The Fact of Freedom: Reinhold's Theory of Free Will Reconsidered

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Abstract: K.L. Reinhold advocates a theory of free will as the capacity to choose for or against the moral law. Reinhold's theory has often been accused of being psychologistic due to its alleged appeal to empirical facts of consciousness. This paper argues that instead of merely positing free will as a fact of consciousness, Reinhold provides an argument for free will as a necessary condition for moral responsibility. This sheds new light on the development of the concept of will in the wake of Kant's practical philosophy.

In his *Letters on the Kantian Philosophy Volume II*, K.L. Reinhold presents a theory of free will in the spirit of Kant's own theory, though with an emphasis on choice, viz. our capacity to choose for or against the moral law. Scholarship on Reinhold has been growing and free will has been a popular topic among recent scholars. Reinhold's theory is often criticized for being psychologistic.[1] Faustino Fabbianelli claims that Reinhold had difficulty "extricating himself from a psychological conception of freedom, because his discussion remains grounded in mere

[1] Exceptions to the psychologistic interpretation of Reinhold's theory of free will are Martin Bondeli and Jörg Noller. Bondeli denies that Reinhold's theory "transforms moral freedom into a kind of psychological dependence" (Bondeli 2001, p. 248) and recognizes that Reinhold argues for freedom as a necessary condition for our awareness of the moral law as binding upon us (Bondeli 2018, pp. 529–530). Noller acknowledges that Reinhold's theory concerns the "*entire* use of freedom" and that Reinhold's attempt to *realize* Kant's theory through first-order "volitional tendencies" structured in drives does not necessarily imply that Reinhold's theory merely concerns "moral *psychology*" (Noller 2015, p. 226).

facts of consciousness" (Fabbianelli 2000, p. 441).[2] Georg Wallwitz accuses Reinhold of carrying out a "renaturalization of Kant's concept of freedom, which is located in the intelligible sphere" (Wallwitz 1999, p. 131).[3] Marion Heinz maintains that Reinhold "substitutes the conception of an anthropologizing moral psychology for Kant's project of a metaphysics of morals" (Heinz 2012, p.169). Similarly, Günter Zöller claims "with Reinhold, practical philosophy remains in the domain of facts of moral consciousness and of their logical-analytical explication within the scope of *moral psychology*," (Zöller 2005, p. 75) and contends that Reinhold proceeds in the phenomenological style of the popular philosophers, connecting empirical results with their theoretical penetration (Zöller 2005, p. 87).[4] However, not all commentators take a disparaging stance on Reinhold's alleged psychologistic account of free will. Daniel Breazeale claims that for Reinhold, "the *evidence* for positing the same [absolute freedom] is purely *empirical*, indeed, *psychological*, since the 'facts' in question are always facts *of consciousness*, allegedly available to everyone within inner experience" (Breazeale 2012, p. 112).[5] Breazeale notes that Reinhold's appeal to facts of consciousness can be seen as an anticipation of existentialist thinkers who take our phenomenalogical experience of free will to be fundamental to the human condition (Breazeale 2017). To be sure, on the one hand there is something off-putting about making philosophical claims on the basis of facts of consciousness, and a serious worry that this practice amounts to making bald assertions. On the other hand,

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[2] Fabbianelli goes on to assert that a critic could reject Reinhold's defense of free will on the basis of its "psychologism," and questions how it is possible to claim that man is free on the basis of one's own individual consciousness (Fabbianelli 2000, p. 442).

[3] While Wallwitz does not explicitly charge Reinhold with psychologism, he maintains that Reinhold's claim that freedom is not an object of faith, but rather an object of knowledge "violates the principle of sufficient reason, according to which an object of empirical knowledge must always have knowable grounds" (Wallwitz 1999, p. 131).

[4] Daniel Breazeale rightly notes that Zöller's position entails that Reinhold's account "is not a contribution to philosophy at all, but rather to empirical psychology" (Breazeale 2012, p. 113).

[5] For a defense of Reinhold's supposedly psychologistic reliance on facts of consciousness see Brezeale (2012, pp. 112–116).

phenomenological approaches to certain philosophical issues, or to philosophy in general, should not be rejected out of hand. However, rather than weigh in on the *merits* of Reinhold's alleged grounding of our knowledge of free will in facts of consciousness, I contend that this is not the most charitable interpretation of Reinhold's argumentative strategy after all, or, better yet, that the appeal to facts of consciousness tells only half the story.

This paper does not provide a full treatment of Reinhold's use of facts of consciousness. Reinhold's employment of facts of consciousness changed with his own philosophical developments and played a significant role in his theoretical project of the *Elementarphilosophie*.[6] An account of the role of facts of consciousness in Reinhold's theoretical philosophy would steer us too far afield from the specific task of reexamining the alleged psychologism of Reinhold's theory of free will.[7] Furthermore, this paper neither defends Reinhold's claim that free will must be conceived as the capacity to choose for or against the moral law, nor does it treat Reinhold's dispute with Kant on the correct definition of free will. Instead, the scope of this paper is limited to clarifying Reinhold's argumentative strategy in his theory of free will and refuting some of the more egregious accusations regarding the supposed psychologism of Reinhold's account. I hope that this modest aim may shed new light on the development of the concept of will in Classical German Philosophy.

Part 1 examines Reinhold's account of free will and Reinhold's claim that we know that we are free as a fact of consciousness. In Part 2 I argue that this claim is not an empirical assertion, but follows from our consciousness of the moral law. In Part 3 I show that Reinhold

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[6] For example, in the early incarnation of Reinhold's *Elementarphilosophie* in *Contributions to the Correction of Previous Misunderstandings of Philosophers Volume I* (1790), the "fact of consciousness" was connected solely to the *Satz des Bewußtseyns.* It was not until his *On the Foundation of Philosophical Knowledge* (1791) that Reinhold ever used "facts of consciousness" in the plural (Lazzari 2004, p. 232n7). For a thoroughgoing treatment of Reinhold's systematic developments between 1789 and 1803 see Bondeli (1995).

[7] For an investigation of the method of Reinhold's early *Elementarphilosophie*, viz. the relation between reflection, intellectual intuition, and the fact of consciousness see Breazeale (2006).

argues by *reductio ad absurdum* that free will must include a capacity to freely act contrary to the dictates of the moral law. In Part 4 I consider two objections tied to Reinhold's supposed psychologism: Prauss' objection that Reinhold's account of the person undermines his account of free will and Zöller's objection that Reinhold's account is guilty of the homunculus fallacy.

1. Reinhold's Theory of Free Will and Facts of Consciousness

I will limit my treatment of Reinhold's theory of free will to the period between 1792 and 1797. Thus, I will be concerned with Reinhold's theory as it is presented in *Letters on the Kantian Philosophy Volume II* (1792), *Contributions to the Correction of Previous Misunderstandings of Philosophers Volume II* (1794), and "Some Remarks on the Concepts of Freedom of the Will posed by I. Kant in the Introduction to the Metaphysical Foundations to the Doctrine of Right" (1797). Although Reinhold addresses free will in his *Attempt at a New Theory of the Human Faculty of Representation* (1789), he had not yet divorced the will from practical reason and in that work considers only moral action to be absolutely free (*Attempt* pp. 571–572, *RGS* 1.362). It was not until 1792 that Reinhold conceived the will as absolute self-activity independent from not only the demand of desire, but also from the demand of pure practical reason.[8] From 1792–1797 Reinhold consistently conceives free will as a capacity to determine oneself in accordance with either the demand of desire or the demand of reason, i.e. to determine oneself in accordance with or contrary to the moral law.

[8] For discussions of Reinhold's separation of the will from reason see Lazzari (2004, pp. 167–222) and Noller (2012).

In his *Letters on the Kantian Philosophy Volume II*, Reinhold asserts that we have two fundamental drives: the selfish drive, which expresses the demand of desire, and the unselfish drive, which expresses the demand of the moral law (*LII* pp. 181–184, *RGS* 2/2.134–136).[9] The will is the capacity to determine oneself for or against the demand of the unselfish drive viz. the satisfaction or non-satisfaction of the selfish drive (*LII* p. 183, *RGS* 2/2.135). That is, the will is the capacity to determine oneself for or against the moral law given the demand of desire. The two drives are connected in such a way that the demand of the unselfish drive, i.e. the demand of the moral law, always relates to the possible fulfillment of a given desire. Reinhold characterizes these two demands as occasioning grounds. Self-determination to the demand of the moral law or to the demand of desire constitutes a decision (*Entschluß*) whereby one of the occasioning grounds is made into a determining ground of volition. This decision is absolutely free.

Reinhold makes clear in "Letter Six" that his presentation of the fundamental concepts of ethics (including the concept of free will) is not based on metaphysics at all, but rather is based on the original and universal faculties of human cognition, which make themselves known through facts of consciousness (*LII* p. 180, *RGS* 2/2.133). Reinhold asserts as facts of consciousness: "*First*, that in volition as well as in involuntary desire, that drive, which can be moved to action only by pleasure and displeasure, is active – *Second*, that in volition, in addition to that drive, *reason* is also active in a particular way" (*LII* p. 244, *RGS* 2/2.173). By asserting these facts, Reinhold takes himself to have established the basic structure of agency in general, and volition in particular. The first fact establishes that in any act (i.e. in both volition and

[9] By 1794 Reinhold had abandoned the two fundamental drives, the selfish drive and the unselfish drive, characteristic of his theory in the second volume of the *Letters*. However, this revision did not touch his underlying position that the will is a capacity to choose to satisfy or not satisfy a demand of desire given the demand of the moral law. For relevant characterizations of the will from 1794 see Reinhold (2004, p. 143). For relevant characterizations from 1797 see Reinhold (*SWII* p. 372, *RGS* 5/2.143).

involuntary desire) the selfish drive is active. As has already been mentioned above, the selfish drive expresses the demand of desire, i.e. the demand grounded in pleasure and displeasure. Acts that are grounded only in desire, are not volitions, but are instinctual and animal (*LII* p. 246, *RGS* 2/2.174). The second fact establishes that in volition, reason is active by means of expressing the demand of the moral law through the unselfish drive. Reinhold goes on to assert that it is also a fact of consciousness that in volition the act of decision takes place as "the special act of our *I* (the person in us)" (*LII* pp. 244–245, *RGS* 2/2.173). It is this latter fact that is the "genuine fact of freedom" (*LII* 192/279–80). According to Reinhold, this free self-determination "is completely comprehensible to me from its effects, through which it emerges among the facts of consciousness, and to this extent it is no object of *faith*, but rather an object of the most real *knowledge* for me" (*LII* 194/284). While it is undeniable that Reinhold does assert our knowledge of free will as a fact of consciousness, I argue that Reinhold takes himself to follow Kant's claim in the 2nd *Critique* that our consciousness of free will follows directly from our consciousness of the moral law. Reinhold then offers an argument based on moral responsibility in order to establish that this freedom cannot consist solely in the capacity to obey the moral law, but must also include the capacity to choose against the moral law.

2. Reexamination of Freedom as a Fact of Consciousness

A number of commentators interpret Reinhold's claim that we are aware of our freedom as a fact of consciousness to be both immediate and empirical. Breazeale attributes to Reinhold the view that our free will "is something that we *immediately* and *directly know* about ourselves" (Breazeale 2012, p. 94). Pierluigi Valenza claims that freedom "is a fact that emerges directly in

consciousness such that the experience of freedom is an object of psychology and anthropology" (Valenza 2012, p. 359). Similarly, Alessandro Lazzari claims that Reinhold "by no means held that the reality of freedom is to be derived from our consciousness of the moral law" (Lazzari 2004, p. 305n33). Yet Reinhold explicitly states that we are aware of our freedom by virtue of our awareness of the moral law: "the claim 'that the concept of freedom first receives its reality through consciousness of the moral law' from the *Critique of Practical Reason* is incontestably true" (*LII* p. 276, *RGS* 2/2.190).[10] In "Some Remarks" Reinhold maintains that his concept of freedom is "drawn solely from consciousness of the moral law itself, from the *categorical imperative* alone" (*SWII* p. 393, *RGS* 5/2.150). Most scholars have overlooked these telling passages. Interestingly, Lazzari addresses the passage from Reinhold's *Letters II,* but denies that Reinhold affirms Kant's claim that our consciousness of freedom follows from consciousness of the moral law. As far as I know, Lazzari is the only recent scholar to take note of either of these passages and so I will focus on his position.

The issue is complicated by the fact that, in addition to our consciousness of the moral law, Reinhold seems to introduce another condition necessary for our consciousness of freedom. It will be necessary to cite the relevant passage from *Letters II* in full in order to clarify Reinhold's position:

> the claim 'that the concept of freedom first receives its reality through consciousness of the moral law' from the *Critique of Practical Reason* is incontestably true. The person can become conscious of the capacity to determine himself only insofar as he is conscious of the capacity to determine himself according to two different laws, and consequently insofar as he is conscious of these different laws themselves. But precisely for that reason freedom can also by no means consist in the capacity to follow only one of

[10] In *Contributions II* Reinhold claims that we know that the independence of the act of decision from the demand of desire is not an illusion "from the *consciousness* of the unique *law* that in acts of the will announces itself before decision, that is thought through the *ought*, and that is called the *moral law* or the *law of the will*" (Reinhold 2004, p. 138).

> the two laws, and that *Kantian* claim can by no means have the meaning: 'that the reality of freedom depends upon consciousness of the moral law *alone*.' (*LII* p. 276, *RGS* 2/2.190)

In addressing Lazzari's position, I will first refute his claim that Reinhold is criticizing Kant in the passage above and will then suggest that C.C.E. Schmid is a more likely candidate for the target of Reinhold's remarks. Lazzari correctly notes that Reinhold is referring to Kant's doctrine of the moral law as the *ratio cognoscendi* of freedom. Lazzari argues:

> This assertion by Kant and the doctrine, which is immediately connected to it, of the moral law as the *ratio cognoscendi* of freedom is not to be understood [according to Reinhold; JW] such that consciousness of the moral law is the sole sufficient condition of consciousness of our own freedom, but rather such, that it solely concerns a necessary condition. For in addition to consciousness of the moral law, that consciousness of the natural laws of desire must also be postulated as a necessary condition. What here seems to be a recommendation for a reading of the passage from the *CPrR* is in reality a criticism of Kant. For not only does Kant never mention a further condition that must be fulfilled in addition to consciousness of the moral law in order to accept the reality of free will. On the contrary his remarks support – as in the case of the famous footnote at the beginning of the Preface in the *CPrR* – the reading whereby consciousness of the moral law is the sole sufficient condition of our consciousness of freedom. (Lazzari 2004, p. 309)

Lazzari's point seems to be that Reinhold's supposed introduction of an additional condition necessary for consciousness of freedom is inconsistent with Kant's claim that consciousness of the moral law is the "sole sufficient condition," i.e. the necessary and sufficient condition, of consciousness of freedom. Lazzari would be correct if Reinhold did in fact introduce an additional necessary condition. However, Lazzari fails to recognize that Reinhold considers consciousness of the demand of desire to be entailed by consciousness of the moral law.

According to Reinhold, consciousness of the demand of desire is a necessary but not sufficient condition for a state of reflection, or circumspection (*Besonnenheit*), in which one can

become conscious of the demand of the moral law (*LII* p. 305–306, *RGS* 2/2.205). Thus, consciousness of the moral law entails consciousness of the demand of desire. With respect to the passage in question from the *Letters II*, Reinhold is not really positing an additional condition because consciousness of the demand of desire is already entailed by consciousness of the moral law. That is not to say, of course, that the selfish drive is somehow contained in the unselfish drive. Reinhold considers these two drives to be original and independent. The point is rather that consciousness of the demand of the former is entailed by consciousness of the demand of the latter. Given that this is the case, Reinhold can still maintain the Kantian claim that consciousness of the moral law is necessary and sufficient for consciousness of freedom. That Reinhold is not, as Lazzari supposes, considering consciousness of the moral law to be only a necessary condition is also supported by Reinhold's reference a passage where Kant asserts the sufficiency of consciousness of the moral law for consciousness of freedom: "It is therefore the *moral law*, of which we become immediately conscious (as soon as we draw up maxims of the will for ourselves), that *first* offers itself to us and…leads directly to the concept of freedom" (*CPrR* 5:29–30).[11] This is surely the passage Reinhold has in mind when he asserts that "the claim 'that the concept of freedom first receives its reality through consciousness of the moral law' from the *Critique of Practical* Reason is incontestably true" (*LII* p. 276, *RGS* 2/2.190). Instead of criticizing Kant, it is more likely that Reinhold is criticizing Schmid's interpretation of Kant.

Just a few pages before the passage we have been considering from *Letters II*, Reinhold refers to C.C.E. Schmid's *Lexicon for the Easier Use of the Kantian Writings*:

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[11] Lazzari overlooks this passage and restricts his discussion of Kant to the Preface of the *Critique of Practical Reason*.

> On *practical freedom*, and thus certainly on freedom of the will, the same *Lexicon* reads: 'In the *positive* sense it is dependence of the will upon reason which determines it immediately, upon the pure moral law, the autonomy of the will;' whereby p. 59 and 238 of the *Critique of Practical Reason* are cited. (*LII* p. 271, *RGS* 2/2.187)[12]

Schmid's explicit characterization of freedom as "dependence" (*Abhängigkeit*) on reason and the moral law, as well as Schmid's reference to the *Critique of Practical Reason* make him the likely target when Reinhold asserts "that *Kantian* claim can by no means have the meaning: 'that the reality of freedom depends upon consciousness of the moral law *alone*" (*LII* p. 276, *RGS* 2/2.190). As we will see in the next section, Schmid locates freedom wholly in the intelligible realm, thereby precluding a role for rational deliberation about our sensible desires in his account of free agency. Accordingly, Reinhold is clarifying that the moral law is something we experience as the normative constraint of our sensible desires and it applies to the adoption of particular maxims, which always have an empirical content (even if, as Kant maintains, they are not adopted *by virtue of* that content, but rather, in the case of moral actions, by virtue of their form). Before turning to Schmid and Reinhold's argument for free will as embedded in his response to Schmid, I would like to make a few additional remarks on Reinhold's alleged grounding of free will in empirical facts of consciousness.

To be fair to those interpreters who take the fact of freedom to be immediate and empirical, as we saw in Section 1.1, Reinhold does claim that the original faculties of the mind (one of which he considers to be free will) make themselves known through facts of consciousness and that he has based the results of his investigation on facts of consciousness. Indeed, Reinhold admits that his claims are "unargued" and "unproven." However, I contend that Reinhold's position on the foundation of his own claims is the result of his lack of a systematic

[12] Cf. Schmid (1788, p. 179).

integration for the same. Reinhold promises a "future, more precise argument" for his basic concepts of ethics and natural right (*LII* p. 181, *RGS* 2/2.134), and mentions a "future *system of pure ethics and natural right*" (*LII* p. 179, *RGS* 2/2.132). Of course, Reinhold also envisioned that this system of ethics and natural right would be part of a complete *Elementarphilosophie* that united theoretical and practical philosophy in a comprehensive system:

> Only a *single* system can be built upon fully determinate fundamental concepts and only a *single philosophy* is possible that in its principles is the correct expression of the original arrangement of our faculty of cognition and our faculty of desire, or of the necessary and universal law, to which the human spirit by its nature is bound. (*LII* p. 21, *RGS* 2/2.21)

Thus, Reinhold's admission that his concepts are unargued and unproven can be seen to stem from his lack of arguments that would incorporate these concepts into an all-encompassing philosophical system. It is not the case that Reinhold has no arguments whatsoever for his concepts. As we will see, Reinhold argues for his concept of free will as a necessary condition for moral responsibility.

3. Reinhold's Argument

Reinhold argues for the concept of free will, viz. the capacity for spontaneous self-determination for or against the moral law, from the premise that free will is a necessary condition for moral responsibility. His argument is imbedded in his response to the conception of free will espoused by C.C.E. Schmid. I will briefly discuss Schmid's conception in order to bring Reinhold's argument to light.

In his *Attempt at a Moral Philosophy*, Schmid asserts, in what he takes to be the spirit of Kant's own theory of freedom, the doctrine of intelligible fatalism, i.e. that all acts are determined by intelligible causality. Acts with immediate determining grounds in sensible, temporal circumstances (*sinnliche Zeitumstände*) are ultimately grounded in an *intelligible Naturfatalismus*, "i.e. the assertion of the natural necessity of all acts of a rational being according to laws of causality of things in themselves" (Schmid 1790, p. 211). With respect to morality, Schmid thought it was enough to believe that *Zeitumstände* cannot compel us to act irrationally (i.e. immorally) and that pure reason can provide a determining ground for acts through the moral law (Schmid 1790, p. 198ff). According to Schmid, both immoral acts and non-moral acts (acts with no moral significance) are grounded in an intelligible causality underlying objects of experience, and moral acts are grounded in an intelligible causality underlying the agent as a thing in itself, i.e. moral acts are grounded in the intelligible causality of pure practical reason. Schmid restricts freedom to moral acts and claims that immoral action is the result of a hindrance to the efficacy of reason.

Reinhold notes that identifying free will solely with reason's self-legislation of the moral law entails the impossibility of free immoral acts (*LII* p. 267, *RGS* 2/2.185). Because Schmid explicitly admits that freedom of the will is restricted to moral acts, merely stating that a conception of free will restricted to moral acts precludes freedom for immoral acts is not sufficient to refute Schmid's conception of free will. Reinhold needs to show that this conception is inherently problematic. Reinhold concedes that at least Schmid is consistent enough to recognize that if free will is restricted to moral acts, then the ground of immoral acts must "be sought outside of the will in external obstacles" (*LII* p. 296, *RGS* 2/2.200). However, if the

ground of immoral acts is posited in external obstacles, then the ground of moral acts would consist in the absence of such obstacles:

> Moral acts would inevitably take place through a completely involuntary activity of practical reason *as long as there was no obstacle there*; and both moral and immoral acts would thus have to be attributed solely to the presence or absence of such an obstacle. (*LII* p. 296–297, *RGS* 2/2.200).[13]

Of course, Reinhold's argument as it stands is rather underdeveloped. It only establishes that *if* we are morally responsible for our actions, then a conception of free will that is restricted to moral actions would undermine that moral responsibility insofar as immoral actions would be directly grounded in the presence of obstacles hindering the efficacy of pure practical reason and moral actions would ultimately be grounded in the absence of such obstacles. The argument is a nonstarter if the antecedent is not established, i.e. it must be established that we really are morally responsible for our actions.

Reinhold maintains that "the moral law is absolutely necessary" (*LII* p. 196, *RGS* 2/2.144) and that the moral law is "simply given to it [the will; JW] by *pure reason*" (*LII* pp. 285–286, *RGS* 2/2.194–195). However, these are not bald assertions. Reinhold takes himself to be following Kant: "*Kant* was the first to demonstrate that *pure reason* is self-active in moral lawgiving and that the law set forth solely by it is the objective determining ground of a moral act" (*LII* p. 304, *RGS* 2/2.204). Admittedly, Reinhold seems to presuppose that consciousness of the moral law as binding entails consciousness that we are morally responsible for our actions. This assumption is most clear in "Some Remarks," where Reinhold asserts an analytic connection between the morality of an act and its imputability (*Zurechnungsfähigkeit*) (*SWII* p.

[13] For Reinhold's employment of this argument in *Contributions II* see Reinhold (2004, pp. 136, 141). Prauss recognizes that this is crucial to Reinhold's argumentative strategy (1983, p. 86).

364, *RGS* 5/2.141).[14] With this assumption, we can reconstruct Reinhold's argument. Given that we are bound by the moral law, we are morally responsible for our actions. Suppose that we were only free to obey the moral law. Then moral responsibility would be undermined, because, as we saw in Reinhold's treatment of Schmid, immoral actions would be grounded in obstacles preventing moral action, and moral action would in turn be grounded in the absence of those obstacles. If moral responsibility were undermined, then so too would our being bound by the moral law. Our consciousness of the moral law is a priori, and therefore necessary. Accordingly, the supposition that we are only free to obey the moral law contradicts our a priori consciousness of the moral law as binding upon us. The contradiction is lifted if we grant our freedom to transgress the moral law. In this way, Reinhold's concept of freedom as the capacity to choose for or against the moral law is established by accepting the result of the *Critique of Practical Reason* that we are a priori conscious of the moral law as binding upon us, and then, given the premise that moral obligation entails moral responsibility, arguing by *reductio ad absurdum* that we must also be free to transgress the moral law.

4. Refutation of the Objections Concerning Reinhold's Conception of the Person

Reinhold's conception of the person has come under fire recently from several commentators, most notably Gerold Prauss and Günter Zöller. Given the significance of this conception for Reinhold's account of free will, it is incumbent upon us to consider these objections. Prauss questions the intelligibility of Reinhold's account of self-determination given that Reinhold's employment of "person" is inconsistent. Prauss' objection can be dealt with rather swiftly. It is

[14] I am not sure Reinhold is wrong to think this.

not my intention to create a straw man. Given the stature of Prauss as a Kant scholar and his connection to scholarship on Kant and Reinhold on free will, it is important to consider Prauss' objection despite its shallow import.[15] Zöller raises concerns that Reinhold's account of the person as the locus of decision in intentional action is guilty of the homunculus fallacy. Although Reinhold's account need not necessarily lead to an infinite regress, there are concerns connected to his postulation of a "person in us" that performs the self-determining act of decision.

Gerold Prauss argues that Reinhold's conception of free will is untenable because his account of the unity of the subject, or the person, falls asunder (Prauss 1983, p. 90). According to Prauss, Reinhold sometimes identifies the "person qua person" (*Person als Person*) with the necessary self-activity of practical reason, and sometimes identifies the person with the will and its free self-determination. This is supposedly problematic insofar as it is precisely the *distinction* between the will and practical reason that is so fundamental to Reinhold's account. The contradiction between these notions of "person" and the consequent breakdown of the distinction between will and practical reason, which is essential to Reinhold's theory of free will, allegedly amounts to the breakdown of Reinhold's entire account of the will. Prauss is correct that Reinhold sometimes conflates two conceptions of "person." However, he is incorrect in properly identifying the conflation. While there are indeed passages where Reinhold discusses the person with respect to the self-activity of practical reason and the will and its freedom of self-determination, Reinhold's conceptions of the person seem to be (1) a generic notion for the individual and all his constituent faculties, and (2) the subject of mental states. Although Reinhold does often conflate these conceptions, I contend that this is not ultimately problematic and that Prauss has thrown the baby out with the bathwater.

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[15] For a discussion of Prauss with respect to Kant and Reinhold on free will see: Allison (1990, pp. 134–135; Ameriks (2012, p. 76); Noller (2015, pp. 37, 208); and Zöller (2005, p. 86).

Reinhold's lack of consistency in his use of the term "person" does not necessarily undermine the claim that in any act of volition, there must be a constituent intentional act of decision whereby the subject determines itself to a particular course of action. There are numerous passages where Reinhold employs "person" as the self, i.e. the subject of decision (*Entschluß*) constituting an act of volition .[16] There are indeed other passages where he seems to employ "person" not merely as the subject (of decision or of particular mental states), but rather as a general term for the individual.[17] In the latter usage, "person" is as an aggregate term for all of the individual's faculties, including those whose activities are not intentional acts of the self-conscious subject, but rather sub-conscious activities, the effects of which are presented *to* the self.[18] The inconsistency in these two uses is not necessarily indicative of a doctrinal contradiction. It simply does not follow from terminological carelessness that Reinhold's entire account of free will falls apart. There is no contradiction in maintaining a conception of an individual as the aggregate of his constituent faculties while also maintaining a conception of a subject of mental states. Indeed, there is no substantive difficulty in quickly resolving this apparent semantic oversight. Giving one or the other a different name would alleviate this superficial inconsistency. In this way, it is clear that in drawing attention to Reinhold's conflation of terms, Prauss has conflated a terminological inconsistency with a doctrinal contradiction.

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[16] See Reinhold, (*LII* p. 184, *RGS* 2/2.136; *LII* p. 185, *RGS* 2/2.137; *LII* p. 187, *RGS* 2/2.139; *LII* p. 188, *RGS* 2/2.139; *LII* p. 189, *RGS* 2/2.140; *LII* p. 197, *RGS* 2/2.144; *LII* p. 207, *RGS* 2/2.151; *LII* p. 210, *RGS* 2/2.153; *LII* p. 211, *RGS* 2/2.154; *LII* p. 215, *RGS* 2/2.156; *LII* p. 215, *RGS* 2/2.157; et al.

[17] See Reinhold, *LII* p. 69, *RGS* 2/2.54; *LII* p. 182, *RGS* 2/2.134; *LII* p. 183, *RGS* 2/2.135; *LII* p. 185, *RGS* 2/2.137; *LII* p. 186, *RGS* 2/2.138; *LII* p. 189, *RGS* 2/2.140; *LII* p. 191, *RGS* 2/2.141; *LII* p. 201, *RGS* 2/2.148; *LII* p. 203, *RGS* 2/2.148; *LII* p. 203, *RGS* 2/2.149; *LII* p. 207, *RGS* 2/2.151; et al.

[18] Reinhold considers the activities of the faculty of desire and practical reason to be *for* the person qua intentional subject: "The *demands* of desire and the *demand* of practical reason are interrelated insofar as in volition both are directed at the person as the subject of freedom" (Reinhold 2004, p. 168). He also considers these activities to be involuntary (*LII* p. 182, *RGS*, 2/2.134).

Günter Zöller claims that Reinhold's account of the will is guilty of smuggling a homunculus into his theory of subjectivity (Zöller 2005, p. 82).[19] The suspicion is that Reinhold's installation of a faculty of choice (*Willkür*) in the individual, which is responsible for choosing to act for or against the moral law, is tantamount to the homunculus fallacy, viz. an infinite regress of "little men" postulated as a locus of decision in an individual. Daniel Breazeale argues that Zöller's concern is really based on the "*incomprehensibility* of a radically free choice on Reinhold's account" (Breazeale 2012, pp. 108–109). The suspicion that Reinhold's account of free will amounts to an infinite regress of free acts of decision made by homunculi within us may be the vestige of the reluctance to accept at face value Reinhold's assertion that the ground of a free act is freedom itself (*LII* p. 282, *RGS* 2/2.193), i.e. that freedom is simply its own self-contained ground. Given that Reinhold postulates the free act as a first cause, Breazeale is correct that there is no need to posit an infinite regress of acts. Nevertheless, some of Reinhold's characterizations of the "person" resemble the postulation of a homunculus. While Zöller does not refer to any specific passages from Reinhold, consideration of Reinhold's problematic language is certainly worthwhile given the centrality of the person in his account of free agency.

As I already had occasion to cite, Reinhold refers to the act of decision as "the special act of our *I* (the person in us)" (*LII* 173/245). This language of a "person in us" might well raise concerns that Reinhold's account of the person resembles a homunculus. I admit that Reinhold's phrasing may be guilty of suggesting this. I propose a charitable interpretation of what Reinhold might mean by "the special act of our I." The problem is greatly mitigated if by "the I" and "the person in us," we take Reinhold not to assign metaphysical significance, but rather to assert a

[19] For a reiteration of this charge see Noller (2005, p. 234).

necessary condition for the intentional act of self-determination, namely that it include consciousness of the demands of desire and of the moral law. On this reading, the "person in us" is no metaphysical postulation; rather, it merely designates consciousness as a necessary condition for self-determination. In this way, Reinhold's language can, at least in part, be seen as a response to C.C.E. Schmid's conception of free will. Whereas Schmid posited free agency as a noumenal activity outside the purview of possible phenomenal consciousness, Reinhold considered it necessary for the free act of decision that the subject be conscious of the demands of desire and of the moral law. Of course, the I is not conscious of the actual performance of the decision, but is conscious of the effect. The free activity itself is indeed intelligible; however, our phenomenal consciousness is a necessary condition for the performance of this capacity. The intelligible activity of freedom is incomprehensible for beings such as ourselves; nevertheless, we must presuppose that it is an activity *of* the I, i.e. of the subject of transcendental faculties: "The *subject* of the transcendental faculties is likewise the subject of the empirical faculties; if those faculties are not to be *transcendent*, but rather *transcendental* – i.e. related *a priori* to the empirical" (*SWII* p. 393, *RGS* 5/2.151). By bridging the gap excavated by Schmid's intelligible fatalism, Reinhold believed himself to have delivered the determinate concept of free will, which Kant could only prepare. Whether Reinhold succeeded in this ambitious enterprise is a question that must be answered on another occasion.

5. Conclusion

Although Reinhold certainly thought that the reality of freedom was something that could be recognized as a fact by even the most common understanding, he is not guilty, as he has often

been accused, of grounding knowledge of free will in mere empirical facts of consciousness. Instead, Reinhold assumes the givenness of the moral law as binding upon us and argues by *reductio ad absurdum* that we must be free to choose to act in accordance with this law or to transgress it. Reinhold's theory of free will is inextricably connected to Kant's theory of the same. While the relation between these two theories has been explored, I have argued that Reinhold appeals to Kant in his attempted demonstration of free will more than is generally acknowledged. It is my hope that by clarifying Reinhold's argumentative strategy, we might better situate his theory in the context of the development of the concept of will in Classical German philosophy.

Notes on Translations

All translations of Kant's works refer to the *Cambridge Edition of the Works of Immanuel Kant*. Passages from Kant's works are cited according to the volume and pagination of *Kants Werke* (Akademie-Textausgabe. Unaltered photocopy reprint of the text from the publication series of Kant's complete works initiated by the Prussian Academy of Sciences 1900 ff. 29 vols., Berlin: De Gruyter). Translations of Schmid (1790) are co-translated by Jörg Noller and me, and are taken from the volume under contract with Cambridge University Press, *Kant's Early Critics on Freedom of the Will*. All other translations are my own.

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Glossary of Abbreviated References

Attempt – Attempt at a New Theory of the Human Faculty of Representation

CPrR – Critique of Practical Reason

LII – Letters on the Kantian Philosophy Volume II

RGS – Karl Leonhard Reinhold Gesammelte Schriften

SWII – Selected Writings Volume II