CHAPTER FIVE

DEFENDING DĚMOKRATIA:
ATHENIAN JUSTICE AND THE TRIAL OF THE
ARGINUSAE GENERALS IN XENOPHON'S HELLENICA

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In all very numerous assemblies, of whatever characters composed, passion never fails to wrest the scepter from reason. Had every Athenian citizen been a Socrates; every Athenian assembly would still have been a mob.

– ‘Publius’, 1788

The standard account of direct democracy (dēmokratia) as majority faction or mob rule—that is, rule by a démos turannos, prone to irrational excess and violence—originated in antiquity and held sway over the history of political thought for millennia. Even after the rehabilitation of democracy in the decades following the American and French revolutions, this anti-democratic sentiment has continued to cast its shadow over intellectual and political critiques of democracy, and especially Athenian democracy. Critics of direct democracy who cite ‘the lessons of history’ to support this account turn our attention to two defining events in the history of ancient Athens: first, the trial by jury and execution of Socrates by his fellow Athenians on charges of corruption and impiety; second, the trial and execution of Athenian generals, following the stunning victory by their fleet over the Spartan-led armada near the Arginusae islands, the greatest sea battle of the Peloponnesian War. References to both trials invariably appear in ancient and early modern, as well as contemporary, histories critical of Athenian direct democracy.

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1 On anti-democratic rhetoric at the time of the American founding, see the serial publications of ‘Publius’ (Alexander Hamilton and James Madison) in Scigliano 2000: esp. Papers 6, 9, 10, 14, 49, 55, and 63 (from which the epigraph is taken). See also Gish 2012.
While the trial of Socrates and his death by hemlock in 399 have influenced the history of western tradition of political philosophy, it is the fate of the Arginusae generals who were tried, condemned, and sentenced to death in 406 by the Athenian Assembly that is most often cited as the example par excellence of the impassioned, unjust, and self-destructive character of radical Athenian democracy in the late fifth-century. Despite efforts to liberate Athenian democracy from the taint of anti-democratic sentiment by scholars who study Athenian democracy and its institutions in detail, the standard account of démokratia remains entrenched—and it continues to distort interpretations of the trial and execution of the generals as one of the darkest moment in the history of democratic Athens.

What is most striking about the standard account of the trial of the Arginusae generals is how it is cited, in the absence of any extended textual analysis of the event itself, as self-evident proof that Athenian democracy was an inherently corrupt regime. In order to understand what happened on that occasion, the trial and its proceedings must be reconstructed with particular attention to its historical and political context. Our one primary source and locus classicus for the trial of the generals is Xenophon’s Hel-

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2 References and allusions to the trial of the generals as the example of democratic injustice have been commonplace in the western political tradition: Roberts 1994: esp. 106–107, 170, 245, 251, 312. Our best primary sources for the trial of Socrates are Xenophon’s Apology and Memorabilia (1.1, 4.8), and Plato’s Apology. See also the chapters by Stokes and Waterfield in this volume (pp. 243–305).


4 See Hanson 2003 and 2005: 5. Andrewes 1974, Roberts 1977, Due 1983, and Lang 1990, 1992 all accept the standard account. Lavelle 1988 explicitly denounces the anger, madness, destructive emotionalism, and irrationality of the démos during the trial as ‘mob rule’ and the ‘moral nadir’ of democracy. Yunis 1996: 43–46 declares that at the trial the Assembly ‘engaged in what can only be described as mob terrorism’, for ‘the démos got entirely out of hand … legal procedures were ignored … informed protests were trampled down’ and ‘in a fit of fury the démos [acted] illegally’. Robinson 2004: 145 cites it as ‘the most infamous Athenian example’ of a rash demotic act, paradigmatic of democratic violence against their own leaders. This summary judgment was pronounced by the very influential nineteenth-century historian, William Mitford 1835: 4.282: the Athenian démos acted ‘like a weak and fickle tyrant, whose passion is his only law’, committing at the trial ‘one of the most extraordinary, most disgraceful, and most fatal strokes of faction recorded in history’. One or two have seen the trial as an anomaly that should not be used to condemn democracy itself: Finley 1983: 140; Kagan 2004: 466. Even Ober 2008b: 41 n. 4, who otherwise argues that Athenian direct democracy aggregated and distributed knowledge through well-designed participatory institutions of deliberative decision-making, perpetuates the standard view by including the trial of the generals, and of Socrates, among the very few examples of ‘Athenian failures’ under democracy. Irreparable harm was done to the reputation of Athens and democracy through the centuries by these two ‘exceptional’ cases (Raaflaub 2004: 234 n. 150) which obscured the admirable success of Athenian démokratia as a regime.