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Introduction to Adolf Reinach

On the Theory of the Negative Judgment

Adolf Reinach was born in Mainz on the 23rd December 1883. Between 1901 and 1905 he studied philosophy, psychology and jurisprudence in Munich, and his dissertation on the psychological foundations of jurisprudence, *Über den Ursachenbegriff im geltenden Strafrecht*,¹ bears traces of the psychologistic approach of his teacher, Theodor Lipps. Lipps' psychologism came under heavy criticism in Husserl's *Logical Investigations*, published in 1900/01, a work which enjoyed an almost immediate success in Munich.² A circle of philosophers was established, to which among others Reinach, Pfänder, Daubert, Theodor Conrad and August Gallinger belonged, the members of which adopted the *Logical Investigations* as their philosophical canon, awarding special significance to Husserl's account of material *a priori* relations among essences or kinds.

Between 1905 and 1909 Reinach spent long periods studying under Husserl in Göttingen, preparing in 1909 a Habilitationsschrift (*Wesen und Systematic des Urteils*) on the theory of judgment,³ many of whose ideas are summarised in the essay which follows. Reinach remained in Göttingen as a Privatdozent until 1914 when he was called to the front. He fell in Flanders on the 16th November 1917.⁴ Here we shall discuss the most important works from Reinach's Göttingen period on the material *a priori*, on the theory of judgment, and on the *a priori* structures of social acts.

§ 1 Kant and Hume on the Material *A priori*

Reinach's paper, "Kants Auffassung des Humeschen Problems", of 1911 embodies an attempted clarification of the concept of the synthetic *a priori* which was acknowledged by Husserl as having played a sig-

nificant role in the development of his pure (*a priori*) phenomenology.⁵ The paper begins by challenging the adequacy of Kant's understanding of the Humean concept of *relations of ideas*.

'Relations of ideas, in contradistinction of matters of fact,

depend entirely on the ideas, which we compare together ... 'Tis from the idea of a triangle that we discover the relation of equality, which its three angles bear to two right ones; and this relation is invariable, as long as our idea remains the same (*Treatise*, Bk I, Pt. III, § I).

Kant wishes to identify propositions expressing relations of ideas with judgments whose truth is, in his terms, 'grounded in concepts', i.e. with analytic judgments. This identification finds initial support in the fact that, in the *Enquiry* at least (see Sect. IV, Part I), it is the truths of algebra, geometry and arithmetic which are put forward in illustration of the concept of relation of ideas. In the *Treatise* however, a number of other relations of ideas are mentioned,⁶ for which the assumption of analyticity is, as Reinach argues, wholly implausible.

Consider, for example, the proposition 'red and orange are similar'. It would clearly be nonsensical to suppose that the concept of resemblance is 'contained' in the concepts of red and orange. Yet

Hume ascribes precisely the same basic determinations to the relation of resemblance and the other remaining relations of ideas as he does to the mathematical relations of ideas.

Further, not only did he

never directly characterise mathematical propositions as analytic: such a view would, when considered against the background of his other views, lead to the greatest absurdities.⁷

How, then, are we to understand relations of ideas, if not as analytic connections amongst (Kantian) concepts? A preliminary answer to this question is provided by a comparison with Locke, who is much closer to Hume at this point than is Kant. Locke separates knowledge that is genuinely instructive from analytic or 'trifling' knowledge. He explicitly contrasts the proposition 'The external angle of all triangles is bigger than either of the opposite internal angles' with empty propositions such as 'what is a soul is a soul' (*Essay*, IV, 8).

To be sure, this mathematical proposition says something about a 'complex idea', *not* however something which is 'contained in it', but rather something which is 'a necessary consequence of its precise complex idea'.⁸

Where Locke's identical propositions 'only affirm the same term of themselves', instructive propositions 'find out intermediate *ideas*, and then lay them in such order one by another that the understanding may see the agreement or disagreement of those in question.'

We shall return shortly to the question of how relations of ideas are to be understood in the framework of Humean (or Lockean) philosophy as this is viewed by Reinach. First however it is necessary to consider briefly the problem of causality ('das Humesche Problem' referred to in the title of Reinach's paper). Consider the two judgments: 'event *a* follows upon event *b*' and '*a* is connected with *b* by a relation of causal necessity'. What should be noted is that the second judgment materially enriches the content of the first:

In both cases, a relation between *a* and *b* is being asserted – in the first case only a relation of temporal sequence, in the second case one of necessary connection. The second relation, in a certain manner, includes the first within itself, but it goes far beyond the first with respect to its content. Therefore, whether I make the first or the second judgment signifies a fundamental difference in material content.

It is quite otherwise however in the case of a judgment such as ' $2 \times 2 = 4$ '. Here

I assert a relation between 2×2 and 4; but if I judge that 2×2 is necessarily 4, evidently I do not assert any new relation between the arithmetical terms (Reinach, *op. cit.*, p. 181 f.).

In order to draw attention to the fact that, in the latter case, it is the state of affairs as a whole that is characterised in a specific way, Reinach designates the necessity involved as *modal* necessity. Where mathematical propositions exhibit only this modal necessity, causal propositions lay claim also to a certain kind of *material* necessity, that is to a necessary connection among the parts of the corresponding states of affairs. Fire *produces* heat, i.e. is, in its very nature, causally or necessarily connected with heat.

In Kant's view – a view which accords well with his narrow interpretation of relations of ideas as analytic connections amongst concepts –

Hume's inquiries were directed exclusively towards modal necessity, the necessity which causal propositions share with mathematical and logical propositions. Reinach, on the other hand, wants to defend the view that Hume's attention was mainly - though sometimes confusedly - directed towards *material* necessity:

What Hume wants to inquire into is 'necessary connection', and this is regarded by him as a relational predicate about which the question arises, to begin with, whether it is determined by the nature of its terms exactly as similarity is determined by the essence of two colours. Such a consideration makes sense only in the case of what we have called material necessity ... Kant repeatedly emphasises, with full justification, that necessity can never be given through experience. As contrasted with this, Hume tries to find it in experience. The reason for this lies in the fact that one of them is thinking of modal necessity, the other of material necessity (op. cit., p. 184 f.)

Hume's conclusion, of course, was that he was unable to discern in experience any evidence of necessary (material) connection between events. The inadequacy of this conclusion should not however blind us - as it did Kant - to the fine structure of Hume's presuppositions:

According to Kant, Hume saw only two possibilities: either the *foundation* of the causal judgment in pure reason, or the *explanation* of it from experience, i.e. from the mechanism of association and the 'subjective necessity arising from it', which is falsely taken to be objective. That for Hume there is a third possibility - the immediate grounding of necessity through experience - is overlooked by Kant and, from Kant's standpoint, must be overlooked. (op. cit., p. 186).

Hume could contemplate the possibility of grounding material necessity through experience only because for him, as for Reinach and Husserl, this necessity has both an epistemological and an ontological side, only because, that is to say, relations of ideas are also relations of things.⁹ Indeed, the most important conclusion to be drawn from Reinach's essay is that the treatment of the synthetic *a priori* had been set on the wrong road by the one-sidedly epistemological approach initiated by Kant.¹⁰

Relations of ideas are, in Reinach's vocabulary, *essential structures*, "structures wherein a predicate is 'conditioned by', or is grounded in, the nature of the terms that are placed in relation to one another" (op. cit., p. 166).¹¹

It is grounded in the nature of the numbers 3 and 2 that the former is greater than the latter; but there are no material things whose nature it is to lie beside each other. With exactly identical properties, things may be either near each other or far removed from each other. In the one case, therefore, the predicate is grounded in the essence of the subjects; in the other case, not so (op. cit., p. 164).

We shall see in what follows that, even amongst the things, events, and processes of the material world, a wealth of essential *a priori* connections is capable of being disclosed.

§ 2 The Philosophy of *Sachverhalte*

The concept of *Sachverhalt* or state of affairs plays a central role in Reinach's philosophy to a degree equalled, perhaps, only in Wittgenstein's *Tractatus*.¹² In the 18th and 19th centuries, logical orthodoxy in both Germany and England had rested on a conception of the judgment as a compound of concepts or presentations. Judgments thus conceived have no direct ontological correlates of their own: they are true or false in virtue of the existence or non-existence of a corresponding combination amongst the ontological correlates of their constituent concepts. Against this background, the recognition of the heterogeneity of the judgment as compared to (atomic or molecular) concepts or presentations – and in particular the isolation of the moment of assertive force by Brentano and Frege¹³ – was a considerable step forward. Yet the equally important step of recognising also a heterogeneous category of judgment-*correlates*, a category of entities in the world which would make judgments or sentences true or false, was taken neither by Frege nor by Brentano.¹⁴ The delineation of this category was first carried through effectively by Husserl in the *Logical Investigations*,¹⁵ receiving its most refined form in the essay by Reinach which follows. The distinction between propositions or meaning-correlates of judgements, and states of affairs or object-correlates of judgments, has since been taken for granted not only by continental philosophers influenced by Husserl, but also in much analytic philosophical work on logical semantics and on the ontology of facts.

Within Austrian philosophy however, particularly in the work of Bolzano, and of philosophers in the Brentano school such as Meinong

and Marty, this distinction was not made.¹⁶ Bolzano's *Sätze an sich* and Meinong's *Objektive* exhibit traits characteristic of both meaning-entities and object-entities,¹⁷ and it is difficult to see how these two sets of traits can be reconciled. *Objektive*, for example, are compared to ideal meanings in possessing an eternal or timeless existence, yet they are also viewed as being capable of containing real material objects as constituents.¹⁸ The same ontological brinkmanship is manifest in work of Moore and Russell on the proposition,¹⁹ and it can be discerned also in the work of Chisholm (another philosopher heavily influenced by both Meinong and Brentano), particularly in his conception of a generalised category of states of affairs which would include as sub-categories both events and propositions.²⁰

For Husserl, as for Reinach, the meaning-object dichotomy is firstly a distinction between the sense and quality of an act on the one hand, and the object intended in the act on the other: thus every act of judgment, for example, exhibits both a meaning and (at least if the judgment is true) an associated state of affairs. But it is secondly a distinction between the two separate disciplines of formal logic and formal ontology.²¹ A further dichotomy arises when we consider states of affairs from the point of view of existential ontology and ask after the *mode of existence* of statal entities.²² Is the existence of states of affairs dependent upon that of more or less distantly associated mental or linguistic acts? Or do they enjoy an autonomous existence, independently of mind or language? In Husserlian terms, is the state of affairs *this rose is red* a moment residing exclusively in the ontological orbit of the rose, or is it rather a moment of a larger whole constituted by, *inter alia*, a corresponding act of judgment. A variant of the first position is defended by Reinach in the essay below. The second position has been defended by, for example, Meinong and Strawson (compare the latter's claim that 'If you prise the statements off the world you prise the facts off it too'²³).

The most extreme affirmative position concerning the autonomy of statal entities is one which asserts that there is such an entity corresponding to every possible judgment, to every possible wellformed sentence, whether true or false. This position is characteristic of ontological rationalism or platonism as evinced, in different ways, by Bolzano, Frege, Meinong and Chisholm.²⁴ A view of this kind is defensible, I believe, only where it relates to entities belonging to the sphere of meaning (to Frege's 'realm of sense') or, as in Meinong's case, to some hy-

brid sphere of quasi-meanings. Where states of affairs are conceived as object-entities, tied down to the real world of Frege's 'ordinary referents', then it becomes impossible to develop intuitions which could support such all-embracing platonism: what mind-independent external referent, what constituent part or contour of the world, could correspond, for example, to a false sentence, to a counterfactual conditional, or to a judgment concerning the indefinite future?

Clearly some restriction is needed upon sentences to which autonomous *Sachverhalte* may be expected to be correlated. The most obvious restriction consists in denying objectual correlates to judgments that are false. An alternative, however, is to distinguish amongst the totality of autonomously existing states of affairs, subsistent states of affairs corresponding to true judgments, and non-subsistent states of affairs corresponding to those that are false. This is the position adopted by Meinong, by Reinach, and by Wittgenstein in the *Tractatus*.²⁵

Philosophers who adopt this latter approach may be inclined also to conceive statal entities as possessing an eternal existence, as custodians of (eternal) truth and falsity in a world of transient objects.²⁶ Wittgenstein, as is well known, adopted the opposite view, regarding objects as what is unalterable and subsistent, their configuration in states of affairs as what is changing and unstable (*Tractatus*, 2.027), a position which echoes the ontological atomism of Herbart.

The most serious controversy in the formal ontology of states of affairs however has concerned the relative status of positive and negative states of affairs. For Wittgenstein, as, for example, for Pfänder (*Logik*, Section I), all states of affairs are positive: Reinach however was insistent that there are both positive and negative states of affairs and that, whilst these have distinct epistemological properties, they are, in regard to their mode of being, indistinguishable.

Reinach's views on negative states of affairs were criticised by Ingarden in his *Der Streit um die Existenz der Welt*. Ingarden argued that if states of affairs are to be conceived as object-entities, dovetailed with the individual objects, events, properties and relations in the real world, then it is clearly justifiable to say of a state of affairs such as *this rose is red* that it exists autonomously, since here all of the constituents of the state, i.e. the rose and its individual accident of redness, themselves exist autonomously. Consider however the negative state of affairs *this rose is not blue*. Here whilst the rose itself exists autonomously, the property involved is only thought or intended; it is carried into the si-

tuation from outside by our act of judgment. Therefore, argues Ingarden, the mode of existence of such a state of affairs must be distinct from that of the positive, autonomous state of affairs.²⁷

Hence we have distinguished, at this level of generality, three alternative positions regarding the autonomy of states of affairs: Ingarden's position, according to which only states of affairs corresponding to positive, true sentences exist autonomously;²⁸ Wittgenstein's position, according to which both subsistent and non-subsistent *Sachverhalte* exist, but all are positive; and Reinach's position which allows both positive and negative, subsistent and non-subsistent *Sachverhalte*.²⁹

In the present essay Reinach considers in detail only those properties of *Sachverhalte* that are of relevance to the theory of judgment, and specifically to the theory of the negative judgment.³⁰ The clarity of Reinach's own exposition makes superfluous the duplication of his arguments here. It is however worth pointing out that, in contrast to most modern philosophical logicians, he is concerned not merely with logical (deductive) and semantic properties and relations amongst judgments (or propositions) considered in abstraction from their contexts of use, but also with the judgment as a mental act, bound up with other mental acts of recognising, thinking, arguing and inferring.³¹

His account rests on a distinction between two types of mental formation: spontaneous, temporally punctual and typically linguistically articulated *acts*, on the one hand, and non-spontaneous, enduring *conditions* or *states* typically only loosely associated with language, on the other. To the first category belong (episodic) acts of assertion, denial, questioning, etc., acts of perceptual or cognitive apprehension and of evaluation of objects or states of affairs, acts of intending an object (e.g. of meaning so-and-so by the use of a given proper name), acts of promising, commanding, forgiving, requesting, etc. To the second category belong states of conviction or belief, of having something (some object or state of affairs) before or on one's mind, of enjoying some sensation, of feeling obliged or committed to someone, etc.³² Reinach's principal charge against previous accounts of the judgment was that the distinction between judgment as assertion and judgment as conviction had been ignored, or, more generally, that the relation between the two spheres had been thoroughly misunderstood, whether in accounts of the dependence of judgment as assertion upon an underlying conviction or belief, or of the dependence of, say, an act of promising upon an underlying intention or volition. (Reinach's application of these ideas to

the sphere of legal or quasi-legal formations such as acts of promising will be considered briefly in the section which follows.)

A note on influences: In considering the influence of 'On the Theory of the Negative Judgment' it would almost certainly be wrong to assume any awareness of Reinach's work on the part of the author of the *Tractatus*, despite the similarities between the respective *Sachverhalt*-ontologies of Wittgenstein on the one hand, and of Reinach and the other Munich phenomenologists on the other.³³ These similarities are almost certainly to be attributed to a shared influence upon both Reinach and Wittgenstein of the work of Meinong, and perhaps also of Stumpf and Husserl.³⁴ Where Reinach did exert a substantial influence was upon the members of the Munich-Göttingen circle of phenomenologists themselves, and in particular upon Ingarden, whose 1925 analysis of the category *problem*³⁵ owes much to the Reinachian approach to states of affairs. Reinach exerted an importance influence also upon Otto Selz, a Würzburg psychologist who applied Husserlian and Reinachian ideas in his work on the psychology of thinking.³⁶ Consideration of these and other influences will however have to be postponed for another place.

§ 3 The Theory of Social Acts

The fundamental principle of Reinach's philosophy may be expressed as follows: for every domain of objects, whether psychological or material, mathematical or grammatical, a determinately structured family of essences can be discovered, standing in *a priori* relations to each other, as a reflection of which corresponding *a priori* laws hold of the objects in question.

These laws are certain and unchangeable; they are prior to any human convention and would obtain even though never actually recognised by any thinking subject.³⁷ A system of material essences can be disclosed, for example, for the domain of human emotions, for human value-phenomena, including the phenomena of ethics,³⁸ and – as in Reinach's own essay below, – for the sphere of judgment and of cognitive phenomena in general.

Reinach's own most original contribution to philosophy lay in the application of this principle to legal and quasi-legal formations as these occur in human societies, and in particular to acts of promising, apolo-

gising, forgiving, requesting, commanding, and so on, and to the social phenomena associated with these. The peculiar characteristics of acts of this kind were re-discovered several decades after Reinach's work by Anglo-Saxon speech act theorists.³⁹

Reinach's work on social acts is presented in his "Die apriorischen Grundlagen des bürgerlichen Rechts" (The *A priori* Foundations of the Civil Law), first published in volume I of Husserl's *Jahrbuch* in 1913.

Consider, first of all, the social formations of claim and obligation. Many philosophers before Reinach's day had been tempted to regard these formations as reducible in some way to the mental experiences, or to the beliefs or dispositions of the subjects involved. All such theories however, as Reinach argues,⁴⁰ completely by-pass that which is essential to these formations. For whilst there is, certainly, such a thing as a belief in the existence of a claim or of an obligation, this is something which, as a matter of principle, can be identically constituted whether or not the purported claim or obligation really exists, and even independently of whether it belongs to the subject in question or to some alien subject. Further it is clear that claims and obligations can exist in the absence of any knowledge or beliefs of this kind, as they can exist also in the absence of any feelings of entitlement.⁴¹

Claims and obligations are like mental entities, however, in the sense that they always and of necessity require a bearer (typically an individual person): they can, like mental experiences, be regarded as individual moments of their bearers. In addition we can see that claims and obligations of necessity require a determinate content: every obligation has as its content some future conduct (*Verhalten*, that is action or forbearance) on the part of its bearer, and this content is shared by the claim or claims with which the obligation is interwoven. A claim or obligation also has a specific temporal structure: no claim or obligation comes into existence without some specific ground or reason for this existence. In the terminology of Husserl's third Logical Investigation, then, they are founded upon (require of necessity to exist in a more inclusive whole with) events of specific types, for example acts of promising.⁴² It is a synthetic *a priori* truth that an act of promising immediately and of necessity brings about a mutually correlated claim and obligation.

The commonly held view of the act of promising had been that it is simply the expression of an act of will or of an intention to act in the interests of the party before whom the declaration is made. The most ob-

vious inadequacy of this account is that it throws no light on the problem of how such an utterance should bring about a claim and obligation of the appropriate kind. It is after all clear, that the bare intention to do something has no quasi-legal consequences of the given sort, and it is difficult to see how any essential difference is made by the simple expression of such an intention.

In the wake of Austin and Searle the fundamental categorial distinction between promising and communicating one's intention to do something is readily accepted. Reinach sought, in his 1913, to provide a complete and systematic theory of all such phenomena. Both types of act, he points out, involve deliberate linguistic utterance. They fall within the (wider) class of what Reinach calls *spontaneous* acts, i.e. acts which consist in a subject's bringing something about within his own psychic sphere, as contrasted with passive experiences of, say, feeling a pain or hearing a noise.⁴³ Not all spontaneous acts are linguistic in character (consider, for example, a deliberate turning of the attention toward something). Further, there are certain types of spontaneous act which may involve an overt linguistic utterance but for which this moment of overtness is non-essential: for example, acts of judgment (one may pass judgment without giving any outward sign of having done so), or also acts of forgiving, praising, cursing, blaming, praying, and so on. In each case an overt linguistic utterance is a possible but not a necessary, constituent of the act in question.

One can already clearly see, however, that for certain other types of spontaneous act this dispensability of a linguistic utterance does not apply. The utterance of a command, for example, or of a promise or question, is clearly a necessary or essential component of the total act. Reinach accordingly divides spontaneous acts into two classes, which he calls *internal* and *external*, according to whether the act's being divulged, being brought to overt expression, is a dispensable or separable piece, or an indispensable, inseparable moment of the act-complex in question.⁴⁴

A further division, one which applies not merely to spontaneous acts but to mental phenomena generally, is that between *non-self-directable* acts, i.e. acts which demand of necessity an alien subject toward whom they are directed (whether internally or externally), and acts such as love and hate which may be directed toward one's self.⁴⁵ Again, an act of commanding clearly presupposes essentially the existence of one or more alien subjects to whom the command may be addressed; such an

act, if it is to exist at all, demands not merely that – like all mental phenomena - it have a bearer, but also that one or more additional subjects should exist toward whom it is directed. It is necessary, in other words, that the bearer of the act should exist as part of a more inclusive whole whose constituents are connected together in some specific way (in this case through the enduring relationship between commander and commanded which consists in the fact that the former has authority over the latter).

A further peculiarity is possessed by certain specific types of external, non-self-directable acts, that they are such that their constituent utterance must of necessity be *grasped* by the subject(s) toward whom the act is directed: the issuer of a command must not merely utter the command in public; he must direct this utterance to its addressees in such a way that it is received and understood by them in an appropriate way. This peculiarity of commands, that they stand in need of being directed to and perceived by their addressees, is absent, for example, from acts of forgiveness. Reinach introduces the term *social act* to designate those spontaneous acts which stand in need of being addressed to and of becoming correlately perceived by their addressees. A social act

is an action of the subject to which is essential not only its spontaneity and its intentionality, but also its being directed towards alien subjects and its standing in need of being perceived by those subjects. What has been said of commands holds also for requests, admonitions, questionings, informings, answerings, and many other types of act. They are all social acts which are, in their execution, cast toward an alien subject that they may take hold of or bring about effects inside him (*einem anderen zugeworfen um sich in seine Seele einzuhacken*).⁴⁶

It is, Reinach argues, essential to the social act that it be a single, integral whole articulated both internally and externally: that it should exhibit both internal (psychological) moments and external (physical) moments (in being, typically, an overt linguistic utterance). Inner experiences of many kinds – shame, or love, or anger – may equally be brought to overt expression; but here the outward-facing moment is to some degree an arbitrary and dispensable supplement in the total act. In the case of social acts proper, in contrast, it is not as though we have, in the act, two independent parts, more or less intimately associated with each other: the act, in being executed, constitutes itself as an inextricable whole within which the internal and external moments exhibit a

manifold of interdependencies and can be distinguished from each other only abstractly.

This peculiarity of social acts is clearly expressed by Reinach in his critique of Hume's account of the act of promising. Hume, as is well known, seeks to discover a type of mental act which might accompany the utterance of a promise and thereby lend it its peculiar status as a promise. But the attitude in which this search is carried out is mistaken from the start. Hume

wishes to discover an experience which becomes expressed in a promise, which therefore could be present *without* the presence of any accompanying expression. And of course he cannot succeed in exhibiting such an inner experience. He rejects quite properly the experiences of resolving, wishing, willing; but what he does not see at all, is that besides such inner experience there exist also activities of the mind which do not merely find in words their accidental, supplemental expression, but which come to execution in the act of speaking itself and of which it is characteristic that they announce themselves to another by means of this or some similar external appearance.⁴⁷

So, too, it is easy to see that there is no independent and self-contained mental experience which is somehow brought to expression in the issue of a command. There could not even in principle be such an experience. Yet it is nevertheless true that social acts of necessity presuppose or are founded upon appropriate conditions of mind on the part of their bearers.

The act of imparting presupposes a conviction of the content which is imparted. An act of questioning essentially excludes such a conviction, requiring instead a state of uncertainty in relation to its content. The psychological presupposition of a request is the wish that that which is requested should happen or, more specifically, that it should be brought about by he to whom the request has been addressed. A command has for its foundation not merely the desire, but the volition, that the addressee should carry out that which has been commanded.⁴⁸

All of this is of course to assume that one distinguishes a request as such from a sham (merely apparent) request, a question as such from a conversational ploy, etc. Indeed every social act is of necessity subject to a system of essential modifications of these and other specific types, subject to secondary *u priori* laws of their own. Thus when a speaker executes an act with the intention of presenting it as a social act of a given type but from which the necessary underlying foundation is missing,

then of course we do not have a mere string of words: lies and dissimulations, too, are social acts of determinate types.⁴⁹

We might summarise the above by means of the following examples:

The internal and external moments of the social act of imparting or informing: I can be convinced of (believe in) a particular state of affairs without ever giving expression to this conviction in an assertion, or only in an assertion which I keep to myself. For an imparting of the state of affairs to be effected it is essential not only that an assertion be made, but also that this assertion be specifically addressed to a second subject who is in a position to perceive and understand it.

Here, as in all subsequent cases, the social act in question can be considered as an abstract moment of a whole consisting of two (or more) subjects reticulated together in a specific way. The present example involves the simplest possible whole of this kind, consisting merely of two subjects connected together momentarily by a single, fleeting cartilaginous band, namely the particular utterance itself. In subsequent cases the encompassing wholes with which we have to deal will exhibit more complicated structures. Consider, for example, the encompassing whole which must exist if a social act of joining together in holy matrimony is to be effected.

The internal and external moments of the social acts of requesting and commanding: These two acts may share an identical content and exhibit identical physical appearance (differing, perhaps, only in their emphasis or tone of voice). They differ most importantly in the presence in or underlying the latter of a prior enduring relationship of subjugation, a legal formation of a quite specific kind, different from any merely psychological dispositions which may equally accompany an act of requesting.

An important difference between these acts and acts of imparting is that where, in the latter, the addressee's becoming aware of the content of the act is of itself sufficient to bring to fulfilment the project which is announced in the act (or, as we might also say: to saturate the whole which is initially projected by it), this leads only to a provisional staging-post in the case of acts of requesting or commanding. Here it is only the subsequent realisation of the request or command in appropriate

conduct of the addressee that can truly close the circle which has been opened with the execution of the initial act.

The internal and external moments of the social acts of questioning and answering: Questioning, too, is a type of social act which somehow demands or calls forth a specific response on the part of the addressee, namely, a further social act of answering. The latter does not demand in its turn any subsequent action on the part of he to whom it is addressed, but rather presupposes some prior action, and indeed presupposes always and essentially a social act of a determinate type.

Thus we can distinguish, following Reinach, social acts of, e.g. answering or ratifying, which presuppose other, prior social acts; and social acts of requesting, questioning, commanding, promising, etc., which aim towards subsequent social acts or toward activities of other kinds. And we can see that the relationships holding amongst social acts and among the act-complexes into which they enter as essential constituents may exhibit certain specific kinds of temporal determinations. It is not, however, as though a social act of, say, promising, can *necessitate* the future realisation of appropriate conduct: it can at most establish what has been called an *a priori* tendency,⁵⁰ a necessitation of a type which is conditional upon the absence of supervening considerations (e.g. of a moral nature, or relating to physical impracticability).⁵¹ As a result of the episodic tie between hearer and receiver which is the act of promising, these two individuals become affected, as regards their subsequent conduct in relation to each other (their *sich zueinander Verhalten*), in virtue of the fact that the relation between them is not a saturated relation (*befriedigte Beziehung*), resting complete in itself.⁵² It is such as to call forth a specific type of action on the part of the bearer of the obligation brought into being by the act, namely the realisation of the relevant content. An obligation therefore carries in itself the determination to bring itself to an end, and a tendency also towards the dropping apart, as it were, of the two individuals who have become related to each other through obligation.

§ 4 On the Nexus of Representation

It would be impossible for us to go into detail here concerning the whole range of issues discussed by Reinach in "The *A priori* Founda-

tions of the Civil Law". In particular we cannot consider Reinach's discussions of legal rights and of the origins of legal rights, claims and obligations, nor his discussion of collective and divided ownership, of contract theory, and of those particularly important kinds of speech acts which, when executed by jurists, result in the establishment of new law. We cannot consider either the various possible modifications of social acts – of which the modification of the act of imparting information in an act of lying is just one amongst a whole range of examples. We shall however discuss one particularly important species of such modification, since this may serve to clarify further aspects of Reinach's theory of social acts and of the relations of this theory to his general philosophical methodology.

It is a commonplace that acts of, say, thanking, blessing, commanding, promising, accepting (delivery of something), perhaps also acts of murder and the like, may, under appropriate conditions, be carried out by one individual *in the name of* another.⁵³ The determination of which acts are, of their nature, subject to this proxy-modification is one task of the *a priori* theory of social acts and of related formations.

The execution of an act in the name of another is of necessity quite a different thing from its being carried out 'in his spirit', that is, in such a way as to conform to his presumed or expressed intentions. I can act in the spirit of another without acting in his name, and I can act in his name without acting in his spirit. Indeed it is not any kind of knowledge of the intentions of the represented party which forms the inner state or mental condition on the basis of which the acts of the representative are executed, but rather the intention that the consequences which ensue from this execution should fall not to him, but to the person in whose name he acts. Thus, when I execute a promise on another person's behalf, no obligations are acquired by me thereby, but rather – in appropriate circumstances – by this other person. As Reinach points out, this possibility – that the rights and obligations of a person may be transformed or brought to an end, or that he may acquire new rights without being himself aware of it – seems at first quite extraordinary.⁵⁴ Clearly however I cannot execute, say, promises in the name of another purely at random; not even the will of this other to acquire specific obligations suffices to make my promises in his name effective. Some relevant conduct on his part is presupposed. One might initially suppose that the execution by him of a prior act of promising would be what was required. But the consequences of a promise are in no way identical with

those of a genuine relationship of representation. For if the principal promises his representative that he will do that which is promised in his name, then the obligation which he acquires is an obligation which arises not from any promise which is subsequently executed by proxy, but from his own promise. And moreover it is then not the relevant third party to whom he is obliged – as it would be in the case of the obligations flowing out of an effective relationship of representation, – but the representative himself.

And if instead he should promise this third party that he will indeed effect that which his representative might subsequently promise in his name, then whilst there arises here an obligation of the required content and in relation to the appropriate person, it is one which flows directly out of this initial promise: the subsequent act of the representative serves merely to make known, in regard to this particular obligation, what its particular content is. The obligation is not at all one which springs from the promising act which becomes executed on the principal's behalf, as it would be in the case of a genuine nexus of representation.

Nor, either, is the representation relation rooted in social acts of commanding. The representative is not, for example, a mere messenger of the represented party. Even should a representative be charged, in the fullest detail, with executing only a single act of promising in the name of someone else, he remains therein a representative; he retains at least the authority to execute just this act. The messenger, in contrast, is not the executor of any legal-social act at all: the social act of imparting information which he does perform stands, rather, in the service of the legal-social act which is executed through it by another.

How, then, does the nexus of representation become established? We have seen that persons are able, by executing acts of promising, to acquire obligations for themselves. How can they come to have the authority to generate obligations for others? Clearly this is something which can be granted only by the person who will in fact acquire the obligations in question. The act of granting such authority is not however an act of transfer (comparable, e.g. to a transfer of property), for the authority remains at the same time and will continue to remain in its original hands. It is, rather, as if this authority is something *sui generis* which can be re-generated, re-created anew in the person of another.

The act of granting such authority by the principal to his agent will of course typically be supplemented by further information-giving social

acts expressing the will of the principal as to how his representative should proceed on his behalf in given circumstances. But such acts are not essential constituents of the act of granting authority itself (they can be wholly absent without the latter thereby suffering the least effect). This essential separateness of granting authority and conveying information is further revealed in the fact that should the representative subsequently act in the name of but against the stated intentions of his principal, this can in no way be taken to have damaged his status as a representative, and he will suffer retributive consequences only to the extent that he had himself entered from the start into an *additional* obligation to abide by such intentions.

In Husserlian terms we can say that a representative *b*, in his capacity as a representative of *a*, and *a* himself, *qua* represented party, are mutually founding, interdependent moments. As a result of *a*'s having granted to *b* an appropriate authority the two individuals are mutually adjusted to each other and remain so adjusted as long as this authority does not expire or become rescinded in a new social act on the part of *a*. During this interval *a* and *b* need have no further dealings with each other: their mutual adjustment is as it were relatively isolated from the consequences of their respective behaviour.

In the course of his operations *b* will typically execute a variety of social acts in the name of his principal. Fixing on one such act, say a proxy act of promising in which *b* becomes momentarily tied to another party *c*, we can see that as a consequence of this momentary tie *a* automatically becomes enduringly reticulated with *c* – even though the two parties may in fact have had no direct dealings with each other, – since the obligations to *c* arising from the promise accrue to *a*. Hence here, as in other cases, there are two levels of interconnection between the various constituents of the founded wholes before us. *a* and *b*, first of all, must have become mutually adjusted to each other in an enduring nexus of representation. Only thereby can *b* (in his capacity, etc.) proceed to erect a temporally punctual link between himself and *c* which will have among its automatic consequences the immediate establishment of a second temporally extended mutual adjustment between *a* and *c*.

Proper names, too, according to a familiar theory, are said to go proxy for their objects (see e.g. *Tractatus*, 4.0312); and whilst Reinach himself did not discuss this matter, it may be of some interest to round off this introduction to his essay with a brief consideration of the proxy theory of names in the light of the Reinachian theory of social acts.⁵⁵ It

will help us to gain some initial insight into the name-object nexus if we pause to consider that species of social act of most immediate relevance to the theory of proper names, the act of legal baptism. The possibility of baptism demands, first of all, that a corresponding authority be vested in some individual in virtue of which appropriately constituted acts of this individual have as their *a priori* consequences certain legal effects. We might be tempted to suppose that his acts have the nature of commands, in establishing certain obligations on the part of the members of the relevant community to act in certain ways. This could imply at most however that the community is obliged to behave *as if* 'Gottlob', say, were Gottlob's name, which could suffice only to establish a certain regularity of association of 'Gottlob' with Gottlob: the fact that this is his *name* would remain thereby untouched.

Rather, we must recognise that the baptismal authority is empowered to generate new legal formations of a quite peculiar, hitherto unrecognised kind, namely *names*. It is by now well-understood that an act of promising has, as a matter of *a priori* necessity, the immediate effect of bringing into being the mutually correlated legal formations of claim and obligation. So, here, the act of baptism has as its immediate effect the bringing into being of the legal formation which is the baptismal name. The peculiarity of baptismal legal formations is that they are also units of language and belong, in this capacity, to the subject-matter of the various linguistic disciplines of phonology, etc.

But what is the nature of such formations *qua* objects of the *a priori* theory of law? Once again it is foundation relations which we have before us. 'Gottlob' *qua* name-of-this-particular-individual depends for its existence upon the existence of this individual; as a knighthood, for example, or an individual knowledge of Greek, is necessarily dependent upon the existence of its bearer. Gottlob's name is, then, a moment founded upon the whole which is (the baptised) Gottlob – and this will help us to explain how 'Gottlob' *qua* name of this particular individual can differ from 'Gottlob' *qua* name of that particular individual. What is before us here is not any arbitrary convention to treat one and the same linguistic unit as if it were the name of two separate individuals, but rather legal formations which are already *two different objects*, as my knighthood or headache is already, in virtue of being mine, a different object from your knighthood or headache.

We can now see the sense in the analogy between legal representation and the naming relationship: the proper name (*qua* name) can

serve as an adequate proxy for its bearer (qua named object) in virtue of being founded upon the latter in the Husserlian sense. Just as, no matter what geographical distance may separate a representative from his principal, the two remain inextricably bound together, so too a proper name, even when at work in contexts which are far flung in relation to its bearer, functions in its jurisdiction as that object's name. A range of further applications of the methodology of foundation relations, not to proper names, but to sentences and to sentence-using acts, will be found in the essay which follows.

Notes

¹ Leipzig: Barth, 1905.

² 'It is reported amongst the earliest of Husserl's students that in the Summer of 1902 – that is between one and two years after the appearance of the *Logical Investigations* – a student rode by bicycle from Braunschweig to Göttingen where, thick with dust, he entered the Husserl house. The two of them argued for hours about the *Logical Investigations* until Husserl rose excitedly, called his wife into the room, and said, "Here is someone who has read – and understood – my *Logical Investigations*!" It can be said that this conversation initiated that school of philosophy which has come to be known as the phenomenological movement. The student in question was Johannes Daubert' (F. G. Schmücker, *Die Phänomenologie als Methode der Wesenserkenntnis unter besonderer Berücksichtigung der Auffassung der München-Göttinger Phänomenologenschule*, Dissertation, Munich, 1956, p. 1).

³ Unfortunately the manuscript of this work, along with other substantial Nachlass material, seems to have been destroyed: see E. Avé-Lallemant, *Die Nachlässe der Münchener Phänomenologen in der Bayerischen Staatsbibliothek*, Wiesbaden: Harrassowitz, 1975, the apparatus of which includes a useful general account of the Munich-Göttingen school. Cf. also vol. I, ch. 4 of H. Spiegelberg, *The Phenomenological Movement. A Historical Introduction*, 2nd ed., Haag: Nijhoff, 1965 and Schmücker, op. cit.

⁴ During these final years Reinach began a work on the phenomenology of religion to be called *Das Absolute*, and the ethical and religious ideas he developed in this period – together with his conversion to Christianity – exerted a considerable influence on his contemporaries in Göttingen. Reinach's conversion was followed by that of his wife, his sister, his brother and sister-in-law and many of his friends and pupils, including Edith Stein (cf. Stein's autobiography, *Aus dem Leben einer jüdischen Familie*, Freiburg: Herder, 1965, esp. pp. 172–219). His sister Pauline joined the Benedictine nuns of Mont Vierge in Wépion, Belgium, and it is reported that before her arrival at Mont Vierge the Prioress addressed the chapter as follows: 'Tomorrow we shall have the great joy of welcoming to our community a new member, who is, even according to the flesh, a sister of Our Lord' (reported by J. M. Oesterreicher, *Walls are Crumbling*, New York: Devin-Adair, 1952, p. 118).

⁵ Reinach's paper was published in *Zeitschrift für Philosophie und philosophische Kritik*, 141, 176–209; cited here (with a number of small amendments) according to the

translation by J. N. Mohanty in *Southwestern Journal of Philosophy*, 7, 1976, 161–88. Husserl's acknowledgment appears in his obituary of Reinach in *Kantstudien*, 24, 1917, 147–49. Cf. also Husserl's remark, 'It was really Reinach who introduced me to my *Logical Investigations*, and in an excellent way,' quoted by Oesterreicher, op. cit., p. 87. Reinach was involved in the initial reworkings of the text of the *Logical Investigations* in 1911 for a planned second edition of the work (K. Schuhmann, *Husserl-Chronik*, Haag: Nijhoff, 1977, p. 155).

⁶ See Book I, Pt. III, Sect. I, and compare the passage from the appendix to Book III of the original edition appended as a footnote to Book I, Pt. I, Sect. VII by Green and Grose (p. 328): 'Tis evident, that even different simple ideas may have a similarity or resemblance to each other; nor is it necessary, that the point or circumstance of resemblance should be distinct or separable from that in which they differ. *Blue* and *green* are different simple ideas, but are more resembling than *blue* and *scarlet* ... 'Tis the same case with particular sounds, and tastes and smells ...'

⁷ (Reinach, op. cit., p. 168 f.) Kant's interpretation of Hume was nevertheless, at least in Reinach's day, almost universally shared. One exception is the dissertation, *D. Humes Lehre vom Wissen. Ein Beitrag zur Relationstheorie im Anschluß an Locke und Hume*, Leipzig: Engelmann, 1901, by Paul Linke, another philosopher who began his career as a student of jurisprudence and came to the study of philosophy and psychology as a result of the impact of Theodor Lipps.

It is noteworthy how many philosophers in the Austrian tradition reveal the influence of Locke and Hume as contrasted with the Kantian and Hegelian ideas dominant in the North of Germany. See e.g. Meinong's *Hume-Studien*, and G. Davie, "Edmund Husserl and 'the as yet, in its most important respect, unrecognised greatness of Hume'" in G. Morice, etc., *David Hume. Bicentenary Papers*, Edinburgh University Press, 1977, 69–76.

⁸ Reinach, op. cit., p. 179. The issue before us can be summarised as follows: are we constrained to understand Locke's term 'consequence' here as signifying analytic (logical) consequence, or can we appeal to some rudimentary notion of *ontological* consequence in the sense of § 6.4 of the essay by Smith and Mulligan above?

⁹ This two-sided view of ideas finds echoes in the work of Herbart, a German philosopher who stands close to Hume also in many other respects. See Husserl's discussion of Herbart's views in § 59 of the *Prolegomena to the Logical Investigations*.

¹⁰ A further, related criticism of Kant's epistemologism is presented by Reinach in his 'Die obersten Regeln der Vernunftschlüsse bei Kant', *Kantstudien*, 16, 1911, 214–33.

¹¹ Here both 'predicate' and 'term' have not only an epistemological or logico-grammatical but also an ontological significance. Compare n. 8 above.

¹² The dominant role played by this concept in Reinach's thought can almost certainly be ascribed, at least in part, to his legal background. As had been continually stressed by German philosophers of law from the 18th century onward, that which is of primary importance within the orbit of the law (or within any given legal trial) belongs not to the category *event* or *action*, but to the category *state of affairs*, i.e. is a matter of (actual and possible) relations of conduct or *Verhalten* amongst individual legal subjects. See the preamble to my "Law and Eschatology in Wittgenstein's Early Thought", *Inquiry*, 14, 1978, 425–41 and the references there given, as well as the discussion in § 1 of the essay by Smith and Mulligan above.

¹³ The molecular conception of the judgment survives even in Bolzano's theory of the *Satz an sich* as a complex of *Vorstellungen an sich*, and it can be discerned also in the multiple relations theory of judgment advanced by Russell. The account of assertive force put forward – in echo of certain ideas to be found already in Descartes – by Brentano (for references see the discussion in § 5 of Reinach's essay), is of course distinct from that of Frege. In particular, Brentano distinguishes both positive and nega-

tive moments of force (moments of assertion and denial), where Frege, more correctly, distinguishes only positive force: see M. A. E. Dummett, *Frege. Philosophy of Language*, London: Duckworth, 1973, ch. 10. In this respect Reinach, despite his roots in the Brentano-Husserl tradition, is closer to Frege than to Brentano: see §§ 13, 16 and 19 of the essay below. For a criticism by Reinach of Frege's theory of number see his 1914 Marburg lecture 'Über Phänomenologie', first published in Reinach's *Gesammelte Schriften*. Halle: Niemeyer, 1921, 379–405, Eng.trans. by Dallas Willard, *The Personalist*, 50, 1969, 194–221.

- ¹⁴ Brentano did advance a theory of *Sachverhalte* (called by him *Urteilsinhalte*) in his early writings, but he later came to conceive all talk of judgment-correlates as necessarily eliminable: see part III, 3 of Brentano's *Wahrheit und Evidenz*, Hamburg: Meiner, 1958, 'Gegen sogenannte Urteilsinhalte, Sätze an sich, Objektive, Sachverhalte'.
- ¹⁵ Aspects of the theory of the *Sachverhalt* were anticipated in certain scholastic writings (see I. Habbel, *Die Sachverhaltsproblematik in der Phänomenologie und bei Thomas von Aquin*, Regensburg: Habbel, 1960) and in the works of a number of 19th century German logicians, especially Beneke and his followers. Here it is perhaps the writings of Julius Bergmann which are of greatest importance. Almost uniquely amongst philosophers outside the Brentano tradition, Bergmann employs the word *Sachverhalt* as a technical term of his logic. See e.g. Bergmann, *Allgemeine Logik*, part I, *Reine Logik*, Berlin: Mittler, 1879, *passim*. The official Brentanist account of the origin of the term is given by Reinach in § 8 of his essay below. Cf. also my article, "Sachverhalt. I" in K. Gründer, ed., *Historisches Wörterbuch der Philosophie*. Basel: Schwabe, forthcoming.
- ¹⁶ As Reinach, as early as 1914 expressed it, "alle Österreicher verwechseln Satz und Sachverhalt beständig" (*Nachlass B II 5*, p. 375).
- ¹⁷ On the meaning/object dichotomy see my "Essay in Formal Ontology" *Grazer Philosophische Studien*, 6, 1978, 39–62 and "Frege, Husserl and the Ontology of Reference", *Journal of the British Society for Phenomenology*, 9, 1978, 111–25.
- ¹⁸ The *Objektive: that there are horses*, for example, contains horses among its constituents.
- ¹⁹ Cf. Dummett's criticism, *op. cit.*, p. 153: "Since Moore and Russell drew no distinction, for what they considered to be genuine proper names, between sense and reference, the meaning of a proper name, that is, the object for which it stood, was for them an actual constituent of the proposition. While the proposition was intended by them not to be a full-blooded denizen of the real world, so to speak, the fact that among its constituents were actual objects belonging to that world gave it a curious hybrid status." Certainly in the case of Russell one can detect Meinong's influence in the development of his theory of the proposition.
- ²⁰ See e.g. his *Person and Object*, London: Allen and Unwin, 1974, ch. 4.
- ²¹ Consider the discussion in the Prolegomena to the *Logical Investigations* in which Husserl considers the question of what makes the activity of scientists science. This "is certainly not the psychology of scientists' acts, nor any real context into which these acts of thought are fitted, but a certain objective or ideal interconnection which gives these acts a unitary relevance, and, in such unitary relevance, an ideal validity ... Two meanings can be attached to this objective interconnection which ideally pervades scientific thought, and thus also to science as such: it can be understood as an *interconnection of things* to which our thought experiences (actual or possible) are intentionally directed, or on the other hand, as an *interconnection of truths* in which this unity of things comes to count objectively as being what it is. These two things are given together *a priori*, and are mutually inseparable." (§ 62).
- ²² The opposition between formal and existential ontology is taken from Ingarden, *Der Streit um die Existenz der Welt*, Tübingen: Niemeyer, 1964/65, esp. vol. I and ch. 7 of vol. II/1. Ingarden also distinguishes a third discipline of material ontology.

- ²³ P. F. Strawson, "Truth", *Proceedings of the Aristotelian Society, Supplementary Volume*, 1950, as repr. in *Logico-Linguistic Papers*, London: Methuen, 1971, p. 197.
- ²⁴ Consider, for example, Frege's talk of an 'eternal realm of thoughts' (discussed in detail by C. Thiel in the final chapter of his *Sense and Reference in Frege's Logic*, Dordrecht: Reidel, 1968; cf. also my "Frege, Husserl and the Ontology of Reference").
- ²⁵ Meinong employs a slightly different terminology according to which all *Objektive* subsist (*bestehen*), but only some are factual (*tatsächlich*). For Wittgenstein's view see e.g. *Tractatus* 2.04: 'Das Bestehen und Nichtbestehen von Sachverhalten ist die Wirklichkeit'. A valuable account of this aspect of Wittgenstein's early thought is provided by R.-A. Dietrich, *Sprache und Wirklichkeit in Wittgensteins Tractatus*, Tübingen: Niemeyer, 1974.
- ²⁶ See Chisholm, op. cit. A related position was advanced by M. Honecker in his *Gegenstandslogik und Denklogik. Vorschlag zu einer Neugestaltung der Logik*, Berlin: Dümmler, 1921, pp. 110ff. Honecker puts forward a conception of states of affairs as the locus of existence of the past. According to this view not objects, but states of affairs, would form the subject-matter of the discipline of history.
- ²⁷ Ingarden's criticism of Reinach appears in § 53 of vol. II/1 of *Der Streit um die Existenz der Welt*; a translation by A. Szylewicz is to appear in B. Smith, ed., *For Roman Ingarden. Studies on the Borderlines of Philosophy, Linguistics and Literary Theory*, Amsterdam: Benjamins, forthcoming. For an account of the dispute between Reinach and Ingarden and of its parallels in analytic philosophical discussions of facts see my "Essay in Formal Ontology".
- ²⁸ Ingarden awarded a merely intentional existence to states of affairs correlated with sentences expressing negative judgments, and with certain other types of sentences (e.g. sentences expressing empirical possibilities, and fictional sentences); see *Der Streit um die Existenz der Welt*, ch. 9, and *Das literarische Kunstwerk*, Halle: Niemeyer, 1931, *passim*.
- ²⁹ The fourth combinatorially possible position, according to which both positive and negative states of affairs exist, but only those corresponding to true sentences, is defended by Honecker, op. cit.
- ³⁰ As Reinach's essay below makes clear – see especially the discussion of Windelband and Brentano, – a controversy had raged amongst logicians concerning the status of negative judgments which were, for a number of reasons, taken to be more problematic than their positive counterparts. Reinach's essay can be regarded as a contribution to this debate bringing to bear ideas derived from Husserl's *Logical Investigations*.
- ³¹ The judgment is, in the terminology of Husserlian part-whole theory, a whole exhibiting both a concrete phonetic moment and a concrete psychological moment. On the abstract character of the proposition as this is conceived within modern philosophical logic see Dallas Willard, "The Paradox of Logical Psychologism: Husserl's Way Out", *American Philosophical Quarterly*, 9, 1972, 94–99.
- ³² On this distinction see also F. Bassenge, "Hexis und Akt. Eine phänomenologische Skizze" *Philosophischer Anzeiger*, 4, 1930, 163–68. The opposition between act and condition is an outgrowth of the Aristotelian dichotomy of *δύναμις* and *ἐνέργεια*.
- ³³ Thus consider, for example, the following passage from Otto Selz, *Über die Gesetze des geordneten Denkverlaufs*, vol. I, Stuttgart: Spemann, 1913, a work influenced by both Husserl and Reinach: "It was Stumpf who introduced the expression 'Sachverhalt' as a technical term. Instead of this we use the expression 'Sachverhältnis', in order to bring to expression with the word 'Verhältnis' (relation) the peculiar nature of the Sachverhältnis as *ein sich zueinander in einer bestimmten Weise Verhalten von bestimmten Gegenständen*" (p. 131 n., my italics). Compare e.g. *Tractatus*, 2.03: Im Sachverhalt verhalten sich die Gegenstände in bestimmter Art und Weise zueinander.

- ³⁴ See my "Essay in Formal Ontology" and also "Wittgenstein and the Background of Austrian Philosophy", in *Wittgenstein and his Impact on Contemporary Thought*, Vienna: Hölder-Pichler-Tempsky and Dordrecht: Reidel, 1978, 31–35.
- ³⁵ "Essentielle Fragen", *Jahrbuch für Philosophie und phänomenologische Forschung*, 7, 1925, 125–304.
- ³⁶ See especially *Über die Gesetze des geordneten Denkverlaufs* and the paper "Existenz als Gegenstandsbestimmtheit" which Selz contributed to the Lipps-Festschrift in which "On the Theory of the Negative Judgment" itself appeared (cf. *Münchener Philosophische Abhandlungen*, 259–93). Selz's later psychological writings (see the bibliography at the end of this volume) have been unfairly neglected by contemporary psychologists: he has made important contributions, in particular, to our understanding of phenomenal intensity, and of our experience of spatial and temporal wholes. Other philosophers influenced by Reinach included Kurt Stavenhagen, whose book *Absolute Stellungnahmen. Eine ontologische Untersuchung über das Wesen der Religion*, Erlangen: Philosophische Akademie, 1925, rests heavily on Reinach's classification of acts and in particular on his theory of *Stellungnahmen* or position-takings. Wilhelm Schapp's *Die neue Wissenschaft vom Recht. Eine phänomenologische Untersuchung*, 2 vols., Berlin: Verlag für Staatswissenschaft und Geschichte, 1930/32 also displays evidence of the influence of Reinach, as does Herbert Spiegelberg, *Gesetz und Sittengesetz. Strukturanalytische und historische Vorstudien zu einer gesetzesfreien Ethik*, Zürich und Leipzig: Niehaus, 1935.
- ³⁷ See in particular Reinach's Marburg lecture "Über Phänomenologie", Eng. trans. p. 213: 'It is states of affairs which are *a priori*, in that the predication in them – the being-B, let us say – is required by the nature of the A; that is, in that the predication is necessarily grounded in that nature. But states of affairs obtain indifferently of what consciousness apprehends them, and of whether they are apprehended by any consciousness at all. In and for itself, the *a priori* has not even the least thing to do with thinking and knowing' – nor, we may add, with speaking.
- ³⁸ Analytic philosophers have often put forward the realm of feelings as a paradigm of the subjective. As another Munich phenomenologist, Max Scheler, has shown however, feelings exhibit an objective order no less determinate than the logical order exhibited by a set of propositions. See for example Scheler's *Zur Phänomenologie und Theorie der Sympathiegefühle und von Liebe und Hass*, Halle: Niemeyer, 1913; *Wesen und Formen der Sympathie*, Bonn: Cohen, 1923, and "Der Formalismus in der Ethik und die materiale Wertethik", *Jahrbuch für Philosophie und phänomenologische Forschung*, 1, 1913, 405–565, 2, 1916, 21–478. Cf. also A. Kolnai, "Der Ekel", *ibid.*, 10, 1929, 515–69.
- ³⁹ See John F. Crosby, *Phenomenology and the Philosophy of Law: The Apriori Foundations of Civil Law*, mimeographed, University of Dallas, 1979. Crosby presents Reinach's *a priori* theory as a radical critique of the conventionalist presuppositions underlying modern analytic speech act theory. On Reinach's philosophy of law in general see J.-L. Gardies, "La philosophie du droit d'Adolf Reinach", *Archives de la Philosophie du Droit*, 14, 1965, 17–32. Perhaps the most important difference between Reinach's work on social acts and the work of the speech act theorists turns on the fact that Reinach, with his use of the methodology of part-whole relations, is able to produce a highly systematic and yet elegant theory of the whole range of social acts. The speech act theorists, in overconcentrating on linguistic differences between different types of acts, have been able to produce no complete theory of comparable elegance.
- ⁴⁰ "Die apriorischen Grundlagen des bürgerlichen Rechts", *Jahrbuch für Philosophie und phänomenologische Forschung*, 1, 1913, 685–847, ch. 1.
- ⁴¹ *Op. cit.*, p. 696.

⁴² Reinach draws a parallel here between the coming into existence of claims and obligations and the appearance of alterations in the natural world: both require a sufficient reason. There are however two important differences between the two: (i) The relation between cause and effect in the natural world does not exhibit the kind of necessary connection between ground and consequent into which an immediate insight is open to us: that fire generates smoke is a state of affairs not rooted in the essence of fire. Of an event sufficient to establish a claim, however, we can recognise immediately that whenever an event of exactly the same type recurs, a corresponding claim must also once more be established. That it results in the establishment of a claim is an essential, not an accidental moment of the event in question. (ii) The type of act in which an effect in the natural world comes to givenness does not require the execution of a correlated act in which the corresponding cause is grasped. The former does not stand in need of foundation by the latter. An effect in the natural world can, at least in principle, be brought to presentation independently of its cause. It is in contrast impossible to grasp the existence of a claim or of an obligation independently of a return to the corresponding ground or reason. Only through an act in which I reestablish the existence of, say, a promise, can I establish the existence of that which follows from it. Cf. Reinach, *op. cit.*, pp. 701 ff.

⁴³ Cf. §§ 2–3 of “On the Theory of the Negative Judgment”.

⁴⁴ “Die apriorischen Grundlagen”, p. 706.

⁴⁵ *Loc. cit.*

⁴⁶ *Op. cit.*, p. 707.

⁴⁷ *Op. cit.*, p. 728.

⁴⁸ *Op. cit.*, p. 710.

⁴⁹ *Op. cit.*, pp. 710 f.

⁵⁰ See Crosby, *op. cit.*, p. 20 and pp. 69–79.

⁵¹ The concept of *a priori* tendencies is considered also, from different points of view, by August Gallinger in his *Das Problem der objektiven Möglichkeit*, Leipzig: Barth, 1912, esp. p. 78 on the concept of *sachliche Motivation*, and K. Duncker, “On Pleasure, Emotion and Striving”, *Philosophy and Phenomenological Research*, 1, 1941, 391–430.

⁵² Reinach, *op. cit.*, p. 723.

⁵³ Reinach’s theory of representation is presented in § 7 of “Die apriorische Grundlagen”, pp. 782–800.

⁵⁴ *Op. cit.*, p. 785.

⁵⁵ Some analogies between legal and linguistic representation have been considered already by H. Gomperz and K. Bühler; see the latter’s “Über den Begriff der sprachlichen Darstellung”, *Psychologische Forschung*, 3, 1921, 282–94.