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The Limits of Philosophy: Plato's Sophist and Statesman

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The Limits of Philosophy: Plato's *Sophist* and *Statesman*

A Dissertation

Presented to the McAnulty College and Graduate School of Liberal Arts

Duquesne University

in fulfillment of

the requirements for the degree of

Doctor of Philosophy

by

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Introduction

The *Sophist* and *Statesman*, read together and read as philosophical drama, are Plato's attempt to answer one of philosophy's most vexing questions: What is Philosophy? This dissertation will demonstrate the extent to which this question is vexing and the extent to which Plato succeeds in answering it. The fundamental problem that Plato must face—hence, the fundamental problem of this dissertation—is that it is necessary to employ philosophy in order to define philosophy if you want the resultant definition to be something more than just mere opinion. My three-year-old son is able to say “Philosophy is to think, write and talk about the most important things.” I believe it is possible for my son to be right, for his definition to be true; indeed, I believe that philosophy is primarily an activity. Nevertheless, insofar as I am an aspiring philosopher, my confidence in my son's definition is dependent upon a *justification* of the definition. I assume that philosophical activity is essentially, not to say exclusively, the activity of giving accounts or explaining why. If my son is right, then the thinking, writing and talking of philosophers must be the giving of accounts or *logoi*. Have I not thereby assumed what philosophy is? Perhaps.

What argument, or *logos*, justifies my assumption that to philosophize is to make arguments? Assuming that I could provide such an argument, what justifies my confidence that argument is the best way to justify things? It would certainly be a strange argument indeed that could argue for the conclusion that argument is the best way to foster confidence in the things we think; that argument is a proper way to proceed is the

premise of all argument, as a *premise* it is necessarily presupposed not argued for. Yet, Plato has Socrates offer just this sort of “argument” right before his execution; this is the *Phaedo*’s argument against misology: *Phd* 89c-91c.¹ I will address this passage in detail in Chapter Four, Section Two; nevertheless, it is clear that any “argument” for the importance of argument faces an immediate problem: I must first assume that argument is at least one way to arrive at (even tentative) truth before I could be convinced by an argument for the conclusion that argument is one way to arrive at truth. It seems that any argument for the validity of argument must necessarily presuppose what it is trying to prove. Yet, Plato provides just such an argument in the *Phaedo*.

I believe that Plato succeeds, not only in arguing against the hatred of argument, but also in arguing *well* that argument is the best way to proceed. How is this possible? It is possible only on the condition that the argument about argument is of an essentially different “sort” from the argument about which it argues. The difficulty with distinguishing these different “sorts” of arguments should not dissuade us from recognizing the necessity of the distinction if the argument about argument is to be a good one, nor should the difficulty dissuade us from attempting to understand the distinction. Basically, Plato provides a good argument in favor of argument by writing a dialogue. Readers of the *Phaedo* can be rightly convinced of the value of argument by interpreting the dialogue *as a dialogue*, sensitive to the dramatic situation and the

¹ I shall adopt the following convention for all citations from Plato: I use dialogue abbreviations with Stephanus pages and letters either to refer to general passages, e.g., *Sph.*217c-d, or to cite another translation, as indicated by the translator’s name within the parenthetical citation, e.g., (*Sts.*299b, Rowe). I shall add line numbers to Stephanus letters to indicate my own translations from Burnet’s *Platonis Opera, Tomvs I-IV*, e.g., *Sph.*232a1-6. I use my own translations in most of the dissertation and I confess that they serve the purpose of precision, as opposed to literary style or readability.

idiosyncrasies of interlocutors. That is, Plato argues for the value of argument, but only *indirectly*. The contrived indirection of the Platonic dialogue is just the “sort” of argument that Plato uses to argue for argument. The distinction between *the* argument of the *Sophist* and *Statesman* and the interlocutors’ arguments within them, is the distinction that allows Plato to do the impossible... or, at least, the ostensibly impossible.

I say “impossible” because, strictly speaking, philosophy cannot define itself *and* have confidence in the resultant definition, at least not the sort of confidence provided by philosophical argumentation. The underlying reason that no expertise can define *itself* has to do with the peculiar natures of definition and expertise. We don’t need any explicit definition of ‘definition,’ in order to see the problem of self-definition. Roughly, the ‘definition’ of something demarcates that thing’s limits or boundaries; following Aristotle, definitions articulate the *essence* of a thing: “a definition is the account that indicates the-being-*what-it-is* (i.e., essence) [ἔστι δ’ ὅρος μὲν λόγος ὁ τὸ τί ἦν εἶναι σημαίνων]” (*Topics* i 5.101b37-102a1); likewise, “there is the-being-*what-it-is* / essence for as many as of which the account (of it) is a definition [ὁρισμός] (*Metaphysics* Z 4.1030a6-7). For a thing to be *what-it-is* requires it to have definite limits; for something to be *what* it is requires that it be something *definite* and being something definite means having distinct limits according to which this thing could be distinguished from anything else. All and only things of this sort meet the condition or conditions posed by the essence. An expertise is a capacity to do something well; indeed, I would say that it is only with recourse to an expertise that something *can* be done well. Doing something *well* involves performing the activity under certain conditions; for example, playing chess

well involves playing the game under conditions like ‘following the rules’ ‘winning matches against reputable opponents,’ etc. To define anything involves defining that thing under certain conditions in order for the thing to be defined *well*. The trouble with an expertise defining *itself* is that the necessary conditions of defining well (the definition) need to be different from those of merely engaging in the activity of the expertise (the defining activity). If these two sets of conditions were not different then the definition would be *determined by the very act* of defining the expertise. That is, in order to be defined *well*, the definition would only have to meet *those very conditions* already met in the act of defining.

A brief example can illustrate this problem. Let’s say that you want to know what philosophy is *and* you want to have the confidence in this definition that philosophical argument normally inspires. Thus, you give an argument whose conclusion is something to the effect ‘philosophy is the activity of making arguments.’ Mere consistency demands that you not give an argument whose conclusion would differ from what you are doing. For example, if you give an argument whose conclusion is ‘philosophy is the activity of baking cakes,’ then you shouldn’t have confidence in this definition because you have not produced it by baking a cake. If philosophy is baking cakes, then you did not define philosophy philosophically. However, this demand for consistency entails that *whatever* you do to try to define philosophy must be what philosophy is. If you bake a cake in the form of the definition ‘philosophy is the activity of baking cakes,’ then you must have just as much confidence in this definition as you would the conclusion of the argument ‘philosophy is the activity of making arguments.’ The real issue is not so much

that an expertise *can't* define itself; the real issue that that when an expertise defines itself it *can't* be wrong. If the putative definition were “wrong” then it turns out that the expertise wasn't really defining itself after all. If you *assume* that it really is the expertise that is defining itself (and you submit to the demand of consistency), then it turns out that the expertise is *whatever you do* in the act of defining.

This central problem is not that an expertise *can't* define itself, the central problem is that when an expertise does so it cannot present any good evidence that it has defined itself *well*. An expertise like philosophy is basically a capacity to give an account of the reasons why (*Meno* 98a). If philosophy were to define itself in this way, the only reasons why philosophy has just these and no other limits is that this is the way philosophers happen to act; this is really no account of the reason *why* philosophy is what it is at all. Why is philosophy a capacity to give accounts of reasons why? Because it just so happens that this is what people who call themselves philosophers do. What would happen if someone were to bake a cake in the form of the following proposition ‘philosophy is the capacity to bake cakes’? On what *grounds* could the account-giving people claim that the cake-baking people (insofar as they are baking cakes) aren't philosophers? If the account-giving people were to give an account of philosophy as the *reason* why philosophy is not cake-baking, couldn't the cake-baking people just accept the account but maintain that *since* philosophy is cake-baking the account-giving people have failed to define philosophy *well*, just in so far as they have not defined it by baking a cake? This rather ridiculous example suggests a profound problem. The real point is the philosophers normally just (tacitly) *agree* what philosophizing is and proceed to *use*

philosophy to justify and refute certain claims. If a genuine *question* as to what philosophy is were to arise, then philosophy would not be able to justify or refute any of the definitions of itself. Fortunately for us, philosophers don't normally disagree about the essence of their own activity.² If they were to do so, then philosophy would be of no use in settling the disagreement because the definition and conditions of philosophizing are necessarily assumed by all philosophical activity. It is just such an exceptional situation of expert disagreement that motivates Plato's *Sophist* and *Statesman*.

Let there be no mistake, definitions are not mere unquestioned axioms for philosophy; rather, philosophy is an activity that inquires into definitions and this inquiry rightly inspires confidence in the resultant definitions. Philosophy is a capacity of defining things *well*, even if tentatively. Nevertheless, only with recourse to some "higher order" philosophy, could Plato define "lower-order" philosophy philosophically and well. This "higher order" activity is the Platonic dialogue, in my case, dialogues. Reading these dialogues, not only as dialogues, but as a larger whole, as a pair of dialogues, reveals that Plato's central concern is to show that and why philosophy can define itself *only* with recourse to dramatic indirection. Plato's means of accomplishing this is to replace his super-philosopher character, Socrates, with a no less philosophical character, the Stranger from Elea. The Eleatic Stranger is no less committed to argument than Socrates, but in a different way. The Stranger ignores the need for the crucial

² Granted, this may seem a bit overly optimistic. What will emerge in the course of this dissertation is that this sort of normal agreement about *what counts* as philosophical activity is, at least, highly desirable. The whole point of the *Sophist* and *Statesman*, on my account, is to establish the desirability of this *normal* situation. The desirability of tacit agreement among "philosophers" about the nature of philosophical activity is revealed in contrast to Plato's analysis of the *exceptional* situation in which no such tacit agreement obtains.

distinction; Plato shows us the Stranger consequently struggling in vain in order to draw our attention to the impossibility of philosophy's defining itself without recourse to different "sorts" of philosophy. The Stranger doesn't write a dialogue to define philosophy indirectly, Plato does. The Stranger tries to define philosophy directly, and he almost succeeds. I shall carefully articulate this attempt; by showing just where and how it fails, I will show Plato discerning the limits or definition of philosophy.

Insofar as philosophy gives accounts, philosophy presupposes that account giving ought to be the way to proceed. In philosophy, *logos* or argument is the rule according to which everything is judged. Philosophy is the rule of argument, or *logos*. Philosophy is not understood as "rule" accidentally. To philosophize is to obey the authority of argument. Thus, any attempt to define philosophy must confront the principle of authority; what better way to examine authority than with recourse to a discussion of statesmanship and law? This concern with authority motivates my selection of passages in *Statesman*. The *Sophist* is about the rule of Reason in just the same way that the *Statesman* is about the rule of law. So, in addition to the dramatic connection of the dialogues—perhaps the strongest inter-dialogic link of the corpus—they share a common concern with authority. Who has the authority to lead? In the *Sophist*, this is a question about leading a conversation; should I follow the sophists or the philosophers, and what's the difference? In the *Statesman*, this is a question about leading a polis; should I follow the statesman or the laws, and why? The *Sophist* and *Statesman* have a final and most profound connection: the *Sophist* investigates the authority of *logos* with respect to the most important things: being, not-being, truth and falsity; the *Statesman* investigates the

authority of *nomos* with respect to the best way to live. *Logos* and *nomos* have a common feature; they are both essentially structured by universality. With respect to universality, *logos* and *nomos* are identical. Indeed, modern political philosophy is founded upon the central identity of Reason and Law.³

Reason and Law are identical just insofar as both are means of articulating universal propositions; indeed, Reason and Law are essentially this. Universal propositions are our best means of justifying our claims. For example, if I wanted to give an account of the reason why Socrates is wise, then my account would necessarily make use of a universal proposition like ‘wisdom is such-and-such.’ Nevertheless, the universal propositions of Reason and Law have a critical weakness

Law could never accurately embrace what is best and most just for all at the same time, and so prescribe what is best. For the dissimilarities between human beings and their actions, and the fact that practically nothing in human affairs ever remains stable, prevent any sort of expertise whatsoever from making any simple decision in any sphere that covers all cases and will last for all time. (*Sts* 294b, C.J. Rowe)

While this passage articulates limits of Law, it applies no less to Reason; the implication of the cited passage is that Reason “could never accurately embrace what is best and most just for all at the same time, and so prescribe what is best.” Neither Reason nor Law can prescribe the best when dealing with the changing human world. The limitation of

³ e.g., “That Law can never be against Reason...that which is according to the Intention of the Legislator, is the Law. And it is true: but the doubt is, of whose Reason it is, that shall be received for Law. It is not meant of any private Reason; for then there would be as much contradiction in the Lawes, as there is in the Schooles...but the Reason of this our Artificiall Man the Common-wealth, and his Command, that maketh Law: And the Common-wealth being in their Representative but one Person, there cannot easily arise any contradiction in the Lawes” (Hobbes’ *Leviathan* Chapter 26, 139-140). See also, Lockes’ *Second Treatise on Government* §§6, 57. “The universal criterion of the law is deduced from the fact that law (in contrast to will or the command of a concrete person) is only *reason*” (Schmitt 1985a, 42). Obviously, Kantian ethics is founded upon this identity. While Plato and these moderns may agree that Law and Reason are the same thing, they may also disagree significantly on *what* that is.

Reason and Law, articulated by my interpretation of the *Sophist* and *Statesman*, is this: even if Reason and Law could begin with perfectly certain definitions, the question always remains. Does *Socrates* meet the conditions of wisdom as articulated by Reason/Law? The problem is that universals can't apply themselves. It is well and good to begin with a proposition like 'It is unlawful to kill people' or 'Courage is knowledge of the fearful and the confidence inspiring;' but, these tell us nothing about this action or this person. Reason and Law are unable to "prescribe what is best" in particular cases; they are incapable of "making any simple decision in any sphere that covers all cases and will last for all time." People decide, laws don't. The crucial limitation is that Reason and Law are incapable of making a decision about particulars. This limitation may seem almost trivial until we see that the question about whether or not *Socrates* is a member of the class wise-people is really a question about the very boundaries of wisdom. As long as we simply assume that these boundaries are fixed and clearly articulated by Reason/Law, the fundamental problem of establishing first principles doesn't really come up. However, the moment there is genuine disagreement over whether *Socrates* is wise or not, at that moment the particular boundaries of wisdom are called into question. Reason and Law are strictly incapable of resolving any such disagreement because they are incapable of deciding about the particular limits or definition of wisdom.

While the claim that universals can't apply themselves may seem straightforward enough, a great deal of my dissertation will concern this issue and I'd rather let my arguments there stand for themselves. Basically, Reason and Law lack the essentially human capacity of judgment or decision and their universality is poorly fit to the

particularity of the human world. For the record, my thoughts on this issue are fundamentally influenced by the contemporary political theorist, Carl Schmitt. Following Schmitt, I am far less concerned with *what* philosophers determine their first principles to be, than with *how* they determine first principles, especially under the exceptional situation of expert disagreement. At this point, I need to state what is *not* at stake in my dissertation so as to avoid an easy and profound misinterpretation of my own project. In the discussion of the divided line in the *Republic*, Socrates distinguishes two sorts of rational activity: the hypothetical or axiomatic procedure of geometry and mathematics, as opposed to the dialectical activity of philosophers (*Rep* vi 509c-511e). Geometry, for example, merely assumes its axioms; whereas, philosophy is willing to question even its own starting points: “reason itself...by the power of dialectics, [treats] its own assumptions not as absolute beginnings but literally as hypotheses, underpinnings, footings, and spring boards so to speak, to enable it to rise to that which requires no assumption and is the starting-point of all, and after attaining to that again taking hold of the first dependencies from it, so to proceed downward to the conclusion” (*Rep* vi 511b, Shorey). I believe that Paul Shorey has understood this issue quite correctly, and deserves extended citation:

Plato is elucidating a real difference of minds and methods which he was the first to explain. And we must not lose sight of the validity of this distinction in our eagerness to defend or assail his application of it or the metaphysical implications which it may seem to involve. [...] The practical value of this distinction remains...even though we deny that dialectical analysis can ever reach a metaphysical “absolute” or ἀνυπόθετον. [...] Plato’s chief concern is to make clear the distinction, and to affirm that the rulers of the ideal state must be prepared for what he deems the higher type of thought by a prolonged and severe discipline in the lower. “That which is beyond hypothesis” is for him primarily

not a metaphysical entity, the “unconditioned” or “absolute” of the moderns, but a mere hypostatization of the dialectician’s ability and willingness to continue the analysis indefinitely, if need be. In speaking of pure ideas and the reason...He is insisting on the difference between minds that can and minds that cannot reason swiftly, clearly, distinctly, subtly, in abstract and general terms, not merely in the technical terminology of a particular science but on all matters of general human concern. (Shorey 1933, 42)

Elsewhere and equally correctly, Shorey writes that the distinction between what we can call the upward and the downward movement of thought⁴ “expresses Plato’s distinction between the man of science, who starts from assumptions that he does not allow to be questioned, and the philosopher or Platonic dialectician, who is able and willing to carry the discussion back, not necessarily always to a metaphysical first principle, but at least to a proposition on which both parties to the argument have agreed and which is not arbitrarily assumed as an hypothesis by the questioners” (Shorey 1935, xxxiii). For Shorey, the *Republic*’s allegory of the cave, divided line, and imagery of the sun have a pragmatic meaning for political leaders which is “the central core of meaning without which Plato’s transcendentalism is only a rhapsody of words” (Shorey 1935, xxxv). Shorey notes that his interpretation of the unhypothesized first principle and the dialectical method for seeking it is just “plain common sense;” yet, he never claims that this is the only meaning of these metaphysical ideas: “I have never meant to deny the mystic and metaphysical suggestions of Plato’s language. I have merely tried to bring out the residuum of practical and intelligible meaning for the political and ethical philosophy of the *Republic*” (Shorey 1935, xxxvi). Nevertheless, this “residuum” is really the “central core” of the *Republic* and the unhypothesized first principle and the

⁴ See Cornford 1932, p49.

means toward it always serve a theory of education.

The *Sophist* and *Statesman* are not centrally concerned with a theory of education. In these dialogues the pragmatic, “common sense” of the *Republic* is not really at issue. I have cited Paul Shorey extensively to indicate what is merely in the background of my interpretation. However, I want to be perfectly clear that I believe that my interpretation of the *Sophist* and *Statesman* will differ only in emphasis from Shorey’s interpretation of the *Republic*. That is, I believe that there is nothing in my interpretation that contradicts or differs substantively from Shorey’s understanding of dialectic. To think that I am rejecting the *Republic*’s view of dialectic is to misunderstand my project. Any difference in emphasis results not from Plato’s intellectual “development,” and certainly not from some “doctrinal” change; rather, the difference in emphasis between the *Republic* and the *Sophist* and *Statesman* results from Plato’s desire to treat the same issue from another perspective. In these latter two dialogues, as opposed to the former, Plato is centrally concerned with the “mystic and metaphysical suggestions” of the *Republic*. Yet Plato is here less concerned with articulating *what* the ultimate first principles are—as in the *Republic*’s notion of the Good—than in examining the *activity* or *capacity* through which they may, or may not, be revealed. The *Republic* puts forward a pragmatic, if difficult, ideal: never-ending investigation of ultimate assumptions, that is, dialectic. The *Sophist* and *Statesman* take up dialectic and ask: Is it really even possible to question one’s own ultimate assumptions? and If so, how? The essence of these questions is: What is dialectic or philosophy?

Shorey’s interpretation of the *Republic* is right to insist on the value of the

“downward” movement of thought, the axiomatic deductions of mathematics and geometry. The axiomatic character of “lower order” philosophy is evident primarily in its propositional or logical means of expression. Shorey is right to insist that this sort of intellectual rigor is necessary, if not sufficient, for dialectic. I have, and will continue to refer to this “downward,” I might say logical or discursive activity as Reason.

Nevertheless, I acknowledge, with Shorey, that Plato claims “reason itself” (αὐτὸς ὁ λόγος, *Rep* vi 511b4) has the capacity of dialectic. This is a different “sort” of reason from deductive or downward Reason; I will adopt the convention of capitalizing ‘Reason’ to refer exclusively to the downward “sort” of capacity. I have suggested that it is impossible for Reason to define itself; I have also suggested that Plato employs reason, not to define itself, but to define Reason. Plato’s rational means of defining philosophy is the dialogue. Plato employs deeply rational dialogues, the *Sophist* and *Statesman*, to show that Reason cannot define itself. The *Sophist* and *Statesman* are about Reason; they are not dialogues about dialogues, or dialogues about reason. Again, Shorey is right that the upward movement of reason ascends at least to agreement, if not yet to the Good-itself. The crucial point of the divided line is that dialecticians don’t take their agreed-upon starting points as unquestioned, and hence arbitrary assumptions; whereas, the Reason of mathematicians, geometers, and logicians begins with arbitrary axioms.⁵ If

⁵ I would like to avoid using the word ‘arbitrary’ in an overly technical or idiosyncratic way; however, my use of this word should not primarily connote the capriciousness, irrationality or randomness often associated with ‘arbitrary.’ For my purposes, ‘arbitrary’ means something like ‘incapable of error.’ Thus, the axioms of Euclidian and pre-Euclidian geometry are hardly irrational or random; rather, they are incapable of error just insofar as they are the principles from which geometrical error is even possible. Please note, that by ‘incapable of error’ I *don’t* mean ‘incapable of being false.’ Axioms are true or false as a function of the world or the way things actually are; yet, it is impossible to be in error about them (even if they are false) because it is only by assuming them that error is even possible. Please do not consider these

contemporary mathematicians inquire about and question their axioms, the axioms are not arbitrary. The arbitrariness of geometric axioms is a function of their not being questioned; axioms are unquestioned and hence arbitrary because it is impossible that a geometer could *err* in posing them. Geometric axioms are the principles only *from which* geometric error can be deduced.

The arbitrariness of starting-points is overcome by working “back up” through agreement. The *Republic* examines *to what* the dialecticians ought to agree. The *Sophist* and *Statesman* examine a dangerous contingency: what happens when perfectly Rational investigators do not agree about first principles. The Eleatic Stranger is the character who sees clearly the stakes of such a disagreement and attempts valiantly and in vain to achieve agreement through Reason. Both dialogues address the possibility of radical disagreement: the *Sophist* in the battle of the gods and the giants, the *Statesman* in the essentially contested rule of statesmanship. My interpretation of these dialogues reveals the limits of Reason with respect to disagreement over first principles, or definitions. The battle between the gods and the giants (*Sph* 246a-249d) is a genuine (as opposed to a metaphoric) battle that results from disagreement over the *definition*, essence or boundaries of the word ‘being;’ Reason is *premised upon* the definite limits of this word. The combatants in this battle are reduced to warfare because the only means that they have for avoiding conflict is Reason. The choice of starting points for the combatants is an arbitrary one. But for us, the readers of the dialogues, Plato indicates a point of

tentative thoughts on ‘arbitrary’ as some stipulated definition; the deep meaning of ‘arbitrary’ should emerge only slowly as the dissertation advances.

agreement through the essential indirection and rationality of the dialogue. We are indirectly led to agree that being is a capacity to act and be acted upon (*Sph* 248c4-5). This starting point is arbitrary from the perspective of Reason; it is not arbitrary from the perspective of the dialogues. In order to highlight the tentative character of even this starting-point, Plato concludes the battle passage by implying that to rise above the battle, genuine philosophers must be like children steadfastly affirming a logical, that is a Rational if not a rational, contradiction (*Sph* 249c10-d4).

My dissertation will focus on a necessary arbitrariness built into the rule of Reason and Law. This arbitrariness is *not* the arbitrariness of unquestioned axioms; the boundaries upon which Reason and Law depend must be *fallible*, philosopher must be able to *err* when defining philosophy. The boundaries of Reason and Law are arbitrary only insofar as they are the *conditions* of justification; as a result, the boundaries of Reason and Law are unjustifiable. The boundaries of Reason and Law are discerned (*διακρίνειν*) by a philosopher or statesman with the competence to decide *what counts* as *logos* or *nomos*, respectively. The authoritative decision about these ultimate boundaries is not based upon mystical intuition nor upon arbitrary stipulation, although it will bear crucial similarities to both. By balancing, these opposing models of ultimate “rationales,” Plato will succeed in establishing the very limits of philosophy.

Chapter One: The Enigma as Universal Problem

Section One *The Necessary Conditions of Logos*

In the Introduction, I have suggested that philosophy is incapable of defining itself, *unless* “defining itself” involves some distinction between the activity of defining and the activity defined. In order for Plato to define philosophy *philosophically* it is necessary to distinguish between what I have vaguely called “higher” and “lower” orders of philosophy. Such a distinction enables Plato to define “lower” order philosophy by means of “higher” order philosophy. As a starting point, I have suggested that we understand “higher” order philosophy as the Platonic dialogue and “lower” order philosophy as the arguments within the dialogue. I must now turn directly to this distinction in order to articulate, in very general terms, these “levels” of philosophizing. I will show Plato introducing the necessary conditions of philosophy. These necessary conditions are the limits, boundaries or definition of philosophy; these necessary conditions articulate, perhaps partially, the sphere outside of which no activity could be philosophical. Of course, Plato introduces necessary conditions through his interlocutors, the Eleatic Stranger and Theaetetus. In terms of the interlocutors’ arguments, the necessary conditions of philosophy are an enigma that reveals the impossibility of defining philosophy without recourse to some “higher,” or different “sort” of philosophizing. However, before I can demonstrate, through exegesis, the dramatic

presentation of this enigma, I must demonstrate, through philosophical examination, *that there is* an enigma to be presented. In this section, I hope to articulate an enigma with recourse to a Kantian problem of meta-critique.

I have already introduced the following convention in order to distinguish between these “levels” of philosophizing: Reason is the capacity of “lower” order philosophizing and reason is the capacity of the “higher” order sort. The time has come to make good on this convention. In the passages to which I will turn shortly, *logos* is almost exclusively associated with Reason. Generally speaking, reason is the means by which Plato discusses *logos*. In this chapter, Plato articulates reason, or “higher order philosophizing,” in terms of a peculiar sort of dialectical expertise, *διαλεκτική ἐπιστήμη*; I am concerned with the distinction between “sorts” of philosophizing, the distinction necessary if Plato’s definition of (“lower order”) philosophy is to inspire the confidence that rightly results from genuine philosophical inquiry. Let me be perfectly clear that I use scary quotation marks around “higher” and “lower” precisely because within our modern context a hierarchy of types of philosophizing immediately suggests relative priority and value. However, it would be a grave error to think that I am trying to articulate the relative lack of value of *logos* or Reason with respect to dialectic. On the contrary, it is due to the supreme value of Reason—as the very best means of giving an account of the reasons why—that Plato considers it so important to *define logos*. Since Plato is endeavoring to define Reason, it follows that he must articulate its *limits*. I hope to show that these limits cannot be articulated by means of *logos* or Reason. Rather, in general, Plato articulates these limits indirectly through dialogue.

All this talk of “higher,” “lower,” and “sorts” of philosophizing is far too vague. Unfortunately, granting my assumption that Plato cannot *explicitly* define, much less justify these distinctions, I am forced to admit that Plato explicitly says fairly little about them. Thus, my project is to articulate in significant detail a fundamental problem that arises whenever an expertise, say Reason, should attempt to define itself. I have come to believe that this problem is not at all obvious and requires substantial development. My strategy is simply to point to a problem in the *Sophist* and then argue that the *Sophist*’s problem is merely an instantiation of a universal problem. I will articulate this universal problem with recourse to Immanuel Kant, Arnold Schoenberg and Noam Chomsky. This articulation constitutes the lion’s share of this chapter and the next. However, this detailed exposition of the problem is anchored to the *Sophist*, and Plato always provides the clues for how to proceed in order to understand this most perplexing of problems.

At *Sph* 259e4-6, the Stranger claims that ὁ λόγος has come to be by the weaving of forms, one with another (τὴν ἀλλήλων τῶν εἰδῶν συμπλοκὴν); the separating (τὸ διαλύειν) of each from all the others is the final destruction (τελεωτάτη...ἀφάνισις) of all speech or argument. This weaving or mixing of the five greatest kinds is a necessary condition of *logos*. The Stranger confirms this several lines later: “if we had agreed that mixing is nothing (neither) by means of anything, (nor) with respect to anything, then we would have been deprived (of *logos*)” (*Sph* 260a7-b2). Each of these statements uses a different verbal noun for the same concept; both μεῖξις and συμπλοκή refer to the mixing or interweaving of the Forms or kinds.¹ In addition, Plato uses both τὰ γένη and τὰ εἶδη to

¹ I capitalize the term ‘Forms’ in order to refer to both τὴ γένη and τὰ εἶδη in the *Sophist*. As preliminary

refer to the entities that mix or interweave. ‘*Logos*’ is the only important terminology that doesn’t vary across these two, proximate statements of the necessary condition. Within 15 Stephanus lines, Plato chose to express the necessary condition of *logos* twice, each time varying his terms for the mixing and for the things mixed. This variance indicates the extreme generality of Plato’s condition: without the mixing of the kinds *logos* is impossible.

Even if ὁ λόγος were taken in a restrictive sense to mean only speech or linguistic expression,² the import of this condition cannot be overstated. The reason is that, whatever *logos* means, mixing is not only the necessary condition of this, but *logos* is the necessary condition of philosophy: “being deprived (of *logos*), we would be deprived of philosophy, the most important thing” (*Sph* 260a6-7). Therefore, the mixing of the Forms is the necessary condition of philosophy. This should be no surprise since thought, διάνοια, is an unvocalized *dialogue* with oneself in one’s soul (*Sph* 263e3-5, 264a9), Socrates concludes: “Therefore, thought and *logos* are the same thing” (*Sph* 263e3). Obviously, thought is a necessary condition of philosophy, but speech is a necessary condition of expressing philosophy, and argument is a necessary condition of doing philosophy. Given the incredible breadth of the Greek word *logos*, I see no reason to assume that Plato here means ‘speech’ and there means ‘argument’, here means

support for this identification, I refer merely to Plato’s use of both genera (or kinds) and forms in the two passages under consideration. I do not want to address the possibility that Plato uses genera as distinct from forms. Suffice it to say that I consider such a distinction implausible, at best. Following Plato, I will also use the term ‘kinds’ to refer to the same entities.

² This restriction might be warranted by οὐδὲν ἂν ἔτι που λέγειν οἰοί τε ἡμεν, *Sph* 260a9. That is, if we denied the mixing of the kinds, then “we would be able still to say nothing, in any way”. Aside from this, ὁ λόγος could be taken to refer to speech or argument, equally. As it turns out, nothing rides on the distinction between speech and argument.

‘discourse’ or there means ‘statement’. The extreme generality of ‘*logos*’ also lends plausibility to Plato’s identification of *logos* with thought.

If *logos* is Reason then *logos* is the means by which we articulate, explain or justify things to ourselves and others.³ It is very important that Plato explicitly identifies *logos* with *dianoia*, at *Sph* 263e3. Neither of these terms need be “technical.” As indicated in the previous footnote, *logos*-as-such need not be restricted to what I am calling Reason as opposed to reason. Likewise, *dianoia* can mean thought in general, as opposed to sensation.⁴ However, *dianoia*—and hence *logos* in the *Sophist*—does have a more “technical” meaning when contrasted with *nous* in the divided line of *Republic* vi.

The...divisions of the intelligible world are, at the top, the domain of pure ideas apprehended by the reason [νοῦς] and studied through dialectical method, and below them ideas, it is true, but ideas apprehended by discursive thought [διάνοια] and studied by the inferior method of the “sciences,” as, e.g., mathematics. The method of science is inferior to that of dialectics in two points: (1) Science assumes hypotheses (the definitions and axioms of geometry) into the validity of which it refuses to inquire. (2) Science embodies and contemplates the ideas in sensuous images. (Shorey 1933, 233)

Shorey’s contrast is helpful in illustrating the ways that I am using ‘Reason’ and ‘reason:’ Reason is essentially discursive, reason is dialectical in a way that will only become clear

³ I don’t mean to suggest that *logos* is only this. For example, a careful reading of the *Phaedo* would reveal further aspects of *logos*, specifically “mythical” aspects. Likewise, in the *Timaeus*: “if we can come up with accounts no less likely than any [μηδενὸς ἤττον παρεχώμεθα εἰκότας], we ought to be content, keeping in mind that both I, the speaker, and you, the judges, are only human. So we should accept the likely tale [εἰκότα μῦθον] on these matters” (*Tim* 29c-d, Zeyl). I take it that *logoi*, most broadly construed would include the “likely stories” of the *Timaeus* and the mythical accounts of the *Phaedo*. I grant that these latter sorts of “arguments” or *logoi* are much more like what I am calling ‘reason.’ “This is the type of explanation that the Socrates of the *Phaedo* desires but cannot discover and that the *Timaeus* ventures to present only in mythical and poetical form” (Shorey 1935, xxxv vol 2). This type of *logos* is also subject to the necessary condition established in the *Sophist*; however, the explicit identification of *logos* with *dianoia* suggests (and this will be confirmed by my analysis) that the *Sophist* is particularly interested in Reason, or *logos* in a restricted, logical or discursive sense.

⁴ Paul Shorey is quite right that διάνοια, at *Rep* vi 511a1 has this general meaning; whereas, at *Rep* vi 511d2-8, “διάνοια is given a technical meaning as a faculty inferior to νοῦς” (Shorey 1935, 116c).

in the course of my analysis.⁵ I choose to translate *dianoia* with ‘thought’ because it preserves the generality that the word *can* have. Nevertheless, I acknowledge that there must be such a thing as dialectical thought. I use ‘thought’ to be more general than Cornford’s ‘deductive reasoning’ and yet still essentially discursive, hence the identification with *logos*. The use of *dianoia* at *Sph* 263e3 begins to narrow, however slightly, the incredible breadth of *logos*. This narrowing begins to articulate my distinction between ‘Reason’ and ‘reason;’ Reason has something to do with hypotheses and reason has something to do with questioning these hypotheses. Whatever *logos* means exactly it is the middle term establishing that the necessary condition of philosophy is the mixing of the Forms. John Ackrill describes this necessary condition as follows: Plato in the *Parmenides*, is “sure...that there must be fixed things to guarantee the meaningfulness of talk, fixed concepts—the meanings of general words—whose role is to ensure [the possibility of significant talk].⁶ The *Sophist* explains further that these concepts must stand in certain definite relations to one another, and gives the dialectician the task of investigating the boundaries and interrelations of concepts” (Ackrill 1971, 208-9). I will return to Ackrill’s conclusions (see pp114-128, Chapter 3); here, Ackrill’s formulation provides rough-and-ready plausibility to Plato’s claim. The next question

⁵ F.M. Cornford argues that “Plato observes a distinction between *noesis* and *dianoia*, *noesis* (in one of its senses) means the upward movement of intuition, *dianoia* (in one of its senses) the downward movement of reasoning in deductive argument” (Cornford 1932, 43). A great deal may ride on the difference between the way Shorey and Cornford understand *nous* or *noesis*. All I need for my purposes here is the recognition that *dianoia* can, but doesn’t necessarily, have a specifically “logical” meaning that I associate with my convention ‘Reason.’

⁶ I insert Ackrill’s translation of a Greek phrase from *Parmenides* 135b. Ackrill cites the following: τὴν τοῦ διαλέγεσθαι δύναμιν. I do so because I disagree with Ackrill’s claim that the mixing of the kinds is the necessary condition of *dialectic*; but I agree that the mixing is the necessary condition of “significant talk.”

must be, What exactly is this mixing or weaving that is indispensable to philosophy?

At the very least, we know that the weaving of the forms with one another, mentioned at *Sph* 259e4-6, is deduced from the rejection of two other possibilities. The Eleatic Stranger rightly reduces the possible relationships of Forms with one another to three types: either none of the Forms mix with any other, or all of the Forms mix with all of the others, or some Forms mix and some Forms don't (*Sph* 251d5-e1, 252e1-2). These three possibilities exhaust the ways that the Forms could relate to one another. Therefore, if the Stranger could successfully show the impossibility of two of them, then the third necessarily obtains. This is just what happens from *Sophist* 251d to 252e. At the conclusion of this deduction, the Stranger and Theaetetus stumble upon the philosopher.

Eleatic Stranger: What? Since we have agreed that the forms are mixing with one another according to these things, doesn't it follow that it is necessary—in order *correctly* to describe which sorts of kinds harmonize with what sorts and which sorts don't accept the others—to convey (this) through arguments [διὰ τῶν λόγων] with some knowledge [μετ' ἐπιστήμης τινός]? And indeed (isn't it necessary to convey) also whether some certain ones themselves are holding together through all of them so that mixing together is possible; and, (isn't it necessary to convey) as before in the collection-divisions, whether some other (kinds) are the cause of division through the whole?

Theaetetus: How could it not be necessary (to do this with) knowledge? and perhaps nearly the most important (kind of knowledge)?

Eleatic Stranger: Ô Theaetetus, what therefore are we to call this knowledge? Or, by the god, did we not notice that we have stumbled into the knowledge of free men, and have we dared, while searching for the sophist, first to discover the philosopher?

Theaetetus: How do you mean?

Eleatic Stranger: Don't we say that to collect and divide according to kinds [τὸ κατὰ γένη διαίρεισθαι] and to believe neither the same kind different nor a different being (is) the same, don't we say (these) of dialectical expertise?

Theaetetus: Yes, we say this. (*Sph* 253b8-d4)

In order correctly to convey or express how the kinds mix and how they don't seems to require some sort of ἐπιστήμη. Liddell and Scott identify two primary senses for this word: expertise and knowledge. I suggest that we keep these two meanings separate, as two fundamentally different sorts of knowing: *knowing how* to do something versus *knowing what* something is (or *knowing that* something is the case). I will use the Greek word, ἐπιστήμη, in order to remain undecided about which of these meanings Plato has in mind. Theaetetus immediately suggests that this expertise or knowledge is most important. The Stranger responds by calling this the expertise or knowledge of free people, indicating that they have thereby found the philosopher. Finally, this ἐπιστήμη is qualified as *dialectical*.

Logos presupposes a partial and distinct mixing of the kinds and philosophy presupposes *logos*. This mixing of the kinds has something to do with dialectic. More specifically, *correctly expressing* just how the kinds mix and don't requires this peculiar sort of dialectical knowledge/ expertise, τῆς διαλεκτικῆς...ἐπιστήμης (*Sph* 253d2-3). We must ask just what this ἐπιστήμη could be. Let's assume that ἐπιστήμη means something like knowledge, that knowledge is something like justified true belief and that justification is something like giving an account of the reasons why. Given that the expression of how the kinds mix and don't indicates the necessary conditions of *logos*, what kind of account could a philosopher give of the necessary conditions of giving accounts? Wouldn't an account of the necessary conditions of account-giving presuppose what it needs to prove? By comparing the necessary conditions of *logos* (*Sph*

259e-260b) with the requirements of expressing these conditions correctly (*Sph* 253a-e) we can see precisely the central problem of this dissertation: the Stranger seems to say that philosophy not only defines itself, but that this definition can be “correct.” Philosophy seems to be in a position of discerning its own necessary conditions.⁷ What in the world could *warrant* the further claim that philosophy has defined itself *correctly*? This potential problem is exacerbated and generalized by the fact that *dianoia* and *logos* are the same (*Sph* 263e3). Discursive thought and argument are both equally dependent upon the mixing of the kinds: since thought is an internal *conversation*, it *presupposes* the mixing of the kinds. How is it even possible *to think* the necessary conditions of thought *and* have any confidence at all that such a thought is correct?

Should we accept that thought may not be able know *its own* necessary conditions? Should we accept that the mixing of the kinds cannot be known or correctly expressed by means of *logos* or *dianoia*? Perhaps not; what I need to establish here is only that these questions must be asked if we pay close attention to collecting and dividing according to kinds with respect to *logos* and with respect to dialectic—as the means by which the kinds are collected and divided *correctly*. Yet, even posing the question in this way seems to beg an objection of anachronism: perhaps Kant or even modern philosophy in general poses a problem of the necessary conditions of thought and how to express them, but there is no reason to think that Plato poses a similar problem. In order to suggest that Kant’s problem is a universal problem with which Plato might well be concerned, I must

⁷ As I said in the Introduction, the problem here is less a problem of how philosophy *is able* to define itself and more the problem of how it is able to define itself *well* or “correctly.” The eventual solution to this problem will involve thinking about ἐπιστήμη in terms of expertise, or a capacity *to do* something well.

examine, briefly and in outline, Kant's concern with the necessary conditions of Reason and the difficulty with knowing and expressing them.⁸

Chapter One, Section Two

Kant and the Problem of Meta-critique

Immanuel Kant attempts to determine the limits or definition of Reason by means of Reason. To cite only one illustration, “metaphysics, in its fundamental features, perhaps more than any other science, is placed in us by nature itself and cannot be considered the production of an arbitrary choice...since the transcendental ideas have urged us to approach them and thus have led us, as it were, to the spot where the occupied space (viz., experience) touches the void (that of which we can know nothing, viz., *noumena*), we can determine the bounds of pure reason” (Kant 1977, 87-8). Kant's choice of language is revealing. The science or knowledge that determines the limits of Reason is

⁸ My understanding of Kant is significantly influenced by Henry Allison's outstanding book *Kant's Transcendental Idealism*. Specifically, I fully agree with Allison that “the claim that human knowledge has [epistemic] conditions is the distinctive, indeed, the revolutionary thesis of Kant's philosophy” (Allison 1983, 10). Allison introduces the notion of “epistemic condition” in order to distinguish these conditions from psychological and ontological conditions. Basically, Hume's notions of habit and customs are psychological conditions and Newton's notions of absolute space and time are ontological conditions. Allison claims that Hume and Newton are guilty of confusing conditions: “from a Kantian standpoint, the two kinds of confusion represent two sides of the same coin, namely, the failure to recognize the role in human knowledge of a set of distinctively epistemic conditions. Indeed, one can claim that the fundamental issue raised in the *Critique* is whether it is possible to isolate a set of conditions of the possibility of knowledge of things...that can be distinguished from conditions of the possibility of the things themselves” (Allison 1983, 13). Understood in this way, the “fundamental issue raised in the *Critique*” is identical to the issue I am addressing in the *Sophist*; that is, Plato is investigating whether it is possible to isolate, or *define*, a set of conditions of the possibility of explaining or justifying things, namely the conditions of *logos*. Notice the similarity of this question with my (Plato's) question about knowing the conditions of *logos*. Following Allison, I believe “the key question is whether there are in fact any such conditions and, if so, whether they can be specified” (Allison 1983, 29).

natural; that is, nature itself *leads us* to the boundary of Reason. Kant “justifies” his own metaphysical determination of the boundaries of Reason by appealing to nature; nature itself “urges” Kant to the very limits of Reason. Kant deliberately contrasts passivity—Reason being led by nature to its own limits—with activity, “the production of an arbitrary choice.” Why, at this crucial moment in the *Prolegomena*, does Kant characterize his own project in these unusually⁹ naturalistic and passive terms? I suspect that Kant contrasts his own “passive” determination of the limits of Reason with a more “active” determination in order to suggest, however indirectly, his own meta-critique of pure reason.¹⁰

W.H. Walsh points out “a crucial question to which Kant gives little or no attention, that of how the *Critique* itself is possible” (Walsh 1975, 249). L.W. Beck illustrates this problem with respect to one of the boundaries of Reason, namely the pure intuitions of space and time:

The sensible forms of space and time are necessary, if...mathematics is to be supported; how do we know that the only intuition available to us is sensible?

⁹ One might say that it is not at all “unusual” that Kant would talk this way, given Kant’s expressed intention to treat the definition of Reason, in the *Prolegomena* (as opposed to the *Critique*), as “preparatory exercises...[that] rest upon something already known as trustworthy, from which we can set out with confidence and ascend to the sources as yet unknown.” Thus, Kant characterizes the *Critique* as “synthetic” and the *Prolegomena* as “analytic” (Kant 1977, 17; see Beck 1978, 21-22). I cannot defend here, so I merely assert that the concerns I am addressing are *common* to the *Critique* and the *Prolegomena*. It is “unusual” that Kant should use this passive and naturalistic language because “spontaneity is manifested at a higher level [than the reflective capacity] in the activity of reason, that is, the mind’s use of Ideas which have no corresponding object in the sensible world. The claim is that reason’s power to form such Ideas demonstrates its total independence of sensibility...the spontaneity of reason is at work in the process of inquiry...this [purposive] activity is the expression *par excellence* of the spontaneity of reason in its theoretical capacity” (Allison 1983, 275).

¹⁰ By meta-critique I mean simply the critique of the critique of pure reason. This insight, and the subsequent paragraphs, are thoroughly influenced by Allison 1983, esp. pp330-1, Walsh 1975 and Beck 1978. While none of them make reference to the specific passage cited from the *Prolegomena*, my position on Kant’s meta-philosophy is entirely in line with these interpreters.

No proof of that is attempted anywhere in the *Critique of Pure Reason*...Not only is it not proved, it is not even a well-formed judgment under the rubrics allowed in the *Critique*, for it is neither analytic nor a posteriori, and if it is synthetic yet known a priori, none of the arguments so painfully mounted in the *Critique* to show that such knowledge is possible has anything to do with how we know this (if indeed we do know it). Here seems to be a contingent fact—contingent because a non-sensible intuition is consistently conceivable—yet, unlike other contingent facts, not discovered by anything comparable to the observations by which we know the contingent fact that men with two eyes are better at seeing depth than men with one eye. Such judgments are brutally factual yet in some not well defined sense self-evident; they are factual but not empirical. (Beck 1978, 24-5)

Walsh summarizes this problem nicely: “knowledge, in its human form at least, is basically bound to sense. But what of the claim that it is? Is that supposed to represent a bit of sense-knowledge? [...] Does reason here know itself as it appears to itself or as it really is?” (Walsh 1975, 250-1). Beck imports of bit of 20th century philosophy of language terminology to explain the problem. The terminology is the distinction between ‘using’ a word—or in this case a knowledge claim—and ‘mentioning’ the same. For example, I use the word ‘I’ to refer to myself, the writer of these sentences; whereas, I mention the word ‘I’ in order to describe it as a first-person, singular pronoun. Clearly, I (the word *used*) am not a pronoun but ‘I’ (the same word *mentioned*) is a pronoun. Notice that ‘I’ only refers to me in virtue of its particular *use*; thus, ‘I’ doesn’t refer to me when *used* by another writer.¹¹ Beck claims that “There are knowledge claims *made* and *used* in the arguments of the *Critique of Pure Reason*; there are others that are *mentioned* and *demonstrated*, and what is said in support of the latter depends upon, but because of the implicative direction of the analytical method does not itself support, the knowledge claims *used*. [...] What is needed is an investigation of the nature and justification (if

¹¹ For a through introduction to this issue see Martinich 2001, pp3-5

there can be one) of the knowledge claims *used* in the *Critique of Pure Reason*. Such an investigation I call a ‘meta-critique’ of pure reason” (Beck 1978, 24, 25).

Kant *uses* certain claims in order strictly to determine the limits of Reason, e.g., claims to the effect that all human knowledge is dependent upon sensible intuitions and pure concepts of the understanding. That is, Reason for Kant is essentially active, through the spontaneity of judgment, and essentially passive, through the receptivity of sense. All thought is made up of (passively received) intuitions and (actively “produced” or “chosen”) concepts.¹² The question, in a nutshell, is this: Is it possible to justify the claim ‘All thought is a combination of intuitions and concepts’? What *could* justify such a claim? The short answer is either ‘nothing’ or ‘some sort of evidence that must, itself, be a combination of intuition and concept.’ This explains Kant’s unusual insistence on the passivity and naturalness of his own determination of the boundaries of Reason. Kant’s “discovery,” for example, that all intuitions are conditioned by space and time, is itself “given” to Kant as a quasi-intuition combined with his own spontaneous judgment. As Beck points out, this is a curious sort of intuition indeed; hence Beck’s use of the odd notion of brute, *non-empirical* fact. When asked, ‘Why are non-sensible intuitions impossible?’, ‘Why is thought essentially active *and* passive?’, or—what amounts to the same thing—‘Why is thought essentially discursive?’,¹³ Kant’s only real reply is ‘because

¹² “to think is to judge, and this consists in the combination of given representations in accordance with categorial principles derived from the very nature of the understanding...insofar as the mind is merely associating representations, it is passive...insofar as the mind is judging, that is, connecting its representations in a manner that is ‘objectively valid,’ it is combining them in accordance with categorial principle which it derives from its own resources” (Allison 1983, 275). It is precisely this “from its own resources” that would render Kant’s meta-critique “the production of an arbitrary choice,” were this meta-critique not essentially passive.

¹³ The claim that all thought is the combination of passively received intuitions and actively applied

nature made us this way' or 'its just a brute fact.' Kant "cannot *argue* that the mind is a discursive instrument, requiring to operate on data given from without, when it considers itself as an object of experience, but suddenly and inexplicably acquires intuitive powers when it investigates itself in philosophy. [...] It is just a fact that we have these and no other forms of sensible intuition, these and no other forms of judgment, these and no other categories (B145-6)" (Walsh 1975, 255 emphasis added). Beck concludes, "We cannot show, as Kant repeatedly confesses, why [our cognitive faculties] must be so and not otherwise; but it is something to show good reasons why they are as they are. A regress, if not infinite, must stop somewhere, and 'the sole fact of pure reason' seems to Kant to be a good place to stop." (Beck 1978, 37)

Beck explores a fruitful analogy to understand the meta-critique of the critique, or *definition*, of Reason: a meta-critique is to Kant's own project as meta-language is to language (Beck 1978, 26). In the *Prolegomena*, Kant writes,

Hence if the pure concepts of the understanding try to go beyond objects of experience and be referred to things in themselves (*noumena*), they have no meaning whatsoever. They serve, as it were, only to spell out appearances, so that we may be able to read them as experience. [...] Beyond this they are arbitrary combinations without objective reality; and we can neither cognize their possibility *a priori*, nor verify their reference to objects, let alone make such reference understandable...[the pure concepts of the understanding] are not derived from experience, but experience is derived from them.¹⁴

The pure concepts of the understanding are a sort of grammar that renders our experience intelligible. Short of positing a real or ideal "thing," to which the concepts would refer

concepts is reducible to the claim that all thought is discursive. In general, discursive thought is thought that makes and explains inferences from premises; thus intuitions provide the *material* of the premises and concepts provide the spontaneous connection of these premises with their implications.

¹⁴ Kant 1977, pp51-2 §30. I owe this and the subsequent citation from the *Prolegomena* to Beck 1978, p26.

these categorial rules “are arbitrary combinations” precisely because we cannot experience them; that is, they have no “objective reality” because they have no intuition with which thought could even imagine them referring to an “object.” Kant makes this analogy with grammar explicit

To search in our ordinary knowledge for the concepts which do not rest upon particular experience and yet occur in all knowledge from experience, of which they constitute the mere form of connection, presupposes neither greater reflection nor deeper insight than to detect in a language the rules of the actual use of words generally and thus to collect elements for a grammar (in fact both inquiries are very closely related), even though we are not able to give a reason why each language has just this and no other formal constitution, and still less why exactly so many, neither more nor less, of such formal determinations in general can be found in it. (Kant 1977, 60 §39)

As Walsh 1975 and Beck 1978 convincingly argue—and as Allison 1983 accepts—Kant “is not able to give a reason why” his specific determinations of the limits of Reason—namely the categories and the pure intuitions of space and time—are necessary. Kant must admit that the discursive nature of thought is a brute fact in exactly the same way that grammarians, according to Noam Chomsky and Jerrold Katz,

cannot “know” which grammars are internalized in advance of constructing a linguistic theory. We can only *hypothesize* that certain grammars are internalized. The natural and appropriate strategy is to construct hypotheses with regard to particular grammars *and* with regard to linguistic theory, confronting the entire complex with data from various languages for confirmation. [...] We do not “know” that we are correct in the hypotheses. Nor will we ever be certain about this. (Chomsky and Katz 1974, 353-4)

Does Kant’s grammatical analogy suggest that, understood from the perspective of meta-critique, his own project of defining Reason is a mere *hypothesis*?

I will return to Plato’s own analogy of dialectic and grammar shortly. By ‘grammar’ I mean nothing more or less than a system of rules or conditions that, when met,

determine the grammaticality of an utterance *or* expression (written, spoken or otherwise expressed). Grammar, in my extremely general understanding, includes things like the rules of a game or computer programming language, the rules of any particular language, and most importantly, the rules—should any exist—that would determine the conditions met by language as such. For example, say that any statement in any language must include two, different elements: what is stated *about something* (the predicate) and *about what* it is stated (the subject).¹⁵ Understood in my perhaps idiosyncratic way, grammar is a perfect “metaphor” for the Kantian (and Platonic) project just insofar as a grammar is the condition of the possibility of grammaticality; likewise, the rules of Reason are the conditions of the possibility of rationality.

By way of summary, I’d like to tease apart two separate problems that have emerged in my examination of Kant; the first is much less important than the second. First, whether or not grammar is an empirical science,¹⁶ it seems very odd indeed to characterize Kant’s understanding of his own critique of pure Reason in empirical or inductive terms. Yet, this is exactly what Walsh 1975 and Beck 1978 (and Allison 1983, implicitly) accept: “What Kant does in the *Critique* is build on facts we all take as

¹⁵ Kahn 2003 cites Edward Sapir to this effect. Kahn concludes that Sapir “a master of exotic languages who was of all men the one least inclined to see the universal laws of thought embodied in the idioms of Indo-European...endorsed [in effect] the Platonic-Aristotelian analysis of the sentence into noun and verb on the basis of extra-linguistic considerations quite similar to those from which the classical analysis arose” (Kahn 2003, 52). For my purposes, I consider this universal law for declarative sentences a sort of universal grammar, a grammar of particular grammars, if you will. Doubtless, Noam Chomsky would vigorously reject *my* notion of universal grammar; nevertheless, I maintain that whatever universal grammar is—insofar as it *is a grammar*—it *must be* a set of rules or conditions met by particular grammars. Given that my overall purpose is to discuss *logos*, I find Kahn’s idea of “universal laws of thought” particularly helpful and I see no need to distinguish the rules of thought (understood primarily in terms of *dianoia*) from the rules of speech.

¹⁶ Noam Chomsky argues persuasively that it is, e.g., Chomsky 1980, Chapter 3 and Chomsky 1965.

obvious in our non-philosophical moments” (Walsh 1975, 253). These “facts” are things such as the “fact” that we make mathematical judgments or the “fact” that we think discursively. It is not a problem for Kant, or anyone else, *to assume* that we make mathematical judgments or that we think discursively. The problem is that beginning such an examination of Reason with obvious assumptions or non-philosophical facts is empirical psychology, and Kant explicitly denies even the possibility of such *empirical* definitions of Reason: e.g., “the only possible deduction of this pure cognition is a transcendental and by no means an empirical one, and empirical deductions regarding the pure a priori concepts [i.e., the categories and pure intuitions of space and time] are nothing but futile attempts”.¹⁷ Nevertheless, such an “empirical” approach is exactly what is suggested by the passage with which I began: “metaphysics, in its fundamental features, perhaps more than any other science, is placed in us by nature itself and cannot be considered the production of an arbitrary choice...since the transcendental ideas have urged us to approach them and thus have led us, as it were, to the spot where the occupied space (viz., experience) touches the void (that of which we can know nothing, viz., *noumena*), we can determine the bounds of pure reason” (Kant 1977, 87-8). Kant’s naturalistic and passive language strongly suggests that the very limits of Reason are

¹⁷ Kant 1996, p143 A87=B119. Beck suggests that it is to misunderstand Kant’s “analytical method” to assume “Kant’s problem to be one of justifying a priori a particular scientific language as if it were uniquely necessary. And the problem so formulated is insoluble.” Beck proposes, following Eva Schaper, that Kant’s real project is *not* to show that the categories are uniquely necessary, hence the only ones possible; rather, “the genuine object of Kant’s search is ‘necessary features common to all variants’ (if there are variants).” (Beck 1978, 29) This way of saving Kant involves Carnap’s distinction between internal and external questions (see Carnap 1967). I believe that Chomsky employs a similar strategy in trying to defend grammar against the problems I am articulating. I will address this possible “solution” to the problem in my discussion of Chomsky in Chapter Two, Section Two.

“given” to Kant through some, at least quasi-empirical, *experience*.¹⁸ This, despite Kant’s many claims to the contrary.

The second problem is closely related to the first; it stems from the *motivation* for Kant’s acceptance of the first problem. Kant seems willing to characterize his own project in quasi-empirical language because he desperately wants to avoid the alternative: the limits of Reason are “the production of an arbitrary choice.” The rejected alternative assumes that experience of the necessary conditions of thought or Reason is *impossible* because all experience is objective and there simply is no “object” to which these necessary conditions could point. Put another way, since all experience has some sensible component¹⁹ there can be no experience of the mere *form* of experience; the “form” of experience just is its necessary condition. Kant’s rejection of this alternative entails that the necessary conditions of Reason have some *content* that is “experienced” by the metaphysician in some fairly problematic way (the first problem). The metaphysician is “given” this content by nature; this content is “the spot where the occupied space (viz., experience) touches the void (that of which we can know nothing, viz., *noumena*),” notice the oddly empirical metaphor. In order to understand *why* Kant implicitly accepts an *experiencing* of the limits of Reason through some quasi-empirical ‘touching the void,’ we must understand why the rejection of such an experience would make the limits or definition of Reason “the production of an arbitrary choice.”

¹⁸ I say “quasi-empirical” because Kant explicitly and repeatedly denies the possibility of any *actual* experience the formal structures of Reason. Thus, following Beck and Walsh, some non-empirical brute “fact”, e.g., that humans think discursively, is “experienced” in a “quasi-empirical” way.

¹⁹ This is true, for Kant, even in the “experience” of mathematical judgment: “Pure mathematics, as synthetic cognition *a priori*, is possible only by referring to no other objects than those of the senses.” (Kant 1977, 25 §11)

Kant's analogy with grammar closely correlates defining the rules of thought with defining the rules of speech or language. Crucially, Kant appends the following condition to the analogy: "we are not able to give a reason why each language has just this and no other formal constitution, and still less why exactly so many, neither more nor less, of such formal determinations in general can be found in it" (Kant 1977, 60 §39). Indeed, this is very meaning of the analogy. The relationship of grammar to the rules of language and of metaphysics to the rules of thought is the relationship upon which the analogy of grammar to metaphysics is built. This relationship maintains that "we are not able to give reasons why" just these rules obtain; that is, the rules of thought, like the rules of grammar are *unjustifiable* insofar as justification is an explanation of the reasons why. Thus, the Kantian definition of Reason is contingent; specifically, the Kantian formal structures of Reason are contingent upon how humans just happen to think and experience their world, worse yet the Kantian definition is contingent upon just those sorts of thinking and experiencing with which Immanuel Kant is familiar. This contingency, according to Kant's analogy with grammar, is the contingency of the grammarian who can only generalize rules for those languages she happens to know and, worse still, can only generalize rules based upon *her understanding* of these languages. The contingency of Reason upon just how human minds happen to be structured and the contingency of rules of grammar upon just how humans happen to communicate is a minor problem that is really reducible to the problem of empirical science as such; this is the first problem. The contingency upon the individual understanding of a particular metaphysician or grammarian is a second, and much more serious problem. Yet, Kant is

willing to admit that his definition of Reason is contingent upon his own metaphysical “experience” precisely in order to avoid saying that his definition of Reason is contingent upon *nothing*, i.e., that the rules of thought are an arbitrary production of the metaphysician.

The real problem, the second and more important problem, is that Kantian contingency—even contingency upon quasi-empirical experience of the “the void” or the limits of reason—is arbitrary in a certain harmful way. That you (safely) drive on the right or left side of the road is contingent upon the community in which you are driving. It is clear that this contingency is arbitrary. As long as we agree on *some* “formal structure,” we accomplish our goal of driving safely.²⁰ It is an arbitrary choice whether we agree to drive on the left or the right side of the road. Yet, this arbitrariness is harmless precisely because there is some criterion “higher” than or *outside* the game of driving, namely the criterion of mutual safety. Grammar might have a similar kind of harmless arbitrariness: *if* the purpose of language is to communicate then almost²¹ any old formal structures will suffice. Likewise, if Kant could identify or posit some “higher” purpose, some criterion *outside* Reason itself, then almost any old non-philosophical “fact” about how we think and experience would suffice for attaining this purpose. The trouble, for Kant and Plato, is that at this level of generality—the rules of Reason—it is

²⁰ This, of course is not quite right. The rule that people taller than or equal to 5’7” drive on the left and everyone else drives on the right would clearly not accomplish the desired effect. My real point is that the choice between ‘everyone drives on the left’ and ‘everyone drives on the right’ is arbitrary, even if the reduction to these two choices is not.

²¹ I do mean *almost*; clearly the rule ‘people must always say A is B and not-B’ wouldn’t achieve the stipulated goal of communication just as ‘people taller than or equal to 5’7” must drive on the left side of the road’ wouldn’t accomplish the stipulated goal of safety.

very difficult to even imagine anything *outside*. In the absence of some criterion *outside* of Reason, the rules of thought must either correspond to some quasi-empirical “experience” or remain arbitrary in a no-longer harmless way. Kant chooses the former.

Why can't or doesn't Kant simply posit some higher purpose for metaphysics, say safety or diminishing fear of violent death, according to which the rules of thought could be—perhaps arbitrarily but harmlessly—stipulated to achieve the goal? The answer is that whatever goal or criterion you might suggest would necessarily be a product of discursive thought or Reason. The whole problem was to *define* or say what Reason is; if you use Reason to formulate some higher purpose which your stipulated definitions would either accomplish or not, then you have either begged the question or you have readmitted the arbitrariness that your higher purpose was supposed to avoid. If you *don't know what Reason is*, then you cannot—without vicious circularity—use Reason to figure this out *and* say of the resultant definition ‘it is correct.’ If you tried to use Reason to define Reason, then you merely assume that you are Reasoning correctly in the act of defining; thus, you merely assume what you are trying to prove. The crucial and underlying problem is that Reasoning about the limits of Reason *cannot* err; this is the source of the harmful sort of arbitrariness. When you Reason about the definition of Reason, you are necessarily saying something like ‘*this* is what I am doing.’ In order to err, your “Reasoning” about Reason must never have been Reasoning in the first place. In order to Reason about Reason you must *choose* to do something; whatever this is, you assume that this activity is Reasoning correctly. Kant insists that the “fundamental features [of metaphysics]...cannot be considered the production of an arbitrary choice”

the only way for these features or limits *not* to be arbitrary is for them to be determined *outside* Reason by nature, this leads back to the first problem. The second problem is far more important and far less obvious.²² We must see only that a problem results from the extreme generality of the Kantian and Platonic project: when you are trying to articulate the necessary conditions of discursive thought, there seems to be no *outside* from which the articulated conditions might be justified as adequate rather than arbitrary.

Recall, Plato asserts that the mixing of the kinds is a necessary condition of *logos*, hence philosophy (*Sph* 259e-260a). Prior to this the interlocutors had stumbled upon the most important kind of ἐπιστήμη. Dialectical expertise is the knowledge of free men, the expertise of philosophers (*Sph* 253b-d). It is this knowledge that enables the dialectician to express *correctly* just how the kinds mix and don't. Plato, like Kant, wants philosophers to express the necessary conditions of discursive thought; for Plato, as for Kant, the *correctness* of this expression faces one of two sorts of arbitrariness: On the one hand, the expression of the limits of thought may be contingent upon some sort of brute fact; this is a relatively harmless sort of arbitrariness *if* philosophers *agree* that this brute fact *is* a fact—whether this is the “fact” of the necessity of intuitions *and* concepts for thought, or whether this is the “fact” of just how the kinds actually mix and don't. On the other hand, the expression of the limits of thought may be contingent upon *how philosophers happen to think* about the limits of thought; this sort of arbitrariness is not

²² In the end, the second problem shares a crucial feature with problems of self-reference, e.g., the liar's paradox. The crucial feature is that the statements 'I am lying' and '*logos* is such-and-such' are *about themselves*. Here, all that I need is the recognition that problems arise whenever an expertise attempts to define *its own* limits.

harmless and is a function of the fact that thinking about the limits of thought cannot err, at least not insofar as it *is thinking* at all. The first sort of arbitrariness is common to all axiomatic sciences and probably to science-as-such; scientists simply agree about first principle and proceed to employ their expertise to draw inferences *from* first principles. Insofar as these axioms or first principles are unquestioned, they are arbitrary in a fairly harmless way. Insofar as these axioms or first principles are questioned, they become arbitrary in a way so threatening to science that Kant was willing to build a contradiction right into the heart of his own metaphysics in order to avoid it.²³ If there is a genuine question as to *what counts* as thinking—i.e., if *what-thinking-is* is undetermined—then thought-itself will be of no avail in answering this question. When Plato or Kant try *to reason* about the limits of Reason, they must merely assume that they are indeed reasoning; if some competing metaphysician wished to “refute” the limits of Reason so discovered, she would need only to claim that what Plato or Kant were *doing* wasn’t really reasoning. Insofar as a philosopher *is thinking* about the limits of thought, it seems that this thinking cannot err. It is this second sort of arbitrariness that motivates Plato’s complex articulation of dialectical expertise as “that which is able to know how to discern according to kind how each of the kinds associate and don’t” (ἧ τε κοινωνεῖν ἕκαστα

²³ Let me state, right from the beginning, that I believe that scientists do actually question their own first principles in the *normal* practice of science. Normally, this upward movement of thought is thoroughly discursive, albeit mysteriously so. Scientists routinely “confirm” theories with recourse to questioning and answering questions about their own first principles. However, this peculiar practice is discursive *only insofar* as scientists are able to achieve *agreement* about their starting points. The moment such agreement is pending, the means for resolving the disagreement fall no longer *within* the science itself. In addition, as I will discuss below, the peculiar activity of “theory confirmation” in normal science is *itself* not rule-governed in the way that drawing inferences from fixed starting point is. Thus, even normal science employs what I will call the external capacity of its own expertise. Obviously, I my understanding of the normal practice of science is generally Kuhnian, see Kuhn 1970.

δύναται καὶ ὅπη μὴ, διακρίνειν κατὰ γένος ἐπίστασθαι, *Sph* 253e1-2).

In the *Sophist* and *Statesman*, Plato unlike Kant, does not opt for a sort of naturalism whereby the necessary conditions of discursive thought—namely, the mixing of the kinds—is simply experienced as a brute fact. Rather, Plato addresses the second sort of arbitrariness by focusing on the *capacity to discern* according to kind. The *correct* expression of the necessary conditions of discursive thought is not so much dependent upon *what* the philosopher knows as much as *how* the philosopher knows it. The crucial problem for Kant and Plato is that the expression of the boundaries of thought can only be judged *correct* with respect to some criterion *external* to thought itself; and Reason seems to be the sort of thing within which it is difficult to think an *outside*. Yet, Kant—at the risk of deep contradiction with his own metaphysical conclusions—posits just such an “outside” in the form of the *naturalness* of his own metaphysical inquiry. Thus, the “fact” that human thought is exclusively discursive is *not* an arbitrary assumption or production; rather, nature itself *confirms* this assumption through a strange and perhaps contradictory “experience” of the limits of Reason. Kant says so little about meta-critique that I don’t mean for this potential contradiction to be a serious criticism of Kant; nor do I mean to suggest that the arbitrariness of the empirical sciences—insofar as they merely assume some definite class of “facts”—is particularly damaging for Kant or anyone else. I do mean to show that Kant is explicitly interested in avoiding the possibility that the fundamental features of metaphysics “be considered the production of an arbitrary choice.” I have demonstrated that this possibility is an essential feature of any attempt to define the limits of Reason with recourse to Reason. Plato is aware of this

possibility and confronts it indirectly by focusing on the *activity* of judging, choosing or discerning (*diakrinein*) the necessary conditions of thought, *logos* and philosophy.

I have suggested that Kant finds the problem of arbitrariness so dangerous that he is willing to risk internal contradiction in order to avoid it. That is, Kant seems to allow for a peculiar sort of “experience” that his own definition of experience wouldn’t allow. Experience, for Kant, is the spontaneous application of pure concepts of the understanding to some passively received intuition; the very forms of any intuition are space and time. So, in order for the metaphysician to “experience” the limits of Reason as a ‘void,’ Kant would need to maintain that these limits themselves are, in some mysterious and perhaps contradictory way, “given” to the metaphysician by means of the only sort of intuition available, namely sensory. Yet, Kant explicitly denies the possibility of *experiencing* the forms or limits of experience. I suggest that Kant runs this risk of contradiction in order to avoid an even bigger problem: a peculiar sort of arbitrariness that is manifest whenever an expertise attempts to define itself *and* claim that this definition is not an error, i.e., that it is correct. I have also argued that this is not a problem peculiar to Kant, or modern philosophy. Rather, this is an essential problem for any attempt to define Reason or *logos*. My next task will be to articulate this problem of arbitrariness in the context of Plato’s discussion of dialectic.

We must ask: How could one *express correctly* how the Forms mix and how they don’t, if thought-itself is dependent upon the partial and distinct mixing of the Forms? How could someone give an account of the mixing of the Forms if account-giving-as-such *presupposes* that very same mixing? Given that some partial and distinct mixing of

the Forms is necessary for *logos*, any *logos* about mixing would be incapable of error; if the “*logos*” about the necessary conditions of *logos* were incorrect, then the “*logos*” wasn’t even a *logos* to begin with. Say that the form, Rest, doesn’t mix with the form, Change; any “*logos*” claiming ‘Rest mixes with Change’ would fail to understand the necessary conditions of *logos*. Thus, the “*logos*” ‘Rest mixes with Change’ would fail to be a genuine *logos*.²⁴ The key to solving these problems is to notice that *Sph* 253b8-d4 (cited on p23, above) makes two sorts of claims: *that* the kinds mix and, that it is necessary to convey or express *how* they mix.²⁵ In Kantian language, it is one thing to say *that* there are rules according to which thought is possible; it is something else entirely to say *what* those rules are. It is precisely the second sort of claim that leads to the problems of meta-critique.²⁶

²⁴ This point is not obvious and it will really require the rest of the dissertation to articulate adequately. The gist is that any *logos* that erred in its articulation of the necessary conditions of *logos* would not “know” that it even is a *logos* to begin with. The whole point is that when defining Reason *rationally*, you have to assume that what *you are doing* is rational activity to even get started; mere consistency demands that whatever you find must be right (*assuming* that you were inquiring rationally in the first place).

²⁵ I owe this insight to Notomi 1999, pp233-4.

²⁶ It may very well be that the first sort of claims lead to the same problems. I am simply following Plato in this distinction. The Eleatic Stranger seems to think that the claim ‘some of the kinds must mix and others not’ is the only *possible* way for the kinds to be with respect to one another. Thus, *that* the kinds mix (and don’t) is true simply because it is impossible for it to be otherwise. I don’t mean to suggest that this follows from a convincing “deduction;” rather, I mean to suggest that, in terms of the dialogue, the problem of *correct expression* arises only in connection with the claims about *how* the kinds mix and don’t.

Chapter Two

The Internal and External Capacities of Expertise

Chapter Two, Section One

Music, the Art of How Things Mix and Don't

In the previous chapter, I demonstrated that when an expertise attempts to define itself it faces a problem: the correctness of the definition must be determined in terms of some external criterion. Basically, this criterion could be mysteriously intuited or arbitrarily stipulated. Immanuel Kant chooses the former; the quasi-empirical intuition of the nature of Reason is the price that Kant pays for avoiding arbitrary stipulation. I have suggested that Plato is aware of the very same problem, but chooses to address it by focusing on the capacity, ability or competence that the dialectician must have in order *to define* philosophy correctly. In this chapter, I will follow Plato's lead in examining two capacities to collect and divide: musical expertise and grammatical expertise. Plato explicitly introduces dialectical expertise with reference to music, grammar and the general capacity to discern what sort of things do and what sort of things don't mix. Music and grammar are expression of how things mix and don't. In this respect they are perfect illustrations of dialectic. I will show that a careful understanding of each of these two arts reveals a crucial distinction in the nature of expertise itself: Expertise-as-such necessarily involves two, fundamentally different sorts of capacity, an internal capacity to articulate and apply rules and an external capacity to determine *what count* as things governed by these very same rules. This bifurcation of expertise is revealed by

examining music and grammar as arts that express *how* things mix and don't.

That some kinds blend and others don't was "deduced" at *Sph* 251d-253c: since the absolute separation of Forms is impossible and their total mixing is impossible, it follows that some forms mix and others don't. The new issue that introduces dialectic and the art of the philosopher is the question of *how* precisely they mix. This issue is necessarily bound to the concern with intending *correctly to convey* (διὰ τῶν λόγων πορευῆσθαι τὸν ὀρθῶς μέλλοντα, *Sph* 253b10) which kinds mix and which don't, in addition to the causal role of certain kinds with respect to association and disassociation of kinds. Noburu Notomi points out that the claims about *how* the kinds mix and don't "are drawn from the analogy of letters and *distinguish* two types of kinds: the consonant-like kinds which are combined and the vowel-like kinds which pervade all kinds and control combination and separation of the consonant-like kinds". Notomi quite rightly notes the conspicuous correspondence between the spreading of the vowels through all the letters (δεσμὸς διὰ πάντων κεχώρηκεν, *Sph* 253a5) and the holding together of all the kinds by the work of certain ones (διὰ πάντων εἰ συνέχοντ' ἅττ' αὐτ' ἐστίν, *Sph* 253c1-2) (Notomi 1999, 234, 234n46). Dialectic is like grammar just insofar as both are descriptions of partial and distinct mixing.

For Notomi, the analogy goes something like this: vowels hold together the parts of a word and consonants separate the parts of a word just as Being holds together all the kinds as kinds, and Difference separates the kinds, one from another.¹ I believe that

¹ In this, Notomi follows Bluck 1975. While I examine primarily a different aspect of the same analogy, I believe that Notomi and Bluck have the relationships of Being to vowels quite right. Cf Bluck 1975, pp119-24 and Cornford 1951, pp261-2.

Notomi has overlooked an even more profound aspect of this same analogy: grammar is to the mixing of consonants and vowels as dialectic is to the mixing of the five greatest kinds. Please recall that I am using ‘grammar’ in an extremely general, and perhaps idiosyncratic way (see p31 and footnote 15, Chapter One).² Notomi unnecessarily limits Plato’s analogy to the relationship of certain letters to certain kinds. This is right, but it is only part of the matter. The more important relationship is that of an *art* to its objects. It is very instructive that Plato should choose the art of the grammarian (τῆς γραμματικῆς, *Sph* 253a10) to reveal something about the art of dialectic. The analogy of grammar to dialectic is even better indicated in the text than the analogy to which Notomi points. First, both grammar and dialectic are introduced with the explicit concern with correctness of expression: “Everyone wanting to answer correctly (ὀρθῶς ἀποκρίνεσθαι) will establish the remaining of the three,” namely partial mixing of the kinds; “when some are and others are not willing to do this, then the things being affected would be just like the letters because some of these somehow don’t fit one to another and others do fit together” (*Sph* 252e6-253a2). Second, the Stranger explicitly suggests that the *relationship* of dialectic and grammar to their respective mixings is true of all sorts of expertise or art: “And concerning the other arts and non-arts we will find other things of just this sort” (*Sph* 253b5-6). The stranger illustrates the point with a musician who “has the art of knowing [γινώσκειν] which ones blend and which don’t” with respect to

² It is quite likely that by ‘grammar’ Plato usually means something like the art of reading or writing; nevertheless, the art of combining letters in words is a particular instance of the general capacity to determine *what counts* as an acceptable expression, written or otherwise. Most importantly, it is this latter capacity that interests Plato here, or so I will demonstrate. Whether or not Plato has some technical definition of ‘grammar’ is not my concern; my (and Plato’s) concern is with the *principle* of grammar.

musical notes (*Sph* 253b2-3). The point is that the analogy articulates *the relationship* of an expertise to those things governed by the rules of the same expertise. To restrict the analogy to Being and vowels and Difference and consonants is to miss the crucial articulation of *technē* with respect to distinct and partial mixing, of which dialectic and grammar are mere examples.³

The fundamental relationship of an expertise to some sort of mixing is helpfully illustrated by music.⁴ One can easily imagine any number of mutually exclusive systems of harmonic intervals; that is, it is easy to imagine people disagreeing about whether two musical tones mix well. The distinction between notes that harmonize and notes that don't perfectly illustrates the arbitrariness that was my concern at the end of the previous chapter. This arbitrariness results from absence of some *external* criterion of division. We may (indeed, Plato almost certainly does) believe that certain intervals are more "harmonic," natural or pleasing to the ear than others; nevertheless, we must admit that such a judgment is *external* to the art of music itself. Now, the Stranger says explicitly that the musician "has the art of knowing [γγνώσκειν] which ones blend and which don't," and this is to point out that the art of music *does have* an external criterion. Arnold Schoenberg, in *Theory of Harmony*, points out that great western music usually has so-called non-harmonic aspects: "It is then certain that harsh harmonies, since they

³ I will return to this important point in Chapters 5 and 6, where *diairesis* is linked to the very possibility of the arts. More specifically, τὸ μέτρον is external measure that is necessary for the very possibility of *technē*.

⁴ I am prompted by my student, Alpha Newberry, to point out that nothing I say subsequently relies even on the possibility much less the articulation of anything like 'universal music.' That is, while I follow Plato in talking as if there were some universal class called 'music,' my argument is the same regardless of the extension of this class. Thus, by 'music' I could as easily substitute 'western music,' 'classical music,' or even 'Bach Chorales.' The main point is independent of the size of the class in question.

appear in Bach and thus surely cannot be aesthetic flaws, are actually requirements of beauty.”⁵ Schoenberg’s polemic is directed precisely at those theorists who believe that great music can and should be kept within the strict “laws” of harmony: “Only the ear may take the lead, the ear, sensitivity to tone, the creative urge, the imagination, nothing else; never mathematics, calculation (*Kombination*), aesthetics.” (Schoenberg 1978, 331)

Schoenberg recognizes the arbitrary nature of the Western scale and argues that “it is not to our scale alone that we owe the evolution of our music. And above all; this scale is not the last word, the ultimate goal of music, but rather a provisional stopping place.” (Schoenberg 1978, 25)

Schoenberg indicates the *necessary exteriority* in music as such: “*Harmony, its theory, its pedagogy, is concerned with non-harmonic tones!* But non-harmonic matters have just as little place in a textbook of harmony as do non-medical matters in a textbook of medicine. [...] The expression, ‘non-harmonic’ tones, because they intrinsically lack the ability to form harmonies, i.e. chords (*Zusammenklänge*), are designated as having nothing to do with music and consequently are thrown out of the art and out of its theory. [...] Either there is no such thing as non-harmonic tones, or they are not non-harmonic.”

(Schoenberg 1978, 309) I believe the “textbooks” to which Schoenberg refers are the

⁵ Schoenberg 1978, p328. That I should choose such a quintessential modernist to illustrate a point that I believe is implied by Plato deserves a passing remark. First, all of Schoenberg’s conclusions would hold whether or not his own compositions are ultimately deemed “musical;” although, I find it dubious in the extreme even to suggest they are not. Second, I may be accused of “anachronism” only on the *assumption* that Schoenberg “discovered” something entirely new about music. I make no such assumption; rather, I assume that Schoenberg articulates a universal insight about music, as such. Plato need be no more “aware” of the possibility of dodecaphonic music than he need be of Bach or Bachman Turner Overdrive in order to understand the ultimately banal claim that what counts as music depends upon something exterior to music itself, e.g., where you live, what you like, who you consider an expert in such matters, what the gods have chosen, or what is “natural.” Any of these criteria are, strictly speaking, external to music.

products of those “theorists” and “aestheticians” that deny the external criterion and attempt to reduce music to a set of universally applicable *rules*. More importantly, Schoenberg is really making the same point as Plato: it is precisely the distinction between the harmonic and non-harmonic that *requires* an outside to the system of rules. For Schoenberg, this “outside” was the ear of the master musician. But, he is not merely advocating the modernist fetish for novelty and freedom from tradition. On the contrary, Schoenberg’s more important insight is that the traditional music of Bach and Mozart *cannot* be understood in terms of a closed system of rules: “A real system should have, above all, principles that embrace all the facts. Ideally, just as many facts as there actually are, no more, no less. Such principles are natural laws. And only such principles, which are not qualified by exceptions, would have the right to be regarded as generally valid. Such principles would share with natural laws this characteristic of unconditional validity. The laws of art, however, consist many of exceptions!”

(Schoenberg 1978, 10)

It is precisely the exceptions or the “non-harmonic” that have made great Western music great, according to one of its greatest innovators and theorists. Schoenberg’s point that “Either there is no such thing as non-harmonic tones, or they are not non-harmonic,” has broad implications for our understanding of grammar and dialectic. Schoenberg does not claim that music has no boundaries; on the contrary, Schoenberg’s accomplishment is to have shown that the old boundaries are incapable of containing music: “I have not succeeded in finding a system nor in extending the old one to include these phenomena. If that is perhaps denied me, owing to the limits of my talents, then let my

accomplishment consist in having disclosed the flaw the method used to date. Perhaps, however, it is at present not yet possible to set up a system because there is still too little material and because we are still too close to the older system. If we disregard the experiments of a few younger composers who have the courage to follow their ear...then, up to now such harmonies have been used almost exclusively where they can be explained as” exceptions (Schoenberg 1978, 330). It is particularly revealing that *Schoenberg* would posit the composer’s “ear” as the external criterion because it is Schoenberg—through his twelve tone, or dodecaphonic system—who formalized music far beyond the traditional tonal system. Thus, Schoenberg’s “system” is just another, perhaps more “modern,” system; we are free to reject, discredit, or simply dislike his music. My point is that we *cannot* do so from *within* any “system.” Rather, by whatever criterion we should judge Schoenberg’s compositions “unmusical”—whether by our “ear” or “musical taste” or even a Platonic sense of “natural harmony”—this judgment would necessarily be *outside* any strictly formalized set of musical rules.

Arnold Schoenberg convincingly argues that the art, or *techne* of music is made up of interiority and exteriority; rules or laws that govern the interior and artistic inspiration that define the boundaries of this interior from the outside:

Whether one calls oneself conservative or revolutionary, whether one composes in a conventional or progressive manner, whether one tries to imitate old styles or is destined to express new ideas—whether one is a good composer or not—one must be convinced of the infallibility of one’s own fantasy and one must believe in one’s own inspiration. Nevertheless, the desire for a conscious control of the new means and forms will arise in every artist’s mind; and he will wish to know *consciously* the laws and rules which govern the forms which he has conceived ‘as in a dream.’ Strongly convincing as this dream may have been, the conviction that these new sounds obey the laws of nature and of our manner of

thinking—the conviction that order, logic, comprehensibility and form cannot be present without obedience to such laws—forces the composer along the road of exploration. He must find, if not laws or rules, at least ways to justify the dissonant character of these harmonies and their successions.” (Schoenberg 1975, 218)

The relationship underlying the analogy of grammar and dialectic is the relationship of an art to interiority and exteriority. Thus, grammar is to the grammatical and non-grammatical as dialectic is to being and non-being and as music is to the harmonious and non-harmonious. This claim about music is probably trivial: it probably amounts to nothing more than the claim that what counts as music is not merely intrinsic to any musical system. Plato focuses on the analogy between grammar and dialectic because it is not nearly so obvious that there even is an “outside” to these arts, much less what this “outside” could be.

Despite possible triviality, the question of how *to express correctly* which sounds mix and don't is revealing just insofar as it points directly to a question of authority. Who has the authority to judge that certain combinations of notes are musical and others not? Schoenberg proposes that the composer's “ear” or imagination has this authority; Plato proposes the one having the relevant expertise or *techné*. Regardless, the question of who has the authority *cannot* be answered strictly in terms of the rules of the relevant expertise. Obeying rules of harmony is neither a necessary nor a sufficient condition for some collection of sounds to be *correctly* described as musical. Thus, Schoenberg's dodecaphonic compositions break the (traditional) rules but are obviously music; likewise, it is easy to imagine a computer generating a (necessarily law-governed) series

of notes that could fail to be music.⁶ The correct expression of the necessary and sufficient conditions of a musical sequence of notes *qua musical* cannot be reduced to a set of rules; rather, some authority must *first* determine whether *this* dodecaphonic and *that* computer generated composition count as music. Only *after* such judgment has been rendered is it even possible to begin articulating the conditions of musicality.

Interestingly, the question of correct expression reduces to the question of authority; the *correct* expression of the conditions of musicality is whatever the (genuine) authority determines them to be.⁷ Notice that this is not at all the same as saying that any old division between the musical and the non-musical is as good as any other. This sort of relativism could be erroneously attributed to Schoenberg. As the previous citation makes perfectly clear, Schoenberg believes in truly great music and he believes that part of what makes it great is the experts' attempts to codify the rules explaining why this music is great.⁸ Plato makes this point very clear: "Does everyone, then, know which sorts (of

⁶ I am not by any means saying that all computer generated "music" fails to be music; rather, all I am saying is that following harmonic rules is not a sufficient condition for music.

⁷ Technically, a genuine authority determines the boundaries of the musical and non-musical and this determination is, by definition, correct. It is possible that such an authority could fail to express the conditions of musicality in a way that accounts for those items deemed musical and non-musical. But this is a separate question. What I mean is that the authoritative determination of the boundaries of the musical and non-musical is *itself* the correct expression of the conditions of musicality. Whether or not such an authority is *consistent* from one determination or articulation to the next is irrelevant to the necessary correctness of any one such determination.

⁸ Schoenberg suggests that it is the formal capacity of certain systems of rules to raise more and more interesting problems that distinguishes great from not-great music: "Every more developed game comes about because the course of nature is modified by a force from outside. Thus in nine-pins the task is not merely to hurl a ball, but to knock down nine pins with it, and in billiards the cushions and countless other more or less arbitrary, artificial conditions restrict the natural aim of the stroke to such a degree that it can be taken as meaningful and successful only in terms of a very modified goal. One of the most primitive games, dice (primitive because its intellectual conditions are very simple and their number very small), is content to increase the interest of the question, 'which side will be up?', giving the various sides differing values—winning values, to appeal to our lowest instincts! Accordingly, the higher an artistic idea stands, the greater the range of questions, complexes, associations, problems, feelings and so on it will have to

letters) are able to associate [κοινωνεῖν] with which (other) sorts? Or, is it necessary for the one intending to do this sufficiently (to be) an expert?⁹ —An expert. —What sort? —The grammarian [Τῆς γραμματικῆς]” (*Sph* 253a8-12).

It is fairly obvious that not everyone is equally capable of distinguishing those musical notes that fit together and those that don't. Not everyone is a musical expert. On the surface, it seems nearly as plausible to assert that not everyone is an expert in grammar. Yet, a moment's reflection reveals a crucial dissimilarity between music and grammar: it is easy to imagine an external authority determining what is musical and what is not. Such an authority might be a government, a church, an art critic or even a musician employing an “extra-musical” capacity like Schoenberg's inspiration.¹⁰

Regardless, it is commonplace that not everyone is musical. However, it is far from commonplace that not everyone is grammatical. On the contrary, anyone who speaks or even understands a language must, in some sense or other, possess a knowledge of the grammar of that language. When Plato asserts that only the grammarian is an expert in grammar, might he be referring to grammarians like those at the Académie française who *prescribe*¹¹ that certain combinations of words are and are not grammatical? The text of

cover, and the better it succeeds in compressing this universality into a minimum of space, the higher it will stand.” (Schoenberg 1975, 253-4)

⁹ The Greek reads ἡ τέχνης δεῖ τῷ μέλλοντι δρᾶν ἰκανῶς αὐτό; I take the genitive, τέχνης, basically as a predicate genitive of characteristic. So ‘the one having the characteristic of an expertise’ just is ‘an expert.’

¹⁰ Please note, that by “extra-musical” I *do not mean* “non-musical.” As I have said repeatedly, whatever this “extra-musical” capacity is it is *part of* the art of music: it is the art of music's necessary exteriority. The crucial distinction between “extra-musical” and “non-musical” will be indispensable for understanding my subsequent development of dialectic as “extra-philosophical.” Dialectic is *a part of* philosophy; it is philosophy's necessary exteriority.

¹¹ “Le rôle de l'Académie française est double : veiller sur la langue française et accomplir des actes de mécénat. La première mission lui a été conférée dès l'origine par ses statuts. Pour s'en acquitter, l'Académie a travaillé dans le passé à fixer la langue, pour en faire un patrimoine commun à tous les

the *Sophist* suggests otherwise; it is far more likely that Plato had in mind a fundamentally *descriptive* (as opposed to prescriptive) art of grammar. Notice at *Sph* 252e9-253a2, 253a8-9, and 253b1-3, Plato consistently refers to *the letters* as the ones capable of mixing or not; when Plato asserts that only the expert in grammar is able to distinguish sufficiently (ικανῶς, *Sph* 253a9) which letters mix and don't, he is obviously *not* claiming that only the experts know how to arrange letters grammatically. Rather, he clearly means that only the experts can sufficiently *give an account* of the mixing that all language users actually employ.¹²

It is entirely plausible that by ἡ γραμματική that Plato has in mind the capacity to read and write.¹³ The explicit and frequent references to letters and spelling would support such a claim. However, I address grammar in a far more general way, according to which the ability to read and write is an instance of the general ability to distinguish grammatical and ungrammatical utterances. There are basically two reasons that I feel warranted in taking Plato's reference to γραμματική in this way. First, the solution to the problem to false speech employs a grammatical distinction in my broader sense of the word: "Because there are for us somehow two kinds of ways to reveal in the case of

Français et à tous ceux qui pratiquent notre langue. Aujourd'hui, elle agit pour en maintenir les qualités et en suivre les évolutions nécessaires. Elle en définit le bon usage. Elle le fait en élaborant son dictionnaire qui fixe l'usage de la langue, mais aussi par ses recommandations et par sa participation aux différentes commissions de terminologie." (<http://www.academie-francaise.fr/role/index.html>)

¹² At this level of generality, it is obvious that Plato's understanding of grammar is fundamentally descriptive. However, this sharp distinction between descriptive and prescriptive becomes less and less tenable the more that we examine grammar and dialectic in detail. Indeed, it will turn out that the exteriority in grammar and dialectic is, in a certain sense, prescriptive. Nevertheless, my conclusions depend upon seeing that Plato *begins* with a descriptive understanding of grammar; it is precisely this descriptive aspect that will pose the problem that necessitates exteriority.

¹³ This is suggested to me by Ron Polansky who is following Myles Burnyeat.

being *with sound*. –How so? –Some being called names other begin called verbs.”¹⁴ This distinction corresponds directly with the grammatical distinction between subject and predicates;¹⁵ more importantly, this distinction corresponds to Frege’s distinction between concepts and objects.¹⁶ This fundamental distinction not only applies to all written sentences, it applies to all speech and all thought. Furthermore, this distinction is the key to Plato’s establishing the possibility of false speech; and falsehood or error—as we have seen—is the underlying problem whenever an expertise attempts to define itself. Second, the reference to τῆς γραμματικῆς at *Sph* 253a12, is followed by this remark: “And concerning the other arts and non-arts we will find other things of just this sort” (*Sph* 253b5-6). This explicit reference to τεχνῶν καὶ ἀτεχνιῶν shows Plato’s concern with the most general of distinctions. In the next section, I argue that whenever there is a genuine question about the grammaticality of a particular utterance, then the very definition of grammatical expertise becomes a question; that is, such external questions ask whether grammar-as-such is or is not at art. Grammar for my purposes is a very general set of conditions met by all and only *grammatical* expressions and utterances. This general understanding is certainly consistent with the understanding of grammar as the ability to

¹⁴ ἔστι γὰρ που τῶν τῆ φωνῆ περὶ τὴν οὐσίαν δηλωμάτων διττὸν γένος. -Πῶς; -Τὸ μὲν ὀνόματα, τὸ δὲ ῥήματα κληθέν, *Sph* 261e4-262a1.

¹⁵ According to Charles Kahn this distinction is a genuinely universal grammatical distinction, see Kahn 2003, pp38-59.

¹⁶ “For not all the parts of a thought can be complete; at least one must be ‘unsaturated,’ or predicative; otherwise they would not hold together. For example, the sense of the phrase ‘the number 2’ does not hold together with that of the expression ‘the concept *prime number*’ without a link. We apply such a link in the sentence ‘the number 2 falls under the concept *prime number*;’ it is contained in the words ‘falls under,’ which need to be completed in two ways—by a subject and an accusative; and only because their sense is thus ‘unsaturated’ are they capable of serving as a link. Only when they have been supplemented in this twofold respect do we get a complete sense, a thought.” (Frege 1952, 54)

read and write; this latter ability is an instance of the capacity to distinguish the grammatical from the ungrammatical.

Were Plato to have developed the relationship of *techne* to mixing in terms of an analogy between music and dialectic then our task would be much simplified. The reason is that it is so easy to image an exteriority to music, even when that exteriority is exercised by the very same musician who obeys the rules of music. Sometimes a musician wears her “technician’s” hat; that is, she strictly follows the rules of her craft. Other times, a musician takes off her “technician’s” hat and dons her “creator’s” hat in order explicitly to challenge those very same rules. Alas, this is not the analogy that Plato develops in order to explain dialectic. Rather, Plato focuses his attention on another art that illustrates the same relationship of an art to its requisite interiority and exteriority: grammar. In order to understand fully the problems that Plato introduces by choosing this particular art, I must briefly outline a possible account of the art of grammar. Contemporary linguistics provides the just the account needed: Chomskian generative grammar.¹⁷

¹⁷ As should be apparent by now, I have little to no fear of claims of “anachronism” because I believe such claims ultimately rest upon assumptions that I need not accept. Nevertheless, if my reader is worried about anachronism, then Chomsky should be the most appropriate choice of modern linguistic theories of grammar precisely because of the way that he sees himself as continuing a traditional, indeed Platonic project: “the *form of language*, the schema for its grammar, is to a large extent given, though it will not be available for use without appropriate experience to set the language-forming processing into operation. [This is] the Platonistic view...of drawing out what is innate in the mind” (Chomsky 1965, 51 see also 24).

Chapter Two, Section Two

Universal Grammar and External Questions

Let's assume that, for Plato, grammar is an extremely general science of language that would include syntax and phonetics (and, as a consequence orthography). Chomsky includes semantics as a part of his grammar (Chomsky 1965, 16), but I will, for heuristic purposes, assume that Plato does not.¹⁸ While the particular analogy at *Sph* 252e-254b seems to be restricted to phonetics, i.e., the relations of letters in possible words, I see no reason to limit the analogy with dialectic accordingly. My reason is that Plato introduces the fundamental syntactic distinction between subject and predicate only somewhat subsequent to the passage under consideration, *Sph* 261d-263d. Indeed, this second, clearly syntactic distinction follows from and is clearly tied to the necessary condition of *logos* with which I began the previous chapter. Even restricting grammar to syntax (and phonetics, as a sort of syntax) does not avoid an essential ambiguity: on the one hand, grammar is the expertise of the grammarian who adequately describes the form or conditions of ordinary language; on the other hand, grammar is the (implicit) knowledge that all ordinary language users possess in virtue of their being language users. Chomsky calls this a "systematic ambiguity"

¹⁸ I have come to believe that Chomsky deeply misunderstands semantics and that his attempt to subsume semantics under syntax fails on exclusively philosophical grounds. That is, in *practice* Chomskian generative grammar may function perfectly well as a description (and perhaps even explanation) of universal grammar. Chomsky frequently argues that his project is a fundamentally empirical one and is subject only to those philosophical objections that empirical science, in general, is subject to. I agree, but this doesn't solve those objections. I speculate that Chomskian grammar faces deep-seated problems *in theory* and that these are basically semantic problems. A further project would be to demonstrate Plato dealing with essentially semantic problems in the *Sophist*; such a project would involve examining Plato's concern, in the *Sophist*, with the reference of a name to an object and the troubles that emerge when one tries to map such a referential relation onto the relation between a verb or a concept and the action or property to which it "points."

Clearly, a child who has learned a language has developed an internal representation of a system of rules that determine how sentences are to be formed, used, and understood. Using the term “grammar” with systematic ambiguity (to refer, first, to the native speaker’s internally represented “theory of his language” and, second, to the linguist’s account of this), we can say that the child has developed and internally represented a generative grammar, in the sense described. (Chomsky 1965, 25)

The previously described sense of generative grammar “is not a model for a speaker or hearer;” rather, a generative grammar “attempts to characterize in the most neutral possible terms the knowledge of the language that provides the basis for actual use of language by a speaker-hearer” (Chomsky 1965, 9). Thus, grammar is both the knowledge that enables people to use language and the “characterization” of this knowledge by the linguist or grammarian. While Plato seems to deny that everyone possesses the knowledge of grammar, we must understand this to mean that only experts are able to “characterize,” describe or explain this knowledge of language users. Indeed, Chomsky admits that what he calls “the knowledge...that provides the basis for actual use of language” might not be any ordinary sense of the word ‘knowledge’ at all. Chomsky doubts that traditional definitions of ‘knowledge’ are even coherent: “It seems doubtful that there is a useful sense of such notions as ‘justification,’ ‘grounding,’ ‘reasons,’ etc., in which justification, having good reasons, etc., is in general a necessary condition for knowledge (including *knowing that*)—nor a sufficient condition for true belief to be knowledge, as the Gettier examples show” (Chomsky 1980, 99). Instead, Chomsky’s notion of the “knowledge of language” that is requisite for language users is essentially *tacit* and *innate* knowledge of grammar. Basically, knowledge of grammar is “a certain structure of rules, principles and representations in the mind;” the “system of

rules that generate and relate certain mental representations,” in conjunction with principles that govern these rules, this system is *grammatical competence* (Chomsky 1980, 90-1).

A grammar of a language purports to be a description of the ideal speaker-hearer’s intrinsic competence. If the grammar is, furthermore, perfectly explicit—in other words, if it does not rely on the intelligence of the understanding reader but rather provides an explicit analysis of his contribution—we may (somewhat redundantly) call it a *generative grammar*. (Chomsky 1965, 4)

What could it mean for a grammarian’s description of linguistic competence *not* to “rely on the intelligence of the understanding reader”? Doesn’t *any* description rely on the reader-hearer’s understanding? Why would an “explicit analysis” of the reader-hearer’s “contribution” render the described grammar generative? Chomsky seems to be saying that a theory of generative grammar explicitly describes the conditions under which the theory-itself (as a description of competence) is intelligible to a reader-hearer. It seems that a Chomskian description describes the necessary conditions of itself *qua* intelligible. In order to expand this potential problem of self-definition in grammatical theories it will be helpful to exploit the “systematic ambiguity” between language acquisition and theories thereof.

According to Chomsky, a child has learned a language

on the basis of observation of what we may call *primary linguistic data*. This must include examples of linguistic performance that are taken to be well-formed sentences [...] As a precondition for language learning, he must possess, first, a linguistic theory that specifies the form of the grammar of a possible human language, and, second, a strategy for selecting a grammar of the appropriate form that is compatible with the primary linguistic data. As a long-range task for general linguistics, we might set the problem of developing an account of this innate linguistic theory that provides the basis for language learning. (Note that we are again using the term “theory”—in this case “theory of language” rather

than “theory of a particular language” — with systematic ambiguity, to refer both to the child’s innate predisposition to learn a language of a certain type and to the linguist’s account of this.) (Chomsky 1965, 25)

Given that the grammar, refers both to the innate structures and the description thereof, the problem that I will propose for the structures of acquisition applies equally to the account of this structure. The problem is that the child is said to have selected “well-formed sentences” *prior to* developing competence in the language of which these sentence are a part. How does a child learn a particular grammar? Chomsky’s answer is, in effect, ‘by means of universal grammar (plus data and evaluation procedures).’ Chomsky wants universal grammar to be something like “hardwiring,” one might say the natural readiness to learn a particular grammar. He calls this “hardwiring” a theory; this theory refers “both to the child’s innate predisposition to learn a language of a certain type and to the linguist’s account of this.” It is not difficult to see how the linguists’ *account* of innate readiness is like a set of rules or conditions. However, it is less obvious how “hardwiring,” innate predispositions, or “a linguistic theory that specifies the form of the grammar of a possible human language” is like a set of rules. Nevertheless, it is critical to see that even on Chomsky’s naturalistic account of innate predisposition, this readiness *must* include a set of rules for distinguishing grammatical from ungrammatical utterances. Chomsky’s *primary linguistic data* “include examples of linguistic performance that are taken to be well-formed sentences.” We must recognize that the ability to select-out “well-formed sentences” from the cacophony of ungrammatical pseudo-speech and general noise is *itself* a (now universal) grammatical capacity. Granted, distinguishing well-formed sentences from noise is not yet to exercise the

capacity of a particular grammar; Chomsky is right to make universal grammar the means of learning particular grammar; it is wrong however, to assume that particular grammar and universal grammar are different in kind. Both are *grammar*; as such, particular and universal grammar are conditions or rules for distinguishing between grammatical and ungrammatical utterances.¹⁹ The things to which these rules apply differ in the case of particular and universal grammar; the essence of grammar doesn't.

Chomsky's distinction between the form of language and the form of a particular language only pushes the problem back a step. Grammar, whether universal or particular, is a competence to distinguish well-formed sentences from *not* well-formed sentences. Any attempt to describe the rules according to which well-formed sentences are distinguished from not well-formed sentences must presuppose this very distinction. The rules of grammar are, in a very strong sense, the *conditions* of grammaticality in the same way that the rules of music are the *conditions* of musicality. Now, in the case of music it is easy to imagine an authority *outside* the rules of music that establishes what counts as music and what doesn't. On the *basis* of this distinction, one could straightforwardly describe the rules that are the *account* of this distinction. The problem that Chomsky is leading us towards is that it is very hard to imagine any external authority that *first*

¹⁹ In a (no longer) private correspondence on this issue, Noam Chomsky granted that the selection of primary linguistic data "presupposes a genetically-determined component of the mind/brain, a 'faculty of language' FL, to adapt a traditional term to a new context" (Chomsky 2004, 2). This "faculty" *must be* a capacity to distinguish well-formed sentences from not-well-formed sentences. Now, just calling this capacity "a genetically-determined component of the mind/brain" does not make it any less a capacity of applying rules of grammaticality. The point is that there *must be some conditions* according to which a child selects primary linguistic data; these conditions and the expression of them (following Chomsky's "systematic ambiguity") are reducible to a set of rules, e.g., 'if an utterance says something (a verb) about something (a name), then it is a well-formed sentence.' *Only* on the basis of this sort of rule (i.e., universal grammar) could there even *be* primary linguistic data from which particular grammars are generated.

determines what counts as “primary linguistic data.”

Looked at from a certain point of view, universal grammar describes a “language acquisition device,” a system that maps data into language (I-language²⁰). A theory of universal grammar, like a particular proposed grammar, is true or false in whatever sense any scientific theory can be true or false. For our purposes, we may accept the normal realist [sic] assumptions of the practicing scientist, in this connection. Whatever problems may arise are not specific to this enterprise, and are surely far better studied in connection with the more developed natural sciences. (Chomsky 2001, 585-6)

To be perfectly clear, I am claiming that grammar faces a particular problem of self-references that is separate from (and in addition to) the problems of induction and theory-data circularity common to the natural, empirical sciences.²¹ I am not claiming that Chomsky or any other practicing grammarians should be worried by the problem. For all *practical* purposes, grammar is an empirical science and can go on selecting data based upon its theories and then “confirming” these theories with recourse to the same data. This circularity poses only minor problems in *practice*. I’m not even interested in the *theoretical* problems that this circularity poses. Rather, I’m interested in grammar just insofar as it is *different from* the natural sciences: linguistic theories must apply to themselves—descriptions of universal grammar must satisfy the (admittedly extremely general) conditions of this grammar—and physical theories need not apply to their

²⁰ “The I-language is what the grammar purports to describe: a system represented in the mind/brain, ultimately in a physical mechanism that are now largely unknown, and is in this sense *internalized*” hence, I-language. (Chomsky 2001, 585)

²¹ “Of course, having constructed a linguistic theory meeting (to some extent) the conditions of descriptive and even explanatory adequacy, we will always be able to construct another theory, with a different characterization of [humanly possible grammars] and a different evaluation measure, which will meet these conditions (to the same extent), selecting different [descriptively adequate grammars] that are just as compatible with evidence. [...] The point amounts to nothing more than the assertion that linguistics is an empirical science, not a branch of logic or mathematics...linguistic theory, being a nontrivial empirical theory, is underdetermined by evidence.” (Chomsky and Katz 1974, 354)

linguistic articulations because linguistic articulations are not physical.²²

Recalling the systematic ambiguity of language acquisition and theories of grammar, the grammarian faces exactly the same problem that the child does with respect to “primary linguistic data.” As the child must perform some quasi-induction²³ in order to represent the rules or grammar that govern this data, so the grammarian must articulate the rules that govern either this particular language or language-as-such (in the case of universal grammar). Regardless, *what counts* as a language, or well-formed sentence within a language, *cannot* be determined by these rules because the rules are based upon a quasi-induction from the data that *counts*. Obviously, grammarians merely assume that they know what counts as grammatical: “there is no way to avoid the traditional assumption that the speaker-hearer’s linguistic intuition is the ultimate standard that determines the accuracy of any proposed grammar, linguistic theory, or operational test, it must be emphasized, one again, that this tacit knowledge may very well not be immediately available to the user of the language” (Chomsky 1965, 21). It follows of necessity that the grammarian’s “intuition” about what sorts of utterances need to be

²² Chomsky explicitly denies that linguistic theories must apply to themselves: “Grammatical theories don’t apply to themselves, any more than chemical theories do.” (Chomsky 2004, 3). He grants that “in informal exposition, all sciences use ordinary language (with the terms used in special technical senses). But if the work is really done carefully, it makes of use theoretical systems that have only accidental similarity to natural language. I don’t see that linguistics faces a different problem than chemistry does, in this respect.” (Chomsky 2004, 1) I respectfully disagree with Chomsky, for two reasons: One, he seems wrongly to assume the “theoretical system” itself isn’t conditioned by universal grammar (his reasons for this probably stem from his misunderstanding of the relationship of semantics to syntax, see footnote 18, above); Two, even if I fully conceded Chomsky’s point, it is beyond a doubt that for *Plato* no recourse to such “theoretical systems” is available.

²³ I use the expressions ‘quasi-induction’ because Chomsky rightly insists that the “generalization” from data in the case of language acquisition is *not* induction. See Chomsky 2004, Chomsky 2001, and Chomsky 1980, Chapter 3. Chomsky prefers a notion of “abduction” that he borrows from Pierce.

accounted for by a grammar may not, indeed *cannot*, be available to the grammarian as anything like justifiable “knowledge;” this is exactly what Chomsky means by “tacit knowledge” (see p57, above). When the grammarian is asked ‘How do you know that this utterance is grammatical such that your grammar must account for it?’, the grammarian’s only answer is something to the effect ‘because I have determined this utterance to be grammatical.’

A grammarian attempts to articulate the rules that could explain *just these* grammatical utterances, whether “these utterances” are taken as a particular language or as language-as-such. There are a whole host of problems concerning the justification that these rules adequately describe and perhaps even explain just these grammatical utterances. In this respect, grammar is like all empirical sciences. However, when an empirical science is faced with the question, ‘How do you know that *just these* things are the data that your theory ought to explain?’, then the empirical scientist appeals to a criterion *outside* her theory, namely observations of fact, or some such. The fact that empirical sciences have these sorts of external criteria is exactly what I meant when I said that physical theories don’t have to apply to themselves (see footnote 22, above). So, what sort of external criteria are available to the grammarian? If grammatical utterances were like natural kinds, say tigers, then the grammarian could simply consult the world as the external authority that “confirms” her original data selection. Chomsky, quite rightly, never suggests that the indefinite class of grammatical utterances is a natural kind.²⁴

When faced with a questionable utterance—one that is not obviously grammatical or

²⁴ Indeed, he seems explicitly to deny this, see Chomsky 1980, p90.

ungrammatical—the grammarian must arbitrarily decide whether it falls inside or outside the bounds of the relevant grammar. Chomsky suggests that this is not an arbitrary choice: “We can only *hypothesize* that certain grammars are internalized. The natural and appropriate strategy is to construct hypotheses with regard to particular grammars and with regard to linguistic theory, confronting the entire complex with data from various languages for confirmation” (Chomsky and Katz 1974, 354). I believe that Chomsky underestimates the problem that I am introducing; it is impossible that the hypotheses could be disconfirmed because the “particular grammars” *qua grammar* necessarily conform to the rules of grammaticality. More specifically, the decision that some “particular grammar” *is a grammar* that “disconfirms” the rules of universal grammar would be an *arbitrary* decision, an arbitrary decision to redraw the boundaries of grammaticality and reformulate your rules accordingly.

Imagine a grammarian describing a rule, say ‘all indicative propositions must have a subject and a predicate.’ This rule is in some very vague sense “generalized” from a very peculiar class of things: all possible grammatical utterances. Now, let’s say there arises a questionable utterance, say ‘trees green.’²⁵ On what *grounds* does the grammarian claim that her rules don’t have to account for this utterance? Obviously, she can’t appeal to her rule because her rule is *premised upon* this *not* being a grammatical utterance, i.e., if ‘trees green’ is grammatical then not all propositions have to have a subject and

²⁵ In this thought experiment, I plausibly assume that ‘green’ is only an adjective, not a verb. Also, I have chosen this expression precisely to highlight how ostensibly non-grammatical sentences might be meaningful, in some fairly mysterious way. The very possibility of the meaningfulness of ‘trees green’ I hope lends plausibility to my suggestion that it is possible for disagreements about grammaticality to arise, even among experts; that is, the boundaries of grammaticality are not nearly so “factual” as Chomsky would have us believe.

predicate. Perhaps, being of an empirical bent like Chomsky, she replies to the effect ‘because I’ve never observed this utterance used in language.’ This answer won’t do because she needs to claim that ‘trees green’ *cannot* be observed as a grammatical utterance in the given language. So, on what grounds does she claim that ‘trees green’ *cannot* be a grammatical utterance? Simply on the grounds that she has decided that it cannot be so. Now, as long as everyone agrees that ‘trees green’ is ungrammatical then this problem doesn’t really come up. The reason that I have brought it up is that Plato, in the *Sophist*, is very interested in those instances where grammarians or dialecticians don’t agree about first principles or the boundaries of primary terms like “primary linguistic data.” I believe this implicit and necessarily arbitrary *agreement* about grammaticality is what leads Chomsky, perhaps rightly, to underestimate (if not ignore) the problem of arbitrariness. For all *practical* purposes, the class of grammatical utterances is “given” to the grammarian in the same way that data is given to a chemist. The crucial *theoretical* difference is that chemistry has extra-theoretical (hence, technically non-chemical) evidence with which to confront the original data set and thereby “confirm” or “disconfirm” the theory. The linguist has no such non-linguistic evidence without recourse to an arbitrary decision.²⁶

In general, I believe Chomsky is following the lead of Rudolf Carnap’s pragmatism in scientific methodology. In his article, “Empiricism, Semantics, and Ontology,” Carnap

²⁶ I strongly suspect that the need for non-linguistic or extra-theoretical evidence is what leads Chomsky to his materialist claims about language “growing” in a child (Chomsky 1980, 136-40; Chomsky 2001, 586). Until a neurobiologist “discovers” generative grammar in someone’s brain, I maintain that my objection remains plausible while granting that this objection need have no impact on the practicing grammarian.

argues for the *empirical* admissibility of so-called “mental” entities like electrons, properties, numbers and the like; an empirical theory should be “allowed” to posit entities in the world even if these entities cannot—even in principle—be observed. The reason is that questions about the existence of these entities are external to the theories and thus cannot be answered on theoretical, or scientifically justifiable grounds.

If someone wishes to speak in his language about a new kind of entities, he has to introduce a system of new ways of speaking, subject to new rules; we shall call this procedure the construction of a linguistic *framework* for the new entities in question. And now we must distinguish two kinds of questions of existence: first, questions of the existence of certain entities of the new kind *within the framework*; we call them *internal questions*; and second, questions concerning the existence or reality *of the system of entities as a whole*, called *external questions*...to be real in the scientific sense means to be an element of the system; hence this concept cannot be meaningfully applied to the system itself. (Carnap 1967, 73)

Whether a particular sequence of notes *is musical* is a question external to music because musical expertise—insofar as it is the articulation and application of *rules* of harmony—is *premised* upon a definite class of *musical* sequences of notes; the rules of music merely generalize the conditions met by those *previously* determined *musical* sequences. Questions about whether these notes *are music* are not “questions of the existence of certain entities of the new kind *within the framework*.” Carnap quite rightly considers *external* questions ones “concerning the existence or reality *of the system of entities as a whole*.” When our grammarian asks whether ‘trees green’ is grammatical, how does this concern the system of grammaticality as a whole? It does so by calling into question the boundaries of the system. If it is even *possible* that ‘trees green’ is grammatical then the system “generalized” from the class of grammatical utterances may

not *correspond to* an “actual” or “real” grammar. I grant I have significantly extrapolated Carnap’s argument and intentions. Nevertheless, I maintain that it is perfectly consistent with Carnap’s argument to claim that the questions of grammaticality and musicality with which I have been concerned are *external* questions that challenge the reality or existence of each system as a whole.

By accepting Carnap’s distinction, Chomsky posits neurobiological “hardwiring” and tacitly known systems of rules. Chomsky quite rightly considers questions of their existence to be *internal* to linguistics and hence subject to normal procedures of “confirmation” and methodological criteria, e.g., simplicity or elegance. What Chomsky seems never to consider is the possibility of disagreement over “primary linguistic data.” Should such questions occur they would be external to the framework of a particular or universal grammar, depending upon the question. Any claim that a particular utterance or grammar really is governed by the framework would be a claim about the reality of the system and hence external to the system.

An alleged statement of the reality of the system of entities is a pseudo-statement without cognitive content. To be sure, we have to face at this point an important question; but it is a practical, not a theoretical question; it is the question of whether or not to accept the new linguistic forms. The acceptance cannot be judged as being either true or false because it is not an assertion. It can only be judged as being more or less expedient, fruitful, conducive to the aim for which the language is intended. (Carnap 1967, 79)

The *practical* nature of answers to external questions is especially evident for systems of rules as general as universal grammar or the structure of discursive reason. It is quite revealing that Lewis White Beck cites Carnap in articulating Kantian meta-critique.

Carnap, in connection with the differences between languages and meta-

languages, has distinguished between internal and external questions. The former are questions that can be answered in the object-language, for example, “What is the cause of thunder?” The latter are questions which, if answerable at all, can be answered only in the meta-language, for example, “What is ‘cause’?” [...] The *Critique*, like any large philosophical work, asks to be judged by its success in answering the questions it itself asks, though we want to evaluate it externally by asking whether its own presuppositions—its meta-critical positions—are true or not. Insofar as the *Critique of Pure Reason* sets the conditions of intelligible questions and answers, however, we have no way of answering this [external] question; and the *Critique* seems to be suspended from nothing in heaven and supported by nothing on earth. It is not unique in this unenviable position.” (Beck 1978, 30)

Nevertheless, Beck proposes a *practical* solution: Kant “*has no explicit theory of how we come to know of the operations and faculties or abilities of the mind.* A detailed articulation of his informal procedure, however, would constitute a meta-critique of pure reason, but an internal one, continuous with the critical philosophy itself. [...] Most particularly, it would not require us to have transcendent knowledge which the *Critique* teaches we cannot have.” (Beck 1978, 33) I believe Chomsky would like a similar solution. When asked whether grammar faces a peculiar “problem in assuming that the expression of grammatical rules follows those very same rules,” Chomsky replied, “I don't think it's a problem. It's true that in informal exposition, all sciences use ordinary language (with the terms used in special technical senses). But if the work is really done carefully, it makes of use theoretical systems that have only accidental similarity to natural language” (Chomsky 2004, 1). The “theoretical systems” are a meta-language to ordinary language but they are *internal* to the system of rules that is a theory of universal grammar.²⁷ In the end, both Kant and Chomsky opt for peculiar sorts of empiricism in

²⁷ Doubtless, Chomsky would deny that the theoretical “language” with which the grammarian describes a grammar is a “language” conditioned by universal grammar. I suspect he would have little choice but to maintain that the linguists’ “theoretical system” is ultimately reducible to logic, purified of ordinary language. Nothing rides on this potential disagreement because (a) it is, to me, obvious that Chomsky

order to account for the necessary exteriority of their systems. What is so peculiar, is that empirical evidence is normally—that is in the empirical sciences—supposed to be *outside* the theories and only thus provide confirmation.²⁸ For Kant and Chomsky, the appeal to “empirical” evidence is an attempt to avoid external questions altogether.

Empirical evidence might be internal to a theory if used as the basis of its formation or if used to justify some aspect of a theory not formed by this very same evidence. If empirical evidence is used to *confirm* a theory that was formed on the basis of this very same evidence then the empirical evidence is external to the theory; such obvious circularity is tantamount to saying ‘This theory exists.’ The subtle ways that the empirical sciences avoid this obvious circularity—in favor perhaps of “less obvious” or “acceptable” circularity—do not interest me here; let me simply assume that *somehow* empirical theories are able to be confirmed by empirical evidence. The problem that interests me is this: What sort of evidence could justify the claims “trees grow” is

understands the practice of grammatical description to be restricted to *internal* questions in Carnap’s sense; and (b) Plato would never accept any sort of “technical” language of description as distinct from the language described. Plato perhaps much better than Chomsky, is aware of the deep-seated problems of self-reference that grammar illustrates.

²⁸ I am aware that I am characterizing “empirical evidence” as outside a theory in an ambiguous way, especially in light of Carnap’s distinction. I don’t mean to suggest that all empirical evidence is non-cognitive and practical as are the answers to truly external questions. Nevertheless, perhaps against Carnap, I maintain that empirical evidence *is* outside a theory only when it is used to justify the theory that is a “generalization” of that very same evidence. Carnap writes “whoever makes an internal assertion is certainly obliged to justify it by providing evidence, empirical evidence in the case of electrons, logical proof in the case of the prime numbers” (Carnap 1967, 81). He is right, but he restricts the use of empirical evidence to “an internal assertion;” I maintain that an assertion to the effect ‘this theory is true’ is *external*, effectively equivalent to ‘this theory is real.’ In other words, empirical evidence can be both internal and external: internal when it is the basis for theory formation or when justifying aspects of a theory generated from different evidence; external (and perhaps to this extent “non-cognitive”) when “confirming” a theory constructed on the basis of this very same evidence. In the case of grammar, all “empirical evidence” is external because the theory is necessarily constructed on the basis of primary linguistic data and this data must include, at least potentially, any eventual “evidence.”

grammatical’ or “‘trees green’ is not grammatical’? Notice that the answer *cannot* be ‘the rules of grammar justify the two statements;’ the rules of grammar (as we know them) are generated on the basis the statements’ assumed truth.²⁹ It appears that it is *impossible* to justify the inclusion or exclusion of potentially grammatical or ungrammatical statements. Likewise, it appears impossible to justify *that* Reason is essentially discursive. The ungrammaticality of ‘trees green’ and the discursive nature of reason appear to be arbitrary assumptions. Kant and Chomsky invoke “nature” as “proof” of these assumptions; Beck’s Kant and Chomsky invoke the subtle (and potentially circular) techniques of the empirical sciences in order to avoid the serious problem of arbitrariness that results from genuinely *external* questions.

Chapter Two, Section Three *Normal and Exceptional Situations*

At this point, I will leave these serious questions about Kantian metaphysics and Chomskian grammar for others to develop or solve. I now proceed to some general conclusions. I began by noticing that the mixing of the kinds is the necessary condition of *logos* and *logos* is identified with *dianoia*, discursive thought or Reason. Not surprisingly, Reason is necessary for philosophy. Plato in the *Sophist*, like Kant, seems interested in the necessary conditions or boundaries of discursive Reason. I insisted that

²⁹ This is the case at two levels: One, in language acquisition a particular grammar is “generated” by the interaction of universal (hardwired) grammar with primary linguistic data. Two, a grammarian (in a striking analogy) must “generate” a description of a particular or universal grammar by the interaction of her theoretical criteria and insights with linguistic data.

the problems that emerge in the course of examining the necessary conditions of Reason should not be taken as devaluing discursive thought; on the contrary, it is the supreme value of *logos* that motivates the investigation into its boundaries or definition. One of the most striking features of the introduction of dialectical expertise, *Sph* 252e-253b, is that the capacity to determine correctly which kinds mix and which don't, i.e., dialectic, is explicitly introduced with recourse to an analogy with grammar and with *techne* as such. The analogy is built on a single *relationship*: an expertise to its own interiority and exteriority. Thus, the art of music is *not* merely the interior capacity that generates and applies the rules of harmony; in addition to this, the art of music is necessarily a different capacity to determine *what counts* as the harmonious and non-harmonious. This second capacity is what I have called music's necessary *exteriority*. Nevertheless, we must see that *the same art* requires these *two* capacities. While the capacity to determine the harmonious and non-harmonious is not a function of the system of rules of harmony, this capacity remains a "part" of—insofar as it is necessary to or *for the sake of*—the art of music; this "part" is the exteriority "in" the art of music.

Given that the *Sophist* clearly suggests that the relationship of an art to interiority and exteriority is a feature of *techne* as such (*Sph* 253b5-6), we may now use this general claim to understand the necessary condition of *logos* at *Sph* 259e-260b. The explicit identification of *logos* with *dianoia* (*Sph* 263e-264a) implies that we are dealing with the interiority of reason; to designate this interiority I have chosen the convention 'Reason,' understood as exclusively discursive, if not technically deductive (see pp21-22, above). I chose to use one word for an exclusively discursive capacity, i.e., 'Reason,' and the same

word for the capacity to think and talk about Reason's discursive nature, i.e., 'reason.' I chose this convention precisely to highlight the extent to which Reason and reason *are the same expertise* understood as this art's interiority and exteriority, respectively. I follow Paul Shorey's understanding of the distinction between *dianoia* and *nous* in the divided line: "this distinction between dialectics or philosophy and the sciences is repeatedly borrowed by Aristotle and even retains much of its validity under the changed conditions of modern thought. There will always be these two ways of thinking and these two types of mind." (Shorey 1935, xxxiv vol 2) I am arguing that these two ways of thinking are effectively the inside and outside, or the definition of human thought. It would be a grave and unfortunately common error strictly to *separate* this inside and outside; they are *limitrophe*, not separate. Plato explains this dual character beautifully in *Republic* vii

[T]he man who is unable to define in his discourse and distinguish and abstract from all other things the aspect or idea of the good, and who cannot, as it were in battle, running the gauntlet of all tests, and striving to examine everything by essential reality and not by opinion, hold on his way through all this without tripping in his reasoning—the man who lacks this power, you will say, does not really know the good itself or any particular good; but if he apprehends any adumbration of it, his contact with it is by opinion, not by knowledge. (*Rep* vii 534b-c, Shorey)

It is commonly and wrongly assumed that the upward movement of thought, *nous*, is separate from the downward movement, *dianoia*. As this passage makes perfectly clear, you cannot have *nous* without *dianoia*; you cannot run the gauntlet of objections, examine things by reality as opposed to opinion, or define *in discourse* the idea of the good without discursive thought. Nor, of course, is discursive thought sufficient for such

tasks. To assume that “higher order” reason is *separate* from “lower order” Reason is to commit the grave error of separating reason from discursive argument; this, Plato would never condone. Rather, the peculiar and external capacity to collect and divide—e.g., the harmonious from the non-harmonious, the grammatical from non-grammatical, the philosophical from the sophistical, or being from non-being—is *one* necessary component of human thought; the ability to argue logically and respond to objections effectively is another component of human thought. Together they form the exterior and the interior of human thought, thus effectively—and necessarily implicitly—defining the limits of Reason.

The cost of separating the inside and the outside of rationality is to render dialectic non-discursive, a sort of mystical intuition or arbitrary stipulation. Again, I follow Shorey in rejecting this strict separation. Discussing the unhypothesized first principle that dialectic achieves (*Rep* vi 510b), Shorey claims that the ἀνυπόθετον “expresses Plato’s distinction between the man of science, who starts from assumptions that he does not allow to be questioned (510c-d), and the philosopher or Platonic dialectician, who is able and willing to carry the discussion back, not necessarily always to a metaphysical first principle, but at least to a proposition on which both parties to the argument agree and which therefore is not arbitrarily assumed as an hypothesis by the questioner” (Shorey 1935, xxxiii-iv vol 2). The philosophical practice of “working back-up” to question one’s own hypotheses is a routine part of what I could vaguely call Kuhnian normal science. This is what Carnap would call “questions of the existence of certain entities of the new kind *within the framework*” (Carnap 1967, 73). For Carnap, these are

internal questions, so how can I claim that scientists answer them with recourse to the external capacity (something like *nous*) of the relevant expertise? Take a simplified example, say an electron is a “new kind of entity” within a framework. Say that ‘electron’ is one term of a larger framework or theory, say atomic theory. A question about electrons is *within* the theory only so long as the theory is not questioned. Nevertheless, answering any question about the existence of electrons necessarily employs the *external* capacity of the physicists’ expertise because electrons are part of the first principle of atomic theory. Electrons are like hypotheses; we use them to draw inferences and make predictions. Obviously, making a successful prediction doesn’t answer the question of the existence of electrons; making successful predictions really only fails to disconfirm the atomic theory. However, physicists really can and do discuss and inquire about the existence of electrons; we could call this the normal procedure of “theory confirmation.” My point is that these discussions, while necessarily discursive, are not at all the same thing as following out implications of theories; rather, these discussions are technically external to physics.

The normal exercise of something like *nous*, or the external capacity of an expertise, occurs through conversations about first principles that normally end in (at least tacit) agreement. There is nothing mysterious about scientists asking and answering questions about starting points, so long as they achieve agreement. This external component is by no means the most the most profound, or some “higher order” component of their own expertise; but, it remains a necessary (if often trivial) component *if* the scientists are realists, which nearly all scientists are. Physicists simply and tentatively agree that

electrons exist. That these sorts of discussions are technically the external component of the physicists' expertise becomes readily apparent when tacit and tentative agreement about first principles is *not* forthcoming. If, in the course of normally discussing and “confirming” their primary theories, scientists do not achieve agreement, then the whole framework is questioned; this is just as when there is a genuine question about the grammaticality of one utterance, such a question may cause the whole system of grammatical rules to become a question. When the normal and external component of expertise fails to achieve at least tentative agreement among experts about starting points, then the normal situation no longer obtains and Kuhnian revolutionary science begins. I believe that the necessary interiority and exteriority of *normal* science is what Plato means by the *mutual* dependence of *nous* and *dianoia*. *Dianoia* presupposes *nous*, if scientists are to be realists; but, *nous* is for the sake of *dianoia*, the discussion of “unhypothesized” starting points is for the sake of drawing inferences from them.

When Kant and Chomsky attempt to assimilate their own projects to natural science they are effectively invoking, or at least advocating, a community of experts (in their respective fields) who have come to agree about first principles based upon good scientific, that is *discursive*, procedures. To speak too generally, the *Republic* is a dialogue about making political life more scientific without making politics axiomatic. The *Republic* is deeply interested in articulating a *normal* situation in which political expertise might rule through its internal capacity of *dianoia* and its external capacity of *nous*. The *Sophist* and *Statesman* accept the value of a “normal science” of the polis — with its internal and external capacities. In addition, these latter two dialogues go on to

pose a further question that never really comes-up in the *Republic*: What happens when a community of genuine experts don't agree? By "genuine" experts, I mean ones who recognize the necessary interiority and exteriority of their own art; "genuine" political experts recognize the value and limitations of discursive thought and the necessity of a *vision of the good* (*Rep* vii 540a), "which...for all practical purposes [is] the apprehension of some rational unified conception of the social aim and human well-being, and the consistent relating of all particular beliefs and measures to that ideal—a thing which can be achieved only by the most highly disciplined intelligence" (Shorey 1935, xl vol 2). The *Republic* has so formidable a task in articulating this ideal that it never really asks the further question: Is it even possible that people of "most highly disciplined intelligence" could disagree about the *aims* of political life? And, if so, what would such a disagreement look like and how could it be resolved?

It is these further questions that distinguish my reading of the *Sophist* and *Statesman* from Shorey's reading of the *Republic*, although I insist that these readings are at least consistent and probably complementary. Normally, agreement among genuine experts is enough to ensure happiness for all. Plato introduces the necessary condition of *logos*, the mixing of the kinds, in just such a way to suggest, however implicitly, an *abnormal* or exceptional situation. If genuine experts were to disagree, then since they are genuine experts they would want *the way things really are* to resolve their disagreement. Presumably the experts disagree about *the way things really are*, so they would naturally begin to inquire into their respective "access" to *the way things really are*. Such an inquiry would be an attempt to define rationality. Thus, establishing that the mixing of

the kinds is a necessary condition of Reason would be a crucial step in resolving such an exceptional disagreement among experts. Interestingly, the very capacity to define the limits of discursive Reason, this very capacity itself points directly to the structure of expertise-as-such, namely the necessary interiority and exteriority of all expertise, hence of rationality. Thus, in order to define Reason one must ask and answer questions *external* to Reason; this capacity to ask and answer external question is what I am calling *reason* (with a small 'r'). Following Carnap (and indeed Kuhn), I could say that disagreement among genuine experts forces these experts to ask and attempt to answer questions that ultimately challenge the reality of this expertise understood as a system of rules. Normally, the external capacity of these experts is exercised in (perhaps trivially circular) theory "confirmation," or in Plato's notion of downward and subsequent upward movement of thought. In the exceptional situation, the *practicality* of the external questions comes to the fore in the absence of the *technical* achievement of agreement.

Plato has chosen to address this exceptional situation for very specific reasons. The problem of arbitrariness is only visible in the absence of agreement. As Shorey rightly points out, the agreement among genuine experts is the means of *avoiding* the arbitrariness of hypotheses; this agreement is the "confirmation" of these hypotheses with recourse to rational evaluation. However, as Shorey is well aware, expert agreement may be necessary but it is certainly not sufficient for truth. So, expert agreement avoids the arbitrariness of unquestioned axioms but it does not avoid a deeper arbitrariness to which Plato points in the *Sophist*, beginning with the analogy of dialectic and grammar. What the experts agree upon is arbitrary, not in the sense of an unquestioned axiom, but in the

sense that *what* they have agreed to is in some very important respect *conditioned* by the rules or interior of their own expertise. It is only when the reality of this expertise is questioned by disagreeing experts that this deeper arbitrariness can even be “seen.”

Thus far, I have succeeded in identifying a problem in Plato’s *Sophist*; I have articulated this problem with recourse to Kant, Schoenberg and Chomsky in order to point to the extreme generality, indeed universality of the problem. The problem, in a nutshell, is this: Human rationality is an expertise, as such it necessarily has an interior, discursive component and an exterior, dialectical component; this dialectical component has only been introduced as having something to do with the mixing of the kinds and the capacity to collect and divide them correctly. External questions cannot be answered, much less justified, with recourse to internal rules. Yet, these rules are the only direct means we have of *arguing* for anything. This is especially true in the case of the expertise that is reason. In the case of disagreement about the boundaries of the expertise itself, clearly the experts cannot use their (now contested) expertise to solve the disagreement. The disagreement amounts to arbitrarily chosen positions (from the perspective of a potential solution), positions mutually exclusive but consistent within themselves. A disagreement over whether ‘trees green’ is grammatical or not amounts to arbitrarily chosen positions that are the basis of the set of rules that is used to resolve disagreements. Discursive reason and grammar are peculiar instances of the general problem thus presented. Plato chooses grammar, as opposed to music, to articulate the relationship of an expertise to its own interiority and exteriority because grammar like reason is so general that it is difficult to imagine an outside.

Grammar and dialectic attempt to describe the necessary conditions of their very own descriptions. Plato very explicitly requires the *results* of dialectic—and indeed of grammar—be conveyed διὰ τῶν λόγων (*Sph* 253b10). Dialectic must present its results in arguments just as grammar must present its results in words. These arguments or words must be expressed with some sort of expertise or knowledge (μετ' ἐπιστήμης τινὸς, *Sph* 253b9). The passage that I cited near the beginning introduces dialectical expertise; this passage, *Sph.* 253b8-d4 (see p23), makes a fairly specific argument: *Since* we have agreed that some kinds mix and some don't, *it follows that* if you intend *correctly* to describe how the kinds mix and how they don't, then it is necessary to express this through argument with expertise. Dialectical expertise is the exteriority of reason and it is necessary for expressing *correctly* how the kinds mix and how they don't; and this mixing is the necessary condition of *logos* and Reason. I suggest that Plato introduces the issue of correct expression in the protasis of a conditional clause in order to indicate that dialectical knowledge—now understood specifically in the context of the *Sophist*—might not be needed if no question of correctness ever came-up; that is, if a community of genuine experts have, through the dual exercise of *dianoia* and *nous*, reached a tentative agreement about first principles, then the question of whether *what* these experts have agreed to *is correct* never really comes up. Of course *nous*, or the procedure of questioning one's own hypotheses, is also dialectic, at least in the *Republic*. And *nous* is the exteriority to the interiority of *dianoia*. What we will see emerging in the *Sophist* is a different sort of exteriority, I might say a different aspect of dialectic. This aspect of dialectic cannot rest satisfied with “a proposition on which both parties to the

argument agree and which therefore is not arbitrarily assumed as an hypothesis” (Shorey 1935, xxxiii vol 2) because no such proposition exists. That is, there is a *question about the correctness* of the starting points of conversation.

In the *Sophist* the starting points of all conversation and argument are the determinate boundaries of the concepts or kinds that underlie all *logos*. If two parties to a conversation are genuine experts in reason, i.e., they are sufficiently trained in discursive argument and logic but not dogmatically bound to unquestionable axioms, and these experts try to work back “up” to the assumptions or necessary conditions of their very conversations, then normally they could talk and argue (always discursively) until they reached some tentative agreement. In such a case, asking whether ‘Change mixes with Rest’ is *correct* is a question genuinely and seriously external to the conversation. Normally, experts simply agree that Change doesn’t mix with Rest; they reach this agreement with recourse to their external capacities. If there is a *question about the correctness* of ‘Change doesn’t mix with Rest,’ then the whole system of human Rationality that is *premised* upon Change *not* resting is called into question. The dialectician is supposed to discern just how the kinds mix and don’t and express just this. Insofar as the dialectician is a member of a community of experts, as long as the experts agree that Change is not resting, the question of correctness never really comes up. Following Carnap, to ask whether the agreed upon expression is correct is tantamount to asking whether human reason is real; if the “discerning” and “expressing” of the mixing of the kinds is an error, then the “discerning” and “expressing” weren’t really thought or *logos* in the first place because they failed to meet the conditions of *dianoia* and *logos*.

Such a question is quite analogous to a grammarian asking whether the statement, “‘trees grow’ is grammatical.’ is correct. I suggest that this issue of correctness never really comes up in this way in the *Republic*; this is why Shorey is so (rightly) confident that agreement among experts is the practical meaning of the “unhypothesized.” Of course, this one expression, τὸν ὀρθῶς μέλλοντα δείξειν (*Sph* 253b10-11), is not sufficient to prove that the *Sophist* is interested in dialectic specifically in the case of disagreement, or that the *Republic* is interested in dialectic in the case of agreement. However, ample evidence for the former will be forthcoming. To suggest the nature of this evidence: both the *Sophist* and the *Statesman* are motivated by a disagreement over who are the sophists, statesmen and philosophers. This disagreement is not the sort that is resolved by merely “technical” (internal) means. But this is to get ahead of myself.

In the previous chapter I introduced a universal problem that arises whenever an expertise attempts to define itself. I had suggested thinking of ‘philosophy’ in two different ways: as the thing defined and the thing doing the defining. I hope to have articulated the necessity and structure of this distinction. Insofar as philosophy is the thing defined, it is the internal capacity to articulate and apply fundamentally discursive rules of thought; insofar as philosophy is *defining* itself, it is the external capacity to discern ultimate boundaries and starting points. Indeed, Plato seems to imply this very distinction: immediately following the two, proximate statements of the necessary condition of *logos* (*Sph* 259e-260b), Plato asserts that *logos* is necessary for philosophy (*Sph* 260a6-7). Yet, Plato also asserts that the art of correctly expressing how the kinds mix and don’t is philosophy (*Sph* 253c6-9). Thus, philosophy as dialectic describes the

necessary conditions of philosophy as discursive Reason.

Chapter Three: Dialectic, the Capacity to Act and Be Acted Upon

Section One: *Discerning the Limits of Reason*

In the previous chapters I have articulated a universal problem that is evident whenever an expertise attempts to define, or establish the necessary conditions of *itself*. In a nutshell, the problem is that when ‘what is being defined’ and ‘what is doing the defining’ are *the same thing*, if there is a genuine question about what is being defined then there is a genuine question about how to define it. Even to *begin* the activity of defining would be to fail to answer the question of how to define and thereby merely presuppose the answer to the original question. The underlying problem is that if, for example, you tried to define philosophy philosophically—with no distinction between the activity being defined and the activity doing the defining—it is impossible for this philosophizing to err. The reason is that unless the definition contradicted the defining activity, any error in the definition would entail that the defining activity was not actually philosophizing. Since you assume that you are actually practicing philosophy and that your resultant definition is consistent with your practice, it follows *whatever* you happen to be doing is the correct definition of philosophy (insofar as correctness is a tentative result of philosophizing). The solution to this problem is that expertise-as-such necessarily has *interior* and *exterior* capacities. In this way, the exterior capacity of an expertise could define the interior capacity of that same expertise. The interior capacity

of an expertise is to articulate and apply the rules established by an external decision about *what counts* as the “object” of this expertise. So, for example, the art or expertise of music has an interior capacity to apply the rules of harmony; this capacity may involve judgments about the value of some particular piece of music, based upon its success in following these rules. However, the decision about whether or not a piece of “music” *is music* cannot be decided on the basis of these rules. Rather, *what counts* as music is dependent upon some prior, or better *external* determination; the rules *of music* presuppose this determination. Rules can be established only on the basis of some determinate class of “things” that they govern; rules approximate the *conditions* met by every member of this determinate class. Thus, the expertise of music and expertise-as-such require some external capacity to determine the limits or boundaries of the internal capacity; this external capacity is essentially concerned with determining *what counts* and *what doesn't count* as an “object” of the given expertise.

It bears repeating that I am arguing that expertise-as-such has two components, internal and external capacities. A brief illustration with shoemaking may be helpful. Shoemaking is the expertise of making shoes. Technically, *what count* as shoes is external to this art. Normally, cobblers simply agree, probably tacitly, as to what count and what don't count as shoes. This tacit agreement establishes a determinate class of shoes; the definition of the essence of this class articulates the-being-what-it-is of shoes. Obviously, the essence of shoe depends upon *what count* as shoes; if the decorative wooden planter shaped like a Dutch shoe *counts*, then the essence of shoe might be slightly different than if it doesn't; worse, if the clothes baskets with which my daughter

“walks” around the house *count* then the essence of shoe might differ significantly from the essence of shoe *not* including clothes baskets. Of course, the normal situation for cobblers—that is the situation within which there is tacit agreement about *what count* as shoes—seems so stable as to be trivial. *Given* the determinate class of shoes, cobblers generalize, or better *approximate* rules and conditions based roughly upon the essence of shoe as articulated by the definition of ‘shoe.’ The articulation and application of these rules is the interior capacity of shoemaking and is by far the most common. Most of a cobbler’s time is spent refining these approximations and, of course, using the approximations to make shoes.

The external capacity of shoemaking is almost invisible; it is merely that capacity with which a cobbler tacitly accepts that certain things count as shoes and certain other things don’t. Make no mistake however, even in this normal situation, the internal capacity to approximate the conditions of the-being-what-it-is of shoe is entirely dependent upon *what count* as shoes. The dependence of the internal capacity of shoemaking upon the external capacity of shoemaking is especially evident in exceptional situations where tacit agreement is not forthcoming. If a cobbler or group of cobblers started making hats and calling them ‘shoes,’ then the traditional cobblers could not employ their rules and conditions in order to exclude certain pseudo-cobblers. Perhaps the pseudo-cobblers, advise their patrons to wear these hats on their feet, admitting that these “shoes” are even better worn on the head. In such an exceptional situation *what things count* as shoes is a question and it is clear that these external questions ultimately question the very definition of shoemaking; as Carnap says, asking

external questions results in questioning the whole framework or system of a given expertise. In such an exceptional situation, it would be utterly futile to have cobblers attempt to determine the class of shoes by making shoes. The cobblers would make shoes, the pseudo-cobblers would make hats and they both would claim that the definition of shoemaking is *just what they happen to be doing*. It should be perfectly obvious by now that the conditions, approximations and rules of making *shoes* will be of no help in reestablishing a normal situation, in which the extent of the class shoe is tacitly agreed upon; the rules of making *shoes* are entirely dependent upon *what count* as shoes and this is what is uncertain in the exceptional situation.

The interior capacity of an expertise is essentially a capacity to approximate the conditions met by a class of things having been previously determined by the external capacity of the same expertise. In this respect, an internal capacity is nearly identical to the rule of law. For example, a shoemaker approximates the conditions met by the determinate class of shoes; these approximations are very much like laws, e.g., ‘shoes must cover feet,’ ‘closed shoes must be at least as long as the foot they cover,’ ‘shoes must not be so heavy as to render the wearer incapable of movement,’ etc. Plato’s *Statesman* is fundamentally concerned with the rule of law. In Chapter Five, I will examine a thought experiment extrapolating the strict rule of law; this thought experiment—not surprisingly—demonstrates the necessity of some non-rule-governed, *external* capacity as part of political expertise. Yet, this conclusion should already be apparent from my examples of shoemaking, music, and grammar. In this chapter I am interested primarily in the external capacity of expertise, specifically the external capacity

of Reason or *logos*. Plato, through the Eleatic Stranger, claims that the mixing of the kinds is the necessary condition of *logos* which, in turn, is necessary for philosophy. The correct expression of the mixing of the kinds depends upon dialectical expertise. In this chapter, I examine two, fundamentally different accounts of dialectical expertise: F.M. Cornford articulates dialectic exclusively in terms of the passive “seeing” how the kinds mix and how they don’t. J.L. Ackrill articulates dialectic exclusively in terms of the active stipulation of rules of speech. Neither of these accounts is right; by examining how they are wrong, I will demonstrate that dialectic must involve both the capacity to be acted upon, i.e., seeing, and the capacity to act, i.e., stipulating rules.

The notion that speech and argument, i.e., *logos*, presuppose some mixing of the kinds is immediately plausible; this is articulated nicely by Ackrill 1971: “there must be fixed things to guarantee the meaningfulness of talk, fixed concepts—the meanings of general words—whose role is to ensure” the possibility of significant talk.¹ It seems obvious enough that without stable notions of what it means *to be* something, *not to be* something, and *to be different from* something, talking would be impossible; without “fixed concepts” of predication, non-identity and negative predication speech and argument would be impossible. Of course, it is far from obvious that just these abstract concepts are among the things Plato means by the five greatest kinds.² Regardless, the

¹ Ackrill 1971, p208. See footnote 6, Chapter 1.

² Owen 1971 is quite right to conclude that Plato makes no use of an existential sense of ‘to be’ in isolation from the predicative sense of the same verb. Further, I would suggest that Plato need not strictly distinguish the ‘to be’ of identity from the ‘to be’ of predication. A great deal of analysis and interpretation of the *Sophist* concerns itself with the five greatest kinds and falsehood. Cf, e.g., Wiggins 1971, Lee 1972, McDowell 1982, Rudebusch 1990, Frede 1992, Van Eck 1995, Berman 1996, Van Eck 2000, and Van Eck 2002. At this point I am very little concerned with *what* these “concepts” are or what they mean; rather, I am here primarily concerned with the necessity that they be “fixed” and the external capacity of the art of

idea that speech and argument depend upon the fixed meanings of words is immediately plausible. It is an interesting question as to how exactly these fixed “concepts” are acquired and used by language users. Concepts may be innate ideas along the lines of Chomskian universal grammar; or perhaps, concepts like ‘being’ are generalized with recourse to universal grammar upon the exposure to primary linguistic data. These concepts may be recollected or mystically intuited or arbitrarily stipulated. I do not presuppose any particular model of “having” these concepts; rather, I assume that however they are acquired, they must be *fixed*. It would be utterly impossible to talk (much less argue) if the words ‘is,’ ‘not,’ and ‘different’ were somehow fluid, meaning one moment one thing the next something else. I need not concern myself here *how* we “have” these concepts nor with *what* these concepts are exactly; rather, what is most pressing for my present purposes is precisely the “fixing” whereby these “concepts”—whatever they may be—are determined. Plato indicates just this concern by way of dialectical knowledge. Dialectical knowledge is the expertise of the philosopher that “fixes,” or determines the boundaries of the kinds:

Eleatic Stranger: Don’t we say that to collect and divide according to kinds [τὸ κατὰ γένη διαίρεισθαι] and to believe neither the same kind different nor a different being the same, don’t we say (these) of dialectical expertise?

Theaetetus: Yes, we say this.

Eleatic Stranger: Therefore, the one who is able to do this sufficiently perceives [ἰκανῶς διαισθάνεται] one form through many—each one set apart—(this one idea) stretched through the whole. And (this one sufficiently perceives) many (ideas) different from one another, comprehending from outside [ἔξωθεν] by one idea; and again, (this one perceives) the one idea connected, through many wholes with one (whole), many separate ideas having been

reason that “fixes” them.

completely delimited [διωρισμένως]. *Diairesis*³ then is this: that which is able to know how to discern according to kind just how each of the kinds associate and don't. (*Sph* 253d1-e2)

This passage merits close examination. I wish to facilitate this task by mentioning two things that do not here merit close attention. First, I see no reason to distinguish the one ἰδέα and many implied ἰδέαι (implied by πολλάς, *Sph* 253d7, 9) from the γένος according to which the philosopher discerns.⁴ I maintain that Plato uses what I am calling 'forms' and 'kinds' interchangeably; any slight difference in emphasis is negligible here. Second, the *determinate way* that the kinds mix and don't obviously has something to do with the relationship of one kind to many. It seems plausible to assume that the one kind is Being, that Being "stretches through the whole" complex of kinds, and that it is through Being that the others both *are* and are distinct from one another—although we will need to mix-in the kind 'Difference' to really make good on this last. I see no need to spend much effort articulating the precise way the kinds mix and don't because Plato's articulation of this way is here vague to the point of obscurity. The problem is that, in this passage, *none* of the forms or kinds is ever named! It might be an interesting task to reconstruct this passage in light of the subsequent discussion of Being, Difference, Sameness, Rest, and Change; but, for my purposes here, I maintain that Plato means *this* description of the determinate mixing of the kinds to be a very general one to the same effect as the analogy with consonants and vowels (*Sph* 253c1-3,

³ The Greek relative pronoun, ἧ at *Sph* 263e1 almost certainly refers back to δρῶν (*Sph* 263d5) and, in turn, back to διαίρεσθαι (*Sph* 253d1). There is no feminine noun other than διαίρεσις to which the feminine relative pronoun could refer.

⁴ I follow most interpreters in not distinguishing sharply between Forms and Kinds, see e.g., Notomi 1999, p234n45, Cornford 1951, p261n1, Bluck 1975, p133. I am unable to find anyone who makes anything of the difference.

see pp44-46, Chapter 2). Basically, the kinds mix in such a way that that some one of them holds them all together while each of them remains distinct.⁵

Rather than focusing on just how the kinds mix and don't, I focus on the ability to discern the mixing—however it may turn out. The Eleatic Stranger's statement concluding with the art of discernment is an attempt to characterize dialectical knowledge, τὴν διαλεκτικὴν ἐπιστήμην of *Sph* 253d2-3. Dialectical knowledge is consistently cast in particularly *active* terms, e.g., “the one who is able *to do* this,” “This then is knowing *how to discern*.” Notice *what* “we say *of* dialectical knowledge,” we say *of it* that it is *to collect and divide* according to kinds and that it is *not to believe* the same different or the different the same. Dialectical knowledge is an activity; it is a capacity to discern which kinds mix and which don't. In the previous chapter I suggested that Plato is particularly interested in the abnormal situation where genuine experts may disagree; I said that concern with *correct expression* of the mixing of the kinds (*Sph* 253b10-11) is the sort of concern that only emerges in the absence of expert agreement. Normally, experts are able to agree about the necessary conditions of their own expertise διὰ τῶν λόγων, through discursive arguments and discussion. However, it is certainly possible that internally consistent but mutually exclusive *logoi* could find no common ground upon which to agree. In this case, I suggested the experts would naturally want to appeal to *the way things actually are* as the criterion with which to resolve the disagreement; the resolution would be to claim that one particular *logos* is the *correct expression* of the way

⁵ I believe that Cornford 1951 (261-2, 266-73), perhaps surprisingly, gets the *generality* of this description quite right. He is especially right to note the consistency of this account with *Tim* 30a.

things actually are. Recall, *if* you want to express correctly just how the kinds mix and don't, then you must do it with some sort of knowledge and through arguments (*Sph* 253b8-c3). Correct expression requires knowledge of the most important sort: dialectical knowledge (*Sph* 253c4-d3). Plato must carefully balance two very different capacities in order to achieve the goal of correctness: On the one hand, the way the kinds actually mix must be in some sense "seen" or intuited; on the other hand, the dialectician must choose or decide (*diakrinein*) how to collect and divide the kinds. My project in this chapter, is to demonstrate Plato's careful balancing act that will confirm my insights of the first two chapters.

In the passage under consideration Plato carefully balances two, slightly divergent characterizations of dialectical knowledge: active and passive. We shall see that the active characterizations articulate the external capacity of dialectical knowledge, the passive the internal capacity. First, we must realize that Plato does indicate a passive capacity in dialectical knowledge; it is the ability to be acted upon by *the way things actually are*. The passive capacity of dialectical knowledge is "seeing" or "perceiving" just how the kinds mix and don't, not only "perceiving" but "*sufficiently* perceiving." The ἰκονῶς at *Sph* 253d7 recalls and ensures the ὁρθῶς of *Sph* 253b10. Correct expression is dependent upon adequate seeing. Dialectical knowledge is the sufficient "vision" of the *way things actually are*, in this case the way the kinds mix and don't.⁶

This visual model for dialectical knowing lends itself to a grave error that I indicated in

⁶ This passive, visual account of dialectical knowing may explain the switch from ἰδέον to γένος. Perhaps the kinds are understood as "looks," "shapes," or "forms" from the perspective of *being seen* and as "kinds," "genera," "classes," or even "tribes" from the perspective being determined.

the first chapter: the error is strictly *to separate* the interior and the exterior capacities of an expertise (see p71, Chapter 2). I maintain that such separation is an error because the passive, visual capacity is only one component with the active, discerning capacity that make up *one* expertise.

The history of Plato interpretation provides an illustrating example of just this error. It is worth our time to focus briefly on F.M. Cornford's interpretation of the passages under consideration, both in order to understand why this error *is* an error and in order to avoid it ourselves. Not only do I seek to avoid separating the external and internal components of the expertise in question, namely philosophy; but I have, perhaps counter-intuitively, characterized the "seeing" component as the internal capacity of philosophy. This may seem counter-intuitive because, following the analogy with the art of music, one might think that the ability to distinguish the musical from the non-musical—i.e., the *external* capacity of the art of music—is precisely an ability "*to see*" which notes naturally blend and don't. Seeing is critically similar to an internal capacity of applying rules: seeing is ultimately a form of *justification*. In this sense, sight is like the subsumption of particular instances under universal rules; for example, "seeing" that Socrates is wise requires subsuming this particular man under a universal concept, wisdom. You *justify* your claim that Socrates is wise with recourse to adequate vision.⁷ I

⁷ This is merely to suggest an argument for my claim that intellectual "vision" is the exercise of the *internal* capacity of an expertise. Note that Carnap agrees: "Internal questions and possible answers to them are formulated with the help of the new forms of expressions. The answers may be found either by purely logical methods or by empirical methods, depending upon whether the framework is a logical or a factual one" (Carnap 1967, 73). With Carnap, I do *not* mean to claim that "vision" is the *only* sort of internal capacity. A genuine defense of my assertion is impossible here. Such a defense could be built upon the theory dependence of observation. For example, "seeing" whether predictions about atoms are fulfilled or not is essentially dependent upon the theory according to which electrons and their effects are available to

want very much to use the word ‘discern’ as opposed to seeing. Discerning (*diakrinein*) more obviously involves judgment and decision. The ability to discern is an external capacity of the art of philosophy, but it is not reducible to adequate vision. To discern is to act; to see is to be acted upon. In order to understand why the “sufficiently perceives” of *Sph* 253d7 is not the whole of dialectical knowledge, it will be helpful to examine Cornford’s erroneous conclusion that it is.

Chapter Three, Section Two:
F.M. Cornford, the Intuitionistic Account of Dialectic

Cornford aptly describes the mixing of the kinds as the “texture of philosophical discourse;” he does so with an eye toward the necessary condition of *logos* where the kinds are said to be “woven” together (*Sph.* 259e4-6). Cornford revealingly mixes his metaphors when he claims that the “texture of philosophical discourse will consist of affirmative and negative statements about Forms, which should correctly represent their eternal combination or disjunction in the nature of things” (Cornford 1951, 261). Is the mixing of the forms the *texture* of discourse or *an actual discourse*? Cornford seems to confuse two very different sorts of claims: *that* the kinds mix and *how* the kinds mix (see Notomi 1999, pp233-4 and p42, Chapter 1). The kinds *do mix* and this interweaving is the texture of discourse, philosophical or otherwise. However, to claim that the *texture* of

be seen. Another, somewhat different way to defend my claim that intellectual vision is essentially internal would be with recourse to an externalist notion of reference, along the lines of Saul Kripke and Hillary Putnam. I believe that Evans 1982 has already accomplished a great deal of this work.

discourse “consists of affirmative and negative statements” is to claim that the texture of discourse is discourse; thus, discourse is its own texture. So what is the texture of these affirmative and negative statements? Cornford has effectively reduced the mixing of the kinds to the correct expression thereof. I suspect that this confusion results from Cornford’s conflation of metaphysics and epistemology.⁸

Cornford’s running commentary of the *Theaetetus* and *Sophist* is essentially epistemological, hence the title *Plato’s Theory of Knowledge*. Cornford’s entire focus is upon the “correct representation” of “the nature of things.” We shall see that Cornford effectively reduces the expertise of dialectic to adequate vision. Nevertheless, even Cornford cannot deny that a “technique” is needed;⁹ this technique is “the philosopher’s science of correctly dividing the structure of reality according to those Forms or Kinds which are the meanings referred to in philosophical discourse” (Cornford 1951, 262). If Cornford really means “dividing the structure of reality,” then it is hard to imagine how this very same reality could provide the criterion of *correctness* that Cornford so desires. If the dialectician *divides* reality, then reality cannot but confirm the “correctness” of the division. I suspect this is just a slip and that Cornford really means ‘*seeing* the structure of reality;’ yet, this slip reveals how even the most ardent epistemologists cannot resist the metaphysical pull of the Platonic text. In another apparent slip, Cornford claims that “The science of Dialectic...[studies] the structure of the real world of Forms. Its technique of Collection and Division *operates* on that structure” (Cornford 1951, 265

⁸ For an excellent introduction to this distinction (and my understanding thereof) see Kripke 1980, pp35-49.

⁹ I rely on the etymological root of “technique” in τεχνή and this Greek notion’s essentially active and productive nature.

emphasis added). Does dialectic study reality before or after it has been *operated on* by *diairesis*, before or after it has been “correctly” divided? The idea that the dialectician chops-up and binds-together *reality* by means of *diairesis* is especially incongruous in the context of Cornford’s epistemological interpretation. The reason is that Cornford insists again and again that dialectic “will yield the knowledge needed to guide us to true affirmative and negative statements about Forms” (Cornford 1951, 264); by “true” Cornford means corresponding with the nature of reality. If the dialectician were to “operate on” or “divide” *reality*, then *whatever* divisions result, they would be necessarily “true.”

Cornford inadvertently “slips” by characterizing dialectic in active terms; these inconsistencies notwithstanding, the overall trajectory of Cornford’s account of dialectic is passive. “The structure of forms is conceived as a hierarchy of genera and species, amenable to the methods of Collection and Division.” While this “amenable” leaves open the possibility that the structure of forms is *collected* and *divided* by the method, this possibility is quickly rejected:

The dialectician *surveys* the collection and ‘clearly discerns’ *by intuition* the common (generic) character ‘extended throughout’ them all. So he *divines* the generic Form that he will take for division. This generic Form he now *sees* as a unity which is complex, ‘embracing’ a number of different Forms. (Cornford 1951, 267 emphasis added)

Cornford cites *Phdr* 265d3-4 as another account of this process of “collection”—whereby collections are *seen together* (συνορῶντα, *Phdr* 265d3), as opposed to *collected*.

Cornford eventually corrects any suggestion that the expertise of dialectic actually *collects* and *divides reality* by citing the subsequent passage in the *Phaedrus*: “The

generic Form is said to ‘embrace’ [the subordinate Forms]...It is this whole that we divide, as the *Phaedrus* says, ‘according to its natural articulations’ (κατ’ ἄρθρα ἧ πέφυκεν, *Phdr* 265e1-2)” (Cornford 1951, 269). Thus, when Cornford says that the dialectician “divides” what he really means is that she *represents* a natural division.¹⁰ What most interests me about Cornford’s account is the (nearly) consistent way that dialectical knowledge is reduced to a kind of seeing, thus excluding the active capacity to which I want to draw our attention. To continue a previous citation

The science of Dialectic...[studies] the structure of the real world of Forms. Its technique of Collection and Division operates on that structure. It is a method for which some rules are laid down; but these are rules of correct procedure in making Divisions; they are not laws of inference or laws of thought. There is no place in this scheme [for] Formal Logic, as distinct from actual significant statements about certain ‘Kinds.’ They are either true or false, and statements such as ‘Motion is Rest’ are rejected by *simple inspection*, not as formally incorrect, but as *obviously* untrue.” (Cornford 1951, 265 emphasis added)

We can now put some pieces together to understand Cornford’s error. First of all we must see that what Cornford is calling ‘collection’ is really the external capacity of dialectic.¹¹ Cornford identifies ‘surveying the collection’ with ‘clearly discerning’ which is his translation of ἰκανῶς διαισθάνεται, at *Sph* 253d7. Collecting is what the dialectician *does* to establish the original boundaries of the primary kinds. In a different context, Cornford writes

¹⁰ I will return to the suggestion in the *Phaedrus* in the context of the *Statesman*, where the Eleatic Stranger and Young Socrates discuss at length the *naturalness* of the collections and divisions. See p240, Chapter 6.

¹¹ I believe that Cornford, among others, is quite wrong to separate collection from division. I hold that *diairesis* is Collection-Division; although I do not want to justify this position here. It is for this reason that I will use “scary” quotation marks around collection and division in Cornford’s erroneous sense. Basically, my reasoning is that every collection is simultaneously a division from what is not collected, just as every division is simultaneously a collection of one species over and against another. In the end, Cornford’s distinction between collection and division confirms his separation of the external and internal capacities of dialectic.

moral (and other) Ideas are genera, which can be conceived as containing, potentially latent within them, the species. These species are made explicit in the tabular Division (διάρσεις), aiming at a *definition* that will isolate the lowest species from every other species. When dialectical method is applied to the definition of an Idea, the ascent is made by the ‘synoptic’ act of divining by intuition the unity pervading a manifold ‘gathered together’ (συναγωγή). This unity becomes the ‘genus’ that must stand at the head of the table. The downward process is ‘Division’, discerning ‘differences’ within this unity and arranging them in proper logical sequence. (Cornford 1932, 49)

For Cornford “collection” is the exterior capacity that determines the primary boundaries within which “division,” the interior capacity, “discerns” differences according to the “rules of correct procedure in making Divisions.” Cornford consistently characterizes “collection” in passive, perceptual terms, e.g., “divining by intuition,” “simple inspection,” and “seeing a unity which is complex.” In fact, the easiest way to understand Cornford’s distinction between “collection” and “division” is with recourse to his understanding of the distinction between the upward and downward movements of thought in the *Republic*.¹² In his commentary on the *Sophist*, Cornford clearly identifies “collection” with the upward movement of thought and “division” with the downward movement of thought.¹³ The upward movement is an external capacity and the downward movement is an internal capacity: “In the *Sophist* and *Politicus* many rules are laid down for observance in the downward process of Division; but no rules are, or can, be given for συναγωγή. Σύνοψις is an act, not a methodical procedure. It is a case of hit or miss, and you cannot tell which, till you have deduced the consequences” (Cornford

¹² “Plato observes a distinction between *noesis* and *dianoia*, *noesis* (in one of its senses) means the upward movement of intuition, *dianoia* (in one of its senses) the downward movement of reasoning in deductive argument” (Cornford 1932, 43).

¹³ e.g., “We divide that Form, down through the subordinate differences...Plato cannot hold that the higher we ascend in the hierarchy of genus and species, the poorer the terms become in content...The upward movement of thought would lead to the most shadowy of abstractions” (Cornford 1951, 269).

1932, 49).

The internal capacity of any expertise is an ability to apply rules; these rules only have meaning within definite boundaries that are established by the external capacity of the same expertise. For example, the rules of grammar are, in some fairly vague and perhaps misleading sense, “generalizations” of the *distinction* between grammatical and ungrammatical speech. The expertise of the grammarian, in its internal capacity, is to articulate and apply these rules and even to use the rules *to see* some “speech” as ungrammatical. However, this latter task is dependent upon an agreement among grammarians that the ungrammatical utterance isn’t really *speech* at all, because if it were then the grammatical rules would need to be *changed* to include this utterance. Thus, the capacity to determine *what counts* as grammatical, or to *just which things* the internal rules are to apply, cannot be the capacity that applies the rules; rather it is an external capacity that is in some sense prior to the rules that it makes possible. Of course, all this is to simply repeat the conclusions of my first chapters. My point is that upward and downward movement of thought are both parts of the normal functioning of an expertise: beginning with hypotheses, moving downward to their implications, and then moving back upwards to question the hypotheses until agreeing (tentatively) upon a “unhypothesized” starting point.

For example, cobblers begin with a fairly vague and tacit assumption as to the determinate class of shoes. They proceed to articulate and apply rules and conditions based upon the essence or definition of shoe, the determinate boundaries of the class. In addition they may reflect upon that determinate class; more importantly, they discuss

with other cobblers the class that their rules of shoemaking are meant to approximate. Clearly they cannot employ these rules to inquire into the essence of shoe because their rules presuppose this. Rather, cobblers in a fairly mundane but essentially *external* way discursively question their original starting point, namely the essence of shoe. This inquiry into the essence of shoe makes use of the external capacity of shoemaking. Now, normally this external capacity of shoemaking is exercised only insofar as cobblers reach even tacit agreement about the limits of the class of shoes. Nevertheless, if shoemaking is to be a genuine expertise it must, however informally, exercise its external capacity to question its own starting points; if it fails to do so then shoemaking becomes merely axiomatic. We shall see in the *Statesman* that such axiomatic starting points are arbitrary and render expertise impossible. *Normally* the internal and external capacities work together as one expertise. Cornford so separates the external capacity of *nous* from discursive *dianoia* that *nous* becomes a sort of divine intuition, as opposed to a discursively achieved agreement. Cornford's error stems from his misunderstanding of *nous* and *dianoia* in the *Republic* but it has significant implications for the *Sophist* as well.

Recall that, for Cornford, "actual significant statements about certain 'Kinds' ... are either true or false, and statements such as 'Motion is Rest' are rejected by *simple inspection*, not as formally incorrect, but as *obviously* untrue" (Cornford 1951, 265 emphasis added). Yet, Cornford is a bit disingenuous in claiming that "simple inspection" reveals what is "obviously" true and false about the kinds. For Cornford, such insight is so far from "obvious" as to be literally "divine." Only divine intuition

could say ‘It *is correct* that “Motion is Rest” is false’ (as opposed to ‘the experts *agree* that “Motion is Rest” is false’). The reason that Cornford resorts to divine intuition is that “no rules are, or can, be given for” the establishing of primary boundaries that are the necessary condition of all rules. Cornford recognizes that discursive thought cannot express its own necessary conditions *correctly* with recourse to discursive thought; thus divine intuition is supposed to ensure the *correctness* of the description. Cornford reveals his own error when he appeals to “simple inspection” and “obvious” facts; if the falsehood of ‘Change rests’ were *obvious* then there would be no question about whether it is *correct*. As I briefly discussed in the conclusion of my first chapter, Plato in the *Sophist* explicitly introduces a question that never really comes up in the *Republic*: What if experts, having exercised both their internal, discursive capacity and their external, hypothesis-questioning capacity, cannot reach an agreement about the starting points of conversation? Plato introduces this possibility with the distinction between the claim *that* the kinds mix and the claim that some particular expression of *how* they mix *is correct*. Cornford inadvertently makes nonsense out of Plato’s explicit concern with correctness. If two experts were to disagree about whether ‘Change rests’ is true or false, then Cornford’s only “solution” would be for one of the parties to claim “divine intuition” or for both to maintain that it is “obvious” that the other is wrong; either way, Cornford has only begged the question of correctness to which Plato points.

By turning the external capacity into divine intuition, Cornford has completely separated this capacity from the human expertise, dialectic. Human experts normally exercise the ability to challenge their own starting points, toward the aim of general

agreement; in exceptional situations, human expertise still presupposes some human authority that makes decisions about starting points. Either way, human expertise—more specifically its external component—is essentially *active*. Cornford seems incapable of recognizing Plato’s insistence on the *active* character of dialectic. Despite himself,¹⁴ Cornford follows a rather Kantian path by opting for quasi-perception at the risk of severe contradiction (see pp26-41 Chapter 1). Of course, the relevant difference between Kant and Cornford is that Kant is doing philosophy and Cornford claims to be interpreting it. Let there be no misunderstanding that Cornford, on my account, is doing a particularly bad job of interpreting when he reduces dialectic to intuitionism. There can be no doubt that the passage under consideration *does not* make a Kantian move toward a quasi-experience of the limits of Reason.¹⁵ We saw Kant, perhaps implicitly, making this move by abandoning the spontaneity of Reason at precisely the point that he maintains that the fundamentally discursive nature of Reason is *not* “a production of an arbitrary choice;” rather, the limits of Reason are “placed in us by nature itself” (Kant 1977, 87).

¹⁴ “Σύνοψις is an *act*, not a methodical procedure.” (Cornford 1932, 49, emphasis added).

¹⁵ I grant that I have not yet made this exegetical argument. For present purposes let this suffice: One, there is no mention of φύσις or anything like the *Phaedrus*’ or *Statesman*’s notions of “natural divisions.” Two, and more importantly, the *only* justification for the passive, perceptual model is ἰκανῶς διαισθάνεται; but this is the exception that proves the rule of this passage. The reference to sufficient perception notwithstanding, the trajectory of the whole passage is aiming at an *active* determination of boundaries of the kinds. Notice, first we agree *that* the kinds mix (*Sph* 253b8-9), then we assert that in order to convey correctly this mixing some sort of ἐπιστήμη is needed; this is knowledge/ expertise of the most important kind, philosophical ἐπιστήμη; and philosophical ἐπιστήμη is immediately identified with the activity of collecting and dividing according to kinds (*Sph* 253d1-3); indeed, this activity is what we say *of* dialectical ἐπιστήμη. Now dialectical ἐπιστήμη is first characterized as a sort of seeing, but this characterization is both introduced and closed with an obvious emphasis on action, hence δυνατὸς δρᾶν and διακρίνειν at *Sph* 253d5, e1, respectively. No doubt Cornford believes the frequent reference to “knowledge” justifies his passive, epistemological model; but ἐπιστήμη is as much *expertise* as knowledge. Ἐπιστήμη is precisely *what* is being articulated in the passage; to begin with the assumption it is essentially *passive* is entirely unwarranted and quite wrong.

Let me also be perfectly clear, that I nowhere suggest that Kant's move is illegitimate, unmotivated or unsupportable. On the contrary, Kant has very good reasons to make this move, even at the risk of deep contradiction with his own project.

In general, Kant's motivation is clear enough: For Kant to *deny* that the limits of reason could be experienced would be for Kant to admit that these limits are the product of pure spontaneity, "if the pure concepts of the understanding [should be] referred to things in themselves (*noumena*), they have no meaning whatsoever. They serve, as it were, only to spell out appearances, so that we may be able to read them as experience. [...] Beyond this they are arbitrary combinations without objective reality" (Kant 1977, 51-2). I have already noted the correspondence between Kant and the general project of grammar; here, what is worthy of note is the similarity between Kant's notion of "spelling out appearances" and Cornford's notion of the "texture of philosophical discourse." On this point Kant is far more consistent than Cornford: Kant is well aware that the concepts that "spell out appearances" cannot *themselves* appear. Nevertheless, Kant risks contradiction by having them "appear" to the metaphysician as those boundaries placed in us by nature; these boundaries "appear" when the metaphysician "touches the void." Likewise, the texture of discourse cannot itself be a discourse. Cornford's "way out" of this problem is to make the discourse that *is* the texture of discourse be a representation of nature.¹⁶ A representation that is not subject to the normal rules of discourse; the discourse that expresses the texture of discourse *cannot* be

¹⁶ "The whole texture of philosophical discourse will consist of affirmative and negative statements about Forms, which should correctly represent their eternal combination or disjunction in the nature of things" (Cornford 1951, 261).

justified with recourse to rules because it is either the subject of “divine” revelation or too “obvious” to be questioned. Of course, there is next to nothing in the passages under consideration that could warrant Cornford’s extravagant “solution.” Kant runs the risk of contradicting his own project; Cornford contradicts Plato’s text. Why? Their reasons for doing so are quite similar: Kant and Cornford appeal to some “divine” or commonplace experience of nature in order to avoid a profound arbitrariness to which Plato is implicitly leading in our passages.

Before articulating this arbitrariness in the context of the *Sophist*, it will be helpful to note what Cornford gets right. First, Cornford must be right that there is an underlying appeal to *the way things actually are* in the introduction of dialectical knowledge. I have no intention of denying this; my intention is prove that this is not *all* that is at work in the passage. Indeed, any appeal to the nature of things, in this case the determinate boundaries of the kinds, is forced into the background in favor of a different point of emphasis. It would have been easy, natural and very much like many other passages in the corpus for Plato to have introduced dialectical knowledge as that which “perceives” the nature of reality. This “perception” is not absent from our passages, but neither is it the primary way of characterizing dialectic. In this particular context, Plato chooses very non-perceptual, active diction: the overall sense of the passage is that dialectical knowledge is the active collection and division (διαίρεσις) according to kinds; dialectical knowledge is essentially a know-how; it is knowing how to discern (διακρίνειν...ἐπίστασθαι). Know-how just is a *capacity* or *competence* to do something. The activities of *diairesis* and *diakrinein* have an element in common: human decision. It

is through these notions that I will approach the profound problem of arbitrariness. But let there be no mistake, I am *not* claiming that for Plato the dialectician collects and divides nature itself. With Cornford, I grant that our *expression* of how the kinds naturally mix and don't is some sense collected and divided by the dialectician. I disagree with Cornford that this representation could possibly be "correct" in any epistemological or justifiable sense of this word.¹⁷ It is Plato's question of "correctness" that leads directly to the problems of arbitrariness. Cornford buys his correctness at the price of divine revelation or common sense, Plato doesn't.

There is one further and related point that Cornford gets right that will be helpful for understanding a subsequent discussion. Plato is a realist about the kinds; the kinds or Forms are much closer to natural kinds¹⁸ than to Ackrill's "concepts" or "meanings" (see p87, above). Cornford is quite right to claim that

The meanings of common names and verbs are Forms. Statements are not propositional forms but actual significant statements, existing only while we utter them. The science of Dialectic does not study formal symbolic patterns to which our statements conform, nor yet these statements themselves. Nor does it study

¹⁷ Of course, the pronouncement of dialectician, based upon her discernment and collection-divisions, *are* true or false, correct or incorrect as a matter of fact. Either they correspond to the way the kinds actually mix or they don't. But, this fact is of no help to disagreeing experts. Plato distinguishes the issue of correct expression and the issue of fact, namely *that* some kinds mix and others don't, precisely to draw our attention to the epistemological sense of correctness. In order for an expression to be epistemologically correct, it must abide by certain discursive rules. The fundamental problem is that the expression of how the kinds mix and don't is the expression of the necessary conditions of expression; any old expression *insofar as it is an expression* necessarily abides by the rules of expression and is thereby necessarily "correct." This is too fast, but it at least suggests where I am going and where I am not going. I am *not* trying to claim that any old expression of how the kinds mix and don't determines how they mix in *the way things actually are*. I am saying that the question of "correct expression" is a particularly vexing one for expressions of necessary conditions of expression, discourse or Reason.

¹⁸ In this respect, I find Cornford's illustration of the mixing of the kinds with recourse to the kinds 'animal,' 'rational,' 'man,' 'lion,' etc. to be quite helpful, if in no way justified by the text of the *Sophist*. I believe that Cornford's understanding of Forms by means of natural kinds is at least consistent with the text and, almost, exactly right. See Cornford 1951, pp266-73.

our thoughts or ways of reasoning, apart from the objects we think about. It is not 'Logic,' if Logic means the science either of *logoi* or of *logismoi*. What it does study is the structure of the real world of Forms. (Cornford 1951, 265)

Cornford is quite right that dialectic does not collect and divide “concepts” or “meanings” that are independent of real kinds. Cornford’s expression ‘formal symbolic patterns’ refers to Aristotelian categories: “a Form is as far as possible from resembling an Aristotelian category; for the categories are precisely the barest of abstractions, at the furthest remove from substantial reality” (Cornford 1951, 270). I suspect that Cornford has Aristotelian logic wrong;¹⁹ regardless, Cornford is right that Plato’s kinds are not reducible to modern, logical operators which may be the “barest of abstractions.”

However, a great deal of 20th Century interpretation of the *Sophist* tends to assume that the Forms are no longer natural kinds (as in the *Republic*) but are now mere formal patterns of speech. To cite only one example:

what [Plato] is now sure of is *not* that there must be Forms as conceived in the middle dialogues, Forms as ethical ideals and as the metaphysical objects of intuitive and perhaps mystical insight; what he is now sure of is that there must be fixed [concepts] to guarantee the meaningfulness of talk...The *Sophist* explains further that these concepts must stand in certain definite relations to one another, and gives the dialectician the task of investigating the boundaries and interrelations of concepts. (Ackrill 1971, 208-9)

Thus, for Ackrill and many others, “The dialectician makes explicit the rules according to which we all already talk” (Ackrill 1971, 208). The mixing of the kinds are “rules” only from the perspective of the *interior* of discursive Reason; when external questions about

¹⁹ I have no interest in examining Cornford’s (mis)understanding of Aristotle. I am more interested in “the traditional Logic we have derived from Aristotle” (Cornford 1951, 264). More specifically, I am interested in “Formal Logic” which Cornford (erroneously) considers of a piece with traditional and Aristotelian logic. Let me merely assert that I believe Frege and Russell fundamentally altered the framework of Aristotelian logic in the formulation of modern, *formal* logic. I believe it is this non-Aristotelian logic against which Cornford rightly polemicizes.

the reality or *essence* of discursive Reason arise, these “rules” no longer apply; it is the *external* capacity of reason that establishes the boundaries according to the way the kinds actually mix and don’t. The determination of boundaries is prior to any discursive rules; it is the nature of *rules* to be imitations of this very determination.

While Cornford is right *not* to reduce the Forms to “the rules according to which we all already talk,” he goes too far in separating the external capacity of establishing boundaries from the internal capacity of applying rules. Cornford (like Kant) “goes too far” for fear of profound arbitrariness. Cornford wants, at any price, to maintain the *correctness* of the expression of how the kinds mix and don’t. Plato is not willing to pay Cornford’s price; in rejecting the passive, intuitionistic models of divine revelation and “obvious” common sense, Plato takes on the problem of profound arbitrariness that I must now address directly. By way of introduction, let me summarize the passages with which I began. The mixing of the kinds is the necessary condition of *logos* (*Sph.* 259e4-6). Plato “deduces” *that* the kinds mix and don’t (*Sph* 251d5-252e7). A separate concern immediately presents itself: *If* you want to express correctly just how the kinds mix and don’t, then you must do it with some sort of knowledge and through arguments (*Sph* 253b8-c3). The requisite knowledge for correct expression is dialectical knowledge (*Sph* 253c4-d3). Dialectical knowledge is an ability *to collect* and *divide* according to kinds and *to discern* which kinds mix and don’t (*Sph* 253d1-e2). This know-how is a *competence* that is necessary for any correct expression of the mixing of the kinds; indeed, we can say that this know-how is an *expertise*. The whole issue of correct expression was introduced by an analogy with grammar, music, the arts in general

(τεχνῶν καὶ ἀτεχνιῶν, *Sph* 253b5) and the explicit suggestion that expertise as such is concerned with establishing the original boundaries within which the rules of the expertise function (*Sph* 252e6-253b6). Since dialectic is an expertise, it follows that it includes (as an external component) a capacity to determine the boundaries within which the rules of this expertise could function.

Notice that immediately following the necessary condition of *logos*, Plato reasonably claims that *logos* is necessary for philosophy (*Sph* 260a6-7). In addition, Plato explicitly identifies the requisite knowledge for correct expression with the knowledge of philosophers (*Sph* 253c4-9). Further, both references to philosophy include the superlative ‘greatest’ (μέγιστον, *Sph* 260a6; μέγιστης, *Sph* 253c6). I suggest that we are here dealing with the internal and external capacities of *the one greatest* expertise, philosophy. Thus, there is no reason to *separate* dialectic from philosophy; rather, dialectic is the external capacity of philosophy, just as *logos* and *dianoia* (identified at *Sph* 263e-264a) are the internal capacity of philosophy. Now, notice that Plato explicitly introduces the issue of correct expression with reference to *logos*: “isn’t it necessary—in order *correctly* to describe which sorts of kinds harmonize with what sorts and which sorts don’t accept the others—to convey (this) through arguments [διὰ τῶν λόγων] with some knowledge [μετ’ ἐπιστήμης τινός]?” (*Sph* 253b9-c1). The interior capacity of philosophy is *to argue*: διὰ τῶν λόγων; the rules that govern arguments are the rules of discourse (*logos*) and the rules of thought (*dianoia*). These rules are not mere logical operators, stipulated conventions or grammatical categories; these rules are generalizations or imitations of the *real* texture or conditions of argument as such; these

rules are the *expression* of the mixing of the kinds. In order to generalize or express the structure of *logoi* you must *first* know *what count* as *logoi*. Only within a determinate class of *logoi*, i.e., only within the necessary conditions of *logos*, would it be possible to articulate or follow the rules *of that class* or kind. Finally, these rules of discourse are the only means philosophers have for determining, even tentatively, whether the conclusion of some argument is *correct*.

The critical problem to which I have been slowly progressing is that the possibility of expert disagreement reveals a profound sort of arbitrariness, one not identical to the arbitrariness of hypotheses or axioms. Normally experts, in this case philosophers, *agree* about what counts as an argument; philosophers generalize the rules of logic *based upon* this agreement. What would happen if philosophers didn't agree about whether this particular utterance *even is* an argument? Before answering, we should ask, What does this question even mean? If there is a question about whether a particular "argument" is or is not an argument, then there is a disagreement about the necessary conditions of *logos*. This disagreement poses questions that are profoundly external to the rules of discourse because they call into question the very existence of *logos*. This may not be obvious, but it is the case. Anytime a question about the status of a particular "*logos*" occurs, then this is a question about *what logos is*; such a question among experts entails that experts *don't agree* about what *logos* is. For such a community of experts in disagreement, *logos* isn't anything in particular; *any* particular utterance *might be* an argument. Such a situation challenges the very existence, more properly the determinate

boundaries of *logoi*.²⁰ In such a situation it is very difficult to imagine *how* any of the disagreeing premises could be judged “correct.”

For the moment, I have offered only a promissory note that abundant evidence is forthcoming for my assertion that the *Sophist* and *Statesman* are fundamentally concerned with the possibility of disagreeing experts. Yet, this claim is so important for understanding the present discussion that I need to provide at least preliminary evidence for the claim. It should be obvious from the outset that the two dialogues are premised upon the lack of agreement about what sophists, statesmen and philosophers are. At the very least, people on Elea may not use these words in the way Athenians do. At the very beginning of the *Sophist*, Socrates introduces the topics of the pair of dialogues by asking the Stranger from Elea what people *on Elea* (τὸν ἐκεῖ) name and believe about (ἡγοῦντο καὶ ὠνόμαζον) ‘sophist,’ ‘statesman,’ and ‘philosopher.’²¹ Thus *Socrates*, at least, is very aware of the possibility that people on Elea (at least plausibly experts in philosophy) and people in Athens *might not agree* about *to what* these names refer. The lack of

²⁰ Some may be uncomfortable with my talk of “existence,” while finding my talk of “determinate boundaries” quite plausible. While I do mean “existence” in a strongly realist sense, I also believe that existence can only be understood in terms of definite boundaries. To cite what should by now be a commonplace: To be is to be *something*.

²¹ *Sph* 216c2-217a3. My full account of the crucial exchange between Socrates, Theodorus and the Eleatic Stranger will be most effective only *after* we have articulated the fundamental issues of the two dialogues. I believe the “list” at *Sph* 217c3 is a list of *names*, not a list of things, types, people or anything else. This can be temporarily supported by two facts: First, Socrates explicitly asks what people on Elea *name* (ὠνόμαζον) ‘sophist,’ ‘statesman,’ and ‘philosopher.’ Socrates has just claimed that (in Athens presumably) ignorant people often mistake genuine philosophers for statesmen, sophists or madmen; this is in reply to Theodorus’ cavalier claim that he *calls* (προσαγορεύω) all god-like people (θεῖος) ‘philosophers.’ It seems clear enough to me that Socrates is interested in knowing how people on Elea use these *names*, i.e., to what these names *refer*. Second, immediately following the “list,” Socrates explicitly *asks* whether people on Elea customarily define these three as one, two or three *kinds*. Since, for Socrates, it is *possible* that Eleatics use all three names in reference to *one kind* of person (or more specifically, one sort of expertise), it seems improbable at best that the original “list” was meant to refer to three separate kinds.

agreement about *what counts* as a sophist, statesman and philosopher is also in evidence in the dramatic setting of the dialogues: Socrates is about to be tried and executed for sophistry; yet, it seems that Socrates isn't a sophist at all. The lack of agreement about the limits of sophistry, statesmanship and philosophy indicates (as Nightingale 1995 convincingly argues) that philosophical expertise is in the process of *being defined*. Finally, in the *Statesman* the long myth about the retrograde motion of the cosmos is designed to illustrate one point first and foremost: that the expertise of statesmanship *differs* from herd rearing precisely because the statesman's rule is *contested by those ruled*; whereas, the shepherd's rule is not so contested (*Sts* 268c5-10 ff; *Sts* 274b5-e4; *Sts* 275b1-6). The contested rule of the statesman once again indicates the very question about *what counts* as political expertise; those that ought to be ruled contest the boundaries of the expertise that ought to rule. Perhaps most importantly, Plato comes closest to indirectly revealing *what being really is* in the famous passage about a battle between gods and giants. I will return to this passage at the conclusion of the next chapter.

Imagine a discussion between a wise philosopher from Elea and an equally wise philosopher from Athens (or worse, throw-in an *apparently* wise sophist from nowhere in particular). Suppose these experts in argument and conversation were to consider the essential structure of reality-itself. But, in the course of their discussion they realize that whatever these most important things are, let's call them "kinds," whatever these kinds are and however they relate or don't to one another, these kinds are the necessary condition of the very conversation about them. Normally, the philosophers would begin

with certain assumptions (the original boundaries of their conversation), follow out some preliminary implications of these assumptions (by following the rules of discourse), and then proceed “back-up” to ask whether their original assumptions were right; what count as evidence and conclusions in this last step, assuming these cannot be viciously circular, is fairly hard to determine.²² Thus, normally, the best these experts can do is *agree* that certain assumptions seem more plausible than others. If this means that certainty (in some Cartesian sense) is impossible, so be it. The fact remains that, that in the normal situation experts employ the internal (the *Republic's* downward movement of thought) and external (the *Republic's* upward movement of thought) capacities of their expertise to achieve a fairly high level of confidence in their assumptions and conclusions about the way the world works.

Now imagine these experts in an *exceptional* situation: they aren't able to achieve agreement through the exercise of the internal and external components of their expertise. This is a particularly troubling situation in the conversation imagined because *what* they are discussing are the necessary conditions of their own conversation. Thus, their disagreement amounts to a disagreement about *what counts* as conversation or *logos*. How are they to resolve this disagreement? Which of the philosophers is *expressing*

²² The familiar problem is that the experts cannot simply say ‘because the consequences of my assumptions conform to the way the world really is, it follows that my assumptions are true’. If this were the case then I could begin with the assumption that high pitched twittering in the dark causes the sun to rise, notice that every morning birds sing just prior to the sun rising, then conclude that my assumption was true because it has been “confirmed” by its consequences corresponding to the facts. This would be viciously circular theory confirmation. Ideally, I would have some *different sort* of evidence that is *not* a consequence of my assumption; this might be some other fact about the world, or it might be some methodological criterion of simplicity. Regardless, what counts as theory confirming evidence is technically an external question to the expertise.

correctly the necessary conditions of expression-itself? That is, which of the philosophers has the *competence* to express correctly how the kinds mix and how they don't? Which of the philosophers is *really* talking and thinking, and which—due to their erroneous account of the mixing of the kinds—merely seems to be talking and thinking? It bears repeating that these questions only arise in the exceptional situation. In the normal situation, the experts reach tentative agreement about starting points; in the upward and technically external component of their procedure they may ask whether their assumptions are “correct,” but in this case “correct” is equivalent to “agreed upon.” If they are in agreement, then their assumptions are “correct,” at least as correct as they need to be. Notice, that this happy reduction of correctness to agreement completely breaks-down in the absence of agreement: if they *don't* agree about assumptions, do they thereby conclude that none of the competing assumptions are “correct”? On the contrary, in the case of disagreement, each expert thinks her own assumptions are correct. In the hypothetical disagreement at hand, each of the experts has a different *definition* of expression or argument—this, because the mixing of the kinds is the necessary condition or definition of *logos*—to even ask which definition is “correct” might seem nonsensical. On what grounds could you *argue* that your definition of argument is “correct”? We can now see the deep motivation for Cornford's Kantian intuitionism: it seems that the only grounds available would be divine revelation, some brute fact, or a very peculiar sort of “seeing.”

Plato characterizes the *competence* that correctly discerns the necessary conditions of argument in the passages under consideration. This competence is only misleadingly

called “knowledge;” rather, it is an *expertise*: διαλεκτική ἐπιστήμη. The crucial difference between knowledge and expertise is that the former is a knowing-that and the latter is a knowing-how; knowledge is passively “perceived,” expertise is actively performed. One aspect of the characterization of this expertise is that the one who is able *to do* it is able to perceive sufficiently how the kinds mix and don’t. However, this is only one—albeit very important—aspect of Plato’s characterization of the expertise that is competent to determine the correct expression of the mixing of the kinds. The other aspect of Plato’s characterization is far more active than mere “seeing.” Dialectics is a competence *to collect* and *divide* according to kinds (*Sph* 253d1), *not to believe* that the same is different nor the different the same (*Sph* 253d1-2), and *to discern* according to kind how the kinds communicate and don’t (*Sph* 253e1-2). I mentioned that Plato must carefully balance the active and the passive, the external and the internal (respectively) components of dialectic (see p91, above). I have introduced the passive, internal capacity of “sufficient vision;” more specifically, I have introduced how and why intuitive perception must not be taken as the whole of dialectics. The reference to sufficient perception is *all there is* to remind us of the internal component of dialectic. Otherwise, the extreme generality, not to say vagueness, of the passage provides very little to go on if we were to try and figure out *what exactly* the dialectician “sees.” Rather, the passage on dialectic focuses our attention on the active components of this expertise.

Chapter Three, Section Three:
J.L. Ackrill, the Stipulative Account of Dialectic

As with the passive component, it will be most helpful to articulate the *activity* of dialectic by examining what it is not. Once again, the history of Plato interpretation provides a useful illustration. John Ackrill's article, "ΣΥΜΠΛΟΚΗ ΕΙΔΩΝ," is an illuminating and rigorous analysis of the mixing that is the necessary condition of speech. While Ackrill doesn't discuss the passage on dialectic directly, his conclusions bear decisively on my concern with *what* dialectic *does*. For Ackrill, the mixing of the kinds is basically a set of logical or grammatical *rules*; thus the *correct expression* of these rules "makes explicit the rules according to which we all already talk" (Ackrill 1971, 208). I have already suggested that I believe that Ackrill has the ontological status of the kinds wrong; with Cornford, I maintain that Plato thinks of the kinds as substantive entities of some sort, as opposed to mere "formal patterns" of argument and speech (see p104-106, above). However, it would be foolhardy to rule-out certain interpretations based upon what I believe or what Cornford merely assumes. My point in examining Ackrill is not to prove that the kinds are or are not "substantive entities" (whatever this might mean); rather, what interests me about Ackrill's position is *how* dialectic ends-up being characterized if we assume that the mixing of the kinds is a set of rules. Let me, for the moment, merely suggest that *if* the mixing of the kinds were a set of rules of logic or discourse, *then* they are internal to the discursive expertise, philosophy. Yet, I have been arguing that the mixing of the kinds is external to discourse precisely insofar as this mixing is the necessary condition of discourse. My reason for arguing thus is that I

consider rules “generalizations,” imitations or *expressions* of the way that some determinate class *has been determined*. In other words, the rules of discourse would be the expression of the ability to determine *what counts* as discourse. In order for there to be rules, they must first be rules *of some determinate class* of “things”, in this case *logoi*. By claiming that the mixing of the kinds *is* a set of rules, Ackrill effectively banishes any exteriority in dialectic. The result is that genuinely external questions, e.g., Is this utterance *really* discourse?, never come up. Although Ackrill never admits it, the implication is that *any old set of rules will do*. The rules of formal logic are arbitrary like the axioms of geometry. Thus on Ackrill’s reading, the dialectician *actively creates* the way the kinds mix and don’t...or so I will now argue.

The statement of the necessary condition of discourse reads as follows: “Separating each (of the kinds) from all (the others) is the final destruction of all *logoi*. Because, *logos* has come to be for us through the interweaving off the Forms, one with another” (*Sph* 259e4-6). Ackrill immediately and rightly dismisses Cornford’s interpretation, because he simply omits the “one with another” (ἀλλήλων) from his translation and wrongly infers that only *one* kind is necessary for all speech (Ackrill 1971, 201-201; see Cornford 1951, 300-301). Clearly, the necessary condition of speech requires the mixing of at least two Forms, one with another. Cornford’s misinterpretation reveals the attempt to reduce the mixing of the forms to the mixing of names and verbs (συμπλέκων τὰ ῥήματα τοῖς ὀνόμασι, *Sph* 262d3-4).²³ Both sorts of mixing are necessary for *logos*, but

²³ This attempt is not as misguided in spirit as it is in practice. It is a further, and very interesting project to articulate the relation of the mixing of forms and the mixing of names and verbs. They are *both* necessary for *logos*, but it is too fast to assume thereby they are the same thing. I suggest that the mixing of name

this does not justify their identification. Ackrill also rejects the interpretation of W.D. Ross, according to which “every statement asserts or is about a relation between Forms.”²⁴ For Ross’ Plato, the *constituents* of all discourse are Forms appropriately interwoven; that is, every *logos* just is a mixing of the kinds. Ackrill and Ross agree that such an interpretation of *Sph* 259e4-5 is directly contradicted by the very *example* of complete speech at *Sph* 262e12-263d4 (this is the “proof” of true and false speech with recourse ‘Theatetus sits’ and ‘Theatetus flies’). Since ‘Theatetus sits’ is obviously not an assertion about a relation of Forms, and ‘Theatetus sits’ *is* speech, it follows that not all speech is an assertion about the relations between forms.²⁵ Ross considers this contradiction grounds for rejecting the necessary condition of speech as false. Ackrill rightly considers this contradiction grounds for rejecting Ross’ interpretation of the same.

Ross’ interpretation seems to reduce the weaving of the forms with one another to the

with verbs, or concepts with objects, presupposes some definite and prior mixing of concepts.

²⁴ Ackrill 1971, 202-3. “[Plato] begins with the proposition that all discourse depends on the weaving together of Forms by the speaker or thinker. This is in fact an over-statement, since a sentence may have a proper name for subject, and a proper name does not stand for a Form or universal. But the *predicate* of a sentence normally stands for a Form, and all subjects of statements except for proper names stand either for Forms or for things described by means of Forms.” (Ross 1951, 115). I find it interesting that Ross *rightly* says “all discourse *depends* on the weaving,” but then *wrongly* concludes that this means that all discourse is *made up of* such weaving. The only thing that might justify such a move is *Sph* 260b10-c4 (cited below), but Ross makes no such reference.

²⁵ At least not as Ackrill would understand such an assertion. There is a way—that I’m sure Ackrill, Cornford and Ross would reject—to maintain that ‘Theatetus sits’ asserts a relation between Forms. Without endorsing or rejecting the view here, I merely cite George Rudebusch’s dissertation of 1982: ‘Theatetus sits’ is true if and only if “one of the Forms for Theatetus is the Form Sitting”. Rudebusch explains, “the Form of Sitting interweaves with the Forms for Theatetus” (Rudebusch 1982, 78). Likewise, for Rudebusch, ‘Theatetus flies’ is false insofar as the Forms for Theatetus interweave with the Form of Otherness with respect to Flying (Rudebusch 1982, 80). I cannot make my case against Rudebusch here; I can say that his account depends upon his claim “Theatetus is nothing but various Forms interweaving in space” (Rudebusch 1982, 78) and that this is, in effect, the Description Theory of Names. In the absence of a rigorous defense of this theory and in light of its many detractors, Rudebusch’s account begs more questions than it answers. Cf. Donnellan 2001, Kripke 1980, pp24-50.

mixing of τὸ μὴ ὄν with opinion, thought and speech (*Sph* 260b10-c4): “the *predicate* of a sentence normally stands for a Form, and all subjects of statements except proper names stand either for Forms or for things described by means of Forms” (Ross 1951, 115).

Thus the forms mix *in logoi*. While Ross never mentions the passage, *Sph* 260b10-c4 might suggest just such a reading. The mixing of Being and non-Being *in opinion and logos* is necessary for true and false speech. Yet, just because this mixing is necessary for true and false speech, it does not follow that this mixing is necessarily identical to the mixing of the kinds. It *might be* that the sort of mixing necessary for truth and falsity is the mixing of non-being *with* speech and opinion;²⁶ it might be that the mixing of the kinds with one another is one thing and the mixing of the kinds with speech is something else. However, all indicative speech, as meaningful, is *capable* of being either true or false.²⁷ Thus, it could be that the συμπλοκὴν of 259e6 is identical to the μείγνυται at 260b11. This second sort of mixing is stated as follows:

²⁶ Notomi 1999 cleanly distinguishes the mixing of the kinds with one another from the mixing of the kinds with speech, e.g., “Since the inquirers have already proved that what is not can be combined with what is, and thus solved the fundamental difficulty concerning what is not in Section 3, the sophist *will take another line of counter-attack* in Section 4. His next attempt is to cast doubt on the particular combination between what is not and statement, judgment, or *phantasia*.” (Notomi 1999, 249). I respect Notomi’s attempt to solve the problems of the *Sophist* in the context of the whole dialogue; thus, I agree that there is a difference in the text between the problem of the mixing of the kinds *per se* and the problem of true and false speech. However, the gist of my interpretation is to interpret the mixing of the kinds in such a way that Falsehood becomes a mere afterthought, or a function of the mixing of the kinds. I grant that I differ with Notomi in emphasis more than substance; yet, I believe even Notomi remains under the sway of the “solution” to the problem of Falsehood in a way that blinds him to my fundamental concern with the distinct *capacities* of dialectic. In this respect, Notomi follows most of the great 20th century interpretations of the *Sophist*, e.g., Owen 1971, Frede 1992, and most recently Job Van Eck.

²⁷ I fully grant that a great deal of speech is not indicative or assertive. Questions, exclamations, etc. are speech and are not required to be capable of being either true or false. However, I maintain that indicative or assertive speech is the most important sort for philosophy. It is only with recourse to assertions and arguments from them that philosophers could say anything about Being, Justice, or the Good. Furthermore, please note that I do say *capable* of being either true or false. We may not *know* whether a given proposition is true or false; but such a proposition is meaningful only if it is *capable* of being true or false.

Eleatic Stranger: Indeed, ‘what is not’ has appeared to us (to be) one certain being among the other kinds. It is distributed into all of beings.

Theaetetus: In just this way.

Eleatic Stranger: Surely then, following this, it is necessary to investigate whether it mixes [μείγνυται] in both opinion and speech [δόξη τε καὶ λόγῳ]

Theaetetus: Why?

Eleatic Stranger: Its not mixing [μὴ μειγνυμένου] with them requires that everything is true; whereas, by mixing [μειγνυμένου] both opinion and speech to come to be false. Because, that which has come to be false in both thought and words [ἐν διανοίᾳ τε καὶ λόγοις] is somehow this: believing or saying ‘those which are not.’ (*Sph* 260b10-c4)

Is the interweaving of the Forms, one with another, different from the mixing mentioned here? There are two (ultimately unconvincing) reasons to think so: One, interweaving is a necessary condition for speech-as-such; whereas this sort of mixing is a necessary condition for true and false speech. Two, the interweaving mixes forms with each other; whereas, the mixing mixes the forms with speech and opinion. Ackrill provides the means to address the first reason by reducing all speech to true and false speech (see footnote 27). Thus, both the interweaving of 259e4-6 and the mixing of 260b10-c4 are necessary conditions of speech-as-such insofar as speech-as-such is meaningful, and meaningful means capable of being true or false. As for the second reason, there is really no need to assume that ‘what is not’ must mix *with* speech and opinion. The cited passage uses ‘opinion’ and ‘speech’ in the dative case; while this could mean that ‘what is not’ mixes *with* opinion and speech, it could equally mean that ‘what is not’ mixes with the other forms *in* opinion, speech and thought.²⁸ The use of ἐν with the dative at 260c4

²⁸ Difference mixes with all speech in this way: in order for ‘Shoes are foot coverings’ to be meaningful, this proposition must mean that ‘Shoes are not foot coverings’ is false, and that ‘Shoes are not non-foot-coverings’ is true. Saying that Shoes are something in particular is simultaneously to say that they are *not*

would confirm such a reading.

Thinking of *logos* as *essentially* capable of being true or false has the advantage of unifying the συμπλοκήν of 259e6 and the μείγνυται at 260b11. Thinking of *logos* as essentially true or false has another, perhaps more important advantage. Let's say that true *logos* is the statement of the conclusion of a valid and sound argument and false *logos* is the statement of the conclusion of an invalid argument. I'm well aware that being the conclusion of an invalid argument *does not* render this conclusion false. I suggest this account of true and false *logoi* in order to make, a perhaps technically misleading, but loosely plausible generalization: true *logoi* are good arguments and false *logoi* are bad arguments. While this generalization runs-afoul of our modern notions of validity and soundness, I maintain that it has a commonplace plausibility that is both easy to understand and consistent with the spirit of the Platonic dialogues. When we think of false *logoi* as bad arguments then we are immediately presented with a question (at least technically) external to the expertise of argumentation: Are bad "arguments" even arguments? Cases of 'affirming the antecedent' or 'denying the consequent' seem pretty clear-cut cases of "bad arguments." But what about the following "argument:" Since I tied my left shoe prior to right, it follows that Plato's *Sophist* is about self-definition. Does the previous statement *count* as an argument such that it could be a bad one? Perhaps the mere logical form indicated by 'since' and 'it follows that' renders the statement a (bad) argument. Fine; consider this: Trees green consequent Oak greens. The answer as to whether or not this latter utterance is an argument must be something to

something else.

the effect that *if* ‘Trees green’ means such-and-such, and *if* ‘consequent’ is taken as a conclusion marker, and *if*...

A question about whether some particular “*logos*” is a *logos* is a question external to the expertise of *logos*. To claim that bad arguments are only questionably arguments is one thing, but to claim that false *logoi* are only questionably *logoi* seems entirely another. Plato’s “solution” to the problem of false speech notwithstanding, I am indeed claiming that false speech is only questionably speech.²⁹ The most expedient way to lend immediate plausibility to my claim is with recourse to my recurring example: ‘Trees green.’ If this statement is meaningful, then it must be either true or false.³⁰ I maintain that we cannot simply exclude it from meaningful discourse on the assumption that it is neither true nor false; one, because it might very well seem true to a whole class of two year olds; two, because *even we* must admit that ‘trees green’ *might be* meaningful to someone. If it is, then it is *necessarily* true or false. More to my current point, assuming

²⁹ Cf Rudebusch 1990. The best way to understand what I mean is by thinking of false speech as *error*. If false speech is the result of lying or fiction, then it isn’t really false in the crucial way. Likewise, if I say something which, due to my epistemic limitations, I do not (or even cannot) know whether it is true or false, then if I happen to say something false then this doesn’t really count as an error, since I don’t (and presumably no one can) *know* that I have uttered a falsehood. For example, if Socrates says ‘Virtue is Knowledge’ and it turns out that Virtue isn’t Knowledge, he has not really committed an error unless he (or someone) *knows* that Virtue isn’t Knowledge. Let me sketch the case for the impossibility of error with recourse to the example from the *Sophist*: In order to talk about something you have to be able to pick-out *what* you are talking about; in order to say something about the thing you are talking about you must be able to distinguish what you are saying about the thing from what you are *not* saying about the thing. If I utter the statement ‘Theaetetus flies’ and this statement is an error then I seem to have failed to meet the conditions of this utterance being speech. That is, in order to say ‘flies’ of Theaetetus then I have to be able to distinguish flying from not-flying (otherwise, I’m really saying *nothing* of Theaetetus). However, since Theaetetus is *not* flying, I obviously I’m not able to distinguish flying from not-flying; therefore, I have not really said anything in particular of Theaetetus. Insofar as my speech is an error it is not speech.

³⁰ I assume that all meaningful *indicative* statements are either true or false. I am not considering the possibility that ‘trees green’ is a question, command, exclamation, or other non-indicative sort of statement. It may well be that a great deal of actual speech is non-indicative and thus neither true nor false; I take it for granted Plato’s concern in the *Sophist* is indicative speech first and foremost.

that true and false *logoi* are roughly the same as good and bad arguments, it should be clear that philosophy is essentially concerned with *what counts* as an argument, hence with excluding the bad ones. Thinking of *logos* as *essentially* true or false has the advantage of unifying the συμπλοκήν of 259e6 and the μείγνυται at 260b11. This unification forces our attention onto a peculiar sort of question: What even count as *logoi*?

Meaningful *logoi* are the sorts of things *in which* the kinds mix; does this suggest Ross' interpretation whereby at least two Forms are the constituents of *logos*. Given *logoi* like 'Theaetetus sits', if Ross is right, then Plato is wrong. The solution is to claim that the kinds are not the constituents of every *logos*; rather the kinds are, to borrow Cornford's phrase, the *texture* of every *logos*. Ackrill provides a slightly different solution.³¹ Ackrill is right to draw our attention to the non-obviousness of τῶν εἰδῶν συμπλοκήν as that *on account of which* (διὰ) ὁ λόγος has come to be. Surely it cannot be that interweaving forms are the necessary *constituents* of all speech, as Ross would have it. Ackrill is right that any interpretation of the mixing of forms that renders it "blatantly false" ought to be rejected (Ackrill 1971, 202). Ackrill's alternative "rests upon the simple fact that some sentences are meaningful and some are not. The former presuppose the existence of concept-friendships or –compatibilities, the latter the existence of concept enmities or –incompatibilities" (Ackrill 1971, 204). This is to say that in order for speech *to be* speech it must be capable of being true or false, hence meaningful.

³¹ Ackrill's solution does two things for my project: One, it exemplifies the problems of making dialectic exclusively active (as Cornford exemplified the problem with making dialectic exclusively passive). Two, Ackrill exemplifies a typically 20th Century, analytic way of interpreting the *Sophist* as a "late" dialogue.

Speech is capable of being true or false due to precisely the compatibilities and incompatibilities of concepts. Ackrill says “Human discourse is possible only because the meanings of general words are related in definite ways; it is essential to language that there be definite rules determining which combinations of words do, and which do not constitute significant sentences” (Ackrill 1971, 205). So, *how* is the interweaving of forms, one with another, a necessary condition of speech? Ackrill’s answer is that all speech must be meaningful, and meaningful speech must be capable of being either true or false; truth and falsity presuppose a distinct relation of concepts, *rules*, according to which some mix and some don’t.³²

The concepts that Ackrill has in mind are concepts like Being, Difference, Sameness, Rest and Motion.³³ The gist of Ackrill’s case is that there are “definite rules” of language stipulating, say, that Motion is not-Rest and Rest is not-Motion. The possibility of “human discourse” relies on the *rule* that Rest is *not* not-Rest and Motion is *not* not-Motion. For Ackrill, philosophy is a matter of expressing the rules of language: “In studying the relations among concepts a philosopher elicits the rules governing the use of

³² Ron Polansky suggests to me that I might summarize Ackrill’s position as follows: Being must be such that we can speak about it. While this seems a fair paraphrase of Ackrill, I believe it reveals the deep implausibility of Ackrill’s account; for this sort of position, Being is whatever I stipulate it to be, provided that it can account for my actual speech. It seems to me beyond question that Plato wants to maintain that Being is just the way it is, independent of whether any one talks about it. If Being “must be” in a certain way, then Being is dependent upon the possibility of my speaking about it.

³³ This explains why Ackrill turns to the “deduction” of partial mixing in order to explain the interweaving of the kinds. Ackrill does not consider the rejection of ‘no mixing’ and ‘total mixing’ as a metaphysical deduction of a states of affairs, as do I. Rather, Ackrill *premises* the rejection of ‘no mixing’ and ‘total mixing’ upon the possibility of philosophy: “If there were no liaisons among concepts the philosophers’ statements (indeed all statements) would be just meaningless” i.e., neither true nor false (Ackrill 1971, 205). I grant that this is a tempting, perhaps inevitable, way to interpret the so-called “deduction” of partial mixing; however, I resist it on the grounds that mixing is clearly the necessary condition, or assumption of *logos* and philosophy, *not* the other way round.

language; that there are some such relations, some such rules, is a necessary condition for there being a language at all” [here Ackrill cites *Sph* 259e4-6] (Ackrill 1971, 207). Yet, Ackrill seems to ignore the fact that, on his account, philosophers are both “eliciting” and abiding by the same rules at the same time.³⁴ *That logos* and *dianoia* are governed by certain rules is one sort of claim; that the expression of these rules is correct is entirely another sort of claim. Ackrill’s reference to the Principle of Non-Contradiction is a *propos*: “Substantially the same point is made by Aristotle in *Metaphysics* Γ. 4, where he argues for the Principle of Contradiction” (Ackrill 1971, 206). While Ackrill admits that, for Aristotle, the Principle “cannot be proved,” nevertheless Ackrill has Aristotle “arguing” for it with the familiar claim that *meaningful* speech presupposes it (see *Met* Γ 1006a18-25). It may be that Aristotle is “eliciting” a rule of language through an argument—I here leave the correct interpretation of Aristotle to others—but the Eleatic Stranger and Theaetetus, in the *Sophist*, are doing no such thing. The reason is that if Aristotle has an *argument* for the Principle of Non-Contradiction, then it is a *hypothetical*

³⁴ *That* this is a problem should, by now, be clearly emerging. The general cause of this problem is that experts must *assume* that their own speech is governed by the rules they are eliciting. *If* there were a question about the meaningfulness of an expert’s articulations of the rules of language, *then* the rules elicited will be of no use resolving the dispute. Imagine an *expression* of the mixing of the kinds such as ‘the kinds mix in just this way and no other’. Such an expression would be the *logos* of how the kinds mix and how they don’t. It follows that the kinds mixing in just this way and no other is the necessary condition of *this logos*. Since just this mixing is necessary for *this logos*, it follows that that *this logos* is *sufficient* for the kinds mixing in just this way. We expressed the mixing of the kinds through *logos* and this *logos* claimed that *this logos itself* is sufficient for just this mixing. Notice that we originally indented *correctly* to describe this mixing (τὸν ὀρθῶς μέλλοντα δείξειν). It follows that merely in virtue of our expression being a *logos*—*independent* of whether it is true or false—the mixing that we express *is the case*. Our original expression, intended as true, entailed that *logos* is a sufficient condition of just this mixing; this expression not only *states* the sufficient condition of just this mixing but it also *is* the sufficient condition of just this mixing. This is a quasi-formal way of presenting a fairly intuitive point: you cannot prove what you presuppose. Since all *logos* presupposes some partial and distinct mixing of the Forms, no *logos* can prove that just this sort of mixing obtains.

one, one that *assumes* the meaningfulness of speech, or better one that assumes that *logoi are logoi*. But, this is just the *question* that Plato is addressing. By inquiring into the necessary conditions or *definition* of *logos*, Plato is effectively inquiring into *what logos is*. By distinguishing claims *that logos is something* from claims *about what logos is*, Plato explicitly introduces a vexing problem about how you know that your stipulated definition of *logos* is a *correct expression* of the way *logos* actually is. Aristotle is quite comfortable assuming that we all know what meaningful speech is; he is right to be so comfortable because this is what we all *normally* do. Plato is explicitly interested in an *exceptional* situation; one in which *what counts* as an argument is in dispute even among experts.

I find it interesting that Ackrill never addresses what might be the best evidence that dialectic is an activity of “eliciting” the rules of thought and speech: Recall, one (and only one) of the primary activities attributed to dialectical knowledge is “to believe neither the same kind different nor a different being (is) the same” (*Sph* 253d1-2). I’m not *exactly* sure what this means but I am quite sure that it means something to the effect that kinds are *either* the same *or* not the same.³⁵ Independent of exactly how this rule is to be formulated, one of the dialectician’s primary activities is *to believe* it. Presumably, expressing just this belief διὰ τῶν λόγων would be necessary for correctly expressing how the kinds mix and don’t. I believe that Ackrill is quite right to emphasize the importance

³⁵ Of course, it is far from obvious under the circumstances that ἕτερον is identical to μὴ τὸ αὐτόν, especially since it is precisely the meaning of “identical” or “is” that is under examination. Nevertheless, I believe that it is plausible enough that *Sph* 253d1-2 refers to something *like* the Principle of Non-Contradiction or the Law of the Excluded Middle.

of discursive rules, and their articulation, for the practice of dialectic; on this count, Cornford's polemic against "Formal Logic" is misguided in not noticing that believing (and perhaps expressing) formal, logical rules is *a part* of dialectical activity as much as any adequate vision. Where I depart with Ackrill among others, is where Ackrill *reduces* dialectical activity to just this. Like Cornford before him, Ackrill has dialectical expertise *partially* right.

The trouble with reducing dialectical expertise to eliciting the rules of language and thought is that such an elicitation appeals "to truths too obvious to be disputed, in particular truths which anyone who knows the language must immediately admit" (Ackrill 1971, 208). Normally, this is well and good; however, in the exceptional case of disagreement between the gods and the giants—to which I return in the next chapter—the two parties to the dispute speak the same language but do not admit one another's obvious truths. It may be that the Principles of the Excluded Middle and Non-Contradiction really *must* be admitted by all speakers and thinkers. My point is that these principles do not *exhaust* the mixing of the kinds. Ackrill admits as much and in so doing reveals his error: "we have agreed that κίνησις (motion) and στάσις (rest) both *exist*; but it would be different, and indeed absurd, to say that they are both *the same*" (Ackrill 1971, 208). How exactly is 'Change and Rest are the same' absurd? The statement is clearly meaningful. The statement is only absurd based upon one of two arbitrarily stipulated assumptions: One, if you stipulate that 'Change' and 'Rest' are proper names for *different* referents, then the statement might be absurd. Two, if you stipulate that Change isn't resting and Rest isn't changing, then the statement might (in a different way) be absurd.

Neither of these stipulations is required by language and thought the way the Principle of Non-Contradiction is. Indeed, I maintain both stipulations are the sort that Plato implicitly *questions* in the *Sophist*. For example, Socrates' opening speech (*Sph* 216c1-217a1) clearly raises the possibility of several names being applied to the same referent. Also 'noble sophistry' (see *Sph* 226b-231a) is a name for two types of expertise just as dog and wolf are two names for one thing. Finally, everyone must grant that it at least possible that all of the kinds are eternal, unchanging things; thus, it is at least possible that Change is unchanging, i.e., 'Change rests' is *not* so obviously false as to be absurd.³⁶

One point of raising the issue of correct expression of the mixing of the kinds must be to warn us away from "truths too obvious to be disputed;" if the mixing of the kinds were a truth of this sort then it would be absurd indeed to demand of its expression that it be *correct*. Stipulations of the sort 'Change isn't Rest' or 'Rest isn't changing' are perfectly appropriate in the normal functioning of science and, indeed, conversation. I insist that Plato is particularly concerned here with the *exceptional situation* wherein experts disagree about stipulated starting points. Again, Plato allows for the normal practice of an expertise to involve a discursive examination of stipulated starting points; following Shorey, I believe that in the *Republic* such a procedure is *nous*. In the *Sophist*, we are concerned with the necessary conditions of *logos*, or argument; that is, we are concerned with *what an argument is* and how to express this correctly. Dialectical expertise is the means for accomplishing two slightly different things: *seeing* how the kinds mix and

³⁶ Clearly these "examples" are not meant to be "proof" that Plato would reject both of the stipulations. By the end of this dissertation it should be clear to all that Plato is concerned with stipulation in general and that stipulations like the ones mentioned are at the heart of understanding the *Sophist*.

don't and *discerning* the rules that “generalize” this mixing. Cornford reduced dialectic to the former, Ackrill to the latter. The trouble with reducing dialectic to the expression of rules is that dialectic becomes deeply stipulative. Rules are, in some yet to be determined sense, generalizations; to go a little too fast, rules are generated by humans in the attempt to approximate or imitate the way things really are divided-up.³⁷ The trouble with *rules*, in a nutshell, is that we make them up. Ackrill reduces dialectic to the stipulation of rules.

Ackrill's conclusion is revealing: “what [Plato] is now sure of is *not* that there must be Forms as conceived in the middle dialogues, Forms as ethical ideals and as the metaphysical objects of intuitive and perhaps mystical insight; what he is now sure of is that there must be fixed things to guarantee the meaningfulness of talk, fixed concepts—the meanings of general words—whose role is to ensure [the possibility of significant talk]” (Ackrill 1971, 208-9). I began this chapter concerned with the “fixing” that gets these “concepts” to ensure the possibility of *logos*. For Ackrill, *stipulated rules* fix the concepts. For Plato, stipulation is *one* component, the external component, of dialectic. On my account, Plato introduces this active capacity through the Greek word διακρίνειν. The notion of discernment, implied by *diakrinein*, carries all of the weight of balancing the active *diairesis* and the passive seeing that are the exterior and interior capacities of the dialectical expertise. *Diakrinein* is to separate, to distinguish, and to

³⁷ In the spirit of ‘going too fast’ let me also assert that if Plato believes in anything like “natural rules” then the Principles of Non-Contradiction and Excluded Middle would probably exhaust them. For Plato, as for me, these rules are necessary and necessarily too weak to do the work we need our humanly constructed rules to do.

decide. I choose ‘discernment’ in order to include the passive sense in ‘to distinguish’ and ‘adequately to perceive.’ Nevertheless Ackrill, perhaps despite himself, is right to emphasize the active capacity in dialectic. I say “despite himself” because I’m sure he didn’t realize just how “mystical” this capacity will turn-out to be. To merely suggest the conclusion of my whole dissertation: *diakrinein* is ultimately a competence, and like judicial competence it is reducible to authority; to “discern” is to have the authority to decide; it is “mystical” only in the sense that questions of competence cannot be resolved with recourse to any rules, because competence is the ability to decide where the rules apply and don’t. I in no way assume the plausibility of this suggestion for my main point here; nevertheless, it is really quite similar to Aristotle’s account of *phronesis* in the *Nicomachean Ethics*. My point here is that expressing the necessary conditions of expression is fine as long as no one asks the question of correctness. Plato invokes just such a question in our present passages; thus, for Plato, Ackrill’s account of dialectic as the expression of rules is insufficient, if partially “correct.”

In conclusion, I have demonstrated that neither the intuitive nor the stipulative account of dialectic accurately describes Plato’s complex discussion at *Sph* 253b-e. Yet, *both* passive intuition and active stipulation are *parts* of Plato’s account. In order to express correctly just how the kinds mix and don’t requires dialectical expertise; *qua* expertise, dialectic includes *both* an internal capacity to *justify* the correctness of the expression according to discursive rules *and* an external capacity to *choose* the conditions of justification—namely the mixing of the kinds. These two capacities are inextricably linked, neither alone can accomplish the task. The external capacity, by itself, faces a

serious problem in a choosing (*diakrinien*) of conditions of justification that cannot itself be justified. The internal capacity alone faces a serious problem because it merely assumes that the boundaries which it “sees” are the case. The problem with the external capacity is that it is incapable of error: whatever means dialectic chooses to determine the mixing of the forms is necessarily correct because if these means get the mixing wrong, then it wasn’t really a means to determine the mixing in the first place. That is, if philosophy is chosen as the means to define philosophy, then if philosophy is wrong about what philosophy is, then it wasn’t really philosophy doing the defining in the first place. The problem with the internal capacity is that an attempt to *justify* how the kinds mix *without* recourse to rules renders the mixing of the kinds discursively unjustifiable, the object of divine insight as opposed to human argument. The solution to these problems is to hold the internal and external components of dialectic together such that the external capacity decides on the conditions of justification *for the sake* of justification according to rules. Before addressing the mutual dependence of the internal and the external directly, it will be most useful to carefully examine Plato balancing these two in the dramatic contrivance of the philosophical dialogue.

Chapter Four: Platonic Indirection as Meta-Philosophy

Section One: *Establishing a Normal Situation*

Dialectical expertise is to act and be acted upon; both aspects are carefully included by Plato in the introduction of the philosopher's art at *Sph* 253b-e. Having examined each aspect separately, I have shown how neither *by itself* can account for the text or the philosophical problems it implies. I propose *diakrinein* as the verb that performs the balancing act that Plato intends. Of course, *diakrinein* is not a technical term and other verbs like *horizo* and *diairesis* fulfill effectively the same function. Here, my point is to highlight the extent to which Plato is conforming to the claims that I articulated in my first two chapters, claims that he explicitly introduced with the analogy of dialectic and grammar. Expertise-as-such is concerned with *what counts* as the field of application for this expertise; for example, grammar must be concerned with grammatical and non-grammatical utterance, music with musical and non-musical notes, and dialectic with argument and non-arguments. But, this concern is technically external to the expertise in question and thereby calls into question the expertise itself: "And concerning the other arts and non-arts we will find other things of just this sort" (*Sph* 253b5-6). Notice that Plato explicitly says τεχνῶν καὶ ἀτεχνιῶν. Why would Plato say that just these sorts of distinctions, τοιαῦτα...ἕτερα, would be found in *non*-expertise? The answer is that this sort of distinction between the grammatical and non-grammatical, the discursive and non-

discursive, etc. is just the sort of distinction that *separates* the expertise from the non-expertise. The very act of excluding a certain utterance as non-discursive simultaneously excludes the “expertise” that would generalize rules based upon the inclusion of such an utterance. For example, my daughter likes banging pots and pans; if this banging is *excluded* from the class ‘musical series of notes,’ then any “expertise” that would generalize rules for my daughter’s banging would *not be musical expertise*. An expertise is necessarily an expertise *of something*; clearly any determination of this something simultaneously determines what counts as expertise of it. A question about the “existence” of a discursive utterance *qua* discursive is a question about the very existence of the system of rules of discourse. It is in just this way that external questions challenge the very existence of the expertise in question: “we must distinguish two kinds of questions of existence: first, questions of the existence of certain entities of the new kind *within the framework*; we call them *internal questions*; and second, questions concerning the existence or reality *of the system of entities as a whole*, called *external questions*” (Carnap 1967, 73).

Rudolf Carnap introduces this distinction in order to defend the normal practice of science that straightforwardly and “legitimately” excludes external questions. Plato does not have the luxury of Carnap’s optimism about the normal functioning of customarily accepted systems of rules. Plato is deeply concerned with what Kuhn calls revolutionary science. But Plato’s concern is not to advocate revolution through the asking of external questions; on the contrary, we will see Plato’s deep conservatism in the *Statesman* (see Ferrari 1995). In fourth century Athens, Plato is most concerned with the *establishment*

of a normal situation in which *dianoia* and *nous*, the internal and external capacities of dialectic under normal situations, apply discursive rules and achieve expert agreement about their presuppositions. As Carl Schmitt says, “There exists no norm that is applicable to chaos. For a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists.” (Schmitt 1985b, 13). Schmitt’s notion of sovereignty is precisely the *authority* to which Plato points with his notion of *diakrinein*. I will return to the political implications of my account of expertise in the concluding chapters. What is essential to my point here is that Plato, unlike Carnap, is not willing simply to “rule-out” external questions; the reason is that the external questions have already been asked. Clearly there is a question about what philosophy is, since Socrates has been executed for sophistry. Plato characterizes dialectic in just such a way so as to emphasize its external *capacity* or *competence*; this authority is the only way of “answering” external questions, questions that challenge the very existence of the dialectical expertise. A commonplace (and in my view erroneous) way of interpreting Schmitt is that he defends absolute authority as the ultimate criterion of all systems of rules; Plato does no such thing. Such a view (while not being Schmitt’s) would be quite like Ackrill’s sense of dialectic: dialectic merely stipulates the rules according to which we all already talk; if a question should arise as to whether we really do talk just this way, then a sovereign authority must simply decide whether or not “we” already talk in just this way.

Plato rejects Ackrill’s and Cornford’s one-sided accounts of dialectic. Plato opts for a balanced account whereby we ought to have some discursive means of deciding whether

“we” talk this way or not; Plato balances the stipulation of rules with the discursive inquiry as to whether these rules actually express (or imitate) reality or not. Yet, Plato is aware that such a discursive inquiry into starting points rests upon a normal situation and the real problem at hand is the exceptional situation where experts can’t discursively inquire into starting points because they disagree about *what counts* as discourse; that is, they disagree about just *how* the kinds mix and don’t. Rather than have some sovereign authority merely stipulate the boundaries of discourse, Plato chooses to express the real boundaries of discourse *indirectly*. In the case of expert disagreement about *what philosophy is*, Plato recognizes that defining philosophy (or *logos*) philosophically will be of no help. What is needed is some way to define philosophy *externally*. It is for just this reason that Plato emphasizes the *active* component of *diakrinein* in characterizing dialectic. This peculiar act of discernment is perfectly analogous to Plato’s *indirect* definition of philosophy by means of two dialogues, the *Sophist* and the *Statesman*. In a peculiar way, Plato “chooses” what *logos* and hence philosophy is. Yet, as opposed to merely stipulating this choice, Plato lets the reader discover it for herself by *interpreting* the dialogues. It is precisely by means of the essentially *discursive* dialogue that Plato is able to express the necessary conditions of discourse without having discourse *directly* define itself. All this talk of Plato’s “method” is painfully empty at the moment because we have not really seen yet *how* Plato indirectly articulates the necessary conditions of philosophy. Nevertheless, it is very important never to lose sight of what I could call the “meta-philosophical” perspective, the Platonic dialogue, within which all of the particular arguments receive their real meaning. Let me be painfully clear: what I am

calling ‘meta-philosophy’ is a *part of philosophy*, most broadly and properly understood. Meta-philosophy is the external capacity of philosophy-as-such. While philosophy cannot define *itself*, the exterior capacity of philosophy *can discern* the boundaries within which the interior capacity of philosophy functions. It will be particularly useful to examine a passage where Plato ostensibly *argues* for the value of argument. The passage reveals that such an argument necessarily fails as long as no distinction is made between what is being argued for and what is doing the arguing. Yet, the passage itself is a meta-argument, a “higher order” argument for another, “lower order,” sort of argument. The passage asks and answers a question *external to* argument as such.¹

Chapter Four, Section Two: *Argument about Argument in the Phaedo*

Socrates’ “argument” against misology in the *Phaedo* (*Phd* 88c-91c) is an excellent example of discerning the boundaries of philosophy² with recourse to the external, or meta-philosophical capacity of philosophy. In the very middle of the *Phaedo*, Echecrates interrupts Phaedo’s narrative of the events leading up to Socrates’ execution. Echecrates is overwhelmed by the apparent stalemate in the arguments for and against the immortality of the soul. Phaedo responds to Echecrates by pointing out that he had very

¹ For more on Platonic indirection and the internal and external capacities of philosophy, see the Conclusion pp273-276

² I ask the reader to accept without evidence that the value or importance of argument is a function of its boundaries; thus, any argument that argument is the best way to proceed is necessary an argument about what argument really is and hence what philosophy really is.

often been amazed at Socrates, but never more than at this moment. Revealingly, Phaedo was not so much amazed *that* Socrates had arguments to continue the conversation; Socrates' resourcefulness in argumentation would be no surprise to Phaedo. What most amazed (μάλιστα ἐθαύμασα, *Phd* 89a1) Phaedo was how Socrates "sharply perceived the effect that the (forgoing) arguments had" upon those present (*Phd* 89a4-5). Those present felt defeated by the opposing arguments and were fleeing from the task at hand. Socrates perceived their distress and cured them. He "called them back to life and urged them forward, to follow along and search for the argument" (*Phd* 89a6-7). Socrates perceived that his friends were in danger of falling into misology, or hatred of argument. Over the next several pages Phaedo narrates how Socrates cured them of this disease.

What I am calling the argument against misology is built upon an analogy with misanthropy. It is less the details and the content of this "argument" that interest me than its very possibility. Would it be possible to *convince* a misologist not to hate arguments? You certainly couldn't *argue* that some arguments are trustworthy, because a misologist *qua* misologist wouldn't trust your argument. Yet, this is what Plato does: Socrates tries to convince a misologist that he is guilty of a hasty generalization in the same way that misanthropes are. Having had naively believed that all people are trustworthy, the misanthrope decides that no one is, after she is deceived by the ones she most trusted. Likewise, having had naively believed that all arguments are good ones, the misologist decides that no arguments are good after he is refuted one too many times. This argument from analogy might suggest a hasty generalization or a weak analogy to those who are willing to even consider arguments. Indeed, the analogy is actually meant for

the sympathetic listeners at Socrates' bedside; those who *almost* fled into misology. Were there a genuine misologist present, she would hardly be convinced to abandon misology upon hearing this argument. In fact, Plato suggests to *us* that *we* shouldn't consider this a (direct) *argument* against misology either.

Socrates' argument hinges upon this premise: "the things at the furthest extremes are scarce and few; whereas, the things in between are easy to come by and many" (*Phd* 90a8-9). The idea is that since really bad people and really good people are "scarce and few" there is no good reason to hate everyone. However, just after making this point, Socrates makes an enigmatic qualification: "But, arguments are *not* like humans in just this way" (*Phd* 90b4-5). We are immediately told how misologes *are like* misanthropes: both lack *expertise* concerning the objects of their respective hatreds (ἄνευ τέχνης τῆς περὶ τἀνηρώπεια, *Phd* 89e5-6; ἄνευ τῆς περὶ τοὺς λόγους τέχνης, *Phd* 90b7). So how exactly are arguments *not like* people? The most likely answer is that while most people are somewhere in between the two extremes, all arguments (technically, all conclusions of argument) just are one of the two extremes. *Logoi*, insofar as they are meaningful discourse, are either true or false. There is no "middle" between True and False. This dissimilarity between people and arguments is a result of the Principle of the Excluded Middle;³ in addition, Socrates immediately suggests just this dissimilarity: "someone may trust that some *logos* is true...and shortly thereupon believe it to be false, as sometimes it

³ Again, this is precisely the principle implied as *what* the dialectician must believe at *Sph* 253d1-2. However one translates μήτε ταὐτὸν εἶδος ἕτερον ἠφῆσασθαι μήτε ἕτερον ὄν ταὐτὸν the implication is that things are *either* the same *or* different. From here it is a short step to the principle of the excluded middle. Belief in this principle and its sister-principle of Non-Contradiction are part, but *only part*, of Plato's characterization of dialectic. See pp123-126, above.

is and sometimes it isn't" (*Phd* 90b6-9). Arguments, more precisely the statements that express their conclusions, are sometimes True and sometimes False, but never anything in between.

The similarity and dissimilarity between people and arguments reveals a tempting misunderstanding of the direct argument against misology. We are tempted to think that the analogy with misanthropy works this way: misanthropes lack the skill to distinguish good people from bad, as misologists lack the skill to distinguish true *logoi* from false; after all, it is precisely the lack of skill that sustains the analogy. Indeed, this misunderstanding is further encouraged by Socrates' ultimate rejection of misology: the real problem with the misologist is that he doesn't blame himself and his lack of skill, but pushes the cause of conflicting truth values onto the arguments themselves.⁴ However, this sort of understanding would make nonsense out of the analogy. First, the misanthropes' inability is *not* an inability to distinguish good people from bad; it is an inability to recognize something about people-as-such, namely that most are neither very good nor very bad. Second, the inability to distinguish true *logoi* from false is the *raison d'être* of all argument. If people had the ability to distinguish true *logoi* from false, then argument would be superfluous.⁵ Nevertheless, as so often is the case in Plato, this

⁴ *Phd* 90d3-5. Thus, the misologist seems to believe that propositions can be both true and false. Socrates' refers to flux, (πάντα τὰ ὄντα...στρέφεται καὶ χρόνον οὐδένα ἐν οὐδενὶ μένει, *Phd* 90c4-6) and those who think themselves most wise by denying that any argument is sound (οἴονται σοφώτατοι γεγονέναι καὶ κατανενοηκέναι μόνοι ὅτι οὔτε τῶν πραγμάτων οὐδενὸς οὐδεν ὑγιᾶς οὐδὲ βέβαιον οὔτε τῶν λόγων, *Phd*.c2-4). These are exactly the sorts of people against whom any argument, especially an argument in defense of argument, would be most futile. These sorts of misologists are those who would say that "all (of the kinds) have a capacity to share with one another" (*Sph* 252d2-3).

⁵ This is the real problem with Cornford's intuitionism. Cornford hedges between divine revelation and simple inspection of the obvious because the latter really would render argument superfluous. So, Cornford qualifies the ability of "simple inspection" with some sense of "divining" the obvious so that a realm of

tempting misunderstanding reveals essential aspects about the *indirect* argument against misology.

The inability to distinguish true *logoi* from false is the *raison d'être* of argument-as-such. Presumably, a good argument inspires confidence in the truth of its conclusion, as a bad argument doesn't. In this sense, bad "arguments" don't really *count* as arguments because they don't *do* what arguments are supposed to do, namely provide confidence that *this logos* is true or false. Arguments presuppose that *some utterances count* as (good) arguments and other don't. The direct argument in the text tempts us to think that misologists merely lack the skill to distinguish good arguments from bad; but this is incorrect. Misologists contest the very boundaries of argument by claiming that bad arguments are as much arguments as good, insofar as both are equally inconclusive. In fact, misologists claim that arguments aren't anything in particular; any old thing is as much an "argument" as the next. The text tempts us to think that Socrates refutes misology by showing the misologist that he simply doesn't understand *what an argument is*. Such a "refutation" would be for Socrates simply *to stipulate what argument is*, namely a skill to inspire confidence in the truth or falsehood of certain *logoi*. It would be deeply unphilosophical for Socrates to try to refute anyone by simply stipulating a definition; *if* philosophy is essentially arguing (well) and arguing (well) inspires confidence in what is argued for, then we would have no (philosophically inspired) confidence in Socrates' definition because he has not *argued* for it. The tempting misinterpretation of the analogy reveals that the deeper problem with misology is that it

special expertise is left for the philosophers, since in a deep sense *logos* is no longer needed.

contests the necessary conditions of *logos*; the misologist would never accept the stipulated definition of *logos*, nor would Socrates have given any *reasons* to do so.

Plato reveals just this inadequacy of Socrates’ “argument” against misology. Socrates concludes,

I myself fear that in this matter concerning this very thing I am not philosophical, but just like the very uneducated (I am) a lover of strife. Because—whenever these men would dispute about a thing—it is in one way, that they are careless about which things their argument would *be* (an argument); but it is in another way that they are zealous for this: that the things posited, should *seem* (to be) these things to those present.

The Greek is difficult in places. It is clear that Socrates “fears” that he may be unphilosophical (κινδυνεύω ἔγωγε...οὐ φιλοσόφως ἔχειν). Why? The context refers to the uneducated lovers of strife (ἀπαίδευτοι φιλονίκως) and how things *seem* to those present. This context suggests that Socrates may be unphilosophical just insofar as he has attempted to defeat his opponent simply by getting his opponent to believe (δόξει) those things posited (ἄ...ἔθεντο). That is, Socrates is at risk of being unphilosophical because the direct argument suggests that he can refute misology merely by stipulating the definition of *logos*; this would be unphilosophical just insofar as Socrates doesn’t *argue* that arguments can be trusted, he merely assumes it. The reference to being “not philosophical” confirms what I have been saying all along: philosophy—in this case *logos*, the *means* of doing philosophy—cannot define *itself*; defining philosophy, Plato recognizes, requires some ability that is “not philosophy,” or better “meta-philosophy.” Yet, Socrates is at risk of being “not philosophical” *only within* the context of the direct

⁶ *Phd* 91a1-6: κινδυνεύω ἔγωγε ἐν τῷ παρόντι περὶ αὐτοῦ τούτου οὐ φιλοσόφως ἔχειν ἀλλ’ ὅσπερ οἱ πάνυ ἀπαίδευτοι φιλονίκως. καὶ γὰρ ἐκεῖνοι ὅταν περὶ τοῦ ἀμφισβητῶσιν, ὅπῃ μὲν ἔχει περὶ ὧν ἂν ὁ λόγος ἦ οὐ φροντίζουσιν, ὅπως δὲ ἂ αὐτοὶ ἔθεντο ταῦτα δόξει τοῖς παροῦσιν τοῦτο προθυμοῦνται.

argument against misology. Socrates' "not philosophical" direct "argument" is embedded within a very philosophical dialogue. I conclude that οὐ φιλοσόφως means "not philosophically" in the sense of the philosophy *being defined*; and, οὐ φιλοσόφως means meta-philosophically in the sense of the philosophy *doing* the defining. Plato contrives Socrates' direct argument to be unphilosophical in order to point the reader to the *external capacity* of the Platonic dialogue itself; through essential indirection, the dialogue discerns the boundaries and hence the value of argument.

I have suggested that the conclusion of the indirect argument is that *logos* is a *techné* or skill (*Phd* 89e5-6, *Phd* 90b7); it is the skill that inspires confidence in the truth of falsehood of certain *logoi*. This would nicely fit with my emphasis on *expertise* in the *Sophist*. Regardless of what exactly the conclusion of the indirect argument is,⁷ there is another aspect of *Phd* 91a1-6 that confirms my reading of the *Sophist*. The Greek is especially difficult from ὅπη μὲν...ὅπως δὲ το προθυμοῦνται. It seems that two "ways" or "manners" are being contrasted or conjoined. The first "way" clearly refers to the ignorant lovers of strife and says of them that they are careless or unreflective (οὐ φροντίζουσιν). They are careless "about which things their argument would be (an argument)."⁸ The relative pronoun with preposition, περὶ ὧν, has an indefinite and

⁷ I believe that to really get at the indirect arguments in Plato's dialogues you must begin with a comprehensive interpretation of the *whole* dialogue. One might object that I have presented no such interpretation of the *Sophist*, much less the *Statesman*, yet I seem to be already involved in explaining what they argue indirectly. I must simply assert that I *have* such an interpretation and that my dissertation depends on it; nevertheless, I have chosen not to present this interpretation in any straightforward manner. The reason is that the philosophical problems raised by the comprehensive interpretation of these dialogues are so difficult that it will exhaust my current project just to articulate these problems in the context of the dialogues. I hope that by the end of this dissertation, those familiar with the dialogues will see my comprehensive interpretation emerging in the sum of the parts.

⁸ I take the ὧν with aorist subjunctive to indicate, roughly, an object clause of effort.

probably omitted antecedent; I propose that the effect is exceedingly general, something to the effect “about any such things.” I don’t believe that the relative pronoun is *directly* linked to the subjunctive clause that follows it; although, I admit that something to this effect is possible, e.g, “they are careless as to what things their argument would be about.” Even this rendering might support the interpretation I shall now propose. I maintain that περὶ ὧν modifies οὐ φροντίζουσιν ; thus, “they are unreflective about any such things.” This frees-up the subjective clause to *exemplify* just the sort of things about which they are unreflective, namely that “their argument would even be (an argument).” My point is that the lovers of strife are *not* unreflective as to what their arguments are *about*; rather they are unreflective about whether their “arguments” even *are* arguments. The second “way” that Socrates risks being like the lovers of strife (hence being unphilosophical) is in the way that they are zealous (προθυμοῦνται). The lovers of strife are zealous for this (τοῦτο): that the things which they stipulate (ἃ αὐτοὶ ἔθεντο) should seem to those present ($\text{δόξει τοῖς παροῦσιν}$) *to be* these things (ταῦτα). Again, the antecedent of ταῦτα is unclear. If we accept my interpretation of the first half of the μέν...δέ construction, then it is natural to interpret ταῦτα , like περὶ ὧν , as referring very generally to any such things about which disputants *argue*. Thus, the lovers of strife are zealous for their opponents to suppose that the things stipulated are the sorts of things about which they are arguing.

I grant that this interpretation of the μέν...δέ construction, at *Phd* 91a4-6, is not the only one possible. However, it has the advantage of perfectly representing my understanding of the preceding context. Socrates ostensibly (directly) provides an

argument from analogy against misology; he risks being unphilosophical in two ways: One, he is careless in not considering the *real* objection to his argument: the misologist contests the very definition of ‘argument’ — it may be that Socrates’ analogy with misology *is* an argument, but arguments, for the misologist, are not the sort of things to be trusted. In this way Socrates does not consider *that* his argument *is* an argument; Socrates is careless about *what* an argument *is*. Two, Socrates risks being unphilosophical by making his stipulated definitions seem to be real arguments.⁹ In this case of arguing for the value of argument, merely tricking your opponents into accepting your premises — while perhaps very *effective* — undermines your conclusion. In these two, closely related, “ways” Socrates risks being “not philosophical.” While my interpretation of these passages may seem overly “technical,” they confirm a very general and very plausible conclusion: it is impossible to (directly) convince a misologist of the value of argument by means of argument. Yet, it is possible for Plato to (indirectly) convince *us* of the value of argument because, like the dramatic interlocutors, our very participation in the conversation thus far insures that we are *not* committed misologists.

Plato subtly indicates the exterior and the interior capacities of philosophy in this passage from the *Phaedo*. The external capacity is the skill of discerning *that* argument ought to be trusted, even if our skill in arguing (the internal capacity) is not always to be trusted. This external capacity is not philosophical in the internal sense because, from the perspective of meeting the challenge of the committed misologist, this discernment of the

⁹ See *Phd* 101d-e, where Socrates rejects the debaters precisely for confusing their premises for conclusions.

boundaries of arguments is not itself an argument; it is more like stipulating from the perspective of misology. The internal capacity of philosophy involves the ability to “adequately perceive” the boundaries established by the external capacity. *Phaedo* remarks that Socrates “keenly perceived [ὀξέως ἤσθετο] us (and) what we had suffered by those arguments” (*Phd* 89a5-6). Socrates keenly *intuits* the effects (ὁ πεπόνθημεν) of the foregoing arguments upon his deeply sympathetic listeners. This intuition is a clear case of “seeing” where the rules apply and where they don’t. One function of the internal capacity of skill at arguing is seeing the effects or consequences of particular arguments. Socrates “perceives” the consequences of the arguments for and against the immortality of the soul; one consequence is for his interlocutors to flee into misology. From inside the arguments, Socrates’ “perceived” this consequence; from outside argument-as-such, Socrates discerned the boundaries of argument that would re-establish the normal situation where the sympathetic interlocutors *agree* about one crucial stipulation: *that* argument is the best way to proceed. It was precisely to *avoid* the exceptional encounter with a genuine misologist—who might as well execute Socrates, rather than listen to his “argument”—that Socrates employs the internal and external capacities of philosophy, thus ensuring a normal situation where interlocutors *discursively* agree to certain assumptions.¹⁰

I will return to this peculiar situation of suspending the rules in order to preserve

¹⁰ This passage from the *Phaedo* exemplifies my claims about the internal and external capacities of philosophy in the *Sophist*; it does so independent of whether or not the so-called Theory of Forms in the *Phaedo* is the same as the “Theory of Forms” in the *Sophist*. I have no desire or need to engage the debate over chronology. Nevertheless, this exemplary passage from the *Phaedo*, in addition to the reading of the *Crito* that I provide in the next chapter, *could* provide support to a sort of unitarian reading of the corpus.

them. My concluding chapters will be dedicated to understanding this situation in an explicitly political context. Socrates externally suspends the internal “rules” of discourse or argument in order to ensure the normal situation in which these rules are able to function. This insight is achieved by *reading philosophy*; thus, stipulating, e.g., that argument is to be trusted, is *part* (the external part) of Platonic philosophy, understood as the essentially indirect or interpreted meaning of a dialogue. I may call this meta-philosophy but it is only “unphilosophical” from the perspective of the internal, exclusively discursive, *part* of Platonic philosophy, understood as the arguments *within* a dialogue. If I were of a more analytic disposition, I might label external, indirect philosophizing ‘philosophy_{ex}’ and internal, direct philosophizing ‘philosophy_{in}.’ The advantage to such stipulation would be to highlight the way that, for Plato, “meta-philosophy” is a part of philosophy most broadly and correctly understood. The disadvantage of such conventions is obvious. Rather, I will continue to talk about internal and external *capacities*, abilities or competences. What is most remarkable is that Plato is able indirectly to articulate two very different capacities by means of one super capacity, the super capacity of which the internal and external capacities are only *parts*; that super capacity is Platonic philosophy. While these thoughts on Platonic “method” may sound abstract in the extreme, I introduce them in order to conclude this chapter with a careful interpretation of a critical passage in the *Sophist*. The battle between the Gods and the Giants (*Sph* 246a-249d) exemplifies the breakdown of the normal situation. Competing camps of “experts” disagree about the most fundamental

premise of all: the boundaries or definition of the word ‘Being.’¹¹ Of course, the battle is presented as a sort of fable and neither of the two parties to the battle are ever *directly* called experts. Yet, it is quite clear as well that the opponents represent two fundamentally different *philosophical* starting points: materialism and idealism. I will be reading these passages *as if* the gods and the giants were (at least potential) philosophers who disagree about first principles; their battle provides a perfect example of Platonic indirection. It is likely that Plato would deny that the earthborn giants and even the friends of the form *are genuine philosophers*. Nevertheless, the broader point is to examine what philosophy is; thus, Plato presents two camps that are only dubiously philosophical precisely because *what counts* as philosophy is not determined in advance, but articulated indirectly through the dialogue. *Within the dialogue* these two camps are *incommensurable* in the strongest sense of this word; their disagreement is a violent battle because they share no boundaries within which any rules could resolve their difference. Yet, *from outside* their battle, we can discern the common ground that the combatants cannot: Being is a *capacity* to act and be acted upon.

¹¹ One might object that the earthborn giants are hardly “experts.” But, an expertise is always an expertise *of something*; while the materialist expertise may be very different from the idealist expertise, the whole point of questioning the boundaries of Being is to call into question the system of expertise based upon these original boundaries. External questions, as Carnap rightly maintains, challenge “the existence or reality *of the system of entities as a whole*” (Carnap 1967, 73).

Chapter Four, Section Three:
The Battle Between the Gods and Giants, Expert Disagreement

The dramatic context of the battle is a sort of mythical survey of the history of philosophy.¹² This “survey” leads immediately to the dialectical expertise with which I began. The overriding concern in the “survey” is a whole complex of problems very much like the ones discussed in the second half of the *Parmenides*. The complex of problems is basically this: *whatever* you consider the first principle or principles of reality, it is extremely difficult to articulate these principles discursively and without contradiction. For my purposes this complex of problems can be restated in the following terms. First principles are boundaries or definitions *of something in the world*. Any attempt to define these involves giving an account of the essence, or the being-what-it-is, of each of the principles. Thus, in order to be *what* it is, each of the principles must have boundaries that “overlap” and don’t “overlap” in particular ways; this is the necessity *that* the kinds mix and don’t. Thus, any (correct) *articulation* of these original boundaries must *refer* to the things in the world.¹³ In the middle of this complex of problems, Plato turns to a battle over *to just what* the name ‘Being’ refers.

First, in a moment of rare candor—as if, Plato himself were explaining *why* he

¹² *Sph* 242c-252e. I believe Nightingale 1995 is right that Plato is effectively inventing philosophy. I call the narrative a “history of philosophy” because part of inventing philosophy involves determining *what counts* as philosophy. Plato addresses the Presocratics precisely because what-philosophy-is has become a question, and they are the most obvious contenders for the claim to philosophy, even if they are ultimately rejected by Plato.

¹³ There is overwhelming evidence that questions of reference, as opposed to questions of sense (see Frege 1952, 56-78), are omnipresent in the *Sophist*. That is, the present context as well as the opening exchange with Socrates, are primarily about *to what* the relevant names refer, as opposed to about *what* these names *mean* or *what* the things named *are*.

introduces the battle—the Eleatic Stranger asserts that the *purpose* of examining the battle is so that we see from *outside*, *all* of the competing positions (ἴν' ἐκ πάντων ἴδωμεν, *Sph* 245e8). My peculiar problem of self-definition is thus suggested: how in the world could you see *from outside* all of the positions? Isn't your very account of the battle *another position* that is necessarily included in *all* of the positions? Clearly we must be on our toes about *what* we are about to “see;” because if it is just another position, alongside the gods and the giants, then we have failed to see *from outside*. *What* we shall see is that “to say what Being is, is no easier than not-Being (and to say) what in the world (it) is” (*Sph* 246a1-2). *What* we are going to see is the fundamental difficulty of the whole Socratic project, understood as answering τὶ ποτ' ἔστιν questions like τὶ ποτ' ἔστιν, ὁ σοφιστής; (*Sph* 218c6-7). The difficulty, in a nutshell, is that the participants to the debate *do not agree* about *what it is* they are trying to represent in words. It is obviously very difficult indeed to say *what Being is* when you do not agree about *to what* the name ‘Being’ refers. Again, the difficulty is *to say* (εἰπεῖν) *what Being is* when there is a genuine dispute *that Being is anything in particular*.¹⁴

The dispute is like a gigantic battle (γυγαντομαχία); although, this “like” (ἔοικε γε) only indicates the Stranger’s original tentativeness. Thus, it *seems* that the dispute in question is a battle; the characterization of this battle makes it clear that it *is indeed* a

¹⁴ It is worth repeating that *within* the context of a disagreement over the reference of a name, the disputants don’t agree that Being, as understood by their opponents, *is* anything. From outside this context, *we* can see that each of the disputants thinks Being is something; but the very fact of the dispute means that *for the disputants* Being isn’t anything in particular. Following what should by now be a commonplace, since ‘to be’ is ‘to be something in particular,’ it follows that the dispute challenges the very existence of Being; the dispute is *external* to Being... a peculiar sort of battle, to say the least!

battle.¹⁵ Notice that the friends of the forms defend their position “by over powering with force” (βιαζόμενοι) and “shattering into little pieces” (κατὰ σμικρὰ διαθραύοντες) the primary entities of their opponents. Likewise, the earthborn giants “drag everything into body *by force*” (εἰς σῶμα πάντα ἐλκόντων βίᾳ). Thus, the two parties to the disagreement “have been bound together in eternal and boundless battle” (ἄπλετος ἀμφοτέρων μάχη τις...ἀεὶ συνέστηκεν) (*Sph* 246b6-d2). Against Notomi, I see no evidence that this battle is merely a “metaphor” for vigorous debate. The nature of the disagreement entails that the combatants have no common ground within which to debate. A debate presupposes *rules* of debate; but the rules of discourse are generalized from some predetermined class of legitimate speech. The two parties to this “debate” do not even recognize one another’s “arguments” *as speech*. Thus, they share no rules within which to debate. Battle is the ultimate venue for all incommensurable disagreements. The materialist party in the battle, the earthborn giants, “despise in every respect (their opponents) and are unwilling to listen to anything else” (καταφρονούντες τὸ παράπαν καὶ οὐδὲν ἐθέλοντες

¹⁵ Noburu Notomi considers these passages a “metaphor.” The metaphoric battle represents a deliberative debate. Yet, Notomi rightly remarks that there “is no dialogue” between the materialist and idealists of the *Sophist* (Notomi 1999, 217). War and battle just *are* the failure of dialogue; when competing opinions can no longer be adjudicated in speech or argument war is at hand. Thus, given the lack of dialogue between the materialists and the idealists, there is no reason to consider their battle metaphorical at all. Notomi is also naïve to assume that the interlocutors can act as adjudicator of the warring parties: “Inquiry in this way breaks the exclusive antagonism between the two parties and creates a possibility of dialogue” (Notomi 1999, 218). For one, Notomi is quite aware that the interlocutors do not actually “elicit agreement from materialists”; rather, the interlocutors only “imagine that [the materialists] would answer more according to rules” (Notomi 1999, 217-218). The imaginary agreement fundamentally alters the grounds on which the battle took shape. Indeed, Plato acknowledges that the true materialists concede nothing (*Sph* 247c47). The so-called “concession” that the interlocutors “elicit” from the warring parties is really no more than a third party to the battle, Notomi admits as much: “the inquirers must fight against both” (Notomi 1999, 219). Now, *we* can see a common measure only from *outside* the dialogue. This may seem like a distinction without a difference, but Notomi’s whole project is underwritten by the belief that the interior capacity of philosophy *alone* is capable of defining philosophy. Notomi’s failure to see the necessary *exterior* capacity of philosophy explains his contradictory remarks on the passage in question.

ἄλλο ἀκούειν, *Sph* 246b2-3).

The reference to “despising” and being unwilling to listen should remind us of a very relevant passage in the *Crito*.

Therefore one must neither return injustice nor do evil to anyone, no matter what you should suffer by them. And see, ὁ Crito, that by agreeing to these things in this way you would not agree with your own opinion: for I know that these things seem and will seem (to be the case) for a certain very few. Then, for the ones having come to believe and not having come to believe thus, for these there is no common ground of argument [κοινή βουλή], but, seeing the designs of one another, it is necessary that they despise [καταφρονεῖν] each other. (*Cr* 49c10-d5)

I will return to the importance of agreeing with oneself in the context of the *Crito* in the next chapter (see p190, Chapter 5). It is not hard to see the close relation between agreeing with oneself and *obeying* the Principle of Non-Contradiction. In the context of the battle between the gods and the giants, we see that in the *Crito* at least, despising one another’s views is a direct result of having “no common ground of argument.” While *logos* is not mentioned explicitly in this passage, Liddell and Scott cite *Cr* 49d as an example of one of the meanings of βουλή, namely to “have no common ground of argument.” In the absence of a superior *determination* by an arbiter or mediator, the differing opinions are reduced to τὸ καταφρονεῖν. Thus use of this verb at *Sph* 246b2 strongly suggests that the gods and the giants are at just such an impasse; they lack a common ground because it is precisely the “ground” of everything, Being-itself, about which they disagree.

I am interested in the battle precisely for the way that it illustrates a sort of radical disagreement, a disagreement about the *starting points* of conversation. The disagreement centers on the *definition* or *boundaries* of Being, οὐσίαν ὀριζόμενοι, *Sph*

246b1 (see also *Sph* 248c4-5). The incommensurability of the combatants is explicitly indicated in the text; this incommensurability also follows from the necessary condition of *logos* at *Sph* 259e-260b. *Logos* is only possible if the kinds, including Being, mix and don't mix in determinate ways. The gods and the giants disagree about the boundaries of one of these kinds; thus, they disagree about the necessary conditions of *logos*. The disagreement over Being entails a disagreement about *what counts* as *logos*. Clearly no *logos* will be able to arbitrate this disagreement. In order to understand the importance of Plato's characterization of the radical disagreement, it is essential to see the explicit structure of the passage. The Eleatic Stranger and Theaetetus attempt to elicit *one* peculiar definition of Being from the two, irreconcilable positions. "We established somehow that the sufficient definition of being [ἰκανὸν ἔθεμεν ὄρον που τῶν ὄντων] (is) whenever a thing should have with it¹⁶ the capacity to suffer [πάσκειν] or to do [δρᾶν], even with respect to the smallest (of things)" (*Sph* 248c4-5). It is crucial for my purposes to see that this attempted reconciliation *fails* in terms of the direct argument *within* the text.

First, the interlocutors can't even get the genuine materialists to the table. Rather, the interlocutors "make (the giants) better" (βελτίους αὐτοὺς ποιεῖν) "by *supposing* them to be more conformable to *law* [νομιμώτερον] than they would now be willing" to be (*Sph* 246d4-7). The genuine materialist don't follow the *rules* and it is likely *impossible* (ἀδύνατον, *Sph* 246d1) to get them even to answer our interlocutors' questions. These

¹⁶ I take τῷ παρῆ as an indefinite article standing for "a thing" with the present, third-person singular subjunctive of πάρειμι (*sum*). Further, I translate τῷ as a dative of possession, literally read as "whenever it should be present *to* a thing;" thus, "whenever a thing should have present or with it" the relevant capacity.

genuine materialists are the “born from seed and sprung from the land itself” (σπαρτοί τε καὶ αὐτόχθονες) hence they have no custom or law that applies to them; they are *shameless* (οὐδ’ ἄν ἐν ἐπαισχυνθεῖεν, *Sph* 247c4-5). The interlocutors do indeed elicit the implicit definition of Being from certain materialists (*Sph* 247e5-6), but only from the imaginary ones that they have made-up in speech (εἰ δὲ τοῦτο μὴ ἐγχωρεῖ, λόγῳ ποιῶμεν, *Sph* 246d5). Second, the idealists, or friends of the forms *never* accept the definition Being as *dunamis*, or capacity. Rather, the friends of the forms accept the common definition only for Becoming (*Sph* 248c7-9). The capacity to act or be acted upon involves *change*; both to act and to be acted upon are to change. For the friends of the forms, Being is changeless:

We communicate [κοινωνεῖν] with body though perception, by means of Becoming, and with soul though calculation about genuine Being which is in just this way always in accordance with the same things; whereas Becoming is different at different times.¹⁷

Campbell 1988 points out that κοινωνεῖν “plays an important part in the sequel” and is introduced here. We have seen that κοινωνεῖν is precisely the “communicating” that

¹⁷ *Sph* 248a10-13: Καὶ σώμαι μὲν ἡμᾶς γενέσει δι’ αἰσθήσεως κοινωνεῖν, διὰ λογισμοῦ δὲ ψυχῇ πρὸς τὴν ὄντως οὐσίαν, ἣ αἰεὶ κατὰ ταῦτα ὡσαύτως ἔχειν φατέ, γένεσιν δὲ ἄλλοτε ἄλλως. I follow Campbell 1988, p126 *Sophistes*, in taking γενέσει as an instrumental dative; Becoming is the instrument with which we communicate with body through perceptions. Most interpreters take γενέσει as the first part of the μέν...δέ clause, with οὐσίαν being the second part. Thus Benardete 1986, p41; White 1993, p39; Cornford 1951, p239; and Notomi 1999, p219 all set-up the μέν...δέ contrast between Being and Becoming. This makes good contextual and philosophical sense, but grammatically it doesn’t really follow; Becoming is in the dative singular; whereas ‘being’ is introduced by πρὸς, in the accusative, and not obviously linked to the δέ. What *are* linked by the μέν...δέ are ‘body’ and ‘soul’. Thus, in the first clause Being and Becoming are indirectly contrasted in this way: Becoming is that *by means by which* we communicate with body (through perception) and Being is that *with respect to which* we communicate with soul (though calculation). There is a second δέ contrasting ‘becoming’ in the accusative with ‘being’ in the accusative, represented by the relative pronoun. However, it is not at all clear that or how this latter contrast should be taken with respect to the former contrast between body and soul. The four interpreter-translators cited all ignore the πρὸς that introduces ‘genuine being’; it seems to me that the πρὸς quite naturally provides an object for λογισμοῦ.

obtains between certain kinds and not others (*Sph* 253e1). I take it for granted that Plato has a more natural affinity with the friends of the forms than with the earthborn materialists, *whether or not* we accept the *explicit* statement of the idealist position as Plato's considered view (I believe we should not). The point is that Theaetetus' defense of the friends of the forms has *the experts* "communicating" with body and soul; whereas, the Stranger's characterization of dialectical expertise has *the kinds* "communicating" with one another. Thus we are already introduced to a very peculiar similarity: the way the friends of the forms relate to the primary objects *about which* they talk, namely body and soul, is just like the way the forms relate to one another. I maintain that this similarity confirms the implicit definition of Being as the capacity to act and be acted upon: if Being is a capacity to act and be acted upon and the dialectical expertise is a capacity to act and be acted upon, then dialectical expertise is strangely the same as what it discerns.

The friends of the forms *never accept* the implicit definition of Being as capacity because, for them, Being is unchanging, τὴν ὄντως οὐσίαν, ἣ ἀεὶ κατὰ ταῦτ' ὡσαύτως ἔχειν (*Sph* 247a11-12). They reject the implicit definition at their own peril: doing so entails that they "will be easily persuaded that change and life and soul and practical wisdom [φρόνησις] truly don't belong to that which completely is [τῷ παντελῶς ὄντι μὴ παρῆναι]; that the thing remaining motionless, having no insight [νοῦν οὐκ ἔχον], is neither living nor thinking [φρονεῖν], but (remains) revered and holy" (*Sph* 248e6-249a2). Let me be perfectly clear, the earthborn giants, the *real* materialists and the friends of the forms, the *real* idealists, *never agree* to the implicit, consensus definition of Being; their

disagreement remains an impasse. Moreover, even the interlocutors only attempt to agree to the implicit definition: they seem willing to admit that “that which completely is” has some share in practical wisdom, insight, soul and life. This willingness is indicated by the conclusion of the battle narrative, at *Sph* 249a-b: “And one must indeed concede the thing moved and the movement as beings” (*Sph* 249b2-3). By allowing life and soul into the boundaries of Being, the interlocutors must admit that Being both changes and is changed; thus being is the capacity to act and be acted upon. However, even the interlocutor’s attempted discernment of this definition of Being reduces the philosopher to the childlike position of begging for *both*: “For the philosopher, who wholly honors these things most, necessarily... says, according to the vows of children, *both*: as many are unmoved having been moved, so many are both Being and the Whole” (*Sph* 249c10-d4). This peculiar situation leads into a long and complex discussion of just how Being can “include” both Change and Rest (*Sph* 250a-252e). What is crucial for my purposes, is that the childlike insistence for “both” is *not* a direct, discursively achieved, resolution to the battle between the gods and the giants. The interlocutors immediately *reject* this attempted resolution as “at a loss” and “in extreme ignorance” (*Sph* 249d9-e4).

The interlocutors are “at a loss” (ἀπορίαν) and unable to come to expert agreement about *what Being is*, nevertheless Plato indirectly suggests a solution to the impasse between the gods and the giants. The notion that Being is a capacity to act and be acted upon is elicited from a sort of moderate, law-governed materialism; likewise, if the friends of the forms would just admit life and soul into Being, then they too would agree to Being as a capacity. While the combatants and even the interlocutors are unable to

achieve this agreement *within discourse*, we are able to see the virtues of just such delimitation of Being. By reflecting on the battle *from outside* (*Sph* 245e8), we can see the enormous value of defining Being as a capacity to act and be acted upon. Once again, the friends of the forms have revealed an essential aspect of Being by what they *don't say*. Being must include life and soul; in this respect Being is remarkably similar to the experts who investigate Being. This similarity serves the vital function of holding together the delicate balance between activity and passivity in the characterization of dialectical expertise. I could say that the Being *corresponds* to the way Being is discerned. Remember, the real trouble that emerges in the exceptional situation is that experts disagree about starting points. The trouble is that the experts *qua* experts would like their original definitions or boundaries to be “correct,” at least insofar as they *don't agree* about these boundaries. If, as in the normal situation, they already discursively agree about starting points, then the question as to whether *what* they have agreed to is *correct* never really comes up. But, in the exceptional situation everything rides on the “correctness” of the competing definitions; correctness seems the only skillful way to resolve the disagreement.

The expertise that could answer the question of correctness is dialectic and it is *both* active collection and division according to kinds and passive perception. Neither the active nor the passive aspects of dialectic *alone* can make sense of the text or the philosophical problems with which it deals. The passive aspect is non-discursive intuition; alone, this sort of divine insight only aggravates the disagreement it is meant to resolve. Either party can claim “correctness” if divination is the only means of arriving at

definitions, or starting points. The active aspect of dialectic is arbitrary; collection and division in this sense becomes the stipulation of discursive rules. But, rules are merely convenient ways of generalizing a *previous* judgment about *what counts* as discourse. Rules aren't even supposed to *correspond* to the way the world really is; rules are merely conventional models or imitations of the conditions that determine some previously delimited class, e.g., the class of discursive, grammatical or logical utterances. Once again, either party can stipulate its own conventions based upon *different* boundaries of the relevant class or kind; each of the stipulations, in this extreme situation, are as "correct" as the other. I claim that Plato's solution is to hold *both* the active and the passive capacities of dialectic together as "components" or "aspects" of *one* expertise. Indeed, Plato and I have argued that expertise-as-such necessarily presupposes *both* an internal, passive capacity and an external, active capacity. I suggest that Plato's notions of *diakrinein*, *diairesis* and *horizo* do the work of balancing the active and the passive components that are necessary for any *account* of original starting points to be "correct."

In a truly remarkable way, Plato solves the problem of correctness by (indirectly or *externally*) "positing" a definition of Being. *If* Being is a capacity to act and be acted upon, and we understand 'correct' to mean in effect '*corresponds* with reality or Being,' then Plato's external and indirect definition of the dialectical expertise (including its internal and external capacities) is *correct by definition*. Now, this is *not* to say that any particular description of the mixing of the kinds *is correct*; the *results* of dialectical discernment must be judged according to the rules of discourse and it is likely that the best we could hope for such results is that they are agreed upon by experts. I don't

believe that we find such expert agreement in the *Sophist*, but even if we did, such results could not claim to be “correct” in the sense that Plato discusses in the characterization of dialectic. Let me baldly assert that no matter how hard we try to interpret the dramatic discussion of the five greatest kinds *we will never find a correct* description of how the kinds mix. I believe Plato thinks it enough that we know *that* they mix in certain determinate ways. Furthermore, if we take the notion of Being as a capacity seriously, then it may be impossible that any particular description even could correspond to this capacity. To speak in overly general terms, Being is life and soul, no account or rule could ever *accurately* correspond to this capacity because capacities are not the sorts of things to which *logoi* or *nomoi* even could correspond. But this is to get ahead of myself.

In conclusion, I believe I have shown that the text of the *Sophist* and the philosophical problems it entails require that the dialectical expertise be understood in terms of *two* capacities: the capacity to act is to collect and divide according to kinds, to choose or judge (*diakrinein*) the way the kinds mix and don't; the capacity to be acted upon is adequately to perceive the determinate boundaries of the kinds. *Both* these capacities are necessary for any correct description of the mixing of the kinds; yet neither is sufficient by itself. I have suggested throughout that these dual capacities are Plato's means of addressing, not dismissing, a profound arbitrariness that is not reducible to the arbitrariness of hypotheses or axioms. I admit that I have said precious little about this arbitrariness that motivates Plato's characterization of dialectical expertise in the *Sophist*. In general, this peculiar arbitrariness is best approached through a simple question: Is Plato's account of the dialectical expertise, or philosophy, correct? Well, yes and no. If

Plato offers an “account” of dialectic then it would be very hard to call it correct because he doesn’t exactly *argue* for it. Rather, he characterizes it in a way that draws attention to its genus, or necessary conditions; dialectical expertise *qua* expertise involves an internal and an external capacity. Of course, we have only the barest of suggestions of this distinction in the text; it is for this reason that I developed the necessary conditions of expertise as a universal problem of which Plato was almost certainly aware.

Nevertheless, it would be a stretch to claim that either the *Sophist* or the *Statesman* contain an *argument* justifying the claim that dialectic involves *both* decision and intuition. On the contrary, Plato seems to have “posited” this definition in such a way that we “find” it when we think about the *Sophist* in just the way I have explained in this chapter. But, this “positing” is not the same thing as hypothesizing; rather it is the exercise of the external capacity of dialectic itself under the exceptional situation where experts don’t agree about *what counts* as an argument. An hypothesis is mere stipulation. Insofar as the determinate class of shoes is unquestioned, it is a hypothesis and this means that its potential correspondence with reality never really comes up. Insofar as cobblers *agree* (even tacitly) about the determinate class of shoes, it is not a hypothesis; following Shorey, I maintain that reaching expert agreement about starting points is the result of the external capacity of an expertise. While hypotheses can normally be “confirmed” by discursive inquiry into their plausibility (via *nous*), such confirmation rarely, if ever, results in the claim that the hypothesis corresponds with reality, and so much the better for the normal practice of science or expertise. Plato does not hypothesize a definition of dialectic; rather he determines what dialectic really is and articulates what dialectic really

is with recourse to the essentially indirect method of dialogue. Lest you think that this discernment actively stipulates, i.e., arbitrarily determines, the definition of dialectic, Plato discerns the nature of Being in just such a way that it *actually corresponds* to his definition of dialectic. Dialectic corresponds to Being just insofar as both are the capacity to act and be acted upon.

Chapter Five: The Rule of Law and External Authority

Section One: *The Interdiction of Inquiry*

In the first two chapters of this dissertation I introduced a universal problem that arises whenever an expertise attempts to define itself; this problem is the primary concern of Plato's *Sophist* and *Statesman* because these dialogues attempt to define the limits of philosophy philosophically. By carefully interpreting clues from the *Sophist*, I outlined Plato's solution to this problem: the only way that an expertise can establish its own limits is with recourse to two distinct capacities that are *both* components of the *one* expertise in question, philosophical expertise. Expertise-as-such requires an internal capacity that articulates and applies rules of the relevant subject matter; expertise-as-such also requires an external capacity that discerns the boundaries of this subject matter; only *within these boundaries* are the rules of an expertise even possible. By means of such a distinction, I suggest, it is possible for an expert to exercise her external capacity in order to *define* the internal capacity of her very expertise; only in such a way could an expertise define itself *and* have the confidence in this definition that the expertise rightly provides. In Chapter 3, I demonstrated Plato employing just such a distinction: The internal capacity of philosophy is *logos* or argument, *logos* presupposes a distinct and partial mixing of the kinds. The external capacity of philosophy is to collect and divide the kinds by *both* passively seeing the way the kinds actually mix and don't, *and* actively

choosing or discerning according to kind the correct expression of this mixing.

Collection-division or *Diairesis* involves both adequate seeing (ἰκανῶς διαισθάνεται, *Sph* 253d7) and *judgment* (διακρίνειν κατὰ γένος, *Sph* 253e1-2); in normal situations *diairesis* does not reveal its own complexity. Normally experts simply *agree* about what count as *logoi*, proceed “downward” by giving arguments and even proceed back “upward” (in light of the *results* of the “downward” arguments) to inquire and ultimately agree about what counts as an argument. This whole normal procedure is deeply discursive throughout and it rests on the expert sanctioned agreement that thought is essentially discursive.

I maintain that, in the *Sophist* and *Statesman*, Plato does not exercise or describe the normal functioning of philosophical expertise as he *does* in the *Republic*, in terms “downward” (*dianoia*) and “upward” (*nous*) movements of thought. Rather, the pair of dialogues introduces an exceptional situation in which experts are unable to achieve agreement about starting points; in this case experts are unable to agree about *what counts* as an argument. Plato’s concern with the exceptional situation explains his far more complicated characterization of the external capacity of philosophy, not in terms of *nous*, but in terms of collection-division (*diairesis*), adequate seeing, and judging or discerning (*diakrinein*).¹ Both *nous* and these latter three capacities are functions of

¹ Other than outlining its inherent activity and passivity, I have said relatively little about what I am now calling the “far more complex” aspect of dialectic, apparent only under exceptional situations. This complexity is indicated by the passages examined in the last chapter; however, I fully grant that I have not yet really given an account of this complexity. The full account of the exercise of dialectical expertise under exceptional circumstances will emerge only gradually, as I proceed through the crucial passages in the next two chapters. As a promissory note, I suggest that the full account of dialectical expertise will require a very general understanding of collection-division or *diairesis* and its necessary interiority and exteriority.

dialectical expertise, or the external component of philosophy; but, *diairesis* and *diakrinein* are explicitly motivated by the concern with “correct expression” (διὰ τῶν λόγων πορεύεσθαι τὸν ὀρθῶς μέλλοντα δείξειν, *Sph* 253b10-11) and this concern never really comes-up in the normal functioning of *nous*. Of course, experts normally concern themselves with their starting points with recourse to *nous*, and this concern is *like* asking whether the starting points are “correct.” However, I am arguing that the *normal* concern with “correctness” of starting points is reducible to agreement and when agreement is not forthcoming (i.e., in exceptional situations), questions of “correctness” become questions of competence, e.g., who has the authority or competence (*dunamis*) to judge or choose (*diakrinein*) the correct starting point?

It may be helpful to remind ourselves why I examined the argument against misology in the *Phaedo* and the battle of the gods and giants in the *Sophist*: first, because they nicely illustrate an exceptional situation where experts disagree; second, because Plato’s *solution* to expert disagreement is not (indeed *can not* be) presented directly as a position argued for by the interlocutors. I confess that a sharp distinction between ‘what Plato says’ and ‘what any given interlocutor says’ is a distinction about which it is extremely difficult to give an account. Trying to get at “what Plato *really* said” is like trying to see your friend, the *real* one, in a house of mirrors. Nevertheless, I am working with the (at least) heuristic assumption that Plato really does say *something* and that it is not necessarily reducible to something any one of the interlocutors says. I believe I have illustrated this sort of reading by interpreting the battle between the gods and the giants as “confirmation” of the definition of dialectical expertise. Dialectical expertise

corresponds to Being just insofar as both are the capacity to act and be acted upon. Clearly no interlocutor “says” as much, but I claim to have provided good reasons for believing Plato “says” just this. There is one minor confusion that may result from this “house of mirrors” effect, with respect to the external capacity of philosophy: on the one hand, I have said that collecting and dividing and discerning according to kinds is the exercise of this capacity; on the other hand, I have said that the writing of the Platonic dialogue—which is essentially implicit *and* discursive—is the exercise of the external capacity of philosophy. These are two “hands” of the *same* body; they are only incidentally separate. Nevertheless it behooves me at least to suggest how these could be the same thing *viz.* dialectical expertise. Another way in to this potential confusion is to notice that I claim that dialectical expertise has passive, internal capabilities and active, external capabilities. Thus, the philosophy’s external capacity *itself* has internal and external capacities. This follows necessarily *if* Platonic philosophizing about philosophy is *itself* an expertise.

There is no way out of this regress, nor should there or need there be. The only way “out” of this regress would be to *separate* the two capacities of philosophy and call one prior. In Chapter 3, I analyzed F.M. Cornford as a representative of the sort of interpretation that separates-out and prioritizes the passive, perceptive side of dialectic; I analyzed John Ackrill as a representative of the sort of interpretation that separates-out and prioritizes the active, stipulative side of dialectic. I maintain that Platonic philosophizing about philosophy is *both* essentially implicit and essentially discursive. By maintaining a balance between these two, Plato both “sees” the conclusions for which

he implicitly argues and “stipulates” the discursive rules according to which the interlocutors all already talk. Of course, there is nowhere in any Platonic dialogue where *Plato* “sees” or “stipulates” anything. Plato addresses the dual capacities of philosophizing (about philosophy) *indirectly*, by exploiting the identity between collecting and dividing according to kinds and inquiring into the boundaries of philosophy.² Thus, to oversimplify, *diairesis* is a sort of imitation of Platonic philosophizing. Plato is able to indirectly articulate the very *practice* of philosophizing (about philosophy) by contriving a dramatic inquiry into *diairesis*.

The *Statesman* is an inquiry into *diairesis*. The *Statesman* spends so much time digressing on the proper method of collection and division that one rightly wonders what the real purpose of the dialogue is. It is no wonder that A.E. Taylor goes so far as to claim,

Ostensibly the purpose of the [*Sophist* and *Statesman*] is to discriminate between two types of men [...] The really serious business of both dialogues is to enforce the necessity, for a real scientific understanding of the world, of a correct discrimination of things according to their true kinds, and the value for this purpose of the method, specially cultivated in Plato’s Academy, of precise and careful subdivision of *genera* into their constituent *species*. It is this method, with its implications, with which Plato is really most concerned in these dialogues.” (Taylor 1961, 9)

Taylor goes too far; it should be *obvious* that any (Platonic) scientific method worthy of the name *must* concern itself *foremost* with distinguishing philosophy from its rival

² It may seem like overstatement to claim that *diairesis* and Platonic philosophizing about the limits of philosophy are “identical.” Yet, I maintain just this. To lend initial plausibility to this claim—that will be “justified” by my interpretation of the dialogues—it is helpful to think of *diairesis*, or collection-division, as the very structure of human thought. While *dianoia* captures one aspect of human thought and *nous* another, *diairesis* is the structure of *both* “deductive” reasoning *and* “intuitive” grasping of principles, see footnote 6, below.

expertise, sophistry; further, Plato is well aware that “science” happens only within political communities in which expertise is welcomed and fostered; thus, discerning a genuine statesman must be just as imperative to “scientific method” as the method itself. I follow Notomi 1999 and Lane 1998 in maintaining that the “ostensible” purpose of each dialogue must be, in some very important sense, the *primary purpose* of each. My concern with the limits of philosophy is not meant to relegate the attempted definitions of sophistry and statesmanship to surface play; these are far more than merely “ostensible” attempts. Yet, since my concern is with the dialogues taken *as a pair* I do not carefully articulate the primary purpose of each dialogue individually; this, Notomi and Lane do exceedingly well, and I hope that my inquiry complements each of theirs.³

³ Employing my distinction between the internal and external capacities of philosophy, I can now indicate that I believe the most important difference between my interpretation and Lane’s and Notomi’s is that each of them, in different ways, articulates the relevant dialogue without recourse to the external capacity that is my primary concern. This is more the case with Notomi than with Lane. While on individual passages Notomi is thorough and insightful, his entire book is motivated by a fundamentally epistemological concern: to distinguish true from false appearances. From the perspective of meta-philosophy, epistemology is essentially a rule-governed affair and thus dependent upon some prior determination of original boundaries; articulating this external determination is the fundamental purpose of the *Sophist* and *Statesman together*. Lane recognizes a non-rule-governed capacity, but paradoxically reduces it to knowledge: “*kairos* is the celebrated defining feature of statecraft in the *Statesman*” (Lane 1998, 146); “The knowledge of how to build or paint does not and cannot, in itself include the knowledge of when building or painting should be practiced. The latter knowledge requires a double appreciation of time and the good. And this is precisely what is united in the notion of the *kairos*, which, being posited as the object of political knowledge, thereby legitimates the authority of its own practitioner” (Lane 1998, 195-6). For Lane, “the *Statesman* is steadfast in vindicating the autonomy and authority of political expertise. The *knowledge* of the good in time...is in this Platonic dialogue the sole basis for genuine political authority” (Lane 1998, 201 emphasis added). My understanding of ‘due measure’ or *to metron* is very close to Lane’s notion of *kairos*; the difference is subtle but crucial. Lane claims “The *Statesman* takes for granted that the person with knowledge should rule, and goes on to ask, ‘what does this consist in, and how is knowledge related to rule?’ and the theoretical interest of this question will concern us in this book” (Lane 1998, 6). My position, for the purposes of contrast, is that the *Statesman* indirectly articulates the way that knowledge *presupposes* rule; thus in the place of “an objective *kairos* knowable by the political expert” (Lane 1998, 5), I find the internal and external components of expertise qua capacity. Any “legitimation” of political authority with recourse to knowledge must, in turn, be “legitimated” by a decision about the boundaries within which this knowledge of the *kairos* is even possible.

Plato's *Statesman* continuously and systematically reflects upon its own "method." Let me cite only one, very striking example: "Again, what now, to us, (is) the inquiry about the statesman [περὶ τοῦ πολιτικοῦ ζήτησις]? Is it for the sake of this thing itself tossed before us rather than (for the sake of) becoming more dialectical about everything? —This too is very clear, that (it is for the sake of becoming better dialecticians) about everything."⁴ The immediate context mentions weaving to draw the obvious conclusion that it was not for the sake of weaving that they provided that lengthy example (see *Sts* 279b-283b); rather it was for the sake of discerning statesmanship with recourse to some sort of perceptible likeness (αἰσθηταὶ τινες ὁμοιότητες, *Sts* 285e1). Nevertheless, the clear implication of *Sts* 285d4-7 is that even statesmanship is investigated *for the sake of* dialectic.⁵ Now, the primary question of the current passages is whether the lengthy collection-division of weaving is of the appropriate size:

I say now that it is clearly necessary for you and me to remember what we have said: each time to render both our censure and approval, at once, of shortness and length; concerning which (i.e., shortness and length) we should mean choosing [κρίνοντες] the long things *not* with respect to one another [μὴ πρὸς ἄλληλα] but according to the class of the measuring art [τὸ τῆς μετρητικῆς μέρος] with respect to the appropriate [τὸ πρέπον], the class we then said we must remember. (*Sts* 286c5-d2)

The next chapter is concerned with the art of measurement (ἡ μετρητικὴ) and the criterion according to which it establishes primary boundaries; here, this criterion is τὸ πρέπον, elsewhere it will be called ὁ καιρός, τὸ δέον, τὸ μέσον, and τὸ μετρίον; I will use the

⁴ *Sts* 285d4-7. All of the major translators agree about the sense of this passage. There is a very minor ambiguity in how to take the dative-infinitive construction: διαλεκτικωτέροις γίγνεσθαι. It must literally mean something to this effect: in order for those more dialectical to become.

⁵ Whether statesmanship is a sort of perceptible likeness of dialectical expertise or whether statesmanship *just is* dialectical expertise or just what the relationship of dialectic to statesmanship is, I need not address here.

English transliteration of the last, ‘*to metrion*,’ to refer to all these generally. As always, these are not technical terms; rather, they indicate various aspects of ‘criterion’ or ὁ ὄρος (see *Sts* 266d-e, *Sts* 292a-294b, *Sts* 296d-297b). It is worth remarking here that Plato explicitly employs the notion of choosing (κρίνοντες) that is the root of *diakrinein* (διακρινεῖν, *Sph* 253e1). Thus, choosing or discerning the boundaries of appropriate length ought to be done according to due measure, not according to the length or shortness of *other* examples. We already have the intellectual tools with which to understand why: determining the ‘too long’ according to another example *presupposes* that this other example *is* an example. You must *first* determine what counts as an example (with recourse to the *external* criterion of τὸ πρέπον, *to metrion*, or due measure); only subsequent to such a “choosing” could relative measure (with recourse to *comparison* of one example to another) even get off the ground. This really is the same point that I have been making about *what counts* as an argument; these introductory remarks about due measure and relative measure are only meant to suggest a deep continuity that unites the *Sophist* and *Statesman*. In Chapter 6, I will fully articulate this continuity with recourse to the art of measurement in the *Statesman*.

Before addressing the art of measurement directly, we must not forget the context within which I have chosen to introduce it: the example of weaving is for the sake of statesmanship and the whole inquiry into statesmanship is for the sake of dialectic. Thus, the Eleatic Stranger continues the previously cited passage as follows:

Again, this (is the case) toward our inquiry of what is thrown before us; the argument commands (us) to be fond of the second, as opposed the first (priority), such that we should find the easiest and quickest (answer to our question), and

the argument commands (us) to honor the very greatest and first (priority): the pursuit itself [τὴν μέθοδον αὐτήν] of being competent to collect and divide according to kinds [τοῦ κατ' εἶδη δυνατὸν εἶναι διαίρειν]; in particular, an argument—which being spoken is very long—should make the hearers better inquirers [εὐρευτικώτερον], this (argument is) to be taken seriously and to irritate no one for being long. (*Sts* 286d6-e3)

Someone might complain about the length of the weaving example or about the length the central myth of the dialogue. If so, the Stranger and Young Socrates are very clear that any problem with these very long speeches, or *logoi*, must *not* be due to their length but rather due to their failure to advance the fundamental project of the dialogue: “it is evident that (anyone so complaining) ought to think that shorter (*logoi*) were making those present become more dialectical [dialektikv^orouw]” (*Sph* 287a1-3). This is a clear example of prioritizing due measure over relative measure. If someone censured the example of weaving because it was too long, then they must have some idea of *that with respect to which* it is too long. If the censure is only to the effect that it is too long compared to the other *logoi* in the conversation, then the censure would assume that the other *logoi* were of “appropriate” length. This is the real question: *what is* the appropriate length? The answer in the present passage is that the appropriate length must be determined with respect to what makes the inquirers better dialecticians, not with respect to other *logoi*. Thus, “too long” must *not* mean “longer than the others;” it must mean “not accomplishing the fundamental task.”

Notice that here, as in the *Sophist*, dialectical expertise is characterized in terms of collection and division according to kinds; *diairesis* is the very image of the external and internal capacities of Platonic philosophizing.⁶ Furthermore, *what* we must most honor

⁶ I grant that this may seem vague or even overreaching at this point. Collection and division according to

and *what* we must use to evaluate the “appropriateness” of *logoi* is “*the pursuit itself* of being competent to collect and divide according to kinds.” Inquiry is this pursuit and method; we must put Inquiry-itself above any rules that would stipulate the appropriate length of our arguments; we must first have some idea of what it is *to inquire*, and only then could we exclude particular arguments as too short or too long.⁷ The concern with appropriate length is almost omnipresent in the *Statesman*, but we must not mistake this concern with some merely rhetorical concern with affect. Rather, we must think of ‘too long’ and ‘too short’ as the *boundaries* of *logoi*; if a speech really is too long—with respect to due measure, *not* with respect to relative measure—then in an important way, it fails *to be* a speech at least insofar as *logos* is understood as the means of Inquiry. As with the battle of the gods and giants, we are indirectly confronted with the question of

kinds is the very image of philosophical activity in its broadest sense; in order fully to make good on this claim, I will need to demonstrate how the *Sophist* and *Statesman*, both implicitly and explicitly argue for just this. My dissertation is this demonstration. Nevertheless, let me suggest that it is neither vague, overreaching, nor provocative to claim that *diairesis* is the very model of human thought and hence Platonic philosophizing about philosophy. All thought happens with recourse to distinctions: distinctions between what you are thinking about and not, and distinctions between the things you are thinking about and the things you are thinking about them. To distinguish or discern the relevant divisions—more generally *to distinguish*—is the necessary condition and ultimate boundary of thought. The *capacity to do* something, namely collect and divide, is *prior* to anything known with recourse to collecting and dividing; Plato makes this *capacity* the subject of the implicit inquiry in the *Sophist* and *Statesman*, and in so doing Plato discerns and establishes the limits of philosophy.

At the risk of redundancy, let me be perfectly clear that I do *not* mean that evaluation of *logoi* must be preceded by a *definition* of ‘to inquire.’ What I *do* mean is that the evaluation of the “appropriateness” of *logoi* is based upon an assumption of *what counts* as inquiry into this matter; normally, this assumption is the result of tacit or explicit agreement by experts and this agreement need not be articulated as a formal “definition.” I maintain that this normal situation is not our concern in the *Sophist* and *Statesman*, and that an exceptional situation where experts fail to agree about *what counts* as Inquiry is explicitly introduced in the *Statesman*. Thus, “having some idea of what it is to inquire” is a matter of *competence*: in the exceptional situation, one must first have some idea of who has the ability or authority to determine the boundaries of inquiry. I am perfectly happy admitting a regress here; insofar as this “having some idea of what it is to inquire” is an expertise, it too is necessarily dependent upon the capacity to determine *what counts* as “having an idea.” I believe Plato addresses *whatever capacity* exercises this external function through his extremely general notion of Inquiry.

what counts as a (good or appropriate) argument. Relative measure is how *not* to determine what counts as an argument. The *Statesman* is concerned with articulating the internal or rule-applying capacity of expertise. The application of rules and the rule-of-law are types of relative measure; as internal to the expertise in question they are necessarily incapable of determining the boundaries within which they function. Rather, some *external* criterion, namely due measure, must first determine the bounds of those things governed by the relevant rules.

If the expertise of measurement according to *to metrion* were itself reducible to a set of rules (I might say “reducible to a *definite* description”), then some further, external capacity would be necessary to determine *what counts* as due measure. There is a regress lurking here, but not one that Plato has any desire to disarm or stop with a definite starting point. Rather, in attempting to *describe* ἡ μετρητική, Plato’s *Statesman* indirectly articulates the capacity that is the necessary condition of *any* definition: Inquiry (generally ἡ ζήτησις or ἡ εὔρεσις). We must not be afraid of the dizzying “house of mirrors” effect that results from Plato’s inquiry into inquiry, nor must we assume that such an inquiry could function according to ready-made rules. We must see that Inquiry is *not* the ultimate meta-capacity, analogous to intellectual insight or authoritative stipulation. Rather, ‘Inquiry’ is a common notion that plays a part, the *external* part, of any and all expertise. Thus, shoemaking will involve inquiry, relative *and* due measure will involve inquiry, formal logic will involve inquiry and the normally discursive practice of hypothesis “confirmation” will involve inquiry.⁸ The concern I am addressing

⁸ A mundane example will re-enforce this point: The expertise of shoe making necessarily involves an

with recourse to the Statesman is *not* to define Inquiry as meta-philosophy; rather my and Plato's concern is to establish the very possibility of Inquiry in its diverse forms. I suggest that the notion of Inquiry refers generally to the external capacity of any expertise; thus, what is at stake, is the possibility of the external capacity of expertise or—what amounts to the same thing—the possibility of expertise as such. The first thing we will see is that Inquiry is impossible under the strict rule-of-law.

The Stranger, from *Sts* 298a-300a, develops an elaborate illustration to prove that expertise is superior to law. This conclusion is argued for several times, in several different ways, e.g., *Sts* 294a10-b7, *Sts* 295a9-b5, *Sts* 296d6-297b3. In the passage under consideration, it is explicitly stated that the rule-of-law makes Inquiry impossible. It is easy to see that this, in turn, renders philosophy impossible. *Both* the mixing of the kinds (in the *Sophist*) and Inquiry (in the *Statesman*) are the necessary conditions of philosophy. This helps explain the purpose of the *Statesman*, as stated at *Sts* 286d9: “the pursuit itself of being competent to collect and divide according to kinds.” At the conclusion of the thought experiment, the Stranger asks Young Socrates what would happen if all of the arts were practiced according to written laws, as opposed to expertise (*Sts* 299e3-4). Young Socrates responds: “It is clear to us, both that all of the arts

internal and external capacity. The internal capacity of shoe making is the ability to follow rules, obviously the rules of how to make (good) shoes. The external capacity may be called Inquiry (with respect to shoe making). Thus a cobbler must first discern *what counts* as (good or appropriate) shoes and only then could the cobbler approximate the necessary conditions of (good) shoes as rules of shoemaking. In normal situations, the “inquiring” capacity of shoemaking is analogous to *nous* in dialectic and “theory confirmation” in normal science. There is nothing much mysterious about this capacity; it is probably much like Shorey describes in his interpretation of the *Republic*: expert agreement about first principles. Inquiry appears much more mysterious in the absence of expert agreement. If two expert cobblers cannot agree about *what count* as good shoes, then it will require a peculiar means indeed to “resolve” this disagreement: this too is Inquiry.

[τέχνα] would be completely destroyed, and that none of them could ever come back into being on account of this law preventing inquiry [ζητεῖν]” (*Sts* 299e5-7). The thought experiment is supposed to show that the strict rule-of-law would make *technē* impossible. Plato cleverly indicates this in the very posing of the question: the Stranger effectively asks Young Socrates what would happen if all arts were practiced *not* according to art. The implicit answer would be that the arts would not *be* arts at all. The explicit answer is that the rule-of-law would forever destroy the arts *because* of the law forbidding inquiry. Why must the rule-of-law include a law against inquiry? The Stranger’s extrapolation of the rule-of-law in the thought experiment is the answer.

It is clear that Plato means for this thought experiment to be an extrapolation of the strict rule-of-law. The strict rule-of-law is “no one in the city undertaking to do anything outside the laws [παρὰ τοὺς νόμους].”⁹ The extrapolation proceeds according to a comparison of statesmanship to both sailing and doctoring. Presumably, the effect of the rule-of-law on the helmsman and the doctor is comparable to the effect of the rule-of-law on the statesman. In order to determine this effect, the Stranger imagines just how the rule-of-law might work. We begin with a situation in which the helmsman and the doctor are abusing their authority, by doing evil (κακουργοῦσιν, *Sts* 298b6) to those over whom they have power. The reasonable response is to prevent them from doing evil by “no longer relying on either of these two autocratic arts to rule [μηκέτι ἐπιτρέπειν ἄρχειν

⁹ *Sts* 297e1-2. This account of the strict rule-of-law is presented as the second-best alternative to the rule of political expertise. As the extrapolation or schema (*Sts* 297e12) unfolds it becomes, in my opinion, more and more difficult to explain how this alternative that results in the destruction of all of the arts, including philosophy, could be even second-best. This, despite the fact that the schema, or thought experiment is explicitly introduced as a way of explaining how the second-best has come to be (*Sts* 297e5-6).

αὐτοκράτορι].”¹⁰ Rather than allow these arts to continue their malicious autonomy, the majority opinion (τὰ δὲ τῷ πλήθει δόξαντα) about sailing and medicine, having been written down (γράφαντας ἐν κύρβεσί τινα), should *establish* unwritten, ancestral law (ἄγραφα πάτρια θεμένων ἔθνη, *Sts* 298d5-e2). The helmsmen and doctors would be chosen by lot and they would sail the ships and heal the patients according to these rules. At periodic intervals, the helmsmen and doctors will relinquish their jobs and be held accountable to public oversight. Any citizen will be able to file suit against the former helmsmen and doctors; culpability and eventual penalty will be determined by a court of judges. Finally, the rule-of-law will need to be supplemented with a law penalizing all inquiry into the sailing of ships and the healing of patients. The reason is that “nothing must be more wise than the laws” (*Sts* 299c6).

The law against inquiry is motivated by the illustration of what would happen if you allowed people to question the authority of the laws. This passage includes a famous reference to Socrates.¹¹ The real problem with inquiry is that it persuades people “to

¹⁰ *Sts* 298c1. This conclusion is explicitly presented as the result of public discourse, or counsel (διανοηθέντες βουλευσαίμεθα περὶ αὐτῶν βουλήν τινα, *Sts* 298b6-7). The conclusion is both not to trust the autocratic arts, and “to summon a legislative assembly among ourselves” (συλλέξει δ’ ἐκκλησίαν ἡμῶν αὐτῶν, *Sts* 298c2-3). This points to one of the most fundamental problems of political philosophy: who exactly is included in this “ourselves”? It wouldn’t include the helmsman or the doctor because they would hardly agree to participate in a governing body whose primary objective was to limit their power (see *Sts* 298c4-5). Thus, the very first act necessary to the establishment of the rule-of-law, is the establishing of definite boundaries within which the law is to apply. These boundaries, for Plato as for Hobbes and Locke, are those who agree to be ruled by law; and, by strict necessity, those boundaries *cannot* be determined with recourse to law.

¹¹ The reference to a “stargazer and garrulous sophist” (μετεωρολόγον, ἀδολέσχην τινὰ σοφιστήν, *Sts* 299b7-8) recalls Aristophanes’ description of Socrates, in *The Clouds* (ἀδολεσχίς, 1480). This, in turn, is echoed by Socrates at *Phaedo* 70b10-c3. Socrates describes himself as “garrulous” at *Theaetetus* 195b9-c4. Furthermore, the Stranger mentions that such a garrulous stargazer should be charged with corrupting the youth. This reference to Socrates is very important because it suggests that Socratic Inquiry is incompatible with the rule-of-law. Clearly such a suggestion *must* confront Plato’s *Crito*; hence my discussion below, pp177-202.

attempt sailing and healing, not according to laws, but to rule ships and illness autocratically” (*Sts* 299c1-2). The reference to Socrates certainly brings to mind the metaphor of the ship in *Republic* (*Rep* vi 488b-489a). The *Republic* confirms the conclusion in the *Statesman*: ships or states are poorly ruled by the many; ships or states are better ruled by the few with navigational or political expertise. There is an important difference between the passages in the *Republic* and *Statesman*. In *Republic* vi, the sailors who take control of the ship do not appear to codify the opinion of the majority into written law or ancestral custom; rather, the sailors seize authority by force (*Rep* vi 488b6-c4), trickery (*Rep* vi 488c4-5) or rhetorical skill (*Rep* vi 488d1-2). In this sense, the *Statesman* is a stronger condemnation of majority rule. The Stranger’s thought experiment illustrates the negative result of rule by assembly, even when such an assembly is convened as a response to tyranny and even when the assembly is well-intentioned. The *Statesman* says that it is not the rapaciousness and ignorance of the sailors that leads to ill for the ship-of-state; rather, it is the *codification* of the majority will (whether rapacious or well-intentioned) that makes Inquiry, and all of the arts impossible.

This comparison between the *Republic* and the *Statesman* supports my general claim that the dialogues, while certainly not contradicting one another, articulate the external capacity of philosophy under different circumstances. In the *Republic* the problem is that those who ought to be ruled doubt that there *even is* a political expertise; hence “the sailors [are] wrangling with one another for control of the helm, each claiming that it is his right to steer through he has never learned the art and cannot point out his teacher or

any time when he studied it. And what is more, they affirm that it cannot be taught at all” (*Rep* vi 488b, Shorey). I cannot enter here into the vexing issue of the relationship of expertise to teaching; nonetheless, it is clear that the unruly sailors question the very possibility of, by analogy, political expertise. Basically, the *Republic* advocates and characterizes the rule of expertise (see pp75-76, Chapter 2). Whereas, the *Statesman* takes for granted *that* experts ought to rule and examines the exceptional situation where *what counts* as an expert becomes a question. More specifically, the thought experiment under consideration articulates not only a disagreement over *who* the experts are, but more importantly *what expertise even is*. The thought experiment is an attempt to *define* expertise exclusively in terms of rules. The attempt is an attempt to deny expertise its exteriority; if expertise *necessarily* has an external component, then thought experiment denies expertise-as such. The external component of an expertise is that expertise’s capacity to determine original boundaries with recourse to Inquiry. The capacity to establish original boundaries necessarily calls into question any rules “generalized” from the existing boundaries. It is precisely this “calling into question” that Plato indicates with the notion of Inquiry. As Carnap rightly points out (see Carnap 1967 and pp130-132, Chapter 4), the posing of external questions challenges the very existence of the system of rules. In the case at hand, Inquiry asks the question about *what counts* as expertise; in so doing, Inquiry questions the authority of the law.

For Young Socrates, the interdiction of Inquiry is necessary to the rule-of-law (*Sts* 299e6-7) and the Eleatic Stranger never objects to this assumption. For the Stranger, Inquiry leads to autocracy just insofar as Inquiry-as-such questions the authority of the

laws and customs. According to the thought experiment, Inquiry must be forbidden because the procedure of public discourse *guarantees* that whatever should be codified into law or ancestral custom is necessarily right. In the kind of democracy proposed here, there can be no *question* about the authority of the law because authority is defined in terms of law. This sort of democracy makes law itself the “expertise” that ought to rule. In this case the ruling “expertise” has no external component; external questions about *what counts* as law are strictly forbidden; law is *whatever* public opinion, τὰ τῶ πλῆθει δόξαντα (see *Sts* 298d5-e3), deems it to be.¹² The *rule* of law demands that no one do anything contrary to the laws (*Sts* 297e1-2); doing so would amount to questioning the authority of the laws and this amounts to questioning whether the laws *count* as expertise (since, in the *Statesman* we agree that expertise ought to rule). Inquiry—by *questioning what count* as (good) rules or laws—must be forbidden. The extrapolation of the rule-of-law puts law deeply at odds with philosophy. Yet, it is critical to see that the conflict between the strict rule-of-law and philosophy is *not* due to an antiauthoritarianism inherent in philosophy (as some contemporary philosophers might have it). On the contrary, the conflict results from conflicting definitions of expertise. Philosophy, most broadly understood, understands itself as an expertise and it understands expertise as necessarily involving external and internal capacities. In general, philosophy’s external

¹² Again, the problem here (as opposed to the *Republic*) is not reducible to the “ignorance” of “the many.” On the contrary, the thought experiment is striking for the way that public opinion is presented in a relatively favorable light. It may very well happen that “most people” are right about the best way to practice medicine and seafaring; the problem is that no one is allowed to inquire about them. The reason is that the “grounds” for these laws of medicine and seafaring are nothing but the fact that most people believe this is the way these arts ought to be practiced. To inquire as to whether the arts ought to be practiced this way or not, is either to question the authority of “most people” or to question *who counts* as the people. Either way, the reliance on public opinion (whether good or bad) renders Inquiry subversive.

capacity is Inquiry, or the ability to question first principles; philosophy's internal capacity is *logos*, discourse, or the ability to evaluate arguments based upon certain discursive "rules" (these need not be reducible to "logic," see p184n24, below).

Philosophy thus understood is not antiauthoritarian; on the contrary, democratic rule-of-law is antiauthoritarian just insofar as it forbids authoritative, decisive competence. By defining expertise exclusively in terms of law, the strict rule-of-law puts itself in conflict with philosophy; for philosophy, law is merely the imitation or "generalization" of some human judgment or decision; for democracy, law is identical to public opinion.¹³ The real conflict between democracy and philosophy is over *what counts* as expertise: for democracy—of the sort described in the thought experiment, at least—political expertise is *exclusively* the application of rules; for philosophy, political expertise is the discernment of original boundaries *and* the application of rules *within* these boundaries.

Here again, we have found a necessary condition for philosophy: philosophy is possible only if the rule-of-law is not absolute. Before explaining this important point, it will be particularly useful to consider a crucial "counterargument:" if the strict adherence to the rule-of-law and philosophy are in conflict, how in the world could Socrates justify his obedience to the law in the *Crito*? If we take the suggestion in the *Statesman*

¹³ I think it is very fruitful to understand the conflict between democracy and philosophy in these terms, as opposed to the tired old clichés according to which philosophy is a kind of enlightened tyranny or democracy is simply the rule by the foolish. On this latter point, note that the conflict that I am articulating would remain even if "public opinion" were perfectly philosophical. My point is that in order for public opinion *to rule*, it *must be codified*, if only implicitly through ancestral custom. The conflict results not from the foolishness of public opinion, but from the necessary codification that it involves. Democratic law *just is* codified public opinion; whereas, philosophical law is merely *like* expert judgment. This essential and very subtle distinction (without separation) between an imitation and the thing imitated is what allows philosophy to preserve the external authority that democracy forbids. Only philosophical laws allow for the possibility of political rule by (genuine) expertise.

seriously, Socrates must renounce Inquiry in order strictly to follow the law. The fundamental problem in interpreting Plato's *Crito* is how to reconcile two parts of the dialogue that appear to be governed by two, conflicting principles: the first part of the dialogue articulates Socrates' commitment to the rule of Reason, the second part of the dialogue articulates Socrates' commitment to the rule of Law. The apparent conflict stems from Socrates' acquiescence in the face of the Laws: Socrates seems to abandon his previous commitment to Inquiry and hence philosophy, in favor of dogmatic obedience to the law. The solution to this apparent conflict is the identification of Reason and Law. I intend to show that the apparent conflict is the crucial problem to interpreting the *Crito* and that the solution to this apparent conflict answers the "counterargument" to the thought experiment in the *Statesman*. Furthermore, the identification of Reason and Law crucially enriches our understanding of law and this is exactly what is needed to unify the two necessary conditions of philosophy in the *Sophist* and the *Statesman*.

Chapter Five, Section Two: *Reason and Law in the Crito*

In the *Crito*, Socrates¹⁴ and Crito examine whether or not Socrates should escape from prison in order to avoid his imminent execution. Crito argues unsuccessfully that Socrates should escape; in the end, Socrates is persuaded by the Laws that he must

¹⁴ Here and throughout I have no intention of implying anything about the so-called "historical Socrates", nor about Plato's relation to such a person. For my purposes, "Socrates" is a fictional character created and developed by Plato to represent an ideal philosopher.

remain in prison and suffer his punishment because he had previously agreed to live under the Laws of Athens. Most scholarship on the *Crito* tends to focus on the question of Socrates' obligation to the laws of Athens and the role of agreement therein.¹⁵

Following the strategy of Ronald Polansky,¹⁶ I aim to interpret this second part of the dialogue—the argument of the Laws—in light of the first part of the dialogue—Socrates' deliberation with Crito.

We know from the *Apology* that Socrates was convicted of corrupting the youth and not believing in the gods of the city (*Ap* 24b8-c1).¹⁷ Socrates is not surprised that he is convicted; although he considers himself to have been acquitted (*ἀπεπεφεύγα*, *Ap* 36a7,8). Indeed, he not only considers himself innocent, Socrates says that those who convicted him are in the wrong: “And now away, I being sentenced to death by you, but those men having been sentenced to wickedness and injustice by the truth” (*Ap* 39b4-6, see also *Ap* 38c1-2, 39c1-d9). This is sufficient evidence to suppose that Socrates considered his

¹⁵ David Bostock's “The Interpretation of Plato's *Crito*” is an exemplary article that focuses almost exclusively on the latter half of the dialogue. It seems that the reason for the relative emphasis on the second part of the dialogue is the thoroughly modern (not to say anachronistic, much less oxymoronic) problem of unjust laws. Bostock shows that most contemporary attempts to avoid “authoritarianism”, i.e., absolute adherence to the law, are untenable. While I find specific weaknesses in Bostock's reconstructions of the three main non-authoritarian readings, I agree with Bostock's over-all approach and conclusion; namely, “that the presumed expert is the Laws” and “For that reason, their advice must always be treated with the greatest respect” (Bostock 1990, 19, 20).

¹⁶ “Socrates' argumentation in the *Crito* invites us to reflect upon the deep bond connecting the deliberations of individuals and the rule of law in political associations.” (Polansky 1997, 52) I share the commitment to understanding the “bond” between Reason and Law; Polansky indicates that this is just the bond he has in mind by appending a footnote to the previously cited passage: “Plato is hardly unique in considering the connection of *logos* and *nomos*. Heraclitus surely fosters such reflection” (Polansky 1997, 52n7).

¹⁷ In addition to these specific charges, Socrates addresses earlier “charges” out of which arose the new charges of Meletus and Anytus. The older charges are that Socrates studies the things of the heavens and below the earth and that he makes the weaker argument the stronger, teaching others to do the same (*Ap* 19b4-c1).

conviction under the laws of Athens *unjust*. Beyond these specific passages, the *Apology* as a whole must lead us to believe that Socrates considered himself innocent of the specific charges brought against him; and, thus that Socrates did not agree with the verdict in his case. Thus, in the *Crito*, Socrates asks “has the city done injustice to us, and has it incorrectly decided [ἔκρινεν] its judgment?” (*Cr* 50c1-2). Crito affirms that the Laws have done injustice to Socrates;¹⁸ the obvious implication is that Socrates *ought* to escape his unjust conviction and executions.

Socrates claims that if he were to escape from prison, then he would be destroying the city and its laws; if private individuals had the power to justly disobey the law, then law would be meaningless. This premise is considered “very dubious” by Bostock 1990.¹⁹ His reconstruction of the premise is as follows: “(i) The law that verdicts should be carried out is fundamental to the whole system of laws. Hence (ii) Whoever attempts to disobey *this* law is attempting (for his part) to destroy the whole system of laws” (Bostock 1990, 2). Throughout the article, Bostock treats (i), the fundamental law, as a *particular* law; and so, disobeying this particular law would be to destroy the laws. Likewise, Charles Kahn says “the claim that Socrates intends to destroy the city is plausible only because of the particular law he would be violating.” Kahn’s account of this “particular law” is “the law that judgments of the court must be carried out” (Kahn

¹⁸ "Ἡδίκηει γὰρ ἡμαῶς ἡ πόλις καὶ οὐκ ὀρθῶς τὴν δίκην ἔκρινεν;" ταῦτα ἢ τί ἐροῦμεν; -Ταῦτα νῆ Δία, ὦ Σώκρατες (*Cr* 50c1-3). While Socrates’ question technically asks only whether the *city* has made the wrong decision, the immediate context clearly identifies the city and its laws, see *Cr* 50a6-c2.

¹⁹ Bostock claims that this premise “receives no further elaboration in the dialogue”. I find it surprising that Bostock never considers the possibility that disobeying *any* verdict of *any* law would, itself, entail the rejection of the meta-law, laws must be obeyed. Such a possibility makes the relevant premise far less dubious.

1989, 34-5).

Both Kahn and Bostock never really consider the possibility that disobeying a verdict would, itself, entail the rejection of the *principle* of law: laws must be obeyed. The premise or principle that laws must be obeyed is not a particular law; it is law *about law* or a meta-law. Kahn comes closest to this realization when, following Allen 1980, he says that “what is at stake is not a particular law but the principle of effective legality, any attempt to violate *this* law would imply an attack on the principle of legality and hence on the existence of the city as a civilized society” (Kahn 1989, 37 emphasis in original). Kahn undermines his previous claim about the ad hoc nature of the *Crito* by concluding that the argument for why escape would destroy the city and its laws “works effectively...only for the violation of a fundamental principle of legality and not for disobedience to any ordinary law” (Kahn 1989, 38). Kahn never seems to notice that the “law that judgments of the court must be carried out” *just is* this fundamental principle of legality, and hence it is *not* an ordinary or particular law.

Kahn is right that what is at stake is the principle of legality, not any particular law. Understood in this way, the relevant premise seems far less dubious. Socrates affirms that “it is never right, neither to do injustice, nor to return injustice, nor, even when you are suffering evil, to defend yourself by doing evil in return” (*Cr* 49d7-9). Prior to this Socrates had established that the human way of life (βιωτόν) isn’t worth living with a soul corrupted by injustice (*Cr* 47e6-48a2). From this, we can conclude that the life of the city wouldn’t be worth preserving if it had done injustice to Socrates.²⁰ The *just*

²⁰ This is very much like Miller’s claim about the therapeutic destruction of the laws, see Miller 1996,

transgression of (an unjust) law would destroy the Laws in exactly the same way that unjust actions of individuals destroy individuals.

The possibility that the Laws have done injustice to Socrates is rightly considered the only justification for their destruction and Socrates' escape. If the laws demand injustice, then it would be right to destroy them. There is a common objection to the premise that escaping from prison destroys the Laws. The objection is that if Socrates' conviction and sentence were unjust, then *justly* disobeying this particular *application* of the law would not destroy the Laws, in general. Such an objection depends upon the distinction between the Laws and their particular application. This objection motivates many interpretations of the *Crito*; many interpreters want Socrates to justify civil disobedience of unjust laws. I will conclude that Socrates rightly and consistently rejects the possibility of justifiable civil disobedience; my conclusion is based upon the impossibility of unjust laws.²¹ Here, the specific objection turns on the distinction

pp130-6.

²¹The most common evidence for Socrates' alleged support of justified civil disobedience comes from two passages in the *Apology*. The least convincing is Socrates' refusal to obey the orders of the Thirty Tyrants; Socrates refused to bring Leon of Salamis to the Thirty for execution (*Ap* 32c3-e1). There can be little doubt that the orders of the Thirty Tyrants do not qualify as Laws; Plato explicitly avoids using νόμος or its cognates to describe the orders of the tyrants. Perhaps more convincing is Socrates' claim that *if* he were acquitted on the condition that he not practice philosophy, then he would disobey this verdict and continue to practice philosophy (*Ap* 29c5-d5). I can only point-out that this is a counterfactual conditional. While in modern logic we consider the conditional statement true due to the falsehood of the antecedent, the falsehood of the antecedent for Socrates must render this "evidence" of Socrates' commitment to justifiable civil disobedience at least suspect. I grant that the counterfactual *may* support such a position, but I claim that my evidence to the contrary, from the *Crito*, is more convincing. Socrates may just have well said 'if $X \neq X$, then I will disobey the law'; the "truth" of the conditional in no way justifies civil disobedience. Perhaps the easiest way to claim that Socrates would not be disobeying the *law* if he practiced philosophy in direct violation of legal orders, would be to say that if the "Laws" prohibit philosophy then, like the dictates of tyrants, they simply fail *to be* Laws. I owe an important qualification of the foregoing to comments by Cheryl Hughes. I admit to having a fairly idiosyncratic definition of civil disobedience. I consider—perhaps wrongly—civil disobedience the express undermining of the authority of law by avoiding punishment. Strangely, this makes Dr. King's imprisonment in the Birmingham jail *not* an act of

between the Laws-as-such and any particular application of the laws.

The distinction upon which the objection is based has a very intuitive (albeit modern) appeal; indeed, it is the appeal to the possibility of unjust laws. Consider for a moment that the possibility of unjust laws is a question.²² There is strong evidence against making this distinction in the *Crito*. The premise that any just transgression of the law destroys the law entire undermines the distinction. More importantly, if Plato considered such a distinction even possible, then Plato would need Socrates to argue not only that the Law-as-such is just but also that this particular application of the law was also just. The justification of Socrates' conviction and sentence is noteworthy in its absence. The Laws directly ask Socrates whether they have done injustice to him; from the *Apology*, we have good reason so assume that Socrates himself considers his conviction and sentence unjust. So, how does he respond? Socrates effectively ignores the question; Socrates nowhere even attempts to persuade the Laws that they had made an error in this particular application.²³ Why not? Because Socrates doesn't accept the distinction between the Laws and their application; he believes (rightly) that *justly* to disobey the application of

civil disobedience because, like Socrates, he suffered the legal penalty for what he considered an unjust law. If this makes my definition of civil disobedience implausible, fine. What I mean is that Socrates rightly and consistently rejects the possibility of justifiably breaking the law *and* not submitting to the legal consequences thereof.

²² "The connection of thought between law (νόμος) and justice (δίκη, δίκαιο) is so close in Greek that the two concepts are typically thought of a coextensive. Although it is logically possible to express in Greek the idea that Socrates could commit injustice by obeying the law, this idea is wholly alien to the way νόμος is conceived not only in the *Apology* and the *Crito* but in much of Greek thought" (Kahn 1989, 31-2). Myles Burnyeat once said that he is not aware of one instance in Plato of the notion of "unjust law". My essay provides the sketch of an explanation as to *why* the notion of "unjust laws" was "wholly alien" to Plato and ancient thought, in general.

²³ The failure of Socrates to attempt to persuade the Laws of the injustice of the verdict is even more striking given that the Laws explicitly invite objection through persuasion: "either to persuade or to do those things that (the law) commands, and if it orders something to be suffered, then to suffer going silently" (*Cr* 51b3-5).

any particular law is to destroy the city and its Laws-as-such. Therefore, we ought to reject imposing the distinction between law and its application and also reject the objection that is based upon this distinction, namely the objection that Socrates could have justly disobeyed an unjust law without destroying the laws entire.

Socrates' acquiescence in the face of the Laws reveals more than his rejection of the distinction between laws and their application with respect to justice. It appears that Socrates, when questioned by the Laws, simply stops investigating, stops searching, stops questioning. This poses a far more profound problem than whether Socrates was justly convicted and sentenced. The problem stems from Socrates' response to Crito's strongest reason for Socrates to escape. None of Crito's specific arguments is as potent as his suggestion at 46a that the time for discussion is over, that Socrates must stop deliberating in order to act now, before it's too late:

Determine for yourself (Socrates) [βουλευού], or rather there is not still time to deliberate, but to *have* determined for yourself one plan [μᾶλλον δὲ οὐδὲ βουλευέσθαι ἔτι ὥρα ἀλλὰ βεβουλευέσθαι μία δὲ βουλή]: For, as night has fallen, *it is necessary to have acted* [δεῖ πεπράχθαι] with respect to all of these things. And if we still wait, then there will be neither the time nor the ability to do so. But, in this way entirely be persuaded by me, ὦ Socrates, and do nothing otherwise (than escape). (*Cr* 46a4-8)

Crito's suggestion is less an "argument" than an injunction to *stop all argument* in order to act. The subtle juxtaposition of tense clearly makes this an injunction from temporal or political expediency. The potency of this injunction is due to its immediate plausibility: There are times when we must act in the absence of definitive deliberations or arguments. Crito invokes this principle in order to "argue" that Socrates is now faced with one of those times. Socrates responds with equal force:

It is necessary that we examine for ourselves whether one must do these things or not: as I, not for the first time now but always, am just such a sort of man (as) to be persuaded / to obey nothing other than my own (thoughts) or the argument which seems best to my reasoning. (*Cr* 46b3-6)

Socrates' response to Crito's injunction is that it is *always* best to deliberate prior to action (see also *Cr* 48e4), even presumably if this deliberation forestalls action, in this case the action of saving Socrates' life. This deeply Socratic principle that argument or elenchus²⁴ is always the best way to proceed is confirmed by the entire Platonic corpus. No one can doubt that Socrates is unswervingly committed to Reason through the process of deliberation, or argument.

Recall that I employ the term 'Reason' to indicate a specifically discursive aspect of *logos* (see p18, Chapter 1). I continue to consider this *the primary* internal capacity of philosophy. The real potency of Crito's final "argument" is due to the fact that it poses a question *external* to Reason: What counts as Reason or deliberative inquiry? Of course this question is only implicit; nevertheless it *is* implied. The way that Crito's suggestion poses an external question is by suggesting that some occasions ought not be *bound* or ruled by Reason; that is, Reason may have *limits* to just the effect that when life and death are on the line, Reason no longer rules. Crito suggests that Reason *doesn't count* as the most important motive for escape; this "pragmatic" motive is *outside* Reason (which

²⁴ While Socratic ἔλεγχος is not mentioned directly in this passage, Socrates does say he must obey "what seems best to [his] reasoning [λογιζομένῳ]." In this context, the verb λογίζομαι is a particularly apt description of Socratic philosophizing, or elenchus. In *this* context, it is the specifically "logical" or deductive aspect of elenchus that renders Socrates' unyielding commitment to philosophical examination all the more striking in contrast to his acquiescence in face of the laws. That is, the specifically logical, deductive, or calculative aspects of elenchus seem to rule-out Socrates' absolute and unargued obedience to law. Please note that I do not mean to claim that elenchus is *reducible* to these logico-calculative aspects; on the contrary, I follow Polansky 1985, Polansky and Carpenter 2002, and Brouwer and Polansky 2004, in maintaining that Socratic elenchus is far more than mere logical deduction of inconsistency. For more on the extreme breadth of elenchus see Scott 2002.

is *not* to say that the motive is *irrational* or outside *reason*). Socrates' response, in turn, suggests that *nothing but* Reason ought to rule or motivate our actions; Socrates' use of λογισμένῳ emphasizes the specifically "logical" or calculative aspect of Reason (as opposed to the less rule-governed reason). Socrates seems to be denying the *externality* of Reason. We can already see the "counterargument" emerging: Reason (in Socrates' response to Crito's "argument") ought to rule absolutely, just as Law (in the *Statesman's* thought experiment) ought to rule absolutely. By "absolutely" I mean nothing other than "by itself;" thus, Reason and Law are the authority outside of which is nothing. Plato is involved in a subtle balancing act that has yet to be fully explained; we must not jump to the conclusion that Socrates' absolutism about Reason entails a conflicting definition of expertise according to which Socratic philosophizing has no external component. To merely suggest how this balancing act will turn out, Socrates is the very embodiment of philosophical practice—I could say that Socrates represents philosophy under normal circumstances. Yet, philosophical practice must have certain limits and the discernment of these limits *cannot* be a straightforward result of Socratic, philosophical practice; for *Socrates* to discern the limits of philosophy would be down-right unphilosophical (see *Phd* 91a). Thus, Plato writes two dialogues (the *Sophist* and *Statesman*) in which Socrates says very little; although *what* he says remains very important. In this way, *Plato* indirectly establishes the bounds of Socratic philosophy. The balancing act is to maintain Socrates' unyielding commitment to Reason or *elenchus*, while articulating the limits of this commitment.

The most profound problem of the *Crito* is that when interrogated by the Laws,

Socrates stops arguing. He never poses so much as a question, much less an objection to the Laws.²⁵ Socrates is uncharacteristically silent in his “discussion” with the Laws and in response to the direct question as to whether the Laws have done him injustice.

Socrates’ silence is all the more troublesome given the evidence that Socrates considered himself innocent and considered those who legally convicted and sentence him as committing injustice. I suggest that Socrates’ acquiescence to unjust laws would be tantamount to doing injustice.²⁶ Furthermore, the Laws repeat on at least three occasions that Socrates is free to persuade them of their own injustice (*Cr* 51b3-4, 51c1, 51e6-52a3). Socrates’ failure even to attempt to persuade the Laws, the utter lack of cross-examination and his disregard of the most pressing question of the dialogue, namely ‘have the Laws done injustice to Socrates?’, all point to a profound conflict with Socrates’ previously stated and well-known conviction that argument is always the best way to proceed.

How are we to reconcile Socrates’ commitment to argument with his quiescence in the face of the Law? No subtle and thoroughly modern distinction between the Laws and their application will help with this most profound problem because the real question is

²⁵ There is one exception which proves this rule. At *Cr* 52a5-6 Socrates says “Then if I would say ‘On account of what, indeed?’, then in like manner they would justly attack me...” The inclusion of *δικαίως* indicates that Plato never means for Socrates’ only question to really express doubt concerning the justice of the Laws.

²⁶ It is in this respect that my view of Socrates differs most from my view of Dr. King. I very much doubt that Dr. King considered his acceptance of unjust punishment an act of injustice. The reason is that Dr. King accepted the possibility of unjust laws, Socrates doesn’t. To be fair, I do not really consider the—perhaps important—possibility that Socrates could submit to (genuinely) unjust punishment but not thereby *commit* injustice. This possibility probably comes down to the question of whether *not acting* could be and is in this case an *act* of injustice. I maintain that Socrates’ remaining in prison is an act of obeying the law; if this “law” were genuinely unjust (on Socrates’ view, a mere “pseudo-law”), then obeying it would be committing injustice.

not whether this verdict is or is not just; the real question is whether Socrates should or should not question the authority of the Laws. Strangely, David Bostock's misguided reconstruction of an argument in the *Crito* provides a helpful clue as the solution to this problem. Bostock proposes what I want to call a meta-law: "The law that verdicts should be carried out" (Bostock 1990, 2 see also 5n5). The meta-law is that laws must be obeyed; it is a "law" about laws; it cannot be just another law because it is effectively the definition of 'law.' This law that isn't just another law is analogous to Crito's argument that isn't just another argument. I suggest that Crito's injunction that sometimes people must stop arguing in order to act is a meta-argument, it is an "argument" about arguments. In this way, we can understand Socrates' rejection of Crito's meta-argument as the assertion of an alternate meta-argument; Socrates' meta-argument is that argument must always be obeyed. I have already examined a similar meta-argument in the *Phaedo* (see pp134-144, Chapter 4). Our profound problem is thus a case of competing principles: either argument must always be obeyed or law must always be obeyed. The first part of the *Crito* demands the rule of Reason; the second part of the *Crito* demands the rule of Law. The fundamental problem is how to reconcile the dialogue and these two competing principles.

Again, this way of interpreting the *Crito* exemplifies the primary problem of the *Sophist* and *Statesman*. All of these dialogues are fundamentally concerned with the possibility of disagreement about first principles. Furthermore, the *Crito* and the *Statesman* explicitly question the relationship of Inquiry to the rule-of-law. The *Statesman* argues that the strict adherence to law renders Inquiry and consequently the

arts impossible; the *Crito* is contrived in such a way that the rule of Reason seems to conflict with the rule of law. I will resolve this potential conflict by demonstrating that Reason and law are, for Socrates, identical. In order not to lose sight of the overall project, we must see that the emerging question is whether the *Crito* simply contradicts the *Statesman* by maintaining that Socratic Inquiry *entails* strict obedience to the law, or whether the identification of Reason and Law puts Reason itself in potential conflict with Inquiry. Merely assuming, for the moment, that Plato would never contradict himself in such a flagrant way (even across dialogues), I suggest that the identification of Reason and Law is essential in order to understand the full import of the *Sophist* and *Statesman*; the *Sophist* indirectly articulates the limits of Reason in just the way that the *Statesman* indirectly articulates the limits of Law. *Both* Reason and Law are internal capacities of rule-governed subsumption of particulars under universal rules; *both* Reason and Law presuppose some *external* capacity that determines the boundaries within which they function. In addition, we must see that the correct interpretation of the *Crito* does not defuse the *Statesman*'s problem of competing definitions of expertise; rather, the identification of Reason and Law exacerbates this problem by putting Inquiry at odds not only with Law, but with Reason itself. Identifying Reason and Law provides an interpretive advantage with respect to the *Statesman*: the thought experiment extrapolating the strict rule of law has serious implications for the rule of Reason; Reason and Law are competing first principles against the principle of Inquiry.

In the *Crito*, Socrates seems to abandon Inquiry in deference to the rule of law. Plato contrives to hold unyielding commitment to Inquiry alongside unyielding commitment to

Law. The key to understanding this contrivance is first to see that Socratic practice—when couched in terms of Reason or λογίζομαι—requires strict adherence to rules,²⁷ and second to see that Socrates' obedience to Reason *and* Law presupposes some *external* authority, perhaps analogous to Inquiry. The means for seeing why Socratic practice requires strict adherence to rules is to understand properly the very definition of Law. Socrates must not escape from prison because to do so would be to break his agreement with the Laws. Socrates asserts that just agreements ought to be fulfilled (*Cr* 49e5-8). It is safe to assume that it is wrong *not* to do what one ought to do. Doing wrong harms the soul (*Cr* 49b4-6), because only the good, just, and beautiful life is worth living (*Cr* 48b4-10, 47e6-48a1). Therefore, Socrates chooses what is best for his soul, namely to remain in prison. Only if the law were unjust, would Socrates be justified in disobeying the law; because doing injustice would harm Socrates' soul. So, if it were *impossible* that the laws could be unjust, then Socrates would *always* follow the law. Indeed, the impossibility of unjust laws follows directly from the definition of law.

The meta-law, or the definition of Law is that law is something that must be obeyed. Let us assume, based upon the likelihood that his conviction and sentence were unjust, that it would be unjust for Socrates to remain in prison. There is no doubt that Socrates believes that it is always unjust to do injustice, or always wrong to do wrong (*Cr* 48d7-9), since doing wrong harms the soul and, obviously one must not harm one's soul. So, if

²⁷ Let me repeat that I am *not* claiming that Plato's Socrates is some sort of intellectualist or reasoning-machine. Socratic practice requires strict adherence to rules *only* insofar as this practice is aiming at justification and refutation in the narrow sense. That is, the *internal* capacity of elenchus requires strict adherence to discursive rules; whereas, the external component of elenchus may go far beyond any straightforward application of logical rules; see Brouwer and Polansky 2004.

Socrates must not do wrong by obeying an unjust “law” and if Law must be obeyed, the obvious question is whether an unjust “law” is even a law. The answer is that a law that must not be obeyed *doesn't count* as a law. In the *Crito*, we have two fundamental definitions (a) laws are things one *must* follow and (b) unjust actions are things one *must not* do. It follows that “unjust law” is self-contradictory. An “unjust law”, for Socrates, would be something that one must do and must not do, at the same time and in the same respect. To grant the possibility of an unjust law is to believe a contradiction. Socrates’ refusal to believe this contradiction entails that “unjust laws” are impossible; therefore, obeying the law will *always* be best for his soul. Most importantly, the impossibility of “unjust laws” carries enormous explanatory power for the fundamental problem of why Socrates never inquires whether the laws have done him injustice.

What is emerging is that the principle that explains Socrates’ failure to question the justice or injustice of his conviction and sentence is none other than the Principle of Non-Contradiction (see pp123-126, Chapter 3) It is precisely the Principle of Non-Contradiction that renders “unjust laws” impossible. Socrates indicates the importance of consistency immediately prior to the introduction of the Laws. Indeed, consistency provides the very context to the principle that it is always wrong to do wrong. Socrates asks Crito,

Examine then whether you even really have (this) in common *with yourself* and agree *with yourself* that henceforth in deliberating we must establish the principle that it is never right, neither to do injustice, nor to return injustice, nor, even when you are suffering evil, to defend yourself by doing evil in return, or do you reject this principle and not hold it in common (with me)? (*Cr* 49d5-9)

Socrates considers this principle the foundation of all deliberation; he says that

agreement to this is a necessary condition for discourse. Indeed, he claims that those that accept this principle and those that don't, have nothing in common; they have no way to deliberate and are forced to merely disdain one another's deliberations (*Cr* 49d2-5). I have already pointed-out that just such a disagreement over principles is what we see in the battle of the gods and giants, in the *Sophist* (see *Sph* 246b2-3 and pp146-154, Chapter 4). While the principle never to do wrong certainly has moral implications, its most important implication in this context is logical. The principle to which Socrates insists Crito must agree in order even to begin to deliberate is that wrong actions are always wrong actions; or, that one action can not be both wrong and not wrong. Clearly, anyone who rejected the principle that wrong actions are wrong would be an impossible interlocutor for argumentative deliberation; Socrates would merely disdain such views because he would be unable to argue against (or for) them. The fundamental principle is the principle that Crito agree with himself, that he abide by the Principle of Non-Contradiction.

It is well known that the terminology of deliberative principles is the same as the terminology of political rule: ἀρχή and the verb ἄρχω. The Principle of Non-Contradiction, the rule of Reason and the rule of Law are all ἀρχαί. I cannot be less vague, nor more correct than to say that the fundamental principle according to which Socrates leads his entire life of deliberation and action is the principle of principles, the meta-principle that Socrates ought to be ruled (whether by Reason or by Law), that his life ought to have some principle that guides and orders his soul. From here it is a short step to the reconciliation of the first part of the dialogue, the rule of Reason, with the

second part of the dialogue, the rule of Law. The solution is simply the identification of Reason and Law. Socrates is perfectly consistent to obey the Laws without question precisely *because* he leads his entire life in obedience to Reason. It is Socrates' commitment to rule-governed consistency that entails the impossibility of unjust laws; the impossibility of unjust law releases Socrates from the obligation to Inquire as to whether the laws are just. The identification of Reason and Law is the solution to what must be the most important problem in the *Crito*. Most important for my interpretation of the *Statesman*, the *Crito* focuses our understanding of Reason and Law upon their status as ἀρχαί, or principles of authority. It is less Socrates' commitment never to break the rules, and more Socrates' commitment to be ruled by an external authority that explains the *Crito*. For Socrates as for Plato, external authorities *qua external* are not governed by the rules of whose possibility the external authorities are the condition. I have said repeatedly that external authorities or competences are those which decide about original boundaries; nowhere is this decisive aspect of authority more evident than in Socrates' encounter with the personified Laws.

The crucial and unanswered question is “has the city done injustice to [Socrates], and has it incorrectly decided its judgment?” (*Cr* 50c1-2). Crito responds that it seems so. Rather than answering the question or arguing that he has not been wronged by the city, Socrates tells a sort of story about origins, or ἀρχαί. The city and its Laws are the origin of Socrates (σε ἐγεννήσαμεν, *Cr* 50d2). In the story the Laws *speak*: wasn't it “*on account of us* that your father took your mother in marriage and begat you?” (*Cr* 50d2-3). The Laws ask Socrates if he finds fault with these marital laws or with the laws according

to which he was nurtured and educated; Socrates replies that he finds no such fault with these laws, nor with the laws according to which he was trained in music and athletics.

The Laws then ask Socrates

Since you were born, nurtured and educated, could you possibly be able to say that you are *not* first our child and slave, both you yourself and your ancestors? And if this is just how things are, do you suppose that what is just (τὸ δίκαιον) is based upon equality (ἐξ ἴσου) between you and us and that whatever we attempt to do to you, do you suppose it just (δίκαιον) that you do in return these things (to us)? (Cr 50e5-7)

The Laws' claim that their right to destroy Socrates does not give Socrates the right to destroy the Laws. There is a crucial *inequality* between the ruler (the Laws) and the ruled (Socrates); this, despite the fact that Socrates explicitly frames their relationship in terms of agreement.²⁸ In a very important way this inequality is quite like the inequality between external and internal capacities. The Laws *choose* or discern *what counts* as marriage, *what count* as families and children, *what count* as nurture and education thereof. While it may be very interesting to ponder the *way* that the Laws *beget* Socrates, what is most important for my present purposes is the clear implication that Socrates' very *being* is "on account of" the Laws. The argument emphasizes possibility: *Since* Socrates was "born" it is *impossible* for Socrates "to be able to say that that [Socrates] is not" what he is. The Greek reinforces the point: ἐπειδὴ δὲ ἐγένου...ἔχοις ἂν εἰπεῖν...ὥς

²⁸ It is an interesting question just how Socrates' "agreement" with the laws is or is not like the modern notion of contract-theory. There is at least this obvious difference: Socrates' contract is not based upon the equality of the contracting parties. Also, I do not want to address here the analogy of parents to political authority and children to those ruled. This is perhaps one of the most pervasive and important analogies in political philosophy, ancient, modern or otherwise. This analogy gets at *the* principle of all political philosophy: human nature. Thus for example, John Locke recasts the relationship of parents to children in explicitly contractual terms in order to *abide* by the fundamental analogy *and* use it to make contractual government *natural*, or at least seemingly so. See Locke 1980, chapters 6-8.

οὐχὶ...ἤσθα. Not only is the verb ‘to have’ used with the infinitive to mean ‘be able,’ but the same verb is used in the optative with ἄν to designate *potential*. Thus, a negative response to the question clearly implies this: Only because the Laws have *first* discerned *what counts* as ‘being born’ is it possible for Socrates to say anything; indeed, only because the laws have *first* determined *what counts* as ‘coming to be’ is it possible for Socrates *to be* what he is, namely an Athenian son and educated man worthy of even speaking to the Laws.

For Socrates the Laws and Reason *exercise* the competence or authority to determine the boundaries only within which could Socrates philosophize. Insofar as Socrates is the ideal practitioner of philosophical expertise it is impossible for *him* to determine the boundaries of philosophy, because doing so is *external* to Socratic philosophizing. Thus, Socrates accepts the external authority of *logos* and *nomos*. In this respect, Socrates seems to agree with the thought experiment in the *Statesman* according to which one must not do anything outside the law (*Sts* 297e1-2); Socrates seems to agree with the thought experiment according to which Inquiry is impossible. Socrates seems to deny any authority external to the law; in so doing, Socrates seems to accept that the ruling expertise has no external component. Furthermore, it would be perfectly understandable that Plato contrive his ideal philosopher to value nothing outside Reason or *logos*; the entire corpus bears witness to Plato’s unyielding commitment to discussion and deliberation. However, in a stroke of genius, Plato shows us that Socrates, *unlike* the democrats of the *Statesman*’s thought experiment, really does agree to the essential bifurcation of expertise into internal and external capacities. As internal capacities, *logos*

and *nomos* are systems of rules—discursive and ancestral rules—and their applications; in the divided line as in the *Sophist*, this internal capacity of *logos* is called *dianoia*. By correctly interpreting the first and second parts of the *Crito*, we can see that Socrates commits himself to doing *nothing* outside of these rules. Yet, the external capacities of *logos* and *nomos* determine the boundaries of these rules. This external capacity is most clearly exemplified by the *personification* of the Laws in the *Crito*.²⁹ Recall that it was precisely the *codification* of public opinion (τὰ δὲ τῷ πλήθει δόξαντα... γράψαντας, *Sts* 298d5-6)—even when this codification is in the form of unwritten ancestral custom (*Sts* 298e1-2)—that leads directly to the interdiction of Inquiry. Another passage in the *Statesman* makes just this point

Law isn't capable of prescribing [ἐπιτάττειν] both the best and most just precisely for all men by simultaneously comprehending the Best. For, the dissimilarities among men and deeds, and as the saying goes, the fact that nothing ever remains still, (these things) don't allow anything to rule human affairs simply [ἄγειν τῶν ἀνθρωπίνων οὐδὲν ἔωσιν ἀπλοῦν]; nor (do these things allow)³⁰ any such art to appear in anything, concerning all things and for all time.

Again Plato emphasizes the point of possibility by using the verb ‘to be able’ (δύναμαι) in the optative with ἄν. Thus, law wouldn't even be *potentially* competent to determine precisely (ἀκριβῶς) what is best and most appropriate or just (τὸ δίκαιότατον) by

²⁹ While I had often remarked the peculiarity of talking laws in the *Crito*, the importance of this particularity, that I shall next articulate, was suggested to me by a student: Amber Bahorik. I do not mean to blame her for anything I write; rather, I simply want to acknowledge that it was through reading her paper on the *Crito* and through conversations about this paper with her that I came to realize just how important the personification of the Laws really is.

³⁰ *Sts* 294a10-b6. For alternate translations see Campbell 1988, pp137-8 *Politicus*; and Rowe 1999, p66. I am mildly surprised that Lane 1998 simply follows Campbell with no explanation. I am also surprised that Rowe, normally so careful, seems to render τὸ...ἄγειν as “making [a] decision”. As usual, Campbell embellishes to suit his interpretation. I don't mean to suggest that either of these alternate translations is wrong exactly, I think we all agree about the gist of the passage. Indeed, Campbell embellishes relatively little, adding only the non-existent verb “to lay down”. I note these differences only to point out that I believe that this passage is subject to multiple, non-identical renderings.

comprehending the Best (περιλαμβὼν τὸ βέλτιστον). The diction of this phrase couldn't be more to my point: law lacks the *capacity* to determine *what counts* as the Best. The Greek περιλαμβάνω can mean 'to comprehend' in an intellectual sense, but its root sense comes from λαμβάνω (to take) plus περί (around); thus, in the current context we might as easily translate 'to surround' or 'to encompass.' Law cannot establish the *boundaries* of the Best because law only imitates a *prior* such establishment.

At both *Sts* 294a10-b6 and *Sts* 298a-300a, the laws are incapable of prescribing the best (assuming that Inquiry must be necessary for achieving the best) because of their codification. Laws *qua* laws must "concern all things and for all time." If a "rule" were about particular people or particular circumstances it would simply fail to be a rule; it would be a decree (τὸ ψήφισμα).³¹ Rules as such say something to the effect that *all* people (or at least *all* of this sort of member of the political community) must do or not do such-and-such a thing *whenever* they are in these sorts of circumstances. Laws or rules are essentially incapable of making a judgment about *just this* person in *just these* circumstances. The essentially human and non-rule-governed *judgment* is precisely what

³¹ See Aristotle's *Politics*, iv 4; and *Nicomachean Ethics* v 10, vi 8. The crucial difference between decrees and laws is that laws are universal and decrees particular. While one might (rightly) suppose that the commands of a tyrant would be archetypical decrees, in the *Politics*, Aristotle discusses decrees in the context of lawless democracy: "a people of this sort, as being monarch, seeks to exercise monarchic rule through not being ruled by the law, and becomes despotic, so that flatterers are held in honor" (*Pol* 1292a, Rackham). In the *Nicomachean Ethics* however, Aristotle points out that decree is an essential supplement of law: "all law is universal, and yet there are some things about which it is not possible to make correct universal pronouncements...law chooses what holds for the most part, in full knowledge of the error it is making. Nor is it for that reason any less correct; for the error is not in the law, or in the lawgiver, but in the nature of the case; for the sphere of action consists of this sort of material from the start. [...] law is deficient because of its universal aspect. For this is why not everything is regulated by law, namely because there are some things about which laws cannot be established, so that decrees are needed instead. For the rule for what is indefinite is itself indefinite...the decree adapts itself to actual events." (*NE* 1137b, Rowe)

Socrates faces at the end of the *Crito*. The Laws have *decided* that Socrates counts as a member of the political community, to question their judgment would be to step outside the community only within which is Socratic philosophizing even possible. To question the judgment of the laws would be for Socrates to stand face to face with the principle authority of his entire life and exclaim “you are not who you say you are.” To question the judgment of the laws would be for Socrates so assume the authority competent to determine what count as laws. Only *personified* laws are even capable of making a judgment; Socrates recognizes the locus of decision about first principles in the laws as a *speaking person*. Now, a judgment about what counts as a citizen of Athens may end up being particular in just the way that a decree is; however, it is crucial to see that the laws *qua* laws are incapable of making this judgment, whereas the laws *qua person* are.³²

To judge particular situations in the absence of, or outside of determinate rules is an essentially human capacity.³³ In normal situations this judgment is an unremarkable aspect of the rule-of-law: judges must decide whether *this instance* does or does not fall under the jurisdiction of the law. For example, *this individual* has expressed herself publicly by spray-painting her opinion on the courthouse. Clearly the law says nothing about *this* young person nor about *just this* “graffiti” (which the young person claims is the exercise of her right to public expression of opinion). *How* is the judge to decide this

³² Please note that it is in just this respect that Socrates *accepts* a sort of distinction between the law and its application: laws are general, they are for the sake of making judgments in particular cases. I maintain that Socrates denies the distinction between law and application *with respect to justice*. Applicability to particular circumstances is the very purpose of law and law and its purpose are distinct in this respect. They are so intimately connected that it is impossible the application of a law to be unjust while the law of which it is an application remains just. Law is for the sake of rendering justice in particular circumstances, if it fails to do so, it fails *to be a law*.

³³ This explains why computers are *incapable* of generating truly random numbers.

case? Presumably with recourse to something like “the intentions” of the law. So, just what does the law *intend*? Say “the law” intends to preserve property and discourage inappropriate behavior; whose *intention* is this anyway? Clearly it is the intention of the *people* making the law. Thus, the judge decides this case by *imitating* the makers of this law. It is these *lawmakers* who determine the *boundaries* of acceptable behavior; it is these *people* who determine *what counts* as lawful behavior. In codifying law (whether written or not), lawmakers simply try to “generalize” each of the proper decisions about acceptable and unacceptable behavior into a rule that *imitates* what the lawmakers really intend: to bring about the Best by determining *what counts* as acceptable behavior in each particular situation. The point of the previously cited passage (*Sts* 294a10-b6) is that the truly Best decision in any case cannot be codified because individuals and individual actions and circumstances vary too much. Rather, codified rules merely *approximate* the entirety of (correct) decisions about individual cases. When the dutiful judge renders her decision, she does so *not only* by applying certain rules, but also by recognizing that these rules are only imitations of *the correct judgment in this case*.

Those familiar with the *Statesman* will recognize that the issue of imitation is central to the dialogue. I am introducing it gradually to highlight the universality of the issue. My point is that even in normal situations there is an uncontroversial way that judges exercise the external capacity of their expertise: laws *qua* laws refer to generalities, the judge applies these laws by discerning (without recourse to these laws) whether or not this instance counts as subject to this law. This external capacity of legal expertise is perfectly analogous to theory “confirmation” in normal science, intuitions of

grammaticality in grammar, decisions about what counts as music for the rules of harmony, and tacit agreement among cobblers about *what count* as shoes. Normally these sorts of decisions function “within” a field of expertise even though they are technically answering questions external to that field. To again follow Paul Shorey’s interpretation of *nous* in *Republic* vi, I might say that judges simply “agree” that instances like our courthouse graffiti count as governed by the laws against vandalism even though they cannot exactly justify this agreement with recourse to the law.³⁴ It is under these normal conditions that Plato’s description of law as the *imitation* of political expertise seems most plausible. Judges normally recognize that the codified law is a mere approximation or generalization of a common (or ideal) moral standard. Normally, judges take the law as their only guide to this standard. In applying the law, these judges attempt to *imitate* the moral standard as closely as possible. That is, judges use the law (and normally *only* the law) as an imitation of a standard that would render the correct judgment in every particular instance. Thus, judges too try to imitate an ideal judgment as approximated by law. The critical point is that even in normal situations the law is a mere approximation or imitation of an essentially human judgment about particulars and it is this essentially human component that is the external capacity of legal (and all other sorts of) expertise.

To conclude my discussion of the *Crito*, we must see that Socrates would be right to

³⁴ One might think that common law or precedent could justify the inclusion of graffiti under laws against vandalism. Ronald Dworkin, in his article “Hard Cases,” demonstrates that even strict adherence to precedent requires some element of human decision. See Dworkin 1977b, pp123-130; and pp203-219, below.

destroy pseudo-laws if these things were unjust. The real question is whether the Laws *are laws*. The laws invoke their authority specifically in response to a question about their being laws: “has the city done injustice to [Socrates], and has it incorrectly decided its judgment?” (*Cr* 50c1-2). If the laws’ judgment were unjust, then it would fail to be a judgment *of the laws*. The question in the *Crito* is not whether the application of law or legal decree is just; this sort of question could be answered (or at least addressed) by normal Socratic cross-examination. Socrates doesn’t cross-examine the laws because the real question is whether the laws are laws and this is a matter of agreement *not* justification. I believe this is the real meaning of Socrates’ claim that “one ought to do those things that one has agreed to” (*Cr* 49e5-6). The agreement that the laws are (always) laws and that wrong actions are (always) wrong are the precondition of all deliberation and discussion. The first principles to which experts agree are not the sort of thing that are deduced or justified with recourse to discursive rules. For Socrates to question the authority of the laws would *not* be to transgress a modern, social contract; it would be to disagree with himself. When the laws appear before Socrates *in person* two things happen: First, they are capable of exercising that uniquely human capacity of (non-rule-bound) judgment. Second, any question about whether they are laws is reduced to absurdity. ‘Law’ is basically a proper name for just these “things;” it is absurd to ask whether a proper name is applied “correctly” to some object or person.

The personified laws of the *Crito* are competent to decide what counts as a participant in any (Athenian) conversation. The decision that results cannot be discursively justified without vicious circularity because the decision itself establishes the boundaries of

discourse. If someone questions the competence of the laws, they do so from outside the limits of discourse; Socrates is the very exemplar of discursive argument and it would be self-contradictory for him to do anything outside discursive argument. Thus, Socrates accepts the personified authority before him; Socrates accepts the laws' competence to decide his fate; it is the *personification* of the laws that enables them to judge, to choose and to discern first principles. Does Socrates' obedience to the laws in the *Crito* pose a counterargument to the Stranger's conclusion in the *Statesman* that rule-of-law and Inquiry are mutually exclusive? No. In both cases genuine laws demand absolute obedience. Even Socrates suspends Inquiry when he finds himself *face to face* with law. Inquiry asks *questions* about what we ought to do; thus, Inquiry necessarily questions the authority of law. From the perspective of genuine law, *there is no question* about what we ought to do: you ought to follow the law.

Chapter Five, Section Three: *Dworkin and the Arbitrariness of Expert Judgment*

The laws of the *Crito* and the laws of the *Statesman's* thought experiment are equally absolute. The difference lies in the personified capacity to judge. The laws of the *Statesman's* thought experiment are fixed, they "concern all things and for all time;" whereas, the laws that speak in the *Crito* render judgment about whether or not this particular man before them *counts* as a member of the political community. The very fact that he stands before them proves that the laws have discerned *Socrates* as a legitimate

member; this judgment has been made and it would be absurd for Socrates to question the authority that has determined him to be *what* he is. The laws in the *Statesman*'s thought experiment are incapable of such individual judgment because they are necessarily general, they are codified *public* opinion (τὰ τῷ πλήθει δόξαντα, *Sts* 298d5-e3). The strict rule of law and Inquiry are indeed incompatible because the strict rule of law denies the very possibility of an authority external to itself; Inquiry is the general concept of external capacity. The *Crito* doesn't deny this incompatibility; rather, the *Crito* shows us the peculiar situation where the laws *exercise* the external capacity that the laws of the *Statesman* forbid. To what extent is the laws' judgment in the *Crito* the result of Inquiry? According to what criteria do the laws *decide* that Socrates *counts* as someone subject to the law? Given that the laws' judgment about the boundaries of the political community *cannot* be governed by rules, is this judgment *arbitrary*?

The answer to this last question must be 'no.' In order to understand how and why the exercise of external authority for Plato is not arbitrary, it will be helpful to examine legal expertise under exceptional circumstances in a contemporary setting. In Chapter 1, I introduced a sort of arbitrariness that Immanuel Kant seeks to avoid, at the risk of deep contradiction with his own project (see pp26-41, Chapter 1). I asserted that this arbitrariness is not reducible to the arbitrariness of hypotheses or axioms; axioms are arbitrary because they are unquestioned; the first principles of an expertise (under normal circumstances) are not arbitrary in this way because they *are* questioned and experts agree that this questioning appropriately "warrants" their (tentative) acceptance. Nevertheless, the first principles of an expertise are potentially arbitrary in a different

way: agreement obviously assumes a lack of disagreement. Expert agreement presupposes some determinate class of experts; expert agreement presupposes definite boundaries to the expertise in question. How is it that astronomers don't count astrological disagreement with astronomical first principles as genuine expert disagreement? Astronomers simply don't count the (disagreeing) astrologers as experts in astronomy. If there is a *question* about what counts as an expert, only then does the arbitrariness of expert agreement become apparent. In the *Crito*, Socrates steadfastly refuses to pose such a question; there is no question as to whether those things speaking to him are laws. In the *Statesman*, everything rides on just such a question: who has the competence to rule? and just *what is* this competence or expertise?

In our political community, this sort of external question comes up in what Ronald Dworkin calls hard cases. In his article, "Hard Cases" in *Taking Rights Seriously*, Dworkin argues against legal positivism

Legal positivism provides a theory of hard cases. When a particular lawsuit cannot be brought under a clear rule of law, laid down by some institution in advance, then the judge has, according to that theory, a 'discretion' to decide the case either way. [The judge in deciding such a case] has legislated new legal rights, and then applied them retrospectively to the case at hand. (Dworkin 1977b, 81)

Against this position, Dworkin argues that "even when no settled rule disposes of the case, one party may nevertheless have a right to win. It remains the judge's duty, even in hard cases, to *discover* what the rights of the parties are, *not to invent* new rights retrospectively" (Dworkin 1977b, 81, emphasis added). If there is a question about whether this astrologer is an expert in astronomy, then simply *inventing* or stipulating

rules to include or exclude this astrologer is to admit a deep arbitrariness at the heart of the expertise. With Dworkin, Plato holds that—should such a question arise—it is the astronomers' *duty to discover* (*not* to invent) the very nature of her own expertise; only with recourse to such a discovery could this astrologer be rightly included within or excluded from the astronomical expertise. Legal positivism embraces just the sort of arbitrariness that Plato and Dworkin are at pains to reject; understanding Dworkin's argument against positivism will help us understand how the external capacity of philosophical expertise is *not* arbitrary. Dworkin's hard cases are those that must be decided "when no settled rules disposes of the case;" it should be obvious by now that these judgments in the absence of fixed rules are the exercise of the external capacity of the legal expertise.

Rather than stipulating new rights, a judge of hard cases ought *to inquire* about what rights the parties already have. While Dworkin's whole argument is about rights, I have no interest in affirming or denying his conclusion about *rights*. Rather, what interests me is Dworkin's account of the legal *decision* in hard cases, independent of *what it is* that Dworkin thinks the judge ought to try to discover. For my purposes, Dworkin's notion of discovery is identical to my notion of Inquiry; his argument for discovery and against invention will prove extremely valuable for understanding why Inquiry, as the external capacity of philosophical expertise, is not arbitrary. Presumably, the laws do not simply stipulate that Socrates is worthy of standing before them; rather, the laws must have *inquired* into the nature of Socrates and the nature of Athens in order *to discern* what counts as a human and an Athenian. Dworkin's argument will give us the tools we need

to understand the external capacity of μετρητική and the criterion according to which it measures: τὸ μετρίον. Dworkin rightly argues that judging cases where “no settled rule” is sufficient for decision is not an act of arbitrary “judicial discretion;” nevertheless, “it is no part of [Dworkin’s alternative] theory that any mechanical procedure exists for demonstrating what the rights of the parties are in hard cases” (Dworkin 1977b, 81).

Thus, Inquiry into the best thing to do in hard cases is neither a matter of “discretion” nor a matter of “mechanical procedure;” Inquiry is neither arbitrary nor rule-governed.

There is a great deal of interest for the study of jurisprudence in Dworkin’s famous article. I shall pass over most of this in favor of revealing just those insights and arguments that bear on my developing notion of Inquiry; I consider ‘Inquiry’ the general name for the external capacity of any expertise. I will follow Dworkin’s lead in talking about “rights” as the sort of thing about which the ideal judge *inquires*; rights, for Dworkin, are *what* judges attempt to discover. For my purposes, these “rights” are identical to the Best of *Sts* 294a10-b6. I mean that *what it is* that an ideal judge ought to try and discover is simply the Best decision in any particular case. It makes no difference for present purposes whether ‘the Best’ means respecting a “right” of the person judged or accurately prescribing what this person ought to do.³⁵ I begin with Dworkin’s example

³⁵ My attempt to employ Dworkin’s defense of rights in the defense of political authority may seem (indeed, it may be) a fundamental perversion of Dworkin’s overall project. The reason is that “rights” are not as easily identified with “what one ought to do” as I suggest. In the end, Dworkin’s notion of *discovering* rights without recourse to mechanical procedure amounts to the discovery of something like higher-order *rules*, or natural rights; whereas, I want to say that *what* is discovered is not a universal rule but a particular imperative. Both Dworkin’s sense of “rights” and my sense of “what one ought to do” are equally natural; they differ with respect to universality and particularity and this is no small difference. Indeed, if I were to reduce “what this individual must do in this situation” to “rights,” then Laws wouldn’t be *imitations* of political judgment; Laws would be imitations of higher-order laws. Thus, my employment of Dworkin’s arguments has serious limitations; it is only fair and very important to point out that I

of a fully “autonomous institution.” Chess. By an autonomous or “insulated” institution, Dworkin means one whose participants understand “that no one may claim an institutional right by direct appeal to general morality.” Dworkin believes that this sort of autonomous institution *differs* from legislative institutions of political communities precisely insofar as the latter are not fully autonomous; this means that members of political communities may claim a right with recourse “to general considerations of political morality,” as opposed to legal (i.e., constitutional) grounds (Dworkin 1977b, 101). As I said in the previous footnote, I disagree with Dworkin about the partial autonomy of political communities, at least with respect to rules: I believe that there are no rules outside political boundaries, only within which are such rules even possible. I agree that one may question the laws of the polis on moral grounds, I disagree that such a questioning renders political communities less autonomous.³⁶ Thus, for my purposes, Dworkin’s chess example is even *more* revealing for the rule of law than he thinks it is.

Here is the basic example:

disagree fundamentally with Dworkin as to *what exactly* the judge ought to attempt to discover and hence *what it is* that the Laws imitate.

³⁶ To continue the point of the previous footnote, Dworkin’s claim that our political community is only partially autonomous entails that there is a higher-order system or rules *within which* the laws of the polis are partially insulated. I agree that participants of a polis often “justify” certain actions—about which there is a *question* of their legality or illegality—on moral, economic, aesthetic or other “grounds.” Where I disagree is where these sorts of “justification” are couched in terms of appeals to *rules* in any meaningful sense of the word. Rules-as-such presuppose definite boundaries within which they function and *questions* about the legality or illegality of certain actions amount to questions about the boundaries of the polis. There are no moral, economic or aesthetic rules with recourse to which one could answer questions about the limits of political community; these sorts of questions render rules-as-such questionable. However, while there may be no *rules* to resolve such exceptional disputes, there is no reason to assume that such disputes *must* be “resolved” with recourse to arbitrary power or fiat. The whole point of discussing Dworkin is to introduce a higher-order criterion that is the necessary condition of all rule-governed activity. This criterion, unlike Dworkin’s “rights,” is not itself a *rule*; rather, for Plato the higher-order criterion is due measure. For a full explanation of the autonomy of the political see Schmitt 1985b and Schmitt 1996.

Even in the case of a fully insulated institution like chess some rules will require interpretation or elaboration before an official may enforce them in certain circumstances. Suppose some rule of a chess tournament provides that the referee shall declare a game forfeit if one player ‘unreasonably’ annoys the other in the course of play. The language of the rule does not define what counts as ‘unreasonable’ annoyance; it does not decide whether, for example, a player who continually smiles at his opponent in such a way as to unnerve him, as the Russian grandmaster Tal once smiled at Fischer, annoys him unreasonably. (Dworkin 1977b, 102)

Dworkin is quite right that “the rule does not define what counts as ‘unreasonable;’” I would add that a rule *qua* rule *cannot* determine what counts as a particular instance within the rules’ universal jurisdiction. For example, say we try and specify which instances do and don’t count as ‘unreasonably annoying’ by adding the following criterion: ‘unreasonably annoying instances are those where the annoyed party is unable to continue play.’ The problem is merely shifted back a level, because the rule does not, and cannot determine what counts as ‘unable to continue play,’ as the case with Tal and Fischer makes clear. Nevertheless, Dworkin rightly points out that the referee’s ruling is not arbitrary; it cannot be based upon “background convictions;” rather, the referee’s decision must be based upon “institutional constraints even when the force of these constraints is not clear.” For example, a referee may hold the “background conviction” that “individuals have a right to equal welfare without regard to intellectual abilities.” This referee *must not* rule in the case of Tal v. Fischer based upon the conviction “that annoying behavior is reasonable so long as it has the effect of reducing the importance of intellectual ability.” The reason the referee must not justify her decision in this way is that the institutional constraint that “chess is an intellectual game” *requires* the referee to “apply the forfeiture rule in such a way as to protect, rather than jeopardize, the role of

intellect in the contest” (Dworkin 1977b, 102).

The referee’s decision is constrained by “the character of the game,” even when this character is unclear. Dworkin immediately points-out that in normal situations (i.e., in cases that are not “hard”) the character of the game is determined by “convention;” in normal situations the referee “may well start with what everyone knows. Every institution is placed by its participants in some very rough category of institution; [chess] is taken to be a game rather than a religious ceremony [...] These conventions, exhibited in attitudes and manners and in history, are decisive” (Dworkin 1977b, 102). However, “these conventions will run out, and they may run out before the referee finds enough to decide the case of Tal’s smile.” It is precisely the fact that general agreement about the nature of chess is insufficient to decide *Tal v. Fischer* that render this case a “hard case,” or an exceptional situation where there is no agreement about the character of chess sufficient to decide the case. Dworkin rightly notes that the insufficiency of agreement in hard cases is not a matter of incompleteness—as if there simply were no conventions that could decide the case. Rather, agreement or convention is insufficient in hard cases because of *competing* conventions that could decide the case in either way.³⁷

Conventions “run out” because “their full force can be captured in a concept that admits of different conceptions; that is in a *contested* concept” (Dworkin 1977b, 103).

³⁷ This is a very important point for the *tacit* agreement about first principles that normally obtains. For example, the tacit agreement of cobblers establishes a “complete” class of shoes, i.e., the agreement (tacitly) covers *every case* of some disputed object and whether it is or is not a shoe. The tacit agreement about the essence of shoe is *not* “incomplete;” i.e., the whole point of such tacit agreement is that when a “disputed” object is presented to a cobbler *there really is no question* because the tacit agreement either admitted or didn’t admit the object. Hard cases or exceptional situations, as Dworkin rightly points out, do *not* result from the tacit agreement not having specified this object; the exceptional situation is when the agreement fails and the concept shoe is contested by cobblers.

The referee must select one or another of these conceptions, not to supplement the convention but to enforce it. He must *construct* the game's character by putting to himself different sets of questions. Given that chess is an intellectual game, is it, like poker, intellectual in some sense that includes ability at psychological intimidation? Or is it, like mathematics, intellectual in some sense that does not include this ability? This first set of questions asks him to look more closely at the game, to determine whether its features support one rather than the other of these conceptions of intellect. But he must also ask a different set of questions. Given that chess is an intellectual game of some sort, what follows about reasonable behavior in a chess game? Is ability at psychological intimidation, or ability to resist such intimidation, really an intellectual quality? These questions ask him to look more closely at the concept of intellect itself. (Dworkin 1977b, 103)

Chess perfectly represents an autonomous institution, or closed set of rules. I have been arguing throughout that rules-as-such presuppose definite boundaries. Definite boundaries are the *one* prerequisite of rules, but this prerequisite can be understood in two ways, depending upon the availability of (expert) agreement: in normal situations, rules presuppose determinate boundaries in the way that imitations presuppose that which they imitate; in exceptional situations, rules presuppose boundaries insofar as *contested* boundaries entail competing sets of rules. Thus normally, the chess referee simply enforces a prior judgment about acceptable and unacceptable behavior; the chess referee justifies her decision by appealing to just this conventional *judgment*, i.e., the referee imitates the decision that (the relevant class of experts, participants, rulers, or what-have-you) have already agreed to. In exceptional situations, the chess referee “must select one or another” contested concept of the character of chess. This selection is effectively the determination of the boundaries and character of the game; to just this extent, to select is to “*construct* the game's character.” But, this construction is *not* arbitrary, it is *not* done with recourse to personally held convictions. Rather, the referee's construction of the

limits of chess proceeds by rational *Inquiry* into the nature of the game (as an intellectual game) and the nature of intellect (as including or not psychological intimidation). The referee of a chess tournament perfectly represents expertise in general and its function under different circumstances. It is difficult to imagine a better illustration of Inquiry than Dworkin's account of the series of questions that the referee must ask herself in deciding hard cases. While, the external capacity of Inquiry is particularly evident in hard cases, even Dworkin must acknowledge that there is something analogous (if not identical) to Inquiry in normal situations as well.

Given the limited nature of his article, Dworkin never really discusses the *normal* functioning of the external capacity of jurisprudence. Nevertheless, his example makes clear that this normal situation is governed by agreement or convention. Thus, "If everyone takes chess to be a game of chance...then chess is a game of chance, though a very bad one" (Dworkin 1977b, 102-3). It is necessary to extrapolate Dworkin's remarks slightly in order to see just how Dworkin's account of the functioning of rules—even in normal situations—imitates some human judgment. When Dworkin says that the referee may "start with what everyone knows," he means that the referee may imitate what everyone knows. *What* everyone knows and agrees to is *not* the abstract character of the game; rather *what* everyone knows is that *this* does and *this* doesn't count as chess. The convention is that chess has definite boundaries; the agreement about these boundaries or the definition of the game amount to a (collective) *judgment* about whether this instance is or is not governed by the character of chess.³⁸ In making a normal judgment based on

³⁸ I grant that Dworkin may not agree with the way I have characterized the general agreement; his claim

convention, the referee *imitates* what it is that everyone would agree to in this instance. The ideal judgment that the referee imitates *cannot* itself be governed by rules because the rules are mere imitations or generalizations of this very judgment. The conventional “wisdom” about what counts as chess is at least analogous and probably identical to Inquiry. Yet, ‘Inquiry’ is an especially appropriate word for the exceptional situation in which the conventions “run out” and referees must determine or “construct” the very nature of the game.

Referees decide hard cases, like Tal v. Fischer, by constructing a model of the game. Most importantly, the referee “must construct the game’s character by putting to himself different sets of questions.” That is, the referee must *assume* that the game has a certain, definite character; his decisions must “be governed by institutional constraints even when the force of these constraints is not clear.” The referee must assume that chess is something definite; he *must not* assume that chess is *whatever* his decision makes it.³⁹

While Dworkin employs the chess example to answer a question about what “the players have done in consenting to the forfeiture rule,” we may employ the same example to answer a different question: Does the game of chess allow or prohibit Tal’s annoying

that “Every institution is placed by its participants in some very rough category of institution” seems to contradict my claim that the collective agreement concerns *determinate* boundaries (Dworkin 1977b, 102). Here again, the difference between my view and Dworkin’s hinges on *rights*. That is, *what* the referee imitates, for Dworkin, is a higher-order rule: something to the effect that chess is not a religious institution. Whereas, *what* the referee imitates, for me, is a human judgment: something to the effect that *this* in an instance of chess and *this* is not.

³⁹ The underlying reason that the referee must assume that Chess is something definite, and not something arbitrarily constructed, is that the referee ought to be able to account for the possibility of error in her construction of the character of the game. That is, if the referee were to assume that Chess is *whatever* her judgment in the case of Tal v. Fischer determines it to be, then it is *impossible* for the referee’s decision to be wrong. Given that it is at least possible for the referee to err, it follows that Chess must be something definite, against which the referees constructed model could be measured.

smile? Whichever question you choose, “The concept of a game’s character is a conceptual device for framing that question” (Dworkin 1977b, 104-5). Thus, for Dworkin as for Plato, judging hard cases involves inquiring into the natural boundaries of the relevant class,⁴⁰ community, game or expertise. Further, this inquiry will proceed by asking a *determinate* set of questions. These questions are determined by a “concept of the game’s character” or an imitation of the way chess-itself really is. Inquiry is precisely the means by which experts determine for themselves a set of questions and proceed to answer these questions in order to establish the original boundaries only within which are rules even possible. Inquiry is an essentially human capacity that involves judgment and decision, but is not reducible to these. As in the account of dialectic in the *Sophist*, Inquiry involves *both* a decision about boundaries, *and* the adequate perception of these very same boundaries (see p91, Chapter 3; p134, Chapter 4).

Dworkin elaborates the notion of “constructing a concept” according to certain institutional restraints with recourse to a fictional super-judge he calls Hercules.

Hercules adopts

a process of reasoning that is much like the process of the self-conscious chess referee. He must develop a theory of the constitution, in the shape of a complex set of principles and policies that justify that scheme of government, just as the chess referee is driven to develop a theory about the character of this game.
(Dworkin 1977b, 107)

Dworkin’s account of Hercules’ practice is somewhat more complicated than the chess referee’s because Dworkin believes that the political community within which Hercules judges is not autonomous:

⁴⁰ E.g., *Sts* 262a-263a, *Sts* 285a-d.

judges often disagree not simply about how some rule or principle should be interpreted, but whether the rule or principle one judges [sic] cites should be acknowledged to be a rule or principle at all. [...] In adjudication, unlike chess, the argument *for* a particular rule may be more important than the argument *from* that rule to the particular case. (Dworkin 1977b, 112)

Arguments *for* a particular rule will be justified by an “external” criterion of political morality; one criterion is the principle of fairness, or what Dworkin calls “gravitational force:” “The gravitational force of a precedent may be explained by appeal, not to the wisdom of enforcing enactments, but to the fairness of treating like cases alike” (Dworkin 1977b, 113). Once again, I don’t believe that I have to accept the particular criterion of fairness in order to demonstrate the import of Dworkin’s argument for understanding the external capacity of jurisprudence. That is, fairness or gravitational force are contingent criteria that support the rights thesis.⁴¹ But, fairness and gravitational force are also instances of “external” criteria that *qua* “external” are perfectly analogous to the Best in Plato’s *Statesman*. The basic idea, in Dworkin, is that Hercules “must construct a scheme of abstract and concrete principles that provides a coherent justification for all common law precedents and, so far as these are to be justified on principle, constitutional and statutory provisions as well” (Dworkin 1977b, 116-7). Dworkin’s argument rides on this notion of “coherent justification;” Hercules must strive for total consistency.⁴²

I am sketching Dworkin’s defense of the rights thesis, because it shows us someone

⁴¹ “Hercules’ first conclusion, that the gravitational force of a precedent is defined by the arguments of principle that support the precedent, suggests a second. Since judicial practice in his community assumes that earlier cases have a *general* gravitational force, then he can justify that judicial practice only by supposing that the rights thesis holds in his community” (Dworkin 1977b, 115).

⁴² “Hercules must arrange justification of principle at each of these levels so that the justification is consistent with principles taken to provide justification of higher levels. The horizontal ordering simply requires that the principles taken to justify a decision at one level must also be consistent with the justification offered for other decisions at that level” (Dworkin 1977b, 117).

pushing the application of rules, or the interior capacity of philosophy, to its furthest limits. It is likely that Dworkin's notion of rights amounts to a sort of meta-rule: basically, the Principle of Non-Contradiction. The imperative to treat like cases alike could be thought of as a rule generated from the Principle of Non-Contradiction. Indeed, I believe Dworkin's whole project is animated by the desire to reduce, as much as possible, judicial discretion to a perfectly rule-governed capacity. Given this motivation, it is especially instructive to see how Dworkin himself bumps up against the limits of rules:

If the history of his court is at all complex, he will find, in practice, that the requirement of total consistency he has accepted will prove too strong, unless he develops it further to include the idea that he may, in applying this requirement, disregard some part of institutional history as a mistake. (Dworkin 1977b, 119)

As much as the defenders of common law (of which Dworkin is certainly one) wish for judicial precedent to be an absolute rule for judicial decision, their mere wish is not enough to make it the case. Once again, we seem to be faced with the problem of judicial discretion and the ugly possibility that—although committed to common law, in principle—judges *arbitrarily* exclude certain cases from *what counts* as precedent, in practice. Indeed, Dworkin insists that Hercules “cannot make impudent use of this device, because if he were free to take any incompatible piece of institutional history as a mistake, with no further consequences for his general theory, then the requirement of consistency would be no genuine requirement at all.” Dworkin proposes that Hercules limit his ability to exclude pseudo-precedents by developing a “theory of institutional mistakes” (Dworkin 1977b, 121). It is obvious that any “theory of mistakes” must make

use of Hercules' *external* capacity of Inquiry. He must first inquire into the nature of a mistake; only subsequent to any such inquiry could Hercules determine the relevant class of precedents and pseudo-precedents, and only subsequent to this determination could he formulate a rule that approximates the conditions met by the determinate class of precedents.

No matter how hard Dworkin tries to bring judicial discretion under the rule of law, some element of non-rule-governed human activity—what I'm calling 'Inquiry'—makes its way into the account. Dworkin articulates rules and conditions for "theories of mistake;" I agree that it is Hercules' duty to judge according to law as much as possible and that there are many, many restraints and conditions upon any "theory of mistakes" that are entailed by primary criteria (fairness, the Best, utility, etc.). What is most important for my purposes is Dworkin's sound conclusion that Hercules' "theory of mistakes must show that it is nevertheless a stronger justification than any alternative that does not recognize mistakes, or that recognizes a different set of mistakes. That demonstration cannot be a deduction from simple rules of theory construction" (Dworkin 1977b, 122). The principle that Hercules may use to exclude certain cases as mistakes is not arbitrary like an axiom of geometry, nor is it really justifiable, when 'justifiable' is understood primarily in terms of deduction from established rules. I suggest that the word 'Inquiry' perfectly captures this particular middle ground between legal positivism and natural law. The non-arbitrariness of Inquiry comes from its commitment to a standard outside itself; the non-justifiability Inquiry comes from the fact that it proposes original boundaries only within which could justification function.

It is quite revealing that immediately following the discussion of mistakes, Dworkin turns to the normative aspect of his thesis. Given that “many of Hercules’ decisions about legal rights depend upon judgments of political theory that might be made differently by different judges,” a familiar objection to judicial discretion arises. For those rejecting judicial discretion,

It matters only that the decision is one of political conviction about which reasonable men disagree. If Hercules decides cases on the basis of such judgments, then he decides on the basis of his own convictions and preferences, which seems unfair, contrary to democracy, and offensive to the rule of law. (Dworkin 1977b, 123)

When Dworkin says “judgments of political theory,” we must understand just those non-rule-governed judgments like discerning the nature of chess and “justifying” the exclusion of precedents in common law. These are the sort of judgments that cannot be deduced or even justified, *if* justification depends upon a clearly defined set of rules or conditions that are met. It is due to the nature of these judgments that Dworkin *begins* his article saying, “it is no part of this theory that any mechanical procedure exists for demonstrating what the rights of parties are in hard cases” (Dworkin 1977b, 81). On Dworkin’s account of the familiar objection, the “objection charges Hercules with relying upon his own convictions in matters of political morality.” Dworkin helpfully adds, “That charge is ambiguous, because there are two ways in which an official might rely upon his own opinions in making such a decision. One of these, in a judge, is offensive, but the other is inevitable” (Dworkin 1977b, 123).

The offensive reliance on personal opinion happens when a judge considers his own holding a particular belief to be justification for that belief: “That judge relies upon the

naked fact that he holds a particular view as itself a justification for his decision.”

Dworkin’s example is illustrative:

We might imagine a judge appealing, in just this way, to the fact that he *himself* has a particular political preference. He might be a philosophical skeptic in matters of political morality. He might say that one man’s opinion in such matters is worth no more than another’s because neither has any objective standing, but that, since he himself happens to favor abortion, he will hold anti-abortion statutes unconstitutional. (Dworkin 1977b, 124)

As opposed to this sort of offensive appeal to personal conviction, Dworkin articulates a different sort of appeal: “a judge may rely upon his own belief in the different sense of relying upon the truth or soundness of that belief.”

Suppose he believes, for example, that the due process clause of the Constitution, as a matter of law, makes invalid any constraint of a fundamental liberty, and that anti-abortion statutes constrain a fundamental liberty. He might rely upon the soundness of those convictions, not the fact that he, as opposed to the others, happens to hold them. A judge need not rely upon the soundness of any *particular* belief in this way. Suppose the majority of his colleagues, or the editors of a prominent law journal, or the majority of the community voting in some referendum, holds a contrary view about abortion. He may decide that it is his duty to defer to their judgment of what the Constitution requires, in spite of the fact that their view is, as he thinks, unsound. But in that case he relies upon the soundness of his own conviction that his institutional duty is to defer to the judgment of others in this matter. He must, that is, rely upon the substance of his own judgment at some point, in order to make any judgment at all. (Dworkin 1977b, 124)

The very practice of judicial expertise requires an essentially human judgment about the “soundness” of one’s own thoughts. This non-rule-governed judgment is, as Dworkin rightly points out, *inevitable*.

For Dworkin, the ideal judge *necessarily* employs her own convictions in order to make any judgment. These convictions are a necessary part of any Inquiry; Inquiry simply presupposes (based on the convictions of the inquirer) that Inquiry is a “sound”

means of achieving even tentative decision. A judge *must* rely upon the soundness of her Inquiry in order to render any judgment. For Dworkin, *what* the judge inquires about are preexisting and non-obvious rights of the disputants: Hercules “knows that the question he must decide is the question of the parties’ institutional rights. He knows that if he decides wrongly, as he would do if he followed the ordinary man’s lead, he cheats the parties of what they are entitled to have” (Dworkin 1977b, 129). This is where Dworkin differs essentially from Plato: the Inquiry, for Dworkin, is an inquiry into natural rights or natural *laws*. Whatever rights are, they are at least a set of universal *rules*.⁴³ Since, for Dworkin, the ideal judge inquires about natural rights or natural laws, the ideal judge’s reliance on conviction is *not* “offensive to the rule of law” just insofar as the judges’ decision is *about* natural laws. However, for Plato, the ideal judge inquires about the Best decision about this individual in just this circumstance: “prescribing both the best and most just *precisely* for all men by simultaneously comprehending the Best” (*Sts* 294a10-b2). For Plato, it is the *precision* and *accuracy* demanded by the Best, that denies law the competence to decide and that denies a judge the ability to decide exclusively in terms of law. The correct decision must be based upon “the necessary being of coming to be [τὴν τῆς γενέσεως ἀναγκαίαν οὐσίαν]” (*Sts* 283d8-9, see also *Sts* 284a5-b1, c1, d6, e2-8, 285a1-2). I will conclude the next chapter with an account of just what this enigmatic

⁴³ I admit to having not answered the difficult question as to what exactly rights are. All I claim is that rights are essentially (but not exclusively) procedural rules. Having a right to something means that you satisfy certain conditions and that this satisfaction is sufficient for your being granted certain privileges by the political authority. The crucial difference between Dworkin’s “rights” and Plato’s “the Best” is that a decision according to rights is correct in virtue of the claimant having met certain conditions or having followed certain rules; whereas, a decision according to the Best is correct in virtue of what this particular individual in these particular circumstances *ought* to do.

phrase means (see p264, Chapter 6) Here, we can see that it is human variability and change (i.e., coming to be) that render laws incapable of judging the Best *precisely*; change and variability are features of Becoming. Thus, the correct decision according to the Best, would be precisely what is necessary for the changing human world. For Dworkin and Plato, Inquiry is the means of correct decision; for Plato, as opposed to Dworkin, Inquiry may be offensive to the rule of law, as the thought experiment in the *Statesman* clearly suggests. For Dworkin's Hercules, no conflict between convictions and the rule of law ever arises:

[Hercules'] theory identifies a particular conception of community morality as decisive of legal issues; that conception holds that community morality is the political morality presupposed by the laws and institutions of the community. He must, of course, rely on his own judgment as to what the principles of that morality are, but this form of reliance is the second form we distinguished, which at some level is inevitable. (Dworkin 1977b, 126)

Dworkin and Plato agree that laws are mere imitations of the “community morality” and that it is the very nature of judicial expertise *to inquire* into what that morality is (and perhaps even more perplexing what the community is). It should be obvious that this Inquiry *cannot* be strictly governed by the laws of the community (since *what* the community is somehow depends upon the results of the inquiry).

Dworkin and Plato disagree about the nature of this “community morality;” yet they agree that it is “presupposed” by the laws. They also agree that in exceptional situations, experts must Inquire into the “community morality” and that this Inquiry necessarily employs the convictions of the experts—at the very least experts employ the conviction that Inquiry is the best way to proceed. Finally, Dworkin helpfully distinguishes two

different ways that experts could rely upon their own convictions in matters of political morality: On the one hand, the very fact that an expert happens to hold some conviction could be considered “justification” of this conviction; Dworkin rightly considers this reliance “offensive” because it renders the decision based upon this conviction *arbitrary* in just the way that axioms are arbitrarily assumed. On the other hand, experts *inevitably* rely upon the soundness of their own Inquiry and arguments; Dworkin doesn’t consider this reliance “offensive to the rule of law” probably because the conviction-grounded Inquiry “discovers” higher-order laws or institutional rights. Since Plato doesn’t see the object of expert Inquiry as higher-order rules, but as the Best action under particular circumstances, it is likely that expert Inquiry is somehow offensive to the rule-of-law; and this is just what the thought experiment at *Sts* 297d-300a reveals. Nevertheless, Dworkin’s distinction between offensive and inevitable reliance on conviction is very helpful for understanding *just how* Inquiry is incompatible with the strict rule-of-law: the incompatibility is *not* due to the political expert deciding on the grounds that she simply happens to hold a belief or conviction about the Best under certain circumstances; rather, the incompatibility of Law and Inquiry is due to the fact that the political expert *must* at some point rely on her mere conviction that her Inquiry into the Best thing to do under certain circumstances is sound. This latter sort of reliance upon conviction is not arbitrary like the former sort; relying upon the soundness of one’s Inquiry is not arbitrarily assumed like the axioms of geometry. However, relying upon the soundness of one’s Inquiry cannot be *justified* with recourse to discursive or political rules. An expert’s belief in the soundness of her Inquiry is not merely an unquestioned assumption;

an expert's belief in the soundness of her Inquiry is arbitrary only insofar as questioning-itself presupposes an essentially human and non-rule-governed judgment about first principles, in this case the very nature of Inquiry, that it is the best means to ask questions in order to decide on the Best.

We can now understand Dworkin's distinction between two sorts of reliance on conviction in terms of my previously introduced distinction between two sorts of arbitrariness (see pp77-81, Chapter 2; p109, Chapter 3). The axioms of geometry are arbitrary in an avoidable way: they are *unquestioned* assumptions. The definition and limits of *logos* are arbitrary in a different and inevitable way: they are normally questioned and agreed upon by experts, yet these experts have no clearly defined rules with which they could justify that to which they have agreed. Expert agreement is arbitrary yet discursive in a special sense. Indeed, the peculiar sort of arbitrariness of expert agreement about first principles is really only apparent in the *absence* of agreement. In the exceptional situation where experts fail to achieve agreement, the whole expertise is called into question; in this exceptional situation, someone must decide what counts as expert Inquiry and this decision is a matter of conviction *not* justification. Expertise-as-such presupposes an external capacity to decide about this expertise's own limits; this decision is arbitrary in a very peculiar way. Dworkin attempts to mitigate the arbitrariness at the heart of judicial decision by understanding "community morality" in terms of rules; in the end, *what* the expert "discovers" are the natural rules of the community. Dworkin never claims that the expert could really "justify" her decision about what these rules are; yet the fact that she articulates these rules in terms of

“institutional rights” seems to mitigate the arbitrariness of Inquiry with underlying fairness and consistency. Plato has an entirely different way of mitigating the arbitrariness at the heart of Inquiry; Inquiry is understood as the art of measurement and *to metrion* is the external criterion only according to which is it even possible for an inquirer to err.

In conclusion, I have articulated Plato’s thought experiment according to which the strict rule of law is incompatible with inquiry; indeed, the strict rule of law entails the interdiction of inquiry. Plato’s thought experiment demonstrates the need to forbid inquiry under the particular conditions set forth in the *Statesman*, 297e-300b. I have demonstrated that this thought experiment points to a much broader incompatibility: Inquiry-as-such is incompatible with Law-as-such, when the authority of law is reduced to some sort of codified opinion. That is, when the external authority of law—the authority literally *outside* the law—is denied, Inquiry is impossible. Inquiry is a sort of place holder for external capacities in general; Inquiry is the means by which any expertise asks and attempts to answer external questions about its first principles or limits. The strict rule of law demands that external questions be forbidden, most obviously any questions about the authority of law must be punished by the most severe penalties. The laws are *infallible*; on account of this, everyone who is capable of reading or understanding the law is necessarily wise. I next examined an example of infallible laws from Plato’s *Crito*. This examination answers a potential “counterargument” to my claim that the strict-rule-of-law requires the interdiction of Inquiry, in addition my examination of the *Crito* reveals the crucial identity of Reason and Law. This identity

solves the central problem of interpreting the *Crito*, it also complicates and enriches the incompatibility of Inquiry and Law. Reason—insofar as it is a set of discursive rules and the justification of claims with recourse to these rules—is also incompatible with Inquiry because Inquiry-as-such questions the very limits and rules only within which Reason functions. I will demonstrate this claim further in the next chapter with recourse to the distinction between due measure and relative measure. Finally, I examined Ronald Dworkin's account of judicial decision in order to demonstrate the necessity of human conviction and judgment in hard cases. Hard cases are exceptional situations that reveal the necessarily non-rule-governed decision about first principles. Even Dworkin's defense of natural rights cannot avoid this essentially human decision about starting points. Yet, Dworkin gives us the tools to avoid understanding this decision as entirely arbitrary. While there may be a sort of arbitrariness to this external judgment about first principles, external decisions, for Dworkin as for Plato, are not arbitrary because they are capable of error.

Chapter Six: Due Measure, Discerning the Limits of Philosophy

Section One: *Relative Measure and the Fallibility of First Principles*

In the previous five chapters, I have been steadily working toward an selective interpretation of Plato's *Sophist* and *Statesman* according to which Plato attempts to define philosophy philosophically. Any such attempt faces an immediate problem; I articulated this universal problem of self-definition with recourse to Immanuel Kant and Noam Chomsky in Chapter 1. The problem is that when any expertise attempts to define itself it necessarily presupposes what it needs to prove. Basically, if you try to define philosophy philosophically, then—assuming that your results and your practice are at least consistent—your definition cannot err. For example, if the philosophical definition of philosophy were an error, then it wasn't really a *philosophical* definition in the first place; as long as a philosopher *assumes* that she is defining philosophy philosophically, then consistency demands that she will only find what she happens to be doing. Thus, the philosopher has no way to decide whether she is doing philosophy correctly. Take my recurring example of shoemaking; say a cobbler attempts to define shoemaking by making shoes. Should this cobbler make hats and thereby claim that *this activity* is shoemaking, it is very difficult to imagine how this cobbler could possibly err. If someone were to contest the “cobbler's” definition by making shoes, the original cobbler could simply ignore the competing definition because it wasn't produced by making

shoes. This example may seem contrived; nevertheless it reveals two crucial features of expertise: one, questions about *what counts* as an expertise are reducible to *what count* as the primary objects of that expertise; two, normally an expertise defines itself with recourse to some external capacity. In the case of shoemaking, shoemakers normally appeal to a different expertise, e.g., a discursive expertise, in order to define shoemaking (see my Conclusion, pp269-271).

The problem is not simply a problem of defining expertise; the problem is one of *self*-definition. In order to overcome this problem, Plato employs a distinction, more recently advocated by Rudolf Carnap: questions internal and external to an expertise are answered with different capacities of that same expertise, call them internal and external capacities of an expertise. The internal capacity is essentially an ability to articulate and apply the rules the expertise; the external capacity is essentially an ability to determine the boundaries or first principles only within which the rules are able to function. In Plato, we saw that the discursive rules of *logos* and *dianoia* are dependent upon the partial mixing of the kinds; dialectical expertise, the external capacity of philosophy, is able to establish the necessary conditions of philosophy's own internal, rule-governed, capacity for discursive thought and argument. Thus the external capacity of an expertise is able to define the internal capacity of the same expertise. In the last chapter, we saw Plato articulate the limits of the rule-governed capacity of Reason through a thought experiment extrapolating the strict rule of law and its incompatibility with Inquiry. Inquiry is an essentially human and non-rule-governed capacity; yet Inquiry remains essentially fallible as well. Inquiry must rely upon the inquirer's conviction and the

decision that her inquiry is sound enough as the basis of judgment; yet this conviction and decision must be essentially fallible. The only way to understand the possibility of error for the external capacity of Inquiry is with recourse to Plato's notion of due measure. In the end, defining philosophy philosophically *and* having the confidence in this definition that philosophy rightly provides, require *both* relative and due measure to avoid the arbitrariness of stipulated and hence infallible axioms.

Error is the key to understanding the difference between two sorts of arbitrariness (see pp77-81, Chapter 2) and Dworkin's two sorts of reliance on conviction. It is impossible for an axiom to be an error;¹ likewise, if merely having an opinion is a sufficient for this to be the authoritative opinion, then it is impossible for this opinion to be an error. The arbitrariness of legal positivism and the arbitrariness of geometric axioms leave no room for the possibility of error about first principles. However, the other sort of arbitrariness is *premised upon* the possibility of error about first principles. Notice that Dworkin merely assumes the possibility of error: Hercules "knows that if he decides wrongly...he cheats the parties of what they are entitled to have...Of course, any

¹ Do not misunderstand my meaning. I *do not* mean that an axiom is incapable of being false. I mean that an axiom is incapable of being *judged* false. The reason is that an axiom is the principle according to which judgments about truth and falsity are even possible. The moment an axiom is investigated with respect to its truth or falsity it ceases *to be* an axiom: "when it is necessary for you to give an account [διδόναι λόγον] of this very thing (i.e., your hypothesis or axiom), then you should give it in this same way: by assuming again another hypothesis [ἄλλην αὖ ὑπόθεσιν ὑποθέμενος], anyone that should appear best among the first principles" (*Phd* 101d5-7). If you must give an account of your first principles, then you can only do so with recourse to *different*, or higher (τῶν ἄνωθεν) principles. Of course, giving an account is the *only way to judge* whether principles are correct or in error; such a judgment necessarily depends upon *some* hypothesis. The whole point of the present chapter is to articulate due measure as the only explanation of fallibility about first principles; fallibility is what makes Platonic first principles, or hypotheses, different from axioms.

judge's judgment about the rights of parties in hard cases may be wrong."² Inquiry is premised upon the fact that it doesn't lead *necessarily* to the right answer; the very essence of Inquiry is that the inquirers don't know (precisely) the truth that they are trying to discover. It is the centrality of error to the external capacity of philosophical expertise that explains Plato's decision to make false speech the problem upon which the entirety of the *Sophist* (and *Statesman*) turn. Plato mitigates the second sort of arbitrariness by articulating the necessity of external standards for expertise; nevertheless, I maintain that Plato consistently preserves the (now mitigated) sense of arbitrariness in the practice of discerning ultimate boundaries. The absence of expert agreement calls into question the expertise itself. The decision about *what counts* as expertise cannot itself be justified with recourse to expertise; thus, this external capacity or authority is arbitrary in a very special sense.

Recall that the laws are incapable of delimiting the Best because "the dissimilarities among men and deeds [and] the fact that nothing ever remains still don't allow anything to rule human affairs simply" (*Sts* 294b2-4). By ruling "simply" (ἀπλοῶν) we should

² Dworkin 1977b, pp129-30. Dworkin helpfully points out that one might object to his account on the grounds of this judicial fallibility; that is, judicial fallibility might be seen to argue against Dworkin's insistence that judges *ought* to use their convictions about the soundness of their own inquiry in hard cases. "The argument from judicial fallibility might be thought to suggest two alternatives. The first argues that since judges are fallible they should make no effort at all to determine the institutional rights of the parties before them, but should decide hard cases only on grounds of policy, or not at all. But that is perverse; it argues that because judges will often, by misadventure, produce unjust decisions they should make no effort to produce just ones. The second alternative argues that since judges are fallible they should submit questions of institutional rights raised by hard cases to someone else. But to whom? There is no reason to credit any other particular group with better facilities of moral argument; or, if there is, then it is the process of selecting judges, not the techniques of judging that they are asked to use, that must be changed. So this form of skepticism does not in itself argue against Hercules' technique of adjudication, though of course it serves as a useful reminder to any judge that he might well be wrong in his political judgments, and that he should therefore decide hard cases with humility" (Dworkin 1977b, 130).

understand laying “down in any matter any simple rule which shall be applicable to all cases for all time.”³ The clear implication of *Sts* 294a10-b6 is that “simple” things are incapable of governing complex human reality; laws are simple things; therefore, laws are incapable of prescribing the Best. The word ἀπλοῦς need not be taken in any technical sense. Perhaps the best understanding for my purposes would be something like ‘pure’ or ‘separate’ as in Aristotle’s description of Anaxagoras’ notion of Mind (*Met* A 989b17); in addition, Aristotle contrasts “simple” with “precise” (e.g., *Met* E 1025b7, 1030a16). In this latter sense, ἀπλοῦς means something more like ‘general.’ Plato clearly contrasts the generality of law with the precision needed for prescribing the Best; further, it is the separateness of law from the variable human world that renders law incapable of prescribing the Best precisely.

Law is a mere approximation or imitation of precisely the Best thing to do; law generalizes the conditions met by the entirety of particular (or precise) decisions about the Best under particular circumstance. Thus, law merely presupposes a determinate class of correct, necessarily human and non-rule-governed judgments about the Best. Law only functions with respect to this previously determined class of appropriate behaviors (i.e., the Best). Law measures the legality and illegality of actions *relative* to a determinate class of appropriate actions. As I have been saying throughout, Law cannot determine *what counts* as an appropriate action because Law—technically a judge interpreting the law—only measures this action relative to a determinate class of

³ *Sts* 294b4-5, Campbell translation; see Campbell 1988, pp137-8 *Politicus*. I think Campbell perfectly captures the sense of the passage, although his translations is less literal than my own. The Greek is ἄγειν τῶν ἀνθρωπίνων οὐδὲν ἐῶσιν ἀπλοῦν ἐν οὐδενὶ περὶ πάντων καὶ ἐπὶ πάντα τὸν χρόνον.

appropriate actions. If there should arise a genuine question as to the appropriateness of this particular action, then law is incapable of deciding the case and a human judgment is needed to determine the Best. The strict rule of law is an instance of relative measure and Plato clearly demonstrates that relative measure alone renders expertise impossible. This demonstration occurs in a particularly opaque stretch of dialogue, *Sts* 283c-287b. I sketched the main points of this passage above: we must measure the appropriate length of our discussion *not* according to relative measure, but according to due measure because without due measure our Inquiry into statesmanship would be impossible (see pp165-169, above).

In order to see that this is indeed the main point of the passage in question, it is necessary first to survey the general trajectory of the discussion and only then examine some of its details. The discussion begins with the Stranger warning Young Socrates not to fear that the very long discussions of weaving and the retrograde universe were a waste of time. The reason is that ‘too long’ and ‘too short’—when applied to the appropriate length of their inquiry—can be measured in two ways: by relative measure and due measure. The passage ends when the interlocutors return to their inquiry into statesmanship, assured that the example of weaving was *not* too long. Independent of the difficult details within the passage, the central problem of the passage is this: How does the introduction of the art of measurement and due measure assure the interlocutors that their *logoi* are of appropriate length? Further, the passage seems merely to assume that they ought to employ due measure to evaluate appropriate length; the assumed criterion of measurement is whether or not the *logoi* in question render the interlocutors more

dialectical or better inquirers (*Sts* 258d4-7, 286d4-b2). A significant argument is presented for the conclusion that all expertise requires *both* sorts of measurement (*Sts* 284a-285c); whereas, there is no obvious argument that due measure is just the sort of measurement they ought to use in this case. In general, the passage seems to presuppose first, that the purpose of the inquiry is to become better dialecticians, and second, that this purpose can only be achieved with recourse to due measure. The inapplicability of relative measure to the evaluation of appropriate length never comes up; this, in spite of the fact that relative measure is *just as necessary* as due measure:

One must believe likewise that all the arts are [i.e., the arts exist], and simultaneously both the greater and the lesser are measured not only with respect to one another but also with respect to the coming to be of due measure [*πρὸς τὴν τοῦ μετρίου γένεσιν*]. For, both the former are since the latter is, and the latter is since the former are; if either of these isn't, then neither will ever be. (*Sts* 284d4-8)

This last sentence means that due measure is the precondition of relative measure *and* that relative measure is the precondition of due measure; the *mutual* dependence is clearly emphasized in the Greek through the parallel construction with *τε...καί*.

Furthermore, the plural *πρὸς ἄλληλα* is contrasted with the singular *πρὸς τὴν τοῦ μετρίου γένεσιν* in order to render the antecedents of 'the former' and 'the latter' unusually clear. The point is that no expertise exists that doesn't employ *both* relative measure and due measure. The present passage specifies just what relative measure measures: "number, length, depth, width, and speed with respect to their opposites" (*Sts* 284e4-5). Given that the interlocutors immediate concern is the *length* of their *logoi*, why wouldn't they use relative measure to determine whether the weaving example was too long?

The reason that they choose due measure—with respect to becoming better inquirers—rather than relative measure is *not* that relative measure can't determine the too long with respect to *logoi*. Relative measure can determine whether some *logos* is too long, but only with respect to another *logos*. The reason Plato contrives to have the interlocutors answer the question of appropriate length in terms of due measure is that Plato is attempting to address (indirectly) the exceptional situation where *what count* as *logoi* is called into question. The real question is *not* whether the example of weaving is too long with respect to some other example; the real question is whether the example of weaving even *counts* as an example. Indeed, the example of weaving was introduced with this very issue: “you and I would have done nothing wrong by having attempted to see the nature of example entire.”⁴ The nature of example was investigated with recourse to another example: learning of letters (*Sts* 277d-278e). The nature of τὸ παράδειγμα (and by extension παραδείγματος τὸ παράδειγμα, *Sts* 277d9-10) is essential to understanding Platonic metaphysics in general, and the importance of imitation in the *Sophist* and *Statesman* (see Kahn 1995). In addition, we must see that the “paradigms” or examples are themselves *logoi* or accounts in the service of Inquiry into statesmanship. Understood in this way, it is clear that the only way to give an account of the nature of *logos* is with recourse to another *logos*. If there is a genuine question as to *what counts* as *logos* then any *logos* attempting to account for *logos* necessarily presupposes what it is trying to prove. Plato indicates precisely this problem by using *letters* as his example of example.

⁴ *Sts* 278e4-6: οὐδὲν δὴ πλημμελοῖμεν ἂν ἐγὼ καὶ τε σὺ πρῶτον μὲν ἐπιχειρήσαντες ὅλου παραδείγματος ἰδεῖν τὴν φύσιν.

I have already examined Plato's reference to letters in the *Sophist* (see pp52-70, Chapter 2). The learning of letters, orthography, is a specific case of grammar and grammar perfectly illustrates the need for internal and external capacities. The grammatical expertise can "generalize" or approximate rules only for a distinct class of grammatical utterances. If there is a question about what counts as a grammatical utterance, then grammatical rules will be of no avail. Normally, grammarians (tacitly) agree to the determinate class of grammatical utterances (see Chapter 2, Section 2). In exceptional situations experts are unable to agree about *what counts* as their primary object of inquiry; in such cases, the external capacity of the expertise comes to the fore. This external capacity is the competence or authority to discern the first principles or primary boundaries of the relevant expertise.

The reason the Eleatic Stranger and Young Socrates do not employ the internal capacity of relative measure is that relative measure presupposes a determinate class with respect to which it measures. In this case, relative measure could say 'too long' of the weaving example only with respect to some other example; thus, relative measure *presupposes* what counts as an appropriate example.⁵ Without some idea of what counts as an example of appropriate length, predicating 'too long' of the weaving example with recourse to relative measure would be impossible. This dependence of relative measure on due measure explains why all of the arts would be destroyed without due measure (*Sts*

⁵ It would make no sense to describe an example as 'too long' with respect to an arbitrarily chosen example. That is, 'too long' only makes sense with respect to 'just right.' If the weaving example were too long with respect to just any old example, then it is possible for weaving to be too long with respect to the word 'herder.' Since this latter example is obviously too short, examples longer than 'herder' are not too long. Thus the weaving example could be both too long and not too long with respect to 'herder'.

284a1-b2). The fact that the interlocutors choose due measure as opposed to relative measure confirms what I have been arguing throughout: Plato is concerned with the exceptional situation of expert disagreement about first principles. In this case, the implicit disagreement could not be more profound. The interlocutors confront the possibility that someone might contest what counts as Inquiry. The very boundaries of Inquiry itself are at stake in the seemingly benign question, ‘is our inquiry an appropriate size?’ The very posing of this question suggests that *what counts as inquiry* is no longer tacitly agreed upon by experts. Ronald Dworkin would call this a hard case indeed. Taking my lead from Dworkin, I maintain that Plato’s means of deciding this case is not merely to have someone stipulate some definition of ‘inquiry.’ This sort of arbitrary stipulation (i.e., Dworkin’s notion judicial discretion) is exactly what would occur if the interlocutors were to decide this case by relative measure. Relative measure merely stipulates some appropriate length of inquiry and measures the weaving example with respect to that. Whereas due measure, to borrow Dworkin’s diction, poses itself a set of determinate questions whose answers will discover the nature of Inquiry; the man who measures Inquiry according to due measure “must *construct* [Inquiry’s] character by putting to himself different sets of questions” (Dworkin 1977b, 103). The crucial difference between this sort of measurement and relative measure is that due measure presupposes something *outside* itself—whether this is the character of chess, the institutional rights of members of a political community, or the nature of Inquiry—according to which its measurement may be right or wrong: “any judge’s judgment about the rights of parties in hard cases may be wrong” (Dworkin 1977b, 129).

Judgments according to relative measure may also be right or wrong; however, they are right or wrong only with respect to the arbitrary examples against which relative measure measures. That is, the proposition ‘this inquiry is too long with respect to a certain collection-division’ may be false if this inquiry is *not* longer (or too much longer) than a given collection-division. The truth or falsehood of the proposition is relative to the stipulated example, namely a certain collection-division. But, is it *true* that the stipulated collection-division is the appropriate length? This question hardly makes sense to relative measure; its “truth” would be a function of the fact that the measurer *chooses it* as that against which to measure the weaving example. For relative measure, truth and falsehood are determined only with respect to something *inside* the system of measurement; relative measure has no external component. For relative measure, measurers stipulate certain cases in order to determine truth and falsehood; without the requisite stipulation, ‘truth’ and ‘falsehood’ would be impossible. The arbitrariness of this stipulation is exactly like the arbitrariness of a (bad) judge who believes her very holding of an opinion is the ultimate grounds of its justification, authority and “truth” (see pp216-222, above). It is in response to this “offensive” reliance on personal conviction that Plato proposes a different sort of reliance on conviction: due measure.

First, let there be no mistake that at some point even the measurer according to due measure must rely on her own convictions. At the very least she must rely on her conviction that her answers to the determinate set of questions about the nature of Inquiry are good ones; she must rely upon her conviction of the soundness of her own inquiry into Inquiry. This is *not* to say that the due measurer relies on a conviction that her

definition of Inquiry is true; on the contrary, it is essential to due measure that the results of measurement are at least possibly false, i.e., Inquiry is essentially fallible. The truth or falsehood of the measurement must be judged according to established procedures and rules; judgment about truth or error is part of the *internal* capacity of measurement. In this case however, due measure discerns the very nature of Inquiry and determines *what counts* as an inquiry, namely whether the weaving example is or isn't a member of the class of things that *count* as inquiry. Perhaps the only, yet crucial difference between this discernment and arbitrary stipulation is that due measurement is *fallible*; arbitrary stipulation isn't.

It is precisely the fallibility of due measure that forces the measurer to attempt to discover something *outside* her own measuring. Of course, whether one is measuring by relative or due measure the results of the measurement *are* true or false as a function of the nature of the thing measured (assuming that we adopt something like a correspondence theory of truth). The real issue that distinguishes relative from due measure is *knowledge*. Recall that due measure and relative measure are *mutually* dependent (*Sts* 284d4-8). Let me now introduce this mutual dependence with recourse to knowledge or expertise; this introduction is meant to sketch the trajectory of the next two sections of this chapter. Relative measure presupposes due measure in just the way that knowledge presupposes its own conditions or definition; yet, the conditions of knowledge are always *for the sake* of knowing. Thus, due measure is always for the sake of relative measure. If we assume that knowledge is something like justified true belief, then we can say that due measure discerns the conditions of justification and relative measure *justifies*

particular claims with recourse to rules and procedures generalized from the previously determined conditions. Relative measure, the rule-of-law, and the internal capacities of arts in general are ultimately procedures of justification; due measure and the external capacities of arts in general are ultimately decisions about the *conditions* of justification. Relative measure provides *warrant* for saying ‘I know that the weaving example is not too long.’ Due measure determines or discerns (*diakrinein*) the measure (*to metrion*) according to which the weaving example is or isn’t too long. *To metrion* is a sort of criterion or boundary only within which the rule-governed activity of justification is possible. The results of due measurement are not justified, at least not in the way that relative measure justifies; nor are the results of due measure arbitrary, at least not in the way the stipulated examples of relative measure are arbitrary.

Chapter Six, Section Two:
Inquiry, the Criterion of Due Measurement

The peculiar “justification” and “arbitrariness” of due measure are a function of the one measuring: all measurement, especially due measure, is made by human judgment; this indeed is inevitable. Due measure establishes the necessary conditions of relative measure; as such, it is arbitrary because there are no rules according to which it establishes the outermost boundaries. Due measure establishes the necessary conditions of relative measure; as such, it is only justified by the nature of the thing measured. Due measure is the establishment of first principles; as such, it is a necessarily human activity.

The external capacity of an expertise establishes the necessary conditions of its own internal capacity. The external capacity of Inquiry establishes a class of “legitimate” *logoi* or arguments. Rudolf Carnap would call this determinate class of arguments a “system of entities.” Only after this class of “entities” has been determined, could the internal capacity of Inquiry *employ arguments* for the purposes of (tentatively) determining the truth or falsity of particular claims. Thus, Carnap asserts that

An alleged statement of the reality of the system of entities is a pseudo-statement without cognitive content. To be sure, we have to face at this point an important question; but it is a practical, not a theoretical question; it is the question of whether or not to accept the new linguistic forms. The acceptance cannot be judged as being either true or false because it is not an assertion. It can only be judged as being more or less expedient, fruitful, conducive to the aim for which the language is intended. (Carnap 1967, 79)

For what is this language of ‘accounts’ and *logoi*, and intended? For the aim of Inquiry, of course. Notice that this is *exactly* the criterion that Plato proposes in our present passage: “Again, what now, to us, (is) the inquiry about the statesman [περὶ τοῦ πολιτικοῦ ζήτησις]? Is it for the sake of this thing itself tossed before us rather than (for the sake of) becoming more dialectical about everything? —This too is very clear, that (it is for the sake of becoming better dialecticians) about everything” (*Sts* 285d4-7). At crucial moments in both the *Sophist* and the *Statesman* Plato makes dialectical expertise the focus of discussion. In the *Sophist*, the interlocutors stumbled upon dialectic in their search for the sophist; more specifically, once they “deduced” that some kinds must mix and others not, they assert that dialectic is necessary for expressing correctly just how the kinds mix and don’t. Dialectic is *both* the expertise of *knowing how* to collect and divide according to kind, and the *knowledge that* the kinds mix in just this way and no other. In

the *Statesman* dialectic is introduced as the highest criterion with which to evaluate their own inquiry into statesmanship. As in the *Sophist*, dialectic is *both* an external capacity or authority to determine the boundaries of *logos*, the first principles of philosophy, *and* an internal capacity to justify that these boundaries are correct... or so I shall now argue.

We must see the contrivance with which Plato discusses dialectic in the *Statesman*: dialectic is introduced in the context of due measure; dialectic is claimed to be the very purpose of our inquiry into statesmanship. Dialectic, is introduced to answer a question external to the inquiry: Are our *logoi* of the retrograde universe and weaving *really logoi*? We already have strong reasons for choosing due measure over relative measure in attempting to answer this question, in attempting to measure the appropriate length of our *logoi*. The reason we choose due measure to apply censure or blame to our inquiry is that relative measure is essentially stipulative and thus renders our first principles incapable of being in error; whereas, due measure holds onto the possibility of error because the first principles of measurement are determined according to an external standard, *to metrion*. We must see that one obvious, external measure according to which we *could have* measured the weaving example would be statesmanship-itself.

If you were measuring a shoe you could do so in two different ways: first, by stipulating some other shoe and calling the one measured 'long' or 'short' with respect to that; second, by discerning the *appropriate* shoe for these circumstances and measuring according to that. Both are ways of measuring the length of a shoe against some standard; the difference is whether the standard is of the same nature as the thing measured (i.e., it is *internal* to the system of measurement) or whether the standard is of a

different nature than the thing measured (i.e., it is external to the system of measurement). Of course, even external standards must be *comparable to* the things measured; nevertheless, they must also be external to the measurement. Probably, something like a theory of forms would best explain the way that the external standard both is and is not *like* the particular things measured. Indeed, I believe that something like shoe-itself could function as just such an external standard of measurement. However, I fully admit that the commonplace ‘theory of forms’ will not readily account for *the appropriate* under just these circumstances. I suspect that a proper articulation of this problem would involve the question as to whether shoe-itself is universal or particular. I can’t address these vexing problems here; rather, I’d like just to assume that something like ‘shoe-itself’ could be the standard according to which this shoe is either long or short, when measuring by due measure; whereas, some other shoe would be the standard when measuring by relative measure. Likewise, if you were measuring the length of *logoi* according to an external standard, then whatever it is that they are *logoi of* could be the standard. That is, in order to measure these *logoi* against ‘appropriate *logos*’ under these circumstances, it would be quite plausible to measure the relative length of the weaving example against the appropriate account of statesmanship. Yet, this is nowhere suggested in our passage.

Relative measure “measures number, length, depth, width, and speed with respect to their opposites;” Due measure measures the same thing (i.e., number, length, etc.) “with respect to *to metrion*, the appropriate, the right moment, and what *ought to be*.”⁶ If we

⁶ Δῆλον ὅτι διαιροῦμεν ἂν τὴν μετρητικὴν, καθάπερ ἐρρήθη, ταύτη δίχα δέμοντες, ἐν μὲν τιθέντες αὐτῆς μόριον

are duly measuring the length of a model of statesmanship, *what is* ‘the appropriate’ with respect to which we ought to measure? One obvious choice must be the real class, statesmanship-itself. Indeed, this notion of “real classes” has been the criterion with which the interlocutors have already evaluated their own inquiry: The Eleatic Stranger reproaches Young Socrates for proposing a collection-division without reference to real classes (*Sts* 262a-263e): “Let us not divide [ἀφαιρῶμεν] one small share from many great ones separately from real classes [εἴδους χωρίς]; rather one must simultaneously possess the share (which is) a real class [το μέρος ἅμα εἶδος].” (*Sts* 262a8-b2) Furthermore, in the passage immediately following the careful distinction between relative and due measure (*Sts* 284e), the Stranger mentions a common error in collection and division:

Through not being accustomed to inquire by dividing these things according to real classes [κατ’ εἶδη], they straightaway both throw together into the same (class) many different (things) customarily similar, and again conversely they do this (i.e., make this error) by not dividing different things as they ought, according to shares. Whenever someone first perceives a commonality [κοινωνίαν] among many, there should be no stopping before he sees the distinction in the commonality, all and as many distinctions as lie in real classes [εἶδεσι]. Conversely again, whenever (someone perceives) manifold differences, one must not be able to be shamed into stopping before he rounds up all the natural kin [τὰ οἰκειὰ] within one likeness [ὁμοιότητος] by making a certain genus in being [ἔρξας γένους τινὸς οὐσίᾳ]. (*Sts* 285a4-b6)

This elaborate distinction between collection and division makes it very clear that whether you are collecting (which is necessarily a dividing) or collecting (which is necessarily a dividing) you *must* collect and divide according to the external standard of “real classes.” In the *Phaedrus* Socrates calls “dialecticians” (*Phdr* 266c1) those who

σμπάσας τέχνας ὅποσαι τὸν ἀριθμὸν καὶ βάλῃ καὶ πλάτῃ καὶ ταχυτήτας πρὸς τὸναντίον μετροῦσιν, τὸ δὲ ἕτερον, ὅποσαι πρὸς τὸ μέτριον καὶ τὸ πρέπον καὶ τὸν καιρὸν καὶ τὸ δέον δαί πάνθ’ ὅποσα εἰς τὸ μέσον ἀπωκίσθη τῶν ἐσχάτων *Sts* 284e2-8.

have the capacity of “bringing together frequently scattered things into one kind [ιδέαν] by seeing (them) together [συννορῶντα]” (*Phdr* 265d3-4) and those who have “the capacity to cut by kinds [κατ’ εἴδη] according to their natural joints” (*Phdr* 265e1-2). The context makes it quite clear that the dividing proceeds according to *natural* divisions, or what we might call “real classes.” The “real classes” of *Sts* 262a-263e refer to the natural division between men and women as a “safer” way to divide the class of humans. The point is that if we were dividing the too long from the appropriate with respect to length of *logoi*, then it would seem not only plausible but advisable to measure against the real class, weaving, if not the real class, statesmanship. Of course, these two criteria are explicitly *rejected* as the external standard according to which we ought to measure our *logoi* (*Sts* 286d-e). Rather, the external standard according to which we ought to measure our *logoi* is our becoming “better dialecticians and better inquirers into the explanation of beings in *logos*” (*Sts* 287a3-4). Why? Why is the external standard according to which we measure our inquiry something as painfully circular as Inquiry-itself?

Recall Carnap’s claim that a “statement of the reality of the system of entities is a pseudo-statement without cognitive content,” and that the acceptance of such a “pseudo-statement...cannot be judged as being either true or false because it is not an assertion.”

Carnap goes too far;⁷ nevertheless, if Plato were to have chosen Statesmanship-itself as

⁷ I have been employing something very much like Carnap’s distinction between internal and external questions without endorsing his conclusions about these. Specifically, Carnap is attempting to justify the internal functioning of science—which includes merely hypothetical and perhaps even exclusively theoretical entities—against certain logical positivist critics. Thus, Carnap cleverly “rules out” the whole positivist project as external to the sciences themselves. What Carnap does very well is point out the speculative and hypothetical nature of what Kuhn would call normal science. However, his rhetorical bombast renders what Kuhn would call revolutionary science “without cognitive content.” This goes too far. I fully agree that exceptional situations in which scientists disagree about first principles is not

the external criterion against which to measure the weaving example, then this criterion would have lacked “cognitive content” of a very special sort: the criterion would have been incapable of being *judged* an error (or not an error). Statesmanship-itself would have been the condition of the possibility of justifying (with recourse to due measure) the proposition ‘the weaving example is not too long.’ Following Carnap, we can now see that for Plato Statesmanship-itself is an entity *within* the system of Inquiry; it is one of the things *about which* we inquire. Plato’s actual criterion is truly external to the system of things about which we inquire: Inquiry-itself.

If someone wishes to speak in his language about a new kind of entities, he has to introduce a system of new ways of speaking, subject to new rules; we shall call this procedure the construction of a linguistic *framework* for the new entities in question. And now we must distinguish two kinds of questions of existence: first, questions of the existence of certain entities of the new kind *within the framework*; we call them *internal questions*; and second, questions concerning the existence or reality *of the system of entities as a whole*, called *external questions*. Internal questions and possible answers to them are formulated with the help of the new forms of expressions. The answers may be found either by purely logical methods or by empirical methods, depending upon whether the framework is a logical one or a factual one. (Carnap 1967, 73)

Statesmanship-itself may or may not be a *new* entity within the system of inquiry; regardless, questions about it are answered with recourse to the rules of inquiry, whether these are logical or empirical. In the middle of the *Statesman*, Plato poses a question about the “reality of the system of entities as a whole:” this is a question about *what counts* as Inquiry. Seen in this light, it should be perfectly clear why Inquiry-itself or

discursive *in the way* that normal science is; there are no discursive rules according to which to resolve such disagreements. However, it does not follow from this that pragmatic or methodological “reasons” for choosing one set of principles over another are incapable of “being either true or false.” Indeed it seems very hard to imagine *how* scientists *could answer* practical questions about “whether or not to accept the new linguistic forms,” if these questions did not themselves have *some* cognitive content, even if this cognitive content is of an essentially different sort than the content of internal question and answers.

“becoming better dialecticians and inquirers” should be the external criterion of due measure when measuring the appropriateness of *logoi*. As I argued above (see pp168-170), Inquiry is merely a sort of place-holder for any expertise’s external-capacity-as-such. Plato’s bifurcation of the art of measure into its internal (relative measure) and external (due measure) components must itself be based upon some external criterion; in order to “measure” the art of measurement Plato must duly measure the appropriate, or the measure (*to metrion*) of measurement. Inquiry-itself, in this respect, is the outermost sphere; Inquiry-itself stands in for *whatever criterion* is the one from which you start because *whatever criterion* is established as first principle, Inquiry is the means by which this criterion is discerned. Plato contrives for a seemingly benign question about the appropriate length of the weaving example to pose a question external to inquiry itself. The answer to such a question must literally *establish* the boundaries or framework only within which logical and empirical inquiries can function. The external criterion for this establishment must be nothing less than Inquiry-itself or dialectical expertise.

Plato doesn’t contrive for the Eleatic Stranger and Young Socrates to measure the appropriateness of their *logoi* relative to some stipulated standard; the interlocutors choose due measure as the means of measuring the appropriateness of their *logoi*. Nor does Plato contrive for the interlocutors to even agree about (much less “see”) the external criterion, statesmanship-itself; such a criterion would have been a perfectly legitimate external standard according to which they could have measured their *logoi* by due measure. Of course, if the interlocutors could simply agree about or intuit statesmanship-itself, then the whole inquiry would be superfluous. Rather, Plato

contrives for their very Inquiry to be the external standard according to which they must duly measure their own inquiries. This explains, Taylor's assertion that it is *method* "with which Plato is really most concerned in these dialogues" (Taylor 1961, 9). Yet, Taylor fails to see *why* Inquiry through dialectic is the outermost sphere according to which the very nature of *logos* must be measured. The reason is that Inquiry—as the external capacity to determine the limits or definition of justification—is essentially fallible. Inquiry is *premised upon* the possibility that its own results are true or false as a function of the nature of the thing inquired *about*; this "thing" is essentially external to the system of justification; this "thing" is somehow the very limit or definition only within which justification is possible. Yet, merely saying that Inquiry is fallible is of little help if there is *no way* even to try to justify whether the results of the inquiry are closer or further away from the external standard. It is all well and good *to say* that Inquiry is fallible, but without some means of *knowing* (even tentatively) or at least justifying whether *this* Inquiry results in error, the fallibility of Inquiry would be meaningless. Dworkin premises his account of judicial decision in hard cases upon the possibility of error; the judge's personal conviction in the soundness of her own inquiry is neither certain nor true-by-definition, the judge's conviction is fallible. Yet, Dworkin provides almost no indication as to how a judge is to evaluate her own inquiry. What Dworkin does say about a judge's ability to evaluate the soundness of her own inquiry—really an ability to determine whether her own "inquiry" *counts* as Inquiry—shows that Dworkin rightly relies upon the prevailing normal situation in which rules of debate are (tacitly) agreed upon; within these rules the soundness of the judge's

inquiry could be discursively challenged (Dworkin 1977b, 128-30).

I have been arguing throughout that Plato is not particularly interested in this sort of normal situation. The situation that motivates Plato's *Sophist* and *Statesman* is the exceptional situation where disagreement over first principles results in disagreement over what counts as legitimate discourse. In the exceptional situation there are no higher order rules with which a judge could evaluate the soundness of her own inquiry. The whole point of posing the question about the appropriate length of inquiry is to draw our attention to the exceptional situation where Inquiry-itself has become a contested concept. While Dworkin would doubtless deny the likelihood of such an exceptional situation, he cannot deny its possibility. While Dworkin's "hard cases" reveal essential features of decisions about first principles, he always discusses them in the context of broader political stability, where there is really no question that *some* community morality obtains—even if the specifics of this community morality are obscure. The exceptional situation is where *what counts* as the community (much less its morality) has become a question. Plato addresses this situation indirectly; Inquiry-itself is that external capacity with which the political authority would determine the limits of the political community. I will return to this deeply political aspect of Inquiry in the next section. Here, we must ask *how* the relevant authority is to evaluate the soundness of her own inquiry into first principles when these principles are the very conditions of the possibility of justification. If these principles cannot be justified, how can the Inquiry into them be meaningfully fallible? Plato's answer is that the decision about first principles is always *for the sake* of discursive rules according to which justification is

possible. Due measure is *for the sake of* relative measure and this purpose provides a way of “justifying” the results of due measure.

Recall that Plato explicitly states that due measure and relative measure are *mutually* dependent: “For, both the former are since the latter is, and the latter is since the former are; if either of these isn’t, then neither will ever be” (*Sts* 284d4-8). The lion’s share of this dissertation has argued for the dependence of the internal capacity of relative measure upon the external capacity of due measure. There should be no doubt that rule-governed capacities presuppose the capacity to determine the limits of these rules. However, in the statement just cited, Plato says more than just this; he also says that the external capacity to establish primary criteria or boundaries depends upon the internal capacity to measure *relative to* these boundaries. How exactly does due measure depend upon relative measure? The short answer to this question is that due measure is *for the sake of* relative measure.⁸ The whole purpose of the external capacity of an expertise is to establish a normal situation, only within which procedures of justification could function. The external capacity of an expertise concerns itself with the limits of this very expertise; thus, insofar as the external capacity of an expertise is exercised, to just this

⁸ I admit that this may sound, not only odd, but at odds with the text already examined. To lend initial plausibility to such a counterintuitive claim, let me use Kuhnian normal and revolutionary science as examples of how due measure is “for the sake of” relative measure. Normal science is relative measure, science relative to a set of assumptions, namely a paradigm; revolutionary science is when these assumptions are called into question. Revolutionary science has no choice but to proceed according to due measure, where “appropriateness,” “what *ought* to be the case,” and generally some *external* standard guides the scientific inquiry. Now, it is certainly true that normal science depends upon revolutionary science as the “beginning” of a paradigm; however, it is equally true that the whole purpose of revolutionary science is to establish a paradigm, or the normal situation only within which could scientific “progress” occur. To think of due measure as superior to and thus independent of relative measure would be to claim that the whole purpose of the scientific project to achieve revolutionary instability; this is as contrary to fact as it is absurd in theory.

extent the expertise itself is in question. The whole purpose of establishing the boundaries of an expertise is for the sake of that expertise *being* something definite, namely just this expertise. What expertise does *essentially* is to apply discursive rules of justification and argument *within* determined limits. To put this in the language of the *Republic*, the whole purpose of using *nous* to determine unhypothesized first principles is *so that dianoia* may proceed to draw inferences from them:

By the other section of the intelligible I mean that which the reason itself [αὐτὸς ὁ λόγος] lays hold of by the power of dialectics [τῆ τοῦ διαλέγεσθαι δυνάμει], treating its assumptions not as absolute beginnings but literally as hypotheses, underpinnings, footings, and again springboards so to speak, to enable it to rise to that which requires no assumption [ἀνοποθέτου] and is the starting-point of all, and after attaining to that again taking hold of the first dependencies from it, so to proceed downward to the conclusion. (*Rep* vi 511b, Shorey)

Plato nowhere suggests that discerning first principles—neither by intellectual intuition nor by authoritative discrimination—is the purpose of dialectical expertise; on the contrary, it is always for the sake of justifying things that we discern first principles.⁹ The downward movement of thought is just as necessary for the upward movement of thought as the upward is for the downward.

How exactly, as *Sts* 284d4-8 clearly says, does due measure depend upon relative measure? The longer answer to this question invites us to think carefully about what Plato means by ἐπιστήμη—the word commonly translated as ‘knowledge’—in the *Statesman* and *Sophist*. Recall that at the introduction of dialectic in the *Sophist* the

⁹ This may not be quite as radical as it sounds. Ron Polansky asks “Isn’t the apprehension of *nous* good in itself? Is the philosopher’s purpose to dwell in the cave?” I don’t believe the mere “apprehension” of The Good is good in itself; rather, thinking *discursively* about The Good is good in itself. Permitting myself to speak metaphorically, the philosopher’s purpose is to *enlighten* the cave; all genuinely discursive thought happens within the cave. Discursive thought necessarily presupposes The Good as its principle and condition; yet, The Good is always the principle and condition *of* discursive thought.

Stranger says

Since we have agreed that the forms are mixing with one another according to these things, doesn't it follow that it is necessary—in order *correctly* to describe which sorts of kinds harmonize with what sorts and which sorts don't accept the others—to convey (this) through arguments [διὰ τῶν λόγων] with some knowledge [μετ' ἐπιστήμης τινός]? (*Sph* 253b8-c1)

The “correctness” of first principles never really comes up under normal circumstances; normally, inquirers tacitly agree about what counts as Inquiry and what count as the primary objects of inquiry. I have argued at length in the previous chapters that Plato's concern with the “correctness” of first principles is most evident in the exceptional situation when experts disagree about the very limits of their expertise. The central problem is that correctness is normally a function of having met certain conditions, as determined by the internal capacity of an expertise. Since first principles are the very conditions of an expertise, it seems that they are incapable of being judged correct or incorrect according to the normal practice of an expertise. On what *grounds* could you claim that the first principles or limits of an expertise are correct? The previously cited passage from the *Sophist* shows that *if* you wanted to claim that your first principles are correct, then you must justify this claim through argument, with knowledge. In previous chapters I interpreted this concern for correctness as indicating Plato's desire to avoid the following dilemma: the conditions of justification are not themselves justifiable; therefore they are either mysteriously intuited or arbitrarily stipulated (see p134, Chapter 4). Plato avoids this dilemma by carefully balancing the passive-intuitive aspects of dialectic with the active-stipulative aspects of dialectic, thus confirming the two capacities *within* the one expertise, philosophy. The reason that the external capacity of an expertise is

dependent upon the internal capacity of that same expertise is that it is impossible for the first principles to be judged *correct* without the internal justification according to conditions.

I have been translating ἐπιστήμη as ‘expertise’ in order to highlight the active and non-rule-governed character of external capacities; however, ἐπιστήμη is also ‘knowledge’ and it is with recourse to knowledge *alone* that propositions are *judged* correct or incorrect. As I have said (see p226), the possibility of error is what distinguishes the peculiar sort of arbitrariness of due measure—insofar as the results of due measure are the conditions of justification they cannot themselves be justified—from the common arbitrariness of unquestioned axioms or stipulations. Relative measure *by itself* is arbitrary in the latter way; however, when we see relative measure in its *mutual dependence* with due measure, we begin to see how Plato mitigates even the former, peculiar sort of arbitrariness: unjustifiable conditions of justification are always *for the sake* of the determinate boundaries only within which justification is even possible; due measure is always for the sake of relative measure. It is for the sake of justification that ἐπιστήμη, as *both* authoritative expertise *and* knowledge, is the outermost sphere; knowledge is the only means by which expertly determined criteria could be *judged* true or false. There is no contradiction in claiming that knowledge/ expertise and Inquiry-itself are the outermost sphere because they are ultimately identical. Plato uses the notion of Inquiry (or becoming better dialecticians) when he emphasizes the *act* of discovering first principles; he uses the notions of expertise and knowledge when he emphasizes the Inquirers’ *being acted upon* by first principles. Recall, that being-itself is the capacity to

act and be acted upon (*Sph* 247d8-e4, 248c4-5; see pp154-158, Chapter 4). The notion that expertise/ knowledge is the outermost sphere is present from the very beginning of the *Statesman*: “But indeed as it appears to me, it is necessary after the sophist now *to inquire* thoroughly [διαζητεῖν] into a statesman. Tell me, whether one ought to establish [θετέον] with respect to this that for us (he is) someone among the experts/ knowers [τῶν ἐπιστημόνων], or how?” (*Sts* 258b2-4). All of the subsequent collection-divisions in the *Statesman*, proceed *within* this outermost boundary.

As I pointed out in interpreting μετ’ ἐπιστήμης τινός at *Sph* 253b9, it would be worse than foolhardy to *assume* that ἐπιστήμη is justified true belief; it would even be too much to assume that ἐπιστήμη has propositional content; knowledge, in the *Sophist* and *Statesman* may be a knowing *that* or a knowing *how*. We must let the dialogues guide us toward an understanding of ἐπιστήμη as the criterion for discerning first principles. I have presented overwhelming evidence that this understanding must involve the notion of *expertise*, which in turn involves the bifurcation into internal and external capacities. Nevertheless, our understanding of ἐπιστήμη must also involve the notion of *justification* (or giving an account of the reasons why, see *Meno* 97a-98b), which in turn involves the discursive and rule-governed capacity of Reason or *logos*, the internal capacity of philosophy. Ἐπιστήμη is ambivalent: it is expertise or *knowing how* (an external competence, or authority); it is knowledge or *knowing that* (the result of an internal capacity to give an account of the reason why). This ambivalence explains a great deal about the transition in the *Statesman* from the art of measurement to the thought experiment showing the incompatibility of the strict rule of law and Inquiry. As we saw

in the *Sophist*, in the *Statesman* dialectic is the key to understanding the necessary conditions of justification; in the *Sophist* dialectic is the key to determining the necessary conditions of *logos*, in the *Statesman* dialectic is the key to determining the limits of Inquiry. In both cases, dialectic must carefully avoid two possibilities: on the one hand, Plato doesn't want dialectic to be the mystical intuition of reality or nature; on the other hand, Plato doesn't want dialectic to be the arbitrary stipulation of first principles as axioms. I have already characterized Plato's avoidance of these two problems as a balancing act. Next, I will show how this balancing act works. I will do this by selectively examining those passages that are the transition from due measure and dialectic to the thought experiment extrapolating the strict rule of law and the interdiction of inquiry. We shall see that the *mutual* dependence of due measure and relative measure provides a sort of criterion according to which the inquiry into Inquiry could be meaningfully fallible. Saying that due measure is *for the sake of* relative measure means that if due measurement doesn't bring about a normal situation in which relative measure can function, then the due measurement is somehow an error.

Chapter Six, Section Three: *Political Authority for the Sake of Law*

After distinguishing due measure and relative measure and after determining that Inquiry-itself ought to be the ultimate criterion of measurement for the length of *logoi* and after concluding that the weaving example is not too long, the interlocutors return to

the weaving example and distinguish seven contributory causes (συναιτίων, *Sts* 287b7) from a genuine cause of which statesmanship is a part (*Sts* 287b-289c). This latter class includes all those that dispute the authority of a statesman, just as the spinners and carders dispute the authority of the weaver (*Sts* 289c-d). Slaves, merchants, heralds, priests and sophists are among those that dispute the rule of the statesman (*Sts* 289d-291c). Finally, the Stranger introduces the canonical, three-fold division of rule by one, few or many (*Sts* 291d); he proceeds to complicate this division with the further criteria of force-consent, wealth-poverty, and lawful-lawless (*Sts* 291d-292b). At this point, the Stranger asks whether “we think that some one of these constitutions is *correct* [ὀρθήν] by having been defined by means of these criteria [τούτοις τοῖς ὅροις ὀρισθεῖσαν]” (*Sts* 292a5-6). The subsequent passages make it quite clear that the Stranger’s question means to ask whether law-abiding (τοὺς νόμους ἀκριβῶς πύλαττον, *Sts* 292a1-2) is a correct criterion of statesmanship; the answer, already suggested, is that law-abiding or lawless is not an appropriate criterion of statesmanship. More importantly, the Stranger explicitly recalls the beginning of the dialogue where ἐπιστήμη was posited as the outermost criterion or boundary: “We said, it seems, that kingly rule [τὴν βασιλικὴν ἀρχήν] is something among the experts/ knowers [τῶν ἐπιστημῶν]. –Yes. And (we said that it) wasn’t among all those, but of course we chose first some rule being able to discern or judge [κριτικήν] and (one that) commands [ἐπιστατικήν].”¹⁰ The Stranger

¹⁰ *Sts* 292b6-10. The use of ἐπιστατική slightly alters the original collection-division, at *Sts* 259e-260b. There, theoretical expertise was divided into τῆ λογιστικῆ, κρίσει δὲ καὶ ἐπιτάξει; statesmanship falling into the latter. Nothing rides on this slight difference compared to the significance of judgment or discernment that remains constant over the iteration.

concludes, “Thus we now think this very thing: that the criterion [τὸν ὄρον] concerning these very things is not few or many, voluntary or involuntary, poor or rich, but some expertise/ knowledge” (*Sts* 292c5-8).

Over the next two Stephanus pages, Plato proceeds to articulate this crucial distinction between the criteria—rich versus poor, willing versus unwilling, and lawful versus lawless—and the criterion, ἐπιστήμη. The point throughout is that *correctness*—the avoidance of error—demands just this criterion:

And indeed among the constitutions, it is necessary that this one is exceptionally correct and (is) alone a constitution, (the one) in which someone would find those who are ruling (to be) truly experts/ knowers [τοὺς ἄρχοντας ἀληθῶς ἐπιστήμονας] and not only those who seem to be (experts). One may rule either according to laws or without laws, and the rulers (may be) poor or rich, and they may rule the willing or the unwilling. One must take into account that not one of these things is in any way in accordance with any correctness [κατ’ οὐδεμίαν ὀρθότητα].¹¹

The interlocutors are discussing the one true constitution, yet given the clear reference back to *Sts* 259e-260b, there should be no doubt that the real issue is the *correctness* of their outermost criterion, expertise/ knowledge with respect to their primary object of inquiry, statesmanship. The often repeated claim that the genuine statesman may rule with or without laws gets perhaps its most troubling articulation in the passage immediately following the previous reference to correctness.

And whether they purge the city for its good by killing or throwing out some people, or whether they make (the polis) smaller by sending out colonies like bees from a hive, or whether they augment it by having certain other citizens brought in from somewhere outside (the polis), so long as (the rulers) should make (the polis) better, saving it from harm as they are able, by using expertise/ knowledge [ἐπιστήμη] and justice [τῷ δικαίῳ], one must then say that *this* constitution is uniquely correct for us according to just these sorts of criteria. (*Sts*

¹¹ *Sts* 293c5-d2. The Greek is less awkward than my overly literal translation. For further references to the crucial notion of correctness in this context, see also *Sts* 293a4, 293c2.

293d4-e2)

Young Socrates, quite rightly, has difficulty accepting that “one ought to rule without law;” (*Sts* 293e6-7) although, this is not exactly what the criterion requires. The ideal statesman may rule *with* or *without* law, so long as he rules by means of expertise/knowledge and the just. Young Socrates’ reservations are well-founded; the explicit references to purging, killing and ostracism make this passage a chilling reminder that the exercise of external competence or authority is not bound by rules. Yet, the addition of τῷ δικαίῳ in conjunction with “knowledge” seems to mitigate the truly frightening prospect of rulers assassinating their political opponents; experts can assassinate their opponents only if it is *just* to do so. Alas, this is a mere semblance of genuine mitigation because, as Hobbes would say, only the expert authority is competent to decide *what counts* as justice for the polis (*Sts* 297b1-3); there is absolutely no indication that potential victims of ostracism or political assassination¹² would have any meaningful recourse to ἡ δίκη as means of challenging the authority that determines it best and just that they be excluded from the polis.

This truly frightening situation is the key to understanding how the strict rule-of-law could be even second-best, much less “the most correct and most fine as a second” (ὀρθότατα καὶ κάλλιστ’ ἔχον ὡς δεύτερος, *Sts* 297e3-4). Understanding how the rule-of-law could be *in any way correct* is, in turn, the key to understanding exactly how due measure depends upon relative measure. At the conclusion of the thought

¹² In the following, I use the notion of ‘political assassination’ to refer exclusively to those instances when the accepted political authority eliminates its opponents by one means or another. Thus under my stipulated understanding, John Hinckely Jr. did not even attempt political assassination because he was not an accepted political authority.

experiment—according to which Inquiry must be forbidden and hence all practical activity (i.e., the arts) is rendered impossible under the strict rule-of-law—the Stranger seems to make a full about-face and conclude that

It seems to me that outside the laws—those that have been laid down from many attempts and from certain advisors who beautifully counsel and persuade all and each of the many—that outside these established laws, the one undertaking to do (things) outside these laws, by making an error many times greater than (the previous) error, this one would be overturning all practical activity still more greatly than the written laws. –How could one not intend (this)? –On account of these things indeed the second sailing (i.e., the second best), by means of established customs and written laws concerning anyone and anything, the second best is to allow no one, neither one nor many, ever to do anything whatsoever outside the laws. (*Sts* 300b1-6)

The rule of an expert ruling independent of law is worse than the strict rule-of-law; this, despite the fact that the rule of law necessarily forbids inquiry, renders the arts impossible (and impossible to recover), and makes life altogether unlivable (ὁ βίος...ἀβίωτος γίγνεται ἂν τὸ παράπαν, *Sts* 299e5-9). It is the truly frightening possibility of expert rulers killing those ruled with no legal justification that makes the rule-of-law the second best, and best we should hope for.¹³

In political philosophy this is a familiar scenario; basically, the rule-of-law is invented to make the rulers accountable to the ruled. The genuine expert may assassinate

¹³ I don't mean to deny that one primary motivation for the rule-of-law is the relative absence of political experts, see *Sts* 301d4-6 and the next page of this dissertation. However, what is emerging is that political communities *presuppose* political expertise in just the way that all systems of rules presuppose a judgment about the boundaries of these very rules. As long as there *is* a community, then the motivation for the rule of law is the relative lack of political experts. But, when the very boundaries of the political community are called into question—as they inevitably are, see *Sts* 302a-b—*then* the necessity of political expertise is particularly evident. It is under such exceptional circumstances as political revolution and civil war that the primary motivation for the rule of law is the problem of political assassination. As I have said throughout, it is precisely such exceptional situations to which Plato is drawing our attention; yet, Plato never denies the possibility or the desirability of the normal situation in which political experts (in this special sense) are merely absent.

the opposition (for the good of the polis, of course) and the tyrant “having no knowledge of the written laws, or because of some profit, or for his own private gratification would attempt to do other things outside these laws” (*Sts* 300a4-5); the expert and the tyrant are the same *only* insofar as they are not strictly bound by law. The typical way to motivate the need for law is basically to argue that people are unable *to know* which is the genuine political expert and which is the tyrant. This typical argument from the epistemic limitations is notable in its absence. In fact, Plato seems to believe that “when such a one as we’ve said (i.e., a genuine expert) were to come to be, then (this one) would be both loved and would seem (to be) guiding the one correct constitution happily and accurately.”¹⁴ The point is *not* that the people don’t *recognize* a genuine expert when they see one; rather, the point is that the genuine expert just isn’t around: “But *now* as we certainly say, it is *not* the case that a king comes to be in the cities such as (a king comes to be) in a beehive: one man excelling in both body and soul; now, when this is not the case, it is indeed necessary, as it seems, to write a common text by coming together [συνελθόντας συγγράμματα γράφειν], chasing after the tracks of the most true constitution” (*Sts* 302d8-e4). All of the subsequent prioritizing of the five (or six) forms of constitution (see *Sts* 300e-303c) is premised upon the relative rarity of genuine

¹⁴ *Sts* 301d4-6: ἐπεὶ γενόμενόν γ’ ἂν οἶον λέγομεν ἀφαπάσθαι τε ἂν καὶ οἰκεῖν διακυβερνῶντα εὐδαιμόνως ὀρθὴν ἀκριβῶς μόνον πολιτείαν. The grammar is somewhat tricky; although I believe the sense is fairly clear. The only finite verb is λέγομεν and it is almost certainly part of a dependent clause with οἶον. Thus, I am reconstructing the participle γενόμενόν as the protasis, and the infinitives, ἀφαπάσθαι and οἰκεῖν as the apodosis of a present counter to fact conditional statement. If there is any justification, besides the fairly clear sense of the passage, of this construction it would be that the participles and infinitives lack mood and thus ought to be construed as indicative; taking ἐπεὶ as the rough equivalent of εἰ would make this a case of a present counter-factual conditional (assuming that the doubling of ἂν only corresponds to the τε...καί construction).

expertise, *not* on the difficulty of knowing a genuine expert.¹⁵

The problem with letting experts assassinate their political oppositions is not so much that we are unsure whether they are really experts; the problem with unjustified political assassination is that the experts who are competent to do this are too rare. This may be a bit of an overstatement, but it highlights two very different ways of motivating the desirability of law, only one of which will explain the dependence of due measure (expertise) on relative measure (law). On the one hand, someone may object to political assassination and insist that rulers abide by the law prohibiting it because political assassination seems unjust. To oversimplify, one might advocate the strict rule-of-law because justice is basically reducible to fairness and the universality of law is the best way to approximate fairness; since law treats all (sorts of) people alike, if treating people alike is most just, it would follow that the rule of law would be most just. This is a simplified version of Ronald Dworkin's defense of rights. Of course, Dworkin recognizes that the rule of law *must* at some point be dependent upon the "unjustifiable" beliefs of competent judges (see pp203-219, above). Dworkin advocates the rule of law because something like natural law or natural right is the external standard that a judge attempts to discern with recourse to her external capacity of judgment or decision. On the other hand, someone might object to political assassination because it ultimately

¹⁵ I don't mean to claim that for Plato the epistemic limitations of the people ruled is *not* a reason for preferring the rule of law. Indeed, the Stranger makes a remark to this point immediately before the counterfactual-conditional examined above, *Sts* 302c6-d4. All I really mean to claim is that this argument from epistemic limitations is not the *primary* argument in the text. There is no doubt Plato is aware of such an argument and I see no evidence of his denying such an argument (with the possible exception of the counter-factual conditional); rather, the thrust of Plato's argument is that when the people find themselves in the presence of laws and ancestral customs it is always better to use expertise to try to imitate the original expertise of which these laws are the mere approximation.

undermines the very purpose for which it is exercised, political stability.

For someone like Dworkin, political assassination must be restrained by law because political assassination changes the very boundaries of the political community. The principle of fairness merely presupposes that *what count* as people deserving of being treated fairly is fixed, in advance. Thus, any political decision that alters *what count* as people deserving of being treated fairly is necessarily unfair to those excluded. For Plato, the expertise of statesmanship, in particular, and the external capacity of an expertise, in general, discerns the very boundaries only within which rules or laws function. It is crucial to notice Plato's insistence on extent or size of the political community in the passage about political assassination: Plato explicitly mentions making the political community smaller and bigger; he uses the verb *ποιέω* three times (*Sts* 293d6, 7, 9) to emphasize the active role of the statesman in *constructing* the boundaries of the political community. One way—the way of someone like Dworkin—to advocate the rule of law over judicial discretion or executive prerogative is with recourse to higher order rules, namely the conditions that are met by the *actual* members of the community. Another way to advocate the rule of law, Plato's way, acknowledges that even higher order rules merely *presuppose* definite boundaries; Plato presents us with a striking example of even those “outermost” boundaries being altered by the exercise of statesmanship in its external capacity. So, how can Plato turn around at the end of the thought experiment and claim that the rule-of-law is second best and indeed correct? We can see the answer to this question in the answer to another: according to what criterion does the statesman alter the very boundaries of positive law? The criterion (or criteria, depending upon their

relation) is what is *better* for the polis, as determined by means of expertise/ knowledge and justice (ἐπιστήμη καὶ τῷ δικαίῳ...βελτίω ποιῶσι, *Sts* 293d8-9). Knowledge and Justice don't *need* to be external to the political community, as the natural law position would have it. Rather, Plato at once admits that *what counts* as the boundary of the political community is determined by a non-rule-governed capacity of human judgment and, at the same time Plato maintains that what is best for a community so *constructed* is law and order, or justice. Political authority is for the sake of justice exactly as due measure is for the sake of relative measure.

I am fond of citing a remark once made by Myles Burnyeat to the effect that there is not one instance of the notion of 'unjust law' in ancient Greek.¹⁶ It is perfectly plausible that justice is deeply conventional *and* that it function as an external criterion of political expertise; ἡ δίκη functions like an external criterion in exactly the way ἐπιστήμη and ζητεῖν do: justice, knowledge or expertise, and inquiry are what is best for human communities. These criteria (probably reducible to a single criterion) are literally limitrophe: they *are* the boundaries or limits of every human community. The boundary is neither outside nor inside the human community: Justice, expertise and inquiry are not external criteria according to which a statesman could *justify* his decisions about the boundaries of the political community; justice, expertise and inquiry are not rules. Political assassination is the primary reason for preferring the strict rule-of-law because political assassination is a striking example of the *determination* of external boundaries

¹⁶ I thank Antonis Coumondouros for finding the exception that proves this rule: Aristotle's *Politics* 1282b9-13; see also Kahn 1989, pp31-2.

only within which law is possible. Thus, the striking example of determining political boundaries is an instance of determining first principles, in general. Recall that the primary question that led to the introduction of dialectic in the *Statesman* was a question about the appropriate *size* of our inquiry, namely the myth of the retrograde universe and the weaving example. Due measure was introduced for the very purpose of measuring the ‘too big’ with respect to Inquiry; without due measure, measuring one inquiry with respect to another would be impossible. Nevertheless, relative measure is the only means of *justifying* the correctness of the measurement; justification requires premises, as I say to my students ‘the statement of a conclusion does not an argument make.’ Arguments, accounts, justifications, explanations, reasons, etc. presuppose *premises*. This is not a weakness of *logos*; on the contrary, it is the only way to justify one’s beliefs. Due measure *cannot* be justified because it *determines* the premise upon which all justification proceeds. As I have argued throughout, this unjustifiability could lead one to think that due measure is a matter of mystical or divine intuition or that it is a matter of arbitrary stipulation; for Plato, the unjustifiability of due measurement leads us to the ultimate criterion, the outermost sphere: ἐπιστήμη, ζητεῖν, and τὸ ὄν.

Plato holds out the possibility of an objective standard according to which due measure measures; this standard is Being but being is the capacity to act and be acted upon. The standard, according to which the statesman may correctly assassinate his political opposition, is knowledge just insofar as knowledge is a capacity to act and be acted upon: knowledge is the expertise of *knowing how*—that is being *competent*—to determine first principles; knowledge is the expertise of *knowing that* the first principles

discerned correspond to being-itself. It is this *second* sort of knowing that makes relative measure so important, indeed necessary for due measure. The *whole point* of determining first principles is to *justify* beliefs with recourse to them. The *whole point* of determining the boundaries of the political community is to make *justice* possible. Thinking of justice as deeply conventional need not be as Thrasymachian as it seems; after all, Plato describes due measure (in the *Statesman*) and dialectic (in the *Sophist*) in ways that include a sort of passive intuition of the way things really are. Thus, when the statesman assassinates his political opponents he does so because he “sees” that the natural boundaries of the political community don’t include the one assassinated... or at least Plato never rules-out this possibility. The real reason that justice, law and *logos* are so important is *not* that they are external standards; the reason justice, law and *logos* are so important is that they are principles of explanation, justification, fairness, and discourse and these principles are necessary for political stability. The political illustration of the exercise of an external capacity provides the perfect illustration of why relative measure is the very purpose of due measure.

There is no doubt that the external capacity of statesmanship determines the boundaries only within which law is even possible. However, a moment’s reflection reveals that *if* this capacity were exercised as the *normal* function of statesmanship, then the boundaries of the political community would be unstable and constantly changing. Thus, if the exercise of the external capacity of political authority were *normal*, then law would be impossible. Immediately after articulating expertise in terms of political assassination, the Stranger articulates the reason that law is incapable of prescribing the

best; I have cited this passage throughout and it merits iteration:

Law isn't capable of prescribing both the best and most just precisely for all men by simultaneously comprehending the Best. For, the dissimilarities among men and deeds, and as the saying goes, the fact that nothing ever remains still, (these things) don't allow anything to rule human affairs simply [ἄγειν τῶν ἀνθρωπίνων οὐδὲν ἐῶσιν ἀπλοῦν]; nor (do these things allow) any such art to appear in anything, concerning all things and for all time. (*Sts* 294a10-b6)

Laws are meant to rule human affairs “simply;” the very essence of law is that it concern all things for all time. The stranger describes this essence of law with two illustrations: the rules trainers use to train athletes (*Sts* 294d-295b), and the instructions a doctor might leave for her patients in the event of the doctor's extended absence (*Sts* 295b-296a). In both cases, the essence of law is its universality:

We see that law nearly strives for this very thing: just as some stubborn and ignorant person allowing no one to do anything outside (that person's) very own orders, not *inquiring* about anything even if something new should then turn out (to be) better, (in this way) the law commands that which is outside its own account.¹⁷

We are now able to see the importance of this last phrase, *Inquiry about what is better* is forbidden by law because inquiry-as-such presupposes a standard outside *logos*, παρὰ τὸν λόγον. I have presented strong reasons to identify Reason and Law (see pp177-202 esp.191, Chapter 5), this passage confirms the identification. Reason and Law are identical just in so far as they are general or “simple.” It is precisely this universality that renders them incapable of governing the changing human world. The best for humans is what is necessary for just this person under *precisely* these circumstances (see also *Sts* 294e8-295a2, 295a9-b5). The *precision* demanded of the best is a direct result of the

¹⁷ Τὸν δὲ γε νόμον ὀρώμεν σχεδὸν ἐπ' αὐτὸ τοῦτο συντείνοντα, ὥσπερ τινὰ ἄνθρωπον αὐθάδη καὶ ἀμαθῆ καὶ μηδένα μηδὲν ἐῶντα ποιεῖ ἐν παρὰ τὴν ἑαυτοῦ τάξιν, μηδ' ἐπερωτᾶν μηδένα, μηδ' ἄν τι νέον ἄρα τῷ συμβαίνῳ βέλτιον παρὰ τὸν λόγον ὃν αὐτὸς ἐπέταξεν *Sts* 294b8-c4.

continual change in human affairs. While what is best may vary from person to person and across circumstances (as law *qua* law cannot), what is best for the whole community is *to be ruled* by Reason and Law. Recall, that the solution to the primary problem in the *Crito* is to see that the principle of principles is that Socrates accepts an authority external to himself; this authority is Reason-Law.

The ruler...should rule with respect to interests;¹⁸ isn't it necessary that even concerning these things the criterion of correct city government is most true in which the wise and good man governs with respect to the interest of those ruled? Just as a steersman saves the sailors by protecting the interest of the ship and shipmates, not establishing written (laws) but providing himself with his art (as) law. In this way and according to that man's (i.e., the steersman's) same course, would the correct constitution come to be *from* those being able to rule in this way, the force of the art providing more power than the laws? (*Sts* 296d6-297a5)

The one true interest of the ruled is that they be ruled; this is the best for political communities, *in general*. This explains the necessity of relative measure for due measure: it is always *for the sake of* measuring within normal boundaries that due measure measures. The statesman *defines* the boundaries of the political community in order that there be a *community*, one with definite boundaries and only thereby able to be ruled. The fact that it is *the* interest people to be ruled does *not* make people docile herds; the whole thrust of the *Statesman* and *Sophist* weighs against such an assertion. I have argued throughout that the primary concern of the two dialogues is Plato's concern with expert *disagreement*; the whole point of the myth of the retrograde universe is to

¹⁸ I follow Campbell 1988, p145 *Politicus*, in omitting μή ξύμφορα ἦ from *Sts* 296e1. This omission is followed by the most recent Oxford Classical Text edition by E.A. Duke, W.F. Hicken, et. al. Philosophically, the τὸ τῶν ἀρομένων of *Sts* 296e4 must refer back to back to one of the ξύμφορα; indeed, C.J. Rowe, who retains μή ξύμφορα ἦ has the good and wise man governing "in the interests of the ruled" (Rowe 1999, 70). I see no explanation for Rowe's translation of τὸ with "interests," plural; rather, we should take it to referring very naturally back on *one* of the previous ξύμφορα.

show that *human* rule is essentially contested. Political communities “sometimes, just like sinking ships, are utterly destroyed, have come to be utterly destroyed and will come to be utterly destroyed still, on account of the wickedness of steersmen and sailors who have seized upon the greatest ignorance about the most important things” (*Sts*302a5-b1).

The one true interest of all political communities is that they not sink; the only way for them not to sink is to be ruled by genuine expertise; the only way for such changing human communities to be ruled at all is to have definite boundaries within which rules, laws, arguments and discourse are even possible. This human need for order and rule indicates the best way to interpret the enigmatic phrase with which Plato first describes relative measure and due measure: the art of measurement, ἡ μετρητική, is divided in two parts “the one (measures) according to an association [κοινωνίαν] of greatness and smallness with respect to one another, the other (measures) according to the necessary being of coming to be [κατὰ τὴν τῆς γενέσεως ἀναγκαίαν οὐσίαν]” (*Sts* 283d7-9). What is necessary for coming-to-be is that there be some normal situation only within which is anything *the best* for just this person in just these circumstances. The phrase, ‘the necessary being of coming-to-be,’ perfectly captures the necessity of stability, stability even within constant change. Due measure discerns first principles according to what is necessary for the changing human world; what is necessary is that there *be* an association, ἡ κοινωνία; what is necessary for becoming is that there *be* a common world with definite boundaries only within which is justice possible. Due measure determines, or discerns, these boundaries. Relative measure is necessary for due measure as *that for the sake of which* due measure determines boundaries, establishes association. It is only

within such an association that humans have any chance of overcoming the wickedness of ignorance that utterly destroys human communities. Ignorance can be overcome only through the relative measure of *logos* and justification; relative measure and discourse in general proceed only under rules and from premises, but *logos* and justification are incapable of establishing their own possibility. Yet, discursive rules and making inferences from premises (*dianoia*) are the only means we have of explaining ourselves to others, of communicating with others, and of deliberating together about what is best. Political experts must establish the boundaries of the community in order that explanation, communication and deliberation can even get started; but, it is only with recourse to explanation, communication and deliberation that we can save ourselves from destruction.

The transition from the introduction of due measure to the thought experiment extrapolating the strict rule of law explains the mutual dependence of relative and due measure with recourse to *ἐπιστήμη*: due measure is knowing how to determine the conditions of justification, relative measure is knowing that a proposition is well-justified. Justification is dependent upon the first principles from which justification proceeds; first principles are dependent upon justification as that for the sake of which first principles are determined. This mutual dependence is particularly evident in the instance of due measure and relative measure in political expertise. Due measure determines the very boundaries only within which justice and justification are even possible; relative measure explains and justifies actions with recourse to reason and law. The external authority of due measure wielded by a ruler is always *for the sake* of law,

justice, and Reason. Since law, justice, and Reason are incapable of establishing the conditions of their own possibility, it follows that law, justice, and Reason are dependent upon the necessarily human and non-ruled-governed judgment about ultimate boundaries. However, this human and non-rule-governed judgment is *not* for its own sake; if it were then it would be many times worse than even the interdiction of inquiry required by the strict rule of law (*Sts* 300b1-6). If the external capacity of an expertise were exercised for its own sake then it would be impossible for its determinations to be correct or to err, because correctness and error are determined as a function of the internal capacity of expertise. It is only when the external capacity of an expertise is exercised for the sake of discursive rules of justification that correctness with respect first principles is even possible. Indeed, we can now say that the genuinely correct first principle is ἐπιστήμη where this is understood as essentially ambivalent: the only correct first principle is both a knowing how and a knowing that.

In both the *Sophist* and the *Statesman* Plato introduces the expertise of dialectic in the context of an exceptional situation where *what counts* as Inquiry or *logos* has become a question. Dialectic is *both* a knowing how, the competence or authority to decide on outermost boundaries, *and* a knowing that, the justification or account of why these boundaries are correct. In this chapter I have demonstrated that the *mutual* dependence of the internal and external capacities of dialectic are the only way to explain how the strict rule of law could be the correct (if second best) rule for human communities. As Carnap rightly points out, the answers to external questions do not have the sort of cognitive content that answers to internal questions have; the answers to internal

questions are justifiable (if tentatively so) the answers to external questions are not. The whole point of asking and answering external questions is for the sake of there *being an expertise*, only with recourse to which could we have any confidence in our opinions. Plato indicates this dependence of external authority upon internal rules by indirectly positing Inquiry-itself through knowledge as the outermost criterion. This outermost criterion is *both* a capacity *to act*, in its external component of decision about external standards, and *to be acted upon*, in its internal component of justification with recourse to external standards. This criterion corresponds exactly with the implicit definition of being-itself from the battle of the gods and giants. It is only with recourse to this criterion that battle can be avoided and it is ultimately the avoidance of battle that motivates rule of law. Law and Reason are dependent upon clearly defined boundaries, be they political or discursive boundaries. Yet, at the moment these boundaries are determined they are necessarily in question; this is an exceptional situation in which battle is the only real means of resolving disagreement. The rule of law is preferable to this exceptional situation because stable political communities are preferable to war. Nevertheless, Plato never ceases reminding us that the rule of law and even the rule of Reason are merely imitations; the rule of law and the rule of Reason merely generalize, approximate or imitate the conditions met by some previously determined class of things, be they appropriate actions or arguments. Laws and arguments, *nomoi* and *logoi*, are means of relative measure. Unfortunately human communities fall apart, and only due measure can put them back together again. *Logoi* and *nomoi* are humans' best chance to delay eventual shipwreck; *logoi* and *nomoi* are our attempt to make order within a

changing world. Competent decision is the only way of establishing the necessary conditions of order.

Conclusion

In the *Statesman* Plato introduces a bifurcation of μετρικὴ into due measure and relative measure; this bifurcation is Plato's means of answering a question genuinely external to the interlocutors' inquiry: What counts as Inquiry? If you don't know whether the myth of the retrograde universe and the lengthy collection-division of the art of weaving *count* as inquiry, then it would be very difficult *to inquire* about whether they fall inside or outside the determinate boundaries of Inquiry. We can now see this particular problem as an instance of (if not identical to) a very general problem about establishing the limits, boundaries or definitions only within which any expertise can function. Thus, in order *to inquire*—even about the nature of inquiry itself—you must first establish the limits of inquiry by determining *what counts* and *what doesn't count* as Inquiry. These limits are normally acknowledged by tacit agreement among experts; so, inquirers normally agree that each particular investigation either is or isn't an inquiry and that the community of inquirers could agree about any and every instance of an "inquiry," as to whether it is or is not a genuine inquiry. This sort of tacit agreement among experts obtains under normal circumstances for expertise as such. Thus, the community of cobblers agree that every object either is or is not a shoe and that, given the opportunity, all cobblers would agree about each object, whether it is or isn't a shoe. Now of course, cobblers and experts in general can disagree about many things; indeed, the whole point of an expertise is to establish boundaries only within which rules can be articulated and applied *precisely in order* to adjudicate differences among experts with recourse to

discursive rules. For example, the external and normally tacit decision about what counts and what doesn't count as a shoe is always *for the sake* of having some standard according to which cobblers can justify and refute one another's different "accounts" of good and bad shoes. That is, cobblers presuppose some definite class of shoes and they generalize or approximate (or imitate) the conditions met by each and every member of this definite class; they do this by asking themselves a very traditional question about essences: What is it in virtue of which every one of these objects *is* a shoe? Cobblers' answers to this question try to *imitate* (as in generalize or approximate) shoe-itself; these answers will be formulated as the *rules* of shoemaking. Thus, one cobbler will *justify* the superiority of her shoe or the inferiority of her competitors with recourse to rules that articulate the conditions met by *all shoes*.

It is essential to see that certain peculiar questions *cannot* be answered with recourse to the rules of an expertise and this is true for expertise-as-such. Thus, if cobblers were to disagree about whether or not this object *counts* as a shoe, then the rules that imitate shoe-itself will be of no avail in resolving this disagreement. The reason is that the rules of shoemaking only articulate the conditions met by all *shoes*. Thus for example, if a one cobbler claimed that this hat were a shoe, then he could articulate a rule to the effect that all shoes must fit on your head; such a cobbler could then "justify" the inclusion of his shoe and the exclusion of another shoe with recourse to this rule. I suspect that when questions like this arise, most cobblers would simply exclude the hat-maker from the art of shoemaking, probably with recourse to something like shoemaking assassination. External questions about first principles or primary objects lead naturally to questions

about the expertise itself. When “cobblers” disagree about what counts as a shoe, then there is a genuine question about what counts as a cobbler and hence what counts as shoemaking. Likewise, when there is a genuine question about whether these “*logoi*” count as *logoi*, accounts or inquiries, then there is a genuine question about what counts as an inquirer and hence what counts as the expertise of inquiry or giving accounts of the reasons why. Certain questions are external to an expertise and these are the questions that cannot be answered with recourse to rules. In the second chapter of this dissertation, following Plato, I examined the expertise of grammar and the expertise of music with respect to such external questions; in the first chapter, I examined Kant’s attempt to deal with a question external to philosophy. Whether we consider philosophical expertise, grammatical expertise, musical expertise or shoemaking expertise, the fundamental fact that certain questions are external to the expertise remains. External questions point directly to questions about the expertise itself. I have interpreted the *Sophist* and *Statesman* as Plato’s attempt to pose and even answer a question external to philosophical inquiry, namely What is philosophical expertise?

Questions about *what count* as shoes lead directly to question about *what counts* as shoemaking and this subtle distinction is one way to understand what I have been calling two sorts of arbitrariness. When the external question is articulated exclusively in terms of shoes, then answers to this question are arbitrary in the way that the axioms of geometry are arbitrary. *If* we assume that the class of *cobblers* is fixed and determinate, then cobblers might either intuit or stipulate the definition of shoe-itself. In the third chapter of this dissertation I examined F.M. Cornford and J.L. Ackrill as representatives

of the intuitive and the stipulative models of answering questions external to philosophy. Both models are arbitrary in a way that Plato's model is not; Plato avoids this first sort of arbitrariness in favor of another sort of arbitrariness by recognizing that questions about first principles lead naturally to questions about the expertise that attempts to determine them. This first sort of arbitrariness is arbitrary like axioms because of the way that *both* intuition and stipulation are incapable of error. I do not mean that intuited or stipulated definitions are incapable of being false; I mean that intuited and stipulated definitions lack anything outside themselves according to which they could be discursively challenged or justified. Both the intuitive and the stipulative model attempt in vain to avoid the arbitrariness of geometric axioms. The intuitive model (Kant's model) attempts and fails to avoid the first sort of arbitrariness by making *nature* the external standard of intuition. This attempt fails because it merely assumes that intuition of nature *is intuition*; intuition of nature is arbitrary in the first way because there is nothing outside an expert's intuition with recourse to which another expert could meaningfully disagree. Since the whole point of expertise is to establish the conditions in which experts could meaningfully disagree, the intuitive model fails to be an expertise. The stipulative model attempts and fails to avoid the first sort of arbitrariness by appealing to something like "the way we all already speak." This attempt fails because it merely assumes that there is some definite way that *everyone* speaks. It may be that the Principles of Non-Contradiction and the Excluded Middle are rules according to which *everyone* already speaks; however, these principles alone are not strong enough to provide a framework for expert disagreement about first principles. There is no doubt that internally consistent

and mutually exclusive principles may be proposed by competing experts; the stipulative model also fails to provide anything outside the principles of consistency with recourse to which such expert disagreement could be adjudicated. The stipulative model either fails to acknowledge the possibility of genuine and profound disagreement about first principles (this is Chomsky and Ackrill's position), or it is forced to admit that those who disagree either aren't really speaking or aren't part of the "we" that all already speak in a certain way.

Both the intuitive and the stipulative models are arbitrary like geometric axioms because they fail to deal with the essentially human element of expert disagreement about first principles. Thus when faced with expert disagreement, the intuitive and stipulative models only beg the question as to *what counts* as an expert. Plato addresses this question, albeit indirectly. Plato recognizes that external questions lead naturally to questions about the nature of an expertise and that these questions cannot, without vicious circularity, be answered with recourse to the expertise in question. By pushing external questions to their natural limits, Plato avoids the first sort of arbitrariness that the intuitive and stipulative models do not. For Plato, questions about *who* has the expertise capable of discerning first principles and about *in what* this expertise consists are not answered with recourse to divine intuition or authoritative stipulation. Rather, these external questions are answered on "another level;" that is indirectly. Platonic indirection avoids the arbitrariness of axioms by distinguishing between the first principles and the means by which they are discerned. Definite first principles are only articulated directly by interlocutors; first principles are *fallible*. For example, we learn that the definite and

partial mixing of the kinds is a necessary condition for *logos* and *dianoia*; yet, not even a straightforward reading of the *Sophist* reveals exactly how these kinds mix and don't. On the contrary, Plato contrives for this first principle to point directly to a further questions about the nature of dialectical expertise, collection and division according to kinds, and authoritative judgment or *diakrinein*. The point is that Plato doesn't intuit or stipulate first principles; rather, a careful reading of the dialogues reveals that, if Plato believes anything, he believes that first principles *must* be capable of discursive justification, first principles *must* be the sorts of things about which experts can meaningfully disagree. According to what external standard could experts disagree discursively and meaningfully about first principles? According to the standard of the Platonic dialogue. The dialogues exemplify—always indirectly—the *means* of answering external question; the answers to external questions are always fallible and hence not arbitrary like geometric axioms. The first principle of Platonic philosophy is that philosophizing is primarily a *knowing how*, and only secondarily a *knowing that*.

I examined the essential indirection of Platonic philosophizing in the fourth chapter of this dissertation. The Platonic dialogue indirectly provides a (necessarily vague) “framework” within which to answer external questions and within which these answers could be discursively justified and challenged. The purpose of the Platonic dialogue is to exemplify an *activity* or a know-how. The importance of activity is exemplified in the introduction of dialectical expertise in the *Sophist*; the active capacity to choose or to decide, *diakrinein*, is at the heart of Platonic philosophizing about philosophy. Yet, the passive capacity to *know that* this decision or choice is correct is equally important.

Thus, Plato incorporates *both* the passive-intuitive model and the active-stipulative model in his indirect exemplification of philosophical activity. I demonstrated Plato exemplifying philosophical activity by carefully examining two, crucial passages: the “argument” against misology in the *Phaedo*, and the battle between the gods and the giants in the *Sophist*. In the *Phaedo*, Socrates confronts the possibility of expert disagreement about what counts as argument. Philosophy seems to presuppose that argument is an appropriate way of inspiring confidence in opinions, or approaching truth; whereas, misology denies that argument inspires confidence or leads toward truth. I demonstrated that Plato is aware of the fact that *no argument* could convince a misologist to accept a philosophical definition of argument; Plato reveals this awareness by contriving Socrates to give an “unphilosophical” argument against the hatred of argument. While Socrates’ direct argument is “unphilosophical,” Plato’s indirect argument exemplifies a sort of meta-argument; this Platonic contrivance is meta-philosophy or philosophy about the limits of philosophy and it perfectly illustrates the sort of concern that is raised by the *Sophist*’s articulation of the necessary conditions of *logos*.

I examined the battle between the gods and the giants as an illustration of expert disagreement. While some may believe that the earthborn giants are hardly experts, the very fact of disagreement about first principles entails a disagreement about what counts as expertise. Violent, non-metaphorical battle is the ultimate site of expert disagreement unless some capacity for adjudication of differences can be found. The gods and the giants occupy incommensurable and hence deeply adversarial positions; nevertheless,

once again, Plato uses contrived indirection to lead the readers of the dialogue to a definition of Being that *could* provide common ground between the materialists and the idealists: Being is a capacity to act and be acted upon. This indirectly articulated first principle confirms my claim that the first principle of Platonic philosophizing about philosophy is that it must be an *activity* or a competence to do something. Thus, rather than directly articulating the necessary conditions of *logos*, Plato indirectly reveals the centrality of *dunamis* for any articulation of first principles. Furthermore, the indirect definition of Being as a capacity to act and be acted upon confirms my reading of dialectic as a two-fold capacity actively to decide on the mixing of the kinds and passively to “see” how the kinds really mix and don’t. Finally, the violent battle that results from incommensurable, expert disagreement provides the background motivation for Plato’s complicated account of dialectic in the *Statesman*. The establishment of first principles is always *for the sake* of a normal situation where battle can be avoided by discursive justification and challenge.

I begin my selective discussion of the *Statesman* in the fifth chapter of the dissertation and the thought experiment extrapolating the strict rule of law and concomitant interdiction of inquiry. If the rule of law is absolute then inquiry and expertise become superfluous and even dangerous. The incompatibility of Law and Inquiry leads directly to my interpretation of Plato’s *Crito*, where Socrates seems to abandon his life of inquiry in favor of dogmatic obedience to the law. I demonstrated that the *Crito* can be understood only in light of the tension between the first and second parts of the dialogue: the first part of the dialogue articulates the absolute rule of Reason, the second part of the

dialogue articulates the absolute rule of Law. Only by recognizing the identity of Reason and Law can we make sense of this dialogue. The identity of Reason and Law has a profound effect on our understanding of the incompatibility of Law and Inquiry. Both Law and Reason are essentially universal or general and as such they *both* conflict with Inquiry about the best. The cause is that what is best for our changing, human world must be *precise*: law and reason are incapable of the accuracy required to determine the best for just this person in just these circumstances. Yet, Inquiry searches for just such precision and accuracy. I examined Ronald Dworkin's account of judicial decision in hard cases in order to explain the way that Inquiry cannot be reducible to law. Even Dworkin's defense of natural rights recognizes an essentially human element of conviction; perhaps merely the conviction that one's inquiry into natural rights is a sound one. Dworkin proves that human conviction is an inescapable element of judicial decision. It is precisely because the laws *speak* to Socrates in the *Crito* that that they are able to *exercise* the crucial human capacity of choice and judgment, a capacity that the laws of the thought experiment in the *Statesman* lack.

The strict rule of law renders expertise impossible and life unlivable; yet, as in the *Crito*, the rule of law somehow ends-up being preferable as a second best. In order to understand how this happens, I turn to another place in the dialogue where expertise-as-such would be rendered impossible. Due measure is introduced to answer a peculiar and external question about what counts as inquiry. In the course of this discussion Plato argues that relative measure alone, like the strict rule of law, would render expertise impossible. In the sixth chapter of the dissertation, I demonstrate that and why we should

understand the rule of law and Reason in terms of relative measure; law and Reason are forms of relative measure that are reducible to internal capacities of justification *from* premises. Due measure inquires into the principles from which justification proceeds, the conditions of justification. By interpreting the transition from the introduction of due measure to the thought experiment extrapolating the strict rule of law, I return to the very same problem with which I began: ἐπιστήμη as *both* a knowing-how and a knowing-that. The dependence of relative measure upon due measure is identical to the dependence of internal capacities upon external capacities: systems of rules depend upon definite boundaries only within which discursive and political rules are able to function. In the familiar defense of political expertise that is independent of law, Plato briefly addresses political assassination; political purges are a chilling but perfect example of external authority. The genuinely wise expert may diminish the boundaries within which law and justice function by ostracism or assassination; the genuinely wise expert may expand these boundaries by annexation. Such political purges and annexations literally *redefine* the boundaries of the political community; political assassination necessarily redefines what is best by redefining *for whom* it is best. The possibility of political assassination perfectly illustrates the instability built into every aspect of my account of the external capacity of an expertise: the external capacity of an expertise is exercised in extreme or exceptional situations in which the normal rules of the community have fallen apart, in which the community itself, κοινωνία, is threatened by the perpetual change, γένεσις, of the human condition. Due measure is necessary to establish and re-establish the definite boundaries only within which the human world can be ordered by Reason and Law κατὰ

τὴν τῆς γενέσεως ἀναγκαίαν οὐσίαν (*Sts* 283d7-9).

Instability is inherent in the exercise of the external capacity of an expertise; this is as true for Kuhnian revolutionary science as it is for civil war. This instability is especially evident in the external capacity of political expertise where the boundaries in question are the limits of the political community. External capacities are only exercised in exceptional circumstances when *what counts* as expertise has become a genuine question. Thus Kuhnian revolutionary sciences is unstable for the same reasons that civil war is unstable: in both instances there is a question about *who is competent* to decide about first principles and outermost boundaries. Phrased in this way, it is easy to see that external questions may be reducible to question of brute political power; it is no accident that the concepts ‘capacity,’ ‘ability,’ ‘competence,’ and ‘power’ all have a common root in *dunamis*. One might, following Carl Schmitt, call this a decisionistic element of external capacities. Regardless, there is a sort of arbitrariness that is particularly evident in the case of political assassination, but also present in the answer to any external question. Some (wrongly I believe) read Thomas Hobbes and Carl Schmitt as defenders of decisionistic arbitrariness as the first principle of political philosophy. I argued in the sixth chapter of this dissertation that Plato has the means of mitigating this peculiar sort of arbitrariness; although I also maintain that Plato has neither the means nor the desire to eliminate it altogether. Who is *able* to decide whether this individual is a genuine or pseudo-member of the political community? Clearly, in order for the community to *be* a community there must be something in virtue of which each member is a member; who is *able* to decide what this is? On the one hand, Plato acknowledges that the one who

executes his political opponents is *able* to decide, just insofar as he does so. On the other hand, Plato wants to say that only a genuine expert is really *able* to render such a decision. And thus, Plato mitigates an ugly decisionism with the principle of Inquiry, exemplified by the entire corpus and examined in the *Sophist* and *Statesman*. Inquiry is an intentionally nebulous idea, but its *two* crucial features are that it is fallible because guided by principles *outside* itself, and that it has no fixed rules of correct procedure because of the exteriority of these principles.

In the end, Plato mitigates the ugly arbitrariness of decisionism by calling for perpetual inquiry. Philosophical Inquiry into first principles cannot be justified, yet it must be *fallible*. It is *competent* to decide on first principles in virtue of its external capacity; it is able to be question these first principles in virtue of its internal capacity. Neither alone is sufficient. Internal capacities depend upon the external establishment of boundaries within which they function; external capacities depend upon internal capacities as that *for the sake of which* they establish ultimate boundaries. The necessary being of coming to be is that there *be* a stable community within which Reason and Law can imitate and approximate the definite conditions of just this community. Reason and Law are *the* rule of normal situations. If the external capacity of political or philosophical expertise were exercised perpetually, then Law and Reason would be impossible. The only clear standard that is able to guide the exercise of external authority is that this competence *must* define first principles and ultimate boundaries for the sake of Reason and Law; these two are only possible within stable and definite boundaries. In the *Republic*, Plato describes the normal functioning of philosophical expertise with

recourse to *nous* and *dianoia*, the upward and downward movements of thought.

Although *nous* is not technically bound to discursive rules in the way *dianoia* is, *nous* is the normal activity of experts questioning and agreeing upon their first principles. Yet, even *nous* depends upon the clearly defined boundaries of expert competence. If experts fail to achieve agreement about first principle with recourse to *nous*, then *what counts* as expertise or competence becomes a question and an exceptional situation is at hand. It is this situation that Plato addresses through his art of indirection in the *Sophist* and *Statesman*.

This dissertation, following Plato, simply assumes that the normal situation is what is most desirable; a normal situation is one in which discursive and political rules are articulated and applied in order to resolve potentially violent and irrational disagreement. In order for this normal situation to obtain, there must be definite boundaries only within which these rules are possible. Discursive rules depend upon fixed and definite boundaries of concepts like Being and Difference; Political rules depend upon fixed and definite boundaries of political communities. Since we assume that stable boundaries and the rules that they permit are desirable, it follows that Reason and Law ought to be the principles that govern our philosophical and social lives. These are *not* second best insofar as they are less desirable than the exercise of expert authority. Reason and Law are second best because they are insufficient to establish the boundaries only within which they are even possible. The exercise of external authority is not desirable in itself; it is desirable only insofar as it is the necessary condition of Reason and Law. The *Sophist* and *Statesman* indirectly articulate the *mutual* dependence of external and

internal capacities of an expertise, the *mutual* dependence of due measure and relative measure, the *mutual* dependence of Reason-Law and authority. This mutual dependence is the very form of expertise-as-such; this mutual dependence defines the limits of philosophy.

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