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## How to Do Things Without Words: A Theory of Declarations

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### Abstract

Declarations like ‘this meeting is adjourned’ make certain facts the case by representing them as being the case. Yet surprisingly little attention has been paid to the *mechanism* whereby the utterance of a declaration can bring about a new state of affairs. In this paper we use the Incentivization account of institutional facts (Smit et. al. 2011, 2014) to address this issue. We argue that declarations can serve to bring about new states of affairs as their utterance have game-theoretical import, typically in virtue of the utterer signaling a commitment to act in an incentive-changing way.

### 1. Introduction

Philosophers, especially philosophers of language, have made much of the fact that a linguistic act, i.e. declaration, can bring about a new state of affairs. Yet surprisingly little attention has been paid to the question as to the *mechanism* whereby this happens. In this paper we use the Incentivization account of institutional facts (Smit et. al. 2011, 2014) to explain how we can create certain facts by representing them as being the case. Our primary aim concerns a topic in speech act theory, i.e. declarations, and so we will accept the Incentivization account as is. Our secondary aim concerns demonstrating the fruitfulness of some recent work in social ontology; we wish to show that the Incentivization account

can contribute to the philosophy of language, specifically speech act theory, by providing the basis for a plausible theory of how declarations bring about the existence of new states of affairs. In doing so we also extend the Incentivization account as it currently has no theory of how declarations can serve to create facts.

It is generally conceded that institutional facts *can* be created by explicit declaration; consider ‘I now pronounce you husband and wife’, ‘this meeting is adjourned’, etc. John Searle makes much of this fact and uses it as the foundation of his theory of institutional facts (Searle, 1995, 2010). Searle's theory of institutional facts portrays declarations as even more basic to our institutional reality than is commonly realized. It is not only the case that explicit declarations can *sometimes* be used to create such facts, rather *all* of institutional reality depends on our explicit or implicit acceptance of such declarations.

We start by explaining why we find Searle's account of how declarations can serve to bring about the existence of institutional facts lacking in several respects. We then provide an alternative account by considering the declarations ‘I name this dog “Kiko”’, ‘this meeting is adjourned’ and ‘this note is legal tender’. We defend the view that, while declarations can serve to create such facts, they are far from essential. If this is correct, then an account of institutional reality need not postulate the Searlean acceptance of declarations in order to account for our institutions.

## **2. Searle and declarations**

### **2.1 Background**

Searle states that institutional facts exist in virtue of being collectively represented as existing (2010: 93). In this way some brute object is money if, and

only if, it is collectively *represented* as being money, something is a border if, and only if, it is collectively *represented* as being a border, and so on. Two aspects of Searle's view are of particular interest. First, it implies that collective representation, and hence collective intentionality, is a necessary feature of the creation of all institutional facts. Second, Searle states that, while institutional terminology ('money', 'border', 'president') can be explained in terms of other institutional terminology, it cannot be reduced to non-institutional terminology.

A basic feature of Searle's view is the centrality accorded to language. This is due to the fact that he portrays institutional facts as existing in virtue of being *represented* as existing. Hence language, understood as some system of symbolic representation, is a pre-condition of the existence of institutional reality (2010: 110). Furthermore, such representations all amount to the acceptance of *declarations*. A declaration is a paradigm case of where we 'do things with words', i.e. where we 'make something the case by representing it as being the case'. In this way saying 'the meeting is adjourned' is an attempt at making it the case that the meeting is adjourned by *representing* the meeting as adjourned, saying 'this note is legal tender' is a way of making the note legal tender by *representing* it as being legal tender and so on<sup>1</sup>. Searle is, of course, aware that many institutional facts do not come into existence because of an explicit declaration. Still the existence of all institutional facts consists in our collective acceptance, whether explicit or implicit, of 'standing declarations (2010: 110) like 'this note counts as legal tender', 'this line is a border', and so on.

Six decades have passed since Austin drew attention to the fact that we can do things with words (Austin, 1962). The topic has inspired a wealth of philosophical reflection on questions like whether performatives form a unique

1 When formulated in this way it is obvious that Searle's view of institutional facts is a direct descendant of his views on speech act theory. In fact, the essence of his later view on institutions is already present in *Speech Acts* (Searle, 1969: 50-53).

class of utterances, whether they have truth-values, and so on<sup>2</sup>. Yet comparatively little work has been done on how it is at all possible that we can do things with words. In Searlean terminology this questions becomes: how can it be that we can make something the case merely by representing it as being the case? Two questions need to be answered. First, what is the nature of the fact that is made the case by a declaration? Call this the *ontological question*. Second, what is the mechanism whereby the declaration makes it the case that the aforementioned fact obtains? Call this the *mechanism question*.

## 2.2 Two interpretations of Searle

How would Searle answer the above two questions? Here we meet with an interpretive difficulty. Searle states that, for example, we make something money by collectively representing it as being money, i.e. we collectively accept the standing declaration that it is money. Such a claim can be interpreted in two different ways. On one reading the fact that something is money is simply *identical* to the fact that it is represented as money. On this reading ‘being money’ is no more than being the object of the relevant collective propositional attitude. Call this the *deflationary reading*. On another reading, the fact that something is money is not identical to the fact that it is represented as money. While being represented in this way may be necessary and sufficient for the object to be money, the fact that it is money is the *result* of it being so represented and is ontologically distinct from the fact that it is so represented. Call this the *strong reading*.

It would be natural to think that Searle would endorse the deflationary reading as he has repeatedly and in numerous contexts expressed a commitment to naturalism. His naturalism takes the form of physicalism; he takes his task in

<sup>2</sup> For a discussion of some of the questions relevant here, see Searle (1989).

explaining institutional phenomena to be a part of a larger project answering the question “[h]ow can we accommodate a certain conception we have of ourselves as conscious, mindful, rational, speech act performing, social, political, economic, ethical, and free-will possessing animals in a universe constructed entirely of these mindless physical phenomena?” (Searle, 2005: 5). His project is to show how institutional facts manage to be a part of a world that is physical through and through. It is, however, far from clear that Searle would endorse the deflationary reading. He sometimes explains his view of institutional reality by saying that institutional reality should be understood as a matter of creating deontic powers, i.e. rights, duties and obligations (2005: 13). Such deontic powers are claimed to be ‘at the heart of the institutional reality’ and are explicitly characterized as ‘abstract entities’ (Smith and Searle, 2003: 305). It is not clear that Searle’s endorsement of the existence of such abstract objects is compatible with his naturalism.<sup>3</sup>

Also consider his distinction between observer-relative and observer-independent facts. He writes:

A rough test for whether or not a phenomenon is observer independent or observer relative is: could the phenomenon have existed if there had never been any conscious human beings with any intentional states? On this test, tectonic plates, gravitational attraction, and the solar system are observer independent and money, property, and government are observer relative. The test is only rough-and-ready, because, of course, *the consciousness and intentionality that serve to create observer relative phenomena are themselves observer independent phenomena*. For example, the fact that a certain object is money is observer relative; money is created as such by the attitudes of observers and participants in the institution of money. *But those*

3 Searle makes this claim in a discussion concerning the existential commitments of his view with Barry Smith (Smith and Searle, 2003). See Smith (2008) for a general discussion of whether Searle’s ontology is coherent.

*attitudes are not themselves observer relative*; they are observer independent (2005: 3-4, our italics).

The above passage seems unambiguous as can be. Searle thinks that conscious, intentional states are observer-independent facts, yet the fact that a certain thing is money is observer relative. But then the deflationary reading is off the table; the two facts identified with one another by the deflationary reading *are not even of the same ontological kind*.

### 2.3 Objections to the Searlean view

We have no strong opinion on whether the deflationary or the strong reading is the correct interpretation of Searle<sup>4</sup>. His naturalism would seem to militate against the strong reading, but the passages cited above are hard to reconcile with the deflationary reading<sup>5</sup>. The more important question, however, is whether either of these views serve to give an adequate explanation of how declarations can serve to create institutional facts, i.e. answer the mechanism question.

On the deflationary view the ontological question is answered by saying that, for example, the fact that something is money simply consists in it being collectively represented as money. How can an explicit declaration like ‘This is money’ lead a collective to represent something as money? Presumably the Searlean would say that explicit declaration becomes collectively adopted in case the person uttering the declaration has the institutional *authority* to make the particular declaration. So far so good, but then how does the collective acceptance of the content of the declaration lead to the relevant object being money? Here the answer is even easier. The fact of it being money is identical to the fact that it is represented as

4 Perhaps he could claim that the facts created by representation are not reducible to their being represented, yet insist that this is not problematic in any way. This would be interestingly akin to his philosophy of consciousness, where mental facts are not reducible to any other kind of facts, yet remain physical facts. See Rust (2011) for a discussion of the interpretive difficulties one may well have with such a view.

5 For further discussion, see Smit et. al. 2016b.

money. Hence the mechanism, if we may call it that, is simply the relation of (numerical) identity between representation and represented.

The problem, on such a view, is that it is not clear how the institutional terminology in question is supposed to have any content. Consider the term 'money'. If someone asks me to explain what money is, I cannot point to some examples of money to teach him what money is as no ordinary physical property of a dollar bill can serve to capture how it is not only a piece of paper, but a financial instrument. I can do no better than to state that something is money if, and only if, we collectively consider it to be money. Such a definition is plainly circular and thus unhelpful. Searle acknowledges this problem, but denies that it is problematic (1995: 52 - 53). He states that the term 'money' marks one node in a network of practices and the term 'money' can simply be explained in terms of related institutional concepts like 'property', 'exchange', and so on (1995: 52). This, however, does not help. Terms like 'property' and 'exchange' are similarly institutional and so passing the explanatory buck accomplishes little. Our institutional terminology is not purely formal; simply tracing the syntactic relations between our institutional terms cannot serve to capture their contents. A functional account also holds little promise, for the exact same problem would recur once we are asked to specify the nature of the function accomplished by the institutional object we wish to explain. Searle, at the very least, owes us an account of how our institutional terminology manages to have the irreducible contents he claims them to have. Until this task is carried out the coherence of his position has not been established.

The above problems are only compounded if we attribute the strong reading to Searle. The ontological question becomes a matter of mystery; if the fact represented by being made the case is not identical to the fact that it is represented, then what is the nature of the fact represented? Searle tells us no more than that such facts are observer-relative features of the world that cannot

be characterized in non-institutional terms. Furthermore, on such a view the mechanism whereby the collective acceptance of the relevant standing declaration gives rise to the existence of such mysterious facts is entirely unexplained. We end up with a view on which collective representation <somehow> leads to <something>. This is no theory at all.

It should be clear that the question as to how declarations work, i.e. how it is at all possible that we can make something the case by representing it as being the case, has not received an adequate answer. On the deflationary reading the question is beset by basic conceptual difficulties, on the strong reading the matter is utterly mysterious. It is here where the incentivization view of institutional facts offers a plausible, straightforward account of how institutions can be created by declarations.

### **3. How we do things with words**

#### **3.1 Outline of the basic theory**

On the incentivized action view (Smit et. al. 2013) institutional facts exist in virtue of people being incentivized, by human action or their moral belief, to act in a particular way. Institutions are individuated in terms of the relevant *incentivized actions*. In this way a traffic light is a physical object that I am incentivized to treat in a certain way (go on green, take care on orange, stop on red), money is something that I am incentivized to acquire in order to use as a medium of exchange, and so on. The incentivized action view differs from Searle in two main ways. First, while it does not deny the existence of collective intentionality, it denies that collective intentionality is either a necessary or individuating feature of institutional facts (2010: 3). Second, it claims that institutional terminology can be cashed out in terms of non-institutional terminology (2010: 3).



On the incentivized action view, for an institution to exist is just for a certain set of actions to be incentivized. This is an answer to what was earlier termed the ontological question. Given this conception of institutions, the mechanism question then becomes: how does a declaration bring it about that a certain set of actions are incentivized? The answer we will defend is that, where declarations serve to create institutions, they do so because they provide *reasons for action*. In providing such reasons for action they serve to change the incentives for those who are party to the relevant institution. In fact, they bring about the existence of an institution because the incentives resulting from the declaration are precisely those incentives *constitutive* of the existence of the particular institution. In this way a declaration like ‘this is a traffic light’ succeeds if, and only if, it incentivizes car drivers to let the state of the lights determine whether they stop or go, a declaration like ‘this is money’ succeeds if, and only if, it incentivizes a community to use the object of the declaration as a means of exchange, and so on. The reasons for action provided by a declaration are best explained in game theoretical terms<sup>6</sup>. As such we will call these reasons the *game theoretical import* of the declaration.

In *How to Do Things with Words* (1962), Austin drew a distinction between the locutionary, illocutionary and perlocutionary component of speech acts (1962: 98 - 103). The locutionary component concerns the linguistically determined meaning of the speech act and the illocutionary force concerns what type of speech act it is, whether it is a question or an assertion, etc. The perlocutionary effect of a speech act is a matter of its likely effect, whether intended or not, on its audience. The game theoretical import of a declaration belongs at the level of its perlocutionary effects. The perlocutionary effect of a successful declaration is simply that it provides its audience with a reason for action.

6 For a detailed explanation of how game theory can help us understand institutions, see Guala (2016).

The core of our view is that making a declaration is best seen as a ‘move’ in a ‘game’, i.e. as an attempt at influencing action in a situation of interdependent choice. Below we discuss three examples to illustrate the explanatory power of this basic idea.

### 3.2 An act of baptism as a move in a coordination game

Explicit baptism is a paradigm case of a declaration that, if successful, results in the creation of an institutional fact. The institutional fact in question is that an object  $o$  has a name  $N$ . What, however, does  $o$  having the name  $N$  consist in? The literature on naming is a large one, but we can steer our way through it without making any overly controversial claims. Having a certain name is uncontroversially a matter of there being a social convention which makes it the case that the relevant object has the name that it does. What is the content of this convention? Very few authors explicitly commit themselves on this topic; we follow Sainsbury (2015)<sup>7</sup> in construing the relevant convention in terms of speaker reference so that  $o$  is named  $N$  if, and only if, there exists a convention to use  $N$  to speaker-refer to  $o$ . In treating the subject in this manner we presuppose the notion of speaker’s reference. Hence we need not commit ourselves concerning whether reference should ultimately be understood in terms of causal relations, descriptive conditions, or in some other way<sup>8</sup>. Given the above construal of naming, the question as to the mechanism whereby a declaration creates an institutional fact becomes the question as to how a baptism can make it come about that a specific naming convention obtains. Or, alternatively phrased, how ‘I hereby name this person  $N$ ’ can lead to there being a convention to speaker-

7 And the earlier suggestion by Stine (1977).

8 Even if Sainsbury is wrong, this need not affect our argument. Davis, for instance, analyzes naming in terms of conventions governing the expression of unanalyzable ideas (Davis, 2005). Nothing in our argument would change if we replaced Sainsbury’s formulation in terms of speaker’s reference with Davis’ analysis in terms of unanalyzable ideas.

refer to that person by using  $N$ .

Of course, cases where some object is named by explicit declaration are actually quite rare. If parents name a child they typically have a discussion about what the child should be named and then, subsequent to the birth of the child, simply start using that name in order to speaker-refer to that child. Explicit declarations are not typically used; such declarations are typically only used later during a religious ceremony of some sort, but are of mostly ceremonial and symbolic import. By the time the official of the relevant religion names the child by explicit baptism the child has typically had that name for quite some time.

Consider, however, a case where the object in question does receive its name in virtue of explicit declaration. Suppose a group of friends are walking down the street and see a stray dog. Bob feels sorry for the dog and announces that he will adopt it. His friends ask what he is going to call the dog and, after a moment's thought, he announces: 'I hereby name him "Kiko"'. Suppose that Bob's declaration leads to the dog being named 'Kiko'. How does this happen?

Lewis famously analyzed conventions as solutions to recurrent coordination games (1969). Coordination games are situations where, intuitively, 'it does not matter what we do, as long as we all do the same thing'. More precisely, coordination games are situations of interdependent choice with multiple equilibria. In a pure coordination game – like deciding which side of the road to drive on - the interests of all parties are aligned<sup>9</sup> in that there is little reason to favour one equilibrium over another.

The matter of naming is reasonably close to a game of pure coordination. In the typical case our main interest lies in using the same name to speaker-refer to the

<sup>9</sup> In an impure game, such as 'battle of the sexes' interests are not so aligned so that parties benefit unequally from whichever equilibrium is adopted.

same individual, though we may have aesthetic or symbolic preferences concerning the infinite number of potential equilibria. In the above example then, Bob's declaration has the game theoretical import of a suggested solution to a game of almost pure coordination. It has further game theoretical import in that, in the typical case, Bob has also *made public his intention to speaker-refer to the dog by using 'Kiko'*. The other parties to this coordination game, i.e. all who are likely to ever have a need to speaker-refer to the dog are now in the following situation: they have some positive reason, or incentive, to follow Bob in his usage as doing so allows them to coordinate with him. If the situation is a pure version of the game they have no reason for adopting any other usage. Furthermore, it is then common knowledge among those who heard the utterance that all have a positive reason to adopt Bob's usage, and no-one has a positive reason to not do so. These incentives will typically lead to it being the case that all adopt the practice of speaker-referring to the dog by using 'Kiko'. In this manner an institutional fact, namely a convention to speaker-refer to the dog by using 'Kiko', comes into existence.

There are two further factors that serve to almost guarantee that Bob's usage will be adopted. First, the game theoretical situation in the above case is, in part, a non-simultaneous version of a coordination game<sup>10</sup>. This version is much easier to resolve than the simultaneous form of the game in which agents have to pick a strategy without knowing what the other agents have chosen. In such a game the first mover effectively amounts to a 'law-giver' as it is rational for the players choosing later to simply act in accord with the first move. In the above case Bob is such a law-giver and his power to determine which equilibrium is adopted is strengthened accordingly. Second, note that an agent's choice of which equilibrium to adopt will be influenced by considerations of which suggested

10 Despite the terminology, the distinction between the non-simultaneous and simultaneous form of the game is epistemic, not temporal. In the first you have knowledge of the strategy chosen by the other players, in the latter not.

name is most likely to spread among those not present at the baptism. This, in turn, will be influenced by considerations regarding who is most likely to use the name and hence whose usage is most likely to spread. In the case of names of people the person generally most likely to introduce third parties to the use of a name is precisely the person who has the name; most of the people who know my name know it because I told it to them. The person who has the name is a kind of ‘power-user’ of the name. Their usage is most likely to spread among third parties and so, if someone wishes to coordinate with such third parties, they are strongly incentivized to adopt the usage of the owner of the name. This provides a practical, in addition to the normal symbolic reasons concerning respect, for deferring to preferences of the named person when adopting the usage of a name. The owner of a dog is similarly likely to be the ‘power-user’ of the name, and so the same strong incentive exists in favour of following Bob’s use of ‘Kiko’.

The above case illustrates how the declaration ‘I hereby name him “Kiko”’ can lead to it being the case that the dog in question is named Kiko. The declaration incentivizes usage in accord with the declaration and so leads to it being the case that the convention of calling the dog Kiko comes into existence. This is how we do things with words; declarations can serve to bring about the set of incentives constitutive of the existence of a new institutional fact. Note that, on the incentivization view, there is nothing inherently mysterious about such a process or its result. The details may be complex, but ultimately what happens is that the declaration initiates a *causal* process that leads to the existence of a set of incentives that are constitutive of the relevant institutional fact. This process will typically be of a type that is particularly well-suited to rational reconstruction in game-theoretical terms.

Note that the incentivization view does not claim that all successful baptisms will have their effects via the exact same mechanism. Cases will differ and the same claim can have different game theoretical import in different contexts. Consider,

again, a case where a group of friends stumble upon a dog. A stranger walking past hears that Bob is planning to adopt the dog and jokingly interjects: ‘I hereby name him “Kiko”’. In this case the stranger is the first mover in a coordination game, but not a ‘power-user’. Their suggestion, however, may stick. This, again, can be well explained in game theoretical terms. Coordination games are often resolved by matters of ‘salience’, where salience is understood as a psychological property that somehow makes one potential equilibrium ‘stand out’ from the others (Schelling, 1960). In the list of numbers ‘17, 2,  $\pi$ , 107, 76’,  $\pi$  is salient, among the cities of the world, most people currently judge New York as salient, and so on. The stranger’s remark has the game theoretical import of making the name ‘Kiko’ salient and so provides some positive reason in favour of using it. Of course, the owner, and hence ‘power-user’ will typically be in a position to veto such usage for the reasons explained above, but occasionally salience suffices to carry the day.

Note that a baptism, and hence a declaration, is only one way of bringing about that the dog is named ‘Kiko’. The same situation could have been brought about without any declaration, for instance by the owner expressing his intention to speaker-refer to the dog by using ‘Kiko’. Or, as often happens, by simply starting to use ‘Kiko’ in this manner. Such behaviour incentivizes all to use the word ‘Kiko’ to speaker-refer to the dog, and so it comes about that the dog is named ‘Kiko’. Once we understand the *mechanism* whereby the declaration brings about the fact, it becomes clear that the baptism is inessential to the resultant state of affairs. The Searlean view greatly overstates the importance of such declarations. Declarations are not somehow constitutive of the very notion of institutional facts, but merely one way of bringing about the existence of such facts.

A final point about baptisms. The issue of baptism concerns language. This shows that, on the Incentivization account, there is no principled reason why language cannot be accounted for *qua* institutional fact. This is in contrast to the

Searlean view, which is not supposed to apply to language. Rather his theory presupposes language (or, at least, symbolic representation) in claiming that all institutional reality is the result of collective representation (2010: 109 - 115). This means that the Searlean would either have to deny that language is institutional, which would be implausible, or admit the need for an entirely different sort of theory to account for language *qua* institutional fact. It is a point in favour of the Incentivization view that no such extra theory would be required in order to account for the institutionality of language.

### 3.3.2 Adjourning a meeting

How does it come about that saying ‘this meeting is adjourned’ can, under suitable circumstances make it the case that the meeting is adjourned? The first issue that arises when considering this question is the question as to the nature of the institutional fact created, i.e. what it is for a meeting to be adjourned? A meeting is an event with a particular set of rules and expectations that the participants are supposed to abide by. Consider a meeting with a faculty dean to decide some specific issue. Typically the main expectation is that the dean will attempt to implement whatever decision is reached. She is also expected to enforce and abide by the formal and informal procedural rules that govern such meetings, and these rules regulate the behaviour of all those who participate in the meeting. The dean is incentivised to live up to such expectations, and enforce such rules, by whatever incentives, whether financial, institutional or purely social, there are for her to do her job. The compliance of other participants is similarly enforced by whatever formal or informal mechanisms exist to incentivize such compliance.

A meeting is *adjourned* when the rules and expectations particular to the meeting are no longer in force. In other words, when there is no longer any incentive to act in accord with the rules and expectations specific to the meeting, i.e. when

decisions reached are no longer institutionally binding, the reason for observing the procedural rules disappear, and so on. How does the dean saying ‘the meeting is adjourned’ bring about this state of affairs? Her utterance of the declaration has this effect, because she is the main incentivizing *agent*. It is her commitment to enacting the decisions made during the meeting, and her enforcement of the procedural rules, that serve as the main source of the incentives that are particular to the meeting. The game theoretical import of her utterance of the declaration ‘the meeting is adjourned’ is that she will not implement decisions made subsequent to her declaration and no longer enforce the procedural rules. This means that the incentives for acting in accord with the rules and expectations of the meeting disappears, *which is precisely what a meeting being adjourned consists in*. In this way the declaration brings about the incentives constitutive of the meeting being adjourned, for the main source of the incentives particular to the meeting has made public her intention to no longer act in the ways particular to the meeting.

Note that, strictly speaking, the declaration ‘this meeting is adjourned’ is inessential to adjourning the meeting. We can imagine a society that operates in the following way: at the end of a meeting the chairperson simply says “from this point until further notice I will no longer enact the decisions made here and will not enforce any of the rules that govern meetings”. This is not a declaration in the sense discussed above, but an expression of an intention to act. If credible, however, it will have the exact same consequence as saying ‘this meeting is adjourned’. If we describe such a society we would have no hesitation in saying that they have the practice of adjourning meetings, despite the fact that they never use declarations to do so, and despite the fact that we need not posit that the parties involved somehow implicitly accept an implicitly communicated declaration.

### **3.3.3 ‘This note is legal tender’ as a move in a coordination game**



Consider a case where a government successfully launches a currency. Stamped on the notes, and/or stated in the law, is the declaration that such notes, coins and electronic fiat are legal tender for all debts private and public. On the Searlean view one would say that the notes, coins and electronic fiat are money because they are collectively represented as being money. On the Incentivization account the fact that the notes, coins and electronic fiat are money consists in the fact that people are incentivized to use them as money. This boils down to using the notes, coins and electronic fiat as a medium of exchange<sup>11</sup>. How does the declaration that ‘this note is legal tender’ lead to it being the case that the relevant notes, coins and electronic fiat are actually the things that we are incentivized to use as a medium of exchange?

The choice for a currency is, as was the case with the choice of a name, a coordination game. This is because our average transaction costs are lowered, *ceteris paribus*, as a function of the number of people we transact with who transact in the same currency. As such the government’s declaration can again be seen as a first move in a non-simultaneous coordination game and can again serve to make their chosen standard salient. In the case of the issuance of money in a developed economy, however, the game theoretical import attached to such factors is comparatively trivial. Rather the game theoretical import of such a declaration, in conjunction with a host of other laws, vests in the fact that the government is signaling a commitment to make and receive payments in the relevant currency and use it as a standard for the denomination of legally enforceable contracts. Practically everyone has significant financial dealings with the government. Furthermore, this is a matter of common knowledge, i.e.

11 ‘Medium of exchange’ is metaphorical as money is not a ‘medium’ in any literal sense. To use something as a ‘medium’ of exchange is to acquire that thing in order to exchange it, where such acquisition aims at realizing the reduction in transaction costs that accrue in virtue of other agents acting similarly. For a detailed discussion of the nature of money, see Smit et. al. (2016a).

everyone knows that everyone knows that everyone has such dealings, etc. This means that it is similarly common knowledge that everyone in the country has a positive reason for accepting the currency, which means everyone is heavily incentivized to use it when transacting with one another. If practically everyone has the frequent need for the currency to pay their taxes, traffic fines and municipal bills, then using a distinct currency when transacting with non-governmental agencies implies incurring an unnecessary transaction cost. Hence there is a positive reason to adopt the currency when transacting between private parties and a significant cost to not doing so. In fact, as private currencies are effectively banned in many countries, there may even be a legal sanction added to the typical transaction cost.

For the above reason the government's declaration is almost guaranteed to succeed. It can only fail if the public is sufficiently skeptical of the government's intentions and expertise that such skepticism weighs stronger than the costs outlined above. When hyperinflation occurs people often do adopt either highly saleable commodities - or the currency of a distinct country - as the preferred currency for private interaction. In such cases the government issued currency and the generally accepted currency can be distinct. But such cases are relatively rare, the sheer power and ubiquity of the government effectively enables them to stipulate which monetary equilibrium will be chosen by their citizens.

Note that, in the above example, the declaration 'this note is legal tender for all debts public or private' is quite inessential. It only matters inasmuch as it leads people to believe that the government will transact for goods and services in the relevant currency. This belief can be instilled in any number of ways, whether it be by an announcement to the effect that government will do so or by simply passing laws that makes it clear that the government will act in this manner.

The same, in simplified form, goes for commodity money. If we consider the typical hypothetical scenario where a group of people wash up on a desert island, then we can imagine scenarios where a currency can be chosen in virtue of an explicit declaration. Consider a case where an influential individual decides that the salt that they managed to salvage from the shipwreck will make a suitable currency and declares “Salt is money”. If the other islanders interpret this claim as reflecting a commitment or suggestion to use the salt as a medium of exchange, then, as first mover in a coordination game, the person may well succeed in establishing a practice of using the salt in this way. Alternatively though, we can imagine the person not using a declaration but simply announcing “I will use this as money”. This phrase is not a declaration, but the direct expression of an intention to act in a certain way. Such an expression of an intention will have the same game theoretical import as the explicit declaration and can bring about that salt is used as money *via* the exact same mechanism. Alternatively, the same result could have been brought about without any linguistic act whatsoever. If we do not have any recognized currency it is rational to transact using a commodity with high saleability. If, however, enough people choose the same commodity for this purpose it will become the monetary standard. Consider a case where some people prefer to transact using salt as it is highly saleable<sup>12</sup>. The more people do so, the greater the reason for doing so becomes. This creates a virtuous feedback loop where, once a critical threshold is reached, salt becomes our medium of exchange, i.e. it becomes money.

Searle would object to cases where no declaration is uttered by saying that some behaviour, such as the first act of handing over salt as part of an exchange, amounts to the acceptance of an implicit (or ‘virtual’) declaration<sup>13</sup> to the effect that ‘salt counts as money’. We see no reason for construing such a case in this

<sup>12</sup> Salt is highly saleable, which means that it is a good candidate for being spontaneously adopted as a medium of exchange. Of course, its saleability rises even further as more and more people adopt it as the medium of exchange.

<sup>13</sup> See, for instance, Searle (2010: 89). We would like to thank the anonymous referee for pressing this point.

way. All that is cognitively required in the above case is that the people involved grasp the concept of saleability and the likely effects of coordination. Even beings who are cognitively closed towards the concepts regarding declaratives, i.e. who cannot form or understand declarations, are perfectly capable of adopting salt as a medium of exchange in this manner. We fail to see any reason – beyond accommodating Searlean dogma – for insisting that a declaration like ‘we count salt as money’ is somehow involved in such cases. The Searlean construal merely adds an epicycle that is motivated by nothing in the phenomenon itself.

#### **4. The relation of the present work to the Incentivization account**

The present work is an attempt to use the Incentivization account (Smit et. al. 2011, 2104) to explain how declarations serve to bring about new states of affairs. Our claim is that the Incentivization neatly accounts for the role of such declarations and hence serves to make plain how we do things with words.

Some clarifications are in order. First, the Incentivization account claims that institutional concepts are not irreducibly institutional, but can be understood in terms of actions and incentives (Smit et. al. 2011, 2014). We stand by this claim, but in our examples concerning naming, meetings and money, we presupposed the existence of certain institutions and did not try to show that each such institution can be understood in non-irreducibly institutional terms. The task carried out here is one of applying the Incentivization view, not one of trying to argue for it from scratch. Whether the institutions so presupposed can be cashed out in terms of actions and incentives has been argued about elsewhere at length. We stand by the arguments offered in favour such reducibility, but have nothing to add to it here.

Second, note that the Incentivization view has no problem accommodating social rules (like ‘use “Kiko” to speaker-refer to Kiko’). The Incentivization view denies

that institutional categories are irreducibly institutional and claims that institutions can be understood in terms of actions and incentives. The claim that language-users are incentivized to act in accordance with some rule, whether linguistic or otherwise, is consistent with the Incentivization view, provided the rule does not make reference to irreducibly institutional notions. The equilibrium-selection rule “use ‘Kiko’ to speaker-refer to Kiko” contains no institutional terminology. The equilibrium-selection rule “use salt as medium of exchange” contains no *irreducibly* institutional notions, provided we accept the reduction of the notion of a ‘medium of exchange’ offered by the Incentivization view (in Smit et. al. 2016a). Also note that these rules, as formulated above, have the form of regulative rules, even if they do allow us to engage in new kinds of action. Hence our account does not presuppose constitutive rules<sup>14</sup>.

Third, in this paper we often used non-simultaneous coordination games in order to support our arguments. The importance of this should not be overstated. We used such games it just so happens that naming and issuing a currency often amounts to making the first move in a non-simultaneous coordination game. People typically adopt linguistic habits in light of the past linguistic behaviour of others and typically start transacting in a specific currency once there exists a history of transacting in that currency. This, however, is a mere contingency that helps to explain why names and currencies are often adopted with little or no difficulty. Our reference to such games reflects no more than practical facts, and is not supposed to imply some deeper link between institutions, declarations and non-simultaneous coordination games.

## 5. Conclusion

On the Incentivization account the existence of an institutional fact consists in the fact that a set of incentives obtain. This implies that the question ‘how do

<sup>14</sup> We broadly accept the view that constitutive rules are reducible to regulative rules, i.e. that the distinction is a merely linguistic one. See Hindriks and Guala (2015).

declarations create institutions?’ becomes the question ‘how do declarations serve to change incentives?’. The answer is that declarations have game theoretical import, i.e. they provide reasons for action. These reasons for action typically, though not always, reflect the fact that the utterer of the declaration *reveals some intention* to act in a specific way in virtue of uttering the declaration. Such a revealed intention then serves to change the incentives of the audience to the declaration as they find themselves in a situation of interdependent choice. Declarations are ‘incentive changers’ *par excellence*; the very success conditions of ‘I name this dog “Kiko”’ consists in people being sufficiently incentivized to speaker-refer to the dog by using ‘Kiko’, the success conditions of ‘this note is legal tender’ consists in people being sufficiently incentivized to use it as a medium of exchange, and so on.

If the above analysis is correct, then Searle greatly overestimates the importance of declarations to the creation and maintenance of institutional reality. The utterance of a declaration serves to create an institutional fact in virtue of its game theoretical import, but this game theoretical import could also have arisen in a number of other ways. Where this game theoretical import amounts to the public expression of an intention to act in a certain way, the same thing could also have been accomplished by simply explicitly expressing the intention to act. Alternatively the person could also have simply started acting in the required way and let their actions serve to make their intentions plain.

On the Incentivization view there is no requirement that the parties to the institutional fact have any propositional attitudes that amount to the acceptance of a declaration. The parties to the institutional fact just need to know what the actions are that they are incentivized to perform. In the case of naming they just need to know that they are incentivized to speaker-refer to the relevant object by using a specific name, in the case of money they just need to know that they are incentivized to use the object as a means of exchange and in the case of a

meeting being adjourned they just need to know that whatever behaviour was incentivized by conditions particular to the meeting is no longer so incentivized. Ultimately here the Searlean faces a dilemma. If people do not know what behaviour is appropriate to naming, money and a meeting being adjourned they cannot possibly partake in these practices. However, if they do know what behaviour is appropriate, then they need not share the Searlean propositional attitudes in order to participate in such institutions. Hence attributing the acceptance of a shared declaration to them adds nothing to an explanation of their behaviour. We side with Wittgenstein; a wheel that can be turned though nothing else moves with it is not part of the mechanism.

Note that the above criticism of Searle holds good independently of how we understand collective intentionality.<sup>15</sup> The criticism here concerns his claim that institutional facts involve the acceptance of status-function declarations, not his claim that such acceptance (or recognition) is collective. The criticism is that all people need to know in order to behave appropriately is what actions they are incentivized to perform. Without such knowledge they cannot act and the institution cannot exist, but once they have such knowledge there is no need for any propositional attitudes concerning status-functions.

Finally, note that the Incentivization view serves to remove the air of mystery that seems to pervade the very idea of ‘doing things with words’. On the deflationary reading of Searle this happens in virtue of the fact that being represented as  $X$  is identical to being  $X$ , but such a view raises deep difficulties concerning the content of such representations. On the strong reading of Searle the question as to the mechanism whereby the representation creates the fact cannot even be usefully posed at is entirely unclear what the ontological status of the relevant fact is supposed to be. On the Incentivization view ‘we do things

<sup>15</sup> In his more recent work he does allow that, in some cases, collective intentionality can be reduced to individual intentionality (2010: 58).

with words' in virtue of the utterance of a declaration being a move in a game theoretical situation of interdependent choice. In this way the utterance creates the institution *via* a simple, causal process. The details of how this happens may well raise interesting questions in psychology, economics and sociology. It does not, however, raise any deep difficulties concerning ontology.

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