

INTERPRETATION

A Journal of Political Philosophy

Volume 8/2, 3

May, 1980

page	In Honor and Memory of Martin Diamond	
1	William Schambra	The Writings of Martin Diamond: A Bibliography
5	Marvin Meyers	The Least Imperfect Government: On Martin Diamond's "Ethics and Politics"
16	Thomas J. Scorza	Comment: The Politics of Martin Diamond's Science
22	Martin Diamond	An Excerpt from "Lincoln's Greatness"
26	William Schambra	Martin Diamond on "Lincoln's Greatness"
<hr/>		
29	Robert Sacks	The Lion and the Ass: A Commentary on the <i>Book of Genesis</i> (Chapters 1-10)
102	Judith Best	What Is Law: <i>The Minos</i> Reconsidered
114	Charles M. Sherover	Rousseau's Civil Religion
123	Edith Hartnett	Sartre and the Decadents
141	Laurence Lampert	Zarathustra's Dancing Song
156	Nathan Rotenstreich	Aspects of Identity and Alienation
174	Glenn N. Schram	Progressivism and Political Science: The Case of Charles E. Merriam
188	Glen E. Thurow	Discussion: The Defense of Liberty, Anastaplo's <i>The Constitutionalist</i>
204	Joseph J. Carpino	Frederick D. Wilhelmsen's <i>Christianity and Political Philosophy</i>
223	Will Morrissey	Thomas J. Scorza's <i>In the Time Before Steamships: Billy Budd, The Limits of Politics and Modernity</i>



QUEENS COLLEGE PRESS

INTERPRETATION

A Journal of Political Philosophy

Volume 8

Issue 2, 3

EDITOR-IN-CHIEF

Hilail Gildin

EDITORS

Seth G. Benardete - Hilail Gildin - Robert Horwitz - Howard B. White (1912-1974)

CONSULTING EDITORS

John Hallowell Wilhelm Hennis Erich Hula Arnaldo Momigliano Michael Oakeshott - Ellis Sandoz - Leo Strauss (1899-1973) - Kenneth W. Thompson

ASSOCIATE EDITORS

Larry Arnhart - Patrick Coby Christopher A. Colmo - Maureen Feder - Joseph E. Goldberg - Pamela Jensen - Will Morrissey - Thomas West

ART EDITOR

Perry Hale

ASSISTANT EDITOR

Marianne C. Grey

EDITOR, QUEENS COLLEGE PRESS

Lee Cogan

ASSISTANT EDITOR, QUEENS COLLEGE PRESS

Dyanne Klein

Authors submitting manuscripts for publication in INTERPRETATION are requested to follow the *MLA Style Sheet* and to send ribbon copies of their work. All manuscripts and editorial correspondence should be addressed to the Editor-in-Chief, INTERPRETATION, Building G 101, Queens College, Flushing, N.Y. 11367, U.S.A.

Copyright © 1980 - Interpretation

QUEENS COLLEGE PRESS, FLUSHING, N.Y. 11367

WHAT IS LAW? THE *MINOS* RECONSIDERED

JUDITH BEST
SUNY College at Cortland

The *Minos*¹ is an often neglected Socratic dialogue, neglected even in courses and studies on jurisprudence despite the fact that it raises the basic question of jurisprudence—what is law? In part, this neglect of the *Minos* is due to its curious and apparently incongruous final section, the section which gives it its name. I propose to reexamine the *Minos*, and to consider whether it is possible to interpret the final section in such a way as to make it compatible with the first section, to consider whether the *Minos* is a coherent and intelligible whole.

The final section of the *Minos* appears to be a problem because it is a praise of ancient law, a praise which apparently identifies the good with the old, the ancestral and even the mythical. This seems to be a singularly odd conclusion to a dialogue whose central point is that law tends to be discovery of reality.

The subject of the dialogue, as Socrates makes clear at the outset, is the nature, the fundamental quality, the essential characteristic of law. His concern is to identify law itself or law and nothing else. He makes the point by analogy to gold and to stone, for while both have different manifestations of color or weight or shape, both gold and stone have their own common denominators or their own common qualities, qualities that allow us to call a variety of distinct objects (as a gravestone, a millstone, or a gemstone) by the same name. Thus, Socrates disclaims any immediate interest in the particular manifestations of law, in distinguishing civil law from criminal law, or Greek law from Persian law, or common law from statutory law. Rather, his purpose is to distinguish law as law from everything else.

To Socrates' question, "Tell me, what is law?" the Companion answers that law is "things loyally accepted."² This answer is, as the answers of Socrates' interlocutors often are, reasonable. Socrates did not suffer fools gladly, and his companions are either clever or possess a sound practical judgment. The answer is a good one, though not perhaps the complete or sufficient answer. It is a good answer because it implies that law is a form of opinion, something that is because men hold to it or posit it. An important aspect of law is its binding character. Law must be distinguished from advice, which is instructive or admonitory without being obligatory. The Companion's answer is good because it recognizes the binding quality of law, although it does not completely account for it.

Dissatisfied, Socrates again questions by analogy: if this is the case, then speech must be identical to things spoken and sight identical to things

seen. Not short on common sense, the Companion knows that these things are not identical and is, therefore, forced to reject his initial and reasonable answer. Socrates' analogies are never haphazard, are always pertinent, and so we must examine the analogy chosen. Just as his choices of gold and stone are not accidental (both gold and stone are stable or durable—resistant to change and decay) but subtly suggest some possible properties of law, so the analogies to speech and sight are relevant to the basic question—what is law?

The relationship of speech to things spoken and sight to things seen is the relationship of process to product. A process is a series of continuous actions that bring about a particular result. A product is that which is obtained as the result of some action. Process and product are not identical. As speech is the process through which things are spoken, and sight is the process through which things are seen, law is the process through which things are loyally accepted. This distinction between product and process as applied to the search for law permits a definition of law that is always and everywhere the same, and this is because it avoids a problem inherent in the Companion's definition of law as things loyally accepted, the problem of diversity. What is loyally accepted is a kind of opinion, but opinion varies not only from man to man, but also from place to place, and time to time. The Companion's definition, which ties law to the product, would destroy the universal unchanging essence of law. The product not only may but will vary, but a process can always be the same. Just as the things spoken differ, and the things seen differ, the things loyally held differ, but just as sight, the process through which things are seen is always the same, so law, the process through which things are loyally held is always the same. Thus, law has a nature whose primary characteristic is process.

But what is this process, as distinguished from its product? Socrates returns to his analogy for direction. What is sight? It is "that sensation which shows objects by means of the eyes."³ Thus law would be that (X) which makes things loyally accepted by means of (Y). The next section of the dialogue is an attempt to complete this formula. Socrates begins by asking is law like vision, a sensation, or is it like medicine, a discovery of causes of health and disease, or is it like prophesy, a discovery of the designs of the gods? The Companion, ever the voice of common sense, answers that law is "a city's resolution" or state opinion.⁴ Now thoroughly convinced by Socrates that law is a process, the Companion asserts it is a political process; law is an opinion authoritatively held by a city. The Companion would complete the formula thusly: law is a political opinion or civic resolution which makes things loyally accepted by means of the public authority. Socrates does *not* deny that this is so, rather he suggests that they continue the discussion in order to "get a better knowledge."⁵ The

Companion's answer is apparently correct but incomplete; it does not satisfy Socrates; it does not exhaust the inquiry.

Socrates continues probing with a new line of questions, questions based on an analogy of products. This time the analogies are to the products of wisdom and justice, the wise man and the just man. In both cases the products are noble or good. "The wise are wise by wisdom," and "the just are just by justice," and "the law-abiding are law-abiding by law."⁶ The implicit analogy of products is then made explicit, "the law-abiding are just."⁷ Since the just are good, the law-abiding are good. (If $A=B$, if the law-abiding are just; and $B=C$, the just are good; then $A=C$, the law-abiding are good). The analogy of products, however, is made in order to find a resemblance in the processes. This argument, the argument from product to process, is the argument that if the product is good the process is also good. It is a reverse of the good tree bearing good fruit. Socrates suggests that if the fruit is good the tree is good, or the proper measure of any process is its product. The implicit resemblance of processes, the resemblance of wisdom, justice and law is then made explicit in a statement that connects justice and law, though not wisdom and law, "justice and law are most noble;" they "preserve cities and everything else."⁸ Law is not simply a process. Like justice, it is a process which brings about a good, and therefore is itself good. "Hence we must regard law as something noble, and seek after it as a good."⁹

There are two further points to be made about this series of analogies. The first point is that Socrates connects law and justice by arguing that the law-abiding are just. This is an equation of products and not of processes. The point is that he does not say that law is justice; he does *not* say that law and justice are the same process. The processes are united or intersect only in their end, their result, their product. Thus, he says "justice *and* law are most noble," that justice *and* law "preserve cities and everything else."¹⁰ Socrates develops the proposition that law is good in some way *without* equating it with justice.

The second point is that although he begins this section of the discussion with an analogy to wise men, he concludes it by omitting the analogy between the law-abiding and the wise. The law-abiding are said to be just, and the wise are not mentioned. One is forced to wonder if the law-abiding are just but not wise. Is it the unwise who must be law-abiding in order to be just? Can the wise be just without being law-abiding? The equation Socrates made was that the law-abiding are just, not that the just are law-abiding. To say that the just are law-abiding would be to say that the only way to be just is to be law-abiding. Whereas, to say, as Socrates does say, that the law-abiding are just does not exhaust the possibilities of being just—there may be other ways to be just.

Having established that law is not only a process but one that is good in itself because its product is good, Socrates returns to the Companion's definition of law as a city's resolution. The incompleteness of the Companion's definition is now clear. A city's decree may be either good or evil. Since law is a good process, it can not be defined simply as a political opinion, but only as a true or good political opinion. The refined definition would be: law is a true or good civic-political opinion which makes things loyally accepted by means of its goodness as well as the public authority.

Socrates was dissatisfied with the Companion's definition of law because it is a morally neutral definition. As a morally neutral definition, it is incomplete because it is an insufficient support for law-abidingness. Law-abidingness is necessary. Whatever is necessary (for those who view the universe as a cosmos, and Socrates held this view) is good. If the product, law-abidingness, is good, the process, law, is good. A civic decree is not necessarily good; nonetheless the law must be obeyed or the city disintegrates. The necessity of law-abidingness is derived from the value of the city. The value of the city is assumed here; man is the political animal. Given this value, men must preserve cities—obey the law, but as a practical matter, they will do so only if they believe the law to be good in some way. Decent men, at least, will obey or loyally adhere to law only if they consider it good.

The Companion's definition exhibits not only moral neutrality, but also a basic democratic prejudice. According to the Companion's definition law is nothing more than what the united people say it is. Yet, if law is nothing more than what the people say it is, it is not simply good, and gentlemen, decent men, will not consider themselves obligated by it. The Companion's definition recognizes only one source of authority, only one basis for loyal acceptance, the people. It is therefore prejudiced or incomplete because there is another source of authority and loyal acceptance, the good. The rub, of course, is that the actual good is known only to the wise. Socrates, who appeared to have abandoned or forgotten his analogy to the wise, reintroduces it with a vengeance. Law is good opinion, according to the agreement of Socrates and the Companion, and good opinion is true opinion. True opinion is knowledge, the discovery of reality, the quest for the nature of being, the quest of philosophers.

Being or reality is harmonious, has an essential unity, an internal agreement. Because the Companion knows this he immediately raises the obvious question: how can law be discovery of reality when the fact is that laws are not always and everywhere the same? The diversity of laws seems to destroy the thesis that law is good opinion, and reduces it to mere opinion, opinion changed by whim and will.

Socrates not only flatly denies that the diversity of laws contradicts

the thesis that law is true opinion, he also, much to the amazement of the Companion, suggests that they consider whether law is actually diverse, "whether we use always the same laws or different ones at different times, and whether we all use the same, or some of us use some, and others others."¹¹ In his longest statement in the dialogue, the Companion points out that the diversity of laws is so well known that anyone "might give thousands" of examples. The Companion is clearly startled that Socrates has missed the obvious.

Socrates' reply is based on his initial distinction between law as a process and law as a product. A process brings about a result; it has an end or intention. In a new series of analogies, Socrates points out that there are universally recognizable distinctive qualities. Things that weigh more are considered to be heavier everywhere and by all men, and things that are just are considered to be just everywhere and by all men. The same quality, then, can be discovered in a number of separate things, and a quality is that which makes something such as it is. The point is that men everywhere admire certain things because they possess the quality of being just, even though the specific things recognized as having this quality differ from place to place and time to time. Thus, men everywhere recognize the quality of beauty in women although the actual women who are perceived to possess this quality may in some places be fat and in other places thin. The quality perceived is the same although the women appear to be strikingly different.

The intention of law is the discovery of reality, and realities are accepted as real everywhere and by all men. The unity of law and thus its dignity are to be found not in the particularities of the product, civic decrees, but in the process of discovering the quality of being real. As a process of discovering a distinguishing quality in distinct things at distinct times, law is the process of attaining what is real or true, hence what is good for these people at this time. The things in which the quality is discovered, the resolutions and decrees, may, therefore, differ, but the process itself is the same everywhere, just as the process of weighing, the process of discovering degrees of heaviness in distinct things at distinct times, is the same everywhere.

As a process, law is intentional, it looks to a specified result, but a process can fail. There is no necessity that the process fully achieve its intention. That "men do not use always the same laws," civic decrees, may be a function of the fact that they "are not always able to discover what the law is intent on—reality."¹² Therefore, "whoever fails to attain reality, fails to attain accepted law."¹³ Accepted law is the product. A failed or incompleting process has no proper product. The ultimate test of the process is the achievement of its product. To the extent that things are not loyally ac-

cepted they are not law or law as process has failed. The unity of law is the unity of process, not of product; a unity of tendency, not of conclusion; for the unity of process is the unity of discoverable quality, and qualities manifest themselves in distinct things to different degrees. One object may be heavy, but another may be heavier. The product, accepted law, is simply the relative success or comparative consequence of the process, not its moment of harmony.

This way of looking at law, however, defies the common sense notion, the notion of those who are obliged to obey law, that the most important thing is what the laws *are*, rather than what they *tend* to be. The practical-minded Companion is simply not convinced that this is the most useful or fruitful way of thinking about law. Therefore, Socrates continues, but this time by analogy to a series of highly practical arts, the arts of medicine, agriculture, and cooking, all of which are directed toward the health of the body.

They quickly agree that each of these arts has its own artisan, and that the artisan is defined by his knowledge of the rules, the principles of the art. Knowledge of an art is the point of unity among the artisans. Doctors are those who share in or are joined in the knowledge of medicine. Doctors treat different people for different ailments at different times and places; their common characteristic is their knowledge of healing. Knowledge of a process (what actions will bring about a specified result) is what makes a man an artisan. All these arts are processes, they consist of continuous actions that bring about a particular, designated result. What is it that the farmer knows? He knows what to plant, when and where. He knows when to fertilize and to water and how often, thus, to produce the harvest. The rules of the art are uniform, but the objects to which they are applied are not; therefore the products will vary. The harvest is not the same everywhere because the soil and climate differ from place to place. The farmer knows what each kind of seed needs to grow and to develop. He knows what is suitable or fitting for each kind of seed. The true artisan assigns particular functions, as the true farmer distributes seeds, and the true doctor prescribes remedies, and the true cook apportions nutrients, and the true statesman allots rights and duties. The universal is to be found in the artisan's knowledge of the art or process he practices and not in the individual products he produces.

Those who are not farmers, those who do not possess the farmer's art, may plant seeds, but the seeds will not grow or their growth will be stunted. Thus, only the true statesman or the practice of the statesman's art produces real or rightfully accepted law. That which is not produced by the statesman's art is unlawful. The distinction between good and bad laws, or between real and apparent laws turns out to be a distinction between

knowledge and ignorance of process.

The original analogy, the analogy between law and justice, was an analogy or equation of products: “the law-abiding are just.” The final analogy is an analogy of processes. Law, the process of discovering reality, is equated with wisdom, which is also the process of discovering reality. The law-abiding may be just, but the true lawgiver is wise. The product of law is one kind of virtue, the process of law is another kind of virtue. One virtue is the source of law, the other is its end. The product, law-abidingness, is just and good because it is necessary to preserve cities and everything else. The process, law, the distribution of rights and duties is wisdom and good because it is the art of preserving cities.

As it turns out, the analogy to the arts suggests that the law-abiding, as opposed to the practitioners of the statesman’s art, are just but not wise. The patient who carefully follows his doctor’s orders may become healthy, but that does not make him a doctor. Those who are not doctors must follow the doctor’s orders that they may be healthy. It is the unwise who must be law-abiding that they may be just. But, what about the wise, must they be law-abiding simply in order to be just? If law is an art, like medicine, then the answer is no—not always. The rules of any art are actually reductions of a broader more extensive body of knowledge. The rules of any art are prescriptions for most cases, for the ordinary cases. It is difficult if not impossible to formulate a rule to cover every case. The true artisan is not bound by the rules because he understands the scope and limits of the rules, because he understands the whole of the art, because he understands the principles of action of the art of which the rules are mere reflections. Thus, the true artisan is the man who knows what is best to do in each case, the extraordinary case, the unique case as well as the ordinary one. The true statesman is not simply bound by law, which is the general rule, the rule for ordinary case, because he can recognize the extraordinary case, because he knows what to do in that case, and because he understands that the ordinary rule is not suitable, will not produce the intended result. The point is that law does not produce the wise man, it produces the law-abiding man. Obedience to law is a substitute for wisdom. The wise can be just without being law-abiding, but the unwise cannot.

If the law-abiding man is the product of true knowledge or if only the true statesman’s laws are best for the souls of men, the next question must be who is the true statesman? The true statesman, Socrates says, to the consternation of the Companion, is the Cretan King Minos. Minos was a man of unsavory reputation among the Athenians, and a figure of antiquity who was said to be a son of Zeus, the only son to be educated by Zeus. Why is Minos the true statesman? Because, says Socrates, “his laws are unshaken,”¹⁴ because his laws are still loyally accepted in a vital function-

ing city, Sparta. The test of the good lawgiver is whether or not “his ordinances remain,”¹⁵ and not for a mere 300 years, as those of Lycurgus, but much longer.

In the first or dialogue section of the *Minos*, Socrates has established that law is a process, a process that tends to be the discovery of a quality, reality. In the last or monologue section of the *Minos*, Socrates appears to be saying that good law is ancient law. If this simply is his point, the *Minos* does end with a crazy twist, and the last section is incongruous; ancient law is not necessarily good law.

The key to understanding this last section, I believe, is the concept of law as a process. A process is a series of *continuous* actions, actions that are connected and uninterrupted. The laws of Minos, according to Socrates, are not laws that are ancient in the sense of having existed at a given time and no longer exist, but rather ancient only in point of origin and not in point of termination. These laws are *still* in use by the Spartans, and the best of the Spartan laws came from Crete. The laws first established by Minos are continuous actions, they are still operating. Like gold and stone they are durable, they remain law. Furthermore, law as a process has a particular result or product. The product of law, Socrates suggests, is law-abidingness, or is the preservation of cities. The ultimate test of the goodness of any process is its product. The laws of Minos as a process are successful. The Spartans, as Thucydides and others observed, were the most law-abiding of all the Greeks; thus, they were according to Socrates' formulation, a just people, a people who preserved their city. The Spartan regime was notable then and is notable in all history for its longevity. The laws of Minos do preserve cities. The very continuity or longevity of laws and regimes is presumptive evidence that they are in some way good for men, evidence that they function, evidence that law as a process is working.

Law is the process of discovering reality, and Socrates says the convincing evidence that Minos discovered reality is that his laws persist, his laws have endured. The implication is that those laws which last are *more* real than those which do not. The opposite of the real, then, is the ephemeral, the temporal. The real is not simply what exists at any instant, but what exists continuously. Laws that are transient have not captured that reality Socrates would call human nature, do not reflect a knowledge of what is good for men as men. We who recognize a distinction between a rule of law and an ad hoc decision are making the same basic point, though not carrying it as far as Socrates does. “Laws” that do not last, “laws” that are for this time or this people only may be necessary and even wise, but if law tends to be the discovery of reality, such “laws” are not the *best* laws. They are not law in the highest degree for they do not attain the highest level of reality.

Those laws which abide, which persist, which outlast a particular place and time are presumptively closer to reality than those which do not. Or, to paraphrase T. S. Eliot's statement about tradition, law properly, law in the highest degree partakes of the timeless, "involves a perception, not only of the pastness of the past, *but of its presence*."¹⁶ That which was, the past, and still is, the present, tends to be the real or comes closest to reality.

What is past and present is man's nature—those basic universal characteristics of man as man. The true laws reflect the reality of human nature. Here Socrates might appear to be making a point that H.L.A. Hart developed and explicated in our century, that there is a "minimum content of natural law."¹⁷ The minimum content of the law is derived from the unchanging essence called human nature—the basic needs, desires and purposes which all men share. On the obvious level, laws against violence are universal. They continue, they endure because men have been and still are vulnerable. If men were invulnerable, if, to use Hart's example, "men were to become invulnerable to attack by each other, were clad perhaps like giant land crabs with an impenetrable carapace . . . ,"¹⁸ then laws against violence would not continue to function for they would have no function. They would be ancient laws simply, laws which once had force and meaning but do not now.

Hart attempts to define the minimum content, and Socrates *does not*. The *Minos* ends by raising the question "what might that be which the good lawgiver and apportioner distributes to the soul to make it better?"¹⁹ But, the question goes unanswered. Socrates is unwilling to identify law with any particular law, any particular content for his point in the *Minos* is that law is a process, not a product.

Socratic dialogues are dialectics, and the argument, counterargument process continues until the participants have drained their reason, until they are satisfied that they have answered the question to the best of their abilities, that they have clarified the problem and identified the alternatives, or until they have identified a new problem, one that transcends the original problem. The *Minos* concludes with the identification of a new and transcendent problem, the problem of what is the health of the soul or what is justice. This is a new and transcendent problem because justice and law are different processes.

What is it that the last section adds to the general discussion of the nature of law? It completes the teaching that law is a process intent on the discovery of a quality, reality. It clarifies the term reality by distinguishing it from the transient and the ephemeral. It corrects two prejudices, the democratic prejudice inherent in the Companion's definition, and the philosophic prejudice inherent in Socrates' definition.

In the first section, Socrates argues that "realities, not unrealities, are

accepted as real,"²⁰ in order to prove to the Companion that there is a unity to law despite the diversity of laws, a unity based on a discovered quality. He concludes that "whoever fails to attain reality fails to attain accepted law."²¹ Thus, whoever attains accepted law, attains reality. In the last section of the *Minos*, Socrates finds an accepted law, one that is not only accepted at one place, at one time, by one people, but one that is still accepted at another place, in another time, by another people. The last section modifies the earlier thesis that law is an accepted reality. The revised thesis is that the best law, and thus law properly, is a reality that is accepted over time. Law is not just a process, it is an ongoing process.

Law is a process of discovering realities; reality is a quality, and qualities manifest themselves in distinct things to various degrees, as a thing may be heavy, heavier or heaviest. Since qualities do exist in degrees, it is necessary for Socrates to discuss the superlative degree of law in order to fully answer the question what is law. By focusing our attention on still functioning ancient law in the last section, Socrates reminds us of the fact that habit and ancestral piety influence opinion and are supports for law. More importantly, he reminds us of the reason why they are supports for law. A "law" of short duration has not attained accepted reality. Acceptance or consent is convincingly expressed by continuous or repeated action. Continued observance indicates intention or is evidence of deliberate action. Custom is the ultimate and ubiquitous sign of assent. Time or time-honored observance is the most stringent of all tests for law, and thus the test for the superlative degree of law, for law properly or law and nothing else.

Socrates corrects the democratic prejudice of the Companion's definition by finding the point of intersection of wisdom and consent. Law cannot be merely state opinion if law is something good and noble; it must be the coincidence of state opinion and true opinion. The point of intersection between state opinion and true opinion or between consent and wisdom is, according to the last section of the dialogue, continuity, uninterrupted functionality. It is ancient law, but only if ancient law is understood as an ongoing activity, a living tradition, only if ancient law is understood as the currency or presence of the past. Good law, like gold and stone, is resistant to decay.

He corrects a philosophic prejudice inherent in his own definition of law by reminding us of the difference between philosophy and law. Law, Socrates said, is a quest for reality, but so is philosophy. The Socratic definition and the analogy to the arts have not only established a second source for law, namely wisdom, but have grossly neglected the other necessary source, consent. In overcoming the Companion's democratic prejudice, Socrates comes dangerously close to equating law as a process with philosophy as a process. But, law is not the same process as philosophy. Law

has a somewhat different goal than philosophy. Philosophy is directed toward reality; thus its end or goal is wisdom *simply*. But, law is directed toward *accepted* reality, thus; its goal is not wisdom simply, but wisdom that receives favor or consent—loyal acceptance. Continuity, therefore, is essential to law though not to philosophy. Continuity is a proof of the excellence of law, but it is not a proof of the excellence of philosophy.

Ironically, the *Minos* ends where it began, with things loyally accepted, but the answer originally supplied by the Companion has undergone a transformation because it has been taken apart and its internal complexities displayed before being put back together again. Socrates did not reject the Companion's definition of law as things loyally accepted, rather, he found it incomplete, not sufficiently informative. What then was missing? What more did Socrates want to know?

At Socrates' insistence the dialogue continued and as a result directly or indirectly raised and considered the following questions: What is the source of law? What is the basis for its authority? What is the end or intention of law? Who is, or who should be the lawgiver? Is the law always binding on men? Is the lawgiver bound? If it is not always binding on men on what principle is it not binding? Can law change? Should law change? How often should law change? Is law good?

The Companion was right when he said that law is things loyally accepted. Socrates has taken us full circle, and in so doing he has clarified why they are loyally accepted. The monologue section, the section on King Minos, is not an incongruity, but a necessary conclusion. The separation of law into its basic elements teaches us why the question—What is Law?—is difficult or problematic. But, the elements must be rejoined for law has two sources, wisdom (true opinion) and consent (civic opinion). These two sources must be reunited, and this is what the final section does.

The *Minos* is a coherent and intelligible whole which clarifies and expands our understanding of law by defining its essential qualities, by distinguishing the universal characteristics of law from the particular, by demonstrating the unity and dignity of law, and by directing our attention to the force of tradition and continuity as a necessary link between wisdom and consent.

¹ All quotations from the *Minos* are drawn from W.R.M. Lamb's translation, one of seven dialogues translated in *Plato*, published by the Harvard University Press in 1964 as part of the Loeb Series.

² p. 389.

⁴ p. 391.

⁷ p. 393.

⁶ *Ibid.*

⁸ Ibid.

⁷ Ibid.

⁶ Ibid.

⁵ Ibid.

¹⁰ Ibid.; emphasis added.

¹⁴ p. 397.

¹² pp. 395-97.

¹³ p. 401.

¹¹ p. 419.

¹⁵ p. 411.

¹⁶ T.S. Eliot, "Tradition and the Individual Talent," *Selected Essays of T.S. Eliot* (New York: Harcourt Brace, 1950), p. 4, emphasis added.

¹⁷ H.L.A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1961), pp. 189-195.

¹⁸ H.L.A. Hart, "Positivism and the Separation of Law and Morals," *Harvard Law Review* (Feb. 1958), p. 623.

¹⁹ p. 421.

²⁰ pp. 399, 401.

²¹ p. 401.