

THE TRIAL OF SOCRATES

- Transcript -

May 12, 2011

Ceremonial Courtroom
Daniel Patrick Moynihan
United States Courthouse
Southern District of New York

[00:00:00]

[BACKGROUND NOISE/CONVERSATION]

[00:03:45]

DEPUTY: All rise. People's Court of Athens is now in session. The Honorable Chief Judge Dennis Jacobs, United States Court of Appeals for the Second Circuit, presiding. The Honorable Carol Amon, Chief Judge, United States District Court, Eastern District of New York; The Honorable Loretta A. Preska, Chief Judge, United States District Court of the Southern District of New York.

[00:04:07]

JUDGE DENNIS JACOBS: Please be seated. Welcome to Athens, of the King Archon 399 B.C. The case on calendar is the indictment of Socrates on behalf of the City of Athens. The indictment has been brought by Meletus the poet and by Anytus, a tanner. Indictments may be brought and prosecuted by private citizens so long as the offense touches upon the interest of the city.

[00:04:46]

The indictment here is for offenses against public morality -- first, denying the gods recognized by the state and introducing, instead of them, new, strange divinities; and second, corrupting the young. The citizens who bring a charge get to define it. In particular it is alleged that Socrates has taught against certain institutions of the state, that among his associates were Critias and Alcibiades. And if that doesn't ring a bell, they were leaders of the oligarchical party; that he taught the young to disobey their parents and superiors and to follow him; and that he had the habit of quoting the great poets to attack democracy and morals.

[00:05:38]

In this trial, we will endeavor to maintain historical accuracy. Among other things, that means there is no presumption of innocence, no specified burden of proof, no standard of proof beyond a reasonable doubt, and we can forget

about the speedy trial clock. In this court of Athens, the role of judge and jury is merged. Ordinarily we would have 500 jurors, a bare majority of whom would be required to convict. That large number eliminated the risk of jury corruption. But since we don't have that worry today, the verdict will be rendered by the three-judge panel, and afterward spectators and jurors in the box will vote on whether they agree with the verdict, with the result to be announced later. That vote of hundreds is on the whole of process more true to historical practice.

[00:06:37]

Since you will all vote, I will tell you the Athenian jury oath. It is, "I will judge according to the laws and decrees of Athens, and I will decide matters about which there are no laws by the most just opinion." In short, the jury does law, facts and mixed questions.

[00:07:00]

Athenian procedure in this era bifurcated guilt and penalty, with the same jury voting separately. One wrinkle: in a penalty phase, the jury is limited to choose only between the penalty proposed by the prosecution or the penalty proposed by the defendant. Ordinarily, penalties could include exile, death or fines. Trials last one day.

[00:07:24]

A word on this moment in Athenian history. The shocks to the system administered by recent events form a useful background and subtext for the trial, and of this we will hear much more later. The apogee of Athenian culture and politics, the Age of Pericles, arrived less than half a century earlier. An Athenian Empire, the Delian Confederacy, was near its fullest extent and was well run. The city, with its great navy and impregnable walls, kept enemies at bay, and chief among them was Sparta, with its great land armies. The commerce of Athens was thriving, its culture ascendant, its architecture matchless, and its democratic government solvent.

[00:08:16]

But the quarter century of the Peloponnesian War ended in 404 B.C. with Athens defeated and Sparta on top. Athens remained wealthy, culturally creative and self-governing, but its colonies were lost, its wall dismantled, its fleet, all but 12 ships, given over to the victorious power. Athens was impaired in its government, as well, having been wracked by several despotic intervals. The oligarchs of the Four Hundred ruled in 411 B.C., and the Thirty Tyrants were imposed by Sparta for eight months in 405. Both these oligarchies were led by students of Socrates.

[00:09:02]

We will hear distinguished counsel on both sides. As they speak, I expect that they will walk the well of the courtroom, talking to all of you as well as the judges, as befits an occasion when traditionally there would be 500 jurors. Each will address the court for ten to 15 minutes, followed by any questions from the court. There will be no rebuttal. To begin prosecution summations, we will hear Anthony Papadimitriou.

[00:09:40]

ANTHONY PAPADIMITRIOU, ESQ.: May it please the court, the accusation against Socrates which is on the record, Your Honors, is what you have said, except that I would like a little bit to emphasize some bits of it. The accusation on the record is the only accusation on which you need to be concerned. There is no other accusation. What is it? It is a charge of impiety. The first accusation... [NOISE] the actual accusation on the record is that Socrates does not acknowledge -- *nomeizin* is the Greek word -- the gods of the city. *Nomeizin* means respecting. It is a different word from believing. And he is accused not of not believing in any gods or of not believing in the established religion of his time. He is accused of not respecting the tutelary gods of his own city.

[00:10:56]

Who are these gods? They are Peitho, persuasion, an eminently democratic goddess; Zeus Volaris, Jupiter of the Parliament; Zeus Agoraios, Jupiter of the Agora, of the marketplace, where the people assembled; Demos, the deification of the popular assembly. There is a secondary charge of impiety. He is accused of bringing to the city new and unknown daimonia. Daimonia is the same word as in English, demons. They are lesser divinities, something between a god and a mortal.

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So, were the Athenians, in some kind of religious frenzy, in 399 or thereabouts? The answer is no. We have several instances of atheists who openly acknowledged and professed their lack of religion -- Anaxagoras, Protagoras and others -- who preached freely in the city. Euripedes and Aristophanes, a well-known comedian, ridiculed the gods openly in the theater. Five new cults have been introduced in Athens in the 5th century, including the cults of Pan, the satyr god; Asclepius, the god of medicine; Bendis, a Thracian goddess; also the Orphean and Pythagorean creeds that were introduced. No heads rolled.

[00:12:40]

The second accusation -- Sorry. That brings a question of what is Socrates' religion? Well, we have some indication. The gods in Plato's *Dialogues* are completely absent. Socrates, in

his *Apology*, invokes some unnamed and absent god. In *The Clouds* of Aristophanes, it is said that Socrates does not believe in the mere existence of Jupiter, and Aristophanes is a conservative politically and a close friend of Socrates, and he appears in several of the Platonic *Dialogues*, so he's a good witness. He knows of it as he's a friend of Socrates. He says that Socrates does not believe in Jupiter.

[00:13:33]

Socrates has performed certain religious rites, but this is done in a way of participating in traditional folk festivals, sometimes also in jest. The fact is that Socrates was widely known to the Athenian public to be holding these beliefs. For 30 years he remains unmolested.

[00:13:57]

The second, more serious accusation against Socrates is that he corrupts the young men. The word used, again, is *diaphtherein*. It means, translated, corrupting, as you said, Your Honor. But a more proper and correct and equally valid translation would be leading astray. Again, Socrates was teaching for 30 years without anybody objecting.

[00:14:26]

So what happened in 399? Some very short remarks adding to your historical remarks. This was a period of extreme turmoil. Athens was at war with Sparta since 412. In 413, the Athenians suffered a severe defeat in Italy. The leader of that expedition was Alcibiades, a rich aristocrat and a beloved student, disciple of Socrates. They even spent a night together under the same blanket without anything happening, but that shows how close they were. So Alcibiades, losing the expedition there in South Italy, in Syracuse, becomes a traitor and flees to Sparta. Imagine General Petraeus leaving his post and going to the enemy. That's an analogy.

[00:15:24]

In 404, the Athenians suffer another major defeat in another battle. There was either treason or high incompetence. The Spartans occupy Athens and establish a garrison, and they establish the Tyranny of the Thirty, overthrowing democracy. These Tyrants -- that's their name in history, Tyrants -- they are led by Critias and Charmides, two disciples of Socrates who even, each one of them has a Socratic dialogue named after him. They are also close relatives -- uncle and cousin -- of Plato.

[00:16:08]

The Tyrants last for eight months. They kill 1,500 Athenians. Knowing they will lose power, they establish themselves in Eleusis, a nearby city, killing 300 democrats. They are overthrown after eight months, but the democratic party

-- please note that -- vote a general amnesty showing great restraint and high civic spirit.

[00:16:33]

But in 401, the oligarchic faction established in Eleusis attempts a revolt against the democrats. The democrats are upset because it goes against their amnesty, and they're fearful of a return of the Tyrants and of Sparta. This is attested in Xenophon's *Hellenica*, which is a historical record of that period. Xenophon, I remind you, is also a friend and disciple of Socrates, so unimpeachable testimony.

[00:17:02]

So it is against this background that Socrates comes to trial. The actual accusation, therefore, I submit against him is that he does not show respect to the tutelary democratic gods of his city, of the Polis, as an act of political dis-allegiance. He leads astray the young men of Athens by making them supporters of overthrowing the democratic constitution of Athens by undemocratic means, and in furtherance of that, by making them supporters, lovers of Sparta, the enemy. Socrates, in fact, is accused of being a moral instigator of treason, a treason which has been perpetrated by three of his students -- Alcibiades, who fled to Sparta, Critias and Charmides, who became Tyrants and killed 1,500 Athenians in eight months. Despite the amnesty, Socrates continued supporting these causes. Free Athenians, in light of the revival of the Tyrannical party, which is led by this person, Socrates, decided to take action on behalf of the Polis and bring this accusation which is in front of you today.

[00:18:25]

Unfortunately, we do not have any record whatsoever of what the arguments were and what was the evidence adduced by the accusers of Socrates. We have only two direct sources, Plato and Xenophon. Only Plato was present at the trial, and funnily enough, Plato, who has written everything in a dialogue form, in that single case prefers to have only Socrates speaking. We have no word about what Meletus was saying, or more importantly, Anytus was saying. Nothing whatsoever. This record has been suppressed by Plato.

[00:19:09]

However, a careful reading of Plato's *Apology*, which is the most complete, and which professes to be accurate, shows that Socrates fails to address the real accusation against him. So what is in the *Apology*? Socrates spends a lot of time trying to explain that he became the gadfly of the Athenians and ridiculed the democratic leaders openly in the marketplace because -- listen to that -- he was trying to disprove the Oracle of Delphi, which had said that he was the wisest man of Athens, or

even of Greece. One strains to believe that Oracle of Apollo said that a notorious unbeliever, natural philosopher and sophist was the wisest man of Athens. It is also very difficult to accept that as an act of piety Socrates attempted to prove the Oracle was wrong.

[00:20:08]

Socrates spent a lot of time in spurious argument that he was not teaching students, because they followed him voluntarily and did not pay him a thing. However, he acknowledges he had followers, and we know from Aristophanes that he was receiving gifts. He does not refute the accusation of not respecting the tutelary gods of democracy. No word about that in the *Apology*.

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It can be shown by a more lengthy analysis of the record, and in particular Plato's *Apology*, that Socrates failed to stop a crime being committed against the Polis by the Thirty Tyrants led by his students by overthrowing democracy. He failed, by his own admission, to stop a specific crime being committed, the killing of Leon of Salamis. It is in the *Apology*. He preferred to stay at home rather than attempting to convince the Tyrants or to warn the victim. That is from a paragon of virtue.

[00:21:09]

Socrates failed to respond to the accusation that he did not respect the democratic constitution of his city. I will now quote to you a passage from the *Apology*. Socrates says, quote, "I want to make this prophecy to those who convicted me, that as soon as I am dead, vengeance will come to those" -- Sorry. "Vengeance will come upon you, and it will be much harsher, by Zeus than the vengeance you take in killing me. There will be more people to test you whom I now restrain, though you did not notice my doing so, and they will be much harsher on you, since they are younger, and you will resent it more." End of quote. Hardly the words of a freethinking philosopher, but the words of a real political leader.

[00:22:07]

Your Honors, members of the Assembly, Socrates had a fair trial in front of a jury of his peers. They found him guilty as charged. On the facts of the case, he was found guilty. The evidence against Socrates has been suppressed. The shreds we have lead us to believe that he was rightly convicted. I know that Socrates has reached the status of a pre-Christian saint, a martyr of free speech, a victim of mob rule. He was no such thing. Let us not double-guess the Athenians. They gave us free speech, equal rights, philosophy, including Socrates, whom I respect and I respect his philosophy, drama, comedy, poetry, the Parthenon. They knew the facts. They convicted Socrates.

I suggest it is appropriate that this court, this Assembly reaches a verdict of guilty as charged.

[00:23:08]

JUDGE DENNIS JACOBS: Well, let me ask you this, Counsel. You said that Socrates is guilty of speaking against democracy, but my understanding is that his chief critique of our democracy here in Athens is that he opposed the selection of officials by lot.

ANTHONY PAPADIMITRIOU, ESQ.: Yes.

[00:23:34]

JUDGE DENNIS JACOBS: Now, I mean, it seems to me that's the best way to do it. But why is an attack on selection of officers by lot an attack on democracy itself? I mean, you can have a democracy without selecting officers by lot. You could vote for them. It's not as good by selecting by lot, but you could.

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ANTHONY PAPADIMITRIOU, ESQ.: Absolutely you could. Socrates had a wider philosophy, a wider belief. In the first place, what you say is correct. He even addresses the jury on his trial as men of Athens, and he is insulting them. It's like, say, I would address you, "Mr. Jacobs, Ms. Amon, Ms. Preska," rather than addressing you as Your Honors. So he's insulting the jury. He says, "You are not a jury. You are just men of Athens. Why? Because I do not recognize your ability to judge me. You are ignorant, you are a rabble, and you know nothing." And that's what -- I can't -- I don't have enough time to give you all the details. It's, of course, in the *Apology* and several other things, I know. But my co-counsel is going to touch upon that.

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He believed that democracy was wrong in general. He believed that it was -- In order to rule the state you needed virtue. In order to have virtue, you needed knowledge. In order to have knowledge, you needed absolute definitions. In order to be able to do that, you needed to be specifically taught. None of his jurors, none of the people of Athens, as he was very fond of saying, was able to do that. He even said that he was -- they knew nothing, and the only difference between him and them was that he knew that he didn't know nothing. And the rest was completely ignorant. So he dismissed all the rabble of the Assembly, completely.

[00:25:38]

JUDGE LORETTA A. PRESKA: Counsel, following on Chief Judge Jacobs' question, in the Golden Age of Athens under Pericles, which you referred to in your talk, Athens embraced the idea of free speech as one of its most important traditions. Isn't this

prosecution of Socrates for his opinions, as you just answered Judge Jacobs, isn't that contrary to Athens' firmly held democratic principles? Wouldn't the antidote to an opinion one does not agree with be speaking in opinions one does? That is, an antidote of bad speech, more speech?

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ANTHONY PAPADIMITRIOU, ESQ.: Yes, well, first of all, Socrates could have taken that argument himself. He could have said to the Athenians, "You know what you are now accusing me of what is your most cherished victory: free speech, free thinking." He doesn't take this argument. Why? Because he does not believe in it himself. He would be contradicting himself if he were to take this argument.

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And the second point I wish to say is that actually Socrates did not accept free speech. He said that the only people fit to rule the state, to be judges, to take any political office were those who had virtue, therefore those who have knowledge, therefore, nobody else except his students and his pupils.

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And my third point, to be brief, because time is passing, is that the charges against him are really not against what he was teaching. Plato continued teaching Socratic beliefs for 40 years after the trial without anybody objecting. Why? Because he was just teaching. Socrates took a political position. His trial is a trial, really, I submit, not for his thoughts but for his actions or omissions.

[00:27:56]

JUDGE CAROL BAGLEY AMON: Let me turn to another issue, which is the charge of impiety. And in the record, we have Socrates going and making sacrifices to the deities, and all that you point to in terms of some evidence of his impiety is a statement in a comedy, a play about the fact that he doesn't believe in Jupiter. What real evidence is there in the record that he didn't believe in the gods of Athens?

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ANTHONY PAPADIMITRIOU, ESQ.: That charge would have been very easy to dismiss if he came openly to the Assembly and said, "Well, I believe in the Olympian gods." In the *Apology*, he never says that. And in addition, whenever he invokes a god -- like, for example, at the very end of it, of his *Apology*, he says -- he mentions god, but in what sense? At the very end. "Which of us -- which of" -- Sorry. "By now, it's time to leave -- I to die, and you to live. Which of us goes to the better thing, however, is unclear to everyone except the gods."

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JUDGE CAROL BAGLEY AMON: Well, that could have been one of the gods --

ANTHONY PAPADIMITRIOU, ESQ.: No, no.

JUDGE CAROL BAGLEY AMON: -- of Athens, correct?

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ANTHONY PAPADIMITRIOU, ESQ.: He could have said, "Zeus Jupiter, the Olympian gods, or whatever." But --

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JUDGE CAROL BAGLEY AMON: So he had to prove his innocence in this proceeding? Is that your view, that Meletus had no burden here, that Socrates had to come before this group, and he was required to prove that he was innocent? Is that --

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ANTHONY PAPADIMITRIOU, ESQ.: He was required to prove that he was innocent, but there was no presumption of guilt. This concept was in existence at the time. What -- The reason why I pointed to Aristophanes is because Aristophanes reflects the widely held belief of the people of Athens. If Aristophanes is making fun of Socrates by saying something in the theater of 15,000 people, 5,000 people, that -- the fact he alleges must be known to everybody. Otherwise, the laugh would not come if it is a fact which is known by only a very few. So it's very well known to everybody that Socrates does not believe in the gods.

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But again, may I point, Your Honor, that the real charge is that he does not believe in the tutelary gods of democracy. That's a political act. What was required from him was not to sacrifice to Zeus or Apollo or Jupiter or whoever. It was to acknowledge and respect the gods, the personification -- sorry, the deification of democracy itself. That's the accusation, in my opinion.

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JUDGE CAROL BAGLEY AMON: And is it also your position that the account that Apollo said that Socrates was the wisest man in Athens, that that was in fact a lie made up by Socrates? Is that your position?

[00:31:04]

ANTHONY PAPADIMITRIOU, ESQ.: Yes. I fail to be convinced by -- Delphic Oracle, who's -- would say that Socrates is the wisest man --

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JUDGE CAROL BAGLEY AMON: So you think the Oracle lied? And I think there was another individual there at the ...

[[CROSSTALK]

[00:31:20]

ANTHONY PAPADIMITRIOU, ESQ.: I think that Socrates is making up the story, as he makes up a lot of other --

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JUDGE CAROL BAGLEY AMON: Well, did Socrates lie, or did the Oracle lie, or did everyone lie?

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ANTHONY PAPADIMITRIOU, ESQ.: No, no, no. Socrates -- I won't say he lied. I say he made up this story because it suited him. He made up a lot of other stories. He says -- In other Socratic dialogues, he says that the personification of the laws came into his dream and told him this and that. He says in other places that the personification of some other idea came to him and said to him things. He made these things up to enliven his speech. It's like a parable by Jesus Christ, nothing more than that.

[00:32:08]

JUDGE DENNIS JACOBS: Okay, thank you. This time we'll hear Mr. Bogdanos.

[00:32:18]

COL. MATTHEW BOGDANOS: "Fix your eyes, Athenians, upon the greatness of Athens," our beloved Pericles once advised. And when you have done so, reflect that her greatness has been acquired by men who knew their duty and performed it, men who in the hour of conflict did not run away, but stood fast and fought for this, our city. Today their sacrifice is your duty. You need not step back or recoil from your sworn duty. Your oaths and consciences will not lead you astray, but will guide you in this, our hour of conflict, the hour you are asked to save our city once more.

[00:33:09]

And to see your duty more clearly today, ask yourselves, "Why is Athens considered the school of Hellas? Why are we the school of all of Greece? Why are we the wonder of this, and shall be of all succeeding ages? Why?" It is not, I submit, the praises of Homer, nor is it the wit of Aristophanes, nor yet the pathos of Aeschylus and Sophocles. It is not even the bravery at Marathon against the long-haired Persians. It is none of these. It is because we have planted an eternal memorial called democracy, where the administration of our city is in the hands of the many, not just the hands of the few or of the one, and this, our form of government, does not enter into rivalry with those of other cities. We do not copy our neighbors. We are examples to them. They copy us.

[00:34:21]

But our democracy is a seedling still, its tender shoots still vulnerable if stepped on. How can I say this with such assurance, with such certainty? Surely I am overreaching. Except that I am not. Twelve years ago this tender democracy was overthrown by the Four Hundred. Five years ago, our

democracy was overthrown yet again by the Thirty. Two years ago, the insurrection at Eleusis to overthrow, with the intention to overthrow our democracy. And whether you call them Tyrants or Oligarchs or even a Republic, the result is the same -- death to people and the end of democracy. And in each overthrow, we have each of us here lost friends and family. We show the scars from the battles. Friends and family members who chose to resist and suffer rather than fly, such was their end, men worthy of Athens, and their glory survives, graven not on stone, but in the hearts of all Athenians and in the lifeblood of democracy.

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So let no demagogue tell you this trial is about anything less than the survival of democracy. This is why we are here. And when you see this, you understand that the issue before us all is precise and easily stated. Has the defendant shown impiety towards the gods, particularly the gods of democracy and the city? And has he corrupted the youth by leading them first to question, and then oppose democracy? It's just that simple.

[00:36:19]

But in order to keep it that simple, you must set aside all manner of irrelevancies that have nothing to do with these questions. Let no golden-tongued orators with honey-sweet words tell you this trial is about anything else other than Socrates' opposition to democracy. Let no fire-breathing wizard, no matter how brilliant, experienced and talented he is blind you with magical words into thinking this is about the freedom to speak. Let no crowd-pleasing voice, no matter how charming, elegant and sartorially resplendent he may be, tell you that this is the -- Socrates is here because of words.

[00:37:13]

You, sir, using only words, tell the authorities that your neighbor is a thief, that you saw him rob the temple treasury with your own eyes, and let us see the harm your words have done. You, sir, shout "fire" in a crowded wooden gymnasium, and let us see what your words -- the harm you will do. Let us three here conspire to rob another. Using only words, I will plan it all. Using only words, you, sir, talk the victim into walking down the path that we choose for the ambush, and you, sir, tell the authorities later on we were with you all night long, and let us see what words can do.

[00:37:58]

You, sir. Madam, you tell this man that his wife is unfaithful. You, sir, tell her that her children are in danger, and let us see what words can do. Let Four Hundred of us use our words to overthrow democracy, and let the 30 best of us, the bloodiest of us, use our words to become Tyrants and plan to

kill as many 1,500 Athenian souls who would oppose us. These are all -- words, all.

[00:38:32]

Some may say we are overreaching, and they would urge us to moderation. Urge a man whose house is on fire to moderately give the alarm. Urge a mother whose newborn baby is deathly ill to moderately seek medical care. But urge me not to moderation when the words of the defendant threaten our democracy.

[00:39:01]

So now let us turn to what relevant. What are his impious views towards democracy, and hence towards the Nomos, the customs, the gods of the city that he taught our youth. You will all recall Charmides, chief henchman of the death squad of the Thirty. He had earlier in his youth decided against politics for fear of speaking before you, before the Assembly. The defendant mocked him for being afraid to speak in front of you, and he said, his words, "Why would you be afraid to speak in front of dunces and fools?" But he continued, "Whom are you shy of? The wool cleaners or the shoemakers or the carpenters or the smiths or the farmers or the merchants or the dealers in the agora whose business it is to buy cheap and sell dear? For these are the people who go to make up the Assembly." Can you not feel the contempt in his words for the Assembly and for democracy.

[00:40:03]

And another time, he told yet another follower, "When you are called before the Assembly, it is if you have been brought before a jury of children." You will all recall Xenophon, a general who left to fight for the Persians. He told -- the defendant told Xenophon that the duty of a leader is to be the shepherd of people -- in his words, "to ensure the sheep are fed and kept fat" -- fatted, that is, at least until market.

[00:40:34]

We have learned through the blood of our forebears that the ultimate purpose of the ruler as shepherd is to shear us sheep for our wool and sell us for our meat. It is why we Athenians have chosen over every form of government the rule of the many over the rule of the few, or even of the one. We are not sheep to be sheared or served at table. We believe every citizen, by virtue of being a citizen, is qualified for public service, no matter his occupation, not as a privilege, but as a matter of duty.

[00:41:09]

We believe that whether you're ruler or ruled, you must be guided always by the rule of law. Again, Pericles told us, "We are prevented from doing wrong only by respect for law." But defendant would replace the duty to the law with a duty to the

rule of one. As he told Xenophon, quote, "It is the business of the ruler to give orders and of the ruled to obey." Well, then, who then, is this ruler? Who shall it be? Not, the defendant tells us, one chosen by the multitude, because we are not qualified to make that choice. As he complained to Protagoras not far from here, "We use shipbuilders to build ships. We use carpenters to build houses. But when we want to discuss matters of government, we stoop to use the untrained masses."

[00:42:00]

So who then will lead? Pericles? The great Pericles who gave us our Golden Age? Oh, no. According to the defendant, Pericles was a failure because he promoted the rule of the many and turned us Athenians into, and I quote, "An idle, cowardly, talkative mob." Anyone else? Is there anyone else qualified to lead? Well, according to the defendant, we know of nobody who has shown himself a good statesman in this city of ours. Really, Socrates? No one? Are you sure? Okay, well, maybe there's one, in his own words, and I quote, "I, Socrates, am one of few, not to say the only one in Athens, who attempts the true art of statesmanship, and the only man of the present time who manages affairs of state." We call that hubris of the highest order.

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So if he is the most qualified, surely you would expect him to participate in city affairs, to speak and offer advice in the Assembly. After all, Pericles told his, "He who takes no part in the affairs of the city is good for nothing." Yet by his own admission, he took no part in attempting to stop any of these overthrows. So rather than lead or rule himself, he has others do his bidding, inculcating others when young with his scorn for the rule of the many, infecting them with his contempt for democracy.

[00:43:31]

Let us consider his students and followers, for by the tree -- by the fruit the tree shall be known. Let us start with his favorite, Alcibiades. 14 years ago that traitor fought for Sparta. 12 years ago he led the overthrow by the Four Hundred of our democracy using Persian ships and Persian money, replacing our freedom with Four Hundred chosen, as his teacher had taught him, by breeding, education and status. Let us consider also two other pupils, Charmides and Critias. Both learned well at the foot of Socrates. We remember, do we not, those of us who have the scars, five years ago Critias was the most violent and murderous of the Thirty Tyrants. We remember also that Charmides did his bloody bidding as his most loyal lieutenant, loyal to the Tyrants, not to the city.

[00:44:21]

Tell me one thing all three have in common. What is the one thing all three have in common? They have the same teacher, the same corruptor. Remember, Aristophanes, his friend, 25 years ago in *The Birds* and 18 years ago in *The Clouds* wrote about pro-Spartan, anti-democratic jackbooted thugs who walked around beating Athenian citizens with clubs. Okay, it's a comedy. What did he call them? Socratified youth. Named them after the teacher who corrupted them. The timing matters. He wrote these comedies, you saw them all up on the hill, you saw every one of them, before the overthrow of the Four Hundred, before the Tyranny of the Thirty. Obviously Aristophanes knew a lot more about his friend and his friend's teaching than we did. We found out the hard way.

[00:45:21]

So Socrates, by his own admission, has stated unequivocally that he has changed nothing. "I would not act in any other way, even if I were to die many times over." So whatever he said to corrupt those three, he is saying it still, still infecting all with his impious scorn for democracy.

[00:45:43]

Athenians, of how few of us can it be said that our deeds, when weighed in the balance, have been found equal to our fame? Of how few of us can it be said that we have benefitted the city more by our service than we have received from her protection? You have the opportunity today to do just that. I urge this court and this Assembly to find the defendant guilty, the only verdict consistent with his repeated actions, and I ask you all to consider that if you do not, years from now, growing gray under the yoke of the rule of the few in the half-light of your distant memories of democracy, what wouldn't you give to come back to this day for one more chance to save this glorious experiment, this unparalleled gift of the gods, our democracy? Time for me to stop, and soon for you to begin your sworn duty.

[00:46:50]

But before I do, allow me to leave you with the words of my grandmother, years ago. Of course, she said it in Greek. I'll translate it. Everybody wants to go to heaven, but nobody wants to die. Rephrased into our context, everybody wants justice done by some other people at some other time in some other place. It is my duty to tell you, now is the time, here is the place, and you are the people to do justice and to ensure that democracy lives another day. Thank you.

[00:47:36]

JUDGE DENNIS JACOBS: Counsel, a good part of your argument depends on the assumption that students who are taught will naturally learn. That's not the universal experience of teachers. [LAUGHTER]

[00:47:51]

COL. MATTHEW BOGDANOS: Although we -- that is certainly the case, but we know from Socrates, we don't need to rely on what is ordinarily the case. What we know from Socrates is he actually did teach them. These are among his favorite pupils. It cannot be a coincidence that the pupils that he spent the most time with are also the individuals who were most harmful to our city. He told them that democracy is not a good form of government, that it was absurd to allow individuals who are untrained to rule government, and so only trained individuals can do so. Since we know from himself, from his own reporting of the Oracle, he's the only qualified trainer -- well, we know from his own words -- anyone who acts acts on his behalf.

[00:48:48]

JUDGE DENNIS JACOBS: Well, you said that he encouraged people to fear the wool washer in charge. On the other hand, should we have the wool washer computing our taxes or ordering ships for the navy? Isn't that a frightening prospect?

[00:49:07]

COL. MATTHEW BOGDANOS: It certainly is, and it is why we Athenians have a professional navy, why we have shipbuilders building ships, but -- and why we have --

[00:49:18]

JUDGE DENNIS JACOBS: So the wool washer can naturally oversee all of this?

[00:49:20]

COL. MATTHEW BOGDANOS: It is the one area in which we differ, we Athenians differ. And the way -- the reason we do is because we believe that man is a political animal, and by nature an animal that socializes. And we believe that the more individuals who provide opinions, dialogue, discussion -- it's why we have expanded the assembly to 500 -- it makes it a better, more nuanced, more complex, more -- more far-reaching and comprehensive solution. More is better. Socrates believes one is best.

[00:50:06]

JUDGE CAROL BAGLEY AMON: Well, first of all, I fail to understand your concern about competing with golden-tongued or silver-tongued orators, but having said that, you made reference to the fact that he corrupted people such as Alcibiades and Critias, and held him responsible in a way for their acts. But I believe I am correct that after the fall of the Thirty Tyrants, there was a form of amnesty that was granted. So how can you come before us and seek to hold him accountable for corrupting them in light of that amnesty?

[00:50:46]

COL. MATTHEW BOGDANOS: Because Socrates has told us -- Well, Your Honor is correct, but the amnesty is forfeit if you do not change your behavior. And Socrates made it very clear to us earlier today that he has not changed his behavior and will not. So since he hasn't changed his behavior, then the behavior that he had engaged in earlier is the behavior he's engaging in now. So that becomes relevant evidence.

[00:51:16]

JUDGE CAROL BAGLEY AMON: Who is he corrupting now? Can you point to someone who has -- a student of his who has done anything? And you talk about 500 and the voices, the need for all these voices, but this -- you want to silence this voice, correct?

[00:51:32]

COL. MATTHEW BOGDANOS: Correct, because all freedoms have limits. He's exceeded those limits. And to answer Your Honor's question more specifically, whom is he corrupting now? We cannot afford to wait to see who the next Alcibiades is or the next Critias or the next Charmides. He's already proven, one, that he can corrupt them, and two, that he continues to do the exact same thing. We do not need to await the glint of steel in order to protect ourselves and protect our fragile democracy. He has made it abundantly clear what he thinks of democracy. And we now know that his students will take action.

[00:52:14]

JUDGE LORETTA A. PRESKA: Counsel, how can we attribute the actions of the students -- for example, the Thirty Tyrants -- to Socrates? As your co-counsel acknowledged, when the Thirty Tyrants summoned Socrates and demanded him to arrest on their behalf Leon of Salamis so that he could be executed and his assets taken, he ignored their order and stayed in his home. So how can the actions of the students be attributed to their teacher?

[00:52:44]

COL. MATTHEW BOGDANOS: He's not before the Athenians for the actions of the students. The charge is precise. He's here for corrupting the youth. The actions of the students are evidence of how he has corrupted them. It is not a coincidence that they are all his students, and indeed he makes it clear that he does not believe in democracy. So when one of his students overthrows democracy, that is by itself evidence of the corruption. He is not on trial for being part of the Thirty, although one would question if he really wanted to participate and really help the city, why instead of slinking home he didn't take the opportunity to try and convince the Tyrants to change their decision. We know years ago, 29 years ago, when the Athenian Assembly voted to wipe out Mytilini, to kill all adult

males and to enslave all women and children, one Athenian stood up against the entire Assembly and got them to change their minds and change the decision, thereby sparing the citizens, women and children of Mytilini. But Socrates didn't do that. He just went home.

[00:54:04]

But to be clear, Your Honor, he is not being charged with being a tyrant. He is not being charged with the overthrow. He's just being charged with planning it. And another proverb my grandmother gave me, the man who holds the ladder is as guilty as the thief.

[00:54:21]

JUDGE LORETTA A. PRESKA: Well, let me ask you this, Counsel. Weren't Socrates's confrontation rights violated by convicting him of corrupting youth when there was no youth in this court to testify that he had been corrupted by Socrates?

[00:54:42]

COL. MATTHEW BOGDANOS: I don't -- We do not need that kind -- Sure, that would be great, to have someone come in and say, "Yes, I'm about to overthrow the government tomorrow because of what he taught me." But Alcibiades, as the court knows, is dead. He changed sides yet again, and he went to the Persians, and then those Persian despots killed him six years ago. So we know he's dead. We know Critias is dead. So there's no -- Those individuals who followed his bidding, he has never denied that he taught them, never denied, and never denied his teachings. To his credit, he maintained it before us. Unrepentant, he continues to believe that democracy is the worst form of government, and it is for that he is here -- and, of course, that speaks not only to the corruption, but that speaks to his impiety towards the city's gods, the god of democracy and the god of persuasion, which he doesn't believe in.

[00:55:37]

JUDGE LORETTA A. PRESKA: That sounds more like it speaks to his opinions. So I ask you, Counsel, where is there evidence in the record of Socrates' intent to destroy democracy, which you charge him with, or to corrupt the youth? He did not affirmative act. He didn't force his teachings on anyone. He never had an official student or official school. And unlike the sophists, he didn't require a fee for people to listen to his lectures. He merely stood in the agora, the marketplace, or at the Lyceum, one of the academies, and spoke his mind. Where is the evidence of his intent to destroy democracy or corrupt the youth?

[00:56:24]

COL. MATTHEW BOGDANOS: Well, the evidence of his intent to do away with democracy is in his words, in every word he has

ever spoken saying that democracy should not exist, that there should be the rule of the one or of the few who are qualified.

[00:56:44]

JUDGE LORETTA A. PRESKA: How is that different from an opinion?

[00:56:48]

COL. MATTHEW BOGDANOS: It is not, but when there -- when actions follow on that opinion, and -- It would be one thing if he had one student who 12 years ago overthrew democracy, which Alcibiades did. But he didn't stop. After that -- You want a clear -- Your Honor wants a clear indication of his intent? Here it is. He saw what his student did with his teachings, his favorite student, his best student. Because he didn't get paid doesn't mean he wasn't a student, of course. One questions how Socrates -- who didn't work a day in his life, had three children and a wife -- managed to support himself without the gifts and benefices of his pupils. Putting that aside, he may not have taken strict fees. But he saw what his favorite, best pupil did, overthrew democracy 12 years ago, and then he continued teaching the exact same thing, word for word, and two more did it.

[00:57:46]

JUDGE LORETTA A. PRESKA: How many does it take, counsel? Is it one?

COL. MATTHEW BOGDANOS: To prove intent?

JUDGE LORETTA A. PRESKA: Is it three? Do we require 500? How many?

[00:57:52]

COL. MATTHEW BOGDANOS: I would say as soon as he realized that his teachings would lead to the overthrow of democracy 12 years ago, when he did it five years ago with Critias and Charmides, that was enough. And the fact that now he is continuing, in his own words, to do it, we're beyond enough.

[00:58:11]

JUDGE LORETTA A. PRESKA: And so in this country that embraced free speech under Pericles, he is no longer allowed to voice his opinion that democracy is not the best form of government?

[00:58:21]

COL. MATTHEW BOGDANOS: He is no longer allowed to subvert democracy through his words. Someone has to be the planner. Someone has to be the voice. Someone has to inculcate the people. Someone has to be the rallying point. It is he. He is, as co-counsel has indicated, the political leader, whether he likes to call himself that or not. He is the political leader of the oligarchic faction in Athens that wants to do away with democracy, and that is why he is here.

[00:58:55]

JUDGE DENNIS JACOBS: Thank you.

COL. MATTHEW BOGDANOS: I thank you.

JUDGE DENNIS JACOBS: Thank you. We have heard the prosecution. This time we'll hear from the defense. Mr. --

[00:59:01]

EDWARD WALTER HAYES, ESQ.: Well, I hope you hear from me. I'm not sure my microphone works, but I suspect it does. In any case, it doesn't -- Okay.

[00:59:07]

I'm sitting in my house. I'm having something to eat. A guy walks in, says, "Eddie, they indicted Socrates." I said, "They indicted Socrates? What for?" He says, "I'm not sure. I think it's for having a big mouth." Socrates has had a big mouth for 50 years, right? All of a sudden you want to indict him? He says, "That's not enough. They want to kill him." I said, "You're going to kill him for having a big mouth? What about my brother?" That's what we got. All right? In fact, I'll tell you the truth, my wife ain't looking to good, all right?

[00:59:38]

Well, the fact of the matter is that, what is Socrates really on trial for? And as you know, almost everybody in this room makes a living with their hands, makes a living with their back, right? And we're sitting here now in a city which has lost everything. I go down to the Amphitheater with my friend, and my friend says, "You know what? Every time I go in there I get a headache." And I said to him, I said, "I get a headache, too." For 40 years we go in there, somebody comes in and says, "I've got the answer," and they're always wrong. Why am I sitting here with nothing in my pocket? Everybody I know, their family is suffering some loss. Their kids are dead. Their sons are -- their grandchildren don't have fathers, don't have grandfathers.

[01:00:22]

Why now, all of a sudden, they want to carry on the grudges, the same kind of behavior that brought us here? We didn't get -- we didn't lose everything because of the battles we fought outside the wall. We lost everything because of the battles we fought inside the wall. You know, I have a mother, too. Right? You know what my mother always said to me? "Eddie, when you've got problems, sit in your house and don't make them worse." Right? Now, in fact my mother is -- my mother's a very smart lady. In fact, she used to say to me, "Eddie, you're a problem, right? In fact, a good way to live your life is to stay in the house. You'll avoid a lot of problems."

[01:00:58]

Why are we here? We're here because above all else we've lost everything. Our empire is gone, our ships are gone, our walls are gone, our kids are gone, and now they want to take Socrates. What has Socrates done to hurt democracy? That's not about what he's done. I don't care what he says. So long as he's not taking something from us. He never hurt me. He doesn't hurt anybody that I know.

[01:01:26]

All he did was talk, right? All he did was ask questions. He didn't even give answers. I'm sick and tired of answers. I've had enough answers for the rest of my life. I'm 63 years old. I've been listening to these guys give me answers for 45 years. Nobody's ever right, right? So what do we need now? We need to ask better questions. And that's one thing that Socrates is great at, asking a question. Find out the facts and asking a question.

[01:01:54]

We're not here because Meletus and Anytus and Lycon feel that he's impious or he brought in new gods or he corrupts the young. To say that Alcibiades was corrupted, Alcibiades was corrupted by God six weeks before he was born. Alcibiades didn't need any help getting corrupted. Alcibiades didn't know whether he was Spartan or an Athenian. He didn't know whether he was a boy or a girl. Alcibiades didn't know a single thing about being a legitimate guy, right? Whatever thought what was best for him tomorrow, that's what he did. Right?

[01:02:29]

So now we get to a situation, what they're really mad at Socrates about is his connection to the Thirty, and what they're really -- the connection to the Thirty is Critias and Charmides. First of all, Critias was an animal. He was a mad dog murderer. The Thirty was a bunch of mad dog murderers. If Critias and Charmides had been killed at birth, the world would be better off. You can't stop somebody from being around. You don't know what a guy's going to grow up to be. Critias and Charmides were just kids when they followed around Socrates. As they grew older, they grew into being monsters.

[01:03:04]

But you know what? They had a falling out. How do we know that Critias had a falling out with Socrates? First of all, Critias developed an obsession with a young boy. The young boy had no interest in him. Socrates happened to mention, "You keep chasing this boy around town, you look like a pig, and you're trying to keep sticking your snout into things, and you're behaving like an animal." Then what happens is -- and I don't agree with the way that the prosecution characterizes this --

when the Thirty came in, they tried to implicate people in their wrongdoing by getting as many people as involved in these murders. They said to Socrates, "Come here. We want you to go with some other men and kill Leon." Socrates says, "I ain't doing it. I'm going to go to my house. If you're looking for me, come to my house. I'll be right there." Right?

[01:03:50]

Now, it seems to me that one of the things that's going on here is, how do you judge character? What constitutes a man? To go someplace and say, "You know what? I don't go for this. Forget it. You want me? Come to my house like a man and kill me like a man." That's all you can ask Socrates to do.

[01:04:10]

But there's an even better reason why we know that Critias had a falling out, because Critias and the rest of the Thirty passed a law aimed specifically at Socrates, saying, "You're forbidden to teach, essentially, the art of words, the art of analyzing facts and asking questions." Because if there's one thing that the Thirty did not want to do, they did not want people to come in and ask hard questions. They did not want people to talk to each other and be able to make good factual arguments, because the fact is that if you stop somebody from speaking, you stop a lot more people from listening. And if you can't listen, then you can't make judgments about what you should do.

[01:04:50]

So the fact -- so what happens here after that is, the Thirty fall, right? They kill half of Athens. We've lost a third of our people in this war and the plague. As my mother always said, "Don't kill people if you're not mad at them." Right? Who here is mad at Socrates? He's a pain. I don't like Socrates. He's arrogant, right? He's the ugliest man in Athens. His father was a stone worker. It looks like they took a stone chisel to his face, right? A lot of these people were hanging around with him, the spoiled rich kids. I don't like the guy. I'm killing myself working in the fields, and this guy is down in the market making speeches. Right?

[01:05:31]

But that is not a reason to kill somebody, because what we have to do is learn better than we've had, because we've done nothing but fail for the last 30 years. We failed in the field against the Spartans. We failed inside at preventing dissidents amongst ourselves. We failed in avoiding civil war. We failed because we didn't know how to ask questions.

[01:05:51]

Now, Sparta -- if anybody in the world knows how to ask questions, it's Socrates. And so the fact is that it's not that

we should get rid of Socrates, it's not that we should silence him, but that we should learn from his attitude towards life. It doesn't mean you have to agree with him. We don't commit to -- If today when we have this vote in the Amphitheater, there's going to be people on one side and people on the other side. It doesn't mean the people on that side are bad people. I don't -- over there, say anything bad about them. Right? Matthew Bogdanos is a hero for his country. The other gentleman is an expert in Greek history. I'm not going to say that they're bad or they're evil. They're in here expressing an opinion. And I'm going to respect them for doing that. It's not a reason -- I hope they're not wanting to kill me. I certainly don't want to do anything to them. I'm planning on having a nice Greek dinner when I leave here, right?

[01:06:40]

All I can say is this: There are two overwhelming reasons why we should spare Socrates. And I'm not even talking about political aspects, the free speech, all these kinds of things. For one thing, it's, he's an immensely respected man in all of Greece. If we are going to hold ourselves out to be the stronghold of democracy, and you have to have free speech to have a democracy, we can't kill the man who's best known for free speech in all of Greece. We're going to be held in even more disrepute than we've been. We'll have lost whatever façade of freedom that we have left, and the only thing that we have to hold onto, because we've lost everything else.

[01:07:20]

But there are two overwhelming things that Socrates did -- three, really -- to show his allegiance to this city. The first is, he's here. Right? He has lots of friends. Crito that's sitting right there, Crito's son. There's people here from Thessaly. They would have hid him, given him money to escape. He could have left. He stayed here to show his respect for the laws of Athens. But when you talk about his sympathies with the Spartans, I'll tell you why he's not sympathetic to the Spartans. They tried to kill him, and he tried to kill them. He's standing in a field with a spear and a shield. He's in 30s, mid-30s, fighting in battles that we lost against the Spartans. All around him men run away. Apparently Socrates is very strong in harsh circumstances, in the cold and the heat. He's also apparently a heck of a drinker.

[01:08:13]

The fact of the matter is, is he doesn't run. He stays there. Well, how much more can you show your loyalty to your city by standing here like a man when everybody else runs away? And how much more can you show your antagonism to another city if you're trying to rip its guts out, right? There's nothing

like putting a spear in your chest to show that you're unhappy, right? What happens then is, one, that shows his love of his city, and whatever he says that criticizes people, he's willing to put his life on the line.

[01:08:45]

But secondly, he did something which explicitly shows is affection for the laws of Athens. We fought a battle, we won -- not often happens, right, especially at that point in time. They won a sea battle called Arginusae. It was after the battle, they left a lot of the survivors and the bodies there. This is, as you know, something we all dislike. The generals -- there were ten generals -- they said, "Come back. You're going to be put in trial." Two of the generals said, "I'm not going to be on trial." They go on and run, right? Eight of them say, "Okay, we'll go back. Our defense is there was a terrible storm. We couldn't rescue these people." Right?

[01:09:26]

They get back there, and it so happens on that day Socrates was in charge of the procedure in the Amphitheater. He said, "Wait a minute. Hold on. Right? These people are entitled to a fair trial. You can't try eight guys together, no matter what the conspiracy statutes of the federal courts are, that you cannot try eight people together, because they don't get a fair trial. You have to try one each day. That's our rules. Forget it. I'm not doing it any other way." The next day, it turns out that there's a festival in Athens. They can see how many people are dead. Everybody goes crazy. They go back into the Amphitheater. They said, "Look, we're going to try them all at once." Everybody goes into the ground. Every one of them gets killed. Now, what happens is, somebody wakes up the next day and says, "We've got no more generals. How are we going to fight? Right? We've got lots of soldiers. We don't -- anybody what to do." So he proved that day -- they threatened him with death.

[01:10:20]

And the last thing is, if he's antidemocratic about this business, when we say, "Well, the exception is with when they pick generals or admirals." That's not true. We pick priests for their knowledge. We pick the guys that train people in gymnasium for their knowledge, right? We pick the Oracle at Delphi for the knowledge. Nobody can understand what they say, but nonetheless -- And the fact is, you interpret what they say in a way that's best for you, all right? So it's not true that he's antidemocratic, and if he was antidemocratic, he wouldn't be here. He knows his life is at stake. He would have run away. He knew his life was at stake when he fought in the field. You can -- The smell, the smell that comes from men,

that runs down their legs when they're afraid. You can hear men screaming, because their insides are ripped out. All around you men are in terror. He didn't run away. He fought. And if he fought for Athens then, we should fight for him now.

[01:11:16]

When I go home today, there's too much blood on my hands already. I don't want any more. I want to play with my kids. I want to eat dinner. I want to be left alone. That's all we've got to do. We walk out of here, we go home with no more blood on our hands, no more -- What are we going to do? Kill Crito for loving him? Kill his three sons? You have to kill his three sons because they're going to seek revenge. How about all his friends that are in this Amphitheater? Are you going to kill them, too? Every one of them is going to walk out of here mad. That's the problem that we've had for all these years. Everybody's mad at each other. We need to be made at other people and go forward. Thank you very much.

[01:11:54]

JUDGE LORETTA A. PRESKA: Counsel, as you've pointed out, this is a very dangerous time in Athens. As you have said yourself, our empire is gone. Sparta won the long Peloponnesian War, and men are fearful for their lives. Athens must trust in the favor of the gods in these times. In light of the national security threat facing Athens, shouldn't Socrates' attack on Athens accepted religion and accepted way of government be punished vigorously, as the prosecution is trying to do?

[01:12:31]

EDWARD WALTER HAYES, ESQ.: Well, in the first place, the difference between us and the people that attacked us, the Spartans do not have free speech, right? And if we want to act like the Spartans, then we'll kill like the Spartans. If we want to maintain our status as a democracy, then we have to have some rules.

[01:12:49]

JUDGE LORETTA A. PRESKA: Counsel, don't we depend on the favor of the gods, and in these perilous times, should we not be more careful about pleasing the gods and allowing one of our citizens to displease the gods?

[01:13:04]

EDWARD WALTER HAYES, ESQ.: Well, if you read the *Apology*, the gods are always fighting with each other. They kill each other, they castrate each other, their brothers are in trouble. So if they can't agree with each other, I'll take the ones that like us, and the ones that don't like us, they can go off to another --

[01:13:20]

JUDGE LORETTA A. PRESKA: Why take a chance, Counsel?
These are perilous times.

[01:13:23]

EDWARD WALTER HAYES, ESQ.: Perilous times.

[01:13:25]

JUDGE DENNIS JACOBS: Well, if we are in perilous times, and if what's needed is character in defense of the city and mobilization in order to preserve what little of independence is left, isn't it a threat to have Socrates taking the likeliest young men in the city and sitting around asking them idle questions all day while they're yawning and sitting on their behinds in the square?

[01:14:00]

EDWARD WALTER HAYES, ESQ.: Well, as I have a very, very competent co-counsel, Mr. Brafman, who's going to go into a lot of these issues. He's the intellectual of the two of us. But the fact -- if that was true, then we'd have some fathers that come forward complaining about the sons, the treatment of their sons and what their sons learn from Socrates, and we haven't seen one.

JUDGE DENNIS JACOBS: Okay.

[01:14:24]

JUDGE CAROL BAGLEY AMON: I just have one question I want to ask you, because you seem to have changed the focus from what the charges are, and sometimes that's referred to as throwing up a smokescreen. You may have heard that before. But the charges here are not that Socrates overthrew the government or was a part of the Thirty Tyrants. The charges are more specific than that. They're that he corrupted the youth, and what the youth that he taught did is evidence of that corruption. And in addition to that, there's also evidence that he corrupted the youth in another way, that he told them to ignore their parents. Their parents followed these difficult trades all their lives, and Socrates acted like, you know, "Don't get involved in labor. That's silly." He encouraged them to sit around idle, as Judge Jacobs pointed out. They were speaking in riddles. They thought it was great fun to go and question other people and make them look stupid, a lot like our law professors do today. [LAUGHTER] Why is it this corruption of the first order, corruption of our youth? We don't have to prove overthrowing governments or anything like that. That's not the prosecution's burden.

[01:15:50]

EDWARD WALTER HAYES, ESQ.: The first thing is, the assumption that the corruption -- if there was corruption that it followed solely from his behavior, and that, I think, is unfair, because all of these youth have family lives. They are

associated with other people, and it's not fair to him to say what you -- He doesn't give them answers. He asks them questions. So it's not fair to say to them or to say to the jury, "You are the sole source of anybody that does something wrong." And there's really only two or three people that they say --

[01:16:16]

JUDGE CAROL BAGLEY AMON: Well, it's -- it's a coincidence, then. So it's -- Alcibiades is a coincidence. Critias is a coincidence. Charmides is a coincidence.

EDWARD WALTER HAYES, ESQ.: No, it's not a coincidence.

JUDGE CAROL BAGLEY AMON: This is just one series of coincidences that all of these people went out and did these bad things?

[01:16:32]

EDWARD WALTER HAYES, ESQ.: It's not one series. Let's say he's 70 -- and by the way, we're here -- if you talk about exiling a guy of 70, he's not coming back. It's like if you bring a man in for his sentence, and he says, "Judge, he can't do ten years," and the judge says, "Well, do as many as you can." Right? So the fact is that lots of people associated with him, most of whom did not go bad, most of whom behaved in a proper way, right?

[01:16:57]

And furthermore, he himself is a good role model for proper behavior. His definition of fortitude was consistent with the values of Athens. His definition of courage was consistent with the social values of Athens. His belief in knowledge, right, which is exactly similar to the democracy of Athens, because we put such emphasis on art, on architecture, on fine craftsmanship, all issues of knowledge are -- our fleet was magnificent. It was magnificent because of the knowledge and bravery of our sailors. So judge him by how he lived.

[01:17:36]

JUDGE CAROL BAGLEY AMON: And he also associated with little boys, which was also consistent with what was going on in Athens, correct?

[01:17:40]

EDWARD WALTER HAYES, ESQ.: Well, right, right. I'm Catholic, ma'am, so I can't really answer that question.

[01:17:46]

JUDGE DENNIS JACOBS: Thank you. Mr. Brafman, I think you are the other honey-tongued orator to which your adversary referred.

[01:17:59]

BENJAMIN BRAFMAN, ESQ.: May it please the court, my name is Socrates. I have been given the opportunity to confer with

Ben Brafman, who may well be one of the finest legal minds of his time. But I got to this point by speaking, and it is not my life to avoid speaking. My life was speaking, and when I fight for my life, it is I who choose to speak for myself. In years to come you will know this to be pro se, and all of the judges, all of the judges who have cautioned that he who represents himself may have a fool for a client, that's not until thousands of years from now.

[01:18:50]

So if it please the court and the citizens of Athens, I am Socrates. And the problem with this trial is there is no record of what I said, and therefore I want to not tarnish this opportunity to say it again by leaving it to lawyers. And I've heard the word treason in the well of this courtroom coming from the prosecution. I was a hoplite. I fought three times for my country. I don't have a chest full of medals [LAUGHTER] that I wore to this courtroom, but I was a hero in my day. You cannot accuse me of treason, and if you're going to accuse me of treason, then charge me with treason. Don't charge me with the charges that are in this indictment.

[01:19:44]

I have taught democracy my whole life, and now I am an enemy of democracy? I question people. Why is that bad? Who do I question? I question poets. I question orators. I question orators, and I demonstrate that they speak well, but they don't know what they're talking about. And this process that has been referred to, the Socratic method in future times, began with me. It was the elenchus, and that was simply a manner of cross-examining someone. And perhaps in years to come, cross-examination will be known as the engine of truth, because in cross-examining people, sometimes you make a point. And if you make a point, then I submit with great respect, then perhaps it is a point that is worth making, and perhaps when I expose a politician as being a false politician, as being a corrupt politician, but more importantly as being a stupid, ignorant politician, why is that not good for democracy? What is that not great for democracy?

[01:21:04]

We should all want to do that. We should all want to probe and question. That's a democracy, not to silence someone like me. I did not shout "fire" in the theater. That is an inappropriate characterization of my work. And yes, two, perhaps three of my thousands of correspondent students, who I engage, who I engage in colloquy perhaps ten or 15 minutes at a time in the square of the city, two, a handful, of the many thousands turned out bad. That happens. It happens.

[01:21:51]

In years to come, we will not burn down an entire university if one of its doctoral candidates turns out to be a serial killer. We want education of our youth. I am not filled with hubris, and I don't remember, at age 70, what my grandmother may have said to me. But I am 70, and 70 is the old 100. [LAUGHTER] So I have been doing this for a very long time, and I fear not going to heaven even if it means that I die, because I would rather die than live in a country where you cannot speak freely. There is no point to life if I cannot question. It is a god-given right, and democracy, you quote me, but you don't quote all of the times of my life when I have spoken openly about the value of democracy. And yes, from the questions we have heard this morning, is it my opinion? Yes. And if my opinion is not your opinion, then I respect your opinion. But please respect my opinion. Am I the corruptor of the youth of Athens? I've been doing this for 50 years. Why must I die now?

[01:23:19]

30 years ago, 25 years ago, I was humiliated in a play by Aristophanes, *The Clouds*. I was pilloried. I laughed. You know what my public response was? "When they break a jest upon me in the theater, I feel as if I were at a big party of good friends." That's what you say in a democracy when a satire attacks you. You don't glower. You don't pout. You take it well, because that's their right, to say, "Socrates is a fool, and Socrates is someone who can be made fun of." You want to make fun of me? Make fun of me. You don't have much difficulty. I walk the streets without shoes, in the same threadbare robe in the winter and the summer. I don't charge a fee.

[01:24:14]

And Mr. Bogdanos, Colonel Bogdanos, who suggests, "Well, how did I support my family?" We don't speculate in these proceedings, we work on a record. And to the extent that some people who believe that what I say is worthy, and they have helped me and they have fed my family, then it's good, because that's what we do in a democracy. We take care of those in need. That's not bad. No one has bribed me. I charge no fee. I'm not a Sophist. And look at who I have questioned in the public square. Important people, people who believe they are important.

[01:24:54]

The Oracle said to me that I am the wisest man. This is a tough thing to say, and in years to come, the word will probably be chutzpah. [LAUGHTER] But I don't suggest to you that I am the only wise man because I know everything. I am the wise man because I know that I do not know. I know that I do not know,

and I know that you do not know, and that is why you fear me. You fear me because I know that you do not know. And what I know is that most of the people think you know what you don't know.

[01:25:36]

So it is my job, I think, my responsibility in this wonderful democracy of Athens, to explore what you really do or do not know. I am charged with impiety? Have we all not read the colloquy of my trial with Meletus? Where does it get us? Do we know now more about what is pious than when we first started the cross-examination of Meletus, or was Meletus exposed as someone who really had no idea what piety was. Is piety holiness? Is it justice? What is it? Is your piety the same as my piety? Are you more pious than I am because you pray to one god, and it's not my god? My God, that's terrible.

[01:26:28]

Who am I talking to? I sacrifice. Because I am poor, my sacrifices are small, and you are wealthy, and your sacrifices are big. Does that mean you're more pious than I am? That is not how a good world should be formed. We are forming a new world. Yes, we have a terrible, terrible history. Should we go backwards, or should we learn?

[01:26:56]

And what I would like you to understand, citizens of Athens, is that I am you. You are all me. To the extent that I criticize you, I mean no harm. I don't smack you. I don't pillory, I don't rob, I don't steal, I don't assault you. I haven't committed a crime. Colonel Bogdanos has spoken of conspiracy? I'm not conspiring to commit a crime. Yes, I understand the concept full well that words can do harm. But what are my words that are doing harm? I haven't seen anything quoted that I have said that suggests that I'm screaming "fire" in a crowded room. "Fire" in a crowded room is bad, because it will lead to instantaneous chaos.

[01:27:46]

I have been talking for 50 years, and for 50 years, what have I been doing? I have been questioning people. I haven't been directing people, and to the extent that young people watch my cross-examinations and think that what I am doing is smart or interesting or they like it and they learn from it, they don't all run out into the street and commit crimes.

[01:28:14]

And this is my fear. My fear is, all of you have read *Clouds*, and in Aristophanes' *Clouds*, I am a bad person. But it is a satire. I am suspended from a boom over the town. You have a chorus speaking for Aristophanes who condemns me. The play ends with people running out to burn down the thinkery.

Why is Aristophanes not sentenced to death for suggesting that people should go out and burn down a thinkery? That's arson. That's a real crime. Because it was a play. It was a comedy. It was satire.

[01:28:55]

Sometimes satire hurts. Sometimes the brunt of the satire doesn't like it. That's why I am here. My accusers are not the citizens of Athens. Your honor, Judge Jacobs, you properly explained how this works. Anyone in Athens can bring a charge. Meletus, he has an agenda. Meletus is a poet. What value have we in the record from Meletus as to what he has done on behalf of Athens? We don't even know any of his poetry. Lycon is an orator. What is an orator? Someone who speaks publicly. About what? I'm not an orator. I'm a philosopher, perhaps. I'm a thinker. I'm a 70-year-old man walking in a sheet naked, and you see me as a threat to democracy?

[01:29:57]

We are not orators in the well of this courtroom solely. A lawyer can be an orator, but an orator without substance is just a cloud. That's the problem here. I took on powerful people. I didn't shoot them. I didn't sentence them to death. I didn't steal from them. Maybe I exposed them. Maybe it was done in poor taste or in good taste. But how do we in a democracy define what is good taste or poor taste? Because if I impose taste on someone else, it's not their taste, it's my taste. And I think what we have heard today is a little bit frightening.

[01:30:45]

I am comforted by some of the questions. But what I have heard is suggesting why Socrates should be put to death, I've been frightened by that rhetoric. Not frightened to die. Let me make clear. I'm 70. I should be dead ten years ago, so I am not frightened by these proceedings if it ends in my death. What I am frightened by is how you will feel, how you will feel if you sentence me to death, how that will impact on your lives, citizens of Athens. Because I die. You live on with the knowledge that you put someone to death because they have spoken, not because they have acted criminally, but because they have spoken, and that should never be allowed to happen in a democracy. And it will not happen in this democracy.

[01:31:43]

I suggest I am ardent advocate of self-knowledge through examination. That corrupts the young, to teach them to examine? To teach them to question? To teach them to doubt? Yes, I understand that sometimes it interferes with a parental responsibility. But that does not necessarily mean that in every instance the parent is right or the student is right, and for you to condemn me because I teach my students to sometimes

challenge parents if, after examination, they believe that the parents are wrong, then I'm not so certain that's a great idea, because our parents, the elders of this place, screwed it up pretty bad over the last couple of hundred years. It's not the children who went from war to war to war to war. It's not the children who were killing each other when I was on the battlefield as a hoplite defending Athens. I was already an adult. We did it. Not the children. I did not corrupt the young.

[01:32:50]

Distinguished court, the word philosopher means lover of wisdom. I am a teacher. I have defined teaching as not simply a matter of giving the right answers. It is a matter of leading the student toward the right answer and ensuring that the student can explain and justify their answer rather than simply repeat them.

[01:33:16]

Putting an innocent man to death is far worse than dying. Yes, I end my talk, as it's been pointed out with some glee, with these words. Now it is time to be off, to die if convicted, you to live. But which of us has the happier prospect is unknown to anyone but God. God, God. I used the word. I believe in God. I speak of God. I don't believe in the god of the city, of Athens. What god? Which one? They fight with each other. Whose side should I take? I cannot win. My time is up. I will stop. Don't spare me if you think I should die. Spare yourselves from voting for me to die. Thank you.

[01:34:08]

JUDGE DENNIS JACOBS: Your presence is an opportunity for us to find out some facts. Now, you listened to inner voices. That's not all that unusual. A lot of people have inner voices, but it's alleged against you that the voice is not coming from one of the certified gods, but from some new junior varsity god. What god is speaking to you in your inner voice?

[01:34:35]

BENJAMIN BRAFMAN, ESQ.: And suppose I gave you a name, Your Honor? How do I convince you that I am telling you the truth? If I am speaking about an inner voice, suppose I said it was Zeus. Suppose it was not Zeus. Suppose the god didn't identify himself to me. Has god ever identified himself to anyone in this room? Real god?

[01:34:53]

JUDGE CAROL BAGLEY AMON: Well, Counsel, suppose you answered the judge's question?

[01:34:55]

BENJAMIN BRAFMAN, ESQ.: I don't have a name, but I have a divine voice that I believe speaks to me as a supernatural human being, not a simple citizen, someone who I believe is God and who teaches me that I should seek knowledge. I don't think that's bad. I don't have a name for you, and for me to make up a name would be disrespectful to the god who speaks to me who has chosen up until to now not to identify himself.

[01:35:27]

JUDGE LORETTA A. PRESKA: Socrates, you have stated that you were divinely placed in Athens as a gadfly on the flank of a thoroughbred to awaken the sluggish city and reproach each and every citizen. You've called yourself a gift to the city in providing that service, and indeed, you have stated that should you be sentenced to death, the city will not easily find another like you. Is not that blatant evidence of impiety and disrespect to the gods?

[01:36:05]

BENJAMIN BRAFMAN, ESQ.: First, let me just make one observation. What I have been told I said and what I said, I don't want to play fast and loose with the record and change that now. So I will accept, I will accept that Plato got it right.

[01:36:23]

JUDGE LORETTA A. PRESKA: Was it on YouTube, Counsel?

[01:36:25]

BENJAMIN BRAFMAN, ESQ.: Not yet. Not yet. Not yet. Not yet. But I will answer your question. There is a difference between being humble and being pious. If you want to accuse me of not being humble, I will accept that by suggesting that if I am gone Athens will not replace me. But how is that impious? How is that disrespectful to the god if it is God who is helping me form that opinion? And to which god am I being impious to, and what evidence do you have that God believes that that observation was impious? Not humble? Yes. Hubris, the word coined here today? Yes. Chutzpah, another word turned? Yes. But that's not piety. Piety isn't crawling and being humble and being afraid to speak your mind. I think I speak my mind, and I think Athens will never replace me. And you know how I know that? Because they never have. [LAUGHTER]

[01:37:26]

JUDGE LORETTA A. PRESKA: Well, Counsel, let me ask you this. Xenophon provides us with evidence of your defiance during the trial, and he suggests that you were tired of living and that you quite deliberately taunted the jury into sentencing you to death by, for example, proposing as a counter-punishment free meals for the rest of your life -- true -- a prize reserved for Olympic heroes, and that you did this only to inflame the

jury. What is your response to the charge that you have intentionally chosen death?

[01:38:10]

BENJAMIN BRAFMAN, ESQ.: I start with the observation that Plato's *Apology* was not an apology as we understand that word to mean. I was defending myself. And perhaps, with the benefit of hindsight, I used a poor approach to the citizens of Athens, who I would hope would understand what I was saying. And I'll do it again, and this time I'll do it perhaps in a more articulate way.

[01:38:41]

I don't want to die, and I don't want you to convict me. But I don't want to live if by living I have to acknowledge that I've done something wrong, because I have not done anything wrong. And when I was told you have to recommend the punishment, most respectfully, Judge Preska, I have to recommend the punishment when I do not believe that I have committed a crime? So, yes, it was a facetious mistake, perhaps, on my part to say, "You want to punish me? Give me free meals." I rejected exile because I would not live any place except my beloved Athens, and I don't think I deserve death. And I was told that there are only two punishments, you recommend one, we recommend one. What should I have said? Give me a million dollars? What should I have said that would sit well with you?

[01:39:29]

So instead what I did was I said something where, with the benefit of hindsight, having Googled myself and found that there are 232,000 articles written about my defense, I realize that most of the philosophical staff at these brilliant universities didn't understand me. So let me say it in a way that I hope makes myself clear.

[01:39:51]

I am not taunting. I am pleading, not for my life. I am pleading that you understand where I am coming from, and where I am coming from is, you want to punish me for something that I have not done? That's wrong. When something is wrong, I will not participate in that process. So my suggestion is do something that you think is absurd: honor me. Give me free meals. Give me a medal that you give to Olympic athletes, not because I'm an Olympic athlete, but because you're about to kill me for something I did not do. And I'm not going to suggest give me house arrest or home confinement, because that's acceptance of responsibility for a crime I did not commit.

[01:40:36]

JUDGE CAROL BAGLEY AMON: Socrates, it was reported that you said that it was unfair to try you in a single day for a capital case, and that it wasn't easy to clear yourself of such

huge slanders in a short time. I want to make sure we have a good record here. Do you need more time to prepare your defense?

[01:40:56]

BENJAMIN BRAFMAN, ESQ.: No, but I do think we could engage in this colloquy for the next several weeks, and --

JUDGE CAROL BAGLEY AMON: If you live that long.

[01:41:06]

BENJAMIN BRAFMAN, ESQ.: If I live that long. If I live -- I'm feeling pretty good right now. If I live that long, and we would make no more progress than I think we have made today. They want to kill me for having spoken my opinion. That's wrong. So if we do this for the next ten hours, where I have ample opportunity to say everything I want, we will get right back to where we are right now. And where we are right now is they have presented to evidence. My learned colleagues suggest that the record was suppressed and that the only people who wrote about this was Plato and friends of Socrates? There were people in the gallery at the trial who voted to convict me. Those people were clearly not my friends. Why has nobody come forward in all this here and say, "Here is the evidence that was used to convict Socrates." Do you know why? Because my conviction was based on politics. My conviction was based on who I was and who they were and why I was brought to trial.

[01:42:02]

JUDGE CAROL BAGLEY AMON: So you need no more time?

[01:42:04]

BENJAMIN BRAFMAN, ESQ.: I need no more time.

[01:42:05]

JUDGE DENNIS JACOBS: Thank you.

BENJAMIN BRAFMAN, ESQ.: Thank you.

JUDGE DENNIS JACOBS: Thank you all.

[01:42:08]

ANTHONY PAPADIMITRIOU, ESQ.: Excuse me, Your Honor. May I address the court? I know it's out of the procedure, but on a point of procedure only. We were not -- the prosecution did not address the question of penalty.

[01:42:24]

JUDGE DENNIS JACOBS: Ah, but we don't get to penalty in this proceeding until we have a verdict that comes out as guilty, if we have a --

ANTHONY PAPADIMITRIOU, ESQ.: I understand.

JUDGE DENNIS JACOBS: We don't discuss the punishment before we have the verdict.

[01:42:37]

ANTHONY PAPADIMITRIOU, ESQ.: No, no, no. But the defense has accused the prosecution of demanding the penalty of death,

which we have not done. We have steered away from that. Excuse me.

[01:42:49]

BENJAMIN BRAFMAN, ESQ.: That was in the indictment.

ANTHONY PAPADIMITRIOU, ESQ.: No, no.

JUDGE DENNIS JACOBS: I think -- I think it's in the record.

[01:42:51]

ANTHONY PAPADIMITRIOU, ESQ.: We did not address that at all.

[01:42:54]

JUDGE DENNIS JACOBS: I think it's in the record. In any event, thank you all. We are now going to retire for a few moments and deliberate the fate of Socrates.

[01:43:12]

[RECESS]

[01:43:56]

DR. ALEXANDER NEHAMAS: Ladies and gentlemen, I'm supposed to speak to you a bit while the judges are deliberating, and I would like to begin by saying that Plato makes it absolutely clear that a philosopher can never speak well in front of a large audience. His reasons -- I agree with that, but not with his reasons. His reasons are that philosophers always tell the truth, which is impossible for a large crowd like you to appreciate, because the many are stupid. And the orators, among whom he considers lawyers to be prominent members, speak well, but as somebody said, they don't know what they are talking about, and they only flatter the crowd. They don't really speak for the truth.

[01:44:44]

That's not what I believe. The reason I think I couldn't possibly speak well to you today is because I am completely overawed with the rhetorical prowess, pyrotechnics, perfection that we met with earlier, and I know that my talents are simply not to be compared with what we have heard so far today.

[01:45:10]

But I do want to say a few things about the great absentee, with all due respect to Mr. Brafman, who did beautifully what everybody has done about Socrates so far, he channeled him. That's all we have about Socrates. He wrote not a word. He spoke. He spoke probably more than any philosopher in existence. And all we know about him comes from four people, three of whom knew him personally -- Plato, Xenophon and Aristophanes.

[01:45:46]

In a way, it would be wonderful if we could have the real Socrates over here today to explain to us what he thought, what

he believed, what he did, what he didn't do, whom he loved, whom he didn't love, whom he pursued, whom he tried to set right, whom he may have corrupted. But what I believe is that if he had done that we wouldn't be any closer to understanding him than we are today. We have heard already two radically different views about what he was like and who he was, and if he would stand up today himself and tell us everything that he believed, we would still be in complete puzzlement about what he was like.

[01:46:26]

Let me try to explain to you why I say that. Here's a man who, having left nothing written himself, gets three people to write about him, and each one of them gives us a completely different picture of who he was. Aristophanes tells us that he had a school where he discussed natural phenomena, theology, where he made the weaker argument stronger, where he taught sons to beat their fathers. Xenophon presents a man, completely conventional wisdom, a very avuncular type who very seldom lost his temper, as he did with Critias, as Mr. Hayes pointed out, but generally told his students to be nice, good people, to respect the laws of the city and the traditions. And then we have Plato's picture, which is impossible to summarize in a few sentences, but which clearly presents us a man who is nothing like either Xenophon's Socrates or Aristophanes'. We have three completely different pictures.

[01:47:36]

We also know about this man that, although Aristophanes had ridiculed him more than once in public, remained good friends with him. And we have one tradition when, that -- according to which when *The Clouds* was being performed and Socrates was shown to be this ridiculous figure that Aristophanes makes him seem, he stood up in the theater and let people laugh, and eventually the laughter subsided, because they realized what a serious man he was, and how well he knew how to deal with ridicule. So he's a friend of Aristophanes, who ridicules him.

[01:48:13]

He was also, we know, a friend of Aspasia, Pericles' mistress and companion, who had a salon, perhaps the first salon in the Western world, and who clearly was in favor of democracy. So he was a friend of Aspasia's. He was also, we know, a friend of Critias and Charmides, and a friend of Alcibiades, who was both a leader of the democrats and a leader of the conservatives, and went over to the Spartans and went over to the Persians. There was no possibility -- no political possibility that Alcibiades did not exploit during his life. He knew all these people. He was friends with all of them.

[01:48:50]

Did he prefer the democrats to the oligarchs? Did he prefer one to the other? We don't know. Not only that, Plato is not the only person who had written dialogues, Socratic dialogues. This was the acknowledged genre in which everyone was writing about Socrates. In fact, in Aristotle's *Poetics*, he distinguishes the Socratic dialogue as one kind of poetry, as one kind of fiction. We have many, many names, not very many lines from the people who wrote about him. But Plato was neither the first nor, in the beginning, the most well known.

[01:49:28]

The best known was a man called Antisthenes, who was a very good friend of Socrates, and in fact became the head of the school that we now know as Cynicism, the one, the school that Diogenes, the famous Diogenes who lived in a barrel and did all kinds of horrible things in public. Somebody actually described Diogenes as Socrates gone mad. So the Cynics claimed that their tradition, their philosophical tradition, had come down from Socrates.

[01:49:59]

The school of Plato, the Academy, claimed its descent from Socrates. And what they believed was not like Antisthenes and the Cynics, that the only thing that matters in life is virtue, moral virtue. The Academy was skeptical. They didn't think that knowledge was something that we could really have.

[01:50:19]

Aristotle's school, the Lyceum, the Peripatus, also, according to our sources, claimed that their leader was Socrates, that they got inspiration from Socrates, and that Socrates, in the Aristotelean interpretation, did not believe as the Cynics did only in virtue, but he thought that virtue was the most important thing in life to have, but it was something that you couldn't have unless you also have what they call the external goods -- leisure and riches, and sometimes even beauty.

[01:50:50]

The Stoics, another very, very important school, claimed that Socrates was their leader, their source, their inspiration. The only person that came close to being wise, which is what they considered to be, along with virtue, the most important thing in life. The Hedonists, who thought that the good is pleasure, not virtue, claimed to have their origin in Socrates - - in fact, through a very good friend of Socrates, Aristippus, who also wrote dialogues about Socrates.

[01:51:22]

So the people who knew him could not make up their mind about what this man was like. So it wasn't something that we don't know today because we have not been able to get back to the real source. There is no real source, in a way. Socrates

is like a blank wall. That's what we have, a blank wall on which the West has been writing its own philosophical and moral history. And every time that a new idea comes in, a new way to understand Socrates, instead -- although every one of us tries to understand him -- and Mr. Brafman is right. At least 232,000 articles have been written about the *Apology*, and only the *Apology*. Who knows how many have written on the rebuttal. None of these articles gets us any closer to understanding him. It adds to the mystery.

[01:52:10]

And I predict that after the judges come back and give us the verdict -- which, by the way, I need to remind you, you should vote on yourselves. You have two cards in your program, a blue one that states your agreement with the judge's verdict, whatever it turns out to be; a yellow one that states a disagreement with it. The boxes out there where these votes can go in. I predict that after they come and they tell us the verdict, we'll only add one more page to the mystery.

[01:52:41]

Now, what is absolutely remarkable about Socrates, among many, many other things is that over the years, among at least the scholarly world, where I move, Plato's *Dialogues* have become the main source for understanding him, not because they're more accurate. We don't know whether they're accurate or not. We have no independent way of knowing whether Socrates is more like Socrates -- more like Plato's Socrates or more like Xenophon's Socrates, or whatever, but because they are by far the most exciting writings that have been written about him.

[01:53:18]

There is another reason. Those of us who study Plato's *Dialogues* and try to understand Socrates from Plato's *Dialogues* have repeated the very same motions that his contemporaries have done. From Plato's *Dialogues*, some people have concluded that Socrates was a Hedonist. Other people have concluded that Socrates was a proto-Cynic. Others have concluded that he's a Stoic. Others have concluded that he was Skeptic. Others have concluded that he was a dogmatic teacher of virtue, and so on. And that in a funny way has convinced me that Plato got him right, because since his own writings about Socrates allow -- have allowed us to interpret him in exactly the same ways that his own contemporaries allowed him -- interpreted him, Plato's *Dialogues*, I think, ultimately present us with that blank wall where we are writing our own moral history. And so we have a repetition of the original mystery again and again and again.

[01:54:21]

Now, what do we know from Plato's *Dialogues* about this man, Socrates? Well, again, what we know is extraordinarily

peculiar. This man who himself says he's a divine accident, he doesn't know how he came about, appears in those dialogues, and in particular, appears in those dialogues in different guises. We can't say that there's a single Socrates in the Platonic works. There are at least two, if not considerably more than that. The man was not just a magnet -- which, of course, he was -- he wasn't just a dipole, he was a multiple. He could attract everyone, whatever their background, whatever values, whatever ideas happened to be.

[01:55:04]

What was he like? We know that his father was a stonecutter. We know that he may himself have been a stonecutter. Some people suggest even that one of the reliefs in the Parthenon marbles may have been created by Socrates. And we also know that at some point -- we don't know exactly when, why or how -- he stopped working and took up this sort of mode of living, according to which he didn't approach people, people approached him. It's a very interesting question. Why is it that all of us think that Socrates would just grab somebody in the street and say, "Tell me what piety is, or tell me what justice is." He never did that. It was always the others who came to him.

[01:55:50]

In any case, he adopted that mode of life. We don't know why, but some people think that perhaps the Delphic Oracle was what brought that about, because according to the story that he himself tells us in the *Apology*, in Plato's *Apology*, his friend Chaerephon, who admired him immensely, sent to the Delphic Oracle and asked the cheap question -- because at the Delphic Oracle, you had two choices. You could have the cheap question, which took a yes or no answer. So, "Will it rain tomorrow?" And you could get a yes or a no. If you had a lot of money, they you got the real answer, and the real answer, of course, was much more complex. As Mr. Hayes said, you never knew what they said about -- what they said to you.

[01:56:38]

A famous example, a man asked if he would survive or die if he went to war. He got a sentence that in Greek could be read either way. It could be read as, "You will go. You will arrive. You will die in war." It could also be read, "You will go -- Whether you go or not, whether you arrive or not, you will not die in the war." Either way, the syntax was completely ambiguous. It could be either one or the other.

[01:57:09]

Or of course the famous one, when Croesus, the King of Libya, wrote -- asked the Oracle whether he should attack Persia, the Medes. and the Oracle said, "If you do so, a great

empire will die." Of course, he assumed it was the others. It was his own empire.

[01:57:31]

Now, Caraphon asked, "Is there anyone wiser than Socrates?" And the Oracle said, "No, there isn't anybody wiser than Socrates." Not quite the same thing as saying he's the wisest, because the wisest means that nobody's as wise as he is. But "Nobody is wiser than him" means there could be many other people who are equally wise. And Socrates, hearing that, says something peculiar, says something that makes the issue of his impiety a peculiar one.

[01:58:02]

He says, "I couldn't believe that," he said, "because I knew that I didn't know anything important. But at the same time, I knew it was impossible for the god to lie. So I had a great dilemma. On the one hand, I thought, 'Here I am ignorant, as ignorant as anyone is. But at the same time, the god says that nobody is wiser than I am.'" So he said, "I then tried to 'elench' him" -- to check, so to speak, the Oracle -- "and I went to the people who claimed to know things, and those are the politicians, the poets and the artisans, and asked them about what the good life was, what they thought the good life was. And none of them knew."

[01:58:44]

"But that's okay," he said. "I didn't know either. The difference is that they didn't know they didn't know, whereas I did know, as was said before, that I didn't know. And that's, perhaps," he says, "what the message of the god was, that Socrates is -- nobody's wiser than Socrates, because at least Socrates does not think he knows things that he doesn't."

[01:59:09]

So here he is, telling us that he doesn't know anything serious or important. In the process, of course, he makes the politicians angry at him. He makes the poets angry at him. He makes the artisans angry at him. So he's not really doing very well on PR grounds, and the problem with the trial, is of course, sort of burning under -- yes, he's fomenting the very same problems that he will face when he actually goes to trial.

[01:59:39]

So here's a man who asked people questions and never gives answers, because he says that he doesn't know what the answers are. So when somebody comes up to him and says, "Oh, Socrates, you know, you and I know everything about religion, and you know what I'm going to do is -- What are you doing here, Socrates?" He says, the man says, "I am going to prosecute my father because he murdered one of our slaves." And Socrates says, "My God," he says, "You know, prosecuting one's father, that's

impious in Athenian -- in our system." And the man says, "I'm the priest here. I am what piety is." And so Socrates says, "Oh, you do? Oh, tell me." And of course, the man can't do it, and Socrates tries again, and they try again and they try again. The man keeps getting it wrong. And Socrates finally says, "Let's start in the beginning. And the man says, "Oh, I'm sorry," he says, "No, no. I have an appointment. I have to run off." Of course, he was the one who started the conversation.

[02:00:32]

But Socrates, interestingly enough, in Plato's *Dialogues*, never convinces anybody that he is right and they are wrong, partly because it's not -- he is not right about anything. He only claims that he wants to know what it is that these other people know. And it turns out that these people claim that they know what piety is or what temperance is or what justice is, end up showing that they don't know what it is they claim -- they lay claim to.

[02:01:05]

But he does know that if you know what is good and bad, you will do it. You will do what -- If you know what's good, you'll do the good. Why? "Because," he says, "what is good is that which is in your interest, is that which will eventually make you happy. So who wouldn't -- If you know that something will make you happy, why won't you do it? Of course you'll do it if you only knew. So knowledge, he says, is what you need in order to be happy. This particular knowledge he calls virtue, by which he means, as he says, the knowledge of good and bad that allows us to judge correctly whether something is in our interest or against our interest, and therefore allows us to do it, if only you know what it is.

[02:01:55]

He also says that he himself doesn't have that knowledge. He doesn't know what good -- what the good is and what is bad. He only wishes that somebody else would tell him among all these people that he questions who claim that they know it already. So he says, "Knowledge is necessary for virtue and happiness. I don't know what virtue is." And yet, in Plato's own eyes, he is the most virtuous and in a very serious way, the happiest human being who ever lived.

[02:02:28]

Those three things can't go together. You can't say, "Knowledge is virtue and happiness. I don't have that knowledge. And yet I am virtuous and I am happy." That paradox, those three ideas that make up this paradox, are the essence of why it is that we can't understand Socrates.

[02:02:50]

ANTHONY PAPADIMITRIOU, ESQ.: Professor. It's here.

JUDGE DENNIS JACOBS: The verdict is ready.

[02:02:53]

DR. ALEXANDER NEHAMAS: The verdict is here. Let me finish, then -- Another thing Plato said is that in court people have to talk by the clock, whereas in philosophy we go on and on and on forever. I would if only they would let me. Let me remind you before I finish, please vote whether you agree or disagree with the verdict. The blue card indicates agreement, the yellow card disagreement, and let's now wait for the actual verdict to be given. Thank you.

[APPLAUSE]

[02:03:40]

DEPUTY: All rise.

[02:03:56]

JUDGE DENNIS JACOBS: Please be seated. The panel is ready to announce a verdict. We will vote seriatim with a brief statement each of our reasons. I'll begin.

[02:04:14]

I vote to acquit. As to the religious point, the claim seems to be that Socrates has a personal god, but it is not shown by the prosecution that his personal god is not one of the approved gods.

[02:04:29]

As to corrupting the young, that's a much closer question. On one hand, Socrates has violated our laws. He has been teaching young men to look inward rather than to pursue the occupations that defend us from a threatening enemy and that advance our arts and our civilization. It's very bad, indeed, to encourage young people to go around thinking pretty much at random. It is worse to encourage self-absorption when what is needed is civic wisdom and defense from the enemy.

[02:05:01]

Moreover, the method of cross-questioning that Socrates employs is a great nuisance. He says he doesn't charge students, but no sane person would pay tuition to be subject to the Socratic method. But, on the other hand, nothing is going to stop Socrates from doing what he does. You heard him. True, he could be executed, but that does seem an overreaction for encouraging young people to think, however dangerous that is, and for cross-questioning people, however great a nuisance that is. It will impair civic dignity and authority to try to punish what cannot be deterred or to impose an excessive penalty that makes it appear that the ideas Socrates is spreading are potent and influential. Better to let it all die down. I vote to acquit.

[02:05:56]

JUDGE CAROL BAGLEY AMON: I respectfully dissent from the view of my learned fellow juror, and I cast my lot for conviction. I bring my own common sense to bear on this decision. Thankfully, I am not saddled by some overly onerous burden, such as, for example, the need to have my conclusions supported by proof beyond a reasonable doubt.

[02:06:20]

These charges, to me, are not vague, they are clear. I know both impiety and corruption when I see it. This person Socrates claims merely to be a gadfly, comes before us feigning humility, yet demonstrating arrogance. Query his claim he has no knowledge, yet he is wiser than all of us. He is not a gadfly, in my opinion, he is a dangerous subversive.

[02:06:51]

Let me turn to the first charge, impiety. Socrates is in fact guilty of not acknowledging the gods the city acknowledges and of introducing other new divinities. What, I ask you, Athenians, is more fundamental to our way of life here in Athens than our belief in the deities? We have no separation of church and state here. Socrates has rejected the beliefs we hold sacred and has poisoned the minds of our young with those views. He talks about hearing the voice of a single god, and not even a god recognized by Athens. What could be more blasphemous than the concept of one single god?

[02:07:37]

Even if an argument could be made that he recognizes more than one god, he doesn't understand the gods as we in Athens do. His gods only do good, not evil. If his view is correct, there would be no one left to whom we can pray to destroy Sparta. We care not if the gods punish Socrates, but, my fellow Athenians, the gods will punish us if we permit him to continue in this course. In these tenuous times, we need the help of the gods. We can ill afford for the gods to lift their veil of protection from Athens. We do not need Apollo to send another plague like the one that killed at least a quarter of our population after 430, or for the gods to visit upon us yet another war with Sparta.

[02:08:30]

I personally see no need for further deliberations on the death penalty. I believe that the death penalty is appropriate. Socrates himself, you asked the question, "Why kill me now after speaking for 50 years?" Well, because it's time, Socrates. [LAUGHTER] It's time, before we have another tragedy here in Greece. And I can predict that this will not be the first or the last time that a nation sees the need to kill in the name of its gods.

[02:09:07]

I find as well that Meletus has shown that Socrates corrupted the youth. This charge is of particular concern. It should be noted that Socrates is not charged with inciting violence, though he has arguably done so, and he is not charged with personally seeking to overthrow our institutions, though it appears that he has done that, as well. But he is charged with corruption. Surely, teaching the young that our institutions should be held in contempt is corruption. He has explicitly attacked the theory of lottery and majority rule.

[02:09:45]

As Xenophon himself writes, "Socrates said that it was not those who held the scepter who were kings and rulers, nor those who were elected by fellows out of the street, nor those who were appointed by lot, but those who have a special knowledge on how to rule." Such teachings obviously encourage oligarchy and attacks on our institutions, which are founded on the rule of our people.

[02:10:13]

Socrates's teachings have clearly had their effect. He taught the notorious Alcibiades and Critias and Charmides, who was likely a member of the Thirty Tyrants -- indeed, was a member of the Thirty Tyrants. Although arguably we cannot hold him responsible for these past acts, he himself says that he will not cease these malicious teachings. There will be more such men. For the sake of democracy, for the sake of tradition and piety, for the values that we Athenians hold dear, I must vote to convict.

[02:10:53]

JUDGE LORETTA A. PRESKA: To quote Aristophanes, Socrates graces us, quote, "with our intellect, argumentative skills, perception, hyperbolization, circumlocution, pulverization and predomination." Well, to tell the truth, it's really all Greek to me.

[02:11:16]

Now, on to the verdict. I concur with Chief Judge Jacobs, and let me tell you, by the beard of Zeus, this was no easy case. It was quite Herculean. In considering the indictment before us, I find Socrates not guilty of both charges.

[02:11:37]

On the charge of impiety, Meletus has failed to show that Socrates disrespected any specific gods. We do not know which gods or how many of them have been disrespected. And more importantly, how do we define impiety? As Socrates noted, the gods quarrel among themselves. Quote, "Different gods consider different things to be just, beautiful, ugly, good and bad, for they would not be at odds with one another unless they differed

about these subjects," close quote. And so I cannot convict Socrates of violating a statute that is so vague and ambiguous.

[02:12:21]

Also, up until the time of this trial, the evidence shows that Socrates paid tribute to the gods and made sacrifices at their temples. While he may have questioned some of the gods some time, that's insufficient to rise to the level of impiety.

[02:12:41]

As to whether Socrates created new gods, well, it appears to me new gods are born all the time in our city, and usually Dionysus, the god of wine, has something to do with it.

[LAUGHTER] And thus I find the evidence not sufficient on the charge of impiety.

[02:13:02]

Now, turning to the charge of corrupting our youth, once again, the evidence is unpersuasive. We have no direct evidence of corruption. Not a single Athenian youth has been brought before us to say that he was corrupted by Socrates, and I will not convict Socrates only upon hearsay presented by Meletus, a person who, as Socrates has charged, was, quote, "Guilty of playing around with serious matters, of lightly bringing people to trial and of professing to be seriously concerned about things he has never cared about at all," close quote.

[02:13:41]

Also, Socrates never started or joined any antigovernment organization, and indeed never took an affirmative action at all. He didn't charge fees for his teachings or even seek out students. Meletus asks us to convict him because he corrupted the youth. Well, implicit in the act of corruption must be an intent to corrupt, and I find no evidence of such intent.

[02:14:06]

As Justice Roberts of, let's call it the Athenian Supreme Court, recently wrote, quote, "Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow and inflict great pain. But we cannot react to the pain by punishing the speaker," close quote.

[02:14:31]

Socrates' favorite forum to speak in was the marketplace, and I think maybe at some time in the future, we may even thank Socrates for creating what can be fairly called the marketplace of ideas. How's that for catchy, huh? More importantly, I am not convinced that Athens faced such imminent harm or clear and present danger that we should find Socrates guilty. The war with Sparta is over. The Thirty Tyrants have been overthrown. We should not blame Socrates for the evils of the past.

[02:15:06]

A future great legal mind, Justice Oliver Wendell Holmes, will one day stand up for the right of freedom of speech, and he will say it is important to protect, quote, "Not free thought for those who agree with us, but freedom for thought that we hate," close quote.

[02:15:27]

While I would acquit the priest of pedantic prattle on all charges, I know that we are only three votes out of the 500 citizens who will consider his guilt. And so just in case we are in the minority, I'd like to say a brief word about punishment. As we all know, the King Archon court not too long ago struck down the mandatory application of the punishment guidelines, so we have a little more discretion now in deciding the proper punishment. Before this change in the laws of Athens, we would have been forced to apply Meletus' sentence of death. However, now that the guidelines are discretionary, we may consider other punishments.

[02:16:12]

Now, of course, the factors I've taken into account in considering the punishment are the nature and circumstances of the offense and the history and characteristics of the defendant. With respect to the history and characteristics of the defendant, I've taken into account his splendid military record and that he fought in each phase of the Peloponnesian Wars on behalf of Athens and was indeed cited for his bravery. I also consider his education and his advanced age.

[02:16:42]

With respect to the circumstances of the offenses, I have taken into account the possible retribution of the gods that protect us and the evidence that Socrates' mere speech has corrupted our youth. More importantly, however, I've considered the factors of deterrence. General deterrence is less of a concern. There is only one Socrates. It is doubtful than anyone else could coerce us into examining a life as well as Socrates does. However, specific deterrence is a real concern. Short of death, nothing will stop Socrates from speaking. No matter what we say or do, he will always encourage youth to think freely.

[02:17:33]

However, if Socrates is convicted, I suggest a more fair punishment. Sometimes punishments can be designed to provide a remedy to the people and properly to punish the defendant, or, as it was said in *The Mikado*, to let the punishment fit the crime. Here, the most significant problem is that Socrates lingers in the agora, speaks his mind to anyone who passes. So I suggest that the solution is to give Socrates a different forum in which to speak. So I would sentence Socrates to

exactly what he has always desired, a lifetime of cleaning up the information superhighway. We will provide him with a Facebook page, a Twitter account and his very own blog, and in that way he can continue to speak every minute of the day, and we hope never find time to step outside. The Athenian citizens will now be able to visit the marketplace without fear that upon returning home they will be questioning their virtue, life purpose and contribution to society. After all, every young Athenian should be able to buy coffee in the morning without being required to think. [LAUGHTER] So, if I am in the majority and if we are in the -- I'm sorry, if we are in the minority, I would sentence Socrates to the most deserving punishment of all, unlimited speech.

[02:19:15]

JUDGE DENNIS JACOBS: Well, Socrates, you're acquitted, so you are free to go. But don't do it again. [LAUGHTER] The case for which we are sitting, having been decided, this court of Athens is adjourned without date. Please adjourn court. Thank you.

[02:19:35]

DEPUTY: All rise.

[02:19:43]

[BACKGROUND CONVERSATION/NOISE; APPLAUSE]

[02:19:59]

[END]