Sandra Laugier

The Normativity of the Ordinary

Performative Utterances and Social Reality

The question of performative utterances seems inseparable from a reflection on social normativity, especially on the transgression of norms implied in Austin's thorough study of the failures (abuses and misfires) of the performative, in *How to do things with words*. Austin's discovery of speech acts rests ultimately on thought about law and normativity. It is a well known fact that H. L. A. Hart was a member of the seminar, held just after the war, in which Austin presented the theory of speech acts. Moreover, Reinach's theory of social acts, an early form of the theory of speech acts, was developed in a legal context. Reinach's work anticipates Austin's so closely that some historians of speech act theory have proposed that Austin was aware, *via* Ryle, of Reinach's work.

The connection between law and speech acts has engendered all sorts of difficulties and misunderstandings, especially with respect to the normativity of these acts and with respect to the existence of norms or rules grounding them (cf. Hart and Searle). My aim here is, first of all, to clarify the connection between speech acts, normativity, and law. This large question has often been taken up in order to make normative use of Austin's theories, for example by Searle. It is therefore important to see what use can really be made of Austin's work in the theory of norms. I will first approach this issue by examining the specific nature of the speech act in Austin. Reflection on law makes clear the variety of speech acts beyond the paradigmatic example of promising. It also shows what is truly at stake in Austin's theory. Furthermore it alerts us to the full radicalism of

Austin's philosophy of language. In making performatives "social" acts determined by rules, Austin's mainstream interpreters and inheritors neglect the properly linguistic dimension of Austin's discovery. They also miss his critique of representationalism and of the very idea of states of affairs. Yet this critique is inseparable from his discovery of performatives. What is at stake, therefore, is the very idea of performance, that is to say, the very idea of agency, independently of all prior normativity and of any creation of a state of affairs or a social reality.

From this point of view, it is important to recall Austin's insistence on the intrinsic truth of the act and its conditions of failure. The dimension of failure is forgotten in most of the *social* theories of speech acts (founded on the positivity and success of the act), but it is essential to law. Starting from this theory of defeating conditions, we can, through a reconsideration of Austin, return to the question of the reality that speech acts create, describe, or perceive.

We can then raise the general question of linguistic agency through the problematic of excuses, and offer a new understanding of the normativity of the performative, through Austin's redescription of actions by the classification of excuses and failures. Such an emphasis on failures and practical errors will lead to a different, non-ontolological approach to the normativity of language.

An Ontology of Speech Acts : Reinach's vs. Austin's Social Acts

Austin's theory of speech acts, though well-known in its own right, cannot be separated from the rest of Austin's writing, and in particular the essays "Truth", "Pretending", "A Plea for Excuses", and "How to Talk". Austin has not "only" a theory of speech acts but also a theory of truth, of meaning, and of what it is to *say* something.

He has a whole theory of *what is said*. But the investigation of *what is said* is inevitably an investigation of the articulation of speech acts and of states of affairs. The discovery of performatives puts into question, for all of our utterances, the idea of a uniform relation between words and the world.

Yet this isn't obvious, as is shown by mainstream accounts of Austin's work, for example that of François Recanati in his book *Performative Utterances*:

> By seriously making an utterance in a communication situation, the speaker performs a kind of social act, defined by the relation established by means of the utterance between the speaker and the hearer (EP 19).

Right away, Austin is situated by Recanati within a problematic, which is defined by these terms: 1) a situation of communication; 2) a social act. It is puzzling how Recanati could, in this passage, define speech acts in communicative and institutional terms, which are also, here, ontological terms : a relation is *established by means of* the utterance. It is noteworthy, though, that these "standardized" formulations of Austin's theory are similar to striking formulations used by Reinach:

> One man makes a promise to another. A curious effect proceeds from this event, an effect quite different from the effect of one man informing another of something, or making a request of him. The promising produces a unique bond between two persons in virtue of which the one person can claim something and the other is obliged to perform it or ti grant it. This bond presnets ittself as a resutl, as a product (so to speakp of the promising. It can according to its essence last ever so long, but on the other hand it seems to have an inherent tendency towards meeting and end and a dissolution. The thing promised is performed, in this way the bond seems to find its natural end : the promisee waives, the promisor revokes . (GR 147, 8)

The act (the promise) establishes a connection, in virtue of which there is (in particular) an obligation to perform an action. This action is accordingly the end, the completion of the promise, to which the utterance is the means. The act (promising) creates a situation (connection, state of affairs). But this creation is not the only action implicated, since the content of the promise (the thing promised) is still to be carried out. We see that the notion of a speech act as such is ambiguous here in Reinach's terms.

Most uses of Austin in legal theory make, in Reinach's spirit, the speech act the creation of a legal reality. But Austin nowhere speaks of the creation of a reality (nor of the creation of a situation). Of course one can point out that an act is always a modification of reality, but for Austin such a remark is close to nonsense. Austin never speaks of the creation of a reality or of such an entity as a "state of affairs" (a contrast not only with Searle, but also with those like Barwise who talk in terms of "situations").

This is noteworthy, because Austin and Reinach are very close, at least, in (their awareness of) the importance of their discovery. Both Austin and Reinach begin by questioning the idea that the function of language is essentially *descriptive*. Both have the idea that there are utterances that do not reflect (represent) reality. The difference between the two rests, therefore, not on the nature of their discovery – the fact that there are non-descriptive uses of language – but on the term with which they contrast descriptive, and its *ontological* and *practical* character.

It is remarkable that both Reinach and Austin think of themselves of as having discovered something completely new and unnoticed. They are thought of as discoverers, almost in an empirical sense, of a new "phenomenon": as if it were a matter of uncovering a phenomenon in nature that was there all along. This mixture of familiarity

and strangeness characterizes descriptions of the discovery of performatives, as it does –

a fact well noted by Stanley Cavell – in Austin's descriptions of the phenomena of

ordinary language. These things have always been there, right before our eyes, but we

have never paid attention to them.

> All of this can strike us as obvious, or as curious, according to the attitude in which we approach it. It is
> "obvious" in that it is something which everyone knows, which everyone has passed by a thousand times, and
> which one can now pass by for the thousand and first time. But just as in other cases it happens that our eyes
> suddenly open to something which we have long been familiar with, and that we really see for the first time
> in all its proper character and in its distinctive beauty what we have seen already many times, so it can
> happen here too. (GR 148, 8).

Austin begins *How to do Things with Words* by isolating a category of utterances,

or more specifically a "phenomenon", that is "obvious" but to which not enough attention

has been paid.

> The phenomenon to be discussed is very widespread and obvious, and it cannot fail to have been already
> noticed, at least here and there, by others. Yet I have not found attention paid to it specifically. (*HTW* 1).

To say that there are speech acts is not to offer a theory: it is the observation of a

phenomenon to which philosophy has not paid attention, especially the philosophy of

language – since the dominant paradigm in the philosophy of language equates the sense

of an utterance with the representation of a state of affairs. In affirming this, Austin

attacks the representationalism on which all philosophy of language since Frege had been

founded: it is only if a proposition has sense that one can ask whether it is true or false,

i.e., whether it represents a state of affairs or not.

The classical expression of this thought (and what Austin aims to criticize) can be

found in the *Tractatus logico-Philosophicus*: a thought is a proposition provided with

sense, about which one can only ask whether it is true or false. There can be no ethical propositions, since they do not represent anything. I note this point because Austin himself discusses ethics and the nonsense of ethical propositions, as well as the necessity of restoring to their place utterances that philosophers have said lack sense.

Austin wants to break with the idea, which he calls "the descriptive fallacy", that the first function of language is the depiction of states of affairs. A great number of linguistic expressions are used for purposes other than to describe reality, and only the dominance of the representationalist model obscures this fact. For Austin, utterances do not represent: this thesis is explicit in his essay on "Truth", where he criticizes the *Tractatus*, but it also present in "Other Minds":

> To suppose that 'I know' is a descriptive phrase is only one example of the *descriptive fallacy*, so common in philosophy. Even if some language is now purely descriptive, language was not in origin so, and much of it is still not so. Utterance of obvious ritual phrases, in the appropriate circumstances, is not *describing* the action we are doing, but *doing* it (" I do ") (*PP* 103)

The performatives that Austin describes in the first lecture of *How to do Things with Words* do not describe facts. Their utterance *is* the accomplishment of an act. The remarkable thing about performatives is that they are utterances that are also *acts*, not utterances that describe something (such as an empirical state of affairs). At the same time they are also not simple exclamations or expressions of an "emotive" or psychological state.

It has come to be commonly held that many utterances which look like statements are either not intended at all, or only intended in part, to record or impart straightforward information about the facts. (*HTW* 2).

For Austin as for Reinach, the point is to show that language does things other than describe, even in phrases that appear grammatically "normal".

It was for too long the assumption of philosophers that the business of a 'statement' can only be to 'describe' some state of affairs, or to 'state some fact', which it must do either truly or falsely. (*HTW* 1).

Here is something which we know as promising, or at leastt think we know. Through the act of promising, something new enters the world. A claim arises in the one party and an obligation in the other. What are these curious entities ? They are surely not nothing. But they cannot be brought under any of the categories whiche are otherwise familiar. They are nothing physical, that is certain. One might rather be tempted to designate them as something psychical or mental, that is, as the experiences of the one who has the claim or obligation. But cannot a claim or an obligation last for years without any change ? Are there any such experiences ? (GR 148, 9)

The speech act that constitutes the promise thus cannot be a description of a reality, either mental or physical. With Austin as with Reinach, its point is not to describe any reality (neither an empirical, or a psychological one). This is a particularly important point in the distinction between performative and constative:

In these examples it seems clear that to utter the sentence (in, of course, the appropriate circumstances) is not to describe my doing of what I should be said in so uttering to be doing or to state that I am doing it: it is to do it. (*HTW* 6).

A performative can be described, as can the performance accomplished by saying it, or (because it isn't a question of means) *in* saying it (whence comes the term "*il*locutionary"). But this doesn't show that it is itself a descriptive utterance.

> [The utterance] should should not be confused with statements about experiences which are now taking place or have just taken plac. If I say « I am afraid » or « I don't want to do that », this is an utterance about experiences which would have occured without any such utterance. But a social act, as ot is performed between human beings, is not divided into an independent act and a statement(*Konstatierung*) about which it might or might not be made ; it rather forms an inner unity of voluntary act and voluntary utterance. For the inner experience here is not possible without the utterance. And the utterance for its part is not some optional thing which is added from without, but is in the service of the social act. Of course there can be statements about social acts that are accidental to them: « I have just given a command ». (GR 160, 20).

One can note here the linguistic relevance of Reinach's remark: it nicely shows the difference and the connection between the performative and the constative which describes its occurrence.Thus the discovery of the performative is, in the first instance, motivated by doubt about the descriptive paradigm in the philosophy of language. This is clear from Austin's first examples, which are mere actions:

I name this ship the Queen Elizabeth

I give and bequeath my watch to my brother

I bet you six pence it will rain tomorrow (*HTW* 5)

These are examples of utterances that, grammatically, resemble assertions, but do not "describe", do not "represent" any fact, and are neither true nor false, even though they are used perfectly correctly. Their utterance is equivalent to the accomplishment of an act. To say "I name this ship…" in the appropriate circumstances *is* to perform the act of naming the ship.

When I say, before the registrar or altar, etc., 'I do', I am not reporting on a marriage: I am indulging in it.…

In these examples it seems clear that to utter the sentence (in, of course, the appropriate circumstances) is not to describe my doing of what I should be said in so uttering to be doing or to state that I am doing it: it is to do it. (Austin adds in a note : "Still less anything that I have already done or have yet to do") . (*HTW* 6)

To cast doubt on the descriptive function of language is to cast doubt on the connection between meaning and states of affairs. Austin is just as skeptical of the fetishized dichotomy "true/false" as he is of the fetishized dichotomies "fact/value" and "norm/value". This leads him to a new theory of meaning:

A) The total speech act in the total speech situation is the *only actual* phenomenon which, in the last resort, we are engaged in elucidating.

B) Stating, describing, etc., are *just two* names among a great many others for illucitionary acts ; they have no unique position.

C) In particular, they have no unique position over the matter of being related to facts in a unique way called being true or false, because truth and falsity are… not names for relations, qualities, or what not, but for a dimension of assessment

D) By the same token, the familiar contrast of 'normative or evaluative' as opposed to the factual is in need, like so many dichotomies, of elimination.

E) We may well suspect that the theory of 'meaning' as equivalent to 'sense and reference' will certainly require some weeding out and reformulating (*HTW* 148-149)

Promises and Intention

Questioning the fact/value dichotomy (like questioning the true/false dichotomy) does not mean that there are degrees of normativity. This is what the paradigmatic example of promising shows, which is, for Austin as for Reinach, the "purest" speech act, the one that most clearly challenges the descriptive model. Social acts, Reinach says, " are performed in the very act of speaking" (Reinach 215, tr. angl. 36). They are in no way a report or expression of a state of affairs. Reinach makes a critique of Hume's conception of the promise. To say "I promise" is not to describe something that one is in the process of doing, it *is* promising.

Promises are an example of what Austin calls *explicit* performatives, by contrast with primary performatives. The former explicitly announce what they do. This explicit character is necessary, in Austin's view, to legal usage. In questions of law, a less explicit performative could be considered ambiguous and so vitiated. It would thus be a case of misfire (in his classification, it is in the category *misfires, misexecutions, act vitiated*):

> In the law… this kind of inexplicit performative *will* normally be brought under B.1 or B.2 – it is made a rule that to bequeath inexplicitly, for instance, is either an incorrect or an incomplete performance, but in ordinary life there is no such rigidity. (*HTW* 33)

In the case of a primary performative ("I shall be there"), the promise is not explicit and the utterance can be interpreted in various ways. One might say that the "ritual" of the promise has been executed neither correctly nor "completely":

> 'I shall be there' may or may not be a promise. Here we have primitive as distinct from explicit performatives; and there may be nothing in the circumstances by which we can decide whether or not the utterance is performative at all. (*id.*)

Austin adds: one *needn't* interpret it this way. This is an important remark: for him there is no rule that says how to interpret a performative. This seems to go against the idea of constitutive rules.

Recanati dedicated a whole book to these "explicit performatives", which are distinguished by their reflexivity. Reflexive performatives make themselves true. "I bet", "I bequeath", are paradoxically both descriptive and performative at the same time – they do exactly what they say they do. This approach, interesting as it is, seems to discount the possibility of the failure of these performatives, which is probably the most pertinent dimension for jurists. It might also be asked whether this approach doesn't tend to reintroduce in Austin a representationalist dimension: it conceives the explicit performative as a self-verifying constative, one with a reference to itself rather than to something outside of it. It makes itself true and determines its own truth conditions. But such an approach, in terms of reflexivity, is contrary to the inseparability of the act and the utterance. We do not have on the one hand the utterance, and on the other hand the act that makes it true. The two form a "unity". The act is not a supplement (of whatever sort: social, emotive, assertive, etc.) to what is said, to a "p" that might be defined by a content, a proposition, or a state of affairs.

Reinach saw this point clearly about these acts :

Whoch do not have in words and the like their accidental, additional expression, but which are performed in the very act of speaking (GR 215, 36)

This essentially quite simple observation amounts to a questioning, *avant la lettre*, of recent analyses of the performative as a proposition to which a "force" is added, illocutionary or otherwise. The generalization of the theory of performatives in the triad locution/perlocution/illocution is here a source of misunderstandings – a point we will return to. The point for now is that the radicality of the discovery of performatives has not always been perceived, and that we are tempted to reduce them to something else (semantic, psychological, or social conditions) and not take account of the fact that they are indeed *acts*.

From this point of view, the idea of the act as a "supplement" is inseparable from the descriptive fallacy. If we recognize the nature of the act, we must admit that it cannot be reduced to an assertion about a state of affairs, or a report, or an expression or description of a psychological state. All these linguistic forms are legitimate in their place but none of them can create an obligation. It is interesting to note what Reinach, who first described the properties of law in terms of the notion of an act, says about promises that "Promising is by no means reducible to making known a decision of will" (GR 157, tr. angl. 17)

An internal resolution cannot bring about an obligation: the very definition of normativity is in question here for Reinach. A descriptive utterance cannot be normative. Informing someone else of one's resolution, however powerful it might be, does not amount to a commitment. The "constative" description of an experience does not create an obligation, and it is in this sense that it is *not* an act. We see that the discovery of

speech acts is inseparable from a radicalization of the descriptive/normative distinction. That is paradoxical inasmuch as the legal uses of the notion of the speech act tend, on the contrary, to put that distinction in question. The distinction between descriptive utterances (furnished with sense, verifiable) and normative ones is redefined in terms of acts: there are no linguistic criteria for the normative (a conclusion arrived at in different ways by Reinach, Wittgenstein, and Austin). The same utterance can be constative and normative ("The window is open", "I'll be there tonight" can be understood as a description or an order or a promise). Its role cannot be determined through its structure (semantic or syntactic). The problem with this analysis is that one can thus consider the utterance in question, following the perverse use of the notion of force as defined by Frege, on the model F(p): the utterance is produced, in one case, with a purely assertive force (on the model of the assertion sign), in the other case, with an illocutionary force. But this is to discount a point reiterated by Reinach and Austin, namely that the force and what is said are inseparable. The speech act is "what is said" taken as a whole: to understand what a speech act truly is, one has precisely to understand that it is not distinguished simply by an "additional" force. That would be nothing but a psychological or intentional ersatz, as pitiable as banging one's fist on the table, or (to take an example of Wittgenstein's) on one's chest, in an attempt to shore up a doubtful or insincere assertion.

The attempt to define the act as an additional force is a resurgence of expressivism and emotivism, and Reinach as much as Austin takes on this tradition, the rejection of which is necessary to any proper definition of speech acts. This is the source of Reinach's forceful critiques of Hume and his "expressivist" conception of promising, despite the

insightful intuition that led him to seek an "act of the mind" proper to promising: thje point is that the promise is made, not *expressed*. We have here an early critique of a whole current (that became highly influential during the twentieth century, notably through the work of Ayer and Stevenson) of normativist moral philosophy, which includes expressivism, emotivism, and non-cognitivism: on this reading, an utterance like an ethical judgement, that was rdescribed by Wittgenstein as nonsense, can be reintegrated into language by analyzing it as a descriptive utterance (furnished with sense) associated with an emotion. Cavell has rightly mocked this conception, which sees a moral or aesthetic judgment as a factual proposition associated with an "aah!" of approbation or admiration (Cavell 1979, ch. IX and X). It is interesting to compare, from this point of view, the conception of speech acts as it is elaborated by Reinach and Austin with the "emotive theory of ethics" that Ogden and Richards proposed in their well-known 1923 book *The Meaning of Meaning*. This theory attempts to distinguish two opposed functions within language, the symbolic, descriptive function (MM 149) and the emotive function, which is " l'usage des mots pour exprimer ou susciter des sentiments ou des attitudes " (*id.*). Ethical utterances have an emotive rather than a cognitive function; they express a sentiment *about* a state of affairs. To say that X is good is not to express knowledge about X, but my sentiment or attitude in relation to X. All normative utterances can be analyzed this way. It seems to me that it is precisely in opposition to this conception (connected not only to the Humean tradition, but also to Russell's concept of a prepositional attitude) that Austin sets out his notion of the speech act. (Wittgenstein also rejects this tradition, though in a different way).

According to certain theorists of pragmatics, Austin's discovery of speech acts is to be situated within the development of this emotive theory. For Recanati, for example, Ogden and Richards brought about a transition from logical positivism to ordinary language philosophy. But this claim is mistaken, and a look at Reinach's work can help to clarify this point, by showing just how much the notion of the speech act is opposed to any idea of emotive expression. Moreover, Ogden and Richards' emotive theory, like non-cognitivist theories in general, remains propositionalist and so doubly subject to the descriptive illusion – both in the idea (which returns in the 20th century) of a force associated with a proposition, and in the idea of the utterance as the expression of a desire or an intention. Again, Reinach was very clear about whar h calls "the 'bond' resulting from promises" : "We have found in promising an act all its own" (GR 166, 26).

There has been a remarkable philosophical regression, losing the insights of Austin and Reinach and returning to the idea, explicit in standard philosophy of language, that the performative is equivalent to "publicly manifesting a certain intention", an act that can then be validated or sanctioned by social institutions. The essence of the speech act is precisely that it is *not the manifestation of an intention*. For Austin, understanding that the performative is not descriptive is ultimately a question of ethics. We may be tempted, he says beginning in his first lecture, to say that a performative, for example a promise, expresses an intention that would be definable or explicable outside of the field of language. As if to perform a speech act were simply to express an intention, and as if Austin's theory could be completed with a theory of the psychological or social conditions or rules for the formation and expression of intentions. But for Austin such an interpretation would be not only mistaken, but also immoral. To say that the performative

expresses an intention is to reduce it to the descriptive. But it also brings an end to all morality and opens the door to every kind of abuse. For if, in promising, for example, I am only describing my intention, then there is no promise and no commitment.

It is but a short step to go on to believe or assume without realizing that… the outward utterance is description, *true or false*, of the occcurence of the inward performance. The classic expression of this idea is to be found in the *Hippolytus* (l.612), où Hippolyte dit… 'my tongue swore to, but my heart (or mind or other backstage artiste) did not'. Thus 'I promise to…' obliges me – puts on record my spiritual assumption of a spiritual shackle.

It is gratifying to observe in this very example how excess of profundity, or rather solemnity, makes for immorality. For one who says 'promising is not merely a matter of uttering words! It is an inward and spiritual act !' is apt to appear as a solid moralist standing out against a generation of superficial theorizers… Yet he provides Hippolytus with a let-out, the bigamist with an excuse for his 'I do', and the welsher with a defense for his 'I bet'. Accuracy and morality alike are on the side of the plain saying that *our word is our bond*. (*HTW* 9-10).

What is important in Reinach and Austin is the dementalization and de-intentionalization of the speech act. This is inseparable from the recognition of the sui generis character of the normative and of action, despite their questioning the fetishized fact/value dichotomy. What Austin means to question is the "fetish"; the point is not to erase the difference - as many theorists of pragmatics suppose, even while they in fact carry on the same fetishization - some by trying to give a factual basis and content for norms, others by trying to give a normative dimension to all reality.

Some misfortunes of the performative

Thus it seems questionable to draw from Austin's work a sort of generalized normativity of language, even if some of his remarks suggest that. One of the problems that the theory of the performative gives rise to is in fact that of generalization, which

tends to efface the initial performative/constative dichotomy. What interests Austin is, as he describes it, "the total speech act in the total speech situation". To arrive at this conclusion, Austin uses arguments that are already present in Reinach. There is no grammatical criterion by which the performative is distinguished; the same utterance can be performative and constative. He seems, therefore, to substitute for his first distinction, performative/constative, a second: locutionary/illocutionary. " The locutionary act as much as the illocutionary is an abstraction only : every genuine speech act is both." (*HTW* 147). There are, then, in every utterance these three dimensions, locutionary, perlocutionary, and illocutionary. Or, more precisely, every utterance can be considered an act of each of these sorts. It is important to be precise about this. There is a crude tendency in pragmatics to decompose the act of speaking into three parts (often reduced to two; no one is interested in the perlocutionary anymore except Cavell). The locutionary thus becomes "the content or the proposition" (Recanati TE 119, where he recognizes that this isn't very Austinian) and the illocutionary " non pas le contenu de l'énoncé, mais ce qu'il est en acte " (*id*.). Recanati, as is typical of this approach to pragmatics, construes the remark of Austin's cited above, that "every genuine speech act is both", as: "Every genuine speech act includes both".

Austin does not propose the locutionary/illocutionary distinction in order to replace the performative/constative distinction. The two distinctions are not exactly on the same level. The locutionary does not designate the propositional dimension of the utterance, but rather the utterance seen under the aspect of the locutionary act, which is an act of asserting, not of representing. The point is not, for Austin, to distinguish what is

said from the fact that it is said, but rather to see what is said as a whole, the complete act of speaking. (cf. the work of Charles Travis)

What Austin affirms is the performative dimension of all language. This leads to the fraying of the border between performative and constative, but not its elimination. The generalization of the theory of performatives is not a way to efface or scientize the connection of performative and constative through an analysis of all utterances into "elements". It is a way to extend to "constative" utterances the notion of action, *and* to extend to "performatives" the notion of truth.

In order to see the character of Austin's approach, we have to look outside the context of *How to Do Things with Words* and consider the articles "Truth" and "A Plea for Excuses". Austin's idea is to extend his questioning of the "true/false fetish", not in the way of relativism or pragmatism, but by a double movement: by extending true/false to apparently performative utterances, and by extending felicity/infelicity to apparently constative utterances.

> That we *do* speak of a false promise need commit us no more than the fact that we speak of a false move. 'False' is not necessarily used of statements only. (*HTW* 11)

It would be a mistake to see relativism here. The point is not so much to question truth as to redefine it. Seeing the speech act under various aspects leads us to extend the category felicity/infelicity to assertions. My assertion can fail, like an improper order that I am not in a position to given because I haven't the authority. Austin presents this point in a rather amusing way in his contribution to the Royaumont colloquium:

> An example : You tell me « I am bored », I answer impassibly « no you aren't ». And you : « What do you mean, I am not bored ? On what right ? (*La philosophie analytique,* 278)

Coming back to the definition of speech acts given at the beginning of *HTW*, we can recall that: 1) the act performed is immanent in the utterance, which is not therefore a description of a state of affairs (interior or exterior); and 2) in order to be felicitous, a performative (I promise, I bequeath, etc.) must (among other conditions) be uttered according to a certain conventionally defined procedure, in certain circumstances, etc. A central element in Austin's theory is the idea of the possible infelicities of a performative, of which he offers a classification. Among the possible infelicities of a performative, there are two main types: misfire and abuse. (*HTW* 18) Austin's examples of misfire are famous: I christen an infant, or a ship, without being qualified to do so, or in the wrong circumstances, or with another name than the one intended, or I christen a penguin. In these cases the act, for conventional reasons (of procedure), is null and void; it has not been performed. His examples of the second category of infelicity, the category of abuse, are less well-known. In these cases, interestingly, the act is performed, but it is hollow. They form the topic of the fourth lecture of *HTW*.

This interest in infelicities in speech acts is shared again by Austin and Reinach. Moreover, this is the aspect, more than the pragmatic generalization, that is interesting to jurists. It has sometimes been observed that this is the real originality of Reinach and Austin. Before them, those who thought about social acts had not made the failure of such acts an explicit theme of discussion. It is not discussed by Reid, for example, whose theory of social acts (or social operations) might be mentioned as a distant precursor of our two authors. The same is true of Hume's famous discussion of promises. This isn't surprising: as Austin's remark about Hippolytus cited above shows, a "psychological" or intentionalist interpretation excludes failure. If it is intentions (or, in other theories, the

social context) that makes a promise valid, I don't have to keep it. The same is true with interpretations after Austin's. Benveniste is not interested in failures and wants to exclude them from his theory; Searle and Recanati are interested only in the conditions of *validity* of utterances (explained either in terms of their social or institutional background, or through their reflexive structure or representational content).

Yet it is important to be clear, in reading Reinach and Austin, that only a theory of failure or of infraction can explain the nature of social acts and the *obligation* they create, which is not material or physical constraint, nor is it psychological pressure. It is precisely the possibility of failure that defines the speech act as an *act*, and that places the theory of speech acts in the context of a general theory of action and of norms. "A Plea for Excuses" is inseparable from Austin's theory of performatives, and it presents a series of failures and failed speech acts. Here is where the real issue of generalization becomes clear: Austin aims to show that it is in the nature of language to be able to fail, and not only by missing its object (representing it incorrectly). Falsity is not the only way for language to break down. It can fail not only by missing reality or truth; it can go wrong, as Austin says, just like any other human activity. The possibility of failure is not something that sets speech acts apart from other kinds of social acts; it is rather what defines action as such. (At the beginning of his second lecture Austin slyly draws attention to the sexual connotations (which he calls "normal" on *HTW* 16) of the terms that he chooses to designate failures of performatives: "misfires", "abuses"). In Reinach also this dimension of failure is inseparable from the definition of action as performance, and he also classifies such failures. The failure of a promise is thus called by Reinach a "pseudo-performance" (*Scheinvollzug*). Reinach, like Austin, observes that a false

promise (a promise made without the intention of keeping it) is really a promise. The act is not null and void, but failed. The theory of infelicity is a way of responding to this problem: a false promise is a pseudo-performance, that is to say it tries to pass for the real thing. Nevertheless it is an act. Failures are thus pseudo-acts, in the sense in which Carnap's pseudo-statements were nevertheless statements ("pseudo" indicates here not falsity, but tampering with the merchandise). These statements do not succeed in saying something and fail to say anything whatever.

The permanent possibility of the failure of the performative marks language as a social and human activity, happy or unhappy. But, and reciprocally, by his insistence on failures, Austin returns, by a sea change that it would be an error to neglect, to the question of the act, defined as what can fail, can go wrong. Whence the importance of the theory of excuses, which deals with cases where I've "gone wrong". When does one given an excuse for oneself, or excuse someone else's behavior?

> In general, the situation is one where someone is *accused* of having done something, or… where someone is *said* to have done something which is bad, wrong, inept, unwelcome, or in some other of the numerous possible ways, untoward. Thereupon he, or someone on his behalf, will try to defend his conduct or to get him out of it. (*PP* 176)

Excuses are the exact complement of failures: it is when something has been done badly, when the performance has failed, that one has recourse to an excuse. Austin remarks that a theory of excuses is more useful than a theory of justification, inasmuch as failures are more interesting than successes. This observation can be extended to the domain of the normative in general: it's the way we have of explaining or justifying our failures (bad actions, etc.) that determines a norm's mode of constraint. For Austin the existence of excuses is essential to the nature of human action. The variety of excuses

shows the impossibility of defining our acts in a general way, other than in the detail and diversity of our modes of responsibility. Action is thus defined not positively (Austin nicely shows the difficulty of producing such a definition) but in terms of vulnerability, the possibility of transgression, and of failure. Action is precisely that which can be excused, that which is not done *comme il faut*.

Excuses and Extenuating Circumstances

It is clear why Austin cites the realm of law as a particular source of inspiration in his treatment of excuses. His essay contains, as one of its central examples, a long analysis of a legal case, *Regina v. Finney* (*PP* 195f.), through which he explores the issue of responsibility. The issue in the case is the determination of an excuse, that is to say, the sense in which what was done was not done voluntarily, deliberately, etc., but rather inadvertently and without ill intention. The realm of the excuse is *not* that of justification (intentions can excuse, but not justify). Austin remarks pertinently that philosophy is too concerned with justifications and not enough with excuses, who are a much finer tool of description.

> In two main ways the study of excuses can throw light on these fundamental matters. First, to examine excuses is to examine cases where there has been some abnormality or failure: and as so often, the abnormal will throw light on the normal, will help us to penetrate the blinding veil of ease and obviousness that hides the mechanisms of the natural successful act. It rapidly becomes plain that the breakdowns signalized by the various excuses are of radically different kinds, affecting different parts or stages of the machinery, which the excuses consequentlly pick out and sort out for us. Further, it emerges that not *every* slip up occurs in connexion with with *every*thing that could be called an 'action', that not every excuse is apt with every verb – far indeed from it : and this

provides us with one means of introducing some classifiction into the vast miscellany of 'actions'. (*PP* 179-180)

Here again we can discern the influence of Hart – especially his analyses of the "defeasibility" of legal concepts, a defeasibility inherent in the concept of ascriptivity, a concept whose consequences in fact go far beyond those Hart himself recognized.

It is tempting to suppose that this coupling of action and excuses, which Cavell was the first to remark as characteristic of Austin, is where Austin connects language and law. It is precisely from this point of view, in the end still a limited one, that reflection on speech acts is inseparable from reflection on the nature of legal norms. This kind of legal reflection is not only dementalized and depsychologized, but perhaps even de-moralized, despite the moralistic appeal of the slogan "Our word is our bond". The famous passage in the first lecture of *HTW* in which Austin alludes to that slogan is itself focused on excuses, the (bad) reasons we give for having not, e.g., kept a promise. From the beginning the discovery of speech acts is connected with this problematic of failure and transgression, which is what constitutes its deepest connection with the question of law, certainly a deeper one than the bare notion of normativity.

The esay "A Plea for Excuses" poses exactly the same problem – the relation between what is done and what is said – as that of the performative, but this time starting from the side of action. It is evident, if one simply pays attention, that making excuses «a toujours occupé une part essentielle des activités humaines». Furthermore, Austin says, the question of excuses can help us in moral philosophy, if it can help us to get an idea of "what is meant by, and what not, the expression 'doing an action' or 'doing something'." (*PP* 178). But we don't have such an idea. Thus we must not forget that in the background of the theory of performatives there is a real perplexity about what it is to do

something (with words or without: *how to do things*). In fact, we know nothing about it, and philosophers who have reflected on this question have let themselves be taken in by the "myth of the verb", according to which there is some "thing", "performing an action", which exhibits the essential characteristics of what we *range* under the variable "perform an action".

> All 'actions' are, as actions (meaning what?), equal, composing a quarrel with striking a match, winning a war with sneezing: worse still, we assimilate them one and all to the supposedly most obvious and easy cases, such as posting letters or moving fingers, just as we assimilate all 'things' to horses or beds. (*PP* 179)

Austin aims to reverse the classical philosophical approach, which begins with action as given, and then proceeds to examine how it might be justified. In fact, it is our excuses – *what we say* when it appears that we have acted badly (clumsily, inadequately, etc.) – that allow us to gain a better understanding of what an action is, or rather to begin to classify everything we bring together under the general term, the "dummy" term, *action*. The existence of excuses is in fact essential to the nature of human action – they don't somehow only come on the scene later; they are implied in action itself. Action in this sense, Austin interestingly notes, is something specifically human, because it is included in our *form of life*: *praxis* in Wittgenstein's sense, now defined by the "linguistic constellation" of excuses.

> These are expressions still too little examined on their own account and merits, just as the general notion of 'saying something' is still too lightly passed over in logic. The is indeed a vague and comforting idea in the background that, after all, in the last analysis, doing an action must come down to the making of physical movements with parts of the body ; but this is about as true as that saying something must, in the last analysis, come down to making movements of the tongue. (*PP* 178)

In this way Austin presents the complexity of human actions and of their possible classifications in terms of excuses, which are the particular subject of his teaching. We can get a sense of this through such familiar examples as:

You have a donkey, so have I, and they graze in the same field. The day comes when I coneive a dislike for mine. I go to shoot it, draw a bead on it, fire : the brute falls in its tracks. I inspect the victim, and find to my great horror that it is *your* donkey. I appear on your doorstep with the remains and say – what? 'I say, old sport, I'm awfully sorry, etc., I've shot your donkey *by accident*'? Or '*by mistake*' ? Then again, I go to shoot my donkey as before, draw a bead on it, fire – but as I do so the beasts move, and to my horror yours falls. Again the scene on the doorstep – what do I say ? 'By mistake' ? Or 'by accident'? (*PP* 185)

Austin's example shows that there are differences between doing something by mistake and by accident, even though it often seems that the two expressions are used as synonyms. But he also shows that by starting from ordinary language – an infinite source of distinctions that philosophical language has effaced – we can understand something of the nature and classifications of our actions. Austin points out that we don't give just any type of excuse for just any type of action. One can excuse lighting a cigarette or covering one's books by "the force of habit", but a killer cannot excuse his murdering "by the force of habit" (an example of Austin's reported by Pitcher). The diversity of excuses shows the diversity and variety of actions, and for any given excuse there is a limit to the acts for which it will be accepted: what Austin calls norms of the unacceptable. "We may plead that we trod on the snail inadvertently: but not on a baby - you ought to look where you are putting your great feet." (*PP* 194)

Here the ontological interest of the theory of excuses becomes clear – one that is quite different from what is sought when we look for some social reality created by performatives. The point is to introduce a classification of actions *through* excuses: to

create differences within reality through immanent differentiation – the degrees and modalities of the attenuation of agency – articulated by excuses. Hart described this point well in his essay "The Ascription of Responsibility and Rights" that greatly influenced Austin, and later Erving Goffman.

The sentence « Smith hit her » can be challenged in two distinct ways. Smith or someone can make a flat denial of the relevant statement of the physical facts. Alternatively, any of a vast array of defences can be pleaded by Smith or his friends which, though they do not destroy the charge altogether, soften –it, or, as lawyers say, 'reduce' it.

Thus , to ' he did it' (he hit her), it may be pleaded :

1. 'Accidentally' (she got in his way whole he was hammering in a nail)

2. 'Inadvertently' (in the course of hammering in a nail, not looking at what he was doing)

3. 'By mistake for someone else' (he thought she was May, who had hit him) Par erreur » (Il a cru qu'il s'agissait de May, qui l'avait frappé auparavant)

4. 'In self-defense' (she was about to hot him with a hammer)

5. 'Under great provocation' (she had just thrown the ink over him)

6. 'But he was forced to by a bully' (John said he would trash him)

7. 'but he is mad, poor man'

(H.L.A. Hart, « The ascription of responsibility and of rights », in *Logic and Language*, ed. A.G.N. Flew, 162-3)

It is interesting to see here that the classification of excuses is a description of actions themselves as "missed". We find the same coupling of failure and excuse, of offense and compensation, in Goffman's microsociological analyses, notably in his examples of failures and inappropriate behavior – as if, for Goffman, there were no

conditions for successful behavior. To bring this out we can read the following passage from Austin in a sociological spirit (or in the spirits of Goffman's *Asylums…*), and see how the structural dimension of excuse and failure in social relations emerges clearly.

Prisoner was indicted for the manslaughter of Thomas Watkins. The Prisoner was an attendant at a lunatic asylum. Being in charge of a lunatic, who was bathing, he turned on hot water into the bath, and thereby scalded him to death. The facts appeared to be truly set forth in the statement of the prisoner made before the committing magistrate, as follows: 'I had bathed Watkins, and had loosed the bath out. *I intended putting in a clean bath,* and asked Watkins if he would get out. At this time *my attention was drawn* to the next bath by the new attendant, who was asking me a question ; and *my attention was taken from the bath* where Watkins was. *I did not intend to turn the hot water*, and *I made a mistake in the tap. I did not know what I had done until* I heard Thomas Watkins shout out ; and *I did not find my mistake out till* I saw the steam from the water."… (It was proved that the lunatic had such possession of his faculties as would enable him to understand what was said to him, and to get out of the bath.) … Verdict : Not guilty. (*PP* 196-7)

Attention to excuses and to the compensation due to others is the essential connection between Austin and Goffman, especially in Goffman's later major work, *Frame Analysis: An Essay on the Organization of Experience.*

When the individual visibly muffs a task, he can of course, act as of nothing wrong has occurred, obliging the witnesses to act accordingly. Alternatively, he can stop his doing in midflow for a moment to offer an excuse or an apology (..) to provide this sort of remed for trouble is to demand of the others involved that they sudenly accept the actor on a different footing, that of a human being who can make mistakes in his carrying out of a specialized role. (Goffman FA, p. 542-3).

Austin claims, recall, that a theory of excuses is much more useful than a theory of justification, insofar as failures are more interesting, more differentiable, than successes.

This observation can be extended to the realm of the normative in general: it is our way of compensating, explaining, or justifying our failures (bad ou misguided actions, etc.) that determines a norm's mode of constraint, and, ultimately, allows us to give it a reality.

Reality as vulnerability

« Performatives, if they are fitting to reality, are happy, if not, in specific ways, unhappy » (Cavell 1994, ch. 2). This attention, centered from the beginning on failure as much, or more, than on success is characteristic of Austin. One of the goals of ordinary language philosophy is to determine the various ways in which an utterance can be infelicitous, inadequate to reality, can miss its goal. One of the goals of Goffman's sociology is to determine the ways our actions, our behavior, can be infelicitous. Austin, like Goffman, aims to set out the conditions of felicity of language as an ordinary practice, to make clear the vulnerability of our usages, and to specify certain adequate tools of compensation (excuses, compensations).Austin sets aside the difficulty, so often invoked in philosophy, of "arriving at agreement" on an opinion or a theory, in favor of another difficulty, that of agreeing on a point of departure, on a *datum*, or more precisely on a *field* : the agreement on "what we should say when".

> Here at last we should be able to unfreeze, to loosen up and get going on **agreeing** about discoveries, however small, and on agreeing about how to reach agreement. (*PP* 183)

Austin adds that this agreement (on what we say when) is an "agreement on the way we determine a certain fact", "on a certain way, one way, of describing and grasping the facts". The agreement must bear on the forms of description of what is going on.

Agreement and discovery are possible because 1) ordinary language cannot pretend to be *the last word*. "Only remember, it *is* the *first* word." (*PP* 185) 2) Ordinary language

is a collection of differences, and "embodies all the distinctions men have found worth drawing, and the connections they have found worth marking, in the lifetimes of many generations" at once more subtle and more sold than "any that you and I are likely to think up in our arm-chairs of an afternoon – the most favored alternative method. (*PP* 182). It is this capacity to mark and inventory differences that makes language an instrument of insightful perception: because reality is made of these details and differences (which emerge in the account we give of it).

> Further , the world must exhibit (we must observe) similarities and dissimilarities (there could not be the one without the other) : if everyhing were absolutely indistinguishable from anything else or completely unlike anything else there woud be nothing to say. (*PP* 121)

We can better understand, from this point of view, the enigmatic passage from "A Plea for Excuses" where Austin *excuses* his speaking of linguistic phenomenology by appealing to the fact that a sharpened awareness of words is a sharpening and an education of our perception:

> When we examine what we should say when, we are looking again not merely at words (or 'meanings' whatever they may be) but also at the realities we use the words to talk about : we are using a sharpened awareness of words to sharpen our perception of, though not as the final arbiter of, the phenomena. (*PP* 182)

This theme of seeing differences and similarities (shared of course with Wittgenstein) is characteristic of ordinary, *natural* realism (to take up an expression used by Putnam (2001) with reference to Austin, James, and Wittgenstein). The distinctions that ordinary language philosophy establishes, Cavell notes, are *natural, real* – taken from observation, not fabricated like those of theorists and philosophers of language.

Too obviously, Austin *is* continuously concerned to draw distinctions, and the finer the merrier, just as he often explains and justifies what he is doing by praising the virtues of natural distinctions over homemade ones. 1. Part of the effort of any philosopher will consist in showing up differences, and one of Austin's must furious perceptions is of the slovenliness, the grotesque crudity and fatuousness, of the usual distinctions philosophers have traditionally thrown up. Consequently, one form his investigations take is that of repudiating the distinctions lying around philosophy—dispossessing them, as it were, by showing better ones. And better not merely because finer, but because more solid, having, so to speak, a greater natural weight ; appearing normal, even inevitable when the others are luridly arbitrary ; useful when the other seem twisted ; real where the others are academic ; fruitful when the others stop cold. This is, if you like, a negative purpose. 2. The positive purpose in Austin's distinctions resembles the art critic's purpose in distinguishing works of art, namely, that in this crosslight the capacities and salience of an individual in question are brought to attention and focus. […] This is plainly different from their entrance in, say, philosophers like Russell or Broad or even Moore, whose distinctions do not serve to compare and to elicit differences but rather, one could say, to provide labels for differences previously, somehow, noticed. One sometimes has the feeling that Austin's differences penetrate the phenomena they record—a feeling from within which the traditional philosopher will be the one who seems to be talking about mere words. (Cavell, *Must We Mean What We Say ?*, p. 102-3.)

The connection between language and reality rests on the inventory of differences. It is in this sense that philosophy is *field work*. Austin's fundamental intuition thus becomes clear, one that is developed more completely by Goffman: that language itself is something one has to perceive, as a contextualized, framed practice, and that it is as a practice that it "fits" or doesn't. "Fit" thuss designates for Austin a concept that is neither correspondence nor even correctness; it designates the character that is appropriate, proper to the utterance in the circumstances: it fits or it doesn't.

The statement **fits** the facts always more or less loosely, in different ways on different occasions for different intents and purposes. *(PP* 130)

In his later work Wittgenstein also describes this inseparably social and perceptive level in which agreement (*Übereinstimmung*) *in* language – human cooperation – is a matter of the mutual adjustment of action and of felicity, as if objectivity and agreement in language depended on the sheer contingency of *le mot juste* (the *pitch*, as opposed to the philosophical topos of the *kairos*).

Just think of the expression, and of the meaning of the expression « the right word» (*das treffende Wort*). (Wittgenstein, *RP II, XI)*

Austin makes the possibility of finding an ordinary adequacy to the world depend both on agreement and on « l'établissement de la carte des champs de *conscience* qu'éclairent nos usages ». It is founded on the reality of language as a social activity of exchange with the world: conversation/conservation. Ordinary language is a tool, it represents inherited experience and insight – its "acumen has been concentrated primarily upon the practical business of life". It is a tool for drawing distinctions. This brings us back to the classification of actions in "Excuses", and to the distinction presented in "Three ways of spilling ink", between spilling it intentionally, deliberately, and on purpose – the infinitesimal detail of human action in its capacity for disaster.

If we reach this agreement, we shall have some *data* ('experimental' data, in fact) which we can then go on to *explain*. Here, the explanation will be an account of the meanings of these expressions, which we shall hope to reach by using such methods as those of 'Agreement' and 'Difference'.('Three ways of spilling ink', *PP*, p. 274.).

This is more than an incidental remark. The work of agreement and difference is the only way to define "harmony", that is, the ordinary intimacy of words with the world that Cavell calls their "reciprocal interiority". Goffman, explicitly alluding to Austin, connects aptness of perception of "what is going on", access to reality (recalling a chapter of William James' *Principles of Psychology* entitled "The Perception of Reality"), and felicity of speech.

In *Felicity's Condition* Goffman unites Austin's conditions of felicity with the condition of felicity of interaction, adding his own discovery to Austin's:

> Nor (it should now be plain) was it right to define Felicity's Condition restrictively in terms of verbal acts. Speech need not figure even in a reduced way for Felicity's Condition to apply: the general constraint that an utterance must satisfy, namely, that it connect acceptably with what recipients has in, or can bring to, mind, applies in a manner to non linguistic acts in wordless contexts. These acts, too, insofar as they can be perceived by individuals in the vicinity, will have to be styled so as to provide evidence that their doer is engaged in something that perceivers find understandable, event if they are not favored thereby. This paper has dealt only with utterances, but some of what it has dealt with about utterances could almost as well be dealt with about entirely nonlinguistic doings. (Goffman, "Felicity's Condition", 50-51)

I am not insisting here that Austin and Goffman share a definition of felicity as "normality" and what maintains the expressive order, the order present in the *ordinary* (interaction order), defined by the threat of rupture. Felicity is minimal (don't come across as crazy) but also maximal: on the one hand it is easy to fail – the possibility of conversational failure reflects the vulnerability of human action, of the form of ordinary life – on the other hand felicity is our chance to share a world – this new America, always

unapproachable. Goffman is in this way the heir of the quest of the Transcendentalists, the inquiry of the pragmatists, and the linguistic phenomenology of Austin.

Through his insistence on failure Austin shows the vulnerability of ordinary human action, defined, on the model of the performative utterance, as what can go wrong. Thus the pragmatic theme is reversed (the title *How to do Things with Words* was chosen by Austin for his William James lectures in ironic homage to the pragmatist maxim): action is structured by language, defined and regulated by failure, by going wrong. Then, *A wrong construction is put on things*, says Austin in *Sense and Sensibilia*, mentioning "mis-readings, mishearings, freudian slips &tc.". There is no clear dichotomy between "*things going right and things going wrong*: *things may go wrong, as we really all know quite well, in lots of different ways*". (SS 13)

Our lives, as Emerson would say, mix the casual and the casualty. Things can permanently go wrong. Goffman, even without describing the failures of interaction, defines the human character of action in the same way.

Action will be defined analytically. An effort will be made to uncover where it is to v-be foundand what it implies about those places. Wheresoever action is found, chance taking is sure to be. (Goffman, *Interaction ritual*,1967, p. 149).

Action signifies (analytically) that misfortunes lie in wait for oneself and for others, and that we take risks (threats to oneself or others): it means that our actions have circumstances, which make us, and reality, vulnerable.

This is what all of Austin's theory of excuses shows, which follows the description of philosophy of language as field work. It is excuses - what we say when it appears that we have done badly (clumsily, inadequately, etc.) - that help us to know what an action is, to begin to classify and differentiate what we bring together under the general term *action*. Excuses are essential to human action - they are in no way a mere "after-thought". The variety of excuses shows the impossibility of defining agency otherwise than through the detail and diversity of our modes of description and explanation, through our styles of performing (or not quite performing) our actions, through the look and presence that we try to give them. This too is a subject for Emerson, and for movies (like many of Goffman's scenarios).

Austin on excuses prefigures Goffman on reparation. Action, both Austin and Goffman say, is precisely that which we excuse, what we *don't exactly do*: cf. the conclusion of "Pretending", in which Austin speaks of a general project of describing the failures and vulnerability of human agency

> In the long-term project of classifying and clarifying all possible ways and varieties of *not exactly doing things,* which has to be carried through if we are ever to understand properly what doing things is.

The point is to *see* all of the human form of life as vulnerable, defined by a constellation of possibilities of failure, of ways we have to make amends, of strategies we can use to forgive or forget, to iron things out, to swallow our difficult condition as beings of failure and rupture. Thus Goffman, in "To cool the mark out", examines cases where we have to accompany someone in the suffering of a radical social failure. Goffman's analysis of interactions gives their full place to disorders, turmoil, embarrassment, shame, the stage-fright of social interactions (Goffman 1967), encroachments, intrusions, offenses, rips in

the surface of "normal appearances". These things make us feel the fragility of the ordinary as *what makes order* and they make us feel our vulnerability in the presence of others.

> Whether crucial or picayune, all encounters present occasions when the individual can become spontaneously involved in the proceedings and derive from this a firm sense of reality. When an incident occurs and spontaneous involvement is threatened, then reality is threatened…. The minute social system, that is brought into being wh)ith each encounter will be disorganized, and the participants will feel unruled, unreal, and anomic (*Interaction ritual*, 135)

The ordinary is reality as itself vulnerable – to others, to ourselves, and to our mistakes. Ordinary language philosophy, and the discovery of speech acts in particular, has been connected, as we have seen with Austin and Reinach, to this problematic of failure, of transgression, and of the vulnerability of social personhood. Goffman pursues a descriptive program of cataloging differences and our perception of "what is going on', following Austin's insight of the description of reality through the variety of excuses.

> First, to examine excuses is to examine cases where there has been some abnormality or failure : and as so often, the abnormal will throw light on the normal, will help us to penetrate the blinding veil of ease and obviousness that hides the mechanisms of the natural successful act. It rapidly becomes plain that the breakdowns signalized by the various excuses are of radically different kinds, affecting different parts or stages of the machinery, which the excuses consequentlly pick out and sort out for us. (*PP* 179-180)

Cavell traces this vulnerability to reality back to our expressive body, "the giant I carry around with me". Excuses, in their permanent recognition of human vulnerability, of what Austin calls the "civil", place the normativiy of the ordinary in the realm of the

tragic (Cavell 1994). But Austin, though not as prone to tragedy as Cavell would like, also envisaged the worst, what he defined as " the unacceptable", the inexcusable.

> It is characteristic of excuses to be 'unacceptable'. Given, I suppose, almost any excuse, there will be cases of such a kind, or of such gravity, that 'we will not accept' it. It is interesting to detect the standards and codes we thus invoke… We can plead that we trod on the snail inadvertently: but not on a baby - you ought to look where you are putting your great feet. (*PP* 194).

Comparably, he activity of reparation of offence, for Goffman, is undertaken in the context of this radical vulnerability, because the ordinary is equally manifest in small, everyday offences (the word of excuse that doesn't come, the absence of attention) as it is in tragedy.

At the origin of (comically or tragically) inadequate action is a lack of attention, a mistaken perception: we *miss the adventure*, to use an expression of James', or we simply miss out.

> A novel or poem, James says, does not give out its finest and most numerous secrets, except under the closest pressure, except when most is demanded from it, looked for in it; in other words, when what is in the book, through the quality of the reader's attention, becomes his own very adventure. The inattentive reader then misses out doubly: he misses the adventures of the characters (to him they 'show for nothing'), and he misses his own possible adventure in reading. (Diamond, *The Realistic Spirit*, 314-315)

Missing the adventure is also just not seeing properly, not being attentive to what is happening. But such a "miss" may be inherent to all social perception. Goffman, in his *Frame Analysis*, takes up the theory of perception developed by Austin in *Sense and Sensibilia*.

The work of John Austin, who, following Wittgenstein, suggested again that what we mean by « really happening » is complicated. I have borrowed extensively from all these sources, claiming reallly only the bringing of them together. My perspective is situational , meaning here a concern for what an indiviaul can be alive to at a particular moment. I assume that when individuals attend to any current situation, they have the question ; « *What is it that's going on here ? (...)*

Let me say at once that the question What is it that's going on here ? is considerably suspect. Any event can be described in terms of a focus that includes a wide swath or a narrow one and – as a related but no identical matter – in terms of a focus that is close up or distant.   (Goffman 1974, p. 8)

The matter is to see "what is going on", what is the actual situation. Indeed, Austin himself discusses the cases where *a wrong construction is put on things* : where there is no difference between misperceiving and misbehaving, or doing simply wrong. We miss reality, not because it is inaccessible, or away, but by lack of care and attention. Cavell says about the importance of film:

It says that the perception of poetry is open to all, regardless as it were of birth or talent, as the ability is to hold a camera on a subject, so that a failure so to perceive, to persist in missing the subject, which may amount to missing the evanescence of the subject, is ascribable only to ourselves, to failures of our character; as if to fail to guess the unseen from the seen, to fail to trace the implications of things – that is to fail the perception that that there *is* something to be guessed and traced, right or wrong – requires that we persistently coarsen and stupefy ourselves ('The Thought of Movies', *Themes out of school, p.* 14)

A false perception of situations, defined from the beginning as a moral matter, is the origin of practical errors, which come back to put us in the wrong or to embarrass us. For both Austin and Goffman, the essential concern is lack of attention, thoughtlessness, inconsiderateness: literature, in the precision of its descriptions, teaches us to focus our

attention, as does cinema, and the observation involved in field work. The education of our perception of the ordinary makes it a closer and closer attention, what one might call *care*.

> It happens to us, in military life, to be in receipt of excellent intelligence, to be also in self-conscious possession of excellent principles (the five golden rules for winning victories), and yet to hit upon a plan of action which leads to disaster. One way in which this can happen is through failure at the stage of *appreciation* of the situation… So too in real, or rather civilian life, in moral or practical affairs, we can know the facts and yet look at them mistakenly or perversely, or not fully realize or appreciate something, or even be under a total misconception. Many expressions of excuse indicate failure at this particularly tricky stage: even thoughtless, inconsiderateness, lack of imagination are perhaps less matters of failure in intelligence or planning than might be supposed, and more matters of failure to appreciate the situation. A course of E. M. Forster and we see things differently, though perhaps we know no more and are no cleverer. (*PP* 193-4)

Goffman's question "What is it that's going on here?" is an echo of Austin's "What should we say when…?". Both give a new mission to ordinary realism: to describe what is going on, and to heighten our sense of the vulnerability of "what is going on" (a reformulation in ordinary language of the Wittgenseinian question, "what is the case") itself.

> The issue is that an individual may not merely be in error, but that certain of these errors prove to be a matter of « misframing », and consequently involve him in systematically sustained, generative error, the breeding of wrongly oriented behavior. For if we can perceive a fact by virtue of a framework within which it is formulated […] then the misperception of a fact can involve the importation of a perspective that is itself radically inapplicable, which will itself establish a set, a whole grammar of expectations, that will not work. The actor will then find himself using not the wrong word but the wrong language. If, as Wittgenstein suggested, « to understand a sentence

means to understand a language », then it would seem that speaking a sentence presupposes a whole language and tacitly seeks to import its use.

(…) And attention will be directed to what it is about our sense of what is going on that makes it so vulnerable to the need for these various rereadings. (Goffman, *Frame Analysis*, 309)

Reality itself is vulnerable to our re-readings and our agreements, and it is this vulnerability that defines the ordinary. This is the realist (or, if you prefer, ontological) legacy of Austin on performatives, and perception.