The major purpose of this study is to understand the concept of permission and relate its logical peculiarities to the activities, linguistic and non-linguistic, in which it finds application within authority-subject institutions. It is a conceptual, not an empirical, study proceeding from data provided by philosophical difficulties and controversy, ordinary language forms, and some elementary principles of deontic logic. Numerous illustrations and examples of a fairly informal nature are provided. Conclusions are presented which pertain to the connection between: (1) the idea of having permission to do a certain act and freedom to choose to do it or not, (2) permission and the absence of prohibition, and (3) permission, permissibility, and practical possibility. (Author/RD)

FINAL REPORT
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PERMISSION AND PERMISSIBILITY

September 1967

U.S. OEPARTMENT OF HEALTH, EOUCATION & WELFARE
OFFICE OF EOUCATION

U.S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE

Office of Education
Bureau of Research

Permission and Permissibility

Project No. 5-0339
Contract No. OE-5-10-271

Nancy Gayer

September 1967

University of Cambridge

Cambridge, England

To those but for whose kindness and
generosity this study would not have
been possible, without whose quiet
encouragement it would not have been
actualized: the staff of the Financial
Board of the University of Cambridge.

SUMMARY
Permission and Permissibility

Problem. This study is an attempt to understand the concept of permission and to relate its logical peculiarities to the activities, linguistic and non-linguistic, in which it finds application.

Objectives and Methods. Being a conceptual not empirical study, it proceeds from data provided by philosophical difficulties and controversy, by the forms of ordinary language and some elementary principles of (deontic) logic. It seeks by argument and analysis to establish a number of conclusions about the structure of speech, thought, and action within authority-subject institutions (in an extremely broad sense). Illustrations and examples are mostly of a fairly informal nature, involving direct communication between, say, teacher and pupil, and are intended to show how the speech-acts discussed fit into the wider activities which give them their point and intelligibility.

Results. Part I investigates the close connection between the idea of having permission to do a certain act and of having freedom to choose to do it or not. A discussion of understatement as a fault in the speech-act of asserting that an act is permitted reveals why a report of such a permission entitles a hearer to conclude that one is permitted also to refrain. As regards utterances which _give_ permissions, a somewhat stronger conclusion is based on an analysis of the deontic propositions which are asserted in permission-reporting utterances and made true by permission-giving utterances as having an _oratio obliqua_ structure: an authority, as sole determinant (through what he has and has not said) of the deontic situation within his jurisdiction, is constrained to endow any permitting act not simply implicit in the issuing of a command, with a 'two-way' permissive import that grants the recipient freedom of choice.

These conclusions lead to an elucidation of the essentially conventional and external nature of the kind of reason for action given by commands, as contrasted with other types of reason-giving speech-act which depend for their reason-giving function on success in the dimensions of truth and relevance to antecedent inclinations to action of the recipient. The resultant external character of authority-imposed obligations as reasons for action explains (a) a certain logical secondariness and negativeness which permission shares with its physical analogue, letting or non-interference

and (b) certain presuppositions as to the wants of
the subjects to whom they are directed.

Part II begins with a critique of the account
of normative discourse underlying G.H. von Wright's
treatment of permission in his _Norm and Action_,
in order to defend the _oratio obliqua_ analysis of
the notion of having a permission and to distinguish
the concepts of obligatoriness and practical neces-
sity ('must'). The results are used in support of
an analysis of the illocutionary force definitive of
permitting as that of refraining from forbidding.
This conception of permission is applied in assess-
ing the logical relations between commands and
permissions, and between permission and the absence
of prohibition. Finally, in Part III, some problems
about the notion of a permissive rule prompt an
examination of certain aspects of the nature of
obligatoriness and permissibility in areas of action
not subject to authority control, and lead back to
the topics of free choice and practical possibility.

Implications. Although theoretical in orientation,
the examination has produced material for drawing
substantive implications for such practical school
problems as the role of principal and teacher vis-
à-vis those subject to their control, grounded upon
the understanding of permissive notions (which are
to be contrasted with lack of control no less than
with authoritarianism) which this study aimed to
provide.

ACKNOWLEDGEMENTS

CONTENTS

INTRODUCTION

'What do you see in the garden?' ho asked
her in French.
'I see many flowers', she replied in a
sweet, small voice and with an accent as
good as his own.
'Yes, but not many good ones. However,
such as they are, go out and gather some for
ces dames.'
The child turned to him with her smile
heightened by pleasure. 'May I, truly?'
'Ah, when I tell you', said her father.
The girl glanced at the elder of the nuns.
'May I, truly, ma mère?'
'Obey monsieur your father, my child',
said the sister blushing again.
The child, satisfied with this authori-
zation, descended from the threshold and
was presently lost to sight. 'You don't
spoil them', her father said gaily.
'For everything they must ask leave.
That's our system. Leave is freely granted,
but they must ask for it.' (Henry James,
Portrait of a Lady, Penguin edition, p. 230.)

This study could be regarded as a philosophical
commentary on the above passage. It is an attempt to
understand the concept of permission and to relate its
logical peculiarities to the activities, linguistic
and non-linguistic, in which it finds application.

The source of my interest in permission was
educational: the widespread use in American classrooms
of ostensibly permissive language and its role in
concealing from teachers and principals the unreal-
istic nature of their belief that they do not give
orders. This belief still lends support to an
orthodox educational philosophy (stemming but now

far removed from a radical tradition) that views order-giving as undemocratic and confuses the exercise of authority with authoritarianism. It also leads school practices in a direction the opposite of that intended, curtailing freedom rather than enlarging it.[1]

Although no special educational preoccupations will be evident in the following pages, my aim throughout has been that the findings of this study should eventually find a fruitful application in the field of philosophy of education.

Thus neither in intention nor in execution is this a work on deontic logic, although it makes use of some elementary principles of deontic logic and pays attention to the non-technical sections of certain writings in that field. For permission, it seems, is a comparatively neglected concept among philosophers, despite its connections (some of which are explored below) with the much-discussed notions of command and obligation. In particular, apart from specific points owed to various authors as mentioned in footnotes, I should acknowledge a general debt to G. H. von Wright, whose book Norm and Action[2], though subtitled 'A Logical Enquiry', contains the only extended philosophical treatment of permission (which he finds problematical) that has come to my knowledge -

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1 I have tried to show how these confusions pervade American schools and frustrate the aims of education in 'On Making Morality Operational', Phi Delta Kappan, Oct. 1964.

2 Georg Henrik von Wright, Norm and Action, A Logical Enquiry (London: Routledge & Kegan Paul 1963), hereafter referred to as 'NA'.

-his views will be criticized in Part II of this study, but I would like to say here how much I owe to the stimulus of the philosophical sections of his book.

I have also found it convenient to use the symbolism adopted by von Wright in his essay 'Deontic Logic'.[3] The letters 'A', 'B', etc. are to be regarded as abbreviated descriptions of actions - specifically identified in the context or left undetermined as a matter for arbitrary choice. The wide sense given to 'action', as covering anything that can be permitted or enjoined, will be matched by a liberal usage of 'description', instances of which may include expressions identifying the particular agent(s) with whose behaviour a permission or injunction is concerned, and/or a specification of temporal or other conditions of application.[4] It will be convenient to refer to the agent as the 'subject' and the commander or permittter as the 'authority' - the examples should soon dispel any illiberal overtones of these terms. 'Not-A' is used as the true contradictory of 'A', for the description which is satisfied if and only if 'A' is not satisfied; the negation-act of A (not doing A) is thus a

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3 Mind, Vol. LX, 1951, hereafter referred to as 'DL' and cited by the pagination of its re-publication in Logical Studies (London: Routledge & Kegan Paul 1957).

4 There is no departure of principle here from 'Deontic Logic', except that Smith's opening the window at 2 p.m. might there be disqualified as a permittable action, on the grounds that it could not be repeated a number of times, unlike opening the window as such (cf. DL p. 59; also NA pp. 36-7, p. 81); yet it is something that may either take place (be performed) or not, and as such can be permitted.

wider notion than that of refraining or abstaining
from A (this being, roughly, the notion of intention-
ally not doing A). Finally, formalized deontic
sentences may be constructed by prefixing to these
expressions what von Wright calls 'the deontic
operators': 'O-' is read as 'is obligatory', 'P-'
as 'is permitted' and 'F-' (a convenient addition)
as 'is forbidden'.

For introductory purposes, this should suffice;
the task of giving a more detailed elucidation of the
notions occurring in the previous paragraph may be
left to the body of the work, to be undertaken at the
various appropriate stages of its general development.
It is advisable, however, to add a note of caution
about the symbol 'O-' and its interpretation in terms
of the ordinary language expression 'is obligatory'.

'Permitted' and 'forbidden' consort less closely
with 'obligatory' than they do with 'commanded',
'enjoined', 'ordered', and the like. The applicability
of 'obligatory' to everything of which ordinary English
would correctly use the latter three terms seems to
become more doubtful with each in turn; conversely,
it is certainly not true that every obligatory thing
is also commanded, as opposed, for example, to being
something promised, while to translate the 'O-'oper-
ator as meaning that A ought to, or even must, be
done is different again. And although it is proper
to speak of commands making it obligatory to act in
the required way, the term 'obligation' itself has,
paradigmatically, a certain preference for the
results of undertakings such as promises or the
acceptance of favours, offices and the duties of
a job.

My concern, for the major part of this study,

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is not with actions <u>held</u> obligatory under some rule
or principle of morals or manners, of a language,
game or professional association, but with actions
<u>made</u> obligatory as a result of the agent being put
under obligation to perform them. If these may be
divided according as their obligatoriness is the
result of an imposition or of an undertaking (the
two main species of obligation-creating conduct),
chapter 3's analysis of 'obligatory <u>qua</u> enjoined'
may be generalized to take account of the 'interesting
inverse relationship between promising and commanding
with respect to resultant obligations', namely

> While X's (properly) promising something
> to Y creates a corresponding obligation
> on X's part, X's (properly) commanding
> something to Y creates a corresponding
> obligation on Y's part.[5]

Accordingly, for the sake of simplicity of
exposition, I shall assume two conventions, one
restricting terms like 'command/order' and 'commanded/
ordered' to cases which do involve obligation - these

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5 Nicholas Rescher, <u>The Logic of Commands</u>
(London: Routledge & Kegan Paul 1966), p. 9 fn. 3;
cp. Wilfrid Sellars, 'Imperatives, Intentions, and
the Logic of "Ought"', <u>Morality and the Language of
Conduct,</u> edd. Hector-Neri Castaneda and George Nakh-
nikian (Detroit: Wayne State University Press 1963),
pp. 164-5 and Joel Feinberg, 'Supererogation and
Rules', <u>Ethics</u>, July 1961, p. 277; also below chap. 3,
p. 43 fn. 10, chap. 4, p. 95 fn. 17. A more detailed
mapping of the complexities of usage than my purposes
require is available in R.B. Brandt, 'The Concepts of
Obligation and Duty', <u>Mind</u>, July 1964, while the bear-
ing of some of the requisite distinctions on more
technical principles of deontic logic than I shall
be concerned with is discussed by E.J. Lemmon, 'Deon-
tic Logic and the Logic of Imperatives', <u>Logique
et Analyse</u>, April 1965.

are just those cases to which a concept of authority
is applicable, so the holding of an authority-subject
relationship may be taken to delimit the domain of
all three deontic operators alike; the other is simply
to pretend when dealing with that domain that things
obligatory always derive their obligatoriness from
the exercise of authority in commands. Linguistically,
while the first involves little more than a convenient
idealization of standards typical for the central
area of a concept, the second commits a positive
impropriety; but the offence will be redeemed, I
hope, by the clues as to the nature of permissibility
in general, and so as to at least some aspects of
obligation, provided by the study of deontic discourse
in authority-governed areas of action to which most
of the following pages are devoted.

Lastly, I not only must but want to acknowledge
the debt of gratitude I owe to Mr. M. F. Burnyeat.
Throughout my study he was at hand, a sounding board
against which to express my ideas, an exemplar who
constantly impressed upon me the need for care in
elucidation and argument. I learned from him what
it is to do philosophy. I should like to hope that
this work, apart from its faults, is a worthy token
of his efforts.

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PART I
Permission and Freedom of Choice

Preface

The general purpose of the first part of this study is to lay the basis for an understanding of the concept of permission by exploring some of the connections between permission and freedom of choice. As a starting point and organizing principle for this task, I take the question, 'In what way, if any, does permission to do an act, A, include permission not to do it?'.

Chapter One

Permission-Reporting Utterances

> In the smoking compartment, ...not-smoking is permitted and also smoking. But in the non-smoking compartment, not-smoking is permitted and smoking forbidden.[1]

There is a dictum to be found in the literature on deontic logic and shown in the relationship of subalternation in the deontic square of opposition below[2], that obligation entails permission.

Not-A not permitted   A not permitted
Not-A forbidden   A forbidden
A obligatory   Not-A obligatory

A permitted   Not-A permitted
A not forbidden   Not-A not forbidden
Not-A not obligatory   A not obligatory

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1 DL p. 63.

2 A.N. Prior's systematization of the basis of von Wright's 1951 deontic logic, with von Wright's term 'permitted' substituted for Prior's 'permissible', *Formal Logic* (Oxford: Clarendon Press 1962) 2nd ed., p. 220.

This means that any obligation is accompanied by a 'one-sided' permission for the obligatory act alone. Having permission to do an action might seem to be inseparable from, and worthless without, having permission to refrain if one chooses, but the square denies that this is so. It claims, for example, that in a non-smoking compartment, not smoking is not only obligatory but also permitted; passengers in such a compartment are granted a permission without being left with any freedom of choice.

Since 'PA' and 'P Not-A' are related to one another as the subcontraries of the square, it also follows that the fact that smoking is permitted in a smoking compartment does not by itself entail that it is permitted not to smoke there. To designate a compartment as a smoking compartment would seem to require the issuing of two separate permissions, permission to smoke and permission not to smoke. Our examination of the concept of permission may begin, therefore, by considering the thesis that obligation entails permission.

Certainly, at first encounter the assertion that in a non-smoking compartment passengers are permitted not to smoke sounds rather peculiar. The justification suggested by the square is that whenever a command (order, injunction) makes it obligatory for a subject not to do A, it necessarily at the same time permits him not to do it, for if it did not do so, it would be self-defeating: the command's failure to provide, or its withholding of, permission not to do A would constitute a forbidding of Not-A, so that one and the same ruling action would simultaneously both command and forbid abstention from the same act.

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But what does permission mean in such circumstances? Normally permission implies freedom from restraining norms. Here, however, the subject is free only to do that which he is obliged to do. Paradoxically, he is free because he is obliged, but it is a funny sort of freedom, since he is forbidden to do otherwise. He might well ask 'What kind of freedom is this?'. The answer coming back might be 'What kind of obligation would it be if it did not leave you free to fulfil it?'.

Although permission to do the obligatory may sound contradictory, it is no more so than the results of the subalternation relation in other squares of opposition, e.g. that 'All S is P' entails 'Some S is P'[3] or that 'P is necessary' entails 'P is possible'. The solution to the apparent paradox is the same as for these: to notice that sometimes the conditions for the obtaining of a state of affairs are different from the conditions which make it appropriate to assert that that state of affairs obtains[4]: in the particular case of the freedom given by a permission, the conditions which make such a freedom worth having are not the same as those which make it worth mentioning. What makes permission to do the obligatory sound somewhat paradoxical is that permissions are normally mentioned only when they are free of accompanying

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3   This is, I am aware, a controversial entailment, but my present purpose requires the use of the traditional logic's square of opposition only as an illustrative example of another square with the same structure.

4   On the significance of this distinction, see John R. Searle, 'Assertions and Aberrations', British Analytical Philosophy, edd. Bernard Williams and Alan Montefiore (London: Routledge & Kegan Paul 1965).

obligations - a maximum-security prisoner is permitted
to remain in prison, and his jailer's duties entail his
being permitted to keep the cell-door locked, but
neither permission is likely to be remarked upon when
the two discuss their respective obligations. This is
because the presence of the entailed permission is
really no more than the absence of a prohibition in
conflict with the obligation. To say, as was said
on page 8, that no command can withhold permission
for the act it enjoins, is really to say simply that
no command can simultaneously prohibit the act it is
enjoining without stultifying its own aim and thus
failing to establish an obligation. Given that there
is an obligation in force, the command which laid
it down cannot itself have been rendered self-
defeating by ueing simultaneously combined with a
prohibition for the very same act. So the fact that
there is an obligation to talk about at all pre-
supposes consistency in the original command estab-
lishing it, and to say that one's obligation is
accompanied by a permission is merely to make the
trivial point that it was established by a self-
consistent command, i.e. that it is an obligation.
There is no reason to remark on the obligation's
being accompanied by a permission, i.e. by the
absence of a prohibition for the same act, unless
some further factor intorvenes upon the deontic
scene, as when the authority or one of his subordi-
nates issues a further ruling which conflicts with
the first by forbidding the act the original ruling
enjoined. If this new ruling does not invalidate
or cancel the first ruling, neither can it invalidate
its permissive import (for that is nothing more than
the auth-rity's having refrained, when laying down

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his original ruling, from forbidding the enjoined act);
but it does conflict with it by forbidding the subject
to do the act the first ruling permitted, i.e. by
imposing a prohibition on the very act which that
ruling refrained from forbidding.

A conflict of this sort is reported[5] to have
occurred in South Africa, where a woman by getting
married lost the right to live in the township of her
parents, yet was unable to obtain permission to live
elsewhere with her husband. Consequently she was, as
the judge said, 'living in a legal limbo'. The logic
of her situation after marrying can be represented as:
FA, therefore P Not-A, but F Not-A, where 'A' stands
for the action of living with her parents. Since
she was forbidden to live in the area where her
parents resided (she was actually convicted of being
unlawfully present there), she was, by the subalter-
nation entailment, permitted not to live there; but
at the same time her inability to obtain permission
to live anywhere in particular outside the area, such
as with her husband, meant she was forbidden to do
the very act the first prohibition entailed a permis-
sion for. She could well protest to an obstinate
bureaucrat that she was entitled to receive permission
to live somewhere in particular outside the area.
But for the second prohibition's coming into conflict
with it, this permission to live outside her parents'
residential area would have remained implicit in the
situation, unremarkable and so unremarked upon.[6]

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5   The Times, Oct. 8, 1965.
6   Searle goes too far in saying that an utter-
ance cannot be an assertion at all unless 'there is
some reason for supposing the state of affairs asserted
to obtain is worthy of note or in some respect remark-
able'. 'Assertions and Aberrations', loc. cit., p. 53.

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More is involved, however, than the unremark-
ableness in conflict-free situations of the entailed
permission. For in such situations to say that one
has permission to do something one is in fact required
to do is to do more than remark on a triviality; it
is to say something which is positively _misleading_
unless the existence of the obligation is clear in
the context of communication. Consider how misleading
it is for someone to report that he has worked four
hours today when he has actually worked eight hours.
If he worked eight hours it is _true_, necessarily,
that he worked four hours, so his choice of words to
this effect cannot involve any semantic impropriety
arising from a breach of the conventions which give
them their meaning. Yet, since eight is more than
four, he has given a misleading picture of the
situation. If the jailer of the above example remarked
to his prisoner while locking him up that he had
permission to keep the cell door locked, his state-
ment would be at fault in an analogous way: though
perfectly true it would distort reality. To explain
the nature of this kind of fault in speaking and to
trace its implications for the square will require
taking a somewhat less abstract view of deontic
language than that embodied in the square and
considering it in the context of actual deontic
discourse.

The square deals with logical relationships
which hold between its propositions independently of
their expression in speech-acts. But when the propo-
sitions occur asserted in reports of an act's deontic
status, or unasserted in questions about it, or in any
of the other kinds of speech-act that constitute
actual deontic discourse, their expression by speakers
is subject to rules for 'doing things with words',

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conventions for communicating the intended force of an utterance or for 'the securing of <u>uptake</u>'[7]. Submission to these conventions is a condition of communicating with other people through the speech-acts of asserting, commanding, questioning, etc. because only by interpreting a speaker's utterance of a meaningful sentence in the light of these conventions can the audience understand it as meant to have the force of an assertion, command, or question, etc., as the case may be.

The expressing of deontic propositions is no exception to these requirements for the performance of speech-acts. In expressing a deontic proposition, a speaker is not only bound by conventions which enable him to convey his intention of expressing by the utterance of a given sentence some particular deontic proposition; he must also attend to the conventions for conveying the intended force of his utterance if he is to succeed in performing the particular speech-act of which his proposition-expressing is meant to be a subsidiary part: asserting that proposition, questioning it, hypothesizing it, and so on.

The speech-act of stating that one has permission to do a certain action is an instance of the general type of speech-act known as asserting, for which the standard of correctness is the attainment of truth. An utterance can only be understood as meant to have the force of an assertion of the proposition expressed in it if it is taken to aim at expressing a proposition

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7   J.L. Austin's summary description for 'bringing about the understanding of the meaning and of the force of the locution'. <u>How To Do Things With Words</u> (Oxford: Clarendon Press 1962) p. 116.

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which is true rather than false. To make an assertion thus involves setting up a standard by which the speech-act is to be judged for correct or incorrect performance. A speaker must communicate an aim of attaining truth if he is to make clear that he does not, for example, mean his utterance to have the force of a question as to whether or not the proposition he expresses is true. Success in the aim of being correct by this standard is not, of course, a condition of successfully asserting, because success in attaining truth depends on what states of affairs obtain in the world; but it is in a speaker's power to aim at truth, and to make an assertion he must sucessfully manifest such an aim, sincerely or insincerely, in order to communicate the intended force of his utterance. In thus setting up truth as the standard for the assessment of his action, he submits to the basic convention governing the use of words for asserting: the rule that assertions are to attain truth.

The standards of correctness for asserting in general apply also, mutatis mutandis, to the performance of more specific types of truth-claiming act, such as reporting to someone what is or is not required of him by the relevant authority in a particular area of possible action on his part. Here, too, the speaker is required, as a necessary condition of performing the act, to manifest, explicitly or implicitly, an intention to aim at truth: not truth in general but truth about some particular matter and within certain definite limits, such as the relevant authority's regulations on parking in London, or more narrowly still, the deontic status of parking on a given street at a certain time of day. The limits within which any given assertion

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aims at truth will be determined, in an unavoidably
relative way, by the scope of a question, by the
context of a discussion, by what the speaker believes
to be relevant to the interests of he hearer, or
in any number of other possible ways. It is up to
the speaker to make clear, explicitly or implicitly,
how far his intentions extend. What matters is that
if truth within these limits is not attained, the
aim, or ostensible aim, of the speech-act of assert-
ing this proposition in these circumstances is at
variance with the reality of its achievement. And
this is a fault in speaking, because the assertion
has not attained the level and extent of truth at
which it professed to aim; it set itself a standard
of correctness which it did not come up to, and so
it must be judged faulty.

False statement, in the sense of a statement
the contradictory of which is true, is not the only
way of committing a fault in speaking by infringing
the rule that assertions are to attain truth about
the particular matter of fact set as the goal by
the context and purpose of the utterance. Under-
statement, or 'falling below the truth in stating'[8],
is a fault in speaking when a statement falls below
the level of truth it professes to aim at without
actually asserting a proposition which is contrary
to the facts. Asserting in general is defined simply
by reference to its function of aiming at truth, but
particular assertions do not normally aim just to state
some truth or other, but to give the correct ver .on
of the facts in some particular matter; and in their
fulfilment of this more specific function there can
be degrees of infidelity to the relevant facts. In

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8 Oxford English Dictionary, s.v. 'understate'.

the assessment of an assertion's achievement of its
aim, the correctness represented by 'the whole truth
in the matter' stands at one end of what Austin
describes as

> a general dimension of being a right or
> proper thing to say as opposed to a wrong
> thing, in these circumstances, to this
> audience, for these purposes and with
> these intentions.[9]

Within this dimension one can criticize a statement
for committing, relative to its ostensible purpose,
the fault of understatement without going so far as
to accuse it of falsity.

Consider now an assertion of the proposition
that PA, made when the fact of the matter is that OA.
If it is understood in the context that A is obliga-
tory, an assertion of the fact that the act is permit-
ted will, as has been explained[10], normally be trivial
and pointless: freedom from prohibition against doing
the act, being a condition of an act's obligatori-
ness, is not worth mentioning unless the freedom
which the act enjoys under the obligation-imposing
ruling is in conflict with a prohibition against
doing the act stemming from another ruling. But if
the obligatoriness of A is _not_ understood in the
context, the assertion's force will normally be to
the effect, not that the act enjoys freedom from
prohibition against doing the act under some obliga-
tion-imposing ruling, but that it is free of _any_
prohibition (from the relevant authority), including
any prohibition against _refraining_ from it. But
this, 'prohibition of Not-A', is just another way of
expressing the obligation which actually obtains.

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9   How To Do Things With Words, loc. cit., p. 144.

10 Pp. 9-11 above.

(No act has a deontic status without its negation-
act having one too, since any deontic situation must
realize one or other of the trio of conjunctions:
$(OA \cdot F \text{ Not-}A) v (PA \cdot O \text{ Not-}A) v (PA \cdot P \text{ Not-}A).$[11])
In these circumstances, therefore, the assertion
will _imply_ that the act is free of the obligation
which actually covers it.

Thus, suppose Gordon, sent out by his father
to buy some cigarettes, is asked by another customer
whether he has his parents' permission for this
purchase and replies (quite truly) with an innocent-
sounding 'Yes'; it will be his fault if his conceal-
ment of the fact that he was acting under his father's
orders leads the customer to form an adverse judg-
ment on the level of discipline maintained by his
parents. For the question was obviously a request
to be told the whole truth about the deontic status
of this purchase, based on the assumption that it
might well be forbidden. Gordon's bare assertion
that PA (where 'A' stands for buying cigarettes)
is sufficient to rule out such a prohibition, but
it is also sufficient to rule out, by implication,
the prohibition against refraining from making the
purchase which is the obligation actually in force.

What sort of implication is this? We may call
it a 'pragmatic' one, but this label scarcely does
more than mark the fact that it is not a logical
one, that 'PA' does not entail 'Not OA'. Nor can
implying that Not OA be something which is entailed
by asserting that PA, as enjoining an action entails
permitting it, for the implication does not hold in

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11 For an elaboration of this point, see
chap. 3 below.

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contexts where it is understood that 'OA' is true,
or where the speaker makes it understood, by appending
to his assertion of 'PA' a clarification such as 'I
should warn you that A is actually obligatory as
well'. This shows that a necessary condition for
the obtaining of the implication is the absence of
'OA' from the total 'picture' of the deontic situation
given by the combination of what is presupposed and
what is said in the context. This condition is not,
however, sufficient by itself, because if it is
understood in the context that the sole question at
issue is the truth or falsity of 'FA', the assertion
of 'PA', for example in order to contradict some-
one's erroneous belief that FA ('You're wrong, you
know, it's certainly permitted to do A'), will be
neutral in its implications as to the truth or
falsity of 'Not OA'.

The peculiar feature of this last exception is
the restricted aim of the assertion in question.
This differentiates it from the other cases, where
the aim manifested in the assertion is the attain-
ment of the whole truth about A's deontic status;
asserting that PA with this fuller aim in a context
where it is not presupposed or made clear that OA
thus appears to be the necessary and sufficient
condition for the obtaining of the implication.

An implication which gets attached to the
speech-act as a result of an interaction between the
information-giving task the speech-act is to fulfil
and the contextual conditions in which it has to do
it can only be removed by changing the contextual
conditions or altering the scope of the information
about A's deontic status which the speech-act aims

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to give. Thus suppose at the tobacconist's Gordon adds, 'But I don't mean to leave you with the impression that I wasn't told to buy cigarettes'. The customer could understand this as an oblique indication of the obligation he was actually under, in which case Gordon would be changing the contextual conditions by making the truth of 'OA' clear; alternatively, the addition could act as a way of confining the aim of Gordon's answer solely to the question of whether or not A was permitted - but that would mean, in effect, a snub to the customer, a refusal to answer in the terms presupposed by a question to which the truth-value of 'OA' is clearly relevant. What Gordon can't do is simply cancel[12] the implication without affecting the status of his speech-act as an answer to the customer's question. An assertion with the narrower aim of just settling the truth-value of 'PA' will not carry the implication, but neither will it answer the question in the way requested. Given that the assertion is to have the fuller aim, the truth of 'Not OA' is something that the speaker is committed to or is obliged to take responsibility for in virtue of a rule requiring the attainment of the full truth about A's deontic status, submission to which (not, of course, conformity to which) is a condition of performing the type of speech-act exemplified by the assertion of 'PA' in

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12   I have borrowed this notion from H.P. Grice's discussion of various types of implication in 'The Causal Theory of Perception', Arist. Soc. Supp. Vol. XXXV, 1961, pp. 126-32.

such contexts.[13] In a context where such a rule is in operation, the making of this assertion will effectively involve the speaker in vouching for the truth of 'Not OA', which gives a good sense in which he may be described as implying or giving his hearer to understand that it is the case. His assertion will have, in virtue of this rule for its correct performance, the force of an exclusion of its being the case that OA, and so will be misleading when'OA' actually obtains.

Normally only the assertion of a proposition which is false and so is the contradictory of a true one has the force of ruling out, or excluding, the state of affairs which actually obtains. Understatement relative to the aim of an assertion, though just as much a fault in speaking as false statement, is not always misleading as well, for it does not always have the force of a statement which positively excludes what is in fact the case. For example, to ring up the RSPCA and make a less specific claim than is correct for the purpose of the assertion, by saying one wants to report the loss of one's pet, without specifying whether it is a cat or a dog or a rabbit, etc., is to understate the relevant facts with respect to the purpose of ringing up the RSPCA to report them, because the report fails to tell the organization what kind of animal to look out for; but

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13 For illustrations of this idea of a speech-act requiring for its performance submission to a rule making the speaker 'responsible' for something's being the case, see William P. Alston, Philosophy of Language (Englewood Cliffs, N.J.:Prentice-Hall 1964),p. 41ff. Alston chooses the term 'responsible' because 'Responsibility for x being the case is essentially connected with the possibility of being called to account if x is not the case'(p. 41). Cp. Bernard Mayo, Ethics and the Moral Life (London:Macmillan 1958), pp. 76-7.

it is not misleading, because it does not exclude
any particular species of domesticated animal. The
hearer at the other end of the telephone knows that
the pet must belong to some particular species and
so will be prepared by the inadequacy of the speech-
act to ask which. Such an unspecific report cannot,
for reasons of logic, give the whole truth in the
matter. But it _is_ logically possible for an act to
be free both of any prohibition against doing it and
of any prohibition against refraining from it, just as
it is logically possible that the sentence 'I worked
four hours today' gives a correct version of the
total number of hours the speaker worked. A speaker
who uses this sentence in an assertive way cannot
evade the responsibility of taking account of the
logical possibilities inherent in the concepts he is
exercising; he must take steps to counteract the
effect that these possibilities will have on the
force of his utterance if he wishes to avoid being
misleading. Otherwise the fact that it is perfectly
possible that 'I worked four hours today' is a cor-
rect representation of his day's efforts will give
his utterance the force of an assertion aiming to
give a complete and correct report, whether or not
this is the force he had meant to give it.

Similarly, the proposition asserted by Gordon
in the tobacconist's shop is true and does not
entail that Not F Not-A, i.e. that Not OA, but even
if the customer is not actually misled into think-
ing badly of the parents, the force of the speech-
act _was_ that of an assertion aiming to give a cor-
rect version of the deontic situation, and so
it must be held to commit the fault of misleading
understatement through leaving out the fact that
F Not-A. This may be a 'sin' of omission rather than
of commission, but it is still a fault in speaking.

For the speech-act of reporting the deontic status of
an act will always be understood to aim at the whole
truth on the matter at issue unless the speaker makes
clear his contrary intentions, just as any pronounce-
ment about the number of hours a man has worked on a
given day will have the force of a statement of the
total number unless the speaker ensures that something
different is communicated as the intended force of
his utterance. So in a communication context where
the obligatoriness of A is not presupposed although
A is in fact obligatory, and where the speech-act
does not profess some special purpose qualifying its
aim of stating the whole truth about the deontic
status of A^{14}, the assertion of the (perfectly true)
proposition that PA will be an instance of understate-
ment, at fault in much the same way as a false state-
ment such as 'Not PA' on the same subject, and equally
misleading as well; for it will distort reality by
having the force of an exclusion of the state of
affairs which actually obtains. The situation requires
a full statement of the fact that (OA . PA). It is
sufficient simply to say that OA, since this entails
the other conjunct; but the converse does not hold,
so that the bare assertion that PA is faulty by the
standard of correctness for the speech-act of stating
the authority's ruling on A.

Consideration of the conditions under which the
square's propositions are appropriately asserted in
the speech-acts of actual deontic discourse thus makes
it clear why permissions are, as was said on page 9,
normally only mentioned when free of accompanying
obligations. For our discussion has led to the con-
clusion that in normal communication contexts where

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14 As in the example of contradicting an
erroneous belief on page 18.

an obligation is in force over A the assertion of a
proposition of the form 'PA' is either pointless or
strongly misleading, according as the truth of 'OA'
is presupposed or not. The assertion may not, strictly
speaking, distort reality as much as would the false
statement that FA, but it does distort it nonetheless.

The incorrectness of such assertions is, of
course, precisely what fits them for deliberate decep-
tion, for the committing of wrong acts by speaking.
For just as lies proper are false statements masquera-
ding as true ones, so speech-strategems which deceive
without actually lying, like evading the issue or
telling half-truths, depend on invoking all the same
rules for the correct performance of speech-acts
as would be invoked by the same choice of words for
honest purposes. This is true even when the fault of
understatement is an excusable or commendable thing
to commit from other points of view; as a speech-act
it fails to meet the standards it set up for itself,
just as a 'white lie' can be an excusable or commend-
able act committed by a faulty speech-act. Even when
they are virtuous, both understating and lying depend
on the speaker's conforming to the standard conventions
for asserting, so that the validity of the rule enjoin-
ing the attainment of truth is acknowledged even
as it is abused. This is not to deny, of course,
that the fact that understatement does, after all,
attain a certain a certain level of truth may make a
difference between understating and lying from a
moral point of view. It seems that, although indivi-
dual acts of lying can be morally right and proper,
they tend to require an excuse for their deviation
from the truthfulness rule, while understating in
talking about one's own achievements (as in the
virtue of modesty) and sufferings require no such

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excuse. Conversely, the wrongfulness of morally
wrong understatement seems not to be as serious as
that of lying, probably because a lie's exclusion of
the truth follows logically from its assertion of a
false proposition, whereas deceptive understatement
sins by omission rather than commission.

To resume: the conclusion reached in the fore-
going discussion of the canons of appropriateness for
pointful and truthful utterances concerning permis-
sions, namely that reports of the form 'PA' are nor-
mally only to be made in obligation-free situations,
leads immediately to the further conclusion that they
are only to be made when the subject of the permission
is also free to refrain from doing A if he chooses.
For notice that any deontic situation of which the
report 'PA' can truly be made will be covered by the
formula 'Not OA $\rightarrow$ P Not-A'. In a deontic situa-
tion where, for example, a youngster is not required
to leave the room when his parents are discussing
their financial affairs, he is permitted not to leave
it. In all cases where someone is permitted to do
something without being required to do it, he is,
necessarily, permitted both to do it and not to do
it: $(PA . \text{Not OA}) \rightarrow (PA . \text{P Not-A})^{15}$. The proper use
of sentences to express propositions of the form 'PA'
is thus restricted to situations where it is also the
case that P Not-A. The proposition that PA does not
entail that P Not-A, but the standards of correctness
definitive of the act of reporting the deontic status

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15 On the point of taking the entailment in this
form, as holding between a pair of conjunctions, and
hence the guarded introduction of the formula
'Not OA $\rightarrow$ P Not-A' at the beginning of the paragraph,
see chap. 3, pp. 48-9.

of A require that both propositions be true if either
is to be asserted for the purpose of such a report.

In any communication context to which this truth-
fulness rule applies, the speaker is under obligation
to tell the whole of the relevant truth in the matter
he professes to be reporting, to give a fair picture
of the situation. The same rule grants corresponding
rights to the hearer, so that a speaker who reports
that he has worked four hours, or that he is permitted
to do a certain action, entitles his hearer to infer
that he means that he has worked only four hours or
that he is merely permitted, not also obliged. So
even if the statement that PA does not entail that
P Not-A, it does, in virtue of the effect on the
force of the utterance of the entailment from '(PA . Not OA)'
to 'P Not-A', give a hearer to understand that P Not-A,
provided he is not given reason to suspect any abnor-
mality in the context and circumstances of the speaker's
statement.

When account is taken of these additional factors
which come into play when the square's propositions
occur in actual deontic discourse, the close connection
between the idea of being permitted to do an action and
that of being permitted to refrain if one chooses is seen
not to conflict with the square's representation of
'PA' and 'P Not-A' as mere subcontraries. A man
who has been truly informed that he is permitted
to do A has the best possible entitlement short
of logical compulsion to believe that he needn't if he
doesn't want to. Indeed he would in his own way
be violating the rule against misleading by exclusive
understatement were he so anxious about conforming
to the authority's will that he complained to
his informant that he hadn't been told yet whether

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he was also permitted to do the negation-act. For
just as the hearer is entitled to expect a fair
picture of the deontic situation, the speaker is
entitled to expect his statement to be received as
such. Both are bound by the truthfulness rules which
ensure the efficient working of language in assertions.
If a schoolboy, on being told that he has permission
to hand in his homework later than the appointed time,
asks whether he may deliver it at the original time
if it is finished by then, it is his contravention as
hearer of the rule against misleading understatement
that makes his informant reply impatiently 'Of
course, that goes without saying'.

It does go without saying, since (to return to
the smoking compartment we began with) ' Smoking
permitted' and 'Not smoking permitted' must both be
true if either is to serve for a correct report of
the deontic status of smoking in the compartment.
Because the square deals with propositions and not
the speech-act of asserting propositions, it may be
misleading if taken to represent the whole truth
about the propositions 'PA' and 'P Not-A' and their
role in reportive deontic discourse. But this is to
put the square's claim into proper perspective, not
to invalidate it: these two propositions remain, as
far as concerns their logical connections, mere
subcontraries which need not be true together. So
they must each be true as separate and logically
independent aspects of the deontic situation if
passengers in a smoking compartment are to enjoy
freedom of choice.

Chapter Two

Are There Two Senses of 'Permitted'?

The argument up to this point has developed and defended a contrast between (a) its being the situation that both OA and PA **or** that both PA and P Not-A, and (b) its being normally appropriate, when reporting on the deontic features of such a situation, to select for expressing only one of the pair of propositions the truth of which constitutes the situation: 'OA' by itself or 'PA' by itself respectively. With the help of this contrast it was possible to reconcile the *prima facie* natural assumption that to have a permission is to have a 'two-way' freedom of choice (i.e. that when one is permitted to do something one is also permitted not to do it) with the fact that (both in ordinary language and in the symbolism of deontic logic) **two** applications of 'is permitted' ('P-') are required to state a 'two-way' permission in full.[1] Two applications are needed because the act and its negation-act each require to be permitted in their own right; but in a normal communication

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1 Note that '(PA . PB)' does not entail 'P(A . B)', DL, p. 64; Lennart Aqvist, 'Interpretations of Deontic Logic', <u>Mind</u>, April 1964, p. 253. Furthermore, it would be clearly wrong to interpret the special case of a 'two-way' permission, where B is Not-A, as being or entailing a permission to do a logically impossible conjunctive act [P(A . Not-A)].

context only one application of 'is permitted' will
be made explicit (whichever is of interest to the
hearer),because the assertion of one alone is suffi-
cient to give the hearer to understand the other to
be true or to be false according as his appreciation
of the context leads him to suppose it to be true or
to be false that OA.

However, while in a philosophical discussion of
deontic terms it is important to consider how they
feature in assertions and other kinds of speech-
act, it is also important to distinguish propositions
from speech-acts, and not to ascribe to the logical
content of the terms elements due to the particular
kind of speech-act performed by their use. This
mistake is made by Knut Erik Tranøy in an article
which, in effect, challenges the accuracy of von
Wright's formalization of the logic of the ordinary
language term 'permitted', as follows:

> (1) An action which is obligatory is also
>   a _fortiori_ permitted, since if it were
>   not, it would be forbidden.
>
> (2) Often when we say that an action is
>   permitted, we mean to say that it
>   is neither obligatory nor forbidden.[2]

Tranøy's thesis is that the formal expression
'PA . P Not-A', as used in deontic logic, defines a
distinguishable _sense_ [that formulated in (2)] of
the ordinary language term 'is permitted'. (I itali-
cize the word 'sense' because Tranøy does not simply
mean that an action's being neither obligatory nor
forbidden is something users of the term always or
sometimes have in mind when they say, e.g. 'Smoking
is permitted'.) Tranøy argues that (whatever may be

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2   'An Important Aspect of Humanism', _Theoria_,
1957:1, pp. 39-40.

true within a formal system of deontic logic) the
sense in which an act is permitted when it is obliga-
tory is quite different from the sense in which it is
permitted when it is neither obligatory nor forbidden.
If this is true, then, though the formal expression
'PA' is univocal, the ordinary language 'is
permitted' is ambiguous - as Tranøy subsequently
agreed was his view in   reply to criticism of his
essay[3]: the permission entailed by obligation is a
different <u>kind</u> of permission from the 'free permis-
sion', as he calls it,[4] demarcated by (2).

This thesis invites the question: which of these
two kinds of permission is the kind negated by a
prohibition? Thus Erik Ryding[5] objected to the postu-
lation of two senses of 'permitted' that the negation
of 'PA . P Not-A' is '$[FA \vee OA \vee (FA . OA)]$[6], which
would present travellers in a non-smoking compartment
with an intolerable problem. To this Tranøy replied
that his thesis did not commit him to the above dis-
junction as a formalization of a sign like 'Smoking
not permitted', for his postulation of two senses of

3 Knut Erik Tranøy, 'Reply to Erik Ryding: A
Note on E. Ryding's "The Sense of 'Smoking Permit-
ted'"', <u>Theoria</u> 1958:3, p. 191.

4 'An Important Aspect of Humanism', <u>loc.
cit.</u>, p. 40.

5 Erik Ryding, 'The Sense of "Smoking Permit-
ted": A Note on Erik Tranøy's "An Important Aspect
of Humanism"', <u>Theoria</u> 1958:3, pp. 188-190.

6 This formulation of the negation assumes the
validity of the square's relationships of contra-
diction, on which see Part II below.

'permitted' rested on the following 'factual hypothesis':

> (a) When faced with the sign 'Smoking permitted', we actually tend to interpret the word 'permitted' after the fashion of the formal expression 'PΛ . P Not-Λ'; and

> (b) When faced with the sign 'Smoking not permitted', we actually tend to interpret the word 'permitted' after the fashion of 'PΛ'.[7]

In other words, what is false of a forbidden action is the same as what is true of an obligatory one: 'permitted' in sense (1) and only in sense (1), to be symbolized by 'PΛ' simpliciter. This restriction of sense (2) to cases where 'is permitted' is explicitly affirmed of an action saves Tranøy's thesis from Ryding's objection, though it puts rather a peculiar construction on the action of an official who inserts the word 'not' in a notice saying 'Smoking permitted' - instead of describing him as simply negating what the notice previously announced we must now say he also changed the meaning of the word 'permitted' in the notice. But this saving restriction only invites a new objection based on the use of 'permitted' in questions. Suppose a foreigner enters a railway carriage and, not being certain what the absence of any notice about smoking signifies, asks the other passengers 'Is smoking permitted?'. If 'permitted' is truly ambiguous, the questioner may be enquiring as to the correctness of asserting 'permitted' of smoking either in sense (1) or in sense (2). But on Tranøy's thesis 'Smoking is not permitted' carries

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7   'Reply to Erik Ryding', loc. cit., pp. 190-1.

sense (1), while 'Smoking is permitted' carries
sense (2) (unless, presumably, it is clear in tne
context that smoking is actually obligatory). Hence,
if one passenger answers the foreigner's question
in the negative and a second answers in the affirma-
tive, the two passengers are not contradicting each
other but are answering different questions; for
when one passenger affirms and the other denies
'permitted' of smoking, they are using 'permitted'
in different senses, and hence are not respectively
affirming and denying the same proposition. This is
a most implausible account of the situation.

To measure its implausibility contrast the
following two answers to the question 'Were the
demonstrators permitted to make speeches?':

    (i) 'Yes, the authorities gave their consent
         at the last moment.'

    (ii) 'No, the hostile crowd shouted them
          down.'

These two replies are not in contradiction with each
other (they could both be true) because they do
answer different questions (assert/deny different
propositions), either of which could be conveyed by
the (in this respect genuinely ambiguous) interroga-
tive sentence according as 'permitted' refers to
the absence of normative obstacles or to the absence
of obstacles physically preventing the action in
question. There are good grounds for distinguishing
these two senses of the verb 'permit' (the noun 'per-
mission' has only the normative one). The difficulty
of construing the situation in the railway carriage
as analogous to the situation just sketched, in which
the two replies clearly are at cross-purposes, is a
measure of the implausibility of Tranøy's 'factual
hypothesis' according to which 'permitted' carries

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two _normative_ senses, as opposed to a (univocal) normative and a physical sense.

If the question 'Is smoking permitted?' could convey an inquiry of the form 'Is it the case that (PA . P Not-A)?', then one of the conditions for appropriately using such a sentence to make an inquiry of this form would be that the questioner was prepared to follow up a negative reply ('No, it is not the case that (PA . P Not-A)') by asking which of the disjuncts of the disjunctive negation of 'PA . P Not-A' was true ('Is smoking forbidden or obligatory (or both)?').[8] And indeed in the perhaps unlikely event of someone actually asking 'Is it both permitted to smoke and permitted not to smoke?' the questioner _would_, surely, be prepared to react as follows: if the answer is a bare 'Yes', he will be satisfied with the information that both smoking and not smoking are permitted; if it is presupposed in the context that the authority has issued a ruling of some sort on smoking but the answer to the question is 'No, they are not both permitted', he will pursue · the inquiry further by asking, 'Well, which is the permitted activity - smoking or not smoking?'. For, if the 'inconsistent' disjunct 'FA . OA' is excluded, either A or Not-A must be permitted, according as it is 'OA' or 'FA' which is true.

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8   The alternative 'Are _any_ of them true?' is ruled out by the answer's implicit confirmation of the _appropriateness_ of the original question's 'yes-or-no' form.   To put the question 'Is smoking permitted?' in this form presupposes authority action as a condition for a straight 'yes-or-no' answer to be appropriate, and if this presupposition is not met the respondent should _reject_ the question as not appropriately answerable in the form in which it was put, saying something like 'No ruling has been made on the matter'. See further Part II.

The objection to Tranøy is not, primarily, that 'Is it the case that (PA . P Not-A)?' is an implausible analysis of 'Is smoking permitted?' (though it is implausible) but that it must be possible to answer a yes-or-no question by 'yes' or 'no', that is, by affirming or denying the proposition expressed by the use of the interrogative sentence. If a negative answer to 'Is smoking permitted?' would not normally elicit the further question mentioned above, the question must be of the form 'Is it the case that PA?' _simpliciter_; in which case the affirmative answer 'Yes, smoking is permitted' must be of the form 'Yes, it is the case that PA' _simpliciter_. But if 'Smoking is permitted', when used to answer the question 'Is smoking permitted?' affirms only that PA, then surely that is all it does in the ordinary course of a conversation when it is not called forth by a question but is used to inform someone about the deontic status of smoking; for example, if the foreigner goes out into the passage to smoke and one of the passengers says to him 'It is permitted to smoke in the compartment, you know'. In this example the passenger's utterance must be construed as an assertion of precisely the same proposition as would be asserted by an answer to an explicit question on the subject: a report on the deontic status of smoking, which does not _entail_ anything about the deontic status of not smoking. The intelligibility of the following dialogue depends on its being one and the same proposition which once formulated and affirmed in full, is then successively questioned, said to have been believed false, and reaffirmed:

'It is permitted to smoke in here, you know.'
'Is it? I thought it wasn't.'
'Oh, yes it is.'

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That is, the conversational ellipses must be translatable into full sentences all using 'permitted' in the same sense as the first sentence, or else the speakers are talking at cross-purposes. Since the cross-purposes account would clearly not normally be the correct interpretation of this and similar dialogues, Tranøy's 'factual hypothesis' is false.

It is true that if the answer to the question 'Is smoking permitted?' is affirmative, the questioner will 'interpret' the situation as being such that both PA and P Not-A. But this is not because he interprets the _meaning_ of the term 'is permitted' as being such that to assert that smoking is permitted is to assert or to imply (logically) that not smoking also is permitted. The implication to 'P Not-A' is not logical but pragmatic;[9] it arises from the fact that the reply 'Yes, smoking is permitted' would have been (not false but) _irappropriate_ and incorrect by the standards for truthful assertive utterances in the event of its being false that not smoking was permitted. And the questioner's 'interpretation' of the situation as being one where it is also true that not smoking is permitted rests, not on his understanding of the meaning of the word 'permitted' in the sentence 'Smoking is permitted', but on his understanding of the conditions the satisfaction of which is mandatory for any assertive use of this sentence which professes to give a faithful picture of the deontic case. Had the questioner been incorrect in concluding that not smoking, as well as smoking, was permitted, he would not have betrayed a deficiency in his knowledge of the semantics of the English language, any more than an employer who is told that his employee has worked four hours today and concludes (wrongly as it happens) that it is false that he has

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9 So, too, though for different reasons (see last fn. and chap. 7 below), is the implication to 'Smoking is forbidden' which governs the interpretation of 'Smoking not permitted' notices - the second half of Tranøy's 'factual hypothesis' (pp. 28-30 above).

worked eight hours has displayed arithmetical incom-
petence. In both cases the mistaken inference is
drawn on the basis of an assumption that the speech-
act attained the standard of truthfulness at which it
professed to aim.

These two chapters have been concerned to
provide and defend an answer to the question put at
the beginning of Part I, 'In what way, if any, does
permission to do an act, A, include permission not
to do A?', in so far as that question concerns what
one is told by the assertion that an action is per-
mitted. In practical life, one might protest, per-
missions would not have the significance they do in
fact have if they didn't include permission to refrain.
But to say this is not to answer the philosophical
question as to what 'include' means here. I have
argued that the inclusion which does obtain is not
an entailment of something which follows from the
proposition asserted by the use of a sentence like
'A is permitted', but is a pragmatic implication,
which derives from the conditions which must be satis-
fied in normal communication contexts if the verb
'permit' and its synonyms are to be appropriately
and truthfully used for reporting permissions. My
argument has involved a defence against some actual
and possible criticisms of the accuracy of von
Wright's (1951) formalization of the logical inter-
relations of the deontic terms 'permitted', 'obliga-
tory', and 'forbidden' - though I have also argued
that in the context of actual discourse pragmatic
considerations make for there being more to the 'use'
of these terms than is reflected in the formalization
of their 'logic'.

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Chapter Three

Permission-Giving Utterances

The cases considered so far are ones where verbs
such as 'permit' or synonymous and related express-
ions are used to report a permission which already
exists. Expressions like 'You are permitted' are also
used to give permission. This use stands in a
rather different relation to the propositions whose
logical relationships are set out in the deontic
square of opposition: an authority who permits an
action, A, does not aim at attaining truth with the
proposition that PA; he makes it true. This use
therefore requires separate treatment if a full
answer is to be given to the question 'In what
way, if any, does permission to do an act, A, in-
clude permission not to do A?'.

The use of deontic language for the speech-
acts of enjoining, permitting, and forbidding will
be called the 'performative' use, to distinguish it
from the 'reportive' or assertive use discussed so
far. The label is meant to differentiate this use
of deontic language from the reportive use discussed
hitherto[1] by signifying the distinguishing feature

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1 By 'the reportive use' will be meant not only
permission-reporting utterances proper, but also the
use of deontic language in questions and other
'theoretical' speech-acts which, though not them-
selves truth-claiming, have no impact on the truth-
value of deontic propositions.

just noted: its function of making deontic propo-
sitions true. But to forestall any misleading
associations that might be invoked by the term
'performative', a preliminary clarification will
be in order.

First, the label 'performative' will not be
restricted to what Austin calls 'explicit performa-
tive utterances' in the forms 'I permit' or 'You
are hereby permitted'[2], nor to any partic-
ular one of the many grammatical forms in the
indicative or the imperative mood which are avail-
able in the language for the speech-acts of permit-
ting, enjoining, and forbidding. Second, it is not
intended to give what would be otiose emphasis to
the truism that such utterances are performances or
actions with words; nor to imply that it is because
they are performances that they have the character-
istic of not making truth-claims. The reportive use
of deontic language, like any other truth-claiming
use of language, involves doing something with words
just as much as does the performative use. Even if
permitting were a truth-claiming act, it would still,
for the trivial enough reason that it is a speech-
act, be performable by and only by the uttering
of certain expressions (audibly or in writing or
with actions to the same effect) in circumstances
appropriate for the act to be what Austin terms a
'happy' one.[3] Its characteristic of not aiming at

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2 J.L. Austin, 'Performative Utterances',
Philosophical Papers (Oxford: Clarendon Press 1961)
pp. 230-1.

3 J.L. Austin, 'How To Do Things With Words',
op. cit., p. 14 and passim.

truth cannot stem from its being a performance,
simpliciter, because that feature fails to differen-
tiate the use of language to permit or to command
from the reportive use of deontic language; rather
this characteristic of it is part of what is involved
in the fact that it belongs to what is commonly called
practical discourse, to discourse which aims at making
a difference through speech to what becomes the case,
rather than at truths about what is or will be the
case which are independent of the speech in which
they are recorded.

The question of how performative discourse makes
a difference to the human behaviour it rules upon, and
hence to what becomes the case as a result of that
behaviour, will be discussed in the next chapter.
This chapter is concerned with the prior question of
what is involved in the performative use itself. And
now that it has been emphasized that the term 'performa-
tive' should not be taken to signify or to imply more
than was initially specified, we can begin the dis-
cussion by asking what it means to say that the use
of deontic language in the speech-acts of enjoining,
permitting, and prohibiting is a performative use, a
use which makes deontic propositions true.

The formulae 'FA', 'FA', etc. are modelled on
ordinary language sentences in which the act-descrip-
tions take the grammatical form of verbal nouns:
'Playing in the street is forbidden'.[4] But the super-
ficial simplicity of this sentence hides a complicated
logical structure which is due to the fact that forbid-
ding is a speech-act performed by an authority in a

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4 Cf. e.g. DL p. 61: 'The proposition that the
act named by "A" is permitted will be expressed in
symbols by "PA".'

in a context of communication with one or more
of his subjects.

To begin with, 'A' and 'Not-A', etc. are not
expressions referring, in the manner of proper
names and ordinary referring expressions, to any
particular action that has been or will actually
be done in the non-linguistic world; they stand
for _types_ of action, even if the descriptions they
symbolize include specifications of a particular
agent and/or a time and a place for his doing an
action of the type mentioned. This is because
enjoining and permitting are always concerned with
types of action, not particular token-actions.
Naming or referring to a particular instance of
a type of action would presuppose the existence
(i.e. the actual occurrence, past, present, or
future) of that instance, by which time it would
be too late to enjoin or to permit it.[5] _The_ visit
to the doctor that Randy made or is now making
(or even will make tomorrow, if it is known he will
make one) is not a possible object for a ruling --
one can only tell him not to make _a_ visit tomorrow,
or to put off the visit he had _planned_ to make.
(This conditi_ on the performance of ruling
speech-acts should be distinguished from the
merely pragmatic _pointlessness_ of enjoining,
forbidding, or permitting someone to perform _an_
instance of a type of action he is already engaged
in at the time referred to in the utterance - as
opposed to continuing or not stopping it - or to

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5 For an elaboration of this point, cf.
Bernard Mayo, 'Varieties of Imperative', _Arist._
Soc. _Supp._ _Vol._ XXXI, 1957, pp. 164-5.

do what he would be doing anyway at that time whatever the authority might say.[6])

The full logical structure of the deontic fact reported by a sentence like 'Playing in the street is forbidden' can be made clear by bringing in an explicit mention of the authority responsible for the act's having the deontic status of being forbidden. For any deontic situation reportable by such a sentence consists in full of the fact stated by a statement in which the speech-act verb 'forbid' is predicated of the relevant authority (or, in the passive, of the subjects concerned): 'Mother has forbidden (our) playing in the street' or 'We have been forbidden by Mother to play in the street'. And from a statement of this form it is always legitimate, albeit with an occasional stretching of ordinary language, to derive a synonymous formulation of the same deontic fact in which the act-expression occurs explicitly in subject-predicate form in a propositional that-clause where a type of action is predicated of the subject(s) covered by the ruling: 'Mother has forbidden that we play in the street'.[7]

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6 This latter is the point made by D.R. Bell to the effect that an order is rendered 'nugatory...if what is ordered is already taking place', because 'one cannot initiate what is already started'. 'Imperatives and the Will', Arist. Soc. Proc. Vol. LXVI, 1965-6, p. 140, fn. 11.

7 The legitimacy of this transformation is reflected in the common use of the propositional variables 'p', 'q', etc. in formulae of the form 'Op', 'Pp', etc. for systems of deontic logic, e.g. that set up by Lennart Aqvist, 'Interpretations of Deontic Logic', op. cit.; cf. D.R. Bell: 'An order contains a description of an act to be performed by the person to whom the order is addressed. One might put this by saying that an order predicates an act of a person.' 'Imperatives and the Will', loc. cit., p. 140.

The simple grammatical form we began with conceals
the fact that a deontic proposition contains as a
subsidiary part a further proposition, namely the
proposition expressed in the authority's original
ruling; the presence of this subsidiary proposition
is revealed when the deontic fact is formulated by
expressing the overtly compound proposition: that
Mother has forbidden that we play in the street.

From these considerations it is evident that a
report of the deontic situation is, in effect, an
oratio obliqua report of what the authority has said
(including, of course, what he has said in written
rulings). The report may be unspecific as to the
identity of the authority and subject(s) concerned,
but it must always be possible to ask for the full
details left implicit in the context.

At the end of 'Deontic Logic' von Wright adds
the following comment:

> In this paper deontic propositions have been
> treated as 'absolute'. They can, however,
> be made 'relative' in several ways...instead
> of simply considering whether an act is
> obligatory, permitted or forbidden, we may
> consider propositions of the following type:
> x is permitted to do A, or x permits y to
> do A.[8]

I am suggesting that, while it may be convenient and
legitimate for formal purposes to treat deontic propo-
sitions as absolute, relativization of the sort
described is always implicitly present in the back-
ground context.[9] The verbal noun form certainly has
many conveniences for the purposes of ordinary conver-
sation, but this should not blind us to the fact that

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8 DL p. 74.

9 E.J. Lemmon agrees: 'Deontic Logic and the
Logic of Imperatives', _op. cit._, p. 67.

the 'deontic characters' of being forbidden, etc. always derive from some source, which means, for present purposes, an authority and his rulings, and are always relative to that source.

For A to be _now_ permitted, it is not enough that the authority _gave_ permission for A to be done; the permission must still be, as we say, 'in force'. But this additional requirement seems to be analyzable in purely negative terms, as the authority's _not_ having cancelled the permission in any way (compare 'The Minister's stated opinion on this subject _now is_ that p'). So to say that A is permitted, or that a permission for the doing of A is in force, is to say (a) that a certain speech-act _has been_ done (by the relevant authority), namely one with the illocutionary force of a permission and the subject's doing of A as its propositional content, and (b) that no speech-act has been done since to replace the previous ruling on A. In simpler terms, a person now has permission to do A if (a) he has been permitted to do A and (b) this permission has not been revoked. Thus to talk of 'the deontic situation' or 'the deontic status' of acts is just a convenient way of referring to what the authority has ruled concerning acts under his jurisdiction, that is, to the meaning and illocutionary force conveyed by his performative utterances to his subjects. The type of action ruled upon is determined by the proposition expressed in the speech-act, its deontic status by the illocutionary force which made the ruling an act of enjoining, permitting, or forbidding. A is obligatory (enjoined) if and only if a past performative utterance with the force of a command to do A has not in the meantime been cancelled, withdrawn, or otherwise ceased to apply (e.g. by the passing of a particular time specified

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for the doing of the obligatory act); for to say that
A is obligatory is simply to say that it is covered
in this way by an obligation-imposing pronouncement.[10]

The reason why deontic propositions are made true
by the speech-acts which constitute an authority's rul-
ings is now obvious. Successful performative use of 'I
permit you to do A' in an act of permitting A makes it
the case that A is permitted simply by making it the
case that A has been permitted, which it does in the
same truistic way as the doing of any action makes it
true that an action of that type has been performed.
Once A has been permitted in this way, it will continue
to be permitted as long as the authority does not can-
cel or revoke his act of permitting it or until that
act ceases to be of any relevance to the subject's
behaviour for chronological or other reasons.

Indeed, a deontic status could only fail to be
the result of an apparently performative use of deon-
tic language if the authority's utterance failed to
constitute a ruling, whether because the speech-act
in question was of the wrong type (e.g. a sergeant's
demonstration to officers under training of how
to give commands on a parade-ground), or because it
was an attempt at a ruling which was rendered
unhappy by some infelicity such as not securing up-
take with the subjects affected. For example, a

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10 If the pronouncement is an undertaking, it
results in the agent having undertaken to do A and
not having been relieved of the obligation for any
reason (cf. Introd., p. 5 and chap. 4, p. 95 fn.
17). Stanley Cavell, 'Must We Mean What We Say?',
Ordinary Language, ed, V.C. Chappell (Englewood
Cliffs, N.J.: Prentice Hall 1964), p. 99 fn. 25,
recommends an interpretation even of the 'undertaking'
involved in accepting a deposit of money as a compli-
cated 'utterance',for 'you intend that what you do
shall be understood'.

secretary may fail to grasp that her employer's 'If
you have a moment I'd be grateful if you would get me
a cup of coffee' was meant as an order, not as a re-
quest which she could reasonably decline if very busy.
This is an instance of an attempted order failing to
come off through failure to communicate successfully
the intended illocutionary force of the utterance.[11]

If, then, the speech-acts of enjoining, permit-
ting and forbidding make deontic propositions true
in this rather truistic way, and if the deontic situ-
ation for any given area of action, such as parking
in London, simply <u>consists</u> in the truth of certain
deontic propositions to the effect that the authority
has enjoined that such-and-such be done and has
permitted that such-and-such else be left undone,
the deontic situation at any given time is <u>completely</u>
determined as being what the authority's performative
utterances have said it is to be. Consequently, it
must be infected by any inconsistencies, vagueness
or ambiguity of act-descriptions, or indeterminacy
of application to be found in the rulings which
comprise it.

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11 For an account of such infelicities and of
the many conditions which have to be satisfied if a
speech-act like permitting is to count as having been
successfully performed, see Austin, <u>How To Do Things
With Words</u>, <u>op</u>. <u>cit</u>., In a sufficiently formalized
institutional setting, such as a military parade
ground, procedural conventions can make the communi-
cation of illocutionary force entirely independent of
a speaker's intentions, real or ostensible, so that
the mere utterance of certain words may constitute a
ruling to a certain effect irrespective of what sense
the speaker meant his words to carry or what illocu-
tionary force he intended them to have. Cf. P.F.
Strawson's example of unintentionally redoubling at
bridge, 'Intention and Convention in Speech Acts',
<u>Phil</u>. <u>Rev</u>., Oct. 1964, p. 457.

An example of inconsistency between two
rulings both in force at the same time was given in
chapter 1's description of the plight of the South
African woman in a legal limbo. An example of vague-
ness in act-descriptions would be, for instance,
where a secretary is uncertain just how much license
she is being granted when her new employer says, when
first instructing her on her duties, 'I permit type-
overs - provided there is not more than one to a
page'. If she asks what he meant by 'one to a page',
he may specify that he would not permit more than one
word (as opposed to one letter in a word) to be typed
over on any given page of typing . If that was what
he did mean by the phrase, then his clarification could
legitimately be held to be an explanation in more
precise terms of an aspect of the deontic situation
prevailing in the office, i.e. of what he meant by
his original permission to the new secretary. For
in order to know what he said, it is necessary to
know what he meant by the words he used (given, as
here, words that can mean this - otherwise he said
something different from what he meant). But there
are limits to what could count as a possible meaning
for an ambiguous phrase as in 'You are to go to the
bank on Monday' or for an imprecise expression like
'one to a page', and these limits restrict the extent
to which a man who says that p (e.g. that he is giving
permission for typeovers, provided there is not more
than one to a page) can count as having thereby meant
that q (e.g. that he was giving permission for type-
overs, provided this didn't affect more than a single
word on any given page).

Moreover, the employer might not have thought about conveying any more precise meaning at all, in which case his secretary's request for clarification shows him that he needs to issue a supplementary ruling laying down precisely how he likes his letters to look. He might even have to _decide_ on a policy for the appearance of letters sent out from his office. This new ruling's more precise act-description would give it a more precise propositional content than the original permission, and this _ipso facto_ means a change in the set of deontic propositions whose joint assertion gives a correct report of what the employer has enjoined or permitted his secretary to do. Reporting the deontic situation can be done more or less clearly, in greater or lesser detail, etc., but no report can state what an authority's subjects are or are not required by him to do in the area under his jurisdiction with greater precision than that attained in the actual speech-acts, the content of whose commands and permissions the report aims to convey. Previously, then, all that could be said was that the secretary was permitted by her employer to make typeovers, provided there were not more than one to a page. But now a report to this effect would give only an imprecise version of the deontic situation prevailing in the office. For that situation, consisting as it does simply of what the employer has ruled is to be or need not be done, is immediately _changed_ by any new ruling.

This completeness of the correspondence between what an authority _says_ is to be or need not be the case, and what _is_ to be or need not be the case in the matter, contrasts with the way truth-claiming utterances, such as reports of the deontic situation,

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are always liable to give a version of what is the
case which corresponds incompletely or inadequately
in some respect with what is really the case in the
matter. The performative use of deontic language
does not aim at truths about states of affairs inde-
pendent of itself, but at the creation or establish-
ment of deontic states of affairs through the speech-
acts of enjoining, permitting, and forbidding. And
the price of this 'creative' role is that an authority
dissatisfied with the prevailing deontic situation
cannot set out to eliminate the elements he finds
unsatisfactory in his previous rulings without chang-
ing the deontic situation itself. For that is no more
and no less than he has said it was to be.[12]

Now the converse of this complete logical
dependence of any deontic situation on the rulings
which comprise it is that any performative utterance
which is to constitute a ruling must determine,
completely and authoritatively, a deontic status for
the act in question. It has already been seen that
although 'PA' entails nothing about the truth of
'OA' or of 'P Not-A', a man who reports that PA
normally gives his hearer to understand that 'OA' is
false and 'P Not-A' true. It should now be added
that if he didn't give his hearer reason to conclude
either that OA or that P Not-A, his report would be
useless for practical purposes to an agent who

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12 This is, in effect, a variant of B.A.O.
Williams' claim that a schema such as 'Do x or do y;
do not do x; so do y' cannot be regarded as repre-
senting a form of inference with imperative sentences,
since each limb of the putative inferential sequence
'can be construed only as the speaker changing his
mind, or going back on what he first said'. 'Impera-
tive Inference', Analysis Supp., Jan. 1963, p. 32.
See further p. 64ff below.

wouldn't do A if it were left up to him, but wants to conform to the authority's will. For 'PA' does entail the disjunction 'OA v P Not-A', and it is obviously vital to such an agent to know which is the true disjunct; the entailment is indeed trivial, since the square represents the disjunction as an exhaustive one between a pair of contradictories one of which is necessarily true of any deontic situation. This means that if A has a deontic status at all, either 'OA' or 'P Not-A' is true; in particular, A cannot be permitted without Not-A being either forbidden or permitted.

Consequently, no performative use of deontic language could have sufficient force to establish a deontic status for A (which it must if it is to count as a ruling) unless it also had the force of a settlement in favour either of 'OA' or of 'P Not-A'. In particular, no ruling, however sparing in its choice of words for actual utterance - and of course in suitable circumstances the single word 'Yes' or a nod of the head will suffice - could confine itself to laying it down that PA simpliciter.

This important limitation depends on the fact that any deontic situation must realize the truth of one of the trio: (OA . PA) v (PA . P Not-A) v (P Not-A . FA). Now the square represents this disjunction as (i) exhaustive and (ii) exclusive for any act. (i) presupposes that there is a deontic situation involving A, i.e. that the authority has taken normative cognisance of A. This presupposition has so far been accepted (but only as a presupposition) throughout this study, e.g. the disjunction 'OA v P Not-A' has just been described as necessarily true

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<u>of</u> <u>any</u> <u>deontic</u> <u>situation</u>. The problem of authority
non-action will be examined later in Part II. On the
other hand, (ii) has been rejected from the beginning
(cf. the South African story in chapter 1) in favour
of the view that it is perfectly possible for incon-
sistent rulings to be made, even by a single authority,
as a result of which an act has an 'incoherent'
deontic status, e.g. that of being both obligatory and
not obligatory. A brief digression will therefore
be in order to make it clear that this possibility
does not affect the use made in the present argument
of the square's triple disjunction of conjunctions.

Given the analysis offered above of deontic
propositions as <u>oratio</u> <u>obliqua</u> records of the mean-
ing and illocutionary force of authority utterances
bearing on the type of act in question, it is obvious
that a description of an act as both obligatory and
not obligatory is not <u>itself</u> inconsistent - it merely
reports the inconsistencies of others. It would not
indeed be possible to talk about an act being obliga-
tory or permitted as such, in the abstract and with-
out explicit reference to the authority or authorities
concerned, unless it was normally the case that
authorities avoid engendering logical conflicts with
their own pre-existing rulings or with those of other
authorities superordinate to or coordinate with them.[13]

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13 Terms like 'conflict', 'inconsistency', etc.
will always refer in this study to logical conflicts,
unless the contrary is specified or clear in the con-
text. Conflicts with an empirical rather than
logical basis are rather more plentiful, and it would
be asking too much for non-omniscient authorities to
forestall them. See B.A.O. Williams, 'Consistency
in Ethics', <u>Arist</u>. <u>Soc</u>. <u>Supp</u>. Vol. XXXIX, 1965
and 'Consistency and Realism', <u>Arist</u>. <u>Soc</u>. <u>Supp</u>.
Vol. XL, 1966.

The initial intuitive acceptability of the logical
relationships which the square claims to hold between
the deoatic propositions it formulates in (gramma-
tically) subject-predicate terms is partly due to
the obtaining of this general consistency in actual
life. However, all that the present argument requires
is that the square should give a valid account of
the logical implications of any given ruling utter-
ance made at a particular time by a particular
authority: his ruling must bring about the truth of
one or other of the trio set out at the beginning
of the previous paragraph.

    At least that much, then, must be realized by
any deontic situation. The qualification to be added
here is that a deontic situation may realize more
than one of the disjuncts; but when the full logical
structure of the propositions involved is laid bare
in the manner illustrated on pages 40-42 above, it
will be clear that this qualification, while it
involves the admission that there may be a deontic
situation which is incoherent in the sense that the
subjects cannot avoid acting contrary to or failing
to fulfil[14] at least one ruling, it involves no

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14 'Fulfilment' is to be preferred to 'obedience',
inter alia in order to take account of permissions:
a prohibition against and a permission for one and
the same act are inconsistent with ne another,
although one cannot obey a permission. What one does
in taking advantage of it is to exemplify the propo-
sitional content of both the permission and the pro-
hibition by performing a token-act of the type permit-
ted by the one and forbidden by the other. The
inconsistency cannot be established from considera-
tion simply of the propositions involved, which are
the same in both cases, but requires reference to the
opposed illocutionary forces of the two rulings.
    In this study 'fulfil' is to be understood in
such a way that an agent can fulfil the requirements
of an order without his behaviour being governed by

inconsistency between the deontic propositions whose
joint truth constitutes the situation - the incon-
sistency is confined to the rulings reported by the
assertion of those propositions.

Given the compound, oratio obliqua nature of
deontic propositions, the logical relationships set
out in the square are safe from invalidation by the
possibility of inconsistency. At least where differ-
ent rulings are involved, relativization will simply
make plain the nature and source of the incoherence
in the deontic situation. If necessary, this
relativization can provide a specification of each
of the mutually inconsistent rulings of one and the
same authority. There is no a priori reason why such
inconsistency, by a single authority at different
times, should necessarily involve the cancellation
of one of the rulings; of course, higher-order
procedural rules may in some contexts take care of
the problems posed for the subjects who fall victim
to such authority-waywardness: lex non cogat ad
impossibilia - at least not in just societies.

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an intention of doing so, and even without his
knowing that an order to that effect has been given.
A person fulfils a command in this sense if and only
if he makes true the proposition expressed in the
command. The reason why he does so is irrelevant,
so that fulfilment is not a sufficient condition for
obedience in its ordinary sense (for a discussion of
some relevant differences, see Nicholas Rescher,
The Logic of Commands, op. cit, pp. 52-6), though
philosophers sometimes use it in the 'conforming
action' sense I have given my term 'fulfilment' (see
B.A.O. Williams, 'Consistency and Realism, op. cit.,
pp. 2-5). Fulfilment is not even a necessary condi-
tion for obedience if Miss Anscombe is right in main-
taining the possibility of 'obeying an order wrong'
(G.E.M. Anscombe, Intention (Oxford: Basil Blackwell
1957) §32).

I italicize 'different rulings' in the foregoing
paragraph because I have claimed that where a certain
type of inconsistency vitiates a _single_ utterance,
the speech-act stultifies its own aim and fails to
establish a deontic status for the act in question.[15]
In the light of the present discussion, it will be
clear that this means it does not constitute a _ruling_
on the act at all. Hence the square does not come
into play unless a coherent ruling has taken pla e,
with the minimal consistency which that involves, as
determined by the canons formulated in the square.
An authority must heed these canons if his utterance
is to have any upshot to be recorded in one or other
of the trio of conjunctions: $(OA \cdot PA) \vee (PA \cdot P \text{ Not-}A)$
$\vee (P \text{ Not-}A \cdot PA)$. For a given ruling, this disjunc-
tion must be accepted a; exclusive. We may therefore
legitimately return to the significance of limitation
imposed by this trio, namely that no ruling can bring
it about that 'PA' is true _by_ _itself_.

No authority deliberating on what sort of deontic
situation to establish in the area of his jurisdiction
can evade the logical implications of the powers con-
ferred on his speech-acts by his position as an
authority. These powers are, as the square shows,
such that giving a man permission to do an action
without at the same time enjoining him to do it
necessarily involves also permitting him to refrain.
For the only thing that counts in determining the
deontic situation is what the authority has said,
together also with what he has not said, and even
if the only thing the authority has said since he

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15 Cf. chap. 1, pp. 10-11.

assumed jurisdiction is that he gives his permission
for A, the fact of his having said this and not with-
drawn it, together with the fact that he has <u>not</u>
enjoined A, is sufficient to entail that Not-A is
permitted [(PA. Not OA) → (PA . P Not-A)].[16]   The
authority is constrained by the logic of his situa-
tion to endow any permitting act which is not at the
same time part of an act of enjoining with a 'two-
way' permissive import for both the act and its
negation. His deliberation about how to act must be
governed by the fact that he can either enjoin A or
permit Not-A and that any permitting act on his part
must involve doing one or other of these two things,
so that he must reach a <u>decision</u> which includes one
or other alternative. However he decides in the end,
his actual speech-act must be internally free of any
disjunctive element: the resolution of a choice
between doing x or doing y must be describable as
'doing x' or as 'doing y' <u>simpliciter</u>. Any ruling
must establish the whole of one of the trio of con-
junctions: (OA . PA) v (PA . P Not-A) v (P Not-A . FA).

   A report of the deontic case can always confine
itself to the assertion of just one conjunct in the
relevant member of this trio, though if it does it
implies more than it explicitly states. But the
actual laying down of what is to be the deontic case
cannot have an incompleteness analogous to that which

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   16 It should be noted that this inference is
safe from the paradox developed in Part II's discussion
of authority non-action because <u>ex</u> <u>hypothesi</u> the act
has been ruled upon, as the occurrence of the positive
formula 'PA' in the justifying theorem shows. (Cp.
chap. 1, p. 24, fn. 15.)

may fault any utterance aiming to give a correct version of what is the case. Nor can it be done in two stages, as it were, by conveying each ingredient of the ruling separately, in the way a speaker describing the deontic situation could go on to assert that OA in order to compensate for the misleadingness of his original statement that PA. If the job of making a ruling is done at all, it is done completely. An authority is being illogical if, when he has said 'I permit you to do A' and is asked whether he means his utterance to be taken as having the force of an order to do A, or as comprising a permission to refrain from A as well as to do A, he replies, 'I haven't decided yet; I'll let you know in a moment'. If he really does mean to permit A and at the same time to refrain (at least for the moment) from enjoining A, that is sufficient for his ruling to include a permission not to do A; given that he decides not to enjoin A, it is no longer up to him to decide whether or not he will also permit Not-A, since his deliberate withholding of an obligation _is_ a way of permitting Not-A, just as deliberately withholding permission is a way of forbidding.[17]

It might indeed happen that, for example, a mother intended to tell her teen-age son to get a job for the summer, but before she actually got round to it he asked her if he might get a job, to which she replied, with secret delight, simply 'Yes'. What he asked for and what he got was at least a permission to do A - but could that be all? Suppose he doesn't try to get a job after all - is it then open to his mother to reproach him for disobedience, saying 'When I permitted you to get a job I didn't mean you needn't, but that you had to, though I put it in the form of a

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17 Cf. chap. 1, pp. 8-10.

permission, since that was what you asked for'?

No it isn't, for by giving him permission and not mentioning any prohibition, she _ipso_ _facto_ is not prohibiting the negation-act _in_ _this_ _ruling_. What counts in determining the deontic situation is what she said and did not say in her ruling utterance, not what she had originally planned to say or what she wanted to be done but didn't think needed an explicit injunction. Her son cannot disobey an order he has not been given, so that his not doing the act for which he asked and received permission cannot contravene her ruling in any way. Of course, she might have reason to complain if he didn't do it, because asking for permission in many circumstances serves also to inform the authority of an intention to do the act if the desired permission is granted; but this is another matter - a matter of an entitlement, given by the declaration, implicit or explicit, of a certain intention, to form plans on the expectation that the intention will be carried out.

However, the following sort of case might seem to be a genuine counter-example to the thesis that any ruling must establish the _whole_ of one of the trio of conjunctions: a soldier has orders to enter a restricted area for some task, but to do this he has first to request permission to enter the area. Here the sentry's utterance 'Permission to enter granted' may not seem to allow the soldier the option of entering or not as he chooses. It appears not to be in conflict with the preceding order but, rather, to complete it by providing an element without which the order is held in check and the soldier prohibited from carrying it out. That is, it would seem that the order at first lacked the necessary permissive ingredient (for doing the act - permission not to do it

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being ruled out by the obligation-imposing part of
the order), and so was completed rather than replaced
when the relevant permission was granted. This
permitting utterance seems a counter-example to the
thesis about what a performative permitting act
entails because it seems _merely_ to provide an ingred-
ient hitherto lacked by the order - permission to
carry it out - and hence, in turn, the fact that the
order lacked its permissive ingredient seems a
counter-example to the thesis that obligation entails
permission.

The answer is that the permission given by the
utterance "Permission to enter granted" is not the
permissive ingredient needed by the order, nor is it
in conflict with the order, since it does not concern
the same act and does not stem from the same authority.
An accurate and full report of the order would make
it clear that obtaining the permission to enter
belongs to the complex conditions of application
attached to the order as part of its content: the
order enjoins (and thereby permits) the soldier to
request permission to enter the area and, provided
it is granted, to take advantage of it by carrying out
his appointed task. Further, as far as concerns the
performative permitting act of the sentry at the gate
of the restricted area, the soldier _is_ permitted not
to enter. If the soldier turned back after receiving
his permission to enter, the sentry could grumble
about the way his time had been wasted, but he would
not be entitled to report it as a breach of military
discipline. Nor does the soldier's having permission
from _the_ _sentry_ not to enter release him from the
order _of_ _his_ _superior_ _officer_ to carry out his task
within the area.

Is it possible, however, to sharpen the force
of this counter-example by changing the description
of the case? There is no difficulty about the
soldier's being permitted by one authority to refrain
from an act which another authority has enjoined him
to do; such cases are not even peculiar to settings
such as military camps, which are structured by a
well-defined hierarchy of authorities, but have their
analogues in the familiar everyday experience of
school-boy, citizen, parent, and employee. But
suppose it is one and the same authority who is
involved throughout (this will also take care of
the possibility of regarding the sentry in the previ-
ous case as just another 'mouthpiece' of the same
authority as the officer). The officer says to the
soldier: 'Every day you are to carry out your task
in the restricted area, but before you begin it you
are to report to me first, on each occasion, for
permission to enter the area'. What is the import
of his daily utterance 'Permission to enter granted'?
It can scarcely include permission not to enter,
because it immediately makes operative the obliga-
toriness of the officer's standing orders to the
soldier to enter the area and carry out his task.
The officer is, in fact, using the language of
permission to say, in effect: 'Go ahead and do what
I told you to hold yourself ready to do'. It is not
a permission he is giving at all, but an order.

    It may be useful here to have a slightly differ-
ent case for comparison. The regulations of the
Royal Navy concerning shaving are to the following
effect: a clean-shaven man must not stop shaving daily
without permission from his divisional officer; if
he makes a request to stop shaving, and it is granted,

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he thereafter is forbidden to shave - to start shaving again he must put in a request to be ranked, once more, among those who are obliged to keep themselves clean-shaven. In such circumstances, the officer's utterance 'Permission to cease shaving granted' doesn't leave the man free to shave if he chooses. For he is in fact _ordering_ the man to stop shaving.

Now the argument of this chapter has at no point hinged on the actual choice of _words_ for giving a permission or an injunction. Nor has anything been said which would make it impossible for a man, like the seaman of our example, to request to be ordered to do something. What this case shows is that features of the background context can endow the utterance of a form of words which is normally assigned by the rules which give it its meaning to use for permission-giving the force of an order (and hence also, of course, of a one-sided permission). In this example, what makes the use of permission language _appropriate_ is, as will be clear from the discussion of chapter 4, that the action ordered is one the man _wants_, indeed has requested, to do; what makes it _possible_ to give an order in such terms is the background knowledge of the Navy's shaving regulations. The difference between this and the case of the soldier with a task to perform in a restricted area is that the latter is _under orders_ to request to be ordered to carry out that task. His standing orders impose on him the obligation of reporting daily to ask to be told to 'carry on as instructed'.

But there is more to it than this. What the soldier requests each day is, in effect, a confirmation (which could be withheld) that his standing orders are to be regarded as binding for the given

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day. This means that, strictly speaking, he cannot
be regarded as already under orders that day to enter
the area and carry out his task. We may describe him,
loosely, as 'carrying on as instructed', but if he
really had been so instructed to perform the task
that day he wouldn't need to be told to 'carry on'.
His instructions are, rather, to report in a state
of readiness to carry out the task (he might, for
instance, enjoy a certain latitude in choosing the
time of day he does it) if the order to go ahead is
given. That order functions as a sort of 'executive
signal': it tells (and permits) the soldier to do
something he had hitherto only been told (and permit-
ted) to _prepare_ to do.

Now this notion of an 'executive signal' has
been interpreted by Basil Mitchell[18] as evidential
support for R.M. Hare's well-known phrastic-neustic
analysis of imperative sentences[19]. According to
Mitchell's account of the flag-signalling which coordi-
nates the manoeuvres of a number of ships, the Senior
Officer first hoists a message (which is 'a rough
working example of a phrastic') and only later, when
the other ships have signalled 'message received and
understood', does he give the executive signal, which
'is, in effect, the neustic'[20], by hauling down the
flags. Even if it makes sense to speak of a message

18 Basil Mitchell, 'The Varieties of Imperative',
Arist. Soc. Supp. Vol. XXXI, 1957.

19 See R. M. Hare, 'Imperative Sentences', _Mind_,
Vol. LVIII, Jan. 1949, pp. 27-30 and _The Language of
Morals_ (Oxford: Clarendon Press 1952) 1961 edition,
pp. 17-8.

20 Mitchell, _loc. cit._, p. 178.

conveying just a phrastic and nothing more, Mitchell's interpretation requires that no one on the other ships could know how to take the message until its completion by a neustic signal made it clear whether it was an assertion or an order (or perhaps even a question[21]). Yet, according to Mitchell, naval signalling contains no convention for providing the indicative neustic. Clearly there must be some indication already present as part of the signal that when the flags are hauled down this will not just be because they have served their purpose, but will have the significance Mitchell interprets as the communication of the imperative neustic - wrongly, however, since no phrastic should require for its understanding the anticipation of what kind of neustic is to be attached to it by the message-sender. Presumably the code book translates the array of flags by an imperative, and it does seem more natural to regard the message as an order from the start, but with conditions of application attached: 'Turn to port when and only when the "executive" signal is given'.

This, however, is a condition of application of a rather special sort. By keeping its realization within the domain of his own future actions (though implicitly warning that it will be forthcoming), the authority endows his anticipated action of realizing the condition with meaning and force as a speech-act in its own right. (The code-book makes lowering the flags the conventional method of performing this speech-act, but an ad hoc designation of some action such as firing a gun would suffice.) As the act of

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21 If neustics other than 'Yes' or 'Please' are what Hare is allowing for by his use of the phrase 'or something else' in Language of Morals, loc. cit., p. 17.

realizing the order's condition of application, it is a way of making that order unconditional, i.e. of issuing a categorical order to turn to port (for it cannot literally reach back in time to remove the conditional element of the previous speech-act). So the executive signal must be interpreted in conformity with its name, as an _order_ looking back to the other message: 'Carry out the action mentioned in the previous signal'.

Since, moreover, it is neither a duplication nor merely the **replacement** of a conditional order to turn to port by a categorical one, but presupposes reference to the earlier signal for an understanding of it as an order to turn to port, that first message must in turn be construed as anticipating the executive: 'Turn to port (not now but) when the order to do so is passed'.

In form, this is an order to turn to port next time turning to port is ordered. But when that time comes what Mitchell's captains will be obeying if they turn to port is the order given by the executive signal rather than the original message. If turning to port is not doing what the original message required of them, that couldn't have been an order to do so subject to a genuine condition. Either it was just a preparatory warning of an order to come or it used the form of a conditional command as a convenient way of telling its recipients to **prepare** to carry out a certain course of action when instructed.

The phenomenon of preparatory order anticipating an executive signal that looks back to it is quite general. Any authority utterance of the form 'Do A when I tell you to' exhibits the features found in Mitchell's signal and the officer's standing orders

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to the soldier. A related form of expression is
'Do A or B, whichever I tell you to do'. This formu-
lates what has been called an 'alternative-indicating'
command, a notion which was introduced by Nicholas
Rescher and John Robison[22] as the notion of a dis-
junctive command which, instead of presenting the
recipient with a choice between doing x and doing y,
indicates that a selection out of certain alternatives
is to be done, without authorizing the recipient to
choose which. Rescher's most convincing example of
such a command is a field unit's receiving as 'Order
32' the signal 'Set out for objective 365 at 8 a.m.
tomorrow along either route (1) or route (2)!', which
is resolved by headquarters on the morrow by 'Execute
Order 32! Do not take route (1)!'[23]

The crucial point about the 'alternative-
indicating'interpretation of the first signal is that
so long as the authority retains the decision as to
which alternative is to be done, there is nothing his
subjects can do to obey his command or conform to his
instructions but put themselves into a state of readi-
ness for either alternative and wait until the order
is passed which sends them into action. If the con-
tent of the command is to be determined in the usual
way by what behaviour would count as being in compli-
ance with or in breach of it, the original signal

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22   'Can One Infer Commands From Commands?',
Analysis, April 1964, p. 179; more clearly defined in
Rescher's Logic of Commands, op. cit., p. 113,
which also has the more accurate terminology -
'alternative-indicating' in place of the earlier
'alternative-presenting'.

23 Logic of Commands, loc. cit., p. 115.

(Order 32) must be analyzed as an order to prepare
(rather than an order with a disjunctive content)[24],
followed by an executive signal telling the unit
which to take of the two routes they were required to
be prepared for.

The only new feature to be found in this example
is the fact that the executive signal tells the unit
to take route (2) by saying 'Do not take route (1)!'.
The point of putting Order 32 into disjunctive form
was to postpone until later the authority's choice
between the two routes; what makes the second message
an executive signal is the fact that it is given the
function of resolving a problem deliberately left
outstanding - the executive presupposes the alter-
native-indicating command and acquires its meaning
and force by being the further speech-act anticipated
by it. If Order 32 takes the form 'Do A or B, which-
ever I tell you to do,' the other must be understood
to tell the men which of the two routes mentioned they
are not to take. This is a way of referring to route
(2) and telling them to take it.

By contrast an ordinary prohibition against
taking route (1) which was not given this link
with the earlier speech-act would just stand on its
own as a new and further ruling for the men to take
account of. Prior to receipt of the prohibition the
men have not received an order to go by route (1) or
an order to go by route (2); nor are they under march-
ing orders which will become operative at 8 a.m.

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24 Rescher admits that an alternative-indicating
command is not complete as a command, but requires a
supplement to rule out the alternatives the authority
wishes to eliminate. This is, in effect, to admit that
it anticipates rather than gives the order to proceed
to the objective. Ibid, p. 117.

<u>regardless</u> of whether or not headquarters gets in
touch with them in the meantime. So prior to receipt
of the executive signal the deontic situation is still
indeterminate as to what they are to do at 8 a.m.
But unless the prohibition is given executive force,
it merely adds that they are not to do something at
8 a.m. It does not instruct them to do anything in
particular; still less does it make operative the
alternative-indicating command. How could it, when
it leaves the men still under obligation to stand
ready to take either route, including the one forbid-
den by the prohibition?

Rescher and Robison originally introduced the
notion of an alternative-indicating command to defend
the idea of imperative inference against certain argu-
ments advanced by B.A.O. Williams[25]. They claimed it
yielded a valid interpretation of the schema 'Do x or
do y; do not do x; so do y', because this way of
commanding the disjunction x or y <u>would</u> <u>not</u> <u>entail</u>
<u>permitting</u> that same disjunction, and so would not be
inconsistent with the subsequent prohibition of x[26]-
a point which was of importance to Williams' use in
his reasoning of what he called the 'permissive pre-
suppositions' of such a sequence of commands.[27] If
the so-called alternative-indicating command is inter-
preted in the way suggested above, it poses no threat

25 'Imperative Inference', <u>op</u>. <u>cit</u>.

26 'Can One Infer Commands From Commands?'
<u>loc</u>. <u>cit</u>., p. 179.

27 His argument was that 'Do not do x' has the
force of denying <u>the</u> <u>permission</u> <u>to</u> <u>do</u> <u>x</u> given by 'Do
x or y' when used for the purpose of an ordinary dis-
junctive command. Strictly speaking, however, no such
permission is given: the subject is permitted to omit
one act only so long as he does the other [Imperative

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to the subalternation relation, for it permits the
same preparatory action as it enjoins. This permis-
sion is not removed by nor in conflict with the use
of 'Do not do χ' as an executive signal informing the
recipient which alternative he is to ignore now that
he is under orders to 'carry on as instructed'. On
the other hand, once this executive has been given
there remains no clear point in the authority's going
on to say 'So, do y' as well.

In fact, the following dilemma may be constructed
about the interpretation of the last limb of the
schema,'So, do y': either the authority is changing
the deontic situation, in the sense that his utter-
ance makes true a deontic proposition which wasn't
true before, or he is not, but simply clarifying what
it is already. Neither can be represented as his
drawing the conclusion of an inference.

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Inference', loc. cit., p. 31.]; doing the other, say
x, is one way of obeying the order to choose between
the two alternatives and as such is permitted - but
only as such, not otherwise. The subject has to do x
to make it unconditionally permitted, just as he has
to do x to make the omission of y unconditionally
permitted. Prior to action in compliance with the
order, whatthe subject is permitted to do is the same
as what he is ordered to do: x if he doesn't do y and
y if he doesn't do x (and not otherwise, if the 'or'
is exclusive). All that is given is the disjunctive
permission 'P(A v B)' inseparable from a disjunctive
command. This permission is equivalent to 'PA . PB'
only when A and B cannot, for reasons of logic, both
be performed - see below p. 69 and fn. 35.
   If this is correct, it is not quite right to say
that the prohibition 'Do not do x' denies a (one-way)
permission implicitly given in the first utterance -
rather, it enjoins the hearer to bring about some-
thing (his not doing x) which was earlier laid down
as a condition whose fulfilment was to be sufficient
to bring into categorical force the permission for y
and its associated order. It thus conflicts with the
choice offered earlier by telling the subject which

The clarifying need not be explaining what the authority meant by his actual words in the manner discussed earlier[28]; for he could be drawing out or 'highlighting' (as a reminder, for emphasis, etc.) certain of their <u>implications</u>. For example, having told Tom to write to Jim every Wednesday in October, he may go on to say at some later time 'So, write to Jim on the first Wednesday in October'.[29] To have thus commanded such an action 'by implication' without ordering it 'in so many words'[30] is strictly analogous to having 'implicitly asserted' something[31]: a claim that one has done so can be justified (in part) by appealing to the fact that the proposition that Tom writes on thefirst Wednesday in October is entailed by the proposition which formed the content of an earlier command (or assertion); but to make such a

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way to make it. The subalternation relation is all that is needed for this result and is all that is implied by the self-defeatingness of 'Do x, but I do not permit you to do x' which Williams uses for his argument [<u>ibid</u>, p. 31]. Otherwise his stronger conclusion that x as such must be permitted by 'Do x or y' depends on the claim [also p. 31] that 'I permit you to do x if you do y, but I do not permit you to do y' does not confer or admit any permission at all. But this claim is doubtful, since there is surely nothing even pragmatically odd about an authority issuing one or more 'reserve' rulings to deal with situations caused by breach of a 'first-line' one. Cp. Rescher, <u>The Logic of Commands</u>, <u>op. cit.</u>, pp. 60-1 on the 'complete logical propriety' of the command 'Do not do A, but if you should persist in doing it despite this order of mine, then be sure to do B!'; a permissive analogue, '...then you may as well do B', might be a gesture of despair, but that is not the same as abdication (on which see chap. 7 above).

28 Pp. 45-6 above.

29 The example is taken from Rescher, <u>Logic of Commands</u>, <u>loc. cit.</u>, p. 84.

30 Cf. P.T. Geach, 'Imperative Inference', <u>Analysis Supp.</u>, Jan. 1963, p. 40.

31 The parallelism is acknowledged by Rescher, <u>The Logic of Commands</u>, <u>loc. cit.</u>, p. 77.

claim about what one implied with one's words is not to make an inference, imperative or assertoric, but a statement _about_ a past speech-act. Hence if the connective 'so' introduces a proposition as something implied by the speaker on another occasion, the authority is explaining 'What I mean(t) is, you are to do y' - not ordering y to be done.

Suppose, then, that the speaker actually commands Tom to write on the first Wednesday, as the maker of the corresponding assertoric inference would assert that proposition as his conclusion.[32]This puts him on the other horn of the dilemma, for by commanding something he makes a deontic proposition true; he adds a new element to the deontic situation, even if (through forgetfulness, say) he has issued a verbally identical command five minutes before. Even if the new command is of something implied by the contents of one or more previous commands, this fact is not in itself a reason for commanding, as it is for asserting, the entailed proposition (it might even be a reason against, since the act in question has already been commanded 'by implication'.) The implication links the truth-values of the propositions and so cannot support a sequence of non-truth-claiming command utterances expressing them, or be referred to by the connective 'so' in justification of a performative 'So, I command you to write on the first Wednesday'.[33]Commanding an entailed proposition in this way will actually _make_ the deontic situation itself more explicit or more concise, rather than giving a more

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32 Cf. Williams, 'Imperative Inference', _loc. cit._, p. 31.

33 Cf. Williams, 'Consistency and Realism', _op. cit._, p. 9. See also chap. 4, pp. 82-3 below.

explicit or more concise version of what has already been said is to be the case, and so it will tend to _replace_ the earlier commands the speaker connects it with.

But whatever be the point and purpose of any subsequent utterance of the form 'So, do y', an executive signal is a command in its own right, not a clarification of the ruling it refers back to.[34] The examples given of such anticipatory rulings are perfectly clear, both as to what behaviour they require and as to their aim of holding the recipient in readiness for a subsequent ruling; that is, in _no_ sense do they imply the signal they enjoin preparation for, even if (as is often the case) the executive is given the verbal form of a permission.

These cases have been put forward as various illustrations of how it might seem to be possible for an authority to give a ruling which confined itself to laying down just one conjunct of the conjunctions 'OA . PA' or 'PA . P Not-A'. As counter-examples they fail, as I have tried to show. What they do make clear, however, is that the purely logical and rather formal thesis embodied in the square's relationship should not be confused with the complex interplay between orders and permissions which is characteristic of real life situations, such as the one imagined in the quotation at the head of my introduction, in which conditions of application and background context play an important part.

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34 As claimed by Rescher and Robison, 'Can One Infer Commands From Commands', _loc. cit._, p. 179, fn. 1, although there they are commenting on a different - and unconvincing - example of their notion. [See Yehoshua Bar-Hillel, 'Imperative Inference,' _Analysis_, Jan. 1966, pp. 80-1.]

The thesis that has been defended may be summarized as follows: an authority cannot correctly be said to have permitted A (issued a ruling with permissive import for A) unless something more than 'PA' is true as a result of his speech-act. So his permitting act must have been performed either as a (logically necessary but normally implicit) part of a command making it the case that OA and hence that PA or as part of a 'two-way' permitting act making it the case that PA but not also that OA, and hence that P Not-A as well as that PA.

There is, then, a kind of speech-act, characteristically but by no means necessarily performed by the performative use of the verb 'permit', in which the speaker rules that his subjects are to be free (are to have the privilege) to perform the act in question or not, as they choose. Such an act may be called a 'two-way' permission, a title which appropriately reflects its 'two-in-one' nature as a single unitary speech-act establishing the conjunction of the two deontic facts $(PA \cdot P \text{ Not-A})$ which, though logically independent of each other, together constitute freedom of choice over a given act.

This 'two-in-one' nature is neatly expressed in the following equivalence of deontic logic: $P(A \text{ v Not-A}) \equiv PA \cdot P \text{ Not-A}.$[35] These two equivalent ways of stating the same deontic fact show that it can be regarded as having been created either by a single permitting with a disjunctive content or by a conjunction of permittings, each with its own content. The first way of regarding the act shows why it is proper

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[35] Stated by von Wright informally in NA p. 161 (my italics): 'A permission to do [sc. at least] one of several things, no two of which can be done under the same conditions, is...equivalent to a set of permissions'.

to call it a ('two-way') permission; the second why,
although speech-acts of this kind constitute a species
of ruling, they do not form a species of permitting
distinct from the kind of permitting done as a logic-
ally necessary part of enjoining, and hence why their
powers are not at variance with the previous findings
of this study concerning the square's relation of
subcontrariety and the connection between permissions
and freedom of choice.

A two-way permitting act, whatever words are
used to perform it, is, then, one which excludes the
act of imposing an obligation and represents a decis-
ion in favour of 'P Not-A' being true. This provides
a satisfactory solution to the puzzle posed at the
beginning of chapter 1 about the railway authorities
seemingly having to issue two separate permissions,
one for smoking and one for not smoking, in order to
designate a compartment as a smoking compartment.
The permissions required are, in a sense, separate -
but not so separate as the square may make it appear;
for they merge in a single permission with a disjunc-
tive content offering a choice between smoking and
not smoking. The railway authorities must, like any
other speakers, make it clear to the passengers which
of the three kinds of ruling they are intending to
issue. But it is perfectly possible to do this by
a 'two-in-one' act without elaborate verbiage. Un-
less they themselves take steps to prevent their
words having their normal implications by introducing
some abnormality in the setting, the simple posting
of a 'Smoking permitted' notice will safely ensure
this result.

Alternatively, and significantly, they could use
the imperative sentence 'Smoke or don't smoke - as

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you please'. A disjunctive command where the disjuncts
are contradictories, instead of being obligation-impo-
sing,is _indistinguishable_ from a permission with the
same content. An obligation to do one of two acts,
one but only one of which will necessarily be done,
is no obligation, no restriction on choice at all.
(Where A and B are not contradictories, an order to
do A or B _does_ restrict its recipient's choice, by
forbidding him to take a course he might otherwise
have opted for, namely one involving neither A nor
B.) This limiting case of an obligation, which is
indistinguishable from a permission precisely because
it sets no restrictions on freedom of choice, high-
lights the close connection between permission-giving
utterances and freedom of choice; the next chapter
will explore the _way_ in which commands and permissions
impose and remove restrictions on subjects' freedom
of choice.

Chapter Four

Reason-Giving and the Wants-Presuppositions of Permitting

The previous chapter dealt with the way in which the speech-acts of enjoining, permitting, and forbidding make deontic propositions true, leaving to this chapter the question of how doing this makes a difference to the human behaviour ruled upon in performative deontic discourse. A further outstanding problem is this: it was claimed above[1] that a permission-giver will perform a 'two-way' permitting act provided only he omits to make clear, as one of the intentions on the recognition of which the successful performance of his act depends, that he is forbidding abstention from the act he is permitting; but it remains to be explained why this extra factor can so often be left implicit as far as the <u>actual</u> <u>words</u> of the utterance are concerned; that is, way, in giving (as in reporting) permissions, it is usual to mention just the one act, not also its negation - in short, why an omission will suffice for the 'two-way' effect that the permission-giver, normally at least, intends to bring about. For instance, normally we say 'You are permitted to leave' or 'You are permitted not to leave'

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1   Chap. 3, pp. 52-55.

<u>simpliciter</u>, rather than 'You are permitted both to leave and not leave'. The explanation of this point will emerge from the present chapter's discussion of how performative deontic discourse makes a difference to human behaviour, so that this chapter will both continue and complete the argument of chapter 3.

We may begin with the type of ruling which makes true a proposition of the form 'OA'. The practical import of any such ruling may be described by saying that <u>by</u> <u>imposing</u> <u>an</u> <u>obligation</u> <u>to</u> <u>do</u> <u>A</u> <u>it</u> <u>gives</u> <u>a</u> <u>reason</u> <u>for</u> <u>A</u> <u>to</u> <u>be</u> <u>done</u>. One means by which speech-acts can make a difference to human behaviour is by giving reasons for acting in one way rather than another; so this description, by saying that enjoining exerts its practical influence by giving a reason for doing the act enjoined rather than by some other means, does go some way towards explaining how it makes a difference to human behaviour. But many speech-acts have a reason-giving function, so the explanation needs to be completed by an answer to the further question: what <u>sort</u> of reason is given for doing A by the act of enjoining A, or (the same question put in slightly different terms) how does the performance of an enjoining act give a reason for doing A?

This is where the description italicized above fails to be helpful, because the answer it suggests to this second question is: 'an obligation' or 'by imposing an obligation', according to which way the question is phrased. But this does not advance the discussion, as it may seem to do, for it has already been seen that to say that an authority-imposed

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obligation is in force over A is simply to say that
the authority has enjoined A by an injunction which
has not in the meantime been withdrawn or ceased to
apply[2]. So the answer suggested by the description
is logically equivalent to the reply, 'Enjoining gives
a reason for doing the act enjoined by enjoining it',
i.e. to no answer at all. The problem is thus not
solved by invoking obligations as the reasons for
acting given by the speech-act of enjoining, but is
merely rephrased as the problem of how the existence
of authority-originated obligations makes a difference
to the behaviour of the persons bound by them, or
what sort of reasons for action such obligations are.

Nevertheless, the very failure of this attempt
to explain the reason-giving function of enjoining in
terms of its making true a proposition of the form
'OA' points the way towards a solution. The fact
that the connection between the performance of the
speech-act and the obligation which is its 'result'
is of this truistic nature has a consequence which is
not so trivial: namely that whatever sort of reason
for action an obligation is, nothing more is required
for giving it than is required for the successful per-
formance of the enjoining act itself. Uptake must,
of course, be secured in some appropriate way with
the subjects who are to be given reason to do the act
in question, but given that the authority succeeds in
enjoining, success in bringing an obligation into
force follows as a trivial consequence without further
ado. A correctly performed enjoinment does not have
to satisfy any _further_ standards of correctness in
order to fulfil its practical aim of giving a reason

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2 Chap. 3, p. 40ff.

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for action. It does not, for instance, have to be fair, obeyable in practice, or even consistent with other injunctions already in force. If I am ordered to swim across the river by my commanding officer, and I have never learned to swim, I cannot obey the order, but that I cannot does not, _pace_ von Wright[3], entail that I was not, after all, really given an order to do so. If court-martialled, my defence would not be to the effect that an order was not given, and hence that I could not have been disobedient, but rather that such an order _should_ not have been given, or that I was justified in (had sufficient reasons for) not attempting the ordered act. Even though I would almost certainly have drowned, I nevertheless had a reason for at least trying to swim the river, a reason derived not from fear of being court-martialled for disobedience, or recklessness, or patriotism - although these may have served me as additional reasons - but from the mere fact that I had been ordered to do it by my commanding officer, from the mere fact of his saying I was to do it.

Enjoining is thus _self-sufficient_ as regards its reason-giving function, in a sense that contrasts with the way success in the theoretical aim of the speech-act of assertion is not guaranteed merely by success in performing the speech-act but depends, in addition, on what states of affairs obtain in the world: an authority who enjoins A gives a reason for doing A simply by and in enjoining it. Accordingly, the answer to the question of what sort of a reason for acting an obligation is must lie in the nature of the speech-act itself, not in any connection between it and something else extrinsic to it.

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3   NA p. 115 and p. 122.

This self-sufficiency is, it should be emphasized, a feature only of the way the speech-act of enjoining accomplishes its _immediate_ practical aim of giving a reason for acting. That reason is successfully given provided the speech-act is itself a 'happy' act of enjoining and thereby succeeds in imposing the intended obligation. But whether or not the recipients of this reason act upon it is, of course, another matter. Imposing an obligation in this way is not automatically a sufficient means to an authority's _further_ aim of getting his speech-act's propositional content exemplified in the behaviour of his subjects, nor is it necessarily expected or intended to be sufficient for this purpose by the speaker, who may well add threats of sanction for disobedience, promises of reward for obedience, or an explanation of why compliance with the order would be in the best interests of either or both parties concerned. And even then, however many and various the reasons given by the authority, his subjects may be unwilling to do the act enjoined. They may prefer to face a firing squad.

Conversely, however, if the further outcome of the speech-act is negative in the sense that the action made obligatory is not done, that does not represent a failure in the speech-act itself, which achieved satisfactorily its own immediate point and purpose of giving a particular sort of reason for doing the action, but rather a failure in the speaker's attempt to get the action done by _means_ of this and any accompanying reason-giving or exhortatory speech-acts. The propositional content of an order is intended by the speaker to serve as a standard by which to assess the recipient's actions, not as a criterion of correctness to be applied to the order itself. So it is not a

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criticism of the order, as it is of an assertion, that the standard of correctness it set has not been met because its propositional content lacks adequate exemplification in the world.[4]

The self-sufficiency which characterizes orders as practical speech-acts aiming to give reasons for acting in one way rather than another is not to be explained, however, as this contrast with assertions might suggest, by the fact that orders are speech-acts with a practical rather than a theoretical aim. For orders contrast in this respect not only with assertions in general, but also with certain other kinds of speech-act which have, like orders, the practical aim of giving reasons for acting. The achievement of a practical aim as the immediate point and purpose of a speech-act can also depend on factors extrinsic to and independent of the speech-act itself. Illustrations of such dependence will, by the contrast they provide, help to clarify the nature and importance of the self-sufficiency of orders.

Consider first the speech-act of warning, the reason-giving function of which is standardly served by locutions of the form 'Look out! There's a bull behind you.' If a hearer responds to such an utterance by taking to his heels he may be said to have acted on the warning issued by the speaker. What does this warning consist in? We speak both of warning someone <u>that</u> p (that there is a bull behind him) and of warning him <u>to</u> <u>do</u> <u>A</u> (to look out or run), so it would be arbitrary to assign the illocutionary force of a warning here solely to the utterance of

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4 Cf. the well-known shopping-list example in G.E.M. Anscombe, <u>Intention</u>, <u>op</u>. cit., §32.

the imperative sentence or to that of the
indicative. But neither would it be right
to describe what the hearer acted upon as
a 'conjunctive act' which the speaker per-
formed by telling him to watch out and tell-
ing him that a bull was present - the
specimen warning did not consist of two
 independent acts but of the unitary per-
formance of telling the hearer to take
precautions on the grounds that there was
a bull behind him.

The propositional content of a warn-
ing like this is a double one. (a) It must,
in the first place, indicate an appropriate
response if it is to be a piece of practical
discourse, even though the speaker may not
actually intend this action to be the fur-
ther outcome of his speech-act (he may well
be satisfied merely with having warned his
hearer)[5]. For warnings, the behaviou in
question typically consists in some avoid-
ing or precautionary action, even if it
amounts to nothing more than putting one-
self in a watchful or careful frame of
mind ('Watch how you go!'). (b) Secondly,
the speaker must justify the directly
practical part of his utterance by citing,
as a reason for the hearer to do what he is

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5 Cp. p. 76 above.

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being warned to do, some hazard or 'risk of loss or harm'[6] which it is in his interests to take this precaution against.

Not all utterances ordinarily described as warnings satisfy conditions as strong as these. Overt formulation of one of the two elements, (a) or (b), may well be lacking, especially if it is obvious in the context or if the speaker is content to leave it rather vague and general. Thus, 'Look out!' could easily be omitted from the example taken above, while a warning to 'Drive carefully' may be given by a speaker who has no very definite road-hazards in view; again, the danger warned against by 'Mind the steps!' may be too obvious to need specifying, or be due simply to the possibility that the hearer will not notice them. Still, whether explicit or implicit, both elements must be present if the utterance is to give the sort of reason standard for warnings. By contrast, a policeman's 'warning' to an errant motorist to 'Drive more carefully in future' is likely to be as much a threat as a warning and is better described as 'telling the motorist to drive carefully – or else he'll be had up in court' than as 'telling him to drive carefully as a precaution against being prosecuted'. Correspondingly, warning someone that p without presenting this as a hazard to take care against ('I must warn you that I'll be away for three weeks') is virtually just to give a notification, to tell someone to do something about or to take note of a certain state of affairs. At the opposite limit, the reason-giving element is dropped and what is described as a warning becomes indistinguishable from

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6 O.E.D. s.v. 'hazard'.

a direct veto, as in a 'Keep off the grass' notice.[7]

The standard and central cases of the concept of warning are, however, those in which the issuer of the warning combines (a) and (b) to tell someone to do A in view of the hazard to his interests or projects constituted by the fact or possibility that p. By presenting A as something needed for avoiding or dealing with a hazard, he ensures that the response the hearer is called upon to make includes, if it is not exhausted by, the exercise of vigilance and care; any definite action the hearer is warned to do is implicitly specified <u>as</u> a way of taking care against a hazard and must be chosen as such if the warning is to be fulfilled; even the brief warning notice 'Danger!' requires for its fulfilment by conforming action that the agent be on his guard against the danger indicated by the siting of the notice.

This means that a warning utterance of the form 'Do A because p' successfully conveys a reason for doing A of the sort intended by the speaker only if (i) p is or may be true, (ii) its being so is relevant enough to the recipient's interests to constitute a hazard for him, and (iii) if A is a specific course of action, the hazard is such that A is a rational precaution against it (the rationality of care or precaution, as such, against a hazard follows from the concept of a hazard). The assertion of p and of its relevance to the hearer, i.e. of its being a reason for him to take care or to take some particular precaution, may be presupposed instead of being explicitly conjoined to the act of warning the hearer

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7   See O.E.D. svv. 'warn', 'warning' for a picture of the relation between the central and less central cases.

to do A, but only if all these conditions are met can the speaker be said to have justified that act of warning by <u>citing</u> <u>a</u> <u>reason</u> for the hearer to do A.

The speech-act of warning is thus criticisable in the dimensions of (possible) truth and relevance in a way that reflects on its success in achieving its immediate point and purpose of advancing the (possible) truth of p as a reason for action. No warning utterance can guarantee to accomplish its aim of citing a reason, for success in this matter is dependent on factors extrinsic to the speech-act itself. It does not follow that "'You can't warn someone of something that isn't going to happen' parallels 'You can't know what isn't true',"[8] nor that an utterance will not be a warning at all unless 'there is some reason for supposing the thing warned about might harm the person warned'.[9] For if the above account of the double structure of warnings is correct, failure to cite a reason should not prevent an utterance being (understood as) a warning or nullify its force, any more than doubt is cast on the status of an assertion of p on the grounds that q if it turns out that p is false or that q does not provide the sort of support for it required to justify the assertion.

The risk of failure in the dimension of relevance can be guarded against by putting the warning in the form 'Watch out for the concealed turning five miles up the road <u>if</u> <u>you</u> <u>don't</u> <u>want</u> <u>to</u> <u>risk</u> a nasty accident';

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8 J.L. Austin, 'Other Minds', <u>Philosophical Papers</u> (Oxford: Clarendon Press 1961) p. 70, fn. 2; later, Austin preferred to call such a warning 'false or (better) mistaken' rather than not a warning (<u>How To Do Things With Words</u> , <u>op</u>. <u>cit</u>., p. 55.)

9 John R. Searle, 'Assertions and Aberrations', <u>op</u>. <u>cit</u>., p. 53; cp. chap. 1, p. 11, fn. 6.

this construction allows for the possibility that the recipient enjoys dangerous driving, or only wants to reach a village two miles on, which would mean that the concealed turning was no hazard to his present concerns, and that no warning of its presence could succeed in citing a reason for taking precautions against an obstacle to the fulfilment of his current project. The risk of failure in the dimension of truth can only be guarded against by a wholly conditional warning, to take care and drive slowly if there is any danger of ice. But at this point warning loses its reason-giving function and is reduced to telling someone to take care. That is, it can only fulfil a reason-giving function if it contains an implicit or explicit assertoric component and thus is criticisable in the 'theoretical' dimensions of truth and relevance by standards which it is not in the speaker's power to do more than aim to come up to.

Two final points before trying to generalize to related speech-acts. First, a contrast with commands. Just as the grounds cited in justification of an assertion justify the assertion, if they do, because they constitute a reason for believing the conclusion which is asserted as a truth, so the grounds cited in justification of a warning justify it, if they do, because they constitute a reason for the recipient to take the precautions which the warning presents as advisable. But a command cannot be justified either by reference to reasons for the subject to fulfil it or by reference to reasons for thinking he will. An authority can explain why he is issuing a given command; but that is to justify his action as a means to his own further intentions (which may, of course, concern the welfare of the subject). This applies

a _fortiori_ to the special and controversial case of
commanding that p on the grounds that p is entailed
by propositions already dealt with in earlier com-
mands: he needs then to show how his act is relevant
to some further intention of his such as the main-
tenance of clarity and precision in his rulings. To
do this cannot be to advance a reason for the subject's
making p true; for the self-sufficiency of commands
means that the reason a command gives its recipient
is distinct from any reason the authority could
advance as making it rational to fulfil it, and
unassailable by criticism on grounds of truth and
relevance.[10]

This leads on to the second point. A command
makes no appeal to the rationality of doing what it
enjoins, whereas what gives an utterance the force
characteristic of warnings is its appeal, explicit or
implicit, to the rationality of taking precautions
against hazards; that is why the fulfilment of a warn-
ing presupposes that the action is done by the agent
as a _means_ to deal with a hazard.[11] Hence to obey or
act _on_ the reason given by a command (as opposed to
merely fulfilling the command) is to act in response
to the command itself, whereas the reason given by a
warning is one that the speaker can act upon without
heeding the warning it was advanced in justification
of. Suppose, for instance, that Jones is warned by
his supervisor to proof-read the final typescript of
his thesis, lest it be marred by typing errors; if
Jones is already mindful of the peril and resolved
to do so, his subsequent careful checking will be done
for the very reason advanced by his supervisor, but

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10 Cf. chap. 3, p. 67f. and cp. Williams,
'Consistency and Realism', _op_. _cit_., pp. 8-9.
11 Cf. p. 80 above.

not in response to the warning. Conversely,
action in response to a warning need not involve
acting on a reason given by the warning (which may
have failed in its reason-giving aim): 'giving a
reason', in the sense that has been under discuss-
ion, is not to be identified with making it
rational to perform a certain action.

For example, it is rational for airport
officials to make a special non-routine search
of an airplane after (but not before) receiving
an anonymous warning that there is a bomb on
board, even though long experience of hoaxes may
make them extremely doubtful as to its reliability.
Here, the fact that someone has said there is a
bomb in the plane is evidence the officials lacked
before for thinking there _may_ be one on board,
even if hardly grounds for believing there actually
is; and a hazard remains to the passengers' safety
so long as it is in this way an open possibility
that a bomb is concealed in the plane. But if,
after a thorough check, it is reasonably certain
that no hazard remains, searching action loses
the rationale provided by the anonymous warning;
even if the warning is repeated again just as
the officials complete their task, there is no
longer any reason to believe that there may be
a bomb aboard.

The main point to note from this example is that
the rationality of the official's precautions depends
on the reasonableness of their _belief_, and subsequent

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disbelief, in the existence of a hazard. It may be reasonable for a hearer to take certain hazard-indicating evidence he has been given as strong enough to make precautions rational, when in fact there is no real risk of loss or harm; equally, he may reasonably take an utterance, which is not meant as a warning at all (but e.g. to relate some interesting news about a bridge having collapsed) as a warning in the sense that he regards it as giving him evidence of a relevant hazard. But such assumptions, conclusions, and beliefs all concern the exis·ence of real and objective hazards such as the issuer of a warning must aim to indicate if he 's to achieve the imm· diate point and purpose of his utterance. So even if the speaker's further purpose is to give his hearer reason to believe in a hazard, the primary concern of both parties must be with the truth and relevance of the grounds on which the warning justifies its call for the taking of care.

This pattern of 'Do A because p' is repeated throughout a wide range of practical speech-acts with a reason-giving function; the different types within this range may be distinguished by the different criteria of relevance linking action to grounds and justifying a speaker in telling someone to perform it. Threats, for example, can be represented by locutions of the form 'Do A because, if you don't, I shall do B'. The criterion of relevance here is that the prospect of B should be a menace or deterrent consti·iting a reason for not failing to do A. A threat to discontinue his piano lessons if he doesn't practice more faithfully made to a child who wants nothing more than to have the lessons discontinued is criticizable for its lack of relevance, since the recipient is devoid

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of the attitude which is necessary if the threat is to succeed in its immediate practical aim. It is a threat, clearly enough, but it has failed in efficacy; it has failed in its aim of giving the child a reason for practising more diligently, which requires that he prefer not to give up his music lessons or have some other attitude making him antipathetic to the threatened action. A threat is thus analogous to a warning in that success in its immediate aim of giving a reason for acting is to be contrasted both with its succeeding as a threat, which depends solely on its securing uptake and being understood as meant to be a threat, and with its succeeding in its further aim of actually obtaining the desired behaviour.

The crucial difference between threats and warnings is to be found in the different relation in which the maker of a threat stands to the verification of the truth-claim involved in the assertoric component of his utterance. If the threat is not a 'wild' one, he will normally be in a position through his own power of action to <u>ensure</u> that in due course he does what he threatens to do. Normally, then, even though the deterrent is not the speaker's present intention as such, but the risk that he will carry it out, whether or not the hearer is threatened with a genuine menace will depend on the speaker's sincerity in declaring his intention of doing B unless the hearer does A. If he is not sincere, there will normally be little risk of his later deciding to carry out the threat, which is therefore an 'empty' one. Nevertheless, an empty threat is not quite the same as an insincere one: it is one devoid of any real menace (which is the 'substance' of a threat), the analogue

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of empty praise[12] or a baseless warning. A threat
can thus be judged a failure as regards its reason-
giving aim independently of the issue of its
relevance to the recipient's attitudes.

With entreaties and requests the grounding of
the relevance claim in matters of fact is even less
obvious, but present nevertheless. Such speech-acts
fail to provide a reason. for acting unless the recipi-
ent already has a motive for doing the act on being
asked by the speaker to do it, even if this consists
of little more than a benevolent attitude toward
people in general rather than something more specif-
ically based on a particular relationship with the
speaker. Moreover, if, feeling well-disposed towards
someone, I do something because he has requested me
to do it, it is on the basis of an assumption that
he really does want it done, not simply because he has
said or implied that this is the case, however plain-
tive his tone of voice; for if it turned out that he
did not want it done (for instance, he was black-
mailed into making the request), I should regard my
action as having been done under a misapprehension
as to the validity of the reasons which motivated
it. Entreaties, too, should implicitly, if not
explicitly, indicate a fact or possibility relevant
to the recipient's generous nature, guilt feelings,
moral conscience, etc. 'Alms!', cries the beggar,
calling attention to his plight in the hope that his
hearer will find the sight of his wretchedness a
sufficient reason for dipping into his pocket. The
beggar's entreaty purports to give his hearer a
reason for parting with his money by pointing out

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12 Cf. O.E.D. s.v. 'empty' in its non-spatial
senses.   87

a state of affairs as being a suitable stimulus for the activation of an inclination or disposition to generosity; the rationale behind the utterance and the type of response which is appropriate to it must break down if the destitution is spurious or the passer-by so devoid of compassion that he doesn't even find that the utterance calls for consideration, however brief, and a decision for or against.

Thus, warnings, threats, and entreaties are types of practical, reason-giving speech-act which depend for the achievement of the practical aim which is to be fulfilled in and by the speech-act itself, as opposed to its further outcome, on antecedently presupposed wants and motives in the recipient, and on the relevance to these of certain facts or possibilities indicated by the speaker. If these presuppositions are not met, the speech-act is open to criticism for failing to come up to a standard of correctness which it set up for its own assessment but could not (in most cases) guarantee to do more than aim at. If they are met, the speaker's saying what he says gives a reason for acting because in saying it he points beyond his present speech-act at motives and wants which already incline the recipient to action. The recipient may not act on the reason advanced for his consideration, any more than he need act on other reasons he may possess for adopting the course of action which the speaker urges him to take. But if it successfully adds to or reinforces the weight of reasons, a practical speech-act has done as much as words alone can do to make a difference by rational means to what becomes the case in the world through human behaviour.

These illustrations of types of speech-act which lack a self-sufficiency comparable to that of orders show that the explanation of how a given type of practical speech-act fulfills its reason-giving function, or of what sort of reason for action it gives, may lie in a connection between the speech-act itself and something else extrinsic to it: the speech-act links up with reasons already possessed by the hearer and exerts its practical influence through them. If the speaker cites a want of his own as a reason for the hearer doing the action on the basis of appeal to the hearer's good-will and his readiness to help another (or the speaker in particular) to satisfy his wants, he is requesting. If he cites certain of the hearer's wants or interests, he may be encouraging him to do it, or suggesting, or giving advice, depending on circumstances and context and the criteria by which these wants or interests are to be judged relevant as reasons for the action in question. What he is not doing, however, is simply and solely _telling_ him to do it - telling for no particular reason, just telling. Telling the hearer to do an action may be part of what he is doing, but in none of the cases just listed is it the whole; just as telling someone _that_ something is the case is seldom all that is involved in a case of assertion.

Consider now, by way of contrast, a speech-act in which the speaker does simply bid or tell someone to do a certain action, but let the case be one where he is not in a position, as an authority with jurisdiction over the act, to give his utterance the force of an order making conforming action obligatory. This is a type of speech-act which may be performed, like any other, _for_ reasons, but it does not itself

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involve an implicit or explicit basis in reasous. Making a demand, for example, when not based as a claim on a right, is often little more than telling someone to do something you want done regardless of the relevance of this want to some motive of the hearer; a demanding child is one with a tendency to do this. The peremptoriness of many demands, like the presumptiousness of the gratuitous directions to do this or that which are the mark of the 'busybody', is partly due to the speech-act's disregard of criteria of relevance to the ot'.er person's interests or inclinations. But there need be nothing offensive in telling a friend to hurry up and get changed when an outing is planned, to make his own bed when he stays the night, or to pull himself together when he is letting his life-problems spoil his career. There may be reasons known to speaker or hearer for doing these actions, doubtless indeed there usually are, but they need not be appealed to in or presupposed by the speech-act itself; nor is it absolutely essential that they be present in the background context, since many advertisements, for example, tell people to buy Brand Such-and-Such without so much as a pretence of explaining what reasons there are for doing so.

Of course it is possible for the recipient to take the fact of having been told to do something as in itself a reason for doing it. It is sometimes said that some people react to 'institutional advertisements' as if the mere fact that the name of the product has been mentioned in public places is a reason for choosing it over other branus. Advertisers and others might claim that choosing on such a basis can be justified by reference to the chooser's confidence that the named product is likely to be a better risk than one he has never heard of. Certainly one does

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sometimes seem subject to a certain sheep-like tend-
ency to do what one is told without thinking, and
apparently for no good reason. But perhaps this
latter description, 'for no good reason', is less
insulting to the agent's standards of reasonableness
than the purported justification in terms of the
lesser risk, which has only to be put into the form
of an inductively-based policy to be seen not to
deserve the confidence of any experienced shopper.
Better that the fact of having been told serve as an
explanation of what triggered a piece of behaviour
which was not motivated by any rational reason for
doing the action concerned. Be that as it may, if
there is a mode of human reaction accurately describ-
able as 'taking the fact of merely having been told
to do something as in itself a reason for doing it',
it will be analogous to believing something merely on
the grounds of having been told it: a form of extreme
naiveté or excessive gullibility. For simply telling
someone to do an action is not <u>as</u> <u>such</u> a reason-giving
speech-act. So the speaker's saying what he does can
add nothing to the weight of reasons unless the fact
that the words came from <u>his</u>, rather than just any-
one's, mouth makes a difference to the balance of
reasons: in other words, unless the speaker enjoys,
or is presumed to enjoy, some status or qualification
which endows his utterance with a force it would not
have had if it had been made by someone without this
'extra'.

        To any of these 'Do A' <u>simpliciter</u> locutions
made by a non-authority it   can be   sensible to reply
'Why should I, <u>who</u> <u>are</u> <u>you</u> <u>to</u> <u>tell</u> <u>me</u> to do it?'.
But it is quite inappropriate to say this in response
to a command, for the answer is 'Because you are

subject to m. authority in this respect, which is
tantamount to 'Because I _am_ in a position to tell
you to do it'.

X's being in a position of authority with regard
to Y is not something which can be _relied upon_ to
connect up with a favourable attitude on the part of
Y so as to make him consider the fact that X has told
him to do something grounds for doing it. Such atti-
tudes do exist, and not only in the servile; a person
may even be so thoroughly identified with the ends of
the organization in which he holds a subordinate pos-
ition that the organization's will, as expressed in
the orders of his superiors, immediately becomes his
will too. Even if the order conflicts with some
private want or plan of his own, on reception of
instructions he quite genuinely finds his own inclina-
tions secondary in importance and in the feelings of
urgency they generate in him. But we are not here
concerned with the reasons people may have for banding
together to form (or to join a previously existing)
organization structured into a hierarchy of super-
ordination, nor with the attitudes individual members
of such an organization may have towards the action
enjoined in a particular order from above. For these
are contingent matters, and it is incompatible with
the self-sufficiency of commands as reason-giving
speech-acts that they should wait upon such contingen-
cies for success in this, their immediate practical
aim. The contrasts provided by types of reason-giving
speech-act which lack a comparable self-sufficiency
illustrate how this lack is due to these speech-acts'
essential characteristic of making a relevance-claim,
and how, also, the rationality of this relevance-claim
is grounded upon a truth-claim which, however indirectly

anu implicitly it may enter into the communication context, purports to present to the hearer that to which his attention is called as being relevant to some attitude, want, or motive of his, that which is to form the rational basis for the activation of some inclination or disposition in him. The contrast may also be put from the point of view of the recipient responding to these different types of reason-giving utterances:

> The sense in which meeting a request differs from obeying an order is to be found in a respect in the case of request for the manifest desires or wants of the person issuing the request which is absent when ordering is considered. This is respect for the desires of another as his desires and not, say, because one believes that not satisfying them will result in some harm to oneself... Typically, one obeys another because one respects or accepts his authority and right to initiate action on one's own part and not because one respects his own desires as such.[13]

Orders make no relevance claims, just as they make no truth-claims. In this respect they are like plain demands or the bare act of telling someone to do something. Yet they are unlike these and like warnings, threats, etc. in that they do give reasons. Where they differ from the types of reason-giving speech-act considered is in the non-contingent basis of their fulfilment of this practical function. Orders do not need to rely upon the existence of particular kinds of attitudes in their recipients, for they make no appeal to such attitudes, and need no support from empirical facts of this sort to make obedience a rational and reasonable response in the

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13 D.R. Bell, 'Imperatives and the Will,' op. cit., p. 142.

following sense: that a man has been ordered to do something by an authority to whom he is subject in the relevant respect <u>entails</u> that he has been given reason to do it, since an order imposes an obligation and an obligation is a sort of reason for action. Yet all that has actually occurred, so far as the report 'he has been given an order' goes, is the utterance of certain words with a certain meaning. And only a <u>convention</u> could endow such an event, considered in and by itself, with the import it has in our lives; a speaker's saying something, as such, could count invariably as his giving of a reason only if it was <u>held</u> to do so.

What this means is explained by H.L.A. Hart in the following terms:

> If members of a group merely have a <u>habit</u> of obeying an individual, X, who threatens them and is able to harm them in the event of disobedience, this situation might be described by saying they are <u>obliged</u> or <u>compelled</u> to obey him or to do what he says, but not by saying that they have or recognize an <u>obligation</u> to do what X says. If we are to speak of their having or recognizing an obligation to do what X says, their attitude to X's words must be more than habitual obedience. The minimum required in <u>addition</u> to general obedience, if we are to speak of the group's recognizing or having a legal obligation to do something specified by X, is (1) that X's words should generally be accepted as constituting a standard of behavior so that deviations from it (unlike the mere failure to follow a mere habit current in the society, such as that of drinking tea or coffee) are treated as occasions for criticism of various sorts; (2) that references to X's words are generally made as <u>reasons</u> for doing or having done what X says, as supporting <u>demands</u> that others should do what he says, and as rendering at least permissible the application of coercive repressive measures to persons who

deviate from the standard constituted by X's words.[14]

In situations less formally institutionalized than the law, the element of coercion is less prominent, if not altogether absent. So, independently of how far it is true that the concept of authority is to be understood as standing in essential _contrast_ to the exercise of force or to physical interference in general (in which case resort to coercion would represent a breakdown in the system[15] rather than just another facet of an indivisible whole), we must take as the crucial factor the notion of X's words constituting a standard for someone's behaviour. This will be a reason for that person to act in a certain way in the sense that if he does not, he will be held to have committed a fault or to have failed to meet a standard of correctness, which is equivalent to saying that there is a rule to the effect that X is to be obeyed.[16] Hence,

> If words are to be used to create legal
> obligations, rules of the system must exist
> providing that if they are used (by the
> appropriate persons in the appropriate cir-
> cumstances) these persons designated by
> these words shall be legally bound or have
> a legal obligation to do or to abstain from
> certain actions.[17]

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14 'Legal and Moral Obligation', _Essays in Moral Philosophy_, ed. A.I. Melden (Seattle: Washington Univ. Press 1958), pp. 89-90; he is describing 'the simplest imaginable legal system where a monarch has unrestricted legislative authority to enact law imposing legal obligations by pronouncing or writing down what he requires to be done'(p. 88). Cp. also Bernard Mayo, _Ethics and the Moral Life_, op. cit., p. 146ff.

15 As argued by R.S. Peters, 'Authority', _Arist. Soc. Supp._ Vol. 1958, pp. 219-20; Peter Winch, 'Authority', loc. cit., p. 231.

16 H.L.A. Hart, 'Legal and Moral Obligation', op. cit., p. 91.

17 _Ibid_, p. 87; repeated, nearly _verbatim_, H.L.A. Hart, _The Concept of Law_ (Oxford: Clarendon

To be an authority is to have the authority (or right) to determine standards of correct behaviour in this way; it is to be someone entitled, in virtue of the rules of an institution (however informal), to endow certain forms of words with the special force which we describe by saying it imposes an obligation. The only relevant and reliable difference between an obligation-imposing order and other ways of telling someone to do something is the status of the speaker as an authority in the above sense. The possession of some sort of ascendancy over others, based on striking characteristics or powers, will not suffice, as it can only support a claim that there is (contingently) reason to do what the person says, not a claim that his saying so, as such, has reason-giving force; even if the leader himself appealed to his superior powers, that would do no more than give his utterances the force of expert recommendations or authoritative verdicts. Only when he can disregard the need to justify his verdicts on a basis of contingent relevant reasons does his saying what is to be done bind, or make it obligatory for, others to conform to the standards of conduct he lays down. How he acquires this authoritative position is a contingent matter, but what is required is that it be accepted as a matter of convention or rule that his saying an act is to be done gives a reason for it to be done, simply because it is _his_ saying so.[18]

Press 1961), p. 42, but in explanation of the binding force of _promises_.

18 Austin Duncan-Jones, 'Authority', _Arist_. _Soc_. _Supp_. _Vol_. 1958, pp. 249-54 vs. R.S. Peters, _loc_. _cit_., pp. 208-18; and Austin Duncan-Jones, _ibid_, p. 246 vs. Peter Winch, _loc_. _cit_., p. 239.

Correspondingly, to be subject to some authority is to have a general duty to obey his rulings - a duty undertaken in consequence of entering the 'institution' or, in certain cases, a duty that is to all intents and purposes an unavoidable and inescapable fact of the social and family life into which one is born, since one is <u>held</u> to it without the question of any voluntary agreement or acceptance arising. Any obligation arising from this duty is a reason for action. Most humans, some of the time, find such obligations inadequate spurs to actual performance - hence the need, in practice, to provide for other motives by the threat of sanctions and/or the cultivation of a 'sense of duty'. Moreover, any action done because of its obligatoriness can usually (and should, in a sane society) be further justifiable in terms such as the value and utility of participating in the institution and evidence as to the general reasonableness of the orders given by one's superiors as measured by their conduciveness to the ends of the organization. But these are facets of the way in which the obligation-creating practices impinge upon the real-life activities they direct. Conventions are no more than conventions, a truism which explains both their frequent lack of efficacy and their need of further justification. I have not sought to advocate blind obedience, only to defend the conceptual thesis that obligations are <u>conventional</u> reasons for action.

I have examined the reason-giving function of obligation-imposing utterances at length because a proper 'placing' of the type of reason given by such utterances lends support to an important conclusion concerning the concept of permission, to the practical

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influence of which we may now proceed.

It has been claimed by Bernard Mayo that the
concept of permission is not on the same footing as
that of prescribing and forbidding. He argues for
this by seeking to establish a rigorous 'contextual
implication' in virtue of which a permission pre-
supposes an antecedent prohibition which the act of
permitting revokes, or at least - and here, not sur-
prisingly, he finds it necessary to adjust the prin-
ciple - what is presupposed and thereby revoked need
not be a prohibition which has __actually__ been pro-
mulgated, since all that is involved is that it might
have been, that the authority granting permission
claims to control this area of conduct.[19] With the
requirement of a claim to jurisdiction we may agree.
But how can an authority revoke a prohibition he has
never issued? Revocation or cancellation does indeed
presuppose an antecedent ruling as its object, but
this is not due to the specific nature of the concept
of permission but to the 'higher-order' character of
the concept of cancellation: __any__ cancellation, includ-
ing the cancellation or revoking of a permission ,
requires an actual (not merely a possible) ruling for
it to operate upon.

Mayo is right, I think, in his contention that
there is a certain secondariness to the concept of
permission (despite the square's subalternation entail-
ment); but he goes wrong through trying to tie this
feature down to each and every instance of the concept,
as opposed to trying to locate an asymmetry affecting
the concepts of obligatoriness and permittedness in a
somewhat more general way. The conventionality of

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19   'Varieties of Imperative', __op__. __cit__., p. 170.

obligations as reasons is, I think, the source of an
asymmetry such as Mayo was seeking. The convention-
ality of this type of reason is connected, as has
been seen, with its externality: an obligation is
self-sufficient as a reason without needing to find
a point of application in the personality of the sub-
ject - it comes from outside and can remain outside,
in that it need not operate as a spur to action by
reinforcing any preexisting inclination or disposition.
These remarks are regrettably rather metaphorical,
but it is useful, I think, to regard orders, to a
certain extent at least, as civilized substitutes for
physical pressure[20]- no literal theory about man's
prehistory is needed, just a recognition that the
dual application, to both physical and normative
influences, of a wide range of terms such as 'allow',
'let', 'prevent', 'oblige', 'can', 'make do', and
many others, is not without a certain appropriateness.
And acting under physical pressure is the paradigm
case of bowing to external factors, of acting for
reasons which are not of one's own choosing.

Now the notion of (physically) letting someone
do something is an essentially negative one: it is a
matter of (deliberately) not interfering, of leaving
the other person to act under his own steam, rather
than of doing anything of a positive, overt sort.
What is difficult is to express this difference in any
very precise way. That there is something to the idea
of negativeness in this connection can be seen from
the fact that anyone who can truly be described at a

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20 Max Black makes this comparison too: 'Notes on
the Meaning of "Rule" Pt. II', Theoria, 1958:3,
p. 145.

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certain time as letting someone do something could also (indeed must also) be truly said to be doing some other action out of an indefinitely vast range of alternatives; whereas the actions of one who is interfering with someone else and forcing him to do or preventing him from doing something may well not be the subject of any further descriptions beyond those which give the details of _how_ he is interfering. By contrast, a description of what a man is doing when he is letting another be is precisely _not_ a description of _how_ he is doing the latter.

Analogously, it may be said that (normative) permission presupposes prohibition in that it grants or maintains a freedom - not the pristine freedom which is characterized by the absence of authority, but freedom from prohibition _under_ authority, a freedom which can be cancelled at any time by the authority's using certain words. Where an act of permitting is not a cancellation and has no reference to any past ruling, its import is to make clear that no prohibition is being put into force, that the authority is _refraining from_ forbidding. The subject has permission by virtue of the authority's not having exercised his option to forbid (or having exercised it, by virtue of his exercising his option to cancel his prohibition). This is a negative notion in that it essentially involves the idea of refraining - refraining from imposing normative obstacles such as can be imposed by commands and prohibitions. It is not required that any particular permitting act actually free the recipient from the obstruction of such an obstacle - and one couldn't, strictly speaking, be freed from a merely possible one; only that

the granting of permissions be understood in general as the establishment of freedom from prohibition. This is its point and its <u>raison</u> <u>d'être</u>, especially when it is two-way permitting.

Freedom of this sort presupposes the idea of interference, just as the concept of abstention or refraining presupposes that of acting, the general category comprising all those things which one can be said to refrain <u>from</u>. A conceptual or identificational dependence of this sort need not involve the possibility of the one concept being exercised or instantiated without the other ever coming into play. There could be no commanding without permitting (for one thing, commanding entails permitting), but still, commanding has a certain logical priority, in the following sense: commanding is giving someone an <u>external</u> reason for acting in a certain way, imposing upon him and interfering with his freedom of choice, while permitting is freeing him <u>from</u> or <u>refraining</u> from external interference of this sort and leaving him free <u>to</u> act in whatever way such reasons for acting as he already possesses may incline him. In an area over which no authority has jurisdiction a man possesses an independent freedom to act according to his own inclinations that no <u>words</u> could possibly increase. Words can only grant and maintain freedoms that words can take away.

The kinship between permitting and deliberately allowing (physically) can be further brought out with some   examples. Suppose that a parent's attention is called by one of his children to the fact that his other children are lighting firecrackers, and he says to this child, 'Never mind, they'll be all right; I'll

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keep my eye on them,' and the children see that he
comes out periodically to check up on their safety.
His utterance, together with his subsequent actions,
has the force of a permission, despite the absence
of deontic language. Now suppose instead he said
nothing at all, but simply sat, where the children
could see him watching their activities, without
giving any sign of displeasure. (Compare the case
of a schoolteacher sitting calmly and non-disapprov-
ingly at his desk while his class runs amok.) Evidently
this behaviour, though itself non-linguistic, can
(given a background context of the appropriate ling-
uistic practices) be described as having the force
of a permission. At least the children would think
it highly unjust if they were later reprimanded or
punished by him for playing with firecrackers, since
they are entitled to claim that he, by behaving as
he did, gave every indication that his intention with
regard to what they were doing was just the intention
which would be communicated in an explicit permitting
utterance, namely that they should be free to make up
their own minds. For what he did was to refrain from
prohibiting their games.

At the same time, these examples illustrate how
the two-way nature of physical letting comes over
into its normative analogue. To refrain overtly from
exercising one's prerogative of prohibiting either the
act or its negation is to permit both. The parent,
by sitting by or making a reassuring remark to one
of the children, has also given the children permiss-
ion to stop lighting the firecrackers when they get
tired of it; nothing has been said about the act of
not lighting firecrackers, but nothing need be said,

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because it is the activity of lighting them in which
the children are engaged and which is their desire.
The presuppositions of giving, as of asking for, per-
mission are such that normally only one side of the
act is mentioned or otherwise attended to: either the
doing or the not doing, according to which is wanted,
or supposed wanted. It is the wants of the recipient
that determine$ which side of the act receives explicit
mention in a two-way permitting act.

For example, when Mother gives Robbie permission
to watch a favourite television programme by saying
'You may watch your programme tonight', the point of
her speech-act is to remove a normative obstacle to a
wanted activity, or to make clear that no such obstacle
stands in the way; since viewing the programme is a
desired privilege, it would be irrelevant to mention
(what is true) that he is being given permission not to
watch it. On the other hand, if she ordinarily
required him to watch the television programme, and
he didn't want to watch it on a particular occasion,
she might well give him permission <u>not</u> to watch tele-
vision, and this permission would have point since
she would be removing the barrier imposed by the
obligation to watch it. It is because of the normal
wants and normative obstacles associated with party-
going and chapel-attending that such a hypothetical
regulation as 'Undergraduates are permitted not to
attend parties on week-days' sounds peculiar, while
'Undergraduates are permitted not to attend chapel at
Evensong' does not.

Sometimes mothers add 'if you want to' to their
permission-giving expressions. They do this when they
aren't sure that their youngsters want to do the act

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in question. When an employer gives an employee the afternoon off he often puts the gift in the form of a permission, e.g. 'You may take the afternoon off'. He expects that the employee will be delighted, so he doesn't add 'if you want to'. But he _could_, and when he does there is an explicit indication that he is not sure that this is what the employee wants to uc after all; his permission is deliberately made two-way: 'You may take the afternoon off or not, as you wish'.

The _if_ of the 'if you want to' is like the _if_ illustrated in Austin's biscuit example in his essay, 'Ifs and Cans'.[21] Just as I can infer from 'There are biscuits on the sideboard if you want them' that biscuits are on the sideboard (whether I want them or not), so the employee can infer from the fact that he has been given permission to take the afternoon off if he wants to that he is permitted to take the afternoon off (whether he wants to or not). Although the permitting utterance makes reference to his wants, the existence of the permission it gives is not conditional on them; only its having point. Just as I won't take a biscuit if I don't want any, so I'm not likely to take advantage of a permission to do something that I don't want to do, and it would be as pointless to give it to me as it would be to hand round biscuits after dessert at the end of a large meal. (An exception is when what the recipient wants is to receive the permission _as_ _such_ rather than to do the act - parents often want permission (the option, right, or privilege) to come into the rooms where their teen-age offspring are giving a party, even though they

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    21 J.L. Austin, **Philosophical** Papers, op. cit.,
p. 158.   104

don't actually want to put in an appearance at all and
are not likely to take advantage of the permission;
they just don't like being excluded.) Hence when the
speaker is not sure that his gift will be welcome, he
adds 'if you want' in order to give his utterance the
force of an offer (of biscuits/an afternoon off work):
he calls his hearer's attention to the presence of
biscuits on the sideboard or releases him from his
normal duties for the rest of the day and then relieves
himself of the responsibility of meeting the conditions
of pointfulness for such actions by adding what amounts
to   'So it's yours for the choosing, you have only
to choose'.[22] As far as the speaker is concerned he
has played his part, and it is now up to the hearer
to decide what to do about it.

Contrast now the 'if' in 'Do A if you want'.
Here the recipient is not ordered to do A whether or
not he wants to.(This is why "the traffic light 'Cross
now', addressed to pedestrians, is short for 'Cross
now, if you wish'"[23])   At the same time, to make the
obligatoriness of doing A conditional on the recipi-
ent's wanting to do A is to deprive the 'reason' given
by the 'command' of all its externality, leaving the
recipient free to act according to his own inclina-
tions. Yet the utterance is not senseless just
because (unlike 'Do A if you want to do B') it imposes
no effective obligation, no restriction on choice at
all: it gives a permission to do A because the speaker
in imposing this 'empty' obligation gives an explicit

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22 Cf. Austin, 'Ifs and Cans', ibid, p. 160.
23 NA p. 98.

indication that he is refraining from external inter-
ference with the recipient's own inclinations over
doing A.[24]

An authority who grants a permission does not
give up his jurisdiction over the act; he retains his
normative control while refraining, for the duration
of the permission, from exercising his right to make
the permitted act obligatory. He does this when he
gives an order too: having the right to make either
A or Not-A obligatory, he opts for A and refrains from
external interference with any inclination on the part
of the recipient to do A rather than Not-A. The
imposing of normative obstacles, the use of 'symbolic
incentives to action'[25], would be pointless unless
such external spurs were needed (in general - not, of
course, in every particular case) to make a difference
to human behaviour which could not otherwise be ob-
tained, at least not so smoothly. But it is mislead-
ing to say

> The logic of obligation requires a conflict
> between the obligation to do something and
> the inclination not to do it. But it is
> important to notice that this conflict is
> part of the general background of the concept
> of obligation and need not occur in every
> case.[26]

Even in its qualified form this thesis implies that
what creates a need for external spurs to action is
typically a positive disinclination to do the act.
But what matters is the fact, as such, that the act may

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24 Compare the analogous case of 'Do A or don't
do A', pp. 70-1 above.

25 Black's phrase, 'Meaning of "Rule", II',
op. cit., p. 145.

26 P.H. Nowell-Smith, Ethics, Penguin ed. 1954,
pp. 210-1. Cf. also Mayo, 'Varieties of Imperative',
op. cit., pp. 169-70, and (closer to the present
discussion) Ethics and the Moral Life, op. cit.,
p. 154 and p. 254.

not be done if it is not made obligatory, not the
reason why.

In the first place, the subject may have a
general inclination to obey the law, or to carry out
the duties prescribed for his job in an organization,
etc.,and so regard particular injunctions as specifi-
cations of what is required of him which, rather than
running counter to his desires, show him how he may
fulfil a desire he already has. Alternatively, there
may be a variety of reasons why a subject might not
do A unless he was told to even though he lacks a
positive motive for not doing it; for example, he has
some slight inclination to do A but this needs exter-
nal reinforcement if it is to become operative. Any
situation of this sort would give point to the author-
ity's exercising his right to make an act obligatory.
This is interfering with or limiting the subject's
freedom of choice, but part of what makes it a civi-
lized substitute for physical interference is that it
need not, although, of course, in many cases it does,
make for conflict with the subject's wants.

There is thus a difference between the presuppo-
sitions or conditions of pointfulness of commands and
permissions, which is a further aspect of the asym-
metry suggested earlier[27]: the pointfulness of a
command is normally independent of the subject's
wants in the matter, whereas permissions, when not
given as part of an act of commanding, presuppose
(in general) that the act permitted is one the subject
does or may want to do. These wants-presuppositions
of permissions explain the omission of the negation-
act from the actual words of a normal two-way

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27 Pp. 98-9 above.

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permitting utterance, and provide the rationale behind the guarded 'if you want' which gives a permissive locution the force of an offer of freedom to choose. On the other hand, permissive force can be conferred upon an authority's act of telling someone to do something either by the addition of 'if you want to do it',or when the recipient wants to do A and the speaker's purpose is exhausted, or virtually exhausted, in his refraining from external interference with the fulfilment of that wish.[28] And these abnormal commands suggest an explanation for the wants-presuppositions carried by normal permissions.

In a normal command the speaker refrains from external prohibitive interference with any inclination on the part of the recipient to do the act enjoined rather than its negation (i.e. he permits what he enjoins), not in order to leave the subject free to act on such an inclination, if he possesses one, but in order that his purpose in issuing the command should not be frustrated as a result of the recipient being given equal reason not to do the enjoined act. That is, the pointfulness of a command is independent of the wants of the recipient because it is dependent, instead, on those of the authority. (That is why 'I want you to do A' can serve for the speech-act of commanding.) But where the wants of speaker and hearer are supposed to be in perfect harmony, or where the command-giver opts not to exercise at the present moment his right to lay down a standard of correct

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28 Compare the Navy shaving example of chap. 3, pp. 57-8 with the interchange 'May I, truly?' - 'Ah, when I tell you' between father and daughter in the passage from Henry James quoted in the Introduction, p. i.

behaviour which is external to and independent of
what the subject wants to do, the pointfulness of
making it clear that this is what he is doing as
regards an act A will depend partly or wholly on
whether the subject does want to do A. And a fortiori,
when all that the authority is doing is explicitly
refraining from prohibiting A, as in a normal permit-
ting utterance of the form 'You are permitted to do
A' with two-way force, only the subject's wanting to
do A can make this a pointful thing to say.

Although commands, permissions, and prohibitions
are fundamentally rooted in the conventions embodied
in certain institutionalized practices and do not
themselves logically involve reference to the wants
of speaker or hearer, the application of these con-
ventions is always by and to people with particular
wants and interests, whose adherence to them would be
pointless unless the imposing and removing of these
artificial types of 'obstacle' was normally carried
out with due regard to these factors in the real life
contexts of deontic discourse. 'Normally' here does
not mean simply 'more often than not'; the statement
is not just a sociological generalization but has to
do with the point of deontic concepts, the purposes
they serve. For the concept of permission would not
be what it is, nor serve the same purposes, were per-
mitting not given point by the holding in standard
(though not necessarily all) cases of the presupposi-
tions discussed in this section. The same applies,
mutatis mutandis, to commanding and prohibiting, which
is what makes the 'obstacle' metaphor appropriate.

To sum up, just as it would be pointless to build

roads through jungles no one wanted or had reason to traverse, so the practice of granting permissive freedoms presupposes that normative obstacles are (in general) seen as restrictions on one's freedom of choice imposed to suit the wishes of the authority (and only derivatively as obstructions to the fulfilment of wishes that one _might_ have), to be removed or not imposed at all when the authority is prepared to let his subject have the freedom to do something he wants or may want to do.

PART II

Permission and the Absence of Prohibition

Preface

The general purpose of the first part of this study was described as 'to lay the basis for an understanding of the concept of permission by exploring some of the connections between permission and freedom of choice'. My objectives here are to consolidate and develop certain conclusions there reached about what it is to give and to have a permission and about how the concept of permission fits into the general pattern of deontic discourse. As before, the discussion is organized around a central, coordinating question: 'What is the relation between permission and the absence of prohibition?'.

Chapter Five
Permission and the Actions of Authorities

Part I started from the deontic square of opposition, which systematizes the basis of von Wright's 1951 deontic logic, and proceeded on the assumption that the square could claim at least initial plausibility as an adequate representation of the logical relationships between the deontic concepts to be discussed. This assumption received a certain justification insofar as attention in Part I was concentrated, on the whole, on the positive formulae of the square, and the import for these of the _oratio obliqua_ analysis introduced in chapter 3 may be summarized in the claim that that analysis is both necessary

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and sufficient to produce acceptable results from the
square. Necessary, because of the possibility of an
act's being covered by incompatible rulings from
different authorities, or from the same authority at
different times - which means that the a priori
restrictions which the square sets on the nature of
any act's deontic situation hold only if that 'situ-
ation' is taken as relative to some ruling over the
act which is operative or in force at the time in
question, and as constituted by that ruling's having
established a given deontic status for it.[1] Sufficient,
because under this interpretation the square's claims
can be supported by consideration of the minimal
consistency required for any utterance to convey a
coherent enough illocutionary force to count as a
case of normative action, as a speech-act which gives
a ruling as to what deontic status a certain act is
to have. For example, no utterance could be under-
stood as an order to do A unless it was also a pro-
hibition of Not-A and a permission of A.[2] In short,
what the square must be understood to claim about its
positive formulae is that any ruling speech-act must
bring about the truth of (a) at least one of the sub-
contraries, (b) at most one of the contraries, and
(c) both at least one and at most one member of each
pair of contradictories.[3] It remains, therefore, as
one of the main tasks of Part II, to consolidate this
justification of the square by a further defence of

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1 Cf. chap. 3, pp. 44-7.

2 See chap. 1, pp. 8-11 for a brief justifica-
tion in this manner of the square's subalternation
relationship, defended further in chap. 3, p. 55ff.

3 Cf. chap. 3, p. 50; as to (c), cf. e.g.
chap. 3, p. 48, above.

the _oratio obliqua_ analysis of deontic propositions
and a more detailed account of the performative
use of deontic language by which those propositions
are made true.

As for the negative formulae, it has already
been urged[4] that what an authority has **not** said
may enter into the constitution of an act's
deontic situation, at least in conjunction with
what he has said, so that acceptable results are
yielded by the _oratio obliqua_ interpretation for
formulae derived from the square involving the
corjunction of a negative with a positive formula,
such as '$[(P\Lambda \ . \ \text{Not } O\Lambda) \rightarrow (P\Lambda \ . \ P \ \text{Not-}A)]$'.
Where negative formulae did come into the dis-
cussion of the four chapters of Part I, care
was taken not to let any important conclusion
depend on anything beyond this limited thesis.[5]

But no final assessment of the square can
be made until account has been taken of a paradox
which arises from its acceptance of 'Not $F\Lambda \rightarrow P\Lambda$'
together with its contrapositive 'Not $P\Lambda \rightarrow F\Lambda$'.
This paradox may be developed as follows:
if the authority hasn't taken normative
cognizance of an act, hasn't made a

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4 Cf. Chap. 3, p. 55.

5 See e.g. the cautionary moves made in
chap. 1, p. 24 with fn. 15; chap. 2, p. 32,
fn. 8; chap. 3, pp. 48-9 and p. 53, fn. 16.

ruling on it, he surely cannot be said to have permit-
ted it; hence it can be described as 'not permitted' -
from which it follows, according to the square, that
the act is forbidden. In short, if it is accepted
(A) that Not FA ≡ PA, and (B) that a negative formula
of the form 'Not ...A' is true if the authority has
not acted at all with respect to A, then it turns out
that any case of authority non-action concerning A
has the result that A is both forbidden (from 'Not PA')
and not forbidden; both permitted (from 'Not FA') and
not permitted; hence both permitted and forbidden.
Clearly this position is intolerable. On the other
hand, to reject the equivalence is to destroy the
basic relation of contradiction between 'PA' and 'FA'
on which the square is founded: if 'PA' is to be the
contradictory of 'FA' it must be equivalent to 'Not FA'.

One thing needed, clearly, is an examination of the
role played by negation in this field of discourse.
The trouble arises from placing no restrictions on
the use of negative expressions as equivalents for
positive ones. Consider, for example, the top left
hand corner of the square, where the negative formula
'Not P Not-A' is said to be equivalent to the positive
formula 'OA'. This makes it look as if an authority,
simply by doing nothing at all, can (indeed cannot but)
forbid Not-A and permit A. But clearly 'OA' can only
be true if the authority has acted. 'OA' cannot there-
fore be equivalent to 'Not P Not-A' if the latter
formula can be true when the authority has done nothing
at all. Parallel considerations apply to 'Not PA ≡ FA'
and other putative equivalences between positive and
negative formulae. As they stand, the two premises (A)
and (B) which lead to the paradox are therefore incon-
sistent, and it would seem that one must be rejected.

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ruling on it, he surely cannot be said to have permitted it; hence it can be described as 'not permitted' - from which it follows, according to the square, that the act is forbidden. In short, if it is accepted (A) that Not FA ≡ PA, and (B) that a negative formula of the form 'Not ...A' is true if the authority has not acted at all with respect to A, then it turns out that any case of authority non-action concerning A has the result that A is both forbidden (from 'Not PA') and not forbidden; both permitted (from 'Not FA') and not permitted; hence both permitted and forbidden. Clearly this position is intolerable. On the other hand, to reject the equivalence is to destroy the basic relation of contradiction between 'PA' and 'FA' on which the square is founded: if 'PA' is to be the contradictory of 'FA' it must be equivalent to 'Not FA'.

One thing needed, clearly, is an examination of the role played by negation in this field of discourse. The trouble arises from placing no restrictions on the use of negative expressions as equivalents for positive ones. Consider, for example, the top left hand corner of the square, where the negative formula 'Not P Not-A' is said to be equivalent to the positive formula 'OA'. This makes it look as if an authority, simply by doing nothing at all, can (indeed cannot but) forbid Not-A and permit A. But clearly 'OA' can only be true if the authority has acted. 'OA' cannot therefore be equivalent to 'Not P Not-A' if the latter formula can be true when the authority has done nothing at all. Parallel considerations apply to 'Not PA ≡ FA' and other putative equivalences between positive and negative formulae. As they stand, the two premises (A) and (B) which lead to the paradox are therefore inconsistent, and it would seem that one must be rejected.

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The repercussions threatened by the paradox may be measured by the fact that in von Wright's 1951 system the equivalence 'OA ≡ Not P Not-A' was used to <u>introduce</u> the O-operator in terms of the undefined deontic category of permission, on the grounds that 'We <u>ought to</u> [sc. it is obligatory to] do that which we are <u>not allowed not to</u> do'.[6] By contrast, von Wright now rejects his old view 'that (all) permission is mere absence of prohibition', and with it the interdefinability of the O- and P-operators , at least in the old simple style of equivalence via negation.[7]

Instead, he canvasses some more complex possibilities, which involve taking the O-operator as basic and defining the concept of permission in terms of an obligation not to interfere with a person's freedom in a certain respect: either because a permission is a <u>promise</u> not to interfere, which the authority then <u>must not</u> do, or because 'it is inherent in the nature of permissions to entail rights and/or claims', so that the 'normative element' in permissions may be defined as a command to third parties bidding them not prevent (a right), or positively to make possible (a claim), the permission-holder's performance of the permitted action. Further, if 'permissions as promises' are not self-denying ordinances applied by the authority to his own conduct - and the notion of a 'self-prohibition' is somewhat problematic[8] - the obligation not to interfere is a moral norm, giving permissions 'a peculiar <u>moral</u> flavour'. Thus von

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6 DL pp. 60-1.

7 NA p. 92; cf. NA p. 85, pp. 154-5.

8 Cf. NA pp. 76-7, p. 91.

Wright is prepared to 'accept the view that permission as a species of promise can be defined in terms of the other norm-characters' regardless of the prospect of having to deny that 'such permissions are norms of the kind which we have here called "prescriptions"'.

In the end, he reaches no definite decision as to these possibilities for rescuing interdefinability without recourse to the discarded intermediary of negation, but presents claims, rights and promises of non-interference as a series of decreasing strength, each entailing but not entailed by its weaker brethren, without committing himself exclusively to any single variety of permission; consequently he retains permission as 'an independent norm-character' for the purpose of his logic of norms.[9] This is perhaps the most radical departure from his 1951 system and, to judge from the frequency with which the issue keeps coming up during the course of Norm and Action, lies at the root of several of his philosophical views which clash both in detail and in general spirit with positions advocated in Part I of this study.

The problem is initially propounded by von

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9 All this in NA pp. 89-92. A certain preference (confessed on p. 92) for the prohibitions of interference to third parties which form his analysis of permissions as rights may be observed, as the problem of permission keeps recurring in various connections, at NA pp. 108-9, p. 120, pp. 154-5 (but cp. NA p. 204, p. 206). The identification is actually made in Tranøy, 'An Important Aspect of Humanism', op. cit., to which this section of NA owes much of its material (acknowledged NA p. 90 fn. 1).

Wright in the following terms:

> Is permission an independent normative
> concept, or can it be defined in terms
> of obligation (and negation)?[10]

The first issue to be settled is the nature of the
two things whose interdefinability is in question.
Accordingly, this chapter is devoted to a critique
of the linguistic basis of the 'ontology of norms'
which forms the philosophical foundation of von
Wright's 1963 system. .

In the preface to Norm and Action von Wright
confesses (what is not readily apparent to the reader
of 'Deontic Logic') that he used to regard "the
meanings of expressions such as 'OA' or 'P(A & Not-B)'"
both "as propositions to the effect that certain
categories of acts are obligatory or permitted" and
(implicitly) at the same time "as norms enjoining or
permitting acts".[11] These two sets of meanings are
now separated and assigned to alternative 'descrip-
tive' and 'prescriptive' interpretations of the
formulae of the system.[12] The formulae are said to
parallel in this ambiguity the sentences constructed
with the 'deontic auxiliary verbs' 'ought', 'may' and
'must not' which von Wright now takes as his primary
ordinary language 'data':

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10 NA p. vi.

11 Ibid.

12 NA p. 132.   117

The deontic sentences of ordinary language,
of which the expressions of deontic logic may
be regarded as 'formalizations', exhibit a
characteristic ambiguity. Tokens of the same
sentence are used, sometimes to enunciate
a prescription (i.e., to enjoin, permit, or
prohibit a certain action), sometimes again
to express a proposition to the effect that
there is a prescription enjoining or permit-
ting or prohibiting a certain action.[13]

Now prescriptions - commands, prohibitions and
permissions - are classified as a subclass of 'norms',
a term von Wright applies also to such things as
customs, rules, moral principles, and means-ends
'directives'.[14] His preference for the deontic
auxiliary verbs seems partly motivated by their
convenient adaptability to the expression of any
type of norm, by contrast with imperatives, for
example, which are predominantly allied with prescrip-
tions.[15] But in fact, von Wright's logical system
'is primarily conceived of as a logical theory of
the norm-kernels of prescriptions', 'norm-kernel'
being his term for 'a logical structure' which pro-
vides 'the common ingredients of all, or nearly all,
types of norm' but may admit of specific differences
- it is only 'with some caution' that he regards

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13 NA p. viii. In a restricted usage not followed
in the present study (unless quoting from NA) he re-
serves the phrase 'deontic sentence' for those with
auxiliaries (NA p. 96).

14 See NA chap. 1, esp. pp. 15-6. It will be
convenient to adopt this use of 'prescription'as a
generic term for the listed trio, a classification
based on such common features as their being given
or issued by an authority (NA p. 7).

15 Cf. NA pp. 100-1, from which it is clear that
von Wright does not view prescriptions as essentially
connected with, or owing anything of significance to,
special features of the deontic auxiliaries.

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his theory as giving a 'basic logic' of norms in general[16], while the details of his account are really only worked out for prescriptions, his main interest.[17] Von Wright himself often uses the wider term 'norm' in contexts dealing solely or mainly with prescriptions,[18] so it will be fair to focus the discussion of his notion of a norm on the nature of commands, permissions and prohibitions.

Read in this light, the quoted passage may be taken to ascribe a similar 'characteristic ambiguity' to 'You are permitted' and other sentences constructed with the deontic speech-act verbs, provided they can be used to report the result of their own performative use. For the passage does not merely distinguish between what Part I called the performative and reportive uses of deontic language; it goes at least some way towards subjecting those uses to an analysis according to which the former use involves enunciat-ing prescriptions, while the latter involves the expression of propositions about their existence. The connection between the two uses is as follows.

The enunciating of a prescription is a 'performa-tory use of language', more specifically the use of what von Wright calls a 'norm-formulation', which is 'the sign or symbol (the words) used in enunciating (formulating) the norm'. The criterion for a linguis-tic item to be a norm-formulation is not grammatical or morphological, but its use, or one of its uses, being to enunciate a norm. The notion of a norm-

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16 NA p. 70 and p. 130.

17 Cf. e.g. NA p. ix, pp. 107-8.

18 See e.g. NA p. 191 on 'cancelling a norm', which only makes sense when 'norm' is understood in the narrower signification 'prescription-norm'.

formulation thus depends upon the notion of a norm,
and the classification of a sentence as a norm-formu-
lation is always relative to its norm-enunciating use.[19]

The act of uttering a prescriptive sentence
'"constitute[s]" an act of commanding or permitting
or prohibiting', i.e. succeeds in its aim of _giving_
a prescription, when and only when the verbal performance
'_results_ in the existence of a prescription'. This means
the establishment of what von Wright calls a 'norma-
tive relationship' between authority and subject.[20]
Now 'the normative relationship, in the existence of
which the existence of the prescription consists'[21]
is simply the fact that the subject is under obliga-
tion _to_ the authority, or has permission _from_ him,
to do the act prescribed.[22] Hence, bringing a pre-
scription into existence is making it obligatory or
permissible for someone to do something; in other
words, making a deontic proposition true - the same
relation between the speech-acts of commanding
or permitting and deontic propositions as formed the
starting point for chapter 3. For the immediate
result of successful 'normative action', as von Wright
terms the speech-acts of commanding, forbidding, and
permitting,[23] is simply that there has been a success-
ful performance of some type of prescription-giving
action: a prescription exists because it has been
given and is in force.[24]

Of course, where the truth of a deontic proposition
is not being considered as the _immediate_ result of

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19 NA pp. 93-4, pp. 102-3.
20 NA pp. 116-8.   21 NA p. 135.
22 NA p. 117   23 NA p. 75, p. 116.
24 NA p. 126; NA pp. 39-41 defines an action's
result in terms of an '_intrinsic_ or logical tie' such
that 'the act is, as it were, "defined" as the act of
effecting' a certain kind of change.

normative action, qualifications have to be added, as
in chapter 3[25], to capture the notion of the prescrip-
tion's having continued to be in force since it was
given. But the continued duration of an undissolved
normative relationship, which von Wright says is 'the
life-span of a prescription'[26], is just its continu-
ing to be true that it is obligatory or permissible
for someone to do something. The only further suggges-
tions made by von Wright in this connection (apart
from hints that the sanctions attached to the promul-
gation of the prescription must be being enforced[27])
are, significantly, <u>negative</u>: the prescription has
not <u>ceased</u> to be in force for any of the reasons that
can 'dissolve' a relationship under norm - a metaphor
for such things as cancellation, chronological in-
operativeness or 'what in jurisprudence is called
<u>desuetudo</u>'[28].

Thus the reason why 'the existence of a prescrip-
tion is not the fact, as such, that it has been given,
but the fact that it is in force'[29] is simply that
its having been given (come into force) entails only
that 'it has existed, at least for some time in the
past', not that 'it still exists', i.e. is 'still

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25 Pp. 42-3 above.   26 NA p. 118.

27 NA p. 128, p. 149, p. 157. Enforcement (a)
<u>presupposes</u> being in force, since it is only <u>as</u> so
that one can be said to be trying to enforce something,
(b) requires a threat of sanction to be attached to
the prescription's promulgation (thus NA p. 126 <u>et al</u>),
to which there are counter-examples even in the legal
sphere (see H.L.A. Hart, 'Legal and Moral Obligation',
<u>op</u>. <u>cit</u>., p. 99, <u>The Concept of Law</u>, <u>op</u>. <u>cit</u>,p. 20,
p. 34, with pp. 193-5 - a persuasive argument for the
inclusion of sanctions in a municipal legal system
being a matter of natural rather than logical necessity).

28 NA p. 195.   29 NA p. 118.

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valid (in force)'[30]. Hence, if the immediate result
of normative action is equivalent to there having
occurred an instance of prescribing, a normative
relationship lasts as long as it continues to be as
true as it (necessarily) was immediately after the
establishment of the relationship, that an act of a
certain type has been successfully performed and has
not become inoperative for any reason. In short, a
deontic proposition is true (a prescription exists)
if and only if some past   normative action has
not been cancelled or otherwise ceased to apply - on
the face of it, precisely the same analysis of the
reportive use of deontic language and of the truistic
way the performative use makes deontic propositions
true as was given in chapter 3.

Or is it? It has been seen that the main con-
tention of von Wright's account of the performative use
of deontic language is that it involves (a) the enun-
ciation and (b) the bringing into existence (or force)
of a prescription-norm. Each of these has its import
for the nature of commands, permissions and prohibitions.

We may begin with (a). In elucidating the lin-
guistic aspects of his theory von Wright proceeds
from a careful distinction, analogous to that between
his descriptively interpreted sentences and the norm-
propositions they are said to express, between norm-
formulations and the norms or prescriptions which are
described as what deontic sentences express (in their
use) as norm-formulations.[31] This analogy becomes
explicit when he states:

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30 NA p. 195, referring back to NA pp. 116-8.
31 Eg. NA p. 97, p. 136 and _passim_.

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> The distinction between norm and norm-
> formulation is reminiscent of the
> distinction between _proposition_ and
> _sentence_.[32]

Now a prescription consists, according to von Wright, of some six 'ingredients', 'components' or 'parts', though only the three which constitute the norm-kernel find explicit expression in his symbolism: the deontic character (the 'ought'-character, the 'must-not'-character, or the 'may'-character), the content ('_that_ _which_ ought to or may or must not be or be done...the prescribed (commanded, permitted, prohibited) thing') and the condition of application ('the condition which must be satisfied if there is to be an opportunity for doing the thing which is the content of a given norm').[33] Thus 'the prescription (norm) expressed in the words "p ought to be done"',[34] may be _partially_ identified in terms of the deontic character, act-content, and conditions of application which those words would make known if they were used, in and perhaps with the help of a suitable context, to enunciate a prescription. For making these details known to the norm-subject(s) is what the use of a norm-formulation accomplishes, what the enunciating

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32 NA p. 93, where it is said to be 'debatable' whether any of the non-prescriptive types for which the notion of norm-formulation is meant to allow can actually be called 'propositions'. Erik Stenius, 'The Principles of A Logic of Normative Systems', _Acta Philosophica Fennica_ 1962-3, subjects DL to what he calls (p. 250) the 'method of double interpretation' and elaborates a very similar contrast between norm-expressing and proposition-expressing; however, he goes further than von Wright (cp. chap. 6 below) by adding a principle that logical relations between deontic sentences are the same for their 'modal' as for their 'factual sense' (p. 251).

33 NA pp. 70-5.   34 NA p. 138.

or promulgating of the prescription consists in.[35]

The 'ingredients' of a prescription-norm omitted by the abstraction undertaken for the purposes of a logical study of norm-kernels are: the authority, the subject(s), and the occasion for doing the thing prescribed. Nevertheless,

> From a complete statement to the effect that such and such a prescription has been given it should also be clear which are its six...components.[36]

Since, moreover, an authority promulgating a prescription has to make known _whose_ acting he is prescribing (even if it is that of his addressee) and _when_, I shall continue to regard subject and occasion as includable, along with all other relevant factors, in the compendious act-descriptions symbolized by 'A', 'B', etc.[37] It is true that their successors, the 'df-expressions', are formalized descriptions of doings and forbearings which lack 'vocative' or temporal indicators, but this omission has to be rectified when the symbols are interpreted, by supplying details which, if not any way implicit in the act-description (e.g. 'Abandon ship - every man for himself!'), are central to the logical assessment of prescriptions:

> Two commands, the content of one of which is the internal negation [sc. forbearing] of the content of the other...can be reasonably said to contradict each other only if they...are addressed to the same agent, and are for the same occasion.[38]

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35 NA p. 94; cf. NA p. 100.

36 NA p. 70.

37 Cf. Introd. p. 3. A good discussion of them in this connection may be found in Rescher, _The Logic of Commands_, _op. cit._, pp. 11-3, pp. 21-3.

38 NA p. 147 (cp. Lemmon, 'Deontic Logic and the Logic of Imperatives', _op. cit._, p. 66); NA pp. 56-60,

The authority,on the other hand, may be contrasted, as the giver, with the prescription he gives - the specification of its 'ingredients' does not presuppose it has actually been enunciated . Von Wright allows for different sentences to express one and the same prescription, and therefore for different utterances of the same sentence to do so, e.g. when an order is re-emphasized or enunciated a second time without having been revoked in between.[39]

It remains, however, a problem whether 'the sense or meaning of a norm-formulation is the norm which it enunciates'.[40] Von Wright declines to go further in specifying the exact relationship of norm and norm-formulation than to reject the equation of prescriptions with either 'the sense (meaning)' or 'the reference' of the corresponding norm-formulations (for von Wright, a 'descriptive' or 'indicative' sentence has a proposition as its sense (meaning) and a fact as its reference, if any[41]). For other types

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pp. 77-83, p. 159. Where a plurality of agents is involved, logical complications are introduced by the mode of address (NA pp. 77-9); cp. Rescher, The Logic of Commands, op. cit., pp. 11-4, pp. 37-8, pp. 58-9, who even recognizes as valid certain 'mixed addressee' command inferences (p. 87).

39 NA p. 85, p. 105. If any particular authority, such as could be mentioned in the historical statement of the penultimate quotation,were included in the permanent identity of the norm, all prescriptions would be, by definition, authority M1's or authority M2's and could only be given by him, with the result that, strictly speaking, M1 and M2 would express different prescriptions with the same sentence (cp. chap.6).

40 NA p. 104, pleading that an adequate review of the issue would involve problems of philosophical semantics beyond the scope of the book.

41 NA pp. 93-4; cf. NA p. 18.

of norm, even the question of whether they have truth-
value is left open.[42]

But in practice, von Wright treats the analogues
to the propositions of his descriptive interpretation
as the meanings of norm-formulations in all but name.
For example, he says of the two sentences 'If you want
to make the hut habitable, then heat it' and 'If you
want to make the hut habitable, then you ought to heat
it' that they 'would ordinarily be understood to mean
the same' and that it would be wrong to say they
express different norms.[43] That is, he interprets
the sameness in what is <u>done</u> with the two sentences
in terms of an identity of what they express, and
equates that with what they (at least would ordinarily
be understood to) mean. This leads him to describe the
distinction of uses on which the dual interpretation
of his formulae is based as a distinction of meanings,[44]
and to assert explicitly:

> 'You will be leaving the room' does not
> necessarily express a prediction. It may
> just as well express a command - and be
> <u>synonymous</u> with the imperative sentence
> 'Leave the room' <u>and</u> the deontic sentence
> 'You ought to leave the room'.[45]

After all, 'the relation between norms and their
expressions in language' is supposed to be fundamen-
tally a 'semantic' one, which is how the analogy with
propositions is grounded.[46] And it is on this analysis
of the performative use of deontic language that the
most important fruit of the analogy depends - the
conception of prescription-norms as the bearers of
logical properties.

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42   NA p. viii, pp. 103-4; cf. p. 123 fn 32 above.
43   NA p. 98.   44   NA p. 105.
45   NA p. 102 (my italics); cp. NA p. 97 and
above pp. 117-9.
46   NA pp. 93-4.   126

Now for his descriptive interpretation, von Wright distinguishes between a deontic proposition and the (normative) statement made by the use of a sentence expressing it.[47] But he would not be content simply with a version of the common view that proposition-expressing is an essential, if subsidiary, part as much of the speech-act of commanding (that p be made true) as of that of stating that p, asking whether it is the case that p, or wishing that p were true.[48] For he correlates statement-making with <u>enunciating</u> a prescription and says that when 'used for making... normative statements...deontic sentences express... norm-propositions' (the deontic propositions of my terminology), just as 'when used for enunciating permissions' they 'express permissions'. On his analysis, making a normative statement involves using a deontic sentence 'to express a proposition to the effect that <u>there</u> <u>is</u> a prescription enjoining or permitting or prohibiting a certain action', while using such sentences as norm-formulations is using them 'for expressing norms which are prescriptions'.[49] This distinction, analogous to that between a proposition and the statement of it, between a norm and the enunciation of it, means that for a verbal performance to constitute an act of commanding or permitting, the 'content' communicated or made known must comprise <u>more</u> than the propositional content. For to discover

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47   NA p. 10, p. 105, p. 132; cp. the phrase 'the facts which make such statements <u>and</u> propositions true'(NA p. 106, my italics).

48   A lucid account of these matters is given by John R. Searle, 'What Is A Speech-Act?', <u>Philosophy in America</u>, ed. Max Black (London: George Allen & Unwin 1965) pp. 221-39.

49   NA p. viii, p. 98, p. 101, pp. 104-5, p. 132.

what norm a given norm-formulation expresses it is necessary to take account of the expressive function contributed to the whole utterance by its deontic operator or whatever ordinary language counterpart is used by the speaker to make known the deontic character of the prescription he is enunciating.

The trouble is, there appears to be a basic lack of balance in the all-important analogy between norm-expressing and proposition-expressing. The analogy implies that 'I permit you, Jones, to do A' expresses a permission for Jones to do A in a way analogous to that in which 'Jones is doing A' expresses the proposition that Jones does A. But in the way 'Jones is doing A' expresses the proposition that Jones does A (and, taken assertorically, asserts it as a truth), so too does 'I permit you, Jones, to do A' express that proposition (and, taken as a performative use of deontic language, permits it to be made true); while in the way this latter utterance expresses (in a perfectly legitimate but different usage of that verb) a permission for Jones to do A, 'Jones is doing A' expresses, not a proposition but, an assertion or statement about Jones doing A. But if so, the analogy collapses.

At this point we must bring into consideration the fact that the prescription-norm expressed or formulated by a deontic sentence has also to be brought into existence by the sentence's performative use, so as to continue in existence after the act which created it.[50] The difficulty just encountered is due to von Wright's preserving, as part of the identity of the norm which forms the 'content' of the verbal perform-

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50 (b) of p. 122 above.

ance, that in virtue of which the norm is describable as 'enjoining or permitting', even 'saying' things, as being 'to the effect that something may be done, etc.' (i.e. he includes the speech-act's <u>requiring</u> or <u>permitting</u> the act as well as <u>what</u> is prescribed and the rest of the propositional content)[51], and at the same time holding that what is properly said to be in force (cancellable, etc.) is <u>not</u> a speech-act[52], but the enriched 'content' to which he applies 'prescription' and allied verbal nouns.

There is an illustrative contrast in Nicholas Rescher's conception of his logic of commands as dealing with 'commands given' (the 'content of a command') comprising just the 'command requirement', e.g. finding someone's lost dog, plus the relevant temporal and other conditions of application[53] - no more, in other words, than von Wright's norm-kernel <u>minus the deontic character</u>. But the df-expressions left upon subtraction of the O- or P-operator from von Wright's atomic formulae are 'schematic representations of sentences which express propositions'; they can be read in such ways as 'it is being done that p'.[54] The added contribution of the deontic operator sets von Wright's logic on a fully non-propositional basis.

The resultant abstraction of prescriptions from the speech-acts of giving them, so that they become <u>subsequently</u> identifiable for the purpose of asserting

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51 NA p. vi, p. 92, p. 100 and <u>passim</u>; cp. pp. 189-90.

52 The verbal performance is necessary for the giving of a prescription (NA p. 94) but is not one of its components (NA p. 70).

53 <u>The Logic of Commands</u>, <u>op</u>. <u>cit</u>., pp. 8-9, pp. 27-8.

54 NA p. 29, p. 43, p. 66, p. 74, p. 171.

their existence, is necessary because 'if deontic logic is going to be anything more than an empty play with symbols, its principles will have to be justified on the basis of considerations pertaining to the ontological status of norms', their 'reality'.[55] Thus

> 'The fully developed' system of Deontic Logic is a theory of descriptively interpreted expressions. But the laws (principles, rules), which are peculiar to this logic, concern logical properties of the <u>norms</u> themselves, which are then reflected in logical properties of norm-propositions. Thus, in a sense, the 'basis' of Deontic Logic is a logical theory of prescriptively interpreted O- and P-expressions.[56]

It turns out, in fact, that in the logic of norms existence plays a role with respect to norms analogous to the role of truth in propositional logic. In particular, logical relations such as mutual negation, incompatibility, and entailment between norms have to admit of ontological interpretation as the necessity or impossibility of the coexistence of the norms concerned, because that is equivalent to and can be tested in terms of the necessity or impossibility of the joint truth of the corresponding norm-propositions.[57] Here is one of the 'special purposes' for which the existence 'jargon' was invented.[58]

> One example will suffice for present purposes:

> A proposition is consistent if it can [sc. logically] be true, a norm...if it can exist.[59]

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55 NA pp. viii-ix.   56 NA pp. 133-4.

57 NA chap. 8 <u>passim</u>, esp. pp. 165-6; qualifications introduced by von Wright's notion of a corpus will not affect the present chapter.

58 NA p. 195.

59 NA p. 140, summarizing the account of self-consistency given NA pp. 134-5, from which it is clear that the quoted condition is necessary as well as sufficient.

Von Wright's ontological interpretation of the logical properties of his norms is governed by the principle that a prescription's existence, in his somewhat technical sense, is both (a) something equivalent to a certain proposition's truth[60], and (b) something to which the prescription bears a relation analogous to that between a proposition and its truth. So in the present example, the prescription's consistency is the possibility of its existing, just as the consistency of a proposition is the possibility of its being true. The actual existence of a prescription for a certain period of time is the realization of this possibility 'in the world', as 'reflected' in the truth for the duration of that period of the corresponding norm-proposition.

This explains a warning von Wright gives that it would no more be right to identify the command given by a particular successful act of commanding with the normative relationship established by the act, i.e. with the existence of that command, than it would be (quite) right to 'identify' a promise with the normative relationship, between the giver and the receiver of the promise, established, in an exactly analogous manner, by a particular verbal performance which succeeded in its aim of giving that promise.[61] This warning not to 'identify' (quite)

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60   NA p. 189.

61   NA p. 117 and above p. 120f. Cp. G.H. von Wright, 'On Promises', Theoria 1962:3, p. 277, where promises are said not to be utterances, sentences, acts, relations between the givers and receivers of promises, or a kind of obligation − though all these must have a place in a satisfactory account of promises − but to belong, with agreements and contracts, in a category which lacks a name.

a given prescription with its existence must clearly be taken in the light of what would be the import of an analogous warning not to identify a deontic proposition with its truth. Now the definition of consistency just given is such that to subtract actual existence or actual truth from a certain norm or proposition is to leave nothing but the bare logical consistency or capacity for existence and truth with which the norm or the proposition thus specified can be equated. For the distinction required by the warning is in effect that to be drawn between any possibility and its actual realization. And just as the identification of a proposition is exhausted by a specification of what would be the case if it were true, so the identification of a prescription which specifies the six kinds of ingredients in a suitably consistent manner could not have omitted anything which would be involved in the actualization of its capacity for existence; in the event of the prescription attaining the 'reality' which belongs to norms, the corresponding deontic proposition could be used to give a truly 'complete statement to the effect that such and such a prescription has been given'.[62] For consistent prescriptions are not only 'such as can exist'[63]; they are possibilities for existence. Or, to put the point in a more down-to-earth way, to identify a command as that expressed by a certain sentence is to specify what would be the result if that sentence were successfully used as a norm-formulation.[64]

But consider someone who utters, with the aim of

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62 Pp. 123-4 above - nothing depends, of course, on the sextuple analysis being correct.

63 NA p. 135.   64 Cp. p. 123 above.

issuing a prescription, a deontic sentence possessing von Wright's 'characteristic ambiguity', that is, one which can also be used for stating the existence of the prescription the speaker aims to issue. The following two ways of identifying his utterance as a successful case of prescription-issuing have been seen to be equivalent[65]: (a) bringing about the existence of a certain prescription - call it P_1 - and (b) making true the proposition - call it P_2 - that P_1 exists. Both (a) and (b) describe the realizing of a certain possibility, referred to as 'prescription P_1' and 'proposition P_2' respectively. Neither makes explicit anything of the method by which this aim is achieved, and the equivalence is based solely on that of the results obtained; so it is in securing these results that the realizing of P_1 and P_2 must consist. But a possibility can only be defined by specifying what its actualization would involve. So P_1 and P_2 must be equivalent if their actualizations are. That is, P_1 and P_2 are logically indistinguishable. The supposed analogy and contrast between norms and norm-propositions is in fact an identity.

In the last analysis, then, what von Wright's prescriptively interpreted formulae express are the possibilities realizable as the result of successful normative action, and these possibilities are always propositions - deontic propositions.

A further difficulty in making prescriptions in von Wright's sense of the term the subject matter of a logical theory is that they are also oratio obliqua propositions.[66] To show this, consider the implications

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65 Pp. 119-122.
66 The restrictions this involves are clearly put by Rescher, The Logic of Commands, op. cit., pp. 8-9; cp. also E.J. Lemmon, 'Deontic Logic and the Logic of Imperatives', op. cit., esp. pp. 61-5, who argues for

of the fact that to enunciate a prescription, as von Wright conceives it, turns out to be to identify (make known the ingredients of) the possibility one means to realize – this is the prescription one means to bring into force, and it is indistinguishable from the proposition one intends to make true. A possibility thus actualized in and as the immediate aim of a verbal performance can only be a possibility 'for having done something with words', for a result to the effect that a verbal performance has succeeded in its aim of constituting a linguistic act of a certain type. If, then, it is a possibility of this sort which is properly said to be in force, i.e. vo have been realized as a deontic state of affairs which has continued to obtain up to a given time, what is in force is a possible result of a linguistic act, of a use of language 'similar to the use of words for giving promises'[67], and its being in force is that possibility's continuing to be actual, to retain its 'reality'. But this only means that what becomes true as the immediate result of the act continues to be true, that it continues to be as true as it (necessarily) was immediately after the act, that an act of a certain type has been successfully performed and has not become inoperative for any reason. It follows that, in von Wright's usage of the verbal noun phrase, 'a prescription' refers to a proposition about the occurrence without subsequent

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the preferability of interpreting standard principles of deontic logic as concerning orders-in-force and then raises worries about the possibility of <u>referential opacity</u>.

67 NA p. 94

revocation of a deontic speech-act.

It remains to put the linguistic record straight.
Notice first that _ex hypothesi_ P_1 and P_2 are expressed
by the same sentence; so it makes no difference whether
the sentence be used reportively, 'expressing P_2', or
performatively, 'expressing P_1'. It is one and the
same possibility whose actualization is spoken about
in the reportive use and accomplished in the per-
formative use - on the principle that 'in speaking a
language I attempt to communicate things to my hearer
by means of getting him to recognize my intention to
communicate just those things'[68] by the speaker convey-
ing his intention of so doing. The difference between
the two uses of such sentences is not a semantic one
at all, nor indicative of ambiguity[69]; it is not a
difference in _what_ the sentences(are used to) express
in von Wright's sense, but a difference between their
being used to _make_ true and to _report_ as true the
deontic propositions they express in both uses.

Correspondingly, the deontic characters of von
Wright's prescriptions are what is marked by the
presence of the O- and P-operator or some ordinary
language equivalent in the verbal expression of a
deontic proposition: the jussive or permissive
aspect of the speech-acts whose results such proposi-
tions formulate - the illocutionary force in virtue
of which the utterances referred to may be described
as the requiring or permitting of a certain act.
Making known this ingredient of the possibility to be

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68 Searle, 'What Is A Speech-Act?' _op. cit._,
p. 228, where an attempt is made to give a precise
formulation for this fundamental feature of the way
speech-acts are performed.

69 Cp. p. 117f above.

realized is simply indicating part of how one intends
the result of one's prescribing utterance to be report-
able - as an order or as a permission. And to indicate
what specific type of speech-act one intends to have
performed an instance of is something that has to be
done by a speaker who intends to have asserted that
p as much as by one who aims to have commanded that p.

Hence, the view that all deontic sentences with
a performative use, including imperatives, express
prescriptions in von Wright's sense reduces the def-
inition of norm-formulation to triviality: a norm-
formulation is a sentence that can be used by a speaker
to make known that his utterance is intended to bring
it about that there has been performed an instance
of, e.g. permitting A.

What is confusing is that <u>some</u> deontic sentences,
namely those that can be used to report their own
performative use, may also be said to express deontic
propositions in <u>another</u>, properly semantic sense.
Von Wright so uses his expressing terminology that
both the reportive and performative uses of a deontic
sentence are dependent on, and to be explained by,
the sentence's expressing something: as the speaker's
making use of the 'semantic capacity' which fits it
as an instrument for this purpose. However, the fact
that 'norm-formulations, linguistically, are a very
varied bunch', together with the fact that many of
the sentences in question are also used for purposes
other than commanding and permitting (in particular,
for reporting the results of those speech-acts), leads
him to identify the expressive powers which are to
help explain a sentence's being used for normative
actions as those it possesses <u>in its use as a norm-
formulation</u>, a use which is and can only be specified

as its use for normative actions.[70] This qualifica-
tion, whereby a sentence expresses a norm only in its
performative use, not only threatens to introduce a
circularity, since the use of a sentence for normative
action is described in such terms as its use 'for
expressing a norm' or as a sentence expressing one[71];
it also trivializes the explanation of the two uses
of deontic sentences: if expressing is always express-
ing-in-a-use, 'expressing a prescription' simply
ascribes to a sentence in its use for norm-expressing
the capacity for being so used, and so identifies
the semantic basis which fits it for use in norm-
expressing performances in terms of the use its mean-
ing should help to explain. In fact, von Wright's
treatment of a sentence's expressing a prescription
as just its having use as a prescription-expressing
sentence is but the converse of the tendency noted
above to interpret sameness of use, of what can be
done with a pair of sentences, as sameness of what
the two sentences express (or mean) in that use.[72]

But it is surely more plausible to suppose that
so many grammatically different sentences are avail-
able for the role of normative action rather because
than in spite of their differences, which create a
plurality of semantically different means for perform-
ing (in suitable contexts) the same type of speech-
act, that of issuing a prescription. If allowance is
made for sentences with various sorts of difference in
meaning being used for the same purpose (e.g. 'Do A, if

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70 NA pp. 101-3 (cf. pp. 119-20 above);
NA p. 132.

71 Cf. p. 127 above.

72 Cf. p. 126 above.

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you want' and 'I permit you to do A', or 'You must
not do A' and 'I don't want you to do A - I forbid
it'), explanations may be called for of why the mean-
ing of a given sentence fits it for that task in the
given context. These will provide a way of linking
what it means with what it is used to do which,
instead of reducing to the relatively trivial fact
that a sentence with the capacity of being used for
a certain type of speech-act can be or normally is
so used, explains why the sentence should have that
capacity in the first place. Conversely, given suit-
able explanations, sameness of meaning will be no
obstacle to the sentences being used for different
purposes, so that a deontic sentence may be said to
express the same thing (as in the case of P_1 and
P_2) in both its performative and reportive uses.

   But whatever the meaning which gives a sentence
the capacity of being used for the performance of a
certain type of speech-act, this capacity still has
to be 'activated' by a speaker who wishes to exploit
its meaning for that purpose. He must and can
indicate by his use of e.g. 'You are authorized to
drive a car', whether what he means to accomplish as
the immediate aim of his utterance is the issue of
a driver's license or a statement such as a report
of the addressee's success in passing his driving
test. Since either is made possible by the meaning
of the sentence, it cannot be sufficient to account
for a speaker's using it for issuing a prescription
solely in terms of what it expresses or 'would ordi-
narily be understood to mean'.[73]   The sentence

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73 Cf. p. 126 above.

and its expressive powers merely form the means which, without doing the job for him, enable the speaker to accomplish his intended purpose of issuing a prescription. To accomplish that purpose, the speaker must communicate his aim of doing so, i.e. he must convey the intended illocutionary force of his utterance. Neither the sentence as a whole nor the part which serves to indicate the deontic character as opposed to the df-proposition expresses that force as its semantic content, though the meaning of the sentence as a whole is what explains the availability of the sentence in question for conveying a certain illocutionary force and thereby for successfully performing a certain type of speech-act.[74]

With examples like 'You are authorized to drive a car' the two uses are made possible by the fact that the proposition expressed by the sentence (in the ordinary sense) is such that the sentence can be used to express (in von Wright's sense of 'enunciate' or specify) the immediate result his utterance is intended to have. This is <u>one</u> way of identifying the type of speech-act the speaker means to perform, and so of conveying the illocutionary force and propositional content of his utterance. By contrast, 'I authorize you to drive a car' cannot be used to report its own performative use. It works from a different semantic basis; if regarded as expressing a proposition which is true if and only if I do authorize you to drive a car,[75] this would explain

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74 This distinction is discussed further in application to the notion of a neustic; chap. 6 below.
75 This is how von Wright elsewhere regards 'I promise to come', though mistakenly supposing it might on that account be possible to combine in one speech-act 'the two intentions of giving a promise and stating that one is giving a promise'. ('On Promises', op. cit., pp. 287-9).

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its availability to indicate that proposition as one I intend to be true of my utterance itself (as opposed to its result), i.e. to identify authorizing you to drive a car as the description I intend to satisfy.

But in the sense in which (as von Wright holds) all deontic sentences with a performative use express prescriptions, the expressive connection used to define the notion of a norm-formulation, not being a semantic one at all, is not analogous to proposition-expressing in the way von Wright's dual interpretation requires.

For example, 'I want you to get me a cup of coffee' can be used to convey the speaker's intention of making true the proposition that an order is in force for coffee-making in the immediate future, but it does not express that deontic proposition in anything like the way that (even in its order-giving use) it expresses the proposition which it could be used (reportively) to assert. Its relation to the deontic proposition consists simply in the possibility of being used for (conveying an intention of) making it true, that is, for bringing it about that coffee-making has been ordered, which in turn is equivalent to: it expresses, in the sense that it can be used for, a command to someone to make coffee. That is why even the identification of prescriptions with deontic propositions will not save the analogy by preventing prescription-expressing (in von Wright's non-semantic sense of 'express') being akin to assertion-expressing rather than to proposition-expressing.[76]

I conclude, then, first with regard to deontic propositions, that the acknowledgement that it is not a contingent fact that deontic states of affairs require

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76 Cf. p. 128 above; on the use of 'want'-sentences for commanding, see chap. 4, p. 108.

normative action for their creation[77] commits one to the _oratio obliqua_ analysis of chapter 3 and to the view that the 'facts which make norm-propositions true'[78] consist in and are constituted by the success of particular speech-acts of commanding or permitting; these facts or states of affairs obtain for just so long as nothing intervenes to make it inappropriate to refer to the success of the speech-act which brought them about in determining the deontic status of a given act, that is, in establishing whether the authority has said it is to be or need not be done.

Secondly, as to the commands, permissions, and prohibitions about which the interdefinability problem was raised, it is reasonable to go on regarding them, as in Part I, as speech-acts, type or token, and the verbal noun phrases will be interpreted accordingly. This does not mean that nouns like 'permission' always refer directly to a speech-act, only that what is said with their use should be analyzable in speech-act terms. Thus even ordinary English makes common enough use of such sentences as 'There is an order in force that a fire extinguisher is to be kept on every staircase'. But since their truth-conditions are equivalent, as von Wright agrees, to those of such sentences as 'An order that a fire extinguisher is to be kept on every staircase has be n given and has not been revoked, lapsed, etc.', the existential phrase is something of a _façon de parler_, a convenient way of giving expression to the quite unmysterious feature of speech-acts such as permitting (as also of promising), whereby, although permitting consists simply in the utterance of certain words on a particular occasion, it can have reference

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77 NA p. 94: 'The existence of prescriptions necessarily presupposes the use of language in norm-formulations.'
78 NA p. 106.   141

to the near or distant future, so as to cover action over a lengthy period of time, without needing a material object, e.g. some marks in a book of rules and regulations or on a card (permit, visa, etc.) to function as the vehicle for what we may be pleased to call the permission's continued existence through time. Therein 'lies the reality of norms'.[79]

Finally, a concluding section devoted to the deontic auxiliary verbs and the rather wider issues they involve will serve both to remove the stigma of equivocity from an important class of sentences and to indicate more generally the force and utility of the findings of this chapter.

'Must' and 'may' ('can') are frequently used to give commands and permissions, but from this it does <u>not</u> follow that they can serve for reports of their own performative use or be subjected to von Wright's dual interpretation.[80] 'Must'- and 'may'- (like 'want'-)sentences express, even as norm-formulations, propositions which do not fall within the <u>deontic</u> square of opposition at all, since the occurrence of a certain type of speech-act is not adequate to satisfy their truth-conditions.

Take a pair of conflicting commands issued with the aid of 'must' (or, <u>mutatis mutandis</u>, a clash between 'may'- and 'must not'-utterances): Father tells Tony he must always hit back when hit first, Mother that he must never do so. It is logically impossible for Tony to obey both his parents, but his position with regard to retaliation can be described, without inconsistency in the description itself[81], by means of the speech-act verbs: retaliation is both forbidden him (by Mother) and

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79 NA p. 106.   80 Pp.117-8 above.

81 Cf. chap. 3, pp. 50-1 above.

enjoined upon him (by Father). Quite an ordinary situation - but one liable to a paradoxical twisting from the doctrine that commands make it the case that the act commanded must be done: (i) the alternate formulation of the result of the parental disagreement, namely 'It is true both that Tony must hit back and that he must not hit back', is a contradiction if 'must' and 'must not' are contraries, as they appear to be[82]; (ii) if it is also accepted that 'must' entails 'can' in some ('physical') sense stronger than the bare contradictory of 'must not', then the giving of a command entails the recipient's ability to obey.

For example, an officer says to a soldier under his command who has never learned to swim, 'You (must) swim the river at once!'. Grant it is impossible that the soldier must do something he cannot do and, by contraposition of the doctrine that being commanded entails the ability to obey, the officer did not succeed in commanding him to swim the river. This consequence is accepted by von Wright as fitting his theory that commands manifest efforts to constrain compliance with one's will: 'If the subject cannot do the thing in question, neither can he be made to do it by being commanded'; nor can he be allowed to do it by a permission.[83] Von Wright represents his paradoxical position as an application of the principle 'Ought implies Can', putting up a defence on behalf of the soldier at a court-martial for disobedience which has the unfortunate side-effect that the nullification of the officer's (attempted) command makes him as immune from any charge of

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82   So classified by E.J. Lemmon. 'Moral Dilemmas', Phil. Rev., Apr. 1962, p. 150.

83   NA pp. 122-3 (NA p. 125 acknowledges the departure from 'how we often and naturally express ourselves'); see further chap. 6, p. 182ff below.

abusing his authority as the soldier from one of
insubordination.[84]

But in harnessing both 'ought' and 'must' to
express an 'O-character' common to both prescriptive
and other 'obligation-norms', a more or less undifferen-
tiated idea of <u>obligatoriness</u> designed to function, with
the other elements of the norm-kernel, as a principle of
unity for the somewhat heterogeneous category of norms,
von Wright joins what he elsewhere separates as a dis-
tinction hinted at by ordinary language which logicians
have reason to observe: between the 'ought' he uses to
express a man's <u>obligation</u>, e.g. to do something he has
specifically promised to do and a 'must' expressing the
'<u>practical necessity</u>' of an action requisite for some
end.[85] Moreover, whereas obligations can conflict with-
out being invalidated by the impossibility of collective

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84   NA p. 115; cp. chap. 4, p. 75 above.

85   'On Promises', <u>op</u>. <u>cit</u>. and 'Practical Inference',
<u>Phil</u>. <u>Rev</u>., Apr. 1963. Contrast p. 118 above and the
flexible approach to the interdefinability of permissions
as promises, p. 115f.   R.M. Hare, Critical Study of <u>Norm</u>
<u>and Action</u>, <u>Phil</u>. <u>Quart</u>., Apr. 1965, pp. 173-4, rightly
focusses on the failure of the concept of a norm-kernel
to unite the heterogeneous as the important issue, cont-
enting himself with the mild linguistic stricture: 'It
may be questioned whether "ought" <u>ever</u> expresses "pre-
scriptions" in [von Wright's] narrow sense'. Certainly
von Wright, when wielding the trio of deontic auxiliar-
ies 'ought', 'must not', and 'may', of which the first
two are interdefinable (NA pp. 83-4, quoted chap. 6,
p. 163 fn. 18 below), errs e.g. in thinking there is
such a thing as 'a captain's command to the passengers
"Someone ought to leave the boat"'(NA p. 78; cp. NA
p. 102 and p. 138, respectively quoted p. 126 and p. 123
above). But this does <u>not</u> mean he is guilty of what
George Pitcher, Review of <u>Norm</u> <u>and Action</u>, <u>Phil</u>. <u>Rev</u>.,
Oct. 1965, p. 521ff, attacks at length as his 'wrong-
headed' <u>assimilation</u> of 'ought'-judgments (i.e. 'what-
ever is [sc. actually] expressed by such deontic sen-
tences as "You ought to do such and such"') and such
things as commands, rules, and regulations . Von Wright
simply thinks (wrongly) that the latter - or the obliga-
tions deriving from them - can always be expressed by
'ought', not that 'commands are a kind of "ought"-judg-
ment' or vice-versa (cf. NA pp. 100-1).

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discharge, if a person does not perform some action, it cannot have been true at the time that he must do it (even if beforehand he thought it was going to be impossible to avoid); for it cannot subsequently be correctly said that he **had** to do it. Omission of the obligatory is frequent, and in a case of conflict unavoidable, but everything that has to be or must be done is actually done, just as what is necessarily the case is so in ˊ?ɔt.[86] From this it is fair to conclude that the requirements of practical necessity cannot conflict and that, unlike 'obligatory to do' and 'obligatory not to do', the contrariety of 'must' and 'must not' is not relative to any source or ground. And if 'must do' entails 'does do', a *fortiori* it entails 'can do' in every relevant sense.

On the other hand, the possibility of conflict does not prove that being under a certain obligation (von Wright's 'normative relationship'[87])is compatible with inability to discharge it. For although the formula '(OA . OB) → O(A . B)'[88] is valid if the O-operator represents a 'must' detachable from whatever 'necessitates' the actions A and B, agglomeration of obligations from different sources would produce a hybrid commitment in several directions at once, owed to nobody in particular and incurred neither through some undertaking of

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86 Cf. E.J. Lemmon, 'Moral Dilemmas', op. cit., p. 150, contrasting 'must' with 'ought'. In 'Practical Inference', op. cit., p. 161 von Wright notes the ring of contradiction imparted to 'I ought to do this but I am not going to do it' by substitution of 'must' for 'ought', explaining it as due to 'must' being somehow the stronger. Cp. NA p. 101.

87 Cf. p. 120 above.

88 DL p. 72, although (as noted chap. 2, p. 27 fn. 1 above) DL rejects the permissive analogue; cp. NA pp. 156-8, where norm-entailment is kept relative to the corpus of prescriptions set up by a given authority.

one's own nor through another's imposition. Even reading 'OA' here as 'A ought to be done' will not generate a clash between cases of obligation-conflict and the 'Ought implies Can' principle, since the view that, if A is something one is under obligation to do one ought to do it,[89] runs counter to the fact that, sometimes at least, there can be reasons for supposing the obligatory ought not to be done.

Yet if 'it makes a mockery of our usage to claim that a rightly renounced obligation could not have been a true obligation, sans phrase, in the first place'[90], much the same seems to hold for obligations one is unable to discharge - they are not necessarily voided.[91] However one happens to become bound to the performance of an action, one remains under the obligation unless released in some way specifically provided for by the rules under which the obligation was generated. That is what makes conflicts of obligation possible. By contrast, the truth-conditions for saying of an obligatory action that someone is able to or must perform it, or even that he ought to, are not endowed with this artificial independence from the general turn of events.[92]

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89 Held analytically valid by Lemmon, 'Moral Dilemmas, op. cit., p. 139ff (cp. 'Deontic Logic and the Logic of Imperatives', op. cit., §2), who then uses the 'ought' reading of the agglomeration formula against 'Ought implies Can'. By contrast, Williams, 'Ethical Consistency', op. cit., p. 117ff. uses 'Ought implies Can' against agglomeration for 'ought'.

90 Feinberg, 'Supererogation and Rules', op. cit., p. 279.

91 Feinberg notes (ibid, p. 288 fn. 5): 'In civil law an insane person can be held liable for his torts'.

92 Some aspects of this backward-looking tendency in the idea of obligation are discussed in C.H. Whitely, 'On Duties', Arist. Soc. Proc. Vol. LIII 1952-3.

The mitigating powers of the plea 'I had to do it - I was acting under orders' are neither so negligible nor so overwhelming as to justify a reading of the first clause, such as one to the effect that there was a norm manifesting a want or will to make me do the action, which would equate obedience to orders and a form of practical necessity - 'I had to', in 'hort, does not mean that someone <u>required</u> me to.[93]

Now a requirement is said to be 'that which is <u>called</u> <u>for</u> or <u>demanded</u>; a condition which <u>must</u> be complied with', to require (as a kind of speech-act) being 'to demand <u>as</u> necessary'[94] - and a demand based upon a rightful claim is one kind of obligatory-making utterance, just because the claim is equivalent to ano'her person's duty to comply with some condition if required.[95] So even if the obligatory is to be firmly distinguished from what is practically necessary, the two seem closely connected:

> All duties and obligations, whether imposed
> by authoritative injunctions and prohibitions,
> acquired through accepting or inheriting an
> office, job, or role, or voluntaril' incurred
> through promises and other contractual agree-
> ments, share the common character of being
> <u>required</u>.[96]

Like orders, a demand makes no truth-claim. Although, therefore, 'M said that we must go' could be used to report something said by M <u>about</u> what was

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93 Cf. NA pp. 105-6 with pp. 118-21.

94 O.E.D. svv., my italics.

95 Cf. Wesley Newcomb Hohfeld, <u>Fundamental</u> <u>Legal</u> <u>Conceptions</u> (London: Humphrey Milford - Oxford Univ. Press 1923), pp. 36-50. Claim-based demands are a new addition to the imposition side of the dual classification sketched in the Introd., p. 5 above.

96 Feinberg, 'Supererogation and Rules', <u>op.</u> <u>cit.</u>, p. 277, adding 'and this in turn, while it may involve more than coercion or pressure, rarely involves less'.

practically necessary, perhaps while giving advice, using it to report the making of a demand cannot be to speak of M as having alleged that as a matter of fact we had (for reasons unspecified) no option but to leave. Yet neither would such a report commonly depend for its truth upon whether M actually used the verb 'must'. Accordingly, to understand it as concerned with a demand involves taking 'must', not as part of the description of the utterance's propositional content, but as an indication of the sort of act of _saying_ this was, as signifying that its illocutionary force involved an intention that our departure be (made) necessary. Similar considerations apply, _mutatis_ _mutandis_, not only to the _oratio_ _recta_ use of 'must' as a direct signal of an intention to oblige (constrain), but also to 'may'-sentences and to future indicatives like 'You will proceed forthwith to your destination', together with their _oratio_ _obliqua_ correlatives 'might', 'were to', etc.: for these, just substitute an intention, respectively, that some action be possible and that it be done. Note, finally, the use for permission-giving of sentences like 'It will not be necessary for you to make up your overdraft this month'.

What this group of sentences have in common is that, being primarily assigned by the rules of the language to convey propositions about states of affairs whose realization is typically aimed at as the _further_ outcome of certain practical utterances, they are naturally suited to a performative use in which they specify the communication intention of the utterance itself, by indicating that it is meant to be a _speech_-means to the end they describe. It is still as conveying these propositions that they perform this secondary function, although the propositions are not asserted as true - in many cases, after all, such anticipation would be rash. And it is

only as specifying the _immediate_ aim of the utterance, as expressing what the speaker means to _be doing_, that these further outcome descriptions serve to convey the force of an order or demand (compare the _present_ import of the ostensibly future-describing utterance 'No music will be permitted after 11 p.m.'). For a demand is no more the announcement of an ordinary intention to constrain someone to comply with certain conditions ('You're going to have to leave - I'm locking up') than is an order the profession of a resolve to enforce (by whatever means) a certain pattern of conduct.

Rather, one way a speaker can indicate how he means his words to be taken is by purporting to have an intention that the utterance of them shall have obliging or constraining effect. Whether or not he _is_ actually aiming to oblige, and regardless of whether the recipient, having understood, finds the 'prod'[97] a sufficient goad to make him _feel_ obliged to meet the speaker's conditions, the utterance is presented as _meant_ to be, in itself, a decisive reason for action, sufficient grounds for regarding the conditions as ones that _must_ be met.

But since it is the utterance alone upon which this 'necessitating' depends, no truth-claims about independent matters being involved, the only obliging intention actually ascribed by a command-reporting use of 'M said that ... must ...' (or indicated by 'must' in _oratio recta_ performative use) is the communication intention that the utterance shall be _understood_ as (meant to be) necessitating, that is, as one which requires or calls for action in compliance with it, rather than one which actually leaves the recipient with no option but to obey. A demand or order presents itself as a reason sufficient to leave no alternatives

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97 Another of Black's phrases, 'Meaning of "Rule", II', _op._ _cit._, p. 145; cp. chap. 4, p. 106 above.

open. That done, an obligation has been imposed, and it depends on the recipient whether or not he finds obedience a practical necessity. Within the span of a speech-act more can hardly be expected; nor should it, if the speech-act is to remain a civilized, though ever fallible, substitute for methods of constraint.

This usage would not be so intelligible and natural were it not that, although it cannot be a matter of logic alone that an agent ordered to do something must do it, it often is or is thought to be _true_ that the recipient of an order has no reasonable choice but to obey. The deontic auxiliaries could not otherwise be used so often to report facts such as the practical possibility of parking in a certain place - it would be pointless to remark 'You may (can) park here' to someone looking simply for a physically unoccupied space such as 'here' indicates. For to use a normative license as grounds for a categorical assertion that one need not find a car-park but may just leave the vehicle on a given side-street requires a context where it is pre-supposed, both that the weather, for example, has not provided its own obstacle in the form of snow, and that a parking ban (or the threat of sanctions behind it) would be a sufficient deterrent to the driver. Even for law-abiding citizens that is not always so - a man rushing his wife to hospital might not unreasonably refuse to agree he _must not_ park at a certain place while still conceding it was _forbidden_.

The deontic auxiliary verbs cannot be equated with the deontic speech-act verbs because the former are (a) unspecific as to the kind of reasons whose presence or absence they express, except insofar as (b) they describe them as compelling and decisive. The conventional reasons imposed or removed by authority utterances are just one kind of reason for action among many, even if

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they are typically meant to _feel_ compelling. The mean-
ing of 'must' and 'may' makes them available for commands
and permissions because, in the predominately rule-
observing way of life necessary for the continued viabil-
ity of the conventions of authority-subject institutions,
authority-issued reasons for action are not normally
rejected as operative determinants of behaviour without
good and strong countervailing reasons.[98]

If, however, the propositions expressed with the aid
of 'must' and 'may' in this performative use can also
be asserted, if not to report that use, then still to
express the practical import it _may_ well have for the
recipient of command or permission, practical necessity
should not be relativized to the aims of either party,
authority or agent. No doubt, the existence of such
aims is a precondition of a notion of _practical_, as
opposed to e.g. natural, necessity having application,
but that does not make it _a prior_ true that 'something
must be done when doing this is (causally) necessary for
the attainment of some end'[99]. 'There is something X

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98 O.E.D. sv₩ locates the basic meaning of 'must'
and 'may' in the concepts of necessity and possibility,
as here. In application to _practical_ possibility, however,
'may' is now largely replaced by 'can' - _except_ where
the sole or primary issue is a freedom due to a permis-
sion. This may (i.e. possibly does) make 'may' mean the
same in such contexts as 'is permitted' - for when does
a restriction of application qualify as a narrowing of
sense? I take comfort from the fact that it is still
permissible to ask, without being **referred** to **any** offi-
cials, where one may hear the nightingale or learn how
one may best prepare for an interview, and likewise
whether someone might not have had the decency to apolo-
gize. Convenient though it is to associate 'must' with
'may', the argument would not lose from substitution of
'can' as appropriate; this, like its subcontrary 'need
not', is freely available over the whole range and carries
in both performative and reportive uses a clear connec-
tion with the general notion of practical necessity.

99 Von Wright, 'On Promises', _op. cit._, p. 293.

wants but will not get unless he does A' does i)t even
entail 'X must do A'[100], let alone give its meaning.[101]
Rather, 'I had to swim for it' means just that, not
'Swimming for it was the only way of saving my skin',
which is doubtless true but misses the point: that the
speaker had, or considers himself to have had, no alter-
native but to try to keep afloat. By analogy with the
previous arguments,[102] if the contrariety of 'must' and
'must not' is accepted, a case of conflicting wants will
show that wanting to do A is no more sufficient to make
it the case that one must do A than is receipt of a
command to do A; if, on the other hand, it is rejected
in favour of relativizing the 'must'-proposition to the
agent's desires, 'I (felt I.) had to do it - I wanted to
(so badly)' becomes weakly repetitious or neurotically
compulsive.

Of course, a person's wants, values and priorities
are influential determinants of what counts as a practi-
cable alternative for him. But 'necessity' is a strong

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100 Contra Nicholas Rescher, 'Practical Reasoning
and Values', Phil. Quart., Apr. 1966, who claims the
inference is valid if (p. 135) the premise means 'wants-
in-the-final-analysis' (which it can't), or (pp. 122-8)
the conclusion is restricted to A's being a sensible
thing to do for one concerned just with the satisfaction
of his desires (which every parent knows doesn't follow).

101 As claimed by von Wright, 'Practical Inference',
op. cit., p. 164. In NA, the means-ends 'directives'
mentioned above p. 118 are described as 'technical
norms...concerned with that which ought to or may or
must not be done for the sake of attaining some end'
which, though categorical, enjoy only an existence con-
ditional upon the agent's wanting the end and are dist-
inguished from hypothetical (prescription-)norms proper
by the fact that the latter have only their content, not
their character and existence, conditioned; see NA p.
ix, pp. 9-11, pp. 15-16, p. 103, pp. 170-1.

102 Cf. pp. 143-5 and p. 147 above.

word - often, it is not easy even to determine the <u>best</u>
available policy (which could make appropriate various
uses of 'should' or 'ought', if not of '**must**'), while
a peculiarity of practical thinking is that the agent's
ends and values, even his conception of the choice-
situation confronting him, are subject to <u>alteration</u>
through others' argument and persuasion, or through his
own reevaluation; to say nothing of the difficulty in
practice of ascertaining the empirical means-ends
connections. Moreover, part of what makes a situation
one that calls for <u>choice</u> is that selection of an end
to be pursued as the sole practicable (acceptable,
reasonable) policy - a selection **presuppo**sed or involved
in **the** drawing of a 'must'-conclusion after reviewing
the relevant considerations - cannot be left to logic
or the world. A decisive reason for action is precisely
one that is a sufficient basis for <u>decision</u>.

Again, telling another categorically, by way of
advice, remonstrance, etc. that A is what he must do
implies that one really thinks it true without quali-
fication, unless the considerations to be counted rele-
vant for his choice are clearly demarcated in the con-
text, so that no qualification need be explicitly
entered as a condition on the 'must'-statement convey-
ing the counsel. The advisor's role - to present the
outcome of deliberation undertaken, as it were, from
the viewpoint of the agent's wants and interests - may
be well served by a claim that the agent has some reason
for doing A which, though not specifically identified in
the utterance, is described as decisive and compelling.
But as such, this claim can occur (even in the second-
person) by way of a 'neutral' bystander's comment which
makes no attempt to meet the relevance criteria of a
practical speech-act. Only as purporting to justify
advising the agent <u>to</u> do A does a 'must'-utterance

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acquire the force of advice <u>that</u> A is necessary. If presenting A as something essential to or required by the agent's interests is a natural way of urging him <u>to</u> do A, this urgent force is an 'extra' acquired in an advice context where a single 'must'-utterance is responsible both for telling the agent to do A and for indicating the necessity of doing so. That is, although 'You must do A' does not <u>mean</u> 'Unless you do A, you will be unsuccessful in the pursuit of some end of yours',[103] in an advice context it can be made to carry the force of a warning to that effect.

Even so, the full schema for using 'must' to advise remains 'Do A, because it is necessary (in your own interests) to do so'.[104] The 'must'-proposition, as such, is the same throughout all these varied uses of the sentence expressing it, and its assertion in a practical advice context plays the role of justifier to the urging or proposing part. This latter is not a truth-claiming utterance, so the justification claimed for it does not require that it be interpreted as a conditional about the (causally) necessary means to some end[105]; on the other hand, to seek its justification in the rules that determine the meaning of the auxiliary (in second-person use)is to identify conformity to those rules as what makes the utterance sound advice, or even advice at all.[106] But 'must'-sentences no more express

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103 <u>Pace</u> von Wright, 'Practical Inference', <u>op.</u> <u>cit.</u>, p. 164.

104 See chap. 4, pp. 80-9 above on advising nd other reason-giving speech-acts.

105 As in von Wright, 'Practical Inference', <u>op. cit.</u>

106 Thus Max Black, 'The Gap Between "Is" and "Should"', <u>Phil</u>. <u>Rev</u>., Apr. 1964. <u>Contra</u>, Mendel F. Cohen, '"Is" and "Should": An Unbridged Gap', <u>Phil</u>. <u>Rev</u>., Apr. 1965 (esp. on Black's 'factual' - 'performative'

as their meaning the advice they may be used to give than they do the commands of von Wright's 'characteristic ambiguity'. And the advisory task of justifying the practical aspect of a complex illocutionary act is adequately fulfilled if there is in fact a decisive reason for the agent to act in the manner prescribed.[107]

Either, then, a 'must'-proposition is _about_ some practical necessity (or possibility) conceived as independent of the speech-act, or its function is to determine the illocutionary force of the utterance as meant to be _itself_ a reason which leaves (so far as it goes) no alternative open but the action it requires _as_ necessary. But that only means that a command for A does not permit (forbids) Not-A. So despite the occurrence in deontic discourse of 'must'- and 'may'-sentences, obligation-creating or duty-imposing or obligatory-making actions do not make it true that anything must, needs, or has to be done. Conversely, 'must'-statements cannot be analyzed as 'to the effect that _there_ _is_ a prescription enjoining ... a certain action'[108].

In themselves, conventional reasons never necessitate, nor do conventional freedoms provide enabling assistance. This prompts a final remark: all the

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contrast; cp. chap. 3, pp. 37-8 above) and D.Z. Phillips, 'The Possibilities of Moral Advice', _Analysis_, Dec. 1964 (esp. on the alleged unavoidability of advising rationally otherwise than according to Black's specifications).

107 Cf. chap. 4, p. 82 _et._ _al._ It has been convenient to conduct this discussion primarily in terms of 'must' in order not to anticipate chap. 6. An indication of how the themes developed there would apply to advice contexts is given p. 179, fn. 59 below.

108 NA p. viii, quoted above p. 118.

so-called 'species of permission'[109] canvassed by
von Wright as interdefinable via the O-operator
(i.e. 'must' or 'ought') are connected with the idea
of non-interference, and so with practical possibility
of a more than purely conventional, normative type.
Rights and claims concern subjects letting each other
be; an authority's promise of non-interference affords
subjects the same consideration. But besides the
oddity (not to mention the injustice) of describing
the authority as breaking his word, disobeying him-
self, or depriving his subjects of a right every time
he revokes a permission,[110] to deny him the entitle-
ment to revoke permissions (at his own discretion and
without ipso facto giving grounds for complaint or
censure) is to take away an essential part of the
jurisdiction which consitutes him as an authority and
enables him to discharge the responsibilities of his
office.[111] Yet some such consequence seems intrinsic
to all the above methods of turning permissions into
guarantees, as it were, that the subject will be
allowed freedom to act.

This is not to deny that such guarantees can be
given, only that it is asking too much of permissions,
as such, to carry such a serious commitment. And
asking too much means missing the essential in permis-
sions, the negativity which the following chapter
attempts to elucidate.

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109   NA p. 90.

110   Cf. pp. 115-6 above.

111   Cf. chap. 4, p. 96 and p. 106 above.

Chapter Six

Permitting <u>and</u> Refraining <u>From</u> Forbidding

The critical work of the last chapter's
defence of the view taken in chapter 3 of the
relation between the performative and the reportive
use of deontic language may now be applied to the
interdefinability problem.[1] By this means, the
present chapter aims to extend chapter 4's charact-
erization of permitting as an essentially negative
concept, which presupposes the concept of prohibition
in that permitting is to be understood as refraining
from prohibiting, and to make of it an analysis of
the illocutionary force definitive of permitting
which facilitates comparison with the illocutionary
forces of other authority-made speech-acts and pro-
vides criteria for assessing such speech-acts from
a logical point of view. We may begin by considering
what von Wright calls the 'bewildering...role of
negation in prescriptive language'[2].

In <u>Norm</u> <u>and</u> <u>Action</u> von Wright defines negation
separately for the descriptive and prescriptive
interpretation of the formulae of his new system of
deontic logic. He accepts for the descriptive
interpretation the usual truth-functional view of

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1 Cf. chap. 5, p. 117.

2 NA p. 137.

propositional negation, which means assigning to
a proposition as its negation that proposition
which is true when it is false, and vice-versa.[3]
And since the possibility of authority non-action
leaves open a third possibility between the existence
of a permission to do A and the existence of a
prohibition against doing A,[4] 'Not PA' and 'FA',
when read existentially under the descriptive
interpretation, are not equivalent. The same applies,
mutatis mutandis, to other putative equivalences
between negative and positive formulae. In other
words, of the two premises which led to our paradox[5],
von Wright accepts (B), that a negative formula of
the form 'Not ...A' is true if the authority has
not acted, and rejects (A), that Not FA $\equiv$ PA, -
and thus undoes the deontic square of opposition.

For his prescriptive interpretation, von
Wright requires that the negation of a norm shall
be another norm related to it according to the
following definition:

> A norm is the negation-norm of another norm
> if, and only if, the two norms have opposite
> character and their contents are the
> internal negations of each other.[6]

That is, a prescriptively-interpreted formula F_1
expresses the negation of the norm expressed by a
prescriptively-interpreted formula F_2 if, and only
if, F_2 contains the P-operator where F_1 contains
the O-operator, or vice-versa, and the act-expression

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3 NA pp. 131-3.

4 NA pp. 135-41, 154-5

5 Chap. 5, p. 114 above.

6 NA p. 140. ('Opposite' here seems to mean
simply difference of deontic operator - cp. NA p. 145.)

in F_2 is the negation of that in F_1;[7] and similarly
with the ordinary language deontic sentences whose
constituent elements are symbolized in the formulae.
To summarize:

> A command to do and a permission to forbear
> are related to one another as negations,
> and so are a command to forbear and a
> permission to do.[8]

The problem this definition is intended to
solve is two-fold: first, to make sense of

> how the word 'not', when attached to or
> inserted in sentences used for enunciating
> prescriptions, affects or changes the
> meaning of the original sentence.[9]

Second, the definition serves as an affirmative
answer to the question

> whether the relationship between the
> meaning of a norm-formulation __with__ and
> the meaning of a 'corresponding' norm-
> formulation __without__ the word 'not' in
> it is sufficiently like the relation
> between a proposition and its negation
> to justify us in speaking about a pres-
> cription (norm) and __its__ negation.[10]

It serves this second function by fulfilling the
first in a way which satisfies analogues to four
out of five requirements von Wright considers
essential to propositional negation: (i) the negation

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7 Strictly speaking, the __internal__ negation
of it, descriptive of the agent's __forbearing__ from
its content; but there is no need for present
purposes to bring in von Wright's distinction be-
tween the internal and external negations of his
df-expressions, which is intended to capture the
difference between, respectively, forbearing from
A and not doing A (see NA pp 45-6; 64-5).

8 NA p. 139.   9 NA p. 136.

10 NA p. 136.

of a norm is a norm, (ii) there is one and only one negation of a given norm, (iii) the negation of a negation-norm is the norm originally negated, (iv) a given norm and its negation are mutually exclusive in the sense that they cannot coexist (in the same 'corpus' of prescriptions built up by a specific authority).[11]

The only requirement for which von Wright finds he cannot secure a prescriptive analogue by his definition is (v) the joint exhaustiveness whereby one or other of two propositions which negate each other must be true.[12] Yet the property of joint exhaustiveness seems to be precisely the feature which distinguishes the relationship of mutual negation [contradictoriness, which includes requirements (i) - (iv)] from other forms of logical incompatibility such as contrariety. Is such a sacrifice really necessary in order to make sense of the role of the word 'not' in the performative use of deontic language?

It is on von Wright's premises as to the interrelations of his prescriptive and descriptive interpretations. An analogue to the requirement that, of a given proposition and its negation, one or the other be true would, on von Wright's view of the ontological status of norms (in terms of which the principles of the logic of norms are to be justified[13]), require of a norm and its negation

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11 NA pp. 138-41. The point of the parenthesized qualification is that one authority can permit what another forbids (NA p. 140, referring forward to pp. 147-52); its justification is that within a corpus conflict between prescriptions is 'excluded as being contrary to the nature of a rational will' (NA p. 206), though the possibility of irrational willing is not denied (NA pp. 151-2).
12 NA p. 138; pp. 154-5.
13 Cf. chap. 5, pp. 130-1 above.

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that one or the other <u>exist</u> (in a corpus). This
fails[14] because it is equivalent to (in fact, as
has been seen, it is the very same thing as)
requiring the proposition that P Not-A to be the
contradictory of the proposition that OA; the
failure was indeed predetermined when the putative
equivalences which give the square its contradict-
ories were rejected for the descriptive interpretation:

> [If] a norm and its negation-norm form an
> exhaustive alternative...we could conclude
> from the factual non-existence of a norm
> to the existence of its negation-norm.[15]

And his rejection of the interdefinability of the
O- and P- operators had been an earlier consequence
of this same approach. For

> It is easily recognized that the problem
> whether a norm and its negation-norm form
> an exhaustive disjunction is a generaliza-
> tion of the problem...of the mutual
> relations of the norm-characters of command
> and permission.[16]

Since an analogue to such an elementary logical
relationship as negation cannot be secured by the
ontological foundations of von Wright's logic of
norms, let us turn to a different approach, one
which does not assume that 'joint exhaustiveness'
between prescriptions must be so closely reflected
in the logical features of a pair of corresponding
reportive deontic utterances.

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14 NA p. 155: 'A norm and its negation-norm
cannot both exist, i.e. coexist within a corpus.
But they can both be absent from a corpus.'

15 NA p. 154.

16 <u>Ibid</u>; cf. NA p. 155.

The view that a command and a prohibition of
the same act (instead of a permission to forbear
from the act) are related to one another as (in
some sense) contradictories is widely held. Geach
formulates the point as follows:

> The contradictory of an imperative is
> itself an imperative... In answer to a
> request for orders, 'Am I to do P?', only
> two answers are possible - 'do P' and 'do
> not do P', which are contradictories. No
> other order is a direct answer to the ques-
> tion; and to say 'You may either do P or
> not' would not be an answer but a refusal
> to answer - I was asked for an order and I
> refuse to give any.[17]

It is true that, if deontic language is to be
used _for_ ordering (regardless of whether it is in
answer to a request for an order on a certain subject
or whether the sentence in question is in the
imperative mood), this pair of orders jointly
exhausts the possibilities with respect to an act
A, just as affirming and denying jointly exhaust the
possibilities for asserting with respect to a propo-
sition p. But this way of putting the point shows
that we have here an identity instead of an analogy

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17 P.T. Geach, 'Imperative and Deontic Logic',
Analysis, Jan. 1958, p. 49, referring to R.M. Hare,
The Language of Morals, op. cit., p. 23. Miss
Anscombe, _Intention, op. cit._, §31, takes the same
view. Mention should also be made of those who
hold that a command to do A may be negated in two
ways, of which a 'countermand', or prohibition, of
A is one. Thus Rescher, even though he finds von
Wright's permission for Not-A perhaps the most
natural way of understanding 'the "negation" of a
command' (_Logic of Commands, op. cit._, pp. 104-5),
and Alf Ross,'Imperatives and Logic', _Phil. of
Science_, vol. 11, 1944, pp. 38-9, who favours both
of von Wright's rejected candidates: the prohibition
and a denial of the proposition that A is enjoined
(cf. NA pp. 137-9).

between concepts of negation. The reason why the
orders exhaust the possibilities is simply that their
propositional contents (what they require the hearer
to make true) are each other's negation; a prohibi-
tion of A contradicts a command to do A because the
prohibition is nothing but a command to do Not-A,
just as to deny p is simply to assert that not p.[18]
Elsewhere Geach says:

> The contradictory of a command is itself
> a command, one that would be obeyed if and
> only if the original command were not
> obeyed.[19]

Since obeying or fulfilling a command is making true
the proposition which forms its content (or, here,
which would do so if it were actually given[20]), it
is evident that the only form of negation involved
is ordinary propositional negation, considered as
it enters into the speech-act of commanding instead
of that of asserting.

It follows that a specifically 'prescriptive'
form of negation would involve 'negating' a command's
prescriptive illocutionary force (a) as well as, or
(b) instead of, its propositional content. Those
who assign the position of the negation of a command
to do A to a permission for Not-A may be interpreted

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18 Cp. NA pp. 83-4: 'That which ought to be
done is that which must not be left undone, and
vice versa... Every positive norm of "ought"-
character is identical with a negative norm of "must
not"-character, and conversely.'

19 P.T. Geach, 'Imperative Inference', op. cit.,
p. 38.

20 Normally one would not speak of obeying or
disobeying except with reference to an actual
ruling utterance (cf. chap. 3, p. 55 above).

as choosing (a), while (b) could be connected with
the view that a command can be negated by nullifying,
cancelling, or revoking it[21]. If such an application
of the concept of negation is intelligible, it will
not be analogous to ordinary propositional negation
in the way von Wright, following the ill-balanced
contrast exposed in chapter 5, requires of it, but
rather to negating the illocutionary force of an
assertion; that is, 'prescriptive' negation, if it
exists, will be a special case of illocutionary
negation. Such, at any rate, is the notion of
prescriptive negation espoused by R.M. Hare, whose
attempt to make sense of it in terms of neustic
negation is as follows:

> The sign of negation, 'not', is normally
> part of the phrastic of both indicatives
> and imperatives; thus, instead of 'You are
> not going to shut the door' we should
> write 'Your not shutting the door in the
> immediate future, yes'; and instead of 'Do
> not shut the door', we should write 'Your
> not shutting the door in the immediate
> future, please'. Modal sentences contain-
> ing the word 'may' could, it seems, be
> represented by negating the neustic; thus
> 'You may shut the door' (permissive) might
> be written 'I don't tell you not to shut
> the door' and this in turn might be rendered
> 'Your not shutting the door in the immediate
> future, not-please'; and similarly, the
> sentence 'You may be going to shut the
> door' might be rendered 'I don't say you
> aren't going to shut the door' or 'Your not
> shutting the door in the immediate future,
> not-yes'.[22]

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21 Thus Thomas Storer, 'The Logic of Value Imper-
atives', Phil. of Science, vol. 13, 1946, p. 33; he
writes 'Not (do A)' to distinguish the 'cancellation'
or 'nullifying' way of negating 'Do A' from negating
it by the prohibition 'Do not do A'.

22 The Language of Morals, op. cit., pp.20-21;
Storer, loc. cit., p.33, fn. 7 draws a similar
comparison.

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To assess this passage we must first consider briefly the notion of a neustic, which is what is to be negated.

A neustic is defined as that part or feature of a sentence, by using which the speaker indicates how he means to 'nod' the other part, the phrastic, i.e. whether he is to be understood as using it to describe what is going to be (or already is) the case, or as using it to describe what the hearer is to make the case, and so on.[23] Similarly, Searle distinguishes between two parts, or (since they are not necessarily separate) features, of a sentence which he calls (a) the proposition-indicating element, by means of which a speaker conveys the propositional content of his utterance, and (b) the function-indicating device, by means of which the speaker conveys the illocutionary force of his utterance - such devices include word order, stress, intonation, punctuation, verb mood, and what may be called explicit performative prefixes like 'I promise' or 'You are hereby permitted'.[24]

One relevant difference between the two distinctions is that Hare's imperative and indicative neustics, considered as function-indicating devices, are of extreme generality, corresponding to such unspecific prefixes as 'I tell you to' and 'I tell you that', whereas a function-indicating device can determine an utterance's illocutionary force to finer degrees of specificity.[25] A more important difference

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23 R.M. Hare, 'Imperative Sentences', op. cit., pp. 27-30, Language of Morals, loc. cit., pp. 17-18.

24 'What Is A Speech-Act', op. cit., p. 226.

25 Although, as already noted (chap. 3, p. 60, fn. 21 above), in The Language of Morals, p. 17, Hare may allow for the possibility of neustics other than the two he concentrates on.

is this: Searle allows that often in actual speech
situations the context will make it clear what the
illocutionary force of the utterance is without its
being necessary to invoke an appropriate function-
indicating device,[26] whereas the phrastic-neustic
analysis is supposed to pick out, as what is 'conveyed
by' the neustic, an 'element of meaning' present in
all sentences whatsoever;[27] alternatively, the dis-
tinction may be put by saying that every sentence
has, besides a 'descriptive content' fixed by conven-
tion and the context of utterance, a 'mood',[28] and
so 'expresses' a command or a statement[29]. But there
are reasons for doubting that this universality can
be sustained <u>together</u> with the view that the neustic
is an abstractable part or feature of the <u>sentence</u>
uttered rather than of the act of uttering it.

Originally, Hare said that the neustic was what
was primarily responsible for 'the <u>saying</u> (the command-
ing, stating, etc.) which a sentence does'[30]; to
which it is natural to reply that only speakers can
perform actions - sentences have no such powers[31].
This is not just a quibble, for consider a simple future
indicative sentence like 'The patient will go down
to the operating theatre', of which Geach remarks:

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26 'What Is A Speech-Act?', <u>op</u>. <u>cit</u>., p. 227.

27 <u>The Language of Morals</u>, loc. cit., pp. 17-18.

28 Cf. <u>Ibid</u>, pp. 188-9 and A.J. Kenny, 'Prac-
tical Inference', <u>Analysis</u>, Jan. 1966, pp. 67-9.

29 <u>The Language of Morals</u>, <u>op</u>. <u>cit</u>., p. 4.

30 'Imperative Sentences', <u>op</u>. <u>cit</u>., p. 28;
cp. <u>The Language of Morals</u>, <u>op</u>. <u>cit</u>., pp. 18-19.

31 Cf. Searle, 'What Is A Speech-Act?', <u>op</u>. <u>cit</u>.,
p. 226.

> The same utterance of [it]...may be at once
> an expression of the surgeon's intention,
> an order to the nurse, and a piece of infor-
> mation to the patient; but it is not on
> that account an ambiguous utterance, like
> a two-edged remark that means different
> things to different hearers.[32]

Hare might hesitate to admit that a single sentence could have <u>both</u> his neustics, yet an utterance such as this may well be deliberately and plainly meant as a three-in-one speech-act, not just taken differently by the three parties. That shows, first, that the indication of function or force (the actual 'saying') is something for which responsibility is to be assigned to the speaker himself, not to an abstract-able component of the sentence he utters, which need not - and in the present example does not seem to - contain any identifiable devices[33] adding to the (propositional) meaning of what Hare would call its phrastic; and second, that force or function is some-thing which attaches to the act of uttering a sentence and should be distinguished from the meaning of any linguistic device used to convey the speaker's communication intention[34]. After all, in the case

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32 'Imperative and Deontic Logic', <u>op</u>. <u>cit</u>., p. 51.

33 Such as the tone and manner of delivery, which Bernard Mayo, <u>Ethics</u> <u>and</u> <u>the</u> <u>Moral</u> <u>Life</u>, <u>op</u>. <u>cit</u>., p. 150 uses as a means able to distinguish the different forces that attach to the sentence 'The message will be passed tonight' when it is uttered three times <u>in</u> <u>succession</u>, first as a predic-tion by a junior officer reporting to his commandant, second by the latter - sternly and emphatically - as a command, and third, hastily, as a promise by his subordinate in reply.

34 Cf. chap. 5, pp. 135 and 138ff above, and cp. Strawson, 'Intention and Convention in Speech Acts', <u>op</u>. <u>cit</u>., esp. pp. 442-5.

of normative action, one important indicator of
illocutionary force, which it would surely be arti-
ficial to represent as a feature of the sentence
uttered, is the fact that the words issue from the
mouth of an authority - this helps to explain the
rather common use for commanding of future tense
indicatives.

It is likely, I think, that at the root of von
Wright's perplexing notion of prescription-expressing
and the ill-balanced analogy to which it leads there
lies an attempt to incorporate the illocutionary
force characteristic of prescriptions in the meaning
of any sentence used for prescribing. The O-operator,
prescriptively interpreted, is Hare's 'please', while
the P-operator, although ultimately it remains unde-
fined in Norm and Action, corresponds to Hare's
'not-please ...not...'. The moral of chapter 5
applies to neustics too: either (a) they are
abstractable components of the sentence uttered, with
expressive powers contributing to the meaning of the
whole, in which case it is not necessary that every
sentence available for commanding/permitting should
contain the same neustic (function-indicating
device), or that it should contain any neustic at
all;[35] or (b) they are artificial ways of represent-
ing the force of utterances of a certain kind, in
which case they are not parts of sentences but

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35 In view of Hare's terminology, it is worth
pointing out that what is grammatically the impera-
tive mood is not invariably associated even with
practical discourse as such, but can also be used
e.g. to formulate the antecedents of conditional
assertions: 'Give him an inch, and he'll take a
mile'. See further Otto Jespersen, The Philosophy
of Grammar (London: George Allen & Unwin 1924)
pp. 313-15).

specify the type of illocutionary act performed in and as the immediate aim of the utterances.

On alternative (b), a genuinely negated neustic like 'not-please' would seem to represent an utterance's <u>lack</u> of a certain illocutionary force - to exclude a certain way of understanding the aim of the utterance from the speaker's communication-intention. It would symbolize, as it were, his <u>not</u> doing some commanding, leaving the utterance without any illocutionary force at all, without even an implicit indication of what speech-act the words were to be taken as used for - and words not used for any speech-act are merely uttered, not used to any intelligible purpose. Neustic negation would, therefore, be strictly unintelligible.

That leaves alternative (a). Here, unless there is reason to suppose that the word 'not' has a radically different meaning inside performative prefixes, we may conclude that it operates on the function-indicating device of the original sentence to negate it in the usual way. Now performative prefixes like 'I forbid' and 'I declare that' are function-indicating devices with which a speaker conveys the intended force of his utterance by explicitly announcing the type of speech-act he means to be performing.[36] Whereas inexplicit function-indicating devices like the imperative mood cannot be brought within the scope of a negation sign, the speech-act verbs of a performative prefix can be negated in the ordinary way to form, with the word 'I', etc., a new

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36 Cf. P.F. Strawson, 'Intention and Convention in Speech Acts', <u>op</u>. <u>cit</u>., p. 451.

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function-indicating device, one by using which the speaker announces that his intention is <u>not</u> to perform the type of speech-act for which the negated verb stands. Negation here would seem to be a strictly propositional operation, relating as it does the propositions (that I command p and that I do not) which are expressed to indicate the type of speech-act the speaker means to be performing or not to be performing.[37] Since, therefore, the negated proposition enters into the utterance as a means of conveying its illocutionary force and propositional content, the utterance is left with at least the minimal illocutionary force of an announcement of intention not to do something. It is this intentional element that lies behind our understanding of Hare's ordinary language examples[38]; for we read them in the light of the fact that to say that one means not to be commanding is to say that one means to be <u>refraining from</u> commanding.

To do this, one has of course to name the speech-act one is refraining from, which explains why this mode of speaking depends on the use of an explicit performative prefix. Given that prefix, however, such utterances are just substantial enough in their expressive powers to count as speech-acts in their own right; the same applies to any other overt refraining utterance (as we may call this kind of speech-act), that is, to any utterance the force of which is determined by the speaker's communication of an intention to refrain from a certain type of

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37 Cp. chap. 5, pp. 139-40 above.

38 See quotation p. 164 above.

speech-act - it does not matter whether the speaker uses a negated prefix to convey that intention (as opposed, for example, to 'I permit' or a deontic auxiliary), nor does he have to use any <u>linguistic</u> device for the purpose at all, so long as the intention is what Strawson calls a 'wholly overt or essentially avowable' one[39]. Thus if a Cabinet Minister, reviewing the nation's finances at a press conference, remarks 'I'm not saying that income tax is (not) going to be raised', then the announcement, as it were, of his abstention is a speech-act in its own right. Significantly, however, it is not assessable for truth-value. His words will be taken by any hearer with whom he secures uptake as being used to <u>refrain from</u> the speech-act of saying that income tax is (not) going to be raised.[40] And this is analogous to what is done by the <u>act of communicating</u> an intention not to forbid an action by one's utterance.

To do that is to do more than   remain silent, even deliberately - though, of course, as was seen in chapter 4[41], deliberate silence in suitable circumstances can be, or be taken to be, a way of communicating an intention of refraining from

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39 'Intention and Convention In Speech Acts', <u>op</u>. <u>cit</u>., p. 456. Cp. <u>ibid</u> p. 454.

40 <u>Pace</u> Hare (passage quoted p. 164 above), he would produce a rather different effect if he said 'It may happen',which is assessable for truth-value. The Ministerial 'No comment' is different again: it is a refusal to comment which presupposes a request to do so in a way that merely refraining (overtly) from commenting on an issue does not.

41 P. 101ff. above.

prohibition of a certain act. It may seem that the
same aim could have been achieved without saying or
communicating anything at all. And so, in a way, it
could - but the abstention would not then have been
a permission. The fulfilment of the intention to
refrain does not constitute a permission unless it
takes place through a linguistic act (in the broad-
est sense) in which the permitter attempts to secure
recognition of the fact that just this intention is
what he means to be fulfilling.[42]   So what defines
the action of permitting is the intention of being
understood as refraining from the prohibition of
something.   This is what prevents a permission-giver's
successful abstention from prohibition degenerating
into something that is not a ruling at all, a mere
case of inactivity. For the same reason a speaker
cannot do _less_ than refrain overtly both from order-
ing A and from ordering Not-A if his utterance is to
have the force of a _ruling_ on A. (This justifies the
subcontrariety of 'PA' and 'P Not-A' in the interpre-
tation proposed earlier.[43]) A speaker can, of course,
do _more_ than refrain from some specific type of
speech-act, and in such cases 'overt refraining utter-
ance' will be only part of the description (will
refer to only one of the forces) of a more or less
complex illocutionary act; such, for example, is the
permitting aspect of commmanding, as will be seen
below.

To return now to the problem of negation.   The

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42   Cf. chap. 5, p. 135 above.

43   Chap. 5, p. 112 above; cf. chap. 3, p. 54
and chap. 4, p. 102.

interesting phenomenon of overt refraining utterances
enables us to put beside Geach's pair of exhaustive
alternatives for _ordering_, another pair of speech-
acts, which together exhaust the possibilities for
making a ruling (prescribing in von Wright's generic
sense): either to order whatever act, A, is under
consideration or overtly to refrain from doing so,
thereby permitting Not-A. The idea that a command
can be negated by a cancellation which simply _deprives_
an act of its deontic status without leaving any
positive result[44] would require a third pair of alter-
natives, to exhaust the possibilities for something
more general still, such as the performative use of
deontic language as such - but commanding A and with-
drawing that command (making a ruling and undoing a
ruling) hardly form a comparable disjunctive pair at
all, since nullifying or cancellation is a higher
order action which has reference to a particular
speech-act which has previously occurred. Natural
enough though it is to describe many cases of permit-
ting as a matter of _freeing_ subjects from normative
obstacles, there is no _a priori_ reason why an act
should have to be prohibited before it can be permit-
ted, and so it would be best to analyze the notion of
freeing (which chapter 4 used as well as the idea of
refraining[45]) as a cancellation combined with the
authority's refraining from introducing a new obstacle
in place of the one he has removed. So two candidates
alone remain.

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44 Cf. p. 164 above. That cancellation can sim-
ply nullify, and no more, is a view upheld (though
without considering it a form of negation) by von
Wright (NA p. 191) and Rescher (_Logic of Commands_, _op._
cit., p. 111).

45 P. 98ff. above.

The need is not so much to choose between these two as to understand their respective differences. It is undoubtedly commanding and prohibiting A which are most analogous to the affirming and denying of p, just because the propositional contents of each pair are contradictories in the strict sense of being each other's (propositional) negation. Commanding A and permitting Not-A (prohibiting something and permitting it), on the other hand, are opposed to one another somewhat as are affirming that p and overtly refraining from doing so. 'Illocutionary negation' would be a misleading way of describing such cases of opposed illocutionary forces, since it has been seen that negation need not be involved in the refraining act at all, and if it is, its operating on the function-indicating device rather than on the proposition-indicating element does not prevent it being of the standard variety[46].

Such opposition between illocutionary forces may seem not to be of much significance in the assertoric realm - perhaps because there is seldom much point, at the generic level of assertion as such, in announcing an intention of refraining from aiming at truth on behalf of the proposition one is expressing; where, however, more specific types of speech-act are in question, locutions like 'This is not meant as a concession on my part' are quite common. But the conditions of pointfulness for permission-giving described in chapter 4[47] are precisely such as to give point to refraining from prohibiting some action,

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46 Pp. 169-70 above.

47 Cf. esp. pp. 108-9.

namely that the subject wants to do the action and needs to have it _made clear to him_ and put on record that there are not any normative obstacles obstructing him.

If, then, the interdefinability question is given a somewhat different sense than von Wright gave it[48], through being referred to the nature of the opposition between the speech-acts of permitting and forbidding rather than to von Wright's 'prescription-norms', it would seem that, although Geach's account of contradictoriness is to be preferred to von Wright's, there is a sense in which permitting is not an 'independent normative concept'[49] but may be defined in terms of prohibition, as what a man does when he overtly refrains from it. (This links up with the views advanced in chapter 4 about its being a secondary or 'negative' notion; it is true that prohibiting may be defined as overtly refraining from permitting, but that's just a reflection of the fact that to refrain from refraining from A is to do A itself.[50])

These results may now be applied to the square of opposition - or rather, to the arrangement of its positive elements, considered as a picture of what must, must not, and can be the case as the result of an utterance with the force of a ruling establishing a deontic status for some designated act[51]. First,

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48 Cf. chap. 5, p. 117, p. 141, and this chapter, pp. 157-61 above.

49 Chap. 5, p. 117 above.

50 Hence the use of such phrases as 'I do/will not permit' to give an utterance prohibitive force. Cp. NA p. 155.

51 Cf. chap. 5, pp. 111-2 above.

the impossibility of permitting and prohibiting the same act on the same occasion.[52] To succeed in this, a speaker would need implicitly or explicitly to indicate that his intention was both to forbid (give a reason against) a certain action and to _refrain_ from doing so. (The assertoric analogue to this is equally unintelligible.) Such an intention, like the decision it implies, has not only a contradictory 'content', but (unlike wanting both A and Not-A to be done) itself involves a contradiction in its description. There is therefore no speech-act that the speaker can be (intending to be) doing in his utterance. The justification for the claim that opposed illocutionary forces cannot be combined in the same speech-act thus reduces to the fact that 'intending to do A' entails 'not intending to refrain from A'. This consideration as to the minimal consistency required for any utterance to convey a coherent enough illocutionary force to count as a ruling making some deontic proposition true, together with the fact that prohibiting an act and overtly refraining from doing so between them exhaust the possibilities for what a speaker can do when he makes a ruling on some act, A, shows that any ruling as to the deontic status of A must bring about the truth of at least one and at most one of the pair 'PA' and 'FA', and likewise that any ruling as to Not-A must bring about the truth of at least one and at most one member of the

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52   Von Wright also affirms this impossibility, but in the much stronger form: 'one and the same authority cannot both permit and prohibit the same act to the same agent on the same occasion' _for doing the action ruled upon_ (NA 197). This presupposes the notion of a corpus, by definition free of internal inconsistency or irrationality (cf. p. 160 fn. 11 above).

pair 'F Not-A' ('OA') and 'P Not-A'.

It does not, however, suffice to vindicate the square's contrariety and subalternation relationships, that is, to eliminate the combination 'OA . FA'. All the previous argument makes clear is that commanding without permitting would, as was claimed in chapter one, entail forbidding the action, since any ruling on A must either permit or forbid it. What lies behind the entailment '(OA . Not PA) → (OA . FA)' is the fact that commanding, like any other ruling, involves an overt display of the authority's intentions as to what the deontic status of A is to be, and this makes any relevant <u>omission</u> accompanying the speech-act an overt abstention or refraining: thus one who commands A at the same time permits it if he does not <u>explicitly</u> forbid it then and there, just as one who permits A also permits Not-A if he omits to make A obligatory[53]. So it remains to defend chapter 1's argument[54] that an authority intent on commanding something <u>must</u> refrain from forbidding it if his speech-act is not to stultify its own aim and fail to establish an obligation. Only then will it be legitimate to conclude that any ruling speech-act must establish one and only one of the trio of conjunctions: (OA . PA) v (PA . P Not-A) v (P Not-A . FA)[55].

The success of such a project must depend from the start on considerations about coherence in a speaker's communication intentions similar to those

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53 A recurrent theme of Part I - cf. chap. 1, pp. 8-11, chap. 3, pp. 48 - end.

54 Pp. 8-11 above.

55 Cf. chap. 3, pp. 48-9 above.

which explained the impossibility of permitting and
prohibiting the same act on the same occasion, but
specific this time to the illocutionary act of command-
ing. It would be premature to anticipate that the
relation of propositional negation, which makes a
command contradict a prohibition of the same act,
will have exactly the same effect on an imperatival
utterance it renders self-contradictory as on an
assertive one with the same content. Indeed, one
reason for expecting the analogies with the assertoric
realm to fail at this point is that the necessarily true
assertion of 'p or not p' is no different, _qua_ asser-
tion, from any other, even if it is a trivial one,
whereas a necessarily fulfilled command of that form
is indistinguishable from a permission with the same
content, i.e. from an act of overtly _refraining_ from
commanding[56]. If it is true, as Hare claims[57], that
'Either do A or don't do A' is 'analytic' or 'without
content' in a sense comparable to 'It is either rain-
ing or not raining', it is because both express
necessarily true propositions, so that the utterance
of the former can no more tell the hearer to do one
thing rather than another, than the utterance of the
latter can tell him anything definite about the
weather. This makes the indicative sentence (what-
ever its other functions) useless for the purpose of
a weather report which does aim to tell the hearer
something definite - one way or the other - about a
particular matter of fact. On the other hand, to

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56 Cf. chap. 3, pp. 70-1 above.
57 The _Language_ _of_ _Morals_, _op_. _cit_.,p. 24, p. 41.

give an utterance of the form 'Either do A or don't'
the force of an order telling the hearer what to do,
is to intervene upon the deontic situation professing
an intention of establishing a deontic status for A
by saying what it is to be, and at the same time to
present as completely defining the standard one in-
tends to lay down for subjects' behaviour a proposi-
tion they cannot fail to make true.[58] The necessity
of this proposition does not trivialize or deprive of
content the speech-act itself, only the demands made
of the subject as the result of its performance. By
not telling him to do one thing rather than another
when laying down what is to be the deontic case, the
authority brings it about that he has overtly refrained
both from ordering A and from ordering Not-A; in this
way, he makes it the case that he has permitted both.[59]
Exactly the same speech-act and result could be
obtained from the sentence 'Do A, if you want', which
is certainly not 'analytic' in a comparable sense
though its meaning, for reasons already explained,
makes it just as suitable an instrument for overtly
refraining from imposing any restriction on freedom
of choice[60]. Hence, although it is correct to say
that tautologous commands of disjunctive form are

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58 Cf. chap. 3, pp. 46-7; chap. 4, pp. 76-7
above.

59 If meant as advice, as Hare describes it (The
Language of Morals , op. cit., p. 24), the utterance
may have the force of an abstention from giving an
opinion either way, and so of a suggestion that the
relevant interests of the hearer will not be affected
however he decides; alternatively, it is a way of
telling the hearer to stop hesitating and make up his
mind. Both could be brought under the heading 'advice
to choose either way'.

60 Cf. chap. 4, p. 105ff. above.

'commands which do not demand anything'[61], it does not follow that they are 'logically futile'[62] (they are not equivalent to 'Do anything'), and it is misleading to say that permissions of the same tautologously disjunctive form are 'permissions which do not permit anything in particular'[63]. For they permit that most important liberty, a free choice - a point which is reflected in the fact that they are equivalent to conjunctions of separate permissions.[64]

The explanation of this disanalogy between assertions and prescriptions with tautologous disjunctive contents is to be found in the _different_ relation in which the truth of propositions stands to the fulfilment of the aims of these speech-acts. A proposition and its negation jointly exhaust the possibilities as to what can be or become true and thus set direct logical limits for the realization of the theoretical aim of any assertions of which they form the content. In ordering, however, the propositional content is expressed as what the speaker aims to give the subject a special sort of reason for making true. The relation between a proposition and its negation certainly restricts the ways in which the authority's _further_ practical aims can be secured by conforming action[65], but its impact on the

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61   NA pp. 153-4.

62   Thus Hector Neri Castaneda, 'Imperatives and Deontic Logic', _Analysis_, Dec. 1958, p. 47.

63   NA pp. 153-4.

64   Cf. chap. 3, p. 69ff. above.

65   Depending, of course, on what his aims are like, and how far they tolerate exceptions in cases of conflict (See B.A.O. Williams, 'Consistency and Realism', _op. cit._, pp. 14-19).

immediate purpose of command-utterances is not thereby determined. That is, if the attempt to combine a command with a prohibition for the same action is self-defeating, it cannot be due simply to the fact that the two exhaust the obedience-possibilities. Geach's suggestion of this as the reason why one should not wish to contradict oneself in order-giving is based on a view that

> we wish the commands we give to be obeyed, and if they are inconsistent one or other of them is not going to be obeyed. We seek to avoid inconsistency precisely because, and precisely where, our discourse does relate to the world outside our discourse.[66]

But there are two main ways in which commands relate to the world: primarily, as acts giving (by constituting) reasons to the subjects addressed for making propositions true in their behaviour, and only second-arily as a means to the authority's furtherance of his aims as to subjects' behaviour.[67] The second is as essential as the first to the speech-practice of giving orders within authority-subject relationships,[68] but it does not follow that commands can be defined simply in terms of the second relation: as a means, or as a means of a special sort, for influencing behaviour. It will therefore be convenient to initi-ate consideration of the communication intentions specific to commanding[69] by criticizing two versions of the view that commands may be accounted for in

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66 'Imperative Inference', op. cit., p. 37; cf. p. 163 above.

67 Cf. chap. 4, esp. pp. 73-7, p. 83, pp. 91-7 above.

68 Cf. chap. 4, pp. 76-7, p. 105ff. above.

69 The task set on pp. 177-8 above.

terms of an intention to secure a certain pattern of behaviour.

Von Wright, for example, holds that 'the will-theory of norms' is 'substantially correct' as 'a theory of the ontological status of prescriptions generally', i.e. that commands and prohibitions should be regarded as

> the expressions or manifestations of the will of some norm-authority with regard to the conduct of some norm-subject(s) ... a will to make do or forbear.[70]

By this he means that they 'manifest efforts to make people do or forbear things'[71], and hence are normally (though not invariably) to be explained by the authority's wanting or being anxious that the subject should (be made to) do something[72]. The effort is made by the threat (followed up by the enforcement) of sanctions.[73] Von Wright accepts the consequence that 'blackmail is a species of commanding'.[74] Even though usually a norm-authority is

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70 NA p. 121.   71 NA p. 149.

72 NA p. 119. It may be noted (a) that von Wright denies that this type of want entails wanting that the thing in question should happen (for, he says, the authority might just want to put the sub-ject in motion, without being interested in the result of the act), and (b) that this account is not supposed to cover cases where the giver of the order is himself under orders to give it (p. 118). These qualifications cover him from immediate criticism on the score that the orders given by civil servants and others may well conflict with their own personal inclinations. Cf. D.R. Bell, 'Imperatives and the Will', op. cit., pp. 141-2; B.A.O. Williams, 'Consistency and Realism', op. cit., p. 10.

73 NA p. 149.

74 NA p. 128.

'either acting in the capacity of holder of some office' (which is 'partly at least, a normative notion') or 'speaking in the name of a group of men'[75], the ground of the ability to command is still the superior strength thereby acquired.[76]

But although it may be legitimate to describe a blackmailer as 'ordering' (not 'commanding') his victim to pay up,[77] the sort of reason for action given by a threat to visit another with evil[78] is very different from that given by an authority's command.[79] In effect, what the will-theory does is to define the original sense of 'oblige' (now hardly used outside the law), in which it means 'to put someone under obligation', as 'attempting to oblige' in the derivative but now dominant sense of 'oblige', meaning to constrain, especially by moral or legal influence, and hence to force or compel in general.[80] What is important here is not, of course, the words as such but the fact that, as Hart says:

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75 NA p. 76.

76 NA p. 128.

77 Cf. Introd., pp. 4-6 above; H.L.A. Hart, The Concept of Law, op. cit., pp. 19-20, says that, while 'he ordered' is applicable to such situations, 'he gave an order' is not, and he is emphatic that a command need not involve a latent threat of harm for disobedience. He further agrees with Mayo (Ethics and the Moral Life, op. cit., pp. 148-9) that 'command' is tied to the exercise of authority in a way that 'order' is not.

78 NA p. 127.

79 Cf. above chap. 4, passim on reasons, chap. 5, p. 121 fn. 27 on enforcement and sanctions.

80 O.E.D. s.v. 'oblige'.

> Without the notion of a system of rules
> resting on...a complex social practice,
> the difference between 'obliging' and
> 'imposing or creating an obligation'
> cannot be made clear.[81]

A different proposal, by D.R. Bell, for analy-
zing commands as 'essentially a way of bringing
about action on the part of another' - or rather,
attempting to do so[82] - takes the following form:

> Command is characterised by the intention
> to secure an effect by the manifestation
> of such an intention in a conventional
> form of language of which an essential
> part is a description of or reference to
> the agent and act commanded.[83]

The intention in question is 'an abnormal form of
intention, ...one in which the intention is that
someone else should do something'[84]. He allows
that the order which is the conventional manifesta-
tion of the intention may be given insincerely,
'not with the intention that it shall be carried
out, but rather with the intention that something
shall happen in the course of an attempt to obey it'[85].

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81 The Concept of Law, op. cit., p. 98; cf. ibid
p. 95-9 for a general criticism of the will-theory
as it applies to the field of law. [Von Wright's
version is considered in greater detail in Pt. III,
Chap. 8, where it is argued that it breaks down
over permission.]

82 'Imperatives and the Will', op. cit., p. 138.

83 Ibid p. 146.

84 Ibid p. 142, my italics but his emphasis.

85 Ibid p. 143; cp. Herbert Morris, 'Imperatives
and Orders', Theoria 1960:3, p. 187: 'There has
probably been many a movie in which the villainous
sergeant who is "out to get" the hero-private orders
the private to do something, intending, not that he
do it, but that he disobey, so that penalties can
be imposed.' (The phenomenon of counter-suggesti-
bility is rather different.)

Even so it may be objected, first that the role
assigned to the speaker's intention is already
filled by the obligation-creating procedures of the
authority-subject relationship, and second that the
speaker's intention could not fill this role anyway.

As to the first point: since the speaker is in
a position of authority he has access to conventional
procedures for laying down standards for his subjects'
behaviour, and the question of whether he sincerely
intends to bring about the response which it is the
function of these procedures to produce is irrele-
vant to the issue of his success in invoking them.
Correspondingly, the procedures can function as a
means by which certain responses are brought about
without the recognition of such intentions playing
any part in the subjects' acceptance of an order as
a reason for action. Indeed, part of the point of
the procedures is precisely to by-pass such personal
factors by creating an artificial kind of spur to
action.[86]

Secondly, why should anyone think that the
'revelation'[87] of his personal intentions might be
effective in getting the intentions fulfilled?
Only on occasion could this be a reasonable supposi-
tion, making it worth trying to impose one's will
on others by voicing decisions taken, as it were,
on their behalf or by communicating an intention of
inducing them to take some action?[88] Bell, quite

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86 Cf. chap. 4, p. 94-7 above.

87 D.R. Bell, 'Imperatives and the Will', op.
cit., p. 146, contrasted with a report (p. 143).

88 Cf. H.P. Grice, 'Meaning', Phil. Rev.,
July 1957, p. 384-5.

rightly, explains the connection between command and obedience in terms of the hearer's acceptance of the speaker's authority and of the latter's right to initiate action on other people's part.[89] But this is surely tantamount to agreeing that the speaker's having, and the hearer's acknowledging, the 'abnormal intention' is only a secondary factor in the giving and understanding of orders; in short, that

> to submit to authority (as opposed to being subjected to power) is not to be subject to an alien will.[90]

In fact, to define ordering _just_ in terms of attempting to get something done is like explaining assertion (as opposed to informing) as essentially involving the attempt to induce one's hearer to believe something,[91] which is hardly true of a schoolboy telling his teacher what he knows about a certain battle. The error may be one of omission rather than of commission - omission of the _way_ the speaker attempts to produce these effects, if it is true that an order is, at least standardly, an attempt to influence conduct.[92] To omit the _sort_

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89   'Imperatives and the Will', loc. cit., p. 142, quoted chap. 4, p. 93 above; he adds that it is this right which explains the 'abnormal form of intention'.

90   Peter Winch, 'Authority', op.cit., p. 229.

91   This is, in fact, done in both cases by Searle, 'What Is A Speech-Act?', op. cit., p. 239.

92   But cp. Strawson, 'Intention and Convention In Speech Acts', op. cit., p. 455-6 on orders as intermediate between types of illocutionary act which do and types which do not (the purely conventional ones like the rulings of an umpire) essentially involve in their analysis 'reference to an intention to secure a definite response in an audience (over and above the securing of uptake)'.

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of means for influencing conduct which the speech-
practice of ordering makes available to authorities
is to omit not only its conventionality, but thereby
also the identification of it as a (particular kind
of) reason for acting, and so to omit its rational-
ity. All authorities, whatever their further inten-
tions, depend on the reason-giving function of their
orders to make them a means for influencing conduct
and thereby to make intelligible the notions of
obedience or disobedience. Hence the first aim of
any command-giver must be to convey an intention
that his utterance should constitute a reason for
action, that it should be considered as imposing an
obligation; and this is neither the manifestation
of an intention that someone else shall do something
nor the expression of a will to make him do it.

The relation of a command to a prohibition of
the same content is thus _primarily_ that of reasons
for and against doing the same action. That is why
a pair of contradictory commands with different
sources can both succeed in the reason-giving func-
tion which is their immediate practical aim, even
though both can't secure obedience. Though one
must turn out a failure in its further aim if
(though only if) they each involved an attempt to
secure conforming action, neither is criticizable
qua speech-act - by contrast with a comparable pair
of assertions, one of which it can be known _a
priori_ must be at fault in that it has failed in
the aim (which it necessarily professed) of express-
ing a true proposition[93]. There can well be actions
which one has reason to perform but also reason not

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93 Cf. B.A.O. Williams, 'Consistency and
Realism', _op. cit_.

to perform; incompatible commands are one source of conflicts of obligation[94]. So the relation between a proposition and its negation can affect the fulfilment of a speaker's immediate purpose only in the case where both enter into a single utterance - a command with a contradictory content.

Here, however, we find the converse of the disanalogy with assertions.[95] A proposition and its negation exhaust the possibilities as to what can be or become true in a certain domain and thus make it impossible for both an affirmation and a denial of the same proposition to succeed in their theoretical aim of attaining truth. It does not follow from this (even if it is true) that it is impossible to succeed in asserting a contradiction of the form 'p and not p', or that to affirm p a speaker must refrain from denying it. But the practical speech-act of commanding has, as has been emphasized, a different relation to the truth-value of its propositional content. To present a proposition of this form as defining the standard the authority intends to lay down for his subjects' behaviour[96] would mean conveying an intention of giving them a reason to act a contradiction. But it is a consequence of the self-sufficiency which characterizes enjoining's fulfilment of its reason-

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94   Cf. chap. 5, p. 143ff.

95   Cp. p. 180 above.

96   Cp. p. 179 above.

giving function[97] that if such an utterance succeeded
as a command, it would actually accomplish the feat
of putting subjects in the position of having a
(single) reason for and against the same action.
This would be a reason which was at one and the same
time a reason for acting and a reason for refrain-
ing, which is not at all the same thing as a con-
flict of obligations. But if, as seems plausible,
there can be no such thing, the compound intention
of commanding and forbidding the same propositional
content cannot be fulfilled. An authority's incon-
sistencies must involve different rulings, whatever
the marks by which their difference is distinguished
in practice.

This justifies the claim that no ruling speech-
act can bring about the truth of more than one of
the contraries 'OA' and 'FA' if the utterance is
not to stultify its aim of establishing an obliga-
tion (giving a reason for action), and so fail to
constitute a ruling on A at all.[98] Nor is this an
isolated phenomenon. Similar considerations suggest
themselves for many of the speech-acts listed by
Austin alongside ordering and commanding in his
table of exercitives[99]. Austin's description of
exercitives as, for example, 'the giving of a
decision in favour of or against a certain course
of action'[100] gives the clue. Because it is impossible

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97 Cf. chap. 4, p. 74ff. above.

98 Chap. 5, p. 112 above. Cp. chap. 4, p. 106ff.

99 How To Do Things With Words, op. cit.,
p. 154-5.

100 Ibid p. 154.

that both A and Not-A should be performed, it is
impossible to decide that they are both to be done.
A decision described as 'a decision that both A be
done and Not-A be done' has not only a contradict-
ory 'content' - by being simultaneously for and
against the same thing it is itself a contradiction
in terms, unlike the description 'wanting both
that A be done and Not-A be done'. The same will
apply to any speech-act the illocutionary force of
which involves in its definition such a decision or
the intention formed by it, as with voting or vetc-
ing. Whereas recommending is simply speaking in
favour of something, voting for a course of action
or vetoing it is actually to promote or hinder its
realization. Ordering occupies a position half-
way: unlike a recommendation an order is a reason
for or against. But unlike a vote or a veto, it
does not (help) give effect to a decision in favour
of or against a certain form of action, and so it
may seem that the contradiction lies solely in what
is said, as with a self-contradictory recommendation
or assertion, not in the description of what is done
in the speech-act. Its sole consequence is that
some course of action has been called for, but
nevertheless, because this summons constitutes a
reason for doing the action, an order with a contra-
dictory content may be accounted a case where the
utterance 'cancels itself and leaves nothing'[101].

This justification of the square's contrariety
relation is based on the primary relation of
commands to the world, as acts giving (by constitut-

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101 Cf. P.T. Geach, 'Imperative Inference',
op. cit., p. 37.

ing) reasons for action.[102] It may be contrasted
with von Wright's way of reaching the same conclu-
sion: he brings in his will-theory to license infer-
ence of the impossibility of commanding a 'contra-
dictory' act from the impossibility of such a
command being fulfilled.[103] But this (as von Wright
makes clear) is a principle reaching far beyond
orders with contents of the form 'p and not p' to
any act that cannot be done.[104] Further, the exten-
sion of the principle to permissions with contradict-
ory contents[105] seems unnecessary. Von Wright surely
had a point when he said earlier that though 'it may
be thought "awkward" to permit contradictory
actions...it is difficult to conceive of any logical
argument against [it]'[106]. Linguistically, at any
rate, it is very hard not to interpret an expression
like 'I give you permission to do both A and Not-A'
as a conjunction of permissions. This can be
explained in terms of the fact that to intervene on
the deontic scene professing to define the scope of
the subject's liberty as to A by means of such a
proposition is to refrain from imposing any (real)
restrictions on the recipient's freedom of choice.
In von Wright's 1951 system it is true both that
'P(A . Not-A)' entails 'PA . P Not-A'[107], and that

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102 Cf. p. 181 above.

103 NA p. 134-5 and p. 149-51. NA p. 148-9 ex-
plains why the fulfilment impossibility without the
will-theory will not suffice alone.

104 Cp. chap. 4, p. 75 above.

105 NA p. 134-5.   106 DL p. 69.

107 DL p. 72, but, as noted chap. 2, p. 27 fn.
1 above, it is not equivalent to it.

the former is the contradictory of 'O (A v Not-A)'[108],
which would aptly describe the result produced by
the 'analytic' imperatival utterance earlier treated
as indistinguishable from a two-way permission[109].
But since this order is a degenerate one, a limiting
case, there would seem to be no objection to the act
of overtly refraining from giving it having the
same net result as the order itself. Alternatively,
a two-way permission could be regarded as the 'real
upshot' of an authority's purporting, by a sort of
joke, to license a breach of logic; for the con-
junction of permissions would be all that was left
when conditions of pointfulness had been taken into
account.[110]

    The foregoing argument may be regarded as
illustrating how _some_ aspects of the logical assess-
ment of orders and permissions require more sub-
stantial criteria than fulfilment conditions, which
cannot reach beyond the propositional content to
the aim which gives such speech-acts their definit-
ive force. This is not to deny that, where separate
speech-acts are involved,

> as regards the logical relations of direct-
> ives among themselves, the provenance of
> the directives is no more important than
> is the provenance of statements as regards
> _their_ mutual logical relations.[111]

For the special considerations pertaining to coher-

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108 DL p. 67-8.

109 Cf. p. 178-9 above.

110 Cf. chap. 4, p. 107ff. above.

111 P.T. Geach, 'Imperative Inference', _op._
cit., p. 39.

ence of the speaker's communication intention do not
apply to the utterances of distinct speakers or of
the same speaker on distinct occasions; each of
these may fulfil its own immediate aim, even if
that is at variance with the aim of another.

If this is accepted, the criterion for whether
or not normative actions do so conflict with each
other will have to be the impossibility of their
joint fulfilment; von Wright puts it thus:

> A set of commands and permissions is con-
> sistent (the norms compatible) if, and only
> if, it is logically possible, under any
> given condition of application, to obey
> all the commands collectively and avail
> oneself of each one of the permissions
> individually which apply on that condition.[112]

This has the consequence that the relation of norm-
ative actions to their fulfilment by conforming
action is equally independent of their source or
provenance.[113] After all, the possibility of ful-
filling an order or set of orders depends simply on
the (collective) performability of the actions which
form the content of the orders; in the type-act
sense of 'order' it just is that possibility.[114]

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112 NA p. 144; cf. chap. 3, p. 50 fn. 14 above,
where 'fulfilment' was explained in such a way as
to allow for the opposition between permissions and
prohibitions which has been examined in this chapter.

113 Affirmed by Geach, 'Imperative Inference',
op. cit., p. 40.

114 Cf. above p. 163 fn. 20 and Alf Ross,
'Imperatives and Logic', op. cit., p. 38 (commenting
on the superfluity of the mark of imperativeness
'!' in the system set out by Hofstader and McKinsey
in 'On the Logic of Imperatives', Phil. of Science,
vol. VI 1939): 'The truth of any indicative sentence
is identical with the satisfaction of the correspon-
ding imperative. To say that the door is closed is
identical with saying that the imperative Close the
door has been satisfied.' Cp. R.M. Hare, The Lang-
uage of Morals, op. cit., p. 21.

Even bringing in the notion of the opposed illocu-
tionary forces of permissions and prohibitions, just
as it will not fault a set for failure of some norm-
ative action in its immediate aim in the way that
inconsistency in a set of assertions at once shows
up the presence of a fault in some member's achieve-
ment of its immediate (theoretical) aim[115], so it
will not automatically show that there is anything
amiss with the set as a number of measures taken by
the same or by different authorities for influencing
what becomes the case in the world through their
subjects' behaviour. For some of the further inten-
tions for which these measures were adopted may not
have been normal: a tyrannical authority may delib-
erately issue conflicting prescriptions as a way of
putting himself in a position to inflict punishment
(or at least pain); alternatively (as perhaps in
the South African case[116]), the authority may not
bother to sort out a case of conflict because <u>his</u>
purposes do not suffer thereby. Again, authorities
with conflicting aims may just have to fight it out
in essentially the same way as a schoolboy who has
received permission to use a particular ball in the
playground may have to struggle with the school
bully to take advantage of it while the yard super-
visor looks on in silent acquiescence, thereby
implicitly granting the bully a similar permission.
This illustrates how differently inconsistency
affects prescriptions even in their relation to
fulfilment in the world: learning that an assertion

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115   Cf. p. 187 above.

116   Chap. 1, p. 11 above.

one has made is in conflict with something said by someone else is normally at least some reason to consider whether or not to withdraw it, but a case of prescriptive conflict with some other authority may sensibly serve rather as a stimulus for impressing the threatened prescriptions on one's subjects with all the more emphasis and urgency.[117]

It seems reasonable to conclude that anyone setting out to justify the square would be hard-pressed to find convincing criteria to overcome the limitations of those provided by obedience conditions if the elements of the square were divorced from the individual ruling utterances in terms of which this chapter has interpreted and defended some of the claims embodied in the square's arrangement of its positive formulae. And positive as well as this negative encouragement to continue along the same lines may be found in the fact that, the contrariety relationship having been justified, the subalternation thesis - that commanding entails permitting - is easily proved.[118]

It was accepted in chapter 1 on the grounds that an authority intent on commanding A must refrain from forbidding it if his speech-act is not to stultify its own aim and fail to establish an obligation. It has now been confirmed both that permitting is essentially refraining in a ruling utterance from forbidding and that to succeed in

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117   For an extended treatment of the points of disanalogy emphasized in this paragraph, see B.A.O. Williams, 'Consistency and Realism', op. cit.

118   Cp. DL p. 67 and NA p. 158.

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commanding A it is necessary to refrain from forbidding it. Hence commanding does entail permitting, and for the reasons given in Part I.

With that, the triple disjunction of conjunctions[119] is established in the interpretation initially proposed[120]. So the analysis of permitting as overtly refraining from prohibition accords with the views advanced in Part I of this study as to the interrelationships of the three main types of ruling. The next task is to bring this analysis to bear on a wider range of authority behaviour.

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119 P. 177 above.

120 Chap. 5, p. 112

Chapter Seven

Authority Non-Action

The deontic square of opposition, with its
simplicity and economy and the intuitive appeal (as
witnessed by the widespread adoption[1]) of inter-
pretations of the O- and P-operators which make them
interdefinable with the aid of negation, still
remains on probation, even given the implicit
relativization to single ruling utterances advocated
in this study[2]. For it is one thing to argue, as
was done in chapter 6, that the upshot of any ruling
utterance must embody the truth of, for example, one
and only one member of the pair 'PA' and 'FA' and to
propose an analysis of permission as a type of
speech-act definable in terms of prohibition and
the concept of an overt refraining utterance;[3] it
is quite another matter to be able to reject von
Wright's negative answer to his original inter-
definability question by showing that 'PA' and 'FA'
are proper contradictories in the descriptive
interpretation appropriate to the propositions of

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1 Cf. the comments of E.J. Lemmon, 'Deontic
Logic and the Logic of Imperatives', op. cit.

2 Cf. e.g. chap. 3, p. 41 above.

3 Chap. 6, p. 175 above.

the square[4]. Yet unless 'PA' can be shown equivalent to 'Not FA', the square as a whole must founder.[5] The difficulties posed by the paradoxical consequences imported into the square by its negative formulae (the last of the budget of problems sketched in the opening pages of chapter 5) have been left until this stage of the study, in the belief that they would be most usefully approached from the position to which the first two chapters of Part II have led.

Hitherto, the only way it has proved possible to defend any of the claims embodied in the square has been by treating the arrangement of its positive components as a projection of logical connections between the speech-act descriptions in terms of which its propositions and relations have been analyzed and justified since chapter 3. The analysis of the positive propositions in such terms as there having occurred a ruling utterance with a certain illocutionary force and propositional content which has not for any reason become inoperative was one which recommended itself in its own

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4 That von Wright's question at NA p. vi (quoted above chap. 5, p. 117), though couched in terms of permission- and obligation-norms, reduces to this question about deontic propositions was argued in chap. 6, p. 157ff above, following the critique of his notion of prescription-norms in chap. 5. Accordingly, in this chapter the predominant meaning of terms like 'permission' and 'prohibition' is the 'descriptive' one found in talk about having permission, being permitted, etc. It will be found, I think, that this does not distort von Wright's views in the passages discussed (which precede the main development of the 'ontology of norms').

5 Cf. chap. 5, p. 114 above.

right, independently of the problems of the square. But once it had been accepted, the presence in these deontic propositions of an at least implicit reference to the authority who has made and not cancelled a certain type of ruling did more than add to the weight of reasons for supposing that the logical relationships of the square could not be expected to hold save under a restriction to the results and implications of what is done in one ruling utterance at a time; it helped in a positive way to establish a large part of the square as a picture of what must, must not, and can be the case as the result of any speech-act with the force of a ruling by an authority on what his subjects are to, or need not, do.[6]

For example, if A is permitted under some ruling of the authority it cannot also, under that same ruling, be prohibited, and vice versa; and under any ruling it must be either permitted or prohibited. This is a projection of the fact that any ruling utterance must make true one and only one of the pair 'PA' and 'FA', because a speaker doing one thing must necessarily leave undone something else that he might have opted for - he must choose, not just (trivially) between making 'FA' true and refraining from doing so, but between making 'FA' true and refraining from doing so in the peculiarly overt way that is imposed upon each of his official ruling utterances through the by now familiar exclusive and exhaustive trio of conjunctions which a given utterance may elect to realize: (OA . PA) v (PA . P Not-A) v (P Not-A . FA). It is the operation

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6 Cf. chap. 5, pp. 111-12 and chap. 6 _passim_ above.

of this trio on the utterances of an authority[7] who is being addressed and listened to in his official capacity that endows an omission with its significance for the description of what he has done as the result of the selected ruling utterance. If he has omitted to forbid A, he may be held to have gone on record as refraining from doing so and hence to have permitted A; if he has enjoined A, he can't also at the same time have enjoined Not-A.

Now for the negative formulae. It will be remembered that the paradox was derived from the combination of two premises, (A) the square's claim that Not $FA \equiv PA$, and (B) the counter-claim that a negative formula of the form 'Not ...A' is true if the authority has not acted at all with respect to A.[8] Now Part II's scrutiny of the square is being undertaken less for its own sake than to further investigation into those aspects of the nature of deontic concepts which the square purports to represent in the arrangement of its propositions. The square itself is less important for this purpose than the source of the attraction which its contradiction theorems - even if they are invalid as they stand - evidently hold for those who wish to return an affirmative answer to von Wright's interdefinability question. Von Wright himself follows up his own negative answer, not only by making a cardinal principle of his 1963 position the rejection of his previous view 'that (all) permission is mere absence

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7 As described in chap. 3, p. 52ff, chap. 6, p. 177ff above.

8 Chap. 5, p. 113f above.

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of prohibition', but also by attempting to make
permission a   more positive notion than is
compatible with the refraining analysis of this
study[9]. To show that permitting speech-acts are
essentially 'negative' in their results as well as
in themselves, it will be helpful to consider ways
of reconciling the square's use of negative formulae,
in which negation operates in the usual truth-
functional way, with the 'third possibility' of
authority non-action that threatens to insinuate
itself between, for example, the pair of alleged
contradictories 'PA' and 'FA'. The aim, however, is
not to show that this possibility does not exist or
that (B) is false, only to argue that the sense
which the rejection of (A) ought to give the distinc-
tion between permission and the absence of prohib-
ition is not such as to make it sheer error to find
a certain plausibility in the square's equivalences.
The 'ordinary language' dictum which provided the
intuitive justification for the 1951 definition of
'OA', namely, 'We ought to [sc. it is obligatory
for us to] do that which we are not allowed not to
do'[10] should at least not be abandoned without due
consideration of its merits.

So far the procedure has been to postpone the
problem of the paradox by accepting as a presupposi-
tion that any act dealt with has been given some
deontic status or other by a ruling of the authority
in question[11]. The time having come to consider

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9 See chap. 5, p. 115f above.
10 DL p. 61, quoted above chap. 5, p. 115.
11 Cf. chap. 5, p. 113 with fn. 4.

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the acceptability of this presupposition, it will
be convenient to accord it some notational recog-
nition - not, it should be said, to win an easy
victory over the paradox (an empty gain) but as a
heuristic device which will be dropped where it is
not pointful to make the normative action pre-
supposition explicit for expositional purposes.

It can be false that A is permitted by the
authority for (at least) either of two distinguish-
able reasons. (1) The authority has taken normative
action over A, perhaps in more than one of the
rulings that are currently in force, but that action
was not to permit A; (2) the authority has taken no
action at all with respect to A. It is important
to stress that the proposition which is false is
the same in either case; it is not that there is
an ambiguity in 'A is not permitted', only that it
is true for different reasons. Or, to put the
point in another way, it is the same deontic 'prop-
erty' which A lacks, that of being permitted under
some current ruling of the authority, whether the
lack is due to the act's being prohibited under
every ruling that touches upon it or to the absence
of any deontic character at all. So let the
bracketed notation 'Not (PA)' be adopted to symbol-
ize that the proposition has these alternative
truth-conditions; analogous expressions with analo-
gous truth-conditions can be constructed for the
O- and F-operators. (The purpose of the brackets
is to convey an explicit <u>warning</u> of the disjunctive
truth-conditions.)

It is obvious that <u>this</u> proposition is not
equivalent to 'FA', for it shares a truth condition
with 'Not (FA)': when 'Not (PA)' is true because

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the authority has not acted, 'Not (FA)' is also
true. When 'Not (PA)' is true because of how the
authority has acted, 'Not (FA)' is false (since
'FA' is true[12]). That is, 'Not (PA)' and 'Not (FA)'
can be, but are not always, true together, because
they do not state that the authority has not acted
simpliciter - rather, they state something which is
a fortiori true if the authority has not acted,
namely that the authority has not permitted A and
that the authority has not forbidden A respectively.

They cannot, however, be false together unless
there is a plurality of rulings on A creating an
'incoherent' deontic situation in which A is both
permitted and forbidden; for given that the author-
ity has avoided being inconsistent as regards A,
'FA' implies 'Not (PA)' and 'PA' implies 'Not (FA)';
hence if 'Not (PA)' is false, so is 'FA', which
means that 'Not (FA)' must be true. But since it
has already been decided that the square cannot
cope with a plurality of rulings, it is only the
possibility of the joint truth, not the joint
falsity, of 'Not (PA)' and 'Not (FA)' that militates
against including negative formulae along with the
positive ones in a square which can then be given a
unified interpretation in the recommended manner.[13]
For the only further obstacle to accepting the
equivalence of 'PA' and 'Not (FA)' is that non-action
by the authority is a sufficient condition for the
truth both of 'Not (PA)' and of 'Not (FA)'. The

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12   As argued chap. 6, p. 176 above.
13   Cf. chap. 5, p. 111ff.

obvious way to reconstruct the square would be to
rule this out as a possibility, to consider the
relations it summarizes as holding only on the pre-
supposition that normative action has taken place.

Accordingly, the hyphenated expressions 'Not-PA',
'Not-OA', and 'Not-FA' may be introduced in contrast
to the bracketed notation, under the stipulation
that normative action by the authority be a necess-
ary condition for their truth. 'Not-PA' therefore
means, roughly, 'The authority has taken normative
action with respect to A as a result of (or: despite)
which A is not permitted', and unlike 'Not (PA)' it
is equivalent to 'FA'. On this reading the square
holds, because all the negative expressions in it
are firmly equivalent to the corresponding positive
formulae, whose interrelations are no longer sub
judice. However, an additional consistency pre-
supposition would be needed before the bracketed
negative formulae could be included as outriders to
the square, since only then would each hyphenated
negation entail, but not itself be entailed by, its
bracketed cousin [Not-PA → Not (PA)].

For consider now the negative formulae, 'Not O
Not-A' and 'Not FA', positioned in the bottom left
hand corner. If the elements of the square are
taken in the 'absolute'[14] reading suggested by their
grammatically subject-predicate formulation, without
even an implicit reference to an authority, it
becomes a matter of logic that A and Not-A cannot
under any circumstances at all both be obligatory.
Such is the unreality of a starting point for the

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14   For this term see chap. 3, p. 41 above.

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exploration of deontic concepts which rules out
a priori the occurrence of conflicts of obligation
with a logical basis[15]. Realism demands that 'Not O
Not-A' not be allowed into the square with an inter-
pretation implying (as would the bracketed version
of it) that Not-A has not been made obligatory by
any ruling of the authority to which it is being
referred (to say nothing of other authorities).
For example, if A is obligatory under some particu-
lar ruling, it is not the case (if the argument of
chapter 6 was correct) that Not-A also is obligatory
under that ruling; but this cannot be allowed to
restrict the scope of any other rulings by the same
authority, be they past or future, unless - by
another unreal definitional fiat which should be
avoided - rationality or internal consistency is
built into the notion of a corpus.[16]

But 'Not O Not-A' must mean the same when it
is true, a fortiori, by the subalternation entail-
ment from the truth of 'OA' as when it is true
independently of this. So if in the former case
it would be wrong to interpret it as being to the
effect that Not-A is not obligatory under any ruling,
then consistency demands that it always be to some
one ruling or other that Not-A's not being obliga-
tory is credited. And to insist on this would be

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15 Cp. chap. 3, p. 48ff; assumptions which
exclude inconsistency are emphatically repudiated
by E.J. Lemmon, 'Deontic Logic and the Logic of
Imperatives', op. cit., esp. §2, and Erik Stenius,
'The Principles of a Logic of Normative Systems',
op. cit., p. 254.

16 Cf. chap. 6, p. 160 fn. 11 and p. 176
fn. 52 above.

to put 'Not O Not-A' beyond the reach of the
authority non-action truth-condition which alone
bars it from equivalence with 'PA'.

That is, the effect of relativizing the nega-
tive as well as the positive formulae to single
ruling utterances is precisely to secure for them

elimination of the authority non-action truth-
condition flagged by the brackets. For thus inter-
preted, 'Not-O Not-A' (as it can be written)
describes the present and still continuing upshot
of some past ruling action by denying that Not-A is
obligatory (as a result of it); which is the same
as saying that there is a current ruling on A which
does not forbid A. It is then easy to explain[17]
why this record of something the authority has
omitted to do is deducible from the proposition
that, as the result of some past ruling, A is
obligatory. For if it should happen that a ruling
utterance necessarily involves its maker in refrain-
ing from making Not-A obligatory, as chapter 6[18]
argued was the case with utterances that make A
obligatory, then a fortiori if the obligatoriness
of A has been laid down in a certain speech-act, it
is not the case that Not-A is subject to any obliga-
tion stemming from that speech-act. Of course, the
same negative import cannot on that basis be auto-
matically claimed for other speech-acts of the
authority in question concerning Not-A, still less
can it be asserted 'absolutely'; but when the nega-
tive formulae are all subjected to the same implicit

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17   As suggested above chap. 5, p. 113.

18   P. 177ff.

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relativization as the rest, the square may be taken
as a whole once again, negative formulae included.

It may seem that this line of thought is nothing
but a reinterpretation to force the two negative
formulae of the square's lower left hand corner into
a 'refraining' mould which has already been prepared
in such a way as to secure (given analogous adjust-
ments in the other parts of the square) all the
desired results. If so, it would nonetheless be
evidence favourable to the refraining analysis of
the _positive_ proposition that PA, that the logical
powers assigned to it by the square should be shared
by any formula subjected to that remoulding; for
equivalence between those negative formulae and
'PA' was not a premise of the argument.

But in fact the equivalence argued for does
not involve obliterating the distinction between an
overt refraining utterance and an ordinary omission;
the latter, the not doing of something, is all that
is ascribed to the selected ruling utterance by the
proposed interpretation of the _meaning_ of negative
formulae. The hyphen, whose introduction into the
notation of the negative formulae was legitimized
by treating the elements of the square as records of
what is and is not the result of some ruling utter-
ance still in force, does not _signify_ that the
deontic state of affairs thus recorded is the upshot
of an overt refraining utterance, **only** that it is
the upshot of some ruling utterance, i.e. that the
action in question has a deontic status - one other
than the status denied of it. This suffices to make
the absence of a prohibition equivalent, when regar-
ded as the upshot of some ruling, to the presence of

a permission, without doing violence to the meaning of the negation-sign in negative formulae. A glance at the trio of conjunctions will show that any option from which 'FA' is excluded must include 'PA'. From this it can be inferred that 'Not-O Not-A' must record the result of a ruling whose force is in whole or in part[19] that of an overt refraining utterance; but that is an additional step depending on the notion of an overt refraining utterance and upon the consideration that the act of one who refrains from prohibiting A, even overtly, can hardly be expected to lead, in itself, to any other upshot than the absence or lack of prohibition.

Whether this sort of absence, brought about and maintained by an authority, should be denigrated as a 'mere absence' is not important by comparison with the fact that the only interpretation of 'Not O Not-A' which licenses its deduction from 'OA', simultaneously enforces its equivalence with 'PA' and thereby gives sense to an identification of permission with the absence of prohibition - provided, as the hyphen indicates, this is what chapter 4 called 'freedom from prohibition under authority' as opposed to 'the pristine freedom which is characterized by the absence of authority'[20] or, we should now add, by the absence of any deontic status within some authority's area of jurisdiction.

The above defence of (A) involves relativizing negative formulae to some particular ruling utterance in a way that would falsify (B) itself, since

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19 Cf. chap. 6, p. 172 above.
20 Chap. 4, p. 100 above.

(B) stakes a claim for the bracketed truth-conditions in place of the hyphen. Of course, if the paradoxical consequences were validly derived, the two premises were bound to be inconsistent as they stood; but it is something to have opened up, at least in principle, the possibility of a 'middle' way for escaping the necessity of rejecting either (A) or (B) as false *simpliciter* and opting, instead, for the view that the plausibility of their claims to our allegiance depends on (A) being construed according to the hyphenated and (B) on the bracketed model, so that once this is written into them they will be seen not to be in conflict.

If, however, all this is to be more than a formal exercise, we must go on to consider how the role of negation in reportive deontic discourse measures up to the two rival models. It is no good asking for the true contradictories of the formulaic sentences 'PA', 'FA', and 'CA' as such, in the abstract, for they possess none prior to their being assigned truth-conditions in their own right, by stipulation, or (von Wright's method[21]) being set up as the formalized translations of a range of ordinary language sentences. In this study they have been regarded primarily as abbreviated versions of simple sentences of the form 'A is permitted', etc., where 'A' is (an abbreviation of) the description of some type of action.[22] These are, of

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21 Cf. e.g. passage quoted chap. 5, p. 118 above.
22 Cf. Introd. pp. 3-4; chap. 3, p. 39ff above.

course, the very sentences that appear in the square, so the answer to our present problem should be given by analyzing the truth-conditions of those sentences and calculating the truth-functional negation of the result.

Given the oratio obliqua analysis of the deontic propositions of the square, no other result can be arrived at than the bracket-indicated negations; they, after all, were introduced to signal the fact that the truth-conditions of 'A is not permitted' are those of 'It is not the case that there is a ruling under which A is permitted' rather than those of 'There is a ruling under which it is not the case that A is permitted'.[23] If, then, the equivalences on which the square's contradiction theorems are based presuppose normative action, that presupposition must remain a presupposition and not be built into the meaning of the sentences involved, as it is into the hyphenated expressions; and if the contradiction theorems are to lose their formal validity, a suitable explanation must be supplied for the power of this presupposition to support the rather tight connections between the propositions involved from which those theorems derive their plausibility. It is in this pragmatic form that I shall defend the suggested 'middle' way, after first discussing various matters connected with (B) in order to put in a plea for the respectability, indeed importance, of the notion of the absence of prohibition.

This programme makes it imperative to establish

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23 P. 202 above.

at the outset just how much is conceded by rejecting
(A) in deference to the indisputable truth of (B).
The answer may be read off from the price paid
earlier for defending (A) with the aid of the hyphen.
To save the square it was found necessary to exclude
from consideration not only (as with positive formu-
lae) the possibility of a given act's deontic situa-
tion being constituted by there being more than one
ruling by the authority in force over it (threaten-
ing inconsistency), but also the possibility of
there being less than one (threatening the paradox)
- that was the function of the hyphen. The indirect
lesson of the earlier part of the present chapter,
where this was shown also to be sufficient for the
purpose, is, therefore, that to reject (A) commits
one to acknowledging the possibility of inconsis-
tency and of non-action, and that is all. The
suggestion that there is at least a sense in which
the presence of a permission can be identified with
the absence of a prohibition still remains unchal-
lenged.[24] The basis of the suggestion was the idea
of an absence or lack of prohibition brought about
and maint.ir.ed by an authority, and this idea, of
freedom under authority, can perfectly well be
realized. All it takes is an overt refraining
utterance in which a speaker indicates his intention
of not doing something, of not making a certain
deontic proposition true, and in which all
else is as it should be for him actually to succeed
in bringing off this abstention in his speech per-
formance. If the phrase 'absence of prohibition' is

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24 Cf. p. 201 and pp. 207-8 above.

worth disputing over, here, surely, is a situation
to which it could be applied as an apt expression
for a certain kind of freedom.

Of course, there are also numerous other types
of situation which can be so described. They range
from areas of action altogether free of authorities,
through cases where A can be said not to be prohibi-
ted by M because M is not an authority with
jurisdiction over A, or perhaps not an authority
at all, to the more interesting applications of
the phrase where an authority with jurisdiction has
failed for some reason to exercise it. This last
is the area von Wright has mainly in mind when he
launches his attack on descriptive interdefinability
(and through it, as I have urged[25], on interdefin-
ability in general).

He sets out by announcing that he is going to
'state one reason only' from among the considerations
which have led him to think that the common view he
had hitherto shared, according to which 'a permis-
sion to do a certain thing is the same as the
absence or lack of a prohibition to do this thing',
is 'in serious error'.[26] He then writes as follows:

> One cannot make an inventory of all
> conceivable (generic) acts...
> As new kinds of act originate, the
> authorities of norms may feel a need for
> considering whether to order or to permit
> or to prohibit them to subjects. The
> authority or law-giver may, for example,
> consider whether the use of alcohol or
> tobacco should be permitted. In the case

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25 Cf. p. 198 fn. 4 above.

26 NA p. 85.

of every authority, personal or impersonal,
there will always be a great many acts about
the normative status of which he never cares.
It is therefore reasonable, given an
authority of norms, to divide human acts
into two main groups, viz. acts which are
and acts which are not (not yet) subject
to norm by this authority. Of those acts
which are subject to norm, some are per-
mitted, some prohibited, some commanded.
Those acts which are not subject to norm
are ipso facto not forbidden. If an agent
does such an act the law-giver cannot
accuse him of trespassing against the law.
In that sense such an act can be said to
be 'permitted'.
If we accept this division of acts into
two main groups--relative to a given
authority of norms - and if we decide to
call acts permitted simply by virtue of
the fact that they are not forbidden,
then it becomes sensible to distinguish
between two kinds of permission. These I
shall call strong and weak permission
respectively. An act will be said to be
permitted in the weak sense if it is not
forbidden; and it will be said to be per-
mitted in the strong sense if it is not
forbidden but subject to norm. Acts which
are strongly permitted are thus also
weakly permitted, but not necessarily
vice versa.[27]

I take it that what is here presented in just-
ification of a volte-face on the subject of total
interdefinability is the general case for disting-
uishing between a kind of permission which is, and
a kind which is not, reducible to the 'mere absence
of prohibition'. For von Wright concludes the
section by summing up the difference between the two
kinds of permission: 'Roughly speaking, an act is
permitted in the strong sense if the authority has

27   NA p. 86.

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considered its normative status and decided to permit it', whereas weak permissions are 'not prescriptions or norms at all'; only strong permission is a norm-character, though whether it is also an independent one, as weak permission a fortiori cannot be, is left for subsequent discussion of interdefinability possibilities which do not work via the concept of negation.[28] Thus although only here is it so named, weak permission is the category responsible for the qualified manner of von Wright's rejection of (A) as not holding for all permission, and it is this, clearly enough, rather than the pristine liberty of an authority-free area of action, that he is anxious not to have identified with (the presence of) ordinary permission.

Now the truth-conditions for saying that an act is weakly permitted correlate exactly, as von Wright himself here indicates, with those for its not being forbidden, as determined, inter alia, by the possibility of authority non-action; that is, with the truth-conditions for 'Not (FA)' as opposed to 'Not-FA', which describes the strong permission that obtains when an act 'is not forbidden but subject to norm'. The salient points may be found in the last paragraph of the quotation: (a) strong permission (elsewhere just ordinary permission, though admitting of different degrees of strength) entails weak permission,[29] but not vice versa;

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28 NA pp. 86-7. Cf. chap. 5, p. 115f above.

29 Granted, of course, the consistency which von Wright builds into his notion of a corpus and which allows him to work with 'is not forbidden', or at least 'is not forbidden by M', in formulating his notion of strong permission (cf. pp. 204-5 above).

(b) strong permission requires authority action;
(c) authority non-action is a sufficient, but not
necessary, condition for an act's being weakly
permitted. That authority non-action is not a
necessary condition for weak permission follows
from (a); and this fact about weak permission is
what stops it from being merely equivalent to
authority non-action, so that it becomes plausible
to consider weak permission a genuine species of
permission.

But can weak permission be accepted as in any
sense a genuine species of permission? Consider the
truth-conditions again. To say that A is weakly
permitted is to say: either A has been (strongly)
permitted by positive normative action or A has not
been covered by normative action at all. But that
surely amounts to saying: either A has been permit-
ted, or it has neither been permitted nor forbidden
nor enjoined. Weak permission no more defines a
kind of permission than does 'Not (FA)', to which
the truth-conditions laid dcwn by von Wright make
it equivalent. It is one and the same permission
that must hold if A is permitted and may hold if it
is not forbidden. The truth-conditions for the
latter do not define a special sense of 'permission';
they simply include ordinary permission as one
disjunct.

But since they do include it, it is not just
a quibble to object to the use of 'weak permission'
to classify what are explicitly admitted not to be
prescriptions or norms at all. For if the examples
given in vcn Wright's first two paragraphs do illus-
trate a special type of 'permission', the truth-

conditions set out for them in the last paragraph
do not elucidate it, as the misleading nomenclature
may seem to imply. It remains therefore to pass to
those paragraphs to consider what account should be
given of the examples themselves.

It is certainly _prima_ _facie_ plausible to main-
tain that a person who performs an act which is not
forbidden by _law_ (von Wright's substitution for his
initial 'norm') performs an act which is in some
sense permitted under the law, even though the act
is mentioned nowhere in the law books, judicial
decisions, etc. history yields abundant illustra-
tions of law-makers forced to forbid by arduously
formal procedures activities which they considered
undesirable but could not punish or prevent until
legally outlawed. But consider an example from a
different sphere:

> Mother: It was very naughty of you to wear
> your new dress to the playground.
>
> Kathy: But you've never said one word about
> it.
>
> Mother: What if I haven't - that doesn't mean
> that you're allowed to wear it there
> without my permission. Surely you
> don't think that you may do anything
> that comes into your head just because
> I haven't told you not to.

It would be an unusual parent who considered his
children free to do everything within his juris-
diction which he has not forbidden. The conclusion
to a parental analogue of von Wright's line of
reasoning seems much less plausible than in the
original legal case:

> There are some acts which parents haven't
> mentioned.
>
> It is true that these acts are not forbidden.

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> A child who performs such acts is not trespass-
> ing against his parents' injunctions.
>
> In _that_ sense the act can be said to be
> permitted.

In _what_ sense can the act be said to be permit-
ted? In a sense such that the child won't be pun-
ished or scolded by his parents? Obviously not, for
parents do take retributive action in such circum-
stances. Or is it that the child doesn't _deserve_
to be scolded or punished, that since his parents
haven't forbidden the act it cannot be justifiably
regarded as a reason for parental disapprobation?[30]
Surely not! Consider the example of a parent who,
not surprisingly, has never thought to forbid his
son to stow himself in a crate and be flown to Aust-
ralia. Punishment by the parent for such a deed
would not generally be considered unjust or arbit-
rary, as it _would_ be if parental permission had
actually been granted. Indeed, some would consider
the parent open to criticism if he did not punish or
rebuke his son for behaving so wildly, even though
the boy had never been instructed on this particular
act. Nor, surely, would a judge rule that a parent
(or teacher, employer, etc.) had in effect permitted
his charge to do A _simply_ because he had not forbid-
den it. Should we on that account postulate a 'weak'
kind of prohibition, equivalent to the 'mere absence'
of permission ['Not (PA)'] within an area of juris-
diction, to deal with the parental case? For there
is as much reason here to describe the escapade as
forbidden (simply on the grounds that it was not
permitted) as to apply the term 'weak permission' in
the legal case.

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30 Cp. chap. 4, p. 94 above.

Rather than positing weakened kinds of enact-
ment to fill the gaps 'within a totality of presc-
riptions which flow from one and the same supreme
authority'[31], be the hierarchy of power as formal
as a legal system or as informal as a classroom or
family, we should seek to explain the discrepancy
between the legal and the parental examples by dif-
ferences in the background assumptions and general
principles governing moral and other reactions in
the two spheres. The parent-child relationship,
insofar as it is (or was) one of authority and sub-
ordination, is governed by a general rule which
prescribes that in the area of parental jurisdiction
the child does not, without asking permission before-
hand, venture on anything which departs too far
from normal routine without the justification of
antecedently given permission or the excuse of
precedent. This rule may never be explicitly
enunciated in general terms, and the boundaries of
its application may be vague, but the life of a
parent would be intolerable without it. The famil-
iar warning one child gives another, 'You'd better
not do that without permission'. points toward acts
within this range, acts which if not permitted by
explicit enactment are held to fall, not under a
special 'weak' prohibition, but under some such
general 'prohibitive' rule as the one implicitly
appealed to in the parental dialogue to justify the
mother's reprimand. There is no need here to deter-
mine exactly what falling under a 'prohibitive' rule
means in order to find reasons for supposing it is
not the same as having been forbidden by a current

31 NA p. 87.

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ruling utterance.

So far, this study has kept within the realm
of the use of deontic language to perform and to
speak about the results of the various types of
speech-act within the general category of normative
action, so before stepping outside it a brief review
of its boundaries will be in order. Since chapter
3[32] listed the basic trio of commanding, forbidding,
and permitting, the repertoire for the performative,
'creative' use of deontic language has been somewhat
enlarged by the addition of, for example, anticipa-
tory and executive signals, cancellations, refusals,
re-issuings (all with the omissions that are bound
to accompany any normative action which refrains
from making itself painfully explicit in its impli-
cations). But all these seem just to superimpose
additional factors peculiar to themselves on the
standard alternatives[33], rather than to widen the
basic range of possible resultant deontic situations,
since all involve taking normative cognizance of
the act in question. It is true that cancellation
is sometimes thought to be a way of simply nullify-
ing normative action, of 'undoing' a deontic state
of affairs and leaving a null result.[34] But nor-
mally this would mean the same sort of 'absence' as

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32 P. 36 above.

33 Cf. e.g. chap. 6, p. 173 above on cancel-
lation of a prohibition.

34   See chap. 6, p. 173 with fn. 44 above;
NA p. 191   counts cancellation as a type of
normative action regardless of its result.

results from any refraining act[35] - one compatible
with, indeed dependent upon, the occurrence of an
official and appropriately publicized speech-act
which makes it irrevocably the case that there has
been a ruling as a result of which A lacks a certain
deontic status (and so must have the 'contradictory'
status): (Not- ...A). The same possibility of for-
mulating the result by a hyphenated negative attaches
to refusals, even refusals to do anything about an
act that has hitherto belonged, as it were, to
virgin territory.

For once an act has come up for consideration,
only a radical refusal to permit or to forbid it
will prevent it having a deontic status for as long
as is chronologically feasible. Here there are at
least two temporal factors to take into account:
first, and most obviously, a ruling not replaced by
another can become chronologically inoperative only
through its having specified a time or period which
has passed out of the subject's range of action[36];
second, decision on the deontic status to be given
to an act can only be deferred without prejudice to
its present status, if any, so long as the time for
action has not arrived. For if it has, the continued
deferment (presuming it is public to the subjects
concerned) will amount to a refusal, and the act
will be subsumed under whatever rulings (if any)
constitute the deontic status quo. This may be
seen by comparing the slightly different implications
of two examples: first, 'I'll tell you tomorrow

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35 Pp. 207-8 above.
36 Cf. chap. 3, p. 39 above.

whether I'll allow you the day off, Miss Jones',
from which the secretary can infer that silence will
mean 'duty as usual'; second, 'I can't give you a
decision on what's to be done for Parents' Day next
month; I need time to think about it', from which
no such clear indications can necessarily be drawn
 - if the Headmaster reaches no decision, Parents'
Day may well arrive without his having had anything
arranged at all. In that case, assuming that there
are no regular instructions in force for such days,
the non-routine aspects of the situation occasioned
by the visiting parents may just have no deontic
structure at all, the Headmaster having established
none. Alternatively, he may be held to have given
a carte blanche - it all depends on the institutional
guidelines within which he holds his responsibilities
and on relations with his staff, there being no hard
and fast rule for ascriptions of 'tacit consent'
and the like.[37] But given that an act is properly
equipped with a determinate status, an authority
wishing to return it to the pristine freedom it may
once have enjoyed cannot dodge the issue in the way
he may be able to get away with continuing to ignore
an undefined act; he must signify overtly his inten-
tion of neither assigning nor leaving to it any
deontic status at all. That is, he will have to
abdicate from jurisdiction over the act.

Abdication is worth a brief comment in passing
as being an exception to the 'creative' role of the
speech-acts of the normative action category, as the
only purpose for which deontic language can function
in a performative use without making some positive

37 Cf. H.L.A. Hart, The Concept of Law, op. cit.,
pp. 45-7 and below p. 223.

deontic proposition(s) true. A mother who washes her hands of a daughter's plans for marriage with the words 'I don't give you my permission, but I won't say you mustn't, even though I know you'll live to regret it' does make true, by her overt abstentions or refusals, both that the marriage is not permitted and that it is not forbidden by her. Her utterance comprises no ruling on the subject, however, since by her action she accomplishes a result precisely equivalent to that non-action truth-condition which constitutes freedom from rather than under authority. The difference between abdication - which means a grant of autonomy and hence is an important notion in moral education - and an ordinary two-way permission shows itself above all in the sequel: an employer who has granted his staff discretion over their choice of lunch-hour may meet with resistance when trying later to impose a mandatory rota, but he is not likely to be in quite the same conceptually ambiguous position as a parent with maturing offspring who finds privileges that were conceded without intention of relinquishing authority in the matter rapidly trans-formed into the 'rights' definitive of a new step towards adult autonomy.

This notion of abdication illustrates, there-fore, how the truth of (B) is not the mere logical inconvenience it may have first appeared but is essential for the realization of the purposes that direct the practice of certain authority-subordinate institutions. It is the only kind of normative action whereby, after the pristine liberty of an act has once been sullied, 'Not (FA)' can be restored

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to truth __without__ a strong permission remaining in possession (for it also makes 'Not (PA)' true). As such, it stands at the opposite end of the spectrum of normative activity to just quietly __leaving__ acts undefined, a strategy which requires careful concealment from subjects of its aim, since otherwise, if each knows the other knows what is going on, cases are bound to occur in which the authority could not reasonably deny having given his 'tacit consent' by overtly refraining from prohibiting something[38]. And a 'tacit consent' established by adequate evidence of the authority's manifest indifference to the performance of some act would amount to a strong rather than weak permission.

Such, then, is the repertoire of normative actions available to authorities. But deontic language is also used in and concerning situations which are not created by any identifiable authority action - where, for example, one is said to be prohibited or permitted to do something by, under, or according to some rule, standard, principle, code, regulation, and so on (for convenience of reference this heterogeneous collection may be represented by the broadest term, 'rule'). It is perhaps regrettable that we don't in practice stick more closely to Mayo's excellent linguistic precept to the effect that, while people in authority command and forbid, rules prescribe and prohibit, and both persons and rules permit[39]. But for present needs it will suffice to draw a line between (i) A's being enjoined,

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38   Cf. chap. 4, pp. 101-02 above.

39   'Varieties of Imperative', __op. cit.__, p. 168, but cp. O.E.D. svv. and synonyms.

forbidden, or permitted by some _authority_ and (ii)
A's being enjoined, forbidden, or permitted by a
rule or any other non-personal 'source'. This line
is intended to distinguish two types of case, the
first by now familiar, the second not so far dis-
cussed: (i) cases where, if A has a deontic status,
there must be an answer to the question 'When did
the authority enjoin/forbid/permit A?', (ii) ones
where _this_ question is inappropriate, even if they
concern a rule which was brought into operation by
an authoritative body at a determinate time. For
example, the committees responsible for determining
and revising the rules of various games, associa-
tions, etc. would not normally be said to have
forbidden participants to do the things which are
against the rules, even if penalties have been
instituted for infringement. Nor again is infringe-
ment likely to be considered disobeying the
committee.

This is only a preliminary characterization of
the distinction - further details will fall into
place as we proceed - but it should suffice to sug-
gest the presence of some corresponding distinction
between cases in which an act is permitted because
it has been permitted at some more or less definite
time and cases in which, though it may have _become_
permitted, it does not owe its present status to
having _been_ permitted by someone in a position to
permit it. This is not necessarily to say that the
verb is radically ambiguous; after all, even the
distinction between the normative 'permit' opposed
to 'forbid' and the physical 'permit' opposed to
'prevent', which can reasonably be termed an ambigu-

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ity in the verb,[40] is compatible with an analogy
of function within the two spheres of the term's
application so close as to make the double use of
a single word a fairly predictable development[41].
The noun 'permission', it may be noted, falls on
the authority side of both distinctions: 'permis-
sibility' and 'permissible' are hardly suitable for
physical contexts, but 'permission' is narrower
still in scope in that it also resists inclusion in
phrases expressing the import of rules. In other
words, permissions have to be _given_ (by a person or
group of persons) before they can be had, enjoyed,
or taken advantage of.

To these linguistic indications may be added
an argument based on Part I's analysis of authority-
derived obligations and permissions. This led
eventually to the idea of rules or conventions con-
stituting certain utterances as reasons for action,
and it is likely that the same resting point would
have been reached by routes other than the particu-
lar _oratio obliqua_ one taken in chapter 3's account
of deontic propositions[42]. This comes through
clearly in the following passage from Mayo:

> Authority never attaches to persons as
> such, but only to persons as having a
> certain status within an organization.
> Actual commands must of course be uttered
> by speakers, just as actual statements must;
> but the authority - or authenticity - of
> their commands depends not on their char-
> acteristics as speakers, or as persons,

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40   Cf. chap. 2, p. 31 above.

41   Cf. chap. 4, p. 99 (cp. also chap. 6,
p. 183).

42   Cf. chap. 4, p. 94ff above.

> but solely on their capacity as function-
> aries or officials... Organizations exist
> in virtue of the hierarchically related
> positions or offices which persons may
> hold; these offices exist in virtue of the
> successive limitations of their powers of
> command and areas of responsibility; and
> this limitation is effected by standing
> rules. The answer to the question: Which
> is prior, the authority of persons or of
> rules? is thus answered. Persons have
> authority only as office-holders; and this
> authority is determined by rules.[43]

But it seems hardly enough to stop here without going
on to the further conclusion that neither the formu-
lae 'PA', 'OA', and 'FA' nor their ordinary language
counterparts can be given quite the _same_ analysis
in cases where they presuppose and derive their
sense from the operation of such rules as when they
are considered as formulations of those rules
themselves.

The difference would not have to be a radical
one.[44] Mayo himself only argues that the distinction
divides 'two types of imperative language'[45], aligned
with two types of control. In the class typically
represented by 'rules' he includes laws, licenses,
traditions, principles, moral and professional codes,
codes of etiquette, standing orders, conventions,
customs, and the rules of games. He contrasts these
with 'ad hoc directives' like commands, prohibitions,
and explicit permissions in two respects: directives
require _speakers_ and involve a 'performatory' use
of language, rules do not - they have instead the

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43 _Ethics and the Moral Life_, _op. cit._,
pp. 162-3.

44 Cp. pp. 224-5 above.

45 _Ethics and the Moral Life_, _op. cit._, p. 160.
'Imperative' is not here a grammatical term (cf.
ibid, p. 24).

distinguishing feature of generality[46]. Hence 'all rules are standing rules, except those that are just being set up (just as all laws are in force, except those which are in the process of becoming law)'.[47]

Now it is certainly true that rules, codes, customs, principles, and the rest cannot be _particular_ with respect to agent or occasion for conforming action: that Jones is required to do A at 2 o'clock on a certain day of a given year cannot exhaust the content of a rule (for it would be nonsense to speak of a rule to such an effect), though it may be the import of a rule's _applying_ to him at that time. On the other hand, there appears to be no incompatibility between the performative use of language and generality: a speaker can use a performative formula like 'I hereby vow...' to pledge assistance to everyone of a certain class whenever they are in a certain type of situation, so why exclude as a possible performative law-enacting use of language a monarch's saying to his assembled subjects 'I hereby command everyone henceforth to prostrate himself when in the Royal Presence'? Whatever the merits of Mayo's classification, there can surely be no objection to an alternative grouping of 'standing orders' - which it would indeed be inappropriate to entitle 'commands' - on the authority side of the line, together with such things as the 'commandments' issued by royal(and divine) authorities , so long as they are general at least as regards the occasions on which obedience is called for. There are many circumstances in which

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46 _Ibid_ pp. 159-64.   47 _Ibid_ p. 160.

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disobedience to, for example, the colonel's or
the boss's standing orders is hardly separable from
disobeying him; correspondingly, a set of regula-
tions issued by an authority may often with equal
appropriateness be viewed either as his orders and
instructions or as a set of rules decided upon by
him for the good governance of the practice for
which he is responsible.

Von Wright, at any rate, would certainly not
consider generality a bar to being on the authority
side of the dividing line.[48] In fact, he classifies
the laws of the state as 'a species of prescript-
ion',[49] requiring a law-giver to have given them,
so that we should 'be able to tell whose prescript-
ions to whom they are'.[50] True, he denies that his
will-theory, as applied to 'legal norms', commits
him to 'an anthropomorphic or theomorphic conception
of the state as a being endowed with a will'.[51]
But for it to apply to legal systems generally, he

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48 Cf. NA pp. 75-83. Nor Black, 'Notes on the
Meaning of"Rule",II', op.cit., esp. p. 141ff, who
says precisely that in promulgating a regulation an
authority thereby demands (forbids, permits) desig-
nated actions, the difference from orders and comm-
ands being that regulations are oblique, impersonal,
etc. Cp. also Hart, The Concept of Law, op. cit.,
p. 23.

49 NA p. 82.

50 NA p. 12, in essential contrast to custom
(cf. NA pp. 94-5).

51 NA p. 121. He also declines to say 'who is
the sovereign authority in a state'(NA p. 200), but
this only concerns some authority in normatively
unrestricted supremacy over all norm-issuing whatso-
ever(NA p. 192); so he does not seem committed to
there being such an authority in, e.g. states with
a written or formal constitution. Cp. Hart, loc.
cit., p. 67ff.

has to extend the notion of authority to include
'impersonal authorities' like legislative assemblies
and states.[52] We may accept (while noting the qual-
ifications) his initial illustrations of
prescriptions:

> Military commands are an example of pre-
> scriptions. So are the orders and permis-
> sions given by parents to children. Traf-
> fic-rules and other regulations issued by
> a magistrate largely have this character
> too. The decisions of a law-court may be
> said to have a prescriptive aspect or
> component.[53]

It is also worth noting Cavell's suggestion that we
have a tendency with regard to _laws_ sometimes to
think of them as rules and at other times to think
of them as commands, depending (in part) 'upon where
we - i.e., where our normal actions - stand (or
where we imagine them to stand) with respect to the
law or system of laws in question'. His idea is
that we may think of 'the difference between rule
and imperative as one between those actions (or
"parts" of actions) which are easy (natural, normal)
for us, and those we have to be encouraged to do.
(What I do as a rule you may have to be made or
directed to do.).'[54] But however this may be, even
a half-hearted application of prescriptive termin-
ology is in danger of losing its essential connection
with normal prescribing agents as we move from 'the
simplest imaginable legal system where a monarch has
unrestricted legislative authority to enact law
imposing obligations by pronouncing or writing down

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52 NA p. 38, p. 76.   53 NA p. 8.

54 Stanley Cavell, 'Must We Mean What We Say?',
op. cit., p. 97 with fn. 23.

what he requires to be done'[55] towards the immense
complexities of modern legal systems; for as the
distance from the monarch increases there can be
both a multiplication of the sources of law and a
complication of the legislative process, which
eventually puts rules instead of people 'in charge'
to an extent that deprives the model of a monarch's
prescriptions of most of its useful applications.[56]

Fortunately, these demarcation problems need
not prevent the distinction explaining how the legal
and the parental examples can be the same as regards
the ordinary deontic status of the act (which is
simply that characterized by the absence of any
prohibition or permission stemming from the speech-
acts of the relevant authority) and yet differ as
to the appropriateness of describing the act as
'permitted' in some further sense - a sense con-
nected not with a weakened kind of enactment but
with the operation of a rule or principle making
the act (in the legal, though not in the parental,
case) permissible rather than instituting a permis-
sion for it. It is significant that von Wright's
example of weak permission is a legal one, for the
legal sphere is, at least as von Wright describes
it, the reverse of the parental one in this respect.

On the very next page[57] he goes on to charac-
terize a principle which, though it is not necess-
arily operative in all legal systems,[58] would

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55 H.L.A. Hart, 'Legal and Moral Obligation',
op. cit., p. 88, quoted above chap. 4, p. 95 fn. 14.

56 H.L.A. Hart, The Concept of Law, op. cit.,
passim.

57 NA p. 87.   58 Ibid with fn.

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account qu. te adequately for his previous example
of the agent who cannot be accused of trespassing
against the la. This is the principle nullum
crimen sine leg. which he interprets as 'a permis-
sive norm with a peculiar content', namely that
anything not forbidden within a certain hierarchy
of power is permitted within this system. On that
basis it would at once follow that any act was
'permitted' (in virtue of the principle) until it
became (by enactment) forbidden.

In his discussion von Wright is concerned to
use the normativeness of the nullum crimen principle,
as expressed by the quoted characterization of it,
to argue against any suggestion that the principle
(as opposed to the alleged example of weak permis-
sion) supports 'the idea that permission consists
in mere absence of prohibition',[59] as it would if
it were 'a logical principle to the effect that what-
ever is not prohibited is thereby ipso facto permit-
ted'.[60] As we have seen , the idea he wants to
combat is the idea that all permissions consist in
the mere absence of prohibition; there remain, in
his view, some permissions which do consist in the
mere absence of prohibition, namely those weak per-
missions illustrated in the quoted passage. The
description 'a permissive norm with a peculiar
content' implies therefore (if it is to be relevant
to this issue) that the import of the nullum crimen
principle is that its instances are strongly permit-
ted, or at least subject to (a permissive) norm.
But he fails to apply the conclusion of his nullum
crimen section back to his weak permission section

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59 NA p. 87.   60 NA p. 193.

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and so misses that the legal example he relied upon
to distinguish weak permission from strong permission
actually falls under the nullum crimen principle as
he interprets it. For the generality of the prin-
ciple must inevitably mean that it pervades all the
nooks and crannies of an authority's jurisdiction,
leaving no acts free from norm to go into the weakly
permitted category.

The only other candidates left over for 'weak
permission' would then be deeds done outside the
system's area of jurisdiction, say in a country other
than that of a certain legal system. But these,
while not indeed forbidden under any ruling of the
system, will not do either, since an authority can
hardly presume to claim that acts beyond his juris-
diction are in any sense permitted by him.[61]

This leaves us with the following choice: we
may conclude from the fact that the legal example
falls under the principle that it is a case of strong
permission, or we may turn the argument around and
accept that, because the example satisfies the
truth-conditions for 'Not (FA)', the nullum crimen
principle under which it falls is not, after all, 'a
permissive norm with a peculiar content'. Of course,
an authority could promulgate a ruling permitting
'the "sum total" of all acts and forbearances which

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61 Von Wright's speaking (NA pp. 86, 87, 88) of
"all human acts" may indicate a contrary view; but
most areas of jurisdiction would defeat attempts at
an exhaustive inventory on their own, if only through
the possibility of new types of act arising within
their borders.

are not already forbidden',[62]and then there <u>would</u> be
in force a 'permissive norm with a peculiar content'
- in the familiar, speech-act-derived sense of
'prescription-norm'[63], one which would make the
legal example an ordinary strong permission of no
special significance. If, however, this new develop-
ment is premised, more interestingly, on an <u>unpro-</u>
<u>mulgated</u>'norm' closing the gaps in a (legal) system
- which means (in terms of the distinction just
drawn) a rule or principle[64] - the result cannot be
a strong permission; for so far as concerns the
authority and his <u>prescriptions</u>, the truth of
'Not (FA)' [and of 'Not (PA)'] will just not be
affected by the principle being in operation in the
system concerned.

On this alternative the nullum crimen principle,
under which the example falls, cannot be taken as
'a permissive norm with a peculiar content' for any
<u>prescriptive</u> interpretation of 'norm' ; for such an
interpretation would <u>mean</u> something to the effect
that the principle emanated from the authority's
will by being promulgated in some fashion. Thus on
von Wright's view of law[65] the nullum crimen prin-
ciple could not have the force of law until <u>given</u>

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62 NA p. 87. 'Already' here should be taken as
'otherwise', lest the principle require cancellation
or modification of its scope each time a new prohibi-
tion is issued.

63 Cf. chap. 5, pp. 118-9 above.

64 I find it impossible to decide whether von
Wright thinks that the operation of the nullum crimen
principle presupposes some sort of enactment or not -
the passage can be read either way.

65 Cf. p. 228f above.

it by promulgation; prior to that it would not be a
legal norm at all, nor would its emphasized norma-
tiveness be on a par with what is to be found
within the legal system.

It is, however, still compatible with a will-
theory of law that the nullum crimen principle should
operate (strictly speaking) outside the legal system,
as a principle of justice restricting the application
of sanctions to those who 'trespass against the
law'. The principle is then, in the moral form in
which Hart, for example, interprets it, better
worded 'nulla poena sine lege', since its main
practical import is a condemnation of retroactive
punishment.[66] (Von Wright notes this wording in
passing but interprets it in terms of a limitation
on 'the authority's right to punish'[67]; that is,
rather than classifying the principle, whatever its
origin or precise status in the legal practice of
one place or another, with the other rules out of
which Hart's much more flexible picture of the main
body of law is built,[68] he traces the limitation to
a legal and so (for him) prescriptive source.)
Notice, however, that there is nothing particularly
permissive about the reworded version of the prin-
ciple. Indeed, its import is primarily prohibitive
on the punitive actions of authorities, restricting
these to within the bounds of their jurisdictions.
As for subjects - they already have the immunity
correlative to their authorities' disability or lack
of power to bring charges other than for an offence,

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66   The Concept of Law, op. cit., p. 207.

67   NA p. 87; cp. NA p. 193.

68   Cf. e.g. H.L.A. Hart, loc. cit., p. 97ff.

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and this correlativeness explains how a merely
logical version of the principle, to the effect that
authorities do not have punishment powers beyond
those they have, is still not without practical
importance.[69] If anything more is needed to protect
their enjoyment of this immunity, it is not some
added permissive freedom in the sphere of their own
behaviour but, quite simply, adherence by the author-
ities to the restraints of legality, as required by
the _nulla poena sine lege_ principle.

So neither in the legal example nor in any
other case of an act not assigned normative status
by an authority with the requisite jurisdiction is
there any permission, weak or strong, to be appealed
to in defence against prosecution, retributive
action, etc. It may well be thought unjust, socially
inexpedient, or morally impermissible to take puni-
tive measures in such cases; but this does not show
that the gaps left by authority non-action are or
should be filled by surrogate permissions. It re-
veals, rather, that the need for dealing with such
gaps is an important aspect of the way in which the
practice of authority-subordinate institutions
impinges upon the lives of their participants.

Thus, retroactive punishment may occur on
occasion without _necessarily_ being arbitrary or
unjustifiable.[70] Further, the beliefs and attitudes

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69 See Kohfeld, _Fundamental Legal Conceptions_,
op. cit., pp. 36 and 60ff.

70 Cf. H.L.A. Hart, _The Concept of Law, op.
cit._, p. 207.

which discourage it so strongly in the administra-
tion of the law do not carry as much weight in, say,
schools or families, where the moral development of
the young is part of the aim which prescriptions
and rules are designed to promote. That being so,
something that a child 'ought to have known better
than to do' can appear a fit cause for his punish-
ment, even if no prohibition against it is in force
- hence the difference between the legal and
parental cases. (No general policy need be invol-
ved, nor an alternative gap-closing principle[71] -
a piecemeal approach may be quite rational, if not
preferable.)

A more extreme contrast to the legal situation
than an ordinary family or school ambience is pro-
vided by the convent setting of the father's visit
in the passage from Henry James which heads my
Introduction[72]. There the 'system' is said to be
that 'for everything they must ask leave' - a descrip-
tion which suggests a customary procedure, conform-
ity to which is expected and exacted case by case,
rather than an explicit enjoinment in general terms
by which each new entrant becomes bound. It could
hardly be otherwise, in fact, since although the
girl shows her consciousness of the omnipresent
supervision of which that exaggerated 'everything'
is so expressive, to put the principle into literal
practice would be impossible.[73] Hence the 'system'
could not be administered without 'retroactive'
punishment to determine by example and precedent just

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71 Such as those discussed NA pp. 87-8.

72 P. 1 above.   73 Cp. NA p. 88.

how narrowly the limits of spontaneity were to be circumscribed. 'Everything is forbidden until specifically permitted' might serve well enough to summarize for the girl's father the strict, if benevolent, regime; but to punish or reprimand behaviour _simply_ for formal infringement of the principle, with no further justification than that permission had not been requested and regardless of the sort of behaviour in question, would turn discipline into an arbitrary tyranny. Such measures would need rather to lean heavily for their justification on the considerations of morality and 'good conduct' implicit in appeals of the form 'You should know by now not to do _that_ without asking leave', a method the systematic practice of which presupposes an institution markedly different from the modern 'liberal' state, where '_nulla poena sine lege_' is conceived to be a fundamental principle of social justice and which, unlike a convent boarding school, does not take upon itself as its _raison d'être_ the moral development of its subjects.

It will be remembered that the passage quoted[74] was designed primarily to establish the non-identity of ordinary permission and the (mere) absence of prohibition. In _that_ aim it could hardly fail, especially given the assumption, evident throughout, of (B). But it was not so successful in its further endeavour to preempt the notion of the absence of prohibition for a position of secondary importance under the title 'weak permission', since, whether or not any permission is as strong as von Wright says

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74 Cf. p. 212 above.

most of it is[75], none is as weak as he claims some
to be if this chapter has been right to contend that
the inference from the bare fact that Not (FA) to
there being _some_ sense in which A is permitted rests
for its plausibility on the support of an 'umbrella'
principle such as nullum crimen. Even then, I
argued,[76] the conclusion to be inferred yields a
case of permissibility, not a permission, so that
the nullum crimen principle turns out to by-pass
altogether the interdefinability problem on account
of which it exercised von Wright[77]. The upshot of
the foregoing discussion is that neither the prin-
ciple nor the concept of weak permission is avail-
able - since neither is applicable to permissions -
to explain the appeal of such dicta as 'It is obliga-
tory to do that which we are not allowed not to
do'.[78] Several aspects of the relation between the
presence of permission and the absence of prohibition
remain, therefore, still very much unresolved.

Take, for example, the general practice of
understanding deontic sentences in an implicitly
relativized form. As they stand unadorned in the
square,'A is (not) permitted' and the rest lack any
phrase explicitly referring to the authority such as
I have included as intrinsic to (B).[79] So is it the
case that the truth of a negative formula of the form
'Not ...A' is compatible even with the world lacking

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75   Cf. chap. 5, p. 115f above.
76   Cf. pp. 224-5 above.
77   Cf. p. 231 above.
78   Cf. p. 201 above.
79   Cf. p. 200 above and chap. 5, p. 114.

authority-subordinate institutions altogether? This
is what the requirement that a deontic proposition
and its negation should be jointly exhaustive might
seem to entail. Yet the question is a sort of non-
sense, for it poses, in deontic language, a query
about the negation of conditions on which the very
possibility and meaningfulness of deontic language
itself depends - it is like asking if there could
be a society where one was not put under obligation
by making a promise. (Anarchy does not, of course,
mean the absence of rules, but to describe rules as
enjoining, permitting, or forbidding is to talk as
if they were authorities, capable of speech.) The
minimum presupposition for the use of deontic sen-
tences from the square is thus the existence of
subordination to authority as such.

Remote as the possibility of an entirely
authority-free world may appear, it must be excluded
as a truth-condition for negative deontic proposi-
tions - not because the possibility could not be
realized, but because the meaningfulness of the
sentences under investigation presupposes that in
fact it isn't. This means that the verb-forms
'enjoined/prohibited/permitted' somehow carry with
them a 'by ...' clause, an additional element of
meaning in the sentence which may remain implicit
in the context of utterance but cannot be absent
from it altogether, it being a condition of under-
standing the use of deontic sentences that one be
able to supply some sort of filling for the gap.
That is, in the abstract the sentences of the square
are incomplete, awaiting partial determination of
their content under the influence of whatever
presuppositions direct the particular act of

communication.

There is no reason to tie every deontic proposi-
tion just to a single minimum requirement ('by some
authority or other source') or to disallow explicit
and implicit reference to a _specific_ authority, M.
The sentences _can_ be used with 'by some authority or
other' as their supplement, though it would be
neither interesting nor plausible to defend an infer-
ence from 'A is forbidden by some authority' to A is
not permitted by _any_ authority' or vice versa, as
would be necessary for a square quite general with
respect to authorities. But if the subject is the
deontic situation in an authority-governed area, what
is understood in the context is normally 'by authority
M', even if the identification of the intended
authority made by the (usually implicit) supplement
is as vague as 'the authority with jurisdiction over
smoking in trains'.

Outside Kafka, after all, people are fairly
well-equipped with information on what activities
are under the jurisdiction of what authorities, so
that even when (as can frequently happen) they are
ignorant of what has been laid down for a given
activity, they know or can more or less easily find
out which authority it is relevant to ask about in
connection with that activity, just as they know,
more or less accurately, when it is advisable to find
out before acting. The extent of such background
knowledge is scarcely surprising in view of the fact
that the rulings whose results one needs to know are
essentially linguistic acts of communication. But it
is important that knowing which results are relevant
to which situations is a matter of knowing which
authorities' rulings derive from the exercise of a

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legitimate jurisdiction over the situation, for it
follows that even if in deontic discourse, as in other
fields of communication, not everything needs to be
said overtly, one of the things it is important to
have clearly understood in contexts where it is not
announced explicitly is the identity of the relevant
authority. Hence if it is the general practice to
leave this a tacit presupposition, it must be in
virtue of everyone's possessing the necessary back-
ground knowledge.

Another necessary but similarly unobtrusive part
of our equipment of background knowledge is acquaint-
ance with the procedures different authorities are
likely to adopt for ruling on given sorts of action
in certain places. This helps us to tell whether an
authority with jurisdiction in a certain matter has
actually ruled on it as yet or not, though a natural
consequence of its possession is a tendency to assume,
when he has not issued a ruling in the expected
manner, that his silence is <u>deliberate</u>, indicative
of a permissive or prohibitive attitude. <u>Which</u> of
these we assume depends on the context and our knowl-
edge of such conventions as, for example, those con-
cerning whether it is the presence or absence of a
notice which is indicative of authority action.
Thus, things being what they are on British Railways
today, if there is no notice about smoking in a
railway compartment, passengers know that railway
officials have permitted smoking there. But once
upon a time when ladies had finer sensibilities the
situation was the reverse of the present one: only
carriages where smoking was permitted were marked
out by an explicit notice - authority silence does
not automatically indicate a permissive attitude

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rather than a prohibitive one. Nevertheless, in so
far as we tend to assume that the authority has
taken a stance, one way or the other, that is that
any matter which we know to be under his jurisdiction
and likely of concern to him (and so to us as his
subjects) is either permitted or forbidden but not
neither, we are effectively ruling out as a possibil-
ity the one truth-condition which would allow 'A is
not permitted' and 'A is not forbidden' to be true
together, namely non-action by the authority
implicitly referred to.

But 'assumptions' and 'tendencies' of this kind
could show only that what gets spoken of as a thing
one is not permitted not to do is liable to be, or
may be assumed to be, obligatory. Any effects they
may have on the way we operate with the sentences of
the original square should apply with no less force
to sentences of a cast rather nearer to the bracketed
formulae in that their subjection to the disjunctive
truth-conditions for the negative case is more appar-
ent. Such, for example, are the sentences (for this
very reason comparatively more stilted) which are
von Wright's preferred ordinary language translations
for 'NOT OA', 'Not PA', etc.: 'There is not a permission
to open the window' or 'No such permission has been
given and is in force', 'There is no prohibition/
permission/order to the effect that p must not/may/
ought to be done'.[80] But precisely because of its
emphasis on the disjunctive truth-conditions, this
'existential' phrasing, which von Wright tends to
treat as the most perspicuous mode of representing

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80   NA pp. 137-8; cf. NA p. 154 and NA p. viii
quoted chap. 5, p. 118 above.

a deontic situation, would deprive the square of much
of its appeal.[81]

In its most uncompromising form this reading of
the formulae would be so 'absolute' as to make any
reaction to the paradox other than the acceptance of
(B) and rejection of (A) seem absurd. The difficulty
would rather be to understand how anybody, even in
the course of ordinary conversation and even given
explicit mention of an authority, could ever find
the slightest plausibility in the inferences licensed
by the square's equivalences. For every such infer-
ence would violate the elementary truth that, whether
the subject matter is permissions and prohibitions or
lions and unicorns, 'the existence of a thing of a
certain kind does not follow from the non-existence
of things of another kind'[82]. Thus, strictly speak-

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81 His use of such language is, of course,
'philosophic jargon invented for special purposes'
(NA p. 195, noted above chap. 5, p. 130). Even so,
his treatment of the interdefinability problem may
be influenced by it. On the other hand, the 'must'
and 'may' locutions which the 'existential' sentences
are supposed to analyze tend so strongly to the oppo-
site extreme that 'If A may not be done, it must not
be done' is acceptable without qualification as the
statement of a logical entailment holding in virtue
of the idiom by which 'not' goes grammatically with
'may' in the antecedent but with 'be done' in the
consequent. So Otto Jespersen (The Philosophy of Gram-
mar, op. cit., p. 329 fn. 1) vs. NA p. 137, where the
fact—surely decisive for a point of this nature -
that special emphasis is needed to avoid a prohibition-
implying version of 'may not' is ignored. This may
serve to confirm that sentences involving the deontic
auxiliaries 'may' and 'must' are not mere synonyms of
sentences formed with active or passive speech-act
verbs , as was argued above in chap. 5, pp. 141-154
in countering von Wright's 'characteristic ambi-
guity'.

82 W. and M. Kneale, The Development of Logic
(Oxford: Oxford Univ. Press 1962) p. 58.

ing, from the non-existence of a permission to do A it should not even follow that there exists an authority who does or might have jurisdiction over A, still less that a prohibition against A is in force.

Yet in many cases inference from negative to positive, or to its basis in the presupposition that the authority has acted, is so evident that it may be scarcely intelligible to suggest that the reason why a statement of the form 'A is not permitted' (or 'A is not forbidden', etc.) is true may be that the authority has not acted with respect to A. It is surely inconceivable that anyone in a railway compartment should take a notice saying 'Smoking is not permitted' as anything but tantamount to 'Smoking is forbidden'. The problem, then, is to know exactly why.

An obvious consideration is this: the mere fact that the sentence appears on a notice in an area known to be under the jurisdiction of a certain authority excludes the possibility that what it says should be true because the authority has not defined the normative status of A. To post a notice is to take action, to put oneself on record as having ruled that, for example, 'PA' be false and 'FA' true. This does at least indicate that the reason a notice with the words 'Smoking is not permitted' on it constitutes a ban on smoking is not, as Mayo claims, that 'it is only in virtue of a convenient idiom that "not permitted" means "forbidden"'[83], but that to read something as a notice is to read it as a 'speech-act', an adequate understanding of which involves

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83 'Varieties of Imperative', op. cit., pp. 170-1, my italics; contrast the genuine idiom which equates 'may not' and 'must not' (p.243 fn. 81 above).

certain pragmatic considerations: namely, the recognition of it as the publication of a ruling and hence the rejection of authority non-action as a possible truth-condition for what it says. It is not an idiomatic meaning but the palpable presupposition of authority action which carries the reader from the non-existence of a permission to the existence of a prohibition.

On the contrary, it is when a speaker wishes to **avoid** giving his hearer to understand that the normal presuppositions hold that he has to resort to special idioms and 'special effects' devices, as when Mayo writes 'I permit somebody to walk in my garden, but **it is not the case that** I permit him to walk on the public highway' and apologizes in a footnote for using the 'broken reed' 'It is not the case that...'.[84] In fact, the use of this particular 'broken reed' as a special device to force the reader to dismiss the **prohibition** truth-condition in favour of the non-action one is heavily dependent for its effectiveness on assistance from the rest of the context.[85] Rather more common is its employment, especially in the ordinary language of philosophers, as a negation prefix which preserves a benevolent neutrality over

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84 He attributes the need for the 'broken reed' to the fact that 'I do not permit' is 'idiomatically' understood as 'I forbid' (**ibid** p. 169). Quite so.

85 In Mayo's own case, preeminently (a) the invitation to consider an example, first of what I **do** permit, and next of what I do not - in the sense, simply, as appropriate to a philosophical example, that it would be false to say I did; and (b) background knowledge of the legal differences with regard to trespassing, etc. between gardens and public highways.

possible pragmatic implications;[86] it is as such that
I shall be interested in it.

So here are at least three types of ordinary
language sentences, each able to translate 'Not PA'
and the other formulaic negative 'sentences' (which
for formal purposes are kept pure of context-depend-
ent factors) so far as concerns the relevant truth-
conditions (including non-action, of course), but
which differ among themselves as to the 'uses' which
make them appropriate in different sorts of context
for rather different purposes: (i) 'A is not permit-
ted', (ii) 'There is no permission for A in force',
and (iii) 'It is not the case that A is permitted'.
No railway official would use the second to demarcate
a no-smoking carriage (lest it lead to puzzlement
about whether there was a prohibition or no ruling
at all on smoking), and if he tried out the third he
would be sure to find some smoker ready to argue that
there was nothing in the carriage to say that smoking
was definitely forbidden. Type (iii) corresponds in
its freedom from contextual implications to the
unannotated symbolic formulae, and so should perhaps
be adopted for their interpretation; (ii) I judge to
be more like the bracketed notation - if anything,
hostile to inference from negative to positive. (i),
and (i) alone, it would seem, is normally the vehicle
of the implication which was artificially built into
the meaning of the hyphenated expressions.[87] So it
is not just the fact of appearing (being asserted) on
a notice which is responsible for the prohibition-

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86 Cp. my own 'It can be false that A is permit-
ted...' on p. 202 above.

87 Cp. above pp. 207-10.

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implications of 'Smoking is not permitted'. The
notice merely guarantees satisfaction of the con-
dition of authority action which the words already
implicate in their own right. The words do matter
(whatever else does) - a notice would not do quite
the same for the other sentences.

The search for explanation may therefore turn
to a more formal distinguishing feature of the three
types - the position of the negation sign and the
mode of negation it signifies. For an analogue to
the ordinary predicative mode of negating a deontic
proposition, compare the application of the descrip-
tion '...has not returned from work' in the two
situations outlined below:

(1) Fries went to work today and has not
    returned. On seeing Mrs. Fries, Grillo
    (a debt collector) asks whether her
    husband has returned from work. 'No, he
    has not', she replies.

(2) Gilmore has not left the house today.
    (Hence it is a fortiori true that he has
    not returned from work.) On seeing Mrs.
    Gilmore, Grillo asks whether her husband
    has returned from work. 'No, he has not',
    she replies.

Whatever Fries has done since going to work, none of
his actions has comprised a return from work. Still,
he could have done so, for being, as he was, at his
place of work he had an opportunity to return from
there. But whatever acts Gilmore has performed to-
day, none of them could be a return from work. This
lack of opportunity makes it highly inappropriate to
say without qualification that he has not returned
from work. 'Appropriateness' has, of course, to be
explicated with reference to utterances which are
sincere, truthful, information-giving, etc. The fact
that 'Gilmore has not returned from work today' is

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inappropriate from that point of view is precisely what makes it appropriate as a means of deceiving the debt-collector. Mrs. Gilmore can exploit the normal presupposition in order to suggest to Grillo (without actually saying so) that her husband is not at home, because his not in fact having left his fireside is, necessarily, a possible truth-condition for 'Gilmore has not returned from work'. But its not holding is a presupposition behind Grillo's question, which could not even have been appropriately asked if he believed that Gilmore had not gone to work at all.[88]

Given notations for negative expressions analogous to those introduced earlier (with having gone to work a necessary condition for the truth of 'Not-returned', and so on), Gilmore's situation could be expressed as 'Not (returned from work)' and Fries' as 'Not-returned from work'. The interrelations and connections of the two forms of expression parallel the deontic case: the description 'Not (returned from work)' is true of both Fries and Gilmore, but only of Fries is 'Not-returned from work' also true.[89]

This bracket-hyphen distinction is, as before, not an attempt to establish an ambiguity in the _meanings_ of the relevant sentences, but a way of making clear and explicit the oddity of 'Gilmore has not returned from work' as referred to an occasion when Gilmore has not gone to work. True though the statement is, it is misleading without qualification or alteration sufficient to rebut the presupposition of

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88 Compare here, and in general, the fragments of conversation discussed in chap. 2, esp. p. 32 fn.8.

89 Cf. p. 202 above.

the question's use of 'has returned from work'. 'No, he hasn't _returned_ from work, but that's because he hasn't left the house', or perhaps more typically, 'My husband's home, if that's what you mean (ignoring the inapposite question altogether, since neither a 'yes' nor a 'no' answer will do) - these would be acceptable ways of replying because this is how ordinary language makes the hyphen-bracket distinction: instead of specially designed negation-operators, use is made of a wealth of different emphases and periphrases.

Now a normative example. Eliot, a commercial traveller, gives Susan Spar a lift to the next town in his car and in the course of conversation remarks, 'I should have thought that your parents would have forbidden you to hitch-hike - it can be rather dangerous, you know'. The reply is, 'Oh, but honestly, they haven't!' Susan is speaking the truth - simply because her parents have never mentioned the matter, it not having occurred to them that she would do such a thing. Of course, like Mrs. Gilmore in the previous example, Susan must know she is not, in fact, being honest. If that were her aim, she would have qualified her answer to 'They've never _forbidden_ it, but then, you see, the subject has never come up - lucky for me as I'd have to spend my allowance on bus fares'.

What is common to these examples is that without the satisfaction of certain logically _enabling_ or _opportunity-making_ conditions (the man's having gone to work and the authority's having taken normative cognizance of the act) the (true) negative statements _could_ not, as a matter of logic, convey any but the most patently trivial information: no hearer who knew that Gilmore had not gone to work, or that the Spars

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had not spoken to their daughter about hitch-hiking, could regard them as worth receiving, while anyone not aware of why what was said was true is liable to be misled by the omission of the actual explanation. Exclusion of one possible truth-condition is therefore a prerequisite of the negative statements not degenerating into triviality on the one hand and deceptiveness on the other, and as such is a requirement of conformity to the rules and social pressures against these faults in speaking.

The basis of the presupposition associated with the ordinary predicative mode of negation is thus an implication that the issue is a live one in the sense that the enabling conditions for an affirmative statement to be correct are satisfied even if it would in fact be false. A report of the deontic situation given in this mode implies, in virtue of the speaker's choice of a type (i) over a type (ii) or (iii) sentence[90], a certain _explanation_ of why it is true. It may be guessed that the difference between (i) and (iii), at least, is a quite general phenomenon affecting negative sentences throughout the language, with each mode of negation living, as it were, off the contrast with the other as to the pragmatic connections which determine when it is appropriate to use them. The square, certainly, has to be understood as making claims about ordinary language sentences of the type (i) form if its relations of contradiction are to license legitimate pragmatic inferences, according to the 'middle way' out of the dilemma of the paradox.[91] The pragmatic

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90 Numbers p. 246 above.

91 Proposed pp. 209-10 above. It may be of interest to append an attempt to relate my analysis to the concepts employed by H.P. Grice, 'The Causal Theory of

rather than logical nature of these implications in
no way releases speakers from the commitments they
involve. Part of the force of claiming that the
implications and presuppositions which can make
statements misleading or inappropriate in certain
specific ways spring from rules which are binding on
speakers of the language is that no speaker can pre-
vent (though in some cases he may be able to put in
a disclaimer to counteract) the fact that certain of
his speech-acts do carry them; in such respects it is
no more up to the speaker to decide what implications
his saying that p is to have, than it is up to him to
decide what p is to mean or entail.[92]

Perception', op. cit.: -
   The difference between the implication dealt with
in chapter 1 and that just considered is closest to
that between Grice's fourth and second types of
implication: namely, between the ways in which some-
one who says 'My wife is either in the kitchen or in
the bedroom' implies that he doesn't know which of
the two she is in, and in which someone who says
'She was poor but she was honest' implies that there
is some contrast between poverty and honesty. In his
terms, the 'vehicle' of the implication to 'P Not-A'
is the speaker's saying that PA and no more, not the
particular words he uses nor the proposition he
expresses. This implication is not cancellable (add-
ing 'but I don't mean to imply that P Not-A' changes
the scope of the assertion), and as to 'detachability',
there is no way of making that same assertion in
normal contexts which doesn't carry the implication;
for no special context is required to attach it to
the assertion, only a general principle governing the
use of language (the rule against understatement) -
though a special context (e.g. where it is understood
that 'OA' is true) may detach the implication. By
contrast, this chapter has to do with an implication
the carrying of which is associated with a particular
mode of negating sentences, which is detachable by
using a differently constructed negative sentence
under the same truth-conditions, and which is cancel-
lable with the help of special emphases and the like
(as illustrated on p. 249 above).
   92 Cavell, 'Must We Mean What We Say', op. cit.,
pp. 82-5.

Normally, then, if an act can be __appropriately__
(as well as truly) described as one it is not permitted
to leave undone, it may be safely classified as
enjoined, while freedom from prohibition in such
circumstances is an assurance it is permitted. Since
'PA' and 'Not FA' are so close that only this pre-
supposition of normative action is needed to make the
inferential guidelines of the square trustworthy, the
sense which the rejection of (A) ought to give the
distinction between permission and the absence of
prohibition[93] is one which concedes the minimum neces-
sary to account for the fact that the negative reports
do, as the positive do not, allow for authority non-
action, while the positive do, as the negative do not,
allow for inconsistency. And the elimination of
these two conditions, or at least of non-action
(since consistency can be left optional[94]), is neces-
sary and sufficient, as the hyphen experiment has
shown, to align negative with positive formulae in a
unified square. For what the hyphen signified was
precisely the absence of something from a (presupposed)
deontic situation[95], like the absence of prohibition
which constitutes a case of freedom __under__ authority.

Now apart from acts an authority has explicitly
permitted, there remain unprohibited __within__ his juris-
diction 'uninvented' or 'uninventoried' acts, as much
beyond the reach of his detailed ruling utterances as
those outside his jurisdiction and so bound to be
passed over by them, and acts belonging to the more

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93 Cf. p. 201 above.

94 As on pp. 203-4 above.

95 Cf. pp. 207-8 above.

conspicuous subclass which are undefined despite his knowledge of (the possibility of) their being performed. But whatever the reason why, the fact that they have not been ruled upon is all their _being_ undefined (including the absence of prohibition) consists in.

That indeed is all being undefined by the authority, as such, _ever_ means, since only normative action in the appropriate manner can further the development of the general deontic situation. So, whatever the authority's attitudes or non-normative behaviour, the difference between the absence of a prohibition and the presence of a permission can be neither more nor less than is introduced into the situation by the normative action responsible for the changeover, namely the difference between the truth-conditions for 'Not (FA)' and those for 'Not-FA': an absence of prohibition is an authority's not having forbidden A, whatever the reason, while 'PA' describes what issues from an utterance which has as its immediate point and purpose, _qua_ permission, that A shall not have been forbidden as a result of it. That is, the interstices which an authority maintains free of normative obstacles are areas of freedom from prohibition just like those of which he is unaware, except that the absence of normative obstacles from the former is due to the authority's having overtly _refrained_ from exercising his entitlement to introduce them.[96]

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96 See chap. 4, p. 98ff and chap. 6 _passim_ for the view that permission is an _essentially_ negative concept, not just correlatively to, and no more so than, its opposite, prohibition (which, as the absence of an absence, remains, of course, as positive as could be desired - cp. chap. 6, p. 175 above).

Thus a state of affairs describable as A's not
being forbidden may obtain either through the com-
missions or through the omissions of the authority,
but neither origin impairs the essentially negative
nature of the result, its character as the absence of
any external, conventional bar to action. The 'free-
dom' conferred by a permission extends no farther
than this negative state of affairs, and does not
even guarantee clearance of normative obstacles left
by past, or threatened by future, rulings; still less
does it implicate its donor in any further actions or
attitudes of matching leniency. There is no need to
fill out the state of affairs itself, only to iden-
tify it as an absence of prohibition which an author-
ity has overtly refrained from changing. For the
existence and activity of the authority is sufficient
to rescue as much of the original interdefinability
as could be hoped for. Nor, in view of the primacy
of the performative use of deontic language as the
source of the meaning and truth of the propositions
expressed in the reportive use, should any inter-
definability independent of that source be desired.[97]
Permission is not the absence of prohibition as such,
but it is an authority's maintenance of such an
absence.

This is not just a verbal distinction. True,
'absence of prohibition stemming from authority action'
is not a 'mere' absence, in that it implicates the
authority in having granted a license. But 'license',
or some similar word, is what expresses the import of
his intervention: if there has occurred a ruling under
which A is permitted, there has occurred a ruling -
but its primary function while it remains in force is
to determine that A should partake of the same freedom

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97 Cp. chap. 5, p. 117 and chap. 6, p. 157ff.

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from prohibition <u>under</u> the authority as it would
if it were not within the authority's governance
at all. It is because refraining from forbidding
is negative not only in its own character but also
in its result that to have a permission is to enjoy
a certain sort of freedom.

PART III

Permission, Permissibility and Practical Possibility

Preface

> If von Wright's deontic logic were to be tried out
> on moral discourse, we might find ourselves
> surprised at the rarity of permissive concepts
> in ordinary moral contexts...and quite rightly
> so if, as I have argued, there are no such rules
> [sc. as permissive moral rules]. And there is
> quite a scarcity of expressions for saying what
> a man morally _may_ do. We have to get along with
> clumsy expressions like 'It wouldn't matter
> morally' or 'morally indifferent'. (Bernard Mayo,
> 'Varieties of Imperative', _op. cit._, p. 174.)

I had hoped that this work would issue in conclusions
confirming the interest and importance of the concept of
(especially moral) _permissibility_; so it is with regret
that I must record my basic agreement with Mayo's
remarks. Indeed, in certain respects the study of
deontic discourse in authority-governed areas of action
turns out to lead to a position even more radical than
his, and one which may be generalized to cover rules
in many spheres besides morality.

Nevertheless, Part III's investigation of certain
further aspects of permission leads to the conclusion
that the concept of permissibility, even that of a
permissive rule, retains a certain utility. Permissive
notions derive from authority-dependent patterns a
logical structure alien to the non-authority fields of
their application; but they can be used pointfully
under conditions sufficiently analogous to those defined
by the authority model, while in some special circum-
stances they can be regarded as making a genuine contri-
bution to certain types of freedom. Yet in the last
resort their status is more negative, more secondary
even than their prototypes.

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Chapter Eight

Permission and Toleration

The problem of permissive rules and regulations could be raised as a fundamental objection to the tendency of this study to emphasize the negative and the conventional in permissions:

> It seems clear that neither doing A nor doing Not-A will violate a rule stating a permission. On the other hand, a rule which cannot possibly be violated would seem a strange kind of rule since it would appear to be _without any normative significance_. If it is to be a rule regulating conduct at all, it must be possible to distinguish actions constituting violation from actions constituting observance.[1]

Thus Tranøy – presupposing in the very statement of his problem the idea that a rule or regulation _stricto sensu_ must be something action can violate or conform to. But

> If it is analytic that rules can be conformed to and infringed, then permissions are not rules. Rather, they seem to be assurances about the scope of other rules, namely prohibitive ones.[2]

This is the conclusion drawn, from much the same

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1 Tranøy, 'An Important Aspect of Humanism', _op. cit._, p. 42, my italics; since Tranøy is using the concepts and symbolism of DL, it may be presumed that the mark of a _rule_(-utterance/-statement/-sentence/ -formulation) is its generality as to time and/or persons (cp. NA p. 83 and chap. 7, p. 223ff).

2 Mayo, 'Varieties of Imperative', _op. cit._ pp. 171-3; cp. also his 'Rule-Making and Rule-Breaking', _Analysis_, Oct. 1954, p. 23.

interpretation of 'rule', by Mayo, who considers that
'a "permissive rule" is a general dispensation, under
general conditions, from a rule which otherwise applies';
such 'exemptions' should be regarded as 'licenses rather
than rules'.

Neither Tranøy nor Mayo gives permissiveness a
chance:their 'strict' notion of a rule leaves, for noting
and assessing a rule's 'normative significance' for
some action, nothing but the verdicts 'wrong' and 'not
wrong' - a pair of truly exhaustive contradictories
applying to every action according as it is or is not
at variance with the rule.[3] To expect permissive rules
to divide their domain of application into infringements
and non-infringements is to demand that they not be
permissive, but rather that they require some action
as necessary (the only alternative).[4]

So it is not surprising that Tranøy, starting from
a notion of 'free permission' definitionally equivalent
to 'Not FA . Not F Not-A' - which evidently specifies
no line dividing what infringes   from what does not
and could never, by itself, acquire the status of a
rule-formulation - and seeking for it a 'new kind of
definition' with clarificatory powers lacked by the
formal expression 'PA . P Not-A' (in terms of which it
was introduced and criticized in chapter 2)[5], resolves
his difficulty as follows:

> We have to go beyond the actions A and Not-A
> to solve the problem. For it would seem reason-
> able to say that I can violate the rule 'A is
> permitted' (where 'permitted' refers to a free
> permission), first, by preventing another person

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3   See Mayo, 'Rule-Making and Rule-Breaking',
ibid and Ethics and the Moral Life, op. cit., p. 30,
p. 200ff.
    4   Cp. chap. 5, pp. 155-6 above.
    5   Cf. Tranøy, 'An Important Aspect of Humanism',
op. cit., pp. 39-40 and chap. 2, pp. 28-9 above.

from <u>doing</u> <u>A</u>, and, secondly, by <u>forcing</u>
<u>another</u> <u>person</u> <u>to</u> <u>do</u> <u>A</u> <u>against</u> <u>his</u> <u>will</u>.
If I am in a smoking compartment, I shall
be entitled to object if somebody tries to
prevent me from smoking or if someone forces
me to smoke. I should be justified in denying
his right to do any such thing as long as I
am in a compartment where smoking is neither
obligatory nor forbidden.

It seems to follow that if an action A is
permitted without being obligatory, then it
is <u>forbidden</u> <u>to</u> <u>prevent</u> the performance of A,
and it is also <u>forbidden</u> <u>to</u> <u>enforce</u> the per-
formance of A. It will also be seen that it
is then <u>obligatory</u> <u>to</u> <u>tolerate</u> or not to
interfere with the performance of A, that it
is obligatory to let whoever comes under the
permission   do A or Not-A as he pleases.[6]

Yet, given his initial definition, it is difficult to
see how Tranøy could, as he claims, reach a 'principle
of the logic of permission' whereby a free permission
'"generates" new prohibitions and obligations on a new
level of action, as it were'[7]. And merely <u>adding</u> an
obligation to tolerate, while always possible, would
scarcely show 'PA . P Not-A' to be <u>itself</u> or to require
as a logically intrinsic appendage, the statement
(formulation) of a rule in the sense imposed by
Tranøy's terms of reference.

It may still be felt there would be no content to
a permission if giving it did not, in some sense at
least, <u>involve</u> the authority in (an intention of)

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6 <u>Ibid</u>, p. 42, elucidating what he calls 'straight
permissions' (= the rights of NA's terminology) <u>as</u>
<u>opposed</u> <u>to</u> rights = claims, which are what NA calls
rights 'in the <u>stronger</u> <u>sense</u> of a claim' (NA p. 89, my
italics; cf. chap. 5, pp. 115-6 with fn. 9 above).
'Prevention' means compelling inaction on some occasion,
making successful performance impossible, rather than
disabling, even temporarily - see <u>ibid</u>, pp. 43-6 and
cp. NA pp. 54-5, p. 120ff, p. 205.

7 <u>Ibid</u>., p. 42.

ensuring or guaranteeing some more substantial freedom
than would ensue from the etiolated concept which has
emerged from Parts I and II.[8] And with rules, where
the speech-act component is lacking[9], the prospect may
seem especially daunting unless Tranøy's principle can
be saved in some form. For Mayo's exemptions do not
(as defined) even belong to the class of permissions
'to do an act which, without such permission, would
amount to a trespass'[10]. Indeed, they would hardly be
worth mentioning at all unless those not fortunate
enough to be exempted on the grounds specified therein
still laboured under some ban. Otherwise, the act
would just be unprohibited for all concerned.[11]

However, the main thesis of Part III[12] is that
permissibility is to be understood in terms of permis-
sion, not vice versa, that the basic findings on per-
missive language as used in authority-governed areas
can be applied to rules to the extent that these can
be spoken of as if they were authorities, capable of
speech. So this chapter will continue, so far as pos-
sible, to retain the security of a base in the familiar
transactions of recognizably human authorities and
their subordinates, with the aid of the following device.

The simplest context for performative deontic dis-
course is a face-to-face interchange in which authority
addresses subject as to some particular once-and-for-all

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8 Cp. chap. 5, pp. 155-6; chap. 7, pp. 253-5 above.
9 Cf. chap. 7, p. 223ff above.
10 A legal definition of 'license', quoted Hohfeld,
Fundamental Legal Conceptions, op. cit., p. 507.
11 Cf. Mayo, 'Varieties of Imperative', op. cit.,
p. 170 and chap. 4, p. 98 above; cp. chap. 7, pp. 249-
52, p. 254. Note the difference between a rule which
does (p. 258 above) and one which would (here) other-
wise apply.
12 Cf. Preface, p. 256 above.

eventuality. Suppose, however, a second subject is
present, and the first subject is told to give the second
something, or to start treating him with more consider-
ation - in certain circumstances there would be an
inclination to speak of a right having been granted
(no doubt in a very informal way) to the second against
the first, entitling him to expect, claim, protest to
the first subject about omission of, etc. the treat-
ment imposed upon him as a duty towards another. This
would be a very simple case of an authority ruling upon
social relationships within his jurisdiction, corres-
ponding to the way many rules, whether devised by
authorities or not, serve as much to regulate relations
between the subjects under jurisdiction ('horizontally'),
as between these and the authority/the rules ('verti-
cally'). But increase the number of subjects involved,
the distance of communication, the indirectness of
methods of address, the generality of the rulings both
as to type and the times of action - and it should be
possible to reproduce many of the complexities even of
a legal system in the form of a code of conduct issued,
maintained, and administered by the 'monarchical' boss
of a large multi-faceted organization. Such an organ-
ization (a rough likeness, at least, of a legal system
as conceived by von Wright[13]) may be relied upon to
supply any necessary background details for the follow-
ing arguments, which aim to show that neither Tranøy's
obligation to tolerate nor von Wright's 'mere'[14] toler-
ation can render satisfactorily the concept of

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13 Cf. above chap. 7, p. 228f; cp. chap. 4,
p. 95 fn. 14.

14 For the denigrating qualifier, contrastive
mainly with an obligation to tolerate (a right), see
e.g. NA p. 90, p. 206. The last still concludes, how-
ever, as the book's final verdict: 'Permissions as
"mere" tolerations have a normative status of their
own'.

permission, still less of permissive rule. The main
argument will be against toleration as such, since its
import for rules is an identification - plausible but
incorrect - of the permissible as a species of the
possible.

The character of Tranøy's solution may now be
clarified by making the deontic situation slightly
less egalitarian than that envisaged, where the rail-
way regulations ensure complete reciprocity in the
duties of tolerance - let certain persons, say old-age
pensioners and asthmatics, be _exempted_ from the
requirement of toleration. This exemption (a typical
'permissive rule' in the sense marked by Mayo's scare-
quotes) relieves the minority of the obligation to
tolerate their fellow-passengers' smoking and _thereby_
deprives the majority of a free permission to smoke
in the presence of pensioners and asthmatics - replac-
ing it, according to the 'principle of the logic of
permission', with a requirement that the majority
tolerate any intolerance displayed by the minority.

This means   Tranøy's permissive rules are just
rules of obligation disguised by reporting the deontic
situation constituted by their operation from the
point of view of the persons _to whom_ the obligation
is owed. That is, the 'principle of the logic of
permission' has the effect of transforming someone's
enjoyment of a free permission into his being the
beneficiary of _another's obligation_ to tolerate his
behaving in a given way, or not, at will.

But an obligation of this sort is compatible with
the behaviour being _forbidden_: it is quite in order
for a school to forbid pupils to inform on or prevent
each others' peccadilloes, especially by violent means.
So a free permission such as 'PA . P Not-A' expresses
cannot even be derived from the premise that

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interference with a person's doing or not doing A, as
he likes, is forbidden; still less can the reverse
deduction be performed. The deontic status of **A itself**
is independent of that of _interference with_ **A**. From
the (vertical) point of view of an authority or set of
rules there are just two separate issues to take into
normative cognizance.

Rights, of course, are like rules in that (on the
horizontal plane) they can be both violated and
respected, precisely because, even when derived from
the edict of some authority, their content is social
interaction rather than individual conduct. So one
way of trying to fill out the content of a permissive
regulation to make it more satisfactory, _qua_ 'rule',
is to turn having a permission into possessing a
right - as Tranøy comes near to admitting he has done[15].

Yet a protest about intolerant behaviour does
not require a right against the culprit and his inter-
ference; it is enough - to quote against its author
Tranøy's statement of the main evidence for his case -
to be 'justified in _denying his right_ to do any such
thing'[16]. This is because of the substantive differ-
ence between a person's having a right to do something
and his having the type of liberty wherein others
(instead of being duty-bound to help or to allow his
doing it) just _lack_ the right to require him to

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15 Countering any 'weaker sense' of 'permission',
for which his principle would not hold, he says: 'In-
deed, we might argue that consumers have _a right_ to a
free choice of colours [sc. in ties - an 'indifferent'
free choice] and, in effect, we take measures to keep
such free choice from being made impossible'('An Imp-
ortant Aspect of Humanism', _op. cit._, p. 44, his
italics; cp. _ibid_ p. 46.).

16 Quoted, p. 259 above, my italics here.

abstain.[17] The latter is what is termed a 'privi-
lege' in the following elucidation of 'the case of
the shrimp salad':

> A,B,C, and D, being the owners of the salad,
> might say to X: 'Eat the salad, if you can;
> you have our license to do so, but we don't
> agree not to interfere with you.' In such a
> case, the privileges exist, so that if X
> succeeds in eating the salad, he has violated
> no rights of any of the parties. But it is
> equally clear that if A had succeeded in
> holding so fast to the dish that X couldn't
> eat the contents, no right of X would have
> been violated.
> Perhaps the essential character and impor-
> tance of the distinction [sc. between rights
> and privileges] can be shown by a slight vari-
> ation of the facts. Suppose that X, being
> already the legal owner of the salad, con-
> tracts with Y that he (X) will never eat this
> particular food. With A,B,C,D and others no
> such contract has been made. One of the
> relations now existing between X and Y is,
> as a consequence, fundamentally different
> from the relation between X and A. As regards
> Y, X has no privilege of eating the salad;
> but as regards either A or any of the others,
> X has such a privilege. It is to be observed
> incidentally that X's right that Y should
> not eat the food persists even though X's
> own privilege of doing so has been exting-
> uished.[18]

Assuming that ownership of the salad includes the
enjoyment, vis-à-vis other people, of both the right
and the privilege of eating it, I interpret the
development as follows. In the first paragraph the
salad-owners extend to X the privilege of consumption,
resigning but not transferring to him the eating rights
they possessed (in relation to X) through their (joint)
ownership; in consequence, _neither_ side has any right
to claim the other should let them have the plate or

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17 Cp. chap. 5, p. 147ff on demands.

18 Hohfeld, _Fundamental Legal Conceptions_, _op._
cit., pp. 41-2.

refrain from eating what's on it. The second paragraph transfers a right instead of a privilege: Y acquires a right to call upon X not to sample the shrimps, so X has signed away his _own_ privilege of doing so - without, however, _transferring_ it to Y, who must rest content with such visual and olfactory enjoyments as the salad may offer. And although a privilege, as defined by Hohfeld, is 'the mere negation of a duty' - to others, singly or generally, to abstain on their demand - 'the "privilege + no-right" situation is... just as real a jural relation as the precisely opposite "duty + right" relation between any two parties'. It is, he says, the legal relation created by the granting of leave or license (as the salad-owners did to X), and it is what obtains under 'a rule of law that _permits_'.[19]

If so, an authority or set of rules can ensure the continuance of a privilege simply by _not_ granting anyone the right to interfere or, equivalently, by not putting the erstwhile privileged persons under a duty to abstain on others' demand. Forbidding intolerance of some privileged behaviour is an extra protection, not needed to keep people _from_ having the right to interfere, logically and legally distinguishable from whatever deontic status the act may enjoy on its own.[20]

Moreover, the Tranøy - von Wright distinction _between_ rights and claims[21] may be challenged, as being one solely of content, not of deontic status. Given the interdefinability of prohibition and command,[22] a duty imposed upon X to make it possible for Y to do something is simply a _different_ duty from a duty not

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19 _Ibid_, pp. 38-50, esp. p. 48 fn. 59.
20 Cp., in the light of this, p. 258f above.
21 Cf. above chap. 5, p. 115 and, for the terminological differences, this chap., p. 259 fn. 6.
22 NA pp. 83-4 (also p. 90), quoted above chap. 6, p. 163 fn. 18.

to make impossible (prevent) Y's performance. When the
normative status of the relationship between X and Y is
described in terms of what Y may be said to enjoy from
his converse standpoint, the difference between the
duties cannot give rise to a difference of 'strength'
or 'sense'[23] in their correlative 'permissive' equiva-
lents. The right not to be interfered with constitutes
an entitlement for the making of a demand or claim
neither weaker than, nor different in nature from, the
right to enabling assistance. A difference in the
behaviour which Y can require of X as a duty towards
himself distinguishes one right or claim from another,
not two 'species of permission'[24]. Besides ,

> Liberty shades imperceptibly into opportunity
> and opportunity into actual giving; and this
> indeterminacy is inevitable, for there are
> all possible combinations of effort-sharing
> in the attainment of what one has a right to.[25]

We may now crystallize out of this discussion a
general objection to the procedure of introducing
obligation into permissive concepts.[26] A duty on X

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23 As claimed NA pp. 89-90; cp. Tranøy, 'An Impor-
tant Aspect of Humanism', op. cit., pp. 44-6.
24 On the equivalence of duties and rights (in the
sense of 'claims') as 'jural correlatives', see Hohfeld,
Fundamental Legal Conceptions, op. cit., pp. 36-50.
25 Bernard Mayo, 'Human Rights', Arist. Soc. Supp.
Vol. XXXIX, 1965, p. 224. Pace Tranøy and von Wright
(references p. 259 fn. 6 above) a duty not to make A
impossible, requiring the avoidance of all actions with-
in one's power that would make A impossible, ipso facto
binds one to the performance of all one can of what is
necessary for A to be possible, and one who resolutely
and conscientiously completed his obligations would
surely end up with enough (namely, the least his powers
encompassed) to make A possible as far as it was up to
him to do so. In short, withholding powers of inter-
ference is one form of enabling assistance.
26 Cp. chap. 5, p. 156.

not to interfere with Y's doing A is neither (i) _suffi-_
cient to give Y a permission for A (that depends on the
vertical normative relationship between him and the
authority), nor (ii) _necessary_ (a) to give Y the
privilege to do A without obstruction from X (that is
a purely negative feature which the horizontal relation-
ship between X and Y may exhibit simply for lack of
a defined deontic status to X's interfering with Y's
doing A), or (b) to strengthen and fill out, as a
consequence, backing or concomitant, an actual permis-
sion from the authority to Y to do A (that can have
value within their vertical relationship whatever, if
any, be the status of interference with A). Permissions
do not borrow their 'normative significance'[27] from
obligation; they do not confer freedom by guaranteeing
it. Similarly, if permissive rules exist, they must
stand as rules in their own right, not as _requiring_
freedom (to be maintained on the horizontal axis) but
as _granting_ it (directly on the veitical).[28]

Furthermore, rights, privileges and duties to
others are all horizontal relationships holding in
and influencing the domain of social interaction. That
is what makes feasible analyses of them in terms of
interference, toleration, and making something (practi-
cally) possible or impossible for another; the latter
are as fitting objects of normative cognizance as any
other type of action or interaction. But their being
so depends upon and presupposes the prior vertical
relationship. It by no means follows that these notions
are suitable for analyzing relationships on the vertical
axis itself, that toleration can render the aim of a
permissive utterance or the import of a peri lisive

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27   Tranøy's phrase, quoted p. 257 above.
28   Cp. pp. 258-60 above.

regulation.

True, little mention has as yet been made of the
further intentions of permitters - unlike those of
command-issuers, rational, lazy or tyrannical[29]. But
this is as it should be if making something permissible
is not thereby to (help) make it practically possible.

However, according to von Wright's account for
permissions of the 'intention and reasons involved in
normative action'[30],

> If there is an element in permissions which
> is not reducible to the other norm-characters
> this element is identical with what we called
> _toleration_. Thus, what is characteristically
> 'permissive' about permissions would be the
> norm-authority's declaration of his toleration
> of a certain behaviour on the part of the
> norm-subject(s).'Permissions are essentially
> tolerations', we could say.[31]

The analogue which replaces '_wanting to make_ an age
_do_ something' when permissive instead of jussive port
is conveyed is '_wanting to leave_ an agent _free to do_
something', a '_will to tolerate_'. 'Free' here means
free from _any_ sort of hindrance by the authority. not
just free from the obstacles imposed by prohibitions -
it describes a quite general tolerance in attitude and
action on the part of the permission-giving authority.
Von Wright's alternative to my own refraining analysis
of 'what is characteristically "permissive" about
permissions' is thus 'the norm-authority's declaration
of his toleration of a certain behaviour'. 'In permit-
ting an act the authority may only be declaring that
he is going to _tolerate_ it', but he cannot do _less_:
whatever enjoinments to third parties he may add for
the purpose of creating rights and claims, his permission

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29 Dealt with above chap. 4, p. 76, p. 93ff; chap.
5, p. 142ff; chap. 6, p. 181ff.
30 NA 120.   31 NA p. 90.

'is at least a toleration'. Toleration, which consists
in the way an indifference as to outcome ('the authority
"does not care" whether the subject does the act or
not') and a resolution not to hinder are manifested
by the authority's consciously and deliberately
('actively') letting certain conduct pass without
opposition, is an invariant feature integral to the
several so-called 'species of permission'.[32]

To complete the critique of von Wright's account
of permission, I shall now argue that the will-theory
breaks down over permissions in a manner and for reasons
instructive as to their essentially negative and
conventional nature. For the relation of a permission
to its further outcome is essentially different from
that of a command. The argument will apply to 'stand-
ing orders' and other general prescriptions in virtue
of their being derived from authorities.[33] It will
then remain only for a final chapter to argue that
these findings can be applied to other rules and to
the general notion of permissibility; that is, to show
how a permissive rule does not have to be responsible
for a new freedom or possibility of action (by allowing
or 'tolerating' it) for its operation to mean something
other than 'indifference'.[34]

That and how the will-theory is applied to permis-
sions as well as to commands is at least partly deter-
mined by its function as a psychological backbone to
the ontology of norms whose linguistic basis was criti-
cized in chapter 5. The requirement for this support-
ing role may be traced to the way ordinary (propositional)

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32 NA pp. 88-90, pp. 120-1; cp. chap. 5, p. 156;
chap. 6, pp. 182-4 above.
33 Cf. chap. 7, pp. 227-9.
34 Cf. Preface, p. 256; also p. 263 fn. 15.

logical relations, such as negation, have a different effect (as illustrated in chapter 6) on the fulfilment of the aims peculiar to the speech-acts of commanding and permitting from that found with assertion (and so yield different results for notions such as incompatibility, as also for inference). For this is the source of a problem which von Wright describes as 'much more serious than any of the technicalities of deontic logic': the problem of showing how 'two norms can logically contradict one another', of pointing to 'something which is impossible in the realm of norms'. The difficulty is due to the failure of necessary non-coexistence, which should give 'the ontological significance of the conditions of consistency and compatibility' (defined 'formally' for the prescriptive interpretation in terms of fulfilment-possibilities[35]), to provide an impossibility analogous to the impossibility of the propositions involved in conflicting statements being true together[36]. The failure[37], like that of the exhaustiveness desirable in 'prescriptive' negation[38], is due to von Wright's 'prescriptions' being really deontic propositions about speech-acts (an authority's requiring S to do A): since it is just a plain fact that two conflicting orders can coexist, at least if they stem from different authorities, nothing can be logically amiss with conjoining a pair of deontic propositions to affirm their existence; similarly with a permission and a prohibition with the same or overlapping content.

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35 NA pp. 141-4; cf. quotation chap. 6, p. 193 above.
36 Cf. chap. 5, p. 130 above.
37 NA p. 147ff.
38 Cf. chap. 6, pp. 160-1 above.

Now even a strict speech-act view of commands, prohibitions, and permissions would not license complete pessimism about finding 'something which is impossible in the realm of norms'. Von Wright is concerned because, he says, 'there is no logic in a field in which everything is possible'.[39] In this study, at any rate, it has been argued, especially in chapter 6, that even in terms of speech-act descriptions not everything is possible - limits on possible deontic states of affairs are set by the requirements of coherence in the utterances which 'create' them. But von Wright seeks something more - to transcend the fulfilment criterion (which only points to impossibilities in the realm of conforming action) for sets of rulings as well as single ones.[40]

This is the job of the will-theory. It relates different utterances to each other in terms of the fulfilment of their (non-truth-claiming) purpose through the authority's will concerning what to make or let subjects do, and thereby shows the ontological significance of norm-incompatibility:

> The only possibility which I can see of showing that norms which are prescriptions can contradict one another is to relate the notion of a prescription to some idea about the unity and coherence of a will...
> At least so far as prescriptions are concerned, the identification of compatibility with possibility of co-existence is subject to an important qualification. The prescriptions must have the same authority. .
> Thus, for prescriptions, the ontological significance of compatibility is the possibility of coexistence within a corpus. The consistency of a set of prescriptions means the possibility that the set constitutes a corpus. Incompatibility of prescriptions means

39 NA p. 148.

40 Cp. chap. 6, pp. 192ff.

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the impossibility of their coexistence within
a corpus. The inconsistency of a set of pre-
scriptions, finally, means the impossibility,
i.e. necessary non-existence, of a certain
corpus.

Contradiction between prescriptions can be
said to reflect an inconsistency (irration-
ality) in the will of a norm-authority. One
and the same will cannot 'rationally' aim at
incompatible objects. But one will may per-
fectly well 'rationally' want an object which
is incompatible with the object of another
'rational' will. Because of the first impossi-
bility, prescriptions which do not satisfy our
formal criteria of compatibility cannot coexist
with (sic) a corpus of norms. Because of the
second possibility, prescriptions which do not
satisfy these criteria can yet exist within
different corpora, and in this sense coexist.[41]

The possibility of irrational willing as such is
not here denied - only within a corpus is a conflict
between prescriptions 'excluded as being contrary to
the nature of a rational will'[42]. So von Wright does
not succeed in pointing to an impossibility in the realm
of norms which is 'reflected' in the deontic propositions
in whose truth 'lies the reality of norms'.[43] Instead

41 NA pp. 151-2. The passage reinforces the doubt
expressed earlier (chap. 5, p. 125 fn. 39) about includ-
ing in the permanent identity of norms their authority
'component'.

42 NA pp. 151-2 and p. 206.

43 Cf. chap. 5, p. 130f and p. 142 above. Contrast
(a) DL's appeal to the 'decisive' evidence of ordinary
language in favour of its fundamental 'Principle of
Permission' ('PA v P Not-A'): 'We seem prepared to re-
ject a use of words, according to which one and the
same act could be truly called both obligatory and for-
bidden' (DL pp. 66-7). From the footnote here referring
to the 'relativity' remark qu ted chap. 3, p. 41 above
it is but a short step to von Wright's present problem.
(b) The intermediate (1962) position of 'On Promises',
op. cit., pp. 289-93: finding that the idea of 'promis-
ing the forbidden...appears to lead to...a contradiction
of deontic logic' because 'it is plausible to regard it
as a logical feature of the concept of an obligation
that one and the same act cannot be both obligatory to

of setting limits to the deontic situations which might
be constituted by various realizable combinations of
those propositions, he ends, rather, only with such
limits as can be set relative to the psychology of a
rational norm-issuer. For the qualified c>existence
impossibility, whereby the ontological content of a
conflict or incompatibility of norms is the impossi-
bility of the prescriptions coexisting unless they
dwell apart in different corpora, is equivalent to
the internal consistency built into the notion of a
corpus as intrinsic to the nature of a rational,
coherent will.

No 'absolute' impossibilities not already provided
for by the fulfilment criteria can be derived from con-
siderations which do not themselves extend beyond what
people can (be made to) do, so there is no guarantee
that the prescriptions which an authority actually
maintains in force will exhibit the consistency char-
acteristic of a corpus - none, at least, stronger

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do and obligatory to forbear (for one and the same
agent on one and the same occasion)', he applies a
distinction between being forbidden (i.e. obligatory
to forbear) simpliciter and being obligatory only qua
promised, in that it is forbidden (simpliciter)to
promise something without doing it. The cost of so
protecting the idea that a 'head-on' clash of obliga-
tions should be impossible is deriving the obligation
to keep particular promises from a general obligation
to keep one's word. What is required is not another
obligation with a conditional content - derived from
nowhere and owed to no one in particular - but an
explanation of the generalization that every promise
creates a (particular) obligation to do the promised
act, a certain type of utterance being constituted as
a (conventional) reason for action by the rules govern-
ing the informal, everyday practice of promising -
an 'institution' to which (almost) all speakers of the
language belong; cp. chap. 5, p. 144ff and NA pp.184-6.

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than the reasons for supposing he is bound to avoid
'contradicting his own will'[44]. For instance, it is
only in a corpus (rational by definition) that a norm
and its negation-norm <u>cannot</u> both be present, in force,
together.[45] So it would seem that von Wright's account
of consistency can only yield conclusions about rational
and irrational willing, about the <u>rationality</u> of sets
of prescriptions considered as stemming from the will
of a given authority.

Despite this, a simple corollary of the fulfilment
impossibility enables the will-theory to impose severe
limits upon prescriptive corpora. Consider a man
pushing an object away with one hand while at the
same time pulling it towards himself with the other -
not in order to test which hand is stronger but 'because
he wants to make the object move in the one direction,
and also wants to make it move in the other direction'.
Such 'incoherence' of will may even indicate a 'split
personality', for the man 'acts as two men would act
who contested about the object'.[46] Such is the pattern
of behaviour, comparable to trying, literally, to have
one's cake and eat it, of an authority who essays,
seriously, to maintain together a prohibition and a
permission for the same object. The irrationality
(futility, insanity, etc.) would increase markedly
with the obviousness of the logical impossibility of
fulfilling the <u>aim</u> (effort, trying, anxiety[47]) mani-
fested by each. For what the owner of the corpus must
(does) avoid is not incompatible wants in themselves

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44 NA p. 205.

45 Cf. above chap. 6, p. 160 with fn. 11 and p.
161 fn. 14.

46 NA pp. 149-151.

47 Cf. NA p. 124ff, p. 149ff, p. 157, p. 201, p.205.

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so much as irrational _responses_ to them in issuing
prescriptions ('the normative act is a _means_ to the
norm-authority's _ends_'[48]) - although the contrast
between want and response is blunted by a thesis that
'to want something can also mean to pursue it as an
end _of_ _action_'[49].

The objection that inconsistency of disciplinary
conduct is a sufficiently well-known failing of teachers
and parents to call for less drastic diagnosis is fore-
stalled by what amounts to a challenge against any
assumption that one ruling could be temporarily 'shelved'
while another,,duly enacted but contrary to it, was
applied in the interval, _without_ cancellation of the
first:

> That an authority has prohibited something
> _entails_ that he can and is prepared to see to
> it that this thing is not done. He threatens
> prospective trespassers with punishment, and
> takes steps to punish those who in fact diso-
> bey...he _ipso_ _facto_ also manifests anxiety to
> make the subjects observe the entailed
> prohibition[s][50]

It is not surprising that the alternating whims
of parents and kings should fail to disrupt the unity
of a corpus if maintaining a prescription _in_ _force_
involves ('manifests') a continuous, consistent effort
to obtain the end 'willed' - _enforcing_ the prescription,
together with its fellow-manifestations of what the
authority wants his subjects (made/allowed) to do.
Besides the total aggregate of rulings _in_ _force_ at a
given time, as determined by what the authority has
and has not _said_, the element of enforcement added by
the will-theory to the concept of a corpus links to-
gether the distinct rulings through their connections

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48 NA p. 118.
49 NA p. 114 isolates this as the sense of 'want'
relevant to the will-theory, distinguishing it from
wishing and from welcoming something if it happens.
50 NA p. 157, first italics mine.

with other aspects of the authority's activity.[51]

One striking result is that if forbidding something would involve the authority in inconsistency, then not only has he not in fact done so, but he has actually [emphatically contrasted with 'ought to have'] permitted it. For an attempt to give the inconsistency-threatening prohibition 'would signalize an inconsistency in his will', i.e. 'he would then want or allow things to be done which for reasons of logic cannot be done'.[52]

This inferred permission, however, can hardly be (as claimed) 'as much "willed" as' the expressly promulgated ones from which it is 'derived', since the will to tolerate is so defined as to entail awareness and wanting to leave the agent free[53], neither of which follows from the authority's supposedly anxious enforcement of, say, a set of commands. Enforcement of the latter can ensure the agent's freedom in various respects, but not that the authority wants not to interfere or is in pursuit of tolerant ends - only that, not wanting to interfere, he makes no attempt to do so. Hence the 'derived' permission is indistinguishable from the absence of prohibition, too weak to bear the heavy logical duties of the will-theory.

The point is more general than the example. Not interfering implies, at most, not wanting to interfere; a (positive) will to tolerate, a want (resolve) not to hinder (needed for the theory's logical function) is quite another matter, separate even from the indiffer-

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51 Cp. chap. 5, p. 121 fn. 27.

52 NA p. 157, on prescriptive entailment as the necessary existence of certain norms in a corpus, given that of others.

53 NA p. 86, p. 120, pp. 157-8 - not obviously compatible.

ence with which von Wright couples it.[54] Not wanting
to intervene is neither of these two states, but being
prepared, ready or <u>not</u> <u>unwilling</u>[55] to abstain from creat-
ing hindrance. This is sufficient explanation of the
'aims and ends (motives) of the authority who granted
the permission'[56], as well as all that is actually
implied by deliberately tolerating something.

'Prepared to refrain' neither specifies nor implies
any <u>further</u> end: it means being ready precisely to leave
some matter to the subject. If asked why he refrained
from forbidding something, an authority could answer
with hopes or plans contingent on the 'right choice'
being made, or say 'To enable him to do A'.[57] But it
would not normally be appropriate to reply with a
'causal'-sounding 'To get/induce him to...'. Temptations
and lurements, yes, but precisely <u>not</u> a 'symbolic
incentive to action'.[58] Consequently, there should not
<u>be</u> any further aims not <u>mediated</u> by the agent's making
a choice according to inclinations and dispositions
independent of the utterance, <u>qua</u> permission. To take
advantage of a permission should not mean responding
or reacting <u>to</u> it, so much as acting in <u>consequence</u>
of it.

This 'mediacy' of permitting is connected both
with the wants-asymmetry discussed in chapter 4 and with

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54 P. 269 above. Indifference as to outcome is no
reason to <u>resolve</u> not to interfere, while a determina-
tion to keep off is quite compatible with great anxiety
that the 'right choice' should be made (see chap. 7,
pp. 221-3 on abdication and autonomy).

55 Cf. chap. 4, p. 110 above.

56 NA p. 106.

57 Cp. chap. 5, pp. 150-1 above.

58 Cp. chap. 4, p. 106 above.

the will-theory's failure to supply permissive analogues
to the threat or application of sanctions, to any of the
factors indeed which make plausible a view of commanding
as manifesting a will or _effort_ to make someone do some-
thing, such that giving a command may be explained as
a _means_ to that end.[58] But the will to tolerate should
normally find effortless execution (apart from irasci-
bility and other failings of self-control). This explains
the use of key terms like 'let', 'leave free', 'toler-
ate' as virtual synonyms; but it leaves the will to
tolerate nothing to explain until an answer is given
to the question, 'What does the agent _do_, who _lets_
another do a certain thing?'[59]

Now the answer _should_ be, 'Nothing in particular;
it's what he does not do, and why, that counts'. This
is because, to quote from chapter 4: 'The notion of
(physically) letting someone do something is an essen-
tially negative one: it is a matter of (deliberately)
not interfering...so that a description of what a man
is doing when he is letting another be is precisely _not_
a description of _how_ he is doing the latter.'[60] Yet,
the minimum to be expected from a will-theory is that
permission should be a _way_ of allowing things to happen,
as 'commanding is only one among several means of
moving people to action'[61]. This minimum cannot be
supplied because the crucial want or intention to
leave someone free (unless it is simply wanting to
permit) needs nothing to satisfy it but the _avoidance_
of steps that might jeopardize the desired freedom.
How can some words help, when there is no need to do
anything but nothing?

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58 In particular, only _by_ the exercise of superior
strength in punitive threats and measures does the
theory suppose commands keep being enforced (cp.
NA p. 149).

59 NA p. 120; cp. 'want/will to let' at NA p.135.
60 Pp. 99-100 above.   61 NA p. 119.

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It must be conceded that direct interference with
the enjoyment of a permission by its donor or any other
agency would threaten at least temporary loss of its
benefits. But this result alone would not suffice to
change the deontic situation. The utility of many per-
missions is nullified by lack of means (e.g. buying a
house in a certain area)[62] or reduced to vanishing point
by other rulings impinging upon their exercise (try
standing around outside a primary school in session).
Only when the presence of permission and interference
are viewed together, as resultant from the deliberate
will of the (same) authority, can the conjunction take
on the paradoxical look of an attempt to keep the subject
from doing A while at the same time leaving him free
to do it.

But it would be hard to make such an accusation
stick without a permissive analogue to enforcement.
Consider a sergeant obstructing his men's enjoyment of
the leave he himself has granted them, e.g. by locking
exit gates or piling on their chores. This alone would
not show him manifesting conjointly both a want to let
the leave-party be free to spend the evening as they
please and a want to prevent their doing so. All it
suggests is that he is _abusing_ the leave-procedures in
order to torment the men (especially if they are unaware
who is responsible).

Admittedly, this is an abnormal purpose for permit-
ting, parasitic for its intelligibility on cases where
authorities do not use permissions primarily as means
to induce performance of the permitted outcome. The
sergeant, with the advantage of knowing how his men will
respond to an offer of leave, is able to use his leave-

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62 _Pace_ von Wright's adoption of 'May implies
Can', NA pp. 108-9, pp. 122-3.

granting powers as bait for his trap. Therein lies the
odiousness of his conduct, of the way he _abuses_ the
official procedures.

But the concept of abuse of authority presupposes
procedures which preserve the same form when properly
as when improperly used. Any attempt to find principles
for grouping, under such headings as 'authoritarianism',
the vices into which authorities may fall in respect
of the manner and purposes with which they operate the
procedures at their disposal would need to presuppose
the constancy provided by the notion of conventional
procedures for commanding and permitting. These explain
why the sergeant has only to tire for the men to enjoy
a quite legitimate evening out - despite the intolerance
they have faced they need no confirmation of their
freedom. But for this very reason, it is difficult for
the theory to account for permissive language if it is
so immune from the sergeant's actual behaviour.

The minimum force ascribed by von Wright to the
authority's declaration of a toleration opposite the
intolerance declared in a prohibition is '_a declaration_
of intention...not to interfere'. An imaginary objector
intercedes that this 'is not a normative concept at all'.[63]
But the objection seems somewhat understated, since a
declaration not to interfere not only has truth-value[64]
but can be appended to a _prohibition_ without necessarily
generating inconsistency; as examples of this, Britain's
renunciation of the use of force when forbidding Rhodesia
to make a unilateral declaration of independence might
be compared with a ban on breaking the bounds of an
open prison. And to strengthen the declaration to a

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63 NA pp. 88-91, though NA p. 204, p. 206 show the
idea finally still left unrejected.
64 NA p. 104 is emphatic that norm-formulations
used to give permissions say nothing true or false.

promise (however analyzed), thereby making authority
assign to subject the _right_ to demand conformity, is
to reduce the vertical to the horizontal, perhaps even
to ask the authority to abdicate.[65]

So consider the sergeant as he stands before his
men saying 'Permission to leave granted'. Perhaps at
that very moment he is locking the gate before their
eyes, as if to _say_: 'But I'm not going to let you out
of the camp'. Alternatively, as the evening wears on,
the men may start reading into his destructive visits
to their quarters an intention of _preventing_ their
enjoyment of his original permission, and take this as
an _inconsistency_ cancelling it or revealing that he
had simply abused the procedures. But the reason why
overtly intolerant behaviour, whether non-linguistic
or verbalized in the form of threats or declarations
of intention, can in combination with permissions gener-
ate such inconsistencies is not that the maintenance
of a permission is an exercise of the authority's will
to tolerate in which normative and other factors are
indivisibly combined. The inconsistency reveals, not
an incoherent will but an undiscriminating mind: the
incompatibility is logical, not psychological. So far
from showing that permission-giving is to be elucidated
as a declaration of the sort von Wright proposes, the
truth is the reverse: promises and declarations of
intention, _when_ _made_ _by_ _authorities_, and particularly
when they concern forms of behaviour which, on the part
of an authority, would amount to permitting by 'tacit
consent'[66] are liable to have the force of permissions:
a form of words normally used for declaring an intention

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65   NA pp. 91-2; cp. chap. 5, p. 156; chap. 7,
pp. 221-3 above.

66   Chap. 4, p. 101ff above.

acquires, in the mouth of the speaker with the status
of authority over the act mentioned and addressing him-
self to his subject(s), a force it could not have in
other contexts. Among the burdens of an authority's
responsibilities is a need to watch his words - for
the conventions which make him an authority may endow
utterances or even non-linguistic actions on his part
with an authoritative force that he cannot disclaim,
only cancel by further action to countervailing effect.

But conversely, he cannot do more with those utter-
ances than exploit the powers provided by the conven-
tions. Whatever he may do or say as fellow-citizen,
as an authority he can confer no more by giving a
permission for a hitherto undefined act than make
'PA . P Not-A' true in place of 'Not FA . Not PA'. If
'tolerance' in some sense is part of the content of this
changeover, it is tolerance of a purely conventional
type, and the difference between its presence and absence
is simply the difference between the presence and absence
of a conventional freedom to act within the jurisdiction
of a given authority. For all the permitter does, in
such circumstances, is to make clear that he is not
forbidding the action in question; the upshot is to keep
the situation as it was before, with A not forbidden.[67]

The result is indeed that the agent is left free
to do something - but free only from such hindrances
as words can encumber him with, not in any more general
sense, except per accidens and apart from any further
measures the authority may wish to take besides. A 'will
to tolerate' should be fulfilled by refraining from
interference rather than by doing anything of a positive
overt sort. Yet permitting is a case of doing. If it
is the doing of something in order, as it were, to

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67 Cf. chap. 7, p. 253f.

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refrain from interference, it must itself be a kind of
non-interference, a kind which can be accomplished
entirely in and by the doing of the act of permitting
itself. This restriction to the confines of a speech-
act imposes a corresponding limitation on the scope
of the interference to be refrained from. At the same
time the more modest intention, being simply to refrain
in an utterance from interfering in a certain matter,
can be fulfilled by doing something, namely by doing
something with the words appropriate to such 'tolera-
tion' as an overt refraining utterance extends towards
an action it permits.

Chapter Nine

The Permissible and the Possible

One final task remains: to indicate, if but briefly, what a permissive rule is and how the import of its operation may be understood by analogy with the points argued for in earlier chapters, where the permitted, like the obligatory, was delimited to what had been made so. As such, it was analyzed in terms of a notion of overt refraining utterances, a use of language resulting in A's being maintained as unprohibited by the authority.[1] The chief problem here is thus to find an analogue for refraining in impersonal cases.

Let the last chapter's 'organization' lose its 'boss'[2] without replacement either of him or (even as revision becomes appropriate) of his general edicts. With his existence and deontic responsibility receding into the past and becoming increasingly irrelevant, the issue of his having forbidden A or having refrained from doing so will tend more and more to be replaced by that of whether or not doing A is held to contravene (what would have been) his will - a matter on which interpreters will no doubt differ. Soon, however, even that concern will pass, leaving nothing at stake but whether or not A is held to be in itself a contravention, something wrong.

This fragment of the imaginary organization's history illustrates two related points. (a) Subtract the authority and his edicts - hence his refrainings too - and all that is left of his deontic creations is the fact that A is a contravention of something, the bare wrongness of it. This is the burden of a pure rule, adopted, maintained and followed by mere convention. (b) The result is that what is written in the

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1 Cf. e.g. chap. 7, p. 257ff.
2 Cf. chap. 8, p. 261.

organization's book of rules and regulations may <u>state</u>
a rule (say what actions count as infringements of it,
formulate it), but cannot <u>announce</u> it in the form of a
(permanent) promulgation of a ruling; the book cannot
be given a performative reading with the authority's
voice 'behind' it.[3] And it follows from (a) and (b)
together that the disappearance of the authority means
the vanishing of any previous distinction of content
between what is unprohibited and what is permitted.[4]
One notion alone will suffice to represent the import
of a 'rule' in the 'strict' sense which is all that is
left over from a past ruling utterance:

    A wrong   Not-A wrong

    Not-A not wrong   A not wrong

  The true exhaustiveness of the contradictories here
illustrates how any rule - in the 'strict' and, it may
be conceded, full and proper sense - divides the realm
of human conduct into actions which are and actions
which are not at variance with it.[5] Even specification
of some particular <u>set</u> of rules or principles introduces
no restriction: to finesse a king no more infringes a
(particular) rule of chess or of a trade-union than it
does one of bridge. For a rule is like a line in this,
too, that its existing and its separating of actions are
indistinguishable aspects of it. That is why to state
a rule (in this 'strict' sense) is to say what counts
as belonging on which side of some dividing line.

  Suppose, however, that with the aid of a (no doubt
rough and ready) notion <u>of the area of a rule's appli-
cation</u> a distinction is made between non-infringement

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3 Cf. chap. 7, p. 223ff.
4 Cf. chap. 7 <u>passim</u>.
5 Cf. chap. 8, p. 257f with references.

and _conformity_ to some rule(s), as follows: an action conforms to a rule if and only if it does not infringe it while falling within its sphere of application. A variety of new terms can then be added to express the notion of conformity to the rules and principles of various spheres: 'right', 'correct', 'proper', 'reasonable', 'decent' (with the adverbial modifiers 'morally', 'according to the principles of good golf', 'constitutionally', etc. available to identify that sphere).

This is a distinction we do use, and despite the difficulty of defining, say, the difference between not having bad manners and conformity to the rules of etiquette[6] such conformity notions are more than specializations of 'wrong/not wrong' to some particular field. Contraries rather than contradictories (due to the third possibility of inapplicability), 'proper' and 'improper', etc. are useful as carrying a specification of some particular set or type of rules which a thing can be said to conform to or violate. And conformity in turn may serve as grounds for a claim that (rationally, owing to the leniency of a profession's code of practice) something can or may be done. Indeed,

> There is, so far as I know, no phrase used to indicate the physical impossibility of doing something that is not also used to indicate that doing it, though possible, would be unreasonable or foolish. Thus we even talk about its being 'impossible to get angry with Jones, because he is so kindhearted' or 'impossible not to smile'.[7]

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6 Aspects of the issue are debated between Marcus G. Singer, 'Negative and Positive Duties', _Phil. Quart._, Apr. 1965 and Bernard Mayo, 'Negative and Positive Duties: A Reply', _Phil. Quart._, Apr. 1966. (Cp. use of 'logical propriety', chap. 3, p. 66 fn. 27 above.)

7 Nowell-Smith, _Ethics_, _op. cit._, p. 203.

The concepts of practical necessity and possibility have so far remained indeterminate except in respect of certain formal features. That, however, is how they should be, since they are as wide-ranging as the idea of a compelling and decisive reason for action.[8] This is not just due to a 'peculiar habit' adopted for ease of exculpation[9]: their utility is due to the very formality (not to be dismissed as vagueness) which makes them everywhere available for the structuring of thought. On the contrary, it is hard to see how there could be deciding which was not sometimes based upon reasons sufficient to make further investigation and deliberation pointless. If there are reasons for action at all, of varying strength, the concept of a 'must', of a reason of maximum strength seems bound to occur.

So consider what may be called the square of practical necessity[10]:

Necessary for S to do A	Necessary for S not to do A
Impossible for S not to do A	Impossible for S to do A
S must do A	S must not do A
(S needs to do A)	S may not do A
S has to do A	S cannot do A
	(S has not to do A)
S may do A	S need not do A
S can do A	S does not have to do A
Possible for S to do A	Possible for S not to do A
Not necessary for S not to do A	Not necessary for S to do A

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8   Cf. chap. 5, p. 142ff; chap. 8, p. 259 fn. 6.

9   The hypothesis of Nowell-Smith, loc. cit.

10   In this connection, see also chap. 5, p. 151 fn. 98; chap. 7, p. 243 fn. 81.

Examples of the very varied contexts in which
sentences constructed with these auxiliaries owe some
practical significance to the operation of rules,
principles, etc. are: (1) "Democratic congressional
leaders said there was no acceptable alternative to
[the] Vietnam policy. The time for debate was over,
and the party and country must close ranks behind the
President."[11]; (2)"'I don't care where she takes us
to stay, so long as there's local colour,' said Isabel.
'That's what we're going to London for.' 'I suppose
that after a girl has refused an English lord she may
do anything,' her aunt rejoined. 'After that one
needn't stand on trifles.'"[12] The validity of the
relationships of contradiction in the new square ensures
that such categorical examples as these either affirm
or deny some practical necessity. This necessity may
be due to but is not identical with the fact of certain conduct
(not) being required by (1) political expediency and
the national interest, (2) social propriety. For to
speak cf what can be done because or although certain
rules are in operation - as (1) and (2) implicitly do -
presupposes _acceptance_ of those rules as excluding
certain alternatives from the range of choice, as being
unacceptable [(1)] or too serious to dismiss as a
trifle [(2)].[13]

In themselves, however, the rules and principles
represented by such abstractions as expediency and pro-
priety lack powers of compulsion, so a possibility
allowed by them is merely what can be done _according_ to
them, what is allowable under them: the obverse of an

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11   The _Times_, 24 Feb. 1966.

12   Henry James, _Portrait of a Lady_, Penguin edition,
p. 137; cf. also the same author's 'must' quoted
p. 1 above.

13   Cp. chap. 5, p. 149, p. 153 above.

impossibility excluded as something it is necessary not to do if they are not to be infringed. This does not yield a conformity notion of the kind explained earlier unless it is taken as what a set of rules 'tolerates' or allows as possible, i.e. permits.

It would be an excess of literalism to object to the idioms whereby something that can (be said to) make it necessary to do A, by constituting a compelling reason for deciding to do it, can also (and with equal propriety be said to) demand or require A as necessary, by forbidding Not-A. But the idioms are different both from each other and from the fundamental 'wrong/not wrong' division on which they are imposed. For only to the extent that the practical possibility of a thing is its permissibility (as with a move considered as defined by the 'constitutive' rules of a game) do rules make for genuine new possibilities of action and enlarge their adherents' freedom of choice. Generally, the statement of an action's permissibility, reporting that it is not prohibited by some abstract 'claimant' such as a rule, morality, the law, or other conformity notion postulated as what allows or 'tolerates' the permissible action, cannot ensure practical possibility, only a 'toleration' such as the last chapter found to extend no further than overt non-interference[14]. That is, the permissible has to fall within the sphere of application of a set of rules so as to be left unprohibited by them.

Applicability is thus the analogue of normative action for contexts where 'permitted' means 'permitted by some rule'. Something like a fictitious authority is needed to refrain from forbidding if in such contexts 'unprohibited' is to amount to more than 'not wrong'. The adoption of such a point of view suffices to block

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14 Chap. 8, pp. 282-3 above.

Mayo's equation of the permissible with what is not at
variance with some rule, considered in various guises
(legitimately) contrastive with the prohibited - as the
indifferent, as that which is exempted or excluded from
the scope of a certain rule, even as that which may be
done[15] - but never identified in properly permissive
garb because 'Not (FA)' (or 'not wrong') rather than
'Not-FA' is the model for the truth-conditions,and
'prohibitive', as said of a rule, is interpreted as
meaning simply 'infringeable'[16]. Even if infringeability
is the fundamental property of a rule (and on this, his
major contention, I follow Mayo[17]), there are other
aspects of rules left for the deontic verbs to bring out.

Thus the aptness of 'may'-formulations for many
'constitutive' rules[18] is better explained by the
freedom-enlarging 'creativity' just noted than by their
regulating function. For from what prohibition does a
general exemption give all the players on a football (soccer)
field room to manoeuvre as they please, or a specific
exemption license the opening bidder to choose how high
to open? By and large, the rules of football, taken as
a set defining a game in conformity with them, maintain
under their authority an absence of prohibition over
the positioning of players, though no exemption or licence
to such effect would necessarily be stated in a manual
for referees[19]. The rules of bridge, on the other hand,

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15   Cf. pp. 256-8 above.

16   'Rule-Making and Rule-Breaking', op. cit., p. 23;
'Varieties of Imperative', op. cit., p. 173; Ethics and
the Moral Life, op. cit., p. 204ff.

17   Cf. pp. 284-5 above.

18   Termed on that account 'licences' by Mayo,
'Varieties of Imperative', op. cit., p. 172.

19   Cp. chap. 7, p. 223ff, where I refrained from
following Mayo in taking rules to be a linguistic
category.

positively enjoin the bidder either to make any single
bid out of the totality of alternatives or overtly to
refrain by 'passing'; here the fact that he _may_ act in
any of a number of ways is equivalent to the fact that
he _must_ act in one of them, given the general character-
istic of games that at each stage some possible move is
necessary for its continuance.[20]

Rules, in fact, can be permissive just to the extent
that they can be prohibitive. Basically, a rule is
something to be stated - as a difference between failure
and success measured by some standard of conduct held
to make certain actions wrong.[21] But if the standard
is viewed as an external imposition without a relevance
connection with the agent's own inclinations, this
difference can readily be seen as itself stating what
course conduct is to take, as forbidding him to act
otherwise than in conformity with the rule. Conversely,
if the standard is viewed as waiting upon the agent's
own choice for its realization, even in some part of his
conduct only, it will take on a permissive aspect towards
the relevant action.[22]

Yet another shift of view leads from conceptuali-
zation in terms of obligatory-making demands and freedom-
granting permissions to their 'must'- and 'may'-outcomes

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20 Compare, as a sample of English usage: 'Rules
should be laid down prescribing what combinations of
symbols of the system are _permissible_. These are the
formation-rules of the system. Expressions framed _in_
accordance with them are called _well-formed_; and combina-
tions of symbols which _violate_ them are said to be _ill-_
formed.' P.F. Strawson, _Introduction to Logical Theory._
1960 ed. (London: Methuen 1952) p. 224, (my italics).

21 Cp. chap. 8, pp. 257-8 and p. 285 above.

22 An application of the wants-asymmetry: see chap.
4, esp. p. 107ff; chap. 8, p. 277f above.

as narrowing or enlarging free choice for one con-
forming to the rule and following it as an intrinsic
feature of his practice. Not that there is an absolute
need to form a conformity concept and succumb to its
demands for compliance as practical necessities, as
if always

> The authority of a moral rule...appears in
> the agent's readiness to obey a command,
> derived from the rule, and issued by himself
> to himself.[23]

A rule, even a moral one, can be followed simply as
the way one behaves, or behaves morally, in a given
type of situation, as 'the done thing'.[24] But still,
the linguistic usages associated with what may be
accounted the deontic viewpoint on rules (with permis-
siveness an intrinsic component)[25] has a certain primacy
and superior naturalness thanks to its externality and
conventionality, features through which it is able to
reproduce (indeed, contain[26]) the function of any rule:
to set a standard for the assessment of action.

Judged by this function, any rule(s) under which
some type of action is held to be unprohibited, although
liable to assessment as satisfying the necessary applica-
bility criteria ('Not-FA'), may be said to have a per-
missive aspect or to permit this type of action, while
yet cutting elsewhere in the area of application the

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23 Mayo, _Ethics and the Moral Life_, _op. cit._,
p. 168 - doubtfully consistent with his advocacy of the
primacy of rules over commands, quoted above chap. 7,
p. 225f.

24 Cp. Cavell, 'Must We Mean What We Say?',
op. cit., p. 93ff (quoted from, chap. 7, p. 229 above)
for this and yet other Protean forms assumed by the
language of rules.

25 It is pleasant to be able to close on a note of
agreement with NA pp. 6-7, where von Wright too speaks
of rules in terms of different viewpoints rather than
of an ambiguity introduced into the deontic speech-act
verbs by their rule-formulating use (cp. chap.7,p.224ff).
26 Cf. chap. 4, pp. 76-7, p. 94ff.

'wrong/not wrong' division necessary for proper rule-status. This means that permissibility is a conformity concept, opposed to impermissibility as propriety to impropriety. As such, it must be distinguished from such notions as indifference or its not mattering (from some point of view) whether A is done or not.[27] True, the actual rules which determine that point of view 'may not care' whether A is done in the sense that they permit both A and Not-A. But this 'indifference' is a trivial one, amounting to no more than that if S is permitted to do A or not as he pleases, S is neither obliged nor forbidden to do it. It does not follow that it doesn't matter from any point of view which one is done.[28] An example - a moral one - will serve both to confirm this thesis and to illustrate what use can be made of the concept of the permissible, especially where an issue over rights and wrongs is complicated by a dispute as to what is of (moral) significance and what is (morally) indifferent, where the battle could even center on whether there was a (moral) problem to discuss at all.

Take the dispute of Mr. I and Mr. P in the 'battery chickens' case. Neither belongs to the party of those who think this factory method of raising chickens straightforwardly impermissible (because cruel) or straightforwardly obligatory (to meet present-day food requirements). Both agree that the practice is desirable for economic and social ends. Yet they disagree

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27 Cf. Preface, p. 256.

28 Cf. Tranøy, 'An Important Aspect of Humanism', op. cit., p. 41: 'There is in the notion of the indifferent a psychological element of "I don't care" which is, of course, not expressed by "(PA . P Not-A)"'; cp. DL p. 61 and above chap. 8, p. 269, p. 277 fn. 54.

importantly as to whether certain aspects of the situation are morally significant. For Mr. I, if any moral issues are involved at all they are exhausted by considerations of satisfying human needs at the lowest possible cost; he dismisses as sentimental anthropomorphism any concern for the alleged suffering of the chickens. For Mr. P, on the other hand, the chickens' feelings do count; it is a matter of (moral) regret if for the sake of higher ends, chickens are deprived of the joys of running round the barnyard. Since certain of his moral values bear _relevantly_ upon the issue, the most favourable judgment he is likely to produce is that raising chickens by this method is permissible, i.e. excusable in the manner of its deviation from a standard or principle.[29]

Now it is a condition of there being a moral issue here that Mr. P's views on how chickens are reared to feed him should have a moral aspect. But these views can only take the shape described given the further condition that he regards the principle which loses in the clash as one that continues to apply, but without the same insistence upon conformity that would accompany it in a conflict-free situation. This 'toleration' of infringement is the burden of his judgment of permissibility and explains why 'permissible' may so often be glossed as 'excusable in the circumstances'. The result of an enforced choice between quite 'intolerable' alternatives (with neither principle yielding

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29 Dramatized from evidence submitted by expert bodies to a committee on intensive livestock husbandry, as reported in the _Times_, 27th Jan. and 13th Feb. 1965. Having taken stances analogous to those here des_ibed, one body produced a series of uncomfortable compromises, the other a virtually non-moral set of recommendations, accompanied by justification rather than excuse for the procedures of such husbandry.

permissively) should not be so described; nor should the import of an _exemption_ which relieves one principle of its present application.

If, then, such a case of permissibility is conceived as a rule or principle relaxing in the face of the special claims of human needs its requirement of humane treatment of other animals, the moral realm will admit the notion only over the same area as its coordinate idea of a moral _requirement_ ('obligation' in the stricter uses which are not just reformulations of an 'ought'[3C]); this will depend on how the individual structures his moral thinking,[31] but it is unlikely to embrace the whole. This correlativity of permissibility with requiredness[32] explains why the common journalistic idiom which speaks of, say, permissibly simplified presentations of well-known novels[33] is much less satisfactory than the use of permissive notions in authority-free realms of discourse where rules or laws are well-established.

For example, the 'laws of logic' are not owed to any authority, yet the logically permissible is not

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30   Cp. chap. 5, p. 146 above.

31   Cf. R.B. Brandt, 'The Concepts of Obligation and Duty', _op. cit._ (H.L.A. Hart, 'Legal and Moral Obligation', _op. cit._, 'The Concept of Law', _op. cit._, p. 151ff and Joel Feinberg, 'Supererogation and Rules', _op. cit._ restrict the 'institutional' notion of an obligation in ways that I respond to.)

32   Cp. chap. 5, p. 147.

33   As in e.g. Maurice Richardson's column, The _Observer_ (London), 29 Nov. 1964: '[The] adaptation was a permissible simplification. Much of the family background had to be taken for granted, but the three chief characters were just strongly planted enough.'

uncommonly appealed to.[34] It may be said that the
'authority' is whoever makes the judgment of permissi-
bility; but even one able to issue an authoritative
verdict (something the journalist-critic can hardly
equal) has not the authority to permit the view or to
forbid it.

Morality for many people is intermediate between
the state of affairs prevailing in aesthetics and that
in logic. The principles on which they base their moral
judgments were not laid down by moral authority - or if
they were, it is not that which gives them their force
but rather their acceptability on other grounds.
Only acknowledging a moral authority makes the morally
permissible equivalent to what is permitted by a
permitter; only conceiving a principle as enjoying
authoritative status over one allows the application of
authority-derived concepts, to which the moral submits
less readily than the logical - but still with far greater
comfort than any idea of the aesthetic proprieties can
offer. Moreover, to the extent that the authority
pattern is allowed to rule, there remains no logical
gap between 'permitted' and 'permissible'. Within the
frame of reference in which an act is permitted it is
also permissible, and vice versa. That is why people

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34 Cf. Bertrand Russell, 'Meinong's Theory of
Complexes and Assumptions', Mind, N.S. Vol. XIII,
1904, p. 351: 'This view is one which, whether logically
permissible or not, certainly commends itself to direct
inspection' and Lester Meckler, 'On Goodman's Refutation
of Synonymy', Analysis, Jan. 1954, p. 69: 'Is it
permissible to assert the pervasiveness of fallible
inference on the basis of fallible inferences?'.
Cp. Ludwig Wittgenstein, Tractatus Logico-Philosophicus,
1921, 5.473 and 5.4733.

can agree that raising chickens by the battery method is legally permissible/permitted and differ as to whether it is morally permissible/permitted. While they may also dispute over whether the practice ought (morally) to be permitted by law, they need not do so, for what ought or ought not to be permitted is a separate question from what it is (morally) all right to do.

Whether, as in the law, there are authoritative methods for settling what is and is not wrong by reference to certain recognized rules depends upon the field in question. Whether those rules are thought of as forbidding and permitting depends upon the way in which the authority model is found useful to conceptualize them. For questions of permissibility are settled either by determining what the relevant authority has done with respect to permitting the act or, in the absence of an authority, by assessing whether the act is (was or would be) all right to do.

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