[*MWS* 2.2 (2002) 139-162]
ISSN 1470-8078

Max Weber's Writings on the Bourse: Puzzling Out a Forgotten Corpus*

Knut Borchardt

Abstract
This article raises three main questions: 1. Why has the complex body of work on the bourse, and Weber's role as a leading expert on it, been overlooked in the Weber literature? 2. What do we know about the reasons and origins of his writings on the bourse? 3. Is there any connection between this explosion of writing activity and his sudden silence after 1897? Despite the intensive reseaches for *Börsenwesen* as part of the Gesamtausgabe, there are still significant gaps in our knowledge of the Freiburg years. Weber's involvement in studying the bourse in 1894 comes out of his involvement as a jurist in the school of Levin Goldschmidt. Whether the Freiburg years turned Weber into a national economist, as recently emphasized, has to be critically considered in the light of his writings on the bourse. Against this background, it is not implausible to link Weber's psychic collapse with the completion of his work on the complexities of the bourse.

Keywords: Max Weber, Marianne Weber, Levin Goldschmidt, stock and commodity exchanges, commercial law, *Nationalökonomie*, economics, futures trading.

If it had not been for the existence of the Max Weber Gesamtausgabe, and the associated editorial requirement that it include the writings and speeches of the Freiburg period—from 1894 to 1897—it is quite possible that no one would have ever attended systematically to the task of placing them within Max Weber's wider life and work. This thought is prompted by my observation that in the entirety of Weberiana there is not a single article, let alone monograph, that deals with one particular text, or even provides an overview of this work! And so this lecture serves also as a world première.[1]

* Translated by Keith Tribe. Presented on 5 November 1999 to the Bavarian Academy of the Sciences, Historico-Philosophical Section. Published as 'Max Webers Börsenschriften. Rätsel um ein übersehenes Werk', Bayerische Akademie der Wissenschaften, Philosophisch-Historische Klasse, *Sitzungsberichte* Jg. 2000, Heft 4. This translation is a condensed version of the original.

1. Translator's Note: there is a general problem in translating the key institutional term in this lecture, for strictly speaking we should translate *die Börse* as 'the exchange'. This would scan rather strangely in places, but the more familiar English

© The Continuum Publishing Group Ltd 2002, The Tower Building, 11 York Road, London SE1 7NX and 370 Lexington Avenue, New York, NY 10017, USA.

Friedrich Meinecke wrote in 1922 that Weber's 'deeds and effects' took the form of 'a series of powerful eruptions'.[2] His writings on stock and commodity exchanges were an eruption of this kind, although it was one that went largely unremarked for decades. At issue is the principal literary output during his years as Professor of Economics and Public Finance at the University of Freiburg; in the Gesamtausgabe they take up more than 500 printed pages.[3] Admittedly, these writings have not been completely ignored. Every now and then they have been referred to, and occasionally quoted.[4] But if I put together all those citations accessible to me, then it does not even come to 20 pages.[5]

By contrast, study of Weber's works has paid a great deal more attention to some other early works: the 1889 book with contributions to *The History of Medieval Trading Companies* (basically his doctoral dissertation), and his 1891 Habilitation dissertation, *Roman Agrarian History and its Significance for State and Private Law*. Besides these, there is now an extensive literature on the agrarian writings up to 1898 – the 1892 Verein für Social-

'stock exchange' is inappropriate. The institutions with which Weber is here concerned deal in securities, shares and commodities; and the futures market for commodities is of especial importance to his argument. Current English usage refers loosely to the 'stock market' meaning a market for listed company shares, although a 'stock' is in fact a security issued by a company or by the government and quite distinct from a 'share'. One solution is to employ 'stock and commodity exchanges', although exclusive use of this expression would be clumsy. Following recent practice by the *Financial Times*, I have therefore opted to substitute where feasible 'Bourse' as a generic term for institutions dealing in stocks, shares and commodities, while also in places using 'exchange' or 'stock and commodity exchanges'.

2. F. Meinecke, 'Drei Generationen deutscher Gelehrtenpolitik', *Historische Zeitschrift* 125 (1922), p. 272.

3. Max Weber, *Börsenwesen: Schriften und Reden 1893–1898* (ed. Knut Borchardt with Cornelia Meyer-Stoll; Max Weber Gesamtausgabe, I/5; Tübingen: J.C.B. Mohr [Paul Siebeck]), 1. Halbband 1999, 2. Halbband 2000. Referred to below as MWG I/5.

4. See, for example, R. Bendix, *Max Weber: An Intellectual Portrait* (London: Methuen, 1966), pp. 23-29; W.J. Mommsen, *Max Weber and German Politics 1890–1920* (Chicago: University of Chicago Press, 1984), pp. 73-76; D. Käsler, *Max Weber: An Introduction to his Life and Work* (Cambridge: Polity Press, 1988), pp 63-66; G. Roth, 'Weber the Would-Be Englishman: Anglophilia and Family History', in H. Lehmann and G. Roth (eds.), *Weber's Protestant Ethic: Origins, Evidence, Contexts* (Cambridge: Cambridge University Press, 1993), pp. 83-121 (95-96).

5. Not counting discussions on the part of editor or translator of recent Finnish and Catalan editions, languages with which I am unfamiliar; see T. Hietaniemi, 'Max Weber, pörssi, markkinayhteiskunta ja kapitalismi', in M. Weber, *Pörssi: Suomentanut, selityksillä ja jälkikirjoiyusksella* (Tutkijaliitto, 1990); and M. Weber, *La Bolsa: Introducción al sistema bursátil* (ed. C. Madrenas; Barcelona: Ariel, 1988). Since the lecture was delivered in 1999 an English translation of the two Göttingen pamphlets has been published in *Theory and Society* 29 (June 2000).

© The Continuum Publishing Group Ltd 2002.

politik report on the survey of East Elbian rural workers together with other writings and speeches on agrarian conditions and agrarian policy. And we might here follow Wolfgang Mommsen's conclusion, that:

> The young researcher was widely recognized as an agrarian expert, much more widely than in the decade following the onset of his illness. If Max Weber had not recovered his health, he would today possibly still be known as an important specialist in agrarian matters, and as a supporter of a liberal agrarian policy.[6]

Except that at the close of the nineteenth century Max Weber was also a leading expert on the bourse, which one would not guess from the foregoing. These writings have been highly praised in the specialist literature. Legal and economic historians were still using some of them as sources quite recently.[7] When in 1897 von Boetticher, chief of the Imperial Office of the Interior, supported the appointment of Weber to the Bourse Committee[8] he maintained that he knew of no more suitable academic authorities than Wilhelm Lexis of Göttingen and Max Weber.[9] The former was at that time 60, Max Weber barely 33.

Weber had made his reputation as a specialist on stock and commodity exchanges with a series of articles in the *Zeitschrift für das gesammte Handelsrecht* on the findings of the official survey of German exchanges, and two popular pamphlets from 1894 and 1896 which were published as part of Friedrich Naumann's Göttingen 'Workers' Library'. The former, appearing in the leading commercial law periodical and running to 329 pages, is clearly the main scholarly work. Weber here, over a period of almost three years, worked through the implications of the nearly 5,000 pages of documentation produced by the Commission specially appointed by the Imperial Chancellor. The Commission had been directed to investigate the entire complex of bourses that had developed in Imperial Germany, and work up proposals for reform. Once the Bourse Law was enacted, and especially after the 1908 Amend-

6. W.J. Mommsen, 'Einleitung' to Max Weber, *Landarbeiterfrage, Nationalstaat und Volkswirtschaftspolitik: Schriften und Reden 1892–1899* (Max Weber Gesamtausgabe, I/4; 1Hb. Tübingen: J.C.B. Mohr [Paul Siebeck]), 1993, pp. 62-63.

7. See most recently K.J. Hopt, B. Rudolph and H. Baum (eds.) *Börsenreform: Eine ökonomische rechtsvergleichende und rechtspolitische Untersuchung* (Stuttgart, 1997), pp. 17-141.

8. Which was to advise the Bundesrat on issues relating to the Bourse.

9. Vote by Dr von Boetticher, Vice President of the Ministry of State relating to the formation of the Bourse Committee, 12 March 1897, Bundesarchiv Potsdam, Reichskanzlei No. 574, papers concerning Die Börse, Bl. 1. Since this met with conflict internal to the ministry but linked to lobbying on the part of agrarian interests the intended appointment was not made.

© The Continuum Publishing Group Ltd 2002.

ment, these and other writings of Weber's on the bourse slipped into the background, even during his lifetime. By contrast, after the First World War, not least because they were reprinted in Marianne Weber's edition of her late husband's writings, *Gesammelte Aufsätze zur Soziologie und Sozialpolitik*,[10] the Göttingen pamphlets were more often referred to—described once as these 'pearls among bourse literature'.[11] These introductory pamphlets, written for a lay public, have since then been cited in the Weber literature as his principal contribution to discussion of stock and commodity exchanges.

Almost entirely ignored is the role that Weber played during November 1896 in the so-called Provisional Bourse Committee that the Bundesrat had convened. The proceedings have survived, and there has never been any obstacle to their use. To be sure, Marianne Weber gets the name of the committee wrong and describes its tasks incorrectly—in which the literature simply follows her—but she does mention it. She also cites in her biography from letters of this time in which Weber describes the seating plan of the Bundesrat chamber, where the two academics, Lexis and Weber, found space in the corner reserved for the principalities of Older Reuss and Younger Reuss.[12] Nevertheless, now that his contributions to the proceedings are for the first time printed in the context of the vigorous debate it does amount to a discovery. They show Weber as a skilled and ultimately influential partner in discussion with the cream of the German bourse, as well as with the contemporary leading critics of the bourse from the higher reaches of the aristocracy. He demonstrates complete mastery of fiddly trading details, without ever losing sight of those fundamental issues that are his chief concern. Remarkably, at the end of the sessions the committee charged him with drafting the report to the Bundesrat in respect of the most politically sensitive parts of the committee's work.

Puzzles

I will not here discuss at any length the *Börsenschriften* and their implications for the study of Max Weber. It might perhaps be expected that I

10. Max Weber, 'Die Börse (1894)', in *Gesammelte Aufsätze zur Soziologie und Sozialpolitik* (Tübingen: J.C.B. Mohr [Paul Siebeck], 1924), pp. 256-322. The publisher and editor erred in dating these reprints. From the title it appears to be one text from 1894, instead of two texts, from 1894 and 1896. This has led to no little misunderstanding and misinterpretation in the literature. It has been assumed, for example, that the powerful conclusion to the 1896 pamphlet indicates Weber's original interest in taking on the commission.

11. O. Stillich, *Die Börse und ihre Geschäfte* (Berlin, 1909), p. 18.

12. Marianne Weber, *Max Weber: A Biography* (New York: Wiley, 1975), p. 198.

© The Continuum Publishing Group Ltd 2002.

will present some original thoughts about bourse organization, and especially Weber's positions with respect to contemporary, unresolved, questions of bourse policy. But of still greater interest might be whether we can find any trace in these writings of that which later made Weber famous. Are there perhaps lines of continuity in evidence, contradicting the prevailing view that a 'new' Weber emerged after 1904 with recovery from illness? Certainly there are. If they are sometimes not easy to see, roots of many later ideas can be found in this early work. We encounter, for example, the 'ideal type',[13] and also find important elements of Weber's later position in the debate on value judgments.[14] And quite naturally there are already indications in his sociology of organizations, law and economics. The bourse was, for those prepared to look more deeply, an extraordinarily interesting institution. It was here that Jews, Mohammedans and Christians of all denominations met, as Voltaire observed with amazement of the London Stock Exchange in 1737.[15] Disregarding all difference of belief and way of life, members of the exchange rely upon word and gesture as having unconditional authority in the chaos of thousands of trades—as in the chosen watchword of the London Exchange: *Dictum meum pactum*. And if very occasionally a dispute should arise, then it very seldom reaches the public courts.

In the late nineteenth century powerful political interests, as well as academic specialists, pressed for reform of German bourse organization. This threw up the question of whether, and to what extent, the existing regulatory framework, which had been created by traders themselves, could and should be transmuted into a regulatory order based upon formal legal conditions defined by the state. Should even a 'social law founded upon high-sounding moral principles' be created sometime for

13. Although Weber did not use the term, the types that he characterizes do closely correspond to what he later termed an 'ideal type'. In his discussion of futures trading Weber continually returned to the characteristic 'types' that the business dealt in (typical traded goods, typical quanta, typical settlement dates). For the time being one can simply speculate that this had some significance for the methodological concept of the ideal type.

14. See also Rita Aldenhoff, 'Nationalökonomie, Nationalstaat und Werturteile. Wissenschaftskritik in Max Webers Freiburger Antrittsrede im Kontext der Wissenschaftsdebatten in den 1890er Jahren', *Archiv für Rechts- und Sozialphilosophie* 43 (1991), pp. 79-90.

15. 'Go to the London Stock Exchange, this place is more respectable than many courts; you will see there the envoys of all peoples collected together for the good of mankind. Here the Jew, the Mohammedan and the Christian deal with one another as if they were of the same belief, and treat as faithless only the bankrupt; there the Presbyterian relies upon the Anabaptist, and the Anglican endorses the word of the Quaker'. Voltaire, *Lettres philosophique ou lettres anglaises* (Paris 1964), p. 29.

© The Continuum Publishing Group Ltd 2002.

the bourse? Weber later characterized this category of problems in his legal sociology in exactly the same way.[16] He was heavily critical of the overwhelmingly moralistic perspective of the Bourse Commission's reform proposals, although he was so without adopting an economistic standpoint. Weber's ultimate objectives are *not* economic efficiency or the material wealth of the nation as such.[17] Even in these early writings Weber had formulated his position in the brusque tone that was later to both shock and enthuse contemporaries:

> It must be constantly born in mind that a strong bourse is no club for ethical culture, nor can it be; but is, just like large banking capitals, one of those modern instruments of power through which nations wage a relentless struggle for economic supremacy, upon which their political ascendancy is ultimately based. Whether Italy or Russia look towards Paris or Berlin financially is a more important issue than providing an opportunity for those not quite 'all there' to lose all their money invested in bourse transactions.[18]

Those familiar with present-day debate over the organization of the bourse will detect here the modernity not only of the form, but of the substance of Weber's argument. In amending the Bourse Law during 1988 and 1989 the federal government and the Bundestag cited the importance of strengthening Germany's position with respect to international financial competition in permitting the reintroduction of futures trading.

But there is not time to develop this line of argument here; probably an entire lecture could be devoted simply to conveying the brilliance with which Weber presents an original account of the legal, economic and social nature of futures trading in the 1890s, a much disputed issue.[19]

16. *Wirtschaft und Gesellschaft* (Tübingen: J.C.B. Mohr [Paul Siebeck], 1922), p. 506.

17. This had already been rejected as an objective in the speech to the 5th Protestant-Social Congress in May 1894, and more forcefully in his Freiburg inaugural of May 1895.

18. Max Weber, 'Die technische Funktion des Terminhandels', MWG I/5, p. 612. This is phrased even more harshly shortly afterwards: 'There are strict limits to the exercise of *purely* theoretico-moralistic demands imposed by the fact that economic disarmament cannot be effected *unilaterally*, whether nations are militarily at peace, or pursuing a merciless and inescapable economic struggle for their national existence and economic power. A strong stock exchange is certainly not a club for *ethical culture*, and the capitals of the great banks have as little to do with welfare provision as muskets and cannons', *Die Börse* II, MWG I/5, p. 655.

19. Weber saw much more clearly than his contemporaries that the nature of individual contracts as future trades was not inherent to the contract itself, but was linked to the existence of a futures market. Among other aspects he recognized the function of what are today called 'derivatives' as means for the liquidation of exchange transactions. He did not however take the next logical step, as Ernst Fleck

© The Continuum Publishing Group Ltd 2002.

In the following I would like to deal with three questions that arose in the course of my work on this volume. So far, I have no definite answer to any of them.

I have already touched on the first puzzle: that this extensive body of writing has been practically ignored by the Weber literature. It plays no role in the intellectual biography of the man. How can one account for the fact that this gap remained unremarked by students of Weber for so long?

The second puzzle concerns the impulse and origin of the writings. How could someone who, up to 1894, had published not a line on questions of stock and commodity exchanges, become interested in this area and become the leading specialist in such a short time?

The third puzzle concerns Weber's sudden silence in 1897 directly after the publication of his final publications on the nature of bourses: the articles 'Bourse Law' and 'Securities (Deposit)' in the *Handwörterbuch der Staatswissenschaften*. There are many interpretations of Weber's illness. In no way do I wish to replace these with a newer one. But I would like to raise the possibility that the writings on stock and commodity exchanges might have been linked to the crisis—and not simply because they contributed to the constant overwork memorably described by Marianne Weber.

Why Have the Writings been Overlooked?

The first puzzle: it is not unusual in the history of the sciences for the publications of an author to be considered and discussed with differing degrees of intensity. There are always more important and less important works. Some of Weber's writings on the bourse have a lasting value as sources for the legal and economic history of the bourse. But one would not treat them as important works of contemporary legal, economic or social sciences. If Max Weber had died earlier then they would not merit any greater attention than the writings of most late nineteenth-century professors. It is only in the context of the later works that one is struck by the persistence of the gap I have described.

The reason for its existence cannot be that these writings on the bourse betray nothing of relevance to Weber's development and his later works. If this were so, then someone would have had to realize their impor-

did, and compare the function of future contracts with that of money—see E. Fleck, 'Die Börse und das Reichsgericht', *Monatsschrift für Handelsrecht und Bankwesen, Steuer- und Stempelfragen*, ed. P. Holdsheim, Jg. 8 (1899), p. 162. Along these lines see also more recently, L. Telser, 'Why are there Organized Futures Markets?', *Journal of Law and Economics* 24 (1981), pp. 1-22.

© The Continuum Publishing Group Ltd 2002.

tance, and then communicate this to the wider academic community. But this has not happened.[20] There must therefore be some other reason. I can think of four.

1. These texts are certainly not light reading. The reader, confronted with specialized bourse terminology, requiring specialized legal and economic knowledge, and also needing some familiarity with the contemporary background, requires a special kind of energy and an enormous will to learn. No one will voluntarily assume such effort without some kind of guarantee that the struggle will be worthwhile in respect of some problematic or other. But from where might those interested in Weber derive encouragement, since as a rule they are not experts in the functioning of stock and commodity markets?

2. In addition to this Marianne Weber and the publisher Oskar Siebeck materially contributed to the way in which this complex of writings has remained relatively invisible. It is clear that their extensive republication of collections of Weber's work has contributed greatly to his subsequent reputation. But of the writings under discussion here only the two pamphlets from Naumann's Workers' Library were reprinted, as noted above. Might not his widow, the person most knowledgeable about Weber's life and work, be indicating in this way that she considered the other writings on the bourse to be less important? On top of this 'Die Börse' was printed in the *Gesammelte Aufsätze zur Soziologie und Sozialpolitik*, another red herring. For one thing no one would look in that book for something on stock and commodity exchanges. And secondly, Weber argued tirelessly that social policy had no place in the bourse, especially a 'social policy' designed to protect wealthy people from their own foolishness.[21] We do know from the surviving correspondence between Marianne Weber and the publisher that this concentration on *one* text and its unhappy placement was not originally planned. There should have been a volume 'Collected Writings on Economic Policy' to follow the 'Collected Writings of Social and Economic History'. The publisher even planned a section 'Bourse Organization' for this volume.[22]

20. So far as I can tell there is only *one* (negative) assessment of the importance of the writings on stock and commodity exchanges for Weber's *scientific* development, and this lumps them together with the East Elbian writings and those on 'medieval agrarian relations' (sic) as of little interest for methodological issues—see W. Gephart, *Gesellschaftstheorie und Recht. Das Recht im soziologischen Diskurs der Moderne* (Frankfurt: am Main: Suhrkamp, 1993), p. 432.

21. It is worth remembering that Weber's view was shared by the Social Democrats.

22. The section was to include 'Die Börse' (*Göttinger Arbeiterbibliothek*), 'Die technische Funktion des Terminhandels' (*Deutsche Juristenzeitung*), 'Börsenwesen' (*Hand-*

© The Continuum Publishing Group Ltd 2002.

But nothing came of this, since among other things the publisher decided in 1924 on a swift conclusion to a series of essays that had grown to over 3,700 pages. But this loss does not seem to have troubled Marianne Weber overmuch. In 1925, responding to an urgent request from a young Johannes Winckelmann to make more of the bourse writings accessible in reprint, she expressed the view that these were 'dated'.[23] She was right to a certain extent, for the once dramatic dispute over the bourse had long been decided. Moreover, securities and commodity exchanges had suffered a steep decline in importance. The question of their organization and how trading should be regulated was no longer a part of public discussion by the 1920s. Even in the relevant specialist legal and economic disciplines the bourse and trading had become a marginal area.

3. There is however a further discerneble reason for the longstanding lack of interest in these writings: the interpretation given to them by Marianne in her biography of Max Weber, published in 1926, rendered them of relatively minor interest to the study of Weber. Marianne suggested that what was interesting in them related to the *political* problem, just as in the agrarian question.[24] This official comment, betraying nothing of the scholarly quality of the writings, was definitive for the subsequent reception.[25] When writing his book *Max Weber and German Politics* Wolfgang Mommsen gave additional emphasis to this view, an ap-

wörterbuch der Staatswissenschaften). The 'Ergebnisse der deutschen Börsenenquete' was excluded on account of its length, the articles 'Börsengesetz' and 'Wertpapiere' because they dealt with laws which 'are today almost completely superseded. The article "Börsenwesen" on the other hand retains its interest as a summary of the consequences of the Bourse Commission', Oscar Siebeck to Marianne Weber, 30 July 1923, Mohr/Siebeck Archive, desposited at Munich Staatsbibliothek, ANA 446, Bl. 2491-2493.

23. Winckelmann had asked Marianne Weber in a letter that has survived only in part whether it might be possible to reprint 'Ergebnisse der deutschen Börsenenquete' and 'Die technische Funktion des Terminhandels'. Marianne Weber wrote in the margin of the letter: 'These essays are dated, I could not expect the publisher to print them, what is of *general* interest is in the [!] essay on the Bourse', Appendix to a letter from Marianne Weber to Johannes Winckelmann, 20 May 1925, Winckelmann Papers, Bayerische Akademie der Wissenschaften.

24. Marianne Weber, *Max Weber*, p. 197.

25. See, for example, R. Swedberg, *Max Weber and the Idea of Economic Sociology* (Princeton, NJ: Princeton University Press, 1998), p. 184: 'That Weber's work on the stock exchange was inspired by his political interest is obvious from the final passage in the pamphlet, which says…' Swedberg has unfortunately overlooked the fact that the closing passage he cites dates from 1896, and hence postdates a fundamental alteration in the point at issue in the dispute on the bourse. Weber's wish to take part in these debates cannot be interpreted as a motivation for accepting the commission two years earlier in 1894.

© The Continuum Publishing Group Ltd 2002.

proach that is quite justifiable within his general perspective.[26] This however did nothing to prompt a greater degree of curiosity in the *scholarly* achievement of these texts.

4. If we need yet another reason for the neglect of the bourse writings, then we can cite the fact that in his later work Weber never returned to the bourse, apart from some fleeting asides that could have been written by anyone. Weber did not therefore build a bridge, at any rate not one whose crossing would be obligatory. Unlike the authors of other entries in the first edition of the *Handwörterbuch der Sozialwissenschaften*, Weber did not revise his three articles on the bourse for subsequent editions. It is implausible to blame this entirely on his illness, since the article 'Agrarverhältnisse im Altertum' published in the 1897 edition of the *Handwörterbuch* was revised for the second and third edition of the work, in 1898 and in 1909. In this way he cultivated his 'responsibility' for this area. I will come back later to the reason for his being suddenly struck dumb.

What Triggered the Writings?

Now for the second puzzle: how can we explain the 'eruption', as Friedrich Meinecke called it, that resulted in the work published in our volume? There is no forewarning. The first sign of any work by Weber with the bourse is a letter to Gustav Schmoller from 3 February 1894.[27] Weber thanks Schmoller, a member of the Bourse Commission, for sending an introduction to the recently published statistical appendix to the Commission's report. The young Berlin professor lets his older colleague know that he is already familiar with the statistical material, and that he has already been able to make use of Schmoller's views in his practical classes on commercial law, where he was 'at present working through the Bourse Report'. Weber gives no hint that he intends to review the results of the Report in the *Zeitschrift für das gesammte Handelsrecht*, nor that he has any other plans in this area. It is safe to assume that if he had any definite plans he would not have kept quiet about them. Barely three months previously Weber had outlined to the same Schmoller research plans of a quite different sort. Then he had said that he wanted to continue his studies of mediaeval trading companies by tracing the mediaeval antecedents of modern business on account—thus working directly along the same lines.[28] When did he deviate from them?

26. Mommsen, *Max Weber and German Politics*, pp. 75-76.

27. GstA Berlin, Rep. 92, Nachlass Schmoller, Nr. 186.

28. Letter to Schmoller, 24 October 1893, GstA Berlin, Rep. 92, Nachlass Schmoller, Nr. 186.

© The Continuum Publishing Group Ltd 2002.

The next definite news of Weber's interest in the bourse comes from June–July 1894. Here he is already working on the first article reviewing the results of the Bourse Commission's work, as well as on the planned popular introduction to the Bourse for Naumann's Workers' Library. In July Weber gave a lecture at the International Society for Comparative Legal and Economic Science on 'The Organization of the German Exchanges in International Comparison'. This is also the subject of the first chapter of his report on the work of the Commission. So the bourse is his new theme.

The gap between the letter to Schmoller on 3 February and the evidence of work already under way is in many ways regrettable. It would be good to know whether Max Weber here once more responded to a request, as in the survey of rural labour, or whether this time the radical change of subject comes from his own interests.[29] If it were the case that Weber himself took the initiative, there then follows another question more pressing than if it concerned commissioned work: what was the motive in deciding upon such a sudden change of direction in his work? And whether his own initiative or commissioned work is at issue, there is still the question: what is the source of Max Weber's conviction that he was at all capable of meeting, starting from scratch, scholarly standards in the field?

Answers to these questions become even more necessary given that during this chronological gap, from 3 February to June 1894, Weber was offered the chair of Economics and Public Finance in the Faculty of Philosophy of the University of Freiburg, the appointment following on 25 April 1894. There is the further question of whether, as he decided upon this change of theme, Weber was still fixed upon a career as a lawyer, or whether he faced a decision between two quite different academic careers and was prepared to choose a change of discipline—and what he thought he was doing in moving to economics, a change often described as quite radical. Is it possible that the change of subject matter was linked to the change of discipline?

There are no documents in our possession that might provide certain answers to these critical biographical questions. All we have are indications. Luckily, I think that they suffice to put together a plausible story. We have no need therefore of an elaborate account of the substantial relationship of the writings on the bourse to the preceding work on rural

29. It is striking how often the origin of individual pieces of work by Weber lies in a response to a request on the part of an individual or an organization. This is not only true of the period after his illness, which Marianne Weber has dealt with: see Marianne Weber, *Lebenserinnerungen* (Bremen, 1948), p. 122.

© The Continuum Publishing Group Ltd 2002.

labour.[30] Nor do we have to agree with Marianne Weber's claim that the essays in the *Zeitschrift für das gesammte Handelsrecht* were really about politics, 'above all futures trading'.[31] Dispute over futures trading only became a central issue of political debate during 1894–1895, and the legal prohibition of futures trading in grain only came about in 1896. And Weber broke off the sequence of essays in the *Zeitschrift* in 1896, before he had discussed futures trading in grain.[32] However much he was concerned with these matters, they could not have motivated him to initiate an extensive study of the report of the Bourse Commission in 1894.

Biographers, like historians, always run the risk of using their knowledge of later events in explaining that which preceded them. But I would like to concentrate on that moment during the first quarter of 1894 when Weber found his new subject. This moment quite naturally has a prehistory. In my opinion, Weber's training in a quite special approach to law and its history is part of this prehistory. And this means that we need to consider the influence of his doctoral supervisor, Levin Goldschmidt, an important specialist in Roman Law, the history of law, and joint founder of the science of commercial law.[33]

Goldschmidt had taught in Berlin since 1875, and was also the founder of the *Zeitschrift für das gesammte Handelsrecht*. Perhaps he—or another editor acting upon his suggestion—could, in February or March 1894 when all the Bourse survey material had been published, have asked Max Weber to review the result of the inquiry. It was obvious that the journal had to review the results of this inquiry. It cannot be entirely ruled out that Weber volunteered for the task. But that is unlikely. He had after all, up to this time, not published a single line on the issues with which the inquiry had been concerned. He might have been attracted by the prospect of once more working through reams of material, as he had done in 1892 when working on the Verein für Socialpolitik's survey of East Elbian rural labour, from which his much-

30. Dirk Käsler has suggested that Weber, having shown in the works on rural labour how important national and international grain prices were for landowners and rural workers, could have felt impelled to show how those prices formed in the exchanges were not founded upon deception and lies. See Käsler, *Max Weber*, p. 64. But it is not very likely that this issue could support several years' work on the bourse. Besides, Weber broke off this work without having dealt with the central problem that Käsler's hypothesis identifies.

31. Marianne Weber, *Max Weber*, p. 197.

32. The unfinished character of many of Weber's writings deserves closer study.

33. See on Goldschmidt L. Weyhe, *Levin Goldschmidt: Ein Gelehrtenleben in Deutschland. Grundfragen des Handelsrechts und der Zivilrechtswissenschaft in der zweiten Hälfte des 19. Jahrhunderts* (Berlin, 1996).

© The Continuum Publishing Group Ltd 2002.

admired study had emerged. But significantly, Weber himself referred to the series of articles in a letter to his wife as 'the Bourse for Goldschmidt'.[34] And he acknowledged in his prefatory remarks to these essays that he did not consider himself the first choice for the task.[35]

Levin Goldschmidt had better grounds for believing that Max Weber was the right man for the bourse survey than those in the Verein für Socialpolitik who in 1892 entrusted the survey of rural labour to the entirely unproven lawyer Max Weber. Goldschmidt had been close to the Weber family for many years, since his time in Heidelberg, living from 1862 to 1870 in Weber's grandparents' house on the Ziegelhäuser Landstrasse. Weber was allowed to work in Goldschmidt's library while he wrote his dissertation. And Goldschmidt also played a role in the rather singular way that Weber was able to complete his Habilitation in commercial law with his dissertation on Roman agrarian relations. Levin did know Max Weber's abilities, his capacity for work, and his interests —without being at all uncritical. He only gave Weber's dissertation the grade 'cum laude', and in the new edition of his *Universal History of Commercial Law* he made several critical remarks about his student's work.

But Goldschmidt could have had other reasons for entrusting this task to Weber, and perhaps Weber thought that a precise, specialized report on the inquiry, published in the *Zeitschrift für das gesammte Handelsrecht* was, quite possibly, suitable as a means of establishing his by no means secure position in the Berlin Faculty of Law. Weber had made his Habilitation in February 1892 in Roman state and private law plus commercial law; in November 1893 he was appointed, under somewhat mysterious circumstances, extraordinary Professor for Commercial and German Law. This is not the place to examine the (still not entirely clear) intentions of those in the Prussian Ministry of Culture responsible for university matters when Friedrich Althoff, in possession of a letter from Levin Goldschmidt concerning an inability to deliver his lectures on account of his illness, appointed Max Weber extraordinary Professor for Commercial and German Law (his Habilitation did not in fact qualify him to teach the latter). There is a lot to be said for the view that this appointment served as a defensive move in respect of the offer being prepared in Freiburg, about which many, including Weber, already knew. But in fact the Baden cultural administration did not completely endorse the faculty's choice and did not make the offer. And so Max Weber, following his astonishingly early appointment to an extraordi-

34. Letter to Marianne Weber, 28 July 1894, Max Weber-Schäfer Papers, Staatsbibliothek Munich, ANA 446.

35. MWG I/5, p. 214.

© The Continuum Publishing Group Ltd 2002.

nary chair, became responsible for two subjects in a faculty where, besides Goldschmidt, he also had such important colleagues as Otto Gierke and Heinrich Brunner. However, so far Weber had not published anything, either in commercial or in German law, that might impress the relevant academic community. There was absolutely nothing by Weber on current commercial law, nor on legislative plans. Perhaps it was about time that the new professor wrote something up to date? If we suppose that Weber accepted the commission to review the Bourse Report before he received in April the definitive offer of a post from Freiburg, then the decision does sit well with a plausible career path.

Two further questions do require closer examination: (1) Was not the topic 'bourse' an economic one, and hence suited to the Freiburg post?; and (2) I have referred above to the way in which Goldschmidt entrusted his student with the review for his journal, and that Weber himself regarded it as a possibility. What was the basis of this trust and hope?

On the first question: it is true that both law and economics did at that time deal with the problems of stock and commodity exchanges and the various kinds of business conducted in this domain. In economics, however, they remained until the 1890s a mostly neglected subsidiary topic. Exchanges were certainly mentioned occasionally in the textbooks, but there was not specialist discussion of disputed issues. It was only around 1890 that a few doctoral students began to work over this area, and the work that they produced was entirely in the spirit of the Historical School's research programme: empirical, comparative studies of the organization and conduct of exchanges at home and abroad.

In law the situation was quite different. For decades the foremost legal scholars had debated the most various aspects of bourse organization and the trading that took place there, both of which were also dealt with by the inquiry. A constantly increasing number of writers contributed to discussion in legal literature concerning the inadequate regulation of brokers (*Makler*), the numerous abuses of business on account (*Kommissionsgeschäft*), and the problems related to the protection of those investing in securities.

Particularly intensive was discussion relating to the casino-like qualities of the bourse (*Börsenspiel*). This was principally related to the question of whether obligations arising from trades which did not conclude with the delivery of and payment for securities or commodities, but simply balanced the difference between an agreed future price and the price actually prevailing in the exchange on the delivery date, so-called *Differenzgeschäft*, should be treated as serious contracts to purchase, or should instead be treated more like a game of chance, or gambling. Claims arising from contracts to purchase could, if disputed,

© The Continuum Publishing Group Ltd 2002.

be settled by a court of law. By contrast, whoever was reluctant to pay gambling debts could not then be forced with judicial help so to do. These claims were, in legal terminology, non-actionable. Could one not also stake one's shirt speculating in futures markets, and might not debtors be freed of liability through pleading that they were engaged in *Differenzgeschäft*? — although in some cases this might not be respectable, for in the event of a gain one would surely have not have refused to accept the relevant amount? Four conferences of German lawyers were occupied with questions arising from speculative futures trading, its legal nature, even the possibility of its prohibition. As Udo Wolter in particular has shown,[36] nearly all the great scholars of civil law participated in this debate. Even in Weber's Law faculty there was in 1894 a clear divergence of opinion. Levin Goldschmidt, a judge in the Imperial Supreme Commercial Court, was himself quite receptive to the customary futures business in the exchanges, and up to 1892 he played a part in the legal judgments delivered by this instance. They restricted the admissibility of the so-called 'marginal plea' to those contracts explicitly limited to payment on the margin. Such contracts were rare. They were usually modelled on contracts for delivery, but were settled ultimately only by paying (and accepting) the *Differenz* (between the contract price and the price at the delivery date). Such contracts were actionable, until the jurisdiction of the Imperial Court took a dramatic turn in 1892. Weber's colleagues Brunner, Gierke and Kohler emphatically welcomed this new development. Like many others, they wanted to see the 'casino-like' aspect of the bourse limited.

There is another legal dispute which is of interest in respect of Max Weber's thinking. In the mid nineteenth century Levin Goldschmidt, then a *Privatdozent* in Heidelberg, had initiated a debate which has gone down in legal history as the 'Lucca–Pistoia share dispute'. This concerned the conditions under which a banker should be liable for faults in an underwriting prospectus that he had issued. In a legal opinion Goldschmidt, having outlined various arguments, found against the liability of a Frankfurt banker for his indisputably incomplete particulars of a Tuscan railway company that subsequently went bankrupt. Rudolf Ihering, at that time teaching in Giessen, was outraged and opposed this finding. Ihering saw in the incompleteness of the particulars — unlike Goldschmidt — bad faith, and moreover did not wish to accept — also unlike Goldschmidt — the joint liability of the plaintiff, who was quite

36. U. Walter, *Termingeschäftsfähigkeit kraft Information: Eine rechtshistorische, rechtsdogmatische und rechtspolitische Studie über die stillschweigende Entfunktionalisierung des §764 BGB durch die Börsengesetz – Novelle von 1989* (Paderborn: Lit, 1991), pp. 39, 61, 74, 87, 113-14.

© The Continuum Publishing Group Ltd 2002.

familiar with the area but had failed to adequately inform himself. A bitter debate continued on until 1869, in which it was never disputed that the sole basis for liability should be intentional violation on the part of the intermediary, i.e. bad faith. But there turned out to be wide variations in views about the degree to which the buyer should be explicitly informed by the seller, and the degree of effort expected of the purchaser in informing him- or herself, as in the motto *caveat emptor*—'buyer beware'. Rudolf Ihering offended Goldschmidt by implying that he had supported the 'interests of commerce in the lax application of the principles of intent'.[37] This debate prefigures the conflict of objectives between the functional requirements of the market, the protection of investors, and moralistic judgments that were repeatedly addressed by Max Weber in his writings on the bourse. Since Weber opposed a moralistic approach to behaviour in capital markets (as a market composed of well-informed agents), he sided with his teacher on this issue.

By laying emphasis on the importance of Goldschmidt to Weber, and especially for his writings on stock and commodity exchanges, I am simply following a suggestion made by Gerhart von Schulze-Gävernitz, a professorial colleague of Weber's in Freiburg and so direct witness to the work that he did. In his obituary he wrote: 'Starting from Goldschmidt, Max Weber directed himself to a penetrating study of the bourse.'[38] Let me try and define more exactly what that might mean.

Max Weber's interest in the findings of the bourse investigation, and his continuing observation of arguments over reform, is easier to understand if one takes account of the description of scholarly interests that prefaced Weber's first study, *On the History of Medieval Trading Companies*. He expressed the view that, respecting the origin of particular types of trading societies, it had not yet been made sufficiently clear 'how in each case the law had been formed—whether it involved entirely new legal thinking springing from the burgeoning needs of the day, finding general acceptance through transformation onto mercantile usage, and from thence into mercantile customary law'.[39] A similar course of events

37. R. Ihering, 'Der Lucca–Pistoja Eisnebahnstreit: Ein Beitrag zu mehreren Fragen des Obligationsrechts, insbesondere der Theorie des dolus und der Lehre von der Stellvertretung', *Archiv für praktische Rechtswissenschaft*, NS, 4 (1867), p. 271.

38. Weber and Schulze-Gävernitz jointly ran a 'cameralistic seminar' every semester. It is quite improbable that contemporary issues of the bourse were not discussed, and hence Weber's own views on the subject. See G. von Schulze-Gävernitz, 'Max Weber als Nationalökonom', in M. Palyi (ed.), *Hauptprobleme der Soziologie: Erinnerungsgabe für Max Weber*, I (Munich: Dunker & HumGlot, 1923), p. xiv.

39. Max Weber, *Zur Geschichte der Handelsgesellschaften im Mittelalter. Nach südeu-*

© The Continuum Publishing Group Ltd 2002.

must have characterized the bourse and its law, so that one had to understand the way in which prevailing economic and social circumstances had provided the impulse for shaping those private rules in force at the bourse. But for *this* task there was much more in the way of source material, and better sources. The expert hearings of the inquiry, and some recently published historical studies provided an enormous amount of material that needed to be put in order.

But in turning to work on the bourse material it was not only this reciprocal relationship between commercial law and everyday needs that lent Weber the feeling of being on solid ground. Although Goldschmidt had published practically nothing on the problems of stock and commodity exchanges, Weber could nonetheless call upon Goldschmidt's authority in his approach to the major issues of the contemporary bourse. For Goldschmidt had demonstrated that the commercial law prevailing virtually everywhere:

> sprang from the genial creative power of European merchants, especially Italian merchants, mostly obstructed rather than aided by civil and canon lawyers, in part working in contradiction to Roman Law, and especially Canon Law, in part beyond them (contra—praeter legem).[40]

Commercial law was therefore historically speaking the law *of* merchants *for* merchants. Even where, in course of time, that which had originally been mercantile customary law was transformed into codified law by legislators, this for the most part simply endorsed the customary usage of merchants and traders. All Weber had to do when beginning his study of the bourse was pursue this idea and to ask: in drafting new legislation, was it expedient simply to give legal force to the existing Bourse practices, autonomously developed by traders and merchants? Or did the legislature now have a different task; and if so, why, and what was this task?

Goldschmidt had fought against plans to adopt in Germany the practice of the French Code de Commerce, which simply brought together the law prevailing in commercial transactions. Instead, he sought a separate body of commercial law that would treat traders, merchants and men of business as a special estate. This was the motive behind the creation of the *Handelsgesetzbuch*, which came into force in 1900. In favour of this approach was that a body of law of this kind was more effective in meeting the exigencies of commerce: clarity of relationships

ropäischen Quellen (Stuttgart, 1889), p. 1; reprinted in *Gesammelte Aufsätze zur Sozial- und Wirtschaftsgeschichte*, p. 312.

40. L. Goldschmidt, *Rechtsstudien und Prüfungsordnung: Ein Beitrag zur Preußischen und Deutschen Rechtsgeschichte* (Stuttgart, 1887), p. 440.

© The Continuum Publishing Group Ltd 2002.

between those who required it; certainty and security of the rules, swift settlement of disputes, *Treu und Glauben*, recognition of a special merchant's honour, but also the acknowledgment that men of commerce wanted to make profits out of speculative business. If commercial law was a body of law applying to all merchants in the interests of economic functionality, could Bourse Law not build upon this? Time and again in Weber's writings on stock and commodity exchanges we can see how he carried on the work of his teacher. For example, Weber recognized that with respect to *Differenzgeschäft*:

> there was no avoiding a clash between on the one hand the legal consciousness of businessmen who had nothing but contempt for the sheer unfairness of the 'difference plea', and on the other a public which did not understand why the state should put its authority behind efforts to realize gambling debts.[41]

But nonetheless trading in futures appeared to be quite economically indispensable, and so he sought a clear separation between the two spheres. This pointed to a separate body of law for the bourse, if possible with autonomy granted to those qualified to deal in the bourse. It was for this reason that Weber identified the question of admission to the bourse (or conversely the exclusion of speculators without capital) and the powers of a court of honour as central questions for the reform of the German bourse. He ended up tersely summarizing his conception of reform before the provisional bourse committee, in opposition to the views of Count Arnim, the leader of the agrarian lobby hostile to the bourse; he would rather see introduced:

> a degree of plutocratic closure to the bourse, if I might express myself in an unfriendly manner, rather than entertain the assignment of entry rights founded upon proof of moral qualification, the allocation of which would be problematic; the latter being favoured by the Inquiry Commission and by the Bourse Law. I would far rather see introduced proof of economic qualification, especially a minimum amount of property…

He did however continue:

> …but this is an idea whose implementation current sentiment in Germany puts quite out of the question.[42]

At the end of the nineteenth century the idea of freedom of contract no longer commanded the unconditional authority in civil law that it had once enjoyed when liberal ideas were at their peak. The state had come increasingly to intervene in contractual relationships among its citizens

41. Weber, MWG I/5, p. 509.
42. Weber, MWG I/5, p. 714,

© The Continuum Publishing Group Ltd 2002.

for a variety of motives, chiefly sociopolitical motives. Even in commercial law the protection of the (supposedly) weak, or the less well-off, became a political preference to which first the courts opened themselves, and then later the legislature. All the same, conflict here was not as new as it then seemed. In his *Universal History of Commercial Law* Goldschmidt had shown how there had always been a tendency for 'individualistic' and 'cosmopolitan' commercial law to be on the defensive in economic life against the force of 'social' or 'collectivistic' tendencies. His student, Weber, must have been sensible to the dangers this could pose to the functioning of markets. Such dangers were central to Weber's assessment of the law concerning the legal and political development of stock and commodity exchanges—and not only in his orientation to authority and the state, as hitherto constantly emphasized in the literature.

Since Goldschmidt ascribed great influence to economic factors in the knowledge and development of the law he was highly regarded by the economists of the time, although he was quite capable of judging economic circumstances for himself. Nonetheless, he did insist on the autonomy of a specifically legal (formal) way of thinking—as later did Weber in his legal sociology. However, Goldschmidt had as early as 1860 admitted that an occupation with commercial law brought with it the danger 'of departing from the rigours of positive jurisprudence'.[43]

5. *Was Weber's Move to Freiburg a Move from Law to Economics?*

Max Weber certainly 'departed from the rigours of positive jurisprudence', if he had ever adhered to them in the first place. But in accepting the Freiburg appointment in 1894, did he really leap headfirst into economics, and burn his boats? According to the Weber literature there is little doubt about this. But the writings on the bourse remain a puzzle. I think that Weber's alleged shift from law into economics, as formulated by Wolfgang Mommsen, needs reconsideration.[44] Of course, from 1894 onwards Max Weber referred to himself as an 'economist' often enough. But what else should a Professor of Economics and Public Finance do? In the circumstances it is therefore even more remarkable, but has so far gone largely unremarked, that while in Freiburg Weber also announced lectures within the Faculty of Law, or among 'legal subjects' in the

43. Letter of L. Goldschmidt to Professor Fitting, 1 July 1860, in A. Goldschmidt (ed.), *Levin Goldschmidt: Ein Lebensbild in Briefen* (Berlin 1898), p. 236.

44. Mommsen, 'Einleitung', MWG I/4, p. 39.

© The Continuum Publishing Group Ltd 2002.

Faculty of Law and State Sciences as it later became.[45] This means that, overburdened as he was with the preparation of lectures for courses that he had himself never taken,[46] he also in Freiburg held practical classes in commercial law and twice announced lecture courses on the history of German law, the first time for four hours a week, the second for five. Announcing a special series of lectures on the bourse for a second time for his last semester in Freiburg, he gave it the title 'Bourse Organization and Bourse Law (sic)'. The surviving lists of students paying the fee to attend Weber's lectures indicate they were overwhelmingly members of the Faculty of Law,[47] even though the chair was originally in the Faculty of Philosophy, before it was integrated—not least on Weber's prompting—in the renamed 'Faculty of Law and States Sciences' shortly before he received the offer of the Heidelberg chair.

The patchiness of existing biographies and accounts of Max Weber's intellectual development is quite astonishing. But it does seem possible to resolve the puzzle of Weber's taking up study of the bourse, at least to some extent; and to put together a plausible story. It simply means greater involvement with his intellectual academic background, with Max Weber the lawyer. I think that there are clear indications that Weber, while in Freiburg, still sought to retain membership of both disciplines, or circles of discourse. The writings on stock and commodity exchanges are not the sole or most important source of evidence for this.[48] Weber himself wrote in 1894 a remarkable letter to Friedrich

45. Wolfgang Mommsen does refer to this in his introduction to MWG I/4, p. 41, but without reaching my conclusion. Keith Tribe includes in his survey of Weber's Freiburg teaching only those lectures related to economic matters—*Strategies of Economic Order* (Cambridge: Cambridge University Press, 1995), p. 83.

46. Marianne Weber, *Max Weber*, p. 202. I suspect that what is mostly taken as an 'amusing exaggeration' on the part Marianne Weber needs to be taken seriously. The extent of Max Weber's economic studies will never be clearly established. I judge his interest during his time as a student to be small. His views as expressed in letters concerning his attendance at the lectures of Karl Knies do not contradict this. On 12 February 1883 Weber wrote to his father: 'In Knies's lectures economics and financial science, *which I have to attend*, [emphasis mine] are well covered, if uninterestingly, which the material itself hinders', Weber, *Jugendbriefe* (Tübingen: J.C.B. Mohr [Paul Siebeck], 1936), p. 71. Law students who wished to sit their first examination in Prussia needed proof of attendance at any lecture course in the state sciences. This course was not examined.

47. Notable names among the students listed are: Paul Jaffé, Robert Liefmann, Hugo Sinzheimer, Moritz Bonn, Gustav Sieveking, Rudolf Weyermann, Theodor von Ungern-Sternberg.

48. The places where Weber published are also important as a source of evidence. It was not only the principal text, the 'Ergebnisse der deutschen Börsenenquete', that

© The Continuum Publishing Group Ltd 2002.

Althoff that the sole substantial reason for accepting the Freiburg appointment was his problematic future situation:

> With the peculiar nature of the disciplines I am interested in combining I cannot conceal the fact that I would not easily find myself a place on the Faculty of Law that could form the basis of a *lifetime* position.[49]

His contemporaries also saw him as a man between disciplines. Adolph Wagner wrote to a younger colleague at the time Weber received the Heidelberg offer: 'I think a lot of Max Weber. His sound legal knowledge suits him well as successor to the author of *Money and Credit*.'[50] But in Heidelberg, in contrast to Freiburg, Weber no longer offered lectures on jurisprudence. The acceptance of the Heidelberg chair seems to have been linked to his finally abandoning the experiment of serving two masters (possibly also of the attempt to keep his future academic options open). But, as would soon become apparent, in no respect successfully.

6. *The Descent into Hell*

And this brings me to the third question. Does Max Weber's decent into speechlessness, his 'descent into hell'[51] directly following his completion of the final text on the bourse, have something to do with the end of this eruption? Here I will be even more speculative than in discussion of the first two questions, but I do wish to indicate the seriousness of this question.

First, a few facts. Weber had not completed his series of articles on the 'Results of the German Bourse Inquiry', when the new Bourse Law was passed in June 1896 with the votes of an overwhelming majority of the Reichstag, including those of the national liberals. With this, Weber's enormous effort in generously preparing the ground for specialist and political discussion *before* decisions on reform were made proved futile.[52]

Immediately after the decision by the Reichstag Weber sharply criticized in his publications the (unilateral) prohibition of futures trading

was published in a legal journal. The important essay on futures trading, 'Die technische Funktion des Terminhandels', appeared in the first volume of the newly founded *Deutsche Juristenzeitung*. See MWG I/5, pp. 597-613.

49. Letter of Max Weber to Friedrich Althoff, 3 April 1894, Weber, *Briefe 1911–1912*, MWH II/7, p. 291. My emphasis K.B.

50. Letter from Adolph Wagner to Wilhelm Stieda, in A. Wagner, *Briefe, Dokumente, Augenzeugenberichte 1851–1917* (edited and selected by H. Rubner; Berlin: Duncker & Humblot, 1978), p. 310.

51. Marianne Weber, *Max Weber*, p. 237.

52. There is however some evidence that Weber's work influenced discussion leading up to the Amendment of 1908.

© The Continuum Publishing Group Ltd 2002.

in grain[53] – entirely in agreement with the views of the Prussian government and imperial ministries, judging by their statements in the Reichstag and the Bundesrat. It is quite possible that it was for this reason that he was nominated in November 1896 by the Imperial Ministry of the Interior as one of two academics to sit on the Provisional Bourse Committee, as discussed above. The Committee was firstly to advise and secondly make recommendations to the Bundesrat with respect to the implementation of conditions for the issue of securities under the new Bourse Law, to come into force on 1 January 1897. Then the Farmers' League[54] and the German Farmers' Council demanded that the Committee should also seek to secure the Reichstag's decision on the prohibition of futures trading in grain against quite manifest efforts by members of the bourse to circumvent the decision. Max Weber's moment of greatest political effect in this issue came in his confrontations with the leaders of the agrarian lobby in the provisional committee, opposed as they were to the bourse. But at the same time this success laid the seeds of his coming bitter disappointment. His generally anticipated appointment to the Permanent Bourse Committee for which the new law provided failed to materialise, mostly because of intervention by the agrarians. Weber must have felt himself rejected and excluded from the only institution in which future questions of Bourse organization would require specialist knowledge and advice. His expert knowledge was no longer in political demand.

Simultaneously, his familiarity with exchange dealings and related matters seemed no longer of great academic benefit. No great predictive power was needed to see that scholarly interest in issues related to stock and commodity exchanges would quickly fade. Everything worth saying seemed to have been said. The basic questions had been legislatively resolved. Throughout 1897 there was considerable dispute over a strike by members of the bourse against the law; but that was a matter for the state and administrative courts. Of course, Weber could have continued working on these problems. He could for instance have revised his articles in the *Handwörterbuch der Staatswissenschaften*, bringing them up to date. But that was just drudgery. No scholarly progress was to be made here. Among economists, to whom Weber after his move to Hei-

53. 'The representatives of the agrarian interest needed the decision for their masses of thickheaded voters, "ut aliquid factum esse videatur". A few of them even believed in the particularly detrimental character of futures trading itself… A more sorry example can hardly be conceived of the opportunity the Bourse issue provided to those parties today most prepared to expose and denounce *Kathedersozialismus* and *Kapitalfeindschaft* in German universities', 'Die technische Funktion des Terminhandel', MWG I/5, p. 495.

54. Bund der Landwirte.

© The Continuum Publishing Group Ltd 2002.

delberg must felt that he definitely belonged, the bourse became once more a marginal topic. Further effort in this area would result in no especial recognition *as an economist*, let alone prominence.

The matter was certainly not without interesting scholarly aspects. If for example Max Weber had felt like fulfilling a promise he made in the second of the two Göttingen pamphlets, new terrain would have opened up. He had written in a footnote: 'Discussion here is confined for the most part to the forms of exchange. The functions of the great financial powers is best left for separate treatment.'[55] It is not known whether Weber ever had any serious intention of writing about this.

Did the fulfilment of Weber's academic duties in Freiburg give Weber the opportunity (and the will) really to develop himself into an economist—even a modern, system-theoretical thinker? In the last few years Wilhelm Hennis, Keith Tribe and Heino Nau have drawn attention to Max Weber the economist.[56] I do not wish to make a fundamental criticism of this approach, rather just add a question mark. A more thorough treatment of this issue belongs elsewhere.

It is true that in Freiburg Max Weber regularly announced and delivered the requisite standard economics lectures. A bundle of his lecture notes for various courses are scheduled to be sorted through and published in the *Gesamtausgabe*, Section III. We anticipate their appearance with great interest. For the time being we have the reprint of his lecture outline on general ('theoretical') economics from 1898.[57] The reading list covers more than 500 titles, the sheer extent of the list being variously cited as proof of Weber's mastery of the discipline, or as evidence of his excellent knowledge. But the manner in which this testifies to Weber's command of the material needs further discussion.[58]

55. Weber, *Die Börse II*, MWG I/5, p. 619.

56. See W. Hennis, *Max Weber's Central Question* (Newbury: Threshold Press, 2000), pp. 105-47; K. Tribe (ed.), *Reading Weber* (London: Routledge, 1989); Tribe, 'Historical Economics, the *Methodenstreit*, and the Economics of Max Weber', in his *Strategies of Economic Order*, pp. 66-94; H.H. Nau, *Eine 'Wissenschaft vom Menschen': Max Weber und die Begründung der Sozialökonomik in der deutschsprachigen Ökonomie 1871 bis 1914* (Berlin: Duncker & Humblot, 1997).

57. M. Weber, *Grundriss zu den Vorlesungen über Allgemeine ('theoretische') Nationalökonomie (1898)* (Tübingen: J.C.B. Mohr [Paul Siebeck], 1990).

58. The fact that Weber cited recent literature in his list was quite usual. At about the same time Adolph Wagner published a similar outline, in which are included Austrian theoreticians, including Auspitz and Lieben, as well as several titles from Alfred Marshall, W.S. Jevons and Léon Walras, together with Neville Keynes' book on methodology from 1891. A realistic assessment of Max Weber's reading capacity, plus the fact that the bourse and other activities made significant demands on his time, makes it highly unlikely that he could between 1894 and 1897 himself have read, let

© The Continuum Publishing Group Ltd 2002.

Reports of Weber's lectures are unfortunately few and far between. One of his first doctoral students, Robert Liefmann, later an important economic theorist and specialist in economic policy, wrote in his biography that 'Weber was at that time still a pure historian, and, as ever, entirely unsystematic'.[59] Published in 1924, this judgment would have been read by contemporaries and been open to criticism, which lends the statement additional weight.

It strikes me as significant that, when in the summer of 1897 Weber ended his work on the bourse, he did not take up another economic topic. Instead, he turned to developing ideas he had presented in a lecture on 'The Social Causes of the Decline of Ancient Culture',[60] returning to problems that he had dealt with in his Habilitation dissertation on the history of Roman agrarian organization, eventually writing for the *Handwörterbuch der Staatswissenschaften* the essay 'Agrarverhältnisse im Altertum'.[61]

Marianne Weber and others have attributed Weber's collapse to overwork. But in the summer of 1897, correcting the proofs for the last articles on the bourse,[62] he had a light teaching load, and so far as we know there were no major scholarly obligations outstanding. Could it be true that he had always needed a monstrous workload, and now shrank in alarm before a yawning gap? That, in particular, he became uncertain about his future as an economist? No great task came from outside at this point which might have prompted a renewed 'eruption'. But the ensuing crisis seems to have given him the chance of shielding himself from the demands of a chair not entirely suited to his interests, to abandon familiar pathways and help him find new ones—new directions that, without any doubt, he had already prepared, visible traces of which can be seen in the writings on stock and commodity exchanges.

alone worked through, most of the sources cited.

59. R. Liefmann, 'Robert Liefmann', in F. Meiner (ed.), *Die Volkswirtschaftslehre der Gegenwart in Selbstdarstellungen* (Leipzig: Felix Meiner, 1924), p. 157. Liefmann wrote of Weber as a supervisor: 'Nonethless, in my dissertation [on cartels] my own theoretical instincts prevailed over those of Max Weber, who had only considered a historical-descriptive treatment of the subject. Often I only dared to express my opposition to his ideas in writing, although he was extremely considerate when feeling his way in this alien way of thought' (p. 158). Wilhelm Hennis has published those parts of Weber's comments on Liefmann's dissertation corresponding to this—see *Max Weber's Science of Man*, p. 108 n. 10.

60. Published in *Die Wahrheit* (May 1896), pp. 57-77, reprinted in *Gesammelte Aufsätze zur Sozial- und Wirtschaftsgeschichte*, pp. 289-311.

61. *Handwörterbuch der Staatswissenschaften* 2nd Supplementary Volume (Jena, 1897), pp. 1-18.

62. The two articles for the 2nd Supplementary Volume of the *Handwörterbuch der Staatswissenschaften* on Bourse Law and Securities.

© The Continuum Publishing Group Ltd 2002.