

Chapter One:

Ethics in the Sheep's Shop

““What is it you want to buy?” the Sheep said at last, looking up for a moment from her knitting’. Needless to say, Alice had not expected this question: only a few moments earlier, she had been in the wood helping the White Queen straighten her shawl and brush her hair. All of a sudden a gust of wind had blown the White Queen’s shawl across a little brook. As soon as they retrieved the shawl on the other side of the brook, the White Queen began bleating, and before she knew what had happened, Alice found herself in a shop responding to the question put to her by an old sheep. ‘I don’t *quite* know yet’, Alice replied. She decided to have a look around the shop to see if there was anything she might want to buy. But this task turned out to be much more difficult than she had imagined, for ‘whenever she looked hard at any shelf, to make out exactly what it had on it, that particular shelf was always quite empty, though the others round it were crowded as full as they could hold’. There was one thing in particular that had caught Alice’s attention and that she wanted to get a better look at. She could not make out exactly what the thing was, though, as it seemed always to be changing its form, looking at one point like a doll and at another like a workbox. Whenever she tried to get a closer look, the mysterious thing always appeared on the shelf above the one she was looking at. ‘Things flow about here so!’ Alice exclaimed.¹ The thing she wanted to grasp was always outside its place, no matter what place that was. And the place where the thing was

supposed to be was always empty.² Undeterred, Alice formulated what seemed to her a foolproof plan:

‘I’ll follow it up to the very top shelf of all. It’ll puzzle it to go through the ceiling, I expect!’

But even this plan failed: the ‘thing’ went through the ceiling as quietly as possible, as if it were quite used to it.³

I. Philosophical Reflection on Obligation

Alice’s adventure in the Sheep’s Shop is in many ways the adventure of philosophical reflection on obligation. The history of this reflection begins in earnest with the natural law theorists of the early seventeenth century, and especially with Francisco Suarez and Hugo Grotius, who articulated a conception of ethical experience and of practical reasoning that was sharply at odds with the older natural law tradition associated most closely with the work of Thomas Aquinas. For the older tradition, practical deliberation was oriented entirely by a perfectionist conception of the good. Each being, in accordance with God’s eternal law, had its own distinctive end, which constituted its ideal state or perfection. To reason well about practical matters, on this account, was simply to reason in accordance with the eternal law, or what amounts to the same thing, to reason in ways that contributed to realizing one’s own good. Because the good for human beings, both individually and collectively, was established by God’s eternal law, there was no need to worry about any conflict that might arise from people’s pursuing their own rightly conceived goods. The harmony of these goods was guaranteed in advance. It was this assumption, grounded in a teleological metaphysics that was no longer compatible with the most recent advances in the natural sciences, that began to seem dubious to the

natural law theorists of the early modern period. In the Prolegomena to *The Rights of War and Peace*, Hugo Grotius addresses a possible objection to the existence of natural law:

Men have established *jura* according to their own interests [*pro utilitate*], which vary with different customs, and often at different times with the same people. So there is no natural *jus*: all men and the other animals are impelled by nature to seek their own interests. Consequently, either there is no justice, or if there is such a thing, it is completely irrational, since pursuing the good of others harms oneself.⁴

As Stephen Darwall notes, this objection simply does not arise from within the framework of Thomistic natural law theory.⁵ Grotius, unlike Thomas, takes seriously the possibility that acting in accordance with natural law might not be conducive to one's good, and indeed might even entail genuine sacrifices. It might be the case, in other words, that the law does not point us in the direction of our best interest like a loving and wise parent, but rather *obligates* us, binding our wills without regard to our perceived or actual well-being. If this is right, then we are faced with some very difficult questions: by what means can the law obligate us to perform acts that harm us? And by what authority? What could possibly motivate us to act in accordance with the natural law once we stop thinking of it as standing in a necessary relation to our well-being? Why should we not simply disregard the law when it benefits us to do so? How, in sum, can we make sense of the bindingness of moral obligation?

It is the history of early modern reflection on these sorts of questions, from Francisco Suarez to Immanuel Kant, that resembles Alice's adventure in the Sheep's Shop. Those who adopted a voluntarist position on these questions conceived of

obligation's bindingness juridically, as having its origin in the will of someone with the authority to issue commands and the power to enforce them by means of sanctions. But when they tried to get hold of the phenomenon at the level of command, it slipped away from them: on the voluntarist account, obligation turned out to be indistinguishable from mere coercion. Those who adopted a rationalist position, then, were sure that they had located obligation's bindingness at the level of the intellect: just as we cannot help assenting to speculative truths that we conceive clearly and distinctly, such as that triangles have three sides or that $2 + 3 = 5$, so we cannot help assenting to clearly and distinctly conceived moral truths. But while looking for obligation at the level of the understanding, the rationalists let its characteristic 'must' slip away: as the voluntarist Jean Barbeyrac argued, to recognize something as having the property of goodness is distinct from being actually bound to do it. Egoist moral philosophers such as Baron d'Holbach looked for the bindingness of obligation at the level of self-interest, but this entailed a deeply implausible view of the process of moral reasoning. Sentimentalists responded to the problems in the egoist position by trying to locate obligation's bindingness not in our self-regarding feelings, but rather in our feeling of benevolence. What slipped away from the sentimentalist's grasp, though, was obligation's normativity: as John Balguy argued, it does not follow from the fact that we *do* approve of benevolent acts that we *ought* to do so. And finally, over the course of his philosophical career Immanuel Kant offered three different accounts of the source of normativity. His final position was that the genuine bindingness of obligation is simply a fact for which no rational justification can be given. Readers of Kant, not surprisingly, have been strongly

critical of this strategy, arguing that it amounts to little more than a cutting of the Gordian knot. With the doctrine of the fact of reason, Kant seems to have definitively renounced the modern project of accounting for the legitimacy and the bindingness of obligation.

If the moral philosophers of the early modern period all failed to find the source of obligation on the shelves where it seemed to them to be, perhaps that is because there was never really anything to find. Perhaps obligation, in the sense of an authoritative prescription, is something like an optical illusion. The afterimages we have after looking at a bright light, for example, seem to have a place in objective space, but of course they are not really there where we see them. Perhaps obligation is like that. This is the position advanced by emotivist metaethicists in the twentieth century. Among the most important and influential of these is A. J. Ayer, who argued in *Language, Truth and Logic* that fundamental ethical concepts are in fact pseudo-concepts.⁶ Judgements of ethical value, according to Ayer, are not meaningful statements at all, since they are neither analytic nor empirically verifiable. There remains nothing for ethical philosophers to do, then, except to clarify the meanings of moral terms. According to emotivists like Ayer, these terms function simply as expressions of the speaker's feelings. C. L. Stevenson, another important emotivist, argued that the sentence 'This is good' means roughly the same thing as 'I approve of this; do so as well'.⁷ And more specifically, sentences containing the word 'obligation', or similarly, the words 'duty' and 'ought', function to express the speaker's disapproval of the omission of some act that a person is typically disinclined to perform.⁸ If a professor says to her students that they ought to study for their exams, what she is really doing, according to Stevenson, is expressing her disapproval of their

neglecting to study. On this account, the students do not ‘really’ have an obligation to study for their exams; the purported obligation is merely the disguised form of the professor’s feeling of disapproval.

But this is unconvincing. If it seemed that the emotivists had finally succeeded in fixing the true sense of obligation, this was primarily a function of their having adopted a point of view entirely incommensurable with that of the moral agent. Against her will, or at least without regard to her will, Alice finds herself all of a sudden inside the Sheep’s Shop. Before she knows what has happened and what it all means, she is faced with a pressing practical demand. The emotivists are not inside the Sheep’s Shop at all; they are standing outside looking in, trying to make sense of what Alice is doing in there. What the moral agent is looking for from her first-person point of view is not the same thing as what the emotivist is looking for from the third-person, objectivating point of view. The emotivist is looking for a way to make consistent sense of how the term ‘obligation’ functions when people use it in moral judgements. But a moral agent, for example a mother who must choose whether or not to remove her son from life support after he has been badly injured in a car accident, is looking for something entirely different: she wants to know what she ought to do. And since the answer is not at all obvious, she might also be interested in the more abstract question about how she can go about solving the problem she faces. The emotivist theory has nothing to offer her in that regard. Of course one could argue that the moral agent’s conception of her problem is simply confused in much the same way that the project of trying to locate one’s afterimages in objective space is confused. But this seems like the kind of conclusion one could accept only, as

Aristotle says, if one were ‘maintaining a thesis at all costs’.⁹ Clearly the mother who must choose about her son’s life support is faced with as real a question as one can face. And so once again, the source of obligation has slipped away.

Since the middle of the twentieth century, moral philosophers have intensified their efforts, proposing an extraordinary variety of solutions to the question concerning the bindingness of obligation. Jean-Paul Sartre has argued, most explicitly in ‘The Humanism of Existentialism’, that no moral theory can tell us what our obligations are. When we are faced with what seem to be incompatible obligations, we can only determine our obligation by an act of free choice. (This may well have been Humpty Dumpty’s position as well had he concerned himself with moral philosophy and not just with philosophy of language.) Jürgen Habermas has attempted to show how obligation has its locus in communicative rationality. For Emmanuel Levinas, obligation arises in our subjection to the absolute Other who approaches from on high, while for Jean-François Lyotard, our obligation comes from our being the addressees of obligatory phrases. In the analytic tradition, Christine M. Korsgaard has argued that obligation is grounded in practical identity, and specifically in the practical identity ‘human being’, which is presupposed in all rational practical activity. Stephen Darwall has attempted to isolate the source of obligation in reactive attitudes that arise within what he calls the second-person standpoint. And in very different ways, David Gauthier and T.M. Scanlon have tried to locate the source of obligation in an idealized interpersonal agreement conceived on the model of a contract.

This proliferation of theories trying to fix obligation in its proper place testifies to the extraordinary slipperiness of the phenomenon. Given the pervasiveness and the remarkably wide range of disagreement on the issue, do we have any good reason to believe that we will eventually find that ceiling through which obligation cannot pass? Is there any prospect of our making obligation stand still so that we can get a good look at it and examine it from all angles? My project in this book is to propose a fundamentally new way of approaching the problem of obligation and its normativity in response to questions like these. Most basically, I believe that we ought to give up the task of trying to fix the bindingness of obligation in place. No matter where we look for it, whether in command, intellect, feeling, or anywhere else, the source of normativity will continue to slip away from us. Importantly, though, we ought not to conclude from this that obligation is just a hopelessly imprecise pseudo-concept. An adequate account of obligation, I will argue, must begin by recognizing that the slippage we noted throughout the history of modern reflection on obligation is not simply the result of insufficient conceptual and theoretical rigor. There is no source of normativity, in other words, that would stand still for us if only we had a better theory. Rather it is an essential and ineliminable feature of the phenomenon of obligation itself that the source of its bindingness should constantly slip away from us wherever we try to grab hold of it. To be obligated is to be given over to that slippage. What I want to argue in this book is that obligation, understood in this way, has its origin in sense. More specifically, I will argue that we can gain some insight into the phenomenon of obligation – what it means, what it requires of us, how it has normative force, and even why it perpetually slips away – on

the basis of the fact that we find ourselves in the midst of sense and responsive to it always already.

This argumentative strategy, of course, forces us to address another big philosophical question: what, precisely, is sense? If the phenomenon of obligation really does originate in sense, then it seems that a rigorous determination of the sense of sense should yield clear answers to the kinds of questions that arise in moral reflection. Unfortunately, matters are not quite so simple. As it turns out, we discover in our reflection on sense exactly the same difficulty we discovered in our reflection on obligation, namely that it is always missing from its place, constantly slipping away whenever we seem to have fixed it in place. Sense, in short, does not have a sense. This is not to say that sense is nonsensical or senseless. It is to say, rather, that sense is always in excess of itself: we can never hope to produce a signification that would definitively fix its sense. This is the point that Hegel expressed so perspicuously in his *Aesthetics*: sense ‘is this wonderful word that is used in two opposite meanings. On the one hand it means the organ of immediate apprehension, but on the other hand we mean by it the sense, the meaning, the thought, the universal underlying the thing’.¹⁰ Hegel is referring here to the German word *Sinn*, which names both sensible and intelligible sense. The intelligible sense of the given particular – its meaning – is not given with the particular as one of its sensible properties. ‘Coffee’, for example, is not given right there with the dark brown colour that I see, the heat that I feel, and the bitterness that I taste. The sense ‘coffee’ is elsewhere, missing from its place. Likewise, the sense ‘coffee’ is not present in the sensibly given black marks on the page; one encounters the sense, rather, by seeing

through and beyond those marks. And indeed, the sense of the previous sentence is not present right there in the sentence itself. It would require another sentence to state its sense, and another sentence to state the sense of that sentence, and so on. To find ourselves engaged with sense is to find ourselves given over to this kind of slippage always already.

In the chapters that follow, I will attempt to show how moral phenomena, and especially the phenomenon of obligation, can be understood in terms of this kind of slippage. In Chapter Two I will examine in close detail the voluntarist, rationalist, egoist, and sentimentalist strategies for determining the source of normativity, showing in each case precisely how the phenomenon of obligation slips away. In Chapter Three I will describe the three different accounts of the bindingness of obligation that Immanuel Kant advances in the Collins lectures, the *Groundwork of the Metaphysics of Morals*, and the *Critique of Practical Reason*, showing how each of these also fails. I will argue, though, that Kant's third account, based on the doctrine of the fact of reason, provides the key to a more adequate account of obligation. More specifically, I will argue that the fact of reason can play the role that Kant clearly meant it to play only if it is reconceived as the fact of sense. In the remaining chapters, then, I will develop what I take to be a progressively more adequate conception of the fact of sense, and thus of obligation, making extensive use of the philosophies of sense developed in twentieth century and contemporary Continental philosophy. In Chapter Four, I will develop Maurice Merleau-Ponty's idea that 'because we are in the world, we are condemned to sense . . .'¹¹ I will argue that we can discover a kind of normativity inherent in the perceptual and expressive

sense to which we find ourselves given over always already. In Chapter Five, I will make use of the work of Michel Serres to show that Merleau-Ponty's phenomenologies of perception and expression fail to account for the dimension of sense that information theorists refer to as noise. I will attempt to show how our account of obligation is improved with the inclusion of this dimension. Chapter Six will focus on Jean-Luc Nancy's conception of abandoned sense, arguing that this notion is essential for understanding the experience of unconditional necessitation that seems essential to the phenomenon of obligation. But then in Chapter Seven, I will make use of the idea of indifference that Charles E. Scott develops in *The Lives of Things* and *Living with Indifference* in order to begin to problematize this strongly Kantian conception of obligation as an unconditionally binding prescription. Finally, in Chapter Eight I will examine the question whether the moral phenomenon that I have attempted to ground in the fact of sense is still recognizable as obligation.

II. Elements of a General Conception of Obligation

In order to judge whether the account I propose in this book is successful, it will be necessary at the beginning to spell out more precisely what moral philosophers, and especially moral philosophers of the early modern period, had in mind when they wrote about obligation. At minimum, a successful account must be able to make sense of the elements that the early modern moral philosophers considered essential to the phenomenon. Unfortunately, it is not as easy as it might seem to isolate those essential elements. As it turns out, from the very beginning obligation has been a kind of patchwork concept, sewn together from heterogeneous parts that do not fit neatly

together. It is this heterogeneity that accounts for much of the difficulty that early modern philosophers had in making consistent sense of the concept. As different moral philosophers articulated their own conceptions of obligation, they emphasized some elements and de-emphasized, or even omitted, others. Despite these differences in emphasis, though, we can isolate eight different elements that have been commonly understood to belong to the concept of obligation.

1. *Necessitation*. To be obligated to perform a particular act is to be in some sense necessitated or constrained to perform it. Thomas Hobbes captures this insight in a well known passage from *De Cive*, asserting that ‘where Liberty ceaseth, there beginneth Obligation’.¹² Samuel Pufendorf, in many ways a critic of Hobbes, expresses a similar idea in his *On the Duty of Man and Citizen According to Natural Law*: ‘Obligation is commonly defined as a bond of right by which we are constrained by the necessity of making some performance. That is, obligation places a kind of bridle on our liberty’¹³ And Immanuel Kant defines obligation as a ‘necessitation ... to an action’.¹⁴ Different philosophers have conceived the nature of this necessitation of the will in very different ways, but all have agreed at minimum that obligation entails some sort of restriction on moral agents’ capacity to do as they please.

2. *Law*. Obligation is given in the form of a law that commands obedience. This view, of course, is closely associated with Kant: ‘A categorical imperative, because it asserts an obligation with respect to certain actions, is a morally practical *law*. But since obligation involves not merely practical necessity (such as a law in general asserts), but also *necessitation*, a categorical imperative is a law that either commands or prohibits

....'¹⁵ But Kant was by no means the first to link obligation and law in this way. In his *Treatise on Laws and God the Lawgiver*, Francisco Suarez gives precise expression to this point by means of a distinction between law, counsel, and petition, a distinction that has shaped modern conceptions of obligation perhaps more than any other. Law, according to Thomas Aquinas, can be defined as 'a certain rule and measure in accordance with which one is induced to act or is restrained from acting'.¹⁶ Suarez argues that this definition is too broad, as it would include counsels, which are also rules and measures that induce persons toward actions that promote the good.¹⁷ A counsel is a recommendation or piece of advice. The person giving the counsel provides what she takes to be a good reason for the advisee to take a particular course of action. Importantly though, the kind of good reason involved in counsel imposes no moral necessitation: the advisee remains free to decide for herself whether or not to follow the recommendation. The same is true of petitions, which are requests from inferiors to superiors. Only laws, in the strict sense of the term, impose genuine obligations.¹⁸

3. *Promulgation by a Superior*. The claim that law is necessarily promulgated by a superior is closely related to the claim that obligation is given in the form of a law that commands. Indeed, the reason, according to Suarez, that obligation can never take the form of petition or counsel is that these lack the top-down dynamic that is necessary to effectively bridle the will. A petition 'is normally addressed by an inferior to a superior'.¹⁹ To petition someone is, in a sense, to submit to that person, and Suarez seems to regard it as self-evident that one cannot issue effective, binding commands from a submissive position. A counsel, on the other hand, 'passes essentially between equals'.²⁰

Of course the person giving the counsel may be superior to the advisee in knowledge of the specific matter under discussion, but that is not the kind of superiority that can give rise to obligations. Only someone who is superior in power can issue laws, that is, genuinely efficacious ordinances with compulsory force.²¹ Pufendorf agrees, arguing that ‘an obligation is introduced into a man’s mind by a superior...’²² Even Kant, who rejects the idea that obligation has its source in the command of God or of another person, retains the idea that the moral law must come from a superior position. Kant distinguishes between a lower faculty of desire, which is determined pathologically, and a higher faculty of desire, which is determined by the pure moral law. The ‘solemn majesty’ of the moral law is made manifest in the feeling of respect, which is the experience of the humiliation of our self-conceit.²³

4. *Sanctions*. For many philosophers of the early modern period who have reflected on the nature of obligation, the superiority of the lawgiver has consisted entirely, or at least in large part, in his power to reward and punish. If there is anyone who recognizes no superior who could impose necessity on him by means of sanctions, and who nonetheless in his actions promotes the good and avoids the bad, he cannot be understood to perform those actions from obligation. He does them, according to Pufendorf, rather ‘out of his own good pleasure’.²⁴ Richard Cumberland, whose moral philosophy differs considerably from Pufendorf’s, agrees on this point: ‘There is nothing which can superinduce a necessity of doing or forbearing anything, upon a human mind deliberating upon a thing future, except thoughts or propositions promising good or evil, to ourselves or others, consequent upon what we are about to do’.²⁵ Importantly for

Cumberland, these sanctions are not the *causes* of obligation, but rather the consequences that follow from our actions in accordance with ‘the nature of things’.²⁶ Gluttony, for example, naturally leads to sickness, and breaking promises naturally leads others to distrust us.²⁷ We can learn these natural connections from sense experience, which is imprinted on our minds by God as if with a pencil.²⁸ It is through the empirically knowable nature of things that God manifests his will to us, so that what appear as merely natural consequences of various sorts of behaviour are revealed to be signs of God’s law. ‘In this discovery of the divine will consists the promulgation of the law of nature, and thence directly flows natural and moral obligation’.²⁹ John Locke has a different view of the relation between sanctions and obligation, arguing that ‘it would be in vain for one intelligent Being, to set a Rule to the Actions of another, if he had it not in his Power, to reward the compliance with, and punish deviation from his Rule, by some Good and Evil, that is not the natural product and consequence of the Action itself’.³⁰ Although these philosophers disagree on the details, they share the idea that without sanctions, the wills of finite rational beings like us could not be constrained, and so there could be no obligation.

5. *Addressed to a Rational Being.* I noted above that the natural lawyers’ distinction between petition, counsel, and law has shaped the modern conception of obligation perhaps more than any other. I want to emphasize the ‘perhaps’, though, because there is a second distinction that has played a similarly influential role: the distinction between obligation and coercion. The point is straightforward: the threat of some evil consequent on my failure to perform a certain act may be necessary to obligate

me to perform that act, but it is by no means sufficient. If, for example, someone points a gun at me and demands that I give him my money, I certainly have good reason to do so. But just as certainly, I would not be *obligated* to the mugger to hand over my money; I would merely be overpowered by him. Once again, Pufendorf expresses the point in an especially lucid way³¹:

Again, an obligation differs in a special way from coercion, in that, while both ultimately point out some object of terror, the latter only shakes the will with an external force, and impels it to choose some undesired object only by the sense of an impending evil; while an obligation in addition forces a man to acknowledge of himself that the evil, which has been pointed out to the person who deviates from an announced rule, falls upon him justly, since he might of himself have avoided it, had he followed that rule.³²

In order to be obligated, in other words, I must be able to represent a rule of conduct to myself, recognize that it justly applies to me, and then ‘judge [myself] worthy of some censure’ if I fail to act in accordance with it.³³ Even though, according to Pufendorf, the rules of conduct have their origin in commands backed by sanctions, these rules can be obligatory only for rational beings who can recognize them as such and make them their own.³⁴

6. *Priority of the Good*. One of the most pressing concerns for moral philosophy in the early modern period was to resolve the question whether an act was commanded by God because it was good, or whether the act became good simply in virtue of its having been commanded. The latter position has certainly had many defenders, including most notably Duns Scotus, William of Ockham, Martin Luther, John Calvin, and René

Descartes. But during the early modern period, this position came increasingly under attack. One reason, emphasized by Leibniz, was that ‘to say *stat pro ratione voluntas*, my will takes the place of reason, is properly the motto of a tyrant’.³⁵ The tyrannical God suggested by the Cartesian position was seen as unlovable, and thus as entirely incompatible with the Biblical God, whom believers were commanded to love more than anything else.³⁶ A second argument, advanced by a number of different moral philosophers of the early modern period, moves beyond specifically theological considerations. Arguing on the basis of the eternity of essences, these philosophers rule out the possibility that anyone could make an act good simply by commanding it. Ralph Cudworth makes what has been probably the most influential version of the argument. Writing explicitly in opposition to Hobbes’s argument that there is no natural difference between good and bad, just and unjust, Cudworth argues, in an explicitly Platonic vein, that things are necessarily what they are:

As for example, things are white by whiteness, and black by blackness, triangular by triangularity, and round by rotundity, like by likeness and equal by equality, that is, by such certain natures of their own. Neither can Omnipotence itself (to speak with reverence) by mere will make a thing white or black without whiteness or blackness; that is, without such certain natures, whether we consider them as qualities in the objects without us according to the peripatetical philosophy, or as certain dispositions of parts in respect of magnitude, figure, site and motion, which beget those sensations or phantasms of black and white in us.³⁷

The reason the natures of things cannot be determined merely by will, whether God’s or anyone else’s, is straightforward: if something with triangularity can be nonetheless not a

triangle, or if something with justice can be nonetheless not just, then things can be what they are not, which implies ‘a manifest contradiction’. And if contradictories could be true, then knowledge in general would be rendered impossible, for ‘nothing would be certainly true or false’.³⁸ If Leibniz’s and Cudworth’s arguments are correct, then it must be the case that God commands what he commands because the commanded act truly is good, independently of the command.

7. *Objectivity*. The question whether or not a person is obligated to perform a particular act in a particular situation has typically been regarded as entirely objective. Whether a person is obligated, in other words, does not depend at all on her psychological makeup, her moral intuitions, or even her theoretical commitments. All of these could conceivably point the moral agent toward the wrong conclusions. Samuel Clarke expressed this idea especially clearly when he wrote that ‘some things are in their own nature *Good* and *Reasonable* and *Fit* to be done’.³⁹ The properties of goodness and fitness to be done, for example, are predicated of the act of promise keeping in much the same way the property of three-sidedness is predicated of triangles. In both cases someone who believed, for whatever reason, that the predicate term did not apply to the subject term would simply be mistaken. A similar idea lies at the basis of Kant’s distinction between hypothetical and categorical imperatives: if practical necessitation depends on a subjective condition, such as the subject’s having a particular desire, then it is not the necessitation proper to obligation. The idea of a merely subjective obligation is contradictory.

8. *Overriding*. All of the moral philosophers of the early modern period who reflected on obligation considered it as overriding every other kind of good. It is probably this insight more than any other that motivated figures like Suarez and Grotius to break with the older, Thomistic natural law tradition. As the first theorists of obligation explicitly noted, it can sometimes happen that acting in accordance with natural law works to our disadvantage. As Locke pointed out, for example, natural law obligates one ‘to stand by one’s promise, though it were to one’s own hindrance’.⁴⁰ The good that the person could bring about by breaking the promise is overridden by the good of acting in accordance with the law. Immanuel Kant agreed, characterizing the moral law as an imperative that commands categorically, reducing to nothing the competing claims of the inclinations. It is not the case, in other words, that the goodness of doing what one is obligated to do *outweighs* other kinds of goods; the point is rather that when we are obligated to perform a particular act, it is morally (though of course not physically) impossible to pursue a rival good instead.

The account of obligation that I advance in this book will not include all of these elements. And some of the elements that are included will be understood in senses that are different from those that would have been recognizable to early modern moral philosophers. This, of course, is not by itself a serious problem for my account, since none of the early modern theories of obligation included all of these elements or gave them all the same weight. The relevant question, which I will take up explicitly in the concluding chapter, is whether the account I propose differs so much from the outline

sketched above that it no longer makes sense to think of it as an account of obligation at all.

Notes

¹ Carroll, *Through the Looking Glass*, p. 185.

² Deleuze, *The Logic of Sense*, p. 41.

³ Carroll, *Through the Looking Glass*, p. 186.

⁴ Grotius, *The Rights of War and Peace*, Book III, p. 1747.

⁵ Darwall, *The British Moralists*, p. 6.

⁶ Ayer, *Language, Truth and Logic*, ch. 6.

⁷ Stevenson, *Language and Ethics*, p. 22.

⁸ *Ibid.* p. 100.

⁹ Aristotle, *The Nicomachean Ethics*, p. 1732 (1096a1).

¹⁰ Hegel, *Aesthetics*, pp. 128–9.

¹¹ Merleau-Ponty, *Phenomenology of Perception*, pp. lxxxiii-lxxxiv. Italics omitted.

¹² Hobbes, *De Cive*, p. 56 [II, 10]. Numbers in brackets refer to chapter and section numbers, respectively.

¹³ Pufendorf, *On the Duty of Man and Citizen*, p. 27.

¹⁴ Kant, *Critique of Practical Reason*, p. 165 [5:32]. Page numbers in brackets refer to those of the Akademie Edition.

¹⁵ Kant, *Metaphysics of Morals*, p. 377 [6:222–3]. Page numbers in brackets refer to those of the Akademie Edition.

¹⁶ Aquinas, *Summa Theologiae*, I-II, q. 90, a. 1.

¹⁷ Suarez, *De Legibus*, p. 21.

¹⁸ Ibid., 127. Cf. Grotius, *The Rights of War and Peace*, Book I, pp. 147–9. Cf. also Cumberland, *A Treatise of the Laws of Nature*, p. 353: ‘Obligation is that act of a legislator, by which he declares, that actions conformable to his law are necessary to those, for whom the law is made’. In all quotations from *A Treatise of the Laws of Nature*, I have modernized the spelling.

¹⁹ Suarez, *De Legibus*, p. 127.

²⁰ Ibid.

²¹ Ibid. pp. 127–8.

²² Pufendorf, *On the Duty of Man and Citizen*, p. 28.

²³ Kant, *Critique of Practical Reason*, p. 202 [5:77]. Italics omitted.

²⁴ Samuel Pufendorf, *De Jure Naturae et Gentium*, p. 94.

²⁵ Cumberland, *A Treatise of the Laws of Nature*, p. 353.

²⁶ This expression appears repeatedly in *A Treatise of the Laws of Nature*, and reflects Cumberland’s commitment to the idea that our obligations are to be discovered by means of the study of nature. Cf. Forsyth, ‘The Place of Richard Cumberland in the History of Natural Law Doctrine’, p. 25.

²⁷ Schneewind, *The Invention of Autonomy*, pp. 111–2.

²⁸ Cumberland, *A Treatise of the Laws of Nature*, p. 255.

²⁹ Ibid. 599.

³⁰ Locke, *An Essay Concerning Human Understanding*, pp. 351–52.

³¹ Indeed Stephen Darwall refers to this insight as ‘Pufendorf’s Point’. Darwall, *The Second-Person Standpoint*, pp. 22–3.

³² Pufendorf, *De Jure Naturae et Gentium*, p. 91.

³³ Ibid.

³⁴ Kant expresses a very similar insight in *Metaphysics of Morals*: ‘I can recognize that I am under obligation to others only insofar as I at the same time put myself under obligation, since the law by virtue of which I regard myself as being under obligation proceeds in every case from my own practical reason’. Kant, *Metaphysics of Morals*, p. 543 [6:417].

³⁵ Leibniz, ‘Meditation on the Common Concept of Justice’, p. 46.

³⁶ Schneewind, *Moral Philosophy*, p. xxi.

³⁷ Cudworth, *A Treatise*, p. 16.

³⁸ Ibid. p. 17.

³⁹ Clarke, *A Discourse*, p. 611.

⁴⁰ Locke, *Essays on the Law of Nature*, p. 215.