The purpose of this paper is to challenge a widely held opinion about the relationship between the ecclesia and the dicasterion in classical Athens. The traditional view, which is endorsed by e.g. G. Glotz, A. W. Gomme, V. Ehrenberg, E. Meyer, E. Will, P. J. Rhodes and M. I. Finley,¹ can be summed up in the following five statements: (1) In Athens sovereignty belonged to the demos. (2) The demos exercised its powers directly in the ecclesia. (3) So the ecclesia was the sovereign body of government in classical Athens. (4) The sovereignty of the ecclesia, however, was in practice considerably limited by the dicasterion. Most of the judicial power was invested in the people’s court, and a decree passed by the ecclesia could be challenged through a γραφὴ παρανόμων and rescinded by a dicasterion. (5) The theory of the sovereignty of the ecclesia, however, is not impaired by this apparent separation of powers between the ecclesia and the dicasterion, since the demos was identical not only with the ecclesia but also with the dicasterion. The people’s court was in fact the demos sitting in judgement.

The inference to be made from (5) ought to be that sovereignty rested with the demos and was embodied both in the ecclesia and in the dicasterion. But the conclusion usually drawn is that since the dicasterion was manned by the demos and since the demos was identical with the ecclesia, there is no opposition between the sovereignty of the assembly and the judicial powers exercised by the people’s court. The

dicasterion is either identified with the ecclesia or brushed away as a committee of the ecclesia with an authority held only by delegation from the demos = the ecclesia.

This theory of the relationship between the assembly and the people's court is based on the assumption that the demos was embodied both in the ecclesia and in the dicasterion, but in my opinion this assumption is not only unfounded but even contradicted by the evidence. An inspection of all the sources seems rather to substantiate the following four statements: (1) The demos is frequently identified with the ecclesia. (2) The demos is never identified with the dicasterion. (3) The demos (= the ecclesia) is often opposed to the dicasterion. (4) Like the Council of Five Hundred the dicasterion is a democratic body of government which cannot, however, be identified with the demos.

My review of the sources is divided into two parts, of which the first comprises the inscriptions and the speeches and the second the poets, the philosophers and the historians. Whereas the inscriptions and the speeches held in the ecclesia or before the dicasterion provide us with direct information about the constitutional meaning and use of the word demos, the remaining literary evidence at most reflects or discusses this usage, and for this reason the speeches must be grouped with the epigraphical evidence and separated from the secondary evidence which can be discussed under one heading.

II

In the decrees preserved on stone it is abundantly attested that demos when referring to a body of government invariably denotes the ecclesia and never the dicasterion. It is sufficient to mention that a decision made by the assembly is introduced with the enactment-formula εδοξε τῷ δήμῳ or εδοξε τῇ βουλῇ καὶ τῷ δήμῳ and that one of the honours frequently bestowed on foreigners is πρόοδος πρὸς τὴν βουλήν καὶ τὸν δήμον (= the ecclesia). Only one inscription has been adduced in support of the identification of the demos with the dicasterion as well as with the ecclesia, viz. IG I² 114.37: ἀνευ τοῦ δήμου τοῦ Αθηναίων πλεῖστος μὲ ἑναὶ θαν[α]το[ν], which is interpreted as follows by Rhodes:

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8 Rhodes, op.cit. (supra n.1) 64ff.
9 Rhodes, op.cit. (supra n.1) 43.
4 op.cit. (supra n.1) 169 n.5, 197-200.
entire demos. Since we know that the Heliaia was empowered to inflict
capital punishment, the conclusion is that the Heliaia is representative
of the entire demos. This conclusion is weakened, however, by the fact
that in the fifth and the fourth centuries the council of the Areopagus,
which in no circumstances can be identified with the demos, passed
innumerable sentences of death. Since IG 12 114 deals with the powers
of the Council of Five Hundred, the correct interpretation is probably
that the council must not pass any sentence of death without the
approval of the people. In that case the δημος πληθύνων only denotes
the assembly, not the assembly and the court.5

The documents transmitted to us, however, contain only casual
references to the dicasterion, and so it is impossible on the basis of the
epigraphical evidence to disprove the assumption that demos may
designate the dicasterion as well as the ecclesia. To elucidate the mean­
ing of the word demos we must turn to the speeches6 and examine
which body of government an orator may have in mind when he
refers to the demos in a speech delivered either in the assembly or
before the people’s court.

In the preserved speeches (covering the period ca 420 to ca 320 B.C.)
demos occurs some six hundred times7 and in so many different con­
texts that its range of meaning can be sufficiently determined. The
word frequently denotes the whole of the people = all Athenian
citizens,8 whereas we have hardly any example of demos denoting the

democracy itself.9 M. H. Hansen, Eisangelia. The Sovereignty of the People's Court in Athens in the Fourth Century B.C. and the Impeachment of Generals and Politicians (Odense 1975) 52. Idem, "How Many Athenians Attended the Ecclesia?" GRBS 17 (1976) 122; I should like to point out that the words "pace Rhodes" in n.41 must not be taken to mean that Rhodes believes in
plenary assemblies. We disagree only about the relationship between the ecclesia and the
dicasterion, not about the types of meeting of the ecclesia.

6 By Ant., Andoc., Lys., Isoc., Isae., Dem., Aeschim., Hyp., Lycurg. and Din., plus genuine forensic speeches wrongly attributed to one of these orators (e.g., Apollodorus’ speeches in the Corpus Demosthenicum). I exclude Andoc. 4 Against Alcibiades and Lys. 15 Against Alcibiades. Andoc. 4 is probably a literary exercise written much later, and the authenticity of Lys. 15 has frequently been questioned. On the other hand I include Dem. 13 and 25. I have
classified Isocrates with the orators and not with the philosophers. Of the relevant speeches 16 (On the Biga) and 18 (Against Callimachus) are genuine courtroom speeches. 7 (Areopagiticus) and 8 (On the Peace) pretend to be demegoriai and 15 (Antidosis) to be delivered before the
jurors (cf. 15.13).

7 I do not discuss demos in the sense ‘deme’, and I omit a couple of passages where demos refers to the people of a state other than Athens.

8 Ant. 5.70; Andoc. 1.36, 98; 2.16; 3.1, 7, 33; Lys. 13.51, 91; 18.5, 11; 20.17, 25.11; 26.4, 20;
31.29; Isoc. 7.63; 8.75, 121, 125; 10.36; 12.139, 141, 147; 15.232; 16.20, 26, 41, 46; 18.62; Ep.
2.15; Isae. 5.38; Dem. 3.30, 15.22; 18.57, 112, 130, 278; 19.8, 136, 300; 20.2, 3, 12, 36, 39, 42, 44,
common people in opposition to the upper and middle classes. This meaning of *demos*, so prominent in philosophy (see *infra* p.139), is almost unattested in the speeches. When discussing constitutional matters an orator may use *demos* synonymously with *democraia*. and similarly, in descriptions of the civil wars in 411–403, he can speak of *demos* meaning 'the democrats'. A further use of *demos* can be found in the phrase ὁ δῆμος ὁ Ἀθηναῖον, where the reference is to the (democratic) Athenian state, in opposition to e.g. Lacedaimon or Thebes.

In about half of the six hundred instances, however, *demos* means 'the people in assembly' or 'the assembly' itself. The phrase ἐν τῷ ἰπταμένῳ is invariably used synonymously with ἐν τῷ ἐκκλησίᾳ, and 

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*Isoc. 7.26, 27; Aeschin. 1.141.

10 Andoc. 3.12; Lys. 6.30; *Isoc. 12.148, 15.70, 16.36; Dem. 15.19, 19.314, 20.108; 21.144, 145; Lycurg. 1.121, 124, 150; καταλάβειν τὸν δήμον, κατάλαβε τοῦ δήμου: *Andoc. 1.36, 101; 3.4, 10, 12; Lys. 13.17, 20, 51; 16.5, 20.13; 30.9, 12, 14, 15, 30; *Isoc. 7.58, 12.148; 16.16, 37; Dem. 13.14, 15.14; 19.175, 294; 24.32; 24.146, 152, 154, 206; 58.34; *Prooim. 42.2; Aeschin. 1.173, 191; 2.174, 177; 3.191, 234, 235; *Hyp. 2.12; 3.7, 8; Lycurg. 1.125, 126, 147; *Dem. 1.76, 94. Frequently it is impossible to draw a clear line between the meaning 'people' and the meaning 'democracy'. Accordingly, some of the references in n.8 might be placed in this note as well and vice versa.

11 Andoc. 3.2, 5, 7; Lys. 13.16, 51, 60, 75, 84; *Isoc. 14.15; Dem. 9.42, 18.72; 19.49, 271; 22.72, 24.180, 50.45; 59.92, 105; *Ep. 3.11; Aeschin. 2.60, 73; 3.46, 48, 49, 90, 116, 117, 155, 156, 209, 258; *Hyp. 3.20, 33.

12 It is often difficult to decide whether *demos* means 'the people' or 'the assembly'. About 300 examples is a low estimate since I have excluded all doubtful instances. 'Honours bestowed by the people' (διωρισμένοι παρὰ τοῦ δήμου), for example, must refer to honorary decrees passed by the ecclesia, but I have included only those passages where the ecclesia is mentioned or referred to in the context. Similarly the phrase δῆμος προστάτης is only interpreted as a politician addressing the assembly if there is no doubt that the speaker has the ecclesia in mind.

13 Andoc. 1.11, 14, 75; Lys. 13.32, 16.20, 21.21, 29.12, fr.6.81 (Gernet/Bizos); *Isoc. 15.314, Isae. 5.37, 11.48; *Dem. 7.18, 22; 18.141; 19.40, 114, 135, 234, 257, 292; 21.16, 18, 68, 227; 22.10, 59, 61; 23.172; 24.80, 134; 34.50; 49.10, 13, 66, 67; 50.5, 6; 58.28, 45, 62; 59.27; Aeschin. 1.20, 27, 28, 64, 80; 2.17, 25, 47, 90; 3.34, 38, 250; *Hyp. 1.10, 24, 31, 2.3; Lycurg. 1.19, 117; *Dem. 1.8, 86, 89, 104; 2.12, 16, 17; 3.1.
demos is frequently found as the subject of verbs such as χειροτονεῖν, ψηφίζεσθαι, αἴρεῖσθαι etc. A decree of the assembly is called δήμου ψήφισμα, and in several instances a distinction is made between the demos and the boule. It is the demos that issues orders, bestows honours, listens to reports, debates on war and peace and sometimes passes a sentence on a politician without referring the case to a dicasterion.

Whereas demos in the sense ecclesia is abundantly attested, I have found only three passages where the word demos is applied to the dicastai manning the people's court:

Aeschin. 1.141: ἐπειδὴ δὲ Ἀχιλλέως καὶ Πατρόκλου μέμνησθε καὶ Ὀμήρου καὶ ἔτερων ποιητῶν, ὡς τῶν μὲν δικαστῶν ἀνηκόσιον παιδείας ὄντων, ὡμίψε δὲ εὐσκήμονές τινες προσποιεῖσθε εἰλα αἰ ὑπερφρονοῦντες ἱστορία τῶν δήμων, ὥστε εἰδήτε ὅτι καὶ ἡμεῖς τῇ ἡδη ἡκούσαμεν καὶ ἐμάθομεν, λέξομεν τι καὶ ἡμεῖς περὶ τούτων.


Din. 3.19: ἐ χρὴ λογισμαμένους ὑμᾶς πάντας ὁ Αθηναῖοι...δεῖξαι πάσιν ἀνθρώποις, ὅτι οὐ συνιδεύθηκα τὸ τοῦ δήμου πλῆθος τῶν ῥητόρων καὶ τῶν εἰς στρατηγικά τις.

Aeschin. 1.141, however, is one of the few passages where the meaning of demos is rather 'the common people' than the people acting as a body of government. But in the other two sources there is
a connection between *demos* and *dicasterion*. Dinarchus exhorts the jurors to show the world that the Athenian people are not corrupted by their politicians, and Hyperides interprets the frequent acquittals of the politicians by the *dicastai* as a proof of the people's confidence.

Comparing the ca 300 clear occurrences of *demos* in the sense *ecclesia* with the three possible cases of *demos* referring to the *dicasterion*, I conclude that the orators deliberately avoided the word *demos* when speaking about the people's court. And this inference is further strengthened by the fact that most of the preserved speeches were delivered before the *dicastai*, whereas only seventeen were held in the *ecclesia*.19 In the court-room speeches the orator frequently emphasizes that the *dicasterion* is a democratic body of government and the true guardian of democracy.20 So the jurors are addressed with phrases like ὁ ἄνδρες Ἀθηναῖοι (as the people in the assembly) or ὑμεῖς οἱ πολλοὶ or ὑμεῖς ἡ πόλις21 but never with the phrase ὑμεῖς ὁ δήμος. This expression can be found only in speeches delivered in the assembly on the Pnyx or in letters addressed to the assembly.22

More important, however, than this argument from silence is the use of the word *demos* in passages where the orator makes a clear distinction or even indicates a direct opposition between the *demos* and the *dicasterion*.

(a) First we have several examples of *demos* (= *ecclesia*), *boule* and *dicasterion* being juxtaposed and mentioned as three different bodies of government.

Dem. 20.100: ἕστι δὲ δήπον νόμος ὑμῖν, εἶν τις ὑποσχόμενος τι τὸν δήμον ή τὴν βουλὴν ή δικαστήριον ἐξαπατήσῃ, τὰ ἐχεῖται πάσχειν.

Dem. 23.97: διόπερ καταράται καθ' ἐκάστην ἐκκλησίαν ὁ κήρυξ, οὐκ εἰ τινες ἐξαπατῆθησαν, ἀλλ' εἰ τις ἐξαπατᾷ λέγων ή βουλὴν ή δήμον ή τὴν ἡμιλαίαν.

Dem. 24.9: ...ἀλλὰ πρῶτον μὲν τῆς βουλῆς κατεγνωκυῖας, εἶτα τοῦ δήμου μιὰν ἡμέραν δὴν ἐπὶ τούτοις αὐτοῖς ἀναλύσατο, πρὸς δὲ τούτοις δικαστήριοι δυνοῦν εἰς ἓνα καὶ χιλίων ἐφηφισμένων ... Τιμοκράτης

19 Andoc. 3 (391); Lys. 28 (389); Dem. 14 (354/3); Dem. 13 (353/2); Dem. 16 (353/2); Dem. 4 (352/1); Dem. 15 (351/0); Dem. 1–3 (349/8); Dem. 5 (346/5); Dem. 6 (344/3); Dem. 7 (343/2); Dem. 8 (342/1); Dem. 9 (342/1); Dem. 10 (342/1); Dem. 17 (331).
20 e.g., Dem. 13.16, 24.2; Aeschin. 3.6; Din. 3.16, etc.
21 ὁ ἄνδρες Ἀθηναῖοι e.g. Dem. 18.1, 19.1, 20.1, 21.2, 22.4, 23.1, 24.6, 25.8, 26.1. ὑμεῖς οἱ πολλοὶ e.g. Dem. 24.37, 193. ...ὑμῶν πόλεως τυλικατηχὸς κατεφρόνησαν Dem. 43.72.
22 ὑμεῖς ὁ δήμος e.g. Dem. 3.31; Ep. 3.30.
Admittedly, all the examples are from Demosthenes, but in 23.97 he refers to the curse read out to the people in assembly, in 20.100 he paraphrases a law, and 24.50 is a verbatim quotation of a law. This document alone is sufficient proof that the orators follow the official usage when they distinguish between the demos and the dicasterion.

(b) In other passages a simple distinction is made between the dicasterion (or the dicastai) and the demos (= the ecclesia) without any mention of the boule:

Andoc. 1.28: ἐδοξέων οὖν τῷ δήμῳ ἐν τῷ τῶν θεσμοθετῶν δικαστηρίῳ τὸν μεμνημένου... διαδικάσατε.

Lys. 13.65: συλλήβδην γὰρ ὑμεῖς ἁπαντες καὶ ἐν τῷ δήμῳ καὶ ἐν τῷ δικαστηρίῳ συκοφαντίας αὐτοῦ κατέγραψε... 

Dem. 18.250: τί προσῆκεν ἢ τί δίκαιον ἢν τοὺς ὑπ’ ἐμοῦ πεπραγμένοις θέθαι τὸν Κτήσειφαντ’ ὄνομα; οὐχ ὁ τὸν δήμον ἐώρα τιθέμενον, οὐχ ὁ τοὺς ὀμωμοκόπτας δικαστάς;

Dem. 19.132: πῶς γὰρ οὖν αἰσχρόν, ὡς ἁπαντες Αθηναίοι, δημοςία μὲν ἁπαντας υμᾶς καὶ δλον τὸν δήμον πάς τοὺς πεπραγμένοις ἐκ τῆς ἐφήμης ἑπτίμησιν... εἰς δὲ τὸ δικαστηρίον εἰσελθόντας τὰς ὑπὲρ τοῦτων εὐθύνας δικάσοντας, ὅρκον ὑπὲρ τῆς πόλεως ὀμωμοκόπτας... τοῦτον ἀφεῖναι;

Dem. 59.27: ἁπείπων ἐν τῷ δήμῳ τῇ βοήθειάς... καὶ... γραφεῖς ὑπὸ Στεφάνου τοουτοῦ ἀστρατείας καὶ διαβληθεῖς τῷ λόγῳ ἐν τῷ δικαστηρίῳ ἑάλω καὶ ἦτμιμώθη.
Aeschin. 3.10: ήχυόντο γὰρ οἶμαι οἱ δικασταὶ, εἶ φανήσεται ὁ αὐτός ἀνὴρ. . . πρῶθεν μὲν ποτὲ ἀναγερεύομενος ἐν τοῖς ἀγώνις ὁτι στεφανοῦται ἄρετῆς ἐνεκα καὶ δικαίουσθε ὑπὸ τοῦ δήμου χρυσῷ στεφάνῳ, ὁ δὲ αὐτὸς ἀνὴρ µικρὸν ἐπισκόων ἔξεισιν ἐκ τοῦ δικαστήριου κλοπῆς ἐνεκα τὰς εὐθυνὰς ὄφληκώς: ἀστε ἡγαγάζοντο τὴν ψῆφον φέρειν οἱ δικασταὶ οὐ περὶ τοῦ παρόντος ἀδικήματος, ἄλλ’ ὑπὲρ τῆς αἰσχύνης τοῦ δήμου.

Hyp. 3.24: . . . ὡς ἐγὼ διὲ ήδη ἐν τῷ δήμῳ ἑναντίον ὑμῶν καὶ τῶν ἄλλων Αθηναίων πρὸς τοὺς ἤκοντας παρ’ αὐτῇς (Olympias) ἐξῆλεγξα . . .

Lycurg. 1.54: ἀ δὴ κατέγνωσται µὲν παρὰ τῷ δικαστήριῳ συνεδρίῳ (the Areopagus), κατεψυχήσεται δ’ ύψ’ ὑμῶν τῶν δικαζέων λαχόντων, ὁµολογεῖται δὲ παρὰ τῷ δήμῳ τῆς µεγίστης ἀξίας εἶναι τιµωρίας, τούτοις ὑµεῖς ἑναντία ὑψηλεύετε;

Din. 1.40: ἐκεῖνοι ἦσαν ἐκεῖνοι ὁ Αθηναῖοι ἐξιος σύµβουλοι καὶ ἡγεμόνες ὑµῶν καὶ τοῦ δήµου, . . .

Din. 1.64: μαρτύρομαι . . . ὅτι τοῦ δήµου παραδεδωκότος ὑµῶν τιµωρήσασθαι τῶν εὐληφότα τι τῶν . . . κατὰ τῆς πατρίδος . . .

Din. 1.84: ἐπειδὴ δὲ εἰς τὰς ὑµετέρας ἤκει χεῖρας, τῶν ὑπὲρ τοῦ δήµου συνελεγμένων καὶ τῶν ὄµωμοκότων πείσεσθαι τοῖς νόµοις καὶ τοῖς τοῦ δήµου ψηφίζεσθαι, τί πονήσετε;

Din. 1.104: . . . ὡς ο µὲν προειρήκως ἐν τῷ δήµῳ τῶν ἐαυτοῦ τρόπων καὶ τῆς ἀπόνοιας . . . ὡς οὐ τετὸληκε τούτοις δεῖξαι τὸ πρόςωπον, . . . 105: ἀράτ’ ὁ Αθηναῖοι, τί µέλλετε ποιεῖν. παρειλήφατε παρὰ τοῦ δήµου τὸ πράγμα, . . . 106: πότερ’ . . . ἀφήσετε τοῦ πρῶτον εἰσεληλυθότα πρὸς ὑµᾶς, καὶ τὰ δίκαια [τὰ] παρὰ τῷ δήµῳ καὶ τῇ βουλῇ τῇ ἔξι Ἀρείου πάγου δόξαν’ εἶναι καὶ τοῖς ἄλλοις ἀπασίν ἀνθρώποις, ταῦθ’ ὑµεῖς ο ο λοι πάντων λύσετε;

Din. 2.20: . . . τούτου καταχειροτονήσας ὁ δήµος παραδέδωκεν ὑµῖν τιµωρήσασθαι, . . .

Din. 3.14: . . . ὡς ο θεοὶ φανεροὶ ὑµῖν ποιήσαντες παρέδοσαν τιµωρήσασθαι, ἔρακότες τὸν δήµου ἑπαντα κατήγορον τούτου γεγονομένων καὶ προκεχειρικότα πρῶτον τῶν ἄλλων ἐπὶ τὸ τὴν τιµωρίαν ἐν ὑµῖν δοῦναι.

(c) Most significant are five instances where the orator emphasizes a direct opposition between the demos and the dicasterion:

Dem. 19.297: ἦταν τούτων πολλοὶ παρ’ ὑµῖν ἐπὶ καυρῶν γεγόνας ἱσχυροί, Καλλίστρατος, ἀδῆς Ἀριστοφᾶνος, Διόφαντος, τούτων ἐτεροί πρῶτεροι.
We have other sources indicating an opposition between the assembly and the court. In connection with the *graphe paranomon*, for example, we often hear that a decision made by the assembly is rescinded by the court. But the passages quoted above are particularly important because a distinction is made not between the *ecclesia* and the *dicasterion* but between the *demos* and the *dicasterion*. In my opinion these passages finally disprove the assumption that the *dicasterion* can be considered a body of government identical with the *demos*. On the contrary, the sources represent the *dicastai* as only a fraction of the *demos* acting on behalf of the *demos*.

But this investigation cannot be limited to an examination of the word *demos*. In the forensic speeches the jurors are frequently styled ὁ ἀνδρες Αθηναιοι, which is the proper form of address to the people in assembly (cf. n.21); and an orator often applies a pronoun or a verb in the second person plural in addresses to the jurors even when he refers to a decision actually made by the *ecclesia*. In the speech *Against* 

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Aristocrates, for example, Demosthenes (23.167) tells the jurors that, some years earlier, they were so angry with the general Cephisodotus ὁστ' ἀπεχείροτος κατε μὲν τὸν στρατηγὸν, πέντε ταλάντως δ' ἐξημιώσατε, τρεῖς δὲ μόνοι ψήφοι διήνεγκαν τὸ μὴ θανάτου τιμῆσαι. Strictly speaking the dicasterion was responsible only for the sentence (passed by psephophoria) whereas the deposition (by apocheirotonia) was a decision made by the assembly. Is this usage not an indication that the Athenians must have regarded a session of the dicasterion as a meeting of the demos like a session of the ecclesia? Certainly not; for this line of argument would by necessity lead to the identification of the demos not only with the dicasterion but also with the boule. Of the preserved speeches most are written for delivery either in the assembly or in the court, but we have a few examples of speeches held before the Council of Five Hundred, e.g. the fifty-first oration in the Corpus Demosthenicum. In this speech the councillors are addressed not only with the phrase ὁ βουλή but also with the phrase ὁ ἀνδρες Ἀθηναῖοι (Dem. 51.3, 8, 12, 22), and the speaker uses the second person plural even when he refers to a psephisma actually passed by the assembly. But, to the best of my knowledge, no historian has ventured, on the basis of this evidence, to suggest that it would be misapplied formalism to emphasize that the demos (= the ecclesia) and the boule were different bodies of government. On the contrary Rhodes has recently published an excellent monograph in which he distinguishes between the boule and the ecclesia and discusses to what extent the boule may have controlled the demos.

In conclusion, the boule and the dicasterion were certainly democratic institutions, and many councillors and dicasts must have attended the meetings of the assembly as well as the sessions of the council or the court. There was an enormous overlap in personnel. But nevertheless the ecclesia, the boule and the dicasterion were three different agencies, and the sources demonstrate that only the ecclesia was regarded as the demos.

Cf. Dem. 19.19, 21.153, 50.4, etc.
Cf. Lys. 16.4, a speech delivered before the boule (ὁ βουλή, 1 et passim), in which the councillors are addressed as if they had concluded the alliance with Boiotia in 395, ὅτε τῆν συμμαχίαν ἐποίησαν πρὸς Βοιωτοὺς (Lys. 16.13); IG II 14 = Tod 101. Cf. furthermore Lys. 16.6, 20–21; 24.22, 31.29.
Cf. supra n.1) 213–23, esp. 215 and 223.
In a short monograph about the *graphe paranomon* published in 1974 I stated this view briefly without any detailed discussion of the sources; and my reviewer in the *JHS 96* (1976), Mr B. Caven, replied with the following comment: "... he confuses rather than elucidates the argument... by suggesting that, since the Heliaea was not identical with the Ecclesia—which is regularly styled ‘the Demos’—the court was not regarded as the Demos sitting in judgment. Yet the language of (for instance) Aristophanes (*Equit.* 50f, 797ff), Aristotle (*Pol.* 1274a) and the orators (*passim*) suggests precisely the reverse."

This uncompromising protest is in my opinion the best introduction to a discussion of the other sources, viz. Aristophanes, the philosophers and the historians. With the expression "the orators *passim*" Caven must refer to the phrase ὁ ἄνδρας Ἀθηναίοι and to the use of the second person plural in addresses to the dicasts about decisions made by the assembly. In the preceding section I have explained how this usage is to be interpreted, and I have no more to add.

(a) The two passages in Aristophanes' *Knights* seem to support Caven's statement, but only on the most idiosyncratic interpretation of the play. Admittedly, Aristophanes must have the *dicasterion* in mind when he describes Demos as a juror receiving his fee of three obols. The problem is that we have to spell Demos with a capital D. Aristophanes speaks about Mr Demos and not directly about the Athenian people. Demos is a character in the play. He symbolizes of course the Athenian people, but the symbolism must not be pressed too far. His two slaves, for example, who address the audience in the opening scene, are the generals Nicias and Demosthenes, and if we apply Caven's method of interpretation to them we would be forced to conclude that slaves were allowed to parade as citizens and even to be elected *strategoi*.28

So the identification of *demos* with the *dicasterion* is not warranted by the two references adduced by Caven, and in other passages of the play Aristophanes shows that he is aware of the difference between Mr Demos and the *dicasterion*. In lines 746ff, for example, the Paphlagonian asks for a trial before the *ecclesia*. The sausagemonger replies

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27 *op.cit.* (*supra* n.23).

28 *Cf.* V. Ehrenberg's warning against such an interpretation in *The People of Aristophanes* (Oxford 1951) 183.
that he submits to a trial but not on the Pnyx, and Demos settles the
question by stating that he will sit in judgement nowhere but on the
Pnyx. Instead of illustrating that *demos* is identical with the *dicasterion*,
this passage indicates that the Pnyx (= the *ecclesia*) is the only proper
place where the *demos* can sit in judgement.

Similarly in other plays where no Mr Demos appears on the scene. In
*Wasps* Philocleon argues that the *demos* and the *boule* refer all the
problematical cases to the *dicastai* and that a politician can carry a
decree in the *demos* only if he promises to adjourn the *dicasterion* after
the first case but with a full day’s salary (Ar. *Vesp.* 589–90, 594–95):

ēti δ’ ἡ βουλή χω δήμος ὅταν κρίναι μέγα πράγμα ἀπορήσῃ
ἐφήμεται τούς ἄδικοιντας τοῖς δικασταῖς παραδοῦναι
καὶ τῷ δήμῳ γνώμην οὐδεὶς πώποτε ἐνίκησεν, ἐἀν μὴ
εἰπῇ τὰ δικαστήρι αἴφεινα πρῶτητα μίαν δικάσαντας.

(b) In Arist. *Pol.* 1274a the word *demos* occurs five times:

2–3: ἐοικε δὲ Σόλων...τὸν δὲ δήμον καταστήσαι τὰ δικαστήρια
ποιήσας ἐκ πάντων.

5–7: ἐπεὶ γὰρ τοῦτο (the *dicasterion*) ἱερεύνειν, ὁσπερ τυράννῳ τῷ δήμῳ
χαριζόμενοι τὴν πολιτείαν εἰς τὴν νῦν δημοκρατίαν κατέστησαν.

12–14: τῆς ναυαρχίας γὰρ ἐν τοῖς Μηδικοῖς ὁ δήμος αὐτὸς γενόμενος
ἔφορονματισθῇ...

15–19: ἐπεὶ Σόλων γε ἐσκε τὴν ἁναγκασμάτητα ἀποδιδόναι τῷ δήμῳ
dύναμιν, τὸ τὰς ἀρχὰς αἰρείσθαι καὶ εὐθύνειν, μηδὲ γὰρ τούτου κύριος ἂν
ὁ δήμος δοῦλος ἄν εἶναι καὶ πολέμοις, τὰς δ’ ἀρχὰς ἐκ τῶν γνώριμων
καὶ τῶν εὐπόρων κατέστησε πάντας...

In 2–3 *demos* means ‘democracy’ in opposition to oligarchy; in the
other four instances the meaning is ‘the common people’ in opposition
to the wealthy class (οἱ γνώριμοι καὶ οἱ εὐπόροι in lines 18–19). But there
is no example of *demos* meaning ‘the Athenian people’ and denoting
the *dicasterion*. Caven seems not to have noticed that *demos* (like the
English word ‘people’) has more than one meaning. It may connote
either ‘the whole of the people’ or ‘the common people’, and it may
denote either a body of government (viz., the *ecclesia*) or a class (viz.,
oi ἀποροί in opposition to oi εὐπόροι). The orators (who favour the
democratic constitution) tend to identify the *demos* with the whole
of the people embodied in the ecclesia, whereas the philosophers (who criticize democracy as mob rule) argue that both the ecclesia and the dicasterion are dominated by the demos = the poor, and in that sense it is of course perfectly possible to speak of the demos in the dicasterion or to say that the demos dominates the dicasterion. But this usage is markedly different from the phrase ἐδοξεῖ τῷ δῆμῳ in the enactment-formula of the decrees or the phrase ἐν τῷ δῆμῳ λέγειν frequently found in the speeches.

If we examine the use of demos in Plato, Aristotle (Pol. and Ath.Pol.) and in Xenophon’s philosophical writings (including the Ps.Xen. Ath. Pol.), we learn that demos often denotes the ecclesia,29 and, in conformity with the usage found in the documents and in the speeches, we have several examples of demos = ecclesia being opposed to the dicasterion.

Plat. Ep. 8, 356D: πολέμου δὲ καὶ εἰρήνης ἄρχονται νομοφόλακας ποιήσαται ἄριθμον τριάκοντα καὶ πέντε μετὰ τε δήμου καὶ βουλῆς. δικαστήρια δὲ ἄλλα μὲν ἄλλων... .


Arist. Ath.Pol. 25.2: ἔπειτα τῆς βουλῆς... περείλετο τά ἐπίθετα (Εφιάλτες)... καὶ τὰ μὲν τοῖς πεντακοσίοις τά δὲ τῷ δήμῳ καὶ τοῖς δικαστηρίοις ἀπέδωκεν.

Arist. Ath.Pol. 46.2: ἐξετάζει δὲ (the council of five hundred) καὶ τὰ οἰκοδομήματα τὰ δημόσια πάντα, καὶ τις ἀδικεῖν αὐτῇ δόξῃ, τῷ τε δήμῳ τοῦτον ἀποφαίνει καὶ καταγγείλει παραδίδωσι δικαστηρίῳ.

On the other hand, demos usually connotes a class and refers to the common people, οἱ ἀποροὶ,30 and in addition to Arist. Pol. 1274a I can adduce four more passages where it is explicitly stated that the dicasterion is manned by the demos or even dominated by the demos.

29 Xen. Mem. 1.1.18, 1.2.59, 4.4.2; Pl. Euthyd. 284b; Grg. 451b, 481b–e, 500c, 515d; Resp. 565b; Pol. 298c; Alc. 105a, 114b, 114d; Ax. 368o. Arist. Pol. 1268a12, 1275b7; 1282a28, 35; 1294b30; Ath.Pol. 14.1, 25.4, 29.2; 34.1, 3; 42.2, 4; 43.3, 44.2, 45.4, 45.6, 46.1, 54.5, 56.4, 57.1, 59.2.

30 Xen. Mem. 4.2.37; Cyfr. 1.1.1; Pl. Resp. 565a–c, 566b,e; Leg. 759b; Ax. 369a. Arist. Pol. 1270b18, 25; 1272a32, 1278b12, 1289b32ff; 1291b17ff, 37; 1293b15, 17; 1296a25, 28, b27; 1297a10, 13; 1298b21, 130ab1, 1305a19; 1310a7, b9; 1317a24ff, 1318b9; 1319a6; 20; Ath.Pol. 6.1, 11.2, 20.1, 21.1, 26.1, 28.1–3. (Xen. Veet. 6.1, pace Gauthier, op.cit. [supra n.1] 29–30. I shall discuss this passage in a forthcoming article about misthos to Athenian archai.)
To conclude from these passages that the Athenians identified demos both with ecclesia and with dicasterion would in my opinion be a misinterpretation of the sources. First, the philosophers object to democracy by maintaining that the democratic institutions are dominated by the demos = oi ἀποροι, but when they speak of the demos as an institution they have invariably the ecclesia in mind. Second, these passages illustrate only the philosophers' criticism of democracy and cannot be adduced as evidence for the democrats' own view of their institutions, which is reflected in the documents and in the speeches.

(c) Since the historians take more interest in politics than in constitutional matters, passages elucidating the meaning of demos are not frequent, but so far as the evidence goes the conclusions stated above are supported by Herodotus, Thucydides and Xenophon's historical writings. When demos denotes an institution, the reference is always to the ecclesia, and we have at least three instances of demos being opposed to dicasterion, one in Herodotus' account of the trial of Miltiades in 493, one in Thucydides' portrait of Antiphon and one in Xenophon's description of the trial of the generals in 406.

Hdt. 6.104.2: τὸ ἐνθεοτέν μν οἱ ἐχθροὶ ὑποδεξάμενοι καὶ ὑπὸ δικαστήριον [αὐτοῦ] ἀγαγόντες ἐδώκαν τυραννίδος τῆς ἐν Χερσονήσῳ.

31 eic τὸν δήμον means 'to the ecclesia', cf. IG I* 114 and supra p.129.
32 Hdt. 1.59.4-5, 5.97.1, 6.136.1, 7.142.1, 9.5.1; Thuc. 4.46.2; 4.118.11, 14; 5.45.1-4; 6.60.1, 4; 8.53.1; 8.54.1, 3; 8.66.1, 8.67.1, 8.68.1; Xen. Hell. 1.7.3, 4, 11, 12, 26.
The usage in Herodotus and Thucydides needs no further comment, but the passage in Xenophon is crucial: when Eurypylemus and others venture to lodge a ἐνδομοσία against Callixenus' προβούλευμα, their opponents counter with the argument that it would be outrageous to prevent the demos from doing whatever they wished. So an appeal from the ecclesia to the dicasterion is regarded as an attack on the sovereignty of the demos. The argument does not make sense if we assume that the dicasterion was the demos sitting in judgement. We must conclude that the Athenians identified the demos meaning 'the Athenian people' with the ecclesia but not with the dicasterion.

IV

So far I have discussed the relationship between the ecclesia and the dicasterion in the period ca 420–ca 320, for which we possess direct evidence. But the dicasterion was introduced by Solon, and I will round off the argument with an account of demos, ecclesia and dicasterion from the beginning of the sixth to the end of the fifth century.

It is commonly argued, most recently by Rhodes, that the Solonian Heliaia was identical with the ecclesia and that a session of this court of appeal was a meeting of the entire people acting as jurors. The Heliaia (= the ecclesia) was divided into dicasteria only after Ephialtes' reform, and, according to Rhodes, Cleinias' tribute decree of 447 (?) contains the last (restored) occurrence of the word Heliaia in its original sense.

In my Eisangelia I objected to this reconstruction by referring to Arist. Pol. 1274a: κύριον ποιήσαντα (Solon) τὸ δικαστήριον πάντων,

33 op. cit. (supra n.1) 169 n.5, 197–200.
34 op. cit. (supra n.5) 52.
κληρωτόν ὅν (4–5). If the jurors introduced by Solon were chosen by lot, the existence of separate diasteria can be traced back to the beginning of the sixth century. Rhodes, however, in an article to be published in JHS 99 (1979), assumes that this passage in the Politics, in which Aristotle paraphrases and rejects the view of some unnamed authorities, is evidence only of the fourth-century controversy about Solon, whereas we have more reliable evidence of Solon’s reforms in the Ath.Pol., which I suspect of being anachronistic.

According to Rhodes it is most unlikely that there was a plurality of jury courts as early as the time of Solon, and he suggests that the information in the Politics about τὰ δικαστήρια in the plural and about jurors chosen by lot is unreliable and must be rejected as proof “that the Solonian court of appeal was manned by sworn jurors chosen by lot.”

Rhodes may be right in his assumption that Pol. 1274a reflects the fourth-century debate of the patrios politeia and that Ath.Pol. is a more reliable source. But this is of no consequence for this particular problem, since the distinction between the ecclesia and the diasterion is emphasized by Aristotle not only in the Pol. but also in the Ath.Pol., viz., in the account of the Solonian property classes at 7.3: τὸ ἔδωκε τῷ θητικῷ τελωδεῖν ἐκκλησίαν καὶ δικαστήριον μετέδωκε μόνον. In this passage we have (a) a clear distinction between the assembly and the people’s court and (b) diasteria in the plural. The singular in ἐφεσε ἔς τὸ δικαστήριον (Ath.Pol. 9.1), mentioned by Rhodes, does not support the theory of an undivided Heliaia when compared with the plural τῶν δικαστήριων in Ath.Pol. 7.3, and so I conclude with reference both to the Politics and to the Ath.Pol. that the ecclesia and the diasterion were different bodies of government already in the sixth century and that a plurality of diasteria existed as early as Solon.

Furthermore, if we follow Rhodes in accepting the account of Solon in the Ath.Pol., we must infer that κλήρωσες was an archaic procedure applied to the selection of most officials as early as the beginning of the sixth century. But if the officials were chosen by lot there is a fortiori nothing anachronistic in assuming that the jurors were appointed in the same way, and consequently Rhodes’ suspicion of

86 “ΕΙΣΑΓΩΓΕΙΑ in Athens.” I should like to thank Dr Rhodes for the discussion we have had about this topic and for sending me a copy of his typescript.
87 Quotation from Eisangelia (supra n.5) 52.
$\kappa\lambda\eta\rho\omega\tau\omicron\upsilon$ in Arist. Pol. 1274a5 is considerably weakened. His rejection of this piece of information would be more appropriate if he were highly sceptical towards Ath. Pol. 7–13 and believed that $\kappa\lambda\eta\rho\omega\varsigma\epsilon\varsigma$ was a democratic procedure and therefore unknown before Cleisthenes.

But let us assume, for the sake of argument, that the dicasterion created by Solon was identical with the ecclesia. In this case every appeal against a magistrate's decision even in a petty dispute would by the $\epsilon\phi\epsilon\epsilon\epsilon\varsigma \epsilon \iota \varsigma \tau \omicron \delta \iota \kappa\alpha\sigma\tau\epsilon\gamma\rho\omicron\iota\omicron\nu$ be referred to the ecclesia. Now the Athenians were undoubtedly less litigious before the introduction of radical democracy in the second half of the fifth century; but if the ecclesia in addition to the political meetings had to hear all appeal cases, the result must have been a very high number of sessions. Rhodes, however, suggests himself that the number of ordinary meetings was raised from ten to forty only towards the end of the fifth century. I find this view of the development of the ecclesia plausible, but it is in my opinion incompatible with the theory that the dicasterion was not separated from the ecclesia until after Ephialtes.

In sum, the Solonian court, as far as the evidence goes, seems to have been a separate body of government composed of several dicasteria, each of them manned with sworn jurors chosen by lot. Relevant evidence covering the period between Solon and Pericles is astonishingly scarce, but I can adduce two sources which in my opinion support this conclusion. Herodotus relates that Miltiades in 493 was acquitted by a dicasterion and shortly afterwards elected strategos by the demos (Hdt. 6.104.2, quoted on p.140). And Aristotle states in the Ath. Pol. that Ephialtes deprived the Areopagus of its powers and gave some of them to the boule, some to the demos and some to the dicasteria (Arist. Ath. Pol. 25.2 quoted on p.139). These sources indicate (a) that the people's court was different from the ecclesia, (b) that the demos was identical only with the ecclesia and not with the dicasterion, and (c) that the people's court was divided into dicasteria before Ephialtes.

V

By this inspection of the sources I hope to have demonstrated that the identification of the dicasterion with the demos and so with the ecclesia is unfounded and contradicted by the evidence. But instead of maintaining that the dicasterion was the demos sitting in judgement
some scholars assume that the \textit{dicasteria} were judicial \textit{committees} of the assembly and that the authority invested in the people's court was held only by delegation from the assembly.\footnote{Cf. Glotz and Gomme (\textit{supra} n.1).} This theory is compatible with my observation that the \textit{dicasterion} is never identified with the \textit{demos} (= the \textit{ecclesia}). It is only natural to make a clear distinction between the subordinate committee and the superior agency delegating some of its powers to the committee. But other considerations demonstrate that the \textit{dicasterion} cannot be described as a committee of the assembly.

'Delegation of powers' and 'committee' are modern concepts, and I am not quite happy about applying them to ancient Greek institutions, especially since they are never defined or discussed by the historians who invoke them in their description of the relationship between the \textit{dicasterion} and the \textit{ecclesia}. The word 'committee' usually denotes a subordinate body appointed by a larger and superior body for some special purpose but without any independent authority since its proposals or decisions are subject to ratification by the appointing body. Delegation of powers, on the other hand, normally implies that a superior body has transferred some of its powers to another body, that it is empowered to revoke the delegated authority, but that the subordinate body in the meantime is entitled to make decisions which are valid without any ratification by the superior body.

So the \textit{dicasterion} can only be described as a committee of the \textit{ecclesia} or as a body with delegated powers if at least some of the following statements are true: (a) the \textit{dicastai} were appointed by the \textit{ecclesia}. (b) The verdicts brought by the \textit{dicastai} were subject to ratification by the \textit{ecclesia}. (c) Any decision made by the \textit{dicasterion} could be overruled by the \textit{ecclesia}, whereas no decision made by the \textit{ecclesia} could be rescinded by the \textit{dicasterion}. (d) The powers invested in the \textit{dicasterion} were based on an act of the \textit{ecclesia}. (e) The \textit{ecclesia} was entitled to revoke the powers invested in the \textit{dicasterion}.

Of these statements, (c), (d) and (e) may be valid in a description of Periclean democracy, but if we concentrate on the period best covered by the sources, the fourth century, all five statements are demonstrably false. As to (a), the \textit{dicastai} were never appointed by the \textit{ecclesia}. As to (b), we have no example of the ratification by the \textit{ecclesia} of a decision made by the \textit{dicasterion}. As to (c), in the fourth
century any *psephisma* passed by the *ecclesia* could be overruled by the *nomothetai* through a *nomos*\(^\text{39}\) or rescinded by the *dicastai* through a *graphe paranomon*.\(^\text{40}\) On the other hand, no decision made by the *nomothetai* or by the *dicastai* could be ultimately reversed by the *ecclesia*.\(^\text{41}\) As to (d), after the restoration of the democracy in 403/2 the extended powers of the *dicasterion* must have been based on the revised lawcode. But according to Tisamenus' decree (Andoc. 1.83–84), this revision was carried out not by the *ecclesia* but by the *boule* and a board of 500 *nomothetai*, and nothing is said in Tisamenus' decree about any ratification by the assembly.\(^\text{42}\) As to (e), the revised lawcode included a law establishing a distinction between *nomoi* and *psephismata* (Andoc. 1.87). According to this law any general standing rule would


\(^\text{40}\) Cf. Hansen (supra n.23) 49ff. In his review of my book (CR 26 [1976] 231–32) D. M. MacDowell made the following criticism: "the existence of the *graphe paranomon* does not seem to me to show that the ultimate sovereignty rested with the courts, because this procedure could not be used against all laws and decrees but only against those contrary to existing *nomoi* (even if that word was sometimes widely interpreted), and because it was the assembly which made the law instituting the procedure and could have appointed *nomothetai*... to repeal it." Against this I have the following objections: (a) In the fourth century the *graphe paranomon* was never brought against laws but only against decrees, cf. H. J. Wolff, 'Normenkontrolle' und Gesetzesbegriff in der attischen Demokratie (SitzHeidelberg 1970) 38ff. (b) In *Dem.* 59.89–91 it is expressly stated that a citizenship decree—even though it had been passed constitutionally by the *ecclesia*—could be indicted as *paranomon* on the grounds that the person honoured was unworthy of the honours. Consequently it was sufficient reason for bringing a *graphe paranomon* that the decree was contrary to the interests of the Athenian people, and so the *graphe paranomon* could be brought against any decree. (c) There is no evidence that it was the assembly which made the law instituting the *graphe paranomon*. The *graphe paranomon* was recast in connection with the revision of the lawcode in 403/2 (cf. Wolff, op.cit. 41ff) and, according to MacDowell (cf. infra n.42), there is no evidence that the revised lawcode was ratified by the assembly. MacDowell's belief that the *graphe paranomon* could be brought only against decrees contrary to existing *nomoi* leads him, in the same review, to make the following comment on the *graphe paranomon* in 415 between Leogoras and Speusippus (Andoc. 1.17, 22): "(Hansen) says that Leogoras attacked the decree for containing incorrect information; but there is no evidence that this was the ground of attack." MacDowell believes that Leogoras must have charged Speusippus with some kind of technical infringement (cf. CR 23 [1973] 228). On the contrary, there is no evidence for MacDowell's technical infringement, whereas it is expressly stated in Andoc. 1.22 that Leogoras attacked Speusippus' decree for containing incorrect information and offered a *Bákevoc* on the question.

\(^\text{41}\) Cf. Hansen, op.cit. (supra n.23) 17–18.

have to take the form of a *nomos* and could not be passed as a *psephisma*. In the fourth century, however, *nomoi* were not passed by the *ecclesia* but by a board of *nomothetai* without any ratification by the people. 43 Since any change in the powers invested in the *dicasterion* would require a *nomos*, 44 the *ecclesia* was no longer empowered to deprive the *dicasterion* of any of its authority.

The conclusion seems to be that the concepts 'committee' and 'delegated powers' must be avoided in any description of the relationship between the *ecclesia* and the *dicasterion* in fourth-century Athens. The *dicasterion* was a separate body of government independent of the *ecclesia*, and the assumption that its powers were held by delegation from the *ecclesia* has nothing to recommend it.

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44 The importance of this constitutional reform has often been questioned by the (unproved) assumption that the Athenians disregarded the distinction between *nomoi* and *psephismata* and frequently allowed the *ecclesia* to pass general standing rules as *psephismata* (e.g. Rhodes, *op.cit.* [supra n.1] 52). I hope later this year to publish an article on the subject based on an inventory of the *ca* 700 preserved *psephismata* of the period 403–322 (ca 475 preserved on stone, *ca* 220 referred to in the literary sources). The conclusion is that the distinction between *nomos* and *psephisma* was in fact respected, and, with the exception of a short period of crisis in 338, there is no example of the *ecclesia* having legislated in the proper sense of the word.