Never Mind the Manner of My Speech: The Dilemma of Socrates' Defense in the Apology

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"Never Mind the Manner of My Speech": The Dilemma of Socrates' Defense in the *Apology*

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Those who guard themselves from philosophy show a healthier respect for it than those who are certain they know its results and know to whom they apply. For when philosophy is called for one cannot know beforehand where it will end.

— Stanley Cavell

What might we learn from reading Plato's *Apology*? Socrates, the foremost teacher in Western culture, is on trial for his life, and he defends the way he has lived by describing how he has conducted himself; this means describing how he has taught and what he has taught and why he teaches as he does. The charge against Socrates is that he does not believe in the traditional deities of Athens and instead has introduced new deities (an apparent reference to his inner voice, his *daimonion*). This impiety on his part has led him to corrupt Athenian youths influenced by his teaching, making them irreverent toward their elders and the gods their elders accept and worship. Here we have a great moment in Western thought and action, and in Western education, and in Western law: it deserves a great response. Two common ways of responding to this text draw mutually incompatible morals from it.

On one reading, probably the most popular, Socrates' defense vindicates his activities in Athens. This trial is a war between good and evil, with Socrates representing the good side, defending liberalism and its values of free inquiry and free speech. On this reading, while Socrates loses the battle for his life, he wins the war for our hearts and minds. His defense speech is thus thought to be convincing to any reasonable reader outside the confines of fourth century Athens, and subsequent
historical events (e.g., the turning of the Athenians against the accusers of Socrates; the entire course of Western experience with freedom of expression, dissent, and censorship in liberal democracies and republics) are seen as clearly vindicating his position vis-a-vis the persecuting Athenian majority.

In the single best treatment of Plato's text of which I know, Eva Brann states that this approach to the *Apology* typically takes the following form: "A first reading of Socrates' defense before the court of the Athenian people as handed down by Plato induces an exalted feeling in favor of Socrates ... . We hear a philosopher nobly coping with a persecuting populace."²

The next most common reading seems (in view of several recent books on the *Apology*) to be gaining favor. On this view, Socrates is simply guilty, and all the nobility of his address cannot change that sad fact. Here I am thinking of recent books by I. F. Stone and Thomas G. West, both of which chronicle very carefully and conscientiously the inadequacies in Socrates' defense and the merits in Athens' brief against him, and of the most recent book on the *Apology*, that by Brickhouse and Smith, which to a lesser, more moderate extent, raises similar doubts about Socrates' defense.³ The adherents of this second reading of the text "vary," again according to Professor Brann, "for the most part, from respectably conservative through illiberal, even to reactionary ... ."⁴

Both readings assume that we are in a position to adjudicate the merits of this trial, and that a proper response requires us to make a judgment, to choose sides. But I think that this shared assumption is wrong. In my view, the *Apology* poses a dilemma for us, its readers, just as Socrates' trial posed a dilemma for his jurors. And the instruction we receive from this dilemma lies not (at least, not initially) in our judgment of Socrates' guilt or innocence, or of Athens' folly or wisdom in prosecuting this case, but rather in how we take the words this work offers us.

I want to re-consider this Platonic text by focusing on the specific question with which it opens — and which it perhaps never leaves — namely, How are we to take Socrates, his words and his claims? Our response to this question re-enacts the plight of Socrates' jurors, I think, in that here we are asked (as they were challenged) to find a way to orient ourselves in a truthful, fruitful way toward Socrates. Similarly, however, we need to see that the trial process also makes a demand upon
Socrates, asking him as it were to find a truthful, fruitful orientation toward his jurors.

§1. How Are We to Understand Socrates?

The initial terms of understanding that we have for this text are proposed by Socrates in his opening statement.

I do not know what impression my accusers have made upon you, Athenians. But I do know that they nearly made me forget who I was, so persuasive were they. And yet they have scarcely spoken one single word of truth. Of all their many falsehoods, the one which astonished me most was their saying that I was a clever speaker, and that you must be careful not to let me deceive you. I thought that it was most shameless of them not to be ashamed to talk in that way. For as soon as I open my mouth they will be refuted, and I shall prove that I am not a clever speaker in any way at all – unless, indeed, by a clever speaker they mean someone who speaks the truth. If that is their meaning, I agree with them that I am an orator not to be compared with them. My accusers, I repeat, have said little or nothing that is true, but from me you shall hear the whole truth. Certainly you will not hear a speech, Athenians, dressed up, like theirs, with fancy words and phrases. I will say to you what I have to say, without artifice, and I shall use the first words which come to mind, for I believe that what I have to say is just; so let none of you expect anything else. Indeed, my friends, it would hardly be right for me, at my age, to come before you like a schoolboy with his concocted phrases. But there is one thing, Athenians, which I do most earnestly beg and entreat of you. Do not be surprised and do not interrupt with shouts if in my defense I speak in the same way that I am accustomed to speak in the market place, at the tables of the money-changers, where many of you have heard me, and elsewhere. The truth is this: I am more than seventy, and this is the first time that I have ever come before a law court; thus your manner of speech here is quite strange to me. If I had really been a stranger, you would have forgiven me for speaking in the language and the manner of my native country. And so now I ask you to grant me what I think I have a right to claim. Never mind the manner of my
speech – it may be superior or it may be inferior to the usual manner. Give your whole attention to the question, whether what I say is just or not? That is what is required of a good judge, as speaking the truth is required of a good orator.\(^5\)

The tone of this statement is refreshingly direct and its appeal immediate. Socrates contrasts himself from his accusers along the dimension of truth: he will tell the jury the truth, whereas his accusers have not done so. That is the simple core of his defense and it is built upon a single contrast. While his accusers have stooped to giving prepared speeches, mere recitals of rehearsed, artificial texts "dressed up ... with fancy words and phrases," Socrates offers only himself as he stands, his own words in whatever textual form and shape they may compose as they appear during his voicing of his freshly and freely minted thoughts, "the first words that come to mind." And the jury, if it appreciates this difference between the speeches of the prosecution and the defense, should recognize the justness of Socrates' defense.

None of this seems extraordinary, perhaps, except for the one place where Socrates pleads for something from his jurors.\(^6\) We know that this is important because it is so unusual, so uncharacteristic of Socrates in this forum. He does not otherwise address the jury as a supplicant,\(^7\) and it is notorious in the commentaries on this text that Socrates' attitude toward his jurors is condescending, even haughty. (One example, noted by Brann and the Wests, among others, is the fact that Socrates never accords the full jury the customary honorific title of "judges," but rather only uses this Athenian badge of honor for saluting those jurors who voted to acquit him.\(^8\) During the course of his opening statement, however, Socrates "beg[s] and entreat[s]" his jurors not to interrupt him and not to be surprised by the manner of his speech; he says that he will talk in the same way in which he is accustomed to speak everyday, in the marketplace or elsewhere. And he returns to this request at the end of this same statement, where he again asks his jurors to grant him this courtesy, only now he puts it in terms of a claim of right:

[T]his is the first time that I have ever come before a law court; thus your manner of speech here is quite strange to me. If I had really been a stranger, you would have forgiven me for speaking in the language and the manner of my native country. And so
now I ask you to grant me what I think I have a right to claim. Never mind the manner of my speech – it may be superior or it may be inferior to the usual manner.

Socrates' plea is that, being a stranger in the strange land of the law, he should be accorded the right of a stranger, and be allowed to speak in his native tongue, the language of everyday life. And from Plato's text, it is not clear to me whether the jurors grant this request or deny it. But what difference does it make? Why should Socrates want to insist on this one point?

One possible answer is that he feels uncomfortable in this situation, constrained by the artificial, or at least foreign, procedures of the law. His life is at stake, after all, and he does not wish to risk it by now, after seventy years, suddenly having to speak in legally correct or cognizable forms (which he may get wrong and thereby be severely – and he suggests, unfairly – penalized for breaching). Here one might note the fact that in Athenian legal proceedings each litigant had to make a speech on his own, without the direct help of a paid attorney, and this speech was subject to a time limit. So the pressure on someone in Socrates' position was immense, and he might understandably balk at the expectations Athenian law placed upon him. Indeed, both in the context in which Socrates was speaking and in our context today, where we are sensitive to the many technicalities and artifices by which the law takes its course, this kind of claim makes sense.

But Socrates' plea makes a less strong claim on our sympathy in this respect if we compare it to Socrates' actual performance at trial, where he shows himself fairly adept at Athenian legal procedure. He is fully capable of making a speech to the jurors, and a fine speech it is. Also, despite his disclaimer of legal expertise, Socrates cross-examines Meletus with dispatch, he uses the correct form of address to the acquitting jurors when he wishes to do so (as noted above), and he understands and refers to a number of other aspects of Athenian legal procedure (e.g., his accuser Meletus' right during his own speech to offer someone as a witness against Socrates, of which Meletus does not avail himself [34a]; the right of the accused to invoke his family, to plead for mercy from the jurors, which Socrates declines to do [34d]). In view of this familiarity, and apparent facility, with Athenian law, it is difficult to regard
Socrates' plea as a request to exempt himself from these technicalities and formalities.

Then why does he make the request and press it so strenuously in his opening statement? I think that he does so, first, as a way of drawing to the jurors' attention the fact that he does not fear saying whatever comes to mind, since his thoughts are true and just, and he can live with them, come what may. This aspect of Socrates' speech proposes to the jurors a quite specific and peculiar criterion of truth, namely, the spontaneity of one's words. This, he is saying, is the appropriate test for the jurors to apply at his trial. Its appeal (which is considerable, I think) stems from the common perception that, whether or not what one says is in fact true, at least we believe one's utterance to be more truthful – honest, more candid – the more spontaneous it is.

On this basis, the spontaneity and naturalness of Socrates' remarks are contrasted several times with the accusations of his accusers, and not surprisingly the contrast portrays the accusers unfavorably. Their remarks are not spontaneous but calculated, or at least are not motivated by a sincere wish to speak the truth. When Socrates is speaking about the oldest allegations against him spread by slanderers, for example, he suggests that these things are said out of hatred, anger, and envy toward him, because he has seen fit to refute powerful members of the Athenian polis. [See, e.g., 21cd, 21e, 23a, 23e, 24ab, 28a.] Then as to the more recent accusations by Meletus and others, Socrates says that they do not truly care what they say, but instead simply say anything that sounds plausible or that may convince the jury in this context, given the earlier lies spread about him. Meletus, for example, is scolded by Socrates for not taking his accusations against Socrates seriously; he rather must be joking or speaking ironically in them. [See, e.g., 24c, 24d, 25c, 26b, 26e-27a, 27e.] This is frivolous behavior about a grave and sacred matter, and it indicts Meletus of impiety more than it does Socrates. And sometimes Socrates says that his recent accusers are calculating in that they rely upon the known irritation that Socrates' questioning causes others to promote their own false accusations against him. They are planning on the credulity of the jurors, affected by earlier slanders and rumors spread against Socrates, to make their later, otherwise unconvincing accusations more credible. [See, e.g., 19b.] All of these factors suggest that Socrates is speaking truthfully in his defense, while his accusers are not.
Then too, Socrates' emphasis on his presentation being an unprepared or unrehearsed speech is a way that he has for trying to orient his jurors with respect to the charges against him. He wants his jurors to take the charges in a non-legalistic manner. These charges deal with his entire life and his entire person as it were, and he claims the right to deal with them accordingly, as a complete person, and not simply as a skilled legal expert (what we call a "lawyer"). Socrates' defense speech depends upon its being (and being heard or read as) non-legalistic in a deep sense, as though he were saying, "Law is too important to be left to the politicians – or the lawyers." (He is saying that.) He wants his jurors to regard the charges against him in some broader, more generous way, because he believes that, properly understood, his description of his life and way of teaching will be seen to be not impious and not corrupting of Athenian youth (and, in this sense, not contrary to the laws of Athens). And "properly understood" here means something like: Not as a lawyer might understand his life, but as an ordinary citizen and speaker might understand his life.

This reading raises the basic dilemma posed by this text: How are we to understand Socrates, his words and his actions? Are we to understand him legalistically? If so, what does that make of him? Of us? Of our (possible or actual) community? And, if we don't understand Socrates legalistically, then how are we to understand him (and what does this other way of understanding make of him, us, and our community)? He suggests that we are to understand him in an ordinary or everyday sense, but this suggestion only replaces one question with another: What is an "ordinary" or "everyday" understanding of his words and activities?

§2. How Does Socrates Address His Jurors?

The first bothersome aspect of Socrates' defense is that he asks his jurors to abjure the very law they are supposed to apply. He claims to speak outside of the law, without its help (i.e., without whatever aid and assistance the law might afford him in terms of its potpourri of linguistic, procedural, and evidentiary instruments). And yet he seems freely to avail himself of legal aids (e.g., cross-examining witnesses, giving speeches, requesting evidence) when it suits him, and even claims that on a certain broad view of the charges against him, he is innocent. This seems inconsistent, and perhaps duplicitous.
There is a second, related inconsistency with Socrates' plea to the jury. While he seems to be asking them to treat him and his case in a non-legalistic manner, at the end of his long speech relating to the issue of his guilt or innocence, he suggests that the jurors must judge him by the law, dispassionately, regardless of whether or not they like him or admire his activities [see 35b-d]. It seems, then, that he wants his jurors to conceive of the charges against him broadly — and narrowly. Sometimes he disclaims any intent to measure himself against the categories of the law, and yet at other times he seems to concede the fact that whatever defense he makes must be made within the law, must be legally cognizable, because the forum in which he now speaks and acts is after all a court of law.

Well, I must make my defense, Athenians, and try in the short time allowed me to remove the prejudice which you have been so long a time acquiring. I hope that I may manage to do this, if it be best for you and for me, and that my defense may be successful; but I am quite aware of the nature of my task, and I know that it is a difficult one. Be the outcome, however, as is pleasing to god, I must obey the law and make my defense.\(^\text{10}\)

When one looks at what Socrates actually does in his defense speech (and here I am speaking, for the moment, only about that portion dealing with his guilt or innocence [17a-35d], not his punishment or his concluding remarks [35e-42a]), it breaks down into five related segments, during some of which he performs like a lawyer, in others of which he eschews that role. His opening speech [17a-18a], quoted above (see text at note 5), attempts to deflect or deflate the accusations of his accusers and to propose the truth of his own claims. This is a typical lawyer-like statement, and a very good job of lawyering indeed.\(^\text{11}\) Then his defense moves to its second segment, in which Socrates responds to the oldest allegations against him [18a-24b]. Even though these allegations are not a part of the actual indictment in these proceedings, Socrates argues that they have prepared the ground in the jurors' minds for the more recent accusations against him, so first he must extirpate these old charges from the minds of his jurors if he is to defend himself successfully. After disposing of these old allegations (while expressing his regrets that he cannot call these rumor-mongers and slanderers directly before this court for cross-examination and refutation [see 18d]), he turns his
attention and attack to the charges currently pending against him [24b-28a]. This third segment of the text comprises its only stretch of dialogue of any kind, and it is pretty feeble. Socrates' cross-examination of Meletus consists mostly of Socrates badgering and gainsaying the hostile witness, who himself fairly quickly refuses to participate in the process.

By this point in his defense, we have had three legalistic speeches by Socrates, contrary to what he has told his audience he would offer them, and one begins to wonder about the sincerity of his opening remarks. But then, in the fourth segment, he moves to a broader question, which has to do with why he does what he does, and this becomes his broader justification of his activities, his philosophizing [28b-30d]. Here he speaks most intimately and personally about why he feels impelled to philosophize, to converse with his neighbors and fellow-citizens and to refute them in their claims of knowledge, and this speech amounts to Socrates' self-justification. If you ask him why he does what he does, this is his answer. And then, in the fifth and final segment of this portion of his defense speech, Socrates turns the question around, as it were, and speaks selflessly, arguing in the alternative that, whether or not his own self-justification makes sense or persuades his jurors, they should acquit him on the basis of their own self-interest [30d-35d]. Here he argues that what he does is good for the city, good for Athens, and good for those who listen to him and engage with him in dialectical conversation. This activity does no one harm, but rather does all of them good, and the jurors ought to see that this is a gift, not a threat, to them. Accordingly, as Socrates says in closing this segment of his defense [34e-35d], he has no need and no wish to flatter the court or to curry their favor or to plead with them on the basis of pity or sympathy. Properly understood, what he does is a vast benefit to them, and they ought not throw it – or him – away.

My problem with this sophisticated and complicated defense is that it strikes me as though Socrates wants to have it both ways at once. He wants to avail himself of the power and protection and procedure of the law when they benefit him, and the first three segments in his defense speech are masterpieces of lawyer-like arguments about the meaning and reach of the indictment against him. On the other hand, he also wants to have the right to speak outside the law, to eschew the law when it benefits him, and the last two segments in this portion of
his defense speech are fine attempts at raising some extra-legal concerns and considerations in his favor. It is not exactly that I begrudge him this duality, which strikes me as wonderfully resourceful, so much as it is that he seems to me to be enacting a kind of duplicity toward the jury. Socrates has suggested (if my reading above is correct) that he is not playing both roles here, is not speaking effectively in both modes, the legal and the ordinary or everyday, but rather that he is simply speaking as an ordinary citizen might about such matters. I don't say that this duplicity falsifies what he says, but rather it refutes him, his claim to have a certain status or role in these proceedings, namely, the status or role of an uncalculating plain-speaker. And he seems to think that no one – especially not the jury – will notice the fact that, despite his protestations to the contrary, he is speaking out of both sides of his mouth.

This kind of duplicity is, then, the way he treats the jury. He acts as though the jurors are not capable of seeing or understanding this doubleness in his speech, just as he claims that they are not capable of making up their own minds (he argues that their minds have been prejudiced by earlier rumors and slanders). The impression I get is that Socrates thinks that the jurors cannot think for themselves. So he must help them think.

This much is true: Socrates must – should – help his jurors think. But the question is, How? How can one person help another person think for himself, or a body of people think for themselves? Surely not by doing their thinking for them. Rather, one needs to do exactly what Socrates here and elsewhere claims to do in his philosophizing – to provoke them to take thought of and on their own. Dialectic is the method Socrates invented to get people to think for themselves, and it accounts for his entire life, his way of living. "I am constantly alighting upon you at every point to arouse, persuade, and reproach each of you all day long." These are proud words, almost said boastfully (certainly said reproachfully), but how well does Socrates' performance in the Apology match his words and claim?

Socrates begins his opening statement by expressing concern for the "impression" that his accusers have made upon his jurors. There is nothing wrong with this concern; in fact, it is natural that a good lawyer would be concerned with the impression that opposing counsel and witnesses have made on the court or jury. And one of the best ways to begin to overcome this initial impression is to call attention to it,
making the jury conscious of the fact that up to this point in the trial process, they have been getting only one version of the facts, the prosecution's.

As I say, this concern is understandable in Socrates' opening statement. But why, I want to know, does he express this concern in terms of the "impression" that the prosecution has made on the jury? By doing so, Socrates accepts (or suggests to the jury that he accepts) this as a viable term for characterizing how one is to address the jury. And, for two reasons, it is not acceptable.

First, emphasizing the impressionability of the jury suggests that it is a malleable body, something like a piece of wax, on which a competent attorney puts his or her impress, fixing it with the impression that the attorney desires by stamping it. This is what rhetoric is supposed to do to its auditors, as famously noted and criticized by Socrates in other Platonic dialogues, and it is not something to which he normally would be a party. Second, this term of address suggests that the jury may have been "impressed" by his accusers, whereas Socrates wants to make them and their accusations much less impressive. But this puts Socrates in the position of accepting or endorsing the view of jurors as passive entities (upon which a successful attorney, like any good rhetorician, can put his impress), and as impressionable entities (easily or readily impressed by competent orators).

These two characterizations of jurors are not inevitable or inescapable aspects of such deliberative bodies. Socrates could have noted them as pitfalls into which some juries fall but against which, forewarned, this jury, his jury, is forearmed. This would have cast Socrates in the role of one who vies against such demeaning characterizations of the jury, one who tries to help the jury be the best it can be, not the worst (or the average) it can be. In addition, to speak from the outset in terms of "impressions" seems to me not only to concede the rightness or inevitability of a passive, impressionable role for the jury, but also to orient Socrates himself toward the jury in terms of impressionability. In a sense, then, in addressing the jurors so, he is making himself into a rhetorician or sophist, making him no better than his accusers. This assumed role seems especially foolish to me, in that it has the effect of a self-fulfilling prophecy, first by ascribing to the jury the character of a passive and impressionable entity, and then by reinforcing this ascribed character through Socrates' own mode of address. I think that this
would make the jury only more susceptible to manipulation by his accusers, thus playing right into their hands.

The apparent endorsement and enactment of this conception of the jury in Socrates' manner of addressing his jurors have real implications for his defense; they seem to me to contravene everything Socrates stands for. His example in other Platonic dialogues insists upon nothing less than a strenuous, never-ending attempt to foster the best in all of us -- he seeks to evoke, or provoke, the best response, the best performance, the best expression, from every human being he meets in the daily intercourse of his life. In the *Euthyphro*, for example, after telling Euthyphro, "[M]y love of men makes me talk to everyone whom I meet quite freely and unreservedly," Socrates goes on to berate Euthyphro for his lackadaisical response to this great opportunity to explore with him and to teach him about the meaning of piety: "I will do my best to help you to explain to me what piety is, for I think that you are lazy. Don't give in yet... . But, as I say, the wealth of your wisdom makes you complacent. Exert yourself, my good friend: I am not asking you a difficult question." And at his trial, this is exactly how he justifies himself, by claiming that this goal is what he has constantly kept before his eyes while he has been refuting and reproaching his fellow-citizens. "I went to each of you privately to perform the greatest benefaction ... and I attempted to persuade each of you not to care for any of his own things until he cares for himself, how he will be the best and most prudent possible,... ."

Yet Socrates seems to ignore this aspect of his teaching in the way in which he actually relates and speaks to his jurors. So his defense puts him in a false or hypocritical position, one that falsifies his teaching and the values he has exemplified up to this point in his life.

The best function of a court and jury is not to be a passive or impressionable entity. Instead, as Socrates rightly says in his opening speech [18a; see also 35c], the function of a judge is to judge (actively) the justness and truth of what the parties before the court say. Yet this best function of the court cannot be served except with the help of counsel; counsel must help to activate the judge and jury, counsel must engage them, bringing them into the trial process so that they know and understand and appreciate what is going on and what is at stake. In these and other ways, an active attorney is the necessary reciprocal element in achieving the goal of an active, engaged judge and jury. (This
reciprocity between the activity of court and counsel is a basic commitment in the Anglo-American common law, expressed in its ideal that each litigant should have access to an active, competent attorney.) The court’s doing its job depends upon counsel doing his or her job, and here Socrates fails to do what he says he will do – speak truthfully to the jury – thereby encouraging or acquiescing in a passive model of juries. Thus, he does violence to this trial and to his own ideals.

§3. Does Socrates Engage in Dialectic? With Whom?

If Socrates were truly to defend his life in this legal proceeding, then I should think that he would do so in part by performing the values of that very life, or rather, its virtues, which include his willingness, his eagerness, to engage others dialectically. What better way to illustrate this virtue than by engaging the jurors themselves? But he does not do this. Instead, he lectures his jurors, giving them speeches and asking them not to interrupt him. Viewing juries as passive, and composed of impressionable people apparently easily manipulated, Socrates misses the chance to engage these people in dialectic. It is as though he did not see the relevance of his own dialectical method to this occasion, this process. Thus, Socrates foregoes the best chance he has of justifying his actions in the eyes of the jury, because he denies them a first-hand experience of the value and result of his practice. He neglects the chance to do what he does best, engage in dialectic, the experience of which might give the lie to the ascriptions of harm that his accusers make against his teaching.

But to assert, as I have, that Socrates "foregoes" an opportunity to engage his jurors dialectically implies that a real chance for dialectic exists in this situation, and does it? One response would be, No. In this context, it is impossible for Socrates to engage his jurors dialectically.

Dialectic (as I understand it) works by changing the parties who participate within it. For it to have this effect, however, one must submit to it. You cannot gain the power or advantage of dialectic without submitting yourself to its costs, its terrors; this is its price. Dialectic proceeds by self-discovery, not forced compulsion by way of argument or logic. (This is not to say that self-clarification cannot be aided by argument or logic; only, that for these problems our eventual recognition or acknowledgment of the truth cannot be forced on us or compelled by way of argument or logic.)
Socrates espouses this view of dialectic in the *Gorgias*, for example, when he offers Gorgias the chance to say whether or not he chooses to go ahead with the discussion just begun:

I imagine, Gorgias, that you, too, have taken part in many discussions and have discovered in the course of them this peculiar situation arising: people do not find it easy by an exchange of views to arrive at a mutually satisfactory definition for the subjects under discussion, and in this way bring the argument to an agreeable end. Rather, when they disagree on any point, and one declares the other to be guilty of incorrect or vague statements, they grow angry and imagine that everything that is said proceeds from ill will, not from any concern about the matters under discussion. Some of these arguments end most disgracefully, breaking up in mutual vituperation to such an extent that the bystanders are annoyed at themselves for having become auditors of such people. Now why do I say this? Because at the moment you seem to me to be making statements which do not follow from, and are not consistent with, what you first said about rhetoric. I hesitate, therefore, to embark on a refutation in the fear that you may imagine that I am speaking, not with a view to illuminating our subject, but to discredit you. Now if you are the sort of person I am, I shall gladly continue the questions and answers; if not, I shall let them go. And what sort of person am I? One of those who are happy to be refuted if they make a false statement, happy also to refute anyone else who may do the same, yet not less happy to be refuted than to refute ... . If, then, you declare yourself to be such a person as I am, let us continue the discussion; but if you think we ought to let it go, let us at once dismiss it and close the interview.16

It seems to me reasonably clear that none of the accusers of Socrates is willing to be refuted in this sense, or is submitting himself to scrutiny in open court for the sake of engaging in dialectic with Socrates. In fact, Socrates does all that he can in this regard. As to the oldest allegations against him (as I said above), he avows his desire to engage and cross-examine those responsible for these slanders against him [18d]; but they are not available to him. And, as to his recent accusers, his dialectical engagement with Meletus is fleeting and abortive because
Meletus refuses anything more than a perfunctory participation. And the allotted time for Socrates’ defense speech is passing.17

The point is, then, that dialectic as a process of arriving at the truth requires, or has as one of its conditions, that each participant submit himself or herself voluntarily to the process. Participants in dialectic must want to engage, must be willing to submit themselves (their words and opinions) to dialectical scrutiny and testing – and they must be ready, willing, and able to face and accept the consequences, the possible refutation (humiliation) of themselves that is at the heart of dialectic. This is both the promise and the threat of dialectic.

Similarly, it is difficult to imagine the jurors as capable of being engaged dialectically. For all we know, Athenian legal procedure may prohibit it. And besides, what good would it do Socrates? It avails him nothing to respond to hecklers; it may even be that he serves only to dignify such interruptions if he responds to them. One might go further still and say that, indeed, Socrates does engage his jurors dialectically. To say this would mean that one has asked and answered the following question: What would dialectic look like here, in this context (an Athenian court)? The claim would be that Socrates does engage his jurors in dialectic, in the sense that he refuses to flatter them [see e.g. 34e-35d]. His refusal to pander to them is dialectical in the sense that it amounts to insisting that, if the jurors are to acquit him, they must do so on his (philosophical) terms, not theirs (i.e., their political or social or personal terms). This is courageous, and dialectical.18

My problem with this claim is that it seems to conceive of dialectic as having essentially the characteristic of refusing to flatter its audience. This may be one characteristic of dialectic but is it the only essential one? I think not. Also essential to dialectic is the fact that its participants befriend one another.19 In particular, I believe, it is crucial that Socrates (the inventor of dialectic) show the others with whom he is engaging in this exercise a kind of presumptive friendship. (Sometimes, of course, it is Socrates who asks to be befriended by his interlocutor, as when he solicits Euthyphro to help him learn about piety, or when he berates Meletus for failing to correct his (Socrates’) wrongdoings when he (Meletus) first became aware of them.20 The failure, either way, is one of educative friendship.)

Friendship of a certain kind is what Socrates offers his participants in the various Platonic dialogues, where an important part of the
drama is the companionability of two people trying to learn from one another something about a third thing. Whatever discoveries Socrates makes by means of dialectical engagement with others are made in the company of those others and with their help and assistance. The editors of the *Apology* refer to this as the "social character" of Socrates' "philosophical conversations." These editors also cite in this regard Socrates' use of a maxim borrowed from Homer: "When two go together, one sees before the other, for all men are then more resourceful in action, statement, and thought." This social aspect of dialectic seems to have at least two facets.

One facet is that the kinds of topics under Socratic study are important to us all. These are matters that are not to be —and cannot be— determined or adjudicated by one person alone, no matter who he or she is, no matter how brilliant or powerful he or she may be. "For it is perfectly true that the matters we are disputing are by no means trivial; rather, they are practically the very ones which to know is noblest and not to know is most disgraceful ...." Questions of knowledge and virtue and justice and courage and prudence and piety and rhetoric (and the like) are problems for human beings —they are ours—and we cannot cede our responsibility for answering them to others; nor can any one of us arrogate to himself or herself the right to answer these matters on his or her own for the rest of us.

The other facet is that we find answers or formulate responses to these keenly social matters by way of personal revelations, personal examinations and discoveries. A satisfying answer to common problems can be produced through the dialectical process only in so far as each participant is willing and able to examine and reveal something about himself or herself. This is so because something important is gained when a person is willing and able to admit something, or confess something, or acknowledge something, about himself or herself in front of others.

Yet Socrates' defense consists almost entirely of monologues and lectures, neither discussions nor conversations with the sole witness (Meletus) or with the jury. And there is nothing friendly about Socrates' manner, nothing sociable about his proud inquiry into the charges against him, nothing invitingly conversational about his boastful defense. Instead, it proceeds by assertion and stipulation, not by questioning or examining propositions (teasing out their possible meaning or implica-
Socrates' Defense in the Apology

In his cross-examination of Meletus, for example, Socrates badgers and hectors him, not drawing him out into possible inconsistencies and contradictions, but rather merely gainsaying whatever Meletus claims. [See, e.g., 24d, 25b, 25cd, 25e, 26b, 26e.]

Socrates equally tries to bully his jurors, telling them what to think rather than assisting them (dialectically) to discover for themselves what they think. Consequently, his unfriendliness comes across loud and clear to his auditors, those forced to judge the truth or falsity of the allegations against him. What are they to think? Most likely, that he is defensive, that he has something to hide. The problem is that Socrates never gives the jurors a chance to discover the truth for themselves, because he never engages them dialectically.

Then how might he do so? My suggestion is that Socrates could have performed dialectic in front of the jury by examining his own words and actions, his own attempts at self-justification and defense, thereby allowing the jurors to witness the process of self-refutation first-hand. Then they might know what it meant (to him, to them) and what it made (of him, of them). But, then, this would have exposed him to the possibility of self-refutation, the possibility that he might have been wrong in his life's work, or at least to an admission on his part that perhaps his fellow Athenians had some just cause for being displeased with him. It would humiliate him.

Socrates never exposes himself, never makes his own self-justifications and assertions vulnerable to the rigors of dialectic. Instead, when the jurors try to interject their own voices - perhaps to quarrel with him, or perhaps to request a clarification - Socrates shuts them out. He knows what is best for them - or so he seems to think. His words and actions make his attitude clear:

Do not interrupt me, Athenians, with your shouts. Remember the request which I made of you, and do not interrupt my words. I think that it will profit you to hear them. I am going to say something more to you, at which you may protest, but do not do that.24

This rejection of their attempt to interrupt and become involved in the trial process paints the jurors as people who cannot possibly have anything worthwhile to say to Socrates, anything worth his pausing and
listening to. And it paints Socrates as someone who is in a position to tell these jurors what is best for them (what "will profit" them). This is not the Socrates we have come to expect – or respect – in the Platonic canon. This Socrates fails to engage his interlocutors dialectically, in the sense that he fails or refuses to submit himself and his views to the trial of dialectical examination.

§4. Does Socrates Try to Reveal or Refute Himself?

Other commentators have noted the haughtiness, the arrogance, that Socrates displays in making his defense, and have read this to mean that he does not care what his jurors think of him or what they decide to do with him. Some have even suggested that Socrates means quite consciously to provoke his jurors, convinced as he is that the verdict against him is a foregone conclusion. Others have thought that Plato casts Socrates' defense in this way to show contempt for the weakness and irrationality of the common democratic rabble when confronted by a true philosophical intelligence. I think differently. It seems to me that Socrates is acting naturally, afraid of the trial and its outcome; his arrogance is a natural expression of his fear, his denial of what is happening to him. But dialectic is supposed to be a means of overcoming such self-denial.

A part of what makes Socrates' use of dialectic effective in the other dialogues is the extent to which he proceeds by way of questioning and examining himself (as well as others). The figure he enacts is that of someone who is not at all sure that he knows the answer to his own questions, and who in fact frequently protests his own ignorance. These protestations of ignorance often seem forced and feeble, insincere, especially when matched against his virtuosity in performance, the knowingness of his argumentation and refutation of others. But I am convinced that these professions of ignorance serve an important purpose in the Platonic dialogues, namely, they prepare the way for change, for learning, by openly and freely acknowledging in public that one might be wrong, or that one does not know everything but rather has something more to learn. (The act of acknowledging the need for advice prepares the person to receive the advice one needs.) In this respect, these professions of ignorance seem to me to serve a role similar to the one played by the "presumptive friendship" that Socrates expresses for his interlocutors in dialectic (about which I spoke above): both serve as
a condition or preparation for gaining knowledge, either of one's self or of another self, in any event of a human being. And both of these dialectical conditions seem to me to be akin to what in the law we call "legal fictions," often valuable contrary-to-fact presumptions which we use because they enable us to do something in the law that we think it important to achieve but cannot manage to accomplish without the use of the fictions.

The humility and openness to correction displayed by Socrates in the other dialogues are exactly that which might give the lie to the allegations against him – that he acts impiously and corrupts others. And the best way to get this defense across to his jurors, I believe, would be for Socrates to enact the moral of his philosophical method before these jurors' very eyes. We want the jurors to discover the truth about Socrates for themselves. In part this is a matter of getting them to recognize certain things about Socrates which they may have misinterpreted, such as Socrates' philosophical zeal, which he unsuccessfully tries to get the jurors to see not as impiety but rather as pious obedience to what he takes to be a divine command from the Delphic oracle.

The story of his relation to the oracle of Delphi turns out to be a major justification for how he has lived his life. He says that a friend from his youth, Chaerephon, went to the oracle and "asked if there was anyone who was wiser than I [Socrates]," and the "priestess answered that there was no one."25 Now, this is no more, and no less, than a simple factual statement, made in the indicative. No one is wiser than Socrates. It does not say that he is wise; only, that no one is more wise than he.

Socrates tells us, however, that he took this to be a riddle posed by the oracle, because he was so aware of his own ignorance. [See 21b.] And so he undertook to explore its meaning, which he did by way of trying to discover someone in Athens wiser than he, whereby he would have disproved the oracle. But after canvassing the politicians, poets, and artisans of the city, he discovered that none of them was wiser than Socrates, in particular, because none was as aware of his or her own ignorance as Socrates was aware of his own. [See 21b-22e.] And it is from this examination of himself and others, he tells his jurors, that there "has arisen such fierce and bitter indignation, and as a result a great many prejudices about [him]."26
What bothers me here is that Socrates takes this narrative uncritically; he seems to think that it obviously warrants and justifies his behavior toward his fellow Athenians - as though the oracle implored him to examine them and to descry their ignorance personally and publicly. But the oracle did no such thing. Rather, Socrates took it upon himself to read a factual statement in the indicative as a riddle setting for him an imperative, a task. And this was his choice, not something forced upon him by the oracle or by his fellow-citizens; he chose to act this way, toward those words, toward these people.

I find little merit, then, in his speaking afterwards as though he had no choice in the matter or as though, in cross-examining his neighbors and friends, he were merely acting under the superior injunction of a god. Yet this is how he justifies his actions:

It would be very strange conduct on my part if I were to desert my station now from fear of death or of any other thing when the god has commanded me - as I am persuaded that he has done - to spend my life in searching for wisdom, and in examining myself and others. That would indeed be a very strange thing. Then certainly I might with justice be brought to trial for not believing in the gods, for I should be disobeying the oracle, ... . But I do know very well that it is evil and disgraceful to do an unjust act, and to disobey my superior, whether man or god ... . 'I will be persuaded by the god rather than you ... .' This, you must recognize, the god has commanded me to do. And I think that no greater good has ever befallen you in the state than my service to the god. 

To read or take the oracle's words in this way accomplishes two things at once: Socrates defends himself by refuting the major charge against him, and he impugns the piety of his accusers and his jurors. To show that he respects and indeed follows the injunction of the god demonstrates piety, not impiety, and so he is demonstrating his innocence in respect to the major charge against him. This is what his refutation of Meletus amounts to - an argument that he, Socrates, cares more about obeying the gods than does Meletus - and here he is generalizing the claim, showing himself to be more pious than any other Athenian, because he cares more than any of them for the virtuous
things, the important things, in life. [See, e.g., 29ab.] Simultaneously, Socrates impugns his accusers (and his jurors, if they side with his accusers), because if they indict him for obeying the command of the god, then they are impious, not he. The best defense, in this case, seems to be a good offense, and Socrates tries mightily to put his accusers and jurors on the defensive. 28

This last point is best reflected, I think, in Socrates' proud boast to be a painful but necessary stimulus to the city: this is his vaunted "gadfly" role.

For if you put me to death, you will not easily find another who, if I may use a ludicrous comparison, clings to the state as a sort of gadfly to a horse that is large and well-bred but rather sluggish because of its size, so that it needs to be aroused. It seems to me that the god has attached me like that to the state, ... 29

This is a ludicrous comparison. A gadfly is a pest, a nuisance, that serves no earthly purpose other than to torment creatures whom it bites and stings. It may be true that occasionally a creature needs to be aroused, needs to be awakened from its dogmatic slumbers, but not always and not everywhere.

Just so, one might respond: Philosophy is not incessant; it is called for only on specific occasions for specific reasons, and the Platonic dialogues show us such occasions. I agree, only not with the idea that this relationship is successfully pictured by means of the image of a gadfly. My own preference is very much for the "midwife" image of Socrates that we receive in the Theaetetus. 30 In addition, it is important to remember that one can be awakened in any number of ways, some more productive than others. (When Thoreau wanted to picture himself as an awakener of another slumbering culture, he chose the image of a chanticleer, something quite other than a gadfly. 31) So the gadfly image, chosen by Socrates, is controversial, worth conversing about.

I am not arguing that Socrates' claim (to have been obeying the command of a god in undertaking his philosophical activity of examining and refuting his interlocutors) is false; I don't know that it is, and no one else can know either. But of all the people in the world placed to question or inquire into this matter, Socrates is best placed to do so. And that is my point, namely, that Socrates fails to test his own asser-
tions in this regard. He fails to refute (rather, to try to refute) himself, to see whether any inconsistency exists among his words, his actions. None there may be, but we—and he—shall never know, if he fails to test his own words here and now. If an unexamined life is not worth living, as Socrates says [see 38a], then surely an unexamined claim is not worth believing.

In Socrates' work, self-refutation (elenchus) is the goal of his dialectical method. He invents a process of getting a person to convict himself, refute himself, with his own words. At some point in most Platonic dialogues, there comes an uncomfortable moment, a bitter moment even, when Socrates' interlocutor is led to admit, or is asked to concede, that what he has said before is inconsistent with what he has just then been saying, or said he believed or knew to be the case. Socrates is a master at getting someone to this crux, this position of pain and embarrassment. Yet here at his trial, rather than Socrates leading some other person through the process of dialectic toward the goal of self-refutation, it is Socrates who must suffer this fate. Poetic justice, perhaps, but also rough justice. But Socrates declines his own medicine.

I do not see that he anywhere entertains the possibility that he might be wrong about how he has taken the Delphic oracle's statement, that perhaps his activities amongst the Athenians are not justified by a god's command. And yet it seems clear to me that the oracle's statement is not necessarily a command, but rather that Socrates has chosen to interpret it so, to take those words in that fashion. He is answerable for such a choice. But he does not seem to see—certainly, he never acknowledges in his defense speeches—that perhaps he might be wrong here, or that his way of taking the oracle's statement might need examination and correction. This is a kind of self-blindness, and a kind of irresponsibility.

§5. Does Socrates Take Responsibility for Himself?

Socrates' method begins and ends with the self, yet along the way it paradoxically includes others. But to accomplish this, one must speak candidly about oneself in front of others. As James Boyd White characterizes Socrates' example in the Gorgias, "[A] dialectical refutation (elenchus) requires that one make the other agree with what one says...". What matters between us is not the other witnesses who can be brought forward to support your view or mine but whether you can
make me your witness or I can make you mine. For dialectic to exert its full force upon the individual mind, complete frankness is essential, a kind of shamelessness in saying what one really thinks." In this respect, I am not sure that Socrates meets his own test; several of his statements make me wonder whether he is being truthful here, whether he is truly engaging with his jurors during his defense. This lack of candor makes him much less credible than he otherwise would be, and it continues his refusal to treat his audience as equals, as partners in dialectic ("friends") worthy of respect and fair-dealing.

One instance comes in Socrates' response to his accusers calling him a "clever speaker," an appellation he denies. (See text at note 5.) In fact, he claims that this accusation is the worst of "their many falsehoods." (One problem for Socrates is that, if this is the worst of their falsehoods and it proves true, then what are we to infer about the truth of the rest of their allegations?) It seems to me to be rather obvious that Socrates is a clever speaker, whether you read "clever" here to mean "resourceful" speaker, or instead, "tricky" speaker.

In most of Plato's dialogues, Socrates demonstrates again and again his resourcefulness. Anyone who reads a Platonic dialogue will see this kind of cleverness in his speech - it is one of his powers, in which he revels. (This can both attract us to Socrates and repel us.) His resourcefulness has, I think, at least two attributes. First, there is his basic, motivating question, usually cast in the form, "What is (the nature or definition of) X?" He wants to know what virtue is, or what piety is, or what knowledge is, or what rhetoric is, and the clever thing is that he wants to learn these things by asking others - apparent or self-professed experts in these matters - what they can tell or teach him about these topics of their expertise. His cleverness or resourcefulness here amounts to his insight that we ourselves have the answers to such questions - or else no one has them.

Socrates begins and ends his investigations of the nature of these matters by asking, fruitfully and courageously, what we, members of this community, know about these things. In exploring our claims to know X, Socrates takes upon himself the burden of the truth that, if we have no answer to these motivating questions, then we are left drily, sadly ignorant of major portions of our lives and experience, of our world. (See text at note 23.) Any such failure indicts us, betraying the fact that we are withholding our knowledge of these matters, out of some fear or
deadness or lack of awareness—call it a failure or fear of "acknowledgment," one form of knowledge especially called for in philosophy. Long before Emerson, Socrates had the courage and vision to throw us back on ourselves, back on our own language and our own practices, in asking and trying to answer the age-old questions of humankind.

The second attribute of his resourcefulness has to do not so much with where or of whom he asks questions and looks for answers as it does with his sheer fortitude in pushing ahead with the analysis, his perseverance in brooking no interference with the question under study, his incessant wanting to know, his constant search for clarity and definition. Socrates won't take for an answer, "I don't know," if the person uttering that phrase is merely pretending to be ignorant, perhaps for convenience or as a way of refusing to cooperate with Socrates' search. Refusing to participate in the process of dialectic is not seen by Socrates as being a legitimate alternative for one who has earlier signalled his willingness to submit to the rigors of that process. (This must be contrasted to a participant's uttering the same phrase honestly recognizing his own ignorance, as though it had suddenly dawned on him, which it sometimes does in the Platonic dialogues, as in life.) At the end of the *Euthyphro*, for example, Socrates prods Euthyphro to try again:

> Then we must begin again and inquire what piety is. I do not mean to give in until I have found out. Do not regard me as unworthy; give your whole mind to the question, and this time tell me the truth ... . [new ¶] What are you doing, my friend! Will you go away and destroy all my hopes of learning from you what is pious and what is not, and so of escaping Meletus?34

But Socrates' cleverness sometimes seems to be mere trickery, even bad faith. Here I am thinking about the fact that some of his arguments are clearly fallacious, and that Socrates must be aware of this fact. There are, for example, two clearly fallacious arguments which Socrates uses in the *Apology* in an attempt to sway his auditors.

He says that an old ("common") complaint against him is that he inquires into forbidden matters. To refute this, he urges those of his auditors who know his teaching to speak to their friends about his practices. He says: "I beg all of you who have ever heard me discussing, and they are many, to inform your neighbors and tell them if any of you have ever heard me discussing such matters at all. That will show..."
you that the other common statements about me are as false as this one." Socrates' trickery may be his seemingly modest claim, "For as soon as I open my mouth they will be refuted, and I shall prove that I am not a clever speaker in any way at all ... ." (See text at note 5.) This claim contains a disguised but utterly false premise, namely, that he has not yet spoken, that he has not yet opened his mouth. But this claim is entered half-way through his opening statement! What could be more obvious than the fact that Socrates already has opened his mouth? And his unspoken premise is dangerous because it implies that what Socrates has said up to this point in his opening statement is somehow not his, as though it were not truly himself speaking, but instead, perhaps, simply a fact of nature, obvious in itself.

This suggests that in this forum on this occasion Socrates does not take responsibility for his words. There are two ways in which Socrates is being irresponsible in his speech here. First, to suggest that he himself has not yet spoken, denies that he is making controversial, disparaging claims about his accusers, claims that must be explained and justified. And it denies that he is elaborating on his own conduct, excusing or defending it from the characterizations it has received at the hands of his accusers, and that such explanations of himself again must be tested and accepted (or rejected) by the jury. So Socrates' seemingly modest claim implicitly denies the fact that he must substantiate his words, must ground them in evidence, if his defense of his own conduct and his counter-claims against his accusers are to stand up in this court of law. It is irresponsible of him to suggest that we, without more, ought to accept his words as gospel.
There is a second, even more fundamental denial being made here. To suggest that he has not spoken yet, and thus in effect to suggest that what has gone before in his opening statement is akin to a fact of nature, denies the fact that Socrates needs to utter his words, to make them public — in other words, he needs to express himself — if he is to defend himself against the charges made. In order to speak the truth, we must not only recognize it, know what it is, but also be prepared and be able to make it public, to project it into the public realm, into the community we share with others. This is why speaking the truth requires moral attributes — such as courage — equally as much as intellectual qualities — such as the ability to recognize the truth. And this is why "prior restraint" is normally so insidious a violation of our freedom of thought and expression, because it preempts public utterance. If we are to defend ourselves with words, as we do in the law, then first we must find the right words with which to defend ourselves; subsequently, we must produce them, utter them; and finally we must prove them, prove what they say or mean, by carrying our burden of proof to the point where we convince the jury.38

In this day and age, these are responsibilities of the professional representative, the lawyer (which I suppose is one reason why we sometimes, crudely, think of lawyers as being nothing more than hired mouthpieces). Socrates, rather than acknowledging the responsibility he bears as his own attorney, seems to treat his opening statement as though its production were a natural event in the world, and as though what it stated were so plainly and obviously true that it were engraved in natural images upon the hearts and minds of his judges and jurors. This is his appeal to the truth, as though it revealed and expressed itself, without human help or assistance through any human medium; as though the truth transmitted itself wordlessly to our souls, which absorb it instantly. But this is an impossible picture of the truth (as it is of communication, as it is of language).

Socrates also is irresponsible, I believe, in his denial of his influence over his students. Rather than take responsibility for setting these people loose on Athens, he argues that, because he has not taken money from them in payment for his activities and because he does not claim to teach anyone anything, he is not responsible for whatever they may make out his example. "And whether any of them becomes an upright man or not, I would not justly be held responsible, since I have
never promised or taught any instruction to any of them." He is saying that as a gadfly he has no responsibility to the city or his fellow-citizens for his influence on the young who follow and watch him. Yet Socrates earlier admits that these same youngsters who follow him around, witnessing his deflation of those who claim to know, "take pleasure in hearing men cross-examined. They often imitate me among themselves; then they try their hands at cross-examining other people." His instruction need not be didactic in order for him to be responsible for its results; as I have argued elsewhere, modelling is a powerful form of Socratic teaching.

§6. Does Socrates Speak the Truth? How?

Socrates emphasizes throughout the Apology that he will speak the truth, while his accusers do not and cannot. No other concept receives such emphasis from Socrates as does the "truth" (even though he gives it very little direct scrutiny). [See 17ab, 18a, 19e, 20d, 22ab, 23d, 24a, 28a, 28d, 31c, 31e, 32b, 33bc, 34b, 34e, 36d, 41a-c.] He makes it sound as though the truth is something readily or easily available to us, as though it were no challenge to tell the truth, as though there were no difficulty in speaking the truth. And Socrates portrays the jury's search for truth as an easy, almost effortless one: if they simply focus on his words versus the words of his accusers, comparing what he says versus what they say, the jurors will discover the truth. This sketch of an easy search for truth is sophistic; it promises a route to truth, through "direct" perception and "plain" speaking, that does not exist.

I count among the fundamental revolutions in human thinking the discovery - whenever and wherever made, and however many times made - that truth is something to which we humans (unlike deities) do not have direct or immediate access, but rather for which we need means or media of access. We have invented many such means or media through the centuries, including Socrates' invention of dialectic and society's invention of the trial process. Yet at his trial - but only there - - Socrates seems to me to deny this fact, instead claiming his words to have whatever persuasive power they may have over his audience exactly because these words are said to be unmediated or unpremeditated, simply occurring to him as he voices them. "I shall use the first words which come to mind, for I believe that what I have to say is just; ... ." (See text at note 5.) But this very fact - that he takes the truth of what he says,
its veracity or force, to be a function of how he says it, without forethought or calculation – shows the importance we place not only on the words one uses, but how and why one uses them. Truth in one's speech – the truth of one's words, what one says – always relates both to what one has to say, and to how and why one says it. And where one says it.

Socrates is saying his words at his trial, in a court of law, and the two means of finding and expressing the truth that seem most readily available to him are dialectic and the trial process. I should have thought that his defense would make use of either or both of these devices, and yet his self-characterization suggests that he adopts neither. This is the dilemma I have been trying to elicit in this essay: How are we to understand him, his words and claims? Is he speaking plainly? Dialectically? Legally? Rhetorically? Or yet some other way? And it is my belief that only to the extent to which we come to some kind of understanding of Socrates' mode of speech here, thus coming to an understanding of what he means to be saying and how he makes his meaning known to us, can we come to judge him, his words and his claims.

The power of dialectic as a means of revealing the truth seems to me to be bound up with one's willingness or ability to submit oneself to its terrors, especially the frightening fact that one never knows a priori how it is going to turn out. (See text at note 1.) The same might be said for the trial process, and in closing I want to make a brief comparison of the two processes, for both (I think) are processes designed to allow the truth to appear, to allow it to be expressed.

For Socrates, truth is discovered dialectically by means of self-examination and self-reckoning; we discover it for ourselves, or recognize it through our own efforts. And his dialectical method proceeds on the understanding that a truth force-fed us is as good as no truth at all, because we choke on it, or fight it. (As I said above, the compulsion of argument or logic is not what we look for when using the Socratic method; self-refutation is our goal.) If we choke on the truth or fight it, we fail to make it a part of ourselves, which is the only way in which truth does us any good.

Dialectic is a process that does not trick us into telling the truth (as cross-examination may), and it is not a process that forces us to tell the truth (as torture may). Rather, dialectic is a process that allows us to
tell the truth, both by enabling us and by affording us the occasion and opportunity for telling the truth. Dialectic helps us to tell the truth by helping us feel comfortable about the truth, becoming familiar with it and getting used to the idea of telling the truth. Sometimes we have to be coaxed into doing what is right. Dialectic induces us to discover the truth by recognizing it, recognizing that we already know what it is, but that now is the time to say it, to utter it out in public. Thus, dialectic prepares us to admit the truth to ourselves and to confess it to others. Dialectic allows us to get past ourselves, so that the self is not always getting in its own way.42

A truth made available to us by dialectic, then, is truly made available to us by way of this process of argumentation and analysis and synthesis; it is not a truth pre-existing or already glimpsed or articulated beforehand, simply withheld until the appropriate moment in order for it to be sprung on an unsuspecting interlocutor by a manipulative dialectician. Rather, an answer or insight worked out by the dialectical process and formulated from within it is something the truth of which may not be recognized, the force of which may not be felt, until we have brought it before ourselves — or brought ourselves before it. This occurs when a truth appears as a natural development in the conversation or debate composing the dialectical process, which means that it is allowed or assisted to appear by the dialectical process of conversation and questioning. And then its force is apt to strike us as both inevitable and revelatory (even if also paradoxical).

A trial is a search for truth, in part, and this aspect of trials is evidenced by the oaths witnesses take and the general fact-finding processes through which any trial proceeds. But a trial does not seek the truth just by any method or means. Only certain routes to the truth are followed or pursued (as suggested by the rules of evidence, and the privilege against self-incrimination, and other matters as well). While gaining the truth is an important value in the trial process, truth is not its sole value. Other values — of justice, fairness, due process, efficiency, reliability, timeliness, and the like — also come into play. Hence, whatever truth results from a trial is very much a product of its process, including its multiplicity of values. What the trial process makes available to us, then, is purchased at the cost of its weaknesses as well as its strengths, its gaps as well as its guarantees.
It occurs to me in this regard that the multiple protections and guarantees afforded witnesses and defendants in trials serve a function similar to that which I ascribed above to Socrates' dialectical method: these values and restraints enable us to expound the truth by creating a context in which we feel comfortable admitting it to ourselves, to our consciousness. Trials seen in this way proceed on the faith that we already know the truth — we being the community at large, or some member of it — only we must be eased into allowing it to surface, allowing it to find its voice, to speak or to be spoken. Once spoken, it then only needs to be recognized for what it is, acknowledged. (This is not always so simple a task as it may sound, but I take it that our description of the trial process as a "sifting and winnowing" of the facts is meant to capture the kind of intellectual effort at work here.)

But Socrates seems uncomfortable with this fact about trials, and instead wants to engage in special pleading, as though he should be permitted to reap the benefits of a trial without also incurring its particular costs. For whatever reason, he does not find the trial process accommodating as a means of expounding the truth about his life and teaching. When late in his opening statement, he describes himself as literally a "stranger" to the law, a stranger to the Athenian law-court, and thus a stranger to the forms of expression and argument common to the law, he is announcing his estrangement from the law. He asks forgiveness for this fact, and exemption from any legal custom he may infringe unintentionally in his effort to tell his story to the jury. (See text at note 5.) He claims only to speak truthfully to the jury in a direct and commonplace manner. But to speak directly to others, unrehearsed or unpremeditated, or to tell them that that is what one is doing — as Socrates tells his jurors — is to claim a certain specific form for one's words. He is claiming that they come straight from the heart, unvarnished; and further, that because of this fact about their condition, his jurors should take his words as true. Their truth is vouched for by the process or form of their production, how they are uttered, and how they came to be uttered.

Socrates' wish for his words to appear unbidden as it were, or unmotivated by him, is too proud a wish, almost amounting to a boast. And it contravenes perhaps the single most central theme of his dialectical method, namely, that we take responsibility for our words. (By his lights — and not just his alone — this becomes a way of taking respon-
sibility for one's actions, and for one's self.) He wants his words to speak directly to his audience, as though they did not have to be produced within a specific medium (or forum) in order to get from him to the auditors. And he wants his auditors to accept his words on their face, as though the jury should look right through Socrates' obvious desire, his overriding motive, to be acquitted of the charges against him.

But what one says in a court of law is inevitably colored by the context in which it is said and by the intentions and motives and purposes of the speaker. And this is not a truth special or peculiar to the courtroom or the law; it is true in all of the contexts that constitute our lives and language. Whatever we say is always, inevitably, necessarily, said from a certain position within a certain context subject to certain conditions and limitations. To wish for exemption from such conditions is to desire to be freed from the very conditions that help to make us intelligible — and that help to make the truth or falsity of our utterances testable.

And is this what Socrates wishes, or expresses, at his trial? How are we to take him here, his words and his claims?

NOTES

This is a revised version of a paper presented at the Annual Meeting of the American Culture Association, in a panel discussion entitled "Socrates and American Culture Today," held in Toronto in March, 1990. My thanks go to Wythe Holt, David Papke, and Paul Hayden for organizing the panel and inviting me to participate. This revision incompletely incorporates various cautions voiced by Professors Holt, L.H. LaRue, and Kathleen Haney at the Toronto meeting, some of which were subsequently reiterated or elaborated in letters from Holt, Haney, and another auditor at the meeting, Professor Sheri Crawford. Since none of them thinks that I am correct in my reading of the Apology, I appreciate their willingness to try to get me to see the errors of my way. But for the most important criticisms of my work, as usual, I owe a deep debt of gratitude to James Boyd White. His work remains for me both indispensable and a living inheritance of the best in Socrates' teaching.

Spencer, my son, this one's for you. Your addition has been a trial, but your truth keeps shining through.

4. Brann, *supra* note 2, 2. I should note that Brann, writing a year before the earliest of the three books cited in note 3 was published, is characterizing the general range of adherents of this particular reading, not the specific attitude of any of the authors of these three books.


6. Other than his several requests that the jurors not interrupt him during his defense (which, to my ear and eye, are not voiced in a pleading tone), Socrates explicitly implores the jury at only one other point in his statement, namely, at its very end [41e]. There he asks his fellow-citizens to treat his sons as he has treated all Athenians: testing them and reproaching them when they appear not to know what they claim to know or not to care for the virtuous things in life.

7. At three places in the text, Socrates specifically says that he will not "supplicate" the jury. [See 34c, 37a, 39a.]


9. Some of the details of Athenian legal procedure at trial are usefully summarized by Douglas MacDowell:

If the litigants were present, the case proceeded at once with the speeches. ... [new ¶] The speeches were limited to a certain length of time, the same for both sides, measured by a water clock ... . [new ¶] Evidence was presented in the course of a speech. The laws, witnesses' statements, and other documents which the speaker wished the jury to hear were read out by the clerk of the court. ... [new ¶] Each litigant had to speak for himself: he could not, as in a modern court, sit through the case in silence while a lawyer spoke for him. It was not that any inscribed law existed requiring him to speak, but rather that no Athenian jury have voted for a man who said nothing. However, if he had little confidence in his own legal knowledge or oratorical ability, he could get someone else to compose his speech. It is clear that it was a common practice in the fourth century to get a speech written by a speech-writer... . [new ¶] Another possible course of assistance was a supporting speaker. A litigant could stop speaking before his time-limit was up and ask someone else, or several others, to speak in his support, within the time allowed him by the water-clock. ... [new ¶] But supporting speakers were expected to be relatives or friends who spoke because of their personal connection with the litigant. To speak in court for a fee, like a modern lawyer, was not merely disreputable but an offense, for which a prosecution by *graphe* could be brought.... . [new ¶] Besides supporting speakers, a litigant could have with him in court supporters who did not speak. These could even include his own children; it became notorious, and a subject of Aristophanic satire, that a guilty man was sometimes let off by soft-hearted jurors for the sake of his weeping children. [new ¶] When the speeches were
finished the jury proceeded to vote immediately. One of the most important
differences between an Athenian trial and most modern trials is that in
Athens no judge or other neutral person gave any directions or advice or
summing-up to the jury, nor did the jury hold any formal discussion. Every
juror had to make up his own mind, not only on the facts but also on
questions of law and equity, solely from the speeches and evidence presented
by the rival litigants.

D. MacDowell, The Law in Classical Athens (Ithaca: Cornell Univ. Press, 1978), 249,
250, 251-252.


11. I was helped to see this aspect of Socrates' speech by one of the many useful, critical
comments made by Wythe Holt on an earlier version of this essay.


13. Benjamin Jowett and the Wests translate the Greek here in terms of how the jurors
have been "affected." B. Jowett, The Dialogues of Plato, vol. 1 (New York: Random
House, 1937), 401; Plato and Aristophanes, "Plato's Apology of Socrates," in Four Texts
on Socrates, T. G. West & G. S. West trans., supra note 8, 63. Hugh Tredennick speaks
in terms of what "effect" the accusers have had on the jurors. H. Tredennick,
"Socrates' Defense (Apology)," in The Collected Dialogues of Plato, E. Hamilton & H.

D. Cumming trans. (Indianapolis: Bobbs-Merrill Company, Library of Liberal Arts,
1948, 1956), 3, 14 [3d, 11e, 12a].

15. Plato and Aristophanes, "Plato's Apology of Socrates," in Four Texts on Socrates, T. G.
West & G. S. West trans., supra note 8, 90 [36c]. See also id., 94 [39d].

of Liberal Arts, 1952), 16-17 [457c-458a]. A similar statement of Socrates' purpose in
using his dialectical method occurs earlier in this same dialogue (see id., 12-13 [454bc]).
See also "Euthyphro," supra note 14, 7-8 [7b-d].

17. As Eva Brann notes, "in part [Socrates'] conduct must have been an accommodation to
the conditions of the occasion, namely the short time he has for speaking and the great
crowd to whom he must address himself. Twice he mentions the lack of time for quiet
persuasion (19a, 37b). This lack of leisure and of intimacy is not a peripheral matter
- nothing Socrates thinks can be expeditiously conveyed by public deliverance; it must
always be slowly engendered in leisurely direct conversation with its accompanying
inner dialogue (see Thesaeetus 172d). Socrates' positive wisdom stated concisely in
public would appear simply bizarre." Brann, supra note 2, 19.

18. In private correspondence, James Boyd White suggested this possible reading to me.
I also find it implied by the reading of the Apology given in A. Sesonske, "To Make the
Weaker Argument Defeat the Stronger," 6 Journal of the History of Philosophy 217
(1968).

19. In an earlier article on Socrates, I argued that an important attribute of his method is
his willingness and ability to "befriend" both his interlocutors and himself. See Eisele,
Boyd White also makes the following claim about Socrates' method: "The object of it
all is truth, and its method is friendship, the full recognition of the value of the self and
other in a universe of two." James Boyd White, *When Words Lose Their Meaning* (Chicago: Univ. of Chicago Press, 1984), 110. Yet Socrates makes it a point to refer only to the jurors who voted for his lighter punishment (the fine of thirty minae) as his "friends" [see 40a].

20. For Socrates' repeated requests that Euthyphro befriend him and teach him the meaning of piety, see "Euthyphro," *supra* note 14, 4-5, 15, 20 [5ab, 12e, 15e-16a]. In the *Apology* Socrates says to Meletus: "[I]f I corrupt them [i.e., the young] involuntarily, the law does not call upon you to prosecute me for an error which is involuntary, but to take me aside privately and reprove and educate me. For, of course, I shall cease from doing wrong involuntarily, as soon as I know that I have been doing wrong. But you avoided associating with me and educating me; instead you bring me up before the court, where the law sends persons, not for education, but for punishment." *The Apology,* *supra* note 5, 31 [26a].


22. *Id.*

23. *Gorgias,* *supra* note 16, 35 [472c]. And three times in the *Apology,* Socrates berates the Athenians for being concerned about the less important things in life – money and reputation – while they ignore the more important things – truth and the condition of one's soul. See "The Apology," *supra* note 5, 36, 43, 49 [29e, 36c, 41e].

24. "The Apology," *supra* note 5, 36 [30c]. It is unfortunate, I believe, that Socrates discourages intervention by his auditors in his defense statement. At least four other times in the course of it, he asks that his auditors not interrupt him; this denies them the opportunity to take an active, dialectical part in his trial. (See *id.,* 21, 25, 33 [17d, 20e, 21a, 27b].) As Eva Brann puts this point: "[T]he very seriousness with which they take Socrates' non-political activity gives the Athenians a claim to our respect,... . To be sure, it is not good to interrupt a speaker, but their clamor is brief and controllable – and it comes correctly, at crucial points. Here in effect the attention of a whole city has been gained by one man, a philosopher. Of what other people can that be said?" Brann, *supra* note 2, 15.


26. *Id.,* 27 [23a].

27. *Id.,* 35, 36 [28e-29a, 29b, 29d, 30a].

28. This is a point well-developed by Eva Brann. "Socrates turns his defense into an offense, into an accusation against his accusers and his fellow citizens. ... [T]he question becomes: ... Why does Socrates deliberately offend the court, why does he go on the offensive against the Athenians, why does he use his defense to document his offense against the city?" Brann, *supra* note 2, 6, 18.

29. "The Apology," *supra* note 5, 37 [30c]. As to the justice of this attack on the Athenians, Eva Brann says, "[I]t would be ludicrous to attempt to examine the substance of his attack, which would mean trying to determine whether it is more true of the Athenians that they are sluggish in self-examination than of, say, Thebans, Spartans, or Americans. Indeed, it might be argued that charges which are universally true of all humankind are, when pointedly levelled at one particular community, pernicious; hence his very attack might become evidence to the jury of his bad faith." Brann, *supra* note 2, 6.
Socrates' Defense in the Apology


31. H. Thoreau, Walden (1854), W. Thorp intro. (Columbus: Merrill Publishing Co., 1969), 1, 92: "I do not propose to write an ode to dejection, but to brag as lustily as chanticleer in the morning, standing on his roost, if only to wake my neighbors up." As Stanley Cavell notices, this is the only sentence in the book which occurs twice. S. Cavell, The Senses of Walden, exp. ed. (San Francisco: North Point Press, 1981), 36. Despite this quite different image of an awakener, however, Thoreau shared Socrates' sense of what is most important in life: "Rather than love, than money, than fame, give me truth." Id., 353.

32. James Boyd White, supra note 19, 102; see also 109-110. White illustrates his point by citing the Gorgias [see 471e-472c], but another instance of this self-test is given in the Euthyphro: "Come, see if you can make it clear to me that the gods necessarily agree in thinking that this action of yours is just; and if you satisfy me, I will never cease singing your praises for wisdom." *Euthyphro,* supra note 14, 10 [9ab].


   To believe your own thought, to believe that what is true for you in your private heart is true for all men - that is genius. Speak your latent conviction, and it shall be the universal sense; for the inmost in due time becomes the outmost, and our first thought is rendered back to us by the trumpets of the Last Judgment. Familiar as the voice of the mind is to each, the highest merit we ascribe to Moses, Plato, and Milton, is that they set at naught books and traditions, and spoke not what men but what they thought. A man should learn to detect and watch that gleam of light which flashes across his mind from within, more than the lustre of the firmament of bards and sages. Yet he dismisses without notice his thought, because it is his. In every work of genius we recognise our own rejected thoughts: they come back to us with a certain alienated majesty. Great works of art have no more affecting lesson for us than this. They teach us to abide by our spontaneous impression with good humored inflexibility then most when the whole cry of voices is on the other side. Else, to-morrow a stranger will say with masterly good sense precisely what we have thought and felt all the time, and we shall be forced to take with shame our own opinion from another.

34. *Euthyphro,* supra note 14, 20 [15cd, 15e-16a].

35. In his reading of the Gorgias, White twice remarks that Socrates' arguments sometimes "are plainly specious, and others one suspects to be so ... ." (James Boyd White, supra note 19, 94; see also 104.) He goes on, at these points in his argument, to suggest some reasons why Plato may have chosen to have written his dialogues in this fashion and why this aspect of Socrates' argumentation - in those particular contexts - might not be pernicious.


37. Id., 29 [24a].

38. Silence is seldom a defense in the law, but I don't say that it never is. Sir Thomas More's case comes to mind as an instance of the exceptional context where silence is a defense at law. See R. Bolt, A Man for All Seasons (New York: Random House, 1960).
There is an interesting discussion of Socrates' and More's cases in Brann, supra note 2, 5-6, 16.

39. Plato and Aristophanes, *Plato's Apology of Socrates,* in *Four Texts on Socrates,* T. G. West & G. S. West trans, supra note 8, 86 [33b].

40. "The Apology," supra note 5, 28 [23c].

41. See Eisele, supra note 19.

42. This is Stanley Cavell's characterization of Wittgenstein's philosophical criticism, "a criticism in which it is pointless for one side to refute the other, because its cause and topic is the self getting in its own way .... " S. Cavell, "Aesthetic Problems of Modern Philosophy," in *Must We Mean What We Say?*, supra note 1, 85.