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THE WELL-ORDERED CORPSE: AN INVESTIGATION INTO THE MOTIVES BEHIND GREEK FUNERARY LEGISLATION¹

ROBERT GARLAND

We learn much about the character of Greek funerals in antiquity from the fact that a number of Greek city-states are known to have found it necessary to introduce legislation aimed at curtailing expense, duration of mourning and extravagant manifestations of grief. While the maintenance of public order was clearly a consideration behind a number of the regulations which have survived in our sources, this alone does not account for all the laws which were in various places and from time to time enacted. On the contrary we may state at the outset that Greek funerary legislation addressed itself, sometimes within the same lawcode, to a diverse multiplicity of problems arising from the care and commemoration of the dead. These problems were of a religious as well as secular nature, prompted chiefly by the following concerns:

- (a) that the corpse was a cause of pollution;
- (b) that the transfer of the dead from this world to the next required expert co-operation from the bereaved kin;
- (c) that funerary and post-funerary rituals tended to promote divisiveness and factionalism among the citizen body, by providing rival aristocratic kin-groups or *genê* with an opportunity to further their sectarian interests to the detriment of society as a whole;

¹ An early draft of this paper was delivered in a seminar series on death in antiquity held at Corpus Christi College, Oxford, in November 1984. I would like to express my warm thanks to all those who participated in the discussion which followed, in particular to Christiane Sourvinou-Inwood and Simon Price. I am grateful to Mark Toher for permitting me to read an (as yet) unpublished article entitled 'Funerary legislation and mortuary ritual in the Archaic age'.

Within the term 'funerary legislation' I include laws which (a) regulated conduct at funerals and post-funerary rituals, and (b) limited the scale and magnificence of tomb monuments. I do not include laws passed by cults banning from their temple precincts those who have been polluted by the dead (e.g. *LSG* 124.2-3: Eresos, fourth cent. B.C.), laws concerning the staging of state funerals (e.g. *LSGS* 64: Thasos, end of fifth/beginning of fourth cent. B.C.), or laws regarding funerary foundations established on behalf of celebrated individuals (e.g. F. Sokolowski, *BCH* 94 (1970), 113-6: Pautalia, Bulgaria).

The following is a list of non-standard abbreviations of epigraphical publications cited in this article:

Buck = C. D. Buck, *The Greek Dialects* (Chicago, 1952)

DHR = R. Dareste, B. Haussouillier and Th. Reinach, *Recueil des inscriptions juridiques*. 2 vols. (Paris, 1898)

Hainsworth = J. Hainsworth, *Tituli ad dialectos graecas illustrandas selecti*. Vol.II: 'Tituli dorici et ionici' = *Textus minores* 44 (Leiden, 1972)

Homolle = Th. Homolle, pp. 5-69 in *BCH* 19 (1895)

Jeffery 1962 = L. H. Jeffery, pp. 115-53 in *BSA* 57 (1962)

LSAG = L. H. Jeffery, *The Local Scripts of Archaic Greece* (Oxford, 1961)

Schwyzler = E. Schwyzler, *Dialectorum Graecarum exempla epigraphica potiora* (Leipzig, 1923)

Solmsen-Fraenkel = F. Solmsen, *Inscriptiones Graecae ad illustrandas dialectos selectae*. 4th ed. by E. Fraenkel (Leipzig, 1930).

- (d) that the commemoration of the dead, particularly when it took the form of a grave monument, generated excessive, even ruinous expenditure among all ranks of society.

In order to understand the motives behind any single legislative programme it is necessary to allow for a complex web of motives, of which the social good and the prevailing ideology constitute two of the principal strands. The effort is complicated by the fact that the motives which lawmakers openly acknowledge and publicly canvass do not invariably coincide with those which they privately espouse. Political power is such that those with access to it normally introduce measures which either confirm and strengthen themselves in the possession of that power, or, insofar as they do not contradict this first and overriding aim, constitute a limited social advance. By way of example, let us briefly consider the recent series of sales of the country's nationalized industries by the British Government. Depending upon one's point of view, we can argue that the *alêthestatê prophasis* behind the privatisation programme is:

- (1) to give the British public the opportunity to own a personal share in their nation's greatest assets;
- (2) to increase the efficiency of the industries that become privatised by locating the services which they provide within a free-market economy;
- (3) to fulfil the Government's ideological commitment to privatisation either because it sincerely believes in the benefit to society as a whole of privatisation or because privatisation provides it (i.e. the Government) with the best means of maintaining its own entrenched interests;
- (4) to enable the Government to win the next election with the support of some half-a-million, grateful first-time shareholders flushed with stockmarket gains.

The interpretation of most legislative programmes involves consideration of the benefits accruing to three interest-groups: the legislating body itself, society as a whole, and one or more sub-groups within it. In the case of funerary legislation, however, there are (theoretically at least) four interest groups: the legislating body, society, the deceased and the bereaved kin.

Because funerals take place out of doors, they inevitably attract the attention of disinterested bystanders. A costly, elaborate and well-attended Greek funeral, just like a victory in the four-horse chariot race at the Olympic Games, provided a perfect showcase for the display of family wealth, power and prestige. The self-conscious parading of grief, which to a greater or lesser degree virtually all funerals entail, is nicely parodied in Charles Dickens' description of Mrs. Gargery's cortège in *Great Expectations*. Pip, who is the narrator, tells us that upon the word of command from the undertaker the mourners all put pocket-handkerchiefs to their faces as if their noses were bleeding and sallied forth from the deceased's house:

much admired as we went through the village; the more youthful and vigorous part of the community making dashes now and then to cut us off, and lying in wait to intercept us at points of vantage. At such times the more exuberant among them called out in an excited manner on our emergence round some corner of expectancy, 'Here they come!' 'Here they are!' and we were all but cheered. In this progress I was much annoyed by the abject Pumblechook, who, being behind me, persisted all the way as a delicate attention in arranging my streaming hatband, and smoothing my cloak. My thoughts were further distracted by the excessive pride of Mr and Mrs Hubble, who were surpassingly conceited and vainglorious in being members of so distinguished a procession.

Unquestionably the laws which we shall be examining display a remarkable uniformity. Yet their differences are no less striking than their similarities. To begin with, therefore, I shall present each funerary package individually, with the purpose of viewing it primarily as a response to a local and particularised problem. The social, economic and political circumstances, where known, will need to be taken into account, as well as beliefs about death

and the dead. While Athens provides us with by far the best evidence, funerary enactments dating from the seventh to the third centuries B.C. are ascribed to Delphi and Sparta in mainland Greece, Ceos in the Cyclades, Nisyros in the Sporades, Gortyn in Crete, Gambreion and Mytilene in Asia Minor, Cyrene in Libya, and Catana and Syracuse in Sicily. Very likely this represents merely a fraction of the total legislation passed.

1. ATHENS

i) Solonian

The earliest funerary legislation of which we have any detailed knowledge was passed in Athens by Solon² at the beginning of the sixth century B.C. Its existence is reported by three separate sources, namely [Demosthenes], Cicero and Plutarch, a fact which, despite the lateness of all the testimonies, suggests that we are dealing with a genuine tradition.³

[Demosthenes] in his speech *Against Makartatos* (xliii.62; Ruschenbusch F 109) delivered in 341 B.C. cites a law of Solon which decreed that the *prothesis* or laying out of the body was to be held 'inside, wherever one liked'; that the *ekphora* or funerary cortège was to take place on the next day before sunrise with the men walking in front and the women behind; and that participation in the *prothesis* and *ekphora* was to be limited either to women within the degree of second cousin (ὄσσαι ἐντός ἀνεψιαδῶν) or to those who were over sixty-years old, only members of the former group being granted the additional privilege of returning to the house after the body had been removed (perhaps to participate in the *perideipnon* or funeral feast held after the burial service). It is noteworthy that no restrictions were placed upon the attendance of men. In his discussion of the *Law of the Twelve Tables* Cicero (*Laws* 2.59; Ruschenbusch F 72b) tells us that the rules regarding expense and mourning at funerals in the Roman lawcode were '*translata de Solonis fere legibus*'.⁴ They included the requirement that the pyre should not be smoothed over with an axe, that expense (*sumptus*) was to be limited to 'three veils, a purple tunic, and ten flautists', and that female mourners were to be prohibited from lacerating their cheeks or staging a *lessum* (explained by Cicero as a kind of '*lugubrem eiulationem*').

Turning finally to Plutarch (*Solon* 21; Ruschenbusch F 72c), we read that Solon introduced a number of laws aimed at preventing licence and disorder, particularly of the sort that is caused by women. Hence:

- (1) female mourners were not to wear more than three *himatia* or cloaks;
- (2) food and drink brought (sc. to the tomb) was not to exceed one obol in value;
- (3) the offering basket (*kanês*) was not to be more than a cubit in length;
- (4) mourners were not to go out at night except in the funeral cart with a light to show the way;

² The question whether the laws cited by Attic orators and described by them as 'laws of Solon' do in fact go back to Solon's days is a notoriously problematic area of scholarship. As V. Ehrenberg, *From Solon to Socrates* (London, 1968), 68, points out, "'Solon's laws" at that time (i.e. during the fourth cent.) largely meant traditional laws, *corpus iuris Atheniensium*'. The difficulty is increased by the fact that the Athenians undertook a complete revision of their laws in 410/9 and then again in 403/2 B.C., making many additions in the process, so that even genuine laws of Solon which had survived intact till then may have undergone substantial revision at this date. See further D. M. MacDowell, *The Law in Classical Athens* (London, 1978), 43 and 47, and K. Clinton, *Hesperia* Suppl. 19 (1982), 27-37. In the following discussion of Solonian legislature I cite from the text of E. Ruschenbusch, *SOLOS NOMOI: Die Fragmente des solonischen Gesetzeswerkes mit einer Text- und Überlieferungsgeschichte* (= *Historia Einzelschr.* 9 (Wiesbaden, 1966)).

³ R. Stupperich, *Staatbegräbnis und Privatgrabmal im klassischen Athen* (Diss. Münster, 1977), 201f.

⁴ Most scholars are agreed that a lost work by Demetrios of Phaleron provided Cicero with his source. Cf. F. Eckstein, *Jdl* 73 (1958), 23; G. M. A. Richter, *The Archaic Gravestones of Attica* (London, 1961), 38. For further discussion of the sources for Solon's legislation, see Stupperich (n.3), 201f.

- (5) no one was permitted to lacerate their flesh as a sign of grief; to sing prepared dirges; or to bewail anyone else at the burial other than the person being buried;⁵
- (6) it was forbidden to sacrifice an ox at the grave;
- (7) the dead could not be buried in more than three *himatia*;
- (8) the tombs of non-relatives (*allotria mnēmata*) were not to be visited except at the time of interment.

Other significant and far-reaching funerary reforms have been attributed to Solon without ancient authority. Jacoby,⁶ for instance, has argued that Solon established a fixed date in the Athenian calendar for the celebration of the Genesia, a ritual originally performed on the birthday of the dead, thereby depriving the *genê* of the opportunity of exploiting commemorative occasions in order to promote their family name on a recurrent basis throughout the year.

Attic orators of the fourth century quote a number of laws of unknown attribution which may possibly be Solonian in origin. [Demosthenes] (xliii.57-58), for instance, cites a law which required the demarch to instruct the relatives of the deceased to 'retrieve the body, bury it and purify the deme on the day of that person's death', evidently on occasions when death occurred outside the home but within the territorial limits of the deme. Suicides were required to be buried with their right hands chopped off (Aeschin. iii.244). Finally, even if a boy had been hired out for prostitution by his father, he still had to face a charge of 'mistreatment of parents' (*kakôsis goneôn*) if he neglected to bury his father or to perform 'the customary rituals' (*ta nomizomena*) at the latter's grave (Aeschin. i.13).

The only ancient writer to supply an historical context for the Solonian legislation is Plutarch (*Solon* 12) who alleges that it was inspired by the bitter feuding which followed Kylon's assassination by Megakles. He states that previous to Solon's election to the archonship in 594/3 B.C. the Athenians summoned Epimenides from Phaistos to render them assistance at this critical time. The effect of Epimenides' visit was purportedly to make the citizenry 'well-behaved in regard to religious devotion and milder in their demonstrations of grief, by adjoining certain sacrifices immediately to the funeral ceremonies' (12.8). The clear implication behind Plutarch's remark is that funerals were being used to foment jealous rivalries between kin groups. As Alexiou⁷ has remarked: 'In the inflammatory atmosphere of the blood feud between the families of Megakles and Kylon that was raging in Solon's time, what more effective way could there be to stir up feelings of revenge than the incessant lamentation at the tomb by large numbers of women for "those long dead"?'

Plutarch (*loc. cit.*) further alleges that Epimenides prohibited 'the savage and barbaric practices in which the majority of women had formerly indulged'. The stress on the part played by women at funerals is highly significant. As all three testimonies indicate, it was a characteristic of Solon's legislation, as of all funerary legislation, that many of the provisions were aimed primarily at women. There can be no doubt that in Greece, as commonly

⁵ The practice of using a funeral as an opportunity to bewail afresh the long-since departed goes back to Homer, cf. *Il.* xix.302:

Ὡς ἔφατο κλαίουσ', ἐπὶ δὲ στενάχοντο γυναῖκες,
Πατρόκλον πρόφασιν, σφῶν δ' αὐτῶν κήδε' ἐκάστη.

It also seems to be implied in one of the regulations of the funeral ordinance of the Labyad phratry at Delphi (clause 7), which forbids the singing of dirges and wailing at the graves 'of those who had died previously' (see below p.9).

⁶ F. Jacoby, *JHS* 64 (1944), 70.

⁷ M. Alexiou, *The Ritual Lament in Greek Tradition* (Cambridge, 1974), 21.

throughout the Mediterranean to this day, the task of mourning the dead fell chiefly to the women, whose displays of grief, unless checked, might amount to a social nuisance.⁸

It is noticeable that Solon's legislation makes no mention of pollution,⁹ and what we know about early sixth-century Athenian history strongly suggests that in Solon's eyes the disorderliness of the Athenian corpse may well have derived from its availability to cheap political exploitation and not from its capacity to pollute, which may well have been sufficiently comprehended and adequately controlled not to need to be the target of legislative innovation.

ii) Post-Solonian

Evidently Solon did not think it necessary to limit the size or ostentatiousness of Athenian grave-monuments. From ca. 580 onwards, however, large earth-mounds of the kind which had been popular in the Kerameikos during the seventh century but since replaced ca. 610-600 by built-tombs of mudbrick because of shortage of space, again became fashionable, the new series culminating in two mounds of vast proportions, Mound G and Südhügel, which were erected in the mid-sixth century B.C.¹⁰ Contemporary with this development is the birth of the series of Attic funerary stelai bearing an image of the dead person in relief, the earliest extant examples dating to 570 B.C.¹¹

However, at some point in the interval between Solon and Demetrios of Phaleron (317/6 B.C.; see below), as Cicero (*Laws* 2.64) tells us, further laws were passed in Athens 'on account of the enormous size of tombs'. The vagueness of Cicero's chronological point of reference, which spans an interval of nearly one hundred and eighty years, has inevitably given rise to much speculation among scholars as to the author and date of this decree, variously assigned either to the latter part of the sixth century or beginning of the fifth. The relevant passage reads as follows:

Sed post aliquanto propter has amplitudines sepulchrorum, quas in Ceramico videmus, lege sanctum est 'ne quis sepulchrum faceret operosius quam quod decem homines effecerint triduo'; neque id opere tectorio exornari nec hermas, quos vocant, licebat imponi, nec de mortui laude nisi in publicis sepulturis nec ab alio, nisi qui publice ad eam rem constitutus esset, dici licebat. sublata etiam erat celebritas virorum ac mulierum. quo lamentatio minueretur; auget enim luctum concursus hominum.

Much of the difficulty in interpreting Cicero's statement in the light of archaeological evidence is due to his puzzling terminology. For instance, it is impossible to fathom what is meant by the injunction 'not to build a *sepulchrum* that is more lavish than it would take ten men the space of three days to complete'. As Stupperich¹² points out, however, it seems to hark back to a time when a job of work was not normally assigned a currency value. Presumably the formulation refers primarily to the preparation of the funerary enclosure, though we should not

⁸ DHR I, 14, view the restraining of women as the chief target behind all early Greek funerary legislation. They write: "Toutes ces lois étaient principalement dirigées contre les femmes, naturellement portées à exagérer les démonstrations d'une douleur véritable ou convenue." Cf. S. C. Humphreys, *JHS* 100 (1980), 100: 'Convention required that men should maintain self-control in mourning, whereas women were encouraged to display wild grief: therefore to restrict female participation in *prothesis* and funeral procession *ekphora* to kin and women over sixty markedly reduced both the aural and the visual impact of the procession.' Note too the prominent role given to *gunaikonomoi* in the enforcing of funerary regulations, cf. Plu. *Solon* 21.7 and below p. 10 (Gambreion, clause 3).

⁹ Cf. R. Parker, *Miasma* (Oxford, 1983), 35.

¹⁰ K. Kübler, *Die Nekropole der Mitte des 6. bis Ende des 5. Jahrhunderts (= Kerameikos, Ergebnisse der Ausgrabungen VII.1* (Berlin, 1976)), 5ff; U. Knigge, *Der Südhügel (= Kerameikos, Ergebnisse der Ausgrabungen IX* (Berlin, 1976)).

¹¹ L. H. Jeffery, *BSA* 57 (1962), 149.

¹² Stupperich (n.3), 73.

rule out the possibility that it included the grave monument as well. Both Richter¹³ and Boardman¹⁴ see a reference in *opus tectorium* to the friezes of painted terracotta plaques which are thought to have decorated either the walls or the eaves of the built tombs referred to above. These friezes disappear *ca.* 530 and are replaced by the single plaque series. Another possible candidate is the sphinx finial on Archaic grave stelai which is replaced around the same date by a simple palmette.¹⁵ As Kurtz and Boardman¹⁶ note, it is tempting to ascribe the disappearance of both decorative devices to the passing of the so-called *post aliquanto* legislation. If their supposition is correct, its author must surely have been either Peisistratos or his son Hippias.¹⁷

A far more significant development than those referred to above, and one moreover which has never been satisfactorily explained, is the dramatic decline in the production of grave stelai *ca.* 500 B.C. Milchhöfer¹⁸ was the first scholar to connect this change with the *post aliquanto* legislation, which he hence dated 'to about the beginning of the fifth century'. Subsequently Hirschfeld¹⁹ gave the law a place in Kleisthenes' political reforms, thereby establishing it, in the words of Eckstein,²⁰ as 'eine der wenigen unwidersprochenen Lehrmeinungen innerhalb der Klassischen Archäologie, die sich — gleich einem roten Faden — durch alle Publikationen und Handbücher bis in die neuesten Arbeiten hinzieht'.

Scholars have pointed out, however, that the series of archaic stelai does not, in fact, terminate abruptly at 507 or even at 500 B.C., but continues, in much reduced numbers, down to the time of the Persian wars.²¹ Zinserling²² has consequently proposed a more sophisticated hypothesis which may be summarized as follows: though Kleisthenes was the *originator* of the decree abolishing stelai, it was not enforced until several years later, probably by Themistokles in connection with the 'Demokratisierungsmassnahmen' of 487 B.C.²³ To sum up, if the disappearance of permanent grave-markers in Athens around 500 B.C. was the result of legislation as seems more than likely, then its author *pace* Eckstein most probably was Kleisthenes. Like Solon's legislation this law would have been aimed at the aristocracy who, though deprived of the right to stage ostentatious funerals, had been evading the spirit of the law by erecting costly monuments instead, evidently deemed as serving in more durable if less spectacular form the same function as a lavish and well-attended funeral. It is possible that this

¹³ Richter (n.4), 39.

¹⁴ J. Boardman, *BSA* 50 (1955), 53.

¹⁵ Cf. Richter (n.4), 90ff.

¹⁶ D. C. Kurtz and J. Boardman, *Greek Burial Customs* (London, 1971), 90.

¹⁷ Richter (n.4), 152. It should be pointed out that the term '*Hermas, quas vocant*' is also problematical. As to the unlikely possibility that Cicero is alluding to a particular kind of funerary monument in the shape of a herm, see K. F. Johansen, *The Attic Grave Reliefs of the Classical Period* (Copenhagen, 1951), 72 n.2. After dismissing the theory first proposed by L. Curtius in 1903 that herms represented an old type of grave monument as 'rather ill-founded and hardly convincing', Johansen states, 'it must be maintained that in monumental tradition there is no evidence of the herm before the Hellenistic period'.

¹⁸ A. Milchhöfer, *AM* 5 (1880), 172.

¹⁹ G. Hirschfeld, *Festschrift für J. Overbeck* (1893), 13.

²⁰ Eckstein (n.4), 19.

²¹ Cf. the 22 examples listed by C. Clairmont, *Gravestone and Epigram* (Mainz, 1970), 12 n.45.

²² V. Zinserling, *Wissenschaftliche Zeitschrift der Friedrich-Schiller-Universität Jena*, 14.1 (1965), 29ff. Clairmont (n.21), 11, supports Zinserling's thesis. T. Dohrn, *Attische Plastik* (Krefeld, 1957), 85f., also ascribes the interruption of the series to a decree passed by Themistokles, one which was intended, like ostracism, 'zum Schutze der jungen Demokratie vor Tyrannen und deren Freunden'. The final solution to the problem can only be determined by the discovery of more Attic stelai, possibly affecting the ratio of those made prior and after *ca.* 507.

²³ However, as Stupperich (n.3), 77, points out, 'Die ganze Diskussion ... beruht auf der Datierung nach stilistischen Kriterien', concerning which there is much disagreement.

development was contemporary with, if not contingent upon, an upgrading in the importance of public burial.²⁴

Archaeology does provide us with incontrovertible evidence for one highly significant change in Athenian funerary practice dating to the turn of the fifth century, namely the introduction of a ban on intra-mural burial.²⁵ A famous letter written by Servius Sulpicius to Cicero (*ad Fam.* iv.12.3) dated 45 B.C. reveals, moreover, that the ban remained in force for several hundreds of years: when Sulpicius tried to procure a place of burial within the Asty ('*intra urbem*') for their mutual friend Marcus Marcellus, who met his death at the hands of assassins, he was unable to do so because of the ancient '*religio*' or religious practice which prevailed in Athens. Instead he had to bury Marcellus in the Academy. A ban on intramural burial can be interpreted in a number of ways. We can argue that it was a hygienic measure, intended to reduce the risk of disease; that it was a religious measure, reflecting an increased fear of pollution; that it was a politically motivated measure, intended to banish from the public gaze the conspicuous display of wealth inside the city; that it was a socio-economic measure, enforced by a shortage of housing space; or finally, perhaps most plausibly, that it was a combination of many, if not all these motives.

Athens is not known to have introduced any funerary legislation in the fifth century. If, however, a prohibition on the erection of funerary monuments in stone was imposed *ca.* 500 B.C., by 430 B.C., when the classical series of Attic stelai begins, that ban had either been officially revoked or quietly allowed to lapse.²⁶

iii) Platonic

For the fourth century, Plato in the *Laws* (xii.958d-960c) puts into the mouth of the Athenian a number of recommendations which undoubtedly reflect, though we cannot know how closely, contemporary Athenian practice.²⁷ He stated that:

- (1) the expounders of the sacred law (*exêgêtai*) were to be the ultimate source of authority regarding the sacred rites that are due both to the chthonic and Olympian deities;
- (2) no tombs (*thêkai*) were to be placed on cultivated land;
- (3) no mound (*chôma*) was to be higher than that which can be made by five men in five days;
- (4) the stone monument (*lithinon epistêma*) was not to be larger than is sufficient for an encomium of the dead man's life, a maximum of four heroic lines in length;
- (5) the corpse should remain in the house for the *prothesis* only as long as it was necessary to prove that the deceased was actually dead, and generally the *ekphora* was to take place on the third day;
- (6) a maximum expenditure on all funeral expenses (*taphê*) was to be fixed at five minai for men of the highest property class, three for those belonging to the second, two for the third, and one for the fourth;

²⁴ There are further problems in regard to the other provision referred to in Cicero's account. It has been suggested that the restriction on attendance at the funeral ('*sublata etiam erat celebritas...*'), which seems to echo the Solonian law quoted by [Demosthenes], was perhaps introduced for the first time by the author of the *aliquanto post* legislation. Cf. Stupperich (n.3), 73, citing Ruschenbusch (n.2). I concur with Richter's comment (n.4), 39, that 'Cicero's account is confused and...he has...misunderstood what had actually happened'. Discussion of the difficulties concerning the dating of the introduction of the *epitaphios logos* at state funerals ('*nec de mortui laude...*') lies outside the scope of this inquiry.

²⁵ See R. S. Young, *Hesperia* 20 (1951), 67ff.

²⁶ Cf. Clairmont (n.21), 45; W. Fuchs, *Gnomon* 33 (1961), 241f.

²⁷ As T. J. Saunders, *Plato: the Laws* (Harmondsworth, 1970), 31, writes: 'The detailed provisions of (Plato's) laws are in general based on those of contemporary Athenian law, though other codes too, now almost completely unknown, may have exercised some influence.' Cf. also M. Piérart, *Platon et la cité grecque* (Brussels, 1974), 464f: 'Ce qui frappe tout d'abord, c'est le nombre réduit d'emprunts que fait Platon aux cités autres qu'Athènes'.

(7) there was to be no loud lamenting of the dead while the corpse was being borne through the streets;

(8) the *ekphora* was to be outside the city by daylight.

Plato also makes a number of recommendations vis-à-vis special categories of the dead, notably murders and suicides (*Laws* ix.873cd).

iv) Demetrios of Phaleron

Increasingly during the course of the fourth century, as Cicero (*Laws* 2.60) informs us, the 'magnificentia' of funerals and sepulchres became a matter of concern. Accordingly in ca. 317/6 Demetrios of Phaleron introduced a law which decreed that the *ekphora* had to take place before dawn; and that only a small column (*columella*) not more than three cubits in height or a table (*mensa*) or a basin (*labellum*) was to be erected as a grave-marker.²⁸ Cicero adds that Demetrios introduced a penalty for breaking this law and put in charge a special magistrate to see that it was enforced.

Demetrios' legislation, at least in the form in which it has come down to us, is the only example of its kind to which the description 'sumptuary' can legitimately be applied, its primary aim in Ferguson's somewhat colourful phrasing being 'to save the middle-class Athenian citizens from ruining themselves'.²⁹ How rigorously the decree was enforced can be judged from the fact that the series of classical Attic stelai does indeed come to an abrupt end around this date and that practically no examples have come to light contravening Demetrios' specifications dating to the third century B.C.³⁰ Moreover, those which do contravene the law all commemorate foreigners, to whom it might not have been applied quite so strictly. The effect of the law can also be detected in the Kerameikos where the family-plots in the so-called 'Terrassenanlage', the prestigious burial ground outside the Sacred Gate on the south side of the Streets of Tombs, appear to have been abandoned ca. 317 and the district reduced to a mere 'Totenfeld'.³¹

2. CATANA

The sixth-century B.C. lawgiver Charondas of Catana is said to have declared that 'the dead should not be honoured with tears and lamentations but with a good memory and the bringing of yearly fruits in season (*hōraia*), because it is a mark of disrespect to the chthonic gods when grief goes beyond the proper limit' (Stob. 44.40 = 4.153 in Hense's edition).

3. DELPHI

The funeral ordinance of the Labyad phratry at Delphi, written in the Ionic dialect and dated ca. 400 B.C., is one of four inscribed faces of a stone block which sets out the legal and religious obligations of the members of that phratry from birth to death (Buck 52; *DHR* II 28; Hainsworth 3; Homolle 1895; *LSG* II 74; *LGS* 77; Schwyzer 323; *SIG*³ 1220; Solmsen-

²⁸ For the meaning of these terms, see Kurtz and Boardman (n.16), 166ff, with fig. 27a and b, J. Twele, *The J. Paul Getty MJ* 2 (1975), 93ff, and Stupperich (n.3), 136f. In view of the overwhelming predominance of the column-shaped gravemarker during the period following 317/16, Twele (98) would translate the Cicero passage as follows: 'Nothing should be built above the mound of earth except a small column no more than 3 cubits in height, either (supported by) a mensa or (re-using) a labellum.'

²⁹ W. S. Ferguson, *Hellenistic Athens* (London, 1911), 269.

³⁰ Cf. J. Kirchner, *AE* 1937, 338ff and *Die Antike* 15 (1939), 93ff, who lists no stelai with relief decoration but only 'etwa ein Dutzend erhalten geliebener Stelen des Jhdts. von Nichtbürgern, die mit einfachem Giebel, vereinzelt mit Palmeten schmuck versehen waren'.

³¹ As A. Brückner, *AM* 33 (1908), 196, writes: 'Die Umformung der Terrassenanlage zu einem Totenfeld ist als eine Folge der seit 316 herrschenden Ordnung aufzufassen'.

Fraenkel 49). From its opening sentence — ‘The following is the established procedure (*tethmos*) regarding burial practices (*entophêia*)’ — it would appear to be a re-formulation of an already existing law (see *DHR* II, *ad loc.*). It decreed that:

- (1) not more than 35 drachmas’ worth of new purchases or items removed from the house were to be deposited in (or on?) the tomb;
- (2) the shroud (*chlainê*) had to be thick and of light grey colour (*phaôtos*: see Buck, *ad loc.*);
- (3) if any of these rules were broken, a fine of 50 drachmas was to be imposed, unless the accused swore at the tomb (*sama*) that he had not deposited more than the permitted amount;
- (4) only one biercloth (*strôma*) could be placed under the body of the deceased and only one pillow (*poikephalaion*) could be placed under the head;
- (5) the body had to be transported to the tomb in silence and was not to be put down ἐν ταῖς στροφαῖς (at the street corners?); there was to be no wailing outside the house until the cortège arrived at the *sama*;³²
- (6) up to this point there was to be *enatos*(?), viz, until the *thigana* (coffin-lid, tomb covering?) had been put in place;³³
- (7) there was to be no singing of dirges or wailing at the graveside of those who had died previously, and everyone had to go home except for *homestioi*, *patradelpheoi*, *pentheroi*, *esgonoi* and *gambroi* (i.e. close relatives by blood or marriage);³⁴
- (8) there was to be no wailing or lamenting either on the day after burial or at the *dekata* (tenth-day ceremonies) or at the *eniautoi* (yearly rites for the dead).

The lawcode included a description of the penalties that were to be imposed for infringing its regulations, which is unfortunately not preserved.

The Delphic lawcode is the only example of its kind known to have been introduced by a *phratry*. This is somewhat surprising in view of the fact that *phratries* played the leading role in the registration of births, marriages and deaths. Though this may be due merely to the accident of survival, it is conceivable that the Delphic *phratries* were under particularly intense pressure to ensure that funerals operated within very strict guidelines in view of Apollo’s leading role in rites of purification and his well-known abhorrence of mortal decay.³⁵ It is also striking that the lawcode imposed extreme financial restraints upon grieving relatives by requiring them to keep within a budget of a paltry 35 drachmas, in sharp contrast to the Iulis code which generously permitted 300 drachmas to be spent on the shroud and biercloth alone (below, p. 11). Finally, unlike the Iulis code, it did not seek to define which family-members were the polluted, either because the issue was not in doubt or (less probably) because this lay outside the control of the law.

³² Homolle (*ad loc.*) saw a possible reference to the antiphonal structure of the formal lament in the phrase ἐν ταῖς στροφαῖς, which he rendered ‘alternance de chants’. The translation ‘at the street corners’ or ‘at the turnings in the roads’ is, however, far more convincing. Cf. Alexiou (n.7), ch.1 n.80, Buck (*ad loc.*) and Sokolowski (*LSG*, *ad loc.*).

³³ Homolle (*ad loc.*) read Τηνεῖ δ’ ἔνατος ἔστω, which he rendered ‘et que là il y ait souillure’. J. Bousquet, *BCH* 90 (1966), 87, emended this to ἔνατος, commenting that ‘il reste inexpliqué’. West, *ZPE* 2 (1968), 176, takes δένατος to be an error for δὲ ἀνάτος with subject ὁ ὁτοτύζων understood (‘Let the wailer be immune from punishment’). The second part of the provision (ἡ ἐντε καὶ ἡα θυγάνα ποσθεθῆι) is also problematical. *DHR* (*ad loc.*) explain θυγάνα as ‘tertre’ on the strength of Hsch.’s gloss: θισάνα (*sic*) · χῶμα σωροειδές. More plausibly *LSG*⁹ render ‘cover, lid’.

³⁴ These terms are translated by Humphreys (n.8), 99, as members of the deceased’s household, patrikin, wife’s kin, descendants and affines married to women of his own family respectively.

³⁵ Cf. R. S. J. Garland, *The Greek Way of Death* (London and Ithaca, 1985), 44.

4. GAMBREION

From the third century B.C. survives an inscription found at Gambreion near Pergamum in Mysia describing itself simply as ‘law for the Gambreiotai’ which laid down a code of practice to be observed by those in mourning (*LSA* 16; *DHR* I 3; *SIG*³ 1219). Its regulations were the following:

- (1) women in mourning were to wear brown (*phaios*) clothing³⁶ which was to be unsoiled;³⁷ men and children were also to wear brown, unless they preferred white;
- (2) ceremonies (*ta nomina*) in honour of the departed were to be concluded at the outside within three months; men were to put off their mourning in the fourth month, women in the fifth; women had then to cease from all funerary activities (*kêdeia*) and to take part in processions (*exodoi*) prescribed by law;
- (3) at the purifications which took place before the festival of the Thesmophoria the duly elected supervisor of women or *gunaikonomos* was to give his blessing (ἐπεύχεσθαι ... εὖ εἶναι) to those women who had abided by the law, and to condemn those who had contravened it; women who had broken the law were to be excluded from all sacrifices for ten years on the grounds that they had committed impiety (*asebeia*).

The inscription concludes by instructing the next-elected *stephanêphoros* to inscribe the law on two stelai and to set up one copy before the gates of the Thesmophorion and the other before the temple of Artemis Lochia.

Though we know nothing of the circumstances surrounding the passing of this decree, it is nonetheless a highly instructive document, being clearly a very different piece of legislation from any other in the corpus. Uniquely it addresses itself exclusively to post-burial rites, an indication of the prominence of the cult of the dead in Gambreion at this time. The obvious explanation for this is that existing laws adequately controlled conduct at the funeral, whereas post-funerary rites had only recently begun to constitute a public nuisance. It is also interesting that whereas the customary penalty for contravening a funerary regulation appears to have been the exaction of a fine, the law of Gambreion relied on the threat of excommunication. Its tone in fact is more overtly religious than that of any other surviving lawcode. Its chief aim appears to have been to coerce women into performing their religious duties at civic festivals, latterly neglected because of over-scrupulous attention to the dead. In other respects, as in its identification of women as the chief offenders (cf. the reference to the *gunaikonomos*), it closely resembles its predecessors, though it is to be noted that the time limit permitted for mourning is unusually generous.

5. GORTYN

The sanctuary of Apollo Pythios at Gortyn in Crete supplies us with the earliest epigraphic evidence regarding funerals. An inscription dated *ca.* 600-525 (*Inscr. Cr.* iv.22; *LSAG* 315, no. 2) states simply:

Πρόθεσιν / μήτ' ἀ[πο]δικάζαι / μήτ' ἀπομ[ό]σαι]

Guarducci (*Inscr.Cr.*, *ad loc.*) plausibly interprets this to mean that the deceased's relatives were not permitted to evade the responsibility for holding the *prothesis* by invoking any legal procedure. The law would seem to have been passed in order to fulfil the dual role of ensuring firstly that the claims of the deceased were fully met, and secondly that the polluting effect of

³⁶ The Suda defines *phaios* as χρώμα σύνθετον ἐκ μέλανος καὶ λευκοῦ. The customary colour of mourning for the Greeks was black, though other colours, such as white (e.g. at Argos, Plu. *Mor.* 26), were also sometimes found. For *phaios* see also Plb. xxx.4.5. and xv.25.11; D. H. v.17; D. C. xlix.12.

³⁷ For soiled and torn clothing as a sign of grief, cf. Hom. *Il.* xxiii.25f.; A. *Ch.* 23; Eur. *Hek.* 495f. and *Suppl.* 826.

the corpse was safely contained. It appears to imply that the cost of staging a funeral could involve bereaved kin in considerable expenditure from which some evidently sought escape by recourse to the law, perhaps even going so far as to claim bankruptcy. On whose authority the measure was introduced is not known, but it is worth noting that the stone on which it was inscribed was preserved within the *temenos* of the god most intimately associated with ritual purification (see above p. 9).

Another decree from the same provenance dated *ca.* 500-450 (*Inscr. Cr.* iv.46B; *LSAG* 315 no. 4) lays down that in the absence of a public road it was permissible to carry a corpse over private property, and that a fine of ten staters could be imposed on anyone who hindered the deceased's kin from so doing. The text breaks off with a reference to the imposition of a fine on *kadestai*³⁸ who carry their dead over another person's land where a public road does in fact exist.

A third decree dated *ca.* 450-400 (*Inscr. Cr.* iv.76; *LSAG* 315 no. 8) states that in the event of the *epiballontes* failing to carry out a lustration (*sc.* after the funeral), a judge is to pronounce upon the legal requirements; and that if the *epiballontes* still refuse to comply, the judge is to do so at his own expense, and afterwards, having declared under oath the amount he has disbursed, to exact double from the relatives.

6. IULIS

The funerary legislation from the town of Iulis on Ceos is inscribed on two sides of a stele dated to the second half of the fifth century B.C. (*IG* xii.5.593; *DHR* I 2; *LGS* II 93; *LSG* 97; *SIG*³ 1218; Solmsen-Fraenkel 64). It affords us the most wide-ranging and extensive set of funerary regulations to survive from the Greek world. Those on face A, inscribed in the Ionian alphabet and dialect, are believed to have been a new formulation of an already existing law (see *DHR*, *ad loc.*). Beginning simply with the words 'These are the laws regarding the departed', the decree ordained that:

- (1) the corpse was to be wrapped in a maximum of three white *hematia* (called *strôma*, *enduma* and *epiblema*), costing not more than 300 drachmas in all;
- (2) it was to be borne on a bier with 'wedge-shaped legs', the head exposed but the rest of the body covered with the *hematia* (or *othonia*, 'linen cloths', according to another reading);
- (3) not more than three choes of wine and one of olive-oil were to be carried to the *sêma* or tomb, and the vases had to be removed;
- (4) the corpse had to be carried covered up and in silence as far as the *sêma*;³⁹
- (5) the preliminary sacrifice or *prosphagion* (i.e. sacrifice to be performed before interment?) had to be carried out according to ancestral tradition (*kata ta patria*);
- (6) the *klinê* or bier and *strômata* were to be brought home;
- (7) on the next morning (i.e. the day after the funeral) a freeman had to clean the house, washing it first with sea-water, and then with ordinary water, and sprinkling earth;⁴⁰

³⁸ For *kadestai* and *epiballontes*, see R. F. Willetts, *The Law Code of Gortyn* (Berlin, 1967), 19f, who describes them as 'complementary terms which denoted the close ties established by kinship on the one hand and by marriage on the other'.

³⁹ F. B. Jevons, *CR* 9 (1895), 248, who believed that the main objective behind the Iulis lawcode was to prevent the demise and obstruction of ancient practices intended to promote the well-being of the dead, wrote: 'The German peasant will tell you that, if the corpse is only partially covered, the deceased will become a revenant of the worst type, viz. a *Nachzehree*, one who not only "walks" but carries off the living to his grave.' Jevon's theory is ignored by modern scholars but it deserves serious consideration.

⁴⁰ For sea-water used in lustration ceremonies, see Sokolowski *ad loc.* and *ibid.* 151, B 23-4 (Coan calendar of cults, fourth cent. B.C.). Jevons (n.39), 247, sees a parallel in the German folklore tradition of pouring water out three times when the corpse is removed from the house in order to prevent the dead man's return. See also Hom. *Od.*

- (8) when the house had been cleaned, it was pure (*katharên*) and household sacrifices (*ephistia*) were to be made;
- (9) the women attending the funeral had (or, according to another reading, had *not*) to return from the *sêma* before the men;⁴¹
- (10) there were to be no *triêkostia* or thirtieth-day rites performed on behalf of the dead;
- (11) a kylix was not to be set beneath the *klinê*,⁴² nor was water to be poured out, nor were *kallusmata* to be brought to the *sêma*;⁴³
- (12) once the burial was over, only women who were polluted were permitted to re-enter the deceased's house. These included: the deceased's mother, wife, sisters, daughters, and a maximum of five other women, who could be children of daughters and of cousins, and no one else;⁴⁴
- (13) those who had become contaminated had to wash all over and would then be pure.

At this point the text breaks off. The fragmentary inscription on side B of the same stele, written interestingly in the Attic dialect, states that the 'council and the people'⁴⁵ had decreed that on the third day and (?)⁴⁶ at the yearly festival or *eniausia* (i.e. to the dead) 'those participating become pure but may not enter the temple'. The last phrase states, somewhat paradoxically, that 'the house does not become polluted until they return from the *sêma*.'⁴⁷

The primary intention behind the Iulis law, like the Solonian legislation, seems to have been to prevent the death of a member of one's family from being exploited for political effect. Thus it restricted the opportunities for the display both of wealth and kinship-solidarity not only at the time of the funeral itself (clauses 1-5) but also during the immediate post-funeral period (clauses 10-11). Striking, too, is the small size of the family circle affected by pollution (clause 12): of female relatives, only those who belong to the nuclear family plus five others, the choice undoubtedly being left to the head of the household. It is difficult to resist the impression that we are dealing here with a somewhat rationalistic and attenuated interpretation of miasma — one which saw it as a privilege to be granted to a chosen few, rather than as a baleful influence that imperilled the whole community. Notably, as in the Solonian lawcode, no restrictions are imposed on the attendance of men. In addition, the code legislated against the establishment of a permanent cult of the dead at the graveside (cf. removal of vases, etc.,

xxii.481ff. and Theok. 24.96ff. The number three and multiples thereof had a profound eschatological significance for the Greeks, cf. the *trita* (third-day rites), *enata* (ninth-day rites) and *triakostia* (thirtieth-day rites).

⁴¹ For a discussion of the textual difficulties in this passage, see G. Roux, *REG* 80 (1967), 172 n.26, who favours an emendation omitting the negative on the grounds that the regulation was intended as 'une façon de couper court aux lamentations des femmes qui risquaient de se prolonger trop longtemps sur le tombeau'. As Humphreys (n.8), 99 n.3, points out, however, the men might have been expected to stay behind after the funeral to heap up the mound.

⁴² *DHR* (*ad loc.*) comment, 'Interdiction de certains usages superstitieux. Nous ne connaissons pas le sens de ces usages'. Jevons (n.39), 248, explains the prohibition of leaving a kylix at the tomb by reference to the German belief that the soul of the departed was apt to lodge in any open vessel.

⁴³ For *kallusmata* see Hsch. s.v. who renders 'σάρματα' (i.e. refuse, sweepings). However K. Meuli, *Phyllobolia für P. von der Mühl* (Basel, 1946), 205 n.1, believes that *kallusmata* refers to *loutra*, *choai* and *loibai*, i.e. libations to the dead. Sokolowski, who takes a similar view, writes (*ad loc.*), 'Il est question d'offrandes portées aux morts'. He cites S. *El.* 52 and 54.

⁴⁴ *DHR* (*ad loc.*) comment, 'Cette limitation n'a sans doute pas d'autre but que d'empêcher l'encombrement'. But we should not ignore the possibility that there may have existed a genuine uncertainty in people's minds as to exactly how far pollution extended.

⁴⁵ This formula indicates that this fragment, unlike that preserved on side A, belongs to a new piece of legislation introduced for the first time in the second half of the fifth century B.C. See *DHR* (*ad loc.*).

⁴⁶ The text is doubtful. Sokolowski, who reads καί, interprets the regulation as releasing the participants in the ceremonies held on these days 'de toute interdiction à la pureté rituelle, sauf l'interdiction d'entre au sanctuaire'. For a different reading and interpretation, see *DHR* (*ad loc.*).

⁴⁷ This measure is perhaps comparable to the restriction in other codes on those permitted to return to the house after the burial, being designed to limit those polluted to the immediate family only.

referred to in clauses 3 and 6).⁴⁸ From the fact that the period preceding the re-inscription of the decree witnessed an outbreak of anti-oligarchic feeling which led to the exile of Bacchylides in 468 from Ceos, Alexiou⁴⁹ has suggested that the funerary legislation may have formed part of an 'anti-oligarchic package', other details of which were perhaps promulgated on the other, now illegible side of the stele. However, it is difficult to see how any 'pro-oligarchic' aim might have been served by an infringement of, say, clause 7, 11 or 13, and although Jevons' proposal⁵⁰ that much of the legislation was passed in order 'to secure the re-birth of the soul of the deceased in his own family' may seem somewhat fanciful, it cannot be dismissed altogether. The possibility should also be considered that the legislation was passed in the wake of an outbreak of an infectious disease. What we seem to be dealing with in clauses 7, 11 and 13 is a quite separate, apolitical legislative drive intended to outlaw certain burial practices which for reasons that are wholly obscure were judged to be improper or anti-social. Further than that it is impossible to go, other than to acknowledge, along with Parker,⁵¹ the curiosity of 'the Ceans legislating against practices that are, it seems, socially objectionable, only in being superstitious' — as, for instance, the ban on placing a kylix under the bier — 'and superstitious only in the sense that they take too far the belief in death-pollution on which several of the law's positive requirements are founded' — as, for instance, the injunction to purify the deceased's house.

7. MYTILENE

Cicero (*Laws* 2.66) tells us that Pittakos of Mytilene (*ca.* 650-570 B.C.) forbade 'anyone to attend a funeral held by others', presumably excluding non-relatives of the deceased from participation.

8. NISYRUS

A very fragmentary inscription from the island of Nisyros in the southern Sporades dated to the third century B.C. (*IG* xii.3.87; *SIG*³ 1220) lays down the size of the fine that is to be imposed on 'anyone who buries or honours with a monument or *epistêma* [*vacat*]'. The law presumably excluded from burial persons who had forfeited this right owing to the crimes they had committed.⁵²

9. SPARTA

The legendary Spartan lawgiver Lykourgos is the first figure in Greek history credited with the enactment of funerary legislation. Plutarch (*Lyk.* 27.1-2; *Mor.* 238d) tells us that he lifted a ban on intra-mural burials and permitted grave-monuments (*mnêmata*) to be erected near sacred places with the aim of removing all superstitious fear of the dead (*deisidaimonia*), particularly that aroused by miasma — a completely revolutionary departure when judged by normal funerary practice. Secondly Lykourgos forbade anything to be buried with the dead and ordered that the corpse was simply to be covered in a scarlet robe (*phoinikis*) and strewn with olive leaves. Even the name of the deceased was not to be inscribed on the tomb unless it

⁴⁸ So Alexiou (n.7), 15f. Sokolowski (*ad loc.*), however, thinks that their removal was insisted upon 'pour des raisons d'économie'. The same motive — that of preventing 'un gaspillage inutile' — is proposed by *DHR* to explain clause 6.

⁴⁹ Alexiou (n.7), 15.

⁵⁰ Jevons (n.39), 249.

⁵¹ Parker (n.9), 36.

⁵² Cf. Dittenberger (*ad loc.*), citing Dem. xxi.106, lvii.70; Hyperid. ii.20. iii.18.

commemorated a soldier who died in war⁵³ or, according to a generally accepted restoration of Plutarch's text, a woman who had died in childbirth (*Lyk.* 27.3).⁵⁴ The period of mourning was to last 'only eleven days' and on the twelfth a sacrifice had to be made to Demeter, marking its conclusion. As Herodotus (vi.58.1) informs us, royal funerals were also regulated at Sparta. On the announcement of a king's death, relayed throughout Laconia by the dispatch of horsemen and inside the city by the beating of cauldrons, a free man and woman from every household had to become polluted (*katamiainesthai*). Failure to comply exposed defaulters to a heavy fine. Not only Spartiates but also *perioikoi*, helots and (notably last in Herodotus' list) women were compelled to attend the funeral and to make loud and prolonged demonstrations of grief. In the case of a king who had met his death in war all public business was suspended for ten days.

According to Xenophon (*Lak. Pol.* 15.9) the regulations concerning royal funerals were part of the Lykourgan lawcode. It is tempting, therefore, to view the injunctions regarding the burial of both commoners and royalty as part of the same funerary package. If this assumption is correct then we can say that in the private and domestic sphere the lawgiver's intention was to minimise the role accorded to death and the dead in the Spartan community, whereas on the public and official side, the opposite tendency is revealed. There are two possible explanations to account for this apparent paradox. Firstly, it can be argued along functionalist lines that the increased status of the royal dead was intended by the Spartan authorities to compensate for the diminished status of the ordinary Spartan dead; or, to phrase it differently, that the Spartan state as personified by its royal house hereby served notice that it intended to appropriate funerary ritual for its own political and dynastic ends. Secondly, by adapting a theory which echoes the researches of many anthropologists, we may surmise that the twofold legislative programme merely made explicit the implicit rationale behind much funerary ritual, namely that the corruptibility of a dead body varies in direct proportion to the social standing of the deceased.

9. SYRACUSE

From Diodoros Siculus (xi.38.2) we learn that at some unspecified date in their history the Syracusans introduced funerary legislation which 'had abolished by law costly *ekphorai* and the expense which had customarily been lavished on the dead', and that this law was upheld by Gelon (*ca.* 540-478) in the modest scale of his own funeral.

* * * * * * *

Though the circumstances surrounding each set of laws that we have been considering do not enable us to comprehend fully the motives which inspired them, and only in a few cases to judge of their effectiveness, some general conclusions can nonetheless be drawn. Of the explanations behind such programmes proposed by both ancient writers and modern scholars, the following are chiefly deserving of consideration:

- (1) to ensure that the claims of the dead are fully satisfied and their dispatch to the next world assured;
- (2) to contain, control and lessen the polluting effect of the corpse;
- (3) to reduce the funerary expenses incurred by grieving relatives;

⁵³ Cf. *LSGS* 64 (Thasos, end of fifth / beginning of fourth cent. B.C.) for regulations regarding the honours to be paid to those who die in the service of their country (viz. *agathoi*).

⁵⁴ The emendation to *Plu. Lyk.* 27.3, which is by K. Latte, is supported by *IG* v.1.713-4, 1128 and 1277, where λέχω (woman in childbed) is appended to the name of the deceased. See S. B. Pomeroy, *Goddesses, Whores, Wives and Slaves* (New York and London, 1975), 36, with n.8, P. Cartledge, *PCPhS* n.s. 27 (1981), 95 with n.72, N. Loraux, *L'Homme* 21 (1981), 37 and D. H. Kelly, *GRBS* 22 (1981), 33f n.9.

- (4) to eliminate public disorder in the form of large gatherings of mourners whether at the *prothesis*, the *ekphora*, or at the graveside both during and after interment;
- (5) to bring about a transfer of funerary ritual from private hands to state control in order to weaken the political influence of the *genê*.

On the whole Greek funerary legislation was restrictive in nature. Its primary objective was to lay down maximum limits, e.g. for length of mourning, costs, etc. Only rarely was it prohibitive or prescriptive. The Iulis code appears to have been unique in combining restrictive with prescriptive ordinances.

Laws were passed at the instigation of individual lawmakers (Lykourgos, Solon, Demetrios of Phaleron, etc.), of the demos as a whole (e.g. Iulis), and of subdivisions thereof (e.g. Labyad phratry). In the Archaic period the funeral was the chief target of legislative action, whether because of a concern for public order or because of a desire to stifle aristocratic exhibitionism. The cult of the tomb appears to have become a target for legislative action only around the middle of the fifth century, confirmation of this date being provided by iconographical and archaeological evidence for the practice from Attica.⁵⁵

It is abundantly clear that a Greek corpse could serve as an expressive and highly inflammatory focus of partisan sentiment and activity. Restrictive legislation regarding the treatment accorded to it was thus one of the chief weapons by which democracy in its early days sought to establish itself as an effective means of government and to encourage the growth of democratic sentiments — a fact which testifies to the importance attaching to funerals in the aristocratic period. The curbing of the private funeral and private grave monument should thus be viewed in conjunction with the creation of the public burial, as exhibited by state control over the right to award distinctive burial honours to those who died in the service of their country. It constitutes a serious gap in our knowledge of Greek democracy that we cannot establish with certainty whether the exaltation of the one and the playing down of the other, which clearly demonstrate aspects of a single conception, are also contemporary phenomena.⁵⁶

A number of laws appear to have been introduced with no other aim in mind than that of clarifying what was needed and expected from the living by the dead. We should not underestimate the genuine anxieties and fears aroused in ordinary Greeks by contact with their own dead. Bereaved relatives would therefore have been happy to surrender to the imperatives of the law the burden of deciding for themselves what adequately constituted the *geras thanontôn* or due of the dead. Historians conventionally 'explain' costly grave-markers and other manifestations of conspicuous consumption as wordly symbols of privilege and power. But it would be presumptuous to rule out the possibility that they also reflect a genuinely pious desire to give the dead their due, however exaggerated that 'due' might appear in our eyes. It is this aspect of the laws we have been considering that is at once most fascinating and most elusive.

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⁵⁵ Cf. Garland (n.35), ch. 7.

⁵⁶ For the part played by the *epitaphios logos* in promoting the idea of democracy in Classical Athens, see the already classic study by N. Loraux, *The Invention of Athens: the Funeral Oration in the Classical City*. Trans. A. Sheridan (Cambridge, Mass. and London, 1986.)