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The Dialectic of Second-Order Distinctions: The Structure of Arguments about Fallacies

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Abstract: Arguments about fallacies generally attempt to *distinguish* real from apparent modes of argumentation and reasoning. To examine the structure of these arguments, this paper develops a theory of dialectical distinction. First, it explores the connection between Nicholas Rescher's concept of distinction as a "dialectical countermove" and Chaim Perelman and L. Olbrecht-Tyteca's "dissociation of ideas." Next, it applies a theory of distinction to Aristotle's extended arguments about fallacies in *De Sophisticis Elenchis*, primarily with a view to analyzing its underlying strategies of argumentation. Finally, it examines how second-order distinctions (those designed to challenge previously formulated distinctions) underpin current arguments against the Aristotelian or "Standard Treatment" of the fallacies.

This paper is not about fallacies per se. By this I mean, it will not offer any claims about the nature of fallacies, nor speculate about whether they exist. It will not advance a theory of fallacies, nor, equally, make judgments about their use (or abuse) in everyday reasoning. Indeed, it will not even attempt to differentiate the various types and functions of fallacies. Other papers, monographs, and books have done so already, and many of these, I think, with great success.

Rather than join in the various debates about fallacies—about what they are or how they work—this paper develops a meta-analysis of the debate: it examines the dialectical countermoves characteristic of ancient and contemporary arguments about fallacies. It discusses controvertible claims that philosophers have asserted about fallacies and the kind of evidence and reasoning used to support these claims. Specifically, it analyzes the structure and function of one countermove common to all such arguments about fallacies—distinction. To accuse an opponent of fallacious reasoning is to argue that his or her argument is reasoning in appearance only, that it fails, in some important respect, to meet the criteria of "real" argumentation. Hence all arguments about fallacies proceed from, and frequently argue for, a primary distinction between appearance and reality as it pertains to the form, conduct, and function of argumentation.

Moreover, all arguments about fallacies reveal a "dialectical reflexivity," as I call it, which may be their most intriguing, if not characteristic, feature. From Aristotle's *De Sophisticis Elenchis* to the works of contemporary informal logicians, all arguments about fallacies are arguments about argumentation. How this reflexivity informs the dialectical strategies of such treatises is the main concern of this paper. Specifically, it asks: what roles do distinctions play in dialectical exchanges about fallacies? How do distinctions differentiate "real" from "apparent" modes of reasoning? In what way do they determine the outcome of arguments about argumentation? Are there different kinds of dialectical distinctions? And finally, can these differences account for shifts in models of argumentation, and, in particular, shifts between "traditional" and "contemporary" arguments about fallacies?

To answer these questions, the first section of this paper examines the role that distinction plays in dialectic generally. It

develops a theory of distinction by outlining the relationship between Nicholas Rescher's concept of "dialectical countermove" and Chaim Perelman and L. Olbrechts-Tyteca's "dissociation of ideas." The second section applies this theory to Aristotle's *Sophistici Elenchi* in order to analyze its underlying strategies of argumentation. And finally, the third section examines how second-order distinctions (distinctions designed to undermine the probative force of previously formulated distinctions) play an instrumental role in the construction of current challenges to the Aristotelian, or "Standard Treatment," of the fallacies.

I. Dialectic, Distinction, and the Dissociative Construction of the Real

In *Dialectics: A Controversy-Oriented Approach to the Theory of Knowledge*, Nicholas Rescher defines "dialectic" as any form of "disputation, debate, and rational controversy" which "*exhibits epistemological processes at work in a setting of socially conditioned interactions*" (xii). These "epistemological processes," as he calls them, require participants to present evidence that is either plausible enough to shift the burden of proof away from, or garner presumption for, their respective assertions. Dialectic, therefore, is a process which shapes, and is shaped by, socially-constructed knowledge, knowledge which allows communities to establish and test plausibilities, and therefore to set standards and make judgements in human affairs. To achieve this goal, dialectic proceeds by successive motions of exchange: "assertions" (initial statements or claims), "denials" (challenges to such claims), "provisoed assertions and denials" (the presentation of grounds which support—that is, provide *prima facie* evidence for—an assertion or denial), and finally, "distinctions" (the presentation of an evidential ground that limits the probative force of a proviso) (5-17).

As defined by Rescher, a distinction is a dialectical countermove which challenges a provisoed assertion or denial. Take, for example, the following provisoed assertion: "I know this is a human hand (P) because my senses tell me so directly" (Q) (16). Schematized by Rescher as P¦Q and read as "P because of Q," this proviso can be challenged by the distinction, "you can't really support this claim (˜P) because, although your senses provide evidence (Q), this evidence is quite often deceptive" (R). The distinction, schematized as ˜P¦Q&R and read as "not P because although Q yet R," limits the grounds established by the initial proviso (Q) by qualifying the status of these grounds. Put simply, it provides an overriding exception to be considered: namely, that the senses are open to deception. Such a distinction adds a new set of evidential considerations (R) to the dispute, one which is meant to diminish the probative strength of the opponent's proviso. A distinction attempts to accomplish this by transferring the opponent's *prima facie* case to another, more hostile epistemological context, one that militates against, rather than provides support for, an assertion or denial.

Extending Rescher's discussion, then, a distinction, I would argue, challenges an opponent's dialectical grounds by (1) providing a new ground for consideration which (2) separates the old ground from the initial assertion by (3) splitting the old ground into two elements, one of which it concedes and the other it denies. In the example above, R introduces a new concept (that the senses can be deceived) in order to break the bond holding Q to P, the proviso to its assertion. A distinction accomplishes this by a strategy of "yes but," that is, by conceding that "*yes*, your senses provide evidence" and then by denying "*but* this evidence cannot support the initial claim." The pivot, or "but," of the distinction, then, is its most powerful feature. To

function as a dialectical countermove, a distinction must grant more evidential weight to what is denied than to what is conceded. This, of course, is how it garners presumption for ~P. For without the pivot, the distinction could not tip the scales of plausibility against the opponent's claim taken as a whole, and instead, would only serve as a neutral division of the issue under discussion.

In Rescher's account of dialectic, presumption favours the plausible, and the plausible, in turn, favours evidence which conforms to the desiderata of cognitive systematization—simplicity, completeness, directness, regularity, uniformity, distinctness, normalcy, and the like—or what Rescher calls "thesis-warranting principles" (39). Distinctions invoke a thesis-warranting principle to advance the cause of the newly-stated position, and to make it seem more epistemically desirable than antecedent positions. In the above example, the provisoed assertion appeals to "directness," that is, to an immediate sensory perception of the body. The distinction, on the other hand, appeals to "perceptual consistency"—or perhaps more accurately, "inconsistency"—by pointing out that the senses often generate false patterns of expectation, as, they do, for instance, when an oar in water appears to be, but is not in fact, broken. The disputant making this distinction, then, not only adds a new consideration (the deceptiveness of the senses) to the argument, but advances the cause of a new thesis-warranting principle (perceptual consistency), one that is more pertinent to, and true of, the issue under discussion than that advanced by the opponent.

Distinctions tip the scales of plausibility because they construct or derive from previously constructed concepts of the "real." The "real" both shapes and is shaped by dialectical processes. It stands for whatever a community designates to be the most true, meaningful, relevant, or normal considerations touching upon the issue under discussion. In *The New Rhetoric: A Treatise on Argumentation*, Chaim Perelman and Lucie Olbrechts-Tyteca discuss such distinctions under the heading of "dissociation" (411-50). Dissociation is the argumentative technique of reconfiguring previously constructed integrities, primarily by showing them to be unstable, illusionary, or in some way deficient. The real is created by dissociation, which not only breaks connecting links, but which

> involves a more profound change that is always prompted by the desire to remove an incompatibility arising out of the confrontation of one proposition with others, whether one is dealing with norms, facts, or truths. (413)

Dissociations, then, postulate a coherent, self-consistent realm of being and a "rule of reality" against which conflicting claims can be judged. Dissociations resolve impasses created by incompatible claims or principles, primarily by showing that one of the two claims only *appears* to be plausible, relevant, useful, and so on. "The effect of determining reality," Perelman says, "is to dissociate those appearances that are deceptive from those that correspond to reality" (416).

Dissociations generate what Perelman and Olbrechts-Tyteca call "philosophic pairs," ranked dichotomies that distinguish realities from appearances. Every philosophic pair, $\frac{\text{Term I}}{\text{Term II}}$, aligns itself with the primary dissociation $\frac{\text{appearance}}{\text{reality}}$. Term I represents whatever is deemed by the disputant to be apparent, illusory, insubstantial, irrelevant, insignificant, false, erroneous. Term II, on the other hand, represents whatever is actual, substantial, relevant, coherent, true. The real is a *construct*:

> Term II provides a criterion, a norm which allows us to distinguish those aspects of term I which are of value from those which are not; it is not simply a datum, it is a *construction* which, during the dissociation of

> term I, establishes a rule that makes it possible to classify the multiple aspects of term I in a hierarchy. (416)

The real, then, functions to distinguish and classify those aspects of appearance which conform to, or conflict with, previously established guides for resolving incompatibilities.

Applied to our example above, the distinction implicitly generates a series of philosophic pairs:

$$\overset{1}{\frac{Q}{R}} = \overset{2}{\frac{\text{sensory}}{\text{non-sensory}}} > \overset{3}{\frac{\text{directness}}{\text{consistency}}} > \overset{4}{\frac{\text{concede appearance}}{\text{deny reality}}}$$

As represented by 1, the distinction advances a new ground, R, which serves as a measure of the real—at least *pro tem*—against which Q is found wanting. Specifically, at 2, R introduces the philosophic pair—sensory versus non-sensory evidence—aligning the first with Term I and the second with Term II. The ranking at 2 is derived from another distinction, 3, which ranks the principle underlying the appeal to the senses (namely, directness) as inferior to the newly postulated principle of perceptual consistency. At 4, the distinction concedes the appearance of proof established by the opponent's proviso (based on sensory evidence and the principle of directness), but then denies the reality of this proof in favour of the newly distinguished grounds it puts forward for consideration (based on non-sensory evidence and the principle of perceptual consistency). In many cases, distinctions employ pre-existing philosophic pairs created by longstanding or ongoing argumentation to generate dissociations (420-26). In other cases, the dialectical exchange itself introduces new pairs. If adopted by a discourse community, new pairs become part of the construction of the real, and in this way, may serve to reallocate presumption and burden of proof in future controversies.

In summary, then, a distinction is a dialectical countermove that challenges a provisoed assertion or denial by introducing a new, more plausible ground (R) which qualifies—and by qualifying, diminishes—the epistemic force of the opponent's claim. To accomplish this goal, the new ground introduces a dissociation which differentiates appearance from reality, and which allows the disputant to concede the appearance of proof in the opponent's argument (the "yes") but then deny the underlying reality of such proof (the "but"). Finally, the dissociation of reality inherent in distinctions shapes the dialectical process by generating and consolidating plausibilities. In this way, distinctions help determine which of two positions will garner presumption at any given point in a disputation.

II. The Dialectic of First-Order Distinctions: Aristotle's Arguments about Fallacies

Aristotle's *De Sophisticis Elenchis*—or, indeed, any of the works inspired by it, such as the medieval treatises on *sophismata* and *obligationes*—reveals a complex system of distinctions, all of which serve to delimit licit and illicit argumentative procedures. Fallacies, Aristotle tells us, frequently arise from confused thinking, and especially, the inability to make, or the unwillingness to grant, distinctions [169a23ff]. Verbal equivocation and ambiguous phrasing, for instance, can lead unsuspecting disputants into the abyss of self-refuting paradoxes if they fail to exercise their right to draw a distinction:

> If one does not distinguish (διορισάμενος) the meanings of a doubtful term, it is not clear whether he has been confuted or not, and since the right to draw distinctions (διελεῖν) is conceded in arguments, it is obvious that to grant the question simply, without making distinctions (διορίσαντα), is a mistake .... It

> frequently happens, however, that, though people see the ambiguity, they hesitate to make the distinction (σιαιρεῖσθαι), because of the numerous occasions on which people propose subjects of this kind, in order to avoid seeming to be acting perversely all the time. Then, again, though people would never have thought that the argument would hinge upon this point, they are often confronted with a paradox. So, since the right to draw a distinction (σιαιρεῖν) is conceded, we must not hesitate to use it, as was said before. (175b 27-38)

Disputants have "the right to draw distinctions" and thus to avoid falling into seemingly self-contradictory claims, but they frequently fail to exercise this right in order "to avoid seeming to be acting perversely all the time." Derived from the Greek expression for conversation, "dialectic" requires disputants to follow the rules of "turn-taking" that regulate conversations generally, and which permit the exchange of ideas and the equitable distribution of opportunities to speak and reply in argumentation. Those disputants who insist on making distinctions at every turn, and who admit little or nothing "for the sake of argument," may feel they are acting perversely, that is, against these rules of social interaction. Sophistical refutations, then, force disputants to sustain their ethos at the expense of logos, preying on misplaced goodwill and habits of socialization.

Distinction allows disputants to differentiate relevant from irrelevant, true from false, real from apparent considerations in matters of reasoning. The fallacy of composition and division, for instance, requires disputants to distinguish those complex expressions which signify a compound from those which do not; the fallacy of accent, to distinguish among the "suprasegmental phonemes" that signify different meanings; the fallacy of figure of speech, the different categories that a word may belong to; of accident and consequent, the symmetrical and asymmetrical natures of relation; of *secundum quid et simpliciter*, the absolute and relative predication of a term; of *petitio principii*, the premises and conclusions of an argument; of "non-cause as cause," the relevant and irrelevant elements of a proof; and of "several questions at once," the kinds of questions which can and cannot be adequately answered by single affirmation or negation.

Distinctions block a sophistical refutation by stipulating the conditions under which one disputant will assent to a claim formulated by another. That is, distinctions clarify what can be accepted and what rejected in the argument of the other disputant. For example, if someone should argue for the following paradox—"the same man can be seated and walking" (166a25ff)—Aristotle advises that we distinguish the various meanings of "can." Does it mean "has the power, potential, or desire to walk" (while sitting)? Or does it mean "has the ability to do both activities (walking and sitting) at the same time"? Similarly, if someone should argue that "something can be white and not-white because an Indian is black and has white teeth," we should distinguish between the absolute and relative use of the predicates "black" and "white" (167a8ff). Does "black," for instance, apply "in every respect" or just "in some respects"? And finally, if someone should argue "I know that it has rained because the ground is wet," we must distinguish the cause from the effect, ensuring that the first has not been inferred from the second (167b6ff). Is the ground wet for other reasons? Was someone watering the garden, for instance?

Using Rescher's notation system, we can schematize Aristotle's examples of fallacious arguments as the following provisoed assertions:

1. "the same man can both walk and not walk at the same time (P) because he can walk while sitting" (Q). Hence P¦Q, read as "P because of Q."
2. "something can be white and not-white (P), since an Indian is black and has white teeth (Q)"; hence P¦Q.

> 3. "I know that it has rained (P) because drenched earth accompanies rain" (Q); hence P¦Q.

The first is an instance of the fallacy of equivocation; the second, the fallacy *secundum quid et simpliciter*; the third, the fallacy of affirming the consequent. To counter these fallacious provisoed assertions, Aristotle recommends introducing the following distinctions to the argument:

> 1. "you can't support this claim (~P) because, although you argue that a man can both walk and not walk (Q), you have not distinguished between two conflicting senses of 'can' (R)"; hence ~P¦Q&R, read as "not P because, although Q, yet R."
> 2. "you can't support this claim (~P) because, although the Indian is black and white (Q), the predicate, 'black,' is being used both absolutely (black in every respect) and relatively (black in one respect only) at the same time (R)"; hence ~P¦(Q&R).
> 3. "you can't support this claim (~P) because, although drenched earth accompanies rain (Q), the relationship between an antecedent and a consequent is not the same as that between a consequent and its antecedent, i.e., the relationship is not convertible (R)"; hence ~P¦Q&R.

Each distinction, then, adds evidential grounds (R) to a provisoed assertion which limits or diminishes the probative strength of the opponent's prima facie case. And each distinction limits the initial proviso (Q) by invoking an overriding exception to be considered: in the first case, that "can" denotes both potentiality and actuality, namely, both the desire to do, and the performance of, two contrary activities; in the second, that a word cannot be predicated of a term both absolutely and relatively at the same time; and in the third case, that the relationship between antecedent and consequent is neither symmetrical nor transitive. In the three examples above, (R) divides the grounding proviso (Q) into two aspects, one of which it denies, the other it concedes. In the first example the disputant concedes: "that a man may desire to walk while sitting." But denies: "that the man can perform both tasks at the same time." In the second example, the disputant concedes: "that the Indian is black and white." But denies: "that the Indian is black in every respect and is not black in every respect." And in the third example, the disputant concedes: "that drenched earth accompanies rain." But denies: "that the relationship between antecedents and consequents is necessarily convertible."

By employing distinctions, disputants concede that many features of argumentation—the ambiguity of language, the predication of terms, the principles of causality and validity, and so on—are easily overlooked or confused or omitted from consideration, but deny that such oversights or confusions or omissions reflect the "reality" of argumentation. That is, by differentiating antecedent from consequent or relative from absolute, disputants accomplish two tasks: first, they introduce a qualification, R, which undermines the ability of the fallacious ground, Q, to support the initial claim, P; second, they demonstrate their expertise in matters of reasoning, since, according to Aristotle, the ability to distinguish real from apparent modes of reasoning is the sign of a true dialectician.

Aristotle's motives for writing this treatise are clear. During the fifth and fourth centuries B.C., students could learn from certain teachers, or sophists (*σοφισταί*), how to use paradoxes or sophisms (*σοφίσματα*) as refutations (*ἐλεγχοι*) of established doctrines or beliefs. Although Aristotle discusses dialectical strategies in *Topics* book VIII, erroneous reasoning in *Analytics* II, and fallacies in *Rhetoric* book II chapter 24, *De Sophisticis Elenchi* is the only extant treatise which attempts, on a large scale, to outline procedures for challenging, in turn, the sophistic refutations of philosophic thought. The treatise differentiates, then, between two kinds of disputants: those who accept the force of an argument such

as "a man can be black and not black" and those who do not. The first group fail to distinguish between relative and absolute predication, and, equally, between real and apparent dialectical exchanges. By accepting the system of distinctions constituting Aristotle's treatise, however, the second group demonstrates a real knowledge of argumentation. For example, the ability to distinguish between absolute and relative predication generates the dissociation $\frac{\text{absolute/relative not distinguished}}{\text{absolute/relative distinguished}}$, which, in turn, aligns itself with the dissociation $\frac{\text{sophistical reasoning}}{\text{Aristotelian dialectic}}$. In other words, true dialecticians know and can make use of distinctions proper to the conduct and study of argumentation.

As Sten Ebbesen points out, dialectical exchanges about dialectic determine the very basis of reasoning, and thus determine the paradigms or general theories governing the conduct and outcomes of intellectual debate and problem solving generally:

> A standard procedure for proving the superiority of a new theory to an old one is to show that 'unreasonable arguments' known to be constructible and not soluble within the framework of the old theory present an obstacle no longer; either because they cannot be constructed at all within the new framework, some general principle preventing this; or because they need not, in the new theory, be considered unreasonable. And a standard procedure for attacking the new theory consists in demonstrating either that it does not neutralize all the old paralogisms or that it gives rise to some new ones. (1)

In other words, the distinctions attending an argument about argumentation generate dissociations which serve to regulate what constitutes the structures, purposes, and outcome of reasoning itself. One of the primary dialectical functions of Aristotle's treatise, I would argue, is to align the "unreasonable" (i.e., paradoxical) arguments of the sophists with mere appearance, showing them to be solvable within his new philosophic framework of distinction, so that they "present an obstacle no longer." In short, Aristotle's treatise outlines a system of real distinctions: real, because they reflect the truth of reasoning, namely, truths such as "the antecedent to consequent relationship is not symmetrical"; real, too, because they serve as plausibilities against which the sophistical grounds of reasoning can be found wanting. In short, his treatise is an extended argument in defense of his concepts of reasoning. As such, it seeks at every point to dissociate sophistical reasoning from his own, more "real" reasoning, and equally, to dissociate sophistical refutations from his own refutations of them.

III. The Dialectic of Second-Order Distinctions: Current Arguments against "The Standard Treatment"

So far I have discussed only the dialectic of first-order distinctions, namely, those which challenge a provisoed assertion or denial. As Rescher points out, however, distinctions can also challenge other distinctions (15). These complex distinctions I call "second-order." An example of a second-order distinction in action might be:

> opp. (~P) "You can't really support your claim (that you know that 'this is a hand'), because, although your senses provide evidence (Q), this evidence can be deceptive" (R). Hence ~P¦Q&R (first-order distinction).
>
> prop. (P) I can support my original claim because, although my senses have provided evidence (Q) that has misled me in the past (R), those past cases differ from this present case in some significant respect (S). Hence, P¦(Q&R)&S (second-order distinction).

The proponent uses (S) to restrict the opponent's ground of distinction (R), by showing that claims about the deceptiveness of the senses may be irrelevent to the issue at hand. That is, the proponent uses a

second-order distinction to concede that the first-order distinction (R) appears to support its claim (that the senses can deceive) but denies its reality on the strength of a new claim (that past cases differ from the present in some significant respect). Equally, S introduces a new thesis-warranting principle—the principle of conformity (that like cases should be treated alike, different cases should be treated differently)—which displaces the principle of perceptual consistency introduced by R.

A first-order distinction introduces a qualifier to restrict an opponent's proviso, and thus signals a greater complexity of relation than that found in the provisoed assertion/denial. Similarly, the presence of a second-order distinction signals yet greater complexity, since S qualifies and restricts R by introducing new considerations to the debate. Put simply, a second-order distinction "yes buts" a "yes but," conceding the appearance but denying the plausiblity of the evidence introduced by the opponent's first-order distinction. This complexity, in turn, signals progressively higher levels of expertise, primarily because, by definition, experts know the divisions constituting their discipline and are capable of making precise discriminations. In the above example, disputants use distinctions to demonstrate their familiarity with the concepts, information, and arguments relevant to the issue being discussed: epistemology. In the first instance, the opponent employs a first-order distinction to demonstrate knowledge about the unreliability of the senses and the need for perceptual consistency. In the second instance, the proponent attempts to regain ground by introducing a sophisticated second-order distinction, one that demonstrates an even greater epistemic knowledge by acknowledging that the reliability of the senses must be judged on the strengths of the evidence surrounding each case.

The expertise that Aristotle claims for dialecticians in general, and for himself in particular, derives from his ability to draw first-order distinctions. According to Aristotle, the dialectician knows "the various sources of apparent refutations—apparent, that is, not to everyone but only to a certain kind of mind" (170b5ff). This "certain kind of mind" is the mind expert in argumentation, the one that can distinguish "the various ways in which, on the basis of common principles, a real or apparent refutation . . . is brought about." Certainly, Aristotle believed himself to be the first expert in dialectical reasoning, and his "system" of dialectic to be the most "adequate" and "complete" account of reasoning yet postulated. For whereas his predecessors, "paid teachers of contentious argument," trained students in a "rapid but unsystematic" manner, he claims to impart an art—that is, true expertise—to a student (183b35). Aristotle's self-professed expertise in reasoning rests, as he himself says, on his ability to distinguish systematically between true and false reasoning. And it is on the strength of his carefully worked out system of distinctions *about argumentation* that he successfully *argues against* sophistic reasoning, showing it to be reasoning in appearance only.

Contemporary informal logicians and dialecticians, however, make claims to expertise based on their ability to draw second-order distinctions. Where Aristotle introduces first-order distinctions to challenge the paradoxical provisoed assertions/denials of the Sophists, contemporary scholarship introduces second-order distinctions to challenge the Aristotelian formula, or what C. L. Hamblin calls the "Standard Treatment" of the fallacies. By discriminating among the complex circumstances and factors attending claims of fallacious reasoning, this scholarship attempts to reclaim many forms of argument. It attempts to show, therefore, that modes of reasoning once considered fallacious by traditional standards, only *appear* to be so, and that, *in reality*, they may be relevant, informative, probable, valid, epistemically interesting, predictive, or useful.

For example, we find J. E. Broyles reclaiming the fallacies of composition; D. Gerber, the *argumentum ad hominem*; T. Govier, the slippery slope argument; L. Groarke, the argument that two wrongs make a right; J. Woods and D. Walton, the *ad verecundiam*; J. Barker, the fallacy of begging the question; D. Van de Vate, Jr., the appeal to force, just to name a few. Each of these scholars engages in argument about argumentation. And each argument, in turn, attempts to garner presumption by introducing second-order distinctions. By virtue of these new distinctions, informal logicians claim to posit more comprehensive, complex, representative, or "real" grounds for understanding and evaluating the argumentative process than those of their opponents. Conversely, they attempt to shift the burden of proof against positions that are derived from, or that provide support for, earlier and more "simplistic" treatments of fallacies.

Since the publication of C. L. Hamblin's *Fallacies*, informal logicians have complained that the Standard Treatment of the Fallacies, derived in part from Aristotle's *Sophistici Elenchi* and other related handbooks of argumentation, is reductive, inadequate, and extremely simplistic. As Walter Ulrich puts it, we should stop "arbitrarily rejecting all arguments that have been traditionally labeled fallacies," and "develop standards for determining how much weight should be given to these arguments. Factors such as the nature of the decision being made, the nature of the conflicting arguments, and the presence of other supporting arguments would be relevant to such calculations" (111). Similarly, S. Toulmin, R. Rieke, and A. Janik argue that "most disturbingly to some people, arguments that are fallacious in one context may turn out to be sound in another context. Therefore, we shall not be able to identify any intrinsically fallacious forms of arguing" (132). And finally, as J. Woods and D. Walton point out, "on closer inspection, many of the examples [of fallacies] turn out either to be arguments that are not fallacious at all, or arguments in which guidelines are so lacking that a non-arbitrary sorting of the correct from the fallacious cases seems highly problematic or impossible" (v.).

Though recent reappraisals of fallacies are varied in their methods and aims, one aspect of their work remains constant: the use of second-order distinctions both to demonstrate the complexity surrounding claims about fallacies and to underscore the expertise of authors/disputants who make such distinctions. Because of the limitations of space, I plan to follow Aristotle's advice to rhetoricians. Rather than attempt a full induction, I will choose representative examples, ones that I hope will demonstrate the "distinctive" structure of arguments about fallacies. My examples are taken from two recent sources: D. Walton's *Informal Logic: A Handbook for Critical Argumentation* and R. Grootendorst's "Some Fallacies about Fallacies." Both authors attempt to develop criteria for discriminating between fallacious and non-fallacious forms of argument from authority. The first author advances "six critical questions" and the second, three rules of argumentative discourse to differentiate between real and apparent argumentation as well as between real and apparent accusations of fallacious reasoning. Specifically, I will focus on their discussion of one fallacy—the *ad verecundiam*—in order to show how their discriminations function as an inventory of both first- and second-order distinctions about argument.

Both Walton and Grootendorst believe that expert opinion can be a legitimate and helpful strategy for introducing evidence to a discussion, but that such arguments from authority must meet certain conditions lest they lapse into the *ad verecundiam* fallacy. Walton sets out these conditions as "six critical questions [which] must be kept in mind when evaluating any successful appeal to authority" (194). According to Walton, arguments

from authority require the disputant to reflect on the following questions. Does the "judgment put forward by the authority actually fall within the field of competence in which that individual is an expert"? Is "the cited expert actually an expert, and not merely someone quoted because of his prestige, popularity, or celebrity status"? Is the expert's opinion authoritative? Is there "disagreement among several qualified authorities who have been consulted?" Is "objective evidence on the cited opinion presently available . . . and is the expert's opinion consistent with it?" And finally, has the "expert's say-so been correctly interpreted" (194-97)? Similarly, Grootendorst argues that *argumentum ad verecundiam* is a fallacy only insofar as a disputant violates at least one of three pertinent rules of argumentative discourse. These rules include, first, "whoever advances a standpoint is obliged to defend it if asked to do so"; second, "a standpoint can only be defended by advancing evidence which relates to this standpoint"; third, "a standpoint must be considered to be defended conclusively if arguments are used in which a commonly accepted argumentation schema is being applied in a correct way" (138-39).

Any argument that fails to satisify the requirements posed by the questions or inscribed in the rules can be deemed fallacious. Conversely, any argument that does meet these conditions can defend itself, if need be, against such accusations. In this way, Walton's questions and Grootendorst's rules serve as inventories for both first- and second-order distinctions. Insofar as they can be invoked to challenge an opponent's provisoed assertion, the rules and questions serve as inventories for first-order distinctions. For example, a disputant might offer the following provisoed assertion: "I don't need to argue this further (P) because I can assure you that it really is as I say (Q)." To which a respondent, in turn, might argue that this claim is fallacious using Grootendorst's first rule: namely, your statement is dubious (~P) because, although you have offered your own personal guarantee of truth (Q), yet you have "advanced a standpoint without defending it" (R). In the same way, the two other rules and all six of Walton's questions can serve as R in a first-order distinction challenging an assertion grounded in an appeal to authority.

Insofar as a disputant can invoke Grootendorst's rules or Walton's questions to challenge an opponent's first-order distinction—that is, to challenge a previously formulated accusation of fallacious reasoning—they serve as inventories for second-order distinctions. Again, a disputant could respond to the argument above by using Grootendorst's first rule of discourse: "my claim is not dubious (P) because, although I support the truth of my claim based on my own authority (Q&R), you have not, until now, asked me to defend it on any other ground (S)." In other words, because the first rule uses the formulation "is obliged to defend it *if asked to do so*," the disputant can distinguish between refusing to defend a standpoint and not being asked to do so. As Grootendorst points out, the importance of the first rule is to keep the discussion from ending before it has a real opportunity to develop. In this case, however, the respondent argues that his or her argument is not fallacious since he or she is willing to provide further grounds for making his claim. To the extent that these new grounds meet the requirements of rule three, and thus fit into a schema acceptable to the opponent, the argument will not be fallacious.

Of course, Grootendorst's other two rules or any of Walton's six questions could be used as the ground (S) of a second-order distinction defending an argument from a charge of fallaciousness. For example, a disputant could argue from Walton's rules that "my argument is not fallacious (P) because, although I base my evidence on the authority of an expert (Q) and that authority disagrees with other

authorities (R), yet this expert's assertions accord with objective evidence" (S), or P!(Q&R)&S. In this case the disputant uses question five (objective corroboration) to undermine an objection based on rule four (expert agreement). The division between one rule or question and another provides the grounds of second-order distinction. "Yes, my opponent seems to have grounds for a first-order distinction (one that characterizes my argument as fallacious) but, in reality, these grounds fail to take into account some relevant, important, pertinent, and thus real aspect of argumentation (inscribed in another rule/question governing discursive reasoning).

By arguing in this manner, disputants employ a second-order distinction to show that they understand the divisions constituting the study and practice of argumentation. In short, they introduce more complex, and more finely discriminating grounds to the debate, showing their opponent's argument, by contrast, to be more simplistic and less plausible. By doing so, of course, the disputants accomplish two things. First, they attempt to determine the real as it pertains to argumentation, and therefore, to shift presumption in favour of their own position and against their opponent's. And second, they establish their own expertise in the very area of endeavour they are presently engaged in: argumentation. The issue of complexity and expertise becomes more pressing as an argument about fallacies moves through successive orders of distinction. The higher the order, the more reflexive the grounds are for disputation. For while first-order distinctions discriminate between the real and apparent in matters of reasoning, second-order distinctions *discriminate* between real and apparent *discriminations* in matters of reasoning, and so on. At each point, the introduction of new divisions—based on rules, questions, specified conditions, etc.—provides progressively more reflexive grounds for disputants to hold their positions, since each division engages disputants in making discriminations about argument in order to argue effectively.

IV. Conclusion: The Future of Argumentation

Clearly, Walton's book and Grootendorst's article are, first and foremost, arguments about argumentation, about what it is and how it functions. Specifically, these works are extended arguments which attempt to distinguish real from apparent accusations of fallacious reasoning. As arguments, these works attempt to garner presumption and levy burden of proof by introducing distinctions whose divisions of the subject matter—argumentation—are more complex, comprehensive, plausible, and thus more real than those grounding the arguments of their opponents. Both introduce rules or questions to generate divisions in order to challenge the simplistic and overly reductive nature of arguments about fallacies based on the "Standard Treatment."

Not surprisingly, ongoing debates among contemporary informal logicians provide an impetus for fostering a new, third-order level of distinctions. For example, Grootendorst argues that fallacies are neither "buttercups" (the ontological entities of the Standard Treatment) nor "irregular verbs" (the relativistic entities of Woods and Walton), pointing out that "in the Standard Treatment or its liberal variants no distinction is drawn between the different consequences [of breaking the rules]." In other words, he distinguishes among the various consequences of breaking the rules, and, by doing so, seeks to distinguish his own "dialectical approach" from those adopted by his predecessors.

"Distinction," according to Rescher, "is the most characterstic and creative of dialectical moves" (12). Rescher's point aptly describes the nature of dialectical exchanges about fallacies. In such exchanges, distinction is the most characteristic and creative

move: the most characteristic, because all such arguments use distinctions to distinguish the real from the apparent as it pertains to argumentation; the most creative, because, as a discipline, informal logic generates complex discriminations about reasoning, and thus introduces more expert and higher orders of distinction to garner presumption for an ongoing succession of conflicting positions about argumentation. Given the progression from first to second, and perhaps second- to third-order distinctions, the history of argumentation may well be the history of the distinctions made by its various disputants. I suspect that the trend will continue, with distinction remaining the engine of reflexivity driving informal logic.

I suspect, too, that Nicholas Rescher's concept of distinction as a dialectical move, when conjoined with Chaim Perelman's and Lucie Olbrechts-Tyteca's concept of argumentative dissociation, can provide an important tool for examining, if not fine-tuning, this "engine." For as a theory of distinction emerges, it will remind informal logicians of the dialectical nature of their own discipline: that they always reason about reasoning and argue about argumentation.

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