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# The Energy of Concepts: The Role of Concepts in Long-Term Intellectual History and Social Reality

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## Abstract

In this paper the centrality of concepts for intellectual history is stressed. Naturally, this focus on concepts requires an account of what concepts are. More contentiously, an account of how concepts are best approached by intellectual historians also requires taking a stand vis-à-vis some prevailing notions of concepts. In particular, I will direct attention to the weaknesses of the historicist theory of concepts derived from the later Wittgenstein. By contrast, I will put forward an account of conceptual innovation and change in intellectual history based on a notion of concept loosely inspired by Frege. The first three parts of the paper lay out a framework for what I call "analytic contextualism," which is then briefly illustrated with an example from the history of political thought in the fourth part. I argue that this framework should be attractive to intellectual historians for two reasons: First, Fregean concepts, due to their relative independence from context, explain long-term conceptual stability and change better than competing notions of concepts. Second, a Fregean notion of concept is better suited than its competitors to explain how concepts and conceptual innovation sometimes manage to have causal effect on institutions and social reality. To demonstrate the latter point, it will be shown that my account of concepts is consistent with, and well placed to exploit, recent philosophical advances in social ontology.

## Keywords

Frege – contextualism – Quentin Skinner – conceptual change – theory of concepts – history of ideas – social reality – Searle

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How does a thought act? By being apprehended and taken to be true. This is a process in the inner world of a thinker which can have further consequences in this inner world and which, encroaching on the sphere of the will, can also make itself noticeable in the outer world. If, for example, I grasp the thought which we express by the theorem of Pythagoras, the consequence may be that I recognise it to be true and, further, that I apply it, making a decision which brings about the acceleration of masses. Thus our actions are usually prepared by thinking and judgment. And so thought can have an indirect influence on the motion of masses. The influence of one person on another is brought about for the most part by thoughts. One communicates a thought. How does this happen? One brings about changes in the common outside world which, perceived by another person, are supposed to induce him to apprehend a thought and take it to be true. Could the great events of world history have come about without the communication of thoughts? And yet we are inclined to regard thoughts as unreal.[1]

GOTTLOB FREGE, "The Thought"

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What is known as the history of concepts is a history either of our knowledge of concepts or of the meanings of words. Often it is only through great intellectual labour, which can continue over centuries, that a concept is known in its purity.[2]

GOTTLOB FREGE, *The Foundations of Arithmetic*

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1 Frege, "The Thought: A Logical Inquiry," A. Quinton and M. Quinton (trans.), *Mind* 65 (1956): 289–311, at 310f.

2 Frege, *The Foundations of Arithmetic*, trans. J. L. Austin (Evanston, Ill.: Northwestern University Press, 1968; Oxford: Blackwell, 1980), vii.

The first part of this article will establish a theoretical framework – Fregean analytic contextualism – for long-term intellectual history and the role concepts play in it. The framework spells out my assumptions and links scholarship on method in the history of political thought with methodological work in the history of ideas more broadly conceived. In the second part, I will try to establish the advantages of using a broadly Fregean rather than a Wittgensteinian notion of concept in intellectual history, particularly in general and long-term history.[3] The third part deals with conceptual change and how it fits into the history of ideas and, indeed, history "of events" (*Ereignisgeschichte*) and social reality as a whole. I will argue that my approach to the history of ideas can be useful in highlighting the causal impact of concepts in history. Accordingly, I will try to integrate the history of ideas with philosophical scholarship concerned with the explanation of institutions and social reality. A striking example of causal efficacy in history is the establishment of legal institutions that constrain the actions of their subjects. In the fourth part, the theoretical framework will be pressed into service to briefly analyze a historical example of conceptual change. The example is that of a change from an account of politics without the concept of normative constitutionalism to a political theory that incorporates the concept of a normative constitution. Conceptual change is here understood to consist in conceptual innovation. Providing such a historical example of a Fregean concept in long-term intellectual history is important because if extreme contextualists are right, there cannot be such a long-term history. Where meaning is reduced to use, as the Wittgensteinian slogan demands, even a history of disconnected local linguistic and social practices becomes difficult to imagine. If it can be shown, conversely, that there are if not perennial then at least long-term problems in intellectual history, this will shed doubt on extreme contextualism.

By way of conclusion, I will point out some of the upshots my account of conceptual change and continuity seems to have. The historical example suggests that there are indeed problems that have longevity in intellectual history and that it is possible to follow a concept through various contextual instantiations. It is argued that it is possible and indeed necessary to do long-term intellectual history, provided we resist the temptations of historicism and adhere to the right methodological assumptions about concepts and the way these concepts fit into history more broadly conceived. I claim that an intellectual history that appreciates Fregean concepts in the historical record will be well placed to exploit recent progress made in social ontology, the study of social reality and institutions. Concepts, to the extent that they are built into historical

3 I will be using "intellectual history" and "history of ideas" interchangeably.

institutions, are often of a Fregean kind and lend themselves to an analysis in terms of necessary and sufficient conditions. Because of the technical nature of much political and legal thought, most of the concepts that are built into historical institutions and therefore achieve causal effect in history, are Fregean concepts with a reasonably clear definitional structure where sense determines reference. The institutionalization of such concepts, their "freezing into place," at least temporarily, tends to reinforce the previous point about the long-term significance of Fregean concepts.

## 1 A Theoretical Framework for Navigating Conceptual Innovation and Change

Things have been somewhat quiet on the methodological front in the history of ideas for some time now. The contextualist approach associated with Cambridge and defended most skillfully by Quentin Skinner is still the reigning orthodoxy, at least in anglophone scholarship, and practitioners are rightfully more concerned with writing intellectual history than methodological discussions.[4] There are exceptions of course. Mark Bevir has offered an ambitious "logic" of the history of ideas, understood as an intentionalist inquiry into the expressed beliefs of historical thinkers which are conceived along Wittgensteinian nominalist lines, but, against Skinner, not as the recovery of illocutionary acts.[5] Terence Irwin has formulated a very different approach, emphasizing the search for unity in intellectual history: "On this view," Irwin explains, "deeper examination of the apparently various and conflicting tendencies in ethical theory will reveal some considerable degree of agreement on the main principles. This view … does not assume that philosophers are all addressing the same questions, so that we can evaluate their views in the way we would evaluate a debate among our contemporaries. The historian's task is to discover the relatively permanent principles expressed in different intellectual and cultural embodiments."[6] Irwin makes it clear that he sees this undertaking

4 See Q. Skinner, *Visions of Politics, Regarding Method*, vol. 1 (Cambridge University Press, 2002). For his view of Bielefeld conceptual history, see ibid., 177–187. I cannot engage with *Begriffsgeschichte* here.

5 M. Bevir, *The Logic of the History of Ideas* (Cambridge University Press, 1999). I agree with Martinich that a moderate nominalism need not entail the kind of historicism Bevir favors, and that extreme nominalism is in tension with the practice of intellectual history: "If Bevir wants to be as radical a nominalist as he seems to profess to be, then he has no right to privilege individual human beings or actions. He should go down to at least the atomic level, and perhaps to the subatomic level. Try to do history in that country." A. P. Martinich, "A Moderate Logic of the History of Ideas," *Journal of the History of Ideas* 73: 4 (2012): 624.

6 Irwin, *The Development of Ethics*, vol. 1 (Oxford: Oxford University Press, 2007), 7.

as complementary to contextualist approaches, pointing out that contextualists tend to miss the persistence of philosophical questions while his own outlook may miss the variation in significance that certain questions may have had for thinkers in different periods.[7] More recently, David Armitage has put forward a vision of intellectual history he calls "serial contextualism" that seeks to make ambitious long-term histories possible while remaining faithful, to an extent, to Cambridge contextualism.[8]

My own approach is sympathetic to various aspects of all these views, but I believe that in order to be able to write methodologically rigorous, long-term intellectual history, we first need to acquire a better sense of what concepts are and what role they play in the long run. It is through concepts that philosophers, scientists, political theorists and lawyers have historically put forward their assertions and other speech acts. Accordingly, intellectual historians in their work presuppose a certain notion of concept either implicitly or explicitly. More specifically, I believe the discipline has been overly enthralled by a Wittgensteinian account of concepts. Ludwig Wittgenstein's (1889–1951) influence and his rhetorical power have been such as to impress a particular view of concepts and meaning which intellectual historians should be reluctant to make their own. Wittgenstein's naturalistic, use-focused reductionism has been subjected to important and interesting counter-arguments in the philosophy of language, but I cannot add to or even discuss these criticisms here.[9] Rather, in the present article I wish to defend a much more limited claim, namely that Wittgenstein's account of meaning and concepts is ill-suited to intellectual historians, especially historians who concern themselves with political and legal language in long-term contexts. I will instead propose an account of meaning and concepts inspired by Gottlob Frege (1848–1925).

There are several competing notions of concept in the philosophy of language. The two most influential ones are the so-called classical view of concepts, on the one hand, and the family-resemblance view of concepts, on the other.[10] Frege is the most important exponent of the first view, and (the later)

7 Id., 10, n. 8.

8 D. Armitage, "What's the Big Idea? Intellectual History and the *Longue Durée*," *History of European Ideas* 38.4 (2012): 493–507.

9 The literature is vast. See, e.g., S. Soames, *Philosophical Analysis in the Twentieth Century*, vol. 2 (Princeton: Princeton University Press, 2003), Part One; A. Biletzki and A. Matar, "Ludwig Wittgenstein," *The Stanford Encyclopedia of Philosophy* (Fall 2016 Edition), E. N. Zalta (ed.), https://plato.stanford.edu/archives/fall2016/entries/wittgenstein/.

10 This is of course not an exhaustive list. For other views, see E. Margolis and S. Laurence, "Concepts," *The Stanford Encyclopedia of Philosophy* (Spring 2014 Edition), E. N. Zalta (ed.), https://plato.stanford.edu/archives/spr2014/entries/concepts/.

Wittgenstein the influential promoter of the second. Wittgenstein introduced his view of concepts in *Philosophical Investigations* as criticism of the Fregean view. Whereas the Fregean, classical notion of concept understood concepts roughly to be abstract objects defined by a set of necessary and sufficient conditions (the sense, or intension, or meaning) that determine what falls under the concept (the reference, or extension), the later Wittgenstein can be interpreted to have put forward a naturalistic doctrine of meaning according to which meaning really is *use* of a term in a language.[11] Wittgenstein famously goes on to explicate this notion of concept by giving the example of the term "game," which, according to Wittgenstein, cannot be given a definition in terms of necessary and jointly sufficient conditions and which can only be illustrated in terms of the actual linguistic behavior of a community of language users. Facts about meaning are reduced to facts about use, and Frege's *sense* gives way to *use* early on in Wittgenstein's *Philosophical Investigations*.[12]

Even though Wittgenstein managed to show that at least in natural languages *some* terms have the character of so-called family-resemblance concepts and therefore cannot be given necessary and sufficient conditions for their application, it does not follow that all terms have this family-resemblance character. In the next section I will argue that at least *some* concepts do have a classical structure.[13] Furthermore, I will argue that some of these Fregean, classical concepts are especially relevant for intellectual history.

### 1.1 *Fregean Concepts*

According to Frege, concepts are functions, that is to say, unsaturated predicate expressions that take objects as arguments.[14] If, for example, we saturate the function "*x* conquered Gaul" with "Caesar," a true sentence results and we arrive, as Frege would have it, at the True. Thus, Fregean concepts, understood as functions, map every argument to one of the two truth values, either the True or the False. To avoid confusion, I should stress that Frege himself used the term "concept" somewhat differently, namely for the referent or denotation of a predicate expression. In what follows, I will adopt a *Fregean* notion of concept in line with current usage[15] and not what Frege himself called "concept."

11 Wittgenstein, *Philosophical Investigations* (Oxford: Blackwell, 1953), §43.

12 Id., §§1–12.

13 For an argument that family resemblance is compatible with definitions of general terms, see J. J. Katz, *The Metaphysics of Meaning* (Cambridge, Mass.: MIT Press, 1990), 110–115.

14 The following is based on Frege, "Function and Concept"; id., "Sense and Reference." My interpretation is indebted to T. Burge, "Frege on Sense and Linguistic Meaning," id., *Truth, Thought, Reason: Essays on Frege* (Oxford: Oxford University Press, 2005), 242–269.

15 See, e.g., C. Peacocke, *A Study of Concepts* (MIT Press, 1992), 2f.

My notion of concept is therefore equivalent to what Frege calls the "sense" of predicate expressions.[16]

For Frege the constituents of propositions as well as the proposition itself have meaning not simply on account of what they refer to, but also on account of their intension, or *sense*. Frege's semantic theory therefore offers a twofold account of meaning where meaning resides not just in the referents or *extension* of a term, but also in the *sense* of an expression, in the way the referent of the term is conceived or perceived as given.[17] The expressions "morning star" and "evening star" refer to the same planet, but carry very different senses, that is to say different ways of conceiving of that planet. Predicates, too, have a sense and a reference, but here the reference for Frege is the concept, which is extensionally defined: according to Frege, two predicates express the same concept when they have identical extensions.[18] However, two predicates can refer to the same extensionally defined concept in this way while still *differing in sense* – e.g., the predicates "cordate" and "renate." Frege conceives of the sense of predicative expressions as giving us a way of presenting the referent. This is captured by the slogan that for Frege, *meaning* (i.e., sense, or what we shall call a concept) *determines reference*: the concept, the unsaturated predicative expression, picks out the referent of the finished proposition, if there is any referent. This leads us to the Fregean view of the semantics of propositions, where a proposition *Fa* is true if the object falls under the predicate "F". By focusing on truth conditions, Frege saw that "the cognitive value associated with component expressions must differ from their denotations or references."[19] As we will see, it is precisely this aspect of Fregean concepts, the fact that they, by virtue of their meaning, pick out or determine their referents, which makes the Fregean notion of concepts so attractive to intellectual historians and especially historians of political and legal thought.

As mentioned, Frege thought that predicate expressions, like proper names and sentences, had both senses and referents, and he thought that their referents were what he called "concepts" or "functions." But Frege was a Platonist and

16 Frege applies the sense-reference distinction to predicative expressions in his "Comments on *Sinn* and *Bedeutung*," in M. Beaney (ed.), *The Frege Reader* (Oxford: Blackwell, 1997), 172–180. Cf. K. C. Klement, *Frege and the Logic of Sense and Reference* (New York: Routledge, 2002), 66.

17 Indeed, the meaning of *propositions* might be said to consist in their intension, or sense, exclusively, since the referent of a proposition for Frege is simply its truth value. Thanks to Andreas Gyr for pointing this out.

18 Frege's overall system, however, should *not* be called extensional in that predicates do not refer to extensions; they refer to concepts, which are functions, not objects.

19 Burge, "Introduction," id., *Truth*, 17.

regarded these functions "as existing, or being otherwise 'real', non-spatially and atemporally."[20] Frege was also a Platonist in firmly opposing the view that such functions or "concepts" are "in any way dependent on something mental, linguistic, communal, or on anything like a practice or activity that occurs in time."[21] As the passage quoted above in the epigraph suggests, however, Frege was not an extreme Platonist, given his rather cautious view that propositions ("thoughts") were "not wholly unreal," at least not if in principle "they could be apprehended."[22] As Tyler Burge puts it, Frege's was the "relaxed Platonism of a mathematician who simply assumes that there are numbers, functions, and so on, and who regards these as an abstract subject matter which can be accepted without special philosophical explanation."[23]

It would be unwise to try to tie a methodological approach in the history of ideas to a particular view concerning the ontology of concepts and I will accordingly take an agnostic stance. Ontological debates concerning even well-attested entities of theoretical physics, for example, have not come to rest and do not show any sign of abating; it would be silly to put so much ontological weight on the question of what notion of concept we should use in intellectual history. Fortunately there is no need for adopting any particular view on the ontology of concepts. I will restrict my defense of Fregean concepts to what Frege called the *sense* of predicate expressions. Therefore, my Frege-inspired or Fregean notion of concept remains ontologically neutral and the methodological approach defended in this article is open to practitioners of both nominalist and realist bents.[24]

However, this neutrality can and should go hand in hand with a somewhat more pronounced view in the philosophy of language: Fregean concepts or senses, whether or not they are mind-independent, ascribe properties and have *meaning*. This is already required, as we have seen, by Frege's view that meaning determines reference. One plausible way of interpreting Frege's account of predicate expressions in an entirely nominalist way has been expounded by John Searle. If we follow Searle's suggestion, we may uphold a Fregean notion of concept which will be appropriately ecumenical and palatable not only to

20 Burge, "Frege on Knowing the Third Realm," id., *Truth, Thought, Reason: Essays on Frege* (Oxford: Oxford University Press, 2005), 299–316, at 304.

21 Ibid.

22 Frege, "The Thought," 311. But cf. id., *Kleine Schriften*, ed. I. Angelelli (Hildesheim: Georg Olms, 1967), 288, where thoughts are seen as independent from our linguistic means. I owe this reference to Andreas Gyr.

23 Burge, "Frege on Knowing the Third Realm," 302.

24 For similar neutrality, see Burge, "Introduction," 28f.

realists but also to conceptualists and moderate nominalists. Searle, in order to dissolve tensions in Frege's view that resulted from Frege's equivocation between the idea that predicate expressions *refer*, on the one hand, and that they ascribe properties, on the other, emphasizes Frege's important distinction between reference and predication.[25]

Searle achieves this by interpreting Frege's predicate expressions as *ascribing* properties rather than as *referring* to anything. This allows Searle to make Fregean concepts palatable to (moderate) nominalists such as himself: "Insofar as the nominalist is claiming that the existence of particulars depends on facts in the world and the existence of universals merely on the meaning of words, he is quite correct. But he lapses into confusion and needless error if his discovery leads him to deny such trivially true things as that there is such a property as the property of being red and that centaurhood exists. For to assert these need commit one to no more than that certain predicates have a meaning."[26] This closes the door only on strong meaning skepticism, which, however, intellectual historians would be ill-advised to make their own anyway, on independent grounds and on pains of performative contradiction.[27] It leaves the door open to the realist view that concepts are mind-independent abstract objects; to the conceptualist view that they are mental representations;[28] or to the view that they are linguistic. It should be mentioned, however, that when allowing for concepts to be linguistic entities we should not make the mistake of identifying concepts with words or phonetic sequences – concepts might be linguistic in the sense that *meanings* of words are, *not* in the way that words themselves are.[29]

On the *epistemological* level, while words, sentences and whole texts are indeed the tokens through which we have epistemic access to concepts, propositions and arguments, they must not be confounded with concepts and propositions. What we describe in intellectual history might be best described as the first-tokening of the concept, followed by potential reception,

25 Searle, *Speech Acts* (Cambridge: Cambridge University Press, 1969), 97–103.

26 Searle, *Speech Acts*, 105.

27 For criticism of the coherence of Quine's skepticism, see L. Decock, "Quine's Ideological Debacle," *Principia* 8:1 (2004): 85–102, esp. 98. For meaning skepticism, see T. Nagel, *The Last Word* (New York: Oxford University Press, 1997), 37–53; P. Boghossian, "Rules, Norms and Principles: A Conceptual Framework," in M. Araszkiewicz et al. (eds.), *Problems of Normativity, Rules and Rule-Following* (Cham: Springer, 2015), 3–11.

28 See E. Margolis and S. Laurence, "The Ontology of Concepts – Abstract Objects or Mental Representations?" *Noûs* 41:4 (2007): 561–93.

29 Searle, *Speech Acts*, 114f.

re-thinking, re-use and re-uttering of the concept.[30] The epistemological question of what counts as evidence for Fregean concepts will be addressed, by way of example, in the second, historical section of this article. But from what I have said so far it should be clear that while words, sentences and texts – linguistic expressions – will be the usual way of finding out about Fregean concepts and propositions, there is a sense in which concepts can outrun the linguistic evidence. Implicit conceptual assumptions – such as the inchoate constitutionalism of the Roman Republic I will discuss below, or Galileo's implicit use of the concept of inertial mass – exist.[31]

Having sidestepped the debate concerning the ontology of concepts in the name of neutral agnosticism, and by welcoming all but the most extreme nominalists into the tent, I now need to briefly explain why this ecumenical mindset is not simply designed to make the Fregean approach seem more welcoming, but is indeed motivated by considerations of a more substantive kind. These are considerations which will allow us to approach the ontological question anew, if only from a different angle and with reduced scope. This will also help us to demonstrate why the Fregean, classical view of concepts as giving the necessary and sufficient conditions of their application is superior for our purposes to the competing Wittgensteinian view.

To summarize: my approach is Fregean only in that I conceive of concepts as Fregean senses that determine reference. This will allow for a certain autonomy of concepts from contexts over the long historical term, on the one hand, and for an explanation of how concepts fit into social reality, understood in Searlean terms of collective intentionality, on the other.[32] I do not deny that there are types of concept that lack a Fregean structure, for instance, family-resemblance concepts. Nor does my approach preclude concepts that are vague, either in the sense that they have truth-value gaps or that we do not know where their boundaries lie.[33] Vagueness is an obvious feature of

30 See Katz, *Realistic Rationalism*, 134, 168. For a temporal conception of abstract concepts, see M. Sainsbury and M. Tye, *Seven Puzzles of Thought* (New York: Oxford University Press, 2012).

31 See G. Prudovsky, "Can we Ascribe to Past Thinkers Concepts They Had no Linguistic Means to Express?" *History and Theory* 36:1 (1997): 15–31, esp. 26–28. Cf. Skinner: "while the concept [originality] is clearly central to his [Milton's] thought, the word did not enter the language until a century or more after his death." Skinner, "Language and Social Change," in *Meaning and Context*, ed. by James Tully (Princeton: Princeton University Press, 1988), 119–132, at 120. How this does not violate Skinner's Wittgensteinian commitments is unclear.

32 Searle, *The Construction of Social Reality* (New York: Free Press, 1995), 27–29.

33 Vagueness may be due to (necessary) ignorance (T. Williamson); it may be functional and normatively desirable (J. Waldron). In institutional contexts, however, there is often

natural languages. Yet this should not tempt us to overlook the fact that there are important instances of concepts with a Fregean structure to be found in the historical record. Many of these might well have been initially vague, but, be it for normative, cognitive or pragmatic reasons, were given an increasingly precise meaning over time – a Fregean sense capable of fixing reference in a sufficiently determinate way.

### 1.2 *The Wittgensteinian Outlook*

What is the Wittgensteinian notion of concept, and why is it less suitable than its Fregean competitor for the kind of long-term history of political and legal thought I have in mind?[34] Famously, in *Philosophical Investigations*, Wittgenstein expresses skepticism about Fregean concepts and, using as an example the term "game," suggests a view of concepts that makes heavy use of the metaphor of family resemblance.[35] The example is supposed to show that meaning cannot be found in Fregean senses, only in use and community practice. Meaning, on this account, can never outstrip use and practice. The "meaning of a word," as the slogan has it, "is its use in the language."[36]

It is unclear how ubiquitous Wittgenstein thought family-resemblance concepts to be. His rhetoric gives the impression that his account of concepts is designed to dethrone and maybe even supplant the Fregean account.[37] We are asked to abandon the search for necessary and sufficient conditions and focus instead on the cultural conditions for the successful assertion of claims. Wittgenstein's central point is not about vagueness, but about the very possibility of rule following and of intentional content and meaning in general.[38] As Kripke interprets him, for Wittgenstein, it is the "brute fact that we generally agree," that is to say a "form of life" and communal consensus, that creates concepts as well as explains the fact that we can grasp them. For Wittgenstein, the individual *cannot*, as a matter of principle, ask "whether, as a matter of 'fact', we [the community or form of life] might always be wrong; … there is no such fact."[39] The notion of context or "form of life" itself, however, seems exempt from skepticism: "Our standards of what is comprehensible have become so

pressure to make concepts more precise (S. Soames). Sometimes cognitive advances allow us to make concepts more precise (M. Buzaglo).

34 The literature is immense. I merely seek to outline a *Wittgensteinian* account here that has been influential with intellectual historians.

35 L. Wittgenstein, *Philosophical Investigations*, §§65–80.

36 Id., §43.

37 Id., especially §§65–71.

38 Kripke, *Wittgenstein*, 82.

39 Ibid., 146, n. 87.

high that we can't really grasp the notion of adding 2 to previous even numbers, but we are expected to grasp, and be content with (treat as final, ultimate), without further anxiety, the sociological notion of culture, of a form of life, of a kind of socioconceptual matrix, which endows a whole population with its conceptual wealth, by methods that are not to be conceptualized further!"[40]

It would go far beyond the scope of this article to deal with this kind of general meaning skepticism. Suffice it to say that if what many interpreters have taken to be Wittgenstein's general skeptical argument were true, the very practice of intellectual history and indeed scholarship and intellectual exchange more generally would be difficult to justify. The most plausible interpretation of Wittgensteinian skepticism about meaning might therefore be to treat it with Thomas Nagel as a *reductio*.[41] Similarly, P. F. Strawson defends the possibility of "meanings, concepts," "propositions and thoughts (in Frege's sense)" on the grounds that the Wittgensteinian outlook is simply untrue to a first-person view of what concepts *are*.[42] There are, however, attempts to reconcile the first-person view of what concepts are with a broadly Wittgensteinian account of the way this first-person view can come about. These more fine-grained interpretations of Wittgenstein's rule-following problem seek to leave intact Fregean meaning while at the same time maintaining Wittgenstein's emphasis on use and form of life, at least on a causal or genealogical level.

Philip Pettit has put forward a sophisticated account that aims to preserve the phenomenology of concepts and Fregean, intensional meanings.[43] Pettit, seeking to be true to intentional agent's first-person view of the infinite normativity of concepts, spells out a view where concepts appear as "rules-in-intension." At the same time, his goal is to explain this phenomenology on behavioral and dispositional grounds. Pettit claims that we come to identify and respond to rules by inclination. Mere inclination, however, is not enough to accommodate our intuition that rule-following is fallible, that it can be right or wrong. Pettit adds therefore to this inclination the further, normative requirement that rule-following happens by inclination when conditions are *favorable*. Whether this amounts to an illicit smuggling-in of normativity into mere use I leave to others to decide. Pettit concedes that he simply "took it for granted" that we – our species – can develop "routines of extrapolation and

40 E. Gellner, "Review Kripke, *Wittgenstein*," *The American Scholar* 53:2 (1984): 243–263, at 256.

41 Nagel, *Last Word*, 45f.

42 P. F. Strawson, *Skepticism and Naturalism: Some Varieties* (London: Methuen & Co., 1985), 91.

43 P. Pettit, *Rules, Reasons, and Norms* (New York: Oxford University Press, 2002), ch. 1. Thanks to András Szigeti for pressing this point.

revision" that do not themselves *presuppose* rule-following.[44] For our purposes it is important to see that intensional concepts can be preserved under such an account.[45] Pettit is careful to insist that "rules-in-intension" or concepts cannot simply be *reduced* to inclinations plus favorable circumstances – inclinations plus favorable circumstances are not what concepts *are*. He does not pretend to replace or identify Fregean concepts with use. Since it is my aim to remain agnostic about the correct metaphysical framework, I will not explore whether this attempted reconciliation between Fregean concepts and Wittgensteinian practice is successful. Suffice it to say that if it is, Fregean concepts survive Wittgensteinian doubt.

The later Wittgenstein was of course not the only one to offer criticism of the Fregean view of concepts. Other attacks were motivated by concerns in the history and philosophy of science. Thomas Kuhn's and Paul Feyerabend's work on scientific revolutions seemed to threaten the stability of Fregean concepts and thus seemed to undermine notions of scientific progress. In response, Saul Kripke and Hilary Putnam offered a new theory of meaning: the causal theory of reference. It was not Frege's *sense* which remained stable throughout scientific revolutions and theory change, they claimed, but *reference*.[46] These doubts about the Fregean approach have relied on Saul Kripke's famous analogy between proper names and natural-kind terms, both of which according to Kripke lack Fregean senses (*Sinne*) that determine, or present, their refer-

44 Pettit, *Rules*, 8.

45 It is hard to see, however, how they could be anything but epiphenomal under Pettit's assumptions. Pettit claims that we use concepts "as if" we are tracking properties with them (*Rules*, 9), and even posits Fregean properties we can recognize in their essences (ibid., 20). He claims his is not a conventionalist account, because although it is "revisionary practice" that "establishes" the conceptual apparatus and rules-in-intension, he still allows for agents and whole communities to go astray (ibid., 9). But it is hard not to beg the question; is the practice "revisionary" because it is *already* rule-governed, or do we have rules because of the practice? The former explains how we get to revise our practices, but it does not help the Wittgensteinian. The latter threatens to undermine the normativity of meaning and collapse into a reductionist account. A similar problem arises for Pettit's account of why rule-following is necessarily interactive, why we need (ibid., 23) the "check of another voice," either of our former selves or others. As Boghossian points out, many mistakes we make are systematic and ("Rule-Following," 37) "are bound to be duplicated at the level of the community," or, we might add, at the level of the later self. The required check may not be that of "another voice," but of a rule. Pettit rejects the charge of epiphenomenalism: Frank Jackson and Philip Pettit, "Program Explanation: A General Perspective," *Analysis* 50 (1990): 107–117.

46 This criticism of intensionalism might have roots in Wittgenstein too; see *Philosophical Investigations*, §79 for proper names and §87 for inspiration for Kripke's and Putnam's views on general terms and natural kinds.

ences (*Bedeutungen*).[47] Natural-kind terms such as "gold" have on this view been taken not to constitute Fregean concepts, for they are said to have contents that are individuated in an externalist way, where it is their reference, not sense, that determines their meaning. More recently, however, these referential theories have themselves come in for criticism, and there is well-founded doubt as to whether they really manage to account for all problems of conceptual change.[48]

## 2 The Advantages of Fregean Concepts

Regardless of the success of this interesting maneuver for the domain of natural-kind terms, I believe that when it comes to some of the most fundamental concepts which constitute social reality, we cannot easily give up on Fregean concepts. Although I believe that Fregean analytic contextualism can be fruitful for many strands of intellectual history, here I will argue only its use for the history of political and legal thought.[49] That is, I will seek to defend the limited claim that even if we grant, for the sake of argument, that *natural*-kind terms do indeed function in a non-Fregean way, it is still the case that many important terms for artificial, or *social*, kinds – and it is of course such artificial kinds the historian of political, social and legal thought is primarily interested in – function in an entirely Fregean way, and must do so. The classical Fregean view of concepts as having a stable sense, which determines reference and explains why concepts can be meaningful in the absence of reference, is therefore very well suited to serve as an account of the role of concepts in the social sciences and in the history of political thought.[50] This is so because concepts

47 S. Kripke, *Naming and Necessity* (Cambridge, Mass.: Harvard University Press, 1980).

48 See, e.g., J. LaPorte, *Natural Kinds and Conceptual Change* (Cambridge: Cambridge University Press, 2004). Arguing convincingly against a purely referential theory is S. Haack, *Defending Science – within Reason* (Amherst, NY: Prometheus Books, 2003), 129–135.

49 The distinction between natural and artificial kinds might be doubtful. Assume we discover tomorrow that everything we thought was gold is really fool's gold (our planet does not, as a matter of fact, contain a chemical element with the atomic number 79); at the same time we discover an element with the atomic number 79 on Mars. Would we not say that we discovered gold on Mars, and that our stuff just looks like gold? Would we not readily forget the causal connection and stick with the intensionally defined concept?

50 The prevalence of family-resemblance concepts in natural languages is questionable. For an argument that "game" is not a family-resemblance concept, see J. Raz, *Practical Reason*

in these disciplines do not denote natural kinds, but describe and make up artificial kinds.

This point has not been sufficiently appreciated in discussions of methodology in intellectual history and social science. Historical artifacts and texts as well as social reality more broadly contain a number of important concepts where sense determines reference in a normative way and where the sense is sufficiently precise. Accordingly, these are not easily accounted for in Wittgensteinian terms. "Statute," "corporation," "praetor," "marriage," "president of the United States," "legal tender" and countless other concepts arguably have a Fregean structure where sense determines the concept's application. Indeed, for such concepts meaning, intension or sense is logically prior to extension, since, as we shall see in further detail below, their extension is the causal product of their intension. In this way, Fregean concepts play an important role in enabling the constitution of social reality and institutions.[51]

A Fregean notion of concept has, therefore, distinct advantages for intellectual historians. The first advantage is that the autonomy of Fregean senses allows for long-term investigations, investigations that seek to determine in an historico-empirical way whether there are any long-standing problems and answers in the history of ideas ("perennial problems") or not. This can be done only provided we find a way to individuate concepts in the long run on a historical scale. I argue that Fregean concepts are in fact uniquely capable of accomplishing this. Mere Wittgensteinian local linguistic practice and speech acts based on family-resemblance concepts cannot be comparatively followed over the long term, due to their parochial, context-dependent character.[52] I recommend that such local speech acts and concrete utterances, as important as they are, be interpreted as derivative tokens of Fregean senses, which are types.[53] Focusing on Fregean concepts will therefore allow us, over the long historical term and beyond the narrow province of immediate historical context, to describe and account for conceptual innovation and change.

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*and Norms*, ch. 4. For an attempt at a definition of "game," see M. W. Rowe, "The Definition of 'Game'," *Philosophy* 67, no. 262 (1992): 467–479. See also Katz, *Metaphysics*, 110–115.

51 Some of these are "legislated" concepts in the sense that the vagueness attending natural language has been removed from them by regimenting natural language. See A. Margalit, "Vagueness in Vogue," *Synthese* 33:1 (1976): 211–221, at 214f.

52 Note that the distinction between the (illocutionary) *force* of propositions and their content was in fact first noticed by Frege in the *Begriffsschrift*. Wittgensteinians have no monopoly on the pragmatics of speech.

53 The type–token distinction differentiates between word types (e.g., "the," understood as an abstract, unique word type) and word tokens (e.g., "the," understood as this concrete particular, composed of pixels on a screen as I type).

There is a second important advantage to such a focus on Fregean concepts. Fregean concepts help us to circumscribe an elusive goal that has been in the sights of intellectual historians for a long time. The ambition is to understand the causal effect of concepts and ideas in the historical process, where ideas are understood as Fregean "thoughts" (propositions) and compounds of such thoughts. In short, the goal is to account for historical change, at least in some cases, in terms of conceptual change. This is an ambition Bielefeld *Begriffsgeschichte* shares with some strands of Cambridge contextualism, and it is of obvious importance. Even a history of ideas uninterested in the way ideas fare in the causal historical world cannot rest content with allowing a merely epiphenomenal role for concepts – otherwise, why study them in the first place?

Yet on the contextualist, Wittgensteinian account, it must remain unclear how conceptual change occurs, how it can ever account for historical change, and how concepts, propositions and arguments can ever assume the autonomy needed to account for conceptual revolutions. As Gad Prudovsky has convincingly argued, without such autonomy, conceptual revolutions have to be described in Wittgensteinian, contextualist terms "as embedded in parallel and previous changes in the community's ways of life. … [This] involves description of changes in linguistic conventions, in explicit categories, and in socio-economic conditions. In this sense the conceptual revolution itself is merely an epiphenomenon, entirely dependent on these more basic shifts in society." This kind of epiphenomenalism is, of course, hard to square with any number of historical examples – consider science, religious fanatics, or the success of Marxism in agrarian environments. By contrast, the kind of analytic contextualism based on Fregean concepts that I propose need not deny the general importance of the social framework of individual thinking, but, in Prudovsky's words, "it does imply that this framework can be broken. The imagination of great thinkers can cross the limits of existing ways of life and thought, and as such can be an active factor (not a mere epiphenomenon) in the history of ideas and in general history."[54] This ties in with the suggestion of another critic that a "given concept may cogently contain implications that, through a failure of clear thought, a majority of the users of that concept has failed to perceive. At some stage, a minority, even a small minority, may spot the implication and its cogency, and its view may eventually prevail. Major events that at least look as if they fit this description have occurred in human history: they may in fact

54 G. Prudovsky, "Can we Ascribe."

be the most important events in all intellectual history. On Wittgenstein's theory of meaning, such an event becomes an a priori impossibility."[55]

Indeed, one of the most prominent contextualists, Quentin Skinner, following Wittgenstein and R. G. Collingwood in his attempt to rebuke Arthur Lovejoy's then orthodox methodological framework for the history of ideas, has made a very strong claim. He held that histories focusing on concepts through time not only often go wrong as an *empirical* matter (because, say, the concept in question did not in historical fact show the kind of continuity that was claimed for it). Skinner also argued that such histories could not *possibly* be right for a priori reasons.[56] Skinner's example for such a history gone wrong was Carl Becker's use of the concept of faith and Becker's attempt to show that both the thirteenth century and the Enlightenment were "ages of faith." Skinner pointed out that Becker's claim rested on an equivocation between two very different concepts of faith positing a kind of fictitious continuity between them. Becker's mistake, Skinner writes, is the "mistake of taking the word for the thing."[57] But I would argue *pace* Skinner that this can only be a mistake if there *are* distinct concepts of faith that can be contrasted, distinct senses that may or may not pick out a referent in historical reality. Skinner effectively presupposes what he claims to be impossible – stable conceptual cores: thirteenth-century faith and Enlightenment faith were different; the thirteenth-century concept was replaced by a new concept. But note that this does nothing to challenge the stable Fregean notion of concept – again, it seems to presuppose such a stable concept, otherwise we would be ill-equipped to show that the replacement happened.

55 Gellner, "Review," 258. For the relationship between conceptual change (as conceptual novelty), meaning change and scientific change, see J. J. Katz, "Semantics and Conceptual Change," *The Philosophical Review* 88.3 (1979): 327–365, esp. 359ff.

56 Skinner, "Meaning," 35. For persuasive criticism, see R. Lamb, "Quentin Skinner's Revised Historical Contextualism: A Critique," *History of the Human Sciences* 22.3 (2009): 51–73, at 60–63. Lamb shows elsewhere that Skinner has changed his mind several times on how strong a claim he is prepared to put forward, only to return to the original, strong claim in *Visions of Politics I: Regarding Method* (Cambridge University Press, 2002), 88; cf. *Meaning and Context: Quentin Skinner and his Critics*, ed. James Tully (Cambridge University Press, 1988), 283. R. Lamb, "Recent Developments in the Thought of Quentin Skinner and the Ambitions of Contextualism," *Journal of the Philosophy of History* 3 (2009): 246–265, at n. 11.

57 Skinner, "Meaning," 35. Peter Stacey thinks that for Skinner, the same word can be used to describe very different concepts in the course of history; this presupposes concepts that are not merely linguistic expressions. How else can we even state that the same word describes different concepts?

Even in cases where there is no real disagreement because different thinkers at different times use different concepts and therefore effectively talk past each other, we need to be able to cash out these various concepts in a common conceptual currency. For us to even state the claim that there is no real disagreement, that is, we will have to resort to such a common conceptual currency.[58] The same holds for the individuation of relevant contexts. How can we even make sense of the claim that context Y, not context Z, is relevant if there is no intelligible way of saying how the contexts and the concepts they involve differ? This is why translatability has been taken to be a crucial criterion for the very possibility of interpretation of historical or alien cultures and ideas.[59] This is not the place to engage the debate about incommensurability, but let us look briefly at one of Skinner's own examples to clarify what is at stake.[60] Skinner writes that certain historical concepts are "so alien to our own moral thought that we cannot nowadays hope to capture [them] except in the form of an extended and rather approximate periphrasis."[61] Let us leave aside that the claim that periphrasis must be "rather approximate" only makes sense under the assumption that a better translation might be found.[62] Skinner goes on to cite Machiavelli's concept of *virtù* as an example designed to illustrate "the sense in which I am defending anything resembling a thesis of incommensurability."[63] What kind of "extended and rather approximate periphrasis" does Skinner

58 See Skinner, "Interpretation, Rationality and Truth," in *Visions I*, 27–56, at 45, where an ancient Roman and a modern Briton are said to have real disagreement in the face of the same evidence; in the face of mild precipitation, the Roman, so Skinner, will say "*imber*" and the Briton will dispute that there is rain. This merely shows that they have different concepts of precipitation and do not really disagree. Nothing historicist follows.

59 Before Wilson, Quine and Davidson, Frege already expressed an attractively restricted version of the principle of charity in interpretation: *Basic Laws of Arithmetic*, trans. and ed. by P. A. Ebert and M. Rossberg, with C. Wright (Oxford: Oxford University Press, 2013), XVI, XVIII. Wittgenstein, despairing of giving an example of a community with radically different inferential and arithmetical practices, was himself forced to embrace something like Frege's principle of charity in *Remarks on the Foundations of Mathematics*, ed. G. H. von Wright, R. Rhees and G. E. M. Anscombe, trans. G. E. M. Anscombe, rev. edn. (Cambridge, Mass.: MIT Press, 1978), I, §150.

60 For incommensurability and relativism, see B. Williams, "The Truth in Relativism," *Proceedings of the Aristotelian Society, New Series* 75 (1974–75): 215–228; for the classic argument against conceptual schemes, see D. Davidson, "On the Very Idea of a Conceptual Scheme," id., *Inquiries into Truth and Interpretation*, 2nd ed. (Oxford: Oxford University Press, 2001), 183–198. My own position is closest to G. Macdonald and P. Pettit, *Semantics and Social Science* (London: Routledge, 1981), 18–54.

61 Skinner, "Interpretation," 48.

62 See H. Putnam, "Two Conceptions of Rationality," id., *Reason, Truth and History* (Cambridge: Cambridge University Press, 1981), 116.

63 Skinner, "Interpretation," 47.

offer to explain Machiavelli's "so alien" concept? Machiavelli, Skinner writes, "used the term *if and only if* he wished to refer to just those qualities, whether moral or otherwise, that he took to be most conducive to military and political success."[64] Machiavelli's *virtù*, it turns out, is a Fregean concept, defined by the biconditional! Not only does Machiavellian *virtù* on Skinner's own reading turn out to be a Fregean concept, it is also hard to agree that this concept is "so alien to our own moral thought." Rather, Machiavelli engaged in a re-definition of the word that was alien to *his own* historical context. He re-defined "*virtù*" to express a Fregean concept of the qualities most conducive to military and political success. Far from confirming the supposed incommensurability, then, Skinner's example ventures against it, while at the same time providing a good model of a Fregean concept.[65]

Skinner does not present an a priori argument as to why there cannot be an intellectual history that makes use of stable Fregean concepts. In tension with some of his own examples he seems to presuppose historicist nominalism according to which concepts and their abstract propositional content dissolve in their historical contexts.[66] From this follows the view that not only are there no stable concepts in history, but also that there are no stable, or recurrent, problems in the history of (political) philosophy either. Such arguments are nothing new of course. They have been rebutted time and again by an appeal to the existence of longstanding problems as well as to the undesirable implications of historicist contextualism.[67] These include the impossibility of using common nouns across historical periods or even across mental complexes, and the incommunicability of concepts.[68] Indeed, it is the stability and autonomy

64 Ibid., 48 (my emphasis).

65 The fact that these historical concepts are intelligible does not entail that they are rational. We still need to figure out whether, by our own lights, there were good epistemic reasons for holding them; if not, the historian needs to explain the recalcitrance of irrational concepts and beliefs by reference to *pragmatic* reasons. A symmetry postulate about rationality results in bad historical explanation. Cf. Skinner, "Interpretation," 31, for an unconvincing refutation of this view (confusing symmetry about truth with symmetry about rationality).

66 See P. Steinberger, "Analysis and History of Political Thought," *The American Political Science Review* 103:1 (2009): 135–146. For similar views, see Minogue, "Method in Intellectual History," 186; Hintikka, "Reply to Simo Knuuttila," 108. For an interesting argument for some amount of independent force and momentum in historical actors' professed views, see Skinner, *Visions I*, ch. 8.

67 See J. Passmore, "The Idea of a History of Philosophy," *History and Theory* 5:5 (1965): 1–32, at 12.

68 See Kuukkanen, "Conceptual Change," 360; Lovejoy, "Reply to Professor Spitzer," 207. Cf. also Hintikka, "Reply to Gabriel Motzkin," 134: "conceptual and other topical assumptions

of Fregean concepts that makes scientific communication possible in the first place.[69]

Far from showing that histories of long-term conceptual stability or change are *a priori* impossible, Skinner's own historical examples tend to show that, on the contrary, such histories can indeed be written.[70] They also suggest that whether or not there are Fregean senses or enduring problems in the history of thought is something that can and must be shown empirically. Once we do that – and this is simply what good historians of ideas such as Skinner himself have been doing for a long time – we are in a position to argue that some problems are indeed perennial, while others perish and entirely new ones arise. We are also in a better position to free ourselves from our own context and not remain trapped in our own assumptions. Some Fregean concepts have long-term staying power – the concept of context itself might be one of them. Others are replaced by novel ones, yet others vanish, at least for some time, or are supplemented by new ones. Those concepts with long-term staying power are best described as some of the "most migratory things in the world."[71]

## 3 Conceptual Change, Social Reality, and the Energy of Concepts

It should be clear by now that Fregean concepts are better suited than Wittgensteinian concepts for an intellectual history that takes the autonomy of concepts as well as their causal efficacy seriously. I will have more to say

are needed by a historian for the very first purpose of understanding what earlier thinkers said in the sense of what their views actually amounted to."

69 Burge, "Frege on Knowing the Third Realm," 310.

70 Skinner's pronouncements have assumed a darker tone of late and military metaphors abound (e.g., "the battle is all there is": *Visions I*, 7). The history of political thought appears as a Sophistic battleground, a rhetorical struggle for power which owes as much to Nietzsche as it does to Foucault. But much of Skinner's own work contradicts this excessively skeptical, emotivist outlook. Cf. *Visions I*, 6: "my work … is nevertheless intended … as a contribution to the understanding of our present social world," which results in the unobjectionable suggestion, in tension with assumptions elsewhere, that notwithstanding linguistic constraints we (7) "may be freer than we sometimes suppose." The attention Skinner urges us to pay to speaker meaning should at least sometimes result in our discovering doctrines that are not intended to address contemporaries with mere emotivist screams, but are self-consciously aimed at making truth-apt claims to a timeless audience. For excellent criticism of Skinner's appeal to strategic motives behind philosophical argument, see M. T. Clarke, "The Mythologies of Contextualism: Method and Judgment in Skinner's *Visions of Politics*," *Political Studies* 61:4 (2012): 767–783.

71 A. O. Lovejoy, "Reflections on the History of Ideas," *Journal of the History of Ideas* 1:1 (1940): 3–23, at 4.

about causal efficacy below, but it seems obvious that if concepts can have causal effects, this presupposes a certain amount of autonomy on their part. But how do Fregean concepts cope with change? Jouni-Matti Kuukkanen has argued that there is no historiography of conceptual change without making use of concepts understood as abstract entities. Kuukkanen defends a notion of concept that seeks to avoid the problems that prototype or probabilistic accounts of concepts share with Wittgensteinian family-resemblance accounts. He distinguishes between conceptual core and margin and proposes that conceptual change consists in a change of the concept's margin.[72] The concept's core remains the same. As such, it resembles what Frege thought of as the fixed "boundary" of a concept, where a set of necessary and sufficient conditions defines what objects fall under the concept.[73] For Kuukkanen, a changed core amounts to conceptual replacement, which amounts to the "most radical type of conceptual change."[74]

The most important difficulty with this account concerns the boundary between core and margin. Kuukkanen points out that this boundary is entirely conventional and contingent, and that there is no "naturally carved line" between core and margin. But in the case of the history of conceptual change in the natural sciences, depending on where one stands with regard to natural kinds, there may well be a "naturally carved line" between essential core features of a concept and marginal ones.[75] Kuukkanen offers the example of the concept of chemical element and proposes "non-decomposability" as its essential core feature. But, of course, for pre-Lavoisier scientists the concept of chemical element also included – as Kuukkanen appreciates – the property of being an "ultimate constituent of bodies."[76]

72 Kuukkanen, "Conceptual Change," esp. Table 4. The distinction is analogous to that between core and penumbra of legal concepts in H. L. A. Hart, "Positivism and the Separation of Law and Morals," *Harvard Law Review* 71 (1958): 593–629, at. 607f.

73 See Kuukkanen, "Conceptual Change," 367f. Cf. Frege, "Function and Concept," in *Translations from the Philosophical Writings of Gottlob Frege*, ed. by P. Geach and M. Black, 2nd ed. (Oxford: Blackwell, 1960), 21–41, at 33.

74 Kuukkanen, "Conceptual Change," Tables 4–6, 370. Table 6 makes it appear as if the concept was replaced by its margin, but it is not clear what the core of the replacing, novel concept would be.

75 It would still be implausible to maintain, as causal-reference theorists do, that earlier users of a natural-kind concept must have already referred to the natural kind in question; if the concept is originally vague, there may later be reference change. Monotremes, e.g., became mammals as the result of a decision, but could have been left out with equal reason: LaPorte, *Natural Kinds*, 118f.

76 Indeed, although Kuukkanen insists on the contingency of the core–margin boundary, his choice of conceptual core to me seems to betray an implicit affinity with essentialism

One way of approaching the difficulty would be by qualifying both "non-decomposability" and "ultimate constituent of bodies" as a set of necessary and jointly sufficient conditions that together composed the pre-Lavoisier concept of element. As it turned out, this pre-Lavoisier concept of element did not have an extension. The latter condition was given up in the face of the evidence and the concept was restricted to the second condition. This did indeed constitute conceptual change. But note that we could now account for conceptual change without having to choose between core and margin – the older concept, which turned out to be vague, changed into a more precise one. We can readily account for this development with what Dudley Shapere called "a chain of reasons."[77] This was conceptual change, for sure, but with sufficient overlap between the earlier and the later concept to feature both stability *and* change. The overlap provides the common ground without which the disagreement between different theories would not make any sense – it has to be disagreement about *something* after all.[78] But note that the overlap need not be conceptual. One concept can be given up wholesale, or replaced with another one, without any conceptual overlap if it turns out to be entirely without reference. In the case of normative, social-kind terms – as opposed to natural kinds – we might be forced to give up concepts in roughly analogous ways, although it will be for normative, not empirical reasons.[79]

In order to further simplify things, I suggest we drop the distinction between core and margin and instead interpret *both* Kuukkanen's core and marginal properties as sets of necessary and jointly sufficient conditions. Whenever any part of this changes, we have conceptual change. If all parts change, we have conceptual replacement or supplement. This loosely Fregean approach to conceptual change will have the consequence of being more fine-grained than the approach proposed by Kuukkanen, since it will result in many more diagnoses of conceptual change – changes in Kuukkanen's margin will constitute conceptual change no less than in the core. This means that the bar for complete continuity will be higher. But it will allow us to show the elements of change, as it were, in a more sensitive way without having to rely on distinctions between core and margin that are bound to be arbitrary.

of the Kripkean kind; his core is defined in an externalist way, where it is essential features of the referent that call the shots – why then not admit natural kinds?

77 Shapere, *Reason and the Search for Knowledge: Investigations in the Philosophy of Science* (Dordrecht: Reidel, 1984), xxxiv.

78 See above, at n. 58; see also LaPorte, *Natural Kinds*, 134f.

79 The concept "just slavery," e.g., was given up because it was recognized to have no application. Under most meta-ethical views this will seem obvious.

My approach will register even very subtle changes in the meaning of a concept, but it is important to note that it is not dogmatically Fregean in that it allows for conceptual development, the expansion of concepts and vagueness in the sense of concepts that are not defined for every object.[80] Indeed, for the intellectual historian it will be of great interest to follow such changes over time and try to account for them.[81] For example, vague concepts might change over time in that they experience precisification; some concepts will change in arbitrary ways, others in less arbitrary ways; concepts will receive interpretations that seek to render them more precise; they might be left vague for reasons to do with epistemic caution, or laziness, or for normative reasons to do with the value of leaving decisions to autonomous subjects.[82] As a rule, however, concepts for artificial kinds of the sort we tend to be interested in – "president of the U.S.," "praetor," "legal tender," etc. – will have a need for increasing precisification if they are to serve institutional and normative needs.[83] We might therefore expect to find conceptual change that consists in inchoate concepts being rendered more and more Fregean over time.[84] Of course, this

80 For a convincing model for non-arbitrary, "forced" conceptual expansion in mathematics, see M. Buzaglo, *The Logic of Concept Expansion* (Cambridge: Cambridge University Press, 2002).

81 They might be interpreted in an entirely Fregean way along the lines suggested in the second epigraph, quoted at the beginning, as an increase in knowledge of a given concept.

82 On vagueness, see still B. Russell, "Vagueness," *The Australasian Journal of Psychology and Philosophy* 1 (1923): 84–92. For the epistemicist approach, see T. Williamson, *Vagueness* (London: Routledge, 1994). For a normative argument in favor of vagueness in the law, see J. Waldron, "Vagueness and the Guidance of Action," in *Philosophical Foundations of Language in the Law*, ed. A. Marmor and S. Soames (Oxford: Oxford University Press, 2011), 58–82.

83 See S. Soames, "What Vagueness and Inconsistency tell us about Interpretation," in *Philosophical Foundations of Language in the Law*, ed. A. Marmor and S. Soames (Oxford: Oxford University Press, 2011), 31–57.

84 Note that should the historian find that a certain interpretation of a concept starts becoming hegemonic, this might shed doubt on claims that the concept in question was of an "essentially contested" sort. W. B. Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society* 56 (1956): 167–198, famously argued that there are necessarily contested concepts, but we should not presume this. Those who, like Gallie, believe that one will continue to argue for a certain interpretation of such a contest will have to believe this kind of intellectual exchange in itself to be enriching, even without prospect of resolution – and the enriching aspect itself cannot be essentially contested. Otherwise why not, as Gallie himself realized (194), "cut the cackle"? I suspect that our arguing presupposes a hope that we eventually find decisive reasons. For such an optimistic view, taking into account the fallibility of our interpretations of contested concepts, see J. S. Mill, "On Liberty," in *On Liberty, Utilitarianism, and Other Essays*, ed. M. Philp and F. Rosen (New York: Oxford University Press, 1991), 19–35.

is an empirical question. Some concepts might lose precision over time. Some might get simply replaced by others. Both replacement and change can happen for pragmatic, epistemic or normative reasons, or a mix: to find out which is which is the bread and butter of the historian of ideas.

What I am proposing is in some ways close to the "biographical" approach to the history of theoretical representations of unobservable entities defended by the historian and philosopher of science Theodore Arabatzis. Arabatzis argues, against Skinner, that there *are* (in his case, theoretical) entities that can be identified and traced over time, "by focusing on the experimental situations associated" with them.[85] Arabatzis aims to show how concepts of unobservable entities are "born," i.e., emerge "out of conceptual and empirical problem situations."[86] His biographical approach then seeks to describe conceptual variance, both conceptual change and referential instability, over time. He thinks, *pace* Skinner, that conceptual change is change *of* something with sufficient continuity to qualify as the subject of a metaphorical biography. As long as there is conceptual overlap, or, in the case of completely novel concepts, continuity in the underlying "problem situations" that brought the conceptual change about, we can say, against Skinner, that there can indeed be a "determinate idea to which various writers contributed" and not "only a variety of statements made by a variety of different agents with a variety of intentions."[87] Far from fatally undermining the very possibility of writing intellectual histories of concepts, conceptual change and variance are the very stuff of historical research. Indeed, conceptual change and variance are what make such research desirable in the first place. Against Kuhn's and Feyerabend's concerns about the rationality of scientific conceptual change, Arabatzis points out that rationality does not depend in any way on referential stability or meaning stability; rationality will often positively *require* shifts in reference or meaning.[88]

Of course, in the normative domain of social, as opposed to natural kinds, such shifts will often have to be explained in entirely contingent and pragmatic terms. But we should not – on pains of leaving out the most interesting bits of intellectual history – simply a priori exclude the possibility that here, too, conceptual change may force itself upon historical agents for moral or other,

85 Arabatzis, *Representing Electrons: A Biographical Approach to Theoretical Entities* (Chicago: University of Chicago Press, 2006), 45.

86 Arabatzis, *Representing Electrons*, 42.

87 Skinner, "Meaning and Understanding," in *Visions I*, 85.

88 Arabatzis, *Representing Electrons*, 261. Even "cataclysmic changes," the abandonment of "every belief about the corresponding entities," could, far from constituting a "threat to scientific realism" (246f.), support realism, if the believes were abandoned in the face of new evidence.

non-arbitrary reasons. An analogy could be drawn between Arabatzis' experimental and conceptual "problem situations" and the constitutional crises of the late Republic. However, the most important difference is this: Arabatzis' concepts are defined in externalist ways, where reference determines meaning, whereas normative social-kind concepts are Fregean – meaning determines reference. Conceptual change, if it is not simply arbitrary, will have to be accounted for in terms of normative reasons.

It should be seen as a major advantage of Fregean concepts that they, unlike Wittgensteinian ones, are well placed sensitively to register and, in a second step, to explain conceptual change on account of their potential autonomy from context and forms of life. By allowing for the necessary autonomy of meaning, Fregean concepts have the potential to be more than mere epiphenomena. Note that this is, again, something for the intellectual historian to find out – at times, concepts will indeed be merely epiphenomenal. But at least sometimes concepts do seem to have efficacy that goes further, and in order to correctly account for and describe these moments, the historian will be better off if she does not shackle herself a priori to a Wittgensteinian view of the overriding importance of life forms. The concepts themselves may show independent weight and, historical circumstances allowing, may make themselves felt both in the realm of apprehended thought – when other thinkers apprehend and start applying the concept – and, sometimes, in the causal realm of general history.[89] In order to explain how this can come about, we need to hark back to the distinction between social and natural kinds. I said above that no matter what we think about the semantics of natural kinds, when it comes to artificial or social kinds, sense does seem to determine reference and Fregean concepts therefore fit right in. The way this works is best explained, I believe, by making brief reference to recent philosophical advances in social ontology: the philosophical analysis of institutions and social reality and the way social reality is constituted. It turns out that concepts have an important role to play in the constitution of social reality, and in most cases, Fregean concepts seem the most natural fit.

### 3.1 *The Big Picture: Concepts and Social Reality*

How can concepts be said to constitute social reality? We are here in the area of speech acts which John Searle has described as having "world-to-word fit." As opposed to assertions, which aim to describe the world and thus seek to

89 Circumstances allowing, since there are some conditions of possibility for concepts to develop any effects, some of which might be material (scarcity), some conceptual (ideology), some in between (collective action).

have "word-to-world fit," speech acts such as orders or promises express an intention to make the world fit to our orders or promises. The making of the key constituents of the social world, namely artificial kinds such as money, corporations, consuls, laws or constitutional rules, requires speech acts which Searle calls "declarations."[90] They combine simultaneously word-to-world and world-to-word fit and function as *constitutive* rules that "change reality to match the propositional content of the speech act," but do this by simultaneously "represent[ing] the reality as being so changed."[91] Declarations create status functions by collective fiat "so to speak out of thin air."[92] It is easy to see that such declarations require concepts – Fregean concepts – that define the artificial kinds created by the declarations. Searle contends that all of institutional reality, both contemporary and historical, owes its existence to such declaration speech acts. I believe that this gives us a useful framework to think about the big picture within which we should situate conceptual and indeed historical change. Searle's framework makes it quite clear that institutional change presupposes conceptual change, at least to the extent that the institutions in question are based on artificial-kind concepts. Note that on this view, however, conceptual change can happen without institutional change – institutional change requires that conceptual change be institutionalized and that the declarations made with new concepts be successful. The conceptual change described in intellectual history, then, may or may not result in successful declarations. More broadly speaking, it might be said that once conceptual change results in successful declarations, we find ourselves at the gateway from the history of ideas to the history of events (*Ereignisgeschichte*) and institutions.

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90 Searle, "A Taxonomy of Illocutionary Acts," in K. Gunderson (ed.), *Language, Mind and Knowledge* (Minneapolis, 1975).

91 J. Searle, *Making the Social World* (Oxford: Oxford University Press, 2010), 12, 96–102. For criticism, see B. Epstein, *The Ant Trap: Rebuilding the Foundations of the Social Sciences* (Oxford: Oxford University Press, 2015); F. Guala, *Understanding Institutions: The Science and Philosophy of Living Together* (Princeton: Princeton University Press, 2016), esp. ch. 5. See also the exchange in *Journal of Institutional Economics* 11 (2015): 507–514 (Searle), 515–522 (F. Hindriks and Guala).

92 Searle, *Making*, 98. Ontologically speaking, social kinds such as corporations seem to be on a par with concepts. Declarations, according to Searle, have generally the form "X counts as Y in C," where X might be a pre-existing physical entity (e.g. "Barack Obama"), Y is the status function (e.g., "President of the U.S.") and C are the set of necessary and sufficient conditions (e.g., "majority of votes in the electoral college etc."). In the case of corporations there is no physical entity, i.e., the Y term is freestanding (the declaration creates the status function via collective recognition out of "thin air"). But once they exist, corporations have agency, can own assets, etc. See id., ch. 5.

It is worth pointing out that our initial neutral agnosticism between various ontological stances towards concepts is entirely consistent with the way our account of concepts fits into this account of social reality. Again, we need not presuppose any kind of concept realism.[93] Moderate, anti-historicist nominalism[94] is a plausible stance here not least because a kind of nominalism is simply part of what we plausibly take artificial or social kinds to entail.[95] For artificial kinds such as money, corporations or consuls, their conceptualization is *constitutive* of the extension of the concept – this is exactly what Searle's "declarations" amount to. Searle, a nominalist, explains social kinds as ontologically subjective and mind-dependent, but at the same time as epistemologically objective. The realist might say, alternatively, that social kinds are *concept*-dependent and epistemologically objective.[96] Social kinds and institutional facts only *exist* because of our attitude towards them (conceptual apprehension plus recognition or acceptance), but they can be *known* as objective entities.[97] Searle does not say anything about the kind of concepts needed for his kind of social ontology to work, but it is clear from both his examples and his emphasis on language that Fregean concepts, where meaning determines reference, are an excellent fit. Such concepts figure crucially in the way social kinds and institutions are established, i.e., in the declarations that bootstrap them.[98]

The concept of money, for example, refers at least to all physical objects that can be used as means of payment, but this is so only by virtue of the normative idea of what counts as a means of payment. Whether or not a shell found on a South Sea island partakes in the extension of "money" cannot be decided on the basis of its physical properties alone; none of its physical properties are contained in the meaning, or sense, or intension, of "money." A causal theory

93 But my approach is consistent with various realisms as defended by J. J. Katz or T. Burge, or with D. M. Armstrong's "scientific realism."

94 Hobbes was a nominalist eager to classify, admitting properties such as "similitudes in quality or accident" into his ontology; for Hobbes, as Pettit shows, concepts bring previously hidden properties of the world to light: P. Pettit, *Made with Words: Hobbes on Language, Mind, and Politics* (Princeton, 2008), 35f.

95 For an interesting account of a historically "dynamic nominalism," see I. Hacking, *Historical Ontology* (Cambridge, Mass.: Harvard University Press, 2002), esp. chs. 1 and 6.

96 Searle is a nominalist, but the underlying ontology need not be. The realist will insist on the mind-independent existence of the concept itself.

97 Searle, *Making*, 17f.; chs. 5 and 6.

98 Searle does not say much about how our collective recognition of social kinds and institutions comes about. My account of concepts, coupled with a game-theoretic account of how collective action results in certain equilibria but not others, may help explain how salient concepts can come to be seen as solutions to collective-action problems.

of reference will not work, not even in the case of the shells, although they are prima facie a natural kind. If one were to find out, say, that some of the things used as currency were not really shells in the biological sense, and biological criteria do not figure in money's intension, one would still continue – with justification – to use these pseudo-shells as currency, because here, precisely as we would expect in the case of Fregean concepts, sense (meaning) determines reference (extension). Whether or not the shell is money depends on whether or not the appropriate declaration using the appropriate concept took place. It takes the speech act of declaration coupled with the Fregean concept of money to create the extension of the concept of money in the first place.

### 3.2 *The Energy of Concepts*

How can we describe the continuum of causal efficacy that concepts seem to have from a maximum, where concepts are built into social reality by declarations, to zero efficacy, where no one seems to have even so much as thought of a given concept? A fitting metaphor might be that of the *energy* of concepts: concepts, before they are apprehended, grasped, articulated or thought of, can at best be said to have only *potential* energy until they are first tokened. Once a concept is deployed in argument, or conflict – in a "problem situation," to speak with Arabatzis – it may assume considerable traction and thus *kinetic* energy.[99] The metaphor allows us to say that when a concept goes out of use – say, due to a lack of the kind of necessary historical conditions for it to find application – it might be said to have merely potential energy. This does justice to our sense that concepts and arguments, when they are being rediscovered and reapplied, were in a way potentially available, even if there was in fact no interest in or use for them. It also does justice to the idea that people can have inchoate concepts and thoughts, which either gain in coherence and kinetic energy when they are fully grasped, or fall back into merely potential energy if they cannot be said to sustain further, more precise thought.[100]

The metaphor is just that: it does not seek to prejudge or force the question of the existence or reality of concepts in favor of the realist.[101] Indeed, no less a nominalist than Hobbes was prepared to concede autonomous power to our

99 The metaphor makes use of the modern concept of energy as expressed in the first law of thermodynamics.

100 See Buzaglo, *Concept Expansion*, 139–148.

101 Given the law of conservation, this could be seen to underwrite realism, but we need not go with the metaphor all the way. Whether concepts are discovered or created, in either case they can be said to assume kinetic energy from the time of their first being grasped and tokened.

"appellations,"[102] and even an unambiguous realist such as Frege appears to admit *degrees* of reality when it comes to senses.[103] The metaphor may help in dealing with the kind of spurious continuity Skinner criticized. A concept or thought (or type) may remain dormant yet stably stored over a long period of time without ever being put to work (tokened or uttered), having therefore zero kinetic energy. Given the proper set of historical problems it may find application again, its kinetic energy rising as soon as someone apprehends the concept in question. For example, when the United States Constitution is ratified in 1788, the Fregean concept of normative constitution might be said to have been used to make Searlean declarations. Thus institutionalized, the concept's kinetic energy can be said to have reached a maximum. Or consider a piece of music such as *The Art of the Fugue*: if, as you read this, it is nowhere being played or heard or thought about, has it gone out of existence, or is its "energy" merely stored for the time being? The approach defended here preserves sufficient underlying continuity – both conceptual and/or in terms of problem situations – and it preserves a certain independence of the concepts it studies. Analytic contextualism is indebted in this regard to the philosopher Jaakko Hintikka's approach to intellectual history. The "concepts and conceptual assumptions in question … must enjoy independent life at least to the extent of being identifiable independent of the context and hence being possible to follow through longer sequences of the history of philosophy."[104] This is of particular importance for the historian. Hintikka writes that if "this faith in the reality and identifiability of concepts makes me a Platonist, I will gladly wear the badge, at least whenever I have put on my historian's cap."[105] Yet the study of Fregean concepts, while necessary for our task, cannot be its end. These concepts are merely stepping stones to what interests the historian of ideas most of all: the hidden conceptual assumptions and implications, compounds of concepts such as thoughts or propositions, and finally, the arguments and sometimes declarations these Fregean concepts make possible.[106]

102 Hobbes thought that "the appellation white bringeth to remembrance the quality of such objects as produce that colour or conception in us" (quoted in Pettit, *Made with Words*, 36).

103 Frege wrote that thoughts "can be true without being apprehended by a thinker and are not wholly unreal even then, at least if they could be apprehended and by this means be brought into operation." Frege, "The Thought," 311.

104 Hintikka, "Reply to Simo Knuuttila," 107.

105 Ibid., 110.

106 My approach is similar to Carl Knight's, whose Lovejoyian unit-ideas "come into existence, or cease to exist." This is Knight's suggestion for explaining conceptual change ("Unit-Ideas Unleashed," 204). Fregean necessary and sufficient conditions are the most plausible candidates for unit-ideas. Bevir's warning (*Logic*, 202) that we should not

## 4 The Roman Concept of Constitution

Let me briefly sketch an example.[107] In the late Roman Republic, that is to say roughly from the 130s to the late 40s BC, a novel concept of constitution emerged. A hitherto inchoate, largely implicit concept of normative constitutionalism started to be formulated explicitly and, to use the energy metaphor, started to gain kinetic energy. This Roman concept of constitution was of a very different nature from anything Greek political thought had previously produced. The key difference lies in the fact that the Roman concept of constitution came to focus on a set of legal rules that were understood to exist apart from the Roman state and considered to be binding on it. By contrast, Greek political and legal thought had conceived of law as one element among many that characterized the *polis*, as a mere aspect of the whole city-state, not something apart from it to which the *polis* would have had to conform.[108]

Can this concept, which operates widely in the sources, be formulated in Fregean terms? I will mainly focus on Cicero, who not only partook in constitutional arguments "on the ground," as it were, before law courts and popular assemblies, but also responded to the constitutional conflict that brought about the fall of the Roman Republic in various philosophical works.[109] Cicero qualified the violent conflicts and civil wars of the last century of the Republic as *constitutional* conflicts: they were fought, Cicero says, *rei publicae causa*, for reasons to do with the very foundations of the Republic. The key conflicts, Cicero believes, turned on the constitutional validity of statutes (*de iure legum*).[110] The term *ius* here, in accordance with a considerable body of evidence, must mean "constitutional law," as opposed to statute (*lex*), and hierarchically superior to statute.[111] The distinction between mere statute and

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assume "persistent objects" in the history of ideas can be heeded by distinguishing between concept and utterance – where the concept always at least retains potential energy. But we do need to postulate Fregean senses, even where the concepts are not historically instantiated. Bevir asks how "Platonic forms" can "exist for some time and then whither" (ibid., 61). My energy metaphor responds in an ontologically agnostic way by clarifying the distinction between concept and utterance.

107 The following is based on B. Straumann, *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution* (New York: Oxford University Press, 2016).

108 See id., ch. 5.

109 See id., chs. 1–3, for the inchoate constitutionalism that pervaded conflicts in the Republic long before Cicero.

110 See G. Manuwald, *Cicero,* Philippics *3–9*, ed. with introduction, translation and commentary, vol. 2 (Berlin: De Gruyter, 2007), 939.

111 Straumann, *Crisis and Constitutionalism*, chs. 1–3, esp. 54–62, 78–85, 129–139.

higher-order *ius* can be found in political as well as forensic contexts, where "higher-order rules" govern "the application of statute law."[112] Indeed, it "has become clear that in some cases" the term *ius* "is used as the equivalent to the modern notion of substantive rights and to the concept of constitutional law."[113]

Let us look at the underlying concept of constitution. What we find in the evidence time and again is that *ius* could be appealed to in court in attempts to argue on the basis of rules that stood hierarchically above mere legislation. Certain substantive requirements contained in *ius* are taken to constrain legislation in the popular assemblies. It shows the status *ius* enjoyed even in technical, forensic contexts as a body of constitutional, higher-order law, carrying us some of the way towards the set of necessary conditions of the Roman concept of constitution: To qualify as a constitution in the relevant sense, there has to be a set of legal rules, and they have to be hierarchically superior to ordinary legislation. This constitutional order represented a normative ideal, but it is an empirically tested ideal.[114]

What justifies the higher-order status of constitutional norms? Cicero's account of the state of nature in his mature philosophical work is Lockean and adds to the substantive requirements of our concept of constitution. We find an account of a pre-political moral order which conditions Cicero's higher-order constitutional norms. Cicero's account of the state of nature is meant to justify the state.[115] Constitutional orders are justified insofar as they guarantee pre-political rights. This explains why the normative pull of Roman constitutionalism is owed, not to the polity, but to a source apart from the state: natural law. The constitutional right par excellence is the right of appeal (*provocatio*), one of the fundamental rights of Roman citizens, providing a guarantee of due process against execution without trial and against flogging. Although *provocatio* was enshrined in statute, its validity was seen to derive in the last instance from higher-order constitutional law (*ius*).[116] There is an obsessive concern in our evidence with *provocatio* understood as substantive due process and with *ex post* accountability for violations of *provocatio*. Cicero insists, for example, that Sulla's dictatorship, which had done away with due process, was

112 J. E. G. Zetzel (trans.), *Cicero: On the Commonwealth and On the Laws*, 2nd ed. (Cambridge: Cambridge University Press, 2017), xxxiv.

113 Ibid.

114 By contrast, Polybius compared Kallipolis to an untrained athlete: Polyb. 6.47.7–10.

115 Cic. *Off.* 2.73. Trans. E. M. Atkins. See on this Straumann, *Crisis and Constitutionalism*, ch. 4.

116 For the crucial place *provocatio* was taken to hold in Roman constitutional history, see Cic. *Rep.* 2.53-63. See on *provocatio* Straumann, *Crisis and Constitutionalism*, 129–139.

for this very reason unconstitutional and illegitimate notwithstanding its formal legality.[117]

We are now in a position to articulate the Roman, or normative, concept of constitution. It consists in normative constitutional principles that are a) hierarchically superior to mere legislation, b) empirically tested, c) entrenched, d) justified by reference to an underlying natural-law theory of pre-political rights, and e) of a juridical nature. This amounted to a conceptual novelty, a departure from Greek concepts of constitution. As I show elsewhere, there are several such Greek concepts, among them a concept of constitution which is *descriptive*, applied to the actual power structure of a given state.[118] Beyond this descriptive constitutionalism, we find concepts with a non-juridical focus on virtue, be it in an instrumental sense – virtuous rulers provide stability – or as the proper normative end of politics, as in Aristotle's eudaemonist political theory.[119] Roman constitutionalism, by contrast, is normative, and it does not grant virtue a key role. Compared to descriptive constitutionalism, the Roman concept constituted replacement.

The Greek concept of constitution that comes closest could be called positivist constitutionalism, which governed Athens in the fourth century BC. Here we have entrenched legal rules (*nomoi*) that are hierarchically superior to legislation.[120] But the entrenched constitutional rules are in the Greek case simply positive law and justified merely on procedural grounds, not in terms of normative natural law, nor are there any pre-political rights. The Roman concept represented significant conceptual change and innovation vis-à-vis positivist constitutionalism.

At some point after the second century AD, the Roman concept and the outlook sustained by it was no longer used, its kinetic energy dropping to zero. But for political thinkers from the early fourteenth century onward, the crisis and fall of the Roman Republic and the threat of political collapse became relevant once again. For them, it can be shown that the normative Roman concept of constitution played a central role.[121] As a response to the collapse of the Republic, it was taken very seriously by writers in very different contexts, suggesting that they perceived there to be a common long-term core to their

117 Cic. *Leg*. 1.42.

118 Straumann, *Crisis and Constitutionalism*, ch. 5. For the descriptive concept, see Arist. *Pol.* 3.1278b9-15.

119 This eudaemonist normative theory is not juridical – virtue provides the normative yardstick. Cf. *Crisis and Constitutionalism*, 192–208 (on Plato's concept of constitution); 208–216 (on Aristotle's).

120 See *Crisis and Constitutionalism*, 222–237.

121 See ibid., chs. 6, 8.

problems.[122] The kinetic energy of the Roman concept of constitution could be said to have increased rapidly with the Federal Convention of 1787, instantiated in John Adams' work and the ratification debate.[123] To return to the theoretical framework outlined above, after ratification, with the federal Constitution, we have a standing Searlean declaration in place. At bottom, this declaration consists of the conceptual elements I have been describing, the necessary and jointly sufficient conditions that constitute Fregean concepts.[124]

For the Roman concept to develop any effect in these various contexts, certain historical preconditions needed to be in place within which the concept could gain kinetic energy. The problem of political order must seem amenable, at least in principle, to a juridical and institutional solution, rather than one focused on the ethical qualities of rulers and ruled. For this to be possible, political theorists had to have a sufficient legal conceptual apparatus in place, and they had to have access to Roman republican historiography and thought. Absent such preconditions, the concept is lingering with merely potential energy. The metaphor of kinetic and potential energy allows us to perceive this kind of underlying long-term continuity and the causal efficacy of concepts as important features of the history of ideas, a feature that can easily be lost from sight if one adheres too closely to an overly Wittgensteinian, historicist outlook.

## 5 Conclusion: Analytic Contextualism

Fregean concepts are all around us. They are manifested empirically in history. Social reality requires Fregean concepts where meaning defines and creates reference. One such example is the Roman concept of constitution, which consists of a meaning that determines the concept's application. Change in the set of conditions that make up this meaning constitutes conceptual change. Fregean concepts, due to their relative autonomy, can explain conceptual innovation and change better than competing notions of concepts. When the novel Roman concept of constitution first emerged – i.e., was created, first tokened or discovered – it constituted radical conceptual change, given the little overlap there was with existing concepts. This shows that histories of long-term conceptual stability and change can indeed be written. Once we

122 For a congenial proposal for such a "problematic history of philosophy," see Passmore, "The Idea of a History of Philosophy," 29–32.

123 See Straumann, *Crisis and Constitutionalism*, 331–338.

124 Note that virtue-based analyses too could be provided, in principle, in Fregean terms, while it is difficult to provide a good explanation from the Wittgensteinian platform. Thanks to András Szigeti for pointing this out.

do that, we are in a position to observe which problems are in fact perennial, which ones perish and what novel ones arise. We will be practicing analytic contextualism.[125]

In closing, let me add a few points pointing to possible ways of developing the approach outlined in this paper. First, once we acknowledge the importance of concepts to intellectual history it becomes easier to see that concepts and thoughts can have efficacy in history. Concepts can be used in speech acts – Searlean declarations, for example – and are thus built into the fabric of institutions and social reality. But this is merely the most obvious illustration of the causal effect of concepts. Concepts and thoughts have efficacy and a certain kinetic energy as soon as they are apprehended, even if they are not used to build up institutions. Though causally inert, once apprehended, these concepts and thoughts – through the intentionality and agency of the thinkers having the concepts and thoughts – have causal effects in the world. Concepts cannot be reduced to context, nor do they simply "fix" the world, but there can be a causal arrow running from them into the world.[126] This is *a fortiori* the case once concepts and thoughts are institutionalized. Searle's framework helps in explaining how certain concepts become building blocks of historical and social reality when used in successful declarations. When this happens, we have moved in the continuum from the abstraction of concepts to the concreteness of utterances or speech acts – the gateway, as it were, where the history of ideas tilts into *Ereignisgeschichte*, the history of events.[127] Where exactly we find ourselves on this continuum at any one time is, again, a matter for historical research to determine. The kind of intellectual history resulting from this method might be described as "a complex mix of the empirical and the normative in that the past is a resource for making claims about both how it was thought things should work and how those normative ideas in fact worked."[128]

125 Cf. the approaches assembled in Tom Sorell and G. A. J. Rogers, *Analytic Philosophy and History of Philosophy* (Oxford: Oxford University Press, 2005), especially the contributions by Garber and Zarka.

126 For an attempt at explaining institutions and social reality in exclusively causal terms, without reference to concepts and relying on functionalism, see Guala, *Understanding Institutions*, esp. chs. 11 and 12.

127 The continuum from abstract concept to concrete declaration corresponds to the move from potential to kinetic; mere concepts do not exhibit any causal effect, but once they are apprehended in concrete instances, they enter the causal realm. Cf. n. 53 above.

128 D. Dyzenhaus, "The Safety of the People is the Supreme Law," *The New Rambler* (2016). http://newramblerreview.com/component/content/article?id=172:the-safety-of-the-people-is-thesupreme-law.

Second, worries about the reification of concepts are misguided for two reasons.[129] On the one hand, the careful nominalist knows not to reify concepts, but this will not keep her from appreciating their power and occasional causal efficacy, and the realist will simply deem the reification talk question-begging.[130] On the other, the worry about reification usually concerns an alleged failure to acknowledge contingency. This, however, strikes me as a rather quaint problem.[131] Contingency in these contexts is often understood as an attribute of the social world in opposition to nature, where contingency entails changeability.[132] But quite apart from the fact that, strictly speaking, the natural world is contingent also, it is by no means obvious that social artifacts are any easier to change than what nature serves up. Social outcomes can be highly problematic without contingency being the main culprit, and contingency itself does not make these outcomes more fictional or easier to change.[133] As Hobbes saw very clearly, appreciating the contingency of nasty yet entrenched equilibria produced (e.g.) by collective-action problems, does not per se offer much help in solving them.

Third, it will be important to recognize that while concepts and the social reality they help create are indeed the key to understanding historical change, we need to accept the crucial importance of material factors and the significance of collective-action problems as well. *Just* thinking and declaring doesn't make it so. There are conditions for the possibility of concepts, thoughts and declarations to achieve efficacy, some of which are conceptual themselves, others material, yet others somewhere in between. It is very difficult to imagine, say, having a presidential system of liberal democracy without anyone having the concept of presidency. For there to be a president, a critical mass of people must have the concept and must know how to use it. Social reality is constituted by conceptual content, like walls are made of bricks. But there is also gravity and cement. To bootstrap an institution, that is, concepts are necessary but not sufficient – in addition, there has to be a justified expectation that others, too, recognize the institution. We need concepts, that is, but we

129 For such worries, see Mark Bevir, "Post-Analytic Historicism," *Journal of the History of Ideas* 73:4 (2012): 657–665. For counterarguments, see Prudovsky, "Can We Ascribe."

130 Cf. for the nominalist Martinich, "Moderate Logic," 624; for the realist, cf. Katz, *Realistic Rationalism*, ch. 5; for a view close to the one defended here, see Burge, *Truth*, 28f. Note that for Frege himself, concepts were not objects, but functions – they were something, not nothing, but the charge of reification seems misleading.

131 See Straumann, "Roman Ideas on the Loose," *Critical Analysis of Law* 4:2 (2017): 141–151.

132 Cf. Ian Hacking, *The Social Construction of What?* (Cambridge, Mass.: Harvard University Press, 1999), 6f.

133 Guala, *Understanding Institutions*, 137 puts it well: "They lack *necessity*, rather than stability."

also need recognition on the part of many people as well as the disposition to act in accordance with the institutions, which in turn depends on the expectation that others, too, will so act. To have a causal effect, in other words, concepts need to catch on. A great many of the concepts that have caught on over the historical long term have been Fregean concepts. To reduce these concepts to context or use is to overlook their historical energy and to miss a crucial autonomous factor in historical change.

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