

# The Procedural Basis of Sophocles' *Oedipus Tyrannus*

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THE IDEA that *Oedipus Tyrannus* is in some sense 'court room drama' or even a 'detective story' is no novelty.<sup>1</sup> Juristic features abound in the vocabulary, the style of discourse, the agonistic dialogue, and various rhetorical devices and commonplaces, all plainly paralleled in the forensic and theoretical work of the Attic orators.<sup>2</sup> On these matters this article has little to offer. It is more concerned with formal elements—that is, with the Attic legal procedure that Sophocles adopted as the framework of the play to carry forward the action in a way readily comprehensible to his fifth-century Athenian audience. The vehicle was particularly suitable, since the vast majority would certainly have ample familiarity, mostly at first hand, with the city's judicial apparatus.<sup>3</sup> That very fact, together with the undoubted critical tendency of the alert Athenian spectators, makes it unlikely that Sophocles was simply content (or could afford) to use any convenient hotch-potch of disparate juristic ingredients. Rather, we should expect to find the essential basis of his exposition in a single process identifiable in Attic law; and if the poet needed to modify or amplify it with any other, the

<sup>1</sup> Exponents of the theme (cited hereafter by authors' names) include B. M. W. KNOX, *Oedipus at Thebes* (New Haven 1957) 78ff, and G. GREIFFENHAGEN, "Der Prozess des Oedipus," *Hermes* 94 (1966) 147–76 (further literature at 148f); cf. R. D. DAWE, *Sophocles Oedipus Tyrannus* (Cambridge 1982) esp. 13. G. Kremer, *Strukturanalysen des Ödipus Tyrannus des Sophokles* (diss. Tübingen 1963), and W. Schadewaldt, *Hellas und Hesperien* (Stuttgart 1960), cited by Greiffenhagen, were not available to me.

<sup>2</sup> See in particular Knox 84–98; Greiffenhagen *passim*.

<sup>3</sup> Knox 78ff; cf. his argument at *AJP* 77 [1956] 133–47 for a date after the great plague at Athens (430/429) and before alleged parody in Aristophanes' *Knights* of 424—probably 425, in his view; further discussion and literature in R. M. Newton, *GRBS* 21 (1980) 5–21. The exact date does not affect the present argument.

combination should be possible and plausible not only dramatically but also in juristic terms. Only if these requirements cannot be met need we or should we fall back on the essentially unsatisfactory hypothesis of a *mélange* devised solely to suit the play and fictionally conflating components in a way that would have been impossible in the legal usages of the age in which it was written and presented.

### I. Δίκη φόνου

The first and most obvious theory to consider is that the preponderant formal influence on the play's exposition is the *δίκη φόνου*, the Athenian suit for homicide brought by kin of the deceased before one of five courts (each for a different kind of killing) under presidency of the archon basileus.<sup>4</sup> The case is founded on undoubted allusions in Sophocles' text to this process, but on several counts it fails. The historical process shows features entirely lacking in the play. Litigants at the opening of the hearing-in-chief of a *δίκη φόνου* were required to swear oaths over special sacrifices to the veracity of their pleas, and the winner to the correctness of the eventual verdict. Witnesses too had to swear not merely to the truth of their testimony but also that the defendant was or was not guilty.<sup>5</sup> The only 'evidentiary' (as opposed to 'promissory') oath in the play is that of Creon, to his innocence of treason.<sup>6</sup> An Athenian trial-court could take testimony from tortured slaves, but only in a report from the torturers and not from slaves in person. The shepherd's evidence, strictly speaking, should therefore have no place in a *δίκη*. Perhaps that is unduly pedantic and the

<sup>4</sup> See in general, amongst others, D. M. MACDOWELL, *Athenian Homicide Law in the Age of the Orators* (Manchester 1963), and *The Law in Classical Athens* (London 1978) 108–22; A. R. W. HARRISON, *The Law of Athens II Procedure* (Oxford 1971) 36–43; R. J. BONNER and G. SMITH, *The Administration of Justice from Homer to Aristotle II* (Chicago 1938) 192–231 (all cited by authors' names). The chief advocate of *δίκη φόνου* as the basis of the play is Knox, esp. 82ff; see also Greiffenhagen 151ff (variation).

<sup>5</sup> Evidence for oaths of litigants and witnesses in MacDowell, *Homicide* 90ff; cf. *Law* 119; Bonner/Smith 165–74.

<sup>6</sup> OT 644f. On evidentiary and promissory oaths (respectively, 'that X is or was the case'; 'that Y shall be the case'), Bonner/Smith 146f, Harrison 150ff.

irregularity might be allowed on grounds of dramatic economy—but an irregularity it remains.<sup>7</sup> Again, no such court can dispense with a jury, and it is doubtful whether the Chorus can be made to fill this rôle. For one thing, in the Attic courts juries were required to listen, not to speak. Neither can much weight be put on the suggestion that the Chorus in the second strophe and antistrophe of the first stasimon, where it voices bewilderment and doubt over the evidence of Teiresias, mirrors a jury conferring.<sup>8</sup> So far as we know, Athenian jurymen did not confer but merely voted. True, there is no need to suppose that the passage shows members of the Chorus conferring at all, rather than simply expressing their collective reaction to the previous altercation between Oedipus and Teiresias. They are indeed trying to evaluate evidence and consider the validity of judgment based upon it; but nothing shows that they must do that either in the capacity of jurors. Again, while Attic law allowed a form of δίκη φόνου against an unknown defendant, it is doubtful whether a magistrate, even if he could claim kinship of the deceased and so the right to institute proceedings himself, could also preside over them.<sup>9</sup> Even if he could, it is still very difficult to see how the relevant form of trial (or indeed any other) could possibly be the model for the further startling complication encountered in the play—namely, that Oedipus should acquire yet a third rôle in the same action, that of defendant. In Attic law that would seem to have required the institution of fresh proceedings, of which there is no trace in the play. More-

<sup>7</sup> OT 1125–81, esp. 1154: οὐχ ὡς τάχος τις τοῦδ' ἀποστρέψει χέρας; On servile evidence, MacDowell, *Homicide* 102–09, *Law* 245ff, doubting the admissibility of slaves' evidence in homicide trials (*contra* C. Carey, *Historia* 37 [1988] 214 n.1); Harrison 147–50; Bonner/Smith 126ff, 223ff.

<sup>8</sup> Knox 85ff, seeing no difficulty in fifteen χορευταί representing fifty-one ἐφέται or some larger body of Areopagites or dicasts.

<sup>9</sup> For the duty and right of kin (and perhaps no others) to prosecute by δίκη φόνου, MacDowell, *Homicide* 8–32, citing the plentiful evidence and discussing problems, and *Law* 109–13; Harrison 76f; Bonner/Smith 209ff. For a magistrate initiating proceedings, MacDowell, *Law* 235ff, who thinks it may have been possible for the same official both to prosecute and to preside. For murder, at least, an archon basileus on whom devolved the duty to prosecute might have waited until his year of office had expired, there being no time limit.

over, the historical δίκη φόνου allotted at most only two speeches each to prosecutor and defendant (and surely less where the defendant was unknown!), and while these might and usually did include production of witnesses and their interrogation,<sup>10</sup> clearly no amount of ingenious manipulation can make *OT* fit readily into this pattern.

For these reasons it seems highly improbable that the δίκη φόνου provided Sophocles with the formal structure of this play. Nevertheless patently he did exploit sundry features of that process. A litigant had to be a citizen and (normally anyhow) kin of the victim: we duly find Oedipus—in full irony, of course—made to claim capacity to champion Laius in precisely these terms, by his adoption into the Theban citizen body and through his marriage with Laius' widow.<sup>11</sup> That will show that a δίκη φόνου is contemplated, certainly, but no more. The action also involved proclamation, both by the plaintiff and by the archon basileus who accepted the case for trial, of a curse on the guilty man, barring him from participation in τὰ νόμιμα—that is, all aspects of public life, including religious observance—and Oedipus does indeed pronounce just such a curse.<sup>12</sup> In Attic law that was required even against an unknown and unnamed killer, against whom one variant of the δίκη φόνου could be brought, but almost certainly only after painstaking and sustained efforts to identify him—which at this stage in the play have not yet been made.<sup>13</sup> Besides, there is no reason why a curse of this kind on an unknown killer should not also have been used in somewhat different procedures, and some reason to suppose that it very probably was, as will emerge later.

<sup>10</sup> MacDowell, *Homicide* 113ff, *Law* 118–120, cf. Harrison 161.

<sup>11</sup> See *supra* n.9, and Harrison 82–85; Greiffenhagen 153f; Knox 82 (Oedipus' claims: *OT* 258–64, cf. 245, 222).

<sup>12</sup> 236–48; Knox 82f; MacDowell, *Homicide* 24f; for τὰ νόμιμα, Antiphon 6. 35f, 45f; Dem. 20.148, 47.69; Arist. *Ath. Pol.* 57.2; Pollux 8.90; *Lex. Seg.* 310. 6–8.

<sup>13</sup> Almost certainly (in this instance) a fair reflection of the actual laws of Athens is Pl. *Leg.* 9.874a–b: ἐὰν δὲ τεθνεὼς μὲν αὖ τις φανῆ, ἄδηλος δὲ ὁ κτείννας ἢ καὶ μὴ ἀμελῶς ζητοῦσιν ἀνεύρετος γίγνηται, τὰς μὲν προρρήσεις τὰς αὐτὰς γίνεσθαι καθάπερ τοῖς ἄλλοις, προαγορεύειν δὲ τὸν φόνον τῷ δράσαντι καὶ ἐπιδικασάμενον ἐν ἀγορᾷ κηρύξαι τῷ κτείναντι τὸν καὶ τὸν ὠφληκότι φόνου μὴ ἐπιβαίνειν ἱερῶν μηδὲ ὅλης χώρας τῆς τοῦ παθόντος. Knox 83 and n.131 misses the importance of μὴ ἀμελῶς ζητοῦσιν.

It is possible to derive further argument from the *parodos*, if that is taken to operate simultaneously in two dimensions, Athenian as well as Theban. In the opening strophe the Chorus asks for elucidation of the word of Zeus (law) now mediated by the Pythian.<sup>14</sup> The Theban dimension is guaranteed by the action of the play itself; the Athenian, if not by invocation of Apollo as Delian (rather than Delphic), at least by the reference to PHEME, to whom a shrine had been erected to commemorate Cimon's victory at Eurymedon.<sup>15</sup> In seeking enlightenment in the responding antistrophe the Chorus invokes first as a triad of θεοὶ ἀλεξίμοροι Athena, Artemis, and Apollo. In this, since the issue raised by Apollo's message about the murder of Laius has already been stated, despite the explicitly Theban attributes of Artemis here, the Athenian audience will readily have seen allusions to the deities presiding over two of their homicide courts—those at the Palladion, a shrine of Athena used for cases of φόνοϛ ἀκούσιος (involuntary killing), and the Delphinion, dedicated to Apollo and Artemis and used for cases of φόνοϛ δίκαιος (lawful killing).<sup>16</sup>

The first strophic pair then asks "What did Zeus mean? Was it an involuntary killing? or lawful?" The second gives the reason for asking divine aid—the plague, harrowingly described—and ends with a second plea to Athena, for protection. She was, of course, worshipped at Thebes, but no Athenian spectator could fail to refer the words ὦ χρυσεὰ θύγατερ Διός to Athena Promachos, towering over him on the Acropolis behind the theatre.<sup>17</sup>

<sup>14</sup> 151–58. This is not the place for full discussion of the Theban/Athenian ambivalences of the *parodos* and their wider significance. It is hoped that what follows may suffice for present purposes. Zeus I take to be (here) the Legal Principle, and his word to be law, here mediated to men through the oracle of Apollo (cf. Aesch. *Eum.* 19, Διὸς προφήτης δ' ἐστὶ Λοξίας πατρός; cf. 616ff, 713; *OT* 498f).

<sup>15</sup> *OT* 158; Paus. 1.17.1; Aeschin. 1.128 with Σ.

<sup>16</sup> *OT* 159–67. On the Athenian homicide courts in question, MacDowell, *Homicide* 58–69, 70–81, *Law* 117f; Harrison 36–43, all citing plentiful evidence. In Athens both these lesser shrines flanked that of Zeus Olympius: see P. J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia* (Oxford 1981), *ad Ath. Pol.* 57.3. The description of Artemis as ἄκυκλόεντ' ἀγορᾶς θρόνον Εὐκλέα θάσσει is purely Theban (see Dawe *ad loc.*).

<sup>17</sup> 168–89, esp. 188. For worship of Athena at Thebes, *OT* 20f, with Jebb *ad loc.*, citing Paus. 9.12.2, 17.3, 23.5; Aesch. *Sept.* 487, 501.

In the third strophic pair, it may be argued, the Chorus turns to face the other and more dreadful possibility that the killing of Laius was premeditated. In Athens, the court to try that charge was notoriously the Areopagus. Sure enough, the Chorus cites Ares next—not of course as ἀλεξίμορος, for he was a demon of strife and discord, but to identify him with the troubles of Thebes and pray that he be blasted by Zeus, god of justice par excellence. At least for Aeschylus, a discernible influence on Sophocles, the dictates of Zeus governed the first (and so definitive) homicide trial on the Areopagus, and that commemorative hill was a salutary deterrent from horrors to be avoided—blood-feud, crime, and civil dissension.<sup>18</sup> Zeus is central, but the notion of Apollo and Artemis as protecting agencies is somewhat further developed in the final antistrophe, which invokes against Ares Dionysus, a god of regeneration and of course a native of Thebes, but for Athens the chief recipient of worship in the dramatic festival itself, and frequently honoured by passing mention (and sometimes more) in the plays performed there.<sup>19</sup>

<sup>18</sup> For invocation of Zeus against Ares, *OT* 190–202: "Ἀρεά τε τὸν μαλερόν, ὃς νῦν ἄχαλκος ἀσπίδων φλέγει με περιβόατος ἀντιάζων.... ὦ Ζεῦ πάτερ, ὑπὸ σῶ φθίσσον κεραυνῶ. On the court of the Areopagus, MacDowell, *Homicide* 39–47, *Law* 116f; Harrison 37ff. For the influence of Zeus on the trial of Orestes, Aesch. *Eum.*, esp. 17ff, 92, 365, 616–24, 797ff, 973. For one myth of how Ares' Hill came to be so named, and for its rôle at Athens as a salutary reminder to avoid civic strife, *Eum.* 685–710. Not much weight can be put on Anon. *Vit. Soph.* 4 as evidence that Sophocles was Aeschylus' pupil in any formal sense, but parallels in the surviving plays are not hard to detect. On the other hand, another myth (not necessarily entirely inconsistent with that in Aeschylus) derived the name of the Areopagus and the function of its council as a court for cases of homicide from the trial of Ares there by a divine tribunal for his murder of Halirrothius, son of Poseidon (Eur. *El.* 1258f, Apollod. 3.180, Panyassis *ap. Clem. Alex. Protr.* 22.26 Stählin, Dem. 23.66).

<sup>19</sup> *OT* 203–15. Note especially τᾶσδ' ἐπώνυμον γῆς (of Bacchus), neatly ambiguous between Thebes and the theatre of Dionysus at Athens. One might further reflect that the City Dionysia were attended by the allies of the Delian League, and it may not be entirely fanciful to see an appeal to their loyalties in the reference to Delian Apollo and probable allusion to Cimon (if not also Elpinice) in the opening strophe, very possibly echoed in the closing antistrophe where the Delian twins Apollo and Artemis reappear, at least one in association with Lycia, a further possible allusion to Eurymedon. Moreover, while in terms of the drama at Thebes Ares seems to be identified with the all-consuming plague there, an Athenian dimension could readily make it the demor-

Omission from the *parodos* of any reference to the other two homicide courts of Athens is no surprise, for neither was relevant. That held at the Prytaneum merely pronounced verdict and sentence against an unknown killer after search for him had failed, and that held ἐν Φρεαττοῖ concerned an exiled killer accused of a second intentional murder.<sup>20</sup> Nor is this reading vitiated by a second apparent difficulty. The public testimony already given by the servant who escaped from the scene of Laius' death—that it was done by 'brigands', and so plainly φόνοϛ ἐκούσιος—is already known to the audience (*OT* 122f), and presumably also in the drama to the Chorus. One might therefore claim that reference to the Palladion and the Delphinion would be quite otiose, and therefore be tempted to reject the whole interpretation. But the Chorus, as it emerges later, in fact does not have much faith, if any, in the servant's story;<sup>21</sup> its uncertainty at this stage of the play as to whether the murder was intentional or not, or perhaps even lawful—that is, in historical Attic terms, which of the three possible courts would be the right one to try the case—is therefore entirely appropriate. More important for present purposes, these very doubts show, like Oedipus' eagerness to champion the dead Laius (135ff, 252ff), that while a δίκη φόνοϛ of some kind is indeed in prospect, none is yet in progress.

## II. Προδικασία

If the play merely envisages a murder trial before a jury without its action being essentially based upon that process, we have

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alising concomitant and indeed part cause of the Athenian plague-epidemic in the earlier 420's—namely, the Spartan invasions of Attica, to which no resistance was offered (? 190: ἄχαλκος ἀσπίδων), while Athens hoped to win at sea (194–97: εἶτ' ἐς μέγαν θάλαμον Ἀμφιτρίτας εἶτ' ἐς τὸν ἀπόξενον ὄρμον Θρηκτιον κλύδωνα. Notoriously, however, suggestions of this kind are controversial.

<sup>20</sup> On the courts 'in Phreatto' and that of the phylobasileis at the Prytaneion, MacDowell, *Homicide* 82–89; Harrison 42f; *cf. supra* n.13.

<sup>21</sup> 290, καὶ μὴν τὰ γ' ἄλλα κωφὰ καὶ παλαί' ἔπη. *Cf.* 292, θανεῖν ἐλέχθη πρὸς τινῶν ὀδοιπόρων. Compare doubts already implicit in dialogue between Oedipus and Creon on the same topic in the *prologos* at 122–26, doubts evidently shared by the Theban populace at large.

to consider the possibility that it might be modelled in whole or in part on the preliminary hearing held by the archon basileus before the case came to court. For private suits in general this is termed ἀνάκρισις, in those for homicide προδικασία. Our knowledge of this is very imperfect, but at least some of its component items do appear to recur in Oedipus' proclamation to the Theban people calling for information and laying a curse upon the killer, and these are the substance of the contention of Greiffenhagen (151–58) that while in his view later plentiful allusions in the play to Attic law and legal usage cannot be assigned to any single specific procedure that embraces them all, this speech at least does indeed mirror the προδικασία of the Attic δίκη φόνου. Certainly in classical Athens at these preliminary hearings a plaintiff would have to show his capacity to sue, evident in Oedipus' proclamation.<sup>22</sup> He would, like Oedipus, issue a πρόρρησις declaring the murderer polluted and forbidding him use of public places, religious ceremonies, and so on.<sup>23</sup> He would also swear an 'evidentiary' oath (διωμοσία)—presumably invoking upon himself various disasters for perjury—that his allegations were true. Here however the argument begins to get into difficulties. It may be, as Greiffenhagen suggests, that where the assassin was unknown the accuser would have to include in this oath a denial that he himself had committed the crime, but in Oedipus' proclamation (249ff) his oath about his own actions is not of this evidentiary kind, but 'promissory' that he will not knowingly harbour the killer in his home—and therefore no evidence for προδικασία.<sup>24</sup> Again, while in ἀνάκρισις or προδικασία the parties might (but need not) indicate to the archon what witnesses they proposed to call, there is no

<sup>22</sup> So Greiffenhagen 152–54 (*cf.* Harrison 82–85; *supra* n.9) on *OT* 222, 258–68, which however might equally well be read as being chiefly intended to show (a) why he needs information and is an unbiased recipient for it; (b) his own enthusiasm for the enterprise. Nevertheless the affinities with δίκη φόνου or its προδικασία are too clear to miss.

<sup>23</sup> *OT* 236–48 (in Pearson's OCT; I remain undecided on the merits of Dawe's transposition of 244–52 with 269–72, but it does not affect my case); *supra* nn.12, 13; Greiffenhagen 156f; Dawe *ad* 239f.

<sup>24</sup> Greiffenhagen may in any case be wrong in supposing that διωμοσία was required in προδικασία as well as at the hearing-in-chief (MacDowell, *Homicide* 96f)—so that Oedipus' oath, on either view no help to his argument, at least does not hinder it. But it fails anyhow, on other grounds.



evidence that, like Oedipus, either made a public appeal for testimony or laid a curse on those who knew something but failed to reveal it.<sup>25</sup> In Attic law, if summoned they could probably be compelled to testify, even if their evidence was self-incriminating; but neither prosecutor nor archon would, like Oedipus, offer immunity from punishment in respect of such evidence,<sup>26</sup> nor would it normally in a murder trial be available.

The main purpose of ἀνάκρισις and its variant προδικασία was (besides establishing right to sue, normally identity of defendant,<sup>27</sup> and readiness to swear to the truth of allegations) appears to have been *inter alia* to ensure correct choice of legal action; to let each side learn the basis of the opponent's case and if it appeared indefeasible to withdraw before trial; to establish for the benefit of litigants and archon the principal points at issue. To this end, it seems very likely that interrogation of the parties by the archon and by each other was the principal *modus operandi*—hence the term ἀνάκρισις.<sup>28</sup> Moreover, in προδικασία there were three such interviews in successive months before the hearing-in-chief; and if that can be reconciled with Sophocles' play by a generous allowance of poetic license, clearly the fact that even the προδικασία of a δίκη φόνου normally required at least one speech on either side cannot. The exception might indeed be in proceedings at the Prytaneion that took place after a search for an unknown killer had failed.<sup>29</sup> But *ex hypothesi* this does not fit the play, in which the requirement is to find the killer.

In sum, besides the somewhat unsatisfactory failure of this theory to find a single Attic legal procedure that can be taken as the framework for the entire play, there are features of προδικα-

<sup>25</sup> OT 230–43, 269–72. The appeal for relatives to come forward at [Dem.] 47.69 is irrelevant.

<sup>26</sup> OT 227–29. On compulsion (in general) to testify, even if self-incriminating, MacDowell, *Law* 243; Dem. 49.19; Harrison 138–41; Aeschin. 1.45, 98, 115; Dem. 58.35, 59.115. Harrison 139 however doubts if witnesses in homicide cases could be compelled to testify.

<sup>27</sup> Not of course in cases for the phylobasileis at the Prytaneion, where the killer remained unknown.

<sup>28</sup> On the term see Harrison 94–105, esp. 95f.

<sup>29</sup> On προδικασία, MacDowell, *Homicide* 34–37, *Law* 118, 242. On proceedings against an unknown killer, *supra* n.13.

σία that are absent from Oedipus' proclamation, there are features of that proclamation that are absent from προδικασία, and where there are features common to both, there is no evidence that in Attic law they belong exclusively to προδικασία and to no other procedure. On the contrary, at least one other can be found in which they fit admirably (below, III). Finally, while Greiffenhagen maintains that the essence of Oedipus' proclamation is to lay an accusation and not to promote investigation, very plainly unprejudiced reading shows exactly the opposite, that its main thrust is precisely to solicit information.

### III. Ζήτησις

The simple truth appears to be that Sophocles founded his exposition of Oedipus' self-discovery on the Athenian process of ζήτησις—the proceedings of a publicly-appointed commission of ζητηταί or inquisitors charged with investigating a crime of public import committed by a person or persons unknown and with gathering information that would identify the criminals and lead to their prosecution. This observation was briefly sketched out by B. M. W. Knox over thirty years ago, but he left it undeveloped in favour of a theory of multiple influences in which, having also correctly noted various allusions to the δίκη φόνου and associated pleas before a dicastery, he assigned rather more importance to these latter procedures as structural models of the play—on the present argument a misreading of the evidence.<sup>30</sup>

Our knowledge of ζήτησις is limited to very little more than what we find in Thucydides and Andocides (with some supplement from Plutarch) on the official investigation into the mutilation of the Hermae and the profanation of the Mysteries in 415 B.C.<sup>31</sup> This material suffices, however, to provide an outline of the proceedings and significant parallels with the action of *Oed-*

<sup>30</sup> Knox 81f, citing, with parallels in *OT*, Thuc. 6.27, 60; Andoc. 1.14, 27f; Dem. 24.11; Plut. *Alc.* 22.4. There is more: see below.

<sup>31</sup> Principal evidence is, for 415, Thuc. 6.27ff, 53.1f, 60; Andoc. 1.11–65; Plut. *Alc.* 19–23.1. Later cases in Thuc. 8.66; Lys. 21.16 (?); Dem. 24.11ff; Deinarch. 1.1–10. For ζήτησις as the technical term, Deinarch. 1.10; Thuc. 6.53.2. For ζητεῖν and cognates, otherwise Thuc. 6.27.2; Andoc. 1.14, 36, 40; Lys. 21.16; Dem. 24.11; Deinarch. 1.3–5, 7f, 11.

*ipus Tyrannus*. On information being laid and accepted that a crime had been committed by persons unknown, the δῆμος, if it appeared imperative for the state to fine the culprits, would pass a ψήφισμα to appoint ζητηταί and give them their terms of reference—probably drafted *ad hoc* for each occasion.<sup>32</sup> In 415 it appears that the *boule* had overriding powers of supervision<sup>33</sup> and that the ζητηταί might be and perhaps had to be βουλευταιί,<sup>34</sup> of unknown number and apparently charged with the task of recording names of persons accused,<sup>35</sup> and examining by ἔλεγχος the μηνύσεις or μηνύματα and εισαγγελίαι.<sup>36</sup> The results were sifted to decide which cases were εισαγωγίμοι, and the ζητηταί reported to the *boule*, which proceeded—apparently by προβούλευμα and ψήφισμα—to organize or promote prosecution and trial in due form.<sup>37</sup> Information was solicited by proclamation of rewards (μήνυτρα) and immunity from punishment (ἄδεια), except of course for false testimony, which in 415 at least was punished by death (Andoc. 1.20, 65f). The evidence of metics was admissible, and so was that of slaves—apparently even in person, which was not the case before a dīcastery. The latter were in some circumstances subjected to torture,<sup>38</sup> in others not. Otherwise the ‘rules of evidence’ appear to

<sup>32</sup> There is apparently some variation of procedure, and certainly of course in terms of reference, from case to case. For institution by ψήφισμα, Thuc. 6.27.2; Dem. 24.11. For supervision by the Areopagus in 323, Deinarch. 1.1–10.

<sup>33</sup> Andoc. 1.15. The *boule* otherwise involved at 12, 17 (?), 27 (?), 43ff.

<sup>34</sup> For 415 the names of only Diognetus, Peisander, Charicles, and possibly Speusippus are known as ζητηταί. Peisander and Speusippus were βουλευταιί at the time (Andoc. 1.14, 17, 36, cf. 43), hence the suggestion of B. Keil, *Hermes* 29 (1921) 354 n.1, that only βουλευταιί could be ζητηταί. *Contra*, D. M. MacDowell, *Andocides On the Mysteries* (Oxford 1962) ad 1.14, 36, also with doubts on the views of B. D. Meritt, *AJA* 34 (1930) 146ff.

<sup>35</sup> Andoc. 1.13, 15, 17, 34, 43, 47, 67.

<sup>36</sup> For μηνύσεις and εισαγγελία, Thuc. 6.27.2, 28.1, 29.1, 53.1f, 60.4; Andoc. 1.13–19, 23, 27ff, 32, 34, 40, 42, 54, 59, etc.; cf. 37, 43 (εισαγγελία). For ἔλεγχος, Thuc. 6.53.2 (as a norm); Andoc. 1.15, 23, 60, 65; cf. βάσανος at Thuc. 6.53.2, Andoc. 1.30 (though not 22, 64, where it refers to torture).

<sup>37</sup> Andoc. 1.12, 15, 17, 27, 37, 43ff, 65; for later cases, Dem. 24.11; Deinarch. 1.1–10.

<sup>38</sup> Apparently not Andromachus, slave of Alcibiades (Andoc. 1.12f), nor Lydus, slave of Pherocles (1.17), probably because they (or their masters) offered information called for by the ζητηταί, and under ἄδεια. On the other hand

be those normally applied in the Athenian courts—for example the exclusion of hearsay.<sup>39</sup> Those accused, although able to speak in denial,<sup>40</sup> were liable to arrest and detention, but Andocides' father Leogoras escaped trial: he sued by γραφή παρανόμων the βουλευτής Speusippus, who tried to hand him over to a dicastery, presumably for doing so in breach of legal technicalities.<sup>41</sup> It also seems to have been possible for an accused person even while in detention to prosecute (or anyhow denounce) an informer for false witness (ψευδομαρτυρίων: Andoc. 1. 60, 65, cf. 7). And certainly Thucydides, while hardly an admirer of Andocides, was convinced that in 415 there were politically motivated abuses of the process, carelessness in checking evidence, and deception of the gullible *demos* by interested parties.<sup>42</sup> Finally, a successful ζήτησις was, logically enough, deemed to be one that ended in εὔρεσις of τὸ σαφές, culminating in condemnation of the guilty in the courts.<sup>43</sup>

It cannot be expected that in every particular the action of *Oedipus Tyrannus* will be found to mirror precisely what happened or appears to have happened in the Athenian ζήτησις of 415 concerning ἀσέβεια towards the Hermae and the Mysteries. In the important features however the correspondence is remarkably close, as we see on returning to the play.

In the *prologos* even the appeal to Oedipus may be taken as

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Leogoras' and Andocides' own slaves were threatened with torture, it seems (1.22, 64, etc., with MacDowell [*supra* n.34] *ad locc.*), presumably because thought to be reluctant and potentially unreliable. Torture actual or threatened in *OT* at 1152ff (also 1166?), of a witness likely to be reliable but clearly reluctant.

<sup>39</sup> Harrison 145f; see also R. J. Bonner, *Evidence in Athenian Courts* (Chicago 1905) 20ff; MacDowell, *Law* 243. Testimony in person was required of Teucer at Andoc. 1.15.

<sup>40</sup> Thuc. 6.27.1ff, 60.3; Andoc. 1.12.

<sup>41</sup> Andoc. 1.17, 22. The precise grounds of Leogoras' objection are beyond recovery, but for present purposes the chief point is that he was able to make it at all. See H. J. Wolf, 'Normenkontrolle' und *Gesetzbegriff in der attischen Demokratie* (=SBHeid 1970.2) 55ff.

<sup>42</sup> Thuc. 6.28.2, 53.2, 60.1, 4; Andoc. 1.36; Plut. *Alc.* 19–21.

<sup>43</sup> Thuc. 6.53.2, ζήτησιν ἐποιούντο... χρησιμώτερον ἡγούμενοι εἶναι βασανίσαι τὸ πρᾶγμα καὶ εὔρεῖν; cf. 60.4, ὁ δὲ δῆμος ὁ τῶν Ἀθηναίων ἄσμενος λαβὼν, ὡς ᾤετο, τὸ σαφές.

an imperative to find a remedy for the ravages of the plague, and another, more specific, is anticipated in the consultation of Apollo. It duly arrives—to rid the land of the pollution of blood-guilt by exiling or killing a murderer. The god also lays information (μηνύει) that the murder is that of Laius and the murderer is in the territory of Thebes.<sup>44</sup> Creon, who has brought the answer from Delphi, advises active pursuit of enquiries—precisely ζήτησις, in fact: τὸ δὲ ζητούμενον ἀλωτόν, ἐκφεύγει δὲ τὰμελούμενον (111).<sup>45</sup>

This view of the play's framework may be supported by digression from procedural analysis to consideration of vocabulary. The verb ζητεῖν and its cognates recur no fewer than five times (266, 278, 362, 450, 1112; cf. its synonym ἐξερευνᾶν, 258, earlier abandoned by the Thebans), to designate Oedipus' subsequent investigation—that is, the main action of the play as far as the final discovery of the truth about him.<sup>46</sup> In close association comes a further battery of less technical words for putting questions (πυνθάνεσθαι, 604, 1444; [ἀν]-έρεσθαι 749, 1166, 1304f; ἐρωτᾶν, 740, 1119, 1122; ἱστορεῖν, 1150, 1165) and perceiving or ascertaining (ἀκούειν, 105, 567, 952; κλύειν 567; [καθ]ορᾶν, 119, 293, 530, and especially [ἐκ]μανθάνειν, 117, 120, 286, 308, 493, 544f, 575f, 704, 708, 749, 769, 835, 1065, 1085, 1128, 1155, 1439, 1443), perhaps worth setting alongside occurrences of words for 'knowing, realising': (ἐξ-/κατ-)ειδέναι, 105, 119, 129, 225, 330, 571, 704, 1041, 1151; γινώσκειν, 613, 615, 682, 1068. Since in ζήτησις information must not only be gathered but also evaluated, it is no surprise either to find frequent use of locutions conveying or implying consideration, reasoning, appraisal, or judgement, again much of it non-technical: σκοπεῖν, 291, 584, 952; ἵχνευον ... σύμβολον, 220f; ἐκπειρᾶν λόγων 360; διδόναι λόγον, 583; εἰκάζειν, 404; σταθμᾶσθαι, 1111; γνωμή,

<sup>44</sup> 95–98, 100f, 103f, 106f, 110, characterised by μηνύει, 102. This is the μήνυσις that occasions ζήτησις, as distinct from μηνύσεις, which it solicits and records. See *supra* n.36.

<sup>45</sup> Creon's advice, not Apollo's: 133f, ἐπαξίως γὰρ Φοῖβος, ἀξίως δὲ σὺ πρὸ τοῦ θανάτου τὴνδ' ἐθέσθ' ἐπιστροφῆν.

<sup>46</sup> Knox, although he is aware of the judicial meaning of ζητεῖν and its cognates, expends more space and effort on its philosophical import (esp. 116–19). How far attention to this aspect of the play may be justified lies outside the scope of the present paper.

608; κρίσις/κρίνειν, 34, 501, 829; δοκεῖν/δόκησις, 126, 682, 510; τὸ δ' ὄρθον εἶπειν, 122; ἀπορεῖν, 485f; τεκμαίρεσθαι, 916; *etc.*

Admittedly such vocabulary, while perfectly consistent with the 'criminal' ζήτησις of Attic law, and to be expected in narration of an instance of it, also belongs to common parlance and does not in itself amount to demonstration that the play is modelled on ζήτησις, but the lexical argument gathers strength when we also find in the text some of the more technical terms appropriate to this type of inquisition. It may suffice to cite words for giving information or making an accusation (μηνύειν, 102; σημαίνειν/σημαινεῖα, 226, 710, 957, 1050, 1058; perhaps φάναι 362, 366, 554 [*cf.* ξύμφημι, 553, 642], 703), testing or proving its validity, or probing for more revelations (ἐξελέγχειν, ἔλεγχος, 297, 333, 603; *cf.* βάσανος, 494, 510), assent to charges (καταφάναι, 506), the criminal (ὁ δρῶν, ὁ δεδρακώς, 246, 293, 551f, 642)<sup>47</sup>—and especially for arriving at the truth and revealing it. In Andocides the end result of ζήτησις is πυθέσθαι, in Deinarchus εὔρειν as it is in Thucydides, who also less formally uses λαμβάνειν τὸ σαφές.<sup>48</sup> For Sophocles in *Oedipus Tyrannus* λαμβάνειν can bear somewhat different but not altogether unrelated meaning (461, 605, 607, 643, *cf.* αἰρεῖν 576, 111); τὸ σαφές and its cognates and synonyms signify 'the truth' resulting from various enquiries (*e.g.* 604, 800, 958, 1011, 1140f), and from Oedipus' own investigations in particular (286, 754, 1065, esp. 1182; *cf.* ἀφανῆς, 131, 657; ἄδηλος, 497), and its discovery is again generally εὔρισκεῖν or its compounds (107, 129, 440f, 546, 839, 1050, 1213, 1397, 1421). In Deinarchus the report of ζητηταί is an ἀπόφασις of results that are φανερά, and the verb is ἀποφαίνειν (1.1, 3, 6–8, 10), which corresponds extremely well with Sophocles' use of φαίνειν/φαίνεσθαι at 329, 453, 457, 853, 1383, 1485

<sup>47</sup> On these technical terms, *supra* n.37 (μηνυσις, ἔλεγχος, βάσανος); also Andoc. 22, 30, 38 (φάναι, of positive affirmation; *cf.* κατάφαναί, of positive affirmation or attribution, opp. ἀπόφαναί, in Aristotelian and later logic, surely derived from earlier less specialised usage, very possibly forensic [*cf.* κατηγορεῖν καταγορεύειν]—as it happens, however, unattested except for this line of Sophocles); Thuc. 6.60.2; Pl. *Leg.* 879A; Dem. 23.40; Arist. *Ath. Pol.* 57.4. At OT 411 γεγράφομαι is usually taken with Hesychius as a reference to a list of metics under a patron; perhaps rightly, but one might also recall that in ζήτησις a written record was taken of informers' names and evidence (*supra* n.35).

<sup>48</sup> Deinarch. 1.4; Thuc. 6.53.21, *cf.* 60.4, λαβῶν... τὸ σαφές; 61.1, τὸ τῶν Ἑρμῶν... σαφές ἔχειν. *Cf.* Andoc. 1.43, 58, πυθέσθαι.

(?cf. 582, 848, 1063, 1059, 1229) and especially where Oedipus undertakes to investigate (φανῶ, 132; cf. φανούμεθ', 146, overtly different, but with a hidden second meaning ironically close to 132), and his agonised ὅστις πέφασμαι φύς τ' ἀφ' ὧν οὐ χρῆ κτλ. (1184).

More of the technical parlance of Attic law emerges when we return to detailed discussion of the play's procedural substratum. On receipt of Apollo's and Creon's advice to look into the murder, Oedipus puts a few preliminary questions to establish whether there are any witnesses already known, and the reasons for previous failure to pursue the matter. This leads him to a decision and declaration of intent: he will assume that task himself in the interests of the deceased, of Thebes, and of Apollo.<sup>49</sup> There has of course been no ψήφισμα of the δῆμος; in the play the king's authority is sufficient substitute. His next move is to summon the Theban populace to hear his proclamation, which opens the first episode (144, ἄλλος δὲ Κάδμου λαὸν ᾧδ' ἄθροίζέτω).

Meantime comes the *parodos*. As has already been suggested (*supra* 47f), after invoking the principle of law it envisages a δίκη φόνου, but leaves its precise type a question still to be resolved. Equally unclear at this point is the character of the Chorus itself. Although their entry appears to be occasioned by the king's orders for a general assembly, it is unlikely that a mere fifteen χορευταί are supposed to constitute the whole Theban people. Rather, they will be its most prominent citizens. The ancient list of dramatis personae, for what it is worth, designates them γέροντες, and they are usually and perhaps best regarded as some kind of γερουσία or *boule*, rather than mere bystanders, a view unsupported early in the text but perhaps arguable from later allusions to them as χώρας ἄνακτες (911), πρέσβεις (1111), γῆς μέγιστα τῆσδ' ἀεὶ τιμώμενοι (1223), and (former) advisers (1370).<sup>50</sup> Whether Sophocles intended them to function as a

<sup>49</sup> Preliminary questions and answers at 112–32; decision to reopen enquiry at 133, ἀλλ' ἐξ ὑπαρχῆς αὐθις αὐτ' ἐγὼ φανῶ.

<sup>50</sup> No characterising address until 513 (ἄνδρες πολῖται), but they act as advisers earlier at 278f, 281, 283–86, 404f, and later, 616, 631; the *kommos*, 649–86, and esp. 687 (ἀγαθὸς ὧν γνώμην ἀνήρ: the Coryphaeus alone, no doubt, but he will be representative of the whole Chorus). The same point applies with Dawe's preferred reading πρέσβυ (mss. *recc.*) at 1111 (noting singulars

panel of ζητηταί headed by Oedipus, rather than to treat the king as sole ζητητής, is also unclear. The best reason for thinking so is their debate in the first stasimon on the validity of Teiresias' evidence, but that is not compelling—and perhaps it hardly matters.<sup>51</sup>

The fact of Oedipus' proclamation in the first episode is paralleled in the ζήτησις of 415, and so is much of the content. In 415 the authorities in soliciting depositions offered ἄδεια on application and large rewards. The latter at least were the subject of a proclamation. Perhaps so too was ἄδεια, if it figured in the original decree that instituted the inquiry, which would surely have to be publicised for maximum effect.<sup>52</sup> Oedipus calls for information and offers rewards and at least partial immunity for self-incriminating testimony (224–32). Those who withhold evidence, however, and especially among them the killer or killers, are subjected to a πρόρρησις that, as Greiffenhagen and others have observed, is exactly like that pronounced on killers in δίκη φόνου, banning them from τὰ νόμιμα, any part in public and religious life.<sup>53</sup> In addition, on the killer (or killers) in particular Oedipus pronounces a brief but comprehensive curse, and invokes the same upon himself if he should wittingly harbour the guilty (246–51). These items of his proclamation, πρόρρησις and curses, happen to be unattested for the inquiry of 415 but are by no means unlikely on that occasion, when a somewhat similar sanction was adopted: the death penalty for false information (Andoc. 1.20, 65f). Given that pollution in Thebes (or ἀσέβεια in 415) was the problem, clearly the authorities would take

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at 1115, 1117; but dramatic poets do not always write with such arid logic, and besides, nothing prevents Oedipus from turning to the Coryphaeus after having addressed the Chorus collectively). At 1370 there is perhaps a case for making Oedipus refer to the Chorus' preceding lines only, which are however an expression of regret, not advice, as μηδὲ συμβούλευ' ἔτι seems to require.

<sup>51</sup> Quoted 60f *infra*. The ζητηταί of 415 either were (in effect) a committee of the *boule* or at all events reported to it (*supra* nn.34, 37). In the Harpalus affair (Deinarch. 1, 2) the Council of the Areopagus constituted the investigating board.

<sup>52</sup> Proclamation in *OT*: 223 (προφωνῶ), 350, 450, 1381f. For parallels in 415: proclamation, Andoc. 1.40; rewards and ἄδεια, 1, 11, 12, 15, 27, 34, 40, 45; Thuc. 6.27.2 (ἐψηφίσαντο ... μηνύειν ἀδεῶς), 60.3.

<sup>53</sup> *OT* 233–43. On τὰ νόμιμα, *supra* nn.12, 23.



the first opportunity to excommunicate and curse the culprits—that is, on instituting the ζήτησις, without waiting for any resultant trial. It could also be expected that an historical ζητητής on appointment would indeed swear not to protect any guilty person. True, Oedipus' ensuing claim to kinship with the murdered man is indeed like that of a would-be prosecutor, as Greiffenhagen maintains, but he declares his immediate purpose and function perfectly clearly (265f, *κάπι πάντ' ἀφίξομαι ζητῶν τὸν αὐτόχειρα τοῦ φόνου λαβεῖν*). To that end his appeal to the people for coöperation and curses for disobedience are entirely appropriate—and these too, or suitable analogues, may well have been used in 415.<sup>54</sup>

The Chorus-leader's first reaction is to swear innocence. But as for the ζήτημα (object of inquiry), he says, it is for Apollo to declare who did the deed—or, failing him, Teiresias, whose ἔλεγχος will prove the criminal guilty, just as ἔλεγχος produces results in the ζήτησις of 415.<sup>55</sup> In Sophocles' ensuing scene, Teiresias is clearly treated as a witness, albeit first reluctant and then hostile.<sup>56</sup> Under pressure and provocation he lays information against Oedipus himself, who reacts (like Alcibiades and others in 415) by instant denial,<sup>57</sup> attempted rebuttal (ἔλεγχος again), and counter-charge of false testimony or ψευδομαρτυ-

<sup>54</sup> At least we have evidence for curses pronounced on Alcibiades in 415: Plut. *Alc.* 22.

<sup>55</sup> 278f, τὸ δὲ ζήτημα τοῦ πέμπσαντος ἦν Φοῖβου τόδ' εἰπεῖν; and on Teiresias, 284ff and esp. 297, ἀλλ' οὐξελέγξων αὐτὸν ἔστιν κτλ. Cf. on ἔλεγχος in ζήτησις *supra* n.36.

<sup>56</sup> Note (with Knox 83f) 319 (εἰσελήλυθας); 320 (ἄφες μ' ἐς οἶκουσ), 432 (κά - λεις). Cf. Andoc. 1.14, 18, etc.; Dem. 49.1, 18.103, 19.2, 21.120, 176, 22.4, 37.59, 42.32, 56.4; Pl. *Ap.* 29c; Antiphon 2.a.2; Ar. *Vesp.* 922. Cf. *OT* 323, οὐτ' ἔννομ' εἶπας οὔτε προσφιλῆ πόλει, with Dem. 23.86, 95 οὐκ ἔννομα. For concealment of knowledge in a witness' possession, Pl. *Leg.* 742b.

<sup>57</sup> Teiresias' μήνυσις in 353, 362, 366f, 415–25, 449–62, some of it on the new topic of Oedipus' relations with Jocasta. The introduction of novelties strictly irrelevant to the original ζήτησις is of course paralleled in 415, when the scope was evidently expanded on information being laid about desecration of the Mysteries. Oedipus' denial is implicit in *OT* 354–78 (378 ἐξευρήματα; cf. Antiphon 1.16); for denials in 415, *supra* n.40; cf. *OT* 578 ἄρνησις, Creon at 583–615, 644f. I doubt that Teiresias' claim at 408f (εἰ καὶ τυραννεῖς, ἐξισωτέον τὸ γοῦν ἴσ' ἀντιλέξαι) can refer to a claim to an equal amount of time (by water-clock) in court (so Knox 84 n.140), unless perhaps figuratively, for he appears here as a witness, not (formally) defendant.

ρία, like the counter-allegation successfully made (or anyhow instigated) by Andocides against Diocleides in 415.<sup>58</sup> In the play, however, Teiresias does not withdraw, and it remains for Oedipus to prove his counter-charge. Although the Chorus has been sceptical of Oedipus' wilder accusations, in the ensuing first stasimon they find reasons for doubting Teiresias' denunciation, at least pending further enquiry (504–11):

ἀλλ' οὔποτ' ἔγωγ' ἄν,  
 πρὶν ἴδοιμ' ὀρθὸν ἔπος, μεμ-  
 φομένων ἄν καταφαίην.  
 φανερὰ γὰρ ἐπ' αὐτῷ  
 πτερόεσσ' ἦλθε κόρα  
 ποτέ, καὶ σοφὸς ὥφθη  
 βασάνῳ θ' ἀδύπολις· τῷ ἀπ' ἐμᾶς  
 φρενὸς οὔποτ' ὀφλήσει κακίαν.<sup>59</sup>

In the second episode Oedipus seeks to reinforce his cross-suit against Creon, that of conspiracy with a view to usurping the kingship. In Attic law judicial conspiracy to secure wrongful conviction is βούλευσις, and to suborn false witness is κακοτεχνία—precisely what is here alleged verbatim against Creon.<sup>60</sup> It

<sup>58</sup> Andoc. 1.65f, cf. 7, 20. In the play, attempted ἔλεγχος in 378–403, also incorporating the counter-charges against Teiresias and Creon, referred to as such by Creon at 514 κατηγορεῖν; cf. 520 ζημία, 526 ψευδεῖς λόγους, 529 κατηγορεῖτο τούτικλημα τοῦτό μου, etc.

<sup>59</sup> It is worth noting that ἀπαγωγή for κακουργία ('common criminality') was the means of prosecuting for murder adopted in the Herodes case (Antiphon 5)—whether or not incorrectly is a moot point. On ἀπαγωγή further below, 62ff.

<sup>60</sup> For βούλευσις in *OT*: 537, ταῦτ' ἐβουλεύσω ποιεῖν; 606f, ἐάν με τῷ τερασκόπῳ λάβης κοινῇ τι βουλεύσαντα; 701, Κρέοντος, οἷά μοι βεβουλευκῶς ἔχει; cf. 738, ὦ Ζεῦ, τί μου δρᾶσαι βεβούλευσαι πέρι; for κακοτεχνία/ἰάν, Dem. 43.2, 46.10 and 25, 47.1, 49.56; Pl. *Leg.* 9.936d; cf. *OT* 643, σὺν τέχνῃ κακῇ. For more on βούλευσις and κακοτεχνία, MacDowell, *Homicide* 60–68, *Law* 115f; Harrison 78, 82; Bonner/Smith 264–67. Indictment for βούλευσις was normally by γραφή, from which it seems a prosecutor (at least after a certain stage) could not ordinarily withdraw. But βούλευσις of murder was tried by δίκη φόνου, normally if not always before the Palladion (MacDowell, *Homicide* ch. 6), and as that is Oedipus' charge (*inter alia*) against Creon (534, φονεὺς ὢν; 643), the question whether his withdrawal of a γραφή βουλεύσεως is correct under Attic law does not arise. Sophocles neatly sidesteps any legal problem here. Creon at 557 (καὶ νῦν ἔθ' αὐτός εἰμι τῷ βουλεύματι) is of course being ironical.

is in the exchange between Oedipus and Creon, if anywhere, that we might be tempted to see ἀνάκρισις, the preliminary proceedings of a trial of Creon on these charges. Certainly many of the required features are present, such as mutual interrogation of the parties, statements of case in speeches on either side, clarification of positions and issues. There is also notification of the penalty demanded (623), which may very well have been part of historical ἀνάκρισις. Neither party will withdraw, and with Jocasta's entry it begins to look as if the case will proceed to trial—perhaps even under her cognisance.<sup>61</sup> At that point however Creon, again very probably in accord with Attic procedure, swears an oath to his own innocence.<sup>62</sup> That confronts Oedipus with a dilemma. If he takes an oath himself in the opposite sense, the case must go to trial, and with nothing better than conjecture to back his case he must lose. On the other hand, in yielding to the persuasion and advice of Jocasta and the Chorus to accept Creon's oath and swearing none to the contrary himself, he thereby allows the charges against Creon to lapse. His reluctance—and indeed his continued insistence that this will mean his own exile or destruction—are understandable not so much because he still believes (or anyhow affects to believe) in Creon's plotting and the dangers it poses, perhaps unable to conceive any other explanation for Teiresias' outrageous charges, but because the consequence is that in withdrawing his own allegations he has failed to nullify those of the seer, and therefore they must remain 'on the file', as it were.<sup>63</sup>

When Oedipus explains this to Jocasta her answer is an immediate and confident denial of any validity in prophets: σύ νυν

<sup>61</sup> For Jocasta's position as queen, perhaps *OT* 579, ἄρχεις δ' ἐκείνη ταῦτὰ γῆς ἴσον νέμων;—although Oedipus' answer leaves her independent authority not quite confirmed. Nevertheless when she appears her rôle as a conciliator of some *auctoritas*, if not exactly arbiter, is beyond reasonable doubt.

<sup>62</sup> 644f: μή νυν ὀναίμην, ἀλλ' ἀραῖος, εἴ σέ τι δέδρακ', ὀλοίμην, ὧν ἐπαιτιᾶ με δρᾶν. On the 'evidentiary' oath, Bonner/Smith II 146f (*cf.* I 27f, 49ff, 173ff); on its function in ἀνάκρισις, Harrison 99: if either party failed to swear an oath to the validity of his case, he lost it.

<sup>63</sup> For Oedipus' continued belief or professed belief in danger from Creon, 672, 703, 705f, possibly 658f, 669f. The true position is best reflected in 687f (ὄρᾳς ἴν' ἤκεις, ἀγαθὸς ὦν γνώμην ἄνηρ, τοῦμὸν παριεῖς καὶ καταβλύνων κέαρ), and the Chorus' protestations of loyalty (660–68, 688–96), echoing their earlier scepticism of the case against him in 483–511.

ἀφείξ σεαυτόν.<sup>64</sup> Teiresias' allegations may be set aside, for a prophecy that Laius would be killed by a son of theirs proved false: the child had died in infancy from exposure on Cithaeron with his ankles pierced and tied, and the king at the hands of robbers "where three paths meet."<sup>65</sup> Seizing on this, with a few anxious but pointed questions Oedipus establishes the site and time of the murder, Laius' appearance and entourage. From Jocasta this is hearsay, and so not allowable evidence under Attic law.<sup>66</sup> The original witness, however, is available, and Oedipus in explaining why he must be called gives his own formal testimony at length and in detail. He has killed a man, and his account matches Jocasta's report of the servant's story in all particulars but one, the number of assailants.<sup>67</sup> That discrepancy makes an interview with the servant all the more imperative, if the ζήτησις is to reach a firm conclusion. Oedipus faces the possibility of being proven guilty of Laius' death, and so of exile not only from Thebes, but also from Corinth, if he is to avoid the risk of violating his supposed parents Polybus and Merope. Jocasta's reaction is to acknowledge that the old shepherd may just possibly change his evidence, but to persist in denying the authority of prophecy (848–58): even if the servant, as she thinks unlikely, changes his testimony, the (supposed) fact that Laius was not killed by her son refutes Apollo's oracle on the matter, and if even Apollo can be wrong, the accusations of Teiresias at least can be set aside. This viewpoint Oedipus accepts (for the outcome no longer depends on Teiresias' allegations anyway), but still insists on summoning the key witness.<sup>68</sup>

<sup>64</sup> 707. While ἀφιέναι may be used of acquittal in a trial, equally it can refer to release from custody—such as that suffered by at least some of those against whom information was laid in the ζήτησις of 415.

<sup>65</sup> Jocasta's narrative (711–21) may be regarded as a deposition to the ζητητής, with the key phrase ἐν τριπλαῖς ἀμαξιοῖς.

<sup>66</sup> Harrison 145 (citing Dem. 57.4, 46.7, 34.11 and 46); Bonner (*supra* n.39) 20ff. The exceptions allowed do not apply in *OT*.

<sup>67</sup> As Knox explains (92), the opening of Oedipus' narrative, giving (supposed) parentage and provenance, identifies it as a formal deposition.

<sup>68</sup> 859f, καλῶς νομίζεις· ἀλλ' ὅμως τὸν ἐργάτην πέμψον τινὰ στελοῦντα μηδὲ τοῦτ' ἀφῆς. It would seem that he still thinks that the elimination of Teiresias' allegations does not vitiate the enquiry or remove the need to pursue it, Jocasta's reasons for doubting the oracular authority of Apollo notwithstanding

For present purposes, fortunately, there is no need to discuss the large problems posed by the great second stasimon at the heart of the play. In terms of the action at Thebes it is enough to observe that the essence of it is belief in the eternal validity of divinely ordained moral law, and that the Chorus' insistence upon it, despite the doubts of many critics,<sup>69</sup> is entirely relevant to the drama. By now it has emerged that there is some likelihood that Oedipus' victim was Laius. Worse, although he has not abandoned the ζήτησις, he has assented to Jocasta's dismissal of prophecy. This clearly could lead to his repudiation of divine authority altogether, and with it of any need to suffer the stipulated penalty, should he be shown to be the guilty man: complete subversion of the principle of law, and tyranny indeed.

This possibility Sophocles continues to exploit in the next episode. It may have been allowable in fifth-century Athens briefly to suspend proceedings at a hearing-in-chief, whether for δίκη φόνου or some other suit, while a vital witness was brought to court, but it cannot have been common, since it seems to have been a requirement, for a dicastery anyhow, and probably also for the murder courts, to complete the hearing in a single day.<sup>70</sup> Neither does it seem very likely that such a court would be reconvened from such a suspension simply because an alien ambassador arriving on quite other business turned out

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—but how long will this conviction last? That is the concern expressed by the Chorus in the following stasimon.

<sup>69</sup> Notably Wilamowitz, *Die Griechische Tragödie* I (Berlin 1904) 16; M. Pohlenz, *Die Griechische Tragödie*<sup>2</sup> (Göttingen 1954) 219ff; D. W. Lucas, *The Greek Tragic Poets* (London 1950) 150; G. Perrotta, *Sofocle* (Messina 1935) 185ff; C. H. Whitman, *Sophocles* (Cambridge [Mass.] 1951) 133ff. More recent assessments have been less damning: e.g. R. W. Burton, *The Chorus in Sophocles' Tragedies* (Oxford 1980) 156–69; C. W. Bowra, *Sophoclean Tragedy* (Oxford 1944) 165ff; P. Winnington-Ingram, *Sophocles: an Interpretation* (Cambridge 1980) 177–284; Knox 46f, 57f, 93–95, 99–106, 174f, 209–11; Dawe 18.

<sup>70</sup> Harrison 161 n.4 observes that there is no *direct* evidence that even a dicastery-hearing was limited to a single day's duration; but it is known that the jury was paid at the end of each day's service, and that allocations of time to various kinds of case fit the hypothesis. Whether the murder-courts of Areopagites and ἐφεταιί operated on a similar basis is not known, but likely enough.

to have evidence relevant to the trial. It is very much easier to fit the testimony of the Corinthian messenger into the conveniently elastic procedure of the ζήτησις, which by its very nature would be forced to hold hearings, adjourn, and reconvene for more as witnesses became available or came forward. True, in the play no obvious formalities mark resumption of the ζήτησις, but resume it certainly does.<sup>71</sup> In a few lines the news of Polybus' death takes an exulting Oedipus into almost total scepticism of divine oracles, and there remains only a last shred of faith to prompt scruples about his supposed mother Merope, which persist against Jocasta's advice to abandon them<sup>72</sup>—and bring him to eventual disaster. Intent on allaying Oedipus' fears of incest with Merope, and so of return to Corinth, and on thus retaining his own chances of a handsome reward, the messenger reveals that he had received the king as an infant, ankles pierced and tied, from a servant of Laius in the mountain borderlands of Cithaeron. That is enough for Jocasta, who of course already knows that the servant in question is the man to whom she gave her infant son for exposure: she leaves to hang herself, her only recourse on failing to dissuade Oedipus from persisting with his enquiries.<sup>73</sup>

By now it is evident that the focus of the ζήτησις has shifted from identifying Laius' killer to the parentage of Oedipus. As it happens, a comparable shift also occurred in the remit of the inquisition of 415, originally set up to investigate the mutilation of the Hermae, but later charged with taking evidence of any other ἀσέβημα (Thuc. 6.27.2). The play therefore shows no divergence from the proposed model in this respect. Although at this stage Oedipus already has enough information to be able to infer the truth with a fair degree of certainty, for the ζήτησις to be complete and to put the matter beyond any reasonable doubt interrogation of the servant is still indispensable. It remains true that his evidence might still clear the king of Laius' murder, and might still show that the infant that he gave to the

<sup>71</sup> Presumably with Oedipus acceding to Jocasta's request (952f), ἄκουε τάνδρὸς τοῦδε, καὶ σκόπει κλύων τὰ σέμν' ἴν' ἦκει τοῦ θεοῦ μαντεύματα. Ad-jourments in 415 were frequent, e.g. at Andoc. 1.15.

<sup>72</sup> 977–83, τί δ' ἂν φόβοιτ' ἄνθρωπος ᾧ τὰ τῆς τύχης κρατεῖ, πρόνοια δ' ἐστὶν οὐδενὸς σαφής; ... ἀλλὰ ταῦθ' ὅτω παρ' οὐδέν ἐστι, ῥᾶστα τὸν βίον φέρει.

<sup>73</sup> 1015–85, esp. 1065 (οὐκ ἂν πίθοιμην μὴ οὐ τὰδ' ἐκμαθεῖν σαφῶς).

Corinthian was not Oedipus. After all, exposure of unwanted infants was common practice, and so too, for all we know, may have been the tying of the ankles, and any such victim was much more likely to have been born to impoverished parents than heir to a kingdom. Of course, Oedipus' implicit optimism over this and his overtly elated determination to discover the truth about his parentage are misplaced, and so too is the Chorus' forecast of triumphant celebration in the following stasimon, as they plainly and deliberately ignore all the previous presages of catastrophe.

When it comes to the dénouement, Oedipus' interrogation is close and in due form (for ζήτησις) by the norms of fifth-century Attic law, even including the threat of torture to spur on a reluctant slave. Of the two questions at issue he gives priority to that of his own identity, not Laius' murder, of which in fact by modern standards of proof he is never formally shown to be guilty. His parentage, however, is demonstrated beyond question, and since that is taken completely to vindicate the authority of Apollo, for the ancient Greeks, or anyhow for Oedipus, the clear inference is that he has also committed his father's murder (1182–85):

ἰὸν ἰού· τὰ πάντ' ἄν ἐξήκοι σαφῆ.  
 ὦ φῶς, τελευταῖον σε προσβλέψαιμι νῦν,  
 ὅστις πέφασμαι φύς τ' ἀφ' ὧν οὐ χρῆν, ξὺν οἷς τ'  
 οὐ χρῆν ὁμιλῶν, οὐς τέ μ' οὐκ ἔδει κτανῶν.

#### IV. Ἀπαγωγή

In 415 the findings of the ζητηταί led to prosecutions and condemnations by due process of trial—on that occasion by εἰσαγγελία.<sup>74</sup> In *OT*, if the process of revelation is by ζήτησις why does no trial ensue? The answer is that under Athenian law, in the circumstances depicted in the play, none would be necessary, as Sophocles himself is at pains to make clear and explicit. In classical Athens, a κακοῦργος taken in the act was subject to instant arrest, and the same procedure could be used against a defendant not exactly caught in the act but whose guilt was

<sup>74</sup> Andoc. 1.7, 13, 15, 16 (?), 18, 25, 39, 57, 66, 68; Plut. *Alc.* 21f; Thuc. 6.60.4, 61.7.

'manifest', especially after investigation: he was likewise regarded as having been taken ἐπ' αὐτοφώρῳ.<sup>75</sup> This of course is precisely Oedipus' position, and the Chorus plainly says so (1213),<sup>76</sup> ἐφηῦρέ σ' ἄκονθ' ὁ πάνθ' ὄρων χρόνος, where the compound ἐφηῦρε may be taken to convey 'coming upon' the felon in the act. The arrest in such circumstances is termed ἀπαγωγή,<sup>77</sup> and sure enough, on Oedipus' reappearance he pleads (1340f), ἀπάγετ' ἐκτόπιον ὅτι τάχιστα με, ἀπάγετ', ὦ φίλοι κτλ., echoed perhaps by 1429 (ἄλλ' ὡς τάχιστ' ἐς οἶκον ἐσκομίζετε and certainly by 1521 (ἄπαγέ νύν μ' ἐντεῦθεν ἤδη). In classical Attic law the 'manifest criminal' was 'led away' to the Eleven and imprisoned by them to await trial by jury, if he offered any defence. If he offered none—and this of course applies to Oedipus, self-confessedly guilty of parricide and incest—the Eleven could proceed immediately to execution of the pre-

<sup>75</sup> Fourth-century orators no doubt at times use the phrase as a mere rhetorical metaphor of an (alleged) demonstration of guilt in court, equivalent to φανερώς (so M. H. Hansen, *GRBS* 22 [1981] 28), but apart from felons caught *in flagranti delicto* it is also applied in cases where guilt is 'manifest', 'irrefutable', 'demonstrated', or anyhow 'demonstrable', usually by evidence resulting from *investigation*, as in Soph. *Ant.* 51 (quoted n.76 *infra*); Dem. 45.81; Deinarch. 1.9, 29, 53, 77; 2.6. See further MacDowell, *Homicide* 130–33, 139f; Harrison 226 (cf. 17f); Hansen 27–30; M. Gagarin, *GRBS* 20 (1979) 319–21. The phrase appears to be used normally (and perhaps always) in connection with κακούργοι who, properly and originally, were offenders against property (and so included adulterers!), but at some stage also came to include at least some murderers and perhaps those guilty of other serious crime. These topics are still the subject of debate.

<sup>76</sup> That Sophocles himself took this view of (his version of) the myth is evident in *Ant.* 49–52, φρόνησον, ὦ κασιγνήτη, πατήρ ὡς νῶν ἀπεχθῆς δυσκλεῆς τ' ἀπώλετο, πρὸς αὐτοφώρων ἀμπλακημάτων διπλᾶς ὄψεις ἀράξας αὐτὸς αὐτουργῶ χερί. Here at *OT* 1213, ἄκονθ' is not of course a reference to φόνος ἀκούσιος but either to Oedipus' remorse on discovery or just possibly to his long fight against it in looking for any chance of escape.

<sup>77</sup> On ἀπαγωγή in general, and in particular for κακούργια and (probably) homicide, *etc.*, see Harrison 222–29; Hansen, *Apagoge, Endeixis and Ephegesis* (Odense 1976) esp. 9–108; and the other moderns cited *supra* n.75. Oedipus' request for ἀπαγωγή is neatly paralleled in Creon's plea for similar treatment on confessing guilt for the death of Eurydice at *Ant.* 1317–25: μοι μοι, τάδ' οὐκ ἄλλον βροτῶν ἐμᾶς ἀρμόσει ποτ' ἐξ αἰτίας. ἐγὼ γάρ σ' ἐγὼ 'κανον, ὦ μέλεος, ἐγὼ, φάμ' ἔτυμον. ἰὼ πρόσπολοι, ἀπάγετέ μ' ὅτι τάχος, ἄγετέ μ' ἐκποδῶν, τὸν οὐκ ὄντα μᾶλλον ἢ μηδένα. Compare also his confession over Haemon at 1269, ἐμαῖς οὐδὲ σαῖσι δυσβουλίας.



scribed penalty.<sup>78</sup> In the play, however, the corresponding competent authority is the circumspect Creon (1416ff), who prefers delay pending an opinion from Apollo himself at Delphi (1438ff).

In this connexion it is important to stress that the legal punishment is not Oedipus' self-blinding, shocking mutilation though that is. Various motives are possible. Intolerable feelings of guilt are plausible enough,<sup>79</sup> but the text offers two others also. First, the blinding helps to mark him out as the culprit all must avoid, and induces revulsion to that end: certainly Oedipus has to show himself to the Thebans in such a way that they can readily identify the criminal and inflict his own prescribed penalty of 'excommunication'.<sup>80</sup> Secondly there is Oedipus' refusal to meet his death, which may very soon follow, with his sight intact, since he holds the normal ancient belief that bodily senses and disabilities are retained in the underworld after death, and cannot bear to see Laius and Jocasta there. Nor is the sight of his children or the city and shrines of Thebes any more welcome to him.<sup>81</sup> His suicide before blinding, which the Chorus would have found much more convenient, was therefore ruled out; but it is decidedly difficult after it, without assistance. The Chorus, however, for all their previously protested loyalty and present pity, recoiling in fascinated horror and fearful of pollution, cannot bring themselves to help him to either death or exile, despite Oedipus' repeated and increasingly desperate appeals to get rid of him by any means at all.<sup>82</sup> When Creon, to the

<sup>78</sup> MacDowell, *Homicide* 121, 140; Harrison 17, 222f.

<sup>79</sup> The legal punishment is that prescribed by Apollo—death or exile—the latter also proclaimed by Oedipus himself. Creon feels the need to remit the question to Apollo. Oedipus' overwhelming feelings of guilt are apparent in the *kommos* on his first reappearance, especially at 1318f, οἶον εἰσέδω μ' ἄμα κέντρων τε τῶνδ' οἴστρημα καὶ μνήμη κακῶν. Cf. perhaps 1271–74.

<sup>80</sup> 1287–91, βοᾷ διοίγειν κληῖθρα καὶ δηλοῦν τινα τοῖς πᾶσι Καδμείοισι τὸν πατροκτόνον, τὸν μητρός, αὐδῶν ἀνόσι' οὐδὲ ῥητά μοι, ὡς ἐκ χθονὸς ῥίψων ἑαυτόν, οὐδ' ἔτι μενῶν δόμοις ἀραῖος, ὡς ἠράσατο. Cf. 1378–83.

<sup>81</sup> 1371–90. On the underworld, J. C. Kamerbeek, *Plays of Sophocles IV* (Leiden 1967) 249, citing G. Germain, *Genèse de l'Odyssee* (Paris 1954) 375; see Aesch. *Eum.* 101ff.

<sup>82</sup> The Chorus' horror and pity are clear enough in the *kommos*. Towards its end they begin also already to distance themselves from their stricken king (1348): ὡς σ' ἠθέλησα μηδαμὰ γνῶναι ποτ' ἄν (but cf. already at 1217f, εἶθε

relief of the Chorus, arrives to take over responsibility, Oedipus is equally distressed at Creon's scruples and delay in carrying out the sentence already pronounced by Apollo, and has to try again, with a formal request for three favours: burial for Jocasta (Creon's duty as her kinsman in any case); exile for himself on Cithaeron, where he can meet an extraordinary death (presumably by agency of the gods, thus absolving Creon of any blood-guilt); and care of his unmarried daughters (1446–70). For this last time the best historical parallel is probably not that commonplace of the Athenian courts, the defendant introducing his weeping children to support a plea for sympathy. It is somewhat more reminiscent of Socrates' request at the end of Plato's *Apology* that proper care be taken of his sons (41E), and it seems reasonable to think that a criminal convicted in classical Athens normally would have made what provision he could for his dependents before exile or execution. Naturally Sophocles would not miss the opportunity to develop the inherent pathos.

It is not clear that Creon will assent to any of this, but he does insist on the ἀπαγωγή of Oedipus, who persists in trying to achieve immediate expulsion from Theban territory, and then desperately to cling on to his daughters. He fails in both, and finally is forced to surrender any last vestige of control whatsoever over their future or his own.<sup>83</sup> With that the reversal of his fortunes is complete. That, after all, is the essence of his tragedy, of which his ζήτησις, εὔρεσις, and ἀπαγωγή have been merely the formal vehicles.<sup>84</sup>

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σ' εἴθε (σε) μήποτ' εἰδόμαν); 1356, θέλοντι κάμοι τοῦτ' ἂν ἦν; 1367f, οὐκ οἶδ' ὅπως σε φῶ βεβουλευῆσθαι καλῶς. κρείσσων γὰρ ἦσθα μηκέτ' ὦν ἢ ζῶν τυφλός; cf. their obvious relief at 1416ff at Creon's arrival to handle Oedipus' pleas for help in achieving expulsion or oblivion (1410–14), ἴτ', ἀξιώσατ' ἀνδρὸς ἀθλίου θιγεῖν· πίθεσθε, μὴ δεῖσητε.

<sup>83</sup> Summed up at 1522f, πάντα μὴ βούλου κρατεῖν· καὶ γὰρ ἀκράτησας οὐ σοὶ τῷ βίῳ ξυνέσπετο.

<sup>84</sup> I am indebted to several colleagues and friends for helpful criticism and comment, most notably Professors D. M. MacDowell and M. C. Stokes, and Messrs. G. W. Bond and A. F. Garvie. Surviving errors are of course not theirs.