Kantian Review (2026), **31**, 415–431
doi:10.1017/S136941542610137X

KANTIAN REVIEW
CAMBRIDGE UNIVERSITY PRESS

ARTICLE

On the Modality of Reflective Judgement

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Abstract

This paper examines reflective judgement as a crucial aspect of the power of judgement in Kant's third *Critique*. Following Ginsborg's normative-regulative interpretation, it demonstrates how aesthetics and teleology emerge from a single principle of reflection, which takes the form of contingent contingency, or possible lawfulness, in both. This reading establishes a parallel between common sense and the intuitive intellect, and allows one to preserve the normative dimension of Kant's work while making Kant's more speculative legacy continuous with it.

Keywords: reflection; *Critique of Judgement*; contingency; common sense; intuitive intellect

> Ineluctable modality of the visible: at least that if no more, thought through my eyes. James Joyce, *Ulysses* (*Proteus*)[1]

1. Introduction

Although Guyer (2005; Guyer & Allison 2006) has, somewhat famously, argued against the unity of the third *Critique*, problematising the relevance of the principle of purposiveness in aesthetic judgement, the scholarly consensus seems to have more or less turned in favour of a unified reading. Recent work on the *Critique* has moved to identify the central problems of the text and the way in which those problems guide us in introducing unified principles that would resolve them. Geiger (2022), for instance, insists that Kant is out to justify and theorise the acquisition of empirical concepts, and reads purposiveness, as manifest both in aesthetic and teleological judgements, in service of that. In this, he joins Ginsborg (1990, 2015, 2022), for whom the crucial theme of the third *Critique* is the exposition of the normative aspects of the cognition of nature, which, on her reading, is predicated on the demands of how one *ought to* judge. Other readings have focused on perfection of culture (Allison 2012: 217–27, Vaccarino Bremner 2022), the conceptual intimacy of imagination and feeling (Dunn 2024, Sweet 2023), and the aesthetic dimensions of systematicity (Abel 2006). Whatever one picks out as a (or the) unifying thread of the work, the chief

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https://doi.org/10.1017/S136941542610137X Published online by Cambridge University Press

interpretative task is clear: to show how its two central divisions, aesthetic and teleological judgements, exhibit the same principle and respond to the same problematic. To do so exhaustively is a formidable task. Here, I would like to focus on a consequential part, crucial to most of these unifying readings. What I will take up here is the matter of the modality of reflective judgements.[2]

The modality of judgements in general touches on the very heart of what leads Kant into the third *Critique*. The reflective power of judgement, introduced to get at what grounds both the theoretical and practical uses of reason, can be understood as mediating two kinds of necessity. For Kant, both uses deal with determinative judgements, each with its own unique brand of necessity: mechanical in one and moral in the other; what must be and what one must do. In theoretical philosophy, one deals with the properties of objects and phenomena, or with what may be affirmed of the objects of experience. In so doing, one is concerned with what is necessary for things to be objects of experience at all, which for Kant involves, *inter alia*, the mechanical necessity of effective causal relations. In practical philosophy, on the other hand, one is concerned with what ought to be, namely, in bringing about things in accordance with a supersensible moral law. That separation, between sensible natural law and supersensible moral law, is the famous 'incalculable gulf [*Kluft*]' (5: 175)[3] between nature and freedom. That gulf is, arguably, a distinction between kinds of necessity. Read in this way, what becomes perhaps most important in the attempt to express the unity of the work is to account for how a uniquely reflective kind of necessity is manifest in both taste and teleology.

Ginsborg's (2015: 186–203, 307–45) account does much in the way of clarifying that necessity by emphasising Kant's formulation in the First Introduction: aesthetic judgements 'lay claim to necessity and say, not that everyone does so judge ... but that everyone **ought** to so judge' (20: 239) while 'teleological judgement[s] compare the concept of a product of nature as it is with one of what it **ought to be** (20: 240). What Ginsborg is interested in demonstrating against Guyer (1997: 33–67) – among others (Kulenkampff 1978: 32–56, Marc-Wogau 1938: 34–40) – is that purposive systematicity is exhibited in aesthetic judgements by virtue of their being *formally* reflective. From the view developed in this paper, Ginsborg's emphasis is indispensable for a unified reading of the text. Still, I believe her approach suffers from a significant lacuna: at no point does she account for the role of the intuitive understanding (*intellectus archetypes*) in Kant's resolution of the antinomy of teleological judgement. This is particularly unsatisfying because the intuitive understanding is an indispensable concept, both for the project of the third *Critique* – it is a *sine qua non* for the resolution of the antinomy of teleological judgement – as well as the legacy of the *Critique*. Whoever is inclined to accept the idea that nature is beholden to normative demands, justified by the necessity associated with reflection, as an interpretative key to the work is thus left with an interpretation that is deeply severed from German Idealism and Romanticism, and with no clear position on the resolution of the antinomy.

The goal of this paper is to fill this lacuna. I will present an interpretation of some central junctures of the third *Critique* along these lines, aiming specifically to demonstrate that the intuitive understanding shares close affinities with the common sense (*Gemeinsinn*) (§§18–22) which establishes the modality of the judgement of taste. The next section provides an account of the principle of reflective judgement – the

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principle of purposiveness – in modal terms, based on its presentation in the First Introduction.[4] That will outline the terms in which we may find the modalities of both aesthetic and reflective judgements as manifestations of the principle of the reflective power of judgement in general. Section 3 concerns the notion of common sense, as an exploration of the modality of the judgement of taste, and will insist on its expressing the established modal formulation of purposiveness. There, I will rely significantly on Friedlander's (2006, 2015, 2017) reading of the Analytic of the Beautiful. Finally, in Section 4, we turn to the *intellectus archetypus*, which will be read in light of the previous two sections, aiming to clarify the meaning of the argument in §77 as continuous with them. In abstract, it will be argued that the modality of reflective judgement is that of the contingency of the contingency of experience, and that this 'contingency as such' (20: 217) appears both in Kant's general formulations in the First Introduction and in these two key moments. Both in aesthetics and teleology, one finds the duality between the exemplification of an unknown rule and the ground for positing such a rule.

What I endeavour to achieve in this reading is essentially this: to support a unified reading of the third *Critique* that takes its central problem to be the normative demands of the reflective power of judgement, but to do so in such a way that opens out a space for the more speculative, Romantic approach to the text, so as not to separate it from its immediate legacy. Hopefully, we can have our cake (retain a moderate, critical reading of Kant) and eat it too (prepare the way for speculative, absolute idealism). While I cannot develop it here – but indeed hope to do so in the future – I hold that the interpretation to be defended does make Kant's distinctly critical account continuous with the more speculative thought of, e.g., Schelling.

2. Contingency and reflection

The power of judgement is not first introduced into Kant's system of philosophy in the third *Critique*. The second book of the Transcendental Analytic in the first *Critique*, the Analytic of Principles, introduces the distinction between general and transcendental logic, and to that end, namely in service of thematising the judgements pertaining specifically to the objects of possible experience, Kant introduces the power of judgement. There, the capacity he is most keen to capture is the 'ability [*Vermögen*] to *subsume* under rules' (CPR, A132/B171), which is key in theorising judgements about objects of possible experience. What is definitive of this earlier understanding of the power of judgement is that it enables one to speak of the determinations of objects, to say of this or that thing that they fall under this or that universal category. The same applies, despite some considerable differences, in the practical use of the power of judgement. There too, Kant is concerned with understanding how an object of the will (good and evil) might be subsumed under the law of reason. That is, how to understand it *in concreto*. In both cases, the key point can be put in terms of necessity – 'what is necessary for the object to be subsumed under a rule?' – where the use of the power of judgement is predicated on that necessity. In theoretical reason, what is necessary for sensibility is called the schematism of the pure understanding, while in practical reason it is the typic (CPrR, 5: 67–72). And so, leading up to the third *Critique*, the distinction between theoretical and practical philosophy may be drawn in accordance with these uses of the power of judgement, which correspond to the

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establishment of two kinds of necessity that might be involved in the ascription of determinations to an object.

One possible point of entry into the systematic stakes of the third *Critique* is precisely these incompatible kinds of necessity, the moral and mechanical. In order to mediate the theoretical and practical domains of philosophical inquiry, one is in need of a mode of judgement that is indifferent to the kind of necessity that needs to be established in the act of judgement.[5] If we accept that determinative judgement requires one to recognise some variety of necessity (either moral or mechanical), what is then at stake is to identify a mode of judgement that is not determinative, and whose role differs significantly from the ascription of properties, or subsumption under rules, and would instead be guided by another kind of modality, orthogonal to mechanical and moral necessity.

So, in order to get at this orthogonal modality, we can begin with how Kant makes the distinction between the determining and the reflecting modes of the power of judgement. He writes:

> The power of judgement can be regarded either as a mere faculty for reflecting on a given representation, in accordance with a certain principle, *for the sake of a concept that is thereby made possible*, or as a faculty for **determining** an underlying concept through a given **empirical** representation. In the first case it is the **reflecting**, in the second case the **determining power of judgement**. **To reflect** ... however, is to compare and to hold together given representations either with others or with one's faculty of cognition, in relation to a concept thereby made possible. (20: 211, italics mine).[6]

Whereas to determine means to uncover a concept necessary for a representation – e.g., conform to the categories of the understanding – reflection takes up a representation in a comparative mode, conceiving representations not by their underlying concepts, but by their relationships. Importantly, these relationships will themselves make some concept possible, namely, the concept of the unity or relationship between the representations. Such a concept is by no means given: it is made possible only by our reflection on the relationships which would, were it given, be subsumed under it. As Kant puts it in the published introduction, determinative judgement is defined by having a universal given to it, while in reflecting, 'only the particular is given, for which the universal is to be found' (5: 179).

Now, as a critique, the *Critique of the Power of Judgement* seeks to establish the a priori legislation that belongs to the reflective power of judgement as a faculty unto itself. Just as the critique of both pure and practical reason requires their a priori lawfulness, so too does the power of judgement. 'Reflecting in our case requires a principle just as much as does determining' (20: 211).[7] If critique in this sense has to do with explicating the principle of a faculty, which underlies a certain kind of knowing or cognising, we may read the third *Critique* as exhaustively thematising the principle of reflective judgement. In it, Kant works out the modes of reflective judgement by way of the analytics and dialectics that those modes are beholden to, as manifestations of that principle. So, as far as the introductory discussion of the reflective power of judgement is concerned, the urgent matter is identifying an a priori principle for the comparison that characterises reflective judgement. And what

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is it that the power of judgement, in its reflective mode, is to establish, if it is to compare 'successfully'? Kant's approach to these questions is indicated already in the beginning of the quote above, which frames reflection as 'for the sake of a concept that is thereby made possible' (20: 211). We may understand that to mean that one compares, in reflection, in order to make possible a higher concept, as a generalisation of some family of phenomena.[8]

Kant's formulation of a principle that might guide judgement in comparing so as to fashion concepts for itself is the principle of the purposiveness of nature.[9] In the published introduction: 'the principle of the power of judgement in regard to the form of things in nature under empirical laws in general the **purposiveness of nature** in its multiplicity' (5: 180). According to it, we reflect on the products of nature in such a way that the diversity of phenomena may be subsumed under some rule. Unlike determinative judgement, the rule is not given but, by this principle, merely postulated to be possible. Purposiveness as a principle of judgement means that we reflect *as if* a unifying rule is possible – to approach phenomenal diversity with an eye toward its possible, but as yet unknown, unity.[10] We find the following formulation, which I consider to be particularly useful, and will take up as primary in what follows: 'purposiveness is a lawfulness of the contingent as such', or, in the first introduction, 'a lawfulness ... contingent with respect to general laws of nature that are necessary for experience' (20: 217). In the published introduction, we find this:

> [W]e must think of there being in nature, with regard to its merely empirical laws, a possibility of infinitely manifold empirical laws, which as far as our insight goes are nevertheless contingent (cannot be cognised *a priori*); and with regard to them we judge the unity of nature in accordance with empirical laws and the possibility of the unity of experience ... as contingent. But since such a unity must still necessarily be presupposed and assumed, for otherwise no thoroughgoing interconnection of empirical cognitions into a whole of experience would take place ... the power of judgement must thus assume it as an *a priori* principle for its own use that what is contingent for human insight ... nevertheless contains a lawful unity, not fathomable by us but still thinkable. (5: 183).

Reflection – unlike determination – does not deal with what is necessary of the objects of experience but compares under the assumption that a law is possible. Seeing as a law, in general, is associated with necessity, I suggest that an idea central to Kant's thinking here is that reflection concerns the contingency of contingencies, which is at the same time their being possibly necessary. (Anachronistically and formally put: $\Diamond \Box p \Leftrightarrow \neg \Box \neg \Box p$).[11] That the power of judgement demands that one judge as if a law is possible, is, as I will bring out, allowed for finite, discursive subjects, in their ability to take up the contingency of things as being itself contingent.[12] This is developed in the final section of the paper, but visible already in this quote from the published introduction. The lawfulness that is posited by the principle of purposiveness enables a unified notion of nature by appealing to the fact that the contingency of empirical laws is itself contingent on the constitution of human cognition, and that it is therefore possible that there is a law that underlies it, but it simply does not manifest itself as a necessary law for us. So, a law is made possible by the contingency of the empirical laws.[13] The question then is in

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what sense the possibility of law, or the contingency of contingencies, is manifest in the modality of aesthetic and teleological judgements. That is, we now have to see how this formulation of the principle is at work in the two kinds of judgements that reflection entails. We start with the former.

3. Universal sense

The Analytic of the Beautiful is comprised of four moments, which on the whole serve to negate various features of determinative judgements (either about nature or about morals): without interest, apart from a concept, apart from the representation of an end, and again apart from a concept.[14] We should find it rather remarkable that the second and fourth moments negate the same thing. That is, they get at two different aspects of the grammar of the judgement of taste that are replaced, in cognitive judgement, by one thing: the use of a concept. In the context of a cognitive judgement, the use of a concept to establish the discursive aspect of an object guarantees that something universal is accessible in the object and that such an ascription is, as we have said before, necessary. It is a consequence of Kant's view of the machinations of empirical cognition that in asserting judgements of experience one essentially makes a universal claim, and that (if it is true) it underlies the representation of the object, or is necessary for it.[15] These are given by the kind of universal that a concept of the understanding is. An aesthetic judgement is crucially otherwise, but it still retains its own kind of universality and necessity.

As Friedlander (2017) argues, the universality and necessity of the judgement of taste, given by the two moments that replace the function of the concept in cognition, form a ground-exemplification pair, where the common sense of the fourth moment grounds and is exemplified by the assent to universal voice in the second moment. With no objective ground to establish universal and necessary claims regarding objects of cognition, aesthetic judgement is stretched between a grounding or underlying faculty and a certain goal of judgement that is possible because of that ground and, if successful, is the highest manifestation of that grounding faculty. In short, we may take ourselves to be representative of a contingent response to an object, because we have grounds to believe that there is a sensibility which is shared among us: common sense, or *Gemeinsinn*. This duality, which grounds the non-conceptual, but conceptual-like,[16] character of aesthetic judgement, revolves specifically around the idea of taking one's own cognition to be representative of the faculties of cognition in general. Judging as a representative is the assent to the universal voice. The idea of a common sense is, in this context, that of a faculty of feeling which is common to the different members of a community of taste. It will be indispensable to give ground for postulating common sense, and Kant does exactly that. Before we address this issue, let us flesh this duality out a little more thoroughly.

The use of a concept affords one an objective necessity, namely the right to ascribe to the object a discursive aspect that is to be recognised by any cognition.[17] The aesthetic judgement, lacking an ascribable concept, demands a mode of universality that lies entirely on the side of the subject. It does not quantify over the object being judged, e.g., 'every sunbathed rock is warmed', but over the subject judging regarding a singular object, e.g., an artwork: 'every subject *should* agree that *this* painting is beautiful'.[18] Kant refers to this as 'an **aesthetic quantity** of universality' (5: 215). What

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then is involved in the aesthetic judgement, to the extent that it might be a judgement without being cognitive, is that it is possible to say how one *should* be affected by an object. Not to provide a descriptive claim, but neither to give an instance of the moral law. It is not immoral not to find something beautiful, but it does, on the side of those who do find it beautiful, at times provoke a response like 'don't you see?' or 'you have no eye for beauty!'.

Such an exclamation is telling when broaching the question, 'what is such a universality, which speaks of an ought but is not a moral claim?' Kant refers to such a universalisation as judging with '**universal voice**' (5: 216). When we say that somebody 'doesn't have an eye for beauty', we are essentially saying that they are failing to exemplify what is expected of their faculties, failing to respond to the object as would be appropriate for someone with human cognition (someone with eyes). To speak with a universal voice is to take one's own affect to belong not to contingent circumstances, but to the nature of one's faculty of cognition in general. *It is not in the eye of the beholder, but simply in the eye*. For Kant, this is expressive of the fact that aesthetic judgement is reflective: we have said that reflection is comparative, and in this context, one compares an object with the faculty that represents the object. We reflect on ourselves feeling something, we feel ourselves feeling, and in making aesthetic judgements, understand what we feel ourselves to feel to be representative of the very faculty of feeling.[19] A judgement that does not concern the object, but precisely the subject judging, is one that also allows one to bring into view the nature of the faculties involved in judging, and so too the possibility of one judgement, one subject, being exemplary of those faculties. It is a 'judging that contributes nothing to cognition but only holds the given representation in the subject up to the entire faculty of representation' (5: 214). In short: subjective universality is a property of judgements to the extent that they take the contingency of the encounter with the object to be contingent, or that they aim to exemplify a law of the faculties of cognition – a law that is neither given nor determined.[20]

Still, to reflect, or 'hold up' the representation to the faculty of representation, does not by itself justify universality. It is just as possible that I compare the two but hold that this comparison tells me nothing more than the features of my own peculiar faculties, just as, for example, I do not take the relative size of my nose to a door frame to be universal for human beings. If a judgement exemplifies a faculty, its universalisation would be grounded in a kind of necessity in the constitution of the faculty. What Kant's account then lacks is a kind of feeling – a faculty of feeling – that is convincingly common to human beings. That would be grounds to posit a lawfulness of the faculty of feeling that would make possible the universalisation required by universal voice. Reflection is, again, a comparison that makes a concept or law possible. The question is, what concept is made possible by the comparison between the representation and its faculty. That concept is, ultimately, that of a common sense: a universal faculty of feeling that enables us to aspire to speak of things that please universally, or beautiful things. When we judge as representatives of our faculties, we exemplify what is common to us as feeling people.

To conclude this section on the Analytic of the Beautiful, let us remark that Kant is not simply requiring that universal assent is possible because a common sense exists, which is known to us because universal assent is possible. Rather, he gives us something of a way out of the vicious circle by arguing that common sense makes

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universal assent possible, but it is also a precondition for cognitive judgement, so that if one argues against the subjective principle in aesthetic judgement, one is also liable to topple the whole apparatus of cognition. For Kant, cognitions in general must be communicable, and if, for example, an empirical judgement is to be a genuine cognition, the representational aspect of that kind of cognition must also be communicable. And 'the universal communicability of feeling presupposes a common sense ... which is assumed in every logic and every principle of cognitions that is not skeptical' (5: 239). The idea seemingly is that something like common sense is a feature of the power of judgement in general that is indispensable for the use of concepts, not just for universal assent. Allison (2001: 144–59) calls it the *quid juris* of the judgement of taste.[21]

The duality of the universal voice and common sense is an expression of the principle of reflection, or of purposiveness. As said above, to reflect is to compare in the service of a law or concept, thereby made possible. Or it is the principle of contingencies as contingencies. Here, *sensus communis* functions as the possible law; it is something postulated in reflection – according to that principle – on a representation and its faculty. We compare in reflection not without consequence, but in search of generalities, of higher unities. The *sensus communis* here is the higher unity of human feeling that is at play whenever we compare our feeling about an object with the fact that we ourselves are feeling that feeling. The notion of common sense is what comes into view if we take our contingent feeling about an object to be contingent or treat that contingency as expressive of a law that remains unbeknownst to us: 'this indeterminate norm of a common sense' (5: 239). What that law furnishes us with is the conceptual context in which one can speak of how 'everyone **ought** to ... judge' (20: 239). Namely, one ought to judge, about an aesthetic object, in such a way that *might* exemplify a possible law, which is grounded in the nature of the faculties responding to that object in that judgement.

4. Intuitive universality

The principle of purposiveness, to reflect on things such that their comparison brings into view the possibility of a higher unity, is manifest in aesthetic judgement by reflection's taking up representations in comparison with the faculty that represents them. This amounts, as I have proposed, to reflecting on the contingency of the contingent response of a subject to an object, or on the fact that that response might fall under a law. We now aim, in search of higher unity of the *Critique* as a whole, to find a contingency of contingency manifest in teleological judgement.[22] As will be brought out, much like in the case of aesthetic judgement, this is expressed in a duality of exemplification of an indeterminate law and the ground for our belief in such a law. In teleological judgements, this comes to the following: the natural end is an exemplification of a law, guaranteed to be possible by the possibility of an *intellectus archetypus*. The key systematic distinction between aesthetic and teleological judgement is that the former concerns formal-subjective purposiveness, which I understand as judging according to a law of the subjective faculties themselves, while the latter concerns material-objective purposiveness. If aesthetics concerns how one ought to judge, appealing to the systematicity of judgement itself, teleology turns to the systematicity on the side of the object rather than the subject,

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asking 'what [a product of nature] **ought to be**' (20: 240). And so, the puzzling thing to be figured out is how to apply normative principles to natural products, rather than to members of a community. We have so far been occupied with reflection that does not ascribe concepts, but if reflection is to be objective, it must ascribe concepts. As I take it, the epistemic justification in such a case runs exactly along the line of a contingent contingency that brings to view a possible law – here, the possible law of a natural product.

Kant's concept of the natural end is that of a natural product whose existence is inexplicable on purely mechanical grounds. An eye, for example, is such that all its parts seem to be directed toward its function. If we consider only the laws of mechanical nature, there is no reason to expect such an organisation – a seeing organ is entirely contingent with respect to mechanics. Rather, it seems that in order to affirm the existence of the idea theoretically – to understand its existence as more than mere accident – it is necessary to posit its concept as part of its causality. The eye exists as it does in order to serve the function of seeing. For the organ to presuppose its concept, its parts must be so interconnected that they seem to presuppose one another, and so a natural end is a product '**in which everything is an end and reciprocally a means as well**' (5: 376). Namely, if the organ exists to see, every part of the eye must exist for every other, so that the whole serves this function. It is not composed of its parts, being merely an aggregate of its various bits and pieces. Rather, the notion of the whole organ – the seeing eye – is presupposed in the very constitution of its parts. The crucial point regarding this concept is that the existence of the natural end is explicable *only in accordance with its concept* and so is *in*explicable with respect to mechanism. The natural end is not mechanically impossible, but its existence cannot be explained merely by appeal to mechanism; it is merely accidental with respect to it. The quote goes on: 'Nothing in it is in vain, purposeless, or *to be ascribed to a blind mechanism of nature*' (5: 376, italics mine).[23]

Ascription of the concept of a natural end is, I argue, an analogue of assertion with universal voice in aesthetic judgement, in the sense that to ascribe an end to a natural product is to claim that the object ought to exist in accordance with that end – the concept of the end *ought* to apply to the product but may not – just as universal voice amounts to claiming that every subject ought to judge a certain way. The key difference is that the first is a reflective-subjective universalisation while the second is a reflective-objective universalisation. What the analogy implies is that reflecting on natural products yields a possible concept for them, namely that of their end. A natural product contingent with respect to the laws of nature is made sense of in reflection by viewing it as an exemplar of a concept which is not given to us. We cannot make sense of such a product if we do not look at it *as if* it were made in accordance with a purpose. That is, we make sense of it only by reflecting on it, in order to produce a possible concept that would make its existence intelligible. We have no purposes to ascribe to products a priori, and we do not see them in these natural products; they are not given directly in experience.[24] Rather, the mode of existence of the natural product, as contingent with respect to the laws of nature, evokes in us the sense that there exists a law which produces such objects. Such a law cannot be established by us; it is not a law of nature. It is simply how reflection, comparing in search of higher unities, takes up such contingent products.

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It is only in the absence of a determinative concept that we may take assertion with universal voice to be an independent moment of judgement. Similarly, it is only in the absence of a mechanical explanation that the contingency of a natural product implies the possibility of a natural law to be exemplified. Both hint at an open-endedness of reflection with respect to its object, about which it does not say something definite, but rather opens through its indeterminacy a space of meaning with respect to its concepts, one that is implied by the object (Friedlander 2015: 14–22). In the first case, by trying to find a universal feeling within one's response to the object, and in the second, by trying to find a concept according to which the various parts of the object seem to orient themselves. To ascribe a natural end is to take the object to exemplify a rule according to which natural products may be made, without positing the existence of such a determinate rule (for one has no grounds to do so!). Now, reflection on one's feelings about an object does not guarantee anything universal, and neither does one's inability to explain an object's existence by natural mechanism. An inability to explain something does not mean that its existence justifies the invention of a new rule in the explanation. It might be the case that the existence of something is simply inexplicable. Something may simply be contingent with respect to the laws accessible to us. The question then remains, what is the ground for presupposing that there are laws to explain things which are inexplicable in mechanistic terms?

This formulation of the question is aimed toward making it continuous with our considerations in the previous section, but we should also consider it in its more serious formulation, which is the antinomy of teleological judgement: How is it that everything must be regarded as explicable in terms of mechanical laws, but there are things (natural ends) that cannot be regarded as explained by mechanical laws? Why should we be justified in considering parallel modes of causality? Is that not a contradiction? In the formulation of §77, which is the endpoint of the resolution of the antinomy, by what means is the concept of a natural end possible for us? As I understand it, Kant's response to this question, his resolution of the antinomy, is that there is a possible law because the contingency of the natural product with respect to natural laws is itself contingent.[25] This is the case because its contingency is relative to our faculties of cognition. Modal categories in general, for Kant, are relative to a faculty. Something is contingent or necessary as a representation, with respect to the faculty by which it is represented (Stang 2024). Mechanical law has to do with our spontaneous, discursive faculty of understanding. It is a product of the fact that our experience is constitutively in conformity with the categories, and among them, the category of causality. Just as the common sense allows judgements to exemplify the engagement of the mind with an aesthetic object, at least in part because it permits taking the contingency of one's feeling about the object as being itself contingent, so too the dialectic of mechanism and teleology expresses a view of things on which the contingency of the formation of an organism with respect to the mechanism of nature is itself contingent for the mind that conceives it. Kant writes that 'the concept of a thing whose existence or form we represent as possible under the condition of an end *is inseparable from the concept of its contingency*' (5: 398, italics mine). Let's look at the resolution of the antinomy, then, keeping in mind the general approach to purposiveness we have followed so far.

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In §77, Kant argues that a cognition for which there is no distinction between contingency and necessity is possible – i.e., conceivable without contradiction. The possibility of such a cognition shows, on Kant's view, that our discursive cognition that does distinguish between these two is not necessary, in the sense that it is possible to conceive of another mode of cognising.[26] Therefore, what is contingent for our discursive understanding, which is to say, with respect to mechanical law, is not necessarily contingent. Thus, the contingency of natural products is itself contingent, the eye is contingent for *our* comprehension of mechanical law and is therefore only contingently contingent – or what is the same, it *could* be necessary. 'What is at issue here is thus the relation of **our** understanding to the power of judgement . . . we have to seek a certain contingency in the constitution of our understanding' (5: 406). This does not aim at the abolition of contingent things; it is not an argument against natural contingency. Rather, in my understanding, it is an argument meant to justify making sense of things that are not reducible to the constitutive elements of experience. I will try to present this point more carefully. The argument is rather straightforward and consists mainly in describing a cognition for which there is no contingency, in order to show that modal categories are themselves contingent.[27] While this is rather difficult to square properly, and entails a rather confusing notion, that of an intuitive understanding, we can regard it as understandable precisely insofar as it exhibits the same form of the principle of purposiveness as that which I have been describing. The notion of an intuitive understanding has been the subject of much discussion and scholarly disagreement, as Kant's descriptions of it vary across his work (O'Farrell 1979, Stang 2016: 300–7), and it has inspired similar, difficult concepts crucial in German Idealist thought (Bruno 2022, Förster 2012, Gram 1981). Setting these difficulties to one side, I would like only to focus on the role of that notion in the argument that grounds the possibility of natural ends. What is most pertinent for this discussion are the epistemological consequences of the concept, rather than the ontology of the intuitive understanding. And it is these epistemological consequences that are the crux of the argument of §77.

On my understanding of the text, what Kant is after, in justifying the appeal to natural ends, is grounds for the *possibility* of a law that explains the existence of contingent natural products, namely their ends. His strategy is to establish the contingency of the cognition for which these products are contingent. Specifically, what he aims to show is that the very distinction between contingency and necessity is peculiar to discursive understanding, and so that if we convince ourselves that a cognition that does not recognise that distinction is possible, we are also entitled to posit the possibility of a law for whatever natural product appears to us contingent.[28] Our own cognition is, for Kant, a discursive cognition, for which judgement proceeds from a universal (a concept) to the particulars to which it may (or may not) apply. There is nothing in the universal itself that says which or, for that matter, how many particulars will fall under it. Concepts merely mark the possibility of something; they do not specify actual occurrences but only designate the possibility of particulars that fall under them. Kant then, in service of drawing the relevant distinction, calls concepts 'analytic universals' (5: 407). Such universals are, importantly, products of our spontaneous faculty, and so merely mark what a human cognition can pick out in the world. It is rather intuitions, cognitions of sensible particulars, that inform us of what is actually the case. What is actual is given to us not by a spontaneous faculty – which would make it more fantasy than actuality – but by a receptive one. The

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distinctness of these faculties also means that some things may be merely possible (contingent), and that in general one does not know whether or not something is merely possible or at times actual, or in fact, necessary.

Kant then invites us to consider the possibility of a faculty of understanding, namely a faculty which deals with universals, but which is not a discursive understanding by way of analytical universals. Rather, it would be a faculty understanding by way of synthetic universals: not concepts but actual wholes from which particulars may be discerned, only and always as parts of those wholes.[29] For such an understanding, there would be no difference between what is actual, and given to it (intuition), and what is possible and produced by it (concept). Its universals would reflect this lack of distinction and so would only be universal in the sense that they are intuitions of a totality. Because it would only deal with 'the intuition of a whole as such ... there is no **contingency** in the combination of the parts' (5: 407). This would be an archetypal or intuitive (*anschauender*) understanding. What is crucial for us here is that such a notion would mean that any contingency in natural products is, ultimately, contingent on the discursivity of human cognition. We have no access to a law under which all natural products are necessary, but we can conceive of the possibility that such a law might exist. In positing an end for a natural product, what we are in fact doing is imagining what a divine understanding might make of such a product, where it would fit into that understanding's intuition of a natural whole. Although we are never entitled to posit the existence of such an understanding, this mode of reflection nevertheless does permit us to speculate regarding laws peculiar to natural things in our scientific and philosophical inquiries.

The natural end is understood then to be an exemplar of a possible law, a possible law guaranteed by the contingency of the very faculties for which the natural product is contingent. Natural purposes are, on this view, purposive in the sense that they emerge out of the reflective power of judgement in its capacity to take up contingencies in their contingency for it. For the reflective power of judgement in general, the contingent appearance of objects is contingent; it reflects on itself experiencing or on its ascription of concepts to objects. In aesthetics, it is the contingent effect that an object has on a subject which is itself contingent. It invites one to view that affect *as if* it stems from a law of the faculty of feeling. In teleology, the contingency of a natural product is likewise itself contingent, and reflection invites one to consider things *as if* they were accessible from the perspective of a cognition for which they would not be contingent. In both cases, reflection offers something of a normative demand, both when judging about subjective matters and when judging about nature. In either case, what reflection seems to demand is that we view contingency as the possibility of lawfulness, rather than brute accident or something that cannot be explained. A natural end, as such a possible law, is an exemplification of the possible intuitive understanding, which is not accessible to us, but can serve to guide us in thinking up possible laws for products, which are merely contingent with respect to the laws we can conceive.

5. Conclusion

I would like then, by way of conclusion, to give some indication of what I take to be the major upshot of this reading. Namely, that it both allows a normative-regulative

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reading of the third *Critique*, while not denying speculative philosophical licence, which is so indispensable for the traditional readings of the Romantics and subsequent Idealists.[30] The main claim of this paper has been that the reflective power of judgement has a unified, univocal principle – of course, the principle of purposiveness – which instructs reflection whether it concerns subjective feeling (aesthetic judgement) or objective ends (teleological judgement). Such a principle is, for Kant, decidedly regulative. It guides reflection in its attempt to make sense of the multiplicities of phenomena, in comparison of various experiences. As I have presented it, the key formulation of the principle of purposiveness in question is that it is a 'lawfulness of contingency as such', or the demand of the power of judgement to find in contingent things a certain lawfulness. In both aesthetic and teleological judgement, the application of this principle takes the same form, namely, of a duality between the phenomenon that exemplifies such a lawfulness of contingency and a notion of the ground of that lawfulness. In both cases, the ground is the contingency of a contingency. That is, in being enjoined to reflect in such a way that brings into view the possibility of a law, what the principle of purposiveness demands of us is that we view the contingency of phenomena not as belonging to those phenomena, but rather as originating from something which is itself contingent. To reflect, in this sense, is to note that whatever is contingent to us is contingent only to us, and so in fact *may be* necessary. To reflect is to think of things *as if* they were necessary.

Two influential readings of Kant's legacy in German Idealism, both Förster's (2012) and Henrich's (2003), centre around their inheritance of the notion of an intuitive understanding. Broadly speaking, both consider the notion to be something of a forbidden or eschewed idea in Kant, which the later Idealists were then keen to affirm in more speculative and ontological ways. It seems to me that if we read it as the demand to look at, and for, possible laws, the third *Critique* does not deny something that the Idealists affirm, but by its investigation of the normative demands of judgement, implicitly affirms a methodology of speculative metaphysics and gives it epistemic ground. What I mean is that one might imagine that speculative metaphysics is perceived by its practitioners not as going beyond criticism but relying on it. In particular, metaphysical speculation here takes a similar view to how Kant justifies the notion of a natural end – both are educated guesses regarding an underlying law that a divine understanding might perceive. The speculative metaphysician would thus have no need to affirm the existence nor the accessibility of intellectual intuition, but simply to use the licence that critique has handed to him – the same licence handed to the naturalist – to imagine possible laws. And so, a normative reading would not be opposed to the speculative one, but would encourage and give licence to it.

Notes

1 John Hunt provides some interesting commentary on this line, insisting on a peculiar kind of empiricism manifest in Dedalus' wandering thoughts. See https://m.joyceproject.com/notes/030034ineluctable.html.

2 Another important commentary on the modality of judgements in Kant is found in Leech (2010).

3 Henceforth, every quotation from the third *Critique*, from both the First Introduction (in *Ak.* vol. 20) and the body of the text (vol. 5), will reference the *Akademie Ausgabe* and the Guyer/Matthews translation (Kant 2000).

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4 In emphasising the First Introduction, I follow not only Ginsborg, but more generally what is common in the literature on the third *Critique*. However, to strengthen my case, I refer whenever possible to corresponding parts in the published introduction. Seeing as it is quite possible that the First Introduction was scrapped because it did not reflect Kant's views, it would be imprudent to rely on it as the sole source for a reconstruction. I thank an anonymous referee for emphasising this point. It might still be pointed out, however, that there are many reasons for changing an introduction, one of which – which, as far as my personal speculation takes me, is the one Kant had – is that it introduces too much. Not only is it too long, but it also develops some ideas that should be developed in the text. It then functions more like a summary or an abbreviated version than it does an introduction. Thus, while I take care to refer to the published version to solidify my analysis of the text, I would also defend the appeal to the First Introduction as it is much richer than the published version, and so a valuable resource for the interpreter.

5 Other approaches to the text, which are still more or less conformant with Kant's explicit statements about its mediatory role, include, for instance, the mediation of the activity of faculties (Friedlander 2015), the mediation of nature and freedom (Allison 2012, Guyer 2005), and the manifestation of a moral worldview (Vaccarino Bremner 2022). All of these are, of course, deeply intertwined. Still, picking out as a *Schwerpunkt* one of these cognate conceptual pairs has some implications as to how one presents and interprets the text.

6 Notice that both kinds of determinative judgement are involved in the empirical representation. That might strike one as a little weird, considering the decisively non-empirical status of the categorical imperative. The typic, which exemplifies the practical use of determinative judgement, is a matter of subsuming an empirical case under a supersensible law. It thus has intimately to do with *enacting* the moral law, not simply in justifying and considering it.

7 In the published introduction: 'The reflecting power of judgment, which is under the obligation of ascending from the particular in nature to the universal, therefore requires a principle that it cannot borrow from experience' (5: 180).

8 These formulations are central to Geiger's (2022: 15–47) reading, as it focuses on the formation of empirical concepts, which are, by and large, if not always, a matter of generalising. In his reading, justifying inductive inference is crucial, and so the exposition of the demands of the reflective power of judgement as involving grounds for forming concepts out of analogy and comparison is useful. For a discussion of the species-genera hierarchy in Kant and its relation to the problem of induction, relying mostly on the appendix on the regulative use of ideas, see Allison (2008: 135–60). See also Veblen (1884).

9 For a rigorous, although at times a little biased, reading of the notion of purposiveness in the First Introduction, see Guyer (1997: 33–67).

10 Ultimately, the full law of nature, which would unify the diversity of phenomena in general, is never properly given, at least not to a finite, discursive cognition.

11 Something is not necessarily unnecessary if and only if it is possibly necessary.

12 Two relatively recent commentaries on Kant focus on his work with modal categories: Abaci (2019), for whom one – if not the – revolutionary aspect of the critical turn is the particular way in which it understands possibility (as in the notion of possible experience), the other side of which is what he terms 'Kant's amodalism regarding Noumena', culminating in the notion of an infinite or intuitive understanding; and Stang's thorough and analytical (2016), which runs through the majority of Kant's body of work. In chapter 10 of the latter, the notion of an intuitive understanding is problematised: Kant's presentation of it as a contradiction-free idea is challenged by way of the formulation of an 'antinomy of modal metaphysics' (297–328). I will return to both in Section 4.

13 Stang (2024) rightly argues that for Kant, modality is always peculiar to a representing faculty. Thus, in general, in a Kantian context, modality does not refer to a metaphysical category which is not accessible to us, but rather to features of cognition itself. A necessary representation is one that a faculty cannot help but represent, like the categories, which are necessary for the understanding, or space and time for intuition. A contingent representation is one that a faculty can represent, but can also not represent, such as the rain in Spain.

14 If one reads these negations as privations, it becomes plausible that what is at stake here is a kind of judgement that fails to be cognitive or is a 'pre-cognitive judgement' (Guyer 2006, Kuplen 2013). One might also read these negations as functional, used to get at the core of a judgement of taste by disengaging it from what is characteristic of cognitive judgements (Friedlander 2015: 13–14).

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15 What I mean here is that 'warmer than yesterday' is a necessary feature of today's weather, if it is indeed warmer than yesterday's, and that this is entailed in the objectivity of a judgement reliant on the categories. Not, say, that being made of bricks is a necessary feature of a wall. See *Prolegomena* (§18–9, 4: 298–9).

16 Throughout the Analytic of the Beautiful, and most frequently in the second moment, Kant makes comments to the effect that aesthetic judgement is distinctly not logical but still aims to win for itself the standing of judgement proper. For instance, 'the universality of aesthetic judgement ... is something remarkable, not indeed for the logician, but certainly for the transcendental philosopher (5: 213). Friedlander (2006) makes the distinction, crucial for Kant's insistence on the non-logical status of aesthetic judgement, between the medium of judgement, the activity of it, and the final product – a judgement.

17 This is broached most famously in the distinction between judgement of experience and judgement of perception, drawn in the *Prolegomena* (§18–9, 4: 298–9).

18 Kant says of the aesthetic judgement that it is *logically* singular but *subjectively* universal. It does not speak of *a* work, nor of *all* works, but uniquely and particularly of *this* work. On the logical category, see Lu-Adler (2014).

19 Friedlander uses the phrase 'feel myself in that feeling' (2015: 19). This is also thematised in Friedlander (2006).

20 The universal voice is an aspirational thing, not a fact of judgement but an ideal for it. Kant writes that '[t]he universal voice is only an idea ... judging in accordance with this idea can be uncertain' (5: 216).

21 Compare with Ginsborg's (1990) account of the same passages, running along similar lines.

22 One might worry that I have unduly left the sublime out of the discussion. But, perhaps surprisingly considering its otherwise somewhat aberrant character, the sublime follows the same kind of necessity that taste does. See CJ (§29, 5: 264–6), specifically: 'For just as we reproach someone who is indifferent in judging an object in nature that we find beautiful with lack of **taste**, so we say of someone who remains unmoved by that which we judge to be sublime that he has no **feeling**' (5: 266).

23 In this passage and in the sequel, I rely to an extent on the interchangeability of contingency and inexplicability. I take this to be implicit in Kant's account, and more or less defensible in itself, although to spell out an argument for it is beyond the scope of this paper. The basic intuition behind this interchangeability is this: to explain the existence, or particular mode of existence, of something is to show that it is more than merely possible, but assuming certain things, must exist as it does. If I am asked to explain something and merely demonstrate its possibility, then I am not explaining why it exists, only showing that it could exist. Think, for instance, of arguments supporting the existence of God. A proof of God's possibility does not show that He exists, only that it is not impossible for God to exist. Thus, if the eye is contingent with respect to mechanical law, mechanical law cannot be taken to be an explanation of the existence of the eye, as under the same law, its non-existence would be just as intelligible. What I mean by inexplicable and contingent is in both cases strictly in reference to mechanical law.

24 Kant writes: 'For since we do not actually **observe** ends in nature as intentional, but merely **add** this concept as a guideline for the power of judgement in reflection on the products of nature, they are not given to us through the object' (5: 399).

25 Kant explicitly discusses the presence of two conflicting tendencies of explanation, which work together despite the tension they produce (5: 387). This account is also continuous with Kant's account of regulative ideas in the appendix to the Transcendental Dialectic, directed at the genera-species hierarchy of nature. Cf. (A651/B679). A reading along these lines, which is primarily regulative, is given in Cooper's (2023), part III. I do not mean to contradict this line, but rather to accentuate a different aspect.

26 For Kant, modality is said in reference to a faculty of cognition. A given representation is necessary or contingent with respect to the faculty that represents it. So the categories, for instance, should be said to be necessary *for the understanding*, rather than necessary generally, or ontologically. In light of that, it is more accurate to say that discursive cognition as represented in discursive cognition is contingent rather than necessary. It is possible for discursive cognition to have representations of non-discursive kinds of cognition. In particular, while discursive cognition recognises modal notions, the non-discursive cognition which it is capable of representing does not recognise them.

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27 Abaci (2019: 251–61) argues well against the idea that this entails the subjectivity of our discursive categories, because our cognition is contingent. For discussion of the ontological underpinnings of the epistemic claims of this part of Kant's work, see Abaci (2019), as well as Leech (2014) and Winegar (2017).
28 What Kant is establishing in doing this is grounds for inductive generalisation – not as necessary but as legitimate guesses at the riddle of nature (Geiger 2022: 98–138). He is also more broadly establishing grounds for searching for a unified notion of nature and world, providing conditions for making sense of natural diversity. Compare the idea that Hegel is 'making sense of making sense' (Moore 2012: 170). Such a unity is also crucial for a political project of Enlightenment philosophy (Allison 2012: 217–28, Kremer 2025).
29 Stang refers to it as a faculty that 'does not recognize modal claims' because it is 'spontaneous rather than respective' (2016: 297–8). While this is not the place to argue against this idea properly, I should nevertheless mention that there is a significant problem with this reading, as the intuitive intellect seems more crucially to be beyond the distinction between spontaneity and receptivity, just as it is beyond contingency and necessity. It would be, to my mind, more accurate to speak of it producing spontaneously the very things to which it is receptive. An entirely spontaneous faculty would not avoid the distinction between necessity and contingency, but would make everything necessary by virtue of its being a product of it. This is consistent with a certain view of divinity.
30 Contemporary literature is deeply influenced by so-called 'deflationary' and pragmatist readings of German Idealists. Prominent examples are Brandom (2019) and Pippin (2019). There is still the exceptional Houlgate (2006, 2022), and McNulty's (2023) uncompromising approach. While one is more hard-pressed to dissolve Schelling's metaphysical mysticism into a logical and pragmatic common-sense philosophy, there are certainly worthy attempts. Most notably by Yaretzky (2024) and Hogrebe (2024), each in his own way.

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Cite this article: Kremer, A. (2026). On the Modality of Reflective Judgement. *Kantian Review* **31**, 415–431. https://doi.org/10.1017/S136941542610137X

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