procédure suivie par G. Bouchard me paraît irréprochable. Il recense d'abord les définitions les plus célèbres de la métaphore pour en dégager les prin-

cipaux traits pertinents; ensuite il établit des équivalences entre les différents traits, les regroupe en catégories, et enfin traduit les principaux traits ainsi obtenus en métalangage. Tous ces traits, combinés sans restriction, engendreraient plus d'un demi-million de définitions de la métaphore. G. Bouchard applique alors une série de règles ('prescriptions des théories de la métaphore') qui permettent de ramener ce nombre astronomique à un très petit nombre, en éliminant les conceptions absurdes, peu plausibles, ou lacunaires. Les résultats de ce travail se trouvent exposés aux pages 119-20. Cependant, la définition minimale que présente G. Bouchard n'est pas matériellement adéquate (comme celle de Ricoeur et pour la même raison), car elle comporte le critère de l'impertinence sémantique' qui exclut, a priori, les métaphores négatives. En effet, une métaphore comme 'Nul n'est une île' ne présente aucune impertinence sémantique (ou absurdité littérale, contradiction flagrante, etc.) lorsqu'on en fait une lecture littérale. La littérature récente sur la métaphore offre d'autres contre-exemples au critère de l'impertinence. Néanmoins, cette définition minimale constitue un point de départ utile, compte tenu du fait que l'usage actuel du mot 'métaphore' n'est pas des mieux réglés.

À la fin du deuxième chapitre, G. Bouchard esquisse une tentative de rapprochement entre les diverses conceptions de la métaphore qui sont trop souvent, d'après lui, présentées comme antagonistes. Il plaide surtout en faveur de la complémentarité des approches sémantique et pragmatique. Je trouve un peu malheureux que l'auteur ne précise pas davantage ce qui fait qu'une théorie de la métaphore est sémantique plutôt que pragmatique. Les problèmes de démarcation entre la sémantique et la pragmatique sont d'une grande complexité et si l'auteur ne les ignore pas, il passe néanmoins un peu rapidement, me semble-t-il, à la conclusion qu'il désirait atteindre. Si une théorie sémantique de la métaphore est une théorie qui 'localise' la signification métaphorique dans l'énoncé plutôt que dans l'énonciation, et si une telle théorie explique la signification métaphorique par un certain 'changement de sens' des mots dans l'énoncé, alors je ne vois pas comment on peut réconcilier les théories sémantiques et pragmatiques, car ces dernières, habituellement, nient explicitement que la signification métaphorique soit dans l'énoncé, ou que la signification lexicale des mots change dans l'énoncé. Ou bien la signification métaphorique est dans l'énoncé, ou bien elle n'est pas dans l'énoncé, *tertium non datur*. Elle n'y est pas un peu ou à moitié. C'est là un point sur lequel les théories sémantiques et pragmatiques me semblent irréconciliables. De plus, G. Bouchard veut à tout prix éviter l'«hégémonie» d'une approche (grammaticale, sémantique, pragmatique) sur les autres. Pour ma part, je ne vois pas qu'il s'agisse d'hégémonie et je comprends mal les craintes de l'auteur à ce sujet. La syntaxe est une étude de la sémiosis plus abstraite (au sens hégélien) que la sémantique, elle-même plus abstraite que la pragmatique. Il ne s'agit pas d'hégémonie, mais de niveaux de complexité. Il est normal et souhaitable que les sciences du langage cherchent à se donner une pragmatique, et en particulier une pragmatique de la métaphore.



La deuxième partie de l'ouvrage (sur 'les rôles de la métaphore') commence (chapitre III) par une reprise du débat Derrida-Ricoeur, cette fois-ci sur le rôle de la métaphore dans le discours philosophique. Il y a beaucoup de finesse dans l'argumentation de G. Bouchard lorsqu'il critique les positions de Derrida et Ricoeur. En particulier, il montre fort bien la nécessité de stratifier le domaine de la métaphore: il n'y a pas que les métaphores 'mortes' ou 'vives'; il faut aussi considérer toute une série de cas intermédiaires, si l'on veut distinguer correctement ce qui peut légitimement compter comme métaphore. Par exemple, un locuteur français qui utilise le mot 'tête' ne fait pas une métaphore, car le sens du mot latin '*testa*' (= 'petit pot') fut oblitéré en passant au lexique du français. La situation est légèrement différente pour les catachrèses, les clichés, etc. Ces distinctions importent surtout contre l'«étymologisme» et les théories 'inflationnistes' de la métaphore.

Le dernier chapitre, 'La métaphore à tout faire,' s'achève par une visite au bureau des emplois! La métaphore y fait valoir sa spécialité: la polyvalence! G. Bouchard montre que la métaphore n'a pas qu'un rôle cognitif ou ornemental, qu'elle a au contraire une multitude de rôles. Il y aurait peut-être lieu, cependant, de s'interroger sur la possibilité de réduire ces divers 'rôles' à un petit nombre raisonnable; car on peut s'interroger sérieusement sur l'identité d'une chose avec laquelle on peut faire à peu près n'importe quoi — c'est l'une des grandes leçons de C.S. Peirce.

Le dernier livre du professeur Bouchard est un livre tout en nuances, qui redresse et corrige plusieurs des lectures faites par Derrida et surtout Ricoeur; c'est un livre marqué d'une grande érudition (la liste des ouvrages cités est impressionnante), et fort bien écrit, simplement, sans pédantisme. Enfin, c'est aussi un livre 'pertinent,' qui arrive à faire le point intelligemment sur des questions difficiles, souvent très embrouillées, en tout cas très largement discutées. Et c'est toujours à la fois un grand mérite et un risque que de discuter des enjeux philosophiques qui préoccupent un nombre considérable de chercheurs de tous les horizons. Comme l'écrit Heidegger, dans 'Pourquoi les poètes?': 'Ceux qui risquent le plus ne sont ceux qu'ils sont que parce qu'ils sont ceux qui disent le plus'...

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CAHIERS DE RECHERCHE SOCIOLOGIQUE. Vol. 1: *Connaissance et société*, Montréal: Département de sociologie de l'UQAM, 1983, 127 p. ISBN 2-920543-00-8; Vol. 2 (1): *Le discours social et ses usages*, 1984, 179 p. ISBN 2-920543-05-6; Vol. 2 (2): *Problèmes d'immigration*, 1984, 138 p. ISBN 2-920543-02-4.

Bien qu'avec un retard considérable — puisque le volume 1 des *Cahiers de recherche sociologique* est apparu en septembre 1983 —, saluons cette nouvelle publication périodique en langue française et souhaitons-lui tout le succès qu'elle mérite. Les sociologues canadiens francophones ne pouvaient certainement pas se plaindre de la qualité des périodiques déjà existants dans la matière qui reflétait l'accroissement en diversité et en valeur de la réflexion sociologique québécoise et franco-canadienne. Les *Cahiers* confirment ce fait et répondent au besoin d'élargir encore plus les possibilités de communication de l'état de la réflexion et de la recherche sociologique.

La philosophie des *Cahiers*, exposée dans le volume 1, les définissent comme 'une collection de volumes thématiques qui ne chercheront à afficher aucune sorte d'inspiration théorique, méthodologique ou politique uniforme.' Seul donc le thème est censé constituer, pour chaque numéro, le point de convergence des collaborateurs — ce qui ouvre le champ à la diversification et à la confrontation. La nature assez générale des thèmes choisis pour les premiers numéros des *Cahiers* — 'Connaissance et société,' 'Le discours social et ses usages,' 'Problèmes d'immigration' — facilite évidemment la réalisation pratique de cette philosophie.

Il n'est pas possible dans le cadre de cette présentation des *Cahiers* de passer en revue tous et chacun des articles publiés. Il ne serait pas juste non plus d'opérer un tri et commenter certains parmi eux. Nous ne ferons donc que quelques remarques générales sur le contenu des *Cahiers* publiés aux seules fins d'inciter à leur lecture.

Le volume 1 ('Connaissance et société') vise dans ses différentes contributions à marquer la portée et les limites de certaines connaissances sociologiques. La question de la transition et de son appréhension cognitive y occupe cependant une place importante car elle fait l'objet de deux articles, l'un concernant la question de la rupture dans les sciences, l'autre dans le champ spécifique de la pensée économique. Il s'agit d'un volume essentiellement théorique ou épistémologique. Le volume 2, numéro 1 comporte une série de textes sur les problèmes théoriques et méthodologiques soulevés par l'analyse du discours. Nous y rencontrons donc autant de réflexions sur la question du rapport entre le discursif, la production de sens et les déterminations sociales que des propositions sur les techniques d'analyse du discursif et même certains résultats concrets de ces analyses. Enfin, le troisième volume paru, sans négliger des aspects théoriques et méthodologiques des problèmes d'immigration cède une place plus considérable aux recherches empiriques.

Cette recension montre, même dans sa brièveté et sa généralité, que le contenu des *Cahiers* — ou de certains de ses numéros tout au moins — n'intéresse pas que les sociologues: des praticiens d'autres disciplines sociales et les philosophes qui travaillent dans le domaine de la philosophie sociale et politique y trouvent des points de rencontre. Ce qui ne fait par ailleurs que réaliser le vœu des *Cahiers* d'inciter à, et de développer une réflexion sur l'ensemble de la société et son devenir en brisant le cloisonnement des objets de recherche et le fractionnement 'professionnel' de l'intérêt de connaissance.



Signalons enfin les thèmes prévus pour les prochains numéros et qui témoignent de l'amplitude de la problématique desservie par les *Cahiers*: bureaucratie et réorganisation des procès de travail, sociologie du Québec contemporain, la crise.

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M.J. DETMOLD, *The Unity of Law and Morality: A Refutation of Legal Positivism*. Don Mills, Ont.: Oxford University Press 1984. Pp. xix + 271. Cdn\$37.50. ISBN 0-7102-0030-7.

'The unity of law and morality' and 'a refutation of legal positivism,' Detmold warns us in his Preface, are merely consistent themes in his analysis of law rather than subjects addressed directly in their own right. Detmold is concerned to consider problems as they come up rather than construct a complete account. Fairly warned, the reader finds that Detmold indeed treats a variety of issues and problems in an impressionistic order. This makes the book read (at least on first reading) somewhat like an interconnected notebook of arguments and observations that jointly cooperate to question the plausibility of legal positivism. Still, this method is refreshing: the author entwines technical, philosophical analyses of rule-following with speculations about the 'mystery' of the world, and detailed discussions of judicial reasoning from precedents with observations about beauty and love. The real mystery is why this potentially self-indulgent approach works so marvelously well. But, it does: in the end Detmold offers us a wide and various collection of reasons in favour of both of his themes, but these reasons, to borrow a simile from John Wisdom's 'Gods,' are like the legs of a chair, rather than the links of a chain.

Detmold wishes to refute legal positivism of the sophisticated sort associated with H.L.A. Hart and Joseph Raz. A legal positivist will insist that the question of what the law is on any issue can be answered without moral commitment, and that, in Raz's words, the fact that courts 'follow and apply the rules of recognition does not entail that they hold them to be morally justified.' For most Hart-inspired positivists, in other words, the limits of the law are the limits of the legal rules laid down, or posited. These rules may be morally acceptable, or morally reprehensible, but if on inspection they have

passed the accepted pedigree tests of legal validity (the rules of recognition: 'was duly passed by Parliament,' 'follows from previous precedents,' 'is the product of judicial discretion' or whatever), they are law. Positivist jurisprudence thus tends to restrict its concern to analyses of the logical character of rules, of following rules, and reasoning from rules. On this account, what the law is is a matter of fact; moral assessment of legal rules is a different matter.

Detmold brings our attention to several worries about the positivist's thesis that law and morality are separate. In the end he wants to say that legal positivism is impossible, that it cannot make sense of law, or of morality. This is the 'refutation' theme of the book, and we find pockets of arguments scattered throughout the book that deal with the consequences of the legal positivist's conception of law and legal system. Many of these discussions are exegetically detailed and technical enough to satisfy the cognoscente. For the most part, these discussions merely raise doubts about the positivist's project, and one can easily imagine the defender of legal positivism responding at each point with fine-tuning amendments. Such, indeed, has been the character of most post-Hartian analytical jurisprudential debates.

Yet, while Detmold engages in that dialogue, he is also aiming higher: the 'refutation' theme is also supported (like the legs of a chair) by the 'unity' theme. Here Detmold offers a more coherent and daring understanding of morality. Summarizing is dangerous and unfair — this book should be worked through rather than distilled — but a glimpse of Detmold's understanding is worth the risk of distortion.

Morality is practical and practical thought is concerned with action, more particularly, with discovering, assessing and weighing reasons for action. Reasons for action may be self-regarding or other-regarding, but in either case they are facts about the world. When one is deciding what action to take, the point of the deliberation is to commit oneself to one course of action rather than another. Practical judgments are always about particular actions in particular circumstances. Following Hume, for Detmold the weight of a reason for action is the degree of passionate response one has to the fact that constitutes that reason. Weighing, interpreting, deciding, choosing — these practical actions are commitments we make, they are ways in which we passionately engage in morality. Judging, finally, is passionate commitment to a course of action, all things considered. The only commitments there are are moral commitments since morality is (the unity of) practical thought.

What does this mean for law, and for the legal positivist? Straightforwardly, if weighing, interpreting, deciding, choosing and judging, as component actions of practical reason, constitute morality, then legal adjudication just is moral judgment. As Detmold puts it, if one is making legal judgments from within the law (as a judge must), then to say that 'X is the law' is just to say that 'X ought legally to be obeyed,' and that is to say that 'X ought morally to be obeyed.' To identify the law is to make a practical judgment (a judgment of action, not belief); to make a practical judgment is to commit oneself passionately to an action, and that is to make a moral judgment. Separating law



and morality is, thus, incoherent: there is only one 'ought,' the moral ought; the judge is 'bound' by the law because he is morally bound by it.

But isn't the law simply a collection of rules and principles, facts about a particular jurisdiction at a particular historical moment? If so, why would it be incoherent for a judge to say that the applicable law is X, but X is a mistake (morally wrong, silly, anachronistic or whatever)?

Detmold responds, in part, that it is true enough that the law — or rather laws — can be viewed as facts. But so viewed, these facts are not being perceived as law, for there is no commitment. These rules are not taken on as practical judgments; one has morally chosen not to situate oneself within this legal system; one has decided not to play the 'law game.' However, once one assumes an internal point of view, one has made a moral judgment to commit oneself to these laws as (part of) the law. The judge, as a matter of duty, has committed him or herself to these laws, as law, and that commitment makes it incoherent to distinguish what is legal from what is moral.

Anyone familiar with the 'separation of law and morality' debate might wonder from this summary how anyone could say such odd things. Does Detmold really mean that judges have no discretion where the law is 'silent' (yes); does he think that a lower court can reject a clear precedent from a superior court if it thinks it is morally wrong (yes); does he think that every legal question has a uniquely correct answer (probably). I can only commend the book to those who find these consequences unintelligible, for Detmold has much to say in support of these and other claims.

There is one, overriding worry with Detmold's book, however: should not his 'unity' theme be better termed the 'ubiquity' theme? That is, one may easily get the impression not only that morality suffuses the entire sphere of human action, but also, more particularly, that on Detmold's account the law disappears. What Detmold says on this point is provocative, but not helpful: the 'law is an undifferentiated part of the whole flux' of morality (155). But, if part, why undifferentiated; and if undifferentiated, why a part?

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JOEL FEINBERG. *Harm To Others: The Moral Limits of the Criminal Law*. Don Mills and New York: Oxford University Press 1984. Pp. xiii + 269. Cdn\$41.95. ISBN 0-19-503409-0 (v. I).

*The Moral Limits of the Criminal Law* is a four-volume work which addresses the question: What are 'the moral limits of individual liberty,

understanding "liberty" simply as the absence of legal coercion' (7). *Harm to Others*, the first of Joel Feinberg's four volumes, focuses on one traditional answer to this question, the 'harm principle.' As Feinberg notes, (3), his question is much narrower than Mill's concern in *On Liberty* with 'the nature and limits of the power which can be legitimately exercised by *society* over the individual.' Feinberg, unlike Mill, is concerned only with 'power exercised by the state by means of the criminal law' (3).

After (a) defining liberalism 'as the view that the harm and offense principles, duly clarified and qualified, between them exhaust the class of morally relevant reasons for criminal prohibition' (14-15), paternalistic and moralistic considerations having 'no weight at all' (15); (b) 'confessing' his 'liberal predilections' (15); and (c) voicing his skepticism of foundationalist, 'deep structure' ethical theories, and his commitment to a coherence or 'reflective equilibrium' approach to ethical theorizing; Feinberg sets out, in *Harm to Others*, to establish the meaning and range of the liberal's harm principle. This he defines as the principle that 'the need to prevent harm (private or public) to parties other than the actor is always an appropriate [though neither necessary nor sufficient (10)] *reason* for legal coercion' (11). Feinberg is quick to note that the principle, so stated, 'is too vague to be of any potential use at all' to anyone, including the philosopher and the legislator. His mission, in this first volume, is to render it more precise and helpful, by clarifying its concepts and testing its limits.

Feinberg begins with an intriguing analysis of the concept of harm, as that notion figures in his version of the harm principle. In the remainder of the book this analysis is, in effect, tested against certain puzzling cases involving 'moral,' 'vicarious,' 'posthumous,' 'prenatal,' 'public,' 'aggregative,' 'accumulative' and 'imitative' harms. Along the way Feinberg discusses such crucial questions as gun control legislation, environmental pollution and public broadcasters' responsibilities regarding 'imitative crimes.' He also argues, quite convincingly, that omissions, properly conceived, can indeed be causes of harms. From this he concludes that the harm principle legitimizes, indeed demands, bad samaritan laws requiring rescue where there is clearly no unreasonable risk, cost or inconvenience to the potential samaritan. 'It is always a good reason in support of criminal legislation that it is necessary *either* to prevent people from harming (causing harm to) others *or* to get them to make reasonable efforts to prevent others from being harmed' (186).

Space prevents me from commenting on even a small sample of Feinberg's rich and penetrating arguments. Instead I shall raise briefly some concerns I have about Feinberg's basic analysis of the concept 'harm,' as it figures in his interpretation of the harm principle. In that context, he argues, harm 'has two components, one a violation of the victim's rights (a wrong to him) and the other a certain deleterious effect on his interests...' (52). In short, 'a harm is a *wrongfully* set back interest' (105). For the purposes of the harm principle, then, 'harm' is defined in terms of (a) rights; and (b) interests. It is possible, on this analysis, to violate rights without harming (a wrongfully broken



promise redounds, by a fluke, to the promisee's advantage) or to set back interests without harming (the loser in a prestigious, and fair, athletic competition fails to gain entry into the lucrative television endorsement field, but he is not 'harmed' by his triumphant opponent).

Having defined harm in terms of interests, Feinberg's next task is to explain the latter notion. An interest, he tells us, 'is a kind of *stake*.' (33). S has an interest in X, whether X be a company or a career, when S has a stake in X's well-being, 'when he stands to gain or lose depending on the nature or condition of X' (33-4). Interests, he thinks, are of two basic types. There are (a) *welfare interests* 'in achieving and maintaining that minimum level of physical and mental health, material resources, economic assets, and political liberty that is necessary if we are to have any chance at all of achieving our higher good or well-being, as determined by our more ulterior goals [or focal aims]' (57). These more ulterior goals ground (b) *ulterior interests*, in things such as winning fame and glory, building a dream house, advancing a cause or solving a scientific problem. We all more or less share the same welfare interests, and they are absolutely essential both to our being and to our well-being. Ulterior interests vary with our dispositions and wants. They may not be essential to being; they are, however, essential to *well-being*. Ulterior interests are interests in things which are valued, at least in part, as ends in themselves. Welfare interests, on the other hand, 'are typically instrumental' (59).

To be harmed then is, in the end, to have one's welfare or ulterior interests set back in some way or other; to be *impeded* in the pursuit of one's ultimate goals and objectives. This analysis enables Feinberg to distinguish between harms, on the one hand, and hurts, offenses and other unpleasanties on the other. 'Not everything that we dislike, resent, and wish to avoid, is harmful to us' (43), because not everything of these kinds hinders the pursuit of our ultimate goals. There is an obvious advantage in this feature of Feinberg's theory. He avoids the trap of allowing, as harmful, the occurrence of anything any person(s) would not wish to have happen, or which has any unwanted effects upon any person(s). To make such an allowance would be to render the harm principle far too strong for the liking of any liberal. It would leave us with virtually no liberty at all. But the question immediately arises whether the principle, so interpreted, is *strong enough*. One can easily imagine cases where substantial evil is done to a person, though he is not harmed in Feinberg's sense. He is forced, say, to undergo a highly painful, though in no way debilitating, experience. He is perhaps hurt, but not thereby hindered in any way in the pursuit of his ultimate objectives. Feinberg is not unaware of this difficulty. But this solution is puzzling. '[E]ven though a given hurt may not qualify under these criteria as a harm, and will not therefore warrant preventive coercion *under the harm principle*, it is nevertheless an *evil* of its own kind, and perhaps ... a sufficiently serious evil to warrant protective intervention under an alternative liberty-limiting principle' (48). *But*, having defined the liberalism he wishes to defend as viewing harm and offense to others as the only 'morally relevant reasons for criminal

prohibition' (14), Feinberg is left with one option: the wanton infliction of pain on another 'would clearly be punishable under *the broadly interpreted offense principle*, even if it is not classified as a harm' (49, my emphasis).

Something has surely gone wrong here. Is wanton infliction of pain to be prevented by law because it is *offensive to the victim* — in any broad, but plausible, sense of 'offensive'? We must wait till Volume 2 (*Offense to Others*) to discover Feinberg's answer to this puzzle. But one strongly suspects that, whatever that answer is, it will be insufficient to counteract the 'dis-equilibrium' introduced into his theory by the claim that, whenever non-harmful infliction of pain is subject to legal prevention, it is so on the grounds of its offensiveness. Would it not be better to say, instead, that such hurts *are* harms? If we did, then we would seem to be faced with two options. We either abandon Feinberg's analysis of harm in terms of wrongfully set-back interests (stakes), or we somehow provide an explanation for why non-debilitating pain *is* against our interests. To take the first option would, of course, be to abandon Feinberg's entire project. But perhaps there is hope for the second. Is it perhaps true that we, or at least most of us, have an interest (a non-instrumental welfare interest?) in avoiding unnecessary pain? And that we have this interest not simply because, and to the extent that, pain prevents us from striving for our ulterior goals; but rather because unnecessary pain is something, in itself, that almost all of us very much wish not to experience? If neither of these options is acceptable, then perhaps the solution is to redefine liberalism as recognizing the prevention of harms, offenses, *and unnecessary hurts to others* as morally relevant reasons for state coercion. This seems preferable, in the end, to conceiving of pains and hurts which do not set back interests as 'offensive' and thus legally preventable.

In closing it must be said that *Harm To Others* is essential reading for anyone interested in the moral limits of the criminal law. This includes those who do not share Feinberg's liberal predilections. The arguments are developed with the care, sensitivity, depth and insight one has come to expect from Joel Feinberg. If the remaining volumes are of the same high quality as the first, *The Moral Limits of the Criminal Law* is surely destined to become a jurisprudential and philosophical classic.

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OWEN FLANAGAN. *The Science of Mind*. Cambridge: The MIT Press 1984. Pp. xii + 336. US\$25.00 (cloth: 0-262-06090-6); US\$12.50 (paper 0-262-56031-3).



This text fills a niche that has been empty. It provides a philosophical examination of the history of psychology that will be informative to many and particularly useful to those of us who teach philosophy of psychology and want to include a historical perspective. Flanagan includes chapters on Descartes, James, Freud, Skinner, Piaget and Kohlberg, recent cognitive psychology, and E.O. Wilson's sociobiology. One thing that is notable about this selection is its breadth — very few mainstream treatments of philosophy of psychology have focused much attention on James, on the developmental psychologists Piaget and Kohlberg, or on sociobiology. Rather, the focus has been almost exclusively on the behaviorist tradition or on recent cognitive psychology. Flanagan is to be applauded for expanding philosophers' perspective as to what has happened and is happening in psychology. All of the areas Flanagan covers provide material for profitable philosophical examination. There are some notable omissions that lead to an incomplete perspective on the history. For example, James is given generous coverage but not Wundt, and Skinner is covered, but not Watson, Spence, Hull, and Tolman. Except for Freud, little is done with clinical psychology. It is perhaps inevitable, though, that each of us will find something to gripe about in any choice about what to cover.

There is too much in this book to provide a systematic review of its contents. Rather, I will focus on just a couple of the episodes from the history of psychology which Flanagan develops to indicate the kind of treatment he offers and its utility in philosophy of psychology. One thing that is particularly useful in Flanagan's treatment of various psychological positions is that he combines exposition of the psychological position with appropriate philosophical reconstruction and follows with philosophical evaluation. In his philosophical evaluations, Flanagan develops his own critical questions and offers his evaluation of the position. For pedagogical purposes, Flanagan's own evaluation is handled so as not to interfere with showing the main features of the position under review. Students can acquire a basic understanding of the psychological position and then see how a philosopher might subject it to criticism.

It is unsurprising that Flanagan begins his treatment with Descartes, but his reason for doing so is not to set up Cartesian dualism as the opponent to the development of psychology, as it is too often presented in the philosophical literature. Rather, it is to draw attention to the mechanistic aspects of Descartes' programme, which provided a major impetus to the development of mechanical theories in physiology, which in turn provided inspiration for the development of psychology. Flanagan draws attention to how extensive Descartes' mechanism is — it accounts not only for reflex behavior but for emotional states. He points out that it was only with voluntary action that Descartes was forced to go beyond mechanism to postulate a non-material substance. Flanagan notes that pointing to voluntary action only presents a challenge to accounts invoking a simplistic, reflex arc conception of mechanism and does not itself entail dualism. It is at this juncture that Flanagan turns to the more philosophically familiar arguments Descartes ad-

vanced for dualism and tries to show how each is problematic. Flanagan's point in doing this, however, is not simply to engage in philosophical criticism, but to show that the decision about the metaphysical status of the mind has not been definitively settled by philosophical arguments. Having pursued the theoretical arguments, Flanagan returns to the motivation for dualism, showing how it can be construed as an explanation of the moral character humans seem to find in themselves. What might be wished for at this point is that Flanagan would conclude this treatment with some discussion of contemporary dualists like John Eccles. Instead, there is only a reference to Popper and Eccles', *The Self and Its Brain*.

The other section of Flanagan's text on which I will focus is the section on recent cognitive psychology and artificial intelligence. In this section Flanagan breaks with his strategy of focusing only on the contributions of one or two central figures. As a philosopher, it would have been easy for him to do so and look only at the contributions of Chomsky and Fodor. Thankfully he did not and the result is that he exposes students to a far more representative sample of current work on cognition. Flanagan does not neglect Chomsky and Fodor, discussing both of them in the context of the thesis that there are task-specific modules in the human mind, and Fodor again in discussing the relation of cognitive theories to neurophysiology, areas where their thinking has attractive genuine interest amongst psychologists. Instead of a detailed account of Fodor, Flanagan describes two exemplars of research in information processing psychology — Sternberg's work on lexical access and Shepard's research on mental rotation of images — as a means of showing how Kant's notion of a transcendental deduction has, suitably modified, provided a guiding inspiration to much of cognitive science research. Flanagan also includes a discussion of recent cognitive research which has relevance to two common philosophical questions, those concerning the human capacity to know how one thinks and the human modes of reasoning, that help show the significance of cognitive science research to philosophical inquiry. Flanagan then concludes with a rather detailed exposition of the research programme of artificial intelligence and an analysis of some of the conceptual difficulties confronting it. While Flanagan's exegesis is often oversimplified (for example, he treats the software/hardware distinction as if it were a neat clear cut distinction, which it no longer seems to be), he provides a clear introduction to the programme of artificial intelligence that succeeds in explaining why so many have seen great promise in it. He also presents clearly a number of the common objections that have been raised against artificial intelligence and evaluates their validity for different conceptions of what artificial intelligence is trying to accomplish.

With a treatment of such scope, there are inevitably cases where Flanagan offers very questionable interpretations. One of the obvious cases is where Flanagan presents Descartes as endorsing the view that the mind relates to the body as the pilot relates to a ship. Descartes, however, in the very passage Flanagan cites, takes pains to deny precisely this interpretation,



maintaining the mind is more closely connected to the body than a pilot is to a ship. Such problems, however, are not great in number and do not tarnish the overall contribution of the book. Altogether it provides a valuable introduction to the major approaches to psychology and is a valuable teaching tool.

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MARTIN HEIDEGGER. *The Metaphysical Foundations of Logic*. Translated by Michael Heim. Bloomington: Indiana University Press 1984. Pp. vii + 241. US\$25.00. ISBN 0-253-33783-6.

In 1927, a hastily published book entitled *Being and Time* excited the European philosophical world. However, as stimulating as it was and remains, significant lacunae were lodged among its provocative analyses. Foreshortened analyses, questions raised and put aside, and inadequate discussion of the tradition being challenged left many puzzles unanswered. The book was not only a torso of the projected work, but also an easily misunderstood guide-post along Heidegger's way of thinking since no markers announced what immediately preceded it or followed from it. Readers had to contend with gaps in analyses as well as with the puzzling transition to other guide-posts such as 'What is Metaphysics?' and 'The Essence of Ground.'

Fortunately, this situation is gradually changing with the appearance, both in German and in English, of volumes like *The Metaphysical Foundations of Logic*. Appearing as volume 26 of the Collected Edition of Heidegger's works, this lecture course given a year after the publication of *Being and Time* provides what others have called an insight into Heidegger's workshop. Heim's excellent translation is eminently readable. As Germanisms fall away and a few translator's notes provide essential aid, the reader soon forgets that the lectures were not offered in English. The German editor's account of the genesis of the present text, the translator's thoughtful afterward, and a detailed English index all contribute to making the work a way to enter upon or to continue to travel along Heidegger's way toward being.

For novices interested in making some acquaintance with Heidegger's enterprise, this set of lectures offers relatively easy access to Heidegger's ways

of thinking. The lectures begin unpretentiously enough. They seek the foundations of the traditional logic of judgment, epitomized in the work of Leibniz, in his metaphysics of monads taken as self-contained worlds. Unlike traditional lectures in logic, they strive to show that the main phenomena of logic, e.g., the principle of identity, the principle of ground or sufficient reason, etc., when released from traditional 'petrification' refer back to metaphysics, to Dasein as transcendence, and ultimately to the understanding-of-being. In doing so, they provide the novice with a paradigmatic illustration of what Heidegger calls the 'destruction' of tradition in the provocative revivification of the oft-neglected work of Leibniz. Leibnizian concerns and claims about identity receive new life and a course in the history of philosophy becomes an exciting co-endeavor to philosophize. It is clear that an important sense of deconstruction was practiced fruitfully long before it had its name and its following. As the traditionally unclarified notion of 'ground' is investigated in the second part, the lectures provide accounts of the problem of being, the difference between intentionality and being-in-the-world, the phenomenon of world, and the essence of truth that surpass those of *Being and Time* in clarity and intelligibility. These coupled with the copious but brief exchanges at the appropriate junctures with Plato and Parmenides, Aquinas and Descartes, and Kant and Scheler introduce the new reader of Heidegger's work both to some basic notions of his quest for being as well as to the place of that quest in the Western philosophical tradition.

While such clarification is beneficial to the first readers of Heidegger's works, it also supplements the knowledge of those already familiar with Heidegger's efforts. It is clearly explained, for example, how Heidegger contrasts the concept of being-in-the-world to that of intentionality as well as how the destruction of the tradition is actually integral to the questioning of being. There are, however, other advantages for the initiated. In providing further reflections upon transcendence, primal temporality, and world in their interconnection, the lectures emphasize that *Being and Time* is but a way-station along Heidegger's journey. While utilizing the analyses of *Being and Time*, the lecture course's attempt to seek the origin of ground in being-in-the-world, i.e., in Dasein's freedom ontologically understood as the transcending, future-oriented primal temporality, reaches toward a new sense of freedom, to a concern for 'metontology', i.e., for beings as a whole, and to a perspective which transforms the earlier often-misunderstood 'existential' approach to being. The 'why and because' which asks after and gives grounds for beings is possible only because Dasein is free, because Dasein transcends as the understanding-of-being. Reflections such as these facilitate to some extent the closing of the gaps that exist between some of the previously published works. It is as if one is now made privy to what was going on during the journey between the way-stations.

Nonetheless, the thinking along with Heidegger that this volume invites must be a thinking against as well, even if the nature of this 'against' is subject to question. Endemic to Heidegger's way is his 'violent' interpretation of



tradition. He boldly asserts, for example, that 'all historical orientation is only living when we learn to see that what is ultimately essential is due to our own interpreting in the free re-thinking by which we gain detachment from all erudition' (57). Consequently, this interpretation '... must risk proceeding beyond Leibniz, or, better, going back more originally to Leibniz — even with the danger of departing from what he in fact said' (72). Such a strategy is as provocative as it is fruitful, but in an age in which the nature of writing and reading have become problematic, one can perhaps at best maintain an open, questioning mind regarding it.

The volume raises other substantial concerns. One may freely admit that along Heidegger's way, the questioning of being becomes the end itself. Thinking seems to spiral ever downward and all genuine philosophical problems yield yet another perspective upon being. Nonetheless, there seems to be more room for precision and clarity in specific analyses than Heidegger's slow downward spiral towards being allows. In getting to the bottom of ground, Heidegger introduces a radical, non-existential ontological sense of freedom which becomes the origin of all 'why and because.' It nonetheless remains unclear what such neo-locutions mean, particularly when they are conjoined to statements like 'ground belongs essentially to the essence of being,' a phrase that once again forestalls even a tentative halting place for this specific questioning. It remains unclear how much is gained by using 'freedom' in the sense of future-oriented transcendence and by having all roads lead to the ontological grail of being.

Here, as in other works, one confronts the catch-22 of Heidegger's thinking. To disagree is to miss the point and to agree with satisfaction is to lack profundity. The ways taken are necessary ways, but like timber tracks in the Black Forest, they lead nowhere except, perhaps, to a clearing. To ask for more of a closure is shallow, but the alternative is to find one's dwelling in always being underway. For those engaged in philosophizing as at once journey and destination, this volume provides yet another welcomed momentary abode. There are times, however, when one may think that both author and reader — at different stages along the way and for different reasons — could use the helpful switch of a Zen master.

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LEWIS P. HINCHMAN. *Hegel's Critique of the Enlightenment*. Tampa: University of South Florida Press 1984. Pp. xvi + 299. US\$25.00. ISBN 0-8130-0784-4.

As the title indicates, this work concerns Hegel's interpretation of the Enlightenment, an enlightenment already accomplished in Europe, the results of which were very much in evidence during the late eighteenth and early nineteenth centuries. Hegel accepted the outcome of the Enlightenment insofar as it stood for rational inquiry and the rights of the individual against tyranny, but he seemed to see in the negative power of purely analytic thought a failure to restore to philosophy and the arts their deservedly important place as contributors toward the development of the totally integrated human self. It was Hegel's rejection of an empiricism that made no effort to adequately achieve a speculative reconciliation with itself that prompted him to build on the one positive contribution for which he believed the Enlightenment to be responsible, that is, the emergent concept of the self as a unique and distinct force in human history essential to the implementation of freedom in social and political affairs. Indeed, Hegel takes the structure of the self-positing conscious self as the paradigm that is essential to a proper understanding of the structure of all reality; such is the important and key theme upon which Hegel's critical analysis of the Enlightenment is built and the one to which Hinchman returns again and again in the course of his essay.

The first chapter deals with the treatment given to the theory of self-knowledge by Hegel's immediate predecessors. There is found to reside in the certainty which Descartes discovered in his *cogito ergo sum* a principle of fundamental concern for all modern philosophy. Kant's transcendental unity of consciousness shows that the mind's own synthesizing activity provides the precondition for the objective validity of all knowledge. Not to be overlooked is Hegel's debt to the insights of Fichte and Schelling in arriving at his own conviction as to the centrality of self-consciousness in any attempt to arrive at an adequate understanding of our experience. Hinchman has assigned to Hegel not only the task of contributing to a reinterpretation of the Enlightenment, but at times casts him in the role of a deliverer who has come to refashion the Enlightenment largely in his own image. It indeed appears to have been Hegel's mission to reunite in the concept of selfhood what the Enlightenment had dissected in its misplaced emphasis on empiricism; the Enlightenment according to Hegel could not be considered complete until the human self had become more enlightened still. The self has attained sovereignty and, as Hinchman says, been made into the very 'horizon of intelligibility.' The envisioned goal, one that is to prove more grandiose than that accomplished by the Enlightenment itself, is to achieve a synthesis calling upon reason to take responsibility for the reconciliation of no less than being and all thinking. Hegel's inquiry into the Enlightenment, forming a synthesis that was to provide one of the strong cornerstones of his entire philosophical system, amounts to a universalization of selfhood relating our self-consciousness to the absolute.

Chapters two and three may be seen as an attempt by the author to present in compact style some of the challenging intricacies of Hegel's speculative metaphysics as they are worked out through experience in responsible selfhood. Convinced of the inadequacies of Schelling's intellectual intui-



tionism which he labeled an 'amorphous absolute,' Hegel set about in the *Phänomenologie* to demonstrate the absolute as a series of conceptual finite relationships, an organic system in the process of continuous formation. Basically, Hegel finds that the *concept* affords a not logically impossible intersubjective accessibility to any knowledge whatsoever, for in the concept lies the essence of all thought, where thought can override being, but only in a negative sense. Much is made of Hegel's move from substance to subject such that the thread of fragmentation to which post-Enlightenment culture was exposed might be overcome by means of an ontology of the absolute as it is revealed to itself and characterized according to the knowledge of our own self-consciousness recognizable in political and moral experience.

In a somewhat protracted discussion throughout Chapter four evidence is adduced on Hegel's behalf in support of the allegation of state degeneracy and declining moral standards in premodern Europe. The remedy for such a plight, Hegel would be obliged to say, calls for a more fully actualized consciousness on the part of human selfhood. From here we are subsequently asked to examine in Chapter five the legacy of religious faith as a largely ignored yet persistent shadow following in the wake of the Enlightenment. Although he believes that true faith has been neglected rather than obliterated, Hegel takes strong exception to the almost libelous attitude shown toward faith by the Enlightenment in its denigration of spiritual truth, an Enlightenment convinced nevertheless by its own assured faith in reason of its easy victory over the need to rely upon only faith. But only in a faith that is sufficiently vital to be rejuvenated by speculative philosophy, according to Hegel, would all the conditions for a perfectly fulfilled Enlightenment be completely realized.

Chapter six turns to an evaluation of the German Enlightenment. From Fichte we have the observation that reason cannot be truly considered to be theoretical until at the same time it is taken to be practical, so it is scarcely surprising that in the German *Aufklärung* practical reason is called upon to sustain the account given of moral freedom. For Hegel, morality is never a matter of abstract principles alone, but penetrates to the very fabric of community life such that the concept of *Sittlichkeit* places ethics squarely within a setting where the individual is called upon to perform a social function on behalf of statehood. Chapter seven looks into the foundation, social as well as political, of the modern state, and Hinchman must try to make plausible how the free will, no longer an empty self-identity, shapes its determinate content into a freedom that is nevertheless 'concrete' in order to secure the worth of the individual under the tutelage of an authoritarian state.

Hinchman's Chapter eight, based on Hegel's *Philosophie des Rechts*, is a critical commentary on the more familiar sections of this work dealing with civil society and the state. Here the restructuring of the Enlightenment has been momentarily set aside while Hegel reverts to, as he sees it, a need for the primacy of statehood as a centralized power in the modern world so that to be recognized in his aspiration to a world of culture or *Bildung* the citizen is expected to conform to universally accepted norms superimposed by the

state. Hinchman's capsule definition of Hegel's state as the fullest expression of human freedom is far-fetched and too lenient, although Hegel would probably counter that the state is objective spirit embodying an immanent rationality not inimical to the realization of freedom's aims in a social context. Be that as it may, no pallid criticism brought to bear by the author is sufficient to excuse Hegel's archaic theories of statehood and his strong advocacy of an aristocratic system of government operating without benefit of free elections. Government control in which the individual is allowed no direct voice in state decisions, where there is no legislative authority representing the citizenry as individuals and where the individual is subservient to a ruling elite would be totally unacceptable to the present-day Western democratic world; popular sovereignty as it has now come to be understood would be meaningless.

Utilizing his own translation from the German texts, Hinchman's book amounts to a painstaking and serviceable commentary on Hegel's better known works, a carefully wrought exposition of Hegel's involved orchestration of the absolute as it is worked out in human self-consciousness in confrontation with the social and political issues bequeathed by the Enlightenment of the eighteenth century. Although an extensive bibliography is appended and each chapter is closely documented from the original texts, there appears to be very little reliance on secondary sources throughout the main chapters of the book.

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HOWARD KAMLER. *Character and Personal Values*. Johnson City, TN: Institute of Social Sciences and Arts 1984. Pp. ii + 312. ISBN 0-915165-03-1.

There are a number of philosophically interesting issues associated with the term 'character.' Since people are said to be of 'good character' or of 'bad character,' to have 'strong' or 'weak' characters, to have character flaws, and so on, it would be worth considering what would count as evidence for applying such evaluative terms to people. A related question has to do with the connection between character and ethical actions. People tend to believe that it is better, from a moral point of view, to raise people with good and strong characters than to raise them with bad or weak characters. They believe this



because they believe in some connection between good character and right actions, between evil character and wrong actions. However, it is clear that this connection is no more simple than that between good (or bad) motives and right (or wrong) actions. People of dubious — or even of evil character — can sometimes act in a manner morally right for the circumstances. Even people of sterling character sometimes do the wrong thing: sometimes as a result of an error in judgement, sometimes as a result of rigidity of habit, sometimes as a result of confused motives or ordinary moral faults.

Despite its title this book does not deal with questions of this kind. They are the concerns of a moral philosopher. Kamler makes it clear in his preface and in his treatment of the egoistic and altruistic character (Chs. 5 and 6) that he does not intend to discuss *moral* evaluation of character.

Instead, he is interested in another kind of question about character, one which has both philosophical and psychological aspects. He is concerned with what constitutes character. Kamler ties his treatment of the matter to discussions of the meaning of life and of personal integrity. Briefly put, his proposal is that something called a life-philosophy is central to individual character. An individual's life-philosophy consists of a set of values, ordered according to their relative importance to that person. These values give meaning to a person's life by justifying central purposes and all the practical activities which stem from them. They fix an individual's personal identity; according to Kamler, what makes someone the sort of person she is are the values most crucial to her. They establish personal integrity: one feels integrity to the extent that one lives in a manner consistent with one's life-philosophy.

Kamler describes a number of model life-philosophies in order to make clear exactly what they are and how they function. Two different approaches to personal freedom are discussed, as well as Ayn Rand's form of egoism and an extreme variety of altruism. In Kamler's view each of these is internally consistent and sufficiently wide-ranging to serve the purpose of a life-philosophy. Each is also immune from certain superficial external criticisms — such as the claim that egoists never value other people — even though each can seem totally irrational from the point of view of people holding radically different life philosophies.

Life-styles are a different matter. According to Kamler, they establish social rather than personal identity. A person's life-style values are directly influenced by those of one's chosen associates. Life-philosophy values are more or less impervious to such influence and can actually influence one's choice of associates, and consequent life-style.

This contrast leads to a lengthy discussion of value change. Although Kamler promises, early in the book, a clear method for values clarification and for critical evaluation of one's life philosophy, he does not really deliver. There are some useful distinctions, such as that between primary, or basic, and secondary, or instrumental, values. He maintains that a life-philosophy is essential to personal well-being and that it is important that it contain values with wide and consistent application. He points out the importance of deriv-

ing the consequences of one's central values in a manner well filled out by his description of sample life-philosophies. The relations between life-style and life-philosophy values are sketched in a way that sheds some light on the latter. However, no criteria are provided for choice between well-ordered consistent sets of primary values. One chooses secondary values, no doubt, to satisfy primary values. However, how could one choose a set of core values, a complete life-philosophy? How could one even choose a single core value logically independent of ones already accepted? To appeal to some external standard of valuation would be out of the question — to do so one would have to adopt it as a core of value of one's life-philosophy. To appeal directly to core values would be equally circular. The only ones which could apply are ones logically connected with it. Not only can Kamler not say how one should be rational in choosing central values, he cannot describe how such choices are made unless they turn out to be purely arbitrary, or the result of social influences. The latter he is inclined to rule out in the case of life-philosophies. Kamler would do better to treat value clarification and values change explicitly as processes done piece by piece in which particular core values are judged against others already accepted, at least provisionally, in order to generate a life-philosophy which is not only consistent but of a more or less systematic nature and with clear application to the choice situations the clarifiers must regularly face. This 'systematic' feature of life-philosophy would then have to be explained.

There are a number of other difficulties with Kamler's treatment of character. He never gives the claim that life-philosophy values are socially determined a proper run for its money. It is true that they are not as mutable as those associated with what he calls life-style and that they are closely tied up with individual personality. However, theorists who discuss the process of socialization might well counter that these values are nonetheless a causal product of a social process, the process of socialization, and that the range of core values to be found in a society is determined by structural or cultural features of that society. Although the common understanding of character usually associates a person's beliefs, skills, and ability to judge (a very special skill) with character, Kamler does not discuss them. It would have been much harder to avoid discussion of them if the moral dimension of character had been dealt with. The consideration of the relative quality of individual human lives which has been connected with the issue of the meaning of life is also not taken up. In fact none of the literature on the meaning of life which has appeared since Karl Britton's 1970 book, *Philosophy and the Meaning of Life* is discussed. A discussion of character which had taken note of the concerns of moral philosophers would not have overlooked it.

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JOHN KEANE. *Public Life and Late Capitalism: Toward a Socialist Theory of Democracy*, New York: Cambridge University Press 1984. Pp. vii + 340. US\$39.50. ISBN 0-521-25543-0.

This is a rich, substantial, and lucid work in the tradition of democratic socialism. It is historically sensitive and constructively critical in its discussion of social theorists, including Marx, Weber, Dewey, Tonnies, Marcuse, Offe, and Habermas. Unifying this collection of essays is the conviction that the socialist transformation of late capitalism requires a weakening of the power of state and corporate bureaucracies through the strengthening of spheres of autonomous public life.

Bureaucracy and autonomy are taken to be antithetical. The former is understood as involving a complex impersonal command-obedience structure whose professionalized division of functions is designed to maximize technical efficiency in the achievement of an organization's goals. An autonomous public sphere is said to be a voluntary association of individuals who critically assess their interaction with each other and the outside world as they plan how they will act in the foreseeable future.

Three theses are defended. First, it is argued that the bureaucratic process is permeating all areas of the state and civil society. This means that traditional forms of coercion and control are being gradually supplanted by bureaucratic techniques of supervision, professionalism, science, and technology. The bureaucratization of daily life constitutes a new form of fetishism which Marx failed to anticipate in his preoccupation with despotism in the economic realm of production. Bureaucratic organization is seen as extending to the most intimate spheres of household life (e.g., welfare monitoring and mass media).

The second thesis is that bureaucratic organizations, in thriving upon dependent and unquestioning subjects who accept as normal and necessary relations of command and obedience, tend toward the depoliticization of society. Reinforcing this is the growing fatalistic belief that there is no escape from the heteronomy of bureaucratic life. Weber, according to Keane, was a pioneer in the ideology of depoliticization: his persuasive theory of inevitable bureaucratic expansion created and constitutes an obstacle to a socialist theory of public life. Although a critic of the unquestioning idolization of bureaucracy, Weber's theory nevertheless reinforces bureaucratic fetishism by its defense of the technical superiority of bureaucratic organization. Weber's analysis is said to suffer from two weaknesses: (a) an overestimation of the technical and administrative efficiency of bureaucracy, and (b) a failure to grasp the potential of subjects to resist depoliticization and to defend spheres of autonomy. Moreover, Keane finds Weber's 'polytheism' (value pluralism) inconsistent with his acceptance of bureaucratic 'monotheism' (domination).

The third thesis holds that there is a paradox immanent in bureaucracy: it both represses and incites the growth of autonomous publics. (Here Keane is

very much in the Marxist tradition of dialectical analysis.) In reality bureaucratic organizations cannot achieve their objectives through impersonal and technically proficient rules of operation, but only through entreatment. Horizontally — to be successful — they must entreat other bureaucracies and even opposition movements. Vertically, they face resistance within the organization unless they can successfully solicit the active participation of the very members whose autonomy they forbid.

This dialectical contradiction in bureaucratic life opens the possibility of subjecting state and corporate organizations to scrutiny, transformation, and supervision from below. What is needed is a socialist vision of autonomous life. The Habermasian ideal of unrestrained communication, while praised for its challenge to bureaucratic heteronomy, is found to be too abstract and too thin to capture the real wealth of possibilities for autonomous public life. It overvalues argumentative interaction and ignores symbolic forms of autonomous expression, including bodily gestures, disobedience, film, theatre, literature, and music. Furthermore, Habermas unjustifiably excludes work from the realm of autonomous life, something Keane — resurrecting Marx — reaffirms in his endorsement of self-government in factories, offices, department stores, and laboratories.

Keane provides little detail about the role of the state in multiple autonomous public spheres. We are told that state power will be restricted to service oriented political institutions which will be subject to criticism and supervision from below. The reader interested in an attempt to work out particulars is advised to look at M. Markovic's *Democratic Socialism* (St. Martin's Press 1982) in which a federalist system is proposed.

A profound obstacle to Keane's democratic socialist proposal as it applies to the late capitalism of the United States is the massive bureaucratic apparatus designed for national security. The book barely acknowledges the problem of nuclear security and its concomitant justification of oligarchy, secrets, and lies. No analysis of the requirements of democratic socialism is complete and realistic unless it faces the problem of democracy within the context of national security. All he says is that socialist society will counter the existing world-threatening military industrial development of science by redirecting and redeploying science 'in accordance with needs generated through autonomous public spheres of decision making' (217). This will not do as a response to the fact that the two competing nuclear autocracies thrive on secrecy and the radical extension of bureaucratic control.

If Keane largely ignores the problem of democracy and nuclear deterrence, he provides a sophisticated treatment of the politics of ecology. He faults Habermas for undervaluing the significance of such ecological sciences as botany, zoology, and interdisciplinary biology. Habermas' category of empirical-analytic science cannot, it is argued, accommodate the novel logic of the ecological sciences, a logic essentially opposed to the fundamental premise of empirical-analytic science: the postulate of active, calculating subjects who manipulate a purposeless, thing-like outer nature. These sciences challenge the instrumental attitude toward the rational world and imply the



need for less bureaucratically repressive relations between society and nature. In challenging the subject-object dualism of empirical-analytic science, ecological sciences affirm nature as a constitutive partner and assist the democratic-socialist opposition to the capitalist, bureaucratic consumer orientation to the world.

*Public Life and Late Capitalism* is an important work of socialist critique and democratic reconstruction. I have not been able to do justice to its complexity and the wealth of topics examined by Keane. For those interested in creative socialist intellectual history and bold radical dialectical projection this book is a significant achievement.

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RICHARD KRAUT. *Socrates and the State*. Princeton: Princeton University Press 1984. Pp. xi + 338. US\$20.00. ISBN 0-691-07666-9.

Kraut's subject is Socrates as portrayed in the early works of Plato. About two-thirds of his study is a close examination of the *Crito* directed at understanding the reasoning behind Socrates' refusal to escape from jail. The remainder aims to clarify and explain Socrates' political attitudes and beliefs through the ethics and epistemology of the early works.

Some commentators think the *Crito* allows the citizen little or no scope for justifiably disobeying the state and is in this respect at odds with the position of the *Apology*'s Socrates who seems (for Kraut: is) committed to disobeying any law or order requiring him to perform an act he believed unjust. One of Kraut's major aims is to show that the political philosophy of the *Crito* is not 'offensively authoritarian' (though he agrees there is much in the speech of the Laws which creates such an impression). On the contrary, the speech should be seen as an ingenious, well-argued attempt to strike a fair balance between state needs and citizen needs in which the moral legitimacy of dissent and disobedience is adequately recognized. The *Crito* — 'as careful a dialogue as Plato wrote' (7) — is a better piece of philosophy than commonly thought.

Kraut's interpretation of this short but problematic dialogue emerges from a systematic, often subtle analysis which explores numerous alternative interpretations and pays appropriate attention to historical and linguistic issues.

His reading's main features include the following. The Laws' speech contains two arguments against escape. One, stemming from the parent-state analogy, holds that a citizen, because of benefits received, should honour his state through obedience or persuasion. Were Socrates to escape, he would be neither obeying nor persuading and hence would wrong Athens. The opening lines of the speech, in which the Laws implicate an (escaping) Socrates in the destruction of Athens, do not, as sometimes thought, convey a self-contained 'argument from destruction' against escape. Their purpose is to supplement the first argument by bringing out the gravity of Socrates' offence. The other argument grounds the obligation to obey the laws, and hence Socrates' obligation to accept the court's punishment, in an implicit agreement. (In an interesting discussion of the conditions for the existence of such an agreement, Kraut argues that mere residence in Athens after enrolment as a citizen is insufficient: there must also be acts from which satisfaction with the laws may be inferred.) While either argument (if sound) would suffice to show the injustice of escape, their combination is necessary to invest the state with sufficient authority over the citizen. If the only source of political obligation were agreement, there would be no reason for a citizen who sincerely but misguidedly dissents to obey; if the only source lay in the parent-state analogy, the state would have inadequate punitive authority. The evaluative sections are comparatively brief. The argument from agreement is 'misconceived at its core' (193). The other, while flawed, contains some truth: benefits received from one's state don't create an obligation to obey the law but do give rise to debts of gratitude requiring respect and concern for the state's well-being.

In arguing for his non-authoritarian reading, Kraut claims that the Laws of the speech have a two-sided personality, sometimes identifying themselves with Athens or its legal apparatus ('the laws'), sometimes with a (Socratic) legal philosophy that includes commitment to the principles of justice expressed prior to the speech ('the Laws'). Thus conduct condemned by the laws need not also be condemned by the Laws. In particular, if a citizen has publicly expressed dissatisfaction with a law that he correctly believes would require him to do or suffer an injustice, he would not be condemned by the Laws for (overt) disobedience — provided that he stands ready, if summoned, to persuade a jury that he was right to disobey. If the jury is not persuaded, the Laws would not hold he should obey.

Central to Kraut's case here is an unconventional interpretation of the Laws' injunction that the citizen either persuade (*peithein*) or obey. This, he argues, should not be understood as requiring obedience if persuasion fails: someone who tries to persuade but fails may justifiably disobey. There are, I think, several weaknesses in his long defence of this interpretation. Briefly: (1) To say there is 'only the smallest of differences' (71) between 'you must persuade' and 'you must try to persuade' — the orderers may be equally tolerant of honest failure, but only the second explicitly signals this — is to miss the difference between the fulfilment conditions of the orders. (2) It seems wrong to say that 'Do A or B' is non-committal about what the person



ordered is to do if he tries one of the alternatives and fails. (The floor-cleaning example proposed as support (74) needs attention to the question: How clean is clean?) (3) Kraut notes that *peithein* sometimes means 'try to persuade' and invites any readers who think that disobedience is permitted by the Laws' injunction only if *peithein* has conative force to construe the Laws as meaning 'try to persuade' (72-3). But wouldn't Plato (in a careful dialogue) have avoided a bare *peithein* if he had intended 'try to persuade' and not the more natural 'persuade'?

Why did Socrates, with his low opinion of the many, prefer democratic Athens to all other cities? Why did he think Crete and Sparta well governed? Such questions are Kraut's starting point in the last two chapters ('Socrates and Democracy,' 'Definition, Knowledge, and Teaching'). Although his main purpose is to trace Socrates' political beliefs and attitudes to sources in ethics and epistemology, the final (largely self-contained) chapter contains much material which is of interest quite aside from the use to which he puts it: Kraut's theses about Socratic epistemology and differences between Socrates and Plato deserve scholarly attention.

In bald summary: Socrates, Kraut argues, didn't conceive himself to be a teacher of virtue or to possess moral expertise, believing that he lacked the definitions of virtues he thought necessary for such expertise. He seriously doubted that virtue is teachable and that moral expertise is humanly attainable. While endorsing the desirability of rule by moral experts, his sense of epistemic limits made him sceptical about its realizability. His assessment of the value of different constitutional forms and mechanisms hinged on the extent to which they permitted individual moral progress: expertise may elude us, but moral deficiencies vary in severity. Judged by this standard, Athenian democracy ranked as best (of a bad lot), for its toleration of intellectual inquiry permitted progress beyond the mixed bag of conventional morality.

Philosophers interested in early Plato, and classicists too, will find this a valuable study. As a bonus, the book is beautifully and accurately produced.

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LEONARD LINSKY. *Oblique Contexts*. Chicago, IL: The University of Chicago Press 1983. Pp. xxxvii + 175. US\$25.00. ISBN 0-226-48439-4.

There are not today better theories than those of Frege and Russell, and it is for this reason that these views still remain at the center of interest in the

philosophy of language. (OC xxix. I will locate quoted passages in previously mentioned works, as here, by initials and page-numbers.)

Linsky's vigorous efforts to establish this ambitious claim make this book at once the boldest and the most unified of his three on some problems of reference which for many would virtually define the center he mentions. Unsurprisingly, it overlaps the other two: the early *Referring* less, the middle *Names and Descriptions* more. But as with fictional trilogies, some old characters drop out, new ones come in, continuing ones are revealed in new aspects, and at least much of the action is new. Strawson, prominent in the first book, is ignored in the next two. In these, Dummett's 'monumental work on Frege' (ND xii) and Kripke's philosophical writing, too recent for the first book, both loom large, the former being accorded less reverence, in Linsky's latest, than a monument might seem due. But the most dramatic entry goes to Church, who, as against two blanks in *Names and Descriptions*, has 14 Bibliography listings and 25 Index citations in *Oblique Contexts*. Linsky's lucid exposition of Church's arguments and views would alone give this book a unique value. His admiration is evident throughout, and despite his professed inability to declare a winner between Frege and Russell, one feels, as *Oblique Contexts* ends, that the tie was uphill work for Russell, and that Linsky, if obliged to choose, would surely follow the lead of this Fregean mentor.

It was disenchantment with more recent approaches that drove Linsky back to Frege and Russell: 'Possible-worlds semantics worked fine for necessity and possibility, I found, but not at all well for belief, and nothing else seemed to work either' (OC xii). A chapter on doxastic logic, centering on Hintikka's *Knowledge and Belief*, documents the negative half of this claim. But Linsky's major project is the more positive one of giving color, mostly by opposing modern critics, to the two classical views. Thus his first four chapters present these views, combining insights of Church and David Kaplan with many of Linsky's own, in a masterful exposition. One theme, not even adumbrated in the lengthy treatment of Russell in *Referring*, is Russell's commitment, in his solutions to various forms of the puzzle about identity which inspired Frege's own theory, to an *intensional* reading of his logic. Those of us who first learned our Russell from Quine's *Methods of Logic*, say, should take serious note. One of Linsky's battles here is indeed against the Quinean view, so popular a few years back, of intensions as 'creatures of darkness.'

Another major battle concerns the critique of Frege and Russell that Kripke bases on his own view that proper names lack senses. Earlier, Dummett, qua champion of Frege, waged this battle on behalf of Russell too, persuaded that the two stand or fall together, despite there being, pace Kripke, no such animal as a single 'Russell-Frege view.' But Linsky, while casting himself as a champion of both classical authors, battles solely on behalf of Frege, as far as I can see. He concedes that Kripke's arguments 'are destructive of Russell's view' (OC 130) and that his 'attack on the description-theory is successful' (OC 131). His Introduction does promise 'a suitably cautious and careful formulation of a description theory of ordinary proper names — one



that is certainly Russellian in spirit and that survives Kripke's critique' (OC xxxvii). But neither in his long chapter on Kripke nor elsewhere in his book can I find a formulation that seems to remember this promise.

Linsky shows, as I would say, that Dummett's defence of Frege, which he reviews in detail, fails, but urges that rescue from Kripke can still be affected by dropping Dummett's premise that 'a proper name will, if introduced by means of a definite description, necessarily acquire the sense of the description in the process' (OC 130). Ironically, Linsky's ground for denying this is one that he can credit Dummett with having reached first: 'It is a feature of the sense of a singular term that it is a proper name' (OC 131).

*Oblique Contexts* deserves generous applause, but Linsky would probably prefer a more argumentative response. So let me sketch some doubts as to the viability of its project of classical restoration. Since Frege comes out here looking better than Russell, as I see it, his theory will be my target.

First, Frege's idea that sentences have references (or denote) is more vulnerable, I think, than Linsky sees (OC xxx). Like any author of a recursive semantics, Frege will explain the truth-conditions of some sentences in terms of reference and predication. On this explanatory model, it is always fair to ask, if told that a speaker S has referred to an object O, what S has said about O. For reference, as Austin remarks in 'How to Talk,' is an *ancillary* speech-act, never the whole of what S does, always needing to be complemented by another such speech-act, like predication. But uttering a sentence can be the whole of what S does. If S is then referring to the True, say, what is he saying about it? What larger speech-act is S's referring (which exhausted his words) ancillary to? And why does S's having referred to the True, if he has, depend not at all on his referential intentions, when what S has referred to in using a singular term depends on nothing else? These awkward questions reveal, I think, a drastic conceptual stretch that Frege's idea implies.

Secondly, in his enthusiasm for Russell's 'On Denoting' policy of testing theories against puzzles, Linsky sometimes, I think, overlooks other important tests. As one of these, a theory should predict ambiguity just where it is felt by speakers to occur. And let us note that while Frege's invocation of indirect senses and references makes for ambiguous singular terms, his theory is such that *no ambiguity for main sentences* results from this. But belief-ascriptions, say, exhibit the de dicto/de re ambiguity. As it stands, Frege's theory fails to predict their de re readings. Moreover, the only remedy in sight is for Frege to allow a singular term T in such a context the option of having its customary reference. How would explanation in terms of reference and predication, as per the above model, then proceed? On the de dicto reading of such an ascription A, its embedded sentence Q would have as its reference its customary sense, namely, the thought or Fregean proposition it expresses. Thus Frege can read A de dicto, satisfyingly, as talking about, as saying that someone believes, (what he is happy to call) a proposition. But what about a de re reading that gives T its customary reference? Q either (i) will have its customary reference too, or (ii) will not. On (i), A will be talking about, saying that someone believes, a truth-value. On (ii), the reference of Q

will be 'composed' in part of the customary reference of T, a physical object, typically, and A will at best be about, will say that someone believes, what only Russell would be happy to call a proposition.

Finally, let me oppose Linsky's liking for Fregean senses by noting what I would call a curious blindness to the causal-historical insights into proper name reference of Kripke and Donnellan. 'For me, the suggestion that St. Anne existed but was not the mother of Mary is simply unintelligible' (ND 55). By contrast, Donnellan confesses, in 'Proper Names and Identifying Descriptions,' to 'incautious moments' of believing in even the 'outlandish theoretical possibility' that Aristotle 'could turn out to be ... Plato's dog' (PNID 366).

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DONALD MARTEL, *L'anthropologie d'Althusser*. (Collection 'Philosophica' 27), Ottawa: Les Editions de l'Université d'Ottawa 1984. 205 p. ISBN 2-7603-1037-x.

D'abord un aveu. Je trouve 'rafraîchissant' qu'au milieu des années 80 une analyse soit consacrée à Althusser. Le 'structuralisme marxiste' a successivement connu durant les années 60-70 une longue décade d'influence déterminante sur l'intelligentsia d'ici et d'ailleurs, suivie de coups de futoir plus ou moins 'parricides' assenés par d'anciens épigones soudain convertis au monothéisme ou à la pensée libérale. Puis ce fut le silence, la page tournée. Débat à peine engagé aussitôt escamoté; débat du reste plus politique que théorique. Voilà que cette pensée, matrice intellectuelle d'une génération, Donald Martel invite à la réexaminer là où elle-même appelait 'études et analyses approfondies.' Et ce d'un point de vue sereinement critique: ni partisan ni détracteur.

Point de départ: la fameuse thèse althussérienne de l'idéologie *en général* dans laquelle la critique d'inspiration maoïste trouvait naguère l'expression d'un révisionnisme théoricien, puisque l'effet de *méconnaissance* qui y est marqué semble primer sur la lutte entre les idéologies particulières. La science, l'épistémologie avant la lutte des classes. D'où les inlassables reprises, rajouts et précisions d'Althusser pour établir que l'épistémologie (dans ses termes: la philosophie) était 'l'expression de la lutte des classes dans



la théorie.' C'est au coeur de ce débat que se porte Martel puisqu'il essaye de fonder la théorie de l'idéologie *en général* sur une véritable *anthropologie*. Projet assurément paradoxal puisque la relecture de Marx par Althusser opposait précisément la 'science' du *Capital* à la philosophie (humaniste) des oeuvres de jeunesse. Il est vrai qu'il s'agit là d'une anthropologie anti-humaniste.

La démonstration est relativement simple. La théorie de l'idéologie pose celle-ci comme *éternelle*. La science n'y prévaudra jamais totalement. Toujours un effet de méconnaissance et d'illusion agira sur des sujets déterminés par les rapports sociaux. Déterminés d'abord à se croire sujets, sujets libres de l'histoire, maîtres de leurs destins; déterminés corrélativement à entretenir un rapport imaginaire à leurs conditions d'existence. Croyant trouver l'origine de cette notion de *rapport imaginaire* dans le concept lacanien d'*imaginaire*, Martel pose la question du rôle que joue ce concept en psychanalyse et constate qu'il sert, avec les concepts de *réel*, de *symbolique* et bien sûr d'*inconscient*, à l'édification d'une anthropologie anti-humaniste. Tout comme chez Lacan, il y aurait ainsi chez Althusser la prise en compte d'une structure de méconnaissance imaginaire du moi, considérée comme un caractère immuable et transhistorique. L'homme est, en somme, un 'animal idéologique.'

Il se trouve que cette formule est bel et bien d'Althusser. D'où vient pourtant que l'argument ne force pas l'adhésion? Si l'on postule que toute pensée, tout exercice intellectuel suppose une philosophie sous-jacente, on peut bien trouver comme concomitant obligé du matérialisme historique — tel que relu par Althusser — une anthropologie anti-humaniste. Le propos — aux abords de la tautologie — ne me paraît ni d'un enjeu décisif, ni vraiment en contradiction avec le projet d'édification d'une science de l'histoire. Autrement plus sujette à controverse serait la thèse d'un *a priori* anthropologique qui aurait fondé, orienté, déterminé de part en part le matérialisme historique. Se dissiperait alors la portée des analyses socio-historiques des formations sociales où l'on a d'abord repéré les instances et où l'on a reconnu, entre autres, la place et la fonction de l'instance idéologique. Structuralement liée aux structures sociales, et non pas du tout excroissance aléatoire, celle-ci assure la 'reproduction des rapports de production' en assujettissant les individus, c'est par elle que l'individu se constitue à ses propres yeux en *sujet libre*, c'est d'elle que provient la méconnaissance. Mais cette question de l'antériorité de 'l'animal idéologique' ou de 'l'idéologie éternelle' est simplement et expressément écartée par l'auteur.

Le parallèle avec Lacan est en revanche particulièrement instructif par l'éclairage qu'il projette sur les mécanismes par lesquels le sujet est saisi par l'illusion. Le 'stade du miroir' est le moment crucial de ce 'saisissement' par lequel l'enfant reçoit un double de lui-même, double imaginaire auquel pourtant il s'identifie; image où il se reconnaît en pleine méconnaissance de lui-même puisqu'elle lui masque sa réalité. Cette construction de son identité produit chez le sujet l'illusion de l'autonomie, d'un centre. C'est sur le même mode, en quelque sorte 'paranoïaque,' que l'idéologie constitue l'individu en sujet centré, autonome, et qu'elle opère sur lui 'un effet de

reconnaissance-méconnaissance dans une relation spéculaire.' En rapportant l'effet idéologique à ce qui lui sert de modèle chez Althusser, soit l'effet imaginaire et fantasmatique, Martel enrichit indiscutablement l'analyse de l'idéologie *en général*. Et persuade de l'opportunité de poursuivre les recherches sur les analogies entre l'idéologie et le fantasme.

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RICHARD SHUSTERMAN. *The Object of Literary Criticism*. Würzburg: Konigshauser and Amsterdam: Rodopi 1984. Pp. 237. ISBN 3-88479-122-2 and 90-6203-755-0.

Shusterman addresses himself to five issues in the philosophy of literary criticism: what the ontological status of a work of literature is; what the identity conditions of a work of literature are; what is going on under the rubrics respectively of interpretation and evaluation; and whether literary criticism is an art or a science. Very scholarly and thorough surveys of the main positions taken in recent philosophy on these questions precede analyses of the controversies surrounding them and a statement and justification of the author's own view. The justification in every case hinges on what the author finds practicing critics doing. For example, in the case of interpretation, he divides theories about its nature into the descriptive (e.g., Monroe Beardsley's), prescriptive (e.g., Arnold Isenberg's), and performative (e.g., Margaret MacDonald's), depending on whether the theorist construes the aim of the interpreting critic to be description of the work (or of the critic's impression of it, as in Oscar Wilde), advocacy of some attitude toward it, or the creation or vivification of a work. Shusterman's view is that interpretation is sometimes descriptive, sometimes prescriptive, sometimes performative, because it takes all these forms in the work of practicing critics. 'Interpretation is not *one* game but a *family* of games; and as in other families, there are sibling rivalries where the value and even legitimacy of certain members of the family are bitterly contested. It is not the job of the philosopher of criticism, as analyst, to award the birthright. Having identified and analyzed the various interpretative games, he must let them justify themselves, as they have justified and must justify themselves, in actual critical practice' (168-9). This is



Shusterman's credo on the question of interpretation, and similar statements are to be found for the other questions. The 'game' terminology is taken over from Wittgenstein, not from game theory; he might as well have used 'pursuit.'

Not much is said about what has justified or would justify an interpretative (or evaluative) 'game.' The atmosphere of the book very much suggests that existence constitutes justification. Philosophers, in their attempts to justify one 'game' rather than another, are portrayed rather as the blind men roundly declaring the elephant to be a rope, a tree, a snake. 'The philosopher who claims to describe the logic of evaluation must accept these different forms of criticism as a given, and he must recognize their difference ... nor will the philosopher achieve uniformity [in the logic of evaluation] by trying to demonstrate by abstract reasoning the illegitimacy of certain aims, reasons, or practices which do not fit his formula' (201). The elephant is a rope, a tree, and a snake, and a lot of other things besides. If a critic does something and calls it interpretation or evaluation, then it is interpretation or evaluation.

The passages in which the author analyzes the work of such acknowledged masters of criticism as John Addison, T.S. Eliot, Lionel Trilling, and F.R. Leavis, in order to show that they are indeed engaged in the pursuits that philosophers have assigned to them, are very sensitive and almost carry with them the conviction that if these thinkers have engaged in different 'games,' then the 'games' must all be legitimate critical undertakings. But one feels the need for a deeper justification. What has been said to disqualify the borderline-case critic who writes for a college newspaper and claims to interpret a novel by writing a series of quatrains with allegedly the same emotional content as the book?

The sections of the book on the ontological status and identity conditions of works of art are not pluralistic in this way. He proposes that we understand a work of literature as a 'verbal formula.' A formula 'rather resembles a general recipe or design' (107). It is 'expressible in different word formulations for the composition of particular verbal compositions compliant with it' (107). What constitutes compliance is discussed in the chapter on identity conditions. Perhaps the best way to get a grip on the notion is to note that it is introduced to take care of three problems: that a work in one language is spoken of by critics as the *same work* as its translation into another language; that the *same work* may appear in different versions, e.g., as a full-length novel, a *Reader's Digest* condensation, a comic book, or a film; and that a work need never be uttered or written down. A verbal formula is whatever can survive embodiment in all these different forms. Thus it is not a verbal string or a proposition, since those may change from version to version; in fact, it is hard to see how it is even essentially verbal, once Shusterman brings movies into the picture (146). He acknowledges the problematic character of the verbal formula: 'the precise nature or make-up of the verbal formula and the exact rules or limits of compliance are left extremely vague and open, and seem to defy clear formulation' (145). 'But,' he continues, '... such vagueness is not a flaw in the theory but merely part and parcel of the openness,

vagueness, and contestability of the literary work's identity' (145). Are we then to think of the vagueness of the notion as a merit of the theory? It is not clear to me why he chooses to respond in this way to the problem rather than to say (just as much in line with his general descriptive pluralism) that critics treat texts, spoken performances, and unuttered verbal strings as literary works; and so are they all; a translation of a work is also an instance of the work; and a version of the work is an instance of the work — following these remarks with an explanation (no easy matter) of what counts as a translation or a version. Nothing seems to be gained by introducing so mysterious an entity as the verbal formula.

Despite these objections, I think the book is a very valuable contribution to the literature on aesthetics in general and literary criticism in particular. The author's commitment to pluralism leads him to show in convincing detail how each of the major metacritical positions on the nature of interpretation and evaluation is a plausible response to the actual practice of critics, making the book an excellent guide to styles of criticism. Similarly, his careful dissection of the controversy about the ontological status of the literary work clarifies that often tedious and confused dispute. Shusterman's clear vision of both philosophical and critical practice is not vitiated for me by my dissatisfaction with his conclusions.

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MICHAEL THEUNISSEN. *The Other: Studies in the Social Ontology of Husserl, Heidegger, Sartre and Buber*. trans. Christopher Macann and intro. Fred R. Dallmayr. Cambridge: MIT Press 1984, Pp. xxv + 451. US\$40.00. ISBN 0-262-20048-1.

'The problem of the Other ... is no longer the simple object of a specific discipline but has already become the topic of first philosophy. The question of the Other cannot be separated from the most primordial questions raised by modern thought' (1). Theunissen thus tells the reader the proper perspective from which to approach this study. Its chief concern is our *original* involvement with the world at the level of our relation with other selves, and hence the fundamental ways in which self and other belong together and are conditioned in their relation. 'The "Other," ' Theunissen writes, 'com-



prehends all those concepts by means of which contemporary philosophy has sought to set out the structure of being-with, or its original transcendental form' (1).

This would be a familiar theme to Theunissen's German readers. But to those schooled in the mainstream of contemporary Anglo-American philosophy, it is likely to give pause. In that tradition the problem of the other is typically viewed as merely one aspect of the ego-centric predicament, i.e., how from the self-enclosed limits of the *ego cogito* can I make justified claims about other minds? The pre-occupation is decidedly epistemological, and although important for bringing to light certain specific philosophical issues, in its contemporary form at least, this is hardly the stuff of first philosophy. Herein lies the crucial difference. For Theunissen, (and in the traditions that he examines), the problem of the other is not first and foremost an epistemological issue, i.e., not a question about the self's *knowledge* of the other as *object* in the world. It centres instead upon the *being* of the other in its essential relation to the *being* of the self, i.e., how in ontological terms they are mutually implicated, and therefore how the other can become an object *for* knowledge in the first place. The problem of the other is thus a matter of social *ontology*. On this analysis, then, our claims to object-knowledge would not serve to construct an original bridge between self and other from out of a subjectivist prison. Rather, in one form or another such a bridge must always already obtain as the condition of the possibility of object-knowledge. Social ontology is thus prior to the strict concerns of contemporary epistemology. But it is also prior to concrete social theory. For it does not examine social orders or changing social conditions, but the basic metaphysical underpinnings of intersubjectivity itself. It thereby falls within first philosophy.

In discussing this theme, Theunissen 'makes no claim to complete historical coverage,' (7) either of the social-ontological tradition as a whole, (e.g., Hegel and Marx are mentioned only in passing), or the full range of its contemporary variations, (e.g., neither structuralism, post-structuralism, nor critical theory are discussed), or even of the phenomenological, existential, and interpersonal standpoints that are his central focus. Theunissen selects the main figures for his study as 'ideal typifications' of possible interpretative stances within a limited range, a range that is defined in relation to transcendental phenomenology. The two main divisions of his text juxtapose those contemporary discussions which in Theunissen's view locate the most original being of the other in the alien I, or some existential modification thereof, (which he identifies directly with the transcendental project and its transformations), and those which locate this being in the encounter with a personal Thou, (which he characterizes as the 'dialogical "counter-project"' of transcendentalism). Under the first division Theunissen's exemplars are Husserl, Heidegger and Sartre, and under the second, Martin Buber.

Notwithstanding these acknowledged limits, Theunissen's inquiry is still the most systematic and rigorous study of the diverse treatments of social ontology presently available. And even if one disagrees with the details of his in-

terpretations, or with the thesis toward which he is moving, the depth and range of his scholarship, and the philosophical subtlety of his analyses, cannot be denied. In the first four chapters, Theunissen provides an extensive and innovative rethinking of Husserl's theory of intersubjectivity, casting new light upon the notorious fifth *Cartesian Meditation* and recapitulating Husserl's steps in the move from ego to alter ego. The shorter studies of Heidegger and Sartre which then follow are offered as variations on the transcendental phenomenological theme. In Heidegger, Theunissen emphasizes the ontological significance of 'being-with' as an original structure of *Dasein* but criticizes (as he does in Husserl) an apparent failure to do full justice to the immediacy of the I-other relation. Sartre's particular virtue in contrast is said to be his partial endorsement of intersubjective immediacy, but it is one which Theunissen sees vitiated by Sartre's deeper commitment to the transcendental constitutive functions of consciousness. Against this background, a longer study of Buber's 'dialogicalism,' (the section to have thus far engendered the most controversy), is intended as a kind of 'destruction' of the whole transcendentalist model. Theunissen focuses on the notion of the 'between' as characterizing the immediate 'fabric' of the I-Thou encounter, but still questions the *philosophical* viability of the dialogical project.

What Theunissen ultimately seeks is a tentative rapprochement between the transcendental and dialogical frameworks in a genetic 'mediation' of the two. This will allow us, he says, 'to grant to transcendental philosophy the originality of the beginning and to the philosophy of dialogue the originality of the goal, the completed end. The beginning would be my individual I, the goal the self that proceeds from the meeting' (367). Without venturing into the details of this attempt, one might observe nonetheless that its viability does depend upon the acceptability of the original bifurcation of the transcendental and dialogical, which yet has been the centre of much trenchant scholarly criticism.

*Der Andere* was first published in 1965 as Theunissen's *Habilitationsschrift* for the Philosophy Faculty, Free University of Berlin, and save for a new preface, was re-issued unchanged by Walter de Gruyter in 1977. The English translation appears as part of the series *Studies in Contemporary German Social Thought* edited by Thomas McCarthy, and presents a modified version of the 1977 text. Besides minor alterations in format, it omits the author's preface, as well as the last four chapters (including material on Buber's theological goals, and on such figures as Binswanger, Loewith, and Marcel among others). It does retain important excursus on Jaspers and Alfred Schutz, as well as a crucial concluding postscript. Despite these omissions, the translation provides English readers with a landmark study in the literature.

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JENNIFER TRUSTED. *Free Will and Responsibility*. Don Mills, Ont.: Oxford University Press 1984. Pp. x + 195. Cdn\$ . (cloth: ISBN 0-19-219189-6) Cdn\$\$11.50 (paper: ISBN 0-19-289170-7).

This book is aimed at students and pre-students of philosophy, introducing the free will controversy, historical and contemporary. Trusted says, a few times, 'no definite conclusions can be offered as solutions to the problem' (e.g., 164) which entitles it to be called 'metaphysical' (viii, 4, 91); and so opting for any position becomes 'an act of faith' (100). The book ends with an ode to 'wonder and humility' as justification for pondering the insoluble, the 'interesting philosophical problems' (3). It may be; but at public expense?

The contestants for our faith are (only?) three. 'There can be three attitudes to human action, and so three "solutions" to the problem of free will: 1. Physical determinism ... 2. Teleological determinism ... 3. Libertarianism.' The first is better known as *epiphenomenalism*, 'there is no ultimate distinction between actions and happenings, and all inner thoughts and feelings are mere epiphenomena.' The second is better known as *functionalism*, 'teleological explanations are *required* if there is to be understanding of human actions. Nevertheless, behaviour is ultimately determined by physical events and the sense of freedom is illusory.' The third is better known as *interactionism*, 'persons can decide actions (by affecting neural events) ... not all actions are entirely physically determined and therefore there are occasions when people can be said to be free and to be responsible' (ix).

Compatibilists, like me, will be miffed at being ruled ineligible to play a priori. Also the restriction of determinism to physical determinism is a surprise. Isn't it possible for a dualist-interactionist to be a determinist? Usually we are said to be determined by nature and nurture — genetics and environment or learning — and the learning part is taken to determine thought. This was the nub of Clarence Darrow's defence of Leopold and Loeb: no responsibility since their characters and hence their actions were products of genetic and cultural endowment. (Needless to say, the jury found it — the conditional — beyond reasonable doubt; not at all an article of faith.) Kant, certainly never restricted determinism to physicalism. A Berkelian idealist could be a determinist. And for that matter, a physicalist could be an indeterminist like Epicurus, although such indeterminism hardly adds up to Kantian free will which is the causal independence of the will to duty. (Willing duty, remember, was supposed to be real freedom)

Despite the disclaimer about insolubility the jacket advertises Trusted as favoring libertarianism, which is a litotes at best. The book is written with a hackle-raising bias toward Kant on moral responsibility's requiring causal independence: 'The reason why we resent suggestions that we are completely determined by physical events that are not under our control is that it undermines our concept of ourselves as responsible moral agents' (160). Who are these resisters other than Kantians or certain Christian sects who wish to get God off the hook for evil?

Putting Augustine aside (curiously Trusted's historical survey begins with Aristotle and jumps to Aquinas), isn't the Kantian version of the problem based entirely on the premiss, *if everything has a cause, then no person is responsible for his action?* And doesn't the consequent mean *it is not morally right to subject someone to penalty (or reward) because of his action?*; i.e., it is not right to hold him responsible, or to make him liable? (Notice this is not a definitional but a normative claim.) And why do Kantians make this evaluation? Isn't it because they believe that if everything has a cause then (a la cosmological argument) there is a cause for a person's causing an act and so on? Thus if everything has a cause no person is the ultimate cause of his action. If so, no one is ultimately responsible — not even God or the Big-bang — unless the premiss is false. Doesn't this mean no one is ultimately *causally* responsible for his action: no one is *the* cause of an act, for nothing is ever *the* cause of anything?

But this confuses 'causal responsibility' which is an intransitive relation with 'causally necessary condition' which is transitive. *The* cause of anything is always a figure against a ground of necessary conditions — the unusual or abnormal one perhaps. Thus smoking causes cancer. And so on. (Collingwood was on to this years ago.) If A is *the* cause of B, and B is *the* cause of C, A cannot be *the* cause of C, for it has become a mere background condition. On the other hand if A is necessary for B, which is necessary for C, then A obviously is necessary for C.

Thus it is trivially true that no one is ever the complete set of necessary conditions for anything; the chain extends indefinitely far into the past. This is not to say that no one is ever causally responsible for anything. People are sometimes causally responsible for their actions (more often than not), just as fouled plugs (not the big bang) may be causally responsible for an engine's performance.

There is nothing supernatural or even wonderful about this, suggesting that people truck with the gods when they haven't degenerated into beasts or — these days — software. Causal responsibility will also do for 'agent-causation' making it, too, pretty cheap. Smoke, remember, is a carcinogen, a cancer causing agent; HCL is a bleaching agent. People can be agents of mercy or death. Human agents are not the only kind; nor is human action. And 'free' is plastic enough to apply to people, falling bodies and objects of commerce implying the absense of certain conditions — i.e., constraints or compulsions; not the absense of all causal conditions.

Is there a connection between rightful liability and causal responsibility? Of course. Every day the courts make judgments of the latter in order to make findings of the former. Is there a connection between rightful liability and ultimate causally necessary condition? Some people claim to think so. In dismissing some conclusions of Mill Trusted says:

We all know ... punishments do deter some ... we wish to protect people and rehabilitate offenders ... So it might seem that philosophical discussion about types of determinism is irrelevant to practical action. But this is not



quite the position: ... we need to face the fact that soft determinism purports to make a distinction between compulsive and non-compulsive desires that cannot be made. At the last it is important to decide whether our sanctions are merely a means of protecting society and conditioning unruly members or whether they can be *morally* justified. (47)

This rhetorical dilemma is supposed to resolve the matter against Mill in favor of Kant. But it only does so if we presume Kant's concept — not conception — of morality: moral worth as requiring causal independence as a condition for autonomous duty doing. This awful thesis is presumed throughout. Also unargued is Pascalian intuitionism regarding moral values: 'Values have a different ontological status ... what Pascal called the third order ... representing the highest human capacities ... transcend[ing] reason' (167-9). Has all meta-ethical agony in the twentieth century been for nothing?

As for not being able to distinguish compulsive from non-compulsive desires (and for that matter any factors which diminish or negate causal responsibility and which, except in certain strict liability offenses, diminish or negate liability), let me recommend for starters Hart and Honoré's *Causation in the Law*, for a catalogue of factors which are taken to render action involuntary — unfree. General physical (genetic) and psychological (cultural) determinism are not listed.

I did find something in Trusted's book to like. There is a nice if underdeveloped discussion of some recent efforts to render plausible some form of causal efficacy for consciousness. After all if it had no reproductive value why would it have evolved? But this is a separate issue from the conditions for rightful liability, since we generally know the latter despite general ignorance of the former.

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