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# THE TRIAL OF SOCRATES

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BY PROFESSOR J. B. BURY

IN the history of toleration and in the history of Rationalism the episode of the trial and death of Socrates occupies a prominent place. The main facts are familiar, thanks to Plato, whose *Apology of Socrates* may be assumed to be known to all who are likely to read this paper. There is no doubt about the general nature of the accusations; there is no doubt about the death; and perhaps most people who have read the Platonic dialogues which are concerned with the subject are aware that the extreme penalty could have been escaped if Socrates had chosen to live. But there are probably many who have never realized that the trial has not its face-value, and that the true motive of the prosecution was not hatred of Rationalism.

Socrates was brought to trial in 399 B.C., when he was seventy years old, on a charge of irreligion and of corrupting young men of Athens by his conversations, and it is surprising on the face of it that such a charge should have been brought against him in his old age, considering that all his life, and it was not a short one, he had been well known as a man of unorthodox views, who did not conceal them, and had been suffered to pursue his way with impunity. In his old age he had done nothing that was new or startling or likely to scandalize the conventional public more than it had been constantly scandalized before by the same bad man. If his teaching was dangerous, it had been just as dangerous in the past, for years and years. Why was it decided at this moment to indict him? It is difficult to believe that the motive of those who brought him into court was simply to punish a prominent and loquacious Rationalist.

There had been several trials for irreligion or blasphemy at Athens during the preceding half-century. We are sadly ill-informed about them; but I think that in the cases we know of, there is always reason to suspect another motive than sincere concern for the interests of religious orthodoxy. A brief survey of them will not be out of place; they belong to the annals of the history of Rationalism. The earliest and best-known case is that of Anaxagoras, the Ionic philosopher, who lived at Athens, and was intimate with Pericles. There is no doubt that his accusers were bitter enemies of the statesman, and that their real object was not to suppress the scientific doctrines of the philosopher, but to hurt and embarrass

Pericles. They found themselves, however, in a difficulty. Anaxagoras seems to have done nothing that could bring him under the Athenian laws against impiety. Unfortunately we do not know the precise terms of those laws. One of them seems to have made it an offence not to observe the usual practices which were enjoined by the State religion. This law was one which Anaxagoras did not apparently contravene. Conforming to the established religious observances of a city was a thing that never seems to have troubled a tolerant ancient Freethinker. It was therefore necessary to introduce a new law which would entrap Anaxagoras. Accordingly, a certain man named Dioppeithes persuaded the Assembly to pass a decree authorizing any one to impeach a person who did not conform to the religion of the city, or who taught doctrines about things in the sky. The teaching of astronomy was thus proscribed. As Anaxagoras denied that the sun and moon were deities and asserted that the sun was a hot mass of metal, he was exposed to an attack under this decree. Pericles could do no more than help him to escape from Athens. We are told that the charge of irreligion was supported by another accusation of having intrigued treacherously with Persia.

At a later time another indirect attack was made on Pericles by accusing his talented mistress, Aspasia, of irreligion; but we are not informed on what conduct the accusation was founded. In her case, too, the charge of impiety was bolstered up by another charge of a different kind. It was alleged that she entertained ladies at her house to introduce them to Pericles for improper purposes. Pericles went into court to defend her; and his eloquence and passionate pleading availed to secure her acquittal.

Some years after this Diagoras of Melos—another foreigner—was brought to trial, on the ground that he had said blasphemous things about some foreign deities and rites which were acknowledged by the city. He had the reputation of being an Atheist. We do not know what happened to him, but it is not probable that he was put to death; his execution could hardly have escaped being recorded. It may have been much about the same time that the leading democratic politician, Cleon, prosecuted the poet Euripides, but the action failed. Few documents of that time would be more interesting than an account of this trial, of which we first learned only a few years ago from a short life of the poet discovered in an Egyptian papyrus. It is natural to suppose that Cleon was much less concerned with bold unorthodox things Euripides said in his plays than with criticisms on some of his own political actions. There was no one who would have been more indignant than the humane poet at the proposal of Cleon to put to death the whole population of Mitylene.

Another case of a blasphemy trial has been recorded; but, though it is a rather famous one, it is doubtful whether it ever occurred.

It is the case of Protagoras. But there are chronological difficulties which have led Mr. Burnet\* to suspect the truth of the story, and I am inclined to agree with him. We thus reach the important conclusion that, notwithstanding the prevalence of orthodox views and prejudices at Athens, there is no clear evidence of a policy of pure and simple persecution of freethought as such. When for some other reason it was desired to suppress somebody, a charge of unorthodoxy was a facile means to excite the prejudices of the average citizens who served in the jury courts.

Whatever the true object of the prosecution and trial of Socrates, it was ostensibly a trial for irreligion, and it was staged as such in due form.

The man who came forward as the accuser was one who was well known for his irreproachably orthodox opinions, just the man who would carry weight with jurors as a sincere champion of the gods. His name was Meletus. In that same year he brought another action for impiety, and a portion of his speech on that occasion has survived, which lets us see what a fanatical person he was. In modern summaries of the trial it is commonly stated that there were two other accusers. This is certainly inaccurate. There was only one accuser—Meletus; two others were prominently concerned in the trial, Anytus and Lycon, as opponents of Socrates. These two acted as *synēgoroi*, or advocates for the prosecution. Lycon seems to have been almost a lay figure; he was an orator, and if he had not been associated with this trial his name would not have been remembered. Anytus was one of the most influential politicians of the day, and there can be no doubt that but for him Socrates would not have been brought into court, and that it was at his instigation that Meletus was put up to prosecute—a congenial rôle, which he must have been only too glad to undertake. This is recognized in the *Apology* of Plato when Socrates speaks of his foes as "Anytus and his friends"—not, as we should expect, "Meletus and his friends."

In 423 B.C. the notoriety of Socrates and his followers reached a culminating point, when Aristophanes produced his *Clouds*, in which he was lampooned for his scientific studies and speculations. About the same time other comic poets were also introducing Socrates on the stage. It can hardly be questioned that his theories were just as offensive to orthodoxy as those of Anaxagoras. Yet no one had cared to take any public action against him, and throughout the Peloponnesian War he talked and taught with impunity, attracting to his society young men of the richer classes who had leisure for philosophical conversation. From politics he held strictly aloof; he had never attached himself to any political

\* *Greek Philosophy*, I, pp. 111-2.

leader or joined any political group; and he was let alone, though some of his Companions proved afterwards that they were not loyal Democrats. In the troubles which followed the fall of the Athenian Empire, through the defeat at Ægospotami (405 B.C.), he was involved in a political incident against his will. The democracy was overthrown, and the oligarchy of the Thirty Tyrants seized the power. Two of these—Critias, the most important of them, and Plato's uncle Charmides—had been friends of Socrates. They knew that he was by no means an admirer of democracy, and they calculated that they could count on his support. They found they were mistaken. Nothing could justify in his eyes their despotism and defiance of law. Probably he criticized them openly, and freedom of speech could not be tolerated by this unscrupulous government. We hear that Critias warned him that he must abandon his habit of conversing with the young men who were attached to him. After this they determined to implicate him in the responsibility for one of their illegal acts. They had decided to put to death a democrat, Leo of Salamis, who had committed no crime and had not been legally tried and condemned. The tyrants ordered several persons, of whom Socrates was one, to arrest him. Socrates made no reply to the command, but simply went home. He would, no doubt, have been executed himself for his contumacious disobedience if the oligarchy had not fallen at this juncture.

It might have been thought that this incident would have been enough to make him a *persona grata* with the democracy, however unpopular he might have been before, and serve to cancel suspicions that he was disloyal; that at the least he would have been as fully tolerated by the new democracy as he had been by the old. But the Athenians were too intelligent to imagine that his views about democracy had changed. They understood that his protest against the execution of Leo of Salamis was not made because Leo was a democrat, but because the act was tyrannous and illegal. For some time the restored democracy did not feel itself very secure, and one can understand that it appeared to some to be dangerous to have his polite but effective tongue at large criticizing democracy in general with the utmost urbanity.

Anytus, a man who was honest and sincere and highly reputed, was of this opinion, and came to the conclusion that Socrates must be silenced or got rid of in some way. No political charge was possible, and Socrates had not broken the law. The only weapon that could be used was the prejudice against his religious heresies. And for warfare of that kind Meletus was obviously the right man.

There were, however, rather awkward difficulties which hampered the prosecution. One of the most statesmanlike acts of the restored democracy was the amnesty which gave immunity to all citizens for anything they had done before the year 403; and no one was more

earnest about observing this act loyally and strictly than Anytus. This precluded the prosecution from bringing up against Socrates his compromising intimacies with Alcibiades or any of the enemies of the democracy. In the second place, there had been a thorough-going revision of the laws, and one result of this was that no decrees which had been passed before 403 B.C. retained their validity, so that no one could now be indicted under the Decree of Diopieithes which had been levelled against Anaxagoras. The vagueness of the accusation which it was agreed to formulate indicates the embarrassment. It ran thus: Socrates is guilty of not worshipping the gods whom the city worship, and of introducing religious novelties. He is guilty also of corrupting the young men.

This is well attested as the literal text of the charge. Plato and Xenophon agree, and there is a confirmatory record which seems to have been derived from the official document preserved in the archives of the King Archon before whom the action was originally filed.\*

It seems legitimate to infer that the Laws of Solon, which remained valid, contained an enactment which made religious observances compulsory and another which made "corrupting" the young a legal offence. But it is a puzzle what the religious novelties were that Socrates was alleged to have introduced. This is left vague; there is even a difficulty about the precise meaning of the Greek phrase (*kaina daimonia*) which is generally translated "strange divinities," but which, according to Mr. Burnet, means "strange religious observances."

We do not possess the speech of the accuser Meletus; it could have been preserved only if he had chosen to publish it himself, and perhaps he was not very proud of the performance. The sources for the trial are Plato's *Apology* and two works of Xenophon—the *Apology*, a brochure on the subject of the way in which Socrates defended himself, containing what professes to be a brief abstract of what he said; and the *Memorabilia* of Socrates, in which much the same ground is traversed. Xenophon was not present at the trial; he was in the East with the Ten Thousand; on his return to Athens he obtained his information at secondhand, especially from Hermogenes, who had been one of the companions of Socrates.

Plato was in court and heard the whole proceedings. How close his *Apology* is to the original speech of Socrates is a question on which different views have been held, and which, as Mr. Jowett said, admits of no precise solution. It is certain that Plato's work is not a report in anything like our sense of the word. When an orator published a speech he had delivered, he revised and improved its literary form, and there can be no doubt that Plato took pains

\* See Diogenes Laertius, ii, 40.

to make his master's defence a work of art. But how far did he permit himself to go in taking liberties with what Socrates had said? Keeping to the general tenor of the argument, did he add to it or did he omit? For one thing, it seems improbable that the prisoner, after sentence had been passed, would have been allowed to address a portion of the jury on the subject of death, as Plato makes him do. We can hardly help believing that this last section of the speech was an addition of Plato, designed to make the whole trial look like a beautiful work of art. And if this is admitted, the general considerations which have led some of the best and most recent critics to regard Plato's *Apology* as a trustworthy and generally accurate version of what Socrates actually said cannot be taken as conclusive. There may have been additions to or enlargements of his argument. And then what about omissions?

Now, Socrates had a complete answer to the first charge in the indictment, that he did not worship the gods of the city or observe its religious observances—a simple denial, supported by witnesses, that the accusation was true; and it is almost incredible that he should not have said so.\* In Plato he says nothing of the kind. But in Xenophon's *Apology* he says so emphatically: "I should like to know on what grounds Meletus asserts that I do not worship the gods worshipped by the city, for at public festivals I am seen sacrificing at the public altars, and Meletus could have seen me, if he wished." It is hard to believe that Socrates could have omitted to make this simple direct statement of fact, and I have no hesitation in accepting this from Xenophon and in regarding it as a point which Plato has omitted.

Another remarkable difference between the two defences is the treatment of the charge of introducing religious novelties. In Plato's defence this is referred to only for the purpose of showing that it is inconsistent with the allegation that he did not acknowledge the gods, and no hint is given of the precise meaning of *kaina daimonia*. Meletus, however, was absolutely bound to explain its meaning in order to justify the accusation. In Xenophon's defence, on the other hand, it is explained as meaning that Socrates professed to hear a divine voice which warned him what to do. Socrates did not deny it, but replied that to be warned by an inner voice was not to introduce a new religious practice; an inner voice is in exactly the same category as the voice of an oracle, or omens from birds, or the prophecies of seers. He added that he sometimes communicated to friends the counsels of the gods conveyed by this inner voice, and that none of them had ever proved false. At this point, Xenophon records, there were interruptions on the part of the judges, of whom some were incredulous and others envied him for his access to greater gods than they had access to themselves. Then Xenophon says Socrates told the story of the oracle which Apollo

gave at Delphi to his companion Chærephon, which Plato introduces in a different connection and a different and much more impressive form. I cannot resist the conclusion that here again Plato has omitted a part of the original speech.

The other charge of corrupting the young men is dealt with very slightly in Plato's *Apology*, and what Socrates says there leads one to suppose that Meletus had dwelt merely or mainly on the corruption consisting in communicating the irreligious views of which the defendant was accused in the first clauses of the indictment. This brings us to another problem: Does Plato's *Apology* supply a complete account of the trial? It seems clear that what Socrates says is a reply only to the speech of Meletus, and that the advocates Anytus and Lycon have not yet spoken in his support. It is natural to infer that they spoke after Socrates. Socrates did not employ advocates; if he had, they would have replied to Anytus and Lycon. The evidence points to the conclusion that it was arranged that Meletus should deal with the charges of irreligion, and that Anytus should develop the charge of corrupting the young men.

To justify and explain this conclusion I must refer to a polemical work which appeared at Athens subsequently to the death of Socrates. Between the years 394 and 390 B.C. an attack upon Socrates was published by a sophist named Polycrates. It has been plausibly conjectured\* that the motive of this attack was to furnish a counterblast to Plato's *Gorgias*, which may have appeared in 394 B.C. or soon after, and contains a very unfavourable criticism of Themistocles and Cimon, Thucydides and Pericles, the leading statesmen of the old Athenian democracy, who were the *dii minores* of men like Anytus. Plato puts this criticism in the mouth of Socrates; but it is probable that the Platonic Socrates says much more severe things than the actual Socrates ever said. The work of Polycrates was put in the shape of a prosecuting speech, pretending to be the speech Anytus delivered in the trial of 399 B.C. It is not preserved, but we virtually know its tenor. For it imposed in later times on readers as being what it feigned to be; and among others it imposed on the rhetorician Libanius, nearly 800 years later (in the second half of the fourth century A.D.), and he conceived the not unhappy idea of composing a reply to it as a rhetorical exercise. This reply is preserved among his declamations, and the German philologist L. Dindorf made the discovery that it was a reply to the work of Polycrates. Every one now recognizes that this is true. And as Libanius takes the fictitious speech of Anytus, point by point, the lost work of Polycrates can be reconstructed.

This lost work has, I think, some importance for the actual trial

\* By Mr. U. von Wilamowitz-Möllendorff.



of Socrates, at which Polycrates may or may not have been present. His attack dwelled entirely on the charge of corrupting the young, and was put into the mouth of Anytus. This may be taken to support the conjecture made above, that this part of the charge was left to Anytus, while the religious side was handled by Meletus. Polycrates would have been likely so far to keep to fact.

It may also be noticed that Libanius takes the same view of the proceedings of the trial that has just been suggested. After Meletus, Anytus comes forward with an ill-natured speech, and then Lycon reviles the accused. "Are we, the friends of Socrates, to listen to the evil speaking of these two and sit dumb? I will confront Anytus," says the orator of Libanius. This shows that he imagined Meletus to have been answered by Socrates before Anytus spoke.

The Anytus of Polycrates was not restricted, as the Anytus of history was, by considerations of the amnesty. He was quite free to paint a lurid picture of the tyranny of Critias and his associates, and to attribute their evil doings to the malign influence of Socrates. He could recite with rhetorical indignation the iniquities and levities of Alcibiades and his treachery to Athens, and represent his whole discreditable career as a fruit of the corrupting discourses of the philosopher. It seems pretty certain that Polycrates would have included in his arraignment the evidence that was actually brought forward at the trial as to the corrupting character of the conversations of Socrates, and therefore his attack may contain material which may give us information about that part of the trial of which Plato tells us nothing.

Among such borrowings from the actual speech of Anytus comes first the charge of attacking the classical poets, especially Homer, Hesiod, Theognis, and Pindar (Libanius, chap. 62 *sqq.*). Socrates, no doubt, did constantly criticize passages in the poets and censure their sentiments, and a clever advocate could easily make out a case which would carry weight with a prejudiced public, that he taught disrespect and irreverence for the inspired teachers of wisdom and virtue. The absurdity of such an obscurantist attitude is very judiciously exposed by Libanius.

Another point which Anytus might have introduced into his denunciation is that Socrates hated democracy as a form of government, and constantly ridiculed it (Libanius, chap. 54 *sqq.*)—a charge which he could probably have made good without touching on any forbidden ground. It seems also extremely likely that another point urged by Anytus to substantiate the charge of corrupting the young men was the habit of Socrates to find fault with Athenian institutions and customs (Libanius, chap. 80 *sqq.*). Evidence for all this could easily have been collected and produced in court. Another insinuation which Anytus may have possibly made is that Socrates induced or encouraged people to spend an

idle life and neglect their business (Libanius, chap. 127) for the sake of unprofitable speculations. I thus suggest that the whole portion of the work of Polycrates corresponding to chapters 54-135 of the reply of Libanius may have reproduced the tenor of what Anytus actually said in court, and, if so, it had probably much more weight with the judges than the flag of orthodoxy waved by Meletus.

On one point all those who heard the speech of Socrates at his trial seem to have been agreed, so we are told by Xenophon, (*Apology*, 1), and that was the lofty superior tone he adopted towards his judges. His companions were surprised at it, as it was manifestly foolish in a man who was being tried for his life to adopt an attitude which those on whom the verdict depended would regard as insolent bravado. Hence some of them drew the conclusion that he preferred death to life, as a way of avoiding the pains and weaknesses of old age, being determined to seal his own doom, and to avert the undesirable issue of an acquittal.

This theory strikes one as fantastic. Socrates was barely seventy years old. He had an unusually strong constitution, and was in good health. If he had to die, he, like any other philosophically-minded person, might have considered the avoidance of old age a mitigation of a premature fate; but to act deliberately for the purpose of ensuring such a fate would have been as morbid as to commit suicide. And that is contrary to all our ideas of the character of Socrates.

There is really no need of any explanation of the tone of superiority which characterizes the speech, as reported by Plato. It is the natural expression of his deep conviction of the reasonableness and rightness of his own life and conduct, and he saw no cause for condescending from it in order to conciliate. The verdict of Guilty did not mean that he must die. The majority of the votes which condemned him was not enormous, and there is hardly a doubt that, if he had proposed banishment as his punishment, that would have been accepted by the court instead of death, which had been proposed by the prosecution. This is most probably the result which Anytus expected, and would have preferred. Socrates declined to do this; he proposed a devisory fine, which the court would not accept. The Judges, therefore, being obliged to choose between the penalties proposed by the accuser and the accused, in accordance with the curious law governing cases of this kind in which there was no legally prescribed penalty, were forced to pass the sentence of death.

I can find no evidence that Socrates wished to die. But, and this is quite a different thing, he wished to live only on his own terms. After his condemnation he had the choice between two alternatives: death or exile. It was a hedonistic calculation, and he states quite distinctly in Plato's *Apology* why exile seems to him the less tolerable of the two:—

"If I say exile, I must indeed be blinded by the love of life if I am so irrational as to expect that, when you who are my own citizens cannot endure my discourses and words, and have found them so grievous and odious that you would fain have done with them, others are likely to endure me. No, indeed, men of Athens, that is not very likely. And what a life should I lead, at my age, wandering from city to city, living in ever-changing exile, and always being driven out! For I am quite sure that into whatever place I go, as there as here, the young men will come and listen to me; and if I drive them away, their elders will drive me out at their desire; and if I let them come, their fathers and friends will drive me out for their sakes."\*

The peculiar interest of the end of Socrates lies in the fact that it was a rational choice between two fates—between death, of which neither he nor any one else knew the nature or meaning, and banishment, of which he had calculated the probable pains and miseries. He was clear-sighted and strong-minded enough not to allow reason to be defeated by the natural instinct of clinging to life at any cost.

He goes on then to the crucial point:—

Some one will say: Yes, Socrates, but cannot you hold your tongue, and then you may go into a foreign city, and no one will interfere with you? Now I have a great difficulty in making you understand my answer to this. For if I tell you that to do as you say would be a disobedience to the God, and therefore that I cannot hold my tongue, you will not believe that I am serious; and if I say again that the greatest good of man is daily to converse about virtue and all that concerning which you hear me examining myself and others, and that the life which is unexamined is not worth living, you are still less likely to believe me.

If Socrates could have resigned himself to giving up the excitement of "conversing daily about virtue," he might have avoided the trial altogether. He could have gone to Anytus and given an undertaking to abandon his habit of holding conversations which were so disagreeable to the democrats. There can be no doubt that his promise would have been accepted and the prosecution dropped. But he would risk death rather than consent to what would make life worthless for him. He would live only upon his own terms. He cannot fitly be called a martyr, except in the wide, vague sense in which that word is often applied to any victim of intolerance. If he bore witness to any cause, it was to the cause of freedom of speech.

\* I have borrowed the translation of Jowett.