

**Essay 3**  
**Scorekeeping In A Pornographic Language Game**  
 (Rae Langton & Caroline West)

*I. Introduction*

If, as many suppose, pornography changes people, a question arises as to how.<sup>1</sup> One answer to this question offers a grand and noble vision. Inspired by the idea that pornography is speech, and inspired by a certain liberal ideal about the point of speech in political life, some theorists say that pornography contributes to that liberal ideal: pornography, even at its most violent and misogynistic, and even at its most harmful, is political speech that aims to express certain views about the good life,<sup>2</sup> aims to persuade its consumers of a certain political point of view—and to some extent succeeds in persuading them. Ronald Dworkin suggests that the pornographer contributes to the ‘moral environment, by expressing his political or social convictions or tastes or prejudices informally’, that pornography ‘seeks to deliver’ a ‘message’, that it reflects the ‘opinion’ that ‘women are submissive, or enjoy being dominated, or should be treated as if they did’, that it is comparable to speech ‘advocating that women occupy inferior roles’.<sup>3</sup> Pornography on this view is political speech that aims to persuade its listeners of the truth of certain ideas about women, and of course ‘the government must leave to the people the evaluation of ideas’.<sup>4</sup>

Another answer offers a vision that is not grand and noble, but thoroughly reductive. Pornography is not politically persuasive speech, but speech that works by a process of psychological conditioning. This view seems common enough in the social science literature. Consider, for example, this description of an early experiment, from a time that pre-dates contemporary political debate.

*Example (1).* An experimenter

. . . created a mild boot fetish in heterosexual male students by pairing slides of sexually provocative women with a picture of a pair of black knee-length women’s boots. Not only did the boots become somewhat sexually arousing, but there was a slight tendency for this conditioned response to generalize to other footwear as well. The author concluded that there is little question that sexual responsiveness can be conditioned to external stimuli that initially fail to elicit any sexual arousal.<sup>5</sup>

Catharine MacKinnon, at least in some moods, offers this kind of answer.

Pornography, she says, ‘works as primitive conditioning, with pictures and words as sexual stimuli’.<sup>6</sup> More recently Danny Scoccia has agreed, saying that violent pornography produces misogynistic beliefs and violent desires by a process of conditioning. He also agrees, at least in part, with MacKinnon’s political conclusion: since liberal principle ‘does not protect speech insofar as it non-rationally affects its hearers’ mental states’, liberals can support a ban on violent pornography.<sup>7</sup> On this view, pornography is not political speech that aims to persuade its hearers of the truth of certain ideas. Instead, pornography is a stimulus that produces a response in subjects who seem to have more in common with the salivating dogs of Pavlovian fame than with the political agents of liberal utopia.

These two visions place pornography at opposite ends of a spectrum nicely described by Scoccia, at whose less rational end we might find spoken speech whose pitch and modulation ‘excites the aggression centers in the brains of its listeners, causing in them strong urges to act violently even if they do not understand what is being spoken’; and at whose more rational end we might find ‘most articles written by academics and published in scholarly journals’.<sup>8</sup> Whether or not one agrees with Scoccia’s optimism about what lies at the rational end of the speech spectrum, his idea is a useful one. The grand and noble vision of pornography—the vision of Ronald Dworkin, in some moods—places pornography towards the end occupied by rational argument. The reductive vision—the vision of MacKinnon, in some moods—places pornography towards the irrational end. Neither of the two visions appears wholly plausible. Pornographers are not in the business of presenting arguments to persuade consumers that women are thus and so. Dworkin’s rhetoric in particular seems ludicrous. Pornography is designed to generate, not conclusions, but orgasms. However, it seems hasty to rush to the other extreme, and equate pornography and its consumers with the bells and dogs of Pavlovian notoriety. If pornography is speech, then we can expect it to be at least partly continuous with other forms of human communication, and to produce its effects on beliefs, desires and behaviour in a manner that is not utterly different from other speech.

In what follows we take up this moderate thought, and we use it to explore two well known feminist claims, that pornography *subordinates* and *silences* women.<sup>9</sup> In the course of our exploration, we hope to trace a middle path between the two extremes described. We do not so much argue for this path as pursue it, and any argument rests with the success, or otherwise, of its pursuit. We proceed on the assumption that pornography is speech—an assumption taken by the courts, and adopted here at least for the sake of argument. The assumption may be wrong. Perhaps pornography cannot be thought of as if it were continuous with other mundane human communications. Perhaps pornography does not work as speech

after all. Notice that if this is so, then feminist arguments against pornography ought to have an easier time of it than they do, since it cannot be a right to free *speech* that protects pornography, if anything does. Alternatively, pornography may be speech, roughly continuous with other speech, but speech better understood in terms of an interpretative framework other than the one we choose here. We believe, however, that the approach we sketch here is a fruitful one, whose implications go beyond the debate about pornography which is our present focus.

In arguing that pornography can be speech that acts—speech that subordinates and silences—MacKinnon says this:

Together with all its material supports, authoritatively *saying* someone is inferior is largely how structures of status and differential treatment are demarcated and actualized. Words and images are how people are placed in hierarchies, how social stratification is made to seem inevitable and right, how feelings of inferiority and superiority are engendered, and how indifference to violence against those on the bottom is rationalized and normalized.<sup>10</sup>

Here we find MacKinnon in a different mood. She does not describe pornography as ‘primitive conditioning’. She does not describe pornography as if it were a mere stimulus, like the ringing of a bell. She describes it as speech that has a certain content, and acts in a certain way. She describes it as if it were continuous with other sorts of ‘words and images’ that make certain attitudes become—or *seem* to become—rational and normal. Her idea seems to be in partial agreement with Ronald Dworkin’s idea that pornography conveys a ‘message’ about women, but with one crucial difference. According to MacKinnon, when the ‘message’ is said by an authoritative speaker (together with certain ‘material supports’), the saying can be a particular sort of doing, a particular sort of *illocutionary* doing—a legitimation of attitudes and behaviour, a subordination of women. On this view, pornography authoritatively says certain things: says that women are inferior, says that sexual violence is normal and legitimate. Given the authority of the saying, pornography has an illocutionary force which in some sense makes women socially inferior, and makes sexual violence normal and legitimate.

According to MacKinnon—in this mood—pornography says certain things, and says them with authority. Her claim thus raises a question about what pornography says, and a question about whether it speaks with authority. Our chief concern in what follows will be with the first question, the question of what pornography says. The second question is important too: MacKinnon’s implication is that if pornography were not authoritative, it would still say these things—but

without subordinating women. The saying would no longer be a doing, or rather, it would no longer be that sort of doing. So the conclusion about pornography's power to subordinate and silence women requires the premise about pornography's authority.<sup>11</sup> The first question, though, is really prior to the second. Before we consider whether pornography says something with authority we should consider whether it says it at all. Authoritative or not, does pornography even *say* the things that it is claimed by MacKinnon to say? Does it say that women are inferior, or that sexual violence is normal and legitimate?

There are two reasons for doubting that pornography says these things, and we aim to address both in what follows. One reason for doubt is that pornography does not seem to say such things *explicitly*. Little, if any, pornography will explicitly assert the propositions 'Women are inferior' or 'Sexual violence is normal' or 'Sexual violence is legitimate'. Much pornography will be in the form of pictures, not propositions. And while pornography that is words rather than pictures will have an explicit sexual content, it is doubtful that the 'message' identified by MacKinnon and Dworkin will ever be explicit. That is one reason for thinking pornography does not quite say these things.

Another independent reason for doubt is that much pornography purports to be fantasy or *fiction*: so even if it were to contain explicit propositions of the kind described, such propositions would not be assertions at all, but a kind of fictional story telling. That is a further reason for thinking pornography does not quite say these things.

We hope to offer an answer to the question of what pornography says, and to put to rest the two doubts provoked by it. We aim to gain a clearer understanding of how pornography might really say certain things which, at first sight, it may appear not to say: and hence that it might do certain things which, at first sight, it may appear not to do. We take this to be one necessary part of the task of showing that pornography is speech that subordinates and silences women. We aim to show that this important part of MacKinnon's case can be established. And if, in addition, MacKinnon is right to claim that pornography says these things *authoritatively*—the claim we do not address in detail here—then pornography may well be speech that subordinates and silences. Our conclusion thus locates pornography somewhere between the two extremes described above: neither at the reductive end of the speech spectrum, since pornography can be understood as at least partly continuous with other speech; nor at the grand and noble end of the speech spectrum, since pornography works in ways that are different to the ways of political argument, and it subordinates and silences women. An important question is raised by this location of pornography: whether speech that is located at this point on the spectrum, and that also subordinates and silences, ought be prohibited.<sup>12</sup> But this too is a question we

must leave aside here, though we believe our conclusion offers broad support to that of MacKinnon.

In Section II we address the first doubt that pornography says the sorts of things it is claimed to say—the thought that since pornography does not say them explicitly, it does not say them at all. We argue that this doubt is misguided, and we draw attention to the ways that things which are not explicitly said can nevertheless be said. In Section III we consider the implications of our suggestion for the claims that pornography subordinates and silences women. Section IV takes up the second doubt—the thought that since pornography only says them fictionally, it does not really say them at all. We argue that this doubt too is misguided, and we draw attention to the ways in which things which are said as fiction can at the same time be said as purported fact. Our conclusion is that pornography may well say what MacKinnon claims it says, even if it does not say them explicitly, and even if it is fiction.

## *II. Saying, and what pornography says*

Many philosophers have wanted to draw our attention to a distinction between what is explicitly said, on the one hand, and what is presupposed, or implied, or suggested, on the other. To give a familiar example, if I say ‘The present King of France is bald’, what I explicitly say is that ‘The present King of France is bald’. But when I say ‘The present king of France is bald’, I presuppose, or imply, or suggest, that that there is a present King of France, even though I do not explicitly say so.<sup>13</sup> And if I am sincere, I will say such a thing only if I believe there is a present King of France. If I say ‘Even Jane could pass’, what I presuppose, or imply, or suggest is that Jane is comparatively incompetent; and I will sincerely say so only if I believe she is incompetent. If I say, ‘That joke’s as bad as Harry’s’, I presuppose, or imply, or suggest that Harry’s jokes are bad, though I never explicitly say so; and I will sincerely say what I say only if I think that Harry’s jokes are bad. These implications or presuppositions—Jane is incompetent, there is a present King of France, Harry’s jokes are bad—are required in order to make sense, or to make best sense, of what I explicitly say. There would be something wrong with saying ‘The present King of France is bald, and there is no present King of France’; or ‘That joke’s as bad as Harry’s, and Harry’s jokes are pretty good’. There might be different ways of making sense of what is explicitly said, but some ways will be more natural or obvious than others.

David Lewis, following Robert Stalnaker, has described the introduction of presupposition into conversation as a kind of move in a rule-governed language game. His analysis, in ‘Scorekeeping in a Language Game’,<sup>14</sup> aims to show a common pattern exhibited not only by presupposition introduction, but by a variety

of linguistic interactions, ranging from the moves made in informal conversations to the highly conventional illocutionary acts of the kind considered by J. L. Austin.<sup>15</sup> To say something in a speech-situation is more than to utter a string of words with a sense and reference; it is to make a certain move in a language game. What Lewis calls the ‘score’ of the language game adjusts itself in response to the moves speakers make, and the later moves that a speaker can make are in turn dependent upon the prior score of the game. Presuppositions figure as a prominent component of score.

Lewis compares a conversational language game with a baseball game. Both are rule-governed, and in both cases we can speak of the score of the game at any given time. The score of the game at any given time is given by the components of the score of the game at that time. In the case of baseball, the components of the score are numbers: the numbers of runs by the visiting team, runs by the home team, the half, the inning, the strikes, the balls, and the outs. In the case of conversational score, the components are similarly abstract entities—not numbers, but other set-theoretic constructs, such as sets of presuppositions.

Whether in a baseball game or a language game, Lewis thinks, score is determined in a more or less rule-governed fashion, and there are constitutive rules determining the kinematics of score, and determining correct play. The rules of the kinematics of score in baseball say how the score evolves over time: the score at one time is determined in a certain way by the score at an earlier time, and the behaviour of players in the intervening period. Likewise, the rules of the kinematics of score in language games say how the score evolves over time: the score at one time is determined in a certain way by the score at an earlier time, and the behaviour of the players—the course of the conversation—in the intervening period. The rules determining correct play specify what counts as correct play, where correctness depends in part on the score at a particular time. In baseball, correct play after two strikes is not the same as correct play after three. Likewise, in a language game the truth value (or other acceptability value) of a sentence depends in part on the score at a particular time: correct play after a marriage proposal is typically not the same as correct play after a comment on the weather.<sup>16</sup>

However, there is one great difference between a language game and a baseball game, says Lewis. A game of baseball does not tend to evolve in whatever way is required to make the play that occurs count as correct. If a player walks to first base after three balls rather than four, his behaviour does not make it the case that there *are* four balls and his behaviour *is* correct. Baseball is not governed by what Lewis calls a *rule of accommodation*. ‘Baseball has no rule of accommodation to the effect that if a fourth ball is required to make correct the play that occurs, then that very fact suffices to change the score so that straightway there are four balls.’<sup>17</sup>

Conversational score, however, *is* governed by a rule of accommodation. Conversational score, unlike baseball score, does tend to evolve in whatever way is required to make the play that occurs count as correct play. Such rules have the following general form. If at a given time something is said that requires a component of conversational score to be a certain way, in order for what is said to be true, or otherwise acceptable; and if that component is not that way beforehand (and if certain further conditions hold); then at that time, that score component changes in the required way, to make what is said true, or otherwise acceptable.

Presupposition provides a clear illustration. If I say ‘even Jane could pass’, and no one challenges (‘Whadda ya mean, “*even Jane*”?’), the conversational score is immediately adjusted to include the new presupposition that Jane is incompetent. If someone says something which requires a missing presupposition, that presupposition is immediately established as part of the score, making the move count as correct play. In the case of presupposition, the correctness is not *truth*—my move does not on its own *make it true* that Jane is incompetent—but is some other sort of acceptability. The conversation will proceed with that presupposition in place—providing, of course, the move is unchallenged.

We can note at this point that when something is introduced as a presupposition it may be harder to challenge than something which is asserted outright. A speaker who introduces a proposition as a presupposition thereby suggests that it can be taken for granted: that it is widely known, a matter of shared belief among the participants in the conversation, which does not need to be asserted outright. Someone who says ‘Even Jane could pass’ conveys not simply the message that Jane is incompetent, but that everyone knows that Jane is incompetent. A challenger faces the cost of contradicting not simply the speaker, but the general opinion. That is surely part of the reason for presuppositions being more difficult to challenge than assertions.<sup>18</sup>

The phenomenon of accommodation is widespread, as Lewis observes: ‘once we have this scheme in mind. . .we will find many instances of it’.<sup>19</sup> And he goes on to show that other linguistic interactions follow similar rules, ranging from the classic Austinian illocutions of marrying, christening, permitting, prohibiting, to the informal hatching of plans. When a speaker says, in felicitous circumstances, ‘with this ring I thee wed’, there is a rule of accommodation which makes it *correct* (in this case *true*) that the speaker weds. When a master says to a slave, ‘you are not now permitted beyond the white line’, there is a rule of accommodation which immediately adjusts the boundary of the permissible and impermissible to make it *correct* (in this case *true*) that the slave is not now permitted beyond the white line.

It is worth adding that once this phenomenon is noticed, one sees the possibility of moves which do more than one thing: the possibility of mixed cases.

The master could make the move of prohibiting by using the performative tag ‘I hereby prohibit. . .’, or he could make the same move more subtly. If he were all of a sudden to say something which merely *presupposed* that the slave was not allowed to cross the white line, that too could be a move of prohibiting the slave from crossing the white line. Likewise for permitting. ‘Even Jane could pass’ introduces the presupposition of Jane’s incompetence, but it may also do other things—permit jokes at Jane’s expense, legitimate further slurs on Jane’s talents, and so on. The point is that such illocutionary moves as permissions and prohibitions may be explicit, or implicit: they may be introduced explicitly, or they may be introduced implicitly as presuppositions of what is said explicitly.

We agree with Lewis about the ubiquity of accommodation, and we wish to suggest that similar rules of accommodation might operate in the context of pornography—odd though it may sound to think of pornography in conversational terms. We suggest that Lewis’s analysis can shed light on the question of what pornography says.

Recall the sorry tale of the slides and the footwear, in *Example (1)*. Even this most reductive story is open to a less Pavlovian, more conversational interpretation. Compare that study with some of the conversational situations described earlier. What I say about Jane (‘Even Jane could pass’) makes best sense on the assumption that she is an unpromising candidate. The presence of a bland pair of boots in an otherwise sexually exciting series of pictures makes best sense on the assumption that the boots are supposed to be exciting too. The conversation about Jane accommodates the new presupposition of his incompetence, making correct or acceptable that presupposition, and those taking part go on with the new score in place. In the ‘conversation’ about the footwear—a monologue rather than a dialogue—it seems likely that the same applies. The one-sided conversation with the slides accommodates the novel presumption about boots, and in doing so makes correct or acceptable the idea that boots are sexy. Perhaps some viewers challenge the move. (‘Whadda ya mean, *boots?*’) Perhaps many do not, and go on with that new score in place, responding appropriately. The sexiness of the boots is, so to speak, *presupposed* by the one sided ‘conversation’ with the slides. One can see even in this apparently most Pavlovian of interactions a pattern which is at least partly continuous with other conversational situations.

More relevant to our present task are the rules of accommodation at play in the kind of pornography which concerns MacKinnon. It may be that we now have the resources to gain a better understanding of how pornography may say and do the things it may not, at first sight, appear to say and do.

While it may not explicitly be said in pornography that women are inferior, or that sexual violence is normal or legitimate, it may be that propositions like these are

presupposed by what pornography explicitly says, because they are required for the hearer to make best sense of what is said. The explicit content of pornography may be one thing: may be sexually graphic depictions of women (whether in words or pictures) that include one or more of the details mentioned in the feminist definition (depictions of women ‘cut-up, bruised, mutilated, penetrated by foreign objects, animals, reduced to body parts...’).<sup>20</sup> But pornography may say more than it says explicitly, if we count what is implied or presupposed among the things that are said.

We illustrate with an example, not particularly extreme, but typical, perhaps, of the kind of pornography MacKinnon has in mind. The story, from *Hustler*, is called ‘Dirty Pool’.

*Example (2).* A waitress is pinched by a male pool player, while his companions look on with approval. The captions to the series of sexually graphic pictures read:

Though she pretends to ignore them, these men know when they see an easy lay. She is thrown on the felt table, and one manly hand after another probes her private areas. Completely vulnerable, she feels one after another enter her fiercely. As the three violators explode in a shower of climaxes, she comes to a shuddering orgasm.<sup>21</sup>

The story is an example of what is sometimes described in the social science literature as a ‘favourable’ rape depiction.<sup>22</sup> It is not explicitly said in the story that the female waitress says ‘no’ when she really means ‘yes’; that, despite her protestations to the contrary, she wanted to be raped and dominated all along; that she was there as an object for the men’s sexual gratification; that raping a woman is sexy and erotic for man and woman alike. Nevertheless the conversation—if we can call it that—follows certain patterns of accommodation which render acceptable these things that are not explicitly said. These presuppositions are required in order to make sense of what is explicitly said and illustrated—or at any rate they are required for one way, perhaps the most natural and obvious way, of making sense of it. One needs presuppositions like these to make sense of the way in which the initially reluctant young waitress gives in to immediate ecstasy upon being gang-raped. Poor sense could be made of the story if one were to add to it the negations of these presuppositions: if one were to add to the final sentence the conjunct ‘and when she said no, she meant no; she never harboured a secret desire to be raped; when she ignored the men, she meant it; she did not want to have sex with them; she was physically hurt, terrorized, and psychologically traumatized as a consequence of what her violators did to her.’

In short, the story presupposes certain rape myths, just as surely as the comment about Jane presupposes her relative incompetence.<sup>23</sup> Although the story does not explicitly assert the propositions ‘Gang rape is enjoyable for men’, or ‘Gang rape is enjoyable for women’ or ‘Sexual violence is legitimate’, such messages are arguably presupposed by it. Our first conclusion, then, is that pornography can say such things, even if it does not explicitly say them.

### *III. Saying, subordinating and silencing*

What, if any, are the implications here for understanding the claims that pornography subordinates and silences women? Although the components of conversational score very often obey rules of accommodation, this is, as Lewis notes, only a tendency. And while Lewis’s chief interest is in the *success* of accommodation, the occasional *failure* of accommodation is an equally interesting and relevant subject. Lewis is alert to the way rules of accommodation are sensitive to properties of the speakers, including such properties as relative power and authority. To take up one of his examples, the boundaries of the permissible and the impermissible instantly vary, not with what the slave says, but with what the master says. The authority of the speaker makes a great difference to the way in which this rule of accommodation operates. This bears on the two issues of subordination and of silence.

First, some implications for the question of subordination. The master’s ability to subordinate the slave, using words, depends on his authority. What he says with his words is a certain kind of doing, only given his authority. If the arrangement changes, and the master loses his authority, the boundary of what is permissible and impermissible will *not* shift to match what he says. The same applies to pornography. Whether pornography introduces presuppositions that are also, for example, permissions, depends on its authority. To say ‘Sexual violence is legitimate’ (whether implicitly or explicitly) is not *on its own* to be an illocutionary move of permitting or legitimating sexual violence, and thus of subordinating women. For the saying to be that kind of doing takes authority. Recall MacKinnon’s remarks: it is the *authoritative* saying that is the doing. Her argument rests on the premise that pornographic speech does have the authority to do this.<sup>24</sup>

Next, some implications for the question of silence. The slave’s inability to make certain moves in the language game can be viewed as a kind of silence: his powerlessness is partly constituted by his inability to make certain moves. There are many moves which the master can make which the slave cannot. The master can say to the slave ‘Cook dinner’ or ‘Your curfew is 6 p.m.’ and these utterances count as acceptable moves—moves of ordering and permitting—in the game. The score of the master-slave language game moves to accommodate the master’s utterances to make them count as correct. The slave, on the other hand, cannot say to the master

‘Cook dinner’ or ‘Your curfew is 6 p.m.’. Of course, the slave can say these words, but his utterance will fail to count as an acceptable move in the master-slave language game. The rules of accommodation will not operate to adjust the score to make these utterances count as correct play, as moves of ordering and permitting. We have here one way of understanding what it is to be silenced—not to be prevented from uttering words (the slave could do that), but to be prevented from making certain intended moves in a language game.

Something similar applies to pornography, and in particular to the claim that pornography silences women. We have suggested that pornography introduces certain presuppositions about women, that these presuppositions figure as a component of score in language games, and obey rules of accommodation. And we have seen that in general the moves one can make in a language game can depend upon one’s position of relative power in that language game. Suppose that women are often comparatively powerless in sexual language games, and pornographers and men are often comparatively powerful. Suppose that men and women are participants in language games in which moves are highly sensitive to the relative power and authority of speakers. Our suggestion is that, just as the master’s speech affects the score of the game in the master-slave language game, so pornography affects the score of the sexual language game—a score which women cannot or do not adequately challenge. Perhaps the failure to challenge is due (in part) to the absence of women as speakers from the initial pornographic conversations—for although women appear in pornography, their speech is entirely scripted. Perhaps it is due (in part) to the comparative powerlessness of women, which undermines their attempts to alter the conversational score. Perhaps it is due (in part) to the nature of presupposition itself, which—as we remarked earlier—is inherently more difficult to challenge than outright assertion. Whatever the reason, pornography affects the presuppositional score of the sexual language game. The men who take part in pornographic conversations then take part in ordinary conversations with real women. Our suggestion is that the presuppositions introduced by the pornographic conversations persist in the conversations with real women. The result is that just as there are some illocutionary moves in the master-slave language game that the slave cannot make, so there are some illocutionary moves that a woman—in some contexts—cannot make. Certainly, like the slave, she can in one sense speak. She can utter or pen a string of words. She may, for example, say ‘no’ in a sexual context, and her intended move of refusal may fail to count as correct play. She may utter words when testifying in court about a rape, and her intended move of describing a rape may fail to count as correct play. She may utter words of protest, but her intended move may fail to count as correct play.

An example of the latter is provided by the case of Linda Marchiano (Lovelace), who wrote a book, *Ordeal*, intended as an indictment of the pornography industry. In it she tells the story of how she was abducted, beaten, tortured, and hypnotized in order to perform her starring role in the successful pornographic film 'Deep Throat'. Now although *Ordeal* was meant to be a protest against the pornography industry, it has in fact been marketed *as pornography*.<sup>25</sup> This case appears to be one example in a familiar pattern to be found in the language games of many, including the sex offenders who twist women's words—who 'always reinterpret the behaviour of their victims [and] will say the victim encouraged them, or seduced them, or asked for it, or wanted it, or enjoyed it'.<sup>26</sup>

Women often find themselves unable to alter the score of language games in the ways that they intend—and find themselves altering the score in ways they did not intend—in both public and private sexual conversations, conversations whose score includes the presupposition, introduced and reinforced by pornography, that a woman's no often means yes. A woman's testimony in court about sexual violence and sexual harassment often goes awry. Judges and juries sometimes acquit men of sexually-related charges on the grounds that the victim was wearing a short skirt and so 'asking for it', or—in cases where the alleged offence was photographed or filmed—that she looked like she was enjoying it, or that, despite her words, she couldn't really have been refusing.<sup>27</sup> In the private contexts of date rape, a woman's 'no' sometimes fails to count as correct play—fails to count as the refusal it was intended to be. We have, it seems, a straightforward way to understand MacKinnon's idea that women are silenced by pornography.

#### *IV. Fictional saying*

We concluded that pornography may well say what it does not explicitly say: that the 'messages' identified by Catharine MacKinnon and Ronald Dworkin may well be present as presuppositions of pornographic conversations between author and reader, introduced in roughly the rule-governed way that presuppositions are introduced in other conversational situations. The fact that pornography does not explicitly say these things is not a good reason for doubting that it says them. We also suggested that given a certain degree of authority, such presuppositions could indeed have the illocutionary dimension MacKinnon attributes to them: that they could be acts of permission, legitimation, subordination, and silencing.

However, we have so far entirely ignored the second, and independent, reason for doubting that pornography says the things MacKinnon claims that it says. It is time to remedy that. Pornography usually purports to be fantasy, or *fiction*. This fact does not undermine the preceding discussion, but it does introduce different grounds for scepticism. It does not undermine the preceding discussion, since rules of

accommodation apply just as much to the speech acts of story-telling as they do to everyday conversations. Fiction too has its merely implicit content, introduced by the right sorts of authorial moves in the story-telling language game. The distinction between implicit and explicit propositions introduced by such moves applies as much to fiction as it does to everyday conversations. (It is true in the Sherlock Holmes stories, but not explicitly said, that Holmes lives closer to Paddington Station than to Waterloo, does not have a third nostril, etc.<sup>28</sup>) But there are different grounds for scepticism: for to number the *implicit* sayings of pornography among the things that pornography says will do MacKinnon's case no good, if they are *implicit* and *merely fictional* sayings. Even supposing the presuppositions of pornography to include such propositions as 'Sexual violence is legitimate' or 'Women enjoy rape', if they occur within the scope of a fiction operator, pornography—it seems—does not actually *say* such things.

People do alter their beliefs and values as a result of exposure to (fictional) pornography, and in particular are more likely to believe rape myths; that is an empirical assumption of our discussion, and (we believe) fairly well supported by what evidence there is.<sup>29</sup> What we are considering then is whether and how people come to believe such things because pornography *says* them.

The question we face here is part of the more general question of how it is that one can learn from fiction. Many discussions of this topic treat it as the question of how one can gain *knowledge*—factual or moral—from fiction. Here we are concerned with ignorance rather knowledge, but the same principles apply. If we can gain true beliefs from fiction, we can also gain false beliefs from fiction. The simplest case will be where the fiction purports to be fact: where *all* of its propositions, implicit and explicit, purport to be true, and are taken to be true, of the actual world.

The idea can be illustrated by the contrasting stories of Wells and Welles. Readers of H. G. Wells's *The War of the Worlds* were left in no doubt that they were encountering fiction, because Wells made the authorial moves appropriate to fiction—whatever they may be. Listeners to Orson Welles's infamous 'news broadcast' of *The War of the Worlds* on radio thought they were encountering fact, because Welles did not make—or did not *adequately* make—the moves appropriate to fiction, and mayhem ensued. Listeners believed that our world, and not some merely fictional world, was at war with the Martians. The story by Wells purported to be fiction; the story by Welles purported to be fact—or that, at any rate, is one way of interpreting events. This sort of thing happens rarely with ordinary fiction, but perhaps it happens more frequently with pornography. Autobiographical letters to pornographic magazines and internet chat groups, describing the elaborate sexual fantasies of their authors, often purport *not to be fiction*. In such cases the authors

are what we can call for short (and oversimplifying) *liars*. In such cases there is nothing very surprising about people acquiring beliefs about the real world from pornographic fiction—false beliefs, since the purported fact is merely fantasy. However, much pornography both is *and* purports to be fiction, and some explanation is needed as to how anyone could learn from it.

Greg Currie, drawing on work by Lewis, observes that

there is truth—literal truth—in fiction, since most fictional stories play out against a background of fact. We can learn from that background of fact, as the reader of Patrick O’Brien will learn a good deal about Nelson’s navy, and the reader of Hilary Mantel’s *A Place of Greater Safety* will learn about revolutionary France.<sup>30</sup>

It is helpful to have our attention drawn to this class of *background* propositions, propositions which (whether implicit or explicit) are true in the fiction, and true in the world as well. However, it would be more accurate to say that most fictional stories play out against a background, not of fact, but of *purported* fact. It would be more accurate to say of members of this background class of propositions that they *purport* to be true in the fiction, and true in the world as well.<sup>31</sup>

If the authors mentioned are ill-informed, indifferent, or outright deceivers—for short (and over-simplifying), if the authors are *background liars*—then some propositions belonging to the background class may well be false. The reader, picking up on authorial moves signifying background propositions, may then learn falsehoods about (for example) revolutionary France. This gives us one straightforward way of seeing how it is that one could acquire false beliefs from fiction. Where the background propositions in a fiction are partly false, a reader expecting authorial reliability on background propositions may acquire false beliefs. It may be that if pornography says (implicitly) that ‘Women enjoy rape’ or ‘Sexual violence is legitimate’, such propositions have a background status: that is to say, they purport to be true not only in the fiction, but in the world as well. They are to the pornographic fiction as propositions about revolutionary France are to Mantel’s novel, purported facts in both cases, but in the case of pornography *merely* purported facts.

On this suggestion the authors of pornography are background liars: pornography presents the reader with a combination, purely fictional propositions (e.g. about a particular waitress), and background propositions (e.g. about what women enjoy) that purport to be true in the fiction *and* true in the world. The propositions which concern MacKinnon belong to the latter class, and the authors of pornography, in presenting readers with false background propositions, are ill-

informed, deceptive, or indifferent to the accuracy of the background they present. We don't dismiss this possibility, especially in circumstances where interests of profit may conflict with interests of truth, sincerity, accuracy, and the like.

However, there is another possibility which views the authors of pornography more charitably, should one choose to do so. Rather than being background liars, the authors of pornography may be *background blurrers*. It may be that such propositions as 'Women enjoy rape' or 'Sexual violence is legitimate' are presented as having the status of mere fiction, not purported factual background—but that the authorial moves which enable readers to distinguish background from mere fiction are inadequate. Such blurring, which may or may not be intentional, will have to do with both author and reader. One can expect it to be more likely in circumstances where authors are indifferent to a clear boundary between fiction and background, and where readers are likewise indifferent. The authorial moves which distinguish background from pure fiction are a complex matter, but they rely in part on what readers already know or believe.

When the line between the background and the fictional is blurred, two different kinds of mistake are possible: a reader may mistake background for mere fiction, or mere fiction for background. In the former case a reader would fail to learn what could be learned; in the latter he would learn what should not be learned. A reader of Mantel's novel who is ignorant of the French Revolution—ignorant even of its historical existence—might mistake background for mere fiction, and fail to learn what could have been learned about the French Revolution. Conversely a reader who believes the novel is partly about the French revolution, but who is unable to tell the background from the fictional propositions, may mistake fiction for background and learn things about the French Revolution which should not have been learned. The latter mistake may happen with pornography. A reader ignorant of women and their desires may be unable clearly to tell background from fictional propositions in pornography, and as a result mistake fiction for background, and learn what should not be learned. Background blurring provides an alternative mechanism for bringing it about that rape myths purporting to be mere fiction are taken to be true of the world as well.

We conclude that pornography may well say that 'Women enjoy rape' and that 'Sexual violence is legitimate', even if it does not explicitly say these things, *and* even if it purports to be fiction. The fictional character of pornography is not a good reason for doubting that pornography says these things.

#### V. Concluding remarks

As we observed at the outset, this conclusion about what pornography says appears to be shared by parties on both sides of the pornography debate, both in Ronald Dworkin's concessions about the 'message' of pornography, and in Catharine MacKinnon's claims about what pornography says and does. Our concern here has been to gain a better understanding of how pornography might *say* such things. In exploring this question we have drawn upon the idea that if pornography is speech, it works in ways that have something in common with the ways speech works in other circumstances. But as we indicated at the outset, our exploration brings us closer to Catharine MacKinnon's conclusion about pornography than to that of Ronald Dworkin. If pornography does say these things—and if, in addition, it says them authoritatively—then the score of sexual language games may be changed in ways that make plausible MacKinnon's claims that pornography subordinates and silences women. This is not speech that 'seeks to deliver' a 'message' in the manner of political speech, as Dworkin suggested; it does not—or not merely—express the 'opinion' that 'women are submissive, or enjoy being dominated, or should be treated as if they did'; it is not comparable to speech 'advocating that women occupy inferior roles'. Pornography, on the present suggestion, works in surreptitious ways by altering presuppositions, not by offering explicit political argument. It is speech that says things and—given its authority—does things. Women's utterances are made to count as the kind of move that is consistent with presuppositions about women, presuppositions established by pornography as a component of an on-going conversational score. In sexual conversations pervaded by such presuppositions, pornography prevents women from making the moves they intend to make. Pornography makes moves which subordinate and silence women, moves which women, as subordinate and silent, cannot then adequately challenge.

Our suggestion as to how pornography can change conversational score in life, notwithstanding its often merely implicit content, and notwithstanding its status as fiction, might seem over-simple. Pornographers, we have suggested, are liars, or background liars, or background blurrers. Presuppositions are introduced by pornography, authors innocently or otherwise fail adequately to indicate the line between fiction and background, readers innocently or otherwise take fiction for background, and accordingly come to believe certain rape myths. Women, as participants in conversations where rape myths are presupposed as a component of conversational score, are silenced and subordinated. The process, thus described, makes pornography seem continuous enough with other speech. That was our aim: for we were exploring a middle ground between the rationalism of Ronald Dworkin, for whom pornography is political argument, and the reductivism of the social scientists, for whom pornography is little more than a Pavlovian bell.

However, some readers might find that our approach places pornography towards an excessively rationalistic end of Scoccia's speech spectrum. Some might think we have not done justice to the more deeply irrational ways in which pornography changes people. We have, after all, said nothing about the important question of whether and how pornography changes *desires*, whether it produces violent desires, and what the relation between desire-change and belief-change might be. This question about desires is one to which the reductivist account—the account suggested by Scoccia, and by MacKinnon in a different mood—gives a very direct answer. Pornography changes desires through a process of conditioning. The question is well worth pursuing, but let it suffice for now to say this. If pornography does belong to a more deeply irrational end of the speech spectrum—if something closer to the reductivist vision is true—then MacKinnon's conclusion will receive even more support than we have given it. If we are wrong, then far from being political argument, as Dworkin suggested, pornography can barely be understood in ways that view it as continuous with conversational language games. Perhaps pornography has more in common with the Pavlovian bells than we expected. Or perhaps pornography is not *even* speech, in which case it is hard to see how a principle of free speech should protect it—especially if, as we have suggested, it is the free speech of women which is at stake.

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<sup>1</sup>Catharine MacKinnon defines pornography as 'the graphic sexually explicit subordination of women in pictures or words that also includes women dehumanized as sexual objects, things or commodities; enjoying pain or humiliation or rape; being tied up, cut up, mutilated, bruised, or physically hurt; in postures of sexual submission or servility or display; reduced to body parts, penetrated by objects or animals, or presented in scenarios of degradation, injury, torture; shown as filthy or inferior; bleeding, bruised or hurt in a context which makes these conditions sexual.' 'Francis Biddle's Sister' p. 176, in MacKinnon, *Feminism Unmodified*. (Cambridge, Mass.: Harvard University Press, 1987), cf. *Only Words* (Cambridge, Mass.: Harvard University Press, 1993), p. 121, n32. This definition is controversial, but for convenience we follow it here, ignoring for present purposes the problems (political or philosophical) it may pose.

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<sup>3</sup>Ronald Dworkin, 'A New Map of Censorship', *Index on Censorship* 1/2 (1994) p. 13, and 'Two Concepts of Liberty', in *Isaiah Berlin: A Celebration*, ed. Edna and Avishai Margalit (London: Hogarth Press, 1991) pp. 104, 105. He suggests that pornography succeeds in persuading people when he concedes some of the effects claimed by MacKinnon: 'there is some evidence that exposure to pornography weakens people's critical attitudes toward sexual violence', 'Two Concepts', p. 105. The mismatch

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between rhetoric and reality in Dworkin's analysis of pornography has been commented on by Jennifer Hornsby, 'Speech Acts and Pornography', *Women's Philosophy Review*, November 1993, 38-45, reprinted with a postscript in Susan Dwyer (ed.), *The Problem of Pornography*, (Belmont, CA: Wadsworth, 1995), 220-232.

<sup>4</sup>Dworkin, 'Two Concepts' p. 106, quoting with approval the words of Judge Frank Easterbrook, *American Booksellers Assn., Inc. v. Hudnut* 771 F.2d 323 (1985).

<sup>5</sup>Edward C. Nelson, in 'Pornography and Sexual Aggression', Maurice Yaffé and Edward Nelson (eds.), *The Influence of Pornography on Behaviour* (London: Academic Press, 1982) p. 185, citing a 1966 study by S. Rachman ('Sexual fetishism: An experimental analogue', *Psychological Record* 16 (1966) 293-296.

<sup>6</sup>*Only Words*, p. 16.

<sup>7</sup>Danny Scoccia, 'Can Liberals Support a Ban on Violent Pornography?', *Ethics* 106 (1996) 776-799. The quotation is from p. 777. Scoccia's focus, unlike MacKinnon's, is on violent desires produced by violent pornography, rather than on 'bigotry' produced by violent *and other* pornography. He provides an excellent discussion of the liberal 'persuasion principle', and how its application to pornography is undermined by the conditioning hypothesis. Other reductive accounts include Frederick Schauer's view that pornography is not really speech at all, but a kind of sex aid; and Cass Sunstein's view that since pornography aims at arousal and affects propositional attitudes by a process akin to subliminal suggestion, it is non-cognitive speech. See Schauer, 'Speech and "Speech"—Obscenity and "Obscenity": An Exercise in the Interpretation of Constitutional Language', *Georgetown Law Journal* 67 (1979) 899-933; Sunstein, 'Pornography and the First Amendment', *Duke Law Journal* (September 1986) 589-627. These views are discussed and rejected by Scoccia.

<sup>8</sup>Scoccia, 'Can Liberals Support a Ban?', p. 785.

<sup>9</sup>For some philosophical discussions other than those of MacKinnon, see e.g. Melinda Vadas, 'A First Look at the Feminist/Civil Rights Ordinance: Could Pornography be the Subordination of Women?', *Journal of Philosophy* 84 (1987)487-511. Langton's 'Speech Acts and Unspeakable Acts', *Philosophy and Public Affairs* 22 (1993) 293-330 offers a speech act analysis of the claims that pornography subordinates and silences women, and argues that free speech includes illocution. Jennifer Hornsby argues likewise with respect to the silencing claim, in 'Speech Acts and Pornography', 'Illocution and its Significance', in *Foundations of Speech Act Theory*, ed. S.L. Tsohatzidis (London: Routledge, 1994), 'Disempowered Speech', in *Philosophical Topics* 23 (1995) ed. Sally Haslanger, 127-147. See also Hornsby and Langton, 'Free Speech and Illocution', *Legal Theory* 4 (1998) 21-37.

<sup>10</sup>*Only Words*, p. 31.

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<sup>11</sup>Is pornography authoritative in the way MacKinnon claims? That question, which is partly empirical, is addressed by Langton, who argues in ‘Speech Acts and Unspeakable Acts’ that it is plausible to suppose pornography has the authority that is a condition of illocutions that subordinate and silence, and that it is therefore plausible to suppose MacKinnon is right in claiming that pornography subordinates and silences. The argument is challenged by Leslie Green in ‘Pornographizing, Subordinating, Silencing’, in *Censorship and Silencing: Practices of Cultural Regulation*, ed. Robert Post (New York: Getty Research Institute and Oxford University Press, 1998) 285-311, and Langton replies in the same volume (‘Subordination, Silence and Pornography’s Authority’, *ibid.* 261-83).

<sup>12</sup>This question is addressed by West in ‘Can liberals really support a ban on pornography?: pornography, liberalism and women's freedom of speech’ (in progress), and by Langton, in ‘Pornography: A Liberal’s Unfinished Business’, forthcoming in *The Canadian Journal of Law and Jurisprudence*.

<sup>13</sup>We are concerned here with presupposition at an informal level. Some say that the proposition ‘the present King of France is bald’ entails the proposition ‘there is a present King of France’, others say that the proposition ‘the present King of France is bald’ requires the truth of the proposition ‘there is a present King of France’ if it is to have a truth value. We do not wish, here, to take a particular stand on the logic of presupposition.

<sup>14</sup>David Lewis, ‘Scorekeeping in a Language Game’, in *Philosophical Papers*, Vol. I (Oxford: Oxford University Press, 1983) 233-249, first appearing in the *Journal of Philosophical Logic* 8 (1979) 339-59.

<sup>15</sup>J. L. Austin, *How to Do Things with Words* (Oxford: Oxford University Press, 1962).

<sup>16</sup>‘Scorekeeping’, p. 236. In addition to these constitutive rules, Lewis describes regulative rules directing the players to play correctly, and directing them to aim to make the score evolve in certain ways. (Team members should try to maximize the number of runs of their own team, and so forth.).

<sup>17</sup>‘Scorekeeping’, p. 240.

<sup>18</sup>Thanks to Philip Pettit for emphasizing this point to us.

<sup>19</sup>‘Scorekeeping’, p. 240.

<sup>20</sup>See definition in footnote 1.

<sup>21</sup>The story is described by Catherine Itzin, drawing on work done by Jeanne Barkey and J. Koplin. See Itzin (ed.), *Pornography: Women, Violence, and Civil Liberties* (Oxford: Oxford University Press, 1992). The story appeared in *Hustler*, January 1983 issue, about two months before the New Bedford pool hall rape took place (later dramatized in the film *The Accused*, starring Jodie Foster). Itzin’s work also offers

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detailed descriptions of the kinds of pornography widely available in the United States and the United Kingdom, of which this story is in many ways typical; see especially pp. 27-53.

<sup>22</sup>Sometimes also described as a ‘positive’ depiction, see e.g. Edward Donnerstein, Daniel Linz and Steven Penrod, *The Question of Pornography: Research Findings and Policy Implications* (New York, N.Y.: Free Press, 1987), especially chapters 5 and 6. An ‘unfavourable’ or ‘negative’ depiction would be one in which the woman’s later enjoyment was absent.

<sup>23</sup>In many pornographic conversations, such presuppositions will presumably be reinforced rather than introduced for the first time, but for purposes of simplicity we ignore this distinction.

<sup>24</sup>Authority comes in different kinds and degrees, so that pornography may be authoritative in some contexts and not others. And acquiring the relevant authority for moves of permitting may sometimes be a relatively easy matter: we suggested earlier that ‘Even Jane could pass’ both presupposes her relative incompetence, and renders more *permissible* further slurs against Jane, without supposing that the speaker had quite the kind of authority the master has over the slave.

<sup>25</sup>Linda Lovelace, with Mike McGrady, *Ordeal* (Secaucus, N.J.: Citadel Press, 1980). One of the authors received in her junk mail a catalogue of pornographic material in which *Ordeal* was marketed as pornography. This example, and those of testimony and sexual refusal, are discussed in Langton’s ‘Speech Acts and Unspeakable Acts’ as examples of illocutionary disablement.

<sup>26</sup>Ray Wyre, ‘Pornography and Sexual Violence: Working with Sex Offenders’ in *Pornography: Women, Violence and Civil Liberties*, p. 236. See also Edna F. Einsiedel, ‘Social and Behavioural Science Research Analysis’, *Report of the Attorney General’s Commission on Pornography*, Vol. I (Washington, D. C.: United States Government Printing Office, 1986) 901-1033.

<sup>27</sup>MacKinnon describes many such examples throughout *Feminism Unmodified, Only Words*, particularly in ‘Francis Biddle’s Sister: Pornography, Civil Rights and Speech’, in *Feminism Unmodified* 163-197.

<sup>28</sup>These examples are from Lewis’s discussion in ‘Truth in Fiction’, *Collected Papers*, Vol. I, 261-280, first published in *American Philosophical Quarterly* 15 (1978) 37-46. Our mention of ‘the right sorts of authorial moves’ is more hand-waving than we would like, but this is a large and complex topic beyond the scope of our project here. Sometimes, for example, the ‘right’ move for introducing implicit content in a fiction will really be an *absence* of a relevant countervailing move: as when the implicit

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content of a fiction includes the presupposition that the laws of nature operating in the fictional world are the same as the laws operating in our own.

<sup>29</sup>See for example Donnerstein, Linz and Penrod (eds.), *The Question of Pornography: Research Findings and Policy Implications* (New York: Free Press; London: Collier Macmillan, 1987): viewers of pornography appear to become more likely to view women as inferior, more disposed to accept rape myths (including the idea that women enjoy rape), more likely to see rape victims as deserving of their treatment, and more likely to say that they themselves would rape if they could get away with it.

<sup>30</sup>Gregory Currie, 'The Moral Psychology of Fiction', *Australasian Journal of Philosophy* 73 (1995) 250-259. The quotation is on p. 250. Currie himself is less interested in this factual learning than the moral learning he goes on to argue for. Currie's analysis, with its focus on the roles of simulation and the imagination, may well be relevant in ways we do not discuss here to the question of how one could learn from pornography, and the same may be true of some ideas in Kendall Walton's *Mimesis as Make-Believe* (Cambridge, Mass.: Harvard University Press, 1990).

<sup>31</sup>Lewis himself, in describing these background propositions, moves from an analysis which says they are true in the actual world, to an analysis which says they are true in what he calls the *collective belief worlds* of their community of origin: 'The proper background. . . consists of the beliefs that generally prevailed in the community where the fiction originated'. See 'Truth in Fiction' pp. 272-3.