

3 The Quid Juris

3.1 Introduction

In this chapter, I consider two interpretative issues concerning the well-known juridical metaphor that Kant invokes in a section of the Deduction (§ 13) which addresses the ‘principles of a transcendental deduction in general’ and, more specifically, introduces the Transcendental Deduction as an argument that proves the *legitimacy* of the categories as necessary *a priori* conditions of objective experience. The Transcendental Deduction is presented as having a validatory purpose, but also as providing an ‘explanation of the way in which concepts can relate to objects *a priori*’ (B117/A85), thus giving it an explanatory role.¹ The first issue is about whether the type of argument in the Transcendental Deduction is either a justification or a proof. This is relevant for my central claim concerning the derivability of the categories. The second is about how to interpret Kant’s notion of ‘original acquisition’ (*Disc*, AA 8: 122–3), which is not mentioned in § 13 but is germane to its subject matter. It concerns the *a priori* and *transcendental* status of the categories. This point is relevant for my second central claim, namely the rigorous coextensivity of the synthetic and analytic unities of consciousness, which I shall argue (in Chapters 5 and 6.3.3) underlies Kant’s so-called reciprocity thesis concerning the *a priori* relation between thought and object, which I first address in Chapter 4.

In § 13, Kant speaks about the Transcendental Deduction as concerning a *quaestio juris* or *quid juris*, rather than a *quaestio facti* or *quid facti* (B116/A84).² What he means by this is that the Transcendental Deduction is not a mere ‘explanation of the *possession* of a pure cognition’ (B119/A87), of a *priori*

¹ Cassam (2007: 67 ff.) identifies three roles for the Transcendental Deduction: ‘revelatory’, ‘validatory’, and ‘explanatory’. Cassam (2007: 70) is right that ‘revelatory’ accounts of the Transcendental Deduction miss the central point of the Deduction as, not ‘showing that we do use categorial concepts in our thinking’, but as ‘showing that we are entitled to use them’, which indicates the ‘validatory’ motivation of the Transcendental Deduction. ‘Kant wouldn’t be trying to show that we are entitled to use the categories unless he thought that we do actually use them, but it is a presupposition of his argument that we actually use categorial concepts in our objective thinking; *that* this is what we do is not what he is trying to prove’ (2007: 70). Cassam does not think that there is much to a supposed ‘explanatory role’ for the Transcendental Deduction (2007: 80–4). However, I think there is an explanatory role for the Deduction, in the way that it explains, by means of ostensive proof, which functions of thought (or categories) are required for the possibility of objectively valid knowledge.

² Cf. *Met-Mron*, AA 29: 764.

concepts, which is not in dispute,³ but a justification of these concepts as necessarily and a priori relating to objects and the external world, something that is specifically called for in the case of a priori concepts, which cannot be proven on the basis of mere experience (B117/A85).⁴ It concerns the question regarding

3 However, what role the *quaestio facti* plays is perhaps not so clear. Proops (2003: 210) believes that ‘Kant fails to make clear whether he introduces this notion simply as a neutral foil to the entitlement-establishing “question of right” (*quid juris*), or whether he conceives of it, more interestingly, as corresponding to an initial stage in the argument of the Deduction’, thus providing a justificatory role for the *quid facti*. See further below Section 3.2. I believe that Kant indeed means the notion ‘as a neutral foil’ and accords it no individual role within the proof of the legitimacy of the categories. Cf. *Real Progress*, AA 20: 275, where Kant says that ‘[t]he principle, that all knowledge begins solely from experience, concerns a *quaestio facti*, and is thus not at issue here, since the fact is unreservedly granted [*die Thatsache wird ohne Bedenken zugestanden*]’ (TPhb: 366, trans. emended).—Regarding the *possession* of knowledge and the role of the Transcendental Deduction, Callanan (2011: 14 ff.) seems to me to mistakenly conflate the fact of our possessing knowledge, as an underlying, unproblematic assumption of the Transcendental Deduction, and the specific task of the Transcendental Deduction, which contrary to the standard reading Callanan claims ‘does proceed by reflection upon the conditions *under which the Categories are possessed*, that is, on categorical concepts’ acquisition procedure’, albeit that such a procedure does not ‘involve “facts” in the sense of requiring reference to the given perceptual matter of sensory particulars’ (emphasis added). I concur with Callanan’s view that in the Transcendental Deduction a reflection on a particular kind of acquisition of the categories (i.e. *original* acquisition; see below Section 3.2.3) is concerned, but to frame this in terms of the provision of ‘the *possession*–conditions for the Categories’ (2011: 1) strikes me as unwarranted by Kant’s text in § 13. Callanan says that ‘it is the *lack* of doubt regarding our rightful possession of knowledge that is the appropriate starting point for the inquiry of the Deduction’ (2011: 15, emphasis added), but clearly the *rightful* possession of a priori knowledge is precisely what first needs to be established beyond any doubt. Indeed, the *de facto* possession of the categories is not in doubt (they have been the stock in trade of metaphysics since Aristotle) and does not require any explanation (cf. per contra Callanan 2011: 16), but the *right* to our using them is and so requires a deduction. However, more charitably, Callanan might be taken to argue that the reflection upon the original acquisition of the categories has an explanatory function as well, not just a validating. That is, the Transcendental Deduction must *explain how* the use of the categories that we possess ‘purports to represent how things must be in accordance with necessary laws’ (Callanan 2011: 16).

4 Often it is assumed that in the Transcendental Deduction Kant wants to justify *the use* of the categories, but it seems from the concluding remark of the B-Deduction (B169) that this task is reserved for the second book of the *Analytic of Principles*. However, at B117/A85 Kant does also seem to suggest that a ‘transcendental deduction’ does concern ‘their right to be so employed’ [*Befugnis ihres Gebrauchs*; note that Kant speaks of entitlement to ‘pure a priori employment’ of concepts]; the ‘pure a priori employment’ would be the ‘manner in which concepts can thus relate a priori to objects’ (trans. Kemp Smith). The use here is not in any way concerned with an effective employment, but rather with how categories can be seen as instantiated in *pos-*

the ‘birth certificate’ (A86/B119) of the pure concepts of the understanding. In *Metaphysik Volckmann*, from the period 1784–85, this is described as follows:

We call the explanation of the possibility of such cognitions [*Erkenntnisse*] deduction and this retains here the same meaning which it has in Law [*beym Jus*], namely I ask: *quid juris?* or, with what right can you assert that these concepts can be used a priori, and with respect to objects of experience, for otherwise I can dispute [*streitig machen*] that this cognition is a priori, and that experience stands under these concepts. A deduction of the concepts of understanding is therefore a proof [*Beweis*] of the validity of cognition; whether it is pure a priori without experience. (AA 28: 399, trans. mine)

The precise meaning of this claim, of *how* Kant establishes our entitlement to the use of the categories and their objective validity and how this ties in with the structure of the argument of the Transcendental Deduction, will be discussed in Chapter 4 and following. Here, I am interested in two recent interpretations of the Transcendental Deduction that are different from my reading specifically in regard to evaluating the *quid juris* question. The first interpretation (Section 3.2) is the one advanced by Dieter Henrich (1989) and later expanded on by one of his students, Ulrich Seeberg (2006), which claims that the Transcendental Deduction is not a standard philosophical deduction but a philosophical analogue of contemporary legal arguments. This conflicts with my reading of the Transcendental Deduction as a philosophical deduction in a more or less logically standard sense, namely deduction as in ‘derivation from a principle’ (albeit a non-axiomatic one).⁵ The second interpretation with which my reading conflicts is the one offered by Béatrice Longuenesse (Section 3.3), whose interpretation differs from mine in the way that I believe her ingenious reading of the ‘original acquisition’ of the categories as grounded in an act of reflective judgement threatens their status as a priori, unabstracted concepts and, in addition, makes it difficult to understand how the categories apply to experience. As her reading is an influential but problematic one, my account of Longuenesse will be somewhat longer. My difference with Henrich and Seeberg does not so much concern the fact that Kant’s proof is a philosophical analogue of legal de-

sible experience. This is indicated by the heading of § 26 (‘Transcendental deduction of the universally possible use of the pure concepts of the understanding in experience’).

⁵ In the *Prolegomena* (§ 39, AA 4: 324.31–2), Kant clearly associates ‘deduction’ with ‘derivation’ (see also *Met-Schön*, AA 28: 474 [1785–90]) and earlier he also speaks of ‘deriv[ing] a priori from one principle [*aus einem Princip a priori ableiten*]’ of all the concepts of the understanding (*Prol*, AA 4: 322 [TPhb: 114]). This is connected with the idea of a ‘system’ of categories, which shows up ‘the necessity of [its] division’, and is ‘a comprehending’ rather than the mere comparison associated with an ‘aggregate’ of cognitions.

ductions, which I do not dispute, as their sharp contradistinction between a proof modelled after such legal deductions and an (implicitly) strong deductive way of reasoning.

3.2 Deduction: Justification or Proof?

In the wake of an influential article by Henrich (1989), it seems that there is a consensus among interpreters about the idea that Kant's Deduction is not in fact a deduction in the philosophical sense of the word, that is, a premise–conclusion style argument.⁶ At first sight, Kant does indeed not seem to argue in such a way, although of course it is not the case that no such arguments at all can be found in the Transcendental Deduction. The attention is focused foremost on § 13, in the run-up to the Transcendental Deduction, where Kant discusses the *quid juris/quid facti* distinction. I want to address the issues brought up by Henrich and then more in depth by Seeberg, concerning the question whether the Transcendental Deduction is a philosophical proof *sensu stricto* or rather a justification in the style of contemporary legal procedures. I do not dispute Henrich's and Seeberg's findings that Kant's Transcendental Deduction can fittingly be seen as an analogue of contemporary juridical procedures. I also concur with Henrich's account of the idea of 'reflection' as integral to Kant's mode of reasoning in the Deduction. However, I disagree that it is thereby excluded that the Deduction is a logical proof in some sense. One good illustration of why a legal deduction is not incompatible with a clear syllogistic schema, for example, is provided by Kant himself in his *On the wrongfulness of unauthorised publication of books* (1785). Here, Kant presents a legal argument 'contained in a syllogism that establishes the *right*', in this case, '*of a publisher*' (AA 8: 79). Nor do I believe that Kant does not want to provide an *apodictic* philosophical corroboration of the claims he makes by means of an ostensive proof.⁷ I think that Seeberg distinguishes too sharply between, on the one hand, mathematical proof as deduction or demonstration and, on the other, philosophical justification, whereby the latter, in his view, cannot be a proof. Contrary to what Seeberg suggests, Kant does allow philosophical apodictic proof that is not a mathematical demonstration.

Henrich (1989: 31) argues that deduction as a 'logical procedure' is not 'the only, and not the most common, usage [of the term] in eighteenth-century aca-

⁶ But see already Heidegger (1995: 306 ff.).

⁷ Cf. Baum (1986: 10): '[F]ür Kant [stehen] die juristische Argumentationsweise der Deduktion und die syllogistische Form eines Beweises in keinerlei Konflikt miteinander [...].'

demic language'. He argues plausibly that, since Kant was perfectly capable of organising his thoughts in syllogistic form, in the *Critique* and elsewhere, and since (apparently) he did not fashion his arguments in the Transcendental Deduction in this way, we have 'good reason to look for a reading of the term "deduction" in Kant's sense, one that does not make the meaning of his very program entirely dependent upon the design of a chain of syllogisms'. Such a reading is provided by considering the juridical background of the use of the term 'deduction', which Kant himself in fact alludes to when he refers to 'jurists' demanding 'proofs' of the lawfulness of entitlements (B116/A84). Looking at this background is appropriate—all the more so since Kant frequently invokes legal metaphors to characterise the role of a critique of pure reason. Strikingly, at A751/B779, he labels the 'critique of pure reason' itself 'the true tribunal for all disputes of pure reason [...] [which] is directed to the determining and estimating of the rights of reason in general [...] ' (trans. Kemp Smith). At Axi–xii, Kant likens the 'critique of pure reason' to 'a court of justice, by which reason may secure its rightful claims while dismissing all its groundless pretensions, and this not by mere decrees but according to its own eternal and unchangeable laws', which, significantly, he links to reason's 'self-knowledge'.⁸ Henrich (1989: 32) refers to the contemporaneous practice of *Deduktionsschriften* in natural law, which were aimed at justifying 'controversial legal claims between the numerous rulers of the independent territories, city republics, and other constituents of the Holy Roman Empire'. In these *Deduktionsschriften*, 'extensive arguments about the way in which a claim had originated and had been maintained over generations had to be given'. He writes further:

In order to decide whether an acquired right is real or only presumption, one must legally trace the possession somebody claims back to its origin. The process through which a possession or a usage is accounted for by explaining its origin, such that the rightfulness of the possession or the usage becomes apparent, defines the deduction. (1989: 35)

Henrich (1989: 33) claims that Kant would have assumed that 'his audience would understand him when he transferred the term "deduction" from its juridical usage to a new, philosophical one'. He states that although the deduction is a proof, and that its results are brought together, in the conclusions, through syl-

⁸ See further Schulting (2009a). As Seeberg (2006: 169) notes, the juridical term *deductio* means to summon a witness to appear in court, or in general to bring a case to court, or to take 'legal action', which as Kant writes at A751/B779 is precisely the way in which the *Critique* 'secures to us the peace of a legal order, in which our disputes have to be conducted solely by the recognised methods of *legal action*' (trans. Kemp Smith). Cf. A787/B815.

logistic reasoning (cf. § 20 [B143] and § 26 [B161] in the B-Deduction), ‘its being a “deduction” is not defined in terms of a chain of syllogisms’ (1989: 39).⁹

Henrich asserts that Kant is not so much interested in fashioning his arguments in strict syllogisms as in the manner of how the investigation is supported by reflection. It is more important ‘to ascertain the reliability of premises (of *Beweisgründe*, that is, of the notions and reasons that proofs can rely upon)’ (1989: 41), rather than the inferences based on them. Henrich observes:

The very notion of a deduction is compatible with any kind of argumentation suitable for reaching the goal—namely, the justification of our claims to *a priori* knowledge. As a matter of fact, several types of argument operate within the text of the deduction before it begins to establish its results by means of a syllogistic proof. (1989: 39–40)

This suggests that Kant’s line of reasoning is not a single, linear one, but a ‘weaving together of considerations’ (Kitcher 2011: 87). This, however, appears to conflict with Kant’s assertion in a section of the chapter ‘The discipline of pure reason in regard to its proofs’ (A787–9/B815–17) that a dogmatic, transcendental proof, can only be a single one and that the ‘ground of proof can therefore only be unique [*ein einziger*]’. There is thus reason to suspect that in respect of its most crucial aspect, the analogy between Kant’s Transcendental Deduction and the practice of *Deduktionsschriften*, where it is customary to proffer different forms of proof—‘lawyers throw the kitchen sink at a case’, as Patricia Kitcher (2011: 89) aptly says—breaks down. Kant’s observation is revealing (note the reference to ‘parliamentary advocate’):

Where reason would conduct its business through mere concepts, only a single proof is possible if any proof is possible at all. Thus if one sees the dogmatist step forth with ten proofs, one can be sure that he has none at all. For if he had one that proved apodictically (as must be the case in matters of pure reason), for what would he need the rest? His intention is only that of every parliamentary advocate: one argument for this one, another one for that, in order to take advantage of the weakness of his judges who, without getting into the business deeply and in order to get rid of it quickly, just grasp at the first argument that occurs to them and decide accordingly. (A789/B817)

Nevertheless, it could be said in defence of Henrich that *within* the single proof a manifold of argumentative approaches is adopted by Kant. As said, Henrich points out that at any rate reflection is a fundamental ‘pre-condition of rationality’ (1989: 42) and should be seen as intimately connected with the procedure of a deduction. Indeed, as Henrich (1989: 43) further observes, ‘no deduction can

⁹ See also Henrich (1988: 42).

get under way unless it relies primarily on arguments that refer directly to what is revealed by reflection', and that 'constitute the core of every transcendental reflection'. This is why he, rightly, believes that the 'key notion of the deduction in the First *Critique* is, without doubt, the unity of apperception', and that the 'I think' as the mode of reflection is 'the origin of the system of the categories and the point of departure for the deduction of the legitimacy of their usage' (1989: 44–6). This will also be the approach taken in this book, although I am less sure about Henrich's (1989: 37) notion of apperception being the philosophical analogue of the legal *factum* to which the claim to be justified is to be traced back and from which it originates.¹⁰

Following Henrich, Seeberg (2006: 12) also believes that the method of the Transcendental Deduction is not modelled after a deductive derivation of conclusions from premises and that the transcendental nature of the Deduction is not intelligible if it is explained simply in terms of syllogistic deduction (2006: 179). He associates such a model of deduction with a mathematical deductive grounding of propositions from axioms, which he contrasts with the Deduction's 'synthetic–explicative' method.¹¹ He also suggests a connection between the typical brevity and 'avoidance of subtlety' of *Deduktionsschriften* as well as their linguistic style and the notorious compactness of Kant's Transcendental Deduction (2006: 175–6). Seeberg's (2006: 64, 68–9, 72, 81) central point about the self-reflexive character of Kant's procedure in the Transcendental Deduction, and for the project of the *Critique* as a whole as a 'self-understanding' of reason that sets itself limits, is well-taken.¹² Also his view that, as a whole, the *Critique* is concerned with showing the rules that govern knowledge of reality as an accountable, self-conscious human activity (2006: 115, 124) is one I concur with. I take issue, however, with his sharp contrast between a mathematical proof and a philosophical model of demonstration in regard to the Transcendental Deduction. Seeberg appears to present an exclusionary choice between *either* strictly mathematical deductive proof *or* philosophical *non*-deductive types of reason-

¹⁰ Proops (2003: 211, 215–16) also disputes this. However, he considers the *factum* to be the Metaphysical Deduction, where not the validity (legal) question is asked but where the deduction should be understood in its broad sense of being a derivation. This ties in with Proops's view that the *quid facti* is the first stage in Kant's deductive argument. I doubt though that the Metaphysical Deduction can be seen in terms of the *quaestio facti* that Kant means in § 13.

¹¹ In Seeberg's view, the Transcendental Deduction does not present an 'analytisches Urteil [...], dessen Prämissen hypothetisch angenommen oder axiomatisch gesetzt werden könnten', but requires 'stattdessen eine selbstbezügliche Vergegenwärtigung spontaner, synthetischer Urteilsakte' (2006: 58).

¹² See Schulting (2009a). Cf. Seeberg (2006: 78). See further in particular Seeberg (2006), ch. 3.

ing. I propose that although Kant's reasoning is not *explicitly* modelled after a strict axiomatic deduction, and is thus not a direct proof from concepts *sans phrase*, it is still a deductive proof from concepts, but one that is so implicitly or mediately, namely by having recourse to possible experience.

It is clear that Kant thinks that transcendental philosophy also proceeds by way of strict proofs, albeit that these are necessarily different from mathematical demonstrations (*Logic-Vienna*, AA 24: 894), and that a deduction, in terms of the answer to the *quid juris*, is *as such* a proof nonetheless (*Met-Volck*, AA 28: 399) and even one that carries apodictic certainty, as Kant insists in the preface to MFNS (AA 4: 474n.).¹³ In a note towards the end of the B-preface of the *Critique* Kant makes it clear that the hypothetical nature of his argument in the preface must make way for an apodictic proof of the truth of the Copernican hypothesis in the body of the book itself. What there had been proposed 'as a hypothesis' must

in the treatise itself [...] be proved not hypothetically but rather *apodictically from the constitution of our representations of space and time and from the elementary concepts of the understanding*. (Bxxiin., emphasis added)

In § 20 of the B-Deduction, Kant clearly refers to the first part of the Transcendental Deduction as a 'proof' (B145). Also, philosophical proofs must be apodictic (Axv), whose certainty is not less than mathematical certainty, only different in kind, namely discursive or dogmatic rather than intuitive (*Logic-DW*, AA 24: 734 ff.).¹⁴ In the introductory section of the 'System of the Principles of the Understanding' at A161–2/B201, Kant makes a distinction between the 'intuitive certainty', 'as regards their evidential force [*Evidenz*]', of the mathematical principles (not: principles of mathematics) as opposed to the 'merely discursive certainty' of the dynamical principles, 'even while we recognise that the certainty is in both cases complete [*obzwar beiderseits einer völligen Gewißheit fähig sind*]' (trans. Kemp Smith). Towards the end of the B-preface, Kant is adamant

13 At A233/B286, Kant appears to see deduction and proof as disjunctives: 'When, therefore, a determination is added *a priori* to the concept of a thing, then for such a proposition if not a proof then at least a deduction of the legitimacy of its assertion must unfailingly be supplied.' However, a few lines above this passage it is mathematically immediate certainty that is contrasted with 'justification or proof' or a 'deduction' (A233/B286).

14 Cf. *Logic-Vienna*, AA 24: 830–1, 892; R2454, AA 16: 376; R5645, AA 18: 291, 293; R2714, AA 16: 480; MFNS, AA 4: 474n. Nevertheless, in the *Jäsche Logic* it is stated that since philosophical proof is *probatio*, and not *demonstratio*, it cannot provide apodictic certainty (AA 9: 241); also that direct proofs, which Kant says are what transcendental proofs must be (see below), are not apodictically certain (AA 9: 233–4).

that '[c]riticism is not opposed to the *dogmatic procedure* of reason in its pure cognition as science'. For Kant, 'science must always be dogmatic, i.e., it must prove its conclusions strictly *a priori* from secure principles'.¹⁵ He points out that the *Critical* philosophy rather 'is opposed *only to dogmatism*' (emphasis added), which is 'the presumption of getting on solely with pure cognition from (philosophical) concepts according to principles, which reason has been using for a long time without first inquiring in what way and by what right it has obtained them'. Kant is not opposed to the dogmatic *method* to the extent that it means to proceed *a priori* and in accordance with the strict rules of logic (further on in the passage he refers to the 'strict method of the famous Wolff, the greatest among all dogmatic philosophers'). But he opposes dogmatism insofar as its 'procedure of pure reason' does '*without an antecedent critique of its own capacity*'. Kant makes it quite clear, however, that the method of transcendental philosophy has nothing in common with popular philosophy ('loquacious shallowness under the presumed name of popularity'), but should instead prepare the way for metaphysics as 'a well-grounded science, which must necessarily be dogmatic, carried out systematically in accordance with the strictest requirement, hence according to scholastic rigor' (all quotations from Bxxxv–xxxvi).¹⁶ In *The Architectonic of Reason*, Kant similarly points out that '[w]hat we call science [...] arises architectonically, for the sake of its affinity and its derivation from a single supreme and inner end, which first makes possible the whole', and that 'such a science *must be distinguished from all others with certainty and in accordance with principles*' (A833–4/B861–2, emphasis added).

For Kant, furthermore, transcendental proofs must be 'ostensive', or 'direct', meaning that a transcendental proof is a proof that 'is combined with the conviction of truth and simultaneously with insight into its sources', as contrasted with 'the apagogic proof', which 'can produce certainty, to be sure, but never comprehensibility of the truth in regard to its connection with the grounds of its possibility'. Whereas apagogic proofs are closer than ostensive proofs to 'the intuitiveness of a demonstration' in mathematics (A789–90/B817–18), direct (ostensive) proofs, which prove the truth of a cognition by relating it to its grounds, appear only to give 'comparative certainty' (*Logic-Blom* § 196, AA 24: 233–4), which would seem to contradict Kant's emphasis, as pointed out

¹⁵ Cf. letter to Herz of January 1779, *Corr*, AA 10: 247.

¹⁶ See also the remarkable *Reflexion* R5031 from the late 1770s: 'I have chosen the scholastic method and preferred it to the free [...] motion of the spirit and wit, although, since I want every reflective mind to take part in this inquiry, I found that the dryness of this method would scare away precisely readers of this sort who seek the connection with the practical' (AA 18: 67 [NF: 206]).

above, on the need for apodicticity, also in transcendental philosophy. (The ‘comparative certainty’ is akin to the earlier mentioned ‘discursive certainty’ of the dynamical principles, in contrast to the ‘intuitive certainty’ of the mathematical principles.)¹⁷ Ostensive proofs, which Kant also calls ‘genetic proofs’, reveal ‘not only truth but also at the same time its *genesis*, its generative source’ (*Logic-Blom* § 196, AA 24: 233 [LL: 186]).¹⁸ This connects ostensive proof with the idea of a transcendental deduction as the answer to the *quid juris*, the question regarding the source of one’s entitlement to the use of the categories. And indeed, in the section ‘The discipline of pure reason in regard to its proofs’, at A794/B822, Kant explicitly associates a ‘transcendental deduction of its ground of proof’, that is, ‘discovering a title for [one’s] assertions’, with direct (ostensive) proof.¹⁹

Of course, that transcendental proofs are direct proofs does not imply that they rest on mere conceptual analysis, or that they are not really distinguishable from just any inferential link among the set of premises. The proof of a synthetic *a priori* proposition

does not show [...] that the given concept (e.g. of that which happens), *leads directly* to another concept (that of a cause), for such a transition would be a leap for which nothing could be held responsible; rather it shows that experience itself, hence the object of experience, would be impossible without such a connection. (A783/B811, emphasis added)

In transcendental proofs, the possibility of the *a priori synthetic* connection between concepts and their application to the object or objective event must be established and cannot just be analytically inferred from given concepts. It belongs to the essence of transcendental proofs that the objective validity of *a priori* concepts and the way that they are synthetically connected must be *justified*, for which ‘possible experience’ serves as the ‘special clue’, the ‘guideline’

17 See also B761–2/A733–4, where Kant distinguishes ‘discursive principles’ from ‘intuitive ones, i.e. axioms’, the former of which ‘always require a deduction’. Discursive principles can never lay claim to the self-evidence of axiomatic certainty. ‘Philosophy [...] must content itself with justifying [its *a priori* principles] authority through a thorough deduction.’ Cf. B199–200/A160–1.

18 This additional feature of ostensive proofs marks out transcendental proof as different from just any logical proof (cf. Gram 1984: 140–1; Gram is highly critical of Kant’s account of the four rules of transcendental proof, but that is because he fails to understand the singular status of transcendental proofs, as not singling out a particular type of argument among other arguments as Gram consistently believes, but as characterising, at least in Kant’s eyes, the *unique* mode of philosophical proof).

19 In *Real Progress*, Kant however appears to dissociate direct proof from a ‘deduction of the legitimate claim of reason to *a priori* determinations’ of the domain of metaphysics (AA 20: 320).

(A782–3/B810–11). Kant alludes to ‘possible experience’, more specifically ‘the unity of apperception’, as that in which lies ‘the possibility of synthetic judgments’ and which is the necessary ‘third thing [...] in which alone the synthesis of two concepts can originate’ by means of which one ‘must go beyond a given concept in order to compare it synthetically with another’ (B194/A155; cf. R5643, AA 18: 284 [*Loses Blatt C3*]). But this justification, guided by possible experience, occurs fully *a priori*. Kant explains that

although we can never pass *immediately* beyond the content of the concept which is given us, we are nevertheless able, in relation to a third thing, namely, *possible* experience, to know the law of its connection with other things, *and to do so in an a priori manner*. (A766/B794, trans. Kemp Smith and emphasis added)

Also, the fact that a transcendental proof does not prove the truth of a synthetic judgement ‘directly from concepts, but rather always only indirectly through the relation of these concepts to something entirely contingent, namely *possible experience*’, does not make the proof itself any less ‘apodictically certain’ (A736–7/B764–5).²⁰ The sense in which a transcendental proof is a direct proof is thus not because it proves ‘directly from concepts’ as if it concerned mere conceptual analysis, but because unlike apagogic proofs it ‘is combined with the conviction of truth and simultaneously with insight into its sources’ (A789/B817).

To hark back to Henrich’s emphasis on the role of reflection, I believe that in the Transcendental Deduction, and in the *Critique* as a whole, a transcendental reflection (cf. A263/B319) takes place, as a reflection on the relation of thinking to the world, which eo ipso involves a sense of self-reflexivity. It concerns thinking *about* how *thinking* hooks up to the world. This reflection, which takes place in the Transcendental Deduction and is an *a priori* reflection on the ‘third thing’, is not predetermined by the rules of logic, or the rules of inference, since here it is that the logical functions—insofar as they are objectively valid, hence as categories—must first be derived from scratch, as it were, without presupposing putatively pre-given definitions or principles by means, or on the basis, of which chains of syllogisms can be generated and conceptual analyses can be carried

20 See further Stapleford (2008: 40–57). Stapleford rightly observes: ‘[T]ranscendental proofs seek to uncover the conditions of instantiating certain concepts. As Kant puts it: “In the case of the transcendental propositions [...] we start always from *one* concept only, and assert the synthetic condition of the possibility of the object in accordance with this concept” (A787/B815). The proof specifies what it would be like for an object to fall under the given concept: “[I]t can contain nothing more than the determination of an object in general in accordance with this one single concept” (A788/B816). So transcendental proofs do not investigate simply the meanings of terms but the conditions of their application’ (2008: 45).

out. This does not mean that the logic of Kant's reasoning is free from the rules of logic, although a certain freedom or spontaneity is involved, which is reflected in the way that Kant refers to 'self-activity' (B130) in § 15 and the 'spontaneity' of the 'I think' in § 16 as conditions of objective cognition.²¹ This is not just the self-activity or spontaneity of a judging self that makes a judgement *about* some *x*, but also of the transcendental self that reenacts, as it were, the performance of such a judging self—much like Descartes' meditator who reflects, from the subjective standpoint of a thinker, on what any thinker must be able to reflect for herself.

What is at issue here is the methodology of 'first philosophy' concerning metaphysical questions that are not reducible to questions of logic (precisely the mistake Leibniz made, according to Kant, in constructing his 'intellectual system of the world' [A270/B326]), and so in fact precedes logical conditions and rules and indeed *grounds* logic itself, as Kant claims (B134n.).²² The methodical mode of transcendental reflection is to argue by way of the 'original-synthetic unity of apperception', which rests upon an act of the self-active rational agent contemplating the necessary constraints of objective experience, her *own* experience. This links up with the self-explanatory dynamic of reason shown in the way that Kant argues for the necessary applicability of the categories to objective experience. The explanatory theory that Kant presents in the Transcendental Deduction must itself provide its own method for thinking about its subject matter—indeed, it is the transcendental method, 'the altered method of our way of thinking' (Bxviii), that is applied while carrying out the reflection.²³ It cannot proceed just by virtue of the 'dogmatic procedure of reason', by reasoning from definitions, and simply adopting the rules of inference, let alone construct a system *more geometrico*, as Spinoza attempted. The Transcendental Deduction forms part, the pivotal part, of the actual carrying out of the project of a 'self-knowledge' of reason (Axi).²⁴

This is, of course, not to say that Kant's method of transcendental reflection in the Transcendental Deduction conflicts with the rules of logic. Also in transcendental proofs, 'audacious leaps' (Bxxxvi) in the argumentation must be prevented. It means that the exposition of the elements of cognition and experience should 'move', to put it in Hegelian language, in a careful, analytic, step-by-step procedure that expounds the elements of 'analysis' that could not be shown by simply adhering to rules for logical or conceptual analysis and presenting argu-

²¹ See further Chapter 7, this volume, and Schulting (2017a), ch. 3.

²² For an account, see Schulting (2017b).

²³ See further Schulting (2009a).

²⁴ See further on transcendental reflection, Chapter 10, this volume.

ments in clear premise–conclusion style. The transcendental character itself of a priori cognition, and hence the transcendental relation of the categories to experience, can only come to the fore in an idiosyncratic exposition that is itself transcendental in nature. Logical rules, which are in fact grounded in transcendental logic, cannot be the *ground* of the exposition of the transcendental, pure concepts of the understanding (if they were, then there would be no need for transcendental logic in the first place). That Kant’s analysis in the Transcendental Deduction does not manifestly *show* the rigorous mode of syllogistic reasoning is due to the transcendental nature of inquiry. However, this transcendental procedure does not detract from the rigorous nature of a derivation from a principle—a deduction in the standard philosophical sense—in the same way that the intentionally reflexive style of Descartes’ *Meditations* does not conflict with the strict deductive rules for logical inference that Descartes stipulated for philosophy in the *Regulae* (AT X: 365, 368, 369–70, 379–80).

What the transcendental reflection in the Transcendental Deduction accomplishes is precisely what a transcendental proof as an ostensive proof sets out to establish: providing insight into the systematic coherence of all of the constitutive elements of synthetic a priori cognition. These constitutive elements are, insofar as the conceptual aspect of the analysis of a priori cognition is concerned, the pure concepts of the understanding which ‘spring pure and unmixed from the understanding, as absolute unity, and must therefore be connected among themselves in accordance with a concept or idea’ (A67/B92).²⁵ What Kant proposes to do in the Transcendental Deduction is to determine, by means of an ‘analysis of the faculty of understanding’ (A65/B90), the systematic interconnection between all of the categories. The transcendental reflection that is carried out in the Transcendental Deduction is in fact the mode of explanation of this systematic coherence. Such an explanatory role for the Transcendental Deduction, as one of its roles, hangs together with what is commonly referred to as the regressive argument, which regresses from given knowledge to its necessary grounds, while the precise step-by-step ostensive proof, which is a deduction in the philosophical sense of the word, as a derivation from a principle or premise, is provided by means of the progressive argument (see Chapter 4). At the same time, this explanatory role for the Transcendental Deduction reinforces

²⁵ In the 1772 ‘Herz’ letter, discussed in Chapter 2, Kant speaks of the arrangement of the categories ‘according to the way *they classify themselves by their own nature*, following a few fundamental laws of the understanding [*so wie sie sich selbst durch einige wenige Grundgesetze des Verstandes von selbst in classen eintheilen*]’ (Corr, AA 10: 132, emphasis added), suggesting a self-explicatory structure of the interconnectedness of the categories by which Kant’s transcendental proof is informed.

its general validator function in terms of a legitimisation as a philosophical analogue of a legal *Deduktionsschrift*, as Henrich and Seeberg have emphasised.

3.3 Original Acquisition, Reflective Judgement and the Categories: A Critical Remark on Longuenesse

In the Introduction to the *Critique of the Power of Judgement*, in both the unpublished first (FI) and second versions, Kant makes a distinction that holds Béatrice Longuenesse's special attention in her justly acclaimed book *Kant and the Capacity to Judge* (1998), one of few modern day classics of Kant scholarship. She thinks that it must be linked to an explanation of the possibility of judgement in general, and hence to the transcendental account regarding the possibility of knowledge in the First *Critique*. It concerns the distinction between a 'merely reflecting' or 'reflective' judgement and a 'determining' or 'determinative' judgement. This distinction prompts Longuenesse to argue that reflection has a constitutive role to play for determinative judgement, a type of judgement that she directly associates with the general notion of 'judgement', which Kant argues in the Transcendental Deduction corresponds with the determination by the understanding of an object, or indeed with the objective unity of apperception (TD §§ 17, 19; cf. R5933, AA 18: 392–3, *Prol* § 19, AA 4: 298–9) (see further Chapter 10). In her account of judgement and the transcendental conditions governing judgement, Longuenesse insists on the grounding role of reflection for the possibility of judgement in general, and so on the necessary role of reflection for knowledge, that is, for the understanding.

My observations here concern a critique of Longuenesse's apparent attempt to argue for the *transcendental* role of logical reflection for the possibility of judgement, or, the understanding. I think that the view that reflection has such a role is mistaken and threatens the transcendental nature of Kant's argument in the Transcendental Deduction. I shall point out why I think this, although I shall not be able to offer here anything in the form of a sufficiently argued critique of Longuenesse's richly documented take on judgement in her book. The main criticism concerns what I take to be Longuenesse's confusion of the logical and the transcendental conditions of judgement, which forms the backdrop for my account of the original acquisition of categories and is linked to my discussion, in this chapter, of the *quid juris*. On Longuenesse's view, it seems that the categories lose their privileged status as exclusive transcendental conditions of knowledge, something for which she has also been criticised by Allison (2000). Moreover, her view threatens to undermine Kant's definition of judgement as an *objective* unity of apperception.

3.3.1 Kant on ‘Reflective’ and ‘Determinative’ Judgement

In FI, Kant states that

[t]he power of judgment can be regarded either as a mere faculty for *reflecting* on a given representation, in accordance with a certain principle, for the sake of a concept that is thereby made possible, or as a faculty for *determining* an underlying concept through a given *empirical* representation. In the first case it is the *reflecting* [*reflectirende*], in the second case the *determining* [*bestimmende*] power of judgment.

He goes on to write:

To reflect (to consider), however, is to compare and to hold together given representations either with others or with one’s faculty of cognition, in relation to a concept thereby made possible. The reflecting power of judgment is that which is also called the faculty of judging (*facultas diiudicandi*). (FI, AA 20: 211; see also CJ, AA 5: 179)

For Kant, the distinction between the reflecting and determining power of judgement is important for arguing for the possibility of finding among the multiplicity of the empirical objects of nature a common ground for their unity and arriving at empirical concepts and their thorough interconnection into empirical laws. In Kant’s account of the general form of the objects of nature, or nature as such (*natura formaliter spectata* [B165]; cf. A114, A125), in the *First Critique*, it was clear that the reflective power of judgement had ‘its directions in the concept of a nature in general’ (FI, AA 20: 212), and hence in the a priori concepts of the understanding that provide the rules for schematising these and apply the schemata to the empirical synthesis of intuitions. In that case, the reflective power of judgement is not just reflective but also determining, Kant points out, in that ‘its transcendental schematism serves it at the same time as a rule under which given empirical intuitions are subsumed’ (FI, AA 20: 212). In short, here the universal is given, under which the power of judgement subsumes the particular (CJ, AA 5: 179).

But in the case of particular experiences or intuitions, for which no empirical concept is yet given, the reflecting power of judgement

proceeds with given appearances, in order to bring them under empirical concepts of determinate natural things [...] in accordance with the general but at the same time indeterminate principle of a purposive arrangement of nature in a system. (FI, AA 20: 213–14)

The power of judgement in its ‘merely reflective’ mode ascends from the particular to the universal, which comes down to a classification of the manifold,

i.e., a comparison with each other of several classes, each of which stands under a determinate concept, and, if they are complete with regard to the common characteristic, their subsumption under higher classes (genera), until one reaches the concept that contains the principle of the entire classification (and which constitutes the highest genus). (FI, AA 20: 214)

The principle that is central to Kant's argument in the *Critique of the Power of Judgement* is

the suitability for the capacity of the power of judgment itself for finding in the immeasurable multiplicity of things in accordance with possible empirical laws sufficient kinship among them to enable them to be brought under empirical concepts (classes) and these in turn under more general laws (higher genera) and thus for an empirical system of nature to be reached. (FI, AA 20: 215)

This is what he calls the 'principle of the *technique* of nature' or 'the *purposiveness* of nature' (FI, AA 20: 216)—i. e., 'the concept of an objectively contingent but subjectively [...] necessary lawfulness' (FI, AA 20: 243)—for our power of judgment, which is a transcendental principle that stipulates that nature in the specification of the transcendental laws of understanding, 'i. e., in the manifold of its empirical laws, proceeds in accordance with the idea of a system of their division for the sake of the possibility of experience as an empirical system' (FI, AA 20: 243). This stands in contrast to the '*nomothetic* of nature' (FI, AA 20: 215), which conversely is the principle of the set of transcendental laws that govern nature only formally and determine what it is to have a general concept of nature (*natura formaliter spectata* [B165]) (see further Chapter 11).

Kant then further argues that in 'the mere reflection understanding and imagination mutually agree for the advancement of their business, and the object will be perceived as purposive merely for the power of judgment', which is merely subjective, and 'for which [...] no determinate concept of the object at all is required nor is one thereby generated, and the judgment itself is not a cognitive judgment' (FI, AA 20: 221). This is what Kant terms an aesthetic judgement of reflection, a judgement that is not logical, not cognitive, merely subjective, and does not lead to a determinate concept of an object, but still has universality encoded in it, in that it makes a claim to universal validity or a certain necessity (FI, AA 20: 239). It is this type of judgement, whose ground is entirely subjective but *a priori*, 'even though it can never provide a determinate concept of the object' (FI, AA 20: 239), that is Kant's major concern in the first part of the *Third Critique*.

3.3.2 Reflection and the Categories

In her account of Kant's notion of the 'capacity to judge' in the context of the First *Critique*, Longuenesse is particularly interested in the way that Kant appears to suggest that whereas the power of judgement is clearly reflective in the context of aesthetic judgement that does not lead to a determinate concept of an object, and it is determinative in the case of a cognitive judgement that does determine an object for a concept, a determinative judgement is not thereby not reflective. Longuenesse thinks that Kant's designation 'merely' in 'a merely reflecting judgment' (FI, AA 20: 220) (and he also speaks of an aesthetic judgement that is 'not determining at all, but only reflecting' [FI, AA 20: 247]) indicates this. Although reflection in an aesthetic judgement is not logical, logical reflection, more in particular, the combined logical act of comparison/reflection/abstraction (CRA for short),²⁶ plays a necessary role in the constitution of an empirical *determinative* judgement,²⁷ where a determinative judgement is a true or false statement about an actually existing object or objective state of affairs—more specifically an assertion where a particular is subordinated under a universal in accordance with the transcendental laws that govern such subordination. One could say that CRA is, apart from the categories, an additional enabling condition for the possibility of an empirical determinative judgement, while it is uniquely constitutive of an aesthetic judgement of reflection.

Longuenesse thus argues that in fact the categories are themselves products of reflective activity, operating, to put it in Allison's (2001: 16) terms, 'pre-reflectively', the level at which as logical functions of judgement they 'guide' sensible syntheses of imagination, as well as 'post-reflectively' as concepts under which

²⁶ See JL § 6, AA 9: 94–5. Cf. A260/B316.

²⁷ This is suggested by Kant, among other places, in e.g. *Prol* § 21a: 'The judgment of experience must therefore add to the sensuous intuition and its logical connection in a judgment (*after it has been rendered universal by comparison*) something that determines the synthetic judgment as necessary and therefore as universally valid' (AA 4: 304, emphasis added). Kant does not, however, hint here at a *transcendental* role for 'comparison' for the determination of a judgement as objectively valid, which is what Longuenesse needs. Indeed, such mere logical connection by means of CRA does not at all 'generate' what is necessary for objectively valid judgement, namely categories: 'Hence it is not, as is commonly imagined, enough for experience to compare perceptions and connect them in a consciousness through judgment; from that *there arises no universal validity and necessity* of judgment, by virtue of which alone consciousness can become objectively valid and be called experience' (*Prol* § 20, AA 4: 300, trans. emended and emphasis added).

objects are subsumed in objectively valid judgments of experience'.²⁸ This suggests that reflective judgements involve the categories as much as determinative judgements do, albeit in different ways.²⁹ It is not clear how, nor certain whether, Kant would allow this, or whether it might not conflict with Kant's transcendental theory of objective experience. Allison, who follows Longuenesse's account,³⁰ states that

reflection and determination are best seen as complementary poles of a unified activity of judgment [...] rather than as two only tangentially related activities pertaining to two distinct faculties.

He continues:

Accordingly, every ordinary empirical judgment involves moments of both reflection and determination. [...] [E]very determinative judgment involves reflection (as a condition of the very concepts under which particulars are subsumed) [...]. (2001: 44)

Longuenesse strongly believes that Kant's account of reflective judgement in the Third *Critique* is connected, in a more than superficial manner, to the account of judgement in the *Critique of Pure Reason*, more specifically to the exposition on pre-discursive synthesis, or the threefold synthesis (synthesis of apprehension, reproduction and recognition) in the A-Deduction (cf. Longuenesse 1998: 116n.29). This has to do, as Longuenesse (1998: 196) believes, with the fact that perceptions or representations are intrinsically (she talks about a 'conatus' that is as it were encoded in them) amenable to being subsumed under concepts, or being conceptualised. The capacity that makes this possible is the capacity to judge, more specifically here the capacity to reflectively subsume particular empirical representations under a concept. Longuenesse writes:

[A]cts of discursive thinking sift the sensible given with an eye to generating, inseparably, concepts to be bound in judgments and thus representation of objects [...] to be reflected under those concepts. (1998: 111)

28 According to Longuenesse, the categories have an 'evolving' status and are applied in two stages (1998: 243–4): they 'have a role to play as it were at each end of the activity of judging' (1998: 196); see further below.

29 Similarly, since Longuenesse associates this analysis with Kant's distinction between judgements of perception and judgements of experience (see below), judgements of perception seem to already involve, in some way, the categories (cf. Schultz's criticism in Sassen [2000: 213–14]), thus contradicting Kant's statement in the *Prolegomena* that judgements of perception do not require the categories (*Prolog.*, AA 4: 298).

30 But see his criticism of Longuenesse on the role of the categories in Allison (2000).

According to Longuenesse, in opposition to what she labels the common reading, namely the ‘reading of Kant that deliberately privileges the *determination* of the empirical by the *a priori* (i.e. by the categories and by mathematical concepts) to the detriment of the *reflective* relation between the intellectual forms and the sensible’ (1998: 112), we can find at the heart of the First *Critique* ‘a conception of judgment in which *reflection* plays an essential role, contrary to the common view that *reflection* is a theme exclusive to the third *Critique*’ (1998: 163). The First *Critique*’s concern is commonly considered to be with the legitimate use of the categories that relates only ‘to the *application* of universal concepts, and so to determinative judgments, the function of which is “to find the particular for the universal”’ (1998: 163), and not with the reflective power of judgement. But Longuenesse thinks that opposing the two *Critiques* in this way is misguided, for the reason already indicated that notwithstanding the fact that aesthetic judgement and teleological judgements are indeed ‘merely reflective’ since they fail to form concepts, cognitive, or ‘logical’, judgements are *also* determinative, that is, both reflective and determinative. Again, Longuenesse argues that the peculiar feature of aesthetic and teleological judgements is not that they are reflective judgements, for in her view Kant thinks that *every* judgement about empirical objects as such is reflective, but it is rather that they are *merely* reflective judgements, judgements in which reflection can never arrive at conceptual determination. More specifically, Longuenesse claims that if we ‘suppose that the first *Critique* is concerned only with *determinative* and not with *reflective* judgment’ we ‘miss the fact that even in the first *Critique* the *application* of the categories is inseparable from a thought process that has a *reflective* aspect’ (1998: 164). That is to say, the application of the categories, according to Longuenesse, *presupposes* what she calls a ‘progress from sensible representations to discursive thought’ (1998: 164), and this is precisely what we found in the account of reflective judgement the power of judgement does in its reflective mode, finding a universal for a given particular. In other words, Longuenesse says, the “application” [of the categories, mathematical and empirical concepts] is itself indissociable from a reflective use of the power of judgment, that is, an activity of comparison/reflection/abstraction’ (1998: 112n.17). ‘It is only by paying sufficient attention to the acts of comparison in judgment’, Longuenesse reasons, ‘that one can hope to understand how judgments formed by comparison of representations may eventually lead to the subsumption of appearances under categories, and so to what Kant calls “judgments of experience”’ (1998: 123).

She then argues that when Kant, in § 19 of the B-Deduction, describes judgement as ‘the way to bring given cognitions to the *objective* unity of apperception’

(B141), which is one of his various definitions of judgement,³¹ this reflective procedure of finding a universal for a given particular is what should first come to mind. Naturally, Longuenesse does not want to claim that this procedure is merely reflective in the way that an aesthetic judgement is, as it is a reflective procedure that is at the same time determinative, for it leads to the determination of the concept of an object. She argues that ‘both directions of judgment, *reflective* as well as *determinative*, collaborate in relating concepts to objects and allowing concepts to “become clear”, reflected explicitly as concepts’ (1998: 117). At any rate, to be able to apply the categories as ‘universal representations of synthesis’ (1998: 196) to empirical objects one must first have reflected these objects under concepts in empirical judgements—or put differently, one must have progressed through the process of CRA from the manifold of representations to a universal representation that is the common representation under which the manifold is subsumed. What is not clear is how according to Longuenesse (1998: 118) the ‘determination of the concept will *result* from the act of comparison’, while at the same time ‘the concept must already be present in an “undetermined” state, that is, in an intuitive state, or more precisely, as a still unreflected, “obscure” rule for the synthesis of intuition’.

It appears that Longuenesse steers the analysis of judgement towards a genetic account of how judgement is formed from the bottom up, as it were, whereas the received reading has it that Kant’s account in the Transcendental Deduction concerns a regressive analysis of the transcendental possibility of synthetic a priori cognition, which constitutes what a judgement is, *given* a particular judgement.³² The account does not appear to concern, as Longuenesse thinks it does, an analysis of the possibility of perceptions being such that they *lead to*, by virtue of whatever inner dispositional power or force, forming concepts or being subsumed under predicates in a judgement. The language of Longue-

³¹ See further Schulting (2017a), ch. 3.

³² Kant’s account of objective experience is globally regressive. This is often repeated by Kant, most explicitly in § 21a of the *Prolegomena*: ‘[I]t is first of all necessary to remind the reader that the discussion here is not about the genesis of experience [*dem Entstehen der Erfahrung*], but about that which lies in experience [*von dem, was in ihr liegt*]’ (AA 4: 304 [TPhb: 97]). Accounts of the ‘genesis of experience’ ‘belong to empirical psychology’, as Kant says (cf. B152). Although the argument for the possibility of the thought of an object in general, in the ‘first step’ of the Transcendental Deduction, is progressive—namely from self-consciousness as its origin to the objective unity of apperception that is constitutive of the thought of an object in general—and thus in some sense genetic, it is a completely *a priori* argument from the formal ‘I think’, not from mere (empirical) representations that are reflected upon, compared and abstracted from so as to form universal concepts. On the regressive as well as progressive nature of Kant’s main argument, see further Chapters 4 and 10.

nesse's description of the possibility of judgement is indicative of a certain strategy, motivated by a particular interpretation of especially the A-Deduction, to read the account regarding a priori synthesis in terms of a bottom-up procedure, guided by the combined act of CRA, that ultimately leads to what she terms 'universally reflected concepts', i. e. the categories. For example, Longuenesse claims that '[b]y means of the logical forms of our judgment we *strive* to bring about the "objective unity of given representations"' (1998: 83, emphasis added).³³ She also says that every judgement 'aims at objectivity' or at 'conformity to the object' (1998: 83), even though the particular judgement may remain 'subjective' to a greater or lesser degree.³⁴ This is a reference to Longuenesse's controversial defence of judgements of perception, which are not objective, but may or may not lead to judgements of experience, which are objective by definition. Longuenesse links judgements of perception to associative combination, i. e. a reproductive imagination, which has only subjective validity and is in fact *contrasted*, by Kant, with judgement (B141). Longuenesse believes that also a judgement of perception, and so, by implication, an act of reproductive imagination, requires unity of apperception.³⁵ So even here, in Longuenesse's view, the subjectively valid combination of representations is due to the objective unity of appercep-

33 The language of 'striving' occurs frequently in Longuenesse's arguments, for example in respect of how sensible intuitions are worked up to form judgements, by means of an '*effort toward judgment affecting inner sense*' (1998: 243). See also Longuenesse (1998: 253).

34 Note that in the *Jäsche Logic* (§ 5), it is quite clearly stated that logic considers concepts only 'in respect of [their] form, i. e., only *subjectively*; not how it determines an object through a mark' (AA 9: 94 [LL: 591], my underlining). Reflection only concerns the '*logical* origin of concepts—the origin as to their mere form' (AA 9: 94 [LL: 592]). On this account, reflection does then not seem to be concerned with the objective validity of concepts. Cf. A260/B316, A262–3/B318–19, A269/B325.

35 To be fair to Longuenesse, this is also suggested by Kant himself in the *Prolegomena* (see § 20, AA 4: 300 and § 22, AA 4: 304). My account in the following chapters of the intimate relation between the 'I think' and the categories might be seen as in conflict with the one that Kant gives here in the *Prolegomena*, where he suggests that the unity of representation that is 'relative to the subject and is contingent and subjective' is a judgement that is 'merely subjective', since 'representations are referred to a consciousness in one subject only and are united in it', in contrast to objective judgements, whose representations 'are united in a consciousness in general, that is, necessarily'. This approach is evidently linked to Kant's distinction between judgements of perception and judgements of experience, which Longuenesse takes seriously and has given a very intricate account of that certainly merits further investigation. However, I take Kant to have given up this distinction in the B-Deduction (see footnote below), implying that the 'I think', which is pure and not empirical apperception (cf. B132), can ipso facto no longer be identified with a 'merely subjectively valid' unity of consciousness, given that Kant argues in § 18 that the transcendental unity of apperception is an objective unity of consciousness *in contrast to* a subjective one.

tion, and so given the definition of judgement, in some way geared to becoming predicates in a judgement. I believe this is hugely problematic, since in § 18 of the B-Deduction (B139–40) Kant contradistinguishes clearly the objective and subjective unities of consciousness, where only the *objective* unity of consciousness is considered objectively valid and thus, given the definition of judgement that Kant provides subsequently at B141, coextensive with judgement. A subjective unity of consciousness, which is merely subjectively valid, does not constitute a combination of representations that pertains to a judgement, nor does it constitute a unity of representations that show a necessary *combinability* by the original, objective unity of apperception so as to constitute the combination definitional of a judgement of experience (see further Chapter 10).³⁶

Longuenesse further makes a couple of prima facie puzzling observations about the relation between the objective unity of apperception, original–synthetic unity of apperception, analytic unity of consciousness, the subjective unity of consciousness and judgement. For example, ‘judgment [is] the mediating element between, on the one hand, the *original synthetic* unity of apperception’ ‘as producing the synthesis of the manifold of sensible intuitions’, and, on the other, ‘the *objective* unity of apperception’ ‘as relating the synthesis to objects’; or, judgement is ‘the form of conceptual universality, or the “analytic unity of consciousness”, [which] is the means by which (synthetic) objective unity of consciousness is realized in judgment’ (1998: 105–6), suggesting that judgement is merely the analytic relation between the predicates and not also the transcendental content which is the result of the very synthetic act of judging (in conformity with the *Leitfaden* passage at A79, Longuenesse’s account of which is otherwise illuminating and one I am in broad agreement with). These views reveal what I believe are mistaken readings of the interconnection between the var-

36 I agree with Pollok’s (2008: 324, 326) account of Kant’s very probable change of mind regarding judgements of perception between 1783, the year of the publication of the *Prolegomena*, where the distinction is made, and 1786, when he published the *Metaphysical Foundations of Natural Science* (MFNS), whose preface contains the famous note on a proposal for a deduction from a definition of judgement, which would appear to exclude the possibility of merely subjectively valid judgements of perception. In the MFNS footnote (AA 4: 475–6n.), Kant responds to Schultz’s review of Ulrich’s *Institutiones logicae* from 1785, in which Schultz criticised Kant’s distinction between judgements of perception and judgements of experience (see Sassen 2000: 213–14). In reaction to this, in the B-Deduction (‘the next opportunity’) Kant then undertakes to rework the solution to the question how experience is ‘possible by means of the categories’ by seeing it as evolving out of the ‘precisely determined *definition of a judgment in general*’ (AA 4: 475n., emphasis added), suggesting that anything that is not an objectively valid experience of objects cannot be seen as corresponding to a judgement of whatever type. The distinction between judgement of perception and judgement of experience thus falls away.

ious *formally* distinguishable unities that are involved in Kant's argument for what constitutes objectively valid thought and hence judgement, but also of Kant's careful reasoning as regards the specific goal of the Transcendental Deduction as well as its proof structure. From Chapter 6 onwards, I shall present my own view of how these unities of consciousness do connect up.

True, Longuenesse sees associations or reproduced representations as issuing in judgement only 'if they have themselves been *predetermined* by the activity of judging, which relates all cognition to the objective unity of apperception' (1998: 83, emphasis added). Or, indeed, syntheses of imagination 'will ultimately lead to the representations of *determined* objects (*phenomena*) only if they are "brought under" the unity of apperception', i.e. 'by *transcendental* imagination' (1998: 109). But, in Longuenesse's view, even empirical associations 'are acts of relating representations to objects, and this is why they eventually lead to genuine "judgments of experience", with a claim to hold "for everybody, always"' (1998: 84). Again the language is striking here, as if some conative striving were involved in the reproductively associated representations themselves, which links them intrinsically to judgement. I believe that this view would not be endorsed by Kant; nor is there any reasoning in the text of the Transcendental Deduction that supported a reading that argues that representations themselves necessarily entail their being connected, through a certain a priori rule-governing, such that they form, potentially, objective, determinative judgements; or indeed, that there would be 'subjective predispositions [*eingepflanzte Anlagen*] for thinking, implanted in us along with our existence [...]' (B167). Nothing in Kant's reasoning points to a putative dispositional force or capacity that makes our representations or appearances *combinable* for judgement, and hence subject to categorical determination.³⁷ Kant cannot argue that, for if categories were indeed preformed or 'implanted predispositions for judgments', it would mean that there is a 'postulated harmony of categories and experience'. This would leave the necessary status of the categories in doubt, since any one category could in that case be a mere concept as 'divine predisposition' (Quarfood 2004: 100) and so not a '*self-thought a priori* first principle' (B167), and consequently 'the relation between a predisposition to think in a certain way and what actually

³⁷ The language in some passages in the A-Deduction, such as at A112–13 and A124, does seem to suggest a conative aspect in the appearances themselves, which makes them disposed to being united in the objective unity of apperception. But compare A112, where Kant emphasises, with regard to the concept of cause, that 'experience teaches us that one appearance customarily follows another, *but not that it must necessarily follow that*' (emphasis added), which implies that nothing in the appearances themselves suggests ipso facto necessary connection or an objective ground for association. Cf. A121–2.

is the case would be entirely contingent' (Quarfood 2004: 100). The latter problem arises in particular for Longuenesse, as it seems that she is not able to explain in which cases categories and representations or perceptions are in complete agreement and in which cases they are not.

3.3.3 A Lockean Deduction?

It appears that on Longuenesse's reading, as she herself notes (1998: 116), schemata are acquired *before* the concepts of which they are the schemata. This strikes one as paradoxical, to say the least.³⁸ She argues that the Transcendental Deduction inquires

into the formation or acquisition both of 'rules for the determination of our intuition' and of concepts [...] [while] it seems clear that the 'rules for the synthesis of intuition' must first have been *acquired* at the outcome of the operations described in the A-Deduction (apprehension, reproduction, and recognition) in order to be *reflected* as discursive concepts, 'universal or reflected representations'. We are here concerned with this empirical acquisition of 'rules for the synthesis of intuition'. (Longuenesse 1998: 116n.29)

This, I believe, shows a mix-up on Longuenesse's part of the empirical and transcendental explanations of how concepts are generated. The process of CRA applies to empirical concept formation, as Kant points out in the *Critique of the Power of Judgement*, especially in the Introductions, but not to how the categories are 'originally' acquired (which Kant describes as 'a system of epigenesis' at B167; see on this below).³⁹ Longuenesse thus appears to interpret the threefold synthesis in the A-Deduction in terms of an empirical, generative process of concept formation from the particular to the universal; by contrast the synthesis or syntheses Kant talks about are clearly pure, a priori and transcendental, not empirical (A99 [AA 4: 77.24–30]; A115) and are 'inseparably combined' with one another (A102), and so amount to a transcendental combined act of syntheses that provide universal rules for the determination of the concept of an object in general, under which one's empirical intuitions must be subsumed.⁴⁰ The rule-governed operation of synthesis is not just a logical process, which supposedly establishes objectively determinate knowledge, but it is the *transcendental* ground of such logical processes (either in conjunction with the perception of objects, as

³⁸ See also the critique formulated by Sedgwick (2000: 86).

³⁹ Cf. Prien (2006: 73–5).

⁴⁰ For a detailed account of the threefold synthesis, see Schulting (2017a), ch. 6.

in actual judgements of experience, or in abstraction from it, when we only consider the relation among conceptual representations or predicates, or in judgements of perception for that matter). One cannot then argue—as Longuenesse appears to do by regarding reflection as co-constitutive of the acquisition of discursive concepts or categories—for the *logical* ground (which would be empirical) of such a transcendental ground or the categories without hugely begging Kant's question.

There are a few general problems that I would like to stress here: (1) an act of comparison is a logical act of *analysis* (even if one supposedly 'under *sensible* conditions' [Longuenesse 1998: 127]), not a specifically transcendental act of *synthesis*, which is in fact presupposed by the logical act. It seems as if Longuenesse wants to say here that the determination of the concept is grounded upon comparison that leads to the concept, out of which the determination 'results' (1998: 118). It is not clear what she means by 'result', and how it comes about.⁴¹ It seems to me that she confuses the levels of explanation, what is supposed to explain what, that is, what is the *explanans*, and what the *explanandum*. The transcendental act of synthesis is the ground of any logical analysis (cf. B134n.), so how can transcendental synthesis—or, the set of categories or universal and reflected representations, as Longuenesse frequently puts it—*result from* what it in fact *grounds*?

This is related to her view of the two-stage application of the categories. She argues for an 'initial "application"' (1998: 244), which is carried out by the *synthesis speciosa*, but in which the categories 'are not reflected as concepts', hence leaving the synthesis undetermined. At this stage, there is only 'blind' synthesis of imagination. Categories as concepts ('clear concepts', 'universal representations'), on the other hand, come about through the formation of empirical judgements on the basis of an analysis of the *synthesis speciosa*, at which point the categories get applied 'in a second sense'—namely in the sense that a claim to objective validity for the combined representations is made. Only at this point is the object of representation really subsumed 'under a concept of pure understanding' (1998: 244). Longuenesse also frequently speaks of the categories 'guiding' the syntheses in intuition, which is supposed to reflect the two-stage process of the generation of the categories—namely first 'as *schemata* [...] as rules of sensible synthesis generated with a view to forming judgments' and then, in the second instance, 'as "clear concepts" [...] as "universal representations" of pure synthesis according to rules [...]' (1998: 253). It is hard to see

⁴¹ In a commentary on Longuenesse's book, Sedgwick (2000: 84) expresses a similar puzzle-ment.

how this two-stage process corresponds with Kant's view of the instantiation of the categories without landing us in an infinite regress, which Kantian a priori synthesis is in fact supposed to block (cf. Longuenesse 2008: 515). If categories first 'guide' the sensible synthesis with a view to forming judgements and only subsequently get applied in that the thus synthesised representations are subsumed under pure concepts of the understanding in an objectively valid judgement, then the question arises as to which function or functions regulate(s) the categories' actual instantiation (their 'second application') in contrast to their mere 'guiding' function (their ostensible 'first application'). The infinite regress that threatens concerns the question of which even more original act would lie at the basis of this difference between 'mere' guiding and effective instantiation, and would be the ground of possibility of getting us from the former to the latter.

(2) Furthermore, Longuenesse's view of the acquisition of the universally reflected concepts, the categories, not just empirical concepts, as resulting from CRA, strikes me as suggestive of an *empirical* deduction of the categories, something Kant deemed impossible. As Longuenesse herself perceptively notes (1998: 125), such a view of the acquisition of the categories looks very much like a Lockean sensitivisation of the concepts of the understanding as if they were empirical, abstracted concepts of reflection (A271). Longuenesse poses the operative question herself:

Should we consider that this dependence of concepts on their 'application in comparison' holds not only for empirical concepts, but also for a priori concepts—categories and mathematical concepts? Should one say also of the latter that they are generated through 'comparison, reflection and abstraction' from given representations, and that they have no universality other than that generated by these acts? (1998: 120)

She asks rhetorically:

Could one not reproach me with having attributed to Kant precisely the 'sensualization of the concepts of the understanding' he criticized in Locke? (1998: 125)⁴²

Indeed, Kant explicitly states that attempting to search 'in experience' for 'the occasional causes [*Gelegenheitsursachen*] of their generation [i.e. of the catego-

⁴² In the section On the Amphiboly of Concepts of Reflection, in which he takes Leibniz to task in particular for regarding rational reflection as providing the basis for 'a supposed system of intellectual cognition' (B336/A280), Kant criticises Locke for '*sensitiviz*[ing] the concepts of understanding in accordance with his system of *noogony* [...], i.e., interpret[ing] them as nothing but empirical or abstracted [*abgesonderte*] concepts of reflection' (A271/B327).

ries], where the impressions of the senses provide the first occasion for opening the entire power of cognition to them and for bringing about experience', that is, a 'tracing of the first endeavors of our power of cognition to ascend from individual perceptions to general concepts' is something Locke carried out,⁴³ but is altogether different from a *transcendental deduction* of pure concepts, which 'does not lie down this path at all', namely the path of a 'physiological derivation, which cannot properly be called a deduction at all because it concerns a *quaestio facti*, the explanation of the *possession* of a pure cognition' (A86–7/B118–19). In Kant's view, Locke 'committed the error of taking the occasion for acquiring these concepts, namely experience, as their source' (R4866, AA 18: 14 [NF: 197]). Any effort to read the *origin* of the pure concepts in such an empirical way is an 'entirely futile work' (A85/B118), since any empirical deduction of the *subjective* origin of these concepts would not eo ipso amount to a proof of the *objective* validity of these concepts.⁴⁴

Excursus: The 'Quaestio Facti' and Empirical Deduction

Ian Proops (2003) has argued regarding § 13, where Kant makes the *quid juris/quid facti* distinction, that one must actually distinguish between an empirical deduction, which Kant says is 'useless' (B119/A87, trans. Kemp Smith) for the explanation of the employment of the categories, and a Lockean 'physiological derivation', which can have its usefulness (B118–19/A86–7), and which concerns a *quaestio facti*. Proops appears to uncouple empirical deduction and the *quaestio facti*, which most commentators assume to be intimately related (cf. Carl 1992: 127n.25); on the standard reading, the answer to the *quid facti* would seem to be an empirical deduction (cf. Carl 1992: 113n.4). It is not *prima facie* clear, in § 13, whether the distinction to which Proops calls attention is in fact heeded by Kant, since he says similar things both with regard to the procedure of an empirical deduction ('which shows the manner in which a concept is acquired through experience and through reflection upon experience', precisely what Longuenesse has in mind; note that the quotation proceeds, 'and which therefore concerns, not its legitimacy [*Rechtmäßigkeit*], but only the fact [*Factum*] from which the possession has arisen' [B117/A85, trans. emended]) and with regard to Locke's endeavours ('Such an investigation of the first strivings of our faculty of knowledge, whereby it advances from particular perceptions to universal con-

⁴³ Cf. R3930, AA 18: 352.

⁴⁴ It is all the more striking that Hegel precisely objected to Kant's formalist approach to the intellect as nothing more than 'extended Lockeanism' (GuW: 326, 333).

cepts [...] [B118–19/A86], again what Longuenesse appears to have in mind). By dissociating the two, Proops understandably wants to provide an explanation for Kant's otherwise puzzling observations that 'to seek an empirical deduction [of *a priori* concepts] would be labour entirely lost' (A85/B118) and is 'an utterly useless enterprise' (B119/A87), whereas to carry out a Lockean investigation of 'seek [ing] to discover in experience [...] the occasioning causes of their production' 'is undoubtedly of great service', as an 'explanation of the *possession* of pure knowledge' (B118/A86, trans. Kemp Smith⁴⁵). This seems confirmed by a statement from *Real Progress*, where Kant asserts, while differentiating it from a *quaestio facti*, that the affirmative answer to the *quaestio juris* whether 'all knowledge' must 'also [...] be derived solely from experience, as the supreme ground of knowledge [...] would inaugurate the empiricism of transcendental philosophy', suggesting an empirical deduction of the origin of knowledge, which would amount to 'self-contradiction',

for if all knowledge is of empirical origin, then regardless of what may be grounded *a priori* in the understanding, and can ever be admitted, by the law of contradiction, to reflection and its logical principle, the synthetic in knowledge, which constitutes the essence of experience, is still purely empirical, and possible only as knowledge *a posteriori*; and transcendental philosophy is itself an absurdity. (AA 20: 275 [TPhb: 366])

This is in line with Kant's statement in § 13 in the *Critique* that an 'attempted physiological derivation [...] cannot properly be called a deduction at all because it concerns a *quaestio facti*, the explanation of the *possession* of a pure cognition' (A86–7/B119), of which only a transcendental deduction and not an empirical one would be meaningful as an answer to the *quaestio juris*. This, then, suggests, as Proops (2003: 219) points out, that an empirical deduction is not the answer to a *quid facti*, but the wrong answer to the *quid juris*.

However, Proops also wants to reserve an independent role for the *quaestio facti* as 'a necessary first step in the proof of the *quid juris*' in Kant's argument (2003: 219), and locates this first step in the Metaphysical Deduction (2003: 223), the *quid juris* being the proof of the legitimacy of the categories, in the Transcendental Deduction, *on the basis* of the answer to the *quaestio facti*, which would concern the derivation of the categories from the functions of judgement.⁴⁶ Notice that Allison (2001: 67) makes a similar *quid facti/quid juris* distinction in regard to the argument of the *Critique of the Power of Judgement*.⁴⁷ How-

⁴⁵ In this excursus, all foregoing quotations from Kant's text in § 13 are from Kemp Smith.

⁴⁶ Aportone (2009: 180–1) also appears to see the Metaphysical Deduction as concerning a *quid facti*.

⁴⁷ Allison (2004: 475n.47) accepts Proops's proposal.

ever, although in the Metaphysical Deduction pure concepts are expounded that we already possess (cf. A85/B118), I believe the argument of the Metaphysical Deduction is not an ‘explanation of the *possession* of a pure cognition’ (B119/A87), as Proops argues, but rather a first premise in the overall argument of the Deduction, which concerns an identification or inventory of the pure concepts, and is thus indeed a first stage in Kant’s overall justificatory argument, but not a *quid facti* issue. I do not see evidence in Kant’s text for Proops’s interpretative move that sees a resemblance between a Lockean physiological derivation and a Kantian derivation (deduction in the broader non-legal sense). Moreover, it would be odd for Kant to compare his own endeavour, in the Metaphysical Deduction, to establish the origin of the categories in the functions of judgement (B159) to a Lockean-type *quaestio facti* regarding the *occasioning* cause of the categories in *experience*, whose comparability he would also surely have emphasised more if their procedures in this regard had indeed been comparable. It seems to me that, for Kant, a *quaestio facti* has no transcendental-philosophical relevance, as the above-quoted passage from the *Real Progress* indeed suggests.

* * *

Longuenesse acknowledges that a Lockean procedure of tracing the occasioning causes of experience would be more appropriate for empirical concepts, but does not think a similar procedure for a priori concepts is automatically disqualified:

Since the example Kant gives to illustrate these operations clearly has to do with empirical concepts (‘I see a spruce, a willow, and a linden...’), one may doubt the three operations mentioned⁴⁸ are capable of clarifying the ‘made’ character of a priori concepts. *Yet, we should not exclude this possibility too quickly.* (1998: 120–1, emphasis added)

However, I find Longuenesse’s subsequent attempt to explain that her reading is not in fact vulnerable to the objection of it amounting to a Lockean derivation unconvincing. I think it is evident that her view that ‘the operation of comparison/reflection/abstraction is indeed the discursive act par excellence, through which the very form of conceptual universality is produced, *whichever kind of concept we consider*’ (1998: 121, emphasis added), cannot serve as support for an account of the originality of categories, which are not just *any* concepts, or ‘forms of conceptual universality’, but *a priori* concepts of the understanding, concepts that have a unique status that is absolutely distinct even from the most abstract empirical concepts. They are neither empirically derived, ‘empirical products’ (B124/A92) nor innate; rather they are ‘original concepts’ that ‘must

⁴⁸ Longuenesse (1998: 120) refers to JL § 6.

have arisen entirely *a priori*, independently of experience’, ‘mixed in’ in our sensible experiences (A2).⁴⁹ Kant distinguishes between a *generatio aequivoca*, which points to an empirical origin for the pure concepts, ‘encountered [...] in experience’, as Locke did (B127), and an epigenetic system, which means that ‘the categories contain the grounds of the possibility of all experience in general from the side of the understanding’ and are objectively necessary ‘*self-thought [selbstgedachte] a priori* first principles of our cognition’ (B167); here, ‘*the understanding itself*, by means of these concepts, [is] the originator of the experience in which its objects are encountered’ (B127, emphasis added).

In *Disc* (AA 8: 221–3), Kant writes about the way categories are acquired in terms of an original acquisition in contrast to *acquisitio derivativa*, meaning that our cognitive faculty ‘brings them about, *a priori*, out of itself’, thus originally (which might be called their only innate aspect).⁵⁰ They are nonetheless *acquired* in the sense that they are applied, or instantiated, only in the context of de facto sensible experience, in response to sensory stimuli (and have no objective sense beyond experience). Kant appears to adopt a qualified dispositional model of the understanding, in which nothing is innate except the formal ground of the categories, which are first uncovered on the occasion of the encounter with objects in experience.⁵¹ *Acquisitio derivativa*, on the other hand, concerns ‘determinate concepts of things that are in accordance with this form [i. e. space] [...] [and] *already* presupposes universal *transcendental* concepts of the understanding’ (emphasis added). Longuenesse’s view that categories, like empirical concepts, which are however acquired ‘derivatively’, are arrived at through the logical

⁴⁹ Also, if, as Longuenesse claims, the operations of CRA ground the categories, and given that they are also involved in the formation of empirical concepts, what would the categories ‘add’ to them, that is, what role would be left for the categories? I thank Christian Onof for raising this point.

⁵⁰ See also R4851, AA 18: 10. See Quarfood (2004: 77–117) for an account of Kant on *acquisitio originaria* and innatism and the relation to epigenesis and the latter term’s biological origin. Quarfood (2004: 85–6) explains that the use of the legal term *acquisitio originaria*, meaning the acquisition of something ‘which before the acquisition did not belong to anyone’, is precisely reflected in Kant’s notion of ‘our cognitive faculty’ bringing these pure concepts about ‘out of itself’ and *a priori*. In *Met-L₂* Kant is reported as having said: ‘We have no innate concepts (<*notiones connatae*; G: *angeborenen Begriffe*>) at all, but rather we attain them all, or we receive acquired concepts <*notiones acquisitae*>. The understanding acquires concepts by its paying attention to its own use’ (AA 28: 542 [LM: 309]).

⁵¹ Cf. A66/B91: ‘We will therefore pursue the pure concepts into their *first seeds and predispositions* in the human understanding, where they lie ready, until with the opportunity of experience they are finally developed and exhibited in their clarity by the very same understanding, *liberated from the empirical conditions attaching to them*’ (emphasis added). Cf. Callanan (2011: 23n.28).

process of CRA would appear to conflict with the idea of *acquisitio originaria*.⁵² Longuenesse reads the acquisition of categories in such a way that they must be seen as

acquired not only because they would not be reflected as concepts unless impressions had struck our senses and given rise to acts of sensible synthesis, *but also because they presuppose the empirical concepts under which appearances are thought, as well as the combination of these concepts in empirical judgments.* (1998: 253, emphasis added)

The statement in this last italicised passage is at variance with Kant's statement in the above quotation from *Disc* that it is in fact 'determinate *concepts* of things' that *presuppose* the categories. Also, in the *Prolegomena* Kant is quite clear that the categories 'which make the judgment of experience objectively valid' are 'special concepts originally generated in the understanding [*im Verstande ursprünglich erzeugte Begriffe*]' (*Prol* § 18, AA 4: 298).⁵³ To put it in the words of the student report in *Met-L₂*: 'The understanding acquires concepts *by its paying attention to its own use*' (AA 28: 542 [LM: 309], emphasis added). The categories are thus acquired by the understanding independently of, and logically prior to, the processes by means of which the acquisition of empirical concepts takes place, even if the latter are of course required for an actual act of the understanding to yield an objectively valid cognition. The transcendental and empirical levels regarding the original acquisition of the categories and the derivative acquisition of empirical concepts respectively should not be conflated.

It seems to me that Longuenesse is not able to allay the worry that her account of the generation, or indeed emergence, of the categories as what she calls 'clear concepts' through the act of CRA—and which she appears to base entirely on Kant's *Reflexionen* on logic and in particular the problematic handbook on logic, compiled by Jäsche—comes close to a Lockean type deduction of a priori concepts, if not an *acquisitio derivativa*. In the *Jäsche Logic* (§ 5), it says that 'this *logical* origin of concepts—their origin as to their mere form—consists in reflection, whereby a representation common to several objects (*conceptus communis*) arises as that form which is required for the power of judgement' (JL, AA 9:

⁵² For Longuenesse's understanding of original acquisition, see Longuenesse (1998: 221n.17, 222, 252–3).

⁵³ See also ID, § 8, where Kant writes that intellectual concepts, the predecessors of the categories, are not '*innate* concepts' but concepts 'abstracted from the *laws inherent in the mind* (*by attending to its actions* on the occasion of an experience)' (AA 2: 395 [TPha: 387–8], emphasis added). It is in this sense that these concepts are '*acquired* concepts'. Kant further states in the same section: 'Such concepts never enter into any sensory representations as parts, and thus they could not be abstracted from such a representation in any way at all.'

94 [LL: 592]), which in my mind does not include the categories as transcendental concepts unless *transcendental* reflection were at issue here. In my opinion, Longuenesse does not seem to fully heed the transcendental nature of the argument regarding the categories as the original concepts, derived from the unity of apperception, which is the highest point to which even logic must be affixed (B134n.). The synthetic unity in which different representations are held together, in virtue of the set of categories, is a prerequisite for these different representations having an analytic unity of consciousness in common that makes the latter into a *conceptus communis*. However, this synthetic unity is brought about by an act of apperception, which, it is true, implies an act of simultaneously apprehending, reproducing and recognising, which is synthetic, but not a reflective act (CRA) that supposedly *precedes*, or *leads to*, the analytic unity that is a ‘universally reflected concept’ in terms of a category, let alone one whereby the universal concept is *empirically* acquired; the synthetic and analytic unities are contemporaneous in that the principle of apperception is the *transcendental condition* of any empirical logical act of CRA. The act of reflection at issue, if synthesis is one, would be a *transcendental* reflection of reason that is entirely a priori and basic, underived from some given particular representations or judgements. CRA is therefore not an *a priori* synthetic act; it is rather the case that CRA presupposes it for its own possibility.⁵⁴

3.3.4 A Conflation of Levels

I am not claiming of course that reflection, or more precisely the combined act of CRA, does not play any role in what in the *Critique of the Power of Judgement* Kant calls determinative judgement, i.e. an actual judgement that subsumes a particular under a given universal in accordance with a priori rules and thus determines an object of knowledge. Reflection in fact plays an indispensable role in judgement; one should even say it is a *necessary* logical condition of any empirical judgement, since any given empirical judgement presupposes the capacity for concept formation (and, of course, it is also a transcendental condition for the possibility of ‘merely reflective’ judgements such as aesthetic judgements). But—and here I disagree with Longuenesse—logical reflection is not a transcendental condition, viz. a *constitutive* condition, for the inherently objective purport

⁵⁴ The Transcendental Deduction is a piece of transcendental reflection on the possibility of judgement or experience. But there is nothing transcendental about judgement or experience per se. Cf. B80–1.

of a judgement, and thus is not a transcendental ground of the original acquisition of the categories. Longuenesse conflates the transcendental and logical conditions of an empirical judgement, and at the same time, she appears to simply confuse ‘determinative judgement’ with the determinative *act of the understanding*, namely the objective unity of apperception, which constitutes the a priori determination of an object that of course always only occurs in an empirical judgement. What makes a judgement ‘determinative’ is the determining or determinative act of the understanding in general, what in the Second Introduction Kant terms the ‘legislative’ function of the understanding that a priori provides the transcendental laws in accordance with which the power of judgement subsumes under general rules (universals) (CJ, AA 5: 174, 177, 179). However, any determinative judgement or the determining power of judgement in general is not the same as the determinative *act of the understanding* in general consisting of the set of transcendental laws that ‘sketch out [...] *a priori*’ (CJ, AA 5: 179) the laws governing the determining power of judgement. We have to be careful here about the order and levels of arguing. Any empirical determinative judgement requires the capacity of the understanding, namely the capacity to categorially determine an object. But that does not imply conversely that the capacity of the understanding, or categorial determination, is itself a determinative judgement. Categorial determination, and so the determinative act of the understanding, is a transcendental operation whereas a determinative judgement is, as such, an empirical event.

John Callanan (2006) has given an account of the justification of the categories that likewise appears to invert the transcendental and empirical orders of Kant’s reasoning. However, in his case it is not reflection that is presumed to have a grounding role, as Longuenesse believes, but the ‘*activity of judgment*’ (2006: 377). There are a few problems with Callanan’s approach. I do not think it is true to say that Kant’s transcendental strategy for proving the legitimacy of the employment of the categories *cannot*, as Callanan maintains, ‘rely upon rational grounds as their source of justification’ (2006: 376). Callanan reasons, as part of an otherwise illuminating, novel account of Kant’s answer to Hume, that ‘Kant’s account cannot rely solely on the identification of those concepts as part of our cognitive capacities as a reason for their validity’. He continues:

Although for Kant the Categories are necessary for judgement about the world, he does not suggest that it is these rational concepts that act as the *ground* of our judgements about the world—it is not the fact that we are so constituted to make judgements in accordance with certain *a priori* concepts that *entitles* us to assume that our judgements reveal the true character of nature. (Callanan 2006: 376)

This would, according to Callanan, be something like a preformation system, which Kant rejects (B167–8).⁵⁵ Instead, looking to the introduction to the *Analytic of Principles* (A132–3/B171–2) for support, Callanan argues that while Kant ‘takes Hume’s arguments as conclusive against any attempt to ground rationally the relation between a representation and its object in judgement’, Kant’s view is not that the ground of judgement lies in the rules of the understanding but that ‘the role of the understanding can only be understood in relation to the practice or *activity* of judgement’ (2006: 377). However, Callanan is wrong to infer, on the basis of A133, from the fact that Kant asserts that judgement cannot be learnt but only practised, that ‘the rules of the understanding [...] cannot serve as the ground of judgment’ (2006: 377)—by which I assume Callanan means the a priori concepts or transcendental rules of the understanding. In this passage, Kant speaks only of the power of judgement and rules in general (from the perspective of general logic), not transcendental rules, which Kant argues later on in the section are the ‘determinate rules’ through which ‘*transcendental* logic’ ‘correct[s] and secure[s] the power of judgment in the use of the pure understanding’ (B174/A135). Callanan subsequently argues that, in line with Hume’s ‘resolution of the sceptical *impasse*’, Kant ‘accepts that it must be a *non-rational* faculty of thought that serves as the ground of our activity of judgement’, that is, ‘[i]t is the *imagination* that serves as the ground of the relation between a representation and its object’ (2006: 378), so that ‘the *a priori* concepts of the understanding could be justified by reference to the activity of judgement itself’ (2006: 379).

I think Callanan inverts the transcendental and empirical orders here. It is not the activity of judgement, by virtue of a non-rational factor—presumably

⁵⁵ Although Kant indeed rejects a ‘preformation-system’ (B167), Callanan (2006: 376) is wrong to conclude from this that—presumably in reaction to Hume’s critique of rationalist accounts of the employment of rational concepts (such as cause)—by implication Kant would reject an account that seeks to demonstrate the ‘rational grounds as their source of justification’ for the employment of the a priori concepts. For Kant associates a preformation system with a view—he refers to Crusius’s model of a priori knowledge (cf. *Prol* § 36n., AA 4: 319)—of the categories as ‘*subjective* predispositions for thinking’, which would only yield ‘*subjective* necessity’ (B167–8, emphasis added), whereas his own preferred rational system (‘epigenesis’) aims at validating the categories as *objectively* necessary (see further Hogan 2010: 30–2 and Quarfood 2004: 91ff.). The fact that Kant rejects accounts based on our (merely) subjective constitution does not imply that he rejects ‘any such explanatory theory which purports to offer human beings’ rational constitution as adequate justification for rational judgement’ (Callanan 2006: 376). In fact, he offers one in the Transcendental Deduction: ‘(as it were a system of the epigenesis of pure reason): namely that the categories contain the grounds of the possibility of all experience in general *from the side of the understanding*’ (B167, emphasis added). See further Motta (2007: 101–5) on Kant and Crusius.

transcendental imagination—that provides a justification of the categories, but a *rational*, a priori, independent and systematic deduction from the understanding (the unity of apperception) which shows that the activity of judgement, and so experience, is only possible on condition of the licit application of the *a priori* concepts or rules of the understanding. It is not the empirical activity of judgement that legitimates the employment of the categories, but it is rather that the pure categories, as necessarily applicable in judgement, enable the activity of judgement. It is true to say that the categories can only be licitly used in the activity of judgement—or put differently, that their legitimacy is shown by showing their necessary employment in judgement—but that does not make the latter the original, supposedly non-rational, ground of the concepts of the understanding. That would be tantamount to claiming that an empirical, essentially contingent event grounds transcendental functions, that is, that *necessary a priori* concepts or rules would be *rationally* dependent on something *non-rational*, which clearly cannot be what Kant has in mind. Moreover, Kant makes it clear (B151–2) that it is the *rational* understanding *by means of* the imagination,⁵⁶ and not simply the imagination, which is responsible for the ‘application’ of the categories.

To conclude, my main worry with Longuenesse’s argument is that it seems on her view that the independent status of the a priori concepts—the categories as underived, unabstracted concepts—is at risk. And although she is perfectly aware of this worry, as I have indicated, I find her attempt—also in response to the critiques by Sedgwick (2000) and Allison (2000)—to allay it to be unsatisfactory. Also, as said, her claim that reflective judgement is co-constitutive of objectivity, in that it somehow grounds the acquisition of the categories as ‘universally reflected concepts’, is problematic. In my view, in Kant’s transcendental view objectivity, and hence judgement, is established by the categories and the categories alone, as I shall show in the following chapters. And although I agree that reflection forms an ineliminable part of an *actual given* determinative judgement, and is not just an aspect of aesthetic judgements, I do not think it is true to say that logical reflection has any a priori constitutive, that is, *transcendental* role to play regarding the a priori concepts that govern the possibility of an object or nature in general. Hence, I believe that logical reflection is not somehow the ground for the acquisition, original or otherwise, of the categories.

⁵⁶ More precisely, the transcendental synthesis of imagination, or productive imagination, is the ‘effect’ of the understanding itself as operative in sensibility, and nothing numerically separate from it. See further Chapter 11. See also Schulting (2017a), chs 5 and 6.