The Background of Constitutive Rules
Introduction

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1. Two Revolutions in the Philosophy of Norms

In the twentieth century two revolutionary turns were accomplished in the philosophical research on norms and normativity: The first was the creation of a full-fledged deontic logic, a decade-long development which went through stages[1] before it culminated in the publication of the essay "Deontic Logic" by Georg Henrik von Wright in 1951. The second was the conceiving of the idea of a constitutive rule. The first turn opened a new field of study, to wit that concerning logical relations between norms (recall e.g. the question asked by von Wright (1951: 5) if there are any "logical truths peculiar to deontic concepts") and the logical structure of norms themselves; the second, by contrast, had consequences for the typological research of norms, the analysis of the functions that a norm can perform, and hence also the extension of normativity as such, that is, the inclusion in the extension of "normativity" of such phenomena as would not have been considered normative before the invention (or the discovery) of constitutive rules.

The present special issue of *Argumenta*, entitled "The Background of Constitutive Rules", is devoted to some aspects of that second revolution in the philosophy of norms, accomplished in the past century. It consisted, as we have briefly said, in putting forward the hypothesis that, beside the traditional roles of rules in regulating human behaviour by bestowing upon it deontic qualifications such as "obligatory", "prohibited", "permitted" or "facultative", some rules may well influence our life in a more radical manner, viz. changing the ontological and conceptual structure of our everyday world. Aside from the function of giving prescriptions and regulating (in the strict sense of this word, i.e. presupposing that that which is to be regulated already exists or at least is conceivable), a new normative function is revealed: the "constitutive" one. New ground is about to

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[1] Regrettably, a true history of deontic logic has still to be written. However, in the words of Morscher (1975: 255), the book by Kalinowski (1972b) *"könnte ebensogut den Titel 'Geschichte der Normenlogik' tragen"* (could just as well have been entitled "A History of the Logic of Norms"), i.e. deontic logic, more or less. The German translation (Kalinowski 1972a) by Wolfgang Klein is in certain respects improved (by the translator).

be broken: that issuing from the idea that rules not just regulate (types of) behaviour but are also apt to "do things with", to speak with J.L. Austin, and thus to have direct impact on reality, changing its ontological structure. In fact, by means of constitutive rules new forms of acts, facts, objects, events etc. are created, of which the relevant rules are conditions of possibility, not just in the ontological sense but, too, in the sense of sheer conceivability. Such acts etc., rendered ontologically and epistemologically possible (conceivable) by means of constitutive rules, came to be called "institutional" or "thetic" phenomena.[2]

2. A New Idea of Rule: Constitutive Rules

The first time ever (as far as we could establish) the idea of a constitutive rule makes its appearance in 1923 in Lemberg (Lwów), then Poland, where, in a Polish congress of philosophy, a young legal scholar and philosopher, Czesław Znamierowski, held a lecture with the title "Z nauki o normie postępowania" (From the research on the norm of conduct).[3] In this lecture Znamierowski distinguished between the traditional concept of a norm of conduct, which he believed is that of an "imperative" norm, and a new concept, or a new species of norms, which he called "construction norm". By way of a play-on-words one could be tempted to call that a distinction between "constriction norms" and "construction norms".[4] Three years later, in his book *Podstawowe pojęcia teorji prawa. Część pierwsza: Układ prawny i norma prawna* (Basic concepts for a theory of law. Part one: The legal system and legal norms) (1924: 72), he explained that a construction norm or a norm of construction (in Polish: *norma konstrukcyjna*) is one which, conferring new, conventional meaning on various types of acts and objects, constructs a new type of act.[5] As Znamierowski (1924: 103) chose to put it, "[a] norm of construction creates new possibilities of action, such as without it could not exist". For example, "without the rules of chess there would be no moves of the rook, the pawn or the queen, without the rules of contract bridge there would be no bids, tricks or passes".

According to Znamierowski, it is in virtue of construction norms (in his sense) that acts, actions, activities, as well as other kinds of psychophysical objects (Searle would call them by the Anscombean name of "brute" acts and so on) become what Znamierowski calls "thetic" (in Searle: institutional) acts, actions and so forth:

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[2] The expressions "thetic acts/states of affairs" were introduced by Znamierowski (1924), while the expression "institutional facts" we owe to Searle (1964). At the origin of the Searlean concept of an "institutional fact" lies the essay "On Brute Facts" of 1958 by G.E.M. Anscombe.

[3] Cf. Znamierowski 1927.

[4] A likely source of inspiration for "construction norms", at least as far as terminology is concerned, was, for Znamierowski, the French legal scholar Léon Duguit, who as early as in his book *L'État, le droit objectif et la loi positive,* published in 1901, introduced the distinction between "*règles constructives*" and "*règles normatives*". On Znamierowski's social ontology see Lorini and Żełaniec 2013 and 2016.

[5] Here, the norm of construction (or a set of such norms) seems to perform an "ascriptive function": it ascribes a new meaning to things.

> Here, too, in virtue of a certain rule, or rather a whole system of rules, certain psychophysical actions acquire a new meaning constructed through norms. The chessmen, which are initially just pieces of lathed wood or bone, become "chessmen" that can be moved in this or that way (Znamierowski 1924: 67).

However, the philosopher who not only formulated his own version of the concept of constitutive rule but also made the very idea of such a rule well-known in various philosophical quarters was the American philosopher John R. Searle. In his essay "How to Derive 'Ought' from 'Is'" of 1964, he did not mention Znamierowski (who wrote in Polish) but, tracing back, perhaps not very accurately, his idea of the distinction between regulative and constitutive rules to Kant's distinction between regulative and constitutive principles,[6] he attributed it to John Rawls and his essay "Two Concepts of Rules" of 1955. Yet his distinction does have a striking similarity to that of Znamierowski mentioned above (i.e. the distinction between imperative norms and construction norms). One year after his essay of 1964 he writes:

> I distinguish between two sorts of rules: Some regulate antecedently existing forms of behaviour; for example, the rules of etiquette regulate interpersonal relationships, but these relationships exist independently of the rules of etiquette. Some rules on the other hand do not merely regulate but create or define new forms of behaviour. The rules of football, for example, do not merely regulate the game of football but as it were create the possibility of or define that activity (Searle 1965: 223).

Searle will call the former "regulative rules" and the latter "constitutive rules". As is evident from the excerpt above, these two different kinds of rules are distinct not just with regard to their function (regulating vs. creating) but also with regard to the relation that connects them to their respective objects. Regulative rules presuppose their objects as already existing, given; constitutive rules, by contrast, put these objects into existence. "Regulative rules regulate a pre-existing activity, an activity whose existence is logically independent of the rules". "Constitutive rules constitute [...] an activity the existence of which is logically dependent on the rules" (Searle 1965: 224).

In this very brief history of the research on constitutive rules a third scholar deserves a special mention: the Italian philosopher Amedeo Giovanni Conte. In the eighties of the twentieth century Conte developed a rich typology of constitutive rues, in which the subcategory of "eidetic-constitutive rules" was central.[7] Eidetic-constitutive rules are those that create the concept (*eidos*/εἶδος) of whatever they are constitutive of.[8] Conte characterises eidetic-constitutive rules not just in ontological terms (analogous to those employed by Znamierowski and Searle) but also in semiotic terms:

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[6] As Conte has shown (2004a: 15; 2004b: 539ff.), Kant did come—if only in few little-known places in his work—somewhat closer to discovering the "Searlean" distinction than he could ever do by means of his distinction between constitutive and regulative principles.

[7] Cf. Żełaniec 2013: 75-93.

[8] Cf. Conte 1988 and Azzoni 1988.

The eidetic-constitutive rules are those that determine the connotation of those terms that (in the formulation of the rules) designate the praxemes (the units of praxis) which are governed by the rules. For example the rules of chess are eidetic-constitutive because (and in the sense that) they determine the connotation of terms ('bishop', 'castling', 'check', …) which designate the praxemes (pieces, pragmemes,[9] game situations) of the game (Conte 1988: 252).

We have dwelt on these three key moments in the history of the research on constitutive rules, but clearly this history is much more complex and more minutely articulated.[10] In the twentieth century there were quite a few scholars, from various fields of research and various countries, who contributed in various ways, mostly independently from one another and having no knowledge of one another, to this new research topic, studying what has since Searle been called "constitutive rules" (in some cases eloquently denying their existence) under different names and in a variety of theoretical contexts. Amongst the most notable of these scholars were Carlos Alarcón Cabrera, J.R. Cameron, Gaetano Carcaterra, Stanisław Czepita, Jean-Louis Gardies, H.L.A. Hart, John Mabbott, Neil McCormick, Dolores Miller, Kazimierz Opałek, John Rawls, Alf Ross, David-Hillel Ruben, Dick W.P. Ruiter, Josef Schächter, Frederick Schauer, Hubert Schwyzer, D.S. Shwayder, Frank Snare, Ota Weinberger, Ludwig Wittgenstein, Jerzy Wróblewski, Zygmunt Ziembiński and others.

Beside these notable ones there are, too, some perhaps not yet so notable thinkers who have at some stage of their career done some serious work on constitutive rules, such as e.g. Frank Hindricks, or the editors of this volume. And, of course, there are still young scholars joining the constitutive rules research community. Some of them have contributed to this volume.

3. Is There Something Behind the Constitutive Rules?

The research on constitutive rules has from its beginnings onwards been inextricably connected with social ontology.[11] In social ontology, the fundamental role played by constitutive rules (referred to, again, by different names) in the "construction of social reality" (to quote Searle 1995) and its institutions with their normative implications was already acknowledged and the above-mentioned three pioneers of the research on constitutive rules: Znamierowski, Searle and Conte. Many various social facts and act(ivitie)s are institutionalised in one way or another, i.e. defined in terms of certain non-natural and man-bestowed properties and relations, and such institutionalising cannot be accomplished without constitutive rules. The case of the game of chess is paradigmatic:[12] as we have seen, it is impossible to play chess without the rules of chess. Generally, it is impossible to engage in any ever so implicitly institutionalised activity without the corresponding constitutive rules.

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[9] Conte calls "pragmemes" the acts whose type is constituted by eidetic-constitutive rules. A castling in chess e.g. is a pragmeme.
[10] Cf. Conte 1986.
[11] Cf. Znamierowski 1924 and Searle 1995, 2010.
[12] However, it must not be thought that constitutive rules are relevant exclusively for (the study of) games and sports; this impression is sometimes generated by overworking that paradigmatic example.

However, some authors, such as Hubert Schwyzer and Dolores Miller, studying the role played by such rules in the "construction of social reality" (to quote Searle once again) have started exploring certain areas left unexamined by the three geniuses mentioned above. The areas that we mean extend into the "backstage" of constitutive rules. For instance, Schwyzer, in his essay "Practices and Rules" of 1969, started asking what is "behind" constitutive rules. Developing an idea of Wittgenstein,[13] Schwyzer sets up a thought-experiment involving the favourite example of all students of "rule-constituted activities", their *Drosophila melanogaster* as it were: chess. Let's imagine a society, he says, call it "Ruritanians",[14] in which chess is "played" not as a game but as a religious ritual. All chess rules known in our world are strictly adhered to, so it is correct to say that the activity in question is constituted by the same constitutive rules (the same eidetic-constitutive rules, in Conte's lexicon) as our chess (chess as a game) and yet there is no winning or losing in it, although it is still possible to checkmate one's "opponent", or to castle. But what kind of a strange rite is that? Schwyzer describes it thus:

> There is, he says, only one chess set for each community. Chess is enacted once every year by the priest of the community, for purposes of determining the will of the gods. If white mates black, the community and the crops will flourish; if black mates white, there will be trouble (Schwyzer 1969: 457).

This thought-experiment of Schwyzer is just one example amongst many—an example of what it should be the job of social ontology to investigate, but what social ontology has so far ignored: the (usually tacitly taken for granted) backdrop against which constitutive rules operate and without which they are not thinkable. For constitutive rules do not arise and work in an absolute vacuum: they are immersed in a conceptual and semantical atmosphere that conditions their normativity and their very meaningfulness. For example, while it is impossible to play chess (as we know it) without the rules of chess, it is likewise impossible—this is what Schwyzer's story, we believe, makes evident—to play chess (as we know it) if the constitutive rules are there and are known by most everybody, but the concept of game (a playful competitive activity) and the concept of victory do not exist—in a society like that chess as a game would remain unintelligible. Such concepts as "game" or "victory", however, are not for their part defined through constitutive rules—or at least, not through any such rules of the same order as those that define chess. Such concepts are, much rather, part of the *conceptual background* of these rules.

This conceptual background has usually been taken for granted. And this is no surprise: after all, *don't* we know what a game, and what the victory in a

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[13] Wittgenstein (1953: I, § 200): "It is, of course, imaginable that two people belonging to a tribe unacquainted with games should sit at a chess-board and go through the moves of a game of chess; and even with all the appropriate mental accompaniments. And if *we* were to see it we should say they were playing chess."

[14] A name adopted from the titles of three novels by the English novelist and playwright Anthony Hope, *The Prisoner of Zenda* of 1894, *The Heart of Princess Osra* of 1896 and *Rupert of Hentzau* of 1898. It remains regrettably unexplored, to our knowledge, if there are any deeper connections, but the name, between Schwyzer's thought-experiment and Hope's political-*cum*-social fiction.

game is? … True, the concept of victory, or even that of a victory-in-a-game is very general, abstract, and for this reason rather "woolly", but when we familiarise ourselves with a new game, say "Class Struggle", and we learn that victory in that game consists in this or that, we immediately understand what is meant by that (in fact, we usually from the very beginning of getting familiar with a new game impatiently expect being told what the victory in this game consists in) and we do not make puzzled faces asking "but what do you mean by: 'that is the victory in this game'? In what way do you think this should enlighten me? It doesn't and it can't. I know what the victory-in-draughts or victory-in-Classic Slalom are, but these sports are so different from this game that I have no inkling as to how I should possibly transfer those notions on the game in hand. Draughts and Classic Slalom, besides, are very unlike each other too, so I can't see anything that their respective 'victories' (if 'victory' in abstraction from the game or sport had any meaning, and it probably has not) could conceivably have in common."

Yet, obvious as the concept of victory-in-a-game may appear be, it belongs precisely to that *background* of constitutive rules which for a long time was taken for granted. In this background various concepts are hidden which Dolores Miller (in her essay "Constitutive Rules and Essential Rules" of 1981) called "meta-institutional concepts". The meta-institutional concepts are concepts that go beyond (Greek: *metá*/μετά) the institutions of which they are conditions of possibility: they are presupposed by the constitutive rules of the relevant institution.[15] An example of a meta-institutional concept is, according to Miller, the concept of obligation. Miller holds that this concept is meta-institutional with respect to the concept of promise:

> *"Obligation"* is a concept which exists above and beyond promising—it is logically independent of promising, although promising may not be logically independent of it. Indeed, as Searle says, promising is an institutionalized form of obligation (Miller 1981: 188).

The presence of meta-institutional concepts reveals another important truth concerning the ontology of institutions (for Searle, "systems of constitutive rules"): institutions are not "categorially autonomous", they are no independent and complete, self-closed units.[16] They are immersed in a conceptual and possibly axiological atmosphere which conditions their possibilities of existence. Neither do they operate in a vacuum or *ex nihilo*; rather, they depend on that "atmosphere" for their constitutive force and their meaningfulness.

If this is so, then a philosopher of normativity is confronted with a new challenge: to examine that *background* of constitutive rules. In this connection, there arise questions like these:

What is there behind institutions conceived of as systems of constitutive rules?

What kinds of institutions are there accordingly?

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[15] On the idea of "meta-institutional concept", see Lorini 2000, 2012, 2014 and Roversi 2010, 2014.

[16] Is it possible to construct a typology of institutions? For an attempt see Searle 2006.

Which are the conceptual structures that are presupposed by constitutive rules and are operative in the construction of social reality?

Beside constitutive rules with their background, are there any other necessary conditions of possibility of institutional facts?
and many others.

The ten essays that we submit to the reader in this special issue of *Argumenta* are devoted to these and similar questions, and attempt to shed some light on them.

4. The Ten Papers

This special issue devoted to "the background of constitutive rules" opens with the paper "Two Concepts of Constitutive Rules" by Jaap Hage. Hage, as distinct from many other students of constitutive rules, has no interest in the rules of games. His "rules" are first and foremost legal norms. He shows that there are, in fact, two kinds (not mutually exclusive) of constitutive rules. The first kind are rules that are part of a social practice (such as "legal persecution of theft", for instance) within which the rules can have different—including regulative—functions (such as defining theft, prohibiting it and bestowing on certain state functionaries the competence to punish the thief). The Searlean "counts-as" rules[17] (e.g. an action satisfying certain conditions is theft) are just a subset of them. The second kind are rules that create new facts by (symbolically) attaching them to certain facts already existing. Such rules need not (though they can) define practices; their main "point" lies in putting constraints on "possible worlds", i.e. on what can coexist with what (Hage deploys here a subtle and precise conceptual apparatus). Some of such rules (he calls them "dynamic") can create duties and/or obligations, which allows, Hage says, to redeem, even if with important modifications, the old Searlean "derivation" of Ought from Is.

In "The Occasions of Law (and the Occasions of Interpretation)", the second paper of this special issue, Frederick Schauer starts from Searle's insight "No remark without remarkableness" to study the significance of the Gricean concept of implicature in the legal worlds, and in particular on that which he calls "the occasions of law" and "the occasions of legal interpretation". Schauer argues that, just as an act of remarking presupposes some reason for the remark, a legislative act presupposes a reason for laying down a norm, and an act of interpretation presupposes a reason why the relevant rule cannot be (or: is better not) left without an interpretation. If this is right, he goes on to argue, then we have got a first glimpse of a "pre-legal world", silent, unspoken-of, a hidden background of legal norms, most often taken for granted. According to Schauer, this unspoken-of pre-legal world can be focussed on as soon as human behaviour breaches some unwritten and unspoken-of rules that make up that background.

The third paper, brief but conceptually rich is the one by John Searle, entitled just "Constitutive Rules". In it, Searle examines and reconstructs the concept of a constitutive rule which he first formulated in his essay "How to Derive 'Ought' from 'Is'" of 1964 and which he has ever since gone on revising in the light of his incrementally changing theory of the institutional reality, first formu-

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[17] Cf. Searle 1969: 36.

lated in his book *The Construction of Social Reality* of 1995. Remarkably, this paper is the only essay in Searle's very large work which is uniquely dedicated to the concept of a constitutive rule. Aside from assembling various components of the definition of that concept, formulated elsewhere, Searle makes evident the enormous construction power of this conceptual tool due to its logical structure and its recursive applicability, as well as its function for the (comprehension of) human civilisation. (The reason why we have put "comprehension of" in parentheses here is that, first, as shown by Hage, constitutive rules are sometimes parts of social practices, and second, as argued for by Kaluziński, such rules must be—conceptually—familiar, and adhered, to by those who enact these practices.)

In "Searle on Normativity and Institutional Metaphysics", the fourth paper of the issue, William Butchard and Robert D'Amico address, them too, the problem of the Searlean derivation of Ought from Is. They attempt to show that the concept of constitutive rule, and more fundamentally that of a "constitutive connection" (i.e. such that fully accounts for, or "metaphysically grounds", that which it is constitutive of, while being no essential part thereof) between collective attitudes on one hand and obligations on the other, as long as these attitudes are normative in character, can be used to make that derivation appear plausible, without a threat of circularity. In an in-depth, extended polemic against David-Hillel Ruben, Butchard and D'Amico also make a broader case for the concept of "constitutive connections" as central to Searle's social ontology, frequently misunderstood, as they see it. In addition, they try to demonstrate that Searle's account of institutions, norms and normativity in general, though constructivist in a way, is nonetheless both naturalist and realist, in a sense which they carefully discuss and define.

In the fifth paper, entitled "Meta-meta-institutional Concepts? A Tale on Schwyzer and the Force of Technical Ends (Live from Ruritania)", Guglielmo Feis attempts to come to terms with the idea of a meta-institutional concept and level in the construction of social reality. Once we have admitted such levels, he asks, is it not likely that we'll sooner or later have to admit a further, meta-meta-institutional level, then perhaps, by the same logic, a meta-meta-meta-institutional level … and so on? In order to avoid infinite regress, Feis suggests, we had better adopt a different solution to the Schwyzerian challenge. Its core lies in seeing the "meaning" or "significance" of the given set of constitutive rules; one could call it the "point" of engaging in the practice they constitute. Chess as a game and chess as a hypothetical religious rite have the same rules and you can do without all those meta-levels, Feis says, if you attend to what people engage in playing chess *for*.

In his essay "Constitutive Rules: The Manifest Image and the Deep Image", the sixth paper of the issue, Maurizio Ferraris draws our attention to a recently discovered aspect of the background of social reality: it could be called "empirical background". Ferraris starts from two questions on constitutive rules: the question of the genesis of constitutive rules ("where do constitutive rules come from?") and the problem of their foundation ("what grounds constitutive rules?"). This is where the background of the constitutive rules comes in. Ferraris holds that "there is a layer of recordings and documents that grounds constitutive rules" and that these recordings and documents "are the cornerstone of the empirical backgrounds that warrants the production of social objects through constitutive rules". In other words, according to him, "constitutive rules require

a background of empirical conditions, which come from the role that recording playing in the production of these rules". In the light of this thesis Ferraris proposes to add a "deep image" of social reality, based on recordings and documents, to its "manifest image" as based on collective intentionality.

In the seventh paper, the one by Terry F. Godlove Jr. and entitled "Constitutive Rules, Normativity, and A Priori Truth", the author takes as his point of departure the seminal idea of a constitutive rule proposed by Searle in the sixties of the twentieth century, and submits to critical examination, along the same lines as Hubert Schwyzer (1969) (and more recently, as Giuseppe Lorini 2012, 2014), the conceptual background of constitutive rules, that is, the categorial background that makes possible the constitutive function of constitutive rules. However, as different from Schwyzer and Lorini, Godlove (adopting a generally Kantian point of view) does not advance any hypothesis of the existence of a "material background", i.e. a social, cultural and institutional contexts in which constitutive rules are embedded, but rather that of the existence of a "formal background", i.e. an *a priori* context of "higher-order rules that are constitutive, not of this or that form of behaviour, but of any form of cognitive engagement with the world".

In "What Does It Mean That Constitutive Rules Are in Force", the eighth essay in the issue, Bartosz Kaluziński, while he acknowledges, under a different name (he calls it a "deep convention"), the existence of what was to Lorini the meta-institutional level and to Feis the "meaning" of constitutive rules, he addresses an entirely different aspect of the issue. His question: "what does it mean that a set of constitutive rules are in force?" pertains to the very essence of what happens when human (or other rational) beings actually engage in an activity or behaviour defined by that set of rules. "Actually"—as distinct from "going through the motions" of that practice, or mimicking it or mocking it or … behaving in a way that has only an accidental similarity to that practice. Well, few students of constitutive rules have observed that such agents must know, accept and respect these rules, as well as intend to behave according to them. Kaluziński carefully fills this lacuna.

In the ninth paper, entitled "The Ludic Background of Constitutive Rules in Bernard Suits", Filip Kobiela focusses on the role which constitutive rules fill in Bernard H. Suits' regrettably yet-too-little known (at least among the students of constitutive rules) conception of what he calls "lusory attitude". Within Suits' account the meta-institutional level, or, alternatively, the meaning or the "point", of a given (constitutive rules-defined) game comes first, not last: "We play games in order to win (or in order to make our opponent win, sometimes), after all, don't we."[18] What comes second is the specific definition of winning in a given game and this can be checkmating the opponent, or scoring the highest number of goals, or arriving somewhere ahead of the others or … whatever else. Then, but only then, do the relevant constitutive rules come in, and their role is

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[18] Actually, in the last FIFA World Cup in Russia there were strikingly many matches played, from a certain moment on, apparently with a view to *not* changing the score. This was not a case of the "to win or just for fun" alternative, as it was fun to nobody. German sports reporters have called this manner of playing "*Verwaltungsmodus*" or "paperwork processing mode". But then, FIFA World Cups are ruled by much more rules "than are dreamt of in your philosophy," Professor Suits!

to restrict—typically: very severely—the number of ways in which the event defined as winning (or, more accurately, the element that winning in the game in question is defined as) can be brought about.[19] Seen in this perspective, constitutive rules do no more contrast all that starkly with regulative rules (in Searle's sense). Suits suggests calling them constitutive-restrictive, constitutive-limitative, or constitutive-prohibitory rules. This is certainly a very interesting and novel way of seeing constitutive rules and their (in this case: "prelusory") background.

Finally, Corrado Roversi, in his paper "Constitutive Rules and the Internal Point of View", the tenth and last paper of this issue of *Argumenta*, maintains that in order to understand fully the life of an institution we must not restrict ourselves to constitutive rules, but we need to be acquainted also with the social purpose and meaning of the practice these constitutive rules are part of. In particular, he makes a distinction between five different perspectives on an institution, and he observes that only one of these perspectives is captured by constitutive rules. On this path, Roversi puts forward the idea of a three-dimensional social ontology consisting of a structure (framed by constitutive rules), a conceptual background, and an actual practice. It is only while examining these last two elements, he maintains, that we encounter concepts that are essential for the practice in question, although they are not reducible to concepts constructed by the relevant constitutive rules (i.e., castling and checkmating), namely: meta-institutional concepts (i.e., "victory" and "defeat") and para-institutional concepts (e.g. "filibuster" and "first-move advantage").

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[19] Otherwise, that event can be made to happen in an amazing variety of ways, some of which are quite remarkable; think e.g. of Rosie Ruiz and her "victory" in the 84th Boston Marathon in 1980.

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