

## Introduction

The fifteen essays collected in this volume include three (essays 3, 4, and 8) that have not previously been published, two (2, 6) that are forthcoming, six (5, 7, 11, 13, 14, 15) that were published between 2011 and 2014, and four (1, 9, 10, 12) that were published between 2007 and 2010. The essays are divided thematically into three sections. The first, which contains the essay from which the title of the volume is taken, consists of seven broad overviews of important movements, advances, and pivotal individual figures in the analytic tradition. The second section continues with three essays on historical issues and controversies in analytic philosophy. The final section is devoted to current questions, including one chapter on different kinds of Millian responses to Frege's puzzle, one on the proper understanding of natural kinds and natural kind terms within a broadly Kripkean account of the necessary a posteriori, and three new essays bringing philosophy of language to bear on the philosophy of law.

### PART ONE: MILESTONES

Essay 1, *Analytic Philosophy in America*, traces the development of analytic philosophy in the United States, starting with the pragmatism of Charles Sanders Peirce, William James, and (later) Clarence Irving Lewis, and continuing through the great immigration of philosophers of science, philosophical logicians, and logical positivists from the turn of the twentieth century to the outbreak of World War II. With the absorption of this stream of philosophical talent, centers of philosophical logic and analytic philosophy grew at the City College of New York, the University of Chicago, Berkeley, UCLA, and elsewhere. By the early 1950s, the first great analytic department in America had emerged at Harvard under the leadership of Willard Van Orman Quine, and by the mid-1960s the analytic tradition had become the dominant philosophical force in America. Other significant developments chronicled in the essay include the troubled history of philosophy at Yale; the inspiring success of the program at Wayne State; the rise of powerful departments at Michigan, Pittsburgh, and MIT; and the emergence of the

great Princeton department led by Carl Hempel, Gregory Vlastos, Saul Kripke, and David Lewis.

In addition to covering these institutional matters, the essay provides broad-brush overviews of some of the most important philosophical debates that occupied American analytic philosophers during the last half of the twentieth century—the Quine/Carnap debate about meaning and analyticity, the struggle over modality, the rise of philosophical logic and its application to the study of natural language, the Davidsonian program, Saul Kripke and the end of the linguistic turn, John Rawls and the resuscitation of normative theory, and a smattering of other, more specialized topics.

Essay 2 discusses the methodology that guided logico-linguistic analysis from Gottlob Frege's 1879 *Begriffsschrift* to Rudolf Carnap's 1934 *The Logical Syntax of Language*. In the first four decades of this period, culminating with Bertrand Russell's 1918–19 lectures on *The Philosophy of Logical Atomism*, analysis was viewed as an increasingly powerful tool employed in the service of solving traditional philosophical problems. The logicist reduction of arithmetic to what was taken to be logic was the driving force, providing the exemplar of philosophical analysis and the model for extending it beyond the philosophy of mathematics. The methodology is indicated by the role played by A2 in answering Frege's guiding philosophical questions Q1 and Q2:

- Q1. What are natural numbers?
- Q2. What is the source of arithmetical (and other mathematical) knowledge?
- A1. Zero is the set of concepts true of nothing, 1 is the set of concepts true of something and only that thing, 2 is the set of concepts true of some distinct  $x$  and  $y$ , and only those things, and so on.
- A2. Numbers are whatever they have to be in order to explain and justify our pretheoretic arithmetical knowledge.

Despite the brilliance of Frege's logicist achievement, it couldn't withstand the shock of Russell's paradox. Although by 1910 Russell was able to revive a version of the reduction, the technical picture—which had become more complicated—would support neither the reduction's initial ambitious epistemic goals nor Russell's then-current metaphysical aims, which were marred by his infamous “no-class” fantasy. Despite these shortcomings, Russell continued to view logical and linguistic analysis as the key to philosophical progress and attempted, in *Our Knowledge of the External World* (1914) and *The Philosophy of Logical Atomism* (1918–19), to explain empirical knowledge by “analyzing” the

constituents of the world into momentary sense data, of which everything else, including their perceivers, was a “logical construction.” The result was “analysis” in the service of vast, epistemically driven, metaphysical system building.

Although Ludwig Wittgenstein’s *Tractatus* (1922) is also presented as a form of logical atomism, complete with metaphysical simples designated by logically proper names of an imagined logically perfect language, his “analysis” is not epistemic. Whereas Russell’s aim was to find a metaphysical foundation for explaining ordinary and scientific knowledge (which he assumed must conform to his largely empiricist conception), Wittgenstein’s aim was to articulate a parallel between language and reality that would fit his conception of the collapse of metaphysical and epistemic modalities into logical modalities. The key ideas were as follows:

- (i) All necessity is linguistic necessity, in that it is the result of our system of representing the world, rather than the world itself. There are sentences that are necessarily true, but there are no necessary facts corresponding to them. These sentences tell us nothing about the world; their necessity is due to the meanings of words (and therefore is knowable a priori).
- (ii) All linguistic necessity is logical necessity.
- (iii) Logical necessity is determinable by form alone.

With these doctrines in place, it was a short step to the tractarian test for intelligibility. According to the *Tractatus*, every meaningful statement *S* falls into one of two categories: either (i) *S* is contingent (true in some possible worlds and false in others), in which case *S* is both a truth function of atomic sentences and something that can be known to be true or false only by empirical investigation, or (ii) *S* is a tautology or contradiction that can be known to be such by formal calculations. Since these doctrines leave no room for meaningful philosophical claims, the young Wittgenstein saw his achievement as effectively ending philosophy.

Of course it didn’t, though it did play a large role in influencing the next stage(s) of analytic philosophy. Essay 2 closes with a brief discussion of Carnap’s blending of the empiricism of Russell with Wittgenstein’s linguistic turn in philosophy, leading to Carnap’s 1934 manifesto: “Philosophy is to be replaced by the logic of science—that is to say by the logical analysis of concepts and sentences of the sciences.”<sup>1</sup>

<sup>1</sup> Page 292 of *The Logical Syntax of Language* (London: Kegan Paul), which is an English translation of Carnap (1934).

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Essay 3 is a case study of the process by which the attempt to solve philosophical problems sometimes leads (often in unanticipated ways) to the birth of new domains of scientific inquiry. My discussion traces how advances in logic and the philosophy of mathematics, starting with Frege and Russell, provided the foundations for what became a rigorous and scientific study of language, meaning, and information. After sketching the early stages of the story, I explain the importance of modal logic and “possible worlds semantics” in providing the foundation for the last half century of work in linguistic semantics and the philosophy of language. In the second half of the essay, I argue that this foundation is insufficient to support the most urgently needed further advances. The central problem is that the entities used in contemporary theories to play the role of information associated with sentences are not genuinely representational, and so they cannot explain how sentences “expressing them” manage to represent anything as being one way or another. Since these entities are also too coarse-grained even to serve as models of the needed information, a more realistic conception is required. To this end, I propose a new conception of truth-evaluable information as inherently representational cognitive acts of certain kinds. The essay closes by explaining how this conception of propositions can be used to illuminate the notion of truth; vindicate the connection between truth and meaning; and fulfill a central, but so far unkept, promise of possible worlds semantics.

Essay 4 picks up where Essay 3 leaves off, chronicling the troubled history of propositions in the thought of Russell, Wittgenstein, Peter Strawson, and John Langshaw “J. L.” Austin. After noting the central role of propositions and propositional functions in Russell’s philosophical logic, I explain how and why his early Platonistic conception of propositions was defeated by the so-called problem of “the unity of the proposition.” I then show how, by reversing one of his key explanatory priorities, the cognitive conception of propositions sketched in Essay 3 can be used to solve the unity problem and to reinstate a conception of propositions capable of playing the role required of them in his philosophical logic. The tragedy for Russell is that although he correctly realized that his prior conception of propositions would never do—and advanced an alternative view incorporating the insight that the mind, rather than a realm of Platonic entities is the true source of intentionality—he wasn’t able to put his insight into a workable form. Instead of constructing a true cognitive theory of propositions, he tried to eliminate propositions entirely using his notorious “multiple relation theory of judgment.” After explaining how this theory arose, and pinpointing its fatal defects, I argue that it contained a kernel of truth from

which a proper cognitive theory of propositions can be constructed—which Russell unfortunately missed. I then point out the consequences of this failure for *Principia Mathematica* (1910) and for one of the central arguments for his theory of descriptions in “On Denoting” (1905).

Next, the discussion moves to Wittgenstein’s *Tractatus* (1922), in which propositions are thought of as interpreted sentences in an ideal language underlying natural languages like English. I argue that this view has two main virtues. First, it takes the intentionality of “propositions” to be derived from the cognitive activity of agents who use its names to designate certain stipulated objects while using the structural relation uniting the names in the mental sentence to predicate a stipulated relation of those objects. This analysis explains how “elementary propositions” represent, and so have, truth conditions. Second, since these “propositions” are themselves interpreted sentences, understanding such a sentence does not involve knowing, of any Platonic entity, that the sentence expresses it. This was an advance.

Nevertheless, I argue that the tractarian theory of propositions suffers from three difficulties common to today’s “language of thought” theories of cognition: (i) the arithmetic of genuine propositions differs from that of sentences in a mental language, (ii) there is no reason for thinking that all possible believers of a given proposition share a single system of mental representation, and (iii), most fundamentally, the explanation of an agent’s mastery of any system of representation tacitly presupposes the antecedent existence of genuine cognitive propositions. The key point to grasp is that cognitive acts and operations—and dispositional mental states defined in terms of them—can be inherently and systematically representational without, in all cases, involving a symbolic representational medium. For want of a cognitive theory of propositions incorporating this insight, many philosophers have been pushed into prematurely postulating a linguistic basis of all propositional attitudes. Though the *Tractatus* did not offer a full-blown system of this sort, it was a precursor of such theories that were to appear a half century later.

Essay 4 concludes with a discussion of the rejection of propositions by ordinary-language philosophers, who repudiated the idea that understanding expressions is, at bottom, knowing certain semantic facts about them—e.g., that name *n* refers to object *o*, that predicate *F* stands for property *P*, and that sentence *S* expresses proposition *p*. Instead, they argued, understanding a word, phrase, or sentence consists in *knowing how to use it*. Insofar as this abandonment repudiated traditional Platonic conceptions of propositions, it was a positive step. What these philosophers had no way of seeing was that the then-unknown

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cognitive theory of propositions could accommodate their idea that understanding a sentence is knowing how to use it—the accommodation being that to understand S is to be disposed to use it to perform the cognitive act that *is* the proposition S expresses. Unfortunately, their failure to see this was accompanied by a failure to appreciate that some conception of propositions is needed to accomplish theoretical goals to which they were committed. In the essay, I illustrate this by showing how the theory of presupposition growing out of Strawson’s fertile insights in “On Referring” (1950) and *Introduction to Logical Theory* (1952) was crippled, and thus blocked from reaching its full potential, for lack of an adequate conception of propositions. I close by further indicating how both sides of the Austin/Strawson truth debate failed for want of proper bearers of truth.

Essay 5 discusses the achievements of W.V.O. Quine and his place in analytic philosophy. The essay begins with Carnap’s logical empiricism, which set the context for Quine’s first major article in philosophy, “Truth by Convention” (1935). After devoting a section to Quine’s penetrating critique of the linguistic theory of the a priori, I turn to his long battle against quantified modal logic. At this stage he was willing (for the sake of argument) to accept the notion of necessity as *analyticity* (defined as a sentence that either is a logical truth or can be turned into one by substituting synonyms for synonyms). What he was not willing to accept was the idea that sense can be made of attaching an analyticity operator to an open formula (relative to an assignment of objects to variables). Since analyticity, which was the ruling conception of necessity by those then developing quantified modal logic, is a linguistic notion defined only for closed sentences, this was a genuine problem that Quine was correct in raising. From here, he developed two lines of attack. The first was that, the interpretation of necessity aside, quantified modal logic violates certain fundamental logical and semantic principles. In this he was wrong. The second was that if necessity is analyticity, then there are insuperable problems preventing the development of a theoretically interesting system of quantified modal logic. In this Quine was largely right, even though he failed, along with others, to foresee that an acceptable metaphysical interpretation of necessity would not be long in coming (in Kripke’s *Naming and Necessity*).

The discussion in Essay 5 next turns to “Two Dogmas of Empiricism” (1951). I explain both Quine’s largely effective critique of analyticity, as it was then understood, and the problems that plagued his combination of holistic verificationism with an underdetermination thesis that paired each consistent empirical theory T with alternative theories

logically incompatible with, but empirically equivalent to, T. Then, I take up the connection between his logical, semantic, and ontological views in “On What There Is” (1948), explaining how that article initiated his famous dispute with Carnap over analyticity and ontology. A discussion follows of the impetus for Quine’s movement from his critique of analyticity to his later doctrines of the Indeterminacy of Translation and the Inscrutability of Reference. The essay closes with an explication of these radical doctrines, the role played by Quine’s physicalism, and his ineluctable march to what I argue to be a radical and self-undermining semantic eliminativism.

Essay 6 is devoted to one of the most fascinating figures of the twentieth century, David Lewis. The key to understanding this author of so many works in so many areas of philosophy is, I think, to see how his views are related to those of his colleague Kripke as well as to those of his teacher Quine. Like Kripke, but unlike Quine, Lewis embraced the modalities (necessity and a priority) that Quine rejected. Also like Kripke, Lewis had no sympathy for Quine’s early verificationism or his flights from intension and intention, and he was straightforwardly a realist about science in general. However, despite these similarities with Kripke, Lewis’s analysis of necessity could not be more different from Kripke’s. Whereas Kripke made no attempt to provide a reductive analysis of modal notions, Lewis was committed to a thesis, called *modal realism*, according to which “possible worlds” are neither properties nor sets of propositions but concrete universes as real as our own, spatially and temporally disconnected from ours, made up of many things, some of which are “counterparts” of ourselves and familiar things in our environment. These, Lewis thought, are what we are really talking about when we make claims about what *could* or *would* have been otherwise with us and our surroundings (under certain conditions).

Many found this view to be incredible. For most Kripkeans, world-states are either sets of propositions that could have been true, or properties that the universe could have had. Just as we recognize properties ordinary objects don’t have but could have had, so, in the latter view, we recognize (maximal) properties—metaphysically possible world-states—the universe doesn’t have but could have had. For any such property W, the universe *could* have had W, and if did, certain propositions *would have been* true. Note the use of modal notions—*what could have been* and *what would have been true if such and such had been so-and-so*. There is no attempt to define possible world-states in nonmodal terms or to reduce the modal to the nonmodal.

For Lewis, modal reductionism was required by his ambitious philosophical naturalism, and so was not an option. His grand philosophical

goal was to reduce the mental to the physical, causation to counterfactuals, counterfactuals to possible worlds, and possibility and necessity to quantification over ordinary (though very large and remote) objects. The desired destination was a metaphysically homogeneous reality constituted by momentary point-sized objects (given in physics) instantiating purely qualitative universals—natural properties and relations (also given in physics)—related by similarity, difference, and spatiotemporal relations across multiple universes, but *not* related by “occult,” empirically unexplainable forces or connections. It is here, I argue, that we see the enduring influence of Quine’s naturalism and extensionalism. The underlying philosophical purpose of Lewis’s modal realism and counterpart theory was to reduce an intensional object-language to a purely extensional semantic metalanguage, in the service of an antecedently desired conception of reality. Whereas Quine taught that vindicating naturalism and extensionalism required eliminating intensional facts and rejecting intensional constructions, his student David Lewis tried to show that intensional facts are just a species of extensional facts, and that intensional constructions in language are no threat to the integrity of an austere, naturalistic vision of reality.

This is my perspective on Lewis, from which Essay 6 assesses the different aspects of his grand project. But that isn’t all. Since a number of Lewis’s views and achievements—particularly in philosophical logic and the philosophy of language—can be assessed independently of his grand metaphysical reduction, these, too, are addressed in the essay.

In Essay 7, which was originally written in 2005 but not published until 2011, I discuss what I take to be one of the outstanding philosophical achievements of the twentieth century—Saul Kripke’s treatment of the necessary a posteriori and concomitant distinction between epistemic and metaphysical possibility. In the essay, I extract the enduring lessons of his treatment of these matters and disentangle them from errors and confusions that mar some of his most important discussions. I argue that there are, in fact, two Kripkean routes to the necessary a posteriori—one correct and philosophically far-reaching, the other incorrect, philosophically misleading, and the source of damaging errors that persist to this day. In addition, the last two sections of the essay connect two false principles involved in the second, unsuccessful, route to the necessary a posteriori with the plausible and potentially correct idea that believing a singular proposition that *o* is *F* always involves also believing a richer more descriptively informative proposition in which some further property plays a role in the agent’s thoughts about *o*. After explaining why this idea won’t save the failed second route to the necessary a posteriori, I suggest that it may help reconcile Kripke’s insights with the lessons of Frege’s puzzle.

PART TWO: HISTORICAL PROBLEMS AND CONTROVERSIES

Essay 8 develops a puzzle for the Frege-Russell analysis of quantification, widely seen as a fundamental advance in semantics and philosophical logic. The key idea is that quantifiers express higher-level properties that are predicated of lower-level properties. In this analysis, (1a) expresses a proposition that consists of the property *being true of everything* and the property *being F*, the first of which is predicated of the second.

1a.  $\forall x Fx$  / Everything is F

Thus, the proposition expressed by (1a) is the proposition expressed by (1b); call it ‘Proposition 1’.

1b. The property *being F* is true of everything.

However, since (1b) itself contains the universal quantifier being analyzed, it would seem that the analysis may apply again. The two-place predicate ‘is true of’ that occurs in (1b) expresses a relation holding between properties and objects. Since ‘everything’ stands in the second argument-place of this predicate, (1b) is a universally quantified sentence that expresses the same proposition as (2a).

2a. Everything is such that *the property being F* is true of it.

According to the Frege-Russell analysis, (2a) expresses a proposition that consists of the property *being true of everything* and the property *being an object of which the property F is true*, the first of which is predicated of the second. Call this proposition, which is expressed by (2a) and (2b), ‘Proposition 2’.

2b. The property being an object of which the property being F is true is true of everything.

Since (1a) expresses the same proposition as (2a), while both express only one proposition, Proposition 1 = Proposition 2. The cycle can be repeated, producing a hierarchy of propositions each of which is identified with all the others:

Proposition 1: The proposition that *being F* is true of everything.

Proposition 2: The proposition that *being an object of which being F is true* is true of everything.

Proposition 3: The proposition that *being an object of which (being an object of which being F is true) is true* is true of everything.

However these propositions do not appear to be identical. On the contrary, they must be distinct if (i) propositions are structured

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combinations of their constituents (as Frege, Russell, and many others take them to be), and (ii) the constituents *being F*, *being an object of which that property—being F—is true*, and so on, are themselves structurally distinct (despite being true of the same objects). Since I accept the Frege-Russell analysis of quantification, along with both (i) and (ii), I need to block the argument at some early stage. Essay 8 explores options for doing so and identifies the one I take to be most promising.

Essay 9 explores a historical issue mentioned in Essay 2—Russell’s “no class theory,” originally expressed by his contextual definition of classes in *Principia Mathematica*. The aim of the essay—which was written in response to a published objection to one of my earlier works—was to argue, against the objector, that Russell’s supposed elimination achieves no genuine ontological economy. The point at issue involves how the quantification in the contextual definition is to be understood. My thesis in the paper is that if the quantification is objectual, then no significant ontological reduction of classes to anything else is achieved, no matter what the range of the variables is taken to be. What I didn’t consider, because my critic did not raise the issue, is that Russell’s quantification might be substitutional, in a sense that is now reasonably well understood. In recent years, some Russell scholars have trumpeted the virtues of such an interpretation, among which is the sense it makes of the “no-class theory.”

Such an interpretation does make some sense of Russell’s philosophical remarks about that theory, about the significance of his logicist reduction, and about the ability of the reduction to serve as a model for similar reductions outside the philosophy of mathematics. However this substitutional interpretation is not sufficient, since it is inconsistent with important aspects of Russell’s philosophical logic and is technically inadequate to support his logicist reduction. In short, if substitutional quantification is the source of the “no class theory,” then the theory is not vindicated, but refuted. The foregoing is argued at length in chapter 10 of *The Analytic Tradition*, volume 1, forthcoming from Princeton University Press—which fulfills the promise made for expanded discussion made in the last paragraph of Essay 9.

Essay 10 examines the dispute between Quine and Carnap about how to understand ontological commitment and what ontology to adopt. The central dispute is over Carnap’s acceptance of abstract objects, including numbers, properties, and propositions, which Quine characterizes in “On What There Is” (1948) as a form of Platonism. Carnap vigorously disagrees, responding in “Empiricism, Semantics, and Ontology” (1950, 1956). For him, commitments to these things are unproblematic consequences of accepting an optimal theoretical

framework for doing science. Philosophers haven't seen this because, he believes, they have approached ontology in an unscientific way. The key to rectifying the problem, he argues, is to distinguish (i) internal ontological questions that arise within a framework for describing the world, and so can be decided by evidence (making the questions empirical rather than metaphysical), from both (ii) external ontological pseudoquestions that purport to be about the world even though they can't be settled by evidence (and so are objectionably metaphysical) and (iii) purely practical questions about which frameworks are most fruitful for scientific investigation.

Carnap's "frameworks" are linguistic—interpreted languages the meanings/empirical contents of the sentences of which are the sense experiences that would confirm them. Since analytic sentences are, he believes, accepted independent of any empirical confirmation, he takes them to be empty of empirical content and hence to make no claim whatsoever about the world. In accepting the "framework" of natural numbers, we simply lay down what amount to meaning postulates that determine the arithmetical truths. Although these truths include claims to the effect that there are numbers satisfying various conditions—and hence that *there are numbers*—such claims are empty of "cognitive content" and hence not to be regarded as making genuine existence claims about the world. The same, Carnap thinks, can be said for claims about properties and propositions.

So expressed, Carnap's position depends on a strong logical empiricist doctrine of analyticity, which was subject to Quine's critique in "Two Dogmas." Although Carnap offered an intriguing a response to it in 1955, I argue that it is not enough to save his ambitious conception of analyticity. However, his position in the ontological dispute with Quine remained strong. At the time, both he and Quine were verificationists about the cognitive contents of empirical theories, despite disagreeing over whether the individual sentences used to express a theory could be assigned their own contents, reflecting their particular contributions to the content of the whole. Rejecting Carnapian analyticity and embracing a form of meaning/verification holism, Quine plausibly argued that such parceling out of verificatory content was not possible. However, in the end, this point was not dispositive. In the presence of their shared verificationism, the essence of Carnap's ontological position survived the loss of analyticity, and Quine's victory on the subsidiary point was, I argue, pyrrhic. Nevertheless, for those of us who aren't verificationists, this can't be the end of the story. If verificationism about the contents of theories is dropped, the ontological import of Quine's critique of analyticity is reinstated, leaving Carnap's attractive ontology in need of some other source of support.

PART THREE: CURRENT TOPICS

Essay 11 offers a systematic assessment of Kit Fine's *Semantic Relationism* (2007), in which he presents a "relational" version of Millianism (about names and related expressions). The essay compares this version of Millianism with the standard nonrelational version. The essay focuses on their different responses to two aspects of Frege's puzzle—one involving the cognitive, assertive, and conversational contents of uses of nonhyperintensional sentences, the other involving the propositions expressed by attitude ascriptions. Regarding the first aspect of the puzzle, I argue that the two versions of Millianism give comparable and largely correct results. Regarding the second, I show that relational Millianism faces counterexamples that are easily handled by nonrelational Millianism, when both are combined with a reasonable semantics for attitude verbs.

Although particular counterexamples can be handled by following Fine in positing (to my mind unmotivated) systematic ambiguities in the attitude verbs, I show that doing so allows one to re-create all the difficulties raised for non-relational Millianism *within relational Millianism itself*. At this point, the position of the two theories is not symmetric. Whereas nonrelational Millianism has identified and articulated various extra semantic factors—including guises, ways of entertaining a proposition, pragmatic enrichment, the distinction between semantic and assertive content, the multiple assertion theory, and the least common denominator conception of meaning—to deal with this aspect of Frege's puzzle, nonrelational Millianism arises from the conviction that these factors won't solve the problem. The relationist faces a dilemma. If the nonrelational story won't work, as the relationist maintains, then he or she has no way of dealing with the re-created problems, which include all those that motivated relationism in the first place. So, either nonrelational Millianism is roughly correct, or capable of being made so (perhaps, in part, by adding some elements of relationism), in which case (full-strength) relational Millianism won't be needed, or nonrelational Millianism is incorrect (and irredeemable), in which case relational Millianism is, too.<sup>2</sup>

Essay 12 takes simple natural kind terms—like 'green', 'gold', 'water', 'tiger', and 'light'—to be Millian terms that rigidly designate

<sup>2</sup> The last section of essay 11 (prior to the appendix) has been slightly revised to eliminate earlier misunderstandings and to include new footnotes. These reflect the view I adopt in *Rethinking Language, Mind, and Meaning*, which accommodates some elements of Fine's relationism in a cognitive account of propositions in which Fine's coordinated propositions may serve as contents of some speech acts, though not as the semantic contents of sentences used to perform them.

properties typically determined by a reference-fixing stipulation to the effect that the general term is to designate whatever property provides the explanation of why, at actual world-state, all, or nearly all, the samples of items associated with the term by speakers who introduce it have the observational properties they do. It makes sense to introduce a term in this way when (i) the objects to which we wish to apply the term are similar in some respects, which guides our application of it, and allows us, fallibly but reliably, to apply it to new cases; (ii) these similarities have, and are believed by us to have, a single unifying explanation, which, although we typically don't know it, we rightly believe to involve counterfactual-supporting generalizations relating unspecified features of (nearly) all the similar-appearing objects to the respects in which they are similar; and (iii) we wish to use the term in law-like generalizations and explanations—and so don't want to identify its semantic content with the cluster of observed similarities.

If  $G$  is a simple general term introduced in this way,  $p$  is the (unique) property satisfying the reference-fixing description for  $G$  (and so is the Millian semantic content of  $G$ ), ' $\text{is } G$ ' is a predicate, and  $P$  is a complex common noun phrase (like 'substance molecules of which are composed of two hydrogen atoms and one oxygen atom') the extension of which at any world-state is the set of instances of  $p$  at that world-state, then ' $\forall x (x \text{ is } G \text{ iff } x \text{ is } P)$ ' will be a necessary truth.<sup>3</sup> For it to be an instance of the necessary a posteriori, it must express a proposition that is knowable *only* a posteriori, which will be so only if one can know the singular proposition that predicates of  $p$  the property expressed by ' $\text{all and only instances of it are } G$ '. This singular proposition can, of course, be known a posteriori. The trick is to explain why it can only be so known. It is easy to see that we will be defeated if we identify, for example, the property *being water*—which, we may suppose, is both the referent and the content (meaning) of 'water'—with the property *being a substance molecules of which are composed of two hydrogen atoms and one oxygen atom*, which is the content (meaning) of the common noun phrase 'substance molecules of which are composed of two hydrogen atoms and one oxygen atom'. But now we have a puzzle, since it seems all but inevitable to suppose that this latter property is identical with the property *being water*. Essay 12 is devoted to solving this puzzle.

Essay 13 combines recent work on vagueness in the philosophy of language with recent work in the philosophy of law on the value of vagueness in certain legal situations. The question at issue is whether leading philosophical theories of what vagueness is can account for the positive utility of certain kinds of legal vagueness. The two theories

<sup>3</sup> Note, this may be so whether or not ' $\forall x \Box (x \text{ is } t \text{ iff } x \text{ is } P)$ ' is true.

put to the test are (i) epistemicism, according to which vagueness is a matter of irremediable ignorance of the sharp borderlines separating cases in which (totally defined) vague predicates apply from those in which their negations do, and (ii) the theory according to which vague predicates are (a) only partially defined, leaving a range of borderline cases in which there is no fact of the matter regarding the application or nonapplication of the predicates, and (b) context sensitive, which results in constantly shifting lines separating the defined from the undefined cases. After distinguishing several kinds of legal vagueness, I test these theories against one subtype of legal vagueness—in which the content of a law is vague because lawmakers employ a vague term in adopting an authoritative legal text. Since the test involves the constraints the two theories place on later authoritative interpretations of such a vague text, the test incorporates a plausible, but potentially controversial, assumption (for which I argue elsewhere) about the central legal norm governing such interpretation.

Against this background it is shown, first, that there is a range of cases in which both theories provide reasonable rationales for correct resolutions of legal vagueness, but, second, that there is a further range of legal cases in which only the partial-definition/context-sensitivity theory of vagueness gives the right results. So, although both theories can rightly accord a degree of utility to some kinds of legal vagueness, the partial-definition/context-sensitive theory does a better job overall, while the epistemicist theory faces severe challenges in certain kinds of cases. Unless this shortcoming can be traced to defects in empirical assumptions about the legal actors in such cases, a mischaracterization of the proper norm governing legal interpretation, or outright mistakes about which legal results are correct or desirable, epistemicism must be seen as failing to fully account for the value of vagueness in the law.

Essay 14 is concerned with the content of legal norms governing the interpretation of legal texts by legally authoritative actors in a legal system. As such, a theory of legal interpretation, in the sense I intend, is a theory of the content of the law, codified or uncodified, governing legally authorized interpreters. Thought of in this way, it is a non-normative empirical theory related to, but distinct from, (a) empirical theories about what the mass of judges in a particular legal system actually do in the cases before them, (b) moral theories about what they morally should do in particular cases, and (c) politically normative theories about what the role of the judiciary should be in an ideal system. The most important question to be answered by such a theory is, What precisely is required of legally authoritative interpreters, how much and what kind of latitude are they allowed, and what factors are they to take into account in their interpretations? After formulating

my own broad, rather traditional, answer to this question, I provide illustrative details concerning both real and hypothetical legal cases in the United States, including matters of statutory and constitutional interpretation.<sup>4</sup> I close by raising a substantial question about whether the interpretative practices of the Supreme Court of the United States—which themselves play an important role in determining the content of existing legal norms of interpretation—fit my traditional conception of interpretation or whether, on the contrary, they establish a new, more expansive conception.

Essay 15 takes the project a step further. It begins by articulating the principles underlying the two key dimensions of a new, deferentialist, theory of legal interpretation—the identification of original asserted or stipulated content, and the nature of the deference required when new circumstances demand that judges make new law. These principles are then applied to the interpretation of the due process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. Relying on extensive historical research by Nathan Chapman and Michael McConnell of Stanford University Law School, I summarize the evolution of due process thinking from the *Magna Carta*, through the 1628 Petition of Right in the British Parliament, to Parliamentary disputes in the 1770s, and ending in American reactions to the Coercive Acts of (1774), which helped shape the founders' understanding of the “due process” language of the Fifth Amendment.<sup>5</sup> This background is used to specify the original content of the stipulation expressed by the framers and ratifiers of the clause “[No] person shall . . . be deprived of life, liberty, or property, without due process of law.”

From there the story turns to the interpretation of the clause up to and beyond the Civil War and its incorporation in the Fourteenth Amendment. The first significant expansion in the interpretation of the clause, leading to a doctrine of “substantive due process,” occurred in the infamous *Lochner* line of cases at the turn of the twentieth century. Although this doctrine was correctly repudiated during the New Deal, I show how it reemerged in new form in a modern line of cases including *Griswold v. Connecticut*, *Roe v. Wade*, *Planned Parenthood v. Casey*, and *Lawrence v. Texas*, which, I argue, cannot withstand deferentialist scrutiny. Since the Supreme Court has provided no other coherent *judicial* justifications for these decisions, I suggest that the cases must be

<sup>4</sup> One of my hypothetical cases, involving the Plainsboro town council, is a slightly modified version of the one that appeared in the original article in the *NYU Journal of Law and Liberty*.

<sup>5</sup> Nathan S. Chapman and Michael W. McConnell, “Due Process as Separation of Powers,” *Yale Law Journal* 116 (2012): 1672–1807.

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understood as implicitly premised on a nondeferentialist conception of judicial responsibility.

Unfortunately, this nondeferentialist conception—which encompasses a retreat from the traditional separation of powers doctrine in favor of a more expansive conception of the legislative authority of the Supreme Court—has not been made sufficiently explicit. To this end I sketch one avowedly nondeferentialist conception of judicial responsibility, one straightforwardly deferentialist conception, and one conception that is a hybrid of the two. Taken as competing accounts of the existing norms governing legal interpretation by legally authorized actors (typically the judiciary), the real dispute, is, I argue, between the deferentialist and the hybrid view.

In adjudicating this dispute, it is crucial to distinguish descriptive questions from their normative counterparts. Given the two competing conceptions, one can ask which most closely approximates the legal norms that presently exist in the United States, or one can ask which set of norms is morally or politically preferable. Although I don't purport to resolve these questions, I cite what I take to be powerful normative advantages of the deferentialist conception, along with corresponding descriptive factors that suggest it enjoys considerable support from the educated populace plus the army of relevant legal actors in the United States. Although, the hybrid conception has grown stronger and become a contender for defining the legal norms governing judicial action, I argue that it faces stubborn conceptual limitations that have prevented it from displacing the more traditional deferentialist conception. I end with a suggestion of how the deferentialist might approach the daunting challenge of gradually rectifying the results of many past nondeferentialist decisions.