

Book Review

Thomas D. Eisele, *Bitter Knowledge: Learning Socratic Lessons of Disillusion and Renewal*. Notre Dame: University of Notre Dame Press, 2009, pp. 368, \$55.00.

Reviewed by Douglas Lind

Socrates, the midwife's son,...was able in his dialogues to deliver his friends of well-proportioned thoughts so soundly and easily and with such hearty jests, thus providing them with children of their own, instead of, like other teachers, foisting bastards on them....¹

The method of legal instruction in American law schools has for more than a century now famously followed the "Socratic Method." As well entrenched as this pedagogical approach may seem, controversy still besets it. Lively debates continue among legal academicians as to its virtue as a teaching style. Some see it as a rigorous and beneficial method, well-suited to the tutelage of future lawyers.² Others disparage it as unduly harsh and unwelcoming, pedagogical chain-mail forged to protect privilege, stifle difference, and ensure conformity among those seeking entrance to the law's professional fraternity.³

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1. Bertolt Brecht, *Socrates Wounded*, in *Collected Stories* 139, 139 (John Willett & Ralph Manheim eds., Arcade Pub. 1998).
2. *See, e.g.*, Joseph A. Dickinson, *Understanding the Socratic Method in Law School Teaching After the Carnegie Foundation's Educating Lawyers*, 31 *W. New Eng. L. Rev.* 97, 113 (2009) (claiming the Socratic Method "effectively teaches the method of the law as well as the skills and attitudes essential to the sound implementation and exploitation of that method"); Jennifer L. Rosato, *The Socratic Method and Women Law Students: Humanize, Don't Feminize*, 7 *S. Cal. Rev. L. & Women's Stud.* 37, 39, 43 (1997) (arguing that the Socratic Method is "a pedagogy characterized by self-discovery" that "provides particular benefits to women," including the fact that it is "the most effective pedagogy for allowing women students to become proficient in the primary language of doctrinal legal analysis").
3. *E.g.*, Elizabeth Mertz, *The Language of Law School: Learning To "Think Like a Lawyer"* (Oxford Univ. Press 2007) (criticizing American law school education, including the Socratic Method, for under-emphasizing the social context of law and training students to be unwittingly complicit in perpetuating an enterprise designed to serve the powerful); Steven Alan Childress, *The Baby and the Bathwater: Salvaging a Positive Socratic Method*, 7 *Okla. City U. L. Rev.* 333, 349-51 (1982) (criticizing the Socratic Method for dehumanizing the law and discouraging students from viewing it from personal and alternative perspectives).

Thomas Eisele's captivating book, *Bitter Knowledge: Learning Socratic Lessons of Disillusion and Renewal*, raises the debate over the law school model of Socratic teaching to an unprecedented level of philosophical sophistication. For Professor Eisele, in very Socratic fashion, pushes the debate to its foundations, suggesting that the method's pedagogical virtue cannot be assessed without first articulating a clear understanding of its nature. And understanding its nature requires knowing something about its Grecian namesake. Eisele, therefore, takes the debate over the American law schools' Socratic Method to the alleyways and first Academy of ancient Athens. Drawing upon his own academic training in both law and philosophy, Eisele conducts a careful analysis of four key dialogues of Plato that together offer a vivid literary portrait of the character of Socrates and his philosophical method. The result is a work at once rich in philosophic insight and provocative in its investigation of the method of American law teaching and its relationship with Socrates, the philosopher.

I

Bitter Knowledge consists of a preface, five long chapters, and an epilogue. The first chapter and epilogue present the gist of Professor Eisele's thesis. Chapters Two through Five fill in the details. Eisele sets out to accomplish two goals in the book: to offer an interpretation of the overall style of Socratic discourse (Chapter One) and show its relevance and value for legal education (Epilogue). Each of the four middle chapters provides support for this two-pronged thesis by offering a detailed exegesis of a Platonic dialogue. Throughout, *Bitter Knowledge* is engaging and original. While Eisele's debts to other philosophers, especially Stanley Cavell, Gregory Vlastos, and Alexander Nehamas, are clear and generously acknowledged, he does not merely report how others understand Socrates. Rather, he offers a fresh and inspired interpretation of the dialectical process of conversational discussion that Socrates pursues with his interlocutors across the pages of Plato's dialogues.

In Chapter One, Eisele introduces his thesis and provides a general overview of his understanding of Socrates's approach to philosophical inquiry. The key is conversation. Socratic inquiry takes place in a conversational give-and-take between willing participants. We know this, of course, not from Socrates himself—for he never wrote anything, but from the extant works of others, especially his followers Xenophon and Plato, written over a span of four decades following his death. The only writings from Socrates's lifetime that mention him are a few comedic plays where, more than anything, he is lampooned.⁴ It is the dialogues of Plato, a set of two dozen literary creations where Socrates again and again headlines the *dramatis personae*, that provide by far the richest account of Socrates's character, his philosophic method and teachings. Socrates there comes to us as a composite philosopher and protagonist, a figure from history and character of fictive drama. Given Plato's

4. See, e.g., Aristophanes, *Clouds*, in *Clouds; Wasps; Peace* (Jeffrey Henderson trans., Loeb Classical Library 1998).

own philosophical acumen and dramatic skills, the question remains open to this day how much the dialogues reflect his philosophy as opposed to that of Socrates. Because of this, as Charles Kahn has noted, “the problem of the historical Socrates is not only vexed but perhaps insoluble.”⁵

Nonetheless, the voice and character of Socrates, as depicted in the dialogues of Plato, provide the groundwork of Western philosophy. Socrates lends to philosophical inquiry a model so profound and inspired as to galvanize an intellectual tradition now well into its third millennium. Most of the major questions of philosophy receive careful analysis in Plato’s Socratic dialogues, so much so as to cause Alfred North Whitehead once to comment that “the European philosophical tradition is...[but] a series of footnotes to Plato.”⁶ Yet as Eisele emphasizes in *Bitter Knowledge*, the most distinguishing aspect of Plato’s work does not lie in any single doctrine or set of philosophical principles advanced by Socrates, but in the conversational style (elenctic method) of philosophical investigation he employs.

Across the pages of his dialogues, Plato presents Socrates in active discourse with others. Typically, the talk is conversational and civil, if not friendly. Occasionally, the tone of a dialogue turns combative. The thrust always goes to a search for knowledge and understanding, for true definition and clarity in propositional meaning. Socrates guides the searching by way of dialectical examination of every assumption and claim to knowledge made by his interlocutors. He questions them relentlessly. He disabuses them of unjustified belief, all the while disavowing that he knows anything himself. Though the dialogues seldom result in fully satisfying answers, the process of Socratic conversational inquiry advances understanding by debunking unjustified knowledge claims and elevating rational thought over unreflective inferences based on sense perception and inclination. In the words of Friedrich Nietzsche, Socrates introduced the life of “rationality at all costs, a life clear, cold, careful, aware, without instinct, in resistance to the instincts.”⁷

Socratic dialogue thus aims to secure the logical development and self-unfolding of thought—ideas, concepts, principles, hypotheses—through tenacious dialectical scrutiny of every proffered knowledge claim. Because Socrates generally succeeds at refuting his conversational partners more effectively than he leads them to conclusive answers, his conversational style has earned an image as fundamentally negative. Eisele challenges this. To him, the Platonic dialogues are foremost metaphilosophy and educational.

5. Charles H. Kahn, *Plato and the Socratic Dialogue: The Philosophical Use of a Literary Form 72* (Cambridge Univ. Press 1996).

6. Alfred North Whitehead, *Process and Reality* 39 (Free Press 1979).

7. Friedrich Nietzsche, *Twilight of the Idols* 17 (Richard Polt trans., Hackett Pub. 1997) (1889). *Accord* Hans-Georg Gadamer, *Hegel and the Dialectic of the Ancient Philosophers*, in *Hegel’s Dialectic* 5, 8 (P. Christopher Smith trans., Yale Univ. Press 1976) (1971) (“Plato’s great accomplishment was in fact that he exposed sense certainty and the belief rooted in it as illusion. He thus made thought so self-sufficient that it might strive to know the truth of reality in the pure universality of thought without interference from sense perception.”).

They are not meant primarily to convey individually distinct doctrines or to defend discrete philosophical positions. Rather, Plato intended by them to define philosophy and establish its method as “a way in which to approach any problem or issue” (xviii). Further, Eisele emphasizes the educational side of the dialogues. He notes that Socratic conversational inquiry focuses as much on “gaining knowledge of people as...in getting to know something about propositions or doctrines or rules or laws” (10). Socrates, that is, engages with his interlocutors as much to learn about them—what they know, what they think they know, and what can be said of their intellectual and moral characters—as to learn the truth about propositions. He aims as well for his conversational partners to gain self-knowledge, to acknowledge ignorance, and to grow and take responsibility for their moral attitudes and intellectual development. For Eisele, this Socratic aim of gaining knowledge of persons, “of investigating the fitness or condition of the self” (11), is the aspect of Socratic conversational inquiry that animates his interpretation of Plato and provides the link he perceives between Socrates, the philosopher, and the Socratic Method of legal education.

Eisele finds in Socrates’s persistent questioning of his interlocutors a pair of “competing (yet complementary) lessons” in self-awareness (14). The first is a negative lesson: *disillusion*—the coming to see one’s unjustified beliefs as unwarranted or illusory. Chief among the illusions disavowed “in this regard is that we know something when, in fact, we are ignorant of it” (14). The second lesson is positive: *renewal*—an awakening realization in the aftermath of disillusion that we have the capability and personal intellectual resources to go on with our search for justified, defensible answers. “Socrates’[s] faith” here, according to Eisele, is “that we know more (or other) than what we think we know,...[and that w]hatever the matter under investigation,...we already possess what we need in order to inquire into it” (16). Eisele declares that “it is in my view the peculiar genius of the Socratic dialogues of Plato that they teach these same two lessons: you don’t know what you think you know; and you know more (or other) than what you think (you know)” (249). Developing these twin lessons of Socratic conversational inquiry across a set of Platonic dialogues and demonstrating their worth for legal education comprise the two prongs of Eisele’s thesis in *Bitter Knowledge*.

II

The first Platonic dialogue Eisele examines is the *Protagoras* (Chapter Two). Socrates there confronts a young friend, Hippocrates, about his desire to become a student of Protagoras, a prominent sophist (professional itinerant teacher). Hippocrates hopes to learn about virtue or excellence of human character. Instead, questioning from Socrates brings him to realize that he does not know what Protagoras could possibly teach him. The principal effect of his experience conversing with Socrates is, thus, disillusion. Yet from coming

to see his ignorance, “he achieves a modicum of clarity” (79). He learns from Socrates that knowledge is what “nourishes the soul.”⁸ Further, he comes to understand the critical importance of asking, “Who can teach us? And what can they teach us?” (63), and of being wary of the sophist who is no more than “a sort of merchant or pedlar of goods for the nourishment of the soul.”⁹ For as Socrates emphasizes, the danger of buying false knowledge falls to the student or learner. And the danger is real, since those “people who make their living by hawking learning from city to city and selling to whoever wants to buy say that everything in their stock is good, but perhaps some of them... might not know whether what they are selling is good or bad for the soul.”¹⁰ Hippocrates “takes [Socrates’s] lesson to heart” (79) and refrains from entrusting his soul, i.e., the development of his intellectual and moral character, to Protagoras.

As the conversation between Socrates and Hippocrates ensues, Protagoras himself comes on the scene. Socrates begins questioning him. The dialogue turns combative as the confident Protagoras is forced bitterly to face his own ignorance. Reluctantly, he concedes that his supposed knowledge of virtue is fraught with contradiction and uncertainty.¹¹ Yet Socrates’s thoughts on the nature of virtue fare no better. Hence, he summarizes the result of his and Protagoras’s conversation with the caustic indictment: “And it seems to me that the conclusion we have just reached is jeering at us like an accuser. And if it could speak, it would say ‘How absurd you are, both of you.’”¹² By its end, the *Protagoras*, thus, leaves unsolved the philosophical question, “What is virtue?” as well as the pedagogical questions, “Who can teach?” and “What can be taught?”

In Chapter Three, Eisele turns to Plato’s *Meno*. Like the *Protagoras*, this dialogue weaves educational themes in with an ultimately inconclusive inquiry into the nature of virtue. Socrates here engages with three very different interlocutors: a Slave; Meno, the Slave’s master; and Anytus, a politician. The *Meno* examines the suitability of each as learners.

Meno is a young, fustian aristocrat commonly reputed to be sly and unethical. He begins the dialogue by asking Socrates whether virtue can be taught. Socrates confesses his “complete ignorance about virtue,”¹³ leading Meno to begin giving him an account of it. Socrates then proceeds to expose Meno’s ignorance. The latter’s disillusion, though, goes well beyond his lack of understanding virtue. For Socrates takes especial pains to disabuse Meno of his confusions over the nature of general definitions as well as “to teach [him]

8. Plato, *Protagoras* 8 [313c] (C.C.W. Taylor trans., Oxford Univ. Press 1996).

9. *Id.*

10. *Id.* at 9 [313d-e].

11. *See id.* at 65 [360d-e].

12. *Id.* [361a-b].

13. Plato, *Meno*, in *Five Dialogues* 59, 60 [71b] (G.M.A. Grube trans., Hackett Pub. 1981).

a different way to ask the questions that are bothering him and, thus, a way to look for a different kind of answer" (124). Meno thus quite significantly suffers disillusion only to later savor some measure of renewal.

Likewise, the Slave in the *Meno* proves to be a pliant conversational partner for Socrates. Unschooled and diffident, the Slave is beckoned for questioning. Socrates hopes to use him to show Meno how learning comes not through teaching, *per se*, but by way of questioning that "activates our otherwise dormant resources and abilities." Socrates asks the Slave certain basic questions of geometry and mathematics. The Slave answers correctly for a time. He gains confidence. Then Socrates presents a question that snares and humbles him in disillusion. But conversing with Socrates has fertilized the Slave's intellectual curiosity and ripened him for renewal. He eagerly begins answering further questions from Socrates who guides him to correct answers that he previously could not see. Socrates insists to Meno, however, that he is not teaching the Slave anything, but merely asking questions. Socrates says the Slave shows a heightened level of competence due to the awakening of his previously dormant abilities to reason and draw inferences, and because learning involves "recollection," i.e., the "remembering or recollecting knowledge gained earlier by [one's] immortal soul" (19).

While both Meno and the Slave experience the Socratic lesson of renewal along with that of disillusion, Socrates's third conversational partner in the *Meno* presents a different story. Anytus is a powerful, upper-class Athenian politician. He shows little interest in virtue and even less inclination to examine any of his beliefs. He refuses to give credence to Socrates and spouts venomous dislike toward the sophists. For his part, Socrates challenges Anytus on his mistrust of the sophists, including Protagoras. While Socrates's wariness of the sophists was well known, he finds it troubling that Anytus could so malign men whom, as he concedes, he had never met or experienced in any respect. Anytus remains unmoved by Socrates's questioning, retorting, "I know who they are, whether I have experience of them or not."¹⁴ To this, Socrates quips, "Perhaps you are a wizard, Anytus, for I wonder, from what you yourself say, how else you know about these things."¹⁵ In Eisele's apt description, Anytus comes across as mulish: "Anytus knows what he thinks, but not why he thinks as he does; and he seems not to be curious about the 'whys' and 'wherefores' of his opinions. He has his prejudices, but no inclination to investigate them" (89-90). His conversation with Socrates leads nowhere, not even to disillusion. By the end, he departs, agitated, offering a parting salvo to Socrates: "I would advise you, if you will listen to me, to be careful. . . . [For] it is easier to injure people than to benefit them. I think you know that yourself."¹⁶ Only a few years later Anytus became one of the accusers responsible for bringing Socrates to trial.

14. *Id.* at 81 [92c].

15. *Id.*

16. *Id.* at 83 [94e].

After the *Meno*, Eisele considers Plato's *Theaetetus* (Chapter Four). Hailed today as the founding work in epistemology or theory of knowledge,¹⁷ the *Theaetetus* presents Socrates in conversation with two partners, Theodorus, a middle-aged geometrician, and his talented student, Theaetetus. Socrates starts by asking Theodorus to recommend a student worthy of his instruction. Theodorus identifies Theaetetus, describing him as "remarkably intelligent and yet exceptionally unassuming."¹⁸ The description is apropos and foretells a friendly and nurturing exchange.

Socrates's conversational goal with Theaetetus is to effect his disillusion not through rebuke, but, as Eisele puts it, "by way of a patient and rather mild exercise in the deflation of his words." Theaetetus (and Theodorus) come across less sanguine than Hippocrates or Meno, and clearly not arrogant like Protagoras or Anytus. They both initially express themselves "in terms of what they think or believe, as a way of trying to express their inchoate thoughts or ideas," rather than "in terms of what they know" (139). Socrates alternates between them in conversation, searching for a definition or satisfying account of knowledge. Theodorus proves a disappointment. Though a respected teacher of geometry, he has become intellectually prostrate and threadbare. While he engages with Socrates in criticizing others' positions, he is incapable of fashioning his own.

Theaetetus, by contrast, takes to Socrates's dialectical questioning with aplomb. He actively follows Socrates's prompting by trying repeatedly to define knowledge, and then elaborating on each formulation to try to turn it into an acceptable definition. Though he fails, Theaetetus thrives and grows intellectually. Socrates tends to him as a responsive teacher intent on guiding him "to look within himself and to give birth to his thoughts or opinions" (27). Metaphorically, Socrates describes himself as a midwife to Theaetetus's soul and intellectual well-being.¹⁹ He insists to Theaetetus that when he questions and presses his interlocutors to support their propositions with reasons and to give an account of themselves, he acts not as a teacher, but as a midwife: "And they make...progress, clearly, not because they ever learn anything from me; the many fine ideas and offspring that they produce come from within themselves.... I [am] responsible for the delivery."²⁰ As summarized by Eisele: "[T]he fundamental action of the *Theaetetus*" is found in Socrates's efforts to help Theaetetus through the labor of creative thought, and perhaps to even pass on to him "this art, this ability to deliver others...of their views and opinions, and then to test them for their reality or illusoriness" (164).

17. See Robin A.H. Waterfield, Preface, in Plato, *Theaetetus* 9 (Robin A.H. Waterfield trans., Penguin Classics 1987) (stating that it is fair "to say that *Theaetetus* establishes the study of knowledge as a branch of philosophy in its own right, distinct from, especially, ontology").

18. Plato, *Theaetetus*, *supra* note 17, at 17 [144a].

19. See *id.* at 25-29 [148e-151d].

20. *Id.* at 28 [150d].

Chapter Five of *Bitter Knowledge* addresses one final Platonic work, the *Apology*. More monologue than dialogue, the *Apology* represents Plato's account of Socrates's trial for the capital offense of teaching in a manner contrary to the wishes of those with religious authority and political power. It consists primarily of Socrates's defenses to the charges in the indictments against him and his arguments to the jury for acquittal. The significance of the *Apology* for Eisele is how it extends Socratic conversational inquiry, making explicit the emergence of self-realization that is implied to varying degrees in the other dialogues.

Central to Eisele's reading of Plato is how Socrates's rigorous dialectical questioning facilitates not only the unfolding of thought but of character. The *Protagoras* contributes to this by suggesting that the twin lessons of character development—disillusion and renewal—are not just a sideshow to the conversational evolution of thought. Rather, as Eisele notes, Socrates there presents knowledge, including self-knowledge, as nourishment or food for the soul, and his method of dialectical inquiry “as the preferred way to care philosophically for our soul, or our self” (195). The *Meno* augments this picture of the Socratic elenchus by presenting it as the model for “how properly to ask and answer questions that can afford us the dual lessons of disillusion and renewal.” The *Theaetetus* then fully conjoins rational understanding and self-realization. As Eisele puts it:

[I]n the *Theaetetus*, we study how to elicit knowledge of ourselves, by means of giving an account of what we mean by what we say. Our assertions or expressions reveal us, as they also expose us to testing and criticism.... [Hence,] learning who we are is a function of learning what we mean by what we say and do.... We live unconscious lives of unexamined illusions. And Socrates wishes to make us conscious of this fact; he tries to help us become conscious of the illusions under which we live.

The first three dialogues Eisele discusses, thus, collectively present Socratic conversational inquiry as a method for testing, analyzing, and justifying our beliefs and the implications of our utterances and actions. They also suggest, at least implicitly, that this dialectical method provides a foundation for self-actualization, i.e., for “the still more daunting task of drawing out the meaning and the implications of our lives.” To Eisele, “this suggestion becomes explicit in the *Apology*” (196). Indeed, that dialogue makes explicit Socrates's even more general admonishment that fleshing out meaning in our lives and developing good character—moral and intellectual—matters above all else. He cautions: “[T]he unexamined life is not worth living.”²¹ And he warns that we cannot

21. Plato, *Apology*, in *Five Dialogues*, *supra* note 13, at 23, 41 [38a].

eschew responsibility for our character. We cannot evade being held to account for our beliefs and actions. Hence, to the jurors who voted to convict him, Socrates prophesies:

[V]engeance will come upon you immediately after my death.... You did this in the belief that you would avoid giving an account of your life, but I maintain that quite the opposite will happen to you. There will be more people to test you.... You are wrong if you believe that by killing people you will prevent anyone from reproaching you for not living in the right way. To escape such tests is neither possible nor good, but it is best and easiest not to discredit others but to prepare oneself to be as good as possible.²²

III

After his scholarly and inspired presentation of Plato's literary rendering of Socrates's method of conversational inquiry, Eisele concludes *Bitter Knowledge* with an Epilogue. This moves the book from a careful study of Socrates, the philosopher, to a practical inquiry into American legal education and its Socratic Method. It shifts the focus from philosophy to law, from exegesis to pedagogy. It is this metamorphosis that gives *Bitter Knowledge* its captivating and most unusual character as a work of jurisprudence valuable to both philosophy and law.

Eisele defends the American Socratic Method of legal education. He champions it as true to the spirit of Socratic conversational inquiry. And he recommends it as the best method for teaching law. Just as his reading of Plato centers on the two lessons of disillusion and renewal, Eisele highlights those lessons as key to the legal academy's Socratic Method. "I want my students to learn, first and foremost," he writes, "that they do not know something that they think they know" (249). This is Socrates's lesson of disillusion. To Eisele, it is a necessary condition for training in American law. For "law is not a matter of having answers; it is a matter of gaining answers, of creating answers" (248). Learning to become a lawyer, thus, requires disabusing oneself of arrogance and "the illusion that one knows more than he or she truly understands" (238).

Yet disillusion is only the beginning, not the end-point of legal education. Eisele maintains that in the law school context, the Socratic lesson of disillusion leads (or ought to lead) the disenchanted student from chagrin—"I thought I knew, but I did not, in fact, know, when I said that I knew"—to a yearning for self-discovery—"How could this have happened to me?" (249). Though humbling, disillusion, thus, quickens students' intellectual drive to reexamine the law and investigate it further. Disillusion, that is, leads naturally, according to Eisele, to Socrates's second lesson of renewal: the realization "that we know more (or other) than what we think we know" (17) and "that we have the ability, the resourcefulness, to learn more than we currently know" (238). Through Socratic-style questioning and its concomitant pain of disillusion and toil of renewal, law students thus learn to approach legal materials from an attitude

22. *Id.* at 42 [39c-d].

of critical inquiry and creative argument. And to Eisele, that “skill—the ability to gain or to create answers out of legal materials,” forms the ultimate goal of legal education (248).

Bitter Knowledge, thus, impressively intertwines Platonic philosophy and the legal academy’s Socratic pedagogy. Eisele’s account of the latter in the Epilogue remains remarkably true to the philosophical method of Socrates. His verve in presenting that account cannot help but inspire and should enliven discussion, if not appreciation, of the law’s Socratic Method. Still, *Bitter Knowledge* does not fully satisfy. In certain respects, the careful alignment Eisele strives to achieve between Socratic philosophical inquiry and legal pedagogy becomes strained and artificial. He insists, for example, that friendly relations between participants is a necessary condition for true and effective Socratic conversation (e.g., 81, 94–98, 191). Following Stanley Cavell,²³ he maintains that “Socratic scrutiny requires a friendly context” (95). Friendship does not, however, typify the American law professor-law student relationship. Most law schools work to maintain formal teacher-student relationships structured on status. And many law professors insist that their students call them “professor,” while they in turn address their students as “Mr.” and “Ms.” That is not how friends talk.

Further, Eisele highlights Socrates’s consistent denial that he knows anything with certainty (e.g., 7, 38, 108–12, 126, 183, 209, 222–28, 233–36). This Socratic attitude marks the second disjunction between his elenctic inquiry and the law school Socratic Method. Throughout his dialectical exchanges, Socrates adamantly disavows knowledge about the confounding concepts into which he probes. This is significant, as Eisele notes, for it shows that Socrates engages in philosophical inquiry as “only one person among equals” in a shared search for understanding (7). Moreover, it reveals his willingness to expose himself “to risk of refutation, the discovery that he still does not know about such matters” (233). Such a combination of attitudes, however, is uncharacteristic of American law professors as they conduct classes by way of their Socratic Method. Few law faculty members readily acknowledge ignorance of the subjects they teach. Few treat students as equals in the classroom, colleagues in a common search for legal understanding. And even fewer willingly risk intellectual refutation before a lecture hall full of students.

Yet another dissimilarity between Socrates’s style of conversational inquiry and the law school Socratic Method becomes apparent in Eisele’s characterization of Socrates’s second lesson of renewal. In his discussion of the *Meno*, Eisele writes that Socrates’s “therapy for disillusion is recollection” (113). This idea, that “disillusion is understood to lead to recollection, and then recollection is meant to lead to recovery, or renewal” (115), comes from Socrates’s interaction with both Meno and the Slave.²⁴ After disabusing the Slave of overconfidence in his knowledge of mathematics and geometry, Socrates guides

23. See Stanley Cavell, *Cities of Words: Pedagogical Letters on a Register of the Moral Life* 25 (Harvard Univ. Press 2004).

24. See Plato, *Meno*, *supra* note 13, at 69–76 [80d–86c].

him to carry out certain calculations that he could not previously perform. Socrates maintains, however, that he is not teaching the Slave anything. Rather, he avers that the Slave is demonstrating his “knowledge about these things...without having been taught but only questioned.”²⁵ To Socrates, this process of “finding knowledge within oneself” is “recollection”²⁶—the distinct feature of human life, grounded in the immortal soul, to possess a reservoir of dormant truths about reality “which, when stirred by questioning, become knowledge.”²⁷

The Platonic doctrine of recollection, for which the *Meno* provides an early expression, finds few adherents today.²⁸ Yet it performs an important function in Plato’s presentation of his theory of Forms in later dialogues such as the *Phaedo* and the *Phaedrus*.²⁹ How best to understand it as a theory of learning or knowledge, as Socrates uses it in the *Meno*, long has been a matter of fertile discussion among Platonic scholars.³⁰ To Eisele, it is most sensibly understood “as a figure of speech meant to capture the sense and extent to which our knowledge of any matter comes from the human activity of reconstructing or recapturing it from our own experience” (113). Socratic recollection, that is, means to Eisele remembering, investigating, inquiring into, and drawing inferences from the stockpiles of common experience, common sense, and ordinary language that we share with one another. He writes:

When we are led to acknowledge our ignorance by means of the negative side of Socrates’s method (his *elenchus*), we are asked not to quit in despair, but rather to renew ourselves in the home of knowledge that we possess. Our common knowledge, our common experience, our ordinary language—these are the things that we all share and possess, and they are our ways of learning what we need to know (121).

Yet this sense of Socratic learning through recollection ill-fits the legal academy’s Socratic Method. American law teachers strenuously work to disabuse their students of the illusion that, prior to law school, they understood how the law works or how legal concepts mean. They strive to break them of any false sense that their prior experiences, including undergraduate studies of law or legal institutions, provide a sound knowledge-base on which to rest their legal education. Disillusion, that first lesson of Socratic dialectical inquiry, thus, forms the cornerstone of the law school Socratic Method, especially in the first year. As to that lesson, *Bitter Knowledge* provides a brilliant

25. *Id.* at 75 [85d].

26. *Id.*

27. *Id.* at 76 [86a].

28. See Gail Fine, *Inquiry in the Meno*, in *The Cambridge Companion to Plato* 200, 214 (Richard Kraut ed., Cambridge Univ. Press 1992).

29. See Kahn, *supra* note 5, at 366-67.

30. See, e.g., *id.* at 150; Julius Moravcsik, *Learning as Recollection*, in *Plato: A Collection of Critical Essays* I 53 (Gregory Vlastos ed., Anchor 1971).

account of its derivation from Socratic philosophy. But the second lesson presents a quandary, because American legal education does not countenance recollection. Law students are discouraged to think of the law in terms of ordinary language and common experience. Contrary to Eisele's presentation of "Socratic engagement with others [as] a sample of 'common sense and common speech,' not some specialized knowledge or technical expertise" (8), the professional training offered in American law schools rests emphatically on teaching students a highly specialized and technical way of thinking about law. Learning to "think like a lawyer" means developing a professional and *insider* understanding of the law. It entails coming to see legal problems and issues from the standpoint of a legal practitioner, i.e., from *within* the arena of law where understanding the meaning of legal words and possessing facility in legal discourse is linked inextricably with skill in the activity or doing of legal practice. The study of law, that is, moves away from common experience and ordinary language, training students instead in a specialized technique wherein, to borrow from Wittgenstein, they "are also educated to have a way of looking at the matter which is just as firmly rooted as that technique."³¹

In these three respects—friendship, ignorance, recollection—the picture of Socratic conversational inquiry presented by Professor Eisele, thus, stands in contrast with the law school Socratic Method. This should not be taken, however, to cast the Socratic Method in a poor light. Rather, these points of divergence show primarily that the attitudes and teaching style assumed by Socrates on the streets of Athens 2,400 years ago do not precisely match the pedagogy used in the modern American law school. That is by no means necessarily bad. Socrates's friendly relations with his interlocutors would in some (perhaps most) respects not nicely translate to today's law classroom. Nor do his claims of ignorance or self-deprecation befit the educational mindset of modern American culture in general, let alone law schools. Engaging in high-level philosophical inquiry with two or three students (or colleagues) at a time—nearly all of whom are members of one's gender, race, and social class—is very different than teaching the complexities of law to a class of 100 students drawn from every sector of a diverse, pluralistic society. The doctrine of recollection presents a more fundamental contrast. It goes beyond pedagogical attitude and style to didactic content, to learning outcomes. Still, this point of difference (and the others) likely shows nothing more than that Eisele overstated his case for aligning the philosophical Socrates of old with the law's Socratic Method of today. More than anything, that is, these differences merely disclose how the law school Socratic Method is not for Socrates.

IV

The most substantial challenge to Professor Eisele's thesis in *Bitter Knowledge* comes from a cluster of criticisms that have been leveled against the law's Socratic Method in recent years. Law students, faculty, and even the practicing

31. Ludwig Wittgenstein, *Remarks on the Foundations of Mathematics* IV:35 (Wright et al. eds., rev. ed., MIT Press 1978) (1956).

bar have disparaged it as hostile, demoralizing, and demeaning to students, especially women,³² as hierarchical and inhospitable to diverse standpoints and ways of looking at the law,³³ and as sustained through concealing the law (“hiding the ball”) in unnecessarily elusive dialogue.³⁴ Those committed to these criticisms will likely find *Bitter Knowledge* unsatisfying, as Eisele’s defense of the law’s Socratic pedagogy largely avoids these subjects of censure. That is unfortunate, because Eisele’s inspired description of Socrates’s technique of conversational inquiry implicitly provides the spirited and enlightened defense that the Socratic Method long has needed.

On the surface, *Bitter Knowledge* reads as a celebration of Socratic inquiry that recognizes no blemishes of consequence in the law school Socratic Method. To the charge that that pedagogy demoralizes and intellectually shames many students, especially women, Eisele seems to reply with only the confident rejoinder that belittlement is good for the soul (i.e., for the development of character). He admits, “I want my students to learn, first and foremost, that they do not know something that they think they know” (249). His take on the Socratic Method is candidly one of “teaching by disillusioning the student” (244), where “disillusion is a lesson taught by defeating the expectations and hopes of the student” (249–50). Likewise, Eisele appears to be unmoved by the accusation that the Socratic Method discourages diversity in perspectives and ways of looking at the law. To him, all “knowledge is...systematic” (118), and the didactic purpose of law schools is to provide “training...in techniques of thinking” about the law, conceived as a complex system (246). As to the complaint that the Socratic Method needlessly conceals the law, Eisele essentially concedes that to a degree it does. He acknowledges that in his Socratic classroom discussions he is often “engaging in an ‘exercise,’ in which [he and his students] are essentially rehearsing answers.” He admits this can lead students to become “contemptuous” or “lose interest” in the class (245).

32. Marina Angel, *Women in Legal Education: What It’s Like To Be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 *Temp. L. Rev.* 799, 809–10 (1988); Tanisha Makeba Bailey, *The Master’s Tools: Deconstructing the Socratic Method and its Disparate Impact on Women Through the Prism of the Equal Protection Doctrine*, 3 *Margins* 125, 125–27, 131–40 (2003); Lani Guinier, Michelle Fine & Jane Balin, *Becoming Gentlemen: Women’s Experiences at One Ivy League Law School*, 143 *U. Pa. L. Rev.* 1, 59–71 (1994).
33. *E.g.*, Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy: A Polemic Against the System* 61–64 (Critical ed., 2007); Mertz, *supra* note 3, at 26–30, 212–16; Childress, *supra* note 3, at 349–51; Carrie Menkel-Meadow, *Feminist Legal Theory, Critical Legal Studies, and Legal Education or “The Fem-Crits Go to Law School,”* 38 *J. Legal Educ.* 61, 67–69 (1988); Alan A. Stone, *Legal Education on the Couch*, 85 *Harv. L. Rev.* 392, 407 (1971).
34. *See, e.g.*, Lila A. Coleburn & Julia C. Spring, *Socrates Unbound: Developmental Perspectives on the Law School Experience*, 24 *Law & Psychol. Rev.* 5, 26 (2000); James D. Gordon III, *How Not To Succeed in Law School*, 100 *Yale L. J.* 1679, 1687 (1991); Richard K. Neumann, Jr., *A Preliminary Inquiry into the Art of Critique*, 40 *Hastings L. J.* 725, 740–41 (1989); Rosato, *supra* note 2, at 41–42. Cf. Menkel-Meadow, *supra* note 33, at 67 (characterizing the Socratic Method as a “shell game”).

But he justifies the process by arguing that such exercises, when mixed with “true inquiries” (247), provide law students with a valuable “experience of learning by self-discovery” (245).

On a superficial reading, *Bitter Knowledge*, thus, could be seen as an uncritical endorsement of the Socratic Method of law teaching. Such a reading, however, misrepresents the book’s animus and deflates its high value. For the keen analysis and judicious understanding Eisele imports from the Platonic dialogues into his law teaching underscores the richness of the law’s Socratic pedagogy. Not all readers will appreciate that analysis, understanding, and richness, however, but will instead read *Bitter Knowledge* as a mere Langdellian apologetic. Part of the blame for this lies with Eisele himself. He does unabashedly celebrate Socratic inquiry. Though he does so brilliantly, he comes across as perhaps too loyal, as offering an account of Socratic conversational inquiry that is too forgiving. For Socrates could be a bully.

Friedrich Nietzsche, no less than Eisele, found Socrates fascinating. Yet Nietzsche, who himself liked to philosophize with a hammer, confessed that Socrates could be a “tyrant” bent on “disempower[ing] the intellect of his opponent” with each “knife-thrust of the syllogism.”³⁵ Dialectical inquiry in Socrates’s hands, that is, was not to Nietzsche gentle conversation. It was a severe and “merciless instrument”³⁶ that Socrates bestowed with the “sarcastic assurance of the old physician and plebeian who cut ruthlessly into his own flesh, as he did into the flesh and heart” of his intellectual adversaries.³⁷

Nietzsche’s imagery may seem to paint Socrates as a mocking monster and support the critics’ assessment of the law school Socratic Method as “demeaning, dehumanizing, sadistic, a tactic for promoting hostility and competition among students, self-serving, and destructive of positive ideological values.”³⁸ Nietzsche did tag Socrates the “mocking and enamored monster” of Athens.³⁹ But his imagery in no respect supports the critics of the Socratic Method. Indeed, it does the opposite. For to Nietzsche, Socratic inquiry encourages diverse thinking and gives voice to outsiders and the underrepresented. It empowers the subjugated to confront and exact justification from the beneficiaries of oppressive ideological values. For the Socrates who made a “tyrant out of reason”⁴⁰ was “rabble,” a “subterranean” man from the “lowest folk”⁴¹—the son of a stone-cutter and a midwife. Reason became for him an equalizer. He understood how unexceptional he was and

35. Nietzsche, *Twilight of the Idols*, *supra* note 7, at 15 (emphasis omitted).

36. *Id.*

37. Friedrich Nietzsche, *Beyond Good and Evil* 138 (Walter Kaufmann trans., Random House 1966) (1886).

38. Stone, *supra* note 33, at 407.

39. Friedrich Nietzsche, *The Gay Science* 272 (Walter Kaufmann trans., Vintage Books 1974) (1882).

40. Nietzsche, *Twilight of the Idols*, *supra* note 7, at 16 (emphasis omitted).

41. *Id.* at 13, 14.

how little he knew. And he recognized the same about the Athenian nobles who spun religions, laws, and political power out of false cloth from their positions of smug respectability and haughty authority. So Socrates took that “merciless instrument” logic,⁴² and with his characteristic “rickety nastiness” and plebeian “bad manners”⁴³ began tormenting the nobility with dialectic inquiries that demanded reasoned justification and compelled self-examination. They mistrusted him and warned their youth to avoid him. For they were respectable people of authority and “[w]herever authority is still considered good form, . . . one does not ‘give reasons’ but commands.”⁴⁴ Yet Socrates persisted. Wielding the sharp blade of logic, he infuriated and paralyzed his betters, all the while “with a look that said clearly enough: ‘Don’t dissemble in front of me! Here—we are equal.’”⁴⁵

The Nietzschean picture of Socrates thus is not that of a fiendish tyrant who used dialectic inquiry to subdue and humiliate, but of a radical “*counter-tyrant*”⁴⁶ who employed it to overcome spurious authority, disclose contrived status, and compel self-accountability. Eisele understands Socrates in this sense too, though his presentation of Socrates’s style of inquiry downplays it. Eisele acknowledges that “Socratic conversational inquiry is based . . . on an assumption of there being a ‘radical equality’ among its participants” (254). But his portrayal of Socrates (and of the law’s Socratic Method) throughout *Bitter Knowledge* leaves the impression that the conversational equality comes from the top down, i.e., through the magnanimity of the person (Socrates/the law professor) in control of the dialogue. He speaks of one being “invited to participate in [an] inquiry on equal terms with Socrates” (xviii). Conversational equality in that invitational sense, while not unimportant, still comes across as somewhat feigned and patronizing. It reinforces the image of a dialogue controlled by an authority figure who sets the terms of participation.

Very different is the forced equality that the incendiary Nietzschean Socrates took from the grudging Athenian nobility. This is the sense of conversational equality that responds to the critics who complain that the law school Socratic Method silences the voices of outsiders. For it is a sense of dialogic equality that does not just invite participation as an equal. It demands it. It insists that Socratic inquiry be understood as a conversational mindset that hammers home to all participants the “antithetical magic”⁴⁷ of rational humility: that no one is privileged and all are fallible in “*rational* thinking, . . . the rigorous and sober game of concept, generalisation, refutation, limitation.”⁴⁸

42. *Id.* at 15.

43. *Id.* at 14 (emphasis omitted).

44. *Id.*

45. Nietzsche, *Beyond Good and Evil*, *supra* note 37, at 138.

46. Nietzsche, *Twilight of the Idols*, *supra* note 7, at 15.

47. Friedrich Nietzsche, *Daybreak: Thoughts on the Prejudices of Morality* 218 [V 544] (R.J. Hollingdale trans., Cambridge Univ. Press 1982) (1881).

48. *Id.* at 217 [V 544].

Though he understates it, Eisele fully grasps this truly radical Nietzschean sense of Socratic dialogic equality. He concurs that “we are all radically equal” in our fallibility (255). He considers it “a permanent part of our human condition” (256) that when we engage in rational inquiry, “we all start from the same, equal position of ignorance” and are prone to error (109). Socratic inquiry, that is, in no way privileges one conversant over another on the basis of background, gender, race, authority, or political ideology. For in the sober game of rational thinking, the Nietzschean Socrates’s decree, “Here—we are equal,”⁴⁹ signifies, in Eisele’s terms, that “none of us has any special or privileged position from which to speak, from which to prosecute philosophical problems” (98)—or from which to investigate the nature and fundamentals of law.

V

Bitter Knowledge, thus, affords the law school Socratic Method a worthy rebuttal to the criticisms that press it most fervently. Still, questions remain. Could not the virtue of renewal be achieved outside the “hide-the-ball” pedagogy of the Socratic Method? Could not the law be taught more efficiently and effectively by lecture? If equality can be demanded, should not law students be in a position to insist that their instructors lead them straightaway to renewal without luring them first into the purgatory of disillusion?

Thomas Eisele’s stimulating account of Socratic inquiry demonstrates why such questions merit a resounding negative response. For the “radical equality” that underlies Socratic conversational inquiry is not an equality of knowing, but of seeking. It affirms the universal prerogative of rational agents to participate in rational inquiry. It declares a birthright for all to converse, on equal footing, across the heterogeneous landscape of rational life—examining facts, questioning assumptions, developing arguments, investigating knowledge-claims, constructing answers, challenging beliefs, drawing inferences, stating exceptions, generating definitions, crafting justifications. It is, in Eisele’s terms, an “equality of the seekers” after knowledge (7). And it cannot be accorded to those who do not seek.

The radical equality posited by Socratic conversational inquiry, thus, is an equality predicated on cognitive action. Pedagogy modeled on Socrates accordingly must focus on the activity of inquiry, not merely on the transmission of some substantive body of knowledge or amalgam of data. While knowledge and understanding constitute the end-products of inquiry, the measure of education in the Socratic sense goes foremost to developing students’ capacities to seek and to work rationally toward acquiring knowledge and cultivating self-awareness. Eisele captures this powerfully throughout *Bitter Knowledge*. He puts forth clearly how “the central aim of Socratic conversational inquiry [is] not...didactic transmission of information or technique” (220), nor the teaching of a certain “philosophical doctrine or theory to be memorized” (218). It does not “promise or ensure conclusive results” (125). Rather, Socrates’s

49. Nietzsche, *Twilight of the Idols*, *supra* note 7, at 15.

persistent calls for reflection and habitual “willingness to reexamine things” (61) come only with the “promise[]...that life is worth questioning, that life repays questioning” (125), and that while “final answers... are not available or possible;...we need to continue to seek the answers that we do have available, or that are possible” (124). Eisele highlights the distinct Socratic notion that our knowledge-claims say as much about ourselves and our cognitive skills as about the matters we claim to know. To Socrates, “[o]ur expressions reveal us” (100). “Our concepts, the meanings of our words, give us access to ourselves,” such that Socrates’s “method of conversational inquiry is as much a matter of gaining self-knowledge as it is one of gaining knowledge of the implications and possibilities of our words.... The two are intertwined, or symbiotic, such that knowledge of one is necessarily knowledge of the other” (143).

Most of all, Eisele’s spirited renderings of Plato’s *Protagoras*, *Meno*, *Theaetetus*, and *Apology* display the critical assumption of radical equality and the intertwined lessons of disillusion and renewal that, on his account, constitute the heart of Socrates’s style of teaching. Eisele underscores how across those dialogues Socrates strives to interact with his conversational partners as an equal. Each dialogue presents a “shared effort” to gain understanding (97). Socrates readily admits his own ignorance right alongside the struggles and confusions of his interlocutors. Throughout, he “is willing to risk the ignominy of refutation, the discovery that he still does not know about [the] matters” under investigation (233). Thus the *Protagoras* concludes with a chagrined Socrates confessing that he, no less than Protagoras, has been humiliated by ineptitude in grasping the nature of virtue.⁵⁰ To Eisele, it is Socrates himself who is there “taken through a process of disillusion and renewal” (80). In the *Meno*, it is Meno, not Socrates, who begins the inquiry into the nature of virtue. As the dialogue proceeds, Socrates concedes that “[h]e does not think that he himself knows what virtue is...[just as] he does not think that Meno knows either” (104). The *Theaetetus* underscores that “conversational inquiry is a joint undertaking,...[where] the progress and the digressions...are a function not only of Socrates’s contributions to the investigation but also of those of his conversational partners” (138). And in the *Apology*, Socrates testifies before a city of accusers and jurors, compelled to give an “account of his life” (197).

From these four dialogues Eisele draws, as we have seen, his central thesis in *Bitter Knowledge*, that “the peculiar genius of the Socratic dialogues of Plato [is] that they teach these same two lessons: you don’t know what you think you know; and you know more (or other) than what you think (you know)” (249). To any who would wish otherwise, Eisele makes it abundantly clear that these lessons—disillusion and renewal—bear fruit only in combination. Disillusion is to Socrates a necessary stage, “the first glimmer of hope” (232) in education and self-development. For the mark of a “true learner” is to possess an inquisitive character that compels one to “always *seek* [answers]” (82), even when fully cognizant that they may not be attainable. A curious mind, however, is neither seeded nor fertilized by knowledge, but by its lack. Only those chafed by a

50. See Plato, *Protagoras*, *supra* note 8, at 65 [361a-b].

“lack of knowledge” become driven “to seek knowledge about the things that are causing...pain or confusion or puzzlement” (232). Hence, the first lesson of Socratic pedagogy rests on the presumption that until “we become aware of these ‘lacks,’ it is unlikely that we will seek any sort of education” (202).

Eisele thus presents compelling reasons to affirm disillusion as a necessary condition in Socratic inquiry and education. He shows that the dialogues recurrently reinforce Socrates’s abiding “faith or confidence in this process of inquiry and disillusion” (236). Yet disillusion is only an intermediate educational lesson. Eisele thus goes on to make it clear that in Socratic pedagogy, “[d]isillusioning a student is not enough in and of itself” (250). Disillusion is merely preparatory toward the second lesson, renewal. It is critical that students who commit to inquiry and undergo the travails of disillusion make a rapid and successful transition to that second lesson. For dwelling too long in disillusion can make students “embittered” (252), cause them to feel “crushed or defeated” (250), and potentially prompt them to “quit in despair” their intellectual queries (121).

Bitter Knowledge thus sets forth with impressive clarity the reciprocal co-action that binds the Socratic lessons of disillusion and renewal. The four dialogues Eisele discusses reveal unequivocally how the goals of Socratic teaching—fostering students’ self-understanding and developing their skills and confidence in the processes of active inquiry and creative thought—depend necessarily on “put[ting them] through the fire of personal commitment and effort required by philosophical inquiry” (233). Those of Socrates’s interlocutors who resist his questioning and guard themselves against disillusion, such as Protagoras (*Protagoras* (53–59, 67–81)), Anytus (*Meno* (86–76, 89–91, 127–28)), and Theodorus (*Theaetetus* (148–60)), experience very little, if any, learning or intellectual growth. Yet those willing to risk refutation by committing themselves to the formidable challenges and personal exposure that attends true inquiry present genuine candidates for learning.

Eisele calls attention to Hippocrates as a case-in-point for the first lesson of Socratic teaching. In the *Protagoras*, the youthful Hippocrates impetuously pursues Protagoras, believing that the sophist can teach him about virtue. Questioning from Socrates disabuses him of that folly, leaving him with at least “a modicum of clarity” (79) about the dangers of entrusting his education (“the nourishment of [his] soul”)⁵¹ to just any hawker of knowledge. Though his learning from Socrates goes no further, Hippocrates illustrates well how disillusion frames the necessary starting-point of Socratic education.

Likewise, both the unschooled Slave of the *Meno* and the precocious Theaetetus are stung by disillusion in their conversations with Socrates. Each suffers the pain, as Eisele puts it, of “finding [himself] at a loss” when Socrates makes him aware of his ignorance (228). Yet both the Slave and Theaetetus are only briefly waylaid by disillusion. Neither languish. In quick order, each

51. *Id.* at 8 [313c].

spirits to Socrates's second pedagogical stage of renewal, increasingly engaged intellectually and resourceful in seeking to learn what he comes to see he does not know.

Consider the Slave. Eisele masterfully retells the story of his exchange with Socrates, emphasizing how his spiral into disillusion proves to be "empowering" (112). Early in their conversation, the Slave answers correctly a series of geometrical questions posed by Socrates. He becomes sanguine. Then he stumbles. Disabused of his newfound confidence, the Slave falls silent. Eisele describes how disillusion afflicts him: "He feels as though Socrates has cast a spell over him; he is at his wit's end, he is too numb to think or speak. His self-assurance is gone, and he is full of doubt" (110). Yet Socrates finds no cause for concern in the Slave's chagrin. He thinks his teaching is going well. He has disabused the Slave of false confidence, preparing him to "proceed on a better path" of inquiry and learning (19). Socrates evinces this pedagogical attitude in the following colloquy with Meno immediately following the Slave's aporetic moment:

S: You realize, Meno, what point he has reached in his [learning]. At first he did not know what the basic line of the eight-foot square was; even now he does not yet know, but then he thought he knew, and answered confidently as if he did know, and he did not think himself at a loss, but now he does think himself at a loss, and as he does not know, neither does he think he knows.

M: That is true.

S: So he is now in a better position with regard to the matter he does not know?

M: I agree with that too.

S: Have we done him any harm by making him perplexed and numb as the torpedo fish does?

M: I do not think so.

S: Indeed, we have probably achieved something relevant to finding out how matters stand, for now, as he does not know, he would be glad to find out....

M: So it seems.

S: Do you think that before he would have tried to find out that which he thought he knew though he did not, before he fell into perplexity and realized he did not know and longed to know?

M: I do not think so, Socrates.

S: Has he then benefitted from being numbed?

M: I think so.

S: Look then how he will come out of his perplexity while searching along with me. I shall do nothing more than ask questions and not teach him. Watch whether you find me teaching and explaining things to him instead of asking for his opinion.⁵²

Socrates from there resumes his dialogue with the Slave. As he predicted, the Slave quickly emerges from his bewilderment. He begins to answer correctly certain questions that stumped him before. Eisele salutes Socrates's pedagogical success: "The slave would never have been moved to inquire into these matters of geometry and mathematics, had it not been for Socrates." By stunning the Slave in disillusion and forcing him "to confront and to acknowledge his own ignorance" (112), Socrates "activates [his] otherwise dormant resources and abilities..., and thereby renews him for the search ahead" (19).

Theaetetus provides an even more efficacious model of Socratic learning. Though he struggles (and ultimately fails) to adequately define knowledge, Theaetetus repeatedly tries and responds to each of Socrates's rebuffs with a more carefully worded and refined attempt at definition. As Eisele observes, Theaetetus becomes "committed...to the process of inquiry in a way not true of him before" (176). He begins to unveil "a new assurance" (177), "a new sobriety concerning his chances at coming up" with answers that previously had not only eluded him, but others before him (176). The aftermath to disillusion for Theaetetus, thus, comes quickly and offers a testament to the remarkable intellectual growth that can accompany Socrates's second lesson of renewal. Eisele reflects that "[i]t is not that [Theaetetus] now thinks he has all the answers. Rather, he becomes more assured in his ability to come up with an account of the matter at hand, and in his ability to inquire into it" (177). Theaetetus even begins to rephrase Socrates's questions and restate his words. He begins to evince true independence in creative thought and questions the "reality or illusoriness" of Socrates's positions (164). As Eisele notes, Theaetetus's "lesson is over," for he "has learned not only how to give an account but also how to examine the account given to him by another (here, Socrates)" (177).

VI

At its best, the legal academy's Socratic Method produces graduates who model Socrates's educational success with Hippocrates, the Slave, and Theaetetus. The rigorous dialectical questioning that takes place in law school classrooms aims to bring law students through the sting of disillusion and dispatch them forthwith at the doorsteps of legal practice, suited as active learners with renewed desire and growing confidence in their ability to resolve legal quandaries. It endeavors, as Eisele puts it, to ready students for the practice of law by sharpening their "ability to gain or to create answers out of legal materials" (248).

52. Plato, *Meno*, *supra* note 13, at 73 [84a-d].

That legal education should employ Socratic pedagogy is no mere happenstance. Two characteristic features of legal discourse make Socratic conversational inquiry a sound approach to legal education. The law, for one, presents the very sort of normative, definitionally confounding subject matter that impelled Socrates to fashion his inquisitorial philosophic style. In the Platonic dialogue *Euthyphro*, Socrates insists that “the just and the unjust, the beautiful and the ugly, the good and the bad” are the most perplexing and troubling of subjects.⁵³ Disagreement among people (and gods) regarding such matters commonly proves to be irresolvable and leaves them “angry and hostile to each other.”⁵⁴ Legal discourse shares this factious nature. For legal terms and concepts generally elude easy definition and frequently stimulate highly charged and contentious debates.

Legal principles and doctrines—like the moral concepts of justice, virtue, and the good—further occupy the borderlands of language, where the commonplace and the ordinary meet the philosophical and the nuanced. Anyone in the United States freely can (and many do) voice opinions on matters of public law, e.g., the importance of protecting the free exercise of religion, the forms of punishment that are cruel and unusual, or the degree to which government should act affirmatively to ensure that all receive the equal protection of the laws. That everyday discourse, however, does not make informed knowledge of constitutional rights widespread. Nor does it make understanding the constitution’s application easy. Rather, it reveals one sense in which the peskiness of language presents a special challenge to legal education.

Ludwig Wittgenstein, whom Eisele cites often in *Bitter Knowledge*, pinpoints the linguistic challenge: All too often the “uniform appearance of words” across language systems deludes us into thinking that we understand the meaning of a term when in fact we do not.⁵⁵ For an expression’s meaning does not necessarily slide unaltered from one language system to another. Indeed, a word or expression often means different things in different language systems. Coming to understand its meaning, therefore, requires examining its “practical application”⁵⁶ in the circumstances of its use in a specific system of discourse. As Wittgenstein put it, within each language system “the meaning of a word is its use in the language.”⁵⁷

53. Plato, *Euthyphro*, in *Five Dialogues*, *supra* note 13, at 5, 11 [7d].

54. *Id.* at 11 [7c].

55. Ludwig Wittgenstein, *Philosophical Investigations I 11* (rev. 4th ed., Anscombe et al. trans., Wiley-Blackwell 2009). *Accord* Ludwig Wittgenstein, *The Yellow Book*, in *Wittgenstein’s Lectures, Cambridge, 1932–1935: From the Notes of Alice Ambrose and Margaret Macdonald* 43, 46 (Alice Ambrose ed., Prometheus Books 2001) (1979) (“One important source of difficulty in philosophy is that words look so much alike.”).

56. Ludwig Wittgenstein, *Lectures on the Foundations of Mathematics*, Cambridge 1939 at 15 (Cora Diamond ed., Univ. of Chicago Press 1976).

57. Wittgenstein, *Philosophical Investigations*, *supra* note 55, at I 43.

The challenge for legal education comes in the fact that we frequently understand a word's use in one language system but are oblivious to how its meaning differs in another. This common occurrence provides a fertile source of misunderstanding. As Wittgenstein noted, to our fallible natures "grammatical illusions" hold a good deal of intuitive allure.⁵⁸ Words of "uniform appearance" commonly inveigle us to think we can assimilate meaning across language systems, though an expression performs very different functions in each. Wittgenstein illustrates this common source of misunderstanding with the word "number:" "We use the word 'number' in all sorts of different cases, guided by a certain analogy. We try to talk of very different things by means of the same schema."⁵⁹ And we often succumb to the "natural tendency" to ignore that "number" is "used differently *in* mathematics and *outside* mathematics."⁶⁰ Likewise, the expressions "free exercise of religion," "cruel and unusual punishments," and "equal protection of the laws" in the everyday discourse of American life exhibit the same linguistic schema as those terms of uniform appearance that occupy the technical, craft-bound discourse of constitutional law. The everyday and the technical meanings, however, differ profoundly in practical application and function.

These challenging features of legal discourse—its confounding, partisan nature and the uniform appearance of its words across language systems—underscore, for legal education, the critical importance of Socrates's first lesson of disillusion. Eisele presumes that law students begin law school thinking they know something about the law. They do. Their backgrounds and prior academic training accustom them to an abundance of law-like expressions. Yet that acquaintance comes, for the most part, from the everyday discourse of American life. It is not a familiarity that carries over as a matter of course to an understanding of the language of law suitable to legal practice. For as James Ross notes, "The business discourse of...lawyers is paradigmatically craftbound."⁶¹ The discourse of law, that is, intertwines words and action, such "that *skill in action* is necessary for a full grasp of the discourse."⁶²

Hence the critical insight intoned in the pithy anthem of American legal education—"thinking like a lawyer." Ross continues: "Ordinarily you master a craft-bound discourse only if you become an 'insider' to the doing that the discourse is about."⁶³ As the set of skills most critical to legal practice are cognitive, becoming an "insider" to the craft-bound discourse of law requires learning to *think in action* with legal materials in the manner of those who "do" law.

58. *Id.* at 110.

59. Wittgenstein, *Lectures on the Foundations of Mathematics*, *supra* note 56, at 15.

60. *Id.* at 140.

61. J.F. Ross, *Portraying Analogy* 158 (Cambridge Univ. Press 1981).

62. *Id.*

63. *Id.*

Hence the brilliance of *Bitter Knowledge*. In his masterful renderings of the Platonic dialogues, Eisele portrays astutely how the conversational spirit that animates the legal academy's Socratic Method provides such a fit pedagogy to prepare students in thinking actively as insiders to the craft-bound practice of law. Through Hippocrates, the Slave, Theaetetus, and Socrates, Eisele artfully tells the story of education and training in the law.

In the *Protagoras*, Hippocrates, like so many fresh first-year law students, rushes headlong in search of edification. Socrates, however, derails his search. The lesson Eisele draws from the disillusion Hippocrates suffers holds relevance just as much for a student keen on studying the partisan discipline of law as that of morality or virtue. "Who can teach us? And what can they teach us?" (63) are the vital didactic questions Eisele sees in the *Protagoras*. Law students should ask these questions. For as with Hippocrates, law students, in embarking on legal education, entrust "the nourishment of [their] soul[s]"⁶⁴ to their teachers. What can they hope to be taught in law school that they cannot learn just as well in everyday life or by studying law in another discipline such as political science, sociology, or business? What makes law faculty so special that they alone are the teachers whose courses count as satisfying the prerequisites for bar licensure? It certainly is not the content alone of what is taught. Students can and do learn *about* law in several academic fields. Rather, it is the method of teaching. For it is only in law school that students receive training in the "skill in action...necessary...[to] become an 'insider' to the doing [of legal] discourse."⁶⁵ As Eisele describes so well, the aim of American legal education is to teach future lawyers "ways to use their minds," craft-bound frameworks for "how they may wish to think" (246). Following Wittgenstein, he agrees that knowledge is "systematic" (118) and that training in law requires studying it as a system of discourse that employs certain "techniques of thinking" (246).

Just as with Hippocrates, the educational starting-point for first-year law students, thus, requires disillusion. Eisele notes that "Socratic teaching does not proceed as a matter of right. Rather, it proceeds as a matter of need" (253). American law teachers well recognize that the substantial overlap between words of "uniform appearance" in the craft-bound discourse of law and other craft-bound or everyday discourses mandates that their entering students be disabused from thinking that their pre-law school knowledge of law provides an understanding suited to a practicing lawyer. They well understand that learning to "think like a lawyer" entails developing a professional and *insider* understanding of the law. Thus, to follow Socrates and employ the Socratic Method in "teaching by disillusioning the student" (244) is neither meant to "ridicule" students (254) nor "make [them] 'the same' in how [they] think about and handle the law" (259). Rather, it is to begin the process of bringing them to think *within* the discourse of law rather than *outside* it. In Eisele's terms, this Socratic lesson of disillusion stimulates "the first glimmer of hope" (232) in the

64. Plato, *Protagoras*, *supra* note 8, at 8 [313c].

65. Ross, *supra* note 61, at 158.

education and self-development of law students into future legal practitioners skilled in the doing or activity of legal practice. Forced to admit their lack of knowledge about how law looks from inside legal practice, law students can then become “true learner[s]” and commence their “search for answers” in the craft-bound discourse of law (82).

The *Meno* continues Eisele’s Platonic lesson in the virtues of the law’s Socratic Method. Like Hippocrates, the Slave begins from a position of “unconscious ignorance” (115). Though Socrates’s exposure of his ignorance initially leaves the Slave “too numb to think or speak...and...full of doubt” (110), he quickly rebounds, intellectually “empower[ed]” and eager to learn (112). Socrates’s confident boast to Meno about how he has set the Slave “on a better path” of intellectual growth (19) provides a step-by-step guide to the educational value of his lessons of disillusion and renewal.

1. *The Lesson of Disillusion*

1.1. Before disillusion—When the Slave “did not know [the correct answer]... but...thought he knew,...he did not think himself at a loss.”⁶⁶

1.2. Upon being disillusioned—“[H]e does think himself at a loss, and as he does not know, neither does he think he knows.”⁶⁷

1.3. On account of being disillusioned—

a. “[H]e is now in a better position with regard to the matter he does not know.”⁶⁸

b. He has been “done...[no] harm by [Socrates] making him perplexed and numb as the torpedo fish does.”⁶⁹

2. *The Lesson of Renewal*

2.1. As to “finding out how matters stand” —

a. Disillusion has left the Slave better off, for “now, as he does not know, he would be glad to find out.”⁷⁰

66. Plato, *Meno*, *supra* note 13, at 73 [84a].

67. *Id.* at 73 [84a-b].

68. *Id.* at 73 [84b].

69. *Id.*

70. *Id.*

b. Whereas “before he fell into perplexity and realized he did not know and longed to know,” the Slave “would [not] have tried to find out that which he thought he knew though he did not.”⁷¹

2.2. Hence, the Slave has “benefitted from being numbed.”⁷²

To Eisele, Socrates here models for law professors how their Socratic method should work. Had Socrates not stupefied him in disillusion, the Slave would not have had “to confront and to acknowledge his own ignorance” (112). That humiliation, while momentarily debilitating, “activates [the Slave’s] otherwise dormant resources and abilities...and thereby renews him for the search ahead” (19). As teacher, Socrates obligingly guides that search. He resumes questioning the Slave, helping him become “conscious of the [cognitive] techniques and skills and tools...at [his] disposal.” The success is apparent. The Slave manifests renewed confidence in his ability to articulate what he knows. He comes to understand that “knowledge is...systematic.” And he learns to appreciate that “know-how” in mathematical discourse allows one not only to collect and recite knowledge, but to “build or extend the system by eliciting its implications and by generating new propositions” (118).

Borrowing from Wittgenstein, Eisele sums up Socrates’s pedagogical success with the Slave by observing that, as to the system of geometrical discourse, he has shown him “how to go on” (117).⁷³ The full sense of what this means in Socratic teaching comes through in the *Theaetetus*. By the close of that dialogue *Theaetetus* reaches the endgame of Socratic pedagogy. He comes to stand on equal footing with his teacher—skilled, proficient, and capable of generating new understanding in a certain realm of human knowledge and discourse. The *Theaetetus*, that is, brings to final fulfillment the defiant “Here—we are equal”⁷⁴ that Nietzsche saw entailed by Socrates’s subjection of human life to the governance of rational thought.

Eisele captures well how the *Theaetetus* crowns not only Socrates’s style of teaching but the purpose and function of the law’s Socratic Method. It is not that *Theaetetus* comes arrogantly to “think[] he has all the answers.” No more than Socrates can he formulate a workable theory of knowledge. But no less than Socrates can he “come up with an account of the matter at hand, and... inquire into it.” When he begins “translating or rephrasing Socrates’[s] words,” assessing and “examin[ing] the account given to him by...Socrates” (177), and even questioning its “reality or illusoriness” (164), *Theaetetus* demonstrates the acme of Socratic teaching. His skills and proficiency do not match those of his teacher. But his newfound “competence, in the activity of

71. *Id.* at 73 [84c].

72. *Id.*

73. See Wittgenstein, *Philosophical Investigations*, *supra* note 55, at I 150–55, 179–84, 323–25; Ludwig Wittgenstein, *Lectures, 1934–35*, in *Wittgenstein’s Lectures*, Cambridge, 1932–1935, *supra* note 55, at 77, 93–96; Ludwig Wittgenstein, *The Brown Book*, in *The Blue and Brown Books* 75, 112–17 [I 62–65] (Harper & Row 1958).

74. Nietzsche, *Beyond Good and Evil*, *supra* note 37, at 138.

giving an account” (176) means that his “lesson is over” (177). He has learned what Socrates set out to teach him—a *way of thinking*. He “displays patience...and a persistence” suitable to active participation in the process of philosophical inquiry (176). He comes to grasp how to answer theoretical questions and to give an account worth contesting. He recognizes that he “cannot go on with a thought or expression...[if] it fails to connect with the rest of [his] knowledge or experience” (180). And he understands that “the expressions and elaborations [he] render[s]...must be rigorously tested” (179) and rejected if “found empty, or inconsistent, or contradictory, or self-defeating, or otherwise deficient” (181).

So, to Eisele, should the same lessons peal from the bell towers of American law schools. The learning achieved by Hippocrates, the Slave, and Theaetetus provide the grounding for how he conceives of the law’s Socratic Method. He freely admits that, like Socrates, he “teach[es] by disillusioning the student” (244). He wants his students to make mistakes. “I want my students to learn, first and foremost, that they do not know something that they think they know. This is an important lesson.” For as with Socrates’s students, Eisele anticipates that from disillusion his students will emerge “humble[d] but renewed, “more thoughtful” and “more circumspect” (249). To paraphrase Plato, they will “be in a better position with regard to the legal matters they do not know; for now, as they do not know, they will be glad to find out; whereas before they would not have tried to find out that which they thought they knew though they did not.” Being disabused of their “lacks,” they will be ready, that is, to inquire further and “to seek the answers that...[legal discourse makes] available, or that are possible” (124).

VII

Bitter Knowledge thus offers an account of the American legal academy’s Socratic Method that is unparalleled in philosophical richness. By tracing in painstaking detail Socrates’s style of conversational inquiry across a set of Platonic dialogues, Professor Eisele provides evidence of just how closely the law school pedagogy reflects Socrates’s style of teaching. His vivid celebration of the virtues of Socratic inquiry leads to a spirited and convincing endorsement of the law school method. And to those who would still argue that law schools should abandon the Socratic Method, *Bitter Knowledge* offers, by implication, a final caution. Recall Plato’s *Apology*. To the compliant jurors who voted to silence his dialectical questioning, Socrates offered a stern rebuke, disabusing them of one last illusion—the hope that one can escape self-examination and the millstone of “giving an account of [one’s] life.”⁷⁵

Law professors can kill the Socratic Method, just as Anytus and the Athenian nobles saw to the execution of Socrates. But law students still will have to account for themselves. They still will have to learn to think actively within

75. Plato, *Apology*, *supra* note 21, at 42 [39c]. See *supra* text accompanying notes 21–22.

the craft-bound discourse of law, to develop the “*skill in action*”⁷⁶ necessary to do things with legal materials the way lawyers do. Eisele rightly notes that law professors “can only partially and incompletely convey what these materials mean.” The responsibility lies ultimately with law students themselves “to discover what [the] materials come to mean legally.” That understanding requires learning to “think like a lawyer”—to ask questions the way lawyers do, to seek answers as lawyers seek, to inquire in the manner lawyers inquire. Training in such “*techniques of thinking*” (246) is all that the Socratic Method aims to provide: “a personal confrontation with one’s way of thinking, seeing, and speaking” (253).

Is the Socratic Method too harsh and bitter? The question is misplaced. For the measure of a pedagogy is whether it is appropriate for the subject matter and forms of practice being taught. By and large, the subject matter of law is not difficult. Lecture or other styles of teaching would suffice if the goal merely was to transmit for memorization legal rules, principles, doctrines, and theories. But it is quite another matter to pass on from one generation to the next the skills, techniques, and methods of reasoning and communication necessary for excellence in the craft-bound practice of law. Entering law students do need to be disabused of thinking that their antecedent knowledge of legal propositions translates from everyday discourse to the craft-bound discourse of law. They need to be shorn of the illusion that law is certain and fixed for all time as if divinely etched on tablets of immovable stone. Legal truths are provisional, subject to revision, rebuke, extension, or overrule with each new case. Internally, the law is fraught with words of ‘uniform appearance’ that tend to occasion bewilderment. Consider the law’s finicky standards of reasonableness—“reasonable man,” “reasonable search,” “reasonable doubt,” “reasonable rate,” “reasonable suspicion,” etc.—or intent (framer, contractual, legislative, fraudulent, domiciliary, testamentary, charitable, tortious (multiple forms), criminal (general, specific, justificatory, transferred, conspiratorial)), and so on. Learning the meanings of these standards by rote surely can happen. But that approach is ill-suited to learning to think like a lawyer. For legal practitioners must do more than identify, assemble, and recite. They need to know how to give “practical application”⁷⁷ to such nettlesome “words [that] look so much alike.”⁷⁸ They need, as Eisele puts it, the fundamental “skills of lawmaking” (259)—“the ability to gain or to create answers out of legal materials” (248) so as to do their part in “build[ing] or extend[ing] the system by eliciting its implications and by generating new propositions” (118).

Skill in legal practice is a craft-bound excellence. It requires training in the composite of cognitive skills and techniques that will permit students to “become...insider[s] to the doing that [legal] discourse is about.”⁷⁹ Law

76. Ross, *supra* note 61, at 158.

77. Wittgenstein, *Lectures on the Foundations of Mathematics*, *supra* note 56, at 15.

78. Wittgenstein, *The Yellow Book*, *supra* note 55, at 46.

79. Ross, *supra* note 61, at 158.

students who evade Socratic scrutiny today may not be so lucky as practicing lawyers tomorrow. Throughout their legal careers (to again paraphrase Plato), ‘there will be more people to test and reproach them for not practicing law the right way. To escape such tests is neither possible nor good, hence it is best to prepare oneself to be as good a lawyer as possible.’ With a hint of melancholy, Eisele echoes Socrates: “[N]othing I do or say can save my students from the professional challenges they have ahead of them. The way out is through themselves” (249).

In this sentiment lies the true beauty of *Bitter Knowledge*. Eisele celebrates Socratic conversational inquiry not out of philosophical worship. He endorses the law’s Socratic Method neither for the sake of rigor alone nor in unreflective imitation of tradition. Rather, he advances it from the conviction that through the pain and labor it induces his students will emerge with the knowledge and skills necessary “to attaining excellence” in the law (218). In the spirit of Socrates, that is, Eisele embraces dialectical inquiry as though a midwife. He employs the Socratic Method out of a singular concern over “what kind of lawyers [his] students are becoming” (247). Sometimes he wants them to struggle, to feel the pain of disillusion. At times he follows Socrates in trying, as the playwright put it, “to deliver his [students] of well-proportioned thoughts so soundly and easily and with such hearty jests”⁸⁰ that the process of inquiry creates a bitter taste. But the Socratic Method is fashioned for renewal. Its goal, as Eisele describes so well, is to nurture students past disillusion and bring them to push harder for themselves in developing the “skills of lawmaking and law construal” (259) that will allow them, whenever tested, to unreservedly “give an account” (117, 160) of themselves as legal professionals.

Obviously, the powerful image Eisele creates of the Socratic Method as a “noble enterprise” (254) fashioned on midwifery draws from Plato’s *Theaetetus*. Yet “a pall hangs over that dialogue” (193). It closes on a note of somber resignation. Socrates had taught Theaetetus what he could, apologizing that the inconclusive outcome of their inquiry “is all my skill is capable of giving, nothing more.”⁸¹ To his student he could only give assurance that the labor of their inquiry was worth the pain. “Well, Theaetetus, if you set out at a later date to conceive more ideas, and you succeed, the ideas with which you’ll be pregnant will be better because of this inquiry of ours.”⁸² For Eisele, legal education can promise nothing more. And the measure of its success, as for Socrates, will come in how resolutely sounds the reply, “Now I can go on.”⁸³

80. Brecht, *supra* note 1, at 139.

81. Plato, *Theaetetus*, *supra* note 17, at 130–31 [210c].

82. *Id.* at 130 [210b-c].

83. Wittgenstein, *The Brown Book*, *supra* note 73, at 112 [I 62].