

Constitution and Qua Objects in the Ontology of Music

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Musical Platonists identify musical works with abstract sound structures but this implies that they are not created but only discovered. Jerrold Levinson adapts Platonism to allow for creation by identifying musical works with indicated sound structures. In this paper I explore the similarities between Levinson's view and Kit Fine's theory of qua objects. Fine offers the theory of qua objects as an account of constitution, as it obtains, for example, between a statue and the clay the statue is made out of. I argue that Fine's theory does not adequately characterize the constitution relation and that the problems it faces extend to Levinson's account of musical works as indicated structures. I develop an alternative theory of constitution, based on the notion of being made out of. This approach to constitution enables me to offer an account of musical works as abstract objects that are constituted by sound structures. I argue that my account has several advantages over the Levinson/Fine approach.

I

Musical Platonism is the view that works of music are abstract objects: sound types or sound structures. The view has recommended itself to many, particularly on account of the way it can handle the relation of works of music to their performances.¹ On such a view, a performance is a token of the type that is the work. However, taking works as sound structures has potentially negative consequences. On the assumption that sound structures are eternal and unmodifiable, the view seems to imply that musical works are not artefacts that are created by their composers but rather that they are non-artefacts that are discovered by them. This conflicts with the common assumption that composers, like other creative artists, bring into existence genuinely new entities through their activity. Furthermore, on the view that musical works are sound structures, it is impossible for two distinct composers, even at different times and in ignorance of each others' work, to compose distinct works with the same sound structures. Each composes, i.e. discovers, the very same sound structure and hence the same musical work. This supposedly conflicts with our intuitions that in the circumstances outlined, there would be two distinct compositions that happened to coincide in their sound structures.

From those who are broadly sympathetic to Musical Platonism, there have been two kinds of response. The first kind of response, which continues to accept Platonism unamended, comes in two varieties. Of the first variety is Harry Deutsch, who argues that composers do create their compositions and that this is consistent with Platonism since

1 Something stressed by Peter Kivy, in *Introduction to a Philosophy of Music* (Oxford: Clarendon Press, 2002), pp. 212–213.

creation is not a matter of bringing something into existence.² Of the second, more common, variety is Peter Kivy, who argues that it is indeed true that composers do not create their compositions but that this is not as counter-intuitive as it might at first seem. The idea that musical works are discovered, Kivy thinks, has a lot to be said for it, independently of its support for Platonism.³ The second kind of response involves modifying Platonism enough to avoid the objectionable consequences but not so much as to lose Platonism's virtues. The most prominent view of this kind is that of Jerrold Levinson, who holds, roughly, that musical works are what he calls indicated structures.⁴ They are sound structures as indicated by a certain composer at a certain time. (I shall summarize his view at slightly greater length below.)

In this paper, I want to pursue the second kind of response. (I will have little to say directly to advocates of the first kind of response, and still less to those who are unsympathetic to any form of Platonism about musical works.) Sound structures, I shall argue, are the matter out of which musical works are made or by which they are constituted. In section II, I shall briefly outline Levinson's theory. It may seem, at first glance, that my approach is more different from his than it actually is. In section II, however, I will also show that Levinson's theory strongly resembles Kit Fine's theory of qua objects.⁵ Since that theory itself is offered as an account of constitution, it will be evident that Levinson's theory is also a kind of constitution view. Section III explores a variety of ways in which Fine's theory is inadequate as a theory of constitution in general. I also show how these inadequacies arise for Levinson's account of musical works. In section IV, I offer a novel account of constitution in terms of *being made out of*. Finally, in section V, I show that this account of constitution yields a theory of the nature of musical works. Like Levinson's, this theory retains the virtues of Platonism while showing how musical works can be created. But my theory is, I suggest, based on a better theory of constitution than Levinson's and thereby avoids the problems affecting his. In addition, my approach can offer a unified account of the way in which creation takes place both with repeatable works, like musical compositions and works of literature, and concrete, non-repeatable works, like statues and paintings.

II

Since Levinson's theory and his reasons for preferring it to straight Platonism about musical works are well known, I shall fill in the background fairly quickly. Levinson's solution to the problem of how musical works, involving abstract sound structures, can be created is to take them as what he called 'indicated structures'. What a composer does to create a

2 Harry Deutsch, 'The Creation Problem', *Topoi*, vol. 10 (1991), pp. 209–225.

3 Peter Kivy, 'Platonism in Music: A Kind of Defense', *Grazer Philosophische Studien*, vol. 19 (1983), pp. 109–129.

4 See Jerrold Levinson, 'What a Musical Work Is', *Journal of Philosophy*, vol. 77 (1980), pp. 5–28.

5 See Kit Fine, 'Acts, Events and Things', in *Sprache und Ontologie* (Vienna: Hoelder-Pichler-Tempsky, 1982) for the theory of qua objects in general. And see his 'The Problem of Non-Existents. I. Internalism', *Topoi*, vol. 1 (1982), pp. 97–140 for its application to literary works and, as he notes in passing, to musical works as well.

musical composition is to indicate a pre-existing sound structure; and what she brings into existence this way is a new object, the sound-structure-as-indicated-by-*x*-at-*t*.⁶ The act of indication is the creative act. Naturally, in the case of serious musical composition, indication involves more than pointing a mental finger at a sound structure. It takes great labour. This is because although the sound structure already exists, it exists in a saturated sound-space where its existence is likely to go unnoticed. The composer has to clear away the surrounding sound structures and extract just the one she is interested in. (And of course, which sound structures are worth indicating, and which are better left in the silence of unindicated sound-space, calls for great judgement on the part of the composer. I can easily indicate a very specific sound structure by writing randomly on manuscript paper. Unless I get very lucky, though, the sound structure thus indicated is not likely to be very worth listening to.)

Harry Deutsch has objected against Levinson that the idea that there really is an object, the structure as indicated, which is distinct from the sound structure is an illusion.⁷ The structure may exist, and it may be indicated by a composer at a certain time, but we cannot simply assume that a new object then comes into being, the structure as indicated. This is particularly pressing against Levinson since his conception of indicated structures is not part of anything like a general ontology. So indicated structures are liable to seem *ad hoc*. But a more general ontological theory, one that finds space for things like indicated structures, is supplied by Kit Fine in his theory of qua objects.⁸ According to this theory, for any object *O* and any property *P*, if *O* has *P*, then there exists a distinct object *O* qua *P*. Objects of this kind Fine calls qua objects. The object *O* he calls the basis of the resulting qua object and the property *P*, its gloss or description.⁹ A qua object *Q* exists at *t* just in case its basis has its gloss at *t*. And qua objects *Q* and *R* are the same just in case their bases and glosses are the same. Furthermore, qua objects, while distinct from their bases, inherit many of their bases' qualities. For example, Obama qua President inherits many of Obama's qualities, his character, his physical attributes, and so on.¹⁰ Levinson's indicated structures can be taken as qua objects that have sound structures for their bases and properties of the form *indicated by x at t* as their glosses. The works will inherit many properties of their bases including, of course, the property of sounding a certain way when realized.

The invocation of the theory of qua objects need not necessarily allay the concern raised by Deutsch since one may be (and indeed Deutsch is) as skeptical of the existence of qua

6 According to Levinson, the structure indicated by a composer, at least in the Western tradition of classical music, is not merely a sound structure but a sound structure plus a structure concerning the performance means. Nothing in my critique of Levinson or my presentation of my own theory turns on this issue, so I will simplify the discussion by leaving out this detail.

7 Deutsch, 'The Creation Problem', p. 213.

8 In 'The Problem of Non-Existents', Fine principally discusses literary works, but he notes that his treatment would extend to musical works as well.

9 He uses 'gloss' in 'Acts, Events and Things' and 'description' in 'The Problem of Non-Existents'. I will stick with 'gloss'. Of course, what *P* is a gloss or description of is *O*, not *O* qua *P*.

10 Certain, broadly speaking, formal properties are not inherited. Obama is not a qua object. Clearly this property is not had by Obama qua President, which is a qua object. Nothing in my discussion is connected to exactly which properties are, and which are not, inherited, so I will forgo more precise treatment of the issue.

objects in general as one is of Levinson's indicated structures in particular. However, by putting indicated structures in the context of the theory of qua objects, we open up a broader front for criticism than mere skepticism over existence. For even allowing the existence of such things as indicated structures and qua objects in general, they may still be unsuited to be identified with musical works. Fine offers his theory of qua objects to account for the relation between a statue and the clay that constitutes the statue and he accepts that the theory supplies an account of the constitution relation in general. I shall argue that Fine's theory is not an adequate theory of constitution in general or the relation between the statue and the clay in particular. In doing so, I shall also argue that these inadequacies are manifest in Levinson's theory of musical works. Then, I shall suggest a different approach to constitution and elaborate a theory of musical works based on that approach.

III

In this section I shall discuss three kinds of problems that confront Fine's theory of qua objects as a theory of constitution. None of them shows, or is intended to show, that there are no qua objects or that qua objects are not as Fine says. They are only intended to show that the theory does not adequately capture the constitution relation as it is found, paradigmatically, in the case of the statue and the clay; and that these deficiencies also afflict Levinson's theory of musical works.

The first kind of problem is this. Fine says that the statue of Goliath that provides his example is a qua object, the clay qua Goliath-shaped. However, even granting that such objects exist, the statue of Goliath cannot simply be the clay qua Goliath-shaped. If it were, all bits of clay (and all bits of other substances) would be statues since all bits of matter have certain shapes, and hence there are qua objects of those bits of matter qua something-shaped. What is lacking from Fine's analysis is, of course, any reference to the intentional making that is necessary for something to be a statue.¹¹ It might be thought that this is just a simple matter of detail and easily rectified. In order to demonstrate that, in fact, there is a more serious problem lurking, consider the two properties *being Goliath-shaped* and *being moulded to be a statue by S*, the latter property (let us stipulate) adequately answering to the need for certain historical conditions to obtain for something to be a statue. There is now one qua object, the clay qua Goliath-shaped and another, the clay qua moulded to be a statue by S. If we allow conjunctive properties, there is also the clay qua Goliath-shaped and moulded to be a statue by S. Of these two, or possibly three, distinct qua objects, which is the statue? If we do not accept conjunctive properties, there seems to be a real stand-off. Each has as gloss a certain property necessary for something to be a statue of Goliath, yet each by itself seems to lack some property necessary for something to be a statue of Goliath.¹² If we allow conjunctive properties, then we might think it is obvious that the statue is the clay qua Goliath-shaped and moulded to be a statue by S. But if there are conjunctive properties, then take the property that is the conjunction of all an object's properties at a given time. Call

11 Fine, of course, is not unaware of this issue since he insists, in examining another theory, that the shape has the 'right genesis' ('Acts, Events and Things', p. 98).

12 Perhaps something does not have to be Goliath-shaped to be a statue of Goliath. But in the normal case, whatever a statue's shape is, it is not incidental to its being that statue, so my point should hold, even if it needs to be expressed more clumsily.

the maximally conjunctive property of the clay at t MaxP_t . Can we, then, take the statue to be the clay qua MaxP_t ? Does it have a better claim than the distinct object of the clay qua Goliath-shaped and moulded by S ? And what about the clay qua Goliath-shaped and moulded to be a statue by the F , where S is (contingently) the F ? There seem to be too many qua objects for any one of them to be non-arbitrarily identified with the statue.

This problem also arises in the application of the theory to musical works. Here, Levinson's lack of ontological context serves him better since he is not committed to the existence of, in addition to the structure-as-indicated-by- x -at- t , such further entities as the structure-as-indicated-by- x , the structure-as-indicated-by-someone-at- t or the structure-as-indicated-by- x -on-her-50th-birthday. But, we may ask, does he accept the existence of such things anyway? If so, which is the piece of music; if not, why not? Fine, on the other hand, is explicitly committed to the existence of all these objects and they are all distinct. Which, then, is to be identified with the musical work? Or, if we insist that compositions are only structures-qua-indicated-by- x -at- t , won't our exclusion of the others, given their natures, be arbitrary?

Perhaps this problem can be fixed by showing that, for every statue, there is a property of its basis that is broad enough to guarantee that the resulting qua object is a statue but not so broad as to allow rival contenders that gloss the clay with less broad properties and still manage to yield a qua object that might plausibly be identified with the statue. (Although the existence of, say, an object qua affected by S and that same object qua affected by the F , where S is the F , shows that the problem of the proliferation of qua objects plausibly identifiable with a statue is not just a matter of the breadth or number of conjuncts of the property involved. There are, as it were, competitors at the same level of complexity.) And likewise with musical works and the sound structures that form their bases. Or perhaps we might be convinced that there is no determinate answer to which of the qua objects is the statue or the musical work but that this is not a problem. In other words, 'Mozart's Jupiter Symphony' and 'the statue of Goliath' are vague and do not determinately refer to any one qua object or indicated structure. This would resemble David Lewis's view that there are many regions to which the term 'the outback' might refer, and that this vagueness of reference creates no practical problem and hence is harmless.¹³ But in any case, there are two deeper problems with taking the theory of qua objects as a theory of constitution.

The first deeper problem is this. On Fine's view, an object (the basis) constitutes another object (the qua object) simply by having a property. But this notion is much too broad to capture the way in which some clay constitutes a statue. Even if we find the right property to answer the questions raised in the previous paragraph, all that work in getting us to the statue will be irrelevant to understanding how some clay constitutes a statue. Constitution as such is insensitive, on this account, to what the property is: whether it includes a historical component, or a shape component, or both, or something else altogether. Thus, the relation of constitution that obtains between some clay and a statue turns out, on Fine's account, to be exactly the same as the relation between, say, a bit of rock and that rock qua red-colored, or the relation between Socrates and Socrates qua sitting. As I said above, I am not objecting here to the existence of qua objects like the clay qua F (where F is whatever property you think is the right one for the qua object to be the statue). And that object, if it exists, will indeed be of the same ontological kind as Socrates

13 David Lewis, *On the Plurality of Worlds* (Oxford: Blackwell, 2001), p. 212.

qua sitting or a rock qua red. But this fails to capture what is of ontological interest in, and distinctive about, the case of the statue and the clay it is made out of. Even if we cook up some odd philosophical property, like the property of constituting a statue, the clay qua constituting a statue is not the statue; nor does its having that property offer any insight into how, or in virtue of what, a statue can be made out of, or constituted by, some clay. There is a further dimension to this problem concerning how creative activity succeeds in bringing about the existence of a distinct object, but I will defer treatment of this until I have introduced my own theory.

All of this applies *mutatis mutandis* to musical works. Once again Levinson, owing to the absence of a general ontology surrounding his claim that musical works are indicated structures, may seem to be in better shape than Fine, since he owes nothing explicitly to the notion of constitution and hence has no obligation for his account of the relation between the sound structure and the musical composition, which is that sound structure as indicated, to capture the constitution relation. Still, I would pose the question to Levinson of whether he was willing to treat, for example, a statue as a piece-of-clay-as-indicated-by-an-artist-at-a-time (as an indicated piece of clay)? If so, then he would be putting his machinery to work in a case that is usually held to be paradigmatic of constitution. Hence it would be fair to ask whether the clay's merely having a certain property, *being indicated by an artist at a time*, accounts for its constituting a statue. If, however, he was not prepared to treat a statue as an indicated piece of clay, what justifies the difference in treatment between the two cases?

The second deeper problem is this. The conditions on identity of qua objects mean that if a qua object Q and a qua object Q' have different bases, then they are distinct. If a statue is some clay qua F (for any choice of F), then statues cannot change the clay that constitutes them over time. In other words, when a given statue loses a few molecules of clay, a new statue comes into being. And even if the statue does not actually change its matter, we still think that it is possible for it to do so. But it is not possible for a given qua object to have a different base since the identity of a qua object is determined by the base it actually has. Fine accepts that statues can change their matter, however. He therefore holds that a statue that does change its matter is *not* a qua object. To get the statue, he says,

we should first take any matter that ever constitutes the statue; gloss it with the property of having the Goliath-shape; restrict the resulting qua object to those world-times at which the matter constitutes the statue; and then aggregate all of the resulting segments of qua objects.¹⁴

I find this somewhat confusing, but I think what Fine means is this. Take the clay that constitutes the statue at t_1 . There is some qua object that has that as its basis and involves the property of being Goliath-shaped. (Nothing hangs here on what the property is, so let us go with this simple account.) Fine says we should gloss that clay with that property and then restrict the resulting qua object to the times at which that clay constitutes the statue. This is the confusing part since, at the times at which the clay is not Goliath-shaped and hence does not constitute the statue, the qua object of the clay qua Goliath-shaped does not exist. I take it that Fine means we should restrict the clay to the times at which, intuitively, it constitutes the statue and gloss that restricted object with the property of being Goliath-shaped to get

14 Fine, 'Acts, Events and Things', p. 101.

a qua object. We can now aggregate a succession of such objects, each derived from some different clay, and the resulting aggregate of qua objects is the statue.

I have two issues with all this. First, at least part of the reason for focusing on constitution is because it is an (allegedly superior) alternative to four-dimensionalist treatments of issues about change in matter in things like statues. Four-dimensionalism sees temporally extended objects as aggregates of their temporal parts. Since Fine has to accommodate the facts of change in matter by appealing to aggregates of qua objects, he seems in some way to abandon part of the field to the four-dimensionalist. But more importantly, and this is my second problem here, one might be inclined to say that a statue can change its matter in virtue of the kind of thing it is. Now take a statue that does not change its matter. According to Fine, it, that statue, is simply the clay qua Goliath-shaped. Yet there is nothing in the nature of *that object* that accounts for why it can change its matter. If there were a change in matter, and we thought that nonetheless the same statue continued to exist, we could only explain this by introducing quite different entities and thus not explaining the change of matter in terms of the original object. Thus, even if a statue does not change its matter, it cannot be identical to the clay qua Goliath-shaped for just the same reason as it cannot be identical to the clay itself. The statue can, while the clay and the clay qua Goliath-shaped cannot, change its matter. Perhaps another way to put this same point is this. If a statue does not change its matter, Fine's account of what the relation of constitution is is that it is having a property, that is, being the basis of a qua object. I have already objected to the adequacy of that answer. But setting aside that objection, if we now ask in virtue of what some clay constitutes a statue at a given time, where the statue in question does change its matter, the answer cannot be, by being the basis of a qua object. It will instead have to be a more complex, and somewhat different, relation of being the basis of a qua object that forms a segment of an aggregate of suitably related such segments. So, there is no univocal answer, on Fine's view, to what constitution is.¹⁵

These issues also arise in the case of musical works. Since musical works are made out of abstracta such as sound structures it might be thought that they, unlike statues, are not susceptible to changes of matter over time. However, if they can be made at all, then I do not see why they cannot change. This is one way to think of what happens when a composer revises a work: she changes the sound structure that constitutes the work.¹⁶ In that case, the view that musical works were indicated structures would be inconsistent with the view that a composer could revise a work without bringing into existence a distinct work. In any case, analogous problems to those for the statue certainly obtain in the modal domain with regard to musical works. Even if musical works cannot change, they certainly could have been different and they could have been written at other times than they actually were. Mozart could have written the Jupiter

15 In 'Things and Their Parts', in *Midwest Studies in Philosophy*, vol. 23 (1999), pp. 61–74, Fine says that the theory of 'Acts, Events and Things' is an early version of a part of the theory of things and their parts that he is working on in a book and that is partially presented in the article cited. It may be that the problems I raise here are intended to be solved by the fuller, more developed theory. But I leave aside assessment of the current issues in the light of the more developed theory for another occasion.

16 And this is indeed one of the ways in which a sculptor may 'revise' a statue. She may remove or add some underlying matter. (The other way, in the case of statues, is by reshaping the same clay. This has no analogue in the case of musical works, for reasons that will become apparent below.)

Symphony, that very Symphony, a month earlier or a month later. On Levinson's view, Mozart's activity a month earlier or later, even if it produced a work auditorily indistinguishable from the Jupiter Symphony, would have resulted in a different work since the structure-as-indicated-by- x -at- t would be distinct from the structure-as-indicated-by- x -at- t' if t and t' are distinct.

Levinson might respond by suggesting that we simply drop the time reference in the specification of indication and settle for *as-indicated-by- x* . However, if we think of Levinson's indicated structures as qua objects, this would (a) leave us with a distinct qua object whose gloss was *indicated by x at t* , and the problem of saying how it relates to the qua object with the gloss *indicated by x* ; and (b) allow the composer to create a given work multiple times by indicating the structure on many occasions. We could obtain uniqueness by using the property *first indicated by x* , but we would still face the problem in (a) (indeed, we would now have yet more competing candidates, since the qua object with the gloss *indicated by x at t* would now not be identified with the composition, even if t is when the composer first indicated that sound structure).

Besides the time of composition, there are further ways in which a given musical work might have been different. It seems to me obvious that Mozart could have composed the Jupiter Symphony a little differently. He might have added clarinets or made the quavers into crotchets in the third bar of the minuet theme. Thus, the Jupiter Symphony might have involved a different sound structure. I am not sure how Levinson might respond. Perhaps we could treat the composition as a class of indicated sound structures such that all permissible variants of the composition are included. Even this would not be enough, since we would still have to say what makes the actually used sound structure special. Perhaps it itself is somehow indicated in the set-theoretic construction. I shall not consider this further since the evolving theory is absurd.

For these reasons, I do not think the Levinson/Fine theory gets right the relation between a sound structure and the work of which it is the sound structure, though Levinson (implicitly) and Fine (explicitly) did, as it were, look in the right direction (away from identifying sound structure and work) by moving into the territory of constitution. I shall now say how I think constitution ought to be understood and how it can be applied to the case of musical works.

IV

Constitution, I maintain, is essentially about being made out of. Being made out of has two senses: a dynamic or event-like sense, and a static one. In the event sense, the expression denotes an event in which an agent makes one thing out of another (though reference to the agent may be suppressed). In the static sense, the expression denotes a possibly enduring relation between two objects.¹⁷ I shall distinguish these by subscripting 'make' with an E or an S, respectively, when necessary for clarity. Since constitution is itself a potentially enduring relation between two objects, our goal must be to understand being made_S out of; and my suggestion is that we understand it in terms of being made_E out of. So, let us

17 I think in either of these cases, that out of which something is made can also be some stuff or a plurality of objects. I ignore this complication here. It does not affect the case of musical works since a sound structure is a single object.

first clarify being made_E out of. Making_E out of is a kind of intentional creative activity, and we can characterize it as follows:

A makes_E *y* out of *x* if and only if there is some kind *F*, such that *y* is an *F*, and *x* becomes *y* through *A*'s acting intentionally on *x* in order that it become an *F*.

Although this will require further refinement, my basic idea for understanding being made_S out of is this:

y is made_S out of *x* iff some agent made_E *y* out of *x*.

The first refinement is that we must note an ambiguity in claims of being made_E of. Often when we claim that someone makes *y* out of *x*, *x* is something that continues to exist. When, for example, a sculptor makes a statue out of some copper, or a piece of copper, the copper or the piece of copper continues to exist in addition to the statue.¹⁸ Sometimes, however, someone can make *y* out of *x* in such a way that *x* does not survive the event of the making of *y*. In this sense, a sculptor might make a statue out of a copper kettle by melting down the kettle and using the copper that it was made_S out of. If we include cases of this second sort, then my bi-conditional will fail in the right-to-left direction, since the statue will have been made_E out a kettle but will not be made_S out of a kettle. Fortunately, in all cases in which *y* is made_E out of *x* and *x* does not survive, *x* itself is made_S out of something *w*, and it will also be true that *y* was made_E out of *w*. (If the statue is made_E out of the kettle by melting it down, the kettle will be made_S out of some copper and the statue will also be made_E out of that copper.) So, if we stipulate that we are talking only of being made_E out of in the sense in which the object out of which survives, we will not thereby fail to cover any objects that are made_E out of something in either sense.

A second necessary refinement is this. I argued in my critical remarks on the theory of qua objects that it is in the nature of such things as statues that they are able to change their matter. That means that such an object may come to be made_S out of something that it was not made_E out of. This challenges the left-to-right direction of the above bi-conditional. To account for this, I characterize a notion of replacement. That out of which, say, a statue is originally made_E may be replaced in a variety of ways that preserve the identity of the made object. Some of the original matter may be lost, and matter may be added intentionally, by an artist, a restorer, or an improver. An object may, therefore, come to be made_S out of something even if it was not made_E out of it. So, we can say:

y is made_S out of *x* if and only if some agent made_E *y* out of *x*, or some agent made_E *y* out of *w* and *x* is related to *w* by the ancestral of the replacement relation.

This new formulation, however, engenders the need for one further refinement. For when the original matter of an object is replaced, the original matter may itself continue to exist. This matter will satisfy the condition that the made object was made_E out of it,

18 Of course, many philosophers deny that there are two distinct objects in cases such as this. I will not argue the point here; I am assuming that constitution is not identity and hence, when *x* constitutes *y*, two distinct objects, *x* and *y*, can coexist in the same place at the same time. This will apply also to making *y* out of *x*.

yet it will not be true, after the replacement, that the made object is made_S out of it. This, in fact, is precisely what creates the problem in the Ship of Theseus puzzle. Accordingly, our final formulation of the conditions for being made_S out of something must be as follows:

MADE_S y is made_S out of x if and only if some agent made_E y out of x and x has not been replaced, or some agent made_E y out of w , and x is related by the ancestral of replacement to w .

Given this, I now assert:

CONSTITUTION x constitutes y if y is made_S out of x .

This gives a sufficient condition for constitution. It is a further claim to say that being made out of is a necessary condition for constitution. But we can side-step the issue here by defining a notion of artefactual constitution:

ARTEFACTUAL CONSTITUTION If y is an artefact, then x constitutes y if and only if y is made_S out of x .

Since it is agreed by Levinson, Fine, and me that musical works are brought into existence, and hence are artefacts, this is sufficient for the case at hand.¹⁹

There are two issues I would like to comment on with respect to CONSTITUTION or ARTEFACTUAL CONSTITUTION. First, they say nothing about the identity conditions of constituted objects. These must be supplied separately. I suggest here, though I will not argue for the claim, that the identity conditions for artefactually constituted objects are determined by the identities of the acts of their original making. Thus, if the very same act of making could have occurred earlier or later, a given artefact, that very thing, could have been created earlier or later. If the very same act of making could have been performed in a different way, then that very artefact could have been formed differently. If the very same act could have been performed by a different person, then that very artefact could have been created by a different person. And so on.

This naturally just defers the question of artefact identity to the question of act identity. Can one and the same act be performed in different ways, at different times, or by different people? I cannot give a full account of this here but I will state my views in summary form. One and the same act could not be performed by different people but it could be performed at different times (though not at any time or even any time consistent with its being performed by the same agent). What we need is an account of occasions.²⁰ If I come home and turn on the light, that act of turning on the light could have been performed at any time on the same occasion. But the occasion is of my coming home from work that day, intending to turn on the light on my return, and so on. So, the very same act could not be performed on a different day, at least. However, I may intend to buy someone a birthday

19 I give a much fuller treatment of constitution in a book *Actions, Artifacts, and Constitution* (in progress). I also discuss there whether being made out of is necessary for constitution and not just sufficient.

20 I have none to offer here, though one is clearly a desideratum in the philosophy of action in general.

present and that very act of buying might occur at any time in the run up to their birthday, perhaps even any time in the previous year. Moreover, the modality of a given act can be different. One and the same act of turning on the light might be performed with my middle finger or my index finger, or my nose. Finally, one and the same act may employ different objects. Thus, one and the same act of statue making may use different batches of clay, or even copper, provided my intentions do not rule that out. Since the identity of the statue depends on the identity of the act of its making, this means one and the same statue might be made out of different batches of clay, or even out of copper.

A second issue concerns creation and the existence of an object in addition to that out of which a given thing is made. As noted above, some philosophers deny that there is a statue over and above the clay out of which it is made. Like Fine (and implicitly Levinson), I disagree.²¹ But there is a question of how there comes to be a further object. How, by moulding some clay for example, can I bring into existence a further object, a statue? And here I do differ from Fine and, I think, Levinson. (I am here returning to the issue I deferred in my discussion of the second problem for the theory of qua objects.) Suppose that the statue, the object made out of the clay, is a qua object, as Fine thinks it is. (We will suppose it does not change its underlying clay.) Fine says that

to create a qua object *x* qua *P* is to bring it about (in a certain way) that *x* has *P*. This account applies to ordinary acts of creation and, when applied to stories [or pieces of music], gives the correct result that they are created only when their abstract content is appropriately indicated.²²

But this account is, I think, wrong, albeit subtly so. When an agent makes a statue out of some clay, she creates an object which is, in its essence, the product of her activity. Without her activity, no such object as the statue would exist. But Fine cannot account for this. He says that ‘one brings it about (in a certain way) that *x* has *P*’. Now in the case of the statue, what is *P*? If it is *being Goliath-shaped*, for example, then it looks as if Fine is saying that when a piece of clay comes to have the property *being Goliath-shaped* in the right way, that is, by the intentional activity of a maker, a new object, the statue, comes into existence. But on this reading, what the statue is is just the clay qua Goliath-shaped. And that is certainly not essentially an object produced by intentional activity. So being rightly made may be necessary for a certain object to be a statue, but it is not necessary for the existence of that object. If, on the other hand, *P* is supposed to be *being Goliath-shaped as a result of the right kind of intentional activity*, then first, Fine’s parenthesis ‘in a certain way’ seems redundant. But secondly, we still are faced with the problem that the clay’s being that out of which the statue is made is merely its possession of a property. True, the property is *being Goliath-shaped as a result of the right kind of intentional activity*, but the statue will be made out of that clay merely by the clay’s having a property. The clay’s formal relation to the statue is the same as Socrates’ to Socrates qua sitting. One could as well say, on

21 And I should stress that nothing in this paragraph or the next is intended to make a case for distinctness of the statue from the clay. I take this for granted here.

22 Fine, ‘The Problem of Non-Existents’, p. 131.

Fine's account, that one creates Socrates qua sitting by bringing it about that Socrates sits. But clearly, whatever else one wants to say, this is not analogous to making a statue out of some clay.²³

Perhaps one could say the following. On Fine's account, a new (qua) object comes into being *whenever* an object acquires a property, however it acquires that property. We may classify some of these new objects as statues only when the property is of a certain kind, a kind that includes something about intentional activity of a maker. But what the maker's creative activity accomplishes is that a newly existent qua object is a statue, not that there is a newly existent object period. If the clay came to have a certain shape accidentally, the resulting object would not be a statue, but there would be a new object nonetheless, distinct from the clay, namely the clay qua Goliath-shaped. On my view, however, the maker's activity is not essential merely to some new object's being a statue, but to there being a new object at all. And the reason the new object exists at all is the very same as the reason why it is a statue, namely an artist has worked on a piece of clay with certain intentions. Those conditions are sufficient for the existence of a statue, a new object distinct from the underlying clay. On my view, new objects of the same ontological kind as statues do not come into existence whenever an object acquires a property (though qua objects, if they exist, do come into existence this way). Rather, something special has to happen in which the artist makes something. And the difficulty for the artist, as it were, is not merely the difficulty of getting the matter to satisfy the right property, even though if the artist failed, another equally real qua object (only not a statue) would come into existence. If the artist fails, or fails to act at all, nothing of the same ontological kind as a statue is created when the clay comes to have some new shape.

V

Now let us see how this applies to musical works. According to me, a musical work is constituted by a sound structure. That means it is made_S out of a sound structure, which in turn means that it was made_E out of that sound structure by a composer. And that requires that there is some kind F, such that the musical work is an F, and the sound structure becomes the work through the composer's acting intentionally on it in order that it become an F. Let us unpack this a little. It will emerge that one reason why a constitution theory of musical works may easily be overlooked is because of the slightly strange way in which these conditions are satisfied.

The action of the composer with respect to the sound structure is of a rather different character from that involved in sculpting. But when I described what Levinson takes the creative act to involve in section II, I deliberately used language that resembles the language one might use to describe a sculptor 'finding' the statue in the block of marble. The labour, in the case of composition, is not transformative of the object, the sound structure, out of

23 This is not to say that one could not make a 'living statue' out of Socrates qua sitting, of course. Indeed, Socrates' own relative Daedalus was reputed by Socrates to have made statues that came to life.

which the work is made.²⁴ But in some looser sense, it is work on that sound structure. It is the work of locating it within the saturated sound space and distinguishing it from other sound structures. It is thus, as it were, being hewn out of the sound space much as a statue might be said to be hewn out of the marble.²⁵ Alternatively, one may think of the composer's work as one does of the work of an artist using found objects. This is generally recognized as a kind of limiting case of producing a sculpture. The work does not modify the object but involves its selection and display. As with the case of a musical work, it may in fact be very onerous for an artist to find the right object to realize her intentions.

Owing to the nature of the work involved in creating a musical composition, the nature of the governing intention, and hence the kind F that plays a role in the condition for someone's making_E something out of something, may also appear a limiting case. With an ordinary case of sculpture, the kind the sculptor aims at is presumably something like 'a statue of such and such a shape'. This kind can be decomposed into 'a statue' and 'something of such and such a shape'. The work by virtue of which a piece of clay becomes a statue of such and such a shape is usually transformative; hence, the material, the piece of clay, does not usually start as either a statue or something of such and such a shape. It becomes a statue as it acquires the relevant shape (under the hand of the artist). In the case of the found object, however, although it is not a sculpture prior to being worked on, it does have the properties that specify what kind of a sculpture the artist is aiming for. So, the artist's intentions will be to produce a sculpture of kind G by working on (i.e. selecting) an object of kind G. This is essentially the situation with the composer. She intends to compose a composition of kind G, where G is some more or less determinate kind of sound structure. And she does this by working on (in the minimal sense noted) a sound structure of kind G. In engaging in this work, she brings into existence a new object, in addition to the sound structure of kind G, namely a musical work of kind G. This conceptualization of what happens explains those intuitions appealed to by Platonists such as Kivy that are supposed to show that we do think of composition as discovery rather than creation. In my view, discovery, in this case, is creation, since it constitutes the labour that brings into existence a new object, the musical work, made out of or constituted by what is discovered. Let us now examine some of the consequences of this view.

Constituted objects such as statues are not tied to their underlying matter in virtue of their identity. I have indicated that the issue of replacement of underlying matter may be

24 Stefano Predelli, 'Against Musical Platonism', *British Journal of Aesthetics*, vol. 35 (1995), pp. 338–350 and Julian Dodd, 'Musical Works as Eternal Types,' *British Journal of Aesthetics*, vol. 40 (2000), pp. 424–440 argue that abstract objects (at least *prima facie*) cannot be created at all since creation involves causal interaction and abstracta cannot enter into causal relations. I am with Levinson and Fine in rejecting this view, though since my concern has been with the details of Levinson's and Fine's view, I have not argued the point here. Suffice it to say that as long as one can apprehend abstracta, one can bestow and remove relational properties on and from them. One need not transform them to use them and make something out of them.

25 And indeed, one may even question how one is interacting causally with the marble that is left at the end of the process, the marble that constitutes the statue. Have we interacted with it in any greater sense than that in which we interact with a sound structure? Or perhaps a better example is the following. Imagine a grid of dots. An artist uses white-out to cover some of them, making an image out of the uncovered ones. The artist has not transformed or been in causal interaction with the dots out of which she has now made the image.

helpful in understanding the process of revision of a work. However, as we saw, there are other reasons for distinguishing the statue and the clay beyond the possibility of change of matter. There are modal differences too, and these do apply in the case of musical works. One and the same musical composition could have been composed at different times since one and the same act of composition might have occurred at different times. This is not to say that a work could have been composed at any time. Levinson is quite right in pointing out how important historical context is in determining the aesthetic properties of a work. Even within the life of a composer, there are restrictions on how much latitude there is in the time of composition. If Beethoven had written works with the same sound structures as his late quartets early on in his career, the occasion of their composition would almost certainly have been different. (I say “almost certainly” because I have not supplied a theory of occasions that could confirm this.) In that case, it would not have been a case of his having written those very works earlier, but rather a case of his having written different works (much more daring even than the ones he did compose) with the same sound structures. In just the same way, a sculptor might make very different statues with the same clay.

There is no problem in supposing that two artefacts are made out of the same matter. Just that happens in the Ship of Theseus case. The boards out of which the original ship is made are gradually removed. During the process, on my account, the ship remains the same ship. Its matter is being replaced. When we have all the boards out of the ship, we can, in a new act of creation, make what will be a new ship (new because the act of its making is distinct from the act of making of the original ship). Yet it will be made out of the same matter. In this case, of course, the two artefacts made of the same matter must exist at different times. Where the matter is abstract, no such restriction need apply. Therefore two composers may actually compose different works out of the same structure and a composer could have composed a different work using the same structure had she used it on a different occasion.

So much, I think, Fine and Levinson would agree with. But just as the same sound structure might constitute different works, if used on different occasions, so one and the same work might employ different sound structures. Again, not anything goes. Beethoven’s ‘Grosse Fuge’ could not have used the sound structure of ‘Twinkle Twinkle Little Star’. Why not? Because the occasion of composition of the ‘Grosse Fuge’ is partly determined by Beethoven’s compositional intentions, and those intentions were, I imagine, inconsistent with using as matter any sound structure resembling that of ‘Twinkle Twinkle Little Star’. But his compositional intentions may not have ruled out certain differences in the work. The same piece could have modulated to a different key at a certain point, or developed a theme in a somewhat different way. It would still have been the same piece of music, because it was the result of the same act of composition.²⁶

The theory that a musical work is made out of a sound structure and that its identity is determined by the identity of the act of its composition preserves all the virtues of the Levinson/Fine theory and avoids at least some of its problems. Like Platonism, and like the

26 Clearly a more carefully worked out conception of intentions, and in particular different levels of intention in guiding a complex work of creation, is needed.

Levinson/Fine theory, my account gives a prominent role to a sound structure and hence is able to preserve the virtues of the type/token distinction in explaining the relation of performances to work. Like the Levinson/Fine theory, my account allows for genuine creation, or bringing into existence, of musical works and makes the composer's identity essential to the identity of the work. But, unlike the Levinson/Fine theory, I hope that my approach gives a better understanding of what constitution is and hence of the relation between the work and the sound structure that constitutes it, or out of which it is made. And I allow, as I think a theory of musical works should, that one and the same composition might have been composed at different times (though not at any time, or even any time within the composer's adult life) and might have sounded different (though within limits set by the composer's compositional intentions). Finally, my theory preserves a high degree of uniformity in its treatment of musical works (and by extension other things of a similar kind such as literary works) and concrete art works such as sculptures and paintings.²⁷

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