

John Searle: From speech acts to social reality

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It was in the Oxford of Austin, Ryle and Strawson that John Searle was shaped as a philosopher. It was in Oxford, not least through Austin's influence and example, that the seeds of the book *Speech Acts*, Searle's inaugural *opus magnum*, were planted.¹ And it was in Oxford that Searle acquired many of the characteristic traits that have marked his thinking ever since. These are traits shared by many analytic philosophers of his generation: the idea of the centrality of language to philosophy; the adoption of a philosophical method centred on (in Searle's case a mainly informal type of) logical analysis; the respect for common sense and for the results of modern science as constraints on philosophical theorizing; and the reverence for Frege, and for the sort of stylistic clarity which marked Frege's writings.

In subsequent decades, however, Searle has distinguished himself in a number of important ways from other, more typical analytic philosophers. While still conceiving language as central to philosophical concerns, he sees language itself against the background of those neurobiological and psychological capacities of human beings which underpin our competences as language-using organisms. He has embraced a radically negative stand as concerns

¹ Searle was born in Denver in 1932. He spent some seven years in Oxford, beginning as an undergraduate in the autumn of 1952 with a Rhodes Scholarship, and concluding as a Lecturer in Philosophy at Christ Church. He has spent almost all of his subsequent life as Professor of Philosophy in Berkeley. Searle's Oxford dissertation on the theory of descriptions and proper names contains an incipient treatment of the topic of speech acts, but the latter grew in importance only after he left Oxford, making itself felt in the article "What is a Speech Act?" (in *Philosophy in America*, Max Black, ed. (Ithaca, N.Y.: Cornell University Press, 1965), 221–239) and in the book *Speech Acts* itself (Cambridge: Cambridge University Press, 1969), which was completed in 1964.

the role of epistemology in contemporary philosophy. And he has braved territory not otherwise explored by analytic philosophers in engaging in the attempt to build what can only be referred to as a Grand Philosophical Theory. Finally, he has taken the respect for common sense and for the results of modern science as a license to speak out against various sorts of intellectual nonsense, both inside and outside philosophy.

Searle was never a subscriber to the view that major philosophical problems could be solved – or made to evaporate – merely by attending to the use of words. Rather, his study of the realm of language in *Speech Acts* constitutes just one initial step in a long and still unfinished journey embracing not only language but also the realms of consciousness and the mental, of social and institutional reality, and, most recently, of rationality, the self and free will. From the very start Searle was animated, as he would phrase it, by a sheer respect for the facts – of science, or mathematics, or of human behaviour and cognition. In *Speech Acts* he attempts to come to grips with the facts of language – with utterances, with referings and predicatings, and with acts of stating, questioning, commanding and promising.

At the same time Searle has defended all along a basic realism, resting not just on the respect for the facts of how the world is and how it works, but also on a view to the effect that realism and the correspondence theory of truth ‘are essential presuppositions of any sane philosophy, not to mention any sane science’.² The thesis of basic realism is not, in Searle’s eyes, a theoretical proposition in its own right. Rather – and in this he echoes Thomas Reid – it sanctions the very possibility of our making theoretical assertions in science, just as it sanctions the attempt to build a comprehensive theory in philosophy. This is because the theories we develop are intelligible only as representations of how things are in mind-independent reality. Without the belief that the world exists, and that this world is rich in sources of evidence independent of ourselves – evidence which can

² See p. iii of Searle, *The Construction of Social Reality* (New York: Free Press, 1995).

help to confirm or disconfirm our theories – the very project of science and of building theories has the ground cut from beneath its feet.

Searle holds that the picture of the world presented to us by science is with a very high degree of certainty in order as it stands. He correspondingly rejects in its entirety the conception of philosophy accepted by many since Descartes according to which the very existence of knowledge itself is somehow problematic. The central intellectual fact about the contemporary world, Searle insists, is that we already have tremendous amounts of knowledge about all aspects of reality, and that this stock of knowledge is growing by the hour. It is this which makes it possible for a philosopher to conceive the project of building unified theories of ambitious scope – in Searle’s case a unified theory of mind, language and society – from out of the different sorts of knowledge which the separate disciplines of science have to offer. We thus breathe a different air, when reading Searle’s writings, from that to which we are accustomed when engaging with, for example, Wittgenstein, for whom the indefinite variety of language games must forever transcend robust classification.

As concerns the willingness to speak out, John Wayne style, against intellectual nonsense, as Searle himself puts it:

If somebody tells you that we can never really know how things are in the real world, or that consciousness doesn’t exist, or that we really can’t communicate with each other, or that you can’t mean ‘rabbit’ when you say ‘rabbit,’ I know that’s false.³

Philosophical doctrines which yield consequences which we know to be false can themselves, by Searle’s method of simple *reductio*, be rejected.

Searle uses this method against a variety of targets. He uses it against those philosophers of mind who hold that consciousness or beliefs or other denizens of the mental realm do not exist. He directs

³ Gustavo Faigenbaum, *Conversations with John Searle* (Montevideo: Libros En Red, 2001), p. 29.

it against the doctrine of linguistic behaviourism which underlies Quine's famous 'gavagai' argument in *Word and Object*⁴ for the indeterminacy of translation. As Searle puts it: 'if all there were to meaning were patterns of stimulus and response, then it would be impossible to discriminate meanings, *which are in fact discriminable*'.⁵ Searle insists that he, just like Quine and everyone else, knows perfectly well that when he says 'rabbit' then he means 'rabbit' and not, say, 'temporal slice of rabbithood'. Quine, he argues, can arrive at the conclusion of indeterminacy only by assuming from the start that meanings as we normally conceive them do not exist.

When Searle turns his nonsense-detecting weapons against the likes of Derrida, then the outcome is more straightforward, being of the form: 'He has no clothes!' Searle points out what is after all visible to anyone who cares to look, namely that Derrida's writings consist, to the extent that they are not simple gibberish, in evidently false (though admittedly sometimes exciting-sounding) claims based (to the extent that they are based on reasoning at all) on simple errors of logic.

Speech act theory: From Aristotle to Reinach

Already Aristotle had noted that there are uses of language, for example prayers, which are not of the statement-making sort.⁶ Unfortunately he confined the study of such uses of language to the peripheral realms of rhetoric and poetry, and this had fateful consequences for subsequent attempts to develop a general theory of uses of language along the lines with which, as a result of the work of Austin and Searle, we are now familiar.

Two philosophers can, however, be credited with having made early efforts to advance a theory of the needed sort. The first,

⁴ W. V. O. Quine, *Word and Object* (Cambridge, MA: MIT Press, 1960).

⁵ "Indeterminacy, Empiricism, and the First Person", *The Journal of Philosophy*, 84: 3 (1987), pp. 123–146, pp. 125, italics added.

⁶ *De Interpretatione* (17 a 1-5).

significantly, is Thomas Reid, who recognized that the principles of the art of language are

to be found in a just analysis of the various species of sentences. Aristotle and the logicians have analyzed one species – to wit, the *proposition*. To enumerate and analyze the other species must, I think, be the foundation of a just theory of language.⁷

Reid's technical term for such uses of language as promisings, warnings, forgivings, and so on, is 'social operations'. Sometimes he also calls them 'social acts', opposing them to 'solitary acts' such as judgments, intendings, deliberatings and desirings. The latter are characterized by the fact that their performance does not presuppose any 'intelligent being in the universe' in addition to the person who performs them. A social act, in contrast, must be directed to some other person, and for this reason it constitutes a miniature 'civil society', a special kind of structured whole, embracing both the one who initiates it and the one to whom it is directed.⁸

The second is Adolf Reinach, a member of a group of followers of Husserl based in Munich in the early years of the last century who distinguished themselves from later phenomenologists by their adherence to philosophical realism. Husserl had developed in his *Logical Investigations*⁹ a remarkably rich and subtle theory of linguistic meaning, which the group to which Reinach belonged took as the starting point of its own philosophical reflections on language, meaning and intentionality. Husserl was interested in providing a general theory of how thought and language and perception hook onto extra-mental reality. His conception of meaning anticipates that of Searle in treating language as essentially representational.

⁷ Thomas Reid, *The Works of Thomas Reid*, edited by Sir William Hamilton (Edinburgh: James Thin; London: Longmans, Green, 1895), p. 72.

⁸ See Karl Schuhmann and Barry Smith, "Elements of Speech Act Theory in the Work of Thomas Reid", *History of Philosophy Quarterly*, 7 (1990), pp. 47–66 for further details.

⁹ *Logische Untersuchungen* (Halle: Niemeyer, 1900/01), English translation by J. N. Findlay, *Logical Investigations* (London: Routledge and Kegan Paul, 1970).

Husserl's theory of meaning is, however, internalistic in the following special sense: it starts from an analysis of the individual mental act of meaning something by a linguistic expression as this occurs in silent monologue. The meaning of an expression is the same (the very same entity), Husserl insists, independently of whether or not it is uttered in public discourse.

But how are we to analyze, within such a framework, the meanings of those special kinds of uses of language which are involved in promises or questions or commands? It was in the effort to resolve this puzzle that Reinach developed the first systematic theory of performative uses of language, not only in promising and commanding but also in warning, entreating, accusing, flattering, declaring, baptizing, etc. – phenomena which Reinach, like Reid before him, called 'social acts'.¹⁰

Reinach presented his ideas on social acts in a monograph published in 1913 (four years before his death on the Western Front) under the title *The A Priori Foundations of the Civil Law*. He concentrated especially on the act of promising, applying his method also to the analysis of legal phenomena such as contract and legislation and describing the theory which results as a 'contribution to the general ontology of social interaction'. His work comprehends many of the elements we find in the writings of Austin and Searle, and even incorporates additional perspectives deriving from Reinach's background as a student of law. Unfortunately, however, Reinach's theory of social acts was doomed, like Reid's theory of social operations before it, to remain almost entirely without influence.

¹⁰ See Kevin Mulligan, "Promisings and Other Social Acts: Their Constituents and Structure", in: Mulligan (ed.), *Speech Act and Sachverhalt. Reinach and the Foundations of Realist Phenomenology* (The Hague: Nijhoff, 1987), pp. 29–90; Brigitte Nerlich and David D. Clarke, *Language, Action and Context. The Early History of Pragmatics in Europe and America, 1780–1930* (Amsterdam: Philadelphia: John Benjamins, 1996) and Barry Smith, "Towards a History of Speech Act Theory", in A. Burkhardt (ed.), *Speech Acts, Meanings and Intentions. Critical Approaches to the Philosophy of John R. Searle* (Berlin/New York: de Gruyter, 1990), pp. 29–61.

Speech act theory: From Austin to Searle

Anglo-American philosophy in the first half of the twentieth century was shaped above all by the new Frege-inspired logic. One side-effect of the successes of this new logic was that it consolidated still further the predominance of the Aristotelian conception of language as consisting essentially of statements or propositions in the business of being either true or false. All the more remarkable, therefore, is the break with these conceptions that is represented by the work of Austin and Searle. The beginnings of this break are documented in Austin's 1946 paper "Other Minds"¹¹ in a discussion of the way we use phrases like 'I am sure that' and 'I know that' in ordinary language. Saying 'I know that S is P', Austin tells us, 'is *not* saying "I have performed a specially striking feat of cognition ...". Rather, 'When I say "I know" I give others my word: I give others my authority for saying that "S is P".' (*Philosophical Papers*, p. 99)

And similarly, Austin notes: 'promising is not something superior, in the same scale as hoping and intending'. Promising does indeed presuppose an intention to act, but it is not itself a feat of cognition at all. Rather, when I say 'I promise'

I have not merely announced my intention, but, by using this formula (performing this ritual), I have bound myself to others, and staked my reputation, in a new way. (*Loc. cit.*)

Austin's ideas on what he called *performative utterances* were expressed in lectures he delivered in Harvard in 1955, lectures which were published posthumously under the title *How to Do Things with Words*.¹²

Performative utterances are those uses of language, often involving some ritual aspect, which are themselves a kind of action and whose very utterance brings about some result. Of an utterance like 'I promise to mow your lawn' we ask not whether it is true, but

¹¹ *Proceedings of the Aristotelian Society* Supp. Vol. 20 (1946), reprinted in Austin's *Philosophical Papers* (Oxford: Clarendon Press, 1961), pp. 44–84, hereafter: *Philosophical Papers*.

¹² Oxford: Oxford University Press, 1962.

whether it is successful. The conditions of success for performatives Austin called *felicity conditions* and he saw them as ranging from the highly formal (such as for example those governing a judge when pronouncing sentence), to the informal conventions governing expressions of gratitude or sympathy in the circumstances of everyday life. Austin pointed also to the existence of a further set of conditions, which have to do primarily with the mental side of performatives, conditions to the effect that participants must have the thoughts, feelings and intentions appropriate to the performance of each given type of act.

Rules, meanings, facts

By the end of *How to Do Things with Words*, however, Austin has given up on the idea of a theory of performatives as such. This is because he has reached the conclusion that all utterances are in any case performative in nature, and thus he replaces his failed theory of performatives with the goal of a theory of speech acts in general. Austin himself focused primarily on the preliminaries for such a theory, and above all on the gathering of examples. In “A Plea for Excuses”¹³ he recommends as systematic aids to his investigations three ‘source-books’: the dictionary, the law, and psychology. With these as his tools, he sought to arrive at ‘the meanings of large numbers of expressions and at the understanding and classification of large numbers of “actions”’ (*Philosophical Papers*, p. 189).

Searle’s achievement, now, was to give substance to Austin’s idea of a general theory of speech acts by moving beyond this cataloguing stage and providing a theoretical framework within which the three dimensions of utterance, meaning and action involved in speech acts could be seen as being unified together.

It is the three closing sections of Chapter 2 of *Speech Acts* which prepare the ground for the full dress analysis of speech acts themselves, which is given by Searle in the chapter which follows. These three sections contain Searle’s general theories of,

¹³ “A Plea for Excuses. The Presidential Address”, *Proceedings of the Aristotelian Society*, 57 (1956–57), pp. 1–30, reprinted in *Philosophical Papers*, 123–152.

respectively, rules, meanings and facts. All three components are fated to play a significant role in all the subsequent development of Searle's thinking.

He starts with a now familiar distinction between what he calls *regulative* and *constitutive* rules. The former, as he puts it, merely regulate antecedently existing forms of behaviour. For example, the rules of polite table behaviour regulate eating, but eating itself exists independently of these rules. Some rules, on the other hand, do not merely regulate; they also create or define new forms of behaviour. The rules of chess create the very possibility of our engaging in the type of activity we call playing chess. The latter is just: acting in accordance with the given rules.

Constitutive rules, Searle tells us, have the basic form: X counts as Y in context C.¹⁴ Consider what we call *signaling to turn left*. This is a product of those constitutive rules which bring it about that behaving inside moving vehicles in certain pre-determined ways and in certain pre-determined contexts *counts as* signaling to turn left. The action of lifting your finger in an auction house *counts as* making a bid. An utterance of the form 'I promise to mow the lawn' in English *counts as* putting oneself under a corresponding obligation. And as we see from these cases, the Y term in a constitutive rule characteristically marks something that has consequences in the form of rewards, penalties, or actions one is obliged to perform in the future. The constitutive rules themselves rarely occur alone, so it may be that when applying the X counts as Y formula we have to take into account whole systems of such rules. Thus we may have to say: acting in accordance with all or a sufficiently large subset of these and those rules by individuals of these and those sorts *counts as* playing basketball.

The central hypothesis of Searle's book can now be formulated as follows: speech acts are acts characteristically performed by uttering expressions in accordance with certain constitutive rules. To give a

¹⁴ In *Mind, Language and Society* (New York: Basic Books, 1999), Searle writes: 'Constitutive rules always have the same logical form ... They are always of the logical form such-and-such counts as having the status so-and-so' (pp. 123 f).

full analysis of what this involves, Searle must give an account of the difference between merely uttering sounds and performing speech acts, and this means that he must supply an analysis, in terms of the *counts as* formula, of what it is to *mean something* by an utterance. The analysis he gives stands in contrast to that of Husserl (and Aristotle) in that it starts not with uses of language as they occur in silent monologue but rather with acts of speech, acts involving both a speaker and a hearer. More precisely still, Searle starts with the utterance of sentences, since he follows Frege in conceiving word-meanings as derivative of sentence-meanings. Searle is inspired, too, by the notion of non-natural meaning advanced by Grice in 1957.¹⁵ His analysis then reads as follows:

To say that a speaker utters a sentence *T* and means what he says is to say that the following three conditions are satisfied:

- (a) the speaker has an intention *I* that his utterance produce in the hearer the awareness that the state of affairs corresponding to *T* obtains,
- (b) the speaker intends to produce this awareness by means of the recognition of the intention *I*,
- (c) the speaker intends that this intention *I* will be recognized in virtue of the rules governing the elements of the sentence *T*. (*Speech Acts*, pp. 49 f, parentheses removed)

The X counts as Y formula is here applied as follows: a certain audio-acoustic event *counts as* the meaningful utterance of a sentence to the extent that these three conditions are satisfied.

On the very next page of *Speech Acts* Searle then introduces the concept of institutional fact, defined as a fact whose existence presupposes the existence of certain *systems of constitutive rules* called ‘institutions’. He refers in this connection to a short paper “On Brute Facts”, in which Elisabeth Anscombe addresses the issue of what it is that makes behaving in such and such a way a *transaction* from which obligations flow.

‘A set of events is the ordering and supplying of potatoes, and something is a bill,’ she tells us, ‘only in the context of our

¹⁵ H. P. Grice, “Meaning”, *The Philosophical Review*, 64 (1957), pp. 377–388.

institutions’:

As compared with supplying me with a quarter of potatoes we might call carting a quarter of potatoes to my house and leaving them there a ‘brute fact’. But as compared with the fact that I owe the grocer such-and-such a sum of money, that he supplied me with a quarter of potatoes is itself a brute fact¹⁶

Brute facts are, for Anscombe, themselves such as to form a hierarchy. The brute facts, in cases such as those described above, are the facts which held, and in virtue of which, in a proper context, such and such a description is true or false, and which are more ‘brute’ than the alleged fact answering to that description. ... I will not ask here whether there are any facts that are, so to speak, ‘brute’ in comparison with leaving a quarter of potatoes at my house. (*Loc. cit.*)

For Searle, in contrast, there is one single level of brute facts – constituted effectively by the facts of natural science – from out of which there arises a hierarchy of institutional facts at successively higher levels. Brute facts are distinguished precisely by their being independent of all human institutions, including the institution of language.

It is of course necessary to use language in order to state brute facts, but the latter nonetheless obtain independently of the language which we use to represent them. Just as the moon did not come into existence with the coming into existence of the linguistic resources needed to name and describe it, so the fact that the earth is a certain distance from the sun did not become a fact because the linguistic resources needed to express this distance became available at a certain point in history.

When you perform a speech act then you create certain institutional facts (you create what Reid referred to as a miniature ‘civil society’). Institutional facts exist only because we are here to treat the world and each other in certain, very special (cognitive) ways within certain special (institutional) contexts. In his later

16 G. E. M. Anscombe, “On Brute Facts”, *Analysis*, 18: 3 (1958), p. 24.

writings Searle will speak of a contrast between: observer-independent features of the world, such as force, mass, and gravitational attraction, and observer-relative features of the world, which include in particular money, property, marriage and government. The latter are examples of institutions in Searle's sense, which means that they are systems of constitutive rules. Every institutional fact, for example the fact that John promised to mow the lawn, is thus 'underlain by a (system of) rule(s) of the form "X counts as Y in context C".' (*Speech Acts*, pp. 51 f.)

Searle goes further than Austin in providing not only the needed general framework for a theory of speech acts but also a richer specification of the detailed structures of speech acts themselves. Thus he distinguishes two kinds of felicity conditions: conditions on the *performance* of a speech act and conditions on its *satisfaction* (you need to fulfil the first in order to issue a promise, and the second in order to keep your promise). Conditions on performance are divided still further into preparatory, propositional, sincerity and essential conditions (*Speech Acts*, pp. 60 ff.). When I promise to mow your lawn, the preparatory conditions are that you want me to mow your lawn and that I believe that this is the case and that neither of us believes that I would in any case mow your lawn as part of the normal course of events; the propositional conditions are that my utterance 'I promise to mow your lawn' predicates the right sort of act on my part; the sincerity condition is that I truly do intend to mow your lawn; and the essential condition is that my utterance *counts as* an undertaking on my part to perform this action.

In "A Taxonomy of Illocutionary Acts",¹⁷ Searle offers an improved classification resting on a distinction between two 'directions of fit' between language and reality, from word to world, on the one hand, and from world to word, on the other. The shopping list you give to your brother before sending him off to the shops has a

¹⁷ First published in K. Gunderson (ed.), *Language, Mind and Knowledge. Minnesota Studies in the Philosophy of Science*, VII (1975), pp. 344–369, and reprinted in Searle, *Experience and Meaning. Studies in the Theory of Speech Acts* (Cambridge: Cambridge University Press, 1975), pp. 1–29.

word-to-world direction of fit. The copy of the list which you use for checking on his return has a direction of fit in the opposite direction. *Assertives* (statements, averrings) have a word-to-world direction of fit; *directives* (commands, requests, entreaties), have a world-to-word direction of fit, as also do *commissives* (*promises*), which bind the speaker to perform a certain action in the future. *Expressives* (congratulations, apologies, condolences) have no direction of fit; they simply presuppose the truth of the expressed proposition. *Declaratives* (appointings, baptizings, marryings), in contrast, bring about the fit between word and world by the very fact of their successful performance.

Promise and obligation

On more traditional accounts, a promise is the expression of an act of will or of an intention to act. The problem with this account is that it throws no light on how an utterance of the given sort can give rise to an obligation on the part of the one who makes the promise. A mere act of will has, after all, no quasi-legal consequences of this sort. Searle explains how these consequences arise by means of his theory of constitutive rules. The latter affect our behaviour in the following way: where such rules obtain we can perform certain special types of activities (analogous to playing chess), and in virtue of this our behaviour can be interpreted by ourselves and by others in terms of certain very special types of institutional concepts. Promisings are utterances which count as falling under the institutional concept *act of promise*, a concept which is logically tied to further concepts such as obligation in such a way that wherever the one is exemplified then so too is the other. When I engage in the activity of promising, then I thereby subject myself in a quite specific way to the corresponding system of constitutive rules. In virtue of this I count as standing under an obligation.

Such systems of constitutive rules are the very warp and woof of our behaviour as language-using animals. As Searle puts it, we could not throw all institutions overboard and 'still engage in those forms of behaviour we consider characteristically human' (*Speech Acts*, p. 186).

It is against this background that Searle gives his famous derivation of 'ought' from 'is'. This consists in the move, in four logical steps, from a statement about a certain utterance to a conclusion asserting the existence of a certain obligation, as follows:

- (1) Jones uttered the words 'I hereby promise to pay you, Smith, five dollars.'
- (2) Jones promised to pay Smith five dollars.
- (3) Jones placed himself under an obligation to pay Smith five dollars.
- (4) Jones is under an obligation to pay Smith five dollars.
- (5) Jones ought to pay Smith five dollars. (*Speech Acts*, p. 177)

The move from (1) to (2) is sanctioned, Searle holds, by an empirical fact about English usage to the effect that anyone who utters the given words makes a corresponding promise (provided only that, as can here be assumed to be the case, the conditions on successful and non-defective performance of the act of promising are as a matter of fact satisfied). The move from (2) to (3) follows from what Searle sees as an analytic truth about the corresponding institutional concepts, namely that a promise *is* an act of placing oneself under a corresponding obligation. We go from (3) to (4) and from (4) to (5) likewise in virtue of what Searle takes to be analytic truths, namely that if one has placed oneself under an obligation then one is under an obligation, and that if one is under an obligation then (as regards this obligation) one ought to perform the corresponding action.

All but the first clause in Searle's argument states an institutional fact. The argument is designed to capture the way in which language enables us to bootstrap ourselves beyond the realm of brute facts in such a way that we can perform actions that we could not otherwise perform, actions whose performance belongs precisely to the realm of institutional facts. Language, above all, enables us to bind ourselves in the future, not only in acts of promising but also in a range of other ways.

Note that Searle's argument, as formulated above, has a certain

individualistic character. This can be seen by contrasting it with that of Reinach, for whom there is an additional *deontic* condition on the performance of the social act of promising, namely that the promise must not merely be heard but also accepted by the one to whom it is addressed.¹⁸ Reinach thus stresses, to a greater degree than Searle at this stage, the relational character of the promise: claim and obligation stand in a relation of mutual dependence, which reflects the reciprocity of promiser and promisee. Promising, for Reinach, manifests one of a series of basic forms of what we might call *collective intentionality*.

Speech acts and social reality

Increasingly in the course of his career Searle is not content to study mere uses of language. He is perfectly clear that, even when we have classified and fully understood the uses of verbs or adverbs of given types, there will still remain genuine philosophical problems to be solved: the nature of obligation, for example, or of power and responsibility, or – a subject addressed in Searle’s most recent writings – the issue of what it is to perform an act freely or voluntarily or rationally. To solve these problems we need, as he slowly recognizes, to study not only language but also brains, minds, the laws of physics, the forms of social organization.

After a series of works in the philosophy of language applying and expanding the new speech act theory, Searle thus ventures into new territory, with influential books on intentionality, on mind and consciousness, and on the so-called Chinese Room Argument, contributions discussed in detail in the remaining chapters of this

¹⁸ Adolf Reinach, “Die apriorischen Grundlagen des bürgerlichen Rechts”, *Jahrbuch für Philosophie und phänomenologische Forschung*, 1/2 (1913), as reprinted in Reinach, *Sämtliche Werke. Kritische Ausgabe mit Kommentar* (Munich and Vienna: Philosophia, 1988), p. 204. English translation as “The Apriori Foundations of the Civil Law”, by J. F. Crosby, in *Aletheia*, 3 (1983), pp. 1–142. Compare also the discussion in Anthonie Meijers, *Speech Acts, Communication and Collective Intentionality. Beyond Searle’s Individualism* (Leiden: Rijksuniversiteit, 1994).

volume. In *Intentionality*¹⁹ Searle generalizes the ideas underlying his speech act theory to a theory of intentionality.

In each speech act we can distinguish abstractly two components: the *type* or *quality* of the act (sometimes called its illocutionary force) and the (normally propositional) *content* of the act. Each can vary while the other remains constant, as we can command or request or express our desire that John should mow the lawn. In *Intentionality*, now, this distinction is generalized to the sphere of cognitive acts in general, in such a way as to yield an opposition between *propositional modes* on the one hand and *intentional contents* on the other (a distinction which echoes Husserl's distinction in the *Logical Investigations* between the *quality* and *matter* of a mental act).

The notion of a direction of fit, too, is generalized in a similar manner: beliefs are now seen as having a mind to world direction of fit, desires a world to mind direction of fit, and so forth, for each of the different types of mental act.

The notion of conditions of satisfaction, too, is generalized:

My belief will be satisfied if and only if things are as I believe them to be, my desires will be satisfied if and only if they are fulfilled, my Intentions will be satisfied if and only if they are carried out. (*Intentionality*, p. 10)

From here Searle develops an entirely new theory of intentional causation, turning on the fact that an intention is satisfied only if the intention itself causes the satisfaction of the rest of its conditions of satisfaction. Thus for my intention to raise my arm to be satisfied it is not enough for me to raise my arm; my raising my arm must itself be caused by this intention.

In *Intentionality* Searle makes a fateful move by allying himself with those, such as Aristotle, Brentano, Husserl and Chisholm, who see our linguistic behaviour as reflecting more fundamental activities and capacities on the deeper level of the mental, above all the capacity of the mind to represent states of affairs. Thus he accepts what has been called the 'primacy of the mental', acknowledging that

¹⁹ *Intentionality: An Essay in the Philosophy of Mind* (New York, Cambridge University Press, 1983).

language ‘is derived from Intentionality and not conversely’ (*Intentionality*, p. 5). Indeed language is now seen as being only one domain in which we transfer intentionality onto things which are intrinsically not intentional (another illustration of this phenomenon – of what Searle now calls ‘derived intentionality’ – is provided by the domain of computer processing).

In *The Rediscovery of Mind*²⁰ Searle’s theory of intentionality is set within a naturalistic ontological framework of what he calls ‘causal supervenience’. Consciousness

is a causally emergent property of systems. It is an emergent feature of certain systems of neurons in the same way that solidity and liquidity are emergent features of systems of molecules. (*Rediscovery*, p. 112)

In *The Construction of Social Reality* – hereafter *Construction* – this same ontological framework of naturalistic emergentism is applied to the analysis of social reality. The publication of the latter work thus represents a return to the project of a general ontology of social interaction that had been adumbrated by Searle a quarter of a century earlier.

A huge invisible ontology

Searle begins *Construction* with the following simple scene:

I go into a café in Paris and sit in a chair at a table. The waiter comes and I utter a fragment of a French sentence. I say, ‘*un demi, Munich, à pression, s’il vous plaît.*’ The waiter brings the beer and I drink it. I leave some money on the table and leave. (p. 3)

He then points out that the scene described is more complex than at first appears:

the waiter did not actually *own* the beer he gave me, but he is *employed by* the restaurant which owned it. The restaurant is *required to post* a list of the *prices* of all the *boissons*, and even if I never see such a list, I am *required to pay* only the listed price. The *owner* of the restaurant is *licensed by* the

²⁰ Cambridge, MA: MIT Press, 1992.

French *government to operate* it. As such, he is *subject to a thousand rules and regulations* I know nothing about. I am *entitled* to be there in the first place only because I am a *citizen of the United States, the bearer of a valid passport, and I have entered France legally.* (*Loc. cit.*)

The task Searle then sets for himself is to describe this ‘huge invisible ontology’, which is to say, to give an analysis of those special objects, powers, functions, acts, events, states, properties, and relations – picked out in italics in the above – which do not belong to the realm of brute physical reality but rather to the realm of institutions. This task is to be realized in terms of the machinery of constitutive rules and institutional facts set forth by Searle in his earlier work, but supplemented by new conceptual tools. In addition, there will be a new emphasis upon the way in which, in acting in accordance with constitutive rules we are able to impose certain special rights, duties, obligations and various other sorts of what Searle now calls ‘deontic powers’ on our fellow human beings and on the reality around us. We are thereby able to bring into existence a great wealth of novel forms of social reality in a way which involves a kind of magic. Searle’s task is to dispel the sense of magic by means of a new type of ontology of social reality.

In *Intentionality* Searle presents a new foundation for the theory of speech acts in terms of the contrast between intrinsic and derived intentionality. Meaning is just one of the phenomena which arises when we transfer intentionality onto things which are intrinsically not intentional. Searle’s original theory of these matters has, as we saw, a certain individualistic bias. Now, however, he must face square on the problem of how to account for the *social* characteristics of speech acts and of other, related phenomena within the framework of his earlier theory of derived intentionality.

The crucial turning point, here, is the article “Collective Intentions and Actions”, published in 1990.²¹ Recall that Searle’s philosophy is intended to be entirely naturalistic. Human beings are

²¹ In P. Cohen, J. Morgan, and M. Pollack (eds.), *Intentions in Communication* (Cambridge, MA: The MIT Press, 1990), pp. 401–415.

biological beasts. Searle now recognizes that, like other higher mammals, human beings enjoy a certain *sui generis* – which means: irreducible – capacity for what he calls ‘collective intentionality’. This means that they are able to engage with others in cooperative behaviour in such a way as to share the special types of beliefs, desires and intentions involved in such behaviour. The capacity for collective intentionality is a capacity which individuals have to enjoy intentional states of a certain quite specific sort. Non-human animals manifest this capacity at best in very rudimentary forms, for example in hunting or signaling behaviour. The history of the human species, in contrast, has shown that we are able to engage in ever more complex forms of collective intentionality of seemingly inexhaustible variety, effectively by using language and other symbolizing devices to perform collaborative actions like promising or legislating or regulating air traffic flow (or arguing about the nature of constitutive rules). Language is now conceived by Searle as the basic social institution because it is language – or language-like systems of symbolization – which enables these new forms of collective intentionality to exist at ever higher levels of complexity.

The ontology of social reality

The doctrine of collective intentionality allows a refinement of the ontology of brute and institutional facts as this was sketched by Searle at the beginning of his career. Now we should more properly distinguish between brute facts on the one hand, which are those facts which can exist independently of human intentionality, and *dependent* facts of different sorts. Above all we must distinguish between what we might call subjective dependent facts, facts which depend on *individual* intentionality, for example the fact that I am feeling angry, and social facts, which depend on *collective* intentionality.

Institutional facts, now, are those special kinds of social facts which arise when human beings collectively award what Searle calls *status functions* to parts of reality. This means functions – such as those of customs officials (with their rubber stamps) – which the human beings involved could not perform exclusively in virtue of

their physical properties.

Consider the way in which a line of yellow paint can perform the function of a barrier because it has been collectively assigned the status of a boundary marker by human beings. The yellow paint is unable to perform this function by virtue of its physical properties. It performs the function only because we collectively accept it as having a certain status. Money, too, does not perform its function by virtue of the physical properties of paper, ink or metal, but rather in virtue of the fact that we, collectively, grant the latter a certain status and therewith also certain functions and powers.

Sometimes a status function can be imposed simply by declaring it to be so, as in the case of promising. Here, I impose upon myself by declaration the status function of being obliged. Sometimes special rituals or ceremonies are involved, which is to say complexes of actions, which also serve to broadcast to the world the new status functions that have been set in place together with their concomitant deontic powers. By exchanging vows before witnesses a man and a woman bring a husband and a wife into being (out of X terms are created Y terms, with new status and powers).

The structure of institutional reality is accordingly a structure of power. Powers can be positive, as when John is awarded a license to practice medicine, or negative, as when Mary has her license to drive taken away for bad behaviour or when Sally is obliged to pay her taxes. Powers can be substantive, as when Margaret is elected Prime Minister, or attenuated, as when Elton is granted the honorary title of Knight Bachelor, Commander of the British Empire. Chess is war in attenuated form, and it seems that very many of the accoutrements of culture have the character of attenuated powers along the lines described by Searle. Kasher and Sadka propose to account for the entirety of cultural evolution by applying Searle's distinction between regulative and constitutive rules.²²

The X counts As Y theory of institutional reality

²² Asa Kasher and Ronen Sadka, "Constitutive Rule Systems and Cultural Epidemiology", *The Monist*, 84: 3 (2001), pp. 437–448.

Searle's theory of collective intentionality, of status functions and of deontic powers, is a brilliant contribution to the ontology of social reality. As he puts it:

[There is a] continuous line that goes from molecules and mountains to screwdrivers, levers, and beautiful sunsets, and then to legislatures, money, and nation-states. The central span on the bridge from physics to society is collective intentionality, and the decisive movement on that bridge in the creation of social reality is the collective intentional imposition of function on entities that cannot perform these functions without that imposition. (*Construction*, p. 41)

Searle's account of the way in which so much of what we value in civilization requires the creation and the constant monitoring and adjusting of the institutional power relations which arise through collectively imposed status-functions is certainly the most impressive theory of the ontology of social reality we currently have. His account of how the higher levels of institutional reality are created via iteration of the *counts as* formula, and also of how whole systems of such iterated structures (for example the systems of *marriage* and *property*) can interact in multifariously spreading networks, opens up the way for a new type of philosophical understanding of human social organization.

The account presented in *Construction* is not without its problems, however, problems which, as we shall see, have led Searle to modify his views in more recent writings. It will nonetheless be of value to map out the account as originally presented in order both to understand how the problems arise and to throw light on the challenge which Searle faces in attempting to reconcile realism in the domain of social reality with the naturalistic standpoint which is so central to his philosophy.

A realist ontology of social reality I take to be an ontology which holds prices, debts, trials, suffragette rallies, and so forth, to exist; our reference to these entities is not a *façon de parler*, to be cashed out in terms of reference to entities of other, somehow less problematic, sorts. Nothing is more certain than death, and taxes. Naturalism we can then provisionally take to consist in the thesis that prices, trials,

monastic orders and so forth exist *in the very same reality* as that which is described by physics and biology. For Searle, as we have seen, is interested in the philosophical problems which arise precisely in the world that is presented to us by natural science, a world which contains not only language-using organisms but also brains and positron emission tomographs.

Searle formulates his views in *Construction* in terms of the notion of constitutive rules, and thus in terms of the X counts as Y formula with which we are by now so familiar. Naturalism I take to imply that both the X and the Y terms in the applications of this formula must range in every case over token physical entities, be they objects or events or entities of some other category. This is in keeping with statements like the following:

I start with what we know about the world: the world consists of entities described by physics and chemistry. I start with the fact that we're products of evolutionary biology, we're biological beasts. Then I ask, how is it possible *in a world consisting entirely of brute facts*, of physical particles and fields of force, how is it possible to have consciousness, intentionality, money, property, marriage, and so on?²³

X and Y terms are thus parts of physical reality.

We get the full power of Searle's theory, however, only when we recognize that a Y term can itself play the role of a new X term in iterations of the *counts as* formula. Status functions can be imposed not merely upon brute physical reality in its original, unadorned state but also upon this physical reality as it has been shaped by earlier impositions of function: a human being can count as a citizen, a citizen can count as a judge, a judge can count as a Supreme Court Justice, and so forth, with new status functions being acquired at each step and presupposing those which went before. But the imposition of function gives us hereby nothing (physically) new: Bill Clinton is still Bill Clinton even when he *counts as* President; he is still a part of physical reality, albeit with new and special powers. Mrs. Geach was still, even after her marriage, Miss Anscombe, and Miss Anscombe

²³ Faigenbaum, *op. cit.*, p. 273, italics added.

herself was throughout her life just as much a part of physical reality as you and me.

There are, therefore, on this reading of Searle's views, no special classes of social or institutional entities, additional to the physical entities with which we have to deal:

if you suppose that there are two classes of objects, social and non-social, you immediately get contradictions of the following sort: In my hand I hold an object. This one and the same object is both a piece of paper and a dollar bill. As a piece of paper it is a non-social object, as a dollar bill it is a social object. So which is it? The answer, of course, is that it is both. But to say that is to say that we do not have a separate class of objects that we can identify with the notion of social object. Rather, what we have to say is that something is a social object only under certain descriptions and not others, and then we are forced to ask the crucial question, what is it that these descriptions describe?²⁴

What the description describes is an X term, a part of physical reality. And again:

when I am alone in my room, that room contains at least the following 'social objects'. A citizen of the United States, an employee of the state of California, a licensed driver, and a tax payer. So how many objects are in the room? There is exactly one: me. (*Loc. cit.*)

Thanks to certain cognitive acts on the part of the human beings – cognitive acts which are themselves to be understood, naturalistically, in terms of the physics and biology of the human brain – a certain X term begins at a certain point in time to fall under certain descriptions under which it did not fall before, and a Y term thereby emerges.

The latter begins to exist because an X term, a part of physical reality, has acquired certain special sorts of status functions and therewith also certain special sorts of deontic powers. But while the Y term is in a sense a new entity – President Clinton did not, after all,

²⁴ "Reply to Barry Smith", *American Journal of Economics and Sociology*, forthcoming (2002). Hereafter: "Reply to Smith".

exist before his Inauguration on January 17, 1997 – this new entity is from the physical perspective *the same old entity as before*. What has changed is the way the entity is treated in given contexts and the descriptions under which it falls.

To say that X counts as Y is to say that X provides Y's physical realization because X is identical to Y. Note that a much weaker relation is involved where one entity merely *presupposes* the existence of another, so that the first is existentially dependent on the second. A symphony performance, for example, is in the given sense merely dependent for its existence on the members of an orchestra. An election is merely dependent on the existence of certain polling places: it is not also identical with these polling places. When X *counts as* Y, however, then X and Y are physically speaking one and the same.

All of this goes hand in hand with Searle's insistence that wherever a status-function is imposed there has to be something it is imposed upon. Sometimes this is itself the product of the imposition of another status-function. Eventually, however, just as Archimedes must have a place to stand, so the hierarchy must bottom out in some portion of physical reality whose existence is not a matter of human agreement. As Searle argues so convincingly in the second half of *Construction* and against what is propounded by sundry postmodernists and social constructionists, it could not be that the world consists of institutional facts all the way down, with no brute reality to serve as their foundation.

Objects and representations

Note that the range of X and Y terms, even on the simple version of the theory set forth above, includes not only objects (individual substances such as you and me) but also entities of other sorts, for example *events*, as when an act of uttering such and such a sequence of words counts as the utterance of a sentence of English.

Often, the brute facts will not be manifested as physical objects but as sounds coming out of peoples' mouths or as marks on paper – or even thoughts in their heads. (*Construction*, p. 35)

Naturalism should now imply that when a given event counts as an utterance, or as the making of a promise, then the event itself does not physically change; no new event comes into being, but rather the event with which we start is treated in a special way. This is Searle's account of how, by being apprehended in a certain way, an utterance (X) counts as a meaningful use of language (Y), which in turn counts as an act of promising (Z). Here again, the Y and Z terms exist simultaneously with the corresponding X term; they are both of them, after all, physically identical therewith. The Z term serves additionally as trigger for the coming into existence of additional deontic powers on the part of the human being who has made the promise: the latter becomes *obliged* to realize its content, and the new Y term thus created – the obligation – continues to exist until it is waived or fulfilled.

As Searle himself puts it:

I promise something on Tuesday, and the act of uttering ceases on Tuesday, but the obligation of the promise continues to exist over Wednesday, Thursday, Friday, etc. (“Reply to Smith”)

Now, however, he goes on to make what, against the background of Searle's naturalism, is a fateful admission:

And that is not just an odd feature of speech acts, it is characteristic of the deontic structure of institutional reality. So, think for example, of creating a corporation. Once the act of creation of the corporation is completed, the corporation exists. It need have no physical realization, *it may be just a set of status functions*. (*Loc. cit.*, italics added)

Searle hereby reveals that his social ontology is committed to the existence of what we might call ‘free-standing Y terms’, or in other words to entities which (unlike President Clinton and Canterbury Cathedral and the money in my pocket) do not coincide ontologically with any part of physical reality. One important class of such entities is illustrated by what we loosely think of as the money in our bank accounts as this is recorded in the bank's computers. In *Construction* we find the following passage:

all sorts of things can be money, but there has to be some

physical realization, some brute fact – even if it is only a bit of paper or a blip on a computer disk – on which we can impose our institutional form of status function. Thus there are no institutional facts without brute facts. (*Construction*, p. 56)

Unfortunately, however, as Searle now acknowledges, blips in computers do not really count as money, and nor can we use such blips as a medium of exchange:

On at least one point it seems to me ... the account I gave in [*The Construction of Social Reality*] is mistaken. I say that one form that money takes is magnetic traces on computer disks, and another form is credit cards. Strictly speaking neither of these is money, rather, both are different representations of money. The credit card can be used in a way that is in many respects functionally equivalent to money, but even so it is not itself money. It is a fascinating project to work out the role of these different sorts of representations of institutional facts, and I hope at some point to do it. (“Reply to Smith”)

In reformulating his views on this matter Searle is thus led to recognize a new dimension in the scaffolding of institutional reality, the dimension of representations. The blips in the bank’s computers merely *represent* money, just as the deeds to your property merely *record* or *register* the existence of your property right. The deed is not identical with your property right and nor does it *count as* your property right. An IOU note, similarly, records the existence of a debt; it does not *count as* the debt. It is an error to run together records pertaining to the existence of free-standing Y terms with those free-standing Y terms themselves, just as it would be an error to regard as the X terms underlying obligations, responsibilities, duties and other deontic phenomena the current mental acts or neurological states of the parties involved. As Searle himself writes:

You do not need the X term once you have created the Y status function *for such abstract entities as obligations, responsibilities, rights, duties, and other deontic phenomena*, and these are, or so I maintain, the heart of the ontology of

institutional reality. (“Reply to Smith”, italics added)

The very hub and nucleus of institutional reality, on Searle’s account, is thus itself constituted by free-standing Y terms, entities which do not coincide with any part of physical reality.

As the case of money shows, some social objects have an *intermittent* realization in physical reality. Others, such as corporations or universities, have a physical realization that is *partial* and also *scattered* (and also such as to involve a certain turnover of parts). Yet others, such as debts, may have no physical realization at all; they exist only because they are reflected in records or representations (including mental representations). A full-dress ontology of social reality must address all of the different types of cases mentioned, from Y terms which are fully identical with determinate parts and moments of physical reality, to Y terms which coincide with no determinate parts and moments of physical reality at all, together with a range of intermediate cases in between.

The mystery of capital

Free-standing Y terms, as might have been predicted, are especially prominent in the higher reaches of institutional reality, and especially in the domain of economic phenomena, where we often take advantage of the abstract status of free-standing Y terms in order to manipulate them in quasi-mathematical ways. Thus we pool and securitize loans, we depreciate and collateralize and amortize assets, we consolidate and apportion debts, we annuitize savings – and these examples, along with the already mentioned example of the money existing (somehow) in our banks’ computers, make it clear that the realm of free-standing Y terms must be of great consequence for any theory of institutional reality.

That this is so is made abundantly clear not least by Hernando De Soto’s work *The Mystery of Capital*,²⁵ a work inspired by *The Construction of Social Reality* which also goes some way towards realizing Searle’s ‘fascinating project’ of working out the role of the

²⁵ *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York : Basic Books, 2000).

different sorts of representations of institutional facts. As De Soto shows, it is the ‘invisible infrastructure of asset management’ upon which the astonishing fecundity of Western capitalism rests, and this invisible infrastructure consists precisely of *representations*, for example of the property records and titles which capture what is economically meaningful about the corresponding assets – representations which in some cases serve to determine the nature and extent of the assets themselves.²⁶

Capital itself, in De Soto’s eyes, belongs precisely to the family of those free-standing Y terms which exist in virtue of our representations:

Capital is born by representing in writing – in a title, a security, a contract, and other such records – the most economically and socially useful qualities [associated with a given asset]. The moment you focus your attention on the title of a house, for example, and not on the house itself, you have automatically stepped from the material world into the conceptual universe where capital lives. (*The Mystery of Capital*, pp. 49 f)

As those who live in underdeveloped regions of the world well know, it is not physical dwellings which serve as security in credit transactions, but rather the *equity* that is associated therewith. The latter certainly depends for its existence upon the underlying physical object; but there is no part of physical reality which *counts as* the equity in your house. Rather, as De Soto emphasizes, this equity is something abstract that is *represented* in a legal record or title in such a way that it can be used to provide security to lenders in the form of liens, mortgages, easements, or other covenants in ways which give rise to new types of institutions such as title and property insurance, mortgage securitization, bankruptcy liquidation, and so forth.

Solutions to the problem of free-standing Y terms

²⁶ See Barry Smith and Leo Zaibert, “The Metaphysics of Real Estate”, *Topoi*, 20: 2 (2001), pp. 161–172.

A number of alternative responses to the problem of free-standing Y terms are advanced by Searle. The first is to propose that the ‘X counts as Y’ formula is not to be taken literally at all, but is intended, rather, as a ‘useful mnemonic’. Its role is

to remind us that institutional facts only exist because people are prepared to regard things or treat them as having a certain status and with that status a function that they cannot perform solely in virtue of their physical structure. (“Reply to Smith”)

People are, in a variety of sometimes highly complex ways, ‘able to *count something* as something more than its physical structure indicates’ (*loc. cit.*). Unfortunately, however, this replacement formula is itself inapplicable to the problematic cases. For what is it that people are able to count as ‘something ... more than its physical structure indicates’ in the case of, for example, a collateralized bond obligation or a statute on tort enforcement? Surely something which *has* a physical structure, but there is nothing in physical reality which *counts as* an entity of the given type.²⁷

Recall that the virtue of the *counts as* formula was that it promised to provide us with a clear and simple analytic path through the ‘huge invisible ontology’ of social reality. There are no special ‘social objects’, but only parts of physical reality which are subjected, in ever more interesting and sophisticated ways, to special treatment in our thinking and acting:

money, language, property, marriage, government, universities, cocktail parties, lawyers, presidents of the United States are all partly – but not entirely – constituted under these descriptions by the fact that we regard them as such.²⁸

²⁷ A further problem turns on the fact that the concept of institutional fact is itself defined by Searle as: a fact which can exist only within human institutions. But the latter are themselves defined as systems of constitutive rules, which are themselves defined in terms of the *counts as* formula (*Construction*, pp. 27, 43 f). Thus, even if it would be possible to restate the whole thesis of *Construction* without using the formula, since this thesis is itself about ‘how institutional facts are created and sustained’ we would be left in the dark as to precisely what the thesis amounts to.

²⁸ *Mind, Language and Society. Philosophy in the Real World* (New York: Basic

If something is a social object only under certain descriptions and not others, however, then the admission of free-standing Y terms means that we are no longer able to give an answer to what Searle refers to as the ‘crucial question’, namely: ‘what is it that these descriptions describe?’²⁹ For in the case of free-standing Y terms there is no object to *be* constituted under a description.

In accepting the existence of free-standing Y terms – in accepting for example that a corporation need have no physical realization – Searle accepts that a theory formulated exclusively in terms of the *counts as* formula can provide only a partial ontology of social reality. Such a theory is analogous to an ontology of works of art that is able to yield an account of, for example, *paintings* and *sculptures* (the lump of bronze *counts as* a statue) not however of *symphonies* or *poems*. For a symphony (as contrasted with the performance of a symphony) is not a token physical entity at all; rather – like a debt, or a corporation – it is a special type of abstract formation (an abstract formation with a beginning, and perhaps an ending, in time).³⁰

A careful reading of *The Construction of Social Reality* does however yield some of the resources which are needed for the construction of the needed more complete ontology. Consider, first of all, passages such as the following, in which Searle refers to the ‘primacy of acts over objects’ in the social realm. In the case of social objects, he tells us,

the grammar of the noun phrase conceals from us the fact that, in such cases, process is prior to product. Social objects are always ... constituted by social acts; and, in a sense, *the object is just the continuous possibility of the activity*. A

Books, 1999), p. 113.

²⁹ “Reply to Barry Smith”, *op. cit.*

³⁰ The theory of such historically rooted abstract formations was first set forth by Reinach in “The A Priori Foundations of the Civil Law” (*op. cit.*) and applied to the ontology of literature and other art forms by Reinach’s student Roman Ingarden, above all in his *The Literary Work of Art. An Investigation of the Borderlines of Ontology, Logic, and Theory of Language*, Evanston: Northwestern University Press, 1974. See also the discussion of abstract artifacts in Amie Thomasson, *Fiction and Metaphysics* (Cambridge: Cambridge University Press, 1999).

twenty dollar bill, for example, is a standing possibility of paying for something. (*Construction*, p. 36)

What we think of as social *objects*, such as governments, money, and universities, are in fact just placeholders for patterns of *activities*. I hope it is clear that the whole operation of agentive functions and collective intentionality is a matter of ongoing activities and the creation of the possibility of more ongoing activities. (*Construction*, p. 57)

Certainly there are patterns of activities associated with, say, the Government of the United States. But we cannot identify the one with the other. Governments, after all, can enter into treaty obligations, they can incur debts, raise taxes, they can be despised or deposed (patterns of activity can do and suffer none of these things). A theory that was forced to regard all such statements as *façons de parler*, in need of being cashed out in terms of statements about patterns of activity would fall short of the standards which need to be met by Searle's realist ontology of the social world. (This is not least because, if a social ontologist tells you that there are really no such things as debts, prices, taxes, loans, governments or corporations, then the argument of simple *reductio* comes once more into play.)

Patterns of activities are, rather, indispensable accompaniments to all Y terms, whether or not the latter coincide with parts of physical reality which lie beneath them. In doing justice to this fact, as in recognizing the importance of records and representations, Searle brings us closer to the needed complete ontology.

Higher still, and higher

Free-standing Y terms, too, will in each case be associated with a specific repertoire of physical presuppositions. While a corporation is not a physical entity, if a corporation is to exist then many physical things must exist, many physical actions must occur, and many physical patterns of activity must be exemplified. Thus there must be notarized articles of incorporation (a physical document), which have been properly filled out and filed. There must be officers (human beings) and an address (a certain physical place), and many of the associated actions (such as for example the payment of a filing fee)

are themselves such as to involve the results of the imposition of status functions upon physical phenomena at lower levels. Records and representations themselves are entities which belong to that domain of institutional reality that is subject to the X counts as Y formula.

When once this entire panoply of institutional facts is in place, raised up above the level of brute facts of moving and thinking and speaking, then a corporation exists. Yet the corporation is still no part of physical reality.

All of which suggests the following as an explicit statement of a modified Searlean strategy in unfolding the huge invisible ontology underlying social reality. This will consist first of all in the description of the properties of those social entities (lawyers, doctors, cathedrals, traffic signs; speeches, coronations, driving licenses, weddings, football matches) which do indeed coincide with physical objects or events. These provide, as it were, the solid scaffolding which holds together the successive levels of institutional reality as it rises up, through the imposition of ever new complexes of status functions, to reach ever new heights. At the same time, it will explain how these social entities form a web – the web of institutional facts – within which, however, there are to be found as it were in the interstices of the web also additional social entities – what we have here been calling free-standing Y terms – sustained in being by records and representations and by associated patterns of activities. The latter are thereby anchored by their physical presuppositions, but they do not exist in such a way that they themselves would coincide directly with anything in physical reality. These free-standing Y terms can then themselves give rise to new, elevated pillars in this great institutional edifice, in the way in which, for instance, the securities markets have given rise to derivative instruments of successively higher levels of remoteness from the physical reality which lies beneath.

The view in question is then perfectly consistent with Searle's naturalism; then, however, the latter must be interpreted not as a view to the effect that all the parts of institutional reality are parts of physical reality, but rather as the thesis that all the *facts* which belong

to institutional reality should supervene (in some sense) on facts which belong to physical reality – so that nothing should be true in institutional reality except in virtue of some underlying features of physical reality, including the physical reality of human brains. Naturalism can be saved, because the status functions and deontic powers by which our social world is pervaded do after all depend in every case on quite specific attitudes of the participants in given institutions, and indeed in such a way that on any examination of such phenomena we will be brought back to the *counts as* phenomenon.

The primacy of reality

The question Searle is trying to answer in his ontology of society is: ‘How can there be objective facts which are only facts because we think they are facts? How can there be facts where, so to speak, thinking that it is so makes it so?’ Searle has shown that it is essential for such facts to exist that people have certain attitudes, and he has shown also that those attitudes are in large part constitutive of the given facts. It could not turn out that, unbeknownst to the members of a social club, the club itself did not in fact exist.

In his most recent book, however, entitled *Rationality in Action*,³¹ Searle puts a new gloss on this doctrine, which suggests the need for at least a terminological revision of his theory. In the case of institutional facts, Searle points out,

the normal relationship between intentionality and ontology is reversed. In the normal case, what is the case is logically prior to what seems to be the case. So, we understand that the object seems to be heavy, because we understand what it is for an object to be heavy. But in the case of institutional reality, the ontology derives from the intentionality. In order for something to be money, people have to think that it is money. But if enough of them think it is money and have other appropriate attitudes, and act appropriately, then it is money. *If we all think that a certain sort of thing is money*

³¹ *Rationality in Action* (Cambridge, MA and London: The MIT Press, 2001).

and we cooperate in using it, regarding it, treating it as money, then it is money. (Rationality in Action, pp. 206 f., italics added)

For Searle, therefore, institutional reality is marked by the fact that what *seems* to be the case determines what *is* the case. That this thesis cannot be accepted in general is shown by considering examples of institutional facts which pertain to the past. As Searle himself puts it in another context:

[T]he New York Yankees won the 1998 World Series. In order for their movements to count as winning it, those movements had to take place in a certain context. But once they have won it, then they are the victors of the 1998 World Series for all time and for all contexts. (“Reply to Smith”)

If tomorrow, and for all time thereafter, we all think that the Buffalo Bills won the 1998 World Series, will this mean that this was in fact the case? Surely not, for once institutional facts have been laid down historically as the facts that they are, then they become like other facts – like the facts one can look up in an encyclopedia – and this means that they enjoy the same sort of priority over mere beliefs as is enjoyed by the facts of natural science.

What the present example tells us is that, for some institutional facts at least, there can occur a transformation, so that what had begun as an institutional fact in Searle’s technical sense – and is thus, by definition, as a product of our imposition of status functions – is transformed into a fact of another category, which is not itself an institutional fact even in spite of the fact that it pertains to the realm of institutional reality. Already every fact of the form ‘F is an institutional fact’ may qualify for membership in this latter category.

This being recognized, then it becomes clear that there are many other sorts of facts which similarly pertain to the institutional realm but which are yet not subject to Searle’s seems-is-prior-to-is dispensation. Inspection reveals that such facts may obtain even simultaneously with the associated impositions of function, for example where there is a conflict of the contexts within which institutional facts arise or some other defect in the process of status

function imposition.³²

Consider an area of territory X in, say, Kashmir, an area which India claims as part of India and Pakistan claims as part of Pakistan. X *counts as* Indian territory in India-friendly contexts, and as Pakistani territory in Pakistan-friendly contexts. What is the correct account of the ontology of this piece of territory and of the institutional facts in which it participates? An expert might examine all the underlying legal, geographic, historical and psychological facts of the matter, adopting a neutral, scientific perspective, and conclude that neither side has a legitimate claim to the territory in question. This expert view may well (as we can suppose for the sake of argument) be correct, yet it is a view that is embraced by none of the participants involved on the ground in Kashmir. The facts of the matter on the level of institutions are in the given case accordingly entirely analogous to brute facts: only the external context-free description can do them justice. But these, then, are facts about institutions for which *is* is prior to *seems*. It now goes without saying that there are many, many institutional facts of this sort in the realm of economic activity. There, too, thinking does not (or does not forever) make it so.

Conclusion: Freedom and the self

Rationality in Action is in other respects however a worthy continuation of the bold project of a grand theory initiated in Searle's earlier writings. In particular, it extends his theory of institutional reality by drawing attention to the way in which the machinery of constitutive rules enables human beings to create what he calls 'desire-independent reasons for action'. We have already seen that it is possible to use the power of collective acceptance to impose a function on an entity where the entity cannot perform that function in virtue of its physical properties. This is what happens when we make a promise: we bind ourselves to performing certain actions in the future by using the power of collective acceptance to impose the

³² See Barry Smith, "The Chinese Rune Argument", *Philosophical Explorations*, 4: 2 (2001), pp. 70–77 (with response by Searle).

corresponding function on our utterance and thus the status function of obligation upon ourselves.

In this way we make commitments which constitute reasons for acting in the future which are independent of our future and perhaps even of our present desires. All uses of language, according to Searle, involve the making of commitments of the mentioned kind, commitments which create desire-independent reasons for action. Constraints of rationality such as consistency and coherence are in this way *already built into language*. For if you make an assertion, then you are thereby committed to its being true and to your being able to provide the corresponding evidence.

Rationality in Action contains at the same time a further radical departure from Searle's earlier views. For like so many analytic philosophers Searle had earlier fallen victim to Hume's scepticism as concerns the notion of the self, taking Hume's 'when I turn my attention inward, I find particular thoughts and feelings but nothing in addition by way of the self' to overwhelm our common-sense recognition that selves exist. But it is only for a self, as Searle now shows, that something can be a reason for an action, and only the self can serve as the locus of responsibility. For rational action to be possible at all

[o]ne and the same entity must be capable of operating with cognitive reasons as well as deciding and acting on the basis of those reasons. In order that we can assign responsibility, there must be an entity capable of assuming, exercising and accepting responsibility. (*Op. cit.*, p. 89)

The self, too, it follows from this, is the locus of freedom, and indeed as Searle conceives matters the self's exercise of rationality and its acting under the presupposition of freedom are co-extensive.³³

This move away from Hume is still marked by a certain hesitation, however, so that there is a peculiar two-sidedness to Searle's treatment of self and freedom in this new work. For on the one hand he writes of them in terms reminiscent of his treatment, in

³³ This thesis is criticized in Leo Zaibert, "On Gaps and Rationality" (with response by Searle), *Philosophical Explorations*, 4: 2 (2001), pp. 78–86.

his earlier writings, of obligations and other deontic powers, as if they were abstract entities, the reflections of the logic of our language. This is manifested in phrases like: ‘It is a formal requirement on rational action that there must be a self who acts’ (*op. cit.*, p. 93), or indeed in Searle’s many references to our acting ‘under the presupposition of freedom’. On the other hand he is happy to affirm that the self is conscious, that it is an entity that is capable of deciding, initiating and carrying out actions (*op. cit.*, p. 95), and he is happy also that ‘we have the *experience of freedom* ... whenever we make decisions and perform actions’ (*loc. cit.*, italics added).

The tension here is at least analogous to that noted earlier between Searle’s realism – which means here the acknowledgement of the fact that the self and freedom do indeed exist – and his naturalism, which implies a conception of the phenomena in question as supervening on some determinate parts or moments of physical reality. But now our earlier resolution of this tension might help us here also. For it suggests a conception of the self – and of mental reality in general – as being, like governments and economies, such as to fall somewhere between those concrete Y terms which are fully coincident with some determinate parts and moments of an underlying physical reality, and those abstract Y terms which, at the opposite extreme, coincide with no determinate parts and moments of physical reality at all.³⁴

This does not, to be sure, tell us what the self, and freedom, are. Nor does it tell us how their existence can be compatible with the universal applicability of the laws of physics. It does, however, relieve us of the obligation to find some determinate part of physical reality (the brain? the body? some part of the central nervous system?) to which the self would correspond, and thus opens up a broader range of alternative conceptions of the relationship between

³⁴ Suppose you believe that *p* and you believe that *q*, and that both of these beliefs are realized in corresponding physical states of your brain. The doctrine of free-standing Y terms then gives us the possibility of accounting for the fact that you believe also, in the given circumstances, that *p and q*, that *p or q*, and so forth, even where no beliefs of just these forms are similarly physically realized in your brain.

the self and that which underlies it physically.

In *Rationality in Action* and in his earlier works Searle has set himself the task of describing in naturalistic fashion the way human beings and the societies they form actually work. Searle has come closer to fulfilling this task than any other philosopher. Indeed it can be said that his work represents a new way of doing philosophy. He has shown how we can move towards a philosophical understanding of culture, society, law, the state, of freedom and responsibility, of reason and decision, in a framework which takes naturalism seriously and yet is realistic about the social and cultural and institutional levels of reality by which our lives are so pervasively shaped. His contributions will surely have important implications for the development of moral, legal and political philosophy in the future.³⁵

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³⁵With thanks to Michael Gorman, Nicholas Fotion, Ingvar Johansson, Anthonie Meijers and Leo Zaibert for helpful comments.

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