

**THE ORATION OF
DEMOSTHENES
ON THE CROWN**

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The Oration of Demosthenes on The Crown by Sir Robert Collier

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SIR ROBERT COLLIER

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THE
ORATION OF DEMOSTHENES
ON
THE CROWN

TRANSLATED BY THE
RIGHT HON. SIR ROBERT COLLIER

THE
BRITISH MUSEUM

LONDON
LONGMANS, GREEN, AND CO.
1875

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PREFACE.

IN ORDER to make the Speech which I have endeavoured to translate intelligible to those who are not familiar with Greek history of the period to which it belongs, some reference is necessary to the time and occasion of its delivery, and to the substance of the speech to which it was an answer. The time of its delivery was the year 330 B.C., eight years after the battle of Chæroneia, fatal to the liberties of Greece; six years after the death of Philip; while Alexander was pursuing his conquests in the far East; and just after the revolt of Agis, King of Sparta, had been put down by Antipater. The Athenians, though they had lost their freedom, had not yet reconciled themselves to its loss, or abandoned hopes of its recovery; crushed as they were by the Macedonian power, and by a series of misfortunes, they still retained the sentiments of Imperial Athens, and were capable of being profoundly moved by reminiscences of the glory of their ancestors.

The occasion of its delivery was a criminal State trial before an Athenian Jury. Our experience of

trial by Jury gives us little help in picturing to ourselves trial by Jury at Athens. Highly as we prize the institution, we should deem it intolerable without certain checks and safeguards, the principal of which are: that the Jury are restricted to deciding questions of fact, the presiding Judge declaring the law; that in civil cases the Courts set aside verdicts and direct new trials where justice manifestly requires it; and that in criminal cases the Crown has the power of pardon, or of commuting the sentence. There were no such checks or safeguards at Athens. The Jury determined the law as well as the facts, the presiding magistrate exercising little authority beyond that of keeping order; they not only pronounced the verdict, but passed the sentence, and there was no remedy for the grievous miscarriages of justice which sometimes occurred. Again, in State trials the number of the Jury panel was never less than 500, sometimes twice, or even thrice that number, the Jurors being chosen by lot, with no qualification beyond that of citizenship. A Jury was, in fact, a popular assembly, doubtless highly intelligent, probably more intelligent than any popular assembly which has ever existed before or since to which mere citizenship was an admission, versed in the artifices of rhetoric from the habit of hearing speakers who have never been surpassed, perhaps proof against common clap-trap, but open to many influences by which all popular assemblies are more or less affected. There was much canvassing of

Jurors, many of whom came to trials as avowed partisans; their prejudices and passions were appealed to with a licence far exceeding that of modern advocacy; yet there is reason to believe that in most trials a large number of the Jurors honestly desired to decide impartially, and that most of the verdicts were right. That causes were not always prejudged, and that the voting could not be calculated upon beforehand with any approach to certainty would appear from the result of this trial, where Æschines, doubtless expecting a majority of the votes, failed to obtain a fifth of them, the bulk of the Jurors being influenced, and justly, by the speech of Demosthenes.

The trial was founded on a procedure called the *Graphé Paranomôn*, which has no parallel in modern institutions. It was an indictment for proposing a law or a decree at variance with existing laws. A *psêphisma*, commonly translated *decree*, but having a wider signification than is usually attached to that word, comprising what we should call private bills, and measures of limited application or importance, could be passed by the Senate and the Public Assembly. A *nomos*, or law of general application, required the farther sanction of the *Nomothetæ*, to whom the people delegated the legislative power in matters of importance.¹

¹ The distinction between *ψήφισμα* and *νόμος* does not appear to have been clearly defined or carefully observed, at least in later times. The Assembly by choosing to call any measure which came before it a *Psêphism* could give themselves jurisdiction to pass it; and they seem at times to

According to modern notions the responsibility of the proposer of a measure is merged in that of the legislative body which adopts it. It was not so at Athens. Although a 'decree' had been passed by both the Senate and the Assembly, and a 'law' had received the farther sanction of the *Nomothetæ*, the responsibility of the proposer of the decree or of the law remained. It was competent to any citizen to bring him to trial within a year, under the *Graphê Paranomôn*, before a Jury who could both punish him and repeal the enactment. The main objects of the *Graphê Paranomôn* seem to have been: first to prevent a conflict of laws, which the Athenians held to be so great an evil that, in order to guard against it, they held annually an assembly for the express purpose of enquiring whether any laws were in conflict, and if so, of reconciling them. If any citizen desired to change the law he was bound to obtain the repeal of the old law before proposing the new, under pain of a prosecution. Secondly, to check the introduction of rash and ill-considered measures. These objects were farther secured by a power given to any citizen to stop the progress of a measure by binding himself on oath to prosecute the mover of it. The unlimited power of obstruction

have enacted laws properly so called without their being submitted to the *Nomothetæ*. Demosthenes complains, ψηφισμάτων οὐδ' ὀριστῶν διαφέρουσιν οἱ νόμοι· ἀλλὰ νεώτεροι οἱ νόμοι, καθ' οὓς τὰ ψηφίσματα δεῖ γράφεσθαι, τῶν ψηφισμάτων ἀντὶ τῶν ἡμῶν εἰσὶ. *Adv. Leptin.* p. 485. See the learned treatise of Schömann 'de comitiis Atheniensibus,' and Smith's 'Dictionary of Classical Antiquities,' titles, *nomos*, and *Graphê Paranomôn*.