Making As If to Stand behind One’s Words: A Theory of Intentional Deception and Lying

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Philosophy
Für Daniela

I realised that when you love,
you must either in your reasoning about that love
start from what is higher, more important than happiness
or unhappiness, sin or virtue in their usual meaning,
or you must not reason at all. Anton Chekhov, 1898
ABSTRACT

I undertake an analysis of themes and problems associated with the topic of intentional deception. I review the philosophical literature and try to clarify our moral intuitions. I motivate, explicate and test a new definition of lying.

In Chapter 1, I discuss the possible states of being deceived distinguished by Chisholm and Feehan in 'The Intent to Deceive'. In Chapter 2, I consider, first, relative disvalue among these states; then, types of deceptive intent. In Chapter 3, I question the assumption that an assertion is a special, solemn statement. I contend that standing behind one's words is intrinsic to the phenomenology of genuine assertion.

In Chapter 4, I show that to create an expectation in the deceived is not in itself to be able to violate a right of his. In Chapter 5, I argue that to lie is not genuinely to assert and that lying occurs only when the liar makes as if to stand behind his words. In Chapter 6, I distinguish dissimulation from simulation and show how the doctrine of mental reservation is consistent with not lying.

In Chapter 7, I expose twenty-two errors in Chisholm and Feehan's treatment of some classic cases. In Chapter 8, I consider addressing.

In Chapter 9, I identify an explanatory gap between a morally unbiased definition of lying and an overtly moral one. In Chapter 10, I examine the inherent disvalues and contingent harms said to be true of lying by Joseph Kupfer in 'The Moral Presumption against Lying'. The classification of lies as "white", morally superior, is shown to be suspect.

In Chapter 11, I find deniers of Armenian genocide to be guilty of self-deception and self-opposition. In Chapter 12, I defend the notion that truth has a value in itself and the thought that to have the genocide denied is to die twice. In Chapter 13, I start with the idea that language is an institution based on a convention of truth-telling, and show how public informants risk subverting truth by relying upon institutionalised trust.

Examples used range from marriage vows and human shields, to The Winslow Boy, Clinton's sex scandal and Number 10's dossier on Iraq.

Key words: lying; intentional deception; positive deception; negative deception; simpliciter and secundum quid deception; assertion; concealment; evasion; mental reservation; dissimulation; simulation; moral neutrality; value of truth; white lie; genocide; denial; self-deception; lying to oneself; plagiarism; trust; Standing behind One's Words.
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1. States of Deception

In order to shed light upon a number of questions about the intent to deceive, Chisholm and Feehan provide us with an analysis of what they take to be the concepts involved in that intent. I review that analysis and gauge their success in clarifying our intuitions about some classic cases of deception.

Chisholm and Feehan start with a set of mutually exclusive and mutually exhaustive distinctions taken to be attributable to a person being deceived by another with respect to a false proposition. They characterise the deceived in respect of propositional truth held or withheld by him and his causal relation to the deceiver. They seek the ingredients essential for analysing intended deception and lying.

Chisholm and Feehan present us with three two-fold distinctions, each of which cuts across the others: deception by commission versus deception by omission, positive deception versus negative deception, and deception simpliciter versus deception secundum quid.

Eight possibilities result from either part of either distinction being said to be attributable to the state in which a person may be left deceived by another with respect to a false proposition (since \(2^3 = 2 \times 2 \times 2 = 8\)). Let us familiarise ourselves with the specialised vocabulary introduced by Chisholm and Feehan in order to evaluate these possibilities and their relation to one another.

Chisholm and Feehan apply the three distinctions to the eight possibilities (or cases) as follows. Four cases apiece are arranged into two groups: deception by commission and deception by omission. They call the first two cases in either group positive deception and the last two in either group cases of negative deception. They call the first and third cases in either group cases of deception simpliciter and the second and fourth in either group cases of deception secundum quid (143). Eight positions in conceptual space are thereby demarcated in respect of either part of the three distinctions in turn, each position representing a way in which a person L may deceive a person D with respect to a [false] proposition p.

The first four cases of deception are said to involve, by way of commission, L contributing causally towards D's belief in respect of p. To comment on these in turn:

a) 'L contributes causally towards D's acquiring the belief in p.' Given our assumption that p is false, this is an instance of positive deception simpliciter. We call it 'positive' because D has been caused to add to his stock of false beliefs. And we call it deception 'simpliciter' because L

1 Roderick Chisholm & Thomas Feehan 1977, 'The Intent to Deceive', The Journal of Philosophy (74), 143-159.
brought about the change from the state of not being deceived with respect to p to that of being deceived with respect to p. (144)

First, the deception is being classed as positive in respect of L having caused D’s stock of false beliefs to be added to. This classification is multiply ambiguous.

One natural interpretation is that it counts as necessary and sufficient for a case of deception to be classed as positive if and only if the following obtains: 1) D acquires a false belief that she did not immediately have before; and 2), L causes D to acquire the belief. But if 2) is recognised as a necessary condition for positive deception by commission, how should we interpret cases of positive deception said true of the subsequent category of deception by L’s omission? Can L conceivably cause D to acquire a false belief by omission in the sense said true of L’s causal influence under commission? Whether or not positive deception can be said to have been effected by L, under these two conditions, and across cases of commission or omission, respectively, depends upon our ability to apply the causal contribution said to be made by L in positive deception univocally.

Consider L’s causal influence, wherever it occurs, as either intimate or remote. To be sure, L’s causal relation to D is already implicated by an ascription of commission or omission, respectively. But the fact that commission implies greater causal proximity than omission, should alert us to the risk of construing L’s causal contribution in condition (2) as too proximally close for an ascription of omission to be able to coexist with it. In that case, (2) could not count as both intimate and necessary. If (2) is necessary, L’s causal influence must be interpreted remotely, to allow for omissions to count as circumstances indeterminate enough to allow cases of positive deception to coexist with them.

Either way, the nature of L’s causal contribution is sufficiently question-begging that we shall undertake as a standing hypothesis, only until or unless we encounter countervailing considerations to the contrary, that what is essential to the nature of positive deception is condition (1), the acquisition by D, whether or not through proximate cause by L, of a false belief. Still, we cannot tell from Chisholm and Feehan’s stipulation, whether (1) should in that case be either necessary only, sufficient only, or both necessary and sufficient.

Under the necessary only or necessary and sufficient readings of condition (1), we should expect not to encounter in any of Chisholm and Feehan’s subsequent cases of positive deception that it be true to say of D that p has not added to D’s stock of false beliefs. If the condition were construed solely as sufficient, but neither necessary only nor necessary and sufficient, then we could entertain the discovery in one or more of Chisholm and Feehan’s subsequent cases of positive deception of conditions pertaining to D’s the having of p quite independent of D’s stock of false beliefs having been added to.
But then we should have to concede that the definition thus far offered by Chisholm and Feehan fell short of adequacy.

Let us confine ourselves to further examination of case (a), independent of whatever extensions to terminological usage will be offered by Chisholm and Feehan later on. Second, it is said that, a case counts as *simpliciter* when L brings about a change in D from not being deceived with respect to p to that of being deceived with respect to p. Is this not indistinguishable as a feature of the case from that of condition (1), the acquisition by D of a false belief? Perhaps Chisholm and Feehan seek to consider deception in respect of something highly specific to the acquired belief? By hypothesis we know that p is false. For *simpliciter* deception to make sense in Chisholm and Feehan's current formulation, it must not be belief that p as such that is being adverted to, already false, but belief in p's falsity. Otherwise, the act of not being deceived *with respect to* p, were p simply a false proposition with respect to which a belief was had, could not arise. P's falsity must be in question, as must the possibility of p being true, or something close to p's content. The locution 'with respect to' needs to be interpreted broadly enough to entitle us to speak of *simpliciter* deception not having occurred were D not deceived with respect to p.

An example may help to convey the suggested interpretation. Let p be the false proposition, and associated belief, that flashing amber at a pedestrian crossing on a two-way street without an intermediate island entitles a waiting driver to move off so long as there is no pedestrian on his side of the street. Were this belief brought about as a departure from the original belief that flashing amber entitles moving off only so long as a pedestrian has completed the crossing, a true belief as it happens, *simpliciter* deception may be said to have occurred with respect to p, even though the belief from which the departure has arisen is not itself p. The shared content between the true and the false belief, what flashing amber at a pedestrian crossing entitles a driver to do pending a pedestrian's spatial relation to him, what flashing amber specifically means, is that by which deception with respect to p is said to have occurred.

We need to address, as we did for positive deception, the meaning of L's causal contribution to *simpliciter* deception. To what extent is L's having brought about a change in D essential to *simpliciter* deception having obtained or not? Such a determination may enable us to distinguish *simpliciter* deception from positive deception. Perhaps L's causal relation, whether intimate or remote, is necessary to *simpliciter* deception but not necessary for positive deception? We shall bear this

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2 I understand *simpliciter* deception and deception *simpliciter* interchangeably, but adopt the former usage when no further adjective is used in qualifying the deception: e.g., 'simpliciter deception', but 'positive deception simpliciter'. It seems a nuance of Chisholm and Feehan's usage, without any obvious preexisting convention to be had, that, of two adjectives, the conceptually prior adjective take lexical precedence. I adopt such an order before going on to evaluate putative priority.
question in mind as we continue with consideration of Chisholm and Feehan's second case of deception:

b) 'L contributes causally towards D's continuing in the belief in p.' This (again given our assumption that p is false) is an instance of positive deception secundum quid. We call this case 'positive' because it has to do with the retention, as distinguished from the losing, of belief. And we call it 'secundum quid' because, although L did not cause D to acquire the false belief in p, nevertheless, but for the act of L, D would have lost or given up the belief in p. (144)

The meaning of positive deception encountered in hypothetical case (a) is subject to extension here. First, we have an indication that our standing hypothesis, without encountering countervailing reason, is good: what is essential to positive deception is not L's causal contribution. Instead, the causal contribution of L has been left unremarked in the specific locution, 'has to do with'. More critically, the extension is imputed by: 'retention as distinguished from the losing, of belief'. Therefore, p has not been added to D's stock of false beliefs and the condition encountered in case (a1), characterised by us as acquisition by D of a false belief, is neither necessary nor necessary and sufficient: (a1) is merely a sufficient condition. By extension, we now have the following formulation of positive deception:

D is subject to positive deception either by the acquisition or the retention, as distinguished from the losing, of false belief p.

The difficulty with this formulation, based on a charitable interpretation of Chisholm and Feehan, is the lack of identification of a common feature of either case, a feature against which both acquisition and retention are contradistinguishable. Otherwise, how can Chisholm and Feehan maintain mutual exclusivity between positive and, what follows, negative deception?

A contradistinguishing feature is invoked by Chisholm and Feehan only in case (b) in the idea, 'as distinguished from the losing'. Yet this idea contrasts better with the formulation of (a), though not explicitly referred to, than in (b). Undeniably, acquisition stands as to losing as retention stands only to continuing not to have; or, say, as retention stands to resisting. And acquisition contrasts with losing far better than retention does. Entering a revision on Chisholm and Feehan's behalf, a better formulation of positive deception would read:

D is subject to positive deception either by the acquisition, as distinguished from the losing, or by the retention, as distinguished from the continuing not to have, of false belief p.
Before consideration of Chisholm and Feehan's subsequent formulation of negative deception we can arrive at our own based on contraposition of the above:

D is subject to negative deception either by the losing, as distinguished from the acquisition, or by the continuing not to have, as distinguished from the retention, of true belief regarding p.\(^3\)

We shall shortly compare this formulation with Chisholm and Feehan's own pronouncements about negative deception.

To continue with case (b), positive deception secundum quid, we are to suppose that, 'but for the act of L, D would have lost or given up the belief in p'. We left open the possibility in case (a) of simpliciter deception that L's causation was pivotal to its characterisation as simpliciter. Since the difference between (a) and (b) is not supposed to be distinguishable with reference to positive deception by commission alone – it is that by which something in common is held – the difference must be accountable instead to the distinction between simpliciter and secundum quid deception.

But for L's act, makes L's causal contribution sound like a necessary, perhaps intimate, feature of the case as secundum quid. The imputation is that of the counterfactual, 'if L had not acted, D would have lost or given up the belief. That is, if L had not acted, as he did, D would not have been deceived. Since L did act, D has been secundum quid deceived.

The difficulty with this formulation – as much a difficulty, we might anticipate, of the right of secundum quid deception to exist as a distinct case amongst the collection presented by Chisholm and Feehan – is that if we let L's not acting in the counterfactual to obtain, and if instead we construe the belief that D otherwise would have as a false one with respect to p, it seems that we should have arrived at something like negative deception (the losing of true belief regarding p) by omission (L's not acting). But it is left vague what is doing the deceptive work, a simpliciter case of negative deception by omission or a secundum quid case of, 'if L had not omitted, D would not have lost or given up the belief in not-p [true with respect to p being false]'. We shall revisit this counterfactual implication when assessing deception by omission.

In the present two cases, at least, the counterfactual thought delivers the promising result that an interpretation can be found to render simpliciter cases distinct from secundum quid cases that they otherwise share the same deceptive attributions in respect of. The interpretation is that simpliciter imputes to the case nothing over and above what

\(^3\) I say 'regarding' in order to admit the possibility that p is false and to maintain continuity by the earlier hypothesis. 'True belief regarding p' is still inconsistent with belief in false p.
has already been attributed; whereas *secundum quid* attaches a distinct counterfactual component to whatever *simpliciter* features may be said to coexist with it.

Was it not a mistake to assume, in our interpretation of case (a), that there was anything to distinguish positive deception from *simpliciter* deception? It was an assumption we were able to correct without being dictated by. The right interpretation assumes an answer to the following question: *Simpliciter* with respect to what without qualification? *Simpliciter* with respect to positive deception by commission is, simply put, positive deception by commission per se. Chisholm and Feehan’s formulation of deception *qua simpliciter* makes sense only with respect to coexisting attributes.

This reading lets us resolve some problems encountered with case (a). We can appreciate why, as we put it, *simpliciter* deception sounded ‘indistinguishable as a feature of the case’ from the acquisition by D of a false belief. It is that positive deception is one of the features simplicity is being invoked in respect of. We should not be misled by Chisholm and Feehan’s use of the Latin to undertake a search for an additional, distinct feature of the case, however simple.

It also becomes true to say, as already suggested by us, that L’s causal relation to D in Chisholm and Feehan’s formulation of positive deception *simpliciter* is necessary by virtue of something other than the fact that it is a case of positive deception. It becomes true by virtue of the fact that it is also a case of deception by commission. Thus, what is described is the most rudimentary case of positive deception by commission, without qualification or departure.

What distinguishes *secundum quid* from the *simpliciter* case of positive deception by commission is a way of L’s causally contributing to D’s belief in p. The variation, and sophistication, of the causal contribution also affects the way in which false belief p is held by D, the belief’s character. A shift in causal emphasis corresponds to a new type of case that can count as positive deception, that of *continuation* in the belief in p, as opposed to its mere *acquisition*.

c) ‘L contributes causally towards D’s ceasing to believe in [or losing belief that] not-p.’ This is negative deception *simpliciter* - ‘*simpliciter*’ because L has caused D to change his belief with respect to p, and ‘negative’ because D has been caused to lose one of his beliefs.

On the interpretation developed, this counts as a *simpliciter* case of deception by commission in so far as L causes D to change his belief with respect to p. It is also negative deception where D has lost a belief with respect to the falsity of p: assume he has lost a true belief that not-p.

d) ‘L contributes causally towards preventing D from acquiring the belief in not-p.’ This is an instance of negative deception *secundum quid*. 
According to our prior formulation of negative deception, it is only the second disjunct that obtains here: D continues to do without the belief that not-p. By hypothesis, L causally contributes to this state of affairs, such that (we say on behalf of Chisholm and Feehan) but for L’s act, D would have acquired the belief in not-p: D’s state of secundum quid negative deception by commission results from a prevention.

Chisholm and Feehan’s four further cases, each of deception by omission, do not foreclose the possibility of L’s acting as such, only that ‘he has failed to do something he could have done with respect to D and the belief that p.’ Their idea is that each case of deception by omission is that in which ‘a man allows a certain state of affairs to occur or obtain provided only (i) he could prevent that state of affairs from occurring or obtaining and (ii) he does not thus prevent it from occurring or obtaining’ (144). The four cases are:

e) L allows D to acquire the belief in p.

As an example of positive deception simpliciter, it is true that D fulfils the condition of having been positively deceived, by the mere acquisition of a false belief, quite independent of the causal condition (the same independence we postulated in the case of (a)). Furthermore, according to Chisholm and Feehan’s definition of omission (an allowance), L could have prevented, but did not prevent, D from acquiring the belief (hence positive deception by omission simpliciter).

f) L allows D to continue in the belief in p.

As an example of positive deception secundum quid, it is true that D fulfils the condition of having been positively deceived, by the mere retention of a false belief, quite independent of the causal condition (the same independence we postulated in the case of (b)). But how do we construe the condition of secundum quid by omission? We say, ‘but for the omission of L, D would have lost or given up the belief in p.’ This means that had L acted, not just as such, but with respect to D and the belief that p (contrary to the omission) then D would no longer have had the false belief, would no longer have been deceived with respect to p. Since, in case (f), L does not act with respect to D and p, it is true that he could have prevented D’s deception from occurring, and, by his omission, does not so prevent it.

Such an interpretation is not decisive in making the case for secundum quid deception. We must read the counterfactual implication, in order to distinguish it from negative deception simpliciter by omission, as pertaining to how the act which otherwise would have resulted in D’s not being deceived would have changed D’s beliefs. For positive deception secundum quid to remain distinctive from its negative simpliciter counterpart, postulation of an additional causal relation is required. By speaking of
continuation, causal influence is propagated not just with respect to the having of a particular belief or not, period; but to the possession of a belief over time. Neither belief retention nor belief change can serve as default assumptions. Whilst the simpliciter condition gives expression to the occurrence of change to D's belief set, secundum quid cases register a circumstance of no change, respectively, to D's belief set (through either addition or negation). The secundum quid condition is made to play a causal role by implicating of an otherwise stationary belief state that surrounding states of affairs need specifying before maintenance of that belief can be assumed.

(g) 'L allows D to cease to have the belief in not-p.'

As a case of negative deception simpliciter, the assumption is that L allows D to lose his true belief and does this, again, by electing not to do something he could have done to prevent that state of affairs from occurring. Case (g) brings into relief how it is that a simpliciter case might be confused for a secundum quid condition. We have already raised a worry, when introducing the first secundum quid example, of how to distinguish a secundum quid clause, to wit, 'if L had not omitted, D would not have lost or given up the belief in not-p,' from negative deception simpliciter by omission.

In (g) persists a simpliciter case, in which the counterfactual condition circumscribed by the omission, under like circumstance, is sufficient to make the aforementioned secundum quid clause sound as though it has obtained. Call this a suspected case of overdetermination with respect to the interpretation of L's causal contribution. Either we must concede that the causes in (g) are overdetermined; or we should allow of multiple interpretability, without adequate rationale for regarding one causal interpretation as superior, or conceptually prior to the other.

h) 'L allows D to continue without the belief in not-p.'

As a case of negative deception secundum quid, D is said to be permitted by L to persist over time in his (D's) false belief regarding p. L's permission consists not simply in his allowing a state of affairs to occur that he could prevent, but in the means by which he could prevent that state of affairs. The means are captured by a secundum quid clause: 'but for L's omission, D would not have continued without the belief in not-p.'

Alternatively, why not say, but for L's omission, D would have acquired the belief in not-p? It may be contestable, in cases, whether omissions are classifiable as acts. But in so far as an omission figures in this secundum quid clause as that without the occurrence of which another state of affairs would strictly follow, its causal credentials may well be sufficiently rigid to entitle us to paraphrase the clause as, 'L contributes causally towards preventing D from acquiring the belief in not-p.' Such a formulation is identical to that
identified with case (d), negative deception secundum quid by commission. This result need not worry us; for it suggests a degree of latitude either in conflation by us of a pair of cases or in our being able to exercise judgment in the criterion to which we choose to attribute conceptual priority.

- **Summary 1**

Chisholm and Feehan advanced an eight-fold classification to establish possible states of being deceived. We refined the distinction between positive and negative deception: A person is subject to positive deception either by the acquisition, as distinguished from the losing, or by the retention, as distinguished from the continuing not to have, of a false belief. And a person is subject to negative deception either by the losing, as distinguished from the acquisition, or by the continuing not to have, as distinguished from the retention, of true belief regarding the same.

We registered the distinction between commission and omission such that a person could be said to have deceived another by commission when he contributed causally towards any of the states of positive or negative deception said to occur even though he could have prevented them.

We identified simpliciter deception as the unexceptional case of positive or negative deception, in either case, by commission or of omission. Simpliciter ascriptions did not impute novel characteristics, but directed us towards the typification of coexisting ascriptions and provided us with the possibility of non-simpliciter cases.

The non-simpliciter secundum quid cases presented us with greater interpretive challenges. The counterfactual interpretation, ‘if the deceiver had not acted, positive or negative deception would not have arisen,’ dealt more favourably with the group of deception by commission than that of omission. By extrapolating from Chisholm and Feehan’s remarks, we were able to offer the following secundum quid reading for cases of omission: ‘if the deceiver had not omitted or allowed it, positive or negative deception would not have arisen.’

The difficulty arose of distinguishing negative deception secundum quid by commission from that of omission, since according to the extrapolation negative deception could not occur but for the deceiver’s allowance, a kind of act (given its explanatory prominence). Interpretive conflation of a secundum quid clause in an omission statement with a distinct statement of commission could result: L’s allowing D to continue without a true belief in a belief’s falsity risked conflation with L’s contributing causally towards preventing D from acquiring the true belief with respect to a belief’s falsity: distinct cases of omission and commission, respectively, (h) ≠ (d).
The further difficulty arose of distinguishing negative deception *simpliciter* by omission from positive deception *secundum quid* by omission, i.e. \((g) \neq (f)\). We hypothesized a causal realm where \(L\) was said to be exercising a *secundum quid* influence over \(D\).

The postulation of a distinct causal realm gave us further basis for distinguishing, again, negative deception *simpliciter* by omission from positive deception *secundum quid* by commission, i.e. \((g) \neq (b)\).

Fuller justification for the postulation of a distinct causation will await treatment of worldly cases to which the hypothetical ones are said to pertain. We begin Chapter 2 by appending our preliminary conclusions to a sketch of the eight positions advanced by Chisholm and Feehan.
2. Relative Disvalue and Intent

*Figure:* Chisholm and Feehan's eight positions for positive or negative deception of D by L's commission or omission, *simpliciter* or *secundum quid* (145) and problem cases:

Highlighting the cases that we found difficulty distinguishing between – each pair involving a case of *secundum quid* ascription – allows us to identify a fourth, hitherto unconsidered pair, (f) ≠ (b), as potentially illuminating. Since case (g) shows up in two different problem cases, securing an independent interpretation for a third pair may help us with the cases which involve (g); with all three pairs to form a mutually consistent interpretive set. When interpreting a case that appears under more than one controversial pair, we should check for consistency across other cases, to identify mutually consistent interpretations.

In order to maintain a separation between (b), 'L contributes causally towards continuing in the belief in p,' and (f), 'L allows D to continue in the belief in p,' we need to stipulate not only (1), but for L's act of commission or omission, D would not have had the belief; but (2), but for L's act of commission or omission *secundum quid*, D would not have continued in that belief. (2) does bring refinement, understood as an additional explanatory event not a new metaphysical chain. Thus construed, *secundum quid* causal explanation is designed to open up interpretive possibilities regarding deceptive acts that are otherwise explanatorily indistinguishable.

The difficulty of identifying a case as *secundum quid* is likely to be controversial. If I am right about design, attributing *secundum quid* will depend not only upon our ability to read into a given case, even confer it upon, the deceiver's causal contribution, but to evaluate the means of that contribution. That will require an estimate of the deceiver's motive, intention or context, an exercise fraught with probable complexity and ambiguity.
How should we rank the seriousness of these states with respect to the intent of a deceiver to produce either of them in another? First, let us consider pairwise comparison between alphabetically adjacent cases, each pair chosen so that one case differs from the next in a single respect, all else being equal.

Taking the group of four cases of deception by commission first, consider whether (a), L contributing causally towards D's acquiring the belief in \( p \), is intrinsically worse than (b), L contributing causally towards D's continuing in the belief in \( p \). It would be as though acquisition by D of a belief she did not have before was an intuitively worse state, through having been brought about, than D being made to continue in that belief. (a) is two steps removed from not having the false belief at all, whilst (b) is only one step removed. That is to say, accepting that L makes a causal contribution to either the acquisition or retention by D of a false belief in either case, acquisition (in a) arguably requires a greater step change from D's initial belief set. If causal responsibility is less qualified, or unqualified, in the case of simpliciter deception, that may be a reason to attribute greater moral weight to the resultant state of affairs.

Next, (c), L contributing causally towards D's ceasing to believe in not-\( p \), in so far as it involves contributing towards D's giving up a true belief, is intuitively not as bad as contributing either to the acquisition or retention of a belief that is false with respect to \( p \) in itself.

Next, (d), L contributing causally towards preventing D from acquiring the belief in not-\( p \), is intuitively not as bad as (c), which concerns the losing of something one had. Again, it is as though D's end state, though neither (c) nor (d) leaves him possessed of a true belief in not-\( p \), was not of equal measure, (c) requiring a single move away from D's original stock of beliefs, while (d) requires no departure.

Assuming that intrinsic disvalue is transitive across the present cases, entitles us to the prima facie claim that (a) is worse than (b) is worse than (c) is worse than (d).

How do our intuitions fare with respect to the cases of deception by omission?

In (e), L allows D to acquire the belief in \( p \). D has been allowed to hold belief once further removed with respect to \( p \) than in (f), where L allows D to continue in the belief in \( p \). In (g), however, how are we to compare the relative disvalue of D's being allowed to cease to have a true belief, with (f), D's being allowed to continue in a false belief? That requires comparison of ceasing to believe in something true (g) with continuing to believe in something false (f). Under the group of commission, we conceded that the continuation of the false (b) was worse than the ceasing of the true (c). Can we postulate the same sense of relative disvalue across (f) and (g)? We can, but under omission, the

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4 Although Chisholm and Feehan claim not to be 'concerned with ethical or moral questions', and, therefore, not to 'discuss the conditions, if any, under which a lie or other act of intended deception may be justified or excused' (143), they do aim to supply a provisional ranking of states according to which each case is judged 'intrinsically worse' than another.
arousal of these states simply invites further speculation. Is it not equally bad to allow another to cease to have a true belief that not-p (g) than to allow him simply to continue in a false belief in p (f)? Is not the end equally bad in respect of D's relation to p and is not L's act of allowance equally remote?

When considering Chisholm and Feehan's general characterisation of (f) and (g), in Chapter 1, we resisted any straightforward conflation between the two. We have since sought to develop the idea that *secundum quid* deception differs by design. Should we concede that, in spite of any end state cognitive similarity, L's influence over D's cognitive outcome is more intimate in (f) than in (g)? *Secundum quid* causal explanation circumscribes that influence, representing, with nuance, how L's omission was transacted. The possibility, where exploited, of intimate causation in one and not the other could decide between the cases. With nothing further to decide between the cases, one may still contend that (f) is worse than (g) because the having of a false belief conferred greater disvalue than no longer enjoying a belief that would not have been false. If the relative bad of (f) in relation to (g) were left unaccounted for by the *secundum quid* condition, the mere departure, in (g), from a better to a worse state need not rival the actual ill of false belief that (f) resulted in. Allowing for falsity to be maintained could be worse than allowing truth with respect to the very same to be lost. I find the former, *secundum quid* gauge of relative disvalue more compelling, but both explanations are available. The postulated explanation of disvalue from (b) to (c) and (f) to (g) remains viable across both groups of commission and omission.

To complete our consideration of the acts of omission: (g), L allowing D to cease to have the belief in not-p, does seem intuitively worse than (h), L allowing D to continue merely without it. The former requires a greater departure in respect of D's prior stock of beliefs, though either case is equal in respect of where D ends up with respect to belief in p's falsity.

How should we interpret relative disvalue as it pertains from left to right, across the initial groups? For example, are not the first two cases of commission, positive deception *simpliciter* and positive deception *secundum quid*, each worse than the first two cases of omission? That would be to contend that for L to contribute causally to a state is of greater disvalue, all else being equal, than for L simply to allow that state to obtain. On this interpretation, (a) is worse than (e) and (b) is worse than (f). Where L has assumed prior responsibility towards D, L's act of omission may be morally worse than that same outcome through commission; but that would be a situation where all else was not equal.

Generalising, and all else being equal, transmits a similar result across the remainder of cases: that (c) is worse than (g) and (d) is worse than (h).

However, since evaluation of *secundum quid* cases revealed the possibility of interpretive conflation between (b) and (f), and (d) and (h), we should not be too quick to judge of relative disvalue between them. These pairs, in particular, were difficult to
distinguish between because L's causal contribution could be interpreted with equal
effect. The conflation resulted from a misreading of the secundum quid clause as an act
of commission, reproduced in the parallel case, leaving little causal work for the
deception by omission clause to do. But it adds nothing to our knowledge to be told that
when one has committed an act it is also true of one to say that one has allowed oneself to
commit that act.

It is unsafe to assume, therefore, that where secundum quid clauses by omission are
translatable into clauses by commission, the translation is good for discovering all that
can be said about relative disvalue between the cases. We have established secundum
quid causation as a discrete form of explanation, so we cannot assume that the initial
grouping between commission and omission will track all forms of relative disvalue
between the eight cases. An attempt to derive further generalities about relative disvalue
must await consideration of actual cases.

Chisholm and Feehan remind us that an estimation of the bad inherent in deception
depends not only on the deceiver's intent but also the degree of belief to which he
contributes, since belief in p may admit of degrees.

Typically, we are concerned not just with whether L has contributed causally to D's
being deceived with respect to p. We shall now assess the possible character of that
intent. According to Chisholm and Feehan, in speaking of deception by commission, we
should determine not only 'whether p is false and whether L has contributed causally to
D accepting p,' but also something more about L's 'own state of mind' (146). This is too
strong. In order to evaluate L's intent to deceive it should be sufficient to confine
ourselves to L's state of mind and the nature of intention. Only if we want to address the
success or otherwise of L's intent need we be able to tell whether p is false or whether D's
accepting p has been causally contributed to by L.

Chisholm and Feehan bear in mind that we can only determine whether L has the
intent to deceive D with respect to p if we know what belief or beliefs L has with respect
to p; or, hypothetically, what range of beliefs L could himself hold with respect to p as
they combined with his intent to have D accept p through his deceptive attempt.

Chisholm and Feehan distinguish four intents to deceive: two involve L himself in
belief more or less about the states of affairs to which the proposition, p, purports to
inform another; the remainder involve higher-order beliefs held by L about the truth
value of a proposition. Consider their cases, in turn, but substituting for p the proposition
that there are England batsmen in Zimbabwe:

j) L believes neither that there are England batsmen in Zimbabwe nor that there are
no England batsmen in Zimbabwe.
Here, whilst L may be said privately to withhold from the proposition that p, yet attempt to cause D to accept it, Chisholm and Feehan maintain that we could not say that, ‘strictly speaking, L has the intent to deceive D with respect to p’ (147). It is true, here, that L has no belief in the opposite, or negation, of what he attempts to get D to accept, that there are England batsmen in Zimbabwe; so we accept that he does not possess a standard belief requisite for making his utterance of p into a classic attempt at interpersonal deception of D. What can be maintained, however, is that L would have the intent to deceive D, ‘not with respect to p, but with respect to L’s own state of mind with respect to p.’ It is an interesting question whether L could have this intent with respect to misrepresenting his own mind even though he did not realise that that was what he was doing. Later we shall consider the extent to which L’s intentions are exhausted, even primarily individuated, with reference to his conscious realisations.

k) L believes that there are not England batsmen in Zimbabwe.

Such a belief held by L enables him to perform a classic case of interpersonal deception, where L attempts to cause D to accept p, the contrary of what he accepts.

m) L believes that it is not true that there are England batsmen in Zimbabwe.

According to Chisholm and Feehan, L has belief in a higher-order proposition by accepting a proposition about a proposition; that the first proposition is not true.

n) L believes that it is false that there are England batsmen in Zimbabwe.

Chisholm and Feehan allege this is a further example of L’s belief in a higher-order proposition, here, that of the first proposition being false. Chisholm and Feehan maintain that beliefs expressed by (m) and (n) require ‘a degree of sophistication’ not required by belief expressed by (k). This puts things too strongly. Is it not an essential feature of what it is in the job of a belief to do that it shall represent states of affairs as obtaining; as what is the case, or true? If yes, then the same ‘degree of sophistication’ had by (m) and (n) is equally implicit in (k), the putatively lower-order case. All three contain a telling demonstrative ‘that’ clause. ‘That’ signals propositional content and it is a mistake for Chisholm and Feehan to contend that one could subscribe to a proposition about a proposition without assuming that the one proposition, about which the second-order proposition is said to pronounce upon, conferred truth that one could be rationally incognizant of.

Nor does the higher-order propositional view square with the propositional story that could be read into Chisholm and Feehan’s earlier formulations of deceptive states. In
cases where D was said to be negatively deceived with respect to p, Chisholm and Feehan circumscribed the states only with reference to L's 'belief in not-p'. Yet we did not interpret, nor were we asked to interpret, L's belief in not-p as enjoying higher-order propositional content with respect to proposition, p; where it is not the case that 'not' required a degree of sophistication not evidenced in cases of positive deception. No, belief in not-p was recognised as cognitively fit for circumscribing that L's belief could be true; since p, by hypothesis, was a false proposition, the negation of which signalled a state of truth with respect to recognition of p's falsity. That did not mean that, were L not to be deceived with respect to p, we were entitled to say so only by invoking higher-order propositional content, either in our description of him or our recognition of his cognitive state.

The more intuitive view, tacit even in Chisholm and Feehan's earlier construals of belief, says that L's belief that p entails L's belief that p is true, or L's belief that p entails L's belief that it is true that p. L's belief that p entails that L believes that that is the case. No matter how many that clauses one chooses to circumscribe L's belief in respect of, that will not turn that belief into a higher-order one, either in our interpretation of it or in L's mind.

We should, however, allow the existence of some higher-order beliefs. When might we do so? The analysis I have given assumes that if L believes that it is false that there are England batsmen in Zimbabwe it is because he believes that there are no England batsmen in Zimbabwe. Attribution of falsity is simply an equally legitimate, more or less economical way of stating L's belief with respect to the states of affairs a proposition purports to be about. This need not take us beyond the very idea of first order propositional content or belief that thus-and-so. What would, I contend, is the thought that the content towards which L takes up a cognitive position should concern such complicated matter that anybody in L's position – or only L, given relevant psychology – would experience unresolved difficulty determining for himself, or determining at all, whether p had obtained or not.

Neither our batsmen example nor Chisholm and Feehan's (robbers in the road) are particularly complex. They stand-in for the presence or absence of something in some situation or other. Beliefs about the one belief's truth or falsity are readily interpretable as beliefs about the states of affairs the original belief is about. A proposition, contrariwise, about which it could make better, if not perfect sense to say that L believes that it is not true; and in so doing invoke higher-order propositional content, is the proposition, say:
In saying of the above that he believed it not to be true, we could interpret L as not knowing that the proposition is true because he felt unqualified to judge, say, and sought to signal his unpreparedness to assent to its truth. An equally successful way of expressing this hesitation would be along the lines of, 'L does [or I do] not believe that (it is true that) D (At p(P(r, r*)) \equiv At p(\lambda x[P(x, r*)](r))).'

Since beliefs, especially propositional ones, have it intrinsically in their job to express truth, we are in a better position to derive a higher-order sense for Chisholm and Feehan's case (m), which explicitly invokes the concept of not being true, than in case (n), which explicitly invokes only falsity. The difficulty is that because beliefs do not have it as an intrinsic part of their job to express falsity, it would be difficult to maintain that the falsity was expressive of a doubt in L's mind, as opposed to the adoption of a definite view as to absence of the states of affairs the proposition purported to be about. Therefore, we should maintain that (n), it is false that there are England batsmen in Zimbabwe, be interpreted as, it is not the case that there are England batsmen in Zimbabwe, practically synonymous with (k), that there are no England batsmen in Zimbabwe.

The belief-tokens adverted to by Chisholm and Feehan in (m) and (n) are better understood as beliefs assertoric in respect of p's negation. If L believes either that it is not true, or that it is false, that there are England batsmen in Zimbabwe, it is precisely because she believes there are no England batsmen in Zimbabwe, not because she does not understand the import of the proposition or seeks to remain silent over it. Chisholm and Feehan believe that states of mind such as (m) and (n), when true of L, make it true that, in an attempt to deceive D with respect to p, the proposition that L intends D to accept is one that L believes to be not true (in m); or one that L believes to be false (in n). With these implications in mind, Chisholm and Feehan contend that L's aim must be to bring about in the victim simply that he, D, have a false belief, 'about something or other, it doesn't matter what' (147), so long as it is false.

Chisholm and Feehan seem to assume (they treat it no further) that (m) matches (n) with respect to an aim to project falsity, equally, into the victim's mind. Does this not then beg the question whether (m) and (n) are cognitively distinct situations in the mind of L at the outset? At the very least they are subject to conflation by the assumption. Furthermore, Chisholm and Feehan's general conclusion is that for L to act with the sole aim of projecting falsity into the mind of the victim, no matter what that belief is about, is 'diabolical'. To impart, as it were, false belief for its own sake without the pursuit of some

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other practical consequence is not a recognisable feature of our daily interpersonal communication. We can concur with Chisholm and Feehan in the diabolical conclusion, but should this not alert them to the prospect that their invocation of higher-order beliefs as they pertain to L's mind are as contrived as the intention to impart those higher-order contents would be diabolical? I suspect yes.

A further worry is Chisholm and Feehan's casual acceptance of the notion that L's act of intentional deception should be adequately individuated solely with respect to L's state of mind; with respect to the more contrived states, all that L can be said to be doing in respect of getting D to accept p has to be relatable to how far the proposition L gets D to accept departs from L's own conception of it. But, whatever that departure from L's own acceptance is, L cannot but invoke (the proposition) that he accepts what he asserts to D, in trying to get D to accept it. Whether or not L realises or accepts it, his intentional action must face individuation not only in respect of his conscious aim, but anything further that makes his communicative attempt normatively credible.

• Summary 2

We have evaluated Chisholm and Feehan's eight deceptive states with respect to their disvalue relative to one another. We took the cases in alphabetical order, the group of commission followed by the group of omission. By adjacent pairwise comparison, we found that (a) is worse than (b) is worse than (c) is worse than (d).

A hierarchy of diminishing disvalue extended to cases (e) to (h). A conflation did arise between (f) and (g), and we considered three ways of resolving relative disvalue: the number of steps that the new state represented a departure from; the having of a false belief as against the losing of a true belief; and, the idea that secundum quid deception differed by design. Although the first criterion was found to work against the emergent trend in relative disvalue, the other two could be found to confer greater disvalue, taken independently or collectively.

Relative disvalue across the groups was more difficult to establish. We decided to await treatment of concrete cases to help us settle disvalue between the pairs, in particular, (b) and (f), and (d) and (h).

We acknowledged the need for an account not only of how L had contributed causally to D's being deceived with respect to p, but an account of L's intent. We examined Chisholm and Feehan's putative states of possible belief had by L about which his intent to deceive was said to rely. We criticised their higher-order propositional view, around which two of the states were said to depend, for contradicting the propositional story that could be read into Chisholm and Feehan's earlier formulations of deceptive states.
We saw that the higher-order view could be sustained only by resort to complex propositions and we provided an example.

We criticised as contrived the contention that L could aim to project falsity from cognitive standpoints in the form of (m) and (n).

We recognised the importance of normative credibility in determining L's intent to deceive independent of his cognisance of those norms.
3. Standing behind One's Words

Chisholm and Feehan's continued construction of the definition of lying requires characterisations of: what it means to say something false; what it means to say at all; and what it means to assert. The conclusion which Chisholm and Feehan arrive at is that, in order to lie by intending to say something false, saying must be understood as a form of assertion and assertion must be understood as a special kind of statement. We shall examine their claims.

Chisholm and Feehan start by refining a definition offered by St Thomas:

If a man lies, then he intends to say what is false.

Chisholm and Feehan acknowledge an ambiguity in the expression, 'he intends to say what is false', which must be taken to imply, 'not that there is something false that he intentionally states, but rather that he intends it to be the case that he state something that is false' (148). The scope of the intention extends not only to the making of a statement, nor only to the making of a statement that happens to be false; but also, to the making of a statement because it is false.

There is scope for further ambiguity, again, in St Thomas’ definition; and furthermore, with the idea of making a statement because it is false. If ‘say’ is interpreted more fully, the speaker’s intention could be interpreted as extending to the attempt to convey, of that which he took to be false, that it was false: But when a man lies, clearly his intent is not to tell it quite like it is. Second, even in the making of a false statement because it is false, we must stop short of construing the because as supplying the speaker with sufficient reason to communicate the full falsehood of what he is saying in lying. We have already conceded that a man’s aim in getting another to believe a false proposition is rarely, if ever, in order to endow the deceived with falsity for its own sake (p. 23). The deceiver typically speaks in order to bring about or to preserve acceptance of a false proposition for the sake of a further end he wants to promote, e.g., to motivate the deceived to act in some way.

On p. 20, we recognised as paradigmatic of L’s cognitive situation the case in which L began with a belief contrary to the proposition which he attempted to get D to accept (example k). As a next step in the definition, therefore, we should substitute for what L intends to say what he intends to get another to believe in light of what he himself believes, thus:
A lie is a statement made by one who believes it to be false with the intention that someone else shall be led to believe it.6 (148)

Chisholm and Feehan seek to enrich our understanding of lying by elaborating upon that part of the definition which may be parsed as follows: ‘a statement made . . . with the intention that someone else shall be led to believe it.’ They distinguish between a ‘nonsolemn statement’ and a ‘solemn assertion’ (150).

To make a statement presupposes that L can express a proposition by making an utterance that has it as a standard use in his natural language to express that very proposition. In order to express the proposition by invoking the standard use of that utterance, L needs to show D that he intends to invoke the standard. He does that by acting with the intention of causing D to believe that that is his intention.

The preceding paragraph attempts to provide an intuitive account of how interpersonal propositional transactions work. It is plausible that only by invoking a standard use in a language can L express a proposition at all, and only by signalling to D that that is his intention can he achieve that. If so, then L may need to somehow convey an intention about an intention. The higher order intention concerns that which L seeks D to get to understand and the lower order intention concerns how it is that L can get to express the proposition he wants to, standardly. L cannot get to express the proposition he wants to, standardly, without getting D to detect that he, L, so intends so to express himself.

To get from nonsolemn statement to solemn assertion, Chisholm and Feehan seek to invoke not just the signalling to D by L of his intent to express p, but the signalling to D by L both that he accepts p and that he intends to convey this acceptance. The only way L can establish both forms of acceptance, through assertion, is if assertion carries, or can be understood to carry, a normative weight. Chisholm and Feehan want to say that this normative weight is invoked, if not transmitted, when and only when L undertakes to mean what he says to be taken ‘seriously’.

Charles Sanders Peirce offers an account of assertion that emphasises first-person assertoric responsibility and identifies solemnity as a quintessential component of formal assertion when it succeeds in that. Solemnity is not meant to be a necessary condition for genuine assertion, but it is presented by Peirce as an example of a performative tone on an intentional register that reliably does produce an ingredient considered necessary.

Peirce contends:

If a man desires to assert anything very seriously, he takes steps as will enable him to go before a magistrate or notary and take a binding oath to it. Taking an oath is not mainly an event of

6 Even here, Chisholm and Feehan do not mean to invoke a (second-order) proposition about a proposition, consistent with our argument against them on pages 20ff.
the nature of a setting forth, Vorstellung, or representing. It is not mere saying, but is doing. The law, I believe, calls it an 'act'. At any rate, it would be followed by very real effects, in case the substance of what is asserted should be proved untrue. This ingredient, the assuming of responsibility, which is so prominent in solemn assertion, must be present in every genuine assertion.\(^7\) (emphasis mine)

Peirce's example should be recognisable to us all. In a court of law, under the rule of law, an assertion becomes fit for making only by virtue of a speaker's assumption of responsibility for what he says, by being committed to what he says. Whatever is an utterance good for? Typically, to indicate to the hearer what the speaker believes in. Typically, to indicate that the speaker believes in what he does because he takes it to be true. Is not the best gauge of the fitness of the speaker's speech to that end our discernment of the quality of his conviction? This gauge consists in our discernment of his own recognition, however self-conscious, that his speech is good to the end of what speech is fitted for. In the context of a legal proceeding self-conscious recognition is likely to present itself and its discernment relied upon. Such discernment may be as sensitive to the pattern of the utterer's speech, be it spontaneous or rehearsed, as to the sound of his conviction, be it impassioned indignation or quiet resignation. Discernment may be sensitive to whether or not to take his manner or conviction at face value; or whether to take either as indicative of something not of face value; or as indicative of something not of face value, but true nonetheless.

Peirce's sufficient condition, adopted by Chisholm and Feehan, is the presence of solemnity in assertion. Solemnity is a supposed criterion for the speaker's assumption of responsibility and the fitness of his utterance to the ends of good assertion. Solemnity, to be sure, brings with it an association of emotion. How emotive? Grant that a suspect or witness at a stand before a magistrate emotes solemnity in his utterance when faced with the question, Do you promise to tell the truth, the whole truth, and nothing but the truth? And grant that the substance of his reply, in its very performance, 'I do,' nicely reveals how his utterance should count as an act. The assertion I do is at once both an undertaking to perform and a performance itself. Counterexamples to the presence of solemnity can readily be found, especially in less formal situations where assertion is still achievable. We would find it odd, say, for a successful doctoral candidate to break his news to his supervisor with solemnity. We might be surprised were not the opposite, elation, expressed.

We need to tighten Peirce's account of assertion. Seriousness and the presumption of responsibility can be engendered by a speaker's act of assertion, and his assertion can take on all the concreteness associated with a voluntary action, when it is good for that.

Assertion need not be solemnly expressed for all that. The existence of genuine assertions accompanied by enthusiasm shows how solemnity is unable to mark all that is at stake. Solemnity may be sufficient without being necessary, but enthusiasm is hardly either necessary or sufficient for genuine assertion.

I contend that there is no easy substitute for a reliance on less reductive cognitive and emotive locutions in an attempt to characterise what, when achieved, counts as genuine assertion. The least reductive of the locutions already adumbrated by Peirce is the idea that genuine assertion 'would be followed by very real effects, in case the substance of what is asserted should be proved untrue'. This brings truth into the assertoric equation at the outset. The difficulty of championing this alternative locution, though, is that it is not reductive enough to provide us with a satisfying explanation or definition of what is breached when a speaker undertakes to lie by making an assertion. If the truth-conditionedness of assertion were tied too closely to assertoric success, it could diminish the explanatory potential of a definition of lying that took assertoric success as an essential feature of it. One cannot lie by maintaining truthfulness.

Equally, we need to illuminate how truth-conditionedness as the normative, essential condition of assertoric success could be rendered consistent with that assertoric success, or the feigning of it, remaining fundamental to successful lying. An appeal to truth-conditionedness needs to leave room to explain why we should find lying, when and if we do, variously offensive, immoral, or unjustified. These negativities are prima facie true of lying and the account of assertion needs to make itself consistent with a presumption against lying and a presumption for requiring that the liar have a justification.

Our refinement maintains that truth-conditionedness acts as a success condition for genuine assertion but that solemnity is not necessary for successful assertion because solemnity cannot be sufficiently generalised. Our substitute requirement, of greater universality, is the requirement of the speaker to stand behind his words.

Standing behind one's words and its derivatives are colloquialisms. It is in the fact of their everyday usage that we shall endeavour to locate a truth factor of sufficient normative strength and universality. Everyday usage will give us a handle on their everyday meaning, to which we now turn.

Of something once said that was stood behind at the time of its making, it should be possible to say of the speaker that he would stand by his past words now or in the future. When a bride and groom undertake their vows, as part of a ceremony, they do so. 'for better or for worse, for richer or for poorer'. The resolve is to stand by one another, in spite of any misfortune that might befall either of them, whether misfortune is

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8 D. S. Mannison 1969, in 'Lying and Lies', considers J L Austin's claim in How to Do Things with Words that in lying one does not have the requisite thoughts that normally accompany an act of asserting. Austin's 'requisite thought' is the belief that what is being asserted is true (Mannison, p. 136). Such a construal still leaves it mysterious how assertion is enacted through lying.
anticipated or not, whether to the detriment of their health, wealth or status as this might impact upon one another. Their vows are not undertaken with the benefit of hindsight with respect to the future, hardly possible, but by explicit, express, sincere, and normally public avowal in speech, whether solemn or joyful. Publicity is not necessary to condition the voluntariness and freedom with which the avowals are enacted, but it does condition the desire to have the exchange freely witnessed and acknowledged by everybody, for all its importance. It is the subjective condition of the vows which informs the earnestness with which either spouse commits him or herself.

For us to be able to say sensibly that a husband and wife have stood behind the words of their ceremony, it should be possible for us to find evidence of the seriousness with which they said what they did and meant what they said. The evidence for saying and meaning what they did should be visible in their day by day lives; and, especially, in their resolve to honour their words if and when haunted by doubts about their current or future lives together.

There is a sense in which the seriousness with which the vows were undertaken and our preparedness to say of their words that they have stood by them is subject to testing, and is tested, by present and future circumstances. To be 'serious', or 'in earnest', are not offered in this account as mere substitutes for 'solemnity', but the former do provide us with a better intermediate grasp of how for the most part a genuine assertion is undertaken by intending what is said. We shall not dispense with such locutions entirely and I do contend that these alternative locutions have the advantage of being less readily classifiable than solemnity as mere emotive accompaniment.

In addition, to have stood by one's words is to stand by them after their utterance, but it is not necessarily to have stood behind the words in the act of mouthing them. Having stood behind one's words does not presuppose that one did stand behind them at the time; it need only presuppose that one has shown oneself to stand by them at some future date about which those words have something to report. The presupposition is absent when it is true to say of somebody that he only later understood the true meaning of what he said. When somebody learns what it means to have said something only after he said it, he clearly could not have meant what he said at the time. By hypothesis, what was said was not fully understood by him then.

Nor does to have stood by one's words, to stand by them later, and to have stood behind them later, presuppose that one did not stand behind them when one said them either. Although one may stand or fail to stand by or behind them later, one need not do so only later. Typically, an individual concerned about his relation to his past words was concerned about his relation to them when he made them, assuming his knowledge of their meaning. It is when one does understand the meaning of one's words, does not use them lightly, that one does not undertake to use them in earnest without at the same time being able to stand behind them. We appreciated what it meant for a fiancé or fiancée to
stand behind his or her words at the enactment of their vows, when each was fully mindful and understood the impact of their words on future conduct. Their declarations had implications for their future togetherness, and their subsequent standing behind their words could be derivative from their having stood by them when they spoke them.9

When one is said to stand behind one's words and those words are tested, or the assertion that the words make up is tested, we need not use the same words to conduct the test as were used by the speaker to demonstrate his intention to take his previous words seriously in the performance of some action. An example shows that when the actions which one's words may be said to stand in conformity to are readily empirically and externally determinable, we may, with justice, seek to re-write those words. But that does not undermine the claim of one to have stood by those words at the time of making them. What is central to the account is the quality of the intention in speech, however imperfectly expressed and improvable upon.

To wit, peace protesters throughout Europe who undertook to converge upon Iraq in the event of an incursion by Western military, and by so doing present a show of solidarity with innocent Iraqis they wanted not to be endangered, signalled dissent from politicians claiming to act in their name, and could present those military with a physical, psychological and moral obstacle. Protesters making good on their undertaking when the circumstance demanded it would have stood behind their words.

But the fitness of their words to what the protesters undertook to do, and their making good on that undertaking, though similar to the marriage case, does not do justice to the seriousness with which we associate the actions their words could be said to stand in conformity to. The fitness of words to the undertaking to move into a city likely to be the target of intense bombing is readily testable enough, but all the more empirically determined.

The quality of assertion of greater interest to us, what makes it good for being truly said of it that it has been stood behind in its utterance, is as subjectively determined characteristic.10 The words behind which a human shield can be said to have committed himself to need not consist of the letter of those words, only their subjective spirit. Sometimes one may speak volumes by saying little: by saying less one can say more, even as one stands behind one's words then and now. The words by which the spirit of

9 In old French, fiancé means a promise. (COD, 1990)

10 George Orwell understood the importance of the speaker's subjective relation to his language when he decried a speaker's loss of it: 'When one watches some tired hack on the platform mechanically repeating the familiar phrases - bestial atrocities, iron heel, blood-stained tyranny, free peoples of the world, stand shoulder to shoulder - one often has a curious feeling that one is not watching a live human being but some kind of dummy... A speaker who uses that kind of phraseology has gone some distance towards turning himself into a machine. The appropriate noises are coming out of his larynx, but his brain is not involved as it would be if he were choosing words for himself.' (Orwell 1946, Politics and the English Language, 431-432, italics original)
the human shield's original threat could be captured, irrespective of what was actually
said, are, 'I cannot reconcile innocent death with war.'

It seemed no accident to conclude that the undertaking we called empirically
determined with respect to the earnestness with which it was pronounced had to do with
what the speaker undertook at some future date, and that future remained unfixed at
time of utterance. So we may call **empirically determined** whatever could be undertaken
conditional upon somebody else's agency or other agencies. It is both with respect to
saying one will do something and saying one will do something if thus and so occurred
that the undertaking remains empirically determined. The words are not unconditional,
but conditional, in a way that the marriage vows, although also about the future, were
unconditional, and 'I cannot reconcile innocent death with war' was unconditional. It is
with respect to the sincerity and earnestness with which a speaker makes an assertion,
especially an unconditional one, that we are better able to judge that he has stood behind
his words in the making of them, unconditionally.

It is no accident that, with respect to first personal future intentions and actions, for
example, a speaker may better convey and disclose the earnestness of his intention by
declaring not what, 'I will do' but what 'I shall do.' In first person future ascriptions, *I will*
conveys future intention, whilst *I shall* conveys simple future. It is in the ascription to
himself of simple future that a man of action, let us call him, better conveys his resolve to
undertake to do what he says he will do. It is as though, whilst the subject is privy to
whatever future misfortune may befall him, the man of action conveys the seriousness of
his undertaking by presenting his success as unconditional. Here, a man of action stands
behind his words about what he will do in future, by explicitly saying less, not more,
about what he will do in future; by explicitly saying less, not more, about what is his
intention; and explicitly more, not less about how the future will turn out, subject to the
unconditionedness of his will.\(^1\)

**Summary 3**

We substituted for ambiguities in St Thomas' definition of lying the following, 'A lie is a
statement made by someone who believes it to be false with the intention that someone
else shall be led to believe it.' We refined the appeal made by the definition to statement
made with deceptive intent. Preliminary references were made (1) to a normative feature
of language, through the invoking of which a speaker could both express and signal to D
his intent to express p; and (2), the postulation by Chisholm and Feehan of a special form

\(^1\) Friederich Nietzsche ca. 1870 speaks approvingly of the man of action: '[T]he man of action
binds his life to reason and its concepts so that he will not be swept away and lost...' Page 114
from, 'On Truth and Lies in a Nonmoral Sense' reprinted in Lawrence Cahoon 2003, 2nd ed.,
of statement, so-called solemn assertion, that by which L could signal to D both that he accepted p and that he intended to convey that acceptance.

We contested Peirce's characterisation, and Chisholm and Feehan's reliance upon him, by identifying as a limitation of the account of solemnity its lack of applicability to everyday situations in which assertions could be said to have been made.

We identified as a constraint upon an account of assertion that it supply us with a psychologically real, non-reductive account of how successful assertion could attain to truth-conditionedness, the transgression of which in lying we found ourselves wanting to provide a justification for.

The account I gave, an attempt to improve upon the postulation of solemnity, focussed on the colloquial locution standing behind one's words. We looked at how partners to a marriage could be said to have stood behind their words, both in enactment of their vows, and in their words' re-enactment through the lives they chose to lead in conformity to the spirit and meaning of those vows.

We found that the carrying through of an explicit undertaking to do something, when conditional and recognitional either upon an indeterminate future or the obtaining of some explicit satisfaction condition, or both, needed to count as anything but an enactment of standing behind one's words, no matter how courageous the assertion. We characterised such seeming examples of standing behind one's words in the act of making them only as externally determined, and contrasted them to the more authentic cases, which we characterised both as unconditional and subjectively determined. The form of words to which the agent's deeds, once demanded of him, could be said to demonstrate his having stood behind his words, was expressed as, 'I cannot reconcile innocent death with war.'

We also appended to our account of what it meant to stand behind one's words in an act of genuine assertion, words the very use of which could assist a man of action to signal by his words alone a resolve to mean what he said and do as he said. We took as our example of a verb with volitional credential the use of 'I shall' over 'I will', even though, at face value, it seemed that the latter should be better equipped at signalling future-directed commitment: How to say more by standing behind one's lesser words.
The concept of assertion, when explicated with reference to the notion of standing behind one's words, grants language a normative capability, that by which, in the terms of Chisholm and Feehan, 'When L asserts something to D, then L believes D to be justified in assuming not only (1) that he, L, believes a certain proposition, but also (2) that he intends to cause D to believe that he, L, believes that proposition' (151). And, according to Chisholm and Feehan, it is when L asserts to D that (p) which he, L, believes to be false that L undertakes to lie. I will argue that this acceptance of how lying invokes assertion is unsatisfactory.

How is the successful lie to be explained in virtue of the following: i) one takes to be false the very proposition that one takes another to be justified in taking it that one believes it to be true; ii) one takes to be false the very proposition that one takes another to be justified in taking it that one intends to cause him to believe that that proposition is believed by oneself; iii) one takes to be false the very proposition one asserts? With these ingredients the only explanation we could offer in accounting for the lie's success, if and when it worked, would be: iv) the capacity for L to make D believe that L believed true a proposition that he did not in fact; v) the capacity for L to make D believe that L intended to cause D to believe that that proposition was believed by L; vi) that these capacities give rise to what can be justifiably assumed by D in L's act of assertion.

Let us ask, of that which may be justifiably assumed by D, how much need be assumed of the lie, when it succeeds.

Our account of standing behind one's words does conform to precept (iv) about what may be justifiably assumed by an interlocutor when a speaker makes a genuine assertion. It is also true of lying that D may be justified in the assumption that L intends to cause D to believe that he believes that proposition (iv).

That precept (v) should comprise a justifiably assumption is controversial of genuine assertion and highly questionable of lying. Parsing, item (v) says that L makes D believe - first belief - that L intended to cause D to believe - second belief - that that proposition was believed - third belief - by L. It is no part of our ordinary conception of a lie's success that D have a belief about a belief about a belief. Yet this is the premise that either circumstance (2), (ii) or (v), in reciprocation, specifies. The higher-order belief which takes for its content two further belief ascriptions is about L's intention. If such an assumption were said to hold of D, it could also be said to hold of a recipient of genuine assertion. An interlocutor or deceived could be equally mistaken about the truth about L's belief in that proposition, but the justified assumption, here, is about what L intends, not the truth about that part of what is intended as such.
The putative assumption of items (2), (ii) or (v) is a higher-order belief about L's intention. It is curious not only that D could be considered justified in it, but that it is not something D could be deceived about. Nor is it an assumption, even if consciously considered, that could be said to raise D's confidence in the credence of L. The rendering explicit to oneself of such an intention of L, what ordinarily remains implicit at best, could signal that a doubt has been raised about L.

At best, it is a feature of genuine assertion that it display this intent to cause on L's behalf, and may be enlisted to the assertoric account. But it is not such as to be normally invoked by the speaker because it is better for the normative success of genuine assertion that such an intention remain unquestioned.

Standing behind one's words contributes to this understanding. Precisely in those situations where a speaker may be put on the defensive, whether justifiably or understandably, are we wont to suspect, or doubt, the credibility of an assertion. The defensive speaker relies, in his performance, on his ability to make us believe him, or cause us to believe in him. If the reliance is explicitly invoked, or overburdened, an impression of the speaker will be created that other, better reasons for getting the hearer to assume that the speaker assents to that proposition are being neglected, such as the proposition's inherent credibility. It is when the truth of a proposition is least subject to verification of an intersubjective sort that we need most rely on the truth of a proposition's being given only because somebody invokes in us belief that he believes it, or implores us to believe in him because it is true.

Peirce's example of solemn assertion in a court of law, though indicative of what is at stake in genuine assertion, what we have called its truth-conditionedness, is equally open to misinterpretation. Situations abound in which we just cannot tell whether solemnity should be taken as a reliable gauge of somebody's truthfulness. The formal context, resembling an interrogation, and the temptation to defend oneself or protect another by lying may be so great that the witness's capacity to make a solemn assertion may have to be treated with caution.

The Winslow Boy offers another example, but with the contrary result. May not an over-reliance, in contrived circumstance, on the intent to cause another to believe in oneself be interpreted as conferring credibility? The play is excellently dramatised in a film of the same name. Set in early 20th century England, Arthur Winslow learns that his 14-year-old son, Ronnie, has been expelled by the Royal Naval Academy for stealing five shillings. Arthur asks his son if it is true. When the boy denies it, Arthur risks his

12 Hereafter, when referring to the common position of the thesis, I adopt the following capitalisation: Standing behind one's words and Making as if to stand behind one's words. Capitalisation is dropped where the words stand by themselves.

fortune and reputation in pursuit of justice. After defeat in the military court of appeals, the boy's parents go to Sir Robert Morton, a brilliant, cool barrister and M.P., who examines Ronnie and suggests that they take the matter before Parliament to seek permission to sue the Crown.  

The key scene concerns Morton's questioning of the boy's guilt, in front of his parents, by flatly contradicting the boy's protestations. The boy shows disquiet at not being believed and persists in reliance on his testimony that thus-and-so was simply as he put it in the first place. His reliance is naïve in that he makes no appeal to other, more intersubjectively verifiable conditions. The parents grow disquieted at the upset caused to their son by the interrogation. But this gives Morton all the clues he needs. Amidst the heightened tension, Morton pronounces upon the plight of the boy: 'The boy is plainly innocent. I accept the brief.'

An over-reliance on the intent which is generally implicit in assertion counts as a reason to discount the testimony in that of a fully self-conscious adult. But for the Winslow boy, over-reliance did not discount against his testimony. Such resort counted in his favour; a less mature soul, who, by his inability to resort, or think of resorting, to alibis demonstrated to Morton an honesty and candour proportionate to his lack of cunning.

The Winslow boy stood behind his words by not resorting to more words because he knew not how to resort to more words. But where, in contrived circumstances, a more mature individual feels forced to resort to the intent to cause belief in another, or to resort to more words, we could not so easily gauge the standing of those words. Standing behind one's words is in conformity with this, for it says that it is by virtue of those words' subjective determination and unconditionedness that we can best make, and more readily gauge, the quality of those assertions.

When Morton judged the quality of the boy's words and the quality of his protestations, he could tell by listening. Well-adjusted people often sound a note of paranoia when they complain about not being listened to by their interlocutor. You're not listening to me! More often, it is simply that they cannot hear themselves through their interlocutor, with equal probability a sign of their own inability to communicate or say something interesting. Still, so far as it is fair to criticise somebody for not listening properly, Morton could not be so accused. He listened well.

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14 Plot summary based on imdb.com entry.
16 Kalin 1976 defends the view that the capacity to lie is fundamental to the individual's 'complex awareness' of himself as an autonomous being and that such autonomy is a precondition of moral personhood, a good in itself. Kalin would have to maintain that the Winslow boy, in his naivety, is not as morally considerable as he would have been had he had the capacity to lie and not exercised that capacity. See Kalin, p. 255.
But when an adult finds himself having to contrive his words, little can be said about those words' quality other than that he felt forced to make them. To gauge the quality of his speech to the best of our ability we should endeavour to create conditions conducive to a presumption in favour of voluntariness in speech. That creates a presumption in favour of designing an environment as relaxed and normal as possible. How else might the normative constraints on assertion coexist, that by which our propositional and speaker assumptions may be justified, if not for absence of abnormal conditions?

To return to the problem which led to these current considerations: we sought to question one of the conditions explicated by Chisholm and Feehan as essential both to assertoric success and that part of lying which assertion was constitutive of. If lying is the intent to deceive with respect to what is asserted, it cannot enjoin, for all that, an intent to deceive with respect to the intent to cause D to believe that L believes that proposition. Such a latter intent to cause, though implicit in assertion, cannot be implicit in lying because it cannot be explicit in assertion. Chisholm and Feehan mistake this second intention as matter for deception, too. Yet it cannot be implicit in lying because D logically cannot get deceived with respect to such an intention and because invoking that intention nondeceptively in a lying assertion would risk undermining that assertion, by raising a doubt in the hearer about why that intent was being relied upon to produce an effect in the hearer other than for reasons of the proposition’s cognitive appeal. It would be as though, as it were, an emotional appeal was being made, that by which the speaker would have it that the world conform to his will for no better reason than that he wanted to believe in p and wanted D to believe in him. Although such an intent to cause may be justifiably assumed either in assertion or in lying, it need not be, nor generally is by the hearer. The intent to cause may be present without being recognised or acknowledged as such by either side in interpersonal deception. Hence our first refinement to the definition, assuming the truth of Standing behind one’s words.

What of the justifiability assumptions that may be had of the speaker’s belief in what he asserts, and that which he asserts in lying? Are these essential and sufficient to complete the definition of intentional deception through lying assertion?

Plainly, in either assertion or lying assertion, a hearer may assume that the speaker expresses his own belief in the truth of the proposition he asserts and that this assumption about the speaker’s belief is justifiable; indeed, likely.17

Are we then able to endorse the definition by Chisholm and Feehan?

17 Arnold Isenberg 1964 in ‘Deontology and the Ethics of Lying’, treats this assumption as justified but cautious against making a stronger assumption: ‘The wish, without ulterior motive, to make others believe what one believes oneself seems to me to be of relatively rare occurrence; for teaching and indoctrination have many purposes – ‘use values’ – beyond the sheer desire that the pupil shall believe what one holds to be the truth’ (476, my italics). We have said nothing about what L wishes. Wishing has richer intentional structure than what L is inviting D to justifiably assume.
L lies to D \(=_{df}\) there is a proposition p such that (i) either L believes that p is not true or L believes that p is false\(^{18}\) and (ii) L asserts p to D. (152)

Where,

L asserts p to D \(=_{df}\) L states p to D and does so under conditions which, he believes, justify D in believing that he, L, not only accepts p, but also intends to contribute causally to D's believing that he, L, accepts p. (my italics)

We determined that the intention to contribute causally to D's belief in L, the second clause in the definition of assertion, needed to remain sufficiently inexplicit, on pain of undermining the raison d'être of assertion. What is that raison d'être of assertion? According to Chisholm and Feehan, 'the point of asserting a proposition need not be that of causing belief in the assertion, i.e., in p' (151). Surely this is unduly restrictive? A speaker's want or desire to cause belief in the assertion, p, in its own right should be regarded as the rule, to count as a justifiably assumed function of the speech act. And wanting to cause belief in the assertum at the same time as wanting to cause it through being seen to have asserted should be regarded as the exception, pace Chisholm and Feehan.

There should be room in the definition to accommodate both these aspects of assertion. The aspect I have called the exception, not the rule, does figure in the above. We can leave it in position. The aspect I have called the rule, not the exception, does not figure. We already criticised the second part of the definition as it figured above, the putative intention to contribute causally to D's belief in L (and L's belief), for being not recognisably justifiably assumable, let alone assumed for the most part, by D. We should delete reference to this contrived second feature and substitute for it the raison d'être just identified, thus:

L asserts p to D \(=_{df}\) L states p to D and does so under conditions which, he believes, justify D in believing that he, L, not only accepts p, but also [raison d'être] intends to contribute causally to D's belief in p, the assertum.

We need not claim that L must act with the intention of causing D to believe in the assertum. Retention of the best part of Chisholm and Feehan's normative framework lets

\(^{18}\) Although Chisholm and Feehan contend (on p. 152) that, 'it is, of course, logically possible to believe one of these things and not the other,' I have already argued that, since it is not by virtue of invoking higher order propositional contents, thoughts about propositions being true or not being true, that we either generally invoke or chiefly understand our cognitive attitudes, we should take these beliefs to be logically equivalent.
us contend only that L would be justified in so assuming, even if he turned out to be mistaken.\textsuperscript{19}

Our eliminated clause has, however, supplied us with a tool for interpreting circumstances under which assertion may be deemed \textit{at risk}. It was precisely in a speaker's over-reliance on this facet of assertion that we could render the hearer's confidence in his assertion vulnerable. We could retain this ingredient in our definition of assertion, and preclude the invocation of justifiable assumption critical to our interpretation of the other clauses, by reintroducing the clause as a parenthetic condition made true or false independently of what may be justifiably assumed, thus:

\begin{quote}
L asserts p to D ---: dfL states p to D and does so under conditions which, he believes, justify D in believing that he, L, not only accepts p, but also intends to contribute causally to D's belief in p, the asserturn (in either case by L contributing causally to D's believing that he, L, accepts p).
\end{quote}

To outline the state of affairs which results from applying the parenthetic condition to the first justifiable assumption: D can be justified in believing that L accepts p because L has contributed causally to D's believing that he, L, accepts p – this is probably analytically true, especially when it is not recognised by D. To outline the state of affairs which results from applying the parenthetic condition to the second justifiable assumption: D can be justified in believing p because L has contributed causally to D's believing that he, L, accepts p. This latter consideration supplies often accepted justification for believing in p. Sometimes one says, 'Because the speaker believed in it!' to offer respectable grounds of a sort for assent to one's belief. The parenthetic condition takes us from a phenomenology of lying, in which matter may be present in the consciousness of the deceiver or deceived, to a more comprehensive analysis in which further ingredients not present to consciousness are included.

Following some revision and refinement, how much closer are we to a comprehensive definition of what it takes to lie?

The original definition omitted reference both to the raison d'être of assertion and how it is that D could have been justified in assuming it, the asserturn, p. L's intention to cause belief in the asserturn is now visibly incorporated and explained through the locution of justifiable assumption.

A further observation may be made. Nowhere have we \textit{stipulated} that L \textit{intends to deceive} by his lying assertion. The explicit use of such a locution would have rendered the

\textsuperscript{19} Isenberg 1964 is consistent with us again: 'There is [a] \textit{natural transition} from saying what one thinks to saying it with the intention of making another man believe it' (4-5, my italics). A natural transition cannot guarantee that one's belief gets taken up, infallibly.
definition circular. But it is possible to locate a cognitive gap in which the intent to deceive may be said to persist. Consider the cognitive distance that may be said to persist between L's having of a belief in the falsity of p (condition i, p. 36) coincident with an invocation of the truth of p, by L's very assertion (condition ii). It is in this cognitive departure that the intent to deceive, an intent of positive deception simpliciter, may be said to consist.

It is in the giving to D by L, by his assertion, reason to assume that p is true, or that L has a belief in p's truth (whilst L secretly maintains the contrary) that the wrongness thought typical of lying may be said to lie. Specifically, according to Chisholm and Feehan, lying is bad because:

It is assumed that, if a person L asserts a proposition p to another person D, then D has the right to expect that L himself believes p. And it is assumed that L knows, or at least he ought to know, that, if he asserts p to D, while believing himself that p is not true, then he violates this right of D's. (153, my italics)

Let us rehearse, then evaluate, Chisholm and Feehan’s explanation of this putative violation of a right and compare it with our theory, Standing behind one’s words. We endorsed the idea that the following could be relied upon, especially under speech conditions of normality: when L makes a lying assertion, he invites D to justifiably assume that he, L, is expressing his own acceptance of p. Such an invitation need not be made explicit, usually not; but it was essential to asserting, we said, that L invoke a justifiable assumption. L exploits language when relying upon the normativity of speech, and, by frustrating the end to which that justifiable assumption is normally put, is exploitative of language.

Chisholm and Feehan say that, ‘the liar’s intention is, in part, that his victim believe that he is expressing his own acceptance of p and that, in thus expressing his opinion, he is to be trusted. The liar would have his victim believe that, at that moment at least, the liar is someone in whom he may place his faith’ (152).

In their invocation of ‘trust’ and ‘faith’, Chisholm and Feehan risk construing them as general attributes, which very attributes L is meant to gain D’s confidence in him about, that L is to be trusted, say. That cannot be the point. The point is that when L presents p to D through expressing confidence in p, and by inviting D to have confidence in him through that expression whilst maintaining the opposite to himself, L breaks or betrays that confidence. The locution ‘faith’ may sound hyperbolic to our modern ears and ‘trust’ may strike us as better pertaining to a character trait of the speaker than to a single
speech episode, but it is quite plausible for our general trust in the liar to be undermined by a singular breach of a confidence attributed to him.\textsuperscript{20}

What I shall call L’s expression of confidence in p is that which gives rise to D’s justifiable assumption in p. How can Chisholm and Feehan characterise the presence of a breach of confidence as, ‘violates this right of D’s’? The putative right violated is that of a right of expectation that L should express what he takes to be truth, and the expectation that L is truthful. Both expectations are aroused by justifiable assumption — may be said to consist of justifiable assumption. It will help us to interpret Chisholm and Feehan, therefore, to reconstrue their putative violation of a right of expectation as a putative violation of a right of justifiable assumption. Chisholm and Feehan could not quarrel with such an equivalence, and this will help us to see how problematic the ascription to D of a right must be. How can justifiable assumption be presumed a right? D could have been ‘right’, meaning not mistaken, in justifiably assuming that which he did assume with justification; but it is to conflate moral right with cognitive virtue to make this the equivalence upon which the derivation of right is said to depend. Were we to conflate moral right with cognitive virtue, that would create an attributive mess of the contention that it was a right of justifiable assumption. All that we are entitled to attribute, surely, is a right that consisted of justifiable assumption, in doing which conflation is averted.

Chisholm and Feehan mean to invoke moral rights, but they are mistaken. The breach of confidence which consists of the reneging on the invitation that L gives D that D may justifiably assume both p and L’s belief in p, does not constitute the violation of a right. No right has been created. The right adverted to by Chisholm and Feehan has not been derived from that of a duty of L to speak truth. Nor could a Kantian aspiration to speak truth and only truth generate a right of others to have the truth and only the truth spoken before them. Chisholm and Feehan’s mistake is to have slid from talk of D’s right of expectation (as in right to expect) to D’s rights. The conflation of a cognitive virtue with a moral right is easier to effect in the case of expectations than it is with the violation of said rights. Had Chisholm and Feehan fully articulated the breach, they could have avoided the error: Violation of a right of expectation is not a right we understand to be morally inviolable as such.

The preceding argument says not that a violation need not have taken place, but that it should not be construed as a violation of a right. Better suited locutions are readily available to characterise what Chisholm and Feehan should be after, such as transgression or breach of confidence.

\textsuperscript{20} Cf. St. Augustine: ‘No liar preserves faith in that about which he lies. He wishes that he to whom he lies have faith in him, but he does not preserve this faith by lying to him.’ In R. J. Deferreri, ed. 1952, St Augustine: Christian Instruction, vol. II of the series, The Fathers of the Church (New York), p. 57. Quoted by Chisholm et al. 1977, p. 152.
What, with justification, D could be given cognitive basis for believing in cannot generate a moral right somehow derivative from that rightness. Such grounds as are available do not allow of D that he be found infallibly right or infallibly justified. Whatever assumptions D was invited to take up on the basis of L's normative invocation through lying assertion do not guarantee that which they purport to assume. The possibility of error or malice alone gives us reason to stop short of attributing to D a moral right based on his being cognitively right (or infallibly correct), or to retreat from postulating the identification of moral right and cognitive virtue. 21

Since D is not infallible, he cannot have, or have had, a right to have the truth spoken violated; or the right not to have raised expectations broken. A right may be created, to be sure, through some specific context or relation having arisen, but that is no part of our pedestrian account of lying.

• Summary 4

We examined Chisholm and Feehan's explanation of what made lies presumptively bad, and rehearsed the grounds they gave. We identified a conflation in their reasoning of what it is that L does wrong with how he has wronged D, through his lying assertion. They claim that L has violated D's right of expectation. We countered that, though D may be justified in having such an expectation, and L had invited D to have confidence in him and in p through his assertion, L could not have created a right in D that is subsequently violated. The right of expectation, better put, is not a moral right; nor, a fortiori, is it an inviolable one. We spoke instead of the wrongness which consisted of D's confidence in L having been breached, after having had it expressly raised. Discovery by D that he has

21 Contention of our fights talk is growing. James Griffin has questioned the conferment of legal right derivative from talk about rights that has become arguably too permissive. Hence, 'Some of the items on the . . . [international lists of human rights] are so flawed that they should be given, as far as possible, the legal cold shoulder. Many can, and should, be seen as aspirations rather than rights (for example, the right to the highest possible standard of physical and mental health, or the right to freedom of residence within the borders of one's country).' See J. Griffin 2000, 'Discrepancies between the Best Philosophical Account of Human Rights and the International Law of Human Rights', Aristotelian Society Proceedings (101), 1-28, p. 26.

O'Neill 2002 also recognises the permissiveness of rights talk: 'Human rights are more often gestured at than they are seriously argued for. The list of rights proclaimed in the Universal Declaration of Human Rights of 1948 is often seen as canonical. But the list is untidy and unargued. It includes some rights of high importance that may be universal rights. It also includes culturally narrow rights, such as the "right to holidays with pay": this supposed right was an aspiration of the labour movement in the developed world in the mid twentieth century; it has little relevance for the billions of human beings who are not employees' (28).

Williams 2002 introduces an unnecessary qualification and distinction: '[P]eople may have a right to be told (if anything) the truth, but often they have no right to be told anything' (212). The parenthetic remark 'if anything' is not implicit in the right as conventionally misunderstood; and the distinction not to be told anything is better construed as the maintenance of personal privacy consistent with freedom of conscience.
been the victim of a breach could inspire righteous indignation or resignation in D, but not because he has had a right violated, nor one that we found ourselves forced to postulate on theory under current consideration.\(^{22}\)

What does Standing behind one’s words have to teach us in respect of its conformity to the account of a confidence in L having been raised then subsequently breached?

\(^{22}\) One does not possess a prima facie right not to be lied on the basis of normative expectations raised in standard speech situations. One may have a right not to be lied to in a particular instance because of a special responsibility on the part of the speaker, or because of particular roles the speaker and hearer fall into; but these are not governed by the norms in the standard cases under consideration.
Standing behind one's words allows us to explain the natural variability found in the degrees of confidence raised, and subsequently breached, in all manner of lies; lies notorious for the seriousness or lightness with which D may feel obliged to take such breaches, pending their discovery.

When L asserts through standing behind his words he gives D a non-reductive reason for having his confidence raised in L that he, L, means what he says. What we have to determine, for enhanced credibility of the account, is whether L can stand behind his words in the very act of lying assertion, or whether Standing behind one's words as we have thus characterised it, when invoked, instantiated or enacted, is inconsistent with the feat of lying. To have lied would have it that the proposition L stood behind in the lying assertion is one he did not believe in. In other words, can L express false confidence through standing behind his words in that which he does not believe in? One worry is this: have we not tied the concept of Standing behind one's words so tightly to the truth-conditioned status of genuine assertion that insufficient slack has been left in the invocation of Standing behind one's words for the making of an assertion that L took to be false? If L cannot rely on standing behind his words when he intends to deceive, how can he undertake a lying assertion?

When we presented Standing behind one's words, we took advantage of its superiority over the criterion of solemnity in allowing us to determine when a speaker made as if to express his assent to a proposition. We did not stipulate either that L could not make as if to stand behind his words when actually he was not behind his words, and succeed in that deception, nor that it was a condition of success for having stood behind his words that it could be invoked only when L was telling the truth. In the latter case, we may still argue, that which is justifiably assumed by D when L stands behind his words, though it be of the truth which pertains to D having confidence in L's assertion, need be only what is justified prima facie. This justification may be either undermined or superseded by a secunda facie intention of L when he stands behind his words, without that intention spoiling L's ability to stand behind his words, and whether or not D is able to tell whether the prima facie justification has been superseded or undermined.

We now find ourselves in the position, for the sake of clarity in the account, of having to stipulate whether or not Standing behind one's words should be interpreted as

23 For a poor phenomenology of language: 'I am Alison Leigh Brown. I do not acknowledge any of the voices in this or any other text as my own. Not through general cussedness, but because I cannot imagine owning myself in language. There is something that I NNUI acknowledge as mvself but I am unable and, even if I were able, unwilling to share that something in language' (Brown 1998, Subjects of Deceit: A Phenomenology of Lying, xix). The alienation expressed by Brown is irreconcilable with Standing behind one's words as I construe it and further removed again from what I go on to argue occurs in lying assertion.
implying success. If it does imply success, i.e., we should say only that L has stood behind his words when L is telling what he believes to be the truth, then L cannot stand behind his words both with a prima facie normative justification accruing to it and a secunda facie deception overseeing it. The most we can say is that L has made as if to stand behind his words in the act of lying assertion.

If, however, we stipulate that Standing behind one's words does not imply success, we can claim that L satisfies the constraints of both intentions in lying assertion through standing behind his words. That would mean that Standing behind one's words' normative features were equally available, though not necessarily easily, to the "communication" of falsehood.

However we chose to stipulate, that would still leave it entirely open how well a hearer was able to tell that a speaker had stood behind his words (either on the sufficient for truth reading or the insufficient for truth interpretation).

Another way of interpreting what is at stake in the decision before us is whether to define Standing behind one's words as descriptive or prescriptive. The descriptive formulation conceives of L's having stood behind his words as leaving it open whether he has also lied. The prescriptive formulation conceives Standing behind one's words, when it occurs, as sufficient for truthfulness and incompatible with deceptive intent.

Let us say that L has stood behind his words only when he is also telling the truth by his lights. This carries the presumption in favour of it that our earlier account of genuine assertion has obtained only when L has stood behind his words. Standing behind one's words is thereby both prescriptive and can be said to have obtained only when L is also telling the truth by his lights. This has the advantage of clarity to be said for it but also presents us with a number of distinct challenges.

The first challenge of the stipulation has it as a consequence that, whilst maintaining that Standing behind one's words is an integral part of genuine assertion, a speaker cannot lie through assertion. Or at least we must concede that the "assertion" he makes through lying is not a genuine one. But little irony results from maintaining that the assertion made through lying is not a genuine one. The complication is whether we are entitled to call that which is uttered an "assertion", strictly speaking. I think we should endeavour to mean as we say, literally. Therefore, the issue as to when "assertion" may be truly ascribed of an utterance is decided for us by the logic of taking Standing behind one's words as an integral part of how assertion acquires its normative force. We must, then, treat assertion also as implying truthfulness.24

24 Williams 2002 is inconsistent on the stipulation. He maintains both that, 'an account of assertion must leave room for insincere assertions,' and that, 'an ironical assertion is not an assertion' (73). His ambivalence is understandable, but criterionless.
The prescriptive reading, and stipulation, of assertion has it as a further consequence that we must revise our latest definition of a lie. Let us say that,

\[ L \text{ lies to } D \equiv Df \text{ There is a proposition } p \text{ such that (i) } L \text{ believes that } p \text{ is false and (ii) } L \text{ Makes as if to assert } p \text{ to } D. \]

Where,

\[ L \text{ Makes as if to assert } p \text{ to } D \equiv Df \text{ L states } p \text{ to } D \text{ and does so under conditions which, he believes, justify } D \text{ in believing that he, } L, \text{ not only accepts } p, \text{ but also intends to contribute causally to } D's \text{ belief in } p, \text{ the assertum (in either case by } L \text{ contributing causally to } D's \text{ believing that he, } L, \text{ accepts } p). \]

We should add to this account our interpretation of Standing behind one’s words, both as a definition of success and as a vehicle which the liar endeavours to mimic, as if to stand behind his words, when making as if to assert:

\[ L \text{ Stands behind his words } \equiv Df \text{ When } L \text{ asserts through standing behind his words he gives } D \text{ a non-reductive reason for having his confidence raised in } L \text{ that he, } L, \text{ means what he says.} \]

And,

\[ L \text{ Makes as if to stand behind his words } \equiv Df \text{ When } L \text{ Makes as if to assert through making as if to stand behind his words he gives } D \text{ a reductive reason for having his confidence raised in } L \text{ that he, } L, \text{ means what he says.} \]

Therefore,

\[ L \text{ Makes as if to assert } p \text{ to } D \equiv Df \text{ L states } p \text{ to } D \text{ and does so by Making as if to stand behind his words, conditions which, he believes, justify } D \text{ in believing that he, } L, \text{ not only accepts } p, \text{ but also intends to contribute causally to } D's \text{ belief in } p, \text{ the assertum (in either case by } L \text{ contributing causally to } D's \text{ believing that he, } L, \text{ accepts } p). \]

This definition of what it is to lie, which construes the ingredients of both assertion and Standing behind one’s words as success conditions has a number of advantages over its predecessor. First, strictly speaking, L cannot lie, in part, by asserting p to D. This is not counterintuitive. What may be said is that L lies, in part, by making as if to assert p to D. Furthermore, since lying and falsity (as a character trait) may be said to transmit their
intentionality to the act done under their jurisdiction, we can with equal justice say that L lies, in part, by making a lying assertion about p to D. None of these locutions is counterintuitive, whilst reserving our ascription of assertion simpliciter only for cases of truthful assertion.

Second, our characterisation of the intent to deceive whilst pursuing the opening definition given by Chisholm and Feehan, sought to interpret deceptive intent, otherwise left wholly unexplained, as constitutive of the 'cognitive departure' between conditions (i) and (ii), without the postulation of which the conditions could present themselves as just so much unaccounted for irreconcilability (see pages 36 and 38). The new definition, instead of leaving that critical item unremarked of, captures deceptive intent in its second clause as the makes as if to assert locution. This is consistent with our experience of lying as intentionally corrupted through and through, in its very enactment. The definition profits from capturing the intuition.

One way of construing L's Making as if to assert in terms of Making as if to stand behind his words, is to claim that L lies, in part, by stating as if to stand behind his words. Since what is put by Making as if to stand behind one's words cannot be genuine assertion, we may conveniently describe it as merely stating instead. Nor is this counterintuitive. We allowed, as did Chisholm and Feehan, that statement carried with it no normative expectation that what was stated should be presumptively true.

Our definition of Making as if to stand behind one's words substitutes for what L hitherto gave D non-reductive reason to think (in the Standing behind one's words simpliciter account) what L gives D reductive reason to think. These reasons count as reductive or non-reductive not in the sense in which L may find them motivationally efficacious or not, but in so far as they present themselves ontologically, independent of matter present to the consciousness of either deceiver or deceived. Both reductive and non-reductive reasons carry explanatory force, but the new definition supplies us with an additional handle by which to discriminate as if locutions from their simpliciter counterparts. A reason counts as reductive when it can be explained in terms of L's deceptive intent, a reducibility absent in the case of genuine Standing behind one's words. The distinction between reductive and non-reductive reasons tracks what is ontologically at issue between the phenomenological accounts put in terms of Making as if to stand and Standing behind one's words, respectively.

An example will help us to articulate, through usage, what can and cannot be said of L with respect to our current conceptual resources.

25 I avoid speaking of lying assertion as false assertion or falsely asserting. The latter remain ambiguous between whether those assertions were simply such that, unbeknownst to the speaker, he was mistaken; or whether, the reading under consideration, those assertions were understood to attribute to the speaker untruthful character or insincere pronouncement.
From January 1998 to February 1999, President Bill Clinton was subject to intense media attention and legal process because of an affair he had with Monica Lewinsky, a White House intern from 1995 to 1996. Clinton was tried, and subsequently acquitted, on two impeachment charges, the first for perjury, the second for obstruction of justice. One now infamous statement was referred to by both charges and made by Clinton at the end of a White House event on 26 January 1998:

I want to say one thing to the American people. I want you to listen to me. I did not have sexual relations with that woman, Miss Lewinsky. I never told anyone to lie, not a single time, never. These allegations are false and I need to go back to work for the American people. (White House, 26 January 1998)

Did not Clinton thereby deny sexual involvement with Miss Lewinsky? Whether we could have found him, or he should have found himself, innocent or guilty in the performance of intentional deception, many speculated about the deceptive credentials, in particular, of Clinton's utterance, 'I did not have sexual relations with that woman, Miss Lewinsky.'

Assume that the temptation for Clinton to attempt to deceive was great. Accept as uncontroversial that he has uttered a denial of something. We should ask, were it his intention to deceive, how could he be said to have attempted it? A notable feature of the parsed utterance, besides in its denial, is the rather contrived wording, both the choice of words 'sexual relations', and the indirect object, 'that woman, Miss Lewinsky'.

Some did comment that in colloquial US English, 'sexual relations' connoted the having of a long-standing intimate relationship, to which Clinton could plead, and did so attempt to, that whatever contact he may or may not have had with Lewinsky, it did not count as sufficiently permanent for the attribution to apply. Clinton might also have contended (were he given the opportunity, or forced to clarify) that the relation meant nothing special to him, and have cited this as a condition necessary for the ascription to count. It was also commented, of that same US English, that the kinds of sexual act alleged, since they had not included conventional intercourse, precluded whatever contact as had occurred from satisfying the usage 'sexual relations'.

Regarding the clause, 'that woman', it could seem intended to act as a device for implying personal detachment from Lewinsky, whether or not true to Clinton's prior feelings. Additionally, it could have been designed to help direct the listener to the generalist reading Clinton intended the 'sexual relations' bit to remain answerable to. In so far as the utterance is highly contrived, and evasive in respect of the connotation and application of 'sexual relations', we should conclude that it carried deceptive intent. But did it constitute a lie?

26 After an event to promote government measures on education.
I think not. Anybody who witnessed Clinton's demeanour could not but fail to have been impressed with his composure and earnestness. At the critical words in question, Clinton did not shirk from standing behind his words. So infamous has the utterance become, the reader may be able to hear Clinton in them still. But could it not be just that he was particularly good at making as if to stand behind his words, good enough that we were tricked into taking his words, and his pathos, at face value? And, according to our terminology, our reason to believe him was of a reductive sort, and so he lied by Making as if to assert, or stating as if to stand behind his words?

Yes, indeed. It was precisely through those words' evasiveness, not in spite of them, that Clinton was able to genuinely assert. He willed an interpretation deemed by himself potentially fitted for those words that could also be attested to by colloquialists. The evasion may have been a contrivance, a sign of deceptive intent, but the utterance was not a lie. It was genuinely assertible. Even though Clinton may have been attempting to deceive us, he did not resort to lying. His evasion befit that of a cunning lawyer that he once was.27

Our definition ties lying to assertoric failure because we say that the lying sentence could not, in principle, be asserted by L if he knew or believed it to be false. Clinton's statement, in its evasiveness, is designed so that he can assert it without having to believe it to be false, and whilst believing it to be true.

We should distinguish between the deceptive intent which Clinton had, and device he used, that of evasion, with the device of lying 'through one's teeth', where the utterance is strictly false and the speaker knows that it is. Suppose that Lewinsky's allegations were true. Had Clinton instead uttered, without a trace of irony, 'I've never even met Monica Lewinsky,' we should have called that the Making as if to assert by Making as if to stand behind one's words. Clinton would have been lying, and the difference between such a deceptive device and the one actually used, evasion, resembles another, that between simulation and dissimulation, respectively.

The closer these resemblances track one another, the better will be the contention that, as a rule of thumb, what we have characterised as lying involves simulation, not dissimulation.

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27 In answer to 81 written questions posed by the House Judiciary Committee in November 1998, question 79 went: 'Do you admit or deny that you made a false or misleading public statement in response to a question asked on or about January 26, 1998, when you stated, "But I want to say one thing to the American people. I want you to listen to me. I am going to say this again. I did not have sexual relations with that woman, Miss Lewinsky"?'

Clinton replied: 'I made this statement on January 26, 1998, although not in response to any question. In referring to "sexual relations", I was referring to sexual intercourse. As I stated in response to request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, answers like this misled people about this relationship, for which I have apologized.'
Let us take stock. What preceded our latest determination of what could be said for or against the characterisation of Clinton's infamous speech act as a lie, was an attempt to discover how well fitted Standing behind one's words could be at accounting for the natural variability experienced by us, through the discovery of being lied to, of frustrated expectation and breached confidence. Ordinarily, such expectations or confidences need not be strong enough to enable us to speak of having rights against their violation, but we should like Standing behind one's words to have the resources to deal with variability in what breaches were felt.

We immediately encountered the difficulty of accounting for how Standing behind one's words could be used to perform lying assertion at all. The difficulty became resolvable only by enforcing a stipulation, the rationale for adopting either side of which we considered the theoretic merits of. We decided to regard Standing behind one's words and genuine assertion as incorporating in their application the conditions for their success. By rendering all our previous, provisional, formulations mutually consistent, we arrived at the following definition of a lie:

\[ \forall L \text{ lies to } D =_{df} \text{There is a proposition } p \text{ such that (i) } L \text{ believes that } p \text{ is false and (ii) } L \text{ Makes as if to assert } p \text{ to } D. \]

\[ \forall \text{ Where (ii) } =_{df} L \text{ states (simpliciter) } p \text{ to } D \text{ and does so by Making as if to stand behind his words, conditions which, he believes, justify } D \text{ in believing that he, } L, \text{ not only accepts } p, \text{ but also intends to contribute causally to } D\text{'s belief in } p, \text{ the assertum (in either case by } L \text{ contributing causally to } D\text{'s believing that he, } L, \text{ accepts } p). \]

\[ \forall \text{ Where, } L \text{ Stands behind his words (or Makes as if to stand) } =_{df} \text{ When } L \text{ asserts (or Makes as if to assert) through standing behind his words (or Making as if to stand) he gives } D \text{ a non-reductive (or reductive) reason for having his } confidence \text{ raised in } L \text{ that he, } L, \text{ means what he says.} \]

The new definition had the advantages of capturing the deceptive intention of lying in the definition explicitly and of causally explaining the efficacy of Making as if to stand behind one's words towards the generation of a false confidence. A false confidence in D is achieved by invocation by L of a reductive reason; as opposed to a non-reductive one in genuine Standing behind one's words.

On our refined, prescriptive construals of assertoric success and Standing behind one's words, we found that Clinton could safely be said not to have lied. Although the
example had generated much speculation, our definition circumscribed intuitions about deceptive intent precisely. We were faithful to the phenomenology of the case and conceded that Clinton had, nonetheless, dissimulated.
6. Dissimulation and Simulation

What more can be said of the distinction between dissimulation and simulation? Both are forms of deception, with intent often implied. Only dissimulation may be said to be consistent with the assertoric success condition Standing behind one's words. Simulation, if our analysis is a good one, should be positively characterisable in terms of Making as if to stand behind one's words and negatively characterisable in terms of how it falls short of the impulse to Stand behind one's words *simpliciter*.

Let us develop the intuitions that have led some to postulate the two types of deception. Donald Morano, in “Truth as a Moral Category”, considers the distinction's appeal for maintaining truthful assertion. First he considers situations where the impulse to speak freely is compromised. Intellectual and practical appeal may be made to the doctrine of mental reservation. Morano highlights a definition of the doctrine from the Jesuit Joseph Rickaby, that itself allows for two varieties:

... an act of the mind limiting the spoken phrase so that it may not bear the full sense which at first hearing it seems to bear. The reservation, or limitation, of the spoken sense, is said to be broad or pure, according as it is, or is not indicated externally. A *pure mental reservation*, where the speaker uses words in a limited meaning, without giving any outward clue to the limitation, is in nothing different from a lie, and is wrong as a lie is always wrong ... Even *broad mental reservation* is permissible only as a last resource, when no other means are available for the preservation of some secret which one has a duty to others, or grave reason of one's own, to keep.

The use of the word 'pure' by Rickaby should not be misread as an attempt to foreclose any question about the doctrine's moral purity. It is a means of circumscribing the doctrine's scope. Pure mental reservation is said to confine itself, paradigmatically, to the inner voice of the speaker. This happens when a speaker utters to himself a qualification that, if prefaced or appended to the words he spoke out loud, would give those words a different meaning to their standard sense. It is through that secret delimitation that the speaker is meant to be able to reconcile his words' outward expression with their inner interpretation. Use of the doctrine presupposes that the speaker has something to hide, with or without justification, in saying something true to himself but letting others hear something false.

Pure mental reservation may strike the modern reader as an extraordinarily contrived stratagem. Assume that an individual found himself justified in resorting to deception

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(all things considered). Why should he feel compelled to orchestrate his speech in such a way that, but for his mental reservation, he would be found guilty of lying? Perhaps the individuals for whom the stratagem provided such a safeguard were simply more conscientious than we are today about a prohibition on lying? Clearly, it was a matter of conscience for them. The doctrine is still of interest to us, though. Credible distinguishability of the doctrine from a case of lying could be morally advantageous.

Rickaby says that pure mental reservation, 'is in nothing different from a lie'. We beg to differ.

According to us, pure mental reservation and lying are conceptually distinct. By inwardly qualifying the meaning of his spoken words, the speaker identifies a cognitive space through which genuine assertion is possible. Genuine assertion and lying are not compossible by our account. Therefore, nor are pure mental reservation and lying. Nor could a speaker's actual psychological difficulty, or practical ineptitude, in performing a reservation decide the conceptual question. Grant whatever cognitive skill may be required and accept that some reservations may be easier to pull off than others. It is by words spoken through the limitation of a private act that the speaker is able to stand sufficiently behind his words to make of them a genuine assertion, an assertion that he believes to be true.

My use of the qualification 'sufficiently' does, however, constitute a concession. We once conceded that Standing behind one's words could admit of degree. Hitherto we have not had to seriously challenge the placement of an example at one or the other end of that scale. But the current example tests our reckoning of at what point on the scale a speaker may be said to have stood or not stood behind her words. It is clear that a determination of the spoken words' sense can be given from different points on that scale. Were meaning exclusively determined by spoken meaning, no mental qualification could figure in that determination and the utterance could only be true or false by that meaning. Were we to include the private limitation on the spoken utterance in a determination of those words' sense, a point on the scale consistent with those words having been sufficiently stood behind could be maintained. Those words could then become true on the terms of the limitation and lying evaded. The words which are stood behind are not solely to be found 'out front', in their dictionary meaning; but, also to be found 'from behind', subjectively. Conventional meaning has always been sensitive to the context in which words were found. Here that context includes a thought accompanying a speaker's utterance.

We have already said that a man of action (p. 31) enhances his stand behind his words by choosing his words with care. Those words were literally understood and externally witnessed. We do concede, now, that the words of the mental reservationist, literally understood and externally witnessed could undermine his ability to stand behind his words.
The claim is that the potential for the speaker to stand behind his words from behind is more critical than the potential of the speaker to stand behind his words from out front. Nor should the words which the mental qualification consists of be understood idiosyncratically. Although the limitation is performed privately, their sense is determined conventionally; without further limitation, potentially from a dictionary.

Standing behind one’s words is achievable through pure mental reservation and the accusation of lying can be escaped from. The reservationist genuinely asserts what he believes to be true by standing behind his words from behind.\textsuperscript{30} Pure mental reservation is, therefore, phenomenologically quite compatible with Standing behind one’s words and not at variance with it. Nothing that has been said by us about the phenomenology of genuine assertion stops us from extending the content of what has been stood behind by the speaker to his unspoken words. Far from undermining this capacity, pure mental reservation appears to presuppose it, in spite of what is said aloud by the speaker who adopts this strategy.

Let us contrive the Clinton example to see how the doctrine could resonate with us. Suppose Clinton had said, in the context of an interrogation, ‘I do not even know that woman, Miss Lewinsky.’ This would have counted as a lie. But suppose, contemporaneously, Clinton tells himself that he is recalling talking to Monica Lewinsky about an unknown woman in eyeshot of them and (recalling) trying to draw Lewinsky’s attention to her. (Imagine they are at a reception in 1995.) Now, the reservationist argues, Clinton addresses Lewinsky about a woman, picked out demonstratively, whose name he does not know. The audience to the interrogation believes he is addressing them about Monica Lewinsky, not an unknown person. The reservationist can attribute assertoric success to the contrived context. The audience has made an understandable mistake. They are victims of an intentional deception, but not of a lie.

\textit{Broad} mental reservation is less complicated. The speaker puts a limitation on the sense of his spoken words and it is a sense he stands behind. But that limitation may be found in the words themselves, as an ambiguity. The speaker finds himself able to assent

\textsuperscript{30} Pure mental reservation might also be described, metaphorically as: Standing behind his [mental] words [from] behind his [spoken] words; or, Standing behind his unspoken words despite his spoken words.

The distinction between pure and broad mental reservation tracks another in the philosophy of mind between narrow and broad states. Philip Pettit 1986, in ‘Broad-minded Explanation and Psychology’, draws the distinction in a way helpful to our own phenomenology: ‘[W]hatever the stuff out of which people are composed, their narrow states are those which supervene on how it is with the subjects, independently of the nature of their environment, while their broad states are those which supervene on how it is both with the subjects and with their environment. The narrow states cannot cease to exist without a change in the appropriate context-free base; keep the base constant and they are bound to survive. By contrast, the broad states may cease to exist without any change in that inner space. A change of context, just on its own, can cause one of the states to disappear’ (17-18). In Philip Pettit and John McDowell 1986, \textit{Subject, Thought and Context} (Oxford).
to one interpretation on his utterance by which truth is maintained. Clinton's original utterance (p. 47) is a clear example of this.

The alert reader may complain that the Clinton contrivance (on the previous page) did not require of Clinton that he add words privately to his spoken words. Does not the contrivance count as a mere case of broad reservation? 'I do not even know that woman, Miss Lewinsky.' The broad reading maintains that the reservation merely relies upon an ambiguity in the use of 'that woman'. The pure reading says that the use of 'that woman, Miss Lewinsky,' is not ambiguous, especially when Miss Lewinsky is not before Clinton at the time of the recollection. Clinton needs to put a special interpretation on the that clause before the recollection secures its truth condition; so the pure reservationist maintains. The dispute revolves around where a private interpretation can be said properly to lie. I do not think that a broad reading is strong enough to administer the Clinton contrivance we are after. Intuitions may differ. 31

Mental reservations thus construed are not lies, but concealments. In the original or contrived case, Clinton conceals the truth about himself. Evasion and dissimulation are characterisations potentially applicable to the way in which concealment is undertaken. 32 Whether or not a given case of concealment counts as intentional deception cannot be settled a priori. I shall now argue that, in his original assertion, Clinton did not enact non-lying intentional deception.

Clinton chose to put on his spoken words an interpretation that could render them in conformity to his beliefs. The words were chosen so that they could be subject to further interpretation. One interpretation is the suspicion that he did not fully answer the question that had been put to him. What is being left open to interpretation is not his preparedness to tell the truth but his preparedness to tell all. By making out that what Clinton had was not 'sexual relations', either because it did not count as sexual relations or that he had had no physical contact (the first ambiguity), he succeeded in diverting attention away from whether what he did was permissible, however classified. The diversion consisted of an invitation to speculate about how sexual behaviours could be classified by society.

Some might believe that we were asking Clinton a question we privately knew the answer to, a question he had no obligation to answer (for the same reason that we kept our suspicion private, out of respect). If he knew (or reasonably suspected) that we already knew (or reasonably suspected), that could relieve him of the charge of

31 For anybody with the overriding intuition that a broad reading is sufficient, simply adapt the example again, to read: 'I do not even know [that woman] Miss Lewinsky.' Let the square bracket refer to Clinton's unspoken private scenario about the unknown woman.

32 The original assertion may be fairly described as concealment by evasion or concealment by dissimulation; but the contrived assertion seems paradigmatic only of concealment by dissimulation, without recourse to evasion.
intentional deception, even though he concealed the truth by evasion. He knew that we knew that his concealment could not really succeed; therefore, an attempt at intentional deception could not meaningfully be performed.

The assertoric credentials of Clinton's utterance need not have been undermined by his realisation, or that of others, that he was being evasive. The point of the assertion was not to give information, or to misinform, but to evade. If the assertion resulted in listeners becoming misinformed, that need not have been Clinton's primary intention. It could have been an unintended, albeit inevitable consequence, of his having been put in to a situation not of his own volition, obligated to answer a question he did not want to.

Clinton's assertion is evasive enough that either of the deceptive formulations, (e) – (h), we encountered as cases of positive or negative deception by omission may be said to obtain (pp. 11ff.). The fact that he felt coerced (for fear of impeachment) into making the statement that he did should give us cause to identify the group of omissions as the more pertinent group. Let:

\[
p = \text{false, the proposition that Clinton did not have intimate contact with Lewinsky}
\]

\[
\neg p = \text{true, the proposition that Clinton did have intimate contact with Lewinsky}
\]

\[
C = \text{Clinton}
\]

\[
U = \text{some of us}
\]

Then,

(e) C allows U to acquire the belief in p. Clinton clearly allows, for those who had no belief that p, that they might come to believe p if they interpreted no sexual relations as involving no intimate contact: Positive deception simpliciter by omission.

(f) C allows U to continue in the belief in p. Clinton clearly allows, for those who already had belief that p, that they be able to continue in that belief, especially when p is based on the assumption that sexual relations involved some intimate contact: Positive deception secundum quid by omission.

33 Consider an analogy with the doctrine of double effect. Let a bombing campaign result in innocent civilian death, not because that is the campaign's primary intention, but because it is an unintended, albeit inevitable consequence. If this sounds unconvincing, it is not for lack of advocacy of the principle by some. See Sara Ruddick's entry in L. C. Becker & C. B. Becker, eds. 2001, *Encyclopedia of Ethics*, 2nd ed. (Routledge), p. 1783.

The dissimulator does not simply say that he wished the bad did not result. He pretends that foreseeability of the bad renders his moral accountability for it less acute than did the making it happen. As if foresight made it mere foresight. As if telling us that one did not want one knew one would cause meant that one did not cause it either.

The comparison should help us to bring out how it is that the compulsion by which Clinton felt obliged to evade responsibility for spreading misinformation was not of his own making. Whereas, the bombing that results in innocent dead is not a responsibility the bombers should feel at liberty to evade, since they were not compelled to bomb.
(g) C allows U to cease to have the belief in not-p. Clinton clearly allows, for those who had the true belief that not-p, that they come to give it up, especially when p is based on the assumption that sexual relations involves intimate contact (contrary to C's belief about sexual relations): Negative deception simpliciter by omission.

(h) C allows U to continue without the belief in not-p. Clinton clearly allows, for those who do not have the true belief that not-p and believe sexual relations involves intimate contact, that they continue without it, and when they would not have continued without the true belief had not C omitted to clarify that sexual relations did not involve intimate contact: Negative deception secundum quid by omission.

Chisholm and Feehan treat deceptive states that fall within the ambit of commission as paradigmatic of what arises when L has deceptive intent. States reached through acts of omission appear to have a merely secondary intentional quality. Clinton's primary motive was to conceal the truth by evasion and his unenviable situation was not one of his choosing. These renditions allow us to sympathise with his predicament by not foreclosing judgment on his deceptive intentions. We may find Clinton guilty only of allowing others to acquire or persist in their false beliefs, or allowing others to desist from or continue without their beliefs. If the causal consequence of his assertion is rendered so permissive that no single deceptive situation can be said to have arisen – four are interpretable – that lends support to the idea that concealment by evasion, when it occurs under duress, is not a form of intentional deception.34

We may clear Clinton, in his original assertion, of the charges of lying and intentional deception.

Morano goes on to distinguish dissimulation from simulation thus:

"The difference between dissembling and deceiving is the difference between dissimulation and simulation. In 'The Tatler', Sir Richard Steele nicely distinguishes the two words: 'Simulation is a Pretence of what is not, and Dissimulation a concealment of what is.'35 So, a fugitive from justice is a dissimulator: he is not concerned about whom people take him to be, so long as they do not identify him as the criminal that he is, whereas an actor must simulate a particular character, say Lear, and must be taken as Lear and as no other. Thus we see that there is a different type of deception that is involved in simulation and dissimulation, with

34 The fact that the interpretability of Clinton's assertion is overdetermined with respect to its possible deceptive outcomes could lead another to judge that, to the contrary, Clinton had an uncanny ability to wilfully deceive all parties. I believe that our interpretation is the more realistic.

35 'The Tatler', No. 213 (1710). Quoted by Morano 1975, p. 248."
simulation seeming to involve a more positive type of deception – a deception in which the deceiver seems to take the initiative and to be on the offensive. (248)

Understand dissembling and dissimulation as synonymous. Morano's construal of concealment by dissimulation as less serious than deception by simulation is in conformity with our reckoning of the Clinton case. Our construal of lying as a potentially more serious form of deception by simulation is consistent with Morano's claim that simulation seems to involve something 'more positive'; surely relevant to our distinction between positive and negative deception and their relative disvalue. According to our account, a speaker lies not by genuine assertion, but by Making as if to assert by Making as if to Stand behind his words. Let us investigate how our definition of lying can be said to conform to Morano's account of simulation.

When an actor simulates a particular character, is not his acting more or less convincing the better he is able to make as if to stand behind his words? Whether on stage or in celluloid, the actor's simulation is interpreted not as a means of deception but as a display of his talent. We exchange reactions about a great or disappointing movie. We do not comment exclusively on the depth or shallowness of the characters in the film. We also admire the ability, or lament the inability, of an actor to pull off the characterisation convincingly. We often summarise the actions of a character in a film by referring to the actor, not her character's name. That does not stop us from being fully engaged with the moral dilemmas or difficult choices faced by the character in the story. Our admiration of a film is punctuated not just through our relating to a character, but also through appreciation of the actor's talent. This duality is implied by our use of the actor's real name in our narrative retellings and imaginative encounters with the film.

More precisely, the analogy says that lying is as simulation, and that simulation is for acting what simulation without the theatrical context would be for lying. Without the theatrical context, simulation would be good for intentional deception precisely because it relied upon an ability to make as if to stand behind one's words convincingly. Here is an additional reason why Making as if to stand behind one's words should be well-fitted to the psychology and logic of lying assertion. The ease or difficulty with which a liar is able to deceive us is accounted for by the ease or difficulty with which he is able to make us believe that he means what he says. We assume as much in our conversations about the relative strengths or weaknesses of particular actors.

36 David Shwayder 1965 in The Stratification of Behaviour (Routledge) comes closest to my position; 'I am advocating a strong form of the thesis that positive belief of what one says is a necessary condition for successful [genuine] assertion' (p. 378, n. 1). Quoted by Mannison 1969, who takes issue with Shwayder on for contending that 'when one lies one does not assert anything, but rather, simulates the assertion of something' (Mannison's words, p. 143). I am about to defend lying as simulated (make as if) assertion.
We may not infer that a liar adept at simulation, who reliably dupes us, does so by standing behind his words. Just as, from stage or screen, we are taken in by an actor, make believe in his character, and cannot tell the actor apart, so we are often unable to tell the lie apart from genuine assertion.\(^37\) We do not infer that the actor is playing himself. Nor do we infer, given theatrical context, that the character is playing an actor playing himself (a would-be deception). Therefore, there is a distinction to be had between lying and genuine assertion. Further interpreting Making as if to stand behind one’s words as enjoying a range of simulative possibilities analogous to those of acting, psychologically enriches our account.\(^38\)

The analogy with acting also contributes to explaining how Standing behind one’s words can confer personhood. Correlatively, it explains how Making as if to stand behind one’s words implies taking on a false identity through simulation. The Stanislavski school of method acting, renowned for the demands it makes of an actor, relies for its authenticity on asking the actor to focus on becoming (in real life) the very character he wants to play. So lying, when most convincing, is as though the liar has temporarily adopted a different personality, that through which he makes as if to stand behind his words. When a betrayed partner discovers she has been importantly lied to, we accept her exclamation that it was as if she ‘must have known a different person’, or ‘did not know the husband all these years!’

The beliefs and frame of mind temporarily adopted by the liar or the actor can present him with a threat to maintaining integrated personality. This is a worry we shall explore later.

Notice, for now, that when the means to lie is psychologically easier to effect — equivalent gain for reduced cost — a disincentive towards the temptation to lie may be in place: Is it not psychologically easier to effect a false declaration on a form than having to answer the same question at an interview? Consider a disclosure to do with citing a criminal offence on a job application form. We have not restricted our definition of a lie only to spoken statements. Written statements, even ticks on a form, can count as lying — Henry Bean, director of *The Believer* (2001), in casting for the lead role of Danny Balint, based on the historical person of a neo-Nazi Jew, sought an actor both talented and unknown. He wanted the audience not to be distracted by thoughts about the actor and wanted to encourage the suspicion one was witnessing a real-life person, as in a documentary.

\(^38\) Williams’ (2002) initial characterisation of insincere assertion lends independent support to our phenomenology: ‘What does an insincere assertor do? In a certain sense he pretends to express his belief, and this means, as with all pretence, that up to a point he does exactly what someone does who is doing the real thing . . . ’ (73, emphasis mine). This characterisation presupposes both that the pretender is not doing the real thing and that insincerity can be difficult to enact. I contend that pretending is a species of simulation.

Max Black 1971, in *Problems of Analysis* also flirts with the idea that lying is a form of pretence: ‘Lying occurs when a man tries to give the illusion that he is telling the truth; i.e. that he is honestly “asserting” something’ (45, italics and scare quotes mine). Quoted by Mannison 1969, p. 141.
deceptions. For as long as a normative set of linguistic justifiable assumptions are there to be invoked, and had, confidences may be breached through lying. Making as if to stand behind one's written words, especially when that written term is a tick, is easier to enact than lies spoken face-to-face. So it is that important documents carry legal undertakings that one's aforementioned declarations are true, the undertaking requiring a signature.

Could there be any more personalised form of written guarantee than a signature? This lends further support to the idea that when one stands behind one's words what one is made to stand for is oneself and one's beliefs. One's signature denotes oneself, legally binding, whether or not one realised the legal import of one's written declaration at the time of making it.

• Summary 6

Starting with dissimulation, we defended the claim that dissimulation could be modelled on the doctrine of mental reservation and (contrary to Rickaby) had non-lying credentials. Two types of mental reservation were distinguished, pure and broad. A scenario was devised, and Clinton's assertion modified, to show how pure mental reservation could be conformed to. Clinton's original assertion was characterised as a species of broad mental reservation. We showed how the original assertion could be multiply interpreted from the standpoints of four deceptive states of omission of its varied audience. Clinton was shown neither to have lied nor to have resorted to intentional deception.

Through dissimulation an agent could have found publicly-available spoken means (broad mental reservation) or inwardly voiced, unadvertised means (pure mental reservation) to maintain a stand behind his words.

Through simulation an agent could Make as if to stand behind his words in a lying assertion. The analogy said that lying is as simulation, and that simulation was for acting what simulation without the theatrical context would be for lying. The analogy was good for explaining how lying could be found difficult (as could an actor be found unconvincing). It also explained why it should be difficult to tell when somebody was lying: he was good at Making as if to stand behind his words (as could an actor be found compelling). We explained how Standing behind one's words conferred personhood and simulation implied the temporary uptake of a false identity.

The distinction between dissimulation and simulation as forms of non-lying and lying deception, respectively, has been confirmed by our definition of lying.

In the next Chapter we return to Chisholm and Feehan, in particular, a review of their professed, 'Resolution of Some Problematic Cases'.

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7. Chisholm and Feehan's Errors

We examine Chisholm and Feehan's 'resolution' of problematic cases. Since we have already identified limitations in their exposition, instituting improvements in what it meant to assert and how lying should be defined, our examination follows a two-pronged strategy. First, we determine whether their treatment of their examples is consistent with the most charitable reading of their own definitions. However mistaken those definitions, this provides a test, too, of how well Chisholm and Feehan have applied their own theory. Second, we determine whether their treatment is in conformity to what we want to say, in respect of our favoured theory and in its own right.39

We have a person who knows or thinks that he is speaking falsely, yet speaks in this way without the intention of deceiving. Such would be the case of a man who, knowing that a certain road is besieged by bandits and fearing that a friend for whose safety he is concerned will take that road, tells that friend that there are no bandits there. He makes this assertion, realizing that his friend does not trust him, and because of the statement to the contrary by the person in whom he [the 'friend'] has no faith, will therefore believe that the bandits are there and will not go by the road.40

According to Chisholm and Feehan, 'According to our account, the man L has not lied to his friend D.' They claim that (a) L states p to D, that there are no bandits on the road, while believing it to be false; (b) that L has acted with the intent to deceive; but that (c) L has not asserted a proposition, p.

Chisholm and Feehan commit several mistakes here, even by their own account. They are justified in (a), by their own account. They are not justified in (b), by their own account. (I am not considering here whether they may, accidentally, be right; only their entitlement to pronounce as they have.) Only by assuming their own account of assertion can they maintain that L could have had an intention with respect to causing D to believe that he, L, believes p.† (Their definition of statement does not carry this intention.) Chisholm and Feehan say, 'while believing that there are bandits on the road, he has acted with the intention of causing D to believe that he, L, believes that there are no bandits on the road' (154). They claim that L does act with this intention, and because he acts with this intention whilst believing that not-p, (b), that L has acted with the intent to deceive, is true. However, the most charitable interpretation of Chisholm and Feehan's own account is that L's intention with respect to

39 The superscript symbols in this chapter († and *) refer to the errors typified by the propositions marked by them, a key for which is provided in the table on page 68.
causing D to believe that he, L, believes p, assuming that such an intention is possible, remains silent on whether or not L believes p. L's intention, thus stated, is just that. It makes no reference to the truth of L's belief that p at all, only the truth of the belief about that belief.* That is, L's intention with respect to a belief about a belief, if it is to be charged with deceptive intent, needs to be rendered inconsistent not with a second belief. L's actual belief about p, whatever that might be, but with a second belief about what L makes D believe about what he, L, believes. But L has no second, contradictory belief about what he, L, makes D believe that he, L, believes. Therefore, if L has acted with the intention of deceiving D, it cannot be because he also acted with an intention about a second order belief, that he has no (equally second-order) belief inconsistent with. Therefore, (b) is not justified on the grounds Chisholm and Feehan give, for the reasons I give, even by their own account.

Nor are they justified in maintaining (c), that L has not asserted a proposition, p, whether or not it could be true, by their own account. This for two reasons, by their own account. First, Chisholm and Feehan give as the reason for maintaining (c) that L 'does not believe that the conditions under which he has stated p are conditions that justify D in believing that he, L, accepts p.' This begs the question about what conditions count as those under which L believes he is acting. It is uncontroversial that L thinks he can trick D into believing the opposite of what L states because D does not trust L. That L exploits this knowledge is assumed by the example, but that does not automatically render the appeal to what L believes D may justifiably believe settled in advance. That would be to assume the following: (c1) L's belief about what D may justifiably believe is determined solely by reference to L's beliefs about the most effective means by which he, L, may get D to believe not-p; if L had not believed that the conditions did not justify D's belief in p, he would not have undertaken such means*; and (c2), L's belief about what D may justifiably believe is not answerable to some notion independent of L's belief.*

(1) may be false because (2) is false, by Chisholm and Feehan's own account. Without realising it here, their account, partly in order to avoid means-end circularity, partly to afford a satisfying explanans, relies upon a normative account of what may be justifiably assumed by D. The account is normative only in so far as it makes sense for us to justifiably appeal to what anybody in D's situation would justifiably assume, not with reference to what a particular D, with our knowledge of his psychology, however reasonable or unreasonable he may be, does in fact assume. The fact, by Chisholm and Feehan's account, that L states p to D by invoking a normative interpretation of an expression in a language is sufficient for us to contend that L believes the conditions are sufficient for D's justifiable belief in p, not its opposite.*

By hereby invoking generalisable features of Chisholm and Feehan's account of statement and assertion, we remain true to the normative strain and formal aspirations
of their definitions and avoid begging the question about why L believes what he does when that is not already given by the example.

There is another reason why Chisholm and Feehan are unjustified in (c). By their own account of their misreading of their own account, (b) is justified. But if (b) is justified for the reasons they give, L must have asserted a proposition, p, contrary to (c). Chisholm and Feehan may be justified in maintaining that L has acted with deceptive intent, generally, but they cannot be justified on the grounds they have adverted to, on their account. The only circumstance in which the occasioning of an intention with respect to causing D to believe that L believes p can arise is in the context of an assertion.† (According to Chisholm and Feehan's account, the definition of assertion is unique in this condition, whether or not they emphasise this. See page 35.) Since, according to Chisholm and Feehan, (b) follows from a claim about this intention about a second-order belief, L must have asserted by that account, contrary to (c). On their own account, Chisholm and Feehan contradict themselves in the same paragraph. On the most charitable construal of Chisholm and Feehan's mistaken account, they should say that L has lied because he has asserted. The account mistakes these as mutually compossible.†

Now, to consider the example according to our own account, not that of Chisholm and Feehan:

According to us, L has lied to D (contrary to C) and L has not asserted p. This result is only accidentally in accord with (c, 1), since we do not take the intention about a second-order belief as typical (see p. 36).

L has lied because there is a proposition p such that, (i), L believes that p is false and, (ii), L makes as if to assert p to D.

Where, (ii), L states p to D and does so by making as if to standing behind his words, conditions which, he believes, justify D in believing that he, L, not only accepts p, but also intends to contribute causally to D’s belief in p, the assertum (in either case by L contributing causally to D’s believing that he, L, accepts p).

Where, L makes as if to stand behind his words =df When L asserts through making as if to standing behind his words he gives D a reductive reason for having his confidence raised in L that he, L, means what he says. L does not genuinely assert, according to us, because he does not give D a non-reductive reason for raising D’s confidence that L means what he says. After all, L does not himself accept p.

It is clear that L must have lied by making as if to assert. Had L not made as if to assert, he could not have got D to believe in not-p, contrary to his statement in p. It is only because L believes that D does not trust him that L resorts to a lie. But we must understand D’s mistrust not to extend so far as to make him doubt that L trusts him, and L’s mistrust not to extend so far that he believes that D knows about it. Otherwise, the normative conditions by which a preliminary p can be put forward by L and considered
by D could not obtain sufficiently for D’s mistrust in L’s Making as if to assert, and subsequent belief in the opposite, to get off the ground.

Our invocation of L’s Making as if to stand behind his words also allows us to say that the reason D has for having his confidence raised in p is reducible to a second motive to get D to believe in its contrary. We are still entitled to postulate the first condition, that implicit in Making as if to stand behind one’s words. This first condition is made to look as though normative justification for D’s belief in p has obtained, as well it might, whoever D might be.

L breaches confidence in Making as if to stand behind his words through lying, contrary to Chisholm and Feehan’s assertion, ‘We do not have here a breach of faith’ (154). Augustine adverted to the same breach when he characterised the case as involving an invocation of ‘false faith’. We concur with Augustine in this.

(2) There is the case of the person who, knowing or thinking what he says true, nevertheless says it in order to deceive. This would happen if the man mentioned above where to tell his mistrustful acquaintance that there are bandits on the road, knowing that they actually are there and telling it so that his hearer, because of his distrust of the speaker, may proceed to take that road and so fall into the hands of the bandits.41

According to Chisholm and Feehan, and according to their account, L has not lied to D because ‘the proposition that L asserts is not such that he believes it to be false.’ They also believe that L has acted with the intention of deceiving D because L ‘has acted with the intention of causing D to believe that he, L, believes there are no bandits in the road.’

Chisholm and Feehan contradict themselves. It may be true that unless L asserts a proposition he believes to be false, he cannot be said to have lied, and because the former, necessary condition has not obtained nor can the latter be said to have, lying. But Chisholm and Feehan’s definition of assertion has it as an implication, when L asserts p, that L believes that D is justified in believing that L ‘intends to contribute causally to D’s believing that he, L, accepts p’ (152). The reason why L believes (if he does) that D is justified in believing that intention of L is because L must (should he) have that intention. Thus, the intentional attribution said true of L by Chisholm and Feehan’s admission that L has asserted p contradicts the intentional attribution explicitly said by them in this example to have obtained, that L intends to cause D to believe that L believes there are no bandits.†

The confusion arises, again, from the conflation by Chisholm and Feehan of two intentions; better say: one intention and another motive. The reason for L’s assertion, if he does make one, is to make D believe the opposite of what is asserted (by exploiting D’s

41 ibid.
mistrust), but that ignores the intention that may be said by Chisholm and Feehan to be true by virtue of L's very act of assertion. That intention is intimately circumscribed by Chisholm and Feehan's definition of assertion and cannot be assumed to have conveniently disappeared to make way for a motive that happens to contradict it. Either both intention and motive must be said to persist, not assumed by Chisholm and Feehan here, or the intent to deceive which is described by Chisholm and Feehan is inconsistent with L's having asserted at all.

This is not to say that L cannot utter "bandits" in the belief that D is justified in believing that L has the intention to contribute causally to D's believing that L accepts p. as a way of ultimately getting D to fall into the bandits' hands; because L also knows that D does not trust him. I accept on page 35 that invoking such an intention risks undermining assertion, and what may reliably assumed of D is not what may be justifiably assumed in this context. It is to contend that Chisholm and Feehan have not given us sufficient resources to explain such an outcome.

Chisholm and Feehan's confusion may also be diagnosed, I contend, in terms of a conflation between the assertion and the act of deception. The assertoric act implies only the intention which is consistent with it. The motive which is inconsistent with that intention, although it may be part of an act, may not be circumscribed with respect to the assertion. The assertoric act and the act which may be said to have occurred if D misreads what he is normatively justified in assuming, and ends up deceived by, are different events.

The way Chisholm and Feehan characterise L's intent to deceive in this case should compel them to say that L has not asserted p; they say L has asserted p, so they are inconsistent.†

Our own view is that L has asserted p (in agreement); that L has not lied; that the consequences of L's assertion, even if foreseen and wanted by L – best call that want a motive – do not cancel out the intention implicit in assertion. Neither the motive nor any implicit intention are adequately characterised as that intention of L that L believes that D is justified in believing.

(3) I may make a false statement (falsiloquium) when my purpose is to hide from another what is in my mind and when the latter can assume that such is my purpose, his own purpose being to make a wrong use of truth. Thus, for instance, if my enemy takes me by the throat and asks where I keep my money, I need not tell him the truth, because he will abuse it; and my untruth is not a lie (mendacium) because the thief knows full well that I will not, if I can help it, tell him the truth and that he has no right to expect it of me.‡

According to Chisholm and Feehan, 'L has not asserted a proposition he believes to be false, for his act does not satisfy the conditions of our definition of assertion' (155). Chisholm and Feehan believe that the first condition of their definition of lying does not hold, thus: 'L does not believe that the conditions under which he has uttered those words justify D in believing that he, L, believes p. . . . [S]ince, therefore, L has not asserted anything to D, L cannot be said to have lied to D' (155).

Chisholm and Feehan's interpretation, here, follows the same form, in part, as their interpretation of (1). Their divergence may prove instructive. Although in both (1) and (3), Chisholm and Feehan contend that D's justifiable assumptions about L's belief in p do not obtain, only in (1) is it said that there is an intent to deceive. Although we criticised Chisholm and Feehan in (1) for conflating assertoric intention with consequential motive, we did not deny the possible existence of the motive. In (3) possible ascription of this motive is made problematic for two reasons: First, mutual suspicion between L and D in (3) is so prominent that L may have no opportunity to exploit D's will by exerting her own. Second, whatever justifiable assumptions we contended could have been invoked by L in (1), are undermined in (3).

By failing to explicate the difference between (1) and (3), Chisholm and Feehan imply that the reason for D's justifiable assumptions in L failing, whether or not consistent with their own account of normativity, is continuous across (1) and (3). It cannot be the same reason, however. In (1), Chisholm and Feehan assume that D's justifiable assumptions regarding L fail not because normativity is undermined but because D takes himself to be justified in assuming the contrary. The same cannot be said of (3). The reason for D's lack of confidence in (3) is not because he merely takes the contrary to be true – that would assume the justifiability of something – but because he takes nothing to be justifiably assumable.†

Chisholm and Feehan are right that L has neither asserted a proposition he believes to be false, nor lied; but not for the reasons that they give. It cannot be the case that the failure of L's assertion is to be accounted for in the same terms as in (1). Chisholm and Feehan's failure to distinguish between the reasons by which (3) differs from (1) only reinforces the impression that they are drawing upon the same resources which they take to be implied, also mistakenly, by their account.‡

Our account also faces a fresh challenge. We want to agree that D's justifiable assumptions in L fail, not because the case resembles Chisholm and Feehan's analysis of (1) – a case in which we argued such assumptions could be met – but because D's justifiable assumptions have been rendered mutually unsustainable beyond saving, as has L's ability to assert. By tying our endorsement of L's justifiable assumptions in (1) so closely to the normative features of the language L used, not solely to D's relative mistrust of L, we acknowledged a space of normativity resilient to interpersonal suspicion, but not necessarily immune to it.
Why do D's justifiable assumptions in L fail in (3) but not in (1)? In (1), L relies upon his awareness of D's suspicion of him, but L need not let on that he is aware. Suspicion remains static. In (3), normative invocation and justifiable assumption fail on either side because suspicion reaches a dynamic level beyond that at which normativity can sustain itself; mutual suspicion faces mutual reinforcement.

Transgression of normative applicability in (3) results in the following, in terms of our account: L can neither Stand behind his words nor Make as if to stand behind them. He has an enemy at his throat, after all. The same result can be arrived at on independent grounds, by assuming that L (in this example) is wholly subject to the will of D such that his speech is insufficiently free to count as expressive of his beliefs one way or the other. 43

To adapt the preceding case:

(4) [L]et us assume that I really say to the fellow, who is fully aware that he has no right to demand it, because he is a swindler, that I will tell him the truth, and I do not, am I then a liar? He has deceived me and I deceive him in turn; to him, as an individual, I have done no injustice and he cannot complain; but I am none the less a liar in that my conduct is the infringement of the rights of humanity. 44

We are not concerned with an interpretation of Kant, nor determining whether Kant has correctly interpreted his own position. 45 It is Chisholm and Feehan, rather, who argue to Kant's conclusion from their own premises, with whom we take issue. They say that, ‘L states to D that he, L, will tell the truth; he makes this statement under conditions which, he believes, justify D in believing that he, L, will tell the truth; but L believes that he will not tell the truth’ (155). Therefore, L does lie.

Chisholm and Feehan seem to want to have it both ways. In either of the three prior cases, they interpreted the circumstance of what D may justifiably assume of L as answerable to L's expectations about D's expectations. I argued that Chisholm and

43 Raphael Demos 1960 in, ‘Lying to Oneself', considers a variety of situations in which an interlocutor's ability to speak freely is obstructed by external controls: '[A] person who is drunk may entertain delusions of grandeur, a person who is suggestible and completely under the influence of a dominating personality may come to think (mistakenly) that the latter is a saint, a person who has been hypnotized may be persuaded that he is sick when, in fact, he is quite well. In such cases we are inclined to say that the operation of reason has been obstructed, not that reason is deficient' (590).


45 The interested reader could begin with a debate in Ethics between Wolfgang Schwarz 1970, ‘Kant's refutation of Charitable Lies', Ethics (81), 62-67 and Heimo Hofmeister 1972, ‘Truth and Truthfulness: A reply to Dr. Schwarz', Ethics (82), 262-267. Scholars have debated the consistency of Kant's position in his 1797, 'On a Supposed Right to Lie from Altruistic Motives', with his earlier work. Some have been unable to agree even on the best translation of the title of Kant 1797. Schwarz says, 'On a Supposed Right to Lie Out of Love of Man'. Jules Vuillemin 1982 says, 'On an Alleged Right of Lying Out of Humanity', in 'On Lying: Kant and Benjamin Constant', Kant Studien (73), 413-424.
Feehan were misinterpreting their own position. Now they provide an interpretation of justifiable assumption that happens to be correct, by their own account, but not realising that it differs from the previous ones.

Chisholm and Feehan’s current explanation makes what is justifiably assumable of what L says not answerable to L’s expectations about D’s expectations. Given their conclusion (that L has lied), it is a safe assumption, by their own account, that L must have “asserted”. But nowhere do Chisholm and Feehan affirm that L has asserted. Unless Chisholm and Feehan maintain only that L states to D, they could not hold, as required, that the second condition of their definition of assertion would obtain – concerning what L make D believe that he, L, believe. But this second condition is precisely what could not obtain if L believed that D is ‘fully aware that he has no right to demand it [the truth]’ (per example). The fact that D is fully aware of this implies that his full awareness is a result of a recognition of the circumstance equally normatively available to L. Could Chisholm and Feehan’s reason for not affirming that L’s lie results from an “assertion” have arisen from a discovery that they would have had to openly contradict one of their own conditions on assertoric success? The omission is conspicuous by its absence. A less charitable reader could be forgiven for suspecting Chisholm and Feehan of intent to positively deceive simpliciter by omission with respect to the irreconcilability of their own account.

By their unacknowledged account, L cannot be said to have “asserted”. Therefore, L cannot be said to have lied by them. If Chisholm and Feehan are right about L’s having lied, it is for reasons independent of their own account.

Do we, by our own account, have further to say about this case? Kant and Chisholm and Feehan are mistaken that L has lied. Chisholm and Feehan are also mistaken about what their own account says.

Properly interpreted, Chisholm and Feehan’s account does arrive at the answer they should have reached, that L has not lied; but their account does not do so for the right reasons. It is not because it is not the case that L acts with an intention about a second-order belief that he has no belief inconsistent with that L has not lied; L has no such intention, standardly. According to us (see p. 34) L invokes this intention, exceptionally, when telling D that he, L, is about to tell the truth; but, in so doing, raises a doubt in D’s mind about L’s intention to communicate truthfully. Since the norms on our account are not circumscribed with reference to such an intention, we cannot make use of the possibility to deliver the intuition that L has not lied.

46 Scare quotes to make use of Chisholm and Feehan’s unsatisfactory reading of assertion, not our revised one.
Nor would the observation that L had merely stated deliver the result, by our account, that L could not have lied. Statement is consistent with lying assertion or simulated assertion according to us.

Rather it is because the case includes an injunction about what D believes D, himself, is outside his right to demand, that we should suspect the ability of L to stand or make as if to stand behind his words at all. It is questionable whether L has even the choice of doing either, asserting or lying.

What D has forfeited is not a right to the truth. We argued on page 39 that nobody has such a right. L's inability to express a proposition to D is better accounted for as an expression of D's having forfeited a right of expectation. Even here, rights talk is controversial. Still, what is at stake is a higher order expectation, associated with the rudimentary expectations we have already allowed of. Call it an expectation of expectation: D and L's ability to communicate has been spoiled by the realisation that they may not be able to rely on pre-existing expectations. The realisation is itself an expectation. Forfeiture of this supervisory expectation is a situation open to detection by L. It has an intersubjective component to it.

Through forfeiture by D of an expectation that certain communicative norms prevail, a forfeit understood by both, L cannot be said to succeed in enacting speech acts that rely upon intersubjective participation in such norms, whatever she attempts to enact through speech. Therefore, she can neither assert, make as if to assert, nor lie. A fortiori, L does not lie.

• Summary 7

We examined four examples used by Chisholm and Feehan, two from Augustine, two from Kant. We assessed their interpretation of these cases, on grounds of consistency, i) with what they said their account revealed, ii) with what they could have said their account revealed, after correcting for misinterpretations of their own account, iii) with what our account says, what should be said of the cases.

Chisholm and Feehan made a series of errors. The table over the page attempts to organise these errors with regard to their aetiology and diagnosis. Matching pairs of mistakes are attributed by vertically aligned superscript, which refer back to passages in this Chapter.
Table: Chisholm and Feehan’s Errors

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<tr>
<th>CASE</th>
<th>What example says</th>
<th>What Chisholm and Feehan say</th>
<th>What Chisholm and Feehan should have said</th>
<th>What we say (incl. new entry)</th>
<th>Main Lessons</th>
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<td>(1)</td>
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<td>Yes (b)*</td>
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<td>Yes≠ No (re motive)</td>
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<td></td>
<td>assert p (T or F)</td>
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<td>No (c)* (only states, a)*</td>
<td>Yes†</td>
<td>No, makes as if to</td>
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<td></td>
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<td>Yes†</td>
<td>NC</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>lies</td>
<td>NC</td>
<td>No†</td>
<td>Yes†</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
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<td>No implied*</td>
<td>NC</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>L believes D justified in L</td>
<td>NC</td>
<td>No**</td>
<td>NC</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>L has intent to cause second-order belief</td>
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<td>Yes†</td>
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</tr>
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<td>No≠ Yes (re motive)</td>
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<td></td>
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<td>No†</td>
<td>No†</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
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<td>believe ¬p (F or T)</td>
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<td>Yes</td>
<td>(No)*</td>
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<td>lies</td>
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<td>No†</td>
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<tr>
<td></td>
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<td>No implied*</td>
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<td>No**</td>
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<td>Yes</td>
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<tr>
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<td>No implied*</td>
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<td>†</td>
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<td></td>
<td>lies</td>
<td>Yes</td>
<td>Yes*</td>
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<td>D ‘justifiably assumes’ of L</td>
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<td>Yes implied</td>
<td>†</td>
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</tr>
<tr>
<td></td>
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<td>No</td>
<td>implied</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>L has intent to cause second-order belief</td>
<td>NC</td>
<td>NC†</td>
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Type of error in what Chisholm and Feehan say (22 instances)

1 Note that L does assert but not a proposition contrary to that which he believes.

2 Belief not contrary to that which L asserts.
The collection of the mistakes made by Chisholm and Feehan in their interpretation of the four cases will help us to adjudicate some further cases of interest, (5) – (7), designed by Chisholm and Feehan. The issues raised are generally less complex than what has preceded, so we shall consider them in summary form, with key paraphrases:

(5) L is and always has been physically fit, but in an attempt to get D not to request L to make an errand for him, tells D, ‘My leg isn’t bothering me too much today.’ L attempts, by deception, to get D to believe that L’s ‘leg does bother him to some extent and that it has done so to a greater extent in the past,’ things about his leg that L does not take to be true of himself.

According to Chisholm and Feehan, although the sentence L utters does contextually imply the false proposition L gets D to believe, that implied proposition is not one that is ‘signified or intended by a standard use in English of the expression that he utters’. So, given Chisholm and Feehan’s definition of statement on which their definitions of assertion turns, they contend that L’s ‘utterance’ cannot be said to have been “asserted”.

Chisholm and Feehan equivocate in their use of ‘utters’ and ‘utterance’. Were the example confined to an intent on L’s part to get D to believe the sentence that was literally uttered, irrespective of its contextual implications, Chisholm and Feehan would have been prepared to say that an assertion had been made and lie effected (whether or not the lie succeeded, D would still have been lied to). So, Chisholm and Feehan’s contention that an assertion had not taken place here could hardly be applicable to the utterance which is the expression of the sentence in the standard, literal use. But if they mean to refer instead, by ‘utterance’, to the meaning that the sentence may be said to contextually convey, it begs the question to say that an implication could constitute an utterance at all: For in virtue of what expression, of a standard use in English, could the implied ‘utterance’ be said to have occasioned? There can be no inexplicit utterance on Chisholm and Feehan’s account. At most, Chisholm and Feehan could seek to appeal to the expression meant by L in the intended meaning of L’s original utterance, here, its contextual implication in English – but they could not do so on their current conceptual apparatus. Chisholm and Feehan’s invocation of utterance remains question-begging as an account of how L could succeed in meaning by her original utterance what she intended to mean.

Ultimately, Chisholm and Feehan’s example has less to do with their definition of lying than with what can be expressed in standard English. That L’s sentence does not express what L intends for it, its contextual implication alone, is knowable only with reference to the basic assumption that L’s expression is fixed by the sentence’s literal content.
For clarity, what Chisholm and Feehan should be saying here is simply that L cannot be said to have lied with respect to the contextual implication of the sentence she utters. And though they remain silent about what it is L does assert, they could have said simply that L asserts the proposition given by the literal meaning of her sentence. It is neither up to L what her sentence standardly expresses when uttered, nor what is uttered by her sentence. Chisholm and Feehan could have said that L lies only with respect to the standard sentential meaning, and should have foreclosed the possibility of lying with respect to the implied proposition by saying that L could not utter, state or assert with respect to that proposition.

On our own account, whether or not she intends to, L expresses the proposition expressed by the literal utterance. She intends to deceive by that utterance, if only with respect to its implied meaning, and also believes, contrary to what is expressed by her, that it is not the case that her leg is not bothering her too much today (but not because it is bothering her). Therefore, she may properly be said to be lying in respect of the proposition expressed. But, according to us, she makes as if to assert by making as if to stand behind her words. Her making as if to stand behind her words is neither concealment nor evasion. But it is a simulation, a pretence. Imagine that D has not been fooled. He might have said: 'Stop pretending, you. Now fetch my milk!'

(6) Assume that L asserts to D that the weather will be good tomorrow, whilst personally believing neither that the weather will be good tomorrow nor that the weather will not be good tomorrow.

According to Chisholm and Feehan, because the proposition which he asserts is not such that he believes it to be false, L 'cannot be said to intend to deceive D with respect to that proposition' (156). Furthermore, Chisholm and Feehan consider whether L could not be said to deceive D with respect to the proposition that he, L, believes that the weather will be good tomorrow.

It follows from Chisholm and Feehan's definition of assertion that if L asserts, he does so under conditions which do just that, justify D in believing that L accepts p. What Chisholm and Feehan should be arguing is that, given L's actual beliefs, L does deceive D with respect to the proposition about a belief in what is asserted, whether or not L realises or intends it.

Does that mean that L lies to D? That is addressed by reference to the fact that L does not believe in p, a necessary condition on Chisholm and Feehan's definition. Therefore, L does not lie.

Chisholm and Feehan, however, maintain that L has not lied to D because the proposition which L does deceive D in respect of, the proposition about L's belief in p, is not one that L asserts. (In fact, they do not even concede that L deceives in respect of that
proposition, but since they do consider it, without conclusion, we assume that part on their behalf.) The explanation Chisholm and Feehan give for why L has not lied is unnecessary and confusing. If they simply mean to ask whether L has lied to D about that proposition, they must infer that he has not because the proposition L asserted was not, 'I believe that the weather will be good tomorrow,' only, 'The weather will be good tomorrow.' If they mean that L did not lie about p because he did not lie about his belief in p, they are introducing a new condition not stipulated by their account. It seems as though they do, additionally, want to guard against this reasoning, perhaps because they find it intuitive even though not stipulated by their definition. They say that, 'according to our definitions, he hasn't asserted that he believes that the weather will be good tomorrow, and, therefore, in asserting what he did assert, he didn't lie to D' (156). This makes what L did assert sound controversial, which, by hypothesis, it is not. Chisholm and Feehan would have made life easier for their reader had they explained and italicised instead, 'he hasn't asserted that he believes that the weather will be good tomorrow and, therefore, in asserting p, our definition still holds that L didn't lie to D.'

They add that L's belief in p is 'contextually implied' by his assertion that p. They should say, per their definition, that one of the conditions of L's assertion justifies D's belief in L's belief in p.

By our account, L has not lied to D, also because he does not believe that p is false. What we say about L's speech act in p is that L does not assert as such, because he is unable to stand by his words such that he believes that p is true. L does make as if to assert, and does intend to deceive in respect of the propositions entailed by his making as if to assert, but he does not lie, only because, according to the example, our condition (i) for lying could not obtain. We might add that we find the cognitive situation depicted of L by Chisholm and Feehan too fantastic for these results to be of serious benefit to anybody, theorists or deceivers alike. This, I hope, is instructive.

(7) L says to C, 'There are no police on the road in front of us,' and says this with the intention of causing D (who he knows can overhear) to believe that there are no police on the road. Both L and C believe there are no police ahead and C knows why L has made the statement. According to Chisholm and Feehan, L has lied neither to C nor to D. He has not lied to D, because he has not asserted to him. The reason given by Chisholm and Feehan for the former failure (of C), we must assume, is that the first condition of their definition of assertion is not justified. C's justifiable assumption in his belief in p fails because C knows why L has spoken in the way he has, against a justifiable assumption between L and C. I think we must say, on Chisholm and Feehan's behalf, that although C knows that L acts with this higher-order intention, and thereby converts the conditions for his speech act to other than the norm for that moment between them, what may be said to be
justifiably assumed by L could still be said to have been satisfied by the prima facie norms associated with that speech act. There is a sense in which, what Chisholm and Feehan must maintain, that it is a special mutual understanding between L and C that underwrites what with normative justification may be said to arise between them. This turns the issue of whether L has lied to C into something of a verbal matter. We want to say that L has, in a sense, lied to C, but . . . because of this, what we might call, special game-playing situation, nor has L lied to C.

With respect to whether L has lied to D, Chisholm and Feehan are able to say, with respect to both conditions on assertion, that neither is satisfied in respect of L's relation to D. It is particularly compelling to suppose that, 'L has not made his utterance with the intention of causing D to believe that he, L, intends to cause D to believe that there are no police on the road.' With respect to that condition there seems little doubt that L's assertoric relation is insufficiently intimate to allow of its obtaining. However, on our own account, this is not an intention with which L realistically acts in asserting. Although its obtaining seems unrealistic for Chisholm and Feehan here, and even more unrealistic than usual for our own account, that does not decide the issue finally for our own account.

Has or has not L lied to D on our own account? Everything hangs on whether L's knowing that D overhears his utterance C counts as an utterance directed also at D. All our previous examples have remained uncontroversial in respect of this two-place relation between speaker and hearer having obtained. We could say that L has addressed D in the previous examples. Although it might seem to C uncontrovertial that L has not addressed D, because the example sets out only that L knows that D will overhear, I think we must add that if only we assume that D knows that L knows that D can overhear, it would be as though L were addressing both C and D; and that whilst only C would be minded of L's deceptive intent that could allow us to maintain, on our account, that D had been lied to. If on the other hand, whilst maintaining this ability of L to assert to D through D's overhearing, L instead said, 'C, there are no police ahead,' that would signal L's intent to explicitly exclude D from the cognitive repercussions of having made as if to assert to C in front of D; so though, in that case, L could not have lied to D, he could still have acted with the intent to deceive him, an intent which is understood even on Chisholm and Feehan's original non-lying interpretation.

Two nice examples by J. L. A. Garcia in 'Lies and the Vices of Deception' focus specifically on the question of under what circumstances a person may be said to have intended to deceive another without resort to lying because his assertion did not count as addressed to that second person. Unlike our account, which links genuine assertion with truthfulness. Garcia does speak of lying through 'asserting what one does not think

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true' (515), but his remarks about when lying has failed because of failures of address would be equally true on our own account, whether, by us, L asserted or made as if to assert.

C sends a message to D but codes it with concealed negations, lest E intercept and read it. E intercepts the message, reads it, and as hoped is misled. (516)

Although C has carefully phrased her message so that, if E should pick it up, she should be deceived, C's message carries only a conditional intent to deceive E. Moreover, C addresses only D, not E, so can be said neither to assert anything to E nor, a fortiori, lie to her.

F hides phoney messages purportedly addressed to G, solely in hopes that H will find, read, and be misled by them. (516)

Although F's message is now meant solely for H, that does not affect the issue about lying. The message is addressed only to G, Dear G, etc., even though it is not meant for G nor would H be right in thinking that it was meant for G and not herself. It is partly by H's incorrectly thinking who the message is meant and not meant for, and in spite of thinking correctly that the message is not addressed to her, that the deception works. But it is not a lie.

I have adopted Garcia's use of the intentional attribute 'meant' here, but we might find the application of these attributes contentious. If we were to concede Garcia's point that he to whom the message is addressed is fixed by its textual meaning, independent of the author's aim (unless signalled textually), should not we also restrict the possible readers for whom the message is meant to the intention normatively delimited by the text?

In that case, the message could only be meant for the individual to whom it was strictly addressed, G, not H. But if it is to be considered that the message is meant or intended for H, too, it must be in virtue of something beyond the text, namely, F's aim in its being found by H.

This case resembles our response, by our own account, of Chisholm and Feehan's case (2). There we distinguished between L's (here F's) motive and her intention. We said that the consequences of L's assertion (F's message), even if foreseen and wanted by L (or F), did not cancel out the intention implicit in assertion (nor that of intending to address only G, by addressing only G). Therefore, we should add that, despite the text determining that the message was not meant for H, F's (additional) motive could determine that it was meant for H.

The intention implicit in the message and F's ulterior motive may also be thought to resemble one reading, by our own account, of the overhearing case. If L's intention to
communicate to D through C is not understood by D as L exploiting D's ability to overhear – whether or not L can be said to have nominally lied to C by asserting, 'C, there are no police,' – then L, though he has an ulterior motive to deceive D, has not lied to D. But if L's intention to exploit D's ability to overhear is mutually understood by L and D, L can be said to have lied to D. It would be as though L had said to C, 'C, D, there are no police ahead,' the registering of D's presence by L invoking L's intention to D of making use of D's ability to overhear. It would be as though, thereupon, only C continued to remain an insider on the game-playing strategy.

The invocation of a game between L and C, one in which true means false and false means true still leaves us in the predicament of how to assign assertoric success to L's statement to C. It depends on how L and C understand that alternative language game. The issue of whether L has lied to C becomes verbal because it would depend on whether a lie is defined by them in the new language game, what would have passed for a lie under the old rules, or in the old language game, what a lie in the old language game no longer counts as. Since both definitions here make reference to the old language game, let us stipulate that L's utterance to C makes use of his assertoric abilities under the old language game, and that the interpretation of L's utterance is left to C under the new rules. Therefore, let us say that L makes as if to assert both to C and to D that, 'D, there are no police ahead.' To C, L has lied only in a verbal sense, 'lied'; to D, L has lied simpliciter by signalling that he would address D through C.

The formal means by which L can assert to D by signalling through C, with or without the intent to deceive, is incidentally of interest in situations of less than outright communicative breakdown. Imagine a heated exchange between two people in a marriage, say, where a child is used as a channel through which the arguers can address one another, even though they are in earshot of one another: 'Tell your mother, X, ' 'Tell your father, Y, ' etceteras. It is not as though the child is required to undertake a verbal input or expected to offer emotional guidance. The child contributes by acting as a medium through which the parents can address one another indirectly, but address nonetheless. Perhaps they avail themselves of justifiable assumptions in one another that could not have been sustained without directing their assertions to and through the child.
We considered some of Chisholm and Feehan's remaining cases. We discovered that their interpretation of (5) equivocated on their use of 'utterance'. L was said to be unable to 'utter' the proposition contextually implied by her literal sentence, without begging the question about how L could succeed in meaning by her utterance only what she intended to mean, especially when what was intended was not literal.

In (6), Chisholm and Feehan reasoned that because L did not lie about one of the beliefs justifiably assumed by D of L, then L did not lie. Such a condition was not stipulated by their own account of lying. Nor did we advocate use of the condition for an example in which lying fell through of L simply because, by hypothesis, L did not believe what, by our account, she could only make as if to assert, p. We remained unconvinced, however, that a situation in which a speaker believed neither for nor against what he asserted or made as if to assert described a cognitively realistic one.

In (7), L shared with C an understanding that he intended to deceive D by D's overhearing what L said to C. According to Chisholm and Feehan, L had asserted p neither to C (because of the understanding), nor to D (because L had not spoken to him).

We reconstrued the requirement to have L assert to somebody as an address, and considered the possibility that L could address D prima facie if only D knew that L knew that D could overhear him. This possibility could be defeated by an explicit name-calling only of C, and reinforced by a name-calling also of D.

We recruited two examples from Garcia in an attempt to further clarify what was at stake in the requirement of the addressing of one by another. We found restriction of the applicability of addressing, said true of the addressee in written contexts, uncontroversial. We took issue with an overreadiness to ascribe L's ulterior motives as effectible without reference to the self-same text. We acknowledged, in light of a previous lesson learned by our own account, the applicability of a distinction between implicit intention and secondary motive, by analogy, to the situation of a textually-given intention and an authorial ulterior motive. This gave us a further frame of reference by which to interpret the possibility of L's lying to D, through C, by our own account.
9. Definitional Neutrality

Philosophical authors on lying in the Anglo-American tradition since 1960 are plagued by two methodological conundrums that rarely go acknowledged. It is a failure of discovery by them that accounts, in part, for the variety of starting positions and varied conclusions reached in the literature. This thesis began with a determination, through a close reading of Chisholm and Feehan, of deceptive states of affairs that could be said to obtain with respect to an interlocutor’s causal relation (simpliciter, secundum quid) and contribution (commission, omission) to the having of a true or false belief by another. We continued, through contestation of Chisholm and Feehan, to develop theoretical positions on the possible intents to deceive that could be had, the nature of statement, the nature of assertion, and the definition of a lie. Our definition comprised a theory within a theory, forced, as we were, to say what we meant when it was most difficult to mean what was said. That was the first conundrum.

Our solution was not to say what was previously said. We could not maintain, of the components that went into circumscribing assertion, including the language, that such components could somehow recombine, equally, in an act of lying; on pain of not literal language use otherwise. We could not define lying by saying it was assertion unless it were not genuine assertion. If part of what is had in genuine assertion is (genuine) cognitive intention and part of what is had in a lie is cognitive intent that is disingenuous, we could not circumscribe the cognitive parts of those speech acts literally alike. To do otherwise would be to advance a definition of lying that left it mysterious how the same component could perform two opposite functions. Yet that is how Chisholm and Feehan proceeded. We resolved to signal this explanatory necessity by modifying our terms. When a speaker lies he does so by making as if to assert. Had he asserted he could not have lied.

Despite their twenty-two errors of interpretation, we support Chisholm and Feehan’s project. They undertook groundwork that other authors have been content to by-pass or shy away from, for want of championing their competing moral positions. Without principled basis for determining what, and whether something, counts as a lie, theorists have ended up contributing to disputes that relied more on terminological variation than moral significance.\(^{48}\)

Interrogation of some of the positions said true or false of lying by other theorists leads to a further conundrum. Even after compensating for definitional variations or anomalies, we find ourselves forced to address some interrelated moral questions. The

\(^{48}\) A theorist who illustrates both terminological variation and moral insignificance is Mannison 1969.
key ones are: Is it wrong to lie? Why is lying, if it is, worse than other intentional deceptions?

Up to now I have tried to leave inexplicit, despite our elaborate examples, whether lying in its own right or relative to other intentional deceptions is a bad thing. Deciding between states of relative disvalue in Chapter 2 left it open where on a scale of good and bad those relativities lay. In debating the lying credentials of Clinton's original assertion (concealment by evasion or broad mental reservation, pp. 47ff. and 55ff.), or that of an imagined assertion (pure mental reservation, pp. 53ff.), the reader may have been dogged by worries about whether such speech acts were left justified or unjustified only through their classifiability or not as lying assertions. A great deal could have hung on whether we sought to classify them as lies or not.

The temptation to read an untutored intuition into the classification of a test case is something we must guard against, if principled questions about the moral credentials of lying are to retain their edge. Insufficient attention to groundwork by some theorists is compounded by their finding favour of a temptation to settle the issue in advance. We cannot reason that because a case counts as morally highly suspect we must reserve our most morally loaded vocabulary for it. At the limit, that would deprive our questions of their force, e.g., Is it wrong to do wrong? And why is lying worse than other intentional deceptions that are not as bad as lying?

Critical inspection of suspect reasoning that results in morally empty limits, alerts us to the following worry: Must the definition of lying faithful to the force of moral questions about lying be a morally neutral definition? This is our second conundrum. Sissela Bok considered something like it when she said:

[A] narrower definition often smuggles in a moral term which in itself needs evaluation. To say, for instance, that it is not lying to speak falsely to those with no right to your information glides over the vast question of what it means to have a right to information. In order to avoid this difficulty, I shall instead use a more neutral, and therefore wider, definition of a lie: an intentionally deceptive message in the form of a statement.49

We are not concerned to evaluate the credentials of the definition Bok makes an example of, rather the reasons which lead her to postulate it.50 Bok discriminates between a morally loaded narrow definition and a less morally loaded, wider definition of lying. We must assume the wider the definition the more cases it describes as lies under its catchment. Bok's move away from a 'narrower' definition assumes that a definition designed to limit counterintuitive conclusions about the classification of morally suspect

50 Betz 1985 argues that Bok's definition is not as neutral as her contention would have it, p. 222.
situations does so at the expense of definitional propriety. Oversensitivity of our definitional terms at the outset to untutored moral intuitions risks rendering that definition explanatorily circular. That could not be a propitious reconciliation. Reconciliation should be sensitive to our observation about a temptation that needed to be overcome. We concur with Bok that a definition that connoted moral permission or proscription at the outset would not provide us with a fair sense of moral controversy that lies are notorious for occasioning.

This still leaves us in the fix of having to establish a 'more morally neutral' definition, of determining at what point it is reached. The 'more morally neutral' definition aspired to by Bok is too intuitive to be precise, but in its imprecision our second conundrum can be detected. If the definition of lying is itself morally neutral, how can a prima facie moral proscription to act in conformity to it be said to issue? Consider the following nonsensical definition of lying:

A lie is any statement that the word, 'book', spoken or written, contains.

This definition is morally neutral in so far as it neither explicitly nor implicitly invokes moral concepts (besides the word defined). *Book*, connoting *registration* or *text*, does not carry an injunction to do or not to do on its surface. Yet we have often heard said of lying, and may want to continue saying that, a) it is (prima facie or unconditionally) wrong; and b) it is (prima facie or unconditionally) worse than other forms of non-linguistic intentional deception or non-lying linguistic intentional deception.

Neither (a) nor (b) purport to tell us why these things should be true of lying. Lying becomes morally and philosophically interesting for us when we want to be able to provide a non-question-begging account of why these moral descriptions are true or controversial. (b) gives us a sense of how lying can be distinguished from non-lying. (b) discriminates between species of deception in a way that compares to how we identified morally relevant criteria to which our own definition had to be answerable. The criteria had to do with speech acts, intentions and causal relations between speaker and addressee; not instantiations of the word *book*.

Our expectation, and Bok's terminology remains ambiguous about this, is not that a more morally neutral definition be found morally inert as such; but that it not be found overtly morally loaded. We could not expect to account for morally contentious issues arising from our judgments about lying without offering a definition that was at least *minable* for morally relevant properties. The definition should recommend itself to us by leaving the moral contentions unassumed and open to debate.

Our definition cannot be *more* neutral, as implied by Bok's phrase 'more morally neutral'; because neutrality does not admit of degrees. It can, however, be less overtly moral, both in our choice of definitional terms and in how we select those terms. If,
through our selection of terms, we aspired to remain unbiased with respect to whatever moral implications those terms could be said subsequently to have, we may properly be said to have aspired to a neutral definition. That is best achieved, as I hope we did aspire. by selecting and construing our definitional concepts with as great an attention as possible for whatever non-moral criteria we could avail ourselves of. This does not enjoin that we could not recruit evaluatively rich concepts in construction. Given the choice, either there should be a presumption in favour of minimally evaluative concepts (so that we need not beg an evaluative question without alternative); or whatever evaluative concept we found indispensable should not prematurely close off a morally conceptual question said to be derivable from it.

Bok's aspiration can be satisfied with greater precision. A definition of lying has explanatory potential when it is: a) selected for without moral bias, only intellectual scruple, and b), morally relevant or evaluatively minable, without being overtly morally loaded.

Regarding our first overtly moral question, Is it wrong to lie?, we need not be embarrassed to discover, should it transpire, that our definition contained within it the evaluative germ by which a derivation of a moral presumption for or against lying could be found. When endorsing the idea of a speaker giving an addressee a justifiable assumption in him about the assertum and his belief in that assertum, from a genuine assertion, we also endorsed the idea of a breach in confidence through lying assertion. The breach resulted from the existence of a deceptive intent acting against the justifiable assumption. Furthermore, we distinguished between the ways in which a speaker could be said to have asserted or made as if to assert. Genuine assertion required of him that he stand behind his words. Make as if assertion required of him that he make as if to stand behind his words. Standing behind one's words implies and enjoins unity of speech, thought and action, across time, compossible with concealment by evasion. Making as if to stand behind one's words implies simulation, compossible with intentional deception by lying.

To further test the explanatory appeal of our definition of lying, we should ask whether, and if so, how, these overtly moral questions are convincingly framed in terms of it. We can take a preliminary step in this exercise of framing by introducing moral locutions to one side of an explanandum-explanans proposition, the other side of which can contain conceptual clues we discovered, but remained quiet about the overt moral status of. Thus:

- Lying is wrong because it involves a breach in confidence against D's justifiable assumptions in L.
- Genuine assertion is better than lying because to stand behind one's words is better for the speaker than to make as if to stand behind one's words is for the liar.
• Lying is bad for the liar because it requires of him to make as if to stand behind his words, a form of simulation.
• Lying is worse than non-lying linguistic deception because simulation is worse than concealment by evasion, other things being equal.

What we propose, next, is an evaluation of the arguments that have been given for claiming that lying is a bad. We do so with a view to gauging how convincingly, if at all, a conceptual bridge can be found by which to fill out the explanatory because in the above explanatory statements. That could consist, in part, of the discovery that our explanans were either explicitly associated with, or implicitly contained within, the explanations given by authors' fuller treatments of the overtly moral connection. We should remain alive, however, to the possibility of weaknesses with our definition being exposed, as well as strengths to be discovered.51

• Summary 9

We articulated two conundrums. The first we took ourselves to have addressed, regarding the adoption of a success condition on genuine assertion for a definition of lying that aspired to be literal. The adoption enabled us to avoid the conceptual muddle of other theorists and prepared us for an unfettered evaluation of the second conundrum. The second, left unexplained by most theorists, sought to answer questions about the moral credentials of lying without begging questions at the outset.

We rendered explicit and evaluated the explanatory potential of a distinction advanced by Bok between morally narrower, more neutral and wider definitions of a lie. We sought to minimize question-beggingness by adopting a methodological procedure that a) selected without moral bias, only intellectual scruple; and b) exploited morally relevant or evaluatively minable terms, without resort to overt moral loading.

Our definition of lying was said to have conformed to these methodological precepts. We incorporated our main conceptual findings into a test for explanandum-explanans proficiency. The results were constructive.

51 One proviso. There is a clutch of metaethical issues associated with if lying is wrong, in what sense it can be so said to be wrong. Those issues are pitched at the level of replies to epistemological and metaphysical scepticism regarding the very existence of moral properties and the scope and force of their application. This is not the sense in which we currently wish to deal with our question, though it is a question worthy of treatment.

David Oderberg 2000, in Moral Theory: A non-consequentialist approach (Blackwell), criticises Hume’s famous distinction between Is and Ought as presupposing an empirically-biased notion of what could pass for moral reality. Oderberg substitutes a propositional account of moral realism, less vulnerable to Hume’s ontological scruples. See Oderberg, p. 12. The explanatory gap under consideration by us presupposes the robustness of propositional terms, too, although we do not argue for it here.
10. Freedom Restriction and White Lies

Let us ask why lying is considered presumptively bad, and how any explanation conforms to our definition of lying. We turn to a paper by Joseph Kupfer on the ‘Moral Presumption Against Lying’, as a means of inspiring dialogue (in this and subsequent chapters).52

Kupfer assumes that there is a ‘negative weight inherent’ in all lies, a common disvalue, that can account for the convention that lies are to be avoided. The convention serves as a default, not necessarily at all costs. It says that there is a prima facie duty not to lie, or presumption against telling them.

Kupfer speaks variously, and synonymously, about ‘inherent negative components’ and ‘inherent disvalues’. He alleges that there are two disvalues inherent in all lies:

(1) immediate restriction of the deceived’s freedom;
(2) internal conflict in the speaker.

Each disvalue has associated with it a particular norm, described by Kupfer not as inherent, but as contingent. Immediate restriction of the deceived’s freedom has as its contingent harm,

(1b) the liar’s disrespect for other people.

Internal conflict in the speaker has as its contingent harm,

(2b) disintegration of the liar’s personality.

Both contingent harms and one of the inherent disvalues pertain directly to the liar, and the remaining inherent disvalue pertains to the deceived. That need not preclude us from treating either as specifically morally disvaluable, something which our engagement with Kupfer will help to bring out.

Before considering each item on this short list, consider Kupfer’s opening distinction between inherent disvalues and contingent harms, so called. Inherent disvalues are said necessary to lies in the sense that they are dependent upon facts about language and psychology always to be found in lying. Contingent harms associated with these disvalues are said not necessarily to follow from those disvalues. But they are sufficiently causally prominent such that, in unexceptional circumstances, the liar will be predisposed

towards them as a matter of course. We can sympathise with Kupfer’s predicament to want to be able to make interesting generalisations about the character defects or traits the disvalues dispose the liar to, without wanting to render those generalisations exceptionless. Kupfer cites attempts to explain the nature of contingent causation by the following examples:

- Treating a child with suspicion tends to generate in him furtive, duplicitous behaviour.
- Giving reasons for our actions disposes others towards reasonableness in a way that arbitrary use of superior force does not.

Kupfer wants to legitimate our preparedness to make, and take seriously, generalisations about human psychology, without treating those generalisations as exceptionless, trivial. An example of my own is that smoking predisposes someone towards lung cancer and heart disease. That does not mean either that lung cancer or heart disease cannot be found in life-long non-smokers and non-passive smokers, or that life-long smokers may not out-live their non-smoking peers or die of non-smoking-related causes. Smoking is neither a necessary nor a sufficient condition for manifestation of the diseases. Yet we do concede the raising of statistical likelihood of diseases as a result of smoking. The generalisation, though not conclusively falsifiable (and said only of a contributing factor), is informative.

Kupfer sensibly restricts his observations to those inherent disvalues that can be said to obtain when lying is said to have succeeded. This is not a ploy by Kupfer to tie the inherent conditions, analytically, to the conditions of the lie’s success. It is mere acknowledgment that whatever case for disvalues can be made when considering their strongest grounds, should be sufficient for extending the presumption against lying to cases that are unsuccessful. The latter will count as failed attempts at the former. Successful lies, says Kupfer, are, ‘statements which are indeed false and believed true by the deceived’ (104).

Kupfer describes the first disvalue:

*Immediate* restriction of the deceived’s freedom is inherent in all (successful) lies because they limit the practical exercise of his reason: reasoning about possible courses of action. Believing true what is false or vice versa, the deceived’s perspective on the world and his possible futures in it are distorted. As a result, his choices of action concerning that future are circumscribed. By limiting the horizon or content of his practical reasoning, the lie restricts the choosing and subsequent acting of the deceived. He reasons within a more or less false view of the world; misinformed, his practical conclusions and the actions they motivate are misdirected. (106)
Kupfer presupposes that self-direction, action governed by rational agency, is a good. That is, were it not for the fact that, as deceived, I took as false what was true, or as true what was false, I should not have reasoned about the courses of action available to me in the way that I had. Because — of my current stock of beliefs (any one of which may be false) — I have been invited to take as true something that is not, my perspective on the world has been altered (were it not for L’s lie). Any decision I took on the basis of that perspective (in the false belief’s own right or through its mediation with other beliefs) would potentially be affected.

This quotation and Kupfer’s subsequent passages make it unclear whether the disvalue which results from the frustration of an agent’s rational choices is attributable to the alteration by L of D’s choices as such, however those choices might turn out, or to the impoverishment of goods that D might end up with were it not for acting on the basis of L’s lie. The first construal implies that the exercise of informed choice is a good in itself, however that good may be constituted (we are not primarily concerned here with how that good is metaphysically to be attributed, either as an intrinsic good or an extrinsic one). That would mean that an agent enjoys and pursues the exercise of informed choice for its own sake, as a final end, not for the sake of some further end.53 The second construal implies that informed choice is instrumentally good, good as a means to something else. It is not clear, whether or not Kupfer presupposes it, that whatever instrumental value informed choice could be said to have must depend upon its exercise being conditioned by truth. Why should this be so?

Should the exercise of informed choice acquire its value in virtue of what it is good for, it is hard to resist the thought that it has acquired that value only because what it is good for is itself good, for the most part. But then, that by virtue of which the goods for which informed choice is instrumentally good, and recognised as such, must surely derive from something inherent in the instrumental good for selecting other goods. Surely, what this that by virtue of which amounts to is the fact that choice remain informed as such. If choice were not conditioned by information, as opposed to misinformation, we could not

53 The philosophy of value is vexatious. Two important works are E. J. Bond 1983, Reason and Value (Cambridge) and Gerald Gaus 1990, Value and Justification: The foundations of liberal theory (Cambridge). I favour a classification articulated by David Cummisky 1996 in Kantian Consequentialism (Oxford): ‘[W]e must distinguish final goods (or ends) and intrinsic goods (or ends-in-themselvies). Although unfamiliar, the distinction is really quite simple: First, a final good is a thing that is valuable for its own sake, rather than as a means to something else. Final goods contrast with instrumental goods, which are means to other goods. Second, an intrinsic good depends on nothing else for its value. Intrinsic goods contrast with extrinsic goods, which presuppose some other factor, or condition, for their value. Thus, an extrinsic good can be a final end, but it cannot be an end-in-itself (because its value presupposes some other condition)’ (66-67). However, I do not find these two distinctions, cutting across one another, as simple as Cummiskey supposes. Nor do others find it unnatural to say things quite inconsistent with them. E.g. Ted Honderich 2002, After the Terror (Edinburgh): ‘There is a second truth, of the same size. It is that living longer is not only an end or intrinsic good, and a great good, but also itself a means to other things — to things that make for a good life’ (4).
contend that it was instrumentally good for securing what it was good for. It is irresistible to conclude that informed choice is good for the securing of other goods only because truth is better qualified, and true belief that choice acts out of, to discern and determine what goods are on offer.

Should we believe, as it might turn out that Kupfer does, that informed choice is instrumentally good, we can contend that the successful lie acquires its disvalue for the deceived's choice situation because it has a negative impact on the attainment for the deceived of an accurate picture of his situational world, disqualifying what would otherwise have qualified as a condition for identifying goods, substituting falsity for truth. Goods are not well chosen.

Informed choice is disrupted by the successful lie because falsity has been substituted for the truth which the exercise of good choice is dependent upon. The instrumental good which informed choice consists of is diminished by diminution of the instrumental good of which truth consists, through uptake of falsehood in the successful lie.

If truth is instrumentally good, because internal to the practice of informed choice upon which the selection of the agent's good instrumentally depends, then lying is instrumentally bad for the deceived when taken in by it. But surely these conclusions are only true for the most part, overridable by the contingent circumstances of the lie and the deceived's preparedness to receive truth.

It would be difficult to claim that truth was instrumentally good unconditionally, for all people and at all times. The difficulty arises because either we must argue that the individual is the best judge of his own interest or we must not. If we contend that the individual is the best judge, then we face the difficulty of squaring the putative instrumental good of telling him the truth (about a cheating partner, for instance) against the desire of both partners (let us suppose) for him not to be told. If he were told against his will, knowing that such news could destroy their marriage, in what sense could truth be said to be instrumentally good?

Should we contend that it was instrumentally good that they knew the truth, though they do not agree with us, and though it resulted in separation, that implication is that the individual is not always the best judge of their interest. Is it not more probable that what we suppose when we choose to tell somebody the truth is not that it may be always in his instrumental good to know – all sides may be agreed that it would have been better for him had the truth not occurred – but that it is better that he know for its own sake, not for the sake of some action.

Whether lying counts as disvaluable by working against informed choice itself depends on a measure.

Should we believe that the individual is generally the best judge of their interest, the instrumental value of truth must be answerable to that judge; which is to say that instrumental truth is relative and only good for the most part. That should not surprise
us; the same fact dispensed to a crowd, would make for better consequences for some than others, some not doing well by that knowledge. Each has a unique motivational set and life plan.

Should we believe that the individual is not always the best judge of her interest, and that she should know the truth even though she may be instrumentally harmed by it, that cannot be because we believe the truth has instrumental good unconditionally. It must be that we value truth for its own sake. We suppose that it is better for somebody to know in spite of consequences. 54

These suppositions about whether truth can be instrumentally or finally good track evaluative positions one may have, equally, with regard to informed choice. The goods for which informed choice is instrumental towards is served by knowledge, or instrumental truth, about those goods’ attainment. The value that informed choice may be said to have for its own sake is conditioned by the value of truth for its own sake, the value of being able to decide for oneself in spite of consequences. One claims to want to know irrespective of the harm that may be done to one’s self-conception or conception of others held dear to one because one values rational agency as a good in itself. 55

Kupfer’s question seems to endorse the notion that free agency is a good in itself: He does not make reference to the contingent advantages that may accrue to the deceived as a result of acting on false information. His emphasis lies on the impact on the deceived’s freedom as such. Kupfer does, however, presuppose that the general attributes of a successful lie are such that the deceived’s options are restricted or delimited. Let us concede that successful lies need not work with restriction or limitation as their motive. Since the liar typically wants the deceived to further some purpose of his, whether or not he thinks it is also in the deceived’s interest, getting the deceived to act at all does imply a narrowing of the deceived’s options. The deceived is gotten to believe that he needs to consider what the liar is inviting him to pay attention towards.

Does Kupfer also endorse the idea that the inherent disvalue of the successful lie is attributable, in part, to the deceived’s action being steered towards a harm that he would not have acted on were it not for the lie?

The examples Kupfer uses to clarify his claim, ‘the excused “white” lie and the justified “defensive” lie’, show that Kupfer is not concerned with the degree of limitation in the

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54 Williams 2002 expresses this non-consequentialist aspiration as, ‘The reason why useful consequences have flowed from people’s insistence that their beliefs should be true is surely, a lot of the time, that their insistence did not look just to those consequences but rather toward the truth: that it was bloody-minded rather than benefit-minded’ (59).

55 Williams 2002 is one of few authors to use the locution, ‘the value of truth’. In introducing the notion, he tentatively concedes: ‘In a very strict sense, to speak of “the value of truth” is no doubt a category mistake: truth as a property of propositions or sentences, is not the sort of thing that can have a value’ (6). But he continues, ‘[W]e need to take seriously the idea that to the extent that we lose a sense of the value of truth, we shall certainly lose something and may well lose everything’ (7).
deceived's freedom as such, only in showing that where the degrees of limitation differ in severity, freedom is always what is at stake. This is entirely in keeping with his opening contention that the disvalue is an inherent one, essential to the practice of lying.

But it is not clear, even in the case of white lies, that Kupfer's characterisation of freedom restriction adequately accounts for all that is wrong with such lies. Say such a species of lie is to be characterised thus:

Because of the content, typical situation, or both, lies considered 'white' tend to be innocuous, not limiting the deceived's freedom seriously or for long. (109)

Kupfer claims that his account of identifying freedom restriction as the inherent disvalue is strengthened by observing that lies count as white precisely because, of all the goods that might have been diminished, it is especially notable that the deceived's 'reasoning and subsequent choices' are what is not seriously limited – that criterion by which the lies count as white.

Kupfer's analysis here is question-begging as an account of the putative lack of negative value inherent in white lies relative to non-white lies. Yet, at the same time, it is difficult to identify a definition of white lie that could be wholly principled, given the widespread indeterminacy likely to prevail in the application of the term. We may want not to take issue with Kupfer's use of the definition. But we do register a worry. However relevant slightness of magnitude is to the relative permissibility of a white lie, there is a feature common to all lies independent of the magnitude of their material conditions or limitations in freedom, that precisely does not admit of degree as such. The feature is that by virtue of which either the liar may feel obliged to excuse himself when discovered, or the deceived may feel unobliged to accept the excuse – that a lie has occurred as such. Does not the liar only exacerbate his sin by appealing to a sub-category of lies for his excuse? Rarely is it quite so obvious to the one on the receiving end of the white lie whether he should take the transgression seriously or not.

Our account of standing behind one's words has something to add to this sense that a wrong has been compounded upon, not excused. In the same way that a speaker who stands behind his words takes responsibility for meaning what he says by choosing his words carefully; in part, so does the liar who seeks to excuse himself accept diminished responsibility for his lie by seeking to have it classified as a lie of a lesser sort. In the same way that Kupfer may have begged a definitional question, so does the liar about what seriousness he feels ready to tell a small lie.

What the speaker who stands behind his words relies upon is a literal practice of the language that goes challenged not just once, in the utterance of the small lie, but, secondly, in the liar's appeal for his transgression to be accepted as a qualification without scare quotes. Had the moral status of the white lie not been controversial, nor
would the elision of the white lie's customary scare quotes by the liar in excusing himself have been either. Had it not been inappropriate to use the language frivolously without indicting one's intention to one's interlocutor – as could have been expected and detected in the delivery of a joke or the signal of an ironic response – nor would it have been inappropriate to tell a lie, even a small one, as if it were a literal assertion. Had it not been a serious matter to transgress the norms associated with linguistic expectations between interlocutors without good reason, nor would it have been uncontroversial that telling a small lie because it was not seriously meant was still a serious lack of seriousness.

A lack of seriousness of the white liar in the literal speech of the man of action is what we find suspect.

A lie is a lie, whether large or small in material conditions. What Kupfer seems to have missed in his assessment of inherent disvalues, of which his first is one said harmful to the deceived, is the badness of error in itself. Error is the antithesis to what we said was good in respect of truth, besides its serviceability as means to other goods; truth for its own sake, as a final end.

Let me provide two examples of how a lie can betray this sense of truth for its own sake, not for the sake of any further consequence or action. The first is a small lie. The second will be a big one.

The first is an example from my place of work. As an organiser of philosophy conferences, I get involved in all aspects of preparation and execution, from scheduling and financing, to publicity and registration. I have frequent contact with academics in the philosophical community, as purveyor of registration information or facilitator of speakers' audiovisual requirements. More often than not I do not set the academic content for conferences featuring on the series. Deciding on conference themes and their speakers is the main responsibility of my Director, through his personal communications and contacts in the academic world. Sometimes this responsibility is delegated to a local colleague, should he or she have particular interest in the topic.

With this background, it may be appreciated that being associated with having set the academic content for a particular day carries with it a certain esteem. The appropriation and conferment of this esteem is all part of belonging to an intellectual community that seeks to set standards and goals largely for the sake of advancement of the discipline. The acknowledgement of an academic, or accreditation of him, for having demonstrated merit in a particular area can serve as an additional motivator, as contributing to his psychological well-being.

In institutionalised accreditation I do not doubt that there is some value. But should attributable credit become the primary motivation for the attainment of some good there follows a risk that attainment of that good largely for its own sake gets compromised, and
credit get conferred for reasons other than those deserved, out of semblance rather than
substance.

At one such conference, co-organised by a local academic, I was embarrassed to
discover the individual’s desire to take credit for an initiative taken by me.56

I had not particularly sought recognition. The co-organiser had advised me earlier in
the week that he needed a substitute respondent because his original one had dropped
out. An academic happened to contact me by email a couple of days later only to pre-
register. Knowing his area of interest, I thought of asking him whether he would consider
covering for the respondent instead. He took up the offer in a phonecall with me even
though he had little time to contact the speaker for a draft of the paper. I let him have the
speaker’s email address so that a line of communication could be established sufficient
for determining whether a substitute was still required, which seemed highly probable.
We smiled at our good fortune.57

On the morning of the conference, the co-organiser showed before the substitute
respondent. I said, ‘It’s lucky that we found Dan Hutto to step in.’ The co-organiser
replied, ‘Yes, I managed to get him at short notice.’ When the respondent arrived, he
shared a joke with me about being a little less wary for having had to ‘burn the midnight
oil’. Smiling, he said, ‘But thank you for asking me, Shahrar.’

How are we to diagnose the fib of the co-organiser? Clearly he had not known,
although he might later have come to realise, that the respondent had been solicited on
my initiative. He would not have sought recognition for something that he knew I knew
he did not deserve. That he was lying to somebody who might have had privileged
information must have been a risk the co-organiser felt worth taking. It was an accident,
an ironic one, that the co-organiser had found me to tell the fib to. It could have been no
part of his motive to get me to believe something I already knew to the contrary. His
motive must have been to get me to believe something about him, say, that he was
resourceful, that he had always had somebody in hand for the job, that he was in control
all along, or that he did not need anybody’s help, etcetera. By his lie, I could tell both that
he felt it was more important to be thought about in a certain way (by myself or others)
than that he not falsify a fact upon which his credit rested.58

Let us concede that the lie was relatively small and that, for Kupfer, my freedom was
not significantly impaired. But do we grant that it was only as small in proportion to

56 Understanding Emotions conference, hosted by the University of London School of Advanced
57 Is it possible to detect mutual smiles over a phonecall? Of course.
58 Given the likelihood that the co-organiser subsequently elicited my involvement through casual
conversation with Hutto, it is curious that no attempt was made to apologise to me for implicitly
denying my involvement to my face. The danger to the liar of riding with the lie in front of those
he has lied to will be developed.
whatever exercise of immediate freedom I was able to discharge? What shows through here, is that I could have had a right to mind, could have felt slighted even though the co-ordinator did not want to slight me, and in spite of the material consequences of the lie. Could not that slight get all the greater when, supposing the co-organiser realised his gaffe, he made no verbal or non-verbal attempt to make amends? Could not the slight get magnified by pursuing the implications of its discovery so inconsequentially? This is the condition one finds oneself in regarding the so-called white lie. The liar is generally first to classify the impact of his lie as that of a more excusable sort, in spite of how the attempted deceived felt about its impact or injustice.59

Does one find the initial slight a recognisable one, and its subsequent lack of reconciliation by the co-ordinator an emotionally inadequate one that served only to highlight the slight? If one does, as I do, that lends support to the idea of disvalue inherent in the lie not because of its impact on informed choice but because of its impact on informed opinion. Informed opinion, let us call it, has a value for its own sake. Whilst it could be no part of an agent's good action that it need be recognised, by its recipient or by observers, it surely does have an impact on that action, should it get thought about, that it get thought about truly or falsely. That in virtue of which a good action had its final value, through inaccurate reporting, has had a disservice done with, through slight.60

That we mind, should an action get reported falsely, though we would not have minded had it gone unreported, is evidence for the proposition that false history has disvalue in itself and informed opinion is a good in itself, against which an unacknowledged lie offends.

• Summary 10

We enumerated two inherent disvalues and two contingent harms said by Kupfer to precondition acts of lying. We clarified the sense in which contingent harms were presumed to flow from disvalues, not as a matter of necessity or sufficiency, but as a

59 When I told this story to a student, months later, her reaction was to deny that he could have lied, that it did not fit in with her judgment of his character, and that there must have been some 'misunderstanding'.

What counts as a faithful appeal to there having been a misunderstanding between two individuals? That an instruction, for example, should meet some minimal standard of core literal content, consonant with the communicative intention of its speaker, will, in unexceptional circumstance, render that instruction fit for interpretation. Misinterpretation on the part of the hearer does not a mutually ascribable misunderstanding make.

Yet it is in such situations that the appeal to misunderstanding is commonly made. Better that one identify a false belief held, or bad inference made by oneself or another, than to participate in an individual or mutual evasion of cognitive responsibility.

60 The fact that a good, noble or charitable action could have recognition undesired of it is part of what is meant by the dictum, virtue is its own reward.
matter of probability, relying as they did on generalisations about people and circumstance.

We considered the effects of successful lying on immediate restriction of the deceived's freedom. We had to articulate a distinction between something of value for its own sake (final end) and something of value for the sake of some other good (instrumental value) in order to calibrate the kind of value that was said by Kupfer to be inherent in lying.

We said of informed choice, should it be found good for the sake of other goods, that when the selection of goods by the deceived was frustrated by the deception, then so must truth be found instrumentally good (by virtue of which informed choice is instrumentally valuable).

We said of the good prefigured by informed choice, and limited by the successful lie, should it be assumed exhausted by its instrumental value, then we could not account for the instrumental disvalue of allowing somebody to harm himself by telling him the truth, contrary to experience. We concluded that instrumental value in the exercise of informed choice was relativised to the agent's judgment of his own interest.

These values could not be what Kupfer meant to refer to, for then they could not be said to be inherent in all successful lying. The inherent disvalue of limiting the deceived's freedom presupposed, for Kupfer, that value implicit in the exercise of freedom as such, for its own sake. We were able to explain this value only by assuming the value of truth for its own sake.

Kupfer's putative demonstration that freedom restriction as a bad in itself was inherent in all lies, including small "white" ones, left us unconvinced. We contended that the definition of a white lie was question-begging with respect to its moral disvalue and that the disvalue was not negligible.

We used Kupfer to show that the classification of a lie as "white" was morally suspect. In his tacit refusal to employ the literal force that language was good for, by deploying scare quotes instead, the white liar sought to be excused by dint of classification. He demonstrated his serious lack of seriousness with transgression and subsequent underestimation of the rules governing speech.

We contended that the disvalue of a "white" lie was not attributable to the limitation of the deceived's freedom so much as to the very fact that falsehood had been promulgated.

We used personal anecdote to show how a candidate "white" lie delivered in the pursuit of false accreditation could result in justifiable resentment, a condition explainable not by recourse to freedom limitation but by recourse to a disvalue that Kupfer has missed, the value of informed opinion, truth for its own sake however small the material consequences.
Omission of the value in and of itself of truth and informed opinion constitutes a defect in Kupfer's account of those disvalues inherent in the successful lie able to affect the deceived himself.

I presume to have demonstrated the resentment, with justice, that could be caused in the prosecution of a candidate white lie, independent of the liar's ascribable motives. However innocent or suspect those motives, we should examine another case, one where all sides are agreed that the pursuit of recognition by one of what is being denied by another is of intrinsic importance.

The example is that of Armenian people around the world to have the systematic slaughter of 450,000 of them by Ottoman Turkey in 1915 recognised as an act of genocide by the Turkish state.61

The historical sources are unassailable. Henry Morgenthau, US Ambassador to Istanbul in 1915, gathered together evidence of massacre and rape and submitted it to the State Department in Washington.62 His report was based on reports being sent in from missionaries throughout the country. One report read:

There appears, in short, to be a steady policy to exterminate these people, but to deny the charge of massacre. Their destruction from so-called 'natural causes' seems decided on.

(00.08.09)

This report, compiled in 1915, makes reference to the in-built policy of the perpetrators to deny the attribution to what they were doing of words fit for attribution, by instead substituting words that did not imply human causation or responsibility, at the very time of the massacre.

In Henry Morgenthau's words:

Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecution and injustice the most debased imagination can conceive, became

61 For compelling documentary evidence see the BBC's 'The Betrayed', broadcast on Holocaust Memorial Day 2003, 26 January 2003. The film culminates in an exposition of how it is that Turkey brought pressure to bear on US Congress in 2000 not to have the genocide officially recognised by the US. A transcript of the programme is available from bbc.co.uk (link to Correspondent). Citations in the form 00.00.00 refer to hour, minute and second in the transcript.

See also Bruce Bernard 1999, Century: One Hundred Years of Human Progress, Regression, Suffering and Hope (London): caption for picture on p. 153 reads, 'Three of the estimated one million Armenians - men, women and children - starved or killed by the Turks.'

62 Henry Morgenthau, Sr., American Ambassador to Turkey, 1913-1916.
the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this.63 (00.09.04)

Fergal Keene, in the BBC Documentary 'The Betrayed', tries to make some sense of the 'conditions' that could have given rise to the uprising of a people against some of its own population. He has said that 'militant nationalists' then in rule had long regarded the Armenians as a 'treacherous minority' and that Turkey's entry into the First World War provided the opportunity for their removal.64 Such an account cannot begin to speak to the evil that was done: the explanation is of the wrong order. A man of religion has attempted to restore this order, not by attempting to supply a reason why such a crime against humanity could have happened, but by explaining how its truth lives on:

The genocide, it's not a set event belonging to our history, it's part of our daily life; it's with us. We live it as a painful experience in the schools, in the churches, in the families. It's not something pertaining to our history. We carry with us the genocide and its implications. (Aram I, Catolicos of Cilicia: 00.28.22)

Armin Wegner, a medical officer in the German Army, risked execution to compile a photographic record of what was happening: pictures of mass decapitation, skulls, hangings, bodies dead through starvation. He says:

I was seized by terror, overcome by dizziness, as if the Earth was collapsing on both sides of me, into an abyss. (00.09.54)

A contemporary historian in Turkey, Prof Haki Berktay (Subanq University), describes the way in which mass deportations, 'death squads', and 'vengeful, vindictive tribes' were organised by government agents.

All this, a document signed by the state ordering the deportation of the Armenian population in 1915, held in the State Archive, and the testimony of survivors still alive today; yet the current Turkish state persist in official denial. The first example:


64 Fergal Keene (The Betrayed: 00.08.27). In Century, the episode is recounted as follows: 'On 11 June 1915 the Turkish government began deporting their Armenian population which they believed was creating disturbances in support of the Russians on the Caucasian Front. Local Turkish officials, gendarmes and irregulars attacked the deportees as they travelled. As many as one million Armenians are thought to have been killed, making it one of the worst genocides this century. Subsequent Turkish governments have not accepted the number of dead and have consistently denied Armenian claims that the massacre took place on direct orders from Turkey's political leaders' (Terrence McNamee, 308).
You may think it was genocide but that doesn’t change the historical facts. Genocide is a legal term and its definition has many requirements to classify an act as genocide. First of all, if your intention was to exterminate a nation, no matter whether you killed hundreds or just a single person, your action would be considered genocide. But the Ottoman State never had such an intention. (Dr Yusuf Halaçoğlu, President, Turkish Historical Society: 00.12.06)

The President of the Turkish Historical Society (hereafter YH) tries to argue that the word genocide is not applicable because the State had no intention to commit such an act, and that such an intention is a necessary condition of the use of the term, a legal term. I submit some observations.

First, the strategy of introducing intention as a necessary condition and treating the word as a legal term, are devices for escalating the requirements for the conditions of its use. Such an escalation assists the denier: (1) by his recourse to the institution of law, by which lay people may feel unqualified to judge without citing legal opinion, a deferment to authority that the denier seeks to promote; and (2) introducing a technicality into the legal or literal use of a term that will prevent some language users from understanding the conditions of its use. That is to deny not only the applicability of a term in this case but to deny others the right to use it without sufficient sanction, or to insist on a demonstration that they have understood the term.

We understand well the meaning of the word and will not be deterred. Truth and more is at stake. Let us suppose, for a moment, that this definition is an accurate one. How should we establish its applicability in any case?

The Turkish State of today cites absence of written evidence that the State of 1915 had the requisite intention as proof that it had no intention. But that is both too strong and too weak. Should it have happened that the State had signed a document saying, ‘Kill Armenians,’ and there had been no massacre, preparations or organisation, that need not have proved the intention.

It is also too weak. The State could have concealed its intention, not recognised it for what it was, or been in active denial about it then and ever since, despite evidence of preparation, organisation, and massacre demonstrating, to the contrary, that they had had this intention. If it looks like an intentional massacre of Armenians because they are Armenians, smells like an intentional massacre of Armenians because they are Armenians, then it is an intentional massacre of Armenians because they are Armenians.

Should the State seek to deprive the word genocide of its literal meaning, including its legal and condemnatory force, by defining it in such a way that it could only be said to have occurred if and when the denier explicitly acknowledged it was his intention so to act, then the state would be corrupting language in as strong a sense as the denial of the significance of the episode was reprehensible. They would have failed to accept responsibility for the applicability of a word by endeavouring to alter the meaning of that
word. This is the power of denial. Nor do we let them have their word and define a new word for ourselves. We must get them to recognise the application of our word. It is not a purely linguistic affair. The word has application.\textsuperscript{65}

Second, the denier, in his first sentence, denies the right of the one who seeks to use the term to debate the application of the term. It is as though the denier is infallible and the believer only is bound to be fallible. Thus, the denier seeks to deprive the believer of the force of the word even if the believer carried on \textit{thinking} that it was applicable after the denier said what he was about to say. The believer's perspective is a \textit{mere} perspective. The denier's attempt to devalidate his opponent is complete.

We say, to the contrary:

Dear Dr YH,

You may say it was not genocide but that does not change the historical facts. Genocide has a meaning whose applicability is clearly justified in this circumstance. First of all, if you demonstrate an intention to exterminate a people, in your preparations, organisations and killings, no matter whether you say you did not do it, your action is genocide. Additionally, the Ottoman State does demonstrate this denial.

Equally nefarious, the denier's definition made it almost a necessary condition of applicability of the word that the perpetrator acknowledge that he was acting in the name of genocide. That makes it sound as though: (a) had the concept been unavailable in the language of his historical day, then it could not have been thought about, nor subsequently attributed a for-tiori; and (b), that one must knowingly do evil. But if one cannot knowingly do evil, which is an arguable moral claim in its own right, then genocide becomes an uncommitable crime because one could not knowingly intend it.\textsuperscript{66} That deprives the word, again, of its condemnatory force.

We originally brought this example to bear as a means of demonstrating how it is that truth has a value in itself. There is a truth both about the Armenian genocide that some, and the State officially, seek to deny. The denial presupposes a truth about the fitness of our words for use in certain contexts, a fitness that is having to be fought over as itself a battle for the truth. How it is that the truth can emerge as a value in its own right we shall develop further. For the moment, we shall assess the credentials of YH and others like him to be said to have promulgated intentionally deceptive utterances.


\textsuperscript{66} That one cannot knowingly do evil is arguable given certain assumptions about evil and what conditions count as sufficient for fully voluntary action: 'Father, Forgive them, they know not what they do,' said Jesus on the cross.
First, the denier seems as much concerned to get the believer to believe what the denier is saying as he does, if not more so, to get the world to believe that the denier is right. Thus far, the denier could be confused for somebody exemplifying an interest in having his belief subjected to critical scrutiny for the sake of seeing the belief survive the test of truth. Isenberg\textsuperscript{67} describes the effort to convince another as part of an interest in securing the validity of one's beliefs, thus:

\begin{quote}
[A]nother man's ignorance is, after all, a challenge. And a man who disagrees with your opinion is, as it were, a standing contradiction of that opinion. The effort to convince is, in such a case, not easily distinguished from the defence of the belief or the examination of its merits, and to secure the other's assent is not unlike placing a seal of assurance upon the belief. The zeal of argument, though often influenced by extraneous motives, such as the desire to 'win', can arise by an easy extension of the cognitive interest itself. (476)
\end{quote}

This laudable extension of 'cognitive interest' is clearly not what characterises YH's speech. He is not interested in convincing the believers that they are mistaken; he knows that he cannot convince them otherwise. He does not seek to convince them because that would involve entering into the substance of what they are saying, and entering into the substance of what he is saying. Should, as I contend, YH know that he cannot 'win' the argument on the believer's grounds, that is not necessarily because he does not believe that they are right; to the contrary, he knows in some sense that they are right, and that is why he seeks to win the argument on his own terms, by appeal to legal authority and attention to definitional niceties.

Nor is it the case that the denier wants what he says is true to be true because of conformity to historical fact. He would rather turn historical fact into what he wants his words to say counts as historical fact. It is more important to the denier that the truth be recognised by the world only for what he says it is even if that meant that the truth became only a semblance of the truth.

To be sure, the denier, through his speech, may be trying to convince himself; not through a genuine contestation of the truth and an interrogation with reason, but only through a struggle for the fitness of words.

In what sense then may the denier be said to be lying? His case, I shall argue, is not a typical case of interpersonal intentional deception. He is not a denier in the sense that he may be attempting to lie to another. The sense of concern to us is the possibility of one's lying to oneself, sometimes thought of as being 'in denial'. I do not believe that even the denier takes his statements to give the believers reason to believe that p. He does not

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\textsuperscript{67} Arnold Isenberg 1964. 'Deontology and the Ethics of Lying', \textit{Philosophy and Phenomenological Research} (24), 463-480.
cognitively engage with them. The sense in which he lies is through lying to himself. He may certainly be said to be engaging himself; indeed, he is cognitively engaged.

But, we contend, the part of himself to which he is speaks is not the part which does not doubt what he is saying. It is the part which does doubt what he is saying. It is not that he is trying to get that part of himself which doubts what he is saying to get to assent to a belief that it takes to be false by tricking that part into believing what is said by the other part. His self is not as interpersonal as the separation and privacy of the mental presupposed by distinct bodily persons would have it, a possibility that positive deception simpliciter by commission takes as its precondition.

No. What the denier is attempting, and what his act of denial consists in, internally interpersonally, so to speak, is to get himself to continue without a true belief. His act of intentional deception of himself can best be described, qua Chisholm and Feehan, as negative deception secundum quid. Negative deception secundum quid was said on pages 10 and 12 to consist either of

L contributes causally towards preventing D from acquiring the belief in not-p (by commission);
or, L allows D to continue without the belief in not-p (by omission)

Substituting for the denier's actual statement and cognitive situation:

YH says that no Armenian genocide.
YH lies to himself either:
(a) by commission negative deception secundum quid
YH contributes causally towards preventing YH from acquiring the belief that Armenian genocide occurred;
or (b) by omission negative deception secundum quid
YH allows YH to continue without the belief that Armenian genocide occurred.

One might concede that, in so far as YH denies, and in so far as he is in denial about something, he can be said to deceive himself, potentially. But surely it would be stretching the meaning of lying too far to say that he was lying to himself?

No. It is true to say these things of YH: that he is denying, that he is in denial, that he is deceiving himself, and that he is lying to himself. 'Lying to oneself' has an accepted currency and we have given it an arguably appropriate extension that other theorists have been unable to supply or explain. By saying of YH's deception of himself that it is also an act of lying, we are able to account for the following facts: that what he is doing is a speech act, readily audible by himself as by those in earshot of him; that he has in no meaningful sense a debate with the believers whom he opposes, he seeks to not
cognitively engage with them; and, what he says is contrary to the unassailable historical facts there to be acknowledged by anybody and everybody who gives them serious, even cursory, inspection.

All this entitles us to recruit the morally disapproving tone attaching to our attributions of lying to the unforgivable intentional deception manifested by the denier in his speech.

Nor need we restrict our definition of lying to interpersonal deception. Should Chisholm and Feehan join us in recognising that D can be the same as L, they can admit the applicability of some deceptive positions as paradigmatic not only of interpersonal deception but of lying to oneself, and what we mean by that.68

We are also able to lend substance, what we had difficulty in imagining before now, to the distinction between positions (d) and (h) in our states of affairs diagram. On pp. 18ff. we noted that the counterfactual conditions either implicit between acts and omissions or explicit in the secundum quid condition were at risk of interpretative confusion when considered in the context of acts by commission or those by omission. We expected that the conflation could be resolved only by conferment of conceptual or explanatory priority in a given case. Consider two contexts.

YH utters no genocide over an evening meal with like-minded deniers.

YH utters no genocide at a rally of survivors chanting the opposite outside the US Congress.

Over a meal, YH's utterance may be characterised as allowing himself to continue without the true belief. His lie to himself is intentional negative deception by omission, and but for YH's standing disposition (act of omission) not to talk to survivors he would not have continued without the true belief (secundum quid clause).

At the rally of survivors, YH still has this standing disposition not to talk to survivors, but, given his current proximity to their vociferousness, he may be said to intentionally deceive himself negatively by commission. But for YH's act not to talk to survivors he would not have prevented himself from acquiring the true belief (secundum quid clause).

68 Mele 2001 argues convincingly that self-deception, in either of Mele's 'straight' or 'twisted' species of it, cannot be modelled on interpersonal lying. He claims, '[T]here is no close analogy between self-deception and intentional other deception' (ix, italics original); and, again, '[T]he attempt to understand self-deception on the model of stereotypical interpersonal deception is fundamentally misguided' (4, emphasis added).

I have no quarrel with Mele's perceptive analyses provided he restricts himself, as well he might have qualified, to interpersonal lying as positive deception simpliciter by commission only. I do not, however, wish to pre-empt the question of which of all the remaining seven positions (see p. 15) are construable as possible situations of having lied to oneself; although I am considering only cases (d) and (h) here.
Thus, the difference between negative deception *secundum quid* contexts by commission or omission is explained. In so far as denial in front of the survivors is more actively committed, it is also morally worse. Such a finding is not counterintuitive.69

Earlier I said that the denier knows in some sense that the believer is right. The sense in which he knows that they are right is not sufficient for us to be able to say that he knows he must be wrong. What the denier utters does not have the same cognitive credentials as what he would be uttering were he a believer (spare the thought that a believer should wish to knowingly say the opposite of what he took to be true).

The sense in which the denier knows the believer to be right is the sense in which we would have to say of everybody, when the facts were unassailable, that it was not entirely up to us what to believe.70 We cannot just choose to believe what we do. What we believe is answerable both to the world and our linguistic community. The sense in which our beliefs are answerable to the linguistic community is the sense, in spite of which, the denier negatively deceives himself. Even if he does not know better, we say that he should know better.

One should know better, but when one does not, we are entitled to say of one that one deceives oneself. Should the self-deceived say contrary to what he should know better than to say, we are entitled to say of him that he lies to himself. What the denier believes is not entirely up to him. He is also answerable to our judgment about what he should believe were he to remain a human being.71

My contention, therefore, is that the abuse of language, the vehicle by which the denier sets up a deceptive barrier to what he otherwise should believe, is itself an abuse which invites moral repugnance. That is why, given the importance of history in the acceptance of our past and on-going responsibilities, the denial of the past through

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69 Note that, on this model, it is a mistake to construe 'lying to oneself' as a form of positive deception *simpliciter* to oneself. This is the mistake made by Demos 1960 and to a limited extent exposed as such by F. A. Siegler 1962, 'Demos on Lying to Oneself, *The Journal of Philosophy* (59), 469-475. Siegler appeals only to ordinary language considerations.

Mele 2001 argues convincingly, one of his key disanalogies with classic interpersonal lying, that a belief in contradictory propositions is not *necessitated* by straight (typical) self-deception, let alone intended by the agent. See pp. 17, 22, 52 and 74.

Davidson 1998 believes he can defend a model such as Demos' by distinguishing between 'believing contradictory propositions and believing a contradiction, between believing that p and believing that not-p on the one hand, and believing that [p and not-p] on the other' (5, square brackets original) and denying that the former entails the latter, less palatable result.

70 I take Mele's advocacy of an 'impartial observer test' as supportive of my position: if the collection of relevant data relevantly available to the self-deceived, S, were made readily available to S's impartial cognitive peers (including merely hypothetical people), those who conclude that p is false would significantly outnumber those who conclude that p is true (Mele 2001, 106).

71 Martha Knight's use of morally loaded locutions is equally pertinent: '[I]n using cognitive strategies which they should know are biased, . . . they are self-deceived, ignorant, and responsible for that ignorance if those cognitive strategies result in false belief' (Knight 1988, 185, quoted by Mele 2001, 106).
language abuse is also an immoral abuse of language. Ignorance is itself an evil, not only for the ignorant action that it produces, but for the bad which it turns the ignorant into. Ignorance is willed, by the denier, not in the sense that he wills it as ignorance, but that he should know better than to will it.

Kupfer describes as his second inherent disvalue found in lying:

When we lie we are not following through on what we truly believe. Thus we are separated in action from our beliefs. It is as if the actor were a different person, one acting on a different set of beliefs. The act does not present the real self, for the real self is identified with and by the beliefs held to be true. . . . The content of the lie, therefore, is antagonistic to what the individual is. (116)

Language is that through which we think, with ourselves as well as others. Lying sets language against the linguistic fabric on which the effectiveness of the liar’s thinking depends. It thereby jeopardizes the coherence of his beliefs and self-knowledge. (118)

I introduce Kupfer’s second inherent disvalue not as a direct characterisation of what may be said to be at risk in the denier’s self — Kupfer treats of interpersonal lying whereas we speak presently of lying to oneself — but to demonstrate how it is that the two cases may be related.

Kupfer’s interpersonal consideration is what would be at stake in a situation where a believer (though we might find it monstrous) decided to utter the contrary of what he believed to be true. According to our definition of lying, he could only be said to be making as if to stand behind his words, to simulate what it was he did not truly believe by simulating something like assertion. We agree, with Kupfer, that the content of the lie would be ‘antagonistic to what the individual is’, or believes, and that is why the liar could not genuinely stand behind his words, because the self to be identified with that self could not be the genuine one. Thus far, we arrive at Kupfer’s characterisation of the inherent disvalue: ‘the self-opposition or distancing from the self necessarily generated by repudiating in speech what we believe’ (116).

To pursue the analogy with our prior account of simulation just a little further: this self-opposition is precisely what could confront an actor or actress, explicitly this time, when they found themselves being asked to perform a character action, or undertake a show of nudity, say, that they felt unprepared to do in real life. At such point, the opposition between the true self with its unconditional principles, and their stage character, a stage conceived of as existing in the real world, would manifest itself.

The similarity of the denier — whom we accused only of lying to himself — to the classic interpersonal deceiver is the self-deception either may be said to have undergone. The
utterance of each exploits, or at least invokes, the very normative features of language upon which their utterances depend. The false part of oneself – which recognises and effects self-opposition in the interpersonal liar – has achieved unified selfhood in the denier — with little true left to oppose it.

It is the negatively deceived individual who is given a part to play in interpersonal lying, against the liar’s true self. But it is the negatively deceived individual, the denier, to whom the denier speaks in his self-deceived utterance; when he should know better.

In lying to oneself, the wholly self-deceived individual is in self-opposition not within himself, construed as two differently-minded persons in direct opposition, but in respect of opposition between the self-same self-deceived individual and a hypothetical moral agent. To extend Kupfer’s inherent disvalue, when said true of the deceiver:

The self-opposition or distancing from the moral self necessarily generated by repudiating in speech what he should believe.

For those who attest to the unconditional applicability of the moral law this should be a welcome result. It allows us to say, with force, that the denier for whom self-deception is psychologically complete, though he may be psychologically unified, is still morally disunified. He is estranged from the moral self that he should be, because it is not up to him what he should believe, and morality makes him answerable, even culpable, for his ignorance, however convincing the denial.

• Summary 11

To demonstrate how informed opinion was a good in itself against which an unacknowledged lie offended, and that false history was a disvalue in itself, we turned to a momentous example, that of the denial of the Armenian genocide of 1915.

By recourse to the BBC documentary, The Betrayed, we recounted the bare facts of the genocide. We noted the living truth, both present and past, testified by witnesses, both present and past, a missionary of 1915, a former US Ambassador, a Catholic bishop, a German photographer, a Turkish historian, and a State-signed deportation order of 1915.

We cross-examined the statement of the first official denier, YH, President of the Turkish Historical Society. We contended that YH had attempted to subvert the meaning of the word genocide by escalating the conditions of its usage by sustained recourse to a) legal sanction; b) technical misdemeanour; and c) attributing fallibility to the believer.

\[\text{Glover 2001 recognises that: 'Denial of the terribleness of what is done can be helped by euphemisms' (352). Technical usage plays an instrumental part in threats of force. Consider Iraq in 2003: 'material breach', 'WMD', UN 1441.}\]
that he did not apply to himself. We found the technical mischief with which YH sought to reclassify ‘intention’ particularly repugnant. We argued that his definition could be deemed neither necessary nor sufficient. Nor could it count as an empirically realisable intention. We wrote YH a letter registering our protest. The abuse of language, we contended, was itself an immoral abuse.

We sought to determine the lying credentials of YH’s state of mind, in common parlance, that of denial. We found that YH’s intentional deceptive utterance fell short of Isenberg’s test of the cognitive interest inherent in interpersonal communicative conviction.

The denier was characterised as getting himself to continue without a true belief or preventing himself from acquiring the true belief. We determined contexts under which negative deception secundum quid could be said to hold by commission or omission, a distinction we were previously able only to gesture at in theory.

We appropriated deceptive states of affairs to characterise the denier’s act of lying to himself and added a morally disapprobative dimension:

When the self-deceived says contrary to what he should know better than to say, we are entitled to say of him that he is lying to himself.

Finally, we considered Kupfer’s next candidate inherent disvalue found in lying. We confirmed the credentials of the disvalue of self-opposition to the interpersonal liar and equated the part of the liar that was said to be in opposition with his true self in the interpersonal case with the part which had become a whole in the case of the self-deceived denier who lied to himself. We extended the analogy with self-opposition in the interpersonal liar to the denier by postulating the existence of a moral self. The denier was said to be psychologically estranged from his moral self, but he could not remain other than morally answerable to him, thus:

The self-opposition or distancing from the moral self necessarily generated by repudiating in speech what he should believe.
12. Denial and Disrespect

We shall examine further statements of deniers in order to fully appreciate the sense in which they do wrong in their very denial, independent of psychological consequences.

Accusing people of genocide, of wanting to eradicate a whole group of people because of who they are, and they’re people who we’ve lived together with for hundreds of years, is absolutely inaccurate, incorrect, and we feel very insulted. (TG73:00.06.48)

In this emotional appeal for believers not to make accusations against the State, a former Turkish MP seems to betray a number of questionable attitudes. First, her initial use of ‘accusing people’, leaves entirely open the question of whether those accusations are justified or unjustified for reasons to do with their truth. It is clear that TG wishes to indict those accusers and that she implies that the accusations are false in her use of the locutions, ‘absolutely inaccurate, incorrect’, but she does not say, ‘falsely accusing people’, what would at least have made her statement analytically true.

As things stand, by her words, it is as though she avoids taking an explicit stand on the accusations’ falsity, what would have constituted a serious engagement with the accusers’ charges, whilst allowing herself appeal to the principle of accusation, whether false or true.

Second, TG further obscures the question of whether those accusations are true, by tacit appeal to the incomprehensibility of a nation turning on a minority with whom they had lived together for hundreds of years. But the believers were never saying that they had found it comprehensible. Indeed, in its incomprehensibility they sought recognition, not denial.

Third, TG makes direct appeal to the fact that she, and others like her, ‘feel very insulted’. Whether or not she realises it, this constitutes a tacit, but illicit, appeal to emotion as the final arbiter of the validity of the accusations. Although we may concede that emotions are reasoned responses of a kind, and may indeed be rationally revisable in the light of corrections to beliefs about the world upon which those responses are premised, TG has made no concerted attempt to justify the appropriateness of her taking offence were those accusations true. Rather, she uses the fact of her offence as the reason why the accusations cannot be true. She uses her emotions, the fact of their unpleasantness, as the final arbiter of the invalidity of the accusations. Yet again, as with incomprehensibility, it is in spite of their unpleasantness that the believers seek recognition of the facts.

The tacit devalidation of historical truth is again prefigured in TG’s remark that:

I think there is something to be said for raising future generations in a peaceful way, in trying to cooperate with neighbours, and looking forward, rather than digging up difficult memories, where we also lost a lot of families. (TG: 00.21.06)

Here, TG evades responsibility for the true import of the historical facts by questioning their utility, not their validity. She contrasts the utility of raising future generations, in ways that can only be described as uncontroversi ally positive, with the perceived disutility of 'digging up difficult memories'. This time, it is not unpleasantness as such in the mental life of the denier that is counted against the having of an emotion – here, memory, associated with the accusation of genocide – but the perceived disutility, even futility, of having such a memory for the betterment of a nation. It would be tempting to reply that taking collective responsibility for past wrongs done by one's nation is the best way of taking responsibility for the future by ensuring that one never did so again. The risk of such an appeal would be in reinforcing the notion that utility still is the arbiter of historical truth's significance. To counteract TG's advice to actively forget by active remembrance would assist the nation in the realisation of its future responsibilities, but the act of remembrance has not been exhausted by such an appeal. 74

The sense that psychological pain and consequentialist disutility are what exhaust the reality, and futility, of a bad historical fact are implicit again in YH's remarks:

A nation can only be hurt by being accused of something it hasn't done, and its children and grandchildren will be psychologically affected. There is no point in acknowledging something that didn't happen. (YH: 00.06.20)

Whilst begging the question about the validity of the believers' claims by presupposing their falsity without contestation, YH may as well have stated:

A nation can only be hurt by being accused of something even if it has done it, and its children and grandchildren will be psychologically affected. There is no point in acknowledging something even if it did happen.

That is the true meaning of TG's and YH's reduction of historical truth to psychological and utilitarian disvalue, a denial of the meaning of genocide's historical reality. 75


Mele 2001 considers the impulse to self-deception as explainable in terms of avoidance of psychological discomfort, p. 40.
Isenberg and Thomas Nagel, quite independently, have identified the value of truth as an end in itself. Isenberg, in evaluating the intentional component inherent in a classic case of lying, asks:

[Intention] draws some part of its moral value from the goodness and badness of its end; for how can it be bad or wrong deliberately to disseminate error, unless error is in some way bad? (479)

If error is bad in itself, independent of its consequences, then so must truth, its contrary be either good in itself, or at least morally neutral. Nagel nicely brings out what is at stake in the estimation of positive value for its own sake that we feel obliged to make, independent of consequences. He raises the issue not in relation to truth as such, but in relation to rights:

If I were given the choice between a significant increase in the likelihood of being murdered and the abolition of my moral and legal right not to be murdered, I would choose the former. Somehow that status, abstract as it is, is vitally important, and its recognition by a society is an enormous good in itself, apart from its consequences. 76

The abolition of Nagel's moral right is more hypothetical even than his legal right, less dependent on social institution and legal sanction that the former arguably is. And yet Nagel would trade in neither of those hypotheticals even for a significant statistical increase in the prospect of actual murder. Not only is Nagel unable to put statistical purchase on the value of his moral right; he is convinced that its recognition is an 'enormous good in itself'. It is as though its magnitude and moral unpurchasability lie in its consequential unquantifiability.

To deny the genocide is to fail to take responsibility for its wickedness by denying the wickedness of its truth. The recognition sought by the believers is of that in spite of its wickedness and because of its wickedness. Instead, they get a denial because it was wicked. By this denial, the victims of the genocide and their mourners are made to suffer a second injustice; it is as though the victims did not live even when they were alive. Had they lived, the horror that became them would at least be worthy of recognition. To fail to recognise them, to have the genocide denied, is to die twice.77

There is a sense, then, controversial though it may be to point it out, that Adolf Hitler, speaking in 1939, is better than the deniers of today by their statements, if only in his statement that:

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A saying amongst Armenians.
Who, after all, speaks today of the annihilation of the Armenians?  

This is not to deny the annihilation of the Armenians, it is to presuppose it. Nor is it to question the wickedness of Hitler, it is to presuppose it. Who can say whether it is more wicked to realise one's wickedness than to conceal it from oneself? Perhaps Hitler could not have truly understood his wickedness even in his recognition of the Armenians' 'annihilation'.

I have already argued that the deniers are lying to themselves by leaving themselves in states of negative deception secundum quid. They are also concealing from themselves what they should know better than to say. Whilst we conceded that Clinton did not lie by concealing from others what he knew to be true by evasive assertion, here we say that evasion of responsibility works by concealing from oneself what one should know to be true or know better than to say. Clinton does not lie to himself. The deniers do lie to themselves.

The act of denial that is an evasion of responsibility is also a failure to take up a more integrated moral persona. It is no accident that the deniers spoke in their capacity as officials. The diminished responsibility that comes with officialdom is also noticeable in the Turkish State Archivist when asked about his personal reaction to the existence of a document that he took every care in authenticating:

Can I just ask you as a Turkish person who also is a historian how you feel looking at this document now? (Fergal Keane: 00.13:39)

I am an archivist, for me all documents are the same; it's for the historians to assess them. I’m not very much interested in what the historians say but there is such an order that was issued and implemented during the war. (Archivist: 00.13:48)

It is striking both that the archivist refuses to take on the persona of an ordinary citizen and that he defines his job so narrowly as to preclude the interjection of historical commentary by himself. He seeks to defer and delegate that assessment to others, but, by so doing, he flees from his responsibility with respect to his own social and historical relations.

Whilst we speak here of the ramifications to the person of lying to himself by concealing from himself what he should know to be true, Kupfer also realises that this

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same endangerment to the liar's personhood can result from classic interpersonal lying. This is described by Kupfer as a contingent harm, his second (2b), something to which the inherent disvalue of self-opposition in the liar is said to additionally dispose him to. personality disintegration:

Lying is a misrepresentation of who and what we are, a misrepresentation that also seals something of ourselves off from others. By disguising ourselves from others we can easily lose sight of ourselves as well. Lying deprives us of others' response to this closeted part, yet we depend upon their responses to criticize and understand ourselves. Lying conceals the individual's true beliefs from himself by restricting their social disclosure. The barrier to integration of opinion is perforce an obstacle to understanding what we truly believe and therefore are. It appears evident, moreover, that the less integrated our opinions the more difficult it is to know what we believe. (120)

Kupfer's juxtaposition of lying with concealment alerts us to the need to clarify his vocabulary in relation to our own. We have already said, by our own account, that concealment is not endemic to interpersonal lying, simulation is. We also said that Clinton could conceal without lying, but that one could not lie to oneself without concealing something from oneself. The explanatory load which we expect concealment to bear will depend both on whether concealment can be said to occur within the individual in addition to hiding something from outsiders.

The risk of personality disintegration in Clinton is not so acute, because precisely by not lying to others does he manage not to have to conceal from himself what he conceals from others. The risk of personality disintegration in classic interpersonal lying is greater, but not as great as that implied by simulation per se, for simulation is not concealment. On our account, the liar does not conceal a part of himself from himself, he simulates a second self. That is what results in the inherent disvalue of self-opposition. What is in opposition is not different parts of the same self, but different selves. Appealing again to our analogy of the actor or actress conflicted about the nude scene, we see that personality disintegration should be described not as the occasioning of that opposition as such, but the impact that would be had on the actor's real life personality if and when resolution of the conflict required moral compromise. That can properly be described as a contingent harm also, for it will depend on the actor's ability to more or less successfully resolve a given case. Therefore, the possibility of personality disintegration is to the actor's self-conflict management (in our sense) as is concealment (in Kupfer's sense) to simulation (in our sense). Concealment within a single self is thereby not what is integral to interpersonal lying because the phenomenology of lying is better accounted for in terms of the simulation of a second self. The simulated self serves
as a substitute, however temporary, for the unsimulated self, not as a means of concealing the latter.

Finally, the risk of personality disintegration in denial, as modelled on lying to oneself, is at its greatest when concealment from oneself of what one should know better than to think is most prevalent. What the Turkish State Archivist risks is damage to his actual self, however morally limited that may be. He makes himself more morally impervious every time he deprives morality, and the self identified with it, of staking a claim on his thoughts about the significance of the record in his very hands.

Thus far we have conceded, and found cause to affirm, three of Kupfer's harms, two inherent to lying and one contingent. The remaining contingent harm cited by Kupfer is that of disrespect in the liar towards other people. Kupfer's notion is that:

The deceived is immediately less free relative to us [as liars] because of our action. The propensity towards this sort of relationship involves regarding the other as less worthy or capable of wielding freedom than ourselves. We are thereby encouraged by the lie to see ourselves as superior to others. This involves loss of proper perspective on ourselves as we esteem ourselves too highly, becoming arrogant. (122-123)

The claim is that restricting another's freedom through a lie disposes one towards the habit of disrespect towards others. Kupfer associates respect for oneself with respect for the exercise of one's own freedom and disrespect for another with the disrespect one has or shows toward the exercise of their freedom, what one has attempted to restrict.

It is not clear to us that the disrespect Kupfer attributes to the liar as a consequence of his action, or accumulation of such actions, may not properly be regarded either as a characteristic of the action in itself or as an inherent disvalue, not itself contingent, which may be counteracted or otherwise by other contingent features of the case.

First, what may be said for the contention that disrespect is a feature of the act in itself? The respect which may be said to be diminished in cases of interpersonal lying is clearly a two-place relation. Paradigmatically, L disrespects D by lying to him: by entertaining Chisholm and Feehan's characterisation of the key interpersonal phenomenon inherent in lying as that of a violation of D's right of expectation, and revising it with our more moderate construal of it as a breach of an expectation of D in L, we may be thought to have supplied a grounding at least, and still sufficient, for any claims of diminished respect L displays towards D.

Surely it is a diminished respect of L in D, chosen by L, that requires moral explanation or justification either by L, ourselves; or D subsequently. The idea that the typical lie invokes the liar in trying to get the deceived to think or act in a certain way, that could not have been accomplished without the deception, both reinforces the idea,
already encountered, that the standard lie is accompanied by an additional motive of the liar, and that the liar does not respect the deceived by using him only as a means and not also at the same time as an end in himself.

Isenberg describes his additional motive as an ‘extrinsic’ one, but at the same time as. ‘much more closely interwoven with the lie itself than is usually supposed. Without it the lie is “incomplete”; we do not understand its human function, as we do understand the function of professing and defending beliefs’ (478).

Drawing attention to Isenberg’s extrinsic motive helps us to see that when we judge with what justification a lie has been enacted, we are often tempted not simply to revert to an estimation of the inherent breach of confidence with which a lie is associated, but also the additional motive which supplies the context for the lie. In Isenberg’s terms, ‘it is possible that the motive . . . is from the start part of what is judged when we judge the lie’ (478). So, ‘It is much less noteworthy that the man who lures his child from the edge of a cliff uses a regrettable expedient than that this same expedient swells up monstrously when a man bears false witness against his neighbour’ (479). In this example, because the motive of drawing a child away from danger is a good one, it would be appropriate if not to call that lie justified, then at least balanced by the motive.

When the temptation to lie is motivated more out of self-interest, however, we can utilise the Kantian vocabulary of treating others never merely as means to one’s ends but also at the same time as ends in themselves to account for the failure of respect shown to D by L. For it is clear that in getting another to take as false what one takes to be true in order to get him to conform to a plan that one has for him, that other could not be got to conform unless he was kept in ignorance of something. Kant expresses the idea of another having to be able to consent to the means by which one uses him as a condition of moral reasonability, thus: ‘[T]he man who intends to make a false promise will immediately see that he intends to make use of another man merely as a means to an end which [means] the latter does not likewise hold. For the man whom I want to use for my own purposes by such a promise cannot possibly concur with my way of acting towards him and hence cannot himself hold the end of this action.’79

Is the idea that I do not respect another as an end in himself by using him as a means that he would not be complicit with were he, contrary to fact, made mindful of those means explainable in more fundamental terms, or have we reached explanatory end point here?

We already articulated, and accepted, that freedom restriction in the deceived is inherent in successful lying, but does it contribute any explanatory weight to be told that the liar does not respect the deceived because he does not respect the deceived’s

freedom? It does if we assume that what is essential and distinctive about being human is precisely an exercise of freedom, uncoerced, voluntary, and perhaps informed, too. That would allow us to equate being treated as an end in itself as being treated as a free agent, and allow us to explain how the deceived is treated more or less as a means, or means alone, as his exercise of freedom is restricted.

I think we do allow of another's freedom to be permissibly curtailed without automatically concluding, even when we find ourselves uncoerced by the one whose freedom we choose to restrict, that his person has been treated solely as a means. not also as an end in himself. The lack of entailment reveals itself in our readiness to ascribe to one whose freedom we choose to restrict that his consent is tacit, or that he would have acted as one acts on his belief were he so availed of the facts. If you are constrained by time from being able to seek the permission of your boss for acceptance of a voluntary donation, permission that should rightfully be sought, but are quite certain the permission would be forthcoming were it sought, you may decide to tell the donor that permission has already been granted. The question arises whether you have treated your boss, by this bypass, solely as a means. It seems fair to contend that you have indeed treated him as an end by assuming, however tacitly, that had he been consulted he would have consented.

It would, however, make the case more controversial, in respect of how you have treated your boss, to later discover that, whilst your boss agrees with how he would have decided, he does not like having not been consulted in fact. This assumes that there is more to respecting another's decision than knowing how he would have decided. It implies that your boss, in this scenario, values his being gone through as such. Such reservation on your boss's part need not undermine in toto your claim to have regarded him as an end in himself, in part, but it is clear that were subsequent recognition also given by him that nor did he mind his consent having been assumed, that improves the credentials of your claim to have treated your boss also at the same time as an end in himself.

Your full respect for your boss depends not only on a precognition of how he would have decided, but knowing that he would not have minded your acting on his behalf on the basis of that precognition. Absence of prior explicit communication from your boss that you may act by proxy on his behalf in just such situations, highlights the relatedness of treating another as an end in himself not just to respect for his freedom, or free decision, however provisionally cottoned on to, but also mediation through him as a knowing subject as such.

Therefore, we should add to the explanatory potential of unrestricted freedom as a precondition of containment of oneself in the means towards the end of another, that of informed opinion as an explanatorily potent precondition. Both of these characteristics we have encountered independently, so their relatability to what it is to treat another as
an end in himself, something that is jeopardised in the lie, should not sound exceptional to us.

The foregoing considerations do not yet amount to a vindication of Kupfer's proposition that one of the contingent harms risked by the liar is disrespect towards those deceived. We have defended the claim that the liar disrespects the deceived through his restriction of the deceived's freedom and through his treating the deceived as less than a subject capable of fully knowing what he, the liar, knows. But these ascriptions pertain either to the deceived, that he has been disrespected; or to the act itself, that disrespect has occasioned. The disvalue of these states of affairs seems not to require validation by us through our, or the parties' to the disrespect, recognition of them. Their disvalue is as independent of our epistemic reckoning of them as is Nagel's regard to his abstract natural right independent of whatever consequentialist purchase he can give it; as is the denial of a crime against humanity a further wrong against those wronged independent of their knowledge of that denial.

Kupfer's contingency claim is, however, derivative from an understanding that lack of respect has occasioned. If, either through the perpetuation of disrespectful acts or the continuation, for fear of being caught otherwise, of a singular lie, the liar's character may be said to become conditional; that is the sense in which the liar risks becoming disrespectful.

Kupfer seeks to strengthen his case of singling out disrespectfulness as an acquired character fault, though it may be contingent, by showing how it gains prominence through the reliance of acts of lying on a normative feature of language. We have already described how lies breach normative expectations. Further consideration here of how the liar exploits not just communal expectations about what is communicated through an assertion, but how it is that language partly contributes to the expectations evoked by assertions, or simulated ones, should help us not only to understand Kupfer's emphasis on disrespect, but why it is that deceptions effected through language provoke prima facie more moral dissent than those effected without language. Let us evaluate the claim to specialness of language with reference, in the next chapter, to a paper by Christopher McMahon; and in this chapter, to the following claims of Kupfer:

[T]he lie addresses another as a language user and then abuses that capacity. Lying must immediately abuse a dimension of human beings that is decisive to their humanity (Kupfer, 114).

[L]ying not only attacks the deceived but does so with an instrument (language) that belongs to him; the indignity of being struck with one's own property! But this is also true of linguistic deception in general. In lying, however, the treachery is greater because the deceived is attacked directly and completely with the shared linguistic instrument. Lying offers a complete falsification; the deceived is required simply to accept it passively [my emphasis]. In both non-
linguistic and non-lying linguistic deception, the deceived must actively [my emphasis] make an inference from some outward behaviour. At least some deference is paid to the deceived's reason as he is given some 'reasoning room' in which to complete the attack on him; he must be somewhat of an accomplice to the deception process. In lying, however, we abuse language more flagrantly, using it to produce completely the opposite of what we believe true (Kupfer. 115).

Kupfer makes explicit appeal to how the norm exploited in, because typical of, lying involves greater disrespect of the deceived than other forms of deception, even non-lying linguistic ones. We shall revisit the issue of typicality in relative disvalue across different types of deceit on pages 123ff. Since we have already characterised a case of genocide denial as highly morally inflammatory, whilst allowing that it need not count as an act of interpersonal lying, but one of self-same lying, we may seek to maintain some of Kupfer's intuitions about generality only after revising his classification, and that of many others like him.

To lend support to the idea of relative disvalue without subscribing to Kupfer's classification wholesale, we need only consider how it is, for the most part, true of lying assertions enacted in one situation that they could be more morally suspect than non-lying linguistic or non-linguistic acts in that same situation.

Suppose that your wife does not want you to worry about her current monthly credit card statement that has just arrived by post whilst you are both planning, over breakfast, what she should get you for your birthday present that day. She might respond in one of three ways: (1) Non-linguistically, in anticipation of your concern, she fakes a smile of contentment whilst opening her statement in front of you. (2) Non-lying linguistically, she reads out only the portion of the statement which says, 'Available to spend'. Since this amount only represents that (positive) sum by which one's current expenditure is short of one's credit limit, it gives you the impression that she is not in debt. So (3) By lying, she says with a straight face that there is nothing to pay on her credit card that month when there is.

It is clear that in the adoption by your wife of either of these communicative responses to your question, What is the bill?, she may be said to have attempted to deceive you and actually succeed in that. But Kupfer's admission is that in saying, 'Nothing, Darling,' we abuse language more 'flagrantly' than in saying, 'Available to spend, £4,000, Darling,' and that we do not abuse language at all in our deceptive smile.

80 Alas, this expression is true to life as far as MBNA credit card statements are concerned. I once entered into a petty quarrel with a credit card telephone banker for only begrudgingly ceding to my request to have a credit limit that had been raised without my permission restored to its original level (in spite of an earlier guarantee that future raises would not be undertaken unilaterally). The banker sought to represent my request as a nonsensical 'taking away' of something of genuine cash value.
There are a variety of ways of modelling the deceptive dynamic of these respective situations. Kupfer uses the notions of instrumentality, ownership, and activity, sometimes in concert with one another. If language, in its very commonality, is something that is shared, then of its instrumentality, that instrumentality is owned by each of us and all of us. By using that shared tool against its normative direction — as that of expressing belief by the speaker in what he says, and that because he believes it true, whilst keeping the listener in ignorance of that non-normative use — the liar uses the deceived's instrument without his permission; in a sense he uses that instrument against its owner, the deceived. The sense of 'treachery' and 'attack' is to have something that one possesses, the linguistic instrument, *used* and potentially used also *against one's will*. (An additional breach of the deceived's will may be said to result not just from his being used as a means as such but also in his not sharing the end that has been presumed for him.)

A further model is provided by Kupfer's suggested dichotomy between passivity and activity. We first encountered the idea of activity when characterising simulation as a species of deception 'more active' than that of dissimulation. Simulation was shown to be typical of the kind of performance that enabled the liar to pull off his lying deceit. Further recognising, with Kupfer, the fact of this dichotomy between speaker and hearer allows us to postulate the following: The stronger the attribution of activity in the deceiver, the greater the likelihood of passivity in the deceived. Also, the weaker the attribution of activity in the deceiver, the greater the likelihood of activity in the deceived. Moreover, of a case in which the deceiver uses less active means to achieve a comparable deceptive outcome, it does accord with our expectations that the deceived should have been required to reason his way to his mistake. It is the necessity of the contribution made by the deceived to his own plight in which Kupfer recognises activity.

We should recognise, however, that although the deceiver who resorts to non-lying linguistic deception may not have to undertake linguistic means in active contravention of the normative upshot of language, he need not be found wholly innocent of the charge of actively exploiting some other resource language had to offer. Our attribution of activity on the part of deceiver, in his exploitation of language, could be extended to the context beyond the mere normative upshot of the literal meaning of his words.

If attribution of activity is found to be equally intuitive when made sensitive to the context of speech situations, perhaps singling out for analysis the normative upshot of the literal meaning of one's words is unduly restrictive. Exploitation of literal upshot by the deceiver (whether in conformity with those norms or against them) may be less relevant to the activity or passivity with which the deceiver may be said to have acted in accordance with (and the deceived may be said to have responded in tandem with) than Kupfer supposes. Informative attributions may have more to do either with the embodiment of the deceiver in what he says or with the cognitive inference the deceived
is left responsible for undertaking. We could say that the deceiver is equally implicated whether he lies through active projection of a simulated assertion or whether he deceives by getting the deceived to reason her way to the false belief. We shall return to this issue in the final chapter.

First we should enter into our account of genuine assertion through standing behind one's words and lying through making as if to stand behind one's words an answer to what it is that we take, by virtue of our moral framework, to make lying worse than non-lying deception.

The lesson of Chapter 9 on definitional neutrality is that the unjustifiability of a particular instance of lying could not be grounded solely on an a priori expectation that it counted as a case of lying. Nor was it possible to say in advance that lying assertion could be treated as certainly worse than a non-lying strategy that had the same end result on the deceiver; so long as one concedes, as we do, that lying is neither unjustifiable nor worse than other deceptive alternatives as a matter of necessity. We should aim, at best, to advance a theory sensitive to moral generality but not answerable to rules of thumb as though they were divinely ordained.

I do not accept — as have desert Fathers before us, prophets before them, and perhaps Kant in a moment of mischaracterization of the rigorism of his own position81 — that lying is wrong in the sense of unconditionally prohibited or not morally overridable. Divine revelation is too insecure a claim and linguistic usage too conditioned by communal convention for such acceptance to remain unquestioned today. Still, before leaving moral space for judgment of a more particularist sort, much may be said — and so have we endeavoured to — about the norms that are either exploited in assertion or breached in lying. We sought to model the stringency and contingency with which lies could be said to acquire their moral discredit on the normativity which linguistic practice could be said to bring to bear on speech situations.

Making logical space in our moral reasoning for the prospect of Standing behind one's words with regard to the permissibility or preferability of one form of deceit over another enables us to explain the gravity of a lie with reference to the liar's self. The liar may invest himself in the lie to a greater or lesser degree, or project falsity through himself. Furthermore, considerations of self afford us greater explanatory purchase in cases where appeal to absolute principles would deliver counterintuitive verdicts about the moral impermissibility, say, of lying over non-lying deceptions.

What preconditions Standing behind one's words as a morally-relevant evaluative instrument, and justifies our concern at its very transgression in the end of deception, is the notion of moral responsibility. In standing behind one's words one makes oneself answerable to norms predicated on the literal meaning of what one says; because those

81 See page 65, note 45.
words are shared in order to be understood. The more faithful the correspondence of one’s speech to linguistic norms, the better is one’s identity conditioned by that speech. Where specificity in speech is what is laudable in the communication of one’s plans to others who might be affected by them, those others may in turn seek to collaborate, coordinate, or plan in light of one.

Our grasp of the ways in which a deceiver participates in his linguistic community gives us a means of evaluating his moral standing and the legitimacy of the transgression of norms that we choose to remain answerable to.

The fact that language presupposes commonality — enabling us to give communicative import to plans reliant upon mutual co-operation — highlights, first, the importance of language in the development and flourishing of civic virtue; and second, the importance of ensuring its availability, through education, to all members of that linguistic community. A normal human being is well-equipped to acquire the communal instrument; to excel in it, to facilitate moral development, to influence his life or those around him by it, through access to education.

It is because of the inherent equality of normative speech situations that the deceived is entitled to complain of unfair treatment when the liar exploits him by those norms and deprives him of equal standing. The instrument used against the deceived is also something he, the deceived, owns. It is lack of equal treatment which informs Kupfer’s claim (cited on page 107) that we are ‘thereby encouraged by the lie to see ourselves as superior to others.’

* Summary 12

We examined statements of Turk officials’ denials further in order to determine how, if at all, they managed to do wrong in their very denial. With reference to remarks by TG, we identified the following evasions in her language: i) an avoidance of taking an explicit stance on the truth or falsity of the allegations; ii) tacit appeal to the incomprehensibility of the atrocity (as if the recognition sought could not be in spite of that very incomprehensibility); iii) appeal to unpleasantness of emotion generated by such consideration; and iv), perceived disutility and futility irrespective of validity.

We diagnosed the denial of genocide in both TG’s and YH’s remarks as *a reduction of historical truth to psychological and utilitarian disvalue*, expressible in the general form of the following:

A nation can only be hurt by being accused of something *even if it has done it*, and its children and grandchildren will be psychologically affected. There is no point in acknowledging something *even if it did happen*. (page 103)
We reviewed the thoughts and observations of Isenberg (in relation to bad) and Nagel (in relation to his abstract moral right not to be murdered) to develop our intuition that truth could be a value in itself, neither consequentially quantifiable nor statistically enumerable, to lend substance to the thought that to have the genocide denied, is to die twice.

Although Clinton did not lie (to others) by concealing from others what he knew to be true by evasive assertion, the deniers did lie (to themselves) by concealing from themselves what they should have known better than to think.

We compared Kupfer’s contention that the interpersonal liar risked personality disintegration to the disintegration that could be said to arise in an individual, such as the State Archivist, when he refused to take up a personal standpoint informed as much by his citizenship as by his official role. The diminution of personal responsibility that came from acting, and speaking, solely out of officialdom did imperil the official’s moral personality.

We investigated the claim enjoined by Kupfer’s final disvalue, the contingent harm of the liar’s disrespect for other people.

First, we developed the view that the successful lie was inherently disrespectful of the deceived, quite independent of extenuating circumstances or the character of the liar. Instead, disrespect occasioned as a result of the tendency for the deceived to be treated other than as an end in himself, solely as a means to the liar’s end, in violation of the Kantian imperative. Disrespect occasioned also through the deceived being deprived of full respect by not being kept fully informed.

Next, we explained how the liar could form bad character, either through serial enactment of lies (disrespectful in themselves) or through breaches of norms that presupposed equal treatment of participants in a linguistic community.
13. Plagiarism and Blind Trust

Christopher McMahon in 'Openness',\textsuperscript{82} attempts to account for the intuition that lying is worse than other forms of intentional deception by invoking a principle of fairness:

Perhaps the most plausible way of accounting for it [the intuition that lying is worse] is to regard language as an institution based on a convention of truth telling. This makes it possible to represent liars as free riders on a cooperative venture the benefits of which they have voluntarily accepted. And it follows that lying has an extra dimension of impermissibility, compared to other forms of positive deception simpliciter, deriving from the fact that it involves a violation of the principle of fairness. (44, my italics)

Recall that positive deception simpliciter considered here as an end state of affairs in the deceived may have been intentionally brought about by the deceiver in a variety of ways. The wife who remains speechless but smiling as she opens her statement may be said to have allowed you to acquire the false belief, in light of your taking her reaction in the context of your question as a response to it, by omission. McMahon allows of such cases only that, 'To deceive someone by manipulating natural evidence is not to be a free rider on a cooperative venture. The system of natural evidence is not an institution.'

McMahon's general observation is a good one. What one signals by reacting only facially to a letter does not tell you what is in the letter as reliably as what would be signalled by one's saying out loud what is in that letter. The signal in the latter case would be socially determinate enough to count as an utterance capable of truth. However, we should not wish to conclude that smiles and such like are incapable of reliable social interpretation at all. They may not be as reliable in terms of their message-retrievability, they may admit of greater ambiguity or possible misreading; but given suitable context, their meaning may still be evident. As Morano keenly observes of a silence which is acquiescent in nature, 'instead of being non-committal, [it] is necessarily a truth or a lie in terms of what it signifies. And so, we have the aphorism: "Silence speaks louder than words" ' (247).\textsuperscript{83}

Given that positive deception simpliciter may occur either through commission (in the lie) or through omission (through facial recognition), how, when faced with the exception rather than the rule, are moral attributes meant to accrue to those deceptive acts? McMahon's point about institutional free riding seems to hold in either case. What determines our preparedness to attribute responsibility to the deceiver, whatever the context, is the determinability of message-retrieval in that context. Sure enough, spoken


\textsuperscript{83} Even the ascription of 'speechlessness' can imply linguistic interpretation is possible.
language and verbal means establish the requisite degree of determinability because, for the most part, they are more reliably used for communicating than nonverbal language (such as body language).

What the liar voluntarily accepts is not information that he involuntarily comes by (e.g. in earshot of) that he finds useful to act upon, but, more exploitatively, using that language to misinform another when he knows what linguistic conventions in play will be good for expression by that utterance. Other things being equal, what is unfair is the invoking of an institutional subroutine, a linguistic one at that, for an end other than the one that institution was naturally set up for. The analogy with free riding is good for drawing attention to the fact that the truth-telling linguistic conventions upon which that institution depend may still be sustainable provided that, as with free-riding in general, exploiters do not rise above a certain critical mass. It is as much a form of cheating as would be helping oneself to a conference tea that one had not properly registered for. The free tea, even allowing for contingencies that conference organisers budget for, is served at the expense and subsidy of all the other delegates, duly registered.

Although the deceiver takes greater responsibility for his deceit, if (other things being equal) he chooses the means more reliable to that end, he need not, for all that, be regarded as any more or less responsible for the deceit. Our disdain for the deceiver who appears to seek less reliable means only in order to avoid taking greater responsibility for the deceit is surely informed by our distaste for diminished responsibility.

Diminished responsibility is most prevalent in social institutions themselves (here, not abstract linguistic instruments but concrete ones), where the speaker is at ease to flee from ownership of his words by assuming either joint or institutional authorship.

A recent case of plagiarism by the UK Government aptly reveals the ease with which deception without lying can be perpetrated within an institutional context. On 6 February 2003, Glen Rangwala, a politics lecturer at Cambridge University, realised, whilst reading a Government dossier entitled, ‘Iraq – Its Infrastructure of Concealment, Deception and Intimidation’, that he had read some of it before and elsewhere. Rangwala, and (in hot pursuit) the British media, subsequently examined a paper by an Iraqi-American academic, Ibrahim al-Marashi, entitled ‘Iraq’s Security and Intelligence Network: A Guide and Analysis’, published in the Middle East Review of International Affairs in September 2002. Comparison with it revealed that several paragraphs from Marashi’s paper had been lifted with only minor editing or insertions. Given the political importance of the dossier in presenting the UK’s case for going to war with Iraq to the public – and not just within the UK, given US Secretary of State Colin Powell’s own earlier reference to it at a UN Security Council meeting on 5 February – the
UK’s failure to acknowledge Marashi could only damage the authority of the report, those named as associated with it, and the integrity of the cause it was taken to promote. The extent of deception evident in the dossier is twofold. First, instead of acknowledging Marashi, the dossier’s title page confers authorship thus:

This report draws upon a number of sources, including intelligence material, and shows . . .

The most sensible interpretation of this conferment, given that the sources, including the intelligence material, go no further named, is that both the ‘sources’ and the ‘intelligence material’ are ‘classified’. Grant the intense secrecy of the so-called ‘intelligence community’ (or ‘secret services’) and their general unpreparedness to disclose their sources (often citing agent protection and consequentialist considerations as reasons for nondisclosure). Given that ‘intelligence material’ is mentioned in the same breath as other ‘sources’, and that the entire dossier appears on an official governmental website, the inference that these sources are of the same calibre as whatsoever credence could accrue to the intelligence community seems unassailably both implied and intended.

Thus far, we are presented with a definite, illicit attempt to confer authorial authority upon the dossier. Marashi confirmed that his permission had not been sought.

Second, the places in which the original author has been plagiarised, but with modification, does not ring well for the authenticity of the dossier. Comparison with the original shows the modifications up for what they are, cynical attempts to doctor the original to make, in the words of one reporter, for ‘more sinister reading’ (Rush).

Rush points out the following changes:

<table>
<thead>
<tr>
<th>Marashi Original</th>
<th>Downing Street (my ital.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘monitoring foreign embassies in Iraq’</td>
<td>‘spying on foreign embassies in Iraq’</td>
</tr>
<tr>
<td>‘aiding opposition groups in hostile regimes’</td>
<td>‘supporting terrorist organisations in hostile regimes’</td>
</tr>
</tbody>
</table>

The reason why we regard these modifications as suspect is that the sentences that they give rise to were not written by the same, let alone original, hand. It is difficult for us to

84 meria.idc.ac.il, MERIA, Vol. 6, No. 3 (Sept 2002), 1-13.
number-10.gov.uk, 'Iraq – Its Infrastructure of Concealment, Deception and Intimidation'
channel4.com/news, Julian Rush, 6 Feb 2003, 'Downing St Dossier Plagiarised'.
Michael White and Brian Whittaker, 7 Feb 2003, 'UK War Dossier a Sham, say Experts', guardian.co.uk
Michael White, Ewen MacAskill, and Richard Norton-Taylor, 8 Feb 2003, 'Downing St Admits Blunder on Iraq Dossier', guardian.co.uk
get a sense, given this revelation, of somebody writing the resultant sentence because he believed in its truth.

Not only is our confidence in the integrity of the dossier subsequently diminished because of this cobbled together of expressions, but we are given better reason to suppose that the words are being deployed solely as means to get us to believe something independent of justifiability of that belief through the authority or authorship of a reliable informant.

The detachment of speech or belief from reasons for that speech or belief other than because one thinks it is right, either through empirical verification or intersubjective evaluative scrutiny, was unconsciously adverted to by the British Prime Minister himself. Speaking to a TV audience generally sceptical of the reasons for war, he made the following assertions:

[E]ven if I'm the only person left saying it, I'm going to say it.
I may be wrong in believing it, but I do believe it.85

This sounds not so much an admission of cognitive fallibility as an undertaking to say or believe despite countervailing reasons or evidence to the contrary. Blair seemed to suppose the impulse to believe could be just as subjective a matter in the case of others when he also said, 'I simply tell you, you can believe or don't believe it.'

The Prime Minister’s Official Spokesman (PMOS),86 in responding to accusations of plagiarism at a Government press briefing on 7 February 2003 both sought to excuse himself and, like Blair, demonstrated, by his speech, an uncanny tendency to think that his believing thus-and-so should make it so, independent of his interlocutors’ abilities to come to their own critically informed opinions. Regarding, first, the excuse; when asked why he had not acknowledged Marashi’s work, the PMOS replied that:

[I]t was important to recognise that our overall objective had been to give as full a picture as we could, not only of the Iraqi regime, but also of its deliberate policy of deception – without in any way compromising the intelligence sources on which the information was based. It was perhaps that which lay at the root of our failure to acknowledge a piece of work which, in retrospect, we should have done. (PMOS, Press Briefing)

85 news.bbc.co.uk, 8 Feb 2003.
86 It is difficult to establish to whom the Title refers on each and every occasion of its use. Alastair Campbell? The point is pertinent to Standing behind one’s words’ presupposition that an assertion have the personification of an individual behind it. O’Neill 2002 implicitly concedes the same: ‘We can only judge whether there is deception, hence reason not to place trust, when we can tell whether we have been fed deliberate falsehoods. But how can we do this when we cannot even tell who has asserted, compiled or endorsed the supposed information?’ (73-74, italics original).
First, we should note that the use, by Campbell, of the term ‘deliberate policy of deception’ is highly uncharitable on a number of grounds. It assumes that Iraq, in its policy, is on the offensive. It also assumes that concealment, namely, hiding of weapons should equate with deception; whereas, more charitably, hiding might simply be an attempt to stop your opponent from getting hold of something you do not want him to get hold of. Hiding need not presuppose that the other expects you to hand over all your weapons; whereas the intent to deceive that you have no weapons, if realistic, probably does.

Campbell’s excuse presupposes that the failure to acknowledge Marashi needed justification. Whether or not the excuse also justifies the omission depends upon how knowingly the excuse was undertaken. But it seems that Campbell’s excuse, whether genuine or not, does not presuppose intentional plagiarism; or that the plagiarism was justified, as we should expect of any typical attempt at excuse. Indeed, he gives the concern to safeguard intelligence sources as the likely reason for, unintentionally, overlooking the academic acknowledgment. It is as though this concern, presented also as the overriding one, could have been quite capable of clouding the authors to the dossier’s obligation to cite the academic. The fact that it could have been a greater wrong to reveal the secret agents than to omit the academic is only a circumstance of the excuse, not a reason why we should also find that condition justifiable.

Of course, we may find the excuse unconvincing, a reason not to excuse the PMOS, and further evidence only of intentional plagiarism. Perhaps we believe plagiarism is not the kind of intellectual theft that can sensibly be excused. A more acceptable reply would have been an admission of guilt and unconditional apology along the lines of, ‘Sorry, it should not have happened; it was inexcusable, let alone justified.’

The inexcusability of the plagiarist undermines his very credibility and our capacity to confer authority on future judgments of his that rely heavily on unconditional trust in his veracity. For how could intelligence information that ordinarily foreclosed the possibility of cross-examination of its sources, especially once that source had been identified as other than it was presented as, demand anything but conditional trust from us? Even if we were not inclined to maintain a more critical attitude to what we were told without revelation of sources before, we should surely want to adopt a more conditional trust in that source once it had been shown to be suspect.

Campbell only damages his own credibility further by supposing that he can make something so by making further appeals to his interlocutors’ blind trust in him; whereas he should have been willing to build trust that had become conditional on being earned. This, second credibility gap comes across in the following statements:

Was there any doubt that there was a policy of deception in Iraq? No.
Was there any doubt that the purpose of the structure of the Iraqi Government was to deceive the international community about Saddam's intentions? No.

Campbell's own rhetorical rejoinders beg the question why the UK should then have found it fit to prepare and publish the dossier, were it already so indubitably evident. Campbell's statements compare as unfavourably as those of the genocide deniers. That there is doubt about the very things that Campbell says have not been doubted, is as plain as that there are doubters. By denying these doubts, he deprives the doubters of the legitimacy of their beliefs. He should know better. Perhaps he is lying to himself negative deception *secundum quid* amongst others who choose not to question him; hence in the sense already developed in relation to YH, by omission. PMOS continued:

Those who tried to suggest otherwise [about the indubitability of his accusations] should realise that they were deluding themselves - and recognise that this delusion was more about dogma than reality. (PMOS)

The denial is here so pervasive and pernicious that it even expresses itself as an outward projection of the very cognitive accusation that could be made, truly, of the speaker (sorry, Prime Minister's Official Spokesman).

In diagnosing the denial we should also seek to explain how such contempt could have come about. I contend that the very critical suspension which our intelligence services require of us to function presupposes a nested, two-tiered institutional complex, in which the institution of language is subordinated to the institution of 'intelligence'. Can it be denied, as we might ask in the manner of the PMOS, that the 'intelligence community' is not often cited as a guarantor of reliable, however sensitive, information? No, it cannot; although it may not be reliable for all that, given that the very cognitive freedoms upon which any such knowledge relies for its resilience has been deprived us. 'Intelligence' or 'intel' on this reading primarily connotes not a faculty of the human mind as such, but a shorthand for 'whatever issues forth from the intelligence services or community on a particular occasion'. Recall our earlier reference to McMahon's reading of language as 'an institution based on a convention of truth telling' (page 116). The nested equivalent, here, goes:

Intel is an institution based on a convention of language as an institution based on a convention of blind trust.

Once language as an institution of truth-telling has been subordinated to that of intel as an institution of blind trust, language as an institution faces subversion. The greater the institutionalisation of intel, the more real the threat to truth-telling. The subversion is
completed when intelligence is said to refer back to further intelligence for its own validation: ‘The intelligence is backed up by our own intelligence’ (The PM, 6 Feb 2003).

How is the original act of plagiarism, not its subsequent denial, to be classified? Several MPs complained at the time that the Government had attempted to mislead Parliament and the public. Glenda Jackson, for example, added, ‘And of course to mislead is a parliamentary euphemism for lying.’

Jackson implies a number of things by her remark. Firstly, that to have “misled” in this instance, construed euphemistically, is to have done something worse, to have lied. Secondly, out of tactfulness, we may suppose, MPs do not readily accuse one another, or members of their community, of lying. Given the possibility of misinterpretation of another’s motives, such a policy of tactfulness may not be inadvisable or uncommon outside parliament; and given the offence and harm that could be caused by wrongful accusation. It need not concern us whether Jackson is right about whether a euphemism was used on this occasion. We simply need to concede something implied by consideration of that question: that lying, ordinarily, is worse than merely to have misled, or at least left less open to interpretation than is misleading another. Had it not been worse there would have been no reason in Jackson’s mind for lowering the risk of harm through false accusation by deploying a euphemism.

Comparison of what it is to mislead with what it is to misinform should help us to appreciate how Jackson is justified in seeking to attribute the condemnatory force which we normally associate with ascription of having lied to this particular case of misleading (although she is mistaken in implying that the authors of the dossiers did in fact lie, they did not).

The mere ascription of ‘misleading’ to another’s remark remains silent or ambiguous on whether or not the speaker intends to mislead. To describe a remark as misleading is to impute to it that, in all probability, somebody could easily be drawn to a false conclusion by it. In a paragraph by Kupfer encountered by us earlier, the contribution of the hearer was characterised as:

At least some deference is paid to the deceived’s reason as he is given some ‘reasoning room’ in which to complete the attack on him[self]. (page 110)

Kupfer uses this difference in hearer contribution to explain how non-lying linguistic deception is typically not as bad as lying linguistic deception. It is alleged that lying is

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87 On Radio 4’s Today Programme, 7 Feb 2003.
88 I suspect that such euphemistic usage is not especially prevalent within Parliament rather than outside it. Williams 2002 assumes the same when he comments, parenthetically, that, ‘There is indeed an offence of “misleading the House” which falls short of straight lying, but the general idea is on the lines of the traditional distinction’ (109).
more 'active' because less dependent on hearer contribution. We must then suppose that
greater moral responsibility for the lying deceit attaches to the deceiver than if he uses
non-lying deception as a means, but with no less intention.

Kupfer's analysis, though useful, can be contested, and, in the process, needs to be
gotten beyond. We can find support for our contestation in an important observation by
Jonathan Adler, writing of 'Lying, Deceiving, or Falsely Implicating', in the Journal of
Philosophy in 1997:\[89:\]

That a lie is easier to ascribe than an implicated deception may give rise to a worthwhile belief
in a moral distinction between them. Nevertheless, it does not establish that there is a moral
distinction. We do not want to confuse the difficulty of establishing responsibility with not
actually being responsible. We do not want to confuse the difficulty of showing that Abraham
[in Genesis 20] intended Abimelech to believe that Sarah and he were not married with his not
having that intention. (446)

If it is precisely because of the difficulty of demonstrating his deceptive intent that
Abraham, or the typical non-lying linguistic deceiver, chooses to deceive without
resorting to lying, then Adler's contesting of the standard attribution of greater moral
responsibility for lying seems to be a good one. For why should one be found morally
responsible simply for attempting to evade moral responsibility but intending to deceive
no less?

The difficulty of establishing morally relevant difference appears even more acute
when the non-lying deceptive means is arguably just as likely to have succeeded as the lie
would have and the effort required in manipulating the deceived is just as great, if not
more so, than straightforward lying would have been. The fact that it may be required of
the deceived that he draw an inference when on the receiving end of non-lying deceit that
he need not draw when on the receiving end of a lie, though it might imply greater causal
contribution on the part of the deceived, does not establish any lesser causal contribution
from the deceiver. The difficulty is one of establishing how much moral responsibility
should be attributed to an act which is not wholly directly causally responsible. But
diminished causal responsibility, need not confer diminished moral responsibility. There
is no reason to suppose that if the causal agency for the deception has been added to, or
even just distributed across two instead of one, that should somehow diminish the
responsibility of the deceiver.\[90:\]

\[89:\] Jonathan Adler 1997, 'Lying, Deceiving, or Falsely Implicating', The Journal of Philosophy (94),
435-452.

\[90:\] The same point is made by Garcia 1998: [L]essened causal responsibility does not always mean
lessened moral responsibility. After all, it does not mitigate my offence if I get some accomplices
to help me beat my enemy to death. Each of us would be as blameworthy as I would be alone if I
had acted solo.... [M]oral responsibility is not a zero-sum game' (520).
It is clear that the dossier plagiarists, as of plagiarists in general, are deceivers without diminished responsibility.\footnote{I use this locution in its descriptive sense, irrespective of whether responsibility is assumed.} Even though, perhaps especially because, they seek to diminish their responsibility, do they fail in lessening our moral disregard for them.

The PMOS and the plagiarists not only misled us, they did so intentionally or deliberately. To have misled leaves intent ambiguous or unaddressed in a way that ascriptions of misinformation leave less ambiguous. Misinformation seems to capture the sense in which the deception was a non-lying intentional one.

We also have a good explanation for why the attempt of the plagiarist to evade responsibility by avoiding lying does not succeed. Recall how, through speaking out of and in deference to institutional authority, a speaker could subvert language as an institution of truth-telling to the institutionalisation of language as an institution of blind trust. By acting out of the apparatus of officialdom, the deceiver raises the expectation that whatever may be inferred from his speech is responsibly so inferred since less subject to the defeasibility considerations that govern a hearer's cognitive uptake in less official settings.

Plagiarism is a species of intentional positive deception \textit{simpliciter} without lying. Nor are the contexts in which plagiarism may be said to make an appearance such that deception in the reader may sensibly be said to have been effected by omission. Yet this is precisely what the PMOS presupposes by his admission, 'perhaps that which lay at the root of our failure to acknowledge [Marashi].'

The nature of the authorship, including its anonymity, was made explicit at the start of the document, and authorial conventions do not dictate that what follows is not by those anonymous authors unless stated. Yet the PMOS presupposes just such a convention in supposing that his act of omission was not an act of commission. Whilst we conceded that positive deception \textit{simpliciter} could be less serious when perpetrated through omission rather than commission, plagiarism is not such an omission. The omission of the original source is all part of the performance of intellectually defrauding another author by copying him without his permission.

\textbf{Summary 13}

We assessed McMahon's conception that lying is worse than other forms of deception because it violated a principle of fairness implicit in the idea of language as an institution based on a convention of truth-telling. Although we found the analogy with free-riding sustainable, and its enactment morally suspect, we sought to test the further assumption that only in virtue of breaching the institution of language could lies be said to be morally worse, in general, than non-lying linguistic deception or other deceptive sorts.
By evading the premise of institutional misdemeanour to that of concrete ones, not just abstract representational ones, we were able to explain how non-lying linguistic deception need not be found morally any more preferable than lying deception both because the attempt of the deceiver to diminish his personal causal responsibility for the deception need not limit his personal moral responsibility for it (in fact), and because the institution out of which he acted impersonally could prescribe a normative expectation in the deceived just as reliably as if he had acted through lying.

By reference to the introduction to an intelligence dossier issued by the UK Government we were able to determine an attempt to confer authorial authority upon the entire text. Comparison with an academic paper said to have been plagiarised by that dossier confirmed that the aforementioned authority had been illicitly conferred and that modifications of the plagiarised source were themselves authorially disingenuous.

With regard to the response of the PMOS to the charge of plagiarism, after identifying his rejoinder as an excuse, not an attempt at justification, we still found that excuse unconvincing. Plagiarism could not sensibly be said to have been undertaken nondeliberately or accidentally. The PMOS was found to discredit himself by resorting to denial in the manner of lying to himself by negative deception secundum quid by omission. We described the aetiology of the PMOS's dogmatism in the following terms:

Intel is an institution based on a convention of language as an institution based on a convention of blind trust. (page 121)

We explained how the truth-telling ordinance of the preliminary linguistic institution had been subverted to the ordinance of the higher order one.

We diagnosed the imputation by an MP of lying to the act of plagiarism, though morally understandable, not strictly so classifiable. We built upon Adler's contention that from mere difficulty of determining deceptive intent lessened moral responsibility need not result. We understood how the mistake of conflating a lie with a non-lying morally deceptive intent could have arisen. We identified plagiarism as a species of intentional positive deception simpliciter by commission, without lying, despite the PMOS's attempt to apportion less culpability to himself by implying only an act of omission, by his excuse.92

92 Politically-motivated institutionalised misdemeanour is nothing new. Morano 1975 quotes a revealing passage from Time magazine (April 30, 1973): 'This is seen most dramatically in the recent Watergate affair, where, as Time magazine writes: "The Nixon Administration has developed a new language - a kind of Nix-speak. Government officials are entitled to make flat statements one day, and the next day reverse field with the simple phrase, 'I misspoke myself'. White House Press Secretary Ronald Ziegler enlarged the vocabulary last week, declaring that all of Nixon's previous statements on Watergate were 'inoperative'. Not incorrect. not misinformed, not untrue – simply inoperative, like batteries gone dead."' (Morano, 249)
It is ironic that in a dossier that purported to tell us about Iraq's Infrastructure of Concealment, Deception and Intimidation, we should instead have witnessed Number 10's intel of Plagiarism, Blind Trust and Positive Deception *Simpliciter* by Commission.
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Scenes like this were common all over the Armenian provinces, in the spring and summer months of 1915. Death in its several forms – massacre, starvation, exhaustion – destroyed the larger part of the refugees. The Turkish policy was that of extermination under the guise of deportation. Morgenthau, H. (1918), Chapter XXV.