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Forms of Address in Athenian Courts

By Gunther Martin, Bern

Abstract: Anreden an attische Richter folgen keinem eindeutigen Schema, sondern den Rednern stehen jederzeit mehrere Formen zur Auswahl. Es ist jedoch möglich, einzelne Faktoren herauszuarbeiten, die die Entscheidung für eine bestimmte Form beeinflussen. Dazu gehören nicht nur die persönliche Präferenz und eine sich verändernde Konvention, sondern, vor allem bei Demosthenes, auch die Prozessform, der Status des Sprechers und der unmittelbare Kontext, in dem sich die Anrede findet.

In the third speech of his *Apologia*, after he has been convicted and sentenced to death, Plato's Socrates says: ἐμοὶ γάρ, ὦ ἄνδρες δικασταί – ὑμᾶς (sc. τοὺς ἀποψηφισαμένους) γὰρ δικαστὰς καλῶν ὀρθῶς ἂν καλοίην – θαυμάσιόν τι γέγονεν ... (40a). This is the only time Socrates addresses his judges in this way; in other places he calls the entire jury ὦ ἄνδρες ('Αθηναῖοι). The fact that he reserves the address ὦ ἄνδρες δικασταί to those members of the jury that acquit him (as being truly judges) has confused interpreters. Some try to find degrees of respect (or flattery) in the various addresses. In their view, ὦ ἄνδρες δικασταί is the form that expresses the most veneration, it is an "honorific title".¹ Others say that this was the standard form and the use of ὦ ἄνδρες ('Αθηναῖοι) before was unusual or even surprising.² However, their explanation is solely based on this passage, disregarding the practice as reflected in the numerous speeches to various Athenian audiences that have been transmitted. In her recent comprehensive study of addresses in Greek literature E. Dickey compares the occurrences of various formulae in the orators, but does not go beyond a mere quantitative analysis of the oratorical corpus. From the frequency of ὦ ἄνδρες δικασταί in authentic forensic speeches she infers that Plato's Socrates uses the form idiosyncratically.³ In the present paper, I will try to show that it is possible to speak of degrees of respect expressed in the forms of address, but only exceptionally – and that the *Apologia* is not such a case. Instead several factors can be detected that influenced the choice of address in Athenian speeches.⁴ There seems to have been a shift over time, but the choice of address was also influenced by the author, the type of trial, the status of the

1 Maas (1939) 59, going back to Steinhart (1850–1866) I, p. ii.

2 West (1979) 66, Stokes (1997) ad 17a1.

3 Dickey (1996) 180.

4 There are several old dissertations concerned with the position of the address in the sentence, the use of the interjection ὦ, and words and thoughts addresses are typically attached to, e.g. Doberenz (1844), Rockel (1884), Eibel (1893). All these questions are no doubt interesting, but

speaker and the particular context of the address. The following analysis will focus on the forensic speeches before regular judges since these provide the largest and most diverse body of speeches by the greatest number of different orators. Pleas to the *ecclêsia* and the *boulê* are disregarded.⁵ That deliberative and epideictic speeches would unduly distort the picture should be obvious.⁶ Since Demosthenes provides us not only with the largest number of relevant texts, but also – as it will turn out – with the most differentiated use of addresses, he will be in the centre of our considerations.

Factors concerning all orators

Apart from the simple second person plural ὑμεῖς and some unique and more complicated forms, in which the attendants are somehow specified,⁷ all the addresses of the speaker to his audience follow the same pattern of (ὦ +) NOUN (+ NOUN). The four standard types occurring most frequently in extant oratorical works are ὦ ἄνδρες, (ὦ) ἄνδρες δικασταί, (ὦ) ἄνδρες Ἀθηναῖοι and ὦ Ἀθηναῖοι.⁸

Of all the possible influencing factors, stylistic considerations seem to play no particular role. At least the last three forms are equivalent as regards clausula and avoidance of hiatus. ὦ ἄνδρες does not breach any rule of style (for example, Blass' law on Demosthenes' avoidance of the tribrachys) either. The next reason that may account for differences in frequency of particular forms may be a change of convention. Only for ὦ Ἀθηναῖοι is there strong evidence that its use is due to a change of "fashion". The early orators hardly use this form in their forensic speeches. Andocides has it twice in his first speech, once contrasting the *boulê* with the present audience.⁹ The third instance in this author is a quotation from an assembly session and should therefore not be counted. For in the assembly this seems to have been the conventional address,

they are mostly irrelevant for the present purpose, since they fail to differentiate between the various forms of address, and do hardly more than list the number of occurrences.

5 Distorting factors in speeches to these audiences make the analysis harder and do not add to the results of this paper. Dem. 51, for example, delivered before the βουλή has the address ὦ βουλή apart from ὦ ἄνδρες δικασταί and ὦ ἄνδρες Ἀθηναῖοι.

6 The basis of this paper are thus the speeches of Antiphon (excluding the Tetralogies), the first speech of Andocides, the *Corpus Lysiacum* (including the fragments) except for *or.* 2, 16, 24, 26, 27, 31, 33, 34 and 35, Isoc. 16–18, 20 and 21, Isaeus, Aeschines, Hyperides, Dem. 18–59 except for 51, Lysurgus and Dinarchus.

7 E.g. Antiph. 3.3.3, Dem. 58.25, cf. the lists in Dickey (1996) 293–305.

8 A principal problem is, of course, that the address to the judges is sensitive to mistakes by the scribes. For the present purpose, the text is given according to the most recent edition. In most cases the manuscript tradition is uniform; however, in the Hyperides papyrus occur several instances of ὦ δικασταί, which may have to be corrected to ὦ ἄνδρες δικασταί. Arguments on such passages are necessarily circular or otherwise defective, so they will not be treated here. For some discussion of this topic see the treatises referred to above (n. 4).

9 1.91, 137.

as far as our meagre evidence goes: it appears four times in Andocides' second speech, which was given to the *ecclêsia*, even though it was formally a trial.¹⁰ Lysias uses it twice in his entire forensic oeuvre¹¹ but four times in the pamphlet on the subversion of democracy (*or.* 34), which purports to be an assembly speech. Demosthenes leaves out the ᾧ twice in the deliberative speech *On the Chersonese*.¹² Later it becomes a regular element of forensic speeches: Lysurgus (6 instances) and Dinarchus (46 instances) use it as their favourite. In Aeschines' speeches it occurs 21 times in *Against Timarchus* and 19 times in the *Paraprosbeia Speech*, whereas it is all but omitted in the prosecution of Ctesiphon (§ 25 only). Hyperides apparently dispenses with this address, at least in the forensic speeches. So ᾧ Ἀθηναῖοι seems to wander from the assembly to the forensic rostrum, but it is never used exclusively, and some orators never use it at all.

Thus there is no uniform pattern at any time. The easiest, though unsatisfactory, explanation to account for such differences among orators within a period is probably personal preference. This does indeed seem to be reflected not only in the case of ᾧ Ἀθηναῖοι, but can be seen – with certain restrictions – for the other three forms as well. The best example is ᾧ ἄνδρες, which is standard in Antiphon and Isaeus and frequent in Lysurgus and Dinarchus, but never used by Isocrates, Demosthenes and Hyperides. Thus there is no development over time and no differentiation within the works of single orators. We will come across other examples of patterns that can hardly be explained by any known factors. However, if one allows for a certain quantum of arbitrariness (though I would prefer to minimise it), some patterns that appear to suggest a system may just be due to coincidence.

What is conspicuous, however, is that Lysias has ᾧ ἄνδρες only in the first speech (except once in 32.21), but there it is the most common form (24 times; ᾧ Ἀθηναῖοι twice, cf. above). Taken together with Antiphon's preference for ᾧ ἄνδρες as standard form, one may take this as an indication that there was a convention of addressing the juries in homicide cases in this neutral way. The form ᾧ Ἀρεοπαγῖται occurs only in a scholion on Aeschylus¹³ and ἐφέται as a vocative is not attested at all; neither of these seems to have existed in classical Athens. It is not unthinkable that in this case ᾧ ἄνδρες δικασταί would have been the opposite of an "honourable title" since the judges were considered more distinguished than their counterparts in the heliastic courts.

10 Andoc. 2.6, 17, 22, 24.

11 Both times in the defence of Euphiletus before a homicide court (thus not before the normal judges out of the 6000 but before the ἐφέται, Lys. 1.6f). Perhaps one more instance is found in 6.50, but Ἀθηναῖοι is the first word after a lacuna. Another possible instance is fr. 2 of *Against Teisis*, where Radermacher conjectured ᾧ ἄνδρες Ἀθηναῖοι.

12 In 19.69, Ἀθηναῖοι is probably a nominative rather than a vocative. The origin of fr. 13.62 Baiter/Sauppe is unclear.

13 Schol.vet. Aesch. *Eum.* 948.

The differentiation between different courts and different procedures is clearly recognisable, at least in those authors who do not have one favourite form of address that obscures all other possible distinctions. In a recent article, Lene Rubinstein has pointed out that certain *topoi* occur much more frequently in certain types of trial, depending on whether they “were regarded as more or less deserving of the community’s attention and resources.”¹⁴ Something similar may be detected in the forms of address. Where the personal preference is not dominant, the division of *γραφαί* and *δίκαί* seems to be reflected in the choice of address. Thus on the one hand, Hyperides has exclusively *ὦ ἄνδρες δικασταί*, even though his *Against Demosthenes* was delivered on the same occasion as Dinarchus’, who uses all four forms.¹⁵ On the other hand, Apollodorus, the son of Pasion, distinguishes quite sharply between public and private pleas: if we accept the speeches 46, 49, 50, 52, 53, 59 of the Demosthenic corpus as his,¹⁶ we find 41 instances of *ὦ ἄνδρες δικασταί*, but not a single instance of *ὦ ἄνδρες Ἀθηναῖοι* in the five private speeches. In *or.* 59, a *γραφὴ ξενίας*, the relation is 9:6 for *ὦ ἄνδρες Ἀθηναῖοι*. The difference in setting, the size of the jury, the idea of the *γραφὴ* being a “public” trial etc. may thus have contributed to the change in address, so much so that in most private speeches of Demosthenes there is no instance of *ὦ ἄνδρες Ἀθηναῖοι*. Overall, however, the distinction in forms of address between public and private in his work is not quite so clear-cut: in *Against Timocrates* *ὦ ἄνδρες δικασταί* predominates, while several private speeches have *ὦ ἄνδρες Ἀθηναῖοι* more often than the alternative (*or.* 34, 36, 45, 57). So the institutional element is not the only or dominating factor, at least for this author. However, the general tendency corresponds with Apollodorus.

Demosthenes’ Public Speeches

Since Demosthenes provides the richest and most differentiated evidence, his work requires more detailed analysis. In his public speeches we find 83 instances of *ὦ ἄνδρες δικασταί* against 348 of *ὦ ἄνδρες Ἀθηναῖοι*, while in the private speeches the overall ratio is 405:121.¹⁷ It is close to hand to assume that the clue to the usage of the addresses is context-specific, and that it lies in the actual meaning of the terms. So it is wrong to assume that addresses are empty and therefore altogether exchangeable formulae, which can be placed wherever the

14 Rubinstein (2005) 132–3.

15 Since Hyperides has a special reputation for his “subtle” and restrained tone, we may attribute the exclusive use of *ὦ ἄνδρες δικασταί* to this particular strategy. It may, however, mean to go too far to assign such a significance to the address.

16 Cf. Trevett (1992) 73 and the “Index of Speeches” in Usher (1999) 377–8.

17 I count as public speeches *or.* 18–24, as private 27–58 except *or.* 51 and those attributed to Apollodorus. In the ones Rennie and Butcher attribute to other orators the ratio is 199:14. Counts for the individual speeches are given later.

speaker wants them to stand. Generally speaking, those passages in which the judges are reminded of their specific tasks are combined with the “occupational” address, while the consequences for the state come with the “ethnic”¹⁸, or perhaps rather “civic”, address. Demosthenes, it seems, always wishes to specify whom he (or the person he is writing for) is addressing: the “judge” or the “Athenian citizen”. Thus he never uses the vague ὦ ἄνδρες, but adds either δικασταί or Ἀθηναῖοι. However, this simple distinction cannot account for every usage. In what follows, I will try to establish which aspects were thought to belong to the judges’ realm and which to the general interest of the Athenians, that is: what led to the choice of a specific form of address.

First, there is a comparatively large number of instances in which the three different speakers of Demosthenes’ public speeches used ὦ ἄνδρες δικασταί in public cases. Most of them belong to specific situations that can explain why Demosthenes chose to use the rare form instead of the more common ὦ ἄνδρες Ἀθηναῖοι.

In some cases the judges are named along with another (larger) group. Once this happens because the judges are explicitly distinguished from others such as the crowd of the περιεστηκότες (Dem. 18.196). It seems obvious that in this context the speaker highlights the division between the judges in the court and the corona outside. However, Dinarchus can ask: “τί γὰρ ἐροῦμεν ὦ Ἀθηναῖοι πρὸς τοὺς περιεστηκότας ἐξελθόντες ἐκ τοῦ δικαστηρίου ...;” Similarly Demosthenes can refer to the bystanders and still address the judges as ἄνδρες Ἀθηναῖοι.¹⁹ So the specific reference to their being judges is optional, not “required”.²⁰ This has the additional consequence that a change of address does not indicate that Demosthenes (or another speaker) addresses a wider group and turns from the jury to the corona. Passages like the ones in Cicero where he says he will speak up so that his voice can be heard even in the last ranks of the crowd²¹ do not occur in the Attic orators. The audience is clearly embraced sometimes (e.g. Dem. 18.52) and is appealed to for approval and the like, but this is nothing that would be justified or marked in a particular way. In a series of other instances the judges are not thought of as a separate group, but the distinction is made even though the parallelism between the members of the court, and the rest of the Athenians is stressed: ὦ ἄνδρες δικασταί may then serve the function of a more personal address. A particular meaning is thus not detectable when Demosthenes reminds the judges of how “you, who are now in court and the other citizens” approached him to make sure he prosecuted Midias (Dem. 21.2, similarly in § 1). By singling out the judges De-

18 Dickey’s (1996) terms, who refers to Braun (1988) 9–11. “Ethnic form”, however, is her own coinage, which seems to me less appropriate where one addresses one’s countrymen, clearly emphasising the community.

19 Dem. 45.12f; cf. also the dubious 25.98.

20 Pace Wankel (1976) ad 18.196: “durch den Zusammenhang gefordert”.

21 E.g. Sull. 33.

mosthenes makes the involvement of the addressees more personal. So in this case he does not emphasise the judges' occupation but their status as a small group within the wider public.

In the same speech, a number of instances of ὧ ἄνδρες δικασταί may work in a similar way. Demosthenes repeatedly addresses his audience as judges when he reminds them of the *ecclêsia* in which the Athenians had voted that Midias had done wrong concerning the festival.²² Normally, one would expect the opposite to be the case: as members of the *ecclêsia* the judges were primarily Ἀθηναῖοι, not judges. Did Demosthenes take recourse to the more specific address because this was his weak spot and he wanted to insinuate that some of the judges must have been present, so as to intensify the claim that they can remember? The more direct appeal to a limited group may work this way, and Demosthenes is aware that the public anger expressed in the ἐκκλησία may have given way to other feelings and considerations.²³

An element of the speeches that appeals to the judges in their capacity as members of the 6000 are the orators' references to the heliastic oath. When Diodorus discusses a clause of the councillors' oath and distinguishes it from the judges', he addresses the latter by reference to their occupation (Dem. 24.151). It is their tasks and competences that are being interpreted: while the councillors pledge themselves by their oath not to bind any citizen, Diodorus has the judges' oath read out to demonstrate that no similar clause is in theirs. So the specific difference by which they – in their capacity as judges – differ from others leads to the address to them as ἄνδρες δικασταί. In the same category may fall references to the judges' behaviour when casting their votes: to show or not to show the virtues and vices of judges, ἔλεος, συγγνώμη and εὐνοία. Aeschines will present his children, but the judges should rather consider the children of Aeschines' victims (Dem 19.310, followed by a reference to the oath in § 311). Timocrates does not deserve mercy as he does not pay his father's debts to the state (Dem. 24.200). The judges are asked to listen with goodwill to the charges against Midias (Dem. 21.7). A paragraph later the judges are asked to vote for what seems more just to them, something the heliastic oath prescribed.²⁴

There may be a connection between the last point and the instances in which the judges are requested to consider or take into account another point. The start of a new section is often introduced by phrases such as κακεῖνο σκοπεῖτε or ἐνθυμεῖσθε. In those cases in which an address follows, the two forms are used about the same number of times, that means significantly more

22 Dem. 21.18, 136, 194, 197.

23 Dem. 21.4, 215f, 226f.

24 On the contents of the heliastic oath cf. Fränkel (1878); another example that belongs to this group of instances of ὧ ἄνδρες δικασταί is [Dem.] 59.126. By contrast, a clear reference to the election of the judges and their oath combined with the civic address is found 19.1.

often than overall in the public speeches.²⁵ In *or.* 20.15 Demosthenes advises the judges that they can more easily βουλεύσασθαι if they are aware that the only advantage of democracy is removed by Leptines' law. So pondering the arguments is apparently thought of as the specific duty of the judges, which makes it worth highlighting the fact by stressing the judges' occupation again. Similarly, if the audience is told to dismiss a certain argument because it is not to the point, they also do so as judges – and are addressed accordingly (Dem. 19.78).

The most frequent situation in which Demosthenes uses ὧ ἄνδρες δικασταί is after a statute, a document or an affidavit has been read out. After the clerk has stopped, the speaker turns to the jury again. In the two γραφαὶ νόμον μὴ ἐπιτήδειον θεῖναι, *Against Leptines* and *Against Timocrates*, this group is particularly prominent.²⁶ The reason for this pattern is not that laws are quoted particularly frequently in these speeches, but probably the centrality of the harmony and compatibility of laws for the argumentation. So the consideration of the laws is the judges' main task – more so than in other forms of trial. Even in γραφαὶ παρανόμων the ratio of occupational and civic addresses is significantly lower. However, it is always possible to announce the reading out of a law or to introduce its analysis with that formula. For example, when Demosthenes moves from the *praemunitio* to the discussion of the law on ὕβρις in *Against Midias* he starts his new point with ὧ ἄνδρες δικασταί (§ 42).

If the judges are called upon as the guardians of the laws, they can also be reminded of their occupation (Dem. 21.77, 222). But in a wider sense, all the duties and activities of the judges can be combined with a specific address to them: they are asked to set an example by punishing Midias (Dem. 21.98); several times, norms are stated to which they have to stick (Dem. 19.78, 21.148). In the greatest detail this is done at the start of the *Parapresbeia* speech, where Demosthenes lists five concrete points by consideration of which the judge will reach a just verdict on an embassy (Dem. 19.4). The rules apply exactly to the current procedure, so the judges are addressed as ἄνδρες δικασταί. In the preceding paragraph, however, he talks about a principal problem of Athenian jurisdiction, and there he uses ὧ ἄνδρες Ἀθηναῖοι, talking about the general situation rather than the particular case and trying to ensure that what he says usually happens will not apply to the present judges.

Demosthenes also uses the occupational form when he talks about the run-up of his confrontation with Midias: many Athenians have asked him to deliver Midias to the judges (Dem. 21.2); they stay silent and he is the only one who dares proceed against the bully (§ 20), but Midias' friends try to persuade him to drop the case (§ 151). Thus the particularities of the case again allow the form of

25 Dem. 19.148, 214, 221, 20.95, 21.11, 197, 209, similarly 24.167. The civic forms occurs 20.43, 118, 21.73, 22.43, 23.29, 125.

26 Dem. 20.36, 45, 55, 64, 69, 79, 87 (7 out of 12), Dem. 21.11 (1 out of 4), Dem. 23.86, 87 (2 out of 10), Dem. 24.24, 43, 51, 64, 72 (5 out of 6, with many laws not followed by any address), cf. also. [Dem.] 59.17 and 125.

address that draws attention to the particular circumstances of the judges' being in court: not as a random sample of Athenians, but as the ones who are actually sitting in judgement at this trial.²⁷

Demosthenes is also talking about the specific situation when he is referring to the charges, to the basis of his prosecution or the verdict. In these instances he is not the politician who is attacking his rival before a group of citizens, but emphasises his role as prosecutor before a panel of judges: thus in 20.67 he assures the judges that he has undertaken the prosecution not only because Leptines is trying to rob foreigners of their privileges, but because Athenians are also concerned. When he has listed the recipients of ἀτέλεια at Athens, he sums up that all these men would be hit by an adverse verdict of the jury.

The general picture is that the standard form of address in public trials in Demosthenes is ὦ ἄνδρες Ἀθηναῖοι. Demosthenes apparently likes emphasising the importance of the matter under debate to the state. The alternative form can be chosen for various purposes, especially if the specifically forensic setting of the speech is emphasised and if the office of judge and legal points are treated in a passage. As the speech *On the Crown* with its one single instance of ὦ ἄνδρες δικασταί shows, there is no need to use this form. It seems significant that Aeschines in the prosecution speech from the same trial does not have a single instance of it, but restricts himself to ὦ ἄνδρες Ἀθηναῖοι (40 times). By this "device" (if that is the right term) the trial is marked as essentially a debate on politics and the ethics of the *polis*.²⁸ The task of the judges on that occasion is not just to decide on a legal issue, but on Demosthenes' political career (§ 57); his worthiness of a reward for his merits is the criterion on which both orators spend most of their time. Even where the precedents and the statutes on coronation in the theatre are discussed, the orators choose the "civic" form of address. The frequent instances of one form being almost immediately followed by the other in many speeches confirm that there is no definitive determination by context.²⁹ No topic is reserved exclusively to the form ὦ ἄνδρες δικασταί: examples of ὦ ἄνδρες Ἀθηναῖοι may always be used. Certain topics, however, are highly unlikely to be accompanied by the form ὦ ἄνδρες δικασταί. The area where this form is never employed is politics: narrative of historical/political events, invective on the basis of a political record and considerations of political expediency (unless in combination with mention of the verdict as the judges' domain) are reserved to ὦ ἄνδρες Ἀθηναῖοι.

27 Again, the pattern is interrupted in Dem. 21.210, where ὦ ἄνδρες Ἀθηναῖοι is used when Demosthenes warns the judges to consider his opponent's supporting speakers. However, in the preceding paragraph on the same point Demosthenes applies the other form.

28 Cf. the scholiast's remark on Dem. 18.88 (18.158 Dilts) that Demosthenes places the address fittingly (εὐκαίρως) because he is speaking about an action that required the ἀξία and φιλανθρωπία of the Athenians. His point is the position of the address, but the same principle can also be applied to its form.

29 E.g. Dem. 19.3f, 268, 20.45f, 64f, 94–6, 21.2, 106, 108, 209.

Thus Demosthenes' public speeches all show instances of ὦ ἄνδρες Ἀθηναῖοι by far exceeding the number of ὦ ἄνδρες δικασταί (from 56:12 in *or.* 20 to 42:1 in *or.* 18). The exception to this rule seems to be *or.* 24, *Against Timocrates*, with 19 times Ἀθηναῖοι against 32 times δικασταί. One reason for this significant deviation could be found in the content (beyond the importance of statutes in γραφαὶ νόμον μὴ ἐπιτήδειον θεῖναι, which I have already mentioned). The majority of the instances of ὦ ἄνδρες δικασταί occur in about one fifth of the speech: 22 times in §§ 111–154. So the rest of the speech resembles Demosthenes' other public pleas. The section in the middle is concerned mostly with the contrast between Solon and Timocrates, punishment in the old days, legislation among the Locrians as opposed to modern day Athens. The central message is set out in § 143: εἰ οὖν μὴ τιμωρήσεσθε τούτους (sc. Timocrates and his friends), οὐκ ἂν φθάνοι τὸ πλῆθος τούτοις τοῖς θηρίοις δουλεῦον. εὖ δ' ἴστ', ὦ ἄνδρες δικασταί, ὅτι ἐὰν μὲν σφόδρ' ὀργίζησθε, ἥττον ἀσελγανοῦσιν (sc. the politicians), ἂν δὲ μή, πολλοὺς τοὺς ἀσελγεῖς εὐρήσετε καὶ τοὺς ὑβρίζοντας ὑμᾶς ἐπὶ τῇ τοῦ φιλοτιμεῖσθαι προφάσει. The entire section aims at the judges to stop the political decline. Demosthenes constructs an opposition between his audience and the politicians of his time. So the reference to the judges *qua* judges is one reason (similar to the one on the judges as a special group) why the normal ratio of addresses is reversed. However, the passage is peculiar in other aspects as well: Blass points out that the situation presupposed in this section is not reconcilable with the rest of the speech and that some unusual stylistic features can be found in it.³⁰ The assumption of two distinct stages of composition is close to hand. So whatever the section's relation to the rest of the speech, the unusual address is only one of several anomalies. Therefore, if the explanation on the level of content does not seem sufficient, the solution of the problem must lie in the circumstances of composition. The above statements on the use of addresses remain valid.

Demosthenes' Private Speeches

As to the private speeches, the number of factors determining the choice of address is greater but clearer. The standard is, as has been mentioned before, ὦ ἄνδρες δικασταί. Most speeches in the *Corpus Demosthenicum* contain only this form. Significantly, the only time in *Against Conon* that the speaker uses ὦ ἄνδρες Ἀθηναῖοι is when he states that he would have preferred a public γραφή (instead of a private δίκη βλάβης) but that his friends and family warned him against it. Among the rest of the corpus it is those speeches in which issues of citizenship are debated that show the highest proportion of "civic" addresses.

30 (1887–1898) III 1, p. 284: hiatus and tribrachys are not avoided; more than that, the payment of Androtion's debt to the state, which is mentioned as having been made in the rest of the speech, is still treated as due in the middle section.

Thus *For Phormio* has 24:2 instances and *Against Eubulides* 20:17. An interesting case is the pair of speeches against Boeotus: as long as the defendant's legitimacy and his right to carry the name Mantitheus is under dispute, the judges are addressed several times as citizens (8 out of 28), when the dispute is only about a dowry we get only the "occupational" form (20 times). Otherwise the two trials are comparable: the speaker and the opponent are the same.

A speech that seems to confirm the importance of the speaker's status is *Against Phormio*. The overall count is 17:10.³¹ However, from antiquity onwards interpreters have pointed out that the speaker must have changed in the middle; at the end of the speech Chrysippus, who also delivers the first part, resumes his plea. The reason for the division is a peculiar repeated use of the demonstrative pronoun in the middle, referring to the speaker of the first part. There is little doubt that §§ 1–17 and 33–52 were delivered by Chrysippus.³² The ancient authority stating the division, Libanius, suggests that the second speech starts at § 21. If we accept these caesurae, we end up with a rather neat distinction: the form ὁ ἄνδρες Ἀθηναῖοι occurs 14 times in § 1–20, then only in § 21 right at the start of the "second" speech and then again twice in the concluding paragraphs. The ὁ ἄνδρες δικασταί, by contrast, occurs in the first paragraph and then the next time in § 22. Since the reason that led interpreters to attribute the speech to different speakers (i.e. the use of pronouns) cannot have influenced the choice of address directly, the shift in this choice must depend on the speakers themselves. Now the main difference between Chrysippus and the supposed second speaker (presumably his companion Lampis) is one of status: Chrysippus is a metic, while Lampis is a citizen. When Chrysippus speaks again, the two forms are mixed, but the overall ratio of occupational and civic address (§ 21–32, that is Lampis' part, excluded) is 16:20. The only other speech possibly delivered by a metic (*Against Dionysodorus*) has a relation of 12:18. So in both cases the ratio of occurrences of the civic address is far higher than usual. It is not hard to make sense of this: to address the judges as Athenians means to recognise the difference and to express one's respect for the full citizens. So in this case the ὁ ἄνδρες Ἀθηναῖοι may be viewed as an "honourable title". Demosthenes makes the metics present themselves as humble and win the judges by flattering them by the emphasis on their being Athenian citizens.

In other orators this tendency is not so clear. There are two cases that seem to disprove the theory: in the first one (Isoc. 17) the prosecutor, a metic, uses only the occupational form (9 times). In the second case, Lysias himself prob-

31 This speech is regarded as spurious by most editors and interpreters, but it may be adduced here to affirm the point.

32 Lofberg (1932) argues that Chrysippus is the only speaker, but the extensive use of different demonstratives to refer to himself is a desperate attempt to solve the problems. Blass (²1887–1898) III 1, p. 581 supposes an imperfect revision from another speaker to Chrysippus. The majority of editors and commentators, however, have stuck with the division among at least two speakers.

ably spoke as a metic when he accused Eratosthenes (*or.* 12). In the course of his speech he uses the formula ὦ ἄνδρες Ἀθηναῖοι only once (§ 69). However, for both authors ὦ ἄνδρες δικασταί is the rule. Isocrates does not use any other form, regardless of the type of speech or the specific context. As regards Lysias, it is exceptional that he uses ὦ ἄνδρες Ἀθηναῖοι at all; moreover, he says ὦ Ἀθηναῖοι two more times in the speech. So the relative scarcity of the civic form (3 times against 9 times ὦ ἄνδρες δικασταί) proves to be a high ratio if compared not with Demosthenes but with the rest of the *Corpus Lysiacum*.³³

In the speech *Against Zenothemis* we can possibly see a reversed relation between the speaker and his opponent. In the part that is extant Demo, who instituted the παραγραφή against Zenothemis in a quarrel about a mercantile loan, uses (ὦ) ἄνδρες δικασταί four times, but also calls the judges (ὦ) ἄνδρες Ἀθηναῖοι three times. The occupational address is used three times in the first three paragraphs, while he is laying out the course of his argument and pleading for the judges' attention. The fourth instance is found in the introduction to a new section of the narrative, again in the form of a short *propositio* (§ 10): Τί οὖν ποτ' ἐστὶν τὸ αἴτιον, καὶ τῷ ποτ' ἐπηρμένος οὗτος καὶ ἐλήλυθεν καὶ τὴν δίκην εἴληχεν; ἐγὼ ὑμῖν ἐρῶ, ἄνδρες δικασταί. The civic address is used for the first time in a short *amplificatio* on Zenothemis' character: he was so shameless that he even dared come to Athens after all his wretched deeds (§ 9). Demo speaks as an Athenian; Zenothemis, however, is a native of Massilia. When Demo tells how Protus, his former companion, immediately changed his mind when the price of grain dropped and came to terms with Zenothemis, he contrasts his own acceptance of a loss with the opportunism of Protus, who "had secured for us this συκοφάντης" (§ 26). The corn trade was a sensitive issue for the Athenians, and it was always easy to accuse others of impeding the city's grain supply. Zenothemis and Protus, a foreigner and his collaborator, stand in opposition to the honest man Demo, who plays the patriotic card, appealing to the Athenian judges to assign the money debated in the trial to him with these words (§ 23): πῶς γὰρ οὐκ αἰσχρὸν καὶ δεινὸν ἂν γένοιτο, εἰ Κεφαλλῆνες μὲν, ὅπως τοῖς Ἀθηναίοις σωθῇ τὰ χρήματα, δεῦρο πλεῖν τὴν ναῦν ἔκριναν, ὑμεῖς δ' ὄντες Ἀθηναῖοι τὰ τῶν πολιτῶν τοῖς καταποντίσαι βουλευθεῖσιν δοῦναι γνοίητε, καὶ ἃ μὴ καταπλεῖν ὅλως οὗτος δεῦρ' ἔπραττεν, ταῦτ' εἰσαγώγιμα τούτῳ ψηφίσαισθε; The last time ὦ ἄνδρες Ἀθηναῖοι occurs is when he announces the appearance of Demosthenes himself on the rostrum, who is introduced as a ῥήτωρ and a γνώριμος, who is worried about his career when he promises to help. So this time the address calls the judges' attention to the political dimension of the orator's appearance.

33 A different explanation could be based on a statement put forward by Loening (1981) 287: Lysias is concealing his (probable) metic status as well as possible. His intention is not to remind the Athenian judges that he was not allowed to become one of them but had been rejected, though only by the technicalities of a γραφή παρανόμων. It may be doubtful that the Athenians would completely forget about the status of a speaker.

In this case, it is not easy to say where private indignation and prejudice against the foreigner Zenothemis end and where the public sphere starts. In two other cases, we may assume that the civic address that accompanies the indignation expressed is chosen because the case was (meant to be) regarded as one that transgressed the limits of a private feud. Rubinstein points to a number of pleas that, though formally falling on the “private” side of the dividing line, approximate to the public speeches. In two of these we see Demosthenes operating with the ὦ ἄνδρες Ἀθηναῖοι address. In the one, *Against Stephanus I*, Apollodorus prosecutes a man who allegedly gave false testimony at another trial. The penalty in this trial is not fixed, but had to be determined by the jury in case of a conviction. So it is in the speaker’s interest to magnify the offence and claim that it is highly significant.³⁴ Moreover, the speech is among those showing the most intensive *pathos* and vehemence in the entire corpus. Accordingly, the civic address prevails (21:11). In single instances the reasons for the choice of a particular form of address is recognisable: thus in the proem, where Apollodorus complains about the hubristic and outrageous (ὕβριστικά καὶ δεινά, § 1) treatment he suffered, he uses the civic form. The same applies to § 66, where Apollodorus accuses Phormio, his archenemy and the man for whom Stephanus testified, never to have done any service to the state. By contrast, the restrained *narratio* uses the occupational form twice (§ 3f).

The other speech, *Against Dionysodorus*,³⁵ is about a mercantile loan and seems thus far removed from the public sphere. However, the person who incurred the ἐπωβελία that was laid down as the penalty faced imprisonment and thus ἀτιμία, that is exclusion from the public sphere. So in the end this trial included a potential decision on citizenship. This very fact is mentioned at the first occurrence of the ὦ ἄνδρες Ἀθηναῖοι formula (§ 4). But in this trial the corn trade too plays an important role, and the intention of the opponent to deliver corn to a non-Athenian port is again highlighted by the civic address (§ 34, 36, 37, 40, 44, 47, 48). So there are again two reasons that may contribute to the frequent use of the civic formula, reminding the judges of their responsibility for the state both in the conservation of the citizen body and in the provision for the good of Athens (cf. § 48).

Conclusion

As we can see the choice of address in Demosthenes was influenced by a number of different factors. It is never determined in the sense that a certain form was obligatory. However, the address is not a random choice, but can indeed ex-

34 Cf. Rubinstein (2005) 139.

35 There are doubts about the authenticity of this speech (*or.* 56). However, the ratio of civic addresses is so high that even if the speech is spurious this fact calls for an explanation: there are more instances in the Demosthenic corpus alone than in all the other extant private orations taken together.

press something: the significance of the case beyond the current procedure or an emphasis on the responsibility of the judges.

There are still open questions. Most importantly: why is it only Demosthenes who shows such flexibility? And why does he at the same time restrict himself (and the speakers he is writing for) to only two of the four standard forms? But there are also other problems, such as: why are there nine instances of ὁ ἄνδρες Ἀθηναῖοι in *Against Callicles*, a somewhat insignificant trial on damages, all of them concentrated in the first 15 paragraphs? A change in tone is not recognisable, a change of speaker can be excluded, and other theories do not lead anywhere either. For Dem. 24 and 34, the form of address can only provide further (so far unnoticed) evidence for the existence of oddities, but it cannot solve the problems connected with the dubious passages.

However, I hope it has become clear that it is possible to say more about the forms of address than simply that they are equivalent and honorific. They did not have a fixed meaning, but the situation could give them a particular significance. And, most of all, Demosthenes does indeed exploit these nuances when he addresses the jury. It would be interesting to know whether his choice went along with a difference in gesture or pronunciation – but this must remain speculation.

In the case of the Platonic Socrates our analysis leads to the conclusion that neither is the avoidance of ὁ ἄνδρες δικασταί surprising or unusual³⁶ nor is the form *per se* an “honourable title”. It does, however, always have the potential of emphasising the judges’ particular occupation and the duties it brings with it. Only by adding the distinction between the “true” judges and the rest does Socrates point to the meaning of the occupation. Otherwise, we might assume, the title would not have struck the judges in any special way. The fact that Socrates does not use this form of address earlier in the speech has probably no other function than the preparation of this punch line against the “false” judges.

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36 Different forms in the opening sentences of speeches: Antiph. 1, 5, Andoc. 1, Lys. 1, 27, 28, Isae. 1, 2, 4–11, Dem. 18, 19, 23, 36, 45, 54, 55, 59, Aeschin. 1–3. However, it seems to have been possible to start with the occupational form even in public cases, as even Demosthenes has this form at the beginning of *or.* 20–22 and 24.

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