For What Purpose do We Still Read the Protestant Ethic Today?[1]

Hubert Treiber

With reference to the Protestant Ethic it will be shown that Weber favoured an ambitious research program. This was the case, because he turned down the research program in religious science of the Usener School (under the heading of "philological tact"); next, because he favoured the explanatory model in the natural sciences of von Kries (M. Heidelberger), and responded in this way to the "challenge of the natural sciences" (O.G. Oexle). In line with F.W. Graf it will be shown that Weber, due to his close reliance on Schneckenburger's contrasting type-portraits of Lutheranism and Calvinism, fell into the trap of "implicit theological value-judgements" (F.W. Graf).

1. Introduction

Wolfgang Schluchter has noted that the deliberately limited question Max Weber poses in his *Protestant Ethic* (PE) is directed to "the manner in which the elements of religious belief affected actual cultural life." The very particular quality of his purpose becomes apparent once it is related to the prevailing cognitive aims and interests of contemporary German-language economics – both theoretical and historical, and so intimately connected to the *Methodenstreit* originating in the 1880s.[2] Compared with the two leading contemporary

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[2] Wolfgang Schluchter, "'Wie Ideen in der Geschichte wirken': Exemplarisches in der Studie über den asketischen Protestantismus", in Wolfgang Schluchter, Friedrich Wilhelm Graf, (eds.) *Asketischer Protestantismus und der 'Geist' des modernen Kapitalismus. Max Weber und Ernst Troeltsch*, Tübingen 2005, pp. 49-73, espec. pp. 52ff. On Weber's *Fragestellung* also see Hartmann Tyrell, "Worum geht es in der 'Protestantischen Ethik'? Ein Versuch zum besseren Verständnis Max Webers", *Saeculum* 41 (1990) pp. 130-177, 136: "Because the object upon which the Protestant ethic works, the capitalist spirit, is itself 'unnatural' and exceptional, it has need of a causal origin of extraordinary potency: it requires the 'living force of religion' .... It is quite clear:

schools of German political economy which, when they did consider modern capitalism, focussed on the actual process of its emergence, this was an unusual, not to say novel, approach. While it might seem obvious to make such a comparison with contemporary political economy, comparison with contemporary history of religion and theology is just as relevant, despite its being hitherto neglected. This is all the more important because the Eranos Circle, a group of Heidelberg academics whose members included Max Weber, Ernst Troeltsch, Wilhelm Windelband and Georg Jellinek, also included members of the Usener School, which was broadly representative of contemporary history of religion. Also important in this regard is that fact that on 5 February 1905 Max Weber presented the second part of PE as a lecture to the Eranos Circle.[3] The relevance of religious scholarship is also important here, since there seems

one 'dramatisation' pulls the other in its wake; the artificial and 'unnatural' qualities of the explanandum are laid out so plainly that, ultimately, it is only the 'revolutionary force' of ascetic religiosity that could be a candidate for the explanans."

[3] Those who presented lectures were "obliged" to write a summary of the lecture and subsequent discussion, and so as a result we do acutally have Weber's own summary of the second part of PE: "In the continuation of the essay in the *Archiv f[ür] Sozialwiss[enschaft]* vol. XX the lecturer sought to establish the impact of the ethic of ascetic Protestantism: Calvinism, Baptists (together with variants), Pietism, Methodism – on the development of the 'capitalist spirit', in particular, to analyse the legalisation and ethical qualification of the 'acquisitive impulse'. The starting point is the doctrinal foundations of ascetic Protestant religiosity, which, along different paths, leads to the idea that *personal proof* of the *state* of grace – thought to be a quality endowed by God – is only secured as 'certitudo salutis' through a specific form of life conduct. The methodical and systematic character which this life conduct has to assume, exactly because it is supposed to manifest an inherent quality of the person acting in an ethical manner, determines its ascetic that is, *rational* basis; insofar as the Catholic consilia evangelica, and hence a flight from the world as a means of securing the ethical dignity of asceticism is blocked off, it has perforce to adopt an 'innerworldly' asceticism, expressed in the temporal world of work (*Berufsleben*), and *only* there. A rigorous belief in providence, and the Protestant continuation of 'lex naturae', combine to lend this vocational asceticism a utilitarian character, such that economic work, partly as an ascetic means, partly as an end in itself willed by God, assumes the form of a 'service to God', acquisition itself being the divine fulfilment of an ascetic life's work. At the same time, the formalistically loyal character of an ascetic morality secures to economic conduct particular qualities which have become constitutive for the expansion of the capitalist world economy. The decay of religious roots led into a transition to the pure utilitarianism of the eighteenth century. The spirit of capitalism is born of the spirit of (Protestant) asceticism – an attempt was made to elaborate this in respect of Baxter's ethics in particular. Almost all those present took part in discussion, especially Deissmann, Gothein, Rathgen, Jellinek. There was general agreement with the views of the lecturer." Troeltsch was absent, the reason for which is not known. Hubert Treiber, "Der 'Eranos' - Das Glanzstück im Heidelberger Mythenkranz?", in Wolfgang Schluchter, Friedrich Wilhelm Graf, (eds.) *Asketischer Protestantismus und der „Geist" des modernen Kapitalismus. Max Weber und Ernst Troeltsch*, Tübingen 2005, pp. 75-153, 126f.

to have been a prevailing view within the Eranos Circle that religions were to be analysed within a social and cultural context. Even the Usener School accepted the idea that the hidden influence of religious ideas should be sought in places where, at first sight, they had no impact. This comparison with the Usener School, to which I now turn, should also help in clarifying the question of whether Max Weber's approach was the more promising.

On 1 April 1903 the ancient philologist Albrecht Dieterich (1866-1908) was appointed to the University of Heidelberg as successor to Otto Crusius.[4] On 18 November 1904 he announced his future programme of research in the *Heidelberger Zeitung*, making explicit reference to his teacher Hermann Usener (1834-1905), whose daughter Maria he had married in March 1899:

> With the move of Dr. Albrecht Dietrich (sic) to the Ruperto Carola, Heidelberg has become central to the study of the history of religion within classical philology that originated in Bonn [W. (sic) Usener]. Professor Dietrich is now the editor of the reorganised periodical for this branch of study, the *Zeitschrift für Religionswissenschaft* (Leipzig, Teubner), and in his work enjoys the support of a number of Heidelberg's teachers, each of whom provides building blocks from their own specialism. For religious studies can only be truly developed in this way, on the basis of specialisms; as an autonomous scholarly domain with the *globus scientiarum*, no one individual is capable of comprehending religious scholarship as a whole, since each religion can only be understood through its connection with the culture of its people. The Usener School begins its work with Classical Antiquity...

In his 1905 lecture, „Central Problems of the Science of Religion" Dieterich declared that „the science of religion belongs to the central interests of our time", that there are even "some signs" that "the coming century will be a century of the science of religion. … Religion should become the object of historical studies. Every epoch is presented with its own particular problems; and this epoch, and that following, is destined to deal with the central problems of the science of religion."[5] This intention, both of addressing the "central problems of the science of religion" and making the work of Hermann Usener better known in Heidelberg and elsewhere,[6] led him to found the Eranos Cir-

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[4] Dagmar Drüll, *Heidelberger Gelehrtenlexikon 1803 – 1932*, Berlin 1986, p. 48.

[5] Albrecht Dieterich, "Die Hauptprobleme der Religionswissenschaft" (1905), recorded stenographically and then transcribed by H. Gropengiesser, typescript in the library of the Seminar für Klassische Philologie der Universität Heidelberg, pp. 64.

[6] The "Usener-School" was established in the usual way through the skilful organisation of personal careers and publications. See Renate Schlesier, *Kulte, Mythen und Gelehrte. Anthropologie*

cle, together with his Heidelberg colleague, the theologist Adolf Deissmann (1866-1937). Founded in early 1904, it initially had ten members. Almost one half of these were close to the Usener School,[7] and since the group's cohesion was secured by many personal friendships it could be thought of as a "circle of friends formally organised as an association."[8] Almost at the same time that the Circle was formed, Dieterich assumed control of the *Archiv für Religionswissenschaft*, the first number in the new series of 1904 containing a programmatic statement that the future practice of the science of religion would involve "the principles and means of philological historical science". Dieterich's preface, and an essay by Usener on mythology, was published in the journal, Usener's death in 1905 rendering this essay part of his legacy. Likewise in 1904, Heinrich Braun's *Archiv für soziale Gesetzgebung und Statistik* was taken over by Werner Sombart, Max Weber and Edgar Jaffé and renamed the *Archiv für Socialwissenschaft und Sozialpolitik*. This also contained two programmatic pieces in its first issue: the "Geleitwort"[9] mostly written by Sombart, and Max Weber's essay on "Objectivity".[10]

The fact that both journals carried these programmatic statements in 1904 invites comparison. Both epistemologically and methodologically, it is clear from this that Weber had the more challenging research programme,[11] quite "apart from the question of whether the historical constellation [in PE] was dealt with adequately,[12] and whether the imputations there made are

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und Antike seit 1800, Frankfurt am Main 1994, pp. 203ff. An active appointments policy led to professorial appointments at particular universities and hence to a network through which recruits could be made. See Hubert Treiber, "Usener und der Eranos-Kreis", in Michel Espagne, Pascale Rabault-Feuerhahn (eds.) *Hermann Usener und die Metamorphosen der Philologie*, Wiesbaden 2011, pp. 43-75, 74f.

[7] Treiber, "Usener und der Eranos-Kreis", p. 53.

[8] Treiber, "Der 'Eranos' - Das Glanzstück im Heidelberger Mythenkranz?", pp. 80ff.

[9] Peter Ghosh, "Max Weber, Werner Sombart and the Archiv für Sozialwissenschaften: The Authorship of the 'Geleitwort' (1904)", *History of European Ideas* 36 (2010) pp. 71-100.

[10] Max Weber, "Die 'Objektivität' sozialwissenschaftlicher und sozialpolitischer Erkenntnis (1904)", in Johannes Winckelmann (ed.) *Max Weber. Gesammelte Aufsätze zur Wissenschaftslehre*, 7th. edition, Tübingen 1988, pp. 146-214 (henceforth WL).

[11] M. Rainer Lepsius, "Interessen und Ideen. Die Zurechnungsproblematik bei Max Weber", in M.R. Lepsius, *Interessen, Ideen und Institutionen*, Opladen 1990 pp. 31-43; Wolfgang Schluchter, "Handlung, Ordnung und Kultur. Grundzüge eines weberianischen Forschungsprogramms", in Gert Albert, Agathe Bienfait, Steffen Sigmund, Claus Wendt (eds.) *Das Weber-Paradigma. Studien zur Weiterentwicklung von Max Webers Forschungsprogramm*, Tübingen 2003, pp. 42-74, on the concept of a research programme see pp. 43ff.; Schluchter, "Wie Ideen in der Geschichte wirken", pp. 49ff.

[12] Here one need only read two essays by Peter Ghosh: "Max Weber's Idea of 'Puritanism': a case study in the empirical construction of the Protestant Ethic", and "Max Weber in the Netherlands 1903-07: a neglected episode in the early history of the Protestant Ethic", in his

tenable."[13] To see how this matches up against Usener's conception of a philo-logically-founded comparative history of religion one can consider the 1904 essay on "Mythology", but primarily his 1882 inaugural address "Philology and Historical Science".[14] This contains important key concepts such as the (art of) empathy, feel (*Takt*) (as a creative skill), and analogy, against all of which Weber repeatedly polemicised. Some passages in the *Wissenschaftslehre* can be read as criticisms of Usener,[15] even if Weber did acknowledge the value of the "comparative study of religion" on a rigorous philological basis.[16]

The following will outline Usener's programme for the study of religion, in which "feel" (*Takt*) was a key concept, and which can elaborated by reference to the concept of "wit", which can in turn be related to Kant's distinction between determining and a reflective powers of judgement (*bestimmende und reflektierende Urteilskraft*). Only in this way can we make sense of Weber's use of a quotation from Goethe in the essay on "Objectivity" - "Each sees what is in his own heart"[17] - entirely in Kant's sense of a "valid judgement" involving precise concepts. Related to this I will also discuss a recent contribution from Michael Heidelberger,[18] a historian of science who relates Weber's explanatory procedure to those used at the time in the natural sciences, drawing on von Kries' "theory of objective possibility".[19] Without questioning Schluchter's

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A Historian Reads Max Weber. Essays on the Protestant Ethic, Wiesbaden 2008, pp. 5-49, 51-74. See also Hartmut Lehmann, Guenther Roth (eds.) *Weber's Protestant Ethic. Origins, Evidence, Contexts*, New York 1995, especially the introduction by Guenther Roth.

[13] Lepsius, "Interessen und Ideen", p. 33.

[14] Hermann Usener, "Philologie und Geschichtswissenschaft (1882)", in his *Vorträge und Aufsätze*, Leipzig 1907, pp. 2-35. See Antje Wessels, *Ursprungszauber. Zur Rezeption von Hermann Useners Lehre von der religiösen Begriffsbildung*, Berlin 2003, pp. 48ff.

[15] In the "Objectivity" essay Weber explicitly criticises Usener's construct of a development sequence of conceptions of divinity, because "theory and history are forced together" so that the "series of types resulting from the conceptual characteristics selected … seems to take the form of their law-like and necessary historical sequence." (WL, 204)

[16] WL, p. 264.

[17] Goethe, *Faust* Part One, "Prelude in the Theatre" line 179 [which is glossed and obliterated in the 1949 Penguin edition, translated by Philip Wayne, p. 35 KT]

[18] Michael Heidelberger, "From Mill via von Kries to Max Weber: Causality, Explanation, and Understanding", in Uljana Feest, (ed.) *Historical Perspectives on Erklären and Verstehen*, Archimedes: New Studies in the History of Science and Technology, vol. 21, Dordrecht 2010 pp. 241-265.

[19] Fritz W. Scharpf, "Kontingente Generalisierung in der Politikforschung", in Renate Mayntz (ed.) *Akteure-Mechanismen-Modelle. Zur Theoriefähigkeit makro-sozialer Analysen*, Frankfurt am Main 2002, pp. 213-235, esp. 220ff. Heinz Steinert's view (*Max Webers Unwiderlegbare Fehlkonstruktionen. Die protestantische Ethik und der Geist des Kapitalismus*, Frankfurt am Main 2010 pp. 192ff.) that the "theory of objective possibility" applies exclusively to comprehensible constellations in criminal and civil law is shown by Scharpf to be unfounded.

claim that PE is a model for sociological explanation,[20] it will also be assumed that the ideal-typical "construction in thought" to which Weber refers in the Protestant Ethic is taken from the principles and logic of conceptual jurisprudence (*Begriffsjurisprudenz*) with which he became familiar as a young lawyer.[21] The resulting logic of construction renders Matthias Schneckenburger one of Weber's most trusted theological sources,[22] thereby transferring into PE "implicit theological value judgements".[23]

2. Usener's Programme for the Science of Religion – A Sketch[24]

Usener thought that a genuine science of history could be achieved using a "comparative analysis of vocabulary" and a scientific treatment of "peoples without history, or people in a state of nature"; for the latter "were living pre-historical examples that could reveal the stages that past peoples and cultures passed through, or leaped."[25] In stating this Usener articulated a practice common to contemporary anthropology, ethnology and ancient history, and which was also linked to the influence of Edward B. Tylor's popular book, *Primitive Culture* (1871),[26] with its emphasis upon the idea of "survivals".[27] While

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[20] Schluchter, "Handlung, Ordnung und Kultur", pp. 60ff.

[21] See for example Fritz Loos, *Zur Wert- und Rechtslehre Max Webers*, Tübingen 1970, pp. 106ff.; also his "Max Webers Wissenschaftslehre und die Rechtswissenschaft", *JuS* 1982 pp. 87-93, at p. 88; Gerhard Dilcher, "Von der Rechtsgeschichte zur Soziologie. Max Webers Auseinandersetzungen mit der Historischen Rechtsschule", *Juristen Zeitung* 62 (2007), pp. 105-112. Also Bernhard K. Quensel, Hubert Treiber, "Das 'Ideal' konstruktiver Jurisprudenz als Methode. Zur 'logischen Struktur' von Max Webers Idealtypik", *Rechtstheorie* 33 (2002) pp. 91-124.

[22] Matthias Schneckenburger, *Vergleichende Darstellung des lutherischen und reformirten Lehrbegriffs. Aus dessen handschriftlichem Nachlasse zusammengestellt und herausgegeben durch Eduard Güder, in zwei Theilen*, Stuttgart 1855.

[23] Friedrich Wilhelm Graf, "Die 'kompetentesten' Gesprächspartner? Implizite theologische Werturteile in Max Webers 'Protestantischer Ethik'", in Volkhard Krech, Hartmann Tyrell, (eds.) *Religionssoziologie um 1900*, Würzburg 1995, pp. 209-248; also Peter Ghosh, "Max Weber and German theological tradition: the case of Matthias Schneckenburger", in his *A Historian Reads Max Weber*, pp. 171-199.

[24] This section borrows from my essay "Der 'Eranos' - Das Glanzstück", pp. 99-119, without however examining Usener's study *Götternamen. Versuch einer Lehre von der religiösen Begriffsbildung*, 3rd. edition, Frankfurt am Main 1948 (first published 1896). For this see the Eranos essay pp. 103ff., where reference to further literature will be found.

[25] Usener, "Philologie und Geschichtswissenschaft", p. 13.

[26] First published in 1871, this was translated into German as *Die Anfänge der Cultur. Untersuchungen über die Entwicklung der Mythologie, Philosophie, Religion, Kunst und Sitte*, 2 Bde., Leipzig 1873.

[27] Tylor, *Die Anfänge der Cultur*, Bd. 1, p. 16: "Ueberlebsel".

Usener was critical of Tylor because of the latter's role in furthering what Usener dubbed an "epidemic of animism", he and his School did nevertheless draw upon this idea of survivals to such an extent that they were accused of "elevating it to a dogma".[28] It is only because of this idea that it is possible to see "preserved", in a particular popular custom, the ritual of a vanished cultural stage, even if the magical or religious conceptions to which it once owed its existence have long vanished. Usener declared in his programmatic inaugural address his belief that, having once established "the general laws governing the manner in which the individual vital expressions of people develop and condition each other", then it would be possible to construct a comparative approach to history, including "the history of religious ideas and moral institutions",[29] then moving on to "knowledge of human nature itself."[30] The "comparative analysis of vocabulary" does of course presume the proper interpretation of its elements. And this, according to Usener, would depend upon a "delicate and *empathetic sensitivity* to the use of words", of which only the philologist was capable.[31] A philology of this kind would therefore be not a science, but an "art", most perfected when "the educated reader least noticed it."[32] A work of art would also represent "a masterly divinatory and critical restitution of a work of literature", since it involved "creative properties" which could be traced back to mental activity, comparable to "the mental act of creating a work of literature itself".[33] The "specific grammatical feel of the philologist" rendered him capable of such skilfulness, a property that could "not itself be passed on", although "the effort of empathising with and

[28] Schlesier, *Kulte, Mythen und Gelehrte*, p. 201.

[29] Usener, "Philologie und Geschichtswissenschaft", pp. 12f.

[30] Usener, "Philologie und Geschichtswissenschaft", p. 13.

[31] Usener, "Philologie und Geschichtswissenschaft", p. 13, my emphasis (HT).

[32] Usener, "Philologie und Geschichtswissenschaft", p. 22. Similar sentiments were expressed by Hermann von Helmholtz, "Über das Verhältniss der Naturwissenschaften zur Gesammtheit der Wissenschaft. Akademische Festrede gehalten zu Heidelberg am 2. November 1862 bei Antritt des Prorectorats", in: his *Das Denken in der Naturwissenschaft*, Darmstadt 1968, pp. 3-29, p. 16; and Hermann von Helmholtz, *Die Lehre von den Tonempfindungen als physiologische Grundlage für die Theorie der Musik*, Brunswick 1870, pp. 569ff. On philology as an "art" see also Axel Horstmann, *Antike Theoria und Moderne Wissenschaft. August Boeckhs Konzeption der Philologie*, Frankfurt am Main 1992, pp. 172-185. Also Wilhelm Windelband, "Geschichte und Naturwissenschaft (Straßburger Rektoratsrede 1894)", in his *Präludien. Aufsätze und Reden zur Philosophie und ihrer Geschichte*, 8th. edition, 2. vols., Tübingen 1921, pp. 136-160, and at p. 150: "The historian has the task of bringing to life the quite specific nature of some image of the past, rendering it present as an idea. His task in realising what once really existed is similar to that of the artist, who seeks to realise what is in his imagination. This lies at the root of the affinity between historical and aesthetic work, and between historical disciplines and *belles lettres*."

[33] Usener, "Philologie und Geschichtswissenschaft", p. 23.

reflecting upon what prominent people of the past felt and thought is … an innate human need."[34] The obsession with detail so typical of philological work made possible a congenial empathy[35] which depends upon "grammatical feel", that creative capacity to consider and comprehend the "whole",[36] whereby analogy or comparison discloses "hitherto unanticipated similarities" (Helmholtz).

When Helmholtz identifies the "capacity of disclosing hitherto unanticipated resemblances" with "feel", and lends this a meaning analogous to "wit",[37] a remark that relates to Kant's reflective power of judgement,[38] he invites a thorough discussion of quite what might be meant by his formulation that the mastery of grammatical feel[39] is the particular distinguishing craft of the philologist. This not only makes it possible to appreciate the basis of Weber's polemic, but also his attempt to replace craft(smanship) by methodical procedures and causal imputation. Gottfried Gabriel's path-breaking essay on wit and reflective judgement begins with "a review of conceptual history", then showing quite systematically that the reflective power of judgement, which was in Kant's *Anthropology*

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[34] Usener, "Philologie und Geschichtswissenschaft", p. 23.

[35] On congeniality see Hermann von Helmholtz, *Lehre von den Tonempfindungen*, pp. 570f., who here cites Goethe : "You resemble the spirit which you comprehend."

[36] On the capacity to see, or recognise, the whole see Stephan Meder, *Urteilen. Elemente von Kants reflektierender Urteilskraft in Savignys Lehre von der juristischen Entscheidungs- und Regelfindung*, Frankfurt am Main 1999, pp. 138ff.

[37] Hermann von Helmholtz, "Das Denken in der Medizin. Rede gehalten zur Feier des Stiftungstages der militairärztlichen Bildungs-Anstalten in Berlin am 2. August 1877", in his *Das Denken in der Naturwissenschaft*, Darmstadt 1968, pp. 63-88, at p. 82: "The initial discovery of a new law is the discovery of a similarity in a natural process which had previously remained hidden. It is an expression of that intellectual capacity which our forefathers still seriously called 'wit'." Helmholtz compared this capacity "with the greatest achievements of artistic intuition in the discovery of new types of expressive phenomena", noting also that this capacity "could not be forced, nor gained by means of any known method."

[38] Gottfried Gabriel, "Der 'Witz' der reflektierenden Urteilskraft", in Frithjof Rodi, (ed.) *Urteilskraft und Heuristik in den Wissenschaften. Beiträge zur Entstehung des Neuen*, Weilerswist 2003, pp. 197-210; also his article "Witz", in Joachim Ritter, Karlfried Gründer, Gottfried Gabriel, (eds.) *Historisches Wörterbuch der Philosophie*, Darmstadt 2004, Bd. 12, cols. 983-990.

[39] During the nineteenth century "feel" (*Takt)* was a concept also used in other disciplines, as for instance by Rudolph von Jhering for whom both taste (in aesthetics) and legal feel (in the domain of the law) represented "judgements made between feel and understanding" (Meder), in both cases involving a creative capacity, in the case of feel a capacity expressed through analogy. Jhering wrote that "*Takt* is not the mere mechanical application of rules, their use as a rigid template requiring only minor adjustment fitting; it is the realisation of insightful appropriation through the supplementation and development of these rules whenever they fall short – the lawyer would say: in their extension by analogy." See Christian Helfer, (ed.) *Rudolph von Jhering, Der Zweck im Recht*, Bd. 2 (1883), Hildesheim 1970, pp. 32ff. Also Meder, *Urteilen*, pp. 84ff., 15ff.

still called "Witz (ingenium)",[40] is "wit controlled by the determining power of defining judgement."[41] Gabriel's formulation implies that for Kant, the "thinking by analogy" expressed in the act of reflection – sometimes referred to as "feel", but also "wit – is to be governed by the control of judgement, which Gabriel argues is explained by the way that "Kant equated cognition and judgement, and so discovery (*inventio*) must always be subordinated to the control of judgement (*iudicio*)."[42] The "wit" of the reflective power of judgement is thus endowed with the capacity of extending knowledge, at least hypothetically. Any cognitive gain (in the context of discovery) through the work of reflective judgement cannot however be determined by any one set of rules. An artist's feel, or wit – these are things that one either has, or does not have; and if one does have such a capacity, then practice can make it perfect.

In this context, the following passage from the Objectivity essay can be read as aimed at Usener:

> Any description, even an intuitive description, entails properties typical of *artistic* representation: "each sees what is in his own heart" – valid *judgement* everywhere presuppose the *logical* working through of what is intuited, which means the use of *concepts*. It is indeed possible, and often aesthetically appealing, to keep these *in petto*, but it always endangers the security of the reader's orientation, and often that of the writer, with respect to the content and scope of his judgements.[43]

Furthermore, in the "Critical Studies in the Domain of the Logic of Cultural Science" Weber quite explicitly rejects the view that "causal relationships are unravelled not by generalisations and the consideration of 'rules', but instead by the historian's 'feel' or 'intuition'."[44] Even the closing sentence

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[40] I. Kant, *Anthropologie*, § 44, as cited in Gabriel, "Der „Witz" der reflektierenden Urteilskraft", p. 199.

[41] Gabriel, "Der „Witz" der reflektierenden Urteilskraft", p. 203. See Kant, *Kritik der Urteilskraft* (Einleitung, IV): "The power of judgement as such is the ability to conceive the particular as part of the general. If the general exists (as a rule, principle, or law), then judgement determines how the particular is subsumed under it. If however only the particular exists, and one seeks for the general in it, the power of judgement is merely reflective."

[42] See for this Gabriel, "Der „Witz" der reflektierenden Urteilskraft", p. 209.

[43] WL p. 209.

[44] WL, p. 277. Weber goes on: "The distinction from work in the natural sciences is that the historian is seeking to explain events and personalities which are 'interpreted' and 'understood' through direct analogy with our own existence as a thinking being; and in turn, a representation formed by the historian depends completely upon 'feel', the suggestive intuition of his report that allows the reader to re-experience what is represented in much the same manner as

of this section - "arguments of this kind get things back to front: on the one hand, the psychological path taken by the *formation* of an element of scientific knowledge, and the 'artistic' form selected for *presenting* this to the reader; on the other, the *logical structure* of knowledge"[45] - can be read as a critical commentary on the passage from Usener's "Philologie und Geschichtswissenschaft" where a "point of commonality" in religion and science is identified, referring to the 'creative activity of the writer" and continuing:[46]

> And even in science striking new ideas are only exceptionally, and quite accidentally, formed with the means of formal logic; the idea that comes like a flash of insight is the fruit of a creative act, like the conception of a writer or poet, and both work through the same mental powers as mythological thinking.[47]

the historian had himself experienced and conceived it, not worked it out through a process of reasoning." (WL, pp. 277f.).

[45] WL, p. 278. See also Max Weber, "Roscher und Knies und die logischen Probleme der historischen Nationalökonomie (1903-1906)", WL, pp. 1-145, at pp. 118ff.

[46] Ditto Helmholtz: see Gregor Schiemann, *Wahrheits-Gewissheitsverlust. Hermann von Helmholtz' Mechanismus im Anbruch der Moderne. Eine Studie zum Übergang von klassischer zu moderner Naturphilosophie*, Darmstadt 1997, pp. 342f.: "Induction proceeds from the singular, individual case, so that 'wit' has to be based upon an insight into the whole; … while laws gained through the work of induction seem only to be generalisations from what is known, those identified by 'wit' have something genuinely novel about them; while inductive procedure necessarily develops slowly, knowledge formed through 'wit' comes in a flash. … As long as laws created through intuition lack empirical confirmation and proof of general validity, they are for Helmholtz merely hypothetical." Although this does involve "special kinds of hypotheses": "the analogy with the highest form of artistic creativity leaves them on the threshold of eternal truths: inspiration comes from deep insight into the structure of the whole." On this see also Meder, *Urteilen*, pp. 138ff.

[47] Usener, "Philologie und Geschichtswissenschaft", pp. 63f. Of course, Weber does not dispute this at all, as is evident from the comments he makes in "Science as a Vocation"; although he does make a distinction between context of emergence and that of substantiation. See Wolfgang J. Mommsen, Wolfgang Schluchter, (eds.) *Max Weber, Wissenschaft als Beruf 1917/1919 – Politik als Beruf 1919*, Tübingen 1992, (MWG I/17), pp. 81-83, p. 82: cf. The reference to Robert Mayer, p. 83: and the comparison between Weierstraß and an artist. Gerd Graßhoff has criticised this approach, one also shared by Helmholtz; by modelling the process of scientific discovery on a computer – in this case, the urea cycle as discovered by Hans Krebs and Kurt Henseleit – he has addressed the issue of how far in the natural sciences "processes of discovery do come about through adherence to methodical approaches" and not, as scientists themselves are inclined to believe, through "flashes of insight". See Gerd Grasshoff, Michael May, "Hans Krebs' and Kurt Henseleit's laboratory notebooks and their discovery of the Urea cycle – reconstructed with computer models", in Frederic L. Holmes, Jürgen Renn, Hans-Jürgen Rheinberger, (eds.) *Reworking the bench: research notebooks in the history of science*, Dordrecht etc. 2003, pp. 269-294 (Archimedes, vol. 7).

As can be seen from the passages mentioned, Weber' deliberately adopted a Kantian position which is, according to Gabriel, implicit in the conception of "feel" or "wit", since according to Kant "reflective judgement first delivers knowledge when combined with a determining power of judgement, transforming 'preliminary' or 'reflective' judgements – hypotheses – into 'determining' judgements."[48] That Weber was only prepared to assign at best a heuristic function to insights formed by analogy (as part of the process of discovery) is also demonstrated by an unpublished criticism of Georg Simmel that has survived as a fragment, and which has two points of especial relevance here. The first of these is that Simmel's concept of "reciprocity" is too ambiguous, or too broadly defined; the second is that while Simmel's use of analogy is inspired, that aspect of a particular social phenomenon from which an analogy is drawn turns out, on closer, expert examination, to be "superficial", and so this must necessarily fail to properly grasp the "causal components" of a social phenomenon.[49] The kind of nomothetic social and cultural science which Weber sought was much more concerned with the construction of "unreal causal relationships" so that "objective judgements of possibility" could be made regarding "actual causal relationships."[50] While Usener relied upon "feel", Weber insisted upon the "reconstruction in thought of directly given reality"[51] with the aid of precise concepts; for him, "valid judgements" and "valid causal imputation" secure the "objectivity" (in quotation marks) of scientific knowledge.[52]

Recently Michael Heidelberger[53] has shown that "the methods of the natural and the social or the historical sciences were for Weber much more similar to each other than is widely assumed"[54] - despite the obvious differences between their respective cognitive ends.[55] Heidelberger considers that the theory of objective possibility, which Weber took from von Kries, has here distinct

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[48] Gabriel, "Der „Witz" der reflektierenden Urteilskraft", p. 209.

[49] Max Weber, "Georg Simmel als Soziologe und Theoretiker der Geldwirtschaft", *Simmel Newsletter* 1 (1991), pp. 9-13, here pp. 12, 11.

[50] WL, p. 287.

[51] WL, p. 207.

[52] Wolfgang Schluchter, *Religion und Lebensführung, Bd. 1, Studien zu Max Webers Kultur- und Werttheorie*, Frankfurt am Main 1991, p. 48.

[53] Heidelberger has a background not only in logic and methodology, but also mathematics and the history of the natural sciences. His Habilitation on Fechner, now published as a book, is required reading for an understanding of Weber's "Zur Psychophysik der industriellen Arbeit" (MWG I/11). See Michael Heidelberger, *Die innere Seite der Natur: Gustav Theodor Fechners wissenschaftlich-philosophische Weltauffassung*, Frankfurt am Main 1993.

[54] Michael Heidelberger, "From Mill via von Kries to Max Weber", p. 241.

[55] Ibid., pp. 243f.

advantages, even if it is in the first instance taken from criminal and civil law.[56] Apart from some difficulties with which we cannot here deal,[57] the theory of objective possibility is faced with a specific problem of knowledge which Gustav Radbruch had already noted in 1902:[58] the extent of the accessible knowledge of facts, or the degree to which this could be supplemented (von Kries referred here to ontological determinations).[59] Quite apart from other advantages it might have, Heidelberger sees Weber's conception of a sociology of *Verstehen* as an attempt to defuse the problem of knowledge that Radbruch had identified: " Therefore, it seems that Weber's category of understanding is a means to limit the number of causal relations that could come into play and, by their sheer quantity, devalue the criterion of adequate causation."[60] While this does involve some problems, not least in the discrepancy between the "elevated claims made for 'causality' … and difficulties in the concrete reconstruction of dependencies" made in "methodological treatises",[61] through von Kries Weber found it possible to respond to the "challenge of the natural sciences"[62] - while also taking account of the capacity of human beings for intentional action.

Fritz W. Scharpf[63] has presented the most convincing evidence that the "explanation of singular constellations", favoured by Weber and taken from von Kries, does not exclusively apply to constellations clearly related to civil and criminal law.[64] At the centre of his discussion of the degree to which research outcomes in the political sciences might be open to generalisation are analyses of interactions in which "(corporate) political actors occupying different institutional frameworks are endowed with different cognitive and normative orientations in their responses, [with the result] that constellations of factors relevant for explanation seldom occur in exactly the same form (the

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[56] Still of use in dealing with the obvious difficulties of integrating von Kries' "theory of causality" in any kind of neoKantian framework is Gerhard Wagner, Heinz Zipprian, "Methodologie und Ontologie: Zum Problem kausaler Erklärung bei Max Weber", *Zeitschrift für Soziologie* 14 (1985), pp. 115-130.

[57] Hubert Treiber, "Wie wirkt Recht? Methodische Aspekte bei der Erforschung von Wirkungszusammenhängen", Gerhard Wagner, (ed.) *Kraft Gesetz. Beiträge zur rechtssoziologischen Effektivitätsforschung*, Wiesbaden 2010, pp. 119-144, 133ff.

[58] Gustav Radbruch, *Die Lehre von der adäquaten Verursachung*, Berlin 1902. Weber was familiar with this criticism, see WL, p. 269.

[59] Michael Heidelberger, "From Mill via von Kries to Max Weber", pp. 258ff.

[60] Ibid., p. 259.

[61] Steinert, *Webers Unwiderlegbare Fehlkonstruktionen*, p. 198.

[62] Otto Gerhard Oexle, "Max Weber – Geschichte als Problemgeschichte", in Oexle (ed.) *Das Problem der Problemgeschichte 1880-1932*, Göttingen 2001, pp. 11-37, espec. pp. 15-20.

[63] Scharpf, "Kontingente Generalisierung", pp. 220ff.

[64] Steinert, *Webers Unwiderlegbare Fehlkonstruktionen*, p. 193.

small n problem)."[65] Seeking to identify the steps by which he had arrived at generalisable results in an earlier study on interorganisational policy making (*Politikverflechtung*),[66] Scharpf came across Weber's recommendation to employ von Kries' steps of isolation and generalisation for "the explanation of complex historical circumstances" (Scharpf), also using all available knowledge of the facts.[67] This made it possible to make generalisable statements with regard on the one hand to a theory of interorganisational policy making relevant to decision rules employed in negotiations between federal government and *Länder* (maxims of equal treatment, preservation of established status, proportionate distribution), and on the other with regard to particular issues arising from the anticipated effectiveness of the measures adopted.[68]

3. The Construction of the Ideal-type as a "Pointsman"[69]

Schluchter considers PE to be a model of sociological explanation because of the way in which Weber handles a "methodological switch between macro and micro levels", the "explanatory core" forming a "general theory of action."[70] To simplify, and focussing upon what Schluchter calls the "dual shift of levels", we first of all encounter a transition from the macro to the micro: the former being the ethic of Protestant asceticism, the doctrine of predestination, the idea of an ineffable God, and that of personal proof; the latter being a methodical life conduct, in which the believer sees himself as an "instrument of God". There is then an intermediate move, prompted by a need on the part of the believer for the certainty of salvation, a need created by the preaching of a pure doctrine (here Weber makes use of the writings of Baxter and Spener) and which results in the restless pursuit of the greatest possible success in the world of work (inner-worldly asceticism), which functions as personal proof of salvation. At the micro level, the consciously "value-rational orientation of action" leads to *unforeseen* consequences, which fosters the realisation of the "spirit" of modern capitalism at the macro level.[71] The upshot is

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[65] Scharpf, "Kontingente Generalisierung", p. 214.

[66] Fritz W. Scharpf, Bernd Reissert, Fritz Schnabel, *Politikverflechtung: Theorie und Empirie des kooperativen Föderalismus in der Bundesrepublik*, Kronberg im Taunus 1976.

[67] Scharpf, "Kontingente Generalisierung", pp. 224, 222; see WL, p. 276.

[68] Scharpf, "Kontingente Generalisierung", pp. 222-225, espec. p. 224; Treiber, "Wie wirkt Recht?", pp. 139ff.

[69] I.e. a railway worker whose task is to change points; in American English, a switchman.

[70] Schluchter, *Handlung, Ordnung und Kultur*, p. 60f.

[71] Schluchter, *Handlung, Ordnung und Kultur*, p. 62 (Figure); Schluchter, "Wie Ideen in der Geschichte wirken", p. 67 (Figure 3).

that the "spirit" of modern capitalism "originally had a value-rational micro-foundation", and so cannot be explained "as the outcome of calculations of utility by the actors involved."[72]

Even if one does not question this sociological explanation, there is a problem in its elaboration to which Friedrich Wilhelm Graf has drawn attention,[73] and which has also been examined by Peter Ghosh;[74] but Ghosh did not consider why Weber selected the Lutheran Matthias Schneckenburger, responsible for teaching trainee pastors of the reformed church in Bern and who adhered to the idea of union, as his most important theological authority.[75] This question, also a question of the power of an ideal type shaped by a particular logic of construction, will now be examined.[76]

Weber did claim that

> the "ideas" that govern the people of a given epoch, however diffusely, can ... only be grasped with any kind of conceptual clarity *in the form of an ideal type*, since this idea empirically inhabits the heads of an indeterminate and constantly changing number of individuals, and as such assumes the form of extreme variation with respect to form and content, clarity and meaning. Those elements of the spiritual life of individuals living in a definite epoch of the Middle Ages that, for example, we might designate as "Christian" would be, for those particular individuals, and *if* completely represented, a chaos of infinitely differentiated and entirely contradictory complexes of ideas and feelings of all kinds; but despite all this, the medieval church was able to establish a high degree of unity in faith and morality. If we ask what in this chaos might be "Christian" about the Middle Ages, for one after all continues to use this as a stable concept – what is "Christian" about medieval institutions, it turns out that here, in every instance, we introduce a pure thought construct that we have created. It is a combination of articles of faith, canon law and moral norms, maxims regarding life conduct and numerous concrete interrelationships that we unite as an "idea": a synthesis which, in the absence of ideal typical concepts, we could not achieve without contradiction.

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[72] Schluchter, *Handlung, Ordnung und Kultur*, p. 63.

[73] Graf, "Die 'kompetentesten' Gesprächspartner?", pp. 209-248.

[74] Ghosh, "Max Weber and German theological tradition", pp. 171-199. While Ghosh also demonstrates the differences between Weber and Schneckenburger, he does generally agree with the point made by Graf which is here at issue.

[75] Graf, "Die 'kompetentesten' Gesprächspartner?", pp. 225ff.

[76] See H. Treiber, "Vom Nutzen und Nachteil juristischer Dogmatik. Zu Max Webers Aufforderung, sich bei der „logischen Analyse eines Ideals" wie der „Protestantischen Ethik" als Chinese zu geben", *Rechtshistorisches Journal* 16 (1997), pp. 411-452.

He then suggests that things are relatively straightforward in

cases where one (or a few) theoretical principles can easily be converted into a formula – as for example Calvin's *belief in predestination* – or for cases where moral principles can be clearly formulated; these have dominated people and generated historical effects, so that we are able to arrange the "*idea*" in a *hierarchy of thoughts logically developed from these principles*.

There being the important qualification that

the empirico-historical process in the heads of human beings has to be routinely understood as a *psycho*logical process, and not one determined by logical principles.[77]

I would argue that this makes use of the method practised in conceptual jurisprudence (*Begriffsjurisprudenz*) in which a context is systematically constructed, observing the principle of logical consistency, or lack of inner contradiction. The logic of construction employed here is clearly analogous to constructivism in conceptual jurisprudence: in the "formation of a legal-normative system[78] primarily taking the form of a 'conceptual pyramid', 'constructed' in such a manner that particular legal concepts can be linked to a restricted number of higher concepts, which possibly are themselves then subordinated to a single leading concept."[79]

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[77] WL, pp. 197-8, my italics. The example of inference given by Herberger clearly demonstrates how "a legal statute requiring explanation … is upheld by the identification of underlying principles, or derivation from these principles." In this way one acquires an idea of what the corresponding inferential framework for the doctrine of predestination should be. Maximilian Herberger, "Logik und Dogmatik bei Paul Laband. Zur Praxis der sog. juristischen Methode im 'Staatsrecht des Deutsches Reiches'", in Erk Volkmar Heyen, (ed.) *Wissenschaft und Recht der Verwaltung seit dem Ancien Régime. Europäische Ansichten*, Frankfurt am Main 1984, pp. 91-104, here pp. 101ff.

[78] Here Larenz's characterisation of a system is illuminating: "The idea of a system implies the disclosure of unity in variety (Mannigfaltigkeit), which by virtue of this is recognised as its meaning." This is of course where ideal typical construction begins! Compare Weber: "This idea (*Gedankenbild*) unites particular relationships and events of historical life into an internally coherent *conceptual* framework (*gedachter Zusammen*hänge)." WL, p. 190. And "...no systems of thought, whose support is vital if we are to grasp given significant elements of reality, are capable of exhausting reality's infinite wealth. None of them are anything more than an attempt, on the basis of our prevailing knowledge and using the conceptual constructs available to us, to bring order to the chaos of those facts which our *interest* has drawn to our attention." WL, p. 207. See Karl Larenz, *Methode der Rechtswissenschaft*, 3rd. ed. Berlin etc. 1975, p. 20.

[79] Eugen Bucher, "Was ist 'Begriffsjurisprudenz'?", in Werner Krawietz, (ed.) *Theorie und Technik der Begriffsjurisprudenz*, Darmstadt 1976, pp. 358-389, here p. 362. Also see Rudolf Sohm, "Über

A system of this kind, constructed in thought, is therefore subordinated to a general principle, and is capable of revealing inferences by virtue of the logical consistency of its construction. Weber's belief in logic had struck Rickert,[80] given Weber's claim that

> It has been and continues to be true that a methodologically correct form of proof in the social sciences, if thought to be complete, has to be recognised as correct even by a Chinaman, or – more precisely – that it must at any rate *strive* to reach a goal perhaps not completely attainable for lack of material. Moreover, even *logical* analysis of an ideal with respect to its content and its ultimate axioms, together with demonstration of the logical and practical consequences arising from pursuit of such an ideal should, if they are to be deemed successful, likewise have to be valid for this Chinaman.[81]

Of course, Weber recognised that relationships subordinated in this way to the "primacy of the logical" could not address factual motivational contexts, in the same way that the theologist's "need for logical consistency and teleological consequence" might well conflict with the believers interest in salvation.[82] Weber sought to take account of this by introducing the writings of Spener and Baxter relating to pastoral practice which, as a trained lawyer, he compared with the response literature of Roman lawyers. Here the concept of validity comes in useful, determined "solely by the fact of an 'orientation' of action to an order, not however by compliance with it."[83]

Nonetheless, in the ideal type of PE it is the repetition of the logic of construction which unintentionally performs the function of a pointsman,[84] through which Schneckenburger became an important theological author-

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Begriffsjurisprudenz", *Deutsche Juristen-Zeitung* XIV (1909), cols. 1019-1024, col. 1021: "The broad mass of legal statutes are reduced to a relatively small number of short formulations, which are in turn part of a system ruled by one basic idea. From chaos there emerges a cosmos, out of the confused mass a wonderful work of art."

[80] Heinrich Rickert, *Die Grenzen der naturwissenschaftlichen Begriffsbildung. Eine logische Einleitung in die historischen Wissenschaften*, 4th. revised ed., Tübingen 1921, "Vorwort zur 3. u. 4. Auflage", pp. XII-XXI, XX.

[81] WL, p. 155.

[82] Schluchter, "Wie Ideen in der Geschichte wirken", p. 65.

[83] Max Weber, *Wirtschaft und Gesellschaft. Die Wirtschaft und die gesellschaftlichen Ordnungen und Mächte. Nachlaß, Teilband 3: Recht*, ed. Werner Gephart, Siegfried Hermes, Tübingen 2010, p. 195 (MWG I/22-3). See my review essay in Max Weber Studies 12.1 (2012), pp. 121-138.

[84] Alluding here to Weber's metaphor of a pointsman in "Die Wirtschaftsethik der Weltreligionen. Vergleichende religionssoziologische Versuche. Einleitung", *Gesammelte Aufsätze zur Religionssoziologie*, 6th ed., Tübingen 1972, Bd. 1, pp. 237-275, 252.

ity for Weber.[85] This is first of all because for Schneckenburger "theological doctrine … is only the secondary conceptual abstraction of Christian life, or of pious self-consciousness."[86] In this respect doctrinal texts are for Schneckenburger an "expression of a pious disposition", which leads him to "infer the underlying specificity of religious consciousness from doctrinal texts."[87] Weber's weakness for Schneckenburger results from, among other things, these "doctrinal, instructive differentiations between confessions [of reformist Christianity] becoming indices for differences in the religious conduct of life."[88] This step closely resembles Weber's procedure of subjecting "an ideal with respect to its content and its ultimate axioms" to "logical analysis", which involves "the demonstration of the logical and practical consequences arising from pursuit of such an ideal", for which there is also an appropriate methodical way of leading one's life.[89] This is also evident from the fact that Schneckenburger presumes that "differences in pious dispositions are causally related to the doctrine of predistination, as its effect", as is also indicated in the detailed list of contents for the corresponding discussion in §3 ("Good works in relation to subjective certainty of belief").[90] In addition to this, Schneckenburger typifies traditional Lutheranism on the one hand as against a Calvinism open to modernisation on the other, Weber adopting this typification and over this contrast and contrasting the two tendencies along the axis of passive : active.[91]

If one agrees with Hans Lenk, then ideal types that obey the rules of logic are exclusively "interpretive constructs" which are on the one hand usable and understandable "only within the framework and in terms of the manner in which they are bound to the subject and marked by culture"; and on

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[85] Max Weber, *Die protestantische Ethik und der „Geist" des Kapitalismus. Textausgabe auf der Grundlage der ersten Fassung von 1904/05 mit einem Verzeichnis der wichtigsten Zusätze und Veränderungen aus der zweiten Fassung von 1920*, ed. Klaus Lichtblau, Johannes Weiß, Bodenheim 1993, pp. 43, 57: "the following account of doctrinal differences is especially indebted to Schneckenburger's series of lectures". See also Graf, "Die 'kompetentesten' Gesprächspartner?", pp. 225ff.; Ghosh, "Max Weber and German theological tradition", pp. 173ff. Weber's reliance on Schneckenburger is most clearly in evidence in the discussion of Methodism – see Graf, "Die 'kompetentesten' Gesprächspartner?", pp. 231f.

[86] Graf, "Die 'kompetentesten' Gesprächspartner?", p. 228.

[87] Ibid., p. 229.

[88] Loc. cit.

[89] WL, pp. 155, 197f.; Schluchter, *Handlung, Ordnung, und Kultur*, p. 62 (Figure).

[90] Schneckenburger, *Vergleichende Darstellung des lutherischen und reformirten Lehrbegriffs*, p. XLVI, and pp. 54ff.

[91] Schneckenburger, *Vergleichende Darstellung des lutherischen und reformirten Lehrbegriffs*, pp. 158, 164f.; Graf, "Die 'kompetentesten' Gesprächspartner?", pp. 231f.

the other, as a consequence of the perspective which this creates, vulnerable to culturally-mediated and time-bound attitudes which, as in the case here, depend upon theological value judgements.[92] For Graf takes the view that Schneckenburger's "supposedly purely historical analysis of doctrinal differences between the Calvinism and Lutheranism of the sixteenth and seventeenth centuries" is itself heavily marked by internal Protestant disputes associated with the union debates of the nineteenth century.[93] The sharply contrasting opposition of Calvinism and Lutheranism that Schneckenburger presents is, according to Graf, a perspective drawn from the nineteenth century:

> Schneckenburger projected his confessional interests back into the past. In following Schneckenburger's impressively consistent historical account and hypostasising it as an 'objective', value-free reconstruction, Max Weber adopted an image of confessional difference in Protestantism within which the complex historical reality of the sixteenth and seventeenth centuries revealed by more recent historical research suffers a distortion of perspective, framed by nineteenth century theological doctrine.[94]

4. A Postscript

The above is intended to demonstrate that any appreciation of PE has two main tasks: it must identify the very many shortcomings of the essays, but also seek to present the very rich underlying research programme which Rainer Lepsius has described as a complex interaction of "the flow of action, the creation of structure, and projection of meaning;"[95] then briefly demonstrating the continuing relevance of this research programme using selected examples (National Socialism. The German Democratic Republic, and the European Union).[96]

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[92] Hans Lenk, *Interpretationskonstrukte. Zur Kritik der interpretatorischen Vernunft*, Frankfurt am Main 1993, pp. 213f.

[93] Graf, "Die 'kompetentesten' Gesprächspartner?", p. 227.

[94] Loc. cit.

[95] M. Rainer Lepsius, "Eigenart und Potenzial des Weber-Paradigmas", in Gert Albert et al., (eds.) *Das Weber Paradigma*, pp. 32-41, 33f.

[96] Lepsius, "Eigenart und Potenzial des Weber-Paradigmas", pp. 37ff. See also M. R. Lepsius, "Institutionenanalyse und Institutionenpolitik", in Birgitta Nedelmann, (ed.) *Politische Institutionen im Wandel*, Opladen 1995, pp. 392-403 (*Kölner Zeitschrift für Soziologie und Sozialpsychologie*, Sonderheft 35); also his "Die Europäische Union als rechtlich konstituierte Verhaltensstrukturierung", in Horst Dreier, (ed.) *Rechtssoziologie am Ende des 20. Jahrhunderts. Gedenksymposion für Edgar Michael Wenz*, Tübingen 2000, pp. 289-305.

Here I have concentrated on a comparison with divergences in scholarship contemporary with Weber, introducing the Usener School. Here it can be shown that Weber criticised Usener's conception of "feel" and the way in which Usener compared it to an artistic talent. Weber sought to advance a scientistic foundation for culturally given "reality claims",[97] his use of precise concepts and of "valid judgements" being indicative of a Kantian standpoint. As Gabriel has shown, Kant is already relevant to the use of "feel" or "wit", since in equating the concept of knowledge with judgements he subordinates "provisional or reflective judgements to the control of determining power of judgements.[98] On the other hand and as Heidelberger has recently shown, Weber's use of von Kries and the theory of objective possibility implied a convergence with contemporary explanatory models in the natural sciences, which were organised in terms of "causal relationships".

It is of course quite clear that, especially when considering PE, one should duly recognise Weber's dependence upon the "discourse of theologians" (Graf), and on the contemporary theological literature to which he had access. But in so doing we forget that Weber was a trained lawyer, and as such entirely familiar with the techniques and methods of what was called constructive jurisprudence – after all, his socialisation as a lawyer coincided with the development of conceptual jurisprudence in the later nineteenth century.[99] The logic of construction inherent to this approach involved "mental constructs … consistent and coherent mental frameworks",[100] so that

> the "ideas" that govern the people of a given epoch, however diffusely … as for example Calvin's *belief in predestination* –[can be] arrange[d] … in a *hierarchy of thoughts...*[101]

which can be deduced from the highest level of principles. The inferential form related to this logic of construction is, it is argued here, especially vulnerable for ideal-typical characterisations of religious life conduct – arranging Lutheranism and Calvinism along the axis passive : active, as presented by Schneckenburger on the basis of doctrinal texts and as the ultimate conse-

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[97] WL, p. 213 (Wahrheitsanspruch). See also Hartmann Tyrell, "Religion und 'Intellektuelle Redlichkeit'. Zur Tragödie der Religion bei Max Weber und Friedrich Nietzsche", *Sociologia Internationalis* 29 (1991), pp. 159-177.

[98] Gabriel, "Der 'Witz' der reflektierenden Urteilskraft", p. 209.

[99] Werner Krawietz, "Begriffsjurisprudenz", in *Historisches Wörterbuch der Philosophie*, ed. Joachim Ritter, Basel 1971, Bd. 1, cols. 809-813, 811.

[100] WL, p. 333-334.

[101] WL, p. 197-8.

quence of the doctrine of predestination. Graf, the expert theologian, has convincingly demonstrated that it was in this way that Weber "arrived at the union debates of the nineteenth century."[102]

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[102] Graf, "Die 'kompetentesten' Gesprächspartner?", p. 227.