

# Adolf Reinach: An Intellectual Biography<sup>1</sup>

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## §1 PROLOGUE

As early as 1741 a Jekel Reinach is mentioned in the Memory Book of the Jewish community in Mainz, and by the end of the century the Reinachs were already one of the most notable and well-to-do Jewish families in the city.<sup>2</sup> The Record of Names of 1808 lists Salomon (formerly Seligmann) Reinach, Jacques (Mayer Herz) Reinach, Marx (Mayer Herz) Reinach, and Bernard Jacques (Beer Jacob) Reinach.<sup>3</sup> The descendants of Jacques Reinach spread from Mainz to Frankfurt and from there to Paris. His grandson Adolf von Reinach (1814-1879), Belgian consul in Frankfurt, was created an Italian Baron in 1866, and founded

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<sup>1</sup> The few existing published biographies of Reinach are, if not unreliable (Oesterreicher 1952), then at best very succinct (Avé-Lallemant 1975, 172-74, Crosby 1983, XI-X). In compiling the present essay we have used in particular Reinach's letters to Husserl (Husserl Archives) and to Conrad and Daubert (Bavarian State Library, Munich). We draw further on Avé-Lallemant's Catalogue of the Münchener *Phänomenologennachlässe*, on Schuhmann's *Husserl-Chronik* (The Hague: Nijhoff, 1977), and on the pertinent *Vorlesungsverzeichnisse* of the University of Göttingen. We have also profited from the "Historical Introduction" to Brettler 1974, 1-15. References not given in full here are to be found in the Reinach bibliography on pp. 299-332 below.

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<sup>2</sup> See P. Arnsberg, *Die jüdischen Gemeinden in Hessen. Anfang, Untergang, Neubeginn*, Frankfurt: Societäts-Verlag, 1971/72, vol. 2, 12, 25.

<sup>3</sup> Arnsberg, vol. 2, 36.

the French Banking family of de Reinach—not to be confused with the Alsatian barons de Reinach—which played a major role in republican circles around the French politician Gambetta. In 1850 Adolf's twin brother Hermann Joseph Reinach, then already established in Paris, married Julie Büding from Kassel. Among the three sons of this marriage Salomon (1858-1932), a prominent archaeologist and historian of religion, became a professor at the Ecole de Louvre. He also translated Schopenhauer and established a critical edition of Augustine's *De Civitate Dei*. His brother Théodore (1860-1923), a professor of numismatics at the Collège de France, was a distinguished antiquarian and classical scholar, and editor of the works of the Jewish historian Flavius Josephus. The oldest of the three brothers was Joseph (1856-1921), a politician who was for some time a collaborator of Gambetta and played a major role in the so-called Dreyfus affair. He also wrote a book on Diderot. His son Adolphe Reinach (1887-1914) did archaeological field work in Greece and Egypt. He was killed as a soldier in the French army during the first months of the First World War.

## §2 1883—1904: FROM MAINZ TO MUNICH

Adolf Bernhard Philipp Reinach was born in Mainz on December 23, 1883. Adolf's father, Wilhelm Markus Reinach (1849-1931) owned a factory in Mainz producing sanitary and lighting equipment. His mother, Pauline Eugenie (1851-1932), was the daughter of the merchant Heinrich Hirschorn and Fanny, née Büding, of Mannheim. Wilhelm's father, the *Geheimer Kommerzienrat* Hermann Reinach (1825-1906), was for many years *städtischer Beigeordneter* and honorary citizen of the city of Mainz.

Adolf was the oldest of three children. His brother Heinrich, born on 4 June 1888, studied mainly law and philosophy, at first in Munich and Göttingen, and then later in the University of Giessen, where he earned his Doctorate in Law in 1910. His dissertation—*Die Rechtsfähigkeit der Leibesfrucht*—was a study of the question whether the unborn child has, or could have, legal rights and duties in civil law. Heinrich subsequently entered legal practice and during the 1920s he published reports on tax and business law. He was imprisoned after the *Kristallnacht* of 9 November 1938, but was able to emigrate in 1939 to Brazil. Adolf's sister Pauline entered the Benedictine convent at Wépion (Namur) in Belgium in 1924. In 1936 the convent moved to Ermeton-sur-Biert, where Pauline (Sister Augustina) died in 1977, having reached her 95<sup>th</sup> year.

In the Ostergymnasium in Mainz, Reinach acquired a deep interest in Plato:

Th reading of Plato was, for the average grammar school student, nothing more than a translation exercise. Reinach however found himself so gripped by the content, that for as long as he lived the love of Plato and for philosophical analysis was never to leave him. Thus it was for him a matter of course, when his time at school was over, to turn to the study of philosophy.<sup>4</sup>

He entered the University of Munich in the autumn of 1901, when he was still only 17 years of age. For three semesters he attended courses in a range of subjects, including political economy, art history and law. His main interest, however, was in psychology and philosophy, which he studied under Theodor Lipps. Reinach quickly became a member of the Munich “Akademische Verein für Psychologie”, the discussion club of Lipps’ students which was to play so important a role in the formation of early phenomenological movement.<sup>5</sup> It was almost certainly at the meetings of the *Verein* that he came into contact with Theodor Conrad,<sup>6</sup> Moritz Geiger,<sup>7</sup> Otto Selz,<sup>8</sup> Aloys Fischer,<sup>9</sup> Rudolf Hirsch,<sup>10</sup> Alfred

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<sup>4</sup> Anna Reinach, sketch of a “Lebenslauf”, in the Bavarian State Library, Ana 379 D II 1.

<sup>5</sup> On the Munich circle see H. Spiegelberg, *The Phenomenological Movement*, 169f. (Our references to this work are always to the 3<sup>rd</sup> edition.)

<sup>6</sup> Author of *Zur Wesenslehre des psychischen Lebens und Erlebens*, The Hague, Nijhoff, 1968.

<sup>7</sup> Geiger published works in a range of subjects, from aesthetics and theoretical psychology to the axiomatics of Euclidean geometry.

<sup>8</sup> Selz was an important member of the Würzburg school of psychologists around Oswald Külpe and Karl Bühler. His magnum opus, *Über die Gesetze des geordneten Denkverlaufs* (2 vols., Stuttgart: Spemann, 1913, Bonn: Cohen, 1922), contains anticipations of ideas of problem-solving which have since played a role in computer-oriented work in cognitive theory.

<sup>9</sup> See Aloys Fischer, *Leben und Werk*, vol. I, ed., by Karl Kreitmair, Munich: Bayerischer Schulbuchverlag, 1950.

<sup>10</sup> Author of a review of W. Jerusalem’s *Der kritische Idealismus und die reine Logik*, in *Zeitschrift für Philosophie und philosophische Kritik*, 134, 1909, 266-74. This review contains a defense of Husserl’s *Logical Investigations* against Jerusalem’s attaches which is entirely characteristic of the Munich phenomenologists. Husserl’s suggestion that Hirsch served in 1905/06 as private secretary to Brentano (see his letter to Brentano of 3 January 1905, published in *Grazer Philosophische Studien*, 6, 1978, p. 7) is erroneous (Hirsch was at that time in Munich), but seems to be correct for 1906/07. He studied in Munich, with some interruptions, from 1899 to 1912. In later years he lived in his home town of Pilsen (no Pizeň, Czechoslovakia).

Schwenninger,<sup>11</sup> and Eduard Schmidt,<sup>12</sup> who were at that time among the most outstanding of Lipps' students.

It was however Johannes Daubert who was intellectually the most important figure among the Munich phenomenologists, and it was Daubert who was to be of most significance for Reinach's later philosophical development. Already in this period Daubert was working on just those topics—positive and negative judgements, impersonalia, dispositions, *Sachverhalt* and *Gegenstand*—which were later to play a central role in Reinach's work.

A letter to Conrad of January 31, 1903 testifies to the range of Reinach's interests at this time:

I'm reading Wundt's *Grundriß der Psychologie* ... attending Lipps's lectures on Psychology and Aesthetics, and have to write up a paper for his seminar ... But I occupy myself more assiduously with Richard Wagner ... I have plunged with such sympathy into his works and am trying to get clear about his aesthetic principles.

In the same letter, Reinach has this to say about his plans for the future:

I will not become a psychologist, an aesthete, a critic or the like. The fact that I still lack the capacity for the intensive work that is required of a psychologist probably does not mean much, as I am still very young. But I am only too well aware that I lack also true sympathy and enthusiasm for the subject-matter, and that is of greater significance.<sup>13</sup>

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<sup>11</sup> The psychiatrist Schwenninger studied in Munich from 1901 to 1907. He wrote a dissertation entitled *Der Sympathiebegriff bei David Hume*, in which he expounds Hume's treatment of the concept of sympathy as presented in both the *Treatise* and the *Enquiry*. Hume is criticised in particular for his psychologism and for the failure to distinguish between perception and perceived object. Schwenninger later moved over to the medical field, where he was in close touch with Ludwig Binswanger.

<sup>12</sup> After studying philosophy and psychology under Lipps from 1899-1901, Schmidt became an archaeologist. He took his dissertation under Furtwängler with a work entitled *Lauf und Flug in der archaisch-griechischen Kunst* (1908).

<sup>13</sup> 'On the other hand', Reinach goes on,  
life out there attracts me powerfully. I feel moved to rush into it and to act against all those vile scoundrels who are active there. But for politics one needs political economy and that is why I have chosen this as a subsidiary subject, for the time being at least. For when all is said and done,

In the winter term of 1901/02 and in the subsequent summer term Hermann Kantorowicz, the philosopher of law who was later to found the *Freirechtsschule* (Free Law Movement), had stayed in Munich, taking some courses on political economy, a field taught at the University there by Lujo Brentano, brother of the philosopher Franz Brentano. In Lujo Brentano's seminar Reinach and Kantorowicz seem to have come into contact with each other. When Kantorowicz, in the winter of 1902/03, moved to Berlin where he continued his work on the history of law, he probably set Reinach an example which motivated him to follow Kantorowicz. At any rate Reinach spent the summer term of 1903 in Berlin, too, where his energies do not, however, seem to have been directed towards either philosophy or psychology. He apparently studied there mainly jurisprudence, and Kantorowicz reported that he was impressed by Reinach's 'considerable talent and aspirations.'<sup>14</sup>

In the winter term on 1903/4 he returned to Munich, where he stayed for three further semesters, working in particular on Husserl, though his attention was caught also by Stefan Witasek's criticism of Lipps' *Leitfaden der Psychologie*<sup>15</sup> During this period he figured as an experimental subject in a series of experiments on the psychological problem of intensive magnitudes and on phenomenal thresholds which were carried out by Moritz Geiger.<sup>16</sup> Together with Geiger and Conrad, Reinach attended the first congress of the newly-founded

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I want to earn my doctorate in psychology in the first place, on the one hand because philosophy is a good thing for me as a person, and then also because I don't exactly know whether I would not at a later date like to switch over to it.

<sup>14</sup> Letter of Kantorowicz to Gustav Radbruch, quoted in Karlheinz Muscheler, *Relativismus und Freiheit. Ein Versuch über Hermann Kantorowicz*, Heidelberg: C.F. Müller Juristischer Verlag, 1984, 61, n.234. Reinach refers in passing to the *Freirechtsschule* in his article on William James: see p. 293 in this volume. Kantorowicz later moved to Oxford, from where he exerted some influence on Anglo-Saxon legal philosophy. On his activities in Munich see Karlheinz Muscheler, *Hermann Ulrich Kantorowicz, Eine Biographie*, Berlin: Duncker & Humblot, 1984, 17-23.

<sup>15</sup> Letter to Conrad of April 1904, Witasek's review is in the *Beilage zur Allgemeinen Zeitung*, 1904, Nr. 80, 33-35.

<sup>16</sup> See Geiger, "Methodologische und experimentelle Beiträge zur Quantitätslehre", in T. Lipps, ed., *Psychologische Untersuchungen*, 2, 1906, 325-522. In contrast to Meinong, who utilised an opposition between 'divisible' and 'indivisible' magnitudes, Geiger formulated an opposition between difference magnitudes and intensive magnitudes. This enabled him to take account e.g. of the fact that distances between objects are non-intensive yet also non-divisible.

“Gesellschaft für experimentelle Psychologie”, which was held in Giessen from 18 to 21 April 1904, immediately before the start of the summer term.<sup>17</sup>

Most of his time seems, however, to have been devoted to work for his doctoral examinations in history and penal law and to the preparation of his thesis. This may have been the reason why he described the summer term of 1904 as a ‘nervous and unphilosophical semester’.<sup>18</sup> One problem which caught his attention he characterised as follows:

The question: how does the child know that grown-up people ‘mean’ something by their words, is answered by Lipps thus: it sees how they point to something and simultaneously hears a complex of sounds. To me this seems merely to be a way of getting round the problem. For words and pointing, no matter whether the latter consists in moving the arms, in a play of features, etc., are special cases of expression in general. And the problem was: how does the child come to understand an expression, and more specifically the expression of words? To this one surely cannot give an answer which involves appeal to another form of expression, to ‘pointing’. For then of course the question still remains: How does the child know that by moving the arms etc. something is meant?<sup>19</sup>

This problem has of course a distinctly Wittgensteinian ring, like so much of Reinach’s philosophy. It is not solved by Reinach in his letter, but its appearance at this early stage gives a hint of the acuteness of his philosophical mind. The problem arose in connection with Reinach’s work on what might nowadays be called legal hermeneutics: how are we to determine the intentions of the law-giver, given that these intentions are available to us only in written or printed words?

On December 20, 1904, three days before his 21<sup>st</sup> birthday and less than 4 years after entering university, Reinach earned his doctorate in philosophy under Lipps with a work on the concept of cause in the penal law (Reinach 1905), the first section of which is devoted to the general problem of legal interpretation. The work did not go unnoticed. It was

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<sup>17</sup> The participants in the congress included G.D. Müller, Benussi, Külpe, Marbe, Messer, Natorp, Twardowski and Wertheimer.

<sup>18</sup> Letter to Conrad of 16 June 1905.

<sup>19</sup> Letter to Conrad of 14 April 1904.

reviewed by Gustav Radbruch, who attacked it for its method of interpreting the concept of the law exclusively by recourse to the intentions of the law-giver. He did insert one work of praise for the work, describing it as a ‘*Talentprobe*’. But Radbruch’s negative review of Reinach’s work caused their common friend Counteracts to write a strongly worded letter to Radbruch:

Now I must really read you the riot act! How could you go down on poor Reinach in that way? ... Someone like him deserves to be encouraged, not intimidated. And what’s most important is that he is someone who belongs with us with his every inclination.<sup>20</sup>

During the subsequent vacations, which he spent at home in Mainz, Reinach re-read the second volume of Husserl’s *Logical Investigations* and ‘was very delighted by it’. In a letter to Conrad of 16 January 1905 he recommended in particular the 3rd Investigation on part and whole. In February he was back in Munich with his friends, who now included also Alexander Pfänder,<sup>21</sup> Hermann Erhard<sup>22</sup> and Paul Raff,<sup>23</sup> all students of Lipps. He still planned to continue his studies in Munich, and above all to complete the work for a degree in law, but in the vacation after the winter semester he gradually changed his mind and decided to go to Göttingen. He conveyed his reasons in a letter to Conrad: ‘The next semester is the last one I can spend outside Munich. I can profit much from Göttingen in matters of law, and finally I have great hopes in Husserl’.<sup>24</sup> So Reinach actually took part in

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<sup>20</sup> Muscheler, *Relativismus und Freiheit*, 61, n. 234. But Radbruch stuck to his view and, on September 11, 1905, answered Kantorowicz’ letter: “In Sachen Reinach kann ich Ihnen freilich nicht recht geben, der Mann hat mir einen außerordentlich sympathischen Brief geschrieben und ich habe deshalb die Rezension nicht gern so absprechend gemacht.”

<sup>21</sup> See H. Spiegelberg and E. Avé-Lallemant, eds., *Pfänder-Studien*, The Hague: Nijhoff, 1982.

<sup>22</sup> Erhard was the author of a dissertation under Lipps on *Die Psychologie als angebliche Grundlage von Geschichte und Sozialökonomie*, 1907.

<sup>23</sup> Raff was responsible for a very peculiar dissertation, *Zur Ästhetik der Zahl* (Munich, 1907), which deals with such problems as the characteristic aesthetic qualities of prime numbers and fractions, or the comparative ugliness of the number 8 and 10. A footnote in the introduction to the work reveals Raff’s Munich background. He there defines a *Sachverhalt* as follows: ‘*Sachverhalt* (Meinong’s “*Objektiv*”) ... a technical expression (taken over from Husserl’s logic) for the objectual relation correlated with a positive judgement’ (4).

<sup>24</sup> Undated letter of Spring 1905.

the famous ‘Munich invasion of Göttingen’<sup>25</sup> headed by Daubert and including also Schwenninger and Fritz Weinmann.<sup>26</sup>

Once in Göttingen Reinach’s plans underwent another shift. As he explained to Conrad,

I am very satisfied with my stay in Göttingen ... My scientific expectations have been more than fulfilled. However, I am badly neglecting my law studies. But that is in the end not too great a disaster. I can’t say that my philosophical convictions have undergone any sort of fundamental change. Like the rest of us I had already been pointed in a new direction by Husserl, Natorp, Kant, Plato a long time before I came to Göttingen; everything I have lived through since we have been separated could not but push me further in this direction. The most salutary thing which Husserl can offer is his careful and thorough mode of working, something Daubert has in common with him ... For the rest I have worked steadily, but intensely; I have read Husserl, Natorp and Cohen, and lead a very peaceful and contented life.<sup>27</sup>

Reinach found Husserl’s lectures on the theory of judgment and his two seminars on philosophy of history and philosophy of mathematics to be very profitable.<sup>28</sup> He was also in close personal contact with Husserl,<sup>29</sup> whom he presented with a copy of his dissertation on July 4, 1905. He would have liked to continue his studies in Göttingen, but he nevertheless decided to return to Munich. This was not only because he badly missed his friends Conrad and Geiger, both of whom had stayed behind in Munich; he also had to bow to the need to further his law studies, ‘if only for this reason, that I shall then be able to lecture to students

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<sup>25</sup> *The Phenomenological Movement*, 167.

<sup>26</sup> Weinmann was the author of a dissertation entitled *Zur Struktur der Melodie* (Leipzig: the spirit of Lipps). Weinmann died in October 1905.

<sup>27</sup> Letter of 16 June 1905.

<sup>28</sup> Daubert’s *Nachlaß* in the Bavarian State Library contains the only surviving record of these latter seminars: regarding the “Philosophische Übungen zur Einführung in die Hauptprobleme der Mathematik: see Daubertiana A I 5/71-79. Daubert’s notes to the “Geschichtsphilosophische Übungen” are in his A I 12 (not yet transcribed). Together with the other Münchener, Reinach also attended Robert Vischer’s seminars on the history of art.

<sup>29</sup> Husserl ‘ist sehr nett mit uns Münchnern, wir kommen sehr oft zu ihm’ (Letter to Conrad of 22 May 1905).

of law and tell them that there is no poorer thing on earth than a jurist who is only a jurist.<sup>30</sup> First, however, he undertook with Geiger a two week-long walking tour through the Black Forest.<sup>31</sup>

Back in Munich, Reinach continued his studies there for two more semesters, and as he wrote to Husserl, ‘during the year which has now elapsed since my stay in Göttingen I have had to occupy myself very intensely and almost exclusively with law.’<sup>32</sup> He did however find time in the spring vacation of 1906 to read *Der Gegenstand der Erkenntnis* by the neo-Kantian Heinrich Rickert: ‘Not a pleasant experience! Read one day what he has to say about the theory of judgment. You won’t know what’s hit you.’<sup>33</sup>

Only in the second half of the summer term of 1906 was he able to play a more active role among the philosophers in Munich. He gave a paper in the *Verein* on “The Basic Concepts of Ethics”<sup>34</sup> and also took part in Pfänder’s seminar on “The Concept of Objective Unity” and in a letter to Husserl of 27 July, 1906 he reported on the

busy philosophical life in Munich. The Pfänder seminars are extremely stimulating and fruitful. It is a true joy how penetratingly and how much without prejudice the problems are tackled here. The discussions in the *Verein*, too, are mostly clear and stimulating.

By the end of the semester Reinach understandably felt exhausted. In August 1906 he undertook a tour through the Engadin with his sister and brother. It was on this tour that he happened to meet the neo-Kantian Hermann Cohen who was vacationing at Silvaplana, establishing that the latter possessed only a dim awareness of Husserl’s work.

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<sup>30</sup> Letter to Conrad of 16 June 1905.

<sup>31</sup> This is almost certainly the reason why Reinach did not participate in the memorable Seefeld discussions with Husserl and Pfänder in August 1905, which were attended by all the other members of the Munich group who had spent the semester in Göttingen. See Schuhmann, *Husserl über Pfänder*, The Hague: Nijhoff, 1973, 128-31.

<sup>32</sup> Letter of 27 July 1906.

<sup>33</sup> Letter to Conrad, 10 May 1906. There is also evidence that Reinach attended Pfänder’s Logic lectures of the winter semester 1905/06 (Pfänderiana B I 3, in the Bavairian State Library). See GS 102, n.2.

<sup>34</sup> See pp. 283-285 in this volume for a reconstruction of the text of this lecture, which was delivered on the 6<sup>th</sup> July.

#### §4 1907: BELING IN TÜBINGEN

Reinach spent the winter of 1906/07 in Tübingen, mainly in order to complete his studies in law. On the 16<sup>th</sup> October, while making preparations for the move, he wrote to Conrad:

Do you know what a *Sachverhalt* is yet? The *Zivilprozeßordnung des Deutschen Reiches* [Imperial German Code of Civil Procedure] speaks always of *Sachverhältnisse*. If you wish I can write out the paragraphs for you. I know them all off by heart.

He attended courses on commercial law by Philip Heck, formerly a student of mathematics (and sometime fellow-student of Husserl in Leipzig). He also attended lectures on psychology by Heinrich Maier and a miserable seminar on Spinoza by yet another neo-Kantian, Erich Adickes. In a letter of Nov. 26, Reinach wrote to Conrad paraphrasing Adickes' criticism of Spinoza's thesis that 'a true idea must agree with its object' (*Ethics*, I Axiom 6):

This thesis cannot be correct, because we know nothing at all about how things really are—Kant, too, pointed this out—and the whole world is only in our consciousness,—and outside of consciousness there *is* nothing,—and in any case colors are not really colors at all but only aether-waves ...

'God forgive them,' Reinach write, 'they know not what they do.'

Of much greater significance for his own later development, however, were the lectures and seminars he attended on the penal law by the great German legal theorist Ernst Beling. As he wrote to Conrad in the same letter:

Some of the jurists here seem to be *very* clever. The penologist Beling has written a quite outstanding book; I guarantee you that there is more thinking in that book than M[ai]er and A[dickes] have managed to patch together in all their lives ... I would never have believed that jurists could contrast so favourably with philosophers.

The book in question is Beling's *Die Lehre vom Verbrechen* [Theory of Crime] of 1906,<sup>35</sup> an investigation in what would today be called the theory of action. Beling is concerned with producing an ontology of criminal actions. His work is an investigation of the ways in which, by manifesting groups of characteristics of specific sorts, such actions may fall, in different ways, within the scope of the law. Over more than 500 pages he discusses the various levels and types of analysis appropriate to:

1. the crime considered as an *action*
2. the crime considered as a *typical case of a particular sort of action*
3. the crime considered as an *illegal action*
4. the crime considered as an *action to which guilt is attached*
5. the crime considered as an *action liable to punishment*, and so on.<sup>36</sup>

He considers the relations of criminal actions of different types to each other, to the agent or agents involved, and to the processes of law and punishment to which they give rise. And he discusses the various sorts of *modifications* of these relations—the standard and non-standard ways in which a given action can be an instance of its type, the standard and non-standard ways in which subjects can be involved in crimes (as accomplices, as accessories, as victims, etc.), the standard and non-standard ways in which a criminal action can be the object of a legal process, and so on.<sup>37</sup> The importance for the penal law of the notion of typicality is clear: the punishment for a crime is a function of the *type* of behavior that is involved. Beling's work can indeed be seen as an attempt to provide an account of the various ways in which rightful or wrongful behavior can come to be demarcated into delict-types of different sorts.

The whole constituted by the different elements of a given piece of criminal behavior constitutes a unity, Belling argues, in virtue of some '*unifying schema*'. In the case of battery, for example, a chain of actions is organised around the schema: *injuring, or wrongfully bringing oneself into contact with, another individual*. If battery is to occur, then

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<sup>35</sup> Published at Tübingen by Mohr (Siebeck).

<sup>36</sup> To see the distinction between 2. and 3., consider, for example, the actions of a soldier in a state of war.

<sup>37</sup> The notes which follow are derived from the summary of Beling's position presented in his *Die Lehre vom Tatbestand*, Tübingen: Mohr (Siebeck), 1930.

1. this schema must, as a matter of necessity, be realised in certain actions of the offender and in certain consequences on the side of the victim, and
2. these actions and results must each be accompanied by a certain mental state on the part of the individuals involved. It is the unifying schema, according to Beling, which brings these two factors together, making of the delict-type an independent, integrated whole.<sup>38</sup> Where the schema is absent, or is only partially realised, then the delict-type fails to be realised also, or is realised only in one or other modified form.

Every delict-type rests upon a unifying schema which is

1. Realised in some objective event,

and

2. Reflected in some mental act or state on the part of the criminal.

It is, therefore, possible to distinguish abstractly within the schema as a whole both *external* elements of action and result, and *internal* elements of decision, deliberation, premeditation, etc. These external and internal moments may conform or fail to conform to each other in a variety of ways, thereby yielding behavior which falls within delict-types of the various kinds.

Only in the presence of an appropriate schema can the legal process even begin to establish that a given individual is liable to punishment of a given sort. The penal law is thereby in effect a catalogue of delict-types with their associated schemata and associated scales of punishment. The legal sphere as a whole is in fact constituted by a net of interdependent typical formations, and all other, extra-legal concepts (*railway, dog, poison, etc.*) play a role in this sphere only insofar as they enter into relations with such specifically legal formations.

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<sup>38</sup> More precisely: Beling distinguishes between primary and secondary delict-types (the distinction between, for example, *murder* and *attempted murder*, or between *theft* and *sheltering a thief*). Where instances of primary delict-types are independent, capable of existing in their own right, instances of secondary delict-types are *dependent* formations, in need of supplementation by instances of corresponding primary delict-types with which they are associated. It is from the latter that they gain their unity and it is upon the latter that they depend for their existence. A similar sort of dependence applies also in relation to the concepts *agent, accomplice, victim*, etc. See K. Engisch, *Die Idee der Konkretisierung in Recht und Rechtswissenschaft unserer Zeit*, Heidelberg: Winter, 1953.

The relevance of Beling's investigation to Reinach's own legal theory will be evident already from the very style and terminology of Reinach's monograph on "The *A Priori* Foundations of the Civil Law" of 1913. Reinach indeed mentions explicitly in the introduction to this work that:

Whilst we have limited ourselves here to the setting forth of some of the *a priori* foundations of the civil law, we are convinced that the other legal disciplines—especially the penal law and constitutional and administrative law—are capable of and require such a foundation also.<sup>39</sup>

Four substantial points of similarity deserve to be mentioned here:

i. Beling's 'schema' (*Tatbestand* or *typus regens*) corresponds in a number of ways to Reinach's legal formation or *Rechtsgebilde*, though it lacks some of the *a priori* connotations of the latter.<sup>40</sup>

ii. Both Beling and Reinach share the same doctrine of contextualism in legal theory (an element has legal significance only within the context of a *Tatbestand* or *Sachverhalt*).

iii. Both share the recognition of the two-sided nature of legal formations as entities which manifest both internal and external dimensions.

iv. Both share the recognition of the importance for legal theory of the dichotomy between standard or typical and derived or modified instances of legal types.

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<sup>39</sup> *Gesammelte Schriften* (= GS), 172n.; trans., 48.

<sup>40</sup> The question which schemata play a role within the framework of the law is for Beling a normative question. He talks of the schema being constitutive or regulative for the delict-type. (He also speaks of the schema as being logically or conceptually prior, as being that which makes the delict-type understandable—and he sees here an analogy with the relation between a piece of music and its performance.) He conceives the formation of given historically existing arrays of legal schemata as being also to some extent a matter of external social factors. Beling is, however, perfectly clear that the question as to which delict types exist in a given society and which specific scales of punishment are associated therewith is not an arbitrary matter—is not, e.g. a mere reflection of decisions of a law-giver.

It is interesting that Beling, like Reinach, makes a clear terminological distinction between '*Tatbestand*' and '*Sachverhalt*'. Thus in his *Grundzüge des Strafrechts*, 1930, Beling distinguishes between the *Tatbestand* 'als Bestandteil des gesetzlichen ... Rechtssatzes' and the *Sachverhalt* 'als den konkreten Lebensfall, der juristisch beurteilt werden soll', a usage which was adopted, *inter alia*, by his student Karl Engisch.

We shall see some of the consequences of this influence below. For the moment, however, we must rejoin our narrative where we left off.

## §5 1907-1909: TOWARDS A THEORY OF JUDGEMENT

Reinach spent the Easter holiday of 1907 in Munich, where he met Dietrich von Hildebrand.<sup>41</sup> During this first half of the summer term of 1907 Reinach was still at Tübingen, where from April 18 to June 6 he took the First State Examination in Law. On June 8 he went to Göttingen to join Conrad, who was spending the summer semester studying under Husserl, and it is possible that he was able to attend the last part of Husserl's *Dingvorlesung*. At any rate he participated in Husserl's Saturday afternoon discussions on themes related to the lectures on thing and space.

During the three semesters that followed Reinach was again in Munich and he was soon actively engaged in the activities of the *Verein*, where works by James, Simmel, Łukasiewicz, Lipps, Stumpf and Bergson were being discussed.<sup>42</sup> He also participated in the regular discussions at the home of Daubert, where in the summer of 1908 the concept of sensation was being discussed. At this time he came into close contact with Max Scheler and Wilhelm Schapp.<sup>43</sup>

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<sup>41</sup> See Hildebrand's autobiographical essay, 1975, 78: In Reinach 'I met the philosopher who impressed me most deeply with his unconditional love of truth, his intellectual power, his thoroughness, and his quite unique clarity. The many discussions of philosophical questions I had with him were a great gift to me. In Göttingen he came to be my only teacher.' Hildebrand became known mainly for his work in ethics. In later years he converted to Catholicism and wrote treatises of a speculative metaphysical kind based on Catholic doctrine.

<sup>42</sup> On 6 February 1908 Alexander Rosenblum spoke on Łukasiewicz: Analysis and Constitution of the Concept". On Rosenblum, a close friend of Reinach, see Husserl's *Briefe an Roman Ingarden*, "Erläuterungen", 143, n. 12: 'He was a well-informed phenomenologist, but did not publish anything. All his manuscripts were destroyed in the Jewish revolt against Nazi terror in Warsaw in 1944.'

<sup>43</sup> Schapp, who earned his doctorate under Husserl in 1909, is of interest here in that his career in some respects runs parallel to that of Reinach. He too applied logical and ontological notions—in his case the notion of a *Geschichte* (story, history)—in the sphere of legal theory. *Geschichten*, for Schapp, take the place of schemata for Belling and of *Sachverhalte* for Reinach, and they may in some respects be compared to the language games of the later Wittgenstein. (See Hermann Lübke, "'Sprachspiele' und 'Geschichten'", *Bewußtsein in Geschichten*, Freiburg: Rombach, 1972, 81-114.) In his *Die neue Wissenschaft vom Recht*, (Berlin: Verlag für Staatswissenschaft und Geschichte, 1930/32) Schapp states that among phenomenologists his position lay closest to that of Reinach, from whom 'I have gained more than from all others', though he is careful to note that both he and Reinach had received much of their training from Pfänder and Daubert (182).

At the University Reinach heard Scheler's lectures on the history of Kantian and post-Kantian philosophy, and lectures on theoretical physics by Leo Grätz. He also discussed with Geiger the latter's lectures on the philosophy of mathematics. It is at about this time—in the summer term of 1908—that Reinach's project of writing a work on the theory of judgement was beginning to take shape, though he had time to write down his ideas only in the vacation that followed the end of the summer term. A first draft of more than 200 pages was completed in September 1908, and the final version—"The Nature and Systematic Theory of Judgement",<sup>44</sup> 277 pages long—was ready by October 31, the last day for competing for the Munich Philosophy Faculty prize. Reinach rushed the manuscript to Theodor Lipps in order to have it submitted for the prize, but Lipps' poor state of health made it impossible for him to adjudicate in the matter and the prize was eventually not awarded at all. Reinach accordingly decided to submit the work as a habilitation thesis to the University of Tübingen. It quickly became clear, however, that the Tübingen philosophy faculty would not accept it. Early in January 1909 he therefore went to Göttingen in order to explore the possibility of habilitating there.

Husserl's spontaneous reaction was highly positive and Reinach spent a good deal of January and February in Göttingen paving the way for his habilitation.<sup>45</sup> He probably

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<sup>44</sup> This work was not published at the time, but in 1911 Reinach announced the imminent publication of a revised version under the title "Judgement and *Sachverhalt*" (see his 1911a, 196, n.1). This note is not included in the GS, which does however contain a reference to the work as containing 'investigations into the problem of judgement and the problem of the *a priori*' (6, n.1). At the end of 1908 there must have existed two, if not three copies of the work, but none of them seems to have survived. It is also unclear why the project of publishing the work was never realised.

<sup>45</sup> Among the materials he submitted to the Faculty was a short *Lebenslauf*, from which we reproduce the following extract:

I spent the summer term of 1905 in Göttingen, where I occupied myself principally with logic and theory of cognition under the direction of Professor Husserl. During this time I also continued my legal and historical studies. In the conviction that it is advisable for a philosopher to master some individual science, I dedicated myself entirely to the study of jurisprudence ... I spent the second half of the summer semester of 1907 in Göttingen, in order to take part in the 'intimate seminars' (not announced) of Professor Husserl.

I then studied further in Munich, occupying myself mainly with investigations in logic and the theory of knowledge from out of which the submitted work on *Wesen und Systematik des Urteils* has grown. In addition I attended during this time lectures on mathematics and theoretical physics. (From Reinach's file in the Universitätsarchiv, Göttingen).

knew that Husserl had delivered a highly favourable report to the Faculty on February 20<sup>46</sup> and that the report of Julius Baumann had been positive also. Thus he returned, contented, to Munich, where he frequented Geiger's house and absorbed himself in music. 'Evening by evening,' he wrote to Husserl, 'I listen to the most beautiful concerts'.<sup>47</sup>

Towards the end of March, however, things seemed to take a sudden turn for the worse. The psychologist G. E. Müller, long an embittered opponent of Husserl's phenomenology,<sup>48</sup> submitted a report on Reinach's manuscript which was negative in the extreme<sup>49</sup> As Reinach conjectured in a letter to Conrad of May 3, 1909: Müller 'beat the sack, but he had the donkey in mind'. That is, he had used the affair simply as a welcome occasion to hit out at Husserl. In his attempt to torpedo the habilitation, however, Müller overstated his case so blatantly that the Faculty chose to follow not him but Husserl and Baumann, and by the beginning of May Reinach could once more be sure of the success of his habilitation.

## §6 1909-1912: WITH HUSSERL IN GÖTTINGEN

Thus it was that, from the summer term of 1909 on, Reinach was firmly established in Göttingen.

After Munich, the town of Sassyly Kandinsky, Paul Klee, Thomas Mann and Stefan George, Göttingen was a somewhat austere and provincial place. Reinach referred to it as a 'dirty nest' and he never felt really at home<sup>50</sup> Nor could he expect much sympathy from the bulk of the faculty members who were to be his colleagues. On May 3, 1909 he wrote to Conrad: 'I become more and more afraid that habilitating in Göttingen was the most

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<sup>46</sup> See the Appendix to Schuhmann's essay on Husserl and Reinach in this volume.

<sup>47</sup> Letter of 26 March 1909.

<sup>48</sup> Müller was one of the last representatives in Germany of the empiricist, associationistic approach to psychology. Husserl's phenomenology was, as far as he was concerned, nothing but pure verbiage ('Wortklauberei': see H. Spiegelberg, *Phenomenology in Psychology and Psychiatry*, Evanston: Northwestern University Press, 1972, 34). Compare however n.53 below.

<sup>49</sup> Though it did in fact conclude with the recommendation that Reinach should be admitted to the habilitation.

<sup>50</sup> Postcards to Conrad of 8 March and 5 December 1909.

stupid thing I have done in all my life'. He nonetheless began to develop modest plans for the future.

I hope that in Göttingen I shall obtain what I aspire to: peaceful scientific work, sure of its goal, and a fruitful influence upon a circle of young people—even if, as befits my own scientific orientation, this circle should not be so large. (I'll gladly do without large audiences enticed by lectures free of charge and by an 'unequivocal liberalism'.) Only in this way can I hold on to the inner concentration that is necessary to me.<sup>51</sup>

Reinach moved to Göttingen in mid-May 1909, when the semester had already begun. He organised an informal seminar on 'the main ideas of the new movement initiated by Husserl, with special reference to their historical context'.<sup>52</sup> The topics discussed included the concept of categorial intuition and the problems associated with the perception of states of affairs, and among the twenty participants one may note the names of von Hildebrand, Schapp and the psychologist David Katz.<sup>53</sup>

On June 12, 1909 Reinach gave a public lecture on "Problems and Methods of Ethics", thus completing the formal requirements for admission as a *Privatdozent*. This theme had been chosen by the Faculty from the three titles submitted by Reinach on January 30, the two others being: "Intuition and Cognition" and "Subjectless Sentences". While the former clearly draws on Husserl's *Logical Investigations*, the latter employs the title of a

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<sup>51</sup> Letter to Husserl of 6 May 1909.

<sup>52</sup> In an undated letter to Conrad of May or June 1909, Reinach gives the theme of his seminar as "die Hauptideen der neuen, von Husserl eingeleiteten Bewegung". This is of particular interest, since it seems to be the first place where phenomenology is referred to as a '*Bewegung*', a manner of speech which would have been familiar to Reinach both from the German '*Jugendbewegung*' of the time and also, perhaps, from William James' *Pragmatism* of 1907, Jerusalem's German translation of which had just appeared. In his "Markers on the Road to the Phenomenological Movement" (*Philosophy and Phenomenological Research*, 43, 1983, 299-306) Schuhmann had traced the term to the year 1912, when it was used by Husserl and Conrad-Martius, and the fact that the latter was a devoted student of Reinach lends plausibility to the thesis that it is he who was responsible for so fatefully baptising phenomenology as a 'movement' in 1909.

<sup>53</sup> Katz was later to become famous through his book *Die Erscheinungsweise der Farben und ihre Beeinflussung durch die individuelle Erfahrung* (*Zeitschrift für Psychologie*, Ergänzungsband 7), the 2<sup>nd</sup> edition of which was published in an abridged translation as *The World of Colour* (London: Kegan, Paul, Trench and Trubner, 1935). This work was written under the direction of G.E. Müller but as Katz himself points out (see p. 30 of the German edition), it was influenced also by Husserl's lectures in Göttingen.

long series of articles published in the period 1884-1895 by Brentano's disciple Anton Marty. Reinach's attention was drawn to the problem of impersonal sentences ('It's raining', 'It's cold', 'It hungreth me') by his mentor Daubert.<sup>54</sup> Already in his habilitation thesis Reinach had interpreted impersonalia as one-membered judgements about one-membered states of affairs. Later on he put the point as follows: 'If one demands of states of affairs that they be two-membered, then this is to confuse states of affairs with relations.'<sup>55</sup> In fact states of affairs are divided by Reinach into 'one-membered, in impersonalia, two-membered, in normal categorial judgements, and three- or more-membered, in relational judgements.'<sup>56</sup>

The impact made by Reinach as a teacher is well expressed by Spiegelberg:

Independently of each other, the Göttingen students of phenomenology like Wilhelm Schapp, Dietrich von Hildebrand, Alexandre Koyré and Edith Stein, in their accounts of this period refer to Reinach, not to Husserl, as their real teacher in phenomenology. Hedwig Conrad-Martius even goes so far as to call him the phenomenologist *par excellence*.<sup>57</sup>

Reinach excelled through the brilliance and above all through the *clarity* of his lectures and seminars—a clarity which shines through also in his writings. Husserl, in contrast, was notorious for his monologising seminars and for his inability to follow other people's arguments. As Roman Ingarden points out, Reinach was not only

A good teacher but above all brilliant in directing philosophical seminars. In his "Seminars for Advanced Students" he himself always outlined a central problem which was then worked on in the course of the academic year. The most interesting and instructive seminar in the last year of his activity was devoted to the problems of movement. The formulations he gave were clear and sharp, the answers he gave to the participants in the seminars were precise and crisp, the arguments with which he defended his position were decisive, and he knew how to present vivid and

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<sup>54</sup> See the fragment on impersonal sentences in the *Gesammelte Schriften*, 117-20; §12 of Smith's translation of "Zur Theorie des negativen Urteils".

<sup>55</sup> Ana 379 B II 4, 250.

<sup>56</sup> *Ibid.*, 292. See also GS, 92, n.2 = Smith trans. 346.

<sup>57</sup> *The Phenomenological Movement*, 191f.

convincing examples. What was especially valuable was the fact that he had the capacity immediately to understand and to see the correct context for our often awkwardly formulated questions or assertions. The course of the discussions was left to the participants, Reinach himself apparently functioning simply as custodian, seeing to it that one did not go astray. In fact however he was the very heart of our collective efforts, the active spirit opening up new aspects and paths of investigation in a creative attitude which never rested, never lost its grip in difficult situations. Thus one was brought by him to the attitude of creative philosophising and one could enjoy the participation in the development of a new philosophy, though one was in fact merely a philosophical child.<sup>58</sup>

This is praise of a kind which Husserl never received from any of his students.

Yet the ability to convey difficult and complex ideas in a clear form did not come easily to Reinach. The preparation of his lectures not only took up a great deal of his time, it was experienced by him as an almost unbearable burden: ‘All those brilliant performances were the result of unspeakable labour and pain.’<sup>59</sup> Given the high standards which he set for himself, however, it is not surprising that most of his published works should have grown so readily out of his lectures, almost without revision.

As was befitting for a newly qualified *Privatdozent*, Reinach’s courses were intended mainly for beginners. In the winter of 1909/10 he gave a course of lectures entitled “Introduction to the Theory of Cognition”<sup>60</sup> and a seminar on the philosophy of history, the latter involving particularly discussions of the Lippsian topic of empathy. Reinach also seems to have presided over the sessions of the Göttingen Philosophical Society, an association of Husserl-students in Göttingen which had been established by Conrad after the model of the Munich *Verein*. For all this, however, he continued to miss his Munich friends:

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<sup>58</sup> In E. Husserl, *Briefe an Roman Ingarden*, The Hague: Nijhoff, 1968, 114. Compare also Hildebrand’s remark in his *Moralia*, Regensburg: Habel, 1980, 486: ‘Welch unerhörtes Geschenk war es, ein Schüler des genialen Adolf Reinach sein zu dürfen.’

<sup>59</sup> E. Stein, *Aus dem Leben einer jüdischen Familie*, Louvain-Freiburg: E. Nauwelaerts-Herder, 1965, 195.

<sup>60</sup> “Einführung in die Erkenntnistheorie”: we employ the translation “Theory of Cognition” rather than the more usual “Epistemology” or “Theory of Knowledge”, here, in order to draw a firm line between the conception of *Erkenntnistheorie* as a descriptive discipline (a conception to be found above all in the work of Reinach, Stumpf and the early Husserl) and the views of the Neo-Kantians, for whom *Erkenntnistheorie* begins and ends with the question ‘how is knowledge possible?’

The loneliness in Göttingen is terrible. Sometimes I have felt so much out of this world that I have thought that I could bear it no longer. Then I do nothing but read railway-timetables and run out to the station. Not a nice story!<sup>61</sup>

In the summer semester of 1910 he gave a course of lectures on Plato which seems to have particularly impressed those who heard it. The theme of the lectures—“Plato’s Philosophy and its Relation to Contemporary Problems in the Theory of Cognition”—is entirely characteristic of Reinach’s own philosophical concerns. More than thirty students attended and even more participated in his introductory seminar on Descartes. One of these, Kurt Stavenhagen, originally a classicist, ‘was won over to philosophy through Reinach’.<sup>62</sup>

The subsequent vacations Reinach spent in the hills near Stuttgart. On the one hand he was still trying to tackle the problem of impersonalia. On the other hand he was conscientiously preparing for the next term’s lectures on Kant:

I have 200 pages of Cassirer, 250 pages of Cohen, a fine book of 766 pages on Kant by Chamberlain, much of Crusius, Lambert, d’Alembert ... and most all the pre-critical writings of Kant. I have just finished the Critique of Practical Reason.<sup>63</sup>

At the same time he wrote an obituary article on “William James and Pragmatism” which was published in the feuilleton of a Hannover newspaper.<sup>64</sup>

In the winter of 1910/11 Reinach gave a course of lectures on “Kant’s Critique of Reason”<sup>65</sup> and also a seminar on the philosophy of law. It is from the former that his two critical articles of 1911—on “Kant’s Understanding of Hume’s Problem” and on “The Most Basic Rules of Inference in Kant”—are derived. In addition Reinach took part in the meetings of an inner circle of the “Philosophische Gesellschaft” with Hildebrandi, Scheler

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<sup>61</sup> Letter to Conrad of 27 October 1909.

<sup>62</sup> H. Spiegelberg, *Scrap-book* (unpublished MS, quoted with the author’s permission). Stavenhagen later published a treatise—*Absolute Stellungnahmen*—applying Reinach’s ideas to the philosophy of religion.

<sup>63</sup> Letter to Conrad, September 1910.

<sup>64</sup> This text is translated on pp. 292-298 in this volume.

<sup>65</sup> Ana 279 B 11.

and Alexandre Koyré.<sup>66</sup> From the winter of 1910/11 Margarete Ortmann attended Reinach's lectures and seminars. The notes she took there, together with those of the Canadian Winthrop Bell, who arrived in Göttingen only two semesters later, are the only source for our knowledge of the content of Reinach's lectures.

In the subsequent vacation he visited Brentano in Florence, calling on Pfänder and Daubert in Munich on the way. Pfänder was at this time laying plans for a *Festschrift* in honour of Theodor Lipps, to which Reinach promised to contribute. He submitted his contribution, "On the Theory of the Negative Judgement", deriving in part from his habilitation thesis, in the summer term of 1911. During this term he gave seminars on "Selected Problems of Contemporary Philosophy" and lectures on "Freedom of the Will, Imputation and Responsibility"—awakening his old interest in jurisprudence. It was in this period that Husserl embarked, with Reinach's assistance, upon the revision of the *Logical Investigations*, the first edition of which had been out of print for some years.<sup>67</sup>

The summer vacation of 1911 was spent by Reinach together with his sister and some of his friends, including von Hildebrandi, in a village close to Munich. This made it possible for him to pay extensive visits to Daubert, Pfänder, and Geiger, with whom he discussed not only philosophy but also the plans for an annual publication of phenomenological research under Husserl's general editorship, plans which were eventually to materialise in the *Jahrbuch für Philosophie und phänomenologische Forschung*, E. Husserl (prop.), with Geiger, Scheler, Pfänder and Reinach as co-editors.

In the autumn of 1911 Privatdozent Adolf Reinach, Geismar-Chaussee 7, became a member of the Kant-Gesellschaft.<sup>68</sup> In the subsequent semester he repeated his course on freedom, imputation and responsibility,<sup>69</sup> dealing—among other things—with his new notion of social acts, 'acts, which are not complete in themselves' but 'to whose essence there belongs the directedness towards an addressee'.<sup>70</sup> These lectures, which included in

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<sup>66</sup> Koyré later became a prominent historian of philosophy and of science, working especially on Galileo, Descartes and Newton. The meetings of the Philosophische Gesellschaft were regularly attended also by the mathematician Richard Courant who, in conversation with Spiegelberg, remembered Reinach as 'a major figure in the Göttingen philosophical circle' (Spiegelberg, *Scrap-Book*).

<sup>67</sup> See the discussion in Schuhmann's paper on Husserl and Reinach on pp. 248f of this volume.

<sup>68</sup> *Kant-Studien*, 16 (1911), 525.

<sup>69</sup> Ana 379 B I 2 and B II 1.

<sup>70</sup> 'Akte, die nicht in sich selbst ruhen' (Ana 379 B II 1, 334). See also Ana 379 B I 1, 14 Dec. 1911.

particular an important treatment of the relevance to the problem of responsibility of the opposition between judgement as act and judgement as underlying conviction,<sup>71</sup> formed the basis of his article on “Deliberation: Its Ethical and Legal Significance”, which was published in 1913. He also repeated his earlier introductory seminar on Descartes’ *Meditations*.<sup>72</sup>

Following his custom of keeping away from Göttingen during the vacations, he spent the spring of 1912 in Stuttgart, Munich and Vienna. He also spent some time in discussions with Paul Kluckhohn, a student of literature who had been attending courses by Husserl in Göttingen.<sup>73</sup>

## §7 1912-1914: THE DISCOVERY OF SPEECH ACTS

The early phenomenologists, like their predecessors Brentano and Meinong in Austria—and unlike the representatives of other dominant philosophical trends in Germany—had a special sympathy and regard for the British philosophical tradition<sup>74</sup> This sympathy is especially strongly marked in the work of Reinach: it can be detected already in the deliberate clarity of his prose, and is clearly indicated by his choice of subject-matter for lectures and seminars. These included, in the summer semester of 1912, a carefully worked out course

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<sup>71</sup> Ana 379 B II 1, 308f.

<sup>72</sup> Ana 379 B I 3. One of the students attending ‘many of the lectures...of Reinach’ around this time was the psychologist Erwin Straus. See H. Spiegelberg, *Phenomenology in Psychology and Psychiatry*, 264 and *Scrapbook*. Reinach’s influence can perhaps be detected in Straus’s “Wesen und Vorgang der Suggestion” of 1925 (repr. In his *Psychologie der menschlichen Welt*, Berlin: Springer, 1960, 17-70), especially in his treatment of the Husserlian theory of meaning and communication.

<sup>73</sup> Kluckhohn later enjoyed a distinguished career as a specialist in the field of German romantic literature, becoming famous as an editor of Novalis. At this time he was working on a book later published as *Die Auffassung der Liebe in der Literatur des 18. Jahrhunderts und in der deutschen Romantik* (Halle: Niemeyer, 1922), the greater part of which was written in 1912. In the Foreword to the book Kluckhohn writes: ‘Den unvergeßlichen Adolf Reinach, mit dem ich mehrere Abschnitte, die die Geschichte der Philosophie betreffen, noch durchsprechen durfte, erreicht ein gedruckter Dank nicht mehr.’ (vi).

<sup>74</sup> The 2nd of Husserl’s *Logical Investigations* is of course devoted to the theories of abstraction of the British empiricists. Theodor Lipps was responsible for the standard German translation of Hume’s *Treatise* and directed dissertations on Hume not only by Schwenninger (see n. 11 above) but also by Anton Feigs (*Die Begriffe der Existenz, Substanz und Kausalität bei Hume*, 1904). Further, the dissertation of P. F. Linke on Hume’s concept of relation (*D. Humes Lehre vom Wissen. Ein Beitrag zur Relationstheorie im Anschluß an Locke und Hume*, Leipzig: Engelmann, 1901), though submitted in Leipzig, was in fact prompted by Lipps, under whom Linke had studied in 1897 and 1898. (See GS 21, n.1, where Reinach praises Linke’s work.)

on “Hume and English Empiricism”, which dealt not only with Hume and the problem of causality but also with Bacon and Hobbes (on his nominalism), Locke (especially on his theory of generality and abstraction), and Berkeley (on the relation between perception and judgement). He concluded the course with a remark to the effect that:

The English empiricists had many phenomenological insights. And these remain. But because no one had the idea of phenomenology these insights were misted over through the influence of Kant and his awful successors. Today things are somewhat different.<sup>75</sup>

In the same semester Reinach also gave a seminar on “The Philosophy of Civil Law”, which was clearly a step towards the preparation of his contribution to the first volume of Husserl’s *Jahrbuch* (1913)—“The *A Priori* Foundations of Civil Law”—, Reinach’s masterpiece on the theory of social acts.

The investigation of the action of promising and of other speech actions which forms the core of this work did not grow out of a vacuum. As we have already seen, it was influenced in part by ideas which Reinach had absorbed as a student of law. But it was also part of a more strictly philosophical tradition in Munich, rooted in Daubert’s criticisms of Husserl.

The full extent of Daubert’s contribution to the early history of speech act theory in Germany will be established only when his considerable *Nachlaß* has been more extensively transcribed. From our present point of view, however, it is sufficient to point out that, as we know from his manuscripts, Daubert had demonstrated in a long series of discussions with other phenomenologists in Munich that there are certain inadequacies in the theory of meaning set out in the *Logical Investigations*. Most importantly, this theory leaves no room for the meanings of *questions*, and of other, related uses of language which are not simply ‘objectifying’ in Husserl’s sense.<sup>76</sup> Daubert stressed in particular the difference between

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<sup>75</sup> Ana 379 B II 2, 26. Compare Husserl’s “Nachwort zu meinen ‘Ideen ...’” (1930), where Husserl describes Hume’s *Treatise* as ‘der erste Entwurf einer geschlossenen Phänomenologie’ (Husserliana V, 155).

<sup>76</sup> An entire file in Daubert’s *Nachlaß* is devoted to the logic and phenomenology of questions (Daubertiana A I 2). This file was written in the period 1911-12, though Daubert’s treatment of the problem of non-objectifying acts goes back as far as 1904. See the letter to Weinmann in Daubertiana A I 5/83, translated in Smith, “Materials Towards a History of Speech Act Theory”, in A. Eschbach (ed.), *Karl Bühler’s Theory of Language* (Amsterdam, 1987).

1. the question (*die Frage*) as a purely logical formation,
2. questionings (*das Fragen*) as acts occurring within the inner life of the subject which are, like judgements, directed primarily towards objects in the world as part of the process of gaining knowledge. They are thus distinct from strivings, desires and other acts whose primary orientation is toward oneself,

and

3. questions (*Anfragen*) as uses of language directed to another subject.

Closely related ideas are then put forward in the sketch of a “Theory of Imperatives” drawn up by Pfänder in the summer of 1909,<sup>77</sup> but now in relation to commands and related phenomena (permissions, requests, etc.). Pfänder is concerned particularly with the various ways of classifying imperatives, and with the range of *modifications* to which they may be subjected—for example when they are addressed not to a single person but to a (determinate or indeterminate) collective. But Pfänder’s work remains a mere sketch, and even the long list of different sorts of speech actions which is to be found in his *Logik* of 1921<sup>78</sup> is presented merely as a classification of the different varieties of ‘logical content’, i.e. in such a way as to make clear that Pfänder is not yet truly aware of the significance of the fact that the uses of language he describes are specific sorts of *actions*. That is, in Beling’s, Reinach’s and Bühler’s terms, Pfänder fails to capture the external aspects of the structures involved. It is only in Reinach’s monograph of 1913 that we find both (i) a truly systematic theory of the various different sorts of speech actions and of their modifications and (ii) a clear awareness that the phenomena in question belong to the work of *action*, that they have both an internal and an external dimension.<sup>79</sup>

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<sup>77</sup> This has now been published in the *Pfänder-Studien*, 295-324.

<sup>78</sup> Halle: Niemeyer, 14f.

<sup>79</sup> The next chapter in the history of the theory of speech acts belongs rather to linguistics, and more precisely to the work on the internal and external aspects of linguistic formations (*‘Sprachgebilde’, ‘Speechakte’*) of Bühler, Dempe, Nehring and others. Here, too, there is a Munich connection. Thus Dempe, whose dissertation of 1928 restates a Husserlian view of language and its functions, incorporating various modifications proposed by Bühler, was a student of Linke. Bühler himself was Extraordinary in Munich from 1913 to 1918 but up to now not much is known concerning the relations between Bühler and the Munich phenomenologists, especially Pfänder. On Linke and Munich see R. Smid, “‘Müchener Phänomenologie’—Zur Frühgeschichte des Begriffs”, *Pfänder-Studien*, 134f. On Munich speech act theory in general see also Smith, *Phänomenologie und angelsächsische Philosophie*, *Philosophischer Literaturanzeiger*, 37 (1984), 400-5, and also his “Materials Towards a History of Speech Act Theory”, *op. cit.*

In September 1912 Reinach married Anna Stettenheimer.<sup>80</sup>

In the winter of 1912/13 he was able to hold only a single series of introductory seminars on Kant's *Prolegomena*, dealing among other things with the problem of *a priori* existential judgements and the concept of space.<sup>81</sup> A good deal of his time seems to have been absorbed by the first volume of the *Jahrbuch*, of which he was at that stage managing editor. The proof-reading of Scheler's contribution, in particular, caused him trouble. The volume appeared in 1913, containing, in addition to the first book of the *Ideen*, works by all of Husserl's co-editors, including Reinach's work on the foundations of the civil law.

On the basis of the galley-proofs of Pfänder's contribution "Zur Psychologie der Gesinnungen", Reinach did however organise a seminar on this work, in fact his first seminar for advanced students. Reference was made in the seminar also to Husserl's *Ideen*, Reinach insisting, in opposition to Husserl, that there is still room for a type of phenomenology as descriptive psychology.<sup>82</sup>

Also in the summer term of 1913 Reinach gave a series of seminars for advanced students, where he discussed colour and light and our experience of luminous objects. ('Can we imagine colourless geometrical figures?')<sup>83</sup> He gave also for the first time a course of lectures under the title "Introduction to Philosophy".<sup>84</sup> The latter covered an extremely broad

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<sup>80</sup> Anna Stettenheimer, born on June 21, 1884 in Stuttgart, had studied at Tübingen where Reinach made her acquaintance in the winter of 1906-07. She took per Ph.D. degree there in 1907, with a dissertation—*Eine absolute Messung des Zeemanphänomens*—on the physics of magnetic fields. After Reinach's death she lived on in Göttingen and then in Munich for some years. In 1942, in order to avoid deportation by the nazis, she was smuggled by friends through occupied France into Spain. She returned to Germany in 1950, where she died three years later.

<sup>81</sup> Ana 379 B I 4. Among the students attending this seminar was Heinrich Rickert, Jr., son of the Neo-Kantian philosopher.

<sup>82</sup> Ana 379 B II 3, 165-76. One of the participants in this seminar was Jean Hering (later Héring), a protestant theologian who later introduced phenomenology into France with his book *Phénoménologie et philosophie religieux* (1926). In his paper "La phénoménologie d'Edmund Husserl il y a trente ans. Souvenirs et réflexions d'un étudiant de 1909" (*Revue internationale de philosophie*, 1, 1939, 366-73), Héring mentions that he attended Reinach's lectures and colloquia during and after 1909 and puts down their 'très réelle utilité' to the fact that Reinach 'savait, d'une manière admirable, se mettre à la portée des débutants'. (367) 'On comprend la pitié pleine de mépris que nous éprouvions à l'égard d'une autre Ecole de philosophie, également centrée à Göttingue, qui n'accordait à ses élèves que 12 jugements synthétiques a priori, en tout et pour tout' (369).

<sup>83</sup> Ana 379 B II 3, 177-88.

<sup>84</sup> Ana 379 B I 5 and B II 4.

range of subjects, from the theory of substance to eudemonism and utilitarianism. Here we shall have space only to give some hints as to the flavour of Reinach's approach. External perception in the natural attitude is, Reinach says, 'a seeing which goes through changing modes of appearances straight to that which appears—the modes of appearance come to attention only in philosophical reflection.'<sup>85</sup> It is only with such reflection, which in fact destroys the original object-giving acts by dismembering them, that we become aware of the evidence or lack of evidence of *cogitationes*. Descartes' assertion that this sphere of phenomena is marked by an outstanding degree of clarity and distinctness is therefore unjustified. There follows a treatment of the 'ontological problem of the structure of the various types of object', including a discussion of the relation between the extension and colour of a material thing. 'Ontology', Reinach says, 'investigates the thing as thing, the process as process, the state as state.' 'Objects exist or do not exist [*existieren*]: states of affairs subsist or do not subsist [*bestehen*]: meanings hold or do not hold [*gelten*] of states of affairs, and are accordingly true or false.'<sup>86</sup> There follows a discussion of generality and of the *a priori*, and of Kant's unfortunate identification of the *a priori* with the formal and of the empirical with the material. Reinach then applies the results of this discussion to the sphere of ethics, criticising Kant's formalism there also: 'an act of forgiving has consequences in the world'; 'things do not have value as they have extension and the like'.<sup>87</sup> The true autonomy of ethics, Reinach insists, lies in the irreducibility of those *feelings* which relate to values: Kant, however, 'treats emotional position-takings as if they were no different from toothaches'.<sup>88</sup>

The surviving notes of these lectures reveal that Reinach did not merely present results of his own work in the fields of theory of judgement and of ethics: he also took up some of the problems discussed by Husserl in the newly published *Ideas I*, and indeed he adopted Husserl's terminology of the 'natural attitude'. Thus it is something of an exaggeration to suggest that, after the publication of the *Ideas*, 'Reinach and, following him, the others broke away from the new developments' as Husserl had said to Dorion Cairns in

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<sup>85</sup> See Ana 379 B II 4, 287.

<sup>86</sup> Ana 379 B II 4, 289, 291.

<sup>87</sup> *Loc. cit.*, 278.

<sup>88</sup> *Loc. cit.*, 280.

1931.<sup>89</sup> Rather, as ever, the Munich phenomenologists adopted a cautious, critical attitude to what was taking place around them.

It was at the beginning of this term that Edith Stein arrived in Göttingen:

In Breslau Mos[kiewicz] had given me the instruction: when one arrives in Göttingen one goes first of all to Reinach; he then takes care of everything else ... Reinach was above all the mediator between Husserl and the students, for he understood extremely well how to deal with other people, whereas Husserl was pretty hopeless in this respect.<sup>90</sup>

In the winter semester of 1913/4 Reinach gave a broad historical course on the history of modern philosophy from Descartes to Kant and a further series of seminars for advanced students, “The Theory of Categories”, discussing categorial concepts such as identity and ordinal and cardinal number, the concept of series, and including an excursus on Zeno’s paradoxes of motion.<sup>91</sup> The transcriptions of these seminars are particularly interesting, since they reveal that Reinach was perhaps the only philosopher in Germany at this time lecturing on the work of Frege.

Stein has described her experiences of these courses in her autobiography as follows:

It was a pure joy to hear them. True, [Reinach] had a manuscript before him, but he hardly seemed to look into it. He spoke in a lively and cheerful tone, softly, freely, and elegantly, and everything was transparently clear and compelling. One had the impression that it did not cost him any effort at all. When later on I was able to look at these manuscripts I noticed to my extreme amazement that they were written out word for word from beginning to end ...

The hours spent in Reinach’s fine study were the happiest of my entire time in Göttingen. We students were all agreed that, as far as method was concerned, it was here that we learned the most. Reinach discussed with us the questions which were occupying him in his own research, in that winter semester the problem of motion. It was not a matter of him lecturing and us learning, but rather a common searching,

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<sup>89</sup> D. Cairns, *Conversations with Husserl and Fink*, The Hague: Nijhoff, 1976, 10.

<sup>90</sup> Stein 1965, 192.

<sup>91</sup> Ana 379 B II 5. Among those attending were Edith Stein, Kazimierz Ajukiewicz and Roman Ingarden. See Ingarden’s *Der Streit um die Existenz der Welt*, II/1, Tübingen: Niemeyer, 1965, 343, n. 11. Spiegelberg reports in his *Scrap-Book* that Karl Jaspers, too, met Reinach at about this time, while visiting Göttingen.

similar to what he had in the *Philosophische Gesellschaft* but under the hand of a sure guide ... These evenings, too, however, were a torture to him. When the two hours were over, he could not bear to hear the word ‘motion’ any more.<sup>92</sup>

In January 1914 Reinach gave his lecture “On Phenomenology” in Marburg, still at that time a centre of neo-Kantian philosophy. This lecture, too, contains a brief discussion of Frege, and more specifically of Frege’s views on the status of assertions of number such as ‘There are four horses pulling the Kaiser’s coach’. Reinach dismisses Frege’s conception of such statements as assertions about concepts; ‘concept under which four objects fall,’ Reinach argues, ‘is just as little *four* as a concept which subsumes material things is for that reason itself material’.<sup>93</sup> On returning to Göttingen Reinach provided the members of his seminar with an account of his ‘missionary activities’ in Marburg.<sup>94</sup> On the basis of Bell’s notes we can hazard that his audience in Marburg had been particularly curious about the phenomenological theory of the judgement as positing act and about the conception of propositions [*Sätze*] as entities constituted in the process of thinking.<sup>95</sup> Reinach himself, of course, held that there exist, in addition to judgements and propositions, also autonomous states of affairs, independent of our acts and prior to all constitution, and Kantians in Marburg—who included Natorp himself—seem to have been less sympathetic to this aspect of his position. The Austrians, in contrast, make precisely the opposite mistake: ‘Stumpf, Bergmann (Bolzano too) ... all Austrians confuse proposition and *Sachverhalt* continually’.<sup>96</sup>

In 1914 Reinach published a long review of Natorp’s *Allgemeine Psychologie* of 1912 (we can conjecture that his attention was drawn to this work in connection with his visit to Marburg). This was to be his last publication.

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<sup>92</sup> Stein goes on: ‘Our circle raised certain objections to him at that time, and these finally compelled him to give up completely his original thesis. After Easter he began again from the very beginning. I was later able to discern this break too in his written drafts.’ (*Aus dem Leben einer jüdischen Familie*, 194f.) These drafts were later edited by Stein as “Über das Wesen der Bewegung” (GS, 406-61).

<sup>93</sup> GS, 390; 206 of trans., our emphasis. The records of Reinach’s seminars reveal that he himself developed a theory of number according to which numbers are peculiar categorial formations which have their place only within the locus of *Sachverhalte*. Cf. Ana 379 B II 5, 359f.

<sup>94</sup> Ana 379 B II 5, 371.

<sup>95</sup> Cf. GS, 403f., trans. 219f.

<sup>96</sup> Ana 379 B II 5, 375 (notes to *Übungen* of 13 February, 1914).

In April 1914 he participated, with Husserl, in the 6<sup>th</sup> Congress of Experimental Psychology in Göttingen. In the subsequent semester he repeated his lectures on “Hume and English Empiricism” and his introductory seminar on Descartes. He also gave one more a seminar for advanced students on “The Theory of Categories” in which Zeno’s paradoxes were again discussed. In Ingarden’s opinion this was ‘the most interesting and instructive seminar’ which Reinach ever gave.<sup>97</sup> It was apparently this seminar which inspired Alexandre Koyré’s “Remarks on Zeno’s Paradoxes” which are indeed dedicated ‘to the memory of Adolf Reinach’.<sup>98</sup> This seminar seems also to be identical with ‘Reinach’s small seminar on Bergson, *Zeit und Freiheit*, and on the concepts of continuum, time and movement’ from which it is reported that Hans Lipps’ interest in Zeno’s and related paradoxes sprang.<sup>99</sup>

#### §8 1914-1917: AT THE FRONT

For the winter of 1914/5 Reinach announced for the second time lectures on the history of modern philosophy from Descartes to Kant. He also planned to give a seminar for beginners on Locke and Leibniz—probably on Leibniz’ *Nouveaux Essais*—and another seminar for more advanced students. But these projects did not come to fruition. Like the other phenomenologists, indeed like almost all German intellectuals of the time, Reinach was carried away by the enthusiasm which broke out after the declaration of war between Germany and the allied powers. He immediately volunteered for the army, and even exerted pressure to ensure that he be admitted into the service as quickly as possible. He was recruited in his home town of Mainz around the middle of August and after two weeks of training assigned to a reserve battery of the 21<sup>st</sup> Field Artillery Regiment of the 21<sup>st</sup> Reserve Division under the immediate command of his younger brother Heinrich. As a recruit he was

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<sup>97</sup> *Briefe an Roman Ingarden*, 114.

<sup>98</sup> See Koyré 1922 in the bibliography below.

<sup>99</sup> See Lipps, *Die Verbindlichkeit der Sprache*, Frankfurt: Klostermann, 1977, 226f. (the Bergson volume mentioned here is the German translation of Bergson’s *Essai sur les données immédiates de la conscience*). Lipps’ most important publication in this field is his “Die Paradoxien der Mengenlehre”, *Jahrbuch für Philosophie und phänomenologische Forschung*, 6, 1923, 561-71. The two volumes of Lipps 1927/28, which are dedicated to Reinach, also go back to Reinach’s courses and seminars on the theory of cognition, and the influence of Reinach is manifest in the very titles of Lipps’ writings.

posted to Gonsenheim, ‘a tiny hole’ in the neighbourhood of Mainz, before being transferred to France.

For the summer semester of 1915 Reinach announced lectures on the theory of cognition and seminars on Hume and on the aims and methods of aesthetics. But he announced these courses only ‘with some pain,’ as he wrote to Husserl, ‘for after all, I will not in fact give them’. From the 12<sup>th</sup> of February he was part of the assault group, still under the command of his brother but now fighting from the trenches against the French. His mood nevertheless remained fundamentally as it had been at the outbreak of the War. In a letter to Conrad-Martius of April 21, 1915 he spoke of the ‘supreme happiness that is has been granted to me in my life to stake all my earthly goods on something that is for me great and holy.’ With this disregard for his own life, however, there went a high estimation of the significance of phenomenology. As he wrote, prophetically, to Conrad-Martius on September 10, 1915:

I believe that phenomenology can provide that which the new Germany and the new Europe stand in need of. I believe that a great future lies open to it, but at the same time I see this future in extreme ... We have lost many a young gifted worker through the War, and I, too, do not know whether I shall be returning home.

From his post at the front Reinach continued to announce course in the Göttingen *Vorlesungsverzeichnis*.<sup>100</sup> On November 5, 1915 in a letter to Conrad-Martius he describes the retreat of his unit after it had lost its position to the French:

We are once more in our old position with the battery; my brother and I were with two heavy guns on Hill 191. We lost both hill and artillery. But we left the guns only after our own infantry were already behind us and so we came under threat of being shot at by our own troops. When we were on our way back we came upon another German battery which had already been abandoned by the gunners and we ourselves mounted it and shot at the advancing Frenchmen until night fell. These were often

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<sup>100</sup> For the winter of 1915/6 he announced lectures on the history of philosophy; for summer 1916 lectures on ethics, as well as seminars for both beginners and advanced students; for winter 1916/17 lectures on “Basic Questions of Ethics” and “Introduction to Philosophy”, as well as a “Seminar for Beginners on Leibniz”; for summer 1917 a lecture course with the title “Introduction to Philosophy” and seminars on problems of cognition.

terrible hours, in which one settled one's accounts with life. But this is nevertheless the proudest time of my life.

Such experiences—Reinach was awarded the Iron Cross for his part in the above engagement—make it perhaps understandable that, while on leave in Göttingen in 1916, he was baptised, together with his wife, and received into the Protestant Church.

From November 1915 Reinach was stationed in the supply lines serving the Belgian front. From October 1916 he was stationed near Soissons, now as platoon commander in the 185<sup>th</sup> Field Artillery Regiment. Whenever possible, however, he continued with his work on philosophy. Whilst on leave in Göttingen for the Christmas of 1916 he looked up his old notes on motion and began to rework them at the front in January 1917.<sup>101</sup> On July 26, 1916 he wrote the fragment 'On the Phenomenology of Premonitions' and between September 28 and October 3, 1917 he wrote three further fragments on the philosophy of religion, announcing for the winter semester of 1917/18 a lecture course on the same subject.

On the 16<sup>th</sup> of November, 1917, Reinach fell outside Diksmuide in Flanders. There are not many philosophers whose works were posthumously edited by their disciples—Hegel being of course the most famous example. Reinach's case is all the more conspicuous as his academic career—as a mere *Privatdozent*—lasted only slightly over four years. His *Collected Writings* of 1921, 'herausgegeben von seinen Schülern', as the title page indicates, constitute in themselves a worthy testimony to a philosopher who was described by Husserl, in his obituary of 1917, as 'one of the few firm and great hopes of contemporary philosophy'.<sup>102</sup>

On volunteering for the army in 1914, Reinach had given his wife Anna instructions to destroy his papers in case he should be killed. They were, in his view, mere drafts, not fit for publication. However, his widow kept them with her even after 1917, thus allowing for the posthumous publication in the *Gesammelte Schriften* of the lecture on phenomenology and of the pieces on movement and on impersonalia. When, however, Anna Reinach was herself forced to leave Germany in early 1942 as a result of the National Socialist persecution of the Jews, she finally burnt all of Reinach's papers. Under the signature Ana 279 the Bavarian State Library in Munich now houses a small number of surviving letters and other fragments, including the short curriculum vitae of Reinach by his wife Anna and

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<sup>101</sup> GS, 406.

<sup>102</sup> 'Eine der wenigen sicheren und grossen Hoffnungen der zeitgenössischen Philosophie'.

the notes of Reinach's lectures and seminars taken by his students Margarete Ortmann and Winthrop Bell.