

# Sent From Heaven: The Protection of Political Comedy from *The Clouds* to “Truthiness”

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*“It’s more that we’re an emotional show, not a political show.”*  
—Jon Stewart<sup>1</sup>

Plato’s Socrates thought it necessary to throw poets out of his ideal society:

We must know the truth, that we can admit no poetry into our city save only hymns to the gods and the praises of good men. For if you grant admission to the honeyed muse in lyric or epic, pleasure and pain will be lords of your city instead of law and that which shall from time to time have approved itself to the general reason as the best.<sup>2</sup>

Simon Goldhill, professor of Greek Literature and Culture at the University of Cambridge, notes a struggle between philosophy and poetry in this quotation and others from Plato.<sup>3</sup> He describes Plato’s belief that poetry appeals to a person’s “lower faculties,” while philosophy turns people towards higher contemplation. He then goes on to say, “that poetry is recognized and challenged as an educative medium points to an important source of conflict in Athenian culture of the fifth and fourth centuries.”<sup>4</sup> There is certainly a conflict between what Plato and Aristophanes say about the role of the poet in society. Plato has Socrates say:

For we have come to see that we must not take such poetry seriously as a serious thing that lays hold on truth, but that he who lends an ear to it must be on his guard.<sup>5</sup>

Aristophanes, on the other hand, repeatedly asserts in his plays the poet's—that is, his own—power to speak the truth, which will save the city. In the section called the “parabasis” of Old Comedies (to be discussed later), the actors leave the stage and the chorus leader drops his mask to deliver “a message direct from the poet to the Athenian public.”<sup>6</sup> In *The Acharnians*, the parabasis includes a spirited defense of Aristophanes' ability to lead the *polis* (city-state):

That is the reason the allied emissaries  
Continue to come, impatient to meet this brilliant poet  
Who had the nerve to steer the Athenians towards what  
is right.<sup>7</sup>

Thus we see a debate about who has authority to give advice to the city. Many intellectuals claim that only a philosopher, a man of wisdom and logic untainted by the influence of his lower faculties, should be allowed to speak on grave matters of the state.<sup>8</sup> The poet, political comedian, however, thinks that he himself can tell the city the truth about its corrupt politicians, law courts, and misguided sophistry.

This debate between Plato and Aristophanes concerns issues that are still relevant and controversial today. With the soaring popularity of political comedy such as *The Daily Show*, *The Colbert Report*, and *Saturday Night Live*, especially leading up to the 2008 presidential election, many have had to take notice of political comedy as a cultural force. This comedy is, as Goldhill says of poetry in classical Athens, “recognized and challenged as an educative medium,” and many Americans today are concerned by the increasing trend among the young electorate to rely on such programs as news sources. A 2004 poll conducted by the Pew Center for the People and the Press

found that 21% of young adults aged 18-29 regularly received campaign news from comedy shows. The report goes on to say,

For Americans under 30, these comedy shows are now mentioned as frequently as newspapers and evening network news programs as regular sources for election news. But people who regularly learn about the election from entertainment programs . . . are poorly informed about campaign developments.<sup>9</sup>

While arguing that political comedy can be beneficial to society, Russell Peterson, professor of American studies at the University of Iowa, still admits that late-night comedy does "induce apathy and dumb down our discourse."<sup>10</sup> I agree, but is this really a sufficient reason to say that *The Daily Show* is "poisoning democracy"?<sup>11</sup>

Perhaps one reason why so many have expressed concern about these recent polls is that they share, in some sense, Plato's idea that entertainment exercises our lower faculties rather than our intellect. This Platonic idea asserts that in state (or national) matters, logic and reason must be held supreme, so there is no place for poetry or entertainment. The purpose of comedy is to make people laugh, not to give them serious advice about political matters. But when comedians present political issues to the people in this comic context, appealing to peoples' lower faculties (such as their inclination to laugh at slap-stick humor, bawdy jokes, and hyperbolic vituperation), they throw the distinction between serious and comic into confusion, and give people false ideas about political figures and current events. Aristotle was particularly concerned about the harm comedy could cause young people: "The younger ones must not be allowed in the audience at lampoons and at comedy, before they reach the age at which . . . their education will render all of them immune to the harmful effects of such things."<sup>12</sup> Perhaps underlying Aristotle's thinking is a conviction that young people are not intelligent or educated enough to discern fiction from reality.

In modern public culture, it sometimes happens that the electorate confuses a public figure with his/her satirical representation. An article appeared in *TIME Magazine* about a month before the 2008 presidential election that noted a public tendency to confuse Sarah Palin with Tina Fey's impersonation of her on *Saturday Night Live*: "A Google search . . . turns up plenty of blog references to Palin's claim that she could see Russia 'from [her] house' as her way of saying that being governor of Alaska is a foreign policy credential."<sup>13</sup> However similar they might be to what Palin actually said, these are the words of Tina Fey. This anxiety about political comedy, and the confusion it can generate, is not unfounded. Those who today share Aristotle's anxiety over the influence of comedy on young people have a legitimate concern. By taking their news from comedy shows, people can be misinformed on current events. However, I think it is going too far to say that young people, by viewing such programs as the *The Daily Show* and *The Colbert Report*, are "shirking" their "democratic duty to be informed in favor of a hedonistic desire to be entertained."<sup>14</sup> In my view, political comedy *can* foster intelligent discourse and *can* offer a singular venue for productive free speech in democracy.

In what follows, I will argue that political comedy in classical Athens (the fifth and fourth centuries BCE) did offer at least one benefit to society. Specifically, it provided a medium for political discourse entirely different from what occurred in the Assembly, the law courts, and everyday life. It was the only protected space in Athenian life where slanderous charges could be made, prominent politicians could be viciously and personally attacked, and an audience could be asked to sympathize with an enemy. Aristophanes does all of these things freely and without legal repercussions, whereas such statements in other public settings were punished. I will argue that there was no other space in Athenian life where this could be done and that the religious context of drama did, in fact, create a sacred space for comedy within the Athenian democracy. Because theatrical license helped promote freedom of expression, which many consider

to be characteristic of democracy, the institution of the dramatic festival in Athens helped democracy to flourish. Even if political comedy does have negative repercussions, in Athens it reinforced the effectiveness of the form of government that the Athenians chose for themselves. In this regard, political comedy must be seen as beneficial to the *polis*.

First, I will explore the difference between theater and other mediums of public discourse in ancient Athens: ecclesiastic and dikastic oratory.<sup>15</sup> I hope to demonstrate drama’s protected status that derived from its religious affiliations to Dionysus, and the peculiar ambiguity of comedy that also helped ensure the protection of the comedic playwright. To make the concept of comedic ambiguity clearer, I include a discussion of Stephen Colbert’s satirical persona. Next, I will show how Aristophanes, as a representative of the playwrights of Old Comedy, exercises his special status in the Athenian *polis*. The main indications of his special status are: the lack of positive evidence for a successful lawsuit against him, his ability to indirectly slander individuals and public officials, his portrayal of Socrates in *The Clouds*, and his (fictional) defense of the enemy in a time of war. To lend greater perspective, I will contrast Aristophanes’ defense of Sparta with comments that the comedian Bill Maher made shortly after the terrorist attacks of September 11, 2001. Finally, I conclude that Old Comedy in Athens enjoyed a special license for free speech, which was utilized by playwrights such as Aristophanes to air controversial ideas. Many of these ideas would not have been tolerated in any other public forum of the Athenian democracy. Although some of Aristophanes’ comic jests may have led to disaster (as Plato suggests), some of them were obvious calls for reform and positive change.

### **Drama vs. Oratory**

Many scholars have rightly pointed out the continuity in Athenian life between religious and civic activities. Loren J. Samons says “the Athenians conceived of society as an integrated whole— that is,

without strict divisions between religious, political, economic, and social spheres.”<sup>16</sup> Samons goes on to explain why the political aspect of Athenian life has been overemphasized at the expense of the religious. He attributes this partly to Aristotle, who writes in his *Politics*: “From these things therefore it is clear that the city-state is a natural growth, and that man is by nature a political animal.”<sup>17</sup>

Samons notes that the adjective “political” did not have the same connotation for the Greeks as it does for us; rather than implying that man is naturally predisposed to certain political “institutions or practices like elections,” the Greeks would have understood this to mean that man was “naturally suited to life in a polis.”<sup>18</sup> Unlike America with its much-celebrated separation between church and state, the Greek *polis* (and the Athenian *polis* in particular) encompassed all areas of life, including the civic and the religious.

For this reason, some emphasize the connection between Athenian civic institutions (such as the Assembly and the jury courts) and religious institutions, as seen in the dramatic festivals dedicated to Dionysus. Josiah Ober and Barry Strauss certainly are justified in pointing out the similarity of discourse in all three institutions, and it is true that “political rhetoric and drama can be seen, and analyzed, as closely related forms of public speech.”<sup>19</sup> But while there are undeniable similarities between the civic contexts of the theater, Assembly, and law courts, there are also fundamental differences. I am most concerned with the anomalous religious context of the dramatic performances, which grants to the playwright greater license than to the politician or the orator. There are strong indications that performances in the theater were treated as more sacred, and were therefore less vulnerable to censoring, than the civic “performances” of the orators and politicians.

While there is extensive evidence to suggest that speakers were often interrupted or shouted down in the Assembly and law courts, there is no sound evidence that this happened during dramatic performances, as Slater observes in his discussion of the Athenian theater audience: “We have no reliable evidence that fifth-century Greek

theater audiences ever drove the performers from the boards with barracking, as Roman theater audiences apparently did although Demosthenes in the next century claims that his rival Aeschines was driven from the stage by crowd response."<sup>20</sup> The comment of Demosthenes to which Slater refers is the following passage from *On the False Embassy*:

When he tried to represent the woes of the House of Thyestes, or of the men who fought at Troy, you drove him from the stage with hisses and cat-calls, and came near to pelting him with stones, insomuch that in the end he gave up his profession of actor of small parts.<sup>21</sup>

While this paper is primarily concerned with the comedic license of Aristophanes in particular, I take seriously any evidence that Athenian drama during the classical period was subject to censure for any reason, including audience reaction. Yet there are several reasons why this passage might not provide a legitimate argument against my assertion of exceptional comedic license. First, Demosthenes wrote this oration in the mid-fourth century, while Aristophanes wrote most of his plays in the fifth century. Slater thinks that this distinction is significant and suggests that differing religious contexts in these respective centuries caused Aristophanes to have greater license than the playwrights of the fourth century. After he refers to this passage from Demosthenes, Slater says, "Perhaps a stronger sense of the Dionysiac festivals as religious celebrations protected the performers of Aristophanes' day from quite such active intervention."<sup>22</sup> Slater is right to begin this sentence with "perhaps," for, if there is any evidence at all that the religious perception of Dionysiac festivals shifted from the fifth to the fourth century, it must be highly subjective. Because there is no solid evidence to necessitate a distinction between the two centuries of the classical period, I will consider evidence from both centuries to be relevant for my

purposes. If Slater wishes to dismiss the testimony of Demosthenes, he does not need to make such a conjecture, especially since there is at least one legitimate reason why Demosthenes' account of an incident that reviles his opponent Aeschines might be suspect. Because his goal is to cast his opponent in the worst light possible, we have good reason to expect that he is exaggerating.

Even if Demosthenes' account were entirely true, it still would not detract from my argument that the *playwright* had greater license than the politician or the orator. For Demosthenes makes it clear that it was Aeschines himself, and his performance, which the audience found objectionable. Demosthenes certainly does not mean that the audience reacted violently against the content of the play itself, for that would have no bearing on his quarrel with Aeschines.

Also, one might be tempted to dismiss this evidence as irrelevant because it pertains to tragedy, not comedy. However, it is necessary to conjecture that comedy was more protected from interruption than tragedy. If anything, we would expect the opposite. The audience of a tragedy would most likely be quieter and more subdued; whereas we expect that a comedic audience would be more riotous.

Arthur Pickard-Cambridge notes that the audience in the Theater of Dionysus was frequently noisy, and we would expect nothing else. Plato refers to hissing or whistling (*sūrinx*) and the "rude shouts of the multitude" (*amousoi boai plēthous*) in the theater.<sup>23</sup> Pickard-Cambridge also cites a passage from Demosthenes, where he claims that the audience "hissed and hooted at Meidias when he entered the theater."<sup>24</sup> None of this is particularly surprising; given the level of the audience's involvement in other public fora, we would expect a similar scenario in the theater. There is, however, no viable evidence from the classical period that performances were ever completely stopped due to outbursts or interventions from the audience. Pickard-Cambridge argues that the audience frequently interrupted and stopped the performance of plays, based entirely on evidence from Pollux and Athenaeus, who were writing in the second and third centuries CE.<sup>25</sup> However, if this actually were the case in the

fifth century BCE, we would expect some evidence from the classical period to support it, and especially given Aristophanes' tendency to insert objections to the audiences' treatment of his plays into his parabases, we might plausibly expect one of his surviving works to contain references to such occurrences.

As a matter of fact, in the revised version of *The Clouds*, Aristophanes complains of the audience's lack of appreciation for the original play when it was performed.<sup>26</sup> He does not indicate that the actual performance was impeded in any way; he simply resents its third and last place rating. Although the audience seems to have reacted negatively to this play, it was not interrupted, and the eponymous archon (an elected magistrate) chose Aristophanes again the following year to put on a comedy. In that play, *The Wasps*, he again berates the audience for their bad taste<sup>27</sup> (I will discuss this at some length below). Viable evidence that audience objections to the *content* of plays performed in dramatic festivals ever interfered with their performance seems not to exist.

In contrast, there is solid evidence from the classical period that the audience interfered in the purely secular arenas of both the Assembly and the jury courts; speakers in the Assembly were actually "hooted down and compelled to leave the *bema* [speaker's platform] without being heard."<sup>28</sup> Demosthenes claims that he was the victim of such silencing in the Assembly, when he attempted to denounce Aeschines and his role in the war against Amphissa:<sup>29</sup>

I protested instantly; I raised my voice in Assembly; I cried aloud, "You are bringing war into Attica, Aeschines, an Amphictyonic war;" but a compact body of men, sitting there under his direction, *would not let me speak*, and the rest were merely astonished and imagined that I was laying an idle charge in private spite.<sup>30</sup>

Although we might be suspicious of this example, because it would be in Demosthenes' interest to assert the truth of this claim even if it were false, it is unlikely that he would make such a claim if his audience were completely unfamiliar with this type of interruption. Furthermore, we cannot deny that Demosthenes seems, in various instances, to expect that people will shout him down in the Assembly: Do not drown with your clamor what I am about to say, but hear me before you judge<sup>31</sup> or again "Hear me before you shout me down."<sup>32</sup>

Aristophanes' plays give us several examples of interrupting and shouting down in the Assembly. Although his presentations of the Assembly are obviously comic, still they might demonstrate that Athenian citizens were accustomed to the idea of ecclesiastic interruptions. George Calhoun notes that "in the *Acharnians*, Dicaeopolis comes to the *ecclesia* [assembly] prepared 'to shout, to interrupt, to jeer at the orators if anyone speaks on any other topic than peace.'"<sup>33</sup> Calhoun also points out that the *ecclesiazusae* [assembly-women], when preparing to speak in the assembly, gird themselves against the inevitability of such interruptions.<sup>34</sup>

In his *Protagoras*, Plato tells us that the Athenian assembly would shout down any man who attempted to speak regarding a professional matter (not a political one) on which he was not an expert:

But if anyone else, whom the people do not regard as a craftsman, attempts to advise them, no matter how handsome and wealthy and well-born he may be, not one of these things induces them to accept him; they merely laugh him to scorn and shout him down, until either the speaker retires from his attempt, overborne by the clamor, or the tipstaves pull him from his place or turn him out altogether by order of the chair.<sup>35</sup>

From the evidence, it appears that shouting down and interrupting speakers happened regularly in the Athenian assembly. Calhoun notes that often these interruptions were due to a conscious effort to "pack" the Assembly full of supporters for a particular agenda or politician. A large number of men at the Assembly would agree beforehand to prevent anyone from presenting certain ideas that they opposed.<sup>36</sup> Demosthenes was a victim of this as seen in the previous quotation: "but a compact body of men, sitting there under his direction, would not let me speak."<sup>37</sup> Calhoun speculates that this type of prearranged demonstration "must have contributed to the exaggerated estimates of the oligarchic strength in 411."<sup>38</sup>

Thucydides discusses the fear surrounding the oligarchic uprising in 411, when conspirators controlled the assembly. He says that "fear, and the sight of the numbers of the conspirators, closed the mouths of the rest."<sup>39</sup> The number of the conspirators was so intimidating in part because it was impossible to know its magnitude:

An exaggerated belief in the numbers of the conspirators also demoralized The People, rendered helpless by the magnitude of the city, and by their being uncertain about each other, and being without means of finding out what those numbers really were.<sup>40</sup>

Thucydides also says that anyone who did speak up against the conspirators was executed.<sup>41</sup> Clearly this is an extreme example of the use of intimidation to silence speakers in the Assembly, at a time when the democracy was suspended. The democrats present were afraid because of the threat of physical violence; Calhoun suggests that the oligarchs packed the Assembly with their own supporters in the same way that Demosthenes claimed Aeschines did. It would be ridiculous to argue that this political contrivance was the sole, or even the main, source of the democrats' fearful silence, given the threat of execution for speaking out against the oligarchs. However, I agree with Calhoun that the democrats would have offered a more

daring resistance to the conspirators if they had not been deceived by the “packing” of oligarchs in the Assembly, which exaggerated their number. This is an extreme example from a brief oligarchic uprising. However, it is clear from Demosthenes that certain citizens were able to pack the Assembly full of their supporters, who conspired to silence anyone who opposed them. This type of intimidation and silencing was not unknown to the democracy before the oligarchic uprising in 411, and it may have contributed to the ease with which the oligarchs kept the Assembly and the People temporarily under their control. Conspiracy, intimidation, and interruption in the Assembly had a disastrous effect on the democratic cause.

It is easy to imagine that less drastic intimidation in the Assembly also had the potential to harm the democracy. It was possible, with a little organization, to put together a crowd of men large enough to silence anyone with shouts of disapproval. No doubt, ideas and advice that would have been productive or helpful to the Athenian democracy were sometimes repressed. This particular form of curtailing free speech in the Assembly was potentially deleterious to the public discourse, and the functioning of the democracy.

We have indications that interruptions were also frequent in the law courts. As Adriaan Lanni notes, “Litigants often ask the jury to shout down their opponent if he misrepresents the laws or facts of the case.”<sup>42</sup> There are more than a dozen such examples from *dikastic* oratory, compiled by Victor Bers.<sup>43</sup> I will offer here the clearest examples that Bers noted, but I must emphasize that there are a great many more similar references that I do not include. Most of these examples are from Demosthenes’ speeches, which repeatedly instruct the jury not to allow his opponent to say certain things:

Do not, then, listen to anything that had been done by Lacedaemonians or Phocians before he made his report; *do not let him talk about it*; do not permit him to denounce the Phocians and call them rascals.<sup>44</sup>

If Aeschines talked like an idiot and made blunders as an unofficial person, do not be hypocritical, leave him alone, make allowances. But if he has purposely deceived you for money while holding office as ambassador, do not let him off, *do not listen to the suggestion* that he is not to be put on his trial for mere words.<sup>45</sup>

Bear all this in mind and memory so long as you sit in that box. Dismiss all the fallacious reasons they will allege; *do not allow them to be uttered.*<sup>46</sup>

As we can see, Demosthenes frequently urges the jury (and possibly the bystanders as well) not to allow his opponent to say things that he claims are untrue or not pertinent to the case at hand.<sup>47</sup> He does not merely instruct the jurors to disregard such comments from his opponent, he repeatedly tells them not to allow these things to be spoken at all. We can infer that it was common practice for the jury, and probably the bystanders also, to interrupt the litigants with shouts of disapproval. For this reason, orators such as Demosthenes attempted to manipulate dikastic outbursts to silence their opponents. Of course, this works both ways: we also have examples of orators complaining that they are the victims of such silencing. Demosthenes reminded the jurors that they took an oath to be impartial and to allow the litigants to present their evidence in whatever way they see fit:

The purpose of that oath is, not only that you shall discard all prejudice, not only that you shall show equal favor, but also that you shall permit every litigant to dispose and arrange his topics of defense according to his own discretion and judgment.<sup>48</sup>

It is unlikely that Demosthenes would have reminded the jurors of this part of the oath unless they were prone to disregard it.

Demosthenes encourages the jury to protest and interrupt his opponent's speech but attempts to invoke the dikastic oath to prevent the jury from treating him in the same manner. Indeed, we have further evidence that litigants' speeches were limited by their opponents' manipulation of the jury:

But you, Ariston, have not merely discussed my advocates; *you even determine my own arguments and tell the jury what they must listen to, what line of defense they must prescribe for me, and what they must not tolerate.* Surely it is most unfair that after conducting the prosecution as you wanted you should rob me of my defense, because you know already the honest answers I can offer to your lies.<sup>49</sup>

Both Lanni and Bers have offered a defense of the dikastic *thorubos* (clamor, interruption), claiming that in some ways it allowed for greater justice in the law courts. Although they have a valid point, I must point out that they only explicate the potential positive consequences of dikastic *thorubos* because they consider its potentially negative consequences self-evident. Bers begins his defense of dikastic *thorubos* with the admission that, "The thought of jurymen heckling a speaker offends; if the jury raises a din that overwhelms a speaker, we are reminded of a lynch mob."<sup>50</sup> Bers is contrasting our modern associations to those of the ancient Athenians; the Athenians would not be offended by the jeers of jurors, nor would they associate such commotions with a lynch mob. While this may be true, it is still also true that such interruptions could interfere with the judicial process and prevent litigants from presenting their cases freely. The jury's interference with the litigants' speeches must have been intrusive enough to elicit Hyperides' complaint that he could not make his defense in the manner he wished. Clamor and interruptions in the law courts prevented litigants from exercising true freedom of expression.

Despite its similarities to other forms of public speech, Athenian drama alone was safe from interruptions and censorship from the audience. It is true that the content of the plays was shaped in large part by dramatic convention; there is a huge difference, however, between the existence of a dramatic convention which influenced the content of plays, and the existence of a means for censoring the content of plays. The latter did not seem to exist, despite audiences angered by the content of plays. Demosthenes asserts as a matter-of-fact that "All the other powers are naturally in a man's own control, but the power of speaking is blocked if there is opposition from the audience."<sup>51</sup> This statement is applicable to the Assembly and the law courts, but not the Theater of Dionysus. Theatrical immunity to interruptions allowed the playwright (through his fictional characters) to be the only voice in society that could not be shouted down when attempting to present controversial views to the *polis*. Therefore, it is not too drastic to say that, in respect of free speech, the theater was the most democratic institution in ancient Athens.<sup>52</sup>

### **Dionysus and Comedic Ambiguity**

Now that I have established that the Theater of Dionysus was an anomalous public space, I would like to proffer an explanation for this, along with some background information on the dramatic festivals. The uniquely protected status of drama (both tragedy and comedy) is linked to its religious context. Aristophanes' plays were performed at two different religious celebrations, the City Dionysia and the Lenaia, both of which were dedicated to the god Dionysus. Both tragedy and comedy have an intrinsic relationship to the god, which I will explore; and, there is a special connection between comedy and Dionysiac worship that I want to highlight.

The City Dionysia was the more important festival, and was celebrated every year in March because of Dionysus' connection to the coming of spring.<sup>53</sup> Probably before "the festival proper began, the Athenians reenacted the original coming of Dionysus" with a ritual procession and carrying of his statue, which was then placed

in the theater where the plays would be performed.<sup>54</sup> Reckford explains that although the City Dionysia was more a “national patriotic celebration,” with such events as the display of tribute brought from allies, “the god’s presence, as a bringer of release and freedom, must have remained central.”<sup>55</sup> The Lenaia was a lesser festival than the City Dionysia, yet still “a venue for major plays by major playwrights.”<sup>56</sup> The name of the festival probably derives from female Dionysiac revelers or “madwomen’ (*lenai*).”<sup>57</sup>

For most of the fifth century, the City Dionysia hosted a competition between five comic playwrights, who each presented one play, and three tragic playwrights, who each presented a trilogy of tragedies and one satyr-play.<sup>58</sup> One day was dedicated to each of the tragedies and one day to all of the comedies. The eponymous archon was responsible for selecting which plays would be put on at each Dionysia.<sup>59</sup> There was a rather complicated judging process for these competitions. It seems that the Council (a group of citizens chosen by lot to serve a one-year appointment) drew up a list of names, from which ten were drawn at random. These ten men were appointed as judges and took an oath to be impartial. Each of these ten wrote down his “order of merit” for the plays performed that day, and from these ballots, five were drawn which decided the matter.<sup>60</sup> A herald proclaimed which playwright had won first prize, and the archon crowned him with ivy, which was sacred to Dionysus because of its wild nature.<sup>61</sup> Although the victorious playwright was celebrated, Rehm notes that the highest honors at the City Dionysia and the Lenaia went to the *choregoi*, so named because they paid for the choruses, but they undertook many other expenses of production as well.<sup>62</sup>

Scholars have labeled the type of comedy that was performed in the fifth century “Old Comedy.” It was essentially a product of the democracy, first appearing around 486 BCE and basically dying out at the end of the Peloponnesian War.<sup>63</sup> In the years that Aristophanes was writing his plays, 427-388 BCE, many others were writing comedies also. However, their works survive only in fragments, whereas

we have eleven of Aristophanes' works. When throughout this paper I claim that Aristophanes had the fullest extent of freedom of speech, I mean that all the playwrights of Old Comedies enjoyed this freedom. Aristophanes is just the one whose works happen to survive, which is why I talk about him specifically.

The characteristics of Old Comedy have been explicated by many scholars. Francis Cornford has done thorough work on the origins of Old Comedy. For our purposes, the most important of these is its origin in the phallic songs. Cornford agrees with Aristotle who said that "Comedy originated with the leaders of the phallic songs, which survive to this day as institutions in many of our states."<sup>64</sup> Cornford goes on to explain what Aristotle meant by "the leaders of the phallic songs."<sup>65</sup> These singers improvised abuse of specific individuals, and the singing took place as part of a ritual that also included a procession and the carrying of a representation of a phallus. At the beginning of the song, the god Phales was invoked, and then came the "'iambic' element of ribaldry or satire, improvised by the leaders at the expense of individuals by name."<sup>66</sup> Old Comedy seems to have come out of this tradition, which explains its highly sexual nature, and the prevalence of slander and personal ridicule in the genre. It is likely that both the phallic songs and Old Comedy are concerned with the breaking of taboos, sexual and otherwise. Later, I will discuss comedy as a sort of "ritualized shamelessness."<sup>67</sup>

The Dionysiac context of both tragedy and comedy is the essential element that informs their content and guarantees their power, although some have argued that tragedy had "nothing to do with Dionysus."<sup>68</sup> They are borrowing this phrase from ancient audiences, who complained even then that tragedy, although dedicated to the god, was becoming increasingly unrelated to him.<sup>69</sup> I will argue that drama, both tragedy and comedy, was demonstrably Dionysiac, and then I will concentrate on the particular qualities of comedy that allowed it to participate in controversial politics (while remaining outside the actual political realm) with no repercussions for the comic playwright.

David Wiles claims, “if tragedy is indeed *something* to do with Dionysos, then the mask must be the center of that something.”<sup>70</sup> The use of masks and personae made Athenian drama—both tragedy and comedy—possible. Wiles also points out that the idea of masking had a different connotation for the Greeks than it does for us. When we think of putting on a mask, we think of something being hidden behind that mask. The Greeks, however, associated masks not with hiding, but with transformation.<sup>71</sup> Françoise Frontisi-Ducroux makes this distinction also:

We should understand that when worn the mask does not have the function of hiding the face it covers. It abolishes and replaces it. In the theater, beneath the dramatic mask, the face of the actor does not exist, and his individuality, as revealed by his own face, disappears and is replaced by that of the incarnated personage . . . The mask does not hide, but designates and signals the hero to whom voice has been restored<sup>72</sup>

This simple idea of altered identity is closely associated with Dionysus and his worship. He is frequently associated with wine and ritualized madness, which are similar because they both involve a temporary alteration of identity. The Dionysiac worshipper is allowed, within the sacred time and space of the festival, to assume the identity of the god who truly possesses him/her. Likewise, in drama, the actors are allowed to assume the identity of their character. This temporary change in identity is both achieved and indicated by the use of a mask. If for no other reason, Athenian drama was Dionysiac because of the use of masks to create a new identity or persona for the actor.<sup>73</sup>

Quite simply, the use of masks allows for the creation of fictional characters. Thus Aristophanes was able to present controversial ideas to the *polis* with complete immunity, for it was not he speaking the

words, nor was it the actor, nor was it any culpable public person. The characters speaking the words of the play existed only in the sacred space and time of the dramatic festivals. Words spoken by these characters were not considered to be legally actionable material. We have evidence not only that drama enjoyed a status outside the law *de facto*, but also that the Athenians had a sense of this special status of the dramatic festivals. Euripides made this basic argument in his own defense, and Aristophanes was likely acquitted of Cleon's charge for this reason. Even Plato has Socrates use legal language in respect to Aristophanes' "prosecution" of him, which necessarily went without defense because it was outside the realm of the law courts.<sup>74</sup> There seemed to be a general consensus among most Athenian citizens that public speech in a dramatic, festival context was not cause for persecution, as speech in any other public setting was. Both the tragic and comic playwright had this special protection from the laws restricting freedom of speech.

In addition, the comic poet had a special protection derived from the nature of comedy. I like to call this "comedic ambiguity," because the poet's motive for writing any particular line from his plays is ultimately unrecoverable. Many scholars have tried to recover Aristophanes' personal motives as a playwright, both in general, and in reference to nearly every political comment he makes in his plays. Was he simply trying to be successful in making people laugh, or was he trying to give political advice to his audience? We can never answer this question with any certainty. Josiah Ober notes,

Aristophanes' personal motives in writing are not fully recoverable because they can never be separated (perhaps not even by the poet himself) from the constraints of comic genre, or from the generalized critical intentions implicit within Aristophanes' role as a writer of comic poetry.<sup>75</sup>

In regards to Aristophanes' motives, we only know for sure that Aristophanes ostensibly was always trying to make people laugh, for this is the express purpose of comedy. Thus any particularly biting criticism in his plays can always be played off as a mere joke devoid of any political agenda or genuine criticism. Jeffrey Henderson compares the comic poet to a court-jester: "What the fool brings out into the open the king and his court can pretend, if they like, not to have taken seriously . . . The fifth-century comic poets played a similar mediating role: what might be too disruptive in Assembly or court could find an outlet at the comic competition."<sup>76</sup> Whether the audience and Aristophanes' satirical targets took his attacks seriously or not, they could always pretend not to take them seriously. Ultimately, Aristophanes himself could also claim that his criticism was not meant to be taken seriously. Perhaps he made such a claim in his own defense when Cleon sued him over *The Babylonians*. Although he often asserts a serious advisory role in his plays, these assertions are all under the cover of fiction and comedy, and can be played off as mere jokes. For this reason, the genre of comedy provides extra protection for the playwright. The comic element does not take the biting jab out of Aristophanes' criticism; it does, however, protect the playwright from allegations of serious political, treasonous, or slanderous motives.

Even though Aristophanes had the protection of comedy, we do know that some of the content of his plays, at least some of the time and by some people, was taken seriously. Ober insists, and I agree, that the expectations of the audience went a long way towards determining the content of Old Comedy. He says, "Athenian comedy's status as an established public genre imposed certain formal constraints on the individual poet."<sup>77</sup> He further suggests that the audience expected not only to be entertained by comedies, but also to be educated. This is supported by the prevalence of attacks on the "social and political *status quo*" in Old Comedy, as well as the success of Aristophanes.<sup>78</sup> He had to be selected by the eponymous archon each year to put on a comedy, and he had a long and successful

career, with many of his plays earning first prize. It is unlikely that he would have been repeatedly chosen to produce plays and been hugely popular with the judges at the dramatic festivals if he were not adhering to the audiences' expectations for a comic play. Based on its context within Dionysiac festivals, we can "assume that comedy played an important, well-established, and recognized role in the civic life of the city."<sup>79</sup> Since comedy was institutionalized, as Ober explains, and Aristophanes was successful within that institution, we infer that he adhered to the traditional expectations for a writer of Old Comedies. For these reasons, I think that Ober is correct to assert that the Athenian audiences expected the playwright to educate the *polis* and find insightful ways to attack the *status quo*, politically and socially. As he puts it, "His audience and judges . . . expected him to exercise an extreme form of the citizen's privilege of free speech, to search out and to expose to the public view things that were ordinarily hidden or tacitly ignored by the rest of the citizenry."<sup>80</sup>

The relationship between Old Comedy and politics is quite complicated. On the one hand, I assert that Old Comedy was protected because it was, quite simply, comedy. It was meant to make people laugh. Thus, the playwright could deny any pretence to serious criticism. On the other hand, some did take the content of Aristophanes' plays seriously. We know that Cleon and Plato thought Aristophanes was capable of influencing public opinion. It is unlikely that they were the only Athenians to hold this view. Thus it was possible for Aristophanes' Old Comedy to be both protected by comic ambiguity, and to exert what is, at least in some cases, a serious voice in the *polis*. As a result of Old Comedy's unique protection in public life, it was able to criticize politicians scathingly and by name, and to present ideas that would have been too contentious to be tolerated by the *demos* (the people) at the Assembly, or by the jurors at the law courts. As Henderson says, "what might be too disruptive in Assembly or court could find an outlet at the comic competition."<sup>81</sup>

Today, we do not have many examples of political comedians that are protected by comic ambiguity as Aristophanes was. Perhaps

there aren't any at all, but one who comes close is Stephen Colbert. His satirical persona, as a right-wing political commentator, allows for more distance between himself and the words he speaks.<sup>82</sup> This persona, and this distance, give Colbert a greater license than Jon Stewart's. Stewart is more of a court jester presenting absurdities and mocking them.<sup>83</sup> Colbert's creation of a façade not only fills a satirical vacuum (there was no one before him, and no one now, who is doing anything comparable), but it has led to him offering a comedic voice more comparable to Aristophanes' than any other that America has heard.

In 2006, Stephen Colbert performed at the White House Correspondents Dinner (WHCD). Every year at the WHCD, there is a featured speaker, usually a comedian. In recent years, there has been a tradition of mocking the president. Stephen Colbert's routine was a roast of President Bush, his administration (and especially the Press Secretary), and, to a lesser degree, the press. He mock-praised the President for relying on his gut, rather than logic or fact, in decision-making. He also called the press to account for not challenging the administration:

Over the last five years you people were so good—over tax cuts, WMD intelligence, the effect of global warming. We Americans didn't want to know, and you had the courtesy not to try to find out. Those were good times, as far as we knew.<sup>84</sup>

There are many similarities between Colbert's performance at the WHCD and Aristophanes' comedies. They were both performed in a sort of ritual context. The WHCD is held every year, and the event has increasingly become highlighted by its comedic performances that often mock the president. Stephen Colbert was performing a roast of the President, and everyone present expected him to do so. This expectation was influenced by the tradition of the event, and allowed Colbert great freedom in offering pointed criticism. Both

Colbert and Aristophanes use *personae* and the mask of comedy to convey political messages and stinging personal criticism of those in power, and these victims are actually present. The significance of Colbert’s performance is that it was made possible by his persona, and the ritual context that demanded a comedic routine. If any of these elements had been missing, he simply could not have done what he did—call the President, his administration, and the press corps to account for not doing their jobs correctly. Jon Stewart and others do this regularly on late-night or cable television, but it is unimaginable that they could do so on C-SPAN, in the presence of so many Washington insiders, as Stephen Colbert did. Peterson admits that Colbert’s routine was “a miracle of sorts” because

[I]n spite of the fact that comedy *about* politics is now as common as crabgrass, political comedy—that is, genuine satire, which uses comedic means to advance a serious critique—is so rare we might be tempted to conclude it is extinct. Seeing it right there in front of God, the president, and the press corps was an astonishing moment, which stood out from the mundane rituals of politics and press commonly seen on C-SPAN, *Meet the Press*, and the nightly news.<sup>85</sup>

Stephen Colbert was given the perfect circumstances to exercise freedom of speech to an astonishing degree. These circumstances were, as I have said, a ritual context that demanded a comedic performance, and the use of a persona. All of these elements were also present for Aristophanes, who also enjoyed freedom of speech on a level rarely seen in his society. They were both able to shamelessly mock and freely criticize the most powerful people in their government, to their face, with no reprisals.

Like Aristophanes’ characters, Stephen Colbert’s persona claims to be giving serious political advice to his audience. Most political

comedians today self-deprecatingly deny any such motive. For instance, Conan O'Brien said, "Anybody learning anything from my show would disturb me."<sup>86</sup> Jon Stewart has often expressed similar sentiments, such as during his appearance on *Crossfire* in 2004. Colbert is protected by his persona, as Aristophanes is protected by the mask. Peterson has a sense of this when he says that, "the Colbert persona provides its creator with the freedom to boldly go where no television comedian with a regular late-night gig has gone before."<sup>87</sup> Likewise, Aristophanes enjoyed greater freedom of expression because his message to the *polis* was put in the mouth of actors in a comic context.

There are many factors that help to explain the extraordinary license that Aristophanes enjoyed. I have identified a few of them that I think are the most important: the festival context, the use of a mask, and the ambiguity of comedy. There are many forms which Aristophanes' license takes. I have already asserted that the comic stage was not as vulnerable to interruption and censorship as the Assembly and the law-courts. Next, I will examine other evidence which indicates exceptional license for the playwright, and for Aristophanes in particular.

### Cases Against Playwrights

One important factor that demonstrates the special status of the theater in Athenian society is that the playwright was almost entirely free from the threat of litigation, even though Athens was notorious for its litigiousness. We know of only two attempts to prosecute playwrights for what they had written.<sup>88</sup> The most important example is Cleon's unsuccessful suit against Aristophanes, which we hear about from Dicaeopolis in *The Acharnians*:

And I know how I got stung last year by Cleon because of my comedy,  
 when he hauled me before the Council and blew  
 his top off, slandering, lying, lashing, roaring- exactly

like the river Cycloborus flooding- as he drenched  
me  
in abuse until I was all but annihilated  
by a sickly-slimy-sewery slush of smeary hatred.<sup>89</sup>

Cleon initiated this suit because of the content of *The Babylonians*, a play which is lost. The issue seems to have been the way Aristophanes, in this play, portrayed Athens at an event where her allies were present. The fragments of the play suggest that “the allies may have been represented as slaves of Athens.”<sup>90</sup> As Foley says, the scholia on the play suggest that Cleon sued either Aristophanes or Callistratus (the producer of the play) “for *adikia* [injustice] and *hubris* [an insult to one’s pride] towards the *demos* and *boule* [Council] on the grounds that he treasonably embarrassed the city before strangers at the City Dionysia.”<sup>91</sup> We can imagine how uncomfortable it might have been for the Athenian audience to sit through the play, if it really did champion the cause of the oppressed allies, while the allies themselves were present in the audience. It must certainly have caused a stir, for Athens was in a constant struggle to keep the allies under her thumb.<sup>92</sup> *The Babylonians* was produced in 426; by that time, several allies had revolted from the empire and had been violently forced to come back.<sup>93</sup> It was during the mid-fifth century that Athens had started to abuse its power over the allies, by forcing many of them to adopt a democratic form of government, requiring festival offerings from them, calling them “the cities which Athens controls” rather than “the allies,” and setting up cleruchies, which provided land for Athenian settlers in allied territory and took land away from the allies. These cleruchies also operated as “unofficial garrisons to keep an eye on allies of doubtful loyalty.”<sup>94</sup>

It is not surprising that Cleon found *The Babylonians* treasonous. What is more noteworthy is that the Council did not, and that Aristophanes suffered no consequences for his portrayal of Athens’ treatment of her allies.<sup>95</sup> Not only did Cleon fail to hold either Aristophanes or Callistratus personally responsible for what was

performed on the comic stage, but Aristophanes proceeded, in the following year, to abuse Cleon mercilessly in his *Acharnians*. In this play, Aristophanes makes his usual vicious attacks against Cleon, but he also makes the plot itself a jab at Cleon, as Foley points out: "By making a separate peace with Sparta and by offering in his speech a self-defense before the chorus to defend the enemy, the comic hero Dikaeopolis commits 'crimes' equivalent to those for which Aristophanes was indicted."<sup>96</sup> Also, by mentioning Cleon's suit in the play (see passage above), "Aristophanes is rubbing his antagonist's nose in the ineffectualness of his attack."<sup>97</sup> The precedent had been set that the comic playwright was not vulnerable to litigation. No matter how pointed a message his plays might send, no one was able to mitigate the harsh personal criticism they contained.

There is one other example from the classical period of a suit filed against a playwright, but it occurs against a tragic poet. It occurred very early on, and is the only example of a *successful* suit against a playwright. Soon after the Persian sack of the Ionian city Miletus in 494, the Athenian tragedian Phrynichus wrote and produced a play called *The Fall of Miletus*. According to Herodotus, "the whole theater fell to weeping; they fined Phrynichus a thousand drachmas for bringing to mind a calamity that affected them so personally, and forbade the performance of that play forever."<sup>98</sup> This is obviously an isolated incident, involving a sensitive subject very early in the democracy. It is not an attempt to censure personal attacks on political figures; it is a personal response to a public tragedy.

We only have positive evidence, then, for these two cases against playwrights during the classical period. However, there was a charge of impiety brought against Euripides, a contemporary of Aristophanes, for the content of one of his plays. In Euripides' *Hippolytus*, the character Hippolytus was sworn to secrecy before he learned that his step-mother, Phaedra, was in love with him. When his nurse told him this, he was furious, and the nurse, frightened by his reaction, begged him not to break his oath and tell the shameful secret. In a moment of passion, he said, "It was my tongue that swore, not

my heart."<sup>99</sup> However, Hippolytus kept his oath and did not betray Phaedra's secret to his father Theseus, even when she lied in a letter to Theseus and claimed that Hippolytus had raped her. Artemis praised Hippolytus for keeping his oath, even in the face of Theseus' accusations. Despite the fact that Hippolytus did keep his oath, even amidst extraordinary pressure to break it, his line claiming a rational reason for breaking an oath created somewhat of a controversy. Aristotle tells us that one Hygiaenon accused Euripides of impiety for the line "it was my tongue that swore, not my heart," claiming that this line advised perjury.<sup>100</sup> The actual case was not concerned with impiety, but with property (an *antidosis* trial).<sup>101</sup> Hygiaenon cited this line from *Hippolytus* to throw the reliability of Euripides' sworn statements into question.<sup>102</sup> Euripides, however, defended himself by saying that it was unlawful of his accuser to drag an issue that had been settled by the judges in the Theater of Dionysus into the law courts:

Euripides replied that his accuser did wrong in transferring the decisions of the court of Dionysus to the law courts; for he had already rendered an account of what he had said there, or was still ready to do so, if his adversary desired to accuse him.<sup>103</sup>

This very brief description of Euripides' defense allows us room to speculate on its nature. It seems that the basic foundation of his claim is that he should not be tried twice for the same offense, portraying the Theater of Dionysus as a sort of court-room where a verdict was handed down by the judges. From Aristotle's statement, we can infer that there was a controversy at the actual performance of the play in the Theater of Dionysus which Euripides claimed was mediated by the judges (see Torrance forthcoming).

We know that Euripides' *Hippolytus* received a first-place rating from the judges, so Euripides suggests that the judges would not have awarded him first place if they had considered his play to

contain impious or immoral content. For this reason, he considers the matter settled. Yet the legal language that Aristotle uses might give us pause, for he seems to make Euripides equate the *agon* (contest, struggle, trial) of the Theater of Dionysus to the *agon* of the law courts. Aristotle's statement seems to imply that both spaces are basically the same, since the material presented in both is subject to a verdict given by the people. This is true to a certain extent, but while there are similarities, the theater and the law courts were fundamentally distinct public spaces, and playwrights were only subject to one set of "jurors": the judges at the dramatic festivals. Euripides argues that the world of the dramatic festival and that of the law courts are two independent spaces, and matters which have been settled in a festival context should not be used as evidence or accusations in the law courts.

In general, the Athenian people seem to have sympathized with this view of the dramatic festivals. With one notable exception, the Athenians were unwilling to hold playwrights accountable for the content of their plays in any legal sense. This is especially striking because of the evidence that every other public speaker was held accountable for his words, with the possible punishment of death or exile for offering disastrous advice to the *polis*.

Alan Sommerstein explains, "a *rhetor* [orator] staked his reputation on the advice he gave to Assembly meetings, and if that advice led to bad results prosecution and personal ruin were not unlikely consequences."<sup>104</sup> Cimon was ostracized in 461 BCE for advising the Athenians to send a military detachment to Sparta following the helot uprising.<sup>105</sup> The Athenians fined Pericles in 430 for his advice which resulted in the outbreak of the plague.<sup>106</sup> The Athenians sued the speakers responsible for persuading them to execute the generals who won the naval battle at Arginusae.<sup>107</sup> It was common for the Athenian assembly to prosecute individuals who offered controversial advice to the *polis*.

These men, who gave advice to the *demos* from the speaker's platform, were giving specific advice and definite plans of action.

Therefore, it was easier for the *demos* to hold them accountable if their advice resulted in disaster for Athens. Aristophanes tended not to give such direct advice. Ober summarizes well the general comic lessons in his plays:

Comic lessons were seldom simple prescriptions or actual recommendations to “adopt that policy” or “vote this way” on a given decree. But the critical exaggerations of comedy might indeed take the form of warnings and admonitions: If “we Athenians” continue down the seemingly straight and sunny path, we may soon find ourselves lost in a labyrinth of our own devising.<sup>108</sup>

Ober’s term “comic lesson” is a particularly helpful way of thinking about the advice which Aristophanes was contributing to the public discourse. By giving the *polis* “warnings and admonitions” in a dramatic context, Aristophanes was able to make a valuable contribution to society. His public offering was not as direct as those of the orators and politicians, and for this reason (among others) it was extremely difficult to prosecute him for his advice.<sup>109</sup> Admittedly, the context for Aristophanes’ public discourse was fundamentally different from the public discourse in purely secular fora, such as the Assembly. I have argued that this difference is illuminated by the absence of drastic interruptions in the theater. We must also note the diverging social contexts of Aristophanes’ dramatic speech and that of the orators. It was necessary for orators to be held accountable for their advice, especially when it had disastrous effects. Aristophanes was essentially an entertainer, having a societal position outside of the political realm. He was not standing up in the Assembly and demanding to be heard; he was making his characters stand up in a fictional assembly and enact “comic lessons” for the audience. These lessons were generally not specific policy advice, but general warnings against corruption.<sup>110</sup> For this reason, it makes

sense that not many suits would be filed against a playwright such as Aristophanes.

I have established that the presentation of a playwright's ideas was subject neither to the interruptions, nor to the lawsuits which were frequent in ordinary public life. The combination of these two circumstances makes a solid case that the institution of the dramatic festivals created a uniquely protected public voice for playwrights.

### Slander

It is no trifling matter that Athenian drama was subject neither to the censoring of its audience, nor to the lawsuits of its satirical targets. However, evidence suggests that something even more astonishing was true: it appears that the fictional characters in Aristophanes' plays often hurled abuses which were specifically forbidden by law against real public figures. There is evidence that there were slander laws in effect during the classical period, and it seems that Aristophanes delighted in placing forbidden words in the mouths of his characters.

In the article "Comic Satire and Freedom of Speech in Classical Athens," Stephen Halliwell thoroughly examines the evidence for slander laws in effect at the time and also presents passages from Aristophanes which might violate these laws. Various sources refer to an early law "prohibiting verbal abuse of the dead."<sup>111</sup> The earliest reference to this is from Demosthenes, in the year 355:

Again, there is another excellent law of Solon, forbidding a man to speak ill of the dead.<sup>112</sup>

Halliwell notes that the law was probably not actually instituted by Solon, but that it was of sufficiently ancient origin for it to be attributed to him.<sup>113</sup> Aristophanes, however, ridicules the dead several times in the extant plays. He certainly did not stop reviling Cleon just because he was dead. In this passage from *Peace*, which was performed in 421, Cleon is imagined to be eating filth in Hades:

But perhaps some spectator, some beardless youth, who thinks himself a sage, will say, "What is this? What does the beetle mean?" And then an Ionian, sitting next him, will add, "I think it's an allusion to Cleon, who so shamelessly feeds on filth all by himself."<sup>114</sup>

An especially biting reference to the deceased Cleon is found in the parabasis of this play (spoken by the chorus leader on behalf of Aristophanes):

I am the first ever dared to go straight for that beast with the sharp teeth and the terrible eyes that flashed lambent fire like those of Cynna, surrounded by a hundred lewd flatterers, who spittle-licked him to his heart's content; it had a voice like a roaring torrent, the stench of a seal, the unwashed balls of a Lamia and the arse of a camel. I did not recoil in horror at the sight of such a monster, but fought him relentlessly to win your deliverance and that of the islanders.<sup>115</sup>

There is also evidence for laws prohibiting the abuse of the living. The most significant group protected by these laws is magistrates (which includes generals).

In the same way again, if you strike or abuse the Archon [chief magistrate] when wearing his crown, you are disfranchised; but if you assault him as a private citizen, you are liable to a private suit. Moreover, this is true not only of these officials, but of everyone to whom the State grants the *inviolability* of a crowned office or of any other honor.<sup>116</sup>

Halliwell admits, "It might appear telling that we cannot, so far as I can see, identify a single piece of comic ridicule certainly

targeting a named archon.”<sup>117</sup> However, Halliwell notes that this is more likely to be due to our lack of information than lack of comic treatment of office-holders, especially when we consider “the genre’s treatment of generals.”<sup>118</sup> We do have extensive evidence for the ridicule of generals, during their actual term of office. Here are two examples of Aristophanes ridiculing Cleon while he was serving as a general:

Oh! happy day for us and for our children if Cleon perish.<sup>119</sup>

And then, when you were for choosing as your general the Paphlagonian tanner, hateful to the gods, we contracted our brows and were enraged; and thunder burst through the lightning; and the Moon forsook her usual paths; and the Sun immediately drew in his wick to himself, and declared he would not give you light, if Cleon should be your general. Nevertheless you chose him. For they say that ill counsel is in this city; that the gods, however, turn all these your mismanagements to a prosperous issue. And how this also shall be advantageous, we will easily teach you. If you should convict the cormorant Cleon of bribery and embezzlement, and then make fast his neck in the stocks, the affair will turn out for the state to the ancient form again, if you have mismanaged in any way, and to a prosperous issue.<sup>120</sup>

It seems to me that these attacks on a general in office are an important example of slander in Aristophanes’ plays. Although the Athenians normally held generals responsible for their performance in war, there was actually a law in place prohibiting slander of generals. Yet the dramatic festivals provided an institutionalized civic setting where such slander was both tolerated and celebrated.

There is evidence for a similar law which I think is very important. It forbids the abuse of magistrates in public buildings. Our evidence comes from Lysias' speech *For the Soldier*: "The law forbids anyone to abuse a magistrate in a council-chamber."<sup>121</sup>

Halliwell asserts that this law prohibits slander of magistrates in public buildings. If this is the case, it makes Aristophanes' slander of generals all the more astonishing, since his plays were performed in a very public space:

If, as seems to have been the case, one of these [slander] laws, or part of this law, specifically prohibited abuse in public official settings such as temples and other state buildings, what could be more conspicuously symbolic of comedy's exceptional status than its performance, under state-sponsored conditions, in simultaneously one of the city's religious shrines and one of its largest public buildings (the Theater of Dionysus, within the shrine of Dionysus Eleuthereus)?<sup>122</sup>

Evidence indicates that the Theater of Dionysus had about twice the capacity as the Pnyx, where the Assembly was held. Thus a huge number of the Athenian citizen body was gathered for a national, yet religious celebration in the Theater of Dionysus. The religious aspect of the festival helps us to understand the sacred protection which was enjoyed within the physical and temporal limits of the festival; the national aspect of the celebration indicates how deeply entrenched this sacred protection was. For in normal public settings, abuse of magistrates was forbidden. In the Theater of Dionysus, such abuse was celebrated and flaunted.

Another such law contains a prohibition against mocking a citizen, man or woman, for working in the *agora* (market-place):

And yet, men of Athens, in reproaching us with service in the market Eubulides has acted, not only

contrary to your decree, but also contrary to the laws which declare that anyone who makes business in the market a reproach against any male or female citizen shall be liable to the penalties for evil-speaking.<sup>123</sup>

Aristophanes violates this injunction with a reference to Euripides' mother in *Women at the Thesmophoria*:

But I have long been pained to see us women insulted by this Euripides, this son of the green-stuff woman, who loads us with every kind of indignity.<sup>124</sup>

Although at first glance this law against deriding someone for working in the marketplace might appear strange, it makes more sense if placed in its democratic context. It is likely that many of the people working in the marketplace were relatively poor merchants. This seems, at least, to be the implication in Aristophanes' insult to Euripides.<sup>125</sup> In the classical period, democracy was such a strong cultural force that there was a law in effect prohibiting anyone from speaking negatively of citizens because of their occupation or lack of money. The irony in this passage is the clash between free-speech and democracy. For the woman's character is speaking words technically prohibited by law, and she is exercising freedom of speech to a greater extent than was possible in any other context. At the same time, she is being undemocratic in her negative portrayal of poor merchants.

Many, in both the ancient and modern world, associate free speech with democracy. Herodotus associates democratic reforms with *isēgoria* or "equal right of speech."<sup>126</sup> However, there are times when free speech offers challenges to democratic principles. The Athenian law against mocking a person for being modestly employed indicates that Athens was aware of this, and put laws in place to keep free speech from working against the democracy.

The disconnect between free speech and democracy in ancient Athens allows us to point to Attic drama as a counter-point for the

rest of society. We are accustomed to express surprise at encroachments upon free speech in democracy, but we must remember that democracy was not the only powerful ideology or cultural force at work in the Athenian *polis*. Status and success in Athens were very much connected to honor and threatened by public shame. Words had the power to destroy. Halliwell links this to restraints on freedom of speech: "In a society which is pervasively sensitive in matters of honour, shame, and reputation, the harmful potential of frank speech, particularly in public life, may lead to recognition of a need for constraints on freedom of the spoken word."<sup>127</sup> In the dramatic festivals, there was a temporary ritual release from the stigma of shame, and therefore a suspension of the constraints on free speech. One of the most distinguishing characteristics of Old Comedy is its complete lack of shame. Arlene Saxonhouse refers to the many manifestations of shamelessness in Aristophanes: "the genitals . . . the digestive functions, the pretenses of the political leaders, or the foibles and vanities of the gods themselves."<sup>128</sup> Halliwell asserts that comedy essentially is "a kind of ritualized shamelessness."<sup>129</sup> This understanding of Old Comedy is consistent with its roots in Dionysiac fertility ritual, which I have already discussed.

It is necessary to understand that comedy's special license for free speech was a direct result of its festival context and the characteristics of its genre. In normal Athenian public life, the words and ideas presented in Aristophanes' plays could be cause for prosecution for slander. Halliwell explains the difficulty of bringing such a charge against a comic poet:

A charge of slander would need to allege deliberate calumny . . . it is not impossible, but it is certainly difficult, to imagine how such a charge could ordinarily be sustained against a comic poet, both because of the dramatic context of the characters' utterances, and because of the special festival setting of the performance.<sup>130</sup>

I have already indicated that I think the dramatic context, with fictional characters, was directly linked to the legal protection that playwrights enjoyed, and that the dramatic context was bound up in Dionysiac ideas. Halliwell also suggests that the “special festival setting” is a factor in the playwright’s legal protection. He does not explain exactly how this festival setting creates a distinct public space, but many have offered theories on this. Mikhail Bakhtin famously developed the concept of carnival as sort of a temporary inverted reality where everyone was on equal footing.<sup>131</sup> Such ritualized suspension of hierarchy allowed society to return, refreshed and renewed, to the *status quo*, which was ultimately reinforced by this ritual. At the same time, the carnival is subversive, to the extent that it makes the people realize that society could be free of hierarchy, as it is during the time of carnival. The celebration of carnival is in some sense revolutionary, in that it has the potential to slowly usher in new modes of thought. I think that Old Comedy was both reactionary and subversive.

As I have already noted, I agree with Halliwell that comedy was “a kind of ritualized shamelessness” in a culture dominated by shame and honor. I do think that the festival context of drama made such shamelessness possible, and that Bakhtin’s model is helpful in this respect. A culture sensitive to reputation and honor must have raised high tensions at times, and comedy allowed for a ludic release of these tensions. As Bakhtin indicates, this release ultimately has the effect of reinforcing the *status quo*, and in this case, of allowing the culture centered on shame to thrive. This informs the content of comedy, and especially the abundance of slander and personal ridicule it contains. I find Bakhtin’s carnival theory helpful for explaining why slander was both prevalent in comedy and protected from legal action.

Bakhtin’s concept of the carnival is highly Dionysiac. The idea of ritualized madness, associated with Dionysus, pervades Euripides’ *Bacchae*. The maenads’ worship of Dionysus requires them to step outside of normal physical society and societal norms. They

temporarily lose their own identity within the confines of the ritual, and take on the personality of the god. Their manifest madness allows them a type of release from the pressures of society and makes their successful reintegration into regular society possible. Therefore, the ritual reinforces the *status quo*. Bakhtin's carnival theory allows us to make sense of the extreme freedom of speech enjoyed in the theater, and especially in comedy. Comedy provided what Halliwell describes as a "ritualized shamelessness," which is as Dionysiac as the ritual madness of the maenads.

I have noted, however, that there is also a revolutionary aspect to Bakhtin's carnival theory as well. I think this aspect of his theory also applies to Old Comedy. Aristophanes' comedies present drastically new ideas to the public. Even if they are complete fantasy, they present to the viewers a consciousness that a different way of thinking is possible. Bakhtin argues that the medieval carnival, gradually over centuries, opened up venues to a new way of thought, which ultimately had its fruition in the Renaissance.<sup>132</sup> I don't think we can point to any such concrete or drastic consequences of Aristophanes' comedies. We can, however, admit that Aristophanes presents a fantasy world which, although it is at one remove from reality, encourages a realization that things—society, government, corrupt politicians, unnecessary war—do not have to be the way they are. They could be different. This message may not be revolutionary, but it is subversive to the *status quo*.

### **Socrates and The Clouds**

Aristophanes' *The Clouds* includes a portrayal of Socrates which Plato claimed contributed to his execution. Yet, no legal action against Aristophanes was ever attempted. This supports my argument that he enjoyed an extreme level of freedom of speech and freedom from litigation. In addition, Plato's reaction to *The Clouds* suggests that Aristophanes' jokes were far from funny to some.

Although it is important to consider audience reactions to Aristophanes' plays, we face an unfortunate lack of evidence.<sup>133</sup> There

are, however, pieces of evidence that give us some indication of what type of reaction the audience had. For instance, at least we know how Aristophanes' plays placed in the comedic competitions. *The Clouds* is anomalous, in that it actually contains a description of the audience's reception of itself. The play was originally performed at the City Dionysia in 423 BCE, and received third and last prize.<sup>134</sup> Apparently, Aristophanes was extremely disappointed at this lack of enthusiasm for what he thought was his best play. At least he writes these ideas into *The Wasps*, performed the following year:

Such a bulwark against evil, such a purifier of the land had you found, when last year you double-crossed him, when he sowed a crop of brand-new ideas that you made fruitless by your failure to understand them clearly. And yet over and over again he swears solemnly by Dionysus that no one ever heard any comic poetry better than that. So you're all disgraced for failing to appreciate it right away.<sup>135</sup>

Apparently because he wanted to stage another performance of *The Clouds*, Aristophanes began to revise it, and the only version we have is a partially revised one. This new version includes another attack on the audience in the parabasis speech: "I took you for intelligent theatergoers and this for the most sophisticated of my comedies; that is why I thought you deserved to be the first to savor it, a play that cost me very hard work. Then I lost the contest, defeated by vulgar men, though I didn't deserve to."<sup>136</sup> Of course it is possible that the audience of *The Clouds* liked the play well enough, just not as well as its two competitors. Perhaps Aristophanes is exaggerating and attacking the audience as well as his comic competitors purely out of bitterness because of his last place designation. We do not have complete texts of the plays which defeated *The Clouds*, but it seems unlikely that Aristophanes would go to such lengths to criticize the audience in *The Wasps*, as well as undertake to create a

revised version of *The Clouds*, if he did not sincerely think that he had been unjustly treated because of the audience's lack of appreciation for new ideas. It is difficult to determine whether the play was simply a flop, or offended its audience in some way. Because of Aristophanes' popularity, and the fact that *The Clouds* was the only one of his plays, to our knowledge, to place last, we would expect that its audience found something objectionable in its contents.

Regardless of whether the audience of *The Clouds* found its content unsavory, Plato certainly found it objectionable. Dover summarized Plato's treatment of the play in his *Apology*: "Plato treats the formal accusation brought against Socrates in 399 as the culmination of a long process of slander to which *Nu* [*The Clouds*] itself made a significant contribution."<sup>137</sup> Indeed, Plato has Socrates say to his jury:

For many accusers have risen up against me before you, who have been speaking for a long time, many years already, and saying nothing true . . . Besides, these accusers are many and have been making their accusations already for a long time . . . and the case they prosecuted went utterly by default, since nobody appeared in defense. But the most unreasonable thing of all is this, that it is not even possible to know and speak their names, except when one of them happens to be a writer of comedies.<sup>138</sup>

Thus (Plato's) Socrates alleges that Aristophanes' representation of him in *The Clouds* was slanderous and contributed to the overall negative feeling against him, and these feelings culminated in his trial. In one instance, Socrates even mentions Aristophanes by name.<sup>139</sup> The legal language that Socrates uses in the above quotation is significant. He includes Aristophanes in the group of accusers whose "case . . . went utterly by default, since nobody appeared in defense."<sup>140</sup> Obviously there was no literal case, yet Socrates uses

the analogy of Aristophanes as a prosecutor in a case with no defendants. This statement implies that Aristophanes was criticizing Socrates in a medium which allowed no recourse for either defense or retaliation. Certainly one cannot know whether or not the presentation of Socrates in *The Clouds* biased people against him or played a part in his execution; but among Socrates' followers, there was a prevalent idea that Aristophanes was guilty of spreading accusations and misleading information about Socrates, which had a hand in his ultimate death. Aristophanes' *The Clouds* was, at least according to Plato, a prosecution against which a defense was impossible. There is no hint anywhere that any type of legal action was ever considered against Aristophanes for his *Clouds*.

Plato's presentation is not necessarily reliable; but, the fact that he took Aristophanes' plays seriously as an influential socio-political force indicates that others probably did as well. If anyone in the audience took Aristophanes' comic lessons seriously, they could be an actual political force, and could actually be beneficial to society in some concrete way. For the same men who sat in the Theater of Dionysius also sat (and voted) in the Assembly. Although most would consider the execution of Socrates an undeniably negative repercussion, Aristophanes' mockery of corrupt public officials could have effected real, positive change.

### **Aristophanes and Sparta**

As we have seen, Aristophanes frequently and mercilessly attacked corrupt men such as Cleon. Another related theme to which he often returned is war and the greedy politicians who wage war merely for personal profit. Many of his plays advocate ending the unpopular war that Athens was engaged in at the time. In *The Acharnians*, the hero Dicaeopolis ("Just City"), tired of living in the city while his farmland in the country is ravaged by the enemy forces, sues for a private peace with the Spartans. In defense of his action, he offers the Chorus of old men a vindication of Sparta. The play was produced in 425 BCE, in the sixth year of the Peloponnesian

War between the Athenian Empire and the Peloponnesian League, dominated by Sparta.

Dic.: All I know is that the Spartans, whom we so loathe, are not the only reason for our woes.

Chorus: Not the only? You frigging heel, you have the gall to say this to my face and think we're going to spare you?

Dic.: Not the only reason, I repeat: not the only. In fact, with a little dissertation I could show you how in many ways the Spartans are the wronged party.

Chorus: What a truly awful thing to say! A brazen exculpation of our enemy—enough to cause a heart attack.

Dic.: Very well, if what I say doesn't seem right and true to all people I'm ready to speak with my head on a butcher's block.

Chorus: Fellow demesmen, why do we delay? Why don't we flay the rascal till he's as red as a Spartan cloak?<sup>141</sup>

After he placed his head on the block, Dicaeopolis later went on to describe the causes of the war, invite the audience to put themselves in the Spartans' shoes, and see if they would have acted any differently in the same circumstances: "Dic.: Then tell me, what should the Spartans have done?"<sup>142</sup> Dicaeopolis concludes that the Athenians would have acted just as the Spartans did, and that if they think otherwise, "then we're quite devoid of brains."<sup>143</sup>

It seems positively outrageous to me that Aristophanes was able to get away with such a defense of the enemy in war-time. Many Americans can attest to the inevitability of being labeled "unpatriotic" for insinuating anything remotely positive about terrorists. Since September 11, 2001, it has been a national sin to allude to the fact that the terrorists may have been provoked in any way, or perhaps

that America is in any small way to blame for terrorist insurgencies. One American in particular can attest to the outrage such ideas can provoke: Bill Maher.

In 1997, *Politically Incorrect with Bill Maher* went from basic cable, on Comedy Central, to ABC, where it remained until ABC decided not to renew its contract. This decision was a direct result of a comment that Maher made a mere six days after the tragedy on September 11, 2001.<sup>144</sup> In a conversation with one of his guests, Dinesh D'Souza, a former presidential aide for Ronald Reagan, Maher described the terrorists in a manner which many found objectionable. Maher and D'Souza were comparing the terrorists' boldness to the United States' cautious foreign policy:

D'Souza: One of the themes we constantly hear is that the people who did this are cowards.

Maher: Not true.

D'Souza: Not true. Look at what they did. First of all, you have a whole bunch of guys who are willing to give their life. None of 'em backed out. All of them slammed themselves into pieces of concrete.

Maher: Exactly . . . But also, we should—we have been the cowards lobbing cruise missiles from two thousand miles away. That's cowardly. Staying in the plane when it hits the building, say what you want about it, it's not cowardly.<sup>145</sup>

A national controversy followed Maher's characterization of the terrorists as brave. The main sponsors of the program, Sears and Fed Ex, retracted their advertising and financial support due to many consumer complaints.<sup>146</sup> ABC found new sponsors and continued to air the show, but many of its subsidiaries dropped the program altogether. By September 26<sup>th</sup>, twelve ABC affiliates had stopped airing the show.<sup>147</sup> ABC handled the situation rather diplomatically, by not canceling the show altogether, but also not requiring its subsidiaries

to air it.<sup>148</sup> When asked to comment on the incident, Press Secretary Ari Fleisher said, "it is a terrible thing to say, and unfortunate . . . This is not the time for remarks like that; there never is."<sup>149</sup> ABC let the contract for *Politically Incorrect* run out the following June, which, as David Silverman (professor of Communications at Valley City State University) notes, "sent a clear message: don't go too far in expressing a political opinion on this network."<sup>150</sup>

It seems that, although Aristophanes was able to offer a defense of the enemy in war-time, Bill Maher was not.<sup>151</sup> We might note any number of differences in the social contexts of their defenses, but we cannot deny that there was an institution in Athens, which allowed such taboo view-points to be aired, even during the most sensitive of times, which does not exist in America today. This *de facto* censorship of Bill Maher highlights the importance of the institutional element of the dramatic festivals in the guaranteeing freedom of speech for the playwright. Despite the fact that Maher was hosting a show called *Politically Incorrect*, our free, democratic society could not handle his political incorrectness. It was only because of the religious, dramatic festival in Athens that their society could tolerate the public airing of such controversial ideas.

## Conclusion

"Laughter is no matter for joking, and we shall not give up our right to it." —Alexander Herzen<sup>152</sup>

Plato himself admits that his mistrust of entertainment goes deeper than the conflict between philosopher and comic, the intellectual and the ignoble. In *The Republic*, he also expresses fear at the revolutionary aspect of humor. Ober astutely points out in a footnote that "Socrates asserts that the guards of Kallipolis should not be fond of laughter, since when one laughs powerfully, one is stimulated, equally powerfully, to seek change (metabolē)."<sup>153</sup> Some scholars think that comedy, by nature, is reactionary. However, this theory fails to explain why, in many cases, those who find political comedy disconcerting are those who are most concerned with

maintaining the *status quo*. Cleon, for example, felt threatened by Aristophanes' *The Babylonians* because it challenged the accepted Athenian manner of treating its allies. Certainly shows such as *The Daily Show* and *The Colbert Report* are targeting areas of government and society where reform is desperately needed, opposing the most powerful politicians and most thoroughly entrenched corruption. At first glance, our instinct is to say the same of Aristophanes—he seems to be sending political messages, calling for Athens to reach beyond misleading rhetoric and corrupt politicians, encouraging his fellow-citizens to demand more: more truth, more peace, more reason and logic behind domestic and foreign policy decisions. Far from appealing to peoples' lower faculties, Aristophanes set himself as the only sane figure in a world gone mad with imperialism, corruption, and unnecessary war. This is in direct opposition to Plato's portrayal of the poet, and in some ways contrary to our idea of the comedian. The comedian is supposed to play the fool and be silly; however, many have noted the recent tendency of "real" politics to devolve into absurdity, while the political comedian emerges in the role of serious advice-giver, the lone voice of reason surrounded by the double-talk, spin, pointless shouting and exaggerated bi-polarity of political discussions on the "real" news networks.<sup>154</sup> For instance, Jon Stewart appeared on CNN's *Crossfire* in 2004 to beg its hosts to "stop hurting America" by being "partisan . . . hacks."<sup>155</sup>

In addition, politicians themselves are sometimes perceived as relying more on their lower faculties than their reason, a point which is, once again, ironically pointed out by comedians and satirists. At the White House Correspondents Dinner, Stephen Colbert "praised" President Bush for his reliance on his gut feeling, rather than facts or reason. Colbert also famously coined the term "truthiness" to mock the administration's disregard for objective fact. Aristophanes in many ways also set himself up as a voice of reason in society. His main enemy was Cleon, who was reviled in another ancient source as a demagogue in the worst sense of the word:

The head of the People was Cleon son of Cleaenetus, who is thought to have done the most to corrupt the people by his impetuous outbursts, and was the first person to use bawling and abuse on the platform, and to gird up his cloak before making a public speech, all other persons speaking in orderly fashion.<sup>156</sup>

Aristophanes would have us believe that he had the power to tell the city the truth about its corrupt politicians, especially Cleon, who merely put on a performance and, with his impetuous behavior, appealed more to the peoples' emotions than their intellect. In his comedies, Aristophanes turns the natural order upside down: in the comic universe, the elected officials and magistrates are the ones who appeal to the lower emotions, whereas the comic poet is the voice of reason for society, leading them to the truth. Aristophanes inverts the world-order as it is portrayed by Aristotle and especially Plato, who warns us that if we allow comedy into our state, "pleasure and pain will be lords of your city instead of law."<sup>157</sup>

Our modern experience with political comedy, however, leads us to believe that perhaps Aristophanes is right to some degree. Perhaps he really did fulfill a role in the education of the *polis* which was characterized by common-sense and reason. The more corrupt and surreal the political world becomes, the saner the insanity of political comedy seems. Despite its fantastic nature, I think that Aristophanes' comedies might have had a role in shaping everyday realities. They certainly had the potential to do so. Aristophanes, as a playwright of Old Comedy, enjoyed an exceptional status in Athenian society. His comic plays contain indications of the greatest expression of freedom of speech that survive from the Athenian democracy. The religious and institutional aspects of the dramatic festivals gave the playwright extraordinary protection from censorship. I assert that Aristophanes at least attempted to use his comedies to educate the *demos* in the real distinction between emotion and reason. For many

today who seek both ludic release and a rational approach to politics, the protection of such comedy seems to be sent from heaven—or at least from *The Clouds*.

## Endnotes

- <sup>1</sup> Wolk, "Mock the Vote," *Entertainment Weekly*, October 3, 2008, 39.
- <sup>2</sup> Plato, "The Republic," *Plato in Twelve Volumes*. trans. Paul Shorey. (Cambridge, MA: Harvard University Press, 1969), 10.607a.
- <sup>3</sup> Simon Goldhill. "Comic inversion and inverted commas: Aristophanes and parody," in *The Poet's Voice: Essays on Poetics and Greek Literature* (Cambridge: Cambridge University Press, 1991), 167-176.
- <sup>4</sup> *Ibid.*, 169.
- <sup>5</sup> Plato's *Republic*, 10.608a.
- <sup>6</sup> Francis Cornford, *The Origin of Attic Comedy* (Ann Arbor: The University of Michigan Press, 1993), 110.
- <sup>7</sup> Aristophanes, "The Acharnians," *The Complete Plays*. trans. by Paul Roche. (New York: New American Library, 2005), 643-5.
- <sup>8</sup> Cf. Plato's *Republic*.
- <sup>9</sup> <[http://www.pewinternet.org/pdfs/PIP\\_Political\\_Info\\_Jan04.pdf](http://www.pewinternet.org/pdfs/PIP_Political_Info_Jan04.pdf)>, accessed 22 Oct. 2008.
- <sup>10</sup> Russell Peterson, *Strange Bedfellows: How Late-Night Comedy Turns Democracy into a Joke* (New Brunswick, New Jersey: Rutgers University Press, 2008), 3.
- <sup>11</sup> *Washington Post* columnist Richard Morin, as quoted in Peterson 41.
- <sup>12</sup> ΤΟΥΣ Δὲ ΝΕΩΤΕΡΟΥΣ Οὐτ' ἰάμβων οὔτε κωμωδίας θεατὰς ἑατέον, πρὶν... τῆς ἀπὸ τῶν τοιοῦτων γιγνομένης βλάβης ἀπαθεῖς ἢ παιδεία ποιῆσει πάντως (*Politics* 1253a1, trans. Rackham).
- <sup>13</sup> James Poniewozik, "Palin vs. 'Palin': When SNL Parody Becomes Campaign Reality," *TIME Magazine*, Oct. 9, 2008, <<http://www.time.com/time/magazine/article/0,9171,1848735,00.html>>, accessed 22 November 2008.
- <sup>14</sup> Peterson, 43.
- <sup>15</sup> By "ecclesiastic," I mean "taking place in the Assembly" (in Greek, *ekklesia* means "assembly"). By "dikastic," I mean "taking place in the law courts" (the Greek root *dika* relates to courts, judges, justice, etc.).
- <sup>16</sup> Loren J. Samons, *What's Wrong With Democracy? From Athenian Practice to American Worship* (Los Angeles: University of California Press, 2004), 166.
- <sup>17</sup> Aristotle, "Politics," *Aristotle in 23 Volumes: Vol. 21*. trans. by H. Rackham. (Cambridge, MA: Harvard University Press), 1944, 1253a.
- <sup>18</sup> Samons, 168.
- <sup>19</sup> Josiah Ober and Barry Strauss, "Drama, Political Rhetoric, and the Discourse of Athenian Democracy," in *Nothing to Do with Dionysos?: Athenian Drama in its Social Context*, ed. John Winkler and Froma Zeitlin (Princeton: Princeton University Press, 1990), 237. Cf. Josiah Ober, "Essence and Enactment: Aristophanes Ecclesiazusae," in *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule* (Princeton: Princeton University Press, 1998), 122-3.

- <sup>20</sup> Niall W. Slater, "Making the Aristophanic Audience," *The American Journal of Philology* 120.3 (1999): 354.
- <sup>21</sup> Demosthenes, "On the False Embassy," *Demosthenes*. trans. C. A. Vince, M. A. and J. H. Vince. (Cambridge, MA: Harvard University Press, 1926), 19.337.
- <sup>22</sup> Slater, 354.
- <sup>23</sup> *Laws* 3.700, Translation. mine.
- <sup>24</sup> ὑμῶν οἱ θεώμενοι τοῖς Διονυσίοις εἰσιόντ' εἰς τὸ θέατρον τοῦτον ἐσυρίπτετε καὶ ἐκλώζετε (*Against Meidias* 21.226). Arthur Pickard-Cambridge. *The Dramatic Festivals of Athens*, 2<sup>nd</sup> Ed. (London: Oxford University Press, 1968), 273.
- <sup>25</sup> Arthur Pickard-Cambridge, 272-3.
- <sup>26</sup> Aristophanes, *Aristophanes II: Clouds, Wasps, Peace*. ed. and trans. Jeffrey Henderson. (Cambridge, MA: Harvard University Press, 1998), 524-5.
- <sup>27</sup> *Ibid.*, 1043-8.
- <sup>28</sup> George Miller Calhoun, *Athenian Clubs in Politics and Litigation* (Austin: University of Texas Press, 1913), 123.
- <sup>29</sup> There is another such example in Dem. 19.23 (cf. Calhoun 122), and an example of the people not allowing Demosthenes to speak in 19.45-6 (cf. Tacon 173, Calhoun 122).
- <sup>30</sup> Demosthenes, "On the Crown," *Demosthenes*. trans. C.A., M.A., and J.H. Vince. (Cambridge, MA: Harvard University Press, 1926), 18.143. Emphasis mine.
- <sup>31</sup> Demosthenes, *On Organization*, 13.3, trans. Vince.
- <sup>32</sup> Demosthenes, *On the Peace*, 5.15, trans. Vince.
- <sup>33</sup> Calhoun, 122. *Acharnians* 37-9: νῦν οὖν ἀτεχνῶς ἦκω παρεσκευασμένος βοᾶν ὑποκρούειν λοιδορεῖν τοὺς ῥήτορας, ἐὰν τις ἄλλο πλὴν περὶ εἰρήνης λέγη.
- <sup>34</sup> Calhoun, 122. *Ecclesiastus* 248ff.
- <sup>35</sup> Plato, *Protagoras*, 319c, trans. Lamb.
- <sup>36</sup> Calhoun, 123.
- <sup>37</sup> Demosthenes, *On the Crown*, 18.143, trans. Vince.
- <sup>38</sup> Calhoun, 124.
- <sup>39</sup> Thucydides, *The Landmark Thucydides: A Comprehensive Guide to The Peloponnesian War*. Edited by Robert Strassler. trans. Richard Crawley. (New York: Simon & Schuster, 1996), 8.66.2.
- <sup>40</sup> *Ibid.*, 8.66.3.
- <sup>41</sup> *Ibid.*, 8.66.2.
- <sup>42</sup> Adriaan M. Lanni, "Spectator Sport or Serious Politics? οἱ περιεσθηκότες and the Athenian Lawcourts," *The Journal of Hellenic Studies* 117 (1997): 187.
- <sup>43</sup> Bers 9: nn 32 and 33.

- <sup>44</sup> Demosthenes, *On the False Assembly*, 19.75, trans. Vince, emphasis mine.
- <sup>45</sup> Ibid, 19.182, emphasis mine.
- <sup>46</sup> Demosthenes, *Against Aristocrates*, 23.219, trans. Vince, emphasis mine.
- <sup>47</sup> See Lanni for a discussion of the bystanders and their relationship to the jury and litigants.
- <sup>48</sup> Demosthenes, *On the Crown*, 18.2, trans. Vince.
- <sup>49</sup> Hyperides, “In Defense of Lycophron,” *Minor Attic Orators: Volume 2*. trans. J. O. Burtt. (Cambridge, MA: Harvard University Press, 1962), 1.11. Emphasis mine.
- <sup>50</sup> Victor Bers, “Dikastic Thorubos,” in *Crux: Essays in Greek History presented to G.E.M. de Ste. Croix on his 75<sup>th</sup> birthday*, ed. Cartledge and Harvey (London: Duckworth, 1985), 13.
- <sup>51</sup> αἱ μὲν τοίνυν ἄλλαι δυνάμεις ἐπιεικῶς εἰσιν αὐτάρκεις, ἡ δὲ τοῦ λέγειν, ἂν τὰ παρ’ ὑμῶν τῶν ἀκουόντων ἀντιστῆ, διακόπτεται.  
Demosthenes, *On the False Assembly*. trans. Victor Bers, 19.340.
- <sup>52</sup> This is not as radical a claim as it might seem. Many scholars have noted that the comic stage in particular provided the greatest freedom of expression in Athenian public life. Saxonhouse says, “It is, of course, on the comic stage itself that one finds the fullest expression of the freedom to speak frankly” (130). However, I am unaware of anyone making quite the same argument for this conclusion as I present in this section of my paper.
- <sup>53</sup> Kenneth J. Reckford, *Aristophanes’ Old-and-New Comedy: Volume 1* (Chapel Hill: The University of North Carolina Press, 1987), 20.
- <sup>54</sup> Reckford, 20-21. Arthur Pickard-Cambridge, *Dithyramb Tragedy and Comedy* (London: Oxford University Press, 1928), 60.
- <sup>55</sup> Reckford, 21.
- <sup>56</sup> J. R. Green, *Theatre in Ancient Greek Society* (New York: Routledge, 1994), 7.
- <sup>57</sup> Reckford, 21.
- <sup>58</sup> Green, 7.
- <sup>59</sup> Rush Rehm, “Festivals and audiences in Athens and Rome,” in *A Cambridge Companion to Greek and Roman Theatre*, ed. McDonald and Walton (Cambridge: Cambridge University Press, 2007), 187.
- <sup>60</sup> Pickard-Cambridge, *The Dramatic Festivals of Athens*, 97.
- <sup>61</sup> Ibid., 98.
- <sup>62</sup> Rehm, 189.
- <sup>63</sup> For a discussion of the link between comedy and democracy, see Saxonhouse 130 and Halliwell 66 n. 69.
- <sup>64</sup> ἡ δὲ ἀπὸ τῶν τὰ φαλλικά ἃ ἔτι καὶ νῦν ἐν πολλαῖς τῶν πόλεωv διαμένει νομιζόμενα (from Aristotle’s *Poetics* 1449a10). Francis Cornford, *The Origin of Attic Comedy*. (Ann Arbor: The University of Michigan Press, 1993), 102.
- <sup>65</sup> Cornford, 102-6.

- <sup>66</sup> Cornford, 106.
- <sup>67</sup> Stephen Halliwell, qtd. in Arlene Saxonhouse, *Free Speech and Democracy in Ancient Athens* (Cambridge: Cambridge University Press, 2006), 130.
- <sup>68</sup> Cf. Taplin 162, and Scullion “‘Nothing to Do with Dionysus’: Tragedy Misconceived as Ritual.” Although written before Scullion’s article, the collection of essays *Nothing to Do with Dionysos?: Athenian Drama in its Social Context* (Winkler and Zeitlin, eds.) challenges this idea most effectively.
- <sup>69</sup> John Winkler and Froma Zeitlin, Introduction to *Nothing to Do with Dionysos?: Athenian Drama in its Social Context* (Princeton: Princeton University Press, 1990), 3.
- <sup>70</sup> David Wiles, *Mask and Performance in Greek Tragedy* (Cambridge: Cambridge University Press, 2007), 3.
- <sup>71</sup> *Ibid.*, 1.
- <sup>72</sup> Qtd. in Wiles, 256-7.
- <sup>73</sup> There are, of course, many other reasons, but I can’t treat them all here.
- <sup>74</sup> I will present all this evidence in detail in my “Cases Against Playwrights” section. Plato, *Apology*, 18b-d.
- <sup>75</sup> Ober, 124.
- <sup>76</sup> Jeffrey Henderson, “The Dēmos and the Comic Competition,” in *Nothing to Do with Dionysos?: Athenian Drama in its Social Context*, ed. John Winkler and Froma Zeitlin (Princeton: Princeton University Press, 1990), 274.
- <sup>77</sup> Ober, 124.
- <sup>78</sup> *Ibid.*, 125.
- <sup>79</sup> *Ibid.*
- <sup>80</sup> *Ibid.*
- <sup>81</sup> Henderson, 274.
- <sup>82</sup> His persona can also be thought of as a transformative mask.
- <sup>83</sup> For the idea of Jon Stewart as a court jester, see Jones 107-116.
- <sup>84</sup> The transcript of Stephen Colbert’s speech is available online at <<http://www.commondreams.org/views06/0501-30.htm>>.
- <sup>85</sup> Peterson, 5, 8.
- <sup>86</sup> Qtd. in Peterson, 42.
- <sup>87</sup> Peterson, 124.
- <sup>88</sup> There is evidence that Cleon made a second attempt at prosecuting Aristophanes, and Sommerstein (2004) argues that Cleon made this second attempt after his first attempt failed to produce the desired result of mitigating Aristophanes’ criticism of him. This prosecution, however, was ostensibly not related to the content of Aristophanes’ plays, but rather threw his Athenian citizenship into question. Sommerstein thinks this dispute was settled before it went to court on the condition that Aristophanes would mitigate his satirical attacks on Cleon, which he definitely did not do (cf. Sommerstein 2004: 160ff).

- <sup>89</sup> Aristophanes, *The Acharnians*, 377-82, trans. Roche.
- <sup>90</sup> Helene P. Foley, “Tragedy and Politics in Aristophanes’ *Acharnians*,” *The Journal of Hellenic Studies* 108 (1988): 33 n. 2.
- <sup>91</sup> *Ibid.*, 33.
- <sup>92</sup> For my part, I cannot imagine that the audience was entirely free from feelings of discomfort. For one thing, it is common sense; for another, it is not likely that Cleon’s reaction was anomalous.
- <sup>93</sup> P. J. Rhodes, “Democracy and Empire,” in *A Cambridge Companion to the Age of Pericles*, ed. Samons (Cambridge: Cambridge University Press, 2007), 26ff.
- <sup>94</sup> *Ibid.*, 27.
- <sup>95</sup> Some assert that Aristophanes won the case because of the line “I nearly perished” (*Acharnians* 381-2). Sommerstein (2004) has shown that, even if this interpretation of the line is faulty, and Cleon actually won the lawsuit, the penalty imposed on Aristophanes would have been negligible enough that Cleon would have counted this victory as a practical failure, especially given its lack of efficacy in curbing Aristophanes’ criticism of him (Sommerstein 159-60).
- <sup>96</sup> Foley, 33.
- <sup>97</sup> Malcolm Heath, *Political Comedy in Aristophanes* (Göttingen: Vandenhoeck & Ruprecht, 1987), 17.
- <sup>98</sup> ἔς δ᾽ ἀκρούα τε ἔπεσε τὸ θέητρον, καὶ ἐζημίωσάν μιν ὡς ἀναμνήσαντα οἰκῆια κακὰ χιλίησι δραχμῆσι, καὶ ἐπέταξαν μηκέτι μηδὲνα χρᾶσθαι τούτῳ τῷ δράματι (6.21.2, trans. Sélincourt).
- <sup>99</sup> ἡ γλῶσσ’ ὁμῶμοχ’, ἡ δὲ φρήν ἀνώμοτος  
Isabelle Torrance, “The Binding Power of Oaths—Hippolytus.” In vol. 2 of *The Oath in Archaic and Classical Greece*. ed. Alan Sommerstein and Isabelle Torrance. (Berlin: De Gruyter, forthcoming), 612.
- <sup>100</sup> ἄλλος, εἰ γέγονεν κρίσις, ὥσπερ Εὐριπίδης πρὸς Ὑγιαίνοντα ἐν τῇ ἀντιδόσει κατηγοροῦντα ὡς ἀσεβῆς, ὅς γ’ ἐποίησε κελεύων ἐπιπορκεῖν, ἡ γλῶσσ’ ὁμῶμοχ’, ἡ δὲ φρήν ἀνώμοτος (*Rh.* 1416a28-31).
- <sup>101</sup> An *antidosis* trial was concerned with liturgies, or private sponsorship of state projects: “Liturgies were supposed to be performed by the richest men. If a man appointed to perform one claimed that another man, who had not been appointed and was not exempt, was richer than himself, he could challenge him either, if he admitted being richer, to perform the liturgy or, if he claimed to be poorer, to exchange the whole of his property for that of the challenger, who would then perform it. If the challenged man failed to fulfil either alternative, the case went to trial (*diadikasia*) by a jury, who decided which man should perform the liturgy; this was probably the most usual upshot, though actual exchanges of property sometimes did take place” (MacDowell).
- <sup>102</sup> Harry C. Avery, “My Tongue Swore, but My Heart is Unsworn,” *Transactions and Proceedings of the American Philological Association* 99 (1968): 24.

- <sup>103</sup> Aristotle, *Rhetoric*, 1416a32-34, trans. Freese.
- <sup>104</sup> A. H. Sommerstein, "How to Avoid Being a Komodoumenos," *Classical Quarterly* 46.ii (1996): 328.
- <sup>105</sup> Plutarch, *Cimon*, 17.3.
- <sup>106</sup> Thucydides, *Thucydides: Historiae in Two Volumes*, 2.65.
- <sup>107</sup> Xenophon, *Hellenica*, 1.7.
- <sup>108</sup> Ober, 126.
- <sup>109</sup> Sometimes Aristophanes did offer direct advice, especially regarding Cleon and how he should be treated by the *demos*. For the most part, though, his advice was not so specific.
- <sup>110</sup> Perhaps we should consider Aristophanes' criticism of Athens' policy towards the allies in *The Babylonians* as another exception. For this reason, it may have been easier for Cleon to find a definite charge he could bring against Aristophanes.
- <sup>111</sup> Stephen Halliwell, "Comic Satire and Freedom of Speech in Classical Athens," *The Journal of Hellenic Studies* 111 (1991): 49.
- <sup>112</sup> Demosthenes, *Against Leptines*, 20.104. Demosthenes also mentions this law at 40.49 and Plutarch at *Sol.* 21.
- <sup>113</sup> Halliwell, 49.
- <sup>114</sup> Aristophanes, *Peace*, 44-48, trans. O'Neill.
- <sup>115</sup> *Ibid.*, 754-60.
- <sup>116</sup> Demosthenes, *Against Meidias*, 21.33, trans. Murray, emphasis mine.
- <sup>117</sup> Halliwell, "Comic Satire", 51.
- <sup>118</sup> *Ibid.*, 52.
- <sup>119</sup> Aristophanes, *The Knights*, 973-6, trans. O'Neill.
- <sup>120</sup> Aristophanes, *The Clouds*, 581-94, trans. Hickie.
- <sup>121</sup> Lysias, 9.6, translation mine.
- <sup>122</sup> Halliwell., "Aischrology, Shame, and Comedy," in *Free Speech in Classical Antiquity*, ed. Ineke Sluiter and Ralph Rosen (Boston: Brill, 2004), 136.
- <sup>123</sup> Demosthenes, *Against Eubulides*, 57.30, trans. DeWitt.
- <sup>124</sup> 383-8, trans. O'Neill.
- <sup>125</sup> One could say this is a classic "your mom" joke made even funnier by the fact that Aristophanes uses a forbidden insult.
- <sup>126</sup> *Histories*, 5.78, translation mine.
- <sup>127</sup> Halliwell, "Comic Satire and Freedom of Speech in Classical Athens," 48.
- <sup>128</sup> Saxonhouse, 130.
- <sup>129</sup> Halliwell, qtd. in Saxonhouse, 130.
- <sup>130</sup> Halliwell, "Comic Satire and Freedom of Speech in Classical Athens," 53-4.
- <sup>131</sup> Cf. Mikhail Bakhtin, *Rabelais and His World*, trans. Hélène Iswolsky (Bloomington: Indiana University Press, 1984), 255: "The carnivalesque crowd... is outside of and contrary to all existing forms of the coercive socioeconomic and political organization, which is suspended for the time of the festivity."

- <sup>132</sup> Cf. Bakhtin 274.
- <sup>133</sup> If only we could see the plays being performed on television, with a handy line-graph scrolling across the bottom of the screen, indicating the emotional responses of a random sample of Athenian citizens! No doubt CNN, given their hologram technology, will soon develop a time machine and promptly thereafter make available such a spectacle.
- <sup>134</sup> K. J. Dover, Introduction to *Aristophanes: Clouds* (Oxford: Clarendon Press, 1968), xvii.
- <sup>135</sup> 1043-8, trans. Henderson.
- <sup>136</sup> εἴτ' ἀνεχώρουν ὑπ' ἀνδρῶν φορτικῶν ἤπτηθεις οὐκ ἄξιος ὢν (524-5) trans. Henderson.
- <sup>137</sup> Dover, l.
- <sup>138</sup> Plato, “Apology,” 18b-d.
- <sup>139</sup> Ibid, 19c.
- <sup>140</sup> ἀτεχνῶς ἐρήμην κατηγοροῦντες ἀπολογουμένου οὐδενός Ibid, 18d.
- <sup>141</sup> Aristophanes, “The Archanians,” 309-20.
- <sup>142</sup> Ibid, 540.
- <sup>143</sup> νοῦς ἄρ' ἡμῖν οὐκ ἔνι, Ibid, 556.
- <sup>144</sup> David S. Silverman, “*You Can't Air That*”: *Four Cases of Controversy and Censorship in American Television Programming* (Syracuse, New York: Syracuse University Press, 2007), 132-145.
- <sup>145</sup> Qtd. in Silverman, 135.
- <sup>146</sup> Silverman, 136.
- <sup>147</sup> Ibid., 138.
- <sup>148</sup> Ibid., 143.
- <sup>149</sup> Qtd. in Silverman, 139.
- <sup>150</sup> Silverman, 143.
- <sup>151</sup> The US had not declared war, but since it had been attacked, I think I can use the term “war-time.”
- <sup>152</sup> Qtd. in Bakhtin, 92.
- <sup>153</sup> Ober, “Essence and Enactment: Aristophanes Ecclesiazusae,” 126. Rep. 388e: ἀλλὰ μὴν οὐδὲ φιλογέλωτάς γε δεῖ εἶναι. σχεδὸν γὰρ ὅταν τις ἐπιῆ ἰσχυρῶ γέλωτι, ἰσχυράν καὶ μεταβολὴν ζητεῖ τὸ τοιοῦτον.
- <sup>154</sup> Jeffrey P. Jones, *Entertaining Politics: New Political Television and Civic Culture* (Lanham, Maryland: Rowman & Littlefield Publishers, 2005), 108ff.
- <sup>155</sup> *Crossfire*, CNN, October 15, 2004, <http://www.lexisnexis.com/us/Inacademic>.
- <sup>156</sup> Aristotle, *Politics*, 28.3, trans. Rackham.
- <sup>157</sup> Plato, *Republic*, 10.607a, trans. O'Neill.