

The Dialectics of Liberty

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ABSTRACT: This review essay evaluates *The Dialectics of Liberty*, a recent collection, edited by Roger E. Bissell, Chris Matthew Sciabarra, and Edward W. Younkins. It describes the dialectical turn in libertarian political and economic theory and analyzes the diverse contributions to dialectics by the various authors in this volume.

KEYWORDS: classical liberalism, common law, dialectics, dialectical materialism, estoppel, libertarianism, markets, Ayn Rand, dialectical libertarianism, radicalism

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Any practicing lawyer in the United States knows, if only tacitly, that the common law we inherited from England evolves dialectically, each case consisting of antagonistic parties arguing over operative facts, controlling principles, and significant precedents to persuade judges or juries of the rightness

or justness of some cause or position. A party may appeal a lower court's judgment to a higher court, pitting judges against judges and subjecting the dispositive rationale below to additional layers of scrutiny above. Over time, by slow degrees, general principles emerge from the numerous resolutions of concrete cases involving actual people with real struggles.

Dialectical processes, then, are not merely notional or ahistorical. They are essential to the common law, the substantive whole of which exceeds the capacity of one mind or group of minds completely to know. The common law is merely the name we assign to this ever-growing, dialectical system of dispersed knowledge about applied rules, but its constituent elements—notwithstanding their felt effects—are too particular and distinct to be summarily articulated, and too complex to be fully understood. The common law represents the sum of dialectical intelligence, the aggregated wisdom of countless minds seeking workable solutions to complicated problems over generations.

So this recovering attorney, who lately has found refuge in the academy, was pleased to discover *The Dialectics of Liberty* (hereinafter *DOL*), a collection of diverse essays by an exciting array of “radicals” for liberty: Chris Matthew Sciabarra, Edward W. Younkins, John F. Welsh, Douglas J. Den Uyl, Douglas B. Rasmussen, Stephan Kinsella, Robert L. Campbell, Nathan P. Goodman, Deirdre Nansen McCloskey, Robert Higgs, David L. Prychitko, Steven Horwitz, Roger E. Bissell, Roderick T. Long, Gary Chartier, Billy Christmas, Kevin A. Carson, Jason Lee Byas, and Troy Camplin.

Why *radicals*? Because each of these authors, at least in their essays for *DOL*, pursues what's *fundamental*, the term Ayn Rand used to define “radicalism” (Sciabarra, “Toward a Dialectical Libertarianism” in *DOL*, 28). By getting us back to the basics, they establish an analytic paradigm that can serve as the constructive starting point for addressing all sorts of problems, both material and theoretical.

One of the coeditors of *DOL*, Sciabarra, is a founding coeditor of *The Journal of Ayn Rand Studies* (hereinafter *JARS*). Two of *DOL*'s contributors, Campbell and Long, coedit *JARS*. Three of *DOL*'s contributors, Den Uyl, Rasmussen, and Horwitz, serve on the *JARS* board of advisors. The other *DOL* coeditors, Bissell and Younkins, as well as the contributors Chartier and Camplin, have been featured in *JARS*. Any collection that brings together such profound thinkers with such unique voices and perspectives deserves serious consideration, but readers of *JARS* will take *special* interest in *DOL*.

Sciabarra has developed the concept of “dialectical libertarianism” over the course of his nearly forty-year career. The number of contributors to this volume—nineteen in all—testifies to his mounting success. There was a time when pairing the terms “dialectical” and “libertarianism” would not only have raised eyebrows but also have earned you a one-way ticket out of professional

acceptability. Thanks to Sciabarra, the parameters of suitable opinion have widened while the rigor and originality of libertarian scholarship have improved.

The word “dialectics” conjures the specters of Hegel and Marx, with whom, to my knowledge, none of these contributors are associated except, perhaps, in opposition. Think “dialectical materialism.” Yet the contributors as a whole reclaim the dialectical method for classical liberalism or libertarianism, pointing to, among others, Ludwig von Mises, Friedrich Hayek, Rand, and Murray Rothbard as its distinguished practitioners. Long before Hegel and Marx, of course, Aristotle employed the dialectical method (see, for example, “The Topics”) as a rhetorical art and a refutative exercise in truth-seeking. This volume is therefore a small deposit into a deep and old tradition.

“Dialectics,” explain the editors, “is the intellectual discipline that defines and engages in comprehensive logical study and discussion of conflicting factors and forces in the economy, the culture, and so forth” (Bissell, Sciabarra, and Younkins, “Introduction” in *DOL*, 3). The key word here is *conflicting*. Dialectics involves contextualization, the differentiation and integration of data, and the analysis and synthesis of information (3), helping to clarify if not resolve apparent ideational contradictions. Removed from concrete specificities and particularities to the more generalized field of organizational concepts, even stark differences reveal themselves as integral parts to an indivisible whole. According to Younkins, the great synthesizer (see Mendenhall 2011), dialectics is “a method of analysis, a model of inquiry, a meta-methodological orientation or meta-theoretical foundation that emphasizes context-sensitivity in its approach to any object of study” (Younkins, “Freedom and Flourishing: Toward a Synthesis of Traditions and Disciplines” in *DOL*, 44). The object of dialectics and libertarianism—and of dialectical libertarianism—is “the emancipated individual, or the free subject” (Welsh, “The Unchained Dialectic and the Renewal of Libertarian Inquiry” in *DOL*, 72).

Sciabarra articulated a paradigm for dialectics in his early essays and in his doctoral dissertation, later building on that work to complete a trilogy consisting of *Marx, Hayek, and Utopia* (Sciabarra 1995), *Ayn Rand: The Russian Radical* (Sciabarra [1995] 2013), and *Total Freedom: Toward a Dialectical Libertarianism* (Sciabarra 2000). In the first chapter of *DOL*, he champions dialectical libertarianism—which he recognizes in both Marxism and Austrian economics—as a “theoretical and strategic vision” (“Toward a Dialectical Libertarianism” in *DOL*, 37). Recapping his earlier work on the subject, he calls dialectics “the art of context-keeping” (35), underscoring the “process of selective abstraction” through which “we are able to piece together a more integrated understanding of the phenomenon before us” (35). Goodman echoes this line in chapter 7, stating, “Dialectics is the art of context keeping, and so a dialectical method requires keeping institutional context in mind” (“Don Lavoie’s Dialectical Liberalism” in *DOL*, 138).

Both the trouble and the strength of edited volumes is their irreducibility to one simple, unified argument. A reviewer's decision to highlight certain authors or chapters within an edition often reflects his or her own priorities and interests and is not necessarily a hierarchical ranking of merit unless otherwise indicated. My attention to certain essays over others, therefore, reflects personal preference rather than graded precedence. With that caveat out of the way, let's briefly consider each essay.

The bold opening chapters by Sciabarra, Younkins, and Welsh frame the more particular discussions that follow. They are broad in scope, treating such expansive and seminal concepts as freedom, reality, and human flourishing and such elemental philosophical fields as logic, epistemology, metaphysics, and ontology. They send a message, namely that the editors are "thinking big," calling into question whole schools of thought and promoting approaches to inquiry that are primary, essential, and comprehensive. They're hitting the reset button. Welsh's claim, in light of this grand ambition, that "libertarian scholarship and its political movement are at a point where a rethinking of their philosophic foundations is warranted" ("The Unchained Dialectic and the Renewal of Libertarian Inquiry" in *DOL*, 69), captures the gravity and scale envisioned for this book, which is precisely that: a rethinking of the philosophic foundations of libertarian scholarship and politics. Recall that Randian adjective, *fundamental*.

What are those particulars that fall within the conceptual frameworks established by Sciabarra, Younkins, and Welsh? For starters, Kinsella argues for an estoppel-based approach to the enforcement of rights against aggressors. Estoppel, in short, is an affirmative defense in legal proceedings that prevents a party from asserting rights or claims on which the other party, acting in good faith, reasonably relied to his or her own detriment. For instance, let us say that X wishes to start a business that paints houses, and Y verbally agrees to fund the start-up costs for that business. If X, relying on Y's promise, hires painters and purchases paint trucks to operate the business that now commences with the painting of houses, then Y might later be *estopped* from renegeing on his promise on the alleged ground that no contract existed between X and Y.

There are different kinds of estoppel—promissory estoppel, collateral estoppel, equitable estoppel, estoppel by deed, estoppel by silence, estoppel by warranty, and so forth—but the point of each is to protect good-faith actors from manifest injustices resulting from the concealments or false representations of others. In Kinsella's words, "under the traditional *legal* principle of estoppel, a person may be prevented, or estopped, from maintaining something (for example in court) inconsistent with his previous conduct or statements" ("Dialogical Arguments for Libertarian Rights" in *DOL*, 94). Kinsella puts his own twist on estoppel by considering it alongside Hans-Hermann Hoppe's argumentation ethics to defend the ontological status of individual rights, that is, that

they are real and that human beings possess them. The result is a stirring focus on discursive proofs for the actuality of intangible yet enforceable rights. That such a thing as a right is *enforceable*, or purported to be, evidences its reality, despite the contentions of naysayers whose appeals to rational argumentation presuppose the free agency of a rights-bearing interlocutor open to nonviolent persuasion.

Campbell contends that professional psychology, even if it has been over-committed to positivism, enjoys the mostly unacknowledged influence of dialectics. More specifically, developmental psychology depends upon *dépassement*—“literally, overtaking or passing” (“Dialectical Psychology: The Road to *Dépassement* in *DOL*, 117)—a word describing “transcendence” (117), “transcendental” (118), or “sublation” (118), whereas social relations as a field of study deal with the dialectical elements of human associations, including culture, groups, and societies. Employing a dialectical method even as he writes about it, Campbell combines insights from developmental psychology with findings from social relations theory to achieve his own sort of *dépassement*. To accomplish this feat, he maps the dialectical forces at play in the work of Jean Piaget (1896–1980), Léo Apostel (1925–95), and Czeslaw Nowinski (1907–81) (who does not appear to be renowned among scholars in the United States, and certainly not as famed as Piaget or Apostel). Campbell surveys a history of dialectics, moving from its figuring in “the multiplication study” (115–17)¹ to “internal *dépassement*” (117–20)² and “immanent dialectics” (120–22) to demonstrate that this subject is already critical to the scholarly literature on human cognitive development. *Dépassement* is the chief concept of Campbell’s chapter, which locates *dépassement* in “norms,” “human development,” “ideas,” “institutions,” “societies,” “cultures,” and “spontaneous orders” (128). In other words, *dépassement* describes not just individual cognitive development but, in the aggregate, the development of group associations as individual developments multiply among human actors.

Goodman profiles Don Lavoie (1951–2001), an Austrian economist at George Mason University whose untimely death no doubt upset his former students. Goodman identifies four dialectical themes in Lavoie’s thought: “The first is a focus on comparative economic systems that emphasizes the importance of institutional analysis” (“Don Lavoie’s Dialectical Liberalism” in *DOL*, 134). “The second is an emphasis on developing a radical and systemic analysis of militarism” (134). “The third . . . is an emphasis on bringing culture into the foreground of political economy research” (134). “The fourth . . . builds on these social scientific research programs to advance a normative agenda of radical liberalism” (134). If these themes function as the skeleton of the chapter, then the rest of the chapter is, so to speak, meat on the bones. Goodman gives flesh to these four propositions while painting an endearing portrait of an effective educator.

McCloskey's contribution—notable for its lively prose—is a reprint of an earlier article modified to fit this collection, *and* to keep up with the times (there's a reference to President Donald Trump). In it she posits a liberal theory of speech that dovetails with a liberal theory of the market. “Rhetoric and liberty are doubly linked,” she states (“Free Speech, Rhetoric, and a Free Economy” in *DOL*, 149). To picture the link, simply analogize competition and the free exchange of goods and services to the voluntary trading of language and ideas among willing conversationalists seeking to persuade their interlocutors to accept certain propositions as true. “The notion is that liberty is at bottom a condition of uncoerced persuasion, the right to say no,” McCloskey announces. She presents a compelling challenge to those who purport that speech is violence—which is not to say that speech can't be *violent*, only that it does not itself constitute violence—and blesses us with axiomatic, aphoristic nuggets like “Rhetoric is not merely bullshit, and saying so kills liberalism” (157). In a world with diverse views about so many controversial and weighty matters, the alternative to rhetorical contest is physical power, which is to say violence and coercion. Maintaining conflict at the level of discourse is necessary to the health and proliferation of free societies. “Three cheers then for license, sedition, and the unbridled masses,” McCloskey playfully intones, “if the alternative is Sparta or Imperial Rome or the People's Republic of China” (163).

Higgs cobbles together three short essays written for popular media to construct his chapter on how government destroys moral character, how the welfare state causes systemic dependency, and how business and government grow in tandem. At first blush this chapter may seem off topic. Where are the mentions of dialectics? Reading deeper, however, one senses dialectics in such assertions as “ideology and political movements develop reciprocally” (“Exploring the Interconnections of Politics, Economics, and Culture” in *DOL*, 173). Higgs is concerned with the mechanisms by which rulers maintain their power over majorities. Rule by the “elite” over the “masses” (169) involves a constant struggle to perpetuate dominance not by unilateral, unchanging coercion, or by total, obvious oppression, but by doling out benefits and thereby training dependents into docile submission to the governing order. Humans with their innate longing for liberty would resist relentless tyranny, but their *participation* in their own servile conditioning—their *self-discipline*—enables the kind of soft coercion that facilitates enduring power structures. Foucault seems to lurk in the background here, and possibly Étienne de La Boétie as well.

An association with socialist worker movements has tainted “labor-management enterprise,” according to Prychitko. He makes the case that the democratic features of “labor-managed” and “self-managed” firms—or unions organized as united workers advancing their interests and bargaining power—are compatible with liberalism even if, historically, socialism has corrupted them. How are

they compatible? First, they “can help us turn away from the hierarchical and authoritarian problems of traditional capitalist enterprise” (“Context Matters: Finding a Home for Labor-Managed Enterprise” in *DOL*, 181). Second, they can “unite democracy in the workplace with freedom to exchange and associate throughout the system” (181). Third, in dialectical fashion, they marry private property protections (appealing to the Right) with managed workplaces (appealing to the Left). Prychitko disclaims any attempt to proffer an argument on behalf of labor-management enterprises and positions himself instead as merely an asker of provocative questions.

Horwitz submits that “classical liberalism has been able to escape the sterile false binary”—individual versus state—“and think more about the functions and importance of other voluntary social institutions,” most notably the family (“The Dialectic of Culture and Markets in Expanding Family Freedom” in *DOL*, 185). Having published *Hayek’s Modern Family* in 2015, Horwitz sets out in this chapter to strike a third way between conservative defenses of traditional family units and radicalism that would undo the institution of the family altogether. He claims that changes in economics and the market evolve alongside changes in family structures. For example, the “economic changes brought on by the advent of capitalism and the Industrial Revolution led to an evolution in the nature of marriage and the structure of the family” (186). The reverse is also true: changes in family structure, as women entered the workforce, shaped the economy. In light of this dialectic, Horwitz devotes considerable attention to how the economy affected culture and how culture affected the economy.

Who could forget music? Not Bissell. He writes about “the Great American Songbook,” but not, as you might expect, its musicology, which may represent its own kind of dialectic. Instead, Bissell discusses “the intense difficulties, the oppression, faced by songwriters leading into and continuing during the Songbook Era, as well as transitioning out of that period” (“Up from Oppression: Triumph and Tragedy in the Great American Songbook” in *DOL*, 204). No reasonable person doubts the social and institutional obstacles—including overt racism—that ethnic minority artists overcame in post-Civil War America and during the Jim Crow era. But what has that subject to do with dialectics? Bissell isn’t clear on the matter. Yet we may extrapolate from his argument a few possibilities. First, the music he considers represents “a swirling intermingling of various cross-currents,” suggesting that even disparate forms and styles can be integrated into a unified musical piece (204). Second, systematic attempts to oppress ethnic minorities became an inadvertent source of creative possibility, suggesting an interdependence between countervailing forces that produced song and melody. Third, creativity involves the process of appropriation, assimilation, and borrowing from diverse genres and practices, in effect resolving their differences. Fourth, consumer demand for good music and artistic supply

of that music overcame or corrected government-imposed distortions of, and restrictions on, markets, proving that artificial restraints cannot undo the interconnectedness of material phenomena. These points about dialectics are implied but not expressed in the essay.

Hayek (1976, 62–63) posited that social justice recalls a primitive anthropomorphism that personified the conditions of market operations. Long reinterprets him:

Hayek himself could be interpreted as a proponent of social justice, since while he famously prefers rules and institutions that emerge spontaneously from the market to rules and institutions deliberately designed, when existing rules and institutions (whether emergent or designed) are such as to hamper the process of spontaneous social evolution, he recommends their conscious and deliberate revision, and indeed offers an extensive program for constitutional design. (“Why Libertarians Should Be Social Justice Warriors” in *DOL*, 239)

The constitutional design to which Long refers appears in *The Constitution of Liberty*. Regardless of whether he is correct about Hayek and social justice, his appeals to anarchism are fascinating, and the vehicle he recommends to bring about social justice—“public pressure” and “consensual, participatory, bottom-up resistance” (242)—does not involve government enforcement of alleged rights violations. In other words, it does not involve state coercion. In Long’s view, “genuinely freed markets will in fact tend to work out to the benefit of the least advantaged via spontaneous order of the unplanned variety, while at the same time affording maximum scope for planned (but consensual) efforts to combat whatever disadvantages may linger” (245). Evidencing the competing visions in this volume, Kinsella embraces Hoppe whereas Long indicts Hoppe’s “tribalist, anti-cosmopolitan, anti-immigrant version of libertarianism” (241). Hoppe’s libertarianism adopts right-wing conservatism, whereas Long’s incorporates left-wing market anarchism (244). The editors wisely and silently leave readers to determine for themselves which of these positions, if any, to favor.

Like Long, Chartier espouses anarchism, a corollary of “*radical liberalism*” that “transcend[s] the divide between classical and modern liberals” (“Radical Liberalism and Social Liberation” in *DOL*, 255). Elevating “social liberation” to his prime concern, and following thinkers like Thomas Hodgskin and Benjamin Tucker, Chartier hopes to liberate individuals not just from flagrantly violent forms of oppression, but from “nonviolent, nonaggressive oppression” as well (264). Pursuing diversity and equality, he, like Long, advocates nonviolent responses to illiberality, namely “social pressure” and “psychic bondage” (269). Readers could take Long’s and Chartier’s chapters as a unit that precedes

the paired essays of Christmas and Carson. These four authors communicate explicitly left-libertarian accounts of dialectics.

Christmas, for example, marries the concepts of equality and justice, proclaiming that “we have socially egalitarian reasons to be libertarian in the sphere of justice” (“Social Equality and Liberty” in *DOL*, 275). He distinguishes social egalitarians from luck egalitarians. The former, he says, “believe that equality demands that people treat each other as equals, and that social relations therefore have an egalitarian character themselves, rather than merely an egalitarian distributive outcome” (277). By contrast, luck egalitarians “believe that equality demands that each person gets an equal share of economic advantage” (276). Christmas’s social egalitarianism opposes hierarchy and domination, which involve coercion that isn’t just physical.

The stigmatization of divorce exemplifies nonphysical coercion that causes women to remain married to abusive, dominating husbands. Christmas’s social egalitarianism is not necessarily a theory of justice. Rather, it is, in his words, “best construed as a broad set of political and social values that *entail* a particular conception of justice, but justice is not exhaustive of those values” (282). Christmas joins Long and Chartier in calling for nonviolent enforcement of nonviolence, a noble yet quixotic proposal that, however consistent and coherent in theory, may prove difficult in practice.

Carson expounds on class theory, expanding previous work by both Sciabarra and Long to excoriate corporatism and cronyism. “I would argue,” Carson states, “that the corporate economy is so closely bound up with the power of the state that it makes more sense to think of the corporate ruling class as a *component* of the state, in the same way that landlords were the primary component of the state under the Old Regime” (“Formal vs. Substantive Statism: A Matter of Context” in *DOL*, 294). The chief purpose of state capitalism, he avers, “is to serve the economic ruling class’s interest in extracting rents from the rest of society” (295). Although never named, Foucault rears his head in this chapter, as in Higgs’s. “The economic ruling class allows some amount of voluntary market exchange,” Carson says in a line that could have come from any of Foucault’s writings about power, “within the interstices of a system whose overall structure is defined by coercive state intervention” (295). In the Foucauldian paradigm, and in Carson’s, rulers permit a degree of liberty to display their power to suppress it.

It bears mentioning—given the subject of this journal—that Carson rejects Rand’s stance on intellectual property, averring that intellectual property laws (especially trademarks and patents) are protectionist and monopolistic, serving corporations before consumers and preserving entrenched power structures.

“The Political Is Interpersonal.” So reads the title to Byas’s chapter, which answers a hypothetical: if you could push a button to eliminate, immediately,

all impediments to liberty, would you push it? Rothbard answered yes, but Byas accuses Rothbard of “fundamentalist zeal, not serious political philosophy” (to be clear, Byas refers to only one line from Rothbard, not to Rothbard’s full oeuvre) (“The Political is Interpersonal: An Interpretation and Defense of Libertarian Immediatism” in *DOL*, 308). The button-pushers are so-called immediatists. Their counterparts—those who would *not* push the button, but who share the button-pushers’ libertarian objectives—are gradualists. Without siding with one or the other, Byas recommends aspects of both. Yet he concludes soberly. “Neither of the two conceptually possible situations of immediate abolition,” he concedes, “will happen any time soon” (320). That doesn’t mean they aren’t interesting to think about.

Camplin stresses a curious paradox: that perpetual conflict can form a dialectical and evolutionary foundation. An ever-changing state can be foundational if the offsetting tensions that compose it generate interactive complexities that over time resemble rituals or patterns. It’s helpful to consider, again, the common law, which develops, and has developed, through the constant conflict between plaintiffs and defendants, or prosecutors and defendants, or in any case between two opposing parties arguing over dispositive rules and precedents. Without argumentation, conflict, litigation, or disputation, foundational principles in the law would not emerge, and cases would not settle into serviceable patterns.

Similar evolutionary processes govern the maturation and growth of different animal species, and Camplin’s illustrations from biology reveal how humans developed rituals—for example, sports, religion, and art—out of the constant tension between individualism and collectivism. Arguably the most important ritual to the preservation of the species involved territoriality, which enabled the conceptualization and enforcement of private property laws. “The emergence of ritual is a dialectical solution to the problem of reproduction created by the emergence of territory and individualism,” explains Camplin, “and territory was a solution to the problem of how to better ensure one’s genes are being passed on to future generations” (“Aesthetics, Ritual, Property, and Fish: A Dialectical Approach to the Evolutionary Foundations of Property” in *DOL*, 338). Accordingly, Camplin reasons, “private property is atavistic,” and “[s]ocial movements that oppose privately owned landed property are ... attempting to overcome nearly half a billion years of evolution” (338).

I have so far pretermitted analysis of Den Uyl and Rasmussen’s concise chapter, “Whence Natural Rights?,” because it does not meet the designation of “particular” with which I have been dealing. In fact, their essay, however short, concerns an enormous topic with vast implications—to wit, the threat of constructivism (“the modern rationalist notion that philosophical principles are constructions of thought rather than discoveries from an independently

existing reality” [in *DOL*, 88]) to those natural rights theories dating back at least to Aristotle. Despite the immensity of this subject, their essay represents only a modest extension of their previous work in *Norms of Liberty* (Rasmussen and Den Uyl 2005) and *The Perfectionist Turn* (Den Uyl and Rasmussen 2016). This earlier work is, to return to that august word, *fundamental*. Think of this chapter as a mere preview: Den Uyl and Rasmussen whet the appetite with their quick display of support for a “realist turn” away from rational constructivism and empiricism on which they expound in their new book, *The Realist Turn: Repositioning Liberalism* (Rasmussen and Den Uyl 2020).

DOL is a wide-ranging volume colored with the unique voices and personalities of its various contributors. Yet it is united in purpose and models the dialectical method that it celebrates. Welsh registers a memorable line that supplies fitting closure to this review. “A volume dedicated to the ‘dialectics of liberty,’” he states, “provides a wonderful opportunity to explore not only the interstices at which dialectical and libertarian theory overlap, but how the two might enhance each other for the benefit of advocacy for individual freedom, free markets, and minimal government” (“The Unchained Dialectic and the Renewal of Libertarian Inquiry” in *DOL*, 70).

I concur. And *The Dialectics of Liberty: Exploring the Context of Human Freedom* is that volume.

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NOTES

1. Piaget’s multiplication study examined the ways in which children learn to multiply numbers.
2. This form of *dépassement* describes the progression of knowledge over time as seeming contradictions become contextualized and reconciled as one gradually ascertains the bigger picture at issue.

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