# Legal Grounds

Louis deRosset

May 14, 2025

**Abstract**

It is overwhelmingly plausible that part of what gives individuals their particular legal or institutional statuses is the fact that there are general laws or other policies in place that specify the conditions under which something is to have those statuses. For instance, particular acts are illegal partly in virtue of the existence and content of applicable law. But problems for this apparently plausible view have recently come to light. The problems afflict both attempts to ground legal statuses in general laws and an analogous view concerning the role of general moral principles in grounding moral statuses. Here I argue that these problems can be solved. The solution in the legal case is to recognize an element of self-reference in the law's specification of what gives things their legal statuses. The relevant kind of self-reference is a familiar part of the legal and procedural world. It is immanent in at least some familiar legal or broadly conventional, procedural practices. The lessons of this discussion of legal statuses can then be applied to the meta-ethical debate over moral statuses, yielding a view on which moral principles also incorporate an element of self-reference.

Suppose that last night Joe drove a car at 80 mph down the street that runs outside my office. Consider Joe's particular, dateable act $a$: his driving, at a certain time last night, his car down that street at that speed. That particular act $a$ is illegal. What makes it illegal?[1] Surely part of the answer concerns the features of the act: $a$ is illegal partly in virtue of being an act of driving a car at that particular speed down that particular street. But it is equally plausible that part of what makes $a$ illegal concerns what the law says in my town. The fact that applicable law says that any act of driving 80 mph down that street is illegal is part of what makes $a$, in particular, illegal. More generally, what the law says is part of what makes it the case that particular individuals have

[1] This adapts the motivating case in (Rosen, 2017b). The question here concerns the legal status of the particular act in question, rather than the legal status of any of the types under which it falls.

a wide variety of legal statuses, among them being *illegal*, a *contract*, *married*, *immune to prosecution*, a *perjurer*, a *licensed cab operator*, etc.

As a broad first pass, we might characterize that general pattern thus:

(1) $x$ is $G$ in virtue of the following facts: that $x$ is $F$, and that, under applicable law, every $F$ is $G$

where $x$ is some particular individual, $G$ is some particular legal status that $x$ has, $F$ is some sufficient condition set by applicable law for any particular individual to be $G$, and $x$ satisfies $F$. In the case at hand, $x$ is the act $a$, $G$ is illegality, and $F$ is something like being an act of driving down that street at 80 mph.

It seems that something along the lines of (1) specifies what gives particular things their legal statuses, in at least some cases. But problems for this apparently plausible view have recently come to light (Berker, 2019).[2] The problems will be explored in detail below, but we might give the following, rough characterization. The law sometimes specifies necessary and sufficient conditions for particular individuals to have various legal statuses. So, for instance, the law in my jurisdiction provides that an agreement is a *contract* iff it meets certain conditions. A desideratum on any systematic account of what makes something a contract is that the law encode an explanatory asymmetry: the conditions in question make the agreement a contract, rather than the other way around. We can satisfy this desideratum by accepting that, according to the law, an agreement is a contract iff *and because* the relevant conditions are met. But, since the law itself is part of what makes the agreement a contract, we now face a difficult choice: either the law specifies explanatory conditions that refer to that very law itself; or the law's specification of those conditions is, in the relevant sense, incomplete.

Previous commentators on this difficulty have suggested grasping the second horn of the dilemma (Enoch, 2019), (Rosen, 2017a).[3] Here I argue for grasping the first horn instead: we should recognize an element of self-reference in the law's specification of what gives things their legal statuses. This element of

[2]The arguments discussed below would, if cogent, apply to any case in which the law governing a legal status is part of what makes it the case that a particular individual has that status. So, we need not assume that every legal status of every individual is determined in part by a general law; a single such case will serve.

[3]Both Rosen and Enoch suggest that there is another sense in which the law's specification is complete; see §8 below for discussion.

self-reference is surprising. Proposals of this sort have been characterized as "disastrous" (Berker, 2019) and "procrustean" (Rosen, 2017a). I suggest, by contrast, that the relevant kind of self-reference is a familiar part of the legal and procedural world. It is immanent, I will argue, in at least some familiar legal or broadly conventional, procedural practices. And, accepting it engenders no disasters.

The problem has, I think, some intrinsic interest. Philosophy of law has concerned itself more with what makes something a law than with what makes particular acts illegal (or what grounds the legal status of particular acts or other individuals more generally). This is, I conjecture, partly rationalized by the fact that the question of what makes particular acts illegal seems pretty easy by comparison: something along the lines of (1) seems to do the trick, and that's that. The emergence of problems for (1) and its fellow travelers threatens this comfortable confidence.

But the problem also has interest by dint of its connections with views in other areas. In particular, it is plausible to think that moral non-naturalism of a certain, standard sort falls prey to a similar problem. Moral non-naturalism of this sort focuses on the question of what makes it the case that certain moral facts obtain.[4] More specifically, this kind of moral non-naturalist holds that there are at least some moral facts that are neither identical to natural facts nor made the case by any congeries of exclusively natural facts. Supposing that the wrongness of Oswald's assassination of Kennedy is among these facts, the view in question claims that there are no purely natural facts that make that assassination wrong. Natural facts clearly get in on the action; presumably the fact that the act in question – call it $c$ – inflicted a great deal of pain and suffering is both a natural fact and part of what makes $c$ wrong. But, on the sort of non-naturalism on offer, that is not a complete story about what makes $c$ wrong. Any complete story will have to mention further, non-natural facts.

It seems that any such view would be implausible if the requisite non-natural facts ultimately included any facts concerning the moral status of particular, dateable acts or individuals. Perhaps, for instance, $c$ is wrong partly in virtue of the fact that it expresses Oswald's viciousness. But plausibility requires that there must be some further story regarding what makes Oswald vicious that

[4]Other forms of moral non-naturalism focus on the nature of moral concepts, the essences of moral properties, *etc.* See (Bengson et al., forthcoming) for discussion.

ultimately does not involve Oswald's moral features. The existence and features of Oswald in particular are no part of the foundations of morality. Oswald is obviously not special in this regard; the same would be true for any particular individual. The non-naturalist should hold that, though we won't work our way down to purely natural facts by telling this further story, we also also won't bottom out in the moral status of any particular individual. Something makes $c$ morally wrong; something makes Oswald vicious; for any particular individual $x$ and moral status $G$, if $x$ is $G$, then something makes $x$ $G$. So, it is argued, the non-naturalist should admit that that general moral principles are the bottom-level, non-natural grounds for facts concerning the particular moral statuses of particular individuals. That is, it seems that the most plausible form of non-naturalism appeals to the cogency of principle-based explanations of particular moral statuses. Following Rosen (2017a) we will call this form of non-naturalism *bridge-law non-naturalism*.

As a broad first pass, we might characterize the requisite pattern of explanation along lines similar to the pattern for explaining legal statuses:

(2) $x$ is $G$ in virtue of the following facts: that $x$ is $F$, and that, according to the moral law, every $F$ is $G$

where $x$ is some particular act, $G$ is some particular moral status possessed by $x$, and $F$ is some actually obtaining, sufficient condition set by general moral principles for particular acts to have that moral status. The similarity of the pattern (2) to (1) is manifest, and encounters problems of exactly the same sort. It seems, then, that solutions to the problem for (1) should apply to the correlative problem for (2).

In fact, the philosopher most responsible for specifying the problems we will be discussing, Berker (2019), raises them in the meta-ethical context rather than the legal one. He argues that the problems merit rejecting bridge-law non-naturalism. In what follows, I will focus instead on the analogous view concerning legal statuses. For, in the case of legal statuses, it will become clear that the analogue of Berker's view, on which general laws do not play any part in making, e.g., $a$ illegal, is not on offer. That is, plausibility takes the analogue of Berker's way of avoiding the problems off the table. Or so I will argue. We will have to look for other solutions, and the ones we find will have clear analogues for the meta-ethical cases. Thus, the problem for (1) should also be of interest to both moral non-naturalists and their critics.

Here's the plan. In §§1-2 I state preliminaries and motivate constraints on views concerning what makes it the case that individuals have their various legal statuses. §3 states the problem, and §§4-7 describe two candidate solutions and assess their merits. §8 describes and criticizes an alternative solution. Finally, §9 applies the lessons of the discussion to bridge-law non-naturalism.

# 1 Preliminaries

Our problem stems from reflections on claims of this form:

(1) $x$ is $G$ in virtue of the following facts: that $x$ is $F$, and that, under applicable law, every $F$ is $G$

in cases in which $x$ has legal status $G$, $x$ is $F$, and applicable law says that every $F$ is $G$. I will be following other commentators on the problems I will discuss by taking explanations of this sort to be *grounding explanations* and the notion expressed in this context by the 'in virtue of' locution to be the notion of *ground*. Similarly, I take the the question, 'What makes $a$ illegal?' to ask for a specification of grounds for $a$'s illegality.

The notion of ground has become fashionable in the past decade or so,[5] and has attracted skeptical arguments from several quarters.[6] I propose nonetheless to press on. Partly this is because I think the critics' arguments do not undermine the prospects for theorizing in terms of ground (deRosset, 2023, ch. 3). But mostly this is because, if the notion of ground cannot be used to clarify and regiment the ideas here, then some replacement, obeying similar principles, will be needed. I hold these truths to be evident: that something makes $a$ illegal; and that particular features of $a$, including that it was an act of driving 80 mph, help make it illegal. If the notion of ground is found to be unsuitable for articulating these ideas, I would be happy to put things instead in terms of what makes certain individuals illegal, immoral, legally admissible, *etc.* So, in the end, I think relying on the notion of ground is ultimately a dispensable, if convenient, feature of our discussion.

We started with the idea that particular features of $a$ help make $a$ illegal. I will need a way of distinguishing the claim that a certain fact *helps* ground something from the claim that it not just helps, but *needs no help from any other*

[5] See, among others, (Fine, 2001), (Schaffer, 2009), and (Rosen, 2010) for canonical defenses.
[6] See esp. (Koslicki, 2015) and (Wilson, 2014).

*fact*. In the literature, the former idea is called *partial ground* and the latter *full ground*. A full ground for $\phi$ is some congeries of facts that provide a complete inventory of grounds for $\phi$. A partial ground for $\phi$, by contrast, is a (perhaps improper) part of a full ground for $\phi$. To illustrate the distinction, suppose that $o$ is a red oval. Plausibly, the fact that $o$ is scarlet helps make $o$ a red oval. It's not a full ground for $o$'s being a red oval, since being scarlet provides no ground for $o$'s ovular shape. Full grounds for a fact may often include more than one fact. So, for instance, it might plausibly be held that there are two facts which together make $o$ a red oval: $o$'s being scarlet and $o$'s being an ellipse. I will use the now-standard notation '$\prec$' to express claims of partial ground, and '$<$' to express full ground. To illustrate,

(3) $o$ is scarlet $\prec$ $o$ is a red oval

(4) $o$ is scarlet $\not\prec$ $o$ is a red oval

(5) $o$ is scarlet, $o$ is an ellipse $<$ $o$ is a red oval

express the claims, respectively, that $o$'s being scarlet is a partial ground of $o$'s being a red oval; that $o$'s being scarlet is not a full ground; and that $o$'s being scarlet and $o$'s being an ellipse are, collectively, a full ground of $o$'s being a red oval.[7]

Naturally, to capture the idea that what the law says helps make it the case that certain individuals have the legal statuses that they do, we will need some way of characterizing what the law says. For this purpose, I will continue, for now, to express claims about what the law says using the locution 'under applicable law'. I will also talk about particular *provisions* of applicable law, using the locution, 'it is a provision of applicable law that'. Some of my examples will involve familiar provisions of law actually in force, though they will be radically simplified for the purposes of illustration. Importantly, I will assume that the *law* can say something even if no particular *statute*, *ruling*, or *precedent* says exactly that. So, for instance, I have already said that the law in my jurisdiction lays down necessary and sufficient conditions $C$ for some agreement's

[7] I have also expressed claims of ground by apparent reference to facts. But we could have avoided such reference. For instance, instead of saying that the fact that $o$ is scarlet helps make $o$ a red oval, I could simply use (3), which contains no overt reference to facts. So, reference to facts is a dispensable syntactic convenience. As Bennett (2017, p. 189) writes in this connection, "sometimes it's nice to have a noun."

being a (legally enforceable) contract. I have said, that is, that some claim of the form

(6) Under applicable law, an agreement is a contract iff $C$

is true, even though statutes, opinions, and precedents never use 'iff' and never or almost never explicitly state necessary and sufficient conditions for having a legal status like *being a contract*. The fact that the law specifies necessary and sufficient conditions is reflected in the fact that it guides judges, magistrates, and other officers in sometimes finding (correctly) that certain agreements are contracts, and that other agreements are not. There may be areas of indeterminacy, vagueness, or "open texture" (Hart, 1994(1961), p. 128) in either the specification of conditions for being a contract, or in those conditions themselves.[8] I will be ignoring these phenomena, since the problems for (1) can be stated and discussed in cases, like that of $a$'s legality, that are utterly clear.[9]

I will also be bypassing interesting disputes concerning the interpretation of what the law says, including both the nature and methodology of legal interpretation in general, and the correct interpretation of particular statutes, rulings, or precedents. The problems we will consider arise after all of the relevant interpretive questions have been settled, and so are independent of most disputes concerning what determines what applicable law says. The only assumption in this regard that I will require is that, in at least one case, there is a correct interpretation of what the law says concerning the conditions under which particular individuals have some particular legal status. This claim is common ground among many competing views of legal interpretation, including the seminal views of (Dworkin, 1986) and (Hart, 1994(1961)).

[8] That is, we can capture the phenomenon either by holding that though it is determinate that the law lays down necessary and sufficient conditions for being a contract, it is indeterminate, *etc.*, exactly which condition is laid down; or by holding that the law determinately lays down a condition which is itself vague. Nothing in our discussion of the problem turns on which of these two ways of capturing the phenomena turn out to be correct.

[9] I am assuming, however, that the law really does specify necessary and sufficient conditions for being a contract, and, similarly, for other legal statuses. Thus, I am setting aside views on which the law merely issues commands or predicts the actions of certain officials, and the like; see (Austin, 1995(1832)) for a classic expression of a view of this sort, and (Hart, 1994(1961)) for sustained criticism. I am assuming, that is, that if the law does these things, then it *also* specifies necessary and sufficient conditions for being a contract.

## 2 Constraints

We are looking for a view specifying what grounds particular individuals' possession of legal statuses, e.g., the fact that $a$ is illegal. It is evident, I have contended, that this fact has a ground, and that one of its grounds includes both the fact that, under applicable law, anything which meets certain conditions is illegal and the fact that $a$ meets those conditions. We might have hoped that that would be a complete specification of a full ground. If so, the relevant instance of (1) is true:

(7) $a$ is an act of driving 80 mph; Under applicable law any act of driving 80 mph is illegal $<$ $a$ is illegal.

More generally, what I will call *the simple view* holds that whenever applicable law says that every $F$ is $G$, and an individual is $F$, then those two circumstances make that individual $G$.

As the name suggests, the simple view is, well, simple and straightforward. But it encounters a problem in situations in which the law specifies necessary and sufficient conditions for an individual to have a legal status. In such cases, the relevant provision of applicable law may take a *biconditional* form, giving rise to false instances of (1).[10] Consider, for the purposes of illustration, a grossly simplified specification of the conditions under which an act is a murder:

(8) an act is murder iff it is a killing committed with mental state $M$.[11]

The problem with the simple view is that it licenses both of the following explanatory claims:

(9) $m$ is a killing committed with $M$; under applicable law, any killing committed with $M$ is murder $<$ $m$ is murder.

(10) $m$ is murder; under applicable law, any murder $x$ is a killing committed with $M$ $<$ $x$ is a killing committed with $M$.

(9) is plausible, while (10) is laughably false. But all of the sentences occurring on either side of the operator $<$ are true, and both claims instantiate the pattern

[10] This point is due to (Berker, 2019).
[11] See 18 U.S. Code §1111.

(1).[12]

Perhaps the simple view goes wrong by using a general pattern to specify what grounds legal statuses. We might hold that some instances of (1) are true, that others are false, and that there is no way to capture this difference by any helpful appeal to the forms of the claims in question. More particularly, this response holds that (7) correctly specifies grounds for the illegality of $a$ and (9) for $m$'s being a murder, while (10) is false; that each, of course, is an instance of the form (1); but that there is no further *general* form that all and only the true instances (7) and (9) have that (10) lacks.[13]

There is something intuitively dissatisfying about this view.[14] It seems as if there is something more systematic to be said about what unites (7) and (9), but not (9) and (10), other than the fact that (7) and (9) are, unlike (10), true (and concern grounds for legal statuses). It behooves us, then, to seek a more systematic specification of grounds for legal statues and regard an unsystematic specification as a second-best fallback if nothing better comes to light.

(10) gets the order of explanation backwards: the law, we have supposed, lays down a biconditional relating certain features of acts with the legal status, *being a murder*. But, despite the fact that the biconditional in question is logically symmetric, this law, properly understood, has a *direction*. It's being a killing committed with $M$ that makes an act murder, not vice versa. Logical symmetries in the law are sometimes accompanied by explanatory asymmetries. This imposes a desideratum on any view about what gives an act a certain legal status: *it must take account of explanatory asymmetries in the law*. The simple view fails to satisfy this desideratum.

This is an analogue of a well-known problem in meta-ethics, and it has a well-known solution: represent the explanatory asymmetry by characterizing applicable law as explicitly indicating a direction of explanation. In the case at hand, the standard solution interprets applicable law as saying

(11) an act is murder iff and because it is a killing committed with mental

[12]It might be objected that the simple view only applies (1) when the substitution instance for $G$ is a legal status, and that being a killing committed with $M$ is not a legal status. But, it seems, there are cases in which it is. For instance, *having malice aforethought* is clearly a legal status, since it is defined in the law. Thus, *being a killing with malice aforethought* is also a legal status.

[13]One might count the claim (9) as also specifying a form that is (trivially) instantiated by (9) and nothing else. This is why I qualified the claims in the main text by talking about "helpful" appeal to forms, and "general" forms.

[14]See (Rosen, 2017a, §§6,7) for discussion.

state $M$

where '$\phi$ iff and because $\psi$' is shorthand for '$\phi$ iff $\psi$, and, whenever $\psi$, $\phi$ because $\psi$.'

We are taking the sort of explanation indicated by 'because' in (11) to be grounding explanation. But we have distinguished full grounds from partial grounds, yielding two ways of interpreting (11). We may interpret 'because' as indicating either partial ground or full ground. In the former case, I will disambiguate by writing 'partly because'. So, interpreting 'because' as indicating partial ground yields:

(12) under applicable law, an act is murder iff and partly because it is a killing committed with mental state $M$.

More generally, we might hope to capture the explanatory asymmetries in the law by replacing (1) with

(13) $x$ is $G$ in virtue of the following facts: that $x$ is $F$, and that, under applicable law, for every $y$, $y$ is $G$ iff and partly because $y$ is $F$.

Unfortunately, we cannot rest content with (13). The problem is that it is objectionably non-specific about the elements of, e.g., murder. Under applicable law, $P$'s act of killing with $M$ is, on the view in question, a partial ground of that act's being murder, and thus (by the factivity of partial ground) $P$'s act is murder. So, the content of the law guarantees that any further facts that are needed to make $m$ a murder are in place. Still, the law itself fails to say what those further facts are. This seems objectionable: if the content of the law addresses the question of how, in general, an act's being murder is grounded, it ought to completely specify a range of full grounds, rather than saying, in effect, that being a killing with $M$ is part of what makes an act murder, and that certain unspecified further facts are also in place that complete the explanation.[15] Thus, we have a second desideratum on a specification of grounds for legal statuses, that the law *completely specifies grounds*: whenever the law specifies grounds for a legal status, it specifies full grounds.

Suppose, then, we revise the simple view accordingly, replacing the pattern (1) with

[15]The analogue of this contention for bridge-law non-naturalism is also made by Berker (2019, p. 928).

(14) $x$ is $G$ in virtue of the following facts: that $x$ is $F$, and that, under applicable law, for every $y$, $y$ is $G$ iff and fully because $y$ is $F$

where "fully because" indicates full ground. Does this replacement yield a satisfactory view of what grounds legal statuses? No. The resulting view represents explanatory asymmetries in the law, but it does not yield a plausible specification of grounds for legal statuses. Given the factivity of '$<$' and 'under applicable law', so long as the condition $F$ makes no mention of the provisions of law governing $G$, (14) implies that there is a full ground for $a$'s illegality that is law-free. This consequence is implausible. A proposed explanation of the illegality of $a$ is wrong, or at least incomplete, if it appeals to features that $a$ shares with an act $d$ that is not illegal.[16] There are instances of driving 80 mph that are not illegal. So, for instance, neither Kerry's act $d$ of driving 80 mph at the Indianapolis 500 nor Jost's act $e$ of driving 80 mph on the German autobahn are illegal. These cases demonstrate that there is more to what makes $a$ illegal than merely being an act of driving 80 mph. It might be suggested that what's missing is a specification the time and place of the act, since Kerry and Jost's acts occur at different times and places, and that's what seems to make the difference between the cases. This amended proposal encounters difficulty with (counterfactual) cases in which the very same act occurs in a more permissive legal regime and thus is not illegal.[17] This consideration suggests that part of what makes $a$ illegal is the law's specification of various classes of acts as illegal. The very same claim also has more direct, intuitive support. The existence and content of the law is, on its face, part of what makes particular acts *against the law* (to use the colloquial term) or *unlawful* (to use the more precisely defined

[16] See (deRosset, 2023, §§8.2,8.4) for a systematic exposition and defense of this intuitive constraint.

[17] This same consideration presents a problem for another view concerning the role of the law in making $a$ illegal. On this alternative view, the law is not among the grounds of $a$'s illegality, but is instead what makes it the case that other facts ground $a$'s illegality. The argument in the main text suggests, against this view, that the law in question must be among the grounds. See (Berker, 2019) and Enoch (2019) for discussion of the alternative. A third view holds that the law is not among the grounds, but is an enabling condition (or, in Epstein's (2015) terms, an "anchor") for those grounds. On this view, though the legal context itself does not make $a$ illegal, it enables the fact that $a$ is an act of driving 80 mph to ground $a$'s illegality. On this view, any case of a non-illegal act $b$ will be either a case in which $b$ is not an act of driving 80 mph or a case in which the legal context differs. These views still face a challenge from the more direct, intuitive support for Ineliminability, in the main text immediately below. What's more, the arguments of §8 concerning what is "internal" to legal practices apply with appropriate modifications to this third view to yield the conclusion that there is some form of self-reference in the law. So, if these alternative views are invoked in an attempt to avoid this result, the argument of §8 shows that they do not. See n. 49.

legal term). That is, it is evident that what the law says is part of what makes some particular act against the law. We therefore have a third desideratum on the account of what grounds legal statuses: *it must capture the ineliminability of the law from the grounds of legal statuses.*[18]

We have, then, three desiderata on a specification of the grounds of legal statuses:

**Asymmetry** The specification must account for explanatory asymmetries in the law;

**Completeness** If the law specifies grounds for the possession of legal statuses, it must specify full grounds;

**Ineliminability** The specification must accommodate the ineliminability of the law from the grounds for possession of legal statuses.

These three desiderata jointly motivate the idea that there is self-reference in the law. Consider any particular individual $x$ that in fact possesses a legal status $G$. As we have seen, the most natural way to meet Asymmetry is to accept that the law itself specifies grounds for any individual (in its jurisdiction) to be $G$. By Completeness, it must specify full grounds, and by Ineliminability those full grounds will include what the law governing $G$ says. So, the argument concludes, the provisions of law governing $G$ refer to themselves.

# 3 The Problem

Why think this argument presents a problem, rather than simply a result? The relevant kind of self-reference has struck other theorists as implausible, even bizarre. Their concern can be appreciated by considering an example. Consider, then, what we will call a *strongly self-referential view*, on which some instance of

[18] Care must be taken to obtain a precise formulation of this constraint. The issue is that ground is standardly and plausibly held to chain, so that the grounds for the grounds of some fact are themselves grounds of that fact. If we combine this with the observation that some congeries of law-free facts grounds facts concerning what the law says, then we can readily obtain law-free grounds for legal statuses of individuals: simply swap out (by chaining) the legal fact for its law-free grounds. The constraint in the main text should be read as claiming that any grounds for a legal status must either include a fact concerning what the law says, or *go through* such a fact (by chaining). For technical development of this idea, see (Fine, 2012, pp. 51, 63-7), (deRosset and Fine, 2023, pp. 422-4).

**SSR** Under applicable law, for all $x$, $x$ is $G$ iff and because of the fact that $x$ is $F$ together with the fact expressed by this very provision of law

is true. Suppose, for illustration, that the view affirms

(15) Under applicable law, for all $x$, $x$ is murder iff and because of the fact that $x$ is killing with $M$ together with the fact expressed by this very provision of law.

The view also affirms, as we have been assuming, that this particular provision of law is factive, in the sense that what the law says is the case according to (15) really is the case.[19] So, the strongly self-referential view affirms

(16) For all $x$, $x$ is murder iff and because of the fact that $x$ is a killing with $M$ together with the fact expressed by (15).

Thus, on the strongly self-referential view, a certain provision of law says, correctly, that it itself is part of what makes it the case that certain acts are murder.[20]

Other commentators have found the strongly self-referential view objectionable. Rosen derides it as "procrustean" (2017b, p. 297), and Berker suggests that it is "seemingly hopeless" (2019, p. 916).[21] It is highly unfamiliar and difficult to understand.

A symptom of the difficulty is that there is no helpful way of spelling out what instances of (SSR) say. Normally, if I say something of the form,

[19] Imagine a defense to murder along the following lines:

> $P$ did kill the victim with $M$, and the law, properly interpreted, says that any act that is a killing with $M$ is a murder. But saying so does not make it so, and, since we have no better evidence than the mere say-so of the law that any killing with $M$ is murder, we have reason to doubt that $P$ committed murder. After all, perhaps there is another element of the crime not mentioned in the law.

This is a bad defense. And, it seems, it is bad because of the factivity of the relevant provision of law: the (authoritatively instituted) law, correctly interpreted, says that something is a murder under conditions $F$, and so it is generally true that something is a murder under conditions $F$.

[20] In the early 20$^{\text{th}}$ Century the Indiana legislature nearly passed a bill endorsing a fallacious construction for squaring the circle (Hallerberg, 1977). Perhaps, if the bill had passed, there would be a provision of Indiana law that said that the circle could be squared, even though the circle cannot be squared. If so, the strongly self-referential view does not require that this provision of law would be factive. It requires only that any provision of law which helps make it the case that some individual has some legal status is factive. Thanks to David Mark Kovacs and Daniel Nolan for discussion.

[21] Berker has clarified that the characterization is intended to be attributed by a hypothetical objector, rather than Berker himself. He has acknowledged that he is sympathetic to strongly self-referential views (p.c.), though he does not endorse their analogue in the case of moral statuses.

(17) The fact expressed by sentence $S$ grounds the fact that $\phi$

Then I can spell out what (17) says by using a sentence $\psi$ which expresses the very same fact as $S$, and saying that $\psi < \phi$. (Typically, if you understand $S$, I can just use $S$.) So, for instance, if I were to say something like

(18) The fact expressed by 'snow is white' grounds the fact that either snow is white or grass is purple

then we can helpfully spell out what I have said:

(19) snow is white $<$ either snow is white or grass is purple.

We may not agree with this grounding claim, but we can at least helpfully specify what it says.

In the case of (15), we are unable to follow this simple procedure. Try it. You'll find that the self-reference works its way back in, and so we don't have a helpful specification of what (15) says. We could instead specify what (15) says without self-reference by brute force. For instance, assuming (15) is true, it expresses a fact, and we could stipulate that '$P$' is to be a syntactically atomic sentence expressing that very fact. Then we could use '$P$' to express what (15) says:

(20) Under applicable law, for any act $x$, $x$ is a murder iff and because $x$ is a killing with $M$ and $P$.[22]

This is true so long as (15) is, but hardly counts as a helpful specification of what it says. Similar remarks apply if we simply replace 'this very provision of law' in (15) with '(15)', a quotation-name of (15), or a uniquely identifying description.[23]

So, we appear to have a problem: meeting desiderata on a systematic account of what makes it the case that particular individuals have their various legal statuses seems to require an implausible form of self-reference in the law.

# 4 Weakly Self-Referential Views

We can avoid the problem by denying any of the desiderata articulated in §2. We will discuss the prospects for one such response below. For now, I want to

[22]Notice that '$P$' is an *object-language* sentence *used* in (21). It is neither a schematic variable nor merely mentioned.

[23]This point is made by (Berker, 2019, pp. 915ff.).

consider the extent to which it is objectionable to accept the relevant sort of self-reference in the law. I will urge in the next four sections that a judicious consideration of the merits of such a course reveal that previous commentators have exaggerated its implausibility.

I will consider a type of strongly self-referential view in the next section. Here I want to note that there is an alternative to SSR. This alternative is suggested by reconsideration of (13)

(13) $x$ is $G$ in virtue of the following facts: that $x$ is $F$, and that, under applicable law, for every $y$, $y$ is $G$ iff and partly because $y$ is $F$.

in a situation in which $x$ has legal status $G$, $x$ is $F$, and the law in fact says that $F$ is a necessary and sufficient condition for being $G$. We said that this cannot be a full account of applicable law governing $G$, on pain of violating COMPLETENESS. Strongly self-referential views provide one way to offer a more complete story. But a simpler amendment obviously recommends itself: accept a further provision of applicable law which specifies full grounds by appeal to (13). That is, accept that the law says two things about what makes something $G$: first, that being $F$ helps make something $G$; and, second, that the fact that the law says the first thing, together with the fact that $x$ is $F$, fully grounds $x$'s being $G$.

On the view I am suggesting, for instance, the only thing that one needs to add to $m$'s being a killing with $M$ to yield a full ground of $m$'s being murder is that there is a provision of law saying that something's being a killing with $M$ partially grounds its being murder. Furthermore, the law specifies full grounds because a further provision of applicable law says just this. Call such a view a *weakly self-referential view*. A weakly self-referential view appeals to coordinated instances of

**WSR$\prec$** Under applicable law, $(\forall y)(y$ is $G$ iff and partly because $y$ is $F)$.

**WSR$<$** Under applicable law, $(\forall y)(y$ is $G$ iff and fully because $y$ is $F$ and (WSR$\prec$)).[24]

[24] I indulge an intuitive but idiosyncratic convention regarding the specification of series of schemas: a pair of claims is an instance (collectively) of (WSR$\prec$) and (WSR$<$) if its first member results by uniformly substituting appropriate expressions for '$F$' and '$G$' in (WSR$\prec$), and its second member then results from substituting those expressions for '$F$' and '$G$' and the first member for '(WSR$\prec$)' in (WSR$<$).

This view is self-referential to the extent that some provisions of applicable law make reference to other provisions of applicable law, so the body of law as a whole makes reference to itself. But it is only weakly self-referential, since the view requires no provision of applicable law to refer to itself.

A weakly self-referential view satisfies our desiderata. To illustrate, apply the schemas to the case of our murder $m$:

(21) $m$ is a killing with $M$, (Under applicable law, something is a murder iff and partly because it is a killing with $M$) $<$ $m$ is a murder.

This proposal clearly satisfies Completeness and Ineliminability. To see that it satisfies Asymmetry, consider

(22) $m$ is murder, (under applicable law, something is a killing with $M$ iff and partly because it is murder) $<$ $m$ is a killing with $M$.

This claim is laughably false, since it mischaracterizes the order of explanation specified in applicable law. Moreover, the discomfort stemming from our inability to helpfully specify what supposedly true instances of ssr say is wholly misplaced here: (21) helpfully lays out exactly what the relevant provision of law described by wsr$<$ says. So, weakly self-referential views give us the desiderata without the discomfort.

Unfortunately, the view does have an unattractive feature in the legal context: it does not seem like a particularly plausible interpretation of applicable law. Presumably, assuming, as we have, that applicable law can be resolved into particular provisions, there may be just one provision governing the conditions that make something murder. Our interpretation has the law in this one place expressing distinct contents, one concerning partial grounds for something's being murder, and the other concerning full grounds and making reference to the first.[25] If we pretend for the moment that the particular provision of applicable law is some particular sentence of some particular statute, then that provision presumably reads something like 'murder is unlawful killing of a human being with malice aforethought' (18 USC §1111). I have argued that it is plausible to read into the law a view concerning grounds for legal statuses. But it is far less plausible to read into it a pair of provisions, one concerning partial ground

[25] Obviously, we could simply conjoin the two contents to yield a single content. This does not alter the plausibility of the proposed interpretation.

and the other concerning full ground and making reference to the first. An interpretation that lacked this bifurcation would clearly be more plausible.

We might hope to avoid a bifurcated interpretation by imputing a single, general provision of law, along these lines:

(23) Under applicable law, whenever some provision $P$ says that, for any $x$, $x$ has legal status $G$ iff and partly because $x$ meets certain conditions, then the fact that something $a$ meets those conditions and the fact expressed by $P$ jointly fully ground $a$'s being $G$.[26]

On this proposal, we won't need a bifurcated interpretation of the provisions of law governing each particular legal status, since the work of instances of WSR$<$ would be done all at once by (23). I will not here attempt the task of developing and defending in detail the existence of such a completely general provision. It is enough for now to note that this interpretation of the law imputes a general provision of law which, to the best of my knowledge, has never been articulated, however inchoately, by any actual legislator. By contrast, I have argued, the law often specifies (more or less inchoately) grounds for particular legal statuses of individuals. This fact, together with the potential in these specifications for ambiguity between full and partial ground, gives us a foothold for attributing bifurcation in the individual cases that is absent for imputing (23). Still, if there were no alternative available, then perhaps either a weakly self-referential view or this variant could be justified by appeal to features of legal practice; see §§7-8 below. Fortunately, as I will argue, a strongly self-referential view provides a plausible alternative.

## 5 A Problem for Strongly Self-Referential Views

On the strongly self-referential view, what the provision of law governing murder says is that something's being murder is grounded in its being a killing with $M$ together with *that very provision*. A drawback we have already noted is that there is no way of helpfully specifying what the law says in this case.

It is not clear, however, that this difficulty in helpfully spelling out what (15) says should give us pause, since it is a familiar feature of self-referential claims. In the course of the Gettysburg Address, Lincoln said, 'The world will

[26] Thanks to an anonymous referee for suggesting this alternative.

little note, nor long remember what we say here.' Try to helpfully spell out what Lincoln said there. It can be done by quotation, by brute force, or by describing it as "what Lincoln said at Gettysburg on November 19, 1863." None of these glosses helpfully specifies the content of his words. And yet we both note and remember what he said there.

A more severe difficulty is that there appear to be no antecedently plausible instances of the particular kind of self-referential grounding claims that strongly self-referential views require. It is fair to say that no such grounding claims have figured in the now vast literature on grounding, outside of the very issue now under discussion. There are, however, very close cousins that appeal to plausible and widely endorsed principles of ground. For instance, it is plausible to think that that fact expressed by 'snow is white' grounds any fact expressed by a disjunction of the form 'either snow is white or $\phi$', and this principle is widely endorsed in the grounding literature. This yields an analogue of (15):

(24) either snow is white, or the fact expressed by (24) is grounded in the fact expressed by 'snow is white'.

(24) seems to me to be unproblematically true: since the left-hand disjunct is true, the sentence expresses a fact. Moreover, by the plausible and widely endorsed principle I articulated above, the fact expressed by (24) is grounded in the fact expressed by 'snow is white', so its right-hand disjunct is also true.

There is, however, an interesting difference between (24) and (15): roughly, while (15) says of itself that it *grounds* something, (24) says of itself that it is *grounded by* something. To get a closer analogue to (15), we might try

(25) either snow is white, or the fact expressed by (25) grounds the fact expressed by the disjunction of (25) and 'grass is green'.

We get a relevant analogy with (15) if we are given the principle that, if $\phi$ is true, then the fact expressed by a disjunction of the form 'either $\phi$ or grass is green' is grounded in the fact expressed by $\phi$. Unfortunately, this latter principle is much less widely presupposed and, more importantly, far less plausible.[27]

In the absence of an independently plausible claim which is relevantly similar

[27]The principle in full generality gives rise to the logical puzzles of ground discovered by Fine (2010). See Krämer (2020) for a survey of the literature on the puzzles, including views which deny the principle in the main text.

to (15), the appeal to (15) and its ilk is unmotivated.[28] Fortunately, there do seem to be plausible analogues. These analogues have two important upshots. First, they show that there is no good objection in principle to the kind of self-reference to which the relevant instances of SSR appeal. The relevant species of self-referential ground has familiar and plausible instances. Second, those instances offer a model for developing a plausible variant of a strongly self-referential view.

# 6 Herebyism

This variant is motivated by the fact that self-reference is ubiquitous in at least some familiar legal or broadly conventional, procedural practices. Moreover, the self-reference in question is similar to that proposed by (SSR): there are cases in which some item apparently says of itself that it makes something else the case.

Here is a simple example. The facilitator of an official meeting pronounces it adjourned, saying

(26) This meeting is hereby adjourned.

The occurrence of 'hereby' is self-referential; we might more explicitly articulate the content of the pronouncement by

(27) This meeting is *by this very pronouncement* adjourned.

After the pronouncement, of course, the meeting is adjourned, and the pronouncement's content is not neutral on the question what what makes it the case that the meeting is adjourned. The pronouncement self-ascribes its own efficacy in making it the case that the meeting is adjourned. According to the pronouncement, the meeting is adjourned by the pronouncement.

It would not be plausible to hold that the (occurrence of) the pronouncement by itself makes it the case that the meeting is adjourned. If, for instance, a member of the audience, lacking any authority, were to utter (26), the meeting would not be adjourned. Or, at least, it would not be adjourned by the

[28] Berker (2019, p. 916) argues in a similar vein that we should be skeptical that an analogue of (15) for moral statuses is true, because there seem to be no independent facts that settle whether it is the case. In this respect, he notes, the claims characteristic of strongly self-referential views are similar to the truth-teller sentence, which says of itself that it is true.

audience member's pronouncement. In the terminology used in the literature on speech acts, the audience member's pronouncement is not *felicitous*, because the audience member lacks the authority to adjourn the meeting. So, the mere fact that the facilitator made a pronouncement by uttering (26) is only part of what makes it the case that the meeting is adjourned. Other felicity conditions must also be met, including that the pronouncer is invested with the relevant authority, that the pronouncement was not mumbled inaudibly, that the appropriate procedures for running through the meeting agenda (or setting agenda items aside) were followed, *etc.* If we let $f$ be the meeting in question, I will summarize the claim that all of those felicity conditions are met in a given case by saying that the pronouncement is *authoritative for* $f$. So, if $p$ is the (particular, dateable) pronouncement, we arrive at the view that what makes it the case that $f$ is adjourned are the following facts: that $p$ occurred in the course of $f$, that $p$ is authoritative for $f$, and that $p$ is a pronouncement that $f$ is adjourned by $p$.

The 'by' locution in this case certainly indicates some sort of explanatory connection, which I have expressed above using the idiom of *what makes what the case*. It is plausible, then, to interpret that locution as indicating ground, and I will assume that that interpretation is correct. So, full grounds for the fact that $f$ is adjourned are given by:

(28) $p$ occurred in the course of $f$, $p$ is authoritative for $f$, $p$ is a pronouncement that $f$ is adjourned by $p < f$ is adjourned.

Notice that the grounding claim (28) involves a self-referential pronouncement. Notice also that the content of that pronouncement requires that the pronouncement itself grounds something, namely, the fact that $m$ is adjourned. So, we have a familiar, pedestrian case of a sort analogous to that alleged by (SSR). It is easy to see that there will be a raft of similar cases. They are so ubiquitous that they are emblematic of legal proceedings. A conventional way to affect a stuffy, lawyerly air is to liberally pepper one's speech with 'hereby''s, 'forthwith''s, 'whereof''s, and other self-referential locutions. So, the first upshot of our example is that there is no sound objection in principle to the sort of self-referential ground required by strongly self-referential views.

This clears the ground for strongly self-referential views. But the utility of our examples extends further: they also serve as a model for a strongly self-referential view. (26) resolves grounds for the adjournment of $f$ into the

authority of $p$, the self-referential content of $p$, and a condition met by $f$. To apply this model to the case of legal statuses, we need to appeal to the idea that a certain provision of the law is *authoritative* for some particular individual $i$. This means that the law is in force, that $i$ is in its jurisdiction, *etc.*. Consider again our murder $m$, and suppose that $l$ is a provision of law governing murder that is authoritative for $m$. Let '$L$' be an atomic sentence expressing the claim

(29) $l$ says that $(\forall x)(x$ is murder iff and because $l$ is authoritative for $x$, $L$, and $x$ is a killing with $M)$.

Then, on the strongly self-referential view I propose,

(30) $l$ is authoritative for $m$, $L$, and $m$ is a killing with $M < m$ is a murder.[29]

More generally, the grounds for something's having a legal status, on the view I am proposing, resolves into the authority of some provision of law, the self-referential content of that provision, and the fact that the individual in question meets some condition specified by that provision. That is, the view I propose appeals to instances of this schema:

**HB** $l$ is authoritative for $x$, $\Lambda$, $Fx < Gx$

where $l$ is a provision of law authoritative for $x$, and $\Lambda$ is an atomic sentence saying that $l$ says that any $y$ has legal status $G$ iff and because $l$ is authoritative for $y$, $\Lambda$, and $Fy$.[30]

Return to our original example, Joe's act $a$ of driving 80 mph down the street that runs outside my office. Intuitively, on herebyism, what makes $a$ illegal is that it is an act of driving 80 mph down that street, and that there is a law applying to $a$ according to which any such act to which that law applies is, *by that very law*, illegal. Call this form of strongly self-referential view *herebyism*.[31]

[29] Here '$L$' is an object-language sentence that is used, rather than merely mentioned. Its status is similar to that of '$P$' in (20).

[30] Perhaps HB does not count as a strongly self-referential view in the sense defined above, since it does not appeal to any instance of SSR. In particular, HB splits the self-referential claim of the form, 'under applicable law, $\phi$' in SSR into the claims that a certain provision of law is authoritative for a given act, and a self-referential attribution of content to that provision. So, perhaps it would be more accurate to say that HB is a *variant* of a strongly self-referential view. I will ignore such taxonomic niceties in what follows.

[31] There is an obvious variant of (HB), on which one or both of the authoritative application of $l$ to some particular individual and the specification $L$ of the content of $l$ are enabling conditions for something's being $F$ to ground its legal status. (Clearly, the specification $L$ of the content of the law would also have to be revised.) See n. 17. I will continue to use the simpler version articulated in the main text for purposes of discussion.

# 7 Motivations for Herebyism

Herebyism is an interesting view. Is there any reason to believe it? It obviously satisfies Asymmetry, Completeness, and Ineliminability, and it does so without indulging a bifurcated interpretation of the relevant provisions of the law. Is it, however, "procrustean?" That is, does it interpret the law in a way that is convenient for satisfying those desiderata, but is otherwise utterly implausible? I think not. Herebyism is motivated by a familiar sort of self-reference, ubiquitous in legal and procedural contexts. Moreover, far from being a "procrustean" proposal to force grounding of legal statuses into an intuitively bizarre self-referential mold, herebyism emerges naturally from consideration of features immanent in familiar legal practices.

Herebyism identifies three kinds of determinants of the legal status of an individual $i$: (i) the (often non-legal) *facts of the case*, concerning whether $i$ meets the condition $F$; (ii) the *content* of legal provisions putatively governing $i$; and (iii) the *authority* of those legal provisions over $i$. Disputes over these three determinants of legal status are familiar and ubiquitous. Participants in legal systems argue over the facts, of course, including whether, say, a certain person in fact did some particular deed. Similarly, participants sometimes argue about the content of a law that applies to a given individual; so, for instance, participants may argue that tax law governing income does not say that provision of health insurance to employees counts as income. Importantly, these disputes appear to concern whether this or that provision of the law *makes it the case* that individuals in a given class – in this case, provisions of health benefits to employees – have a given legal status. Finally, participants may argue about the scope and limits of the authority of the relevant provision of law. So, for instance, they might argue about jurisdiction: does the Jones Act, which governs "vessels in navigation," apply to a floating gravel processing plant moored to a coastal dock for the winter?[32] Does a Nineteenth Century law banning abortion that was never explicitly repealed by the legislature apply to contemporary people, given the intervening Supreme Court decisions?[33] Herebyism explicitly licenses all three kinds of dispute in the provisions of law governing the relevant legal statuses. It appears, then, that herebyism fits the commitments of actual legal practice well. In fact, herebyism seems to be the natural

[32](Foster v. Davison Sand & Gravel Co., 31 BRBS 191).
[33](Kaul v. Urmanski (Wisconsin state trial court))

result of any attempt to summarize and codify these three kinds of dispute in a single provision of law.[34] It is for this reason an independently plausible interpretation of what the law says, despite its unfamiliarity. The fact that it satisfies our desiderata is just a further advantage.

# 8 Essence and Law

Still, weakly self-referential views and herebyism are not the only plausible views of the grounds for particular legal statuses on offer. I have already mentioned a competitor, an unsystematic view. I have suggested some reason for dissatisfaction with this competitor, and other authors join me in rejecting it. Other authors do not join me, however, in supporting either a weakly self-referential view or herebyism.

We have seen that the pressure to offer a systematic account of how legal statuses are grounded motivates interpreting the content of the law as indicating, generally, what makes it the case that certain acts have their legal statuses. On this view, if we interpret *making the case* as it appears in the content of the law as indicating *full ground*, then, as we have seen, we get some form of self-referential view. Other authors, dissatisfied with self-referential views for the reasons reviewed – and ultimately rejected – above, have suggested avoiding self-reference by allowing that the law does not specify full grounds, in the relevant sense, for legal statuses (Berker, 2019), (Enoch, 2019), (Rosen, 2017b).

On this view, there is a special, legal sense of *making something the case* which is distinct from the more familiar and generic sense we have been employing. When we make a claim about what legally makes something the case, we assume the relevant legal context. Thus, we might say that $a$'s being an act of driving 80 mph *legally makes* $a$ illegal in this special sense, while denying that (by itself) it makes $a$ illegal in the sense of fully grounding (in the familiar, original sense) its illegality (Enoch, 2019, pp. 12-3). Following Enoch, let's call this special phenomenon *legal grounding*. And, to avoid confusion, let's call the familiar, original kind of grounding *ordinary grounding*.[35] Then, on the view at issue, the content of the relevant provision of law is given by

[34] Similar remarks apply to weakly self-referential views.

[35] Both Rosen (2017b) and Enoch (2019), following Fine (2012), call the more familiar kind of *making the case* "metaphysical grounding" to distinguish it from both legal grounding and what Rosen calls *normative grounding*.

(31) Under applicable law, for any act $x$, if $x$ is an act of driving down the street at 80 mph, then the fact that $x$ is an act of driving down the street at 80 mph legally grounds the fact that $x$ is illegal.

Even if this view about the content of the law is granted, we do not yet have an account of what grounds $a$'s illegality, in the original sense of ordinary grounding. On the response at issue, what fully grounds $a$'s illegality in the ordinary sense is the fact expressed by (31), together with the fact that $a$ is an act of driving down the street at 80 mph. More generally, if we use 'iff and legally because' to indicate the obvious analogue of 'iff and because', then the view appeals to instances of the schema:

**LG** $x$ is $G$ iff and because of following facts: that $x$ is $F$, and that, under applicable law, for any $y$, $y$ is $G$ iff and legally because $y$ is $F$

where $G$ is a legal status possessed by $x$, $x$ is $F$, and the law does in fact specify that being $F$ is necessary, sufficient, and an explanation for being $G$. Like herebyism and a weakly self-referential view, the view that endorses (LG) holds that the content of the law indicates a direction of explanation, thereby meeting ASYMMETRY. LG itself says that what the law says is part of the explanation for something's being $G$, thereby meeting INELIMINABILITY. What goes by the board is COMPLETENESS. But the view does satisfy a close cousin of COMPLETENESS, on which, whenever the law specifies *legal* grounds for the possession of a legal status, it specifies a full *legal* ground.

Assessment of (LG) depends on what we make of the notion of legal ground. There is little doubt that we can and sometimes do assume the relevant "legal context" in our investigations into what, if anything, gives particular individuals their legal statuses. Thus, in asking what makes $a$ illegal, we may, in many contexts, take for granted that there is an authoritatively instituted provision of law that applies to $a$ and says that any act of driving down the street at 80 mph is illegal. Against this background, we need neither mention the existence of that provision of law, nor specify its content when saying what makes $a$ illegal. So, there is little doubt that there is some relation, call it *l-grounding*, which has the features attributed above to legal grounding. Similar considerations suggest that there is a relation of *legal-in-Las-Vegas grounding*, a relation of *rules-of-Scrabble grounding*, a relation of *according-to-Hoyle grounding*, *etc.*[36]

[36] Enoch (2019) acknowledges this point.

On the most straightforward way of characterizing the idea of l-grounding, however, appeal to l-grounding does not offer any genuine alternative to self-referential views. On the characterization I have in mind, l-grounding is analyzed in terms of full grounding: for $\phi_1(x), \phi_2(x), \ldots$ to l-ground $\psi(x)$ is for there to be a provisions of law $l$ authoritative for $x$ saying that $\phi_1(x), \phi_2(x), \ldots, L < \psi(x)$, where $L$ says that, for any $y$ such that $\phi_1(y), \phi_2(y), \ldots, \phi_1(y), \phi_2(y), \ldots$ are appropriately linked by $l$ to $\psi(y)$.[37] Suppose that (31) states the only relevant provision of law that applies to $a$.[38] Then, substituting the analysis of l-grounding into the relevant instance of (LG) appears to require, in effect, that $L$ say that $L$ itself, together with some other facts, grounds $a$'s illegality. Technically, all $L$ need say is that *there is some provision of law* meeting a certain condition which, together with certain ancillary facts, grounds $a$'s illegality. It just so happens that $L$ is the only provision of law meeting that condition. But, if (SSR) turns out to be problematic, it would seem that similar problems will afflict any proposal that affirms (LG) and identifies legal grounding with l-grounding.[39]

As we have seen, the phenomena that motivate self-referential views show that the sort of self-reference at issue turns out not to be problematic or even particularly rare or unfamiliar. But, if this sort of self-reference is accepted by the proponent of (LG), we seem to have a close cousin of herebyism. So, we can cast herebyism as a variant of the view on offer. But we shouldn't. A version of herebyism which appeals neither to legal grounding nor to any analysis of legal ground in terms of ordinary ground is preferable, since the resulting detour through the notion of legal grounding causes new headaches without relieving any of the old ones; see n. 37.

An alternative to endorsing the identification of legal grounding with l-grounding is to deny that legal grounding has any analysis in terms of the more ordinary, familiar notion of ground. The same goes for rules-for-Scrabble grounding and the rest. Each of these is, in some sense, a grounding relation, but none of them can be analyzed or defined in terms of the more ordinary, familiar notion of grounding.[40] If we just said that, then we would have no

[37] It is not clear how to characterize what an "appropriate link" is supposed to be. The most obvious candidate for an appropriate link is *l-grounding*, but that would yield a circular characterization.

[38] Notice that this assumption takes an analogue of (WSR) off the table.

[39] Berker (2019) makes this point.

[40] This view is endorsed by Enoch (2019). Rosen (2017b) dismisses it as implausible in the

reason to think that (LG) is true. (LG) requires there to be a strong relation between what are, on the view we are exploring, two entirely separate phenomena: grounding and legal grounding. We need some reason for thinking (LG) is true if the view is to be plausible.

At this point, proponents of (LG) appeal to the *essence* of legal grounding.[41] It is, they say, *essential to* legal grounding that, whenever there is a provision of law $l$ that certain circumstances legally ground the possession of legal status $G$, then any individual $x$ in those circumstances is such that $x$'s being in those circumstances, together with the existence and content of $l$, ground (in the ordinary sense) $x$'s being $G$. Thus, the fact that legal grounding is always accompanied by ordinary grounding is explained, collectively, by the factivity of the locutions 'under applicable law' and 'it is essential to $x$ that' and the essence of legal grounding.[42] Even if this connection between legal grounding and ordinary grounding provides no analysis or definition of legal grounding, there is still an essentialist connection between them which explains why legal grounding is always and necessarily accompanied by ordinary grounding.[43]

There is, I think, something unsatisfactory about this essentialist proposal. The explanation for the systematic co-occurrence of legal and ordinary grounding is that it is essential to legal grounding that it be so. Sometimes essentialists put the claim in question by saying that it is *part of the nature of* legal grounding that it be connected to ordinary grounding in this way. To see why this appeal strikes me as unsatisfactory, consider the question of why mules are sterile. The answer, that it is part of the nature of being a mule (or essential to being a mule) that mules are sterile, seems to make little or no advance. The problem is not that the essentialist claims are implausible. They are as plausible as such paradigmatic essentialist claims as that it is essential to being a human being that humans are rational; that it is essential to being an animal that animals have a capacity for reproduction; or that it is essential to cruelty that cruel acts inflict suffering. The problem, rather, is that they seem – to me,

case of legal grounds, but, interestingly, endorses an analogue for moral statuses.

[41] Here I follow Enoch's (2019) discussion.

[42] Enoch's discussion does not explicitly appeal to this claim, but rather its converse. In particular, Enoch suggests, "When a legal fact is metaphysically grounded in a legal norm together with legally relevant non-legal facts, it is fully legally grounded in the legally relevant non-legal facts alone" (Enoch, 2019, 22).

[43] To be clear, the explanation on offer needn't be a grounding explanation: the view under discussion is not committed to the claim that the essentialist facts are what make it the case that legal grounding is always accompanied by ordinary grounding.

at least – not to explain what they are supposed to explain.

But many authors, by contrast, find it plausible that essentialist truths of the form 'it is part of the nature of $x$ that $\phi$' provide satisfactory explanations of $\phi$ in at least some cases.[44] Suppose, then, that my skeptical musings regarding the explanatory potency of essence are ultimately wrong.

There is a further point to make. On the view we are exploring, we lack a definition or analysis of legal grounding in terms of ordinary grounding. But we do not lack any grip at all on the idea, for some guidance is provided by the suggestion that legal grounding is a sort of making the case that is "internal" to the law (Enoch, 2019, pp. 11, 13).[45] It is not completely clear what this metaphor comes to, but the idea seems to be something like this:

**Internality:** There is a notion of *making the case* embedded in legal practice, such that, when there is a law appropriately linking, for any $y$, $F(y)$ to $y$'s having the legal status $G$ and that law is authoritative for $a$, we may conclude that what *makes it the case* (in this sense) that $G(a)$ is *completely* specified by noting that $F(a)$.

The further point is that (INTERNALITY) seems to be false, as least if $F(a)$ specifies only such extra-legal conditions as, say, that $a$ is an act of driving 80 mph. More particularly, (INTERNALITY) seems to be false, so long as $F(a)$ specifies neither the content of the relevant provision of law nor matters pertaining to the authoritativeness of that provision for $a$. The law "contains" (to play along with the metaphor of "internality") much of its own meta-theory.[46] Here are some appropriate objections to the claim that some act $a$ is illegal: that the alleged provision of law was never properly instituted; that it was properly instituted but is for some reason not authoritative; that $a$ is not in the jurisdiction of the relevant provision of law; that the relevant provision of law was authoritatively instituted, but not at the time that $a$ occurred; that the relevant provision

[44] See (Rosen, 2010, p. 119) for a version of this view, (Glazier, 2017) for a sophisticated development, and (Zylstra, 2019, §2) for discussion.

[45] The sense in which legal grounding is supposed to be "internal" to the law must be distinguished from the notion of adopting an "internal" perspective on a given system of legal norms, due to (Hart, 1994(1961)).

[46] The actual text of statutes is often transparently self-referential. For instance, title 18 of the U.S. Code was passed by an act of Congress, specifies certain classes of criminal offenses, and reads, in part, "As used in sections 3141–3150 of this chapter ... the term "offense" means any criminal offense, other than an offense triable by court-martial, [*etc.*] which is in violation of an Act of Congress and is triable in any court established by Act of Congress" (18 U.S. Code §3156).

of law was authoritatively instituted, but then implicitly but authoritatively repealed;[47] *etc.*

Contrast the appropriateness (in at least some circumstances) of these defenses to the inappropriateness of a bad defense to murder, already described in n. 19. The bad defense is that though applicable law (properly interpreted) *says* that any killing with $M$ is murder, it has not been established that what applicable law says about this is true. The fact that this defense is bad indicates that it really is a feature of legal practice that we are entitled to assume the factivity of the law in cases like this,[48] and that the relevant instances of factivity are not among the grounds (in the "internal" sense) of legal statuses for particular individuals. By contrast, the relevant facts concerning jurisdiction, authority, and the institution of provisions of law appear to be among those "internal" grounds.

These reflections suggest that it is a feature of legal practice that the sorts of considerations invoked by both weakly self-referential views and herebyism as part of the ordinary grounds for legal statuses of particular individuals are among the considerations bearing on the kind of *making the case* that is "internal" to the law. One could simply add these conditions about the law's content and authority to the alleged legal grounds for the legal statuses of individuals, resulting in a view on which a complete specification of the legal grounds of legal statuses make reference to the relevant provisions of law. But the result would be a view which recapitulates either a weakly or strongly self-referential view of the ordinary grounds of legal statuses at the level of legal grounds.

Thus, if we take the idea of what is "internal" to the law in the sense deployed in INTERNALITY as our guide to what legally grounds what, then, it seems, legal grounding will have the very same extension as ordinary grounding in the domain of legal statuses. Dispute over the authority and content of the relevant provisions of law is itself part of the legal practice of establishing that individuals have legal statuses. So, no matter how we approach the issues, some sort of self-reference is embedded in legal practice. (This is among the reasons advanced above for thinking that herebyism is motivated by features immanent in legal practice.) The detour through the alleged distinction between legal grounds

[47] There are limits in actually existing jurisdictions concerning the occasions on which such objections may be made.

[48] There may be more problematic cases, in which some contradiction is true under applicable law. See n. 20.

and ordinary grounds will not help us avoid this stubborn fact. Irreducible legal grounding is somewhat obscure and yet appears not, ultimately, to avoid self-reference.[49] We are better rid of it.

# 9 Back to Non-Naturalism

Our discussion up to this point has focused on the question of how to accommodate the highly plausible idea that legal statuses for particulars are partially grounded in the existence of applicable general laws. I have criticized various suggestions made by other authors about this sort of case. But, it must be admitted, legal statuses are very much a side-concern of the authors writing on these problems. They are principally concerned, instead, with normative or moral statuses for individuals. More specifically, they are interested in bridge law non-naturalism. Since the literature principally concerns the tenability of bridge-law non-naturalism, it might reasonably be contended that the discussion up until now does not really engage with these authors' core concerns. The thought is that they could just concede each of the suggestions above concerning legal statuses, but stick to their guns when it comes to questions concerning normative or moral statuses.

For the sake of simplicity, let's focus on the case of the moral status of particular individuals, leaving other forms of normativity to the side. The hope driving my approach in this paper has been that we might develop results in the case of law, where matters are relatively clear, so that we could then transfer those results to the moral case. Let's put that hope to the test. There are two candidate self-referential views in the legal case, the weakly self-referential view focusing on WSR, and herebyism. There are analogues for both views in meta-ethics. Let's consider each analogue in turn.

Let's start with an analogue for morality of a weakly self-referential view, which we might call the *weak variant* of bridge-law non-naturalism. The weak variant appeals to coordinated instances of the pair of schemas:

**L$\prec$:** It is a moral law, that, $(\forall x)(x$ is $M$ iff and partly because $x$ is $P)$;

[49] As indicated in n. 17, these considerations also suggest that distinguishing enabling conditions from grounds and suggesting that a specification of the content of the laws provides a mere enabling condition, rather than a ground, for the legal statuses of individuals does not ultimately enable us to avoid the imputation of self-reference in the law. Similar remarks apply to attempts to distinguish grounding from "anchoring" and to suggest that facts concerning what the law says anchor, but do not ground, the legal statuses of individuals.

**L<:** It is a moral law, that, $(\forall x)(x \text{ is } M \text{ iff and fully because: } x \text{ is } P \text{ and } (L \prec))$

where $M$ is a moral status, and $P$ is some relevant non-moral condition. Suppose that we are entertaining an act-utilitarian version of the weak variant. This version of the weak variant holds that it is a moral law that acts are wrong iff and partly because they fail to maximize utility, and that acts are wrong iff and fully because they fail to maximize utility and the preceding moral law obtains. Thus, on this view, if we suppose that $a$ is morally wrong, then what makes it wrong is the fact that it fails to maximize utility, and the moral law says that failing to maximize utility is part of what makes it wrong.

Two features of the weak variant bear comment. First, it is clear that the view requires no discomfiting self-reference. There is no problem fully and helpfully specifying the facts which, according to the weak variant, make $a$ wrong, and there is, of course, no need for any moral principle to say of itself that it is among the grounds for the possession of any moral status. Second, the motivation for rejecting weakly self-referential views about legal statuses does not apply to the moral case. Recall that we rejected appeal to instances of (WSR) in the law on the grounds that it implausibly bifurcated the interpretation of the provisions of law governing the legal statuses in question. But, whatever pressure one may feel not to bifurcate our interpretation of the law is wholly misplaced in the moral case. There is no antecedently plausible count for moral principles to which our views must answer. Moreover, it is not implausible to think that some moral principles refer to others. Here, for instance, is one of Rawls's articulations of his second principle of justice: "One applies the second principle by holding positions open, and then, *subject to this constraint*, arranges social and economic inequalities so that everyone benefits" (Rawls, 1971, p. 61, emph. added). Though there are many (first-order) objections to the lexicographic view of Rawls's second principle of justice, the fact that a statement of the subordinate maximin principle will make reference to the superordinate demand for universal access to offices is not one of them. I conclude that none of the reasons for rejecting the appeal to (WSR) in the legal case have analogues for the weak variant of bridge-law non-naturalism.

Consider now analogues for morality of herebyism, which we will call *strong variants* of bridge-law non-naturalism. The most straightforward kind of strong variant simply adapts HB directly, appealing to instances of

**MHB** $l$ is authoritative for $x$, $L$, $Fx < Gx$

where $l$ is a general moral principle authoritative for $x$, and $L$ is an atomic sentence saying that $l$ says that any $y$ has moral status $G$ iff and because $l$ is authoritative for $y$, $L$, and $Fy$.

This specification highlights a key difference between the legal realm and the moral one. I have emphasized the importance of the idea that laws apply authoritatively to individuals. Herebyism is motivated in part by an analogy between the application of law to particular individuals and various legally and procedurally potent speech acts. The fact that laws are sometimes authoritatively instituted and applied and pronouncements of adjournment are sometimes felicitously made is not up for serious dispute. But it is far from clear that there is any analogue of this phenomenon for principles of morality. There seems to be no analogue for moral principles, for instance, of the institution of a provision of law, nor for that provision's jurisdiction.

Of course, we might retreat by simply deleting the condition that the moral principle be authoritative, both from MHB and from the specification $L$ of the content of the moral principle. The result is an analogue of a strongly self-referential view. As in the legal case, there will be no helpful way of specifying the content of the moral principle. As in the legal case, this may be a little discomfiting, but does not pose any problem in principle for the resulting view.

But the lack of an analogue for moral principles of the authority of laws for individuals points to a more serious problem concerning how the strong variant might be motivated. The original motivation for herebyism appealed to a self-referential pronouncement:

(27) This meeting is *by this very pronouncement* adjourned.

But, unlike in the case of the (actually instituted) laws concerning murder, there is nothing like a particular, dateable speech act $s$ to which a claim of the form

(32) Any act of killing with $M$ is *by* $s$ morally wrong

might plausibly refer.[50]

It should be noted that, even in quite standard cases, the overt acts which institute a law are complex, in the sense of involving several acts by different officers. A bill becomes a U.S. federal law, for instance, either by votes of

[50] A divine command theory, which holds that moral principles are instituted by divine decree, does not face this problem. This sort of view, however, has its own problems; see the *Euthyphro* for a classic statement of some of them. In any case, it is not a form of bridge-law non-naturalism.

both houses of Congress and a signature by the President, or by votes of both houses of Congress, a veto by the President, and then a further Congressional vote. Moreover, there are cases in which the President counts as vetoing a bill in virtue of both failing to sign the bill and failing to veto it. This is called a "pocket veto." So, a bill can become U.S. federal law by a Congressional vote, followed by inaction by the President, followed by a veto override vote by Congress. In the state of Vermont, unlike in the case of the U.S. government, a bill can become law without being either signed or vetoed by the Governor: if the legislature approves the bill, a failure to act by the Governor results in the institution of the bill as law. Additionally, some legal theorists argue that a law is not instituted (or at least authoritatively instituted) unless it is promulgated to those to which it applies.[51] Clearly, promulgating a provision of law will involve many acts and omissions by lots of different agents, often over a large span of time.

These reflections suggest that the institution of a law is not always, or even typically, a matter of a single, overt speech act by one person or body. Moreover, there are cases in which laws are authoritative over individuals without there being any overt act of institution.[52]

In fact, there seem to be cases in which a law is authoritatively instituted, even though there is no particular overt act of institution, even by many people. In the English-speaking common law tradition, there are vast areas of law that, for a long time, were instituted and properly applied to individuals despite being uncodified. These include tort law, contract law, and rules of evidence, and they clearly govern the possession of legal statuses, like *being a tort*, *being an enforceable contract*, or *being inadmissible hearsay*, by individuals. In the U.S., we have attempted to codify these laws in statute, but their institution (and some of their proper applications) predates the passage of those statutes and, at least at one time, did not depend on them. Perhaps each such provision of common law has in its causal background an overt decree by some long-dead warlord, queen, or other potentate. This is unlikely, but let's suppose it's true anyway. It is implausible to think that such a decree is any part of what makes

[51] Promulgation requirements are, typically, quite minimal, and may be satisfied by setting the law in question into some official legislative record.

[52] On Hart's view, for instance, though there are what he calls *rules of recognition* which determine whether certain alleged provisions of law were properly instituted, at least some of those rules of recognition are authoritative over particular acts of legislation without themselves being governed by any higher-level rule of recognition (Hart, 1994(1961)).

it the case that the law is properly applied now.[53]

So, it appears that laws can be authoritative over individuals without there being any particular overt act of institution by any particular people. Even in cases like this, however, the sorts of considerations advanced in §§6-8 to motivate legal herebyism are in place. There we saw that questions regarding whether some relevant provision of law is authoritative for a given individual are appropriate bases for denying that the individual in question has a certain legal status. This motivated including such considerations among the grounds of the facts concerning the possession of a legal status by an individual, as legal herebyism does. This remains the case, even for legal statuses governed by common law. For instance, it is appropriate to dispute the claim that a certain jury in the U.S. was *properly empaneled* on the basis that the common law procedures governing jury empanelment are not authoritative for the empanelment of some particular jury because, *e.g.*, they were discriminatory in a way prohibited by the $14^{th}$ amendment to the U.S. Constitution.[54] So, it is plausible to hold that the authority of customary law for an individual is among the grounds of their possession of legal statuses, even when it cannot be traced to any particular act or event. If herebyism can withstand such a phenomenon, so too can the strong variant of bridge-law non-naturalism.

But there is an important point in the offing. Part of the reason that herebyism is plausible even when there is no particular overt act or event by which the relevant provision of law is instituted concerns a feature of legal practice. In particular, as we have seen, it is plausible to take the authority of that provision to be among the grounds for the legal status of the individual in question because legal practitioners treat it as if it is. But there seems to be no such feature of moral practice. Moral theorizing, like legal theorizing, contains a lot of its own meta-theory. But, so far as I can tell, arguments about the authority of moral principles for individuals – that a given moral principle applies to you but not to me, for instance – seem to be neither appropriate nor widespread. So, the defense of herebyism against the charge that its self-referential element is "procrustean" or "bizarre" seems to have no analogue for the strong variant. It must be admitted, then, that the charge carries more weight in the moral

[53] The question of what makes it the case that a law (with a given content) is authoritative is hotly contested in philosophy of law. The considerations in the main text are common ground among the plausible contenders.

[54] *Batson v. Kentucky*, 476 U.S. 79 (1986).

case than in the legal case.

What has our discussion shown? Berker (2019) has identified a problem afflicting both the idea that laws help ground legal statuses of individuals and the idea that moral principles help ground moral statuses of individuals. In the case of the law, it is evident that Berker's problem has a solution, since legal statuses of individuals clearly are, at least sometimes, grounded in part in the institution of the provisions governing those statuses. As we have seen, there are several ways to avoid the problems Berker has alleged. These views include one on which the law governing the legal status of an individual $x$ is weakly self-referential. The law includes a provision specifying partial grounds for $x$'s having a certain legal status $G$ and a meta-provision saying that all that needs to be added to get a full ground is that the first provision exists and has the content it does. Another view which avoids the problems, herebyism, holds that the law exhibits the stronger form of self-referential grounding characteristic of self-ascriptions of efficacy in many legal and procedural contexts. Each of this pair of views has an analogue in the moral case: a form of bridge-law non-naturalism that avoids the problems Berker has identified.

A final point concerns the significance of this last conclusion. Though both the weak and strong variants are serviceable for bridge-law non-naturalists, these patterns of explanation might be adopted by other meta-ethical views. The variants of bridge-law non-naturalism add to the appeal to these schemas a commitment to the claim that the relevant instances are ungrounded. But one may appeal to the explanatory schemas without this additional commitment. Thus, a naturalist may accept the relevant grounding explanations, while holding that the general principles themselves have natural grounds. If an expressivist, constructivist, super-naturalist, or anti-realist is entitled to offer grounding explanations of moral facts (Fine, 2001), then there is no reason to deny them appeal to the schemas. By the same token, establishing the truth of instances of (L$\prec$) and (L$<$) does not establish the weak variant of bridge-law non-naturalism; similar remarks apply to MHB and the strong variant.

So, the most that we have shown is that the appeal to the idea that individuals' moral statuses are grounded in part in moral principles escapes the problems we have discussed. What we have shown about bridge-law non-naturalism, is, at most, that any problems it may have stem from its non-naturalism, rather

than from the explanatory impotence of moral principles.[55]

# References

John Austin. *The Province of Jurisprudence Determined*. Cambridge University Press, Cambridge, UK, 1995(1832).

John Bengson, Terence Cuneo, and Russ Shafer-Landau. *Understanding Morality*. Oxford University Press, Oxford, forthcoming.

Karen Bennett. *Making Things Up*. Oxford University Press, Oxford, 2017.

Selim Berker. The explanatory ambitions of moral principles. *Noûs*, 53(4):904–36, 2019. doi: 10.1111/nous.12246.

Louis deRosset. *Fundamental Things: Theory and Applications of Grounding*. Oxford University Press, 2023.

Louis deRosset and Kit Fine. A semantics for the impure logic of ground. *Journal of Philosophical Logic*, 52(2):415–93, 2023. doi: 10.1007/s10992-022-09676-2.

Ronald Dworkin. *Law's Empire*. Belknap Press of Harvard University Press, Cambridge, MA, 1986.

David Enoch. How principles ground. In Russ Shafer-Landau, editor, *Oxford Studies in Metaethics*, volume 14, pages 1–22. Oxford University Press, 2019. doi: 10.1093/oso/9780198841449.003.0001.

Brian Epstein. *The Ant Trap: Rebuilding the Foundations of the Social Sciences*. Oxford University Press, 2015.

Kit Fine. The question of realism. *Philosophers' Imprint*, 1(2):1–30, June 2001.

Kit Fine. Some puzzles of ground. *Notre Dame Journal of Formal Logic*, 51(1):97–118, 2010.

Kit Fine. Guide to ground. In Benjamin Schnieder and Fabrice Correia, editors, *Metaphysical Grounding: Understanding the Structure of Reality*, pages 37–80. Cambridge University Press, 2012.

Martin Glazier. Essentialist explanation. *Philosophical Studies*, 174(11):2871–2889, November 2017.

[55]Thanks to Selim Berker, Samuele Chilovi, Terence Cuneo, David Mark Kovacs, Jon Litland, Don Loeb, Michael Raven, and Timothy Rosenkoetter for comments on earlier drafts of this paper. Thanks also to Karen Bennett, Daniel Nolan, Amie Thomasson, and Kenny Walden for conversation, and to audiences at the International Social Ontology Conference in Stockholm, Sweden, the 2024 Social Metaphysics Workshop at Rutgers University, and the 2024 Dartmouth-UVM Philosophy Colloquium for comments and questions. Thanks, especially, to Don Loeb for walking me through some basic features of contemporary philosophy of law, and to both Loeb and Terence Cuneo for providing me with similar remediation in contemporary metaethics.

Arthur E. Hallerberg. Indiana's squared circle. *Mathematics Magazine*, 50(3):136–140, 1977.

H.L.A. Hart. *The Concept of Law*. Clarendon Press, Oxford, UK, second edition, 1994(1961).

Kathrin Koslicki. The coarse-grainedness of grounding. *Oxford Studies in Metaphysics*, 9: 306–44, 2015.

Stephan Krämer. Puzzles. In Michael J. Raven, editor, *The Routledge Companion to Metaphysical Ground*, pages 271–82. Routledge, 2020.

John Rawls. *A Theory fo Justice*. Harvard University Press, 1971.

Gideon Rosen. Metaphysical dependence: grounding and reduction. In Bob Hale and Aviv Hoffmann, editors, *Modality: Metaphysics, Logic, and Epistemology*, pages 109–36. Oxford University Press, 2010.

Gideon Rosen. What is a moral law? In Russ Shafer-Landau, editor, *Oxford Studies in Metaethics*, volume 12, pages 135–59. Oxford University Press, 2017a. doi: 10.1093/oso/9780198805076.003.0006.

Gideon Rosen. Ground by law. *Philosophical Issues*, 27(1):279–301, 2017b. doi: 10.1111/phis.12105.

Jonathan Schaffer. On what grounds what. In David Chalmers, David Manley, and Ryan Wasserman, editors, *Metametaphysics: New Essays on the Foundations of Ontology*, pages 347–83. Oxford University Press, 2009.

Jessica M. Wilson. No work for a theory of grounding. *Inquiry*, 57(5):535–79, 2014.

Justin Zylstra. Making semantics for essence. *Inquiry*, 62(8):859–876, 2019. doi: 10.1080/0020174X.2019.1570865.