

“Protecting Persons from Animal Bites”

I. Introduction

What I want to first do here is defend Lynne Baker’s persons against some bites of my fellow animalists. I don’t think they break the skin and draw any blood. What unifies these attacks is they all support the claim that personhood couldn’t be ontologically significant. My contention is that the following are not problems for Baker’s constitution account despite the claims of my fellow animalists, Olson in particular. i) “Person” can’t be a substance term but is instead a mere function term like “locomotor”– while “animal”, on the other hand, is a substance kind term that can provide an answer to the question “What is it (fundamentally)?” ii) There is no principled answer about when constitution takes place as opposed to an already existing object just acquiring new properties. iii) If persons are distinct from their animals then there will be too many thinkers that lead to puzzles of self-reference and self-knowledge which can be avoided only if personhood is not ontologically significant and “person” is construed as a phase sortal rather than a substance sortal. While I think Baker’s sophisticated account of derivative properties can avoid such puzzles, there still lurks a problem of too many thinkers. I’ll maintain that perhaps the best criticism of constitution is a moral one. Regardless of how the first person pronoun works when used by coincident thinkers, animals have interests and they may not be compatible with the interests of the coinciding persons who have distinct persistence conditions. There will then be moral conflicts and a lack of autonomy that only a sparse animalist ontology can avoid. My contention is such practical concerns are legitimate considerations in choosing between metaphysical theories.

II. Olson’s Account of Function and Substance Concepts

Olson claims that “person” is not a substance term like “organism” or “animal.” In a section entitled “Movers and Thinkers” in his first book (THA), Olson puts forth an argument that “person” should be understood as a functional term like “locomotor.” The strategy Olson pursues there against those who would bestow substancehood on persons involves showing how counterintuitive it would be to hold such a position about locomotors. He then suggests that the same skepticism that readers harbor towards the substantial nature of locomotors should be extended to persons. He begins by imagining a philosopher who is so impressed with the locomotive abilities of humans and other entities that she puts forth a criterion of locomotor identity.

If a ship’s engine is damaged beyond repair, she says, that ship ceases to exist, and the resulting crippled ship (if we can call a thing with no locomotive capacity a ship) is numerically different from the one that once sailed. If we attach a motor to

something that was previously unable to move (a rowboat, for example), and give it (or rather its successor) locomotive powers, the original nonlocomotive object ceases to exist and is replaced by a locomotor numerically different from it - for the latter object would have a different criterion of identity from the former. And if a ship's engine is removed and installed in a new hull, the resulting ship is identical with the original ship, for it inherits the original ship's locomotive capacity (32-33).

A locomotor persists as long as locomotor continuity is maintained. Our philosopher considers "locomotor" to be a substance term – i.e. it is the type of answer given to the question, "What is it?" Crabs, human animals, angels, cars, motorboats, and airplanes would all be essentially locomotors. A locomotor would come into existence whenever there arose something with the capacity to move itself and it would cease to exist whenever it lost that capacity. Olson insists that even if we were informed that something were a locomotor we would still be warranted in asking, "But what kind of thing is a locomotor?" What is *it* that generates its own movement? Olson suggests the answer should be a crab or human animal or angel etc. If "locomotor" had been a substance term, then there would have been no need for the additional questions.

Since Olson expects readers to recoil from the idea that "locomotor" could be a substance sortal, he challenges them to explain how "person" differs. He argues that "person" is a functional kind like locomotor and thus it can't be the answer to the question "What kind of substance is it?" He insists that to say that something is a person tells us that it has the capacity or disposition to think in a certain way, but doesn't inform us what it is that thinks in such a way.

Olson rightly claims that if "person" is not a substance term then the psychological approach to personal identity cannot be true. The position of any psychological approach, one version of which is Baker's constitution account, is that we are essentially thinking beings, not living beings. I will argue that the advocates of psychological approaches like Baker should not be worried by the lessons that Olson draws from locomotors about persons and substances. Olson's arguments against locomotors show both too little and too much. Many artifacts that most listeners would consider to be substances would not be according to Olson's criteria. Furthermore, persons actually escape some of his arguments against locomotors. And those criticisms that persons can't avoid turn out to plague organisms as well. Most damning of all is that the persistence conditions of organisms actually possess some function-dependent features that Olson finds quite suspect when they appear in locomotors. Olson's paradigmatic substance, the organism, is an example of a functional kind! So my initial conclusion is that there's nothing wrong with certain instances of functional kinds being substances.

II-A. Constitution, Function, and Substantial Change

The motor in Olson's story is not playing a role analogous to what the cerebrum does in the constitution approach. So one minor reason why advocates of the latter need not be bothered is because cerebrum transplants relocate persons without eliminating bodies while locomotors destroy and replace the previous boat. But we are still owed a story about why some functional terms are tied to persistence conditions and others not. To see why a change in function could be a change in substantial kind, consider the differences between Olson's locomotor and automobiles. Aren't automobiles substances? If any artifacts can be substances, then automobiles would seem to qualify. I don't know what would be a better answer to someone pointing at an automobile and asking the question "What is it?" than "It is an automobile – an artifact that moves itself" And automobiles are self-moving entities which make them seem a lot like locomotors except for their being limited to propelling themselves across the land rather than through the sea or skies.

Imagine the following alternative history of the automobile. One hundred years ago people were using large sheds on cylindrical rubber mounts to store farm equipment. They didn't call them "automobiles" nor were they. They were edifices shaped like the bodies of our present-day vans. Suppose some engineers started to add engines to these structures and started to use them to drive around rather than store farm equipment. Is it that odd to believe that they have created a new substance? So even if readers wanted to resist any suggestion of one artifact (a boat) coming to constitute another (a locomotor), they are less likely to be upset by the prospect of substantial change in which the automobile is a new substance that *replaces* the older engineless shed. Now what is the difference between this story of automobiles and the locomotor replacing the rowboat? Do listeners have a strong intuition that we should speak of sheds persisting and acquiring a new property rather than going through substantial change, especially if the entities became used primarily for driving and no longer the storage of equipment? If not, then perhaps they should adjust their stance towards the rowboat and the locomotor, and consider as less problematic the beliefs of the locomotor-fascinated philosopher that Olson imagines. Or more plausibly, they might want to construe the locomotor as the genus and auto as the species.

An appeal to talk of proper function can help us see why there plausibly arise new substances when some things like sheds become automobiles which are kinds of locomotors and why others such as a type of (motorless) boat don't undergo substantial change when locomotion is instantiated. There is a long tradition of distinguishing effects and functions from the proper functions of Xs by accounting for why an X came into existence and is maintained in existence. My

hunch, rather than well researched thesis about our intellectual history, is that everything was once seen as a divine artifact created and then sustained in existence by God in order to serve some function, but then in a secularized West substitutes for divine creation and sustaining were sought for natural objects. So to take a well-worn example, the proper function of our hearts is explained by the hearts of our ancestors pumping blood enabling them to live long enough to reproduce and pass on that trait to their descendents. And each heart keeps itself and its possessor in existence by performing its blood pumping function. I want to emphasize that *maintaining* something presently in existence is important for functional ascriptions and we shouldn't just look to what brought something into existence. This is needed for us to account for adaptations or spandrels that have come to have functions (exaptations) that they were not earlier selected for which now maintains them in existence. It is also needed to account for the proper function of the organs of the first organism (or perhaps multiple independently arising organisms) on the planet which didn't descend from any earlier organism and may not have been able to reproduce and leave descendants whose later functioning could determine what counts as the proper functioning of these first organisms. I contend such early organisms were unhealthy before they expired because their organs stopped doing what had sustained them earlier in their lives. (So one doesn't need to appeal to capacities to reproduce and evolve to account for such proper biological functions.) Likewise for artifacts, the original function for which some things were made is not the entire story because we need to look at what they have been maintained in existence to do or at least what functions maintained them as "existing" in the social world rather than be ignored or forgotten even if physically intact. We need to appeal to a history of maintenance of a function if we want to explain how so called "found objects" can come to have proper functions that don't account for their earlier coming into existence; moreover, such maintenance can keep entities from becoming found objects that undergo substantial change without undergoing physical change.¹

Such appeals to proper function can help us understand why something new came into existence when Olson's boat was initially constructed from assorted planks and why it wasn't replaced and went out of existence when a motor was added. Likewise, it will help explain our intuitions that the shed has been replaced by the automobile. The shed and automobile have very different functions and the components of the shed are no longer maintained in a way that makes that structure function as a shed. For instance, holes that allow in cold breezes or which will widen

¹ Baker writes of 'relative stability' of a function in explaining why we don't have substantial change of a dog tag into a key when the former is used just once to jimmy a lock. (OSP-376)

due to vibrations need to be patched in the auto but not in the shed. Pieces of the auto's interior will be sanded and softened for they now are occupied by people rather than inanimate farm equipment and so on. The boat, on the other hand, is still maintained as a boat when a motor is added and the oars removed or rarely used. The boat's proper function of transportation across water, the reason the planks were initially assembled has not changed when the engine was added, it is just performed or powered differently. It is not essentially a *rowboat*. A rough analogy is modifying a computer so it no longer runs on battery power but on a solar cell or current from a wall outlet. That isn't a substantial change for there hasn't been a change in its proper function, just a new way for it to perform or power its proper (computing) function. I conjecture that a rowboat could be essentially a rowboat if it was primarily designed as a floating exercise machine. Then the permanent loss of it being able to mount oars and their replacement with a motor might even lead to its abandonment.

Much of the story in the above passages is also true for organisms that ontogenetically develop into locomotors. They didn't initially come into existence as locomotors, even though the later locomotion helps sustain them in existence. Locomotion is a proper function of some of their parts. Those parts and their functions are new but the organisms do not then undergo substantial change, for there is a hierarchy of functions: life or reproduction is at the apex of that hierarchy and locomotion serves that. Also notice that the maintenance of the organism remains considerably unchanged with the onset (or later loss) of locomotion in an animal's development, since the body still engages in the same metabolic and homeostatic functions. So enabling locomotion is a proper function of parts of the organism that serve higher functions, much like the other parts and organ systems, and thus locomotion doesn't determine the kind of thing the organism is even though it determines the function and nature of some of the parts and plays a role in sustaining the organism in existence. The organism's persistence conditions do not include locomotion but the integration constitutive of life.

So we shouldn't be tempted to say the onset of locomotion in an organism is a case of emergence of a new substance that replaces an older one, the non-locomoting organism. Nor is there any reason to think that with locomotion we have the emergence of a locomotor coincident with the organism. There is a long tradition in the substance literature that stresses the independent existence of substances from certain other objects. Though not part of her formal definition of

constitution, Baker wrote “If x constitutes y at T, it is possible that y exist at T but x not exist at T.”² I don’t have a rigorous account of this independent condition but will still claim that a reason to think the organism did not come to constitute a locomotor is that it isn’t possible for that locomotor to exist without the organism while it is possible for the organism to exist without locomotion.

II-B. The Structure of a Substance

I have offered an account explaining why some things like automobiles are essentially species of locomotors and the function of self-movement is tied to their persistence conditions and why other things like boats acquire locomotive capacities and have neither been replaced nor come to constitute a locomotor. I have tried to take away any embarrassment of treating persons like functional things such as locomotors, suggesting sometimes the latter’s function is insubstantial and sometimes it is plausibly conceived as ontologically significant. Let’s now evaluate Olson’s own explanation of why readers intuitively recoil from the claim that locomotors are substances. He suggests that the problem with locomotors is in part due to the fact that they can be multiply realized. Other animalists like Rosenkrantz (ROSP) and DeGrazia (HIB) make similar appeals to the structures of natural kinds not being multiply realized like functional kinds. Olson writes:

Why doesn’t “it’s a thing that can move” or “It’s a locomotor” answer the question “What is it?” This is difficult matter, but I think part of the answer is that *locomotion is a dispositional or functional property that can be realized in a wide variety of intrinsic structures*. Different locomotors have very little in common besides the fact that they are locomotors – besides their ability to perform a certain kind of task. A crab and a model airplane have very little intrinsic similarity; *even the locomotive capabilities that they have in common are grounded in utterly different internal structures*. (34-35, Italics added)

The very argument that Olson uses against locomotors would seem to be applicable to automobiles but they don’t elicit the same ontological qualms. Automobiles come in all shapes and sizes and materials. As I noted earlier, it is hard to imagine a better answer than automobile to someone pointing at a car and asking the substantial question “What is it?” And since some automobiles burn gas, others use electric batteries, and a few experimental autos are powered by solar cells, it could be said of them that “even the locomotive capabilities that they have in common are grounded in utterly different internal structures.” However this doesn’t diminish their claim to substancehood as Olson believes to be the case with locomotors. So the problem with functional

² But her above claim in *The Metaphysics of Everyday Life* p. 35 that followed a discussion of a flag that is constituted by a different piece of cloth before and after a battle as cloth parts are torn off doesn’t seem consistent with her claim in *Persons and Bodies*, “If Piece constitutes Michelangelo’s David at T, I doubt that it could exist at T without being constituted by Piece.” P. 145

kinds can't be their multiple realization. If Olson believes no artifact can be a substance then he needs to tell us this and justify it. He can't just make use of intuitively nonsubstantial functional descriptions of artifacts while ignoring functional descriptions of artifacts like automobiles that appear to be unproblematically substantial.

Even organisms, which Olson takes to be the paradigmatic substance, can conceivably be made of very different material arrangements. My skin and the tree's bark are quite different in composition. Furthermore, organisms in their own lives undergo massive changes in the physical parts that compose them. Perhaps the commonalities of organic material render the multiple realization of organisms less troubling than that of locomotors which includes things as different as boats and crabs. However, animalists such as Barry Smith, Berit Brogaard (SD: 50) and Peter have conjectured that there could be an artifact without any cells or other organic parts that functions like an organism and thus might have to be considered an organism. Van Inwagen writes:

Perhaps a machine that could maintain itself would be an organism. When people talk about the possibility of scientist's "creating life," they are normally thinking of the possibility of creating living things whose largest nonliving virtual parts are large organic molecules: things that have the kind of life we and dogs and amoebas have. But perhaps there can be living things that have springs and diodes or assemblies of these as their largest nonliving virtual parts (MB-137).

It is perhaps not just the multiple realization of different powers of movement that keeps Olson from considering locomotive properties to be essential properties of a substance. It is also that the locomotive capacities are realized in only a small fraction of the total physical structure of the alleged locomotor substances. This makes the locomotive capacity of things seem to be an insignificant property of them and thus not the type of feature that can be the essence of a substance and determine its persistence conditions. Olson writes:

Moreover, it is a (locomotive) capacity that is not closely connected with a thing's internal, structural, or intrinsic features. "Locomotor," like "carburetor" or "heat sink" is a functional kind. Anything can be a locomotor or carburetor or heat sink as long as it can somehow move under its own power, or mix fuel and air in a certain proportion, or absorb heat. This is at least part of the reason why locomotor is not a substance concept, and why it could not determine the persistence conditions for all and only locomotors (34-35)

One thing that is startling about this last passage is that Olson mentions carburetors right after protesting that the structure of locomotors is largely irrelevant to their locomoting. While it may be problematic that locomotors (allegedly) come into existence by the addition of motors to objects whose shapes, intrinsic features and internal structures are tangential to or not very

conducive to locomotion, this certainly isn't the case for a carburetor. Virtually every macro part and feature of the carburetor is designed to contribute to the function of mixing fuel and air etc. So while Olson is no doubt right about the physical realization of the locomotive capacity of some locomotors being irrelevant to much of their physical structure, his point can't be generalized to carburetors. And why aren't carburetors substances? I can't envision what could possibly be a better answer to someone pointing at a carburetor and asking "What is that?" than "It is a carburetor."

Perhaps it will be maintained that a carburetor is not a substance because it is a part of a substance. If the status of being an embedded object renders carburetors nonsubstances, then what about computers? They are not parts of any larger entity yet they seem to be the functional entity par excellence – i.e., a computer is a thing that computes. Functionalists tell us that they vary greatly in structure. What substance term would be a better answer than "computer?" Certainly it is less informative to say that a (thinking) computer is a "machine made of silicon and metal" (THA-32).

Olson might still try to make his case against "person" being a substance sortal even after conceding that computers, automobiles and perhaps carburetors avoid the problems of locomotors. Their structure is well designed for what we take to be their essential function while some things that are alleged to be essentially a locomotor may be so merely because a motor was added to any of a variety of objects, many of whose structures may not be designed for locomotion. Likewise, a person may come into existence when just part of the organism's brain undergoes a small change and the vast majority of its physical structure remains unchanged. Thus for this reason Olson might insist that persons are like locomotors, and agree with Smith and Brogaard that they should remain off the list of substances since "it is implausible for us to accept that a change within a certain part of the matter of an object would constitute substantial change in the whole." (SD: 63).

However, there are philosophers like Parfit, McMahan, Hudson, maybe Nagel, (and the appropriately named Ingmar Persson toyed with the idea) who maintain that the person is just a proper part of the organism. Motivated partly by a desire to avoid person/organism spatial coincidence and the problems that entails, they also appeal to considerations like those of Olson's and maintain only the parts of the organism directly involved in the production of thought are parts of the person. So if they are right then the person's thinking capacities would be reflected in its entire structure rather than just a small and insignificant part, persons would then have the good standing of automobiles, computers and perhaps carburetors, in that virtually their entire structure reflects their proper function. Although Baker resists Clark and Chalmers's attempt to have the person be any size other than that of its human body (PEMT), there is nothing in principle in

constitution theory that prevents her from having the person constituted by something with different boundaries than the body it overlaps. This would answer another of Olson's objections that constitution doesn't have a good account of *where* lies the person's boundaries (WAW:73-74).

Incidentally, if a person is identified with a soul or ego or immaterial thinking being, then identifying the substantial and functional won't be blocked by parts of the person not contributing to the function. It would be trivially true that the immaterial person wouldn't possess any structure unrelated to function. So the historically most popular accounts of persons avoid this complaint of Olson's about functional kinds. However, few in the audience will find cerebrum-size persons or immaterial persons attractive views. But I suppose if Noë and Merleau-Ponty are correct that thought is enacted by the activity of the organism rather than something that happens in a part of the organism, then it easier to claim that the entire animal rather than a part constitutes the person. And Olson himself has argued that there is no principled way to say that it is just parts of the animal such as the neurons that *directly produce* thought (WAW: 91-3).³

II-C. Uninformative Sortals

Olson points out that there is no a priori reason why there shouldn't be Gods or futuristic computers or other beings that think but lack brains like ours. The possibility of such diverse thinking creatures leads him to observe how uninformative "person" is as an answer to the substance sortal question "What is it?" He adds "that if anything, human beings, Gods and computers have less in common than locomotors such as crabs and battleships." That may be so, but how much more informative is saying the substance sortal that applies to the reader, an oyster and a fungus is "organism?" Olson writes that "What we most fundamentally are - is not *person* but *Homo sapiens* or *animal* or *living organism*" (THA-30). Well which is it? The different disjuncts have different extensions and would deliver different persistence conditions. Let's start with the first kind. What is an organism? Olson writes that he is using "organism" to cover "fungi, bacteria, plants and animals." This means our essence is the same as the other beings on the list. Many listeners may find it hard to believe that we are really the same substantial *kind* of thing as fungi and plants, differing only in numerous *contingent* properties like intelligence and size. It is easier to accept that we are made in the image of God than in the image of a fungus. Anyway, listeners can see that the creatures Olson believes are the same kind of substance as themselves vary almost as much as those that are

³ Olson points out that that not even all of the parts of a neuron are involved with signaling, but some parts with maintaining structural integrity or removing wastes etc. He suspects that if blood and oxygen are required for the mental operations, there won't be a principled way to rule out the circulatory and respiratory systems as part of the minimal thinker. He thinks the only principled account of the production of thought will have the organism as the thinker.

considered locomotors (crabs and battleships) or persons (Gods and futuristic computers). So it is not fair of Olson to use the diverse physical structures of persons to refute their claim to be substances in virtue of their cognitive capacity.

Olson can't avoid the strange implications just surveyed by insisting that the substance sortal pertaining to us is the species term "human organism" or "Homo sapien." Modern conceptions of species make such membership inessential to us. If we assume along with most contemporary evolutionary biologists that a species is a historical individual and not a morphological kind, then what species we belong to depends upon our reproductive community and that could change or be determined by events long after we came into existence. For example, biologists say that one hybrid doesn't make a new species. And whether some being is an infertile member of an older species or an earlier fertile member of a new species will depend upon what happens long after its death. So species membership is a contingent feature. David Hull (MI:349) points out when describing a hypothetical organism made in a lab that "In the evolutionary world view, unlike the Aristotelian world view, an organism can change its species while remaining numerically the same individual."

So "*Homo sapien*" can't be a term that designates what is essential about an organism or living animal. Since our species membership is not essential to us it cannot determine our persistence conditions. Therefore what determines the extension of our substantial kind is either the property of being an organism or an animal. And creatures categorized as organisms and animals are nearly as strangely diverse as those considered locomotors and persons. Recall Peter's claim that there could organisms made not of cells but springs and diodes. Yet it was the extreme diversity of locomotors and persons that Olson hoped would lead us to dismiss them as substances.

Olson's claim that we are each essentially an organism or animal may have consequences as counterintuitive as those resulting from the claim that persons and locomotors are substances. Olson sought to ridicule the idea of a person's cerebrum transplant being identity-preserving by comparing it to moving a locomotor in an (allegedly) identity-preserving way by merely "transplanting" its engine. He wrote "And if a ship's engine is removed and installed in a new hull, the resulting ship is identical with the original ship, for it inherits the original ship's locomotive capacity."¹ Shoemaker tries to embarrass Olson in a similar way by imagining that an organism moves with just the moving of its brainstem, the organ that Olson finds to be the control center of the organism. Olson does claim "that in fact, it seems likely that our persistence conditions are those of aardvarks and oysters and other animals" (IHA:30). Does that mean we could, *in principle*, survive change from one type of animal into another? We may not be able to live through transformations

that make us structurally resemble different species of animals but these obstacles are due to contingent facts rather than our animality.⁴

II-D. “Organism” is a Functional Term

Most damning of all is that Olson present some arguments which undermine his very claim that organisms are substances. Although Olson presents organisms as the exemplary substance, he makes a number of comments that suggest that organism is a functional kind. Notice in the below quote that he claims that we have the persistence conditions we do because we are an animal or *living* organism.

Animal (or “organism” or “human animal”) is a paradigm case of a substance concept, and so is an ideal candidate for determining a thing’s persistence conditions. We should expect an animal to have its persistence conditions by virtue of its being an animal (or a *living* organism, or an animal of a particular species), for “an animal,” unlike “a locomotor” or “a thinker” is an excellent answer to the question of what something is – what it is that can move or think”(36).

Olson writes of us having the persistence conditions of a *living* organism. To live is to function in a certain biological manner. Thus describing something as a *living* being is as much a functional description as it to describe a person as a *thinking* being. So if person is a functional kind and that entails it can’t be a substantial kind, the same is true for organism. It is just a quirk of the language that animals are not given names that advertise their function as do those of obvious functional kinds such as gliders, seats, and computers. Animals could have been named “metabolizers” or “entropy-resisters” because that is what they do. A person is a thinking being and an animal is a metabolizing being. Since both persons and organisms would appear to be functional kinds, one shouldn’t be any more metaphysically suspect than the other.

Recall Olson’s early claim that the philosopher fascinated by locomotion is committed to an ontology in which rowboats go out of existence when locomotive capacities emerge due to the addition of a motor. And if a ship’s engine is damaged beyond repair, that ship ceases to exist and the resulting crippled thing is numerically different from the one that once sailed. As I noted earlier, Olson is appealing here to our intuition that there is not anything that is essentially a locomotor because ships and other artifacts are generally not held to go out of existence when they lose their functional capacities. Ships don’t cease to exist when their engines break down. So locomotors are suspect, and likewise, so are persons who cease to exist when the capacity for thought is lost.

⁴ Rosenkrantz and Hoffman (SNE-190) offer a twist on this.

Advocates of constitution maintain that there are no persons in permanent vegetative states because they have lost their capacity for thought. Olson would prefer us to maintain that the boat with the useless engine just loses a property and the same for the individual that forever loses its cognitive capacities to disease or injury. The entities don't cease to exist, rather, they persist without the respective capacity to move or think.

The problem for Olson is that he has no right to draw upon these intuitions against locomotors and then extend them to persons because he also maintains that organisms cease to exist when the brainstem stops performing its function of controlling vital life processes. He writes:

Imagine that surgeons destroy your brainstem and immediately replace it with a perfect duplicate...the same Lockean life seems to continue without interruption... Isn't it evident that your brainstem is not essential to you? Despite appearances, it does not seem to be the case that your biological life continues without interruption when your brainstem is destroyed and replaced. As soon as your brainstem is destroyed, you lose the capacity to direct your vital functions. Your individual cells and organs can no longer work together as a unit in the manner characteristic of a living organism. What we have is a corpse that merely appears to be alive because it is so freshly dead, and not a living animal. This period of "metabolic anarchy" might seem insignificant because it is so brief (140).

So there are no organisms with nonfunctioning brainstems. Olson claims that there are no such things as dead organisms. Organisms don't persist through living and dead phases. That makes organisms, Olson's paradigmatic substance, just like his alleged non-substance locomotors and persons. They all cease to exist when they are unable to function – in the case of the organism it is the brainstem's capacity to control its vital functions, in the case of the locomotor it is the ability to move about, and in the case of the person the power to think. This account of an organism existing only when life functions are operative strikes me as a description of a functional kind. So inasmuch as Olson can play off our intuition that a motor boat and battle ship aren't locomotor substances because they don't go out of existence when they lose their locomotive capacity, he has provided a similar argument against considering organisms to be substances.

So it is a mistake to put too much ontological stock in the function-substance kind distinction. In some cases, knowing what something does entails knowing what it is. A person is a being possessing a certain capacity of thought. The answer to the next question "what is it that thinks?" may just be "the person." Likewise, knowing what an organism does, it metabolizes, is knowing what it is - a metabolizer. Substance answers are actually quite uninformative if not followed by an account of causal powers, dispositions, capacities and the like. If someone doesn't know what an organism does, how it operates or functions, in other words, what causal powers it

has, then he doesn't really know what an organism is. It is no help to just say "It is an organism" or say something about its microphysical structures when asked of something "What is it?" The next question will be something like "What is an organism?" or "What does the structure enable the organism to do?" or "What makes something fundamentally an organism?" and the answer will involve a functional account of life processes essential to it. So the distinction between substance and function terms is, on occasion, a bit artificial.

III. When Does Constitution Occur?

When does constitution occur? Baker protests that she can't be expected to have a theory of everything! And she does offer some rules of thumb for distinguishing substance changes from non-identity altering property changes. Baker argues that when a constituted entity comes into existence, "whole classes of causal powers" come into the world. Her critics might respond that if constituted things emerge just when considerable new causal powers come along, why isn't becoming conscious and capable of responding to pain and pleasure a case of constitution? Or why isn't learning engineering which enables one to exercise many other powers an instance in which a new substance comes into existence? Likewise for puberty and the physical powers that it bestows upon an adolescent such as being able to conceive a new life and do many things not possible before. Or consider an individual whose genes mutate and the result is that he becomes infected with a disease that will kill all his sexual partners. Finally, imagine a person learning to compose music and lyrics in a way that moves people to tears (to use an analogy to Baker's case of a stone coming to constitute a monument and evoking such emotions.) I would imagine that most constitution theorists don't want the causal powers test to imply that the above individuals have come to constitute new entities in such situations, though I think much can be said for the onset of *mere* consciousness as a good candidate for a level of constitution intermediate between bodies and self-conscious persons.

I think that the basis for the modal intuitions of separation often appealed to in thought experiments where persons are separated from organisms are needed to account for when constitution has occurred and when it hasn't and an already existing object has just acquired a new property like thinking about Vienna. There is, after all, a long tradition that understands substances as independent of other things – though spelling out that independence is notoriously difficult. The onset of causal powers doesn't seem a sufficient test for whether constitution has taken place. Since the existence of new causal powers appears to be just a necessary indication of the emergence of something new in the universe, it can be given support from my appeal to an independent existence requirement. So one useful test for constitution is whether the alleged constituted object can exist

separated from the particular entity previously constituting it. If its properties are dependent upon an entity that it can't be disentangled from, then there isn't constitution and we have evidence that an already existing entity just acquired new properties. For example, one can't separate the composer or engineer from the person. There is no transplant of just the composer or engineer leaving the person behind, nor is there a blow that extinguishes the person while the composer or engineer is preserved. Nor can we conceive of the human animal undergoing puberty being separated from the pubescent adolescent. The contagious individual cannot be separated from contagious human body. But the river can continue to exist separated from the (present) aggregate of H₂O molecules constituting it. And the vandalized statue losing a hand can thus be constituted by a different lump. And we can imagine the self-conscious person with a first person perspective removed from the animal in the brain transplant thought experiments. So if there is any constitution in the world, contrary to what we animalists think, the separation condition can perhaps be refined into a criterion or at least provides a necessary condition for when constitution occurs and can thus make distinctions that Baker's causal powers test did not.

IV. The Problem of Too Many Thinkers

If coinciding persons and animals are not identical but physically indistinguishable, the worry is that there would then be two thinkers, each referring to themselves with the first person pronoun. The utterance that "I am a person" would be true for the person but false for the organism. Even worse, neither could know whether she was the person or the organism because having the right persistence conditions rather than being able to reflect upon one's thoughts is what makes one a person. We animalists say such problems disappear if personhood is not ontologically significant and we persons are identified with our organisms. "Person" would then be just a phase sortal. But Baker offers an account that appears to avoid the above puzzles yet treats "person" as a substance sortal.

According to Baker's sophisticated and detailed account of constitution, the person has certain properties *derivatively*, in virtue of being constituted by the body that has those properties *nonderderivatively*. The person is essentially and nonderivatively a self-conscious being but contingently and derivatively an animal. Lynne maintains that the relationship is so intimate that the person and the animal are to be considered the *same* person and the *same* animal. She defines x being the same F as y to mean that x is identical to y or in a least a constitution relation with y. The property of personhood is instantiated only once, the person has it essentially and nonderivatively, while the animal has it contingently and derivatively. It is akin to how a bruise on your bicep is the same bruise as the one on your arm. There are not two instantiations of the property of being bruised even

though two overlapping things are bruised. One's arm is not identical to one's bicep, both are bruised, yet there is only one bruise. Perhaps the plausibility of this property sharing, although not involving something derivatively sharing another's kind property, may make listeners more accepting of non-identical beings having the same mind and mental states.

When the person *constituted* by the animal says "I am a person" then she has said something true but the animal coincident with her has not said something false. The constituting animal derivatively thinks the thoughts the person does. The animal uses the first person pronoun to refer to the person that it constitutes. So the animal doesn't speak falsely when constituting a person who says "I am *essentially* an animal." Thus there isn't an epistemic problem for the person wouldn't be able to wonder if she is a person if she wasn't one. The animal wouldn't be able to wonder whether she is an animal or a person when it doesn't constitute a person. And when the animal does constitute a person it refers by the first person pronoun to the person that it is derivatively in virtue of constituting a being that is essentially a person. It doesn't have thoughts that the person lacks when it uses the first person pronoun.

V. Ethical Reasons to be an Animalist

So Baker's constitution framework has the resources to take the sting off the problems of self-reference and self-knowledge. Nevertheless, I think there is still a problem of too many thinkers. I suspect many materialists in the audience cannot hold onto their metaphysical account of persons unless they are willing to accept that our world is one in which perhaps often half of the beings capable of autonomy can so govern themselves only at the cost of the other half being unable to simultaneously exercise their own autonomy. Such widespread heteronomy can be avoided only by adopting a sparse ontology in which human persons are identical to human animals and overlap no other thinking entities. The problem for the materialists rejecting this animalist metaphysics of the person is that their views must tolerate coincident or (embedded) *thinking* entities whose different temporal (or spatial) boundaries can give rise to conflicting interests. These divergent interests prevent the overlapping thinkers from both autonomously forming and acting upon their intentions.

I'll provide examples of conflicting interests rendering autonomy a zero-sum game to avoid it seeming that as long as overlapping thinkers share the same interests then there isn't a threat to their autonomy even if the animal doesn't seem to be able to refer to itself nonderivatively as the person can with the use of the first person pronoun. I want to prevent listeners from thinking that the overlapping thinkers could still offer serial endorsements, together stating "If I were identical to the *animal*, then I would endorse such and such actions," followed by the slightly modified

conditional, “If I were identical to the *person*, then I would endorse such and such actions.” If the animal and person’s interests are the same then they would both be able to do something akin to autonomously endorsing the same actions in the above indirect fashion. My contention is that the overlapping thinkers’ interests will often diverge as a result of their persistence conditions differing. Since Baker allows animals to have mental states non-derivatively such as being in pain (PB 101) or aware that there is food in the vicinity (PB-104), I don’t see why they couldn’t have interests that not only aren’t derivative on the person’s interests but are in opposition to the persons’ interests. 1) Imagine the case of a cerebrum transplant undertaken to avoid the increasing burdens of a deteriorating body – or the transhumanist vision of inorganic replacements of living body’s parts undertaken for motives similar to those of transplant. It may be in the person’s interest to get a new body but it is not in the animal’s interest to be left behind mindless or destroyed. 2) Less futuristically, imagine there’s a risky Alzheimer’s drug that would more likely kill the person just diagnosed as being in the early stages of the disease than prevent the disease from worsening. The essentially self-conscious person has little to lose for it soon ceases to exist either from the disease progressing and destroying its reflective capacities or the lethal side effects of the drug. But the animal, on the other hand, could survive without being self-conscious in a childlike state of mere sentience and thus has more at risk in taking that drug. 3) Or consider a person making an advanced directive that will be in effect once the animal possessing just minimal sentience exists without constituting the person any longer. The person may have preferred her resources not being exhausted on a being that she is not identical to but the animal could very well benefit from a pleasant but cognitively diminished existence. 4) Finally, consider two overlapping thinkers who both want to directly donate their organs at their deaths (but not before) to a sick friend. The person’s death may come before that of the human animal, which survives mindlessly too long for the donation to be of use to the failing friend. Thus it is inevitable that one thinker’s control of his body will be frustrated by the other governing his body. You get the point. If thinking entities go out of existence at different times then they could have conflicting interests. I don’t envy the medical personnel trying to get the informed consent of their coincident patients.⁵

⁵ These conflicts between coinciding animals and persons should not be annexed to the metaphysically acceptable conflicts that we may have over, say, policies. You and I can each simultaneously autonomously express and act towards some social goal like who pays for experimental medicines even though our ends conflict and the legislature favors your payment preference over mine. That won’t be the case for the coinciding animal and person. You and I also have a realm (our respective bodies and lives) that we are each are autonomous, you can autonomously take an experimental drug that I can autonomously refuse to take. But this autonomy is not available to the coinciding person and animal.

I don't think the unity of the constitution relationship means these conflicting interests don't exist. Nor does the unity relation mean these conflicting interests should be interpreted as being no more troubling than our often being divided and pulled in both directions about what to do. These interests of the animal could exist before the person came into existence and can survive her destruction. It shouldn't be argued that these interests of the human animal don't matter much and are trumped by the interests of the person because they are also the animal's interests when it is derivatively a person and capable of thinking about its future interests and well-being.

I don't think Baker can avoid these conflicts in interests by claiming that the mind of the animal and the person come in and go out of existence at the same time. She has claimed that the newborn with a rudimentary first-person perspective, one that is intrinsically less sophisticated than many non-human animals, is a person because it *normally* develops. But she admits some very undeveloped minds don't even have a rudimentary first-person perspective.⁶ And bestowing personhood on humans with rudimentary first-person perspectives by appealing to a species norm is problematic. The norm for our species could then change if for some reason our species no longer *normally* develops a robust first-person perspective. The only individuals that do so are a minority. Thus our children would not be persons when they had only, early in life, developed a rudimentary first-person perspective, for most would never develop a robust one. Similar arguments can be made about the residual rudimentary first-person perspectives of geriatrics routinely suffering some sort of species-wide dementia.

The above types of conflicts will mean the involved parties can't both be autonomous regardless of one's preferred view of autonomy. It won't help if autonomy consists of the endorsement of attitudes by higher order desires or values – even with clauses about subjects identifying with the higher ones or potentially scrutinizing them. Faring no better will be either more historical approaches to autonomy that attend to how those higher order attitudes arose or accounts of autonomy that require choices mesh with long term plans. The same dismal outcome awaits accounts of autonomy that stress reason responsiveness or a mechanism capable of being counterfactually sensitive to reasons. Using the above method of indirect successive endorsements, the animal and the person will endorse different acts, be alienated from different parts of their shared history, have divergent long term plans, and be sensitive to different reasons. Appeals to autonomy in a more passive mode (Sarah Buss) being dependent upon healthy human functioning

⁶ “Although a fetus may be sentient early on, it seems unlikely that it has a capacity to imitate or that it behaves in ways explainable only by attribution of beliefs, desires and intentions until birth or shortly before birth.” (WDPB 47)

won't help for the animal acquiescing or "choosing" to bring about its own mindlessness or death in some of the earlier examples can hardly be seen as engaging in healthy proper functioning. (I hope I can make this claim without being guilty of some crude sociobiology, which Louise Antony memorably described in her Kurtz lecture "as the only science that one can do while drunk.") And if one is a libertarian and believes the freedom to do otherwise involves the freedom to do differently than others, that sort of freedom will be absent when thinking beings overlap and inevitably produce the same action.

I don't think there is any recourse to Parfit's claim that identity is not what matters in order to show that the person and the animal wouldn't have divergent interests and thus would be able – though perhaps not simultaneously – to autonomously endorse the same conduct. Lynne has argued persuasively against Parfit's thesis that psychological continuity regardless of who is identical to the subject of that psychology is what matters. Baker shows how the integrity of our practices such as promising, intending, apologizing would be undermined in a world with fission in it that Parfit considers would be as good as normal survival.

I contend it is likely that human animals don't realize they have distinct interests because of referential mechanisms like those envisioned by Baker's (or Noonan's pronoun revision or Locke's contextual reference shift). Just because they don't protest that their interests are being neglected provides us with no more reason to deny their interests are being ignored here than it would in cases of the brainwashed or constitutionally unreflective. So the animal contemplating the above transplant scenario that doesn't protest the loss of her psychology does so because she refers to the person with the first person pronoun in the way Baker envisions.

My conclusion is that moral claims about respecting autonomy provide us with reason to favor a sparse animalist metaphysics. If one is a moral realist, then moral truths must cohere with truths about metaphysics. Where inconsistency threatens, I don't see why well supported ethical claims shouldn't be retained and less secure metaphysical claims abandoned. If one is not a moral realist, there still needs to be consistency between metaphysical claims and what we take to be non-moral facts about our being autonomous. But these would not cohere if persons and animals were distinct, thus again providing us with reason to adopt animalism. However, if one still thinks considerations favor a metaphysics that allows distinct thinkers, then the lesson of my paper will be that we need to formulate an ethics in which respecting autonomy plays a lesser role.

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