

Constitutive Rules, Normativity, and A Priori Truth

Terry F. Godlove, Jr.

Hofstra University

Abstract

This paper develops an argument which seems to yield a set of a priori rules—rules which are constitutive of, but not normative for, thought and experience. I contrast the resulting Kantian sense of a priori truth as independent of all experience, because presupposed by it, with the use Searle makes of a priori truth by stipulation or definition. By focusing on the a priori rules of thought and experience we can make good on the sense of constitutivity that Searle had in mind in his early work. By virtue of their apriority, the Kantian rules are able to do what the constitutive rules of football and chess cannot: they are able to define the nature of the activity they govern, namely, thinking or cognizing that thus-and-so. They tell us, independently of their cultural or social context, what kind of activity results from our compliance with them.

Keywords: Constitutive, Rules, A Priori, Normative, Experience, Kant, Searle.

It is now almost fifty years since John Searle began calling attention to the relationship between “constitutive” rules and forms of behavior. He writes, in 1969, that “constitutive rules [...] create or define new forms of behaviour. The rules of football or chess, for example, do not merely regulate playing football or chess, but as it were they create the very possibility of playing such games” (Searle 1969: 33). Over the years, Searle’s discussion of constitutive rules has been influential, and rightly so, in philosophy of language, social ontology, and elsewhere. But from early on, it has been clear that Searle’s analysis requires supplementation and revision. For example, Hubert Schwyzer, and more recently, Giuseppe Lorini, have pointed out that, while activities like football and chess are played in accordance with rules, they cannot, as per Searle’s original claim, be constituted or defined in terms of those rules (Schwyzer 1969; Lorini 2012, 2014; see also Bierman 1972). To understand what makes possible a game of football or chess requires casting a wider cultural net than Searle has in hand. People can conform to the rules of chess—they can move the pieces according to the rules—and yet be doing very different things. Are they moving the pieces with the aim of winning, or do they have purely aesthetic goals in mind? Or perhaps for one or both of them it is a purely instructional exercise.

In what follows I will be writing in this same spirit, that is, as supplementing and correcting Searle's work on constitutive rules. But whereas Schwyzer, Lorini and others have urged greater attention to the material context of constitutive rules—to the social, cultural, and institutional contexts in which they are embedded—I will be applying corrective pressure from the opposite direction. I will be arguing, from a generally Kantian point of view, that Searle-style constitutive rules take place in a formal context as well—in a context of higher-order rules which are constitutive, not of this or that form of behavior, but of any form of cognitive engagement with the world; rules the following of which make experience possible. The prospect of further, higher-order constitutive rules, raises the threat of regress. But instead of constitutive rules “all the way down,” in prospect is an ontology general enough to encompass the physical and the social world—all the world there is. Two themes will predominate. First, I will be urging that we shift our attention from Searle's emphasis on analytic truth to a priori truth; this, I will argue, is the more fundamental notion. Second, I will be keeping in view the question in what sense, if any, these higher-order constitutive rules have a normative dimension.

1. Normativity

Since, for Searle, rules become constitutive through stipulation or definition it is only natural that he should emphasize analytic truth.

what the 'rule' seems to offer is part of a definition of “checkmate” or “touch-down”. That, for example, a checkmate in chess is achieved in such and such a way can appear now as a rule, now as an analytic truth based on the meaning of “checkmate in chess.” That such statements can be construed as analytic is a clue to the fact that the rule in question is a constitutive one (Searle 1969: 34).

As I understand it, the idea is that a rule is constitutive of a certain practice when it is attached to the relevant general concept by way of the concept's compositional structure. Searle is apparently helping himself to a traditional and rather powerful way of thinking about general concepts, one that goes back at least to Boethius. Concepts can be represented as conjunctions of two or more partial concepts; for Boethius, “homo” stands under “animal rationale” by way of “mortale” but not “immortale” (see De Jong 1995). An affirmative judgment is analytic just in case the subject concept can be analyzed as a conjunction of concepts one of which is the predicate concept. Thus, we might legislate that to checkmate someone is to put his or her king in a check from which it cannot escape. Or we might create a concept, “saying,” which will refer to the act of expressing a proposition by means of uttering a declarative sentence (Cappelen 2011). Having stipulated the constituents or parts of the subject term, I cannot then think the concept “checkmate” without also implicating “king,” “escape,” etc.—and I cannot claim the right to checkmate someone while leaving his or her king an escape route. Nor can I think “saying” without implicating “utter,” “declarative,” “sentence,” etc.—and I cannot claim the right to say something except in the declarative voice. Having arranged in advance for their inclusion in the subject terms, it is no surprise that these concepts and rules emerge in the course of their analysis.

This basic account of how constitutive rules emerge from the compositional structure of general concepts has much to recommend it. Difficulties set in when

we ask too much of it, as, for example, when we ask it to explain or rationalize culturally imbedded human activities and practices. Thus, suppose I reach out to move one of my bishops. Under the right circumstances, my behavior will be a move in a game of chess and will have been made possible by constitutive rules in Searle's sense—among them, that it is legitimate to move a bishop only along a diagonal of its own color. The burden of Schwyzer's and Lorini's critique is that—as illustrated in my first paragraph—explicating “the right circumstances” will require us to draw on material resources well beyond the constitutive rules of chess.

I think the force of this critique has to be admitted; constitutive rules cannot create or define a new (or any) culturally embedded activity or practice. However, the model of constitutive rules as reflecting the compositional structure of general concepts retains its power and is of independent interest. Searle is right that we would not ordinarily say, of someone who moves her bishop other than along a diagonal of its own color, that she is playing chess. Ordinarily, we would say: If you want to play chess, then you must conform to this rule. Here “must” has all and only the force of our signing on to use the general concepts at issue in the agreed-upon way.

To begin to expose what I am calling the formal context of Searlean constitutive rules let us now ask whether they have normative authority over the actions they govern. And let us accept the criteria Clinton Tolley sets out for normativity. In order to have normative force over a certain practice

- (1) The “subjects” of the law—those beings which are governed by, or subjected to, the law—must both be able to succeed *and be able to fail* to act (or be) in accordance with the law.
- (2) The *subjects* of a norm *must retain their identity* as beings that are subjected to this specific sort of law regardless of their (actual) accord with it. This latter condition is important, as it implies that evaluative ascriptions in light of norms (e.g., *x* as “in” or “out of accord”) institute a division *within* some otherwise well-defined class.
- (3) The *laws must retain their validity* or bindingness over their subjects regardless of the (lack of) *actual* adherence to the norms by their subjects—though, to be sure, there must be the *possibility* of such adherence (Tolley 2006: 375, original emphasis).

Tolley points out that, by this standard, traffic laws can be considered normative for the activity of driving. Drivers can succeed or fail at them without jeopardizing their status as drivers, and the laws retain their prescriptive force even if, any a given time, no one is following them. The same cannot be said for the rules of chess. Failure to observe the rules puts me in violation of Tolley's first two conditions: Moving my bishop except along its diagonal does not count as a move in the game, nor, except by conforming to the rule, do I retain my identity as a chess player. By contrast, I can drive through a red traffic light—whether legitimately (to make way for an ambulance) or not (on a dare)—and, in doing so, I retain my identity as a driver. So, at least on Tolley's criteria, the rules of chess are constitutive but not normative for the activity they govern, while the rules of the road are normative but not constitutive.

We will presently take up the suggestion that certain rules could be constitutive for a domain of cognitive activity and normative for it as well. *Prima facie*, this is an odd-sounding prospect, for it envisages a rule that permits its own

violation while at the same time it emerges from the compositional structure of the general concept at issue. Before coming to this question, let us consider the rules of chess and the rules of the road together and ask whether there are rules with greater generality that govern both—whether constitutive, normative or both.

A ready candidate—one about which philosophers have had much to say—is the principle of non-contradiction: not both p and not- p , or

$$(4) \sim(p \ \& \ \sim p).$$

Suppose I claim the right to move my bishop and not move my bishop to the same square or to both stop and not stop at the red light. A moment's thought shows that the oddness in these claims has not to do with the physical movements—has not to do with my hand both reaching and not reaching for the piece or with my foot both pressing and not pressing the brake pedal. The difficulty with a rule that commands me to, "Move and not-move" or "Press and not-press" comes prior to any question of physical movement. I am unable to form the thought of moving and not moving, pressing and not pressing—so the question whether such putative rules are constitutive or normative or both does not arise.

What about the principle of non-contradiction itself? The invited conclusion—that no conduct-governing rule can be self-contradictory—apparently applies beyond the domains of chess and driving. The invitation is to conclude that it applies generally to what can be asserted, and so to any domain or activity whose form is that of thinking or cognizing that thus-and-so.

2. Logic

We might be tempted to bestow both constitutive and normative status to a rule of such apparent importance—constitutive because following it makes possible the associated mental activity; normative because the advice to avoid explicit self-contradiction would seem to be a worthwhile bit of practical guidance for our thinking and acting. A well-known remark attributed to Kant suggests this approach. In the so-called *Jäsche Logic* we read:

In logic [...] the question is not about [...] how we do think, but how we ought to think. In logic we do not want to know how the understanding is and does think and how it has previously proceeded in thought, but rather how it ought to (*sollen*) proceed in thought (Kant 2004: 529).

We find similar remarks scattered throughout Kant's minor writings, many seeming to claim that logic has normative authority for reasoning—what Huaping Lu-Adler calls the "*sollen* claim" (Lu-Adler 2017).¹ A renewed focus on these remarks has sparked controversy in the recent literature, with Tolley urging their rejection in favor the view Kant expresses in the *Critique of Pure Reason* (Tolley 2006; see also Mosser 2008: 43 ff, and Pollok 2017: 8).² Kant there says that "general" or "pure" logic "contains the absolutely necessary rules of thinking, without

¹ For a survey of the passages in Kant's minor writings see, especially, sections 3.2 and 3.3 of Lu-Adler's paper.

² I return to Pollok's views, below, sections 6 and 7.

which no use of the understanding takes place” (B76).³ Under this heading Kant clearly means to include the principle of non-contradiction; it is, he says, “the highest principle of all analytic judgments” (A150/B189)—in which capacity, let us note well, it makes possible constitutive judgments as Searle conceives them: Having stipulated to the contents of a general concept, we can then violate the paired rules of conduct only on pain of self-contradiction. I cannot both agree that a checkmate ends the game and reserve the right to keep playing the game after having been checkmated.

In an earlier paper (cited by Tolley), Manley Thompson emphasizes that the issue at stake is not that of inconceivability:

The point [is] not that we cannot conceive of or imagine ourselves meaning something in a situation where we rejected the principle of contradiction. It [is] our inability actually to mean (not just to conceive of ourselves as meaning) anything in such a situation (Thompson 1981: 464).⁴

If we cannot help but presuppose the principle of contradiction, then we may say (with Thompson) that the legitimacy of following this rule in our thinking arises from the nature of thought itself—surely Kant’s point at B76. (Lu-Adler points out that the apparent tension in Kant’s views on this point can be resolved by following his distinction between pure and applied logic, as, for example, at A53-54/B77-78 [Lu-Adler 2017: sects 2.4 ff].) This would then be the consideration grounding Tolley’s three criteria of normativity, each of which can now be seen as parasitic on the more fundamental claim that a rule can have normative status for thinking creatures only if conformity to it is not required by all of our thinking or cognizing that thus-and-so.

Thus, if we hold to Tolley’s criteria of normativity, the principle of non-contradiction and whatever else depends upon it cannot be accorded normative status. If the principle of non-contradiction is constitutive for the activity of asserting or cognizing that thus-and-so—if conforming to it makes that activity possible—then what sense does it make to say we ought to conform? In so saying we again run afoul of the first two of Tolley’s criteria: We cannot fail to conform to it and still judge that thus-and-so. And we cannot both fail to conform and retain our identity as cognizers—that is, as subjects who experience the world as thus-as-so (as subjects who see, for example, that the bishop is there and not not-there and that the light is red and not not-red). If we want the principle of non-contradiction to be constitutive for some domain or activity then it appears we cannot at the same time give it normative status.

To look ahead for a moment: Our interest is going to be in social ontology—in the rules that form the conceptual background for or that make possible social reality. In a Kantian spirit, what I want to suggest so far is that, in the principle of non-contradiction, we have a rule constitutive for any object of possible experience; for any object, physical or social, that we could be in a position to cognize. A rule that, at the same time, cannot be a norm for creatures like us.

³ References to the *Critique of Pure Reason* follow the usual A (1781) and B (1787) format, and will henceforth appear in the text. I generally follow the Paul Guyer and Allen Wood translation (Kant 1998).

⁴ I have benefitted from Mosser’s discussion of Thompson’s paper (Mosser 2008: 45 ff).

3. Singular Reference

We will turn, in section 6, to an objection to this line of thought, but first let us ask whether the principle of non-contradiction stands alone or whether there are other constitutive rules which are, as it were, too deep to be norms.

In reaching out to move my bishop I am affected by it in sensation. I cannot create the bishop merely by thinking of it; in Kantian terms I have a discursive or sensible rather than a divine intellect. To cognize this bishop I must be in a passive state with respect to it. Nor can I substitute for the affection (for the sensation) the concept or general term “bishop”. No matter how finely I slice the general concept (the black Staunton-style one with the chip off the corner, etc.) my description could apply to more than one object. Rather, my connection to this bishop is immediate and singular—a Kantian *empirische Anschauung*.

In reacting, “bishop,” to what strikes me in sensation, I locate the object at some distance from me. (I also locate myself in time, but I cannot pursue the status of temporal rules in this paper.) That is, I follow a rule which says,

- (5) Locate objects at some distance from where you find yourself.

This is of course not a rule of chess. But it is a rule conformity to which governs the activity of chess-playing. In fact, it appears to be constitutive of any activity involving a judgment or judgments that objects outside me are thus-and-so—constitutive, as above, in the sense that following it makes possible the activity in question. Thus, we cannot suggest, in a pragmatic spirit, that conformity to this rule makes for enhanced success at chess-playing or for running fewer stop signs. I presuppose my conformity to this rule in locating the bishop or the stop sign at a distance from me in engaging in either activity.

The case of blindfold chess is instructive. David Shenk reports the great German player Siegbert Tarrasch as saying, “Some part of every chess game is played blindfold” (Shenk 2007: 126). That is, in contemplating my next move, I project the bishop moving on a line that I construct in imagination. For the purposes of this activity of imaginative construction, strictly considered, it does not matter whether I am literally blindfolded. What matters is that space is given to me as a whole, as a “horizon” into which I introduce limitations: Whether blindfolded or in contemplation, in order to consider where to move my bishop I must draw the line (a diagonal) in thought—and I know I can keep adding to that line without limit beyond the edge of the chess board. I draw a diagonal line for the bishop, or I go forward two units and turn 90° one unit for the knight, etc. These moves are not the manipulation of general concepts. They are glimpses of the future position of the piece that is now literally affecting me in sensation—glimpses afforded not by my magically travelling forward in time but by my shifting attention one unit at time, imagining the piece at incrementally different distances from me, that is, imagining it as affecting me at incrementally different distances. Space, on this Kantian view, is not itself an object (it does not affect me), nor is it a relation between objects (rather, I presuppose it in locating objects in relation to myself). It is the mode through which I am affected by objects outside me—a form of intuition.

We may now ask whether (5) is constitutive in the same sense as (4), the principle of non-contradiction. We saw that the latter is constitutive for the activity of thinking, and so for any cognitive commerce with objects of possible experience (commerce that requires judging of objects that they are thus-and-so). It is then, a priori, in a stronger sense than are Searle’s constitutive rules. Whereas Searle gets constitutivity through stipulation or convention, our conformity to the

principle of non-contradiction is required if we are to think at all; its legitimacy is independent of experience, a priori, in that radical sense. By contrast, the rule requiring me to locate objects of cognition at some distance from me is not constitutive for thought *per se*; I can quite well think about objects in n -dimensional spaces—but it is constitutive for the cognition of objects of possible experience, e.g., bishops, knights, rooks, etc. For where, other than at some distance from me, would such putative objects be located? The question cannot be answered by appealing to what we can think without contradiction. It can only be answered by showing where, in relation to me, the chess piece (the one I wish to move) can be located except in three spatial dimensions. Rule (5), then, is a priori and yet synthetic—the combination whose provenance motivates Kant’s Critical project.

In the terms I am developing, rule (5) presents us with a second case of background constitutivity, this time tied not to thought but to experience. Is (5) also a norm? When checked against Tolley’s criteria, we can see that it is not. I am not free to play chess or drive my car and at the same time to fail to locate objects at some distance from where I find myself. I can think about playing or driving in n -dimensional space, but I cannot actually do so and at the same time retain my identity as a chess player or a driver. Once again, we have here to do with a constitutive rule with no normative dimension.

4. Categories

Let us now take (4) and (5) together—thought and experience. Arthur Melnick has proposed as the canonical form of singular reference

(6) “Take n steps Circumscribe Be affected React φ ” (Melnick 1985: 48).

Melnick intends this to capture the prescription for sensing or obtaining sensation together with that of reacting (appropriately or not) to what strikes me in sensation. Besides reflecting the constitutivity of space as a form of affection, Melnick points out that this schema contains an additional element constitutive of singular reference. In reacting “bishop” I must employ what Kant calls the categories of magnitude: unity, plurality, and totality. Simply to cognize the bishop I must take its round base, its curved body, and its pointed top—a plurality—as a single figure, as a unity. And in contemplating moving it on a diagonal across the board I must generate the line in imagination. But, since a line is an infinite plurality of points, I am again taking a plurality as a unity—this time in the knowledge that I am proceeding toward, but will never attain, a totality of points.⁵ The details are not to the point. What matters is that the constitutivity of space for experience brings along the concept of magnitude and its associated categories.

What about the concepts of unity, plurality, and totality—can my reliance on these categories be characterized in normative terms? Apparently not. As I look over the chess board, am I free to see the pieces (to play the game) without calling on the concept of plurality? As I consider whether to sacrifice one of my pair of bishops, can I do so without employing the concept of unity? And what about the line between my king and the threatening rook? I cannot construct a line in imagination without implicating the totality of points that make it up. Constitutive background rules, which, along with (6), are apparently devoid of normative significance.

⁵ The argument of the Axioms of Intuition, A162/B202-A166/B207.

What we have so far is merely the form of singular reference—determination enough only to yield spatio-temporal somethings. By themselves, spatial intuition and its determinants, unity, plurality, and totality, are, as Melnick puts it, “ontologically neutral in that they do not settle questions of identity” (Melnick 1985: 55; see also Pollok 2017: 222-23). After Quine, the objects at issue could be bishop-stages, or bishop-histories, or undetached bishop-parts, etc. To cognize chess pieces or stop lights as enduring through time, as undergoing changes, and as causally interacting with other objects we must implicate the dynamical categories—those that deal not with magnitude but with existence and necessary connection. To demonstrate that these concepts are also constitutive of experience Kant invented a new argument form, a transcendental deduction—an argument to the effect that either I employ these categories or I do not experience at all.

My remarks on the form of singular reference have been brief; as concerns the dynamical categories I can have even less to say. But I hope I have put enough on the table to make out the fundamental difference between Searle’s and Kant’s interest in constitutivity. As indicated by the quote from Searle with which we began, his interest is in constitutivity by stipulation or convention. As we saw in section 1, he claims the rules of chess create “the very possibility” of playing the game because they follow from the sub-concepts that, taken together, form the parts of the general concept “chess”—hence Searle’s emphasis on analyticity, and hence his vulnerability to such rejoinders as the one from Schwyzer and Lorini. As Searle has always emphasized, we are free to revise the composition of our concepts, and, so, the rules governing the paired behavior. Without this element of choice the question of deviant rules would not arise: thus, we could (and do routinely) decide to allow each chess player an agreed-upon amount of time in which to complete the game, or we might require one or both players to wear a blindfold. This is not to say that Searle’s constitutive rules are not, in a perfectly good sense of the term, *a priori*. It is simply to point out that their apriority is owed to nothing deeper than convention or definition.

Kant claims, by contrast, that I find myself bound by rules not of my creating—rules conformity to which come with the nature of thinking (the principle of non-contradiction) and with the very activity of extending my thinking to objects of experience outside me (space and the categories of magnitude as the form of singular reference). Here the element of choice and, so, the question of deviant rules does not arise. Nor need we pause over the suggestion that the activity in question—thinking or experiencing that thus-and-so—can be constituted only by appealing to a richer cultural situatedness. We invite such rejoinders as these when we suggest that (4) defines the activity of thinking⁶, or that (5) and (6) define the form of empirical cognition. By placing the emphasis on definition we suggest a degree of control these cases do not allow. Unlike in the Searlean contexts, there is no suggestion that we create the connection between non-contradiction and

⁶ Pollok neatly articulates the view against which I am cautioning. He writes that, “It may be true that, for Kant, the laws of pure general logic are as analytic for any kind of understanding as the moral law is analytic for a holy will [...]. Accordingly, in these two cases the laws could be seen not as imperative, but rather as defining the activities of thinking and holily willing respectively” (Pollok 2017: 8-9). Here Pollok is imagining someone following Searle’s procedure: we incorporate the logical laws into the subject concept—here, “understanding”—so that they are then contained analytically within it, and so are, in this attenuated sense, available *a priori*. I am tracing (as does Pollok) a more robust, Kantian route to apriority, namely, via the possibility of experience.

thinking; rather, it arises out of the nature of the subject matter at issue. Nor, for the same reason, can we pretend to cement, through definition, the connection between spatializing and experience. Rather, the legitimacy of following such rules as (4), (5), and (6), is a priori in the strict Kantian sense, that is, absolutely independent of all experience.

5. Social Ontology

Talk of rule-following seems to bring with it a context of subjectivity; it invites us to focus on the one following the rules. But it is on just this point that the full weight of Kant's Copernican revolution in epistemology comes to bear. In the *Critique*, Kant puts the matter this way: "The conditions for the *possibility of experience* in general are at the same time conditions on the *possibility of the objects of experience*, and on this account have objective validity" (A 158/B 197, original emphasis). That is, having shown that the rule-following at issue yields knowledge (indeed, a priori knowledge) of objects outside me, enduring through time, undergoing changes, and causally interacting with other such objects—knowledge of such things as chess pieces and stop lights—Kant seems to feel he has put to rest any doubts about the robustness of what he calls his "empirical realism".

As concerns the doubts, Kant could not have been more wrong. Searle speaks for many, in Kant's day and ours, in alleging that Kant perpetuates "the single greatest disaster in the history of philosophy over the last four centuries"—namely, "the rejection of the idea that our perceptual and other cognitive equipment gives us direct access to the real world." Searle continues:

Kant [...] rejected direct realism as a theory of perception. By direct realism I mean the view that, at least on some occasions, in the veridical cases, our perceptual apparatus and other cognitive equipment gives us direct access to objects and states of affairs in the world. We literally see that it is raining or that there is a table in front of me (Searle 2010: 407-408).

As indicated by my discussion thus far, I think this represents a fundamental misunderstanding of Kant's theory of empirical cognition. It never occurs to Kant to doubt, in the veridical cases, that it is raining or that there is a table in front of us. The puzzling thing, for Kant, is how we can have a priori knowledge of such things as rain and tables when that knowledge is not simply a matter of breaking the subject concept down into sub-concepts according to the principle of non-contradiction. In reflecting on this puzzle, we arrive, as above, at the notion of rules conformity to which makes empirical cognition possible. From there we are driven to the idea of objects considered apart from our conformity to these constitutive rules—the idea of *Dinge an sich selbst*. As far as I can see, none of this threatens the basic claim that we are struck (directly) in sensation by raindrops and tables.

Elsewhere, I have argued that we can extend Kant's empirical realism into an area in which Searle has made large contributions, namely, that of social ontology. I have argued that we cognize at least some social groups in the same way as we do chess pieces, stop lights, rain, and tables. Which social groups? Those that reflect a high degree of shared intentionality. In brief: If the bonds between members of a group are such as to legitimize viewing the group as acting and reacting as one, then we may be justified in seeing it as a single dynamical whole.

For example, a soccer team composed of novice players will be seen, upon inspection, as eleven persons acting and reacting independently. But assuming a high level of play, and assuming the deep level of cooperation and interlocking plans and intentions between teammates that make it possible, we may cognize the team as a single, dynamical whole made possible through the cognition of its parts. Here we may think of looking at a Calder mobile—of the moment when we see not just a collection of separate objects, but, again, a single dynamical whole (Godlove, “Perceiving Social Groups: A Kantian Account,” under review).

To be sure, taking a Kantian line in social ontology will require limiting referential import to those entities whose cognition reflects both mathematical and dynamical elements. For the same reason that numbers and circles do not exist, neither do marriages, banknotes, academic degrees, debts, rewards, punishments, and recessions. Not that our talk about such matters is somehow suspect; on the contrary, such talk obviously is legitimate, even indispensable. Rather, the burden is on the Kantian social ontologist to make sense of each item on this list (and of course many more) in such a way as to dissolve the appearance of referential import. While he is not writing with Kant in mind, Frank Hindricks adopts, in his discussion of debts, just this kind of deflationary stance. Instead of populating the world with debts we can recognize that what exists are persons whose actions have consequences—sometimes including the owing of another party a sum of money (Hindricks 2008: 137). And so for consequences, owings, and so on. Notwithstanding Searle’s dim assessment of Kant’s contemporary value, if we are thinking with Kant, we can help ourselves to Searle’s work on “status functions” to make sense of such things as money and private property. Paper and bicycles exist; paper becomes money and bicycles acquire owners, as Searle puts it, “in virtue of [their] collective acceptance or recognition” (Searle 2010: 423).

6. Imputability

I have been developing a Kantian line of thought on which certain rules governing thought and experience display a constitutivity so deep as to be uncharacterizable in normative terms. Because they make possible the activity of thinking or experiencing that the world is thus-and-so I cannot both fail to conform to them and retain my identity as a cognizing subject. Since Searle’s constitutive rules apply to or (help) make possible discrete domains of cognitive activity—playing chess, driving, etc.—they depend upon the Kantian rules that make cognition possible.

Let us now consider an objection from, as it were, behind Kantian lines. In *Kant’s Theory of Normativity*, Pollok has recently argued that the Kantian rules I have canvassed can be constitutive of thought and experience and, at the same time, be accorded normative status. He agrees that the rules in question fail Tolley’s test for normativity, but he calls for a “modification” of the criteria. Here is the central passage:

A modification of Tolley’s account of ‘constitutive’ is required partly because the subject must be taken to be accountable for her performance, such that, even if she articulates a correct sentence, it does not count as a judgment or experience, a moral maxim, or a judgment of taste, unless it is imputable to her [...]. Even a toddler with no clue about the rules of chess makes a valid move if she moves the rook horizontally. By contrast, when it comes to judgments what is important is not the *compliance* with principles *simpliciter* but the *imputable compliance*. Unlike moves in chess, judgments do not merely accidentally conform to those principles.

They are rather liable to assessment in light of them. Merely emulating the words of her parents, even if the result has the form of a correct sentence, does not yet amount to a *judgment* imputable to the child. The sentence is not liable to assessment in light of synthetic a priori principles, because the child is not yet seen as a subject standing under those principles. Thus Kant's synthetic a priori principles may be constitutive *and* normative insofar as our judgments are liable to assessment in light of them. The use of our reason, generally speaking, is normative if in a certain kind of cognitive activity we have a self-understanding of what we are doing that guides the activity [...]. This self-understanding commits one to the relevant constitutive principles, which turns them from constitutive to normative, or, more precisely, explains how they can be both (Pollok 2017: 9-10).

Pollok's motivating thought here is that making a judgment requires more than simple compliance with a rule; so much could be accomplished through natural necessity or, as in his example of the toddler making a chess move, happenstance. His candidate for the "more"—developed at length later in the book—is the right kind of self-understanding, one in which reason "guides the activity". Pollok thinks that, emended in this way, Tolley's criteria will show the Kantian rules we have canvassed to be constitutive of and also normative for thought and experience.

As the quoted passage makes clear, Pollok is surveying a landscape considerably wider than the one I have in view. Whereas I am commenting only on Kant's theoretical philosophy, Pollok also has in view Kant's practical philosophy and his aesthetics. No doubt the notion of being led by one's reason or self-understanding plays a central role in these latter two areas. The question is whether, as concerns Kant's epistemology, the situation is fundamentally different.

Our inquiry thus far has been resolutely first-personal. I have been adopting the stance of one who finds that he or she is bound by rules such that a violation of them renders thought and experience impossible. That is the consideration that supports the claim for the kind constitutivity that interests Kant. Note that, in the above passage, Pollok is asking about the development of a child. This switch to the third person marks a departure from the line of thought we have been pursuing. If we agree to purely behavioral criteria, then Pollok is right to say that a toddler can legitimately make a move with a rook. She can accidentally, but not imputably, comply with the rules of chess. More generally, he is correct that such criteria cannot license our imputing to the child conformity with those Kantian rules underlying thought and experience canvassed above. We see the child point to a rook and make the sound, "Rook!". If, by this vocalization, we take her to be referring to the rook at issue, then we might—if the child is of a certain age—be tempted to conclude that the Kantian rules are in force. For how, we might reason, could she, at one and the same time, intend and not-intend to refer to the rook? And she must be locating the rook at some distance from where she finds herself, since so much is required by the practice of ostensive reference. But when we picture the alleged impossibilities we are actually running up against nothing having to do with the child. In concluding that he or she cannot both mean and not-mean this or that I have in view my own inability to violate, with impunity, the principle of non-contradiction. In taking her to have no choice but to locate the rook at some distance from where she finds herself I am reflecting nothing more than that inability in my own case. With the third-person stance we may appear to be imagining the child making vocalizations and movements, but the

Kantian constraints in play have to do rather with what I am able to imagine her thinking and what makes singular reference possible for me.

7. A Priori Truth

By adopting a third-person stance, Pollok wishes to ask whether the child's rule-following is or is not guided by his or her reason. This move is tempting, because at some point in the child's development it makes sense to ask whether his or her verbalizations and movements are so guided. And having made this question legitimate we then have the distinction between compliance and imputable compliance, and, moreover, we may well have made room for what I have been denying, namely, Kantian a priori rules that are both constitutive and normative. But since our inquiry is unavoidably first-personal, we must redirect Pollok's question about the toddler. The question becomes: Am I following the rules that make thought and experience possible in such a way that I can impute the rule-following to myself? To find in the positive I must, following Pollok, find that my reason is guiding the activity.

In my own case, however, there is no room for Pollok's distinction between compliance and imputable compliance. I find myself bound by a rule—the principle of non-contradiction—that makes thinking possible. Suppose I ask myself whether my thinking, bound in this way, is governed by my reason. I see at once that I cannot both think that my thoughts are governed by my reason and think that they are not governed by my reason. But then, as above, it follows that Tolley's criteria of normativity cannot be met in this case. I cannot give sense to the idea of violating this rule and remaining a thinking creature. It is an a priori truth in the radical Kantian sense: true absolutely independent of experience because presupposed by it. At this point, the reply might be: We are not doubting that we must comply; the question is whether our compliance is governed by reason. But this requires me to externalize my thinking. That is, when I try to inspect my thinking in the requested way I am trying to treat my thinking as though it were being undertaken by someone else. In other words, it requires that I adopt a third-person perspective on myself, which, as we have seen, would violate the terms of our inquiry, and which, in any case, is not something I can do.

What of the rules governing singular representation—that, for example, I must locate objects at some distance from me? Here I am able to at least think its violation—to think, say, about avoiding checkmate by moving my king through a fourth spatial dimension. And this conceptual latitude may seem to open up the space to inquire whether my compliance is or is not guided by my reason. Here again, it will not do simply to observe that I cannot actually make this move, that, as soon as I reach (physically or, blindfolded, in imagination) for the rook I presuppose its location at some distance from me—thereby requiring of the rook exactly three spatial dimensions. This reply will not do, because, as above, the challenge we are now considering is not whether I am so constrained but whether my compliance with the constraint is imputable. The proper reply is that the fact that I do locate objects of experience at some distance from where I find myself makes it possible for me to inquire into the nature of the rules governing singular reference in my own case—including the requirement that I locate objects of experience at some distance from myself. I am again being asked to investigate the nature of an epistemic constraint as though I were able to view myself as another. But in fact I cannot undertake this or any such investigation without following

the rule I claim to be investigating.⁷ All I can say is that either I comply or the possibility of experience collapses.

It results that, in the context we are pursuing, the question of imputable compliance can only be raised by one who asks it of herself—at which point the distinction between compliance and imputable compliance can no longer be maintained.⁸ One reaction to this result would be to generalize the problem of imputability; having been unable to vindicate the kind of rule-following we have had in view as guided by my self-understanding I may then come to doubt that my thoughts are meaningful—to become uncertain whether I am merely uttering strings of word-sounding noises rather than imputable judgments. This reaction, a form of radical skepticism, I cannot take up in this paper. Another reaction would be a strict naturalism, perhaps of a Deweyian or Quinean sort. Here I would treat the toddler and my own case as on par, reasoning that what holds for her holds as well for creatures like her. But this would be to pretend that my thoughts and experience are not bound in the ways we have been canvassing, to represent myself as able to philosophize from a point of view that does not already reflect their legislative force. If, on the other hand, we hew to our Kantian line, we will recognize the rules at issue as constitutive of thought and experience even though they are not to be found within their respective general concepts. That is, their connection to thought and experience is neither analytic nor normative, but comes rather by way of the possibility of experience: they must be presupposed if thought and experience are to be possible. It is in this spirit—one of recognition or acceptance—that I think we should understand Kant’s cryptic remark that the categories are “self-thought [*selbstgedachte*] first principles *a priori* of our cognition” (B 167).

8. Conclusion

I have developed a train of thought on which a priori rules emerge the following of which is constitutive of, but not normative for, thought and experience. And I have contrasted the resulting Kantian sense of a priori truth as independent of all experience, because presupposed by it, with the use Searle makes of a priori truth by stipulation or definition. There need be no antagonism between these two very different senses of apriority. On the contrary. Searle is presupposing a thinking

⁷ Kant was quite clear on this point, noting, in the case of the causal principle, that it “has this peculiar character that it first makes possible its own ground of proof, namely experience, and must itself always be presupposed” (B765). For discussion, see Baum 1979.

⁸ I have been arguing that a Kantian stance in epistemology rules out the distinction Pollok wants between compliance and imputable compliance, but my discussion is incomplete in two significant respects. First, Pollok appeals partly to the special case of what Kant calls “transcendental illusion”. This occurs when we apply the concept of existence outside its legitimate arena—that is, outside of what strikes us, directly or indirectly, in sensation. Kant claims that this yields a characteristic form of illusion, in which context we are, as Pollok puts it, “liable to assessment,” even though the faulty judgments are, in some sense, involuntary (Pollok, *Kant’s Theory of Normativity*, 10). Second, Kant defends our reliance on so-called “regulative principles” (A642/B670 ff). Like the rules I have canvassed, these are said to “make experience possible,” but they can be given only a practical and not a theoretical warrant. It may be that these principles are both constitutive of and normative for experience. While both of these topics would have to be included in a full treatment of the present subject, I do not think their absence affects the conclusions I draw here. I discuss the second at length in Godlove 2013.

subject, one who must, for example, locate objects of experience—including, as I suggested in section 5, those populating the realm of social ontology—at some distance from him or herself. Thus, Searle is presupposing conformity to the Kantian rules. Nor is there any question of converting the Kantian rules into Searle-style definition-based rules. If I want to think that thus-and-so or cognize some aspect of the world as thus-and-so, I must conform to the higher-order rules canvassed above—and so they will be legislative for any and all of the objects that Searle, or any of us, has in view. In fact, by focusing on the synthetic a priori rules of thought and experience we can make good on the sense of constitutivity that Searle had in mind from the beginning. By virtue of their apriority, the Kantian rules are able to do what the constitutive rules of football and chess cannot: they are able to define the nature of an activity, namely, thinking or cognizing that thus-and-so. They tell us, independent of their cultural or social context, what kind of activity results from our compliance with them.⁹

References

- Baum, M. 1979, “Transcendental Proofs in the Critique of Pure Reason”, in Bieri, P., Horstmann, R.-P. and Krüger, L., *Transcendental Arguments and Science: Essays in Epistemology*, Dordrecht: Reidel, 3-26.
- Bierman, A.K. 1972, “Chessing Around”, *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition*, 23, 1-2, 141-42.
- Cappelen, H. 2011, “Against Assertion”, in Brown, J. and Cappelen (eds.), *Assertion: New Philosophical Essays*, Oxford: Oxford University Press, 21-48.
- De Jong, W.R. 1995, “Kant’s Analytic Judgments and the Traditional Theory of Concepts”, *Journal of the History of Philosophy*, 33/4, 613-41.
- Godlove, T. 2013, “The Objectivity of Regulative Principles in Kant’s Appendix to the Dialectic”, in Ruffing, M., La Rocca, C., Ferrarin, A., Bacin, S. (eds.), *Kant und die Philosophie in weltbürgerlicher Absicht: Akten des XI. Kant-Kongresses 2010*, New York: DeGruyter, 129-40.
- Godlove, T. “Perceiving Social Groups: A Kantian Account”, under review.
- Hindricks, F. 2008, “The Status Account of Corporate Agents”, in Schmid, H.B., Schulte-Ostermann, K., Psarros, N. (eds.), *Concepts of Sharedness: Essays on Collective Intentionality*, Piscataway: Ontos Verlag, 119-44.
- Kant, I. 1998, *Critique of Pure Reason*, New York: Cambridge University Press.
- Kant, I. 2004, *Lectures on Logic*, New York: Cambridge University Press.
- Lorini, G. 2012, “Can Constitutive Rules Create a Practice?”, *Praxis Filosófica*, 34, 5, 139-48.
- Lorini, G. 2014, “Meta-institutional Concepts: A New Category for Social Ontology”, *Rivista di Estetica*, 54, 127-39.
- Lu-Adler, H. 2017, “Kant and the Normativity of Logic”, *European Journal of Philosophy*, 25, 2, 207-30.

⁹ For putting the point in this way I am indebted to Bierman 1972: 141. For helpful comments on an earlier version of this paper, my thanks to Tony Dardis, Konstantin Pollok and to two anonymous reviewers for this journal. Any remaining errors are of course my own.

- Melnick, A. 1985, "Kant's Theory of Space as a Form of Intuition", in Kennington, R. (ed.), *The Philosophy of Immanuel Kant*, Washington D.C.: Catholic University Press, 39-56.
- Mosser, K. 2008, *Necessity and Possibility: The Logical Strategy of Kant's Critique of Pure Reason*, Washington D.C.: CUA Press.
- Pollok, K. 2017, *Kant's Theory of Normativity: Exploring the Space of Reason*, New York: Cambridge University Press.
- Searle, J.R. 1969, *Speech Acts: An Essay in the Philosophy of Language*, New York: Cambridge University Press.
- Searle, J.R. 2013, "Reconciling the Basic Reality and the Human Reality: Post Kantian Themes", in Ruffing, M., La Rocca, C., Ferrarin, A., Bacin, S. (eds.), *Kant und die Philosophie in weltbürgerlicher Absicht: Akten des XI. Kant-Kongresses 2010*, New York: DeGruyter.
- Schwyzler, H. 1969, "Rules and Practices", *The Philosophical Review*, 78, 4, 451-67.
- Shenk, D. 2007, *The Immortal Game: A History of Chess*, New York: Anchor Books.
- Thompson, M. 1981, "On A Priori Truth", *Journal of Philosophy*, 78, 8, 458-82.
- Tolley, C. 2006, "Kant on the Nature of Logical Laws", *Philosophical Topics*, 34, 1-2, 371-407.