

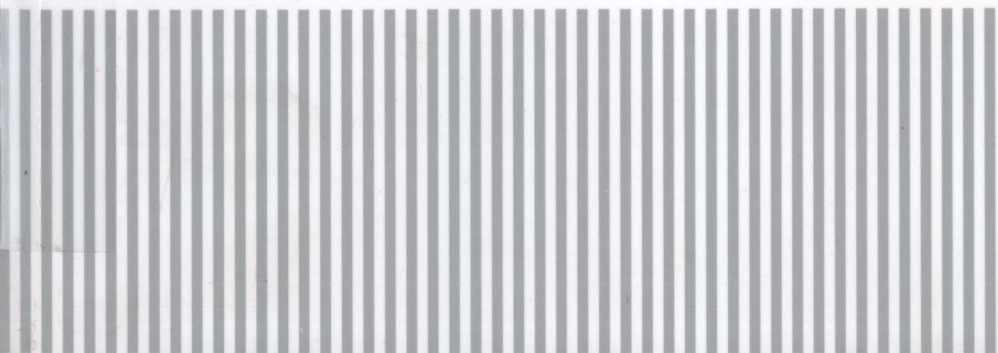
THE ORATORY OF CLASSICAL GREECE

MICHAEL GAGARIN ⇨ SERIES EDITOR

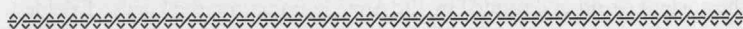


# SPEECHES FROM ATHENIAN LAW

*Edited by Michael Gagarin*



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UNIVERSITY OF TEXAS PRESS, AUSTIN

This book has been supported by an endowment dedicated to classics and the ancient world and funded by the Aretē Foundation; the Gladys Kriebel Delmas Foundation; the Dougherty Foundation; the James R. Dougherty, Jr. Foundation; the Rachael and Ben Vaughan Foundation; and the National Endowment for the Humanities.

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Printed in the United States of America

First edition, 2011

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#### Library of Congress Cataloging-in-Publication Data

Speeches from Athenian law / edited by Michael Gagarin. — 1st ed.

p. cm. — (Oratory of classical Greece ; v. 16)

Includes bibliographical references and index.

ISBN 978-0-292-72362-7 (cloth : alk. paper) — ISBN 978-0-292-72638-3 (pbk. : alk. paper)

1. Forensic orations—Greece—Athens. 2. Trials—Athens—History—Sources. I. Gagarin, Michael.

K181.S68 2011

340.5'385—dc22

2010026801

SPEECHES FROM ATHENIAN LAW

THE ORATORY OF CLASSICAL GREECE

*Translated with Notes • Michael Gagarin, Series Editor*

VOLUME 16

## PREFACE

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The selection of speeches in this volume is primarily intended to illustrate some of the main features of Athenian law. My aim is to provide teachers of Athenian law and students and scholars wishing to learn about Athenian law with a useful selection of primary sources. The speeches also present a kaleidoscope of life in classical Athens, and so the volume can also serve as a resource for those with other interests. As with any selection, space limitations have forced me to omit speeches I would have liked to include; others would undoubtedly have chosen differently.

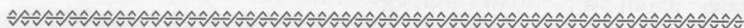
The translations of each speech together with their introductions and notes are taken directly from volumes of *The Oratory of Classical Greece* (University of Texas Press 1998–). Except for minor corrections and stylistic changes, I have not changed the translations; as a result, they are not fully consistent: for example, the *dikastai* who comprised Athenian juries are translated “judges” or “jurors,” or transliterated as “dicasts,” according to the preference of the translator. This and other Greek words do not correspond exactly to a single English term, and although the inconsistency may be awkward at first, it also alerts the reader to some of the important differences between Athenian law and our own. I have edited the introductions and notes to each speech more extensively, primarily to provide a sharper focus on law by reducing or eliminating material that is purely historical or otherwise nonlegal. I have also fixed cross-references where necessary and have reorganized material to reduce the amount of repetition.

That said, the different translators have somewhat different inter-

ests and emphases and may even on occasion take different positions on a matter. I have not tried to eliminate such discrepancies, preferring to let the reader see that some features of Athenian law (indeed of any legal system) can be understood in different, even opposed, ways.

This volume contains the work of many contributors. I am particularly grateful to all the translators, both for their original translations and in some cases for corrections and revisions made in the preparation of this volume. David Mirhady and Mark Sundahl read the entire manuscript and gave me a great deal of useful feedback. And the staff at the University of Texas Press was friendly and efficient, as always, and a great pleasure to work with. In particular, Jim Burr, Lynne F. Chapman, and Nancy Bryan were most helpful with this volume.

# EDITOR'S NOTE ON ABBREVIATIONS, CURRENCY, AND DATES



## ABBREVIATIONS

### *Orators*

Aes. = Aeschines

Is. = Isaeus

And. = Andocides

Hyp. = Hyperides

Isoc. = Isocrates

Ant. = Antiphon

Lys. = Lysias

Dem. = Demosthenes

### *Other*

*Ath. Pol.* = Aristotle (?), *The Constitution of the Athenians* (*Athenai/ōn Politeia*)

IG = Inscriptiones Graecae

## CURRENCY

The main unit of Athenian currency was the drachma; this was divided into obols, and larger amounts were designated minas and talents.

1 drachma = 6 obols

1 mina = 100 drachmas

1 talent = 60 minas (6,000 drachmas)

It is impossible to give an accurate equivalence in terms of modern currency, but it may be helpful to remember that a drachma was the

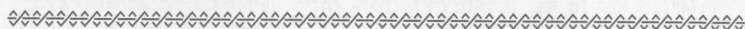
daily wage of some skilled workers; thus, it may not be too misleading to think of a drachma as worth about \$50–\$100 (or £30–£60) and a talent about \$500,000 or £300,000.

#### DATES

The Athenians assigned to each of their years the name of the (eponymous) Archon for that year—"in the archonship of X." Since the Athenian year began in late summer, a date like 404/3 designates the year that began in 404 and ended in 403.

SPEECHES FROM ATHENIAN LAW

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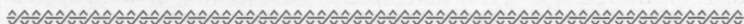
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# INTRODUCTION



## *Oratory and Law at Athens*

One of the many intriguing (and unique) aspects of Athenian law is that our information about it comes very largely from speeches composed for delivery in court. These date to the period 420–320<sup>1</sup> and reflect in part the high value the Greeks in all periods placed on effective speaking. Even Achilles, whose fame rested primarily on his martial superiority, was brought up to be “a speaker of words and a doer of deeds” (*Iliad* 9.443). Great Athenian leaders such as Themistocles and Pericles were accomplished public speakers; epic poetry, tragedy, comedy, and history all made frequent use of set speeches. The formal pleadings of the envoys to Achilles in *Iliad* Book Nine, the messenger speeches in tragedy reporting events like the battle of Salamis in Aeschylus’ *Persians*, and Pericles’ funeral oration in Thucydides’ *History* are but a few indications of the Greeks’ never-ending fascination with the spoken word, and with formal public speaking in particular, which reached its height in the public oratory of the fifth and fourth centuries.

### I. ORATORY

Originally, oratory<sup>2</sup> was not a specialized subject of study but was learned by practice and example. The formal study of oratory as an “art” (*technē*), which we call rhetoric, began, we are told, in the middle

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<sup>1</sup>All dates in this volume are BCE unless the contrary is indicated or obvious.

<sup>2</sup>For a good brief introduction to oratory and the orators, see Edwards 1994. Usher 1999 has a brief but useful discussion of each surviving speech.

of the fifth century in Sicily with Corax and his pupil Tisias.<sup>3</sup> These two are scarcely more than names to us, but another Sicilian, Gorgias of Leontini (ca. 490–390), developed a dazzling new style of speech and argument. Gorgias initiated the practice, which continued into the early fourth century, of composing speeches for mythical or imaginary occasions. This tradition of “intellectual” oratory was continued by the fourth-century educator Isocrates and played a large role in later Greek and Roman education.

By contrast, “practical” oratory—speeches delivered on real occasions in public life—had been practiced throughout Greece for centuries. Athenians, in particular, had been delivering speeches in the courts and public assemblies since the days of Draco and Solon (late seventh and early sixth centuries), if not longer, though these speeches were not put in writing and thus not preserved. But as the participation of citizens in political and legal institutions increased during the fifth century, so too did the importance of oratory. The practice of writing down speeches for use in court began with Antiphon, a fifth-century intellectual sometimes included (with Gorgias) in the group we call the Sophists.<sup>4</sup> Antiphon contributed to the intellectual oratory of the period with his *Tetralogies* (sets of four fictional speeches each), but he also had a strong practical interest in law. Although he mostly avoided direct involvement in legal or political affairs, he gave advice to others who were engaged in litigation. Probably around 430, Antiphon began writing entire speeches for litigants to memorize and deliver in court. Thus began the practice of “logography”—writing speeches for others—and because these speeches were written, they could be preserved. Logography was a particularly appealing career for those like Lysias who were not Athenian citizens and who were thus barred from active participation in public life, and the practice continued through the fourth century and beyond.<sup>5</sup>

Antiphon and others also began to write down speeches they would themselves deliver in court or (occasionally) in the Assembly. One other type of practical oratory was the special tribute delivered

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<sup>3</sup> For differing accounts of these two figures, see Kennedy 1963: 26–51; Gagarin 2007.

<sup>4</sup> See Gagarin 2002.

<sup>5</sup> See further Todd 2005.

on important public occasions, the best known being the funeral oration. These three types of oratory were later classified by Aristotle (*Rhetoric* 1.3) as forensic (for the courts), deliberative (for the Assembly), and epideictic (for display). The speeches in this volume are all forensic.

## II. THE SPEECHES

We know almost nothing about the "publication" of speeches at this time, but there was an active market for books in Athens, and some speeches may have achieved wide circulation.<sup>6</sup> An author may have circulated copies of his own speeches to advertise his talents or in political cases to make his views more widely known. Booksellers may have collected and copied speeches in order to make money. With the foundation of the great library in Alexandria early in the third century, scholars began to collect and catalogue texts of many classical authors, including orators.

These scholars selected the ten best orators and gathered all their speeches, though among the hundreds of speeches they collected, many were undoubtedly written by other authors of the same period and misattributed. Only a small percentage of these speeches survived to the modern era in manuscript form; a few more have been recovered from ancient papyrus remains. Today the corpus of Attic Oratory consists of about 150 speeches and letters, about 100 of which are forensic speeches. These cover many subjects: important public issues, crimes, business affairs, lovers' quarrels, inheritance, citizenship, and others; the twenty-two speeches in this volume are only a sample.

## III. THE ORATORS

In the period 420–320, dozens of now unknown orators and logographers composed speeches for delivery in court. Most of them are now lost, but speeches have survived from the ten authors considered

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<sup>6</sup>Dover's discussion (1968) of the preservation and transmission of the works of Lysias is fundamental for all the orators, though his stylistic criteria of authenticity and his theory of shared authorship have found few followers (see Usher 1976).

the best by later scholars. The authors represented in this volume are:<sup>7</sup>

- ♦ AESCHINES (ca. 390–ca. 322) rose from low origins to become a major political figure and a bitter enemy of Demosthenes. His speeches all concern public issues. He went into exile after losing the case “On the Crown” (Aes. 3) to Demosthenes in 330.
- ♦ ANTIPHON (ca. 480–411), in addition to writing speeches, was one of the leaders of an oligarchic coup in 411. The democrats quickly regained power, and Antiphon was tried for treason, convicted, and executed.
- ♦ DEMOSTHENES (384–322) is generally considered the greatest Greek orator. His father died when he was a boy, and guardians mismanaged his estate, probably stealing much of it. After turning eighteen, he sued them and won, but despite repeated suits (Dem. 27–31), he never fully recovered the estate. He wrote speeches for others and also for his own use in court and in the Assembly. In the 340s and 330s he vigorously opposed the growing power of Philip of Macedon, and after Athens’ defeat he successfully defended this policy against Aeschines in his most famous speech *On the Crown* (18), delivered in 330.
- ♦ APOLLODORUS (ca. 394–335?) was probably the author of six or seven of the speeches attributed to Demosthenes (including Dem. 59). His father Pasion was a slave but was later freed and eventually obtained Athenian citizenship.
- ♦ HYPERIDES (390–322) was a political leader and logographer. With Demosthenes, he led the Athenian resistance to Philip and Alexander and was condemned to death after Athens’ final surrender. None of his speeches survived in manuscript form, but all or most of six speeches and parts of others have been recovered from papyrus remains.
- ♦ ISAEUS (ca. 415–ca. 340) is said to have been a pupil of Isocrates and the teacher of Demosthenes. He wrote speeches on a wide

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<sup>7</sup> For more information about these authors, see Edwards 1994 and the Introductions to volumes of *The Oratory of Classical Greece*.

range of topics, but the eleven that survive in full all concern inheritance.

- ♦ ISOCRATES (436–338) was a philosopher and educator. He came from a wealthy family that lost most of its property in the Peloponnesian War (431–404). He took up logography but abandoned it about 390 in favor of writing and teaching; six court speeches survive from this period. He taught a broad mixture of statesmanship, public speaking, and practical philosophy, attracting pupils from the entire Greek world and greatly influencing education and rhetoric in the Hellenistic and Roman times.
- ♦ LYSIAS (ca. 445–ca. 380) was a metic—a noncitizen resident (see below, IVB). Much of his property was seized by the Thirty during their brutal oligarchic coup in 404/3. He wrote speeches for others on a wide range of subjects and may have delivered one himself, on the murder of his brother (Lys. 12). He is particularly known for his engaging narratives, his realistic characters, and his lucid and vivid prose style.

#### IV. GOVERNMENT

##### *A. Officials*

The Athenian political system was a direct democracy, not the representative form of democracy common today.<sup>8</sup> All significant policy decisions were made by the Assembly, in which all citizens could participate (a quorum was 6,000); a small payment for attendance enabled the poor to attend. A Council of 500, 50 from each tribe selected annually by lot, prepared material for and made recommendations to the Assembly; each tribal group of 50 served as an executive committee, the Prytany, for one-tenth of the lunar year (35 or 36 days). The tribe holding the Prytany carried out all the administrative duties of the Council.

All important officials other than military commanders were

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<sup>8</sup> Hansen 1991 is the best short account. Much of our information about the legal and political systems comes from *The Athenian Constitution* (*Ath. Pol.*), attributed to Aristotle but probably written by a pupil of his (translated with notes by Rhodes 1984).